



Notice of Ordinary Meeting

an Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 28 July 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

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 June 2016 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 June 2016.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2016/25 - Service Station, River Street, Ballina

8. Development and Environmental Health Group Reports

8.1 DA 2016/25 - Service Station, River Street, Ballina

Applicant	Retail Fuel Developments Pty Limited
Property	Lot 12 DP 1086670, No. 323 River Street, Ballina
Proposal	To undertake the demolition of the existing buildings for the construction of a Service Station, Ancillary Kiosk and associated works
Effect of Planning Instrument	The land is zoned B4 Mixed Use under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

The subject site is located along the northern side of River Street on the corner of River and Brunswick Streets, approximately 470 metres west of the Kerr Street/River Street intersection. It is approximately 1,641m² in area, rectangular in shape and is within the B4 Mixed Use zone.

The site has been utilised for a range of uses, including "Ireland Honda" motor showroom and vehicle repair station with associated sealed forecourt for vehicle display. Vehicular access to the site is currently available from the Brunswick Street frontage only.

Development Application 2016/25 seeks consent from Council for the demolition of the motor showroom building, vehicle repair station and ancillary bitumen pavement (all currently vacant) and the removal of two Canary Island Date Palm trees to enable the construction of a 24 hour / 7 day a week service station and ancillary kiosk (originally submitted for use by Coles Express but then revised for Freedom Fuel) and associated works.

Vehicular access to the development is proposed from frontages to River and Brunswick Streets.

Refer to Attachments 2 and 3 for further details of the proposal.

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.

Council received 12 submissions objecting to the proposal, including representations from State member Tamara Smith and Federal member Justine Elliot (also attaching two petitions containing a total of approximately 650 names).

A copy of each submission (and the petitions) is provided in Attachment 8. Below is a summary of the key issues raised in the submissions.

Key Issues

- Noise/amenity (including privacy and vibration) impacts

Comment: Refer to the Noise section of this report.

- Lack of consultation and timeframe for submissions to be made

Comment: The public exhibition of the development application was carried out in accordance with established Council practice and policy (as contained within Chapter 1 of the Ballina Shire Development Control Plan 2012).

- Traffic management

Comment: The site is on a classified road and was referred to the NSW Roads and Maritime Service (RMS), who have responded by letters dated 17 March 2016 and 3 June 2016 (refer to Attachment 7). The application was also referred to the Local Traffic Development Committee on 13 April 2016. The matters raised by the RMS and the Committee are addressed in the Traffic section of this report.

- Dilapidation impacts from demolition

Comment: Suitable conditions are able to be imposed on any consent granted to address this issue.

- Lighting overspill impacts

Comment: Suitable conditions are able to be imposed on any consent granted to address this issue.

- Out of character and scale

Comment: The proposed service station is of a similar size and scale to other service stations in the locality. As the site is within a mixed-use business zone, the proposal is not considered to be out of character or scale. The scale of the proposal is responsive to the site and relevant development standards required.

- Anti-social behaviour/crime

Comment: The application was referred to the Crime Management Unit of the NSW Police who provided recommendations, namely the provision of closed circuit television surveillance cameras (CCTV). A copy of the response is provided in Attachment 6. Suitable conditions are able to be imposed on any consent granted and the applicant has outlined that security cameras will be installed throughout the site.

- Not in the public interest

Comment: As outlined throughout this report, the proposal is considered to meet relevant planning merit considerations under Section 79C of the Environmental Planning & Assessment Act 1979 and is considered to be in the public interest. It is considered that the potential impacts can be reasonably conditioned within any consent granted.

- Stormwater/flood management

Comment: The current state of the subject site is such that it is almost fully impervious and has no stormwater treatment or detention. The proposed bio-retention garden, sized at 1.6% of the site area, is considered reasonable, as the proposed development does not increase the impervious area of the site.

The proposed landscaped batter on the western boundary needs to be retained along the western edge, provided with a flat cross section and drained to prevent runoff into adjacent land.

If consent is granted to the proposed development, conditions can be imposed requiring detailed engineering plans for the shoulder, kerb, footpath, blister and stormwater works to provide a satisfactory access grade from River Street, as outlined in the traffic assessment.

The building floor level and forecourt levels are both proposed above Council's current minimum flood planning levels and are considered acceptable.

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.

Council's Civil Services Group has assessed the proposal and have raised no issues in relation to stormwater/flood impacts.

- Odour impacts

Comment: The operation of a service station can generate odours during tank filling, fuel dispensing, LPG gas refilling and dispensing and due to motor vehicle exhausts. These can be managed with good design and management to minimise any impacts on nearby properties. It is acknowledged that residential receivers are particularly sensitive to impacts from odours.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development requires a risk assessment to be undertaken to ensure the risk presented is acceptable and to ensure appropriate controls are put in place.

The recommendations of the hazard risk assessment provided with the development application have been included as conditions of consent, if the subject application is approved. In this regard, the risk of odour impacts to nearby properties is considered acceptable, subject to compliance with the proposed conditions of consent.

- Economic impact on other Service Stations

Comment: Although any additional service station within Ballina will impact on other existing competitors, this is not a relevant matter with regard to the economic impacts considered under Section 79C of the EP&A Act 1979. It is acknowledged that there are a number of other automotive services/businesses (including service stations) in this locality.

- Devaluing of residential properties

Comment: The subject site has been zoned for business uses under both the previous BLEP 1987 and the current BLEP 2012 (i.e. for almost 30 years).

The site has an extensive commercial development history and the service station is another similar commercial land use permissible within the zone.

- Impact of removing the mature Canary Island Date Palm Trees

Comment: The two substantial/mature Canary Island Date Palms located along the River Street frontage have been nominated for removal as part of the proposal.

Whilst it would be preferable if such mature trees could be incorporated into the site landscape design, the applicant has noted that the internal design and vehicular access requirements does not allow this. The trees are not listed under any of Council's plans or policies as having particular significance.

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 development is physically removed from waterbodies.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed signage details are provided in Attachment 5 and are considered to be of a similar design, scale, height and bulk of other similar land uses in the locality. In this regard, the proposed signage is considered consistent with the amenity, visual character and other relevant assessment criteria of Schedule 1 within SEPP No. 64.

State Environmental Planning Policy No. 55 – Remediation of Land

A Preliminary Site Investigation Report was submitted with the development application, which has been prepared generally in accordance with the requirements of the NSW EPA – Guidelines for Consultants Reporting on Contaminated Sites.

The consultants carried out a Stage 1 Investigation in accordance with the requirements of the Managing Land Contamination Planning Guidelines (DUAP and EPA, 1998). This involved establishing the site history and undertaking a site inspection.

The investigation revealed that there is a low risk that current and past uses on the site and surrounding land uses may have resulted in land contamination at the subject site. The report identified the contaminants of concern, given the site history.

In this regard, the report recommended that:

- a Detailed Site Investigation (DSI) be undertaken prior to the issue of a Construction Certificate to assess the nature and extent of any contamination present, and
- a Hazardous Building Materials Survey be undertaken at the site, prior to any demolition works occurring.

These matters can be suitably conditioned, if the application is granted consent.

State Environmental Planning Policy No. 33 Hazardous and Offensive Development

A Preliminary Hazard Analysis Report was submitted with the development application, which has generally been prepared in accordance with the requirements of the NSW Department of Planning (DoP) *Hazardous and Offensive Development Application Guidelines: Applying SEPP 33*, as well as related supporting documents.

The investigation involved a desk top assessment as well as a site inspection.

The Preliminary Hazard Analysis identified that SEPP No. 33 does apply to the proposed development, which can be classified as potentially hazardous.

It was determined that a Level 2 Risk Assessment was required and this was completed within the Preliminary Hazard Analysis.

The report concluded that, based on the Preliminary Hazard Analysis, the proposed development was found to pose acceptable levels of risk given the proposed on-site controls and standards. The report recommended:

- construction and operation of the site comply with all relevant standards and guidelines including AS 1940:2004 'The Storage and Handling of Flammable and Combustible Liquids' and AS 4897:2008 'The design, installation and operation of underground petroleum storage systems', and
- the development should be subject to a Hazard and Operability Study (HAZOP) prior to construction.

If the subject application is granted consent, the applicant will be required to submit a Hazard and Operability Study (HAZOP), prepared by a suitably qualified person, prior to the issue of the Construction Certificate as specified in the Preliminary Hazard Analysis Report.

Ballina Local Environmental Plan 2012 (BLEP 2012)

The subject land, along with other allotments on the northern side of River Street (from Kerr Street west to Bagot Street), are zoned B4 – Mixed Use under the BLEP 2012.

The objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To maintain a distinct retail hierarchy as identified in Council's strategic planning framework.*
- *To enable residential and tourist development that is compatible with the commercial nature of activities in the zone.*
- *To ensure a safe and accessible built environment.*
- *To encourage development that recognises natural, cultural and built heritage.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

The proposed development is defined as a "service station" meaning:

"...a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles*
- (b) the cleaning of motor vehicles*
- (c) installation of accessories*

- (d) *inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration)*
- (e) *the ancillary retail selling or hiring of general merchandise or services or both.*

A “service station” is generally consistent with the objectives of the B4 zone, in that, if approved, it will provide additional mixed business/commercial uses within the subject zoned lands.

As outlined in the following sections of this report, this is only on the basis that noise and traffic constraint conditions are imposed to minimise any adverse amenity impact on surrounding residential land uses and the surrounding road system.

Due to the close proximity to residential land uses, the proposed development needs to be carefully considered, notwithstanding a number of automotive type land uses have been on the site and/or within the immediate locality, along the northern side of River Street, for a substantial number of years.

It is considered that the design and layout of the proposed service station is generally acceptable having regard for the existing infrastructure and proposed mitigation measures, particularly in relation to noise and traffic (as further discussed below).

The proposed development is permissible with the consent of Council and the development complies with relevant clauses of the BLEP 2012 in relation to demolition, height, the coastal zone, acid sulfate soils, earthworks, flood planning and essential services.

Ballina Shire 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 (as included in Chapter 2 of the DCP) have been addressed throughout this report.

In relation to Chapter 6 – Commercial Development and Chapter 6A – Commercial Development Ballina Town Centre, specifically the “Highway Strip precinct” controls, it is considered that the development meets the planning objectives, development controls and desired future character of the precinct:

- the proposal comprises a low scale building and primarily contains uses that are largely accessed by motor vehicle, rather than passing pedestrians
- a 2.4 metre high wall (and kiosk building) is proposed along the northern and western boundary to protect privacy and noise impacts on residential properties along Winton Lane
- although a 3.5 metre wide deep soil zone has not been provided along the entire frontage of Winton Lane, suitable landscaping around the entire perimeter of the site is proposed (other than for driveway crossovers)
- the reduced 400mm setback from Winton Lane (rather than 3.5 metres) allows the noise generating forecourt uses to be orientated and located further away from the residential properties along Winton Lane, which is considered to be beneficial, and

- the design does not include vehicular access from Winton Lane, which is considered to be beneficial to surrounding residential properties, particularly as the site currently has vehicular access/egress to Winton Lane with garages that open directly towards the residential properties.

In relation to Chapter 8 – Other Uses, the proposed business identification signage generally complies with relevant requirements, is consistent with other service stations and will not dominate the streetscape.

Traffic Impact

The principal entry movement for the site is proposed from the eastbound lane in River Street. The principal exit movement is proposed via a right turn onto Brunswick Street, followed by a left turn back onto River Street.

Other access movements will be from westbound River Street and to and from Brunswick Street, Tamar Street and beyond local area.

In order to offset significant traffic impacts on the River/Brunswick Streets intersection and the eastbound lane in River Street, the proponent has proposed to extend the eastbound dual lane section of River Street from its current limit, west of Tweed Street, to a point west of the proposed service station entry.

The proponent has also proposed works on the eastbound and parking lanes, kerb and gutter, footpath and stormwater drainage of River Street, in the vicinity of the development, to reduce the current steep street crossfall and thereby improve access grades changes to the River Street entry.

River Street is the major east/west arterial road providing access to Ballina and carries around 24,000 vehicles per day (vpd). Brunswick Street functions as a local road, connecting River Street to residential areas to the north and south, and carries 1,355 vpd immediately north of River Street. River Street traffic has right of way, with Brunswick Street being controlled by Give Way signs.

Through the provision of a Black Spot grant, River Street has recently been upgraded to provide protected right turn lanes for vehicles entering Brunswick Street.

These works have also included provision of a continuous median across the Tweed Street intersection, which has diverted a portion of Tweed Street traffic to Brunswick Street.

River Street has two travel lanes (one eastbound and one westbound) only at the Brunswick Street intersection, but increases to four lanes (two lanes each way) east of the intersection. The Ballina Roads Contribution Plan proposes to extend the four lane (two lanes each way) configuration westwards, through Brunswick Street, continuously to the Teven Interchange with the Pacific Highway.

The Contribution Plan proposes this work to be completed in the period of 2028 to 2036.

Traffic Impacts of Proposed Development

Council's Civil Services Group has reviewed the applicant's estimates on proposed development traffic volumes, the majority of which will originate from the east bound traffic on River Street and will enter left in from River Street.

After purchases, this traffic would mostly return via Brunswick Street with a left turn back to River Street.

The crossfall on River Street is very steep and the resulting change of grade at the kerb/gutter line for traffic accessing the service station, would be non-compliant and likely to cause bottoming of some vehicles.

The applicant has responded to this issue by proposing to raise the River Street shoulder, kerb/gutter and footpath levels adjacent to the site and provide a blister and stormwater arrangements to ensure a satisfactory access grade from River Street.

Conceptually this proposal is feasible; however any approval of these works should be subject to the submission of satisfactory detailed design plans. The more difficult aspects of this solution are reconciling the shoulder grade transition and the risk of reduced effectiveness of the redesigned stormwater drainage and overland flow path.

Accordingly, these matters would need to be resolved to Council's satisfaction at the detailed design phase and prior to the associated Section 138 Approval of these works.

During the assessment of the development application, the applicant revised the proposal to include an extension of the eastbound dual lane section of River Street from mid-block Tweed/Brunswick Streets to a location west of the proposed service station.

The resulting dual lane configuration at the Brunswick/River Streets intersection improves River Street gap availability and associated intersection performance.

Two options have been proposed and are diagrammatically provided in Attachment 4:

- Option 1A (new lane west of Brunswick Street is marked for left turns to service station and Brunswick Street only and is blocked for through traffic).
- Option 1B (new lane is continuous through the Brunswick Street intersection).

Option 1B is considered preferable, as it is more compatible with the planned westward extension of the dual lanes in River Street.

SIDRA intersection modelling indicates that the intersection performance with the added service station traffic, and either Option 1A or Option 1B design works is superior to the existing intersection performance.

The proposed Option 1B works will significantly improve the performance of the Brunswick/River Streets intersection and will more than compensate for the impacts of additional service station traffic at this location.

Observations of existing traffic conditions at the River/Brunswick Street intersection reveal that a number of motorists are making forced (and illegal) right turns from Brunswick Street (north) onto westbound River Street.

This is done by crossing the eastbound lane then stopping in the centre of River Street and using (effectively blocking) the protected right turn lane as a shelter, until a gap appears in the westbound lane for them to enter.

This movement is dangerous and blocks use of the protected right turn lanes. It will become even more hazardous as traffic volumes increase and opportunities for safe right turns from Brunswick Street diminish further.

It is considered that for safety reasons, a regulatory "Left Turn Only" sign should be provided for southbound Brunswick Street traffic entering River Street.

Impacts of Service Station Traffic on Brunswick Street and other Local Streets in the Locality

Council's Civil Services Group has determined that an increase of 26 trips/hr, on the local street network, which diminishes with distance from the service station, is not considered to have an unreasonable impact on the local road network.

The increased traffic impact is most severe on the short section of Brunswick Street between the proposed service station access and River Street, which could increase by up to 65 vehicles per hour (vph) in peak hour. However, this section of street has a mostly commercial character and is less vulnerable to adverse traffic amenity impacts than residential areas.

Traffic Signals for the River Street/Brunswick Street Intersection

As previously mentioned in this report, the local residential area north of River Street, bounded by Fishery Creek and Kerr Street, has restricted access to River Street and Kerr Street. All, but Brunswick Street, are left-in/left-out (or left-out only Bagot Street) and, as noted, the right turn from Brunswick Street is generally not a safe or practical option.

The provision of traffic signals at the Brunswick/River Streets intersection would provide equitable access for the local area and enable this traffic to safely turn into westbound River Street. Currently, there is insufficient traffic volume in Brunswick Street to meet mandatory RMS warrants for traffic signals.

However as advised by the RMS in their letter of 17 March 2017:

"To manage the risks at this site, the intersection of Brunswick and River Streets appears to be a candidate for the installation of traffic signals. Unfortunately, the traffic generated by the proposal and existing usage is insufficient on its own to justify signals. Council might like to consider the effect of induced traffic, i.e. traffic attracted to the Brunswick Street

intersection because ease of access created by signals, to determine if service station traffic, as well as induced traffic, justifies signalisation.”

The provision of signals also involves a trade-off between groups of motorists.

The level of service for a small volume of local traffic exiting Brunswick Street would be improved; however there is a corresponding delay cost for the large volume of through traffic on River Street.

As the adverse impacts on the intersection from service station traffic can be more than offset by the applicant's proposed Option 1B dual lane works, it is not considered reasonable to require the provision of the more expensive traffic signals solution.

However, the need for traffic signals in the future is a matter that Council will need to consider to ensure the local area has equitable access to River Street west.

Council's Civil Services Group has advised that the proposed fuel outlet will not have an unreasonable impact on pedestrian or cyclist movements. It has also advised that the internal site access is considered satisfactory for up to a 19 metre limited B-Double size refuelling vehicle.

Brunswick Street is not an approved B-Double route and, if approved, the developer would need to seek B-Double approval, or alternatively service the proposed development with smaller vehicles.

One loading bay is provided for delivery/service vehicles, which complies with the requirements of the Ballina Shire DCP 2012, for a SRV sized service vehicle. The number of on-site parking spaces, as required by Council's DCP 2012, has also been provided (inclusive of one disabled space).

Noise Impact

The application has been supported by a Noise Impact Assessment prepared in accordance with the requirements of the NSW Industrial Noise Policy (NSW EPA 2000). The Noise Impact Assessment has been assessed by Council's Environmental Health Section.

Unattended noise logging was undertaken at No. 16 Brunswick Street (north of the subject site) for a period of nine days to establish the existing background noise levels at the nearest affected property and to determine the rating background level for the project.

The primary noise source observed during day time was the road traffic on River Street. Secondary noises sources included bird calls and mechanical repairs at the subject site (now vacant).

The rating background level was used to determine the Project Specific Noise Criteria (PSNC). The PSNC is the lowest value determined by either the intrusive (rating background level + 5) or the amenity (set by the NSW Industrial Noise Policy) criteria. Refer to the following table.

Table 3.1 Ambient Sound Pressure Levels

Location	Period	L _{Aeq(period)} ¹	RBL ²	Amenity Criteria	RBL+5 dB	Project Specific Noise Criteria (PSNC) ³ = lowest of column (5) and (6)
(1)	(2)	(3)	(4)	(5)	(6)	
ML1	Day	68	46	60-65	51	51
ML1	Evening	65	39	50-55	44	44
ML1	Night	53	32	45-50	37	37

As shown in Table 3.1, the PSNC have been determined by the intrusive criteria for all time periods and are 51 dBA LAeq day (7.00 am to 6.00 pm Mondays to Saturdays and 8.00 am to 6.00 pm Sundays and Public Holidays), 44 dBA LAeq evening (6.00 pm to 10.00 pm) and 37 dBA LAeq night (the remaining period).

The identified PSNC are much lower than the existing ambient sound levels in the area, which the logged noise levels indicate as an elevated, disturbed noise environment dominated by road traffic noise, shown in column 3 in Table 3.1. The logged data illustrates a very consistent noise scatter.

The Noise Impact Assessment has considered the impact of the proposed development on the closest affected residents, as shown on the following illustration.

Illustration 4.1 Location of Closest Affected Residences



Possible acoustic impacts were predicted through the use of noise modelling for each of these premises.

The noise modelling took into consideration the noise sources associated with the proposed development, the existing and proposed built structures and the local geography.

A number of recommendations are made in the Noise Impact Assessment to reduce the impacts of the proposed development.

These recommendations include:

- truck deliveries and waste collection to be limited to day time (7.00 am – 6.00 pm Monday to Saturday and 8.00 am – 6.00 pm Sunday)
- signs limiting speed to 15 km/hr to be posted at the entry and exit of the site
- the use of airbrakes being prohibited on site (signs posted in relation to this)
- a 2.4 metre high acoustic barrier to be installed on the northern and western property boundaries; and
- the compressor being turned off and not used between the hours of 10.00 pm – 7.00 am.

With these recommendations implemented, it has been predicted that the PSNC will be complied with during the day and evening periods, and minor exceedances (between 1dBA and 4dBA) will be experienced during the night period, at six of the closest residential premises.

Of these six:

- three properties will have exceedances of 1dBA
- two properties will have exceedances of 2dBA
- one property will have an exceedance of 3dBA
- one property will have an exceedance of 4dBA.

In interpreting these exceedances, the average human ear cannot detect a change of 3dBA or less and the PSNC are well below the existing noise levels in this locality.

The recommendations are considered to be practical and can be implemented and readily regulated by Council, if necessary. Therefore, the proposal can be supported in relation to acoustic impacts, subject to the application of suitable conditions of consent.

Conclusion

The proposed service station, ancillary commercial kiosk and associated works have generated a substantial level of public interest, primarily in relation to perceived impacts relating to noise and traffic.

The proposed development is generally consistent and compliant with the relevant provisions of the BLEP 2012 and the Ballina Shire Development Control Plan 2012 for this Highway Strip Precinct, which currently has a number of mixed commercial uses.

Subject to imposition of conditions of consent, the development will present a satisfactory outcome for the site, which has been zoned business for a substantial number of years.

Issues have been raised in the submissions regarding noise impacts from the future service station use upon nearby residential receivers. In determining the subject application, Council should have consideration for the mixed use zoning and proposed noise mitigation measures.

Traffic generation and safety impacts have been carefully considered by Council's Civil Services Group, in conjunction with the RMS, who are satisfied with the proposed measures and works.

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 some operational uses and the provision of suitable vehicular upgrades surrounding the site. As the applicant has confirmed that these conditions are acceptable, the application is recommended for approval.

RECOMMENDATION

That DA 2016/25 to undertake the demolition of the existing buildings for the construction of a Service Station, Ancillary Kiosk and associated works at Lot 12 DP 1086670, No. 323 River Street, Ballina be **APPROVED** subject to the imposition of non-standard development consent conditions as referred to in this report and the standard conditions (building, planning, environmental and engineering) generally applicable for this type of development.

Attachment(s)

1. Locality Plan
2. Proposed Site Plan
3. Proposed Landscape Plan
4. Proposed Traffic Options 1A & 1B
5. Proposed Freedom Fuel Signage
6. Crime Prevention Officer Response
7. Roads & Maritime Services Responses
8. Objections

8.2 DA 2015/98.2 - 17 Hill Street - Variation to LEP Standards

8.2 DA 2015/98.2 - 17 Hill Street - Variation to LEP Standards

Applicant	Ardill Payne and Partners
Property	Lot 5 DP 38190 No.17 Hill Street East Ballina
Proposal	New Dwelling - Section 96 application to modify the original approval with the addition of a family room, WC and deck on the top floor (garage level), and lower the roof pitch on the living area level.
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina Local Environmental Plan (BLEP) 2012
Locality Plan	The subject land is depicted on the locality plan attached.

Introduction

An application has been received in the form of a Section 96 application for modifications to an approved multi-level dwelling. The amendments involve an increase in the floor area and height of a section of the approved dwelling.

The applicant seeks to modify the original Development Consent by adding a family room, WC and deck on the top floor (garage level) and lower the roof pitch on the living area level.

This modification will increase the floor space ratio and the building height on the garage level however the overall height of the living area is reduced due to the lowering of the roof pitch over this area.

Council approved the original development application at its Ordinary Meeting dated 28 January 2016, including a variation to Clauses 4.4 Floor Space Ratio and 4.3 Height of Buildings of the BLEP 2012. Copies of both the approved and proposed amended plans are attached to this report.

This report seeks Council's determination to further increase the original variations to the following development standards contained within the BLEP 2012.

Clause 4.3 Height of Buildings

The variation being sought will increase the overall height of the dwelling in this modified section to 12.682 metres at its highest point, from the approved 11 metres.

This increase in height is only in the location of the proposed family room, where the living room level has been reduced from the original proposal of 12.98 metres to 12.5 metres at its highest point, due to a lowering in the roof pitch over this area.

8.2 DA 2015/98.2 - 17 Hill Street - Variation to LEP Standards

At the Ordinary Meeting dated 28 January 2016, Council approved a height variation of 52%, representing a maximum of 4.48 metres above the allowable 8.5 metres as required in the BLEP.

This related to point encroachments for two sections of the building.

Clause 4.4 Floor Space Ratio (FSR)

The site is 600.7m² in area, where the new proposed floor area is proposed to increase to 376m² which will be result in a new FSR of 0.62:1, being 24% above the allowable BLEP FSR of 0.5:1.

The approved dwelling has a floor area of 347m², which represents a ratio of 0.57:1, being 14% above the allowable BLEP FSR. With the modification, the family room will have a gross floor area of approximately 29m² with the floor area of the deck being 56m², however an open deck is not included in the total FSR calculations.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The subject application was neighbour notified in accordance with Council practice, where submissions closed on 3 May 2016. No submissions have been received for this modification, however when the original development application was notified, one submission was received from the owners of 19 Hill Street, East Ballina.

This objection was very general and did not identify specific impacts from the proposal and the submission was considered with the determination of the original approved application.

The objector submission did oppose the original proposal to build higher than the 8.5 metre height limit and states that the regulations are based on many years of community consultation and were devised in the public interest.

The objectors state that generally developments like this negatively compromise aspect, sunlight, views, community and personal privacy.

The only specific matters raised within the submission were the dangers to pedestrians, road closures during construction and impact on the foundations of the building at No.19 Hill Street.

These matters are normally addressed during the development assessment and determination process via conditions of consent

Key Issues

- Building height
- Floor space ratio
- Variations to the LEP

Report

Ballina Local Environmental Plan (BLEP) 2012

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

The site has a steep slope falling away from Hill Street, with substantial views over Shaws Bay, the Richmond River and the coastline. It is one of two remaining adjacent vacant lots sited north of Compton Drive.

Dwellings along this part of Hill Street are commonly single-storey, as viewed from the street frontage, with garaging on a nil building line facing Hill Street. As the land falls away, the areas underneath dwellings have typically been filled in with habitable levels, resulting in two, and in some cases three-storey developments.

This modification is to increase the approved height of the building in one section of the dwelling and to reduce the height in another section of the building.

Clause 4.4 of the BLEP Floor Space Ratio specifies a maximum allowable floor space ratio of 0.5:1. The proposed modification requests an increase in floor area from the approved variation of 47m² to 76m², now being 24% over the allowable maximum 300m² floor area under the BLEP.

Assessment - Clause 4.6 BLEP

The mechanism that provides the ability to vary a development standard is contained within Clause 4.6 of the BLEP 2012- *Exceptions To Development Standards* which requires the submission of an application.

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

Questions	Comments (Y/N, complies)
Has the applicant submitted a written request to vary a development standard as part of the development application?	Yes.
Identify when the written request was lodged (as part of lodgement of DA or during assessment process). Provide details of circumstance if written request was not submitted as part of the lodgement of the development application (i.e. was a non-compliance identified after lodgement, was the proposal modified after lodgement resulting in non-compliance)?	<p>A request to vary the development standard was not submitted at the time of lodgement of the Development Application.</p> <p>A request was made on 16 May 2016 and received by Council 25 May 2016.</p>

Questions	Comments (Y/N, complies)
<p>Have all the required matters listed as part of Clause 4.6 and as outlined within Council's written request form been satisfactorily answered by the applicant?</p>	<p>Yes.</p>

Assessment of requested variation	
<p>1. What is the development standard being varied?</p> <p>Provide details of clause in BLEP 2012, including objectives of the development standard, numeric value and percentage variation.</p>	<p>Clause 4.3 of BLEP Height of Buildings.</p> <p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to ensure that the height of buildings is compatible with the bulk, scale and character of the locality (b) to minimise adverse effects on existing or future amenity of adjoining properties and the scenic qualities of the locality (c) to protect significant views from public places. <p>The variation is to increase the height in one section of the dwelling and to reduce the height in another section.</p> <p>The objectives of Clause 4.4 of the BLEP Floor Space Ratio are as follows:</p> <ul style="list-style-type: none"> (a) to ensure that buildings are compatible with the bulk, scale and character of the locality; (b) to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality. <p>The total proposed variation will be 76m² (24%) more than the allowable maximum floor space of 300m² representing a ratio of 0.62:1 instead of 0.5:1.</p>
<p>2. What is the underlying objective of this development standard?</p>	<p>To promote aesthetically acceptable development compatible with the area.</p>

Assessment of requested variation	
<p>3. In accordance with clause 4.6 of BLEP 2012:</p> <ul style="list-style-type: none"> • has the applicant's written request adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 (i.e. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard)? • will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out? 	<p>Yes - Further information was requested as the original submission for the S96 did not address clause 4.6.</p> <p>An addendum was then received which has been summarized below and provided the following justification:</p> <ul style="list-style-type: none"> • the height variation is due to the steep topography, the increase in height will not result in any unreasonable amenity impacts • the proposed variation does not result in any unreasonable bulk and scale impacts to the street or neighbouring properties and will be contained behind the existing approved roof form • the proposed dwelling is consistent in bulk, height, scale, external appearance and built form with other surrounding residential buildings • matters concerning privacy and overshadowing have been addressed through good design • the proposed dwelling in terms of height and FSR has been based on the recently approved dwelling at 15 Hill Street • the unique situation created by the topography of the land will not set an unreasonable precedent. <p>Comments: Original consent was granted for a FSR variation which exceeded the prescribed FSR by 14%. This approved variation is generous and justification for an additional FSR variation has not been substantiated.</p> <p>It would not be in the public interest to approve this modification, when consent was granted to the original approval, with generous variations.</p>
<p>4. Will the cumulative effect of similar approvals undermine the</p>	<p>Yes – adjoining existing buildings are more modest reflecting the time of</p>

Assessment of requested variation	
<p>objective of the development standard or the objectives of the zone?</p>	<p>construction, however are similar in design.</p> <p>The adjoining property has a current DA consent, which meets the FSR requirement, however will be 11 metres high at its highest point. Hill Street has a number of older dwellings with similar constraints, which may in the near future be demolished and replaced with larger contemporary dwellings.</p> <p>The approval of this further FSR variation could set a precedence regarding future developments within the vicinity and surrounds in addition to other residential areas of the Shire.</p>
<p>5. The Five Part Test (only one of these tests needs to be satisfied):</p> <p>a) Are the objectives of the standard achieved notwithstanding non-compliance with the development standard?</p> <p>b) Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary?</p> <p>c) Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable?</p> <p>d) Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable?</p> <p>e) Is compliance with the development standard</p>	<p>a) It is considered that the objectives have not been satisfied.</p> <p>b) The approved development has already pushed the prescribed standards on two BLEP standards and DCP controls. Further variations are considered excessive, specifically the objective of clause - 4.4 Floor Space Ratio. The extra floor area proposed to the approved plans will increase the overall bulk and scale of the development. The design has not been modified to minimise adverse impacts on the existing or future amenity of adjoining properties.</p> <p>c) Compliance with both the BLEP Clauses 4.3 and 4.4 are relevant and compliance is necessary to ensure that the amenity of adjoining properties and the scenic landscape is maintained.</p> <p>d) Concessions to both Clauses 4.2 and 4.3 of the BLEP have already been stretched and further variations could result in an overdevelopment of the site and a precedent for future approvals. With past approvals, Council has generally determined that a 10%</p>

Assessment of requested variation	
<p>unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)?</p>	<p>FSR variation is reasonable, however a variation which takes the FSR to 24% over the requirement is considered excessive.</p> <p>e) As stated, generous variations have already been granted to this development. A further variation could constitute an overdevelopment of the site.</p>

Conclusion

Council determined and approved the original variations to both the height of the building and floor space ratio. It was considered appropriate in the circumstances due to the steepness of the site and the general compatibility with other dwelling designs along Hill Street. This modification to the original approval proposes a further increase to the floor space ratio and building height.

The addition of the family room and deck on the garage level will take full advantage of the extensive views available on this site. The family room is setback from the side boundaries with privacy screens proposed to the deck adjoining this family room.

These modifications will not increase the approved building height plane variation or create privacy issues from the original approval. The pitch on the lower roof over the living room has been reduced, which has decreased the overall height in this area, which could be considered a better design outcome to what was originally approved, when viewed from the side elevations.

It could also be argued that the original design at the upper garage level had a box type design and the proposed side elevations of the new design have now been improved through the elongation of these areas. The proposed family room and deck addition will extend a further 7 metres eastward to what was originally approved, being 4.3 metres of family room and 2.7 metres of deck area.

The major issue of concern is the degree of exceedance of the floor space ratio under the BLEP, its impacts and the precedence this could create for other developments. It is acknowledged that the applicant desires additional internal living space and decks, due to the steep nature of the site and inherent unsuitability of the landform to accommodate quality open yard space.

Options

Option 1 – Council determines that the modification to increase the approved variations to the height of the building on the garage level and the floor space ratio are considered excessive in the circumstances and the requests should be refused.

8.2 DA 2015/98.2 - 17 Hill Street - Variation to LEP Standards

Option 2 – Council determines that the approval of the proposal to increase the approved variations to both the height of the building on the garage level and floor space ratio are considered appropriate in the circumstances, due to the modification lowering the overall height of the living area.

It is considered option one be adopted for the reasons outlined in the report.

RECOMMENDATION

That the Section 96 application to vary the Ballina Local Environmental Plan 2012 Development Standard Clause 4.3 - Height of Buildings and Clause 4.4 - Floor Space Ratio for DA 2015/98 for modifications to the original approval, as depicted in plans prepared by Arthur Colledge Sheets 1 to 4, be **REFUSED** for the following reasons:

1. The development amendments are contrary to the provisions of the Ballina Local Environmental Plan (BLEP) 2012, Clauses 4.3 and 4.4.
2. The scale and bulk of the amended development is an overdevelopment of the site and will have an adverse impact on the amenity of surrounding properties.
3. The amended development is not in the public interest.

Attachment(s)

1. Locality Plan
2. Proposed Amended Plans - 30 June 2016
3. Stamped Approved Plans - 25 February 2015

8.3 Pacific Highway Upgrade - Status of Rehabilitation Works for T2E

8.3 Pacific Highway Upgrade - Status of Rehabilitation Works for T2E

Delivery Program Development Services

Objective Inform Council on the Status of Rehabilitation Works associated with the Pacific Highway - Tintenbar to Ewingsdale (T2E) Upgrade

Background

On 1 June 2016, Council received an enquiry from Rous Water, Richmond River County Council and Far North Coast Weeds (RW, RRCC and FNCW) in relation to whether Council had any ongoing concerns about the re-vegetation works associated with the construction of the Tintenbar to Ewingsdale (T2E) Pacific Highway Upgrade project.

The RW, RRCC and FNCW advised that it was considering making representation to the Minister for Roads, Maritime and Freight and the Minister for Planning and Environment in relation to concerns regarding:

- the inadequate delivery of key environmental commitments and aspects of the Minister's conditions of consent
- the landscaping treatment is well below industry standards and
- Ballina Shire Council and the community will inherit a legacy of environmental degradation along the project alignment.

In light of the above issues, the RW, RRCC and FNCW requested Ballina Shire Council provide support in elevating the issues (including those identified above) to the attention of the relevant Ministers, particularly as the NSW Roads and Maritime Services (RMS) is in the process of 'signing off' work packages.

It is also understood that the RW, RRCC and FNCW has made similar enquiries with Byron Shire Council in relation to making a joint representation to both Ministers.

It is understood that Byron Council is supportive of this approach.

At the time of finalising this report, the RW, RRCC and FNCW advised that it had been offered an opportunity to conduct an inspection of the T2E rehabilitation works.

This inspection is expected to be conducted toward the end of July 2016.

Key Issues

- Unsuccessful rehabilitation program resulting in enhanced opportunities for weed invasion and threats to biodiversity
- Impacts on drinking water catchments
- Long-term financial cost to Council for weed management
- Loss in amenity values

Information

In obtaining approval for the construction of the T2E Highway, the RMS committed to delivering a number of key environmental packages. These included:

- the establishment of 32ha of lowland rainforest (big scrub rainforest) within the project corridor
- the re-establishment of riparian habitats that were located outside of the project corridor, but on land purchased by Roads and Maritime Services (RMS) for the upgrade of the Highway.

As part of the Minister's Approval, an Environmental Reference Group (ERG) was formed in early 2012. The ERG comprised representatives from the RMS, the project contractors, NSW Environment Protection Authority (EPA), NSW Fisheries, Rous Water and Ballina Shire and Bryon Shire Councils.

In addition, the proponent (i.e. the RMS) was also required to appoint an independent Environmental Representative (ER). The main roles of the ER were to monitor compliance of the project, and respond to environmental issues as they arose. The ER was also required to attend the monthly ERG meetings.

The ERG had a number of functions, including monthly on-site meetings, reviewing a range of technical reports and management plans associated with the project. The monthly meetings were designed to allow the collective ERG to visit the construction site and openly discuss any observed environmental concerns and/or provide feedback on positive environmental actions conducted on the construction site.

In respect to re-vegetation, the Urban Design and Landscape Management Plan (UDLMP) was developed as a broad overarching concept plan, which described how the re-vegetation works were to be undertaken throughout the project corridor. A series of site specific plans then detailed how the broad concepts described with the UDLMP were to be undertaken on a site by site basis.

In addition, a Landscape Management Plan (LMP) was developed, which describes, amongst other road safety issues, how the re-vegetated corridor will be managed during the operational phase of the project. The Minister's Conditions of Approval (CoA) for the T2E Project required the RMS to submit the UDLMP to the Department of Planning and Environment within one month of works on site commencing. Construction on the project started in mid-2012.

Based on the experiences from the previously constructed Ballina Bypass and given the fragmented nature of the landscape, it was identified early in the T2E Project that re-vegetation of the highway corridor posed a challenging prospect.

As a result, it was also agreed the UDLMP would include a range of restoration objectives that would be used to measure the success, or otherwise, of proposed re-vegetation treatments. These measures of success would then guide the manner in which ongoing remedial works would be undertaken by the landscaping contractor for the two years post-construction.

8.3 Pacific Highway Upgrade - Status of Rehabilitation Works for T2E

There have been a number of issues with and barriers to achieving success with the re-vegetation of the Highway corridor.

In 2012/13, a series of cross agency landscaping meetings were convened to discuss the progression of the UDLMP and address a range of concerns in relation to the potential success of the re-vegetation program. It was agreed at those meetings that a number of trials would be established to determine the success, or otherwise, of proposed landscaping treatments. In addition, a draft version of the LMP was submitted to the ERG for comment.

After a review of the documentation and plans, it was determined that the proposed restoration goals were unrealistic and, as such, they required detailed revision.

Another major barrier affecting the functionality/success of the ERG was (and still is) the manner in which the RMS has disengaged with the process, a lack of acknowledgement of identified issues and a failure to respond to written correspondence from Council and other members of the ERG. Similarly, one of the key commitments coming out of the cross agency meetings was:

“A native pasture seeding area will be established on a cut to ascertain establishment success. Should the sample fail, alternatives will be sought/discussed with the ERG/RMS in the future”.

The native grassland germination trial was conducted between May and July 2014. On 16 February 2015, following numerous requests for the native grassland monitoring report, the report was forwarded to Council. The monitoring report confirmed the native grassland trial was unsuccessful.

Despite the conclusions of the grassland monitoring report and the 2012/13 cross agency meeting commitments, the RMS has not formally discussed this issue again with the ERG. It is now evident that the majority of native grassland areas have been unsuccessful and are now weed infested.

Independent of the ERG process, Council has also raised its concerns on the progression of re-vegetation works with the consent authority, the NSW Department of Planning and Environment (DoPE).

Due to these concerns the DoPE, when approving the ULMP on 20 August 2015, required RMS to have:

“On-going consultation and involvement of Ballina Shire and Byron Shire Councils and Rous Water, in the development and implementation of those detailed monitoring processes, objectives and targets for the project.

The Department requests that details of the monitoring processes, objectives and targets for the project are forwarded to the Department, the relevant Councils and Rous Water, upon finalisation, and one month prior to the commencement of operation of the project.”

With the T2E Highway upgrade opening (being operational) for traffic in late 2015 and despite the requirements of the DoPE's letter, to date the RMS has had limited discussions with any of the abovementioned agencies in relation to finalising the outstanding issues and obtaining an approval for the LMP.

8.3 Pacific Highway Upgrade - Status of Rehabilitation Works for T2E

It is understood that the DoPE are in the process of finalising their investigation into this apparent non-compliance issue.

Throughout the implementation of the rainforest rehabilitation planting program, Council and other members of the ERG have raised ongoing concerns about the manner in which the RMS has required their contractors to implement the planting program. The planting regime does not comply with established methods utilised by local rainforest practitioners.

The ERG has also encouraged the RMS to engage the services of a local big scrub specialist to advise them on how to proceed with the project. This has not occurred to date.

It is now evident that the RMS approach has led to increased weed growth, poor growth rates of planted rainforest trees and increased competition. This issue is best demonstrated by the photos included in Attachment 1, which shows the difference in growth rates of a developer rainforest program at Lennox Head and a number of planting sites associated with the highway upgrade.

Council has previously experienced a similar situation during the construction of the Ballina Bypass. With the Ballina Bypass project, Council raised concerns on a number of occasions (through the specific ERG), on the progression of rehabilitation works at the site.

Like the T2E situation, the RMS and their contractors held offline/closed discussions, with limited input from the ERG.

In the Ballina Bypass project, two subsequent review reports confirmed the re-vegetation works did not achieve the growth forms predicted within the approved UDLMP. Ultimately, the issue was delayed until the project reached completion without any remedial actions taking place.

While both review reports for the Ballina Bypass project recommended for a range of remedial actions to be undertaken, these works were never fully implemented and/or completed.

The matter was investigated by the DoPE, however enforcement action could not be implemented due to the fact the approved UDLMP did not require that the project achieve any performance outcomes and/or undertake any actions of remediation. As a consequence, the large sections of the Ballina Bypass road corridor are now occupied by species of weeds and/or non-endemic vegetation.

