



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 27 October 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.

Table of Contents

1.	Australian National Anthem	1
2.	Acknowledgement of Country	1
3.	Apologies.....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations.....	1
6.	Deputations	1
7.	Mayoral Minutes	1
8.	Development and Environmental Health Group Reports.....	2
8.1	Building Certificate Application -162 Lindendale Road Wollongbar	2
8.2	Legal Appeal - Refusal of DA 2016/25 - 323 River Street, Ballina	7
8.3	Development Applications – Variation to Development Standards	9
8.4	Development Consent and Infrastructure Approvals - September 2016	10
8.5	Development Applications - Works in Progress - October 2016	12
9.	Strategic and Community Facilities Group Reports.....	23
9.1	LEP Amendment Request and Planning Proposals - Status	23
9.2	Ballina Local Environmental Plan 2012 - Integration of E Zones	30
9.3	LEP Amendment Request - 111 Friday Hut Road Tintenbar	37
9.4	Development Control Plan Amendment - Skennars Head Expansion	47
10.	General Manager's Group Reports	60
10.1	Investment Summary - September 2016	60
10.2	Disclosure of Interest Returns	65
10.3	Flat Rock Tent Park Fees and Charges - 2017/18	67
10.4	Annual Financial Statements - 2015/16	70
10.5	Delivery Program and Operational Plan Review - 30 September 2016	78
10.6	Capital Expenditure Review - 30 September 2016	82
11.	Civil Services Group Reports.....	86
11.1	Martin Street Boat Harbour Precinct Master Plan - Adoption	86
11.2	Road Closure - Part of Uralba Road	91
11.3	Tender - Design and Construction - Wollongbar Skatepark	94
11.4	Tender - Certified Air Ground Radio Services (CAGRS) Provider	98
12.	Public Question Time.....	101
13.	Notices of Motion.....	102
13.1	Rescission Motion - Lake Ainsworth Eastern Road	102
13.2	Rescission Motion - Crematorium	103
13.3	Notice of Motion - Houghlahans Creek Road Upgrade	104
13.4	Notice of Motion - Alstonville Plateau Historical Society Lease	105
13.5	Notice of Motion - Police Resources - Alstonville and Wardell	108
13.6	Notice of Motion - State Government Shark Mitigation Strategy	109
13.7	Notice of Motion - Roadside Stalls	111
13.8	Notice of Motion - Permanent Firefighters at Ballina Fire Station	113

14.	Advisory Committee Minutes	114
15.	Reports from Councillors on Attendance on Council's behalf	115
15.1	Mayoral Meetings	115
16.	Questions Without Notice	117
17.	Confidential Session	118
17.1	Legal Appeal - Refusal of DA 2016/25 - 323 River Street, Ballina	118

1. Australian National Anthem
 2. Acknowledgement of Country
 3. Apologies
 4. Confirmation of Minutes
 5. Declarations of Interest & Reportable Political Donations
 6. Deputations
 7. Mayoral Minutes
-

1. Australian National Anthem

The National Anthem will be performed by Ballina Public School.

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 29 September 2016 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 29 September 2016.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 Building Certificate Application -162 Lindendale Road Wollongbar

8. Development and Environmental Health Group Reports

8.1 Building Certificate Application -162 Lindendale Road Wollongbar

Delivery Program Building Services

Objective To respond to a Councillor request to have this matter determined by the elected Council.

Background

An application for a Building Certificate under Section 149B of the Environmental Planning and Assessment Act (EPAA) has been lodged with Council for an existing animal shelter at 162 Lindendale Road, Wollongbar.

The applicant landowners have constructed the partially open structure, being approximately 6m x 6m in area, without the required prior Council development consent as they believed it was Exempt Development under the superseded Ballina Shire Council Development Control Plan – Exempt and Complying Development 2010.

The matter came to Council's attention when a complaint from the adjoining neighbours was received. This matter was investigated by Council's Compliance officers who recommended that a Building Certificate be lodged with Council for the unauthorised works, which would then allow Council to consider whether the structure can remain and be approved.

The structure is a partially open single-storey timber-framed farm building intended to house farm animals including alpacas (refer attached plans).

Key Issues

- Land use conflict

Information

Generally speaking, rural landowners may have an objection or difficulty in living in a rural area where existing land uses and practices occur that cause conflict. Site impacts from rural industries and rural activities should be minimised, however they can rarely be completely eliminated. The subject site is being used for "Agriculture" which is permissible without development consent.

Due to the current land zoning and location of the structure, the construction of the animal shelter is not Exempt Development under the current State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP).

The development would have been considered as Exempt Development under the now superseded 2010 Ballina Shire Development Control Plan - Exempt and Complying Development.

8.1 Building Certificate Application -162 Lindendale Road Wollongbar

The owners of this site inadvertently incorrectly used this document as a guideline due to the property being a “deferred matter” zone under the Ballina Local Environmental Plan (BLEP) 1987 - Zone No 7 (c) Environmental Protection (Water Catchment) Zone.

Planning Considerations

The site is being used for “Agriculture”, which is a permissible use without development consent. The BLEP 1987 specifies development that can be carried out without consent:

“Agriculture (other than feed lots, piggeries, poultry farms, stock homes and other intensive keeping of animals); bush fire hazard reduction.”

Agriculture is defined in the 1987 BLEP through the Model Provisions:

"Agriculture" and "Cultivation" include horticulture and the use of land for any purpose or husbandry, including the keeping or breeding of livestock, poultry, or bees, and the growing of fruit, vegetables, and the like, and "agricultural" and "cultivate" have a corresponding meaning.

This animal shelter is not a stock home and the BLEP 1987 defines a stock home as follows:

*“Stock home means a building or place where animals are bred, trained or accommodated and nurtured for gain or reward **except in relation to the use of land for the purpose of agriculture.**”*

The relevant objectives of the 7 (c) zone:

A - The primary objective is to prevent development which would adversely affect the quantity or quality of the urban water supply.

B - The secondary objective is to regulate the use of land within the zone:

- (a) to encourage the productive use of land for agricultural purposes and to permit development which is ancillary to agricultural land uses, except for development which would conflict with the primary objective of the zone, and
- (b) to ensure development of the land maintains the rural character of the locality, and
- (c) to ensure development of the land does not create unreasonable and uneconomic demands, or both, for the provision or extension of public amenities or services.

The construction of this animal shelter meets the objectives of the zone.

Development consent for the use of the structure is not necessary if it is to be used for agriculture and the applicant advises that there are no further building works proposed.

The animal shelter is considered to have minimal environmental impact on the natural and built environment.

8.1 Building Certificate Application -162 Lindendale Road Wollongbar

Although the current 7(c) zoning is excluded from the provisions of the NSW Codes SEPP 2008, **Subdivision 3A Animal Shelters** under the Code permits horse stables on rural land to be constructed as Exempt Development, providing they are located within 5m of a side boundary and 30m from any adjoining dwelling on another allotment. A shelter for alpacas is considered to have no greater impact than horse stables.

Even though development consent is not necessary it is still necessary to obtain a Building Certificate approval which is the purpose of this report.

Sustainability Considerations

- **Environment**

The animal shelter will not impact on the natural environment, it is located in an existing paddock on a rural site and no vegetation was required to be removed for the construction.

- **Social**

While there has been objection from the neighbouring property, no unreasonable social impact is likely to occur from the retention of the building. Many rural properties across the Shire have more substantial farm buildings sited much closer to boundaries than the subject case. It would be entirely reasonable for rural property owners to expect that approval would be given for such a building.

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

Dependent on the actions taken by Council there may be legal or resource implications.

Consultation

Consultation has been undertaken with the adjoining owner who has requested that Council not approve the Building Certificate. They have requested that a Development Application be lodged for the structure and the building to be relocated to at least 50m from their residence.

Council cannot request a Development Application be lodged for retrospective building works unless such application is required for the on-going use of that structure. This is not the case for an agricultural use in this instance.

The following is a summary of the neighbour's concerns and comments are provided.

Objectors	Staff Comments
Decreased Value - As the five photos from our property show, this building imposes on our local setting and outlook. It is clearly seen from important vantage points, even as we drive home. We believe that it is highly likely that the closeness of this neighbouring building would discourage many potential buyers and reduce the value of our property.	The animal shelter is approximately 36m ² in size. It is a rural property and the structure maintains the rural character of the locality. The structure is a single- storey partially open structure, being 23m from the adjoining dwelling.

8.1 Building Certificate Application -162 Lindendale Road Wollongbar

Objectors	Staff Comments
Views - loss of views of open space to the south alongside our house. We now see a substantial structure which blocks our view of open rural land between us and the Davis home.	There is minimal impact on views considering the orientation of the neighbours' dwelling and the minor nature of the structure.
Noise - this is a very big issue in a quiet rural setting. We have already experienced how disturbing noise can be from this close structure due to the unapproved building work. There will no doubt be upgrades and on-going maintenance that produces close noise. Animal congregation in this building will produce more noise than if the animals are simply grazing in the paddock. The building will be used for veterinary intervention, animal care and nursing purposes, all of which produce undue noise as animals protest in agitation and distress.	The structure is being used for a normal range of activities associated with agriculture and the housing of animals and not for intensive agriculture.
Odour – this is also a huge concern as all animal houses maintain a distinctive and at times offensive odour due to the leaching of urine and faeces products into the top soil. Animals become very smelly when wet or in season or when sick or dying. A structure such as this causes congregation which exacerbates the odour problem, particularly when it is to our immediate south where the dominant wind comes from.	As stated above, the structure is being used for the housing of animals and not for intensive agriculture. It is considered there are no significant issues regarding noise or odours. The locality is rural and the housing of animals on the land is permissible.
Focal Point of activity – Our neighbours have a very high maintenance approach to their animals such that this building is already a focal point for their daily work of fencing maintenance, mowing, raking, playing with the animals, vacuuming up the manure and feeding.	These types of activities would be common on many rural properties.
Loss of Privacy – the placement of this building within our building cluster has deprived us of our privacy and general amenity of space and seclusion so essential to a rural setting.	As stated, the activities carried out on the land would not be inconsistent with those carried out generally on rural land and there are no significant privacy issues.

Options

Under the EPA Act, Council must issue the Building Certificate for the structure or withhold its issue for valid reason(s), such as requiring its demolition, modification or rectification.

The structure is considered minor in scale, being used on a rural allotment for agricultural purposes and meets the objectives of the land use zone. The structure maintains the rural character of the locality and the use is not prohibited under the Ballina Local Environment Plan 2012.

The following options are available to Council.

1. Council issues the Building Certificate for the animal shelter.
2. Refuse the application for Building Certificate due to the concerns from the neighbouring property.

Option one is recommended for the reasons outlined in this report.

If the Council was to prefer option two it would need to also determine what action it wanted to take in respect of the structure. The only realistic option is to request demolition of the structure to appease the objectors. The owners would then to construct another shed in a location that would not be objectionable to the neighbours.

8.1 Building Certificate Application -162 Lindendale Road Wollongbar

Even though this is listed as an option it cannot be supported from a staff perspective as it is considered unreasonable in the circumstances.

RECOMMENDATION

That Council approves the issuing of the Building Certificate for the animal shelter at 162 Lindendale Road, as per the contents of this report.

Attachment(s)

1. Property Location
2. Images of animal shelter

8.2 Legal Appeal - Refusal of DA 2016/25 - 323 River Street, Ballina

8.2 Legal Appeal - Refusal of DA 2016/25 - 323 River Street, Ballina

Delivery Program Development Services

Objective To advise Council about the proposed litigation of Development Application 2016/25 and to seek confirmation of the intended course of action.

Background

Council refused the subject development application at its Ordinary Meeting of 25 August 2016 on the following grounds:

1. *The application is not in the public interest.*
2. *Adverse traffic impacts.*
3. *The location, size and shape of the land is unsuitable for the style of the development.*

A copy of the staff assessment report to the 25 August 2016 Ordinary meeting is available on the Council website. Importantly the recommendation from Council technical staff was to approve the application.

The applicant subsequently lodged a Class 1 Appeal in the NSW Land and Environment Court (L&E Court) on the 7 September 2016 against the grounds of refusal seeking orders that the appeal be upheld and that the application be approved.

The purpose of this report is to provide Council with an update on the appeal.

Key Issues

- Merits of the refusal
- Estimated costs

Information

Council has engaged local solicitors CH Law and planning consultants DAC Planning Pty Limited to represent Council for the proceedings.

DAC Planning has prepared a Statement of Facts and Contentions (copy attached) which has been filed in the L&E Court.

A call over was held on 10 October 2016 where the matter was set down for a Section 34 Conciliation Conference in the L&E Court on 13 December 2016 commencing on-site at 11am.

If the matter is not resolved at the Section 34 Conference a second Directions Hearing has been listed for 16 January 2017.

This open Council report provides a summary of the current status of the appeal. The confidential report later in this agenda provides details of the legal aspects of the appeal.

8.2 Legal Appeal - Refusal of DA 2016/25 - 323 River Street, Ballina

Legal / Resource / Financial Implications

Council has a planning legal budget of \$150,000 for 2016/17.

Consultation

The original development application was exhibited for public comment with a number of submissions received in respect to the application.

Options

The purpose of this report is for noting only.

RECOMMENDATION

That Council notes the contents of this report regarding the legal appeal for Council's refusal of DA 2016/25.

Attachment(s)

1. DAC Planning Statement of Facts and Contentions (on behalf of Council)

8.3 Development Applications – Variation to Development Standards

8.3 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 October 2016.

Attachment(s)

Nil

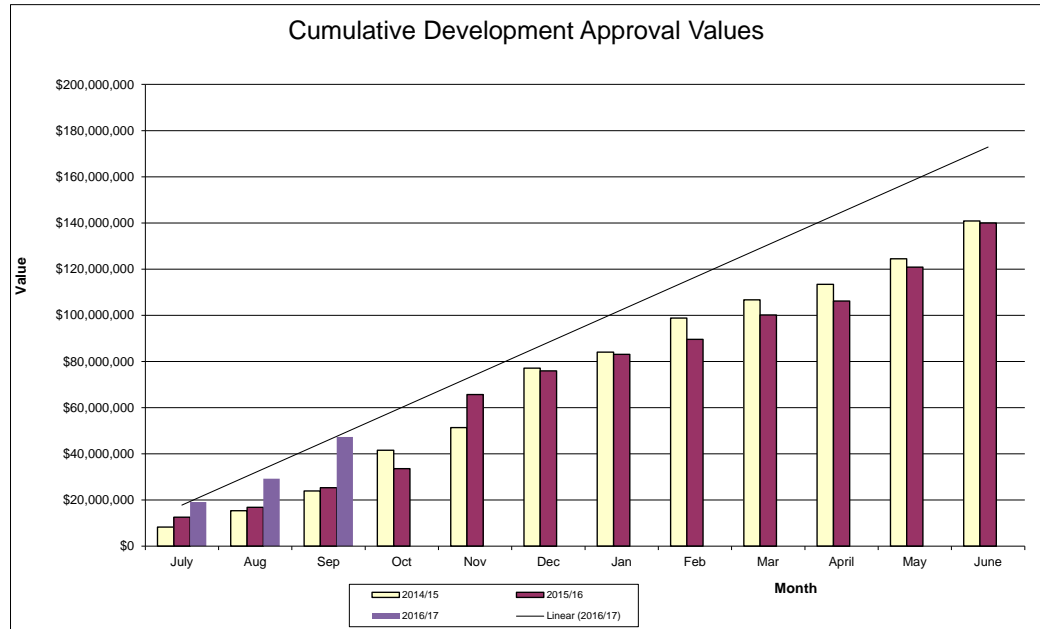
8.4 Development Consent and Infrastructure Approvals - September 2016

8.4 Development Consent and Infrastructure Approvals - September 2016

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

Number of Applications	Value (\$)
36 Other Building Related	2,031,953
26 Dwelling/Duplexes/Residential Flat Buildings	9,904,037
6 General Developments	5,644,000
Total Value	17,579,990

The following chart details the cumulative consent figures for 2016/17 as compared to 2014/15 and 2015/16.



During the period of 1 September 2016 to 30 September 2016 the Development and Environmental Health Group issued Public Infrastructure / Civil Construction Works comprising of:

Number of Applications	Value (\$)
2 Public Infrastructure / Civil Construction applications comprising:	
Tree Removal from road reserve – corner of Pine Avenue and Brighton Street, East Ballina; and,	6,000
Stage 1 of the foreshore works at Lake Ainsworth including rehabilitation works of the Eastern Road closure and the bank stabilisation works along the eastern shore of the lake.	500,000
Total Value	506,000

RECOMMENDATION

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

Attachment(s)

Nil

8.5 Development Applications - Works in Progress - October 2016

8.5 Development Applications - Works in Progress - October 2016

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
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
2016/148	1/4/2016	Planners North	Mixed Use Development Comprising the Erection and Strata Title Subdivision of a Two Storey Commercial Premises and Three x Two Storey Dwellings and Associated Works – 61 Ballina Street, Lennox Head	Being Assessed
2016/166	8/4/2016	Planners North	Twenty-six lot Torrens Title subdivision including road construction, earthworks, and associated subdivision works – Lot 7 DP 1216761, Henderson Drive, Lennox Head	Awaiting Additional Information
2016/219	03/05/2016	Ardill Payne & Partners	Establishment of a Multi	Awaiting Additional

8.5 Development Applications - Works in Progress - October 2016

			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	Information
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	Determination Pending
2016/274	20/05/2016	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create 1 x 1.45ha and 1 x 47ha allotments and the establishment of a rural worker's dwelling upon the larger Proposed Lot 11 – 61 & 145 Brooklet Road, Newrybar	Awaiting Additional Information

8.5 Development Applications - Works in Progress - October 2016

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	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	Awaiting Additional Information
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	Referred to Government Departments
2016/375	8/7/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached	Being Assessed

8.5 Development Applications - Works in Progress - October 2016

			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	
2016/377	11/07/2016	Richard Lutze & Associates	Erection of Amenities Building and Caravan Emptying Facility (Dump Ezy) – 22-40 Commercial Road, Alstonville	Being Assessed
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	Awaiting Additional Information

8.5 Development Applications - Works in Progress - October 2016

			Road, Ballina	
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	Awaiting Additional Information
2016/389	19/07/2016	McDonald's Australia Pty Ltd	Erection of a McDonald's Restaurant and Associated Signage on the Approved Highway Service Centre Site – 565-589 River Street, West Ballina	Awaiting Additional Information
2016/410	27/07/2016	Victor Holmes Town Planning	Tourist Facility comprising the use of an existing dwelling house for the purpose of tourist accommodation – 10 Killen Falls Road, Tintenbar	Awaiting Additional Information
2016/426	04/08/2016	Ballina Shire Council c/- CivilTech Consulting Engineers	Extension of Skennars Head Playing Fields – Skennars Head, Lennox Head	Awaiting Additional Information
2016/433	05/08/2016	GM Project Development & Management	Three Lot Boundary Adjustment Subdivision - Humpty Back Road, McLeans Ridges	Awaiting Additional Information
2016/488	2/9/2016	M T Feain	Change of Use from Warehouse to a	Being Assessed

8.5 Development Applications - Works in Progress - October 2016

			Dance Studio - 58-62 Simpson Avenue, Wollongbar	
2016/506	8/9/2016	Newton Denny Chapelle	To increase student numbers on a permanent basis from 100 to 235 at the existing educational establishment – 37 Converys Lane, Wollongbar	On exhibition
2016/515	13/9/2016	S Riggall	To erect a shed with awning, construction of driveway, environmental rehabilitation works and to carry out site filling and associated works – George Street, Tintenbar	Awaiting Additional Information
2016/517	13/9/2016	Allpride Signs & Marketing	Modification to Existing Pylon Sign Fronting Bentinck Street – 68 Cherry Street, Ballina	Being Assessed
2016/523	15/9/2016	M Walker	Vegetation management works comprising the pruning of several trees – 61 Pine Avenue, East Ballina	Being Assessed
2016/532	19/9/2016	Tim Fitzroy & Associates	Establishment of a Waste Transfer Station – 2 Northcott Crescent, Alstonville	Being Assessed
2016/537	22/9/2016	Newton Denny Chapelle	Two lot boundary adjustment subdivision - 19 & 23 Northcott	Being Assessed

8.5 Development Applications - Works in Progress - October 2016

			Crescent, Alstonville	
2016/539	23/9/2016	Civil Tech Consulting Engineers	Four lot integrated subdivision with the erection of a two storey dwelling house on each lot, vegetation removal and associated works – 7-9 Byron Street, Lennox Head	Being Assessed
2016/551	28/9/2016	Ardill Payne & Partners	Changes to signage (rebranding) at First Choice Liquor Store - 95-105 Fox Street, Ballina	Being Assessed
2016/557	29/9/2016	D A Ray	Vegetation Management Works – Removal of two trees - 19 Cambridge Crescent, Ballina	Being Assessed
2016/562	5/10/2016	P Snellgrove	Vegetation Management Works – Removal of one Banksia tree – 45 Waterford Parade, Skennars Head	Being Assessed
2016/564	5/10/2016	L P Cole	Change of Use of Commercial Premises to a yoga studio and erection of advertising signage - 178 River Street, Ballina	Being Assessed
2016/565	6/10/2016	AGS Commercial Pty Ltd	Erection of an Industrial Building - 42 De Havilland Crescent, Ballina	Being Assessed
2016/566	6/10/2016	AGS Commercial	Alterations & Additions to	Being Assessed

8.5 Development Applications - Works in Progress - October 2016

		Pty Ltd	Existing Industrial Building - 2/188-202 Southern Cross Drive, Ballina	
2016/569	10/10/2016	Stephen Phibbs	Strata subdivision of existing dual occupancy - 7 Crane Street, Ballina	Being Assessed
2016/576	10/10/2016	Ardill Payne & Partners	Proposed residential subdivision to create 45 lots and 1 residue lot - Ballina Heights Drive, Cumbalum (CURA "A")	Referred to Government Departments
2016/583	11/10/2016	Samuel Schott	Multi-dwelling housing development comprising the erection and strata title subdivision of three x two storey dwellings - 103 Cherry Street, Ballina	On Exhibition
2016/584	11/10/2016	Northern Rivers Land Solutions	Two Lot Subdivision to create 1 x 25.33ha and 1 x 1,167m2 allotments - 182 Wardell Road, Wardell	Being Assessed

8.5 Development Applications - Works in Progress - October 2016

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/01/2016	21st Century Builders Pty Ltd	To undertake the first stage of the urban subdivision of the new Cumbalum Urban Release Area – Precinct B comprising a total of 191 allotments and including road construction and intersection works at Ross Lane, extensive earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - 246 Ross Lane, 47 Dufficys Lane & Ross Lane, Tintenbar	Awaiting Additional Information

8.5 Development Applications - Works in Progress - October 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	Awaiting Additional Information
2016/524	16/9/2016	Planners North	Seniors Living Development pursuant to SEPP (Housing for Seniors and People with a Disability)2004 comprising 211 serviced, self-care housing with associated clubhouse, recreation facilities, roads and associated infrastructure and environmental management and protection works – 67 Skennars Head Road, Skennars Head	On exhibition

8.5 Development Applications - Works in Progress - October 2016

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 October 2016.

