



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 23 June 2016 commencing at 9.00 am.**

Business

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

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

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

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

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

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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1. Australian National Anthem

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 Keith Johnson.

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 May 2016 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 May 2016.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2015/599 - Industrial Subdivision, North Creek Road, Ballina

8. Development and Environmental Health Group Reports

8.1 DA 2015/599 - Industrial Subdivision, North Creek Road, Ballina

Applicant	CivilTech Consulting Engineers (on behalf of Ballina Shire Council)
Property Proposal	Lot 3 DP 1218886, No. 54 North Creek Road, Ballina To undertake an eight lot Torrens Title industrial subdivision, removal of vegetation, associated civil and landscaping works. One allotment is proposed to be utilised to contain existing service infrastructure (sewer pump station) and one is proposed to become the residue centrally located within the Southern Cross Industrial Estate
Effect of Planning Instrument	The land is zoned IN1 – General Industrial under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

The proposed development involves the Torrens Title Subdivision of an existing 4.064ha parcel of land, currently zoned industrial, on the western side of North Creek Road. The development comprises:

- six industrial allotments (Proposed Lots 1 to 6 inclusive), ranging in size from 1,160m² to 3,150m²
- one service lot (Proposed Lot 7) with an area of approximately 1,000m², which is to comprise the existing sewer pump station infrastructure
- one residue allotment (Proposed Lot 8) with an area of 2.718 hectares
- construction of a three metre high noise attenuation wall along the entire eastern and northern boundary of the development site
- dedication of a 5 metre wide strip of land fronting North Creek Road (i.e. to the east of the proposed noise attenuation wall) to facilitate the potential 1.5 metre road widening of North Creek Road (including kerb and gutter)
- provision of underground water, sewerage, telephone and electricity services
- landscaping along the eastern and northern sides of the noise attenuation wall
- stormwater control devices and treatment measures
- removal of all vegetation on the site
- preparation of a Rehabilitation Plan for 1.17ha of EEC habitat and payment of a financial contribution to implement the Plan
- demolition (or relocation off-site) of the existing dwelling house
- associated earthworks (including filling).

Refer to the **attached** subdivision layout plan.

8.1 DA 2015/599 - Industrial Subdivision, North Creek Road, Ballina

Vehicular access to the proposed development is to occur through the existing Southern Cross Industrial Estate from the proposed allotments' frontages to De-Havilland Crescent. Vehicular access is not provided via North Creek Road, due to the proposed noise wall and future traffic generation along North Creek Road.

The subject site has an area of approximately 4 hectares; however this also comprises the residue land further to the west centrally located in the Southern Cross Industrial Estate (nominated for open space and compensatory plantings as part of other development applications).

The actual land area relevant to the proposed six industrial allotments is 1.346 hectares and is generally located in the south-eastern section of the existing Southern Cross Industrial Estate along North Creek Road (i.e. the residue allotment created via subdivision DA 2015/315). The site of the proposed subdivision is heavily vegetated, apart from the southern portion of the site which currently contains a dwelling house (proposed to be demolished or relocated to another site) and the immediate curtilage of the existing sewer pump station infrastructure.

The existing Southern Cross Industrial Estate adjoins the subject site to the north and west and is utilised for a range of industrial uses. Immediately adjoining to the north of the site (along North Creek Road) and across the road to the east are a number of dwelling houses (inclusive of a residential estate known as "North Lakes").

The portion of the Southern Cross Industrial Estate where the six industrial lots are proposed has been zoned industrial since the gazettal of the Ballina Local Environmental Plan 1987. The current Ballina Local Environmental Plan 2012 has kept this "like for like" industrial zoning despite adjoining "North Lakes" residential estate being developed in the early 1990's. The proposal essentially relates to in fill industrial development.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

In accordance with the advertising and notification requirements of Council, the development application was placed on public exhibition. At the close of the exhibition period, Council had received four submissions objecting to the proposal (also attaching two petitions containing a total of approximately 140 names). A copy of each submission (and petitions) is **attached**.

The Applicant has provided a brief response to some of the issues raised (copy **attached**) in the submissions. Below is a summary of the key issues raised (similar to the Applicant's response).

- noise wall unsightly to the residential estate, extent of landscaping unknown or inadequate and will require maintenance

Comment: Refer to Noise section of this report.

- lack of consultation and timeframe for submission to be made

Comment: Public exhibition was carried out in accordance with established practice and policy.

- land should be residential (or a buffer between the industrial and residential uses)

Comment: The area subject of the proposed industrial subdivision has been zoned industrial under the previous BLEP 1987 and the current BLEP 2012 (i.e. for almost 30 years). The land was not identified as being suitable for residential purposes under either Local Plan. In determining this application, Council needs to be satisfied that the proposed subdivision is suitable having regard for the adjoining and nearby residential uses.

- noise impacts

Comment: Refer to Noise section of this report.

- dust impacts

Comment: Suitable conditions can be placed on any consent (if approved). The proposed noise wall and landscaped buffer will also assist in this regard.

- stormwater management

Comment: The concept stormwater management plan provides interallotment drainage that either penetrates the acoustic wall below ground or is directed along the rear of the allotments, where it is picked up by additional piped street drainage and conveyed to the legal point of discharge. Each lot will provide detention and treatment at the relevant development application stage in accordance with Council's Stormwater Management DCP and associated Stormwater Management Standards for Development.

The North Creek Road widening proposal includes upright kerb and gutter and piped drainage. Preliminary pipe sizings have been provided that will be confirmed at the detailed design stage prior to the release of the Construction Certificate.

In relation to the north-eastern batter slope, stormwater is being directed to a grassed swale that discharges to the legal point of discharge rather than the neighbouring property as per the concept stormwater management plan.

Council's Civil Services Group has anticipated that North Creek Road stormwater drainage will be improved by the development.

- flood impacts

Comment: The Applicant is proposing that the land be filled to the required flood planning level (currently 2 metres AHD). This can be suitably conditioned if the application is approved (noting that future buildings will also need to be constructed at required floor levels applicable at the time).

8.1 DA 2015/599 - Industrial Subdivision, North Creek Road, Ballina

All developable land in the Ballina Flood plain has been modelled by WBM BMT on behalf of Council and the impacts assessed. The subject lot is not required to complete an individual flood study as it has been included in Council's flood modelling.

- conflict of interest in Council's roles as applicant/developer and in the assessment of the development application

Comment: Council's commercial land ownership interests are managed separately by the Commercial Services Section. The assessment and determination of the development application is a function of the Development and Environmental Health Group.

This application has been assessed against relevant planning provisions and followed due process. This application is reported to Council for determination.

- illegal filling of the site that creates stormwater issues

Comment: No unauthorised filling has occurred at this site. The site has been filled previously as part of the Southern Cross Industrial Estate.

The existing sound mound (identified to be removed as part of this application) formed part of consent requirements of previously approved applications relating to the creation of existing industrial allotments immediately to the west. As previously outlined, Council's Engineers have raised no issues in relation to stormwater impacts.

- road widening

Comment: The existing road frontage to De-Havilland Crescent is constructed to a suitable standard to service the proposed development, however North Creek Road will require road widening and land dedication. The Applicant has proposed and prepared a concept plan which includes a 1.5 metre road widening and upright kerb and gutter for the length of the development's frontage with North Creek Road.

This is considered satisfactory as it will provide a consistent road pavement from Tamarind Drive at the south (i.e. the frontage of Aldi) past the development site heading north-east along North Creek Road. It will also provide the missing link of upright kerb and gutter along the western side of North Creek Road (i.e. between the carwash and the residential properties). The road widening is not required for a pedestrian pathway as this network is already suitably provided on the eastern side of North Creek Road.

- controlled access to De-Havilland Crescent

Comment: The Applicant has confirmed that vehicular access will be restricted to being provided from De-Havilland Crescent rather than North Creek Road. This is reinforced via the proposed erection of a three metre high noise attenuation wall along the North Creek Road frontage, which will not be permitted to have any openings within it.

8.1 DA 2015/599 - Industrial Subdivision, North Creek Road, Ballina

If the subdivision is approved, a restriction on use preventing direct access to North Creek Road on the Land Title of each lot has been conditioned as part of the consent and particular access locations for each industrial lot will be confirmed at the development application stage for each lot.

- devaluing of residential properties

Comment: The area subject of the proposed industrial subdivision has been zoned industrial under the previous BLEP 1987 and the current BLEP 2012 (i.e. for almost 30 years).

- flora and fauna impact of clearing

Comment: Refer to Ecological section of this report.

Report

The following comments are made in relation to the corresponding heads of consideration contained in Section 79C of the Environmental Planning and Assessment Act 1979 (as amended). The following matters are considered to be pertinent in Council's determination of the application.

Applicable Planning Instruments

State Environmental Planning Policy No. 71 - Coastal Protection

The site is located within 1km of the NSW Coast and the Coastal Protection SEPP is applicable. The proposal is considered to be generally in accordance with the aims and objectives of the SEPP and matters of consideration under clause 8 of the plan, particularly as the proposed allotments are physically removed from waterbodies.

State Environmental Planning Policy No. 55

A stage 1 contamination land assessment (comprising a site history and inspection) was undertaken by Melaleuca Group Pty. The assessment has been undertaken generally in accordance with the requirements of the NSW EPA – Guidelines for Consultants Reporting on Contaminated Sites.

The report concludes that based on these findings that the risk of contamination being present on site is low. The risk is further reduced due to the requirement to fill the land. Two areas were highlighted as requiring further assessment; the dwelling house site following demolition, and any historic septic tank and trenches. These matters can be suitably conditioned as part of the demolition of the dwelling house and prior to the release of the subdivision certification if the application is approved.

Ballina Local Environmental Plan 2012 (BLEP 2012)

The proposed subdivision is not classified as a land use and is not defined in the BLEP 2012; however the subdivision of land is classified as a form of development and is defined under Section 4B of the Environmental Planning and Assessment Act 1979.

The site is zoned IN1 General Industrial under the BLEP 2012.

The zone objectives of the IN1 General Industrial zone are as follows:

- to provide a wide range of industrial and warehouse land uses.
- to encourage employment opportunities
- to minimise any adverse effect of industry on other land uses
- to support and protect industrial land for industrial uses
- to enable non-industrial uses that are compatible with the industrial nature of the locality
- to provide for the efficient use of industrial land
- to encourage development that achieves the efficient use of resources such as energy and water
- to ensure that development does not expose adjoining uses to hazard risks.

It is considered that the proposed development is generally consistent with the objectives of the zone in that, if approved, it will provide additional industrial allotments within zoned industrial lands. As will be outlined in this report, this is only on the basis that noise constraint conditions be imposed both via physical means (i.e. noise wall) and limitation on future industrial land uses to minimise any adverse amenity impact on surrounding residential land uses.

Due to the close proximity to the residential land uses, the proposed development will not allow for the proposed industrial lots to be utilised for a variety of general industrial purposes.

Other less intrusive industrial uses are proposed to be restricted to the lots and this will be discussed in greater detail in the report.

It is considered that the design and layout of the proposed industrial subdivision is generally acceptable having regard for the existing infrastructure.

The provision of landscaping along the eastern side of the proposed noise wall will assist in softening the impacts of the wall and the future built form from North Creek Road and surrounding residential estates. If Council is mindful to approve the proposal, a detailed landscaping plan for the proposed subdivision will be required as a condition of consent.

The proposed development is permissible with the consent of Council pursuant to clause 2.6 Subdivision consent requirements of the BLEP 2012. The proposed demolition of the existing dwelling house and associated structures is also permissible with consent.

Clause 4.1 Minimum subdivision lot size as shown on the Lot Size Map is 1,000m² for this area. The proposed subdivision will create six industrial allotments, each having areas of greater than 1,000m². Proposed Lot 7 for the sewer pump station is also proposed at 1,000m².

Clause 5.5 relates to development within the coastal zone. Having regard for the objectives and relevant matters for consideration, the proposed subdivision is considered to be suitable for the site and will not result in unreasonable impacts on the coastal environment due to the proposed allotments physical separation and proposed stormwater management.

8.1 DA 2015/599 - Industrial Subdivision, North Creek Road, Ballina

Clause 7.1 relates to Acid Sulfate Soils. The site is identified as Class 2 land. The site has been filled previously as part of the Southern Cross Industrial Estate. It is unlikely that acid sulfate soils will be encountered during works associated with the subdivision.

Clause 7.3 relates to Flood Planning and the entire development site is flood affected. Proposed lots 1 to 6 are proposed to be filled to comply with the minimum fill level requirement with a batter of 1:4 proposed to the existing levels along North Creek Road and De-Havilland Crescent. This will comprise approximately 2,800m³ of suitable fill material being required if the subdivision is approved.

Clause 7.7 relates to Essential Service provision. All necessary infrastructure is readily available to the proposed lots.

Clause 7.8 relates to Strategic urban growth areas. The site is identified within the "Land Adjoining Strategic Urban Growth Area". The relevant strategic urban growth area the site adjoins are those lands immediately west of the Ballina Racecourse. The potential implications the proposed industrial subdivision (i.e. amenity) will have on surrounding residential properties has been considered in this report and mitigation measures are proposed by the applicant in this regard.

Ballina Development Control Plan 2012 (DCP 2012)

The proposal is consistent with the aims and objectives of Chapters 1 and 2 of the DCP 2012. Relevant environmental considerations have been addressed throughout this report.

In relation to Chapter 3 Urban Subdivision and particularly Part 4 Special Area Controls – Commercial and Industrial Subdivision, the provisions primarily relate to subdivisions where 10 or more allotments are proposed, which is not the case here. Notwithstanding this, the size and configuration of the proposed allotments is considered to be satisfactory as they generally have a frontage to depth ratio of 1:2, being rectangular in shape (other than proposed Lot 5 due to the existing location of the sewer pump station) and direct lot access is not proposed off adjoining North Creek Road.

The specific industrial precinct development controls for Southern Cross Industrial Estate encourages smaller industrial allotments between 1,000m² to 2,000m² where they adjoin or are opposite to land zoned for residential uses. The proposed lots comply in this regard (other than lots 5 and 6). Council will need to decide if proposed Lot 5, being 3,150m² and Lot 6, being 2,600m² are still considered reasonable in this regard, (i.e. larger allotments potentially provide greater opportunity for larger more intrusive land uses). Council should also have regard for the Noise section of this report when considering the appropriateness of proposed Lots 5 and 6 in relation to size and configuration.

It should be noted that Chapter 5 relating to Industrial Development will be particularly relevant to future development applications relating to land uses and/or associated buildings.

Noise Impact

The aim of an industrial estate is to provide an area where activities of an industrial nature may be carried out appropriately that may otherwise be restricted from operating in other zoned areas. Council also needs to ensure that industrial activities do not unreasonably impact on the amenity of adjoining land uses.

To this end, the ability to appropriately plan for future industrial activities in areas zoned for industrial development will negate the requirement for restrictions at the individual development application stage (which may also be overlooked).

Council should have consideration for the overall concept of the industrial estate and for the implementation of noise mitigation measures at this subdivision stage and not rely on the conditioning of each individual subsequent development application (which may also be approved by a Private Certifier and not Council). Resolving noise issues after they occur may not always be possible and is often difficult and costly.

In this regard a Noise Impact Assessment (and addendum) has been prepared by a suitably qualified noise consultant for the subject subdivision application. The report and addendum aim to address the potential conflict between the industrial subdivision and the nearby residential premises.

The Noise Impact Assessment involved onsite unattended noise logging between 8 July and 17 July 2015 to get approximately seven days' worth of valid data to determine the rating background levels for daytime (7am–6pm), evening (6pm–10pm) and night time (10pm-7am). The rating background levels were used to determine project specific noise criteria (PSNC) based on the intrusive criteria. The methodology used is consistent with the requirements of the NSW Industrial Noise Policy.

The identified PSNC are 42 dB(A) daytime (7am–6pm), 37 dB(A) evening (6pm–10pm) and 34 dB(A) night time (10pm-7am). The report identifies that to achieve the PSNC at the nearest affected residence a noise reduction of 28 dB(A) daytime, 33 dB(A) evening and 34 dB(A) night time is required based on a typical noise generation of 70 dB(A) at industrial sites.

The PSNC (shown in column 6) are well below the existing noise levels in the locality (shown in column 2) of table 3.1 below.

Table 3.1 Background Sound Pressure Levels

Period (1)	L _{Aeq(Period)} * (2)	RBL* (3)	Amenity Criteria (4)	RBL+5 dB (5)	Project Specific Noise Criteria (PSNC) = lowest of column (4) and (5)
Day	51	37	55-60	42	42
Evening	44	32	45-50	37	37
Night	45	29	40-45	34	34

The report concludes that distance attenuation alone is not practical due to the separation distances required to meet the PSNC. Consequently, the report and addendum have recommended the following:

- the construction of a three metre high acoustic barrier to the North Creek Road property frontage and eastern (northern) boundary
- application of a suitably worded Restriction of User under Section 88B of the Conveyancing Act 1919 to lots A, B, C, D, E and G (now identified as lots 1 to 6), and
- conditioning of any future development consents for these sites to achieve performance and development standards as identified.

Council's Development and Environmental Health Group are satisfied that to restrict future industrial land uses on the proposed allotments (as this contradicts the intent of an industrial subdivision), the consent can be suitably conditioned to protect the residential amenity of nearby residential premises on this basis (inclusive of any reflection of traffic noise off the wall created by traffic along North Creek Road).

However, to reduce the potential negative visual/amenity impact of the three metre high acoustic wall (which will be placed on top of the 700 mm of fill) a minimum of three metres width of landscaping should be provided within the North Creek Road reserve (which the applicant is proposing).

A total road reserve dedication of five metres is proposed and this is sufficient to achieve the required three metres of landscaping screening. It is consistent with other developments to provide the landscaping in the road reserve.

Avalon, Council's estate in Wollongbar, North Angels and Ferngrove Estates in Ballina all provide the landscaping treatment to the acoustic walls within the road reserve.

Ferngrove and Avalon both provide a minimum of three metres width of landscaping and this satisfactorily screens the acoustic wall from public view.

As the visual impact of the wall is of particular concern to the objectors (and is considered valid), conditions will be applied in this regard if the application is approved. Similar to other walls, landscaping and any graffiti will need to appropriately maintained.

Odour Impact

Industrial uses have the potential to produce odours that can create either a nuisance or serious health risks. Some examples of odour producing industrial uses include coffee roasters, surfboard manufacturers and spray painters.

Having these uses located adjacent to residential areas can create real and ongoing land use conflict. As more industrial uses are permitted as exempt development Council has less options in controlling their set up and operation.

Council does have regulatory powers through the Protection of the Environment Operations (POEO) Act 1997, however suitable consideration of these issues and impacts up front will achieve the best ongoing outcomes.

This is best done through the application of a Section 88 Restriction on Title to make prospective purchasers aware of the nearby sensitive receivers and the potential restrictions that may apply to these properties.

Ecological Impact

Council and the Applicant agree that 3,073m² of Swamp Oak Forest occurs on the portion of the allotment where the six industrial lots are proposed (i.e. vegetation required to be cleared). Swamp Oak Forest is listed as an Endangered Ecological Community (EEC) pursuant to the Threatened Species Conservation (TSC) Act 1995.

Whilst the Applicant has confirmed the above, they also state that in their view some of the vegetation is not entirely consistent with the Scientific Determination (SD) that underpins the EEC's listing under the TSC Act.

These are based on:

- hydrology, and
- structural and floristic composition.

In regards to hydrological issues the Applicant identified the site was not technically compliant because the vegetation was not inundated when they inspected the site and the filling of the surrounding land means the land is now excluded from receiving flood waters.

However, to be compliant with the SD the site only is required to be inundated "*with an average recurrence interval of 100 years*".

Given the site is located below the 1 in 100 year flood level and as it requires filling to ensure it is suitable for development it complies with this aspect of the SD. The site also complies with the SD in regard to elevation and soil type such that it is able to be correctly classified as a floodplain.

In relation to structural and floristic composition the applicant has also indicated weed infestations directly conflict with the SD. However, the SD acknowledges this issue by stating:

"Very few examples of Swamp Oak Floodplain Forest remain unaffected by weeds. The causes of weed invasion include physical disturbance to the vegetation structure of the community, dumping of landfill rubbish and garden refuse, polluted runoff from urban and agricultural areas, construction of roads and other utilities".

In regards to structure, the SD confirms the EEC, "*...may vary from open forests to low woodlands, scrubs or reedlands with scattered trees*". The vegetation also complies with this aspect of the SD. It is also important to understand the SD does not distinguish between high and low conservation valued forms of the subject EEC. Council also notes the Applicant's statutory assessment the Section 5A Test of Significance is based on occurrence that 3,073m² of EEC habitat occurs.

Consequently, the Applicant's reasons for inconsistencies with the SD are not supported.

Although the proposed removal of all of the existing EEC does not require the preparation of a Species Impact Statement (SIS), this loss of EEC habitat is only considered acceptable on the basis that it is adequately offset.

Standard Council Offset Procedure

Consistent with all other levels of Government (State and Federal) where a development impacts on native vegetation and/or ecologically important ecosystems, Council requires an adequate offset to be applied.

The principles and proposed offset ratios are referenced in Chapter 2 (Section 3.3.3) of Council's DCP. While this section of the DCP primarily applies to residential development the concept of offsetting is applied to all developments regardless of land zoning.

Depending on the ecological significance of vegetation to be impacted, Chapter 2 of the DCP requires a minimum compensatory planting ratio of 3:1. A 3:1 offset ratio is usually applied to native vegetation communities that are not listed under the TSC Act (1995). Where threatened species are impacted Council applies an offset ratio of up to 10:1.

In dealing with similar matters where threatened species habitats are affected, Council has approved 5:1 offset ratios for the Henderson Farm and the Amber Drive developments at Lennox Head. These offset ratios are also proposed in Council's Part 5 infrastructure applications. The development application recently submitted for CURA A proposes to offset the development's impacts on identified EEC at a ratio of 5:1.

The Office of Environment and Heritage (OEH), the NSW Fisheries and the Department of Planning and Environment, when granting their respective approvals for the extension of Hutley Drive each required a 10:1 offset. This is particularly relevant to the current development application given the same defined EEC is to be removed in both instances.

Chapter 2 of the DCP also promotes the use of the State Government's Biobanking Scheme to identify offset ratios. OEH staff advise that offset ratios are usually in the range of 5-6:1.

Proposed Offset

As previously advised 3,073m² of Swamp Oak EEC occurs on the development site. The subject vegetation can be classified into two distinct age classes being, core and regrowth EEC which is less than 15 years of age.

In this circumstance, it is recommended that the core EEC is offset at a ratio of 5:1 while the regrowth EEC requires offsetting at a ratio of 3:1. A reduced offset is considered acceptable in this case due the extent of weeds growing within the regrowth EEC. These offset ratios are detailed in the following Table.

EEC Age Class	Offset Ratio	Amount of EEC (m²)	Required Amount (m²)
Core Swamp	5:1	1,219	6,095
Regrowth EEC	3:1	1,854	5,562
Total Offset Required 11,657(m²) or 1.17ha			

Consequently, to offset the loss of the EEC, it is recommended that if Council wishes to approve the subdivision that the Applicant be required to rehabilitate approximately 1.17ha of EEC habitat.

Consistent with all other private and Council initiated applications, a condition of consent is proposed to be applied with the following requirements:

- provide offsets totalling 1.17ha
- prepare a Rehabilitation Plan for the offset area. This includes a detailed site assessment, outline of rehabilitation works and staging, provision for monitoring reports and the identification of precise restoration goals
- provide funding for a minimum of five years
- obtain three individual quotes from qualified bush regenerators for cost of undertaking the required work
- obtain the written approval from Open Spaces and Resource Recovery (OSRR) that they accept the costings provided and that upon the handover of the money OSRR will implement the restoration program.

This ensures a consistent and best practice approach is applied that is transparent and accountable. The Applicant has confirmed agreement with this approach.

Conclusion

The proposed development is considered to be generally compliant with the relevant provisions of the Ballina Local Environmental Plan 2012 and the Ballina Shire Development Control Plan subject to imposition of identified conditions. The development will present a satisfactory outcome for future industrial development on lands that have been zoned industrial for a substantial number of years.

Issues have been raised in the submissions regarding noise impacts from the future industrial use of the proposed allotments upon nearby residential receivers. Council should have consideration for the overall concept of the industrial estate and for the implementation of noise mitigation measures at the subdivision stage and not rely on conditioning of individual development applications.

Acoustic walls with adequate landscaped screening should also be provided to allow for visual and noise screening along the eastern (North Creek Road) and northern property boundaries and which will reduce noise levels that are generated from the use of the six proposed industrial allotments.

The circumstances of the case are such that the application warrants the granting of conditional consent, subject to the provision of the acoustic wall, restriction of future land uses on the title of the proposed industrial allotments and the provision of a suitable vegetation offsets package supported by a Rehabilitation Plan.

RECOMMENDATION

That DA 2015/599 to undertake an eight lot Torrens Title industrial subdivision, removal of vegetation, associated civil and landscaping works at Lot 3 DP 1218886, No. 54 North Creek Road, Ballina be **APPROVED** subject to the **attached** conditions.

Attachment(s)

1. Locality Plan
2. Proposed Subdivision Layout
3. Public Submissions & Petitions
4. Applicant's Response to Submissions
5. Proposed Draft Conditions

8.2 Down Convery's Lane - Compliance Update

8.2 Down Convery's Lane - Compliance Update

Delivery Program Development Services

Objective To provide Council with an update on the activities and approval process for the hosting of weddings

Background

Council continues to be in receipt of ongoing complaints in relation to the operation of wedding functions at "Down Converys Lane" 12 Converys Lane, Wollongbar.

On 11 November 2015, following investigations into earlier complaints, Council served a formal Order on the landowners, Mr and Mrs Kratz requiring that they:

1. Cease operating a function centre from the subject premises; and
2. Provide a written response outlining the functions already booked to occur within the subject premises.

This matter was reported to the February 2016 Ordinary Meeting where Council resolved:

Failure to Comply with Order - Wedding Function Venue

250216/1 RESOLVED

That Council take no further action in relation to the operation of a wedding function venue within the subject premises with the matter to be reviewed in three months.

This matter is now reported back to Council for review following the expiration of this three month period.

Key Issues

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

Information

Attached is a copy of the report to the February 2016 Ordinary Meeting, which contains the relevant history in relation to this matter.

At the time of the February 2016 report to Council, both requirements of Council's formal Order, dated 11 November 2015 were outstanding.

8.2 Down Convery's Lane - Compliance Update

Whilst it is acknowledged that the landowners are working towards activating development consent DA 2008/808, including the commencement of a café within the subject premises operating on limited hours, two to three days each week, both requirements of Council's formal Order remain outstanding, in that:

1. The landowners are still hosting wedding functions within the subject premises and these functions continue to exceed the approved trading hours of the current development consent DA 2002/149 that is in force; and
2. The landowners have not provided Council with the details of all wedding functions that are booked to take place within the subject premises.

During the last three months, Council has continued to receive complaints from local residents in relation to the hosting of wedding functions within the subject premises and that these functions have exceeded the trading hours permitted by the active development consent DA 2002/149. Under this consent, the approved trading hours for the café are to be restricted to between:

- *9am to 6pm non-daylight saving period*
- *9am to 9pm during daylight saving period.*

Council is also advised that the operation of the café under development consent DA 2002/149 limits the number of patrons to a maximum of 50.

Council has been advised that there have been five weddings hosted at the subject premises since the February 2016 Ordinary Meeting report. It has been alleged that functions were held on the following dates:

Saturday 12 March 2016

Saturday 19 March 2016

Saturday 2 April 2016

Saturday 16 April 2016 and

Saturday 21 May 2016

It is further alleged that each of these functions operated in excess of the approved trading hours provided by development consent DA 2002/149.

Council has not been advised of any of these functions as required by requirement two of Council's Order dated 11 November 2015, other than of a day wedding to be held in March (no dates provided).

In addition, there have been issues identified with the On-Site Sewage Management System servicing the subject premises. On 3 May 2016, Council received a report, from the plumber engaged by the landowners, which indicated that the existing services for the subject premises were defective and in need of rectification.

On 17 May 2016, Council issued a Notice to Comply with the provisions of the *Plumbing and Drainage Act 2011* (NSW) being served on the landowners requiring that the following rectification works be undertaken:

Rectification Works:

1. *Decommission the existing grease cooling pit and Install a grease trap suitably sized for the intended use and wastewater volumes generated from the café in accordance with the NSW State Government - Liquid Trade Waste Regulation Guidelines. Prepare and provide to Council a grease trap operation and maintenance plan i.e. pumpout intervals, authorised pumpout contractor, cleaning procedure etc;*
2. *Engage the services of a NSW licensed plumber and drainer to connect the new grease trap into the existing sanitary drainage system, connect all café plumbing fixtures into the new grease trap, using appropriate pipe material, fittings and fasteners. Install a backflow prevention device upstream of nearest hose cock used for cleaning the grease trap and place appropriate signage over the tap;*
3. *Prior to works commencing contact Council's Environmental Health Officer – Sue Anderson on Ph: 6686 1210 to arrange a site inspection to confirm that the existing and proposed café kitchen rectification works will be in accordance with food safety requirements;*
4. *Engage the services of a NSW licensed plumber and drainer to replace the non-compliant sanitary plumbing and drainage pipework under the administration/dwelling building with new pipework compliant with the Plumbing Code of Australia;*
5. *Ensure that all plumbing and drainage work is performed by a NSW licensed plumber and drainer in accordance with the Plumbing Code of Australia. The plumber and drainer must complete the Department of Fair Trading "Notice of Work" form and submit this document to Council prior to works commencing. Upon completion of the works ensure that a properly completed and signed Department of Fair Trading Certificate of Compliance for Plumbing and Drainage Work is provided to the Council.*

This Notice to Comply has a compliance date of 17 August 2016 for all works to be completed. To work towards achieving compliance with Council's Notice to Comply, on 30 May 2016 the landowners submitted an application under the provisions of Section 68, *Local Government Act 1993* (NSW). This application is currently under assessment to ensure compliance with Council's Notice to Comply.

Further, Council is informed that there are outstanding issues that require action by the landowners prior to the issuing of a Construction Certificate for the works required under development consent DA 2008/808. These issues include:

1. The rectification of the On-Site Sewage Management issues outlined above
2. The submission of additional information to address matters identified in the Noise Control Report as submitted by the Noise Consultant as part of the development application and
3. The provision of amended drawings to comply with the identified issues outlined above.

Sustainability Considerations

- **Environment**

The main impact on the environment is from the emission of noise from the unauthorized wedding function venue. Compliance with development consents promotes the orderly and efficient use of land within the Shire.

- **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 and 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 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 should give due consideration to the amount of time afforded to the landowners to regularise the use of their land in accordance with development consents applying to the land and the need for a general deterrent to other residents that the carrying out of unapproved land uses 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 Shire that may result in similar unauthorised venues beginning operations within the Shire.

8.2 Down Convery's Lane - Compliance Update

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.

The seven options identified in the February 2016 report were:

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
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 and
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.

In addition, Council now has an eighth option available:

8. Grant a further three month extension to enable the landowners to achieve compliance with development consents DA 2002/149 and DA 2008/808.

The options one to seven inclusive are outlined in more detail in the attached February 2016 Ordinary Council Meeting report.

Option Eight:

As outlined, the landowners have been working towards achieving compliance with development consent DA 2008/808 and it appears that it is the intention for full compliance to be forthcoming in the near future.

It is open to Council to resolve to grant a further, final extension to the landowners to achieve full compliance with both the formal Order as served and all conditions of development consent DA 2008/808.

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.

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.

8.2 Down Convery's Lane - Compliance Update

Should the use of multiple options, including option eight, be favourably considered, Council would need to apply strict, measurable time frames to ensure that compliance with Council's formal Order and development consent are met.

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.

RECOMMENDATIONS

1. That Council provide a ninety day extension (option eight as detailed within this report) from 23 June 2016 to the landowners to achieve compliance with the requirements of Council's formal Order dated 11 November 2015 and development consents DA 2002/149 and DA 2008/808.
2. That should compliance with the requirements of Council's formal Order dated 11 November 2015 and development consents DA 2002/149 and DA 2008/808 not be forthcoming, that Council commence 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 and for the non-compliance with Council's formal Order dated 11 November 2015.

Attachment(s)

1. Locality Map
2. Council Report 25 February 2016 - Failure to Comply with Order - Wedding Function Venue

8.3 Policy (Draft) - Asbestos Management

8.3 Policy (Draft) - Asbestos Management

Delivery Program Environmental and Public Health

Objective To seek Council's endorsement of the Draft Asbestos Management Policy

Background

In November 2010 the NSW Ombudsman released a report called *Responding to the asbestos problem: The need for significant reform in NSW*. The report highlighted the need for greater support and advice to Local Government to increase their knowledge regarding the roles and responsibilities of asbestos management.

In response to the Ombudsman's Report the NSW Government announced the establishment of a Central Coordination Body – The Heads of Asbestos Coordination Authorities (HACA). The aim of HACA is to improve the management, monitoring and response to asbestos issues by developing coordinated programs. HACA was given the task of developing:

- a state-wide asbestos plan
- a model asbestos policy and technical support for local councils; and
- an extensive educational campaign to raise public awareness.

In November 2012 the Office of Local Government Department of Premier and Cabinet released the *'Model Asbestos Policy for NSW Councils'*.

The Model Policy was developed by the Local Government and Shires Association of NSW (LGSA) on behalf of HACA to promote a consistent approach to asbestos management by Local Government across NSW.

The Office of Local Government Department of Premier and Cabinet in May 2013 issued Guideline - *Model Asbestos Policy for NSW Councils* under Section 23A of the Local Government Act 1993.

A guideline issued under S23A must be taken into consideration by Council before exercising any of its functions. In this instance Council is required to consider the *Model Asbestos Policy for NSW Councils* when developing, adopting and implementing an asbestos policy for their local government area (LGA).

More recently HACA revised the Model Asbestos Policy and released the new Model Policy earlier this year.

Consequently the new Model Policy and associated Guidelines were used as the basis for the attached draft Asbestos Management Policy.

Key Issues

- Minimising exposure to asbestos, as far as reasonably practicable
- Council's legislative functions for minimising the risks

Information

In Australia, asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003. Asbestos legacy materials still exist in many homes, buildings and other assets and infrastructure.

It is estimated that one in three Australian homes contains asbestos. Being a coastal shire asbestos was often the material of first choice due to its resistance to salt laden air and was often used for exterior linings, roofing, rainwater guttering and downpipes, fencing and other uses in exposed areas.

