



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 24 November 2016 commencing at 9.00 am.**

Business

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

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

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

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

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

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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1. Australian National Anthem

The National Anthem will be performed by Richmond Christian College.

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 27 October 2016 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 October 2016.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 1995/292 Section 96 - Boral North Teven Road Quarry

8. Development and Environmental Health Group Reports

8.1 DA 1995/292 Section 96 - Boral North Teven Road Quarry

Applicant	Boral Resources (Country) Pty Limited
Property	Lot 105 DP 1038360, No. 348 North Teven Road, Teven
Proposal	To modify the existing consent: <ul style="list-style-type: none">• to provide for a consent termination date of 27 June 2026• include contemporary environmental performance criteria for noise and air quality• permit operation of a mobile crushing plant in addition to the existing fixed crushing and screening plant and• amend the approved hours of operation in Condition 8 to allow processing between 7.00 am and 6.00 pm Monday to Friday and prohibit processing on Saturdays.
Effect of Planning Instrument	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

The modification application primarily seeks to set an end termination date or “life” of the consent for the quarry operations to 27 June 2026.

The original consent was issued by the Chief Judge of the NSW Land and Environment Court (the Court) on the 27 June 1996 to:

“...carry out an extractive industry being the operation of a hard rock quarry with a maximum production of 500,000 tonnes per annum; subdivision of land for the purposes of boundary adjustment, relocation of two dwellings and re-alignment of Beacon Road...”

The consent did not impose a condition limiting the life of the quarry other than Condition No. 24 which states:

“These conditions shall be re-examined by Council and a final date for the termination of the consent determined within but no earlier than one year prior to 20 years after the date of commencement of this consent.”

The consent commenced on the 27 June 1996 and a previous Section 96AA modification application was approved on 24 November 2011 to bring forward and allow more time to carry out the subsequent re-examination process for the termination date of the quarry.

Condition No. 24 was subsequently amended as follows:

“These conditions shall be re-examined by Council and a final date for the termination of the consent determined within but no earlier than five (5) years prior to 20 years after the date of commencement of this consent, such date for determination not being any earlier than 20 years after the commencement of this consent.”

Consequently, the current Section 96, the subject of this report, seeks to give commercial certainty to the current owners/operators of the quarry regarding its ongoing operations and to provide a termination date sought by the Court, particularly as the existing wording could be interpreted as allowing for the consent to be terminated at any time after 27 June 2016.

Based on lower than expected extraction rates per annum and remaining available resource within the approved extraction area/volumes, the applicant, as part of the re-examination process, is now requesting that the “life” of the quarry extend until 2026.

This is a half more than the estimated 20 year life of the quarry potentially envisaged in 1996 and the expectations of local residents.

An extended termination, or end date of extractive operations, as proposed by the current modification, would provide Boral sufficient time to extract remaining approved reserves, and undertake appropriate planning for the future of the quarry.

The proposed modification also provides for:

- The operation of a mobile crushing plant (located within the quarry pit and to be utilised under strict conditions for 150 week days per year for project work and during fixed crushing and screening plant failures). This would allow the consented to production limits to be achieved within the intended life of the quarry.
- The inclusion of modern environmental performance criteria for noise and air quality.
- Modification of the approved hours of operation (Condition No. 8) for the processing of quarry materials, namely the relinquishing of processing of quarry materials on Saturdays (currently permitted between 7am and 3pm) for an increase or exchange of one hour per weekday to 6pm (currently permitted between 7am and 5pm).

This would result in an overall net reduction in the number of hours per week and is due to Boral claiming that during community consultation a key issue for close neighbours has been the use of the processing plant on Saturdays and its impact on the local amenity.

The existing Environmental Protection Licence (EPL) 2261 issued by NSW EPA permits the quarry operation as 7am- 6pm Monday to Friday and 7am – 3pm Saturdays (i.e. 6pm weekdays is already permitted although inconsistent with Condition No. 8 of the consent).

There are no changes proposed to the approved hours of operation for the extraction, loading and transporting of quarry materials.

These matters will be discussed further in the report.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The current modification application was placed on public exhibition between 25 May 2016 and 24 June 2016.

Council received one letter of support and two letters of objection from surrounding residents (copies attached).

The letter of support notes that Boral have been good neighbours/operators and have sought to work with the surrounding community. It also states the importance of the resource provided by Boral.

The submissions of objection relate directly to the impact of the proposed modification application by the use of mobile crushing proposed plant and the reduction in overall operating hours (three hours).

More generally the objections also relate to a reduced amenity from the overall quarry operations from impacts such as noise, dust, operating hours, water runoff, wildlife loss, traffic and pedestrian access.

The applicant has provided a consolidated response to these submissions dated 19 October 2016 (copy attached) inclusive of the NSW EPA's issues. The response provided by NSW EPA is also attached.

Only those matters directly relating to the modification application sought will be considered as part of this report.

Applicable Planning Instruments

Due to the uncertain wording of Condition No. 24 issued by the Court and the fact that it could be interpreted a number of ways, during preliminary pre-lodgement meetings/correspondence, Council's Development and Environmental Health Group requested that the applicant provide legal advice as to the appropriate legislative mechanism to consider the proposed changes.

This was provided by the applicant in mid-2015 and confirmed that removing the existing Condition No. 24 and replacing it with a condition stipulating a termination date 30 years following commencement of the quarry consent could lawfully be the subject of a Section 96 modification application.

A termination date may also be obtained, without a formal modification application, by Boral requesting that Council re-examine the conditions (and compliance with conditions) and demonstrating how the conditions are adequate to ensure the impacts of the development can be appropriately managed, and Council then determining the final termination date and informing the applicant.

Consequently, the Development and Environmental Health Group is satisfied that the modification application is valid, substantially the same development, and is the appropriate planning provision to assess all of the proposed changes (inclusive of the additional 10 years of operations) as the approved annual peak production rate, consented to reserves, or overall hours of operation are not increasing.

If the applicant is not satisfied with the termination date determined by Council, as part of this modification application, it is always open and available for the applicant to lodge a new Designated Development Application and associated Environmental Impact Statement, for detailed assessment, under relevant statutory controls and standards applicable at the time of lodgement and assessment.

Report

Air Quality

The submitted Air Quality Assessment (AQA) carried out dispersion model predictions for the emission of particulate matter to determine if the proposed modification of quarry operations would negatively impact on the surrounding area. The focus was on total suspended particulate matter (TSP) and particulate matter with a diameter of less than 10 microns (PM₁₀) and 2.5 microns (PM_{2.5}) and respirable crystalline silica (RCS).

The results of the modelling and dust deposition monitoring at the quarry demonstrate the proposed modification to quarry operations, with the use of a mobile crusher, will comply with EPA's criteria and the National Environment Protection (Ambient Air Quality) Measure. Therefore the potential for air emission from quarry operations to have an adverse impact upon the surrounding environment is low.

Return advice from the EPA has confirmed that they have no concerns with the proposed mitigation measures.

Although the AQA identified there is a minimal likelihood of quarry operations having an adverse impact on air quality and that the EPA did not identify any concerns, Boral has proposed mitigation measures.

Consequently, the use of the mobile crusher is supported from an air quality perspective, subject to the following condition of consent:

Quarry operations must comply with the Approved Methods for Modelling and Assessment of Air Pollutants in NSW, NSW EPA and National Environment Protection (Ambient Air Quality) Measure as outlined in the Air Quality Assessment, prepared by Ramboll Environ, dated 13 April 2016. Results of air quality monitoring must be recorded and supplied to Council or the EPA upon request.

Noise

The applicant has also provided noise modelling undertaken during peak approved operations (inclusive of a mobile crusher) and assessed compliance with the NSW Industrial Noise Policy (INP).

The submitted Noise Impact Assessment (NIA) identified the project specific noise level (PSNL) as $L_{eq15\ min}$, 36 dB(A) (Intrusive Criteria) as a result of attended and unattended noise monitoring at nearby sensitive receivers. The INP outlines that the Intrusive and Amenity Criteria need to be identified with the most restrictive noise level assigned as the PSNL.

The noise level results shown in Tables 6.2 and 6.3 in the NIA identify numerous exceedances of the PSNL for existing day time approved quarry operations and use of a mobile crusher.

Table 6.3 Predicted quarry noise emissions - approved and proposed operations, day-time, including drill and dozer

Assessment location	Existing approved operations $L_{eq,15-min}$ dB(A)		Proposed (mobile crusher) $L_{eq,15-min}$ dB(A)		Predicted change in noise level (dB)	PSNL $L_{eq,15-min}$ dB(A)
	Calm	2 m/s source-to-receiver wind	Calm	2 m/s source-to-receiver wind		
R1	41	44	41	45	0 to 1	36
R2	43	45	44	47	1 to 2	36
R3	45	47	45	48	0 to 1	36
R4	45	48	46	49	1	36
R5	<i>38</i>	41	<i>39</i>	42	1	36
R6	46	49	46	49	0	36
R7	40	43	40	43	0	36
R8	<i>38</i>	41	<i>39</i>	42	1	36
R9	<i>37</i>	40	<i>38</i>	40	0 to 1	36
R10	<i>36</i>	39	<i>37</i>	40	1	36
R11	<i>36</i>	39	<i>36</i>	39	0	36
R12	<i>35</i>	37	<i>35</i>	38	0 to 1	36
R13	<i>32</i>	35	<i>33</i>	36	1	36
R14	<i>34</i>	37	<i>34</i>	37	0	36
R15	<i>34</i>	37	<i>34</i>	37	0	36
R16	48	49	48	50	0 to 1	36
R17	46	48	46	49	0 to 1	36
R18	46	49	46	49	0	36
R19	38	41	39	41	0 to 1	36
R20	<i>34</i>	37	<i>35</i>	38	1	36
R21	<i>34</i>	37	<i>36</i>	39	2	36

Notes: 1. Noise emission levels shown in italics are predicted to be up to 2 dB above the PSNL, those shown in bold text are predicted to be more than 2 dB above the relevant PSNL.

The exceedances of the PSNL at some of the identified locations are in excess of 10 dB(A). However, the difference in noise levels between existing approved operations and use of the proposed mobile crusher (i.e. what the modification application specifically relates to) does not exceed 3 dB(A). A change in sound level of 1-2 dB is usually undetectable, while a change in 3 dB is just distinguishable.

The current consent does not contain noise limits, while the Environmental Protection Licence (EPL) only contains noise limits relating to blasting.

Section 1.4.1 of the INP identified the industrial noise source criteria set out in Section 2 that are not mandatory. An application for a noise producing development is not determined purely on the basis of compliance, or otherwise, with the noise criteria. Other factors that should be taken into account are economic consequences, other environmental effects and the social worth of the development.

The INP further states that the application of the noise criteria to existing sources would occur where significant modification (such as to warrant serious and/ or ongoing development consent or EPA approval) are made to existing developments or where complaints are received.

It further states that if PSNL are not achieved from existing operations a preliminary review of feasible and reasonable noise mitigation measures should be undertaken to identify potential opportunities to reduce existing operational noise levels. If, after the feasible and reasonable noise mitigation review, existing operations cannot achieve the PSNL, the proposed modification should not significantly increase the existing noise levels.

The submitted information proposes the following noise mitigation measures:

- Shielding on the western side of the proposed mobile crusher. This will include a barrier to be constructed, as near as possible to the mobile crusher, to interrupt line of transmission between the noisiest part of the crusher and nearby residences.
- Only using the mobile crusher under the following circumstances:
 - (i) For the purpose of project work and in the event of fixed plant failures
 - (ii) For no more than 150 working days per calendar year
 - (iii) Operated between the hours of 7am and 6pm Monday to Friday
 - (iv) Not to be operated between Christmas and New Year
 - (v) Operational sound power level of 114 dB (A)
 - (vi) Located within the argillite pit and
 - (vii) Attended noise modelling will be carried out prior to 30 June 2017 for the use of the mobile crushing plant, to determine compliance the INP.
 - (viii) Boral also proposes to incorporate the INP noise limits (PSNL $L_{eq 15 min}$, 36 dB(A)) into the development consent, or as deemed appropriate by Council and NSW EPA.
- Fitting all site mobile equipment with low tonal broadband reversing alarms.

- Constructing a new 4.8m high bund on the southern boundary of the processing and stockpile area to shield noise and visually screen receivers to the south (this may assist with reducing the potential noise impacts on residents at the Henderson property at 293 North Teven Road).
- Completion of the upgraded 10m high bund, between the basalt pit and Beacons Road, to shield noise for receivers to the east.
- When mobile equipment (haul trucks and front end loaders) need replacing, substituting them with mobile equipment with a lower sound power level.

It has been submitted that further noise mitigation measures for the proposal are unlikely to be feasible, or reasonable, given the following:

- Significant reductions have already been achieved through the enclosure of crushing plant and screen houses.
- The relatively limited fleet of mobile equipment and their relative contribution to overall noise emissions.
- The proximity of the nearest residences to the quarry.
- Local topography of the region.

Return advice from the EPA has advised that further noise mitigation measures are to be implemented at the site to prevent potential noise impacts on sensitive receivers from the proposed operations and quarrying operations (i.e. maximum PSNL of 36 dB(A)). These will be incorporated into the revised EPL.

The EPA also recommend conducting further noise assessments on the use of the mobile plant and its impacts on amenity and residents, or alternatively contacting residents identified in the NIA to ascertain the potential for negotiated individual noise criteria agreements.

Although Boral has stated that all reasonable and feasible noise mitigation measures have been considered and will be implemented, the NIA results indicate substantial exceedances of the PSNL (noting the modification will increase the life of the quarry by 10 years).

Consequently, Boral has also proposed to carry out noise monitoring to determine compliance with relevant project specific noise levels in accordance with the INP, or current equivalent requirements, and prepare a Noise Mitigation Strategy if the PSNL is exceeded.

Although the difference in noise levels between existing approved operations and use of the proposed mobile crusher may be distinguishable, the exceedance of the existing operations need to be considered due to the request to extend the life of the quarry to 2026.

Council's Assessment Officers support the EPA's recommendation for the need for further noise assessments. Also, the proposed mitigation strategies

to manage any noise are considered acceptable, subject to conditions (if approved).

During recent discussions with the NSW EPA, no recent complaints about the quarry operations had been received.

Surface Water/Drainage

The Teven Quarry Surface Water Assessment Report, dated March 2016, has sufficiently assessed the existing quarry water management systems. The assessment does, however include the following recommendations:

- upgrade the flow transfer capacity between Dam 3 and the Main Dam, and
- consideration will need to be given to the continued treatment of the clean water diversion channel through the southern portion of the pit when it is excavated to the approved pit extent. Excavation of this portion of the pit could result in mixing of clean and dirty water.

Return advice from the EPA, dated 16 June 2016 also included concerns with surface water management of the quarry. These included:

- the separation of clean and dirty water from the clean drainage line
- the need to provide the EPA with solutions to reduce the number of overflows from Dam 3 in accordance with *Managing Urban Stormwater – Soils and Construction: Volume – 2E Mines and Quarries*; and
- the need for water captured in the wedge pit to be diverted to the main dam, after it has passed through the oil and grease separator, before being discharged offsite.

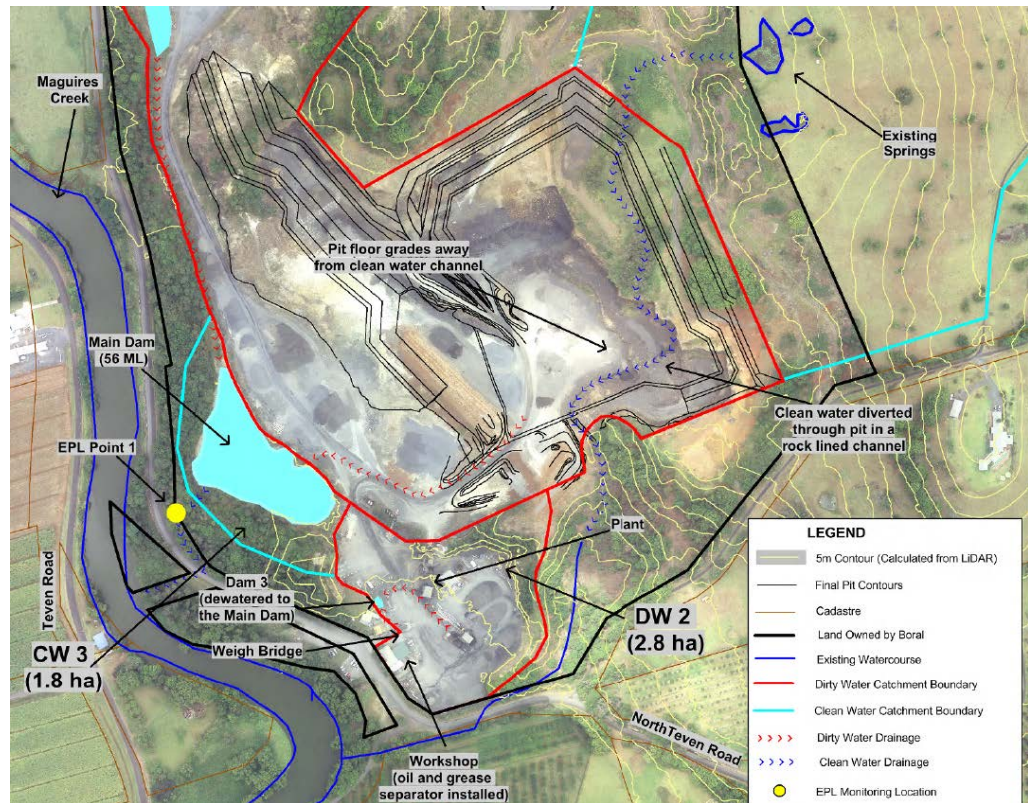
Boral is currently preparing an updated Water Management Plan for the site in consultation with the EPA, to improve stormwater management on-site. This is being undertaken via an agreed Pollution Reduction Program (PRP) through the site's EPL, with the relevant actions being completed by April 2017. The PRP requires:

- a review of the site's sediment and erosion control measures in line with *Managing Urban Stormwater: Soils and Construction: Volume 1 and Managing Urban Stormwater Volume 2E Mines and Quarries*
- installation of proposed improvements and
- consultation with Council in relation to downstream infrastructure.

The updated Water Management Plan and PRP encompasses the comments made in the EPA's submission and will be completed by April 2017. The applicant has proposed that these measures be included as a condition in a modified consent, as follows:

'The applicant shall update the Water Management Plan within the Environmental Management Plan in accordance with the requirements of the agreed Pollution Reduction Program between Boral and the EPA for Environment Protection Licence 2261.'

The recommendations are considered satisfactory and will be included as conditions of consent should the modification be approved.



Audit of Compliance with Conditions

Audits of the quarry's operations by Council's Compliance Team were conducted in late 2008 and late 2011.

As of late 2011 the audit of the Conditions of Consent found that Teven Quarry was non-compliant with two conditions relating to the Community Consultation Committee and material spillages prevention.

Although a further full audit has not been conducted since, it appears that these conditions are now being fulfilled.

Council's Compliance Team has advised that a further audit of this quarry is scheduled to be conducted prior to July 2017, as part of further proactive investigations into all operational quarries within the Ballina Shire.

Notwithstanding that a more recent audit has not been conducted, throughout the consideration and assessment of the previous modification application and the current modification, it has been found that the existing terms and conditions (as previously amended and proposed) are adequate for continued operations for the proposed additional 10 years.

The quarry will continue to be licensed by the EPA, who has advised that the quarry is operating within the limits of their licence and will need to demonstrate further compliance at the end of 2016. If this modification application is approved, the EPL is due for review on 22 March 2020.

The EPL will also need to be separately amended should the modification application be approved.

Roads and Traffic

No changes are proposed in this modification application to traffic generating activities or impacts (i.e. approved extraction volumes are not changing).

Council's Civil Services Group has raised no objection to the proposed modifications which do not impact on existing monetary contribution conditions.

Conclusion

Condition No. 24, as currently worded, provides no economic certainty for the operator of the quarry as to the "life" of the quarry, nor Council or the NSW EPA regarding audits/licences for ongoing operations.

The assessment of the modification application has found there to be no valid technical reasons as to why the quarry should now cease operations.

The conditional approval of the modification application as proposed would provide operational certainty for the quarry until 2026.

The approval of the current modification application is considered to be reasonable and in the public interest as it is an important land use and infrastructure resource for the region and will allow the currently approved resource quantity to be extracted more efficiently and timely via the use of the mobile crushing plant and an additional hour per weekday (rather than potentially extending the life of the quarry further to extract available resource).

The applicant and surrounding residents have shown a considerable degree of goodwill in this matter over recent years.

The applicant has undertaken communication between themselves and surrounding residents/previous submitters which has resulted in a lower than expected level of public response to the modification application which, on face, indicates that the quarry is operating well within the locality with open communication and appropriate timely responses to issues/impacts.

It is clearly in the interest of the applicant to improve modern performance operational mechanisms and procedures for noise and air quality to assist in this re-examination process that will determine the termination date of the quarry.

This will be of direct benefit to surrounding residents in the immediate future and a positive outcome for the proposed on-going decade of operations if approved.

RECOMMENDATION

That the modification application to DA 1995/292 for the Boral North Teven Quarry be **APPROVED** via the amendment to conditions as requested and agreed additional conditions as outlined within this report.

Attachment(s)

1. Locality Plan
2. Public Submissions
3. Applicant's Response
4. NSW EPA Submission

8.2 Compliance Update - Function Venue - Down Converys Lane

8.2 Compliance Update - Function Venue - Down Converys Lane

Delivery Program Development Services

Objective To provide Council with an update on current proceedings and to seek endorsement for the commencement of legal proceedings for breaches of development consent.

Background

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

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

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

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

250216/1 RESOLVED

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

This matter was reported back to Council for review, following the expiration of this three month period, to the June 2016 Ordinary meeting, where Council resolved:

230616/7 RESOLVED

That Council provide a ninety day extension (option eight as detailed within this report) from 23 June 2016 to the landowners to achieve compliance with the requirements of development consents DA 2002/149 and DA 2008/808, provided time and guest numbers are adhered to, based on existing consent 2002/149.

This matter is now reported back to Council for review following the receipt of additional complaints alleging continuing breaches of the approved trading hours of development consent DA 2002/149.

Key Issues

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

8.2 Compliance Update - Function Venue - Down Converys Lane

Information

Copies of the reports to the February 2016 and June 2016 Ordinary Meetings are attached, as they contain the relevant history in relation to this matter.

Under the provisions of development consent DA 2002/149, the approved trading hours, as provided for in Condition 1.3, were restricted to:

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

On 9 July 2016, a number of complaints were received alleging that there was a wedding function taking place within the premises of Down Converys Lane.

The first complaint was received by Council's After Hours Monitoring Service after 8:30 pm, some two and a half hours after the approved trading hours and any function was to have ceased.

The complainants have alleged that further emails were sent to Council at 8:55 pm and 9:21 pm and that the function continued until at least 9:45 pm, with cars leaving the premises, and the associated noise from car doors slamming and patrons calling out to each other being audible from the subject premises.

Whilst it is acknowledged that at the time of these complaints, the landowners had been working towards activating development consent DA 2008/808, both requirements of Council's formal order remain outstanding, in that:

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

On 23 September 2016, Council issued the Final Occupation Certificate for development consent DA 2008/808, which, among other provisions, amends the permitted trading hours for the café by virtue of Condition 6.2.

6.2 Hours of operation of the café

The cafe may only be operated between the following hours:

- a. Sunday to Thursday - 8.30am to 9.00pm With all patrons off the premises by 9.30pm*
- b. Friday and Saturday - 8.30am to 9.30pm With all patrons of the premises by 10.00pm*

Legal / Resource / Financial Implications

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

Consultation

8.2 Compliance Update - Function Venue - Down Converys Lane

Council has sought legal advice and is acting in accordance with this advice.

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

Options

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

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

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

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

Council currently has seven options within the Enforcement Policy.

Council's options are:

1. Take no further action in relation to the operation of a wedding function venue within the subject premises
2. Issue Formal Warnings
3. Issue Penalty Infringement Notices
4. Commence Local Court Criminal Prosecution Proceedings
5. Commence Land and Environment Court Criminal Prosecution Proceedings
6. Commence proceedings in the Land and Environment Court seeking to enforce the Council Order as served on the landowner
7. Commence legal proceedings in the Land and Environment Court, seeking an injunction against the landowners hosting any future weddings or other functions without the required development consent of Ballina Shire Council.

8.2 Compliance Update - Function Venue - Down Converys Lane

Option One

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

Council's Enforcement Policy provides that Council may resolve that the issuing of the three Penalty Infringement Notices to Mr and Mrs Kratz are considered to be a sufficient punishment for the failure to obtain the required development consents and the failure to comply with the issued development consent DA 2002/149 and not seek to take any further action for the ongoing non-compliances within the subject premises.

This option is not recommended, as to date, the use has continued and has not been operating in accordance with any development consent.

Option Two

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

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

Option Three

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

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

The issuing of Penalty Infringement Notices has not been a sufficient deterrent to prevent the ongoing non-compliances within the subject premises, with functions continuing to be held in contravention of development consent DA 2002/149.

Options Four and Five

Options four and five recommend the commencement of criminal prosecution proceedings for:

- The operation of a wedding function venue without the requisite development consent from Council
- The ongoing breaches of Council's Order as served on Mr and Mrs Kratz; and

8.2 Compliance Update - Function Venue - Down Converys Lane

- The failure to comply with all conditions of development consent DA 2002/149 to operate within the approved trading hours of “9am to 6pm non-daylight saving period”.

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

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

The Local Court jurisdiction would be able to impose a maximum penalty of \$110,000.

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

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

However, these options may not adequately address the ongoing nature of the use of the subject premises itself, and, in isolation, may not adequately address all of the issues associated with the subject premises.

Options Six and Seven

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

The difference between these options is that option six seeks to enforce Council’s Order as served, and option seven seeks to obtain a declaration that the wedding function venue is operating without the requisite approvals from Council.

To date Council’s solicitors have not suggested a preference for either option six or seven, however both options are available.

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

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

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

8.2 Compliance Update - Function Venue - Down Converys Lane

Use of Multiple Options

There is no legal impediment to Council utilising more than one of the above options to remedy the unauthorised use and the non-compliance with development consent conditions within the subject premises.

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

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

In this particular instance, and having regard to Council's legal advice, it is considered that there is now a need to apply more substantial options to those applied thus far.

The recommendation that follows, which is based on option four, outlines the preferred course of action, which is considered to be a reasonable balance in respect to the available options and the responses of the landowners to date. The need to implement further actions (or options) may arise dependent upon the results of this course of action.

Finally the proprietors have now obtained the Final Occupation Certificate to activate development consent DA 2008/808, and this authorises the increased number of patrons, as well as extended trading hours.

RECOMMENDATION

That Council endorses the following action against Mr and Mrs Kratz for the offences of operating a wedding function venue, without the requisite development consent, and for the failure to operate in accordance with development consent DA 2002/149.

- Commence proceedings in the Local Court seeking to enforce the Council Order as served on the landowner and for the breach of the approved trading hours on 9 July 2016.

Attachment(s)

1. Council Report - June 2016 Ordinary Meeting - Down Converys Lane
2. Council Report - February 2016 Ordinary Meeting - Down Converys Lane

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 November 2016.

Attachment(s)

Nil

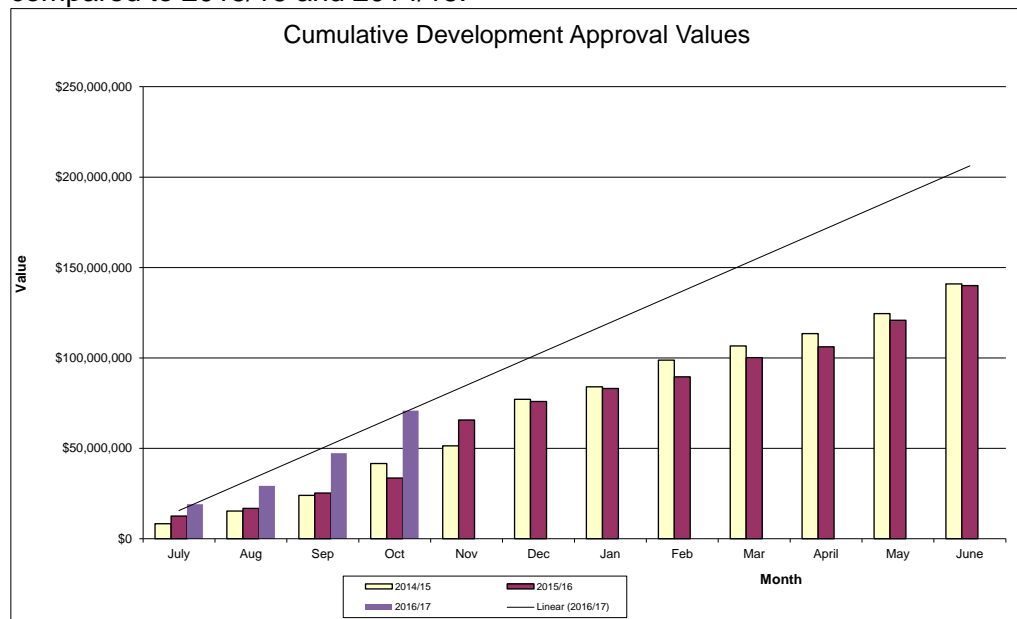
8.4 Development Consent and Infrastructure Approvals - October 2016

8.4 Development Consent and Infrastructure Approvals - October 2016

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

Number of Applications	Value of Work (\$)
34 Other Building Related	1,822,403
26 Dwelling/Duplexes/Residential Flat Buildings	9,302,583
Five General Developments	805,000
Total Value	11,929,986

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



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

Number of Applications	Value of Work (\$)
Two Public Infrastructure / Civil Construction (Ballina and Alstonville Pool upgrades)	11,600,000
Total Value	11,600,000

RECOMMENDATION

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

Attachment(s)

Nil

8.5 Development Applications - Works in Progress - November 2016

8.5 Development Applications - Works in Progress - November 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	Determination Pending
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	Being Assessed
2016/219	03/05/2016	Ardill Payne & Partners	Establishment of a Multi	Awaiting Additional

8.5 Development Applications - Works in Progress - November 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
2016/274	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
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	Installation of	Awaiting

8.5 Development Applications - Works in Progress - November 2016

		Investments Pty Ltd	Twenty Eight Tenancy Wall Signs and One Digital Dynamic Wall Sign at Ballina Central Shopping Centre – 44 Bangalow Road, Ballina	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	Being Assessed
2016/375	8/7/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of and Alterations and Additions to the Existing Dwelling House, Demolition of Existing Garage, Vegetation Removal and Associated	Being Assessed

8.5 Development Applications - Works in Progress - November 2016

			Works and Staged Strata Title Subdivision – 43 Pacific Parade, Lennox Head	
2016/378	12/7/2016	Newton Denny Chapelle	Proposed Ballina Racecourse Redevelopment Comprising Upgrade to Race Tracks and Training Tracks, Bulk Earthworks, Stormwater Management Works, Installation of Irrigation System, Vegetation Removal, Environmental Offsets and Boundary Adjustment - Ascot Road and 36 Racecourse Road, Ballina	Awaiting Additional Information
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	Referral to Government Department
2016/389	19/07/2016	McDonald's Australia Pty Ltd	Erection of a McDonald's Restaurant and Associated Signage on the	Awaiting Additional Information

8.5 Development Applications - Works in Progress - November 2016

			Approved Highway Service Centre Site – 565-589 River Street, West Ballina	
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
2016/506	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	Being Assessed
2016/532	19/9/2016	Tim Fitzroy & Associates	Establishment of a Waste Transfer Station – 2 Northcott Crescent, Alstonville	Being Assessed
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	Awaiting Additional Information

8.5 Development Applications - Works in Progress - November 2016

			Street, Ballina	
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 Pty Ltd	Alterations & Additions to Existing Industrial Building - 2/188-202 Southern Cross Drive, Ballina	Awaiting Additional Information
2016/569	10/10/2016	Stephen Phibbs	Strata subdivision of existing dual occupancy - 7 Crane Street, Ballina	Awaiting Additional Information
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")	On Exhibition
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	Awaiting Additional Information
2016/584	11/10/2016	Northern Rivers Land Solutions	Two Lot Subdivision to create 1 x 25.33ha and 1 x 1167m2 allotments - 182 Wardell Road, Wardell	Being Assessed
2016/593	17/10/16	Melanie Jackson	Vegetation management works comprising the removal of two trees - 12 Pine	Determination Pending

8.5 Development Applications - Works in Progress - November 2016

			Avenue, East Ballina	
2016/596	17/10/16	Reece Group Pty Ltd	Change of Use Involving the Expansion of an Existing Hardware and Building Supplies Business (Reece Plumbing) and Alterations to Existing Building Identification Sign – 19 Southern Cross Drive, Ballina	Being Assessed
2016/598	19/10/16	Department of Education	Vegetation management works comprising the removal of one tree – 58 Main Street, Alstonville	Awaiting Additional Information
2016/604	21/10/16	Ardill Payne & Partners	Alterations and Additions to Ballina Toyota – 2 Sunset Avenue, West Ballina	Being Assessed
2016/617	26/10/16	Stephen Fletcher and Associates Pty Ltd	Excavation and Drainage Works – Uralba Road, Uralba	Being Assessed
2016/633	4/11/16	Planners North	Proposed Medical Centre (Unit 1) – 1/64 Ballina Street, Lennox Head	Being Assessed

8.5 Development Applications - Works in Progress - November 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 - November 2016

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

Attachment(s)

Nil

9.1 Planning Proposal - Greenwood Place Lennox Head

9. Strategic and Community Facilities Group Reports

9.1 Planning Proposal - Greenwood Place Lennox Head

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 15/004 Greenwood Place, Lennox Head, and to seek direction from the Council on the finalisation of this proposed LEP amendment.

Background

The Council, at its Ordinary Meeting held on 26 March 2015, considered a request to rezone Lot 12 DP 581159 and part Lot 21 DP 1007134, Greenwood Place, Lennox Head from RU2 Rural Landscape to R2 Low Density Residential (Ballina LEP 2012) and part Lot 21 DP 1007134, Greenwood Place, Lennox Head from 1(d) Rural (Urban Investigation) (Ballina LEP 1987) to R2 Low Density Residential (Ballina LEP 2012) to permit residential development. The Council resolved [Minute No. 260315/13] as follows:

1. *That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the planning proposal, to the Department of Planning and Environment for review and Gateway determination.*
2. *The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m² and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.*
3. *That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.*
4. *That a further report be presented to the Council in relation to this matter following the mandatory community consultation.*
5. *That the Department of Planning and Environment be advised that, at this stage of the process, it is the Council's intention to exercise its delegated plan making functions.*

A Gateway determination was obtained on 14 April 2015, which required the LEP amendment to be completed by 14 April 2016. This time period was subsequently extended until 21 April 2017.

The proponent's technical reports in support of the planning proposal were submitted to Council in October 2015. These reports were then the subject of consultation with Government authorities, followed by a detailed Gap Analysis undertaken by Rob Van Iersel, Planning Consultant (rob van iersel + environmental planning) in April 2016.

Attachment One contains a copy of the Gap Analysis Report.

9.1 Planning Proposal - Greenwood Place Lennox Head

The planning proposal was subsequently exhibited for community feedback from 1 June to 1 July 2016.

On 7 June 2016, the Department of Planning and Environment provided advice that the planning proposal's inconsistency with section 117 Direction 4.2 Mine Subsidence and Unstable land was justified.

Attachment Two contains the planning proposal document as publically exhibited.

The site the subject of this report is illustrated by the red outline in Diagram 1 below. Diagram 2 is an extract from the proposed Land Zoning Map, which was the subject of a Gateway determination on 14 April 2015. Diagram 3 is an extract from the proposed Strategic Growth Area Map and Diagram 4 is an extract from the proposed Lot Size Maps. Diagram 5 is an extract from the existing and proposed Building Height Map. These maps were also the subject of a Gateway determination on 14 April 2015.

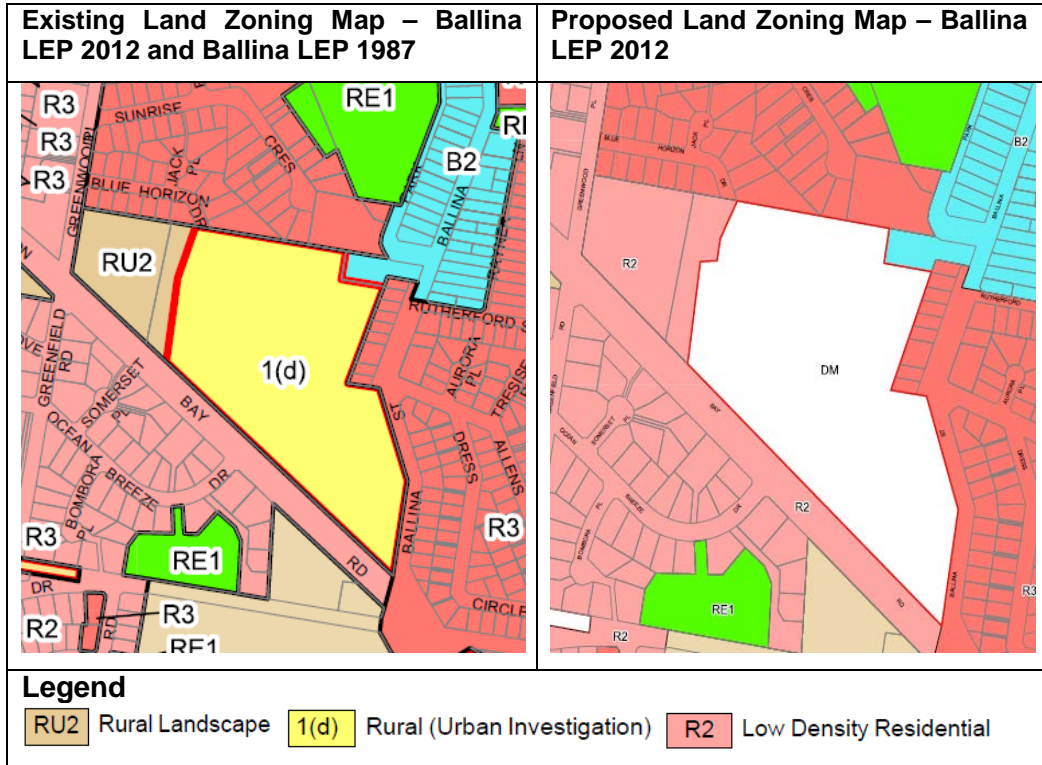
In respect to the Lot Size Map the planning proposal the subject of Gateway determination, and subsequently exhibited, included a 600m², an 800m² and a mixed 600m² and 800m² concept option. This was done to enable the Council to determine the most appropriate minimum lot size, following public exhibition, as per its resolution (Recommendation 2) at the meeting of 26 March 2015.