Attachment(s)

Nil

9.1 LEP Amendment Request and Planning Proposals - Status

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendment Request and Planning Proposals - Status

Delivery Program Strategic Planning

Objective To advise Council of the status of the LEP amendment requests and planning proposals that are currently under consideration.

Background

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

Key Issues

- Status of rezoning and LEP amendment requests
- Status of Private Native Forestry planning proposal 15/002

Information

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council. With respect to terminology used in this report, the term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan.

Requests are typically referred to as planning proposals once the Council has agreed to progress the LEP amendment request and has prepared the required planning proposal documentation for Gateway determination by the NSW Department of Planning and Environment (DPE).

9.1 LEP Amendment Request and Planning Proposals - Status

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
13/005	Southern Cross Industrial Estate Expansion, Ballina. (Stage 4)	<p>Proposal by Ballina Shire Council for the rezoning of land northward of the existing Southern Cross Industrial Estate from its current rural zoning to enable a mixture of business and industrial land uses.</p> <p>Proponent's consultant was asked on 13 April 2016 to supply additional information as highlighted in a gap analysis report prepared by an independent planning consultant.</p> <p>Currently awaiting submission of additional information.</p>	30/10/2016
14/001	Teven Road, West Ballina. (Stage 6)	<p>Proposal to enable the establishment of freight transport facilities adjacent to Teven Road on the western side of the Ballina Bypass. This is not a rezoning request. Rather, the proposal involves the insertion of new provisions in the Ballina LEP to permit development which is currently prohibited on the land.</p> <p>The Council resolved at its May 2016 Ordinary Meeting to progress this matter to finalisation subject to completion of an associated voluntary planning agreement process.</p> <p>Draft VPA forwarded to proponent's consultant on 31 May 2016 with a request to be executed by all property owners, as required by the Council's resolution.</p> <p>Currently awaiting confirmation that VPA has been registered on the title of all properties. Only then can the matter be presented to the DPE for finalization.</p>	07/02/2017
14/002	Reservoir Hill Site, Lennox Head. (Stage 7)	<p>Proposal for the rezoning of land to apply a residential zone to parts of the land known as the Reservoir Hill site in Lennox Head.</p> <p>Currently liaising with DPE to finalise the amendment.</p>	24/04/2017
14/004	Tara Downs (No 16), Lennox Head. (Stage 6)	<p>A minor proposal for the rezoning of land located immediately east of the existing Tara Downs Estate in Lennox Head for residential purposes.</p> <p>The Council resolved at its June 2016 Ordinary Meeting to finalise this amendment subject to vegetation management and DCP related outcomes being achieved.</p> <p>Public exhibition of associated DCP amendments has concluded. No submissions were received.</p> <p>Currently awaiting vegetation management plan to be completed and proponent funding to pay for necessary environmental offset works before the planning proposal is finalised.</p>	13/11/2016

9.1 LEP Amendment Request and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
14/005	Blue Seas Parade (No 44-52), Lennox Head. (Stage 5)	A minor proposal for the rezoning of land located at the eastern end of Blue Seas Parade in Lennox Head for residential purposes. The proposal is on exhibition for community feedback from 28 September to 4 November 2016. At the conclusion of the exhibition period the matter will then be reported to the Council for its further consideration.	10/02/2017
14/008	Burns Point Ferry Road, West Ballina (Ballina Waterways). (Stage 6)	Proposal for the rezoning of land located adjacent to Burns Point Ferry Road and River Street in West Ballina to enable a mixture of employment and residential land uses. The proposal includes implementation of a biobanking scheme over part of the land. Community consultation has recently concluded. Currently awaiting submissions assessment report to be prepared following the public exhibition process, with the matter then being reported to the Council for its further consideration.	01/04/2017
15/001	Reclassifications, Various Locations. (Stage 7)	Proposal to reclassify several miscellaneous Council-owned land parcels located in Ballina, Lennox Head and Alstonville from community land to operational land under the Local Government Act to reflect current land use and/or intended outcomes. Planning proposal has been sent to the DEP for finalisation.	30/12/2016
15/002	Private Native Forestry. (Stage 3)	Proposal to amend the Ballina LEP 1987 to require development consent for private native forestry on rural land. Further discussion on this matter is provided at the end of this table.	#
15/004	Greenwood Place, Lennox Head. (Stage 6)	Proposal to rezone land fronting Greenwood Place and The Coast Road in Lennox Head for residential purposes. Community consultation has recently concluded. Currently awaiting proponent's consultant to prepare documents relating to stormwater management. Once the information is received and assessed, a report will be presented for the Council's further consideration.	21/04/2017
16/001	General Amendments (3) (Stage 7)	Proposal to undertake a number of amendments to the LEP maps to address cadastral changes, minor errors and policy consistency. The Council resolved at its April and May 2016 Ordinary Meetings to finalise this amendment. Staff is currently liaising with DEP to finalise the amendment.	28/11/2016

9.1 LEP Amendment Request and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
16/002	Stoneyhurst Drive, Lennox Head. (Stage 4)	Proposal to rezone land located adjacent to Stoneyhurst Drive in Lennox Head for residential purposes and to enable subdivision of the land. DEP's Gateway determination received by Council on 26 May 2016. Awaiting submission of technical material from landowners' consultant.	02/06/2017
16/003	Southern Cross Industrial Estate, Bulky Goods Precinct (Stage 2)	Proposal by Council to rezone land within the Southern Cross Industrial Estate bulky goods precinct to enable broader industrial land uses (whilst retaining potential for bulky goods/large format retailing development). Third party review of documentation submitted by the proponent has been undertaken. Additional information is required, and has been sought, to address the change to the strategic planning framework for bulky goods retailing that would result from this amendment proceeding.	#
#	Friday Hut Road, Tintenbar (Stage 1)	Proposal to amend the LEP to enable the creation of an allotment of land below the LEP's minimum lot size for subdivision, for the purpose of enabling a primary production land use. This matter is the subject of a separate report elsewhere in this business agenda.	#
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none"> 1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council. 2. Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council). 3. Gateway Determination - DP&E determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination). 4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation. 5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment. 5a. Public Hearing - Public Hearing held, where required. 6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal. 7. Finalisation - DP&I finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Environment may finalise, alter or terminate the amendment. <p># Denotes proposal number and due date subject to Gateway determination.</p> <p>The completion due date is a date for completion determined by the Department of Planning and Environment.</p>			

Private Native Forestry (BSCPP 15/002)

BSCPP 15/002 seeks to amend the Ballina Local Environmental Plan 1987 to require the grant of development consent from Council before a person is able to undertake private native forestry (PNF) on land currently zoned for rural purposes under that planning instrument. These areas were proposed to be zoned for environmental protection purposes in BLEP 2012 but are currently designated as a deferred matter under BLEP 2012 due to the outcomes of the State Government's review of environmental zones.

The planning proposal was prepared in response to concerns expressed by the Council regarding the clearing of native vegetation for PNF purposes on land within ecologically sensitive areas of the shire, including areas at Bagotville, Meerschaum Vale, Wardell, Coolgardie and the broader Blackwall Range localities. These areas incorporate significant koala habitat and PNF often targets koala feed and habitat tree species. Habitat loss and fragmentation, including PNF, was identified as a threatening process for free ranging koala populations within the Ballina Shire in the 2013 Koala Habitat and Population Assessment commissioned by Council.

This matter has been subject to a substantial time delay and protracted negotiations in the Department of Planning and Environment's consideration of the proposal since its lodgement by Council in January 2015. The assessment of Council's proposal has included two internal reviews by the DPE, a review by the Department's LEP Review Panel and assessment by the Northern Region Joint Regional Planning Panel. Each of these reviews confirmed the Council's position and concluded favourably in terms of enabling the proposal to proceed.

Despite, the above, the Department of Planning and Environment initially declined to issue a Gateway determination allowing the amendment to proceed. Council sought a review of this decision and subsequently, the Department has indicated that it does not support the planning proposal based on a view that Council's intention to require consent through the LEP for PNF is not possible to achieve under the current legislative framework. A copy of the Department's correspondence is contained in Attachment 1.

Council staff do not concur with the Department's position on the legislative framework based on the information available. However, for Council to advance this matter further, obtaining competent legal advice would be recommended but it is expected that this would incur a substantial cost as the prevailing legislative framework is complex. There is also still no guarantee that the Department would allow the planning proposal to proceed even with legal advice favourable to Council.

As mentioned previously, at the time of preparation of the planning proposal for PNF, Council was unable to provide protection for ecologically significant areas by way of environmental zoning under the BLEP 2012. However, the State Government has completed its E zone review and released its final recommendations report in October 2015. Council can now progress with the integration of the deferred matters into the BLEP 2012 (the E zone matter is addressed in a separate report elsewhere in this business agenda). This provides an alternative pathway to address the ecological values of the vegetation in the shire.

Further, Council's Koala Management Strategy is currently being assessed by the Department of Planning and Environment. Once endorsed, mapped core koala habitat receives statutory recognition under State Environmental Planning Policy No.44 – Koala Habitat Protection which further supports Council's original aim for BSCPP 15/002.

Having regard for the above, it is recommended that Council's resources are better directed towards integrating the deferred matters into the BLEP 2012 rather than proceeding with the PNF planning proposal. On this basis, it is recommended that Council withdraw BSCPP 15/002.

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

Consultation

This report is provided for the information of the community. As will be noted from the report, community consultation is, or has been undertaken in relation to individual planning proposals.

Options

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

With respect to BSCPP 15/002, it is open to the Council to either continue with or cease action on the planning proposal. For the reasons outlined above, it is recommended that Council withdraws the planning proposal and therefore ceases progress on the matter.

RECOMMENDATIONS

1. That Council notes the contents of this report concerning the status and approach regarding the current LEP amendment requests and planning proposals that are being processed.
2. That Council withdraws planning proposal BSCPP 15/002 that seeks to amend the Ballina Local Environmental Plan 1987 to require development consent to undertake private native forestry on land in certain zones within Ballina Shire.

9.1 LEP Amendment Request and Planning Proposals - Status

Attachment(s)

1. BSCPP 15/002 - DPE Response to Council - Private Native Forestry BLEP 1987 Amendment

9.2 Ballina Local Environmental Plan 2012 - Integration of E Zones

9.2 Ballina Local Environmental Plan 2012 - Integration of E Zones

Delivery Program Strategic Planning

Objective To provide an update to Council concerning the program to integrate deferred matters into the Ballina Local Environmental Plan 2012 and seek direction with respect to an associated funding offer from the Department of Planning and Environment.

Background

The Council has recently considered its approach to the integration of the areas deferred from the Ballina Local Environmental Plan 2012 as a consequence of the NSW State Government's environmental protection ("E") zone review process. The Council adopted a staged program to address the deferred matters at its April 2016 Ordinary Meeting as outlined in the information section of this report.

A summary of the circumstances regarding the E zones in the Ballina LEP 2012 is set out as follows:

Ballina Shire Council engaged in the preparation of a comprehensive local environmental plan under the State Government's Standard LEP Instrument program between 2006 and 2013. This planning process was underpinned by a comprehensive and sustained community engagement program and considerable and careful deliberation by the elected Council and staff over a prolonged period.

Council resolved to endorse a new draft LEP for the shire in December 2011 and subsequently sought finalisation and implementation of the draft plan through the NSW Department of Planning and Environment. Prior to Council's draft plan being finalised by the Department (it had received endorsement by the Department's regional office in Grafton) the then Minister for Planning, the Hon. Brad Hazzard made a decision to initiate a review of environmental protection zones in five local government areas on the Far North Coast.

The consequence of the Minister's decision was that Council's comprehensive LEP was only partly made, with areas identified as having environmental values excluded from the plan. These areas remain subject to the provisions of the Ballina Local Environmental Plan 1987 (being the instrument the new plan was to replace). Essentially, the Department did not complete the Standard LEP program for the affected council areas.

The Department indicated that the "E zone review" would be completed by March 2013, however it was not able to meet this timeframe. An interim report on the application of the E zones prepared by the State Government's Consultants, Parsons Brinkerhoff, was published for exhibition and comment in May 2014. Council responded to this with the identification of an extensive suite of shortcomings, errors and omissions within the report. This report has not been updated, nor the issues identified by Council addressed for the public record.

In October last year, some three years after the Minister's announcement and two and a half years late, the Department published its final recommendations report for the Northern Councils E Zone Review. The review recommendations do not align with Council's endorsed draft LEP from 2011 or with almost 30 years of environmental protection zoning history and identified environmental attributes and values in the Ballina Shire local government area.

In addition to notable confusion within the community and additional administrative impacts on the operation of Council's planning system, the process and associated time delay that the Department of Planning and Environment has been responsible for has resulted in ongoing financial costs for the Ballina Shire community. Such costs have been incurred through the additional administrative functions mentioned (e.g. planning certificates, map production, plan interpretation) as well as engagement with the E zone review over a prolonged period.

To support Council's approach to the integration of the deferred areas into the Ballina LEP 2012, Council requested funding support from the Department of Planning. The Department initially indicated that no funding would be provided but has now changed its position and is offering Council \$40,000 towards the integration project (Refer to the Department's letter at Attachment One). The context and conditions associated with the funding offer are discussed further below.

The purpose of this report is to seek direction on the acceptance of the funding and the associated process for the completion of the work required to integrate the deferred areas into the Ballina LEP 2012.

Key Issues

- Process for integration of deferred areas into the Ballina LEP 2012.
- Funding Offer from the Department of Planning and Environment.

Information

Current Integration Program

Considering the resource implications (both in terms of time and monetary cost), the likelihood of extensive and sustained stakeholder interest and the unavailability of suitable environmental protection zones to address non ecological values such as scenic/ escarpment areas, coastal lands and the Alstonville / Wollongbar urban buffer, Council has resolved to address the deferred area integration via a staged approach.

The approach was developed having particular regard for the compatibility of Council's existing planning framework with the E zone recommendations, the ability of Council to resource amendments within existing work program commitments and financial capabilities. It also provides for integration of over 50% of the deferred areas into the BLEP 2012 within a two year period (as shown by the references to hectares and the percentage that each zone area comprises in the deferred matter area (DM)).

The staging adopted by Council is shown in Table 1. Work has commenced on Stage 1 and it is expected that a planning proposal in this regard will be presented to Council's November Ordinary Meeting.

9.2 Ballina Local Environmental Plan 2012 - Integration of E Zones

Table 1. Adopted Staging for Integration of Deferred Areas into Ballina LEP 2012

Stage	Existing Zone	Area (ha)	% DM	Key Information Summary
1 (2016/17)	7(c) Environmental Protection (Water Catchment)	3,157	23%	The water catchment areas were primarily subject to the more liberal E3 zone, under the approach adopted by Council in 2011, which provides for a greater range of land uses than is currently allowed in the 7(c) zone. The catchment areas are also subject to a specific overlay and provision in the LEP. Address of this zone would provide for an enhanced range of permitted land uses whilst still having a statutory protection via the special provision in the LEP (regardless of the applicable zone).
2 (2017)	7(a) Environmental Protection (Wetlands) and 7(l) Environmental Protection (Habitat)	3,826	28%	The E zone review indicates that, upon validation, these areas can be subject to an E2 zone as they are existing habitat/wetland areas. These areas are also often supported by State policy based mapping (e.g. SEPP 14).
3 (2018)	7(d) Environmental Protection (Scenic/ Escarpment) and 7(d1) Environmental protection (Newrybar Scenic Escarpment)	1,356	10%	There is no scenic escarpment equivalent zoning available and the E zone review expressly restricts Council from addressing scenic protection by way of zone or any other LEP based tool. Leaving this item until stage 3 allows the Council time to further consider this matter. It is recommended that Council determines its approach to scenic areas after progressing with stages 1 and 2.
4 (2018/19)	7(i) Environmental Protection (Urban Buffer)	613	4.5%	There is no urban buffer equivalent zoning available. Although the E zone review does not expressly address this matter, the implied DPE position is that Council will not be able to use the E zones or an overlay/special provision to address the buffer in the LEP. Leaving this item until stage 4 allows the Council time to further consider this matter through preparation of strategic plans for Alstonville and Wollongbar (this work has already commenced). Council will also have the benefit of seeing how the DPE treats State and Regionally Significant Farmland (which is found in the buffer) under the North Coast Regional Plan which it is currently preparing. It is recommended that Council determines its approach to the urban buffer after its consideration of stages 1, 2 and 3.

9.2 Ballina Local Environmental Plan 2012 - Integration of E Zones

Stage	Existing Zone	Area (ha)	% DM	Key Information Summary
5 (2019)	7(f) Environmental Protection (Coastal Lands)	1,155	8.5%	There is no coastal lands equivalent zoning available. The E zone review indicates that coastal land can be zoned where coastal hazards are present but does not address coastal values more broadly. The DPE reporting position is that Council will not be able to use the E zones or an overlay/ special provision to address coastal lands unless ecological or Aboriginal cultural heritage criteria can be met (this appears possible for much, but not all, of the coastline). Leaving this item until stage 5 allows the Council time to further consider this matter. It is recommended that Council determines its approach to the coastal lands after its consideration of stages 1, 2, 3 and 4.
Progressive	Mixture of rural zones (areas proposed for 'new' E zones in Draft BLEP 2012)	3,563	26%	These areas constitute land that was proposed for application of an E zone under the BLEP 2012 as adopted by the Council. It is suggested that the easiest way to address these areas is to progressively address them within each stage where such areas are contiguous with the zones the subject of the stage. Under this approach, the majority of these areas would be considered during stages 2 and 3.

Funding Offer

Resource and finance wise, unfortunately the State Government's E zone review process has impacted Council in both a financial and administrative sense, as well as causing considerable community uncertainty and confusion. Progressing with the implementation of the E zone review recommendations has been estimated in previous reports as likely to cost Council (and therefore our ratepayers) \$150,000 to \$200,000 (in staff time and cash, with cash estimated to be in the order of \$40,000 to \$60,000).

As indicated above, the Department of Planning and Environment has now offered Council \$40,000 to support the integration program. This offer has also been made to Lismore, Byron and Tweed councils through NOROC. In offering the funding though, the Department appears to be seeking to ensure that the integration occurs in a shorter timeframe than that envisaged by Council's endorsed program, as set out above (currently between 2016 and 2019).

The Department has indicated to Council that certain land owners have expressed concern with the existing timeframe adopted by Council. In this regard it is important to note that Lismore, Byron and Tweed Councils have not yet determined a program or timeframe to address the E zone matter and Council's approach has considered resource implications and work program impacts. It is also worthwhile reinforcing that the need for the integration has been caused solely by the former Minister for Planning and former Member for Ballina's intervention in the LEP preparation process after the Department's regional office had endorsed the Council's draft plan.

9.2 Ballina Local Environmental Plan 2012 - Integration of E Zones

The availability of the funding offer provides an opportunity for Council to commence stages in the integration process earlier through the engagement of external resources primarily in relation to planning and ecological areas of expertise. Discussions with Departmental representatives also indicate that Council could continue with a staged implementation program generally as planned as long as each stage is initiated before June 2017. The staged approach remains preferable from a staff perspective primarily because:

- a) It avoids a situation where the entire integration program may be impacted by issues arising in parts of the shire in the case of a single planning proposal (under a staged approach, where a stage is impacted, other parts of the program can still be completed independently), and
- b) It allows for the staggering of Council resources to enable reasonable management of the expected work flows and requirements (albeit the program would be undertaken in a shorter timeframe than originally planned due to resources that can be employed through the funding support).

On the basis of the above, it is recommended that Council accepts the offer of funding support and adjusts its planned program to complete the deferred area integration within a shorter time period (around 21 months as compared to three years). An adjusted staging program is shown in Table 2, inclusive of indicative timing.