It is accepted that asbestos poses a very significant health hazard in Australia. Exposure to asbestos fibres is known to cause mesothelioma, asbestosis and lung cancer. While asbestos is relatively safe in a bonded form, asbestos poses a risk to health by inhalation whenever asbestos fibres become airborne and people are exposed to these fibres. Non-friable asbestos containing materials that has been subjected to extensive weathering or deterioration also has a higher potential to release asbestos fibres into the air.

The purpose of the policy is to outline Council's overall commitment to the safe management of asbestos and asbestos containing material. The policy provides guidance on Council's responsibilities/functions for minimising the risks from asbestos in various circumstances including:

- the role of Council and other organisations in managing asbestos
- Council's relevant regulatory powers,
- Council's approach to dealing with naturally occurring asbestos, sites contaminated by asbestos and emergencies or incidents,
- general advice for residents on renovating homes that may contain asbestos,
- Council's development approval process for developments that may involve asbestos and conditions of consent,
- waste management and regulation procedures for asbestos waste in the LGA,
- Council's approach to managing ACM in council workplaces, and
- sources of further information.

The draft Policy recognises the complexity of asbestos management and promotes a coordinated and consistent approach to asbestos management by Council in partnership with other key stakeholders.

Sustainability Considerations

- **Environment**
Minimise the risks associated with asbestos and ACM.
- **Social**
Promotes commitment and responsibilities in relation to safely managing asbestos and contains educational material to promote an informed and safe society.
- **Economic**
Assist in the improved management, monitoring and response to asbestos issues by Council workers, residents and public within the

8.3 Policy (Draft) - Asbestos Management

Ballina LGA, and reduce the associated costs of inadequate handling of ACM.

Legal / Resource / Financial Implications

The Council has a duty to exercise due diligence to ensure that council complies with the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2011* (NSW). This includes taking reasonable steps to ensure that Council has and uses appropriate resources and processes to eliminate or minimise risks associated with asbestos.

Managers are responsible for ensuring workers who report to them have access to appropriate information, documentation and training.

Any costs associated with meeting requirements associated with this policy will be met from within existing budgets.

Consultation

Internal consultation has taken place with Council Sections responsible for matters associated with asbestos management. Comments have been incorporated into the attached draft Policy.

Should the Council endorse the draft policy as attached, it is recommended the draft policy be placed on public exhibition for comment. If any submissions are received that are considered significant they will be reported back to Council for assessment. If no significant submissions are received then the policy can be adopted and no further action is required.

Options

1. Council may endorse the draft policy as attached and place it on public exhibition and only have it reported back to Council should significant submissions be received. If no significant submissions are received then the policy can be adopted and no further action is required.
2. Council may amend the draft policy and place it on public exhibition and only have it reported back to Council should significant submissions be received. If no significant submissions are received then the policy can be adopted and no further action is required.
3. Council may resolve to not adopt the Asbestos Management Policy. This option is not recommended as Council may be viewed as not meeting the requirements under the *Work Health and Safety Act and Regulation 2011* (NSW) and section 23A of the Local Government Act 1993 which states: *A council must take any relevant guidelines issued under this section into consideration before exercising any of its functions.*

RECOMMENDATIONS

1. That Council place the draft Asbestos Management Policy on public exhibition for comment.
2. If no significant submissions are received, then the Policy is adopted.

Attachment(s)

1. Policy (Draft) - Asbestos Management

8.4 Compliance Work Plan 2015/16

8.4 Compliance Work Plan 2015/16

Delivery Program Development Services

Objective To advise Council of the status of the Compliance Work Plan for 2015/16

Background

At the June 2015 Ordinary Meeting, Council adopted a Compliance Work Plan for the 2015/16 financial year. This report provides a status report on that plan.

Key Issues

- Level of Compliance
- Results achieved

Information

The Compliance Work Plan nominated four areas as the priorities for this financial year as they were considered to be the areas of highest risk or potentially lowest levels of compliance.

These priority areas are:

1. *Audit of Major Developments within the Shire* (Ongoing Program);
2. *Audit of Identified Development Consents* (Ongoing Program);
3. *Review of all Development Consents issued within the Russellton Industrial Estate; and*
4. *Review of Liquor Licenses and Licensed Premises within Ballina Shire* (New Program).

In addition to these areas of identified priority, the Compliance Team respond to customer requests received from members of the general public as well as from Council employees and State and Federal Government Agencies.

As Council was advised in the Compliance Work Plan Half Yearly Report to the December 2015 Ordinary Meeting, the position of Compliance Officer was vacant from May 2015, when the incumbent was promoted to a more senior position within Council's Civil Services Group. This vacant Compliance Officer position was advertised on two separate occasions and unfortunately, for a number of reasons the position remained vacant for a considerable period of time.

This vacant position was filled on a permanent basis in late March 2016. Consequently the Compliance function has operated with only one dedicated Compliance Officer for the majority of this current financial year.

This reduction in staffing numbers has had an impact on the ability to undertake the proactive work as outlined in the Compliance Work Plan.

8.4 Compliance Work Plan 2015/16

Given the large numbers of legal Notices that were currently outstanding, the available staffing resources have been dedicated to this area, due to the legislative time limits that apply should legal action be warranted.

Of the nominated priority areas within the Compliance Work Plan, Council is provided with the following updates.

1. *Audit of Major Developments within the Shire* (Ongoing Program)

Major Developments are defined as developments consisting of five or more units/parcels of land/dwellings as well as all developments within areas of high environmental significance.

This program originally commenced in the 2008/09 financial year with an audit of 2006 development applications, which included applications that have been determined or withdrawn.

This program has continued on to audit 2007, 2008, 2009, 2010 and 2011 development applications. Compliance resources have also been involved in auditing developments being carried out on environmentally and culturally sensitive sites on an ongoing basis.

As this program now extends over six separate years, it is intended that each audit year will be reported separately, in table form.

Item	2006	2007	2008	2009	2010	2011
Number of Major Developments	65	89	77	43	83	56
Number Inspected for compliance	65	89	77	43	83	0
Number Compliant	53	78	63	34	40	0
Number of Ongoing Inspections (Current Works)	4 ¹	0	3 ³	5 ⁴	22 ⁵	0
Number of Ongoing Inspections (No Works on site – Consent Physically commenced but dormant)	0	1 ²	0	0	0	0
Number of Consents not commenced	0	0	0	0	17	0
Number of Consents lapsed	8	10	11	4	4	0
Number yet to be inspected	0	0	0	0	0	56

¹ All four developments have been inspected and require further follow up inspections. Compliance is working with the receivers and the new landowners to bring the environmental restoration in line with the approved revegetation management plans approved for each development. There is a condition of consent that requires ongoing revegetation of the sites, which will take place for at least the next three years or until the objectives of the revegetation management plans are achieved.

8.4 Compliance Work Plan 2015/16

- ² This development relates to a tourism development where works have physically commenced, however no works have been undertaken on site since 2013. A notation has been placed on the file to require further follow up inspections when works recommence, but is considered finalised at this time.
- ³ These developments relate to a quarry and redevelopment of a hotel, which are ongoing matters and one development which is currently the subject of ongoing compliance action to ensure compliance with conditions of consent.
- ⁴ Four of these developments relate to ongoing subdivisions which are awaiting final submission of linen plans and the remaining development is a tourist development which will lapse in the coming months if the use is not physically commenced.
- ⁵ Approximately half of these developments relate to ongoing subdivision works, with the remainder applying to various developments that are progressing towards completion.

2. Audit of Identified Development Consents (Ongoing Program)

Identified Development Consents are defined as all approvals issued by Council *EXCEPT* those identified as either (a) Major Developments or (b) Consents that require further approvals from Council or an accredited certifier, (e.g. Construction Certificates, Occupation Certificates, Subdivision Certificates, Food Inspection Certificates) and therefore have a 'built in' mechanism or stage within the consent where compliance with conditions are checked.

In these circumstances, a desktop audit is conducted to ensure that the appropriate certification has been received, and if no documentation has been received by Council, follow up inspections to ascertain whether the consent has been acted on or has lapsed are then undertaken.

This program originally commenced in the 2008/09 financial year with an audit of 2006 development applications, which included applications that have been determined or withdrawn. This program has continued on to audit 2007, 2008, 2009, 2010 and 2011 development applications.

As this program now extends over six separate years, it is intended that each audit year will be reported separately in table form, however as the 2006 financial year audit has been completed and all consents have been finalised, this year will no longer be reported.

Item	2007	2008	2009	2010	2011
Number of Identified Developments	131	131	99	148	96
Number Inspected for Compliance	131	131	99	148	0
Number Compliant	128	120	97	132	0

8.4 Compliance Work Plan 2015/16

Item	2007	2008	2009	2010	2011
Number of Ongoing Inspections (Current Works)	1 ¹	5 ²	2 ³	11 ⁴	0
Number of Ongoing Inspections (No Works on site – Consent Physically commenced but dormant)	0	0	0	0	0
Number of Consents not commenced	0	0	0	4	0
Number of Consents lapsed	2	6	0	1	0
Number yet to be inspected	0	0	0	0	96

¹ The remaining development relates to a business within Wardell that requires reports certifying all building works undertaken to the building. Compliance action is currently underway to address this non-compliance and a Building Certificate is currently under assessment to address all outstanding issues.

² These developments relate to a number of businesses within the Shire which have not provided final certification of building works. These matters originally came to the attention of Council as these developments had commenced however no certification had been received.

³ These outstanding developments relate to matters in which the works have been commenced, however matters are still outstanding for which final certificates have not been issued. These matters originally came to the attention of Council as these developments had commenced however no certification had been received.

⁴ Most of these developments relate to follow up inspections for vegetation removal and change of use applications within commercial or industrial zones.

3. Review of all Development Consent approvals issued within the Russellton Industrial Estate.

This program is currently underway with an initial desktop audit having been completed that identified all relevant properties to be inspected and letters issued to all landowners within the Russellton Industrial Estate advising them of the scope of the audit.

The Audit has been separated into two parts, the first being to identify any encroachments into the road reserve. These encroachments include goods and/or vehicles stored on the footpaths or security gates opening onto the road reserve.

The landowners who have had encroachments, have in the main, been willing to address these obstructions without the need for formal enforcement action being taken.

The second part of the audit has been in relation to the development consents within private property. Approximately 60% of the properties within the Russellton Industrial Estate have been inspected, with a number of non-compliances detected. Generally, these non-compliances relate to unauthorised uses, development consent conditions, fire safety requirements and the provision of fire safety certification, as well as identified trade waste and pollution matters.

Compliance staff have also identified four unauthorised dwellings currently occupied within the Estate, resulting in formal Notices being served on the relevant occupants and/or landowners.

4. Review of Liquor Licenses and Licensed Premises within Ballina Shire

This program has commenced and there have been a number of issues identified which have impacted on the time frame for this program to reach completion.

The main area of concern for this program relates to a number of sporting clubs and other Associations who utilise Council and Crown reserves. There appears to be discrepancies between the liquor licensing requirements and their current licences with Council to occupy clubhouses and public land.

Further, Compliance staff are aware that certain sporting associations hosting finals have a requirement to provide additional areas for liquor licensing purposes, which are contrary to Council licenses. These requirements may create a land use conflict with other organisations, which utilise the Council reserves at the same time.

Council has commenced a process improvement program to address these issues.

Court Proceedings

Some matters investigated by the Compliance Unit result in the commencement of legal proceedings, either in the Ballina Local Court or, where circumstances warrant, the NSW Land and Environment Court. Any legal action through the Courts is undertaken in line with the provisions of Council's *Enforcement Policy*.

No local Court proceedings have been completed this financial year, however one matter is currently before the Courts for the unauthorised removal of approximately three hectares of native vegetation without the required consent of Council. This matter was reported to the April 2015 Ordinary Council Meeting.

8.4 Compliance Work Plan 2015/16

Further, as Council would be aware, action is underway to enter onto private land to undertake Clean Up Action for a waste dumping matter that was reported to Council's May 2016 meeting.

These matters are ongoing.

Legal Notices

In addition to any Court matters, the Compliance Unit issues legal Notices for any identified breaches and non-compliances. These legal Notices are the commencement of the process to remedy identified breaches and non-compliances within Ballina Shire.

This current financial year, the Compliance Unit has:

- Issued 55 new formal Notices for identified breaches and non-compliances
- Finalised 45 formal Notices that have been ongoing, where the matter has been resolved to Council's satisfaction and without requiring litigation and
- 55 Outstanding Notices that require ongoing follow up where if a satisfactory resolution is not achieved the matter may result in formal Court proceedings.

The main area of non-compliance resulting in Legal Notices is as a result of complaints for unauthorised second (and sometimes third) residential dwellings within rural land within the Shire. These dwellings are usually converted farm or dairy sheds and have substandard On-Site Sewage Management Systems.

Council is also investigating a number of unauthorised "function centre" (wedding venue) and "tourist and visitor accommodation" complaints within rural zones.

Liquor Licensing Matters

In addition to the above matters, the Compliance Unit also accept, assess and make submissions to the Office of Liquor, Gaming and Racing on liquor licence applications lodged within the Ballina Shire in line with Council's adopted *Liquor Licence Application Policy*.

During the current financial year, the Compliance Unit has dealt with 28 liquor licence applications.

Sustainability Considerations

- **Environment**
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**
Not applicable.
- **Economic**
Compliance with development conditions results in a more level playing field for business operators.

8.4 Compliance Work Plan 2015/16

Legal / Resource / Financial Implications

This program aims to efficiently utilise the resources allocated for enforcement activities.

Consultation

This report has been provided for public information.

Options

This report has been prepared as a final update on the 2015/16 Compliance Work Plan and the recommendation is to note the contents of the report.

RECOMMENDATION

That Council notes the contents of this report on the outcomes from the Compliance Work Plan for the 2015/16 financial year.

Attachment(s)

Nil

8.5 Compliance Work Plan 2016/17

8.5 Compliance Work Plan 2016/17

Delivery Program Development Services

Objective To provide Council with a proposed Compliance Work Plan for 2016/17

Background

Following on from the previous report in this agenda, this report identifies the major areas where it is recommended that Council apply its compliance resources for 2016/17.

Key Issues

- Proposed areas for investigation and review

Information

To provide Council with a forecast of how Council resources will be directed over the coming 2016/17 financial year, a Compliance Work Plan has been developed. Whilst additional land use complaints will inevitably be received over the coming financial year and all complaints will be prioritised and actioned as appropriate, priority will be given to the items contained within the Compliance Work Plan.

The Compliance Work Plan has nominated the following areas as the priorities for the forthcoming financial year as they are considered the areas of highest risk or potentially lowest levels of compliance.

Programs:

1. *Audit of Major Developments within the Shire* (Ongoing Program);

It is intended to continue this program to complete the audit of all 2006, 2007, 2008, 2009 and 2010 Major Development consents and commence the audit of all 2011 Major Development consents.

2. *Audit of Identified Development Consents* (Ongoing Program);

It is intended to continue this program and complete the audit of the 2007, 2008, 2009 and 2010 Identified Development Consents and commence the audit of the 2011 Identified Development Consents.

3. *Completion of the Review of all Development Consents issued within the Russellton Industrial Estate* (Ongoing Program);

It is intended to continue this program and complete the audit of the Russellton Industrial Estate for compliance with issued development consents and to undertake enforcement action as required for identified non-compliances.

8.5 Compliance Work Plan 2016/17

4. *Completion of the Review of Liquor Licenses and Licensed Premises within Ballina Shire* (Ongoing Program);

It is intended to complete the review of liquor licenses due to recent legislative changes within the *Liquor Act 2007* (NSW). These changes, which commenced on 18 May 2015, require that an applicant provide the Independent Liquor, Gaming and Racing Authority with proof of Council development consent or other licensing approvals at the time of the submission of an application to the Authority.

It is acknowledged that there are no new programs proposed in the upcoming Compliance Work Plan 2016/17. This is due to the Compliance Officer position being vacant for the majority of 2015/16 and the need to significantly advance the four identified programs. Also, it has been determined that certain audit and investigations work currently performed by the Building Services Section is to be reallocated on an initial 12 month basis to the Compliance Team within the Development Services Section, due to current staffing shortages within the Building Services Section.

The following areas will be progressively transferred to the Compliance Team on an initial 12 months basis:

1. Caravan Park inspections, auditing and licensing
2. Swimming Pool inspections and the issuing of compliance certification; and
3. Essential Services (Fire Safety) auditing in relation to fire safety certification.

Additional resources are proposed for the 12 month period for the swimming pool inspections, with further information on this outlined in the report on the Delivery Program later in this agenda.

Sustainability Considerations

- **Environment**
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**
Not applicable.
- **Economic**
Not applicable.

Legal / Resource / Financial Implications

This program is based on utilising existing resources.

Consultation

This report has been provided for public information.

Options

The options are to either support the proposed work plan or amend it to include other areas where Council believes there may be a higher priority. The recommendation is to endorse the plan.

RECOMMENDATION

That Council endorses the proposed annual Compliance Work Plan for 2016/17, as detailed within this report.

Attachment(s)

Nil

8.6 Development Consent and Infrastructure Approvals - May 2016

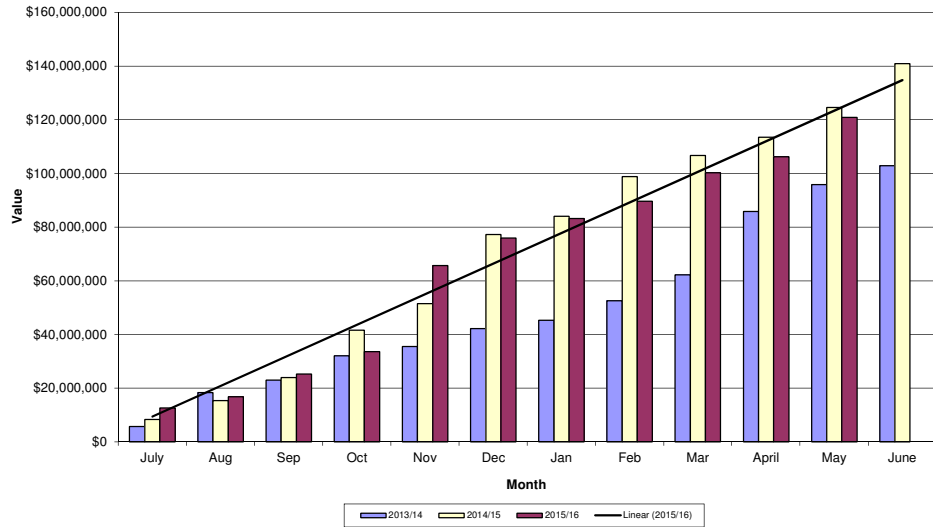
8.6 Development Consent and Infrastructure Approvals - May 2016

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

Number of Applications	Value of Work
39 Other Building Related	\$ 1,278,486
31 Dwelling/Duplexes/Residential Flat Buildings	\$ 13,250,751
5 General Developments	\$ 8,000
Total Value	\$ 14,537,237

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

Cumulative Development Approval Values



During the period of 1 May 2016 to 31 May 2016 the Development and Environmental Health Group issued Public Infrastructure / Civil Construction Works comprising of:

Number of Applications	Value of Work
1 Public Infrastructure / Civil Construction (Modified Coastal Recreational Path)	\$ 150,000
Total Value	\$ 150,000

RECOMMENDATION

That Council notes the contents of the report on development consent and public infrastructure approvals for 1 May 2016 to 31 May 2016.

Attachment(s)

Nil

8.7 Development Applications - Works in Progress - June 2016

8.7 Development Applications - Works in Progress - June 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
2015/468	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	Determination Pending
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
2016/25	25/01/2016	Retail Fuel Developments	Demolition of Existing Buildings and construction of Service Station and Ancillary Kiosk – 323 River Street, Ballina	Being Assessed
2016/36	02/02/2016	Ardill Payne & Partners	Place of Assembly – Wedding Ceremonies – 442 Hinterland Way, Knockrow	Referred to Government Departments
2016/122	17/03/2016	Newton Denny Chapelle	Proposed Rural Industry - 226 Hinterland Way, Knockrow	Referred to Government Departments

8.7 Development Applications - Works in Progress - June 2016

2016/123	17/03/2016	B & P Surveys	Boundary adjustment subdivision of three existing lots to create 1 x 48ha, 1 x 33ha and 1 x 18 ha allotments – Lot 265 DP 1212348, Lot 1 DP 1184436 & Lot 1 DP 184117, The Coast Road, Lennox Head	Awaiting Additional Information
2016/124	18/03/2016	Anstey Homes P/L	Demolition of Existing Buildings and the Erection and Strata Title Subdivision of a Multi Dwelling Housing Development Comprising Three x Two Storey Dwellings and Associated Works – 71 Stewart Street, Lennox Head	Awaiting Additional Information
2016/140	30/03/2016	GM Project Development & Management	Erection of New Dwelling House and Conversion of Existing Residence to Farm Stay Accommodation and Associated Works – 47 Ellis Road, Alstonville	Being Assessed
2016/147	01/04/2016	Planners North	To establish a tourist and visitor accommodation facility comprising a single one bedroom cabin – 21 Boormans Road,	Awaiting Additional Information

8.7 Development Applications - Works in Progress - June 2016

			Newrybar	
2016/148	1/4/2016	Planners North	Mixed Use Development Comprising the Erection and Strata Title Subdivision of a Two Storey Commercial Premises and Three x Two Storey Dwellings and Associated Works – 61 Ballina Street, Lennox Head	Awaiting Additional Information
2016/161	8/4/2016	Ardill Payne & Partners	To establish a tourist and visitor accommodation facility comprising five tourist cabins, laundry room and associated works. – 14 Boormans Road, Newrybar	Being Assessed
2016/166	8/4/2016	Planners North	Twenty-six lot Torrens Title subdivision including road construction, earthworks, and associated subdivision works – Lot 7 DP 1216761, Henderson Drive, Lennox Head	Referred to Government Departments
2016/171	11/4/2016	Peter Turner & Associates	Two staged development involving construction of two new dwellings to create a multi dwelling housing comprising three dwellings and strata	Being Assessed

8.7 Development Applications - Works in Progress - June 2016

			subdivision – 10 Byron Street, Lennox Head	
2016/187	15/4/2016	AGS Commercial Pty Ltd	Erection of industrial building comprising two units and construction of associated car parking - 19 Cessna Crescent, Ballina	Being Assessed
2016/194	18/4/2016	Ms M Feain	Change of Use to a Recreation Facility (Indoor – Dance Studio) – 58-62 Simpson Avenue, Wollongbar	Being Assessed
2016/206	26/04/2016	Peter Turner & Associates	Senior Housing Comprising 15 Single Storey Self Care Units and Associated Works – 127-129 Cherry Street, Ballina	Awaiting Additional Information
2016/219	03/05/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of Existing Dwelling House, Demolition of Existing Carport and Shed, Vegetation Removal and Associated Works and the Subsequent Strata Title Subdivision – 175 Tamar	Awaiting Additional Information

8.7 Development Applications - Works in Progress - June 2016

			Street, Ballina	
2016/229	05/05/2016	Ballina Shire Council	Vegetation Management works comprising the removal of 19 Trees – 81-95 Southern Cross Drive, Ballina	Being Assessed
2016/230	05/05/2016	J Casey C/- CivilTech	Alterations to Existing Multi Unit Development and Five Lot Staged Strata Subdivision – 12 Skinner Street, Ballina	Awaiting Additional Information
2016/236	06/05/2016	Newton Denny Chapelle	Erection of Industrial Building for the Purposes of General Industry (Brewery) and Associated Works – 2/188-202 Southern Cross Drive, Ballina	Awaiting Additional Information
2016/238	09/05/2016	Newton Denny Chapelle	83 Lot Residential Subdivision Including Construction of Roads, Infrastructure and Associated Works – Hutley Drive, Lennox Head (EPIQ)	On Exhibition
2016/240	10/05/2016	Ardill Payne & Partners	Torrens Title Subdivision Comprising 26 Lots and One Residue Lot, Road Construction, Infrastructure Provision and Associated Works – Power Drive, Cumbalum	On Exhibition
2016/252	12/05/2016	FSG Australia	Demolition of	On Exhibition

8.7 Development Applications - Works in Progress - June 2016

		Ltd	Existing Building and Erection of a Hostel for the Purposes of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 Comprising Five Single Storey Dwellings and Subsequent Strata Title subdivision and Associated Works – 31 Burnet Street, Ballina	
2016/260	16/5/2016	Ardill Payne & Partners	To establish a Place of Assembly to be used for a range of purposes, including the holding of functions, for a maximum of 150 functions in any calendar year with a maximum number of attendees at each function ranging from 30 to 250 – 171 Leadbeatters Lane, Alstonville	On Exhibition
2016/274	20/05/2016	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create 1 x 1.45ha and 1 x 47ha allotments and the establishment of a rural	On Exhibition

8.7 Development Applications - Works in Progress - June 2016

			worker's dwelling upon the larger Proposed Lot 11 – 61 & 145 Brooklet Road, Newrybar	
DA 2016/285	27/05/16	Newton Denny Chapelle	Erection of Industrial Shed for the Purpose of a Vehicle Repair Station – 19 Northcott Crescent, Wollongbar	Awaiting Additional Information
DA 2016/289	30/05/2016	David Carter	Vegetation Management Works comprising the removal/pruning of six trees – 304 Rifle Range Road, Alstonville	Being Assessed
2016/292	01/06/2016	Koho Projects	Multi Dwelling Housing Development Comprising 12 One Bedroom Dwellings under the Provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009, Demolition of Existing Buildings and Associated Works – 142 Tamar Street, Ballina	On Exhibition
2016/296	01/06/2016	Gerard Ryan	Vegetation Management Works comprising the removal/pruning of 12 trees - 20 Stonehenge Place, Lennox Head	Being Assessed
2016/298	02/06/2016	Newton Denny	Erection of a Two Storey	On Exhibition

8.7 Development Applications - Works in Progress - June 2016

		Chapelle	Commercial Development, Demolition of Existing Dwelling House and Associated Works – 86 Ballina Street, Lennox Head	
2016/305	07/06/2016	Ramican Pty Ltd	Vegetation Management Works comprising the removal of one tree – 449 River Street, Ballina (Cedar Caravan Park)	Being Assessed

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/01/2016	21st 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 Duffcys Lane & Ross Lane, Tintenbar	Awaiting Additional Information

8.7 Development Applications - Works in Progress - June 2016

2016/184	15/4/2016	Planners North	To undertake urban subdivision of the new Cumbalum Urban Release Area – Precinct A comprising a total of 633 residential allotments, road construction, earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - Sandy Flat Road, 88 Sandy Flat Road, 52 Albert Sheather Lane, Tamarind Drive and 658 Tamarind Drive, Cumbalum	On Exhibition and Referred to Government Departments & Awaiting Additional Information
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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 June 2016.

Attachment(s)

Nil

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

9. Strategic and Community Facilities Group Reports

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 14/004 relating to No 16 Tara Downs, Lennox Head, and to seek direction from the Council on the finalisation of this proposed LEP amendment.

Background

The Council, at its Ordinary Meeting held on 27 March 2014 considered a request to rezone the rear section of Lot 12 DP 813210 (Lot 12) from a rural zone to an R2 Low Density Residential zone under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). The Council at that time resolved to prepare a planning proposal and determine the land's subdivision potential and an appropriate minimum lot size following the assessment of additional technical information [Minute No. 270314/16].

The diagram below shows by red outline the site the subject of the planning proposal. The rear section of Lot 12 generally refers to that part of the site behind residential lots which front Tara Downs.

Diagram 1 – Site Plan



9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

The Council further considered the planning proposal at its Ordinary Meeting held on 24 April 2014 and resolved as follows [Minute No. 240414/12]:

- 1. That the Council authorises the submission of the planning proposal (contained in Attachment One) which provides for the application of an R2 Low Density Residential zone over Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head to NSW Planning and Infrastructure for review and Gateway determination.*
- 2. That upon an affirmative Gateway determination being received from NSW Planning & Infrastructure, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal, including a determination of minimum lot size provisions.*
- 3. That a further report be presented to the Council in relation to this matter following the mandatory community and government agency consultation.*

The NSW Department of Planning and Environment (DPE) issued a Gateway determination on 13 May 2014 to apply an R2 Low Density Residential zone to Lot 12 and an appropriate minimum lot size. The determination also required that a Flora and Fauna Impact Assessment and a Land Slip Assessment be undertaken prior to public exhibition of the planning proposal.

The proponent's consultant was subsequently advised in December 2014 that a minimum lot size of 1,200m² for the rear of Lot 12, consistent with that nominated in the 2004 Lennox Head Structure Plan, should be used to guide the technical evaluation. Lot 12 has two frontages to Tara Downs and includes land already zoned R2 Low Density Residential. A minimum lot size of 600m², consistent with adjoining residential properties, was nominated as appropriate for this land.

Technical assessments were submitted to Council by the proponent's consultant in June 2015 which then enabled consultation with the NSW Rural Fire Service and the NSW Office of Environment and Heritage (OEH) to take place. This process revealed that an error had been made in respect to the rear section of Lot 12 being described as being zoned RU1 Primary Production when in fact it was zoned RU2 Rural Landscape zone. As a consequence, an amended Gateway determination was required to be obtained which was subsequently issued by the DPE on 7 July 2015.

In July 2015 the OEH, in response to a request for comments, highlighted issues related to the manner in which Hairy Joint Grass located on part of Lot 12 was proposed to be managed. A request was made that further information be obtained and the applicant demonstrates an appropriate 'avoid, mitigate and offset' approach. The resolution of this and associated issues did not occur until March 2016 when the OEH advised that the issues it previously had raised appear now to have been resolved.

In April 2016 the DPE extended the period of time to complete the LEP until 13 November 2016. Advice was also provided that the inconsistencies with section 117 Directions 2.1 Environmental Zones and 4.4 Planning for Bushfire Protection are justified and that no further approvals are required in respect to these Directions.

The March 2016 advice from the OEH and subsequent advice from the DPE in April 2016 enabled the planning proposal to proceed to public exhibition. The public exhibition process commenced on 20 April 2016 and concluded on 20 May 2016 (A copy of the exhibited planning proposal is contained in Attachment One). During this period two submissions were received by Council.

The purpose of this report is to seek direction from the Council on the finalisation of this LEP amendment.

Key Issues

- Consideration of the outcomes of the public exhibition process.
- Finalisation of the LEP amendment.
- Consideration of acceptance of delegation from the DPE to finalise the planning proposal.

Information

The planning proposal relates to vacant land described as Lot 12 DP 813210 (Lot 12), No 16 Tara Downs, Lennox Head. Lot 12 has an area of 1.441 hectares and two frontages to Tara Downs, albeit one of these is very narrow. The rear section of this lot, located behind properties which front Tara Downs, is zoned RU2 Rural Landscape under the provisions of the BLEP 2012. The front sections of Lot 12 are zoned R2 Low Density Residential, consistent with other adjacent properties which front Tara Downs.

The planning proposal seeks to achieve the following outcomes for Lot 12:

- Apply an R2 Low Density Residential zone to the rear section of Lot 12;
- Apply a 600m² minimum lot size to the front part of Lot 12 with direct frontage to Tara Downs and a 1,200m² minimum lot size to the rear section of the Lot; and
- Make consequential changes to the Strategic Urban Growth Area (SUGA) map so as to remove the SUGA designation from the rear of Lot 12 and amend associated buffers.

Concept Subdivision Plan

The proponent has submitted a Concept Subdivision Plan which is shown in Diagram 2 below.

The Concept Subdivision Plan proposes the creation of two Torrens Title lots. Proposed Lot 1 fronts Tara Downs and has an indicative area of 805m². Lot 2 is the residue of the land which is proposed to be subject to further subdivision with all proposed lots at this stage having areas significantly in excess of the proposed 1,200m² minimum lot size (1,415m² to 2,586m² range).

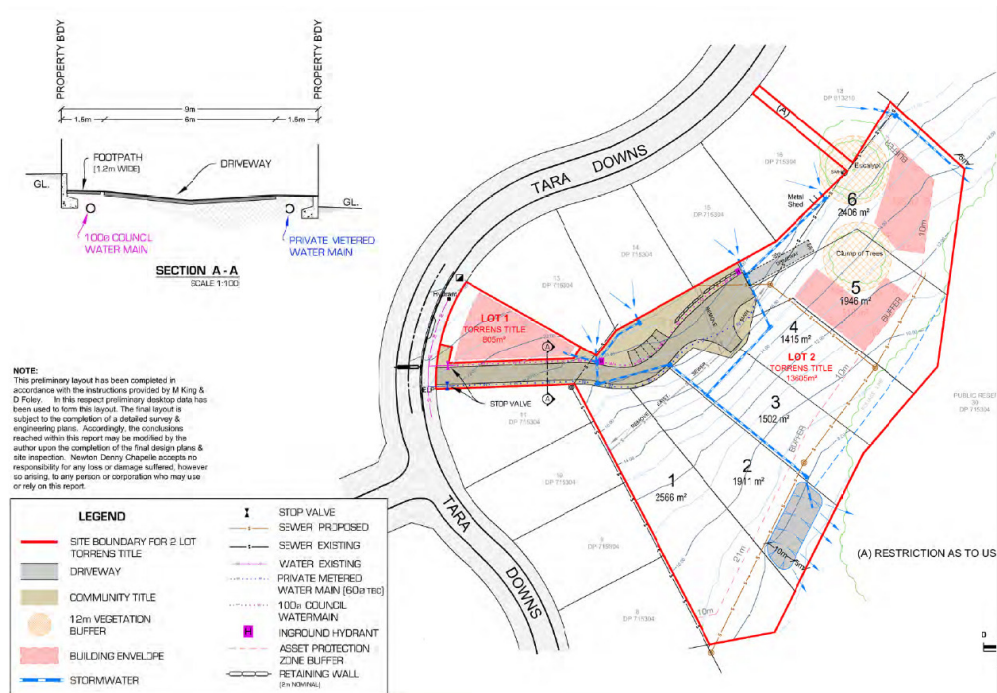
The proposed title arrangements applicable to the rear lots have not been fully resolved. Access to these lots is proposed to be achieved via a 6 metres wide driveway which will be subject to reciprocal rights of way. The proposed subdivision can be achieved through both the Torrens and Community Title provisions.

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

The proponents have also investigated servicing the rear lots through the dedication and construction of a public road. Such an approach would have resulted in significant land area being required for the road and associated batters and ultimately would have resulted in much smaller lots. A longer term maintenance obligation for Council would also have been created related to unsealed areas associated with the road corridor. Council's engineers do not favour a public road servicing the rear lots and prefer a Community Title approach to future subdivision if the land is to be developed.

