



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 **Wednesday 25 January 2017 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

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a long horizontal line extending from the end of the signature.

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

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

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

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

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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1. Australian National Anthem

The National Anthem will be performed by Alex Waldron.

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 15 December 2016 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 15 December 2016.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8. Development and Environmental Health Group Reports

8.1 DA 2016/510 - Two-storey Dwelling - 3 Rayner Lane, Lennox Head

Applicant	Ardill Payne and Partners
Property	Lot 43, DP11687, No. 3 Rayner Lane Lennox Head
Proposal	Two-storey Dwelling and Pool
Effect of Planning Instrument	The land is zoned R3 Medium Residential under the provisions of the Ballina Local Environmental Plan (BLEP) 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of a Development Application for the demolition of an existing dwelling and the proposed construction of a new two-storey dwelling and pool to be constructed on the above property.

The 1,070m² site, being situated on the eastern side of Rayner Lane, currently contains a modest aged lightweight dwelling and detached garage which is intended to be demolished to accommodate the new proposal. The site adjoins Seven Mile Beach being in the vicinity of other residential developments of similar scale which receive sea views.

The proposal generally complies with Council's planning controls with exception to the building height and Building Height Plane (BHP) provisions contained within the Ballina Local Environmental Plan (BLEP) and Development Control Plan (DCP) 2012. A neighbour objection has been received regarding a number of issues, in particular the extent of the BHP departure and is the reason that this report has been prepared for the Council's determination.

The applicant has also submitted additional documentation in support of the application and this is attached for Council's consideration.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application has been target notified in accordance with Council's DCP, with a written letter sent to adjoining and nearby neighbours. As a result of the notification, written objections have been received from the adjoining owners to the south and are attached for Councillor reference.

The objections relate to issues of overall building height in addition to the BHP departure and its impacts on overshadowing, privacy, and view loss. These matters will be discussed within the tabled section of the report.

Applicable Planning Instruments

The relevant planning instruments are as follows:

- Ballina Local Environmental Plan (BLEP) 2012
- Ballina Shire Council Development Control Plan 2012
- NSW Coastal Policy 1997
- State Environmental Planning Policy (SEPP) No. 71 Coastal Protection
- Draft Coastal Management State Environmental Planning Policy (SEPP) 2016

Ballina Local Environmental Plan (BLEP) 2012

The development meets the floor space ratio provisions, however it does not comply with the overall building height provisions contained within Clause 4.3 of the BLEP (refer comments in table below).

The proposal does not contravene the relevant objectives of Clause 5.5 of the BLEP *Development within the coastal zone*, in that the development will not:

- Impact negatively on the existing coastal marine environment
- Impede pedestrian public access to the foreshore
- Impact on the amenity and scenic quality of the surrounding coastal foreshore areas, taking into account the scale and bulk of the proposed infill development, being in keeping with the surrounding urban design and overall residential subdivision pattern in the vicinity
- Overshadow coastal foreshore areas or cause unreasonable loss of views from a public place to the coastal foreshore
- Impact on coastal hazards
- Discharge untreated wastewaters or stormwaters into the ocean
- Impact on coastal hazards

The site is zoned R3 Medium Density, where one dwelling per 250m² site area is permissible with consent. A four unit development is permissible on this site, however much of the site is restricted due to significant foreshore building line setbacks affecting the land.

Ballina Shire Council Development Control Plan (DCP) 2012

The proposal generally meets the requirements of the various planning controls of the DCP with the exception of the Building Height Plane (BHP) provisions under Chapter 4 Clause 3.1.3 C Element- Building Envelopes (refer comments in table below).

State Environmental Planning Policy (SEPP) No.71 Coastal Protection

The site is mapped as being within a sensitive coastal location and the provisions of SEPP No. 71 apply.

There are matters for consideration under SEPP 71, including public access to and along the coastal foreshore, the suitability of the development in the coastal setting, any detrimental impact the development may have on the amenity of the foreshore including issues of foreshore overshadowing and significant loss of views from a public place to the foreshore.

The development is consistent with the existing residential dwelling and unit development in the area and will not impede any public access, overshadow the public foreshore area or significantly obstruct public views to the foreshore.

Coastal Policy 1997

This Policy is largely directed at all councils regarding their strategic planning to ensure that local environmental plans are aligned with the objectives of the Coastal Policy and permitted development is appropriate within the coastal zone.

The Policy's main focus is the conservation of biological diversity and ecological integrity in the coastal zone.

The proposed development, being infill development within an existing urban village subdivision, will not present any negative impacts on the coastal foreshore area.

Draft Coastal Management State Environmental Planning Policy (SEPP) 2016

The Policy, although currently in draft form, is required to be considered by Council and is intended to integrate all existing NSW Government SEPPs regarding coastal management.

The Policy focus is to ensure that development is not impacted due to a high risk of coastal hazards, does not alter natural coastal processes, and is not of detriment to the natural environment. The Policy also provides comment on public amenity, including access to and from the coastal foreshore areas.

The proposal is not in conflict with the objectives of the draft Policy.

Report

The following table provides a breakdown and comments relating to the relevant aspects of the BLEP and DCP 2012 in addition to the objectors' submissions.

Issue	Relevant Planning Control (BLEP/DCP)
Building Height	<p>An overall building height of 8.5 metres applies under the BLEP Height of Buildings Map.</p> <p>Note: Clause 4.3A (Exceptions to height of buildings) of the BLEP references the application of a consistent point of reference for the measurement of building heights in flood prone areas.</p>
<p><i>Comment:</i></p> <p><i>The site is identified as being subject to coastal hazards in respect to sea inundation. Although the site and others located on the eastern side of Rayner Lane are protected by an existing revetment sea wall to the east, minimum habitable floor levels to Australian Height Datum (AHD) apply to these properties.</i></p> <p><i>The minimum required habitable ground floor level for this site is 500mm above the centre line of Rayner Lane, being 5.79 metres AHD. The applicant is proposing to construct the building at this minimum floor level height.</i></p> <p><i>The overall building height as measured from existing natural ground levels is approximately 9.8 metres, being in excess of the 8.5 metres maximum under the BLEP. The applicant is of the belief that that portion of the roof exceeding the height limitation is an architectural roof feature as defined under Clause 5.6 of the BLEP, where such features are permitted to encroach within the height restriction.</i></p> <p><i>Council staff are of the opinion that the roofing portion containing skylights is a significant integral part of the roof design and is not regarded as an ornamental type architectural roof feature.</i></p> <p><i>Due to this opinion, the applicant is requesting a variation to this height restriction development standard as permitted under Clause 4.6 of the BLEP.</i></p> <p><i>Clause 4.6 of the BLEP permits flexibility for Council to consider the merits of the case and grant a concession to the overall building height of 8.5 metres.</i></p> <p><i>As part of the request for variation, the applicant must demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The applicant has submitted reasons supporting the granting of the height variation in their latest attached submission.</i></p> <p><i>Regarding the assessment of building height, Clause 4.3A of the BLEP addresses the flood planning and filling provisions that apply to developments in flood prone areas. It enables Council to allow for required site filling when measuring overall building heights where the building height is measured from the required minimum fill level.</i></p> <p><i>Although the site is not mapped as flood prone land where site filling applies as referenced under Clause 4.3A of the BLEP, the land is subject to potential tidal sea inundation where minimum habitable floor levels are required, rather than fill levels.</i></p>	

Issue	Relevant Planning Control (BLEP/DCP)
	<p><i>It has been Council's past practice of applying similar building height measurement principles that apply to flood prone land to developments in the Rayner Lane, Dress Circle Drive and Allens Parade mapped coastal hazard areas of Lennox Head, where minimum habitable floor levels only apply.</i></p> <p><i>This process involves measuring the overall building height vertically at any point from the required minimum habitable floor height. This principle was also applied to the existing two-storey unit development to the south, where the natural landform falls away to the east, resulting in a large subfloor height of approximately two metres under the rear portion of the two-storey building.</i></p> <p><i>The reason for applying this approach of measuring the overall building height from the required minimum floor level is that it enables owners to build a two-storey dwelling on their land, similar to what is available to other property owners throughout the Shire.</i></p> <p><i>In applying this approach (i.e. measuring the overall building height from the required minimum habitable floor level of 5.79 metres AHD as opposed to natural ground level), the proposed building will have an overall height of 8.04 metres (13.828 metres AHD), being under 8.5 metres.</i></p> <p><i>In applying this approach, as has been the practice in the past, it would generally be considered acceptable to build to an overall height of 14.29 metres AHD, being 462mm higher than that proposed.</i></p> <p><i>The proposed building height is similar to existing developments in Rayner Lane, where the adjoining development to the south has an overall height of 14.3 metres AHD, approximately 470mm higher than the proposal.</i></p>
Floor Space Ratio (FSR)	The BLEP requires a maximum FSR of 0.5:1
	<p><i>Comment:</i> <i>The building will have a FSR of 0.47:1, compliant with the BLEP</i></p>
Street/foreshore building line setbacks	DCP 2012 requires a six metre building line to the Rayner Lane frontage and a foreshore building line of 40.43 metres and 41.95 metres respectively as measured from the Rayner Lane north/western and south/western corner boundaries.
	<p><i>Comment:</i> <i>The submitted plans indicate the dwelling to have a compliant setback of approximately seven metres to Rayner Lane, however there appears to be minor departures from the foreshore building line over the lower and upper floor deck areas including the access stair.</i></p> <p><i>Should Council be mindful of approving the development application, it is recommended the architectural plans be modified to comply fully with the foreshore building line requirements.</i></p>
Coastal Hazards	The site is identified on the Ballina Coastal Hazard Protection Map, with a minimum habitable ground floor level of 500mm above the centre line of Rayner Lane required.

Issue	Relevant Planning Control (BLEP/DCP)
	<p>Specific engineering requirements also apply to the footings and floor construction of the building.</p>
<p><i>Comment:</i> <i>The habitable ground floor level of the building is proposed to be a minimum 500mm above the centre line of Rayner Lane (RL 5.79 metres AHD), being compliant with the DCP.</i></p> <p><i>The structural footings and slab design will require a suspended floor design (a minimum 300mm above ground level), supported off piles taking into account the possible removal of foundation soil from sea inundation to a minimum depth of 2.0 metres AHD. This requirement will generally result in sub-surface piles being positioned to a depth of approximately 4-5 metres.</i></p> <p><i>Should the application be approved, these requirements will be addressed at Construction Certificate stage (via a condition of Development Consent).</i></p>	
Overlooking and Privacy	<p>DCP 2012 requires the following:</p> <ul style="list-style-type: none"> • Windows of habitable rooms < 3 metres from a side/rear boundary having a sill height of < 1.5 metres are to be treated for privacy protection • Balconies > 3m² in area and setback < 1.5 metres from a side/rear boundary are to be treated for privacy protection.
<p><i>Comment:</i> <i>The adjoining residents to the south (objectors) have raised concerns with the impact on privacy from the upper floor stairwell window. Although the window is not required to be protected under the DCP, the window is adjacent to habitable window areas of the adjoining residence.</i></p> <p><i>It is considered reasonable to require the treatment of this stairwell window with either external privacy louvres (max. 20mm opening aperture width) or opaque glazing, with any issued Development Consent.</i></p> <p><i>Although no submission has been received from the adjoining northern neighbour (property containing a small aged dwelling), the following area is considered in need of privacy treatment as detailed should the application be approved:</i></p> <ul style="list-style-type: none"> • A privacy screen (maximum 20mm openings and minimum 1.7 metres in height above floor level), is to be provided to the entire northern elevation perimeter of the first floor deck off the Study/Bed 2 areas. <p><i>Although the proposed upper floor northern windows of the Bed 1 and Lounge areas require consideration for privacy protection under the DCP, both of these windows will receive sea views, pending the possible future redevelopment of the northern site adjoining, which currently contains an aged dwelling. Any enforced privacy design elements will impede views from these windows and are not considered necessary, taking into account the location and nature of the existing adjoining northern residence.</i></p>	

Issue	Relevant Planning Control (BLEP/DCP)
Tree Removal	DCP 2012 Chapter 2a addresses vegetation removal
<p><i>Comment:</i> The applicant proposes to retain the existing mature Norfolk Pine tree located in the front street yard area, adjacent to Rayner Lane. Council would normally endeavor to have these types of trees preserved in the vicinity where possible, due to their visual value and any issued consent would include a condition requiring the retention of the tree.</p> <p><i>It is proposed to remove or trim as necessary a cluster of 3 Tuckeroo and 8 frangipanis located along the northern boundary line.</i></p> <p><i>Due to the isolated nature of the trees located on a residential parcel of land, the trees are not regarded as having high ecological or scenic value. Additionally, the location of the trees is such that they would likely require removal to accommodate the construction of the proposed dwelling and masonry side boundary fencing. Should an approval be granted for the proposal. No objections are raised with the removal of these particular trees.</i></p>	
Building Height Plane (BHP) and Solar Access	<p>The BHP requirements are contained within DCP 2012, Chapter 4 C. Element- Building Envelopes.</p> <p>The BHP applies to residential developments, stating that development must be contained within a building envelope, including the following:</p> <ul style="list-style-type: none"> • Below a plane measured 8.5 metres above ground level • Below a plane measured over the land at 45 degrees from a point 1.8 metres above the side and rear boundaries. <p>Concessional encroachments are also permissible under the DCP including the following:</p> <ul style="list-style-type: none"> - Eaves/Gutters up to 700mm in width; - 40% of the wall length along the northern and eastern elevations, providing such wall height is a maximum 6.5 metres and situated a minimum 1200mm from the relevant boundary.
<p><i>Comment:</i> Regarding bullet point one above, considering the overall Building Height comments made earlier, and the past practice of Council measuring the overall height from the required minimum habitable floor levels, it appears reasonable to consider the building height to be acceptable, having an overall height of 8.04 metres.</p> <p><i>The proposed building does not meet with the remaining BHP requirements (bullet point two) including the concessions and is the principal reason for the written objections being received from the southern neighbours.</i></p>	

Issue	Relevant Planning Control (BLEP/DCP)
	<p><i>In examining the proposed encroachments and taking the reasonable approach of measuring the height plane from the required finished ground floor level height instead of existing ground levels, a boundary setback of approximately 4.4 metres is required to the upper floor walling to meet with the DCP requirements.</i></p> <p><i>The plans depict a varying upper floor wall setback of 1.205 - 8.5 metres for the southern boundary and 1.0 - 1.5 metres for the northern boundary. The lower floor setbacks comply with the minimum 900mm setback under the DCP.</i></p> <p><i>The BHP requirements were introduced to Lennox Head in November 2007 through the adoption of the Ballina Shire Council Combined DCP Chapter 16 Lennox Head, where the document was subsequently modified within DCP 2012 and applied Shire wide, commencing in 2013.</i></p> <p><i>The introduction of both Chapter 16 and DCP 2012 involved both the public exhibition of draft documentation and community consultation prior to the Council adoption of the planning controls.</i></p> <p><i>Any DCP planning control departures are not variations requested to a development standard under clause 4.6 of the adopted and gazetted BLEP, but rather a set of planning controls which are often used as a template for desired development outcomes. These controls are required to be considered and can be applied or not applied or varied by Council under circumstances, often based on a merit assessment and whether a development is deemed reasonable or not.</i></p> <p><i>Council DA assessment staff do provide weighting to the DCP controls during their assessment of development applications as required under Section 79 (C) of the Environmental Planning and Assessment Act (EPAAAct), however they do permit variations to the controls, in particular the BHP requirements depending on the circumstances and any impacts. The BHP provisions can be quite restrictive, particularly on sites that are sloping, narrow in width or burdened with other constraints.</i></p> <p><i>The objectives of the BHP provisions under the DCP are as follows:</i></p> <ul style="list-style-type: none"> <i>(i) Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy or unreasonably obstructing views;</i> <i>(ii) Ensure that the occupants of residential accommodation have the opportunity to enjoy the optimum use of winter sunlight;</i> <i>(iii) Enhance opportunities for solar access to both the development site and adjoining properties;</i> <i>(iv) Achieve varied and interesting streetscapes, good orientation of residential developments with regard to sun, shade, wind, and neighbouring development, and effective use of allotments to create useable private open space and courtyards;</i> <i>(v) Minimise adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape quality of the area.</i>

Issue	Relevant Planning Control (BLEP/DCP)
	<p><i>In consideration of the above objectives, the proposed design of the building is architecturally pleasing when viewed from the street and foreshore elevations. The building façade to these elevations has a variety of horizontal and vertical lines and building elements, with staggered boundary setbacks when viewed from Rayner Lane.</i></p> <p><i>The building when viewed from the street and foreshore areas will be of similar scale and bulk to the majority of the existing developments in Rayner Lane which were approved and constructed prior to the introduction of the height plane controls. For this reason, it is difficult to claim the development will be out of character with the surrounding development and in isolation, impact or contribute negatively on either the surrounding landscape or streetscape.</i></p> <p><i>The critical issues requiring consideration are the impacts the BHP departures will have on adjoining properties in respect to overshadowing and view loss.</i></p> <p><i>The adjoining property to the north is occupied by a modest aged dwelling and is likely to be redeveloped in the future. No objections have been received from the northern property owner who was notified of the proposal. There will be no issues with overshadowing on this property and its sea views are predominantly orientated to the east, north/east and south/east.</i></p> <p><i>Under the DCP however, the northern elevation of a building is permitted to have 40% of its wall elevation encroach into the BHP, this would permit an approximate 12.8 metre wall length encroachment with this development, whilst the proposal depicts an entire upper floor length encroachment of 32.07 metres. The proposed first floor northern wall has a varying setback of 1,000 – 1,500mm from the northern boundary, rather than the minimum 1,200mm required under the DCP for that area of wall length given the 40% concession.</i></p> <p><i>Although the building does not meet the BHP requirements to the northern elevation, the proposal will not have any significant impacts on the adjoining northern neighbour.</i></p> <p><i>Notes contained within the DCP state that BHP variations to the southern and western elevations will generally not be supported due to the potential impacts on overshadowing.</i></p> <p><i>The adjoining property owners to the south have objected to the development and believe they will suffer unreasonable overshadowing and view loss due to the BHP departure on the southern boundary, principally due to the degree of departure from the DCP and the proximity of the first floor walling from their dividing boundary, being a minimum 1205mm.</i></p> <p><i>The total development wall length to the southern elevation is 34.26 metres, where 22.96 metres of first floor walling (including privacy screen to eastern deck) will encroach into the BHP requirements, representing 67% of that elevation.</i></p>

Issue	Relevant Planning Control (BLEP/DCP)
	<p><i>During the assessment of the application, discussions were held between Council staff, the applicant and owner regarding this objection and the extent of the BHP departures with a view to considering amending the plans. The owners have indicated that they are not prepared to modify the plans and they have submitted further written information via their applicant in support of their proposal.</i></p> <p><i>The adjoining development to the south comprises an existing two-storey two-unit strata title development, being Council approved under DA 2006/872, prior to the introduction of the BHP controls and it would not comply with the current controls.</i></p> <p><i>A dividing fire wall running east to west separates both units, with the objectors residing in the northern unit which currently receives expansive ocean views to the east, south/east and north/east. Due to the design of these units, most of the windows to the northern unit are positioned on the northern wall elevation, facing the development site.</i></p> <p><i>The northern and southern side boundary lower and upper floor wall setbacks of these units vary from 950mm – 1,300mm.</i></p> <p><i>Although the solar access controls within DCP 2012 are silent for single dwellings and only apply to dual occupancies, semi-attached dwellings, attached dwellings and multi-dwelling housing, the relevant objectives can be used as a guide for residential development. The relevant objectives of the DCP include the following:</i></p> <ul style="list-style-type: none"> <i>• Proposed dwellings are to have indoor and outdoor living areas and major window areas facing towards the north and north/east</i> <i>• The windows of living areas of dwellings and private open space facing north, north/east or north/west must receive at least three hours of direct sunlight between 9.00AM and 3.00PM (Australian Eastern Standard Time) on 21 June (Winter Solstice)</i> <i>• New buildings must contain at least three hours of direct sunlight to the windows of living areas that face north, north/east or north/west for existing adjacent dwellings and their areas of private open space between 9.00AM and 3.00PM (Australian Eastern Standard Time) on 21 June (Winter Solstice).</i> <p><i>The applicant originally submitted shadow diagrams prepared by the consultant architect where their accuracy was challenged by the objectors' consultants, depicting anomalies in the diagrams provided. Subsequently, the applicant has provided the attached full set of amended shadow diagrams prepared by a third party design company called "denebdesign".</i></p> <p><i>The new diagrams appear to have addressed the accuracy issues raised by the objectors' consultant.</i></p> <p><i>The objectors' unit contains a double garage, two bedrooms, secondary living room and external deck at ground floor level, with a main bedroom, study/bedroom, main dining/ living area and external deck at first floor level including a spiral stair accessing a roof top level deck. The adjoining unit also has adjustable full height privacy louvres affixed to the entire northern elevation of both external decks to the ground and first floors.</i></p>

Issue	Relevant Planning Control (BLEP/DCP)
	<p><i>The shadow diagrams for the winter solstice depict that there will be complete overshadowing to the ground floor northern bedroom windows, secondary living room, northern elevation sliding door, and deck areas.</i></p> <p><i>Considering the minimum habitable ground floor levels required under the DCP and the existing minimal northern wall boundary setback of the adjoining objectors' unit, these areas are vulnerable where any two-storey adjoining development is likely to significantly shadow these lower floor areas in some form.</i></p> <p><i>The ground floor secondary living room also has sliding doors to the east, opening onto the external deck which would receive early morning sun.</i></p> <p><i>The diagrams also depict that there will be a degree of overshadowing to the main first floor bedroom/study, main dining/living and outdoor deck areas.</i></p> <p><i>The diagrams depict that the surface area of the two northern facing main living/dining room windows will receive approximately 50% of sunlight for the period between 10.00AM-3.00PM (5 hours) and 70% between 11.00AM-2.00PM (3 Hours). It is also worth noting that the windows in question are reasonable in size, being 1800mm depth x 2100mm width where the modest or partial overshadowing of these windows is considered reasonable.</i></p> <p><i>The first floor living room also receives light and solar access from existing eastern facing sliding doors which open onto the deck area.</i></p> <p><i>The existing roof top level deck of the adjoining unit will not be affected by the development in regard to overshadowing. The large private open space eastern yard area of the adjoining unit development will be overshadowed to varying degrees, in particular from 2.00PM onwards in winter, due to the overall height of the proposed building rather than the BHP departures.</i></p> <p><i>It is considered the available solar access requirements meet the objectives of the DCP for multi-dwellings, in that the main living areas, first floor deck and private open space yard areas of the adjoining unit will receive at least 3 hours of direct sunlight between the hours of 9.00AM-3.00PM during the 21 June Winter Solstice.</i></p> <p><i>Although it is acknowledged the current solar access to the adjoining southern residents will be diminished due to the redevelopment of the subject land with a two-storey development, it is considered it would be difficult to refuse the application based solely on the degree of overshadowing and its impacts.</i></p> <p><i>With respect to views, the adjoining southern unit enjoys expansive ocean views, particularly from both the first floor living, outdoor deck and rooftop deck level areas.</i></p> <p><i>Part of this view from the first floor northern windows of the study/bedroom and living areas are through the adjoining subject lot, over and past the existing single-storey aged dwelling, which is currently located approximately six metres behind the permissible foreshore building line.</i></p>

Issue	Relevant Planning Control (BLEP/DCP)
	<p><i>The construction of the proposed development up to the foreshore building line will therefore impede the north/eastern portion views from the lower floor secondary living room and upper floor northern windows that are currently enjoyed by the unit adjoining.</i></p> <p><i>The objectors argue that a DCP height plane compliant development will significantly improve their sea views to the north/east, due to the need to set back the upper floor walling (particularly the south/eastern portion) approximately four metres from their dividing boundary, as opposed to the 1205mm setback proposed.</i></p> <p><i>In this instance, Council needs to consider the reasonableness of the development proposal in the context of various factors, in particular that a portion of these views are being obtained across and through an adjoining parcel of land, prime for redevelopment.</i></p> <p><i>This current view path was always vulnerable with the redevelopment of the adjoining site.</i></p> <p><i>The concept of view sharing corridors is often raised, however this often relates to properties situated to the rear of development sites and the creation of open spaces between buildings rather than obtaining a view across a site.</i></p> <p><i>Although the objectors see their potential view loss as significant and are understandably protective of these views, the loss is largely attributed to the development of the subject land with a two-storey building up to the permissible foreshore building line.</i></p> <p><i>That part of the view impeded by the BHP departure is regarded as marginal and not excessive, however it is acknowledged that the current views would be preserved, perhaps not dramatically, with a greater side boundary setback than the proposed 1205mm. The majority of the objectors' sea views will continue to be maintained to the east from the first floor living and deck areas.</i></p> <p><i>The BHP requirements do place restrictions on developing land to its potential and compliance can be difficult where site constraints exist or there are other circumstances. In this instance, the land in question is quite narrow, being 15.095 metres wide at the western boundary and 15.339 metres at the eastern boundary.</i></p> <p><i>A fully BHP compliant development of similar height (excluding northern boundary concessions), results in an overall building width of approximately 6-7 metres at first floor level. It is acknowledged, however, that the 40% wall length DCP concession to the northern elevation would permit parts of the building to be wider.</i></p> <p><i>The overall dwelling height at the southern boundary is 6.43 metres approximately when measured from the required minimum habitable ground floor level. As a comparison, the NSW Government State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, permits a complying dwelling having a similar height with a side boundary setback of 1.4 metres.</i></p>

Issue	Relevant Planning Control (BLEP/DCP)
	<p><i>Complying Development is not permitted on this site due to the coastal hazard constraints, however dwellings constructed as Complying Development with similar height and setbacks have been constructed nearby in Dress Circle Drive and Rutherford Street in recent years.</i></p> <p><i>The 1070m² site is also affected by a significant foreshore building line, resulting in approximately 457m² of land that cannot be developed, leaving approximately 525m² of developable land when the six metre Rayner Lane building line setback is also taken into account.</i></p> <p><i>The foreshore building line traverses all lots in Rayner Lane and is tapered across the foreshore frontage of these lots as a result of the original alignment of the foreshore revetment wall.</i></p> <p><i>The building line setback is measured from the Rayner Lane frontage along the northern and southern boundaries, where a greater foreshore setback is required at the northern boundary and a lesser foreshore setback at the southern boundary.</i></p> <p><i>The resultant tapered boundary, although enacted for engineering coastal inundation purposes, has inadvertently provided view vantages northward.</i></p> <p><i>It is likely for this reason, the applicant has located the proposed dwelling as far forward and southward as possible to maximize sea views, with thought given to the potential redevelopment of the adjoining northern site in the future.</i></p> <p><i>It is also worth noting that unroofed cantilevered balconies can also project into the foreshore building line for a maximum distance of 1.8 metres however the proposal does not take advantage of this allowance.</i></p> <p><i>The existing adjoining unit development to the south has utilized this allowance.</i></p> <p><i>Granting any DCP concessions is a balancing act, where consideration needs to be given to several factors including whether any impacts as a result of the variation are significant and unreasonable and whether the development is reasonable.</i></p> <p><i>Past Land and Environment Court appeals regarding DCP control matters appear to be given a higher weighting of consideration where a DCP has undergone public consultation, adopted by the relevant council and the control is generally applied consistently and diligently, however the reasonableness and impacts of a development are still the paramount considerations.</i></p>

Conclusions

Essentially, the issues requiring consideration are the extent of variations to the BHP provisions of the DCP and whether they have an unreasonable impact on the streetscape, surrounding landscape and adjoining premises.