Table 2. Suggested Accelerated Staging for Integration of Deferred Areas into Ballina LEP 2012

Stage	Start	Conclude	Notes
<p>1</p> <p>7(c) Environmental Protection (Water Catchment)</p> <p>3,157 ha (23%)</p>	November 2016	November 2017	
<p>2</p> <p>7(d) Environmental Protection (Scenic/Escarpment) and 7(d1) Environmental protection (Newrybar Scenic Escarpment)</p> <p>1,356 ha (10%)</p>	February 2017	February 2018	It is suggested that this stage be brought forward as the scenic areas do not require the same extent of ecological assessment as the habitat areas in the shire.
<p>3</p> <p>7(a) Environmental Protection (Wetlands) and 7(l) Environmental Protection (Habitat)</p> <p>3,826 ha (28%)</p>	April 2017	July 2018	<p>This stage could be further broken down into sub stages depending on the outcomes of the ecological analysis that is undertaken.</p> <p>Although it is suggested that the scenic areas proceed before the habitat areas, the habitat areas need to be addressed relatively early in the process given the extent of resource required to address this component.</p>

9.2 Ballina Local Environmental Plan 2012 - Integration of E Zones

Stage	Start	Conclude	Notes
<p>4</p> <p>7(i) Environmental Protection (Urban Buffer)</p> <p>613 ha (4.5%)</p>	May 2017	May 2018	Timing is proposed towards the end of the initiation processes to allow opportunity for detailed consideration of available options in relation to the buffer area and consideration of the outcomes of the Alstonville and Wollongbar strategic planning processes.
<p>5</p> <p>7(f) Environmental Protection (Coastal Lands)</p> <p>1,155 ha (8.5%)</p>	June 2017	June 2018	Timing is proposed towards the end of the initiation process to allow detailed opportunity for consideration of available options for the coastal area in the absence of a coastal based environmental zone.
<p>Progressive</p> <p>Mixture of rural zones (areas proposed for 'new' E zones in Draft BLEP 2012)</p> <p>3,563 ha (26%)</p>	Integrate with other stages as appropriate.	Integrate with other stages as appropriate.	These areas constitute land that was proposed for application of an E zone under the BLEP 2012 as adopted by the Council. These areas will be progressively addressed within the stages where such areas are contiguous with the zones the subject of the stage. Under this approach, the majority of these areas would be considered during stages 2 and 3.

In considering the above, it is important to recognise that the timing may change over the course of the project depending on information needs, assessment outcomes and community feedback.

Sustainability Considerations

- **Environment**
The integration program seeks to recognise land having environmental values under the Ballina Local Environmental Plan 2012 having regard for the characteristics of land in the shire.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

Acceptance of the funding offer provides for additional resources to progress the deferred area integration program and thereby shorten the expected timeframe for the project.

The revised integration program will impact the work program of the Strategic and Community Facilities Group. Every effort will be made to mitigate impacts with the additional temporary resources to be secured through the funding offer. Regular reporting of the implementation of the Group's Council-endorsed work program will continue to occur.

It is proposed that the work to be undertaken would be funded through the Department's grant, existing recurrent LEP funding and the strategic planning reserve. With the grant and recurrent funding, approximately \$50,000 is available to continue the project.

The need for use of reserve funds will be addressed at a future time once a more defined costing is available (however, it is estimated that between \$10,000 and \$30,000 may be required from the reserve).

Consultation

No community engagement has been undertaken by Council to date in response to the State Government's reporting. Community engagement will be undertaken for each stage of the integration project over time.

Options

It is open to the Council to accept or reject the funding offer.

It is recommended that Council accepts the funding to enable the procurement of additional technical resources to commence the project stages sooner. This also provides an opportunity to complete the integration sooner which, in turn, will deliver improved efficiencies by not having to administer two planning instruments concurrently. Where the funding is accepted, it is also recommended that Council proceed based on the revised staging program shown in Table 2.

In accepting the funding it is important to note that this requires commencement of each stage before June 2017 (by way of a Gateway determination) but not completion.

RECOMMENDATIONS

1. That Council accepts the offer of funding from the Department of Planning and Environment to support the integration of the deferred matters into the Ballina LEP 2012.
2. That Council undertakes the integration program based on the staging set out in Table 2 of this report.

Attachment(s)

1. Department of Planning and Environment - Funding Offer

9.3 LEP Amendment Request - 111 Friday Hut Road Tintenbar

9.3 LEP Amendment Request - 111 Friday Hut Road Tintenbar

Delivery Program Strategic Planning

Objective To outline to Council a proposal to amend the Ballina Local Environmental Plan 2012 so as to permit the creation of two rural zoned allotments with proposed areas less than the minimum required lot size under that Plan.

Background

Council has received a request from Malcolm Scott, Consultant Town Planner, on behalf of Mr F P and Mrs L M Knudson (property owners) of 111 Friday Hut Road Tintenbar (Lot 339 DP 755684) to amend Ballina LEP 2012 to permit the subdivision of Lot 339 into two lots.

A copy of the LEP amendment request application forms Attachment One to this report.

Lot 339 is located on the western side of Friday Hut Road approximately 600 metres north of the Tintenbar Road intersection. Lot 339 has an area of 3.951 hectares and has existed as a separate lot since 1928.

Part of lot 339 (approx. 1 hectare) is used for rural residential purposes and contains a dwelling house (approved in 1979), a garage and small shed.

The residue of lot 339 is used for primary production, by Mr L Sansom, for the growing of organically produced seedlings and for seed production. This part of lot 339 has an area of approximately 3 hectares and contains a farm shed (6m x 12m) and propagation shed (9m x 21m).

Lot 339 is zoned RU1 Primary Production under the provisions of Ballina Local Environmental Plan 2012 (Ballina LEP 2012) and is subject to a 40 hectare minimum lot size for subdivision.

The proposed two lot subdivision would excise the existing dwelling house and its curtilage on approximately one hectare, to be retained by the property owner, with the balance being then proposed to be purchased by Mr Sansom for primary production purposes.

No dwelling entitlement is sought for the proposed primary production lot.

Mr Sansom has occupied part of Lot 339 since some time in 2012 and has advised that he has spent in excess of \$90,000 on various site improvements since that time. As far as can be determined, these improvements (sheds, driveway and landscaping) and the use of the land did not require Council's development consent.

The planning proposal submission also indicates that Mr Sansom commenced removing noxious weeds from the land in 2004.

9.3 LEP Amendment Request - 111 Friday Hut Road Tintenbar

The business operated on part of Lot 339 is known as *Seedlings Organic*. Organic certification for seedling production was obtained from the National Association for Sustainable Agriculture Australia (NASAA) in 2012 with further certification for seed production obtained in 2014. The business supplies some 50 – 60 Northern Rivers based organic growers on a regular basis with annual production exceeding 900,000 seedlings.

This site has been chosen by Mr Sansom in part because it is isolated from local conventional farming areas which may negatively impact organic production. In addition, the land is subject to occasional winter frosts due to its low lying nature which is beneficial for growing certain winter seedling varieties.

This report provides an overview of the proposed LEP amendment and seeks Council's direction with respect to the further consideration of this matter.

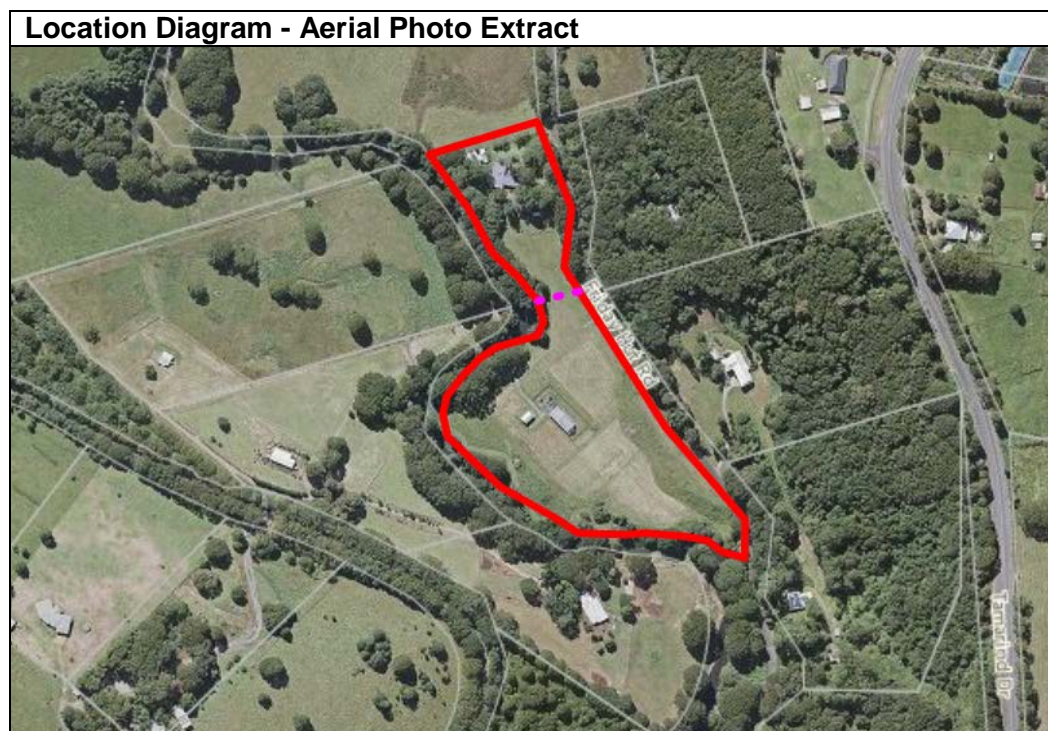
Key Issues

- Merits of proposed LEP amendment
- Precedent concerns
- Processing of LEP amendment request and preparation of a planning proposal.

Information

Location, Site Improvements, and Buffer Distances

Lot 339 is outlined in red on the aerial photo extract below. The approximate location of the proposed subdivision boundary is shown by the purple dots.



9.3 LEP Amendment Request - 111 Friday Hut Road Tintenbar

The farm and propagation sheds, together with some other site improvements, can be seen on the southern (bottom central) most section of Lot 339.

The dwelling house located on Lot 339 is located at a distance of approximately 190 metres from the propagation shed. The nearest dwelling on an adjoining lot is located approximately 78 metres to the east at 78 Friday Hut Road and 142 metres to the south at 94 Fernleigh Road, Tintenbar.

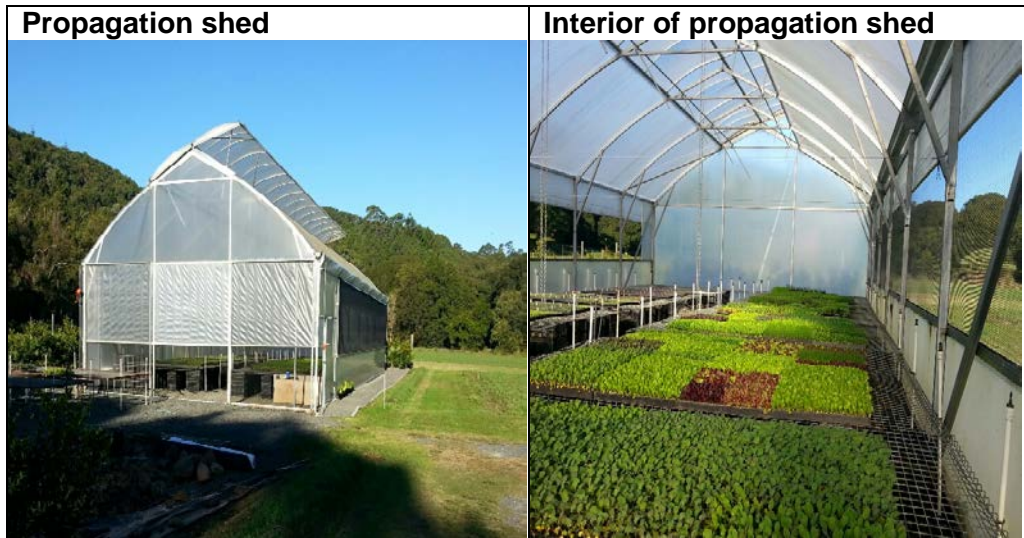
Having regard to the manner in which this business is operated, i.e. no chemical sprays, enclosed propagation shed and planted perimeter landscaping buffer distances are considered to be adequate.

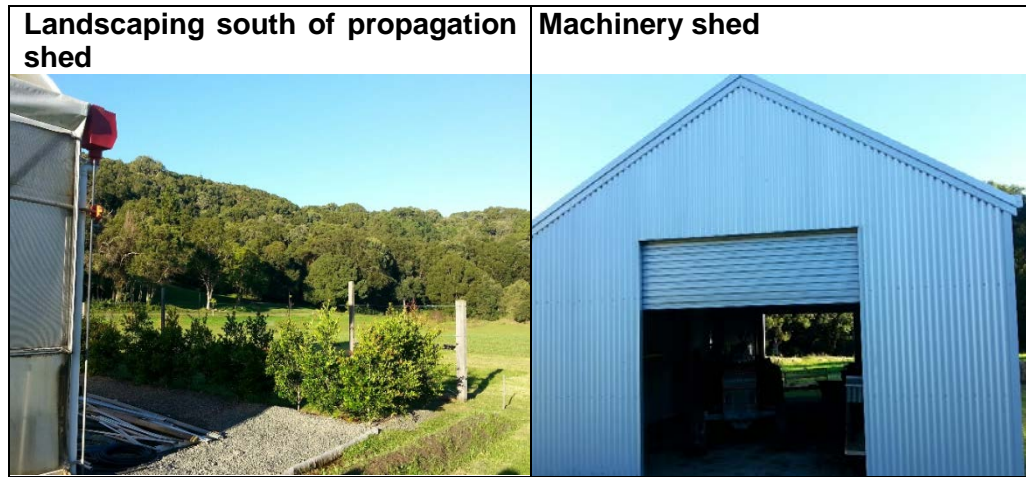
The proponent's consultant has submitted a Land Use Conflict Risk Assessment (LUCRA) which concludes that land use conflict risk, between the proposal and the existing and potential use of adjoining land, is low and acceptable. This view is supported notwithstanding that the NSW DPI Publication *Living and Working in Rural Areas (2007)* recommends a 200 metre buffer distance between greenhouses and controlled environment horticulture and dwellings.

The Western Australian Department of Health (August 2012) *Guidelines for Separation of Agricultural and Residential Land Uses – Establishment of Buffer Areas* have also been considered. These guidelines indicate that where vegetated buffers exist then separation distances otherwise applicable, to uses such as market gardens (300 – 500m), turf farms and lawns (500m) and vineyards (500m) may be reduced to 40 metres.

It is noted that vegetated buffers have already been established adjoining the eastern and southern most sides of the propagation shed.

Photos of the farm and propagation shed appear below.





Strategic Planning Context

The strategic planning context applicable to the proposed LEP amendment has been examined in Table 1 below. It is considered that the proposal is not inconsistent with applicable regional planning policies or the objectives of the RU1 Primary Production zone under Council’s LEP.

Table 1: Summary of Key Strategic Planning Policy Requirements

Planning Policy	Relevance	Compliance
Far North Coast Regional Strategy, December 2006, (FNCRS)	Rural land with agricultural production value is protected from urban development other than appropriately planned rural residential development. The subject land is designated as Regionally Significant Farmland. Appropriate subdivision standards are required to be included within LEP’s for rural zones.	Complies – There is no obvious conflict with what is proposed and the strategies contained within the FNCRS. Ballina LEP 2012 sets a minimum 40 hectare subdivision standard for the RU1 zone. Provisions exist within the LEP for smaller lots to be created for primary production purposes although this proposal does not meet the requirements of the existing provisions to enable a subdivision of the land.
Draft North Coast Regional Plan, March 2016, (DNCRP)	<i>Draft Directive 1.2 Protect and enhance productive farmland</i> is considered to be of relevance. It indicates that councils will need to apply minimum subdivision standards for rural zones to limit rural land fragmentation. Provisions to limit dwellings not associated with agriculture to also be applied to avoid land use conflicts. Observes that niche agriculture such as horticulture is common on smaller holdings throughout the North Coast. Indicates that councils should investigate mechanisms to support this type of agriculture, while preventing widespread fragmentation in the rural zone.	There is no obvious inconsistency with what is proposed and the draft strategies contained within the DNCRP. Importantly, the proposal does not seek a dwelling entitlement for the lot proposed for agricultural use. The proposal also facilitates the agricultural use of land designated as regionally significant farmland. The proposal will facilitate the ongoing use of part of the land for a niche agricultural purpose (horticulture). An LEP amendment is considered to be a suitable mechanism to support this use while at the same time continuing to prevent land fragmentation in Ballina Shire’s rural zones.
Northern Rivers Farmland Project Final Recommendations Report, February 2005.	Assigns a Regionally Significant Farmland classification to the land. No direct relevance to LEP amendment proposal given proposed continuation of the primary production use.	The proposal is considered to be consistent with the land’s Regionally Significant Farmland classification.

9.3 LEP Amendment Request - 111 Friday Hut Road Tintenbar

Planning Policy	Relevance	Compliance
Section 117 (EP&A Act) Direction 1.2 Rural Zones	The direction seeks to protect the agricultural production value of rural land. A planning proposal must not rezone rural zones to a residential, business, industrial, village or tourist zone; and not contain provisions that increase permissible densities.	The proposal is considered to be consistent with this direction as a rezoning of land is not proposed and permissible densities (number of dwellings) will not change.
Zone Objectives – RU 1 Primary Production Zone	<p>The proposed subdivision will be required to be considered against the objectives of the RU1 zone as contained within Ballina LEP 2012 if it progresses to the DA stage. Consideration at the LEP amendment stage provides guidance as to the merits of the proposal.</p> <p>The first four zone objectives listed below for the RU1 Zone are contained within the <i>Standard Instrument – Principle Local Environmental Plans</i> and are common to all RU1 zones contained within Standard Instrument LEPs in NSW.</p> <ul style="list-style-type: none"> • <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> • <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> • <i>To minimise the fragmentation and alienation of resource lands.</i> • <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> <p>The Ballina LEP 2012 contains an additional three objectives for the RU1 zone as listed below:</p> <ul style="list-style-type: none"> • <i>To maintain the rural, cultural and landscape character of the locality.</i> • <i>To enable development that is compatible with the rural and environmental nature of the land.</i> • <i>To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.</i> 	<p>Attachment Two to this report examines the consistency of the subdivision proposal with the objectives of the RU1 zone.</p> <p>It is considered that the proposed two lot subdivision sought to be facilitated through an amendment of Ballina LEP 2012 is able to be justified as being generally consistent with the zone objectives.</p>

Legislative Context – Need for LEP Amendment

Ballina LEP 2012 contains the legislative requirements relating to subdivision of land within the RU1 Primary Production zone. Clause 4.1(3) of the LEP requires that the size of any lot resulting from the subdivision of land shall not be less than the minimum size shown on the Lot Size Map. The Lot Size Map in respect to Lot 339 indicates a minimum area of 40,000m² (40 hectares).

Various clauses exist within the LEP which provide exceptions to the requirements specified in Clause 4.1. Of relevance is Clause 4.2 *Rural subdivision* which provides flexibility in the application of standards for subdivision in rural zones. Of particular relevance are clauses 4.2(3) to (5) which are reproduced below:

- (3) *Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.*
- (4) *However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.*
- (5) *A dwelling cannot be erected on such a lot.*

The Land and Environment Court in the case of *S J Connelly CPP Pty Ltd v Byron Shire Council [2012]* considered the provisions of *State Environmental Planning Policy Rural Lands* (SEPP RL). The SEPP RL at clause 9 contains provisions similar to clause 4.2 of Council's LEP. (Note: the entirety of Clause 9 of the SEPP does not apply in this case due to the provisions of clause 1.9(2) of Ballina LEP 2012.) In the *Connelly* case the Commissioner concluded that:

41. I am satisfied that a smaller 'primary production lot' such as Lot 2 in the current matter is permissible under the SEPP RL. and

42. Instead it seems that the SEPP RL allows the excision of a smaller prime agricultural land lot, with the remaining residual lot being allowed, even if it is less than 20ha. If it contains a dwelling as in the subject application, then a new smaller 'rural/residential' lot is created without any need of consideration of a SEPP 1 Objection.

Legal advice has not been obtained related to the question of whether it is reasonably open to the Council to consent to a subdivision within the RU1 zone where both proposed lots are below the specified minimum lot size. The position has been taken that the Ballina LEP 2012, unlike the SEPP RL, requires the lot containing the dwelling to meet the minimum lot size requirement. This approach has been applied by Council in relation to other development proposals to date. It is this interpretation of the LEP provisions that has triggered the LEP amendment request.

Precedence Concerns

Council's planning staff has, since the commencement of Ballina LEP 2012, in February 2013, consistently applied the requirement that only the lot proposed for primary production purposes may be less than the minimum prescribed lot size. If this position is now varied through an LEP amendment there is a legitimate concern that such action may give rise to further similar amendment applications.

This may then create a situation where pressure is exerted on the Council to create additional dwelling entitlements relating to the lots created for primary production purposes.

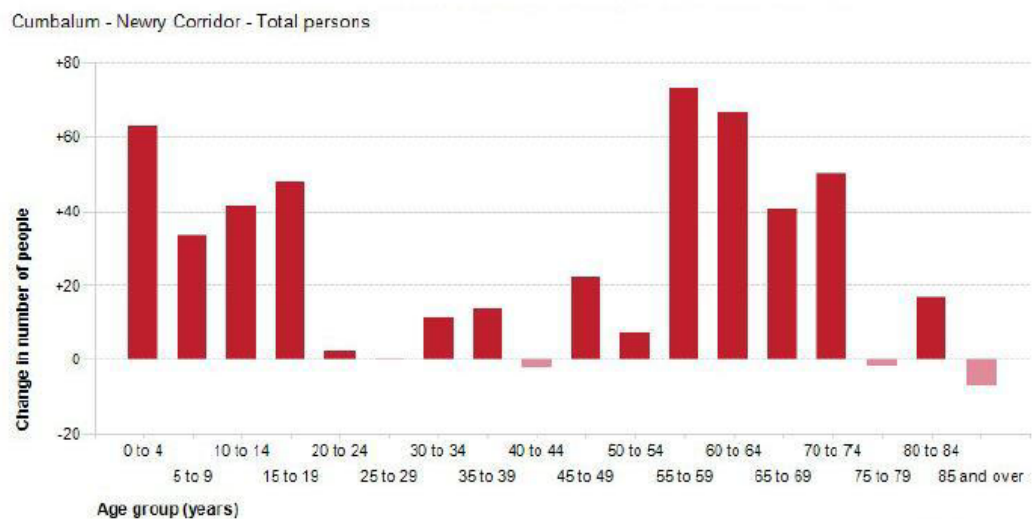
In the subject case no dwelling entitlement has been sought for the primary production lot. Despite this, and the current intentions of the property occupier, no guarantee can be provided that this would always be the case if the LEP amendment and subsequent subdivisions are approved.