At this stage of the process sufficient information has been submitted which indicates that the land can be subdivided into a number of lots and issues related to bushfire and vegetation buffer areas have been adequately resolved.

Diagram 2 – Concept Subdivision Plan



Wastewater Issues

Wastewater capacity issues have been investigated by Council's engineers. Advice was provided in 2014 that there were capacity constraints in the local wastewater reticulation infrastructure (Tara Downs and Skennars Head sewerage pumping stations). Council has in place an upgrade program to address the localised capacity constraints previously identified.

In accordance with Council's upgrade program, works to the Tara Downs sewerage pumping station are currently underway and anticipated to be completed by the end of June 2016. Works to the Skennars Head sewerage pumping station are programmed to occur during the 2016/2017 financial year. It is anticipated that completion of these works will resolve capacity constraints previously identified.

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

Ecological Issues – Hairy Joint Grass (HJG)

The HJG is located upon Lot 12 within a patch of grass having an area of approximately 505m². The ecological assessment has found that this patch of HJG is unlikely to be viable in the longer term due to its small size and changes in land management (absence of cattle grazing and slashing and mowing of the land).

HJG is listed as a vulnerable species under the provisions of the Commonwealth Environment Protection and Biodiversity Act (EPBC Act).

To compensate for the future loss of HJG from Lot 12 the proponent has proposed compensatory habitat offset works. These works involve the preparation of a Vegetation Management Plan (VMP) and associated establishment, maintenance and monitoring of a compensatory habitat planting area of 0.35ha. The VMP will be required to be prepared in respect to a broader area which will encompass the public reserves located on the southern escarpment and will then be used to guide future vegetation management.

The proponent had initially offered an amount of \$7,000 to prepare the VMP. Further examination of the likely costs associated with the preparation of a VMP and associated establishment, maintenance and monitoring of a compensatory habitat planting area of 0.35ha has indicated that this may cost in the vicinity of \$20,000. Following discussion of this issue with the proponent's consultant it has been agreed that a reasonable approach to this issue would be as follows:

1. The proponent make an initial payment to Council of \$7,000 to fund the preparation of a VMP following a resolution to finalise the proposed LEP amendment;
2. Council to seek quotations from competent contractors/organisations for the works detailed in the VMP and associated 5 year maintenance program;
3. The proponent to pay to Council the costs associated with undertaking the VMP works as per the quote obtained; and
4. Council to then finalise the LEP amendment after receiving the payment referenced in point 3 above.

At this stage suitable land for the compensatory habitat works (Rainforest Vegetation Communities) has been identified within the nearby Booyul Estate Bushland Reserve. Council's Open Spaces and Reserves Section has agreed to be the recipient of funds associated with the above strategy.

The Office of Environment and Heritage (OEH) has acknowledged the offset strategy proposed in its correspondence dated 31 March 2016 (Refer Attachment Two) and has not objected to what is proposed.

If Council endorses the HJG offset strategy then Council's Land Register will record the fact that a VMP has been applied to part of the Booyul Estate Bushland Reserve. This will ensure that a record exists of the VMP being applied to this land. It will also avoid the situation where the same parcel of land may be nominated again for a VMP at some future time.

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

From a planning perspective, the VMP proposal resolves an otherwise contentious issue which may have prevented the development of the land for some time or until a suitable biobanking site was located.

The approach outlined above is endorsed as the VMP process will provide funding for the establishment, maintenance and monitoring of a compensatory habitat planting area on land which will benefit from such work being undertaken and for which Council has no funding currently allocated. It will also result in a VMP for the reserves contained within the southern escarpment which will then be used to guide broader future vegetation management works. From these perspectives, what is proposed is considered to result in appropriate outcomes.

It is noted that in some cases, arrangements such as those proposed are documented through Voluntary Planning Agreements (VPA). In this case a VPA has not been contemplated as the proponent has agreed to make payments to Council for works prior to the LEP amendment being finalised, and also having regard to the relative small dollar value of the proposed arrangement.

Ecological and Bushfire Issues – Building Buffer Areas

The proponent's Ecological Assessment (Blackwood September 2012) recommends vegetation buffer areas be established so as to prevent building within 12 metres of trees located in the central northern section of the site. This part of the site contains semi mature Guioa and Tuckeroo trees.

The 12 metre buffer area is sufficient to prevent vegetation being removed in accordance with the NSW Rural Fire Service's *10/50 Vegetation Clearing Code of Practice*.

Vegetation planted upon Lot 12 near its eastern boundary, by the *Tara Downs Landcare Group*, has also been considered to be of ecological value. The proponent's ecological report recommends that this vegetation be retained. A bushfire Asset Protection Zone (APZ) buffer, which has a width that ranges from 10 to 21 metres, is proposed about this vegetation. A further APZ of similar width is proposed for the rainforest vegetation located within the Council reserve located adjoining the eastern boundary of Lot 12.

The plans below show the location of proposed vegetation and bushfire APZ buffers as well as building envelopes available for proposed Lots 5 and 6. The building envelopes are located clear of recommended buffer areas.

Diagram 3 – Proposed Asset Protection Zones

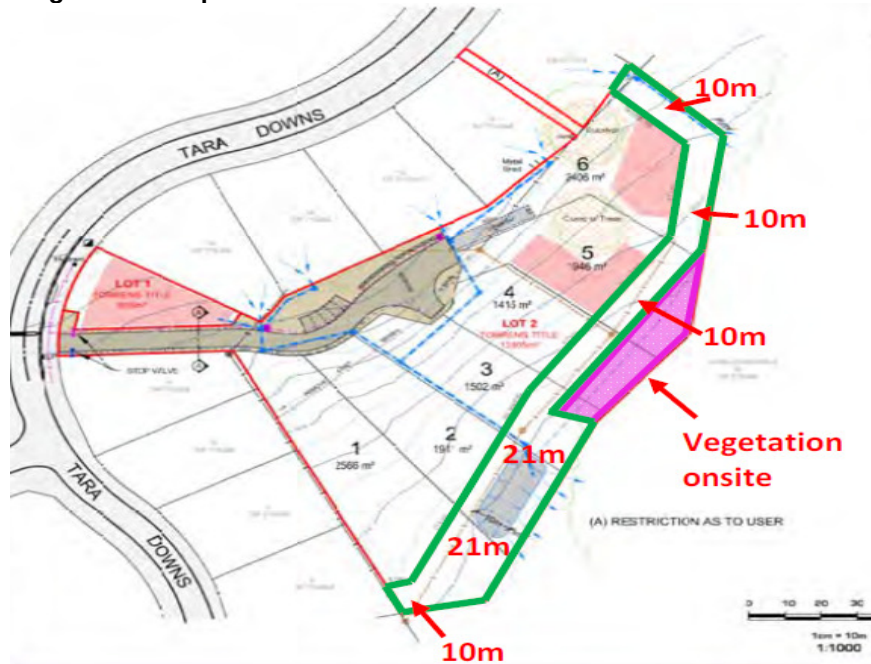
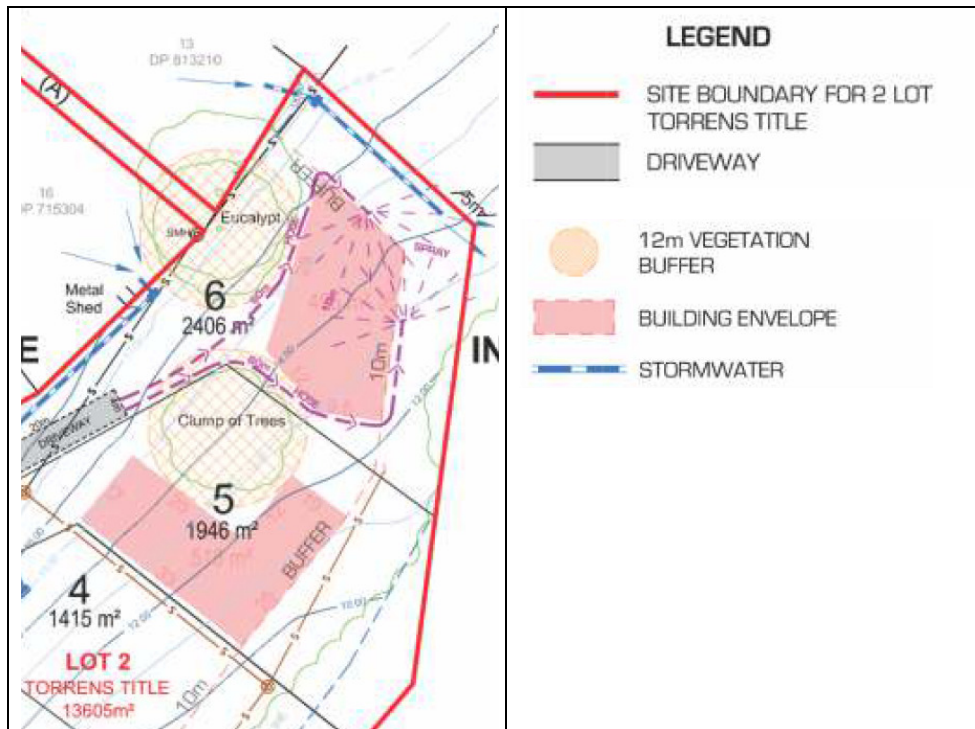


Diagram 4 – Proposed Vegetation Buffer Areas



9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

A means available to Council to highlight the presence of buffer areas on Lot 12, and require that they be considered in future subdivision and building proposals, is to incorporate suitable provisions with Ballina Shire DCP 2012. It is proposed that suitable provisions be added to Part 5 of DCP Chapter 3 – Urban Subdivision to reflect the requirements for bushfire and vegetation buffers upon Lot 12 consistent with those shown in Diagrams 3 and 4. As a reinforcement, an assessment of a future development application/s over the land may conclude that it is desirable to have these matters recorded as restrictions on the use of the land under the provisions of the Conveyancing Act.

Summary of Key Site Issues

The range of issues investigated during the course of preparing the planning proposal is documented in the table below. No issues have emerged which are considered to prevent the planning proposal from being finalised.

Key Issue	Summary and Comments
Aboriginal cultural heritage	<p>The proponent has submitted an Aboriginal Cultural Heritage Due Diligence Assessment. The assessment process included a site visit with the Jali Local Aboriginal Land Council's Sites Officer. The assessment concluded that the site has a low archaeological potential. Specific recommendations were made which relate to the procedures to be followed should Aboriginal objects or remains be found on site during the development phase of this project.</p> <p>A letter from Jali LALC is contained within Appendix A of the Aboriginal Cultural Heritage Due Diligence Assessment. The letter indicates that no concerns regarding Aboriginal Cultural Heritage are raised in respect to this site.</p> <p>The report was referred to the Office of Environment and Heritage (OEH) for comment. The OEH in correspondence to Council, dated 7 July 2015, noted a number of minor issues associated with the assessment. The issues identified have been corrected in the report which forms a part of this planning proposal.</p> <p>The OEH in correspondence dated 31 March 2016 has indicated that it is now satisfied that cultural heritage issues have been satisfactorily addressed.</p> <p>Aboriginal cultural heritage issues are considered to have been satisfactorily addressed and do not prevent the planning proposal from being finalised.</p>
Bushfire impacts	<p>Part of the site is classified as Category 2 Bushfire Prone Land or is within the 100 metre buffer to such land. A Bushfire Threat Assessment Report (BTAR) has been prepared and consultation with the Rural Fire Service (RFS) has been undertaken. The RFS has indicated that it has no objection to the planning proposal proceeding.</p> <p>The BTAR recommended a buffer area to the adjoining public reserve to the east, and on site vegetation, which varies from 10 to 21 metres. The issue of buffers and how they may be implemented is discussed elsewhere within this report.</p> <p>Bushfire issues have been satisfactorily addressed to the extent required for the rezoning process. Future subdivision proposals for the land may require additional assessment in accordance with Section 100B of the Rural Fires Act 1997.</p>
Contamination assessment	<p>The site is located within 100 metres of the disused <i>Meaney's</i> cattle dip site. The degree to which the site has been contaminated by current or past land uses has been assessed.</p> <p>The proponent has submitted a Preliminary Contaminated Land Assessment which concluded that, based on soil sampling results, further contamination assessment is not required in the proposed development area and that the land is suitable for residential use.</p> <p>The Preliminary Contaminated Land Assessment has been considered by Council's Environmental Health Section which has advised that the report correctly concluded that, based on the soil sampling findings, the whole site is considered suitable for the proposed development (residential) without further investigation of contamination.</p>

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

Key Issue	Summary and Comments
Ecological impacts	<p>The subdivision of the land has the potential to impact fauna and flora communities located within the open space land to the north, east and south. In addition, flora and fauna impacts on Lot 12 are also required to be assessed. An assessment undertaken in 2008 found Hairy Joint Grass located on this site. This species is a designated as a vulnerable and a threatened plant species under applicable legislation.</p> <p>In response to issues raised by the OEH in their correspondence dated 7 July 2015, the proponent submitted an amended Ecological Assessment dated September 2015 related to the subject site. Field surveys associated with this assessment have found Hairy Joint Grass located on this site in a patch having an approximate area of 505m². The conclusion reached in the assessment is that this patch of Hairy Joint Grass is unlikely to be viable in the longer term due to its small size, the relatively low proportion of Hairy Joint Grass within the patch and the uncertainty regarding ongoing land use on the site, particularly the absence of a cattle grazing and the slashing/ mowing regime.</p> <p>The Ecological Assessment has concluded that the ecological impacts of the proposed development are considered to be minor and will involve the loss of 505m² of grassland containing Hairy Joint Grass and the potential for trimming some trees where branches may occur within 10 metres of future dwellings.</p> <p>The proponent has proposed compensatory habitat offset works to compensate for the loss of Hairy Joint Grass on this site. The offset works proposed have previously been discussed in this report.</p> <p>The OEH has reviewed the amended Ecological Assessment and the offset strategy proposed in respect to Hairy Joint Grass located on Lot 12. In its letter dated 31 March 2016 the OEH has advised that, subject to the use of Council's Land Register and Generic Plan of Management for Community Land to secure the offset, it appears to provide adequate protection.</p> <p>A further issue identified in the proponent's Ecological Assessment relates to an isolated patch of vegetation located in the central northern section of the site, containing Guioa and Tuckeroo trees as well as vegetation planted on the site by the Tara Downs Landcare Group. This vegetation is considered to be of ecological value and has been recommended for retention by the proponent's ecological consultant. To achieve its retention, building buffer areas are proposed. These vegetation buffer areas are of sufficient width to prevent vegetation being removed in accordance with the NSW Rural Fire Service 10/50 Vegetation Clearing Code of Practice. Buffer issues and how they may be achieved have been discussed elsewhere in this report.</p> <p>Subject to the Council endorsing the proponent's offset strategy and agreeing to be the recipient of funds as previously discussed, and setting bushfire and vegetation buffers for Lot 12, the issues associated with ecological impacts are considered to have been satisfactorily addressed and will not impact on the planning proposal being finalised.</p>
Geotechnical issues	<p>Approximately half of the north-western section of the site is designated as being susceptible to landslip on maps produced by the NSW Department of Mineral Resources. The susceptibility of the land to landslip has been subject to further assessment in a Preliminary Geotechnical / Stability Assessment. The assessment gave consideration to retaining walls, having a height of up to 2 metres, being required to enable construction of a flat vehicle turning area. In this respect it was concluded, that provided retaining walls, with a height greater than 1 metre, are engineer designed, there are no anticipated geotechnical constraints that would prevent the development from being constructed.</p> <p>Detailed field studies and subsurface investigations were noted as being required prior to future development proceeding.</p> <p>Geotechnical issues are considered to have been satisfactorily addressed to the level required to enable the planning proposal to be finalised. Additional engineering investigation will be required as part of future subdivision and development application processes.</p>
Mosquito impacts	<p>Lot 12 is located within a high risk mosquito management area. Ballina Shire Development Control Plan 2012 (Chapter 2 section 3.6) contains requirements for subdivisions involving more than 10 lots and development with stormwater control ponds capable of holding water for more than 48 hours. In the subject case seven residential lots are proposed and advice has been provided that stormwater ponds will be designed to drain within 24 hours.</p> <p>This issue was further considered by the proponent's consultant and Council's Environmental Health Section. Advice was provided that mosquito risk to individual dwelling houses will be required to be controlled through the application of insect screens. In terms of the proposed stormwater detention basins, these will be required to be designed so that they completely drain within 48 hours.</p> <p>It is considered that sufficient information has been submitted in respect to mosquito risk implications and mitigation strategies to enable the planning proposal to be finalised. This issue will need to be further examined as part of future subdivision and development application processes to ensure that Council's DCP requirements are complied with, given the high risk nature of this location.</p>

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

Key Issue	Summary and Comments
Stormwater management	<p>The land is located within 100 metres of a SEPP 14 wetland and within close proximity to a SEPP 26 Littoral Rainforest. For these reasons stormwater management issues have been examined by the proponent's consultants in the Engineering Services Report.</p> <p>The Engineering Services Report has been examined by Council's Traffic and Development Engineer who has considered stormwater management issues including conveyance, point of discharge, attenuation, treatment, infrastructure and management issues. It was concluded that these issues have all been adequately addressed for this stage of the process. Stormwater related issues will be further addressed as part of the subdivision development application process following rezoning.</p>
Traffic impacts	<p>The proponent's consultant has examined anticipated access and traffic impacts associated with the proposed subdivision following rezoning.</p> <p>The location of the proposed 6 metre wide access way has been considered by Council's Traffic and Development Engineer who has concluded that the proposed T intersection with Tara Downs has reasonable sight distance and is considered satisfactory. Some internal redesign of the "hammer head" turning area has been recommended to facilitate turning of medium rigid vehicles. These matters are capable of being addressed in more detail at the subdivision development application stage following rezoning.</p>
Visual amenity impacts	<p>The proponent has been required to consider potential view loss issues from properties fronting Tara Downs. A Visual Amenity Impact Assessment has been prepared. The assessment indicates future building envelopes on the subject site will be at RL 14m AHD. A maximum permitted building height of 8.5 metres is allowed under the provisions of BLEP 2012. The lowest ground floor level of an adjoining dwelling is RL 23m AHD. The assessment has concluded that due to the difference in levels between the ground floor of dwellings which overlook the subject site, the level of future building envelopes and applicable height limits, that the visual amenity of existing dwellings will not be impacted (loss of easterly view across the reserve).</p> <p>Sufficient information has been submitted to conclude that it is unlikely that there will be significant visual amenity impacts associated with loss of views.</p>

Sustainability Considerations

- **Environment**

An ecological assessment of the site and immediate locality has concluded that the ecological impacts of the proposed residential development will be minor and involve the loss of approximately 505m² of grass land containing Hairy Joint Grass and the potential for the pruning of some trees. Compensatory habitat offset works are proposed to mitigate the loss of HJG which are considered elsewhere in this report. Vegetation buffer areas are also proposed to be established on site.

- **Social**

The proposed rezoning does not raise any social issues of significance.

- **Economic**

There are no significant economic implications identified in relation to the proposed rezoning.

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, as required by Council's adopted Fees and Charges.

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act 1979*. It is noted here that as part of the Department of Planning and Environment's Gateway determination, an authorisation for Council to exercise delegation to make the plan has been issued. Having regard to the nature of submissions received, in response to the public exhibition of the planning proposal, it is considered that Council should now progress the planning proposal to finalisation under delegated authority.

Consultation

The Gateway determination required consultation to be undertaken with the Rural Fire Service (RFS) and community consultation for a minimum period of 14 days. Additional consultation was undertaken with the Office of Environment and Heritage (OEH) in respect to ecological and Aboriginal cultural heritage matters. Comments received from these authorities have been considered in the Information section of this report.

Community consultation was undertaken from 20 April 2016 until 20 May 2016. Letters were forwarded to 39 nearby property owners, and an advertisement appeared in the Ballina Advocate newspaper on 20 April 2016. In addition, documentation relating to the planning proposal was available for viewing on Council's web site, at the Customer Service Centre and in the Shire libraries. In response, two submissions were received and copies of these are contained within Attachment Three. A summary of issues raised within these submissions is contained within the table below:

Person	Summary of Comments / Issues Raised	Officer Comments
Mr W Knight	Significant housing development has occurred since 1982. Claims endless housing with no social facilities is a recipe for unhappy souls. Suggests that Council construct a squash and sports building from developer contributions.	<p>This submission is not directly related to the subject planning proposal. Council has spent considerable funds since 1982 on a variety of open space, recreation and community facilities within the Lennox Head area. Facilities funded utilising s94 funds include the Lennox Head Cultural and Community Centre, Lennox Head Library, as well as significant upgrades to Williams Reserve, including the skate park.</p> <p>In addition to the above facilities, the shared path along North Creek Road and the Coastal Recreational Pathway project are other examples of Council's funding commitments to the Lennox Head and broader communities.</p> <p>It is considered that Council has made reasonable commitments, within available resources, for the provision of open space, recreation and community facilities within the Lennox Head area so as to keep pace with the demands of the expanding population.</p>

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

Person	Summary of Comments / Issues Raised	Officer Comments
<p>Mr C and Mrs P Copeland</p>	<p>Planning proposal proposed for rural land. Their block was purchased knowing that this was rural land with a rural outlook.</p> <p>Worked for over 6 years to plan, plant and maintain rainforest on public land so as to enhance views.</p> <p>Dispute visual amenity impact assessment as it discounts looking down on the site.</p> <p>Rezoning should not occur without considering where on block 6 a dwelling would be situated.</p> <p>No reference made to access along the eastern boundary to allow people to maintain or enter the rainforest.</p> <p>Proposal incorrectly sites the stormwater from 26 Tara Downs.</p> <p>Proposal down plays mosquito impacts.</p>	<p>The current owners purchased their property in 1992 prior to the adoption of the Lennox Head Structure Plan in 2004 (LHSP). The current designation of the site as a Strategic Urban Growth Area resulted in response to the site's identification in the LHSP as being possibly suited to urban development.</p> <p>The proponent's consultant was requested to comment on the issues raised in this submission relating to visual amenity impacts and stormwater. Comments made are contained within Attachment Four to this report.</p> <p>Building envelopes have been proposed, as well as vegetation buffer areas located in front of and in between building envelopes on proposed Lots 5 and 6. As a consequence of proposed buffers, location of building envelopes and maximum 8.5 metre height limits, downward easterly views from 26 Tara Downs onto the site will be mixed vegetation and built form views. It will not be the current rural outlook, nor will it be a traditional urban landscape. Higher level views across the site to the east will be maintained.</p> <p>The work undertaken to plant and maintain rainforest by the Tara Downs Land Care Group has been recognised as being of value and is proposed to be protected through APZ buffers. It is noted that some of the planted areas are located upon Lot 12 outside of the reserve area. It is unknown whether this planting was undertaken with permission of the owner of Lot 12.</p> <p>Pedestrian access to the rainforest is available from the access way located between 2 and 6 Tara Downs (near sewerage pumping station). There has never been a legal right of access to the rainforest across No 16 Tara Downs.</p> <p>In respect to the incorrect siting of storm water infrastructure, the proponent's consultant has advised that the plan contained within the planning proposal was prepared to illustrate that stormwater would be collected from adjoining properties through an inter-allotment drainage network. Detailed design plans will be prepared at a future DA stage.</p> <p>Mosquito impacts have already been considered and addressed elsewhere in this report.</p>

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head

No amendments to the planning proposal are recommended as a result of the submissions made in response to the public exhibition of the proposed LEP amendment.

Options

1. Finalise the Planning Proposal

Finalising the planning proposal, as exhibited, will result in the whole of Lot 12 being zoned R2 Low Density Residential. A 1,200m² minimum lot size would be applied to the rear of Lot 12 and a 600m² minimum lot size would be applied to the front section of the lot. Changes will also be made to the Strategic Urban Growth Area (SUGA) map so as to remove the SUGA designation from Lot 12 and amend associated buffers.

The finalisation of the planning proposal will also require the Council to endorse the proponent's ecological impact offset strategy for HJG and agree to be the recipient of funds for the preparation of a Vegetation Management Plan and associated works. In the context of the lack of suitable biobanking sites, and the benefits derived from applying a Vegetation Management Plan to nearby public reserve land, what is proposed is considered reasonable and appropriate in the circumstances.

Amendments to Ballina Shire DCP 2012 which detail buffers required for vegetation and bushfire protection should also be prepared and placed on exhibition prior to the planning proposal being finalised.

This is the recommended option.

2. Discontinue the Planning Proposal

This option is not recommended.

The planning proposal has generated significant investigation into site constraints. Constraints which have been investigated have included ecology, land contamination, Aboriginal cultural heritage, visual impacts, and mosquito, bushfire and geotechnical hazards. The assessment of these matters has not identified issues that are considered to be a barrier to the finalisation of the planning proposal.

However, if Council is not satisfied with the manner in which ecological impacts are proposed to be mitigated, and if it has unresolved concerns relating to other issues, then it is open to the Council to discontinue this planning proposal.

3. Defer the Planning Proposal

The Council may wish to defer the finalisation of the planning proposal pending further investigations or discussions. Given that no changes are recommended to the planning proposal as a result of the public exhibition process, and the nature of the planning proposal, this option is not recommended.

RECOMMENDATIONS

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to rezone part of Lot 12 DP 813210, No 16 Tara Downs Lennox Head, to facilitate future residential development, as detailed in Planning Proposal BSCPP 14/004.
2. That amendments to Ballina Shire DCP 2012, which provide for the vegetation buffer, bushfire asset protection zones and building envelopes as detailed in Diagrams 3 and 4 to this report, be prepared and placed on public exhibition.
3. That the proponent's offer to fund a Vegetation Management Plan and associated works be accepted as per the strategy detailed in this report.
4. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/004 under delegated authority upon payment of funds sufficient to undertake the works detailed in the proposed Vegetation Management Plan, and amendments to Ballina Shire DCP 2012, relating to vegetation, bushfire asset protection zones and building envelopes proposed for Lot 12, being placed on public exhibition.

Attachment(s)

1. Attachment One - Planning Proposal (Exhibition Version)
2. Attachment Two - Letter from OEH
3. Attachment Three - Public Exhibition Submissions
4. Attachment Four - Consultant's Comments

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Delivery Program Strategic Planning

Objective To seek the Council's direction with respect to the further processing of a planning proposal to enable residential development on land at Blue Seas Parade (Part Lots 1 and 2 DP1165957), Lennox Head.

Background

The history of rezoning requests for this location extends back to 2010 when Council initiated a rezoning proposal which sought to apply a residential zone over part of Lot 2 DP 587685. The site considered at that time was much larger than the site that is the subject of the current proposal. The LEP amendment proposal initiated in 2010 was subsequently withdrawn as several issues remained unresolved. The Council formally resolved to cease processing of that LEP amendment request at its March 2011 Ordinary Meeting [Minute No. 240311/11].

The Council, at its Ordinary Meeting held on 22 May 2014 considered a fresh request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) in relation to land at Blue Seas Parade, Lennox Head. The request was made by Mr G Farley, the property owner and proponent. The request sought an amendment to the Ballina LEP 2012 to rezone part of Lot 1 DP 1165957 (Lot 1) from RU1 Primary Production to a R2 Low Density Residential zone.

The land the subject of the request is part of the property referred to locally as the "Newton Farm", which includes part of the prominent coastal escarpment located immediately west of Lennox Point.

In relation to this matter the Council resolved as follows [Minute No.220514/12]:

1. *That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.*
2. *That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.*
3. *That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.*
4. *For the purpose of further investigation the planning proposal shall include a minimum lot size of 600 m².*

The planning proposal was subsequently prepared and considered by the Council at its Ordinary Meeting held on 24 July 2014. In relation to this matter the Council changed its position on progressing the rezoning and resolved as follows [Minute No.240714/1]:

1. *That Council discontinues processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957 and take no further action with respect to the rezoning of the land under the current amendment request.*

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

2. *That the Council does not support the application of a zoning to Lot 1 DP 1165957 that enables further residential development to occur on the land beyond what is enabled under the current rural land use zoning.*
3. *That Council takes steps at the next revision of the Ballina Shire Growth Management Strategy to remove all land contained within Lot 1 DP 1165957 from identification as a potential urban growth area from local planning policy.*

A request for a pre-Gateway review was subsequently lodged by the proponent's consultant with the Department of Planning and Environment in August 2014. The review was undertaken by the Northern Joint Regional Planning Panel which recommended in November 2014, contrary to the Council's stated position, that the matter should proceed to Gateway determination.

The Council again considered this planning proposal at its meeting on 22 January 2015 together with advice from the Department of Planning and Environment that the planning proposal should proceed to the Gateway determination stage. The Department also sought advice from the Council on whether it would like to accept the Relevant Planning Authority role (RPA). The Council resolved as follows in respect to this matter [Minute No. 220115/6]:

That Council agrees to accept the role of Relevant Planning Authority (RPA) and endorse the attached planning proposal for submission to the DP&E for Gateway determination.

The planning proposal considered by the Council related primarily to Lot 1 but also includes approximately 900m² of the adjoining Lot 2 DP 1165957 (part Lot 2) owned by Mr P R and Mrs J A Small and Ms J A Shelley, as well a section of Blue Seas Parade road reserve. In respect to part Lot 2, it is proposed to remove the Strategic Urban Growth Area (SUGA) affectation from this land. The owners of part Lot 2 have previously indicated that whilst they object to the rezoning of part Lot 1, if the rezoning proceeded then they would support the removal of the SUGA affectation from their land.

Attachment 1 contains a copy of the DP&E's Gateway determination dated 3 February 2015 together with an alteration dated 30 November 2015 relating to an extension of time for completion.

Key Issues

- Consideration of an independent Document Review and Gap Analysis Report prepared by Mike Svikis Planning (MSP) relating to the adequacy of submitted technical reports.
- Further consideration of the merits of the planning proposal.

Information

The land primarily the subject of this planning proposal, proposed for residential rezoning (part Lot 1), is located at the eastern end of Blue Seas Parade and has an approximate area of 1.1 hectares. This land is currently zoned RU1 Primary Production under the provisions of Ballina LEP 2012. The LEP also designates the land as a Strategic Urban Growth Area which implies that it may be suitable for urban development, subject to assessment of constraints.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

The diagram below shows by red outline part Lot 1 which is subject to the planning proposal.

Diagram 1 – Site Map showing by red outline part Lot 1 DP 1165957



The planning proposal endorsed by Council in January 2015, and the subject of the February 2015 Gateway determination, made provision for the following amendments to Ballina LEP 2012:

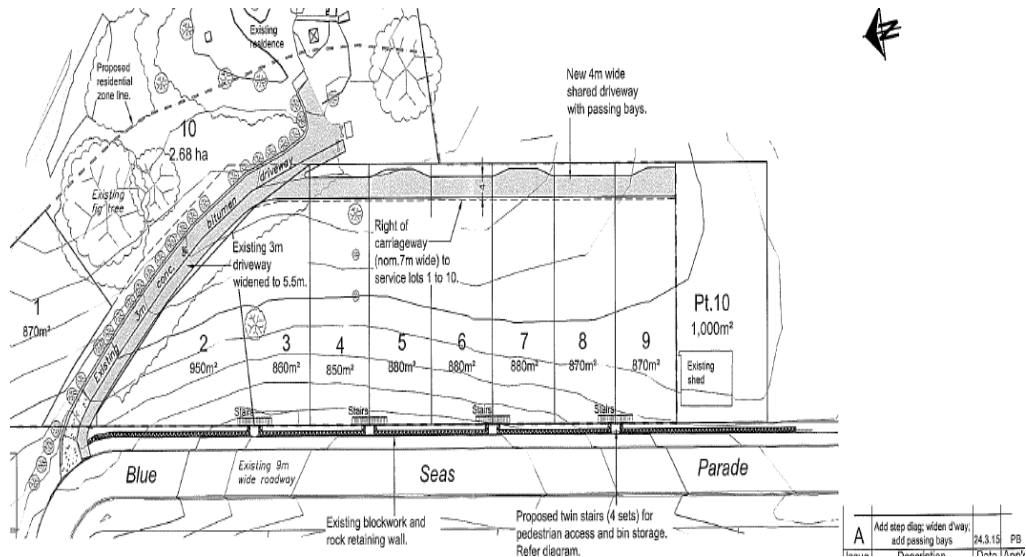
- The rezoning of part Lot 1 designated as a Strategic Urban Growth Area (SUGA) from RU1 Primary Production to R2 Low Density Residential.
- Application of a 1,200m² minimum lot size to part Lot 1 and a 600m² minimum lot size (consistent with land to the west and north) for the adjoining road reserve.
- Deletion of the SUGA affectation from a portion of Blue Seas Parade which adjoins Lot 1, and
- Deletion of the SUGA affectation from a triangular section of land (approximate area of 900m²) located on the adjoining Lot 2 DP 1165957 (part Lot 2).

It is noted that in respect to the 1,200m² minimum lot size issue, the planning proposal indicated that this would be examined for suitability by an independent third party. The planning proposal submitted for Gateway determination was intended to maintain flexibility with respect to zoning and lot size issues pending further technical assessment.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Diagram 2 below is an extract from the proponent's concept subdivision plan which makes provision for nine residential lots which range in size from 850m² to 950m². Part Lot 10, located at the southernmost end of the site and containing an existing farm shed, is a residue lot on this concept plan and is not proposed to be zoned for residential purposes. The concept plan has no official status and provides an indication only of how the proponent may seek to further subdivide the land once the rezoning has been finalised.

Diagram 2 – Extract from Proponent's Subdivision Concept Plan



The Gateway determination required the following seven site specific studies and assessments to be prepared prior to public exhibition:

- Contaminated Land Assessment and Remediation Action Plan,
- Coastal Zone Impacts and Visual Amenity Impacts Assessment,
- Bushfire Threat Assessment Report,
- Geotechnical Assessment (Landslip),
- Due Diligence Aboriginal Heritage Assessment,
- Land Use Conflict Risk Assessment, and
- Flora and Fauna Assessment.

The proponent's consultant submitted technical reports during February and March 2016 which were then subject to staff assessment and external consultation as required by the Gateway determination. The reports were also independently reviewed for adequacy by Mike Svikis Planning (MSP). MSP was engaged by Council (at the proponent's cost) to prepare an initial Document Review and Gap Analysis Report followed by a Planning Assessment Report at the conclusion of the public exhibition phase.

Mike Svikis Planning Document Review and Gap Analysis Report

Attachment 2 contains a copy of the Document Review and Gap Analysis Report prepared by MSP.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

The table below provides a brief summary of issues raised within the technical assessments, the conclusions reached by MSP as to whether issues identified have been adequately assessed, and officer comments.