The land in question is zoned R3 Residential with extensive sea views, where the construction of a dwelling, strata-title dual occupancy or multi-residential development is permissible, however significant development constraints exist with the existing foreshore building line setbacks.

The BHP provisions also place additional constraints on the development of the land for its intended planning purpose, which includes multi-unit construction. Although the owners are only proposing a single dwelling, it is acknowledged the dwelling is substantial in size as they wish to maximize the development potential of the land.

From a scale, bulk and siting perspective, the proposed development will not be out of character with existing buildings in Rayner Lane, where there is an array of designs and setbacks.

There are existing buildings, including the adjoining southern building, having first floor boundary setbacks that are less than that required under the current building height plane controls. The development is architecturally interesting in design and will not impact adversely on existing foreshore views and surrounding streetscape.

The submitted shadow diagrams depict the proposal will have increased impacts regarding shadowing to the adjoining unit to the south, in particular the lower floor, however reasonable periods of light and solar access will be maintained to the private yard space and main first floor living/dining and deck areas.

The proposal will impede a portion of the views currently enjoyed by the resident to the south, largely due to the new development being two-storey and built up to the foreshore building line, replacing an older smaller single-storey dwelling being six metres behind the building line.

The departure to the BHP over the first floor south/eastern deck and dining room areas will affect the neighbour regarding view loss, however the loss attributed to the departure is not considered excessive or unreasonable in the circumstances.

These existing views are vulnerable as they are currently being obtained through the adjoining subject land and the adjoining residents will maintain expansive sea views to the east and north east.

Options

The following options are available to Council:

Option 1: REFUSE the application for a two-storey dwelling and pool due to the non-compliance with Council's Development Control Plan 2012 - Chapter 4, Clause 3.1.3 C. Element- Building Envelopes, where the Building Height Plane departures are considered to have an unreasonable impact on the adjoining properties, including issues of overshadowing, view loss and general amenity.

Option 2: APPROVE the application for a two-storey dwelling and pool construction subject to the plans being modified to comply with the foreshore building line requirements and the following specific conditions in addition to general conditions that are to be applied to the consent:

1. The structural footings and slab designs of the dwelling are to incorporate a suspended floor design, being suspended a minimum 300mm above existing ground levels, with the building and pool supported off piles, taking into account the possibility of foundation soil removal to a depth of 2.0 metres Australian Height Datum (AHD).

Such piling design is to support the whole building and pool taking into account any potential forces attributed to wave action. Structural engineering details are to be submitted to the Principal Certifying Authority (PCA) detailing this requirement prior to the issue of any Construction Certificate.

On completion of all piling, written structural engineer's certification from the consultant engineer is to be submitted to the PCA and Council, verifying the placement of the piles and adequacy of the required bearing capacity, prior to works proceeding beyond that stage.

Note: driven piling methods are not permitted due to problems with site vibration and the potential for damage to adjoining properties.

2. The habitable ground floor of the building is to be constructed at a level 500mm above the center line of Rayner Lane (RL 5.79 metres AHD). Written certification from a registered surveyor is to be submitted to the Principal Certifying Authority (PCA) and Council on completion of the formwork for the ground floor slab (prior to concrete pour) or installation of ground floor timber flooring, prior to works proceeding further.
3. Externally mounted fixed privacy louvres (maximum 20mm openings) or opaque glass is to be provided to the first floor southern elevation stairwell window to afford a degree of privacy to the southern neighbour.
4. A fixed privacy screen (maximum 20mm openings and minimum 1.7 metres in height above floor level), is to be provided to the entire northern elevation perimeter of the first floor deck off the Study/Bed 2 areas.
5. The existing Norfolk Pine tree is to be retained and not damaged during the construction of the development.

The extent and nature of the proposal's variations to the Council's DCP are typical of developments along this section of Rayner Lane and, for the reasons outlined in the report and conclusions sections above, it is considered that they have been and are justified. Consequently, option two, approval of the application is recommended.

RECOMMENDATIONS

That Development Application 2016/510 to construct a two-storey dwelling and pool at Lot 43 in DP11687, being No. 3 Rayner Lane Lennox Head be **APPROVED** subject to:

1. The structural footings and slab designs of the dwelling are to incorporate a suspended floor design, being suspended a minimum 300mm above existing ground levels, with the building and pool supported off piles, taking into account the possibility of foundation soil removal to a depth of 2.0 metres Australian Height Datum (AHD).

Such piling design is to support the whole building and pool taking into account any potential forces attributed to wave action. Structural engineering details are to be submitted to the Principal Certifying Authority (PCA) detailing this requirement prior to the issue of any Construction Certificate.

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5. The existing Norfolk Pine tree is to be retained and not damaged during the construction of the development.

Attachment(s)

1. Locality Plan
2. Covering letter from applicant's consultant (denebdesign) regarding additional shadow diagram
3. Additional shadow diagram from applicant's consultant- denebdesign
4. Report from architect George Korban in support of objection by Craig Jones & Rebecca Winters-Jones
5. Legal advice from solicitors McCartney Young Lawyers in support of objection by Craig Jones & Rebecca Winters-Jones
6. Objector submission from Craig Jones and Rebecca Winters-Jones
7. Further submission from objectors Craig Jones and Rebecca Winters-Jones
8. Further objector submission (not for public viewing) (Under separate cover)
9. Statement of Environmental Effects (web)
10. Additional information from applicant - regarding BLEP variations and roof feature
11. Amended plan set (web version) - Current 5 December 2016
12. Further objector submission - Craig Jones and Rebecca Winters Jones
13. Further objector submission from solicitors McCartney Young Lawyers on behalf of objectors
14. Further objector submission from solicitors McCartney Young Lawyers (containing an attachment which is not for public viewing) (Under separate cover)

8.2 DA 2016/166 - 26 Lot Subdivision, Henderson Drive (Visions Estate)

8.2 DA 2016/166 - 26 Lot Subdivision, Henderson Drive (Visions Estate)

Applicant	Planners North (on behalf of Negrada Pty Limited and others)
Property	Lot 7 DP 1216761, Lot 12 DP 814039, Lot 52 DP 864764 & Crown Public Road, Henderson Drive and Kellie Anne Crescent, Skennars Head
Proposal	To undertake a 26 Lot Designated/Integrated Torrens Title Residential Subdivision and associated works ("Visions Estate")
Effect of Planning Instrument	The land is predominately zoned R3 Medium Density Residential, but is also part R2 Low Density Residential and part Deferred Matter under the provisions of the Ballina LEP 2012
Locality Plan	The subject lands are depicted on the locality plan <u>attached</u>

Introduction

The proposal involves a Torrens Title subdivision of an existing 4.148 hectare site that is predominately zoned residential. It is proposed to construct a 26 lot residential subdivision including the extension of Henderson Drive as entry to the estate from the west and Kellie Anne Crescent as entry to the estate from the south (refer attached layout plans).

The site has an elevated south-easterly and south-westerly aspect with some limited coastal and ocean views overlooking existing residential, rural and environmentally sensitive lands (SEPP 26 Littoral Rainforest).

The majority of the site is cleared grazing land. There are substantial stands of established/mature State Environmental Planning Policy No. 26 Littoral Rainforest included in and bounding the site (refer attached SEPP 26 plan). Immediately to the south is the original Lennox Palms residential estate that was initially developed in the 1980s. Some clearing works and removal of rock walls (not heritage listed) are also proposed.

Vehicle access is currently available to the site from the eastern end of Kellie Anne Crescent cul-de-sac head and the northern end of Henderson Drive. There are currently no pedestrian pathways within the existing/adjoining Lennox Palms Estate, however an internal pathway is proposed within the "Visions Estate". Both Henderson Drive and Kellie Anne Crescent are proposed to be extended to create what is essentially a loop road to service the proposed allotments.

The extension to the road system is predominately around the perimeter of the site. This design also has the advantage of allowing the public street system to provide bush fire and mosquito buffers for parts of the estate from the surrounding vegetation and setbacks to the SEPP 26 Littoral Rainforest areas.

This road system does not, however, extend entirely around Council's adjoining Public Reserve Lot 62 DP 864764 located to the south-west of the site. Lot 62 contains significant stands of SEPP 26 Littoral Rainforest and the potential impacts of proposed Lots 16, 25 and 26 on this adjoining vegetation and required buffers are considered to be of particular assessment importance.

The proposal also involves boundary adjustments with surrounding lands and the provision of various stormwater treatment devices and rehabilitation.

This site has been identified in various Council and State Government Strategies as being a potential urban growth area for a substantial number of years and has been zoned residential for approximately 40 years.

The land that forms part of the 26 urban residential lot subdivision footprint is zoned R3 Medium Density. The proposed allotments range in size from 730m² to 1,100m² (predominately configured having north to south aspects).

The north-eastern corner of the development site comprises SEPP 26 Littoral Rainforest and is a Deferred Matter still under the provisions of the 1987 Shire Plan. This area of the site is proposed to become a 6521m² residue allotment (proposed Lot 27) and to be consolidated into the privately held allotment adjoining the development site to the east.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The proposal was received in April 2016 and placed on public exhibition from 27 April to 27 May 2016. 23 letters of objection have been received. Copies of each submission are included as attachments to this report. Confidential submissions will be provided separately to Councillors.

The following issues of concern are those that have been generally raised within the submissions.

- Minimum lot size should be 1,000m² to 1,200m² having regard for the existing character of the locality. The number of lots, and narrow frontages causes this to be an overdevelopment of the site and will change Lennox Palms Estate's low density character.

Comment: Refer to "Variation to Minimum Lot Size" section of this report.

- Ecological concerns, primarily the clearing of littoral rainforest and placement of future dwellings, infrastructure services and roads within SEPP 26 Littoral Rainforest buffer and the impact of this on the root zones and on fauna.

Comment: Refer to "Flora and Fauna" section of this report.

- Stormwater drainage issues.

Comment: Council's Civil Services Group has raised no objection in relation to the submitted stormwater design and has assessed that the quality and quantity of stormwater discharge will be satisfactory subject to appropriate conditions if approved. Refer to "Stormwater Treatment & Attenuation" section of this report for detailed comments.

- Extension of lots and infrastructure into lands zoned non-urban (environmental) is circumventing Council's planning process.

Comment: The subdivision site and the proposed residential allotments have been zoned residential for a substantial number of years. The proposed residential lots (as revised) do not extend into non-urban environmental zones.

- There is no provision for public open space/recreation facilities or pathways within/between adjacent subdivisions.

Comment: Council's Civil Services Group has raised no objection in relation to the provision of public open space. The subdivision will provide for suitable internal pedestrian pathways. Substantial overall dedication of public reserves occurred in the establishing stages of the overall estate that the current land is part of and the developers will be required to make monetary contributions towards the provision and development of Council's open space lands if the subdivision is approved.

- Increased traffic movements and noise.

Comment: Refer to "Roads and Traffic" section of this report. The future traffic generation of the proposed residential subdivision will not be of a volume that will unreasonably impact on the amenity of existing or future residents. The road network has the capacity to handle the future traffic volumes of the estate.

- Proposed roads are too narrow.

Comment: The narrower carriageway widths are considered acceptable for the location in relation to relevant standards. Refer to "Roads and Traffic" section of this report.

- Overlooking/Privacy/Light impact on existing dwellings. A landscaped easement should be provided between proposed Lots 19 to 26.

Comment: Having regard for Council's DCP requirements in relation to building setbacks, building height planes, bush fire asset protection zones (for proposed Lots 22, 23, 24 and 26) and required infrastructure services that will traverse along the southern boundary of the majority of these lots (and associated zones of influences/easements that cannot be built over), it is considered that the placement of any future dwelling houses on proposed Lots 19 to 26 can be reasonably expected to occur without significantly impacting upon the lower, existing dwelling houses fronting Kellie Anne Crescent.

Given the topography, it is likely that dwelling houses will be placed towards the northern street frontages of these allotments where they will be elevated and may achieve distant views to the south and south-east.

- Visual impact on coastal escarpment.

Comment: The site has been zoned residential for a substantial number of years. Although the site has some visual significance due to its elevation, it is surrounded by littoral rainforest that will provide some screening from external viewpoints. The visual impact of the subdivision in the landscape will be compatible with that of adjacent streets, albeit that they have a lower elevation.

- Impact on rock walls (that should be heritage listed)

Comment: Although they are not heritage listed in this locality, the rock walls have been previously noted as having some heritage value and character. They will largely be retained (other than for demolition required for part of the vehicular access road, driveway access for proposed Lot 10 and building envelope for proposed Lot 8). The Council has previously discussed heritage listing of the walls with earlier landholders but this did not proceed.

Council could separately pursue this matter further with the current developers/owners if heritage listing of the walls is still desired. Alternatively, easements could be created over the walls as part of the subdivision to assist in their on-going retention/protection.

- Devaluing of properties

Comment: If the minimum 800m² lot size is maintained for this subdivision (as outlined during pre-lodgement meetings and correspondence) and as recommended within this report, it is considered that the proposed subdivision will not devalue surrounding existing properties. Due diligence investigations would highlight, via the zoning, that this site was envisaged for some form of residential development in the original planning for the estate.

- Provision of High Voltage Cable along Kellie Anne Crescent has potential health effects where there are other viable alternatives

Comment: A number of residents have provided plans indicating a proposed high voltage cable route surrounding and within the subdivision site. This has not, however, formed part of the development application made by the applicant and the subdivision's particular servicing design would generally not be decided until after consent is obtained and a Construction Certificate application was being prepared. Underground high voltage cables are commonly provided in residential estates.

Such cables are generally provided at approximately one metre depth. Trenching for cabling could potentially impact the tree root zones of the SEPP 26 Littoral Rainforest and this may need to be assessed further should a high voltage cable route (or other infrastructure services) be proposed immediately adjacent to the vegetation surrounding the subdivision. This can be suitably conditioned should the application be approved.

- Civil Construction Impacts (including dilapidation).

Comment: Due to the proximity of surrounding residences a dilapidation report will be conditioned (if approved) requiring the developer to assess adjoining properties prior to construction commencing.

- Community Consultation outlined by the Developers is Misleading

Comment: This is not a relevant matter for consideration under Section 79C of the EP&A Act 1979. Pre-lodgement discussions with residents may have been conducted by the developers on their own accord. Formal community consultation has been undertaken by Council as part of the public exhibition of the application when it was first submitted to Council.

The relevant matters raised by public submissions (including those not addressed specifically above) will be considered throughout this report. The applicant has also provided responses to the key issues raised in the submissions for Council's consideration (copy attached).

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Sections 79B, 79C and 91 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and relevant matters under Designated and Integrated development provisions.

Report

Only those matters directly relevant to objections and matters of development determination significance will be specifically addressed in this report.

During assessment the concurrence of the NSW Department of Planning and Environment (DoPE) and the integrated approval requirements of the NSW Rural Fire Service (RFS) were required to be obtained under Section 79B and Section 91 of the EP&A Act due to works being proposed proximate to and within the surrounding SEPP 26 Littoral Rainforest and adjacent to identified bush fire prone vegetation.

Concurrence was issued by DoPE on 31 August 2016 (copy attached) subject to landscape plantings comprising North Coast Littoral Rainforest species being undertaken and the provision of a vegetation management plan detailing buffer plantings immediately adjacent to the adjoining Littoral Rainforest vegetation.

The RFS provided General Terms of Approval on 15 June 2016 for the originally submitted layout (copy attached) subject to conditions.

The Office of Environment and Heritage (OEH) have been involved throughout the assessment process and have also provided advice (copies attached).

For further comments in relation to OEH's responses of 31 May and 31 August 2016 refer to the Flora and Fauna section of this report.

Variation to Minimum Lot Size

Although not originally submitted or sought, the application now seeks to vary a development standard pursuant to the provisions of Clause 4.6 of the BLEP 2012. In this instance, concurrence is not required from the DoPE to the requested variation.

The development standard requested to be varied is Clause 4.1 Minimum Subdivision Lot Size of the BLEP 2012 which requires a minimum 800m² lot area for this site.

Clause 4.1 – Minimum subdivision lot size of the BLEP 2012 states:

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that subdivision is compatible with the character of the locality,*
 - (b) *to ensure that in the case of urban areas:*
 - (i) *the subdivision pattern reflects and reinforces the current or planned subdivision pattern of the locality, and*
 - (ii) *lot configurations are suitable to enable development that is consistent with relevant development controls,*
 - (c) *to ensure that in the case of rural areas:*
 - (i) *the subdivision pattern reflects and reinforces the agricultural, resource and environmental values of the land, and*
 - (ii) *the subdivision pattern minimises land use conflict.*
- (2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

As outlined in the report, there have been various objections to allowing and to departing from the 800m² minimum lot size (i.e. the surrounding community considered that the allotments should be a 1,000m² to 1,200m² minimum). Throughout pre-lodgement discussions Council Officers consistently advised the applicants that the minimum lot area should be at or above the minimum 800m² to comply with the BLEP 2012 and to be consistent with the existing subdivision character of this locality.

The minimum 800m² lot size was applied at the time Council introduced the BLEP 2012. In preparing the BLEP 2012, Council variously applied 600m², 800m² or 1,200m² minimum lot sizes for subdivision to urban areas across the Shire. Having regard for the typical standards utilised by Council, the application of the 800m² standard in the case of the Visions Estate area indicates a recognition of the configuration of the adjoining residential subdivision as well as the medium density zoning applicable to the land, and provides for some flexibility in the subdivision pattern for the new area relative to the adjoining low density zone which is subject to a 1,200m² minimum lot size standard.

The applicant's original lot layout proposed a minimum of 800m² consistent with the minimum lot size; however the applicant now submits that the proposed variations (for four of the allotments and for less than a 10% variation) are required due to the SEPP 26 Littoral Rainforest, bush fire, and engineering considerations raised during the assessment of the application.

Of the four allotments in question, two are proposed at approximately 730m² (proposed Lot 16 as repositioned and adjoining Lot 15), one at 750m² (proposed Lot 2) and one at 787m² (proposed Lot 6). These allotments are all within the "body" of the loop/perimeter road of the subdivision and are generally not directly constrained by those matters argued by the applicant to justify the variations that are being sought.

Compliance with the minimum 800m² could be reasonably achieved through the deletion of one of the 26 proposed allotments (which would then result in the capacity to adjust the proposed lot areas across this part of the estate to above 800m²). Such a reduction in the number of proposed lots would be consistent with the subdivision plan/layout considered as part of pre-lodgment discussions.

The alternative proposal put forward to re-align the road immediately adjacent to proposed Lots 1, 15, and 16 to avoid encroachment into the Public Reserve Lot 62 as discussed later in this report would reduce the areas of Lot 15 and 16 to approximately 700m² (or greater than a 10% variation) if the applicant's proposed lot yield is consented to.

This is not considered to be an appropriate outcome in the context of this locality and would be inconsistent with the objectives of the minimum lot size provisions and the existing character of the surrounding subdivision. The average lot size of the existing 61 residential lots in Lennox Palms Estate (not including the larger rural residential allotments to the west) is currently substantially larger at 1,188m².

Consequently, it is considered preferable that Lot 16 be deleted and consolidated into the proposed allotments, thereby reducing the density and allowing all of the proposed allotments to have areas larger than the 800m² minimum standard of the Shire Plan for this locality. This consolidation/reduction of lots may indirectly further reduce the density of the subdivision in that proposed Lots 1 and 15 were originally proposed as dual occupancy allotments (rather than low density single dwelling allotments) leaving Lot 1, at the entrance to the subdivision, as the only lot identified for future dual occupancy development. It should be noted, however, that with the deletion of Lot 16, a reconfigured Lot 15 larger than 800m² and with a longer

road frontage due to the realignment of the road would still be suitable as a dual occupancy allotment if the applicant so wished.

State Environmental Planning Policy No. 26 – Littoral Rainforest

The site is largely bounded by SEPP No. 26 Littoral Rainforest core (No. 37).

The proposal relates to some minor works comprising road alignments along the edge of the core and as such there is some minor removal of native vegetation required for these future works. Future edge/buffer rehabilitation works are also proposed along the edge of the core primarily along the northern edge of the subdivision and for the extension of Henderson Drive to service the subdivision.

As previously outlined, the conditional concurrence of the DoPE has been issued for these works that would affect SEPP 26.

Flora and Fauna

Threatened Species Impacts

The key environmental attribute on and/or immediately adjoining the subject site is considered to be SEPP 26 Littoral Rainforests No. 37 and No. 37B which occur to the north, west and south of the development site.

