



## 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 15 December 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. 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
  2. Acknowledgement of Country
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**1. Australian National Anthem**

The National Anthem will be performed by Sing Australia.

**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 24 November 2016 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 November 2016.

**5. Declarations of Interest and Reportable Political Donations**

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## **8.1 Development Applications – Variation to Development Standards**

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### **8. Development and Environmental Health Group Reports**

#### **8.1 Development Applications – Variation to Development Standards**

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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):

<b>DA No.</b>	<b>Date Approved</b>	<b>Applicant</b>	<b>Proposal and Address</b>	<b>EPI and Land Zoning</b>	<b>Development Standard and Approved Variation</b>	<b>Reason for Variation</b>
2002/566.007	18/7/2016	Ardill Payne & Partners	Lot 14 DP 1156992, No. 71 Tamarind Drive, Ballina - Subdivision	R3 Medium Density Residential - BLEP 2012/2(a) Living Area Zone - BLEP 1987/7(A) Environmental Protection – BLEP 1987	Clause 4.1 - 600m <sup>2</sup> minimum lot size	The proposed modification reduces the number of non-compliant allotments from 22 to 13

### **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.

### **Attachment(s)**

Nil

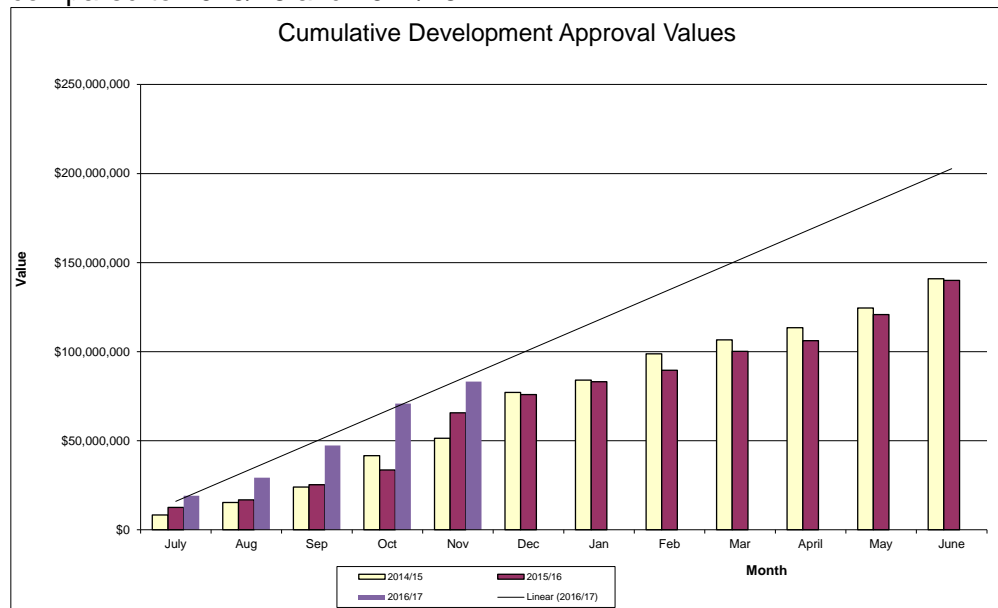
## 8.2 Development and Infrastructure Approvals - November 2016

## 8.2 Development and Infrastructure Approvals - November 2016

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

Number of Applications	Value of Work
34 Other including Changes of Use	\$ 1,272,660
32 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 11,062,371
3 General Developments including Subdivisions	\$ 0
<b>Total Value</b>	<b>\$ 12,335,031</b>

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



During the period of 1 November 2016 to 30 November 2016 there were no applications approved for Public Infrastructure / Civil Construction Works

### RECOMMENDATION

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

### Attachment(s)

Nil

### 8.3 Development Applications - Works in Progress - December 2016

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### 8.3 Development Applications - Works in Progress - December 2016

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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.

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
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 Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of Existing Dwelling House,	Awaiting Additional Information



### 8.3 Development Applications - Works in Progress - December 2016

			Demolition of Existing Carport and Shed, Vegetation Removal and Associated Works and the Subsequent Strata Title Subdivision – 175 Tamar Street, Ballina	
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	Being assessed
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	Determination pending
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	Being Assessed

### 8.3 Development Applications - Works in Progress - December 2016

			swimming pool and internal driveways and parking – 48 Tobin Close, 84 Fig Tree Hill Drive & 335 Old Byron Bay Road, Lennox Head	
2016/375	8/7/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of and Alterations and Additions to the Existing Dwelling House, Demolition of Existing Garage, Vegetation Removal and Associated Works and Staged Strata Title Subdivision – 43 Pacific Parade, Lennox Head	Awaiting additional information.
2016/378	12/7/2016	Newton Denny Chapelle	Proposed Ballina Racecourse Redevelopment Comprising Upgrade to Race Tracks and Training Tracks, Bulk Earthworks, Stormwater Management Works, Installation of Irrigation System,	Awaiting Additional Information

### 8.3 Development Applications - Works in Progress - December 2016

			Vegetation Removal, Environmental Offsets and Boundary Adjustment - Ascot Road and 36 Racecourse Road, Ballina	
2016/379	12/7/2016	Newton Denny Chapelle	Erection and Staged Strata Title Subdivision of a Multi Dwelling Housing Development comprising 17 Dwellings, Associated Infrastructure Servicing, Landscaping, Earthworks and Vegetation Removal – 4 Condon Drive, East Ballina	Being assessed.
2016/389	19/07/2016	McDonald's Australia Pty Ltd	Erection of a McDonald's Restaurant and Associated Signage on the Approved Highway Service Centre Site – 565-589 River Street, West Ballina	Being assessed.
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	Being Assessed

### 8.3 Development Applications - Works in Progress - December 2016

			to 235 at the existing educational establishment – 37 Converys Lane, Wollongbar	
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	Awaiting additional information.
2016/551	28/9/2016	Ardill Payne & Partners	Changes to signage (rebranding) at First Choice Liquor Store - 95-105 Fox Street, Ballina	Awaiting Additional Information
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	Determination pending.

### 8.3 Development Applications - Works in Progress - December 2016

			(CURA "A")	
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
2016/596	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	Awaiting additional information
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	On exhibition
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
2016/655	15/11/16	Ardill Payne & Partners	Erection of an Attached Dual Occupancy and Establishment of One Holiday	Awaiting additional information.

### 8.3 Development Applications - Works in Progress - December 2016

			Cabin – 56 Tooheys Mill Road, Pearces Creek	
2016/677	22/11/16	Zane Grier, Newrybar Merchants	Additions to an Existing Shop Comprising the Operation of a Take-awayn Food Van – 19 Old Pacific Highway, Newrybar	Being assessed.
2016/662	17/11/16	Ardill Payne & Partners	Demolition/rem oval of Existing Dwelling House and Two Lot Subdivision to Create 1 x 643sqm and 1 x 652sqm allotments – 46 Sandstone Crescent, Lennox Head	On exhibition.
2016/668	18/11/16	Newton Denny Chapelle	Proposed Strata Title Subdivision of Existing Duplex – 45 Fox Valley Way, Lennox Head	Being assessed.
2016/669	18/11/16	Newton Denny Chapelle	Proposed Strata Title Subdivision of Existing Duplex – 23 Lakeside Way, Lennox Head	Being assessed.
2016/681	25/11/16	Anglican Parish of Alstonville	Proposed Boundary Adjustment Consolidation of four lots into two lots, Shed and Alterations and Additions to Garage – 1 & 3 The Avenue, Alstonville	Being assessed.
2016/687	28/11/16	McDonalds Australia Pty Ltd	Replacement of Drive-thru Menuboard Signage – 54 Bangalow	Being assessed.

### 8.3 Development Applications - Works in Progress - December 2016

			Road, Ballina	
2016/688	28/11/16	H Chilton	Vegetation management works comprising the removal of one tree – 27 Killarney Crescent, Skennars Head	Being assessed.
2016/690	29/11/16	Ardill Payne & Partners	To undertake a residential subdivision to create 38 residential lots, including construction of roads and installation of public infrastructure services – Quays Drive, West Ballina	On exhibition.
2016/691	29/11/16	Ardill Payne & Partners	Construction of a new PAD site building of Ballina Fair Shopping Centre and subsequent modifications to part of the car parking area – 84 Kerr Street, Ballina	Being assessed.
2016/700	21/12/16	Ardill Payne & Partners	To Undertake Alterations and Additions to existing Building for the purpose of an Industrial Training Facility – 47 Southern Cross Drive, Ballina	Being assessed.
2016/701	05/12/16	Victor Holmes Town Planning	Change of Use to Truck Depot and Ancillary Drivers Amenities – 38B Smith Drive, West Ballina	Being assessed.

### 8.3 Development Applications - Works in Progress - December 2016

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#### 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



### 8.3 Development Applications - Works in Progress - December 2016

DA No.	Date Rec'd	Applicant	Proposal	Status
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  Being assessed.
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	Being assessed.

### 8.3 Development Applications - Works in Progress - December 2016

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DA No.	Date Rec'd	Applicant	Proposal	Status
2016/660	17/11/16	BP Australia Pty Ltd	Erection of a Highway Service Centre and Associated Uses, Advertising Signage Including Two x 25 m High Structures, Land Filling, Vehicular Access of Pacific and Bruxner Highways, Car Parking and Associated Works - Pacific Highway, West Ballina	On exhibition

#### 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 December 2016.

#### Attachment(s)

Nil

**9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head**

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**9. Strategic and Community Facilities Group Reports**

**9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head**

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 14/005 Blue Seas Parade, Lennox Head (Part Lots 1 and 2 DP 1165957), and the associated changes to Ballina DCP 2012, and to seek direction from the Council on the finalisation of this proposed LEP and DCP amendment.

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**Background**

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

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

**Diagram 1 – Land the Subject of LEP Amendment Part Lot 1 DP 1165957**



## 9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head

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

In initially considering the request to rezone the land the Council resolved as follows [Minute No.220514/12]:

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

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

1. *That Council discontinues processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957 and take no further action with respect to the rezoning of the land under the current amendment request.*
2. *That the Council does not support the application of a zoning to Lot 1 DP 1165957 that enables further residential development to occur on the land beyond what is enabled under the current rural land use zoning.*
3. *That Council takes steps at the next revision of the Ballina Shire Growth Management Strategy to remove all land contained within Lot 1 DP 1165957 from identification as a potential urban growth area from local planning policy.*

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

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

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

The planning proposal considered by the Council related primarily to Lot 1 but also includes approximately 900m<sup>2</sup> of the adjoining Lot 2 DP 1165957 (part Lot 2) owned by Mr P R and Mrs J A Small and Ms J A Shelley, as well a section of Blue Seas Parade road reserve. In respect to part Lot 2, it is proposed to remove the Strategic Urban Growth Area (SUGA) affectation from this land.

## 9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head

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The owners of Lot 2 have previously indicated that whilst they strongly object to the rezoning of part Lot 1, if the rezoning proceeded then they would support the removal of the SUGA affectation from their land.

The Department of Planning and Environment issued a Gateway determination dated 3 February 2015 together with an alteration dated 30 November 2015 relating to an extension of time for completion (Council has until 10 February 2017 to complete the planning proposal). The Department indicated in September 2016 that an amendment to its February 2015 Gateway determination was not required having regard for the progress of the matter.

The proponent supplied the technical reports required by the Gateway determination and Council engaged an independent consultant to review them for adequacy and advise on the planning proposal. Mike Svikis Planning (MSP) undertook this work on Council's behalf and prepared a Document Review and Gap Analysis Report which was reported to the Council, together with staff advice, on 23 June 2016. The Council initially resolved as follows: [Minute 230616/8]:

1. *That the planning proposal relating to land comprising part Lot 1 and part Lot 2 DP 1165957, Blue Seas Parade, Lennox Head be amended to make provision for the altered zoning and minimum lot size regime as shown in Diagram 3 within this report, with the proposed residential zone being no closer than 50 metres from the common property boundary to the south (Mr and Mrs Small's property).*
2. *The existing maximum building height of 8.5 metres applicable to the site be retained.*
3. *The amended planning proposal be submitted to the NSW Department of Planning and Environment for an altered Gateway determination.*
4. *A draft amendment to Ballina DCP 2012 be prepared which incorporates the rear setback provisions applied by the Codes SEPP to lots having an area of 1,200m<sup>2</sup> as detailed in this report, as well as appropriate slope sensitive design principles as recommended in the Mike Svikis Planning report.*
5. *Upon an altered Gateway determination being received, Council authorise the public exhibition of the planning proposal and draft amendments to Ballina DCP 2012 for a minimum period of 28 days.*
6. *That the matter be reported for further consideration by Council following the mandatory public exhibition period.*

This decision was subsequently rescinded by the Council and replaced with [Minute 280716/2]:

1. *That the planning proposal relating to land comprising part Lot 1 and part Lot 2 DP 1165957, Blue Seas Parade, Lennox Head be amended to make provision for the altered zoning and minimum lot size regime as shown in Diagram 3 within this report.*
2. *The existing maximum building height of 8.5 metres applicable to the site be retained.*
3. *The amended planning proposal be submitted to the NSW Department of Planning and Environment for an altered Gateway determination.*
4. *A draft amendment to Ballina DCP 2012 be prepared which incorporates the rear setback provisions applied by the Codes SEPP to lots having an area of 1,200m<sup>2</sup> as detailed in this report, as well as appropriate slope sensitive design principles as recommended in the Mike Svikis Planning report.*

**9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head**

5. Upon an altered Gateway determination being received, Council authorise the public exhibition of the planning proposal and draft amendments to Ballina DCP 2012 for a minimum period of 28 days.
6. That the matter be reported for further consideration by Council following the mandatory public exhibition period.

The public exhibition of the planning proposal (Attachment 1) took place from 28 September 2016 to 4 November 2016 and four submissions were received from the community (Attachment 2). The NSW Office of Environment and Heritage (OEH) also made a submission, as did NSW DPI (Agriculture) (Attachment 2). The associated DCP amendments (Attachment 3) were publicly exhibited simultaneously with the planning proposal and no submissions were received specific to the DCP.

With respect to the changes proposed to the LEP, Diagram 2 is an extract from the existing and proposed Land Zoning Map. Diagram 3 is an extract from the existing and proposed Strategic Growth Area Map and Diagram 4 is an extract from the existing and proposed Lot Size Map.

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

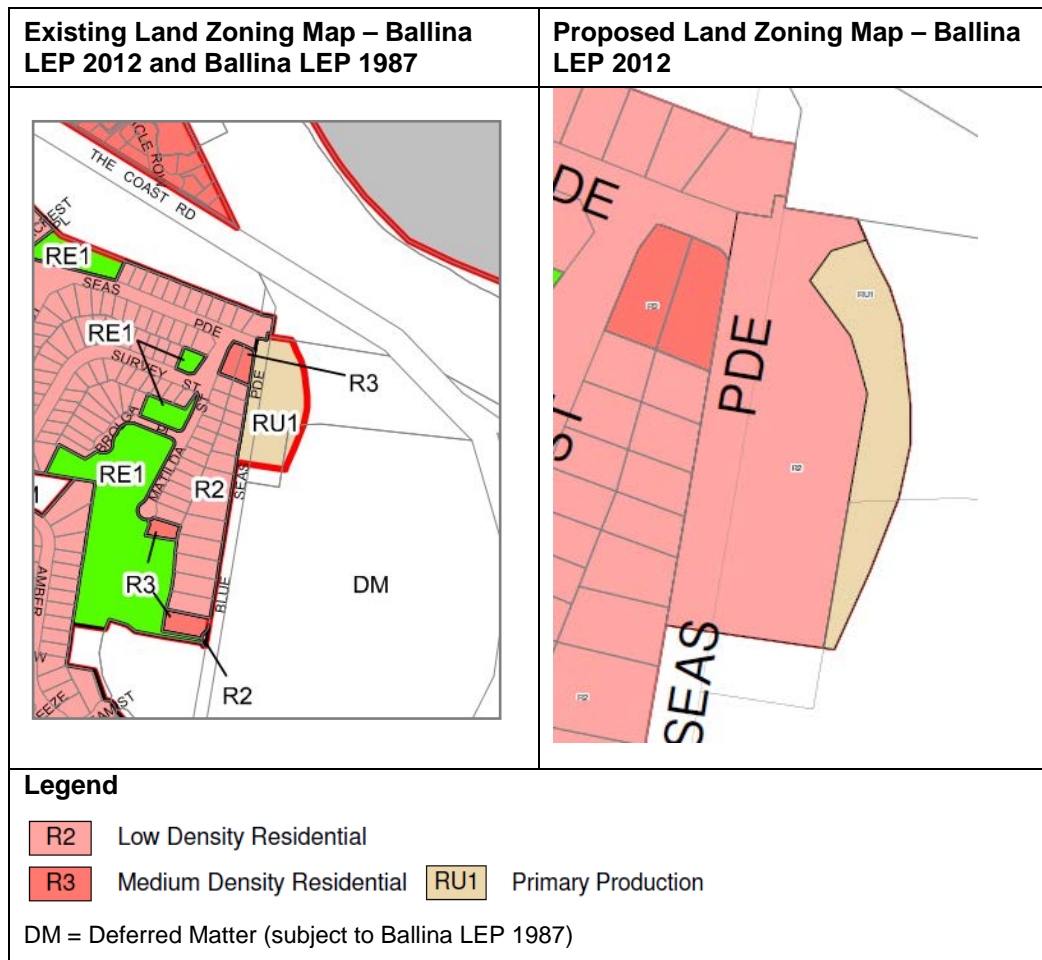


Diagram 3 – Extract from Strategic Urban Growth Map (Existing and Proposed)

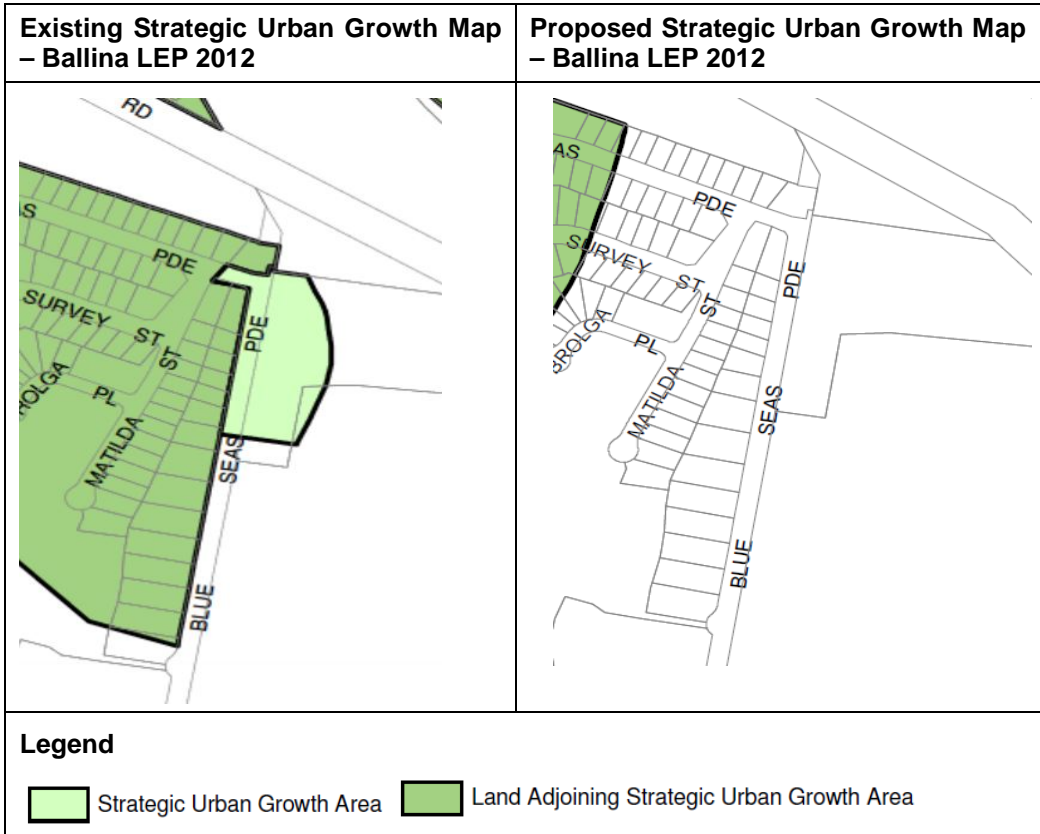
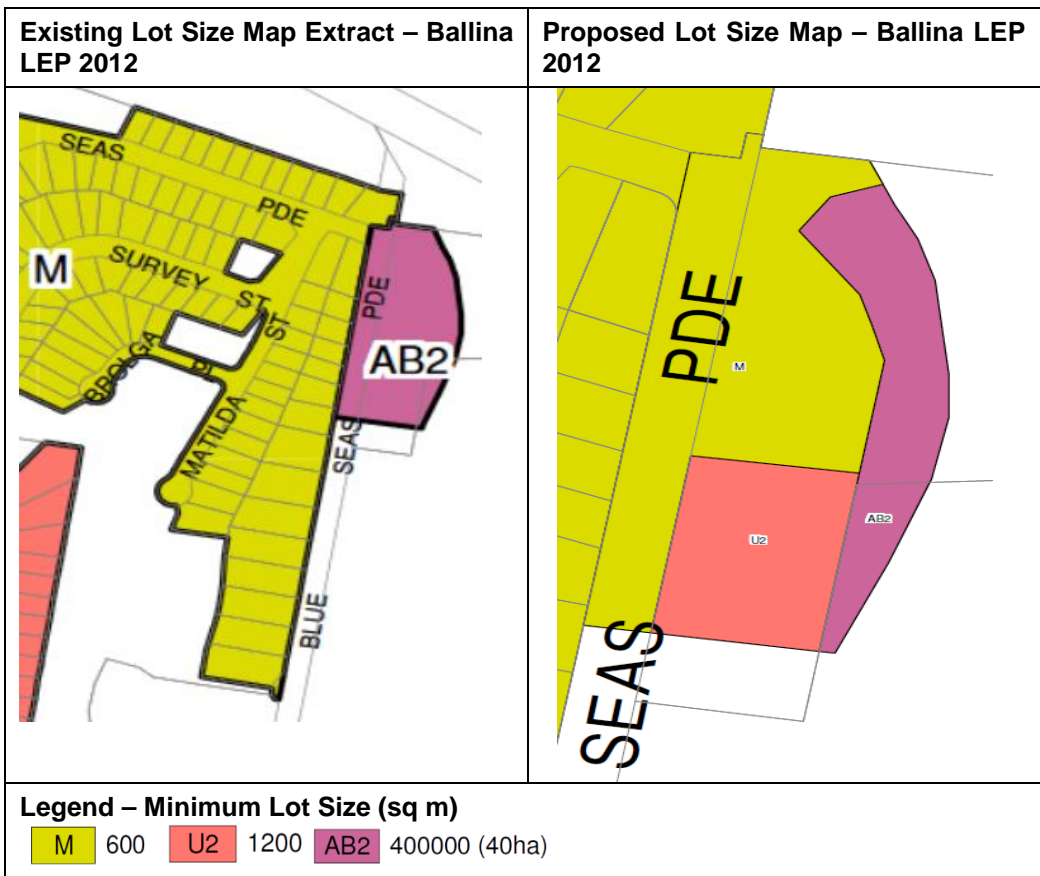


Diagram 4 – Extract from Minimum Lots Size Map (Existing and Proposed)



## 9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head

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The purpose of this report is to inform the Council of the outcome of the public exhibition of the LEP amendment and DCP 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 Mike Svikis Planning (engaged by Council to undertake third party review of the rezoning proposal).

### Key Issues

- Consideration of the outcomes of the public exhibition process.
- Scenic impact.
- Separation of residential and rural land.
- Minimum lot size appropriate for the site.
- DCP amendments.

### Information

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

The proposal seeks to amend Ballina Local Environmental Plan 2012 (BLEP 2012) by rezoning the subject land from RU1 Primary Production to R2 Low Density Residential.

In addition to the zoning change, the proposal provides for the following LEP Maps to be amended:

- Lot Size Map, with the application of a combination of 1,200 m<sup>2</sup> and 600m<sup>2</sup> minimum lots size over the land (with the respective lot size areas shown above in Diagram 4); and
- Strategic Urban Growth Area Map, by removing the land from this map.

This planning proposal has been prepared on the basis that the land proposed for residential rezoning will be subject to a mixed 600m<sup>2</sup> and 1,200m<sup>2</sup> minimum lot size regime. The proposed 1,200m<sup>2</sup> minimum lot size for part of the site is considered appropriate having regard to the following factors:

- Provides additional scope for buffers to the adjoining farm land; and
- Prominent ridge top location and associated scenic amenity considerations.

The subject site does not include significant public viewing locations. However, it is on the immediate western edge of land that is a significant landscape feature and within a significant view corridor. The subject land is identified by Council in the Ballina Shire Growth Management Strategy (2012) as being sensitive to change in relation to visual amenity.



## 9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head

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Development of the eastern-most 20 metres of the subject land will have the potential to impact on the skyline when viewed from the Pat Morton Lookout. Location of an access road on the eastern edge of the land in combination with building setbacks will assist in ameliorating this impact. Larger lot sizes at the southern end of the subject land should also assist. Limiting building height in this situation is difficult as Ballina LEP is overridden by the Codes SEPP that would permit an 8.5 metre dwelling. DCP controls to impose building setbacks on the subject land were exhibited with the planning proposal and are recommended for adoption.

The buffer issue between rural and residential land is a difficult one, with the following elements being important considerations:

- The R2/RU1 buffer is currently Blue Seas Parade, which is in a 20 metre wide road reserve.
- At the southern end of Blue Seas Parade, a small strip of RE1 Public Recreation zone has been used as a mini-buffer (about 10 metres wide), but this is required for a public access path.
- Rural zones permit agriculture (such as grazing) without consent.
- Structures such as stock yards can also be constructed without consent.
- The Standard LEP format provides Council with minimal opportunity to impose site-specific controls.
- The issue of buffers to non-intensive agriculture is now one that Council has to deal with in a DCP rather than its LEP.

In combination with an existing shed, located on part of the residue of Lot 1 DP 1165957 not subject to a rezoning proposal, the proposed 30 metre buffer to the cattle yards is considered to be reasonable at the southern end of the subject land. The fact that the proposed R2 zone abuts a rural zone to the east is something that cannot be avoided if the planning proposal proceeds. The use of an access road in this location may assist in a minor way to separate the land uses. The ultimate location and form of the access road will be determined as part of any future development assessment process. DCP controls to impose building setbacks to the eastern edge of the proposed R2 zone on the subject land were exhibited with the planning proposal and are recommended for adoption.

The site is not impacted by ecological constraints. However, an existing pair of mature fig trees will be retained in the RU2 zone with a suitable buffer.

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

With respect to finalisation of the matter, should the Council resolve to proceed to complete the amendment, Council has not 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.

### **Sustainability Considerations**

- **Environment**  
The subject land is not considered to have significant ecological value. Biodiversity matters were assessed in detail in 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 supporting information, which formed a part of the exhibited planning proposal.
- **Economic**  
The proposal has positive economic impacts associated with the provision of a small number of additional house sites 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*.

### **Consultation**

The public notification and exhibition process consisted of 260 letters being forwarded to immediately adjacent and other nearby property owners, an advertisement in the Ballina Shire Advocate and copies of the planning proposal being made available at Council's Customer Service Centre, our libraries and on Council's web site.

Four submissions were received from the community, one from the Office of Environment and Heritage (OEH) and one from NSW DPI (Agriculture).

Copies of all submissions received are contained within Attachment Two.

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

The OEH initially provided Council with advice in a letter dated 4 October 2016. Comments made by the OEH were limited to two issues and are summarised below:

### Aboriginal Cultural Heritage:

*OEH considers there is insufficient information in the Aboriginal cultural heritage assessment report given that it was undertaken more than 10 years ago. Additional information is required including a current AHIMS search, current literature search, consultation with local Aboriginal people, and an archaeological survey of the planning proposal area.*

Comment: The planning proposal is supported by an Aboriginal Archaeological Assessment undertaken by Heritage Surveys in November 2006. Although it was 10 years ago, this work was undertaken over a much broader area (up to 52 hectares) that included the subject land. It involved site inspections and survey and consultation with Jali LALC. It was a very thorough piece of work that OEH accepted and agreed (at the time) that the land was not likely to be of Aboriginal significance. The assessment was done in anticipation of a development, which ultimately did not proceed. The development was to be focused on the ridge line in the vicinity of the existing houses. The 2006 assessment concluded that:

- No Aboriginal Objects or Places were identified within the survey area.
- Consultation with the Jali LALC identified no places of cultural (spiritual) significance.

OEH indicated in its response to Council dated 26 November 2008, that it considered the cultural heritage report and inspection with Jali LALC undertaken in 2006 to be appropriate, and that it is satisfied there are no known Aboriginal cultural heritage constraints to the rezoning. OEH concluded that further consultation with Aboriginal stakeholders was not warranted.

Ardill Payne and Partners undertook a AHIMs search on Lot 1 DP 1165957 (with a zero buffer) in November 2015, which identified zero Aboriginal cultural heritage sites or places. A subsequent detailed AHIMs search undertaken on the same lot with a 1000 metre buffer in October 2016 identified nine Aboriginal cultural heritage sites in the area. Two of these sites were nominated as being located on the adjoining Lot 2 DP 1165957.

A subsequent investigation of Council records, relating to the two nominated sites on Lot 2 DP 1165957, revealed that these sites were previously the subject of representations by Jali LALC to Council and the then Department of Environment and Conservation. Jali LALC sought to have the sites removed from the AHIMS register as they were based on erroneous geographic location co-ordinates and were considered not to be located on the then "Newton Farm" land.

The issue of errors within the AHIMS database, related to the two sites discussed above, was referred to the OEH in correspondence from Council dated 14 October 2016. In response the OEH has advised that it has reviewed the records and neither site is located geographically within the area subject to this planning proposal. The OEH has also indicated that it has requested that the AHIMS Registrar make corrections to the grid references for these two sites. A copy of the letter from the OEH dated 23 November 2016 is contained within Attachment Two.

Biodiversity/ Ecology:

*There is insufficient information in the ecological assessment report on the values of the Crown Reserve to the east of the planning area. The indirect impacts of future land use may have been underestimated. Bushfire protection in the reserve should not be anticipated. A buffer will be needed to this area from future development and an environment protection zone should be considered for the adjacent land.*

Comment: The vegetation referred to by OEH is on steeply sloping land to the north east of the subject land. It is not located on the subject land and it is not clear how it would be impacted by development of the subject land. There is no 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. Given that it is outside of the proposed development area, consideration of setbacks can be addressed by a future development application.

Council has not yet reinstated environment protection zones in its LEP. The adjacent land will be reviewed against the State Government's criteria for E zones as part Council's adopted program related to the reinstate these zones.

***Matters Raised by NSW Department of Primary Industries (Agriculture) (DPI)***

In its submission of 18 November 2016, DPI commends Council for "its consideration of land use conflict and potential impacts on agricultural land and Council's continued efforts to reduce this risk". It also refers to comments in its previous advice of March 2016 about land use conflict and buffers between rural and residential land.

Comment: Council has taken into consideration the potential land use conflict issue on this site. Reasonable steps to avoid conflict have been taken by:

- the placement of the R2 zone 30 metres back from the southern boundary of the subject land;
- the allocation of a larger minimum lot size to the southern part of the subject land; and
- the imposition of setbacks for future development of the subject land in a site specific DCP amendment.