Report / Issue	MSP Comments	Officer Comments
Ecological Attributes	<p>Vegetation across the majority of the site consists of mainly grassed areas.</p> <p>No Hairy Joint Grass was found on the site. No Endangered or Threatened Ecological Communities were found on the site.</p> <p>The site is located outside of the 100m buffer of nearby SEPP 26 Littoral rainforest and no areas of SEPP 14 Coastal wetland are likely to be affected.</p> <p>Two Moreton Bay fig trees located on the site have conservation value. A mature Norfolk Island pine on the site is also worthy of protection.</p> <p>So as to ensure the future retention of the Moreton Bay fig trees a recommendation is made that a 5 metre buffer be applied beyond the canopy of the trees. The 5 metre buffer was recommended in a specialist Arborist's report which was obtained to enable a determination to be made on the appropriate buffer area to be applied.</p> <p>In terms of other ecological issues, the report concludes that sufficient information has been submitted for Council to be able to make a decision on these matters.</p>	<p>The Moreton Bay fig trees have been estimated to be 120 years old.</p> <p>MSP has engaged a specialist Arborist to examine the trees and provide a recommendation as to the minimum buffer area required around the trees to encourage their future preservation.</p> <p>The Arborist's Report is contained as an Appendix to Attachment Two. The report recommends a minimum buffer of 5 metres beyond the trees' canopies.</p> <p>The areas occupied by the fig trees, as well as buffer areas, have been recommended to retain their current RU1 rural zone. This will require an amendment to be made to the land zoning plan the subject of the Gateway determination. It will also require an altered Gateway determination to be obtained prior to exhibition if Council supports this recommendation.</p> <p>Retaining the RU1 zone results in the trees not receiving the protection of the tree preservation provisions of the LEP. Zoning the area occupied by the trees for residential purposes creates pressure for their removal. On balance, retaining the trees and the associated buffers within the RU1 zone has been considered by MSP as the best long term option in an attempt to ensure the trees' continued survival. This view is supported.</p>
Bush Fire Threat Assessment	<p>It has been concluded that there is sufficient information for Council to make a decision on the issue of bushfire hazard for the subject land, and no further technical information is required.</p>	<p>Noted.</p>

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Report / Issue	MSP Comments	Officer Comments
<p>Coastal Impacts and Visual Amenity Impacts</p>	<p>Mike Svikis Planning has undertaken an assessment of the visual and amenity impacts of future residential development on lots shown within the subdivision concept plan.</p> <p>It has been concluded that there is sufficient information for Council to make a decision on the issue of scenic values and amenity for the subject land and no further technical information is required.</p> <p>It has been concluded that development of the eastern most 20 metres of the subject land will have the potential to impact on the skyline when viewed from Pat Morton Lookout. A building height limit of 4.8 metres has been recommended to be imposed for land at or above the 60 metre contour level. A rear setback has also been recommended to prevent development on the eastern end of certain proposed lots.</p> <p>The proposed building height limit is an LEP control. The 20 metre rear setback is a proposed DCP control.</p> <p>It is noted that the Codes SEPP would permit the erection of a dwelling having a height of 8.5 metres despite the proposed 4.8 metre height limit.</p>	<p>An 8.5 metre building height currently applies to the land, which is consistent with the height applicable to R2 zoned areas elsewhere within the shire. MSP notes that under the provisions of the Codes SEPP it would be possible to build an 8.5 metres high dwelling despite the provisions of the LEP.</p> <p>Incorporating a 4.8 metre height limit into Ballina LEP 2012 for this site is not supported. There are already a number of structures built on the crest of the hill on the subject and adjoin site as well as elsewhere along the Lennox Head escarpment. In this context a reduced building height is not considered to provide any significant advantage, especially in the context of the Codes SEPP's ability to override the height restriction.</p> <p>The approach supported is to reduce the potential for multiple structures through adoption of a larger minimum lot size. The 1,200m² minimum lot size already endorsed by Council for this site is considered appropriate. It will assist to ensure that, whilst buildings will be visible from various vantage points, they will be surrounded by open unbuilt upon areas which will assist to reduce their overall visual impact.</p> <p>A rear building line to the 60 metre contour is also not supported as this will push development towards the Blue Seas Parade end of the site. This is also the steepest part of the impacted proposed lots upon which buildings will have greater visual impact when viewed from the street level. The issue of a rear setback is also further considered in the discussion concerning land use conflict issues below.</p> <p>If the land is to be rezoned for low density residential purposes then it is considered that issues of visual amenity can best be addressed by restricting the lot yield via a suitable larger minimum lot size applied to part of Lot 1 and limiting the extent of the residential zone, as has been recommended by MSP.</p>

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Report / Issue	MSP Comments	Officer Comments
Contaminated Land Assessment and Remedial Action Plan	<p>The planning proposal is accompanied by a stage 2 Detailed Investigation and a stage 3 Remedial Action Plan (RAP), which have been prepared in accordance with the requirements of SEPP 55 and the relevant NSW EPA Guidelines.</p> <p>A small part of one proposed residential lot (13m²) has been found to be contaminated with lead and pesticides. The RAP contains details of how the land may be remediated.</p> <p>It is concluded that there is sufficient information available for Council to make a decision in respect to this matter and no further technical information is required prior to this proposal proceeding to public exhibition.</p>	<p>Noted. The land has been included within Council's Contaminated Land Register. If rezoned, inclusion within the register will trigger specific requirements as part of a future DA and land development process.</p>
Aboriginal Heritage	<p>The planning proposal is supported by an Aboriginal Archaeological Assessment undertaken by Heritage Surveys in November 2006. Although it was 10 years ago, this work was undertaken over a much broader area (up to 52 hectares) that included the subject land. It involved site inspections and survey with Jali LALC. Consultation with Jali LALC is recommended as part of the public exhibition process.</p> <p>It is concluded that there is sufficient information available for Council to make a decision in respect to this matter and no further technical information is required prior to this proposal proceeding to public exhibition.</p>	<p>Noted. Consultation with Jali LALC is proposed as part of the public exhibition process, as recommended.</p>

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Report / Issue	MSP Comments	Officer Comments
<p>Land Use Conflict Risk Assessment</p>	<p>The proposed 30 metre buffer (of land zoned RU1) between the proposed R2 zone and the cattle yards is sufficient in this case (at the southern end of the subject land), even though it is considerably less than the DPI preferred distance of 200 metres.</p> <p>Council should consider a site-specific DCP that requires at least a 20 metre setback for dwellings from the eastern zone boundary (including any Right of Way for access) to create a further small separation between the farm activities on the adjacent lot and future residential activities.</p> <p>Imposing a large minimum lot size (say 1,200m²) will also allow more room on each lot for a large building setback to the adjacent rural zone. This is more relevant at the southern end of the subject land as the northern end is more isolated from the rural land uses on the adjacent property.</p>	<p>It is agreed that the proposed 30 metre buffer at the southern end of the site and the RU1 zoning applicable to part Lot 10, as shown within Diagram 2, is acceptable in this case.</p> <p>As previously indicated, a 20 metre rear (eastern) setback is considered excessive for this site and will have some undesirable consequences in terms of pushing development further towards the Blue Seas Parade end of the site onto the steeper land.</p> <p>The proposed lots have a depth of 50 metres. If a 20 metre rear setback is applied this would be in addition to the standard 6 metre setback applicable to Blue Seas Parade. It would result in a maximum building envelop depth of 24 metres being available.</p> <p>Setbacks applicable under the provisions of the Codes SEPP for lots having an area of 1,200m² have been examined and are also considered suitable for development that may require consent. These setbacks are discussed in detail in the report below which deals with the specific recommendations made by MSP. These setbacks consider building height such that a building having a height of less than 4.5m is subject to a 5 metre minimum setback and a building having a greater height is subject to a 12 metre minimum setback.</p> <p>The primary control which will assist to reduce impacts associated with visual amenity and land use conflicts, in respect to lots at the southern end of the site, is considered to be the proposed 1,200m² minimum lot size. This lot size would apply irrespective of building height and setback controls. Height and setback controls in excess of these stipulated by the Codes SEPP have no impact if complying development (able to be approved by private certifiers) under the provisions of the Codes SEPP is proposed.</p>

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

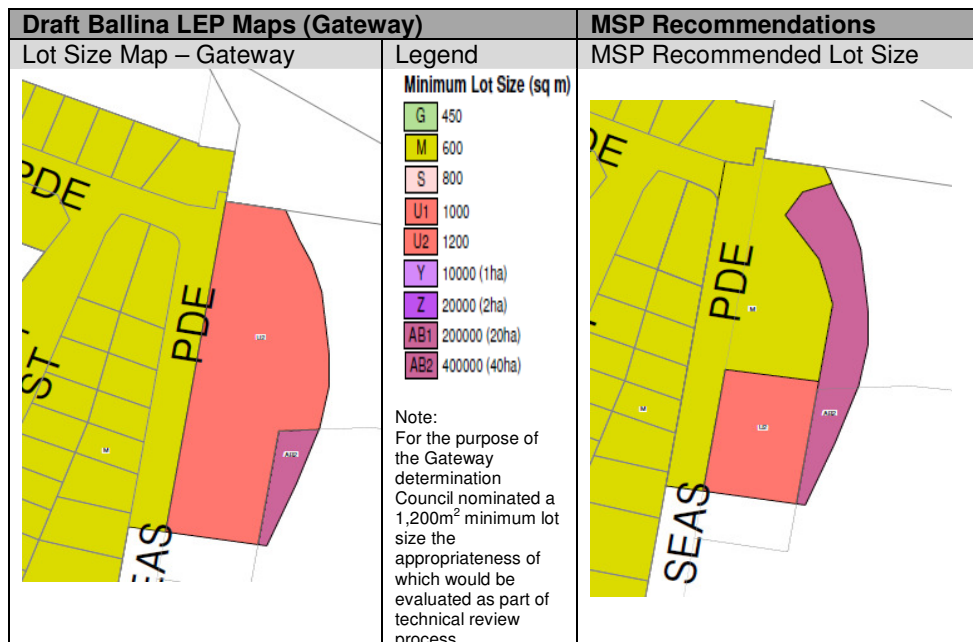
Report / Issue	MSP Comments	Officer Comments
Geotechnical Assessment	<p>The proponent has supplied a preliminary geotechnical study undertaken in 2008 by Coffey Geotechnics. Although undertaken for a larger area than the current subject site, it covers the proposed site adequately.</p> <p>The study also included a site walkover, soil tests and a slope hazard assessment.</p> <p>There is sufficient information for Council to make a decision on the issue of geotechnical suitability of the subject land, and no further technical information is required prior to proceeding to public exhibition of the planning proposal.</p> <p>Given the slopes on part of the site are around 21–23%, there is a basis for imposing the slope sensitive design principles applicable for the adjoining Coastal Grove development to also be applicable to the development on the subject land.</p>	Noted. Amendments to Ballina DCP 2012 to impose slope sensitive design controls applicable to future building work are supported.
Obstacle Limitation Surfaces (OSL) and Aircraft Noise	<p>Future development on this site will penetrate the Inner Horizontal Surface (IHS) for Ballina Aerodrome (46.5m AHD). Natural ground on the site at its highest point (64m AHD) already penetrates the HIS, as do existing trees and structures.</p> <p>Consultation with CASA has been undertaken. Given the response received, OSL is not an issue that should affect the future rezoning of the subject land.</p> <p>Future development will require further consultation with airport authorities pursuant to clause 7.5 of Ballina LEP 2012.</p> <p>Aircraft noise modelling for the Ballina/Byron Gateway Airport shows that the site is not affected by any noise contours. No further information is required in respect to this issue.</p>	Noted.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Report / Issue	MSP Comments	Officer Comments
Access and Drainage	<p>Proposed lots are intended to be accessed by a private shared road along the eastern boundary as opposed to direct access from Blue Seas Parade. An argument has been put by Council staff (Development Services Planner) that this is not good practice, is inconsistent with Ballina DCP 2012, will create a scar on the landscape and make it difficult for emergency vehicles to access the site.</p> <p>The key issue at this stage is whether the site has access for likely future residential development. There are two access options; one from the private road and the other from Blue Seas Parade. Both options have some merit. Council does not need to have certainty about which option is best at the rezoning stage. Council engineers have not indicated a preference for either option.</p> <p>Council engineers have indicated that the development will require lot-based on-site detention and treatment in accordance with Council's Stormwater Standards and will not adversely impact on the existing stormwater infrastructure in the Coastal Grove Estate.</p> <p>Given the engineering response it is considered that access and stormwater should not affect zoning of the land.</p>	Noted.

Diagram 3 below contains extracts from the draft LEP maps relating to land zoning and minimum lot size, which were subject to the Gateway determination, together with amendments recommended in the report by MSP.

Diagram 3 – LEP Maps Gateway and MSP Recommended



9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Land Zoning Map - Gateway	Legend	MSP Recommended Land Zoning
	<p> ■ R2 Low Density Residential ■ R3 Medium Density Residential ■ RE1 Public Recreation ■ RE2 Private Recreation ■ RU1 Primary Production </p>	
Height of Building – Existing	Legend	MSP Recommended Height of Building
	<p> Maximum Building Height (m) ■ B 4.8 ■ T 8.5 </p>	

MSP has concluded that there are no additional studies or information that is required in order that this matter can proceed to either a revised Gateway determination or to public exhibition. The following matters have been identified by MSP for resolution by the Council.

1. Zoning applicable to the land on which the two Moreton Bay figs are located and a 5 metre curtilage beyond the drip line.

MSP has recommended that this land retain its current RU1 Primary Production zoning. This recommendation is supported.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

2. Visual Impact from Pat Morton Lookout can be addressed with a 4.8 metre building height restriction for the first 20 metres from the eastern boundary at the southern and an 8.5 metre height restriction on the balance.

This recommendation is not supported as it relates to a 4.8m building height restriction. Ballina LEP 2012 does not currently contain a 4.8 metre height restriction. Its introduction for one small section of land (70m x 20m approx.) is unlikely to be effective as it is in conflict with the Codes SEPP complying development maximum height of 8.5 metres. The currently applicable building height for this land is 8.5 metres which is proposed to be retained.

Visual impact is able to be more effectively addressed by limiting the number of dwellings within the more sensitive section of the site through the proposed 1,200m² minimum lot size as well as rear setback requirements.

3. Council should amend Ballina DCP 2012 to require a 20 metre rear setback for dwellings from the eastern boundary for part of the site (subject to the 1,200m² minimum lot size recommendation).

This recommendation has not been supported for the reasons previously discussed (visual impact on Blue Seas Parade, building on steepest part of proposed lots and restrictive building envelope). Rear setbacks applicable under the Codes SEPP for lots having an area of 1,200m² are considered to be appropriate for this site as detailed below:

- a) Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height up to 4.5 metres – 5 metre minimum rear setback.*
- b) Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height greater than 4.5metres – 12 metre minimum rear setback.*
- c) Outbuildings not attached to dwellings with a height up to 3.8 metres – 1.5 metre minimum rear setback.*
- d) Outbuildings not attached to dwellings with a height greater than 3.8 metres – 1.5 metre minimum setback plus one quarter of the height of the building above 3.8 metres.*

The subdivision concept plan submitted with the planning proposal (Diagram 2) indicates access via a 7 metre wide rear Right of Way. If this subdivision is ultimately approved it will effectively result in a minimum rear setback of 7 metres for all lots burdened by the ROW.

Proposed amendments to Ballina DCP 2012, to make provision for the rear setbacks nominated above, are contained within the recommendations to this report. Such setbacks would then also be applicable to dwelling houses and outbuildings which are not complying development under the Codes SEPP.

4. Impose a large minimum lot size of 1,200m² (allows more room to setback to the rural zone) to the southern half of the land and a 600m² minimum lot size to the northern half of the land (consistent with land opposite in Blue Seas Parade).

This recommendation is supported by staff and is reflected in the recommendations to this report.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

5. The Coastal Grove slope sensitive design principles should apply to this site. Dwellings and associated development on residential lots with a slope greater than 15% will need to conform to specific requirements set out in the DCP.

MSP has recommended a range of DCP controls and the adaption of the Coastal Grove slope sensitive design controls contained in Ballina DCP 2012 (Chapter 4 Clause 4.1.3) to suit the proposed site. This approach is supported and will require amendments to Ballina DCP 2012 to be prepared. It is considered that the most appropriate time for these controls to be publically notified is concurrently with the exhibition of the proposed LEP amendments.

The above recommendations have been discussed with the proponent's consultant who has advised that the proposed zones and lot sizes are acceptable from the proponent's perspective. Clarification was sought that the edge of the proposed R2 zone adjacent to the fig trees will align with the eastern edge of the existing paved driveway. This matter was discussed with Mike Svikis who advised that it was intended that the R2 zone align with the eastern edge of the existing paved driveway in the vicinity of the fig trees.

In respect to the proposed 20 metre setback from the eastern boundary for some lots, and 4.8 metre height limit, the proponent's consultant advised that these were considered to be inappropriate for reasons similar to those already discussed within this report.

Sustainability Considerations

- **Environment**

An ecological assessment of the site has found that the two existing Fig trees located on part Lot 1 have ecological value. The planning proposal is proposed to be amended to reduce the area subject to residential rezoning so as to better ensure that the future health of these trees is not compromised.

- **Social**

Social issues to be considered include scenic and amenity impacts associated with future buildings located on a prominent escarpment site. These matters have been considered in detail in the report prepared by MSP.

- **Economic**

The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure.

Legal / Resource / Financial Implications

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program. All costs associated with the processing of this planning proposal have been paid by the proponent as required by Council's adopted Fees and Charges.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

It is noted that the Department of Planning and Environment has not delegated the Minister's functions under section 59 of the Environmental Planning and Assessment Act to Council in this instance. This will mean that the finalisation of this LEP amendment, after public exhibition, will be a matter for the Department.

Consultation

Attachment 3 contains copies of correspondence received from the public authorities consulted under the terms of the Gateway determination. A summary of comments received, together with relevant Officer comments, is contained in the table below.

Authority	Summary of Authority Comments	Officer Comments
Ballina Byron Gateway Airport	No objection raised in principle subject to conditions which include a maximum building height of 8.5 metres above natural ground level.	Noted
Air Services Australia	Indicate that the property development will not affect any sector or circling altitude, nor any instrument approach or departure procedure at Ballina aerodrome.	Noted
Civil Aviation Safety Authority	Indicate that proposal has been assessed. Proposed structures would normally be classified as hazardous objects because of height, location and lack of obstacle lighting. Note that proposal surrounded by existing developments which at night are lit. Indicate that Council could consider Obstacle Lighting on the highest most practicable point of the land to be developed.	Noted. Future development applications will require referral to airport authorities under the provisions of clause 7.5 Ballina LEP 2012. Specific requirements may be imposed at that time should the circumstances so warrant.
Department of Primary Industry - Water	Council to ensure that water supply to this area is secured (quality and quantity). Council should consider increase in Basic Landholder Rights to access water supply. Council should consider the impact of development on groundwater. Specify a range a matters that future development applications should consider.	Noted. Comments are general in nature.
Department of Primary Industries – Agricultural Land Use Planning	Rezoning land identified as an Urban Growth Area under the Far North Coast Regional Strategy and the Ballina Growth management Plan is supported in principle. Council should give due consideration to the cumulative impacts from the loss of important agricultural land within the LGA. Planning proposal increases potential for land use conflicts with the adjoining agricultural land despite the LUCRA statement to the contrary. Indicate that the "Living and Working in Rural Areas Handbook" recommends a minimum buffer between residential areas of 50m for grazing of stock and 200m for cattle yards. Indicate that site factors play a role in determining most appropriate separation distances. Indicate that the proposed 1,200m ² minimum lot size is supported in consideration of scenic amenity and potential land use conflict factors.	Noted. Buffer areas which take into account site factors have been considered in determining the proposed approach to the LEP amendment.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Authority	Summary of Authority Comments	Officer Comments
NSW Rural Fire Service	NSWRFS raises no objection to the planning proposal proceeding, noting that any future subdivision of the land would be subject to further assessment.	Noted.
Essential Energy	Provide requirements for the developer to remove or alter Essential Energy infrastructure.	Noted.
NSW Department of Industry – Division of Resources and Energy	Advise they have no issues to raise with respect to proposed rezoning. Neither significant mineral resources nor any mineral or petroleum titles exist in the vicinity of the subject site.	Noted

Additional consultation is proposed with the Office of Environment and Heritage and the Jali Local Aboriginal Land Council once this matter proceeds to public exhibition.

Options

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

1. That Council proceed to exhibit the planning proposal without amendment for the minimum 28 day period specified in the Gateway recommendation.

This option is not supported as it may result in the rezoning of areas (Fig trees and curtilage), which have been found through subsequent assessment to be better dealt with through the retention of the currently applicable RU1 zoning. Issues such as those related to DCP amendments which provide for rear setbacks and slope sensitive design controls can be accommodated if this option is adopted.

2. That the Council submit the planning proposal, as amended based on the recommendations arising from this report, to the Department of Planning and Environment for an altered Gateway determination and then proceed to public exhibition.

This is the preferred option.

Adopting this option will result in a reduction of the area proposed to be zoned for residential purposes. It will also result in a mixed 600m² and 1,200m² minimum lot size regime being applied to the land. Alternatively Council could determine that the minimum lot size should remain at 1,200m². An independent assessment has, however, not recommended that a minimum lot size of 1,200m² be applied to the whole of the area recommended to be zoned R2 Low Density Residential.

3. 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.

The assessment of submitted technical information by MSP has not identified a need for additional technical reports and therefore this option is not supported.

4. That the Council defers or discontinues the planning proposal.

9.2 Planning Proposal (BSCPP 14/005) - Blue Seas Parade, Lennox Head

Should Council consider that specific issues raised in this report require further discussion and information then this report could be deferred to enable a briefing to be arranged.

Discontinuing this matter is not recommended having regard to the history of this matter and the recommendations made by MSP.

RECOMMENDATIONS

1. That the planning proposal relating to land comprising part Lot 1 and part Lot 2 DP 1165957, Blue Seas Parade, Lennox Head be amended to make provision for the altered zoning and minimum lot size regime as shown in Diagram 3 within this report.
2. The existing maximum building height of 8.5 metres applicable to the site be retained.
3. The amended planning proposal be submitted to the NSW Department of Planning and Environment for an altered Gateway determination.
4. A draft amendment to Ballina DCP 2012 be prepared which incorporates the rear setback provisions applied by the Codes SEPP to lots having an area of 1,200m² as detailed in this report, as well as appropriate slope sensitive design principles as recommended in the Mike Svikis Planning report.
5. Upon an altered Gateway determination being received, Council authorise the public exhibition of the planning proposal and draft amendments to Ballina DCP 2012 for a minimum period of 28 days.
6. That the matter be reported for further consideration by Council following the mandatory public exhibition period.

Attachment(s)

1. Attachment One - Gateway Determination
2. Attachment Two - Document Review and Gap Analysis Report
3. Attachment Three - Government Authority Correspondence

9.3 LEP Amendment Request and Planning Proposals - Status

9.3 LEP Amendment Request 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.

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. Proponent's consultant was asked on 13 April 2016 to supply additional information as highlighted in a gap analysis report prepared by an independent planning consultant. Currently awaiting submission of additional information.	30/07/2016

9.3 LEP Amendment Request and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
14/001	Teven Road, West Ballina. (Stage 6)	<p>Proposal to enable the establishment of freight transport facilities adjacent to Teven Road on the western side of the Ballina Bypass.</p> <p>Council resolved at its 26 May 2016 Ordinary Meeting to progress this matter to finalisation subject to completion of an associated voluntary planning agreement process.</p> <p>Draft VPA forwarded to proponent's consultant on 31 May 2016 with a request to be executed by all property owners, as required by Council's resolution.</p> <p>Currently awaiting return of executed VPA.</p>	07/02/2017
14/002	Reservoir Hill Site, Lennox Head. (Stage 5)	<p>Proposal for the rezoning of land to apply a residential zone to parts of the land known as the Reservoir Hill site in Lennox Head.</p> <p>Public exhibition has concluded. Reporting being prepared for the consideration of the Council in the near future.</p>	24/04/2017
14/004	Tara Downs (No 16), Lennox Head. (Stage 6)	<p>Proposal for the rezoning of land immediately east of the existing Tara Downs Estate for residential purposes.</p> <p>Public exhibition has concluded.</p> <p>This matter is the subject of a separate report elsewhere in this business agenda.</p>	13/11/2016
14/005	Blue Seas Parade (No 44-52), Lennox Head. (Stage 4)	<p>Proposal for the rezoning of land at the eastern end of Blue Seas Parade for residential purposes.</p> <p>Technical assessment of material submitted completed.</p> <p>This matter is the subject of a separate report elsewhere in this business agenda.</p>	10/02/2017
14/008	Burns Point Ferry Road, West Ballina (Ballina Waterways). (Stage 5)	<p>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.</p> <p>This matter has recently proceeded to public exhibition.</p>	01/04/2017
15/001	Reclassifications, Various Locations. (Stage 7)	<p>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.</p> <p>Planning proposal lodged with the Department for finalisation.</p>	28/06/2016

9.3 LEP Amendment Request and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
15/002	Private Native Forestry. (Stage 3)	<p>Proposal to amend the Ballina LEP 1987 to require development consent for private native forestry on rural land.</p> <p>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.</p> <p>The Department of Planning and Environment provided a response to Council earlier this month. The response is presently being reviewed.</p>	#
15/004	Greenwood Place, Lennox Head. (Stage 5)	<p>Proposal to rezone land fronting Greenwood Place and The Coast Road for residential purposes.</p> <p>This matter has recently proceeded to public exhibition.</p>	21/04/2017
16/001	General Amendments (3) (Stage 6)	<p>Proposal to undertake a number of amendments to the LEP maps to address cadastral changes, minor errors and policy consistency.</p> <p>Council has resolved to proceed with the matter, subject to amendments. Documentation is currently being compiled to enable finalization of this matter and submission to the Department.</p>	28/11/2016
16/002	Stoneyhurst Drive, Lennox Head. (Stage 3)	<p>Proposal to rezone land in Stoneyhurst Drive for residential purposes and enable subdivision of the land.</p> <p>Gateway determination received 26 May 2016. Awaiting submission of technical material by landowners' consultant.</p>	02/06/2017
16/003	Southern Cross Industrial Estate, Bulky Goods Precinct (Stage 2)	<p>Proposal to rezone land within the Southern Cross Industrial Estate bulky goods precinct to enable broader industrial land uses.</p> <p>Documentation submitted by proponent's consultant to support preparation of a planning proposal. Documentation is currently under review.</p>	

9.3 LEP Amendment Request and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
LEP Amendment Request/Planning Proposal Processing Stages			
<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.			
<i># Denotes proposal number and due date subject to Gateway determination.</i>			
<i>The completion due date is a date for completion determined by the Department of Planning and Environment.</i>			

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

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US16/05	Variation of Lease Document – Ballina Shire Council to JE's Supermarkets Pty Ltd – Shop 7 Wigmore Arcade Ballina Explanation: M Lynch assigned the lease to JE's Supermarkets Pty Ltd for the premises at Shop 7 Wigmore Arcade, Ballina. A condition of the assignment was for the new lessee to provide Council with a bank guarantee or security deposit to the value of three months rental plus outgoings plus GST, as an extra inclusion in the assigned lease agreement.
US16/06	Site Share Licence Agreement between Airservices Australia and Ballina Shire Council for the installation and maintenance of Certified Air Ground Radio Services (CAGRS) at Ballina Byron Gateway Airport Fire Station for a period of 5 plus 5 years at a Licence Fee of \$1.00 if required. Explanation: Airservices Australia has approved the use of an area within the Fire Station to house the CAGRS for the Airport.

Attachment(s)

Nil

10.2 Investment Summary - May 2016

10.2 Investment Summary - May 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 May 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 May was \$64,296,000. This represents a decrease of \$999,000 from April. Total redemptions of \$12 million, offset by new placements of \$11 million, resulted in the decrease of \$1 million held. Also during April, two FRNs and one FRTD, with face value of \$4m were reset.

The interest rate being achieved on new investments has remained consistent with that achieved in the previous month, as can be seen in Table F. Council's investments as at 31 May are at an average (weighted) rate of 3.13%, which is 1.14% above the 90 Day Bank Bill Index of 1.99%. The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 May 2016 was \$10,206,360 (a significant increase from the balance of \$2,149,032 as at 30 April 2016). This high balance is attributable to significant payments anticipated to occur in June, including \$2.8m in loan repayments, airport capital expenditure of \$2.5m, \$1m for the Marine Tower / Wollongbar Fields / Plant Purchases combined and \$1.8m for insurances to be paid July. The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for the following purposes:

Portfolio Ownership Percentages

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%

10.2 Investment Summary - May 2016

* Based on reserves held as at 30 June 2015

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.8%	3%
Rated Institutions							
AMP Bank	Yes	A+	4,000	5,000	20%	7.8%	
Bank of Queensland	No	A-	6,000	5,000	10%	7.8%	
Bank of Western Aust	Yes	AA-	4,000	2,000	20%	3.1%	
Bendigo & Adelaide Bank	No	A-	5,000	5,000	10%	7.8%	
Beyond Bank	No	BBB+	0	2,000	10%	3.1%	
Commonwealth Bank of Australia	Yes	AA-	2,507	2,508	20%	3.9%	
Greater Building Society	No	BBB	2,000	2,000	10%	3.1%	
Heritage Bank	No	BBB+	2,000	2,000	10%	3.1%	
ING Bank Ltd	Yes	A-	2,000	2,000	10%	3.1%	
Members Equity Bank	No	BBB+	6,000	6,000	10%	9.3%	
National Australia Bank	Yes	AA-	10,000	10,000	20%	15.6%	
Newcastle Perm Bld Society	No	BBB+	3,000	3,000	10%	4.7%	
Rural Bank Ltd	No	A-	1,000	1,000	10%	1.6%	
Suncorp-Metway Bank	No	A+	11,000	11,000	20%	17.1%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	3.1%	
My State Bank Ltd	No	BBB	3,000	2,000	10%	3.1%	97%
Unrated ADI's					\$1m	0.0%	0%
Total			65,295	64,296		100%	

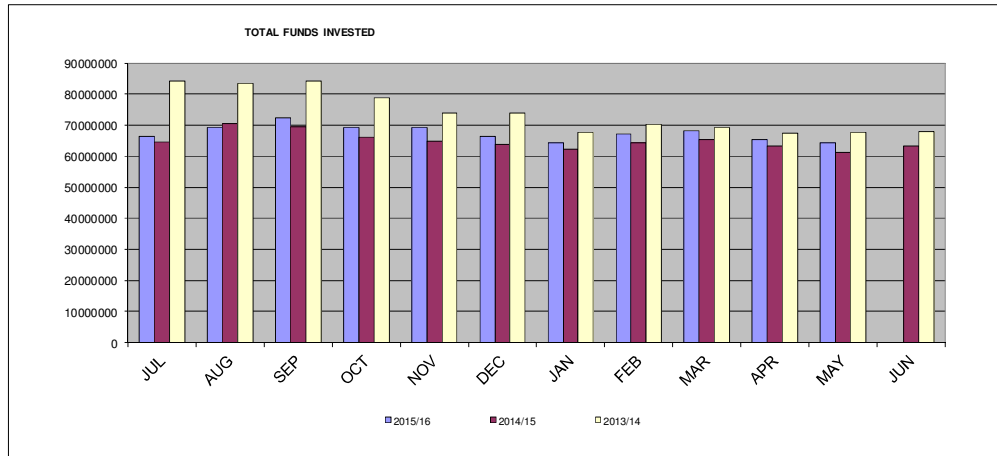
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	26,295 40%	25,296 39%
Non-Fossil Fuel Aligned	39,000 60%	39,000 61%
Not Classified	0 0%	0 0%

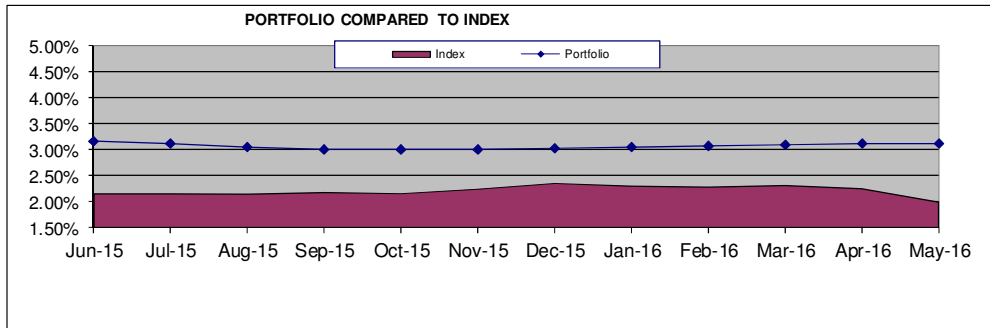
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

- Fossil Fuel Aligned: Noted by Market Forces as funding fossil fuels
- Non-Fossil Fuel Aligned: Noted by 'Market Forces' as having no record of funding fossil fuels and having provided a position statement.
- Not Classified: Not classified as information not available.