In this regard (and to avoid a repeat of an unsatisfactory situation), it is imperative that an agreed and approved LMP for the T2E project be implemented. However, given the key compliance document "the LMP" has been in a draft format for almost four years, and as the T2E project is due for completion within the next two months, a repeat of the Ballina Bypass situation appears likely.

The failure of the T2E project to deliver its key environmental packages has adverse environmental, scenic amenity impacts and imposes future financial burdens onto Council and the local community.

8.3 Pacific Highway Upgrade - Status of Rehabilitation Works for T2E

As previously advised, as part of the Minister's Conditions of Approval, the RMS is required to re-establish the riparian habitats on land owned by the RMS (outside the construction corridor) that are located within the drinking water catchments of the Ballina Shire. During the approval process, the RMS confirmed that these works would be undertaken "*pre and during construction*".

On 24 June 2015, Council, Rous Water and the RMS conducted a field inspection of potential riparian rehabilitation areas outside of the road corridor.

Since that site inspection, Council remains unaware of any progression on this aspect of the project.

Sustainability Considerations

- **Environment**
Significant weed infestation along the highway corridor has a long-term adverse environmental impact.
- **Social**
Unsuccessful rehabilitation of the highway corridor will impact on the landscape amenity for people entering the Ballina Shire.
- **Economic**
Ballina Shire Council and local landowners who adjoin the highway will incur a significant financial burden due to long term and ongoing weed eradication associated with the failed rehabilitation program.

Legal / Resource / Financial Implications

It is expected that formalising a joint submission will require minimal additional resources. However, if the matters are not addressed, Council will likely incur ongoing financial expenses undertaking weed eradication.

Consultation

Ongoing liaison has occurred between representatives of the ERG.

Options

Option 1

Do nothing and allow the RMS to proceed with their existing re-vegetation program. This will place future liabilities on Council and provides poor environmental outcomes.

Option 2

Prepare a joint submission with RW, RRCC and FNCW and Byron Shire Council to submit to the relevant Ministers. This option is recommended given that the T2E Highway upgrade is due to be completed in the near future and it is apparent the re-vegetation has not been successful.

This option is also subject to an inspection of the project at the end of July 2016.

RECOMMENDATION

That Council prepare a joint submission with Rous Water, Richmond River County Council, Far North Coast Weeds and Byron Shire Council to submit to the relevant Ministers on the matters detailed in this report, subject to the findings of a joint inspection of the project to be conducted toward the end of July 2016.

Attachment(s)

1. Lennox Head and T2E Rainforest Growth

8.4 Pacific Highway Upgrade - Erection of Fauna (Koala) Fencing

8.4 Pacific Highway Upgrade - Erection of Fauna (Koala) Fencing

Delivery Program Development Services

Objective To inform Council on the NSW Roads and Maritime Service's proposals for fencing along the local road network for koala protection.

Background

On 22 February 2016, the NSW Roads and Maritime Services (RMS) provided a briefing to Council on the progression of the Ballina Koala Plan (BKP). The implementation of the BKP is a requirement imposed on the RMS in order to satisfy the Federal Government's Terms of Approval for the upgrade of the Pacific Highway, near Wardell.

As part of the briefing, under the General Terms of Approval, the RMS has proposed to restore approximately 130 hectares of koala habitat.

In addition, the RMS proposes to fence large areas of the local road corridor and the existing Pacific Highway, between Coolgardie and Wardell, in order to reduce koala deaths from vehicle strike.

This report provides an overview of the fencing associated with that koala plan to determine whether Council wishes to make further representations to the RMS.

Key Issues

- Long-term protection of the Ballina Koala Population
- Future resource/maintenance issues for Council

Information

Since the 22 February 2016 workshop, Council staff have reviewed the submitted information with respect to the BKP. This review has confirmed that the RMS proposal has the potential to have a number of potential long-term impacts.

These impacts include:

- planning issues
- adverse environmental impacts
- non-compliance with Council's Koala Management Strategy (KMS)
- on-going road maintenance issues.

To enable Council to have a broad understanding of the issues associated with the RMS fencing proposal, a brief overview of each issue is provided further in the report, along with supporting comments provided in the attachment to this report.

The attachment provides background information on the areas of uncertainty and / or concern associated with the RMS proposal and this information could form the basis of a formal written submission to the RMS and the Federal Government, if supported by Council.

8.4 Pacific Highway Upgrade - Erection of Fauna (Koala) Fencing

Brief comments on the key issues are as follows.

Planning Issues

The RMS proposal indicates that a number of rural properties are to be fully re-vegetated to provide habitat for the Ballina Koala population. It remains uncertain if these properties will retain a dwelling entitlement as part of this proposal.

If so, allowance has not been made for dwelling envelopes, bushfire protection zones and any required easements for electrical power lines etc.

Ecological Impacts

Based on the information presented to Council, the RMS proposes to:

- fence Wardell Road for a distance of 3 km (6 km in total - each side of the road) and
- fence 2.5 km (5 km in total – each side of the road) of the existing Highway between Wardell and Coolgardie.

Fauna fencing is designed to prevent wildlife from gaining access to the road. However, unless dedicated fauna crossing structures (culverts, bridges etc.) form part of any fencing proposal, the fencing may ultimately have an adverse impact by fragmenting and isolating the existing populations of wildlife.

Such impacts can lead to a decline in wildlife populations through, for example, a lack of habitat and inbreeding.

Furthermore, Council's koala habitat mapping confirms that the northern extent of the RMS koala fencing terminates at the start of the mapped koala habitat (as per attachment one).

Consequently, it is likely that koala vehicle strikes may occur/increase along the unfenced section of Wardell Road. Given it is a local Council road, any increased koala deaths will become a Council responsibility to manage.

Council's Koala Management Strategy (KMS)

The proposed RMS fencing is inconsistent with the vision and aims of Council's recently adopted KMS.

The fencing also directly contradicts objectives, a, b and g of the KMS, which state:

- a. minimise the potential for adverse impacts on koalas within current and future areas of core koala habitat.*
- b. create, manage and/or restore koala habitat linkages and corridors to re-establish a complex and biodiverse landscape.*
- g. ensure that koalas, koala habitat and koala movement patterns are integrated considerations in infrastructure planning.*

8.4 Pacific Highway Upgrade - Erection of Fauna (Koala) Fencing

Specifically, Management Action 33 of Council's KMS is relevant to this matter, as it requires auditing existing koala road safety measures before developing an integrated program of works for the implementation of a 'toolbox' of koala road safety measures etc.

Therefore, the fencing of Wardell Road may compromise Council's ability to reach the vision of a '*self-sustaining long-term koala population in Ballina Shire*', as outlined in the KMS.

Ongoing Road Maintenance Issues

Although the RMS is proposing to install the koala fencing on Council's local road network, Council may be responsible for maintaining this infrastructure.

The fencing along Bagotville Road is clearly an essential part of the RMS striving to ensure that the Ballina koala population will remain viable.

Therefore, the non-management of this infrastructure is not considered an option and, as such, Council needs to have a detailed understanding of this aspect of the RMS proposal.

Council's Civil Services Group has provided some feedback to the RMS in relation to the maintenance costs of the fencing and further advise that this is a continuing matter for discussion between the RMS and Council.

To clarify matters it is considered important that Council prepare a submission to the RMS and the Federal Government along the lines of the information contained in attachment one.

It is anticipated that this submission will encourage further dialogue with the relevant agencies.

Sustainability Considerations

- **Environment**
The protection of Ballina's Koala population, which is identified as an important population of koalas, as defined under the Commonwealth Government's *Environment Protection and Biodiversity Conservation Act 1999* is an important environmental outcome.
- **Social**
There is considerable public interest in Council's KMS, and koalas in general.
- **Economic**
Council may incur significant financial costs maintaining in excess of 11 km of koala fencing and retrofitting local roads if required.

Legal / Resource / Financial Implications

There are minimal resource implications with respect to the preparation of a submission to the RMS and the Federal Government seeking clarification on the matters detailed in this report.

8.4 Pacific Highway Upgrade - Erection of Fauna (Koala) Fencing

Consultation

Internal liaison has occurred between Council's Development and Environmental Health and Civil Services Groups.

Options

Option 1

Do nothing and allow the RMS and the Federal Government to determine koala issues associated with Section 10 of the Pacific Highway.

Option 2

Council prepares a formal submission to the RMS and the Federal Government seeking clarification on the matters detailed in this report.

Based on the information outlined in this report option two is recommended to ensure that Council works towards achieving the best outcomes for all parties (Council, RMS, Koala Habitat etc)

RECOMMENDATION

That Council approves a formal submission to the NSW Roads and Maritime Services and the Federal Government seeking clarification on the matters detailed in this report.

Attachment(s)

1. Memo - Stakeholder Meeting Notes

8.5 Policy (Review) - Management of Contaminated Land

8.5 Policy (Review) - Management of Contaminated Land

Delivery Program Environmental and Public Health

Objective To provide an updated Policy to meet the current legislative requirements.

Background

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

Council first adopted this policy on 28 August 2008 and it was last reviewed on 26 July 2012.

Key Issues

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

Information

This Policy was originally developed as part of a regional working group consisting of local councils and professionals working in the specialised area of soil contamination to ensure a consistent approach to planning decisions and remediation methods involving matters of contaminated land within the Northern Rivers area.

The Policy incorporates the NSW Government's planning legislative requirements and those requirements for remediation works that do not require development consent. The Policy also sets out the provision of information regarding land contamination in our Shire specific to certificates issued under Section 149 of the Environmental Planning and Assessment Act.

The review of this Policy identified only minor changes and these are summarised as follows:

- general formatting amendments
- change reference from rezoning to planning proposals
- additional information added in relation to site management requirements for Category 2 remediation works
- clarifying the use of vertical mixing, and
- incorporating the requirement for all remediation works at service station sites to require a site audit statement to be submitted to Council at the completion of works by a suitably qualified Site Auditor.

Otherwise, the Policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended Policy is attached to the report.

8.5 Policy (Review) - Management of Contaminated Land

The changes have been marked in yellow.

Sustainability Considerations

- **Environment**
Promote compliance with contaminated land legislation and to assist in the protection of the natural environment.
- **Social**
Ensure appropriate management of contaminants to assist in the protection of public health and reduce associated risks to the community.
- **Economic**
Application of this Policy can ensure appropriate management of contamination reducing ongoing costs, protecting the environment and public health.

Legal / Resource / Financial Implications

Currently the NSW State Government is reviewing the management of Underground Petroleum Storage Systems, which are currently legislated under the Contaminated Land Management Act 1997. One of the significant changes is who will be the appropriate regulatory authority for these systems? It is currently proposed to transfer the management responsibilities of these systems to local councils from the Environment Protection Authority (EPA). If these proposed changes proceed then Council will have to review resources and staffing requirements to meet this legislative requirement.

Council's Environmental Health Officers are in discussion with the NSW EPA in relation to these proposed changes and if implemented, this Policy may require an additional review within the next two years.

Consultation

Internal consultation has taken place with Council's relevant sections responsible for matters associated with contamination land 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, the Policy will be reported back to Council for determination. If no significant submissions are received, it is recommended the draft Policy be adopted and no further action is required.

Options

Council may accept or amend the proposed changes to the draft Policy. The changes included are largely housekeeping and it is recommended that the draft Policy be endorsed for public exhibition.

It is also recommended that if any significant submissions are received as a result of the exhibition, the matter will be reported back to Council for determination. If no significant submissions are received, it is recommended the Policy be adopted and no further action is required.

RECOMMENDATIONS

1. That Council adopts the amended Draft Management of Contaminated Land Policy, as attached to this report.
2. That Council place this policy on exhibition for community feedback, with any submissions received addressing substantive changes to the policy to be reported back to the Council. If no such submissions are received then no further action is required.

Attachment(s)

1. Policy Review Management of Contaminated Land

8.6 Development Standards - Variations

8.6 Development Standards - Variations

Delivery Program Development Services

Objective Inform Council of changes to the processing of variations to Development Standards.

Background

In March 2016, Council staff formalised a procedure as to how Council deals with variations to development standard(s) that have been requested as part of a development application. The development of this procedure was considered important, in order to establish and maintain a consistent approach across the Development and Environmental Health Group as there are now more development standards that are able to be varied, through the introduction of the Ballina Local Environmental Plan (BLEP) 2012.

This report provides an overview of those changes.

Key Issues

- Information provided as to how Council deals with variations to development standard(s) that have been requested as part of a development application
- Two new reporting templates dealing with variations to development standard(s) to be introduced into the business paper agenda by Council's Development and Environmental Health Group.

Information

Prior to the introduction of the BLEP 2012 (gazetted in February 2013), Council operated solely under the BLEP 1987. This environmental planning instrument contains a range of development standards, including those related to minimum lot size in non-urban areas (i.e. rural zones and environmental protection zones) – under Clause 11, the erection of a dwelling house in non-urban areas – under Clause 12 and building height – under Clause 17. A variation to these numerical standards was able to be applied for via an application (or an objection) under State Environmental Planning Policy (SEPP) 1 – Development Standards.

The Department of Planning and Environment (DoPE) issued Council with assumed concurrence provisions under SEPP 1 with respect to all applications under the BLEP 1987 that do not involve the erection of a dwelling house under Clause 12 or the subdivision of land under Clause 11 when the development does not comply with the minimum lot size specified in the plan.

8.6 Development Standards - Variations

However, the assumed concurrence provisions may be utilised with those applications where:

- only one allotment does not comply with the minimum lot size and that allotment has an area equal to or greater than 90% of the minimum lot size OR
- boundary adjustments between two existing allotments, where both are already below the minimum allotment size for the zone (subject to no additional lots or dwelling entitlements being created and that Council is satisfied that any existing or potential agricultural use of the land will not be compromised).

The assumed concurrence provisions enable Council to carry out an assessment of the application/objection under SEPP 1 as part of the assessment of the development application and to grant approval to the variation sought, if it is considered reasonable. Any variations, which do not meet the requirements of the Circular, require the concurrence of the Department.

The introduction of the BLEP 2012 (based on the Department of Planning and Environment Standard Instrument format), established a number of numerical development standards that may otherwise, or in the past, have been development controls within a Development Control Plan or other policy.

The majority of these standards (contained within Clauses 2.8, 4.1, 4.1AA, 4.1A, 4.1B, 4.1C, 4.2, 4.2A, 4.3 and 4.4 of the BLEP 2012), are able to be applied to be varied without the requirement for concurrence from the Department, via the provisions of Clause 4.6 of the BLEP 2012.

Clause 4.6 is not to be used for a subdivision of land in Zone RU1 Primary Production or Zone RU2 Rural Landscape, if:

- a. the subdivision will result in two or more lots of less than the minimum area specified for such lots by a development standard, or
- b. the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Clause 4.6 states that the concurrence of the Director-General is to be obtained prior to the granting of consent for development that contravenes a development standard. However, as with the BLEP 1987, the DoPE has subsequently issued Council with assumed concurrence provisions in respect of any environmental planning instrument that adopts Clause 4.6 of the Standard Instrument (or a similar clause).

In addition, Council may assume the Director-General's concurrence in respect of an application to vary a development standard relating to the minimum lot size for the erection of a dwelling on land zoned RU1 Primary Production or Zone RU2 Rural Landscape ... only if:

- (a) only one allotment does not comply with the minimum area, and
- (b) that allotment has an area equal to or greater than 90% of the minimum area specified in the development standard.

8.6 Development Standards - Variations

The advice provided by the DoPE (via a number of departmental Circulars), also relates to how variations to development standards are to be processed and how Council is to be accountable for those variations. This is to be achieved through ensuring the applicant has made a specific written request to Council for the variation, through the assessment of the development application, with specific assessment undertaken of the requested variation to the development standard itself, a range of reporting functions, and the keeping and maintaining of required registers.

The monitoring of variations to development standards is important in that it enables both the DoPE and Council to obtain an overview of the manner in which the established development standards are being varied and whether the assumed concurrence provisions are being used as intended. This enables councils and the DoPE to determine whether development standards are appropriate, or whether changes are required. It also establishes a central record of value to the council.

The procedure developed by Council staff addresses the abovementioned matters. The procedure contains the following four processes that need to occur with respect to variations to development standards, as contained within the BLEP 1987 and the BLEP 2012.

1. Keeping and Maintaining a Register of Determined Variations

Council is required to keep and maintain a public register of all determined variations to development standards. In this regard, the register is to be kept on Council's website and will contain details of the relevant application, the development standard to be varied (and the extent of the variation), justification for that variation and the concurring authority (Director General of the DoPE or Council).

In addition, a quarterly report of those DAs determined with assumed concurrence under SEPP 1/Clause 4.6 is to be prepared, with a report submitted to the Regional Office of the DoPE, in accordance with the Department's Guidelines. This reporting function has been carried out by Council staff since 1 April 2008.

2. Variations of Development Standards – Application and Assessment

Council staff have implemented procedures to ensure that all variations are clearly identified as part of the lodgement of the DA, with those applications to be accompanied by a specific written request to vary a development standard

If throughout assessment of the DA, the Assessment Officer identifies a non-compliance with a development standard(s), which has not been identified as part of the DA, the Assessment Officer must contact the applicant and request the lodgement of a formal written request for a variation prior to the finalisation of the assessment

Council's assessment templates for Development Applications have been modified to ensure that the required matters are addressed and documented in the assessment of a variation to a development standard;

8.6 Development Standards - Variations

3. Council Report - Variations Requested of 10% or greater

The advice received from the DoPE has been that for those applications where a variation to a development standard is requested of 10% or greater (and Council can utilise the assumed concurrence provisions), the elected Council should be determining the request to vary the development standard.

In this regard, Council staff have prepared a new report template for these applications. The purpose of the report will be to seek Council's determination of the requested variation to development standard only, unless there are other specific matters relevant to the application that require the Council's consideration, in which case the standard report template will be utilised for the reporting of that development application

The new report template for variations requested over 10% will include the specific assessment matters required under SEPP 1 (for BLEP 1987) or Clause 4.6 (for BLEP 2012), whichever is relevant

4. Council Report - Variations Requested of less than 10%

The advice received from the DoPE has been that a report should be prepared to each Council meeting on the development applications determined by Council staff (i.e. under delegation) where a variation to a development standard is requested of less than 10% (and the Council can utilise the assumed concurrence provisions). In this regard, Council staff have prepared a new report template for these applications, with a similar format to the Development Applications – Works in Progress report, which is presented to each Council meeting.

The report will include details of the application, the development standard and approved variation and the justification for the variation.

The first report in this format is included next in this agenda.

Sustainability Considerations

- **Environment**
Appropriate policy and procedure with respect to the assessment of development applications and the use of local environmental planning instruments supports the local environment.
- **Social**
Not Applicable
- **Economic**
There are no significant economic implications for Council with respect to the new reporting regime for variations to development standards.

Legal / Resource / Financial Implications

There are some resource implications with respect to the new reporting regime and the keeping and maintaining of the required variations to development standards register. However, the implementation of the

8.6 Development Standards - Variations

procedure, and monitoring the use of the Director General's assumed concurrence is important from a legal standpoint, to ensure Council is transparent and accountable in the making of SEPP 1 and Clause 4.6 decisions.

Consultation

Internal liaison has occurred between staff within Council's Development and Environmental Health Group.

Options

This report is for information only, although Council could change the proposed reporting format if it so wished.

RECOMMENDATION

That Council notes the contents of this report with respect to the variations to development standards procedure, and the new reporting regime for those development applications involving a request for a variation to a development standard of 10%, or greater, and for those applications determined under delegation that involve a variation to a development standard of less than 10%.

Attachment(s)

Nil

8.7 Development Applications – Variation to Development Standards

8.7 Development Applications – Variation to Development Standards

The following schedule sets out development applications approved under delegation since the last Council meeting which have involved variations to development standards (via the BLEP 1987 or BLEP 2012):

DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for Variation
NIL						

RECOMMENDATION

That Council notes the contents of this report on the development applications approved under delegation for variations to development standards less than 10% for June 2016.

Attachment(s)

Nil

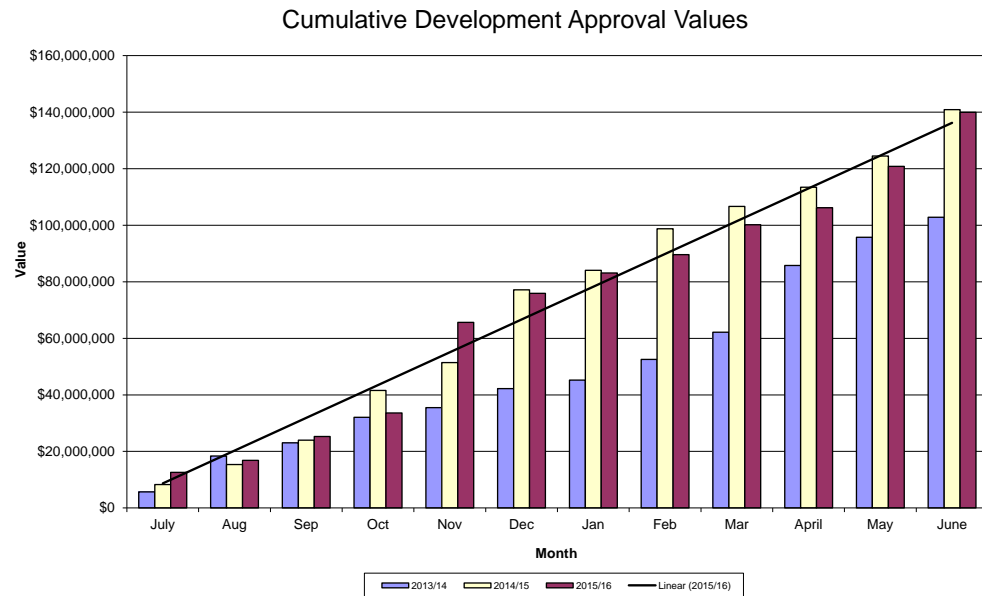
8.8 Development Consent and Infrastructure Approvals - June 2016

8.8 Development Consent and Infrastructure Approvals - June 2016

During the period of 1 June 2016 to 30 June 2016 the Development and Environmental Health Group issued Development Consents comprising of:

Number of Applications	Value of Work
31 Other Building Related	\$ 1,284,197
32 Dwelling/Duplexes/Residential Flat Buildings	\$ 10,088,147
5 General Developments	\$ 7,750,000
Total Value	\$ 19,122,344

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



During the period of 1 June 2016 to 30 June 2016 there were no applications received for Public Infrastructure / Civil Construction Works.

As per the above chart the overall value of approvals for 2015/16 was very similar to 2014/15.

RECOMMENDATION

That Council notes the contents of the report on development consent and public infrastructure approvals for 1 June 2016 to 30 June 2016.

Attachment(s)

Nil

8.9 Development Applications - Works in Progress - July 2016

8.9 Development Applications - Works in Progress - July 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 Received	Applicant	Proposal	Status
2016/36	02/02/2016	Ardill Payne & Partners	Place of Assembly – Wedding Ceremonies – 442 Hinterland Way, Knockrow	Awaiting Additional Information
2016/122	17/03/2016	Newton Denny Chapelle	Proposed Rural Industry - 226 Hinterland Way, Knockrow	Referred to Government Departments
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
2016/140	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	Awaiting Additional Information
2016/147	01/04/2016	Planners North	To establish a tourist and visitor accommodation facility comprising a single one bedroom cabin – 21 Boormans Road, Newrybar	Awaiting Additional Information
2016/148	1/4/2016	Planners North	Mixed Use Development Comprising the Erection and Strata	Awaiting Additional Information

8.9 Development Applications - Works in Progress - July 2016

			Title Subdivision of a Two Storey Commercial Premises and Three x Two Storey Dwellings and Associated Works – 61 Ballina Street, Lennox Head	
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	Determination Pending
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	Awaiting Additional Information
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	Determination Pending
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 Street, Ballina	Awaiting Additional Information

8.9 Development Applications - Works in Progress - July 2016

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)	Being Assessed
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	Awaiting Additional Information
2016/252	12/05/2016	FSG Australia Ltd	Demolition of 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	Being Assessed
2016/274	20/05/2016	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create	Referred to Government Departments

8.9 Development Applications - Works in Progress - July 2016

			1 x 1.45ha and 1 x 47ha allotments and the establishment of a rural worker's dwelling upon the larger Proposed Lot 11 – 61 & 145 Brooklet Road, Newrybar	
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
2016/289	30/05/2016	David Carter	Vegetation Management Works comprising the removal/pruning of six trees – 304 Rifle Range Road, Alstonville	Determination Pending
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	Being Assessed
2016/296	01/06/2016	Gerard Ryan	Vegetation Management Works comprising the removal/pruning of 12 trees - 20 Stonehenge Place, Lennox Head	Determination Pending
2016/298	02/06/2016	Newton Denny Chapelle	Erection of a Two Storey Commercial Development, Demolition of Existing Dwelling House and Associated Works – 86 Ballina Street, Lennox Head	Awaiting Additional Information

8.9 Development Applications - Works in Progress - July 2016

2016/303	6/06/2016	CPRAM Investments Pty Ltd	Proposed alfresco dining area and construction of awning adjacent to tenancy T4 at Ballina Central – 44 Bangalow Road, Ballina	Being Assessed
2016/310	09/06/2016	Ardill Payne & Partners	Construction of two new dwellings to create a multi dwelling housing development comprising three dwellings and strata subdivision – 7 Jarrett Street, Ballina	Being Assessed
2016/322	16/6/2016	CPRAM Investments Pty Ltd	Installation of Twenty Eight Tenancy Wall Signs and One Digital Dynamic Wall Sign at Ballina Central Shopping Centre – 44 Bangalow Road, Ballina	Being Assessed
2016/326	16/06/2016	Ardill Payne & Partners	Strata Title Subdivision (10 Lots) – 8-10 Canal Road, Ballina	Being Assessed
2016/337	21/06/2016	Mark Hussey	Construction and Use of Spray Painting Booth and Spray Painting Mixing Room within Unit Two – 19 Clark Street, Ballina	Being Assessed
2016/340	21/06/2016	Victor Holmes Town Planning	Operation of Home Business from Dwelling and Widening of Driveway and Parking Area – 1 Princess Avenue, Ballina	On Exhibition
2016/345	24/06/2016	Mark Ryan	Removal of vegetation (natives and exotics) – 420 Old Byron Bay Road, Newrybar	Determination Pending

8.9 Development Applications - Works in Progress - July 2016

2016/357	01/07/2016	Newton Denny Chapelle	Proposed construction of tourist and visitor accommodation involving the erection of six single storey holiday cabins, emergency evacuation centre, cabana, in-ground swimming pool and internal driveways and parking – 48 Tobin Close, 84 Fig Tree Hill Drive & 335 Old Byron Bay Road, Lennox Head	On Exhibition
2016/359	01/07/2016	Fautari Properties P/L	Erection of Industrial Building for the Purposes of a Freight Transport Facility and associated new driveways, car parking and infrastructure works – 23 Cessna Crescent, Ballina	Being Assessed
2016/370	7/7/2016	KAW Consulting Pty Ltd	Installation of a Steel Jacket on an existing Telecommunications Monopole for the purposes of Maintenance and Strengthening - 1A Suvla Street, East Ballina	Being Assessed
2016/374	8/7/2016	Techton Building Services	To increase the student numbers of the Wollongbar Community Pre School from 29 students to 33 students – 5 Hall Court, Wollongbar	On Exhibition

8.9 Development Applications - Works in Progress - July 2016

2016/375	8/7/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of and Alterations and Additions to the Existing Dwelling House, Demolition of Existing Garage, Vegetation Removal and Associated Works and Staged Strata Title Subdivision – 43 Pacific Parade, Lennox Head	On Exhibition
2016/377	11/07/2016	Richard Lutze & Associates	Erection of Amenities Building and Caravan Emptying Facility (Dump Ezy) – 22-40 Commercial Road, Alstonville	Awaiting Additional Information
2016/378	12/7/2016	Newton Denny Chapelle	Proposed Ballina Racecourse Redevelopment Comprising Upgrade to Race Tracks and Training Tracks, Bulk Earthworks, Stormwater Management Works, Installation of Irrigation System, Vegetation Removal, Environmental Offsets and Boundary Adjustment - Ascot Road and 36 Racecourse Road, Ballina	On Exhibition

8.9 Development Applications - Works in Progress - July 2016

2016/379	12/7/2016	Newton Denny Chapelle	Erection and Staged Strata Title Subdivision of a Multi Dwelling Housing Development comprising 17 Dwellings, Associated Infrastructure Servicing, Landscaping, Earthworks and Vegetation Removal – 4 Condon Drive, East Ballina	On Exhibition
2016/382	13/7/2016	M L Leadbeatter	Vegetation Management Works involving the removal of 13 x Alexandria Palm Trees and three x Kentia Palm Trees – 66 Martin Street, Ballina	Being Assessed

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Received	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

8.9 Development Applications - Works in Progress - July 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	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 July 2016.

Attachment(s)

Nil

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

9. Strategic and Community Facilities Group Reports

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

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 14/002 Reservoir Hill, 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 22 August 2013 considered a request to rezone Lot 1 DP 517111 from RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012) to facilitate residential development. The Council at that time resolved to prepare a planning proposal [Minute No. 220813/12] which was then considered further at the Council's Ordinary Meeting held on 27 March 2014. In March 2014, Council resolved that a third party review and preparation of an environmental study be initiated [Minute No. 270314/1].

The Council, at its Ordinary Meeting held on 25 February 2016 considered an Environmental Planning Assessment Report prepared by Mike Svikis Planning (MSP) relating to the subject planning proposal and resolved as follows [Minute No. 250216/18]:

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

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

7. That issues relating to the negotiation process for the acquisition of the road corridors associated with the realignment of North Creek Road and the extension of Hutley Drive, as well as any associated land swap proposals, be reported to Council for consideration once the negotiation process has reached a stage where a firm proposal requires consideration.

An altered Gateway determination was obtained on 22 March 2016, together with an extension of time which requires the planning proposal to be completed by 24 April 2017. The planning proposal was subsequently exhibited for community feedback from 13 April 2016 until 13 May 2016.

Attachment One contains the planning proposal document as publically exhibited.

The site the subject of this report is illustrated by the red outline in Diagram 1 below. Diagram 2 is an extract from the proposed Land Zoning Map which was the subject of a Gateway determination on 22 March 2016. Diagram 3 is an extract from the proposed Lot Size Map which was also the subject of a Gateway determination on 22 March 2016.

Diagram 1 – Site Plan



Diagram 2 – Extract from Land Zoning Map subject of the Altered Gateway Determination and as Publicly Exhibited

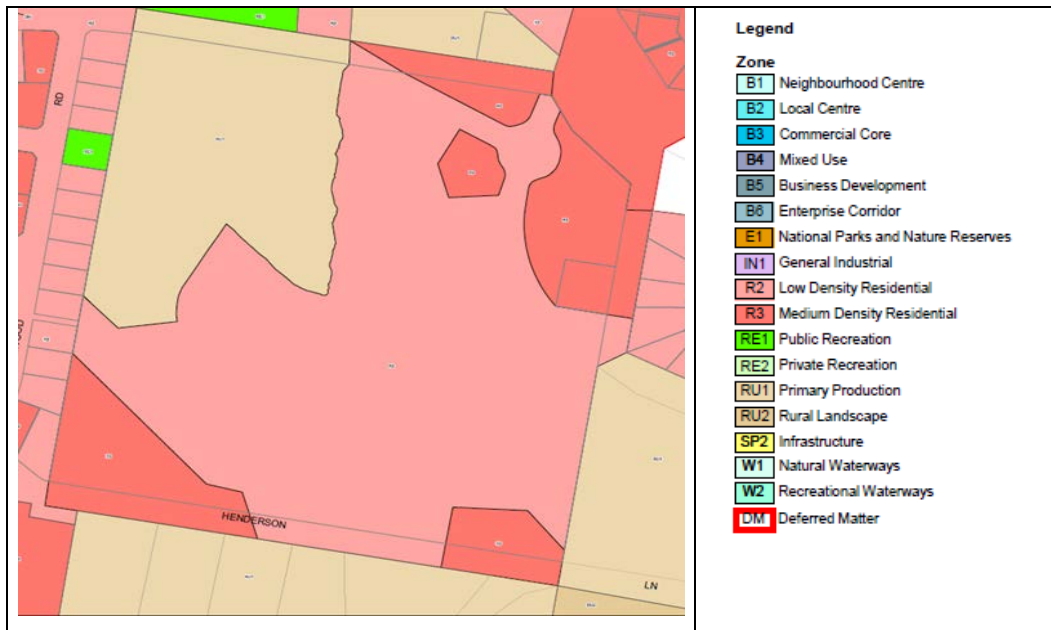
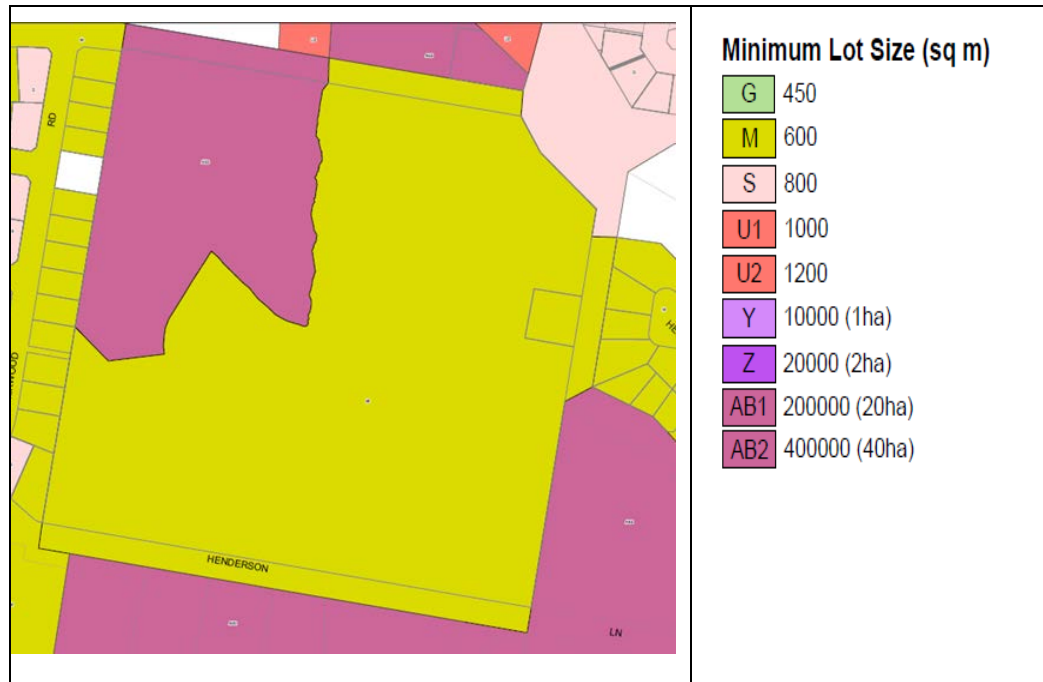


Diagram 3 – Extract from Lot Size Map subject of the Altered Gateway Determination and as Publicly Exhibited



Key Issues

- Consideration of the outcomes of the public exhibition process.
- Consideration of the impacts of the corridor required for the realignment of North Creek Road and extension of Hutley Drive.
- Finalisation of the LEP amendment taking into consideration road corridor impacts.
- Consideration of acceptance of delegation from the Department of Planning and Environment to finalise the planning proposal.

Information

Lot 1 DP 517111 has an approximate area of 14.96 hectares. The proponent's most recent subdivision concept plan (Issue K dated 24/9/2015) was based on achieving a gross residential density of 12 dwellings per hectare. This is below the 15 dwellings per hectares nominated in the Ballina Shire Growth Management Strategy for new release areas.

A final subdivision concept plan is not yet available. It is likely, however, that the achieved gross residential density will be below 12 dwellings per hectare for the reasons detailed below.

The site is impacted by ecological constraints (freshwater wetland and Hairy Joint Grass), areas required for riparian buffers to first and second order streams, areas required for drainage purposes, open space requirements and land required for the extension of Hutley Drive and the realignment of North Creek Road. The Council considered these issues in a report to its Ordinary Meeting held on 25 February 2016. At that time the Council gave detailed consideration to the MSP Environmental Assessment and Planning Report and the site's suitability for residential rezoning.

Following consideration of the MSP report the Council determined that the whole of Lot 1 was not suitable for residential rezoning and consequently resolved to seek an altered Gateway determination. The altered Gateway determination, issued by the Department of Planning and Environment on 22 March 2016, reduced the area of Lot 1 proposed to be zoned for residential purposes (by approximately 20%) from that originally proposed for residential purposes as a response to identified site constraints.

Since the exhibition of the planning proposal detailed road design plans have been prepared for the extension of Hutley Drive and the realignment of North Creek Road. These plans will be used as the basis for the acquisition of the land required for the road corridors. The acquisition of the road corridor land is being undertaken by direct negotiation, with these negotiations being ongoing at present. No land swaps or voluntary planning agreements associated with the LEP amendment are currently part of the road corridor acquisition process.

From a land use planning perspective, the LEP amendment as now proposed has been assessed as being technically suitable to proceed to finalisation independent of the provision for the road corridors for Hutley Drive and North Creek Road.

As a consequence of the road design being finalized, the land identified as being required for the road corridor has changed from that previously used to determine proposed zone boundaries in the exhibited Land Zoning Map. The changes are highlighted in Diagram 4 (item B) below.

Larger scale Land Zoning Maps, as exhibited and as now proposed, are contained within Attachment Three to this report. As can be seen by comparing the two maps, the changes proposed are minor and primarily relate to areas within Lot 1 directly impacted by the proposed road corridors. The road corridor area is proposed to be zoned R2 Low Density Residential.

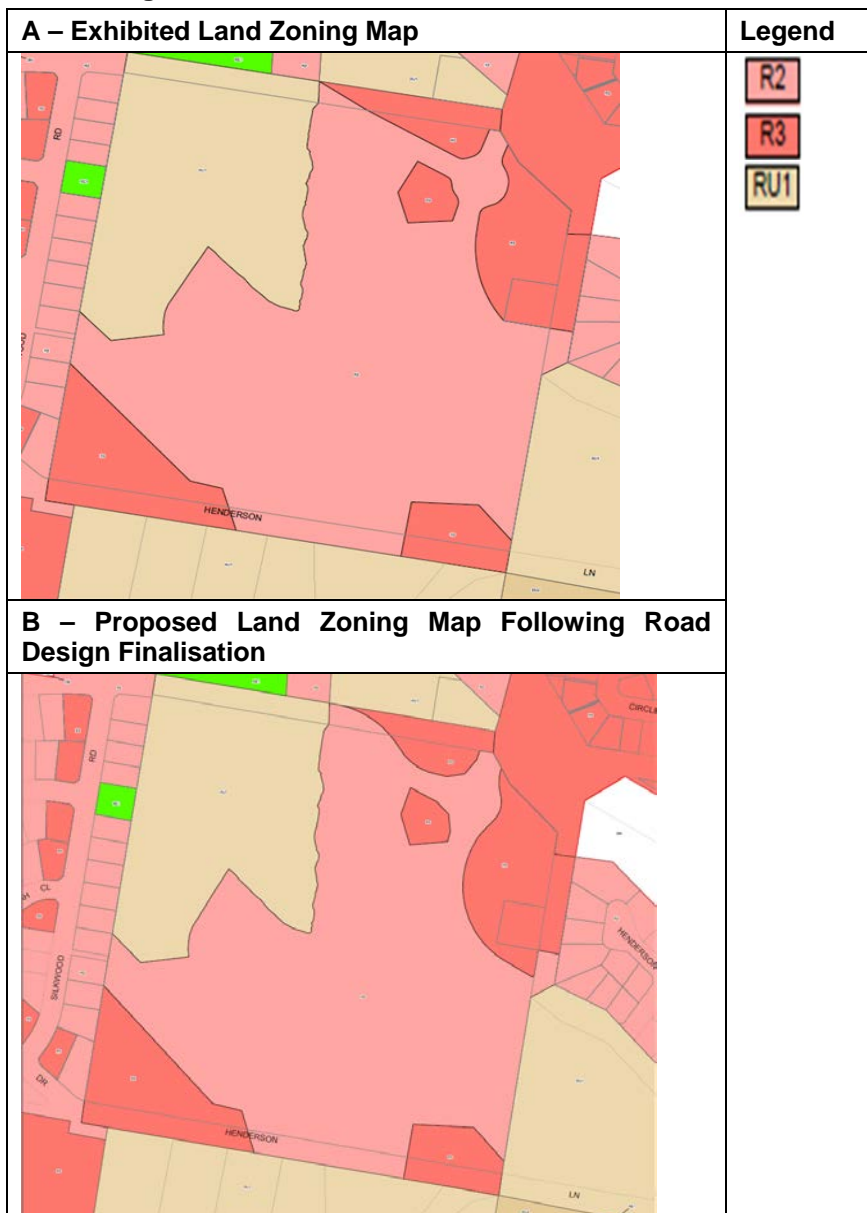
9.1 Planning Proposal (BSCPP 14/002) - Reservoir Hill, Lennox Head

The minor reconfiguration of boundaries between proposed R2 and R3 zones which have resulted following completion of the detailed road designs may be summarised as follows:

- Extension of the R3 Medium Density zone to the south of the Lennox Head Reservoir Site; and
- Minor changes to the alignment of the curvature of the R2 and R3 zone boundaries along the proposed Hutley Drive and North Creek Road alignments through the subject site.

Given the minor nature of the changes proposed it is considered that these can be accommodated within the terms of the Altered Gateway Determination dated 22 March 2016 which provided for the rezoning of part of Lot 1 and Lot 2 DP 517111, and sections of the adjoining road reserve to facilitate future residential development. The changes make no material difference to the Council’s assessment of the planning proposal, and in themselves, have no consequences for the finalization of the matter.

Diagram 4 – Exhibited Land Zoning Map and Proposed Land Zoning Map Post Road Design Finalisation



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

Council has been granted delegation to exercise the functions of the Minister for Planning under Section 59 of the *Environmental Planning and Assessment Act 1979* in respect to this planning proposal. Acceptance of the delegation will enable the processes required to complete the LEP to be undertaken by Council's delegate.

Sustainability Considerations

- **Environment**

The subject land has various attributes which are considered to have environmental value. These matters have been assessed in detail in expert ecological reports. Such reports formed a part of the planning proposal when it was exhibited for public comment.

- **Social**

Social issues of relevance, such as the site's scenic and amenity values, have been considered in the MSP Environmental Planning and Assessment Report which formed a part of the exhibited planning proposal.

- **Economic**

The proposal has a number of positive economic impacts associated with construction and infrastructure, including the realignment of North Creek Road and extension of Hutley Drive.