***Submissions Received from the Community in Response to Public Notification Process***

The planning proposal was publically notified from 28 September 2016 to 4 November 2016 and four submissions were received from the community. A summary of the issues raised in the submissions, together with comments made by the consultant planner (Mike Svikis Planning), appear in the table below:

## 9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head

Name	Issue	Comments
Phillip Halliday	<p>Objects to the planning proposal on the following basis:</p> <ul style="list-style-type: none"> <li>I. Detrimental impact on environmental quality of the site.</li> <li>II. Negative impact on visual character of the site from east and west.</li> <li>III. Inconsistent with Objective 4.6.2 (b) of proposed amendment to Ballina DCP 2012.</li> </ul>	<ul style="list-style-type: none"> <li>I. The site has relatively low environmental quality as it is heavily disturbed ex grazing land. The important fig trees will be retained in a rural zone with a suitable buffer. The landscaping associated with dwellings may introduce flowering plants and trees that improve the habitat value of the site to some species.</li> <li>II. Visual impact is a key issue on this site. Measures to address this include large lot sizes in the southern part of the site; and DCP controls on setbacks, earthworks, driveways and screening.</li> <li>III. The purpose of this objective is to provide a basis to ensure that subsequent development does address matters such as visual character. The objective is compatible with the proposed zone of the land.</li> </ul> <p>No change recommended</p>
Peter Small	Supports a larger minimum lot size.	<p>In this case the proponent asked for a 600 m<sup>2</sup> minimum lot size (MLS) across the site. Council had previously supported a 1,200 m<sup>2</sup> MLS across part of the site.</p> <p>A larger MLS allows more room to accommodate large setbacks and can assist in promoting more landscaping. It typically promotes a lower density of dwellings although in other parts of Blue Seas Parade that have a larger MLS it has led to the construction of secondary dwellings.</p> <p>The compromise in this case is that the southernmost part of the site (about half of it) will have a 1,200 m<sup>2</sup> MLS and the balance will have a 600m<sup>2</sup> MLS. This is consistent with the way Council dealt with the land on the west side of Blue Seas Parade and should assist in minimising visual impacts. It will also reduce the number of dwellings near to the farmland to the south west of the subject land.</p> <p>No change recommended</p>

## 9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head

Name	Issue	Comments
JB Flockton and ML Walo	<p>Concerned about the planning proposal on the following basis:</p> <ul style="list-style-type: none"> <li>I. Important rural land.</li> <li>II. Adjacent to land actively used as a farm.</li> <li>III. Inadequate access for fire trucks or garbage trucks.</li> <li>IV. Bins on Blue Seas Parade won't work (stairs).</li> <li>V. Driveway access off Blue Seas parade will not work (too steep).</li> <li>VI. Council's stormwater is at capacity for this location.</li> <li>VII. Water pressure at this location is inadequate to support additional dwellings.</li> <li>VIII. DCP map is not clear.</li> <li>IX. Need to avoid overshadowing houses west of Blue Seas Parade.</li> </ul>	<ul style="list-style-type: none"> <li>I. About 1 hectare of land will be rezoned from RU1 to R2. This land has been designated as an urban growth area in the Far North Coast Regional Strategy (FNCRS) since 2006. It is also a Strategic Urban Growth Area in Ballina LEP 2012. DPI (Agriculture) acknowledges that this small area of land is going to be lost from agricultural production.</li> <li>II. The interaction with the adjacent grazing property will be important to manage. It is proposed that there will be a 30 m buffer between the southernmost residential lot and the stock yards beyond the existing shed. Other lots will have a rural interface, but with the "home paddock" of the farm house. Site-specific DCP setback controls and a large minimum lot size will also assist in separating the new dwellings from the existing farm.</li> <li>III. The proponent suggests that the new lots could be accessed via a private 4m wide service road on the eastern side of the lots with passing bays. The access point will be via the existing residence driveway at 44 -52 Blue Seas Parade. There are adequate site distances at the access point to service the proposed development. This option is plausible as an access and would be sufficient to enable truck access.</li> <li>IV. Rubbish bin placement on Blue Seas Parade (or anywhere else) is not part of this planning proposal. Access to garbage collection services can be resolved at the DA stage.</li> <li>V. Driveways off Blue Seas Parade are not proposed but can't be ruled out as an option for some or all of the new lots. This would be assessed on merit at the development application stage. DCP controls for steep land will apply if Council adopts them.</li> <li>VI. Council engineers have indicated that the development will require lot-based on-site detention and treatment in accordance with Council Stormwater Standards, and therefore will not adversely impact the existing stormwater infrastructure in the adjacent Coastal Grove Estate. A stormwater management plan will be required at DA stage.</li> <li>VII. Council engineers have indicated there are drinking water and recycled water reticulation networks available for connection in the vicinity of the land. An investigation at DA stage will resolve whether there is adequate pressure to connect to the recycled system. A boosted pressure zone is available for drinking water.</li> <li>VIII. The map exhibited with the Draft DCP amendment shows the area proposed to be zoned R2. It is sufficiently clear to identify the area to which the controls will apply.</li> <li>IX. Given the combination of setbacks and the 20 m width of Blue Seas Parade it is unlikely that overshadowing will occur for other than brief periods in the very early morning in summer. There will be an 8.5 m height limit on structures and overshadowing will be assessed on a site basis at the DA stage.</li> </ul> <p>No changes recommended.</p>

## 9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head

Name	Issue	Comments
Terry Chandler	<p>Object to the planning proposal on the following basis:</p> <ol style="list-style-type: none"> <li>I. Will add more traffic to Blue Seas Parade.</li> <li>II. Will exacerbate stormwater issues in the area.</li> <li>III. Will result in the loss of farm land.</li> </ol>	<ol style="list-style-type: none"> <li>I. The planning proposal may yield up to 10 residential lots and will not generate significant traffic (about 90 traffic movements per day). The applicant may be required to submit a traffic assessment at development application stage addressing the necessity of intersection treatment at North Creek Road and Blues Seas Parade</li> <li>II. Council engineers have indicated that the development will require lot-based on-site detention and treatment in accordance with Council Stormwater Standards, and therefore will not adversely impact the existing stormwater infrastructure in the Coastal Grove Estate. A stormwater management plan will be required at DA stage.</li> <li>III. About 1 hectare of land is proposed to be rezoned from RU1 to R2. This land has been designated as an urban growth area in the FNCRS since 2006. It is also a Strategic Urban Growth Area in Ballina LEP 2012. DPI (Agriculture) acknowledges that this small area of land is going to be lost from agricultural production.</li> </ol> <p>No changes recommended.</p>

### Assessment

#### Lot Size

The proponent asked for a 600 m<sup>2</sup> minimum lot size (MLS) across the R2 zoned part of site. Council had previously supported a 1,200 m<sup>2</sup> MLS across the R2 zoned part of the site.

A larger MLS allows more room to accommodate large setbacks and can assist in promoting more landscaping. It typically promotes a lower density of dwellings although in other parts of Blue Seas Parade that have a larger MLS it has led to the construction of secondary dwellings.

The compromise in this case is that the southernmost part of the site (about half of the subject land) will have a 1,200 m<sup>2</sup> MLS and the balance will have a 600m<sup>2</sup> MLS. This is consistent with the way Council dealt with the land on the west side of Blue Seas Parade and should assist in minimising visual impacts. It will also reduce the number of dwellings near to the farm to the south west of the subject land.

#### Scenic Impacts

Visual impact is a key issue on this site. On balance, the key visual impact will be from the Pat Morton Lookout. Measures to address this include large lot sizes in the southern part of the site; and DCP controls on setbacks, earthworks, driveways and screening. Retaining the two mature fig trees in a rural zone is also important to reduce pressure for their removal and subsequent visual impact. This issue will need to be carefully assessed at the development application stage for subsequent dwellings.

### Land Use Conflict with Agriculture

The interaction with the adjacent grazing property will be important to manage. It is proposed that there will be a 30m buffer between the southernmost residential lot and the stock yards beyond the existing shed. Other lots will have a rural interface, but with the “home paddock” of the farm house. Site-specific DCP setback controls and a large minimum lot size will also assist in separating the new dwellings from the existing farm. Diagram 5 shows the distances and structures at the southern end of the subject land.

**Diagram 5 – Distances between cattle yards, shed, dwellings and subject land at Blue Seas Parade**



### Aboriginal Heritage and Ecology

These two issues have been discussed previously in reference to the OEH submission (see above).

### DCP Changes

The exhibited DCP referenced a new section in Chapter 4 of Ballina DCP 2012 as “4.7 Blue Seas Parade Estate, Lennox Head” and then proceeded to document subclauses 4.6.1, 4.6.2, etc. The subclauses should have been referenced as 4.7.1, 4.7.2, etc consistent with the new section reference. These changes will be made to the DCP if it is adopted by the Council.

### Options

#### Option 1: Finalise the Planning Proposal and adopt the DCP

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

It is considered that the planning proposal, which applies an R2 zone to part of the site, together with a 600m<sup>2</sup> minimum lot size on part of the land and 1,200 m<sup>2</sup> lot size on the balance, has merit.



## **9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head**

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If this approach is adopted by the Council, the planning proposal will be updated to reflect the outcomes of the exhibition/community consultation. It will then be referred to the Department of Planning and Environment for finalisation.

With respect to the DCP amendments, it is recommended that the DCP changes as exhibited be adopted subject to the correct numeric referencing of the provisions. It is proposed that the DCP provisions take effect on 16 January to provide suitable time to notify the adoption of the amendments and publish the revised DCP.

### **Option 2: Discontinue the Planning Proposal**

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

This option is not recommended. 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 any issue it considers has not been adequately addressed.

This option is not recommended. There are no outstanding matters identified as a basis for deferring the proposal.

## **RECOMMENDATIONS**

1. That Council endorses the amendment of Ballina Local Environmental Plan 2012 relating to Part Lots 1 and 2 DP 1165957, Blue Seas Parade Lennox Head, to apply an R2 Low Density Residential zone and remove the strategic urban growth area designation, as detailed in Planning Proposal BSCPP 14/005 (Attachment 1).
2. That, in amending the Minimum Lot Size Map in relation to this site, the Council endorses a minimum lot size of 600m<sup>2</sup> for part of the site and 1,200m<sup>2</sup> for part of the site, as detailed in Planning Proposal BSCPP 14/005 (Attachment 1).
3. That Planning Proposal BSCPP 14/005 be forwarded to the Department of Planning and Environment with a request that the Department proceed to finalise the LEP amendment.
4. That Council adopts the draft amendments to Chapter 4 of the Ballina Shire Development Control Plan 2012 relating to 44-52 Blues Seas Parade Lennox Head as exhibited subject to adjustments to ensure correct numeric referencing of the provisions.
5. That Council provides public notice of the adoption of the DCP amendment relating to 44-52 Blues Seas Parade Lennox Head with the amendment taking effect from 16 January 2016.

## **9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head**

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### **Attachment(s)**

1. Planning Proposal (Exhibition) (under separate cover)
2. Submissions
3. Draft DCP Amendment as Exhibited

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

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### 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 14/008, Burns Point Ferry Road, West Ballina, and associated draft Voluntary Planning Agreement (VPA), and to seek direction from the Council on the finalisation of this proposed LEP amendment and VPA.

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#### Background

In July 2014 Council received a request to amend the Ballina LEP 2012 in relation to Lot 4 537419 (Lot 4), Burns Point Ferry Road, West Ballina. The land the subject of the request is highlighted by red outline in Diagram 1 below. The land is commonly referred to as the Burns Point Ferry Road site. Subsequent to this request, Council sought clarification in relation to several issues, including the ecological attributes of the land.

#### Diagram 1 – Site Location Plan



In July 2014, the Council resolved to proceed to seek a Gateway determination to enable further consideration of the proposed rezoning.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

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Fundamentally, the proposal involves rezoning to enable urban development over part of the site, with several concepts in this regard having been assessed. The current proposal which has been the subject of public exhibition involves a mix of employment, residential and environmental conservation land uses.

The land is currently subject to the provisions of both Ballina Local Environmental Plan 1987 (BLEP 1987) and Ballina Local Environmental Plan 2012 (BLEP 2012). The northern part of the site is subject to the provisions of the BLEP 2012 and is zoned RU2 Rural Landscape. The remainder of the site has been deferred from the BLEP 2012 as a result of the exclusion of environmental protection zones from the plan due to the State Government's Northern Councils E Zone Review. As a result, this residue area is subject to the provisions of BLEP 1987 and is zoned 1(d) Rural (Urban Investigation) Zone.

The site has an extensive history of land use proposals, as indicated in the chronology contained within Attachment One. The latest proposal is a concept rezoning submission submitted by Planners North on behalf of land owners Ballina Waterways Pty Ltd. This proposal was originally considered by the Council at its Ordinary Meeting held on 27 June 2013 where the matter was deferred for six months to allow the proponent more time to undertake further ecological assessment to clarify the site's environmental attributes and its biobanking potential.

At the time, environmental protection zones had been removed from the BLEP 2012 due to the NSW Department of Planning & Environment's Northern Councils E Zone Review. As an alternative option to an environmental protection zone, a voluntary planning agreement (VPA) between Council and the proponent has been proposed to achieve environmental offsets for future development of part of the site through a biobanking statement.

The planning proposal was considered again by the Council at its Ordinary Meeting held on 23 January 2014. However, the further ecological assessment had still not been provided by the proponent and the matter of environmental zones remained unresolved by the State Government. The Council resolved to continue processing the LEP amendment subject to the engagement of an ecologist to undertake an independent ecological assessment of the land (at the proponent's cost). Council staff then engaged Blackwood Ecological Services to undertake the independent ecological assessment of the site.

The Council last considered the planning proposal at its Ordinary Meeting held on 24 July 2014. At this meeting Council resolved [Minute No. 240714/19]:

- 1. That in relation to the proposal to amend the Ballina Local Environmental Plan 2012 as it applies to Lot 4 DP 537149, Burns Point Ferry Road, West Ballina, Council submit the planning proposal attached to this report (Attachment Five) to the Department of Planning and Environment for review and Gateway determination.*
- 2. That the Department of Planning and Environment be advised that at this stage of the process it is Council's intention to exercise its delegated plan making functions.*
- 3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal and potential environmental, social and economic implications.*

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

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4. *That upon the requested information being submitted by the proponent, Council initiate a third party review including preparation of an environmental assessment and planning report relating to this planning proposal. Costs for this engagement are to be borne by the proponent.*
5. *That a further report be presented to the Council in relation to this matter following the preparation of the independent environmental assessment and planning report and at the conclusion of the community and Government agency consultations, as specified by the Gateway.*

The planning proposal lodged for a Gateway determination did not specify zones proposed to be applied to the site. It sought to apply a regime of land use zoning and planning provisions to enable employment related, residential and environmental land uses as well as associated open space and infrastructure. At the south-eastern corner of the site, near the northern Burns Point Ferry loading ramp, it was proposed to create a special lot subject to provisions that would permit a restaurant.

On 25 September 2014, the Department of Planning and Environment issued a Gateway determination which allowed the planning proposal to proceed, subject to certain conditions. The Gateway determination related to the rezoning of the land for residential and employment uses and a RU2 Rural Landscape zone.

The determination required the proponent to provide further detailed technical studies. The proponent's technical studies were submitted in December 2014. These reports were referred to relevant government agencies and to Council's technical staff for review and comment. In May 2015 the proponent was requested to provide additional information to address the issues raised in the review of the technical studies.

In October 2015, the proponent submitted this additional information in the form of a *Post Gateway LEP Amendment Report* with amended technical studies. The report included a revised Concept Plan and requested changes to ancillary LEP maps, being the Proposed Zoning Map, Additional Permitted Uses Map, Lot Size Map, and Height of Buildings Map. This report also suggested that an IN2 Light Industrial zone may be appropriate to facilitate the 'Live – Work' concept. In respect to the restaurant and shop top dwelling proposed for the south-eastern extremity of the site, near the Burns Point Ferry, it was suggested that this be facilitated using the additional permitted use provisions of BLEP2012.

The proponent's technical studies were then independently reviewed by GeoLINK (commissioned by Council but paid for by the proponent) as part of a Peer Review and Gap Analysis report. This report recommended that the proponent address minor information gaps prior to the planning proposal proceeding. These matters have been addressed through the submission of supplementary reports, in May 2016, relating to potential stormwater management and traffic management.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Following further concerns raised by Council regarding potential land use conflict issues, the proponent proposed to replace the proposed IN2 Light Industrial zone with a R2 Low Density Residential Zone. A range of commercial and light industrial employment uses are also proposed to be permitted within the R2 zone as additional permitted uses.

The changes made from the original planning proposal that received Gateway approval in September 2014 were significant enough to require the planning proposal to be resubmitted to the Department of Planning and Environment.

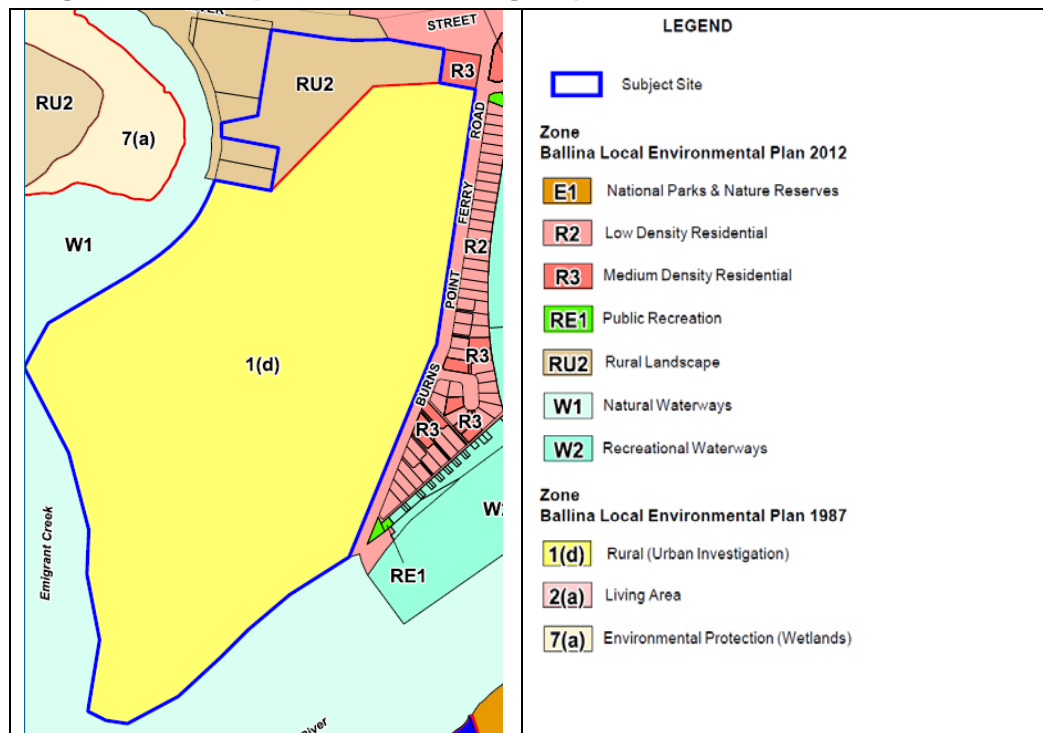
The Department of Planning and Environment subsequently altered the Gateway determination on 8 April 2016. The altered Gateway determination related to the rezoning of the land *to part R2 Low Density Residential and part RU2 Rural Landscape, apply appropriate planning controls to the land and enable the development of "work" related uses in the R2 Zone, and a restaurant or café incorporating information and education facilities and a dwelling in the RU2 Zone as additional permitted uses.* The altered Gateway determination allowed the amended planning proposal to proceed to public exhibition, subject to conditions, and extended the period for completing the LEP until 1 April 2017.

The planning proposal and an associated draft Voluntary Planning Agreement (VPA) which addressed ecological and geotechnical issues were subsequently exhibited for community feedback from 8 June to 8 July 2016.

Attachment Two contains the planning proposal document as publically exhibited.

The manner in which the site is currently zoned under the provisions of BLEP 1987 and BLEP 2012 is shown in Diagram 2 below:

**Diagram 2 – Composite Land Zoning Map BLEP 1987 and BLEP 2012**



## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Diagram 3 below shows the manner in which the site is proposed to be rezoned under the provisions of Ballina LEP 2012.

**Diagram 3 – Proposed Land Zoning Map Extract**

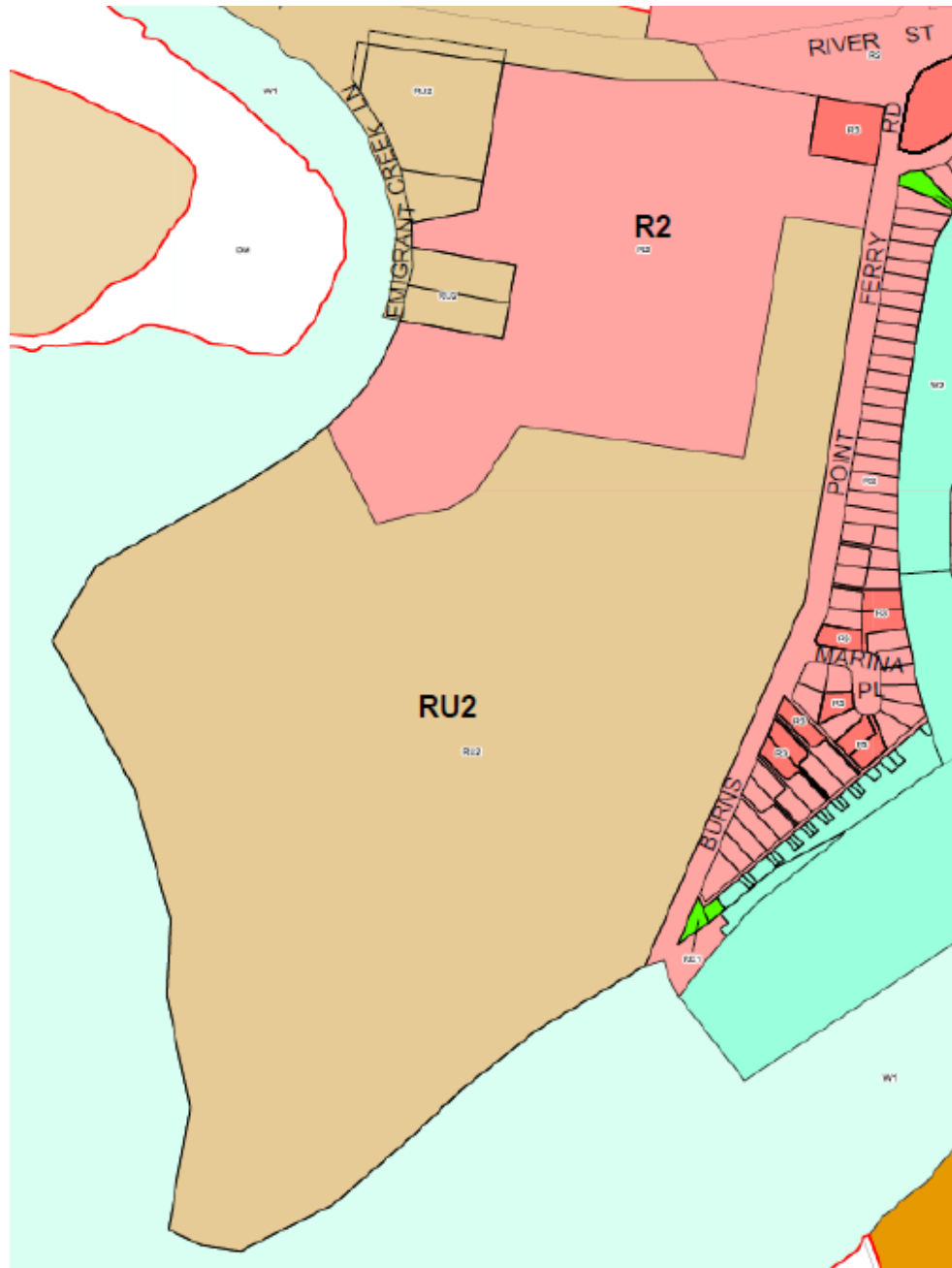


Diagram 4 below contains an extract from the preliminary concept design plan for the “live-work” development submitted by the proponent. The concept plan provides for approximately 250 dwellings with associated workplace studios.

Diagram 4 – Extract from Concept Design for Potential Development of the Site



The purpose of this report is to inform the Council of the outcome of the public exhibition of the LEP amendment, and draft VPA, and seek direction with respect to the finalisation of these matters. The report has been prepared based on a review of the exhibition outcomes and associated analysis undertaken by GeoLINK, who were 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 comments received by government agencies and Council’s Development and Environmental Health Group internal review.
- Proposed zoning for mixed land uses.
- Ecological constraints.
- Timing of the preparation of the proposed biobanking statement.
- Flooding constraints.
- Consideration of acceptance of delegation from the Department of Planning and Environment to finalise the planning proposal.



### Information

Lot 4 has an area of 56.6 ha of vacant land. It is bound to the east by Burns Point Ferry Road, to the north by River Street, to the west by Emigrant Creek and a small number of private properties and to the south by the Richmond River. The land is immediately adjacent to the existing urban area of West Ballina.

The planning proposal seeks to amend BLEP 2012 by rezoning part of the site to R2 Low Density Residential Zone and applying associated land use control provisions to enable development of part of the subject land for “live-work” (residential and employment) purposes. Employment purposes are proposed to be permitted utilising the mechanisms of clauses 2.5 and Schedule 1 of BLEP 2012.

The remainder of the site is proposed to be rezoned as RU2 Rural Landscape zone under BLEP 2012. This part of the site has an estimated area of 40 ha and is proposed to be set aside for environmental protection and enhancement purposes.

### Biodiversity Considerations

The Council, at its meetings held on 27 June 2013 and 23 January 2014 resolved in part that an independent ecologist be engaged to undertake a review of the ecology of the land within the proposed urban footprint on Lot 4. This action was taken primarily due to inconsistencies contained within the proponent’s then current and previous ecological reports, and the assessments undertaken by Council’s Environmental Scientist, concerning the presence of Freshwater Wetland, being an Endangered Ecological Community (EEC), within the proposed urban footprint located in the northern part of the site.

Council subsequently commissioned Blackwood Ecological Services to undertake the ecological review. The major vegetation communities found to be present on the land assessed in the review, together with the ecologist’s summary conservation status comments, are outlined below:

- Swamp Oak Forest – Part of Swamp Oak floodplain forest an EEC listed under the Threatened Species Conservation (TSC) Act. Community in generally poor to moderate condition, patchy distribution, highly fragmented and young age structure.
- Open forest (Blackwood wattle) – Community is highly degraded with minimal conservation value,
- Mangrove and mid-high forest – protected marine vegetation under the NSW Fisheries Management Act 1994. Occurs along artificial drainage channels and is fragmented.
- Tall closed Phragmites reedland – consistent with Freshwater wetland on coastal floodplain EEC under the TSC Act. Low species diversity.
- Low closed grassland / reedland – Not consistent with Freshwater wetland EEC. Low conservation value.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

It should be noted that since 2005 there have been eight assessments / investigations undertaken of ecological attributes associated with part or all of the subject land. This is in addition to assessments undertaken by Council's Environmental Scientist and consideration of issues raised by the Office of Environment and Heritage. Two of the assessments have been undertaken by independent consultants engaged by Council (Blackwood 2014 and GeoLINK 2016).

The assessments undertaken since 2005 are detailed in the table below.

Ecological Assessment	Comments
Aspect North 2005	Flora and Fauna Assessment Report was prepared for current land owners Ballina Waterways Pty Ltd. Report concluded that no significant impact to any species, population or EECs as a result of the rezoning that was proposed at that time. The site proposed for rezoning in 2005 was significantly larger than the current proposal and included significant land with frontage to Burns Point Ferry Road.
LandPartners 2008	Letter and Maps prepared on behalf of Ballina Waterways. Map produced shows EEC, and non EEC vegetation communities, in relation to the whole of Lot 4 DP 537417.
Peter Parker 2012	Biobanking Assessment Report prepared for proponents. Provides an assessment of the number of biobanking credits required to offset development proposed for northern part of Lot 4.
Peter Parker 2013	Biobanking Assessment Report submitted to Office of Environment and Heritage. Report limited to 0.6ha of Swamp Oak EECs within the northern development area proposed to be cleared as part of development.
Melaleuca Group 2013	Engaged by proponent to provide advice as to whether Phragmites grass species constituted Freshwater Wetlands Endangered Ecological Community (EEC). Concluded that relatively cleared portions of the site are grasslands dominated with Phragmites and are not consistent with Freshwater Wetland EEC. Area examined generally included the whole of the area proposed for live – work development.
Blackwood Services 2014 Ecological	Engaged by Council to provide an independent general ecological assessment of the site and key ecological values. Found that vegetation within some areas were consistent with Freshwater Wetland Vegetation EEC. Area examined did not include south – western section of the development site.
Peter Parker 2015	Engaged by proponents to prepare a draft Biobanking Assessment. Report did not examine fauna or availability of species credits. Report contained only preliminary credit calculations. Further detailed work required in accordance with Biobanking methodology. Area examined included the whole of the live – work rezoning area as well as the then proposed restaurant site at the end of Burns Point Ferry Road.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Ecological Assessment	Comments
GeoLINK 2016	<p>GeoLINK undertook a Peer Review and Gap Analysis of documentation submitted by the proponent in support of this planning proposal. This process also involved a site inspection of the northern proposed rezoning site by a GeoLINK ecologist.</p> <p>GeoLINK concluded that the eastern portion mapped as Tall Reedland by Blackwood is representative of Freshwater Wetland EEC. This supports the Blackwood assessment.</p> <p>In the western portion Phragmites dominate and GeoLINK indicate that these areas resemble disturbed freshwater wetlands. However, it was concluded that these areas do not support Freshwater Wetland EEC, as it was doubtful that they would support standing water at any frequency or duration. The area was considered to consist of minor depressions within a disturbed pasture mosaic which supported some wetland species. Accordingly, the vegetation mapping of this area undertaken by Blackwood (2014) was supported by GeoLINK.</p>

The main ecological issues associated with this site, and where there are differences in professional opinion, may be summarised as:

- The occurrence, distribution, extent and quality of Freshwater Wetland EEC;
- Impacts to Grass Owl habitat; and
- The extent to which the above issues may be offset through Biobanking on the site.

Diagram 5 contains an extract from the Blackwood Ecological Assessment and shows the location of vegetation communities found to be present on the land.

Diagram 5 - Blackwood's Vegetation Communities Map

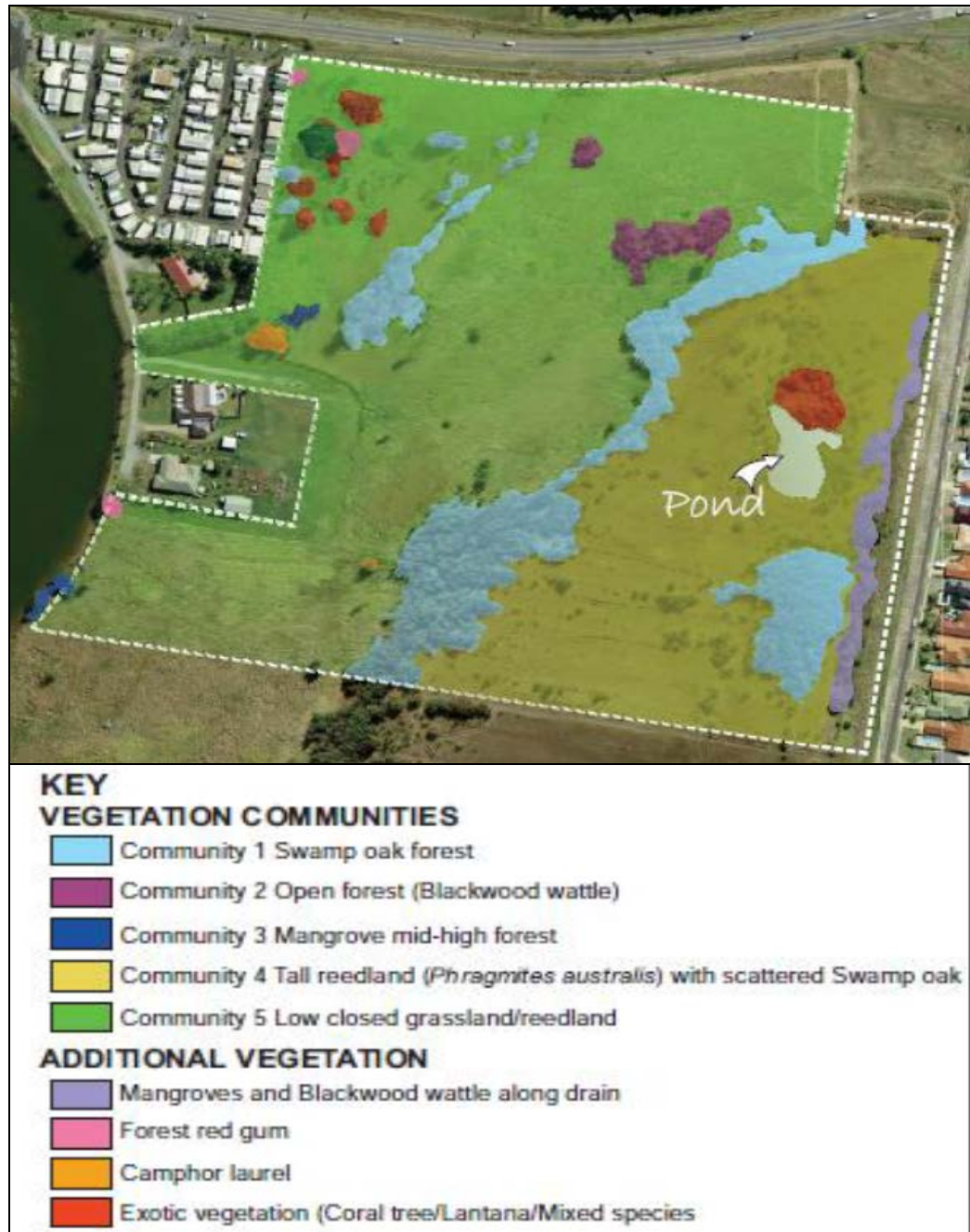


Diagram 6 below contains a map produced by Council's Environmental Scientist which indicates his assessment of the extent of Freshwater Wetland EEC and Swamp Oak EEC considered to be present within the area proposed to be rezoned for urban purposes.