Diagram 1 – Site Plan



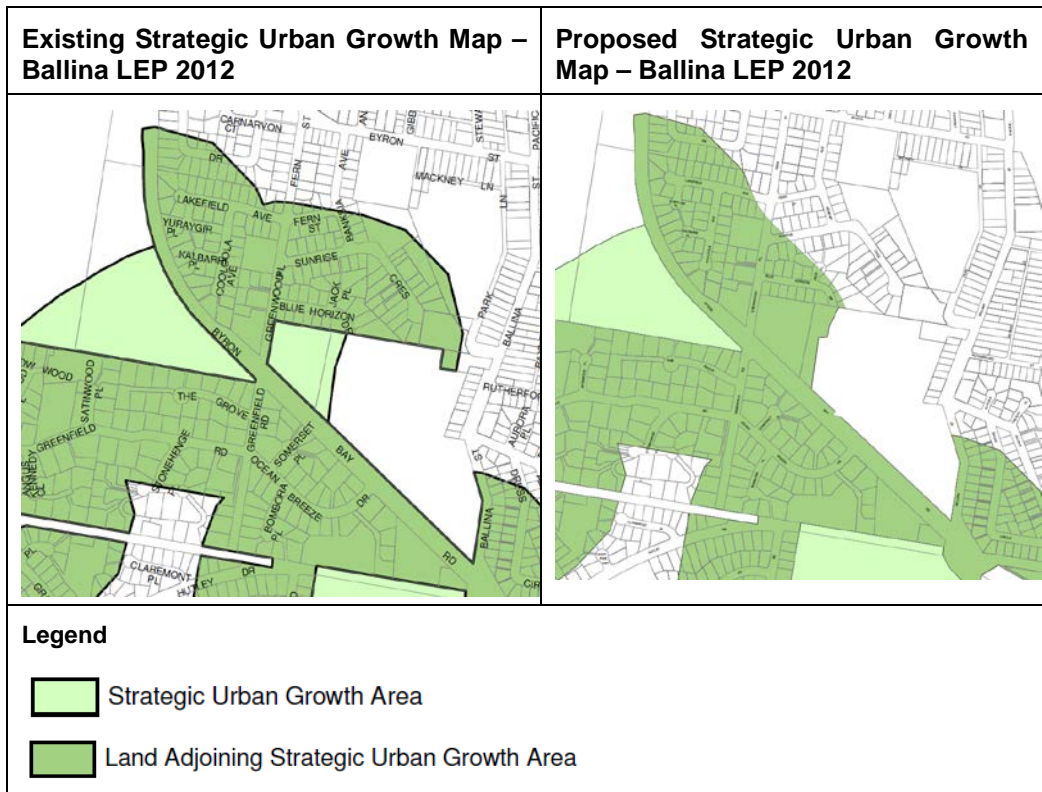
9.1 Planning Proposal - Greenwood Place Lennox Head

Diagram 2 – Extract from Land Zoning Maps (Existing and Proposed)



Note: The area shown as DM in the proposed zoning map will remain subject to a 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987.

Diagram 3 – Extract from Strategic Urban Growth Area Maps



9.1 Planning Proposal - Greenwood Place Lennox Head

Diagram 4 – Extract from Lot Size Maps

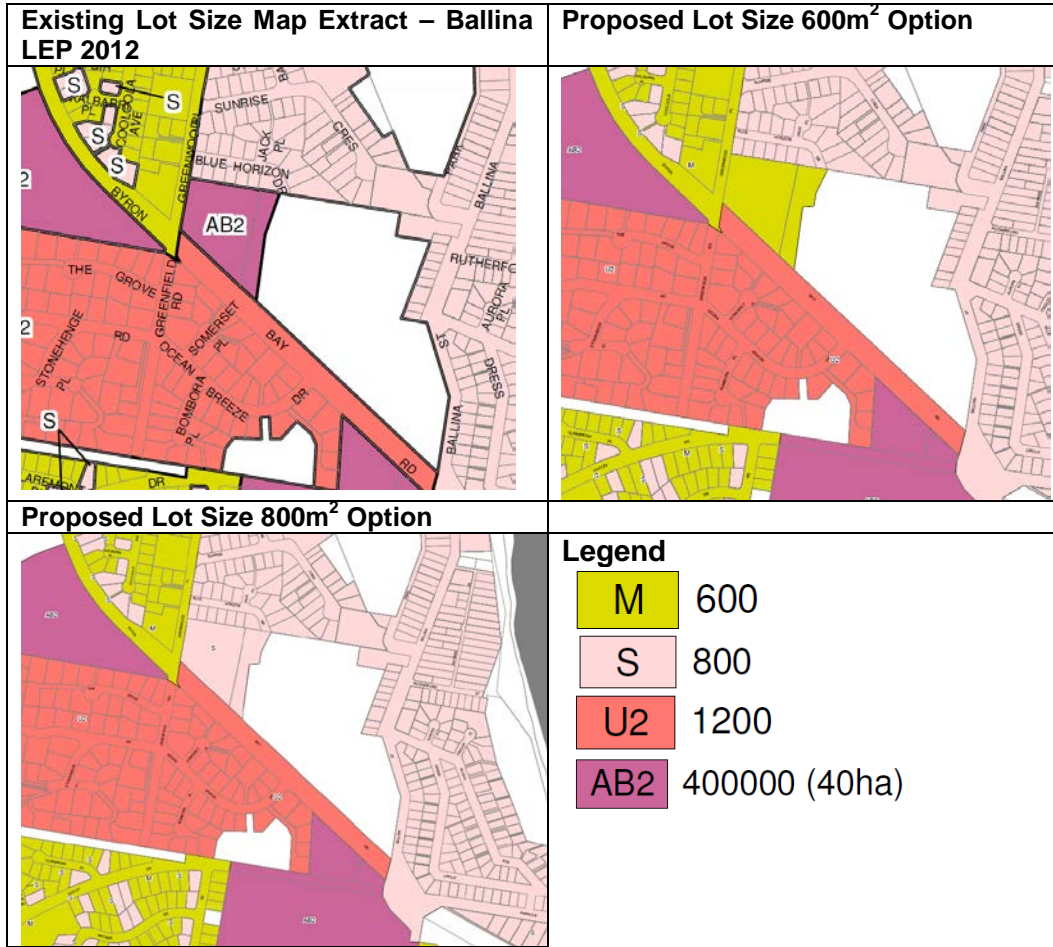
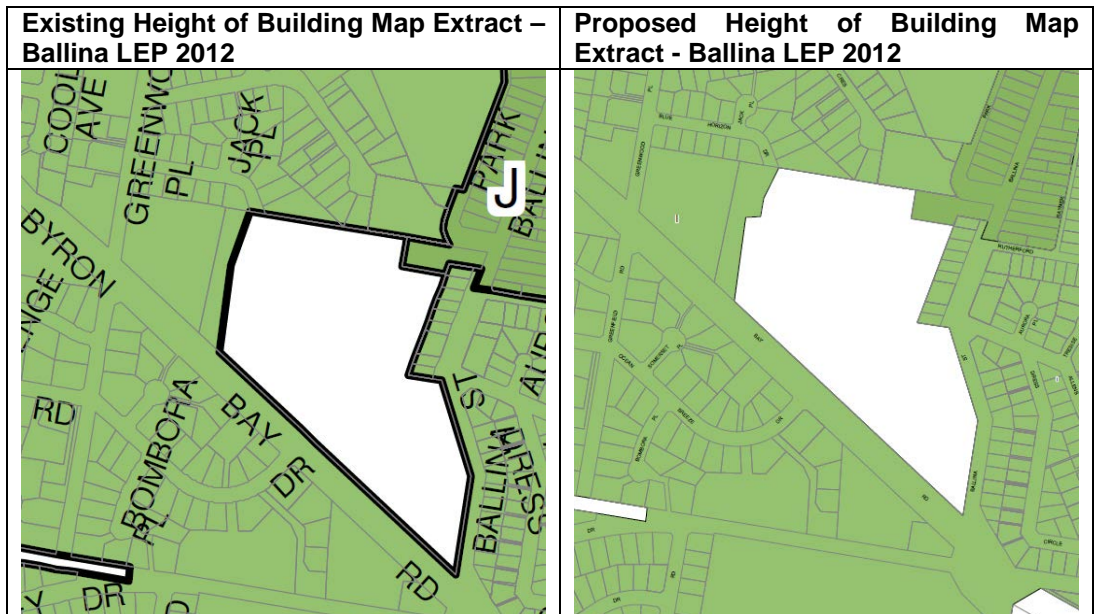


Diagram 5 - Extract from Height of Building Maps



The purpose of this report is to inform the Council of the outcome of the public exhibition of the LEP amendment and seek direction with respect to the finalisation of this matter. The report has been prepared based on a review of the exhibition outcomes and associated analysis undertaken by Rob van Iersel + environmental planner (engaged by Council to undertake third party review of the rezoning proposal).

Key Issues

- Consideration of the outcomes of the public exhibition process
- Consideration of the minimum lot size appropriate for the site
- Finalisation of the LEP amendment taking into consideration the recommended minimum lot size
- Consideration of acceptance of delegation from the Department of Planning and Environment to finalise the planning proposal.

Information

Lot 12 DP 5581159 has an area of 1.619 hectares and frontages to Byron Bay Road and Greenwood Place. The part of Lot 21 DP 1007134 that is subject to the planning proposal has an area of approximately 6,100m² and adjoins the southernmost end of Blue Horizon Drive. The total site area is approximately 2.23 hectares.

The proposal seeks to amend Ballina Local Environmental Plan 2012 (BLEP 2012) by rezoning the land from RU2 Rural Landscape to R2 Low Density Residential. It also seeks to amend Ballina Local Environmental Plan 1987 (BLEP 1987), which currently applies to a small part of the site at its eastern edge, by including that area within BLEP 2012 with a zoning of R2 Low Density Residential.

In addition to the zoning change, the proposal requests that the following LEP Maps be amended:

- Lot Size Map, with the application of a 600m² minimum lots size over the land;
- Height of Building Map, by applying a maximum height of 8.5m over the land;
- Strategic Urban Growth Area Map, by removing the land from this map; and
- Land Application Map, includes part of Lot 21 DP 1007134 within the area subject to Ballina LEP 2012.

The proponent submitted three subdivision concept plans demonstrating how the site might be developed if consent was to be granted to a development application. These plans make provision for a minimum lot size of 600m², a minimum lot size of 800m², and a part 800m² and part 600m² approach.

All the concept plans are considered to be generally consistent with the existing subdivision pattern and residential character of nearby residential areas.

9.1 Planning Proposal - Greenwood Place Lennox Head

The site is located immediately to the west of an area of high visual sensitivity, in an elevated position above the Lennox Head township. The proponent submitted a detailed Visual Amenity Assessment that demonstrated that the positioning of the proposed residential zoning line is such that development on the site will not intrude into the skyline as viewed from the urban area below.

The site is not impacted by significant ecological constraints. However, an existing stand of vegetation immediately to the east of the proposed zoning line potentially has some ecological significance. Given that it is outside of the proposed development area, considerations relating to indirect impacts can be addressed within a future development application, and biodiversity does not constrain the proposed rezoning.

From a land use planning perspective, the LEP amendment has been assessed as being technically suitable to proceed to finalisation.

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

Sustainability Considerations

- **Environment**

The subject land is not considered to have significant environmental value. Biodiversity matters were assessed in detail in expert ecological reports, which formed a part of the planning proposal when it was exhibited for public comment.

- **Social**

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

- **Economic**

The proposal has positive economic impacts associated with the provision of additional housing in an area with available services, access and infrastructure.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the proposed LEP amendment. The further processing of the amendment can be accommodated within the work program of the Strategic and Community Facilities Group. The proponent has met the costs associated with the processing of this planning proposal, in accordance with Council's adopted Fees and Charges.

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

Consultation

Copies of all submissions received in response to the public exhibition of the planning proposal are contained within Attachment Three.

Matters Raised by the Office of Environment and Heritage (OEH)

The OEH initially provided Council with advice in a letter dated 10 December 2015 prior to the public exhibition. The proponent subsequently amended technical documents supporting the planning proposal. Consequently, the OEH was provided with a further opportunity to review the amended documentation and provided Council with additional advice in a letter dated 31 May 2016. Comments made by the OEH are summarised below:

Aboriginal Cultural Heritage:

The OEH recognises that as a result of that assessment and consultation process, and the subsequent information provided by Everick, including further consultation with Jali LALC, (i.e. Cultural Heritage Due Diligence Assessment, Everick Heritage Consultants Pty Ltd, August 2015), neither Aboriginal objects nor any areas of intangible cultural significance have been identified in the planning area.

Comment: Noted. Council also wrote to the Jali LALC in November 2015 giving the organisation an additional opportunity to respond – no submission was received.

Biodiversity:

Ecological significance of the adjoining patch of vegetation has not been established. There is potential for indirect impacts on that vegetation. Mechanisms needed to buffer this vegetation.

Comment: The stand of vegetation referred to is located upslope of the development area, so there will not be direct or indirect impacts from drainage onto this land. There is the possibility of impacts arising from the 10/50 vegetation clearing possible under relevant bush fire regulations (trees within 10m of a home; undergrowth within 50m can be cleared without approval). The clearing permitted by the 10/50 rule can only be carried out by a land owner within their own land.

In this case, as outlined below, it is recommended that there be no residential lots to the east of the access road from Blue Horizons Drive. In that way, there would be no lots backing onto the stand of vegetation, and the internal road would provide the buffer for it.

9.1 Planning Proposal - Greenwood Place Lennox Head

Support for 800m² minimum lot size, on the basis that this appears to have the least impact on adjoining land and the stand of vegetation.

Comment: With the internal road positioned such that it buffers the adjoining land and stand of vegetation, the impacts are minimal regardless of lot size. The slope of the land is away from the vegetation. Drainage will therefore not impact on it.

For the reasons outlined below, it is recommended that a minimum lot size of 600m² is appropriate.

Matters Raised by Department of Primary Industries

No major implications for agriculture are identified within the proposal documentation. We support the consideration by Council, for potential buffers being required due to the adjoining rural land use.

Comment: Noted.

Matters Raised by Council's Environmental Scientist (Ecologist)

*The site has been inspected on at least two (2) occasions to determine the presence of the vulnerable species *Arthraxon hispidus* (Hairy-joint Grass). Despite favourable climatic conditions occurring for the species seasonal establishment Hairy-joint Grass was not identified at the development site.*

Comment: Noted.

In relation to the protection of the vegetation growing in the eastern portion of the development site, it is considered although the vegetation is in a degraded state any future development for the site should ensure the vegetation is retained, buffered and rehabilitated. As a consequence, the applicant's preferred subdivision layout that includes Lot 18 is not supported.

Comment: Agreed. As noted below, it is recommended that, in considering future applications for the subdivision of this land, there be no residential lots located to the east of the internal access road, such that this road provided a buffer to the stand of vegetation and retained rural lands to the east.

Matters Raised by Council's Development Engineer

Notes that there may be a need for stormwater detention associated with future residential subdivision of the land. This will need to be considered at subdivision stage, as will the possible need to upgrade stormwater infrastructure external to the site. It is noted that a legal point of discharge for stormwater would be the table drain within the Coast Road.

Notes that there are no road capacity constraints for vehicles arising from the planning proposal, but there is a lack of pedestrian facilities on Greenwood Place / Sunrise Crescent for both the existing population and any population increase. The footpath issues are discussed further below in the assessment section of this report.

Submissions Received from the Community in Response to Public Notification Process

The planning proposal was publically exhibited from 1 June 2016 until 1 July 2016. The public notification and exhibition process consisted of 244 letters being forwarded to individual property owners and Owners' Corporations, an advertisement in the Ballina Shire Advocate and copies of the planning proposal being made available at Council's Customer Service Centre, our shire libraries and on Council's web site.

At the end of the exhibition period 18 individual written submissions and a petition against the proposal containing 81 signatures were received. A summary of the issues raised in the submissions, together with comments made by Council's consultant planner, appear in the table below:

9.1 Planning Proposal - Greenwood Place Lennox Head

Name	Issue	Planners Comments
John Nixon & Lene Gram	<p>Disagrees with the planning proposal on the following basis:</p> <ul style="list-style-type: none"> No safe pedestrian access, particular in close to the underpass adjacent to the intersection of Blue Horizon Dr and Greenwood Pl; Current road network is unsafe due to narrow width. 	See summary above and further assessment below.
Erin & Travis Clarke	<p>Support for 800m² minimum lot size.</p> <p>Disagrees with the planning proposal on the following basis:</p> <ul style="list-style-type: none"> No safe pedestrian access; combined with narrow roads, particularly at bend from Greenwood Place into Sunrise Crescent, pedestrians are at risk; Suggest access from Byron Bay Road is a safer option. 	Noted. See summary above and further assessment below.
Belinda Seaton	<p>Support for 800m² minimum lot size.</p> <p>Concerned about the planning proposal on the following basis:</p> <ul style="list-style-type: none"> Safety concerns regarding the existing narrow roads and the large volume of traffic that will be generated by the development; Safety concerns for pedestrians and local children who use the local streets, particularly at bend from Greenwood Place into Sunrise Crescent, suggest no parking restrictions in this vicinity. 	Noted. See summary above and further assessment below.

9.1 Planning Proposal - Greenwood Place Lennox Head

Lachlan Klose	<p>Object to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Visual amenity impact: detrimental impacts on the outlook from the rear of directly adjoining properties; • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts; • Farmland loss: current livestock grazing adds to the visual amenity of the area; • No community need for project: given other new release areas in the locality, there is no demonstrated need for increased housing. 	<p>The residential lot owned by the objector backs onto the subject site. Residential development of the subject land will alter the current outlook from the objector's land.</p> <p>Given the strategic planning undertaken in the area, however, residential development of the land has been a reasonable expectation for some time.</p> <p>Overall, it is considered that the currently undeveloped land has marginal visual amenity, and that its future residential development will not result in significant adverse visual impacts.</p> <p>See summary above and further assessment below in relation to traffic issues.</p> <p>The area of the site is too constrained to provide for a sustainable agricultural enterprise.</p> <p>Current residential subdivisions taking place within Lennox Head or proposed for rezoning were originally identified in Council's Urban Land Release Strategy (2000) and subsequently in the Lennox Head Strategic Plan (2002) and Lennox Head Structure Plan (2004).</p> <p>These areas are also identified as potential urban areas in the Far North Coast Regional Strategy (2006) and Council's current Local Growth Management Strategy (2012).</p> <p>These areas are identified in strategic plans having regard for key considerations including infrastructure provision, services and facilities.</p> <p>Council's adopted section 94 plans also make provision for additional infrastructure to be provided as a result of new development.</p>
P & H Breen	<p>Object to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts, resulting in significant safety issues; • Traffic impacts will result in adverse social impact. 	See summary above and further assessment below.
D W Breen	<p>Support for 800m² minimum lot size.</p> <p>Larger lot size is appropriate in an area with limited open space.</p>	Noted.

9.1 Planning Proposal - Greenwood Place Lennox Head

<p>Paul & Michelle Martinovich</p>	<p>Object to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • There is insufficient public infrastructure for the development; • Additional development is putting a strain on the village of Lennox Head. • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts, resulting in significant safety issues. 	<p>See comments above – infrastructure issues have been considered within a range of strategic plans applicable to the site and the wider Lennox Head area.</p> <p>See summary above and further assessment below in relation to traffic issues.</p>
<p>Robert & Rebecca Wright</p>	<p>Express concerns regarding the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts, resulting in significant safety issues – narrow roads, no footpaths; afternoon sun obscures vision; • Suggest access from Byron Bay Road is a safer option; • Drainage and land slip issues associated with springs draining into adjoining land owned by submitters; request retaining wall be incorporated in any development, at the rear of their property. 	<p>See summary above and further assessment below in relation to traffic matters.</p> <p>A geotechnical report was submitted in support of the proposal. It concludes “the assessed Landslide Risk to property is very low”.</p> <p>On the basis of this report the Department of Planning and Environment has advised that the proposal’s inconsistency with s117 Direction 4.2 Mine Subsidence and Unstable Land is justified. This direction would otherwise prevent development of unstable land.</p> <p>A stormwater assessment has also been carried out, demonstrating that a “standard stormwater collection and conveyancing system would be suitable for the proposed development”.</p> <p>At a future development application stage, the design of such a system will need to demonstrate that post-development stormwater flows do not have a detrimental impact on any adjoining land.</p>
<p>KM & LE Saurine</p>	<p>Express concerns regarding the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts. 	<p>See summary above and further assessment below.</p>

9.1 Planning Proposal - Greenwood Place Lennox Head

Michael Brown	<p>Object to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • There is insufficient public infrastructure for the development; • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts, resulting in significant safety issues; • Traffic impacts: intersection of Banksia Ave onto Byron Street is very close to school, is currently very congested; • Congestion: Lennox is attracting more tourists all year round; infrastructure in the village is under strain; • Lots could each support two dwellings, 'worst case' must be considered. 	<p>See comments above regarding strategic planning undertaken in the area.</p> <p>See summary above and further assessment below in relation to traffic issues.</p>
Doris Heslop	<p>Object to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts, resulting in significant safety issues; 	<p>See summary above and further assessment below.</p>
Ray & Pam Levot	<p>Support for 800m² minimum lot size in preference to 600m².</p> <p>Express concerns regarding the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts. 	<p>Noted.</p> <p>See summary above and further assessment below.</p>
Jamie & Robyn Hoile	<p>Object to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts, resulting in significant safety issues; 	<p>See summary above and further assessment below.</p>

9.1 Planning Proposal - Greenwood Place Lennox Head

<p>John Stewart</p>	<p>Support for the proposal. However, access should be from Byron Bay Road (in two separate locations), but without an internal connection to Blue Horizon Dr or Greenwood Pl.</p> <p>Mix of lots sizes should be encouraged, as should smaller houses and habitat gardens.</p>	<p>See traffic/ access assessment below.</p> <p>Council's policies encourage these outcomes.</p>
<p>Letter signed by 81 residents of locality (including some who made individual submissions outlined above).</p>	<p>Object to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Traffic impacts: additional traffic will exacerbate existing pedestrian and vehicle conflicts, resulting in significant safety issues; • Noise: Additional traffic will result in increased noise, particularly associated with vehicles accelerating up Sunrise Crescent and the potential increase in motorcycles; • Noise associated with dogs; • Impacts on wildlife due to increase in cats; • Amenity impacts associated with potential increase in rental properties (renters "less inclined to respect the ambience of the neighbourhood"; • Construction impacts – noise and disturbance. 	<p>See summary above and further assessment below in relation to traffic issues.</p> <p>Further residential subdivision will result in a certain level of increased noise. However, the development facilitated by this rezoning will be low scale and consistent with the residential nature of the locality. There is nothing in the proposal that would suggest it would result in significant or offensive noise.</p> <p>There is nothing in the proposal that would suggest significant impacts associated with cats.</p> <p>The suggestion that people who rent are less socially acceptable than home owners could be seen to be discriminatory, and has no basis in fact. Construction impacts will be temporary.</p>

9.1 Planning Proposal - Greenwood Place Lennox Head

Greg Cooper	<p>Disagrees with the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • No safe pedestrian access; • Current road network is unsafe due to narrow width; • Infrastructure adequacy concerns; • Traffic impact; and • Proposed Lot 18 on edge of the escarpment. 	See summary above and further assessment below.
Roly and Pam Pearce	<p>Disagrees with the planning proposal on the following basis:</p> <ul style="list-style-type: none"> • Sunrise Cres is too narrow to allow safe access for a large volume of traffic that will be generated by the development; • Width further restricted by cars parking on road edge; • None of the feeder streets have footpaths, creating safety risks for pedestrians. 	<p>Traffic issues are addressed in further detail below.</p> <p>In summary, the local road network, including Sunrise Crescent, Greenwood Place and Blue Horizon Drive, has sufficient width and capacity, by reference to applicable standards, to accommodate the existing traffic volumes and the additional volumes anticipated to be generated by future development of the site.</p> <p>In relation to footpaths, a feasible footpath option has been put forward, and is currently being considered for inclusion within Council's Pedestrian Access and Mobility Plan (PAMP).</p> <p>If the footpath option is included in the PAMP, future development of the site can be conditioned to require construction of the first stage of the path.</p>

Assessment

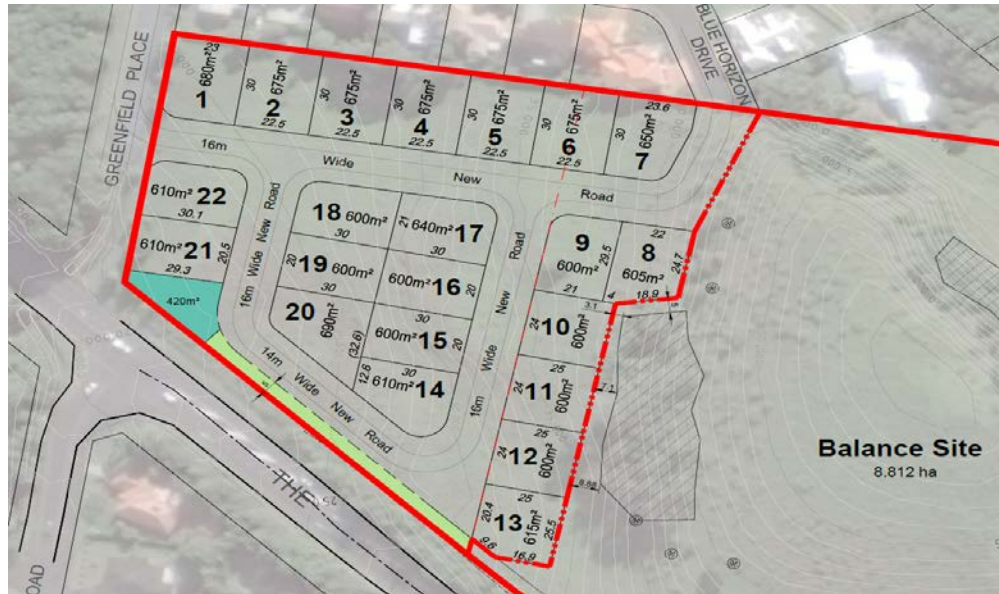
Lot Size

Three subdivision concept plans were submitted in support of the proposed rezoning (see below). These provide a guide as to the style of development that could occur under different minimum lot size for subdivision scenarios.

The first layout provides for a minimum lot size of 600m². This layout contains 21 residential lots, 6 of which are located to the east of the proposed road (Lots 8 to 13) in an area more appropriately used as a buffer to adjoining vegetation and rural uses. A redesign is therefore required to eliminate these lots so as to enable the road to act as the buffer to the adjoining rural use and vegetation.

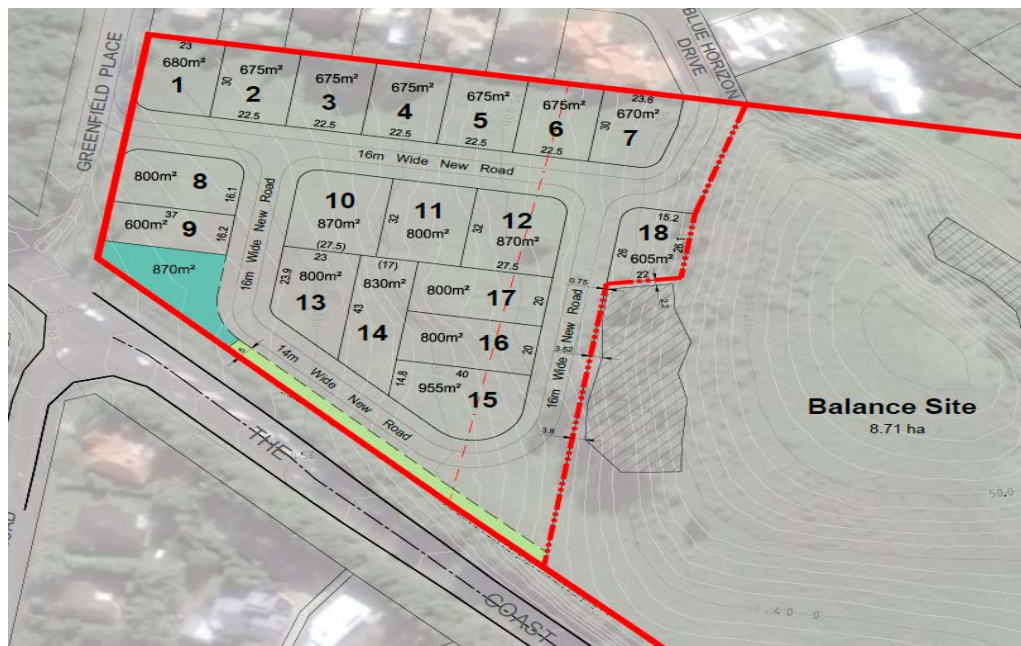
9.1 Planning Proposal - Greenwood Place Lennox Head

Diagram 6 – 600m² Lot Size Subdivision Concept Plan



The second layout provides for a mixed 600m² and 800m² lot layout containing 18 lots. As shown, however, proposed Lot 18 is unlikely to be acceptable, given its proximity to the existing vegetation and adjoining rural uses. It is considered that, given these constraints, there should be no residential lots located east of the access road. A mixed 600m² and 800m² lot layout can be achieved by adopting a minimum lot size of 600m².

Diagram 7 – Mixed 600m² and 800m² Lot Size Subdivision Concept Plan



The third concept plan is based on an 800m² minimum lot size. This plan has resolved the buffer issue to the vegetation and rural land use on the eastern side. The concern with this plan, however, is that it yields only 14 lots from a 2 hectare site or 7 lots per hectare which is well below the 15 lots per hectare nominated as being preferred in Council's adopted Growth Management Strategy for new release areas. It is also below the 10 lots per hectare typical of existing residential areas.

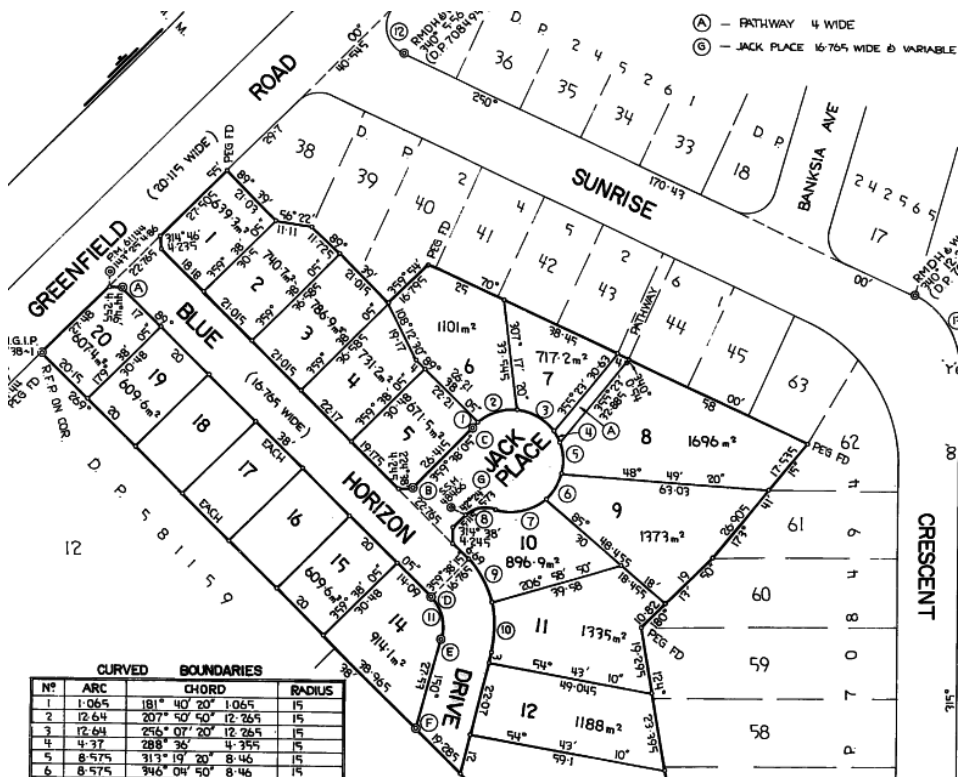
9.1 Planning Proposal - Greenwood Place Lennox Head

Diagram 8 – 800m² Lot Size Subdivision Concept Plan



The extract from the registered subdivision plan of the residential area immediately to the north of the site provides an indication of the lot sizes within this estate which is subject to an 800m² minimum lot size control. The plan shows that there are numerous lots in the immediate area that are within the 600m² range.

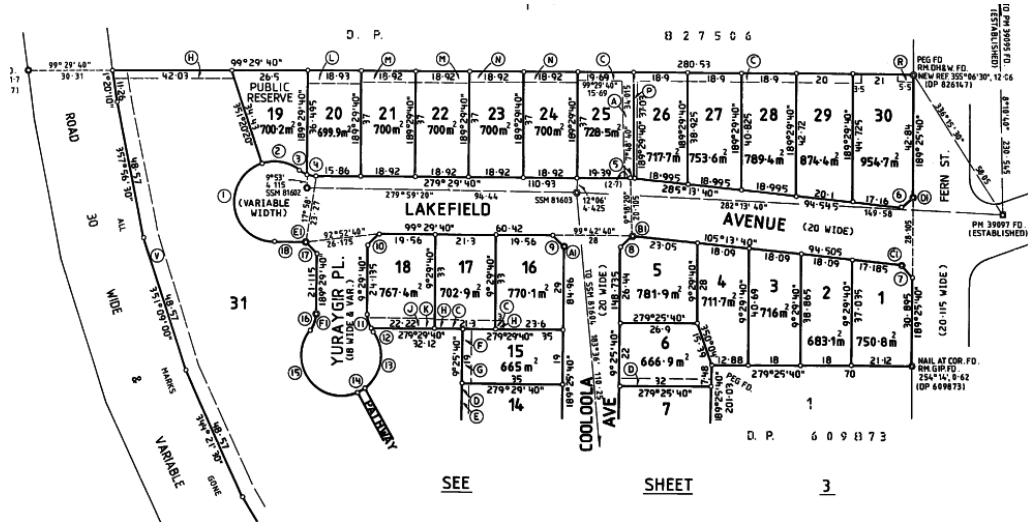
Diagram 9 – Extracted From Deposited Plan (DP) 708494



The Lot Size Map specifies 600m² for the residential area immediately to the west/ north-west of the subject site. The extract from DP 858654 below shows that whilst the minimum lot size is 600m² all lots are well above this minimum standard.

9.1 Planning Proposal - Greenwood Place Lennox Head

Diagram 10 – Extracted From Deposited Plan (DP) 858654



Nominating a 600m² minimum lot size is considered to provide greater flexibility in terms of subdivision design. The lower minimum lot size is also generally consistent with the existing nearby settlement pattern.

Increasing the lot yield is seen as a positive as it better maximises the use of limited land resources in relatively close proximity to established services, as well as being compatible with the adjoining subdivision.

The concept plan that was submitted based on the mixed 600m² and 800m² minimum lot size shows a yield of 18 lots. The traffic assessment above is based on this as a likely yield, with consideration for the potential for further dwellings as a result of secondary dwelling development. It shows that this yield is well within the existing capacity of the road network.

It is considered that a minimum lot size of 600m² on the development site will facilitate a development pattern that is consistent with the surrounding area. As such, the 600m² minimum lot size is supported and recommended.

Traffic Generation / Road Capacity

The local road network of Sunrise Crescent, Greenwood Place and Blue Horizon Drive currently services approximately 54 lots, a number of which contain multiple dwellings.

The *Guide to Traffic Generation* (RTA, 2002) suggests that dwelling houses in new subdivisions where public transport is limited will typically generate 9 vehicle trips per day, with 0.85 weekday peak hour vehicle trips per dwelling.

Based on this standard, the existing residential area would generate approximately:

- 486 daily vehicle trips; and
- 46 weekday peak hour trips.

The development facilitated by the proposed rezoning is likely to yield in the order of 18 residential lots; based on the 600m² minimum lot size; or 14 lots; based on the 800m² minimum. Given the possibility of secondary dwellings, assuming a 'take-up' of around 20% or 4 dwellings; this could yield in the order of 20-22 new dwellings.