Legal / Resource / Financial Implications

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

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

Consultation

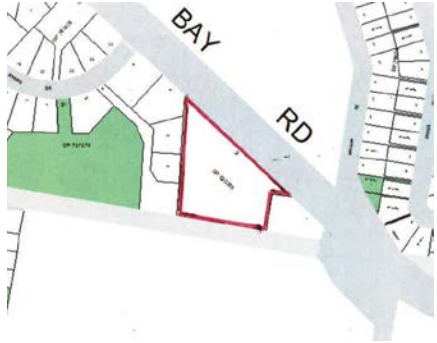
The planning proposal was placed on exhibition for community feedback from 13 April 2016 to 13 May 2016. The exhibition process included letters to in excess of 200 nearby property owners, an advertisement within the Ballina Advocate, documentation being made available for viewing at Council's libraries and the Customer Service Centre as well as on Council's web site.

Six submissions were received in response to the public exhibition process as summarised in the table below. Copies of submissions received are contained within Attachment Two.

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

Organisation / Person	Summary of Comments / Issues Raised	Planning Comments
John Kirra	Disagrees with the planning proposal as there are already three housing developments under construction in Lennox and insufficient infrastructure for so many new residents. Where will the 100s of people be put who want to use the main street of Lennox?	Current residential subdivisions taking place within Lennox Head or proposed for rezoning were originally identified in Council's Urban Land Release Strategy (2000) and subsequently in the Lennox Head Strategic Plan (2002) and Lennox Head Structure Plan (2004). These areas are also identified as potential urban areas in the Far North Coast Regional Strategy (2006) and Council's current Local Growth Management Strategy (2012). These areas are identified in strategic plans having regard for key considerations including infrastructure provision, services and facilities. Council's adopted section 94 plans also make provision for additional infrastructure to be provided as a result of new development. The proposed deviation of North Creek Road and connection with Hutley Drive, as well as the Hutley Drive extension are road projects identified in Council's 2015 s94 Roads Plan.
Andrew Wafer	Supports planning proposal. Advises that the need to modify the current bend in North Creek Road, just south of the water tower, is urgent and he is grateful that Council is doing so.	Noted.
Patrice Allman	Lennox Head needs to maintain some green space for aesthetic and environmental reasons. Further housing in the Meadows Estate will create traffic problems. The community infrastructure cannot cope with further development.	Approximately 3.6 hectares or 24% of Lot 1 has been retained for open space, drainage or riparian zone purposes. The planning proposal also facilitates the extension of Hutley Drive and realignment of North Creek Road which will assist to improve access to the Meadows Estate.
Wendy Wilkins	Request to include a footpath for pedestrian access along the proposed new extension of Hutley Drive. This would enable residents to have safe walking access (pram and bike friendly) to the village. This would also stop people walking (as they currently do) dangerously on the road up Henderson Lane to get access to the path into the village. Request for improvements to be made to the existing children's playground on Silkwood Rd. It desperately needs sun protection as well as better access (paved pathway) for prams entering from the road.	A pedestrian footpath has been incorporated within the design for the Hutley Drive extension. Council's adopted playground hierarchy identifies a preference for the installation of natural shade for local playgrounds. Council is not in a position to install an artificial shade structure in this location at this time.
Allison Goodman	Asks questions in respect to impacts of residential development on storm water facilities within Ocean Breeze Reserve. Considers that current stormwater problem should be addressed within the stormwater management plans for the Reservoir Hill Estate.	The catchment which contains Ocean Breeze Park has been considered by the proponent's consultants when preparing preliminary storm water treatment and detention concept proposals for the Reservoir Hill site. The proposed extension of Hutley Drive will also result in new stormwater infrastructure being constructed which should assist with resolving blockage issues which currently impact on Ocean Breeze Park.

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

Organisation / Person	Summary of Comments / Issues Raised	Planning Comments
<p>Ardill Payne on behalf of Mark Condon, 9 Byron Bay Road, Lennox Head</p>	<p>Evident that planning proposal also proposing to rezone the section of Hutley Drive road reserve that adjoins Mr Condon's land and apply a part R2 and part R3 zone and 600m² lot size.</p> <p>Advises that Mr Condon is not objecting to the proposed residential zone. Wants to ensure that his property still maintains formal dual road frontage and specifically a frontage to the Hutley Drive road reserve which is seen as critical. Currently exploring opportunities for rezoning of his land.</p> <p>Significant concerns are raised in respect of the proposed alignment of the eastern extension of Hutley Drive which veers away from the Condon land and the notation on the plan of "Proposed Closed Road (Subject to Voluntary Planning Agreement)". Will likely strenuously object to the closure and purchase of the road reserve, should it be deleterious to or compromise future development opportunities for the Condon land.</p>	<p>The land owned by Mr W M Condon is shown by the red outline on the plan below:</p>  <p>The current design plans for the Hutley Drive extension maintain a link between the Hutley Drive road reserve and the subject property. The notation referred to in the submission from Ardill Payne is contained upon an early version of a subdivision concept plan submitted by the proponent.</p> <p>There is no Voluntary Planning Agreement proposed or any current proposal for the sale of that section of the Hutley Drive Road reserve not required to facilitate the extension and link with the proposed realigned North Creek Road.</p>

Following the close of the public exhibition process a further submission was received from Mr A Wafer, 35 North Creek Road, Lennox Head on 13 July 2016. This submission forms Attachment Four to this report. Whilst the submission has been received well outside the exhibition period it has been included in this report as it raises issues that warrant a response and consideration by the Council.

In summary, Mr Wafer raises concerns that the relocation of North Creek Road, as shown on the *Current Indicative Subdivision Plan* which formed part of the exhibited planning proposal (showing relocation to the west of the water tower), still creates an unsafe section of road for current residents. Concern is raised that this plan was not forwarded to residents for specific comment as part of the planning proposal's exhibition process. The submission also raises concern that the noise impacts associated with the proposed relocation of North Creek Road have not been further considered.

In response to the concerns raised by Mr Wafer it is advised the then *Current Indicative Subdivision Plan* formed part of the exhibited planning proposal documentation and was available for viewing within printed documentation and within documentation available for viewing on Council's web site. The letter to residents, dated 11 April 2016, contained a site plan as well as current and proposed zoning plans. Text within the letter indicated that the planning proposal "makes provision for the realignment of North Creek Road". It is also noted that Mr Wafer completed an on line survey response on 26/4/2016 which has been referenced elsewhere in this report.

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

In respect to the traffic safety concerns raised by Mr Wafer it is advised that Council has had prepared a Road Safety Audit Report on the Hutley Drive Extension and North Creek Road Deviation (RoadNet report dated 10 May 2016). The audit identified various design issues which have now been addressed within the road design plans so as to improve the road safety aspects of the design. A redesign of the alignment of North Creek Road north of Henderson Drive (Section to which Mr Wafer's property fronts) has been one outcome of the Road Safety Audit.

Issues associated with noise impacts, as they relate to the realignment of North Creek Road have not been further addressed in the planning proposal. Council will recall that this matter was considered in the report to Council's Ordinary Meeting on 25 February 2016. Council at that time was advised as follows:

It was considered that further work in relation to road noise issues is not required as part of the rezoning process. Consideration of road noise issues in this case is more appropriate for the land subdivision and development process.

Council will shortly be requested to give consideration to proposed new road noise standards which have been developed following concerns raised in respect to the noise wall approach in Cumbalum.

There are various engineering approaches available to mitigate road noise which is considered as part of the DA and not the rezoning process in this case.

As indicated above, road noise issues will be further considered as part of the land subdivision and development process (Part 4 Development Application or Part 5 Environmental Assessment process relating to proposed road works).

The concerns raised by Mr Wafer have been noted. As far as they relate to road safety, these issues have been addressed in the Road Safety Audit Report. Noise impacts will be assessed in detail as part of the road approval process and issues relating to planning proposal exhibition process have been examined and found to have adequately highlighted the road realignment proposal. No changes to the planning proposal are recommended as a result of matters raised by Mr Wafer.

Options

Option 1: Finalise the Planning Proposal

This is the recommended option. The planning proposal as exhibited has been the subject of extensive investigation which has included an independent review of technical reports by planning, engineering and ecological consultants. The original submitted planning proposal has also been significantly changed in response to land constraint issues which have been identified through the process of examining technical information.

It is considered that the planning proposal which applies a mixed R2 and R3 zoning regime to the site, together with a 600m² minimum lot size, and excludes that part of the site with ecological value from rezoning, has significant merit. It is also considered that the planning proposal has broad community support as evident by the number and nature of submissions received.

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

In considering the above, it should be noted that the negotiations with the landholder in relation to the land required to facilitate the Hutley Drive and North Creek Road extension and realignment works will continue to occur separate to the rezoning process.

Option 2: Discontinue the Planning Proposal

The option to discontinue the proposal is open to the Council.

This option is not recommended. The planning proposal has generated significant investigation into site constraints. Constraints which have been investigated have included stormwater impacts, land contamination, heritage, and site ecology. On assessment, and given the adjustments to the zoning and planning provisions proposed in response to site characteristics, there are no outstanding matters identified as a basis for discontinuation of the proposal.

Option 3: Defer the Planning Proposal

The Council may wish to defer the finalisation of the planning proposal pending further investigation or discussion, or to await further information in relation to the negotiations regarding the road corridors required to facilitate the realignment of North Creek Road and extension of Hutley Drive.

Given that only minor zone boundary adjustments are proposed as a consequence of the road design being finalised following public exhibition, the technical assessment completed in relation to the planning proposal and the overall 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 1 DP 517111, and 2 DP 517111, and sections of the adjoining road reserves, at North Creek Road, Lennox Head, to facilitate future residential development, as detailed in Planning Proposal BSCPP 14/002, including the zone boundary adjustments as shown in Diagram 4 (item B) contained within this report.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/002 under delegated authority.

Attachment(s)

1. Planning Proposal (Exhibition Version)
2. Submissions Received
3. Exhibited and Amended Land Zoning Map
4. Submission Received from Mr Wafer (Post Exhibition)

9.2 Development Control Plan Amendment - Skennars Head Expansion

9.2 Development Control Plan Amendment - Skennars Head Expansion

Delivery Program Strategic Planning

Objective To invite the Council to consider draft development control plan provisions relating to the Skennars Head Expansion Area for the purpose public exhibition.

Background

In October 2013 the Northern Joint Regional Planning Panel (JRPP) endorsed a planning proposal to rezone land, formerly known as part of the Stewart Farm at Skennars Head, for residential and neighbourhood commercial purposes. For the purpose of this report and associated material, this area is referred to as the *Skennars Head Expansion Area* (Figure 1).

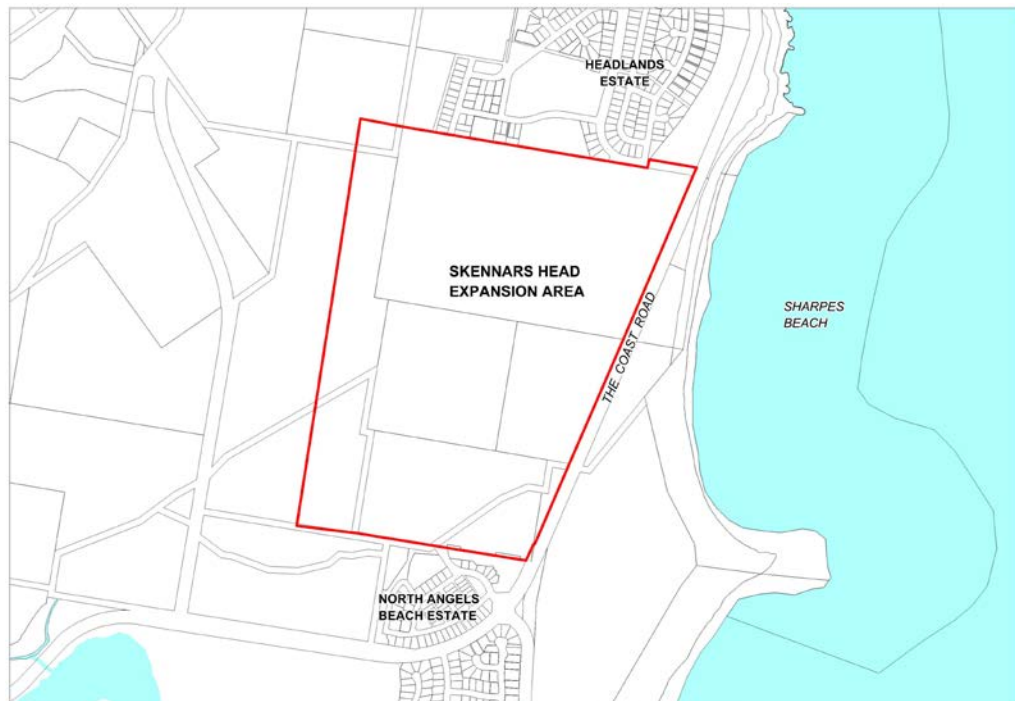


Figure 1. Skennars Head Expansion Area

In endorsing the planning proposal, the JRPP recommended that a range of matters not addressed during the rezoning, be addressed in a development control plan for the site. Further, clause 6.3 of the Ballina Local Environmental Plan 2012 requires that the development control plan be prepared for land in an urban release area that addresses a range of matters, as set out below:

- (3) *The development control plan must provide for all of the following:*
- (a) *a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,*
 - (b) *an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
 - (c) *an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent*

9.2 Development Control Plan Amendment - Skennars Head Expansion

- locations, and detailed landscaping requirements for both the public and private domain,*
- (d) a network of active and passive recreation areas,*
 - (e) stormwater and water quality management controls,*
 - (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
 - (g) detailed urban design controls for significant development sites,*
 - (h) measures to encourage higher density living around transport, open space and service nodes,*
 - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,*
 - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

Following the finalisation of the planning proposal, Council liaised with the development proponents (at the time Wave Break Properties) to prepare a draft development control plan for Council's consideration. The preparation of such a draft DCP (prepared as a sub-chapter to Chapter 3: Urban Subdivision) was advanced by the end of 2014, with Council awaiting provision of supporting mapping by the proponent, in order to finalise the draft DCP for reporting to the elected Council.

It is our understanding that Wave Break Property's interest in part of the Stewart Farm property had been secured by way of an option to purchase the land. Evidently, the option was not exercised, and it subsequently expired. Following this, Council was advised in September 2015 that developers Intrapac Property had secured an interest over the land. As a consequence, Council is now working with a different developer from that involved in the rezoning of the land and initial draft DCP. It is noted, however, that both proponents have been represented by the same planning consultants (Elton Consulting).

Since September 2015, Council staff has been liaising with Intrapac and Elton Consulting to advance the preparation of development provisions. The guidelines for future development of the proposed estate have been incorporated into a draft Development Control Plan sub-chapter (as s.5.4) for the Council's consideration. The draft sub-chapter is provided as Attachment One to this report. The draft provisions have been prepared with regard to the history and characteristics of the site, information provided by the proponent and internal staff feedback.

The purpose of this report is to outline the purpose and content of proposed development provisions for the Skennars Head Expansion Area and invite the Council's endorsement of these provisions for the purpose of public exhibition.

Key Issues

- Site specific development control provisions.
- Urban growth management.
- Public interest protections for the natural and built environment.
- Infrastructure provision and management.

Information

9.2 Development Control Plan Amendment - Skennars Head Expansion

Chapter 3 of the Ballina Development Control Plan 2012 provides development control provisions/guidelines for urban subdivision. The chapter contains a series of general provisions which relate to all urban subdivision, followed by site-specific development control provisions for specific new release areas, identified on the Special Area Controls Maps of the DCP. Other provisions (and chapters) of the DCP may also apply to proposals involving urban subdivision, where they are relevant to the particular proposal.

As outlined above, clause 6.3 of the *Ballina Local Environmental Plan 2012* requires that certain matters be addressed in a development control plan for land within an urban release area, prior to consent being granted for the development of the land. Further, in endorsing the (then) proponent's planning proposal to rezone the subject land, the Joint Regional Planning Panel (JRPP) relied upon Council's preparation of development control provisions to address a number of matters that were not adequately addressed in the rezoning process. These matters include the following:

- Housing density
- Management of potential land use conflicts and buffering
- Riparian and wetland management
- Retention of environmentally sensitive coastal land along the eastern side of the site
- Stormwater management including drainage from the site
- Consolidation of access with the Coast Road and Sharpes Beach car park
- Identification of necessary infrastructure and planning agreements.

The above matters have been addressed to the extent possible within the scope of the development control plan, through the preparation of a draft sub-chapter (as s.5.4), for Council's consideration. This draft sub-chapter is provided as Attachment One to this report.

Additionally, staff have reviewed the earlier draft development provisions, having regard for other general DCP amendments that have occurred in the intervening period (such as those relating to stormwater management).

As a consequence of this staff review, the draft development provisions have been further refined and simplified to remove unnecessary duplication with other sections of the DCP (which also apply to the assessment of development applications for the land).

The key points of difference are outlined in a letter from Elton Consulting dated 8 July that is contained in Attachment Two. The proponent has indicated that they support progress of the DCP to exhibition but there are differences that remain between Council staff and the proponent, with respect to the preferred approach to some of the draft development provisions.

These key points of difference are outlined in the following table, along with staff comment.

9.2 Development Control Plan Amendment - Skennars Head Expansion

Proponent Comment / Request	Staff Comment
<p>Request that the DCP provisions requiring a perimeter road be removed to allow houses direct frontage to the coastal parkland to east. Supporting information for this request is provided in Attachment Three to this report.</p>	<p>The provision of a perimeter road adjacent to the coastal parkland is preferred on the basis of the following:</p> <ul style="list-style-type: none"> • provides clear delineation between the public open space and private land • mitigates against the potential for private encroachment into the public reserve to occur over time • encourages a higher level of public access to the reserve (the Coastal Parkland) • provides improved access to the public reserve by Council staff for land management and open space maintenance purposes • reduces the potential for illegal dumping of weeds into the public reserve • provides additional separation of dwellings from The Coast Road.
<p>Request that the DCP provisions requiring that a perimeter road be provided be removed to allow houses to back directly onto rural land to the south.</p>	<p>The provision of a perimeter road forming the southern boundary of the site separating dwellings from rural areas (to the south) as shown on the plan in Attachment One is preferred on the basis that this arrangement mitigates potential for land use conflicts to occur between residential dwellings and adjacent rural land uses. This provision would not prevent rural dwellings from being located on remnant rural lots (subject to those lots having dwelling entitlements).</p>
<p>Request that a requirement that subdivision applications are to recognise the environmental and cultural values of land to the south should only apply to stage 2 of the development.</p>	<p>The provisions, as drafted in Attachment One, are considered reasonable on the basis that:</p> <ul style="list-style-type: none"> • Council is seeking to achieve integrated development of the site rather than parcel based outcomes • whilst all subdivision applications will be required to recognise and respond to the environmental and cultural values of the site, the extent to which such considerations will impact on the development of each stage will vary depending on the outcomes of the assessment.
<p>Request that the DCP not stipulate the maintenance period required for land to be dedicated to Council. The draft DCP stipulates a minimum maintenance period of 5 years for landscaping/vegetation and infrastructure that are to be handed over to Council.</p>	<p>This requirement has been based on climatic and practical considerations by Council's Manager of Open Spaces. It is considered reasonable and appropriate to indicate Council's expectations for receiving the dedication of land in the DCP.</p> <p>Notwithstanding, in finalising the draft development control provisions for this report, staff have converted the minimum 5 year maintenance requirement from a clause into an explanatory note. The maintenance period can be stipulated in a condition of development consent where considered appropriate.</p>

9.2 Development Control Plan Amendment - Skennars Head Expansion

As outlined in the table above, the most significant point of difference that remains between the proponents and staff, in terms of development outcomes, relates to the proponent's preference for houses on the eastern boundary of the development to front directly onto the coastal parkland (with a pathway provided to facilitate public access to the reserve), and for residential properties to be permitted to back directly onto adjacent rural land.

Information to support the proponent's request is provided as Attachment Three to this report. As indicated above, the staff preference is for a perimeter road to separate residential properties from the coastal parkland and rural land to the south as a more effective means of distinguishing the development and public areas and to encourage/facilitate community use of the proposed parkland. It is preferable to present this option for the purpose of the public exhibition to ascertain whether this layout has community support.

With respect to the coastal parkland example, in terms of local analogues, Council's preference is for an outcome similar to properties fronting Shelly Beach Road in East Ballina, whereas the proponent's preference is for an outcome similar to properties on Allens Parade in Lennox Head, albeit that both of these examples include direct coastal access whereas at Skennars Head the coastal frontage is further divided by The Coast Road.

As outlined in the table above, the proponent's approach is not supported by staff, for the reasons cited. Notwithstanding, should Council support the proponent's approach with respect to this aspect of the development, the draft development provisions could be amended as follows, prior to public exhibition:

- Amend the DCP text to delete point iii under Element A
- Amend the Structure Plan map to realign the perimeter road, to show that houses may front the coastal parkland and rural land to the south
- Amend the building line provisions of the DCP to set a 6m rear building line, to ensure dwellings fronting the coastal parkland are sufficiently set back from the rear (coastal parkland frontage) property boundary.

Additional to the above, the proponent's letter requests amendment to the alignment of the access road into the estate (after connecting with The Coast Road). Following further consultation with Council's Engineers, the proponent's proposed access arrangement (and realignment of Headlands Drive) has been incorporated into the draft DCP Structure Plan Map included in Attachment One.

Relocation of Neighbourhood Centre

Intrapac has advised staff that it intends to lodge a planning proposal, in the near future, seeking to relocate the B1 Neighbourhood Centre zone. This is to be proposed to achieve improved vehicle and pedestrian access having regard for the entrance to the estate, and access to the proposed neighbourhood park and coastal parkland. Whilst the relocation (of zoning) does not form part of the material presented to Council at this time, the DCP material and associated mapping has been prepared with this in mind to be flexible enough to reflect this outcome should it eventuate.

9.2 Development Control Plan Amendment - Skennars Head Expansion

Infrastructure Delivery Issues

Prior to the Minister for Planning appointing the JRPP as alternative planning authority for the planning proposal to rezone the subject land, Council had entered early negotiations with the (then) proponent for a Voluntary Planning Agreement (VPA) which would have secured infrastructure upgrades to the Coast Road intersection at the developer's cost (amongst the address of various issues).

As noted above, in considering the rezoning of the land the Joint Regional Planning Panel (JRPP) did not pursue a VPA and did not otherwise adequately resolve this matter to Council's satisfaction at the time.

In the absence of a planning agreement, the adoption of development control plan provisions provides Council with its final opportunity to indicate its preferred outcome with respect to infrastructure delivery matters, prior to the lodgement and assessment of subdivision applications. Having regard for this, the draft development control provisions (provided as Attachment One) indicate the recommended approaches in this regard.

Public exhibition of draft development control provisions

Subject to the Council's endorsement, the draft development control provisions, provided as Attachment One to this report, will be publicly exhibited in accordance with the *Environmental Planning and Assessment Act 1979* and the *Regulations*.

Following the public exhibition, the matter will be reported back to the elected Council for further consideration, including the consideration of community submissions.

Sustainability Considerations

- **Environment**
The draft development control provisions that are the subject of this report seek to deliver environmental protection and improvement works to occur in relation to the future development of the land.
- **Social**
The draft development control provisions that are the subject of this report seek to secure the delivery of development outcomes and infrastructure to support the future needs of the community.
- **Economic**
The development of the subject land will support the economic interests of the community through the generation of employment and economic activity.

Legal / Resource / Financial Implications

The adoption of development control provisions relating to the Skennars Head Expansion Area removes the legal impediment (of clause 6.3 of the Ballina LEP 2012) to the lodgement of subdivision applications for the future development of the subject land.

9.2 Development Control Plan Amendment - Skennars Head Expansion

The introduction of development control provisions which reflect Council's preferred outcomes for the new estate protects, to a modest extent, the public interest with respect to the assessment of future subdivision applications.

The public exhibition of the draft development control provisions can be accommodated within existing resources.

Consultation

The draft development control provisions will, subject to Council's endorsement, be placed on public exhibition in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the associated Regulation.

It is intended that as part of the exhibition process, Council will notify nearby landholders of the draft DCP.

Following the conclusion of the exhibition period the matter will be reported back to the elected Council for further consideration, including consideration of community submissions received during the exhibition period.

Options

The options available to Council include the following:

1. That Council resolve to publicly exhibit Council's draft development control provisions for the Skennars Head Expansion Area provided in Attachment One to this report.

This option is recommended on the basis that the draft development control provisions have been prepared having regard for the Council's previous deliberations on this matter, and having regard for the views of the development proponents as considered appropriate and consistent with the public interest. Further, the development control provisions are not overly prescriptive, but rather seek to identify key considerations and outcomes that are considered to be in the public interest.

2. That Council vary the draft DCP to address the key issues raised by the proponent prior to the document's public exhibition.

This option is not recommended on the basis of the reasons set out in the body of this report. Nevertheless, should Council support the proponent's approach with respect to this aspect of the development, the draft development provisions can be revised as follows, prior to public exhibition:

- Amend the DCP text to delete point iii under Element A
- Amend the Structure Plan map to realign the perimeter road, to show that houses may directly front the proposed coastal parkland and the rural land to the south
- Amend the building line provisions of the DCP to set a 6m rear building line, to ensure dwellings fronting the coastal parkland are sufficiently set back from the rear (coastal parkland frontage) property boundary.

9.2 Development Control Plan Amendment - Skennars Head Expansion

3. That Council defer the consideration of this matter to a Councillor briefing.

This option is available to Council, though it is not recommended. However, should the Council wish to consider the detail of the proposed development control provisions, this could be accommodated prior to reporting the matter back to the elected Council, in due course. A briefing post-exhibition also enables consideration of any community submissions received.

4. That Council discontinues the preparation of a development control plan for the Skennars Head Expansion Area.

This option is not recommended on the basis that the introduction of development control provisions seeks to protect the public interest associated with infrastructure delivery and maintenance, environmental protections and urban design, in association with the future subdivision of the land.

RECOMMENDATIONS

1. That Council proceed to publicly exhibit the draft development control provisions for the Skennars Head Expansion Area provided in Attachment One to this report in accordance with the terms of the *Environmental Planning and Assessment Act 1979* and associated Regulation.
2. That following the public exhibition of the draft development control plan provisions, the matter be reported back to the elected Council for further consideration.

Attachment(s)

1. Draft Development Control Provisions for the Skennars Head Expansion Area.
2. Intrapac Submission to Draft Development Provisions for the Skennars Head Expansion Area
3. Proponent's Skennars Head DCP Design Justification Report - April 2016

9.3 Plan of Management for Community Land - Review

9.3 Plan of Management for Community Land - Review

Delivery Program Community Facilities and Services

Objective To inform the Council of the outcomes of a periodic review of Council's Plan of Management for Community Land.

Background

In accordance with Section 35 of the *Local Government Act* 1993 (LG Act) Council is required to have a plan of management for all land in its ownership that is classified as community land.

Currently, community land that is not subject to a site specific plan of management is managed in accordance with the Plan of Management for Community Land (PoM) adopted by the Council in 2015.

This plan (previously known as the generic plan of management) had a major revision during 2014.

As part of an ongoing monitoring and update program, a general review of the plan has now been undertaken. The current review has identified a need to update the plan to reflect land acquisitions and disposals and to address the categorisation of various community land parcels.

The purpose of this report is to:

- advise the Council of the outcomes of the periodic review
- seek direction with respect to the implementation of the updated plan of management for community land and
- seek direction with respect to proceeding to a public hearing regarding the proposed amendments to the PoM required as a result of the proposed recategorisations of community land.

Key Issues

- Compliance with the LG Act
- Documentation of provisions for the management of Council-owned public land.

Information

A plan of management is an essential tool for the prudent and efficient management of community land and is a requirement under section 36 of the LG Act. A plan of management enables Council to clarify how it intends to promote and facilitate use of the land based on its identified features and attributes, in accordance with the provisions of the Act.

The existing PoM has been reviewed in accordance with a planned period review cycle. This review identified that the PoM is generally operating effectively and is meeting legal and operational needs. The review has had

9.3 Plan of Management for Community Land - Review

particular regard for changes in Council's land holdings and the categorisation of land parcels.

With respect to categorisation, the LG Act requires that parcels classified as community land must have a category assigned to them from a pre-defined list set out under the Act.

The categories available are natural area (with sub categories being bushland, wetland, escarpment, watercourse and foreshore), sports ground, park, area of cultural significance and general community use.

These categories set out associated objectives for the management of the land to which they apply.

Having regard for the above, an audit of the community land Council has acquired over the past few years has been undertaken in association with a general review of all community land holdings.

The consideration of new land holdings is particularly important because when Council acquires community land, the land is held as "uncategorised community land" until categories are assigned. Allocating a category to such land requires a public hearing and associated public exhibition processes to be undertaken in conjunction with amendment to the PoM.

The PoM has been revised to assign categories to land acquired by Council since the adoption of the plan and to other land that has not previously had a category assigned to it.

The amendment to the PoM also incorporates special provisions for certain new land parcels and updates the provisions more generally. The updates specifically include removal of provisions relating to land that is being reclassified as operational land under LEP Amendment No.25 that is currently in progress (the reclassification is expected to be completed before the PoM is finalised).

Other minor adjustments to the PoM have also been undertaken.

In relation to the categorisation of land, categories have typically been applied on the basis of allocating land as general community use unless there is a specific characteristic present or rationale that supports an alternate category being applied.

The categorisations proposed to the respective land holdings are outlined in Table One.

**Table One: Proposed Categorisations - Unassigned Land
2016 Plan of Management for Community Land Review**

Land Parcel	Address	Proposed Category
Ferry Landing Reserve	109 Burns Point Ferry Road West Ballina	General Community Use
Ferngrove Reserve	Elkhorn Parade Ballina	General Community Use
Burke Walk Reserve	Minley Crescent East Ballina	General Community Use
Condon Drive Reserve	Condon Drive East Ballina	General Community Use
Scotia Avenue Reserve	19 Scotia Avenue Cumbalum	General Community Use

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Land Parcel	Address	Proposed Category
Campbell's Common (GNB 5534)	19 Madden Place Cumbalum	General Community Use
Campbell's Common (GNB 5534)	Madden Place Cumbalum	General Community Use
Ballina Heights Wetland Reserve	Cummings Crescent Cumbalum	General Community Use
Campbell's Common (GNB 5534)	14 Unara Parkway Cumbalum	General Community Use
Campbells Common	18 Unara Parkway Cumbalum	General Community Use
Chilcott Circuit Reserve	Power Drive Cumbalum	General Community
Power Drive (Ballina Heights) Sporting Fields	Power Drive Cumbalum	Sportsground
Gradwell Drive Reserve	6 Gradwell Drive Lennox Head	General Community Use
Fieldcrest Place Reserve	20 Fieldcrest Place Lennox Head	Park
Ridgeview Park	8 Elevation Drive Lennox Head	General Community Use
Aspects Estate Buffer	6 Libby Lane Lennox Head	Natural Area - Bushland
Coastal Grove Reserve	2 Brolga Place Lennox Head	General Community Use
Wardell & District War Memorial Hall	49 Richmond Street Wardell	General Community Use
Skennars Head Public Reserve, Skennars Head	Skennars Head Road, Skennars Head	General Community Use
Spring Creek Reserve, Wollongbar	Spring Creek Place, Wollongbar	General Community Use
Highfield Terrace Reserve, Cumbalum	1 Unara Parkway, Cumbalum	General Community Use
Ferngrove Reserve, Ballina	Elkhorn Parade, Ballina	General Community Use
Wollongbar Urban Expansion Area – BolwarraPark	Bolwarra Circuit, Wollongbar	Park
Chilcott Circuit Reserve	Chilcott Reserve, Cumbalum	General Community Use
Chilcott Circuit Reserve	Chilcott Circuit, Cumbalum	General Community Use

Sustainability Considerations

- **Environment**

The draft plan seeks to address the Council's statutory obligations in managing classified community land in accordance with the LG Act. Council owns a number of parcels of community land that contain areas with high ecological values. These parcels are typically categorised in the draft plan as bushland, wetland, escarpment, watercourse or foreshore.

- **Social**

The draft plan applies to parcels of community land containing parks, sporting facilities and other socially valued public reserves. The provisions of the draft plan will satisfy the statutory requirements of the LG Act and address the management and regulation of the use of those sites categorised as park, sportsground or for general community use.

- **Economic**

The use of community land for commercial activities and for economic benefit is regulated and limited under the LG Act provisions. Any exclusive uses of community land, such as a public hall or sporting facility, must be specified in a plan of management. As such, the draft plan contains provisions to address these obligations and allows Council to manage facilities on community land through leasing and licensing arrangements.

Legal / Resource / Financial Implications

Council is required under the provisions of the LG Act to have a plan of management in place for all properties it owns which are classified as community land. The endorsement of the amendments to the PoM will ensure Council meets its legal obligations and provide an appropriate and compliant management approach in relation to its administration of community land.

Revising and updating the management provisions allows Council to effectively manage and coordinate the use of community land for a variety of public interest and community benefit purposes, including the leasing and licensing of the land. This process also represents good governance on the part of the Council.

The costs and other resources required to convene and conduct the mandatory independent public hearing can be accommodated within existing budgets and work programs.

Consultation

Should the Council resolve to endorse the amended PoM, it will be placed on public exhibition in accordance with legislative requirements. Section 38 of the LG Act requires that a council must give public notice of a plan of management and that it must be placed on public exhibition for not less than 28 days. In conjunction with the public exhibition, a council must receive submissions for a period of not less than 42 days.

Given the above, it is proposed that the draft PoM be exhibited for a period of six weeks, with a public hearing to be held at the conclusion of the six week exhibition period to consider the proposed categorisations of land.

Options

1. Proceed to public exhibition of the amended PoM and a public hearing.

As part of the adoption of the Plan of Management for Community Land in 2015, Council resolved to conduct a 12 month review of the PoM [Minute No. 260215/13]. The amendments to the PoM contained in Attachment 1 represent the outcomes of that review.

Given the requirement for a 12 month review and for the reasons outlined in this report relating to compliance with the LG Act and appropriate management of community land, proceeding to public exhibition is the recommended approach.

9.3 Plan of Management for Community Land - Review

2. Do not proceed to public exhibition and public hearing.

The Council may resolve not to adopt the plan and retain the existing management provisions. This is not recommended as the most accurate information will not be available in relation to the management of the land the subject of the PoM.

3. Defer consideration of the PoM review

Council could defer consideration of this matter or request a briefing. This option is not recommended as the amendments to the PoM are not substantial with the exception of the proposed recategorisation of some parcels of land. These matters will be the subject of a public hearing and further reporting.

RECOMMENDATIONS

1. That Council endorses the revised Plan of Management for Community Land for public exhibition for a minimum period of six weeks in accordance with the requirements of the *Local Government Act 1993*.
2. That following the conclusion of the public exhibition, a public hearing be held in relation to the proposed categorisation of land.
3. That following the conclusion of the public exhibition and public hearing, Council receive a further report detailing the outcomes of the processes.

Attachment(s)

1. Plan of Management for Community Land 2015 Version 2.1

9.4 Policy (New) - Private Structures - Council Owned Waterways

9.4 Policy (New) - Private Structures - Council Owned Waterways

Delivery Program Strategic Planning

Objective To invite the Council to consider the adoption of a policy for the management of private waterway structures located within Council owned (public) waterways.

Background

At its Ordinary Meeting held on 22 August 2013, the Council considered a report outlining a number of issues relating to the management of private structures located within Council owned waterways. In considering the matter the Council resolved that a draft policy be prepared for the management of private structures within Council owned waterways and that this matter be reported to the Council for its consideration [Minute No. 220813/13].

Reporting in relation to the management of the private structures and associated policy was initiated after Council obtained legal advice surrounding Council's liability exposure arising from the placement and operation of numerous private structures within the waterways, where no lawful tenure had been provided to the owners of that infrastructure. Even though Council had, in the past, granted various forms of construction approval to most (but not all) of the structures, the issue of tenure had never been addressed.

By way of clarification, this report relates only to waterways which are owned by Council. These areas have been previously dedicated to Council as outcomes of development which has occurred adjacent to them, or which those waterways have formed part of. Prospect and Chickiba Lakes are both also Council owned waterways, but these water bodies are contained within larger public reserves and do not have freehold allotments immediately abutting them, nor private structures extending into them.

Similarly, the report does not address private structures which extend into the Richmond River or North Creek. Whilst there are many of these, the river and creek comprise Crown land and structures placed within them are administered by the State Government, rather than Council.

The placement of private waterway structures over or within Council owned land was further considered at the Council's Ordinary Meeting held on 24 April 2014 where it was resolved to adopt an interim position [Minute No. 240414/22]. This interim position authorises the General Manager to enable the processing of development applications for waterway structures on Council land subject to conditions requiring the applicant to obtain legal tenure and appropriate public liability insurance coverage.

Further, the identified approach for authorisation of private structures on Council land required the reclassification of the subject Council owned waterways from 'Community Land' to 'Operational Land' for the purposes of the *Local Government Act* 1993. Council resolved on 27 March 2014 to proceed to reclassify the land containing the Council owned waterways within Ballina Quays Estate and Banyanda Lake to Operational Land [Minute No.

9.4 Policy (New) - Private Structures - Council Owned Waterways

270314/3]. The reclassification, involving comprehensive community engagement, was completed in July 2014.

There are various management issues relating to the use of Council owned waterways and the placement of private boating and recreational structures (such as boat ramps, jetties and pontoons) over Council owned land. One of the ways to address these issues is for Council to adopt a policy position to guide the installation and management of private structures within waterways which it owns. The key issues, and a potential policy response, were discussed with Councillors at a briefing session held on 30 November 2015.

As detailed in the report considered at the Council's Ordinary Meeting held on 22 August 2013, Council owns a number of waterways that are navigable by recreational boating vessels and that are adjoined by private allotments that benefit from waterfront access. The subject waterways are identified in the map contained in Attachment One and comprise the following:

- Ballina Quays Estate Canals – Lot 63 DP 263861 & Lot 132 DP 775228,
- Banyanda Lake – Lot 50 DP 259593, and
- Endeavour Lake (Canal/Southern Cross Industrial Estate) – Lot 72 DP 778628.

The land parcels identified above comprise artificial tidal waterways created as part of the surrounding land developments. In the case of Ballina Quays Estate and Banyanda Estate, the waterways were created to provide improved amenity and waterfront access benefits to adjoining residential allotments. These land parcels which comprise the water bodies/ways were dedicated to Council as public reserves upon registration of the respective subdivision plans.

In the case of Endeavour Lake, this waterway is situated within land comprising the residue of the Canal/Southern Cross Industrial Estate developed by Council in the early 1980s.

For the purposes of the *Local Government Act 1993* (LG Act), both the Ballina Quays Estate and Banyanda Estate waterways were previously classified as Community Land and were subject to the management requirements specified in the LG Act. The LG Act's provisions had the effect of limiting (and preventing in some cases) the private use of community land. As outlined above, Council has reclassified the subject lots from Community Land to Operational Land, which enables the ongoing use of these waterways for private waterway structures, subject to limitations that the Council seeks to impose.

The land comprising Endeavour Lake, forming part of the residue of the Canal/Southern Cross Industrial Estate, has been classified as Operational Land since the commencement of the LG Act in 1993.

The Council considered a report at its Ordinary Meeting held on 17 December 2015 relating to the introduction of new management arrangements for private waterway structures within Council owned (public) waterways. In relation to this matter, the Council resolved as follows [Minute No. 171215/14]:

1. *That the attached draft policy in relation to the management of private structures within Council owned waterways be placed on public exhibition for a period of six weeks.*

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2. *That in conjunction with the public exhibition of the draft policy referred to in point 1, Council also publicly exhibits the proposed licence fees to be levied, which are as follows:*
 - *Application for new structures and Licence Transfer fee* \$132 (inclusive GST)
 - *Annual Licence Fee* \$220 (inclusive GST)*With the initial application period having an incentive free period of three months.*
3. *That following the conclusion of the public exhibition period the Council receive a further report on the matter including a review of the content of any submissions received.*

In accordance with the Council's resolution, the draft policy for private structures located within Council owned (public) waterways was publicly exhibited for a period of seven weeks, between 6 April 2016 and 27 May 2016. Fourteen submissions were received from members of the public regarding the draft policy, during the exhibition period.

The purpose of this report is to outline and respond to the issues raised in the submissions received during the public exhibition process and invite the Council to consider the adoption of the policy for private structures located within Council owned (public) waterways.

Key Issues

- Enabling the placement of new and replacement private waterway structures within Council owned waterways.
- Effectively regulating and managing existing private waterway structures within Council owned waterways.
- Acknowledgement of the private benefit obtained through the placement of private waterway structures on public land.
- Addressing the Council's liability exposure in relation to the placement of private waterway structures over land for which Council is responsible.

Information

Public submissions

As outlined above, the draft policy relating to private structures located within Council owned (public) waterways was exhibited for community feedback for a period of seven weeks. As a part of the exhibition process, Council wrote to all landholders having waterfront access to the affected waterways (being 218 landholders).

The information sent to landholders included a Fact Sheet outlining the purpose and particulars of the proposed policy framework and information regarding how to make a submission. A copy of the Fact Sheet sent to landholders is provided as Attachment One to this report. Wherever possible, landholders were also advised of the approval status of their structures, according to Council's public records.

As mentioned, fourteen submissions were received from members of the community during the exhibition period. Copies of these submissions are provided as Attachment Two to this report. In addition, approximately 30

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residents of the subject estates contacted Council to inquire or advise Council regarding the approvals history of their structures, assisting staff to update Council records.

The submissions received raised a number of issues regarding the introduction of the policy and the introduction of associated fees. These issues, with Council staff response, are summarised below.

Change not anticipated and will cause financial hardship

Several submissions argue that change in the regulatory arrangement and fees payable for waterway structures had not been anticipated, and are therefore unfair.

In response, the introduction of the new arrangement seeks to provide appropriate protections for the Council and the community in permitting private structures within Council owned waterways. Given that there are significant direct benefits to landholders, in financial and amenity terms, from having structures within the public waterway, it is considered reasonable and equitable for landholders to be subject to the necessary regulatory requirements and associated fees which the Council has determined.

Should landholders experience financial hardship to the extent that they cannot afford the ongoing cost of the annual licence fee (and/or other associated costs of maintaining their structure), it remains an option for landholders to remove their structure.

Residents not receiving benefits from payment of fees

Submissions raised concerns that landholders will not receive any benefits, in terms of improved facilities and infrastructure, as a result of paying waterway structure fees. These submissions argue that funds raised should be quarantined for expenditure on the maintenance of the waterways (or other improvements within the residential estates).