Diagram 6 – Council Environmental Scientist’s Vegetation Mapping



In total, Council’s Environmental Scientist has calculated that 6.1 hectares of EEC will be potentially lost as a consequence of the rezoning and subsequent development. The comments made by the Environmental Scientist in respect to this planning proposal are contained within Attachment Three.

Diagram 7 below provides a close up extract from the Vegetation Mapping contained within Diagram 6. The blue hatched area indicates the area that the Environmental Scientist has classified as regenerated Freshwater Wetland EEC. This area occupies an approximate area of 1 hectare.

Diagram 7 – Potential Freshwater Land (blue wave area)



The Blackwood report nominates the area depicted in Diagram 7 (blue hatch) as Community 5 – Low closed grassland / reedland. In respect to this area the report indicates that this vegetation community is not considered to be consistent with the description of Freshwater Wetland EEC as defined by the NSW Committee's final determination. An overall low conservation value is assigned to this land. The GeoLINK peer review supported the Blackwood conclusion that this area is not a Freshwater Wetland EEC.

As a consequence of the proposed rezoning and future development (if it proceeds) vegetation communities having higher conservation value will be removed. To compensate for the removal of these vegetation communities a biobanking agreement is proposed to be entered into which will cover the residue of Lot 4 (40ha) not proposed to be developed for urban purposes. A Voluntary Planning Agreement (VPA) is proposed which will give effect to the biobanking agreement following the rezoning of Lot 4. Further information regarding biobanking in NSW is available from the NSW Office of Environment and Heritage's website (under Biobanking).

GeoLINK who undertook the peer review of technical studies on Council's behalf prior to the public exhibition of the planning proposal, and the assessment of the proposal post exhibition, have concluded that the northern part of the site is generally suitable for urban development as proposed, subject to appropriate biobanking offsets or compensatory habitat being established. This issue is further discussed in the Consultation section of this report.

### **Buffer Areas**

The Bushfire Report which was prepared in support of the planning proposal located Asset Protection Zones (APZs) outside of the area proposed for urban rezoning. It indicates that a 21 metres wide APZ and fire trail may be required with future alternate bush fire protection solutions for this site. These areas are shown by the red outline and red hatching in Diagram 6. If APZs, and environmental buffers, are permitted to be located outside the proposed urban footprint then the impact of the proposal will be significantly increased and the area available for bio-banking reduced.

At this stage of the process the extent of the area required for environmental off-set purposes as part of a bio-banking agreement is not known. This can only be definitively established once the final design plan has been prepared as part of the DA process. It has however been Council's practice to require buffer areas to be located within the areas proposed for urban use as opposed to offsite. The DCP process will be utilised to further define the location of buffers on site in the subject case in consultation with the proponent.

The design contained within Diagram 4 is a concept design only which was utilised by the proponent to assess potential impacts. It is envisaged that through the course of preparing a DCP for this site, the concept plan may be subject to significant change.

### **Draft Voluntary Planning Agreement**

A VPA is proposed between Council and the proponent to achieve certain environmental protection and enhancement outcomes as well as certain geotechnical site investigation and preparation requirements. A draft VPA and Explanatory Note have been prepared and were exhibited concurrently with the planning proposal.

Specifically, the environmental protection outcomes sought by the VPA consist of the registration of a Biobanking Agreement, under Division 2 of Part 7A of the *Threatened Species Conservation Act 1995*, over the whole of that part of the land proposed to be zoned RU2 (approx. 40 hectares). The Biobanking Agreement will provide for:

- i. The establishment of a Biobank Site;
- ii. The registration of the Biobanking Agreement on the title of the land; and
- iii. A requirement that the agreement remain in perpetuity in accordance with Division 2 of Part 7A of the *Threatened Species Conservation Act 1995* and the *Threatened Species Conservation (Biodiversity Banking) Regulation 2008*.

The Biobanking Agreement will be required to be registered prior to the grant of any development consent for live-work or additional permitted use related development on Lot 4.

In respect to geotechnical outcomes, the VPA requires comprehensive and detailed geotechnical investigations to be carried out to accurately assess the required depths of fill for preloading, including the construction of a trial fill embankment with settlement monitoring plates. These investigations and works will be required to be undertaken prior to the lodgement of a development application for live – work or additional permitted use related development on Lot 4.

Attachment Four contains a copy of the exhibited draft Voluntary Planning Agreement and Explanatory Note.

The RU2 zone and associated VPA is proposed for the area identified for environmental protection due to Council's inability to apply an "E" zone, at the commencement of this LEP amendment process, due to the State Government's E zone review process.

### **Development Controls Proposed for LEP**

The development concept of live – work is one where residents may live and work on the one property. The proponent is of the view that there is significant demand for this form of development within the Northern Rivers Region as evidenced by the Byron "Habitat" development.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

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Habitat is located in the Byron Arts and Industrial Estate at the end of Bayshore Drive on an approximate 5 hectare site. Habitat combines architecturally designed live – work housing with commercial and community facilities. Habitat is zoned B4 Mixed Use under the provisions of Byron LEP 2014 and is subject to a maximum Floor Space Ratio of 0.9:1. Uses permitted include dwelling houses, function centres, shop top housing, light industries and a broad range of other uses.

The Burns Point live – work development proposes a minimum lot size of 450m<sup>2</sup> and an R2 Low Density Residential zone. The live component of the development is proposed to be subject to a maximum Floor Space Ratio of 0.5:1. This is the same FSR as is applicable to dwelling houses under the provisions of Ballina LEP 2012.

The FSR for the work component must not exceed 120 square metres or a FSR of 0.2:1 whichever is the greater (within a context of a maximum FSR of 0.7:1 for a combined dwelling and work area). On lots below 600m<sup>2</sup> in area where the work component is based on a 120m<sup>2</sup> floor area, this would require a smaller dwelling house to be constructed so the combined development remains within the specified 0.7:1 floor space ratio.

It is also proposed to incorporate a restaurant or café, information and education facility, and a dwelling upon a 1300m<sup>2</sup> site located within the proposed RU2 Rural Landscape zone accessed from Burns Point Ferry Road. The exact location of this facility is not yet known and will be determined as part of the DA process. A site previously nominated by the proponent close to the end of Burns Point Ferry Road was found to be unsuitable due to significant flooding risks.

The planning proposal envisages that the proposed live work development and development within the RU2 zone will be permitted as additional permitted uses under the provisions of Ballina LEP 2012 (Clause 2.5 and Schedule 1). This is different to the approach used by Byron Shire Council which zoned the Habitat site as B4 Mixed Use. The advantage of the approach recommended in the case of the current proposal is that it will ensure that a dwelling forms an integral part of each development and light industrial, business premises and office premises uses cannot be established without the dwelling component. This, together with the floor space limitations, will ensure that future development will retain a predominately residential character. This is considered to be a preferred outcome, rather than the area taking on a commercial or industrial “feel”.

Concerns raised with live – work development relate to the potential for land use conflict issues to arise. The DCP process will to some extent provide guidance relating to these matters however the concern cannot entirely be resolved. To a large degree potential residents of this estate will need to consider this issue carefully as part of their decision making process before investing in the estate.



### Ballina LEP 2012 Proposed Mapping Changes

In addition to the zoning change, the proposal provides for the following LEP maps to be amended:

#### *Live-Work Precinct*

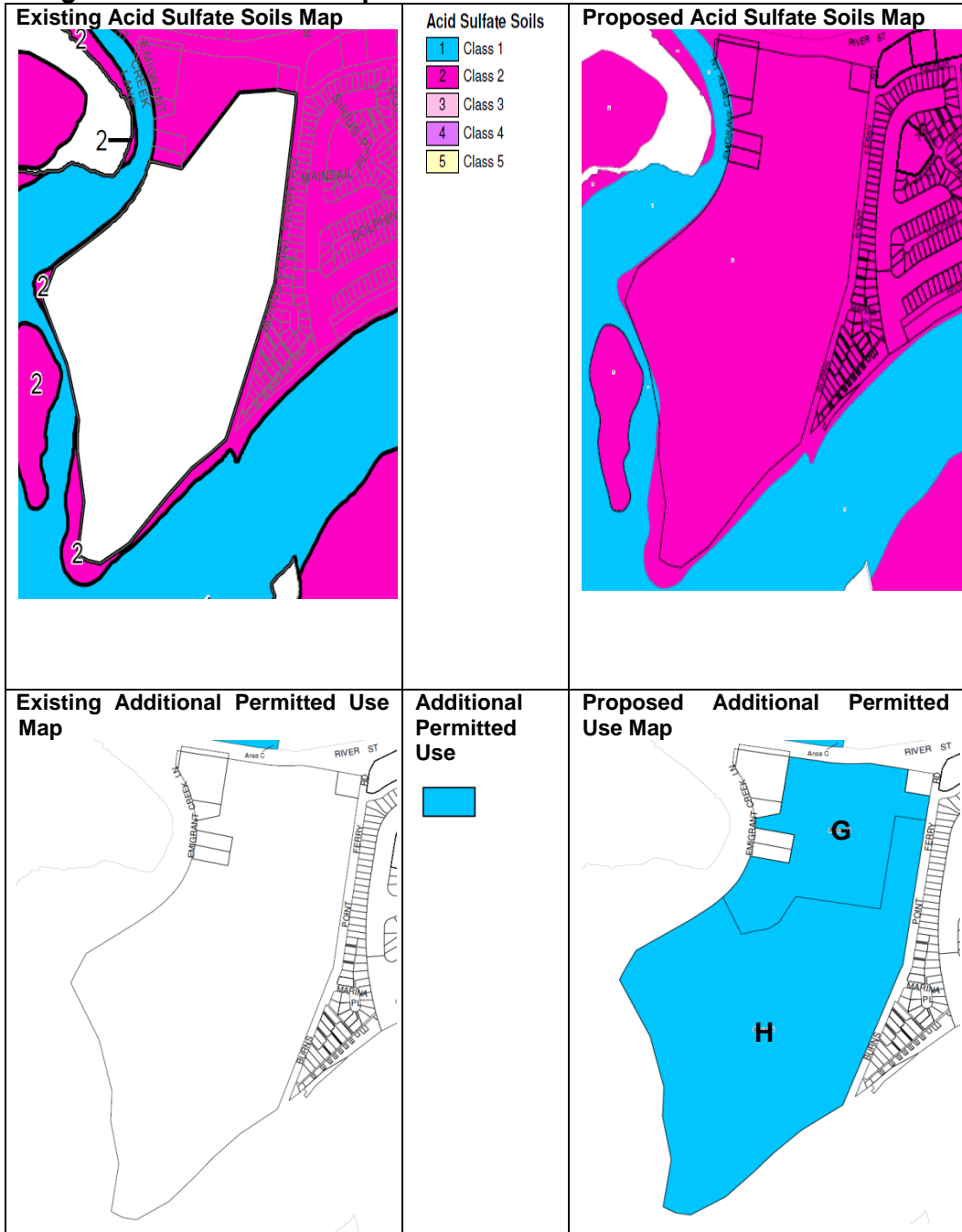
- **Lot Size Map** - Application of a minimum 450 m<sup>2</sup> minimum lot size standard.
- **Additional Permitted Use Map** - Utilisation of the additional use provisions contained within BLEP 2012 together with other provisions to permit and regulate live-work development.
- **Floor Space Ratio Map** - Application of a 0.7:1 floor space ratio to the proposed live-work precinct.
- **Strategic Urban Growth Area Map** - Removal of the Strategic Urban Growth Area affectation from part of Lot 4 and changes to the associated buffer areas.
- **Land Application Map, Flood Planning Map and Acid Sulfate Soils Map** - Incorporation of part of the live-work precinct within these BLEP 2012 maps.
- **Height of Buildings Map** – Application of an 8.5 metre building height requirement over the proposed live – work precinct, to be consistent with other nearby residential areas.
- **Building Height Allowance Map** - Application of a 2.7 metre AHD building height allowance to the live – work precinct. This replaces the previous 2.1 metre AHD allowance. The increase reflects the most recent 1:100 year flood level information.

#### *Residue Land (also subject to draft VPA)*

- **Lot Size Map** - Application of a minimum 40 ha lot size.
- **Height of Buildings Map** – Application of a 8.5 metre building height requirement over the whole of the residue area.
- **Building Height Allowance Map** - Application of a 2.7 metre AHD building height allowance to the residue. A building height allowance did not previously apply under the provisions of Ballina LEP 1987.
- **Land Application Map, Flood Planning Map and Acid Sulfate Soils Map** - Incorporation of the conservation habitat precinct within these BLEP 2012 maps.
- **Additional Permitted Use Map** - Utilisation of the additional permitted use provisions contained within BLEP 2012 to permit a restaurant or café, incorporating information and education facilities and a dwelling.

Diagram 7 below provides a comparison between relevant existing and proposed control maps contained in BLEP 2012 which require amendment as a consequence of this planning proposal.

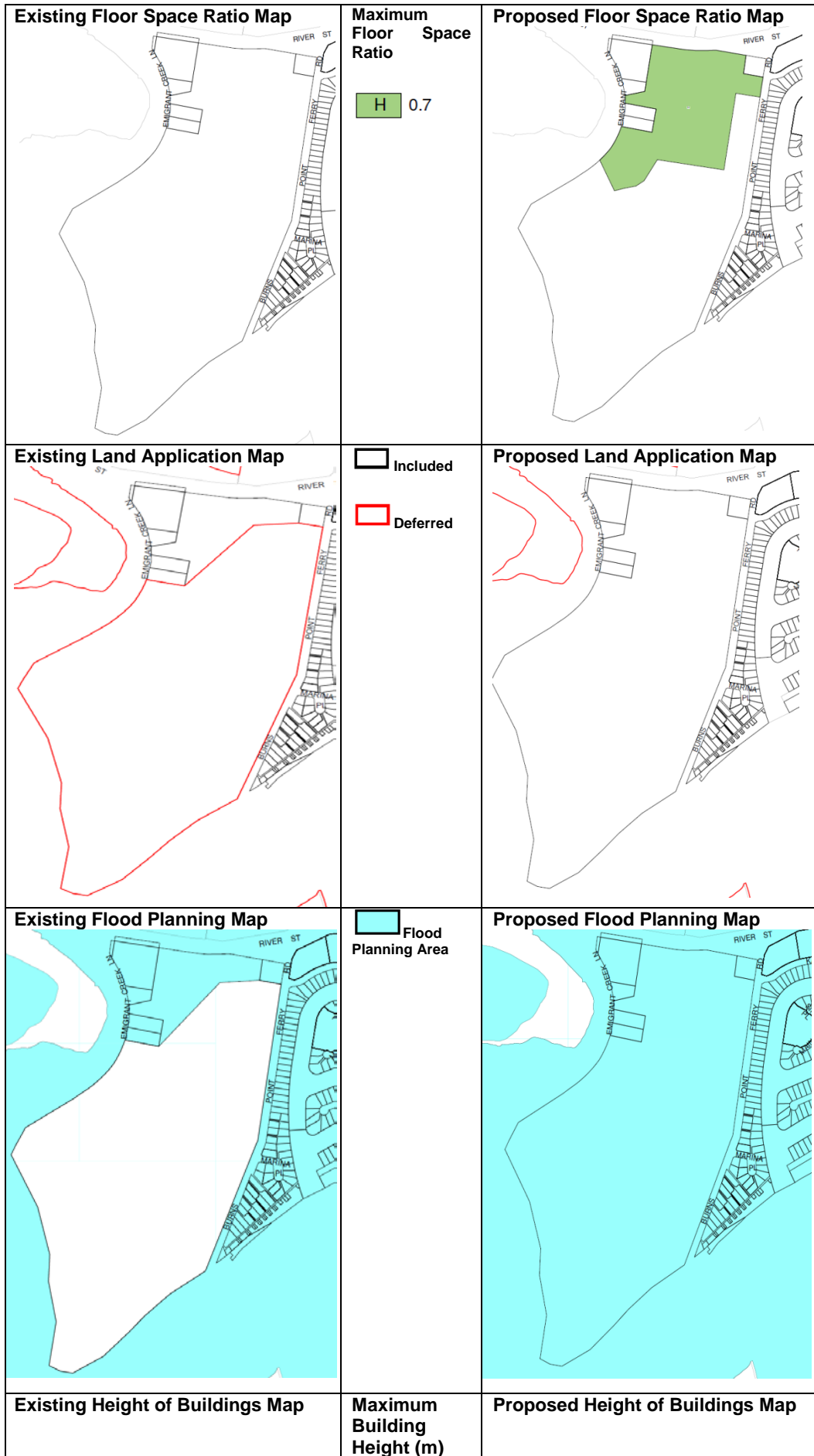
Diagram 7 – BLEP 2012 Map Extracts



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9.2 Planning Proposal - Burns Point Ferry Road, West Ballina



## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina



Council will also be aware that it has now adopted a staged program for the reinstatement of E zones throughout the shire. In this respect consideration will be given to whether that part of the site proposed to be zoned RU2 Rural Landscape Zone meets the criteria for an E zone. If so then an E zone may be recommended for the residue part of the site in a future planning proposal. This issue has been addressed in a recommendation to this report.

### Additional Environmental Constraints

The site also has other environmental constraints such as flooding, geotechnical (soft and acid sulfate soils) and entomology (mosquitoes), all of which have been assessed by specialist reports and studies and are discussed later in this report.

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

### Sustainability Considerations

- **Environment**

The subject land has environmental and ecological values. Biodiversity matters have been comprehensively assessed in a number of ecological reports, which formed a part of the planning proposal when it was exhibited for public comment. There are some differences of opinion between Council's Development Services Section, OEH, Council's independent consultants and the proponent's consultants on the ecological constraints of the land. These issues are discussed later in this report.

- **Social**

Social issues of relevance, such as the social benefits of the live-work scheme proposed have been considered in the proponent's rezoning submission which formed a part of the exhibited planning proposal.

- **Economic**

The proposal will likely have positive economic impacts associated with the provision of additional housing, business and employment opportunities in an area with available services, access and infrastructure. The planning proposal also provides for a biobanking agreement that will ensure the ecological values of the undeveloped portion of the land are maintained.

### **Legal / Resource / Financial Implications**

There are some resourcing and financial implications associated with finalising this proposed LEP amendment. The finalisation of the LEP amendment relies on site specific DCP provisions being drafted. These provisions may involve some significant time and resourcing requirements to research best practice and provide appropriate site specific responses.

A number of options are available to resource the preparation of the draft DCP. These options include requiring the proponent to prepare a draft, seeking expert input and in-house preparation. The recommendations to this report require that the LEP amendment not be finalised until such time as the draft DCP amendments have reached the public exhibition stage.

To date the proponent has met costs associated with the processing of this planning proposal in accordance with Council's adopted fees and charges. Should Council resolve to endorse the LEP amendment for finalisation then it is proposed to discuss resourcing options available for the preparation of the site specific DCP provisions with the proponent.

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act* and the *Threatened Species Conservation Act*.

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.

Having regard to the limited number and the nature of the public 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**

The planning proposal and draft VPA, including the Explanatory Note, were placed on exhibition for community feedback from 8 June to 8 July 2016. The exhibition process included approximately 400 letters being forwarded to nearby property owners, an advertisement within the Ballina Advocate, and documentation being made available for viewing in Council's libraries and the Customer Service Centre, as well as on Council's web site.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

The Department of Planning and Environment required as part of the public exhibition process that the Local Aboriginal Land Council be consulted and be provided with copies of the planning proposal, the Aboriginal Cultural Heritage Assessment and the Archaeological Survey. A letter and the required associated documents were hand delivered to the Jali Local Aboriginal Land Council offices on 19 May 2016, with no response being received.

Two public submissions were received in response to the public exhibition process.

The application was also referred to the Richmond River Cane Growers' Association Ltd, various government agencies and internally to Council's Development Services Section in addition to more extensive pre-exhibition Council wide referral.

Copies of public submissions, Council's internal comments and all government and non-government responses received are provided in Attachment Three. Comments are summarised and discussed in the table below.

The comments below are based on the assessment of submissions undertaken by GeoLINK, acting as Council's consultant.

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
Newton Denny Chapelle (on behalf of Mr Chris Elliot and Mr David Westaway, owners of adjoining land - Lot 1 DP 522558 old Ferry Boat Motel site).	<ul style="list-style-type: none"> <li>Do not object to the planning proposal or to the development foreshadowed therein.</li> <li>Wish to work with the proponents with the view of providing improved access to the development site from Burns Point Ferry Road over part of their property.</li> </ul>	Noted.
Ballina Waterfront Village and Tourist Park (adjoins the subject site)	Disagrees with the planning proposal on the grounds listed below:	
	<ul style="list-style-type: none"> <li>Appropriateness of the concept of a live-work development for not only the site but for the town of Ballina.</li> </ul>	Although the live-work concept is new to Ballina it has been successfully adopted in other localities. There are many case studies that demonstrate that the concept works and has significant advantages in terms of reduced travel costs, affordable housing and work/life balance.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>Need for another industrial site when there are already two major industrial sites in the town and the potential for this development to become even more industrial?</li> </ul>	<p>The proposal is not another industrial area but rather a mixed use development that will offer alternatives to a traditional industrial estate.</p>
	<ul style="list-style-type: none"> <li>Economic impact on existing businesses in Ballina.</li> </ul>	<p>The limited size of the proposed area to be rezoned is not expected to have a significant negative impact on existing businesses in Ballina. Proprietors of live-work uses often find it difficult to locate their businesses/residences due to traditional planning restrictions and commercial / industrial rental and land purchase circumstances. The proposal seeks to encourage a small live/work community which would have a positive impact within the Ballina LGA.</p>
	<ul style="list-style-type: none"> <li>Traffic impacts have not been assessed.</li> </ul>	<p>Additional information on traffic has been provided by the proponent and is discussed within the assessment section below.</p>
	<ul style="list-style-type: none"> <li>Impacts on neighbouring residential developments to the east and west of the site</li> </ul>	<p>Land use conflict with adjoining owners can be addressed through the Council's DCP to guide future development of the site. It is recommended that Council resolve to prepare site specific DCP provisions to achieve this.</p>
	<ul style="list-style-type: none"> <li>Impact on flooding and stormwater on adjoining land.</li> </ul>	<p>The site is flood liable and flood and stormwater impacts were assessed as part of the planning proposal and the assessment report that was prepared by GeoLINK. Flood and stormwater impacts are also discussed below in the assessment section of this report.</p>



## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>• Social and crime impacts</li> </ul>	<p>Future development would be designed to ensure the principles of Crime Prevention Through Environmental Design are incorporated into the development. The proposal would not create any significant social impacts or crime risk.</p>
	<ul style="list-style-type: none"> <li>• Issues raised by government agencies and Council's Development Services Section.</li> </ul>	<p>The comments raised by government agencies and Council's Development Services and Environmental Health Sections are addressed below.</p>
Richmond River Cane Growers' Association Ltd	<ul style="list-style-type: none"> <li>• Do not have any objection to the development although have raised some broader concerns which are outlined below.</li> </ul>	Noted.
	<ul style="list-style-type: none"> <li>• Concerned that any further development of this nature may seriously impact the viability of the sugar cane industry that has been part of the local community for over 120 years.</li> </ul>	<p>Ad hoc spot rezoning of land can impact on the viability of agricultural land. The subject site has been identified as having a potential for rezoning as part of a comprehensive strategic planning process. It adjoins residential land to the east and a tourist park to the west. It is considered that the agricultural viability of the land is very low, albeit that the land has previously supported sugar cane production.</p>
Department of Primary Industries - Water	<p>Water Supply and Licensing</p> <ul style="list-style-type: none"> <li>• The planning proposal does not outline the intended water supply to service any future development on the site.</li> <li>• Council should carefully consider the water supply to service this area to ensure a reliable supply exists for the future development of the land.</li> </ul>	<p>The proponent has advised that it is intended that the water supply for the project will be the reticulated Rous/Ballina Shire Council system.</p> <p>The site is identified in various strategic plans as a potential urban release area. The water network can be augmented to meet the requirements of the urban use of the land.</p>

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>Basic Landholder rights – concern about the increase in landowners' rights to access water for domestic purposes.</li> </ul>	<p>The future urban development of the site will be serviced by reticulated water. It is not anticipated that there will be an increase in landholders seeking to access water through the use of bores.</p>
	<ul style="list-style-type: none"> <li>Groundwater interception.</li> </ul>	<p>The site would need to be filled to ensure flood immunity. The future development of the site can be designed to ensure that impacts to groundwater are minimised. Any likely interception of ground water would be assessed at the DA stage and would require approval from DPI – Water.</p>
	<ul style="list-style-type: none"> <li>Watercourse Management and the need for Controlled Activity Applications.</li> </ul>	<p>Noted. Controlled Activity applications would be lodged at the DA stage for any future development of the site.</p>
	<ul style="list-style-type: none"> <li>Sewerage Infrastructure.</li> </ul>	<p>Any future development would be connected to Council's reticulated sewer system.</p>
	<ul style="list-style-type: none"> <li>Future Development Application requirements and the need for specialist studies and investigations.</li> </ul>	<p>All of the listed potential impacts would be addressed via specialist investigations and studies as part of any future DA.</p>
<p>Department of Primary Industries – Fisheries</p>	<ul style="list-style-type: none"> <li>Buffers between urban development and conservation interface need to be revised to reduce impacts on fish habitat.</li> </ul>	<p>It is likely that the buffers proposed in the concept design (included in the Planning Proposal) will not be appropriate given the occurrence of sensitive wetland and estuarine communities south of the proposed urban area.</p> <p>Details relating to ecological buffers will need to be justified and set as part of the design and development application stage.</p> <p>Parameters can also be set and reinforced through DCP based provisions for the land.</p>

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
Department of Primary Industries – Agriculture	<ul style="list-style-type: none"> <li>No additional comments to those previously made in February 2015. Previously indicated that no major implications for agriculture were identified. Recommended consultation with NSW Office of Water, Fisheries and the local cane industry.</li> </ul>	Noted. Consultation as recommended was undertaken with comments received contained within this report.
Department of Primary Industries – Aquaculture	<ul style="list-style-type: none"> <li>No objection provided that the resultant lots are connected to reticulated sewerage and future development does not adversely affect the Priority Oyster Aquaculture Areas located both upstream and downstream of the site.</li> </ul>	Noted. Reticulated sewer is available to the land. This matter will also be further addressed at the development application stage.
Office of Environment and Heritage (OEH)	<ul style="list-style-type: none"> <li>Rezoning area should be reduced to limit biodiversity impacts</li> </ul>	Biodiversity impacts of the development will be offset by a Biobanking agreement which is in accordance with current OEH policy.
	<ul style="list-style-type: none"> <li>The area proposed to be rezoned needs to contain all impacts associated with future development scenarios</li> </ul>	The concept plan may require adjustment at the DA stage to ensure all impacts are contained within the rezoned area. Any future development application (which would include specialist investigations and studies) would need to demonstrate this.

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>A revised biobanking statement should be obtained prior to finalising the planning proposal.</li> </ul>	<p>Requiring the preparation of a biobanking agreement before the land is rezoned will delay the rezoning by approximately 6 months to a year (proponent's consultant has estimated 2 years and a cost of \$50,000 based on their experience). Given the timeframe restrictions of processing planning proposals, the planning proposal may need to be withdrawn whilst the biobanking agreement is prepared by the proponent and assessed and approved by OEH.</p> <p>As an alternative to this, the landowner has proposed a Voluntary Planning Agreement (VPA) to secure the requirement for a biobanking agreement prior to development consent for the future urban development of the site. This will enable the planning proposal to proceed whilst securing a biobanking agreement for the proposed conservation area within the site. This is considered an acceptable outcome.</p>
	<ul style="list-style-type: none"> <li>The VPA should ensure that all biodiversity credits required to offset the impacts of the future development of the site are retired prior to any development application being approved for the site.</li> </ul>	<p>Refer comments above. The VPA will secure the requirement for a biobanking agreement prior to development consent for the future urban development of the site. The biobanking statement will specify when credits are required to be retired. Credits could be retired prior to development consent or more reasonably prior to a construction certificate being issued.</p> <p>The proponent is required to negotiate the terms of the Biobanking agreement with the Minister for the Environment. It is through this process that the OEH's position can be negotiated with the proponent.</p>

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
Roads and Maritime Services	<ul style="list-style-type: none"> <li>It would be beneficial to both road safety and traffic efficiency to remove the delay created by U-turns at the Pacific Highway interchange roundabout due to the proposed left in/left out access treatment on River Street.</li> </ul>	<p>The proposed left in/left out system is an interim measure. The traffic engineering report proposes that a roundabout will be constructed in River Street to service the future development.</p> <p>The proponent has advised that discussions have been held with adjoining property owners about obtaining access via Burns Point Ferry Road, however the proponent's preferred approach is the implementation of the roundabout scheme.</p>
Ballina Shire Council Development Services	<ul style="list-style-type: none"> <li>Concerns about the proposed planning controls including, floor space ratio residential land use, land use conflict, character of the precinct, approval requirements, compliance issues, flooding, geotechnical matters etc.</li> </ul>	<p>It is considered that the proposed LEP controls will adequately regulate the future development of the site. The detail raised by Council's Development Services Section in regard to floor space ratio, land use conflict, development guidelines and future character of the precinct can be addressed in DCP provisions.</p> <p>BSC Development Services Section has suggested this approach and the proponent has advised that no objection is raised to the requirement for DCP provisions to be prepared and adopted to guide future development of the site. It is therefore recommended that Council resolve to prepare site specific DCP provisions to guide future development of the land.</p>

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>Market demand for this type of land use.</li> </ul>	<p>Although the live-work concept is new to Ballina it has been successfully adopted in other localities. There are many case studies that demonstrate that the concept works and has significant advantages in terms of reduced travel costs, affordable housing and work/life balance. Like most development proposals there is always an element of risk involved. It would be up to the developer to ensure the proposed development is viable whilst complying with Council's development controls.</p>
	<ul style="list-style-type: none"> <li>Inconsistencies with the Growth Management Strategy</li> </ul>	<p>The proposal is inconsistent with the provisions of the Ballina Shire Local Growth Management Strategy. The urban footprint proposed extends beyond the identified growth area. In the circumstances, given that the land is currently zoned 1(d) Rural – Urban Investigation (as a result of the E zone deferral) and the land is identified as a proposed future urban release area under the State Government's Far North Coast Regional Strategy, and having regard for detailed site assessment and the potential delivery of environmental outcomes for the residue of the site, this is considered acceptable.</p>
	<ul style="list-style-type: none"> <li>Interface between existing and approved adjoining land uses requires further consideration and resolution at the planning proposal stage.</li> </ul>	<p>It is considered that matters such as buffers, land use conflicts, APZs, vegetation of land and filling cannot be comprehensively addressed at the rezoning stage due to the conceptual nature of the proposal. In relation to these items they can be considered in a Development Control Plan and / or via the Development Application process.</p>

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<p>Ecological Issues including:</p> <ul style="list-style-type: none"> <li>• Distribution of Freshwater EEC</li> <li>• Threatened Species EEC</li> <li>• Predicted Impacts to EEC habitat.</li> </ul>	<p>Ecological assessments have been undertaken for the northern part of the site which identify the presence of several endangered ecological communities. These vegetation communities, whilst representative of EECs, have been found by Blackwood Ecological Services to be generally of poor to moderate condition, fragmented, having low species diversity, young age structure and / or generally of low to moderate conservation value. No threatened flora species were found on this part of the site.</p> <p>As a consequence of the ecological assessments undertaken by Blackwood, Melaleuca Group, Peter Parker, Aspect North and GeoLINK it has been concluded that the northern part of the site is generally suitable for urban development as proposed, subject to appropriate biobanking offsets or compensatory habitat being established.</p>

## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<p>Mosquito Management including:</p> <ul style="list-style-type: none"> <li>• Requirement of additional mosquito assessment to assess amended layout.</li> <li>• Age of assessment.</li> <li>• Buffer requirements.</li> </ul>	<p>The Mosquito Impact Assessment report prepared by Mosquito Consulting Services Pty Ltd, was prepared over ten years ago. However, the assessment is considered to be generally consistent with Ballina DCP 2012. The extent of development envisaged in the Mosquito Impact Assessment report (2005) has since been reduced in size. There has also been no obvious change in the general characteristics of the subject site and the locality. As such no further mosquito trapping or assessment is considered necessary to progress the Planning Proposal. Careful assessment and consideration of mosquito impacts and management will be required during the preparation of any development application for future development of the land.</p>
	<ul style="list-style-type: none"> <li>• Acid Sulphate Soils – the information submitted is sufficient. An ASSMP will need to be implemented prior to any constructions works.</li> </ul>	<p>Noted</p>
	<ul style="list-style-type: none"> <li>• Contaminated land – information is adequate except for the southern portion of the site.</li> </ul>	<p>The report did not undertake any soil sampling and analysis in the south of the site. Notwithstanding this it is considered that land contamination presents a relatively low risk to the proposed rezoning of the site. A Phase 2 ESA and potentially a remediation plan will need to be undertaken as part of a DA for the proposed future development of the land.</p>
	<ul style="list-style-type: none"> <li>• Ground water extraction licence may be required.</li> </ul>	<p>Refer to planning comments above on DPI – Water's response.</p>
	<ul style="list-style-type: none"> <li>• Controlled activity approval may be required.</li> </ul>	<p>Refer to planning comments above on DPI – Water's response.</p>



## 9.2 Planning Proposal - Burns Point Ferry Road, West Ballina

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"><li>Impact on amenity/land use conflict.</li></ul>	Refer to previous planning comment above.
	<ul style="list-style-type: none"><li>The above issues must be considered and adequately addressed at the planning proposal stage.</li></ul>	It is considered that the issues raised by Council's Development Services Section have been adequately addressed in the planning proposal and the additional information provided by the proponent.