These additional dwellings would generate:

- 180-198 additional daily trips; and
- 17-19 additional peak hour trips.

The ultimate traffic generation within the existing road system (existing development and new subdivision) could therefore be a maximum of approximately:

- 684 daily trips; and
- 65 weekday peak hour trips.

The existing roads have a pavement width of 9m. The *Northern Rivers Local Government – Development Specification D1 Geometric Road Design (2013)* indicates that a carriageway width of 7-9m is classified as a *Local Road*, which has a traffic volume capacity of up to 2,000 vehicles per day.

It is considered that the existing road network has sufficient capacity to accept the additional traffic likely to be generated by development at the site.

It is acknowledged that, with cars parked on either sides of these roads, the width is somewhat constrained. The effect of this is to slow local traffic, which is a desirable outcome in a low density residential locality.

In this case the restricted width achieves the traffic slowing, but it is not considered to be restricted to an extent that it impacts on the efficient and safe flow of traffic.

Pedestrian Movement

The majority of submissions received refer to the lack of footpaths within the road networks as a cause for concern. The existing absence of footpaths is not caused by the rezoning and is not a matter that is considered to provide suitable grounds for modifying or impeding the rezoning process.

The proponents have provided a *Footpath Options Report* that examines the existing and anticipated pedestrian movements in the locality.

The report examined pedestrian movement options within the immediate area of the site, accessing the village centre of Lennox Head and Williams Reserve, and included consideration of the pedestrian underpass at the end of Greenwood Place.

The report concluded that two options are available and feasible for providing pedestrian linkages from the Coast Road underpass to connect with the wider network of paths within Lennox Head.

9.1 Planning Proposal - Greenwood Place Lennox Head

Council staff has reviewed the report and the options will be considered within the 2016 review of Council's Pedestrian Access and Mobility Plan (PAMP). The PAMP is on exhibition for community comment until 20 December 2016. Following the assessment of submissions, it is anticipated that it will be reported to Council during the first half of 2017. If the recommended footpath option is included in the PAMP, future development of the site can be conditioned to require construction of the first stage of the path.

Attachment Four contains a copy of the Footpath Options report.

Access from Coast Road

There are practical difficulties associated with considering vehicular access to the site from the Coast Road. More importantly, however, this road has been planned and designed to have no additional direct property access. The existing speed limit near the site is 80 kph, and this would need to be reduced should a further access be considered. The Coast Road is a Classified Road, and Section 75 of the *Roads Act 1993* requires the approval of RMS for a road that connects with a Classified Road.

Overall, there is no traffic planning merit in considering a further road connection to the Coast Road in this location.

Options

Option 1: Finalise the Planning Proposal

This is the recommended option. The planning proposal as exhibited has been the subject of extensive investigation which has included an independent review of technical reports.

It is considered that the planning proposal, which applies an R2 zoning regime to the site, together with a 600m² minimum lot size, has merit. This is the recommended approach to minimum lot size.

However, on the basis of the exhibited planning proposal it is also open to the Council to resolve to finalise the planning proposal and nominate a minimum lot size of 800m² for this site.

Finalisation of the planning proposal would include updating the planning proposal documentation to reflect the outcomes of the public exhibition process and Council's decision(s) regarding the composition of the amendment.

As indicated above, it is also recommended that Council exercise the authority granted by the Department of Planning and proceed to finalise the planning proposal under delegated authority.

Option 2: Discontinue the Planning Proposal

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

This option is not recommended. The planning proposal is consistent with local and State Government planning policy and has generated significant investigation into site constraints. Constraints which have been investigated have included traffic impacts, visual amenity and site ecology. On assessment, there are no outstanding matters identified as a basis for discontinuation of the proposal.

Option 3: Defer the Planning Proposal

The Council may wish to defer the finalisation of the planning proposal pending further investigation in relation to traffic safety impacts or any other issue.

Given the extent of investigation undertaken, that the rezoning will facilitate a development potential of less than 20 residential lots; that the total traffic generation will remain well within the technical capacity of the local road system; and that options are available to implement pedestrian paths in the area, this option is not recommended.

RECOMMENDATIONS

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to rezone Lot 12 DP 581159 and part Lot 21 DP 1007134, Greenwood Place, Lennox Head, to facilitate future residential development, as detailed in Planning Proposal BSCPP 15/004.
2. That, in amending the Minimum Lot Size Map in relation to this site, Council endorses a minimum lot size of 600m².
3. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 15/004 under delegated authority.

Attachment(s)

1. Attachment One - Gap Analysis Report
2. Attachment Two - Planning Proposal (As Exhibited)
3. Attachment Three - Submissions
4. Attachment Four - Footpath Options Report

9.2 DCP Amendment - 16 Tara Downs, Lennox Head

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition of a draft amendment to the Ballina Shire Development Control Plan 2012 relating to the future development of No. 16 Tara Downs, Lennox Head and seek direction in relation to the adoption of the recommended amendments.

Background

The Council, at its Ordinary Meeting held on 23 June 2016 considered a report dealing with the proposed rezoning of the rear section of Lot 12 DP 813210 (Lot 12) No. 16 Tara Downs, Lennox Head, from a rural zone to an R2 Low Density Residential zone under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). This report was prepared following the public exhibition of the planning proposal. In considering the proposed LEP amendment, the Council resolved as follows [Minute No 230616/1]:

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

The draft amendments to Chapter 4 Residential and Tourist Development Ballina Shire Development Control Plan 2012 (draft DCP amendment) were subsequently exhibited for community feedback, with no submissions being received. This report deals only with the matters relating to the adoption of the DCP amendment.

The Council has already authorised the General Manager to finalise the planning proposal under delegated authority, subject to certain payments being made by the proponent. In this respect the proponent has paid a total of \$20,000 plus GST for the preparation of a Vegetation Management Plan and associated planting. This, in conjunction with the exhibition of the DCP amendment, enables the finalisation of the rezoning process.

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

Diagram 1 – Site Plan



Key Issues

- Consideration of the outcomes of the public exhibition process.
- Finalisation of the DCP amendment.

Information

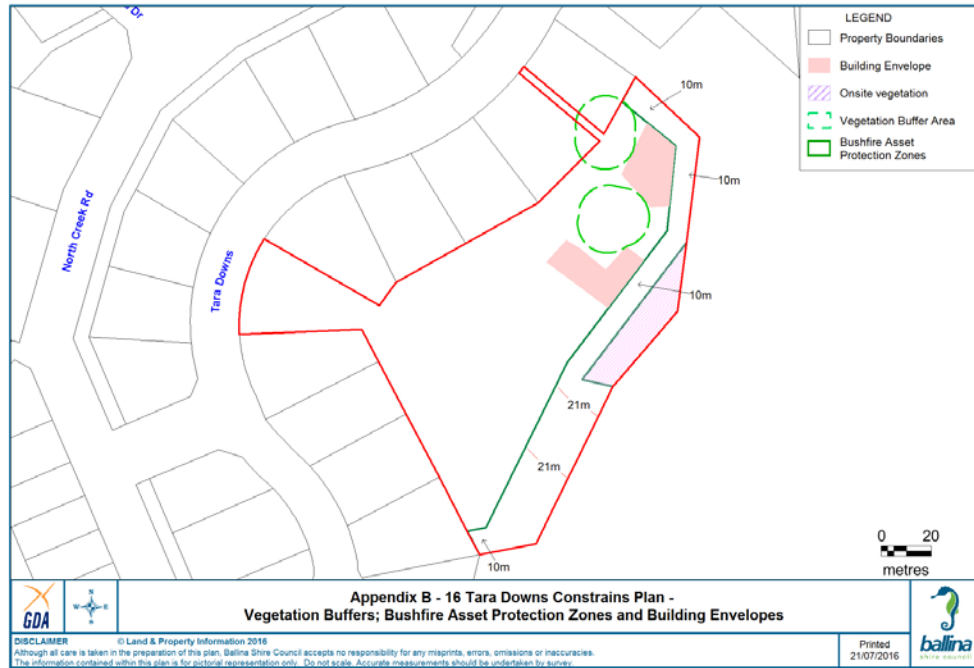
Details of the issues proposed to be addressed by the draft DCP amendment were reported to the Council at its Ordinary Meeting held on 23 June 2016. The draft DCP amendment proposes to introduce special area controls within Chapter 4 – Residential and Tourist Development which relate to the future development of No. 16 Tara Downs, Lennox Head. Specifically these controls propose to:

- Provide for vegetation buffers to significant vegetation located on the site;
- Provide for bushfire asset protection zones; and
- Provide for the location of indicative building envelopes for dwellings impacted by vegetation buffers and bushfire asset protection zones.

Attachment One to this report contains a copy of the draft DCP amendments as publically exhibited.

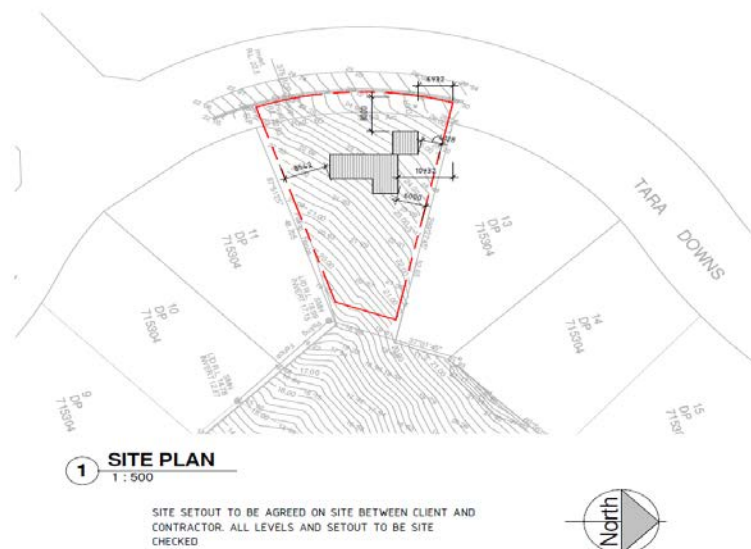
The Site Constraints Plan which formed a part of the draft DCP amendments is reproduced below:

Diagram 2 – Site Constraints Plan



Although it does not change the rationale for the proposed DCP amendments, it is noteworthy that a contract for the sale of No. 16 Tara Downs has been entered into and a development application has been submitted in October 2016 for the erection of a storage shed and dwelling on the land. The dwelling is proposed to become a secondary dwelling upon the main dwelling being built in future. The plan below shows the site plan submitted with DA 2016/570.

Diagram 3 – Site Plan DA 2016/570



Sustainability Considerations

- **Environment**

The adoption of the draft DCP amendments will provide Council with greater opportunity to secure the retention of significant vegetation located on this site. Delineating indicative building envelopes and buffer areas within the DCP also signals Council's intentions to future developers of this land that the nominated areas are unsuitable for building purposes.

- **Social**

Not Applicable

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

The preparation of the draft DCP amendment has been undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the associated Regulation. The amendment can be completed and implemented within existing available staff and financial resources.

Clause 21(1) of the *Environmental Planning and Assessment Regulation 2000* sets out the process applicable once Council has considered submissions. Clause 21(1) is reproduced below:

21 Approval of development control plans

(1) *After considering any submissions about the draft development control plan that have been duly made, the council:*

- (a) *may approve the plan in the form in which it was publicly exhibited, or*
- (b) *may approve the plan with such alterations as the council thinks fit, or*
- (c) *may decide not to proceed with the plan.*

In assessing the issues of planning relevance to this particular property, staff has given consideration to an option of proposing a Restriction as to User being applied to the land title under the Conveyancing Act. This would be intended to alert potential purchasers to the need to adhere to the suggested building envelopes on parts of the site and to acknowledge the identified bushfire asset protection zone (refer to Diagram 2 above). On balance however, this is thought unnecessary as specific proposals can be assessed and determined if and when a future development application for subdivision of the land is submitted.

Consultation

The draft DCP amendment was publically exhibited from 27 July 2016 until 2 September 2016. The exhibition process consisted of an advertisement in the Ballina Shire Advocate and documents being displayed in Council's Customer Service Centre, our libraries and on Council's web site. In addition, persons who previously made submissions (2) in respect to the exhibited planning proposal, being the prior rezoning proposal, as well as 42 property owners in Tara Downs and on adjacent and nearby properties, were notified in writing.

In response to the public exhibition process no submissions have been received.

Options

1. Adopt and implement the amendment to Chapter 4 Ballina DCP 2012 as exhibited.

This is the recommended option. The draft DCP amendments will introduce provisions within Chapter 4 of Ballina Shire Development Control Plan 2012 designed to address the location of future buildings on the rear of the subject site, once rezoned, in line with the identified characteristics of the site. Incorporation of these provisions also acts to increase transparency relating to the location of buffer areas and bushfire asset protection zones.

2. Decline the adoption of the amendment to Chapter 4 Ballina DCP 2012.

This option is not supported as it reduces the ability of Council (and other planning authorities) to influence the location of future buildings on the subject land and does not align with the envisaged outcomes of the rezoning process.

3. Defer adoption of the amendment to Chapter 4 Ballina DCP 2012.

It is always open to the Council to defer the adoption of the proposed DCP amendments should additional information be required. However, given the circumstances, this option is not recommended in this case.

RECOMMENDATIONS

1. That Council adopts the draft amendment to Chapter 4 of the Ballina Shire Development Control Plan 2012 relating to No. 16 Tara Downs Lennox Head as exhibited.
2. That Council provides public notice of the adoption of the DCP amendment for No. 16 Tara Downs Lennox Head with the amendment taking effect from 12 December 2016.

Attachment(s)

1. Attachment One - Exhibited Draft Amendments Chapter 4 Ballina Shire DCP 2012

9.3 Contributions Plan - Open Spaces and Community Facilities

9.3 Contributions Plan - Open Spaces and Community Facilities

Delivery Program Strategic Planning

Objective To present to the Council the outcomes of the recent public exhibition process relating to a draft developer contributions plan for the provision and embellishment of open space and community facilities in Ballina Shire.

Background

The Ballina Shire Contributions Plan (2008) is the instrument which authorizes Council's collection of monetary contributions from residential and tourist developments in all parts of the shire towards the provision and embellishment of open space and community facilities. It also provides for contributions from development in the Wollongbar Urban Expansion Area for various road and access infrastructure. The plan became operational on 1 November 2008.

To promote good governance and the public interest, developer contributions plans (also known as s94 plans) are subject to regular review in order to:

- monitor development trends and income received by the plan
- ensure that contributions rates reflect actual costs incurred by the plan; and
- enable alteration to the works schedule if development rates differ from original expectations and to reflect completed initiatives.

The Ballina Shire Contributions Plan has been recently reviewed having regard for the above. Upon its adoption, the new plan will supersede the current plan. The draft contributions plan was presented to the elected Council at its Ordinary Meeting held on 25 August 2016 for endorsement for public exhibition. On that occasion the Council resolved as follows (Minute No. 250816/14):

1. *That Council authorises the draft Ballina Shire Open Space and Community Facilities Contributions Plan 2016 for the purpose of public exhibition in accordance with relevant provisions of the Environmental Planning and Assessment Act 1979 and associated Regulation.*
2. *Following the conclusion of the public exhibition, the matter be presented to the elected Council for further consideration, including the consideration of submissions received during the exhibition period.*

The draft contributions plan was publicly exhibited for a period of 30 days between 14 September 2016 and 14 October 2016, in accordance with the Council's resolution. The purpose of this report is to present the outcomes of the public exhibition process and seek the Council's direction on the adoption of the contributions plan for open spaces and community facilities.

Key Issues

- Delivery and funding of community infrastructure.
- Public exhibition process.

Information

Preparation of the draft Open Space and Community Facilities Contributions Plan 2016 has involved a review of the works schedule of the current contributions plan to remove items that have been delivered and costs fully recouped, identify items for which recoupment of costs remains to be completed, update cost schedules and include additional items of infrastructure identified as being required to meet the future needs of the shire community.

Council engaged the services of a contributions plan consultant (Greg New of GLN Planning) to assist in the drafting of the plan.

The works schedule contained in Appendix A of the draft plan identifies the items of infrastructure to be funded and delivered through the operation of the plan (i.e. via contributions from developers).

The key differences in the draft plan from the current plan include the removal of 'performance space' for Ballina and additional playing fields on the Barrett Land in Lennox Head, on the basis that these facilities will not be required over the life of the new plan.

The draft plan also withdraws from collection of contributions for childcare (or preschool facilities) as there is a lack of strategic information as to where these facilities will be located.

Additionally, the scope and cost of the indoor sports complex for the shire have been adjusted to align with the Council's revised approach for the delivery of this facility.

In addition, several items have been added to the plan, including expansion of library facilities and the delivery of foreshore embellishment works (around Kingsford Smith Drive and the Serpentine, in Ballina) as identified in the Ballina Major Regional Centre Strategy project.

The works schedule under the new plan has also been updated to revise cost estimates for future works and address completed works (in relation to either recoupment of costs or removal from the works plan).

Further, the revision of the plan seeks to standardise the rate of contributions charged within the shire's various localities, with the exception of Cumbalum Precinct A and Precinct B where other contribution arrangements have been put in place.

Future development within the Cumbalum locality will be subject to the Cumbalum Precinct A Contributions Plan or Cumbalum Precinct B Voluntary Planning Agreement. Development within Precinct A and B will, however, be

9.3 Contributions Plan - Open Spaces and Community Facilities

subject to monetary contributions as per the Draft Open Space and Community Facilities Contribution Plan for regional level facilities.

The draft contributions plan has been publicly exhibited in accordance with the *Environmental Planning and Assessment Act 1979* and associated *Regulation*. No submissions were received regarding the draft contributions plan.

The need for a number of minor corrections has been identified by staff during the public exhibition period. These corrections relate to the cost of works and apportionment amounts relating to item 23 (Lennox Head Community Hall).

As a consequence, the following corrections have been made to the draft plan:

- Amend the value shown for item 23 (Lennox Head Community Hall) in the works schedule to be \$1,980,000 instead of \$550,440.
- Amend the last paragraph of section 3.2.5, so that the total cost of all the works is \$6.47 million instead of \$5.04 million. Consequently, the effective cost apportionment rate applicable to new development is 44% instead of 56%.
- In Table 1, amend the total amount for 'Multi-purpose community centres and meeting halls' to be \$6,470,000 instead of \$5,040,440.

The corrected version of the draft contributions plan for open spaces and community facilities is provided as attachment one to this report.

Sustainability Considerations

- **Environment**

The delivery of items identified in the draft contributions plan include works that will result in the improvement to the environment, including access to and embellishment of public open space.

- **Social**

The delivery of items identified in the draft contributions plan include social infrastructure that will provide direct and indirect social benefits for the residents of, and visitors to, Ballina Shire.

- **Economic**

The delivery of items identified in the draft contributions plan will provide economic benefits for the businesses operating in the shire, through the provision of economic opportunities and increasing attractiveness of Ballina Shire for workers and businesses.

Legal / Resource / Financial Implications

The revised contributions plan for open space and community facilities enables Council to collect monetary contributions (and set conditions for the delivery of works-in-kind) towards infrastructure required to meet increased demands that are brought about by development having regard for current circumstances.

Depending on the nature of the infrastructure delivered, the draft plan enables Council to levy contributions from developers of between 17% and 100% of the cost of the infrastructure. The total cost of works identified in the plan is approximately \$54.8 million, of which \$22.5 million can be levied on future development.

Having regard for this, the developer contributions plan is a critical component of the ongoing provision of open space and community infrastructure in the shire. Importantly, the delivery of items under the plan will require the commitment of funds by Council from other sources (including grants).

With respect to application of the revised plan (if adopted), it would not be implemented retrospectively. That is, development approvals which have been granted prior to the date of commencement of the new plan will continue to be subject to contributions requirements applying under the 2008 plan.

Consultation

The draft Ballina Shire Open Space and Community Facilities Contributions Plan 2016 was exhibited for community comment between 14 September and 14 October 2016 in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and associated Regulation.

No submissions were received in response to the exhibition of the draft plan.

Options

The following options are available with respect to this matter:

1. That Council resolves to adopt the draft Ballina Shire Open Space and Community Facilities Contributions Plan 2016 in accordance with relevant provisions of the *Environmental Planning and Assessment Act 1979* and associated *Regulation*, incorporating the following amendments:
 - Amend the value shown for item 23 (Lennox Head Community Hall) in the works schedule to be \$1,980,000 instead of \$550,440.
 - Amend the last paragraph of section 3.2.5, so that the total cost of all the works is \$6.47 million instead of \$5.04 million. Consequently, the effective cost apportionment rate applicable to new development is 44% instead of 56%.
 - In Table 1, amend the total amount for 'Multi-purpose community centres and meeting halls' to be \$6,470,000 instead of \$5,040,440.

In addition to the above, other minor typographic corrections will also be made.

This option is recommended on the basis that the draft contributions plan, including the schedule of proposed works, has been drafted to reflect the infrastructure needs identified by Council, through analysis of open space and community facility provision in the shire and previous community engagement activities.

9.3 Contributions Plan - Open Spaces and Community Facilities

Regular review of important Council plans of this kind represents good governance practice in terms of promoting transparency and accountability.

Under this approach, the plan will take effect in December 2016 upon public notice of its adoption being given.

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

This option is not recommended on the basis that the draft contributions plan reflects the statutory requirements associated with the preparation of such plans, and that the works schedule reflects the infrastructure demands anticipated for the life of the plan, within the Council's capacity to deliver such infrastructure.

Nevertheless, this option is available to the Council if further consideration of this matter is desired.

3. That Council cease preparation of a revised contributions plan for open space and community facilities.

This option is not recommended on the basis that the administration of the plan will benefit from updating of planned infrastructure and cost estimates detailed in the work schedule (including the recoument for completed works).

RECOMMENDATION

That Council adopts the draft Ballina Shire Open Space and Community Facilities Contributions Plan 2016 (as contained in Attachment One) in accordance with relevant provisions of the *Environmental Planning and Assessment Act 1979* and associated Regulation, incorporating the following amendments:

- Amend the value shown for item 23 (Lennox Head Community Hall) in the works schedule to be \$1,980,000 instead of \$550,440.
- Amend the last paragraph of section 3.2.5, so that the total cost of all the works is \$6.47 million instead of \$5.04 million. Consequently, the effective cost apportionment rate applicable to new development is 44% instead of 56%.
- In Table 1, amend the total amount for 'Multi-purpose community centres and meeting halls' to be \$6,470,000 instead of \$5,040,440.

Attachment(s)

1. Ballina Shire Open Space and Community Facilities Contributions Plan 2016 (Under separate cover)

9.4 West End Hall - Condition and Tenure Arrangements

9.4 West End Hall - Condition and Tenure Arrangements

Delivery Program Community Facilities and Services

Objective To update the Council concerning the current condition and tenure of the West End Hall in Ballina.

Background

The West End Hall is a Council owned facility located at No 3 Brunswick Street, Ballina. The hall is quite small, having a floor area of around 90m², with a seating capacity for up to 40 people. The allotment which the hall occupies contains an area of 208.7m².



The hall was acquired by the Council of the Municipality of Ballina from Mr and Mrs Bax for the sum of £300 in May 1960.

The land was acquired on behalf of, or at the request of, the West End Progress Association. There are no records within Council of occupation, use or management during that period.

The current lessees, Ballina Lions Club, took occupation of the premises in 1987, according to its webpage.

The purpose of this report is provide an update on the current condition of the hall and the tenure arrangements.

Key Issues

- Condition of the asset
- Costs to repair and maintain the asset

Information

The Ballina Lions Club has managed the West End Hall since 1987 as an affordable, highly utilised community hall. In addition to the community services and charitable activities undertaken by the Ballina Lions Club in the shire, the group also manages bookings for casual hire of the hall.

The hall is currently used by a number of community groups on a regular basis, including:

- East Ballina Lions
- Ballina Lions
- Ballina Kings Lioness
- Church of Christ
- Northern Rivers Community Fund
- Yoga

9.4 West End Hall - Condition and Tenure Arrangements

- Square Dancing
- Australian Boating
- Patch Work Class

The Lions Club advises that it typically generates approximately \$5,700 per year of hire fees.

Asset Condition, Repair and Maintenance

An Asset Condition Report was compiled in April 2016. Key findings of this report were:

High Priority	Medium Priority	Low Priority
<ul style="list-style-type: none">• Trip hazards• Replace external cladding• Replace toilet doors• Install smoke detectors	<ul style="list-style-type: none">• Replace rotted architraves and fascia boards• Replace down pipes• Repaint complete exterior• Finish off internal linings• Repair sensor light	<ul style="list-style-type: none">• Modify for accessibility• Repaint interior• Replace rusted extension roof
\$8,000	\$5,000	\$5,000

The report also identified “flooding in significant weather events and king tides”.

The initial assessment is that it is unlikely that the current water inundation issues could be resolved without the demolition and reconstruction of the building on elevated foundations; however further investigations are required to determine if this is indeed the case.

As the total maintenance budget for all seven Council owned halls in 2016/17 is \$10,000, it is considered unwise to allocate any of these limited resources to the West End Hall until further investigations concerning the facility are undertaken.

Fit for Purpose Determination

The above priorities are determined based on the structural and maintenance condition of an asset. They do not take into consideration whether the building is “fit for purpose” as a community facility. “Fit for purpose” determines that the condition of an asset is safe and appropriate for occupation.

Priorities for maintenance and capital work are based on the suitability of that asset for occupation by the lease holder for their specific activities.

In the case of the West End Hall the fact that the building has no disabled access or accessible amenities, and is susceptible to flooding, are significant constraints for the ongoing safe occupation and use of the building.

9.4 West End Hall - Condition and Tenure Arrangements

Significant Wet Weather Events and King Tides

The West End Hall occupies a low set allotment on Brunswick Street, being approximately 0.3m lower than the neighbouring properties; with small retaining walls in place on the boundary of the property creating an enclosed yard that captures water and drives it in into the building, which sits level with the ground within the yard.

This has resulted in a number of flooding events to the building over the course of its history.

Most recently, the West End Hall sustained water entry on 4 June 2016, requiring the removal of damaged carpet. Following this event it was identified that there is an increased likelihood of water entry during future wet weather events, due to improvements to the surrounding streets in recent years that increase the movement of storm water flows from River Street to the Richmond River, via Brunswick Street.

Asbestos

The West End Hall has been identified as having a “medium” presence of asbestos, meaning that there is the potential for an incident to occur and the removal of asbestos is required.

Lease

The most recent wet weather incident coincided with the lease of the hall being due for renewal. The issues identified with the building, particularly that it is most likely deemed not fit for purpose, have resulted in a staff assessment that a new lease should not be offered while the ongoing maintenance issues are considered.

The Lions Club has been offered continuing tenure by use of the holding over period contained in the existing lease until the issues raised in this report have been resolved.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The West End Hall is an important facility for a number of key community groups and services that contribute significantly to the Ballina community. Anecdotally, the hall is well loved by the Lions Club and it is proud of its achievements in operating the hall over the last three and a half decades, as well as fundraising and coordinating its maintenance and upkeep.
- **Economic**
West End Hall currently generates revenue of approximately \$480 per month from hall hire. The hire fees are determined by the Lions Club on a case by case basis, apparently ranging from \$2.40 to \$7.14 per hour.

9.4 West End Hall - Condition and Tenure Arrangements

Comparatively, Council managed community spaces of a similar size have a minimum hourly charge of \$15. Representatives of the Lions Club have expressed that the hall is offered at a reasonable cost to many small groups who cannot afford the cost of larger or more modern facilities.

Legal / Resource / Financial Implications

The current lease between Council and the Ballina Lions Club has entered a holding over provision awaiting further Council direction, with no legal implications identified at this time.

With respect to the question of what future options Council has for the property in question; the site is currently classified as Council Operational Land for the purpose of the Local Government Act 1993. Council is able to retain, repurpose or sell the land without any legal identifiable obstacles/impediment.

Consultation

Staff met with the West End Hall Committee/Ballina Lions Executive in June 2016 to discuss:

- Maintenance and lease issues; thoughts on future use; possible short-term alternative arrangements for the Ballina Lions Club and its casual hirers; and preferred long-term resolution. The Ballina Lions Club was made aware that any aspiration to renovate/rebuild/raise the hall would most likely be a very costly exercise.
- The Ballina Lions Executive expressed gratitude for the assistance offered and are currently awaiting Council resolution on waiving and discounting venue fees and charges to enable the Lions Club and other hall users to relocate to Council's Community Spaces venues, ahead of other considerations for the longer term.
- In the intervening period, the Ballina Lions Club Executive has met with its club members to discuss these proposals and has provided written correspondence (see attached letter) expressing a preference of the current club membership to retain permanent occupation and to stay in the same location, and has offered to work with Council to improve the building to enable this to happen.

Options

As the current lease should not be renewed the immediate concern for the club and casual hirers of the facility is the need to access a suitable, safe and fit for purpose venue to undertake their regular meetings and activities.

Community Facilities staff has proposed to the club that one option would be for Council to accommodate all current users in our existing Community Spaces venues; namely the Kentwell Community Centre, Jingi Wahla Rooms: Ballina Surf Club, or the Richmond Room.

9.4 West End Hall - Condition and Tenure Arrangements

The preferred venue options for each user group can all be accommodated without impacting on existing users or bookings.

It is considered reasonable in this instance to allow the existing hall users to access these other venues at the same rate of hire that they currently pay at the West End Hall for a set period of time, given that the adjustment to Council's standard Fees and Charges would be a significant increase in costs and may result in cessation of some groups.

If standard fees and charges were applied to these relocated bookings the combined total sum would be in the order of \$2,000 per month. The current income of the West End Hall is approximately \$480-\$500 per month.

Under this proposal this second amount would become payable to Council as room hire income.

As the Ballina Lions Club does not currently pay for use of the West End Hall, it is proposed that Council allow it to access Community Spaces venues, to the same frequency, at no cost until such time as the longer-term solution for the West End Hall is determined.

Precedence for this arrangement exists at the Lennox Head CWA Hall. When operational management of that facility was transferred to Council last year the existing CWA Branch was provided cost-free ongoing use for its weekly meetings in recognition of its significant contribution to community and custodianship of the asset over the preceding decades.

These arrangements for the club and other hirers would be put in place while Council determines the full scope of ongoing issues requiring attention at the West End Hall.

As outlined, investigations need to be undertaken to more accurately determine the scope of works that would be required to address the overarching issues with the property before investing significant resources into repairs.

The range of options for consideration includes renovation, reconstruction or disposal of the property. These investigations would then be reported back to the Council for determination.

Although the Ballina Lions Club has been a diligent and responsible custodian of the West End Hall in the past, and has indicated a preference to stay in the existing building in the current location, Council has no legal obligation to continue this arrangement past the end of the current lease.

Given the poor condition of the building, there are few options currently available to Council, beyond that which is recommended.

In relation to the recommended arrangements for the relocation of the club and the hall's casual hirers, these measures are seen as a gesture of "good faith" on the part of Council whilst the matter is further considered.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding the condition of the West End Hall.
2. That, for a maximum period of twelve months, Council waives the applicable hire charges of \$150 per month for the Ballina Lions Club to access the Richmond Room, to enable continuation of its monthly meetings.
3. That, for a maximum period of twelve months, Council approves the current users of the West End Hall to hire Council's Community Spaces venues, at their existing rate of hire for the West End Hall.
4. That Council, as a high priority, receive a report on the range of options for the future use of the West End Hall.

Attachment(s)

1. Ballina Lions - Future of West End Hall, Ballina

9.5 Alstonville Leisure and Entertainment Centre - Operations

9.5 Alstonville Leisure and Entertainment Centre - Operations

Delivery Program Community Facilities and Services

Objective To provide the Council with an overview of the Alstonville Leisure and Entertainment Centre, and options for its future management.

Background

The Council, at its Ordinary Meeting held on 26 May 2016 resolved as follows:

That Council receives a report on the long term options on the operation of the Alstonville Leisure and Entertainment Centre (Minute No. 260516/18).

This report provides an overview of the facilities and the current management arrangements for the Alstonville Leisure and Entertainment Centre (ALEC).

A separate report contained in the confidential section of this business agenda provides additional contractual and confidential details on the operation of the ALEC.

That further report is presented on a confidential basis as it contains information, which is subject to legal privilege. It also contains the terms of the current management contract between Council and the centre manager, Bond Management Pty Ltd.

Key Issues

- Efficient and effective administration of Council's community assets
- Range of management options available

Information

The ALEC is a Council owned facility located in Commercial Road, Alstonville. The land was purchased from private land owners Robert Scott, Lindsay Ewing, Francis Daly, Frederick Cook and Oswald Johnston for an amount of \$1 on 8 July 1982 under the provision "*that the Transferee will erect on the land hereby transferred a multi-purpose building to be known as the 'Alstonville Community Centre'*".

In addition to acknowledging its responsibility to build a community centre on the land the Council agreed that it would ensure the Alstonville Agricultural Society Incorporated (being the owner of the adjoining Alstonville Showground) would continue to have a role in the ongoing management and use of the facility.

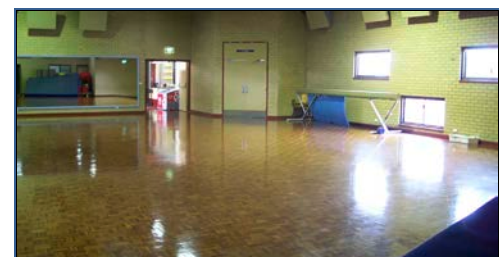
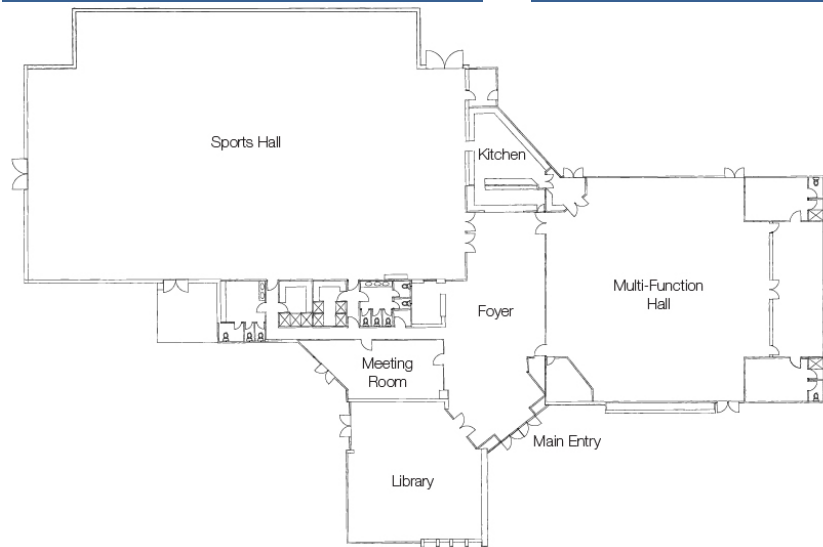
The Centre was constructed in 1982 and managed by Council until 1994. Between 1994 and 2000 the Centre was managed under contract by two separate companies, Tillwater Sports Pty Ltd (1994 – 1997) and Enterprise Redback Pty Ltd (1997 – 2000).

9.5 Alstonville Leisure and Entertainment Centre - Operations

In August of 2000 Bond Management Pty Ltd commenced its first contract period with Council, with renewals occurring in 2003, 2005 and, most recently, 2013.

Configuration of the Centre

The Centre is comprised of the following venue spaces:



- A two-court indoor Sports Hall.

- The Multi-function Hall roughly equal in size to double that of the Richmond Room



- A small Meeting Room

9.5 Alstonville Leisure and Entertainment Centre - Operations

The Centre also contains the Alstonville Public Library; being the responsibility of Council but managed under the Richmond Tweed Regional Library (RTRL) agreement.

The Centre is a significant community asset of Council and, despite being somewhat dated due to its age (34 years), it remains in reasonably good condition.

The current management contract commenced in 2013 and is due to expire in March 2018, though Council has discretion to grant a further five year extension. Until 2013 the terms of the arrangement allowed Bond Management to collect and keep all income from room hire, in addition to its management retainer. The situation changed in 2013 when the current management contract commenced.

The last time that the ALEC management services were tendered was in December 2012. The Council contemplated terminating contract services at ALEC in preference for the property being operated by Council's Community Facilities team, which at that time was beginning implementation of the centralised venue booking and management system that is now known as *Community Spaces*.

This team currently manages the daily operations of the Ballina Surf Club, Kentwell Community Centre, Lennox Community Centre and the Richmond Room.

To assist with the tender considerations, a report was presented to the Council identifying that there was little financial difference between the two options (Council management and the tendered figure for contract management); however there would be greater operational control to Council in directly managing the service.

The benefit of operating a facility by Council staff is that it increases the flexibility available to Council as changes to operating hours, services etc can be determined solely by Council. In a contract arrangement both Council and the contractor need to agree.

With staff operating ALEC ideas such as the provision of tourism services, Council front counter services etc can be more actively pursued than what may be the case with a contractor.

The report also acknowledged that the Community Facilities Team was busy with the initial establishment phase of operating the (at that time) new Lennox Community Centre and that the preference was for staff to focus on maximising the use of that building for the ensuing period.