Aside from being listed as SEPP 26, the subject vegetation is listed as an Endangered Ecological Community (EEC) under both the Threatened Species Conservation Act 1995 (the TSC Act) and Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act).

Other patches of littoral rainforest that are not protected by SEPP 26 legislation occur along the eastern boundary of the development site.

Littoral rainforest in this locality is also known for the occurrence of the critically endangered Coastal Fontainea (*Fontainea oraria*). The species occurs within northern fringes of SEPP 26 No. 37 and within approximately 250 metres of the subject development site.

Coastal Fontainea is only known to occur at Lennox Head and is considered to be one of the rarest trees in Australia. The entire natural population consists of ten adults and 45 seedlings and some juveniles. Consequently, the long-term protection of the species and its immediate environment arising from this development is considered imperative.

In 2011 OEH (then DECCW) produced a Management Plan for the Coastal Fontainea (MPCF). The MPCF addresses a range of issues including, identifying threatening processes, proposed management actions to protect existing Coastal Fontainea populations, and the specie's habitat.

Relevant to this application are the adverse impacts of habitat fragmentation and isolation, weed infestations, and salt wind shear.

Environmental Buffers

Given the ecological significance of the adjacent SEPP 26 rainforests, it is considered that vegetated conservation buffers are required. Conservation buffers have been applied to a number of subdivisions in the Shire (Coastal Grove, Pines Estate, Henderson Farm and Greenfield Road) to protect similar vegetation and are recommended to be applied to this development.

In this respect, Council staff through the pre-lodgement and development application process requested:

“The development should be designed to include a 20m wide vegetated buffer to existing SEPP 26 littoral EEC growing along the northern boundary of the property to negate against vehicle headlights and general disturbance. Council is, however, open to other potential mitigation measures. A reduced 10m planting buffer is required to be established adjacent to the Lot 62 given the existing development has already impacted on the subject vegetation”.

In the event, the development proposes to buffer the vegetation principally by the use of the ring/loop road. It is noted, given the applicant's ecological consultant has not undertaken any direct survey work, that the adjoining SEPP 26 rainforest area that is not subject to the current development application, and the ecological importance and potential usage of these areas by native fauna assemblages, including threatened species, remains unknown.

Council's Public Reserve Lot 62 DP 864764 is known to contain the threatened species (Stinking Cryptocarya) *Cryptocarya foetida* and, as stated above, SEPP 26 No. 37 is known to contain the Coastal Fontainea.

Tree Protection Areas (TPA)

The pre-lodgement advice dated 22 January 2015 also stated:

“Construction buffer distances need to be based on both AS 4970—2009 Protection of trees on development sites and Appendix B of AS2870- 2011 Residential Slabs and Footings. This would need to be demonstrated at subdivision stage rather than construction stage.”

Council's letter of the 16 July 2015 requested the abovementioned data to be presented in a tabulated form. This information has not been supplied with the development application. In the alternative, the applicant is seeking consent to rely upon structural engineering standards to be applied to future slab foundations which will be discussed further below.

Proposed Lots 16, 25 and 26 adjoining Public Reserve Lot 62 DP 864764

Proposed Lots 16, 25 and 26 directly adjoin Littoral Rainforest EEC and thus would potentially create a range of long term conflicts for the residents and for the Council in its on-going management of the reserve. As stated above, Council's Public Reserve Lot 62 needs to be buffered via plantings and use of the road network. The establishment of dwellings immediately adjacent to Lot

62 can be problematic and have a range of adverse impacts if not properly planned for, including:

- Noise and light disturbance.
- Planting of inappropriate species of plants that will become a weed source.
- Building footing cracking and falling overhanging branches.
- Domestic animal disturbance/predation.
- The pruning back of SEPP 26 vegetation (new growth) to comply with bush fire requirements.
- The removal of littoral rainforest EEC for the construction of the access driveway to Lot 26.
- Ongoing removal of the any understorey regrowth to comply with bushfire and mosquito requirements.
- Increased edge affects.
- Inadequate mosquito buffers between future dwelling houses and littoral rainforest EEC.

In relation to directly adjoining proposed Lots 16, 25 and 26, Council has requested the applicant to demonstrate a suitably sized building envelope in compliance with AS2870-2011. In response the applicant has now submitted a dimensioned plan (attached) illustrating the proposed building envelopes for Lots 25 and 26 and has offered an alternative road layout to re-configure Lot 16 into the central area as discussed above.

In the meantime, Council's Surveyor confirmed that the height of the adjoining vegetation is 17.5 metres. Based on this height of vegetation, to strictly comply with AS2870-2011's standard separation distance criteria, a minimum set back distance of 17.5m would be required for future domestic buildings.

This distance may need to be increased to meet the requirements of AS2870-2011 as it states where groups of trees occur setback distances need to be increased.

Rather than complying with these requirements, the applicant is seeking to achieve compliance by alternative means provided for in the standard. The alternative solution allows for particular footing designs to be employed that won't disturb the root zones of the vegetation. This option is not supported given the identified dwelling site on Lot 26 is proposed to have a separation distance of 3.5 metres from the existing littoral rainforest EEC. In this regard this separation distance is considered inadequate to mitigate against tree root zones and falls having a direct impact on any future dwelling house or associated buildings/structures. Additionally, it is considered that the close proximity of the vegetation to the identified dwelling site on this lot would likely result in landowners requesting for vegetation to be removed and/or lopped due to perceived safety issues. Major tree failures have already occurred adjacent to proposed Lot 25 and the age, class and the exposure of the vegetation to storm and high wind makes it vulnerable to damage.

A footing design condition of consent as suggested by the applicant (or 88B Restriction on Use Instrument), may have no effect if an applicant were to utilise exempt and complying development legislative provisions. Therefore, in this regard, it is considered that Lots 25 and 26 should only be approved if either an appropriate 17.5 metre wide easement or other alternative

arrangement consistent with AS2870-2011 is in place and Lot 16 should be relocated as proposed under the alternative option.

It is recognised that a 17.5m wide easement would substantially decrease the available building envelope on Lots 25 and 26.

With respect to the proposed alternative road alignment and positioning of Lot 16, the submitted plan identifies that the road would occupy a small part of Council's reserve. This reliance upon public lands is not supported as Council's Civil Services Group have advised that appropriate swept paths around the bends can be provided entirely within the development site without any reliance upon public lands.

As discussed in the 'Variation to Minimum Lot Size' section of this report, above, the alternative re-alignment of the road would also reduce the areas of the repositioned Lot 16 and the adjoining Lot 15 to approximately 700m². This further variation or reduction of the 800m² minimum lot size is not preferred.

In all the circumstances of the assessment of this application, it is considered preferable that proposed Lot 16, in either its original location adjacent to the Public Reserve Lot 62, or as alternatively repositioned be deleted and the land be consolidated into the overall subdivision.

Although a 17.5 metre easement within the western portion of Lots 25 and 26 would substantially reduce available building envelopes, it is likely that a 10 metre by 15 metre building envelope can still be suitably provided in accordance with the DCP provisions.

Therefore, unless the applicant can demonstrate that an alternative restriction/condition can be practically enforced and is legally binding, particularly having regard for the Exempt and Complying Development provisions of NSW legislation, the 17.5 metre easement (rather than the 11 metre buffer and alternative footing design) should be applied to Lots 25 and 26.

Roads and Traffic

The subdivision layout design consists of a simple loop road with the main access to the subdivision via Henderson Drive and a minor access road via Kellie Ann Crescent enabling efficient traffic accessibility and flow through the proposed subdivision. The extension of Henderson Drive is proposed to traverse through part of the Crown public reserve adjoining the subdivision. The Department of Primary Industries has agreed to the closure of transfer of the road (copy attached).

Road carriageway widths are eight metres and seven metres for roads one and two respectively with a 3.5 metre verge where services are proposed and variable verge width where the loop roads front SEPP 26 littoral rainforest. Council's Civil Services Group have advised that road widths and layout are adequate to service the proposed subdivision.

If the subdivision is approved, there will be an increase in traffic leaving the estates via the intersection of Henderson Drive and Skennars Head Road.

The anticipated traffic generation for the development is an additional 168 vehicles per day. There are 65 existing dwellings in the estate with 26 proposed by the development equating to an approximately 40% increase in traffic volumes. The site is zoned as R3 Medium Density which would have been reflected in traffic studies for the original design of the intersection of Henderson Drive and Skennars Head Road.

Consequently, the proposed subdivision is relatively low density having regard for the R3 zoning and there will effectively be a reduction in the originally anticipated traffic volumes for the intersection.

There are no road design or capacity issues with congestion or accidents at the intersection of Skennars Head Road and Henderson Drive. Skennars Head Road is 13 metres from kerb to kerb at the intersection and therefore if congestion becomes an issue in the future there is adequate space to reline and mark Skennars Head Road to include a right hand turning lane.

There are conflicting sub consultants' reports within the applicant's submission relating to road design and vegetation constraints within the subdivision itself.

Whilst the engineering design layout is satisfactory, the Bush Fire report suggests that a narrowing of Road One to a single lane near proposed lots 25 and 26 is required. The Civil Services Group are not supportive of a one lane section for the main circulation road/loop.

The bush regeneration layout proposes to revegetate the northern side of Road One right to the edge of kerb. The Civil Services Group do not support revegetating the clear zone from both a road safety perspective and ongoing maintenance. A three metre clear zone from the edge of the drip line of the vegetation to the edge of kerb is required, (with some minor incursions accepted noting the significance of the surrounding vegetation).

There are environmental constraints along Road One's access point to Kellie Ann Crescent. Whilst the applicant's latest submission does not propose a change in road widths, different road proposals have been submitted for Council's consideration during the application process. From an engineering perspective Council's Civil Services would consider a short narrowing of Road One, to one lane for up to 15 metres in length (but not one lane connecting directly to Kellie Ann Crescent) to reduce impact on this vegetation. Road One in this vicinity has low traffic volumes and would still serve as an egress point.

In the event the applicant has maintained two lane widths in this vicinity and this is considered acceptable despite the removal of some vegetation.

Stormwater Treatment & Attenuation

A stormwater plan has been provided which is considered to be generally acceptable (report by Newton Denny Chapelle Technical Note Stormwater Management dated July 2016).

Stormwater treatment is provided by two gross pollutant traps, one on the Henderson Drive cul-de-sac and the other on the public reserve close to Skennars Head Road. The treatment device has been accepted on the public reserve as the proposal is to treat a larger portion of the catchment, and to include existing untreated residential areas, thus providing a greater net pollution reduction than solely treating the proposed subdivision to required reduction targets. This benefits the developer by not having to provide on lot treatment or dedicating treatment areas and it benefits the environment and public interest by providing greater net pollution reductions to the receiving waters.

Stormwater attenuation is not proposed. Council's Stormwater Management Standards for Development allows an alternative approach whereby the downstream network is augmented to an acceptable discharge point that does not adversely impact downstream properties.

The majority of pre-developed stormwater flows were directed towards Henderson Drive and Kellie Anne Crescent and ultimately to the piped network under Skennars Head Road next to the playing fields.

The proposal divides the site areas into four catchments and redirects catchment A to the west thereby reducing flows to the sports playing fields' discharge point.

The applicant has proposed to pipe the 1/100 ARI event from Catchments B, C and D through the existing residential area via Council's public reserve to an outlet structure next to the Skennars Head sports playing fields and the natural watercourse/swamp basin which discharges to the Skennars Head Road stormwater network. The applicant has confirmed that the piped crossing under Skennars Head Road can still accommodate the 20 year ARI event.

Similarly Catchment A is directed via easements to the wetland system to the west where detention would have no hydrological benefit.

Mosquito Buffers

The applicant's entomologist has confirmed that the proposed subdivision is capable of achieving the recommended minimum 20 metre mosquito buffer to proposed Lots 1 to 9 and 17 to 19. This will be achieved by including the 6 metre building line setback and restricting revegetation to only occur further than 20 metres from the building line. It is noted that, to achieve this for Lots 18 and 19, some vegetation will need to be removed.

Consequently, should the application be approved, a restriction on use by way of an 88B instrument under the Conveyancing Act 1919 restricting the type, amount and spacing of vegetation in the building line setback on Lots 1 to 19 and 11 metres from the property boundaries adjoining the Public Reserve (Lot 62) is proposed to be conditioned. A description of appropriate vegetation restrictions would be supplied by a qualified entomologist.

These restrictions would also prohibit the building of a dwelling house or habitable building within the 11 metre mosquito buffer and the requirement for all buildings comprising residential accommodation to be effectively screened in accordance with Chapter 2 Part 3.6 of the DCP. Conditions would be recommended to implement such requirements prior to the issue of the relevant Subdivision Certificate.

A reduced 11 metre mosquito buffer to the adjacent remnant coastal grove forest (i.e. Public Reserve Lot 62) has been recommended by the entomologist for the following reasons:

- on-site observations confirmed the coastal grove forest to be isolated from the larger section of coastal forest to the north,
- minimal breeding habitat exists within the forest that would generate a resident adult population of adult mosquitoes,
- the elevated position with strong prevailing winds and relatively low humidity within the forest would provide reasonably hostile conditions for adult mosquitoes.

In relation to proposed Lot 16 immediately north and east of the Public Reserve (Lot 62), Council's Open Spaces and Resource Recovery Section plans to revegetate the grassland leaving only a four metre wide access adjacent to proposed Lot 16. This access, inclusive of the nominated 5 metre wide asset protection zone, would only allow a maximum nine metre mosquito buffer which falls short of the recommended minimum 11 metres.

For similar reasons to those previously outlined within the report, it is recommended that the road in this vicinity be re-aligned and proposed Lot 16 be deleted. This will achieve required buffers to Lot 62, and not only in relation to mosquitoes.

The engaged entomologist has also confirmed that he believes the inability of the extension of Henderson Drive access to achieve a clear 20 metre wide separation between the vegetation to the north and the isolated coastal grove forest will have a very low risk of contributing to a mosquito problem for future residents of the subdivision.

Based on these conditional recommendations and the entomologist advice it is considered that the proposal will reasonably achieve the objectives of Chapter 2 Part 3.6 of the DCP to minimise nuisance and health risk associated with mosquitoes and minimise human contact with mosquitoes as a result of the provision of a minimum 20 metre mosquito buffer to proposed Lots 1 to 9 and 17 to 19 and 11 metres to proposed Lots 25 and 26 (with the exception of Lot 16 due to its deletion outlined above); and the screening of all buildings comprising residential accommodation.

Conclusions

Throughout the protracted assessment of the proposal, the applicant has made various design amendments in efforts to satisfactorily respond to Council's requests for clarification on matters directly associated with various tree protection/buffer zones.

Although the lands surrounding the site have environmental sensitivities, the site has been zoned for future urban development for a substantial number of years.

The applicant has suitably identified that the R3 zoned lands can be developed for residential purposes.

The site, however, is primarily suitable for low density subdivision having regard for the surrounding environmental sensitivities/constraints and existing character and density of the locality.

Although Council's Environmental Scientist and the OEH considers that the buffers to the SEPP 26 Littoral Rainforest should be greater, subject to the deletion of Lot 16 and the provision of suitable easements and building envelopes on proposed Lots 25 and 26 to protect the Public Reserve Lot 62 vegetation, Council's Development and Environmental Health Group is satisfied with the proposed development as it maintains a fair and reasonable degree of separation.

Relevant Government agencies have also supported these conclusions and therefore the subdivision can be supported subject to conditions; and particularly the suitable rehabilitation and buffering of the SEPP 26 littoral rainforest.

Having regard for the outcomes of the assessment undertaken, Council has the following options with regard to determining the subject application:

Option One

That Council approves the development as submitted:

- with proposed Lot 16 immediately adjacent to Public Reserve Lot 62,
- having 11m wide buffers for proposed Lots 16, 25 and 26, and
- with two allotments having areas less than the minimum 800m² lot size.

This is not supported having regard for the surrounding subdivision and due to the environmental impacts outlined within this report.

Option Two

That Council approves the alternative development as submitted:

- with proposed Lot 16 repositioned further from Public Reserve Lot 62 due to the re-alignment of the proposed loop road adjacent to Public Reserve Lot 62,
- with four allotments having areas less than 800m², and
- making suitable provision for building envelopes and incorporating a 17.5m wide setback easement for proposed Lots 25 and 26 to protect the vegetation within Public Reserve Lot 62 unless it can be demonstrated that an 11m wide setback easement protecting the construction of a dwelling house or other structures (i.e. swimming pools, pergolas, sheds etc.), by having footings designed not to disturb the root zones of adjoining vegetation in Lot 62 can be practically

enforced having regard for Exempt and Complying Development provisions.

This is not supported as it will create four lots less than the minimum 800m² lot size and there do not appear to be sufficient reasons for approving the departures from the Shire Plan's development standards.

Option Three

That Council approves the development subject to:

- the deletion of proposed Lot 16,
- the suitable re-alignment of road in this vicinity (without any reliance upon Public Reserve Lot 62 lands) as shown in the submitted alternative design,
- making suitable provision for building envelopes and incorporating a 17.5m wide setback easement for proposed Lots 25 and 26 to protect the vegetation within Public Reserve Lot 62, unless it can be demonstrated that an 11m wide setback easement protecting the construction of a dwelling house or other structures (i.e. swimming pools, pergolas, sheds etc.), by having footings designed not to disturb the root zones of adjoining vegetation in Lot 62 can be practically enforced having regard for Exempt and Complying Development provisions,
- all allotments having a minimum land area of 800m², and
- the reconfiguration of proposed Lot 15 to be suitable for a future dual occupancy allotment (if desired)

Option Three is recommended as it is considered that the matters identified in the report can be addressed via these suitable consent conditions to minimise environmental impacts.

Option Four

That Council refuses the development application on the basis of environmental issues/impacts and non-compliance with the minimum lot size provisions of clause 4.1 of the BLEP 2012. This is not supported as the application warrants development consent for the reasons outlined in this report.

RECOMMENDATIONS

1. That DA 2016/166 to undertake a 26 Lot residential subdivision and associated works at Lot 7 DP 1216761, Lot 12 DP 814039, Lot 52 DP 864764 & Crown Public Road, Henderson Drive and Kellie Anne Crescent, Skennars Head be **APPROVED** subject to:
 - (a) the deletion of proposed Lot 16 and thereby reducing the proposed urban allotments to a total of 25
 - (b) the suitable re-alignment of the loop road (without any reliance upon Public Reserve Lot 62 lands) as shown in the alternative design
 - (c) the suitable provision of a minimum 10 metre by 15 metre building envelopes and minimum 17.5 metre wide easement on proposed Lots 25 and 26 to protect the vegetation within Public Reserve Lot 62 (unless the applicant can provide evidence that the proposed alternative footing means can be practically enforced having regard for Exempt and Complying Development)
 - (d) each proposed residential allotment having a minimum area of 800m² or greater
 - (e) each proposed lot (other than Lot 1 and reconfigured Lot 15) having a single dwelling house only
 - (f) preparation of a restriction on use by way of an 88B instrument under the Conveyancing Act 1919 informed by a qualified entomologist being applied to the relevant lots restricting the type, amount, and spacing of vegetation in the building line setbacks suitable for a mosquito buffer and
 - (g) the imposition of other standard, relevant and suitable conditions for the subdivision.
2. That Council resolves to prepare a Planning Proposal to rezone each residential lot (other than proposed Lot 1 and reconfigured Lot 15) to R2 Low Density Residential.

Attachment(s)

1. Locality Plan - Visions Estate, Henderson Drive, Lennox Head
2. Subdivision Layout Plans
3. SEPP 26 Littoral Rainforest
4. Public Submissions
5. Submissions - (not for public viewing) (Under separate cover)
6. Applicant's Response to Public Submissions
7. DoPE Concurrence
8. NSW RFS General Terms of Approval
9. NSW OEH Response dated 5 September 2016
10. NSW OEH Response dated 3 June 2016
11. NSW Dept of Primary Industries dated 8 June 2016
12. Plan of Proposed Building Envelopes - Lots 16, 25 & 26
13. Plan of Alternative road alignment and Relocation of Lot 16

8.3 DA 2016/598 - Tree Removal - Alstonville Public School

Applicant	Department of Education
Property	Lot 94 DP 755745, No. 58 Main Street, Alstonville
Proposal	To undertake the removal of one <i>Syzygium moorei</i> —Durobby tree which is listed as vulnerable under the Threatened Species Conservation Act 1995 (TSCA)
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

The application was originally submitted to undertake vegetation management works involving the removal of one mature Laurel Tree within the front setback of the existing educational establishment (Alstonville Public School). The tree is within an urban setting (immediately adjacent to the public school carpark) and is approximately 15 metres in height. The tree has a significant canopy spread and is close to infrastructure services inclusive of an upright kerb/gutter of the carpark.

As part of pre-lodgement discussions with NSW Public Works it was decided that despite the “exempt” provisions of the Infrastructure SEPP 2007 that could possibly be relied upon by the school (clause 31), the justification for the removal of the tree was not necessarily for human health or safety reasons (other than perhaps traffic safety).

The request to remove the tree is based on the following:

- (a) The growth habit (roots) or mature size of the tree is undesirable in the situation.
- (b) The tree is causing damage to public or private utilities and services (i.e. kerb and guttering associated with the carpark).
- (c) The tree impedes the future operation of the school gates.

In addition, due to the level of interest in the previous Fig Tree application (DA 2014/583) for this site, NSW Public Works decided it would be prudent to lodge a formal application to Council for the works despite any potential reliance on “exempt” development provisions.

Upon lodgement of the application and inspection of the tree by Council Assessment staff, it was determined that the tree had been incorrectly identified by the applicant as a Laurel Tree, when in fact it was a *Syzygium moorei*—Durobby, which is listed as vulnerable under the Threatened Species Conservation Act 1995 (TSCA).

Consequently, it was recommended that either the current Vegetation Management Works Development Application be amended by providing the required seven part test requirements by a suitably qualified person or the current application be withdrawn until a review of the most appropriate approval pathway was conducted.

The applicant proceeded with the current application and has provided a seven part test for the proposed removal of the tree (copy attached).

No reliance on adjoining lands to undertake the work is required.

This application is being reported to Council on the basis that at its Ordinary Meeting of 15 December 2016, Council resolved to have the application reported for determination. A Locality Plan and photos of the tree are attached.

The application for these works has been made on behalf of the Department of Education and will be conducted and managed by the Crown and its project managers.

Consequently, Council cannot reject the application without the prior concurrence of the Department of Planning and Environment and any proposed draft consent conditions must be forwarded to the Crown.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was not placed on public exhibition on the basis that the removal involved a single tree within an existing landscaped area of the school (immediately adjacent to the carpark).

Report

Although there was limited information submitted to support the nominated tree removal, it was obvious from the site inspection that the roots of the tree would cause damage to the carpark infrastructure in the future as it continued to grow.

The applicant's seven part test for the removal of the vulnerable tree species was provided via email 9 December 2016.

Council staff have subsequently considered the report from Australian Wetlands Consulting Pty Limited and the particular merits as they relate to the current proposal.

Leaving aside its landscape value for the present, it is evident that the maturing tree is not well suited for this setting, having regard for the close proximity to the carpark and other associated infrastructure.

As the tree continues to grow it may cause damage to the infrastructure utilised by the public or hinder future maintenance work.

The applicant (through the report) is proposing to plant replacement tree(s) to offset for the removal of the tree.

The seven part test has concluded the following:

“The proposed works will result in the removal of one threatened tree. However no further vegetation and no habitat is proposed to be removed. The tree is isolated, and conditions are not viable for maintaining a local population beyond the individual tree. The proposed works would not result in any significant impact on the subject threatened flora species; nor EEC and therefore a Species Impact Statement (SIS) is not required.”

This conclusion is generally supported and the removal of the tree is considered to be consistent with the relevant objective of clause 5.9 of the BLEP 2012 – preservation of trees or vegetation which is “...to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation...”

It is also considered that the tree removal will not compromise the amenity of the area (having regard for remaining trees).

Having regard for the amenity of the locality, removal of the tree would not be significant when viewed from the road or carpark given the number well established and maturing trees in this area of the site.