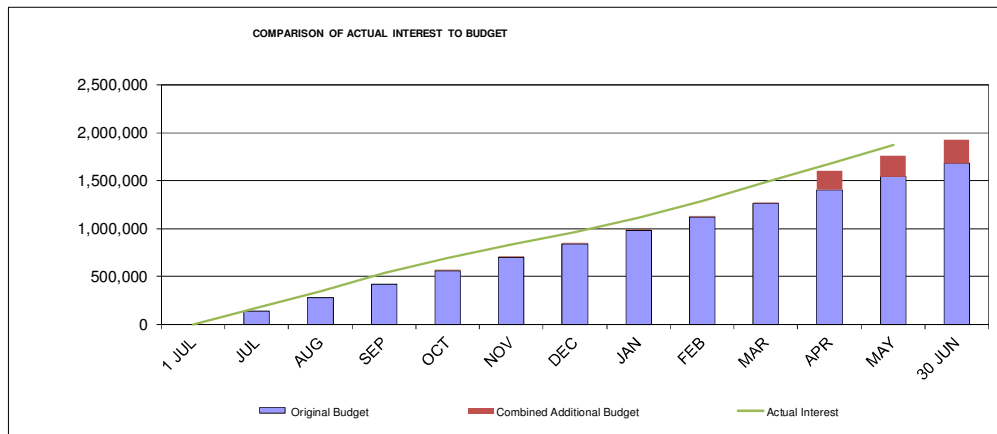
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - May 2016

F. Investments held as at 31 May 2016

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
at call	Commonwealth Bank Of Australia	CDA	1.95%	at call	512	512
20/09/04	National Australia Bank (ASX Listed)	FRN	3.24%	Perpetual	1,788	1,152
24/01/12	ING Bank Ltd	FRTD	4.22%	24/01/17	1,000	1,000
25/01/13	Commonwealth Bank Of Australia	TD	4.25%	25/01/18	1,996	2,089
07/06/13	Greater Bld Society	FRN	3.77%	07/06/16	2,000	1,999
25/02/14	Westpac Bank	FRN	2.94%	25/02/19	2,000	2,011
31/07/15	Bendigo & Adelaide Bank	TD	3.00%	01/08/16	2,000	2,000
17/08/15	Bendigo & Adelaide Bank	TD	2.95%	16/08/16	2,000	2,000
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
25/01/16	Members Equity Bank	TD	3.10%	26/07/16	2,000	2,000
28/01/16	My State Bank	TD	3.05%	20/07/16	2,000	2,000
02/02/16	National Australia Bank	TD	3.02%	09/08/16	1,000	1,000
04/02/16	National Australia Bank	TD	3.03%	15/08/16	1,000	1,000
09/02/16	AMP Bank	TD	3.00%	08/08/16	2,000	2,000
09/02/16	AMP Bank	TD	3.00%	12/08/16	1,000	1,000
10/02/16	Suncorp-Metway Bank	TD	3.05%	23/08/16	2,000	2,000
11/02/16	AMP Bank	TD	3.00%	18/08/16	1,000	1,000
17/02/16	Bendigo & Adelaide Bank	TD	3.00%	16/11/16	1,000	1,000
19/02/16	Members Equity Bank	TD	3.00%	17/08/16	1,000	1,000
19/02/16	Members Equity Bank	TD	3.10%	14/02/17	1,000	1,000
22/02/16	BankWest	TD	3.00%	07/06/16	1,000	1,000
22/02/16	National Australia Bank	TD	3.03%	28/06/16	1,000	1,000
23/02/16	Suncorp-Metway Bank	TD	3.05%	25/08/16	1,000	1,000
23/02/16	National Australia Bank	TD	3.03%	29/08/16	1,000	1,000
23/02/16	National Australia Bank	FRTD	2.84%	24/08/16	1,000	1,000
24/02/16	BankWest	TD	3.00%	01/06/16	1,000	1,000
25/02/16	National Australia Bank	FRTD	2.86%	25/08/16	1,000	1,000
29/02/16	ING Bank Ltd	TD	3.10%	28/02/17	1,000	1,000
03/03/16	Suncorp-Metway Bank	TD	3.10%	05/09/16	1,000	1,000
07/03/16	Suncorp-Metway Bank	TD	3.12%	08/09/16	1,000	1,000
09/03/16	Bank of Queensland	TD	3.12%	26/09/16	1,000	1,000
09/03/16	National Australia Bank	TD	3.12%	15/09/16	1,000	1,000
16/03/16	Heritage Bank	TD	3.25%	04/10/16	1,000	1,000
16/03/16	Heritage Bank	TD	3.25%	11/10/16	1,000	1,000
31/03/16	Rural Bank Ltd	TD	3.15%	29/11/16	1,000	1,000
11/04/16	Suncorp-Metway Bank	TD	3.10%	11/10/16	2,000	2,000
03/05/16	National Australia Bank	TD	3.12%	04/10/16	1,000	1,000
11/05/16	National Australia Bank	TD	2.99%	12/10/16	2,000	2,000
12/05/16	Beyond Bank	TD	3.00%	15/11/16	1,000	1,000
16/05/16	Newcastle Permanent Bld Society	TD	2.85%	22/08/16	1,000	1,000
18/05/16	Newcastle Permanent Bld Society	TD	2.85%	24/08/16	1,000	1,000
19/05/16	Newcastle Permanent Bld Society	TD	2.85%	31/08/16	1,000	1,000
24/05/16	Bank of Queensland	TD	3.00%	24/11/16	1,000	1,000
25/05/16	Beyond Bank	TD	3.00%	01/09/16	1,000	1,000
31/05/16	Suncorp-Metway Bank	TD	3.00%	01/12/16	1,000	1,000
31/05/16	AMP Bank	TD	3.00%	30/05/17	1,000	1,000
Totals					64,296	63,763
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 May 2016.

Attachment(s)

1. TCorp Local Government Economic Commentary May 2016

10.3 Delivery Program and Operational Plan - Adoption

10.3 Delivery Program and Operational Plan - Adoption

Delivery Program Governance and Finance

Objective To report on submissions received in response to the exhibition of the draft Delivery Program and Operational Plan and to adopt the documents inclusive of any amendments.

Background

The draft Delivery Program and Operational Plan have been placed on public exhibition, with two public meetings held as part of the exhibition process. It is now incumbent upon Council to adopt the documents, subject to any matters arising during the exhibition period.

The draft documents, including the Fees and Charges and Long Term Financial Plan (LTFP i.e. the budget) were placed on exhibition following a series of Finance Committee meetings during March and April.

As the documents are extensive they have not been reproduced for this report. Copies of the documents, as exhibited, are available on Council's website. Additional hard copies can be obtained from Council if needed.

Final copies of the documents will be reproduced in full once adopted.

Key Issues

- Contents of submissions
- Additional amendments

Information

This report has been dissected into two main components being:

- A. Submissions to the draft Delivery Program / Operational Plan and details of the two public meetings held during June.
- B. Further amendments to the draft documents based on updated information.

A. Submissions

The submissions can be categorised under three main headings:

1. Submissions for funding assistance (i.e. general and hall donations)
2. Submissions to fees and charges
3. Submissions for works and services

10.3 Delivery Program and Operational Plan - Adoption

1. Submissions for Funding Assistance

The draft budget includes the following allocations for funding assistance:

Donation Description	Budget (\$)
Donations – General (1)	60,000
Richmond Room – Donation for Chair Set Up	5,000
Public Halls – Capital Works	41,000
Southern Cross University – Scholarship	10,000
Donations - Rates and Charges	54,000
Planning and Development Fees - Community Groups	4,000
Total	174,000

- (1) The Donations - General budget is \$60,000 however the budget was increased by \$10,000 to fund the Rotary Convention hence only \$50,000 is not allocated. Council resolved to provide \$15,000 for the convention however expenditure of \$5,000 will be charged directly to the Airport.

Council policy is to allocate the General Donations and Public Halls – Capital Works budgets via a working party, comprising a minimum of three Councillors, with each ward represented. The working party normally considers the submissions and recommends to the July Ordinary meeting the preferred distribution of the available funds. At times all Councillors have been included in the working party to avoid repeating the discussions at the July meeting.

Details of submissions for funding assistance are summarised in the next two tables. Applicants are required to complete a standard form that seeks to provide Councillors with consistent information. As part of the budget process Council also writes to all the Public Hall Committees advising that there is funding available under our halls assistance program.

Table one outlines the submissions received for general donations assistance.

Table One: Submissions for Funding Assistance

Ref	Organisation / Person	Project / Activity	\$
1	Ballina Lions Club	Fundraising for Hope Haven Women's Refuge and Heartfelt House	1,000
2	Ballina Jet Boat Surf Rescue	Purchase of consumable products and maintenance items for rescue vehicles	2,700
3	Ballina Jet Boat Surf Rescue	Insurance and survey renewal costs	6,000
4	Air Force Association (Ballina Branch) Inc	Providing shelter for people attending the Battle for Australia & Britain event	690
5	Northern Rivers Branch of Ulysses Motorcycle Club	Traffic Control for the 2016 2LM Toy Run	750
6	Alstonville Agricultural Society Inc	Purchase a ride on mower	10,000
7	Ballina Breast Cancer Group	Hire of meeting room at Kentwell Community Centre 1 meeting per month	432
8	Ballina General Cancer Group	Hire of meeting room at Kentwell Community Centre 1 meeting per month	432
9	Our Kids	Provide and install safety mesh and waste management for 'Our Kids Day Out ' 2017	510
10	Northern Rivers Shirley Club Inc	Costs associated with Club's convention in September 2016	1,000

10.3 Delivery Program and Operational Plan - Adoption

Ref	Organisation / Person	Project / Activity	\$
11	Sprung!! Integrated Dance Theatre Inc	Costs for funding staff to assist dancers with disabilities	2,550
12	Ballina Tennis Club	Purchase / installation of posts and winders	5,000
13	Ballina Lighthouse RSL Day Club	Waiver of room hire at Richmond Room for Club's gatherings	1,000
14	Lennox Head Chamber of Commerce	Costs associated with holding the 2016 Lennox Head Carols event	5,000
15	Westpac Life Saver Rescue Helicopter	Waiver of waste disposal costs following the Lennox Head Community Markets	6,140 (1)
16	Friends of Ballina Shire Libraries	Waiver of waste disposal costs for excess books that are not saleable	500
17	Alstonville Tibouchina RSL Day Club	Purchase portable public address system to assist the hearing impaired	2,500
18	Ballina Naval and Maritime Museum	Complete the enclosure of the MV Florrie so that further work can be undertaken in line with the Florrie Management Plan	10,000
19	North Coast Academy of Sport	Costs associated with supporting sport in the region	5,000
20	Riding for the Disabled NSW Ballina & Districts	Purchase ride-on mower to maintain the property where the activities are undertaken	20,908
21	Ballina RSL Sub-Branch	Rates for the RSL Youth Club located at 5 Piper Drive (ordinary rates only does not include water and sewer)	Estimate 3,776
22	Rebel Waltz Films – Stephen Jones	Costs involved with producing a short film in the local area	3,500
23	Biala Support Services Inc	Purchase of a Mobi Mat used to allow mobility impaired people to access the beach	5,000
24	1 st Ballina Scout Group	Costs associated with training new leaders	1,915
25	East Ballina Lions Club	Purchase of new Banners for Ballina Markets	1,000
26	Ballina Ocean Pool Committee	Enlist services of a geomorphologist as part of the approval process for an ocean pool	2,500
27	Northern Rivers Wildlife Carers	Training volunteers in venomous snake handling	1,000
28	Ballina Community Men's Shed	Initial construction costs for the relocation and expansion project of the shed	8,000
29	Lions Club of Lennox Head Inc	Provide concrete for floor of shed that houses trailer and barbeque equipment	900
30	Australian Seabird Rescue Inc	Waste disposal costs following beach clean ups (including dead animals) in the shire	2,000
31	Paradise FM Community Radio Association Inc	Costs associated with upgrading hardware and software to run on air programs	4,671
32	Alstonville Croquet Club Inc	Costs towards the construction of a small equipment shed	2,000
33	Alstonville Wollongbar Chamber of Commerce	Purchase Christmas lights for the Wollongbar community	2,000
34	Northern Rivers Women's Bowling Assoc Inc	Costs associated with running the 59 th Annual Carnival event	2,000

10.3 Delivery Program and Operational Plan - Adoption

Ref	Organisation / Person	Project / Activity	\$
35	Lennox Head Residents' Assoc Inc (Coast Care Committee)	Purchase of materials and equipment and insurance costs	1,800
Total Requests			118,034

- (1) The Rescue Helicopter Service, which runs the Lennox Markets, has requested a donation of \$1,000 to meet partial costs of rubbish removal from the market site. Staff advise that no charges have been raised for rental of rooms at the Community Centre, cleaning costs and other waste removal expenses. The total cost of income forgone and services provided is \$6,140 for the year.

In respect to the public hall improvements, Council policy is that assistance is provided to 50% of the cost of works, based on a maximum assistance figure of \$10,000.

Donated funds can be matched on a dollar for dollar basis, or matched with in-kind contributions, by the organisation which owns or is licensed to manage the hall.

This policy applies to public halls that are on Council land and managed by community groups and halls that are on crown land or freehold title and controlled by local incorporated groups.

Table Two: Submissions for Community Halls

Ref	Organisation	Project / Activity	Project Value (\$)	Amount Requested (\$)
1	McLeans Ridges Hall	Erect a covered walkway from the kitchen to the men's toilets and a ramp outside to access the walkway	9,026	4,513
2	Newrybar Community Hall	Refurbishments: southern external walls; stage floor (safety); additional power points; northern floor (structural supports)	20,000	10,000
3	Pearces Creek Public Hall Inc	Kitchen upgrade	8,334	7,523
4	Wigmore Hall	Submissions from Ballina Concert Band; Ballina Senior Citizens; Ballina Guides	27,850	27,850
5	Wollongbar Community Hall	Costs associated with the manufacture and installation of sign for Hall	1,309	654
6	Wardell & District War Memorial Hall	Internal painting of the hall	10,000	10,000
7	Rous Mill & District Memorial Hall	Replace internal lights with LED lights; clean and filter rain water tank; insurance for hall and public liability	4,463	2,231
8	Ballina Lions Club – West End Hall	Replace 8 rotted window surrounds	800	400
Total				63,171

The policy states that the maximum donation shall be \$10,000 per hall and that the Council donation needs to be matched either on a dollar for dollar basis or 'in-kind'. The applications from Wigmore and Wardell Halls do not comply with the policy.

10.3 Delivery Program and Operational Plan - Adoption

Also, at the July 2015 Ordinary meeting, Council passed the following two resolutions:

That Council approves the reallocation of the unallocated balance of the community halls capital works assistance budget to a halls maintenance budget.

That the General Manager investigate whether funds are required for the maintenance of Wigmore Hall and approves the expenditure of any reasonable monies from within the Council maintenance budgets on any identified works.

The halls donation budget that was not applied in 2015/16 amounted to \$9,600. These funds remain unspent and will be carried forward to the 2016/17 financial year.

Only minor works were carried out at Wigmore Hall in 2015/16. This means there is the possibility of applying these funds to the Wigmore Hall request and this matter can be considered by the Donations Committee when it meets in July.

Copies of all the submissions for Tables One and Two have not been included with this report. These submissions will be distributed to Councillors as part of the working party process.

Copies are available from Council if needed.

2. Submissions Fees and Charges

There were no submissions to the 2016/17 fees and charges.

3. Submissions to Works and Services

The following submissions are included as attachments to this report.

Ballina Tennis Club

The Club has requested that the road verges adjacent to the tennis courts in Burnet Street be sealed. This section of the road is used by members of the Tennis Club, high school students and aged people on mobility scooters.

Staff Comment: Council has previously been advised of this request via the councillor bulletin in November 2015. Advice provided to the club at that time was to make a submission to the 2016/17 Delivery Program.

Staff have investigated the site and identified there is only a light amount of shale on the surface and for the parking area to be sealed and operate effectively it is necessary to reconstruct the road pavement to a depth of 300mm.

The location of the site and the area proposed for treatment is shown in the following map.

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The cost for this work is estimated to be \$42,500. This project is worthwhile having regard to the demand for parking at this location. However this is a significant cost and it is not considered to be a priority for the maintenance program.

Bulwinkel Landcare Group

This Landcare Group is continuing on a program of improvements to the Park. A schedule of improvements is included in the submission. The Alstonville Lions Club has pledged support for the works and Council is also being asked to provide assistance.

Staff Comment: The submission includes 'priority works' and also 'other strategies'. Staff have addressed the priority works and advise as follows:

2.1 Repair and upgrade park entrance, driveway and parking area subject to constant water erosion. The estimated cost to reform the driveway and parking area is \$37,000.

2.2 Improve and direct run-off drainage via rock drain to prevent erosion and deposition of detritus across the park. The estimated cost to carry out the drainage works is \$ 19,500.

2.3 Modify and reconstruct changing room shed so that it is open and no longer a haven for drug users. The estimated cost of these works is \$30,000.

2.4 Remove camphor laurel trees overshadowing changing room shed which create splash erosion and shade preventing grass growing around the shed resulting in muddy conditions and impeding general use by the public. This work has been completed.

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The total estimated cost of items 2.1, 2.2 and 2.3 works is \$86,500. There are no funds in the budget for these works and other projects would need to be deferred to allow these works to proceed. From a staff perspective other works are considered to be a higher priority.

Lennox Head Football Club

The Club is requesting the expansion of the Skennars Head sports fields. The growth of the club has been very strong, particularly in the junior age groups (ages 5-11).

They are struggling to find sufficient space to accommodate demand both in regard to field and car park usage.

Staff Comment: This project was reported to the March Finance Committee meeting and it was advised that this project is 'shovel ready' with an estimated cost of \$1.3 million. There is an acknowledged deficiency of sporting fields in the Lennox Head area however there is no nominated funding for this project.

Grant funding will be pursued and with the upcoming election the chances of success may be improved. Correspondence has been sent to all the candidates for the seat of Richmond with no success to date.

This is a core Council service where Council is currently deficient in our existing level of service. On that basis it is proposed that Council receive a further report on what options there are to reallocate existing funding programs to allow this work to be completed, assuming no grant funding is forthcoming.

Mr Stanger- Brighton Street road sealing

A submission has been received from Mr Stanger on behalf of residents of four Brighton Street properties. The owners are requesting that Council seal and maintain that section of Brighton street from which the residents gain access to their properties.



Staff Comment: The map above shows the location of the properties that are accessed off this unformed section of Brighton Street.

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Staff have discussed this matter with the land owners over a number of years and the residents have been advised that the section of common driveway currently used by residents is not identified as a Council road asset, and is not listed on the Road Asset Register. Historically, this section of common driveway has never been maintained by Council.

It would appear this section of unformed road reserve off Brighton Street was developed by residents to provide for private driveway access many years ago at the time of building. The use of unformed road reserves for private driveways occurs across the shire, and maintenance of these driveways remains with the benefitting properties.

The response to the Brighton Street residents is consistent with other responses dealing with similar situations where approaches are made for Council to take over private accesses which happen to be made on unformed road reserves.

The recommendation is that Mr Stanger be advised that Council will not seal that section of Brighton Street as requested, however, in principle, support is provided should the residents agree to fund the works and make application under section 138 of the roads act.

Mr Stead - Reconstruction of Riverbank Road Pimlico

Mr Stead advises that the section of Riverbank Road from number 313 to the north for 400 metres is nothing but continuous potholes. This road is used daily by residents and school buses and is in need of reconstruction. Mr Stead suggests that proposed works be brought forward from 2017/18 to 2016/17 by deferring proposed 2016/17 works on Swift and Fawcett Lane.

Attendees at the Wardell public meeting, including Mr Stead, were of the view that the extent of the reconstruction should be expanded to go beyond the houses depicted on the aerial map (shown as part of the slide presentation) rather than stopping adjacent to the houses.

Staff Comment: The roads reconstruction program follows a priority ranking system, and projects within the four year program are typically ranked from 2 to 4, and projects currently outside the four year program are typically ranked 4 to 6.

Each year our road projects are re-assessed and priorities are re-assigned and 'movement' in the program occurs. Given the ranking system, the number of projects similarly ranked and the spread of equally ranked projects across financial years, there is no overriding objection with swapping projects between financial years, if they are similarly ranked.

If Council was sympathetic to Mr Stead's request it would be preferable to swap priority 3 projects. The preference of staff would be to swap Sunnybank Drive (2016/17 budget \$313,000) with Riverbank Road (2017/18 budget \$267,000).

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The additional budget in 2016/17 would enable an expansion to the scope of works for Riverbank Road. The reduced budget in 2017/18 may require a revision to the works program for that year. Priorities are a matter for the elected Council to determine. Further information on this submission is provided with the staff comments on the Wardell public meeting.

Wardell Recreation Grounds Trust

Council has assisted the Wardell Reserve Trust for a number of years by mowing part of the 'Wardell Golf Course'. The Reserve Trust has asked that the arrangement be changed such that Trust members take over the responsibility of mowing subject to Council donating a 'Zero Turn' mower for members to use.

Staff Comment: Over recent years mowing of the Wardell Golf course has been contracted to the Ballina Turf Farm and the cost has been approximately \$3,500 to \$4,000 annually. The cost of a new Zero Turn mower is in the order of \$23,000 however it is suggested that, if Council was supportive of the proposal, a second hand mower would be provided from our existing fleet.

The value of the donation would vary depending on the age of the mower that is provided, however a mower in reasonable condition would be in the order of \$10,000. This would be a preferable approach to the current arrangement as the life of the mower should exceed three years given that it is only servicing the golf course.

Wardell Progress Association

The Wardell Progress Association is disillusioned and disappointed that their efforts to secure improvements to Wardell seem to be to no avail and Wardell does not get a fair distribution of resources. It is also disappointing to see that the Wardell Strategic Plan has no actions noted to actually achieve the aspirations documented in the plan.

The Association request that the Delivery Program and Operational Plan reflect the Wardell Strategic Plan and include funding for improvements to roads, lighting, footpaths and other facilities. Specifically works requested include:

- That the Wardell Strategic Plan 2015 - 2035 always be incorporated in the Delivery Program and Operational Plan
- Council provide ONGOING improvement and maintenance of roads, footpaths, lighting, open spaces and all other facilities throughout the Shire either on an "as needs" basis or at least consider these on a time frame where each resource in a particular category is reviewed on a 1, 5, or 10 year cycle, as required
- Construct a footpath along the length of Carlisle Street - Tourist Drive 28 from the Pacific Highway to Wardell Road. High traffic volume, high heavy tonnage trucks and dogs, school buses, tourist vehicles pose a significant safety problem for the residents and school children that catch buses along this stretch - Considered URGENT

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- Add a dividing line along Carlisle Street along the above section because of the amount and type of traffic that use this road. Consider URGENT
- Upgrade the section of Richmond Street between the Wardell Hotel and the Wardell and District War Memorial Hall. This section of road also experiences high traffic and heavy vehicles. Considered IMPORTANT
- Upgrade and resurface Byron Street in East Wardell from River Drive to the Boat Ramp. Considered IMPORTANT
- Construct a footpath along Byron Street from River Drive to the Boat Ramp. Considered IMPORTANT
- Consider future planning for an accessible toilet in Wardell - ONGOING
- Consider maintenance of the Wardell Cemetery - ONGOING

Staff Comment: The Delivery Program included an action every two years to review the Wardell Strategic Plan and did not include a specific action to implement the Plan. The Delivery Program has now been adjusted to include an action to 'Oversee implementation of the Wardell Strategic Plan' including measures and targets. Many of the items in the Wardell Strategic Plan do not require specific budget allocations and will be undertaken at an operational level.

In respect to assessing what is an equitable distribution of resources, it is a very difficult question to answer. To generate discussion, at the Wardell public meeting, staff provided hypothetical examples based on rate revenues from Wardell, along with population figures. Based on these figures 2% was seen as a reasonable share.

This 2% figure was then applied to the revenue funded, recurrent capital works program in the Delivery Program for the next four years.

The summary results provided at the meeting are outlined in the following table.

Table Three: Wardell – Recurrent Capital Funding Summary

Item	2016/17	2017/18	2018/19	2019/20	Total
Buildings	(4,000)	(4,100)	(4,800)	(5,000)	(17,900)
Toilets	(2,000)	(2,100)	(2,200)	(2,200)	(8,500)
Stormwater	(2,000)	(2,100)	(2,200)	(2,200)	(8,500)
Lighting	(900)	(1,000)	(1,000)	(1,100)	(4,000)
Roads	(72,400)	(63,400)	27,600	207,800	99,600
Footpaths	(6,400)	(7,300)	(9,200)	(9,500)	(32,400)
Open Spaces	(7,000)	(7,200)	(7,500)	(7,800)	(29,500)
Total	(94,700)	(87,200)	700	180,000	(1,200)

The figures in red represent the deficit in funding each year for Wardell, for each category of recurrent infrastructure funding, assuming that Wardell should receive a 2% allocation. For 2016/17 and 2017/18 there were no recurrent capital works projects included for Wardell.

It was only in 2018/19 and 2019/20 where funding was included for road works in Raglan Street (\$89,000 – 2018/19), Wilson Street (\$96,000 – 2019/20) and Cedar Street (\$172,000 – 2019/20) that adequate funds were allocated.

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It was then interesting to note that the total figure for the four year period was close to break-even (i.e. \$1,200 deficit). The break-even result is interesting in that it highlights that even though certain areas may feel like they are not receiving adequate funds, over the longer term, resources should be evenly spread. There is no exact science to ensure this happens and in effect the allocation of resources is a political process, with the role of elected representatives being to try and allocate resources as fairly as possible.

The method presented at the Wardell public meeting was just one option and is not a recommended approach as you cannot break up works across the entire Shire based on revenues or populations. It was also not considering operating and maintenance expenditure, or one off capital outlays such as the \$1m that had been allocated to Wardell for town centre improvements.

It is fair to say that there is a genuine resident feeling that Wardell receives little in way of recurrent capital funding projects, typically as their population figures and traffic movements are of a much lesser scale than the major population centres of Ballina, Lennox Head and Alstonville.

Works identified in years three or four of the Delivery Program for Wardell have also occasionally been deferred due to other works coming forward as higher priorities (i.e. due to failures, grants etc), so there are no guarantees that the road works planned for 2018/19 and 2019/20 will eventuate in that timeframe.

In reviewing this submission the Carlisle Street footpath has been a key priority for residents for a number of years, particularly due to truck movements. In response to this situation staff have put together a proposed means of funding footpath these works.

The Carlisle Street footpath was previously identified as a high priority and included in the 2015/16 works program with a budget of \$70,000. The budget was removed and put to the Wardell Boardwalk Project to enable the boardwalk to be fully funded and tenders called. There was also a budget of \$50,000 for the Byron Street, Wardell footpath, which was reduced to \$41,000 to benefit the boardwalk.

There are funds available of \$50,000 from the old Community Facilities Section 94 Plan for Wardell. These old Section 94 Plans do not have a detailed works program and with some funds still being held from this Plan there is an opportunity to allow these funds to be allocated to this footpath.

Further there are savings identified from the Boardwalk Project of \$5,000 with a possibility of greater savings depending on whether contingencies are required. Hence it is proposed to raise a new budget in 2016/17 for Carlisle Street footpath of \$50,000, to be funded from Section 94 contributions.

The recommendation that accompanies this item also includes any savings from the Wardell Boardwalk Project to be added to the Carlisle Street footpath budget.

Carlisle Street footpath is a project that enacts the aims of the strategic plan which looks for improvements to "boardwalk, walkways and footpaths to improve accessibility/connectivity within the village".

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The other major issue raised in Wardell is the allocation of road reconstruction monies. Further discussion on this issue is outlined later in this report – refer to the section relating to feedback from the public meetings.

Ms Rickard - Wardell Strategic Plan

Ms Rickard is disappointed that Wardell received very little consideration concerning implementation of the Wardell Strategic Plan. In fact it was not even included in the program. At the Wardell Public meeting one suggested means of looking at an equitable distribution of resources was to look at the percentage of rates paid and thus Wardell only receives 2% of available funds. I and many others at the meeting do not consider this to be a fair way to allocate resources.

If we are to realise the vision outlined in the Wardell Strategic Plan, which has been adopted by Council, we need to find a way of funding the key teams and drivers in the plan.

Also concerning the proposed upgrade of Ragland Street (2018/19 works program), this section of road is not nearly as bad as the stretch of road just opposite the East Wardell boat ramp (River / Byron Streets). Please consider reallocating the Ragland Street funds to Byron Street.

Staff Comment: See comments in response to the Wardell Progress Association. Also as mentioned the Wardell Strategic Plan was included in the Delivery Program as an action relating to a review of the Plan every two years, with that action now amended to read implementation in every year.

The issue of whether Ragland Street or Byron / River Street is a higher priority in the works program has been referred to Civil Services. The feedback will be taken into consideration when the future year's program is next revised with no change recommended at this point in time for the adoption of this year's Delivery Program.

Gibbon Street Steering Committee

The residents are concerned that Gibbon Street is unsafe and this is affecting the amenity of daily life. Council is asked to complete different traffic calming measures and that road / footpath upgrades be undertaken.

It is requested that funds set aside for Ross Street footpath to \$40,000 in 2016/17 (this work has been completed already) be used to:

- Extend Gibbon street footpath south towards Ross Street
- Pedestrian refuge on Ian Avenue at Gibbon Street intersection
- Street tree planting for Gibbon Street and Ian Avenue

In 2017/18 funds of \$130,000 have been set aside for Gibbon Street. The Steering Committee request that the works include:

- Road markings that clearly define parking and traffic lanes
- Pedestrian refuge within the Lennox to Kings Streets vicinity

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It is also requested that Council give consideration to providing additional funding for new footpath in Gibbon Street from Byron to the entry of the Bora Ring and a pedestrian refuge near the bus stop at Barrett Drive.

Staff Comment: During the 2015/16 financial year additional RMS Active Transport grant funds (\$31,900) were offered for part contribution towards existing Council funded footpath projects. This made available approximately \$31,900 within the existing footpath program.

The completion of the Ross Street car parking works during May 2016 (along the boundary of the Lake Ainsworth Caravan Park) provided the opportunity for early completion of the 2016/17 Ross St footpath project. This decision was taken to provide for efficient completion of two projects, Ross Street road works and Ross Street footpath, without the need for re-mobilisation later this year for the footpath works.

The \$40,000 which is currently advertised in the 2016/17 Delivery Program is no longer required for the Ross Street footpath project due to the above opportunity. However, the footpath delivery program follows the adopted Pedestrian Access and Mobility Plan (PAMP) works program, and funds would ordinarily be applied to the next ranked priority projects.

Furthermore, Council has also recently received advice of a new RMS grant offer for 2016/17, being 50% grant funding for a new PAMP study. On this occasion it is recommended the Council funds available in 2016/17 (due to Ross Street footpath) be made available to match the RMS grant. This will provide a revised PAMP delivery program. The resident's request for footpath along Gibbon Street and a refuge at Ian Avenue would be able to be considered and ranked with the new PAMP study and works program.

Hence the recommendation is for the unallocated \$40,000 to be applied to match grant funding to renew the PAMP. The review and adoption of the PAMP is critical as it then supports Council funding applications to the RMS.

In respect to the roads capital works program 2018/19, the reconstruction project identified for Gibbon Street is segment 10. This is the Gibbon Street section between Byron Street and Lennox Street.

The residents have requested the need for line marking improvements along Gibbon Street and for consideration of a pedestrian refuge at Byron Street or preferably between Lennox Street and King Street. Although this request identifies works within and outside the scope of the road reconstruction segment, it is suggested the matters raised can be considered during the investigation and design phase of the project.

Other matters identified further north along Gibbon Street, comprising a pedestrian refuge near the bus stop and a footpath along Gibbon Street are able to be considered and ranked with the new PAMP study and associated works program noted above.

Public Meetings

Council held two public meetings to outline the draft 2016/2020 Delivery Program and 2016/17 Operational Plan.

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The meetings were advertised in the local paper, on Council's website and via community access points. Brief descriptions of the meetings follow.

Lennox Head Community and Cultural Centre: 17 May 2016

There were 21 people in attendance excluding staff and the Mayor.

A summary of discussion points is as follows:

- In respect to the capital works program, specifically those budgets set aside for the Lennox Head area, attendees sought additional information on the actual works that would be occurring. One project discussed was proposed footpath works at Ross Street, Lennox Head as these works are already being undertaken this financial year.

Staff Comment: This matter was clarified earlier in this report.

- It was noted that there is \$17 million in the 2018/19 financial year to construct Hutley Drive. Discussion flowed around these works and whether it would be possible to park alongside the road; i.e. would it be wide enough. The meeting was advised that the timing of the works will depend on growth rates and Section 94 road contribution collections.
- The upgrade of Ross Lane was discussed and whether Council had any plans or had made investigations into the matter, as it was discussed last year. The meeting was advised that there is funding for a new roundabout at the intersection of Ross Lane and Byron Bay road. Also staff are hopeful of obtaining Blackspot Grant funding for some of the dangerous curves in the road.
- The meeting was advised that the Draft Delivery Program includes no funding for the Lennox Town Centre. Funds were available to complete concept plans that would enable agreement on the scope of works and an estimate for the cost of these works. Council has already adopted a resolution for a report on funding options for these works.
- Questions were raised regarding the relocation of the Lennox Rural Fire Service. The consent for the shed in its current location is time limited. The meeting was advised that at this stage there is no agreement in respect to a revised location or any funding to meet relocation expenses. It was suggested that the main center of population for Lennox is shifting to the hills south of the township and that this would be a logical location for the fire shed.
- Concerns were expressed that there is a shortage of parking in the Lennox CBD. The meeting was advised that there are no plans in place to acquire land to improve the situation other than the possibility that the space currently occupied by the fire shed could be used for parking if or when the shed is relocated.
- Population growth of the shire and the Lennox area was discussed including impacts that this will have on provision of services. This led to discussion on the possibility of a bridge over North Creek at North Creek road. The meeting was advised that the bridge is not a priority in the roads forward plan although it is included in Council's Section 94 Roads Plan.

10.3 Delivery Program and Operational Plan - Adoption

Wardell Community Hall: 18 May 2016

There were 39 people in attendance excluding staff and the Mayor. As a general comment it would be fair to say that there was strong feeling of dismay and frustration that the four year capital works plan included very little expenditure proposed for the Wardell Township. A summary of the main issues discussed is as follows:

- Swimming Pools Redevelopment has increased from \$8 million to over \$11 million. Why did this happen? How is it being funded?

The meeting was advised that interest rates had continued to fall from when the financial modelling was completed over two years ago. Plus Council, as a *Fit for the Future* Council, could now borrow off TCorp at preferential rates.

Consequently the reduced loan repayments had allowed Council to expand the scope of works at the pools and still make the same repayments as forecast' albeit that the loan term has been increased.

- The observation was made that in the 2013/14 Operational Plan a road reconstruction budget was included for Wilson Street, Wardell and also Byron Street, Wardell in the 2011/12 Plan and both had dropped off the works list without occurring. The meeting was advised that each year the engineers re-assess priorities and it has to be assumed that based on a technical assessment other roads had deteriorated at a faster rate than the Wardell roads. More detailed information could be obtained from the Works Engineer in regard to this process.

Staff Comment: The Works Engineer advises that each year a team of experienced officers' conduct a physical inspection of all shire roads. The inspection outcomes are collated with maintenance records, vehicle movements and a laser profiling database to create the new priority ranking.

- Advice was provided about the Hall Donation program and the time frames of when Council would make a decision on allocating available funds.
- Wardell does not have a public toilet that caters for disabled people. There are bus loads of people who stop in Wardell, many of whom are old and in wheel chairs. It a basic service that is not being provided. The meeting considered the four year works program for public toilets, which does not include any funding for Wardell. It was advised that it was possible to alter the priorities. The process was to make a submission to the Delivery Program.

Staff Comment: Council considered a report to the March 2016 Finance Committee meeting, which acknowledged that the four year works program did not include any funding for disabled toilets at Wardell. it was resolved not to take any action in respect to funding a disabled toilet.