### Assessment

GeoLINK prepared a Peer Review and Gap Analysis Report, which related to the proponent's 'Post Gateway Report' (prepared by Planners North) and supporting technical documentation (prepared by various consultants) for the planning proposal. The GeoLINK report recommended additional information be provided prior to exhibition of the planning proposal. This information was provided by Planners North and was included in the planning proposal (along with all other relevant specialist studies and investigations prepared as part of the rezoning submission by the proponent). The planning proposal and draft VPA were placed on exhibition for community comment from 8 June to 8 July 2016. The following issues are considered pertinent to the planning proposal.

### Proposed Zoning and Planning Controls for Mixed Land Uses

Although the live-work (mixed use) concept is new to Ballina it has been successfully adopted in other localities. There are many case studies that demonstrate that the concept can work and have significant advantages in terms of reduced travel costs, affordable housing and work/life balance.

It is considered that the proposed LEP controls outlined in the planning proposal would adequately regulate the future development of the site. Concerns raised regarding floor space ratio, land use conflict, development guidelines and future character of the precinct can be addressed as part of Development Control Plan provisions for the precinct. It is recommended that Council resolve to prepare site specific DCP provisions to guide future development of the site.

### Ecological constraints

As identified within the planning proposal, ecological assessments have been undertaken for the northern part of the site which identify the presence of several endangered ecological communities. These vegetation communities, whilst representative of EECs, have been found by Blackwood to be generally of poor to moderate condition, fragmented, having low species diversity, young age structure and or generally of low to moderate conservation value. No threatened flora species were found on this part of the site.

As a consequence of the ecological assessments undertaken by Blackwood, Melaleuca Group, Peter Parker, Aspect North and GeoLINK it has been concluded that the northern part of the site is generally suitable for urban development as proposed, subject to appropriate biobanking offsets or compensatory habitat being established.

### **Timing of the Preparation of the Biobanking Statement**

OEH has recommended that a revised biobanking statement be obtained prior to finalising the planning proposal. It is considered that requiring the preparation of a biobanking statement before the land is rezoned will delay the rezoning by a minimum of a year. Given the timeframe restrictions of processing planning proposals, the planning proposal may need to be withdrawn whilst the biobanking statement is prepared and approved by OEH.

The landowner is proposing a Voluntary Planning Agreement (VPA) to secure the requirement for a biobanking statement prior to development consent for the future urban development of the site. This will enable the planning proposal to proceed whilst still securing a biobanking statement for the proposed conservation area within the site. This is considered to be an acceptable outcome.

### **Flood Constraints**

The GeoLINK peer review required additional assessment relating to potential tidal and flooding impacts on the café and dwelling site. Assessment associated with the preparation of the planning proposal determined that the proposed site is unsuitable due to flood hazard. The river end of Burns Point Ferry Road is within an Extreme Flood Risk Precinct as mapped in Ballina DCP 2012. Residential accommodation is not compatible with the risk profile associated with this precinct and for this reason an alternative site within the residue of Lot 4 will most likely be required for the proposed restaurant/café incorporating information and education facilities and a dwelling. For this reason, and to provide future flexibility in terms of potential location, the additional permitted use area outlined in the planning proposal applies to the whole of the Lot 4 residue area.

### **Stormwater**

The GeoLINK peer review required additional information on the future impacts of stormwater from the proposal. Hammond and Associates provided a conceptual stormwater management plan for the live-work component of the Planning Proposal. The plan modelled stormwater quality using the MUSIC model which predicts the reduction in:

- Total Suspended Solids (TSS).
- Total Nitrogen (TN).
- Total Phosphorus (TP).
- Gross Pollutants (GP).

The Plan proposes a combination of a sediment basin bioretention system to treat stormwater. The MUSIC modelling demonstrates that a bioretention system is able to reduce the pollutant concentrations and loads to acceptable targets. There is also a possibility that this can be further reduced by utilising some of the smaller treatment areas across the site. It is considered that the additional information provided by the proponent demonstrates at a conceptual level that stormwater can be adequately treated on site. This is considered sufficient for the planning proposal stage.

### **Traffic Generation/Road Capacity**

The GeoLINK peer review required additional information in relation to potential traffic impacts from the planning proposal. The proponent engaged Rytenskild Traffic Group (RTG) to prepare a traffic impact assessment to quantify the potential impact of the future development of the site upon the performance of the surrounding road network, and identify any upgrade works required to mitigate such impacts. The RTG report indicates that:

- It is assumed that almost all traffic generated by the proposal will access River Street via a proposed new roundabout located on River Street at the western end of the site.
- Access is proposed to be gained primarily via the proposed new roundabout with a secondary access achieved through adjoining land (Previous Ferry Boat Motel site).
- The timing of a proposed new roundabout at River Street will depend on the development of the land to the north. In the interim it is considered that the proposed new intersection with River Street could function as a left in/left out priority controlled junction until such time that the roundabout is constructed. This will be a matter for Council's engineers as part of the assessment of a future development application.
- SIDRA analysis undertaken by RTG indicates that the proposed new roundabout on River Street will function satisfactorily under future year (2030) traffic volumes.
- It is considered that the proposal will potentially only have a significant impact upon the River Street / Burns Point Ferry Road intersection. It is further considered that only a relatively small volume of traffic is likely to use Kalinga Street and other local roads to the east.

The new "roundabout to the north" referenced in the RTG report refers to the roundabout proposed to also service the Ballina Highway Service Centre site approved via Development Consent 2016/93 on 26 May 2016. This site is also owned by Ballina Waterways Pty Ltd.

The RMS has advised that it would be beneficial for both road safety and traffic efficiency to remove the delay created by U turns at the Pacific Highway interchange roundabout due to the proposed left in / left out arrangement. Additionally, it is suggested that the proposed connection with Burns Point Ferry Road be considered an interim measure. The RTG report indicates that both of these access proposals are interim arrangements until the new roundabout is constructed.

## **9.2 Planning Proposal - Burns Point Ferry Road, West Ballina**

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No information has been provided as to what RTG considers to be a potentially significant impact upon the River Street / Burns Point Ferry intersection or how the additional traffic will affect this intersection's level of service.

The additional traffic information provided, whilst considered adequate for the purpose of allowing the planning proposal to proceed, does not provide sufficient justification for the proposed temporary left in left out arrangement to River Street or the secondary access to Burns Point Ferry Road. It is considered that these matters could both be addressed in site specific DCP provisions. Such provisions would seek to limit site access to the proposed new roundabout unless it can be clearly demonstrated that alternative and or temporary access arrangements do not compromise traffic safety or efficiency. This approach has also been agreed as being acceptable by the proponent's planning consultant.

### **Options**

#### **Option 1: Finalise the Planning Proposal and Voluntary Planning Agreement**

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 as well as submissions received in response to the public exhibition process.

It is considered that the planning proposal has merit especially in terms of securing the conservation of the residue part of the site under a Biobanking Agreement. The Biobanking Agreement is required to be registered prior to the granting of Development Consent under provisions contained in the exhibited draft VPA.

Under this approach the planning proposal documentation will be finalised in line with the contents of this report and Council's resolution on the matter (this will include insertion of information addressing key issues raised through the exhibition and reporting process). Council would also undertake the procedural steps required to complete the rezoning and the VPA.

The draft VPA has been prepared by Council's Solicitors so as to adequately secure the public interest in respect to the biodiversity and geotechnical constraints which impact the site. The proponent has met all costs associated with the preparation of the draft VPA.

With respect to the finalisation of the matter, it is recommended that Council proceeds to complete the rezoning under delegation from the Department of Planning and Environment. In this respect it is proposed that the rezoning only proceed once DCP provisions have advanced to at least exhibition stage and the VPA is registered on the title of the land.

#### **Option 2: Discontinue the Planning Proposal and Voluntary Planning Agreement Process**

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

## **9.2 Planning Proposal - Burns Point Ferry Road, West Ballina**

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This option is not recommended. The planning proposal has generated significant investigation into site constraints. Constraints which have been investigated have included flooding and stormwater, ecological constraints, traffic and access management, visual amenity, entomology and geology. On assessment, and given the additional information provided and adjustments to the zoning and planning provisions proposed in response to site characteristics, there are no outstanding matters identified as a basis for discontinuation of the proposal.

If the Council, however, has significant unresolved concerns relating to the degree to which land constraints or other impacts associated with the proposed rezoning have been, or are able to be mitigated, then it may resolve to discontinue the planning proposal and VPA process.

### **Option 3: Defer the Planning Proposal**

The Council may wish to defer the finalisation of the planning proposal pending further investigation in relation to ecological and any other environmental impacts.

All additional information requested of the proponent has been provided. Although there remains some disagreement on ecological constraints between Council's Development Services Section, OEH, Council's independent consultants and the proponent's consultants, it is considered that sufficient information has been provided to demonstrate that the northern part of the site is generally suitable for urban development as proposed, subject to appropriate biobanking offsets or compensatory habitat being established. Therefore this option is not recommended.

## **RECOMMENDATIONS**

1. That Council endorses the amendment of the Ballina Local Environmental Plans 1987 and 2012 to rezone Lot 4 537419, Burns Point Ferry Road, West Ballina, by applying a part R2 Low Density Residential Zone and a part RU2 Rural Landscape Zone to the land, together with associated controls and additional permitted uses as detailed in Planning Proposal BSCPP 14/008.
2. That, in amending the Minimum Lot Size Map in relation to that part of the site proposed to be zoned R2 Low Density Residential Zone, Council endorses a minimum lot size of 450m<sup>2</sup>.
3. That Council resolves to prepare a draft amendment to Ballina Shire Development Control Plan 2012 to introduce site specific controls relating to the future development of Lot 4 DP 537419 for live – work development and environmental protection and enhancement purposes.
4. That Council consider a further report once the draft DCP has been prepared and prior to its public exhibition.
5. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/008 under delegated authority subject to the proposed draft DCP amendments having reached the public exhibition stage and the Voluntary Planning Agreement being executed and registered on the title of Lot 4 DP 537419.

## **9.2 Planning Proposal - Burns Point Ferry Road, West Ballina**

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6. That Council authorises the use of the Common Seal to execute the Voluntary Planning Agreement associated with Planning Proposal BSCPP 14/008.
7. That Council give further consideration to replacing the proposed RU2 Rural Landscape Zone with an E zone as part of its scheduled E zone review process.

### **Attachment(s)**

1. Chronology
2. Exhibited Planning Proposal (Under separate cover)
3. Submissions
4. Draft VPA and Explanatory Note

### **9.3 Planning Proposal - Local Environmental Plan - Deferred Matters**

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#### **9.3 Planning Proposal - Local Environmental Plan - Deferred Matters**

**Delivery Program** Strategic Planning

**Objective** To seek the Council's direction with respect to the submission of a planning proposal for Gateway determination in relation to Stage 1 of the deferred matters integration program.

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#### **Background**

The Ballina Local Environmental Plan 2012 (BLEP 2012) currently includes areas known as deferred matters due to the State Government's decision in 2012 to not allow the LEP to include environmental protection zones. The State Government has now provided guidance to address those areas through the Northern Councils E Zone Review and Council can proceed to integrate them into its 2012 LEP.

The integration of deferred matters into the BLEP 2012 is being implemented by way of a staged approach which aims to complete the integration program over a two year period. An initial staged approach was adopted by the Council at its April 2016 Ordinary Meeting. However, in response to an offer of funding support from the NSW Department of Planning and Environment, Council resolved at its October 2016 Ordinary Meeting to accept the offer of funding and to adjust the staging of the integration program as outlined in the information section of this report [Minute No. 271016/10].

The planning proposal the subject of this report seeks to initiate Stage 1 of the integration program which is centred on the integration of land associated with the Emigrant Creek and Marom Creek water supply catchments currently zoned 7(c) Environmental Protection (Water Catchment) Zone under BLEP 1987.

It also includes other contiguous areas that were identified for environmental zones under Council's adopted plan (prior to the State Government's decision to defer these areas from the BLEP 2012).

Land use zones, including environmental zones, are proposed having regard for legislative requirements, the NSW Department of Planning and Environment's Northern Councils E Zone Review Final Recommendations Report, the associated Section 117 Ministerial Direction and the Council's resolution of 27 October 2016.

Importantly, the State Government's decision to defer areas from the LEP also affected other provisions within the instrument. Given this, each stage of the integration program will also address a variety of other provisions and maps not directly related to environmental protection zones.

The purpose of this report is to seek direction regarding the submission of a planning proposal requesting a Gateway determination in relation to Stage 1 of the deferred matters integration program.

### 9.3 Planning Proposal - Local Environmental Plan - Deferred Matters

A copy of the planning proposal is provided in Attachment One.

#### Key Issues

- Comprehensive local environmental plan for Ballina Shire.
- Environmental protection zoning under the BLEP 2012.
- Inclusion of various planning provisions not related to environmental protection zoning under the BLEP 2012.

#### Information

The BLEP 1987 contains several land use zones that have been deferred from the BLEP 2012, seven of which are centred on environmental protection. The overarching intent of the deferred matters integration program is to incorporate all of the deferred areas into the one comprehensive LEP to simplify the planning process and recognise environmental values in the shire under the 2012 local environmental plan.

Although Council has recognized (albeit reluctantly) the outcomes of the State Government's E zone review, of particular concern to Council is that the NSW State Government's final recommendations do not permit Council to provide environmental zone based protection to areas with aesthetic/non-ecological values such as scenic/escarpment areas, water catchment areas, coastal lands and the Alstonville/Wollongbar urban buffer.

Notwithstanding concerns identified by Council and conveyed strongly to the Department, the Council has resolved to proceed to integrate the deferred matters in line with the approach shown in Table 1. Under the approach adopted, planning proposals for each stage will be initiated before the 30 June 2017. It is anticipated that each stage will conclude at the nominated time, however this will be dependent on other factors that may arise during the processing of each planning proposal.

**Table 1: Planned Staging for Integration of Deferred Areas into Ballina LEP 2012**

Stage	Start	Conclude
<b>1</b> <b>7(c)</b> Environmental Protection (Water Catchment) 3,157 ha (23%)	November 2016	November 2017
<b>2</b> <b>7(d)</b> Environmental Protection (Scenic/ Escarpment) and <b>7(d1)</b> Environmental protection (Newrybar Scenic/ Escarpment) 1,356 ha (10%)	February 2017	February 2018
<b>3</b> <b>7(a)</b> Environmental Protection (Wetlands) and <b>7(l)</b> Environmental Protection (Habitat) 3,826 ha (28%)	April 2017	July 2018
<b>4</b> <b>7(i)</b> Environmental Protection (Urban Buffer) 613 ha (4.5%)	May 2017	May 2018



### 9.3 Planning Proposal - Local Environmental Plan - Deferred Matters

Stage	Start	Conclude
<p style="text-align: center;"><b>5</b></p> <p><b>7(f)</b> Environmental Protection (Coastal Lands) 1,155 ha (8.5%)</p>	June 2017	June 2018
<p style="text-align: center;"><b>Progressive</b></p> <p>Mixture of rural zones (areas proposed for 'new' E zones in Draft BLEP 2012) 3,563 ha (26%)</p>	Integrate with other stages as appropriate.	Integrate with other stages as appropriate.

#### *The subject land*

Stage 1 of the deferred matter integration program comprises land that is currently zoned 7(c) Environmental Protection (Water Catchment) under the BLEP 1987 and located in the Emigrant Creek and Marom Creek catchment areas. It also includes some areas of land contiguous to these areas that appear logical to address in this stage. The land the subject of this planning proposal is depicted in the maps in the planning proposal (Attachment One).

#### *Zones applicable to land in Stage 1*

Environmental zones ('E zones') are designed to recognise and protect land of important environmental value. Two environmental zones will be introduced into the Ballina Local Environmental Plan 2012, being Environmental Conservation (E2) and Environmental Management (E3).

The E2 zone provides protection of key environmental assets within the shire and will be applied to areas of high environmental significance including existing wetland and habitat zones and other suitable areas that meet the set criteria. The zone provides for a limited range of permissible land uses recognising its targeted application to areas of high environmental value and significance.

The E3 zone provides for the recognition, management and protection of environmental values whilst providing for a range of land uses compatible with those values. This zone is slightly more flexible in the range of permissible land uses than the E2 zone.

This planning proposal, being the first stage of the deferred matters integration program, introduces the E2 and E3 zones into the land use table set in the 2012 LEP. The proposed E2 and E3 land use zoning tables are contained in section 3 of the planning proposal (Attachment One).

Land use permissibility is narrower in the proposed zones than was the case in 2012 (pre- E zone deferral) to reflect a significantly narrower application of the zones and the characteristics of the areas that Council may apply these zones to under the State Government's E zone criteria.

In addition to the E zones, it is proposed to apply the SP2 Infrastructure zone to land on which Rous Water has water supply infrastructure at Emigrant Creek Dam.

All other land will be zoned rural according to the criteria as outlined in section 3 of the planning proposal having regard to the agricultural characteristics of land.

### 9.3 Planning Proposal - Local Environmental Plan - Deferred Matters

#### *Overview of mapping amendments in Stage 1*

An overview of the proposed changes being introduced to land contained in Stage 1 is provided in Tables 2 and 3 below. Further details about the changes are contained in the Stage 1 planning proposal (Attachment One).

**Table 2: Proposed changes to map sets for Area 1 – Emigrant Creek Catchment**

<b>Map Set</b>	<b>Proposed Change</b>
Land use zoning map	- E2 (Emigrant Creek) - E3 (Killen Falls Reserve) - SP2 (Rous Water infrastructure) - RU1 (remainder)
Lot size map	- 20 ha applies to Lot 3 DP 1153559 - 40 ha to remainder of land
Height of buildings map	8.5m
Drinking water catchment map	Overlay mapping of Emigrant Creek water supply catchments to enable application of Clause 7.4 Drinking Water Catchments to proposals for development requiring consent.
Additional permitted uses map	Five land parcels to be included in Schedule 1 to recognise land uses (see below)
Heritage map	Add item no. 177 to Schedule 5 (see below)
Land application map	Inclusion of deferred land under the BLEP 2012

**Table 3: Proposed changes to map sets for Area 2 – Marom Creek Catchment**

<b>Map Set</b>	<b>Proposed Change</b>
Land use zoning map	RU1
Lot size map	40 ha
Height of buildings map	8.5m
Drinking water catchment map	Overlay mapping of Marom Creek water supply catchments to enable application of Clause 7.4 Drinking Water Catchments to proposals for development requiring consent.
Heritage map	Add item no. 195 to Schedule 5 (see below)
Land application map	Inclusion of deferred land under the BLEP 2012

In considering the zoning, it is important to recognise the following:

- The proposed zoning, in line with the State Government's E zone review outcomes, results in a significant reduction in environmental protection zoned land in the water catchment area.
- The Emigrant Creek and Marom Creek catchments will not have a specific water catchment based zone for the first time since the introduction of the 1987 LEP.
- Water catchment considerations will be addressed through a catchment based overlay and an existing special provision in the LEP.

### 9.3 Planning Proposal - Local Environmental Plan - Deferred Matters

- Generally, those land parcels proposed for a rural zone will be subject to a greater range of permissible land uses compared to the current 7(c) Environmental Protection (Water Catchment) Zone.

#### *Additional Permitted Uses*

Schedule 1 of the BLEP 2012 (and associated Clause 2.5) refers to specific land parcels where additional permitted uses may be undertaken despite other provisions of the LEP. The land parcels identified in Table 4 are recommended for inclusion in Schedule 1 to recognise existing land use activities.

**Table 4: Additional Permitted Uses – Listings**

<b>Parcel Number</b>	<b>Property Address</b>	<b>Development Permitted With Consent</b>
637	Lot 2 DP 785372, 419 Hinterland Way, Knockrow	Restaurant or café, Shop.
7472	Lot 3 DP 569455, 19 Old Pacific Highway, Newrybar	Shop.
17449	Lot 4 DP 1040699, 14 Old Pacific Highway, Newrybar	Shop.
17695	Lot 5 DP 1055157, 22 Old Pacific Highway, Newrybar	Shop.
17696	Lot 6 DP 1055157, 18-20 Old Pacific Highway, Newrybar	Restaurant or café.

#### *Introduction of Natural Areas and Habitat Heads of Consideration Provision*

As part of Council's adopted Ballina LEP 2012, Council included a clause that required the consideration of certain matters in relation to development applications involving land on which natural and/or habitat values were identified. This provision was not included in the Ballina LEP 2012 due to the State Government's decision to undertake a review of E zones.

It is proposed that this provision now be introduced into the Ballina LEP 2012 to enable consideration of the specified matters in relation to E zones and waterways zones (as originally intended). The clause can also be adapted during later stages of the deferred matters integration to include reference to any areas that are to be subject to a vegetation map overlay (if such a map is ultimately applied by Council).

The clause as originally adopted by Council is reproduced in section 3 of the planning proposal (Attachment One). The clause is designed to address direct and indirect impacts that may be caused by development in relation to significant water, biodiversity, public land and soil resources and attributes.

#### *Heritage Conservation*

Items and places of environmental heritage significance identified in the shire are addressed via Clause 5.10 of the BLEP 2012 and listed in Schedule 5. The properties listed in Table 5 below are located in deferred areas within Stage 1 of the deferred matters integration program and are listed for inclusion in Schedule 5.

### 9.3 Planning Proposal - Local Environmental Plan - Deferred Matters

Table 5: Items for inclusion in BLEP 2012 Schedule 5 Environmental Heritage

Locality	Item name	Address	Property description	Significance	Item number
Newrybar	Killen Falls	Killen Falls Drive (Public Reserve)	Lot 1 DP 251994	Local	177
Wollongbar	Wollongbar Agricultural Institute, old snow shed, registers, dreadnought farm scheme memorabilia and photographs (moveable heritage items), and group of 4 houses on Bruxner Highway adjoining the research station	Bruxner Highway	Lot 237 DP 755745	Local	195

#### Sustainability Considerations

- **Environment**

Environmental protection zoning is a fundamental element of the land use planning system and is used as a tool to recognise environmental values and apply an associated planning framework to land. The approach to application of environmental protection zones involves balancing private and broader public interests and short and long term considerations associated with the use, value and protection of environmental attributes.

This planning proposal seeks to bring land in the shire under the terms of the BLEP 2012, inclusive of consideration of environmental values. The ultimate integration of all deferred matters into the one comprehensive LEP will result in overall positive social and economic benefits for the shire and will to some extent streamline the planning process.

- **Social**

As above.

- **Economic**

As above.

#### Legal / Resource / Financial Implications

The work required to be undertaken in relation to this planning proposal can be funded through grant funds from the Department of Planning and Environment and available Council funds.

The completion of the integration program is impacting on Council's work program although this is considered to be manageable at present.

The primary legal consideration is compliance in terms of the *Environmental Planning and Assessment Act 1979* and associated Regulation.

### Consultation

No community engagement has been undertaken by Council to date in response to the State Government's reporting. However, extensive community engagement occurred in preparing the 2012 LEP and forming the originally proposed E zones.

Should the Council support the matter proceeding, the planning proposal will be forwarded to the NSW Department of Planning and Environment for Gateway determination. If the planning proposal receives affirmative Gateway determination, the Department will advise Council of the requirements for consultation with government agencies and the community.

Community engagement for Stage 1 will occur following receipt of the Gateway determination. Community engagement will include an opportunity for landholders with land subject to proposed environmental protection zoning to provide feedback to Council before the planning proposal progresses to formal public exhibition.

### Options

1. Proceed to submit the planning proposal to the Department of Planning and Environment for Gateway Determination;
2. Cease further consideration of the planning proposal; or
3. Defer consideration of the planning proposal.

Option one is the preferred course of action on the basis that the planning proposal accords with Council's adopted staged program to facilitate the preparation of a single consolidated LEP for the Ballina Shire local government area. This approach will progress the planning proposal to the next step in the rezoning process which is to enable a review by the NSW Department of Planning and Environment and Gateway determination to proceed.

There is also significant benefit in progressing Stage 1 of the integration program as it puts in place the underpinnings for the remainder of the integration work.

If Council resolves to proceed, it is recommended that Council does not accept delegation from the Department of Planning and Environment for the steps to finalise the LEP amendment (should it proceed to completion).

The primary disadvantage of the planning proposal not proceeding is that this will result in delays in the consolidation of deferred land into the BLEP 2012.

The deferral of the proposal is not recommended on the basis that it is considered that a suitable level of technical information has now been compiled to enable a Gateway determination. If the Council wishes to have a briefing on the matter, it is recommended that this be scheduled to occur post Gateway determination after initial engagement has occurred with those landholders with land the subject of proposed environmental protection zones.

**RECOMMENDATIONS**

1. That Council endorses, for Gateway determination, the introduction of land use tables for the E2 Environmental Conservation and E3 Environmental Management zones and a local clause addressing environmental considerations into the Ballina Local Environmental Plan 2012 in accordance with the planning proposal contained in Attachment One.
2. That Council endorses, for Gateway determination, the application of land use zones and associated planning provisions in relation to the land identified within Stage 1 of the deferred matter integration program as contained in Attachment One.
3. That Council submits the planning proposal contained in Attachment One to the NSW Department of Planning and Environment for review and Gateway Determination.
4. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken.
5. That Council receive a further report on Stage 1 of the deferred matters integration program following the completion of the public exhibition of the planning proposal.

**Attachment(s)**

1. Planning Proposal - Deferred Matters Integration Stage 1 (Under separate cover)

## 9.4 Development Control Plan 2012 - Amendment

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### 9.4 Development Control Plan 2012 - Amendment

**Delivery Program** Strategic Planning

**Objective** To advise the Council in relation to a periodic review of the Ballina Shire Development Control Plan 2012 and to seek direction in relation to the public exhibition of proposed amendments.

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#### **Background**

At its Ordinary Meeting held on 20 December 2012, the Council resolved to adopt the Ballina Shire Development Control Plan 2012 (DCP) [Minute No. 201212/13]. The DCP commenced operation in conjunction with the *Ballina Local Environmental Plan 2012* (LEP) on 4 February 2013.

Since the initial adoption of the DCP a number of amendments have been endorsed by the Council including four general amendments resulting from periodic review processes. The most recent amendments to the DCP include Amendment No. 7 relating to the Skennars Head Expansion Area which was adopted by the Council at its Ordinary Meeting held on 27 October 2016, and the amendment for No. 16 Tara Downs, Lennox Head which was adopted by the Council at its Ordinary Meeting held on 24 November 2016.

The DCP is reviewed periodically as resources permit, and identified issues are researched and addressed through this review process. This ensures that the DCP is able to remain a contemporary and evolving document which is responsive to development issues and changing Council policy.

Proposed amendments addressed within this report include:

- Inclusion of a new clause 3.22 Road Noise Mitigation contained within Chapter 2 – General and Environmental Considerations;
- Adjustments in Part 5 of Chapter 3 – Urban Subdivision to ensure consistency with new draft clause 3.22 Road Noise Mitigation;
- Inclusion of an equivalent zone provision in Chapter 1 – Administration to address the interpretation of deferred matters under Ballina LEP 2012;
- Amendment of public notification provisions contained within Chapter 1 – Administration with regard to the notification requirements for group home proposals; and
- Adjustments within Chapter 2 – General and Environmental Considerations relating to improve the operation of public art and car access and manoeuvring provisions.

This report also addresses the following resolution of the Council arising from its 29 September 2016 Ordinary Meeting [Minute No 290916/17]:

*That Council receives a report on the status of the Significant Tree Register contained within the DCP.*

The following provides an outline of recommended amendments to the DCP and seeks direction on the progress of the amendments to public exhibition.

### Key Issues

- Review of applicable development controls/guidelines.
- Public exhibition of Draft Amendment to the Ballina Shire Development Control Plan 2012.

### Information

Details of proposed amendments to be included in the Draft Amendment are contained within Attachment One to this report. Proposed amendments of more significance are discussed below.

#### Chapter 2 – General and Environmental Considerations – Clause 3.22 Road Noise Mitigation

It is proposed to insert a new clause 3.22 into Chapter 2 of the DCP 2012 to address the provision of road noise mitigation and provide guidance on options for feasible and reasonable road traffic noise mitigation measures. The new clause originated in response to the Council's previous resolution not to proceed with the remaining section of a noise attenuation wall at Ballina Heights Drive in Cumbalum.

The Council, at its Ordinary Meeting held on 28 May 2015 [Minute No. 280515/28] resolved to lodge a section 96 application in respect to development consent No. 2010/1045 to determine if the remainder of the approved noise attenuation wall along a section of Ballina Heights Drive warranted construction. Subsequently, a section 96 application lodged in respect of the development consent was approved on 14 December 2015 which deleted the requirement for construction of the remaining acoustic wall.

The Council also resolved at its 28 May 2015 Ordinary Meeting to prepare an assessment framework requiring road noise impacts, in association with other residential amenity and urban design issues, to be considered in strategic planning and development approval of urban areas and associated public infrastructure.

The provisions contained within the new clause were developed in line with the NSW Road Noise Policy which identifies strategies to address road traffic noise from existing roads, new roads and new traffic generating developments. Selection of road noise mitigation measures must have regard for a number of matters such as the effectiveness of the proposed measure; urban design, visual, aesthetic and scenic view impacts and the whole of life costs of the proposed measure, including the equitable allocation of costs and benefits to stakeholders (developers, road authorities, existing and future residents).

The proposed amendment will provide more clarity and certainty for developers, consultants and the community regarding the assessment of road noise and mitigation measures.