In determining this application, an assessment under clause 4.2.1 of Chapter 2a of the DCP for vegetation management works on land within urban zones, has been undertaken as follows:

- a) *whether the tree or other vegetation contributes to the aesthetic qualities of the locality and comprises an important component of the skyline;*

The tree contributes to the aesthetics of the locality. Notwithstanding this, there are other existing substantial trees within the immediate location of the trees that make up the feature cluster and these will maintain this scenic line in the locality if the application is approved.

- b) *whether the tree or other vegetation makes a significant contribution to the amenity and character of the locality;*

The tree together with the other trees in this location collectively contributes to the amenity and character of the locality. Removal of the subject tree is unlikely to create an adverse impact on the aesthetic qualities of the area particularly having regard for the surrounding trees at the site, and the others in the locality.

- c) *whether the tree or other vegetation is important from a cultural and/or heritage perspective;*

This tree has not been individually identified as being significant in this regard.

- d) whether the growth habit (crown or root) or mature size of the tree or other vegetation is undesirable in a given situation (e.g. under power lines, on top of or under retaining walls or banks, over sewer lines, close to roads or driveways etc.) such that it unreasonably interferes with infrastructure or sight distances;*

There is evidence that the roots are affecting the kerb and guttering associated with the carpark.

- e) whether the tree or other vegetation is causing damage to public or private utilities and services including kerb and guttering and the aesthetic value of the tree or other vegetation is not greater than the effect of damage caused by the tree;*

This is not evident at present; however the pavement of the carpark will be impacted in the future.

- f) whether the tree or other vegetation is interfering with, or may interfere with, the efficiency of a solar or communication appliance;*

Not relevant in the circumstances.

- g) whether the tree or other vegetation is in an overcrowded situation where the overcrowding is detrimental to tree growth and the judicious removal of tree(s) will result in improved growth of other trees;*

Not relevant in the circumstances despite the density of trees in this location.

- h) whether the species and/or growth form of the tree or other vegetation is ecologically significant in the local or regional context and its ability in providing habitat for native fauna; and*

The tree species is recognised as having ecological significance; however it is an isolated individual. The seven part test and its conclusions and recommendations for offsets are supported in the circumstances.

- i) whether, based on supporting documentation submitted with the application, the tree or other vegetation is dying or diseased and its safe useful life expectancy is diminished.*

The tree nominated for removal appears to be healthy.

Conclusions

It is a key responsibility of the Council to decide on its state and local planning controls and, in their preparation and implementation, strike a suitable balance between public and private interest for land across the Shire as a whole.

Although the retention of the tree may be in the interests of the wider community (from an ecological perspective), the tree is becoming unsuitable for the site and the built environment and its removal is also in the interests of the wider community that utilise the public school.

The tree removal is proposed to be compensated / offset at a ratio of 5:1. Due to the significance of the tree, it is suggested that the ratio be increased to 10:1.

Although the offset site has not been identified by the applicant and is unlikely to be on the site, the applicant should be able to readily identify suitable Crown or public lands for this purpose. The offset requirements can be suitably conditioned.

Additionally, there are other substantial native trees in the immediate vicinity of the school that that will continue to assist in supporting the streetscape.

Options

Having regard for the application having been made by, or on behalf of, the Crown, the Council has the following options available to it:

Option one - To seek the concurrence of the Minister for Planning to refuse the application.

Option two - To resolve to seek to issue conditional development consent for the application and request the approval of the Department of Education for the inclusion of conditions of development consent requiring offset planting at a ratio of 10:1 for the loss of the tree at suitable public land sites elsewhere.

Option three - The Council issue unconditional development consent for the work.

On the basis of the reasoning outlined in this report, option two is the recommended course.

RECOMMENDATION

That Development Application No. 2016/598, for the removal of one *Syzygium moorei*—Durobby tree from Lot 94 DP 755745, No. 58 Main Street, Alstonville (Alstonville Public School) be **APPROVED** subject to the Council obtaining the approval of the Department of Education for the inclusion of standard applicable tree removal conditions of consent and the provision of a compensatory offset planting ratio of 10:1 either on-site or off-site on other public land to Council's satisfaction.

Attachment(s)

1. Locality Plan
2. Report - Australian Wetlands Consultants
3. Photographs

8.4 Compliance Work Plan - Six Monthly Update

8.4 Compliance Work Plan - Six Monthly Update

Delivery Program Development Services

Objective To provide Council with an update on the 2016/17 Compliance Work Plan

Background

At the June 2016 Ordinary Meeting, Council adopted a Compliance Work Plan for the 2016/17 financial year. This report provides a half yearly update report on the Plan.

Key Issues

- Level of Compliance
- Results achieved

Information

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

These priority areas are:

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

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

In the June 2016 Work Plan report there were 55 Outstanding Notices requiring follow up. If a satisfactory resolution is not achieved in these matters, Council may have to commence formal Court proceedings.

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

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

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

These types of investigations are complex and require the dedication of many hours to identify and check all available records within Council's systems, as well as a number of inspections coordinating technical officers across various sections within Council's Development and Environmental Health Group to ascertain compliance.

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

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

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

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

Compliance resources have also been involved in auditing developments being carried out on environmentally and culturally sensitive sites on an ongoing basis to ensure ongoing compliance. As this program now extends over six separate years, it is intended that each audit year will be reported separately, in table form.

The 2007 financial year audit has been completed, with no matters outstanding, and this year will no longer be reported on.

Further, the audits for 2006 and 2008 have been completed and all consents have been substantially complied with, however there are ongoing monitoring issues for:

- 2006 - Four developments require further ongoing inspections for approved revegetation management plans for each development.
- 2008 – A development for an operational quarry in Westbridge Lane is now operational and requires ongoing monitoring for the life of the quarry.

It is intended for these monitoring activities to take place and any identified non-compliances will be the subject of a separate advice to Council.

8.4 Compliance Work Plan - Six Monthly Update

Item	2009	2010	2011
Number of Major Developments	43	82	56
Number Inspected for compliance	43	82	0
Number Compliant	34	46	0
Ongoing Inspections	5 ¹	17 ²	0
Consents not commenced	0	11	0
Lapsed Consents	4	9	0
Number yet to be inspected	0	0	56

¹ Four of these developments relate to ongoing subdivisions which are awaiting final submission of linen plans and the remaining development is a tourist development which will lapse in the coming months if the use is not physically commenced.

² These developments relate to a number of premises where subdivision works or construction works have commenced, however, due to the downturn in the economy at this time, Council has acknowledged that works have commenced, however these works have not continued. These will be followed up over the next reporting period for recommencement of works within these sites.

2. Audit of Identified Development Consents (Ongoing Program)

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

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

The 2006 and 2007 financial year audits have been completed, with all development consents now fully complied with and will no longer be reported on.

Item	2008	2009	2010	2011
Number of Identified Developments	131	99	148	96
Number Inspected for Compliance	131	99	148	0
Number Compliant	121	97	132	0
Number of Ongoing Inspections	4 ¹	2 ²	11 ³	0
Number of Consents not commenced	0	0	4	0
Number of Consents lapsed	6	0	1	0
Number yet to be inspected	0	0	0	96

- ¹ *These developments relate to a number of businesses within the Shire which have not provided final certification of building works. These matters originally came to the attention of Council as these developments had commenced however no certification had been received.*
- ² *These outstanding developments relate to matters in which the works have been commenced, however matters are still outstanding for which final certificates have not been issued. These matters originally came to the attention of Council as these developments had commenced however no certification had been received.*
- ³ *These developments relate to a number of premises where construction works have commenced, however, due to the downturn in the economy at this time, Council has acknowledged that works have commenced, however these works have not continued. These will be followed up over the next reporting period for recommencement of works within these sites.*

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

The audit of business uses within the private land of the Russellton Estate audit has commenced with the vast majority of premises having been the subject of an initial inspection.

The majority of these premises have generally not been in compliance with all conditions of the existing development consents or have been operating without the requisite planning approvals being in place.

Further, pollution events and potential damage to Council infrastructure have also been identified since the commencement of the audit. A number of these premises have resulted in the level of outstanding legal notices referred to earlier.

One of the main areas of non-compliance relates to landowners providing adequate fire safety provisions within each building itself and to the ongoing maintenance and reporting of these provisions to both Council and Fire and Rescue NSW.

These fire safety issues, also known as Essential Services are currently being actioned and are further addressed under the Essential Services Register section later in this report.

4. *Review of Liquor Licences and Licensed Premises within Ballina Shire (New Program)*

This program has commenced and there have been a number of issues, including potential risk issues, identified.

A working group has been established across Council to address these matters.

This program has progressed with all licensed premises being identified within the Ballina Shire and the Council Register has been established. This Register is in the process of being populated with all relevant information, including:

- Location

8.4 Compliance Work Plan - Six Monthly Update

- Type of Licence (for example, On Premises – Hotel, Club, Limited Licence (Sporting Club and the like)
- Development Consent and/or Lease Agreement
- Licence and Lease Expiration Dates (if applicable)
- Approved Trading Hours
- Ballina Shire Liquor Accord Membership
- General and Specific Liquor Licence Conditions and
- GPS Locations of Licensed Areas.

Once this data entry has been completed, a mapping update can be undertaken to locate all licensed premises within Council's GIS System to enable more detailed assessments of applications and the impact of future developments on local residents.

It is envisaged that this Program will be completed in June 2017.

Local Court Proceedings

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

This current financial year, one ongoing matter was referred to Council's legal representative for the commencement of legal action for the unauthorised operation of a function centre in Wollongbar. This matter was reported to the November 2016 Council meeting.

Council also finalised a matter relating to the unauthorised removal of native vegetation within a premises in Pimlico, which was reported to the April 2015 Ordinary Council Meeting.

This matter was determined in the Ballina Local Court where the Defendant was found guilty of the offence and a criminal conviction was recorded against him.

The Defendant was ordered to pay a fine of \$4,000 and to pay Council's legal costs of \$6,000.

Additionally, he was also required to enter into a Deed of Agreement with Council for revegetation and ongoing maintenance for a minimum period of five years to ensure restoration and protection of high conservation vegetation at the site.

This will result in the overall long-term improvement in the habitat value of the site for a range of species (including threatened flora and fauna) and the publication of this result will increase community knowledge and community involvement in the local natural environment within the Shire.

Land and Environment Court Proceedings

During this current financial year, two of Council's Orders have been the subject of Class 1 Appeals to the Land and Environment Court.

The first matter involving the unauthorized storage of waste materials at a property located at 883-891 Pimlico Road, Wardell.

The landowner finally undertook the works as required by Council's Order and the site has been certified by a local engineering firm to meet the Council's engineering requirements.

This Class 1 Appeal has now been withdrawn by the landowner and all works have been completed to Council's satisfaction. Actions are now underway to recoup the costs of the investigation with the landowner, which total \$12,634.

The second Class 1 Appeal lodged relates to an unauthorised function centre in Eltham Road, Tuckombil. This Class 1 Appeal was lodged by the landowner who subsequently arranged for meetings with Council's solicitors.

As a result of this meeting, the landowner has now accepted that the terms of Council's Order are valid and the Appeal has been subsequently withdrawn and compliance with Council's Order will be forthcoming.

Legal Notices

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

This current financial year, the Compliance Team has:

- Issued 32 new formal notices for identified breaches and non-compliances
- Monitored and undertaken additional actions in relation to 71 formal notices that have not been resolved to Council's satisfaction and
- Finalised 26 formal notices, where the matter has been resolved to Council's satisfaction.

Liquor Licensing Issues

The Compliance Team also assess and make submissions to Liquor and Gaming NSW (formally known as the Office of Liquor, Gaming and Racing) on liquor licence applications lodged within the Ballina Shire in line with Council's adopted *Liquor Licensing Policy*.

During the current financial year, the Compliance Team has dealt with 21 liquor licence applications. These applications relate to modifications to existing licences or applications for new limited licences for sporting clubs within Council reserves.

Additional Registers Transferred from Building Services

In the 2016/17 Compliance Work Plan report to the June 2016 Ordinary Council meeting, it was confirmed that the Compliance Team would be taking on additional responsibilities in relation to the monitoring and maintenance of the Caravan Parks, Essential Services and Swimming Pool Registers.

Below is a brief outline of the current status with each of these Registers.

Caravan Parks Register

Caravan Parks are currently licensed through the provisions of Section 68 of the *Local Government Act 1993* (NSW) with the operation of each Park to be undertaken in line with the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2008* (NSW).

This Regulation is currently under review by the State Government and it is anticipated that the new regulations will be implemented towards the middle of 2017.

In line with the current legislative requirements, it is proposed to commence annual inspections of all existing caravan parks with all parks to be inspected before June 2017, with the annual inspection fee to be waived for 2017 calendar year only, as this is the first time that these annual inspections have been undertaken.

In the initial annual inspections, there will be a focus on safety and risk issues including smoke detectors, fire services and emergency evacuation plans to ensure the safety of patrons of each of the Caravan Parks.

It is also expected that, with the new regulations, there will be a need to review the current fees and charges as well as the required inspection charges to reflect the current costs to Council.

A program is currently under development to more accurately reflect the current required inspection program for caravan parks within the Shire to ensure the integrity of data and to more accurately reflect the incoming legislative requirements for the operation of Caravan Parks generally.

Essential Services Register

Following an initial review of the Essential Services Register, it has been ascertained that there is a six month backlog with the submission of Annual Fire Safety Statements to Fire and Rescue NSW. This is due to a changeover of the record keeping systems within Fire and Rescue NSW itself.

In addition, there are currently 485 properties listed on Council's Essential Services Register. This number is not, however, a complete record of the properties that should be contained within the Register.

This assessment is borne out by the details included in the Russellton Industrial Audit section of this report.

8.4 Compliance Work Plan - Six Monthly Update

Properties which are in either the Industrial or Commercial Zone, multi-unit residential properties as well as schools, hospitals and the like, which have been given a development consent since 1 July 1988 should have a Fire Safety Schedule and be recorded on Council's Essential Services Register.

It is anticipated that Council currently has less than 25 per cent of the properties that should be recorded in the register itself and an ongoing program is being developed to accurately record all of the properties which should be recorded.

A program is currently under development to cross check all records to ascertain the location of all properties that fall within the legislative requirements for the ongoing provision of Annual Fire Safety Statements within the Shire, and to ensure the integrity of data within both the Council's and the Fire and Rescue NSW Registers.

Swimming Pools Register

An initial review of the operation of the Swimming Pools Register has identified discrepancies between Council's Swimming Pools Register, Council's development consents issued for swimming pools, and the NSW Swimming Pools Register.

A program is currently under development to cross check all records to ascertain the location of all swimming pools within the Shire and to ensure the integrity of data within both the Council's and State Registers.

The initial priority of the Compliance Section is to ascertain that all:

- mandatory swimming pools are identified and recorded in the Swimming Pools Register to ensure Council meets the legislative obligations of the *Swimming Pools Act 1992* (NSW); and
- ongoing servicing of the requirements for swimming pool inspections and certification in line with properties that are for sale and rent are being inspected within legislative time frames.

Sustainability Considerations

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

Legal / Resource / Financial Implications

This program aims to efficiently utilise the resources allocated for enforcement activities. Proactive actions can reduce the need for extra compliance at a later date.

Consultation

This report has been provided for public information.

Options

The options are to note the contents of the report or to amend the identified compliance project work program where Council believes there may be higher priorities that need to be addressed.

The recommendation is to note the report as Council has previously endorsed the compliance work plan for 2016/17 and the priorities are considered to reflect the highest priorities for the broader community.

RECOMMENDATION

That Council notes the contents of this report on the status of the Compliance Work Plan for 2016/17.

Attachment(s)

Nil

8.5 Development Applications – Variation to Development Standards

8.5 Development Applications – Variation to Development Standards

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

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

RECOMMENDATION

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

Attachment(s)

Nil

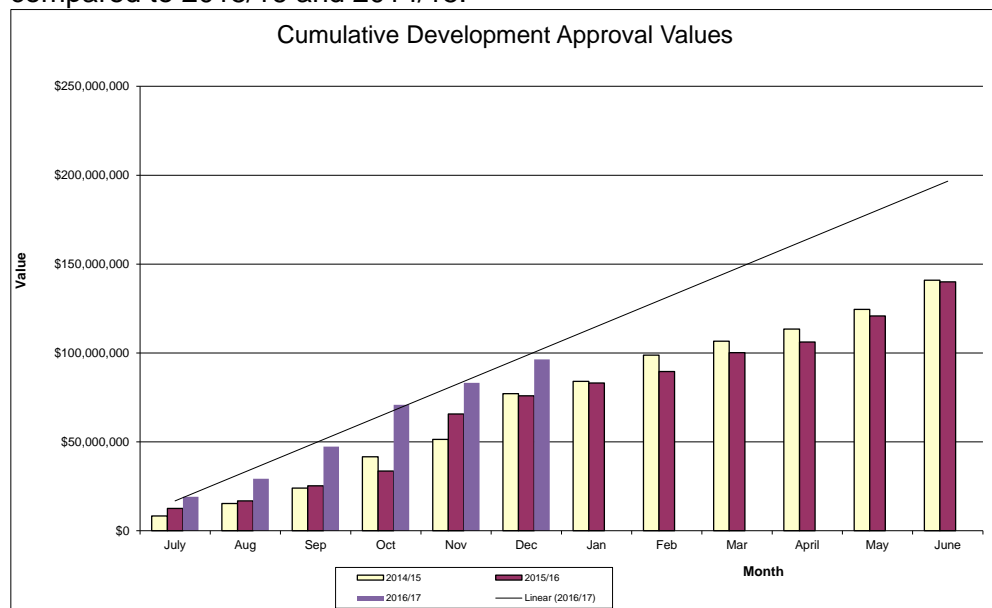
8.6 Development Consent and Infrastructure Approvals - December 2016

8.6 Development Consent and Infrastructure Approvals - December 2016

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

Number of Applications	Value of Work
32 Other including Changes of Use	\$ 1,667,320
23 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 8,771,310
3 General Developments including Subdivisions	\$ 2,820,000
Total Value	\$ 13,258,630

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



During the period of 1 December 2016 to 31 December 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 December 2016 to 31 December 2016.

Attachment(s)

Nil

8.7 Development Applications - Works in Progress - January 2017

8.7 Development Applications - Works in Progress - January 2017

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/148	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
2016/219	03/05/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of Existing Dwelling House, Demolition of Existing Carport and Shed, Vegetation Removal and Associated Works and the Subsequent Strata Title Subdivision – 175 Tamar Street, Ballina	Awaiting Additional Information
2016/274	20/05/2016	Northern Rivers Land Solutions	Two lot boundary adjustment	Being assessed.

8.7 Development Applications - Works in Progress - January 2017

			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	
2016/357	01/07/2016	Newton Denny Chapelle	Proposed construction of tourist and visitor accommodation involving the erection of six single storey holiday cabins, emergency evacuation centre, cabana, in-ground swimming pool and internal driveways and parking – 48 Tobin Close, 84 Fig Tree Hill Drive & 335 Old Byron Bay Road, Lennox Head	Determination pending
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	Awaiting additional information.

8.7 Development Applications - Works in Progress - January 2017

			Garage, Vegetation Removal and Associated Works and Staged Strata Title Subdivision – 43 Pacific Parade, Lennox Head	
2016/378	12/7/2016	Newton Denny Chapelle	Proposed Ballina Racecourse Redevelopment Comprising Upgrade to Race Tracks and Training Tracks, Bulk Earthworks, Stormwater Management Works, Installation of Irrigation System, Vegetation Removal, Environmental Offsets and Boundary Adjustment - Ascot Road and 36 Racecourse Road, Ballina	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	Awaiting Additional Information
2016/426	04/08/2016	Ballina Shire Council c/- CivilTech Consulting Engineers	Extension of Skennars Head Playing Fields – Skennars Head, Lennox Head	Awaiting Additional Information
2016/506	8/9/2016	Newton Denny Chapelle	To increase student numbers on a	Being Assessed – To be

8.7 Development Applications - Works in Progress - January 2017

			permanent basis from 100 to 235 at the existing educational establishment – 37 Converys Lane, Wollongbar	reported to Council for determination (as per Council's resolution)
2016/539	23/9/2016	Civil Tech Consulting Engineers	Four lot integrated subdivision with the erection of a two storey dwelling house on each lot, vegetation removal and associated works – 7-9 Byron Street, Lennox Head	Being Assessed
2016/566	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
2016/584	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	Awaiting additional information.

8.7 Development Applications - Works in Progress - January 2017

			Existing Building Identification Sign – 19 Southern Cross Drive, Ballina	
2016/604	21/10/16	Ardill Payne & Partners	Alterations and Additions to Ballina Toyota – 2 Sunset Avenue, West Ballina	Determination Pending
2016/617	26/10/16	Stephen Fletcher and Associates Pty Ltd	Excavation and Drainage Works – Uralba Road, Uralba	Being Assessed
2016/655	15/11/16	Ardill Payne & Partners	Erection of an Attached Dual Occupancy and Establishment of One Holiday Cabin – 56 Tooheys Mill Road, Pearces Creek	Awaiting additional information
2016/662	17/11/16	Ardill Payne & Partners	Demolition/removal 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	18/11/2016	Newton Denny Chapelle	Strata Title Subdivision of an approved Dual Occupancy (Detached) – 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
2016/690	29/11/16	Ardill Payne &	To undertake a	On exhibition

8.7 Development Applications - Works in Progress - January 2017

		Partners	residential subdivision to create 38 residential lots, including construction of roads and installation of public infrastructure services – Quays Drive, West Ballina	
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
2016/704	5/12/2016	Ardill Payne & Partners	Staged Seniors Housing Development Comprising the Re-Development of Alstonville Maranoa pursuant to S.83B of the EP&A Act with consent also sought for Stage 1 comprising 12 self-contained dwellings, tree removal, new driveway and	On Exhibition

8.7 Development Applications - Works in Progress - January 2017

			associated works - 9-19 The Avenue, Alstonville	
2016/705	6/12/2016	Tim Fitzroy & Associates	To establish a depot and associated works - 34-38 Northcott Crescent, Alstonville	Being Assessed
2016/724	14/12/2016	JUMP Swim Schools Constructions Pty Ltd	Change of Use to Establish a Recreation Facility (Indoor) Involving the Installation of an Above Ground Pool and other Internal Fit Out Works for a Learn to Swim School – 2/17 Piper Drive, Ballina	Awaiting Additional Information
2016/729	15/12/2016	Ballina RSL Club Ltd	Installation of Shade Sails on First Floor Terrace – 238-240 River Street, Ballina	Being Assessed
2016/731	15/12/2016	Ardill Payne & Partners	Two Lot subdivision to create 1 x 1705 and 1 x 1182 m ² lots – 45 Greenfield Road, Lennox Head	On Exhibition
2016/739	20/12/2016	Newton Denny Chapelle	Conversion of Existing Shed for Tourist and Visitor Accommodation – 48 Glenross Drive, Kinvarra	On Exhibition
2016/741	20/12/2016	Newton Denny Chapelle	Subdivision of Land Comprising 121 Residential Allotments – Hutley Drive, Lennox Head	On Exhibition

8.7 Development Applications - Works in Progress - January 2017

2016/745	21/12/2016	Ardill Payne & Partners	Subdivision by way of boundary adjustment of five existing lots to create 5 new lots – 520 & 462 Newrybar Swamp Road, Broken Head	On Exhibition
2016/756	23/12/2016	Planners North	Erection of Two x 25 Metre High Entry Pylon Signs, Ballina Highway Service Centre, West Ballina – 565-589 River Street, West Ballina	Being Assessed
2016/757	23/12/2016	FSG Australia	Change of Use of Dwelling House and Shed to Community Facility – 111 Tamar Street, Ballina	Being Assessed
2017/7	4/1/2017	RPS Group	Construction of a service station with convenience store, car parking, signage and associated works – 413-423 River Street, Ballina	On Exhibition
2017/15	11/1/2017	Ardill Payne & Partners	Construction of multi-purpose playing court at Emmanuel Anglican College – 62 Horizon Drive, West Ballina	On Exhibition

8.7 Development Applications - Works in Progress - January 2017

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

8.7 Development Applications - Works in Progress - January 2017

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	Awaiting Additional Information

8.7 Development Applications - Works in Progress - January 2017

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
2016/746	23/12/2016	Ringtank Pty Ltd	Erection of dwelling houses, rural worker's dwelling, tourist and visitor accommodation, 10 site caravan park, polo training field and equestrian exercise area, equine building including stables, veterinary facility, quarantine stalls and horse float and equipment shelters, private helipad and hanger, outdoor recreation facilities including go-kart track, shooting range, motocross track, associated buildings, roadworks, earthworks including dams and landscaping - Carrs Lane, Empire Vale Road, Reedy Creek Road-Keith Hall/Empire Vale	Awaiting Additional Information

8.7 Development Applications - Works in Progress - January 2017

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 January 2017.