9.3 LEP Amendment Request - 111 Friday Hut Road Tintenbar

If the LEP amendment is to progress, it is recommended that it incorporates an intention to prevent a dwelling from being constructed on the land as part of the mechanism to enable the subdivision to occur. This is to confirm that Council does not wish to enable additional lots to be created within the Shire's rural areas below the LEP's minimum subdivision standard that provide for dwelling houses in an ad hoc manner, but at the same time reinforces a desire of Council to support primary production.

It is also relevant here to consider the demographic (age) characteristics of the Cumbalum – Newrybar Corridor in which the subject site is located, as well as Ballina Shire more generally. The Diagram below illustrates the change in age structure of the Cumbalum – Newrybar Corridor between 2006 and 2011. It indicates that the largest increases have occurred in 55 to 74 year age groups. The results for Ballina Shire are similar.

Change in age structure - five year age groups, 2006 to 2011



Source: Australian Bureau of Statistics, Census of Population and Housing, 2006 and 2011 (Usual residence data)
Compiled and presented in profile.id by .id, the population experts.



As the population continues to age it may result that older residents now living on rural properties may seek to relocate or reduce the amount of land under their ownership. Consideration of a process through which the rural residential component of significant agricultural land is reduced, and the primary production potential of land is maximized, has merit.

The current LEP amendment application, if supported, may result in additional applications being submitted and lots ultimately being created for primary production purposes which have no dwelling entitlement. Subject to a consistent policy framework being developed which encourages the consolidation of primary production lots, and the rigid imposition and adherence to no dwelling provisions for lots created for primary production purposes, then it is considered that it may be reasonable to contemplate a change in policy direction.

Sustainability Considerations

- **Environment**

It is considered that there are no environmental issues associated with what is proposed or that require further investigation. The subject land is already used for two distinct purposes, one being rural residential and the other primary production (horticulture).

- **Social**

The proposal has social implications in so far as it will facilitate the use of part of the land for its current agricultural purpose and in so doing will provide limited local employment opportunities within the locality.

- **Economic**

The proposal has economic implications through facilitating a productive and viable agricultural use on part of the land. This is considered to add strength and diversity to the local economy.

Legal / Resource / Financial Implications

Council's processing guidelines and adopted fees and charges for LEP amendment requests would be applied to the further processing of this request. All costs associated with the processing of the application would be met by the applicant.

Processing of the amendment can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

There has been no consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date as this matter is in the initial concept phase.

However, should the proposal continue to proceed, community consultation, public exhibition and agency engagement will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act*. This would include consultation with the Department of Primary Industry – Agriculture and community consultation for a minimum period of 28 days.

Options

1. Initiate a planning proposal to facilitate the subdivision of Lot 339 DP 755684, so as to create two lots with areas below the required minimum lot sizes.

This is the preferred option. Initiating a planning proposal will enable Council to further investigate the merits of this proposal, determine the best option through which it may be facilitated in terms of amendment of the LEP, and also obtain broad community feedback on the proposal.

The surrounding locality is primarily used for rural residential purposes as a legacy of past concessional lot subdivision approvals previously available under former planning instruments and policies of the Council. Many of these lots have areas well below those proposed. Use of land for primary production purposes within the immediate locality is also uncommon. In these circumstances, adopting a strategy designed to maintain a niche agricultural – horticulture land use is considered to have merit notwithstanding potential precedent concerns.

A distinguishing feature of the current proposal is that the horticultural enterprise is already well established on the land. If it were the case that this commitment had not been demonstrated, and the bona fides of the proponent not evident, there may be a reluctance to support the proposal on the basis of speculation.

Under this approach a planning proposal would be prepared that identifies the intended outcome, with preference expressed for the use of Schedule 1 Additional Permitted Uses and a restriction of a dwelling entitlement being created. This reinforces the specific nature of the particular proposal and the agricultural land use outcome that is sought.

As further investigations and procedural steps are undertaken it is open to Council to either cease the amendment or change its approach, depending on the available information.

If the Council endorses this approach, staff would lodge the planning proposal with the Department of Planning and Environment upon payment of the applicable processing fees by the proponent. Typical process would involve Council considering the planning proposal document through a further report. However, in the circumstances, it is considered reasonable to progress this matter on the basis of an agreed principle for the amendment as defined in the Council's resolution.

2. Defer consideration of the LEP amendment request.

The Council may defer consideration of the LEP amendment request in order to undertake an inspection of the site and locality, to seek additional information and/or to obtain a more in-depth briefing of the proposal.

This approach is recommended in the event that the Council has concern about any precedent that may be created or would like to examine options to advance the proposal in more detail.

3. Decline to initiate the LEP amendment request.

It is open to the Council to decline the requested LEP amendment. Endorsement of this option would mean that no further action would be taken by Council with respect to the processing of the request. If this was to occur, it is open to the proponent to exercise his right to lodge a request for a pre-Gateway determination review with the Department of Planning and Environment.

9.3 LEP Amendment Request - 111 Friday Hut Road Tintenbar

Declining the request may also constrain future investment in the business conducted by Mr Sansom on this site and as a consequence the continued use of part of Lot 339 for primary production purposes.

RECOMMENDATIONS

1. That Council endorses the preparation of a planning proposal which proposes to permit the subdivision of Lot 339 into two lots as outlined in this report, but which would preclude the erection of a dwelling on the proposed horticultural allotment.
2. That the planning proposal, once prepared, be forwarded to the Department of Planning and Environment for a Gateway determination.
3. That subject to a Gateway determination allowing the proposal to proceed to community consultation being issued, the planning proposal be placed on public exhibition.
4. That Council give further consideration to the proposal following the conclusion of the public exhibition period.

Attachment(s)

1. Attachment One - LEP Amendment Application
2. Attachment Two - RU1 Zone Objectives Assessment

9.4 Development Control Plan Amendment - Skennars Head Expansion

9.4 Development Control Plan Amendment - Skennars Head Expansion

Delivery Program Strategic Planning

Objective To invite the Council to consider the adoption of draft development control plan provisions relating to the Skennars Head Expansion Area, following community consultation.

Background

In October 2013 the Northern Joint Regional Planning Panel (JRPP) endorsed a planning proposal, the effect of which was to rezone land, formerly known as part of the Stewart Farm at Skennars Head, to enable residential and neighbourhood commercial development to be undertaken on the land. This action was consistent with the Council's adopted Growth Management Strategy for Ballina Shire. For the purpose of this report and associated material, this area is referred to as the *Skennars Head Expansion Area* (Figure 1).

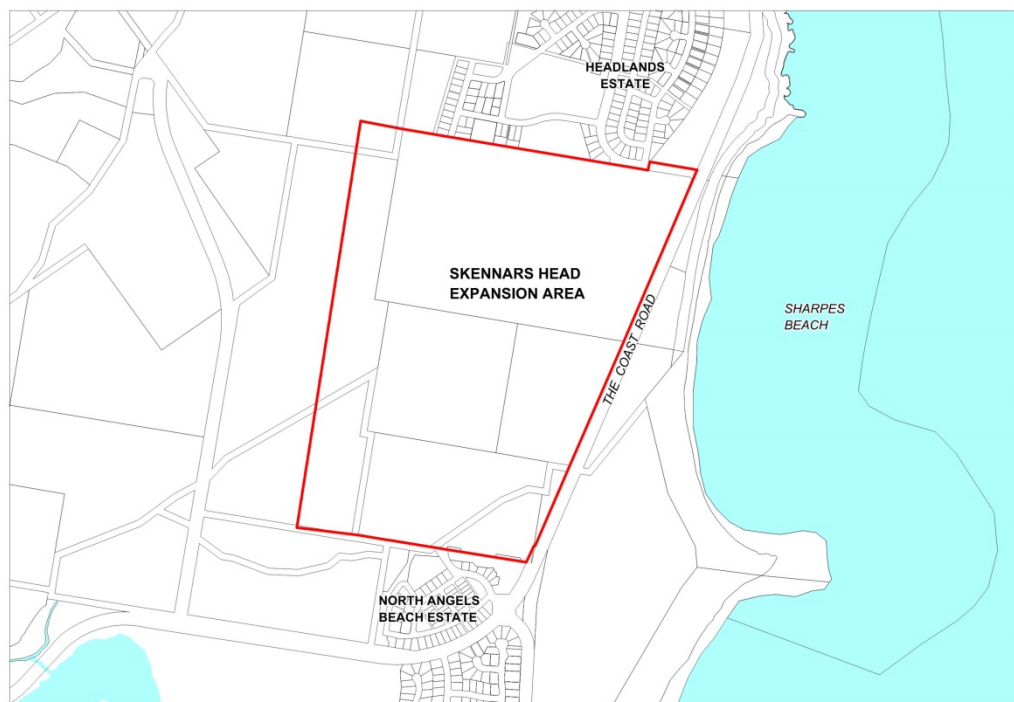


Figure 1. Skennars Head Expansion Area

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 a 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,*

9.4 Development Control Plan Amendment - Skennars Head Expansion

- (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 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.*

Draft development control plan provisions were prepared having regard for the history and characteristics of the site, information provided by the proponent and internal staff feedback. These draft provisions were endorsed for the purpose of public exhibition by the Council at its July 2016 Ordinary Meeting. The Council resolved [Minute No. 280716/6] as follows:

1. *That Council proceed to publicly exhibit the draft development control plan 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.*

The draft provisions were publicly exhibited from 10 August 2016 until 16 September 2016, in accordance with the Council's resolution. A copy of the exhibition package is provided as Attachment One to this report. Council received six written submissions, during the public exhibition period. One submission was from the development proponents and two submissions were in the form of petitions with multiple signatories (the submissions numbered 4 & 5 had 21 & 28 signatories respectively). A copy of each of the submissions is contained in Attachment Two to this report.

The purpose of this report is to enable the Council to consider the submissions received during the public exhibition of proposed development control provisions for the Skennars Head Expansion Area. Further, to invite the Council to consider adoption of these provisions for the purpose of amending the Ballina Shire Development Control Plan 2012.

Key Issues

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

Information

As mentioned, six community submissions were received during the public exhibition period, in relation to the draft development control provisions. These submissions comprise Attachment Two to this report.

As a precise, the key issues raised in the submissions include the following:

- Access to rear of properties on Redford Drive for tree maintenance.
- Visual impact of development on the coastal landscape.
- Embellishment of Spoonbill Reserve as a local park.
- Traffic, parking and general amenity in Lennox Head.
- Use of developer contributions funds.
- The urban/coastal reserve interface (to the east).
- The urban/rural interface (to the south).

In addition, one submission (Submission No. 2), received from Mr Andrew Stewart, was of general support for the proponent's vision for the future estate.

The development proponent (Intrapac Properties Pty Ltd.) held a community engagement session on 14 September 2016, during the public exhibition period, at its own initiative. Local residents and representatives of local community and business organisations were invited by Intrapac to attend this session. A copy of the proponent's consultation report is provided for the general information of Council, comprising Attachment Three to this report.

The key issues raised in the submissions received during Council's public exhibition period are outlined and discussed below.

Access to rear of properties on Redford Drive for tree maintenance

Several of the submissions (Submission Nos. 3 and 5) raised concerns that the future development of the subject land will make it difficult for the owners of 33 Redford Drive (a multi-unit development) to maintain several large Norfolk Island Pines located approximately 1 metre within the rear of their properties.

Currently, a strip of land (owned by the development proponent) approximately 20 metres wide is used by residents, informally, to access the rear of their properties (to undertake tree and yard maintenance) and as a pedestrian link to Spoonbill Reserve and Sharpes Beach.

The matter has been raised with the development proponents, and a response has been provided (letter dated 7 October 2016), which is included with their principal submission (Submission No. 6), provided in Attachment Two to this report. The proponent acknowledges the adjacent landholder concerns and has given an undertaking to consider possible solutions in the design of the estate. Having regard for the proponent's written undertaking, it is not proposed that specific requirements to address the identified issue be included in the development control plan.

9.4 Development Control Plan Amendment - Skennars Head Expansion

Visual impact of development on the coastal landscape

Several submissions (submission Nos. 1 and 4) raised concerns with the visual impact of future development on the coastal landscape.

The visual impact of the development will be tempered by the set-back from The Coast Road, which is approximately 160 metres wide from the property's eastern boundary in proximity to the proposed Neighbourhood Park. Further, landscaping within the intended coastal reserve, which runs the length of the eastern edge of the development, will serve to soften the visual impact of future development to some extent, noting that the principal public view corridor will be The Coast Road.

The draft development control provisions also include a number of requirements relating to landscape treatment of the proposed coastal reserve, which aim to maintain (as much as possible) the scenic values of the coastal landscape.

As outlined in the section below, regarding the urban-coastal reserve interface, it is acknowledged that the provision of a pathway, instead of a perimeter road, could further soften the visual impact of the development.

Embellishment of Spoonbill Reserve

Submission No. 5 requests the relocation of the proposed local park from the southern part of the Skennars Head Expansion Area to Spoonbill Reserve, to benefit of all Skennars Head residents.

Spoonbill Reserve is an area of almost two hectares of land which was dedicated to Council as public reserve as an outcome of the development of Headlands Estate to provide for the open space and recreational needs of the residents who would reside in that estate. The reserve abuts the northern boundary of the proposed development area. It is relatively unimproved at this time, primarily because trees on the land were previously regularly used as a roost for a significant population of Spoonbills (hence the reserve's name). Over time, the roost site has been abandoned. It is understood that options for the preferred use and embellishment of this land are currently under consideration by Council's Civil Services Group.

The provisions of the DCP relate, among other things, to the requirements for the developer of the land to provide community benefits in association with that development, including the provision and embellishment of a local park in the southern part of the new estate. The provision of these park facilities is planned on a catchment basis so as to ensure that all dwellings are located within 400m of a local park. The relocation of the southern local park to Spoonbill Reserve would be contrary to this objective.

Further, the proposed Neighbourhood Park, to be located on the nominated coastal reserve in proximity to the realigned intersection, will provide an embellished and useable area of open space (and associated neighbourhood commercial centre) in reasonable proximity to all residents of Skennars Head.

9.4 Development Control Plan Amendment - Skennars Head Expansion

Traffic, parking and general amenity in Lennox Head

Submission No. 4 raises concerns with the development of land in the Lennox Head locality, in terms of the impacts of additional population on the facilities and infrastructure; in particular access and parking in the Lennox Head CBD.

Council's Civil Services Group is currently considering options for the improvement of access, car parking and the general enhancement of public areas along Ballina Street and Park Lane in Lennox Head, in consultation with local interest and stakeholder groups, prior to broader community consultation. Further information concerning this matter will be presented to the elected Council in due course.

In terms of existing plans for increased car parking spaces in Lennox Head, the Ballina Shire Car Parking Contributions Plan 2014 provides for the construction of an additional 21 car parking spaces to be located at 3 Byron Street. It is acknowledged, however, that longer term options for additional ground level car parking spaces in proximity to the Lennox Head commercial area are limited, due to space constraints.

Council last undertook a comprehensive strategic planning process for Lennox Head in association with the Lennox Head Community Aspirations Strategic Plan (2002) and the Lennox Head Structure Plan (2004). Review of the local strategic planning framework for Lennox Head is tentatively scheduled to be initiated during 2017-18 (subject to resource availability and other Council priorities). It is anticipated that issues of access and parking, open space and infrastructure availability will be considered during this process.

Further to the above, it is envisaged that a separate strategic planning engagement is proposed to occur specifically for the locality of Skennars Head. If endorsed in a Council work program, this is likely to be scheduled following the Lennox Head work.

The expenditure of developer contributions funds in Lennox Head

Submission No. 4 queries the allocation of developer contributions funds collected in association with the development of residential estates in Lennox Head and Skennars Head, with respect to the expenditure of those funds on infrastructure within the immediate locality.

Currently, developer contributions (s.94) are collected from development occurring in Lennox Head (and Skennars Head) for the delivery of:

- Open Space & Community Facilities;
- Strategic Road Network Improvements; and
- Car parking (levied on commercial development).

Community facility infrastructure projects planned to be delivered in Lennox Head, funded from developer contributions (levied on development occurring anywhere in the shire), include the following:

- Lennox Head Community Facility (reimbursement for works completed \$3.56 million);

9.4 Development Control Plan Amendment - Skennars Head Expansion

- Skennars Head Playing Fields acquisition and embellishment (\$2.25 million);
- Lennox Head and Lake Ainsworth foreshore recreation works (\$1 million);
- Lennox Head community hall (\$550,400);
- Lennox Head Library improvements (recoupment for works completed \$1.5 million); and
- Lennox Head Surf Club replacement works (\$4 million).

In addition to the above works, development occurring within Lennox Head (as elsewhere) contributes towards regional level community facilities which serve the population of Ballina Shire as a whole. These regional level infrastructure projects include improvements to Pop Denison Park, provision the Ballina Indoor Sports Centre and public swimming pool upgrade projects (for example).

In addition to the above, new development within Ballina Shire contributes towards major road improvement projects, which include the upgrading of North Creek Road between Ballina and Lennox Head and the extension of Hutley Drive, among others. The total scope of works within the current roads plan is in excess of \$153 million, the majority of which is funded from development contributions.

Commercial development occurring within the Lennox Head commercial area may make financial contributions towards the centralised provision of car parking, in lieu of providing car spaces on site. The contributions plan works include recoupment for additional car parking spaces provided along Park Lane and an additional 21 spaces to be provided at 3 Byron Street.

The urban/coastal reserve interface (to the east).

As outlined in the report regarding this matter presented to the Council's July 2016 Ordinary Meeting, the proponent has requested that Council amend the draft development control provisions as they relate to the urban/coastal reserve interface located at the eastern edge of the development area.

The draft development control measures placed on public exhibition require the provision of a perimeter road at the eastern edge of the development, primarily on the basis that this approach provides for improved public access to the proposed coastal reserve (which the development is to deliver), clearly delineates the public and private parts of the new estate and provides for ease of maintenance of the future reserve by Council.

The proponent's preferred approach is for the provision of a 'coastal promenade' to separate private lots and the proposed coastal reserve, rather than a constructed and dedicated public road. Additional details regarding the proponent's preferred approach have been provided in their submission (Submission No. 6). This additional information was also canvassed at a Councillor Briefing provided by the proponent on 5 October 2016.

It is noted that the developer's amended proposal includes the provision of east-west aligned 'view corridors' (fingers of open space) through the eastern-most parts of the estate. These corridors may have the effect of increasing the penetration of coastal views into the estate as well as providing improved pedestrian passage to the proposed eastern coastal reserve and 'coastal promenade' (pathway). It is noted, however, that the additional public reserves would generate increased maintenance demands for Council's Open Space and Reserves Section.

Due to the site's visual prominence, the interface of new development with the proposed coastal reserve will have a strong impact on the visual character of the development area, particularly when viewed from The Coast Road and adjacent public land. Reducing hard surfaces and providing a more landscaped edge may, therefore, lessen the visual impact of the development. Further, the suggested fingers of open space may serve to break up the visual appearance of the front row of dwellings, which under the perimeter road option, would be contiguous along the edge of the development.

As a consequence of the above, on the basis of the additional information provided by the proponent regarding the treatment of the eastern urban/proposed coastal reserve interface, Council is invited to consider amendment of the DCP to remove the requirement for a perimeter road on the eastern edge of the development.

Should Council support a change to the draft DCP to provide for a pathway rather than a perimeter road, it is recommended that the draft provisions be amended as per the following:

- Remove the requirement for a perimeter road and include provisions requiring the eastern interface treatment to be provided in a manner generally consistent with the illustration titled 'Skennars Head Intrapac Landscape Framework – Coastal Reserve'.
- Introduce a requirement that a pathway (coastal boulevard) is be provided at the eastern perimeter of the residential area, along the length of the coastal reserve.
- Include a requirement that a covenant be introduced for allotments fronting the reserve, to prohibit the construction of high fences.
- Include a provision clarifying that all land within the proposed coastal reserve is to be dedicated to Council without cost.

The southern urban/rural interface.

As outlined in the report regarding this matter presented to the Council's July 2016 Ordinary Meeting, the proponent has requested that Council amend the draft development control plan provisions as they relate to the urban/rural interface at the southern edge of the development area.

The draft document placed on public exhibition includes the provision of a perimeter road at the southern edge of the development, primarily on the basis that this approach may mitigate the potential for urban/rural land use conflict. In this regard it is understood that farming practices will continue to occur on the parts of "Stewart Farm" which are not included in the future development area.

9.4 Development Control Plan Amendment - Skennars Head Expansion

The proponent's preferred approach is for residential allotments to back on to the adjacent rural land to the south, rather than having a public road defining the southern boundary of the development. Additional details regarding the proponent's preferred approach have been provided in their supplementary submission dated 7 October 2016 (included in Submission No. 6), with particular reference to Figure 2 contained therein.

The difference between the two approaches is not particularly significant, from a planning perspective. In terms of possible advantages, allowing houses to back on to the rural land may achieve the following:

- A visually softer transition between urban development and adjacent rural land, as viewed from public roadways (public and private benefit).
- More efficient use of the site from the perspective of development yield (public and private benefit).
- Improved views from lots towards the north and the coast (private benefit).

The disadvantages of this approach may include:

- Increased potential for urban/rural land use conflict (public and private detriment).
- Increased potential for unauthorised dumping to occur in adjacent natural areas (public and private detriment).

Should Council support a change to the draft DCP to provide for houses to back on to adjacent rural land to the south, rather requiring a perimeter road, it is recommended that the draft provisions be amended as per the following:

- Remove the requirement for a perimeter road and include provisions requiring the southern interface treatment to occur in a manner generally consistent with Figure 2 contained in the Intrapac supplementary submission dated 7 October 2016.

Intersection treatment and pedestrian access on The Coast Road

Whilst not the subject of submissions received during the public exhibition period, intersection options were discussed at the Councillor briefing by the development proponents on 5 October 2016, as well being the subject of ongoing discussions between the proponent, Council staff and NSW Roads and Maritime Service.