The adopted recommendations from that December 2012 report were:

- 1. That in respect to the tender for the Management of the Alstonville Leisure and Entertainment Centre (ALEC) (RFT 633) Council resolves that it will not be accepting any tender submitted as the tender proposals were not considered to be of a significant benefit to the community to justify the five year term proposed.*
- 2. Council also resolves not to call any fresh tenders as there was a limited response to the initial tender and it is unlikely Council will receive any further responses by conducting a further tender process.*

3. *The General Manager is therefore authorised to negotiate a contract for the provision of management services for ALEC to Bond Management Pty. Ltd, being the incumbent contractor, based on the terms and conditions outlined in their tender submission, subject to the contract being for a maximum period of three years, with a three year option to Council. The three year period will allow Council to assess the performance of the contractor and benchmark that performance against Council's management of its own community facilities.*
4. *That Council authorises the Council seal to be attached to the contract documents.*

The contract that was ultimately negotiated following this resolution was a five year contract (April 2013 – March 2018), with an additional five year option at Council's discretion. The increased contract length was determined through an agreement that Bond Management would contribute improvements to the Centre's infrastructure.

Library Needs and Operations

The Alstonville Public Library is located within the Centre and has outgrown its allocated space. Expansion or relocation of the library has been identified as a real need through consultation with RTRL, Ballina Libraries Management and the Ballina Friends of the Library group.

In 2015 renovations were made to the external area onto which the library opens, with new doors, an extended patio roof and new soft furnishings, in order to make some space for activities such as Children's Story Time and Book Club meetings. These activities are weather dependent and cannot be accommodated in the current library space, which is confined and cramped.

Regular 'weeding' of resources helps to keep the space manageable, however this works against the needs of the changing population of the area that is seeking additional service, not less. Additionally, the current library design does not contain any back office space for the library staff to process administrative tasks, such as banking, or have privacy during lunchbreaks.

Other Community Needs

The Alstonville area does not currently have any Council managed accessible meeting rooms. Whilst there is provision for a small meeting space within ALEC, it is a largely an unused and unattractive space. Other meeting rooms do exist within the wider community, however they are privately managed.

The provision of a quality meeting space at the ALEC would allow Community Facilities staff to direct enquiries for Alstonville-based groups to that venue; possibly alleviating some demand for Ballina-based facilities, such as the Kentwell Community Centre.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Council provides community infrastructure to support the social, cultural and recreational needs of shire residents.
- **Economic**
Council's aim is to operate community facilities within which a range of services are delivered or offered at least cost to our residents.

Legal / Resource / Financial Implications

The facility operates at a net cost to Council of approximately \$170,000 per annum excluding depreciation. Council also has a contractual agreement with Bond Management in respect to the management of the facility.

Consultation

No community engagement has been undertaken in relation to this matter.

Options

The options available for the management of the ALEC beyond the existing contract period are discussed in the separate report in this business agenda. Otherwise, this report is for noting only.

RECOMMENDATION

That Council notes the contents of this report regarding the management and operation of the Alstonville Leisure and Entertainment Centre.

Attachment(s)

Nil

9.6 Lennox Head Community Market - Operation and Location

9.6 Lennox Head Community Market - Operation and Location

Delivery Program Community Facilities and Services

Objective To respond to a Council request for further information concerning the operation of the monthly Lennox Head Community Market.

Background

The Council, at its Ordinary Meeting held on 23 June 2016, considered a Notice of Motion which read as follows:

That Council receive a report on options for the location of the Lennox Head Market to improve the overall viability and atmosphere of the markets.

The Notice of Motion was adopted by the Council.

The Council, at its Ordinary Meeting held on 26 May 2016 also considered a Mayoral Minute, as follows:

On completion of all works associated with the foreshore upgrade plan, (including the southern precinct) that the operators of the Lennox Head Market be given approval for a twelve month trial to operate the monthly market back on the eastern side of Lake Ainsworth.

The Mayoral Minute was lost.

The following report seeks to provide information which may assist the Council to come to a preferred position regarding a market venue.

Key Issues

- Location options
- Benefits and costs

Information

The preferred site for the operation of a market in Lennox Head has been a vexing issue for both the local community and Council for a considerable period. Market stall holders have understandably been ready to express views about preferred venues for the market's operation, given their direct financial interest in the matter.

Since its inception, the Lennox Head market had operated within the public reserve along the eastern and southern foreshores of Lake Ainsworth, and had a reputation as being one of the most popular community markets on the 'regional circuit' (others including The Channon, Byron Bay and Bangalow).

During the December 2012/January 2013 holiday period the public reserve on the eastern side of Lake Ainsworth was unable to be used for the market as it was flooded.

9.6 Lennox Head Community Market - Operation and Location

During this period, to enable its continuity, the market was transferred to Williams Reserve and within the Lennox Head Cultural and Community Centre (LHCCC) which at that time had only recently been completed.

Council has also previously authorized trials of the market being held in the Lennox Head business area, being on Ballina Street and the adjacent foreshore reserve.

Council, at its Ordinary Meeting held in April 2013 received a report which invited consideration of a proposal to relocate the market from the Lake Ainsworth Reserve to the northern part of Williams Reserve, including within the LHCCC. A copy of that report comprises attachment one.

Council resolved on that occasion as follows:

Council undertake a formal consultation process with key stakeholders and the broader community to investigate the option to relocate the regular Lennox Head Community Market to a site closer to the town centre.

In August 2013, the Council considered a report which presented an overview of the stakeholder engagement which had been undertaken and the key outcomes from that process. A copy of that report comprises attachment two.

Council resolved as follows:

- 1. That the Lennox Head market be permanently relocated from Lake Ainsworth to the Lennox Head Cultural and Community Centre.*
- 2. That the rugby field be roped off on market days to ensure that no markets stalls or cars encroach onto the playing surface.*
- 3. That Council require the Market Coordinator to facilitate the development of a partnering agreement between the stakeholders.*

Since that time, the market has continued to operate within Williams Reserve.

Initially, there were a few 'territorial' issues arising with the Lennox Head Combined Sports Association, whose representatives were concerned that the market would lead to a deterioration of the reserve's playing surface.

These concerns have proved to be largely unfounded, and no other conflicts between the market and reserve users have arisen.

A consultative process has been established, involving the Association representatives, the market operator (Westpac Rescue Helicopter) and Council staff, to ensure any issues arising are discussed and resolved.

Part of the market's operation was initially conducted within the Lennox Head Cultural and Community Centre, and within the Centre's forecourt, but only for a brief period.

Whilst the facility remained available for use, the market operator preferred to have all participating stalls outside the building (ie within the park area, the adjacent carpark off Mackney Lane and along the Park Lane frontage of the Centre).

9.6 Lennox Head Community Market - Operation and Location

It was felt by the operator that this layout is more efficient and creates a better market ambience.

Through its most recent resolution, Council has sought to identify ways to improve the Lennox Head community market's 'viability' and 'atmosphere'. It is relevant to point out that it is not Council's market; that is, Council does not own or operate the market.

It simply authorizes it to be undertaken on public land, which Council manages on behalf of the Crown, by way of the grant of a license to operate.

It is open to any individual or organization to propose to establish a new market in Lennox Head, or the Shire more broadly.

Council's initial policy concerning markets on public land was adopted in 2006 and then reviewed in 2012. More recently, the Council again reviewed and adopted its policy in July this year. A copy of that policy is available on Council's website.

The market policy, and its supporting guidelines, set out for prospective operators contemporary standards and expectations for this type of use.

Details of the policy and the accompanying guidelines may be viewed on Council's website.

The current Lennox Head market is operated on Williams Reserve by the Westpac Rescue Helicopter Service through a temporary licence agreement granted by Council under the Crown Lands Act. The Service is not charged for this opportunity.

The duration of the licence is twelve months, and this has only recently been renewed. Subject to the terms of the licence, the Service has relative autonomy in the manner in which it promotes and conducts the market.

It has appointed a Market Coordinator who deals with day to day issues and liaises with stall holders.

The Service is the recipient of income derived from stall holders, whilst under the licence, the costs associated with conducting the market are to be borne by the Service.

However, through its community donations funding program Council, in the current year, has resolved to assist the Service with some of its costs in running the market.

These costs relate to waste collection, the use of part of the adjacent community centre as a site office and provision of access to amenities (including associated cleaning charges on market days).

Costs for these charges in the current financial year amount to \$5,880.

There is no obligation on the Service to publicly disclose the financial performance of the market.

Alternative Site Operations

Through its previous resolutions Council has been reasonably clear in its desire to retain the market on Williams Reserve. Nevertheless, if Council was to decide to relocate the market, there are only a few options.

The benefit of the current site is that it is central and highly accessible with excellent linkages to the business area as well as the beach. There has been criticism that the site has limited shade during warmer months, and that it lacks 'atmosphere'.

Further expansion of the market on the reserve would likely generate objection from the Lennox Head Combined Sports Association or individual sporting codes who would be concerned about damage to the reserve's playing surface.

Typically, the timing of the market on Sunday mornings has not conflicted with other scheduled organised sporting activities undertaken on the reserve.

Alternative option one would be to revert to the Lake Ainsworth public reserve, in either the eastern or southern precincts. This option is largely contingent upon what Council ultimately decides to do in terms of 'the eastern road' and the embellishment of the reserve more broadly. It has been difficult to achieve consensus concerning the preferred outcome.

The setting of the market on the foreshore of the lake is a key attractor for both stallholders and the community. It has been said that this is what made the market in that location 'special' in a regional context.

The other side of the argument for this option is that the conduct of the market (whether real or perceived) contributes to adverse water quality in the lake and that it creates congestion for the other users of the reserve during periods of peak demand.

Impacts to the adjoining caravan park have also been stated as a factor when the market previously operated in the reserve.

Another limiting factor with the Lake Ainsworth Reserve is periodic flooding of the lake, at least in the eastern part of the reserve. During times in which the market was held at the lake, nearby residents have expressed concerns regarding the level of parking congestion and unlawful parking which occurred in the general vicinity.

This can also occur even when the market is not operating (eg during peak seasonal periods and when surf carnivals are held).

Though perhaps not a significant factor, there can also be a view that established businesses derive less benefit from the market being held at the lake, due to it being divorced from the actual business area.

Alternative option two would be to authorize the market to be held within the Lennox Head business area, either on a monthly basis or less frequently. This option would include the use of Ballina Street and/or the adjoining foreshore reserve.

The key benefit of this option is that direct flow-on effects to established businesses can be achieved through the co-location. However, negative impacts include disruption/inconvenience to the community due to the essential road closure. This is particularly the case for Rayner Lane residents.

Secondly, the road closure generates a significant cost for traffic control, which is not incurred with the other site options. Whilst the market has previously been conducted on the foreshore reserve, with the beach and ocean as a backdrop, this site's exposure to strong winds at times renders it less attractive as a regular option.

In relation to the issue of viability, the site selected for the market is a determining aspect in its popularity. However, it is also likely that success for a market is more likely to be dictated by the quality and diversity of the individual stalls, the nature of goods or services sold and the number and location of competing markets. Unless the Council itself is going to become a market operator, it is suggested that it is not able to materially influence these more prominent factors.

Sustainability Considerations

- **Environment**

The social, environmental and economic outcomes of community markets are considered to be generally positive, but dependent on the circumstances of a particular proposal.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

This report responds to a Council resolution, and does not have any direct legal, resource or financial implications.

Consultation

Community consultation has not been undertaken in the preparation of this report. However, key stakeholder engagement was undertaken in 2013 when the Council was considering site options for the market at that time.

It was not surprising that the majority view then was to retain the market at Lake Ainsworth, but relocate it to Williams Reserve on occasions when the lake is in flood and during peak summer periods, to alleviate congestion within the lake reserve and adjacent area.

It is suggested that there is little to be gained by conducting a fresh community consultation process concerning the matter at this time. One would reasonably expect a similar response to the targeted stakeholder engagement undertaken in 2013.

Obtaining clear direction from Council and the community concerning improvements within the Lake Reserve has been challenging enough over the past couple of years, without 'throwing the market into the mix'.

It would be preferable to consider the option of returning the market to the lake precinct only after all improvement works (including the eastern and southern access ways) have been finally determined and fully implemented, when one could better visualise a market layout in the context of those improvements.

Options

In regard to sites for the Lennox Head market, this report suggests that there are three practical options available (with the Lake Ainsworth Reserve site having sub-options east or south of the lake).

As recently as May this year, the Council determined that it did not wish to authorise the market going back to the lake reserve.

The option to have the market operate in Ballina Street/ocean foreshore reserve within the town's business area would require a considerable budget allocation for traffic control/management. An indicative cost for establishment and operation of competent traffic control is \$2,500 for each market. The Ballina Street option would also significantly limit vehicular access for Rayner Lane residents.

On the basis of the above, it is suggested the preferred site option, at least for the immediate future, is for the market to remain in Williams Reserve.

Turning to the issue of market viability, one would expect the current operator, Westpac Rescue Helicopter Service, would be continually looking to improve the market stall mix to make the market as attractive as possible to those attending. It is in their financial interest to do so.

As stated, the Service's tenure to conduct the market has recently been renewed for a further period of twelve months. It would be open to the Council, toward the end of that period, to call expressions of interest from potential operators to manage and coordinate a market on this site, if the Council felt that such action might lead to improved outcomes.

Alternatively, if the current market operator is of the view that market viability would be improved by operating from a different site, it is open to the operator to make an application to Council, under Council's adopted Markets on Public Land Policy, to conduct a market at a different site.

Further, as stated earlier in the report, it is also open not only to the current operator but also any individual or organisation to lodge a proposal for a new market to be established in Lennox Head, if it was felt that a better or alternative model could be delivered.

The recommendation that follows is for noting only as the preferred option remains the status quo, at least until the works planned for the south eastern precinct of Lake Ainsworth are completed.

RECOMMENDATION

That Council notes the contents of this report regarding the operation and location of the Lennox Head Community Market.

Attachment(s)

1. Council Report - April 2013
2. Council Report - August 2013

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US16/10	<p>Section 88B instrument to create easements for water supply and access in conjunction with Council road opening and closing sections of Howards Road.</p> <p>Explanation The Council land, Lot 27 DP 1205369, was formerly an unconstructed section of Howards Road that has been closed. There is an existing water pump shed, water pipeline and access driveway located on the closed road (Lot 27) which benefit nearby land and easements are required to be created for these items to remain in place. The granting of these easements is part of the road opening, road closing and land exchanges along Howards Road which has been reported to Council previously. It is considered appropriate for Council to allow the easements to be created. A locality map is attached.</p>
US16/11	<p>Deed of Confidentiality between Airservices Australia and Ballina Shire Council.</p> <p>Explanation As part of the formal agreement between Airservices Australia and Council for the provision of Certified Air/Ground Radio Services occupying an area of the Fire Command Centre at Ballina Airport Fire Station Council are required to execute a confidentiality agreement.</p>
US16/12	<p>Ballina Shire Council Sublease to Peter Robert Sinclair and Karen Lea Sinclair for the premises being the Café on that part of level 2 of the building known as Ballina Surf Club situated at 65 Lighthouse Parade, East Ballina NSW commencing on 25 October 2014 for a period of five years with a five x five year option.</p> <p>Explanation Council resolved to provide a sublease to Peter and Karen Sinclair in 2013 for the Ballina Surf Club café. The use of seal was omitted from the original recommendation.</p>
US16/13	<p>Ballina Shire Council Sublease to Peter Robert Sinclair and Karen Lea Sinclair for the premises being the Kiosk on that part of level 1 of the building known as Ballina Surf Club situated at 65 Lighthouse Parade, East Ballina NSW commencing on 25 October 2014 for a period of five years with a five x five year option.</p>

10.1 Use of Council Seal

	<p>Explanation Council resolved to provide a sublease to Peter and Karen Sinclair in 2013 for the Ballina Surf Club kiosk. The use of seal was omitted from the original recommendation.</p>
US16/14	<p>Ballina Shire Council Sublease to Paradise FM Community Radio Association Inc for Lot 2 DP 1153927, being that part of the building known as the Old Ballina Library for a period of five years commencing 1 July 2013.</p> <p>Explanation Council as Reserve Trust Manager formally resolved to provide a sublease agreement to Paradise FM in their capacity as Reserve Trust Manager. Council formally resigned as Reserve Trust Manager and has now executed a Head Lease with the Crown and is formalising a sublease with Paradise FM.</p>

Attachment(s)

1. Locality map - Howards Road (US16/10)

10.2 Investment Summary - October 2016

10.2 Investment Summary - October 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 October 2016.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 October was \$66,784,000. This represents a decrease of \$3,000,000 from September.

Council's investments, as at 31 October, are at an average (weighted) rate of 2.93%, which is 1.18% above the 90 Day Bank Bill Index of 1.75%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 October 2016, was \$1,335,214 (slightly increased from the balance of \$1,317,671 as at 30 September 2016).

Actual interest earned for the year to date is higher than originally forecast, as can be seen at Table E. A proposed increase to forecast interest income is included within the September 2016 Financial Review report to Council.

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	2.7%	3%
Rated Institutions							
AMP Bank	Yes	A+	5,000	5,000	20%	7.5%	
Bank of Queensland	No	A-	5,000	5,000	10%	7.5%	
Bank of Western Aust	Yes	AA-	9,000	9,000	20%	13.5%	
Bendigo & Adelaide Bank	No	A-	4,000	4,000	10%	6.0%	
Beyond Bank	No	BBB+	3,000	3,000	10%	4.5%	
Big Sky Building Soc	N/A	BBB	1,000	1,000	10%	1.5%	
Commonwealth Bank of Australia	Yes	AA-	5,996	4,996	20%	7.5%	
Greater Building Society	No	BBB	1,000	1,000	10%	1.5%	
Heritage Bank	No	BBB+	2,000	0	10%	0.0%	
ING Bank Ltd	Yes	A-	2,000	2,000	10%	3.0%	
Members Equity Bank	No	BBB+	4,000	4,000	10%	6.0%	
National Australia Bank	Yes	AA-	8,000	8,000	20%	12.0%	
Newcastle Perm Bld Society	No	BBB+	5,000	5,000	10%	7.5%	
Rural Bank Ltd	No	A-	1,000	1,000	10%	1.5%	
Suncorp-Metway Bank	No	A+	9,000	9,000	20%	13.5%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	3.0%	
My State Bank Ltd	No	BBB	1,000	1,000	10%	1.5%	97%
Unrated ADI's					\$1m	0.0%	0%
Total			69,784	66,784		100%	

B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	34,784 49%	32,784 49%
Non-Fossil Fuel Aligned	35,000 50%	33,000 49%
Not Classified	1,000 1%	1,000 1%
Total	69,784 100%	66,784 100%

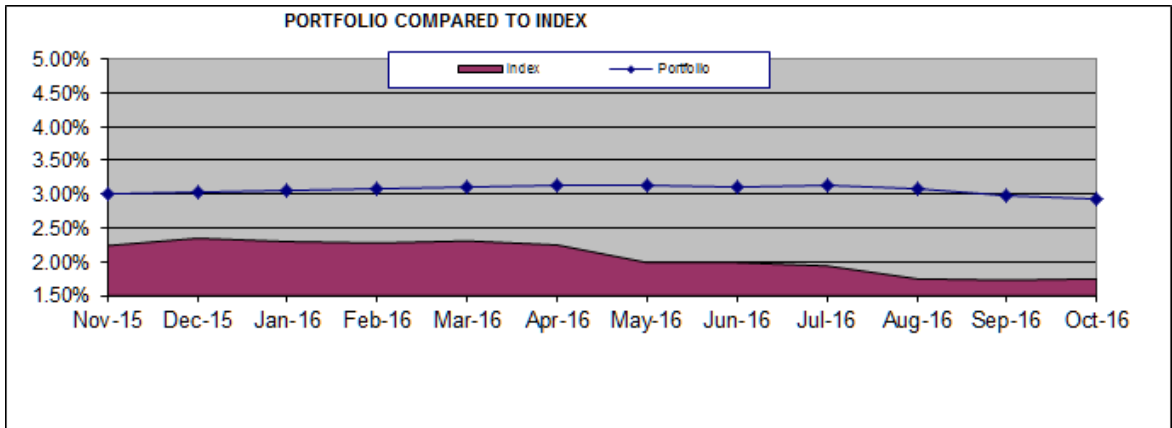
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

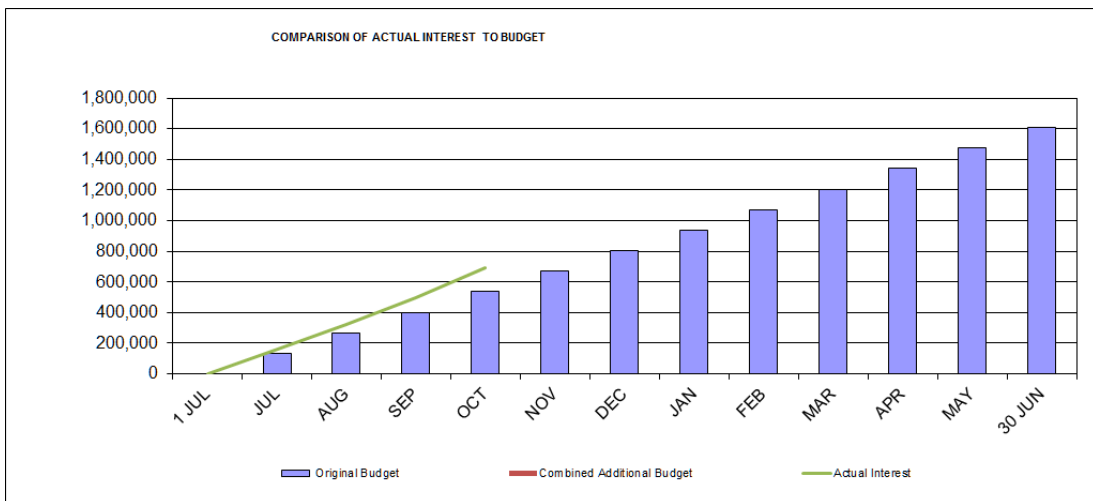
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - October 2016

F. Investments held as at 31 October 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	1,188
24/01/12	ING Bank Ltd	FRTD	3.70%	24/01/17	1,000	1,000
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	1,996	2,071
25/02/14	Westpac Bank	FRN	2.67%	25/02/19	2,000	2,012
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
31/03/16	Rural Bank Ltd	TD	3.15%	29/11/16	1,000	1,000
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
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	1,007
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	Bank West	TD	2.56%	03/11/16	1,000	1,000
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
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
04/10/16	National Australia Bank	TD	2.77%	04/10/17	1,000	1,000
11/10/16	Suncorp-Metway Bank	TD	2.61%	18/04/17	2,000	2,000
12/10/16	National Australia Bank	TD	2.77%	12/09/17	2,000	2,000
Totals					66,784	66,278
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 October 2016.

Attachment(s)

1. TCorp Local Government Economic Commentary October

10.3 Code of Conduct - Reporting

10.3 Code of Conduct - Reporting

Delivery Program Administration

Objective To comply with Council's Code of Conduct and directions from the Office of Local Government.

Background

The Office of Local Government's Model Code of Conduct requires a report to be submitted annually on Code of Conduct complaints. It is required that the report is submitted within three months of the end of August.

This report satisfies these requirements.

Key Issues

- Number and nature of complaints

Information

The last report Council considered in respect to this matter was for the 12 month period 1 September 2014 to 31 August 2015. This report is for the period 1 September 2015 to 31 August 2016.

The details of the complaints managed under the code for the period of this report are as follows:

Number of complaints made about councillors and the general manager	1
Number of complaints referred to a conduct reviewer	1
Number of complaints finalised by a conduct reviewer at the preliminary assessment stage Outcome – Take No Action	1
Number of complaints investigated by a conduct reviewer Outcome – Training or Education	0
Number of complaints investigated by a conduct review committee	0
Number of matters reviewed by the Division	0
Total cost of dealing with code of conduct complaints	2,707.50
Invoiced from conduct reviewers	2,557.50
Approximate staff costs	150.00

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct exists to ensure there are appropriate standards of behaviour.

10.3 Code of Conduct - Reporting

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The Council's Code of Conduct is based on the Office of Local Government's Model Code of Conduct, and requires a report to be submitted annually on Code of Conduct complaints. This report satisfies that legal requirement.

Consultation

This report is provided for information.

Options

This report is for information purposes only.

RECOMMENDATION

That Council notes the contents of this report on Code of Conduct complaints for the period 1 September 2015 to 31 August 2016.

Attachment(s)

Nil

10.4 Ballina Naval Museum - Delegate

10.4 Ballina Naval Museum - Delegate

Delivery Program Governance and Finance

Objective To determine whether Council wishes to appoint a delegate to the Ballina Naval Museum Management Committee.

Background

At the September 2016 Ordinary meeting Council endorsed its delegates to a number of external committees.

Following that meeting, queries were made as to whether a delegate was needed for the Ballina Naval Museum.

Discussions with the museum volunteers has confirmed they have a Management Committee which meets bi-monthly and they also hold a general meeting bi-monthly.

They would be more than happy to have a Councillor attend as a delegate of Council.

Key Issues

- Councillor representation

Information

Council has appointed delegate(s) to this committee at various times in the past.

Legal / Resource / Financial Implications

A Councillor delegate is entitled to claim travel costs associated with attending meetings.

Consultation

Representation assists with community consultation.

Options

The options are to appoint or not appoint a delegate.

RECOMMENDATION

That Council approves the appointment of a Councillor delegate to the Ballina Naval Museum Management Committee.

Attachment(s)

Nil

10.5 Festival and Event Support Program - 2017/18

10.5 Festival and Event Support Program - 2017/18

Delivery Program Governance and Finance

Objective To allocate funding for the Festival and Events Support Program for the 2017/18 financial year.

Background

The Festival and Event Support Program is now in its sixth year. The program was established in 2012 to provide funding to eligible community groups who co-ordinate events and festivals in the Ballina Shire. Council co-ordinated its own signature events, such as Rivafest, prior to the implementation of this funding program.

The program is guided by Council's Festival and Event Support Program Policy, a copy of which is available on our website.

The policy states that Council will invite submissions from the community for funding support, with an expression of interest process having recently been completed for the 2017/18 funding program. This report deals with the outcomes from that process.

Key Issues

- Equitable process for not-for-profit organisations seeking event support
- Ensure an open and transparent decision making process is in place

Information

The Festival and Event Support Program application period opened for five weeks from the end of September to November 2016, with applications received from seven organisations, as follows.

Name of organisation	Name of event	Request (\$)
Quota International of Alstonville Wollongbar Inc	Quota Club of Alstonville Craft and Garden Fair 2017	5,000
Le-Ba Boardriders	Skullcandy Oz Grom Open 2017	25,000
Lennox Head Chamber of Commerce	Love Lennox Festival 2018	15,000
Ballina District Minister's Association	Riverside Carols 2017	5,000
Alstonville Agricultural Society	New Year's Eve Family Festival 2017/18	20,000
Ballina Chamber of Commerce and Industry	Ballina Prawn Festival 2017	30,000
The Rotary Club of Ballina-on-Richmond	Ballina Fine Wine and Food Fair 2017	10,000
Total		110,000

The forecast budget allocation for the program in 2017/18 is \$120,000.

Policy Implications

All of these applications are for existing events and the submissions largely comply with the criteria outlined in the Council's Festival and Event Support Program Policy.

However the following applicants have advised they will make a profit and any profit will be directed to charity:

- Quota Club Alstonville Craft and Garden Fair
- Riverside Carols
- Alstonville New Year's Eve Family Festival
- Ballina Fine Wine and Food Fair 2017

This is contrary to the policy, which states as follows:

*Funding from Council will **not** be provided for the following items:*

- Capital expenditure*
- Contribution to charities*
- Ongoing operational/administrative costs not directly related to the festival or event*
- Retrospective projects*
- Wages for community event organisers.*

Point ii) was included in the original policy, as the primary focus of the program was to ensure that successful events were being funded and that Council monies were not just being re-distributed as charitable donations.

Over time, the nature of the applicants for funding has largely been from charitable groups, who have the volunteer base to run events, and who can use the events to build on their own fund raising.

This is still considered to be a good outcome as the Council monies, even though they are going indirectly, in part or in full, to a charity, are being leveraged to provide a community event before that donation is made.

There is an opportunity to review the policy and remove point ii) *Contributions to charities* and this course of action is recommended. There are some other procedural changes that could also be made to the policy to ensure it reflects current practices (i.e. expressions of interest are now called for in October / November, not as part of the exhibition of the Delivery Program / Operational Plan.)

Another compliance matter is that the application from the Ballina District Ministers Association for Riverside Carols 2017 does not meet the minimum threshold of expenditure. An extract from the policy is below:

To be eligible for support, the total cost of the festival or event must be estimated at over \$20,000, with a minimum of \$15,000 allocated towards cash expenses, excluding Council's contribution.

The logic in funding events with a minimum expenditure, is to ensure events are a certain size and scale.

10.5 Festival and Event Support Program - 2017/18

Whilst the Riverside Carols does not meet the criteria, it has been funded previously from the Festival and Event Support Program, as Council has supported this event to ensure there is some form of Christmas carols in Ballina. The policy is a guide only.

Country Music Festival

In October 2016, Council received correspondence from the Rotary Club of Ballina advising that they did not require the \$25,000 that had been allocated from the Festival and Event Funding Program in the 2016/17 financial year, for the Ballina Coastal Country Music Festival, scheduled to be held in June 2017.

Their reasoning is due to a lack of available resources and a decline in membership.

Subsequent to that advice, Council was advised that the Cherry Street Sports Club will be seeking to host a Country Music Festival in September 2017. The request is to have the funds (\$25,000) transferred from the Rotary Club of Ballina, to the Cherry Street Sports Club, as the organiser of the Country Music Festival.

The premise of the policy is to fund festivals and events, and whilst the applicant organisation is changing, the festival and event remains the same in terms of benefits to the community, albeit that the applicant is now a registered club.

Council could transfer the funds allocated in 2016/17 to 2017/18 resulting in the budget for 2017/18 increasing from \$120,000 to \$145,000.

QSM Sports – Ballina Triathlon 2017

A further item to consider is a proposal by a commercial sports event organisation, QSM Sports, who are seeking support from Council to assist in developing a Ballina Triathlon in 2017. The proposal seeks \$9,500 from Council, with a commitment over a three year period on a sliding scale.

The event is to be modelled on other sporting events that QSM coordinate, including the Kingscliff Triathlon, the Byron Bay Triathlon and Tweed Coast Enduro. The plan is to have a suite of events located in Northern NSW.

The benefits of this proposal include the potential of 1,200 competitors visiting the region and an estimated economic injection of \$800,000. The event is consistent with Council's Ballina Shire Destination Management Plan 2014 to 2020, and Ballina has been identified as a good venue to host triathlons (audit undertaken by Complete Sports Marketing, 2010).

Whilst the economic benefits are valuable, this proposal does not comply with the eligibility criteria for the Festival and Event Support Program, which provides funding to not for profit organisations.

QSM Sports is a commercial entity and is seeking funds for a commercial venture.

10.5 Festival and Event Support Program - 2017/18

The other issue with this request is the proposed routes and traffic impact on the community, albeit for a short period of time. They still need to be considered and costed to properly ascertain Council's support, whether in-kind or financial, for the event.

If Council is supportive of this proposal the recommendation would be to re-allocate \$10,000 from the Festival and Event Support Program and create another budget for commercially based events. The recommendation would also then be to create a policy, and a recurrent funding program, to guide applications for those events.

Previous funding

The following table provides a summary of funding allocated by Council for the last three financial years for the applicants for 2017/18.

Name of organisation	Name of event	2014/15 Funded	2015/16 Funded	2016/17 Funded	2017/18 Request
Quota International of Alstonville Wollongbar Inc	Quota Club of Alstonville Craft and Garden Fair 2017	0	0	5,000	5,000
Le-Ba Boardriders	Skullcandy Oz Grom Open 2017	15,000	15,000	20,000	25,000
Lennox Head Chamber of Commerce	Love Lennox Festival 2018	**800	**2,500	10,000	15,000
Ballina District Minister's Association	Riverside Carols 2017	**5,000	5,000	5,000	5,000
Alstonville Agricultural Society	New Year's Eve Family Festival 2017/18	15,000	15,000	15,000	20,000
Ballina Chamber of Commerce and Industry	Ballina Prawn Festival 2017	35,000	35,000	30,000	30,000
Rotary Club of Ballina-on-Richmond	Ballina Fine Wine and Food Fair 2017	5,000	15,000	25,000	10,000
Cherry Street Sports Club	Ballina Coastal Country Music Festival 2017	*20,000	*25,000	*25,000	25,000

* Applicant for 2014 was Ballina Coastal Country Music Inc. For 2015 and 2016 the applicant was the Rotary Club of Ballina

** Funded under the Community Donations Program.

The reference to the Community Donations Program is important as Council has, at times, allocated funding for events through that program, which has an annual allocation of approximately \$60,000. The Community Donations Program does not have any criteria regarding the overall expenditure for an event, or an organisation, and the application from the Ballina District Minister's Association is actually better suited to that program.

If Council is supportive of that event the recommendation would be to allocate the monies, however the requested \$5,000 should be transferred from the Festival and Event Funding Program budget to the Community Donations budget for 2017/18.

Sustainability Considerations

- **Environment**
Events are managed to limit adverse environmental impacts.
- **Social**
Events provide social benefits to the broader community

- **Economic**

Events make a positive contribution to the local economy.

Legal / Resource / Financial Implications

The Festival and Event Support Program is identified in Council's Delivery Program 2017/18 – 2019/20 and Long Term Financial Plan, with a \$120,000 budget forecast for 2017/18.

The funds are allocated outside of the standard timeline for the budgetary process. Given the nature of festivals and events, and the need for organisers to be aware of their overall budget prior to commencing their planning phase, this timeline is appropriate.

In addition to the direct cash allocations provided by Council, significant staff resources support the operation of the events, with this expenditure absorbed within the staff salary budgets.

Consultation

The Festival and Event Support Program was opened for five weeks from September to November 2016. It was promoted through a number of channels including:

- Advertised in the Ballina Shire Advocate
- Distributed media release to outlets
- Letters to previous funding recipients
- Information on Council's website
- Emails to event organisers

Options

The Festival and Event Funding Program for 2017/18 has a budget of \$120,000. Pleasingly, this is the first time in many years where all the applications received can be funded from within the budget allocation.

The recommendations that follow support those applications with additional items included relating to:

- a) Adjustments to the existing policy to remove the reference to charitable donations
- b) Approval to transfer the \$25,000 allocated to the Coastal Country Music Festival from 2016/17 to 2017/18
- c) Approval to allocate funds, in principle, to QSM Marketing, to support a Ballina Triathlon. These funds will be transferred to a new budget allocation and the recommendation also asks for a policy and recurrent budget to be created. That budget is likely to be \$10,000 initially and may need to grow over time.

10.5 Festival and Event Support Program - 2017/18

- d) Providing in principle support for the Ballina Prawn Festival, however as this festival had an entry fee this year, the preference is not to finalise that allocation until the financial results and acquittals are completed. This will allow Council to assess whether there is a need to reduce, or not allocate, the \$30,000, with those funds then able to be reallocated to other Council services.

RECOMMENDATIONS

1. That Council approves the allocation of the 2017/18 Festival and Event Support Program funds, as per the following table.

Name of organisation	Name of event	Amount
Quota International of Alstonville Wollongbar Inc	Quota Club of Alstonville Craft and Garden Fair 2017	5,000
Le-Ba Boardriders	Skullcandy Oz Grom Open 2017	25,000
Lennox Head Chamber of Commerce	Love Lennox Festival 2018	15,000
Alstonville Agricultural Society	New Year's Eve Family Festival 2017/18	20,000
Ballina Chamber of Commerce and Industry	Ballina Prawn Festival 2017	30,000
Rotary Club of Ballina-on-Richmond	Ballina Fine Wine and Food Fair 2017	10,000
Total		105,000

2. That Council approves the following allocation to the Ballina District Minister's Association, with that funding to be sourced from the 2017/18 Community Donations program budget, subject to a transfer of \$5,000 from the Festival and Event Support Program budget. This ensures that the allocation of the funds is more consistent with Council's policies.

Name of organisation	Name of event	Amount
Ballina District Minister's Association	Riverside Carols 2017	5,000

3. That Council approves the following reallocation of funds for the 2016/17 Coastal Country Music Festival to the Cherry Street Sports Club, with those funds to be rolled forward from 2016/17 to 2017/18, to allow the event to be staged in September 2017.

Name of organisation	Name of event	Amount
Cherry Street Sports Club	Ballina Coastal Country Music Festival 2017	25,000

4. That Council approves the following allocation to QSM Sports for the purpose of establishing the Ballina Triathlon in 2017. This funding is to be transferred from the 2017/18 Festival and Event Support Program budget to a new Commercial Festival and Event Support Program budget, with Council to receive a report on establishing both a policy and recurrent budget for such a program. The allocation of the funds for 2017 is subject to further review by the General Manager and an assessment of the overall traffic and associated impacts of the proposed triathlon.

10.5 Festival and Event Support Program - 2017/18

Name of organization	Name of event	Amount
QSM Sports	Ballina Triathlon 2017	9,500

5. That Council delay any transfer funds to the Ballina Chamber of commerce for the 2017/18 Prawn Festival until an assessment of the acquittal of the funding for 2016/17 has been completed, particularly with reference to the impact that the charging of an entrance fee has had on the overall viability of the event.
6. That Council approves an amendment to the Festival and Event Support Program Policy to remove point *ii) Contributions to charities* from the list of items where Council will not provide funding, along with any other associated formatting and procedural changes.