In response, the charging of fees in this case seeks to offset costs (to the Council's General Fund) associated with applying staff resources to the administration of the policy and reflect a direct private benefit from the use of a community asset. The introduction of the fee does not relate to the maintenance costs of the waterways (which are currently managed at the cost of the wider community through general rate revenue).

The fees have been set having regard for fees applied in relation to Crown Land and by other local government authorities for the licensing of structures within waterways. As the subject landholdings directly benefit from having waterway structures associated with their property, the charging of such fees is considered reasonable in the circumstances.

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Fee comparison information has previously been reported to Council. This information is represented below for information in relation to the submissions received and the associated discussion regarding fees in this report. The details shown in the table below relate to fees and charges levied in other jurisdictions in the 2015/16 financial year.

Comparison of Fees for Private Waterway Structures in other Jurisdictions		
Authority	Application Fee*	Recurring Fees*
Crown	\$214 (annual)	Annual market based rent calculated via formula including base fee, area of occupation and generic land values, with a current fee of \$3.59 per m ² . A typical scenario is 100m ² equivalent to \$359.
Tweed Shire Council	\$154	\$231 annual licence fee
Clarence Valley Council	\$80 (plus \$132 inspection fee)	\$60 annual lease fee
Port Macquarie Hastings Council	N/A	\$128 annual licence fee
Gosford City Council	Solicitor's fees to establish licence agreement	\$819 annual licence fee

Council is failing to maintain the waterways as agreed

Several submissions make the assertion that when the estate was approved, Council agreed to maintain the waterway every 5 years (at its own cost), but has failed to do so.

Whilst it is correct that when the estate was approved the Council of the day agreed to take on the responsibility for maintaining the waterways, the introduction of the policy and the charging of associated fees do not relate to the maintenance works undertaken periodically by the Council. This work entails the reinstatement of the canal profiles where movement of the banks and/or bed has occurred

The timing of these maintenance works is a function of Council becoming aware that work is required, balanced by the need to identify funds to undertake the work (from the General Fund).

Landholders already pay for the privilege of having waterway structures through paying higher council rates

The assertion has been made on a number of occasions during the Council's consideration of issues associated with the management of Council owned waterways, that landholders already pay for the opportunity to have waterway structures (and have maintenance undertaken by council) by virtue of paying more Council rates than their neighbours.

Whilst it is true that landholders with waterway access may pay more Council rates relative to their immediate neighbours who do not have waterway access, this is a function of the higher land value associated with those properties.

Although this higher land value may be affected by the properties having waterway frontage, the amount they pay is a reflection of the way in which rates are calculated in NSW rather than having anything to do with the costs

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associated with maintaining those waterways. Council does not, and has not, charged waterfront properties higher rates to fund maintenance of the waterbodies.

It is noted that many other properties within Ballina Shire pay the same amount in rates (or more) as these waterfront properties, by virtue of their high land value, without the inference of this having any bearing or relationship to the proximity of those properties to Council owned waterways.

Further, the proposed fee is not related to rates and land values. It is a proposed charge no different to others where a benefit is derived, such as for example the hire of facilities, provision of waste collection, or the lease of public land.

Request that a plan of management be prepared

One submission (from Mr Richard Crandon) raises concerns that Council is proceeding with the introduction of the policy in the absence of a Plan of Management (POM) for the waterways.

The subject waterways were previously subject to Council's Generic POM when classified as *Community Land* under the *Local Government Act 1993*. Following the reclassification from *Community Land* to *Operational Land*, however, the waterways are no longer subject to the Generic POM or the requirement under the Act that a POM be in place.

The preparation of a management plan for the waterways is an option available to the Council, however, should it wish to do so at any time in the future. It is noted, however, that such a management plan would not, in this case, be subject to the requirements of the *Local Government Act 1993* relating to POMs.

In making this request (and the submissions more generally), it seems landholders are seeking greater certainty and say regarding the method and frequency of canal maintenance works as well as the quarantining and expenditure of the licence fee funds, which could conceivably be addressed in such a management plan.

Such a plan may not necessarily produce the level of certainty regarding these matters as is desired by landholders, as it would be open to future Councils to discount the plan to whatever extent circumstances dictate. As a consequence, the preparation of a management plan in this case is not supported, at this time.

Insurance

Several comments were made in the submissions relating to insurance matters, including the following:

- That the requirement that landholders are to have public liability insurance coverage for their structures is unreasonable as it is difficult and/or costly to obtain, and
- That Council should not need to see a copy of landholders' insurance policies to ensure the structures are property insured.

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With respect to the first point above, Council's insurer advises that insurance policies are available (on the open market) for private landholders to cover public liability associated with their waterway structures. A copy of Council's insurer's advice is provided as Attachment Three to this report.

This advice and the approach to insurance under the proposed policy have been reviewed by Council's Risk Section.

Given the private benefit derived from these waterway structures, and the public interest in ensuring that matters of public liability on Council owned land are properly managed, the requirement that such structures be appropriately insured is considered reasonable in the circumstances. That is, the policy advocates that the structure owner is responsible for the structure, including insurance requirements.

With respect to the second point above, the licence agreement applied will clearly state that landholders are to ensure that they have adequate insurances to cover matters of public liability that may arise in relation to their particular structure/s and that Council must be included as an Interested Party on the policy.

It is proposed that the licence conditions will include a condition that landholders must obtain and hold appropriate insurance, but Council would not be requesting a copy of the insurance policy document.

The advice from Council's insurer is that Council is only responsible for liabilities arising from Council's actions (or inactions), should these exist in the circumstances of the case (and as determined by the adjudicator).

Council's insurer has advised that Council's coverage would not extend to cover the liabilities of private landholders associated with such events. It is therefore in the landholders' interest to have adequate and appropriate insurance coverage with respect to risks associated with their waterway structures.

The above has been clarified in the revised draft policy (Attachment Four) by a minor amendment to the general requirements section of the policy.

Council double dipping by requiring approved structures to pay additional fees

Several submissions argue that landholders have already 'paid' to have water structures approved by the Council and, therefore, requiring the payment of an annual licence fee constitutes 'double-dipping'.

Landholders with approved waterway structures are likely to have been required to pay an administration fee (DA fee) associated with the assessment and approval of their structures. Such fees would have comprised one-off payments associated with the making of applications for approvals under the *Environmental Planning and Assessment Act 1979*, as occurs typically with any other development applications.

Charging an annual fee to Council for providing tenure for the private occupation and enjoyment of public land is proposed on the basis of the recoupment of costs incurred by Council associated with the administration of

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this arrangement, as well as being on the basis that benefits are being accrued to private landholders in the occupation of public land.

For example, waterway structures attached to a home presumably have a beneficial value when property is bought and sold (subject to its condition).

Clarification on licensing in cases of multiple waterway structures

A number of landholders sought clarification (during the consultation period) regarding, in cases where landholders have a jetty/pontoon and a ramp, whether one or two licence fees would be charged.

Staff advised that, whilst acknowledging the draft policy was unclear in this regard, Council's intention is that a single licence area would be created with respect to each property, which would address all waterway structures that relate to that property. The consequence being that a single licence would be issued, and consequently that a single licence fee would be charged per property.

This approach is embodied within the recommendations below.

Compliance Considerations

Council's Compliance Coordinator has provided additional feedback concerning the draft policy. As a consequence, the following changes are recommended:

- Clarify that the definition of 'waterway structure' includes 'permanent moorings'.
- Clarify that waterway structures located within Council owned waterways are not to be used for the permanent mooring of houseboats (or involve the residential occupation of boating vessels) or used for any commercial purposes other than as approved in accordance with Council's Commercial Activities on Public Land Policy. With respect to the latter, at this stage this would impose an effective prohibition of commercial activity in Council owned waterways unless the Commercial Activities on Public Land policy was amended to permit such activity.
- Clarify that floating structures may also require approval under the provisions of the *Management of Waters and Waterside Lands Regulation-NSW* where such structures are located within 'navigable waters' under the terms of the Regulation (includes waterways within Ballina Quays Estate and Banyanda Estate).
- Clarify that landholders' failure to have structures appropriately approved (by way of obtaining development consent) and a licence issued, may result in Council undertaking compliance actions to have the structure removed, with any costs associated with such actions to be borne by the subject landholders.

Sustainability Considerations

- **Environment**
The issues for consideration in this report do not directly affect the natural environment. In conjunction with the recommended outcomes, Council's currently adopted standards for the construction and

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placement of structures within the waterways will be maintained. These standards seek to minimise the impact structures may have on the attributes of the waterways.

- **Social**

This report seeks to address the various issues relating to the current practice of allowing the placement of private structures within Council owned waterways. Enabling the retention and ongoing ability to place private structures within the waterways facilitates their recreational use by adjoining residents and occupants. It is expected that the recommended licence fees will, at a minimum, meet Council's administrative costs for the system.

- **Economic**

The recommendations of this report will result in an additional but minimal regulatory burden on the affected landowners as well as additional administrative responsibilities for Council. The recommended licence fees are proposed to address the cost of the policy administration and to recognize the private benefit associated with the use of public (Council owned) waterways.

Legal / Resource / Financial Implications

As identified in previous reports to the Council (see report to Ordinary Meeting held on 28 August 2013), there are potential risk liabilities for Council where private structures are placed on public (Council owned/managed) land. There are means for Council to mitigate this risk as outlined in this report.

This will be primarily managed through the public land portfolio but may also have implications for Council's risk, building and compliance sections. Fees are proposed in response to this and in recognition of the occupation of public land by private structures.

It is expected that the introduction of the fee structure proposed will raise between \$20,000 and \$25,000 per annum following the initial fee waiver period.

Consultation

The draft policy for Private Structures Within Council Owned (Public) Waterways was exhibited for community feedback for a period of seven weeks, between 6 April and 27 May 2016. As mentioned, this engagement included corresponding with each land owner whose property has direct access to one of the relevant waterways.

Council received fourteen submissions during the consultation period (Attachment Two). The key points raised in these submissions, along with Council staff responses to these points, are provided in the body of this report.

Options

The options available to the Council in relation to the draft policy are outlined below.

1. That Council adopt the policy with the amendments as outlined in this report.

This option is recommended on the basis that the introduction of the policy provides an equitable and balanced approach to the management of private and public interests relating to private structures located within Council owned (public) waterways.

A copy of the revised policy (as per the recommendations within this report) is contained in Attachment Four. In addition to the changes recommended within the body of the report, the revised draft also clarifies that structures subject to appropriate approval from Council (other than via a development consent) are to be treated similar to structures that have development consent. This recognises the historic approval system applied in Ballina Shire.

If pursued, this option would also involve the phasing in of license fees as shown in the table below (as per the exhibited fee structure).

Fee Type	Amount (incl. GST)	When Payable
Application Fee	\$132	On initial application for a licence for a new structure
Licence Transfer Fee (change in ownership)	\$132	To transfer a licence to a new owner
Annual Licence Fee	\$220	When a licence is first issued and then annually

For clarity, and to align with Council’s December 2015 resolution, it is also proposed that the fee structure be implemented based on the following approaches to be practical, provide for recognition of existing circumstances, to provide an incentive for early licence take up and to recognize the administrative costs associated with the implementation of the policy:

- Application fees will be charged in relation to new structures or for existing structures where development approval is identified as being required.
- New structures will initially be subject to both the application fee and the annual licence fee.
- Existing lawful structures will be subject only to the annual licence fee. No application fee will be charged to implement the initial licence for these structures.
- Where a property owner enters into a licence agreement for an existing structure with Council within three months of the commencement of the licensing program, the first annual licence fee will be waived. Annual licence fees will then be applicable for each year thereafter.
- Fees will be charged on a per property basis rather than on a per structure basis.

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- Licence fees are to be applied on an annual basis aligning with financial years and are not to be applied on a pro rata basis.

Despite the above discussion relating to fees and the extent to which this matter is addressed in the submissions, it is important to note that the proposed fees are not the primary reason for the introduction of the policy.

The policy seeks to address risk considerations and provide for an improved and transparent management system that recognises the private benefit derived from the use of public land in relation to waterway structures.

2. That Council defer its consideration of this matter until after a further Councillor briefing.

This option is not recommended on the basis that the key matters that are the subject of this report have been previously discussed in detail with Councillors at a briefing held in November 2015.

3. That Council discontinues preparation of the Private Structures within Council Owned (public) Waterways Policy.

This option is not recommended on the basis that the draft policy provides improved management arrangements for private structures located within Council owned waterways. The policy provides a consistent and transparent framework for the management of private waterway structured on public land. It is also noted that these matters have been the subject of previous Councillor workshops.

RECOMMENDATIONS

1. That Council adopts the Policy for Private Structures Within Council Owned (Public) Waterways, as contained in Attachment Four to this report.
2. That Council adopts licence fees in association with the policy as follows:

Fee Type	Amount (incl. GST)	When Payable
Application Fee	\$132	On initial application for a licence for a new structure
Licence Transfer Fee (change in ownership)	\$132	To transfer a licence to a new owner
Annual Licence Fee	\$220	When a licence is first issued and then annually

3. That Council applies the adopted licence fees in the following manner:
 - Application fees will be charged in relation to new structures or for existing structures where development approval is identified as being required.
 - New structures will initially be subject to both the application fee and the annual licence fee.
 - Existing lawful structures will be subject only to the annual licence fee.

9.4 Policy (New) - Private Structures - Council Owned Waterways

No application fee will be charged to implement the initial licence for these structures.

- Where a property owner enters into a licence agreement for an existing structure with Council within three months of the commencement of the licensing program, the first annual licence fee will be waived. Annual licence fees will then be applicable for each year thereafter.
 - Fees will be charged on a per property basis rather than on a per structure basis.
 - Licence fees are to be applied on an annual basis aligning with financial years and are not to be applied on a pro rata basis.
4. Public notice of the new licence fees is to be provided in accordance with Section 610F of the Local Government Act and included in Council's Fees and Charges document.
 5. That Council's decision is conveyed in writing to all land owners whose property is affected by the policy.

Attachment(s)

1. Public exhibition fact sheet - Private Structures within Council Owned (Public) Waterways Policy
2. Submissions Received during public exhibition of draft policy
3. Letter from Council's insurer regarding private structures located within Council owned (public) waterways
4. Revised Private Structures within Council Owned (public) Waterways Policy

9.5 Policy (New) - Community Property Leasing and Licensing

9.5 Policy (New) - Community Property Leasing and Licensing

Delivery Program Community Facilities and Services

Objective To report to the Council the outcomes of the public exhibition of the draft Community Property Leasing and Licensing Policy and seek direction in relation to the policy's adoption and implementation.

Background

The Council considered the draft Community Property Leasing and Licensing Policy at its May 2016 Ordinary Meeting. At that meeting, the Council resolved to place the draft policy on public exhibition for community feedback and receive a further report following the exhibition period [Minute No. 260516/16]. The policy was also discussed with Councillors in a briefing session held on 11 July 2016.

In accordance with the Council's resolution, the draft policy was placed on public exhibition between 30 May 2016 and 8 July 2016. This report provides details of the submissions received and consultation which occurred during the public exhibition period and seeks the Council's direction on the implementation of the policy.

Key Issues

- Documenting consistent guidelines addressing the eligibility and allocation of community buildings to user groups.
- Documenting Council's requirements for the use of community properties.

Information

The draft policy identifies 41 existing properties that are managed within Council's community property portfolio which would fall under the scope of the policy (see Attachment 1 of the policy).

Council staff met with, or had telephone discussions with 22 of the 41 occupying groups during the exhibition period, and received 1 written response without any prior discussions with that group. Staff attempted to contact the remaining 17 groups between 11 and 20 July. Three written submissions were received in total and a copy of each of these is contained in Attachment 2 to this report.

The key feedback received from those contacted can be grouped as follows:

1. Generally supportive of having a policy which provides:
 - a. a staff contact to discuss property and leasing enquiries with;
 - b. consistency between similar organisations in relation to allocation of maintenance, support and funding;
 - c. opportunities to assist in future planning for maintenance; and
 - d. opportunities for the activities of groups occupying properties to be reported to the elected Council annually.

9.5 Policy (New) - Community Property Leasing and Licensing

2. Concern regarding the proposal for three year tenure as the typical approach for occupation of community properties.

The draft policy proposes maximum three year tenure arrangements (for new groups and renewal of existing tenancies) but makes provision for longer term tenure in exceptional circumstances. The groups which raised this concern were generally those who have matters which may be considered exceptional circumstances under the policy.

An example of a situation where an exceptional circumstance is evident is the case of pre-schools, which often require longer tenure to support funding arrangements and these facilities are typically purpose-built to government standards for pre-school education programs.

One of the submissions, however, raising concern with the three year approach to tenure, is from the Alstonville Plateau Historical Society Inc. The Society is seeking a longer term arrangement in recognition of its commitment to the use and management of Crawford House.

With respect to this matter, Council has previously resolved on 27 August 2015 to offer the Society a three year lease term. The Society has not yet accepted this offer. This term was offered on the basis that there are costs and procedural requirements associated with a lease exceeding three years and that it is considered appropriate that Council is able to periodically review the use of this property as it does with most other community properties.

Such reviews provide the Council of the day with the opportunity to assess and determine if the current use and occupation of a particular property is in the best social and economic interests of the community, or whether a change in circumstance is warranted. As a general principle, there should not be an expectation by an occupying group that it has indefinite exclusive occupation of a Council-owned property.

In addition to maintaining an ability to review occupation of community properties, the recommendation for the application of three year lease terms also relates to the legislative framework. The provisions of the *Real Property Act* 1900 require that leases over three years in duration must be prepared in registrable format, and if intended to be binding on the parties, to then be registered on title. In some circumstances, this requires the preparation of a subdivision for leasing purposes to be prepared and registered. Costs to meet these requirements have not been allocated in any Council budgets.

On balance, it is recommended that the three year term be retained as the typical maximum lease period for occupation of community properties (with provision for extenuating circumstances to be acknowledged) as this term is binding on the parties and supports periodic review of the use of key community assets.

9.5 Policy (New) - Community Property Leasing and Licensing

3. Concern regarding the proposed categories.

The intention of placing user groups into categories is to achieve consistency between users of Council land and Crown land, as well as achieve consistency between similar user groups. Following consultation with the user groups, it became clear that the diverse range of occupants/tenants, their management structures and incorporation styles resulted in a disparity between similar groups, and which may detract from the consistency sought.

Accordingly, while it is proposed to retain the three categories in the policy, it is not proposed to implement any changes to fees or maintenance regimes for two years, to allow Council staff to continue to work with user groups to better understand the nature of the groups' activities, their financial positions and long term goals.

To achieve this outcome, the draft policy has been amended to clarify the intended categorisations as well as identify that the categorisation provisions will be reviewed after 18 months of the operation of the policy to enable consideration of additional information gathered from user groups, before altering rental and maintenance requirements. This effectively provides for a phase-in period that can be responsive to information provided to Council by the user groups.

In addition to the above, several other issues were raised in submissions and these are summarised and addressed in the table below.

Issue	Staff response
The prime objective of the policy should be to manage these properties for the overall benefit of the community.	This objective is outlined in Division 4 of the Local Government Act, and also confirmed in Council's Generic Plan of Management relating to community land. This policy focusses on providing a framework regarding the leasing and licensing of community occupied property, rather than being an overarching document concerning all aspects of community land and property management.
Request for use of a perpetual lease.	Perpetual leases are typically not used in Australia as these are not considered to be a binding document as there is no certainty of the intended length of the agreement.
Concerns about spending time on unnecessary paperwork with reports to Council and re-doing our lease too frequently.	The reporting introduced under the policy is not onerous, and includes an annual report of activities, improvements made to the property and more significant maintenance items to be considered in future budgeting. This is considered to be appropriate and highly consistent with good property management practice. Council, as the land owner or manager, prepares the lease documents and forwards them to the tenants for review and execution. There is considered to be minimal impact on the tenants as part of this process.

9.5 Policy (New) - Community Property Leasing and Licensing

Issue	Staff response
Concerns regarding the categories and impact on rental payable.	As mentioned above, postponement in implementing the categories for two years to further investigate the matters raised is recommended to address this concern.
Indication that where an organisation has to pay rent or fees to Council, the organisation would hand back management to Council.	See comments above.
Request to enter into a lease for a property where no current tenure exists.	This submission was not directly related to the specific contents of the policy. The matters raised in relation to this submission are being addressed separately.

In addition to the adjustments outlined above, minor formatting and editorial changes have been made to the draft policy, along with inclusion of a paragraph recognizing that lawful occupants of community properties are not acting on behalf of Council in the day to day operation of their functions. Rather, that Council provides support to those organisations through the provision of the property and reductions in fees and charges.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
There are significant social benefits provided to the community by many of the occupants of Council community properties through the range of services they deliver. It is important to ensure that these groups are able to operate affordably and sustainably. It is also important that the use of community property is transparent and considered in the broader public interest. The policy seeks to address these matters.
- **Economic**
The waiving of commercial rental represents an economic loss to Council. However, that loss can be offset to some extent by the broader social, welfare and recreational benefits which are provided by community groups. The new policy, implemented over time, enables the Council to gain a much better understanding of the extent of the support it provides to a range of community based organizations. It will also provide the benefitting groups with an appreciation of the opportunity they have been given.

The implementation of this policy and the reporting criteria seek to better quantify these benefits, and may also result in a more effective maintenance program as well as the ability to seek grant funding for larger projects.

Legal / Resource / Financial Implications

There are no significant legal implications identified which will directly result from either adopting or not adopting the policy. In terms of staff resources, the

9.5 Policy (New) - Community Property Leasing and Licensing

introduction of the proposed user group reporting requirements will create an additional workload for the community property portfolio.

It is, however, expected that over time there will be a benefit to the organisation in terms of resource expenditure on property maintenance and user group liaison. It is expected that the required work can be accommodated within the existing resources of the community property portfolio, at least for the time being.

The Council is aware that, as with our community halls management, staff are endeavouring to become much more proactive in working with the groups which have been appointed as tenants to occupy and manage community assets. This relationship building does consume resources, but overall it is the preferred approach in terms of customer service.

The benefit of the policy is to promote transparency, and establish a framework and consistency in relation to leasing of community assets.

Consultation

Staff wrote to all groups the subject of this policy. This resulted in consultation with or feedback from 23 user groups identified by the policy. Regardless of whether the policy is endorsed, Council staff propose to attempt to contact the 17 remaining user groups to discuss their occupation of Council owned or managed community property to further assist in understanding the needs of these community groups.

Information gathered from ongoing discussion with user groups will be used to support the planned review of categorisation provisions outlined above.

Options

1. That Council adopt the draft policy inclusive of the amendments as outlined in this report (as contained in Attachment 1).

This is the recommended option as the policy provides a documented framework for the management of the community property portfolio and provides for improved information availability in relation to how properties are being used and the associated benefits to the occupant as well as the community.

2. That Council discontinues preparation of the Community Property Leasing and Licensing Policy.

This option is not recommended given the opportunities associated with the introduction of the proposed policy framework.

RECOMMENDATIONS

1. That Council adopts the Community Property Leasing and Licensing Policy as contained in Attachment 1 to this report.
2. That Council defer implementing any additional fees or charges in accordance with this policy to allow for further consultation with the user groups.

9.5 Policy (New) - Community Property Leasing and Licensing

Attachment(s)

1. Community Property Leasing and Licensing Policy (New)
2. Community Property Leasing and Licensing Policy Submissions

9.6 Policy (Review) - Markets on Public Land

9.6 Policy (Review) - Markets on Public Land

Delivery Program Community Facilities and Services

Objective To report to the Council the outcomes of a review of the Markets on Public Land Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and current legislative requirements. The purpose of this report is to provide feedback on the recent review of Council's Markets Policy.

Following on from recent processes relating to the Missingham Markets, Ballina Twilight Markets and Alstonville Farmer's Market, staff have identified several changes which could be made to streamline the approval of markets on public land and provide greater scope for engagement with existing and potential market operators.

The Markets Policy was first adopted by Council in 2006 and was reviewed in 2012. This review constitutes a scheduled four yearly review of the current policy.

Key Issues

- Documenting Council's objectives and expectations for markets
- Simplifying application and approval process.

Information

The existing Markets Policy was prepared at a time when there was a significant interest in the operation of markets in the region. One key issue in this regard was the fair and transparent allocation of management rights and responsibilities to market operators. Given this, the existing policy requires an expression of interest process to be conducted when allocating public land for market activities and requires that market operators are not for profit groups.

Council's experience in relation to recent expressions of interest processes for markets and the management of operator proposals to undertake markets has highlighted the need for a simpler application and approval process. From staff's perspective, it has also indicated a need for a system that allows flexibility to work with existing and future market operators to achieve mutually beneficial market agreements.

To provide for improved flexibility in the application of the market policy, three significant changes are suggested, as follows:

9.6 Policy (Review) - Markets on Public Land

1. Removal of the mandatory requirement for an expression of interest process.

This amendment is suggested due to the lack of responses to recent calls for expressions of interest for market managers and also to allow Council to consider proposals that potential operators may present, independent of a request by Council for expressions of interest.

By allowing potential market operators to apply to operate a market on public land, it provides opportunities for different types of markets to become established in the shire, without needing to wait for Council to call for expressions of interest. The draft policy maintains ability for Council to conduct an expression of interest process if this remains the preferred approach in a particular circumstance (e.g. where a competitive process is favoured or where there is a concern about equity).

This approach would be managed by establishing a formal application process and enhancing the information requirements in relation to market proposals for Council assessment.

2. Removal of the requirement for markets to be operated by not for profit entities.

This amendment is suggested as recent expression of interest processes have resulted in limited interest from not for profit groups with suitable market management experience. This also reflects the Council's recent decisions relating to the Alstonville Farmer's Market, the Ballina Twilight Market and the Missingham Farmer's Market, where commercial operators were appointed.

Operation of markets by both not for profit and commercial entities would be managed through licence agreements (and/or other relevant approvals). This allows Council to establish its expectations and requirements in a formal document and to confirm timeframes and renewal periods to allow for periodic review of market operations.

3. Removal of the application of the policy to private land.

This amendment is suggested to reflect the distinction in the planning system between proposals on public land and private land. For public land, the regulatory framework has been set to enable markets as exempt development, where Council can then manage such uses under public land management protocols and associated policy (including the policy the subject of this report).

For private land, market proposals will typically require development consent and this type of application is likely to be presented to Council and assessed under a different system due to the development approval processes that apply.

It might also be noted that it is not intended this revised policy would apply to public land which Council does not own or administer. For example, if a party wished to commence a regular market (as distinct from a fete or one-off fundraising event) on a school site, that would be assessed and

9.6 Policy (Review) - Markets on Public Land

determined as a development application, as if it were to be held on private land.

With respect to licence agreements, it is also proposed that the policy will formalise the need for a licence (or tenure document) as an approval mechanism for markets. As outlined above, this means that Council is able to formally identify its requirements and preferred outcomes for a market's operation. Council could also charge commercial operators suitable fees or, where considered appropriate, apply reduced rental for any not for profit groups which seek to run markets.

Other changes to the policy involve restructuring the document to simplify its content and introduce guidelines for market operation, as opposed to embedding all requirements within the text of the policy. This is to allow periodic update of the guidelines to reflect best practice and working knowledge without the need for a full policy review.

As markets on public land are exempt from needing development consent under the Ballina Local Environmental Plan 2012, significant improvements and streamlining in the approval process are able to be achieved through reliance on a tenure document and a market management plan to monitor the operation of markets.

A copy of the revised market policy (Markets on Public Land) is contained in Attachment One.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The intention of streamlining the market approval process is to improve the opportunity for markets to be established in the shire which provides broader social experience for the community.
- **Economic**
By allowing commercial operators to apply to run markets in the shire, this provides an economic opportunity not previously available.

Legal / Resource / Financial Implications

There are no significant legal or resource implications that have been identified in relation to this policy revision.

With respect to finance, it is proposed that Council introduces a new fee into its adopted fees and charges, being for the lodgement of an application to conduct (or renew) a market on public land. This is primarily proposed to encourage complete and good quality market proposals, but also to recognise that applications for the use of public land and licence preparation incur a cost (the fee is not designed to provide for full cost recovery and is relatively small to reflect a position that markets are generally encouraged in Ballina Shire).

The fee proposed is \$55 initially. The fee would not apply where Council calls for expressions of interest.

Consultation

The policy has been revised having regard for Council's recent experiences with various market operators.

If the Council is comfortable with the changes which have been presented, it is recommended that the revised draft policy be exhibited for community feedback for a period of six weeks (on the basis that it involves a new approval framework).

Following the public exhibition, if any submissions addressing substantive changes to the policy are received it is proposed that the matter will be reported back to the Council. If no such submissions are received, it is recommended that the revised policy be implemented.

Options

The Council may accept, amend or decline the proposed changes to the policy. The changes included aim to reflect recent experience in addressing market proposals and management, as well as streamline the operation of the policy. Given this, it is recommended that the policy be exhibited as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Markets on Public Land Policy, as attached to this report.
2. That Council place this policy on exhibition for community feedback, along with the proposed fee of \$55 for applications to operate. Any submissions received are to be resubmitted back to the Council and if no submissions are received then no further reporting action is required.
3. That upon implementation of the revised policy, the fee of \$55 for applications to operate (or renew operation of) a market on public land be incorporated into the Council's adopted fees and charges schedule.

Attachment(s)

1. Markets on Public Land - Policy Review
2. Markets on Public Land Draft Guidelines - Policy Review

9.7 Policy (Review) - Public Art

9.7 Policy (Review) - Public Art

Delivery Program Community Facilities and Services

Objective To report to the Council the outcomes of a review of Council's Public Art Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and current legislative requirements. The purpose of this report is to provide feedback on the recent review of our Public Art policy.

A Public Art Policy was first adopted by Council in 2005, however a more recent version of the policy was adopted in July 2012. This review constitutes a scheduled four yearly review of the current policy.

Key Issues

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

Information

This review of this policy has identified that it is generally operating effectively as a decision-making framework and is meeting operational needs. Given this, only the following minor changes are recommended:

- The inclusion of words in the policy that specify that any public art undertaken by a private entity as part a commercial, retail or tourist development is situated in a 'civic space'. This will help ensure that the public art work that is part of a private development is prominent and publically accessible.
- The inclusion of a number of documents under the *Related Council Documentation* section of the policy, including material that has recently been prepared by staff to provide guidelines on the process for Council's commissioning of public art.

The changes have been marked in yellow in the revised version of the policy contained in Attachment One.

Overall, the policy is considered to be contemporary and reflects current legislation.

Sustainability Considerations

- **Environment**
The provision of innovative items of public art in key locations which draw on the environmental values of the shire can assist in creating a greater awareness and appreciation of our natural and built environment.

- **Social**

The provision of innovative items of public art in key locations which identify and reinforce the shire's cultural identity and community values can assist in creating a strong sense of place.

- **Economic**

Public art can support economic activity by providing additional opportunities to artists, designers, fabricators and local community groups/ organisations/ individuals to design, fabricate, install and utilise public art works. Over time, urban public art can be a catalyst for increased economic activity.

Legal / Resource / Financial Implications

Council, as part of the annual preparation of its Operational Plan, considers a budgetary allocation for the provision of public art. Since 2013, Council's annual allocation to the implementation of public art programs has been \$10,000.

The policy does not alter the current approach to financing public art.

Consultation

As the suggested changes to the existing policy are only minor, it is recommended that the Council adopt the revised policy as presented. However the document will also be exhibited for community feedback. Under this approach, if any submissions addressing substantive changes to the policy are received they can be reported back to the Council. If not, no further reporting will be prepared and the revised policy will be implemented.

Options

The Council may accept or amend the suggested changes to the policy. The changes included are considered to be "house-keeping" in nature and therefore it is recommended that the revised policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Public Art Policy, as attached to this report.
2. That Council place this policy on exhibition for community feedback, with any submissions received addressing substantive changes to the policy to be reported back to the Council. If no such submissions are received then no further action is required.

Attachment(s)

1. Public Art Policy Review

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.

US16/07	<p>Employment Contract – General Manager</p> <p>Explanation The Office of Local Government standard contract now requires the Council seal to be affixed to the General Manager's contract.</p>
	<p>Licence agreement for part lot 105 in DP871675 between Ballina Shire Council and Ballina Golf and Sports Club Limited (BGSCCL) at a nominal licence fee for a three year term.</p> <p>Explanation BGSCCL has historically had use of a bore located on Council owned community land adjacent to the golf course. This access was via an agreement with Rous Water, being the regulatory authority for water infrastructure. Rous Water determined this bore was surplus to their needs and proposed to decommission the bore and remediate the site. BGSCCL has requested Council to allow them to continue to use the bore under the same terms and conditions as their previous agreement with Rous Water.</p> <p>The bore site is approximately 20m² and the terms of the proposed agreement will require Rous Water to meet all insurance, repairs and maintenance costs for the structure, as well as consumption charges levied by NSW water as well as electricity and any other consumption charges. It is also proposed that should BGSCCL no longer require use of the site, the costs of capping the bore and remediating the site will be the responsibility of BGSCCL.</p> <p>The access for BGCL has been considered by Council's water section and no objection has been raised to the access for the duration of the licence term.</p>

Attachment(s)

Nil

10.2 Investment Summary - June 2016

10.2 Investment Summary - June 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 June 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 30 June was \$65,297,000. This represents an increase of \$1,001,000 from May. Total redemptions of \$5 million, offset by new placements of \$6 million, resulted in the increase of \$1 million held. The new investments included floating rate notes totaling \$2 million and term deposits totaling \$4 million. Redemptions included three term deposits totaling \$3 million and one floating rate note totaling \$2 million. Also during June, two floating rate term deposits, with face value of \$2 million 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 30 June are at an average (weighted) rate of 3.11%, which is 1.12% above the 90 Day Bank Bill Index of 1.99%. The balance of the cheque account at the Commonwealth Bank, Ballina as at 30 June 2016 was \$1,694,377 (a significant decrease from the balance of \$10,206,360 as at 31 May 2016, with a number of large payments made in June, as anticipated). 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%

* 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	2.7%	3%
Rated Institutions							
AMP Bank	Yes	A+	5,000	5,000	20%	7.7%	
Bank of Queensland	No	A-	5,000	5,000	10%	7.7%	
Bank of Western Aust	Yes	AA-	2,000	0	20%	0.0%	
Bendigo & Adelaide Bank	No	A-	5,000	5,000	10%	7.7%	
Beyond Bank	No	BBB+	2,000	3,000	10%	4.6%	
Big Sky Building Soc	N/A	BBB	0	1,000	10%	1.5%	
Commonwealth Bank of Australia	Yes	AA-	2,508	4,509	20%	6.9%	
Greater Building Society	No	BBB	2,000	0	10%	0.0%	
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%	9.2%	
National Australia Bank	Yes	AA-	10,000	10,000	20%	15.3%	
Newcastle Perm Bld Society	No	BBB+	3,000	3,000	10%	4.6%	
Rural Bank Ltd	No	A-	1,000	1,000	10%	1.5%	
Suncorp-Metway Bank	No	A+	11,000	12,000	20%	18.4%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	3.1%	
My State Bank Ltd	No	BBB	2,000	2,000	10%	3.1%	97%
Unrated ADI's					\$1m	0.0%	0%
Total			64,296	65,297		100%	

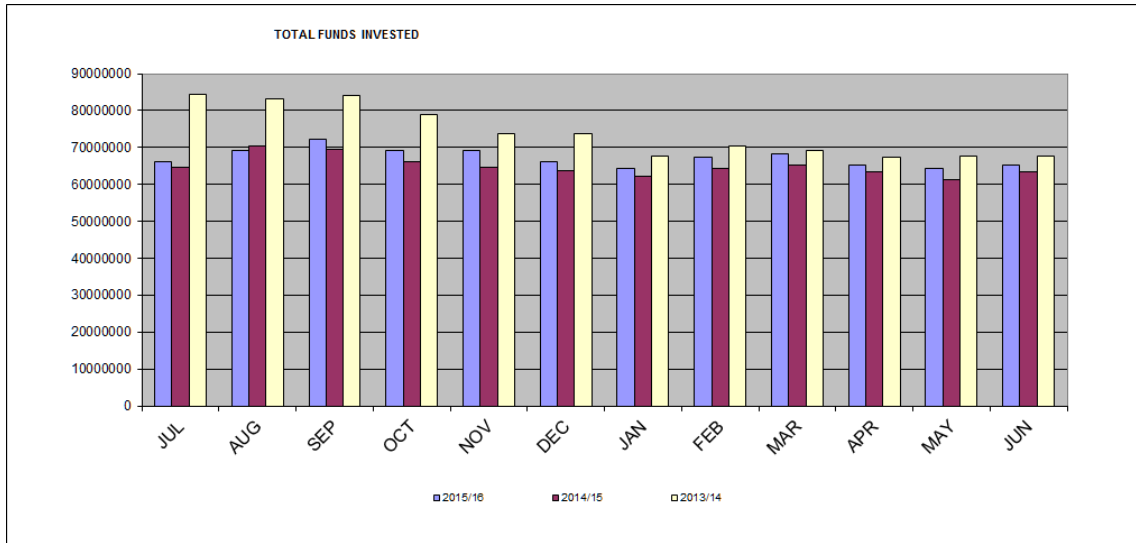
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	25,296 39%	25,297 39%
Non-Fossil Fuel Aligned	39,000 61%	39,000 60%
Not Classified	0 0%	1,000 1%
Total	64,296 100%	65,297 100%

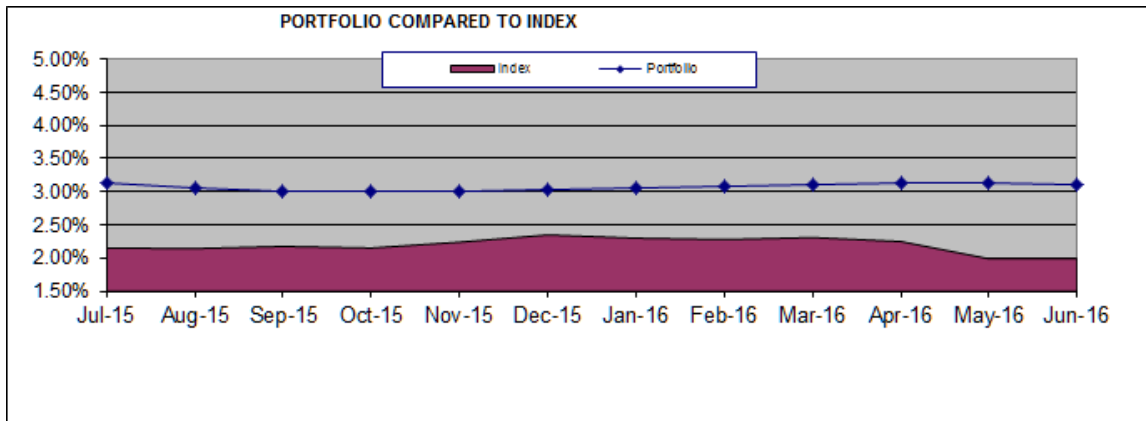
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

- 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.

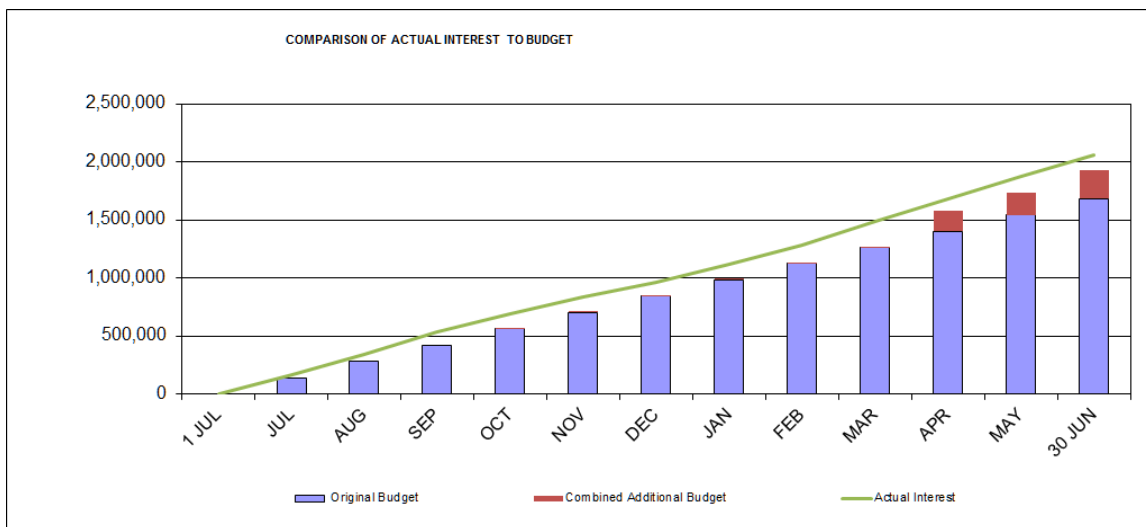
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - June 2016

F. Investments held as at 30 June 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	513	513
20/09/04	National Australia Bank (ASX Listed)	FRN	3.24%	Perpetual	1,788	1,159
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	2,094
25/02/14	Westpac Bank	FRN	2.94%	25/02/19	2,000	2,013
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
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
25/02/16	National Australia Bank	FRTD	2.85%	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
01/06/16	Beyond Bank	TD	3.03%	06/12/16	1,000	1,000
02/06/16	Big Sky Building Soc	TD	3.02%	12/12/16	1,000	1,000
17/06/16	Commonwealth Bank Of Australia	FRN	4.38%	17/06/21	1,000	1,000
28/06/16	National Australia Bank	TD	2.96%	04/01/17	1,000	1,000
28/06/16	Commonwealth Bank Of Australia	FRN	4.40%	30/06/21	1,000	1,000
30/06/16	Suncorp-Metway Bank	TD	2.98%	11/01/17	1,000	1,000
Totals					65,297	64,779
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 June 2016.

Attachment(s)

1. TCorp Local Government Economic Commentary June 2016

10.3 September Ordinary Council Meeting - Change of Date

10.3 September Ordinary Council Meeting - Change of Date

Delivery Program Governance and Finance

Objective To seek approval to change the date of the September 2016 Ordinary Council meeting.

Background

Due to the forthcoming Council elections there may be inadequate time to ensure the formation of the new Council is known prior to the distribution of the business paper for the September Ordinary meeting.

This report seeks to change that meeting date to provide adequate notification time.

Key Issues

- Timing of Council meeting and outcomes from Council election

Information

The 2016 Local Government election is scheduled for Saturday 10 September 2016. In discussions with the Returning Officer it may not be until the week commencing 19 September that the results are confirmed.