The draft development control plan for the site currently indicates Council's 'preference' for a roundabout at the proposed intersection with The Coast Road, and a realigned Headlands Drive and Sharpes Beach carpark access (as an explanatory note in the DCP). It is noted that the proponent's preference is for a signalised intersection (traffic lights) in the same location, which would allow the provision of a level pedestrian crossing across The Coast Road to Sharpes Beach.

Council staff has liaised with the Roads and Maritime Service regarding the preferred intersection treatment. The RMS concur with Council's position that a roundabout and pedestrian underpass is the preferred intersection arrangement, on the basis of the following:

9.4 Development Control Plan Amendment - Skennars Head Expansion

- Signals are thought to present a greater crash risk at this location due to higher approach speeds and the road grade to the north of Headlands Drive.
- Other intersections with The Coast Road in the vicinity are, or are planned to be, controlled by roundabouts.
- The signal warrant requires that traffic volumes exceed 600 vph in each direction on the major road and 200 vph in one direction on the minor road, for four separate hours during a typical day. It has been estimated however that the volumes for signals will be met only in two of the four hours required in 2027.
- Future planned road proposals, such as the reconstruction of the North Creek Road crossing to North Ballina, would reduce volumes on the Coast Road, further reducing the need for signals.

It is further noted that additional undesirable consequences of a signalised intersection would likely include the following:

- Unnecessary delays for Coast Road traffic, due to relatively low traffic volumes on Headlands Drive entering the intersection during non-peak periods.
- Visual impacts associated with the provision of traffic lights on an iconic stretch of the coast.

As a consequence of the above, it is recommended that the draft development controls be further strengthened with respect to this matter, to reflect the higher level of certainty regarding the preferred intersection treatment, in this case being a roundabout.

Further to the above, it is important that consideration be given to the integration of the future development with the pedestrian and cycleway network servicing the area. This is of particular concern due to the anticipated high rate of pedestrian movement from the future estate towards the beach and the ongoing construction of regionally significant shared path infrastructure by the Council, between the coast and the subject development site.

Due to traffic speeds/volumes on The Coast Road, a grade-separated pedestrian crossing will be required to facilitate safe pedestrian passage across that road. Due to the visual sensitivity of the site and limited space on the Sharpes Beach carpark site to accommodate complying access ramps, a pedestrian underpass appears the most viable option for a grade-separated pedestrian crossing along that stretch of The Coast Road.

It is acknowledged that the preferred location of a pedestrian underpass will need to be determined on the basis of a detailed consideration of:

- The desired crossing locations from a pedestrian perspective.
- Topographic constraints and constructability considerations.
- Integration with the coastal pathway network including proximity to other grade-separated pedestrian crossings within the network.

It is proposed at this stage, however, that the draft Development Control Plan be amended to include a requirement that a pedestrian underpass be provided to facilitate safe pedestrian access between the Skennars Head Expansion Area and Sharpes Beach.

Should Council support a change to the draft DCP in relation to this matter it is recommended that the draft provisions be amended as per the following:

- Amend the text relating to the preferred intersection treatment with The Coast Road to require that a roundabout be provided in association with the development of the land.
- Include a requirement that a pedestrian underpass be provided to facilitate safe pedestrian access between the Skennars Head Expansion Area and Sharpes Beach.

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 development/subdivision applications for the future development of the subject land.

There are no significant resource or financial implications associated with finalising the DCP amendment.

Consultation

The draft development control plan was publicly exhibited in accordance with the *Environmental Planning and Assessment Act 1979* between 10 August 2016 and 16 September 2016.

9.4 Development Control Plan Amendment - Skennars Head Expansion

The identification of the subject land for future residential purposes has also been a matter on the public record for many years, through identification in Council's Local Growth Management Strategy 2012 (and earlier iterations thereof), the Ballina Local Environmental Plans 1987 & 2012 and the Far North Coast Regional Strategy 2006. Each of the above plans and strategies were the subject of separate and comprehensive consultation processes.

Options

1. That Council resolves to adopt the draft development controls for the Skennars Head Expansion Area as publicly exhibited.

This option is not recommended on the basis that further refinement of the draft development control provisions are considered to be in the public interest, as outlined in the body of this report.

2. That Council resolves to adopt the draft development controls for the Skennars Head Expansion Area, with the following refinements:

- Remove the requirement for a perimeter road and include provisions requiring the eastern interface treatment to be provided in a manner generally consistent with the illustration titled 'Skennars Head Intrapac Landscape Framework – Coastal Reserve'.
- Introduce a requirement that a pathway (coastal boulevard) is be provided at the eastern perimeter of the residential area, along the length of the proposed coastal reserve.
- Include a requirement that a covenant be introduced for allotments fronting the proposed reserve, to prohibit the construction of high fences.
- Include a provision clarifying that all land within the proposed coastal reserve is to be dedicated to Council without cost.
- For the southern interface, remove the requirement for a perimeter road and include provisions requiring the southern interface treatment to occur in a manner generally consistent with Figure 2 contained in the Intrapac supplementary submission dated 7 October 2016.
- Amend the text relating to the preferred intersection treatment with The Coast Road to require that an appropriately configured roundabout be provided in association with the development of the land.
- Include a requirement that a pedestrian underpass be provided to facilitate safe pedestrian access between the Skennars Head Expansion Area and Sharpes Beach (additional to the existing underpass).

This option is recommended on the basis that the amendments outlined above are considered to be in the public interest, as outlined in the body of this report.

In adopting the DCP amendments, it is recommended that these take effect from 14 November 2016 to enable the DCP to be updated and published.

9.4 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 the Council, however it is not recommended in the circumstances, unless Councillors wish to consider the matters contained in this report in greater detail.

4. That Council resolves to discontinue the preparation of site specific development controls for the Skennars Head Expansion Area.

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

RECOMMENDATIONS

1. That Council resolves to adopt the exhibited draft development control plan amendments relating to the Skennars Head Village Expansion Area, with the following changes:
 - Remove the requirement for a perimeter road and include provisions requiring the eastern interface treatment to be provided in a manner generally consistent with the illustration titled 'Skennars Head Intrapac Landscape Framework – Coastal Reserve'.
 - Introduce a requirement that a pathway (coastal boulevard) is be provided at the eastern perimeter of the residential area, along the length of the proposed coastal reserve.
 - Include a requirement that a covenant be introduced for allotments fronting the proposed reserve, to prohibit the construction of high fences.
 - Include a provision clarifying that all land within the proposed coastal reserve is to be dedicated to Council without cost.
 - For the southern interface, remove the requirement for a perimeter road and include provisions requiring the southern interface treatment to occur in a manner generally consistent with Figure 2 contained in the Intrapac supplementary submission dated 7 October 2016.
 - Amend the text relating to the preferred intersection treatment with The Coast Road to require that an appropriately configured roundabout be provided in association with the development of the land.
 - Include a requirement that a pedestrian underpass be provided to facilitate safe pedestrian access between the Skennars Head Expansion Area and Sharpes Beach.
2. That Council provides public notice of the adoption of the DCP Amendment for the Skennars Head Village Expansion Area with the amendment taking effect from 14 November 2016.
3. That those who made submissions in response to the public exhibition of the draft development control plan be notified of the Council's decision.

Attachment(s)

1. Skennars Head Village Expansion Area DCP Public Exhibition Package
2. Submissions Received - Public Exhibition of Skennars Head Village Expansion DCP
3. Proponent Stakeholder Workshop Report - September 2016

10.1 Investment Summary - September 2016

10. General Manager's Group Reports

10.1 Investment Summary - September 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 September 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 September was \$69,784,000. This represents an increase of \$486,000 from August.

Council's investments, as at 30 September, are at an average (weighted) rate of 2.97%, which is 1.24% above the 90 Day Bank Bill Index of 1.73%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 September 2016, was \$1,317,671 (decreased from the balance of \$6,061,517 as at 31 August 2016, which had been noted as particularly high in last month's report due to timing of receipts).

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	16
Wastewater Fund (incl developer contributions)	External	22
Section 94 Developer Contributions	External	8
Bonds and Deposits	External	3
Other External Restrictions	External	8
Property Development	Internal	2
Employee Leave Entitlements	Internal	4
Carry Forward Works	Internal	11
Miscellaneous Internal Reserves	Internal	23
Unrestricted		3
Total		100%

* Updated to reflect reserves held as at 30 June 2016

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.6%	3%
Rated Institutions							
AMP Bank	Yes	A+	5,000	5,000	20%	7.2%	
Bank of Queensland	No	A-	5,000	5,000	10%	7.2%	
Bank of Western Aust	Yes	AA-	7,000	9,000	20%	12.9%	
Bendigo & Adelaide Bank	No	A-	4,000	4,000	10%	5.7%	
Beyond Bank	No	BBB+	3,000	3,000	10%	4.3%	
Big Sky Building Soc	N/A	BBB	1,000	1,000	10%	1.4%	
Commonwealth Bank of Australia	Yes	AA-	6,510	5,996	20%	8.6%	
Greater Building Society	No	BBB	1,000	1,000	10%	1.4%	
Heritage Bank	No	BBB+	2,000	2,000	10%	2.9%	
ING Bank Ltd	Yes	A-	2,000	2,000	10%	2.9%	
Members Equity Bank	No	BBB+	4,000	4,000	10%	5.7%	
National Australia Bank	Yes	AA-	9,000	8,000	20%	11.5%	
Newcastle Perm Bld Society	No	BBB+	5,000	5,000	10%	7.2%	
Rural Bank Ltd	No	A-	1,000	1,000	10%	1.4%	
Suncorp-Metway Bank	No	A+	9,000	9,000	20%	12.9%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	2.9%	
My State Bank Ltd	No	BBB	1,000	1,000	10%	1.4%	97%
Unrated ADI's					\$1m	0.0%	0%
Total			69,298	69,784		100%	

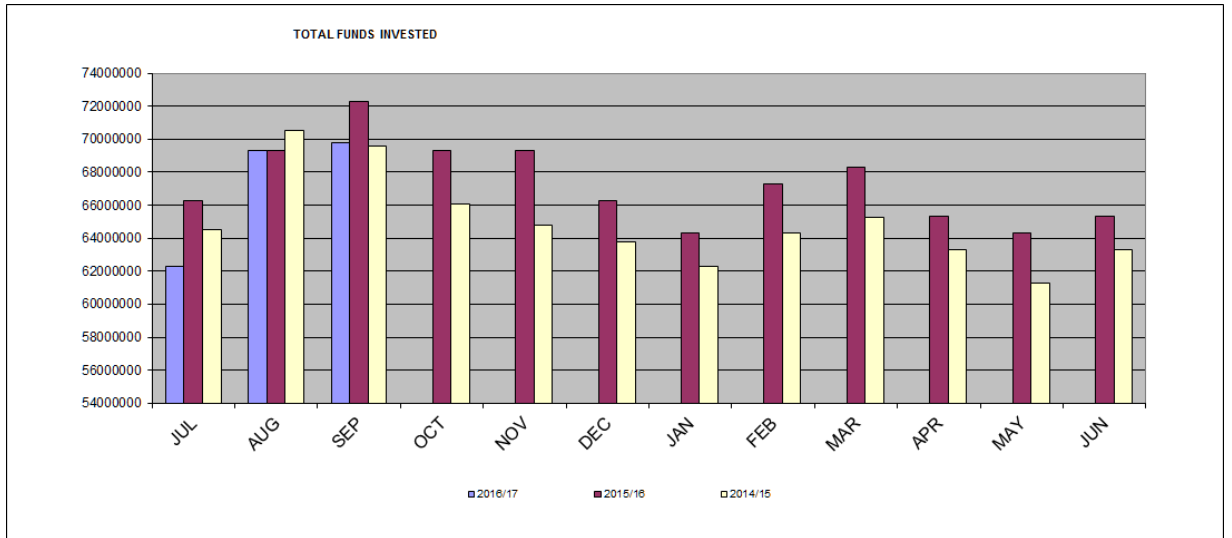
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	33,298	33,784
	48%	49%
Non-Fossil Fuel Aligned	35,000	35,000
	51%	50%
Not Classified	1,000	1,000
	1%	1%
Total	69,298	69,784
	100%	100%

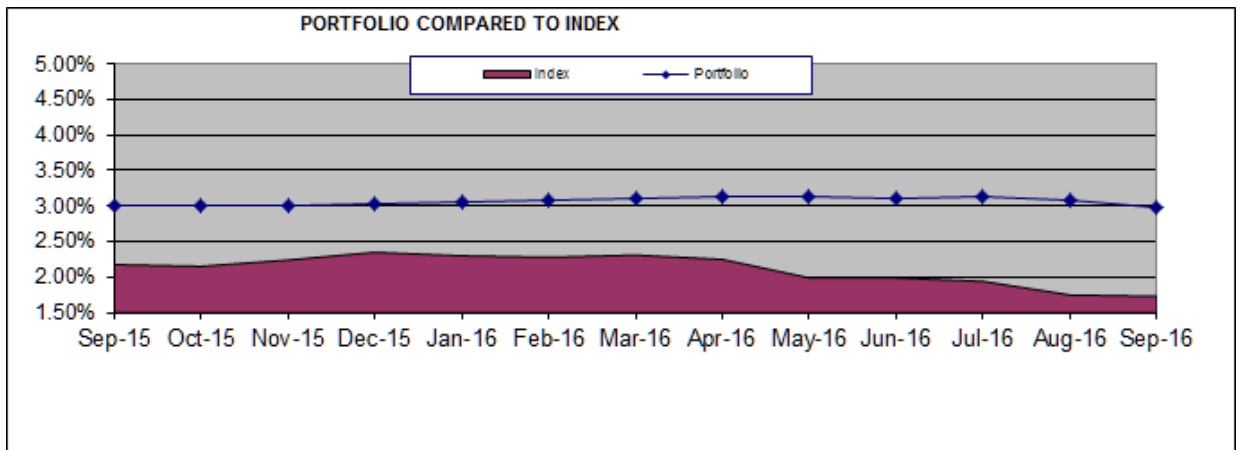
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

- 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.

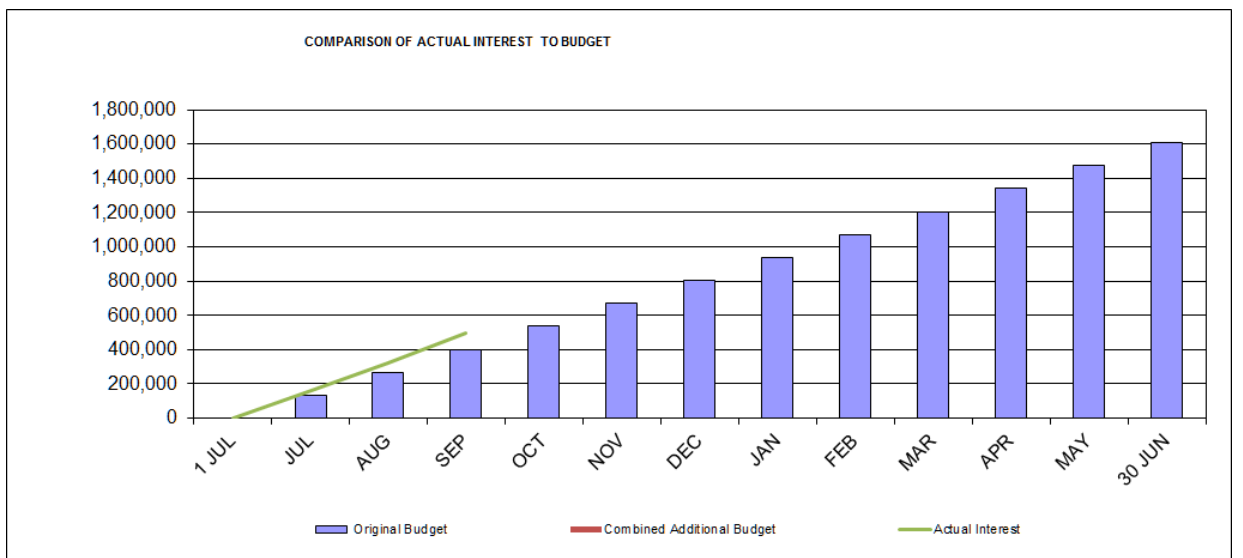
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - September 2016

F. Investments held as at 30 September 2016

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.00%	Perpetual	1,788	1,184
24/01/12	ING Bank Ltd	FRTD	3.83%	24/01/17	1,000	1,000
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	1,996	2,070
25/02/14	Westpac Bank	FRN	2.67%	25/02/19	2,000	2,013
17/02/16	Bendigo & Adelaide Bank	TD	3.00%	16/11/16	1,000	1,000
19/02/16	Members Equity Bank	TD	3.10%	14/02/17	1,000	1,000
29/02/16	ING Bank Ltd	TD	3.10%	28/02/17	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
24/05/16	Bank of Queensland	TD	3.00%	24/11/16	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	FRTD	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	FRTD	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
06/07/16	Bank of Queensland	TD	3.00%	17/01/17	1,000	1,000
11/07/16	Bank of Queensland	TD	2.95%	18/01/17	1,000	1,000
13/07/16	Bank of Queensland	TD	2.85%	10/04/17	1,000	1,000
26/07/16	Commonwealth Bank Of Australia	FRTD	4.25%	26/07/21	1,000	1,000
29/07/16	Commonwealth Bank Of Australia	TD	2.73%	04/10/16	1,000	1,000
08/08/16	AMP Bank	TD	2.95%	08/03/17	2,000	2,000
09/08/16	National Australia Bank	TD	2.80%	07/02/17	1,000	1,000
09/08/16	Newcastle Permanent Bld Society	TD	2.80%	09/02/17	1,000	1,000
09/08/16	Newcastle Permanent Bld Society	TD	2.80%	15/02/17	1,000	1,000
12/08/16	AMP Bank	TD	2.95%	14/03/17	1,000	1,000
15/08/16	National Australia Bank	TD	2.75%	14/11/16	1,000	1,000
16/08/16	Bendigo & Adelaide Bank	TD	2.80%	16/08/17	2,000	2,000
17/08/16	Members Equity Bank	TD	2.70%	16/02/17	2,000	2,000
17/08/16	Members Equity Bank	TD	2.70%	01/03/17	1,000	1,000
18/08/16	AMP Bank	TD	2.95%	22/03/17	1,000	1,000
23/08/16	Suncorp-Metway Bank	TD	2.65%	23/02/17	2,000	2,000
23/08/16	Bendigo & Adelaide Bank	TD	2.75%	22/08/17	1,000	1,000
24/08/16	Newcastle Permanent Bld Society	TD	2.70%	22/11/16	1,000	1,000
24/08/16	Newcastle Permanent Bld Society	TD	2.70%	28/11/16	1,000	1,000
25/08/16	Suncorp-Metway Bank	TD	2.65%	21/02/17	1,000	1,000
25/08/16	National Australia Bank	TD	2.63%	01/12/16	1,000	1,000
29/08/16	National Australia Bank	TD	2.63%	06/06/17	1,000	1,000
29/08/16	My State Bank	TD	2.71%	06/06/17	1,000	1,000
30/08/16	Greater Building Society	FRN	3.28%	30/08/19	1,000	1,006
30/08/16	Bank West	TD	2.55%	02/11/16	2,000	2,000
31/08/16	Newcastle Permanent Bld Society	TD	2.70%	07/12/16	1,000	1,000
31/08/16	Bank West	TD	2.56%	07/11/16	3,000	3,000
01/09/16	Beyond Bank	TD	2.65%	05/12/16	1,000	1,000
01/09/16	Bank West	TD	2.56%	03/11/16	1,000	1,000
01/09/16	Bank West	TD	2.56%	01/11/16	1,000	1,000
05/09/16	Suncorp-Metway Bank	TD	2.65%	02/02/17	1,000	1,000
05/09/16	Suncorp-Metway Bank	TD	2.65%	07/02/17	1,000	1,000
26/09/16	Bank of Queensland	TD	2.70%	05/04/17	1,000	1,000
28/09/16	Bank West	TD	2.55%	08/12/16	2,000	2,000
Totals					69,784	69,273
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 September 2016.

Attachment(s)

1. TCorp Local Government Economic Commentary September

10.2 Disclosure of Interest Returns

10.2 Disclosure of Interest Returns

Delivery Program Administration

Objective To comply with the provisions of the Local Government Act relating to the tabling of disclosure of interest returns.

Background

Section 449 (3) of the Local Government Act requires Councillors and designated persons to complete a pecuniary interests return within three months of the end of the financial year.

Section 450A (2) (b) then requires the General Manager to table those returns at the first available Council meeting following the completion of the three month period.

This report complies with the above sections of the Local Government Act for the period 1 July 2015 to 30 June 2016.

Key Issues

- Ensuring compliance with the Local Government Act.

Information

Returns are to be tabled by Councillors and designated persons. Section 441 of the Local Government Act defines designated persons as the General Manager, Senior Staff and other positions or members of committees that exercise functions that could give rise to a conflict of interest.

To manage the determination of designated positions an internal procedure has been adopted by staff to ensure that:

- all senior staff
- all staff involved in the determination of development applications
- all staff exercising delegations in respect to rezoning requests
- all staff with a purchasing authority above \$55,000 and
- all staff who have secondary employment approvals excluding those that relate to one off events that are for a relatively short term. Examples include elections, festivals etc.

complete the returns.

No committee members, other than Councillors, are required to complete returns, as all Council's committees, other than those consisting entirely of Councillors, have no delegated authority.

The completed returns and the register will be tabled at the meeting for the information of the public.

10.2 Disclosure of Interest Returns

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The disclosure of interest returns help to improve transparency in the decision making process.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council must comply with the Local Government Act.

Consultation

Provided for the information of the public.

Options

The purpose of this report is for noting the information presented.

RECOMMENDATION

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2015 to 30 June 2016.

Attachment(s)

Nil

10.3 Flat Rock Tent Park Fees and Charges - 2017/18

10.3 Flat Rock Tent Park Fees and Charges - 2017/18

Delivery Program Commercial Services

Objective To seek Council's concurrence to exhibit the draft fees and charges for the Council operated tent park for the period 1 February 2017 to 31 January 2018

Background

The NSW Local Government Act requires councils to formally advertise and adopt their fees and charges prior to implementation. The majority of Council's fees are set each June as part of the annual Operational Plan, however Flat Rock Tent Park's fees are set for the twelve months from 1 February each year.