Attachment(s)

Nil

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendment Request - 17 Bath Street Wardell

Delivery Program Strategic Planning

Objective To outline a proposal to amend the Ballina Local Environmental Plan 2012 to rezone 17 Bath Street Wardell from RU2 Rural Landscape to R2 Low Density Residential and seek direction on the progression of the proposal.

Background

Council has received a request from Ardill Payne and Partners on behalf of Ms Rhonda Sly to rezone 17 Bath Street Wardell from RU2 Rural Landscape to R2 Low Density Residential. The proposal also involves a change from the 40ha minimum lot size for subdivision standard to apply a 600m² minimum lot size.

The proposed amendment enables the subdivision of the land and associated residential development. A copy of the information submitted by the proponent in support of the LEP amendment request is contained in Attachment One.

The subject site is known as Lot 1, Section 15, DP 759050, No 17 Bath Street Wardell (Lot 1). Lot 1 is designated as a Strategic Urban Growth Area (SUGA) under the provisions of Ballina LEP 2012 and is identified in Council's Local Growth Management Strategy as a strategic urban growth area.

Council has also relatively recently considered the planning framework for Wardell through the Wardell Strategic Plan. The Council at its Ordinary Meeting on 27 August 2015 endorsed the Wardell Planning and Environmental Study and the draft Wardell Strategic Plan for public exhibition [Minute No. 270815]. Following public exhibition the Wardell Strategic Plan 2015 – 2035 was subsequently adopted by the Council in January 2016 [Minute No. 280116/10].

The 2015 Wardell Planning and Environmental Study undertook a preliminary examination of the merits of rezoning all SUGA areas located at Wardell for residential purposes. In respect to Lot 1 the study ranked it as having a "Good" suitability for urban purposes, following consideration of land constraints, with potential for 2 to 3 lots providing housing for 5 to 8 people.

The Wardell Strategic Plan 2015 – 2035 under Locality Objective 5, *Ensuring that future development is staged, progressive and affordable*, incorporates the following strategic action:

24. Initiate a planning proposal for the rezoning of SUGA designated properties located within or adjacent to the boundaries of Wardell Village (does not include SUGA area 1 with frontage to Pimlico Road.

9.1 LEP Amendment Request - 17 Bath Street Wardell

This LEP amendment request is consistent with Strategic Action 24 as contained in the Wardell Strategic Plan 2015 - 2035.

The purpose of this report is to outline the amendment proposal and seek direction in relation to the further consideration and assessment of the amendment request.

Key Issues

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

Information

Lot 1 is located on the north-western corner of Bath and Carlisle streets Wardell. Lot 1 has an approximate frontage of 41 metres to Bath Street and 50 metres to Carlisle Street and an area of 2,023 square metres.

Erected upon Lot 1 is a single storey timber dwelling house and garden shed. A single storey timber garage building is also located within the curtilage of the dwelling house. The garage may be partly located within the Carlisle Street Road reserve.

A detailed site survey would be required to establish the exact location of site improvements and what appears to be a bushfire asset protection zone (APZ) on the northern side of Lot 1. Should the Council resolve to prepare a planning proposal then a site survey will be required to be submitted by the proponent after Gateway determination and prior to the public exhibition of the planning proposal.

Diagrams One and Two are aerial photo and zoning plan extracts that identify the site the subject of the LEP amendment request by red outline.

Diagram One: Aerial Photo – 17 Bath Street Wardell

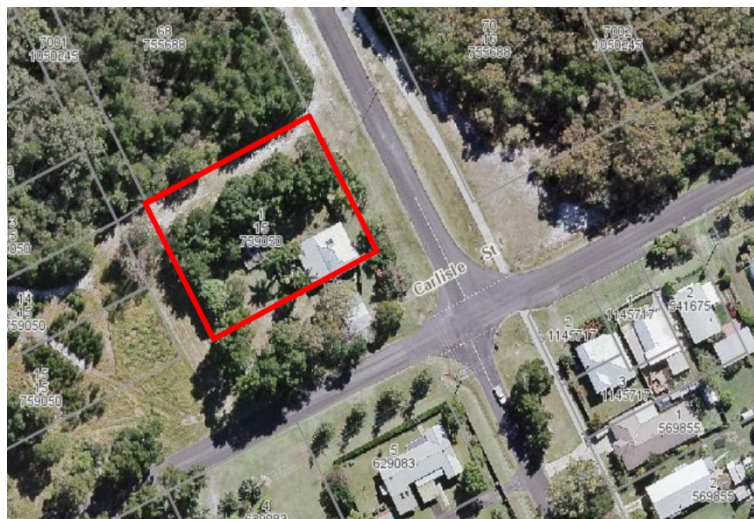
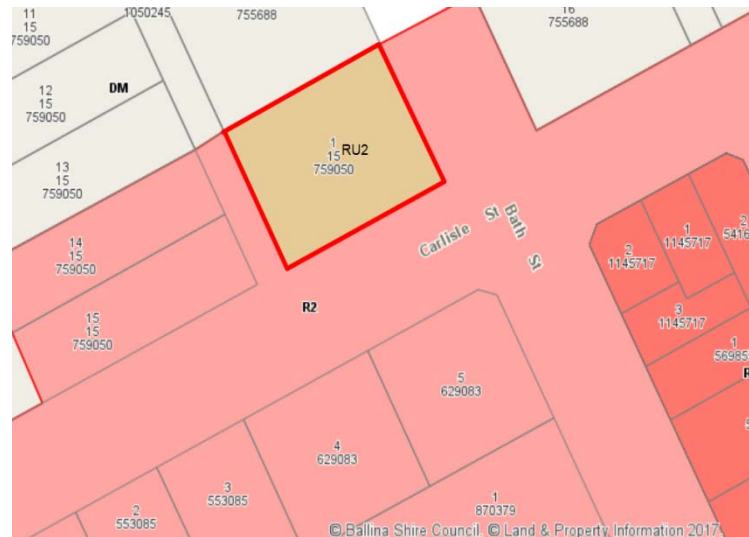


Diagram Two: Land Use Zoning Plan – 17 Bath Street Wardell



RU2 – Rural Landscape Zone
R2 – Low Density Residential Zone
DM – Deferred Matters (BLEP 2012)

Photos One and Two show the garage, thought to be located partly on the Carlisle Street road reserve, and the older style timber dwelling house erected on Lot 1. Photo Three shows the cleared area thought to be an APZ on the northern side of Lot 1.

Photo One: Garage Associated with Lot 1



Photo Two: Dwelling House Erected on Lot 1



Photo Three: Cleared Area Adjoining Northern Fence Line of Lot 1



The dwelling house erected upon Lot 1 is considered to be a good local example of a timber dwelling house from the Edwardian (Federation) period with a construction date most likely within the range 1890 to 1915. Whilst the dwelling house is not heritage listed within Ballina LEP 2012 its external appearance suggests that it may have local heritage value.

It is suggested that the heritage value of the dwelling house be further examined as part of the planning proposal process. This will enable the Council to give consideration to listing the dwelling as an item of Ballina Shire's Environmental Heritage, within Ballina LEP 2012, at the same time as the rezoning of the site is examined. An assessment of heritage value will be required to be prepared by the proponent post Gateway determination to further evaluate the history and heritage value of the existing dwelling house.

Aboriginal cultural heritage matters have been examined in a preliminary manner by undertaking a Basic AHIMS (Aboriginal Heritage Information Management System) search. The search indicated that there were no Aboriginal sites or places recorded in or within 50 metres of Lot 1. One Aboriginal site was located within 200 metres of Lot 1. Based on the results of the AHIMS search, the sites relatively small area and urbanised use it is not proposed to require additional formal investigation of Aboriginal cultural heritage issues related to Lot 1 as part of the planning proposal process. This is subject to consultation with the Jali Local Aboriginal Land Council that is proposed to be undertaken post Gateway determination.

State Environmental Planning Policy (SEPP) 55 - Remediation of Land requires Council to consider, when preparing an LEP, whether the land is contaminated, and if contaminated, whether it is suitable for its intended purpose. The LEP Amendment Request Application (Attachment One) indicates that based on the historical and current use of the site for rural residential purposes and small site area, as well as the site not adjoining intensive horticulture or potentially contaminating uses that there is not likely to be a requirement for any detailed contamination investigation. This matter will be considered further as part of the assessment of the LEP amendment request post Gateway determination.

Lot 1 is designated as bushfire prone land and is wholly affected by the 100 metre wide buffer to Category 1 vegetation. As a consequence of this consultation with the NSW Rural Fire Service (RFS) will be undertaken post Gateway determination. The proponent will also be required to prepare a Bushfire Threat Assessment Report post Gateway determination and prior to consultation with the RFS.

There are a number of existing trees and shrubs located on Lot 1 which will be required to be identified and their ecological value assessed in a Flora and Fauna (Ecological) Assessment Report post Gateway determination.

Lot 1 is also designated as being affected by Class 4 Acid Sulfate Soils. In this respect Clause 7.1 of Ballina LEP 2012 specifies that for works more than 2 metres below natural ground level or works which would likely lower the water table by more than 2 metres the preparation of an Acid Sulfate Soils Management Plan is required. Given these provisions no further assessment of acid sulfate soil issues is proposed to be required as part of the planning proposal process as the matter can be suitably addressed at the development application stage having regard for the details of development that is proposed.

Land contour information available to Council suggests that Lot 1 is within an area located at approximate 6 metres AHD. The 1 in 100 year flood level for 2100 has been modelled as reaching a height of 3.7m AHD. On this basis the subject property is not designated as prone to flooding from the Richmond River.

The Wardell Strategic Plan 2015 – 2035 envisaged that Council would seek to initiate and prepare one planning proposal for all SUGA areas located within and adjacent the the boundaries of Wardell Village. This would cover a total of five SUGA sites as shown by the green colour in Diagram Three.

Diagram Three: SUGA Areas within and Adjacent to Wardell Village



It was envisaged that specialist consultant costs associated with the preparation of the planning proposal would be shared by all affected owners. During consultation associated with the Strategic Plan and Environmental Study few SUGA owners demonstrated interest in such an approach.

Whilst it is possible to defer consideration of the current LEP amendment request, and proceed to prepare an alternative planning proposal covering the other designated SUGA areas, there is also considered to be merit in proceeding with the submitted request. This is because it may act as a catalyst through which interest may be stimulated amongst other SUGA owners to also submit joint or individual LEP amendment requests for their properties.

Importantly, where Council seeks to initiate an LEP amendment rather than a landowner (or group of landowners), Council would be required to meet the costs associated with the amendment including site investigations and studies as well as processing costs.

Sustainability Considerations

- **Environment**

The subject site contains a number of trees and other vegetation the significance of which is not known. Ecological issues will be required to be further addressed in a Flora and Fauna (Ecological) Assessment Report, prepared by a qualified ecologist, if the Council endorses the preparation of a planning proposal relating to this LEP amendment request.

- **Social**

There are no significant social impacts anticipated as consequence of this LEP amendment request.

- **Economic**

There are no significant social impacts anticipated as consequence of this rezoning proposal.

Legal / Resource / Financial Implications

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

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

Consultation

There has been no specific consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date as this matter is in the initial concept phase. It is noted however, that the preparation of the Wardell Strategic Plan 2015 – 2035 was the subject of extensive community engagement during 2015.

Should the proposal proceed beyond Gateway determination, public exhibition and agency engagement will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act*. This would include consultation with the NSW Rural Fire Service, the Office of Environment and Heritage, the Jali Local Aboriginal Land Council as well as community consultation for a minimum period of 14 days.

Options

1. Initiate a planning proposal related to the rezoning of Lot 1, Section 15, DP 759050, No. 17 Bath Street, Wardell from RU2 Rural Landscape zone to R2 Low Density Residential zone.

This is the preferred option. Initiating a planning proposal will enable Council to further investigate the merits of this proposal, and also obtain relevant Government authority and broader community feedback on the proposal.

Under this approach a planning proposal would be prepared that identifies the intended outcome and nominates the range of issues (such as ecology, heritage, site survey and bush fire risk) which require further investigation post Gateway determination and prior to public exhibition.

Given the small scale nature of the proposed rezoning and its consistency with the strategic planning framework for Wardell it is recommended that Council authorises submission of a planning proposal, consistent with the sentiments expressed in this report, to the Department of Planning and Environment for Gateway Determination without a further report on the planning proposal documentation being presented to the Council.

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

If the Council endorses this approach, staff will prepare and then lodge a planning proposal to enable the rezoning with the Department of Planning and Environment upon payment of the applicable Stage 2 processing fees by the proponent. A further report would be presented to the Council following the completion of the public exhibition phase of the process.

In addition to the above, it is also recommended that where a favourable Gateway determination enabling the planning proposal to proceed is received, Council proceeds at this stage on the basis that it is willing to exercise delegation from the Department of Planning and Environment for the processing of the amendment. In relation to the exercise of delegation, it is open to Council to decline to use its delegation (if granted) later in the planning proposal process.

2. Defer consideration of the LEP amendment request or broaden the area affected to incorporate additional SUGA areas.

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

This approach is suggested in the event that the Council would like to examine options to advance a broader planning proposal relating to all SUGA designated properties located within and adjacent to the boundaries of Wardell Village, as detailed in Locality Objective No. 24 of the Wardell Strategic Plan 2015 – 2035.

However, for the reasons outlined above, it is recommended that this proposed rezoning proceeds as a stand alone amendment.

3. Decline to initiate the LEP amendment request.

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

Having regard to the characteristics of the site and the consistency of the proposal with the strategic planning framework for Wardell, declining to initiate the LEP amendment process is not recommended.

RECOMMENDATIONS

1. That Council endorses the preparation of a planning proposal which proposes to rezone Lot 1, Section 15, DP 759050, 17 Bath Street Wardell to R2 Low Density Residential as outlined in this report.
2. That the planning proposal, once prepared, be forwarded to the Department of Planning and Environment for a Gateway determination.
3. That subject to a Gateway determination allowing the proposal to proceed to community consultation being issued, and adequate studies in support of the planning proposal being prepared, the procedural steps associated with progression of the planning proposal including public exhibition be undertaken.
4. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. LEP Amendment Request 17 Bath Street Wardell

9.2 LEP Amendment Request - Southern Cross Industrial Estate

Delivery Program Strategic Planning

Objective To outline a proposal to amend the Ballina Local Environmental Plan 2012 to rezone land for industrial purposes in relation to Part Lot 952 DP 1165266 located at 25-39 Boeing Ave, Ballina and Part Lots 2-5 DP 123781 located at Corks Lane, Ballina, and to seek direction on the submission of a planning proposal for Gateway determination.

Background

Council received an LEP amendment request on 2 June 2016 for the rezoning of two approved but not yet created lots on Boeing Avenue in the Southern Cross Industrial Estate, being proposed Lots 2 and 3 approved via DA 2009/258 (as amended), and part of the Boeing Avenue road reserve.

The land is described in real property terms as Part Lot 952 DP 1165266 located at 25-39 Boeing Ave, Ballina and Part Lots 2-5 DP 123781 located at Corks Lane, Ballina. The location of the land is shown in Appendix 1 of the planning proposal (as contained in Attachment One to this report).

The LEP amendment request has been prepared by Ardill Payne and Partners on behalf of Council's Commercial Services Section. A copy of the information submitted by the proponent is contained in Attachment Two.

Proposed Lot 2 has a total area of approximately 2.5 hectares and adjoins the north-eastern boundary of the Harvey Norman complex site. Proposed Lot 3 has a total area of approximately 3.5 hectares and is located northwest of the Harvey Norman complex. Both proposed lots will have frontage to the Boeing Avenue road reserve which is planned for extension to the northeast.

Council at its Commercial Services Meeting on 16 February 2016 considered a report on the status of its current land holdings in Southern Cross Industrial Estate and adjoining lands and recommended as follows:

1. *That Council resolves to pursue rezoning of Lots 2 and 3 Boeing Avenue from Business B5 to Industrial IN1, with the inclusion of an enabling clause (or use of another suitable mechanism) to permit bulky goods development as an additional permitted use on the land.*
2. *That Council hold a briefing on options for increased flexibility for the existing bulky goods precinct.*

Council subsequently adopted the recommendation at its Ordinary Meeting held on 25 February 2016 [Minute No. 250216/35].

Given that the land the subject of the amendment is Council owned (for commercial purposes), that Council's Commercial Services Section is the proponent and the proposal relates to a previously established policy position of Council addressing bulky goods retailing, a peer review has been undertaken. Darryl Anderson Consulting (DAC) undertook an initial review of the adequacy of the information supporting the proposed rezoning in September 2016. DAC recommended that the Ballina Shire Bulky Goods Retailing Investigation be updated given that the proposed industrial zone would replace an area specifically identified for bulky goods retailing.

The bulky goods retailing report was subsequently updated by the original author, Hill PDA, with the report concluding that it is reasonable for Council to pursue the proposed rezoning in relation to bulky goods retailing considerations. A copy of the Ballina Shire Bulky Goods Retailing Demand Update (Hill PDA 2016) is contained in Attachment Three.

Having regard for the above, a planning proposal enabling the rezoning of the subject land and adjacent road reserve from B5 Business Development to IN1 General Industrial has been prepared. The planning proposal also retains the permissibility of bulky goods retailing uses on the land (as an additional permitted use) and provides for a reduction in the minimum lot size for subdivision from 1ha to 1000m². The planning proposal is contained in Attachment One.

The purpose of this report is to provide an overview of the planning proposal and to seek the Council's direction on the progression of the matter.

Key Issues

- Suitability of land for industrial zoning and development including general industrial use and bulky goods premises.
- Availability and use of employment land.
- Applicable minimum lot size.

Information

Summary of Proposal

As indicated above, the amendment proposes the rezoning of proposed Lots 2 and 3 and the Boeing Avenue road reserve from B5 Business Development Zone to IN1 General Industrial Zone including an enabling clause to permit bulky goods development as an additional permitted use.

The proposed rezoning seeks to provide more flexibility in the use of the land by enabling a broad range of general industrial uses as per the existing permitted uses within the zone, whilst the inclusion of "bulky goods premises" as an additional permitted use recognises a strategic policy decision of Council to encourage colocation of bulky goods uses in the vicinity of the Harvey Norman Complex.

It is also proposed to change the existing minimum lot size from 1ha to 1,000m² to be consistent with the minimum lot size for subdivision standard of other IN1 zoned land within the Southern Cross Industrial Estate. This will enable further subdivision of the land into more conventional lots for industrial uses. The existing 10m building height will be maintained.

Peer Review

Council sought a peer review of the rezoning proposal by planning consultant Darryl Anderson Consulting (DAC). DAC recommended that Council seek an update to the Bulky Goods Retailing Investigation report prepared by Hill PDA in 2012 to assist in the consideration of the matter. This information was sought having regard for Council's ownership of the land and the implications of the rezoning with respect to broader bulky goods planning policy in the shire.

In October 2016, Council commissioned Hill PDA to undertake an update to the previous Ballina Shire Bulky Goods Retailing Investigation study undertaken in 2012. The updated report concludes that it is reasonable to proceed with the rezoning of the subject land to IN1 General Industrial with the addition of bulky goods retailing as a permissible use by way of an enabling clause. The updated report is provided in Attachment Three to this report and is discussed in further detail below.

Darryl Anderson Consulting has also conducted a peer review of the updated Hill PDA report and is satisfied with the methodology, conclusions and recommendations contained within the report.

Ballina Shire Bulky Goods Retailing Investigation 2012 and Ballina Shire Bulky Goods Retailing Demand Update 2016

Council commissioned Hill PDA to undertake an investigation into bulky goods and large format retailing (LFR) land uses in Ballina Shire ('the study'). The primary purpose of the study, which was completed in 2012, was to investigate the demand for bulky goods and LFR premises in Ballina Shire over the 2011 to 2026 period.

The study concluded that it would be advantageous for bulky goods and LFR floorspace to be concentrated in one location. In particular, it was recommended that a bulky goods and LFR cluster be established in the Southern Cross Precinct in and around the Harvey Norman Centre, including the Harvey Norman Centre itself and vacant land to the north and west.

As a result of the peer review of the rezoning request, and having regard for Council's ownership of the land and the implications of the rezoning with respect to broader bulky goods planning policy in the shire, Council sought an update to the 2012 Bulky Goods Retailing Investigation report.

The updated report, provided in Attachment Three, concludes that it is reasonable for the subject land be rezoned to IN1 General Industrial zone, with the addition of bulky goods retailing as a permissible use by way of an enabling clause. This approach addresses short term demand for additional general industrial lots whilst retaining the potential for bulky goods retailing

within the previously identified area for clustering of bulky goods ("Harvey Norman Complex").

Strategic Planning Context

In addition to the consideration of demand for bulky goods retailing and associated local planning policy, the key aspects of the strategic planning framework applicable to the planning proposal are canvassed within the planning proposals (Attachment One). In summary, when considering the current zoning of the land, the outcomes of the bulky goods retailing demand update report and the characteristics of the site, the planning proposal is considered to be consistent with the outcomes envisaged under following documents:

- Far North Coast Regional Strategy 2006.
- Draft North Coast Regional Plan 2016.
- Ballina Retail Strategy 2003.
- Southern Cross Precinct Master Plan 2008.
- Ballina Shire Growth Management Strategy 2012.
- Ballina Major Regional Centre Strategy 2015-2035.

Sustainability Considerations

- **Environment**

The subject land is already zoned for urban purposes with potential environmental impacts having been considered in relation to DA 2009/258 (as amended) and previous zoning of the land. The proposed rezoning is not expected to raise potential for environmental impacts beyond those that might otherwise occur in association with the development of the land for bulky goods retailing purposes under the current urban zone.

- **Social**

It is anticipated that the availability of employment lands will deliver positive social benefits to the community by providing opportunities for employment growth which in turn will have multiplier effects on the economy.

- **Economic**

The planning proposal seeks to provide for additional flexibility in the use of employment lands to facilitate ongoing economic development opportunities in Ballina Shire. The proposed rezoning will likely have positive economic impacts in relation to employment opportunities in the shire.

Legal / Resource / Financial Implications

Costs associated with processing the LEP amendment request are to be met by the proponent. There are no significant resourcing or financial implications associated with the proposal proceeding to Gateway determination.

Processing of the planning proposal can be accommodated within the existing work program of the Strategic and Community Facilities Group.

Consultation

No community or agency engagement has occurred to date in relation to this planning proposal.

The planning proposal will be subject to community and agency engagement in accordance with the Gateway determination.

Options

1. That Council proceed with the planning proposal for the application of an IN1 General Industrial Zone, with bulky goods retailing as an additional permitted use, to the subject land as outlined in the planning proposal contained in Attachment One.

Option one is the preferred course of action on the basis that there is sufficient information to indicate that the proposal warrants further consideration through the LEP amendment process and the industrial use of the land is consistent with the identification of the land in local and State planning policy as employment land.

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.

In the event that Council decides to progress this matter to Gateway determination, it is recommended that Council also decides whether to exercise delegation of plan making functions for the finalisation of the amendment (if it proceeds to finalisation). In this case it is recommended that the Council declines the use of the delegation as the planning proposal relates to Council owned land and a commercial interest of Council.

2. Defer or amend the planning proposal.

The deferral of the proposal is not recommended on the basis that the proposal is generally consistent with the strategic land use planning framework for the area and there is sufficient information to enable the matter to proceed to the Gateway determination phase.