The September Council meeting is scheduled for Thursday 22 September, which is as early as the fourth Thursday of the month can be, seeing 1 September falls on a Thursday.

As the business papers are distributed on the Friday before the Council meeting this could potentially mean, based on the current scheduling, that business papers would need to be distributed on Friday 16 September, when the election results may not be known until the following week.

This being the case it is recommended that the September Council meeting be deferred to the fifth Thursday of the month (i.e. 29 September 2016).

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
It is essential that there is adequate time for the new Council to be confirmed prior to the September 2016 Ordinary meeting.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council will need to publically advertise the change in meeting dates.

Consultation

Public notification of this change will be advertised.

Options

The current scheduled date does not align with the 2016 Local Government Election therefore Council has the option of picking an appropriate date for the September meeting.

The preference is to delay the meeting date to the next available Thursday, which is 29 September 2016.

In respect to the induction of the new Council, a report will be submitted to the August 2016 Ordinary meeting with a draft Induction Program. Feedback from the existing Councillor's experiences will be useful in formulating that program and the August 2016 report will seek that feedback.

RECOMMENDATION

That Council approves a change in the September Ordinary meeting date from Thursday 22 September 2016 to Thursday 29 September 2016.

Attachment(s)

Nil

10.4 Donations - Financial Assistance and Community Halls

10.4 Donations - Financial Assistance and Community Halls

Delivery Program Community Planning

Objective To approve the community financial assistance and public hall donations for 2016/17.

Background

The 2016/17 Operational Plan includes an allocation of \$60,000 for community donations, of which \$10,000 is allocated to fund the Rotary Convention.

In addition to this there is also a further \$41,000 available to assist with capital works for halls. A budget of \$9,600 from the 2015/16 financial year is available to be allocated, as it has not been expended.

This budget will be carried forward to the 2016/17 halls donations budget leaving a total available of \$50,600.

The details of how these funds are to be allocated are included in the following Council policies (both accessible on our website):

- Donations - Financial Assistance
- Donations - Community Halls - Capital Works Assistance

A number of Councillors met on 7 July 2016 to consider a preferred allocation of the available funds, based on submissions received during the preparation of the 2016/17 Operational Plan.

The purpose of this report is to now consider the recommendations from that meeting and confirm the allocation of the donations for 2016/17.

Key Issues

- Fair and equitable allocation of Council donations

Information

Details of the submissions received for donations were distributed to all Councillors' iPads for the 7 July meeting.

The submissions are lengthy and have not been reproduced within this agenda.

A complete copy of all the submissions will be available at the Council meeting, or if a copy is required prior to the meeting, please contact the General Manager's office.

Table One, as follows, provides a summary of the various submissions for general donations and the final column is the Councillor recommendations.

10.4 Donations - Financial Assistance and Community Halls

Table One: Recommendations for Funding Assistance

Ref	Organisation / Person	Project / Activity	Amount requested (\$)	Amount recommended (\$)
1	Ballina Lions Club	Costs for the annual walk/fun run e.g. advertising and safety barriers	1,000	890
2	Ballina Jet Boat Surf Rescue	Purchase of consumable products and maintenance items for rescue vehicles	2,700	2,700
3	Ballina Jet Boat Surf Rescue	Insurance and survey renewal costs	6,000	6,000
4	Air Force Association (Ballina Branch) Inc	Providing shelter for people attending the Battle for Australia & Britain event	690	690
5	Northern Rivers Branch of Ulysses Motorcycle Club	Traffic Control for the 2016 2LM Toy Run	750	750
6	Alstonville Agricultural Society Inc	Purchase a ride on mower to mow show ground	10,000	0
7	Ballina Breast Cancer Group	Hire of room at Kentwell Community Centre 1 meeting per month	432	432
8	Ballina General Cancer Group	Hire of room at Kentwell Community Centre 1 meeting per month	432	432
9	Our Kids	Provide and install safety mesh and meet waste management costs for 'Our Kids Day Out' 2017	510	510
10	Northern Rivers Shirley Club Inc	Costs associated with Club's convention in September 2016	1,000	0
11	Sprung!! Integrated Dance Theatre Inc	Costs for funding staff to assist dancers with disabilities	2,550	770
12	Ballina Tennis Club	Purchase / installation of posts and winders	5,000	0
13	Ballina Lighthouse RSL Day Club	Donation of room hire at Richmond Room for Club's gatherings	1,000	1,000
14	Lennox Head Chamber of Commerce	Costs associated with holding the 2016 Lennox Head Carols event	5,000	4,000
15	Westpac Life Saver Rescue Helicopter	Donation of waste disposal costs following the Lennox Head Community Markets	6,140	5,140
16	Friends of Ballina Shire Libraries	Donation of waste disposal costs for excess books that are not saleable	500	0
17	Alstonville Tibouchina RSL Day Club	Purchase portable public address system to assist hearing impaired	2,500	0

10.4 Donations - Financial Assistance and Community Halls

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	5,000
19	North Coast Academy of Sport	Costs associated with supporting sport in the region	5,000	2,000
20	Riding for the Disabled NSW Ballina & Districts	Purchase ride-on mower to maintain the property where the activities are undertaken	20,908	0
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	3,776
22	Rebel Waltz Films – Stephen Jones	Costs involved with producing a short film in the local area	3,500	0
23	Biala Support Services Inc	Purchase of a Mobi Mat used to allow mobility impaired people to access the beach	5,000	4,000
24	1 st Ballina Scout Group	Costs associated with training new leaders	1,915	0
25	East Ballina Lions Club	Purchase of new Banners for Ballina Markets	1,000	1,000
26	Ballina Ocean Pool Committee	Enlist services of a geomorphologist as part of the approval process for an ocean pool	2,500	0
27	Northern Rivers Wildlife Carers	Training volunteers in venomous snake handling	1,000	0
28	Ballina Community Men's Shed	Initial construction costs for the relocation and expansion project of the shed	8,000	5,000
29	Lions Club of Lennox Head Inc	Provide concrete for floor of shed that houses trailer and BBQ equipment	900	900
30	Australian Seabird Rescue Inc	Waste disposal costs following beach clean ups (including dead animals) in the shire	2,000	0
31	Paradise FM Community Radio Association Inc	Costs associated with upgrading hardware and software to run on air programs	4,671	2,671
32	Alstonville Croquet Club Inc	Costs towards the construction of a small equipment shed	2,000	0
33	Alstonville Wollongbar Chamber of Commerce	Purchase Christmas lights for the Wollongbar community	2,000	0
34	Northern Rivers Women's Bowling Assoc Inc	Costs associated with running the 59 th Annual Carnival event	2,000	1,000
35	Lennox Head Residents' Assoc Inc (Coast Care Committee)	Purchase of materials and equipment and insurance costs	1,800	1,800

10.4 Donations - Financial Assistance and Community Halls

36	Wollongbar Pre School	Remove 4 trees and grind stumps	4,000	2,250
37	Newton Denny Chapelle	Waive increase in DA fees due to new financial year fee increase	10,320	0
38	Ballina Hospital Auxiliary	Partial donation of fees to hire LHCC	2,675	0
39	Cabbage Tree Island Football	Costs to attend football carnival	5,000	1,000
Total Requests			146,169	53,711

Comments

Item No. 11 - Sprung Integrated Dance: Donation is for venue hire from Council.

Item No. 15 - Westpac Lifesaver Rescue Helicopter: In addition to the recommended donation, the Councillor meeting endorsed an amount of \$1,000 of waste fees to be funded by the Landfill and Resource Management Program.

Item No. 17 - Alstonville RSL Day Club: The Manager Community Facilities and Customer Service will discuss possible alternative venues with this group.

Item No. 20 - Riding for the Disabled: The Fleet Coordinator will discuss with the group opportunities to provide a second hand mower as and when a mower becomes available, subject to Council approval at a later date.

Item No 30 - Australian Seabird Rescue: Recommendations to include a credit at the gate of the Waste Management Facility to \$1,000, with this to be funded from Waste Operations.

Item No. 31 - Paradise FM Community Radio: Donation provided on the basis that Council receives equivalent advertising air time.

Item No. 37 - Newton Denny Chappelle (Ballina Jockey Club): The additional fee of \$10,320 is to be waived (not donated) by Council due to the extenuating circumstances. All DA fees were paid in June, the applicant then needed to lodge a fresh application and whilst waiting for a reimbursement of fees paid, 2016/17 fees were adopted by Council which resulted in the fee increase. This will not impact on the donations budget but will result in less income being received during 2016/17.

The recommendations in Table One are to allocate \$53,711 from an available \$50,000, resulting in an over expenditure of \$3,711.

The community hall recommendations are outlined in Table Two.

10.4 Donations - Financial Assistance and Community Halls

Table Two: Recommendations for Community Halls

Ref	Organisation	Project / Activity	Project Value (\$)	Amount Requested (\$)	Amount recommended (\$)
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	0
2	Newrybar Community Hall	Refurbishments: south external walls; stage floor (safety); additional power points; northern floor (structural supports)	20,000	10,000	10,000
3	Pearces Creek Public Hall Inc	Kitchen upgrade	8,334	8,334	7,523
4	Wigmore Hall	Submissions from Ballina Concert Band; Ballina Senior Citizens; Ballina Guides	27,850	27,850	20,850
5	Wollongbar Community Hall	Costs to manufacture and installation a sign for Hall (works are completed)	1,309	654	0
6	Wardell & District War Memorial Hall	Internal painting of the hall	10,000	10,000	4,352
7	Rous Mill & District Memorial Hall	Replace internal lights; clean and filter rain water tank; insurance for hall and public liability	4,463	2,231	1,050
8	Ballina Lions Club – West End Hall	Replace 8 rotted window surrounds	800	400	400
Total				63,982	44,175

Comments

Item No. 2 - Newrybar Hall: Manager Community Facilities and Customer Service to advise preferred maintenance items to be addressed.

Item No. 6 - Wardell Hall: The recommended donation is to be spent on electrical upgrades to lights and fans, not painting.

Item No. 7 - Rous Mill: The donation represents 50% of anticipated electricity and cleaning costs.

The recommendations in Table Two allocate \$44,175 from an available \$50,600 leaving a balance of \$6,425. The recommendations in Table One have an over expenditure of \$3,711. It has been standard practice to balance the donations budgets which results in \$2,714 not applied and the preference of the meeting was to allocate these funds to halls maintenance.

Effectively all available donation funds have been applied. It is proposed that for the rest of the year all applicants for donations will be advised that there no funds are available and urge them to apply in the next financial year. The only way a donation would then be reported to Council is through a Councillor notice of motion.

10.4 Donations - Financial Assistance and Community Halls

This was the practice applied during 2015/16 and it worked very well in ensuring that ad hoc requests for donations were not reported to Council.

The only exception to this practice will be applications for donations in respect to fees levied by Council. A budget of \$4,000 remains available for this purpose in accordance with the "Donations – Assistance with Council Fees for Community Groups" Policy.

Sustainability Considerations

- **Environment**
If approved some of the donations support community groups that provide environmental works.
- **Social**
Donations provide financial support for local community groups.
- **Economic**
Injection of financial support into community groups also contributes to the local economy.

Legal / Resource / Financial Implications

Council has total funding available of \$110,600 (\$60,000 for general donations and \$50,600 for halls).

Consultation

Council advertised for donation submissions during the exhibition of the 2016/17 Operational Plan and letters were sent to hall committees.

Options

The options are to either support or amend the recommendations from the meeting. The recommendation that follows is to support the recommendations as this process has worked effectively for a number of years.

RECOMMENDATIONS

1. That Council approves the community financial assistance donations for 2016/17, as outlined in Table One of this report, subject to point three as follows.
2. That Council approves the community public hall donations for 2016/17, as outlined in table two of this report, subject to point four as follows.
3. That in respect to the General Donations recommended in Table One:
 - Item No. 11 - Sprung Integrated Dance: The donation is to be for venue hire.
 - Item No. 15 - Westpac Lifesaver Rescue Helicopter - In addition to the recommended donation, an additional \$1,000 is to be available for waste fees, with this amount to be funded by Council's Landfill and Resource Management Program.

10.4 Donations - Financial Assistance and Community Halls

- Item No. 17 - Alstonville RSL Day Club: The Manager Community Facilities and Customer Service will discuss possible alternative venues with the group.
- Item No. 20 - Riding for the Disabled: The Fleet Coordinator will discuss with the group opportunities to provide a second hand mower as and when a mower becomes available, with any donation to be approved by Council.
- Item No 30 - Australian Seabird Rescue: Council will provide a credit at the Waste Management Facility of up to \$1,000 during 2016/17 funded by Council's Landfill and Resource Management Program.
- Item No. 31 - Paradise FM Community Radio: The 'donation' is provided on the basis that Council receives equivalent advertising air time.
- Item No. 37 - Newton Denny Chappelle (Ballina Jockey Club): The additional fees of \$10,320 are to be waived by Council due to the extenuating circumstances. All DA fees were paid in June 2016, and the applicant then needed to lodge a fresh application and whilst waiting for a reimbursement of fees paid, 2016/17 fees were adopted by Council which resulted in the fee increase. This adjustment is to shown as a waiver in Council's records and not as a donation due to the exceptional circumstances.

4. That in respect to the Halls Capital Assistance Donations in Table Two:

- Item No. 2 - Newrybar Hall: The Manager Community Facilities and Customer Service is to confirm the preferred maintenance items to be addressed.
- Item No. 6 - Wardell Hall: The recommended donation is to be spent on electrical upgrades to lights and fans, not painting.
- Item No. 7 - Rous Mill: The donation represents 50% of anticipated electricity and cleaning costs.

5. That Council approves the reallocation of the unallocated balance of the donations budget (\$2,714) to the halls maintenance budget.

6. That the General Manager advise any applicants requesting donations for the remainder of the 2016/17 financial year that the donations budget has been exhausted and that they will need to apply again in the following financial year, if the donation is still relevant to that year.

7. Council notes that the only exception to point six will be applications in respect to assistance provided for Council fees and charges, as per the "Assistance with Council Fees for Community Groups" Policy. Council also notes that this resolution does not stop any Councillor from submitting a notice of motion to support a donation request.

Attachment(s)

Nil

10.5 Donations - Rates and Charges 2016/17

10.5 Donations - Rates and Charges 2016/17

Delivery Program Governance and Finance

Objective To obtain Council approval to donate the 2016/17 rates and charges in accordance with our 'Donations - Rates and Charges' Policy.

Background

Council's "Donations – Rates and Charges" policy was developed to provide clear guidelines for the management of rates and charges donations to community based service organisations.

The policy underwent a significant review during 2010/11 with the outcome being a focus on broad categories of properties that are used to provide a community service only, and to ensure that the donations provided are equitable and consistent across those categories.

Even though a policy has been adopted, it serves as a guide only and it is good practice for Council to annually resolve to donate specific rates and charges in accordance with Section 356 of the Local Government Act 1993 (LGA).

Key Issues

- Annual donation of rates and charges
- Addition of Alstonville Community Preschool to donations list
- Addition of Wollongbar Community Hall to donations list

Information

The following table provides **details of specific fixed rates and charges** proposed to be donated for the 2016/17 rating year based on the guidelines provided within Council's current "Donations – Rates and Charges" policy.

All amounts have been rounded to the nearest dollar.

Construction of the new Alstonville Community Preschool has recently been completed and this group has been included in this report to Council. The proposed donation is for water and wastewater access charges and the stormwater charge only. This is in line with other Preschools in Category B of the Donations Policy.

The Wollongbar Community Hall has now been separately metered and charged for water access, water consumption, wastewater access and wastewater consumption and stormwater charges. Previously the Hall was metered along with the Hill Park Oval reserve. The proposed donation is for the water and wastewater access charge and the stormwater charge only. This is in line with other Public Halls in Category B of the Donations Policy.

10.5 Donations - Rates and Charges 2016/17

Table One – Donations – 2015/16 Determined Fixed Charge Levies

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm-water	On Site Sewage	Waste and Recycle	Total (\$)
Category A - 100% of all rates and charges donated								
412192	Ballina SLSC*	0	312	697	0	0	0	1,009
120347	Lennox SLSC*	0	800	2,235	0	0	0	3,035
295613	Surf Life Saving FNC Branch Inc.*	0	624	697	0	0	0	1,321
173390	Ballina CWA *	0	200	697	0	0	342	1,239
414348	Marine Rescue	0	0	0	0	0	511	511
Category B - 100% of all fixed rates and charges donated (excludes measurable user pays charges)								
145397	Biala School	0	200	697	0	0	0	897
145363	Fox St Preschool	0	200	697	0	0	0	897
172661	Ballina Playgroup	0	200	697	0	0	0	897
172679	River Street Childrens Centre	0	200	697	0	0	0	897
213734	Lennox Preschool	0	200	697	0	0	0	897
232429	Jumbunna Preschool	1,758	200	697	50	0	0	2,705
418960	Wollongbar Preschool	0	200	697	0	0	0	897
151966	Rainbow Children's Centre	5,018	200	697	100	0	0	6,015
417590	Alstonville Community Preschool	0	304	1036	150	0	0	1,490
115643	Alstonville Ag Society	4,116	824	2,770	300	0	0	8,010
235231	Meerschaum Vale Hall	982	200	0	0	50	0	1,232
254780	McLeans Ridges Hall	1,766	0	0	0	50	0	1,816
250346	Newrybar Hall	1,645	0	0	0	50	0	1,695
191267	Northlakes Community Centre	2,168	200	697	25	0	0	3,090
250663	Pearces Ck Hall	1,296	0	0	0	50	0	1,346
239675	Pimlico Hall	791	0	0	0	50	0	841
234170	Rous Mill Hall	1,554	0	0	0	50	0	1,604
230045	Tintenbar School of Arts Trustees	1,410	0	0	0	50	0	1,460
232013	Wardell Hall	3,350	200	697	50	0	0	4,297
186115	Wigmore Hall	0	200	697	0	0	0	897
112140	West End Hall	1,493	200	697	25	0	0	2,415
264036	Alstonville RSL Sub Branch Hall	1,516	200	697	25	0	0	2,438
422684	Wollongbar Community Hall	0	200	697	50	0	0	947
213726	Lennox Scouts	0	200	697	0	0	0	897
253556	Alstonville Scouts	0	0	0	0	50	0	50
294243	Ballina Scouts	0	200	697	0	0	0	897
334289	Ballina Jetboat Surf Rescue	684	200	0	25	0	0	909

10.5 Donations - Rates and Charges 2016/17

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm -water	On Site Sewage	Waste and Recycle	Total (\$)
Category C - 100% of all wastewater charges until backlog wastewater program capital contribution is paid in full								
126822	Sea Bird Rescue	0	0	697	0	0	0	697
119956	Jehovah Witness^	0	0	1,700	0	0	0	1,700
TOTALS (Category A, B, C)		29,547	6,664	21,681	800	400	853	59,945
* Water consumption and wastewater usage charges to be added to donation quarterly following future water meter readings								
^ Wastewater usage charges to be added following future water meter readings								

The following table provides **estimates of water consumption based charges** that are proposed to be donated on a quarterly basis during 2016/17 in addition to the fixed annual charges provided in the previous table. Actual amounts donated are determined by future quarterly water meter readings.

Table Two – Donations – 2016/17 Estimated Volumetric Based Charges

Assessment Number	Organisation	Estimated Water Consumption	Estimated Wastewater Usage	Estimated TOTAL (\$)
415027	Ballina Lighthouse & Lismore SLSC	1,400	1,300	2,700
120347	Lennox/Alstonville SLSC	1,200	900	2,100
295613	Surf Life Saving FNC Branch Inc.	2,200	750	2,950
173390	CWA of NSW (Ballina)	150	150	300
119956	Jehovah Witness	0	200	200
TOTALS (Estimated)		4,950	3,300	8,250

The following table provides a comparison between the proposed total of 2016/17 rates and charges donations and total rates and charges donated during the 2015/16 rating year.

Table Three – Donations – Comparison between 2016/17 and 2015/16

Rate or Charge Description	Proposed 2016/17 Donations	Actual 2015/16 Donations	Difference (\$)	Difference (%)
Ordinary Rates	29,547	27,862	1,685	6.0
Water Access Charges	6,664	6,004	660	11.0
Water Consumption Charges	4,950	4,668	282	6.0
Wastewater Access Charges	19,285	16,396	2889	17.6
Wastewater Usage Charges	3,300	2,331	969	41.6
Waste or Recycling Charges	853	1,658	-805	-48.6
On Site Sewage Management Fees	400	360	40	11.1
Stormwater Management Charges	800	600	200	33.3
Backlog Sewer Charges	2,397	2,369	29	1.2
TOTALS	68,196	62,248	5,948	9.6

*Notes: Waste charges have reduced due to reduced number of services requested at Shelly Beach Surf Club.
Increased donation amounts for water and wastewater access due to new donations for this year (Alstonville Community Preschool and Wollongbar Community Hall.*

Other Matters

TS Lismore Navy Cadets (TSLNC) has leased land from Council at 26 Endeavour Close Ballina for several years. The lease expired on 30 June 2016 and a new lease is currently being negotiated. The previous lease required the TSLNC to pay for all water, wastewater and waste disposal charges, whilst the Council paid for the ordinary rates and stormwater charges.

In line with current practices it is proposed that the new lease will require the tenant to pay all rates and charges. Depending on the outcome of the lease negotiations, the TSLNC may seek a donation in line with the donations made to the Girl Guide and Boy Scout Associations in Category B of the Donations Policy.

No recommendation has been made in respect to this matter, however the donation amount for ordinary rate and stormwater charge would be \$8,167.

Sustainability Considerations

- **Environment**
Not Applicable.
- **Social**
Provide support to community based organisations to enable them to deliver services for the benefit of the local community.
- **Economic**
Provide financial assistance to community organisations, allowing them to spend more money on providing their specific service to the local community.

Legal / Resource / Financial Implications

These donations have been budgeted for in the 2016/17 Operational Plan, however budgets can be exceeded as the year unfolds, depending on the level of water consumption at the surf clubs.

Consultation

The Council Policy and Operational Plan are exhibited prior to adoption.

Options

The options are to approve, or not approve, the rates and charges donations for each of the assessments detailed within this report. The donations listed are consistent with Council policy and the recommendation is to approve the donations.

RECOMMENDATION

That Council approves the donation of the 2016/17 rates and charges, as detailed within Tables One and Two of this report, which includes future estimated water consumption and wastewater usage charges, pursuant to Section 356 of the NSW Local Government Act 1993.

Attachment(s)

1. Policy - Donations - Rates and Charges

10.6 Capital Expenditure Program - Resolutions Review

10.6 Capital Expenditure Program - Resolutions Review

Delivery Program Governance and Finance

Objective To respond to resolutions asking for further information on Council's adopted capital works program for 2016/17.

Background

In adopting the 2016/17 Delivery Program and Operational Plan there were a few items that remained unresolved or were deferred seeking further information. The details of those items are as follows:

Road Reconstruction Priorities – Resolution 230616/11

That Council not amend the exhibited roads reconstruction program, but that a further report be submitted to the July Ordinary meeting after the Federal Election based on possible announcements for increased road funding.

Gibbon Street - Resolution 230616/12

That the \$40,000 for Ross Street footpath works remain allocated to the Gibbon Street precinct and that the source of the \$40,000 funding to match the RMS be the subject of a further report to Council, along with the works program for Gibbon Street.

Lake Ainsworth South Eastern Precinct –

Resolution 260516/30

That Council receive a valuation and report on the road reserve traversing the Lake Ainsworth Holiday Park and that Council hold a briefing on the matter.

Resolution 280416/3

That Council receive a report on funding options to fast track the implementation of the southern road section of the Lake Ainsworth Master Plan, with the works priority being the formalisation of the car parking spaces proposed in this location.

Skennars Head Sports Fields Expansion - Part c) of Resolution 230616/10

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.

This report addresses each of these resolutions.

Key Issues

- Funding and priorities

10.6 Capital Expenditure Program - Resolutions Review

Information

Information on each of the items outlined in the background section is as follows.

Road Reconstruction Priorities – Resolution 230616/11

That Council not amend the exhibited roads reconstruction program, but that a further report be submitted to the July Ordinary meeting after the Federal Election based on possible announcements for increased road funding.

The reason for this resolution was that there were submissions received from Wardell asking for Council to review the exhibited road reconstruction priorities as there was no funding in 2016/17 for Wardell. One of the preferred options was for Riverbank Road to be moved forward from 2017/18 to 2016/17 and Sunnybank Drive deferred to 2017/18.

The actual roads reconstruction program exhibited as part of the Delivery Program was as follows:

Table One – Roads Reconstruction Program as Exhibited

Description	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Category One				
Marom Creek Road Devils Elbow	360,000			
Category Two				
Swift Street	114,000			
Nashua Road (Half)	488,000			
Fenwick Drive	286,000			
Shelly Beach Road	176,000			
Bagotville Road	340,000			
Hickey Place	107,000			
Bagotville Road	289,000			
Category Three				
Skennars Head Road	367,000			
Skinner Street	140,000			
Skinner Street (Part)	172,000			
Friday Hut Road (Part)	392,000			
Fawcett Lane	74,100			
Sunnybank Drive	313,000			
River Drive		468,000		
Kays Lane (Part)		378,000		
Crane Street		240,000		
Fernleigh Road		370,000		
Henry Philp Avenue		139,000		
Riverbank Road		267,000		
Broadwater Place		130,000		
Northumberland Drive		277,000		
Teven Road		255,000		
Johnson Drive		204,000		

10.6 Capital Expenditure Program - Resolutions Review

Description	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Category Three (cont'd)				
Hermans Lane		250,000	250,000	
Tamar Street		191,100	166,000	
Chickiba Drive			187,000	
Winton Lane			80,000	
Ragland Street			89,000	
Category Four				
Mary Street			124,000	
Tamar Street			160,000	
Fernleigh Road			368,000	
Brunswick Street			92,000	
Bagotville Road			285,000	
Temple Street			275,000	
Waverley Place			101,000	
Burnet Street			371,000	
Barlows Road			107,000	
Russell Street			283,000	
Gibbon Street			130,000	
Links Avenue				271,000
Fernleigh Road				260,000
Norton Street				102,000
Clarence Street				160,000
Wilson Street, Wardell				96,000
Teven Road				476,000
South Ballina Beach Road (Half)				282,000
Valley Drive				280,000
Cedar Street, Wardell				172,000
Burnet Street				223,000
Camburt Street				158,000
Wejuba Place				131,000
Links Avenue				227,000
River Drive				172,000
Totals	3,618,100	3,169,100	3,068,000	3,010,000

The categories (one to four) represent condition / priority assessments, with category one being the highest priority works.

Both Sunnybank Drive and Riverbank Road are category three, which means from an engineering perspective, there is no objection to swapping the works between the years.

Also the additional funds allocated for Sunnybank Drive (\$313,000) compared to \$267,000 for Riverbank Road would allow extra works to be completed on Riverbank Road. This extension of the works for Riverbank Road formed part of the submissions to the Delivery Program.

Again engineering staff have no objection to that proposal.

10.6 Capital Expenditure Program - Resolutions Review

During the recent Federal Election campaign, the Nationals Party candidate for the seat of Richmond, Mr Matthew Fraser, announced that under a re-elected Coalition Government the following road projects, which are in Council's adopted Delivery Program, would be funded by the Coalition:

Shelly Beach Road - \$176,000 – In Council's Delivery Program for 2016/17
Skennars Head Road - \$367,000 – Delivery Program for 2016/17
River Drive - \$468,000 – Delivery Program for 2017/18

This announcement was made with the Minister for Infrastructure and Transport, Mr Darren Chester. Mr Chester has been reappointed to this portfolio following the Federal Election. There is no reason to believe that the \$1.011m in funding announced will not be delivered by the Federal Government this year.

If Council assumes that this funding will be delivered, the exhibited program can be amended to allow for Sunnybank Drive and Riverbank Road to be completed during 2016/17.

A revised roads program based on the assumption the monies will be received is as follows:

Table Two – Revised Roads Reconstruction Program

Description	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Category One				
Marom Creek Road Devils Elbow	360,000			
Category Two				
Swift Street	114,000			
Nashua Road (Half)	488,000			
Fenwick Drive	286,000			
Shelly Beach Road	176,000			
Bagotville Road	340,000			
Hickey Place	107,000			
Bagotville Road	289,000			
Category Three				
Skennars Head Road	367,000			
Skinner Street	140,000			
Skinner Street (Part)	172,000			
Friday Hut Road (Part)	392,000			
Fawcett Lane	74,100			
Sunnybank Drive	313,000			
River Drive	468,000			
Kays Lane (Part)		378,000		
Crane Street		240,000		
Fernleigh Road		370,000		
Henry Philp Avenue		139,000		
Riverbank Road	310,000			
Broadwater Place		130,000		

10.6 Capital Expenditure Program - Resolutions Review

Description	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Category Three (cont'd)				
Northumberland Drive		277,000		
Teven Road	233,000			
Johnson Drive		204,000		
Hermans Lane		250,000	250,000	
Tamar Street		191,100	166,000	
Chickiba Drive		187,000		
Winton Lane		80,000		
Ragland Street		89,000		
Category Four				
Mary Street			124,000	
Tamar Street		158,000		
Fernleigh Road			368,000	
Brunswick Street			92,000	
Bagotville Road			285,000	
Temple Street			275,000	
Waverley Place			101,000	
Burnet Street			371,000	
Barlows Road				107,000
Russell Street			283,000	
Gibbon Street			130,000	
Links Avenue			271,000	
Fernleigh Road			260,000	
Norton Street				102,000
Clarence Street				160,000
Wilson Street, Wardell			92,000	
Teven Road		476,000		
South Ballina Beach Road (Half)				282,000
Valley Drive				280,000
Cedar Street, Wardell				172,000
Burnet Street				223,000
Camburt Street				158,000
Wejuba Place				131,000
Links Avenue				227,000
River Drive				172,000
Bagotville Road				285,000
Skinner Street				250,000
River Drive				461,000
Revised Total	4,629,100	3,169,100	3,068,000	3,010,000

The key changes in this program are:

- River Drive – brought forward to 2016/17 as now grant funded
- Riverbank Road – brought forward to 2016/17 as extra funds now available

10.6 Capital Expenditure Program - Resolutions Review

- Teven Road – funds brought forward to 2016/17 and 2017/18 to allow the northern section of this road to be reconstructed over the two financial years.

Council deferred funding of \$220,000 in the 2015/16 budget for Teven Road as we were hopeful of obtaining grant funds from the Fixing Country Roads Program to extend the works proposed in 2015/16, however that grant application was unsuccessful.

The preference now is to reschedule the Council funded works over two financial years to allow the entire northern section of the road to be reconstructed.

- A number of projects are brought forward a year due to the additional Federal Government grant funds, and additional projects have been added to 2019/20.

In respect to the Riverbank Road, Sunnybank Drive debate, if the \$1.011m in grant funds is received there is no need to debate road priorities, as both works are scheduled in 2016/17.

If Council does not receive the \$1.011m the preference is not to debate the merits of each road project but to stay with the exhibited program.

It is not good practice to debate the merits of road construction priorities, as Council has always relied on the engineering recommendations, and the preference is to continue to follow that practice.

The recommendation supports this approach.

Gibbon Street - Resolution 230616/12

“That the \$40,000 for Ross Street footpath works remain allocated to the Gibbon Street precinct and that the source of the \$40,000 funding to match the RMS be the subject of a further report to Council, along with the works program for Gibbon Street.”

The background to this resolution is that \$40,000 was exhibited as part of the draft Delivery Program for the construction of the Ross Street footpath works during 2016/17.

However these works were completed late 2015/16 as part of the completion of road works adjacent to the Lake Ainsworth Caravan Park.

The actual footpath / shared path projects identified in the draft Delivery Program were as follows:

Table Three – Footpaths and Shared Paths Program as Exhibited

Description	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Tamarind Drive, North Ballina	43,000			
Park Lane, Lennox Head - refuge	12,000			
Allens Parade, Lennox Head	55,000			

10.6 Capital Expenditure Program - Resolutions Review

Description (cont'd)	2016/17 (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)
Horizon Drive, West Ballina - refuge	12,000			
Simpson Avenue, Wollongbar - refuge	10,000			
Fox Street, Ballina - refuge	10,000			
Compton Drive to North Wall, East Ballina	80,000			
Ross Street, Lennox Head	40,000			
Sneaths Road, Wollongbar	58,000	92,000		
Pine Avenue, East Ballina		40,000		
Chickiba Drive / Links Avenue, East Ballina		25,000		
Burnet Street, Ballina		147,000		
Alston Avenue, Alstonville		30,000		
Hill Street, East Ballina - refuge		15,000		
Smith Lane, Wollongbar			35,000	
Chickiba Drive, East Ballina		17,000	83,000	
Manly Street, East Ballina			25,000	
Beachfront Parade, East Ballina			80,000	
Hill Street, East Ballina			30,000	
Freeborn Place, Alstonville			15,000	
Parkland Drive, Alstonville			15,000	
Owen Street, Ballina			130,000	
Skinner Street, Ballina			46,000	24,000
Cawarra Street, Ballina				40,000
Greenfield Road, Lennox Head				45,000
Kingsford Smith Drive, Ballina				30,000
Compton Drive, East Ballina				38,000
Commemoration Park (Missingham to Owen Street)				150,000
Angels Beach Drive, Ballina				150,000
Coastal Recreational Walk	1,700,000			

With the completion of the Ross Street footpath works in 2015/16 it was recommended by staff that the \$40,000 be reallocated to joint funding a new PAMP study. RMS has recently offered funding for a new PAMP study, however this was late advice and was unable to be presented as part of the exhibited Delivery Program.

Historically, the development of PAMP studies and the associated footpath works program has seen a six year cycle, with the last two studies being produced in 2004 and 2010.

The current PAMP works program shows six footpath projects for the Lennox Head (north) area, and five of these will be completed by 2016/17. These projects have comprised footpath sections along Byron Street (north and south side), Ross Street, Ballina Street (widening with retaining wall) and this year Allens Parade (connection to foreshore path). The remaining path project is a footpath section along Greenfield Road with delivery in 2019/20.

The PAMP study and the associated footpath works program provide a sound basis for footpath priorities given the community consultation undertaken during development.

Council, on occasions, has asked for footpath projects to be separately assessed, with a view to reviewing priorities and determining when a project may be delivered as an additional project to the current PAMP.

The provision of a footpath and / or refuge along Gibbon Street has been assessed and ranked with a priority score of 45. This places the Gibbon Street project with a ranking equal to other projects nominated for delivery during 2019/20, and ahead of the Greenfield Road project.

If Council were to follow the current protocol for assessing projects, it would be recommended that the Gibbon Street project be deferred to 2019/20. This would allow the current year's program to remain in place, except for the reallocation of the \$40,000 for Ross Street to the RMS grant.

If Council wishes to proceed with the reallocation of the \$40,000 for Ross Street to Gibbon Street for 2016/17, it is recommended that the RMS grant be co-funded by reducing the Compton Drive to North Wall project by \$40,000 for this year.

The Compton Drive to North Wall project comprises the investigation, design and construction of a footpath link along the eastern side of Shaws Bay Caravan Park and Shaws Bay Hotel and integrates with enhancement of Shaws Bay along Compton Drive. There is capacity to consider the scope of work of this project in association with the Shaws Bay Coastal Zone Management Plan, as Council has significant monies set aside for that project and the Pop Denison Master Plan in 2016/17.

Regarding a possible scope of work for the \$40,000 for the Gibbon Street precinct it has been requested by residents that funds be allocated to a refuge at Ian Avenue, a further footpath along Gibbon Street or street tree planting.

Street trees should be considered as part of the Open Spaces and Resource Recovery tree planting program, to ensure a coordinated and consistent approach to tree planting priorities. Council could make Gibbon Street a priority for that recurrent program if it so wished.

If Council wishes to allocate the \$40,000 to Gibbon Street for pedestrian facilities, as requested by the residents, two options are:

- a) Path only – 300 metres @ 1.35m wide \$40,000
- b) Path and Refuge – 200 metres path @ 1.35m wide (\$27,000), refuge \$13,000

Currently there are two existing concrete path sections along the western side of Gibbon Street, being a 125m section from Ross Street to south of Ian Avenue, and a 60m section immediately north of Megan Crescent.

This leaves two sections along the western side of Gibbon Street without path, being a distance of approximately 380m between Ian Avenue and Megan Crescent and a further 175m section south of Megan Crescent to connect to Byron Street.

10.6 Capital Expenditure Program - Resolutions Review

The request from the residents for the path to continue south from Ian Avenue will partially infill the “gap” of 380 metres.

Alternatively the path may be provided to commence at Byron Street and join the short section of path north of Megan Crescent, and then continue through to north of Foster Street. This will provide connectivity along Gibbon Street past the Bowling club, past Megan Crescent (access to sports fields) and past the Aboriginal Cultural Heritage site and then to Foster Street. This latter approach would potentially offer better connectivity and would take up approximately 300 metres of path, however a “gap” would still remain in between Foster Street and south of Ian Avenue.

Regarding the refuge at Ian Avenue it is unusual for a traditional pedestrian refuge to be placed within a residential precinct due to the associated local traffic environment.

For example this year’s footpath program includes some pedestrian refuges and these are located adjacent to main roads and commercial areas such as, Horizon Drive (at River St) West Ballina, Simpson Ave (shopping centre) Wollongbar and Fox Street, Ballina.

It is therefore recommended to consider the footpath option only, with the path along Gibbon Street commencing at Byron Street and finishing north of Foster Street.

In making this recommendation it is important to acknowledge that the recommendation is made in reference to the June 2016 resolution, as from a technical perspective the allocation of monies to the PAMP is the preferred option, as the adopted PAMP and priority assessment of the Gibbon Street work does not support this project being undertaken during 2016/17.

Lake Ainsworth South Eastern Precinct

Resolution 260516/30

That Council receive a valuation and report on the road reserve traversing the Lake Ainsworth Holiday Park and that Council hold a briefing on the matter.

Resolution 280416/3

That Council receive a report on funding options to fast track the implementation of the southern road section of the Lake Ainsworth Master Plan, with the works priority being the formalisation of the car parking spaces proposed in this location.

In respect to the first matter a valuation has been obtained with the estimated value of that land being \$480,000 as at June 2016.

In respect to the remaining unfunded works for the south-eastern precinct, the original estimate for this work was \$896,000 as reported to the 17 March 2015 Reserve Trust meeting. That figure excluded any planning approval expenses and had a limited contingency. A more realistic estimate in current dollars may be around the \$1M mark.

10.6 Capital Expenditure Program - Resolutions Review

The project includes road reconstruction, drainage, car parking and landscaping.

In looking at funding options obviously the sale of the road reserve to North Coast Holiday Parks Trust is one option to help source part of the funds.

Council has previously received correspondence from the NSW Crown Holiday Parks Trust on this road reserve and a copy of that correspondence is included as the first attachment to this report.

As per that correspondence the Crown was prepared to formalise other roads in this location, remembering that the southern road is not actually on a road reserve but traverses a crown reserve, subject to Council closing its road reserve, with the Trust also prepared to pay Council \$218,000 towards the "Southern Precinct upgrade including the drainage swales".

This leads to another issue in that the Crown Holiday Parks Trust has previously provided Council with a briefing paper, where they identified a range of encroachments between Council and the Crown Holiday Parks at Lake Ainsworth, Shaws Bay and Ballina Central.

A copy of that briefing paper is included as the second attachment. The briefing paper refers to attachments however they were not left with Council and are not retained in Council's records.

The purpose of that briefing paper was ultimately to negotiate with Council in respect to the various sales / purchases of land to rectify all the encroachments. These negotiations have not advanced due to the various plans Council has had in respect to the Lake Ainsworth foreshore works, along with the Holiday Park Trust preparing its various management plans for the holiday parks, with those plans to confirm park boundaries.

In respect to the briefing paper the Lake Ainsworth Holiday Park encroachment (Council road reserve) is identified in that paper with an area of 4,425 m². This area is consistent with Council's valuation.

Areas such as Pacific Parade (between Ross Street and the Surf Club – 1,125m²) and the Camp Drewe Road (2,760 m²) are also included, as they represent crown reserves where there is no formal road reserve.

From a valuation perspective it is considered that the Council road reserve has a far higher commercial value, as it is being used for a caravan park and has the benefit of that use, whereas the Council encroachments are being used as public roads.

Still this briefing paper highlights what may be the approach taken by the Crown, or the Crown Trust, if Council starts to push for the sale of the road reserve as the Crown may ask Council to purchase our own encroachments.

At some point Council does need to determine what approach it wishes to take in respect to the road reserve. Retaining the road reserve will allow Council to still have the option of putting an extension to Camp Drewe Road through the caravan park, and logically this may occur if Council also decided to close the southern road around Lake Ainsworth.

10.6 Capital Expenditure Program - Resolutions Review

If the southern road was to be closed, the only other option would be to locate the new road around the western end of the caravan park. Council has previously resolved to support that option subject to successful negotiations with the Crown on cost and purchase, however to date the Crown has expressed no interest in those negotiations.

If Council does wish to expend \$1M on improving the road and infrastructure on the southern foreshore then the recommendation would be look at selling the road reserve. It seems pointless in expending this amount of money on the southern foreshore, to protect it for decades to come, and then still retain the road reserve for an alternative road configuration.

The sale of the road reserve would help consolidate the operations of the caravan park in respect to land ownership and it would also have the added benefit of removing some concerns that the residents of Gibbon Street have regarding a possible extension of Gibbon Street through the caravan park.

Another option that Council may wish to consider is actually formalising a lease for the road reserve. Based on the valuation of \$480,000 a 5% return would generate approximately \$24,000 for Council per annum. This has not been pursued to date due to the other encroachments that exist.

In respect to the \$1M needed to finalise the southern precinct Council would still need to examine other projects funded in 2016/17 to identify what items could be deferred.

The preference would be not to defer projects that form part of our recurrent infrastructure budgets for items such as drainage, roads, footpaths etc, as the magnitude of this infrastructure makes it essential that Council continue to renew infrastructure where it can.