## **9.4 Development Control Plan 2012 - Amendment**

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### Chapter 3 – Urban Subdivision – Part 5 – Precinct Specific Controls

Minor changes are proposed to Chapter 3 of the DCP relating to precinct specific controls for Ballina Heights Estate, Cumbalum; Cumbalum Precinct B and Cumbalum Views. These changes will provide consistency with the new clause 3.22 Road Noise Mitigation and the NSW Road Noise Policy.

### Chapter 1 – Administration – Part 1.5A Interpretation – Deferred Areas Ballina LEP 2012

It is proposed to insert a new clause 1.5A into Chapter 1 of the DCP 2012 to address the interpretation of deferred matters in the Ballina LEP 2012. The amendment inserts a provision to clarify how references to zones in the DCP are to be interpreted in relation to areas identified as deferred matters under the Ballina LEP 2012 (i.e. areas currently subject to the Ballina LEP 1987). This amendment reinforces that the provisions of the DCP 2012 apply to all land within the shire.

### Chapter 1 – Administration – Clause 3.2.4 Public Notification and Exhibition of Development Proposals

This amendment implements the changes endorsed by the Council at its Ordinary Meeting held on 28 January 2016. At that meeting, the Council resolved to amend its notification process in respect of development applications involving the construction of 'group homes' comprising up to 10 bedrooms being within one or more group homes on a site.

The intent of the amendment is to treat group homes that are otherwise compliant with residential development standards in the same way as dwellings in terms of the application of Council's notification procedures.

### Chapter 2 – General and Environmental Considerations – Clause 3.19.3 B Car Access and Manoeuvring Areas

It is proposed to amend clause 3.19.3 B (iii) to clarify the interpretation of the requirements regarding vehicular access to and from a site. Specific types of development (e.g. multi dwelling housing on a greenfield site) are required to comply with the provisions of entering and leaving the site in a forward direction.

However, the amended clause acknowledges that a more flexible approach may be appropriate for some types of development provided it can be demonstrated there are no significant potential internal driveway (vehicular or pedestrian) conflicts.

### Chapter 2a – Vegetation Management (Significant Tree Register)

As indicated above, the Council requested a report in relation to the use of a significant tree register under Chapter 2a of the DCP.

## 9.4 Development Control Plan 2012 - Amendment

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By way of background, the Council considered the application of a significant tree register as part of the preparation of the Ballina Shire Development Control Plan 2012. The register was considered as a means of nominating specific trees in the landscape as one of the triggers for the need for development consent where vegetation management works are proposed (see below for definition). Ultimately, on adoption of the DCP in December 2012 [Minute No: 201212/13], the Council did not adopt a significant tree register as part of Chapter 2a in favour of other provisions to address vegetation management on private land.

In adopting the DCP in 2012, the Council sought a further report on Chapter 2a - Vegetation Management. Council considered this report at its April 2013 Ordinary Meeting. The following extract from that meeting provides an overview as to the rationale for the provisions in the Chapter:

*In drafting the recommended set of regulatory controls for vegetation management works that are now contained in Chapter 2a, and having regard for the outcomes of our workshop sessions with Councillors at that time, staff considered a number of key factors. Particular attention was given to identifying vegetation assessed as being visually or ecologically significant in urban areas of the shire and how development controls might best be applied to regulate works potentially affecting this vegetation.*

*It was also considered important to not over-regulate vegetation management works and tree removal such that it unnecessarily restricted landowners and occupiers from undertaking gardening, landscaping and routine maintenance works on their land. In reviewing the significant vegetation in the urban areas of the shire, two key components were identified:*

- *Large and prominent vegetation that contributes to streetscapes and the amenity of urban areas, and*
- *Stands of contiguous significant native urban bushland that contributes to the amenity and character of urban areas.*

*Having regard for the above, the controls which were adopted into Chapter 2a require prior Council consent for vegetation management works involving the following (unless a specified exclusion applies):*

- *Large and prominent vegetation: any tree (either native or non-native) with a height of 6m or greater, and*
- *Significant urban bushland: any works affecting vegetation identified on the Significant Urban Bushland Map.*

*In addition to the above, some circumstances were identified where more specific vegetation controls would be appropriate. These are:*

- *Development consent required for works involving Pandanus trees 3 metres high or greater in East Ballina, Lennox Head and Skennars Head due to the significant contribution these trees make to the character of these localities; and*
- *Development consent required for works potentially impacting trees or shrubs 3 metres high or greater on sites containing items of environmental heritage to enable an assessment of the extent of impact on the character of identified heritage items.*

In response to the above, the Council resolved to receive a further report on the operation of Chapter 2a after it had been in operation for a period of 12 months [Minute No: 240413/6].

In accordance with the above, the operation of Chapter 2a was addressed as part of DCP Amendment No.3 in a report to the Council's March 2013 Ordinary Meeting.

## 9.4 Development Control Plan 2012 - Amendment

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Staff advised that the revised provisions of the Chapter appeared to be working well, with their major benefits including provision of increased clarity around the tree species that require consent for removal. No changes were proposed by staff or sought by the Council.

In addition to the above, the operation of Chapter 2a and its provisions are considered at each periodic review of the DCP, with Council having undertaken four of these reviews (inclusive of the current review the subject of this report) since the inception of the DCP in February 2013. No changes to Chapter 2a have been identified by staff during these reviews as being necessary or beneficial.

In summary, the current provisions of Chapter 2a require development consent for vegetation management works on land in urban zones only in the following circumstances:

### 3.1.2 Development Control

Development consent is required for **vegetation management works** on land located within an **urban zone** when the vegetation management works will affect:

- a) Any tree (either native or non-native) with a height of 6 metres or greater;
- b) Any tree of the species *Pandanus tectorius* (Screw Pine) with a height of 3 metres or greater and located in the localities of East Ballina, Lennox Head or Skennars Head;
- c) Any vegetation located on land identified as Significant Urban Bushland on the Significant Urban Bushland Map; and
- d) Any tree with a height of 3 metres or greater located on land containing an Item of Environmental Heritage as specified in Schedule 5 of the *Ballina Local Environmental Plan 2012*.

Vegetation management works are defined as:

**vegetation management work** means any activity or work that affects vegetation and includes the undertaking of any of the following actions with regard to vegetation: burning, clearing, cutting down, destroying, felling, injuring, killing, logging, lopping, poisoning, pruning, removing, ringbarking, slashing, thinning, topping, digging up or uprooting.

These provisions are designed to trigger a need for development consent for vegetation management works involving significant vegetation in the landscape both from an ecological and amenity perspective.

There is a list of circumstances where there is an exemption from the need for development consent (e.g. non-native trees planted for food production or trees that present a risk to human life) and the DCP provisions do not apply to vegetation management works on public land (these works are subject to Council's Urban Vegetation on Public Land Policy – a revised version of this policy was adopted by the Council at its September 2016 Ordinary Meeting).

Overall, the current provisions of Chapter 2a of the DCP are presently considered to be suitably achieving a balance between triggering a need for development consent (an application for vegetation management works and associated assessment) and allowing private landowners to undertake works without approval. Given this, no changes to Chapter 2a are recommended at this time.

### Sustainability Considerations

- **Environment**

The DCP establishes local planning policy in relation to a variety of environmental, social and economic considerations. Specifically, it establishes direction for development outcomes within the shire. As such, the DCP provides an opportunity for Council to address a wide range of sustainability considerations in relation to development. The implementation of the Draft Amendment to the DCP will improve the application of these sustainability considerations.

- **Social**

As above.

- **Economic**

As above.

### Legal / Resource / Financial Implications

The preparation of the Draft Amendment to the Ballina Shire Development Control Plan 2012 will be undertaken in accordance with the requirements of the Environmental Planning and Assessment Act 1979 (EP&A Act) and its associated Regulation. The amendment can be completed within existing available staff and financial resources.

### Consultation

A number of the proposed amendments have resulted from direct feedback from both internal and external sources following the commencement and operation of the DCP, whilst others are as a result of an adopted resolution of the Council.

If the public exhibition of the Draft Amendment to the DCP is endorsed by the Council, a public exhibition over a period of at least 28 days duration will be undertaken in accordance with the requirements of the EP&A Act and associated Regulation.

### Options

1. Endorse the Draft Amendment to the Ballina Shire Development Control Plan 2012 for public exhibition.

This approach would involve the public exhibition of the draft amendments to the DCP, either generally as presented in this report to the Council or with any amendment(s) as specified by the Council.

Following public exhibition of the amendments to the DCP, a report on submissions received would be presented to the Council to provide a further opportunity for the Council to consider the amendments prior to their finalisation and adoption.

This approach is recommended as it will enable further consideration of the proposed amendments that seek to improve the function, interpretation and “user friendliness” of the DCP.

## 9.4 Development Control Plan 2012 - Amendment

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2. Cease preparation of the Draft Amendment to the Ballina Shire Development Control Plan 2012.

It is open to the Council to cease further progress on the Draft Amendment to the DCP. This option is not recommended as there are substantial advantages in proceeding with the amendments to ensure the optimal function and operation of the DCP in relation to development outcomes for the shire.

3. Defer the endorsement of the Draft Amendment to the Ballina Shire Development Control Plan 2012 and hold a Councillor briefing.

This approach is not recommended prior to the public exhibition of the draft amendments.

If a Councillor briefing is seen as being desirable, it is suggested that this be scheduled during, or at the conclusion of, the public exhibition period.

### RECOMMENDATIONS

1. That Council proceed to undertake the public exhibition of the draft amendments to the Ballina Shire Development Control Plan 2012 (as contained in Attachment One), in accordance with the terms of the *Environmental Planning and Assessment Act* and the associated Regulation.
2. That a further report be submitted to the Council following the public exhibition of the draft amendments.

### Attachment(s)

1. Schedule of Proposed Amendments - Ballina Shire DCP 2012 (December 2016)

## 9.5 State Environmental Planning Policy - Draft

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### 9.5 State Environmental Planning Policy - Draft

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the public exhibition of a draft new State Environmental Planning Policy concerning coastal management.

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#### **Background**

A number of State Environmental Planning Policies (SEPPs) operate in New South Wales. These policies articulate the State Government's position in relation to a number of key planning issues considered to be of primary importance within our planning framework.

Over the last couple of years the Government has been working to overhaul the planning provisions applying to the State's sensitive coastal areas. This work has culminated in the introduction of new legislation titled the Coastal Management Act 2016.

This report provides Council with an overview of the new legislative framework and outlines the provisions of a new draft SEPP and how it is designed to achieve the Government's objectives contained in the new Act.

#### **Key Issues**

- Planning policy applying within identified sensitive coastal locations.

#### **Information**

The Coastal Management Act 2016 was introduced earlier this year and it is expected the new Act will begin to operate during 2017. The Act contains a significant number of key objectives, including to protect and enhance natural coastal processes and coastal environmental values and to facilitate ecologically sustainable development.

As a means of achieving these and other stated objectives, the NSW Department of Planning and Environment has prepared a new State Environmental Planning Policy – Coastal Management. The draft SEPP is currently on exhibition for community and public authority comment.

Once adopted and operational, the new SEPP will replace other existing SEPPs; being SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The new Act divides the coastal zone into four discrete coastal management areas defined by the unique features of different localities. The four areas are the:

- a) coastal wetlands and littoral rainforest area
- b) coastal vulnerability area
- c) coastal environmental area and
- d) coastal use area.

The Department's view is that redefining the broader coastal zone into these four areas, rather than by a single fixed area along the entire State coastline, will enable more targeted management of the diversity of environments and interests in the coast.

The draft SEPP and the relevant maps which accompany it set out the various provisions for each of the four coastal management areas referred to above. Whilst the State Policy will prevail over respective councils' local environmental plans, it will not interfere with these local plans or supporting development control plans insofar as they apply to the coastal areas. Our local provisions will continue to operate.

As part of its current community consultation and public exhibition program, the Department has prepared and issued a number of Fact Sheets to help clarify aspects of the draft SEPP. A copy of each of these Fact Sheets is attached to this report for the information of Councillors.

It will be noted from this accompanying information that the Department is inviting feedback up until 23 December regarding the draft SEPP. It is open to the Council to decide to make a submission to the Department regarding the material on exhibition. From staff's perspective however, this is not considered necessary. The material has been reviewed, and staff from within our Civil Services, Development and Environmental Health and Strategic and Community Facilities Groups recently attended a briefing session hosted by representatives from the Department. As with any other new policy position adopted by the Government, appropriate changes will be incorporated into our reporting systems and work flows to reflect new requirements.

The Department has 'built into' the draft document a mandatory review after twelve months of the policy's operation to assess its effectiveness. That would provide an opportunity for Council to have further input at that time, if required.

### **Sustainability Considerations**

In Social, environmental and economic terms, the new policy is intended to achieve more sustainable outcomes within highly valued coastal areas of the State.

### **Legal / Resource / Financial Implications**

From what can be ascertained from the draft policy and supporting material, the changed planning framework should not have any significant implications for Council. Obviously, this will be monitored.

### **Consultation**

The Department has undertaken broad community consultation in relation to the draft policy. Previously, the NSW Office of Environment and Heritage consulted widely in relation to the draft Coastal Management Bill prior to its adoption.

**Options**

This report is intended only to inform the Council of State legislative reforms concerning planning policy within coastal areas. Consequently, options have not been presented.

**RECOMMENDATION**

That Council notes the contents of this report which outlines the NSW Government's action to introduce new planning provisions for the protection and management of the State's coastal areas.

**Attachment(s)**

1. Community Factsheet
2. Coastal Wetlands and Littoral Rainforests Area brochure
3. Coastal Vulnerability Area brochure
4. Coastal Environment Area brochure
5. Coastal Use Area brochure
6. Coastal Protection Works brochure
7. Draft Coastal Management State Environmental Planning Policy - What Happens Next summary



## 9.6 Community Land Plan of Management - Review

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### 9.6 Community Land Plan of Management - Review

**Delivery Program** Community Facilities and Services

**Objective** To update the Council following public exhibition of amendments to the Plan of Management for Community Land relating to the proposed categorisation of various parcels of Community Land.

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#### **Background**

The Council considered proposed amendments to Council's the Plan of Management for Community Land (PoM) at its July 2016 Ordinary Meeting.

The proposed amendments have arisen as an outcome of an ongoing monitoring and update program under which a general review of the plan was undertaken. The review identified a need to update the plan to reflect Council's land acquisitions and disposals and to address the categorisation of various community land parcels.

In considering the proposed amendments, the Council resolved as follows [Minute No: 280716/30]:

1. *That Council places on exhibition the revised Plan of Management for Community Land for a minimum period of six weeks in accordance with the requirements of the Local Government Act 1993.*
2. *That following the conclusion of the public exhibition, a public hearing be held in relation to the proposed categorisation of land.*

In accordance with the Council's resolution, the revised plan was publicly exhibited during September and October 2016 and a mandatory public hearing was held in November 2016.

The purpose of this report is to outline the outcomes of the public exhibition and hearing processes and seek direction on the adoption of the proposed plan amendments.

#### **Key Issues**

- Application of categories and provisions to community land parcels.
- Compliance with the Local Government Act.

#### **Information**

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

## 9.6 Community Land Plan of Management - Review

The existing PoM has been reviewed in accordance with a planned period review cycle. This review identified that the PoM is generally operating effectively and is meeting legal and operational needs. The review has had particular regard for changes in Council's land holdings and the categorisation of land parcels.

With respect to categorisation, the LG Act requires that parcels classified as community land must have a category assigned to them from a pre-defined list set out under the Act. The categories available are natural area (with sub categories being bushland, wetland, escarpment, watercourse and foreshore), sports ground, park, area of cultural significance and general community use.

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

The amendment to the PoM also incorporates special provisions for certain new land parcels and updates the provisions more generally. The updates specifically include removal of provisions relating to land that was reclassified as operational land under LEP Amendment No.25 (completed on 18 November 2016). Other minor adjustments to the PoM have also been undertaken.

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

The categorisations proposed and publicly exhibited are shown in Table 1.

**Table 1: Proposed Categorisations**

Land Parcel	Address	Proposed Category
Ferry Landing Reserve	109 Burns Point Ferry Road West Ballina	General Community Use
Ferngrove Reserve	Elkhorn Parade Ballina	General Community Use
Burke Walk Reserve	Minley Crescent East Ballina	General Community Use
Condon Drive Reserve	Condon Drive East Ballina	General Community Use
Scotia Avenue Reserve	19 Scotia Avenue Cumbalum	General Community Use
Campbell's Common (GNB 5534)	19 Madden Place Cumbalum	General Community Use
Campbell's Common (GNB 5534)	Madden Place Cumbalum	General Community Use
Ballina Heights Wetland Reserve	Cummings Crescent Cumbalum	General Community Use
Campbell's Common (GNB 5534)	14 Unara Parkway Cumbalum	General Community Use
Campbells Common	18 Unara Parkway Cumbalum	General Community Use
Chilcott Circuit Reserve	Power Drive Cumbalum	General Community
Power Drive (Ballina Heights) Sporting Fields	Power Drive Cumbalum	Sportsground
Gradwell Drive Reserve	6 Gradwell Drive Lennox Head	General Community Use
Fieldcrest Place Reserve	20 Fieldcrest Place Lennox Head	Park
Ridgeview Park	8 Elevation Drive Lennox Head	General Community Use

## 9.6 Community Land Plan of Management - Review

Land Parcel	Address	Proposed Category
Aspects Estate Buffer	6 Libby Lane Lennox Head	Natural Area - Bushland
Coastal Grove Reserve	2 Brolga Place Lennox Head	General Community Use
Wardell & District War Memorial Hall	49 Richmond Street Wardell	General Community Use
Skennars Head Public Reserve, Skennars Head	Skennars Head Road, Skennars Head	General Community Use
Spring Creek Reserve, Wollongbar	Spring Creek Place, Wollongbar	General Community Use
Highfield Terrace Reserve, Cumbalum	1 Unara Parkway, Cumbalum	General Community Use
Ferngrove Reserve, Ballina	Elkhorn Parade, Ballina	General Community Use
Wollongbar Urban Expansion Area – BolwarraPark	Bolwarra Circuit, Wollongbar	Park
Chilcott Circuit Reserve	Chilcott Reserve, Cumbalum	General Community Use
Chilcott Circuit Reserve	Chilcott Circuit, Cumbalum	General Community Use

Further review of Council's records has shown that the Fieldcrest Place Reserve is already appropriately classified as a Park. As such, no amendment of the plan is required in relation to this land parcel.

With respect to Ocean Breeze Reserve, proposed special provisions relating to this land were not progressed under the amendment due to Council's July 2016 resolution to prepare a management plan for the reserve. Future use of this area will be determined through the site-based management planning process.

### Sustainability Considerations

- **Environment**

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

- **Social**

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

- **Economic**

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

**Legal / Resource / Financial Implications**

The amendments to the Plan of Management ensure Council meets its obligations under the Local Government Act.

There are no significant resource or financial implications associated with the proposed amendments.

**Consultation**

The proposed amendments to the plan were publicly exhibited between 7 September 2016 and 30 October 2016. No submissions were received in response to the public exhibition. A copy of the exhibited draft plan is contained in Attachment 1.

A public hearing was held on 30 November 2016, which was independently facilitated. No members of the public attended the hearing and no submissions were received. A report on the hearing prepared by Rob Van Iersel Environmental Planner is contained in Attachment 2.

**Options**

Council may now proceed to adopt the amendments. Given that there are no issues arising as a result of the public exhibition of the revised draft plan and the amendments update the plan in line with Council's obligations under the Local Government Act, this is the recommended approach.

Alternatively, Council could cease further work on the amendment or defer the matter to seek further information. Having regard for the rationale outlined above, neither of these options is recommended.

**RECOMMENDATION**

That Council endorses the amendments to the Plan of Management for Community Land as exhibited and as outlined in this report.

**Attachment(s)**

1. Plan of Management for Community Land 2015 Version 2 final 6 September 2016 (Under separate cover)
2. Report from Rob Van Iersel following public hearing

**9.7 Ballina Indoor Sporting Centre - Draft Lease and Terms**

**Delivery Program** Community Facilities and Services

**Objective** To provide an update to the Council concerning the proposed arrangements for the delivery of the Ballina Indoor Sporting and Recreation Facility and seek direction on the project deed and lease associated with the facility.

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**Background**

Council has been contemplating the construction of an indoor sporting facility for a considerable period of time, spanning across multiple terms of Council.

The first detailed investigations into the delivery of such a facility were undertaken in 2008 and since that time a substantial body of investigations, reviews and analysis has been completed.

Background in relation to the investigations is contained in the June 2016 report to Council's Facilities Committee (attachment one).

The confirmed need for the facility was originally identified for Council by the Strategic Leisure Group Pty. Ltd. in 2008 where their Pre-Feasibility Study stated as follows:

*In respect to facility need, the Pre-Feasibility Study found that:*

- a) *Ballina has a shortfall in community and school access to 'suitable' indoor sports courts for the sports of basketball, netball, volleyball, badminton and indoor soccer (futsal)*
- b) *Ballina is over represented in all age groups of 50 years and over, and there may be a need to plan for the provision of indoor spaces suitable for 'active recreation' and meetings, other than sporting competition and training needs*

Strategic Leisure Group then completed a Feasibility Study for Council, in 2009, which further confirmed the need for this facility.

A copy of that report is included as attachment two.

That report also helps to highlight the potential uses / users of this facility including:

- Basketball
- General indoor sport – training
- Futsal (indoor soccer)
- Volleyball
- Netball
- Aerobic/ Community Fitness
- Yoga/ Tai Chi
- Club Meetings & Activities

## 9.7 Ballina Indoor Sporting Centre - Draft Lease and Terms

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- Community Education ('How To' classes)
- Dance Lessons (jazz, ballet, etc)
- School use during the day
- Presentation and award nights
- Live youth music / concerts
- Emergency assembly area
- Exhibitions/ trade shows

This demonstrates the wide, potential, user base of this facility once completed.

Subsequent to the 2009 Strategic Leisure Group report, Council has spent the last seven years examining site options, with numerous sites proving to be problematic for varying reasons.

The sites examined include the Old Depot Site, Southern Cross Industrial Estate, Kingsford Smith Oval, Gallens Road, Ferngrove Estate, Ballina Heights, Treelands Reserve etc.

With the re-development of the Ballina High School, Council has now been provided the unique opportunity to fund the construction of two indoor courts on NSW Department of Education of land to deliver this long overdue facility to the community.

In summary, this proposal involves construction of a facility that provides for four sporting courts (one court being primarily a performing arts space that can be converted) on the site of the Ballina High School, with Council funding two of the courts and there being no cost or charge for Council use of the land.

In considering this proposal in February 2016, Council's Facilities Committee recommended proceeding with planning and negotiations for the provision of an indoor sporting facility on the Ballina High School site through a shared project with the Department of Education. This recommendation was adopted by the Council at its February 2016 Ordinary Meeting [Minute No. 250216/34].

A further report on the matter was presented to the Facilities Committee in June 2016. At that meeting the Committee recommended that Council proceed with the arrangement and commit to the project. Council subsequently resolved to adopt the Committee's recommendation.

The Council's resolution is as follows [Minute No. 230616/35]:

1. *That Council commits to provision of an indoor sporting facility in Ballina on the site of the Ballina High School through a joint venture with the NSW Department of Education.*
2. *That Council's commitment to the joint venture is based on:*
  - *provision of a sporting facility generally in accordance with the plans contained in Attachment 1 (comprising of the equivalent of two indoor sporting courts provided by Council and two by the Department of Education).*
  - *a capital cost for the facility of approximately \$9.35 million to be paid in instalments.*
  - *a long term lease arrangement of 50 years.*

## 9.7 Ballina Indoor Sporting Centre - Draft Lease and Terms

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- *the inclusion of a clause where any non-renewal of the lease results in a payout to Council of the asset value.*
  - *consideration of a commercial kitchen.*
  - *inclusion of a mezzanine seating level.*
3. *The Council acknowledges that in committing to this joint venture it is accepting the following risks / conditions:*
- *The funding for this project is being sourced, in part, from the Landfill and Resource Management Reserve, which significantly restricts the ability of our waste operations to respond to any changes in legislative and operational arrangements for the next three to four years*
  - *The funding is based on a grant of \$4 million, with no guarantee that this source of funding will be provided during the construction of the project*
  - *If the grant funding is not secured, Council accepts that other revenue raising measures such as above the rate pegging limit rate increases may be needed to ensure the long term financial viability of Council*
  - *The construction of this facility, as a new asset, will place increased pressure on our ability to achieve compliance with the State Government's Fit for the Future Program, as the facility is likely to operate at a significant cost to the community, particularly once the depreciation expense is included*
  - *That all efforts need to be made to ensure our contribution is limited to the agreed figure to limit any further deterioration in our overall financial position.*
4. *The General Manager is authorised to complete negotiations with the Department of Education to formalise the joint venture arrangement as well as operational and maintenance agreements to enable delivery of the project. The General Manager is also to report back to Council any matters that are considered to be of such significance by the General Manager, that they require a Council determination.*
5. *That Council affix the common seal to the joint venture agreement and associated documentation.*
6. *That the detailed design phase include community consultation.*
7. *That Council receive a report on options for financing the inclusion of the mezzanine level.*

This resolution followed extensive discussions with the Department of Education.

In particular, the elected Council has had opportunity to discuss the concept with Department of Education staff and consider concept plans and costings for the facility.

A copy of the concept plan included in the June 2016 report is contained in attachment three.

Staff have also been engaged in ongoing discussion with Departmental staff and a representative of Council has attended regular project meetings in relation to the redevelopment of the Ballina High School, with these meetings including the indoor sports stadium as a standing item.

## **9.7 Ballina Indoor Sporting Centre - Draft Lease and Terms**

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The purpose of this report is to update the Council on progress in relation to the June 2016 resolution and seek direction in relation to the project deed and lease documentation.

### **Key Issues**

- Provision of community infrastructure
- Opportunities for cost sharing and resource efficient use of resources
- Overall cost and financial implications

### **Information**

In line with the Council's June 2016 resolution, staff have been in negotiation with the Department of Education in relation to the content of a project deed and lease to enable the proposed project to proceed. The project deed is a document that outlines the overarching commitments of the parties. The lease provides tenure for Council over the land and sets out the associated conditions and circumstances of that tenure.

The discussions regarding the documents have been subject to legal review. Council has engaged Clarissa Huegill of CH Law to provide advice to Council and the Department has engaged Hunt and Hunt to act on its behalf.

With respect to item two of Council's June 2016 resolution, the following information is provided in relation to the approach taken to date:

1. The planning for the facility and the terms of the project deed and lease have been based on the plans presented to the June 2016 meeting (attachment three) as per Council's resolution. These plans depict a four court facility in a configuration which shows a clear delineation between the parts of the overall facility constructed by each party.

There has been some Councillor interest in three courts being as one, with another separate court, however discussions with Department of Education and from a Council staff perspective have supported the two and two model configuration.

This is considered to provide sufficient space for large events, provides clearer delineation during school hours and from a Council management perspective, it also provides that clearer delineation in respect to operating the facility, along with future maintenance costs.

2. The Department has proposed a lease term of 50 years, although an early termination provision allows the Department to terminate the lease with 12 month's notice after 19 years (effectively a 20 year period).

Staff consider this feasible provided that a suitable compensation provision recognises Council's contribution to the facility where the lease is terminated earlier, or not renewed after 50 years.

Council has proposed a provision that requires a payment to Council reflecting the written down replacement value, as determined by an independent quantity surveyor, of the Council's component of the asset in circumstances where the lease is terminated early or it is not renewed.



The written down replacement value reflects the value of replacing the asset, in current dollars (at that time), less a recognition of the current condition of the asset (at that time).

3. A commercial kitchen in the facility has not been advanced on the basis that both the original and revised budgets do not include this infrastructure.

The Department of Education has highlighted that the new School will have two commercial kitchens and there is the Cherry Street Bowling Club across the road to meet this demand, without Council also providing a kitchen. Alternatively, where circumstances require, a “pop up” kitchen to service the needs of a particular large function can also be arranged within the grounds of the facility, where other catering options have been exhausted.

4. There has been little progression on the mezzanine level, noting the estimated cost for inclusion of the mezzanine is upwards of \$1 million and Council does not have the funding to support this infrastructure.

The mezzanine level is an addition that could be retrofitted in the future, when Council has surplus funds for a non-essential item such as this. Similarly, space for retractable seating can be provided in the design of the building, but with that item deferred from the initial construction and its future provision being subject to grant funding.

With respect to the project deed and lease documentation, the following provides an outline of the key underpinning principles on which negotiations have proceeded:

5. Council will be granted a 50 year lease term with the Department having the benefit of an early termination provision applicable after 19 years.
6. Council will be compensated for its contribution to the facility in a circumstance where the lease is either terminated early, or it is not renewed after 50 years.
7. Council will not be required to pay any rent for its occupation of the land on which its portion of the sporting facility is situated. Council would pay its consumption charges (electricity, water etc).
8. Council has access to its part of the facility at all times with outside users limited to reasonable hours (likely to be determined through the development assessment process). Council/community has access to the High School part of the facility outside school hours (defined as 8am to 3.30pm weekdays) and within these hours during scheduled school holidays.
9. Council will be able to undertake a wide range of uses within its part of the facility including sporting activities, meetings, conferences and the like.
10. The Department has responsibilities in relation to the rectification of identified building defects with respect to Council's part of the facility for a period of 12 months after construction.

## **9.7 Ballina Indoor Sporting Centre - Draft Lease and Terms**

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11. Council will apply its booking management system to the entire building and acts as a booking agent for community groups seeking to use the School's parts of the facility.

This means that Council staff will directly manage the facility ensuring on-going ownership of the building, and avoiding the situation that has arisen at Southern Cross School, where, due to a lack of direct involvement by Council, the operations of that facility, which was part funded by Council, are now totally controlled by the School.

12. Where Council or its user groups utilise the School's facilities, net revenue for the use of this area will be directed to the School.
13. Where Council or its user groups utilise Council's facilities, net revenue for the use of the area will be directed to Council.
14. The School may utilise Council's facilities where they are not otherwise booked at no cost on a limited basis.
15. The lease commences upon the issue of a compliance certificate for the construction of the facility.
16. The construction of the facility will be procured through the Department's tender and contract management processes.
17. Monitoring and management of the arrangements will be through a development control group consisting of the appointed project manager and representative of both Council and the Department.
18. Council will be required to make progress milestone based payments for construction of the facility with the final payment being due at, or after, handover.

There is still some refinement of the project documentation that staff consider necessary before executing the project deed and lease agreements.

This report seeks Council's direction in relation to the completion of the negotiation process and recommends that the General Manager be authorised to complete the necessary steps. Once the project deed and lease documentation is agreed, Council is able to progress into the detailed design phase of the project.

Unfortunately, due to timing, it is now likely that Council's component of the facility will need to be subject to a separate development application (to that of the overall High School redevelopment).

Importantly, the detailed design phase will need to address specifics of configuration within the facility, as well as external elements such as appearance and car parking.

It is anticipated that Council will utilise the existing project team assembled by the Department to complete the necessary documentation and processes associated with obtaining development consent.

This provides Council with the advantage of drawing on a significant body of assessment completed for the High School redevelopment.

### **Sustainability Considerations**

- **Environment**

Technology and materials that are environmentally efficient will be used where possible.

- **Social**

The provision of the proposed facility seeks to meet an identified need for indoor sporting infrastructure in Ballina Shire. This infrastructure has been identified as needed through demand analysis studies, the Ballina Major Regional Centre Strategy and Council's Section 94 developer contributions planning.

- **Economic**

An indoor sporting facility has the potential to attract and generate activities that have positive benefits to the local economy through visitor spending (e.g. accommodation). Notwithstanding, it is important to weigh this against the cost to the community of building and operating such a facility.

### **Legal / Resource / Financial Implications**

With respect to the project documentation, Council is receiving legal advice on its suitability in terms of meeting Council's desired outcomes as expressed through its resolutions.

In respect to funding, the Community Infrastructure Reserve report to the 6 December 2016 Finance Committee (agenda item 4.3) highlighted funding concerns.

The recommended actions for the minutes from that meeting, as included later in this agenda, may well need to be amended to reflect the latest funding options, as per the information that follows.

The quantity surveyor's report, as prepared for the Department of Education, for Council's share of this project confirmed an indicative project cost of \$8m, excluding the mezzanine level, which is an additional \$1m. The \$8m estimate also includes a contingency of approximately 4%.