With Flat Rock Tent Park it is important that our regular guests are informed well in advance as to the fees for their next holiday during the following year and also enable fees and charges to be included in holiday and camping publications.

This report has been prepared to obtain Council approval to advertise next year's tent park fees and charges. The period the fees are applicable for is 1 February 2017 to 31 January 2018.

Key Issues

- Variation in fees
- Conditions attached to the fees

Information

A copy of the proposed fees, charges and cancellation policy is included as an **attachment** to this report. The attachment provides a comparison between the existing and the proposed fees.

The proposed fees have been formulated taking into account factors such as park facilities and standards, feedback from Park Managers and guests, as well as industry comparisons with similar parks on the NSW Far North Coast and the latest Consumer Price Index (CPI).

Consideration has also been given to the negative impact on income due to recent marine activities.

10.3 Flat Rock Tent Park Fees and Charges - 2017/18

In summary the changes are set out as such:

Current Fees	Off Peak	Shoulder	Peak
Unpowered site (based on 2 people)	\$33.00	\$40.00	\$45.00
Adult (extra)	\$15.00	\$15.00	\$15.00
Child (4-16 years incl)	\$8.00	\$8.00	\$8.00

Proposed Fees	Off Peak	Shoulder	Peak
Unpowered site (based on 2 people)	\$34.00	\$41.00	\$46.00
Adult (extra)	\$15.00	\$15.00	\$15.00
Child (4-16 years incl)	\$8.00	\$8.00	\$8.00

In summary minimal changes are recommended based on current market conditions.

Legal / Resource / Financial Implications

Council is legally required to exhibit and adopt its fees.

In respect to income figures in recent years the following is a summary of the revenue collected by the end of each quarter as per Council's financial records. The figures are accumulated for each quarter as the year progresses.

Year	30 September	31 December	31 March	30 June
2016/17	109,000	N/A	N/A	N/A
2015/16	81,100	222,080	338,000	421,555
2014/15	106,900	248,200	331,400	432,400
2013/14	82,700	235,700	316,600	422,600
2012/13	71,600	213,900	268,200	354,700

The occupancy of the Park is subject to matters such as weather, shark activity etc. as is evidenced from a drop in income last year when there was an increase in marine activity.

Consultation

The draft fees and charges are to be exhibited for public comment.

Options

The options are to either adopt the recommendation to advertise the proposed fees as presented or amend the fees.

The preferred option is to exhibit the fees and charges, as any changes are consistent with industry trends and competitors. The fees will be re-submitted to Council for adoption following the exhibition period.

RECOMMENDATION

That Council authorises the exhibition of the draft Flat Rock Tent Park fees and charges for 1 February 2017 to 31 January 2018, as attached to this report, for public comment.

Attachment(s)

1. Draft Fees and Charges - Flat Rock Tent Park 2017-18

10.4 Annual Financial Statements - 2015/16

Delivery Program Governance and Finance

Objective To obtain Council approval to exhibit the 2015/16 Financial Reports for public comment and to sign the certified statements for both the General Purpose and Special Purpose Statements. Also to provide an overview of Council's financial structures for the new Council.

Background

Council must prepare financial statements for each financial year that are in accordance with:

- The Local Government Act 1993 (as amended) and Regulations.
- The Australian Accounting Standards and professional pronouncements.
- The Local Government Code of Accounting Practice and Financial Reporting.
- NSW Government Policy Statement "*Application of National Competition Policy to Local Government*".
- Office of Local Government guidelines "*Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality*".
- The NSW Office of Water guidelines.

Once completed and audited Council must resolve to exhibit the statements for public comment. Council must then consider the statements again (typically at the November ordinary meeting of Council), together with submissions, and formally resolve to adopt the statements.

This report seeks Council approval to exhibit the annual financial statements.

Key Issues

- Financial results
- Council must be satisfied that the statements present a true and fair picture of the Council's financial position as at 30 June 2016.
- Local Government financial structures

Information

This section of the report has been prepared to provide an overview of Local Government finances

Whilst Council presents as one single entity, from a financial perspective there are many different components that make up the whole.

Typically when we refer to the whole organisation in a financial sense we use the word 'consolidated'.ie all of the different components are consolidated into one.

The different components arise due to legislative requirements, Council policy (decisions made by the elected Council of the day) and statutory reporting requirements.

Often reports to Council will use the term 'externally restricted' which refers to legislative requirements that restrict the uses of certain funds and 'internally restricted' being Council policy to restrict certain funds.

Legislative Requirements

The Local Government Act (LGA) requires that Council maintain three separate Funds with each 'Fund' accounted for separately. Under the LGA we must maintain a General Fund, Water Fund and Wastewater Fund. It is not legal for one fund to gift or otherwise meet responsibilities on behalf of another fund.

The Water Fund accepts all financial transactions relating to the supply of water. This includes payments to Rous Water for supplying bulk water to Council and the storage and distribution supply of water by Council. The primary income sources for the Fund are from annual fixed and consumption charges.

Wastewater Fund relates to the treatment and disposal of sewerage (wastewater). This Fund includes recycled water as it is the Wastewater Fund that took out the loans to pay for the recycled water infrastructure. Again the primary income source for the fund is the annual fixed and usage charges.

The setting of annual charges for Water and Wastewater is completely at the discretion of Council. There is no rate peg legislation that impacts this decision making process.

General Fund accepts all other transactions that do not belong to Water or Wastewater. Within General Fund there are other distinctions required by law. Domestic Waste Management (DWM) must be treated as a separate entity and further it is mandated that DWM does not make an unnecessary profit. DWM refers to the kerbside collection and disposal of waste only; i.e. costs associated with the collection vehicles and gate fees to deposit waste at the landfill.

Council must also run a Trust Fund which refers to funds that are held for a specific purpose. Typically, although not exclusively, these funds are returned once certain conditions are fulfilled. For example a landscaping bond is paid as a condition of development consent and the payment is returned once Council has approved that the work has been completed.

Technically we have a Trust Fund per Fund (i.e. for each of Water, Wastewater, General) and the construction of our ledger allows for a distinction to be made on a per fund basis.

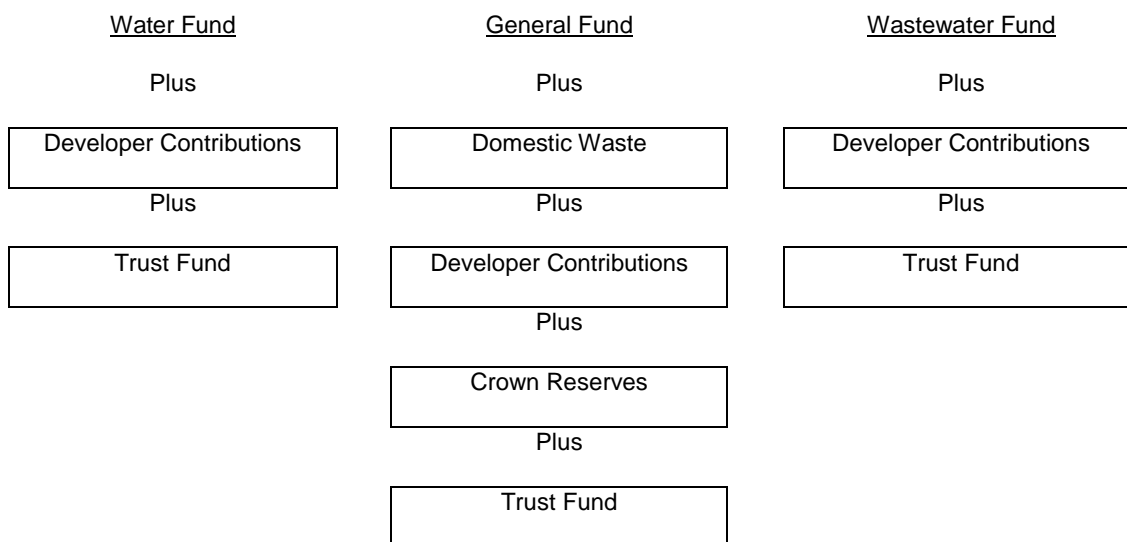
Council receives payments from developers as part of the development consent process. These payments are referred to as 'developer contributions'. The payments are made in accordance with a Development Contribution Plan and Council must also expend these contributions in accordance with that same plan. Each Plan must receive individual and specific accounting treatment. Developer contributions are paid to each of the three funds described above.

10.4 Annual Financial Statements - 2015/16

Council also acts as Trust Manager for various crown reserves. There are legislative requirements as to how income generated from structures or activities on the crown reserve is expended. For example rental income received from the café attached to the Northern Rivers Community Gallery (former Council Chambers and on a crown reserve) needs to be separately accounted for and reconciled.

The follow chart summarises the legislative requirements.

Legislated Accounting Entities within each Fund



Council Policy and Reporting Requirements

Financial information is also divided according to Council Policy. Council decisions establish the organisation structure and financial information is gathered and presented in a way that conforms to that structure. For example the annual Council budget (and Long Term Financial Plan) and Quarterly Financial Review report are presented according to the organisation structure.

Also, Council determines the cash reserves that are established and for what purpose. For example Council has established property reserves to fund both community infrastructure and commercial opportunities. Reporting often references 'internally restricted reserves' which means the funds are set aside for a specific purpose following a Council decision.

The monthly Investment Summary report earlier in this agenda has a portfolio ownership percentage that helps to show the available cash funds held by Council for these various entities and restrictions.

There are also statutory reporting requirements which require Council to gather and present financial information in a specific way.

The statutory requirements stem from different legislative acts including the LGA as well as Australian Accounting standards. Statutory reporting comes in a number of forms but predominantly relates to the Annual Financial Statements (the Statements).

The Statements provide information on a consolidated basis, per fund, per business and per function.

10.4 Annual Financial Statements - 2015/16

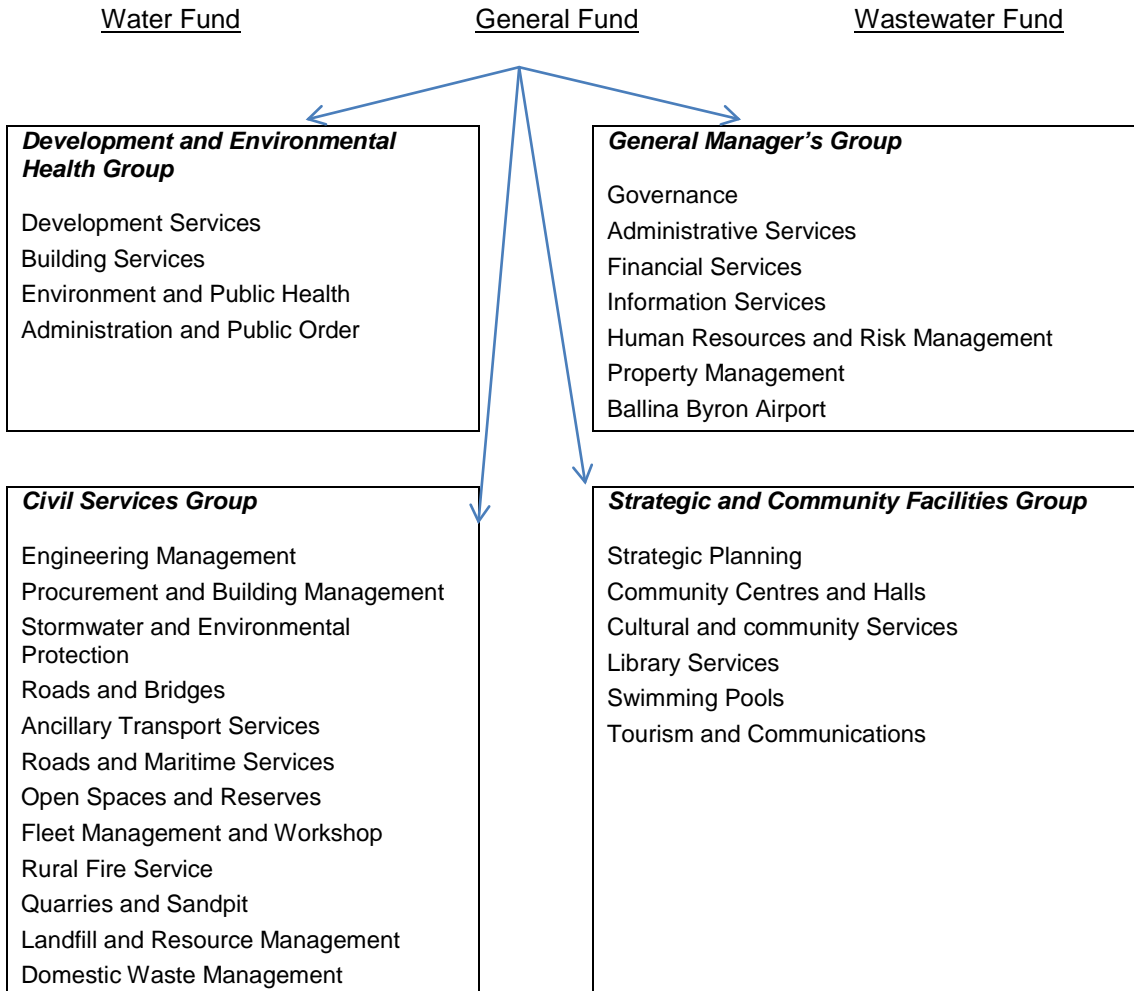
National Competition Policy (NCP) requires Council to nominate which activities qualify as a 'business'. There are numerous guidelines and thresholds associated with NCP and Council has nominated Water, Wastewater, Landfill and Resource Management (waste management), Airport, Quarry Operations, Land Development, Private works and the Wigmore Arcade as business entities. No change is currently recommended to those classifications.

The Special Purpose Financial Statements endeavour to assess the performance of the business as though it were a private business as opposed to government entity. This means that we calculate and include 'notional' payments for income tax, land tax, payroll tax and make allowance for a debt guarantee. The Statements calculate the rate of return on capital and determine whether a 'subsidy' (again notional) has been paid by Council in respect to the business.

Reporting based on Function in the Statements, in some respects, aligns to the organisational structure and looks to break up financial performance based on activities. Note 2 of the Statements summarises this structure.

The chart below displays a summary of the financial dissection based on Council policy which aligns with the organisation structure. As mentioned this financial reporting is used for the LTFP, annual budget and Quarterly Financial Review.

Financial reporting based on Organisation Structure



The Water Fund and Wastewater Fund operations are managed by the Civil Services Group, albeit that levying of the annual and consumption charges for these funds is managed by Council's financial services section.

Fit for the Future

There has been ongoing concern that following decades of rate pegging legislation many New South Wales councils had deteriorated financially to a point where they are not financially sustainable. The rate pegging legislation has made it extremely difficult for councils to increase ordinary rate income (primary income source for General Fund) to match cost of living increases let alone community expectations for improved services.

A series of tests or benchmarks were established by the State Government to assess whether individual councils met the benchmarks. A pass or fail indicated whether the council was deemed to be sustainable. The Fit for the Future test is only applied to General Fund.

Annual charges levied by Council for Water and Wastewater Funds have not been subject to rate pegging. This is one of the illogical conditions with the current system, as many councils, including Ballina Shire, have been able to increase these charges well above CPI to meet operating and infrastructure costs, and those increases can be just as financially burdensome on the ratepayer / customer as any increase in the ordinary rate levy.

The outcome of the 'Fit for the Future' tests were that just 52 of the State's 152 Councils were found to be 'fit', including Ballina Shire.

Many of the councils deemed to be unfit have been or are being amalgamated. It is debatable that merging two or more councils that are 'unfit' will do anything other than create a larger problem than previously existed. However there are other measures proposed that may release the shackles on the General Fund's ability to raise revenue via ordinary rates that may alleviate the current financial difficulties.

Ballina Shire was deemed to be a 'fit' Council due to many factors. It was recognised more than a decade ago that the direction in which Council was heading was financially unsustainable in the long term. Hence as well as a strong emphasis on budgetary control Council has applied for and was granted special variations to the rate cap for nine of the past 11 years. Effectively we commenced our own sustainability program over 11 years ago.

The additional income received from this process is in the millions of dollars each and every year. Importantly the majority of this 'additional' income has been applied to the renewal of existing assets which has assisted to keep the existing asset base at a satisfactory standard (Council's asset base is valued at over \$1 billion dollars). Expenditure of 'additional' revenue on new assets would have compounded existing problems associated with ongoing maintenance and upkeep.

The process of applying for special variations over an extended period of time has been gruelling for all concerned, however Ballina's income yield from the Ordinary Rate has and still is, rather low, per average residential property, in comparison to the rest of State. This fact has assisted when debating the merits of above rate pegging rate increases.

Whilst Ballina Shire was deemed to be 'fit' we did not meet all of the benchmarks and the fit declaration was based on Council taking further corrective actions. Further reports will be provided on this matter that go in to the actual benchmarks, how they work, what our historical results have been, forecast results and the assumptions on which they are based.

Adoption of the 2015/16 Financial Statements

The Annual Financial Statements for the year ended 30 June 2016 have been completed and audited. A copy of the statements, together with the Auditor's Reports, are enclosed with this business paper. A copy of the statements is available for the public at the Customer Service Centre and Council's website.

The purpose of this report is to obtain Council's approval for the exhibition of the financial statements and to provide Council an opportunity to discuss the information contained within the documents.

Council must also provide approval for the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer to sign the statements confirming that, in the opinion of Council, the financial statements are fair and accurate. Copies of the two statements to be signed are attached to the end of this report.

Once the financial statements are approved the statements must be advertised for public comment. The statements must then be adopted at a meeting of Council not more than five weeks after the meeting where approval was provided to advertise.

Subject to Council approval to advertise at this meeting, the statements will be advertised and then presented, with any public comments received, to the meeting scheduled for Thursday 26 November 2016.

Council's auditor, Mr Kevin Franey, of Thomas Noble and Russell, will be present at this meeting to provide an overview of the audit report and to answer questions regarding the Annual Financial Statements. The presentation is scheduled for 11.30 AM.

The documents enclosed with the business paper can be broken down into four main sections:

Part A	Auditor's Reports
Part B	General Purpose Financial Statements
Part C	Special Purpose Financial Statements
Part D	Special Schedules

Brief explanations for each of these items are as follows:

Part A – Auditor's Reports (*Pages 1 – 24*)

This includes the auditor's report on the general purpose financial reports and the special purpose financial reports. The auditors have listed the reports as drafts as the reports are considered draft until Council confirms its approval of the financial statements.

The Auditor has issued an 'unqualified report', which means that they are of the opinion that the financial reports represent a fair and accurate assessment of Council's financial position.

Part B – General Purpose Financial Statements *(Pages 1 – 83)*

These statements provide the consolidated operating result for 2015/16 and the consolidated financial position of Council as at 30 June 2016. The notes included with the statements provide details on income and expenditure, assets and liabilities. The notes also highlight the cash position of Council, identify which funds are externally restricted and provide ratios both on a consolidated and per Fund basis.

Part C – Special Purpose Financial Statements *(Pages 1 – 23)*

These statements are prepared as a result of National Competition Policy and relate to those aspects of Council's operations that are considered to be business activities.

Part D – Special Schedules *(Pages 1-20)*

These schedules are prepared primarily for the Australian Bureau of Statistics and are used to gather information for comparative purposes.

Sustainability Considerations

- **Environment**
This report encompasses Council's finances in total and as such has implications for environmental, social and economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Council is legally obliged to adopt the financial statements.

Consultation

No specific community consultation has been taken in respect to this report however the intent is to advertise the Draft Statements for public comment.

Options

Council may approve to exhibit or not exhibit the documents. As Council's auditor has approved the statements it is recommended that Council authorise approval.

RECOMMENDATIONS

1. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, by the Mayor, one Councillor, the General Manager and the Responsible Accounting Officer.
2. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2016, as attached to this report, for public comment.

Attachment(s)

1. Statement by Councillors and Management - General Purpose
2. Statement by Councillors and Management - Special Purpose
3. Draft Annual Financial Statements 2015/16 - Separate Attachment (Under separate cover)

10.5 Delivery Program and Operational Plan Review - 30 September 2016

Delivery Program Governance and Finance

Objective To review how Council is performing compared to the actions and targets included in the Delivery Program and Operational Plan for the first quarter of the 2016/17 financial year.

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

Delivery Program

"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months".

Even though Council is only required to receive six monthly progress reports the preferred practice has been to receive more timely quarterly reports. This report represents the first of the 2016/17 - 2019/20 Delivery Program and the 2016/17 Operational Plan, with the information contained in the report based on work undertaken up to 30 September 2016 (first quarter).

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

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

Key Issues

- Compare actual results against the adopted goals and priorities

Information

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

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

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

10.5 Delivery Program and Operational Plan Review - 30 September 2016

In respect to the Operational Plan there are 103 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	25	4	31	30	90
Amber	4	3	4	2	13
Red	0	0	0	0	0
Total	29	7	35	32	103

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	86	57	89	94	87
Amber	14	43	11	6	13
Red	0	0	0	0	0
Total	100	100	100	100	100

On an exception reporting basis, brief comments on some of the items showing as amber are as follows:

- Support an effective and consultative Aboriginal Community Committee (page 4) – This is marked as amber as the attendance numbers for meetings of this Committee have been poor lately and Council may need to review the structure and membership.
- Implement Captain Cook and Pop Denison Master Plans (page 6) – These two items are marked as amber as implementation of the plans is being advanced, albeit that there are some concerns that physical on-ground works may not occur this financial year due to the detail design and planning approval processes that need to be undertaken prior to works commencing.
- Progress availability of land at the Russellton Industrial Estate (page 10) – This is marked as amber as Council is reliant on negotiations between two landowners to assist with the further release of land. Those negotiations have been protracted although it is still hoped they will be resolved in the near future.
- Support implementation of the Coastal Zone Management Plan (CZMP) for the Richmond River (page 12) – Similar to the previous item Council is reliant on Rous County Council for the majority of the actions in the CZMP and with limited funding, many major actions identified in the CZMP, which is a Rous County Council document, are not being implemented.
- Implement on-site sewage management (OSSM) strategy (page 16) – The high failure rates for inspected OSSM systems continually results in limited progress with the strategy.