Attachment(s)

Nil

10.6 Community Strategic Plan - Community Engagement Strategy

10.6 Community Strategic Plan - Community Engagement Strategy

Delivery Program Governance and Finance

Objective To endorse the community engagement strategy for the review of Council's Community Strategic Plan (CSP)

Background

The Office of Local Government (OLG) requires all councils to review and adopt an updated CSP by 30 June the year following a council election (i.e. 30 June 2017 for the 2016 election).

The CSP is explained on the OLG website (olg.nsw.gov.au) as follows:

The Community Strategic Plan represents the highest level of strategic planning undertaken by a local council. All other plans developed by the council as part of the Integrated Planning and Reporting framework must reflect and support the implementation of the Community Strategic Plan.

The Community Strategic Plan should identify the main priorities and aspirations of the community, providing a clear set of strategies to achieve this vision of the future. Building the Community Strategic Plan takes time and must involve a whole-of-community engagement process. It is important to note that while the council is the custodian of the Community Strategic Plan, it may not be responsible for the delivery of all of the activities the Plan identifies. It is important that the Community Strategic Plan identifies who is responsible for its implementation, including other partners such as State agencies, non-government organisations, business partners and community groups.

The Community Strategic Plan essentially addresses four key questions for the community:

Where are we now?

Where do we want to be in ten years' time?

How will we get there?

How will we know when we have arrived?

The Community Strategic Plan must be based on the social justice principles of access, equity, participation and rights. It should also address the quadruple bottom line (social, environmental, economic and civic leadership) issues. It is recommended that a council uses a multi-disciplinary team to manage and implement the integrated planning process.

Councils must prepare and implement a Community Engagement Strategy (CES) for engaging the local community for the development and review of the CSP. The CES must be based on the social justice principles of access, equity, participation and rights.

The purpose of this report is to obtain Council endorsement for the proposed CES.

Key Issues

- Consultation options
- Level of resources available

Information

Council has an adopted policy in respect to community consultation (Policy C14 – Community Consultation), a copy of which is available on Council's website. That policy outlines the range of consultation options available dependent upon the level of impact upon the community of the Council decision.

As per the contents of that policy the review of the CSP is identified as a shire wide activity that requires a minimum of informing, consulting and involving community in the preparation of the document.

With this in mind a draft CES has been prepared and is included as an attachment to this report. The draft CES provides a comprehensive range of actions in the development of the CSP with items of note including:

- a) Consultation in formulating the draft document with:
 - Special Interest Groups including FSG Youth Forum, Access and Inclusion Committee, Aboriginal Community Committee
 - Direct correspondence to all community organisations on the Ward Committees for feedback from the members of their groups (over 50 groups in total)
 - Broader community through social media, advertising and community connect
 - Specialist survey results from Micromex Pty. Ltd. (sample of over 500 residents)
 - Focus Groups such as the Civic Panel from the Ballina Major Regional Centre Strategy
 - Councillors and Staff

Staff are in the process of establishing a corporate Facebook site for this consultation. Council has Facebook in place at the Visitor Centre, Flat Rock Tent Park, Ballina – Byron Gateway Airport and our Community Spaces (Community Facilities).

Staff are confident we can deliver a corporate site to assist in engaging further with younger members of the community.

- b) Consultation following Council endorsement of the draft document for exhibition – This will primarily involve re-engaging will all of the parties identified in point a) for feedback on the draft document.

Sustainability Considerations

- **Environment**
The CSP should reflect environmental, social and economic outcomes.

- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

The review of the CSP will be undertaken through existing staff resources. There is no specific budget available for this review which means costs such as advertising, printing etc will be funded from within the corporate Council budgets for these types of activities.

Consultation

The focus of this report is to ensure that Council supports a comprehensive community engagement strategy for the review of the CSP.

Options

The options available are to endorse or amend the attached CES. If there are any ideas that Council would like to see included in the CES they should be raised as part of this report.

RECOMMENDATION

That Council endorses the attached Community Engagement Strategy for the review of the Community Strategic Plan.

Attachment(s)

1. Community Engagement Strategy (draft)

10.7 Financial Statements - 2015/16

Delivery Program Financial Management

Objective Section 419 of the Local Government Act requires that the audited financial statements be formally presented to the public. The report that follows looks to satisfy this requirement.

Background

Council considered the annual financial statements for the financial year ended 30 June 2016 at the October 2016 Ordinary meeting. The principal auditor, Mr Kevin Franey of Thomas Noble and Russell, also addressed Council at that meeting.

The audit opinion was that Council's accounting records had been kept in accordance with the requirements of the Local Government Act and Australian accounting standards. The records fairly presented the Council's financial position and the results of operations. The audit was unqualified. Council subsequently endorsed the reports.

In accordance with Section 418 of the Local Government Act the Council must then formally present the financial reports to the public. This public presentation must be advertised. The advertising process has now been completed and this report complies with that section of the Local Government Act.

Key Issues

- Compliance with the Local Government Act
- Content of the financial reports
- Submissions to the advertised reports

Information

In accordance with the Local Government Act and Council's resolution the reports were advertised for public comment. No submissions were received.

Councillors may wish to bring their copy of the annual financial reports, as distributed at the October meeting, in case there is any further discussion on the matter.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The Financial Statements summarise the financial position of Council.

Legal / Resource / Financial Implications

The annual financial statements detail the financial position of Council.

Consultation

Notice of the reports was advertised in the local paper and on Council's website.

Options

Council may adopt the annual financial reports for presentation to the public or choose not to adopt the reports. The recommendation is to adopt the reports.

RECOMMENDATION

That Council adopts the annual financial reports and auditor's reports for the financial year ended 30 June 2016, as publicly exhibited.

Attachment(s)

Nil

10.8 Financial Review - 30 September 2016

Delivery Program Governance and Finance

Objective To provide a review of the 2016/17 financial year budget based on the known results to 30 September 2016

Background

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. The report that follows provides this review for the first quarter of the 2016/17 financial year.

Key Issues

- Variations to the budget and financial performance of Council

Information

The purpose of this report is to provide information on known budget variances as at 30 September 2016. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and Certification by the Responsible Accounting Officer are required. Commentary on the variations recommended is then provided after the tables.

A brief overview of the information provided in the report is as follows:

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

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

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

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

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

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

Section 1 – Operating Income and Expenditure

General Fund – Operating Income and Expenses

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

Operating Income	Original Budget 000's	Approved Changes 000's	Revised Budget 000's	Changes for Approval 000's	September Budget 000's	Actual to September 000's
Strategic and Community Facilities Group						
Strategic Planning	154	0	154	55	209	13
Community Centres and Halls	398	0	398	5	403	134
Cultural and Community Services	113	0	113	9	122	40
Library Services	79	0	79	0	79	0
Swimming Pools	388	0	388	0	388	62
Tourism and Communications	52	0	52	56	108	19
Sub Total	1,184	0	1,184	125	1,309	268
Development and Environmental Health Group						
Development Services	458	0	458	80	538	191
Building Services	1,229	0	1,229	155	1,384	495
Environment and Public Health	281	0	281	(3)	278	236
Admin and Public Order	215	0	215	0	215	44
Sub Total	2,183	0	2,183	232	2,415	966
Civil Services Group						
Engineering Management	285	0	285	(13)	272	65
Procurement and Building Mgmt	0	0	0	0	0	0
Stormwater and Env Prot	370	0	370	46	416	416
Roads and Bridges	2,578	0	2,578	(28)	2,550	25
Ancillary Transport Services	787	0	787	172	959	231
Roads and Maritime Services	1,027	0	1,027	(134)	893	398
Open Space and Reserves	772	0	772	20	792	329
Fleet Mgmt and Workshop	254	0	254	0	254	52
Rural Fire Service	194	0	194	0	194	0
Quarries and Sandpit	31	0	31	17	48	39
Landfill and Resource Management	3,521	0	3,521	144	3,665	2,267
Domestic Waste Management	6,164	0	6,164	76	6,240	6,230
Sub Total	15,983	0	15,983	300	16,283	10,052
General Manager's Group						
Governance	0	0	0	0	0	0
Administrative Services	40	0	40	(5)	35	6
Financial Services	219	0	219	2	221	54
Financial Services-General Purpose Revenue	24,529	0	24,529	333	24,862	21,244
Information Services	145	0	145	0	145	56
Human Resources and Risk Mgmt	171	0	171	15	186	148
Property Management	2,973	0	2,973	30	3,003	931
Ballina Byron Airport	5,674	0	5,674	0	5,674	945
Sub Total	33,751	0	33,751	375	34,126	23,384
Total Operating Income	53,101	0	53,101	1,032	54,133	34,670

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

Operating Expenses (excluding depreciation)	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
Strategic and Community Facilities Group						
Strategic Planning	1,163	277	1,440	25	1,465	282
Community Centres and Halls	827	19	846	5	851	268
Cultural and Community Services	816	7	823	29	852	254
Library Services	1,434	64	1,498	0	1,498	376
Swimming Pools	911	0	911	(205)	706	110
Tourism and Communications	564	84	648	56	704	122
Sub Total	5,715	451	6,166	(90)	6,076	1,412
Development and Environmental Health Group						
Development Services	1,252	0	1,252	0	1,252	298
Building Services	917	0	917	48	965	252
Environment and Public Health	822	28	850	0	850	194
Admin and Public Order	1,261	0	1,261	0	1,261	311
Sub Total	4,252	28	4,280	48	4,328	1,055
Civil Services Group						
Engineering Management	2,555	12	2,567	8	2,575	693
Procurement and Building Mgmt	2,015	40	2,055	0	2,055	726
Stormwater and Env Prot	742	301	1,043	(214)	829	125
Roads and Bridges	3,280	0	3,280	0	3,280	1,041
Ancillary Transport Services	1,636	0	1,636	295	1,931	518
Roads and Maritime Services	1,027	103	1,130	(294)	836	151
Open Space and Reserves	3,559	267	3,826	8	3,834	927
Fleet Mgmt and Workshop	(879)	0	(879)	0	(879)	(251)
Rural Fire Service	400	0	400	(6)	394	146
Quarries and Sandpit	83	230	313	0	313	24
Landfill and Resource Management	1,663	0	1,663	125	1,788	480
Domestic Waste Management	5,666	0	5,666	30	5,696	1,171
Sub Total	21,747	953	22,700	(48)	22,652	5,751
General Manager's Group						
Governance	1,613	14	1,627	(19)	1,608	392
Administrative Services	271	0	271	10	281	78
Financial Services	0	0	0	0	0	0
Financial Services-General Purpose Reve	(4,167)	0	(4,167)	2	(4,165)	1,528
Information Services	2,243	52	2,295	0	2,295	774
Human Resources and Risk Mgmt	968	0	968	15	983	529
Property Management	3,009	123	3,132	0	3,132	892
Ballina Byron Airport	4,227	0	4,227	0	4,227	1,065
Sub Total	8,164	189	8,353	8	8,361	5,258
Total Operating Expenses	39,878	1,621	41,499	(82)	41,417	13,476
Net Operating Result Before Depreciation	13,223	(1,621)	11,602	1,114	12,716	21,194
Depreciation Expense	13,262	0	13,262	0	13,262	3,316
Net Operating Result Continuing Operations	(39)	(1,621)	(1,660)	1,114	(546)	17,879

General Fund Working Capital Forecast

Item	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
Working Capital	(157,200)	0	(157,200)	161,900	4,700	

Working capital is a measure of short term liquidity and as a rule Council aims to target a break even result for the General Fund, with the budget often based on a deficit result, due to service demands outstripping revenues.

Comments - General Fund

The **forecast operating result as at September** is a loss of \$546,000 which is a deterioration of \$507,000 from the original budget forecast of a loss of \$39,000.

The primary reason for the increase in the forecast operating loss is due to numerous new expenditure items having been added to the budget financed from reserves. This represents incomplete tasks / projects from the previous financial year.

The carry forward of these items was approved by Council at the August 2016 Ordinary meeting. In summary, the funding for items incomplete at the end of the financial year is transferred to reserve for that financial year and then the funds are transferred out of the reserve in the current financial year as the project rolls forward.

The transfer from reserve is not included as income in the operating income and expenditure statement as it relates to a capital movement. This means that even though the expenditure may be included in the operating statement, the funding source is not.

When Council approved these budget variations at the August 2016 Ordinary meeting the forecast operating loss increased to \$1,660,000. The changes proposed in this report improve the operating result by a net \$1,114,000, resulting in the current forecast deficit of \$546,000.

The larger adjustments to income proposed in this report include increase of \$259,000 to the Federal Assistance Grant (FAG) and an increase in rates revenue of \$90,000.

Other large adjustments include Building Services income and Development Services income of \$155,000 and \$80,000 respectively, an increase of \$104,000 to the waste levy funding in Landfill Resource Management (LRM), an increase in Domestic Waste Management (DWM) charges of \$70,000, tourism grant of \$50,000 and income from interest on investments of \$75,000.

In respect to operating expenditure the larger adjustments relate to a decrease of \$204,000 in interest on swimming pools loans (due to a delay in timing of taking out these loans) and decreases to current year expenditure on the Coastal Zone and Ballina Floodplain Management Plans, decreased by \$140,000 and \$120,000 respectively.

All of these amounts have been transferred to reserves for expenditure in subsequent years.

Other large adjustments to expenses include Landfill Resource Management (LRM) increased by \$125,000 (funded from the restricted reserve) and street lighting expenses increased by \$60,000.

The Pedestrian Access and Mobility Plan (PAMP) expenditure has been moved from capital to operating expense, increasing operating expenses by \$52,000.

The estimated movement in **unrestricted working capital** has improved from a deficit of \$157,200 to an anticipated surplus of \$4,700.

It is likely that the actual result will be an improvement from this forecast given that a conservative approach has been taken on a number of adjustments to date. For example, Building Services income trending would indicate significant further adjustments are likely as the year progresses.

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

General Fund - Operating Revenues

Strategic and Community Facilities Group

Strategic Planning

Grant Income: Funding of \$25,000 has been secured in respect of Heritage and Culture projects. An equivalent budget adjustment has been made to expenditure.

Interest Income: Forecast income has been increased by \$30,000 for Section 94 funds held in reserve.

Community Centres and Halls

Operating Income: Lennox Head Cultural and Community Centre income from Auditorium event hire of \$5,000 has been achieved, previously unbudgeted. An equivalent budget adjustment has been made to expenditure.

Cultural and Community Services

Operating Income: Budgeted income of \$6,700 in relation to lease income for Ballina Hockey fields has been transferred from Open Spaces and Reserves to the Cultural and Community Services area. A further \$2,000 income is recognised for Gallery fundraising, previously unbudgeted.

Tourism and Communications

Grant Income: Funding of \$50,000 has been secured from North Coast Destination in relation to a Fly Drive Campaign to be conducted this year.

General Income: Income of \$6,600 has been raised from airport brochure rack advertising. This income was not forecast in the original budget.

Development and Environmental Health Group

Development Services

Operating Income: Forecast income has been increased by \$80,000 to a revised forecast of \$538,000. The larger areas for adjustment are Development Application Compliance Levy fees, Development Application Fees (Planning) and Fine income. Two large applications contributed towards the additional revenue.

Building Services

Building Services Operating Income: Forecast income has been increased by \$155,000 to a revised forecast of \$1,306,000. The revised forecast is still less than the 2015/16 actual result of \$1,334,000.

The larger areas for adjustment are Package Certificates/Inspections, Development Application Fees (Building) and Plumbing and Drainage inspections.

Based on current trend it is likely that actual income for the year may well exceed the revised forecast.

Civil Services Group

Engineering Management

General Income: RMS contribution to safety officer projects has been amended from an original budget of \$25,000 to \$12,000 following confirmation from the RMS of the specific project funding for the 2016/17 year. This is offset by an equivalent reduction to expenditure.

Stormwater and Environmental Protection

Grant Income: Funding of \$23,000 and \$20,000, respectively, for Ballina Third Party Modelling and Coastal Hazard Study has been received. Equivalent budget adjustments have also been made to the expenditures.

Roads and Bridges

General Income: Roads to Recovery grant income decreased by \$28,000, following confirmation of the amount to be received for the 2016/17 year.

Ancillary Transport Services

Private Works: Forecast income from Private Works has been increased by \$105,000 to \$255,000 based on current activity. Expenditure has also been increased by \$105,000 hence there has been no increase to estimated profit, which is a conservative approach.

Profit is currently estimated at \$30,000 and if various projects work to plan, the profit may be slightly higher than forecast.

Grant Income: Pedestrian Access and Mobility Plan (PAMP) grant income has been reclassified from capital income to operating income, increasing operating income by \$26,000.

Budgeted Speed Zone grant income of \$5,000 from the RMS has been removed, following confirmation from the RMS of the specific project funding for the 2016/17 year, which does not include this project.

Wharves and Jetties Grant Income: An additional \$42,000 in operating grants has been recognised in relation to the Trawler Boat Harbour and Martin Street Boat Harbour design projects.

Roads and Maritime Services

Contributions Income: RMS contributions for regional roads have been reduced by \$134,000 to \$893,000, which has been confirmed as the amount to be received from RMS for the block and traffic facilities grants. An equivalent budget adjustment has also been made to the expenditure.

Open Space and Reserves

Contributions Income: Contributions of \$20,000 have been secured towards the costs of completion of the Ballina Netball Lights project.

Grant Income: Grants to assist the employment expenses of the Regional Works / Nursery crews will not be as high as anticipated and forecast income has been reduced by \$10,000.

Grant funds of \$7,000 have been received for Booyul Estate Bushland Reserve Compensatory works. An equivalent budget adjustment has also been made to expenditure.

Operating Income: Income from memorial park seats and event filming applications has been more than anticipated and the forecasts have been increased by \$7,000 and \$5,000, respectively.

Budgeted lease income of \$6,700 in relation to Ballina Hockey fields has been transferred from the Open Space and Reserves to Cultural and Community Services area, as that section directly manage this lease.

Quarries

Operating Income: Monthly royalty income of \$17,000 (unbudgeted) for the Tuckombil Quarry was received for the month of July. The lease agreement with Lismore City Council has been discontinued and this is the final payment.

Landfill and Resource Management (LRM)

General Income: Forecast income for the State Government Waste Levy grant has been increased by \$104,000 based on the amount received to date.

Charges Income: Forecast income for waste management annual charges has been increased by \$10,000, which is offset by a decrease in forecast income for recyclable metal sales.

Interest Income: Forecast income has been increased by \$40,000 for LRM funds held in reserve.

Domestic Waste Management (DWM)

Charges Income: Adjustments to annual charges have resulted in an increase to revenue of \$70,000. The original forecast did not allow for sufficient growth in services.

Interest Income: Forecast income has been increased by \$5,000 for DWM funds held in reserve.

General Manager's Group

Administrative Services

Operating income: Sundry sales forecast has been reduced by \$5,000 to \$15,000, as current trending indicates meeting the original forecast is unlikely.

Financial Services - General Purpose

Grant Income: Confirmation of the Federal Assistance Grant (FAG) has resulted in an increase in income of \$259,000.

Operating Income: Adjustments to rates revenue based on amounts levied have resulted in an increase to revenue of \$90,000. Again this is attributable to growth in assessments.

Interest Income: Forecast interest received on outstanding rates and charges has been reduced by \$10,000 to \$81,000. The ongoing reduction in total debt outstanding is reducing associated interest income.

Grant Income: The forecast pensioner subsidy budget has been reduced by \$6,000 based on actuals.

Human Resource and Risk Management

Contributions Income: Forecast income from the Statewide Bonus reimbursement has been increased by \$15,000. This bonus is then expended on specific risk projects.

Property Management

Interest Income: Forecast income has been increased by \$30,000 for Property funds held in reserve.

General Fund - Operating Expenses

Strategic and Community Facilities

Strategic Planning

As noted earlier funding of \$25,000 has been secured in respect of Heritage and Culture projects.

Cultural and Community Services

Budgeted expense of \$21,400 in relation to the annual subscription for the Regional Arts Council has been transferred from Governance to the Cultural and Community Services area.

Budgeted expense of \$5,000 in relation to cash delivery services costs has been transferred from Administration Services to the Cultural and Community Services area.

Swimming Pools

Due to the anticipated timing of drawing down the swimming pool loans, the forecast loan interest expense of \$204,000 has been removed and transferred to a swimming pools reserve.

Tourism and Communications

As noted earlier funding of \$50,000 has been secured from North Coast Destination in relation to a Fly Drive Campaign and an equivalent increase in expenses within the Tourism budget. A further \$25,000 funded from the Airport budget has been made in relation to the anticipated costs of the campaign.

Security expenses have been increased by \$5,300 due to the costs incurred for installation of a new security camera at the Visitor Information Centre.

Development and Environmental Health Services

Building Services

Employee Costs: The budget has been increased by \$40,000, with additional personnel being utilised to meet the high demand of services.

Training Costs: A budget of \$8,000 has been raised to allow training of staff for pool inspections.

Civil Services

Engineering Management

An increase of \$5,000 was required to the budgeted SES State Levy.

Stormwater and Environmental Protection

Decreases have been made to current year expenditure on the Coastal Zone and Ballina Floodplain Management Plans, decreased by \$140,000 and \$120,000 respectively. These amounts have been transferred to reserves for expenditure in subsequent years.

Funding of \$23,000 and \$20,000 has been received for Ballina Third Party Modelling and Coastal Hazard Study with equivalent budget adjustments made to the expenditures.

Ancillary Transport Services

Wharves and Jetties: An additional \$60,000 budget has been allocated in relation to the Trawler Boat Harbour and Martin Street Boat Harbour projects. This represents funding carried forward for existing projects.

Other increases to operating expenses were street lighting by \$60,000 based on actual costs, paved footpaths operating expenses \$5,000 and footpaths vegetation management operating expenses \$5,000.

Roads and Maritime Services (RMS)

As mentioned earlier, income from RMS contributions for regional roads has been reduced by \$134,000 to \$893,000. This amount has been confirmed as the amount to be received the Block and Traffic Facilities grants. An equivalent budget adjustment has also been made to the expenditure.

A further \$160,000 of regional roads expenditure has been reclassified from operating expenses to capital expenditure.

Open Space and Reserves

Vegetation Management: Expense of \$7,000 has been raised for the Southern Escarpment Lennox Head, funded from grant income.

Rural Fire Service (RFS)

The budget for required contributions to the RFS and NSW Fire and Rescue brigades has been reduced by \$6,000 following advice of actual amounts due.

Landfill and Resource Management (LRM)

Expenditure budgets of \$62,400 each for an Asbestos Awareness Education Program and an Illegal Dumping Deterrent Infrastructure Dumping program have been raised. These programs are funded from The Better Waste and Recycling grant monies held in restricted reserves (State Government levies refunded to Council).

Another large operating expense budget raised is an amount of \$90,000 for asbestos clean-up works still outstanding.

Fortunately there is an offsetting \$90,000 reduction in transport costs for recyclates, with savings incurred as these materials are now going to the Lismore waste centre, instead of being transported to Queensland.

Domestic Waste Management

There has been a net increase to forecast operating expenses of \$30,000 with increases to green waste collection costs of \$20,000, increases to rural kerbside collection costs of \$10,000 and increases to plant repair costs of \$10,000, offset by a reduction of \$10,000 for the annual North East Waste Member Contribution.

General Manager's Group

Governance

Budgeted expense of \$21,400 in relation to the annual subscription for the Regional Arts Council has been transferred from Governance to the Cultural and Community Services area.

Councillor and Officers Liability insurance costs have required an additional \$6,500 budget allocation.

10.8 Financial Review - 30 September 2016

Unallocated donations budget of \$4,700 was transferred from Governance to Community Centres and Halls for halls maintenance based on a Council resolution.

Administrative Services

Budgeted expense of \$5,000 in relation to cash delivery services costs has been transferred from Administration Services to the Cultural and Community Services area.

An additional \$15,000 expense has been incurred in relation to staff mobile phones for hardware costs. These costs are not being covered for an interim period whilst the contract with Telstra is being renewed.

Human Resource and Risk Management

Superannuation: A further \$30,000 has been added to this budget, bringing the total forecast to \$2,240,000.

Employee Salaries: A further \$25,000 has been added to the salaries budgets, with \$10,000 for general salaries expenses and \$15,000 for project based work to be completed, utilising additional unbudgeted funds received from the Statewide Bonus reimbursement.

Employee Entitlements: A further \$10,000 has been added to the employee leave budgets, bringing the total forecast to \$2,611,000.

Recoupment of Overhead Costs: As overhead recoupments are trending well (in part due to private works trending well) an additional \$50,000 of on-costs is anticipated to be recovered. Oncosts recouped present as a negative in expenditure (i.e. reduced expense).

Water Operations

This next section of the report deals with Council's Water operations. The table below details the forecast operating result for the Fund.

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

Item	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
Operating Income	11,450	0	11,450	46	11,496	3,076
Operating Exps (excl. dep)	9,703	0	9,703	128	9,831	2,459
Net Operating Result Before Depreciation						
Depreciation	1,747	0	1,747	(82)	1,665	617
Depreciation Expense	1,428	0	1,428		1,428	357
Net Operating Result from Continuing Operations						
	319	0	319	(82)	237	260

The **forecast operating position** (exclusive of depreciation) has deteriorated by \$82,000 since the original budget to a surplus of \$237,000.

Forecast operating revenues have been increased by \$46,000.

The larger contributors were an increase in residential access charges of \$45,000, an increase in revenue achieved from bulk filling stations of \$15,000 and an increase in pensioner subsidy grants received of \$12,000.

Forecast interest revenue has been decreased by \$30,000.

Forecast operating expenditure have been increased by \$128,000.

The largest adjustment to operating expenses is an increase to the budget of \$84,000 for water purchased from Rous, based on confirmation received of the 2016/17 contribution.

Other increases included raising of new budgets of \$20,000 for legislative training costs, \$12,000 for asset revaluations, an increase of \$10,000 on expenditure for the Section 64 plan review and an increase of \$7,000 for insurance costs.

A small offset was a reduction to salaries expenses of \$10,000.

Wastewater Operations

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

The table below details the forecast operating result for the Fund.

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

Item	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
Operating Income	17,486	0	17,486	140	17,626	13,823
Operating Exps (excl. dep)	14,360	0	14,360	23	14,383	3,473
Net Operating Result Before Depreciation	3,126	0	3,126	117	3,243	10,350
Depreciation/loan unwind Expense	2,927	0	2,927		2,927	732
Net Operating Result from Continuing Operations	199	0	199	117	316	9,618

The **forecast operating position** has improved by \$117,000 to a surplus of \$316,000.

Forecast operating revenues have been increased by \$140,000.

The larger contributors were an increase to access charges of \$148,000 and an increase in pensioner subsidy grants received of \$10,000.

A reduction of \$20,000 in forecast revenue from recycled water sales (dual reticulation) is proposed, as the original budget of \$50,000 was highly uncertain and does not look achievable.

Various adjustments were required to a number of expenditure budgets based on trend, predominantly due to a restructure of the ledger for the 2016/17 year.

The original estimates were uncertain, as historical data was not available at the individual budget level. An overall increase of \$115,000 to reactive maintenance budget was offset by reductions to mains maintenance and treatment operation costs.

10.8 Financial Review - 30 September 2016

Forecast operating expenses have been increased by \$23,000 as part of this review. The items that did not have offsets affecting the overall result were \$12,000 for asset revaluation costs and \$10,000 additional recycling operation costs for Wardell groundwater monitoring.

Section Two – Capital Budget

This next section of the report looks at capital expenditure and changes to the programs.

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

General Fund Capital works	Original Budget 2016/17 \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	September Budget \$'000	Actual to September \$'000
General Fund Capital Funding						
General revenue	5,110	18	5,128	112	5,240	
Reserves	10,299	7,503	17,802	(444)	17,358	
Loans	12,500	0	12,500	0	12,500	
Section 94 contributions	246	55	301	70	371	
Grants and contributions	12,817	973	13,790	236	14,026	
Total Funding	40,972	8,549	49,521	(26)	49,495	
General Fund Capital Expense						
<i>Strategic and Community Facilities Group</i>						
Cultural and Community Services	22	26	48	0	48	11
Swimming Pools	11,600	0	11,600	0	11,600	50
Libraries	0	0	0	0	0	0
<i>General Manager's Group</i>						
Administration & Information Services	91	3	94	10	104	21
Property Management	3,468	423	3,891	89	3,980	219
Camping Ground	10	0	10	0	10	0
Ballina Airport	5,478	0	5,478	(84)	5,394	99
<i>Development & Environ Health Group</i>						
Environmental Health	172	0	172	0	172	0
<i>Civil Services Group</i>						
Procurement & Building Management	2,148	1,107	3,255	35	3,290	644
Stormwater	438	167	605	0	605	43
Roads and Bridges	10,603	1,509	12,112	735	12,847	1,833
Ancillary Transport Services	2,267	1,608	3,875	(951)	2,924	341
Water Transport and Wharves	963	0	963	171	1,134	24
Open Space -Parks and Reserves	1,226	54	1,280	(50)	1,230	17
Open Space - Sporting Fields	788	2,660	3,448	19	3,467	1,339
Cemeteries	0	0	0	0	0	0
Fleet and Plant	1,510	560	2,070	0	2,070	308
Quarries and Sandpits	83	0	83	0	83	4
Waste Management	105	432	537	0	537	0
Total Capital expense	40,972	8,549	49,521	(26)	49,495	4,892

General Fund

General Manager's Group

Administration and Information Services

The budget for IS Mapping System has required an increase of \$10,000 due to additional software and project work completed.

Property Management

New capital expenditure budgets have been raised for \$35,000 for developer contributions on 7 North Creek Road, \$29,000 regarding 89 Tamar St air-conditioning, \$15,000 purchase of 9 North Creek Rd (for road widening) and \$10,000 sewer pump station for Cessna Crescent.

Ballina Airport

The Terminal Building upgrade project budget for 2016/17 has been reduced by \$84,000 as works to this value were completed in the 2015/16 year and hence the capital expenditure and the grant income receivable to that value were recognised in the 2015/16 year.

Civil Services Group

Procurement and Building Management

Budget of \$35,000 was transferred from the Roads Lake Ainsworth Precinct capital budget to the Procurement Lennox Surf Club Design budget.

Roads and Bridges

Budgets have been increased by a total of \$735,000. The main changes are as follows:

Description of Works	Budget Adjustment (\$)	Comments
Angels Beach Drive and Links Ave R/about (new)	1,000,000	Blackspot grant funding confirmed
River Drive (new)	468,000	From previously unallocated Roads to Recovery funding
Riverbank Road (new)	310,000	From previously unallocated Roads to Recovery funding
Teven Road (new)	233,000	From previously unallocated Roads to Recovery funding
RMS Works Regional Roads	160,000	Operating to capital expenditure
Fishery Creek and Canal Bridge Guard Rails (new)	90,000	Funded from bypass reserve
Hutley Drive	70,000	Funded from s94 reserve
Kerr and River St Edge Drains	48,000	Funded from bypass reserve
Shelly Beach Road	35,000	Additional budget required
Unallocated Roads to Recovery funding	(1,011,000)	Allocated to River Drive, Riverbank Road and Teven Road
Ballina Bypass	(573,000)	Funded from bypass reserve - correction of 2016/17 budget
Skennars Head Road	(47,000)	Portion of budget reallocated for other priorities
Lake Ainsworth Precinct Improvements	(35,000)	Transfer to Procurement budget
Other	(13,000)	Various minor budget adjustments
Total	735,000	

Ancillary Transport Services

Budgets have been decreased by a total of \$951,000. The main changes are as follows:

Description of Works	Budget Adjustment (\$)	Comments
Footpath Tamarind Drive	14,000	Additional budget required
Footpath Simpson Avenue Wollongbar	10,000	New budget required
Shared Path Coastal Walk Section 2	(850,000)	Grant funding originally budgeted not forthcoming
Pedestrian Access and Mobility Plan	(80,000)	Capital to operating expense
Shared Path Tara Downs/Amber Drive Section 3	(35,000)	\$35,000 transferred to reserve for future vegetation maintenance as per development consent conditions
Footpath Allens Parade Lennox Head	(10,000)	Project under budget
Total	(951,000)	

Water Transport and Wharves

Proposed works associated with pontoons and boat ramps have been adjusted based on current work priorities. Budgets have been increased by a total of \$171,600. The majority of budgets are supported by grant funds, with an increase of \$151,000 to forecast capital grants to be received. The main changes are as follows:

Description of Works	Budget Adjustment (\$)	Revised Budget (\$)
East Wardell Pontoon	22,400	92,400
Captain Cook Park Pontoon	55,300	281,300
Fishery creek Pontoon	17,400	87,400
Faulks reserve Pontoon	16,600	163,600
Lennox Head Boat Ramp	25,500	135,500
Keith Hall Boat Ramp design	34,400	34,400
Keith Hall Boat Ramp construction	0	300,000
Emigrant Creek Boat Access Study	0	40,000
Total	171,600	1,134,700

Open Space – Parks and Reserves

The Captain Cook Master Plan budget was reduced by \$50,000 to bring the budget to the agreed amount of \$150,000. This budget was originally overstated.

Open Space – Sporting Fields

An overall increase to sporting fields capital income of \$20,000 is proposed, increasing the Ballina Netball Lights project from \$25,000 to \$100,000, funded by a contribution of \$20,000 and the balance being a re-allocation from the sports fields improvement program budget.

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

	Original Budget 2016/17 \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	September Budget \$'000	Actual to September \$'000
Water Supply Capital Works						
Water Capital Funding						
Reserves	1,714	0	1,714	0	1,714	
Section 64 contributions	1,820	40	1,860	0	1,860	
Grants & Contributions	0	0	0	0	0	
Total Funding	3,534	40	3,574	0	3,574	
Water Capital Expense						
Main Renewal	440	0	440	0	440	26
Reservoirs	1,019	0	1,019	0	1,019	15
Pressure Management	234	0	234	0	234	0
Water pump and bores	362	40	402	0	402	1
Trunk mains	800	0	800	0	800	1
Treatment Plant	173	0	173	0	173	5
Plant	140	0	140	0	140	18
Connections	260	0	260	0	260	131
Other	106	0	106	0	106	0
Total Capital expense	3,534	40	3,574	0	3,574	197

The capital works program has been reviewed with no proposed changes at this time.

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

	Original Budget 2016/17 \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	September Budget \$'000	Actual to September \$'000
Wastewater Services Capital works						
Wastewater Capital Funding						
Reserves	3,721	716	4,437	(455)	3,982	
Section 64 contributions	2,264	0	2,264	0	2,264	
Loans	0	0	0	0	0	
Total Funding	5,985	716	6,701	(455)	6,246	
Wastewater Capital Expense						
Pumping stations	2,640	90	2,730	0	2,730	170
Treatment Plants	1,800	335	2,135	(455)	1,680	200
Trunk Mains	217	0	217	0	217	8
Mains renewals	253	10	263	0	263	38
Plant	290	87	377	0	377	0
Reuse program	740	179	919	0	919	43
Other	45	15	60	0	60	0
Total Capital expense	5,985	716	6,701	(455)	6,246	459

The capital works program has been reviewed and the proposal is to decrease budgeted works by \$455,000 which relates to the following:

Description of Works	Budget Adjustment (\$)	Revised Budget (\$)
Reverse Osmosis Plant	(455,000)	545,000
Treatment Plant Alstonville	15,000)	25,000
Wardell SCADA upgrade	(15,000)	191,000
Total	(455,000)	

Section Three – Cash and Investment Statement

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

Cash & Investments	Original Budget 2016/17 \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval Sept \$'000	Revised Budget Sept \$'000
Unrestricted	1,736	0	1,736	0	1,736
Externally Restricted					
- Section 94	7,540	(411)	7,129	(19)	7,110
- Domestic Waste M'ment	2,027	(144)	1,883	45	1,928
- Section 64 Water	5,879	450	6,329	(15)	6,314
- Water	3,843	280	4,123	(67)	4,056
- Section 64 Sewer	4,479	565	5,044	0	5,044
- Sewer	4,036	(1,661)	2,375	572	2,947
Total Externally Restricted	27,804	(921)	26,883	516	27,399
Internally Restricted					
- Strategic and Community Services	2,797	45	2,842	204	3,046
- Employee Leave Entitlements	2,527	266	2,793	0	2,793
- Plant Replacement	(232)	298	66	0	66
- Quarries	629	148	777	17	794
- Property Reserves	4,536	195	4,731	566	5,297
- Open Spaces and Reserves	547	(13)	534	0	534
- Landfill Management	2,729	368	3,097	19	3,116
- Civil Works	2,352	377	2,729	737	3,466
- Other	1,236	285	1,521	50	1,571
Total Internally Restricted	17,121	1,969	19,090	1,593	20,683
Total Restricted	44,925	1,048	45,973	2,109	48,082
Total Cash and Investments	46,661	1,048	47,709	2,109	49,818

The unrestricted cash figure is not inclusive of transactions that would normally be included when calculating working capital; i.e. it is exclusive of movements in items such as debtors and creditors. The available cash figure is taken from note six of the financial statements as at 30 June 2016.

Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for September 2016, funds invested amounted to \$69,784,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 30 September to the amount of \$1,317,671.

4. Actual year to date cash and investments amounted to \$71,101,671 as at 30 September 2016. This amount includes cash at bank of \$1,317,671 and funds invested of \$69,784,000, which has been reconciled to bank statements and investment reports.

Comment on Cash and Investment Position

The forecast reserves position has increased from \$44.9 million to \$48.1 million.

The original reserves estimate was prepared prior to the finalisation of end year actual results. Hence there have been changes between the estimated start position of the original estimates and the actual start position, with final actual reserves being higher than originally budgeted. These increases were then offset, in part, by works carried forward from the previous year.

Details of the major changes for approval are summarised below.