Council is struggling to fund the \$8m, let alone another \$1m, therefore the mezzanine has been excluded from the project. One of the major benefits of this project is that Council has a period of three, or four, financial years to raise its financial contribution.

In respect to the \$8m, the 6 December 2016 Finance Committee report recommended that Council finance this funding based on four \$2m dividends from the Landfill and Resource Management (LRM) Reserve.

The revised cash flows for that reserve, as per the Finance Committee agenda, are as follows:

## 9.7 Ballina Indoor Sporting Centre - Draft Lease and Terms

**Table One - Revised LRM Movements for Increased Dividend (\$'000)**  
(sourced from Table Five – Item 4.3 Finance Committee 6 December 2016)

Item	13/14	14/15	15/16	16/17	17/18	18/19	19/20
Operating Revenues	2,720	3,958	3,844	3,665	3,618	3,735	3,858
Operating Expense (ex dep)	1,199	1,334	2,276	1,787	1,534	1,513	1,536
<b>Net Result</b>	<b>1,521</b>	<b>2,624</b>	<b>1,568</b>	<b>1,878</b>	<b>2,084</b>	<b>2,222</b>	<b>2,322</b>
<b>Less Capital Movements</b>							
Loan Principal	1,053	1,135	1,206	1,111	194	0	0
LRM Capital Expenditure	153	96	477	537	109	113	118
Levy and Grant Adjustments	0	0	-1,256	0	0	0	0
Dividends – General Fund	148	262	280	149	221	21	21
Dividends – Sports Stadium	0	0	0	2,000	2,000	2,000	2,000
Dividends – Asset Renewal	0	0	0	0	0	0	1,000
<b>Net Cash Movement</b>	<b>167</b>	<b>1,131</b>	<b>861</b>	<b>(1,919)</b>	<b>(440)</b>	<b>88</b>	<b>(817)</b>
<b>LRM Reserve Balance</b>	<b>1,534</b>	<b>2,665</b>	<b>3,526</b>	<b>1,607</b>	<b>1,167</b>	<b>1,255</b>	<b>438</b>

This forecast highlights the relatively low balances for that reserve due to this dividend and as mentioned in the Finance Committee report, the proposed dividend for asset renewal, as identified in 2019/20, may need to be deferred to ensure that the LRM reserve has a reasonable balance.

The Finance Committee report also highlights the risk in using this reserve if Council is required to re-commence landfilling due to changes in the State Government waste levy, or if remediation of the existing landfill cells is required in the near future.

Remediation will be in the millions of dollars and creating new cells could be in the tens of millions of dollars.

It is impossible to quantify the risk of the State Government waste levy changing, as that is entirely a political decision, that could be made at any time, by the NSW or QLD State Governments.

The second concern with the magnitude of the LRM dividend is due to the LRM operations currently including in its income, the Waste Operations Annual Charge which is levied on all properties in the Ballina Shire.

Council introduced this charge, which is currently \$73 per property per service, in 2014/15, with that charge now raising approximately \$1.3m.

When Council introduced this charge in 2014/15, the Domestic Waste Management Charge (DWM) was reduced by a corresponding amount; i.e.

Charge	2013/14	2014/15	
DWM	408	352	
Waste Operations Charge	0	70	
<b>Total Charges</b>	<b>408</b>	<b>412</b>	<b>3.4% increase</b>

The reason the Waste Operations Charge was introduced was due to DWM legislative restrictions in the way in which the charge is calculated, leaving Council with a revenue shortfall to finance the operations of our landfill operations.

Therefore a corresponding Waste Operations Charge, to cater for that revenue shortfall, was introduced.

## 9.7 Ballina Indoor Sporting Centre - Draft Lease and Terms

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However, what is happening now is that our landfill operation is starting to generate a surplus, as significant loans are being repaid in full. Those repayments are decreasing from \$1.35m in 2013/14 to \$1.18m in 2016/17, \$0.2m in 2017/18 and nil in 2018/19.

The complication with the Waste Operations Charge, which is \$73 for 2016/17, is that any revenue raised from an annual charge (be it water, stormwater, sewer or waste) must be expended on the activity, for which it was raised. This means all revenue from the Waste Operations Charge must be expended on waste management.

The total revenues for the LRM operations for 2016/17 are as follows:

<b>Revenue Source</b>	<b>2016/17</b>	<b>Comment</b>
Business Waste Management	537,000	Optional charges for businesses
Waste Operations Charge	1,284,000	
Gate Fees	1,553,000	Fees collected at the gate
Council – DWM Recyclables	983,000	Charges levied on Council for this service
Council – DWM Mixed	1,882,000	As above
Council – Works	422,000	Council projects disposing waste at the landfill
Interest Earned	97,000	
Waste Levy	125,000	Council does get a rebate for some levies paid
Other	69,000	
<b>Total</b>	<b>6,952,000</b>	

The Waste Operations Charge represents 18% of this income.

The forecast cash operating surplus for LRM, after loan principal repayments, for 2016/17 is \$0.7m, 2017/18 \$1.9m and 2018/19 \$2.2m.

There are a couple of ways Council can consider the Waste Operations Charge and the proposed dividend:

1. With the loan repayments effectively ceasing in 2017/18 Council should cease the Waste Operations Charge and the LRM operations should then rely entirely on its other revenue sources. This would reduce the proposed LRM surplus by the foregone revenue. As mentioned the revenue forecast from the Waste Operations Charge for 2017/18 is \$1.3m.

To partly compensate for this lost revenue, Council could increase its internal charges for its own DWM operations. This represents a cross subsidy for the DWM operations, but it does help to generate extra revenue.

Council has previously carried out this practice when the LRM operations had significantly higher operating costs and it was impractical to further increase the gate fees at the landfill without adversely impacting all our customers.

Gate fees could also be increased above CPI to help offset the lost income from the Waste Operations Charge.

2. Alternatively Council could argue that the Waste Operations Charge represents only 18% of total LRM revenue, therefore so long as we retain at least 18% of the operating surplus in LRM, Council is complying with the requirement to ensure that the Waste Operations Charge is expended on waste operations.

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On balance, approach one is the preferred approach, as the inclusion of any annual charge in our LRM operations does raise concerns that we are transferring funds from the reserve that have been derived from an annual charge.

If approach one is followed the implications are significant in that we lose \$1.3m from our recurrent revenue, substantially decreasing our overall financial viability and negatively impacting on our compliance with the Fit for the Future Program. The level of impact would only be known once we reviewed all the other options to increase the remaining LRM revenues.

The upside to this, is that with this change, the LRM could be operated purely as a business activity, allowing Council to source dividends as needed for projects, without any concerns being raised by the inclusion of an annual charge in those revenue sources.

The next table highlights the revised cash flows and reduced dividends under this proposal.

**Table Two - LRM with removal of Waste Operations Charge (\$'000)**

Item	13/14	14/15	15/16	16/17	17/18	18/19	19/20
Operating Revenues	2,720	3,958	3,844	3,665	2,316	2,403	2,495
Operating Expense (ex dep)	1,199	1,334	2,276	1,787	1,534	1,513	1,536
<b>Net Result</b>	<b>1,521</b>	<b>2,624</b>	<b>1,568</b>	<b>1,878</b>	<b>782</b>	<b>890</b>	<b>959</b>
<b>Less Capital Movements</b>							
Loan Principal	1,053	1,135	1,206	1,111	194	0	0
LRM Capital Expenditure	153	96	477	537	109	113	118
Levy and Grant Adjustments	0	0	(1,256)	0	0	0	0
Dividends – General Fund	148	262	280	149	221	21	21
Dividends – Sports Stadium	0	0	0	1,000	2,000	1,000	1,000
Dividends – Asset Renewal	0	0	0	0	0	0	0
<b>Net Cash Movement</b>	<b>167</b>	<b>1,131</b>	<b>861</b>	<b>(919)</b>	<b>(1,742)</b>	<b>(244)</b>	<b>(180)</b>
<b>LRM Reserve Balance</b>	<b>1,534</b>	<b>2,665</b>	<b>3,526</b>	<b>2,607</b>	<b>865</b>	<b>621</b>	<b>441</b>

Key issues here are:

- The total dividends sourced for the Indoor Sports Stadium only total \$5m
- The asset renewal dividend of \$1m has been deleted for 2019/20
- The LRM reserve balance is reaching relatively low levels.

On the upside there has been no allowance in the revenue figures for additional increases above CPI in LRM charges such as gate fees, particularly to Council's own DWM operations.

This option leaves a \$3m funding shortfall for the Indoor Sports Stadium as the dividends total \$5m.

It is important that Council has a secured funding source for all of our funding, as the Office of Local Government (OLG) requires councils to complete a Capital Expenditure Review, prior to undertaking capital projects, for infrastructure facilities, that are expected to cost in excess of 10% of a council's annual ordinary rate revenue or \$1 million, whichever is the greater (GST exclusive). This relates to community building type projects and does not relate to water, sewer, road, stormwater etc projects.

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Councils are not allowed to commence facility projects, without approval from the OLG, following their assessment of the project, and at \$8m the Indoor Sports Stadium requires OLG approval.

An initial submission has been provided to the OLG, with that submission based on the initial Council funding proposal, which included \$4m to \$5m in assumed grant funds.

The OLG has raised a number of concerns with that submission and are now seeking further information. This means it is important that we have a well-documented funded strategy for this project to ensure we receive OLG approval to proceed. Therefore we need to confirm how the remaining \$3m is to be secured prior to the OLG providing their approval.

In looking at other funding options, Council is seeking grant funds for the project however they should be seen as a bonus if secured. Any grants can reduce Council's own cash contribution to the project.

Loan funds are not considered a viable option as the repayments on, for example a \$3m loan, would equate to in excess of \$300,000 per annum based on a 15 year loan at 6%. Council does not have an identified funding source to finance these repayments, although one possible option could be to use smaller dividends from the LRM reserve to finance those repayments however this would require a commitment of 15 years.

Council would not be able to access the low interest loans provided by NSW Treasury for this project as it is a new asset, not the renewal of an existing asset. The entire Fit for the Future Program and the low interest rate loans on offer are focused on councils undertaking asset renewal works.

This project is identified more as an existing deficiency in the community and is a new asset.

This project is in Council's Section 94 Plan however the timing for the collection of developer contributions is very uncertain and very variable. This revenue is similar to grants, in that we can only rely on it to reimburse our own expenditure, as the contributions are collected.

One viable funding option is asset sales. There are two assets that Council could sell to finance the balance of our contribution being:

- 1) Henderson Farm Residual – The estimated value of this land is \$3.5m to \$4m, albeit that Council would be forgoing future profits from the sale of the land.
- 2) ARC Building – This has a similar sale value, albeit that Council would be forgoing an on-going revenue stream of approximately \$250,000 per annum.

These two sales are realistic options, as a fallback position, if we are unable to secure adequate LRM dividends, or grant funds.

Even though both these assets are likely to sell quickly in the current property market, the OLG may not find this to be an adequate funding strategy, as there is some element of risk.

A further alternative is to secure the remaining \$3m from Council's Property Reserves.

The report on the Property Development Reserve in the 6 December 2016 Finance Committee meeting (Item 4.2) provided a revised cash flow for that reserve, which included \$3m in expenditure in 2017/18, for the development of the next stage of the Southern Cross Industrial Estate.

In order to satisfy the OLG, the recommendation would be to identify this as an interim funding source for the Indoor Sports Stadium, for the purposes of proving funding certainty.

This would be on the basis that the Property Development Reserve would be reimbursed by either the proceeds from the sale of the Henderson Farm Residual, or the ARC Building, or LRM Dividends, or grant funds, dependent on the funding sources confirmed over time.

The \$3m for the Southern Cross Industrial Estate is critical to funding the next stage of that development, however it can be delayed until Council has satisfied itself, and the OLG, with the funding strategy for the delivery of the Sports Stadium.

Councillors may wish to bring their December Finance Committee agenda to this meeting to assist with discussing this proposal.

In summary this is the recommended approach for funding the capital cost of this facility.

In respect to on-going operating costs, the Council's Long Term Financial Plan (LTFP) estimates the facility will operate at a net loss of approximately \$150,000, and once depreciation is included the annual loss will be closer to \$230,000 to \$250,000. Ideally these figures may improve, however it is important to be conservative in our initial financial modelling.

This will place increased pressure on Council to achieve financial sustainability and comply with the State Government's Fit for the Future Program however compliance with that Program is still forecast for our LTFP, remembering that the current model has three 2.9% increases above rate pegging for the period 2017/18 to 2019/20.

### **Consultation**

The indoor sporting facility has been the subject of extensive feedback to Council over a prolonged period of time, with this feedback coming through various processes.

This feedback has typically been favourable to the construction of an indoor sporting facility in Ballina, although the form of the facility has been the subject of much debate.

More particularly, the provision of an indoor sporting facility in Ballina was canvassed through the Ballina Major Regional Centre Strategy project and via Council's Section 94 contributions plan for Open Space and Community Facilities.



The provision of an indoor sporting facility is identified in the strategy and s94 plan now adopted by Council.

### **Options**

It is recommended that Council continues to pursue the project on the basis that the proposal provides an opportunity to complete the indoor sporting facility in the centre of Ballina ready for operation in early 2019.

To enable further progress it is recommended that the General Manager be authorised to complete negotiations with the Department of Education in line with the principles expressed in this report.

A decision to defer or cease consideration of the proposal will likely mean that Council will be unable to deliver the indoor sporting facility in the short term, as viable alternate sites for facility construction in the short term have not previously been identified.

Deferral or withdrawal from the project is not recommended.

In respect to funding it is acknowledged that capital expenditure of this magnitude is placing significant pressure on Council's finances. The large cost of this project has always been one of the main difficulties in trying to deliver a facility of this size and scale.

The benefit of the Ballina High School proposal is that the estimated cost is actually far lower than some of the earlier projects or concepts (\$10m plus) and Council is in a position to source the funding over a three to four year timeframe.

The downside is that due to the timing of the re-development of the School, we need to confirm our commitment to the project, without having absolute certainty over the funding streams.

In order to obtain OLG approval to proceed it is important that we have what could be called a worse case, or certain, funding scenario, with the aim being to improve or add to that funding by securing or raising additional revenues during the construction period.

Based on this assumption the proposed funding strategy is as follows:

- 1) Council approves forecast dividends from the LRM reserve of 2016/17 \$1m, 2017/18 \$2m, 2018/19 \$1m, \$2019/20 \$1m as per Table Two of this report; i.e.

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**Table Two - LRM with Removal of Waste Management Charge (\$'000)**

Item	13/14	14/15	15/16	16/17	17/18	18/19	19/20
Operating Revenues	2,720	3,958	3,844	3,665	2,316	2,403	2,495
Operating Expense (ex dep)	1,199	1,334	2,276	1,787	1,534	1,513	1,536
<b>Net Result</b>	<b>1,521</b>	<b>2,624</b>	<b>1,568</b>	<b>1,878</b>	<b>782</b>	<b>890</b>	<b>959</b>
<b>Less Capital Movements</b>							
Loan Principal	1,053	1,135	1,206	1,111	194	0	0
LRM Capital Expenditure	153	96	477	537	109	113	118
Levy and Grant Adjustments	0	0	(1,256)	0	0	0	0
Dividends – General Fund	148	262	280	149	221	21	21
Dividends – Sports Stadium	0	0	0	1,000	2,000	1,000	1,000
Dividends – Asset Renewal	0	0	0	0	0	0	0
<b>Net Cash Movement</b>	<b>167</b>	<b>1,131</b>	<b>861</b>	<b>(919)</b>	<b>(1,742)</b>	<b>(244)</b>	<b>(180)</b>
<b>LRM Reserve Balance</b>	<b>1,534</b>	<b>2,665</b>	<b>3,526</b>	<b>2,607</b>	<b>865</b>	<b>621</b>	<b>441</b>

- 2) This revised forecast for the LRM reserve assumes that Council will cease to charge the Waste Operations Annual Charge for 2017/18 onwards.
- 3) This revised forecast for the operations of the LRM is subject to further reporting in the preparation of the 2017/18 Operational Plan to examine other options, such as increased gate fees, or increased DWM charges, to offset part, or all, of the LRM revenue foregone from the removal of the Waste Operations Charge.
- 4) That Council confirms that the \$3m allocated in the forecasts for the Property Development Reserve in 2017/18, as per item 4.2 of the 6 December 2016 Finance Committee agenda, is available for this project.
- 5) Council also confirms that the \$3m allocated from the Property Development Reserve will be subject to further reports on funding options to reimburse that reserve with those options including:
  - a) The securing of grant funds for the Indoor Sports Stadium
  - b) Increased dividends from the LRM reserve if Council is able to improve the financial viability of that reserve through increased revenues from higher gate fees or higher DWM charges
  - c) Or as a last resort the sale of existing Council assets such as the Henderson Farm Residual or the ARC Building.
- 6) A final option could be loan funds but that would only be considered once all other options were exhausted.

This proposed funding strategy is considered to have a sufficient level of certainty to obtain OLG approval.

Importantly this proposal can be reviewed on a regular basis due to the period that Council has available to make the progress payments to the Department of Education during the construction phase, assuming the building proceeds.

The recommendation also includes a reference to the consultation undertaken to date as this is also a matter that has been raised as a concern by the OLG.

**RECOMMENDATIONS**

1. That Council continues its commitment to the provision of an indoor sporting facility on the site of the Ballina High School as per the contents of this report.
2. That Council's commitment to this project and detailed design is based on the principles expressed in this report and in particular a design based on the concept plans contained in attachment three.
3. That Council confirms that in its opinion there has been extensive consultation undertaken with the community in respect to the delivery of this project, including the feasibility report undertaken by the Strategic Leisure Group, and the inclusion of the project in the Ballina Major Regional Centre Strategy and the Section 94 Developer Contributions Plan.
4. That Council's budget for the project is based on a total project cost of \$8m (i.e. mezzanine excluded) with Council's base funding strategy for the \$8m as follows:
  - a) Revised dividends of \$5m from the Landfill and Resource Management (LRM) Reserve as per Table Two of this report
  - b) Removal of the Waste Operations Charge in 2017/18, subject to Council receiving further reports on this proposal, along with examining other fee increases, as part of the preparation of the 2017/18 Operational Plan.
  - c) Interim funding of \$3m from the Property Development Reserve. This means that the next stage of the redevelopment of the Southern Cross Industrial Estate will be deferred until Council reimburses this reserve from other funding sources, as per point d) as follows.
  - d) That Council confirms that its preferred strategy to reimburse the \$3m from the Property Development Reserve in point c) is through asset sales (i.e. Henderson Farm Residual or ARC – Building) and / or increased dividends from the LRM reserve, with those options subject to further reports to Council. The securing of grant funds, or the collection of developer contributions, will also assist in reimbursing the \$3m.
5. The General Manager is authorised to complete negotiations with the Department of Education to formalise the arrangements to enable delivery of the project consistent, with the principles expressed in this report.
6. That Council affix the common seal to the project deed and lease and any associated documentation.

**Attachment(s)**

1. Facilities Committee Report - June 2016
2. Strategic Leisure Group - Feasibility Report - Indoor Sports and Events Complex
3. Facility Plans Presented to June 2016 Facilities Committee Meeting

**10.1 Use of Council Seal**

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**10. General Manager's Group Reports**

**10.1 Use of Council Seal**

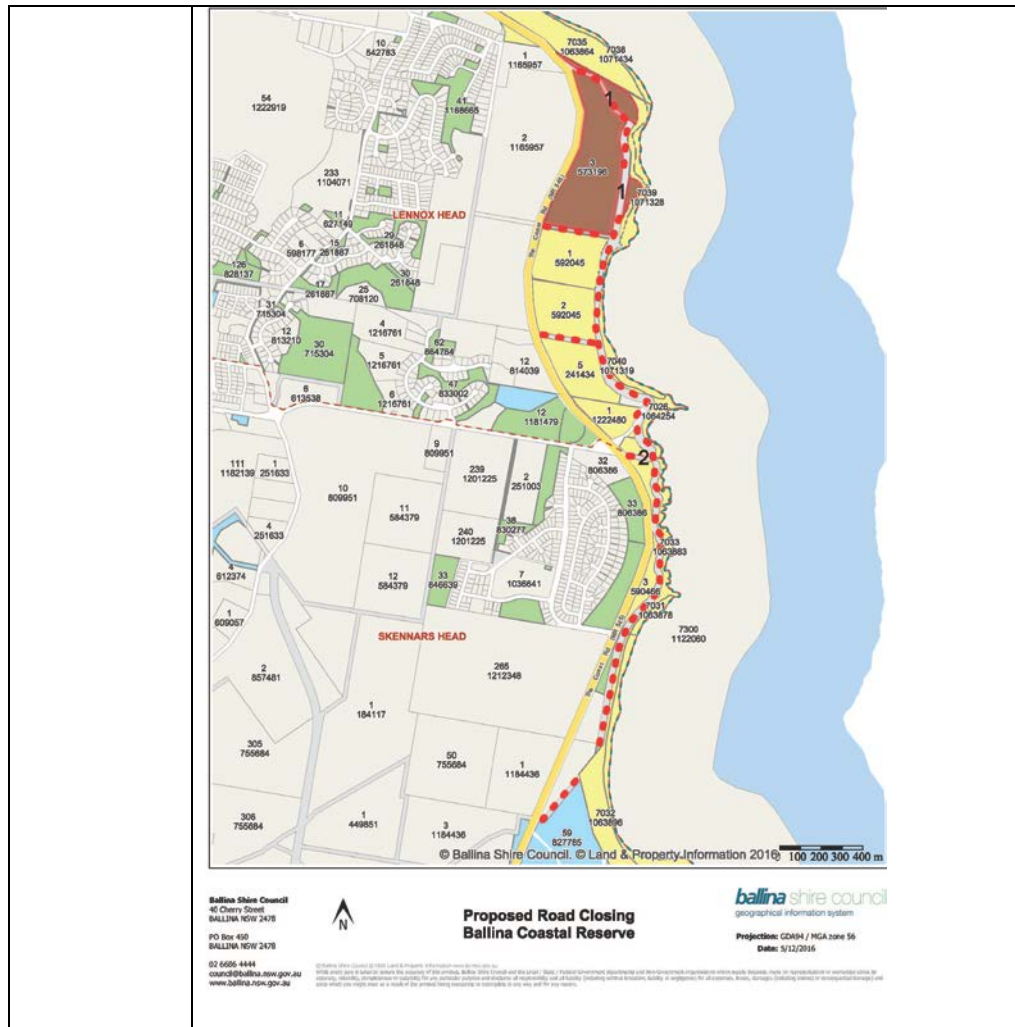
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**RECOMMENDATION**

That Council affix the Common Seal to the following document.

US16/15	<p>Section 88B instruments to create easements in conjunction with Crown road closing between Lennox Head and Flat Rock.</p> <p>Explanation.</p> <ol style="list-style-type: none"><li>1. The land, Lot 3 DP 573196, is owned by Ballina Shire Council and contains part of Pat Morton Lookout and surrounding areas. This land is severed by the Crown road along the coastline and this road is currently being considered for closure. The closing of the road will mean the closed road will become Crown land. This results in the severed land no longer having a legal road frontage. The proposed easements will cross the Crown land (formerly Crown road) and provide access between the severed sections of Council land.</li><li>2. The road extension of Skennars Head Road will have an easement to drain sewerage created over the existing line of Council's wastewater pipes.</li></ol>
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## 10.1 Use of Council Seal



**Attachment(s)**

Nil

## 10.2 Investment Summary - November 2016

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### 10.2 Investment Summary - November 2016

**Delivery Program** Governance and Finance

**Objective** To provide details of Council's cash and investments portfolio breakup and performance.

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#### 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 November 2016.

#### Key Issues

- Compliance with Investment Policy and the return on investments.

#### Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investments Policy. The balance of investments as at 30 November was \$69,784,000. This represents an increase of \$3,000,000 from October.

Council's investments, as at 30 November, are at an average (weighted) rate of 2.94%, which is 1.18% above the 90 Day Bank Bill Index of 1.76%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 November 2016, was \$4,206,411. This balance is significantly higher than the balance of \$1,335,214 as at 31 October 2016, due to approx. \$1.8 million for rates receipts on the last day of November (as this was the instalment due date) and also due to known creditor payments and a loan payment to occur on the first day of December.

Forecast interest income has been increased, per the September quarterly budget review, as can be seen in Table E.

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
<b>Total</b>		<b>100%</b>

\* 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
<b>Grandfathered Investments</b>							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.6%	<b>3%</b>
<b>Rated Institutions</b>							
AMP Bank	Yes	A+	5,000	5,000	20%	7.2%	
Bank of Queensland	No	A-	5,000	5,000	10%	7.2%	
Bank of Western Aust	Yes	AA-	9,000	2,000	20%	2.9%	
Bendigo & Adelaide Bank	No	A-	4,000	5,000	10%	7.2%	
Beyond Bank	No	BBB+	3,000	2,000	10%	2.9%	
Big Sky Building Soc	N/A	BBB	1,000	1,000	10%	1.4%	
Commonwealth Bank of Australia	Yes	AA-	4,996	4,996	20%	7.2%	
Defence Bank Ltd	No	BBB+	0	2,000	10%	2.9%	
Greater Building Society	No	BBB	1,000	1,000	10%	1.4%	
ING Bank Ltd	Yes	A-	2,000	2,000	10%	2.9%	
Members Equity Bank	No	BBB+	4,000	5,000	10%	7.2%	
National Australia Bank	Yes	AA-	8,000	10,000	20%	14.3%	
Newcastle Perm Bld Society	No	BBB+	5,000	3,000	10%	4.3%	
Rural Bank Ltd	No	A-	1,000	2,000	10%	2.9%	
Suncorp-Metway Bank	No	A+	9,000	12,000	20%	17.2%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	2.9%	
My State Bank Ltd	No	BBB	1,000	4,000	10%	5.7%	<b>97%</b>
<b>Unrated ADI's</b>					\$1m	0.0%	<b>0%</b>
<b>Total</b>			<b>66,784</b>	<b>69,784</b>		<b>100%</b>	

**B. Summary of Investments Fossil Fuel Aligned**

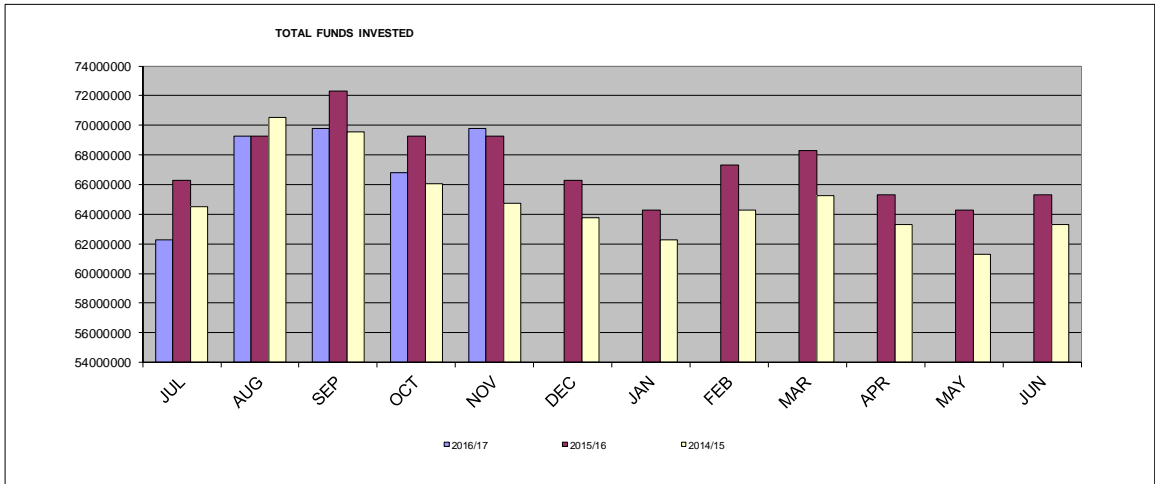
	Previous Month	Current Month
<b>Fossil Fuel Aligned</b>	32,784 <b>49%</b>	27,784 <b>40%</b>
<b>Non-Fossil Fuel Aligned</b>	33,000 <b>50%</b>	41,000 <b>59%</b>
<b>Not Classified</b>	1,000 <b>1%</b>	1,000 <b>1%</b>
<b>Total</b>	<b>66,784 100%</b>	<b>69,784 100%</b>

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

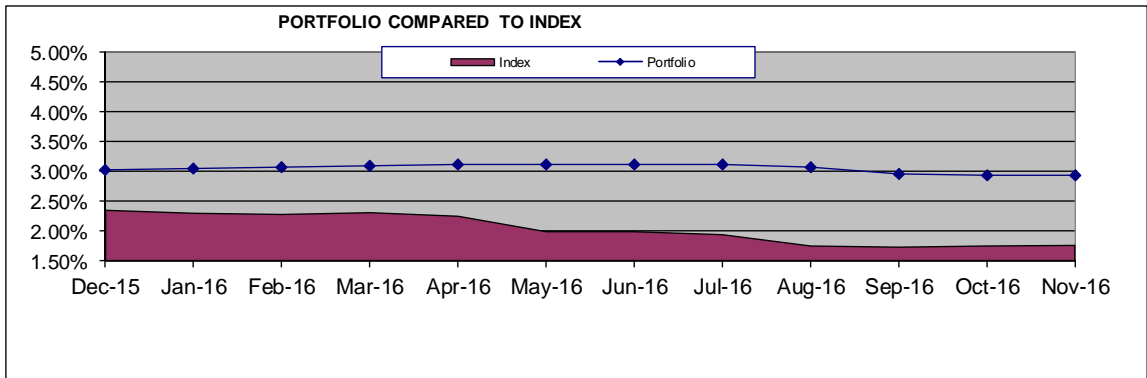
- Fossil Fuel Aligned: Noted by Market Forces as funding fossil fuels
- Non-Fossil Fuel Aligned: Noted by 'Market Forces' as having no record of funding fossil fuels and having provided a position statement.
- Not Classified: Not classified as information not available.



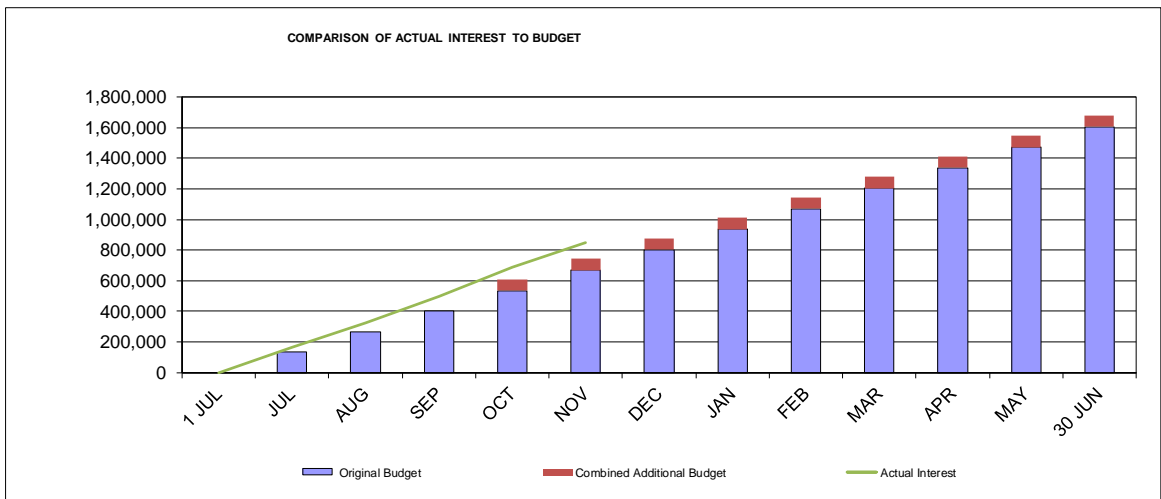
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



## 10.2 Investment Summary - November 2016

### F. Investments held as at 30 November 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	1,223
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	2,073
25/02/14	Westpac Bank	FRN	2.70%	25/02/19	2,000	2,011
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
31/05/16	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
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
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	3.32%	30/08/19	1,000	1,000
31/08/16	Newcastle Permanent Bld Society	TD	2.70%	07/12/16	1,000	1,000
01/09/16	Beyond Bank	TD	2.65%	05/12/16	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
01/11/16	Suncorp-Metway Bank	TD	2.70%	02/05/17	1,000	1,000
03/11/16	Suncorp-Metway Bank	TD	2.70%	09/05/17	1,000	1,000
03/11/16	Bendigo & Adelaide Bank	TD	2.70%	03/08/17	1,000	1,000
03/11/16	Members Equity Bank	TD	2.70%	03/05/17	1,000	1,000
07/11/16	National Australia Bank	TD	2.77%	06/09/17	1,000	1,000
09/11/16	Rural Bank Ltd	TD	2.70%	09/05/17	2,000	2,000
14/11/16	National Australia Bank	TD	2.77%	10/08/17	1,000	1,000
15/11/17	National Australia Bank	TD	2.82%	15/09/17	1,000	1,000
16/11/16	Bendigo & Adelaide Bank	TD	2.70%	09/08/17	1,000	1,000
22/11/16	My State Bank	TD	2.80%	04/07/17	1,000	1,000
23/11/16	Defence Bank	TD	2.80%	08/11/17	2,000	2,000
24/11/16	Bank of Queensland	TD	2.80%	01/06/17	1,000	1,000
28/11/16	My State Bank	TD	2.81%	05/09/17	1,000	1,000
29/11/16	My State Bank	TD	2.81%	24/08/17	1,000	1,000
30/11/16	Suncorp-Metway Bank	TD	2.81%	02/06/17	1,000	1,000
<b>Totals</b>					<b>69,784</b>	<b>69,307</b>
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 November 2016.