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to Option 2, this approach is not recommended.

RECOMMENDATIONS

1. That Council endorses, for Gateway determination, the application of an IN1 General Industrial Zone and associated changes to planning provisions in relation to Part Lot 952 DP 1165266, 25-39 Boeing Avenue, Ballina, Part Lots 2-5 DP 123781, Corks Lane, Ballina and the adjacent Boeing Avenue road reserve in accordance with the planning proposal contained in Attachment One.
2. That Council submits the planning proposal to the Department of Planning and Environment for review and Gateway determination.
3. That Council advises the Department that it does not wish to seek or exercise delegation in relation to completion of this planning proposal.
4. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
5. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

1. Planning Proposal BSCPP 16/003 - Southern Cross Industrial Estate, Boeing Ave, Ballina
2. LEP Amendment Request - Southern Cross Industrial Estate, Boeing Ave, Ballina (Under separate cover)
3. Ballina Shire Bulky Goods Retailing Update - Hill PDA - Final Report (Under separate cover)

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following document.

US17/01	<p>LPI forms and associated documentation relating to the removal of the “public reserve” notation from the certificates of title for the following properties:</p> <p>Lot 29 in DP230062 (Cnr Grant and Marsh Streets, Ballina) Lot 47 in DP240657 (3 Basalt Court, Lennox Head) Lot 43 in DP1168665 (8 Seamist Place, Lennox Head) Lot 1 in DP850774 (58-62 Westlands Drive, Ballina) Lot 52 in DP842077 (25 Claire Circuit, Ballina) Lot 2 in DP850774 (Westlands Drive, Ballina)</p> <p>Explanation:</p> <p>These properties have recently been reclassified from community land to operational land (following Council resolutions 230715/11 and 260316/17). The removal of the “public reserve” notations from the certificates of title was an intended outcome of the reclassification process.</p>
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Attachment(s)

Nil

10.2 Investment Summary - December 2016

Delivery Program Governance and Finance

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

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of December 2016.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are in accordance with the Local Government Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 December was \$67,284,000. This represents a decrease of \$2,500,000 from November. Council's investments, as at 31 December, are at an average (weighted) rate of 2.92%, which is 1.14% above the 90 Day Bank Bill Index of 1.78%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 December 2016, was \$2,955,674. This balance is significantly lower than the balance of \$4,206,411 as at 30 November 2016 (which was noted in the November 2016 Investment report as being high due to the November instalment due date and due to known large payments to be made). The balance at 31 December is still higher than preferred, with approximately \$500,000 banked between Christmas and New Year for rates and debtors inflating the balance. Actual interest income is well above the current forecast, as can be seen in Table E. It is anticipated that forecast interest income will be increased as part of the December 2016 quarterly budget review.

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

* Updated to reflect reserves held as at 30 June 2016

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.6%	3%
Rated Institutions							
AMP Bank	Yes	A+	5,000	5,000	20%	7.4%	
Bank of Queensland	No	A-	5,000	5,000	10%	7.4%	
Bank of Western Aust	Yes	AA-	2,000	0	20%	0.0%	
Bendigo & Adelaide Bank	No	A-	5,000	5,000	10%	7.4%	
Beyond Bank	No	BBB+	2,000	1,000	10%	1.5%	
Big Sky Building Soc	N/A	BBB	1,000	1,000	10%	1.5%	
Commonwealth Bank of Australia	Yes	AA-	4,996	4,996	20%	7.4%	
Defence Bank Ltd	No	BBB+	2,000	4,500	10%	6.7%	
Greater Building Society	No	BBB	1,000	1,000	10%	1.5%	
ING Bank Ltd	Yes	A-	2,000	2,000	10%	3.0%	
Members Equity Bank	No	BBB+	5,000	5,000	10%	7.4%	
National Australia Bank	Yes	AA-	10,000	8,000	20%	11.9%	
Newcastle Perm Bld Society	No	BBB+	3,000	2,000	10%	3.0%	
Rural Bank Ltd	No	A-	2,000	2,000	10%	3.0%	
Suncorp-Metway Bank	No	A+	12,000	12,000	20%	17.8%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	3.0%	
My State Bank Ltd	No	BBB	4,000	5,000	10%	7.4%	97%
Unrated ADI's					\$1m	0.0%	0%
Total			69,784	67,284		100%	

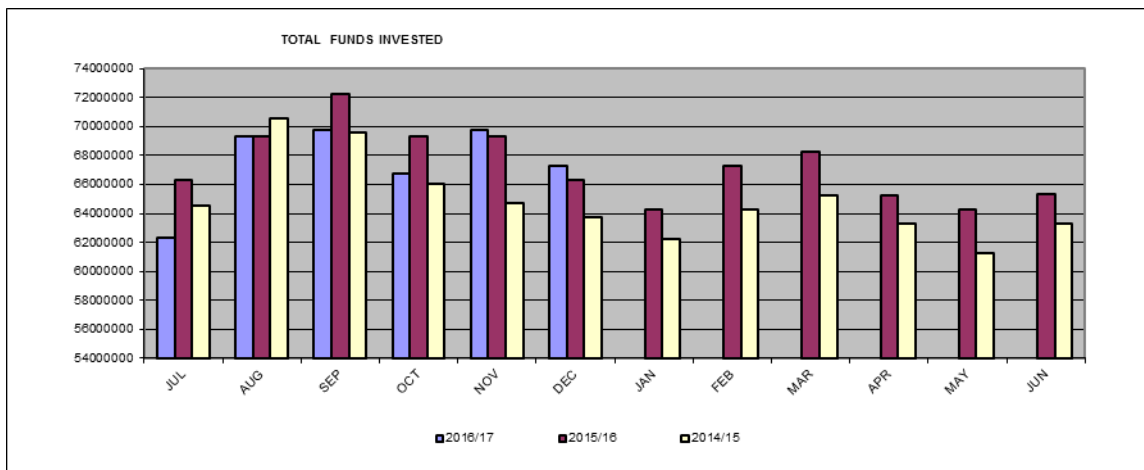
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	27,784 40%	23,784 35%
Non-Fossil Fuel Aligned	41,000 59%	42,500 64%
Not Classified	1,000 1%	1,000 1%
Total	69,784 100%	67,284 100%

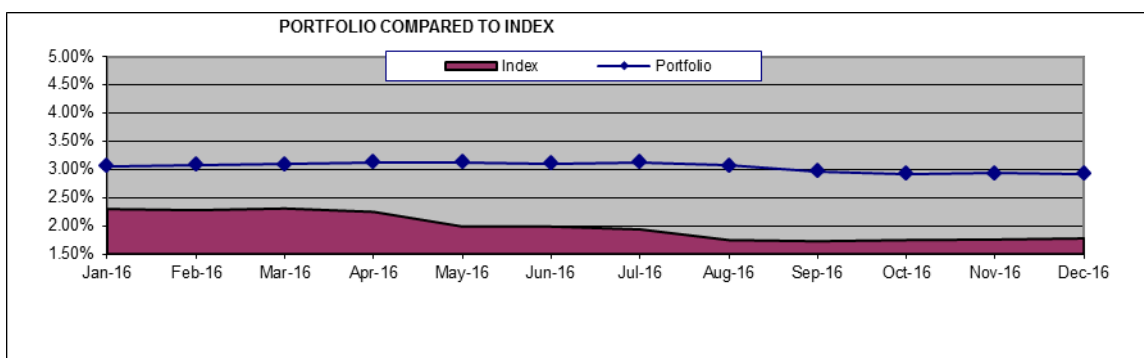
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

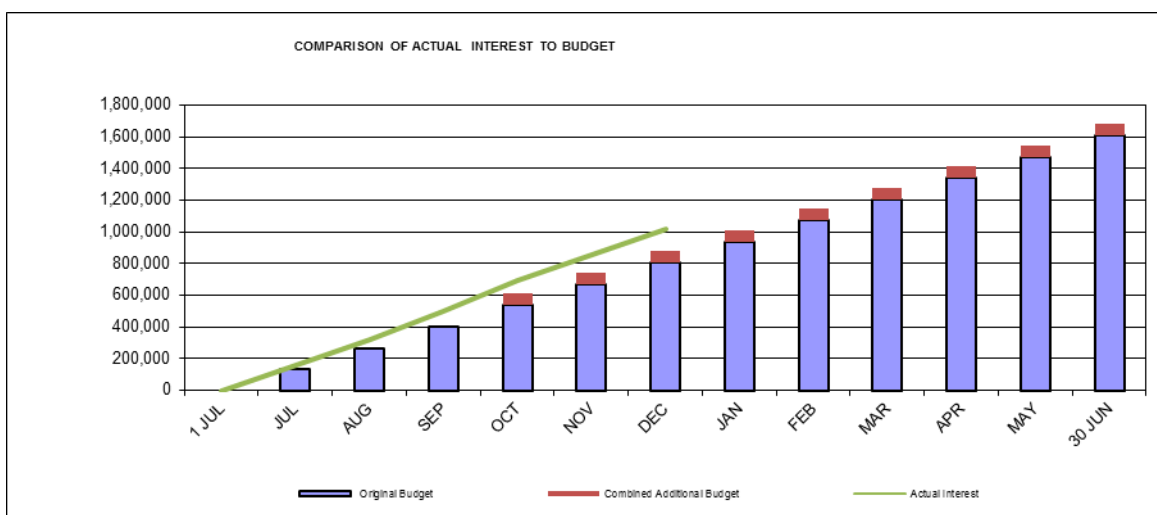
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



F. Investments held as at 31 December 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	1,263
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	2,076
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	AMP Bank	TD	3.00%	30/05/17	1,000	1,000
17/06/16	Commonwealth Bank Of Australia	FRTD	2.84%	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	2.86%	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
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	1,002
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
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
15/11/16	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
01/12/16	Suncorp-Metway Bank	TD	2.81%	19/06/17	1,000	1,000
01/12/16	Beyond Bank	TD	2.85%	13/06/17	1,000	1,000
02/12/16	Big Sky Building Soc	TD	2.85%	20/06/17	1,000	1,000
08/12/16	Defence Bank	TD	2.90%	15/06/17	1,000	1,000
09/12/16	Defence Bank	TD	2.90%	27/06/17	1,000	1,000
12/12/16	Defence Bank	TD	2.90%	05/07/17	500	500
23/12/16	My State Bank	TD	2.85%	12/07/17	1,000	1,000
Totals					67,284	66,852
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 December 2016.

Attachment(s)

1. TCorp Local Government Economic Commentary December

10.3 Delivery Program and Operational Plan Review - 31 December 2016

Delivery Program Governance and Finance

Objective To review how Council is performing compared to the actions and targets included in the Delivery Program and Operational Plan for the second quarter of the 2016/17 financial year and to provide an overview of the preparation of the 2017/18 to 2020/21 Delivery Program and Operational Plan.

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

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice has been to receive more timely quarterly reports. The first part of this report represents the second review of the current Delivery Program and Operational Plan, with the information contained in the report based on work undertaken up to 31 December 2016.

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

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

The second part of this report provides an overview of the process that is planned to be followed in preparing the 2017/18 to 2020/21 Delivery Program and Operational Plan.

Key Issues

- Compare actual results against the adopted goals and priorities

Information

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

The attachment has two main sections being:

- Program Actions - This section provides a comment on the status of all the major actions in the Operational Plan. The actions represent items that are more of a task or project nature.
- Service Delivery Targets - This section provides details on the key indicators within the Operational Plan. These indicators represent measures for a range of activities and processes undertaken by Council.

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

There are 103 program actions listed in the Operational Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis based on the Council organisation structure.

Program Actions Overview - By Number of Tasks

Group / Status	GM	DEH	Civil	SCF	Total
Green	27	5	32	29	93
Amber	2	2	3	2	9
Red	0	0	0	1	1
Total	29	7	35	32	103

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	93	71	91	91	90
Amber	7	29	9	6	9
Red	0	0	0	3	1
Total	100	100	100	100	100

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

- Support an effective and consultative Aboriginal Community Committee (page 4) – This is marked as amber as the attendance numbers for meetings of this Committee continue to be poor.
- Implement Captain Cook and Pop Denison Master Plans (page 6) – These two items are marked as amber as implementation of the plans is being advanced, albeit that there remain concerns that physical on-ground works may not occur this financial year due to the detail design and planning approval processes that need to be undertaken prior to works commencing.
- Participate in Roads and Maritime Services Location Marker Program for Ballina (page 7) – The RMS has completed the installation of the location markers at Kew and Moorland and they will shortly be meeting with Council staff to confirm the arrangements for Ballina. This item is only marked as amber as the process has been very slow to date, albeit that it is hoped that now other sites have been completed, the RMS is in a position to more rapidly progress the installation of the markers for Ballina.

- Proactively manage Council sand pit (page 9) – This project was being considered in conjunction with the North Creek dredging and with that project having a likely long lead time prior to any approvals being received, it will be necessary to provide a separate report on the options for the sand pit.
- Progress availability of land at the Russellton Industrial Estate (page 10) – This is marked as amber as Council is reliant on negotiations between two landowners to assist with the further release of land. Those negotiations have been protracted although it is still hoped they will be resolved in the near future.

Council has also recently resolved to defer expenditure on the next stage of this Estate as the funding has been reallocated to Airport Boulevard.

- Implement Shaws Bay Coastal Zone Management Plan (CZMP) (page 13) – As per the Pop Denison comments there are concerns that limited physical on-ground works may occur this financial year due to the detail design and planning approval processes that need to be undertaken prior to works commencing
- Review environmental protection zone framework (page 15) – As reported to Council the review of the E zones is a protracted process and Council has adopted a staged approach.
- Review Local Growth Management Strategy (page 16) – The Strategic Planning section has a significant number of projects underway and this review will now need to occur during 2017/18.
- Implement on-site sewage management (OSSM) strategy (page 16) – Continued high failure rates for inspected OSSM systems result in limited progress with this strategy as any failure then requires a significant commitment of resources to remedy.

On the positive side there are numerous items in the program action list that are progressing in a timely manner.

In respect to the Service Delivery Targets there are a total of 100 targets, or preferred targets, identified in the Operational Plan and the following two tables provide an overview of how Council is performing against those targets, again on a number and percentage basis.

Service Delivery Targets Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	17	20	28	18	83
Amber	2	3	6	2	13
Red	1	0	3	0	4
Total Tasks	20	23	37	20	100

Service Delivery Targets Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	85	87	76	90	83
Amber	10	13	16	10	13
Red	5	0	8	0	4
Percentage Total	100	100	100	100	100

When reviewing the performance targets, certain items are accumulative during the year, which means that even though they may be below target based on a linear analysis that trend may improve during the balance of the financial year.

In respect to these targets the items of note include the following:

- Hours of lost time due to workers' compensation claims (# hours) – Target < 1,000 (page 29) – Result to date – Nil – This is an excellent result considering the overall size of Council's workforce and the type of work undertaken.
- Number of insurance claims (#) – Target < 30 (page 29) – The management of tree related property damage, along with trips and falls is trending high.

These claims are covered by insurance, however they can eventually lead to higher premiums over time. Pro-active inspections and maintenance works are being undertaken within the available resources.

- Water and Wastewater Services (Various – pages 33 to 35) – There are a number of amber and red indicators with the agreed benchmarks more reflecting preferred outcomes, rather than a realistic target, although there are areas where extra resources may need to be allocated over time. The indicators provide useful information in respect to the performance of this section.

Preparation of 2017/18 to 2020/21 Delivery Program and Operational Plan

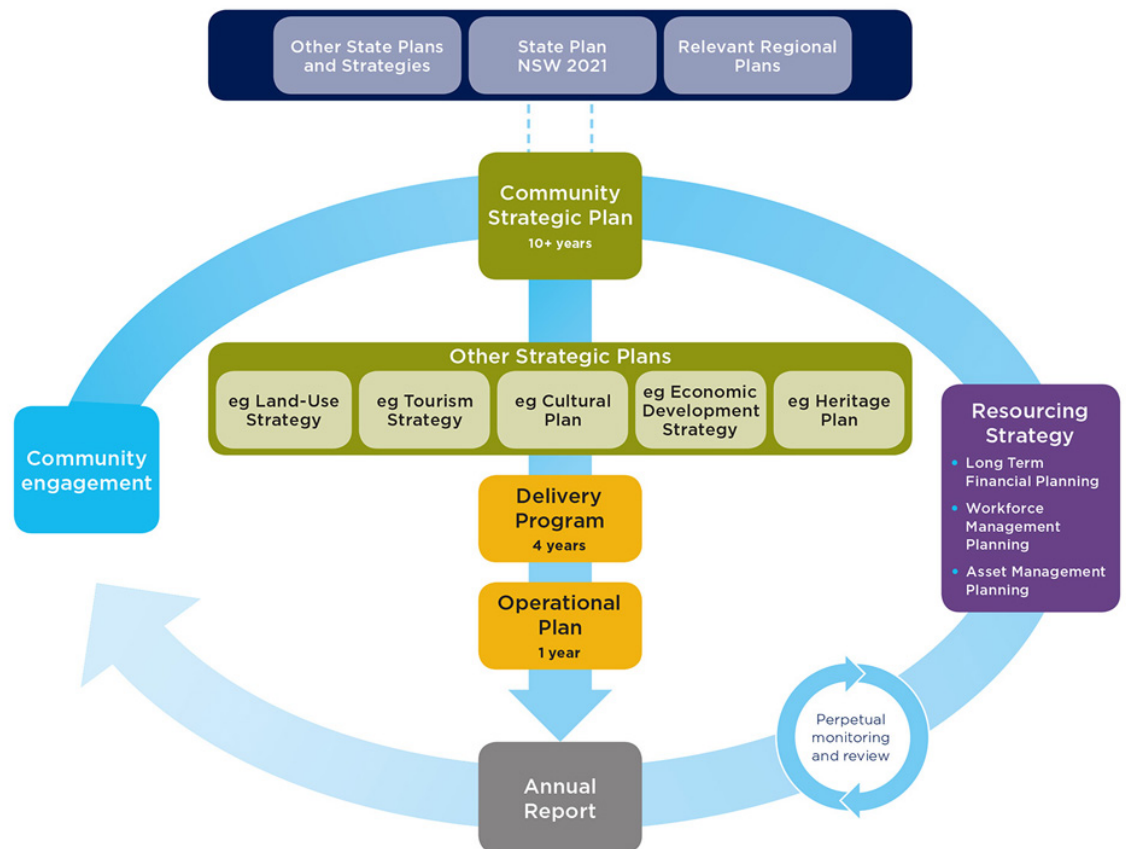
The NSW Office of Local Government's website (olg.nsw.gov.au) provides the following introduction to the Integrated Planning and Reporting framework.

The Integrated Planning and Reporting (IP&R) framework recognises that most communities share similar aspirations: a safe, healthy and pleasant place to live, a sustainable environment, opportunities for social interaction, opportunities for education and employment, and reliable infrastructure.

The difference lies in how each community responds to these needs. It also recognises that council plans and policies should not exist in isolation - that they are inter-connected.

This framework allows NSW councils to draw their various plans together, understand how they interact and get the maximum leverage from their efforts by planning holistically and sustainably for the future.

The following diagram sourced from that website provides a good representation of the entire IP&R framework.



As reported to the November 2016 Ordinary meeting, Council must review the Community Strategic Plan (CSP) prior to 30 June following the Council election.

The consultation strategy endorsed at the November meeting for the review of Council's CSP is currently being implemented and it is anticipated that the draft CSP will be reported to the February 2017 Ordinary meeting for approval to exhibit.

As per the IP&R guidelines (the OLG website provides a comprehensive overview of the IP&R framework) the CSP is an aspirational document that identifies the community's vision for the future.

The Delivery Program (based on a four year timeframe) and the Operational Plan (based on a one year timeframe) then provide details on the strategies and actions that will be implemented to achieve that vision.

To prepare the key elements of the Delivery Program and Operational Plan Council typically holds Finance Committee meetings during March and April, which then allows the draft documents to be exhibited during May and early June.

Both documents must be adopted prior to 30 June following a mandatory exhibition period of at least 28 days.

In respect to the agenda items to be considered at the Finance Committee meetings likely reports include:

March Finance Committee meeting

- Rating structure – Council has a range of options it may wish to consider in respect to the rating structure and there will also be new land values for 2017/18. The change in land values can impact on how the rate burden is distributed across the Shire.
- Water and Wastewater Business Plans – The draft long term financial plans for water and wastewater are submitted for review, along with the proposed charging structure. Water and wastewater represent approximately 30% of Council's overall operations.
- Waste Business Plan – As per water and wastewater, the waste operations represent approximately 10% of Council's overall operations.
- Airport Business Plan – This report provides an overview of the performance of the airport, along with an update on the long term financial plan.
- Community Infrastructure – Recurrent funded projects – This report examines the four year capital works program for the major infrastructure items that have a recurrent funding source (i.e. roads, drainage, playgrounds and equipment, sports fields, community buildings, toilets and street lighting).
- Community Infrastructure – Non-recurrent funded projects – This report reviews the major capital works, that are not recurrent in nature, that are to be included in the four year capital works program for the Delivery Program. These works are often funded in part, or in full, from revenue raised through Council's property development activities.
- Other matters that may have been raised through earlier resolutions of Council.

April Finance Committee meeting

- Fees and Charges document – This document is extensive (approximately 60 pages) and the report provides an overview of any significant changes to the myriad of fees and charges levied by Council.
- Long Term Financial Plan – General Fund and Consolidated – This report focuses on Council's General Fund operations and if Councillors wish to see service levels amended, either up or down, or new services introduced, the report provides an opportunity to examine the impacts of any changes on Council's overall financial position.
- Delivery Program and Operational Plan – The draft strategies and actions for the four year term are summarised in this document for endorsement by Council. It is essential that any tasks / actions that Council wishes to see implemented are included in this document as the Council staff resources are allocated to implementing the actions listed.
- Other matters that may have been raised – Further reports may be submitted on matters raised at the March Finance Committee meeting or other meetings.

All of the matters endorsed at the Finance Committee meetings, subject to the recommendations being adopted at the March and April 2017 Ordinary meetings, are then compiled and exhibited for public comment.

Council then has a further opportunity to amend or update the documents at the June Ordinary meeting as part of the adoption of the exhibited documents.

Sustainability Considerations

- **Environment**

There is a range of environmental, social and economic outcomes included in the Delivery Program and Operational Plan.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The Delivery Program and Operational Plan identify the allocation of Council's resources and finances.

Consultation

The primary purpose of this report is to provide the community with information on how Council is performing in respect to the implementation of the current Delivery Program and Operational Plan.

Options

The report is for noting purposes. The report helps to highlight the wide range of services being delivered by Council to the community through the current Delivery Program and Operational Plan.

In respect to the commentary on the preparation of next year's Delivery Program and Operational Plan, if there are any particular matters Councillors wish to see examined as part of the preparation of those documents, it would be beneficial to include details in the recommendations for this report. That would allow staff time to research the matter(s) for inclusion in the proposed Finance Committee reports.

RECOMMENDATIONS

1. That Council notes the contents of this six month review in respect to the implementation of the 2016/17 to 2019/20 Delivery Program and Operational Plan.
2. That Council notes the contents of this report in respect to the preparation of the draft 2017/18 to 2020/21 Delivery Program and Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan - Status Report as at 31 December 2016 (Under separate cover)

10.4 Capital Expenditure Review - 31 December 2016

Delivery Program Governance and Finance

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

Background

Council has a significant capital expenditure program included in the Operational Plan and due to the scale and magnitude of the program it is important that updates are provided on a regular basis. The current practice is to provide a comprehensive quarterly status report on the capital works program.

This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure. This report is for the six month period to 31 December 2016 for the 2016/17 financial year.