For a project such as this, which is more of a non-recurrent nature, the normal funding source would be the Community Infrastructure Reserve. The forward financial plan for this reserve has the following projects funded for the next few years:

Table Four - Community Infrastructure Reserve – Latest Forecasts (\$)

Item	2015/16	2016/17	2017/18	2018/19	2019/20
Opening Balance	1,778,800	630,100	500,300	498,900	556,400
Cash Inflows					
Interest Earned on Reserve	37,000	16,000	13,000	12,000	14,000
Rental 89 Tamar Street (net)	634,300	645,900	645,800	644,300	653,400
Rental ARC (net)	125,000	120,800	122,600	124,400	126,200
Rental Fawcett Park Café (net)	43,800	45,200	45,900	46,800	47,800
Dividend - Property Dev Reserve	455,000	0	0	1,000,000	800,000
Section 94 Recoupments	106,000	450,000	450,000	450,000	450,000
Sub Total Inflows	1,401,100	1,277,900	1,277,300	2,277,500	2,091,400
Cash Outflows					
Coastal Shared Path - Stage 4	850,000	0	0	0	0
Marine Rescue Centre	200,000	0	0	0	0
Wollongbar Sports Fields	625,500	0	0	0	0
Regional Sports Centre	272,600	0	0	0	0
Shaws Bay CZMP	0	75,000	104,000	0	0
Wollongbar Skate Park	10,000	490,000	0	0	0
Faulks Reserve, Pontoon	25,000	0	0	0	0
Keith Hall, Ramp	0	50,000	0	0	0
Captain Cook, Pontoon	0	25,000	0	0	0

10.6 Capital Expenditure Program - Resolutions Review

Administration Centre - Roof	0	45,000	124,000	0	0
Seagulls Leagues Club - Grandstand	0	30,100	0	0	0
Missingham Car Park	0	150,000	0	0	0
Captain Cook Park Master Plan	0	140,000	0	750,000	900,000
Ballina Town Entry Treatments	0	0	643,000	140,000	0
Community Infrastructure Projects	0	0	0	1,000,000	800,000
Loan P & I - Comm Buildings	29,600	29,600	29,600	29,600	28,100
Loan P & I - Town Centre	537,100	373,000	378,100	300,400	289,500
Sub Total Outflows	2,549,800	1,407,700	1,278,700	2,220,000	2,017,600
Closing Balance	630,100	500,300	498,900	556,400	630,200

The 2015/16 results are in the process of being finalised and generally speaking the inflows and outflows are close to budget.

The one exception to this is the inflows for Section 94 recoupments with the very preliminary figures looking like Council will be in a position to recoup approximately \$600,000 as compared to the budget of \$106,000.

In recent years Council has been able to recoup a relatively large amount from Section 94 contributions for projects completed in previous years and this is the reason why the 2016/17 to 2019/20 Section 94 recoupment figure has been increased to \$450,000.

What this means is that Council now has around \$500,000 extra in the Community Infrastructure Reserve for 2016/17 as compared to budget.

If Council were to combine this revenue with the potential sale of the Council road reserve we would be in a position to finance the southern works for Lake Ainsworth.

Overall this is considered to be a reasonable strategy and the recommendation is to commence discussions with North Coast Holiday Parks on this proposal.

By only referring to discussions, the recommendation is not authorising sale of the land. The outcomes of any discussions, which will take a few months, can then be reported back to the newly elected Council to determine how they wish to progress this matter. By at least having these discussions we can determine whether the sale of the road reserve is even a viable option.

Skennars Head Sports Fields Expansion - Part c) of Resolution 230616/10

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.

This project, which has an estimated cost of around \$1.3M is proving problematic to fund. It has been identified that the Lennox Head catchment has a deficiency of active open space, from a planning ratio perspective, and the expansion of the Skennars Head Sports Fields and the new EPIQ Sports Fields will only meet existing demand.

This means that the project should have a higher priority than other projects that would be classified as desirable.

The only options to fund this work relate to the use of reserve funds or loans. Loans are not recommended as Council should not be borrowing monies

10.6 Capital Expenditure Program - Resolutions Review

unless a matching revenue stream is identified due to our overall debt levels. There is no revenue stream associated with this project.

Council has fully committed our larger reserves such as LRM and the Quarry reserves to projects including the Indoor Sports Stadium and North Creek dredging. This means the only other viable reserve is the Community Infrastructure Reserve. The latest cash flows for that reserve are as per Table Four of this report.

In looking at the forecast cash flows for that reserve the only viable option could be to possibly look at deferring works such as the Ballina Town Entry Treatments and Captain Cook Park Master Plan to potentially free up enough funds to allow the Skennars Head expansion to be undertaken during 2017/18.

Both the Ballina Town Entry Treatments and Captain Cook Park Master Plan are classified as desirable (i.e. they are not essential) projects and with the potential for higher than forecast land sales (i.e. as discussed in the July 2016 Commercial Services Committee agenda) during 2016/17, Council may be in a position to full reserve fund the Skennars Head expansion during 2017/18.

Therefore the recommendation is to further review the Community Infrastructure Reserve forecast cash flows, to allow the Skennars Head expansion to be scheduled for 2017/18, based on the possible deferral for one year of the Ballina Town Entry Treatments and Captain Cook Master Plan implementation.

Sustainability Considerations

- **Environment**
Certain projects identified in this report will provide environmental outcomes through improved construction practices.
- **Social**
The majority of the works identified in this report provide social benefits through improved community infrastructure.
- **Economic**
Improved infrastructure can lead to increased economic benefits to a local community.

Legal / Resource / Financial Implications

There are a range of financial implications as outlined in the information section of this report.

Consultation

The contents of this report are based largely on matters raised during the public consultation phase of the draft Delivery Program and Operational Plan.

Options

Council has a range of options in how it wishes to allocate priorities and those options relate to varying the priority order for projects as outlined in the information section of this report.

10.6 Capital Expenditure Program - Resolutions Review

The recommendations that follow are consistent with the commentary in the report.

RECOMMENDATIONS

1. That Council approves the revised road reconstruction program as per Table Two of this report for inclusion in Council's Delivery Program and Operational Plan, due to the announcement of an additional \$1,011,000 in grant monies for Council as part of the recent Federal Election. If these monies are not forthcoming Council endorses the implementation of the original program of works for implementation in 2016/17, as per Table One of this report.
2. That based on the submissions to the draft Delivery Program and Operational Plan, along with the announcement of RMS funding, Council amends the exhibited footpath and shared path construction program for 2016/17 as follows:
 - a) Replacement of Ross Street with Gibbon Street (\$40,000) for works commencing at Byron Street and finishing north of Foster Street
 - b) Reduction of Compton Drive from \$80,000 to \$40,000
 - c) Inclusion of \$40,000 to match an RMS grant of \$40,000 to review Council's Pedestrian Access and Mobility Plan (PAMP).
- 3) That Council authorises the General Manager to undertake discussions with North Coast Holiday Parks and related agencies in respect to the possible sale of the Council road reserve through the Lake Ainsworth Caravan Park. These discussions are not to commit Council to the sale of the road reserve but rather to assess whether this is a viable option to raise additional income to assist in undertaking the works identified for the southern road as part of the Lake Ainsworth South Eastern Precinct redevelopment. The outcomes of these discussions are to be reported back to Council for further direction from the Council.
- 4) That Council approves a review of the forecast cash flows for the Community Infrastructure Reserve to allow the expansion of the Skennars Head Sports Fields to be undertaken during 2017/18. This review is to consider the possibility of increased land sales above budget, along with the possible deferral of the Ballina Town Entry Treatments and Captain Cook Master Plan budgets.

Attachment(s)

1. Correspondence – North Coast Holiday Parks dated 3 March 2015
2. NSW Crown Holiday Parks Trust - Briefing Paper For Encroachments

10.7 Delivery Program and Operation Plan - 30 June 2016 Review

10.7 Delivery Program and Operation Plan - 30 June 2016 Review

Delivery Program Governance and Finance

Objective To review Council's performance against the adopted Delivery Program and Operational Plan for the year ended 30 June 2016

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

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice has been to receive more timely quarterly reports. This report represents the final review of the 2015/16 - 2018/19 Delivery Program and the 2015/16 Operational Plan, with the information contained in the report based on work undertaken up to 30 June 2016 (complete financial year).

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

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

Key Issues

- Compare actual results against the adopted goals and priorities

Information

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

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

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

10.7 Delivery Program and Operation Plan - 30 June 2016 Review

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

Program Actions Overview - By Number of Tasks

Group / Status	GM	DEH	Civil	SCF	Total
Green	24	8	31	27	90
Amber	1	0	5	1	7
Red	2	0	0	0	2
Total	27	8	36	28	99

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	89	100	86	96	91
Amber	4	0	14	4	7
Red	7	0	0	0	2
Total	100	100	100	100	100

Typically this report only focuses on exception reporting for Items showing as amber or red, however there have been some major achievements this year which should be recognised. These include, but are not limited to:

- Significant advancement of the Coastal Recreational Path with works being undertaken on the Angels Beach to Sharpes Beach sections for the first time in over a decade
- Major improvements and funding sources achieved for the Ballina – Byron Gateway Airport
- Wigmore Arcade refurbishment largely completed, again after many years of debate
- Work well advanced on the Marine Rescue Centre, which has also taken many years to source the funding for the project
- Wollongbar Building Better Regional Cities grant program largely exhausted, providing affordable land to almost 100 residents / families.
- Waiver of developer contributions for secondary dwellings again providing affordable outcomes to many residents
- Ministerial adoption of the Coastal Zone Management Plan. This is another project that took many years to come to fruition
- Finalisation of the Ballina Major Regional Centre Strategy
- Adoption of the Ballina Koala Management Strategy
- Council being confirmed as Fit for the Future.

For the August 2016 Ordinary meeting a review of how Council has met its commitments in respect to the Community Strategic Plan will be submitted, with that report also providing an overview of the numerous projects / tasks / services that have been completed or delivered during this term of Council.

In respect to amber or red indicators items of interest include:

- Participate in Roads and Maritime Services Location Marker Program for Ballina (page 6) – This is an RMS project and Council has no control over the timing of the implementation of the works, although the pleasing update is that it now appears that Ballina is next in the roll-out of this program, following the completion of the trial sites.

10.7 Delivery Program and Operation Plan - 30 June 2016 Review

- Introduce online certification application process (page 8) – As previously report this is marked as red as it will not proceed as we are reliant on the software provider improving the software.
- Proactively manage Council sand pit (page 8) – The priority task has been the review of Council's quarries and a briefing on options for the sand pit is still to be scheduled.
- Implement the use of barcodes within the store for accurate stock issue to responsible officers (page 17) – As previously reported, due to difficulties in applying the corporate software system to this proposal, different technologies are being trialled.

Although some projects have not been completed this financial year nearly all key projects, as identified and endorsed by Council in the Operational Plan, have been actioned across the organisation.

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

Service Delivery Targets Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	19	16	20	17	72
Amber	3	7	7	3	20
Red	0	0	3	0	3
Total Tasks	22	23	30	20	95

Service Delivery Targets Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	86	70	67	85	76
Amber	14	30	23	15	21
Red	0	0	10	0	3
Percentage Total	100	100	100	100	100

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

- Asset Management – Percentage of DA referrals completed within 21 days – 71% (target > 70%) (page 21) – This is now the second time this action has met the agreed target and it is pleasing to see that internal process reviews and other actions to improve our performance have improved the overall result.
- Commercial Services (Airport) – Increase in operating revenue and operating surplus is greater than 25% of revenue (page 22) – Pleasingly, airport revenue and the operating result was better than budget this year.
- Commercial Services (Property) – Vacancy rates (page 22) – With improvements in the market conditions, our vacancy rates are now at reasonable levels.
- Environmental and Public Health – Onsite Effluent Disposal Systems Inspected (page 26) – Even though this is amber, the number inspected is

10.7 Delivery Program and Operation Plan - 30 June 2016 Review

beginning to increase as the benefits of employing an additional staff resource are being delivered.

- Water and Wastewater Services (Various – pages 30 and 31) – There are a number of amber and red indicators with the agreed benchmarks more reflecting preferred outcomes, rather than a realistic target. Nevertheless the indicators provide useful information in respect to the performance of this section.

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

Consultation

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

Options

The report is for noting purposes.

RECOMMENDATION

That Council notes the contents of this report on the review of the Delivery Program and Operational Plan for the 2015/16 financial year.

Attachment(s)

1. Delivery Program June 2016 Results (Under separate cover)

10.8 Capital Expenditure Program - 30 June 2016 Review

10.8 Capital Expenditure Program - 30 June 2016 Review

Delivery Program Governance and Finance

Objective To provide a review of the capital works program completed for the year ended 30 June 2016.

Background

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

The current practice is to provide a comprehensive quarterly status report on all the major capital works included in the Operational Plan.

This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure.

This report is the final report for the 2015/16 financial year.

Key Issues

- Status of works

Information

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

- Original Budget - represents the budget as per Council's adopted Operational Plan
- Carry Forwards - represents budgets carried forward from the previous financial year that were approved by Council at the August 2015 Ordinary meeting
- Approved Variations - Variations previously approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- Latest Estimate - Sum of the original budget plus the budget changes.
- Expended to Date - Expenditure to 30 June 2016
- % Expended - Percentage of budget expended to 31 March 2016
- Milestone Dates - Represents target dates for the major milestones.
- Status - Allows additional comments to be provided.

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

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

Open Spaces (attachment one)

The major works to be completed this year relate to:

- Play Equipment – Bolwarra Circuit – This represents work completed by developers as part of the Wollongbar Urban Expansion Area. As the installed playground provides benefit to a catchment larger than their specific development, the developer was entitled to recoup a portion of the costs from section 94 contributions collected by Council.
- Disc Golf – Bicentennial Park – This project went over budget due to difficulties with the site, which resulted in the ground needing a lot of preparation work for installation. In addition to the capital expenditure approximately \$3,000 was incurred improving and maintaining the vegetation in this area to help the accessibility around the Park.
- Play Equipment – Improvement Program – The playground equipment has now been installed.
- Ballina Netball Lights – A grant of \$25,000 is available for these lights, however with an estimated total cost of \$100,000 additional funds are being sought from the Club and other sources.
- Wollongbar Sports Fields – Construction works are well advanced.

Waste Management (attachment one)

Resource Recovery Shed and Year – Significant improvements have been made to this facility with the new operator up and running.

Asbestos Cleanup – This work came in well under budget.

Operations Support (attachment two)

Ballina Surf Club – All planning approvals are now in place and tenders have been called for the construction of this building.

Lennox Head Surf Club Building – Agreement is still to be finalised on a preferred design for the replacement building, with the next step being the lodgement of a development application.

Ballina Marine Rescue Centre – Works well advanced.

Ballina and Alstonville Swimming Pools – This work will now take place during the 2017 off season. This project remains on a very tight timeframe as planning approvals still need to be obtained.

Commercial Services (attachment three)

Apron Overlay and Terminal Expansion – Council has been successful in obtaining a \$2.2m grant (Regional Tourism Infrastructure Fund – RTIF) for the \$2.7m apron overlay project and \$4.5m for the terminal expansion.

Expenditure has been required on the terminal expansion up front to secure the grant and to commence planning for the project.

Wigmore Arcade – Roof and Awning – Works well advanced.

Subdivision – 54 North Creek Road – Development consent has been obtained for this work, with construction to occur in the 2016/17 financial year.

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

Water and Wastewater (attachments four and five)

Large number of projects completed, along with a number of incomplete projects to be rolled into the 2016/17 financial year.

Engineering Works (attachment six)

Stormwater

A number of smaller projects have been completed to date with these projects typically representing stormwater failures.

Urban Roads

A number of urban road projects have been completed with the Angels Beach Drive works well advanced.

Rural Roads

Excellent result with 95% of the program completed.

Ancillary Transport Services - Shared Paths and Footpaths

Works on the Coastal Recreational Path are well advanced and the new toilet in the Wigmore Car Park is now completely operational.

Water Transport

A tender has been accepted for the design and approvals component of this program, with the balance of the funding, being the construction component, transferred to 2016/17.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

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

Options

As per the following table there was once again an extremely high level of capital expenditure forecast for 2015/16, with a significant amount of expenditure actually incurred at over \$26.m

Capital Works Summary – 31 March 2016 (\$'000)

Section	Budget (%)	Expended (%)	Percentage
Open Spaces	5,842,600	2,814,000	48
Waste	1,438,000	855,800	60
Operations Support	5,370,900	3,804,000	71
Commercial Services	3,973,000	3,567,900	90
Water	1,884,000	1,441,300	77
Wastewater	3,495,000	2,254,800	65
Engineering Works	14,672,900	11,541,500	79
Total	36,676,400	26,279,300	72

During the last four years Council has expended over \$140m in asset renewal and expansion, which highlights the overall scale of works being provided on an on-going basis.

This report is primarily for noting purposes as per the following recommendation.

RECOMMENDATION

That Council notes the contents of this status report on the Capital Expenditure Program for the 2015/16 financial year.

Attachment(s)

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

11.1 Ocean Breeze Reserve - Proposed Cycle Track

11. Civil Services Group Reports

11.1 Ocean Breeze Reserve - Proposed Cycle Track

Delivery Program Open Spaces and Reserves

Objective To report on the community feedback for the proposed cycle track at Ocean Breeze Reserve and to seek direction from Council in respect to the next action to be taken.

Background

The Council proposes to facilitate the construction of a low scale, informal cycle track on a portion of Ocean Breeze Reserve. This proposal was first considered at the September 2015 meeting when the following was resolved:

1. *That Council provide in principle support to a proposal to establish a BMX cycling facility in Lennox Head.*
2. *That in respect of point one, the General Manager investigate potential site options, cost estimates and grant opportunities and prepare a report to Council advising on the outcomes of this investigation.*

In response to this resolution a report was presented to the November 2015 meeting and the outcome was that Council resolved the following:

1. *That Council seek feedback from adjoining landowners in regards to the proposal to construct a children's BMX track on the Ocean Breeze Public Reserve.*
2. *If no objections are raised from adjoining landowners, the Ocean Breeze Public Reserve site is confirmed as the preferred site. If objections are received, a further report is to be presented to Council for assessment of the feedback.*
3. *If the Ocean Breeze Public Reserve site is confirmed as the preferred site following point two above, the General Manager is authorised to facilitate the construction of the BMX track, subject to the establishment of suitable design and construction arrangements by community volunteers and any required approvals from an environmental planning and open space management perspective are achieved.*

In accordance with this resolution, comments were invited from the adjoining residents and this feedback was reported to the February 2016 meeting. The feedback at that time from the adjoining residents was that they were not in favour of the proposal.

The concerns raised included potential noise issues and anti-social behaviour impacts, poor drainage, environmental impacts and the reduction in area within the reserve as an open space for other activities.

11.1 Ocean Breeze Reserve - Proposed Cycle Track

Despite this feedback the resolution in response to that report is reproduced as follows:

That Council confirms Ocean Breeze Reserve as the selected site for the proposed Lennox Head cycle track and proceed to invite volunteers to complete the detail design.

As this decision was based on a conceptual proposal only, the report noted that should Council proceed with the resolution, it was appropriate for further consultation to be undertaken by providing information regarding the specific location and design of the track.

The design and location of the track has since been undertaken by volunteers.

Council staff translated the design into a scale drawing to ensure all with an interest in this matter have clarity in respect of what is proposed. Council then sent a letter to all residents who made a submission to the previous report. This report provides information to Council in response to this latest invitation to comment.

Key Issues

- Differing community viewpoints on the proposal
- Scale and nature of the proposal

Information

Attachment One provides a copy of the information distributed to residents. This letter includes a drawing of the proposed location and scale of the facility.

A copy of this letter was provided to all Councillors at the time it was issued to residents.

In response we have received 27 responses in favour of the proposal and 17 against. A copy of these submissions has been provided to Councillors under separate cover.

It is fair to say that generally the reasons against the proposal and the reasons for support in the latest submissions remain consistent with the previous representations to Council.

On this basis a brief summary only is provided below to record the types of concerns expressed in the submissions.

- Retention of open space area that is free of restrictions for all users
- Placing fill on the reserve is not environmentally sustainable
- The cycle track will have an adverse impact on drainage, and will be unusable in times of wet weather
- It is unreasonable for Council to spend any money on this facility
- No facilities such as toilets, car parking, shade, garbage, or water is proposed
- Noise, proximity to houses, and antisocial behaviour
- Access

11.1 Ocean Breeze Reserve - Proposed Cycle Track

The response provided to these issues in the previous report is available on Council's website.

In regard to the issue of allocating a portion of the open space to cycle track, this is a question for Council to determine after assessing the broader community values and preferences for the use of this land.

The scale of this project means that the environmental impacts and drainage issues can be appropriately managed within the final design and construction of the project, if it is approved.

No additional amenities were proposed as this facility is intended to be a low scale, informal option for predominately local families to use and enjoy.

Likewise, from the perspective of staff, it is considered that the scale and location of the cycle track will not generate an unreasonable risk of noise or antisocial behaviour.

It is however recognised that the perception of the adjoining landholders, as the people potentially affected by this issue, is important and clearly this group is concerned about noise impacts and the additional use of the reserve.

One new issue however has emerged since the presentation of the previous report. That report indicated to Council that staff are aware that the Lennox Community Garden had previously considered the benefits of relocating to Ocean Breeze Reserve.

Recently Council received a document providing a description of the proposal from the Lennox Community Garden.

A copy of this document is attached and the proposal covers a major portion of the Reserve area. This document has not been published by Council, however a number of submissions refer to it and express concerns about the amount of land potentially occupied by the garden.

Council has a Community Garden Policy which sets out a procedure for the management of applications for a community garden. This procedure includes community consultation after the technical assessments of the application have been completed.

Staff will write to the proponent advising a response to the information provided so far and provide some clarification around the formal application lodgment and assessment process.

The implications of the community garden proposal in respect of the cycle track and the concerns in the submissions are discussed in the options section of this report.

Sustainability Considerations

- **Environment**

The final design of the cycle track will ensure appropriate environmental mitigation measures are applied to the facility.

11.1 Ocean Breeze Reserve - Proposed Cycle Track

- **Social**

The objective of this project is to provide a facility that will encourage community engagement, particularly for young children.

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

There are no legal, resource or financial implications associated with the recommendation to this report, albeit that there may be some financial resources if Council proceeds with the cycle track.

A number of submissions do not support Council resources being used to procure this facility.

Council is aware of a proposed donation of fill material and an estimate of \$5,000 has been made for the cost of shaping the fill to suit.

It is possible drainage mitigation and landscaping may increase this estimate, although it is noted again that the amount of earthworks involved are considered relatively minor.

Should this project proceed, it is proposed any costs accepted by Council would be allocated from within the existing Open Spaces and Reserves operations budget.

Consultation

The background section of this report summarises the history of the discussion of this matter. This has included invitations for adjoining residents to comment on the proposal in October/November last year and June/July of this year.

The feedback from the recent invitation to comment is the subject of the information in this report.

Options

1. Terminate the Proposal Entirely

Based on the concerns raised Council may decide to take no further action for this proposal.

A suggested motion for this option would be *“Council, having considered the further feedback through the consultation process and recognising the concerns regarding noise, environmental impact and the preferred use of the area, Ocean Breeze Reserve is no longer considered suitable for the proposed cycle track facility”*.

2. Terminate the Proposal and Seek an Alternate Site

Based on the concerns of those living close to the reserve, the Council may decide to take no further action for this site, however it is an option to

11.1 Ocean Breeze Reserve - Proposed Cycle Track

pursue alternate sites. Some consideration of potential sites was provided in the first report to Council, albeit that the focus of that report was on the merits of the original preferred site at Williams Reserve.

Staff has not undertaken further specific research on alternate sites, however it is noted that the community discussion on this proposal has been ongoing for some time and we have not seen alternate sites or other preferences brought forward.

The disadvantage of this option is that alternate sites may encounter similar issues that have been raised from this consultation.

Before engaging the community and allocating staff resources to such a process, Council should consider its level of commitment to the project and be satisfied that the demand for the project justifies the further investigation effort.

This option recognises the level of support in the community for the proposal of a cycle track of this type, however it also recognises the issues that some residents hold in respect of the Ocean Breeze Reserve site.

The suggested resolution for this option is "*The General Manager prepare a further report that assesses additional site options for a cycle track in Lennox Head.*"

3. Defer Consideration of the Proposal until the Community Garden Application is Determined

The application for a community garden is at a preliminary stage.

The current application, if it proceeds, combined with the cycle track does cover a significant proportion of the reserve.

Deferring further consideration of the cycle track will enable the assessment of the community garden application and the options to appropriately integrate this proposal with the cycle track on this site.

This will enable the community to further consider the future of this reserve in respect of both proposals.

The disadvantage of this option is that the application for the community garden is considered to be very preliminary and the full aspirations and timing of the proposal from the Club's perspective is not yet understood by Council.

Therefore the length of time for a deferral is very uncertain and likely to be some time.

It is also noted that the low cost of the cycle track means it can be adjusted or removed easily in the future, if patronage is low or such changes are needed to support the community garden if that was determined to have a higher priority.

11.1 Ocean Breeze Reserve - Proposed Cycle Track

The suggested resolution for this option is *“Council defer further consideration of the Ocean Breeze Reserve Cycle Track until the assessment of the community garden application has been determined.”*

4. Prepare a Plan of Management for Ocean Breeze Reserve

The interest in this matter confirms that Ocean Breeze Reserve is important community land. This option, to prepare a Plan of Management, is very similar to option three in that it defers consideration of this issue, however it goes further in that it enables a formal process to be conducted that would take the Council back to first principles and consider all of the possible options for the future direction and use of this public space.

The land is currently managed in accordance with the Council’s Generic Plan of Management. Ideally a specific Plan of Management is preferred for sites of community interest such as, however due to cost Council has traditionally prepared Plans of Management on an as needs basis. A plan of management is expected to cost around \$10,000 to prepare plus staff resources.

The suggested resolution for this option is *“Council take no further action at this point in time in regards to the proposed Ocean Breeze Reserve cycle track and the General Manager prepare a draft plan of management for the Reserve, with this work to be funded from the Open Spaces and Reserves operations budget”.*

Similar to the comments above for option three, an alternative for this option is to approve the construction of the cycle track now and also prepare the plan of management. In the event that a cycle track did not feature in the plan of management, and noting its relatively low cost, the track could be easily removed at an appropriate time in the future.

5. Approve the Construction of the Facility

If Council is satisfied that the proposal will provide community benefits and there is sufficient demand for the facility, Council can approve for the procurement to proceed.

The issues of concern raised by residents can be assessed in the implementation phase to ensure sufficient mitigation measures are put in place to address any unreasonable impacts from the cycle track to the amenity of the adjoining neighbourhood.

In respect of a recommendation to this report all of the options are considered reasonable. Therefore Councillors need to undertake the difficult task of determining the “right outcome” for the community.

As Council has resolved to support this proposal three times to date the recommended option is to proceed as the consultation process has not identified any additional issues that were unforeseen for this project. In supporting this approach the only issue Council may wish to consider is that there will be costs incurred in delivering the track.

11.1 Ocean Breeze Reserve - Proposed Cycle Track

This may be limited to \$5,000 based on the figures outlined in this report, or it may be more if drainage and associated works are essential to ensure the track has no adverse impact on the reserve.

The preparation of a plan of management for this site is also recommended as this is a large and important piece of community land within Lennox Head, with an emerging interest in a potential multitude of uses.

The assessment and development of a community garden, due to its scale and overall impact on the reserve, should really not proceed unless the plan of management process supports the inclusion of a garden on this site.

In recommending this option the second preference for an option would be not to proceed with any works until a plan of management for this site is completed. The plan of management process would take into account all the various competing interests for the reserve and come up with a plan that provides a holistic management approach for the reserve.

The major downside to this approach is that it would continue the community debate on the proposed cycle track for a number of months, without the community having been given a decision by the Council on whether or not Ocean Breeze Reserve is the Council's preferred site for the cycle track.

RECOMMENDATIONS

1. That Council authorises the General Manager to complete the procurement of a cycle track at Ocean Breeze Reserve generally in accordance with the scale and location of the concept proposal illustrated in attachment one to this report, with any costs associated with this project to be funded from the Open Spaces and Reserves operations budget.
2. That Council authorises the General Manager to prepare a draft plan of management for Ocean Breeze Reserve, with that draft plan to be reported back to Council prior to exhibition. The costs of this plan are to be funded from the Open Spaces and Reserves operations budget.

Attachment(s)

1. Letter to Residents
2. Lennox Head Community Garden - Proposal
3. Submissions (Provided to Councillors Only) (Under separate cover)

11.2 Tuckombil and Stokers Quarries - Management Options

11.2 Tuckombil and Stokers Quarries - Management Options

Delivery Program Operations Support

Objective To provide Council with information on the short term and long term management strategy of the Quarries.

Background

Council considered a report in July 2013 regarding the strategic options for the Tuckombil and Stokers Quarry. It was considered timely to plan for the future potential for quarrying on these sites, as they were reaching their final stages of extraction as indicated on their development consents.

Based on a strategic options study provided by a specialist firm of quarrying consultants, Council endorsed the recommendation to continue the extraction from both sites.

A budget allocation of \$300,000 was authorised for the preparation of a Quarry Development Plan for both sites, the preparation of environmental assessments required for continuing extraction and to submit the necessary applications for any relevant planning and regulatory approvals.

While these strategic works have been progressing, the current operation of the quarries have been under lease with Lismore City Council (LCC).

Authorisation to accept the proposal from LCC to terminate their lease was granted by Council in June 2016 and the termination will take effect in mid-August 2016.

In making the decision regarding the lease, Council also resolved to receive a further report reviewing the options to operate the quarry going forward.

This follows a workshop held earlier in the year at which time Councillors considered advice in relation to the potential resources available at the quarries for the community, and the issues and constraints associated with seeking to operate at these locations.

The purpose of this report is therefore threefold:

- To provide a documented summary of the information presented to the Council workshop and update the Council regarding this project.
- To provide information in regards to the options to operate the quarry in the short term.
- To provide information in regards to long term options.

Key Issues

- Short term management options for the quarries now that the existing lease has been terminated earlier than planned.
- Providing an update and key information on the progress of the Long Term management strategy.

11.2 Tuckombil and Stokers Quarries - Management Options

Information

Long Term

As directed by Council, Quarry Development Plans have been prepared for both Tuckombil and Stokers Quarry. These were prepared by a quarrying specialist who undertook field investigations, drilling and resource estimates to present plans for the future expansion of these sites.

The proposed expansion for Tuckombil Quarry indicates a resource up to 17.3 million tonnes (Mt) is available on the site, with 11Mt of this being slightly weathered – fresh basalt rock.

The resource available at Stokers Quarry needs to be considered in conjunction with the Tuckombil resource, as the material is not high quality, however it can complement the material Tuckombil.

The proposed expansion indicates Stokers Quarry has a resource of 4 Mt, with 1 Mt of this being quality rock.



Figure 1: Proposed Tuckombil Quarry Development Plan (pink)

11.2 Tuckombil and Stokers Quarries - Management Options

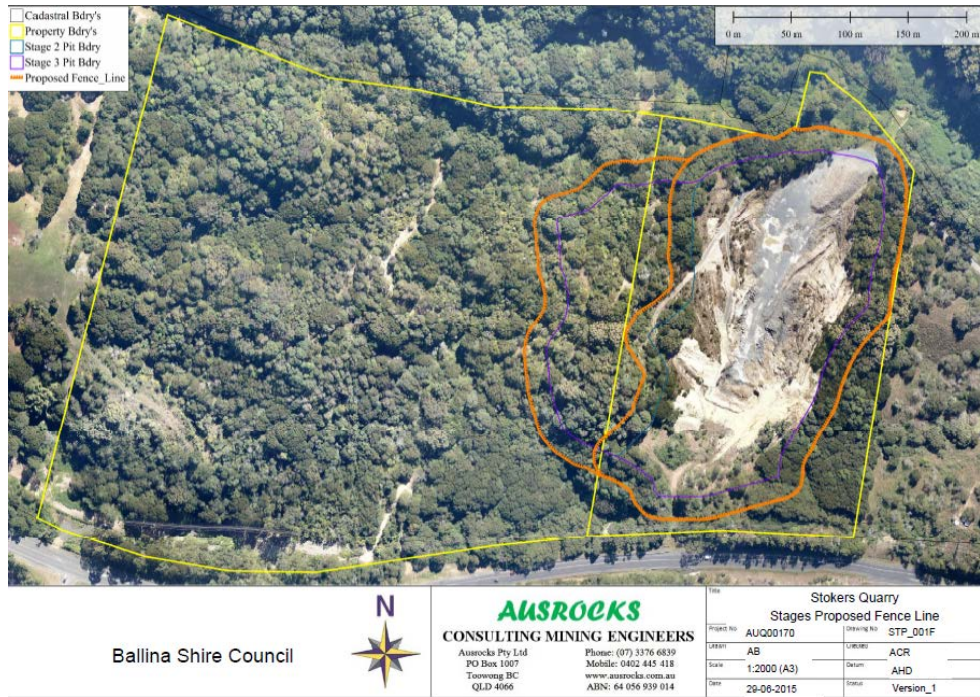


Figure 2: Proposed Stokers Quarry Development Plan (purple)

The information gathered during the development of these plans allowed for a valuation to be performed on the two assets considering the land value and the resource value (under the current consent and pending a future approval). See Table One.

Table One - Valuations

Item	Tuckombil Quarry	Stokers Quarry
Land Value (unimproved)	\$1,405,000	\$755,000
Resource Value (current DA)	\$990,000	\$380,000
Resource Value (proposed DA)	\$1,670,000	\$980,000
Total	\$4,065,000	\$2,115,000

Table 1: Asset Valuation

With the Quarry Development Plans prepared, GeoLink is engaged to gain the relevant approvals required for implementing these expansion plans.

This engagement involves:

- Issuing the development proposal to the Secretary of the Department of Planning and Environment and requesting the Environmental Assessment Requirements (SEARs)
- Preparing an Environmental Impact Statement (including SEARs prescribed specialists assessments) to accompany the development application

To date, GeoLink has prepared and submitted the proposal to the Department requesting the SEARs.

Once this response has been received, a full understanding of the extent of investigative and field work is required in order to pursue these expansions.

11.2 Tuckombil and Stokers Quarries - Management Options

While the Council has previously resolved to proceed with the preparation of the planning documentation, having regard to the time elapsed since that decision, the public interest and the updated or new information at hand, the recommendation to this report is that Council reassess its position prior to committing financial and other resources to the preparation of the EIS.

The preferred time to undertake this assessment is when the SEARS are known so that Council can receive further advice regarding the costs and risks associated with the different options.

Short Term

A study was completed of the quantity and quality of material that currently remains within the extraction limits available under the current development consent.

This study identified that the Tuckombil Quarry still has material remaining that can be used as select fill and raw feed, see Table Two. Our specialist advisor has indicated to us that reaching the Fresh Rock (FR) will have constraints and limitations; however they are achievable by qualified operators.

No further rock extraction should occur at Stokers Quarry due to the pit not conforming to contemporary safe quarry operations. Mitigation works are required to be undertaken that will bring the site to appropriate standards prior to further extraction occurring.

Table Two – Tuckombil Quarry – Material Remaining

	Volume (m³)	% of Total
Fill	74,277	16%
Highly Weathered (HW)	219,522	47%
Slightly Weathered (SW)	4,551	1%
Fresh Rock (FR)	171,211	36%

Table 2: Tuckombil Quarry – Material remaining within the current extraction limits of DA

Advice from material testing indicates that the Fill and Highly Weathered (HW) material can be used as select fill. This means that over half the material within easy access at Tuckombil is suitable for use in fill applications.

The largest potential market in the short term (2016-2021) is the Pacific Complete Pacific Highway upgrade from Woolgoolga to Ballina. There is a large demand for general fill which could be made readily available from Tuckombil or Stokers Quarry. There is the potential for these quarries to be competitive due to haul distances to the Pacific Highway being relatively short.

In addition to the highway works, Council has recently had Stage 3 of the Southern Cross Industrial Estate re-zoned and approved for development.

The amount of fill material estimated to be imported to this site is 116,000 m³ (this volume includes the quantity required for Boeing Avenue and assumes a compaction factor of 0.85%) to bring the site to the required finished surface level.

The interim operation of the Tuckombil Quarry can be split into the following activities.

11.2 Tuckombil and Stokers Quarries - Management Options

These have the potential to be separated or contracted out as a whole:

1) Overburden stripping

This can resume at site as soon as possible. It requires the use of experienced operators to appropriately manage and supervise the stripping.

Depending on resource availability (skilled personnel and suitable plant), this could be performed internal by Council or contracted out.

During this activity, topsoil could be stored in a well accessible area and the non-saleable material used to build the visual and safety bund along the property boundary.

2) Drilling and blasting

This must be done by a suitably experienced contractor. Adequate design and management is required to ensure vibration and air blast is controlled.

3) Crushing and screening

A contractor can be sought to carry out a campaign based crushing and screening operation (this council be combined with the drill and blast contract, as mentioned above). This is where the contractor is paid based on the finished product quantity.

4) Sales and marketing

This includes the control of loading at the weighbridge and overall management of the site operations. This can be handled by either an experienced Council staff member or a contractor.

It is an option for the Council to enter another lease. Prior to seeking tenders for the leasing of the facility previously, Council assessed the options and the benefits of this is the Council will not need to allocate management and other resources to the supervision and implementation of contracted or internally sourced works.

This option is not now preferred however for the following reasons.

Firstly, the future operation of the quarry is uncertain until further investigations and development approval processes are concluded. The time available under the current consent is not considered sufficient for a viable lease.

Secondly, as noted above, the major short term task is to sell overburden as opportunities are developed as a priority as it is difficult to commercially manage quarry rock production while the amount and depth of existing overburden is in place.

In relation to the four activities above, there are a number of quarry operators available that can provide resources and services to Council.

There are a number of options for the engagement of contractors ranging from wet or dry hire of plant only (that is Council directly completing operations), contract operations under direct Council management, or full contract operations.

11.2 Tuckombil and Stokers Quarries - Management Options

All of these options carry different risks and benefits, however the key point is to assess the best value or return on investment for Council by determining the option that provides the best balance between optimising economies of scale, increase access to potential markets, and minimising costs including management and supervision overheads.

Staff have commenced some discussions with operators to gauge the types of offers and terms that might be available, however these discussions have not yet advanced to a point where staff are able to confirm a final preferred position.

Sustainability Considerations

- **Environment**

The quarry is operated in accordance with regulatory environmental controls including development consent (with conditions) and a license.

- **Social**

It is important that discussions regarding the future of the quarry have regard to the social impacts on nearby properties that may result from the quarry operations.

- **Economic**

The quarry is important for economic development. Quarry product is required for a range of purposes and sufficient supply is essential for property and infrastructure development. Efficient access to this raw material assists to ensure the costs of development are reasonable for the community. There are limited alternate sites that have the potential to provide this resource in the future.

Legal / Resource / Financial Implications

The Council's Delivery Plan has been adjusted to recognise that the income that has been received from the quarries during the period of the lease to Lismore City Council is not expected to be achieved in the short term. The level of income will depend on the demand for overburden, however regardless of demand, it is expected that sales revenue will only meet production costs.

After this phase a more favourable economic outlook can be achieved as removal of the overburden will provide access to the more valuable quarry product.

An asset valuation has been performed at each quarry, which indicates the potential future income to Council is significant should approval be granted for the proposed quarry expansion.

It is recognised that this decision is complex and has a number of factors to be considered and it is prudent for Council to take a measured or step by step approach to the assessment of the information that will become available over time.

11.2 Tuckombil and Stokers Quarries - Management Options

Consultation

No public consultation has been undertaken in the preparation of this report as the purpose of the report is to provide an update only.

Options

As discussed above, the purpose of this report is to provide information to Council.

In summary, the following is noted:

- Staff are continuing to assess the preferred short term methods for operating the quarry to enable overburden to be progressively moved from the site.
- It is recommended that a further report be presented to Council once the Secretary of the Department of Planning and Environment Environmental Assessment Requirements (SEARs) have been confirmed. This report will be a hold point for Council to determine whether or not to proceed to the next stage of preparing planning approval documentation and is the recommended time for such a decision.
- The report records information in regards to the volume and value of the quarry resources available in the long term should the Council determine to seek an extension of the consent to operate the quarry in the future.

RECOMMENDATIONS

1. That Council notes the contents of this report in respect to the operations of the Tuckombil and Stokers Quarries.
2. That following confirmation of the environmental assessment requirements, Council receive a further report assessing the benefits and risks associated with commencing the preparation of the next stage of planning approval documentation for the possible extension of the development consent to operate the quarry into the future.

Attachment(s)

Nil

11.3 Weed Control Funding

11.3 Weed Control Funding

Delivery Program Open Spaces and Reserves

Objective To respond to a Council resolution in respect to increasing the funding for weed control.

Background

Council resolved at its Ordinary Meeting on the 28 January 2016 that a report be presented to Council as part of the 2016/17 budget deliberations on the options to increase the overall rate of bitou bush and other high priority weed control for key scenic areas.

In response, information was included in the reporting to the Finance Committee and the Committee resolved at its meeting on 12 April 2016 to receive a report on increasing the funding for weed control over time. The following information responds to this request.

Key Issues

- Weed management
- Level of funding

Information

The following information analyses the current funding levels available for weed control activities and the demands for this service. The funding shortfall means Council must prioritize activities and target funds. It is also noted Council relies heavily on leveraging additional funds through grants and on the hard work of volunteers.

Weed Control and Bushland Management Areas

Council currently manages 582 hectares of bushland reserves that includes:

- Ballina Coastal Reserve: Shaws Bay (6 hectares), Shaws Bay escarpment (12 hectares), Lighthouse Beach (15 hectares), Shelly Beach (15 hectares), Western Shelly bushland (11 hectares), Angels Beach (29 hectares), Sharpes Beach (4 hectares), Boulders Beach (25.2 hectares), Seven Mile Beach (63 hectares), Lennox headland (39 hectares), Boulders headland (4 hectares), Skennars headland (7 hectares) and Black Head (9 hectares) and Ballina Headland (3 hectares).
- Flat Rock (41 hectares)
- Lake Ainsworth (9.9 hectares)
- Rainforest Way (2.5 hectares)
- Castle Drive Reserve (5.5 hectares)
- Lennox Palms Estate (3 hectares)
- Hutley Drive Rainforest Reserve (2 hectares)

11.3 Weed Control Funding

- Williams Reserve (1.4 hectares)
- Amber Drive (0.7 hectares)
- Northumberland Drive Reserve (4 hectares)
- Mercer Park (0.2 hectares)
- Pine Avenue/Central Avenue Reserves (1.5 hectares)
- North Creek Ballina (1 hectares)
- Chickiba Wetlands (100 hectares)
- Angels Beach Drive Reserve (6.7 hectares)
- North Lakes Ballina (5.6 hectares)
- Bicentennial Park (23.5 hectares)
- Patches Beach (1.5 hectares)
- Big Scrub remnants: Wollongbar Reserve (7 hectares), Duck Creek (5.2 hectares), Lumley Park (1.6 hectares), Dalwood Scrub (1.1 hectares), Maguires Creek (1.2 hectares), Killen Falls (1.4 hectares), Western Chilcotts Creek (6.7 hectares), Marom Creek Weir (17 hectares), Willowbank (2 hectares).
- Houghlahans Creek Reserve (8.9 hectares)
- Tintenbar Hall (0.3 hectares)
- Teven Memorial Park (4 hectares)
- Rossmore Park (4 hectares)
- Ross Lane Reserve (2.5 hectares)
- Little Fisheries Creek (0.6 hectares)
- Tara Downs (8.8 hectares).