**Attachment(s)**

Nil

### 10.3 Ordinary Meeting Date - January 2017

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#### 10.3 Ordinary Meeting Date - January 2017

**Delivery Program** Governance and Finance

**Objective** To select an alternate date for Council's January 2017 Ordinary meeting.

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#### **Background**

Council's Ordinary meetings are held on the fourth Thursday of each month, with the December meeting being held on the third Thursday. The January 2017 Ordinary meeting date falls on Australia Day.

In past years when meeting dates have coincided with a public holiday the meeting has been rescheduled to the Wednesday.

#### **Legal / Resource / Financial Implications**

There are no legal or financial implications of changing the meeting date.

#### **Consultation**

No consultation has been undertaken to date. Advertising of the changed meeting date will take place.

#### **Options**

The options are to reschedule the meeting to Wednesday 25 January or Friday 27 January 2017. Previously when clashes with the Thursday meeting have occurred the preferred option has been to move the date forward to the Wednesday. Therefore the recommendation is to change the date to the Wednesday.

#### **RECOMMENDATION**

That Council's Ordinary meeting for January 2017 be held on Wednesday 25 January.

#### **Attachment(s)**

Nil

## 10.4 Long Serving Employees - Recognition

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### 10.4 Long Serving Employees - Recognition

**Delivery Program** Human Resources and Risk Management

**Objective** To formally recognise long serving Council employees.

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#### **Background**

Council has a practice of annually recognising employees who have completed either 10, 20, 30 and 35 years plus, of service by providing an annual presentation at the December Council meeting, along with joining the Councillors for morning tea.

#### **Key Issues**

- Acknowledgment of the service of employees.

#### **Information**

At 10.30 am Council will recognise the service of the following employees:

##### 40 Years

Graeme Gordon

##### 35 Years

Ray Armstrong  
Rick Nipperess

##### 30 Years

Stewart Littleford  
Steve Barnier  
Rod Willis  
Garry Meredith  
Brad Myers

##### 20 Years

Sue Blakey  
Jason Black  
Annie Lees  
Wayne Edwards  
John Fittock  
Leslie Sanderson  
Max Beecher  
Di McNabb  
Brad Mansfield

## 10.4 Long Serving Employees - Recognition

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### 10 Years

Chris Allison  
Kellie Balcon  
Trent Rogers  
Robyn Gutter  
Roger Anderson  
Paul Brown  
Murray Stebbing  
Diane Harley  
Besim Sinanovski  
Steve Fitness  
Kristy Bell  
Skye McNamara  
Yasmin Hernage  
Michael Taylor  
Corey Ryan  
Simon Osbiston

The majority of the employees will be present at the meeting. This is an extraordinarily large number of recipients based on typical presentations.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Long term employees make a significant contribution to the expertise, tradition and social fabric of the Council.
- **Economic**  
Not Applicable

### **Legal / Resource / Financial Implications**

Nil

### **Consultation**

This report is provided to publicly recognise long serving employees.

### **Options**

This report recognises long servicing employees.

### **RECOMMENDATION**

That Council acknowledges, congratulates and thanks the staff members outlined in this report on their service with Council.

### **Attachment(s)**

Nil

## 10.5 Ward Committees - Membership

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### 10.5 Ward Committees - Membership

**Delivery Program** Governance and Finance

**Objective** To obtain approval to amend the membership of Council's Ward Committees.

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#### **Background**

Council at the September 2016 Ordinary meeting when appointing members to our Internal Committees, resolved, in part, as follows:

6. *That Council confirms it will retain the existing structure and membership of the three Ward Committees, with expressions of interest to be called for additional membership. These Committees have no delegated authority.*

Expressions of interest were called and closed on 25 November 2016 with the following nominations being received:

#### A Ward

Nil

#### B Ward

Nil

#### C Ward

Alstonville Asphalt Watch Group

A copy of the Group's nomination is attached.

#### **Key Issues**

- Level of community representation on Council's ward committees

#### **Information**

The nomination is from a community based group and it is recommended that the nomination be supported.

#### **Sustainability Considerations**

- **Environment**  
Ward committees consider matters that relate to environmental, social and economic issues.
- **Social**  
As above
- **Economic**  
As above

### **Legal / Resource / Financial Implications**

Nil

### **Consultation**

The ward committees are an important component of Council's community engagement process.

Expressions of interest were called and closed on 25 November 2016.

### **Options**

The options are to approve or not approve the nominations. The Ward Committees are one of the primary avenues for community members to provide direct feedback to Councillors and staff. The Alstonville Asphalt Watch Group is a community based group and the recommendation is to support the nomination.

### **RECOMMENDATION**

That Council approves the nomination from the Alstonville Asphalt Watch Group to the C Ward Committee.

### **Attachment(s)**

1. Nomination from Alstonville Asphalt Watch Group



**10.6 Flat Rock Tent Park - Adoption of Fees and Charges 2017/18**

**Delivery Program** Commercial Services

**Objective** Setting of fees and charges for Flat Rock Tent Park for 2017/18

---

**Background**

Council resolved to advertise a set of draft Flat Rock Tent Park fees and charges, and associated notes, for 2017/18 for public comment following Council's Ordinary Meeting on 27 October 2016.

A copy of the exhibited information is **attached**.

The purpose of this report is to comment on any submissions received.

**Key Issues**

- Increases in fees and charges
- Conditions attached to the fees

**Information**

The draft fees and charges and associated notes have been on public exhibition for the required twenty eight days and as a result of the exhibition process no submissions were received.

**Sustainability Considerations**

- **Environment**  
Council needs to operate the tent park in a sustainable manner, taking into account any environmental impacts.
- **Social**  
The tent park plays a major social role in that people holidaying in the tent park come from broad socio-demographic groups, this creates a large social interaction of people.
- **Economic**  
The tent park provides economic benefits to both Council and the broader business community.

**Legal / Resource / Financial Implications**

Council is legally required to exhibit and adopt its fees. The tent park budget is formulated as part of Council's annual budget deliberations

**Consultation**

The documents were subsequently placed on public exhibition from 9 November to 7 December 2016.

## **10.6 Flat Rock Tent Park - Adoption of Fees and Charges 2017/18**

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The documents were exhibited to encourage public comment and exhibited at Council's normal consultation points (administration centre and libraries) and on the Council website.

### **Options**

1. Council adopts the fees and charges for the 2017/18 year as exhibited.

This option is recommended as no submissions were received during the public exhibition period. The increased fees and charges improve the profitability of the park.

2. Council does not adopt the fees and charges for the 2017/18 year as exhibited.

This option is not recommended as no submissions were received in opposition to the proposed fees and charges during the public exhibition period. Not adopting the increased fees and charges fails to recognize the increasing costs of running the park.

### **RECOMMENDATION**

That Council adopts the draft Flat Rock Tent Park fees and associated notes, as exhibited for 2017/18.

### **Attachment(s)**

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

## 11.1 Ballina Town Entrance Bridges - Painting

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### 11. Civil Services Group Reports

#### 11.1 Ballina Town Entrance Bridges - Painting

**Delivery Program**      Engineering Works

**Objective**              To respond to a Councillor Notice of Motion dealing with options for cleaning or painting Ballina's town entrance bridges on River Street and Tamarind Drive, Ballina

---

#### **Background**

This report responds to a Councillor Notice of Motion 230616/31 dealing with the roadside cleaning and/or painting of the two previous Pacific Highway bridges, being at North Ballina (across The Canal) and at West Ballina (across Fishery Creek).

Resolution 230616/31 reads:

*“That Council receive a report on the options to undertake cleaning/painting works of the Town Entrance Bridges, being The Canal and Fishery Creek bridges.”*

Previous reporting to Council regarding the roadside painting of the bridges occurred when Council was dealing with the Ballina Landscape Entry Treatment Master Plan during 2012 and 2013.

Council adopted the Master Plan at the 26 September 2013 Ordinary meeting of Council (resolution 260913/4), following a public exhibition process which occurred mid-2013.

In summary, the Master Plan contained a number of key components comprising;

- Tree planting and landscaping program
- Sculpture program
- Roadside tidying-up
- Reuse of the Big Prawn
- Encouraging appropriate future development of properties

Along the River Street and Tamarind Drive road corridor the Master Plan included the following comments about the two bridges;

*“Potential to paint existing concrete balustrade a new colour ie bright blue”*

At the time of adopting the Master Plan there was also a limited budget allocation made available for the staged implementation comprising \$140,000 for the 2013/14 financial year.

## 11.1 Ballina Town Entrance Bridges - Painting

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Council prioritised the tree planting and landscaping program within the Master Plan, however the tree planting and landscaping along River Street, Kerr Street and Tamarind Drive was in total estimated to cost in excess of \$900,000.

Accordingly Council limited the tree planting and landscaping to meet the available budget (resolution 260913/4) to the following stages:

- River Street, between Fishery Creek bridge and Kerr Street
- Tamarind Drive, between The Canal bridge and Southern Cross Drive and through to Bicentennial Gardens.

The decision of Council to proceed with the above works did not allow for the inclusion of painting of the concrete balustrade of the two bridges.

Reporting to Council at the time identified the costs were prohibitive due to traffic control and environmental management requirements.

A copy of the Ballina Landscape Entry Treatment Master Plan can be viewed on Council's website.

### Key Issues

- Confirm priority for painting of bridges as part of implementation of Ballina Landscape Entry Treatment Master Plan
- Allocation of budget for painting of bridges

### Information

For the purposes of responding to the Notice of Motion renewed estimates have been prepared for the painting of the concrete balustrades of the two bridges. Council's panel of service providers includes a painting contractor, and estimates have been provided from this source.

The contractor has offered two options:

#### Option One

This option provides for mobile overhanging scaffolding which allows for enclosure and containment of the work area. This will allow for correct preparation and painting and capture of product for protection of the environment.

Due to busy traffic conditions the work will need to be undertaken at night to allow for the closure of one traffic lane across the bridge whilst the work takes place.

The removal and replacement of the scaffolding will be required each night. Traffic control will be required each night to manage the one lane of traffic.

#### Option Two

This option provides for hand scrubbing and wash down with local containment.

## 11.1 Ballina Town Entrance Bridges - Painting

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Warranty for the paint application will not be provided due to the preparation method.

Due to busy traffic conditions the work will need to be undertaken at night to allow for the closure of one traffic lane across the bridge whilst the work takes place.

Traffic control will be required each night to manage the one lane of traffic.

The contractor's estimates are provided below and includes advice that one week has been allowed for each bridge (weather permitting), and the traffic control estimate has been added as a service which Council would ordinarily supply through a similar service provider panel.

Item	Fishery Creek Bridge	The Canal Bridge	Total
<b>Option One</b>			
Scaffold and road sweep	23,000	23,000	
Paint	15,000	14,000	
Traffic control	15,000	15,000	
Total	53,000	52,000	105,000
<b>Option Two</b>			
Road sweep	2,000	2,000	
Paint	15,000	14,000	
Traffic Control	15,000	15,000	
Total	32,000	31,000	63,000

The above estimates are presented for the painting of the two bridges, one after the other, as a stand-alone exercise.

With respect to Option Two the contractor has advised that due to a less thorough preparation the warranty for the paint application will not apply.

This is reported by the paint manufacturer as being seven years.

On the other hand Option One presents a greater risk to the environment if containment of the cleaning processes is not fully compliant.

Given the cost of Option One it may be quite reasonable to accept a non-standard preparation with less environmental risk and proceed with a trial of the reliability/longevity of this repaint of the bridge balustrades.

The Engineering Works Section also has a project scheduled this financial year for both bridges, comprising the realignment of the guardrail to the bridge approaches.

This work will also require night work due to the abovementioned traffic conditions.

Given the adjoining businesses and residents, it will be necessary to undertake consultation regarding this "noisy" night work, and as such the duration and timing of these works has not yet been determined.

## 11.1 Ballina Town Entrance Bridges - Painting

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However, the reason for mentioning this guardrail project is to identify a potential opportunity for possibly combining these night work projects, reducing traffic disruption, and possibly offering project savings.

For example, if the combined projects are able to be achieved, the above painting estimates would become:

- Option One: \$75,000
- Option Two: \$33,000

The opportunity for this work would be contingent upon the contractors being able to co-ordinate their work processes and manage their respective WHS systems.

### **Sustainability Considerations**

- **Environment**  
Implementation of Option Two would pose less risk to the environment due to a more controlled hand cleaning method.
- **Social**  
An attractive presentation of the bridges will promote a sense of place and pride.
- **Economic**  
An attractive presentation of the bridges will provide a better image and promote or entice stop-over visitors.

### **Legal / Resource / Financial Implications**

The two ex-Pacific Highway bridges were identified in the Ballina Landscape Entry Treatment Master Plan as potential sites for painting the roadside concrete balustrades.

Council prioritised tree planting blisters and tree planting with the initial budget allocation, and bridge painting was unable to be achieved.

A budget allocation for this work is required if Council wishes to proceed with this work.

One opportunity would be available if the painting work is able to be coordinated with the guardrail work, and undertaken as part of the RMS Ballina Bypass handover funds. This would be possible with the reduced Option Two amount of \$33,000, but is not recommended for any amount greater than this due to future remaining commitments for ex-highway maintenance works.

These works did not form part of the Ballina Bypass handover agreement, however the funds are untied and Council is able to elect to use the funds for this purpose.

### Consultation

Consultation would not ordinarily be required for the painting work. The co-ordination of the night time “guardrail” work will require community liaison and the co-ordination of the two contractors for the combined project will also be necessary. There may still be a WHS risk where unforeseen circumstances with work methods may still preclude this opportunity.

### Options

Council may decide as a result of the costs presented:

1. Not proceed with the painting of the bridge concrete balustrades
2. Proceed with the painting of the bridge concrete balustrades on the basis of achieving a combined project with the guardrail installation, with an estimated cost of \$33,000 funded from RMS Ballina Bypass handover funds. This option is without the standard paint application warranty.
3. Proceed with the painting of the bridge concrete balustrades on the basis of achieving a combined project with the guardrail installation, with an estimated cost of \$75,000 funded from RMS Ballina Bypass handover funds.

Option Two is recommended for the following reasons;

- It is agreed the works are beneficial as the bridges are not favourably presented at this point in time.
- The risks associated by proceeding without a warranty are reasonable in light of the savings generated.
- The cleaning and application can be viewed as a trial.
- Timing the works to coincide with the guardrail work is efficient.
- Option Three is not preferred as it consumes additional funds previously targeted for road pavement and drainage asset renewals.

Should Council support option two, it is not yet certain if the contractors are able to combine on the site. If this is not able to be achieved, it will be necessary to reconsider the project’s merits and funding priority during the upcoming 2017/18 delivery program budget considerations.

### RECOMMENDATION

That Council authorises the painting of the Fishery Creek and Canal bridges’ concrete balustrades on the basis of achieving a combined project with the guardrail installation, with an estimated cost of \$33,000 being sourced from the Ballina Bypass handover funds.

### Attachment(s)

Nil

## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

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### 11.2 Recycled Water - Pricing for Large Non-Domestic Users

**Delivery Program** Water and Wastewater

**Objective** To present options for the pricing of recycled water to large non domestic users.

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#### **Background**

Council operates four separate recycled water supplies.

Two supplies, Alstonville and Wardell, undergo traditional wastewater treatment with additional chlorination, prior to supply to the customer.

This high quality water is fit for agricultural and open space uses so long as traditional Non Treatment Barriers (NTBs) are in place, such as preventing direct contact with the water.

The two other systems, Ballina and Lennox Head, undergo membrane filtration and advanced disinfection, prior to supply.

They are fit for restricted internal and external domestic use without the implementation of NTBs. It is also used for sports ground and other irrigation.

Council has previously resolved (250713/28) that domestic users of recycled water should be charged at 80% of the price of potable (i.e. drinking) water and that they should pay no extra charge for the connection.

In setting this price Council also resolved that "Council acknowledges that due to the actual high quality of this product that, over time, the price should move closer to parity with the potable water supply".

During the setup of the Alstonville Recycled Water Scheme in 2003 Council resolved (resolution 280803(034)) that the contract formed between each user and Council would include (among other things):

- require the user to utilise the water in preference to other water supplies
- that after a length of time Council would negotiate with users to introduce a cost for water.

As part of the 2013 resolution, Council further noted "that the existing price structure for open space customers will be reviewed over time."

Council's 2016 Fee and Charges document includes the following new comment

*Recycled water supply to users of large open spaces:*

- a) Recycled water will continue to be provided to open spaces users at no charge up to July 2017.*
- b) From, July 2017 charging will commence at a lower rate and moved to the proposed rate over five years.*



## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

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- c) *From July 2022 the charge will be set at 50% of the price for recycled water supplied to urban dual reticulation (i.e. 40% of the drinking water price)*

At the time, this caused significant concern in a number of the large open spaces users and would have resulted in some paying significant charges and for some there would be difficulty absorbing this cost into their operations.

Due to this, when the pricing strategy was set, Council also resolved (230616/10) that:

*“That Council notes the submissions in respect to the 2016/17 charge for recycled water to urban open space users, with the charge to remain as advertised, being nil. Council will undertake further consultation with the urban open space users to better understand their concerns and the results of this consultation will be considered by Council prior to exhibiting the proposed charges for the 2017/18 year.”*

This consultation has been undertaken informally in discussion with various customers, and formally through an open invitation to users to a session to discuss a new pricing proposal (17 November 2016).

This report provides information on the outcomes of the consultation and seeks Council direction in respect to the pricing for the large open space users.

### Definitions

Council has traditionally defined Recycled Water users as either Urban Dual Reticulation (UDR) or Urban Open Spaces (UOS).

This definition does not completely suit the intention of introducing a charge for large irrigation users as some of them are Rural and Private.

For the purpose of the pricing, UOS will also apply to Rural Irrigators (such as Nurseries) or Private Spaces (such as a Bowling Club).

Some users may be supplied two Recycled Water connections, a domestic connection for toilets, laundry and an irrigation connection for lawns.

The first connection would be considered as a UDR connection and charged 80% of the price of drinking water.

The second is a UOS and charged the amount that is determined by Council.

### **Key Issues**

- Support Council's Recycled Water targets (through additional revenue)
- Ensure that Recycled Water is the preferred supply to large customers
- Reduce wastage by pricing the water

### Information

The presentation that was discussed at the consultation is attached to this report and has information that may help inform this report.

There is no mandatory or recommended pricing structure for recycled water in NSW but the NSW Best Practice Guidelines state that councils "...should have regard to the [National Water Initiative] guidelines when setting future fees and charges for recycled water..."

These guidelines are outlined in the options section of this report.

In preparing a new price proposal, staff considered that the price of the recycled water could be related to the alternative cost that bulk users have available.

This would either be a surface water, or ground water extract license, including operating costs of pumps and equipment.

It is estimated that a typical ground water bore would cost around 20 cents per kilolitre to operate, which is mostly pumping, capital and maintenance costs.

This means that the target price for recycled water to large users (some have a viable alternative supply) should be close to 20 cents per kilolitre.

For ease of dealing with inflation and year-to-year pricing, it would be more efficient to nominate the recycled water price to large users as a percentage of the drinking water price, which is currently \$2.14 cents per kilolitre.

Based on this, one option could be:

- a charge structure that is 10% of the drinking water supply (21.4 c per kiloliter) for usages greater than 25 ML per year
- with a stepped in tariff to charge 12% for usage between 5 – 25 ML per year
- 15% for usage between 1 – 5 ML per year and
- a fixed fee for less than 1 ML per year, equal to 15% for the 1 ML.

The stepped in tariff reflects efficiencies that Council has in supplying recycled water to the larger users, helps users when more water is required, because it gets cheaper as needed, but still prevents wastage.

The price does not cover the cost to supply (annual charge for connection), which is subsidised by the Wastewater Fund based on the earlier resolution of Council.

This is considered reasonable as one of the key objectives of the recycled water supply is reduce the amount of wastewater discharged to the marine environment.

## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

The stepped tariff would operate similar to income tax (or Council's own stepped drinking water tariff) where the first ML is a flat \$321, for the next four ML the user pays 32.1c per kilolitre and so on.

This information is presented in the following table.

**Table One – Stepped Tariff**

Drinking Water	\$2.14			
Water Usage (in Year)	<1 ML/a	1 - 5 ML/a	5 - 25 ML/a	>25 ML/a
Rate as % of Drinking Water	0%	15%	12%	10%
Variable Rate \$/kL	\$0	\$0.321	\$0.257	\$0.214
Fixed Charge	\$321	\$321	\$321	\$321
Price Range	\$321	from \$321 to \$1,605	from \$1,605 to \$6,741	from \$6,741

During consultation, the three recycled water users that attended the session (in the 1 – 25 ML usage range), were interested to ensure that, in their opinion:

- Council recognise that a smaller user has a larger cost (per unit production) to use recycled water than larger users, due to internal infrastructure costs.
- That the scheme (in this case Alstonville) was supported very heavily by the users for a long time in the lead up to its commencement and was only feasible because of the mutual commitment of Council and the users (users built their own internal infrastructure)
- That, while a fee is seen as necessary, they felt Council should minimise the fee as much as possible in recognition of the above.

As a result of the consultation undertaken, staff feel that the new proposal does strike a good balance between the objectives in pricing recycled water (listed in key issues above) and recognising small users.

An alternative option is listed in Table Two. This is based on a flat 10% rate. This could be seen as recognising the contribution and commitment that smaller users have made in ensuring the success of the scheme.

**Table Two – Flat 10% Rate**

Drinking Water	\$2.14			
Water Usage (in Year)	<1 ML/a	1 - 5 ML/a	5 - 25 ML/a	>25 ML/a
Rate as % of Drinking Water	0%	10%	10%	10%
Variable Rate \$/kL	\$0	\$0.214	\$0.214	\$0.214
Fixed Charge	\$214	\$214	\$214	\$214
Price Range	\$214	from \$214 to \$1,070	from \$1,070 to \$5,350	from \$5,350

## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

A further option could be to reduce the percentages in either Table One or Table Two further, dependent on the level of discount Council wishes to provide.

Since the price is not aimed at cost recovery, there is no number which is the mandatory price for the services.

The estimate of 20 cents per kilolitre is considered to be reasonable, as a comparison cost, where some users have access to an alternative water supply (eg ground water).

### Sustainability Considerations

- **Environment**

The usage of recycled water supports the health of Ballina Shire's waterways, offsets some reliance on drinking water catchments and helps to ensure our precious water resources are used efficiently

- **Social**

Not Applicable

- **Economic**

Additional revenue helps support the Wastewater Fund and the ongoing supply of recycled water.

Economic development – there are industries that have grown specifically due to the availability of recycled water

### Legal / Resource / Financial Implications

Contract agreements are already in place for many users which includes, among other things, the requirement to pay fees for the supply of recycled water.

Where contracts are not in place, there is no agreement to supply at no cost.

There is not a legal impediment to implementing a price.

The total revenue expected to be achieved with Table One pricing in place is;

**Table Three – Revenue Estimate based on Stepped in Table One Pricing**

Financial Year	2016/17	2017/18	2018/19	2019/20	2020/21
Percentage of Drinking Water Price (currently \$2.14 /kL)	0%	2.5%	5%	7.5%	10%
Rate per kL > 25 ML	0.00	5.35 cents	10.7 cents	16.0 cents	21.4 cents
Flow Estimate (ML)	750 ML	750 ML	750 ML	750 ML	750 ML
Revenue Estimate (\$)	0	40,100	80,300	120,400	160,500

The staged implementation is based on the earlier Council resolution to implement this pricing over a number of years.

## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

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### Consultation

Council invited users to a targeted consultation session (which three users attended) and discussed the revision to the proposed pricing informally with others. The same user group will be further notified of this Council report.

Council's rating and finance team were consulted to confirm this charge could be easily implemented with Council's Authority Water Billing module.

### Options

As mentioned in this report there is no set rule that Council needs to follow in setting the price for large non-domestic users.

It is a matter of Council determining what is reasonable and fair, whilst ensuring that users don't seek alternative supply sources.

The three main options are as per Tables One and Two of this report, along with any variance to those tables.

Importantly any agreed approach would include a staged implementation with the full fee introduced in 2020/21.

This is essentially a five year program; i.e.

2016/17	0%
2017/18	25%
2018/19	50%
2019/20	75%
2020/21	100%

#### Option One – As per Table One

Introduce a fixed fee (equivalent to 15% for 1 ML) and a stepped consumption tariff; i.e.

Water Usage (in Year)	<1 ML/a	1 - 5 ML/a	5 - 25 ML/a	>25 ML/a
Rate as % of Drinking Water	0%	15%	12%	10%
Variable Rate \$/kL	\$0	\$0.321	\$0.257	\$0.214
Fixed Charge	\$321	\$321	\$321	\$321
Price Range	\$321	from \$321 to \$1,605	from \$1,605 to \$6,741	from \$6,741

This is the preferred approach and is largely consistent with the nine principles of the National Water Initiative Guidelines, which are outlined below and assessed against this option.

## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

Principle	Requirement	Assessment
1: Flexible regulation	Light handed and flexible regulation (including use of pricing principles) is preferable as it is generally more cost-efficient than formal regulation...	Council has no fixed regulation regarding recycled water price.
2: Cost allocation	When allocating costs, a beneficiary pays approach – typically including direct user pay contributions – should be the starting point, with specific cost share across beneficiaries based on the scheme's drivers (and other characteristics)	For the schemes, the beneficiaries include the broader community and wastewater customers as there is a reduction in the volume of effluent discharges to creeks and streams. With an introduction to usage pricing all beneficiaries will share some of the cost, at the moment it is fully funded through wastewater charges.
3: Water usage charge	Price to contain a water usage (ie volumetric) charge	Yes, for water over 1 ML. by fixing the cost for < 1 ML, small users have a certain bill that can be planned for (eg the Ballina Community Garden)
4: Substitutes	Regard to the price of substitutes (potable water and raw water) may be necessary when setting the upper bound of a price bound	The new proposal regards a viable alternative supply of 20 c / kL for a pumped groundwater system.
5: Differential pricing	Pricing structures should be able to reflect differentiation in the quality or reliability of water supply	Partly yes, the proposal is for an across the board fee based on usage type. UDR usage is currently charged at 80% the price of drinking water, and the new proposal is for a lesser, staged, tariff 15/12/10% the price of drinking water.  The UDR allotment is more reliable as Council's provides a 'drinking water top up' in case of treatment failure for UDR customers.
6: Integrated water resourcing planning	Where appropriate, pricing should reflect the role of recycled water as a part of an integrate water resources planning system	The project is part of the Urban Water Management Strategy - which is Council's Integrated water resource plan

## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

Principle	Requirement	Assessment
7: Cost recovery	Prices should recover efficient full direct costs	Yes, but from all beneficiaries and mostly the wastewater bill
8: Transparency	Prices should be transparent, understandable to users and published to assist efficient choices	Yes, to be clearly presented in Council's Fees and Charges
9: Gradual approach	Prices should be appropriate for adopting a strategy of 'gradualism' to allow consumer education and time for the community to adapt	Yes, to be phased in over five years (we are currently in year one).

### Option Two - As per Table Two

Introduce a fixed fee (equivalent to 10% for 1 ML) and a flat rate consumption tariff; i.e.

Water Usage (in Year)	<1 ML/a	1 - 5 ML/a	5 - 25 ML/a	>25 ML/a
Rate as % of Drinking Water	0%	10%	10%	10%
Variable Rate \$/kL	\$-	\$0.214	\$0.214	\$0.214
Fixed Charge	\$214	\$214	\$214	\$214
Price Range	\$214	from \$214 to \$1,070	from \$1,070 to \$5,350	from \$5350

This recognises that smaller customers have greater comparative infrastructure costs – although this would be true to some extent regardless of the water source.

### Option Three

Reduce the ultimate rate to some lower, arbitrary, amount with a structure as per either Option One or Two.

Based on the modelling undertaken and the consultation to date, option one (Table One) is the preferred approach and is recommended as follows.

## 11.2 Recycled Water - Pricing for Large Non-Domestic Users

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### RECOMMENDATIONS

1. That Council endorses a preferred pricing strategy for the supply of recycled water for large non-domestic users (Urban Open Spaces) based on Table One of this report; which is summarised as follows:

Water Usage (in Year)	<1 ML/a	1 - 5 ML/a	5 - 25 ML/a	>25 ML/a
Rate as % of Drinking Water	0%	15%	12%	10%
Variable Rate \$/kL	\$0	\$0.321	\$0.257	\$0.214
Fixed Charge	\$321	\$321	\$321	\$321

2. This pricing is to be phased in based on 25% increments commencing in 2017/18 resulting in the full fee being charged in 2020/21.

### Attachment(s)

1. Recycled Water - Bulk Users Pricing



### 11.3 Fig Tree Management - Castle Drive, Lennox Head

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#### 11.3 Fig Tree Management - Castle Drive, Lennox Head

**Delivery Program** Open Spaces and Reserves

**Objective** To provide further information to Council regarding insurance issues associated with the Fig Tree in Castle Drive

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#### **Background**

A report was presented to the November Ordinary meeting of Council dealing with property damage issues associated with the Fig Tree in Castle Drive, Lennox Head. A copy of that report is attached.

Council deferred consideration of this matter and requested further information.

The further information requested by Council relates to the potential costs associated damage to private property. As the information pertains to private property and it involves claims against Council, the information is presented in the confidential section of this agenda.

#### **Key Issues**

- Streetscape amenity
- Insurance liability

#### **Information**

No further information is available for presentation in open Council.

#### **Sustainability Considerations**

- **Environment**  
The fig tree is very old, however it is in a healthy condition.
- **Social**  
The fig tree supports the urban amenity of this location.
- **Economic**  
There may be significant financial implications for Council dependent upon the action taken.

#### **Legal / Resource / Financial Implications**

Council has been provided confidential advice from its Insurer. Retention of the tree will have ongoing financial implications for the Council.

#### **Consultation**

### **11.3 Fig Tree Management - Castle Drive, Lennox Head**

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No board consultation has been undertaken regarding this matter.

#### **Options**

This report is presented for information. It is recommended the substantive response be determined in the confidential session.

#### **RECOMMENDATION**

That Council notes the contents of this report on the Fig Tree in Castle Drive, Lennox Head, with the matter to be determined in confidential session, as per the later report in this agenda.

#### **Attachment(s)**

1. November 2016 - Ordinary Council meeting report

## 11.4 Ballina Floodplain Risk Management Plan

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### 11.4 Ballina Floodplain Risk Management Plan

**Delivery Program**      Engineering Works

**Objective**              To respond to a Council resolution (280515/5) to receive a further report on priorities for the investigation of alternative systems of fill as Council's preference is to minimise the use of fill.

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#### **Background**

This report responds to a Council resolution 280515/5 which was resolved at the time of Council adopting the Ballina Floodplain Risk Management Plan (BFRMP).