Section 94 Reserves

Net reserves are predicted to decrease by \$19,000, with \$49,000 to partially fund works for Hutley Drive, offset by an increase in forecast interest income of \$30,000.

Domestic Waste Management

Net reserves are predicted to increase by \$45,000, which is the result of an improved operational outlook of \$45,000.

Water Reserves

Net reserves are predicted to decrease by \$82,000, which is the result of a slightly deteriorated operational outlook.

Wastewater Reserves

Net reserves are predicted to increase by \$572,000, which is the result of a reduced capital works program \$455,000, and improved operational outlook \$117,000.

Strategic and Community Services

There is a net increase of \$204,000 to the forecast reserves balance, as a result of a reduction in loan expenditure due to the expected deferral of drawing down of the swimming pool loans.

Quarries

Net reserves are predicted to increase by \$17,000, which is the result of an improved operational outlook.

Property Reserves

There is a net increase of \$566,000 to the forecast reserves balance with the adjustments being as follows:

- Proposed sale of 7 North Creek Road, less associated expenses including developer contributions \$165,000
- Proposed sale of Russellton land, less associated expenses \$225,000
- Reduction of the proposed dividend payable to General Fund, of \$200,000 (representing favourable income adjustments made to the Financial Assistance Grant and rates income during the quarter)
- Proposed funding of \$29,000 for 89 Tamar Street air-conditioning capital costs
- An increase in forecast interest income of \$30,000 on reserve balances
- Proposed funding of \$15,000 for costs of purchase of land required for road widening at 9 North Creek Road
- Proposed funding of \$10,000 for sewerage pump station costs for Cessna Crescent.

Landfill Resource Management

Net reserves are predicted to increase by \$19,000, which is the result of a deterioration of the forecast operating result.

Civil Works

The forecast reserve balance has increased by \$737,000 with the larger adjustments being as follows:

- Amount of \$435,000 transferred from current year capital expenditure to the Ballina Bypass works reserve
- Amount of \$260,000 transferred from current year operating expenses to stormwater reserves (for future spending) on the Coastal Zone Management Plan and the Ballina Floodplain Management Plan
- Amount of \$30,000 transferred to ancillary transport reserves, for future vegetation maintenance costs for the shared pathway.

Other

The balance of 'Other' reserves is predicted to rise by \$50,000, associated with future budgetary requirements for salaries in the Development and Environmental Health group.

Section Four - Key Performance Indicators

The next section of the report takes selected financial benchmarks and compares the 30 June 2015 and 2016 ratios with the forecast at September to 30 June 2017.

The performance indicators that have been selected have a short term focus, which suits the quarterly review, which also focuses on the short term. Each ratio typically contains numerous variables and the forecast should be viewed as a good indication only.

Key Performance Indicators - Description

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

Measured: as a ratio

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

Indicator type: Financial Position

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

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

Measured: as a ratio

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

Indicator type: Financial Performance

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

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

Measured: as a ratio

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

Indicator type: Financial Position

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

Benchmark Indicators – General Fund

1. **Unrestricted Current Ratio – General Fund**

Benchmark: >1.5:1

2014/15	2015/16	2016/17 Sept
Actual	Actual	Estimate
3.26:1	4.02:1	2.84:1
Pass	Pass	Pass

Comment

The ratio is predicted to fall in 2016/17 in comparison to the 2015/16 result. This is due to a larger portion of the investment portfolio invested in longer terms (non-current) rather than shorter terms (current).

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

2. Operating Performance Ratio – General Fund

Benchmark: >0

2014/15	2015/16	2016/17 Sept
Actual	Actual	Estimate
-5.3%	-1.3%	-1.3%
Fail	Fail	Fail

Comment

The current forecast for the ratio to June 2017 has remained consistent with the previous results and is close to the benchmark.

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

The current forecast for future years continues to indicate that this ratio will reach a breakeven point in 2017/18 and will have a positive three year average in the 2018/19 year. The three year average is an important ratio used as part of the Fit for the Future assessments.

However the LTFP is based on special rate variations of 2.9% above the rate pegging limit for 2017/18, 2018/19 and 2019/20.

3. Debt Service Cover Ratio – General Fund

Benchmark: > 2

2014/15	2015/16	2016/17 Sept
Actual	Actual	Estimate
2.94	4.93	4.80
Pass	Pass	Pass

Comment

This ratio is sourced from the operating result and loan repayments.

The forecast is predicted to remain similar to the 2015/16 result and comfortably meets benchmark.

The trend moving forward is positive and will improve as waste loans are finalised in 2016/17. Whilst swimming pool loans will impact on loan repayments from 2017/18 onwards, the impact on this ratio is minimised by the matched increase in rates revenue.

The strategy to continue to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by a combination of increasing income and decreasing expense.

Benchmark Indicators - Water

1. Unrestricted current ratio - Water

Benchmark: >1.5:1

2014/15	2015/16	2016/17 Sept
Actual	Actual	Estimate
73.05:1	78.58:1	76.29:1
Pass	Pass	Pass

Comments

The ratio meets the benchmark comfortably as the Fund has reasonable reserves and no debt.

2. Operating Performance Ratio - Water

Benchmark: > 0

2014/15	2015/16	2016/17 Sept
Actual	Actual	Estimate
1.2%	3.77%	2.32%
Fail	Pass	Pass

Comments

The Water Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years.

3. Debt Service Cover Ratio - Water

Benchmark: >2

2014/15	2015/16	2016/17 Sept
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

Comments

The Fund has no external borrowings and none are anticipated this financial year.

Benchmark Indicators - Wastewater

1. Unrestricted current ratio - Wastewater

Benchmark: >1.5:1

2014/15	2015/16	2016/17
Actual	Actual	Estimate
3.09:1	2.85:1	2.30:1
Pass	Pass	Pass

Comments

The ratio is forecast to fall in comparison to 2015/16. The reason for the decline is due to the use of cash reserves to fund the capital works program and to finance loan repayments.

2. Operating Performance Ratio - Wastewater

Benchmark: >0

2014/15	2015/16	2016/17 Sept
Actual	Actual	Estimate
-7.7%	-5.7%	1.79%
Fail	Fail	Pass

Comments

The latest forecast is for a positive result, which means a pass in comparison to the benchmark.

Going forward the strategy is to continue to increase annual charges by amounts in excess of CPI and carefully manage expenses. A positive result is expected to continue over the next few years.

3. Debt Service Cover Ratio - Wastewater

Benchmark: > 2

2014/15	2015/169	2016/17
Actual	Actual	Estimate
0.85	0.81	1.00
Fail	Fail	Fail

Comments

This ratio will fail the benchmark for many years due to the extremely high level of borrowings that have occurred in recent years, although the forecast is that the ratio will gradually improve year on year as the operating surplus continues to grow.

Section Five – Contractors/Consultants/Legal Expenses

New contracts entered into during the quarter that meet the definition are detailed in the table below.

10.8 Financial Review - 30 September 2016

Contractor Name	Purpose	Amount (\$'000)	Start Date	Duration of Contract	Incl in Budget Y/N
Goldsmiths Building Works	Replacement Air Conditioning and Roof – Administration Building	1,370,740	1/2/17	12 months	Yes
Sanders Turner Ellick Architects Pty Ltd	Airport Terminal Building and Infrastructure Design	355,650	1/11/16	6 months	Yes
Bennett Constructions	Construction Tennis Clubhouse Building	369,869	24/10/16	4 months	Yes

Consultants

Total expenditure to date on consultants that appear to meet the definition are detailed below.

Item	Expenditure YTD	Included in Budget Y/N?
Consultancies	\$43,424	Yes

Legal Expenses

The next table summarises the expense incurred to the end of September on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD	Included in Budget Y/N?
Legal Fees	\$42,186	Yes

Other Matters

Administration Building Air-conditioning and Roofing Project

The budget for this project is \$1,633,000 and the expenditure is anticipated over the 2016/17 and 2017/18 financial years.

The 2016/17 budget includes funding of \$1,017,000 whilst the 2017/18 budget has \$616,000.

The project manager has advised that efficiencies can be achieved by completing all of the works at the same time, particularly in respect to crane hire, and has requested that the 2017/18 funding be brought forward to the current year.

The table below shows the budget and funding sources for the 2017/18 financial year.

2017/18 Administration Building Air-conditioning and Roofing Funding (\$)

Budget	Water and Wastewater Contribution	Community Infrastructure Reserve	Landfill and Resource Management (LRM) Reserve	General Revenue
616,000	228,000	124,000	200,000	64,000

The next table shows the reserve balances at the start of 2016/17 and the estimated balance at year end for the reserves that are funding this project. Balances exclude externally restricted reserves.

Reserve Balances as at 1 July 2016 (\$)

Title	Actual Balance 1/7/16	Estimated Balance 30/6/17
Water	4,223,000	4,113,000
Wastewater	6,431,000	2,364,000
LRM	4,170,000	3,096,000
Community Infrastructure	687,000	460,000

The estimated balance is subject to many variables that could change the final result however it is considered that each reserve is sufficiently robust to accommodate the contribution 12 months earlier than originally proposed.

The Community Infrastructure Reserve is under more pressure than the others however the forecast indicates that the reserve can cope with the adjusted cash flow.

The general revenue cash balance of \$64,000 cannot be brought forward however the project manager envisages savings in comparison to budget given the more efficient operational process.

Also the project is likely to be completed very close to the end of the financial year, which may offer opportunities in terms of cash flow should the entire budget be required.

On balance it is considered that the funding sources can be adjusted to enable the entire project to be completed in the current financial year. It is recommended that the 2016/17 budget for air-conditioning be increased by \$552,000 (excludes the \$64,000 general revenue allocation) and that the Long Term Financial Plan be adjusted in 2017/18 to reduce the air-conditioning allocation by \$616,000.

Ballina Tennis Club

Correspondence has been received from the Club asking Council to provide a letter of support to donate between \$20,000 and \$30,000 as a contribution towards expansion of the clubhouse, including upgrading of toilet facilities.

The Club advises that the total cost of works is in the order of \$200,000 and they can meet approximately 50% of this cost. The remaining funds are being sought from sponsorships and grants. The Club is of the view that if Council support is secured this will encourage other organisations (private and government) to contribute to the project.

Typically a request of this nature would be considered as part of the annual donations process. This process has been completed for 2016/17 and any applicants since July 2016 have been advised that funds are not available in the current year, however they may apply for a 2017/18 donation in approximately April / May next year.

Some of the options open to Council include;

1. Advise the club that Council cannot pledge funds at this time but they are encouraged to apply as part of the 2017/18 donations process.
2. Council could resolve to commit funds from the 2017/18 donations budget. This would allow Council to issue a letter of support to the project. The main point of considering all donation applications at the one time is to assist fairness and equity in the distribution of available funds.
3. Council may choose to pledge support for the project from an alternate source of funds, however there is no source that is readily available for this purpose.

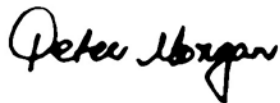
The matter is put forward for consideration by Council.

Certification

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 30 September 2016 indicates that Council's projected financial position at 30 June 2017 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The satisfactory position is based on the short term (twelve month) outlook.



Signed Peter Morgan, Responsible Accounting Officer

Sustainability Considerations

- **Environment**

This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.

- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

This report informs Council of actual financial results to date in comparison to budget. Where legal ramifications are envisaged they are detailed within the information section of this report.

Consultation

This report has been prepared to inform the community of budget variations. Relevant staff have been consulted in the preparation of this report.

Options

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

No recommendation is made in respect to the Tennis Club. Councillors may wish to move a recommendation in support of that proposal. If no recommendation is forthcoming the Club will be advised to re-apply as part of the 2017/18 Delivery Program, Operational Plan and budget discussions.

RECOMMENDATIONS

1. That Council notes the contents of the September 2016 Quarterly Budget Review and approves the changes identified within this report.
2. That Council approves the 2016/17 budget for air-conditioning to be increased by \$552,000 and the Long Term Financial Plan to be adjusted in 2017/18 to reduce the air-conditioning allocation by \$616,000. The funding for this reallocation is to be as per the adopted budget for 2017/18, excluding the general revenue contribution of \$64,000.

Attachment(s)

Nil

11.1 Fig Tree Management

11. Civil Services Group Reports

11.1 Fig Tree Management

Delivery Program Open Spaces and Reserves

Objective To report on a tree management issue and seek the endorsement of Council on the preferred course of action.

Background

Council has received two public liability claims for damage to property in Castle Drive, Lennox Head. The cause of the damage to property is identified in those claims as a fig tree located on the nature strip in between the two houses.

Council has previously considered reports on this tree in 2005 and 2006, following concerns of damage, limb drop and tree health. A Councillor briefing was also held in 2015 to highlight issues associated with the tree.

Council has previously stated its position is to retain the tree, with an elevated level of monitoring and undertaking additional pruning works.

Council's insurers are currently assessing these claims and have recommended that the tree be removed or if deemed appropriate and effective, a tree root barrier installed.

As Council has now been put on notice of the extensive damage caused by the fig tree, should no action be taken to rectify the situation, Council may be faced in a situation of being uninsured for any further damage to properties at this location caused by this tree.

Previous attempts at installing root barriers have proven unsuccessful.

Key Issues

- Tree management
- Council Insurance
- Liability Claims

Information

The tree (*Ficus macrophylla*) or Moreton Bay Fig is located within the road reserve of Castle Drive, Lennox Head. Refer to the site map at attachment one.

The mature fig is approximately 20m in height with a canopy spread of approximately 30m.

11.1 Fig Tree Management

The subdivision was registered in 1981 with a specific intent to retain the tree; however both adjoining properties are constructed close to or under the drip line of the tree.

The tree does add significance to the community based on its age, size, species and habitat value. An independent arborist report (attachment two) received in 2015 identifies the tree as displaying good vigor and sound structure for its species, size and age range.

Concerns regarding the tree were first notified to Council in 2004, specifically in relation to dropping limbs, encroachment of limbs to property and overall tree health.

Council, at the time, investigated these concerns and undertook the required pruning in addition to undertaking arborist reports.

A formal report was first presented on this matter to Council in November 2005, and a subsequent report presented in May 2006 (attachment three) following a request for further information, with Council resolving;

To endorse the procedure detailed in this report as satisfactory for the ongoing retention and management of the Castle Drive Fig Tree.

Following this resolution, major pruning works were undertaken on the tree and an increased inspection framework was also implemented on a minimum six month frequency, with works undertaken as required as a result of these inspections and customer requests.

In addition to this increased monitoring and management, Council staff have previously responded to property damage at neighbouring properties as a result of root incursion in 2008 and 2011.

These events involved damage to pavers, with staff undertaking root pruning works and undertaking landscape works to rectify. Council's insurers were not notified of these works.

In April 2016 Council received further notification of property damage to paved areas. Upon notification, Council's insurer engaged a loss assessor to inspect damage and quotations were sought to rectify. The lowest quote received for this damage was \$19,962.67.

In 2015, Council received advice from a second property owner that root incursion had caused damage to stormwater infrastructure and building damage.

Council's insurer engaged a loss assessor to inspect damage and under a deed of release, repairs were undertaken to the stormwater at a cost to Council of \$5,800.

Council's insurer has provided advice that by virtue of approving the residential housing development adjacent to the fig tree, Council has been on notice of the issue for many years and it is possible that Council is liable in negligence and nuisance for the damage caused to property as a result of the tree.

11.1 Fig Tree Management

Current management options available for Council to consider in regards to the future of the Castle Drive Fig include:

Attempt the Installation of a Root Barrier

Ficus species are known for their vigorous root growth and root barriers have limited success in the ability to control fig roots.

Council may be able to install a root barrier, however there are limitations based on available space, impact of electrical and water services and placement of the root barrier.

Due to the proximity of the tree to the adjacent properties, root pruning for installation of a root barrier would be within the Tree Protection Zone (TPZ) and close to impacting on the Structural Root Zone (SRZ).

Whilst Ficus species are known to tolerate some encroachments into the TPZ, older trees generally do not respond well to root pruning and any root barrier in close proximity to a tree trunk will generally do damage to a mature tree.

Given the proximity of property to the tree this could increase the risk to adjoining residents.

It is estimated that these works could cost approximately \$20,000 with no guarantee of the tree survival, or further root damage, due to overtopping or further invasive root growth.

Tree Removal

Council could determine to remove the tree, undertake stump grinding and replace with a native species with less invasive roots. Given the size of the tree and site constraints due to proximity to property, it is estimated that works would cost approximately \$6,000.

Take No Action

If Council determines to take no action in relation to the tree it runs a serious risk of losing the ability to maintain coverage under Council's insurance policy for these sites.

Sustainability Considerations

- **Environment**
The Council only removes trees when it is essential to do so and generally the only acceptable reasons relate to managing the risks of property damage or public safety, and where it is necessary for the provision of essential services.
- **Social**
The tree is substantial and it contributes to the amenity of this area.
- **Economic**
Liability exposure for the Council is an important consideration.

Legal / Resource / Financial Implications

Substantial staff resources have been allocated to undertaking biannual inspection on this tree and undertaking remediation works as a result of damage to private property caused by this tree.

As Council's insurer has highlighted that no further claims may be considered on this tree, Council wears a significant potential liability in the event of further damage.

Works related to this report would need to be funded from Council's Open Spaces budget.

Consultation

No public consultation has been undertaken in the preparation of this report. Previous discussions regarding this tree have considered community feedback in favour of the retention of the tree given its age and iconic status within this residential precinct.

Options

Council can determine to take one of the following actions

1. Undertake tree removal
2. Attempt the installation of root barrier
3. Maintain the status quo (being to monitor and maintain the tree to the extent possible, and respond to property damage claims with rectification as appropriate).

Council has committed substantial resources in attempts to retain this tree and mitigate the impacts to the adjoining property. Having regard to the advice of our insurer, including the possibility Council may lose insurance cover, the potential cost exposure to Council means regrettably it is recommended for the tree to be removed.

RECOMMENDATION

That following the recommendation of Council's insurer, Council approves the removal of the Fig Tree located within the road reserve at Castle Drive, Lennox Head, with a suitable native species to be planted as a replacement.

Attachment(s)

1. Site Map
2. Arborist Report
3. Council Report May 2006

11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach

11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach

Delivery Program Engineering Works

Objective To respond to a Council resolution dealing with retaining public 4WD access at Angels Beach, being contrary to the consent for the Coastal Recreational Path currently under construction.

Background

At the 28 July 2016 Ordinary meeting there was a Notice of Motion dealing with the design and approval for the Coastal Recreational Path (CRP) which sought to reintroduce public 4WD access to Angels Beach.

The purpose of the motion was to address the approved consent condition for the construction of the CRP which states as follows:

- existing 4WD access at Angels Beach will continue to only provide emergency and maintenance access along the CRP, from the new Angels Beach carpark, described as follows: *"...restricted access onto the CRP for emergency vehicles via a removable bollard"*.
- existing 4WD access at Sharpes Beach carpark remains unaltered, and will continue to provide emergency and public 4WD beach access.

A copy of the Notice of Motion and the staff comment is provided as attachment one.

The Council resolution in response to this debate was as follows:

"That the status quo be maintained for four wheel drive access to Angels Beach after the construction of the Coastal Recreational Pathway, as per the Ballina Coastal Reserve Plan of Management 2003."

A subsequent Councillor briefing was held on the 15 August 2016 where a number of matters dealing with the CRP were discussed, including advice from Council's insurers regarding the above 4WD access decision. A copy of this advice is provided as attachment two.

Due to issues arising from the July 2016 resolution a further report was then presented to the 25 August 2016 Ordinary meeting.

The report discussed a number of matters and the content related to the 4WD discussion is reproduced below.

Notice of Motion - Access for 4WD Vehicles at Angels Beach

The section of CRP subject to this 4WD access is shown on Drawing Numbers 2165/101 and 2165/102 and is approximately 170m of path immediately north of the proposed Angels Beach car park.

11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach

The design of the proposed Angels Beach car park currently describes, and requires under the existing consent:

"...restricted access onto the CRP for emergency vehicles via a removable bollard".

Under this consent condition only emergency and service 4WD vehicles, with appropriate markings and warning lights and/or sirens, would use the CRP for public safety and maintenance purposes.

Advice has been sought from Council's insurer regarding Council's decision to change this condition and that advice is provided in Attachment Four.

The insurer's advice supports the existing consent conditions, which aim to reduce Council's exposure to a foreseeable risk.

The insurer also notes that the Coastal Reserve Plan of Management 2003 (CRPoM 2003) provides for regular review and reconsideration of 4WD beach access where feasible, environmentally acceptable, and in consideration of amenity and safety.

The insurer recommends it is now time to reconsider 4WD beach access at Angels Beach, being a popular urban beach with increasing usage associated with the CRP.

If Council wishes to proceed with the existing resolution to allow continued 4WD access, the insurer recommends a separate 4WD access be provided as a parallel road.

A new planning variation would be needed to comply with this recommendation. This would require a new REF with ecological assessment and cultural heritage assessment.

The cultural heritage assessment would comprise a new round of consultation with the project's RAP and as noted earlier this will be a lengthy process.

The resolution of Council specifically refers to the 4WD access to be implemented as per the CRPoM 2003.

There are a number of relevant sections of the document which relate to Off Road Vehicle Management.

The overarching CRPoM 2003 is clear regarding the assessment of 4WD beach access and encourages ongoing review as circumstances change.

The accompanying precinct plans to the CRPoM 2003, which were developed to provide a next level of detail, are more specific and documented input from the community, at that time.

Notwithstanding this, the CRPoM 2003 and the associated precinct plans relate to circumstances as at 2003, and as per the earlier information, it is suggested that Council reassess access as circumstances change.

On this basis, the construction of the CRP should be the trigger for a review of 4WD beach access at Angels Beach.

11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach

The staff response to the notice of motion agenda item of 28 July 2016 remains the advice from staff and a copy of this is provided in Attachment Five.

The relevant sections of the CRPoM 2003 are reproduced below:

“OFF ROAD VEHICLE MANAGEMENT ON BEACHES MANAGEMENT OBJECTIVES:

- Consideration be given to providing off-road vehicle access to beaches where feasible / environmentally acceptable, retaining beach amenity and safety for other users*
- Provide adequate emergency vehicle (and licensed commercial vehicles) access, within environmental constraints.”*

“STRATEGY / ACTION:

Develop a beach vehicle access policy for the Ballina Coastal Reserve, incorporating a vehicle permit system, allowing limited access to specified beaches, and including provision for:

- designated 4WD access areas*
- a permit system, regular patrols*
- total restriction in specific areas*
- periodic review of management and safety of 4WD use.”*

“STRATEGY / ACTION:

Review current emergency vehicle access points with regard to their current efficiency, safety, condition, and impacts on other beach users and the environment, and upgrade and maintain as required.”

And the relevant sections of the CRPoM 2003 Precinct Plans are reproduced below:

“Precinct 3 Beach Off Road Vehicles

- Sharpes Beach and Angels Beach – vehicles permitted only during night time, by prior arrangement with Council. Vehicle access only via the designated 4WD access track at Angels Beach: vehicles not permitted on dunes, vehicles to be driven only below High Water Level. No vehicles across the recognised shorebird resting and roosting site shoreward of Flat Rock reef/rock platform.”*

“Precinct 4 Off Road Vehicles

- Vehicles permitted on Angels Beach and Sharpes Beach, by arrangement with the Reserve Trust Manager, only between sunset and sunrise.*
- Access only via the designated vehicle access at Angels Beach.*
- Maximum speed 30 km/hr, reduced to 10 km/hr within 50 metres of walkers.*
- No vehicles permitted on dune and hind dune areas OR on dune swale area behind Flat Rock rock shelf (which is proposed for future wildlife refuge area status).”*

Legal / Resource / Financial Implications

Access for 4WD Vehicles at Angels Beach

The current design and consent conditions provide for emergency 4WD beach access immediately north of the proposed Angels Beach car park design.

This is a reduced level of service only for general 4WD access onto Angels Beach, as beach access still remains at Sharpes Beach car park.

This approach is consistent with the CRPoM 2003, which supports the ongoing review of feasibility of 4WD beach access.

Council's insurer has also provided advice regarding this matter and supports the current approach to minimise risk and avoid conflict with CRP users and 4WD vehicles, along and adjacent a popular urban beach.

Should the decision be made to continue with the status quo and retain general 4WD access then the insurer's advice is to isolate the risk and separate the general 4WD vehicles with provision of a separate road. This this would require an amended planning approval and associated documentation including cultural heritage consultation. Staff resources and consulting team resources would be required and the cost of this has not been assessed.

Options

Access for 4WD Vehicles at Angels Beach

The body of this report provides information which leads to the following options for considering 4WD access at Angels Beach:

- 1. Support the current CRP design and associated consent conditions, providing for emergency and service 4WD access only at Angels Beach, however maintaining general 4WD access at Sharpes Beach. This being consistent with the Coastal Reserve Plan of Management 2003, requiring reviews of feasibility of 4WD beach access as circumstances change.*
- 2. Proceed with the resolution to maintain the status quo and retain 4WD beach access at Angels Beach. This would require an amendment to the consent and retention of the access should only be provided once the request from Council's insurers was complied with.*

While option two represents the adopted position of Council, it is not recommended based on insurance advice that the Council may be exposed to litigation liabilities in the event of an accident on the path.

If Council continues with option two, it is recommended that a further report be presented that examines the development of policy arrangements, as suggested in the CRPoM 2003, to manage 4WD access to the beaches in the Coastal Reserve.

Importantly Council needs to recognise that the existing arrangements cannot remain once the path is completed, unless Council decides to specifically ignore the insurance advice.

11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach

If Council does take that course of action it increases our risk exposure and possibly leaves Council open for an increased damages claim in the case of an accident.

There is also the risk that our insurance coverage may be restricted if we do not follow the recommended insurance advice.

The Council resolution (250816/6) then arising from the Ordinary meeting of 25 August 2016 reads as follows:

“That Council proceed with the resolution to maintain the status quo and retain 4WD beach access at Angels Beach”

This report presents options to address this latest resolution.

Key Issues

- Reassess 4WD access arrangements for Angels Beach
- Balancing environmental, cultural and social benefits

Information

The purpose of this report is to provide advice in respect of the preliminary investigations to implement Council’s resolution and meet the insurance and risk management advice.

Council’s insurers have indicated that should Council wish to proceed with the resolution, and continue with public 4WD access onto Angels Beach, risk minimisation measures such as separating 4WD access from users of the recreational path would be required.

A number of access options would likely satisfy the requirement of separating 4WD vehicles from recreational path users. These options are briefly described as follows. The options are shown on attachment three, and photo images as per attachment four.

Option One

Do not proceed with rehabilitation of the existing gravel road north of the Angels Beach carpark, and use the remnant gravel road for 4WD access up to the Cultural Ways entry node.

Clear and construct a new 4WD access track around the entry node to connect to the existing 4WD access track north of the entry node.

Option Two

Clear and construct a new 4WD access track to the beach at the location of the proposed Angels Beach carpark.

Option Three

Clear and construct a new 4WD access track off The Coast Road (with associated roadworks) at the location of the existing 4WD access track.

11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach

All of the above options would require investigation, design and reporting for a new Part 5 approval, with the following scope of work likely:

- Survey and design
- Ecological assessment
- Cultural Heritage Assessment including archaeological reporting and consultation with Registered Aboriginal Parties
- Preparation of Review of Environmental Factors
- Part 5 submission and likely public exhibition
- Aboriginal Heritage Impact Permit due to works being within the declared East Ballina Aboriginal Place

The above scope of work is likely to cost in excess of \$50,000 and may take up to two years for completion due to the reporting and consultation, and in particular the mandatory timeframes and consultation with the project's Registered Aboriginal Parties.

The above estimates are indicative only, however the approval process undertaken for the adjustment to the route at the Flat Rock Tent Park, is an example of the cost and time frames that can be involved.

The consent conditions for the construction of the CRP currently underway do not allow for the 4WD access, meaning there will be a lengthy period of time between the opening of the path and the approval and construction of a 4WD access, where public 4WD access at Angels Beach is not available.

To advance the formal investigation of these options Council will need to confirm a funding allocation.

Sustainability Considerations

- **Environment**
The CRP project has received project consent with significant consideration for environmental outcomes, and implementation will provide for the enhanced long term and sustainable dunal system. The Cultural Ways project provides education dealing with traditional environmental matters.
- **Social**
The CRP project provides excellent recreational, health and wellbeing outcomes. The path connects to existing path networks and coastal destinations. The Cultural Ways project provides important education dealing with the significance of the East Ballina Aboriginal Place.
- **Economic**
The CRP project provides tourism marketing opportunities as well as providing infrastructure that will encourage people to live and invest in the Shire.

Legal / Resource / Financial Implications

Should the decision be made to continue with the status quo and retain general 4WD access then the insurer's advice is to isolate the risk and separate the general 4WD vehicles with provision of a separate road.

These options have been reported in the information section of this report.

At this stage early estimates for a consulting team to proceed with planning approval documentation would be in excess of \$50,000 with allowance for up to two years to obtain that consent, if it is obtained at all, based on recent project experiences.

Construction expenses and environmental offset, or mitigation cost, for the alternative options outlined in this report are yet to be prepared.

The Council has \$850,000 in its current budget program for the CRP which could fund this investigation, albeit these funds are currently allocated to the construction of parts of the Coastal Walk from Sharpes Beach to Pat Morton.

Council also as an opportunity to use the \$80,000 to match a grant from the NSW Government to enable the construction of the CRP - Shared Path East (Skennars Road – Pat Morton Lookout) if that grant is forthcoming.

Consultation

The development of the CRP project has seen extensive consultation over many years.

The culmination of this work has seen the lodgement of project planning documentation which has resulted in planning approval with associated consent conditions. The planning assessment process also included further public exhibition and consultation.

The reporting of this project has comprised advertising and media releases, which has also included the full public exhibition of documentation associated with seeking planning consent.

Further preparation of Part 5 documentation for 4WD access purposes would comprise public exhibition in line with other Part 5 elements of the project.

An underlying risk is likely to remain with the Aboriginal community expressing concerns in respect of further development of vehicular access over and above the current agreed approvals.

Options

The information section report presents options for further investigation.

The recommendation to this report follows the current position of Council and creates a budget allocation to enable the investigation work to commence now.

11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach

The alternative is for Council to return to its original position, being the approved consent, which only allows access to the path for emergency and maintenance vehicles. The reasons for the original advice to Council are set out in the attachments to this report.

A third option is to defer a decision on this matter until the community has the opportunity to use the new path. This way Council can assess the response to the project, including usage patterns and further consider the merits and options for 4WD access to Angels Beach, prior to incurring considerable expense seeking approval to amend the consent.

The recommendation provided is consistent with previous Council resolutions to investigate an alternative 4WD access.

This recommendation is not the preferred staff recommendation as it is considered to be an extremely poor use of limited public monies and resources, when there is already an alternative 4WD access at Sharpes Beach, albeit that occasionally you may not be able to reach Angels Beach due to high tides, and the overall level of 4WD users using the existing 4WD access is limited. The creation of any alternative 4WD access will also most likely have negative environmental impacts in this location and there are also significant cultural concerns.

Also the \$50,000 does not include any further costs that may be incurred in providing the new 4WD access, if a planning consent is eventually obtained.

RECOMMENDATIONS

1. That Council authorises a re-allocation of \$50,000 from the Coastal Recreational Path budget for the purpose of preparing the necessary documentation to seek to amend the approval for the Coastal Recreational Path to enable the implementation of Council's resolution in respect to the access for 4WD vehicles to Angels Beach to proceed.
2. That Council receive a further report providing a detailed analysis, including expected construction costs, of the options to provide 4WD access to Angels Beach.
3. That Council note the confirmation in this report that 4WD access to Angels Beach will not be available, except for emergency and maintenance vehicles, in accordance with the development consent for this project, until such time as the consent is amended.

Attachment(s)

1. Notice of Motion - 4WD Access
2. Advice from Statewide Mutual
3. 4WD Options Plan
4. Images

11.3 Weed Control - Funding and Service Levels

11.3 Weed Control - Funding and Service Levels

Delivery Program Open Spaces & Reserves

Objective To respond to a Council resolution asking for information on Council's weed control activities.

Background

At the July 2016 Ordinary meeting Council resolved as follows:

Resolution 280716/44

- 1. That Council notes the contents of this report regarding Weed Control Funding.*
- 2. That following the Local Government Elections, as part of the induction program, or any other activities reviewing Council's existing levels of service, the Council receive a briefing on the current levels of service for weed control and options to improve that level of service.*
- 3. That Council receive a report in respect to Council's contribution to Rous County Council for weed control.*

This resolution arose from a report presented to that meeting in respect to a request to possibly increase funding towards weed control. A copy of that report is attached.

The following report addresses resolution 280716/44.

Key Issues

- Current levels of service for weed management
- Funding and resource allocation

Information

The July 2016 report details the current funds allocated to weed management and the funds needed to deliver the level of service that is preferred from a technical perspective. As per that report, ideally the funds allocated would be increased by around \$800,000 to \$1m per annum.

An important component of our current weed management program is the contribution Council makes to Rous County Council (RCC), which has now absorbed the Far North Coast Weeds County Council.

RCC is the "local control authority" responsible for administering the *Noxious Weeds Act 1993*, (the Act) and hence for the eradication of noxious weeds in the Ballina Shire and surrounding local government areas.

RCC provides this service for Ballina, Byron, Tweed, Richmond Valley, Kyogle and Lismore Councils.

11.3 Weed Control - Funding and Service Levels

“Noxious” weeds refer to those weeds declared under the Act, and not all environmental weeds are noxious. Within Ballina Shire, environmental weeds are numerous and widespread yet only some are considered noxious and of interest to RCC (e.g. bitou bush, camphor laurel).

RCC has four main goals:

- Prevent the establishment of new weed species in the region
- Eliminate or prevent the spread of new weed species in the region
- Reduce the impacts of widespread invasive weed species
- Ensure community, industry and government stakeholders have the ability and long-term commitment to manage invasive weed species.

RCC’s approach to weed management is to:

- Identify and manage high-risk noxious weed species and the pathways they use to spread into and within the region
- Formulate new weed detection systems to improve RCC’s capacity to find new weeds early
- Ensure that resources and procedures are in place to undertake rapid strategic control measures against new weed incursions
- Continually analyse RCC’s weed management programs to ensure resources are directed to where benefits will be the greatest
- Increase community commitment and involvement in proactive weed management approaches.

This approach has strong links with the Australian Weeds Strategy, the NSW Biodiversity Strategy, NSW Invasive Species Strategy and the NSW Weed Action Program.

The RCC implements its approach through a range of activities, as listed below, which are consistent with its role as the local control authority under the *Noxious Weeds Act 1993*:

Regulatory

- Inspect land within the county to ensure, so far as practicable, that owners and occupiers of land (other than public authorities or other local control authorities) carry out their legislative noxious weed control obligations.
- Undertake compliance action to ensure landowners and managers meet their legislative noxious weed control obligations.
- Issue section 64 certificates under the *Noxious Weeds Act 1993*, which provide information for prospective land purchasers about any current weed control notices, expenses and charges on land.

11.3 Weed Control - Funding and Service Levels

Weed management on public lands

- Develop weed management plans, which encompasses 12,438 km of roadsides across the county.
- Map the density and distribution of declared noxious weeds on roadsides.
- Carry out control works against declared noxious weeds on the public road network throughout the county area.

Strategic control of high priority, high risk weed species

- Map all declared noxious weeds on private and public lands.

Note: The Minister for Agriculture is responsible for declaring noxious weeds. RCC's role is to recommend declarations, where appropriate, to the Minister through the Regional Weeds Committee and the State Weeds Committee. Declaration of a weed can impose considerable costs on public and private landholders and the local control authority. Declaration may also restrict personal freedom by forcing landholders to carry out activities that they would not otherwise carry out. There must be a clear public benefit from the proposed declaration.

There are five classes of noxious weeds identified in the Act (see table below).

Control Class	Noxious Weed Type	Example Requirements	Control
Class 1	Plants that pose a potentially serious threat to primary production or the environment and are not present in the State or are present only to a limited extent.	The plant must be eradicated from the land and the land must be kept free of the plant. The weeds are also "notifiable" and a range of restrictions on their sale and movement exist.	
Class 2	Plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies and are not present in the region or are present only to a limited extent.	The plant must be eradicated from the land and the land must be kept free of the plant. The weeds are also "notifiable" and a range of restrictions on their sale and movement exist.	
Class 3	Plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies, are not widely distributed in the area and are likely to spread in the area or to another area.	The plant must be fully and continuously suppressed and destroyed.	
Class 4	Plants that pose a potentially serious threat to primary production, the environment or human health, are widely distributed in an area to which the order applies and are likely to spread in the area or to another area.	The growth of the plant must be managed in a manner that reduces its numbers spread and incidence and continuously inhibits its reproduction.	

11.3 Weed Control - Funding and Service Levels

Control Class	Noxious Weed Type	Example Requirements	Control
Class 5	Plants that are likely, by their sale or the sale of their seeds or movement within the State or an area of the State, to spread in the State or outside the State.	There are no requirements to control existing plants of class 5 weeds. However, the weeds are “notifiable” and a range of restrictions on their sale and movement exists.	

- Implement inspections on private and State lands for declared weed species.
- Develop and implement collaborative control activities for high priority declared weed species in partnership with land owners and managers.
- Identify species exhibiting weedy potential and implement strategies for their timely control and future management.
- Review and prioritise weed-management programs to ensure resources are directed to where benefits will be the greatest.