Recent and upcoming subdivisions will create additional bushland reserves:

- Ballina Heights (19.5 hectares)
- Henderson Farm (14 hectares)
- Coastal Grove (4.22 hectares)
- Tallow Wood Place Reserve (0.8 hectare)
- North Angels (1.5 hectares).

Weed control is also incorporated into roadside maintenance programs, such as:

- Coast Road Lennox landslip rehabilitation
- Pine Avenue embankment rehabilitation and compensatory works
- Roadside Vegetation Management Plan implementation

Current Management Situation

Weed control is only one component of an integrated approach to bushland reserve management and roadside vegetation management, which involves weed control, bush regeneration of native vegetation, supplementary plantings, erosion control, and maintenance of tracks, viewing platforms, fencing and signs.

Bushland reserve management is typically estimated to cost \$2,250 per hectare.

This calculation is based on existing bush regeneration and maintenance programs, weed control programs and average contractor rates. It assumes

11.3 Weed Control Funding

that a bush regeneration team of two contractors takes three days to perform weed control and bush regeneration per hectare per year.

It assumes high quality (low weed density) vegetation is being maintained.

However, sites that are heavily weed infested can cost considerably more to restore, as high as \$10,000 per hectare.

Council engages contractors to undertake bush regeneration because it does not have qualified bush regenerators on its staff. A five-year program is seen as the minimum timeframe for achieving sustainable results.

Council also relies heavily on volunteer groups. Fifteen volunteer landcare, dunecare and coastcare groups operate on Council managed land and provide an estimated 12,000 volunteer hours annually towards weed control/bushland restoration. This is valued conservatively at \$300,000 per annum (based on a \$25/hour labour rate).

Council supports these volunteer groups by providing chemical and first aid training, tree planting supplies such as trees and mulch, and chemicals for weed control.

This is a small investment that provides substantial returns socially, environmentally and economically.

Weed control has proved particularly problematic at some scenic areas such as Lennox Headland, Boulders Headland, Ballina Headland, Black Head and Skennars Head, where cliff edges and other constraints create access and safety issues.

The use of abseils has proved successful at cliff sites but is prohibitively expensive. A recent quote for a five-year weed control program using abseiling bush regenerators at Lennox Headland, Boulders Headland, Ballina Headland, Black Head and The Serpentine amounted to \$593,000.

Other options include helicopter boom spraying and drone aerial spraying, however, past experience with helicopters has proved ineffective, whereas drone spraying is still in its infancy although may become an option in future.

The current financial model is insufficient to support a shire-wide sustainable program of weed control and bushland reserve management.

Such a program would seek to establish a shire-wide network of high-quality (i.e. low weed infested) bushland reserves which then require relatively minimal ongoing maintenance.

The lack of funding necessitates that works must be prioritized and targeted, often without the financial support to maintain them over the longer term.

This lack of funding has also resulted in increased community concerns and complaints regarding the poor and/or deteriorating condition of some bushland reserves.

11.3 Weed Control Funding

Budget Constraints

Based on these estimates, an overall sum of \$1,309,500 per annum would be needed to effectively manage all of Council's bushland reserves and weed control programs to preferred standards, albeit that not all reserves would need the same level of service.

The current budget allocates only \$11,000 for weed control and \$10,000 annually for bushland reserve management, although as noted below there are further expenditures.

Grants contribute significantly towards bushland reserve management, \$178,000 being the amount available during the 2015/16 financial year.

If you include the \$300,000 annual saving from volunteer groups, the budget shortfall is \$810,500.

Aside from this bushland reserves budget, an additional \$20,000 is currently provided from the roads budget specifically for roadside weed control. The Council also employs one staff member (our Natural Resources Officer) and the costs of this employment are not shown in the figures above.

It is important to note that this position is responsible for a wide range of activities and weed control and bushland management is only a portion of the activities undertaken by the position.

The above budget estimate does take account of Council's \$100,000 per annum contribution towards weed control projects undertaken by Far North Coast Weeds.

Currently, very little of this sum is spent on weed control on public land within Ballina Shire due to the manner in which noxious weeds are prioritized across the far north coast.

For example, despite Council considering Bitou Bush to be a problematic noxious weed in Ballina Shire, its classification as a class 4 weed by Far North Coast Weeds does not warrant a high enough priority to trigger their intervention.

The budget shortfall of \$810,500 is significant and highlights the inadequacy of the current funding model in delivering a sustainable program of weed control and bushland management across the Shire.

The current budget, together with grants and volunteer contributions represents only 38% of the amount required. Consequently, works must be prioritized and targeted.

With further development placing still more bushland and roadside vegetation under Council management, the situation is likely to deteriorate further in the absence of additional funding.

It is difficult to forward plan bush reserve maintenance and weed control programs with certainty when relying on opportunistic grant funding and/or volunteer programs. However, their contribution towards offsetting the budget is significant and should not be discounted.

11.3 Weed Control Funding

Further effort and funding might leverage still more grants, although additional opportunities are limited and may not yield significant additional returns.

A comparison between Ballina Shire Council, Lismore City Council and Byron Shire Council has been provided in the following table. This snapshot highlights the poor resourcing of Ballina Shire Council when compared to neighbouring Councils.

Ballina Shire	Lismore	Byron Shire
Reserves Under Management		
582 hectares	116 hectares (42 hectares under management)	400 hectares
Main Revenue Sources		
<u>Council:</u> \$11,000 – weed control \$10,000 – bushland reserve management \$20,000 – roadside weed control, drawn from roads budget <u>Grants:</u> \$178,000 – bushland reserve management	<u>Council:</u> \$500,000 per annum – being a 1.8 % special rate variation (LCC, 2016) to fund Council's biodiversity management strategy <u>Grants:</u> \$80,000 – bushland reserves management	<u>Council:</u> \$490,100 per annum (BSC, 2014) – being a 2.0 % special rate variation (2008) for an environmental levy to fund roadside vegetation management, biodiversity management, and related staff positions and activities <u>Grants:</u> \$3.5M – Koala habitat management (shared with Tweed Shire Council) \$65k – Graminoid clay heath restoration \$99k – Land for wildlife (coastal biodiversity hotspot) \$50k – Tweed-Byron Native Species Planting Guide (shared with Tweed Shire Council)
Programs (not exhaustive)		
National tree day World environment day Landcare support Bushfire hazard reduction Indian Myna control Chickiba Lakes bird roosting Coast road Lennox Head landslip rehabilitation Pine Avenue embankment rehabilitation/compensation Roadside weed control Bitou Bush management Ballina Urban Garden Guide	Biodiversity management strategy Bushlands reserve management	National tree day World environment day Landcare support Indian Myna control Feral animal trapping Koala habitat management Roadside vegetation management Graminoid clay heath restoration Bitou Bush management. Land for wildlife (coastal biodiversity hotspot) Tweed-Byron Native Species

11.3 Weed Control Funding

Ballina Shire	Lismore	Byron Shire
		Planting Guide Flying fox monitoring Integrated vegetation management strategy
Staffing		
1 natural resource officer full-time	2 staff full-time	1 team leader full-time 1 ecologist full-time 3 bush regenerators part-time 1 project officer part-time (koala grant funded)
Resources		
No vehicle	1 leaseback car 1 other car	1 leaseback vehicle 1 dual cab ute

Strategic Considerations

The following strategic considerations are pertinent to this report:

- The *Ballina Major Regional Centre Strategy 2015-2035* has a number of strategic actions relating to its environmental objectives:
 - Improve the management framework for the protection and enhancement of urban bushland.
 - Map key ecosystem attributes and services through the preparation of a Biodiversity Strategy.
- The *Ballina Shire Growth Management Strategy 2012* identifies the need for a shire-wide biodiversity management strategy, including vegetation mapping.

Sustainability Considerations

- **Environment**
Ballina Shire is rich in biodiversity, containing many high conservation value and high profile vegetation communities. Many exist along the coastline and adjacent to tourist drives.
- **Social**
The community aspires to a healthy natural environment, to maintain, protect & manage natural habitat areas (*People, Place, Prosperity: A Framework for a more sustainable Ballina Shire 2025*)
- **Economic**
Degraded low-value (i.e. highly weed infested) bushland is disproportionately more expensive to manage than well maintained high-value (i.e. low-weed infested) bushland.

11.3 Weed Control Funding

Legal / Resource / Financial Implications

Council has a legal requirement to remove and control various listed noxious weeds and also remove threats (weeds) to endangered ecological communities.

The Open Spaces and Reserves section is currently allocated a budget of \$21,000 per annum for weed control and bushland reserves management. An additional \$20,000 is allocated from the roads budget specifically for roadside weed control. These amounts are insufficient to enable vegetation management plans and other management actions to be implemented effectively.

A revised budget of \$810,000 would be required to implement a Shire-wide sustainable program of weed control and bushland reserve management.

Consultation

Relevant sections of Council have been consulted with regards to this report. Neighbouring Lismore City Council and Byron Shire Council were approached in order that comparisons could be made between respective budgets and resources.

Options

The size of the funding gap for this program is significant and having regard to all of the funding demands before Council, obviously addressing this issue is a major challenge and one the Council may wish to turn its mind towards in future strategic planning activities.

It is also noted that our neighbouring councils have used special rate variations to increase funding levels for this area of management and this might be an option to consider at an appropriate time. However, Council currently lacks a strategic-level document, notably a biodiversity management strategy, necessary to support the implementation of an environmental/biodiversity levy, and to underpin the case for a special rate variation.

Council does have a variety of environmental management plans that are used to source grant funds, however these are not considered sufficient for the above purpose.

In looking at a recommendation to this report the appropriate action is to raise this matter with the newly elected Council to determine whether they wish to pursue other fund raising measures, including the possibility of rate increases, to confirm the preferred level of service for Council.

Realistically this is the only option considering Council's comparatively low rate base to our neighbours and service levels are a matter that should be determined by the elected Council on behalf of the community.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding Weed Control Funding.
2. That following the Local Government Elections, as part of the induction program, or any other activities reviewing Council's existing levels of service, the Council receive a briefing on the current levels of service for weed control and options to improve that level of service.

Attachment(s)

Nil

11.4 Ferry Operational Matters

11.4 Ferry Operational Matters

Delivery Program Engineering Works

Objective To respond to a resolution to report on Ferry Operational Matters

Background

At the May 2016 meeting, Council resolved the following:

That Council receive a report which has the objective of reviewing the following matters concerning residents using the South Ballina Ferry;

1. *The provision of turn around area to service the southern approach during periods when the ferry is not operating.*
2. *Improved street lighting for the southern approach.*
3. *A review of the excessive time and cost servicing the boom gate.*

This report responds to these items.

By way of further background, this resolution was made following Council's consideration of a Notice of Motion. The Notice of Motion followed correspondence between staff and Mr David Felsch, a resident of South Ballina and member of Council's A Ward Committee. Copies of these correspondence items were provided to all Councillors as staff were not able to satisfactorily respond to Mr Felsch's requests.

Key Issues

- Works priority and budget availability

Information

Item 1 The Provision of a turn around area to service the southern approach during periods when the ferry is not operating

The information sent to Councillors regarding this matter is reproduced below.

David is concerned that vehicles towing caravans and other items are not able to turn around at the south side ramp if they reach this point and decide not to catch the ferry or find the ferry is out of service. David has suggested a gravel extension at 90 degrees to the road near the ramp be constructed to facilitate a three point turn.

Staff Response

In response to this request previously, staff shifted a guide post and provided a widening of the gravel shoulder to assist a U turn. This work is further down the road than the location preferred by David. Staff have not formally investigated the option described above. The

11.4 Ferry Operational Matters

initial response of staff is that this would be a difficult location to construct the turning point and we are not aware of complaints or issues caused by the need to turn at this location that warrant investigation. On this basis we are reluctant at this point in time to allocate resources to further investigate the request. It is noted that a notice of motion would not need to support the project at this stage, it could simply require the General Manager to report on feasibility.

In response to the Council resolution, staff have done some preliminary work on feasibility and costing for the Turn Head at River Drive, South Ballina near the ferry approach.

Attachment one to this report is a general arrangement plan of what is required from an engineering perspective, however the location of the turn facility is located within a SEPP14 wetland and as such we would need concurrence from the Minister for Planning.

Costing of the studies to obtain consent is difficult to estimate as it is likely to be a lengthy process.

Based on our previous experience we estimate these costs to be \$50,000, however it is also the case that this task could cost more than this amount. Approval from NSW Fisheries is considered to be very unlikely unless it can be demonstrated there are no other options available.

The construction costs have been estimated to be \$45,000. However this amount does not include an allowance for vegetation offsets. Based on a 10 to 1 offsetting condition, clearing 150m² would require 1500m² of vegetation to be regenerated and maintained over a minimum of 5 years. This is costed at around \$30,000 however final costs would depend on the details of the land selected as available for this work and the extent of difficulty in establishing the offset planting.

This means, at a minimum, this project is expected to cost \$125,000 and there is uncertainty in regards to whether or not planning approval is likely to be achieved.

As per the original comment from staff, while we understand the position that heavy vehicles may have difficulties in retreating from the southern approach when the ferry is not operating, to date we are not aware of complaints or issues that have arisen.

Furthermore, to fund the works would require a readjustment of the existing roads program which is considered to have higher priority works at this point in time.

Item 2 Improved street lighting for the southern approach

The information sent to Councillors regarding this matter is reproduced below.

David is concerned about security, especially for female travellers, waiting for the Ferry on the southern bank. David proposes that additional lighting be provided to improve the safety and amenity of this location.

Staff Response

The most cost effective power source for a lighting project at this location is solar. Council has obtained preliminary information from a supplier of solar panels and street lighting, to the required standards, which indicate a cost of \$10,000. It is noted that it is David's view that lights could be installed for a smaller cost than this estimate.

Given the order of magnitude of these costs, the staff response has been that this project should be considered under the street lighting budget. Currently Council has adopted a priority program of works for this budget based on community requests and identified issues where street lighting does not meet the preferred standard level of service.

It is of course open to the Council to adjust its street lighting program and include an allocation sufficient to fund these works. If the Council wanted to review the cost estimate for the work, a formal report can be prepared.

Further to this information, Mr Felsch has submitted a quotation to undertake the works. Based on the information in the quotation regarding materials and supply this option is not preferred.

In considering this matter again, staff have identified that we have retained the street light and solar system that was removed from Pat Morton Lookout.

The background to this is that some time ago, in response to Police concerns regarding antisocial behaviour at the lookout, two lights were installed.

However some residents were concerned that the light spill was causing an impact on native fauna and requests were made to Council to remove the lighting. The final outcome was a compromise position with the removal of one light.

To date Council has not had further requests from the Police to reinstate the second light, nor has there been further requests to remove the remaining light.

This light is considered suitable to address the issues concerning Mr Felsch and the light stand and fittings are suitable for the environmental conditions at South Ballina. Without the need to purchase materials, the costs to Council are installation only and these costs can be allocated to the existing Ferry maintenance budget.

On this basis, staff have commenced a project to install the light. An engineering footing design is being drawn and installation will follow once this is received. If the Council does not wish to proceed in this direction, it is open for the Council to determine its preference at the Council meeting.

Item 3 A review of the excessive time and cost servicing the boom gate

This item has not been previously reported to Council.

11.4 Ferry Operational Matters

Some time ago the Council installed a replacement boom gate at the southern approach to the Ferry. At the time of installation there were a range of issues that meant the boom gate was not in continuous service, however these matters were dealt with under the product supply and installation warranties.

Subsequently, the boom gate has not operated effectively in windy conditions. One of the reasons this boom gate was selected was because the power supply holds the boom gate down, meaning if there is an issue with the solar supply the boom gate is open to enable traffic to pass. It has become apparent that in windy conditions the power supply is not able to adequately hold the boom gate down.

The boom gate is considered important to ensure safe traffic management at the site. Staff have considered replacing the unit, this is expected to cost around \$15,000. However it was first preferred to try adjustments to the weight of the boom gate. These adjustments appeared to be successful, however in more recent weeks, the performance of the gate has again become a concern and staff will now undertake the replacement.

In response to Council's request to review excessive time and cost for this matter, Council is advised that staff time is charged to general ferry maintenance budget allocations and therefore it is not possible to extract reliable data on the specific amount of time spent on dealing with the boom gate.

While the boom gate being out of service has caused some inconvenience at times to customers and ongoing issues in operating the ferry, the feedback from staff is that the time spent on attempting to resolve these issues is not unreasonable or excessive in the circumstances. As noted above, a portion of the activity was warranty work and a portion related to time spent trying to avoid replacing the boom gate.

It is unfortunate that the selected boom gate is not able to tolerate the local conditions, notwithstanding this issue was considered during procurement of the boom gate. It is noted that most boom gates operate in car parks and other locations where typically they are not as exposed to the winds that can occur at this location.

We will revert to a gate model that uses power to lift the gate, meaning it will need to be operated manually when the power is not available. However this will avoid the risks the issues associated with wind when the power is used to hold the gate closed.

Sustainability Considerations

- **Environment**
The information in item one above notes environmental approval is required for this project should it proceed.
- **Social**
The objective of the proposed street light in item 2 is to assist with security and safety of ferry customers.
- **Economic**
Not Applicable

11.4 Ferry Operational Matters

Legal / Resource / Financial Implications

The financial implications of these three items are discussed in the information section. In summary item one is not recommended to proceed due to the costs involved, however items two and three can be managed within existing budget allocations.

Consultation

No public consultation has been undertaken for this report, however staff have previously consulted with Mr Felsch regarding his concerns.

Options

Item 1 – Turn Area

The recommendation to this report is not to proceed with this project. However if it is Council's preference to proceed it is recommended that funds be allocated for the investigation of the environmental issues and this information be presented to Council in a further report.

Item 2 – Street Light

Staff have identified a cost effective solution to this request and arrangements are being made for the implementation. It is open to Council to terminate these arrangements if that is the position of Council.

Item 3 – Boom Gate

Staff propose to replace the boom gate to address the issues occurring with the current gate.

RECOMMENDATIONS

1. That Council notes the information regarding the provision of a turnaround area to service the southern ferry approach during periods when the ferry is not operating, with no further action to be undertaken on this proposal on the basis of cost, demand for other works with an assessed higher priority, and the uncertainty of whether or not regulatory approval could be achieved for the project.
2. That Council notes the information regarding the arrangements to improve street lighting for the southern approach to the ferry.
3. That Council notes the information in response to the question of whether excessive time and cost have occurred in servicing the boom gate for the southern approach.

Attachment(s)

1. General Arrangement Plan

11.5 Tender - Byron Street Sewage Pumping Station Upgrade

11.5 Tender - Byron Street Sewage Pumping Station Upgrade

Delivery Program Water and Wastewater

Objective To complete the tender assessment for the construction of a replacement sewage pumping station (SPS) at Byron Street.

Background

Byron Street Sewage Pump Station (SPS) in Lennox Head has been identified as insufficient to cater for future growth and has inadequate capacity for current wet weather flows. A design solution has been developed to replace the pump station on the existing site.

An open call for tenders was made for the construction of the replacement SPS. During the tender period a compulsory pre-tender meeting was held at the Byron Street site and was attended by four civil contractors. Three tender submissions were received by the close of the tender period on 5 July 2016. This report details the outcomes from the tender evaluation process.

Key Issues

- Comply with Local Government (General) Regulation 2005
- Achieve best value for money

Information

Tender submissions were received from:

- Diona Pty Ltd
- Dormway Pty Ltd
- Eire Constructions Pty Ltd

All tenders submissions were assessed to ensure conformance with the conditions of tender and mandatory assessment criteria. Assessment of the mandatory criteria was split into two parts, being:

Part 1

- Demonstrated relevant project experience
- Provision of a detailed construction methodology, risk assessment and program
- Provision of three relevant project references.

Part 2

- Demonstrated relevant project experience for key project personnel
- Proven safety record
- Provision of a documented environmental and quality management system
- Evidence of all required insurance policies.

11.5 Tender - Byron Street Sewage Pumping Station Upgrade

Eire Constructions failed to provide a construction methodology and risk assessment, and were deemed to be non-conforming. Diona and Dormway met all mandatory assessment criteria.

Tender assessments were finalised using the following weighted selection criteria:

- Total Price - 85%
- Local & Community - 15%

The table below provides a summary of the evaluation of the weighted selection criteria:

Tenderer	Selection Criteria				Rank
	Total Price (85%)		Local & Community (15%)	Total (100%)	
	Price (\$)	Score	Score		
Diona	1,534,000	85.0	11.0	96.0	1
Dormway	2,065,092	63.1	3.5	68.2	3
<i>Eire Constructions</i>	<i>2,034,877</i>	<i>65.8</i>	<i>4.0</i>	<i>69.8</i>	<i>2</i>

Note: Eire constructions provided a non-conforming tender submission.

The price offered by Diona is substantially less than other Tenderer's, however was greater than the estimate provided by the design engineers (GHD) of \$1,287,000 (escalated from 2013). The prices above are ex GST.

The large variance in tendered prices can be attributed to the Tenderer's range in understanding of the scope of works and assessment of potential risks. Diona provided a clear and thorough tender submission, with detailed consideration of the construction methodology and associated construction risks. The tender submissions provided by Dormway and Eire Constructions were less detailed and had only basic or no consideration of the potential risks and this would appear to be reflected in the pricing.

Sustainability Considerations

- **Environment**
The replacement of the SPS at Byron Street will be in accordance with all legislative requirements and development consent to manage potential impact to the environment.
- **Social**
Replacement of the SPS at Byron Street is critical for ensuring the continuing operation of the sewerage reticulation network in Lennox Head.
- **Economic**
Not Applicable.

Legal / Resource / Financial Implications

Compliance with Part 7 Tendering of the Local Government (General) Regulation 2005 is required.

11.5 Tender - Byron Street Sewage Pumping Station Upgrade

The current 2016/17 budget allocation for the Byron Street SPS Upgrade project is made up as follows:

Replacement of SPS (tender estimate)	\$1,300,000
Power supply upgrade (estimate)	\$70,000
Contract/project management (estimate)	\$30,000
TOTAL	\$1,400,000

Including provisions for this tender, the revised 2016/17 budget requirements for the project are as follows:

Replacement of SPS (tender value)	\$1,534,000
Power supply upgrade (awarded contract value)	\$161,420
Contract/project management (estimate)	\$60,000
Contingency (10%)	\$175,542
TOTAL	\$1,930,962

There is a shortfall in allocated 2016/17 budget for this project of \$530,962.

The Skennars Head Road SPS Upgrade project has an allocated 2016/17 budget of \$735,000 from the Sewer Fund. It is recommended to cover the budget shortfall for the Byron SPS Upgrade project that works at Skennars Head Road SPS be deferred until 2017/18.

Council's wastewater (sewer) operations have sufficient reserves to fund the balance of the tender that is above the current estimate.

Consultation

A public tender process was undertaken.

Options

In accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract;*

11.5 Tender - Byron Street Sewage Pumping Station Upgrade

- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender; and*
- (f) carry out the requirements of the proposed contract itself.*

Option one is recommended as the preferred option as the tender assessment indicates that a market has been established and the assessment by the tender evaluation process has determined the preferred tenderer.

RECOMMENDATIONS

1. That Council accepts the tender from Diona Pty Ltd for the construction of a replacement Sewer Pump Station at Byron Street, Lennox Head for the tendered amount of \$1,534,000 (ex GST).
2. In order to fund this project the 2016/17 to 2019/20 Delivery Program be adjusted by deferring the proposed Skennars Head Road Sewer Pump Station Upgrade project to the 2017/18 financial year, with the balance of the expenditure over budget to be funded from reserves.
3. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.6 Policy (New) - Donations to Community Sporting Groups

11.6 Policy (New) - Donations to Community Sporting Groups

Delivery Program Open Spaces and Reserves

Objective To consider the need and funding options for a "Donations – Community Sporting Groups Capital Works Assistance Policy" to assist with managing requests for financial assistance from sporting groups.

Background

The Finance Committee recommended at its meeting on 15 March 2016 that Council receive a report on the option of having a *Donations – Community Sporting Groups Capital Works Assistance Policy* to assist with managing requests for financial assistance from sporting groups.

Council often receives requests from sporting groups to upgrade sporting facilities. These requests are typically made after a local group has been successful with a grant application and/or if the group offers substantial in kind contributions.

An example is the request considered by Council at its Ordinary Meeting of 25 February 2016 from the Lennox Head Cricket Club to undertake improvements at Megan Crescent; following the club's success in obtaining grant funding.

It is recognised that Council can benefit substantially from such grants and other resources sourced by community groups. However there can also be potential inequity where funds are allocated without following a formally documented, consultative program of prioritised capital works.

Council has yet to develop such a forward plan or prioritise works for sporting group facilities. This is because the needs of groups vary as a consequence of their own priorities and the opportunistic nature of grant-based funding.

A possible solution to improve Council's management of these types of requests is to adopt a policy similar to the *Donations – Community Halls Capital Works Assistance Policy*. This would enable groups to respond to an annual (or general ongoing) invitation to apply for a donation.

To commence such a program a recurrent funding allocation would need to be included in the budget. \$50,000 has been suggested as a desirable amount to commence such a program.

While these funds are not currently available, it is suggested that this proposed policy approach is worth considering and in the event it is adopted Council can consider the options for funding during the process to develop the next Delivery Plan.

Key Issues

- Managing requests for sporting group donations
- Budget allocation

Information

The draft policy contains a number of considerations including:

- Guidelines for assessing and approving requests
- Eligibility criteria
- Funding

In preparing the draft policy, consideration has been given to the *Donations – Community Halls Capital Works Assistance Policy* due to its similarity. The halls policy is regarded as having assisted with some excellent outcomes over time.

Sustainability Considerations

- **Environment**
Capital works will be subject to regulatory controls and environmental considerations where applicable.
- **Social**
A donations policy will support the needs of local sporting groups.
- **Economic**
Local sport activities are a source of economic development as they encourage visitors to Ballina.

Legal / Resource / Financial Implications

A donations policy will set out the criteria for assessing requests for sporting group donations, and will contribute to a more equitable distribution of funds. It will allow determinations to be made within a pre-determined budget allocation and reduce the issues associated with the reporting of non programmed funding requests received outside of the period when Council develops its budget.

As noted above, a recurrent funding source to support this policy has not been identified at this point in time. If the policy is supported after public exhibition, it is suggested that Council consider funding options when we prepare the next Delivery Plan.

It may well be that the budget could be implemented incrementally over time (i.e. year one \$20,000, year two \$30,000 etc).

Consultation

Internal consultation has taken place with Council Sections responsible for assessing requests for sporting group donations. Comments have been incorporated into the attached draft Policy.

Should Council endorse the attached draft policy, 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 *Donations – Community Sporting Groups Capital Works Assistance 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 *Donations – Community Sporting Groups Capital Works Assistance 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 *Donations – Community Sporting Groups Capital Works Assistance Policy*.

RECOMMENDATIONS

1. That Council adopts the *draft Donations – Community Sporting Groups Capital Works Assistance Policy*, as attached to this report.
2. That Council place the draft *Donations – Community Sporting Groups Capital Works Assistance Policy* on public exhibition for comment with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. That subject to there being no further changes to this Policy, Council looks towards implementing a recurrent budget for the implementation of the Policy, commencing in the 2017/18 financial year.

Attachment(s)

1. Draft Policy

12. Public Question Time

12. Public Question Time

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

13. Notices of Motion

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

Councillor Cr Meehan
Cr Worth
Cr Keith Johnson

We move

That Council rescind resolution 230616/35 as follows:

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 \$4 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*
 - *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.*

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

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.*

If this rescission motion is successful we intend to move the following motion:

That Council defer a decision on the signing of a joint venture with the Department of Education for the provision of a two court (four courts in total) indoor sports stadium at the Ballina High School site until the following actions have been taken:

- a) Council receives a report on the benefit / cost of only providing one court as part of this proposal, with that court allowing for future expansion
- b) The benefit / cost of providing a mezzanine area in the facility.

Councillor Comments

As Councillors we remain particularly concerned about the liability that this current Council is placing on future generations and Council by agreeing to a commit of approximately \$9.35 million for the provision of two indoor sports stadiums at the Ballina high School site. Our concerns include, but are not limited to:

- (a) There has not been public support expressed by the sporting groups for the proposal.
- (b) Lack of community consultation on the proposal.
- (c) The clear need for a complex such as this given the consultant report provided to Council and the new availability of the Southern Cross School court.
- (d) The funding for the \$9.35m remains uncertain with Council increasing the forecast grant contribution from \$3m to \$4m. This leaves a huge hole in the budget if no grant funds are secured.
- (e) No costed plan or building design.
- (f) Councillors included a mezzanine floor in the facility at an additional cost of over \$1m with no justification for that substantial expenditure.
- (g) Point 3 of Resolution 230616/35 highlights the financial risks with this project including the reliance on waste dividends, grant funding,

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

additional operating costs that Council will face and the negative impact on our Fit for the Future status.

- (h) All the dynamics of this proposal impact on a future Council with no say in the decision.

Staff Comments

The extensive staff comments are provided due to the lengthy history of this project and the importance of any decision made in respect to this facility.

In 2009 Council engaged the Strategic Leisure Group (SLG) to complete an "Indoor Sports & Events Complex Feasibility Report". That document, a copy of which is included as an attachment to this notice of motion, is comprehensive and examines a range of factors such as demographics, industry trends, supply and community feedback, before identifying a number of recommendations.

The SLG report identified, at that time, there was a need for a three court stadium, two courts plus one more multi-purpose court, with a need to move to four courts after about seven years of operation (refer to section 11.1 of the attachment). It is now seven years since the report was written.

Dependent on which expert, consultant or community representative provides the advice, there is little doubt that there currently exists, in Ballina Shire, a deficiency in indoor sporting facilities.

When we look at sports and other facilities across the Shire the only other obvious deficiency in facilities is the need to expand the Skennars Head Sports Fields, as there is a recognized deficiency of active open space in Lennox Head.

This means that the focus for Council for sporting infrastructure should be the Indoor Sports Stadium and the Skennars Head Sports Fields, to remove any deficiencies.

If Council accepts the advice from SLG, then we should be looking at the provision of at least three courts.

When SLG evaluated the demand for indoor sports they included existing facilities such as the Alstonville Leisure and Entertainment Centre and the Southern Cross High School. They also included the Ballina Indoor Sports Stadium at Barlows Road, which from all reports is no longer operating as an indoor sports centre.

Since the SLG report was written in 2009, the Lennox Head Cultural and Community Centre has commenced operations, with it now focusing more on cultural events, and the Ewingsdale Sports Complex has also been built, with residents from Ballina Shire no doubt using that facility for certain activities.

The feedback from the Ewingsdale Sports Complex operators, which has two courts, when visited by Council, is that there was strong demand for the two courts and a third court would substantially help the bottom line, from an operating cost perspective, due to the extra income that would be generated.

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

This type of background information, especially the SLG report, tends to lead to the conclusion that the provision of three courts may be the optimum outcome at this point in time, with a need to move to four courts in the not too distant future.

Since 2009 Council has investigated sites, including, but not limited to, Kingsford Smith, Gallens Road, Southern Cross and the Old Depot site, all of which have positives and negatives. The negatives primarily relate to development costs, location or tenure and the reason that the indoor sports facility has not advanced for a number of years is the limitations with the various sites, along with no source of funding being identified by Council.

Council now has an opportunity to commence a joint venture proposal with the Department of Education on the Ballina High School Site. This is a once in fifty year opportunity due to the redevelopment of the entire school.

The site is well located close to the town centre and readily accessible by large parts of our population. Development costs are reduced due to good infrastructure around and on the site.

Concerns have been expressed about tenure as the facility will be on State Government land. These concerns are not shared by staff, subject to an adequate lease being negotiated with the Department.

References are often made to the funds provided by Council for the Southern Cross School facility and it is correct that Council's involvement in that facility has been lost over time. Unfortunately there is no documented agreement in Council's records confirming how that facility was to be managed.

That is why it is so important to ensure that a lease is negotiated this time that protects the community interest in the facility. A lease will also be registered on the title and will not be lost.

Also that lease will need to ensure that there is no rent payable by Council for the use of the land, as that is one other area where the State Government has financially encroached on other facilities provided by Council (i.e. Ballina Library and visitor Information Centre on crown land).

Another concern raised is parking. This is a matter that will be assessed through the development application process. If, as part of that assessment, Council comes to the conclusion there is inadequate parking, then Council could withdraw from the project.

The model being proposed also has Council staff managing the two court facility, along with the third court outside school hours. Council providing direct management, which would also be written into the lease, again ensures there is Council continuity in the operation of the facility.

In respect to the notice of motion, comments on the various points raised are as follows.

- a) *There has not been public support expressed by the sporting groups for the proposal.*

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

There is limited public knowledge about this proposal to date so it is unclear whether it is supported by the sporting groups.

Of particular concern was the deputation from Ms Eva Ramsey at the June 2016 Facilities Committee meeting, where the deputation provided mixed messages on the merits of the project. Ms Ramsey has been the spokesperson for the Ballina Regional Indoor Sports Association (BRISA) and has been a strong advocate of a four court facility, and the joint venture proposal is not totally consistent with that four court objective.

The joint venture is premised on two courts allocated full time to Council, one court allocated outside school hours and a fourth court, which will predominantly be a performing arts space, available for indoor sports on a pre-determined booking basis, with the notification time still to be confirmed.

This model assumes that the fourth court would only be needed sparingly.

A concern with this joint venture model is that certain interest / sporting groups, or critics, may not support the model being proposed, albeit that many interest / sporting groups may support it.

It is very hard for any council to construct a multi-use facility that caters for every interest group and any project must involve compromise.

The joint venture proposal is recommended by Council staff as it is considered that the facilities delivered, being four courts in total, along with the possibility of increased use of the Southern Cross School facility, provides an excellent outcome for the majority of the potential users of the facility.

b) Lack of community consultation on the proposal.

There has been little consultation on the joint venture proposal although there has been extensive consultation over many years in respect to the need for an indoor sports stadium.

The joint venture proposal still allows for further community consultation as the project develops.

c) The clear need for a complex such as this given the consultant report provided to Council and the new availability of the Southern Cross School court.

As mentioned earlier, there is a range of opinions in respect to the need for indoor sports facilities, albeit that the Strategic Leisure Group report confirms that a need for a three court facility existed seven years ago.

d) The funding for the \$9.35m remains uncertain with Council increasing the forecast grant contribution from \$3m to \$4m. This leaves a huge hole in the budget if no grant funds are secured.

The original \$8m commitment was recommended by Council staff as it is considered achievable.

Certainly there are risks with the funding however the positive side of this is that the existing resolution on the joint venture proposal is based on the State

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

Government allowing Council four financial years to allocate funding to the project. Essentially the State Government is providing bridging finance to Council for the project.

This type of opportunity is very rare and if Council is unsuccessful with grant opportunities there may well be a need for further negotiations with the State Government to extend the financing period.

The benefit of joint venturing with the State Government is that they have the financial capacity to allow these types of negotiations to occur.

If Council builds our own facility anywhere else we will need to have the total funding confirmed before the project commences.

With the joint venture option we have a partner financing the project for Council, allowing Council a number of years to raise the funding required.

e) No costed plan or building design.

There is a quantity surveyor's report and preliminary design for the proposal. The preference has been not to release that information in an open Council report to date, albeit that Council staff have access to the information.

One of the benefits of this proposal to date is that the Department has prepared preliminary plans, along with obtaining quantity surveyor's estimates, all at no cost to Council. This has already saved Council thousands of dollars.

f) Councillors included a mezzanine floor in the facility at an additional cost of over \$1m with no justification for that substantial expenditure.

It is agreed that this not a very sound financial decision with no justification for approximately \$1m worth of extra funds for the project. There has been no business case to justify a mezzanine floor and the preferred option remains to allow space for retractable seating, with that seating to be purchased once Council has sufficient funds.

The Richmond Valley, Ewingsdale and Goonellabah indoor sports facilities do not have mezzanine levels and for Council to commit that expenditure to this project, where the funding is still uncertain, is not a responsible financial decision.

g) Point 3 of Resolution 230616/35 highlights the financial risks with this project including the reliance on waste dividends, grant funding, additional operating costs that Council will face and the negative impact on our Fit for the Future status.

It is important to acknowledge that the financial concerns being raised with this facility will largely apply to any new indoor sports stadium.

The Fit for the Future model focuses heavily on renewing existing infrastructure as the first priority. Councils should only focus on building new facilities when there is a demonstrated demand and as a growth Council, Ballina Shire will, at times, need to build new facilities.

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

It is agreed that there is currently a deficiency in indoor sports facilities, albeit that the depth of that deficiency could be debated, therefore we need to recognize that any such facility will result in increased operating costs for Council, which in turn negatively impacts on our Fit for the Future benchmarks.

The reason these facilities are not built by the private sector is that they lose money and typically need to be operated at a cost to the community. This means that it is imperative we build facilities cost effectively and maximize their use.

The joint venture proposal allows Council to generate significant economies through the project management and construction phase, there are no land costs, and the availability of three and at times four courts should help the overall financial viability of the complex.

h) All the dynamics of this proposal impact on a future Council with no say in the decision.

The new Council will have a say on this proposal, as even with the signing of the joint venture agreement, Council will be in a position to withdraw from that agreement for a reasonable period of time.

In looking at any timeline Council could potentially withdraw right up to the tender acceptance phase, albeit that we may need to reimburse the Department for some costs incurred to get to that stage.

For example, once tenders are received, Council may well decide the project is unaffordable and then resolve not to proceed. The benefit of the model proposed is that the Department could still then proceed with the redevelopment as the Council's two courts are largely a stand-alone facility.

The new Council, as part of the induction program, will receive a briefing on this proposal and will be in a position to determine whether they wish to see the project progress.

In summary Council has an ideal site for this facility, there are no land costs, bridge financing is being provided by the State Government, the costs of the overall complex are being shared and Council will have the ability to withdraw from the joint venture.

Council already has numerous community facilities on State Government owned land (eg. Ballina and Lennox Head Surf Clubs, Ballina Library, Lennox Head Cultural and Community Centre, Visitor Information Centre, River Street Pre-school, Missingham Amphitheatre, Ballina Swimming Pool, Ballina Marine Rescue Centre) which highlights how beneficial it has been to the community for Council to access land that is not directly owned by Council.

The most important point when accessing another party's land is to ensure any agreement clarifies all matters that may be of future contention and the joint venture proposal is only designed to proceed if the Department meets Council's requirements.

Council could also look positively at the use of this land remembering that there have been concerns about Clement Park being transferred to the

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

Department of Education, albeit that the Council of the time agreed to this transfer following a community poll and the creation of Kingsford Smith Reserve.

By providing indoor sports facilities on this site, the community will once again be having full access to a large portion of this land, for no lease fee, although the use is for indoor rather than outdoor sports.

The only major concern with the current position of Council is the Council decision to include a mezzanine floor, at an additional cost of \$1m, when there has been no evaluation or justification for that expenditure. Those funds should be expended on other essential community infrastructure across the Shire and cannot be supported from a financial perspective.

Finally, in respect to delaying a decision, the Department is at a stage now where they wish to move forward with the more detailed design for the planning application, which will eventually lead to the preparation of the tender documentation.

Council may be able to withdraw from the joint venture at a future date but really a decision on the joint venture is needed now to allow the proposal to progress, otherwise the opportunity will be lost, as the Department is working to a tight timeframe with the new school to open in February 2019.

COUNCILLOR RECOMMENDATIONS

That Council rescind resolution 230616/35 as follows:

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. *That 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 \$4 million, with no guarantee that*

13.1 Rescission Motion - Ballina Indoor Sporting Facility Venture

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*
 - *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. *That 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.*

If this rescission motion is successful we intend to move the following motion:

That Council defer a decision on the signing of a joint venture with the Department of Education for the provision of a two court (four courts in total) indoor sports stadium at the Ballina High School site until the following actions have been taken:

- a) Council receives a report on the benefit / cost of only providing one court as part of this proposal, with that court allowing for future expansion
- b) Council receives a report on the benefit / cost of providing a mezzanine area in the facility.

Attachment(s)

1. Strategic Leisure Group - Feasibility Report - Indoor Sports and Events Complex (Under separate cover)

13.2 Rescission Motion - Planning Proposal - Blue Seas Parade

13.2 Rescission Motion - Planning Proposal - Blue Seas Parade

Councillor Cr Worth
 Cr Meehan
 Cr Smith

We, the above Councillors, move that resolution 230616/8, as follows, be rescinded:

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, with the proposed residential zone being no closer than 50 metres from the common property boundary to the south (Mr and Mrs Small's property).*
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.*

If successful we intend to move the original staff recommendation, as follows:

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.*

13.2 Rescission Motion - Planning Proposal - Blue Seas Parade

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.*

Councillor Comment

The Council resolution from the June 2016 Ordinary meeting has been discussed with Council staff, and the concerns we have, as Councillors, are as follows:

- a) the increase to 50 metres is unreasonable when it is considered that there are residential lots immediately across the road that are far closer than the 50 metres proposed
- b) the applicant is allowed to ask for this decision to be reviewed by the Department of Planning, which means that the Department or the Joint Regional Planning Panel can review the Council decision and overturn it. This outcome is highly likely considering that 50 metres was not recommended in the independent review undertaken by Mike Svikis Planning or by Council staff, particularly when the residential lots across the road are so close.
- c) the recommendation, as proposed by Council staff, and supported by the independent assessment of the proposal, achieves a number of positive outcomes such as larger 1,200m² lots at the southern end of the site, retention of parts of Lot 1 as rural buffer areas, retention of the fig trees upon rural zoned land and 12 metre minimum rear setbacks to the larger 1,200m² lots and on balance is considered to be the right decision.

Staff Comment

The proposed replacement motion is consistent with the original staff recommendation, which was supported by the independent review undertaken by Mike Svikis Planning.