The BFRMP and the associated Development Control Plan for Floodplain Management has taken many years of development, and is centered around the use and on-going development of a computer based "flood model" for the purposes of predicting and assessing flood scenarios in and around the Ballina floodplain.

The extract below, from the foreword of the adopted BFRMP, describes Council's overarching responsibilities regarding floodplain management:

*"Section 733 of the Local Government Act 1993 exempts Local Government from liability with respect to flood liable land on condition that planning instruments and manuals for the management of flood liable land are prepared in accordance with the principles of the relevant government manual. In 2005 the New South Wales (NSW) Department of Infrastructure, Planning and Natural Resources (now the Office of Environment and Heritage) revised their Floodplain Development Manual (DIPNR, 2005), which relates to management of development on flood liable land to assist Local Governments to meet their obligations under the afore mentioned Act.*

*The manual incorporates the NSW Government's Flood Prone Land Policy, which aims to reduce the impact of flooding on individual owners and occupiers of flood prone property and to reduce private and public losses resulting from floods. The policy is directed towards providing solutions to existing flooding problems in developed areas and ensuring that new development is compatible with the flood hazard and does not create additional flooding problems in other areas.*

*Under the policy the management of flood prone land remains the responsibility of Local Government. The State Government subsidises flood mitigation works to alleviate existing problems and provides specialist technical advice to assist Councils in their floodplain management responsibilities..."*

## 11.4 Ballina Floodplain Risk Management Plan

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The adopted BFRMP is a summary document which provides an implementation plan, and this is summarised in Table 5-1 of the Plan (Attachment 1). The Plan reports on the many varied and complex issues identified in and around the Ballina floodplain over the many years of development and consultation associated with the flood model Report, the associated Study and the summary Plan.

The BFRMP and the background reports are available via Council's website.

At the time of adopting the BFRMP the Council identified the Flood Modification Measure F8 as a priority action. Flood Modification Measure F8 reads:

*“Investigate the feasibility of alternative systems of flood structural measures/resources that may include a combination of levee, pump and floodgates to provide protection for the Ballina Island precinct.”*

Accordingly, at the time of adopting the BFRMP, Council also decided to record as part of resolution 280515/5:

*“That Council receive a further report on the priorities for the investigation of alternative systems (as per F8) of fill as Council's preference is to minimise the use of fill.”*

This report provides an update on this resolution.

### Key Issues

- Flood mitigation planning
- Minimising the use of fill as a flood mitigation method

### Information

The adoption of the current BFRMP and Development Control Plan (DCP) continues to provide for the immediate protection of private property from known flooding and climate change impacts, in accordance with Local and State Government requirements.

This is achieved by continuing with a historic approach to fill to the underside of buildings, or to fill for the purposes of the development. An important issue with the current BFRMP and DCP is that the height of this fill is determined as being at a maximum, given our current knowledge of climate change and flood predictions.

It has been determined that if flood predictions were to increase for example, then any further protection would be able to be provided with building modifications, and not increasing fill requirements. The reason for this is the current fill levels provide sufficient protection from tidal inundation after taking into account climate change impacts.

The current BFRMP and DCP allows development on the floodplain, in recognition of other floodplain management requirements or restrictions, but at the cost (of fill) of the developer.

## 11.4 Ballina Floodplain Risk Management Plan

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The interest of Council to prioritise Flood Modification Measure F8 is to investigate other methods of private property protection like levees, pump stations and floodgating for example.

With Ballina Island and West Ballina being very flat, and adjacent the river, there is a significant amount of background work required to adequately develop information suitable for the investigations.

There is a requirement for comprehensive stormwater pipe system data for floodgating, an updated and accurate topography database and building height information as height levels are critical, detailed storm event analysis to determine overland flow and local storm ponding, tidal analysis, detailed and integrated storm, flood and drainage modelling, land-use assessment for levee and pump stations, pump station analysis etc.

A scope for the above quantitative investigation (by consultants) has been prepared for the purposes of obtaining State Government grants. This has been prepared at a detailed level, and comprises a three year program for an estimated amount of \$400,000 (with possible grant opportunity of \$270,000).

Since the adoption of the BFRMP two grant applications have been made:

- LGNSW & Office of Environment and Heritage (OEH), Building Resilience to Climate Change Grants Program, 2015, \$80,000 for study commencement
- OEH, Floodplain Management Program (FMP), 2016, \$270,000 for the above three year program.

At this stage the results of the above applications has been unsuccessful, notwithstanding the OEH grant application is placed on a reserve list. The next round of the OEH FMP grants is likely to be in March 2017, and the application will be resubmitted.

Given the above outcomes and the priority of Council to investigate the alternative flood mitigation measures, a proposal was sought from Council's flood consultants BMT WBM Pty Ltd.

A qualitative assessment proposal has been offered (Attachment 2) which will provide a quick overview of potential options. The proposal would require the topographic survey to gain maximum benefit, and would amount to approximately \$35,000.

This work will not replace the necessary detail work specified for the OEH grant, albeit the topographic and model development would be used for the the OEH study. This proposal would not receive OEH funding due to it being a qualitative assessment and likely pre-date any 2017 grant offer.

It is suggested that this work may be of value to provide Council with some early feedback on this priority BFRMP action item and whether further investment in the investigation process is justified.

### **Sustainability Considerations**

- **Environment**  
The BFRMP assesses the potential impacts to the environment from major flood events.
- **Social**  
The BFRMP assesses the potential impacts on the community from major flood events.
- **Economic**  
The BFRMP assesses the likely financial impact to the community from flood events and the investment options available to mitigate the flood risks.

### **Legal / Resource / Financial Implications**

At this stage Council has a remaining allocated budget of \$41,000 in the 2016/17 Delivery Program for implementation of the BFRMP, which would cover the works proposed by the BMT WBM qualitative study.

### **Consultation**

Consultation has not been required in the preparation of this report, however the findings of above investigation should be subject to public consultation.

### **Options**

Council may decide as a result of the information presented to:

1. Not proceed with the BMT WBM Pty Ltd offer, and wait for the next round of OEH FMP 2017 grant applications. If the application round is similar to 2016 this timeline would be for applications to be submitted March 2017 with announcement November 2017.
2. Proceed with the BMT WBM Pty Ltd offer for approximately \$35,000 for a short turnaround qualitative assessment (without grant assistance); with some data being available for the future OEH FMP study.

As discussed at the recent Civil Services Group Councillor Induction briefing, the BFRMP and the associated DCP provisions are complex documents and a workshop would be beneficial to explain the details behind the development of these policies. This will be scheduled at a time when the current induction and other briefings are completed.

**RECOMMENDATION**

That Council proceed with the proposal from BMT WBM Pty Ltd, at an estimated cost of approximately \$35,000, being for a qualitative assessment to commence the Council's implementation in respect of the action "Flood Modification Measure F8" within the Ballina Floodplain Risk Management Plan.

**Attachment(s)**

1. Table 5-1 Implementation Plan
2. BMT WBM Proposal

## 11.5 Tender - Fill Material - Skennars Head Road Roundabout

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### 11.5 Tender - Fill Material - Skennars Head Road Roundabout

**Delivery Program**      Engineering Works

**Objective**              To finalise the tender for the supply and delivery of fill material for the Skennars Head Road Roundabout, which is a RMS blackspot funded project.

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#### **Background**

Tenders were invited for Tender RFT917 for the *Supply and Delivery of Fill Materials – Skennars Head Road Roundabout*. As part of the roundabout construction, fill will be required for the roundabout including the realignment of the approach grades.

The works are 100% RMS Safer Roads Program funded and are scheduled for delivery in the 2016/17 financial year. The project has a total funding allocation of \$1,997,000 (GST free) and a pre-tender estimate for the supply delivery and placement of fill for the project was approximately \$720,000 (ex GST).

Following the finalisation of the design and a review of quantities and costs, including this tender result, it is anticipated that a variation request will be submitted to RMS requesting additional funding (approximately \$200,000 and to be confirmed).

RMS has verbally advised of the ability to make this request, and Council staff have suggested making the request following this tender process.

#### **Key Issues**

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

#### **Information**

A single tender was received from Holcim Australia P/L. The tender received from Holcim was assessed for conformity with the tender specification and deemed to be conforming.

The rate supplied is considered reasonable when compared to the budget estimate.

Information regarding this rate can be supplied to Councillors if requested.

The market for this product is limited, however Council was expecting other submissions to be made and the recommendation to this report seeks to encourage further competition by negotiation with other suppliers as well as Holcim.



## 11.5 Tender - Fill Material - Skennars Head Road Roundabout

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There is also an option being investigated in regard to the suitability and access of the overburden from Council's Tuckombil quarry. Technical staff have also identified some opportunities to source fill from other Council projects.

In light of the above, to achieve the best advantage to Council, the preferred procurement strategy aims is to provide some flexibility to source the material from a variety of sources.

### Sustainability Considerations

- **Environment**

All plans are required to operate in accordance with an environmental management plan.

- **Social**

This tender will facilitate the improvement of a known blackspot in our road network and thereby support the community's transport needs and improve the community's transport safety.

- **Economic**

This tender is 100% RMS funded and will improve the safety of our transport infrastructure. These improvements to our infrastructure will enhance and essential asset for economic development.

### Legal / Resource / Financial Implications

Council has funding allocated from the RMS Safer Roads Program grant for these works. Council has been advised by the RMS budget variations are available to Council once final pricing for this item is confirmed.

### Consultation

A public tender process was undertaken.

### Options

In accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

*A Council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*

- a. postpone or cancel the proposal for the contract;*
- b. invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- c. invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*

## 11.5 Tender - Fill Material - Skennars Head Road Roundabout

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- 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.*

Accordingly,

1. Council may award the contract to Holcim Australia P/L to undertake the supply and delivery to Skennars Head Road; or
2. Council may determine not to accept the tender received and invite fresh tenders or alternatively enter into negotiations directly with Holcim or other parties.

Option one is reasonable as the response is largely consistent with pre-tender estimates, albeit only one tender submission was received.

Option two is however recommended as this will allow Council to continue to negotiate with Holcim and other suppliers, and this will allow Council the opportunity to finalise investigations into sources of material from Council's quarry and other concurrent Council projects.

This option is preferred as the flexibility provided will enable different quantities to be supplied from different sources and this will represent the best advantage to Council.

There is a need for some urgency in this matter and further reporting to Council is not preferred where it is not necessary under the regulations.

### **RECOMMENDATIONS**

1. That in relation to the tender for the supply and delivery of fill material for the Skennars Head Roundabout project, Council does not accept any tender due to the limited response to the tender process and the General Manager is authorised to enter into negotiations with interested parties in accordance with Part 7 Clause 178 sections 2 (e) and (f) of the Local Government (General) Regulations.
2. That Council authorises the Council seal to be attached to the contract documents for the supply and delivery of fill material for the Skennars Road Roundabout project.

### **Attachment(s)**

Nil

## **11.6 Tender - Provision of Water Meter Reading Services**

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### **11.6 Tender - Provision of Water Meter Reading Services**

**Delivery Program**      Operations Support

**Objective**              To finalise the tender for the provision of water meter reading services.

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#### **Background**

Ballina Shire Council and Byron Shire Council issued a joint tender for the provision of meter reading services in June 2016. At the close of tender, two submissions were received.

The joint tender process was undertaken as Byron Shire Council's prior contract had expired and our contract was due for renewal. Each Council is to have their own contract agreement with the successful tenderer.

The utilisation of external water meter reading services has been evaluated as more cost and administrative efficient than the internal supply of this service.

Council has currently been utilising the meter reading services of AMRS (Aust) Pty Ltd, trading as Service Stream Energy and Water.

#### **Key Issues**

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

#### **Information**

The contract is a variable price, which is based on the number of water meters read at a fixed rate per attempt at water meter reading. This is reviewed annually based on CPI for the previous 12 months.

Submissions were received from:

- AMRS (Aust) Pty Ltd trading as Service Stream Energy and Water
- Skilltech Consulting Services Pty Ltd - UASG

Both tenders were initially assessed for conformity with the tender specification. From this assessment both tenders were deemed to be conforming. As both tenderers have been assessed to meet the performance requirements of the specification, pricing is the factor to be used to determine the preferred tenderer. Pricing information has been provided to Councillors by a confidential memorandum.

The lowest priced submission received was from Skilltech Consulting Services.

The estimated annual budget for the provision of this service is \$67,800 (ex-GST) per annum. This is based on the number water meters within Ballina Shire (approximately 11,500), frequency of readings and rates provided.

## 11.6 Tender - Provision of Water Meter Reading Services

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Over the five year contract term this equates to \$339,000 (ex-GST). This estimate excludes CPI and increases in the number of meters. The pricing for the preferred tender is within this budget estimate.

The tender seeks for the provision of the services for a five year period, commencing on 1 January 2017.

### Sustainability Considerations

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
Utilising joint tendering with local Councils to ensure best value for money for common service provisions.

### Legal / Resource / Financial Implications

The price tendered is within the available budget.

### Consultation

A public tender process was undertaken.

### Options

In accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

*A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract;*
- (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.*

## **11.6 Tender - Provision of Water Meter Reading Services**

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Council can (Option 1) award the contract to Skilltech Consulting Services to provide the water meter reading services to Ballina Shire Council. Alternatively, Council can (Option 2) not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more service providers.

Option 1 is recommended as the preferred option as the tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the preferred tenderer.

### **RECOMMENDATIONS**

1. That Council accepts the tender provided by Skilltech Consulting Services for the provision of water meter reading services for a five year period.
2. That Council authorises the Council seal to be attached to the contract documents.

### **Attachment(s)**

Nil

## 11.7 Contract Dispute - Treatment Plant Upgrade

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### 11.7 Contract Dispute - Treatment Plant Upgrade

**Delivery Program** Water and Wastewater

**Objective** To update Council in regards to a significant contract dispute.

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#### **Background**

At the February 2011 meeting Council resolved to accept the tender of Haslin Constructions Pty Ltd for RFT/Contract Number 0902774 being for the Design and construction of an MBR Waste Water Treatment Plant (WWTP) at Ballina, and a Recycled Water Plant at Lennox Head WWTP for an amount of \$45,437,315 including GST.

The construction works were completed sometime ago, however the contract requires certain ongoing operational and commissioning activities to be completed by the contractor. Systems are in place for Council's continued operation of the new plant in this contractual environment.

The project was completed with an excellent result in terms of the relatively small value in approved cost variations. As sometimes expected for a project of this size and technical complexity, a range of defects and other performance issues remain under consideration by Council and the contractor.

One of these matters, an issue dealing with damage to the membranes is unresolved and is currently the subject of a formal dispute resolution process with potential financial implications for Council and the purpose of this report is to provide information on this matter.

#### **Key Issues**

- Dispute resolution
- Financial implications

#### **Information**

As this matter is the subject of formal dispute resolution processes, including potential litigation, the information presented to Council has been provided in the confidential section of the agenda. No further information for the public section is available at this point in time.

#### **Sustainability Considerations**

- **Environment**  
The Wastewater Treatment Plant upgrade provides significant environmental benefits through the improved treatment processes in place.
- **Social**  
Not Applicable

## **11.7 Contract Dispute - Treatment Plant Upgrade**

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- **Economic**

This contract is the largest ever contract in value undertaken by Council.

### **Legal / Resource / Financial Implications**

This matter involves potential litigation and accordingly there is a risk of cost exposure to Council.

Monies are available in the Wastewater fund to finance costs associated with this dispute.

### **Consultation**

There have been extensive contract negotiations to date.

### **Options**

This report is for information only.

### **RECOMMENDATION**

That Council notes the contents of this report regarding the contract dispute in relation to the West Ballina Wastewater Treatment Plant upgrade.

### **Attachment(s)**

Nil

12. Public Question Time

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**12. Public Question Time**



### **13.1 Notice of Motion - Flood Mitigation**

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## **13. Notices of Motion**

### **13.1 Notice of Motion - Flood Mitigation**

**Councillor**

Cr Smith

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I move

That Council receive a report for options to enable alternative flood mitigation measures (e.g. stilts) for dwellings in rural areas.

#### **Councillor Comments**

Currently in rural areas across the shire the only option for building a dwelling involves filling the site to mitigate against flood events e.g. 1 in 100 storm events etc.

Filling such sites can often be seen as excessive, disrupts the floodplain more broadly and is often very costly.

Other housing design options such as Queenslanders are a practical way to mitigate against flood events, provide more affordable housing and not interfere with water flows by creating artificial mounds across rural areas.

The objective of this motion is to therefore receive options for council to enable this type of development, where reasonable, in rural areas across the shire.

#### **Staff Comments**

During the development and preparation of the Ballina Floodplain Risk Management Study and Plan and the associated DCP, the issue of isolated rural dwellings located on the floodplain was considered.

Flood risk mapping was undertaken for the floodplain, and this is shown as Figure 1 in the DCP. This figure shows that most of the lower riverine floodplain is categorised as Extreme or High Flood Risk. This is due to the predicted velocity and depth of flood waters in these locations, and these factors are considered as dangerous flood conditions.

During the briefing sessions to prepare the above documents, it was recommended that a more secure and robust protection is desirable where isolated families may be surrounded by dangerous flood conditions. The fill solution offers additional protection around the dwelling and allows for other additional storage for vehicles and the like.

## **13.1 Notice of Motion - Flood Mitigation**

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A “stilt” solution would require a structural support system to withstand the flood loading, and the safe refuge would only be provided by the dwelling alone. Another issue with stilt construction is the potential for unapproved building amendments associated with enclosing the ground level space. This can increase the risks of property damage from flood debris. Therefore the fill solution was recommended for this scenario.

For Wardell village the circumstances are such that only part of the village is flood prone, and the dwellings where “stilt” construction is available are not remote or isolated. In a flood event the village would be actively under the view of emergency services and any necessary responses would likely be at hand compared to an isolated rural dwelling.

The Council has prepared the Floodplain Risk Management Plan following a process established by the NSW Government. This process included the preparation of a management study to consider the options which in turn informed the management plan. Both the study and plan were issued for public consultation.

The Council needs to be mindful that any amendments to the plan should follow the same process to prepare the plan and where any changes would likely to be considered to increase the risk to public safety or property damage, Council would need to carefully substantiate and document the reasons why such amendments were supported.

The Ballina Floodplain Risk Management Plan contains a number of actions to be implemented. As reported in each quarterly review, staff have been attempting to secure grant funding to investigate alternate options to the fill arrangements that are the current policy position of Council. This investigation responds directly to a Council resolution and is reported elsewhere in this agenda.

To date we have been unsuccessful in attracting grant funds and therefore staff have modified the scope of works and will shortly commence the delivery of a revised project. This work will take substantial senior staff time and is considered a priority.

Work in response to the report suggested above would either divert resources away from this existing resolution or be programmed according to the priority of Council.

In light of the information above, it is recommended that no further action be taken in respect of this issue at this point in time. The Council will review the Floodplain Risk Management Plan on a regular basis, with new flood data and contemporary risk practice in mind and this would be the preferred time to examine the need to set a different policy direction.

### **COUNCILLOR RECOMMENDATION**

That Council receive a report for options to enable alternative flood mitigation measures (e.g. stilts) for dwellings in rural areas.

### **Attachment(s)**

Nil

**14. Advisory Committee Minutes**

**14.1 Finance Committee Minutes - 6 December 2016**

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**Attendance**

Crs David Wright (Mayor - in the chair), Phillip Meehan, Jeff Johnson, 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), Peter Morgan (Manager Finance and Governance) and Sandra Bailey (Secretary) were in attendance.

There were three staff members in the gallery at this time.

**1. Apologies**

An apology was received from Cr Sharon Parry.

**RECOMMENDATION**

(Cr Ben Smith/Cr Keith Williams)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

**2. Declarations of Interest**

**Cr Nathan Willis** – declared an interest in Item 4.3 – Community Infrastructure Reserve and Priority Projects – and in particular to parking in the Alstonville CBD. (Nature of Interest: non significant, non pecuniary – he has an office in the Alstonville CBD). He will be remaining in the meeting while the matter is discussed and voting on the matter.

**Cr Stephen McCarthy** – later in the meeting declared an interest in Item 4.3 – Community Infrastructure Reserve and Priority Projects – and in particular to the proposed indoor sports stadium. (Nature of Interest: non significant, non pecuniary – he is a Committee member of the Ballina Basketball Association). He will be remaining in the meeting while the matter is discussed and voting on the matter.

**3. Deputations**

Nil

**4. Committee Reports**

**4.1 Operational Land - 26 Endeavour Close, Ballina**

**RECOMMENDATION**

(Cr Ben Smith/Cr Phillip Meehan)

That Council authorises the General Manager to commence negotiations with the Naval Cadets to determine what options are available for the eventual sale and transfer of this land to the Cadets, or an associated body. These discussions are also to canvas an increase in the current rental to recognise the significant value of this land to the Ballina Shire community.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Keith Williams and Cr Ben Smith

AGAINST VOTE - Cr Stephen McCarthy, Cr Nathan Willis and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.2 Property Development Reserve and Airport Boulevard**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Phillip Meehan)

1. That Council approves a revised budget of \$7 million for the construction of Airport Boulevard based on a \$3m Federal Government grant and a \$4m dividend from the Property Development Reserve in 2017/18.

2. That Council approves the inclusion of the revised cash flows for the Property Development Reserve, as per attachment four to this report, in Council's Long Term Financial Plan. In approving these cash flows Council acknowledges that major expenditures in future years (i.e. 2017/18 onwards) will be subject to further reporting to Council prior to commencement.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.3 Community Infrastructure Reserve and Priority Projects**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council notes the contents of this report in respect to the community infrastructure projects under consideration as part of our Long Term Financial Plan and the forecast movements in the Community Infrastructure Reserve.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.3 Community Infrastructure Reserve and Priority Projects - Lake Ainsworth Southern Precinct Works**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Keith Williams)

2. That in respect to resolution 280416/3 to fast track the construction of the southern precinct works for Lake Ainsworth, Council approves a total budget of \$900,000 in the 2016/17 Operational Plan, funded as follows:

- a) Increased contribution of \$500,000 from the Community Infrastructure Reserve
- b) Net proceeds from the sale of Lot 20, DP 1047320, Russellton Industrial Estate, estimated at \$225,000
- c) Transfer of funds from the following stormwater related works:
  - Coogee Street - \$80,000
  - Data Collection - \$59,000
  - Stormwater Management Plan Actions - \$21,000
  - Urban Lanes Improvements - \$15,000

3. That Council authorises the General Manager to seek a contribution from the Lake Ainsworth Holiday Park to the southern precinct works in recognition that the works will significant benefit the amenity at the Holiday Park.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

AGAINST VOTE - Cr Stephen McCarthy and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.3 Community Infrastructure Reserve and Priority Projects - Skennars Head Sports Fields**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Keith Williams)

4. That in respect to resolution 280716/13 to examine options to finance the expansion of the Skennars Head Sports Fields in 2017/18, Council approves a budget of \$1.3m, funded as follows for the project in 2017/18:
  - a) Contribution of \$950,000 from the Community Infrastructure Reserve
  - b) Increase of \$200,000 to the Section 94 contributions recouped in that reserve for 2017/18 to help finance the \$950,000
  - c) Transfer from the Flat Rock Tent Park reserve of \$150,000

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.3 Community Infrastructure Reserve and Priority Projects - Indoor Sports Stadium**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

5. That Council approves an amendment to the Long Term Financial Plan to include dividends of \$2m per annum from the Landfill and Resource Management Reserve for the period 2016/17 to 2019/20 to finance Council's contribution to the Ballina Indoor Sports Stadium. This does not exclude Council from applying for grant applications to assist with financing this project.

Cr Stephen McCarthy at this point declared a non significant, non pecuniary interest in this matter. He is a Committee member of the Ballina Basketball Association.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.3 Community Infrastructure Reserve and Priority Projects - Carparking Alstonville CBD**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

6. That in respect to 9 Commercial Road, Alstonville, Council approves a transfer from the Civil Works Contingency Reserve of \$30,000 to finance the demolition and removal of the existing residence. As part of the formulation of the 2017/18 Operational Plan Council is to receive a report on options to finance the construction of the car park in 2017/18 based on a current estimated cost of approximately \$170,000.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.3 Community Infrastructure Reserve and Priority Projects - Building Better Regions Program**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

7. That in respect to the Building Better Regions Program Council confirms its priority projects are Hutley Drive and the Ballina Indoor Sports Stadium.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4.3 Community Infrastructure Reserve and Priority Projects - Community Infrastructure and Property Development Reserves**

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Sharon Cadwallader)

8. That Council endorses the inclusion of the revised forecasts for the Community Infrastructure Reserve as per attachment nine to this report, along with approving a further adjustment to the Property Development Reserve forecasts, with the \$225,000 sale proceeds from Lot 20, DP 1047320 to be transferred from the Property Development Reserve to the Community Infrastructure Reserve.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

4.3 **Community Infrastructure Reserve and Priority Projects - Coastal Shared Path Project**

A **Motion** was moved by Cr Phillip Meehan and seconded by Cr Jeff Johnson

That Council reallocates \$850,000 held in an Internal Reserve from the Coastal Walk project to the Coastal Shared Path project.

The **Motion** was **LOST**.

FOR VOTE - Cr Phillip Meehan, Cr Jeff Johnson, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Parry

4.3 **Community Infrastructure Reserve and Priority Projects - Ocean Pool**

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Keith Williams

That Council allocate \$50,000 from the Community Infrastructure Reserve in 2016/17 to undertake the necessary studies and reports to advance the planning application for the Ocean Pool.

The **Motion** was **LOST**.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Eoin Johnston and Cr Keith Williams

AGAINST VOTE - Cr Phillip Meehan, Cr Stephen McCarthy, Cr Nathan Willis, Cr Sharon Cadwallader and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Parry



4.4 **Ocean Pool and Shaws Bay - Outstanding Resolution**

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Ben Smith

1. That Council notes the contents of this report in respect to resolution 290916/28.
2. That the implementation of the Shaws Bay Coastal Zone Management Plan, Ballina Town Entry Statements and the Captain Cook Park works remain Council's priority.

An **Amendment** was moved by Cr Jeff Johnson and seconded by Cr Keith Williams

That Council notes the contents of this report in respect to resolution 290916/28.

The **Amendment** was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams  
AGAINST VOTE - Cr Sharon Cadwallader and Cr Ben Smith  
ABSENT. DID NOT VOTE - Cr Sharon Parry

The **Amendment** then became the Motion and was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams  
AGAINST VOTE - Cr Sharon Cadwallader and Cr Ben Smith  
ABSENT. DID NOT VOTE - Cr Sharon Parry

**RECOMMENDATION**

(Cr Jeff Johnson/Cr Keith Williams)

That Council notes the contents of this report in respect to resolution 290916/28.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams  
AGAINST VOTE - Cr Sharon Cadwallader and Cr Ben Smith  
ABSENT. DID NOT VOTE - Cr Sharon Parry

4.5 **Long Term Financial Plan and Fit for the Future**

A **Motion** was moved by Cr Phillip Meehan and seconded by Cr Jeff Johnson

That Council notes the contents of this report and defers any proposal to apply for a special rate variation for a period of 12 months, to better allow the newly elected Council to assess the overall level of services provided to the community.

Cr Jeff Johnson left the meeting at 06:46 pm.

The **Motion** was **LOST**.

FOR VOTE - Cr Phillip Meehan

AGAINST VOTE - Cr David Wright, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

A **Motion** was moved by Cr Keith Williams and seconded by Cr Nathan Willis

1. That Council commence a consultation process with the community to seek an additional 1.5% rate pegging increase, on top of the 1.5% rate pegging increase, for the year 2017/18. The additional revenue raised from this increase is to finance increased expenditure on actions to improve our waterways.
2. That Council advise IPART of our intention to apply for a one year permanent special rate variation for 2017/18.

The **Motion** was **LOST** on the casting vote of the Mayor.

FOR VOTE - Cr Nathan Willis, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston and Cr Stephen McCarthy and the casting vote of the Mayor

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

**RECOMMENDATION**

(Cr Ben Smith/Cr Eoin Johnston)

That Council commence a consultation process with the community to seek an additional 2.9% rate pegging increase, on top of an estimated 2.0% increase (1.5% for 2017/18), for the three year period from 2017/18 to 2019/20. The additional revenue raised from this increase is to finance increased expenditure on asset renewal for core infrastructure, largely consistent with Table 11 of this report; i.e.

Item	2017/18	2018/19	2019/20	%
<b>Additional Income</b>	<b>593,200</b>	<b>1,233,300</b>	<b>1,923,200</b>	<b>100</b>
Road and Stormwater	593,200	813,300	1,163,200	60
Community Buildings	0	150,000	280,000	15
Open Spaces and Sports Fields	0	270,000	480,000	25

FOR VOTE - Cr David Wright, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Ben Smith and the casting vote of the Mayor

## **14.1 Finance Committee Minutes - 6 December 2016**

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AGAINST VOTE - Cr Phillip Meehan, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Jeff Johnson

### **MEETING CLOSURE**

7.12 pm

### **RECOMMENDATION**

That Council confirms the minutes of the Finance Committee meeting held 6 December 2016 and that the recommendations contained within the minutes be adopted.

### **Attachment(s)**

Nil

## 15.1 Mayoral Meetings

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

#### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities since the November 2016 Ordinary meeting:

<u>Date</u>	<u>Function</u>
17/11/16	FSG Meeting
22/11/16	Ballina Business Alliance
22/11/16	Meeting Kristian Moon – Paul Snellgrove
23/11/16	DPI Open Session – Risk Assessment – Ramada
27/11/16	Ballina Shire Concert Band Christmas Concert
28/11/16	Meeting re Dog Walk Area
28/11/16	Meeting DPI Holiday Scenario
28/11/16	Meeting - Carmichael – LEP Review
28/11/16	Meeting – Ferngrove Housing
29/11/16	Meeting DPI – Port Ballina – Port Plans
29/11/16	Environment Trust Education Program – Clean Up Our River
29/11/16	Meeting Alstonville Pool
29/11/16	Ballina Schools' Historical Society
29/11/16	Oz Fish – Presentation
29/11/16	Flavours of Lennox – Lex Thai
30/11/16	Meeting - John Bout
1/12/16	Ballina Green Army Graduation - Beach Access
1/12/16	Councillor Induction – Group Operations Review
1/12/16	Light Up – Wardell
2/12/16	Shire Wide Tour
3/12/16	Sunrise Arts Exhibition
3/12/16	Skennars Head Development Drop-in Session
4/12/16	Lennox Head Carols
5/12/16	Church Group
6/13/16	Breakfast with Japanese Visiting Group from Hiroshima
6/12/16	Meeting Rates Enquiry
6/12/16	NNSW LHB Annual Public Meeting
6/12/16	Briefing RMS Pacific Highway Upgrade
6/12/16	Finance Meeting
7/12/16	Meeting with Kevin Hogan
7/12/16	Emmanuel College Presentation Ceremony
7/12/16	Southern Cross LAD's 'In The Driver's Seat'
7/12/16	Wollongbar Progress Association
8/12/16	DPI Net Installation
8/12/16	Councillor Briefing – Indoor Sports Centre
8/12/16	Aboriginal Community Committee Meeting
9/12/16	Meeting – Drainage – Coral Street
9/12/16	Christmas in the Park – Elizabeth Ann Brown Park
11/12/16	Ballina Christmas Carols
11/12/16	Lennox Head Markets
11/12/16	Alstonville Markets
12/12/16	Hinterland Way Sign
12/12/16	Australia Day Committee

## **15.1 Mayoral Meetings**

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14/12/16	Volunteer Christmas Party – Gallery
14/12/16	Wardell Progress Association
15/12/16	Council Meeting

### **RECOMMENDATION**

That Council notes the contents of the report on Mayoral meetings.

### **Attachment(s)**

Nil

**16. 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:

16.1 Fig Tree Management - Castle Drive, Lennox Head (confidential)

Refer to Item 11.3 of this agenda.

16.2 Contract Dispute - Treatment Plant Upgrade (confidential)

Refer to Item 11.7 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.

**16.1 Fig Tree Management - Castle Drive, Lennox Head (confidential)**

**Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as there is a risk of litigation against Council for property related damage.

**16.2 Contract Dispute - Treatment Plant Upgrade (confidential)**

**Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as this matter involves formal dispute resolution proceedings.