Key Issues

- Status of works
- Budget variations

Information

To assist in understanding the delivery timeframes for the capital works program the attachments to this report provide information on the following items:

- Original Budget - represents the budget as per Council's adopted Operational Plan
- Carry Forward - represents budgets carried forward from the previous financial year that were approved at the August 2016 Ordinary meeting
- Approved Variations - Variations approved by Council resolution either through a Quarterly Budget Review or a separate report on a particular project
- New Variations – Represents budget changes recommended as part of this report
- Latest Estimate - Sum of the original budget plus the budget variations
- Expended to Date - Expenditure to date of this report
- % Expended - Percentage of budget expended to date
- Milestone Dates - Target dates for completion of the major milestones
- Status - Additional comments.

The attachments are split into the functional sections within Council undertaking the works: i.e. Open Spaces, Waste, Public and Environmental Health, Operations Support, Commercial Services, Information Services, Water and Wastewater and Engineering Works.

Points of interest in respect to the attachments are as follows.

Open Spaces (attachment one)

The major works to be completed this year relate to:

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

Play Equipment (various) – The timing for the delivery of this equipment means it will be installed through March to June 2017.

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

Wollongbar Skate Park – Tender for design and construct submitted to the October 2016 Ordinary meeting with the contractor now engaged.

Wollongbar Sports Fields – Construction works well advanced. The dry weather is creating difficulties in respect to the turfing of the sports fields.

Environmental and Public Health (attachment one)

Shaws Bay Coastal Zone Management Plan – As mentioned above for the Pop Denison Master Plan, Council has a large number of projects funded for this precinct for 2016/17 with the works once completed likely to make a significant improvement to the amenity of Shaws Bay. Council has been successful in obtaining Public Reserves Management Fund monies of \$95,000 to extend the scope of works. The recommendations to this report provide for the adjustment of this budget to include these grant monies.

Operations Support (attachment two)

Administration Centre – Air-conditioning – Tender accepted at the September 2016 Ordinary meeting for this project with works now commenced.

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

Marine Rescue Tower – Project largely completed with official opening now planned for March 2017.

Swimming Pools – Woollams has now been appointed as the preferred contractor based on the amended scope of works approved by Council.

Commercial Services (attachment three)

Airport

Terminal Expansion – It is recommended that a significant portion of this budget be transferred to 2017/18, which is when the majority of the actual capital expenditure will occur.

Designs and planning approvals are still in the process of being finalised.

Camping Ground

Flat Rock – It is planned to install a boom gate this financial year to assist in managing this park. The additional \$10,000 required for this work is to be transferred from the internal reserve held for the Flat Rock Tent Park.

Property – Land Development

Wollongbar Urban Expansion Area – The tender for these works is included in a separate report in this agenda. As per that report, based on the tender figures received, the recommendation is to increase the budget by \$416,000.

That money is funded from the Property Development Reserve with the expenditure offset by increases in forecast sales income in future years.

Water and Wastewater (attachments four and five)

A number of projects are advancing with some budget variations recommended based on savings, increases in actual cost, or the timing of the works.

Engineering Works (attachment six)

Urban Roads

Skinner Street – There has been a significant cost incurred in the construction of segment 10 due to buried bonded asbestos being discovered in the old road foundation, resulting in the budget provided for segment 20 having to be transferred to segment 10.

Lake Ainsworth – Eastern and Southern Precincts – With Council having now approved \$900,000 for the implementation of the southern precinct works, from a technical perspective, it is logical to construct the southern works first as this will maximise the car parking available once the eastern road is closed.

It will also minimise any further impacts from traffic having to travel to the Lake Ainsworth Sport and Recreation Centre once the eastern road is closed (i.e. this will be the only access once the eastern road is closed and any increased traffic will impact the timeliness of the works if the southern works are completed after the eastern road is closed).

Council's Civil Services Group has estimated that Council could be faced with an additional cost of approximately \$27,000 by having the southern works completed after, or at the same time of the eastern road closure, due to the extra traffic impacts.

This estimate is based on having one crew on location for an extra week, which represents a cost of \$4,800 per day (or \$24,000 for the week), along with \$3,000 for additional charges related to the use of a subcontract profiler.

This is a conservative estimate and may well not eventuate to the full extent as the traffic impacts are largely an unknown, but it is important to acknowledge that traffic can impact significantly on the delivery of road reconstruction projects. Therefore it is always preferable to minimise the traffic through these projects and Council has made substantial savings in recent years by eliminating traffic from a variety of projects where possible; i.e. Angels Beach Drive is one good example.

Even with this potential cost increase it is accepted that Council may wish to undertake the eastern road closure as promptly as possible and the works can commence on 13 February 2017, subject to a Council resolution approving that approach.

A copy of the endorsed design for the southern precinct works is included as attachment seven.

Approximately \$600,000 of the \$900,000 budget will be expended on road reconstruction and car parking works, with the balance to be expended on stormwater improvements, landscaping and bank stabilisation, along with a reasonable contingency.

Rural Roads

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

The \$1,011,000 originally promised was for Shelly Beach Road (\$176,000), Skennars Head Road (\$367,000) and River Drive (\$468,000). Both the Shelly Beach and Skennars Head works have now been completed and there are some concerns that the Federal Government may not honour the commitments to these two projects as the works are completed.

Pleasingly, the RMS, acting as the liaison between Council and the Federal Government, acknowledges that works have had to be programmed into the Council construction schedule and they have been working with Council to get feedback from the Federal Government.

Council may now put forward alternative projects for consideration, with similar outcomes and value to the Shelly Beach and Skennars Head Road funding allocations.

Lismore City Council is faced with similar issues as they were also included in the Federal Government election commitment and have also completed works.

Ancillary Transport Services

Savings have been achieved in the public toilets at 78 Tamar Street and the Missingham Park Master Plan and the surplus funds are recommended to be transferred back to their original funding source.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

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

Options

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

Capital Works Summary – 31 December 2016 (\$'000)

Section	Budget (%)	Expended (%)	Percentage
Open Spaces	4,697,500	2,897,600	62
Waste	537,000	0	0
Public and Environmental Health	267,000	0	0
Operations Support	7,421,900	2,300,000	31
Commercial Services	5,394,000	628,800	12
Information Services	103,500	20,700	20
Water	3,524,000	432,700	12
Wastewater	5,792,000	946,200	16
Engineering Works	17,363,500	5,044,000	29
Total	45,100,400	12,270,000	27

Expenditure is not progressing as quickly as we would like however a number of large contracts have been let which should result in a rapid increase in expenditure during the next six months.

In respect to options, this report is for noting purposes, along with approving the budget changes identified in the attachments.

RECOMMENDATIONS

1. That Council notes the contents of this update on the implementation of the capital expenditure program for 2016/17 as at 31 December 2016.
2. That Council approves the following budget adjustments, as outlined in the attachments to this report.

Item	Current Budget	Revised Budget	Variation	Comment
Public and Environmental Health				
Shaws Bay Coastal Zone Management Plan	172,000	267,000	95,000	Inclusion of grant monies received
Airport				
Terminal Expansion	5,315,600	900,000	(4,415,600)	Funds transferred to 2017/18 based on likely expenditure timeframe
Camping Ground				
Flat Rock	10,000	20,000	10,000	Transfer from Flat Rock Reserve to finance boom gates
Land Development				
Wollongbar Urban Expansion Area	2,348,000	2,764,000	416,000	Increase in budget based on tender. Funds transferred from Property Development Reserve. Increase offset by increase in sales income in 2017/18.
Water				
Main Renewals	400,000	350,000	(50,000)	Saving based on likely expenditure
Wastewater				
Pump Upgrade – Byron Street	1,931,000	1,531,000	(400,000)	Funds transferred to 2017/18 based on likely expenditure timeframe
Emergency Storage Program	280,000	200,000	(80,000)	Savings based on current program
Pump Upgrades - Various	265,000	350,000	85,000	Extra funding based on increased works program – Increase funded from wastewater reserves
Treatment Plant – Ballina - Various	21,000	51,000	30,000	Additional works scheduled for this plant, funded from wastewater reserves
Treatment Plant – Lennox Head	106,000	76,000	(30,000)	Saving based on works schedule
Kings Court - Landscaping	179,000	120,000	(59,000)	Saving based on actual works
Engineering Works				
Skinner Street (segment 20)	172,000	0	(172,000)	Funds transferred to segment 10 based on major cost increase due to asbestos

10.4 Capital Expenditure Review - 31 December 2016

Skinner Street (segment 10)	140,000	312,000	172,000	As above
78 Tamar Street – Public Toilets	42,000	10,400	(31,600)	Saving to be transferred back to Section 94 contributions for car parking
Missingham Car Park	150,000	80,000	(70,000)	Saving to be transferred back to Community Infrastructure Reserve

Attachment(s)

1. Capital Expenditure - Open Spaces, Waste and Environmental and Public Health
2. Capital Expenditure - Operations Support
3. Capital Expenditure - Commercial Services and Information Services
4. Capital Expenditure - Water Operations
5. Capital Expenditure - Wastewater Operations
6. Capital Expenditure - Engineering Works
7. Lake Ainsworth - Endorsed design for the southern precinct works

11. Civil Services Group Reports

11.1 Ballina Seagulls Rugby League Club - Crown Lease Review

Delivery Program Open Spaces and Reserves

Objective To update the Council regarding the lease arrangements for the Seagulls Rugby League Club

Background

The Ballina Seagulls Rugby League Club is currently the lessee of the rugby league clubhouse located in Kingsford Smith Park, Ballina which is Crown Land. The Club became a registered club in 2007 enabling obtainment of a poker machine licence and full liquor licence.

Due to the commercial income which potentially was available to the Club through these licences, Council (in its capacity as Reserve Trust Manager for the Crown Reserve) was not able to issue the Club with business purpose tenure for the clubhouse, as Kingsford Smith Park is a reserve for public recreation. Accordingly, in 2007, the Club entered into a 10 + 10 year business purpose lease directly with the NSW Crown Lands for the footprint of the building. A map showing the footprint of the direct lease area is included as attachment one.

Council has since remained the appointed Reserve Trust Manager for the balance of Kingsford Smith Park.

In May 2016, following a Notice of Motion, Council resolved to provide \$30,100 (ex GST) to the Club to enable the grandstand (which sits within the lease footprint and is not the responsibility of Council) to be upgraded. The resolution also contained a provision for Council to request reimbursement of the funds from the Crown.

The reimbursement request was declined by Crown Lands, however following Council's correspondence; staff from Crown Lands attended Kingsford Smith Reserve on 7 December 2016 to conduct an inspection of the premises and the works to the grandstand. Club representatives and Council staff were invited to attend.

Following this inspection and subsequent discussions regarding the condition of the building and the current commercial rental assessment, Club representatives advised that consideration was being given to selling the poker machines and accompanying licences. It is understood that this is to be discussed at the Club's meeting scheduled for 19 January 2017. Crown staff advised that if the Club no longer held poker machine licences, the business purposes lease would not be required and the clubhouse could return to Council's Reserve Trust Management.

As the first 10 year term of the lease is due to expire in February 2017, the Club has now approached Council with a request for in principle support for Council being reappointed as Reserve Trust Manager for the Clubhouse footprint, if the Club resolves to sell their poker machine licences. A copy of the letter of request is included as the second attachment.

Key Issues

- Building condition and maintenance
- Community benefit

Information

Prior to the Club being granted the full liquor licence and poker machine licence, the clubhouse was leased by Council in its capacity as Reserve Trust Manager. The terms of those prior leases appear to be consistent with other sporting group leases, namely the application of statutory minimum rental. In addition, the clubhouse was included in Council's asset maintenance and inspection system.

Since 2007 the Club has been responsible for the building maintenance, but there appears to have been limited oversight by Crown Lands. The clubhouse has not been inspected or had any maintenance undertaken by Council during this time, and the clubhouse appears to be in need of repairs, maintenance and upgrades.

At the meeting between Crown Lands, Council and Club representatives on 7 December, Crown staff indicated to the Club that they should arrange for a building assessment report to be undertaken to determine a schedule of works and priority for maintenance and works for the building for the next 10 years.

Club representatives indicated agreement to arrange this report, and subject to agreement of the Club's Board, proceeds from the sale of the poker machine licences could be used to fund building repair and upgrade works.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Club is valued by the local community as a sporting and recreation venue. The integrated management of Kingsford Smith Park incorporating the clubhouse and playing areas provides a better management outcome for the community.
- **Economic**
Longer term there will likely be substantial costs associated with building maintenance and upgrade. Some of these costs may be offset by lease fees but it is expected that such fees would not meet the full maintenance and management liability associated with the building over time.

Legal / Resource / Financial Implications

The Club requires lawful tenure to be in place for their occupation of the premises.

If Council declines to be reappointed as Reserve Trust Manager, the Club will then need to exercise their option under their existing lease, which may result in the Club being bound to a commercial lease for a further 10 years.

There are no significant resource implications in Council being reappointed as Reserve Trust Manager, providing that the maintenance and building works as identified in the building report referred to above are undertaken by the Club without a need for Council to provide staff or resources to undertake the works.

A new lease would need to be prepared by Council staff, however the preparation and administration associated with this lease is able to be accommodated within existing staff portfolios.

Longer term, if Council is reappointed as Reserve Trust Manager, consideration will need to be given to financial implications in relation to the maintenance, repair and upgrades of the building into the future, particularly given its age.

Consultation

Consultation has occurred between Council staff, Crown staff and Club representatives.

Options

1. That Council provides in principle support and continues to liaise with NSW Crown Lands and the Seagulls Rugby League Club in relation to the return of the clubhouse to Council management (as Reserve Trust Manager).
2. Council can decline the request.

The advantage of option one is that Council, representing the community, has a far greater involvement in the management of this important facility, with the only concern being the potential liability that comes with the building. This means it is important for any revenue generated from the poker machine sale to be expended on the building.

Option two will most likely provide a long term solution to the future of building.

On balance it is appropriate for Council to be proactive in overseeing the management of facilities that can benefit the community. Therefore the recommendation that follows is to provide in principle support subject to on-going negotiations with the Seagulls Rugby League Club and Crown Lands.

This recommendation will still require a further report to Council to finalise any transfer, with in principle support needed to progress the current discussions.

RECOMMENDATION

That Council provides in principle support to the return of the Seagulls Rugby League Club clubhouse to Council management (as Reserve Trust Manager), subject to clarification in respect to the overall condition of the building, along with the feasibility of the revenues being generated from the sale of the poker machines to significantly reduce or remove any maintenance liabilities for the clubhouse.

Attachment(s)

1. Kingsford Smith Reserve Map
2. Lease Request

11.2 Tender - Wollongbar Residential Estate - Stage Two

11.2 Tender - Wollongbar Residential Estate - Stage Two

Delivery Program Commercial Services

Objective To select a contractor to undertake civil construction works for the Wollongbar Residential Estate - Stage 2.

Background

Stage 1 of Council's Wollongbar Residential Estate comprising fifteen serviced residential lots was completed in early 2015 and all lots have now been sold.

Stage 2 was granted development consent on 18 March 2016 by virtue of DA 2015/351 to undertake development of 22 residential lots. Eighteen residential lots are to be developed on Lot 16 DP 12044621 owned by Council, and four lots are to be developed on the adjoining property owned by the developers of Avalon Estate.

An adjoining owner's deed of agreement between Council and the developers of Avalon Estate (the Brown family) was executed by Council in March 2016. Among other things this document provides for drainage and sewer easements in favour of Council over the Brown's property as well as how development costs are to be shared for Stages 2 and 3 of Council's residential estate.

A construction certificate application for Stage 2 was lodged on 30 June 2016 and was approved by Council in December 2016.

In October 2016 tenders were called to undertake civil construction works to create 22 residential lots (including four on the Brown's property). This report provides an overview of the tenders received along with recommendations.

Key Issues

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

Information

In October 2016 tenders were called to undertake civil construction works to create 22 residential lots (including four on the Brown's property). Four tenders were received and have been reviewed and assessed by Council staff and project consultants Newton Denny Chapelle.

The evaluation criteria and weightings were determined in accordance with Council's "Tenders and Quotations – Evaluation Criteria Policy" and were noted within the tender as:

Mandatory Criteria

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

Weighted Criteria

- Total Price - 85%
- Local & Community - 15%

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

Item		Valley Earthworks P/L	Santin Earthmoving	Civil Logic P/L	Cambra Holdings P/L T/A Morgans Earthwork s
Mandatory Criteria					
Previous experience		✓	✓	✓	✓
References		✓	✓	✓	✓
Quality Management Systems		✓	✓	✓	✓
WHS Management Systems		✓	✓	✓	✓
Environmental Management Systems		✓	✓	✓	✓
Weighted Criteria					
Total Price	85%	70.86%	66.88%	85.0%	81.13%
Local & Community	15%	9.0%	9.0%	9.0%	15%
Total		79.86%	75.88%	94.0%	96.13%

When the non-priced and priced evaluation criteria are combined, Cambra Holdings Pty Ltd T/a Morgans Earthworks is the highest ranked tender.

The tender from Civil Logic Pty Ltd is the lowest price tender with a difference in the evaluation of 2.13 percentage points.

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

Whilst there is only a difference of 2.13% between Morgan's and Civil Logic on total score, the difference on local and community weighted criteria is 6% which is considered to be substantial. Morgans Earthworks is a local company and have extensive experience in the local area, particularly having undertaken the civil works on the adjoining Avalon Estate and are familiar with local site conditions.

11.2 Tender - Wollongbar Residential Estate - Stage Two

This means Cambra Holdings Pty Ltd T/A Morgans Earthworks is the preferred tenderer based on the assessment process.

This report is provided to assist Council meet its statutory requirements in regards to tendering and procurement.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The development of Stage 2 of Council Wollongbar Residential Estate will provide for additional housing allotments within the Wollongbar area.

Legal / Resource / Financial Implications

A feasibility report for Stage 2 included in the 17 November 2015 Commercial Services meeting had an allowance of \$1,528,000 (excl GST) for the development costs including electricity, landscaping and a 5.00% contingency allowance but excluding Council contributions and professional fees.

Based on the tender price for the civil construction costs including contingency allowance the budget has now been revised as indicated in table below.

Item	Cost (\$) as per 17/11/2015	Revised Budget
Development Costs (including contributions)	2,410,000	2,850,000
Advertising and Promotion	27,000	3,000
Rates and Charges	8,000	8,000
Total (All costs excluding interest)	2,445,000	2,861,000

Points of note are:

- There is a time difference of more than twelve months from when estimates were initially prepared and actual costs estimates received; and
- Adjustments will need to be made to civil construction costs and electrical prices to account for the Brown family contribution on selected items for four lots.
- Part of the civil works to be undertaken in stage two will also service stage three. These include roundabout works and drainage retention works.

To date, contracts have exchanged on eight of the eighteen lots with a further two under contract pending exchange. Asking prices have been achieved on all sales. Details are summarised as follows:

Item	Amount (\$) (Incl GST)
Sales to date (incl. sales under contract)	2,530,000
Lots for sale	1,870,000
Total	\$4,400,000

Based upon the revised costings the financial performance for Stage 2 is forecast as follows:

Item	Amount (\$)
Projected Revenue	4,400,000
Less GST	400,000
Revenue Ex GST	4,000,000
Less selling expenses	120,000
Net Revenue	3,880,000
Less Costs	2,861,000
Forecast Development Margin (Net Profit)	1,019,000

Except where otherwise noted, the costs quoted above are exclusive of GST.

Whilst development costs have increased since the initial feasibility assessment was undertaken the level of risk in the project has been significantly reduced with presales of 57.30% that cover almost all development costs. The project is also forecast to return 36% on assets and funds applied.

This tender or contract forming the subject of this report is for the majority of the development costs pertaining to the project and is within the parameters of the initial feasibility study undertaken.

Council has \$2,348,000 allocated in the 2016/17 capital expenditure budget. Based on the tender prices for the civil construction works and increases in Council contributions the budget allocation needs to increase by \$416,000.

The allocation in the 2017/18 capital income budget currently sits at \$1,800,000. Based on presales of the lots it is forecast that the income for 2017/18 will be \$2,200,000 based on \$2,530,000 in pre-sales, less GST, less \$100,000 allowance for selling expenses. It is proposed to adjust this budget by \$400,000 to reflect the increase.

The \$416,000 also does not yet recognise the contribution from the Browns.

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.*

Accordingly,

1. Council may award the contract to Cambra Holdings Pty Ltd T/A Morgans Earthworks for civil construction works for Wollongbar Residential Estate Stage 2.
2. Council may determine not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more service providers.

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

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

RECOMMENDATIONS

1. That Council authorises the General Manager to finalise negotiations with Cambra Holdings Pty Ltd T/a Morgans Earthworks for civil construction works for Wollongbar Residential Estate Stage 2.
2. That upon the conclusion of negotiations Council authorises the General Manager to affix the Council seal to the relevant contract documents and execute same.
3. That Council approves an increase in the 2016/17 capital expenditure budget for the Wollongbar Residential Estate of \$416,000, funded from the Property Development Reserve. That Council also approves an increase in the forecast sales income for this project in 2017/18 from \$1.8m to \$2.2m based on the current level of pre-sales.

Attachment(s)

Nil

12. Public Question Time

13.1 Notice of Motion - Coastal Recreational Path - Inspection

13. Notices of Motion

13.1 Notice of Motion - Coastal Recreational Path - Inspection

Councillor Cr Smith

I move

That Council arrange an onsite inspection of the newly completed section of the coastal shared path and of the proposed next stage of the coastal walkway with engineering staff.

Councillor Comment

With the new section of the coastal shared path completed now is a good time to inspect key sections of the completed path post construction to see how they're working.

Council is now also considering funding options for the final sections, completing the pathway along the coast to Pat Morton, an onsite inspection with engineers would be ideal for Councillors to get a visual understanding of what's being proposed, funding and construction options.

Staff Comment

An inspection could be organised prior, or as part of, the forthcoming Finance Committee meetings, where Council will consider the various capital works programs for 2017/18 onwards.

COUNCILLOR RECOMMENDATION

That Council arrange an onsite inspection of the newly completed section of the coastal shared path and of the proposed next stage of the coastal walkway with engineering staff.

Attachment(s)

Nil

13.2 Notice of Motion - Quarries

Councillor

Cr Smith

I move

1. That Council receive a report on the feasibility of Council operating its quarries with Council staff based on the existing consents.
2. That Council defer any further action on the expansion of Tuckombil and Stokers Quarries until such time as Council holds a briefing to examine potential barriers and cost benefits of both projects including future remediation options.

Councillor Comment

Since Lismore Council was released from their lease of Tuckombil and Stokers quarries, Ballina Shire Council's current position has been to not operate the quarries, get in place expansion plans and tender out for a new lessee of the sites.

The objective of point one is to look at what's required to operate the quarries under their existing consent immediately.

There is known demand across our region for Council's quarry material, even now for our own purposes, however, currently Council is sitting on the asset, waiting for the opportunity to contract it out again.

There is an alternative approach, that being for Council to operate the quarries now under the current consent.

This is possible, with minimal lead times and organisation required.

The second part of this motion aims to take a close look at our expansion plans and ensure we get the balance right between long term planning and practical expansion, particularly at Tuckombil.

Council at its November meeting committed financially to the planning stages for expansion of the Tuckombil and Stokers quarries.

It's apparent that there may be some barriers to expansion (at Tuckombil Quarry in particular) that Council needs to take the time to fully assess and get right.

The potential overall net return (particularly if it's contracted out) from this expansion at the cost of the Hockey fields and other amenity issues may make the project unsatisfactory for little overall gain, therefore the intention of this motion is to take a closer look at these issues with planning and engineering staff before spending the substantial money on environmental approvals.

13.2 Notice of Motion - Quarries

Council also needs to be conscious that doing nothing is also not an option and Council is obligated to have long term planning i.e. rehabilitation works in place for the sites.

Therefore, a reasonable balance between continued operation of the quarries to ensure Council can rehabilitate the sites when the time comes in a sustainable manner is required.

Staff Comment

In respect to the operation of the quarry, Council staff have a reasonable amount of information available in respect to this matter which can be presented to a Councillor briefing.

The possible expansion of the quarries is a very complex and potentially divisive project, particularly for the Alstonville community.

It is essential that Councillors are fully conversant with the merits of the expansion and a briefing will assist with the distribution of information on the project.