10.3 Delivery Program and Operational Plan - Adoption

- There was lengthy discussion about the particularly poor state of Riverbank Road and the fact that it was not included in the 2016/17 program for extensive rehabilitation. A submission had already been received on this matter and the presentation included advice from engineering staff that from a technical perspective there was no objection to bringing forward Riverbank Road to 2016/17 and delaying Sunnybank Drive in Ballina. This is because both are category three roads in the priority rankings and in equal need of attention.

The meeting commented that the proposed length of road to be refurbished (the presentation included a slide depicting the length of road to be upgraded) should go beyond the houses rather than stopping adjacent to them. Also additional 80km signs were necessary.

Staff Comment: Engineering staff advise that if Council wishes to shift funding to Riverbank Road from Sunnybank Drive these requests can be considered in the design.

The roads reconstruction program included in the draft Delivery Program was as follows. Please note that this information also includes the engineering category for the roads, with the works categorised as one, two, three or four. One is the highest priority.

Description	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Category One				
Marom Creek Road Devil's Elbow	360,000			
Category Two				
Swift Street, Ballina	114,000			
Nashua Road (Half)	488,000			
Fenwick Drive, Ballina	286,000			
Shelly Beach Road, Ballina	176,000			
Bagotville Road (Part)	340,000			
Bagotville Road (Part)	289,000			
Hickey Place, Ballina	107,000			
Category Three				
Skennars Head Road	367,000			
Skinner Street (Part), Ballina	140,000			
Skinner Street (Part), Ballina	172,000			
Friday Hut Road	392,000			
Fawcett Lane, Ballina	74,100			
Sunnybank Drive, Ballina	313,000			
River Drive		468,000		
Kays Lane (Part), Alstonville		378,000		
Crane Street, Ballina		240,000		
Fernleigh Road		370,000	368,000	260,000
Henry Philp Avenue, Ballina		139,000		
Riverbank Road		267,000		
Broadwater Place, Ballina		130,000		
Northumberland Drive, Ballina		277,000		
Teven Road		255,000		

10.3 Delivery Program and Operational Plan - Adoption

Description	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Category Three (continued)				
Johnson Drive, Ballina		204,000		
Hermans Lane		250,000	250,000	
Tamar Street, Ballina		191,100	166,000	
Tamar Street, Ballina			160,000	
Chickiba Drive, Ballina			187,000	
Winton Lane, Ballina			80,000	
Raglan Street, Wardell			89,000	
Category Four				
Mary Street, Ballina			124,000	
Brunswick Street, Ballina			92,000	
Bagotville Road			285,000	
Temple Street, Ballina			275,000	
Waverley Place, Ballina			101,000	
Burnet Street, Ballina			371,000	
Barlows Road, Ballina			107,000	
Russell Street, Ballina			283,000	
Gibbon Street, Lennox Head			130,000	
Links Avenue, Ballina				271,000
Norton Street, Ballina				102,000
Clarence Street, Ballina				160,000
Valley Drive, Alstonville				280,000
Wilson Street, Wardell				96,000
Teven Road				476,000
South Ballina Beach Road (Half)				282,000
Cedar Street, Wardell				172,000
Burnet Street, Ballina				223,000
Camburt Street, Ballina				158,000
Wejuba Gardens, Ballina				131,000
Links Avenue, Ballina				227,000
River Drive				172,000

As per this information the category one and two works are planned to be completed in 2016/17, with category three works then spread over 2016/17, 2017/18 and 2018/19.

Engineering staff have no objection to having works swapped between years if they are in the same category.

As Riverbank Road is a category three project in 2017/18 it can be swapped with a category three project in 2016/17. In reviewing the category three works the engineering recommendation is Sunnybank Drive, Ballina as the budget is relatively similar.

The recommendations to this report provide for the option to swap the road priorities or retain, with this largely being a political decision on priorities.

10.3 Delivery Program and Operational Plan - Adoption

- Carlisle Street footpath remains a very real concern because you have school children and buses mixing with quarry trucks and other traffic. Funds need to be included in the budget for this section of path. The meeting was advised that the tenders for the boardwalk had recently been received and there may be savings on the boardwalk budget. If so, it may be possible to apply any savings to the Carlisle Street footpath.

Staff Comment: This matter was dealt with earlier in this report.

- Wardell people get very upset at the massive amounts of money spent on projects in the Shire, especially when they go over budget by a long way. Wardell does not want massive amounts of money spent on the town just reasonable services like footpaths, street lights and public toilets.
- Council needs to come up with an action plan for the Wardell Strategic Plan that includes time frames and priorities.
- The waste service should include either an annual collection day where people place bulky waste on the kerbside for collection or provide vouchers for a free drop off with the rate notice. Examples were cited of systems in place in neighbouring shires that work well.
- The Wardell Strategic Plan includes the following task;

'Investigate whether the current approach to the allocation of resources for capital works within Wardell Village is delivering results acceptable to Council and the residents of Wardell Village.'

As presented at the meeting, one approach to distributing available resources is to look at the population of Wardell compared to the whole Shire or indeed the comparative rate income contribution. As mentioned earlier based on these measures the distribution of capital works would be approximately 2% of the total.

Staff Comment: There is no exact method that can be adopted to ensure that any particular area in the Shire receives its fair share of resources. Council relies heavily on technical assessments and at times political decisions need to be made. This is in reality how all government resource allocations are made.

For example rural areas would receive little in the way of funding if State and Federal Governments relied entirely on technical assessments as the major population centres (capital cities) would typically rate highest on the technical assessments.

There is little that can be added to this action from the Wardell Strategic Plan with Councillors ultimately deciding what is the fairest allocation of resources across the entire Shire.

10.3 Delivery Program and Operational Plan - Adoption

B. Amendments to the Draft Delivery Program and Operational Plan

Long Term Financial Plan (LTFP - Budget)

During the period that the draft Delivery Program has been on exhibition numerous budgets have been adjusted and fine tuned as part of ongoing reviews.

Also budgets removed from 2015/16 as part of the March 2016 Quarterly Financial Review, because the project is continuing next year, have been added to the 2016/17 budget.

These projects include the Administration Centre roof and air conditioning, Ballina Surf Club – Building B, North Creek Road Subdivision, various wharves, pontoons and boat ramps as well as Water and Wastewater projects. Other major budget adjustments include:

Regional Library Contribution

The Richmond Tweed Regional Library Committee has reviewed their budget and one of the amendments is a reduction to annual member contributions. The draft budget included a contribution of \$1,369,000 and this has reduced to \$1,325,000.

The \$44,000 reduction will reflect as an improvement to the forecast working capital result.

Roads and Maritime Services - Blackspot Funding

Federal Blackspot funding of \$1,958,000 will be forthcoming to construct a roundabout at the intersection of Ross Lane and Byron Bay Road. The funding will be available over two years 2016/17 \$930,000 and 2017/18 \$1,028,000. The budget will be adjusted for both income and expense to \$1,958,300 over the two year period.

Building Better Regional Cities

The LTFP assumed that both BBRC refund schemes would be completed in 2015/16 as per the grant conditions. Whilst the Wollongbar scheme will be completed this is not the case in respect to Ballina Heights. It has now been assumed that Ballina Heights will be completed in 2016/17 and appropriate income / expense and reserve transfers are proposed to be included in the plan.

Staff Resources

Every year the General Manager receives numerous requests for additional staff resources. In attempting to assess overall organisational needs, priorities, resource levels etc, the following additional staff positions are presented for consideration by Council.

10.3 Delivery Program and Operational Plan - Adoption

(i) Asset Officer- Part Time

Council has infrastructure assets valued at over \$1 billion. Our management of these assets has been undergoing quite rapid change in recent years, which has been driven by legislative change and a desire to improve our asset management practices.

Approximately 18 months ago Council implemented a new software package designed to record each and every asset and provide systems to enhance accounting treatments and deliver improved decision making information. The new asset management system has enabled / assisted Council to meet audit and legislative requirements, particularly with the Office of Local Government (OLG) placing a much higher emphasis on asset management, along with benchmarking councils on their asset management practices.

Council currently has an Asset Co-ordinator (one staff member) located in the Civil Services Group, who is focused on asset management, as well as other engineering activities. It has been a huge task to implement the new asset system, along with complying with Fit for the Future guidelines that required this staff member and the Accountant position to work enormous hours. Now that the system has been running for a period of time it is evident that additional staff resources are required as the current hours being worked are not sustainable.

Given that only one staff member is dedicated to the system full time it means that this person is trying to complete the more routine administrative tasks as well as the high end interpretive analysis. This typically means that important tasks, both administrative and interpretive, are not getting the attention necessary. At peak times of the year both the Asset Co-ordinator and the Accountant positions are required to work excessive hours to meet legislative deadlines.

To improve the management of our assets and to also reduce the risk associated with only one staff member having knowledge of certain aspects of the system, it is recommended that a three day per week position be established to assist with administration/reconciliation/accounting tasks of the asset management system.

The estimated cost for an administration level position for three days plus oncosts is \$52,000. These costs would be spread across all business sections of Council, including Water and Wastewater.

Based on this, the estimated General Fund working capital forecast would be negatively impacted by approximately \$30,000.

Also, to support this decision, Council's Internal Auditors have previously identified in their report on asset management that the reliance on one staff member for this service was a major risk to Council. Their report identified that this risk should be assessed with the allocation of additional resources being the logical solution.

10.3 Delivery Program and Operational Plan - Adoption

(ii) Building Compliance Officer- Part Time 12 month appointment

New legislation has been enacted in respect to swimming pools such that from 29 April, 2016 a valid certificate of compliance is required each time a residential tenancy agreement is signed and when a property is sold. Council is entitled to charge a fee for this service of \$150 for inspections and \$100 for reinspections.

It is estimated that Council will be required to perform approximately 350 new pool inspections per annum and this will increase revenue by \$50,000. To be able to meet the requirements of the new legislation in a timely manner it is proposed to employ a part time officer for a period of 12 months to conduct the inspections and perform other building services compliance duties as required.

The estimated cost of the new position with oncosts is \$50,000, hence it is anticipated that it will be revenue neutral once offset against the additional income. The position is configured to be both part time and temporary so that staff can assess the actual impacts of the new legislation without locking in a permanent recurrent expenditure.

(iii) Water and Wastewater Positions

At the April 2016 Finance Committee meeting, when reviewing the wastewater LTFP, Council was advised that the water and the wastewater LTFPs including funding for two new positions shared between the funds for communications and administration. The estimated cost for those positions was \$130,000 in total, or \$65,000 per business. The recommendation for that report, in part, was as follows, with Council endorsing the recommendation at the April 2016 Ordinary meeting.

That Council receive a further report on the justification for the two additional positions as outlined within this report, with those positions not to be recruited until that report is endorsed by Council.

The following information is provided in response to that resolution.

a) Administration Officer – Full Time (annual cost including 39% oncosts \$80,000)

This position's key function will be to undertake data entry and administrative actions for the numerous registers required for water and wastewater. These registers and associated tasks are required for Council to meet its regulatory requirements for key tasks including Dual Reticulated Recycled Water, Trade Waste, Backflow Prevention, and Asset Maintenance.

The role will also provide administrative support for Council's Water Management Systems which are required in order for Council to meet Drinking and Recycled Water Guidelines. This will involve administrative tasks associated with control document revisions, meetings, submissions and audits. The role will fulfil a shortfall that is currently partially covered by more costly professional and semi-professional staff, and will enable Council to better utilise the skills of those staff to drive improvements elsewhere in the business.

10.3 Delivery Program and Operational Plan - Adoption

b) Communications Officer – 2.5 days per week (annual cost including 39% oncosts \$50,000)

Council's Communication Section is resourced by two permanent part time staff members. The expectation is that this section services the entire organisation's communication requirements.

In February 2016, a part time (four day) temporary Communications Officer was engaged to specifically develop and implement the communication requirements for the recycled water project, with that position directly charged to the recycled water budget until 30 June 2016.

This resource has been able to solely focus on media requirements, stakeholder engagement and the launch of the recycled water, along with other water and wastewater (WWW) activities.

WWW are seeking to see this position retained, for 2.5 days per week, to continue to focus on the educational and information needs for recycled water, along with other programs such as promoting reduced water usage. The annual reporting from Rous Water has highlighted that water reduction in Ballina Shire is not reducing as much as the other constituent councils and has tended to plateau in recent years.

The timing for this new position corresponds to the approximate date of the termination of the temporary resource currently working on recycled water.

The existing temporary position has allowed Council to save consultant costs on editorial and design and it is envisaged that the new permanent part time position would help to save on external consultancies by bringing a range of media and art work skills to the organisation.

This point is important in that in assessing this position it was identified that Council spends tens of thousands a year, if not over one hundred thousand per annum, on art work and design for a myriad of publications and advertising notices.

It was therefore suggested that rather than recruiting a 2.5 day position, a preferred option would be to recruit a four day position, with that extra 1.5 days to concentrate on other Council communications, subject to there being savings in existing budgets. The additional 1.5 days represents a cost to the Council of \$30,000, which would be absorbed across all the Council programs.

There is merit in this proposal and it is recommended that Council approve the appointment of a permanent four day Communication Officer position, subject to the additional 1.5 days being totally offset by reductions in other operating budgets for items such as marketing, advertising, printing etc.

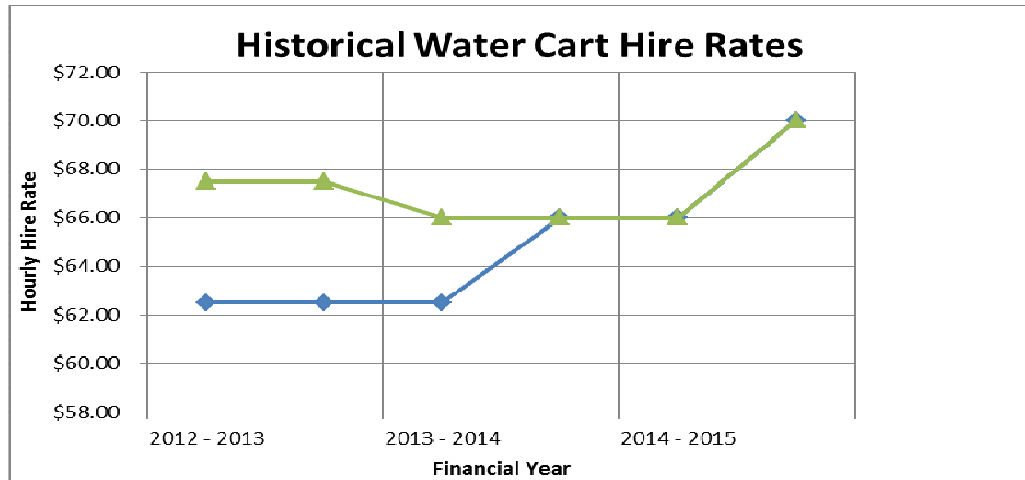
The recommendation to this report supports that approach.

10.3 Delivery Program and Operational Plan - Adoption

(iv) Additional Field Staff (two) and Purchase of Water Carts

Currently water carts are being hired on an hourly rate from suppliers on our annual plant hire contract. Typically, water cart usage has been continuous throughout the entire year for two or more water carts, and approaches three water carts due to road construction and maintenance programs. The water carts that are currently used have been used for a number of years and have become an integral part of some of the work teams.

The plant hire rates for the two regular water cart hire suppliers from the previous three financial years has been summarised in the following chart. The hire rates for the two suppliers are very close throughout the periods analysed, with both having a net upward trend.



The assessment which was completed for the purposes of plant acquisition indicated that if the maintenance team was to lease a new water cart and operate the plant internally they would have a potential saving of \$18,768 per year (\$9.20/hr) from the current hire rate.

If Council leased a second water cart to service its road construction teams they would have a potential saving of \$12,566 per year (\$7.70/hr) from the current hire rate.

These two changes could result in the Council saving over \$30,000 annually. Accordingly, two new water carts are planned to be procured by the Plant Fund for operation by the Engineering Works Section, subject to the employment of two additional field based staff.

There is no impact on the Council budget as field staff and plant are charged directly to their areas of operation (i.e. roads maintenance budgets etc). Essentially Council will be generating \$30,000 of efficiencies by providing this service in-house. When not operating the water carts the staff would assist with other functions of Council.

In summary it is important that Council continue to minimise increases in our operating expenses as we need to maximise the funds available for capital renewal works. Any increase in operating expenses, impacts negatively on our forecast operating result.

10.3 Delivery Program and Operational Plan - Adoption

The positions here that result in a net increase in additional costs (Asset Officer, WWW Administration and 2.5 days Communication) are considered essential, whereas the Building Compliance Officer, 1.5 days Communication Officer and two Field Staff are to be offset by increased revenue and reduced operating expenses or reducing the existing contract plant hire.

Rural Fire Service Contribution

Correspondence has been received from NSW Rural Fire Service advising that they will be implementing a revised methodology to calculate all NSW council's annual contributions as from 2016/17.

The current calculation method is quite complex and has raised concerns at different times. The current method results in a volatile contribution amount as can be seen in the following table and it makes forecasting very difficult.

Item	2015/16	2014/15	2013/14	2012/13	2011/12
Contribution (\$)	120,000	112,000	194,000	138,000	159,000

The new calculation is based on a 20 year average of a council's contributions as a percentage of the total State wide contributions. This results in Ballina being 0.42% of the State.

Based on this new information the calculation would result in a 2015/16 contribution of \$154,000 which compares to \$120,000 based on the current formula.

The 2016/17 contribution will not be known until approximately August 2016 however the indications are that it will be approximately 3.5% more than the revised 2015/16 calculation. This would result in a 2016/17 contribution of \$160,000 and the current draft estimate is \$120,000. It is therefore recommended that the forecast contribution to the Rural Fire Service for 2016/17 be increased from \$120,000 to \$160,000.

Fees and Charges

DA Compliance Levy

The draft Fees and Charges includes a DA Compliance levy of 0.1% of the value of the construction, subject to a \$6,000 maximum. It is now proposed to remove the \$6,000 maximum.

Council initially introduced the DA Compliance Levy to recover some of the overall costs of ensuring compliance with development consents issued by the Council and to assist in covering some of the costs associated where non-compliance is detected.

A review of the DA Compliance Levy prior to the 2015/16 financial year resulted in a decision to update the levy to reflect current standards, however the resultant increase was considered to be too substantial a change to be implemented within the one financial year.

Initially, the levy was increased in the 2015/16 financial year from 0.03% to 0.1% and an increase in the cap from \$2,000 to a \$6,000 maximum contribution was imposed.

10.3 Delivery Program and Operational Plan - Adoption

It is now proposed to remove the capped contribution altogether with the contribution paid to remain at 0.1% of the overall cost of development.

Under this amended proposal, a \$10 million dollar development Compliance Levy contribution would increase from the current capped rate of \$6,000 to \$10,000.

Ferry Fees

It has been the standard practice for many years not to request a crossing payment when emergency services vehicles use the ferry.

The same exemption has also applied to Australian Seabird Rescue and Ballina High School. The Ballina High School usage related to the marine studies vehicle.

Whilst a fee was not paid staff record the various crossings and the cost of unpaid fees is in the order of \$1,200 per annum with the Police being the primary user followed by the Ambulance.

This exemption has not been specifically mentioned in the fees and charges the question is whether Council wishes to continue these exemptions or not.

The recommendation is for this exemption to be listed in the fees and charges and retain the status quo as it is supporting government or community based organisations.

Other Matters

Ordinary Rate Revenue

Council needs to formally adopt the ordinary rates to be levied in the 2016/17 financial year. The rates in the dollar and base amounts in the following table reflect an increase of 5.34%, which is based on the special variation application.

The application has been approved by IPART on the condition that the funds are applied in accordance with the application and the upgrade of the Ballina and Alstonville swimming pools.

Rates in the Dollar and Base Amounts - 2016/17

Rate Category	Rate in Dollar (cents in \$)	Base Amount (\$)	% Income from Base Amount
Residential	\$0.190205	470	49.8
Business	\$0.75792	470	14.6
Farmland	\$0.15099	470	32.5
Mining	\$0.75792	470	0

The recommendations that form part of this report include specific resolutions in respect to the making of the rates.

10.3 Delivery Program and Operational Plan - Adoption

A recommendation is also included to make the various annual charges (i.e. waste, water etc) included in the fees and charges. The reason for this is that there is varying advice as to whether a specific resolution is required in relation to those charges, similar to the rating structure, so to be safe a specific resolution has been included in this report.

Christmas Decorations

The Council, at its Ordinary Meeting held on 28 April 2016, resolved as follows:

'That Council receive a report on options to improve the level of Christmas decorations for the Shire'.

As this decision did not specify whether the decorations would be limited to either private or public land/facilities, both circumstances have been assessed.

In terms of private property, Council has previously coordinated a Christmas 'light-up' campaign, offering prizes and rewards in various categories for homes and commercial properties.

In terms of public spaces and facilities, Council has traditionally provided decorations in the urban areas.

In 2015, the cost to purchase and install Christmas decorations in public places was \$19,170.

This figure was double the Council's allocated budget for 2016/17 of \$10,000, with the additional cost attributable to the replacement of flags and banners for our "main street" areas, as well as purchasing new decorations for two trees in roundabouts in River Street in Ballina and lights for Ross Park in Lennox Head.

Outdoor decorations are very expensive to purchase, as they need to be durable against both weather and vandalism. Ideally, they will be attractive when displayed during daylight hours and at night.

Another significant cost is installing decorations. In the lead up to Christmas last year, Council's specific costs for installation (including work health and safety compliance) and equipment hire was \$7,700 to achieve the following:

- the erection of seven flags on River Street Ballina
- the erection of eight flags on Main Street Alstonville
- the erection of two flags on Richmond Street Wardell
- placement of decorations and tinsel in two trees on River Street Ballina
- placement of lighting on a tree in Ross Park Lennox Head.

In response to the Council's April 2016 resolution, a number of options for additional decorations have been examined as follows. These would be in addition to continuing with arrangements as per last year:

10.3 Delivery Program and Operational Plan - Adoption

1. Call for expressions of interest from community groups to host Christmas events and artisans to involve the community with art installations. Council would set parameters for locations, quality of materials and other guidelines and then pay a fee to participating artists. A project of this kind would require a substantial budget and particular expertise from a coordinator, with this role being outsourced. It is not known whether a properly documented proposal would be eligible for grant funding.
2. Council could reactivate the concept of a Christmas 'light-up' competition. Ideally, strategic partners would be involved, including chambers of commerce and perhaps service organisations. Council would need to fund a range of awards/prizes for participants in different categories. Planning, promotion and coordination would require the allocation of considerable resources, with the coordinator's role probably being outsourced.
3. Council could seek to increase the level of permanent decoration (and provision of services such as electricity) as part of town and village centre embellishment programs. With this option, the decorations can be available throughout the year or activated for special occasions, such as Christmas.

This approach may lead to only slow and incremental improvements as locality-specific projects are undertaken, and would lead to cost increases to those individual project budgets. Council could also consider retrofitting decorations within the projects that have already been undertaken (eg Ballina and Alstonville town centres) as part of ongoing work programs.

4. It is open to the Council to increase the budget for Christmas decorations in the draft 2016/17 Operational Plan. Currently an amount of \$10,000 is allocated. In considering this option, the Council might have regard for understanding community expectations, as well as other competing demands for limited resources.
5. Council could call for expressions of interest from the business sector to sponsor the cost of installing additional Christmas decorations in public places in exchange for advertising and/or promotional rights. It is not known whether there would be a level of interest for this option. Even if there was interest, Council may very well be criticised for going down this path on the basis of further commercialisation of Christmas.

Fundamentally, a desire to increase the provision and display of Christmas decorations, whether on public or private land, is contingent upon the Council allocating a larger recurrent budget for this purpose.

Discussions with the Lennox Head and Ballina Chambers of Commerce did not identify any desire for Council to change its current practices and it is noted that the Alstonville Wollongbar Chamber has been listed in the donations summary with a \$2,000 request to purchase donations.

The preference is for that request to be dealt with by the Donations Working Party and the recommendation that accompanies this report does not include an increase to the existing budget.

10.3 Delivery Program and Operational Plan - Adoption

Disposal of Push Bike Tyres

A query was raised at the May 2016 Ordinary meeting by Cr Hordern regarding tyre disposal fees. The concern was that the price to dispose of a car tyre was the same as a push bike tyre and this did not appear to be equitable.

Staff Comment: The fees and charges document specifies that motor bike and car tyres are charged a disposal fee of 11.20 per tyre (2016/17 proposed price). Other tyres are noted as price on application.

Advice from the Waste Manager is that push bike tyres are not subject to the same tracking that is required for larger tyres by the Environment Protection Authority. The fee to dispose of push bike tyres is the same as normal mixed waste and would be based on weight, hence the fee would be less than a couple of dollars.

The Waste Manager is following up with Cr Hordern to advise that if a resident has been charged incorrectly at the gate this would be operator error and the individual would be entitled to a refund.

Sustainability Considerations

- **Environment**
This report encompasses the entire Council budget and proposed activities and operations.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

This report deals with all of Council's operations. Legal, resource and financial implications are all relevant to this report. The recommendations contained at the bottom of this report include various budget adjustments.

Based on the adjustments identified in this report the revised working capital deficit forecast for the General Fund for 2016/17 is \$187,000 as compared to the exhibited deficit of \$161,800.

Whilst this is not a desirable start point it is acceptable given that over recent years the result has improved to a surplus or break even as the year has progressed.

Consultation

The Draft Delivery Program and Operational Plan have been advertised for public comment during May and June.

10.3 Delivery Program and Operational Plan - Adoption

Options

Council has a legal obligation to adopt the Operational Plan and Delivery Program. Two Finance Committee meetings have been held to develop the strategies contained within these documents and Council is also in a position to consider community input.

The recommendations that follow encompass all the items addressed in this report, along with a recommendation to endorse the rating structure for 2016/17.

RECOMMENDATIONS

1. That Council adopts the 2016/17 to 2019/20 Draft Delivery Program and 2016/17 Operational Plan which includes the Long Term Financial Plan (budget) and Fees and Charges, as exhibited, inclusive of any amendments determined at this meeting.
2. That Council approves the formation of a Committee of three Councillors, representing each Ward, plus the Mayor, to consider the applications for the General and Public Hall Donations for 2016/17.
3. That Council endorses the following actions in respect to the various submissions for works and services:
 - a) Ballina Tennis Club - that the roads maintenance program not be adjusted to include sealing of the verges in Burnet Street adjacent to the tennis courts due to higher priority works for this funding.
 - b) Bulwinkel Land Care Group - that the Group be advised that there are no funds in the budget for improvement works however Council will pursue grant funding opportunities as they arise.
 - c) Lennox Head Football Club - that Council receive a report on options to fund the expansion of the Skennars Head Sports Fields through the deferral of other works, to meet the current deficiency for sports fields in Lennox Head.
 - d) Mr Stanger, Brighton Street Sealing - that Mr Stanger be advised that Council will not seal that section of Brighton Street as requested as other roads works are considered to be a higher priority, however, in principle, support is provided should the residents agree to fund the works and make application under Section 138 of the Roads Act.
 - e) Wardell Recreation Ground Trust – that Council agrees to provide a second hand zero turn mower to the Wardell Recreation Ground Trust on the condition that members of the Trust mow the reserve and keep it neat and tidy for, a minimum, of at least three years.

10.3 Delivery Program and Operational Plan - Adoption

- f) Wardell Progress Association - that the 2016/17 budget be adjusted to include a budget of \$50,000 for the Carlisle Street footpath from developer contributions, with any savings from the Wardell Boardwalk Project to be added to this budget, if required.
- g) Wardell Progress Association and Mr Stead – Riverbank Road

Option A – that Council approves an amendment to the exhibited roads reconstruction program with Riverbank Road promoted to the 2016/17 program and Sunnybank Drive deferred to the 2017/18 program

OR

Option B – that Council not amend the exhibited roads reconstruction program

- h) Ms Rickard Wardell Strategic Plan – that the issues raised in the submission are noted with Council confirming that the implementation of the Wardell Strategic Plan is now listed as a recurrent item in the adopted Delivery Program.
 - i) Gibbon Street Steering Committee – that Council advise the Steering Committee that the \$40,000 allocated for the Ross Street footpath in the 2016/17 works program are to be applied to match grant funding provided by the RMS to renew the PAMP. The renewal of the PAMP is essential to seek further grant funds from the RMS and the requested works in Gibbon Street will be considered as part of the road reconstruction of Gibbon Street (segment 10) in 2018/19 or through the review and renewal of the PAMP.
4. That Council endorses the following amendments to the Long Term Financial Plan:
- a) Regional Library Contribution - draft budget reduced by \$44,000
 - b) Federal Blackspot funding - capital income and expenditure budgets increased by \$1,958,000 to construct a roundabout at the intersection of Ross Lane and Byron Bay Road
 - c) Building Better Regional Cities - draft budget adjusted to include income and expenditure to relating to the Ballina Heights rebate
 - d) The General Manager is authorised to recruit :
 - (i) new three day per week position for asset management, as detailed in this report
 - (ii) new part time building services compliance officer, for a 12 month period, as detailed in this report, with the expense fully offset by additional revenue
 - (iii) new full time water and wastewater administration officer, as detailed in this report.
 - (iv) new part time communications officer of 2.5 days for water and

10.3 Delivery Program and Operational Plan - Adoption

wastewater, as detailed in this report, with this position able to be increased to four days, subject to the additional 1.5 days being totally offset by savings in existing communication / marketing / advertising etc budgets.

- (v) Two new field staff positions to operate the two additional water carts, with this expenditure offset by reducing plant hire.
 - e) Rural Fire Services – draft budget increased from \$120,000 to \$160,000 based on the new calculation methodology.
5. That Council endorses the following amendments to the draft Fees and Charges:
- a) Maximum fee of \$6,000 for the Development Application Compliance Levy is to be removed and the fee charged is simply 0.1% of the estimated cost of the development.
 - b) Ferry fees are to make provision that the following organisations are exempt from paying a crossing fee: Police, Ambulance, State Emergency Services, NSW Fire and Rescue, Ballina High School and Australian Seabird Rescue.
6. That Council resolves to make a base rating structure applicable to all rateable land in the Shire for the levy of the 2016/17 Ordinary Rates as per the following structure.

Rate Category	Rate in Dollar (cents in \$)	Base Amount (\$)	% Income from Base Amount
Residential	\$0.19025	470	49.8
Business	\$0.75792	470	14.6
Farmland	\$0.15099	470	32.5
Mining	\$0.75792	470	0

The rate in the dollar for 2016/17 applies to the land value of all rateable land in the Shire within the relevant category.

7. That Council resolves to make the annual charges for 2016/17 as detailed in the Fees and Charges document that forms part of the Delivery Program and Operational Plan for Domestic Waste Management, Stormwater, Waste Management Operations, Water Services and Wastewater Services.
8. That Council notes the information in respect to Christmas decorations with no change proposed to the existing level of service.
9. That Council notes the information in respect to the waste fees for the disposal of bike tyres.

Attachment(s)

1. Submissions to Works and Services 2016/17

10.4 Senior Staff - Contract Conditions

10.4 Senior Staff - Contract Conditions

Delivery Program Human Resources and Risk Management

Objective To comply with Section 339 of the Local Government Act.

Section 339 of the Local Government Act states as follows:

The general manager must, at least once annually, report to the council on the contractual conditions of senior staff.

Senior staff are defined under Section 332 of the Local Government Act which lists a range of criteria which must be satisfied before a staff member can be defined as senior staff.

The positions within the Ballina Shire Council that meet the criteria and have been resolved by Council as senior staff are:

- General Manager
- Group Manager - Civil Services
- Group Manager – Development and Environmental Health

The purpose of this report is to comply with section 339 of the Local Government Act in respect to these three positions.

The report that follows provides details that are not considered to be of a personal nature, with a further report included in the confidential section of this agenda.

The confidential report contains information that can be considered to be of a personal nature and as such the report is recommended for discussion in confidential session in accordance with Section 10A(2) (a) of the Local Government Act; i.e. personnel matters considering particular individuals.

Key Issues

- Compliance with the Local Government Act

Information

The major difference between senior staff positions and other positions within the council organisation (excluding the total salary) is that senior staff must be placed on standardised performance based contracts, details of which are reported to Council each year (Sections 338 and 339).

Also under Section 332 of the Local Government Act the general manager may appoint or dismiss senior staff only after consultation with the council.

10.4 Senior Staff - Contract Conditions

Details of the three senior staff positions within the organisation are as follows:

General Manager

- Term limited, performance based contract
- Five year term terminating 13 April 2017

Civil Services Group Manager

- Term limited, performance based contract
- Five year term terminating 31 May 2021

Development and Environmental Health Group Manager

- Term limited, performance based contract
- Two year term terminating 31 May 2018

Specific details of the employee's remuneration are included in the confidential report.

Sustainability Considerations

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

Legal / Resource / Financial Implications

Council is complying with the Local Government Act in providing this report.

Consultation

This report contains what are considered to be the open Council items relating to the employment contracts for the senior staff.

Options

This report is provided for information.

RECOMMENDATION

That Council notes the contents of the annual report in respect to the employment conditions of senior staff as required by Section 339 of the Local Government Act.

Attachment(s)

Nil

11.1 Design Floor Levels Variation - 35 Richmond Street, Wardell

11. Civil Services Group Reports

11.1 Design Floor Levels Variation - 35 Richmond Street, Wardell

Delivery Program Development Services

Objective To review the flood planning levels at 35 Richmond Street, Wardell - DA 2016/151

Background

In accordance with Schedule 2, clause 6 (c) of the General Manager's delegations, Councillors Worth, Smith and Wright have requested in writing that the determination of development application 2016/151 be reported to Council due to concerns in respect to the filling requirements of the application. This report complies with that request.

The land owners/applicants are requesting a variation to the design floor level for the dual occupancy proposed under development application 2016/151. They are concerned that the required floor level is higher than anticipated and feel they were not adequately informed during the subdivision process.

The site filling and retaining wall heights provided during the subdivision, approved in December 2008 (DA 2009/28), means that a slab on ground dual occupancy proposed under DA 2016/151 will not meet the design floor level flooding requirements of Councils Floodplain Management Development Control Plan (DCP) adopted in June 2015. An alteration to the proposed building design or retaining wall and fill levels will be required.

The applicants are disappointed they were not informed during the subdivision process that design floor levels could change, particularly considering a Construction Certificate (CC) for site works was issued within weeks of the new DCP adoption.

The applicants have a dual occupancy on the neighbouring lot that was subdivided under stage one of DA 2009/28 and subsequently constructed under DA 2012/450. The intention was to build an equivalent dual occupancy on the subject lot at the same levels.

The DA and CC for the subdivision were both issued without specific levels for fill or floor levels in accordance with the previous and current Floodplain Management DCP's. Fill levels are not prescribed in the subject area of Wardell. Applicants have the opportunity to pier dwellings and floor levels are not prescribed in development applications for subdivision only.