On the positive side there are many interesting and well advanced projects in the program action list that are progressing in a timely manner.

In respect to the Service Delivery Targets there are a total of 100 targets, or preferred targets, identified in the Operational Plan and the following two

10.5 Delivery Program and Operational Plan Review - 30 September 2016

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	18	23	28	16	85
Amber	2	0	8	4	14
Red	0	0	1	0	1
Total Tasks	20	23	37	20	100

Service Delivery Targets Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	90	100	76	80	85
Amber	10	0	22	20	14
Red	0	0	3	0	1
Percentage Total	100	100	100	100	100

When reviewing the performance targets, certain items are accumulative during the year, which means that even though they may be below target based on a linear analysis for the first quarter, that trend may improve during the final three quarters.

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

- Enquiries to Visitor Centre (>54,000), Increase visits to tourism website (>60,000) (page 25) – Both of these are trending below expectations and there is some concern that the marine issues may be impacting on these figures. A new website and marketing campaign are about to be launched and it will be interesting to see if this trend continues for the entire year.
- Water and Wastewater Services (Various – pages 33 to 35) – 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 in respect to the Delivery Program and Operational Plan.

Options

The report is for noting purposes. The report helps to highlight the wide range of services being delivered by Council to the community

RECOMMENDATION

That Council notes the contents of this report in respect to the review of the Delivery Program and Operational Plan for the first quarter of the 2016/17 financial year.

Attachment(s)

1. Delivery Program and Operational Plan - Status report as at 30 September 2016 (Under separate cover)

10.6 Capital Expenditure Review - 30 September 2016

Delivery Program Governance and Finance

Objective To provide a status report on the capital works being undertaken by Council during the 2016/17 financial year.

Background

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

The current practice is to provide a comprehensive quarterly status report on all the major capital works included in the Operational Plan. This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure. This report is for the three month period to 30 September for the 2016/17 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 Forward - represents budgets carried forward from the previous financial year that were approved by Council at the August 2016 Ordinary meeting
- Approved Variations - Variations previously approved by Council resolution either through a Quarterly Budget Review or a separate report on a particular project.
- Likely Variations – Represents budget changes that will be considered as part of the 30 September 2016 quarterly financial review, which will be submitted to the November 2016 Ordinary meeting of Council.
- Latest Estimate - Sum of the original budget plus the budget changes listed
- Expended to Date - Expenditure to date of report
- % Expended - Percentage of budget expended to date
- Milestone Dates - Represents target dates for completion of 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, Public and Environmental Health, 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:

Captain Cook Master Plan – This relates to landscaping the western precinct adjoining the Ballina RSL. Funding of \$60,000 from the RSL is included in this budget and discussions are on-going with the RSL in respect to the timing of these works to ensure that the Council works do not impact on the current renovations occurring at the RSL.

Play Equipment (various) – Specifications are being finalised for the equipment prior to ordering. The time delay for delivery of this equipment means it will be installed around March to May 2017.

Pop Denison Master Plan – Council has a large number of projects funded for this precinct for 2016/17, including works relating to Shaws Bay, along with public amenities.

An internal team is working to ensure that all the works planned are co-ordinated and integrated into this precinct.

Wollongbar Skate Park – Tender for design and construct submitted to the October Ordinary meeting.

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 the Kingsford Smith lighting budget.

Wollongbar Sports Fields – Construction works are well advanced.

Operations Support (attachment two)

Administration Centre – Air-conditioning – Tender accepted at the September Ordinary meeting for this project.

Ballina Surf Club – Building B – Design being reviewed following Council not accepting any tenders for the project as all tenders were well above budget.

Marine Rescue Tower – Project largely completed with official opening planned for December.

Commercial Services (attachment three)

A number of projects are in the process of seeking approvals with tenders to be called for major construction contracts such as the Wollongbar Expansion Area.

Water and Wastewater (attachments four and five)

A number of projects are still in the planning phase prior to calling tenders for the construction contracts.

Engineering Works (attachment six)

Urban Roads

Angels Beach Drive roundabout largely completed with the budget still be raised for this project, which is fully funded from Blackspot monies.

The Lake Ainsworth project timing remains uncertain due to Council resolving to write to the Minister in respect to funding options at the September Ordinary meeting.

Rural Roads

The Riverbank Road, River Drive and Teven Road (part) projects, totalling \$1,011,000 will not commence until the Federal Government confirms that these monies, which were promised as part of the recent Federal Election, are certain to be delivered to Council.

Ancillary Transport Services - Shared Paths and Footpaths

Council was unsuccessful in obtaining grant funding for 50% of the cost of the Coastal Walk segment from Sharpes Beach to Pat Morton. This means Council will need to determine how our matching \$850,000 out of a total budget of \$1.7m will be expended. This will be subject to a further report to Council.

Water Transport

Designs for the majority of these projects are completed with feedback being sought from the Port Ballina Taskforce.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

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

Options

As per the following table there is once again an extremely high level of capital expenditure forecast for 2016/17.

Capital Works Summary – 30 September 2016 (\$'000)

Section	Budget (%)	Expended (%)	Percentage
Open Spaces	4,677,500	1,356,700	29
Waste	537,000	0	0
Public and Environmental Health	172,000	0	0
Operations Support	17,031,300	1,001,900	6
Commercial Services	9,418,000	316,600	3
Water	3,574,000	197,100	6
Wastewater	6,246,000	444,400	7
Engineering Works	16,815,000	2,054,100	12
Total	58,470,800	5,370,800	9

Expenditure is not progressing as quickly as we would like however a number of large contracts are in the process of being let, or specifications finalised to allow tenders to be called and those contracts should result in a rapid increase in expenditure during the next six to nine months.

In respect to options this report is for noting purposes only.

RECOMMENDATION

That Council notes the contents of this capital expenditure review for the period ended 30 September 2016.

Attachment(s)

1. Capital Expenditure - Open Spaces, Waste and Environmental and Public Health
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 Martin Street Boat Harbour Precinct Master Plan - Adoption

11. Civil Services Group Reports

11.1 Martin Street Boat Harbour Precinct Master Plan - Adoption

Delivery Program Engineering Works

Objective To advise Council of completion of the public exhibition of the draft Martin Street Boat Harbour Master Plan final report, being Report No.3 Detailed Master Plan, and recommend adoption of the Master Plan report.

Background

The development of the Martin Street Boat Harbour Master Plan during 2015 and 2016 has concluded with the final public exhibition of Report No.3: Detailed Master Plan. This is in response to Council resolution 250816/24:

“That Council endorse the public exhibition of the draft Martin Street Boat Harbour Master Plan report, as attached to this report, with the outcomes from the exhibition to be reported to Council”

Council’s previous investigations, such as the Lower Richmond River Recreational Boating Study (GHD, 2005) and the Ballina Foreshore Masterplan (GHD, 2007) has placed Council in a good position to receive grant funding for maritime infrastructure like pontoons, boat ramps and trailer parking upgrades at a number of locations around the Shire.

With this current master plan project a grant application was successful, with Council being the lead organisation, on the understanding that the project encompassed the whole Crown Land parcel. This includes the boat harbour under the care and control of NSW Lands, and the Ballina Naval and Maritime Museum area, generally between Martin Street and Las Balsas Plaza.

Tenders were called for consulting teams to undertake this project, and a partnership between GeoLINK, ENV Solutions and Red Belly Landscape Architecture was successful.

The project commenced in 2015 with NSW Crown Lands nominating their Regional Manager (Mr Kevin Cameron) as their representative for the project.

The project was mostly completed during 2015 with finalisation of the final master plan report being in August 2016, due to a review of Council’s adjacent War Memorial Olympic Pool redevelopment project.

The options considered in the Master Plan have been previously workshopped with the former Council, and the draft report was presented to the August 2016 Council meeting for an endorsement of a final public exhibition.

The public exhibition period was advertised in the Advocate from 7 September 2016 with a closing date of 5 October 2016. One submission was received and is discussed in the information section.

A copy of the master plan has been included as attachment one.

Key Issues

- Scale and variety
- Financial implications
- Potential to link Martin Street Boat Harbour Master Plan with outcomes of Trawler Harbour master plan project

Information

The roll out of the Martin Street Boat Harbour Master Plan project was mostly undertaken during 2015, with a number of rounds of stakeholder consultation, broader community consultation (exhibition and drop-in session) and Councillor Workshops, with a number of staged reports being produced:

- Report No.1: Investigation and Consultation, March – June 2015
- Report No.2: Design Options, April – May 2015
- Report No.2: Design Options and Consultation Review, August 2015
- Revised Concept Design: November 2015
- Report No.3: Detailed Master Plan, June – August 2016

During the workshop sessions there were a number of water based “marina” options developed, and a number of associated land based levels of redevelopment considered.

The final detailed master plan report has presented a single preferred “marina” option (comprising 64 berth floating marina), which represents a practical maximum number of berths for the boat harbour.

The land based redevelopment options have been limited to two options.

One option (A) is to enhance and retain the existing Ballina Naval and Maritime Museum and provide for new small mixed-use redevelopment around the perimeter of the redeveloped boat harbour.

The second option (B) comprises a large new mixed use building (multi-storey) as a central hub and features a new and open and relocated Ballina Naval and Maritime Museum floor space.

The two options A and B are well described in the attached master plan report.

During the development of the master plan project there was considerable discussion about the scale and merit of development options, planning requirements and/or amendments, and the financial viability of the boat harbour redevelopment and associated land development.

During the project NSW Crown Lands offered to consider value-adding to the project with financial modelling and/or viability assessment of the redevelopment options, however this did not occur.

11.1 Martin Street Boat Harbour Precinct Master Plan - Adoption

The project has concluded the master planning phase by offering the above two options as potential redevelopment scenarios. Further detailed analysis of the two options would therefore be expected as the project progresses.

Regarding the final public exhibition of the Master Plan, one on-line submission was received and is provided as attachment two.

The main comments from the respondent comprise:

- A more suitable location for a marina of this size is downstream at “the spit”, where a larger area is available and the channel moves away from the bank.
- Removal of current boat harbour buildings would allow for riverside access without excessive cost.
- The marina component is situated further out into the river within the narrow part of channel, and would restrict vessel movement and be affected by wake of passing vessels.

With respect to the first point Council has previously resolved not to consider a larger marina site at “the Spit”. The relevant part of the resolution is reproduced below.

4. *That Council confirms that it does not provide in principle support for the Port Ballina Taskforce to continue consideration of the marina concept, as per attachments eight and nine, as it is inconsistent with Council’s long term planning for this location, it results in an excessive loss of open space and its on-going consideration can result in unnecessary angst amongst the local community.*

Furthermore, the environmental and hydrological issues to consider are very significant and assessing these would present the Council with substantial exposure to cost and risk when compared to the requirements for the proposed site which is based around existing features.

With regard to the existing buildings, the purpose of the master plan is to offer a potentially attractive solution to the redevelopment of the perimeter of the boat harbour.

Early consultation with Council and stakeholders showed little support for the minor works option. Regarding the marina design it is expected that further development phases of the project would consider in more detail the design matters mentioned.

Overall there is no apparent reason for not proceeding with adoption of the master plan following final public exhibition and the above feedback.

Sustainability Considerations

- **Environment**

The proposed master plan includes scoping of redevelopment of the boat harbour to include facilities for boating like fuel and waste management which is an improvement for environmental outcomes.

- **Social**

The proposed master plan includes scoping of redevelopment of the boat harbour to include facilities for boating to provide for commercial, permanent and visiting boating traffic and provides for associated land based development to improve social interaction between Ballina CBD and the riverside.

- **Economic**

The proposed master plan includes scoping of redevelopment of the boat harbour and landside facilities to promote economic development of maritime, commercial and tourism industries.

Legal / Resource / Financial Implications

The completion of the Martin Street Boat Harbour Master Plan is being undertaken by a consulting team comprising GeoLINK, ENV Solutions and Red Belly Landscape Architecture, and is part funded by a 50% grant from the Better Boating Program. The project will be completed within budget.

The financial implications relate to future funding the works proposed, as Council has no recurrent budgets for works of this nature. This means grant funds will need to be secured. One of the primary reasons for completing the master plan is to allow Council to apply for grant funds.

Consultation

Consultation has occurred throughout the project comprising:

- A number of rounds of consultation with immediate landowner/occupants, boat harbour association and users, government agencies and targeted audiences like the Chamber of Commerce
- Updates with Port of Ballina Taskforce
- Councillor briefings
- Media releases, advertising and exhibition of reports No 1 and No 2 (July 2015)
- Public drop-in session (14 July 2015)
- Internal stakeholder meetings and liaison with Council staff
- Final public exhibition of Master Plan (September/October 2016)

Options

1. Adopt the draft Master Plan report

11.1 Martin Street Boat Harbour Precinct Master Plan - Adoption

Given the consultation that has progressed as part of the study to date, and the results of the one public submission, it is recommended to adopt the final master plan report.

2. Amend the Master Plan following exhibition

It is open to the Council to make amendments to the Master Plan prior to adoption.

RECOMMENDATION

That Council adopts the Martin Street Boat Harbour Precinct Master Plan Report No.3: Detailed Master Plan, as attached to this report.

Attachment(s)

1. Martin Street Boat Harbour Precinct Master Plan Report (Under separate cover)
2. Submission

11.2 Road Closure - Part of Uralba Road

11.2 Road Closure - Part of Uralba Road

Delivery Program Asset Management

Objective To determine Council's response to the proposed closing of part of Uralba Road adjacent to Lot 1 DP 1217967 at Uralba.

Background

This report is presented to Council to consider closing part of Uralba Road at Uralba. Uralba Road is a public road and Council is the road authority for this road.

The road reserve is wide and variable in width at this location and the nominated area is currently fenced into the adjoining land. The part of the road proposed to be closed will not affect the use or functioning of Uralba Road.

This report has been prepared in response to a request from an adjoining landowner.

Key Issues

- Closing a section of public road
- Land to vest in Council upon closure and be disposed of to the adjoining land owner.

Information

Council has received a request to close a section of Uralba Road from an adjoining land owner. This section of road reserve is currently fenced into the adjoining property and does not form part of the constructed road carriageway or formation of Uralba Road. The attached diagram shows the location of the proposal.

The alignment of Uralba Road is windy at this location and as road works have been undertaken over many years the road carriageway has been adjusted to improve the alignment and provide improved safety for road users. There are various minor encroachments by both the road carriageway onto adjoining private land and vice versa as a result of these historical works.

The adjoining property, Lot 1 DP 1217967, has recently been the subject of a boundary adjustment subdivision. It was this survey that identified the anomalies between the road alignment and the road boundaries. The registration of the subdivision plan dedicated small sections of the adjoining property as road to remedy minor encroachments of the road onto the property. However a subdivision plan is unable to close sections of public road and 'dedicate' land to property owners and a separate road closing process is required in accordance with the Roads Act 1993.

11.2 Road Closure - Part of Uralba Road

The road is Council public road and upon closing, the land would vest in Council. After the conclusion of that process, a valuation report is prepared and this forms the basis of the negotiation and sale of the closed road to the adjoining land owner.

This part of the road reserve is not required for road maintenance or considered necessary for a future strategic road use.

It is a requirement for the elected Council to endorse any proposal for a road closing before an application can be submitted to the Department of Primary Industry - Lands.

The road closing application requires the proponent to provide all the necessary information and to meet all costs through this process.

Sustainability Considerations

- **Environment**
The road closing and consolidation with the adjacent land would benefit the adjoining property and facilitate the better use of the land.
- **Social**
The road is public land and is currently fenced into the adjoining property. As there is no road carriageway on this part of the road reserve, the public would not be adversely impacted as the functioning and use of Uralba Road will remain unchanged.
- **Economic**
The recommendation seeks to support efficient land management principles with the proposed section of road to be closed and sold to the adjoining land owner.

Legal / Resource / Financial Implications

All road closing fees and costs are met by the applicant. The application processing is undertaken by Council and Crown Lands and upon closure the road would vest in the Council. There are no financial or other implications for Council.

Consultation

The request has been lodged with Council as it is the roads authority for this section of road. If Council supports the road closure, Council will undertake the necessary advertising and consultation as part of the road closing process prior to the road closing application being lodged with Crown Lands.

Options

1. That the Council supports the request for a road closing application to proceed for part of Uralba Road adjacent to Lot 1 DP 1217967 at Uralba.

11.2 Road Closure - Part of Uralba Road

The advantage of this option is that it ensures the Council does not have any future liability attached to this unnecessary section of road. It also allows for the adjoining land owners to proceed with the road closing application and, if approved, consolidate the land into their adjoining property. This may well be the most efficient and best use of the land and therefore be a preferred outcome for the adjoining landowners and the community.

2. That the Council opposes the request for a road closing application to proceed for part of Uralba Road adjacent to Lot 1 DP 1217967 at Uralba.

There are minimal, if any, benefits associated with retaining this part of the public road for current or future needs.

RECOMMENDATIONS

1. That Council approves the request for a road closing application to proceed for part of Uralba Road adjacent to Lot 1 DP 1217967 at Uralba.
2. That Council authorises the Council seal and signatures to be attached where required to the application and any associated documents for the road closing proposed in point one above.

Attachment(s)

1. Locality Plan

11.3 Tender - Design and Construction - Wollongbar Skatepark

11.3 Tender - Design and Construction - Wollongbar Skatepark

Delivery Program Open Spaces and Reserves

Objective To finalise the tender for the design and construction of the Wollongbar Skatepark

Background

At the February 2016 meeting Council resolved to proceed with the construction of the Wollongbar Skatepark.

Tenders for the design and construction of the skatepark were advertised in August 2016 and at the close of tenders on 6 September 2016, six tenders were received. This report provides the outcomes from the tender evaluation process.

Key Issues

- Comply with the Local Government (General) Regulation 2005
- Achieve best value for money

Information

Tender submissions were received from:

- Services Inc. Pty Ltd
- VFG Skateparks Pty Ltd
- Concrete Skateparks Pty Ltd
- Convic Pty Ltd
- Precision Skate Parks Pty Ltd
- Trinity Skate Parks

All tenders were initially assessed for conformity with the tender specification. From this assessment all tenders were deemed to be conforming.

The tender documentation defined the following assessment criteria, by which each tender would be assessed:

Mandatory Criteria

- Project Experience
- References
- Quality Management Systems
- WHS Management Systems
- Environmental Management Systems

11.3 Tender - Design and Construction - Wollongbar Skatepark

Weighted Criteria

- Total Price - 50%
- Capability and Experience – 25%
- Time Performance – 10%
- Local & Community - 15%

The tenders were assessed against the mandatory criteria and three tenders were assessed as not meeting the required standard. As a result, Services Inc. Pty Ltd, Concrete Skateparks Pty Ltd and Trinity Skate Parks were not considered further in the evaluation process.

The table below provides a summary of the evaluation and rankings of the three tender submissions. Pricing information has been provided by separate memorandum to Councillors.

Item		VFG Skate Parks	Convic Pty Ltd	Precision Skate Parks
Mandatory Criteria				
Previous experience		✓	✓	✓
References		✓	✓	✓
Quality Management Systems		✓	✓	✓
WHS Management Systems		✓	✓	✓
Environmental Management Systems		✓	✓	✓
Weighted Criteria				
Total Price	50%	50.0%	45.0%	45.0%
Capability and Experience	25%	11.5%	18.5%	19.5%
Time Performance	10%	5.5%	8.5%	7.3%
Local & Community	15%	9.0%	6.8%	9.4%
Total		76.0%	78.7%	81.1%

When the non-priced and priced evaluation criteria are combined, Precision Skate Parks Pty Ltd is the highest ranked tender.

Precision Skate Parks Pty Ltd has extensive experience in the design and construction of skateparks and has completed a number of similar projects throughout Australia.

The tender from VFG Skateparks Pty Ltd is the lowest price tender with a difference in the tender evaluation of 5.1 percentage points.

Typically Council assesses tenders to be equal if the evaluation scores are very close as the assessment contains some subjective analysis. Where tenders are considered to have an equal weighted score, the preference is to accept the lowest of these tenders.

Five percentage points is considered to be a substantial difference in these circumstances having regard to the size of the cost difference and that the non price criteria has been highlighted as very important with a fifty percent weighting.

Due to the community debate over the preferred site, capability and experience were weighted heavily, as it essential that Council ensures that a significant amount of expertise goes into the design of this skatepark, to assist with mitigating community concerns.

Therefore Precision Skate Parks is the preferred tenderer based on the assessment process.

Sustainability Considerations

- **Environment**
The nature of the works requires the contractor to develop an environmental management plan prior to commencing construction.
- **Social**
The construction of the skatepark will increase the available sporting facilities in the Wollongbar area
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The price tendered is within the available budget

Consultation

A public tender process was undertaken.

Included in the tender documentation was a requirement that the successful contractor consult with the community prior to the final design.

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;*

11.3 Tender - Design and Construction - Wollongbar Skatepark

- (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.*

Accordingly,

1. Council may award the contract to Precision Skate Parks Pty Ltd to undertake the design and construction of the Wollongbar Skatepark; or
2. Council may determine not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more service providers.

Option two is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005. The tenders submitted would indicate a fair test of the market and that a fair rate has been achieved representing good value to Council.

Option one is recommended as the preferred option as the tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the preferred tenderer.

RECOMMENDATIONS

1. That Council accepts the tender for the construction of the Wollongbar Skatepark from Precision Skate Parks Pty Ltd for \$350,000 (excl GST).
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.4 Tender - Certified Air Ground Radio Services (CAGRS) Provider

11.4 Tender - Certified Air Ground Radio Services (CAGRS) Provider

Delivery Program Commercial Services

Objective To finalise the tender for the provision of a Certified Air Ground Radio Service at the Ballina Byron Gateway Airport

Background

Tenders were called in March 2016 for the provision of a Certified Air Ground Radio Service (CARGS) for the Ballina Byron Gateway Airport.