COUNCILLOR RECOMMENDATIONS

1. That Council receive a report on the feasibility of Council operating its quarries with Council staff based on the existing consents.
2. That Council defer any further action on the expansion of Tuckombil and Stokers Quarries until such time as Council holds a briefing to examine potential barriers and cost benefits of both projects including future remediation options.

Attachment(s)

Nil

13.3 Notice of Motion - RMS Pacific Highway Signage

13.3 Notice of Motion - RMS Pacific Highway Signage

Councillor

Cr Meehan

I move

That Ballina Shire Council seeks urgent facilitation of the significant highway signage promised for Ballina by the NSW Roads and Maritime Service.

Councillor Comment

Quite some time ago, during the last term of Council, Ballina Shire Council was informed of a plan to install significant signage on the Pacific Highway highlighting and promoting Ballina to travellers.

With the very successful summer holiday season we are experiencing it is disappointing that all drivers on the highway are not seeing this important tourist information.

Council needs to be pro-active in seeking this signage installation by the NSW Government as soon as possible.

Staff Comment

The RMS has introduced the Location Marker program where they are providing improved signage for towns that are being bypassed. This program has been relatively slow in being delivered in that the RMS has constantly advised Ballina we are on the second list of towns to be provided with markers, with trial sites being implemented firstly in locations such as Kew and Moorland.

Those sites have now been installed and the RMS is scheduled to meet with Council staff shortly to progress the Ballina installation.

A photo from the Port Macquarie News for the Moorland sign is attached to provide an overview of the type of signage being installed. Photos of the sign being installed at Johns River are also attached.

The RMS has confirmed that two signs (both north and southbound) have been nominated for Ballina. The preferred location for these signs is:

- Northbound sign – immediately east of the Emigrant Creek bridge (although consideration is being given to whether this would be better located east of the Duck Creek bridge)
- Southbound sign - approximately 300m north of the southbound off-ramp exit at the Cumbalum interchange.

The types of imagery being looked at for Ballina will focus heavily on highlighting the Richmond River and beaches, as passing vehicles are often not aware of the waterways in Ballina.

13.3 Notice of Motion - RMS Pacific Highway Signage

Two examples of the types of photos under consideration are also included as attachments.

It is understood that the RMS budget for this signage is approximately \$50,000 and it is important to recognise that this is much smaller signage than what was installed, as a one-off, for Wollongbar and Alstonville as part of that bypass. It is understood the budget for that signage was closer to \$250,000.

In summary Council is already working with the RMS to deliver this signage in a timely manner.

COUNCILLOR RECOMMENDATION

That Ballina Shire Council seeks urgent facilitation of the significant highway signage promised for Ballina by the NSW Roads and Maritime Service.

Attachment(s)

1. Moorland Sign
2. Johns River Sign
3. Johns River Sign - Base
4. Ballina Scene Option
5. Ballina Scene Option

13.4 Notice of Motion - Shark Mitigation

13.4 Notice of Motion - Shark Mitigation

Councillor

Cr Meehan

I move

That Council make a submission to the Premier of NSW and the Minister for Primary Industries:

- (a) Requesting the installation of a shark net eastwards of the Lennox Head hotel at Seven Mile Beach. That this shark net be a component of the NSW Government's shark mitigation trial strategy and be additional to the shark net currently located eastwards of the Lennox Head Surf Club.
- (b) Requesting a monthly report from the Department of Primary Industries that details the catch and release of marine life on the shark nets and smart drumlines located off the coast of Ballina Shire. That the report includes data for sharks and any other marine by-catch.

Councillor Comment

- (a) The installation of shark nets off the beaches of Ballina Shire has been received positively by the majority of our community and visitors to the shire. Their presence has helped prevent further shark attacks and has given the community greater confidence in using our ocean beaches for surfing and swimming.

However with the increased number and presence of great white sharks in the ocean off our coast the danger of a shark interaction that results in injury or death is still significant.

The surfing area directly east of the Lennox Head hotel, known as 'front of the pub' is the most popular and regular surfboard riding break for children, teenagers and surfing clubs on Seven Mile Beach.

Le-Ba Boardriders Club, All Girls Surfriders Club and Lennox Longboarders use this surfing area on a near weekly basis. The Skullcandy Oz Grom Open is conducted there each July. Families surf with their children here each day.

This surfing zone should have the highest level of shark attack prevention applied. We must demand all actions be taken to prevent any harm coming to our children and young people from shark attack.

- (b) The installation of shark nets and smart drumlines off the coast of Ballina Shire brought considerable debate and publicity. There was significant public consultation leading into the nets being installed.

Council has not received any data (to date) about the number and species of sharks caught, tagged and released on the nets and drumlines. As well, no data has been received about any related marine by-catch.

13.4 Notice of Motion - Shark Mitigation

It is important that this information is received on a regular basis so that Council is able to understand the effectiveness of the trial program, be aware of by-catch concerns (if any) and work with the DPI on appropriate public awareness.

Facts should be available to both Council and the public to avoid rumours and misinformation and help build public confidence and safety.

Staff Comment

These two matters can be followed up with the State Government, with information on the marine by-catch having been recently released to the public. The regular public release of this information is already part of the overall management strategy.

COUNCILLOR RECOMMENDATIONS

That Council make a submission to the Premier of NSW and the Minister for Primary Industries:

- (a) Requesting the installation of a shark net eastwards of the Lennox Head hotel at Seven Mile Beach. That this shark net be a component of the NSW Government's shark mitigation trial strategy and be additional to the shark net currently located eastwards of the Lennox Head Surf Club.
- (b) Requesting a monthly report from the Department of Primary Industries that details the catch and release of marine life on the shark nets and smart drumlines located off the coast of Ballina Shire. That the report includes data for sharks and any other marine by-catch.

Attachment(s)

Nil

13.5 Notice of Motion - "Eco-Barrier" - Shaws Bay / Missingham Bridge

Councillor

Cr Meehan

I move

That Council in partnership with the NSW Government investigate the feasibility and cost of installing an 'eco-barrier' (shark barrier) at the Missingham Bridge / Shaws Bay Beach in the Richmond River for the 2017/18 summer season.

Councillor Comment

This beach is approximately 300 metres long, located in the Richmond River immediately to the east of Missingham Bridge. It is adjacent to the Shaws Bay river reserve car park (off Brighton Street) and has the provision of public toilets, picnic facilities, seating, a fresh water shower, shade trees and two sets of steps to the sand.

The beach is adjacent to the Shaws Bay Caravan Park which is managed by the NSW Government. It is one of the most popular beaches in Ballina, with families and young and older people. Hundreds of people in the water and on the beach / reserve is a common sight on summer days.

The beach is relatively free from wave action. The sand bottom has a gentle gradient and does not suffer from flood scouring. It does not get a build-up of flood debris in the rain season.

It is an ideal physical environment for the installation and success of a shark eco-barrier. Such a barrier is affordable and practical for this location.

Similar 'old technology' river enclosures exist at Port Macquarie and Tuncurry.

Bull sharks are commonly sighted and reported in the Richmond River. They have been responsible for attacks and at least one fatality. Residents and visitors to Ballina would welcome and greatly appreciate this beach being made safe from the threat of shark attack. An eco-barrier would provide a safe haven for swimmers who want an ocean 'still water' experience for fitness, fun and recreation.

The eco-barrier should be installed in liaison with all users of this river area including; professional fishermen, surf schools, swimming groups and the local surfboard riding community.

A sight location that enables all current activities to continue safely is simply a matter of analysis and consultation.

If installed, an eco-barrier at this beach in the Richmond River would be hailed by the public as 'one of the best things' Council (and Government) has ever done.

Staff Comment

The State Government has previously confirmed its reluctance to fund somewhat extraneous projects to the shark mitigation strategy such as the proposed ocean pool. This proposal will most likely fall into that category, although the State Government can still be approached.

If there is no State Government support, Council can still obtain an indicative cost from the manufacturers of the eco-barriers. It will then be a matter of determining whether this is a funding priority on top of Council's existing infrastructure responsibilities.

The approval process is also uncertain in respect to the potential impacts on the marine environment in this location.

COUNCILLOR RECOMMENDATION

That Council in partnership with the NSW Government investigate the feasibility and cost of installing an 'eco-barrier' (shark barrier) at the Missingham Bridge / Shaws Bay Beach in the Richmond River for the 2017/18 summer season.

Attachment(s)

1. Locality Map

13.6 Notice of Motion - Lake Ainsworth - Parking and Amenity Improvements

13.6 Notice of Motion - Lake Ainsworth - Parking and Amenity Improvements

Councillor

Cr Jeff Johnson

I move

1. That Council amend the design for the Lake Ainsworth eastern precinct to reduce the proposed footpath / emergency access path from a width of three metres to two metres, whilst at the same time ensuring it remains trafficable for emergency access through the provision of turfcell or a similar product to achieve the required width for vehicle access.
2. That Council investigate introducing a no parking zone for the Lake Ainsworth precinct between 1am – 5am to ensure that the new parking spaces are not used by overnight campers or caravan park guests.

Councillor Comment

The soon to be created eastern foreshore community park will be approximately 400 metre long and only seven or eight metres wide in some sections. Having a three metre wide concrete shared path down such a narrow stretch is not necessary and will reduce the overall amenity of this area once the Lake Ainsworth Improvement program is completed.

The main reason for having a three metre wide path was to ensure that Council and emergency service vehicles could drive through the park when needed. Replacing one metre of concrete with turfcell (or similar) would greatly improve the visual amenity of this area, increase the amount of parkland by approximately 400m², reduce the cost to Council by approximately \$30,000, while at the same time still providing a safe vehicular access when needed.

During the community consultation (Complete Urban) meeting I attended it was clear that the majority of local residents preference was for a low impact pathway, preferably a semi-porous path like the turfcell.

This motion seeks a compromise that will have many positive benefits whilst retaining the emergency service vehicular access when needed.

Point Two of the motion aims to free up the 80 – 110 parking spots that are currently being occupied by either overnight campervans or caravan park guest's cars. Council is spending over \$1 million on additional car parking spots around the lake and it's important that these parking spaces are available to the public during the peak holiday periods.

Staff Comment

In respect to the revision to the path, the Councillor comments on the estimated savings are based on advice from the Civil Services Group. The use of turfcell, or similar, would also provide the required vehicular access.

13.6 Notice of Motion - Lake Ainsworth - Parking and Amenity Improvements

A major part of the path access will be for Council vehicles cleaning the public toilets at the northern end of this precinct, with Council having endorsed the retention of the toilets.

Council has also previously endorsed the removal of waste bins from the northern end, meaning that waste collection trucks will not be required to traverse the path.

A copy of the latest design plan has also been included for reference purposes.

The landscape architect designing this project for Council, Sheryn Da-Re from Designteamink, has also provided the following feedback in respect to the proposed reduction in the path.

If the pathway is reduced to less than 3m width and is to remain trafficable for maintenance and emergency vehicles then some turf cells or similar structural supporting medium will be required to the pathway shoulder to allow for a trafficable width of 3m.

Other than this, I can see no reason why the pathway cannot be reduced to 2m, although I note that a standard shared pathway for bicycles and pedestrians is generally 2.5m wide to allow adequate space for "overtaking" and walking in groups.

If this was the case I would locate the pathway on the eastern side of the existing alignment so that the turf cell or other medium is added to one side of the pathway only. The turf cell is a great product for providing structural support to grassed trafficable areas, however it does require added maintenance as grass areas can subside to expose the cells. Occasional (probably annual) topdressing may be required.

In designing the finish of the pathway, I have considered ways to minimise the visual mass of the concrete by angling construction joints and using three complementary colours for the concrete panels (alternating along the pathway). These colours are based upon a lake environment theme and will minimise glare resulting in a pathway much less visually prominent than a standard grey concrete pathway. We also have the sandblasted feature panels at pathway nodes which incorporate the image of the melaleuca leaf and flower.

I had presented these colours and concepts at a previous workshop with the Councillors and they included three of the following colours:

- Abilox' Dark Brown' FHF (4.15% in grey cement)
- Abilox 'Raw Umber' (4.15% in grey cement)
- Abilox 'Foxglove' (8.3% in grey cement)
- Abilox 'Green Slate' (8.3% in grey cement)

I have attached a photo of the Coffs Harbour Jetty area that shows the affect that the use of alternating colours in the concrete can have to soften the impact of the pathway. Note that the pathway in the photo uses different colours and is 4m wide, much wider than proposed at Lake Ainsworth.

13.6 Notice of Motion - Lake Ainsworth - Parking and Amenity Improvements

Due to the clearance zones required for emergency services access, a narrowing of the pathway would not change the general alignment significantly.

The Coffs Harbour Jetty area photo is attached.

From a staff perspective the option of three metres, 2.5m or two metres are all feasible and do not significantly change the scope of the works.

The options available had been discussed at a briefing with the previous Council and there was support for the three metres from all the Councillors present at that time, especially if it is designed in a way that is complementary to the precinct as proposed by Designteamink.

From a staff perspective three metres remains the preferred option as it is more conducive to encouraging use for disabled and elderly people. The North Wall, Ballina path is a similar width. The tuffcell does work however it requires more maintenance than the normal Council standards.

In respect to the comments regarding car parking, it is preferred that an investigation of parking management for the precinct be referred to the Local Traffic Committee for determination, rather than a prescriptive time zone, as there may be other options available. Overflow parking is an issue for many caravan parks at peak times and the use of time limits can help to manage parking, although this can often result in vehicles being relocated to other streets.

COUNCILLOR RECOMMENDATIONS

1. That Council amend the design for the Lake Ainsworth eastern precinct to reduce the proposed footpath / emergency access path from a width of three metres to two metres, whilst at the same time ensuring it remains trafficable for emergency access through the provision of turfcell or a similar product to achieve the required width for vehicle access.
2. That Council investigate introducing a no parking zone for the Lake Ainsworth precinct between 1am – 5am to ensure that the new parking spaces are not used by overnight campers or caravan park guests.

Attachment(s)

1. Detailed Design Plans - Lake Ainsworth - Eastern Precinct
2. Photo of Coffs Harbour Jetty area

13.7 Notice of Motion - Discontinuation of Proposed Special Rate Variation

13.7 Notice of Motion - Discontinuation of Proposed Special Rate Variation

Councillor

Cr Jeff Johnson

I move

1. That Council not proceed with the proposed special rate variation.
2. That Council as part of its 2016/2017 budget discussions consider allocating additional funds towards initiatives that will improve the long-term health of the Richmond River and its estuaries within the Ballina Shire.

Councillor Comment

The ratepayers of Ballina have seen their rates increase by 120% over the last 10 years (2005/6 – 2015/16). During the same period, other charges such as electricity, etc have also more than doubled. Electricity prices alone went up by 17% last year.

Special rate variations should only be applied for by Councils in exceptional circumstances. I don't believe that Council has made the case to justify another special rate variation. Ballina Council had a cash surplus of \$11.68 million last financial year.

The proposal supported by the Council at the December meeting is for a 17.64% increase over three years. This is a massive increase, particularly given many in our community are on fixed incomes.

Part of the justification for the rate rise is to fund actions to improve the long-term health of the Richmond River. I support extra funding in this area so long as it can be shown to lead to an improvement in water quality in the medium term. The proposed rate increase, if supported, would raise \$695,000 in the first year with \$300,000 being allocated to the proposed 'healthy waterways' project.

I feel that Council should consider funding this project, if it can be shown to lead to improved water quality over the longer term, through its existing revenue sources.

Staff Comment

There are three key elements to this notice of motion:

- a) Legality – Discussions were held with Councillor Johnson as to whether the December 2016 Ordinary meeting resolution to commence the consultation process could be rescinded. The subsequent advice was that as the resolution had been enacted (i.e. IPART advised of the Council decision, community consultation process commenced etc) it could not be reversed. This meant the only option was for Cr Johnson to submit a notice of motion to cease the process.

It can be argued that this motion is inconsistent with the December 2016 resolution to commence the process, which it is, and should not be allowed, however it is effectively another decision that can be made that is separate to the December resolution.

Ultimately it is a matter for the Chair and the meeting (i.e. the Councilors present) to determine whether the motion will be accepted as a valid motion.

- b) Timing – To cease a community consultation when we have already written to all ratepayers, held public meetings, engaged a firm to undertake an independent survey, placed media releases and advertisements and received in excess of 260 submissions to date, without considering the responses would be a substantial waste of public monies and resources.

Council is expending between \$30,000 to \$40,000 on this consultation in external costs, with the majority of those funds already committed or spent.

A more appropriate approach is to consider a report on the outcomes from the consultation process at the Extraordinary meeting scheduled for 10 February 2017.

- c) Financial Information – Some of the information in the Councillor comments requires clarification:

- The reference to 120% refers to the total increase in income received annually from rates and charges for the ten year period between 2006/07 to 2015/16, as per Council's Annual Financial Statements. This figure includes the water, wastewater, domestic waste, stormwater and waste operations annual charges, as well as ordinary rate income. The rate income figure for that period has increased from \$10.404m to \$18.331m, an increase of 76%.

The overall increase in income also reflects the development / population growth of the Shire which means there is a different population base and service numbers compared to 2006/07.

The average annual residential rate in 2006/07 was \$618 and for 2016/17 it is \$943, an increase of 53% for that 11 year period.

13.7 Notice of Motion - Discontinuation of Proposed Special Rate Variation

It is agreed that Council's charges for water (based on large increases in the Rous County Council water price) wastewater (based on the \$60m to \$70m treatment plants upgrade) and waste (based on the need to remediate the existing landfill, open new cells and the State Government waste levy) have resulted in substantial increases in annual charges during the last ten years.

These three services are approaching a period of relative stability, albeit that waste is susceptible to changes in State Government legislation, and water is dependent on the pricing of water purchased from Rous County Council.

- With respect to the exceptional circumstances point, justification for the current consultation process is based on the State Government's Fit for the Future Program (which is an exceptional circumstance), which includes IPART's endorsement of Council's Fit for the Future submission, along with Councillors responding to concerns in respect to the waterways.
- The reference to the \$11.68m cash surplus is a figure sourced from Council's Income Statement for 2015/16, which includes \$13.678m in Capital Grants and Contributions for the entire operations of Council.

Firstly this is not a cash surplus as the figure includes items such as infrastructure dedications through the construction of new subdivisions.

Secondly capital income must be applied to capital projects with the figure of \$13.678m including \$4.788m in developer contributions for new infrastructure, \$2.869m in dedicated infrastructure, \$3.122m for RMS upgrade projects, \$2.291m for the airport expansion projects, \$0.448m for the new Coastguard Tower and \$0.16m for minor capital projects. All of this funding results in new and enhanced infrastructure which increases the future maintenance liability for Council.

Thirdly once the capital income is eliminated the actual net operating result for 2015/16 is a deficit of \$1.996m (as per page 3 of the Annual Financial Reports).

The \$1.996m deficit also includes restricted operations such as Water (surplus of \$0.39m) and Wastewater (deficit of \$0.899m).

The actual General Fund result is a deficit of \$1.487m for 2015/16 (refer to page 69 of the Annual Financial Reports).

- Council has resolved to remove the Waste Operations charge for 2017/18, with that charge generating \$1.284m in 2016/17. The removal of this income source will negatively impact Council's net operating result for the General Fund by the full amount of \$1.284m
- The reference to 17.64% is the compounded increase of the three year proposal, being 4.9%, 5.9% and 5.9%.

In considering this percentage it is important to acknowledge the removal of the Waste Operations charge, which is currently paid by every residential and farmland property.

13.7 Notice of Motion - Discontinuation of Proposed Special Rate Variation

The removal of this charge means that the compounded increase for the combined rates and waste operations charge, for the average residential property is 9.19% for the three years and 12.00% for farmland.

Business properties do not pay the waste operations charge which means that their cumulative increase remains at 17.64%.

Residential properties represent 87% of our total rateable assessments, farmland 6% and business 7%.

If Council minimises the increases in our charges for the essential services of water, wastewater and waste for the next three years, the actual compounded increase for the average residential property is 8.13% as per the following table.

Item	2016/17	2017/18	%	2018/19	%	2019/20	%
Average Residential Rate	943	989	4.90	1,048	5.90	1,109	5.90
Stormwater Annual Charge	25	25	0.00	25	0.00	25	0.00
Water Annual Charge	200	204	2.00	210	2.50	215	2.50
Water Consumption (172 kilolitres)	368	375	2.00	385	2.50	394	2.50
Wastewater Charge	925	953	3.00	977	2.50	1,001	2.50
Domestic Waste Charge	367	374	2.00	383	2.50	393	2.50
Waste Operations Charge	73	0	N/A	0	0.00	0	0.00
Total Average Residential Bill	2,901	2,920	0.65	3,028	3.70	3,137	3.60
Compounded % Change			0.65		4.37		8.13

The percentage (%) columns represent the current forecast annual increases in the various rates and charges as per the latest update of Council's Long Term Financial Plan.

The standard rate peg limit of 1.5% (confirmed) for 2017/18 and 2.5% (estimated) for 2017/18 and 2018/19 represents a compounded increase of 6.64%.

The earlier mentioned compounded increase of 9.19% for the average residential property is 2.55% above that figure for the entire three years, whereas the 8.13% in the previous table is 1.49% above that figure. These figures are important as they provide a broader perspective on what is being proposed by Council.

The removal of the Waste Operations charge has provided a unique, one off, opportunity to manage the overall change in the total rates and charges account, particularly for residential properties and to a lesser extent farmland properties.

- It is agreed that the preference would be to fund the waterways expenditure of \$300,000 from existing budgets, without increasing rate income. Making this level of savings in our current programs has proven extremely difficult for previous Councils, primarily as Council has limited discretionary expenditures, and a relatively low rate base.

This means the majority of the recurrent funding is allocated to essential services and that level of saving can typically not be achieved without a substantial reduction in existing service levels. The current Council may be prepared to reduce certain services to achieve that outcome.

As this is a notice of motion there is limited opportunity to provide a comprehensive report on the special rate variation proposal, including the outcomes from the community consultation process, which is why this matter should be determined at the scheduled Extraordinary meeting.

COUNCILLOR RECOMMENDATIONS

1. That Council not proceed with the proposed special rate variation.
2. That Council as part of its 2016/2017 budget discussions consider allocating additional funds towards initiatives that will improve the long-term health of the Richmond River and its estuaries within the Ballina Shire.

Attachment(s)

Nil

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the December 2016 Ordinary meeting:

<u>Date</u>	<u>Function</u>
16/12/16	Meeting Fish Co-Op
16/12/16	Staff Party
17/12/16	Wollongbar Carols
18/12/16	Meeting Ballina Surf Club
19/12/16	Meeting Jali
19/12/16	Meeting Quarries
19/12/16	Meeting Neil Houlihan
31/12/16	New Year's Eve - Alstonville
1/1/17	Steve Posselt Kayak Trip
5/1/17	Gallery Opening
8/1/17	Alstonville Markets
8/1/17	Lennox Head Markets
9/1/17	Meeting re Movie in Ballina
9/1/17	Meeting Wollongbar Pre School fencing
11/1/17	Funeral - Member of Alstonville Chamber of Commerce
13/1/17	Meeting re Rotary Conference
13/1/17	Meeting re Sand Mining – Lennox Head
15/1/17	Show and Shine
16/1/17	Meeting – Wollongbar Pre School
17/1/17	Wollongbar TAFE Bright Sparks 2017
18/1/17	Meeting Craig Nowlan – Surf Club
18/1/17	Meeting ratepayer - SRV
19/1/17	Bright Sparks
22/1/17	Girl to Woman – Lennox Head
23/1/17	Public Meeting – Rates – Alstonville
24/1/17	JRPP Briefing
24/1/17	Public Meeting – Rates – Lennox head
25/1/17	Public meeting – Rates - Ballina
25/1/17	Council Meeting
25/1/17	Reserve Trust Meeting
25/1/17	Australia Day Run – Through
26/1/17	Australia Day
30/1/17	Public Meeting – Rates - Wardell

RECOMMENDATION

That Council notes the contents of the report on Mayoral meetings.

Attachment(s)

Nil

16. Confidential Session

Nil Items