Key Issues

- Approving an alteration to the design floor level of Council's current Floodplain Management DCP

11.1 Design Floor Levels Variation - 35 Richmond Street, Wardell

- The length of time over which the subdivision and subsequent dual occupancy development applications have transpired has resulted in changes to flood levels that have affected the applicant's original master plan.

Information

The sequence of events for the subdivision and dual occupancy development applications are as follows:

DA 2009/28 – Four lot subdivision in two stages.

17 June 2010 – letter from Council (DW1561263) advising that:

"In response to your enquiry, the development consent for DA 2009/28 did not specify the required levels for any proposed fill and floor levels. The Ballina Shire Combined Development Control Plan, Policy Statement No.11 – Flood Levels (the DCP) provides the current adopted levels throughout the shire. Please find attached a copy of the current DCP.

The requirements contained in the DCP are periodically reviewed and the values may change when revised flood modelling indicates that amendments are necessary.

The current levels applicable to your land are as follows:

- *Minimum **fill** level 3.2m AHD*
- *Minimum **floor** level 3.7m AHD"*

Stage one is completed and a dual occupancy (DA 2012/450) constructed on that lot.

28 May 2015 - The Floodplain Risk Management Study was completed in 2012 and the Floodplain Risk Management Plan was adopted by Council 28 May 2015.

The DCP allows for site filling or elevated buildings at Wardell. Therefore no fill levels are specified in the consent and only a design floor level (DFL) is stipulated.

25 June 2015 - The Construction Certificate for the subdivision works (stage 2 – Swamp Street, sewer, retaining wall etc) was issued on 25 June 2015. A design level of 3.7 was on the plan 6763-02, but no specific fill levels were quoted. There was no reference to proposed dwellings or floor levels as this construction certificate was for subdivision works only.

30 June 2015 – New levels adopted at May meeting are now in force.

Stage two site works completed and the site is currently vacant. The site has been filled to approx 3.4m AHD to suit a building with a proposed floor level of 3.7m AHD (as per old DCP fill levels if filling is the preferred option).

11.1 Design Floor Levels Variation - 35 Richmond Street, Wardell

13 April 2016 – Email from Council for variation to a design floor level at Ferngrove estate for one house. (This case involved an isolated vacant site in an otherwise fully developed stage. The variation approved was to enable this one house to be sited consistently with the existing adjoining new houses. The next stage of this estate will comply with the change in level requirements adopted in May 2015).

DA 2016/151 was lodged for the proposed dual occupancy on the vacant lot. The assessment has determined the Design Floor Level (DFL) = 4.1m AHD. (This is 400mm higher than anticipated).

Council's staff response to the applicants concerns have been:

- Council does not inform every landowner with a consent yet to be activated of changes in development policy as development can occur over long time frames.
- The DA lodged for the new dwelling is assessed against the requirements applicable at that time.
- The variation to a DFL would need to be substantiated to avoid the risks to Council in relation to property damage claims.
- There are options that can accommodate the proposed building and the specified DFL such as raising the retaining wall or modifying the building foundation/footing design.

The applicant has requested the following:

Section 3.13 of the Floodplain Management DCP, Special Considerations – this clause should be applied to this case to enable the DFL to be varied to suit their development.

Section 3.13 is as follows.

3.13 Special Considerations

- i. When assessing proposals for development or other activity within the area to which this Plan applies, Council will take into consideration the following specific matters:*
 - a. Irrespective of whether development is proposed to mitigate the potential impact of flooding (e.g. house raising) it must be undertaken in a manner which minimises the impact upon the amenity and character of the locality.*

In the opinion of staff the amenity and character of the locality will not be affected due to the difference in design floor level compared to the neighbouring development. There are a range of floor levels and construction techniques throughout the area of Wardell created by evolving flood level requirements and either filling or piercing, depending on the applicants choice.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
There is an economic impact to the developer as the lot will require additional filling and retaining works or modifications to building plans and construction techniques.

Legal / Resource / Financial Implications

If Council approves a design floor level below current DCP standards Council may compromise its Exemption from Liability – flood liable land, land subject to risk of bush fire and land in coastal zone, under section 733 of the Local Government Act.

Consultation

The applicants have been consulted regarding this matter.

The adoption of the relevant planning controls has occurred after public consultation.

Options

Option 1

Council varies the design floor level of DA 2016/151 to 3.7m AHD below the current DCP level of 4.1m AHD. The floor level would then be consistent with the neighbouring development and enable the developer to utilise its existing fill levels and retaining wall design.

Option 2

Council does not alter the design floor level condition in DA 2016/151 which is consistent with the current Ballina Shire Development Control Plan 20112, Chapter 2b - Floodplain Management.

Option one has the advantage that it meets the preference of the the property owner. It is arguable that given the length of time over which the subdivision and subsequent dual occupancy development applications have occurred, and the associated changes in Flood Management DCPs, it would not create an unmanageable precedence to the current Floodplain Management DCP.

However the problem with Option One is that it does expose Council to some risk in respect of a future property damages claim as the approval will be inconsistent with the Council's current standard. On this basis, Option Two is preferred by staff and is the recommendation to this report.

11.1 Design Floor Levels Variation - 35 Richmond Street, Wardell

RECOMMENDATION

That Council deny the applicant's request to vary the design floor level conditioned in development consent 2016/151 for the reason that such a variation does not meet current planning controls and thereby such a decision may compromise Council's position in dealing with any future claims arising from property damage.

Attachment(s)

Nil

11.2 Killen Falls - Improvements to Visitor Facilities

11.2 Killen Falls - Improvements to Visitor Facilities

Delivery Program Open Spaces and Reserves

Objective To advise Council, as part of the 2016/17 budget deliberations, on the feasibility and cost of improving visitor facilities at Killen Falls, including the provision of toilet facilities (e.g. a compost toilet), and to consider whether Rous Water will assist with funding.

Background

Killen Falls is an increasingly popular spot for locals and visitors to the Shire. On most days of the week numerous cars and tourist buses arrive. Furthermore, the falls are promoted through the media and accommodation providers, Facebook, Trip Advisor, etc. Also, photographs of the falls regularly appear in the Northern Star.

The increasing popularity is continuing to impact on the local amenity through increased traffic and the lack of toilet facilities. Complaints have been received regarding the lack of toilets for visitors.

At the Council meeting on 25 February 2016, Council resolved to receive a report, as part of the 2016/17 budget deliberations, on the possibility of funding toilet facilities (e.g. possibly a compost toilet), improving visitor facilities and the associated costs at Killen Falls. This report is also to consider whether Rous Water will assist with this funding.

Council has previously considered the risks associated with public access to Killen Falls. Council resolved at its meeting on 26 June 2014 to address a number of risk management concerns, which has since resulted in the construction of a viewing platform at the top of the falls, improved safety signage and improvements to the path leading to the top of the falls.

Rous Water was also approached at that time, given their role as managers of the adjoining Emigrant Creek Dam site, with a request that they jointly consider a range of alternative management strategies. Whilst Rous Water was keen to work with Council to improve risk management at the location, they expressed no interest in actively promoting the site as an education/tourism location, nor were they interested in the provision of toilet facilities.

Notwithstanding Rous Water's previous decision and in light of the continuing increase in visitor numbers to both Emigrant Creek Dam and Killen Falls, a renewed request has been made to Rous Water on 12 April 2016 that they reconsider their decision and contribute towards the cost of upgrading facilities at the site. Rous Water is yet to respond to our request.

Key Issues

- Infrastructure needs
- Costs and funding opportunities

11.2 Killen Falls - Improvements to Visitor Facilities

Information

Killen Falls is located at the end of Killen Falls Drive, Tintenbar, adjacent to Emigrant Creek Dam. The land is classified as Community Land and under management of the Open Spaces and Resource Recovery section. The land is further categorised as “bushland” under the community land provisions of the Local Government Act.

The core objectives for management of community land, categorised as bushland, as per clause 36J of the Local Government Act are as follows:

- a) *to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and*
- b) *to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and*
- c) *to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and*
- d) *to restore degraded bushland, and*
- e) *to protect existing landforms such as natural drainage lines, watercourses and foreshores, and*
- f) *to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and*
- g) *to protect bushland as a natural stabiliser of the soil surface.*

This site is not actively promoted by Council however it remains an increasingly popular site for the community and visitors to the Shire. At the entrance, Council has constructed a sealed car park and garden area and has in place general hazard warning signage. These signs relate to hazards rather than banning access to the site.

To date, information on visitor numbers to Killen Falls is based on observations from Council staff along with written and anecdotal accounts from residents.

It is reported that visitor numbers are in the order of hundreds per week, including several bus loads each day.

At peak times the car park is full and cars and buses are parked on the roadside verges along Killen Falls Drive.

No surveys or other data collection methods have been undertaken to confirm the actual frequency and number of visitors.

Council has received correspondence from residents raising concerns at the lack of toilet facilities and consequences thereof, and also at the shortage of formal car parking and the resultant congestion along Killen Falls Drive with concerns at the risk of accidents.

11.2 Killen Falls - Improvements to Visitor Facilities

Representations include a petition raised at the beginning of 2016 supporting the statement: *“To help Ballina Council to identify the need for improvements and upgrades in this area we believe there should be amenities, picnic tables, more parking, more rubbish bins and widen Killen Falls Drive”.*

Car Parking

At peak times, the existing car park spaces are insufficient for the number of visitors hence they resort to parking on the grass verges along Killen Falls Drive. Buses also regularly visit the site.

The cost of road widening and the provision of additional car parking is cost prohibitive and has not been considered to date in light of Council’s current management position which is not to actively promote the site.

While concerns have been expressed in respect of safety, staff are generally of the opinion that the capacity limitations and road geometry do not represent any extraordinary road safety risks and with no reported incident history the cost of works is not justified having regard to existing road priorities.

Access to the Falls

Safe access to the top of the falls is much improved with the recent construction of a viewing platform.

Repair of the access path to the top of the falls has also been made, although further improvement is still needed. In wet conditions the track becomes very muddy and slippery. The length of this track is approximately 350 m.

To formalize the walking track to a 1.2m wide wheelchair grade access consisting of a timber edged compacted shale track including a 5mm long raised boardwalk section for the gully overflow would cost approximately \$49,000 to construct (2014 estimate).

This will not bring this track up to the same standard as provided by Rous Water Emigrant Creek Dam as that pathway is constructed of concrete and bitumen. However, it will assist in removing the current slip and trip hazards.

Fencing installed in an attempt to restrict access to the bottom of the falls has proved ineffective and visitors continue to bypass and damage the fence.

Council staff have considered the possibility of improving and formalising the access track to the bottom of the falls. A substantial length of the existing informal walking track runs alongside and atop the creek bed which poses significant issues regarding construction and safety, especially during wet weather conditions. Also considered was the visual impact that a constructed path alongside the creek would have on the natural beauty and character of the creek itself.

Provision of Toilet Facilities

The site does not have access to sewer. Toilet facilities are feasible at the site however there are a number of limitations. Most notable is the lack of cleared area, with the most suitable location being the grassed area at the end of the car park adjacent to the entrance to the falls walking track.

11.2 Killen Falls - Improvements to Visitor Facilities

The site is just outside the Emigrant Creek Drinking Water Catchment zone, being hydraulically down-gradient of the catchment, hence the Rous Water guidelines for on-site sewage management systems do not apply.

The site is around 40m from the creek and a similar distance from a dam on the adjoining property. Proximity to these water bodies will limit the type and capacity of a suitable on-site sewage management system. Soil conditions, water balance, demand usage rates, climatic and other factors also influence the system design and selection.

Disposal of leachate from either system is also limited by the size and location of a suitable effluent/leachate disposal area and the need to ensure nearby water bodies are not impacted. An alternative to disposal on-site would be the routine pump-out of effluent from a holding tank.

Engagement of a suitably qualified on-site sewage management consultant would be required in order to design a site-specific solution that addresses the site's constraints and complies with Council requirements. It is anticipated that the outcome of a detailed assessment would most likely result in the installation of a composting toilet, or an aerated wastewater treatment system with disinfection. Some method of effluent/compost leachate disposal would also be needed. Investigations should also consider the availability of a water supply for hand-washing.

Aside from the above limitations, accurate sizing of a suitable on-site sewage management system is problematic because demand is not currently determinable other than from rough estimates based on observational data. This could result in an over/under-design of the system. It should also be noted that the site has poor solar aspect due to the lack of open tree canopy.

Another option is to install a portable toilet(s) at the site during peak visitor seasons. In this case the routine servicing of toilet facilities would need to include routine pump out of the toilet sump.

An advantage of this solution could be the ability to capture usage information (i.e. user count, pump-out volumes), which could then be used, if need be, to more accurately assess the capacity of a future more permanent toilet facility.

Estimated costs of providing toilet facilities are as follows:

Toilet Block Including a Unisex Accessible Toilet on Septic Tank (Pump-Out): estimate includes allowance for fees, charges, ground-works, building and services – Estimate: \$130,000 plus GST.

Depending on usage the septic tank pump-out charges will vary and have not been included in the estimate. Post-construction there will be ongoing cleaning and maintenance of the facility which will again vary depending on the unknown usage rates, however would require checking/cleaning a minimum of two to three times a week. (\$100 - \$150).

Temporary Single Portaloo: weekly hire (based on 3 months hire) – serviced twice weekly – \$167 plus GST per week. (Plus delivery and pickup charges – approx. \$180 each way for the period of use).

11.2 Killen Falls - Improvements to Visitor Facilities

The above costs are broad estimates and subject to regulatory approval, therefore there is no certainty that as to what standard is considered suitable for this location.

Ongoing Site Management

A degree of management of the site is necessary given the site's increasing popularity and Council's obligation to provide a duty of care to manage risks at the site; regardless as to whether or not Council is actively promoting the site.

Vandalism is also a potential issue at this site given its remote location.

Council's Community Land Co-ordinator has indicated that management of the site might benefit from having a formal management plan. Such a plan could encompass all three of the Shire's iconic falls: Killen, Tosha and Dalwood.

This could (arguably) lead to efficiencies, especially if Council were intending to promote the sites as tourist destinations.

Alternatively, a stand-alone management plan for Killen Falls might be preferable given that operations at the three sites are significantly different.

Consideration should first be given to the cost-benefits that such a plan would provide beyond the site's current management status in order to determine whether such a plan is warranted.

Sustainability Considerations

- **Environment**
Killen Falls has environmental considerations including zoning, protected species and habitats.
- **Social**
Council has a duty to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion. Council also recognizes the limitations and risks associated with public access.
- **Economic**
Maintenance of the falls requires financial commitment and responsibility by Council to maintain and inspect the sites to an established and acceptable standard within Council available resources.

Legal / Resource / Financial Implications

Where Council provides infrastructure and access it is inviting people to use the facility and as such has a duty of care to ensure the facility is fit for purpose and to warn users of the potential hazards.

11.2 Killen Falls - Improvements to Visitor Facilities

The Civil Liability Act 2002 provides a legal defence to Council subject to Council fulfilling certain requirements, one of which is to appropriately assess the risks and to warn of hazards that may lead to harm.

Financial implications will depend on the availability of internal/external funding and on preferred actions from this report.

Consultation

Relevant Council sections managing were consulted on site specific issues. Council has written to Rous Water requesting they consider contributing to the cost of upgrading facilities at the site, although there has been no reply to date.

Council has also taken into account representations and petitions from local residents and visitors to the site.

Options

As per this report there are a range of options available for the Killen Falls site.

Council must, if for no other reason, provide a reasonable level of proactive management at the site to minimise any risks to the public.

Rous Water has yet to respond to a renewed request to contribute to the upgrade of facilities at the site, including toilet facilities. A number of improvements have already been made in order to reduce Council's risk exposure, including the provision of a viewing platform and hazard warning signs. Council can continue to seek a response from Rous Water, with a view to determining their interest in contributing to the upgrade of facilities.

The site also provides some tourism benefits to the Shire and with all local government areas competing for vibrant experiences for visitors and residents, and with Council having limited sites of this nature, there is merit in improving the existing infrastructure. This would entail upgrading of the Killen Falls Drive to improve access and parking, and the provision of toilet facilities.

The report has considered the feasibility of providing toilet facilities and consequently identifies a few potential solutions, while also identifying a range of limitations that necessitate more detailed investigation by a suitably qualified consultant prior to a determination. On the other hand, it is also feasible to install a portable toilet at the site, the benefits of which have also been discussed.

Upgrades to the road and car parking are not promoted as a viable option due to the cost.

Consideration has also been given to the notion of a management plan for the site.

While peak season visitation can cause some issues, prima facie it is difficult based on the information in this report to justify an upgrade to the road system at Killens Fall, provide significant pathway infrastructure and provide temporary or permanent toilet facilities having regard to the other priorities in the Shire for upgrades to this type of infrastructure.

11.2 Killen Falls - Improvements to Visitor Facilities

On balance funding for these works have not been recommended as the capital works included in the draft Delivery Program and Operational Plan for 2016/17 onwards, as outlined earlier in this agenda, are considered to be a higher priority. It is a matter for Councillors to determine whether they wish to reallocate those priorities.

However Council's Community Land Co-ordinator is of the opinion that a formal management plan for this location would assist with on-going management and the recommendation that follows supports the development of that Plan.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding the current management situation and facilities at the Council owned property referred to as Killen Falls, with Council confirming that no capital works are allocated for the site within the 2016/17 Delivery Program and Operational Plan as other works listed in that document are considered to be of a higher priority.
2. That Council authorises the General Manager to prepare a management plan for the Killen Falls site to assist with long term planning for the site.

Attachment(s)

1. Locality Plan - Killen Falls
2. Letter Requesting Public Toilets

11.3 Bike Plan (Draft) - Public Exhibition

11.3 Bike Plan (Draft) - Public Exhibition

Delivery Program Asset Management

Objective To provide the Council information regarding to the public exhibition of the Bike Plan

Background

A significant effort is being made to make Ballina Shire a bicycle-friendly environment and to better integrate cycling as an active transport option into our existing transport network. The development of a Bike Plan for Ballina has been undertaken in response to this and to provide a coordinated and strategic approach to delivering bicycle infrastructure and education across the Shire.

The development of the Bike Plan aligns with Council's Community Strategic Plan (2013-2023) to provide a more connected community, a healthy community and a healthy environment.

Development of the Plan is also a commitment of Council's Road Safety Strategy (2014/15-2023/24) and is needed in order to improve path connectivity within our Shire and with neighbouring Local Government Areas while maximising opportunities to separate cyclists and pedestrians from traffic.

The Bike Plan will ensure existing network commitments, including the Coastal Recreational Pathway and Shared Path, the NSW Coastline Cycleway, and shared path projects detailed in the Pedestrian Access and Mobility Plan (PAMP) (2010 and reviewed in 2013), forming part of a well-planned bicycle network. The adoption of the Plan will also assist Council in securing grant funds for specific projects in the Plan.

The purpose of this report is to obtain approval to exhibit the draft Ballina Bike Plan.

Key Issues

- Contents of Draft Ballina Bike Plan

Information

The Draft Bike Plan is included as an attachment to this report and the document itself is extensive.

The methodology for preparing the Draft Bike Plan included the following:

- Review of relevant state and local planning instruments and cycling documents (NSW Bike Plan, NSW Bicycle Guidelines).
- Audit and assessment of the existing bicycle network and associated facilities in Ballina Shire (including cycleways, shared paths, bicycle parking facilities, signage and line marking).
- Review of demographic data and travel data, including census data on bicycle travel to and from work.

11.3 Bike Plan (Draft) - Public Exhibition

- Review of crash and traffic volume data on cycling routes.
- Review of plans for the Coastal Recreational Path and Coastal Shared Path, the PAMP, and the NSW Coastal Cycleway to identify complete and incomplete actions or recommended works.
- Review the saddle surveys conducted as part of the above mentioned projects and the current bicycle mapping project.
- Identify and assess conflict points on the bicycle network and complete saddle surveys with the aim of developing management options to reduce conflict between road users.
- Review provision for cycling infrastructure in growth areas currently under development and proposed future growth areas.
- Assess options for cycling facilities at major public transport interchanges.
- Identify issues and deficiencies in current planning documents in relation to planning for bicycle infrastructure and propose amendments.
- Community consultation.

The current works being undertaken on the Coastal Recreational Path between the Angels Beach underpass and Sharpes Beach are shown as completed in maps 5 (East Ballina – page 38 and 8 (Skennars Head locality)- page 41, with the maps also showing the two Flat Rock Tent Park bypass options.

This is more a matter of timing with those works likely to be completed by the time the Plan is adopted (albeit that only one Flat Rock bypass option will be funded dependent on the assessment of the planning application for this bypass.)

Also related to this is that the maps do not show the proposed coastal recreational walk from Sharpes Beach to Pat Morton. The reason for this is that proposed walk does not have consent to a cycleway standard and is being built to National Parks and Wildlife Service standards for a walking track. Therefore it does not form part of Council's cycleway network.

Sustainability Considerations

- **Environment**

Cycling is a healthy and sustainable form of transport. The provision of safe and convenient routes as part of the Bike Plan will facilitate reduced car use, resulting in environmental benefits such as reduced traffic congestion, improved air quality, reduced traffic noise and reduced carbon emissions.

- **Social**

The Bike Plan can have positive social impacts by encouraging cycling as a physical and social opportunity, and by addressing road user conflict through the improvement of shared path connections. Cycling offers social benefits including increased social cohesion and connectivity, and access to recreational, social and service opportunities. Cycling may also offer specific benefit to older adults such as prolonged independent living and social inclusion.

11.3 Bike Plan (Draft) - Public Exhibition

- **Economic**

A major benefit of the Bike Plan is that it aims to reduce the trauma and costs associated with traffic accidents. It may also afford cost savings associated with participation in physical activity with flow-on affects to the health system. In addition, cycling is a low cost form of transport for individuals.

Legal / Resource / Financial Implications

The Draft Bike Plan includes a prioritised and costed works program for all identified actions, and is linked to the recurrent budget allocation for shared paths in the capital works program.

This is approximately \$200,000 per annum. The Plan also identifies additional potential funding partners and streams to deliver the Implementation Plan and Schedule of Works, enabling Council to maximise funding opportunities.

Consultation

The community has been involved in the process to ensure the bicycle network increases mobility and safety, and serves the needs of cyclists of all ages, abilities and trip purposes (focusing on cycling for recreation, commuting, touring, sport, and utility such as shopping). Consultation activities have included:

- Consultation with key stakeholders
- Surveys completed as part of NSW Bike Week and Bike Week drop-in sessions
- Local school engagement
- Community survey (online and hard copy)

Consultation was also undertaken with internal Council staff and with adjoining Local Government Areas.

Community consultation on the current Draft Plan will be driven and collated by Ross Planning, and will involve contacting all agencies, groups and individuals involved in previous stages of the Plan's development with an invitation to a focus group forum to discuss the Plan's proposals. The Draft Plan will be on public exhibition during June at Council's Customer Service Centre (40 Cherry Street Ballina), and at the Ballina library. It will also be accessible on Council's website under Documents on Exhibition. Public submissions regarding the Draft Plan will be accommodated through the proposed focus group forum and Feedback form.

Options

1. To endorse the Draft Ballina Bike Plan for public exhibition.
2. To make amendments to the Draft Ballina Bike Plan prior to public exhibition.
3. Do not endorse the Draft Ballina Bike Plan for public exhibition.

11.3 Bike Plan (Draft) - Public Exhibition

The Council may also prefer to defer the consideration of the draft plan to a workshop prior to endorsing the public exhibition.

RECOMMENDATION

That Council endorses the Draft Ballina Bike Plan for public exhibition, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required and the Plan is adopted by Council.

Attachment(s)

1. Draft Ballina Bike Plan April 2016 (Under separate cover)

11.4 Public Access - North Creek River Bank

11.4 Public Access - North Creek River Bank

Delivery Program Open Spaces and Reserves

Objective To consider options for providing permanent public access along the North Creek foreshore between Skinner Street and Camden Lane, to the north of Meldrum Park, Ballina

Background

At the Extraordinary Meeting of Council on 14 March 2016, Council resolved to receive a report on options to provide permanent public access along the river bank between Skinner Street and Camden Lane, to the north of Meldrum Park, Ballina.

The report follows on from Council's recent consideration of development application DA 2015/138 which proposes to undertake coastal protection works comprising a dry rock revetment wall and partial filling of land behind the revetment wall within the subject lands.

The subject lands referred to are: Lot 10 in DP 1126929, Lot 1 in DP 1119099, Lot 3 in DP 1079380, being No. 2 Skinner Street and Nos. 3 & 5 Camden Lane, Ballina.

The subject lands are depicted on the attached locality plan.

The subject lands are zoned R2 Low Density Residential and W1 Natural Waterways under the provisions of the Ballina LEP under the provisions of the Ballina LEP.

Currently there is no formal and legally binding access along the foreshore in front of these properties.

Key Issues

- Public access
- Legal authority

Information

Various scenarios present themselves when considering the merits of providing public access along the foreshore in the vicinity of the aforementioned properties.

From an engineering perspective, the works described in development application DA 2015/138 are unlikely have any significant impact on the establishment of public access infrastructure in that location, and may even compliment such infrastructure should Council wish to acquire part of the subject land for that future use.

11.4 Public Access - North Creek River Bank

From a practical perspective, there appears to be limited value in confining a discussion on public access at this location solely to the three lots in question. There are in fact four properties lining the foreshore between Skinner Street and Camden Lane, hence all four of these properties would need to be included in any assessment if the aim is to create a public access thoroughfare between Skinner Street and Camden Lane.

Further consideration should also perhaps be given to the merits of extending public access even further southward, thus providing contiguous foreshore access from Skinner Street to link up with the existing public access alongside Meldrum Park. In this case a fifth river front property, also in Camden Lane, would need to be included in any assessment. Were this scenario adopted, then a contiguous river front access could be established all the way from Missingham Bridge to Skinner Street.

Council might then wish to consider the merits of extending public access still further northwards from Skinner Street as far as Cawarra Park and possibly further. Again, there are a number of properties with river frontages along this route.

All of the above scenarios will likely involve substantial engineering works and/or land acquisitions for which there is currently no financial provision. Nor have any engineering investigations been undertaken to date.

Furthermore, none of the above scenarios are currently featured within Council's key public access documents: the *Draft Bike Plan* and the *Pedestrian Access and Mobility Plan*.

However, from a strategic perspective, it should be noted that the *Ballina Major Regional Centre Strategy 2015-2035* has two strategic actions relevant to this discussion:

- A1.4 Extend the shared pathway network, to provide improved pedestrian accessibility. Involving:
 - Undertaking detailed design and costing for shared pathway extensions proposed in the Strategy Overview Map.
 - Obtaining funds for the works.
 - Obtaining approvals for construction.
 - Construct pathway extensions as funds become available.
- A1.5 Progressively embellish the shared pathway network to incorporate improved public amenities, exercise stations, shelter, drinking fountains, public art, play spaces, pop-up activity spaces and bicycle and mobility scooter parking and key activity nodes. The benefits will be: improved pedestrian accessibility, improved attractiveness for maintaining an active lifestyle and greater interest and usability of the open space network. Involving:

11.4 Public Access - North Creek River Bank

- Identifying opportunities to provide new infrastructure and embellishments at strategic locations within the open space network.
- Constructing works, in a staged manner, as funds become available.

Based on the connectivity benefits described, and given the consistency with Council's policy objectives, there are merits in exploring this proposal further. However, the engineering solutions require extensive investigations and would require significant capital expense. For example, the cost to construct the boardwalk in Wardell approved at the last Council meeting is nearly \$500,000.

The alternate option, land acquisition, is also expected to be a not insignificant cost and there is uncertainty in regards to with compulsory acquisition would be approved. As per the discussions associated with DA 2015/138, the current landholders are opposed to an easement on their property and therefore may challenge the acquisition option.

The Council therefore needs to be mindful that if it wishes to proceed and complete further investigations at this point in time, ideally provision should be made in the Delivery Plan to prioritise and implement the project before resources are allocated to the investigations.

Sustainability Considerations

- **Environment**

It is likely that any environmental concerns can be satisfactorily addressed through sustainable and thoughtful design.

- **Social**

Expanding the shared path network along the North Creek river bank could negatively impact on properties directly affected. Conversely, there are benefits to the broader community such as improved pedestrian accessibility, improved attractiveness for maintaining an active lifestyle and greater interest and usability of the open space network.

- **Economic**

To date there have been no investigations to determine the cost of land acquisitions and engineering works needed for any of the route options discussed above. These costs are likely to be substantial.

Legal / Resource / Financial Implications

The cost of land acquisitions and engineering works could be substantial and will depend on how far the public access is extended along the foreshore in the various locations discussed above.

It is also noted that the North Creek comprises Crown land and that private structures which extend into North Creek are administered by the State Government, rather than Council.

11.4 Public Access - North Creek River Bank

As noted above, further resources are required to investigate the costs and risks of this proposal and Council needs to be mindful of its existing priorities and its capacity to fund the implementation of the works if investigations confirmed the feasibility of the project.

Consultation

No consultation has been undertaken in the preparation of this report.

Options

Council has several options:

- Do nothing.
- Allocate funds to investigate the feasibility of providing public access to the North Creek foreshore in one or more locations, extending from Meldrum Park to Cawarra Park.
- Defer any further consideration of public access along the foreshore of North Creek between Meldrum Park and Cawarra Park until the next scheduled review of both the *Bike Plan* and the *Pedestrian Access and Mobility Plan*. This approach will ensure that foreshore access along North Creek is assessed within the broader context of a shire-wide assessment of shared/pedestrian access needs and is prioritized accordingly.

In respect of the Bike Plan, a draft of this plan is included elsewhere in this agenda and an amendment to this plan could be considered for inclusion in the plan when the outcomes of the public consultation process is reported to Council.

RECOMMENDATIONS

1. That Council notes the contents of this report, including confirmation of the strategic benefits and potential connectivity of public access along the North Creek foreshore.
2. That Council also notes the contents of this report in regards to the expected significant expenditure to investigate and implement engineering or land acquisition proposals.
3. Based on point two above, Council defers any further consideration of public access to the North Creek foreshore until future updates of the *Bike Plan* and *Pedestrian Access and Mobility Plan* are undertaken to enable this project to be considered within the broader context of a Shire-wide assessment of shared/pedestrian access needs and is prioritized accordingly.

Attachment(s)

1. Public Access - North Creek River Bank - Locality Plan

11.5 North Creek Dredging - Planning and Approvals

11.5 North Creek Dredging - Planning and Approvals

Delivery Program Operations Support

Objective To advise Council, as part of the 2016/17 budget deliberations, on the cost of acquiring planning approvals for the dredging of North Creek, including the preparation of planning documentation and undertaking requisite technical and environmental studies.

Background

In October 2014, Council successfully secured an opportunity from Crown Lands to extract sand from North Creek. A budget of \$150,000 was then sourced from the Quarry Reserve to finance the approval process.

The approvals process is a two-stage approach:

- Stage 1 is a “scoping study”, which was completed in April 2016.
- Stage 2 is the preparation of a planning application, including supporting studies/information and associated permits and licences.

The outcome of Stage 1 has been to more clearly define the project’s scope, to determine the requisite planning pathway, and to identify the extent of additional studies/information needed to obtain a planning approval.

A small amount of work originally intended for Stage 2, principally the shorebird survey, was brought forward into Stage 1 because of the seasonal nature of the work and to help better define the project’s scope.

The majority of Stage 2 work has yet to commence and will significantly exceed the current budget allocation.

Currently, no financial provision has been made to undertake the full scope of works, which is estimated at around \$500,000.

Key Issues

- Planning approvals
- Budget allocation
- Risk

Information

At the time of the initial budget allocation of \$150,000, little had been done to evaluate the scope of the project and the full extent of sand extraction opportunity. Hence, a firm budget assessment at that time was not feasible.

11.5 North Creek Dredging - Planning and Approvals

The Stage 1 scoping report has since identified a total in-situ volume to be dredged of approximately 575,000 m³, encompassing a footprint of 34.7 ha. The timing, sequence and duration of the dredging works could potentially extend over several years.

With Stage 1 complete, significantly greater certainty now exists as to the costs associated with the planning approval process including the associated technical and environmental studies.

These cost estimates are broken down as follows:

- Project management, planning documentation, and consultation - \$86,000
- Shorebird evaluation – \$35,000 (completed).
- Sediment coring and characterization - \$82,000
- Economic assessment - \$15,000
- Estuarine habitat studies - \$20,000
- Hydrodynamic and sediment modelling - \$160,000
- Minor technical studies - \$50,000
- EP&A Act approval, permits and licences - \$52,000.

The extent of these works has been determined by consultation with government agencies and by the analysis of applicable testing and other standards. This information has been applied to the scope of works determined from the information arising from the feasibility assessment.

Sustainability Considerations

- **Environment**
Environmental studies are required to assess the proposal and to obtain any planning approval.
- **Social**
The proposal will improve the social amenity available from this waterway.
- **Economic**
This proposal has the potential to support economic development by providing a sustainable source of building material.

Legal / Resource / Financial Implications

Council had previously allocated \$150,000 from the Quarry Reserve to finance the approval process.

The recent scoping study completed in April 2016 has resulted in a much improved definition of the project scope and a more detailed evaluation of the additional studies/information needed to facilitate a planning approval. A revised budget of \$500,000 is required to allow the continuation of the planning process. Currently, there is no financial provision beyond the initial allocation of \$150,000.

11.5 North Creek Dredging - Planning and Approvals

Consultation

Not applicable.

Options

1. Proceed with the project.

To proceed with this project now funding approval is required. In light of the amount of money needed, if this is the preferred option, the suggested resolution of Council is that the General Manager provide a report outlining a funding strategy for this project.

2. Terminate the project.

Based on the risks associated with this project, the time frame and costs the Council may prefer to terminate this project now. Under this option Council could continue to advocate for commercial interest in the project and assume a facilitative role in the event there was interest from the private sector.

3. Defer to a briefing.

It is some time since the Council discussed the outcomes of the feasibility study. The Council may wish to workshop further the risk profile and funding opportunities for this project prior to making a decision.

This is a question of risk and allocation of Council resources and therefore this is a matter for Council to determine the extent of its commitment to this project.

On balance the preference is to firstly defer the matter to a briefing. Funding options and risks with the project would then be able to be discussed in more detail in that briefing. Council's consultant can also be in attendance to discuss the technical aspects of this report.