COUNCILLOR RECOMMENDATION

That resolution 230616/8, as follows, be rescinded:

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, with the proposed residential zone being no closer than 50 metres from the common property boundary to the south (Mr and Mrs Small's property).*
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*

13.2 Rescission Motion - Planning Proposal - Blue Seas Parade

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.*

If successful we intend to move the original staff recommendation, as follows:

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)

Nil

13.3 Notice of Motion - Tosha Falls - Plan of Management

13.3 Notice of Motion - Tosha Falls - Plan of Management

Councillor Cr Worth
 Cr Hordern
 Cr Smith

We move

That Council authorises the General Manager to prepare a plan of management for the Tosha Falls site to assist with long term planning for the site.

Councillor Comment

Council resolved at the June 2016 meeting to prepare a plan of management for Killen Falls. On balance it is considered reasonable that Council also complete a plan for Tosha Falls at the same time, as there may well be synergies between the two sites, along with economies (i.e. price, consultation, etc) in completing two plans together.

By having plans in place for both sites Council will be in a far better position to determine its preferred level of infrastructure for both sites, along with understanding the management strategies that need to be followed to manage the sites.

Staff Comment

A motion to prepare a plan of management for Tosha Falls was lost at the June 2016 Ordinary meeting as part of the Killen Falls debate.

This means that to consider this matter again within a three month period, a notice of motion must include three signatures. This notice complies with the requirements of the Local Government Act.

In respect to the motion itself there are economies to be generated by the completion of plans for Tosha Falls and Killen Falls at the same time. Also the plans may be able to complement each other.

The plans will need to be completed by an external consultant and extensive consultation will be needed to examine the range of issues associated with the sites. There is no specific funding allocated for either plan at this stage and if the motion is supported staff will examine existing operating budgets and reserves to confirm a funding strategy. The likely cost of this work will be around \$15,000 per plan.

COUNCILLOR RECOMMENDATION

That Council authorises the General Manager to prepare a plan of management for the Tosha Falls site to assist with long term planning for the site.

Attachment(s)

Nil

13.4 Notice of Motion - Coastal Recreational Path Alignment

13.4 Notice of Motion - Coastal Recreational Path Alignment

Councillor

Cr Worth

I move

That as a matter of urgency Council undertake a review of the Coastal Recreation Path covering a distance of 160 metres of the segment from the Angels Beach Underpass to approx. chainage 160 of the GeoLink plan to determine whether there are options to further improve the safety and the experience of the walk.

Councillor Comment

In having closely reviewed this segment of the path, now that it has been pegged I remain very concerned that from a safety and visual perspective we have not achieved the best outcome for the community as this section is next to the Coast Road.

Construction works are planned to start soon, however with further discussion from Councillors and staff there could well be an opportunity to do better than what is currently proposed, including moving the alignment further to the east.

Staff Comment

A copy of the latest design for this segment of the CRP is attached, with that diagram including the chainages for the path. To further assist Councillors visualize the location of the path, staff have placed survey pegs on site to identify the centre line of the path and the outside (i.e. western) edge of the barrier kerb. The Group Manager Civil Services can provide assistance if a Councillor has questions regarding this drawing or the survey set out.

In respect to the location of the CRP for the first 140 metres heading north from the underpass at Beachfront Parade, the location was determined, in part, following consultation with the Aboriginal community for that section of path, with that consultation also considering the entire section between the underpass and the Flat Rock Tent Park.

This consultation identified that the path, for this first 140 metres, was to clearly follow the road, and also the path between the overpass and Flat Rock Tent Park was to be of a boardwalk construction, to minimise any impact on Aboriginal heritage.

A large part of this decision making related to Aboriginal Cultural sensitivities for this area, remembering that it forms part of the declared Aboriginal Place for East Ballina and is subject to State Government legislation in respect to the activities that can be undertaken in that location, along with the approval process needed.

The feedback from the Aboriginal community was reviewed at subsequent workshops and incorporated into the development application.

13.4 Notice of Motion - Coastal Recreational Path Alignment

The participants have made various concessions to resolve a number of matters that have ultimately lead to an approval that has been unchallenged and generally accepted as a preferred balance in terms of meeting the needs of the broader community and key stakeholders.

From a staff perspective, to now look to push this segment of the path significantly to the east would be a breach of faith, or trust, with the key Aboriginal stakeholders whom, as Registered Aboriginal Parties, enjoy certain statutory rights, and therefore it cannot be supported. Particularly when the approved route meets all relevant engineering and planning standards, recognising that the engineering standards are based on significant research over many years.

Council is constantly working with the Aboriginal community on a range of planning and infrastructure issues across the Shire (the Links Avenue / Angels Beach roundabout being the most recent matter) and a strong relationship between the parties, with compromises being agreed upon, helps to ensure appropriate approvals are in place and that impacts to important cultural heritage values can be mitigated as far as practicable.

Environmental assessments have also been undertaken and there are flora species categorised under Threatened Species legislation located east of The Coast Road along this section.

The retaining wall, at approximate chainage 80 metres, provides an easterly limit to the path location due to these environmental considerations. The purpose of the retaining wall is to avoid earth fill impacts on these species.

The path, at present, represents a best fit considering the constraints, and the path is compliant with the design guidelines for a path located adjacent to a road. These design standards identify the minimum separation for vehicles from the path for this speed zone. These design standards have been applied successfully at other locations in the Shire, including Angels Beach Drive, the Coast Road and Skennars Road.

There may be an opportunity to marginally shift the path further east (estimated at say 0.5 metres) by building the path as a cantilevered path across the existing proposed retaining wall, and by extending the length of the retaining wall. It is possible this amendment does not require regulatory approval as it would be in the existing approved work area, however further design will need to be undertaken to determine the exact requirements, including an assessment of the impacts on the vegetation and the additional costs associated with this option.

If no design amendments are required, staff resources are available to commence the construction of this section as soon as Council determines its final position regarding this matter.

If Council wishes to seek an amendment or another approval for this location, as demonstrated by the recent timing of the Flat Rock Tent Park deviation, it may be another 18 months to two years before the segment can be completed. This assumes consent is ultimately obtained, which would be questionable, due to the impacts, and the availability of an approved route that meets all relevant standards.

13.4 Notice of Motion - Coastal Recreational Path Alignment

In conclusion, recognising that:

- this area was identified as an area of high Aboriginal Archaeological and Cultural Heritage Significance in the 2013 Converge report on Aboriginal Heritage that formed part of Council's review of environmental factors for the planning application for this project, when many of the remaining areas were of low to medium significance
- this area is part of the East Ballina Aboriginal Place
- Council has a planning consent that took years of consultation, research and analysis to obtain
- works are scheduled to start in the near future
- the design meets all Australian safety standards and it is debatable whether a small move to east, if allowed without further planning approval, would make any difference to safety when a barrier kerb is being provided as part of the current design
- a new planning consent would take many months to prepare and may not eventually be approved,

the preference is to proceed with the existing consent to allow this long overdue project to be completed in full by the end of this calendar year. Therefore the contents of the notice of motion cannot be supported from a technical perspective.

COUNCILLOR RECOMMENDATION

That as a matter of urgency Council undertake a review of the Coastal Recreation Path covering a distance of 160 metres of the segment from the Angels Beach Underpass to approximately chainage 160 of the GeoLink plan to determine whether there are options to further improve the safety and the experience of the walk.

Attachment(s)

1. Design Plan - Coastal Recreational Path (segment)

13.5 Notice of Motion - Draft Ballina Bike Plan - Beachfront Parade

13.5 Notice of Motion - Draft Ballina Bike Plan - Beachfront Parade

Councillor Cr Cadwallader
Cr Worth
Cr Johnston

We move

That Council amend the Draft Ballina Bike Plan to exclude the proposed shared pathway proposed for Beachfront Parade.

Councillor Comments

With Council currently constructing the coastal shared path on the eastern side of The Coast Road the provision of the Beachfront Parade shared path, which is not supported by the local residents, is not essential and therefore should be removed from the plan. The proposal is also creating unnecessary angst and concern amongst residents in this location.

Staff Comments

A motion to remove the bike track along Beachfront Parade was lost at the June 2016 Ordinary meeting as part of the Ballina Bike Plan debate. This means that to consider this matter again within a three month period, a notice of motion must include three signatures. This notice complies with the requirements of the Local Government Act.

As background information to this notice of motion the works proposed for Beachfront Parade are included in Council's adopted Pedestrian Access and Mobility Plan (PAMP). As per that Plan the purpose of the works are to provide a "Footpath connection to existing path north of Bayview Drive". The works were scheduled to be undertaken in 2013/14 and included an RMS grant, however as a result of a notice of motion to the 20 March 2013 Ordinary meeting, Council resolved as follows:

That this work be deferred and that Council receive a further report on the PAMP priorities and the possible inclusion of a further pathway from the Chickiba end of the pathway from Beachfront Parade to Tuckeroo Drive, to Southern Cross School along Chickiba Drive in the PAMP.

A report was then submitted to the April 2013 Ordinary meeting where Council resolved to adopt a revised works schedule with the Beachfront Parade works deferred (no timeframe identified) and replacement works included for Chickiba Drive and Tuckeroo Drive, which are in this locality.

It is important to acknowledge that a footpath for Beachfront Parade still remains in the revised PAMP program of works (Nov 2013), and is shown in the Delivery Program for 2018/19. The PAMP was prepared following extensive community consultation in 2010 and revised in 2013, and this PAMP replaced the original 2004 plan. If Council wishes to delete this segment from the Draft Bike Plan, consideration should be given to the works also being deleted from the adopted PAMP, as it would be illogical to leave essentially the same works in another Council adopted plan, especially when

13.5 Notice of Motion - Draft Ballina Bike Plan - Beachfront Parade

there is only a marginal cost difference between constructing a standard footpath and a shared pathway.

However Council does need to be mindful that the PAMP was subject to extensive community consultation including input from Council's Access Reference Group. As mentioned in the PAMP, the proposed Beachfront Parade footpath works provide connectivity to the existing path north of Bayview Drive, which forms part of the footpath and shared pathway network that integrates the Angels Beach, Old Angels Beach and Chickiba Estates. Pathway linkages to these Estates are also provided off Tuckeroo Drive and Chickiba Drive.

Council has already received numerous copies of a standard form letter objecting to the inclusion of Beachfront Parade in the draft Bike Plan. This letter states, in part, as follows:

"Council's Draft Bike Plan (June 2016), presented Beachfront Parade footpath as a substitute for the Coastal Recreational Shared Path (CRSP) by omitting the adjacent 450ms of the CRSP and placing it on Beachfront Parade footpath".

This wording is misleading in that the Beachfront Parade path was not presented as a substitute however it is correct that the CRSP segment was missing from the plan, which was an error in the document. Council is currently in the process of constructing the entire segment of CRSP from Flat Rock to the Angels Beach underpass and unfortunately it appears that there continues to be some form of concern that Beachfront Parade is intended as a substitute to the CRSP. There is no basis in fact to that concern.

The Beachfront Parade footpath is simply intended to connect various Estates to allow pedestrian movements. Council has previously relocated one power pole in this locality, which means the footpath, or shared pathway, when funded by Council, can be constructed without the need for further infrastructure relocation. Council also regularly constructs footpaths / shared pathways through existing driveways and road reserves. This work is always completed to the highest standard and the finished product typically fits well with the existing driveways. The actual location of the Beachfront Parade work is still to be determined, or approved by Council, as options include the western or eastern side of Beachfront Parade, or on the road itself. The original proposal was for the path to be located on the western side, as this is where the light pole was relocated.

In summary, the inclusion of the Beachfront Parade works in the Bike Plan and PAMP is still considered to be appropriate and ultimately the works will only proceed if the elected Council resolves that the works are to be funded in a particular year. Staff have also replied to the standard form letter advising that the letters have been accepted as submissions to the exhibition and that the next report would assess all of the options, including deleting the project from the plan.

COUNCILLOR RECOMMENDATION

That Council amend the Draft Ballina Bike Plan to exclude the proposed shared pathway proposed for Beachfront Parade.

Attachment(s)

Nil

13.6 Notice of Motion - Access for 4WD Vehicles at Angels Beach

13.6 Notice of Motion - Access for 4WD Vehicles at Angels Beach

Councillor

Cr Ken Johnston

I move

That the status quo be maintained for four wheel drive access to Angels Beach after the construction of the Coastal Recreational Pathway. This is as per the Ballina Coastal Reserve Plan of Management (April 2003) for Angels Beach.

Councillor Comment

Access is only via the designated vehicle access for:

- Emergency vehicles
- Council vehicles
- Professional fisherman
- Emergency situations only for private vehicles
- Amateur fisherman only between sunset and sunrise

Staff Comment

The design of the Coastal Recreational Path (CRP) is a balance in respect of a range of competing demands including the need to provide the path, protect the environment, recognise and respect Aboriginal history and culture, provide emergency and other access to public land, ensure safety, and promote security.

The CRP is expected to attract a lot of interest and generate high use and appropriate management is required for the safety of path users. Attached to this notice of motion is a plan of the CRP for this area.

The changes at this location are quite significant with the relocation of vehicular access and parking to a site adjacent to the Coast Road. The reason for this is to enable rehabilitation of the dunal areas and increase security for car parking.

The current Angels Beach 4WD access is located some 170 metres north of the proposed carpark, and future vehicular access onto the CRP is proposed to be restricted at the new carpark to avoid the risks associated with contact for pedestrians and cyclists with 4WD vehicles.

If allowed, 4WD vehicles would need to traverse 170 metres of the CRP to reach the beach access point. The path is not considered wide enough for this purpose as its objective is to convey pedestrians and cyclists only.

This arrangement is in accordance with approved development consent. The approved plan reads, in part, "...*restricted access onto the CRP for emergency vehicles via a removable bollard.*"

13.6 Notice of Motion - Access for 4WD Vehicles at Angels Beach

A removable bollard for maintenance and emergency access is an arrangement we have installed at many locations in the Shire where circumstances require this type of management response.

Access for recreational 4WD users to Angels Beach has not been stopped as the existing 4WD arrangements at Sharpes Beach are not affected by the CRP, albeit it is acknowledged that in certain tidal conditions the access to Angels Beach is reduced when compared to the current arrangements.

Council cannot support this notice of motion without breaching the conditions of consent. Therefore if Council wishes to amend the consent the appropriate approach would be to lodge a planning application to seek amendment of the consent.

This assessment will require consideration of whether the path design should be altered to ensure appropriate safety measures are incorporated to manage the interaction of vehicles with pedestrians and cyclists.

COUNCILLOR RECOMMENDATION

That the status quo be maintained for four wheel drive access to Angels Beach after the construction of the Coastal Recreational Pathway, as per the Ballina Coastal Reserve Plan of Management 2003.

Attachment(s)

1. Plan of CRP

13.7 Notice of Motion - Viewing Platforms at Angels Beach

13.7 Notice of Motion - Viewing Platforms at Angels Beach

Councillor

Cr Ken Johnston

I move

That the two viewing platforms that were recently removed from Angels Beach be replaced.

Councillor Comment

These two platforms/seats were used by a large number of local people and visitors (supported by 281 letters sent to the Council).

These timber structures were in need of repair, however, a decision was made to remove them. Also their location requires some maintenance, the trees and scrubs need to be trimmed for the beach and ocean views.

Unlike the large viewing platform at Flat Rock (cost estimate \$30,000 to \$35,000) the two platforms here were quite small and constructed with treated pine (cost estimate \$7,500 each).

It is recommended that these replacements occur ASAP otherwise a major cost and unacceptable time delay will occur for new approvals and installation.

Staff Comment

Angels Beach is approximately 1.8kms long with seven formalised beach access points. One access point is located at the northern end, two at the southern end and four accesses are available in the middle of the beach. There were previously six viewing platforms located along Angels Beach, with four now remaining following the recent removal of two platforms.

As per advice to Council in a recent bulletin item, these were removed as their condition presented safety issues.

Costings for new platforms need to take into account the logistics of the location, geotechnical survey, structural engineering certification and suitable materials with long life spans and low maintenance and risk.

In the opinion of staff, the budget suggested is not adequate for the preferred outcomes at these sites. Timber platforms are particularly susceptible to fire vandalism as previously experienced at Angels Beach and other NSW coastal locations.

Of the four remaining viewing platforms, these are well spaced with one at the northern end, one at the southern end and two in the middle of the beach. The northernmost viewing platform at Angels Beach campground has been replaced with a composite fibre and recycled plastic platform providing 50 years plus life expectancy.

13.7 Notice of Motion - Viewing Platforms at Angels Beach

The southernmost viewing platform on Black Head was repaired recently with recycled plastic materials which extends the life expectancy of this asset to a further 10-15 years based on the weakening timber structural supports.

One of the viewing platforms in the middle of the beach is due to be replaced with composite fibre and recycled plastic materials as a part of the Coastal Recreational Path project.

The other remaining wooden platform and raised boardwalk has deteriorated requiring significant repairs estimated to cost \$18,480 of which no budget has been allocated. This structure is does not have parking or good access.

The NSW Parks and Wildlife Service Park Facilities Manual recommends viewing platforms should be located near vehicle access and parking areas and where high pedestrian levels are expected. Two of the remaining viewing platforms are not located near easily accessible parking areas.

As per the advice in the Councillor bulletin, better understanding of the community demand for viewing platforms, along with recognising the costs to install and maintain these assets, and the need to strategically place the assets without impacting on the local environment, is required.

It is the preference of staff to prepare a report assessing a strategic direction for these assets for the whole of the Coastal Reserve area. This way the Council can determine its desired service levels, budget availability and priority for works overall with a consistent methodology.

On this basis, the recommendation of staff is the following.

That, in response to the recent removal and closure of the beach infrastructure at Angels Beach, Council receive a report that provides a draft strategic asset management program for viewing platforms, walkways and beach access points within the Coastal Reserve.

COUNCILLOR RECOMMENDATION

That the two viewing platforms recently removed from Angels Beach be replaced.

Attachment(s)

Nil

13.8 Notice of Motion - Developer Contributions for Small Business

13.8 Notice of Motion - Developer Contributions for Small Business

Councillor Cr Hordern

I move

1. That Council receive a report on options that could be considered to reduce, or waive, the developer contributions payable by smaller sized businesses when starting up or transferring their business location.
2. The objective of the reduction, or waiver, would be designed to assist in encouraging the establishment of small businesses in our Shire and to assist those businesses to survive in the first few years of operation.
3. The report is also to examine options where the reduction, or waiver, could be targeted at certain types of businesses that may assist in enhancing the overall commercial activity in our Shire.

Councillor Comment

The current system of levying developer charges on small business planning approvals can, at times, result in what are only marginal businesses in their initial start-up phase, having to paying thousands of dollars to council before they commence operating.

As we have seen with the increase in secondary dwellings, following the decision of Council to waive developer contributions for those applications there has been an uptake in secondary dwelling approvals.

There may be options for Council to consider similar policies to encourage businesses that may help to create increased activity in the various town centres.

There are also concerns about businesses that may be more family or community based, such as dance classes that simply cannot afford the Council contributions and are therefore not proceeding.

The other main issue with the current system is that typically the business owner is the one required to pay the contributions when the benefit of any planning consent actually stays with the property. This means property owner is the one that has benefitted permanently from the approval as the business owner may eventually relocate or close down their business.

This is a complex issue and a report, and no doubt a briefing, on this topic would be of interest to many people, including the local Chambers of Commerce.

Staff Comment

As per the Councillor comments this is a complex issue and will take a reasonable amount of resources to research thoroughly.

13.8 Notice of Motion - Developer Contributions for Small Business

Council did not identify this item as a priority in its adopted Operational Plan with the actions / tasks / projects in that document allocated as the main priorities for staff to complete during the year. Therefore the timing of a response to this resolution will depend on overall workloads and staff availability.

Council staff were already holding discussions with the Chambers of Commerce on options to incentivize certain types of businesses and the motion, if supported, adds to those on-going discussions.

COUNCILLOR RECOMMENDATIONS

1. That Council receive a report on options that could be considered to reduce, or waive, the developer contributions payable by smaller sized businesses when starting up or transferring their business location.
2. The objective of the reduction, or waiver, would be designed to assist in encouraging the establishment of small businesses in our Shire and to assist those businesses to survive in the first few years of operation.
3. The report is also to examine options where the reduction, or waiver, could be targeted at certain types of businesses that may assist in enhancing the overall commercial activity in our Shire.

Attachment(s)

Nil

13.9 Notice of Motion - Alstonville's Bitumen Batching Plant

13.9 Notice of Motion - Alstonville's Bitumen Batching Plant

Councillor

Cr Jeff Johnson

I move

1. That Council acknowledges that recent NSW Government Guidelines recommend a buffer of 1,000m between Boral's Bitumen Batching plant and the residential area at Alstonville.
2. That Council acknowledges that a number of houses in the Alstonville area that are within the 1,000m buffer zone regularly experience a strong bitumen odour in their homes.
3. That Council investigate alternative locations for Boral's bitumen batching plant that are further away from residential properties.

Councillor Comment

Boral has been operating a Bitumen patching plant at Ballina Council's Tuckombil (Alstonville) Quarry under their current DA since 1995. Boral has recently submitted to Council another Section 96 amendment to change the conditions of their original consent.

Quite rightly there is growing concern within the Alstonville community about the health impacts that the bitumen plant could be causing, particularly for children who are at greater risk of exposure to the toxic fumes which can often be smelt in the local area.

The latest NSW Government Guidelines confirm that its proximity to local residents is a serious concern and that the batching plant should be relocated further away from homes.

Bitumen is known to contain carcinogenic compounds so why is this heavy industry allowed to operate so close to the Alstonville community?

PAHs are some of the compounds that are emitted from the process of heating bitumen. There is sufficient evidence to show PAHs are carcinogenic to experimental animals, and as a result these chemicals are classified as 1 B Carcinogen, germ cell mutagen and reproductive toxicants, so we are talking about some dangerous chemicals that the EPA, Boral or Council have not had tested.

Recently the holding pond at the site was full and likely to have overflowed. The risk of local contamination of the soil and nearby creek is very high and needs to be tested.

Given the issues associated with this type of industry and its proximity to Alstonville, it is my belief that if Council is going to consider significant changes to Boral's operations then a new Environmental Impact Statement (EIS) is necessary so that our community can be assured that Ballina Council is looking after their health and safety, and that the local environment won't be

13.9 Notice of Motion - Alstonville's Bitumen Batching Plant

contaminated as a result of this type of industry being allowed to operate at this location.

In 2001 the NSW EPA looked at compliance of 17 asphalt manufacturers in NSW.

Source: <http://www.epa.nsw.gov.au/resources/licensing/asphaltreport.pdf>

This Compliance Performance Report — Industry Sector: Asphalt Industry was prepared by Compliance Audit Section, NSW Environment Protection Authority.

Key issues identified from the audits are listed below:

Delivery and handling of bitumen, diesel and other chemicals

- *Spillages that occurred during the cleaning of bitumen transfer lines (using organic solvents such as diesel), and spillage of bitumen and diesel during delivery were not cleaned up, and caused or had the potential to cause soil and/or stormwater contamination.*
- *Diesel and other chemicals were handled in an uncontained area, with the potential to cause contamination of soil and stormwater runoff.*

Delivery and handling of fine materials

- *Spillages of fine aggregate material that occurred during delivery were not cleaned up, resulting in or increasing the likelihood of dust emissions and contamination of stormwater runoff.*
- *Failure to use dust control measures during truck loading and unloading of fine material increased the potential for excessive dust emissions.*

Storage of hydrocarbons and other chemicals

- *Inadequate containment of hydrocarbons and other chemicals due to insufficient capacity of bunds, lack of an impervious base, damage to bund walls and non-removal of spilt liquids inside bunds, resulted in or increased the likelihood of stormwater contamination.*
- *Failure to monitor the integrity of underground storage tanks containing diesel increased the potential for soil and groundwater contamination to go undetected.*

Storage of aggregate materials

- *Insufficient containment of stockpiles and storage bins containing aggregate materials resulted in or increased the likelihood of stormwater contamination and excessive dust emissions.*
- *Stockpiles of fine aggregate material were not kept damp to minimise dust emissions.*

Heating of aggregate and bitumen

- *Exceedances of the specified limit on temperature of stored bitumen products increased the likelihood of volatile organic compound emissions to the air.*
- *Liquid fuel burners used to heat aggregate and bitumen were not properly maintained, with the potential to cause pollution of air, water and soil.*

Control of airborne particulate matter from the manufacturing process

- *Poor maintenance of pollution control equipment such as cyclones, baghouses and wet scrubbers resulted in emission of particulate matter to the air.*

Management of waste water and stormwater runoff

- *Waste water and/or stormwater runoff was not adequately treated prior to discharge, due to lack of maintenance and insufficient capacity of contaminated water treatment systems (first flush interceptor, sedimentation pit, triple interceptor pit, wastewater sump, septic tank, sludge-settling pond, pumps).*
- *Stormwater bypass of treatment systems increased the likelihood that contaminated stormwater would not be adequately treated before discharge.*

Management of wastes

- *The method of disposal of fine material was likely to cause dust emissions.*

Control of dust on unsealed roads and areas

- *Inadequate control of dust on unsealed roads and other unsealed areas resulted in excessive dust emissions from the premises.*

Monitoring requirements

- *Inadequate monitoring of groundwater and water discharges, with the potential for pollution of waters to go undetected.*

Delivery and handling of fine materials

- *Spillages of fine aggregate material that occurred during delivery were not cleaned up, resulting in or increasing the likelihood of dust emissions and contamination of stormwater runoff.*
- *Failure to use dust control measures during truck loading and unloading of fine material increased the potential for excessive dust emissions.*

Storage of hydrocarbons and other chemicals

- *Inadequate containment of hydrocarbons and other chemicals due to insufficient capacity of bunds, lack of an impervious base, damage to bund walls and non-removal of spilt liquids inside bunds, resulted in or increased the likelihood of stormwater contamination.*
- *Failure to monitor the integrity of underground storage tanks containing diesel increased the potential for soil and groundwater contamination to go undetected.*
- *Liquid fuel burners used to heat aggregate and bitumen were not properly maintained, with the potential to cause pollution of air, water and soil.*

Control of airborne particulate matter from the manufacturing process

- *Poor maintenance of pollution control equipment such as cyclones, baghouses and wet scrubbers resulted in emission of particulate matter to the air.*

Management of waste water and stormwater runoff

- *Waste water and/or stormwater runoff was not adequately treated prior to discharge, due to lack of maintenance and insufficient capacity of contaminated water treatment systems (first flush interceptor, sedimentation pit, triple interceptor pit, wastewater sump, septic tank, sludge-settling pond, pumps).*
- *Stormwater bypass of treatment systems increased the likelihood that contaminated stormwater would not be adequately treated before discharge.*

Management of wastes

- *The method of disposal of fine material was likely to cause dust emissions. Control of dust on unsealed roads and areas*
- *Inadequate control of dust on unsealed roads and other unsealed areas resulted in excessive dust emissions from the premises.*

Monitoring requirements

- *Inadequate monitoring of groundwater and water discharges, with the potential for pollution of waters to go undetected.*
- *Air monitoring devices were not operating, with the potential for air pollution to go undetected.*

Legislative requirements

- *Pollution of surface waters caused by contaminants in discharges, and pollution of groundwater arising from diesel contamination of soil*

Administrative requirements

- *Failure to formally advise the EPA of employees who were authorised to speak on behalf of the licensee or to provide information required by the licence.*
- *Failure to provide documentation, including Certificates of Compliance and an Environmental Management Plan, to the EPA within the required time frame (note that Statements of Compliance are now required as part of the licensee's Annual Return).*

Staff Comment

In respect to point one, Council's DCP outlines preferred minimum buffers for potential land use conflict between different/specified land uses. This is for new or encroaching land uses.

The Asphalt Plant has been in operation at this site since approximately 1978, and the currently approved and operational plant since approximately 1995.

The closest residential estates were approved in the mid 1980s, which means that the Asphalt Plant predates the residential land uses.

If a new Asphalt Plant was proposed in this locality, currently the preferred minimum buffer distance between an "extractive industry or mining" or "hazardous or offensive industry" and urban residential areas is either 500 or 1,000 metres (1,000 metres where blasting occurs).

A modification application to DA 1995/127 for the Boral Asphalt Plant is currently being assessed.

13.9 Notice of Motion - Alstonville's Bitumen Batching Plant

That application relates to sourcing material external to the adjoining quarry (also owned by Council and within preferred minimum buffer distances) and use of articulated vehicles in the transport of product.

Council needs to be very mindful that it does not make any decisions that could be seen to be pre-judging the assessment of that application.

Council is currently seeking additional information from the applicant in relation to noise and traffic and has given the applicant until the 29 July to provide this information with the aim being to submit the assessment report to the provisionally scheduled 10 August Extraordinary meeting.

In respect to point two, Council is aware that odour concerns have been raised by residents and these are dealt with by the Environment Protection Authority as the responsible agency.

In respect to point three, Bitupave Ltd are the lessees of the property known as Lot 1 DP 880416, Gap Road Tuckombil. Bitupave has a lease agreement with Council that expires on 31 December 2019 with an option for a further five year period. A copy of the site map for that locality is attached.

The permitted use is for an asphalt batching plant, storage of related bulk materials and storage and repairs of plant and equipment. There is actually no holding pond in the lease area for Bitupave.

Finally in respect to some of the comments regarding asphalt, Council staff have been liaising with the NSW Department of Health regarding the health concerns that been raised with Council.

The verbal advice from NSW Health is that they are the lead agency in respect to matters of this nature and they are not aware of any associated health risks with this plant since its operation commenced.

COUNCILLOR RECOMMENDATIONS

1. That Council acknowledges that recent NSW Government Guidelines recommend a buffer of 1,000m between Boral's Bitumen Batching plant and the residential area at Alstonville.
2. That Council acknowledges that a number of houses in the Alstonville area that are within the 1,000m buffer zone regularly experience a strong bitumen odour in their homes.
3. That Council investigate alternative locations for Boral's bitumen batching plant that are further away from residential properties.

Attachment(s)

1. Site Plan - Boral Alstonville Asphalt Plant

13.10 Notice of Motion - Demolition of the Shelly Beach Café Building

13.10 Notice of Motion - Demolition of the Shelly Beach Café Building

Councillor Cr Johnson

I move

1. That Council conduct a site inspection of the Shelly Beach Café building due to safety concerns, squatters and extensive damage that has occurred at the abandoned building.
2. That Council convene a meeting with the new lessee of this site to determine whether they intend to build a new café on the site and if not, discuss the possibility of Ballina Shire Council inviting expressions of interest from other parties to ensure that this once iconic Café can be re-established.

Councillor Comment

I recently viewed the site of the former Shelly Beach Café and was shocked at the extent of vandalism and damage to the building. There are holes in the walls, broken glass, old mattresses (suggesting that squatters have moved in) and extensive graffiti and rubbish.

As the owner of this property, it is Council's responsibility that the existing building be removed due to safety concerns.

The building, while currently fenced off, is easy to access, is in a highly visible site adjacent to the popular coastal shared path and is an eyesore for this popular tourist destination.

Staff Comment

Council has previously followed up with the lessee on improvements to this site with some actions taken, although the site remains in a very poor condition.

Discussions have been constant with the lessee about options to cancel the lease and try and find a new tenant and the lessee's preference is to still hold the lease. With the lessee still paying the significant lease rental this means there is little Council can do to break the lease.

However, it is agreed that it is appropriate for Council to take whatever actions we legally can (excluding expensive legal action) to try and improve the condition and appearance of the site. This may result in some costs being incurred by Council.

COUNCILLOR RECOMMENDATIONS

1. That Council conduct a site inspection of the Shelly Beach Café building due to safety concerns, squatters and extensive damage that has occurred at the abandoned building.

13.10 Notice of Motion - Demolition of the Shelly Beach Café Building

2. That Council convene a meeting with the new lessee of this site to determine whether they intend to build a new café on the site and if not, discuss the possibility of Ballina Shire Council inviting expressions of interest from other parties to ensure that this once iconic Café can be re-established.

Attachment(s)

Nil

13.11 Notice of Motion - Ballina Ocean Pool

13.11 Notice of Motion - Ballina Ocean Pool

Councillor

Cr Johnson

I move

That Council allocate \$15,000 from the Community Infrastructure Reserve to assist with the costs associated with preparing the environmental and engineering reports needed for the Ballina Ocean Pool (Shelly Beach rock shelf) approval process.

Councillor Comment

Ballina Council and the Reserve Trust have previously given in-principle support for the Ballina Ocean Pool project and delegated responsibility for submitting the application for the proposed pool (Shelly Beach rock shelf) to Ballina Council for consideration.

For the last 18 months the Ballina Ocean Pool Committee has been meeting and liaising with representatives from Ballina Shire Council's planning department, Crown Lands, Southern Cross University and a number of engineers and other professionals including surveyors, builders, planners, geomorphologists, etc. While the vast majority of the consultants that the Ballina Ocean Pool have been meeting with are able to give their time voluntarily it is unrealistic to expect a community committee to complete the necessary planning documents and reports without any costs being expended.

The location of the proposed pool has been surveyed and a draft report has been completed by students from the Australian Maritime College in Tasmania. The Marine Biology department at Southern Cross University, headed up by Professor Peter Harrison, have committed to completing the necessary environmental reports (EIS). A local planning consultant has prepared the brief that is now being refined and the reports organized.

As part of the brief the services of a geomorphologist (coastal processes) and engineer (Ocean Pool expertise) are needed to complete these reports. As these professionals are located in Sydney and are not able to complete the reports without costs being incurred it is now time for Ballina Council to provide some seed funding to assist.

I remain confident that once the Ballina Ocean Pool is approved there will be significant State and Federal Government grants available and a team of local professionals will assist in making this project a reality with very little cost being imposed on Ballina Shire Council.

There have been a few comments in the media about whether Black Head would be a more suitable location for the Ballina Ocean Pool. It is the advice of experts that this location isn't suitable for a tidal flushing ocean pool.

Furthermore, Ballina Council would need to commit at least \$2 million to improve the access road, provide parking, toilets, showers and other

13.11 Notice of Motion - Ballina Ocean Pool

associated infrastructure before consideration of an ocean pool at this location could even be considered. The rock shelf between Shelly and Lighthouse Beach already has this infrastructure within close proximity and is also in a highly visible and popular location.

Staff Comment

The amount of funding available in the Community Infrastructure Reserve is outlined earlier in this agenda in the report titled “Capital Expenditure Program – Resolutions Review”.

This is only a small amount requested from that reserve, however Council should always minimise unplanned withdrawals, as the cumulative impact of withdrawals can potentially restrict Council’s abilities to finance projects that form part of Council’s Long Term Financial Plan and Strategic Planning.

The major financial concern with the Ocean Pool is that there is no funding, both operational and capital in our Long Term Financial Plan for this project, and there is the risk that Council will be asked to allocate funds to the project at a future date.

COUNCILLOR RECOMMENDATION

That Council allocate \$15,000 from the Community Infrastructure Reserve to assist with the costs associated with preparing the environmental and engineering reports needed for the Ballina Ocean Pool (Shelly Beach rock shelf) approval process.

Attachment(s)

Nil

14. Advisory Committee Minutes

14.1 Commercial Services Committee Minutes 19 July 2016

Attendance

Crs David Wright (Mayor - in the chair), Sharon Cadwallader, Keith Williams, Keith Johnson, 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), Neil Weatherson (Airport Manager) and Sarah Carden (Secretary) were in attendance.

There was one person in the gallery at this time.

1. Apologies

Nil.

2. Declarations of Interest

Nil

3. Deputations

Nil

4. Committee Reports

4.1 Public Auction - Properties in Ballina and Wollongbar

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council authorises the General Manager to conduct a public auction for the five properties detailed in this report.
2. That Council authorises the General Manager to execute all contracts for sale at or above the reserve prices and affix the Council seal to all contracts for sale and subdivision documentation required as well as any other related documents.
3. That Council authorises an allocation of \$15,000 from the Property Development Reserve to cover marketing costs including auctioneer's fees, venue hire, signboards, flyers etc.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

4.2 Land Sale - Russellton Tennis Court Site Wollongbar

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council resolves to sell the property described as Lot 201 in proposed plan subdivision of Lot 2 DP 1135399, with the terms and conditions outlined later in this agenda in a confidential report.
2. That Council authorises the General Manager to finalise negotiations and that the Council seal to be attached to the contract for sale and subdivision documentation required as well as any other related documents.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

4.3 Car Rental Desk Leases - Airport

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Robyn Hordern)

1. That Council approves the renewal of the existing car rental desk leases, for a further period of five years, without calling tenders based on the excellent performance of the current tenants and the competitive market values negotiated for the renewals, as outlined in the confidential report included in this agenda.
2. That as part of the lease renewals, Council ensures that all the incumbent tenants are advised in writing, that prior, or upon the expiry of the new leases, that Council may call tenders for all the leases, as well as possibly increasing the number of car rental desk leases available.
3. That Council authorises the Council seal to be attached to the lease documentation.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Williams, Cr Keith Johnson, 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

4.4 **Ballina Byron Gateway Airport - Scoping Study**

RECOMMENDATION

(Cr Paul Worth/Cr Sharon Cadwallader)

That Council notes the contents of this open Council report in respect to the scoping study for the Ballina Byron Gateway Airport.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

5. **Confidential Session**

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

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 **Public Auction - Properties in Ballina and Wollongbar (Pricing)**

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 reserve prices for a public auction are to be determined.

5.2 **Land Sale - Russellton Tennis Court Site, Wollongbar (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 ongoing negotiations of a commercial nature.

5.3 **Car Rental Desk Leases - Airport (Financial Terms and Conditions)**

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.

5.4 Ballina Byron Gateway Airport - Scoping Study (Commercial In Confidence)

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 report contains confidential information in regards to airline agreements, landing fees and charges, opinions of value etc. that may also compromise current and future negotiations.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

(The Council moved into Confidential Session at 4.25 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

(The Council moved into Open Council at 5.32 pm).

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

5.1 Public Auction - Properties in Ballina and Wollongbar (Pricing)

RECOMMENDATION

(Cr Paul Worth/Cr Robyn Hordern)

1. That Council authorises the reserve prices, as per option one of this report, for the five properties detailed in this report.
2. If any of the properties fail to sell on the night of the auction, they are then

14.1 Commercial Services Committee Minutes 19 July 2016

to be placed on the market for sale by private treaty, at the reserve prices as per option one.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

5.2 Land Sale - Russellton Tennis Court Site, Wollongbar (Terms)

RECOMMENDATION

(Cr Ben Smith/Cr Robyn Hordern)

That for the sale of the property described as Lot 201 in proposed plan subdivision of Lot 2 DP 1135399, Council authorises the sale to the party, at the price and conditions as outlined in option one of this report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

5.3 Car Rental Desk Leases - Airport (Financial Terms and Conditions)

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Robyn Hordern)

That Council resolves to include in the new five year leases to the five incumbent tenants/car rental operators at the airport, the financial arrangements as detailed in option one of this report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

5.4 Ballina Byron Gateway Airport - Scoping Study (Commercial In Confidence)

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Johnson)

1. That Council notes the contents of the Scoping Study and adopts a strategy to bring the Airport to a state of "investment readiness" over the course of the next five years.
2. That Council advise The Airport Group that Council will not be proceeding to Stage 2 of tender RFT778 as the Airport is not currently in a state of "investment readiness".

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth, Cr Ben Smith and Cr Robyn Hordern
AGAINST VOTE - Cr Keith Williams
ABSENT. DID NOT VOTE - Cr Jeff Johnson

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Robyn Hordern/Cr Ben Smith)

That the recommendations made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson

MEETING CLOSURE

5.35 pm

RECOMMENDATION

That Council confirms the minutes of the Commercial Services Committee meeting held 19 July 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 June 2016 Ordinary meeting:

<u>Date</u>	<u>Function</u>
21/6/16	Wollongbar Sport Field Announcement
22/6/16	Boral Meeting – Wollongbar
28/6/16	Launch - Bundjalung Ballina Grandmothers Against Removals
29/6/16	Art Advisory Board Meeting
29/6/16	Meeting Tamara Smith
30/6/16	Opening of Ballina Community Recycling Centre
1/7/16	Opening Recycled Water Lennox Head
1/7/16	Robin Chapman Funeral
1/7/16	Fine Food and Wine Dinner
2/7/16	East Ballina, Ballina and Lennox Head Lions Changeover
3/7/16	Launch NAIDOC Week Gallery Exhibition
3/7/16	Food and Wine Festival
4/7/16	Church Group
4/7/16	NAIDOC Celebration Walk
5/7/16	Meeting Great Small Cities – Vice Chancellor SCU
5/7/16	Alstonville Wollongbar Chamber of Commerce
6/7/16	Rotary Club of Alstonville Changeover
7/7/16	Digby Moran Workshop
7/7/16	TURSA NAIDOC Morning Tea
7/7/16	Councillor Workshop Community and Hall Donations
7/7/16	Skull Candy set up
8/7/16	Skull Candy
8/7/16	Lennox Head Community and Cultural Centre – FSG Promotion
8/7/16	BACCI Exhibition
9/7/16	Skull Candy
9/7/16	Emma Walke Work Shop
9/7/16	Open Day Wastewater Treatment Plant
10/7/16	Alstonville Markets
10/7/16	Lennox Head Markets
10/7/16	Skull Candy
10/7/16	Skull Candy Sponsors' Lunch
11/7/16	Lennox Head Chamber Breakfast
11/7/16	Briefing – Southern Cross Industrial Estate
11/7/16	Skull Candy
11/7/16	Briefing – Draft Community Leasing and Licencing Policy
12/7/16	Skull Candy
12/7/16	Broncos Beyond Tomorrow
12/7/16	'A' Ward Committee
13/7/16	Skull Candy
13/7/16	Saltwater Dubays Circle Work Shop
13/7/16	Shark Mitigation Strategy - DPI
14/7/16	'C' Ward Committee

15.1 Mayoral Meetings

15/7/16	Meeting Lynn Walker and Ballina Environment Society
15/7/16	Lioness Club of Ballina Kings Changeover
16/7/16	Love Lennox Festival
17/7/16	Eco Barrier Meeting
18/7/16	Lennox Head Barrier - Placement
18/7/16	'B' Ward Committee
19/7/16	Lennox Head Barrier Installation
19/7/16	Ballina Hospital Auxiliaries of NSW Annual General Meeting
19/7/16	Commercial Services Committee meeting
19/6/16	Lismore 2016 Rising Stars
20/7/16	Local Government Information Session
20/7/16	Broncos Indigenous Girls Academy/Career Club Launch
21/7/16	Northern Rivers Homeless Forum
21/7/16	Briefing North Creek Dredging
21/7/16	Gallery Opening
23/7/16	Alstonville/Wollongbar Chamber Business Awards
27/7/16	Wollongbar and District Lions Changeover
28/7/16	Council Meeting

RECOMMENDATION

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

Attachment(s)

Nil

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

17. Confidential Session

Nil Items