Education, extension and community engagement

- Develop programs that aim to increase the community’s acceptance of and willingness to be involved in effective weed-management programs.
- Provide advice on best practice control methods, weed seed spread prevention and other relevant management topics.
- Provide technical support and literature to land owners, community and industry groups.
- Attend shows and field days across the region to enhance weed management awareness.

As of 1 July 2016 the former Far North Coast Weeds County Council and Richmond River County Council were dissolved with all functions and operations transferring to RCC; including Far North Coast County Council’s role in administering the *Noxious Weeds Act 1993* within the region.

Reference to the “region” means the local government area of Rous County Council and the local government areas of Kyogle and Tweed Shire.

In the case of Kyogle and Tweed Shires, the functions and operations of the former Far North Coast County Council were transferred back to those respective councils and are now delivered by Rous County Council under a service level agreement.

Prior to this merger, Far North Coast County Council’s *Draft 2016/2017 Operational Plan* reported operating revenues of \$1,249,800 and \$1,324,400 for the periods 2015/16 and 2016/17 respectively.

Financial contributions by councils for the same periods are shown in the following table. It is evident from the table that local government contributions are a substantive revenue source for the RCC.

11.3 Weed Control - Funding and Service Levels

Local Government Area	2015/16	2016/17	Variance
Ballina Shire Council	103,400	105,300	1,900
Byron Shire Council	103,400	105,300	1,900
Kyogle Shire Council	113,700	115,700	2,000
Lismore City Council	136,100	138,500	2,400
Richmond Valley Council	112,600	114,600	2,000
Tweed Shire Council	155,800	158,600	2,800
TOTAL	725,000	738,000	13,000
Increase			1.8%

The merger of RCC, Far North Coast County Council and Richmond River Council is reported to deliver immediate cash savings in the vicinity of \$130,000. Savings are largely expected in the area of administration and governance and in the reduction of triplication of costly reporting requirements.

Contributions from constituent Councils are based on the following formula, which was adopted in 1994 and confirmed during reviews in 2003 and 2004.

The formula is based on 50% Part A and 50% Part B:

- Part A: area % + length of roads % + number of rural holdings % + population %.
- Part B: number of property inspections % + weed control costs %.

Annual contributions are typically increased by the rate pegging allowance, which for 2016/17 is 1.8%.

Also, the former Far North Coast County Council resolved in 2013 that a minimum contribution payable by any constituent Council be set equivalent to 14.25%.

RCC's resources are primarily focused on the highest priority "noxious" weeds and not all noxious and environmental weeds are able to be targeted.

Only a small proportion of noxious weed control undertaken by RCC actually takes place within Ballina Shire; with much of the work occurring in other council areas. This is due to the manner in which noxious weeds are prioritized across the Far North Coast.

For example, despite Council considering bitou bush to be a problematic noxious weed in Ballina Shire, its classification as a class 4 noxious weed does not warrant a high enough priority to trigger direct intervention by RCC.

While this situation might appear an inequitable and poor return on Ballina Shire Council's investment, it needs to be recognized that early intervention is the most efficient and cost-effective means of preventing the spread of noxious weeds within the region, and ultimately within Ballina Shire.

11.3 Weed Control - Funding and Service Levels

Regarding Council's own weed control operations, the report to Council on 28 July 2016 identified a significant shortfall in the funding needed to facilitate a sustainable programme of weed control and bushland reserve management within the Shire.

Overall, an estimated \$1,309,500 per annum would be needed for Council to effectively manage all of its bushland reserves and weed control programs to the preferred standard; which includes both "noxious" and "environmental" weeds.

When compared to Council's current level of expenditure on weed control and bushland reserve management (\$219,000 per annum which includes grants), the additional \$105,300 per annum contribution to RCC is arguably disproportionately large, representing 32% of the combined total expenditure.

However, when considered in the context of an aspirational fully-funded sustainable programme of weed control and bushland reserve management (\$1,309,500 per annum), the contribution to RCC is then only 7.4% of the combined total expenditure.

The newly assented *Biosecurity Act 2015* is anticipated to commence in 2017 once supporting regulations, policies and procedures are in place. This Act will cause the repeal of the *Noxious Weeds Act 1993* along with numerous other Acts.

Local control authorities will continue to have functions in relation to weeds, albeit within a broader biosecurity framework. Biosecurity is the protection of our economy, environment and community from the negative impacts of pests, diseases, weeds and contaminants.

Sustainability Considerations

- **Environment**

Ballina Shire is rich in biodiversity, containing many high conservation value and high profile vegetation communities. Many exist along the coastline and adjacent to tourist drives.

- **Social**

Previous Council research has confirmed that the community aspires to a healthy natural environment and for Council to maintain, protect and manage natural habitat areas.

- **Economic**

Degraded low-value (i.e. highly weed infested) bushland is disproportionately more expensive to manage than well maintained high-value (i.e. low-weed infested) bushland.

Legal / Resource / Financial Implications

Council has a legal requirement to remove and control various listed noxious weeds and also remove threats (weeds) to endangered ecological communities. It achieves this in part through its contribution to RCC and in part from its own weed control operations.

RCC is the local control authority responsible for administering the *Noxious Weeds Act 1993* within the Richmond River catchment. Council provides funding annually (\$105,300 this financial year) to RCC for noxious weed control within the region. The revenue source from local governments to RCC is substantial.

The Open Spaces and Reserves section is currently allocated a budget of \$21,000 per annum for weed control and bushland reserves management.

An additional \$20,000 is allocated from the roads budget specifically for roadside weed control.

These amounts are insufficient to enable vegetation management plans and other management actions to be implemented effectively.

With grants and volunteer contributions taken into account, an additional budget of \$810,000 would still be required in order to fully fund a Shire-wide sustainable program of weed control and bushland reserve management (as per July 2016 report).

Consultation

Relevant sections of Council and RCC have been consulted with regards to this report.

Options

The options section of the July 2016 meeting is reproduced below.

The size of the funding gap for this program is significant and having regard to all of the funding demands before Council, obviously addressing this issue is a major challenge and one the Council may wish to turn its mind towards in future strategic planning activities.

It is also noted that our neighbouring councils have used special rate variations to increase funding levels for this area of management and this might be an option to consider at an appropriate time. However, Council currently lacks a strategic-level document, notably a biodiversity management strategy, necessary to support the implementation of an environmental/ biodiversity levy, and to underpin the case for a special rate variation. Council does have a variety of environmental management plans that are used to source grant funds, however these are not considered sufficient for the above purpose.

11.3 Weed Control - Funding and Service Levels

In looking at a recommendation to this report the appropriate action is to raise this matter with the newly elected Council to determine whether they wish to pursue other fund raising measures, including the possibility of rate increases, to confirm the preferred level of service for Council.

Realistically this is the only option considering Council's comparatively low rate base to our neighbours and service levels are a matter that should be determined by the elected Council on behalf of the community.

The resolution in response to this report was;

That following the Local Government Elections, as part of the induction program, or any other activities reviewing Council's existing levels of service, the Council receive a briefing on the current levels of service for weed control and options to improve that level of service.

This report identifies the functions and operations of RCC in its role as the local control authority for noxious weed eradication within the Northern Rivers.

The financial contributions to RCC from the Ballina Shire and neighbouring councils are substantial and crucial to RCC fulfilling its statutory role.

In determining the appropriateness of this level of funding, two comparisons are warranted:

- Comparison with Council's current weed control budget. In this context the contribution to RCC might appear an excessive commitment.
- Comparison with an aspirational fully-funded sustainable programme of weed control and bushland reserve management. When RCC's role is considered in the context of such a substantive programme, the contribution to RCC might then be deemed a far more appropriate level of commitment.

Council needs to be mindful that a number of services and program areas within Council face resourcing challenges and therefore further discussions in respect of weed management need to be undertaken within the holistic context of the Integrated Planning and Reporting processes.

Ultimately Councillors need to determine the level of service considered reasonable to the community and community consultation programs can help to determine that service.

This report is useful in providing information on our current service levels and can inform the preparation of the 2017/18 Operational Plan and 2017/18 to 2020/21 Delivery Program.

The recommendation is for noting purposes only and if Councillors wish to see any further actions taken in respect to this matter the recommendation should be amended to reflect those actions.

RECOMMENDATION

That Council notes the contents of this report regarding the weed control funding contribution to Rous County Council, along with existing service and funding levels.

Attachment(s)

1. July 2016 Ordinary Meeting - Weed Control Funding

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

Delivery Program Operations Support

Objective To provide Council with information to determine if further funds and planning works are to be committed to progress the Quarry Expansion/Development Plans.

Background

Council considered a report in July 2013 regarding the strategic options for the Tuckombil and Stokers Quarry. It was considered timely to plan for the future potential for quarrying on these sites, as they were reaching their final stages of extraction, as permitted under their development consents.

Based on a strategic options study provided by a specialist firm of quarrying consultants, Council endorsed the recommendation to continue the extraction from both sites.

A budget allocation of \$300,000 was authorised for the preparation of a Quarry Development Plan for both sites, the preparation of environmental assessments required for continuing extraction and the submission of the necessary applications for any relevant planning and regulatory approvals.

Quarry Development Plans have been prepared for both Tuckombil and Stokers Quarry. These were prepared by a quarrying specialist who undertook field investigations, drilling and resource estimates to present plans for the future expansion of these sites.

The development proposal for both sites has been issued to the Secretary of the Department of Planning and Environment to request the Environmental Assessment Requirements (SEARs). The SEARs prescribes the specialist assessments to be included in the Environmental impact Statement (EIS) accompanying the development application.

Due to the time that has elapsed since Council's decision, the potential public interest and new information at hand, Council resolved at the July 2016 meeting to receive a further report assessing the benefits and risks associated with commencing the preparation of the next stage of the planning approval documentation for the extension of the development consent.

This report discusses the details of the development, the valuation of the asset as well as other key issues for consideration. This will allow for an informed decision to be made on the future operation of the quarries.

Key Issues

- Financial analysis on progressing with the expansion of the two quarries
- Social and community impact if the quarries were to be expanded and continue operation

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

Information

Proposed Development - Tuckombil Quarry

The proposed development for Tuckombil Quarry would occupy approximately 50% (18.6 hectares) of the land area on Lot 2 and Lot 4 DP1130300, as shown by the pink / purple boundary in the following development plan.



Figure 1: Proposed Tuckombil Quarry Development Plan (pink / purple line)

The expansion has been designed for extraction to progress from the existing quarry pit, towards the northeast.

This would impede on the northern sports field and a small section of the Council nursery, however it would not impact on the southern hockey / cricket field or the croquet field.

The elimination of one of the sports fields may be considered acceptable in light of the capacity at the new Wollongbar Sports Field, which is currently being constructed, however further consultation is required in this regard. There is also an option to reconstruct that field on the Council nursery site.

The development has been designed on a five stage approach. Refer to attachments one and two for detailed staging plans.

Stage 1 focuses on gaining access to quality materials and making way for the economic viability of the quarry operations. This stage is to create two new benches and an access ramp from the northeast to the pit area. The potential pit reserve is 654,000t of which 65% is fill / highly weathered material. This volume of fill material makes it difficult to access higher quality material without having a use or market for this fill material. It is estimated that there is sufficient market in this area that requires engineering fill material. This includes the RMS highway upgrades, Council projects, as well as several low lying upcoming residential developments.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

Stage 2 is an extension to the above, where the two new benches will be extracted towards the extraction limit in the east. This will require negotiations with the nearest resident neighbor to the east of the existing pit due to their proximity to the extraction boundary (<250m). The pit reserve is estimated at 661,000t of which 21% is fill or HW material.

Stage 3 requires the closure of one of the hockey fields to the north, with expansion of the pit southwards. The extended new pit area will be extracted down to the final pit floor. The expected pit reserve is 1.6Mt of which 42% is highly weathered material.

Stage 4 progressively advances the benches towards the property boundary line. The potential pit reserve is 3.22Mt.

Stage 5 is independent of all other stages and is dependent on the future Boral lease conditions / decommissioning / relocation of the Asphalt plant. There is approximately 765,000 tonnes located under their currently leased area.

Proposed Development - Stokers Quarry

The proposed development for Stokers Quarry would occupy approximately 31% (6.33 hectares) of the land area on Lot 10 DP712025 and Lot 12 DP814359.

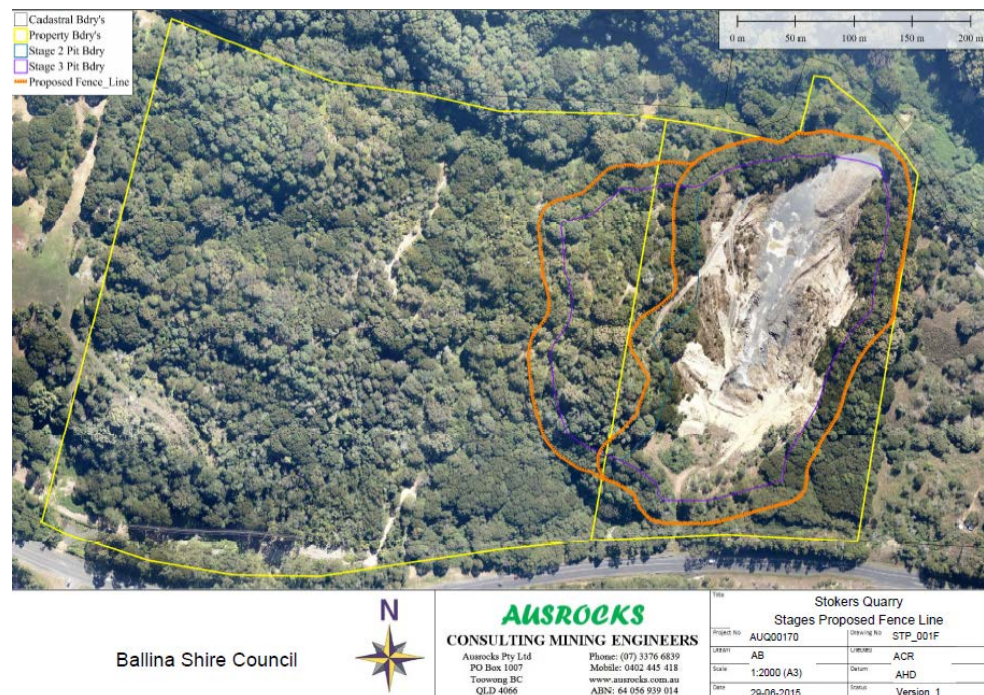


Figure 2: Proposed Stokers Quarry Development Plan (purple)

The initial stages of the development would be to re-establish the quarry pit benches to ensure stability and safety.

Currently the western bench has been poorly designed, as it is a single bench with an excavated batter angle.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

Rectification of this requires excavation to re-align the top bench by blasting and reducing the bench height, and establish a bench floor.

The program has been designed for expansion to progress from the existing quarry pit, towards the west / northwest. This would require vegetation removal and formal notification to the Dirty Wheels Club who lease an area adjacent to the proposed area for mountain bike activities.

The pit is designed in three stages, see attached the pit design. Stage 1 and 2 focuses on the safety issues and economic viability of the operation while Stage 3 identifies further high quality rock located under a large volume of fill / highly weathered materials. This will require large projects that need engineering fill materials.

It is estimated that there is sufficient market in this area that requires engineering fill material. This includes the RMS highway upgrades, Council projects, as well as several low lying upcoming residential developments.

Stage 3 extraction is largely dependent on the market for engineering fill materials such as a large Council project that requires an extensive quantity of fill materials. It would not be economical to proceed with this stage if there is no market for the fill material.

Proposed Extraction Method and Rehabilitation

The extraction methods should continue in a similar fashion to the previous extraction methods, using drilling and blasting methods with top to bottom extraction. This would be carried out by approved contractors with qualified personnel.

Fragmented rock is then transported to the processing area where it passes through mobile crushing and screening plant to produce various materials. Depending on the product, the material may need to be crushed or screened multiple times to achieve the desired specification. Once the material is processed, it is stockpiled and then loaded into road trucks for transport to the relevant customers.

Rehabilitation of the Tuckombil and Stokers Quarry are to occur at the end of their operation life. The quarry faces will be rehabilitated by placing 1m overburden and up to 100mm of top soil on the terminal bench, with a combination of natural regeneration and supplementary planting of native vegetation.

The processing and stockpiling areas are generally flatter and contain compacted roads and laydown areas. These areas will be contoured to suit the final rehabilitation profile (with appropriate drainage) and compacted areas will be deep ripped followed by topsoil placement.

There is the option to reclaim the Tuckombil Quarry pit to a residential development area by using the excess fill materials from the site (and/or fill material from Stokers Quarry).

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

Impact on Alstonville Urban Expansion

Council resolved, 28 April 2016, to prepare place-based strategic plans for Alstonville and Wollongbar. Initial community consultation relating to the preparation of the Alstonville Strategic Plan was undertaken in June 2016.

The draft Planning and Environmental Study for Alstonville is currently being prepared, following this the Strategic Plan for Alstonville will be prepared. Once the Strategic Plan is adopted by the Council, it will provide the basis for planning decision making over a 20 year period.

During the recent engagement the Alstonville community, frequently raised questions related to the future of the Tuckombil Quarry and quarry impacts. The quarry has been considered in that context when preparing the draft Planning and Environmental Study.

In terms of the potential future residential expansion of Alstonville, in respect to the provision of additional conventional residential lots, one area that could warrant consideration is located within the buffer area to the quarry. This buffer area has been indicated by the red outline on the diagram below.

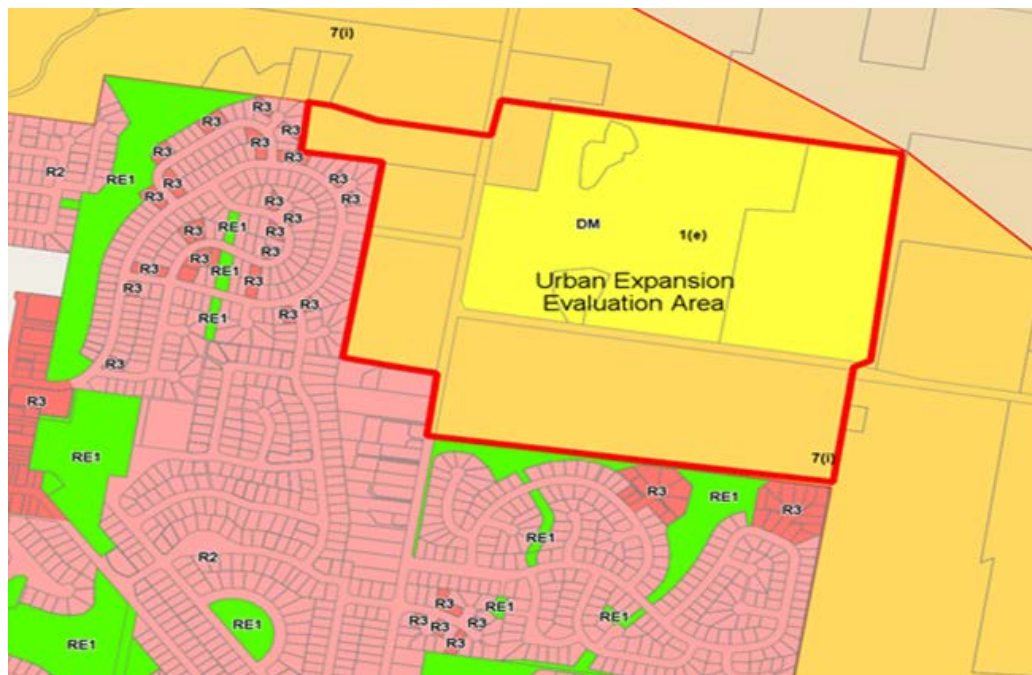


Figure 3: Potential Alstonville Urban Expansion Evaluation Area (red outline)

The residential expansion is based on the topography of the land, its connectivity with existing residential areas, proximity to the sewage treatment plant and availability of services, and the general lack of other significant environmental constraints such as those related to landslip and vegetation (although the land is identified as State significant farmland).

Current buffer distances between the quarry and residential areas are below the 1,000 metres identified as a preferred buffer distance in Council's current DCP for a quarry in which blasting occurs.

This distance is based on advice contained within the *NSW Department of Primary Industries Publication Living and Working in Rural Areas* (2007).

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

It has been calculated that the nearest residential properties to the quarry property boundary are located approximately 200 metres to the west and 300 metres to the south. The distance from the active quarry face (north-eastern face) to the closest residential property increases to approximately 630 to 650 metres.

Located within these buffer distances, are approximately 37 hectares of privately owned land which could be investigated for future urban use, subject to the quarry buffer distances and the addressing of other site attributes and general community support for this option.

This land has the potential to provide an additional 550 dwellings based on the preferred 15 dwellings per hectare for residential areas nominated in the Council's 2012 Ballina Growth Management Strategy.

If the expansion of the quarries were to occur, depending on the market demand and production rate limits, the Tuckombil quarry could remain operational for an additional 50 years. If this is the case, and assuming that current buffer distances were to be maintained, this would effectively rule out an expansion of the Alstonville township into these areas for this approximate time period.

Asset Value

Investigative work at Tuckombil Quarry indicates a total resource volume of up to 17.3 million tonnes (Mt) is available on the site, with 11Mt of this being quality (slightly weathered – fresh basalt) rock.

The proposed expansion at Stokers Quarry has an estimated resource of 4 Mt, with 1 Mt of this being quality rock.

In both cases, the rock has been assessed for suitability for use as pavement materials, concrete aggregates, rip-rap and armour rock. Rocks that are considered not suitable for any of the above end uses could be considered for use as select fill.

A current valuation was calculated on the two assets which considered the land value and the resource value (under the current consent and pending a future approval).

Item	Tuckombil Quarry	Stokers Quarry
Land Value (unimproved)	\$1,405,000	\$755,000
Resource Value (current DA)	\$990,000	\$380,000
Resource Value (proposed DA)	\$1,670,000	\$980,000
Total	\$4,065,000	\$2,115,000

A copy of that valuation report is included as the third attachment to this report (separate attachment).

Net Present Value

A financial analysis for both sites was undertaken on the proposed development plans. The net present value (NPV) and a sensitivity analysis for two scenarios were investigated.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

This was performed over a 10 year life with a discount rate of 14%. The discount rate accounts for the risks of the project, details of which are identified later in this report.

Scenario 1 – Continuing the operation of both the Tuckombil and Stokers Quarries in accordance with the development plans. The quarries would be operating as a joint operation, as the material at Stokers Quarry complements the material at Tuckombil Quarry, allowing for the creation of various road bases to RMS specifications.

Following sensitivity analysis, the NPV range is between \$1.3M and \$5.6M, with the base case being \$2.89M. The highest NPV is based on production at a maximum rate under the current development consent (100,000t/a for Tuckombil, 36,000t/a for Stokers).

With a new development application being submitted, these production rates can be increased further to assist with bulk removal of fill material.

Scenario 2 – Continuing the operation of Tuckombil Quarry and closing Stokers Quarry. Stokers Quarry would be put into care and maintenance for progressive rehabilitation, or alternatively, the site can be sold.

Following a sensitivity analysis, the NPV range is between \$1.5M and \$3.21M, with the base case being \$2.32M. The highest NPV is based on production at a maximum rate under the current development consent for Tuckombil Quarry (100,000t/a for Tuckombil). The production rate can be increased in the submission of a new development application to assist with the bulk removal of fill material.

This analysis does not consider the financial and other benefits that could be gained from new planning consents to increase overall extraction rates.

Benefits

The quarry expansion project has a number of benefits it can provide to Council and the Local Government Area.

- The quarries would be able to supply a local product to local projects / customers. The materials from the quarries would be crushed on site and sold locally. This supply being available in the area would benefit local projects and building programs; this is due to transport costs comprising a significant proportion of the delivered material.
- Employment opportunities would be created with the area once the quarries are operational. This could be between 2 and 8 positions (depending on production rates), with additional personnel being contracted for specific consulting tasks / specialised work.
- The quarries provide a revenue return to Council to be used for community services.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

Costs

Council wrote to the Secretary, New South Wales Department of Planning and Environment (DPE). The Environmental Assessment Requirements (SEARs) for Tuckombil and Stokers Quarries EISs were requested under designated development.

Council received the SEARs, which outlines significant requirements for assessment; including specialised studies for both sites and also greater environmental assessment details to be included in the EIS. This includes, but is not limited to:

- Traffic and transport
- Water management
- Flora and Fauna
- Noise, vibration and blasting
- Air quality
- Archaeology
- Quarry closure and rehabilitation.

Indicative costings for the preparation of an EIS for each site is in the order of \$130,000 (ex-GST) for each quarry.

Risks

Potential risks associated with this expansion of the quarries:

- Removal of the large volume of fill material to be removed from both sites in order to access the quality rock. It is believed that there is sufficient market in this area that requires engineering fill material. This includes the RMS highway upgrades, Council projects, as well as several low lying upcoming residential developments.

It is unlikely that other quarries in the area could supply the volumes of fill material that Tuckombil or Stokers could, especially when set at a competitive due to reduced haulage distances.

Increasing the production rates, would assist with the bulk sale of fill material to customers.

- Unsuccessful negotiations with the nearest residents neighboring the Tuckombil Quarry. They are located to the east of the existing pit, and are within 250m of the proposed extraction boundary (<250m).
- Community dissatisfaction with the quarries operating within their local area – concerns may be delivered in the form of traffic movements, blasting activities, dust control. All of these operational aspects would be considered and investigated through the development application. Appropriate controls would be put in place to manage these during operations.
- Community dissatisfaction from the closure of one of the sports field resulting in sporting events being held at the new Wollongbar Sports Fields.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

- Difficulties in blasting at Stokers Quarry. Due to the proximity (<250m) of the site to the Bruxner Highway, blasting will not be permitted without closing the Highway.

Sustainability Considerations

- **Environment**

The quarry is operated in accordance with regulatory environmental controls including development consent (with conditions) and a license.

- **Social**

It is important that discussions regarding the future of the quarry have regard to the social impacts on nearby properties that may result from the quarry operations.

- **Economic**

The quarry is important for economic development. Quarry product is required for a range of purposes and sufficient supply is essential for property and infrastructure development. Efficient access to this raw material assists to ensure the costs of development are reasonable for the community. There are limited alternate sites that have the potential to provide this resource in the future.

Legal / Resource / Financial Implications

Council has an internal cash reserve for the quarries which holds accumulated cash surpluses for the operations of the quarries, less transfers from the reserve for quarry related activities, along with dividends paid back to the General Fund.

The reserve balance at the end of this financial year is forecast to be \$793,600. One of the aims of the Quarry Reserve is to ensure funds are available to rehabilitate both quarry sites at the end of their operational life.

If both quarries were to be closed at the end of their current development consent, this balance would be short of being sufficient for the rehabilitation of each site, with Stokers Quarry costing approximately \$250,000 and Tuckombil Quarry costing up to \$700,000.

As the quarries are currently not being actively operated at the moment, this reserve is not expected to increase. This is also a concern as Council's Long Term Financial Plan (LTFP) includes Quarry Reserve dividends to the General Fund of \$200,000 per annum for 2016/17 to 2021/22, \$115,000 in 2022/23 and \$50,000 thereafter.

Council has traditionally sourced a \$50,000 dividend from the Quarry Reserve each year and this was increased by \$150,000 to \$200,000 in recent years as Council was able to source low interest loans from the State Government for road reconstruction works. The repayments for those loans are being financed from this reserve until 2021/22.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

With the future of the operation and expansion of the quarries uncertain, particularly with the termination of the lease by Lismore City Council, Council needs to ensure that the quarry reserve balance remains at a reasonable level, especially if remediation of the sites is required.

This being the case it is recommended that Council remove this future dividend from the LTFP, for 2017/18 onwards, until there is more certainty over the future of the quarries.

The removal of the \$200,000 dividend has a direct negative impact on Council's recurrent funding sources, and to match this reduction it is also recommended that Council's forward funding for road reconstruction works be decreased by the same amount.

The quarry dividend has been primarily financing loan repayments relating to road reconstruction works and it is reasonable to reduce the road reconstruction budget to match the loss of this revenue source.

Council will still have an opportunity to review its overall funding for road reconstruction when undertaking our budget deliberations for 2017/18 onwards in early 2017, however for current financial planning purposes it is important that we be realistic about the quarry reserve dividend and adjust our LTFP accordingly.

From a financial perspective it is also important to recognise the total potential value of the quarry resource to the community. The original Quarry Evaluation and Strategic Options Report, undertaken by Groundwork Plus Pty. Ltd, in April 2013, included the following comment:

Supporting the highest and best use land use argument is that in regard to the value of the material remaining in the pit, based on the on the current royalty rate of \$4.03 tonne an insitu value in excess of eight million dollars is derived. If an additional two benches of material can be defined below the Stage 3 pit floor, and the approval for extraction over the Hockey fields can be secured, then the value increases significantly to around 60 million dollars over the life of the project based on the royalty return. If this development proposal is accepted then the quarry could continue for another 70 years based on the current extraction rates which would outlive several future generations of planning schemes. Accordingly it is difficult to predict over such a long time frame what the most suitable option in seventy years may be for post extraction land use, however what is certain is that the best post extraction land form in 2013 will probably not be the same as in 2083 (page nine)

A copy of that report is included as a separate attachment to this report.

The reference to \$60m does highlight the potential value of this resource to the community.

Consultation

Consultation on available options to Council has been discussed in length with the qualified consultant who prepared the Quarry Development Plans. They specialise in quarry operations and provided advice to Council and Councillors via a workshop when discussing short term quarry operations.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

No community consultation has been undertaken specific to this question. If the Council proceeded to development assessment, statutory consultation requirements would apply.

Options

1. Do not proceed with additional works to expand the quarries.

At Tuckombil Quarry, this would entail the completion of the remaining quarrying operations under the current Development Consent. At Stokers Quarry, complete Stage 1 rectification works to improve the safety of the site are required. These works come at a cost of approximately \$250,000.

2. Proceed with Scenario 1 - Expand both Tuckombil and Stokers Quarries.

Commence the preparation of the Tuckombil and Stokers Quarry EIS for submitting a development application for the proposed quarry development plans. The preparation of both of the EISs comes at a cost of approximately \$260,000. Stokers Quarry stage 1 rectification works would still be required to improve the safety and operation of the site. These works come at a cost of approximately \$250,000.

The 2016/17 operating budget for the quarries already has an allocation of \$140,000 for quarry expansion related works. To proceed with the EISs will require an additional \$120,000 transfer from the Quarry Reserve. Also another \$250,000 from the reserve would be required for the rehabilitation of Stokers Quarry.

This will leave the reserve balance at \$423,600 as at 30 June 2017.

As per the earlier information in this report, urban expansion in Alstonville, if that is supported, would not occur while the Tuckombil Quarry is still operational.

3. Proceed with Scenario 2 - Expand Tuckombil Quarry only and place Stokers Quarry under care and maintenance.

Commence the preparation of the Tuckombil Quarry EIS for submitting a development application for the proposed quarry development plan. The preparation of the EIS comes at a cost of approximately \$130,000. The \$250,000 rehabilitation of Stokers Quarry is still needed.

With \$140,000 in the budget this would require another \$240,000 transfer from the Quarry Reserve leaving a reserve balance of \$553,600 as at 30 June 2017.

The urban expansion issue discussed in option two is also relevant to this option.

4. Defer a decision until the Alstonville Strategic Plan is implemented

The advantage of this option is Council will be further informed in respect of the importance, support and timing for the option to expand Alstonville.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

The disadvantage of this option is a delayed decision creates uncertainty and potentially increases the costs to prepare the development application, if that is supported later. Also, in terms of the efficient operation of the quarry under existing consent conditions, it is helpful from a financial and operating perspective to understand the future intent for the site.

This is a difficult issue with a number of competing interests.

It is likely residents living adjacent to the quarries will express concerns against the proposal and the relocation of some sporting activities to Wollongbar may not be supported.

However, Council also needs to be mindful the quarries represent a valuable community asset, which provides a source of revenue to support Council's services.

The quarry also assists to create a competitive market for quarry products and this is helpful to Council and those who invest in infrastructure assets within Ballina Shire.

Preparing a development application enables the preparation of scientific and other technical studies to examine all of the issues under a complete and structured methodology, and this information is then independently assessed, inclusive of community feedback. The disadvantage is significant financial resources are required.

Having regard to the value of the community asset, and the capacity of appropriate conditions to mitigate reasonable impacts if an approval is warranted, the recommendation to this report is to continue to prepare the development applications as, on balance, this process ensures all the benefits and issues are thoroughly examined.

If the Council supports this recommendation, it is further recommended that a community engagement plan be prepared to enable those members of the community interested in this proposal to be engaged with Council, as the process to prepare the applications proceeds.

If the Council does not support the recommendation, a suggested resolution would be;

That Council take no further action in regards to preparing a development application for the expansion of Tuckombil and Stokers Quarries, and further, Council continue to operate the quarries until the existing consents are exhausted and required rehabilitation implemented.

A resolution to defer a decision on this matter would be;

That Council take no further action in regards to preparing a development application for the expansion of Tuckombil and Stokers Quarries until the Alstonville Strategic Plan is completed and this report regarding the future options for the quarries be updated and resubmitted at that time.

11.4 Tuckombil and Stokers Quarry - Quarry Expansion Plans

Another option could be to defer a decision on this report until a Councillor briefing is held to further canvass all the issues raised in this report. With five newly elected Councillors, a briefing would help to provide an expanded context in respect to the operation of the quarries.

RECOMMENDATIONS

1. That Council authorises the General Manager to continue to prepare the required Environmental Impact Statement and other planning approval documentation for the proposed expansion of Tuckombil and Stokers Quarries.
2. That in respect of point one above, a community engagement strategy be developed and implemented for the purposes of proactive community consultation during the preparation of the planning application documentation.
3. That Council increase the existing quarry expansion budget from \$140,000 to \$260,000 to finance the estimated cost of the Environmental Impact Statements, with the additional \$120,000 funded from the Quarry Reserve.
4. That Council approve a budget of \$250,000 for the Stokers Quarry Stage One rectification works, with that expenditure funded from the Quarry Reserve.
5. That Council adjust the Long Term Financial Plan for 2017/18 onwards to remove the forecast Quarry Dividend due to the current uncertainty over the operation and future of the Council owned quarries. This reduction in funding is to be offset by a matching reduction in the road reconstruction program.

Attachment(s)

1. Proposed Development Plan - Tuckombil Quarry
2. Proposed Development Plan - Stokers Quarry
3. Valuation Report - Tuckombil and Stokers Quarry (Under separate cover)
4. Tuckombil and Stokers Quarry Evaluation And Strategic Options Report-Groundwork Plus April 2013 (Under separate cover)

11.5 Tender - Design and Construction of the Public Swimming Pools

11.5 Tender - Design and Construction of the Public Swimming Pools

Delivery Program Operations Support

Objective To consider the tenders for the Ballina and Alstonville Swimming Pool Project.

Background

This report deals with the tender assessment for the proposed upgrade to the Council's swimming pools.

A procurement strategy was developed for this project. The strategy identified early tender involvement with a design and construct contract as the preferred procurement approach. The advantages of a design and construct tender include reduced delivery time and a high level of integration between the design and construction resources.

The early tender involvement is a method to provide tenders with input into the specification. This will generally improve the risk allocation between the parties and provides tenderers with more time to consider and price the project. Under these arrangements, initial open tendering is not efficient and therefore the first step in the process is to invite an open expression of interest. From this process three qualified and experienced contractors were invited to enter the early tender phase to review the specifications and tender documentation, followed by submission of a formal tender.

At the close of the tender period on 25 October 2016, submissions were received from each of the three short listed tenderers. This report provides an assessment of the tender submissions along with a recommendation.

Key Issues

- Engaging a suitably qualified and experienced contractor
- Assessing value for money against the allocated budget
- Comply with Section 55 of the Local Government Act 1993 and Part 7 of the Local Government (General) Regulations 2005 with regards the acceptance of tenders.

Information

Tender submissions were received from all of the tenderers involved in the early engagement:

- Swimplex
- Hutchinson Builders
- Woollams Constructions

Pricing information has been provided by separate memorandum to Councillors.

11.5 Tender - Design and Construction of the Public Swimming Pools

The lowest tender for the design and construction of both swimming pools and ancillaries is for an amount of \$14,587,038 (ex-GST). The current approved project budget is \$11,600,000. The options available to Council in response to the tender results and the budget implications are discussed below.

The expression of interest process for the early tenderer involvement comprised an assessment of the capability, relevant experience, resources and so forth for all tenderers.

The invitation to proceed to the pricing stage was made to the three highest ranked suitable tenderers.

On the basis tenderer suitability has been previously established, ranking of the final tenders now only involves comparing prices after all tenders are checked for compliance with the specification and submission requirements. This means the key matter for Council to consider from this report is the difference in tender pricing to the budget estimate.

A report to Council in November 2015 (copy attached) discussed the redevelopment design proposals based on community engagement for the Ballina and Alstonville Swimming Pool complexes. Council resolved to continue with the proposed designs, based on concepts and estimates prepared by the engaged consultant, Ridgemill Pty Ltd, with supporting information from quantity surveyors.

The financial implications section of this report discusses the options for Council in respect of adjusting the project budget. There are also options to modify the scope of works to reduce the capital cost of the project.