It is also recommended that Council invite members of the Port Ballina Taskforce to that briefing. The members of that Taskforce have a strong interest and experience in maritime matters and their input into the briefing, along with their ability to communicate to key stakeholders, will be of overall benefit to the project.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding the project risks and funding options for the North Creek Dredging project.
2. That Council hold a briefing to examine the risks and funding options prior to making the next decision on this project.
3. That Council invite members of the Port Ballina Taskforce to that briefing.

Attachment(s)

Nil

11.6 Road Closing - Broken Head

11.6 Road Closing - Broken Head

Delivery Program Asset Management

Objective To determine Council's response to the proposed closing of an unformed section of Council public road at Broken Head

Background

This report is presented to Council to consider closing a section of unformed Council public road at Broken Head. The road is located beyond Council's road maintenance limit. As the road is unformed, upon closure it would vest in the Crown and be offered for sale by the Crown to the adjoining land owners.

Key Issues

- Closing a section of public road
- Land to vest in the Crown and be disposed of at their discretion

Information

Council has received a request to close the unformed section of public road through Lots 12, 13 & 14 DP 1213684 at Broken Head. A location plan is included as attachment 1.

The land on which this road passes through has been the subject of subdivisions over the past few years. The road status was a Crown public road prior to being transferred to Council's care and control via a NSW Government Gazette notification on 26 June 2015. The purpose of the road transfer was to enable future property access driveway construction to be assessed by Council should the works be on this section of road. With the road under Council's control, any driveway or access works would be assessed by Council and not the Crown.

The previous subdivision created an alternate access via a right of carriageway over lots 12, 13 & 14 in a location that better suited the site and provides the opportunity to have the road closed. With the road closed, the lots would not be dissected by the road and this would assist with the future management and use of the land.

As the road was a Crown road; then it was transferred to Council for administrative and development assessment purposes; has had no construction or maintenance work done by Council; does not provide a strategic or future road link for our network; it can follow that Council now has no particular interest in this section of road.

As no construction or maintenance has been undertaken by Council on this section of road, upon closure the road would vest in the Crown as per Part 4, Division 1, Section 38, Roads Act 1993.

11.6 Road Closing - Broken Head

Council is the roads authority for this public road and any request to close a section of Council public road must first be endorsed by Council before lodging a formal road closing application with DPI-Lands.

The road closing application requires the proponent to provide all the necessary information and to meet all costs through this process.

Sustainability Considerations

- **Environment**

The road has only been a Council public road for a short time period. The road closing and consolidation with the adjacent lands would provide enhanced lots and provide better use of the land.

- **Social**

The road is public land and provides a link for public access in this location. As there is no constructed road, it appears that access is not used by the public.

- **Economic**

The recommendation seeks to support efficient land management principles

Legal / Resource / Financial Implications

As all road closing fees are met by the applicant, all application processing will be undertaken by the Crown and upon closure the road would vest in the Crown, there are no financial or other implications for Council.

Consultation

The request has been lodged with Council as the Roads Authority for this section of road. If Council supports the road closure, the Crown will undertake the necessary advertising and consultation as part of the road closing process.

Options

1. That the Council supports the request for a road closing application to proceed for the unformed road through Lots 12, 13 & 14 DP 1213684 at Broken Head.

The advantage of this option is that it ensures the Council does not have any future liability attached to this unnecessary section of road. It also allows for the adjoining land owners to proceed with the road closing application and, if approved, consolidate the land into their adjoining property. This may well be the most efficient and best use of the land and therefore be a preferred outcome for the adjoining landowners and the community.

2. That the Council opposes the request for a road closing application to proceed for the unformed road through Lots 12-14 DP 1213684 at Broken Head.

11.6 Road Closing - Broken Head

There are minimal, if any, benefits associated with retaining this section of unformed public road for current or future needs.

RECOMMENDATIONS

1. That Council approves the request for a road closing application to proceed for the unformed road through Lots 12, 13 & 14 DP 1213684 at Broken Head.
2. That Council authorises the Council seal to be attached to the road closing application and associated documents for the road closing.

Attachment(s)

1. Location Map - Proposed Road Closure

11.7 Plant Replacement Program

11.7 Plant Replacement Program

Delivery Program Operations Support

Objective To complete the annual review of the Plant Replacement Program for 2016/17 to 2015/16

Background

Council owns and operates a wide range of fleet and plant items to meet its operational needs. The fleet range from light vehicles (utility and passenger) to heavy plant (graders, excavators, rollers, trucks backhoes, loaders, tractors and a street sweeper).

To maintain Council's fleet in a serviceable condition and to optimize operational costs, an annual rolling replacement program has been prepared. Replacement dates are based on industry recommended replacement intervals of age and utilisation (hours / kilometres operated), along with staff assessments.

This report presents an update to Council's 10 year Plant Replacement Program, which if endorsed, will be included in Council's adopted Delivery and Operational Plan for 2016/17.

Key Issues

- Optimum plant replacement to minimise operational costs
- Funding replacements by utilising operating surplus from fleet and plant operations (excluding depreciation)
- Update of strategic program

Information

The Plant Replacement Program proposed for 2016/17 to 2025/26 (attachment one) includes fleet covered under the General, Water, Wastewater and Domestic Waste Management plant funds. These have been separated accordingly in the program.

The plant funds work by Council charging internal hire rates to the jobs using the plant, with the net surplus on those hire rates then transferred to an internal reserve to fund the plant replacements.

The replacement program does not allow for any expansion in the size of the fleet. Any additional plant items need external or extra funding for their purchase. Once purchased the renewals are managed by the on-going internal hire charges.

Funding for the Replacement Program has been considered, using the following:

- Industry referenced material / advice on annual depreciation
- Forecasting of plant operational income and expenses

11.7 Plant Replacement Program

- Predictions on the available plant reserve balance
- Estimated plant changeover costs (net values)

To meet the proposed Plant Replacement Program, a 10 year Financial Plan (attachment two) has been prepared for the replacements under the General Plant fund. The financial plan predicts the required Capital Expenditure needed to be transferred from the Plant Reserve, along with the effect on the Reserve Balance at the end of each Financial Year.

Consistent with previous reporting to Council, the Replacement Program and Financial Plan indicate a higher capital expenditure in 2016/17 than what has been typical in previous years. This is due to a backlog of plant replacements that did not occur in 2013/14. These vehicles were reassessed, along with other upcoming replacements and distributed over the following two years. The capital funds required for meeting the 2016/17 replacements will be \$1,510,000.

Due to the increase in capital expenditure required to meet planned plant replacements and the backlog of replacements, this will influence the Plant Reserve balance at the end of each financial year. The Financial Plan aims to utilise the Plant Reserve to manage the plant replacements. The balance of the reserve will be continually monitored throughout the program to ensure that any changes to improve the position of the reserve can be made as opportunities are identified.

As this is only a prediction, the replacement program will be continually monitored throughout the year along with the Financial Plan. Plant utilisation, condition and operational needs will be frequently reassessed in order to defer the replacement of any plant where that is feasibly possible to the following financial years, aiming to prevent the reserve balance being reduced to an unsustainable level.

The use of Reserve funds for Capital Expenditure will not impact on Council's Operational Plan targets of:

- Implementing a Fleet Management Plan (EL3.3.3b)
- Targeting an operating surplus from the fleet and plant operations, excluding depreciation (EL2.1.3b)

Sustainability Considerations

- **Environment**
Replacing plant at the optimum economic point assists in ensuring the fleet conforms to modern environmental standards and performs to those standards.
- **Social**
Not Applicable
- **Economic**
Cost effective programs and services are delivered through the efficient management of Councils fleet and plant.

11.7 Plant Replacement Program

Legal / Resource / Financial Implications

The replacement of plant is internally funded from the plant reserve. Income is generated from internal plant hire rates and the surplus (equivalent to depreciation) is transferred to the reserve for this purpose.

As indicated in the Financial Plan, the Reserve balance is predicted to trend in a low position; this is to be closely monitored throughout the program. Replacement of plant will be reviewed and reassessed throughout the year in an attempt to defer feasible plant replacements to the following year. Options are also available to increase internal hire rates to generate more income if required, however this is not preferred at this stage as it generates more expense to Council's projects.

In the event that the General Plant Reserve Balance requires assistance to remain in the positive, an internal loan may need to be sought from internal reserves such as Property Development or LRM. The forecast overdraft is considered not to be excessive and as there are often delays in receiving plant items the actual timing of the payment may result in the reserve balance remaining positive.

The last few years of the program see a significant deficit and that information will need to be reviewed as the program progresses.

Consultation

Consultation has been undertaken with internal staff regarding the proposed replacement program.

Options

This program is submitted for endorsement while noting that it is monitored and annually reviewed as part of budget deliberations and operational needs. This program can be amended by Council if it desires, either now or in subsequent annual reviews which are scheduled to occur within the process to prepare the Delivery Program.

RECOMMENDATIONS

1. That Council endorses, for strategic planning purposes, the Plant Replacement Program, as attached to this report, along with the Financial Plan.
2. That the adopted 2016/17 Delivery and Operational Plan include a fleet procurement program in accordance with the Plant Replacement Program endorsed in point one above.

Attachment(s)

1. Plant Replacement Program (10 years - 2016/17 to 2015/26)
2. General Plant Fund Financial Plan (10 years - 2016/17 to 2015/26)

11.8 Tender - Cleaning Services for Council Buildings

11.8 Tender - Cleaning Services for Council Buildings

Delivery Program Operations Support

Objective To award the tender for the provision of cleaning services for various council buildings

Background

Tenders were advertised in May 2016 for the provision of cleaning services for various council buildings for a five year period.

This report provides the open Council details of the tender, with a confidential report later in this agenda detailing the tender evaluation and the recommended tenderer.

Key Issues

- Comply with the Local Government (General) Regulation 2005
- Achieve best value for money

Information

The scope of works for this tender includes the following Council buildings.

- Ballina Shire Council Administration Building and Annexes
- Ballina Byron Gateway Airport
- Lennox Head Community Centre
- Kentwell Community Centre
- Northern Rivers Art Gallery
- Ballina Surf Life Saving Club – Level 2
- Ballina Library/Richmond Room/Visitor Information Centre
- Alstonville Library

The proposed contract has been developed to enable Council to add or remove facilities from the contract, without penalty to Council, during the period the contract is in place.

The tender evaluation has been concluded with the specific details and recommendation contained in the confidential report.

The reason for this tender being considered in a confidential session is because the tenders contain commercially sensitive information.

Sustainability Considerations

- **Environment**
Not Applicable

11.8 Tender - Cleaning Services for Council Buildings

- **Social**
Not Applicable

- **Economic**
Cleaning is a significant cost in Council's operations.

Legal / Resource / Financial Implications

Compliance with Part 7 Tendering of the Local Government (General) Regulation 2005 is required.

Consultation

A public tender process was undertaken.

Options

This report is for information only.

RECOMMENDATION

That Council notes the contents of this report regarding the tender for the provision for cleaning services.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Debt Reduction, Mr Prendergast, Teven Road

13. Notices of Motion

13.1 Notice of Motion - Debt Reduction, Mr Prendergast, Teven Road

Councillor Cr Cadwallader

I move

1. That Council authorises the General Manager to reduce the excess water charges levied for Mr Terry Prendergast at 1336 Teven Road, Alstonville, for the 2015/16 financial year and for those charges to be based on the step one rate. This is to be a once-off reduction only, which is consistent with Council's rescinded Concealed Water Leaks Policy.
2. The reason for this reduction is due to the charges arising from vandalism and also that unauthorised persons are able to access Mr Prendergast's property from Council owned land.

Councillor Comment

Councillors are well aware of the trespassing issues Mr Prendergast has had to deal with due to unauthorised persons accessing his property from Council owned land. Mr Prendergast has been levied the higher step water charge for the majority of this year (i.e. \$3.13 per kilolitre rather than \$2.08) due to his water main being vandalised. With Council no longer having a concealed leaks policy and with access to this property being largely from Council owned land, it is reasonable to allow Mr Prendergast to pay the 2015/16 charges at the step one charge of \$2.08. This charge still covers Council's operating costs and the cost of purchasing the water from Rous County Council. The figures provided by the rating staff for this reduction are as follows:

Meter Reading Date	Meter Reading	Total Consumption KL	Step 1 Consumption KL	Step 2 Consumption KL	Original Bill Amount	Consumption Charged at Step 1 Rate	Adjustment
08/06/2016	4,056	616		616	1,928.08	1,281.28	646.80
18/03/2016	3,440	640		640	2,003.20	1,331.20	672.00
17/12/2015	2,800	583		583	1,824.79	1,212.64	612.15
17/09/2015	2,217	1,131		1,131	3,172.53	2,352.48	820.05
17/06/2015	1,086	797	124	673	2,296.40	1,609.94	686.46
				Totals(\$)	11,225.00	7,787.54	3,437.46

COUNCILLOR RECOMMENDATIONS

1. That Council authorises the General Manager to reduce the excess water charges levied for Mr Terry Prendergast at 1336 Teven Road, Alstonville, for the 2015/16 financial year and for those charges to be based on the step one rate. This is to be a once-off reduction only, which is consistent with Council's rescinded Concealed Water Leaks Policy.
2. The reason for this reduction is due to the charges arising from vandalism and also that unauthorised persons are able to access Mr Prendergast's property from Council owned land.

Attachment(s)

Nil

13.2 Notice of Motion - Lennox Head Markets

13.2 Notice of Motion - Lennox Head Markets

Councillor

Cr Cadwallader

I move

That Council receive a report on options for the re-location of the Lennox Head Market to improve the overall viability and atmosphere of the markets.

Councillor Comment

The relocation of the Lennox Head Markets to Williams Reserve has negatively impacted the markets and there may well be other, more suitable locations, such as the foreshore or Ballina Street, that could revitalise the markets.

COUNCILLOR RECOMMENDATION

That Council receive a report on options for the re-location of the Lennox Head Market to improve the overall viability and atmosphere of the markets.

Attachment(s)

Nil

13.3 Notice of Motion - East Ballina Cemetery - Improvements

13.3 Notice of Motion - East Ballina Cemetery - Improvements

Councillor

Cr Cadwallader

I move

That Council receive a report on the status of the implementation of the East Ballina Cemetery Master Plan that was adopted on 26 August 2013 to improve the overall look and operation of the cemetery.

Councillor Comment

Council adopted the East Ballina Cemetery Master Plan on 26 August 2013 and it would be interesting to review what works have been completed in the Plan and what works are planned in the near future. Ideally we should be making this cemetery a more pleasant place for family and friends to visit their loved ones final resting place.

COUNCILLOR RECOMMENDATION

That Council receive a report on the status of the implementation of the East Ballina Cemetery Master Plan that was adopted on 26 August 2013 to improve the overall look and operation of the cemetery.

Attachment(s)

Nil

13.4 Notice of Motion - Painting of the Town Entrances Bridges

13.4 Notice of Motion - Painting of the Town Entrances Bridges

Councillor

Cr Cadwallader

I move

That Council receive a report on options to undertake cleaning / painting works of the Town Entrance Bridges, being The Canal and Fishery Creek Bridges.

Councillor Comment

Council removed the painting of these bridges as part of the Ballina Town Entrance Statement Program and with the bridges looking very tired and dirty options to fund this work as a high priority would be of interest in improving the overall entry to Ballina.

COUNCILLOR RECOMMENDATION

That Council receive a report on options to undertake cleaning / painting works of the Town Entrance Bridges, being The Canal and Fishery Creek Bridges.

Attachment(s)

Nil

13.5 Notice of Motion - Improved Access to Sharpes Beach

13.5 Notice of Motion - Improved Access to Sharpes Beach

Councillor

Cr Jeff Johnson

I move

That Council receives a report that looks at options to improve the access to Sharpes Beach from the existing carpark.

Councillor Comments

There is currently no formal access point to Sharpes Beach from the existing car park. The rocks and boulders between the car park and the sand make the access very difficult for a range of beach users. Sharpes Beach is becoming increasingly popular with new housing estates and a soon to be completed shared path.

COUNCILLOR RECOMMENDATION

That Council receives a report that looks at options to improve the access to Sharpes Beach from the existing carpark.

Attachment(s)

Nil

13.6 Notice of Motion - LEP Amendment - Restrict New Residential Buildings to Two Storeys

13.6 Notice of Motion - LEP Amendment - Restrict New Residential Buildings to Two Storeys

Councillor

Cr Jeff Johnson

I move

That Council prepare a Planning Proposal to provide an additional clause in the Ballina LEP 2012 that ensures that new residential developments within the Shire are limited to two storeys.

Councillor Comments

Prior to the introduction of the Ballina Local Environmental Plan 1987, Council had struggled for a number of years with regulating the height of buildings. To overcome the issue Council adopted a building code which generally limited the height of buildings, measures in storeys, to two above ground levels and 6.4m to the “top plate”. This policy worked well and accordingly it was translated into the Ballina LEP 1987 via Clause 17.

With the making of Ballina LEP 2012, the way in which height is regulated is quite different to the old Ballina LEP 1987. Instead of storeys and a “top plate” level, the new LEP limits height by reference to a “height map” measured in metres above the existing surface level of the premises, except in floodplain situations where that level is adjusted to have regard to mandatory filling of lots. In addition to this maximum height provision, Council’s LEP also includes a provision (Clause 5.6) which allows for “architectural treatments” of a roof allowing that roof to penetrate above the standard maximum building height.

At the time of preparation of the Ballina Local Environmental Plan 2012 and during its exhibition I did not discern any “push” on the part of the community to move Ballina Shire from a two storey height limit to a three storey limit which is now able to be completed under the general 8.5m height control applying to most of the Ballina Shire.

I have received representations from a number of community representatives concerned about this issue and planning controls that encourage “Mc-mansion” style three storey structures.

To address this issue I’m asking for a further Local Provision into the Ballina LEP2012. Basically, this new provision would limit the number of habitable levels above the ground level to a maximum of two.

COUNCILLOR RECOMMENDATION

That Council prepare a Planning Proposal to provide an additional clause in the Ballina LEP 2012 that ensures that new residential developments within the Shire are limited to two storeys.

13.7 Notice of Motion - Tamarind Drive Flooding

13.7 Notice of Motion - Tamarind Drive Flooding

Councillor

Cr Meehan

I move

That the Mayor urgently write and potentially meet with the Pacific Highway Project Manager, Mr Higgins, as well as the NSW Minister for Roads, Duncan Gay, to ensure that the RMS and State Government rectify the flooding issues that are now occurring in Tamarind Drive and at the Cumbalum interchange, as residents are being isolated at Ballina Heights and vehicles are driving the wrong way up the south facing ramps on the Pacific Highway, when flooding occurs.

Councillor Comment

Councillors are well aware of the flooding issues that are now occurring in this location. Preliminary investigations from our staff have identified issues with the design and settlement of the works undertaken at this location through the Pacific Highway bypass and Council should be making all efforts to ensure the RMS rectify the problems as quickly as possible.

COUNCILLOR RECOMMENDATION

That the Mayor urgently write and potentially meet with the Pacific Highway Project Manager, Mr Higgins, as well as the NSW Minister for Roads, Duncan Gay, to ensure that the RMS and State Government rectify the flooding issues that are now occurring in Tamarind Drive and at the Cumbalum interchange, as residents are being isolated at Ballina Heights and vehicles are driving the wrong way up the south facing ramps on the Pacific Highway, when flooding occurs.

Attachment(s)

Nil

14.1 Commercial Services Committee Minutes - 14 June 2016

14. Advisory Committee Minutes

14.1 Commercial Services Committee Minutes - 14 June 2016

Attendance

Crs David Wright (Mayor - in the chair), Sharon Cadwallader, Keith Williams, Susan Meehan, Ken Johnston, Paul Worth, Ben Smith and Robyn Hordern.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Manager Commercial Services), Leanne Harding (Property Officer Commercial), Peter Morgan (Manager Finance & Governance) and Sandra Bailey (Secretary) were in attendance.

There were two people in the gallery at this time.

1. Apologies

Apologies were received from Cr Keith Johnson and Cr Jeff Johnson.

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

2. Declarations of Interest

Nil

3. Deputations

- **Pauline Rutten** – spoke in favour of Item 4.3 - Leasing Proposal - Shop 8 Wigmore Arcade Complex.

4. Committee Reports

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

RECOMMENDATION

(Cr Paul Worth/Cr Ben Smith)

1. The General Manager is authorised to finalise negotiations with the Lennox Developments Pty Ltd and Clarence Property, execute deed of agreements, execute all easements, plans of subdivision etc. and all other relevant documentation required to satisfy the deed of agreements between Council and Lennox Developments Pty Ltd and Clarence Property based on the contents of this report.
2. The Council seal is authorised to be attached to the documents, as required, in point one.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

4.2 Property Development Reserve - Cash Flow Amendment

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

That Council authorises an amendment to the current forecasts for the Property Development Reserve with \$100,000 of the \$2,448,000 allocated in 2016/17 for the Wollongbar Urban Expansion Area to be brought forward to 2015/16 to reflect the current timing of expenditures.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

4.3 Leasing Proposal - Shop 8 Wigmore Arcade Complex

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

That Council notes the contents of this report in respect to the lease negotiations for Shop 8 Wigmore Arcade Complex.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

4.4 Land Acquisition - Opportunity

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of this report regarding a potential land acquisition opportunity.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

5. Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Robyn Hordern)

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.

5.1 Leasing Proposal - Shop 8 Wigmore Arcade Complex - Terms

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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 due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.2 Land Acquisition - Opportunity Details

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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 the release of this information may prejudice any commercial discussions forthcoming.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

14.1 Commercial Services Committee Minutes - 14 June 2016

(The Council moved into Confidential Session at 4.16 pm).

Open Council

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

(The Council moved into Open Council at 4.52 pm).

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

5.1 Leasing Proposal - Shop 8 Wigmore Arcade Complex - Terms

RECOMMENDATION

(Cr Robyn Hordern/Cr Sharon Cadwallader)

1. That Council approves the leasing of Shop 8 Wigmore Arcade Complex, as per option one of this report, with the Council seal authorised to be attached to any documentation associated with this lease, subject to a three month break clause.
2. This agreement is to be reviewed by Council following a period of 12 months.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Williams, Cr Paul Worth, Cr Ben Smith and Cr Robyn Hordern

AGAINST VOTE - Cr Susan Meehan and Cr Ken Johnston

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

5.2 Land Acquisition - Opportunity Details

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council notes the contents of this report.
2. That the Mayor, as a matter of urgency, make representations to the appropriate Minister(s) and Members of Parliament to ensure that part of the subject property remains in public ownership.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Williams, Cr Susan Meehan, Cr Ken Johnston, Cr Ben Smith and Cr Robyn Hordern

AGAINST VOTE - Cr Paul Worth

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Keith Williams/Cr Robyn Hordern)

That the recommendations made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

MEETING CLOSURE

4.53 pm

RECOMMENDATION

That Council confirms the minutes of the Commercial Services Committee meeting held 14 June 2016 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

14.2 Facilities Committee Minutes - 15 June 2016

14.2 Facilities Committee Minutes - 15 June 2016

Attendance

Cr Ben Smith (in the Chair), Jeff Johnson, Sharon Cadwallader, Keith Williams, Susan Meehan, Ken Johnston, Paul Worth and David Wright.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Andrew Smith (Acting Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Matthew Wood (Manager Strategic Planning), Jordan Robinson (Manager Community Facilities and Customer Service), Sara Hayes (Team Leader Community Facilities), Peter Morgan (Manager Finance & Governance), Linda Coulter (Accountant) and Sandra Bailey (Secretary) were in attendance.

There were four people in the gallery at this time.

1. Apologies

Apologies were received from Cr Keith Johnson and Cr Robyn Hordern.

RECOMMENDATION

(Cr Sharon Cadwallader/Cr David Wright)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Johnson, Cr Ken Johnston and Cr Robyn Hordern

2. Declarations of Interest

Nil

3. Deputations

- **Eva Ramsey** – spoke in relation to Item 4.1 – Ballina Indoor Sporting and Recreation Facility – Joint Venture.

Cr Ken Johnston arrived at the meeting at 04:01 pm.

4. Committee Reports

4.1 **Ballina Indoor Sporting and Recreation Facility - Joint Venture**

A **Motion** was moved by Cr Susan Meehan and seconded by Cr Sharon Cadwallader

That this matter be deferred.

The **Motion** was **LOST**.

FOR VOTE - Cr Sharon Cadwallader, Cr Susan Meehan and Cr Paul Worth
AGAINST VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams, Cr Ken Johnston and Cr Ben Smith
ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Robyn Hordern

RECOMMENDATION

(Cr Keith Williams/Cr David Wright)

1. That Council commits to provision of an indoor sporting facility in Ballina on the site of the Ballina High School through a joint venture with the NSW Department of Education.
2. That Council's commitment to the joint venture is based on:
 - provision of a sporting facility generally in accordance with the plans contained in Attachment 1 (comprising of the equivalent of two indoor sporting courts provided by Council and two by the Department of Education).
 - a capital cost for the facility of approximately \$9.35 million to be paid in instalments.
 - a long term lease arrangement of 50 years.
 - the inclusion of a clause where any non-renewal of the lease results in a payout to Council of the asset value.
 - consideration of a commercial kitchen.
 - inclusion of a mezzanine seating level.
3. The Council acknowledges that in committing to this joint venture it is accepting the following risks / conditions:
 - The funding for this project is being sourced, in part, from the Landfill and Resource Management Reserve, which significantly restricts the ability of our waste operations to respond to any changes in legislative and operational arrangements for the next three to four years
 - The funding is based on a grant of \$3 million, with no guarantee that this source of funding will be provided during the construction of the project
 - If the grant funding is not secured, Council accepts that other revenue raising measures such as above the rate pegging limit rate increases may be needed to ensure the long term financial viability of Council
 - The construction of this facility, as a new asset, will place increased pressure on our ability to achieve compliance with the State Government's Fit for the Future Program, as the facility is likely to operate at a significant cost to the community, particularly once the depreciation expense is included

14.2 Facilities Committee Minutes - 15 June 2016

- That all efforts need to be made to ensure our contribution is limited to the agreed figure to limit any further deterioration in our overall financial position.
- 4. The General Manager is authorised to complete negotiations with the Department of Education to formalise the joint venture arrangement as well as operational and maintenance agreements to enable delivery of the project. The General Manager is also to report back to Council any matters that are considered to be of such significance by the General Manager, that they require a Council determination.
- 5. That Council affix the common seal to the joint venture agreement and associated documentation.
- 6. That the detailed design phase include community consultation.
- 7. That Council receive a report on options for financing the inclusion of the mezzanine level.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Sharon Cadwallader, Cr Keith Williams, Cr Ken Johnston and Cr Ben Smith

AGAINST VOTE - Cr Susan Meehan and Cr Paul Worth

ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Robyn Hordern

4.2 Community Facilities - Use by Disadvantaged Persons

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Susan Meehan

1. That Council notes the contents of this report concerning a review of the trial period for the provision of showering facilities for disadvantaged persons within the Kentwell Community Centre in Ballina and the Lennox Community Centre.
2. That in respect of the Lennox Community Centre, the service be maintained for the time being subject to on-going monitoring.
3. That in respect of the Kentwell Community Centre, the service be maintained for the time being, but discontinued immediately following an alternative facility becoming available in Ballina.

An **Amendment** was moved by C Keith Williams and seconded by Cr Paul Worth

1. That Council notes the contents of this report concerning a review of the trial period for the provision of showering facilities for disadvantaged persons within the Kentwell Community Centre in Ballina and the Lennox Community Centre.
2. That in respect of the Lennox Community Centre, the service be maintained for the time being subject to on-going monitoring.
3. That in respect of the Kentwell Community Centre, the service be maintained for the time being, but discontinued immediately following an alternative Council facility becoming available in Ballina.

14.2 Facilities Committee Minutes - 15 June 2016

4. That Council reallocates \$20,000 from the estimated savings from the legal budget from 2015/16 to adapt the public amenities at the rear of the Ballina Visitor Information Centre to incorporate a public shower in addition to the existing toilet facilities.

Cr Jeff Johnson left the meeting at 05:13 pm.

The **Amendment** was **LOST**.

FOR VOTE - Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Robyn Hordern

The **Motion** was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Ben Smith

AGAINST VOTE - Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Robyn Hordern

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

1. That Council notes the contents of this report concerning a review of the trial period for the provision of showering facilities for disadvantaged persons within the Kentwell Community Centre in Ballina and the Lennox Community Centre.
2. That in respect of the Lennox Community Centre, the service be maintained for the time being subject to on-going monitoring.
3. That in respect of the Kentwell Community Centre, the service be maintained for the time being, but discontinued immediately following an alternative facility becoming available in Ballina.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Ben Smith

AGAINST VOTE - Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Robyn Hordern

4.3 Lennox Head Community Centre - On-Premises Liquor Licence

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

That Council endorses the Lennox Community Centre's proposal to submit an Application for an On-Premises Liquor Licence.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Robyn Hordern

4.4 Regional Development (RDA) Northern Rivers - Priority Projects

RECOMMENDATION

(Cr Sharon Cadwallader/Cr David Wright)

1. That Council confirms its priority order of projects for reporting to RDA Northern Rivers is as follows:

Council Sponsored Projects

- a) Ballina Indoor Sports Facility
- b) Hutley Drive
- c) Coastal Recreational Path (Sharpes Beach to Pat Morton)
- d) Southern Foreshore Lake Ainsworth and Lennox Head Surf Club

State Sponsored Projects

- a) Ballina Trawler Harbour
- b) Ballina Bar Dredging
- c) North Creek Dredging
- d) Regatta Avenue Master Plan

2. Airport Boulevard Road is to be included as priority number two for the Council Sponsored Projects (resulting in five priority projects), if funding for this project is not forthcoming as a result of the Federal Election.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Robyn Hordern

MEETING CLOSURE

5.33 pm

RECOMMENDATION

That Council confirms the minutes of the Facilities Committee meeting held 15 June 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 May 2016 Ordinary meeting:

<u>Date</u>	<u>Function</u>
29/5/16	Lennox Head Markets
29/5/16	Missingham Markets
31/5/16	Meeting Boral and Alstonville Asphalt Operations
1/6/16	Meeting GM RRCC
1/6/16	Meeting Fripp Oval Development
2/6/16	Visitor Information Centre Video
2/6/16	Announcement for Airport Road
2/6/16	Tour Lennox Head Wastewater Treatment Plant
3/6/16	Community Tree Planting Day
3/6/16	NOROC
3/6/16	Meeting – DPI
3/6/16	Lennox Head Lions – ‘Love Our School’ Town and Gown Art Show
6/6/16	Church Meeting
6/6/16	GM Performance Appraisal
7/6/16	Alstonville/Wollongbar Chamber Meeting
7/6/16	Meeting Residents – Fox Valley Way
8/6/16	Wollongbar Progress Association
9/6/16	Aboriginal Community Committee
9/6/16	Meeting Nathan Glynn – Department of Family and Community Services
9/6/16	Meeting Alstonville RSL
9/6/16	Rotary Club of Ballina on Richmond Changeover
10/6/16	Meeting Missingham Markets
10/6/16	Meeting Paul Green MLC – E Zones
10/6/16	Ballina Lighthouse and Lismore Surf Club Presentation
11/6/16	Ballina Coastal Country Music Festival Street and Concert
12/6/16	Ballina Coastal Country Music Festival and Duck Race
12/6/16	Lennox Head Markets
12/6/16	Alstonville Markets
14/6/16	Public Citizenship
14/6/16	Meeting Minister Stuart Ayres
14/6/16	Press Release Lennox Facility
14/6/16	Commercial Services Meeting
15/6/16	Meeting DPI Forum
15/6/16	Facilities Committee
15/6/16	Boral Meeting – Wollongbar
15/6/16	Wardell Progress Association
17/6/16	Shark Watch Meeting - Council

15.1 Mayoral Meetings

17/6/16	Paradise FM Meeting
17/6/16	Return To The Forbidden Planet
18/6/16	Alstonville Lions Club Changeover
19/6/16	Shark Watch Meeting
20/6/16	RRCC
23/6/16	Council Meeting
23/6/17	Reserve Trust Meeting
25/6/16	Lennox Head Craft Fair
25/6/16	Meeting – Alstonville Heritage
26/6/16	Rotary Club of Ballina Changeover
27/6/16	Lennox Head Business Awards
28/6/16	Ballina Coastal Zone Management Plan Certification
28/6/16	SES Presentation
28/6/16	DPI Community Forum Lennox Community Centre

RECOMMENDATION

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

Attachment(s)

Nil

15.2 General Manager - Performance Review and Contract

15.2 General Manager - Performance Review and Contract

Councillor

David Wright

Background

The General Manager's Performance Review Committee (PRC) comprises the Mayor and the Deputy Mayor as determined by Council. The PRC met with the General Manager on Monday 6 June 2016 to perform the twelve monthly performance review for the 2015/16 financial year. The General Manager's contract renewal falls due shortly and options in respect to that contract were also discussed. This report confirms that a confidential report has been included later in this agenda in respect to these two matters.

Key Issues

- Compliance with the General Manager's contract conditions

Information

Council is legally obliged to fulfil its contractual obligations with the General Manager. This includes a 12 monthly appraisal. Council has a number of options in managing the appraisal process. Some councils use the whole council to conduct the appraisal while other councils vary this from the Mayor only to any sub-component of the elected council. The Council and/or General Manager also have the option of utilising an external consultant to assist.

Almost all of these options have been trialled by Council and the most effective process to date has been to use a small sub-committee (i.e. Mayor and Deputy Mayor) with all the Councillors then having an opportunity to comment when this report is presented to Council. The contract renewal negotiations must also be carried out in accordance with the contract conditions.

Consultation

The performance appraisal and contract renewal discussions have been listed as confidential as it involves personnel matters.

Options

This report is for noting only with the confidential report providing the details of the performance appraisal and contract discussions.

RECOMMENDATION

That Council notes the contents of this report providing an overview of the General Manager performance appraisal process and contract renewal negotiations.

Attachment(s)

Nil

16. Questions Without Notice

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 Tender - Cleaning Services for Council Buildings (Confidential)

Refer to Item 11.8 of this agenda.

17.2 Senior Staff - Contract Conditions (Confidential)

Refer to Item 10.4 of this agenda.

17.3 General Manager - Performance Review and Contract (Confidential)

Refer to Item 15.2 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 Tender - Cleaning Services for Council Buildings (Confidential)

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

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 the tendered rates and indicative hours are deemed to be commercial in confidence.

17.2 Senior Staff - Contract Conditions (Confidential)

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- a) personnel matters concerning particular individuals (other than councillors)

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 the report provides details of the personal affairs of staff.

17.3 General Manager - Performance Review and Contract (Confidential)

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- a) personnel matters concerning particular individuals (other than councillors)

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 the discussion may relate to personal matters regarding the employee's performance and contract conditions..