A report dealing with the tender assessment for this project was reported to September 2016 meeting of Council. A copy of the previous report is attached. At the meeting, Council was requested to withdraw consideration of the report.

The reason for this request was to enable staff to assess new information in respect of the recommended tenderer as their business was being sold.

The purpose of this report is to record the subsequent assessment of this information and represent the tender assessment to Council.

Key Issues

- Compliance with the Local Government (General) Regulation 2005
- Achieve best value for money

Information

The attached report recommended The Ambidji Group Pty Ltd as the preferred tenderer for this project. The Ambidji business has now been sold and has been incorporated into the business of a new owner Landrum & Brown Worldwide Services (Australia) Pty Ltd.

Based on the advice from The Ambidji Group Pty Ltd that Council would not be contracting with the preferred tenderer, staff undertook a review of process. This review included a review of Council's obligations under the Local Government (General) Regulation 2005 and the ability of the new owner Landrum & Brown Worldwide Services (Australia) Pty Ltd to service the contract.

Staff have advice confirming that Landrum & Brown are willing to meet the commitments and pricing previously proposed by Ambidji in their tender submitted in March 2016. It was also confirmed that the proposed staff and technical resources for the CAGRS services that were available in the Ambidji tender have been transferred to Landrum and Brown.

11.4 Tender - Certified Air Ground Radio Services (CAGRS) Provider

A review of Landrum & Brown Worldwide Services shows that the company was established in 1949 in the USA and expanded into Australia in 2000 and has operated successfully in the aviation sector locally since that time. The purchase of The Ambidji Group Pty Ltd is considered to be an expansion of their current operations in the Asia Pacific Region.

Sustainability Considerations

- **Environment**
As per the previous report
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Council must ensure that the assessment of the tender is in accordance with the Local Government (General) Regulation 2005.

As per the previous report to Council, user fees cover the costs associated with the implementation of this service.

Consultation

A public tender process was conducted.

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;*

11.4 Tender - Certified Air Ground Radio Services (CAGRS) Provider

- (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.*

Council could invite fresh tenders on the basis that Landrum and Brown did not tender, albeit they have agreed to honour the tender submitted by Ambidjii.

On the basis that there is only a small market of potential service providers and that the resources and pricing of the original Ambidjii tender are still available to Council, it is preferred to avoid further delay and costs to Council and the market.

The process to manage this direction is for Council to resolve to not accept any tender and then enter into negotiations with Landrum and Brown as per 2 (e) in the above regulation.

RECOMMENDATIONS

1. That, in accordance with Part 7 Clause 178 (2) (e) of the Local Government (General) Regulations 2005, Council resolves not to accept any of the tenders submitted for the provision of Certified Air Ground Radio Services as the preferred tender is no longer a trading business.
2. That Council authorises the General Manager to enter into direct negotiations with Landrum & Brown Worldwide Services (Australia) Pty Ltd to undertake the provision of Council's proposed Certified Air Ground Radio Services for the reasons outlined in this report.
3. The General Manager is authorised to execute a contract, subject to the negotiations in point one above confirming that Landrum & Brown Worldwide Services (Australia) Pty Ltd will undertake the contract in accordance with the terms provided in the previous tender from The Ambidji Group Pty Ltd.
4. In the event that point two above is not able to be achieved, the General Manager is authorised to call for fresh tenders in accordance with Part 7 Clause 178 (2) (b).
5. That Council authorises the Council seal to be attached to any contract documents.

Attachment(s)

1. Copy of Report from 29 September 2016

12. Public Question Time

12. Public Question Time

13.1 Rescission Motion - Lake Ainsworth Eastern Road

13. Notices of Motion

13.1 Rescission Motion - Lake Ainsworth Eastern Road

Councillor Cr Jeff Johnson
Cr Wright
Cr Parry

We move

That Resolution 290916/3, as follows, be rescinded:

- 1. That Council write to the NSW Minister for Sport to request the Department provide its preferred options, including financial support, for maintaining access via the East Road and enhancing the amenity of the Eastern precinct of Lake Ainsworth.*
- 2. That Council take no further action in relation to the proposed closure of the East Road until negotiations with the State Government have been finalised and a set of options are available for consideration.*

Staff Comment

If this motion is rescinded, based on previous resolutions of Council, the position of the Council will be to continue with the proposed eastern road closure and implement the associated infrastructure improvements associated with that road closure.

COUNCILLOR RECOMMENDATION

That Resolution 290916/3, as follows, be rescinded:

- 1. That Council write to the NSW Minister for Sport to request the Department provide its preferred options, including financial support, for maintaining access via the East Road and enhancing the amenity of the Eastern precinct of Lake Ainsworth.*
- 2. That Council take no further action in relation to the proposed closure of the East Road until negotiations with the State Government have been finalised and a set of options are available for consideration.*

Attachment(s)

Nil

13.2 Rescission Motion - Crematorium

13.2 Rescission Motion - Crematorium

Councillor Cr Parry
 Cr Wright
 Cr Willis

We move

That Resolution 290916/31, as follows, be rescinded:

That Council receive a report on the feasibility of Council constructing and operating a Crematorium for the Ballina Shire.

COUNCILLOR RECOMMENDATION

That Resolution 290916/31, as follows, be rescinded:

That Council receive a report on the feasibility of Council constructing and operating a Crematorium for the Ballina Shire.

Attachment(s)

Nil

13.3 Notice of Motion - Houghlahans Creek Road Upgrade

13.3 Notice of Motion - Houghlahans Creek Road Upgrade

Councillor

Cr Eoin Johnston

I move

That Council receive a report, to be considered during the preparation of the draft 2017/18 Delivery Program, which investigates the options, and corresponding cost estimates, to upgrade Houghlahans Creek Road.

Councillor Comments

A section of Houghlahans Creek Road is a gravel surface, however the road is a through road with relatively high usage, including providing a rural freight task. The condition of Houghlahans Creek Road is a concern for residents as it is regularly exposed to considerable wash outs and erosion due to the surrounding topography.

Funding for an upgrade has not been possible previously due to Council's general, strategic direction to prioritise the allocation of available funds to the renewal or rehabilitation of existing road assets. However the condition and traffic volumes associated with Houghlahans Creek establish an exceptional case and the suggested report will enable Council to assess the costs and priority for a project to improve the services this road provides to our community.

Staff Comments

Houghlahans Creek Road is one of the Shire's more highly trafficked gravel surfaced roads and accordingly the condition of the road has been an ongoing concern for some residents. On this basis allocating resources to the preparation of a report is supported as this will provide an opportunity for a formal engineering assessment to be considered by Council. As per the motion, it is preferred for Council's consideration of this report to be undertaken during the development of the next Delivery Program to enable the report to be assessed within the context of allocating project priorities for the whole of the roads program.

COUNCILLOR RECOMMENDATION

That Council receive a report, to be considered during the preparation of the draft 2017/18 Delivery Program, which investigates the options, and corresponding cost estimates, to upgrade Houghlahans Creek Road.

Attachment(s)

Nil

13.4 Notice of Motion - Alstonville Plateau Historical Society Lease

13.4 Notice of Motion - Alstonville Plateau Historical Society Lease

Councillor

Cr Eoin Johnston

I move

1. That Council approves the replacement of the current three year lease for the Alstonville Historical Society at Crawford House, Alstonville, to a 20 year lease to provide greater certainty to this group in respect to the future use of the building.
2. This extension is subject to the Society providing a contribution of \$1,000 towards the costs of preparing the new lease.

Councillor Comments

This not-for-profit society runs the Crawford House Museum and Community Resource Centre. All the work is done by volunteers and they present many valuable exhibitions displaying aspects of historical interest regarding the rich history of the Alstonville Plateau. They collect and collate archival material and have twenty books published in their name.

They seek from the Council more certainty than a three year lease provides and are prepared to contribute to the legal costs of securing a twenty year lease.

Staff Comments

Council has an adopted policy titled "Community Property Leasing and Licensing" (copy attached) which provides the guiding principles in managing leases and licenses with community groups on Council owned or controlled land. As per pages 11 and 12 of that document generally speaking leases will not be granted for more than three years to community groups; extract as follows:

A licence term will not be granted for more than five years. A lease term will not be granted for more than three years. This is based on occupation being on a temporary basis allowing flexibility for both Council and the tenant.

Under exceptional circumstances Council may grant tenure that exceeds 5 years. This will require a public exhibition process and be subject to approval being granted by the relevant Minister. If tenure exceeding 3 years is granted, any costs associated with obtaining Minister's consent, development approvals, subdivisions for leasing purposes, registration costs and any other costs of formalising the tenure will be borne by the lessee/licensee.

The land on which the Alstonville Plateau Historical Society (APHS) is located is actually operational land so it does not require the Minister's consent for a lease longer than five years.

Council has previously resolved to provide a three year lease to this group which is consistent with this adopted policy.

13.4 Notice of Motion - Alstonville Plateau Historical Society Lease

The APHS made a submission to the Community Property Leasing and Licensing Policy, when it was adopted by Council in July 2016.

The three key points in their submission were as follows:

1. *The prime objective should be to manage these properties for the benefit of the community.*
2. *We wish to have a greater certainty of tenure to allow us to continue to invest for the future, so we would like a lease term longer than three years, as applies to many other organisations. Specifically, at least five years with built-in option to renew. Our preference is for a perpetual lease.*
3. *We are also concerned about spending our time on unnecessary paperwork with reports to Council and re-doing our lease too frequently.*

The extension to the lease time frame was not supported by Council when the policy was adopted.

In reviewing the notice of motion:

- a) Council can approve a long lease. The lease preparation will be carried out in-house and the costs associated with a leasing purpose subdivision will be in the order of \$3,000. The group has previously offered to contribute 50% of that cost. The Council policy states that the full costs of any subdivision for leasing purposes will be borne by the lessee (page 12).
- b) Council's leases and licences to community groups are typically limited to three years. Community groups can change in membership and their level of community activity can rise and fall depending on that membership. This means it is important for Council to monitor the governance of these groups on a regular basis.
- c) Also, as these groups typically pay no, or minimal rental, it is important that Council regularly review the benefits that the community is receiving from each group in occupying community owned land, with no direct financial return to Council. This is particularly relevant for Crawford House, which is Council owned operational land, with the return on this land being the services provided to the community by the APHS. The lease of operational land by community groups is very limited within Council, with community groups typically occupying crown or community land, with those categories of land usually having restrictions on their use. Operational land has no such restrictions.
- d) There is very minimal paperwork required on behalf of the groups subject to this policy so this is not considered an adequate consideration in the overall context of community benefit.

13.4 Notice of Motion - Alstonville Plateau Historical Society Lease

In summary the notice of motion is not supported as it is inconsistent with Council policy, it reflects an ad hoc approach in response to lobbying by one community group, it ties a number of future Councils to this decision, and there has been no real analysis of the benefits being gained by the community from the operation of this facility, as against the opportunity cost of the service being provided from the land and building.

Similarly there has been no demonstrable evidence of any opportunities forgone due to the current three year lease terms.

COUNCILLOR RECOMMENDATION

1. That Council approves the replacement of the current three year lease for the Alstonville Historical Society at Crawford House, Alstonville, to a 20 year lease to provide greater certainty to this group in respect to the future use of the building.
2. This extension is subject to the Society providing a contribution of \$1,000 towards the costs of preparing the new lease.

Attachment(s)

1. Policy - Community Property Leasing and Licensing

13.5 Notice of Motion - Police Resources - Alstonville and Wardell

13.5 Notice of Motion - Police Resources - Alstonville and Wardell

Councillor

Cr Eoin Johnston

I move

That Council write to the NSW Minister for Police with a request that additional active Police resources be allocated to, and stationed in, Alstonville and Wardell.

Councillor Comments

The Police stations at Alstonville and Wardell are staffed only on a part time basis. The communities from these areas, together with the growth area of Wollongbar, rely on the Ballina Station to provide the majority of police responses. If Police officers were placed permanently in Alstonville and Wardell the efficiency and effectiveness of Police intelligence would be enhanced and the residents would benefit from an increased level of confidence regarding their personal safety and welfare.

The purpose of this resolution is to highlight to the Minister that there are presently community concerns regarding the level of Police resources at these locations and invite the Government's response.

COUNCILLOR RECOMMENDATION

That Council write to the NSW Minister for Police with a request that additional active Police resources be allocated to, and stationed in, Alstonville and Wardell.

Attachment(s)

Nil

13.6 Notice of Motion - State Government Shark Mitigation Strategy

13.6 Notice of Motion - State Government Shark Mitigation Strategy

Councillor

Cr Cadwallader

I move

1. That Council thank the NSW State Government for the work it is doing in protecting our ocean users in Ballina Shire. In particular, for taking action on the introduction of a trial on netting, similar to that used in Newcastle, Sydney and Wollongong.
2. That Council ask the NSW State Government to include a program of by-catch release. That those measures be put into place as a matter of extreme urgency.
3. That Council ask the NSW State Government to provide extra funding for equipment and patrols to Ballina Shire's first responders being Surf Life Saving Far North Coast Surf Life Saving.
4. That Council advise the NSW State Government that it does not support a cull on sharks.

Councillor Comments

It is important for Council to acknowledge that the State Government has been working hard to support councils in this region through their shark mitigation strategy.

This notice of motion seeks that recognition along with providing Councillors an opportunity to express their views on what is being proposed.

It is acknowledged that the shark mitigation strategy is a State Government initiative, however at the same time it is important for our community to understand the elected Council's support, or otherwise, for the strategy.

COUNCILLOR RECOMMENDATIONS

1. That Council thank the NSW State Government for the work it is doing in protecting our ocean users in Ballina Shire. In particular, for taking action on the introduction of a trial on netting, similar to that used in Newcastle, Sydney and Wollongong.
2. That Council ask the NSW State Government to include a program of by-catch release. That those measures be put into place as a matter of extreme urgency.
3. That Council ask the NSW State Government to provide extra funding for equipment and patrols to Ballina Shire's first responders being Surf Life Saving Far North Coast Surf Life Saving.
4. That Council advise the NSW State Government that it does not support a cull on sharks.

Attachment(s)

Nil

13.7 Notice of Motion - Roadside Stalls

13.7 Notice of Motion - Roadside Stalls

Councillor

Cr Cadwallader

I move

That Council receive a report on options and case studies of how councils have allowed safe road side street stalls to operate to provide benefits such as the sale of local produce, less miles travelled for the distribution of produce and an enhanced social fabric.

Staff Comments

This motion follows an email from Mr Samuel Jaret Wheat, Ellis Road, Alstonville, to a number of Councillors expressing concerns in respect to the planning advice received regarding a request to hold a roadside stall to sell produce from his property.

That preliminary planning advice included the need for the applicant to submit a Development Application, pay the relevant fees, provide site plans, include a Statement of Environmental Effects Form, have the driveway sealed, and to provide four car parking spaces. This then makes the feasibility of providing a small roadside stall financially unviable.

In respect to this advice, under the Ballina LEP 2012, Council currently permits roadside stalls in the rural zones in the Shire (RU1 and RU2) with development consent. The need for development consent has been the position of previous Councils.

The reasoning for the consent requirement is to consider traffic safety and accessibility, with traffic authorities such as the RMS, Police and Council, historically expressing concerns with the impacts that roadside stalls can have on traffic flows and resultant accidents.

It is open to Council to change this in the LEP and permit roadside stalls without development consent or make such stalls exempt development, removing the need for a development application. However this would require specific analysis and consideration from our engineering section in relation to traffic and access, along with feedback from the Traffic Committee, which includes representatives from the RMS and Police.

Mr Wheat's preference was for roadside stalls to be exempt development however the concern with this is that the rural property owner would then be in charge of determining the suitability of an off-road site, particularly with reference to traffic movements and parking.

Council also needs to consider whether it wishes to focus on having a far higher number of stalls on rural roads, when a more positive approach could be to encourage markets such as the Missingham Markets to provide this service to the community.

13.7 Notice of Motion - Roadside Stalls

If Council supports this motion it also needs to recognise that this project is not in Council's Operational Plan program for 2016/17 and it will form a lower priority against other projects already in that Plan.

The preferred approach is as follows:

- a) Council include this project in the 2017/18 Operational Plan to allow it to be properly resourced and included in the staff work program, with the Strategic and Community Facilities Group having responsibility for the project; or alternatively
- b) Ask for this proposal to be considered as part of the preparation of the Economic Development Strategy, which forms part of the 2016/17 Operational Plan work program. This option then allows Council to consider whether or not roadside stalls provide economic benefits to the Shire, or if alternative approaches such as farmer's markets may deliver better outcomes for the community.

COUNCILLOR RECOMMENDATION

That Council receive a report on options and case studies of how councils have allowed safe road side street stalls to operate to provide benefits such as the sale of local produce, less miles travelled for the distribution of produce and an enhanced social fabric.

Attachment(s)

Nil

13.8 Notice of Motion - Permanent Firefighters at Ballina Fire Station

13.8 Notice of Motion - Permanent Firefighters at Ballina Fire Station

Councillor

Cr Willis

I move

That Council make representations to the NSW Minister for Police and Emergency Services to request that Fire and Rescue NSW provide permanent firefighters at the Ballina Fire Station.

Councillor Comment

With the new Ballina fire station on Tamarind Drive open, it is timely to recall the promises of 2010. Promises were made at that time that Ballina would have permanent firefighters.

We know that Lismore has permanent firefighters, but Ballina continues to only have retained part-time on call firefighters who must leave their homes or employment to attend the station and then travel on to the emergency. This arrangement leads to precious firefighting minutes being wasted.

As Ballina continues to grow it is vital that Ballina Shire Council ensure that the State Government remedies this situation. Essential emergency services must be provided appropriately in Ballina, with permanent firefighters, as in Lismore. We need to see the Ballina fire station used to its full potential, which requires permanent firefighters.

Staff Comment

This matter was last discussed by Council staff with the Acting Zone Commander in September 2016. The advice provided at that time was along the following lines:

The staffing arrangement at Ballina fire station currently meets the community risks; however, as part of an ongoing strategic process FRNSW continually monitors growth within Fire Districts to determine whether levels of resourcing remain appropriate. Changes to the current staffing configuration are dependent on changes to the risks, demographics and call rates in the Ballina area.

This has always been the understanding that when the demand justified the need, the allocated resources would be increased. Council is entitled to lobby for those additional resources.

COUNCILLOR RECOMMENDATION

That Council make representations to the NSW Minister for Police and Emergency Services to request that Fire and Rescue NSW provide permanent firefighters at the Ballina Fire Station.

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the September 2016 Ordinary meeting:

<u>Date</u>	<u>Function</u>
1/10/16	140 Years Not Out – Practice Nets Naming
1/10/16	140 Years Not Out Celebrations
3/10/16	Meeting Today Show
3/10/16	Meeting JJJ
5/10/16	Church Group
5/10/16	Traffic Committee
5/10/16	Probus Club RSL
5/10/16	Meeting with Intrapac
5/10/16	Meeting with Chris Murphy
6/10/16	Councillor Induction – Manual
7/10/16	Cancer Council Tree Planting Westlands Reserve
7/10/16	Skateboard Clinic Alstonville
9/10/16	Alstonville Markets
9/10/16	Lennox Head Markets
10/10/16	Cr Induction - Lindsay Taylor Lawyers
11/10/16	Alstonville Wollongbar Chamber of Commerce
11/10/16	Northern Rivers District Women's Bowling Assoc Opening
11/10/16	Public Citizenship Ceremony
11/10/16	Cr Induction - Lindsay Taylor Lawyers
12/10/16	Local Traffic Committee
12/10/16	Rotary Tree Planting – Bullwinkle Park
13/10/16	Aboriginal Community Committee
13/10/16	Northern Rivers District Women's Bowling Association Dinner
14/10/16	'Bessie' to Alstonville Showground
14/10/16	Demolition of Coast Guard Tower
15/10/16	Meerschaum Vale Koala Meeting
15/10/16	Land to Vale
16/10/16	Sprung Filming
17/10/16	Meeting Cherry Street Bowling Club – Country Music Festival
18/10/16	Meeting Shark Shield Barrier
18/10/16	Group Briefing – Strategic and Community Facilities
18/10/16	Group Briefing – Development and Environmental Health
19/10/16	Meeting Ballina Hospital Auxiliary
19/10/16	Wardell Progress Association
20/10/16	Meeting Director General DPI – Stakeholder Group
20/10/16	Interagency Meeting FSG
20/10/16	Council Induction – Key Projects
20/10/16	Civil Services Induction
20/10/16	Rotary – Vocation Awards
21/10/16	IPad Session
21/10/16	Meeting Wollongbar Rugby Club
22/10/16	Northern Rivers Big Band

15.1 Mayoral Meetings

23/10/16	Meeting Pip Carter
23/10/16	Rotary Duck Race
23/10/16	Alstonville Plateau Bowling Club Meeting
24/10/16	LG Hub Meeting
24/10/16	Group Briefing – General Manager's Group
25/10/16	Port of Ballina Taskforce
26/10/16	Meeting Tamara Smith Council
27/10/16	Council Meeting
27/10/16	Reserve Trust Meeting
27/10/16	Gallery Opening
28/10/16	Learn and Grow – FSG – B Space
28/10/16	The 2016 Sanctuary Village Art Exhibition
29/10/16	Alstonville Show
29/10/16	TS Lismore
30/10/16	Lennox Head Markets
30/10/16	Australian Deaf Caravaners' Group
31/10/16	Meeting Kevin Hogan
31/10/16	Ballina First Future School

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

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

17.1 Legal Appeal - Refusal of DA 2016/25 - 323 River Street, Ballina

Refer to Item 8.2 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

17.1 Legal Appeal - Refusal of DA 2016/25 - 323 River Street, Ballina

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the matter is subject to legal appeal and this report contains privileged and confidential content.