Ridgemill has made recommendations in respect to opportunities for modifying the scope of works for cost savings to occur. The individual options and estimated cost savings may include one or more of the following:

Options	Estimated Saving (\$)
Reduce lap pool from 10 to 8 lanes	
- Ballina	850,000
- Alstonville	750,000
Reduce learn to swim pool from 25m to 16m	
- Ballina	200,000
- Alstonville	200,000
Reduce size of Splashpad	
- Ballina	100,000
- Alstonville	100,000
Downgrade filtration system from Ultrafine to Sand	
- Ballina	100,000
- Alstonville	100,000
Modifications to Ballina Administration / Amenities Building	
- Remove from scope, defer to a later date	1,160,000
Reduce lap pool from 50m to 25m	
- Ballina	1,200,000
Replace transparent fence with solid fence	
- Ballina	50,000

11.5 Tender - Design and Construction of the Public Swimming Pools

Until further negotiations are conducted with the preferred contractor or contractors, it is difficult to reliably confirm the extent of savings to be generated from these changes. However these figures are reasonable estimates for the purpose of deciding the next direction for this project.

Considering the feedback received from the original engagement with key stakeholders, discussions with Councillors at a briefing held Wednesday 16 November 2016, and reviewing the identified scope reduction opportunities provided by Ridgemill, the preferred scope modification for this project includes:

- Reducing the Ballina lap pool from ten to eight lanes (estimated saving of \$850,000). Stakeholders deemed that the Alstonville Pool had a higher demand, over the Ballina Pool, to have a ten lane lap pool due to the water polo club. The ten lane pool at Alstonville allows for 'across pool' playing of water polo games, meaning a 25 metre lane configuration is still available for lap swimmers when water polo is being played. The reduction to eight lanes at Ballina still provides a FINA compliant facility.
- Reducing the Alstonville learn to swim pool from 25m to 16m (estimated saving of \$200,000). Stakeholders suggested that the Ballina Pool had a higher demand, over the Alstonville Pool, for a 25m learn to swim pool. The reduction of the learn to swim pool at Alstonville is also preferred due to the constrained nature of the site.
- Reducing the Alstonville splashpad area and/or type of play equipment (estimated saving of \$100,000). While the provision of these play areas are still provided at each site, the splashpad at Ballina Pool specifically complements the nature of this site, due to its recreational facilities and location.

The opportunity to make further savings by changing the filtration system from ultrafine to rapid sand has not been recommended due to environmental and future operating cost advantages of the ultrafine system. Other smaller savings may also be possible.

Based on the three recommended scope modifications, a potential total saving of \$1,150,000 may be achieved.

Based on the value of the lowest tender received, these modifications would result in a projected cost of \$13,437,000. If a 4% contingency is included, which is reasonable for a project of this type, post contract for a design and construct tender, the total budget would be amended to \$13,974,000, or \$14m in round figures.

Ridgemill has suggested that a lower contingency could be used as it is a design and construct tender, i.e. the contractor is carrying a large part of the contract risk, however as negotiations are still to occur with the tenderers, and as there may be some smaller items that Councillors wish to see included (shade etc), 4% is preferred at this point in time.

11.5 Tender - Design and Construction of the Public Swimming Pools

To reduce the project cost further, there is an option to defer the Ballina Pool administration and amenities building (estimated saving of \$1,160,000). This results in a revised project budget of \$12,277,000 or \$12,768,000 with a 4% contingency. This could be increased to \$13m to allow for some refurbishment of the existing building.

There are concerns with deferring the relocation of this building as the approved design has a strong focus on providing updated facilities for meeting the accessible needs of the community.

If the Council prefers to amend the scope of works, an option available now is for Council to not accept any tender and negotiate directly with one or all of the tenderers to reprice the amended specification. As well as negotiating the amended scope, previously Council has had some success following this course of action on the basis that Council and the contractors can again exchange information in regards to modifications, risk transfer, information gaps and the quality of the contractor's estimates and assumptions.

If the Council is able to be in a position to make a decision in response to this report, the above negotiations can be undertaken urgently to enable the construction to still commence at the start of the 2017 off season.

Any decision not to proceed any further in negotiating with the current tenderers, will most likely result in Council not being able to proceed with the works until the start of the 2018 off season.

Sustainability Considerations

- **Environment**
The works will be constructed in accordance with the environmental management framework.
- **Social**
This project will improve the social amenity for the Shire, while capturing the community's preferences for each pool complex.
- **Economic**
Meeting Council's capital and operating budgets.

Legal / Resource / Financial Implications

This report is provided to assist the Council meet its statutory requirements in regards to tendering and procurement.

The lowest priced tender, \$14,587,038, is in excess of the original budget estimate of \$11,600,000 for the project.

Due to the special rate levy being in place since 2015/16 and without any loan repayments occurring in this period, Council will have available an internal cash reserve of \$1,379,000 by 30 June 2017.

With a full loan repayment of \$816,000 allowed for in the budget for 2017/18, Council may be in a position to carry the project expenditure in 2017/18 until a loan needs to be acquired.

11.5 Tender - Design and Construction of the Public Swimming Pools

Based on Council's overall financial position and financial cash flows it would be reasonable to assume Council could delay the borrowing of any loan funds until 31 December 2017. This means that the current loan repayment of \$816,000, which is forecast in our Long Term Financial Plan could be halved, and the balance (\$408,000) transferred to an internal reserve.

Therefore, for financial planning purposes, it is relatively safe to assume we have available in reserves \$1,787,000 (\$1,379,000 plus \$408,000).

If Council wishes to proceed with the \$14m proposal the amount of loan funding required is then \$12,213,000.

Council's financial model is based on the loan funds being secured from NSW Tcorp, which is able to provide loans at lower than market interest rates, to councils identified as Fit for the Future, with the loan funds to be expended on asset renewal. Ballina Shire Council is eligible to access these funds.

The latest advice from Tcorp is that the fixed rates for 10 years (the loan would be renewed after 10 years for the remaining ten years) are 2.8%, however with the recent United States election, rates may be moving upwards.

If Council borrowed the \$12,213,000 required, based on a 20 year term, at say 3%, the annual repayment is \$821,000 which is largely consistent with the project budget.

By authorising the General Manager to enter into negotiations with the three tenderers, Council can aim to modify the scope of works to the capital cost of this project to a maximum allowable value of approximately \$14m.

Alternatively if Council wishes to also defer the Ballina administration and amenities building resulting in a revised project budget of \$13m, the actual loan required is then \$11,213,000. The repayment on that loan, based on the same terms mentioned, is \$754,000, a saving of \$67,000 per annum.

Council needs to be saving expenditure where we can, as the additional monies can be allocated to other projects. If Councillors are not confident that the expenditure on the administration and amenities building is justified, that item should be removed from the budget.

Consultation

Extensive community consultation was undertaken in order to determine the preferred scope and concept design for the Alstonville and Ballina Swimming Pools complexes. Further consultation may be appropriate with key stakeholders if the Council elects to modify the scope in response to budget management.

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;*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender; and*
- (f) carry out the requirements of the proposed contract itself.*

Option one to accept a tender is not recommended as all submissions are in excess of the current budget.

Option two (a) to postpone the contract is not recommended as it is important to deliver this project in a timely manner, with the project already one year behind schedule. Any delay is not likely to influence the tender result.

Option two (b) to invite new tenders is not recommended as it is unlikely that calling fresh tenders will result in a reduction of the tendered rates. Further work would be required to minimise the scope of works.

Option two (c) and (d) to invite fresh applications is not recommended for the reasons stated in option two (b).

Option two (f) is not preferred as Council does not have the resource capability to undertake this type of work.

This means the preferred option is to enter into negotiations with the tenderers. This is to be done in accordance with the provisions in Option 2 (e).

The recommendation is to authorise the General Manager to enter negotiations with tenderers on reducing the scope of works, as outlined in this report, to meet the revised capital cost of approximately \$14m (including a 4% or \$537,000 contingency).

Councillors may wish to suggest alternative scope of work changes or reduce the project budget to \$13m, with the Ballina administration and amenities building deferred.

11.5 Tender - Design and Construction of the Public Swimming Pools

Finally it is important to recognize that the scope of this project is now well in advance of what was originally envisaged by Council. When this project commenced in 2013 the focus was on renewing the existing pool infrastructure. The project has expanded to provide two state of the art swimming pool facilities, with additional features such as large splashpad areas and enclosed training areas, to reflect the feedback received from the community.

Councillors now need to determine the appropriate level of facility to be provided based on the tenders received for the project and the overall cost to the community.

RECOMMENDATIONS

1. That, in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council resolves not to accept any tender for the design and construction of the Ballina and Alstonville Swimming Pools.
2. That, in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council authorises the General Manager to enter into direct negotiations with the three early tenderers for the design and construction of the Ballina and Alstonville Swimming Pools.
3. The General Manager is authorised to execute a contract, subject to the negotiations in point two above confirming the project is able to proceed in accordance with the available budget.
4. The scope of works is to be amended for the project through the following changes
 - Reducing the Ballina lap pool from 10 to 8 lanes (estimated saving of \$850,000).
 - Reducing the Alstonville learn to swim pool from 25m to 16m (estimated saving of \$200,000).
 - Reducing the Alstonville splashpad area and / or type of play equipment (estimated saving of \$100,000).
5. The approved budget for the Ballina and Alstonville Swimming Pools is based on a maximum amount of \$14 million, including as a minimum a 4% contingency, financed as follows:
 - Internal Reserve as at 30 June 2017 - \$1,379,000
 - 50% of the forecast 2017/18 annual loan repayment transferred to reserve (\$408,000)
 - Approximate loan of \$12,213,000 based on a term of 20 years at 3%, with the funds being drawn down six months into the 2017/18 financial year.
6. In the event that the negotiations are unsuccessful a further report is to be submitted to Council to review the options for this project.
7. That Council authorises the seal to be attached to any contract documents.

11.5 Tender - Design and Construction of the Public Swimming Pools

Attachment(s)

1. Facilities Committee Report - 23 November 2015 - Swimming Pools Redevelopment Project - Stage 1

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

Information

At the October 2016 Ordinary meeting, a rescission motion was submitted as follows by Councillors, Johnson, Wright and Parry.

- 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.*

Council subsequently resolved to defer this rescission motion to this meeting. The rescission motion is now re-submitted for consideration by Council.

As part of the debate on the deferral of the rescission, there was some discussion as to whether it was legal to defer a rescission motion. The advice from the Office of Local Government and Lindsay Taylor Lawyers (both verbal) is that it is entirely legal to move that a rescission motion be deferred.

A rescission motion is simply a motion before Council, with Council entitled to move amendments, if it so wishes. Ultimately it is the majority of Councillors that determine the preferred course of action based on the motion or the amendment.

From a governance perspective, even though the rescission motion was deferred at the last meeting, this is not a practice that should be encouraged as Council should deal with items in a timely manner.

As the original motion was resolved at the September 2016 Ordinary meeting, it will now be two months before the resolution is enacted (or lost) and this length of delay can cause uncertainty, discontent, reflect poorly on Council, etc.

Councillors should ensure that this rescission motion is dealt with at this meeting.

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 Notice of Motion - Killen Falls - Temporary Toilets

13.2 Notice of Motion - Killen Falls - Temporary Toilets

Councillor

Cr Eoin Johnston

I move

1. That Council provide temporary toilet facilities at Killen Falls on a trial basis for a three month period commencing on or around 1 December 2016.
2. That the costs for this service be limited to \$5,000 and the funds be allocated from savings to be identified by staff from the existing Open Spaces and Reserves budget.

Councillor comments

The Council has received a number of representations from residents living in the vicinity of Killen Falls. Their concerns relate to insufficient parking and the lack of toilet facilities at this location. The demands for facilities have arisen from the popularity of the site which has increased from publicity and the inclusion of the site on the circuit for day trip tour operators.

The former Council has considered a report regarding these matters and resolved to prepare a plan of management to ensure a holistic and strategic direction is documented. The process to prepare the plan of management will include community consultation and I support this previous decision. However the plan of management will not be finalised until early in 2017 and the local residents are concerned the level of litter and other pollution will be unacceptable during this summer period.

The report considered previously by Council estimated a weekly hire cost for a single portable toilet (serviced twice weekly) of \$167, plus a \$360 pickup and delivery charge (based on a three month hire period). This means a budget of \$2,364 would be required for the three month period for the provision of one toilet.

Staff Comment

The level of service to be provided at this location is ultimately a decision for the elected Council.

The suggested trial will potentially improve the situation during this period and it will assist to demonstrate to the residents that Council is listening to their concerns.

However there are also disadvantages to a trial. In addition to the cost, it is arguable that by providing basic facilities Council will attract further visitors to the site and compound the various issues, including the public liability matters to be considered by the plan of management.

Vandalism, misuse, and insufficient servicing of the portable toilets may also create management, pollution and service level difficulties.

13.2 Notice of Motion - Killen Falls - Temporary Toilets

For example, temporary toilet facilities at Sharpes Beach for surf lifesaving services can be subject to vandalism in a more highly visible area and there are genuine concerns that temporary facilities at Killen Falls would be at a high risk of vandalism.

It is also difficult to determine whether a single portable toilet will meet the demand and whether the twice weekly service will be sufficient. For this reason, if the motion is supported, it may be necessary to allow for an additional facility and more frequent servicing. On this basis, a budget of \$5,000 is supported.

In regards to a source of funding, staff would suggest these costs be allocated to the Open Spaces and Reserves maintenance budget and staff managing this budget will seek out possible program savings to accommodate the expense.

If the motion is successful, staff will also contact Rous Water to request assistance with the supervision of the facility and whether the Rous Water resources in that area can assist with data collection to support later reporting of the outcomes of the trial.

Council also needs to be mindful, that if it supports this recommendation, it is preempting the outcomes of the plan of management process, which may possibly recommend not providing toilet facilities in this location.

By providing toilets, albeit temporary, a service level expectation is being created, which may be difficult to reverse, if no facilities is ultimately the preferred direction of Council.

Similarly, a decision now to provide temporary toilets, is essentially saying that Council is of the opinion that toilets are essential. Even though this recommendation is for three months only, Councillors need to be mindful as to whether they are prepared to remove the toilets after three months, as there will be an expectation, especially from the nearby residents, that the toilets will continue, as all reports are that it is not just the Christmas / New Year period that this site is being heavily utilized.

Therefore this may not be a \$5,000 decision, but rather a \$25,000 recurrent decision, along with a potential obligation to install permanent toilet facilities, along with the associated recurrent operating costs.

For these reasons, the preparation of a holistic plan of management is supported prior to providing any facilities, to ensure that Council fully understands the implications, both operationally and financially, of the preferred management strategy for this locality.

COUNCILLOR RECOMMENDATIONS

1. That Council provide temporary toilet facilities at Killen Falls on a trial basis for a three month period commencing on or around 1 December 2016.
2. That the costs for this service be limited to \$5,000 and the funds be allocated from savings to be identified by staff from the existing Open Spaces and Reserves budget.

Attachment(s)

Nil

13.3 Notice of Motion - Community Property Leasing and Licensing Policy

13.3 Notice of Motion - Community Property Leasing and Licensing Policy

Councillor

Cr Willis

I move

That Council receive a report on the advantages and disadvantages of amending the Community Property Leasing and Licensing Policy to increase the minimum lease term from three to four (or five) year terms.

Councillor comments

It has become apparent that a number of community groups would appreciate greater certainty in the form of extended lease terms where Council leases property to community groups. It has been suggested that such extended lease terms may assist community groups to obtain grant funding.

This motion requests a report on the advantages and disadvantages of increasing lease terms via the existing policy. Such an approach seeks to heed community voices around this issue and avoid ad hoc lease extension requests to allow Council to make an informed future decision in relation to lease terms within the relevant policy.

Staff comments

The leasing and licensing policy for community land was recently adopted by Council in July 2016 following stakeholder and Councillor engagement.

The policy is not currently programmed for review until 2020. If the Council wishes to bring a review of part of the policy forward, it is not expected that the associated reporting can be completed until late in the first quarter of 2017.

In preparing the adopted policy, all 41 current occupants of the properties in the community property portfolio were invited to provide feedback and speak with staff. Over half of these occupants spoke directly with staff about the policy.

One group (being the Alstonville Plateau Historical Society) raised ongoing concern in relation to the provisions of the policy as they relate to lease time periods. This submission was considered by the Council and Council resolved not to change the policy in response to the matters raised upon its adoption. Staff are not aware of any other groups with ongoing concerns about the provisions of the policy in relation to the time periods for leases.

Council again considered the request of the Alstonville Plateau Historic Society at its October 2016 Ordinary Meeting and did not support a lease term beyond the currently offered three year period. The term of the Crawford House lease has now been considered on three separate occasions by Council, with Council consistently offering a three year lease term.

13.3 Notice of Motion - Community Property Leasing and Licensing Policy

The policy includes an exceptional circumstances provision enabling leases beyond three years to be granted. In such circumstances, tenants need to demonstrate the exceptional circumstances such as success in obtaining substantial grant funding that is contingent of security of tenure.

The leasing and licensing policy has been written principally from the perspective that Council is a multi-million dollar property owner on behalf of the shire community.

The policy considers factors such as legislative compliance (Local Government Act, Conveyancing Act and Real Property Act), risk mitigation, property management and tenant equity and ultimately seeks outcomes that provide low cost premises for community groups in such a way that Council's rights and responsibilities as a landlord are protected and recognised.

The policy is also designed to maximise Council's flexibility in its role as a land owner and minimise costs associated with administration of the properties (e.g. lease registration costs, subdivision costs).

Council's insurer has reviewed Council's lease documents and associated approach and has indicated that the current documentation is suitable to serve Council's interests as a land owner and property manager.

Overall, staff are not experiencing significant concern from current tenants about the operation or intent of the leasing and licensing policy for community properties.

The above is not to suggest that the services provided by the groups which occupy Council owned properties are not valuable. However, given the terms that are typically offered by Council for use of the premises are generous (e.g. no rent, rates concessions), and the "tight" financial environment in which Council operates, it is highly desirable to establish tenancy agreements that have reasonable flexibility and conditions favourable to Council's ongoing management of the properties.

COUNCILLOR RECOMMENDATION

That Council receive a report on the advantages and disadvantages of amending the Community Property Leasing and Licensing Policy to increase the minimum lease term from three to four (or five) year terms.

Attachment(s)

Nil

13.4 Notice of Motion - Code of Meeting Practice Amendment

13.4 Notice of Motion - Code of Meeting Practice Amendment

Councillor

Cr Willis

I move

That Council amend its Code of Meeting Practice to remove the agenda item titled Questions without Notice, as it is inconsistent with the Local Government Act and advice from the Office of Local Government (OLG) including OLG circular 10-10 (May 2010) and clause 1.4.11 of the OLG's Meeting Practice Note.

Councillor Comment

Key elements of any well functioning Council include commitments to best practice, due process and effective meeting practice. The best practice advice of the Office of Local Government has identified the Questions without Notice agenda item is not required. It is clear that other more effective mechanisms exist to raise issues to be addressed with Council staff without the need for this agenda item.

Staff Comment

This notice of motion is supported as the current practice is inconsistent with the Local Government Act and Regulations in respect to meeting procedures, which require councils to ensure adequate notice is provided for any matter on the agenda. There is no notice for the items that are raised in this item.

This item can also lead to poor practice, with a good example occurring at the October 2016 Ordinary meeting.

As per the minutes of that meeting, during the meeting there was an amendment to seek legal advice on rescission motions. That amendment was lost. However, in questions without notice, a Councillor asked the following question:

"Would like to see Council obtain legal advice on whether Rescission Motions can be deferred".

This was included in the minutes and was required to be actioned by staff, albeit that a similar motion was lost during the meeting.

There are many other ways, email, phone call, face to face, whereby Councillors can ask questions or seek to see minor works followed up, without the need for this to be included in the monthly meeting agenda.

Minor changes to the Code of Meeting Practice do not need to be exhibited for public comment, and this change is considered minor, as it only directly impacts Councillors.

COUNCILLOR RECOMMENDATION

That Council amend its Code of Meeting Practice to remove the agenda item titled Questions without Notice, as it is inconsistent with the Local Government Act and advice from the Office of Local Government (OLG) including OLG circular 10-10 (May 2010) and clause 1.4.11 of the OLG's Meeting Practice Note.

Attachment(s)

Nil

13.5 Notice of Motion - Kerbside Bulk Waste Collection

13.5 Notice of Motion - Kerbside Bulk Waste Collection

Councillor

Cr Meehan

I move

That Council receive a report, to be considered during the preparation of the draft 2017/18 Delivery Program and Operational Plan, which investigates the options for an annual program of (i) kerbside bulky waste pick-up and (ii) free tip drop-off tickets for residents of Ballina Shire.

Councillor Comments

The provision by Council of a system of annual kerbside bulky waste pick up is regularly brought up and requested by residents. A majority of residents see this service as 'something they should receive'. Kerbside collections, provided by Councils, are commonplace throughout NSW. In Ballina Shire it has not occurred for more than 25 years.

The provision of a kerbside collection will particularly assist:

- The aged and those with physical and accessibility limitations.
- Residents who do not have access to appropriate vehicle and trailer transport.
- Limiting illegal dumping, particularly at charity premises.
- Enhancing community satisfaction with Council services.

A system of kerbside collection must be 'modern' in design. That is; efficient and cost limited and promote individual responsibility for waste management – with the support of Council. A co-payment will support the cost and appropriately contain the uptake. A booking system will contain and coordinate the placing of materials on the verge for pick-up. Free tip drop-off tickets will encourage residents to deliver their waste to the Council facility with no pick-up required. Enhanced community education about re-cycling and items that can be dropped off for free at waste facilities will boost individual responsibility and re-use.

A sustainable and affordable program of kerbside collection could include:

- a co-payment provision
- a booking system for individual residences
- a limit on volume and weight
- a list of accepted and unaccepted items
- collection by Council or a contractor

A sustainable and affordable program of free tip access could include:

- one free tip access per residence per annum
- a limit on volume and weight
- a prescription of accepted waste

Further community information and education should occur as part of a system of kerbside collection and free tip access. EG:

13.5 Notice of Motion - Kerbside Bulk Waste Collection

- What items can be dropped off for free at the Council waste facility and the regional waste facility at Lismore?
- Are there recycling contractors (EG. metal) that may pick up waste from households?

The Council waste budget has the capacity to deliver a model of kerbside collection and free tip tickets. The majority of residents of Ballina Shire support such a model and deserve the provision of this basic service.

Staff Comments

Council has debated this type of service, or similar services, on numerous occasions, the provision of free pick-ups or drop-off tickets has not been supported.

In respect to the free kerbside collection service the following is an extract from an internal memorandum, dated February 2009, from Council's then Waste Manager. The information remains relevant today.

Background

Kerbside bulk waste collection services are run at various Councils on the east coast of Australia. They typically involve annual services whereby residents are provided with the ability to place up to two cubic metres (approximately a box trailer full) of waste at kerbside with Council arranging usually by contract for the collection and disposal of that waste. The service is generally provided by contract as it is not economically viable for Councils to provide the types of vehicles typically used to deliver the service unless the service is a year round operation. This also helps Council to limit their exposure to OH&S issues associated with the collection of the waste.

Participation in this form of service is typically between 20% and 40% depending on the length of time the service has been in place and the regularity of the service. It is expected that Ballina Shire Council would experience patronage at the higher end of the scale as this service has not been offered at Council previously and the disposal fees are relatively high in the area.

Service considerations

The service is one which provides a high degree of risk in particular to do with OH&S and environmental issues. Council typically advises residents to leave their waste at kerbside and it may lead to people being exposed to hazards, particularly at night as the material may be at kerbside for up to a week or more. If inclement weather occurs during that time waste can be blown or washed into the receiving environment.

A number of further issues that will need to be considered if Council does elect to offer this service, some of which include:

- *illegal dumping*
- *the presentation of hazardous or unacceptable waste streams*
- *material continuing to be presented after the service has gone through*
- *unit and strata properties will likely present large quantities of waste which will be unsightly and problematic and*
- *unauthorised people coming through salvaging and scavenging from the material presented for disposal.*

13.5 Notice of Motion - Kerbside Bulk Waste Collection

In addition to the service provision issues we also have the philosophical issue in that we are trying to discourage waste disposal and to encourage reuse and recycling. This form of service encourages waste disposal and generation.

We also have the ethical issue in that the service will be charged to all residents through their rates however not all residents will access the service with participation likely to fall off if the service is provided on an ongoing basis.

It is also contended that this service is currently being provided by small contractors on an as needed basis and that should Council elect to provide the service we will have a detrimental effect on their business.

The advantages of providing this form of service to the residents are that it is equitable in that all residents have the ability to avail themselves of the service without needing a vehicle to transport the material to a disposal site. The cost is levied against the rates and economies of scale exist in the awarding of this type of work that would may residents with cost savings.

It is assumed that the cost of this service would be recovered by the owners of the property should the cost be levied against the rates.

Budget

The current cost for providing this service at Byron Bay \$9.15 per property, however the cost here would be higher as we have a higher cost for disposal. This cost has been driven up over the last five years as there are relatively few providers of this form of service with the specialised equipment available.

It may be that the cost will go up further with the recent failure of the markets for scrap metal.

Some councils such as Tweed Shire still provide this service, however many councils have, over time, ceased providing the service. It is understood that Byron Shire Council ceased this service in recent years and a search of their website identifies the following commentary on the reasons why the service was ceased:

- *Safety hazards for contract workers and Council staff in terms of sharp objects and sodden heavy furniture and mattresses*
- *Safety hazards for the public, particularly children, engaging in scavenging*
- *Non compliant waste such as glass and chemicals being included in the piles*
- *Illegal dumping on the waste piles of households, including hazardous materials*
- *Scattering of previously neatly stacked piles across lawns and onto the road by scavengers*
- *Dumping of waste both prior to and after the collection*
- *Waste is co-mingled and there is a lack of resource recovery*
- *Metal scavenging reducing the return to the contractor and thereby increasing the cost*

www.byron.nsw.gov.au

13.5 Notice of Motion - Kerbside Bulk Waste Collection

The free drop-off tickets are less problematic and could be seen as a gesture of goodwill by Council to the community. However it will directly impact on revenues at Council's Landfill, which is a major source of revenue for Council. For example, dividends from our Landfill Operations are included in our Long Term Financial Plan to help finance the new sports stadium.

Even though the proposal may be called "free drop-off tickets" ultimately all residents pay for this service as Council still has a responsibility to manage any waste collected. As all our waste is transferred to other locations this cost is still incurred.

The major concern with this notice of motion is that by providing free services, which are actually provided at a cost to the community, Council is acting inconsistently with all contemporary waste strategies, which encourage people who generate waste to actively seek to manage that waste effectively through recycling or other means.

COUNCILLOR RECOMMENDATION

That Council receive a report, to be considered during the preparation of the draft 2017/18 Delivery Program and Operational Plan, which investigates the options for an annual program of (i) kerbside bulky waste pick-up and (ii) free tip drop-off tickets for residents of Ballina Shire.

Attachment(s)

Nil

14. Advisory Committee Minutes

14.1 Commercial Services Committee Minutes - 16 November 2016

Attendance

Crs David Wright (Mayor - in the chair), Phillip Meehan, Eoin Johnston, Stephen McCarthy, Nathan Willis, Keith Williams, Sharon Cadwallader and Ben Smith.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Rod Willis (Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Manager Commercial Services) and Sandra Bailey (Secretary) were in attendance.

There were four people in the gallery at this time.

1. Apologies

Apologies were received from Cr Sharon Parry and Cr Jeff Johnson.

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

1A. Election of Chairperson

The Mayor advised that he would Chair meetings of the Commercial Services Committee in accordance with Clause 267 of the Local Government (General) Regulation 2005.

2. Declarations of Interest

Nil

3. Deputations

- **John Wallington** – spoke in favour of the proposal in Item 4.2 - Zip Line Proposal.
- **Andrew Ince, Boral** – spoke in favour of Item 4.1 – Bitupave – Request to Lease Area for Stockpiling.

4. Committee Reports

4.1 **Bitupave - Request to Lease Area for Stockpiling**

RECOMMENDATION

(Cr Keith Williams/Cr Nathan Willis)

1. That Council resolves to grant Bitupave Ltd (Boral) a lease over Part of Lot 2 DP 1130300 for a term of three years with an option for a further term of five years for Part Lot 2 DP 1130300 for stockpiling purposes, at a commencement rate of \$20,000 plus GST.
2. That Council undertakes a subdivision of Lot 2 DP 1130300 for leasehold purposes to create an area of approximately 5,600m² as per the required lease area with Bitupave (Boral) responsible for all costs associated with the subdivision.
3. The General Manager is authorised to execute and fix the Council seal to all lease documentation, applications and plans of subdivision to facilitate leasing of Part Lot 2 DP 1130300 to Bitupave Ltd for stockpiling purposes.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

4.2 **Zip Line Proposal**

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Ben Smith

That Council conduct an Expression of Interest process, subject to Department of Primary Industries - Lands approval, for the potential provision of tourist orientated facilities on the Pat Morton Headland.

The **Motion** was **LOST**.

FOR VOTE - Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

RECOMMENDATION

(Cr Keith Williams/Cr Nathan Willis)

That Council thank Messrs Collocott and Wallington for submitting their proposal for the establishment and operation of a Zip Line at Lennox Head. However, Council declines to accede to their request to use public funds to instigate the project for the reasons outlined in this report.

FOR VOTE – Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

4.3 Sale of Council Land - 86 Plateau Drive, Wollongbar

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of this report in respect to the sale of Lot 15 DP 1204621.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

5. Confidential Session

RECOMMENDATION

(Cr Keith Williams/Cr Nathan Willis)

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

5.1 Sale of Council Land - 86 Plateau Drive, Wollongbar

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

(The Council moved into Confidential Session at 5.35 pm).

Open Council

RECOMMENDATION

(Cr Nathan Willis/Cr Keith Williams)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

(The Council moved into Open Council at 5.36 pm).

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

5.1 Sale of Council Land - 86 Plateau Drive, Wollongbar

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council approves the sale of Lot 15 DP 1204621 at the negotiated price, as per the contents of this report.
2. That Council authorises the General Manager to fix the Council seal and execute all contract documentation for the sale of Lot 15 DP 1204621.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That the recommendations made whilst in Confidential Session be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

MEETING CLOSURE

5.38 pm

RECOMMENDATION

That Council confirms the minutes of the Commercial Services Committee meeting held 16 November 2016 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 LGNSW Annual Conference

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

15.1 LGNSW Annual Conference

Councillor Eoin Johnston

Report by Councillor Eoin Johnston on the 2016 NSW Local Government Conference at Wollongong: Sunday 16 to Tuesday 18 October 2016.

The Ballina Shire Council was entitled to have three voting members at the recent Local Government NSW Annual Conference (the Conference).

For whatever reasons, I was the only councillor who had the time and the desire to attend. I was honoured to accept the invitation and I found the experience rewarding, interesting, educational and entirely worthwhile.

I arrived at midday at my accommodation at Fairy Meadow and proceeded to the WIN Entertainment Centre for registration prior to attending the first session which was on Changes to the Local Government Act 1993.

The presenters were LGNSW Senior Managers Jill Gallagher and Sarah Artist. The bulk of the material discussed had already been covered by Lindsay Taylor at our recent BSC legal induction sessions. There are a number of modifications to the Act and they are identified in the attached document, Understanding Changes to the NSW Local Government Act.

The key points, inter alia, regard:

- new purposes and principles for local government;
- new roles and responsibilities for mayors, councillors and governing bodies;
- new functions for general managers including the power of the GM to accept tenders for services where those services are not provided by council staff;
- a clarification of the role of administrators;
- countback provisions will not be available to fill casual vacancies occurring in the office of a councillor following the 2016 ordinary elections.

This session was followed by the President's Opening Reception at the Lagoon Seafood restaurant. Speeches from the the NSWLG President, Keith Rhodes, and other dignitaries were supported by a local indigenous ceremonial dance group and a 25 piece band from the local university. It was most enjoyable!

On Monday I attended the NSW Reconciliation Council Breakfast where the speakers were The Honourable Leslie Williams, Minister for Aboriginal Affairs, Adjunct Professor Geoff Scott from the University of Technology and Cr Anne Dennis, Deputy Chairperson of the NSW Aboriginal Land Council.

The remainder of the day, from 9am to 5-30 pm was spent in the main convention hall attending to the business of considering and voting on 57 motions.

The NSW Premier, Hon Mike Baird, addressed the conference after lunch and it was obvious by the reception from sections of the audience that there is clear opposition to the government's policy of forced amalgamation based on the "Fit for the Future" criteria. The Business Paper document is available for interested Councillors.

Between all sessions delegates were able to attend the displays of the conference and LG sponsors in the trade exhibition area. Those sponsors are identified in the Conference Program document and all councils are asked to consider their products and services.

Tuesday 18 October was spent listening to a host of speakers including the Hon Paul Toole, the Minister for Local Government, the Hon John Ajaka, the Minister for Aging, Disability and Multiculturalism and the Hon Peter Primrose, Shadow Minister for Local Government who, surprisingly, spoke highly of the key government Ministers. He said, words to the effect, that "they are all good and decent people: It's just that we don't share the same views on policy". I thought it was refreshing to hear that from a politician.

In the afternoon I attended an optional session, Natural Resources and Environment stream. The topics covered underground storage systems, contaminated sites, sound environmental planning decisions and a Crown Lands Review update which, in my view, was particularly relevant to live issues on the north coast.

The final keynote speaker was Kitty Chiller, the Chef de Mission for the Australian Olympic team in Rio, 2016. She delivered a well prepared analysis of the games, warts and all, and has clearly been affected by the demanding responsibilities of trying to keep the team together in unenviable circumstances.

Her message was that the team is greater than the individual and the primary focus must be on team outcomes. This could and should apply to all of us in local government. Kitty was rewarded with a whole hearted standing ovation of some duration, something rarely seen at these conventions.

I digested the conference proceedings together with a fine meal and quality entertainment in the company of 730 of my new best friends.

I thank Council for the opportunity.

RECOMMENDATION

That Council notes the contents of the report from Cr Eoin Johnston on the LGNSW Annual Conference.

Attachment(s)

1. Understanding Changes to the NSW Local Government Act

15.2 Mayoral Meetings

15.2 Mayoral Meetings

Councillor David Wright

Activities since the October 2016 Ordinary meeting:

<u>Date</u>	<u>Function</u>
29/10/16	Drop In Session Ballina Surf Club
30/10/16	Drop In Session Lennox Head Surf Club
30/10/16	Lennox Head Markets
30/10/16	Meeting Bondi Rescue – Shark Deterrents
31/10/16	Launch Ballina Coast High School
31/11/16	Church Group
31/10/16	Drop In Session – Visitor Information Centre
1/11/16	Drop In Session – Ballina Fair
1/11/16	Meeting David Bester re Shark Deterrent
1/11/16	Meeting Bob Higgins
1/11/16	Meeting Boral Asphalt Group
2/11/16	Meeting SES
2/11/16	Drop In Session – Club Lennox
2/11/16	RMS Wardell
2/11/16	Councillor Induction – Micromex
2/11/16	Shark Management Meeting
2/11/16	Meeting with DPI Dr Geoff Allan
3/11/16	Inspection – Boral Asphalt Plant
3/11/16	Meeting Planners and John Eggins
3/11/16	Drop In Session – Ross Park
4/11/16	Meeting David Kapeen
4/11/16	NOROC Ordinary and AGM
4/11/16	Crawford House Exhibition
4/11/16	Drop In Session – Ballina Surf Club
5/11/16	Wollongbar School Fete
5/11/16	Shark Net Surfers
6/11/16	Adventist Senior Living – 25 years
8/11/16	Meeting Andrew Hurford
8/11/16	‘A’ Ward Committee
8/11/16	Ballina Chamber of Commerce – Fish Co-Op
8/11/16	Alstonville/Wollongbar Chamber Meeting
9/11/16	Meeting – Tracy Everingham-Armstrong
9/11/16	Councillor Induction – Program Review
10/11/16	Meeting With DPI
10/11/16	Internal Audit Committee
10/11/16	‘C’ Ward Committee
11/11/16	Remembrance Day
12/11/16	Prawn Festival
12/11/16	Farewell to Ballina High Welcome
13/11/16	Lennox Head Markets
13/11/16	Alstonville Markets
14/11/16	Ballina Police/Council Meeting
14/11/16	Councillor Induction – Program Review
14/11/16	Councillor Induction – Festival and Events
15/11/16	Hit the Ground Running

15.2 Mayoral Meetings

16/11/16	Meeting Lyn Walker
16/11/16	Commercial Services Meeting
16/11/16	Councillor Briefing – Ballina and Alstonville Pools
16/11/16	Meeting Patricia Backer
17/11/16	Public Art Advisory Panel
17/11/16	‘In the Dark’ NRCG
17/11/16	Switching on New Ballina Netball Lights
17/11/16	Novaskill Awards
18/12/16	NOROC Annual General Meeting
18/11/16	Meeting David Griffiths – Conservation Volunteers
18/11/16	Best Little Whorehouse in Texas
18/11/16	DPI Meeting – Ballina Surf Club
19/11/16	All Ships’ Reunion Dinner
20/11/16	Wreath Laying Service
21/11/16	‘B’ Ward Committee
24/11/16	Council Meeting
24/11/16	Gallery Opening
25/11/16	White Ribbon Day
25/11/16	Ballina Chamber Christmas Party
29/11/16	Oz Fish Meeting
30/11/16	RLA Building Design Function

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 Alstonville Leisure and Entertainment Centre - Management

Refer to Item 9.5 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 Alstonville Leisure and Entertainment Centre - Management

Reason for Confidentiality

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

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret; and
- 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 this report discusses contractual issues that may provide a commercial advantage to the contractor and may result in litigation.