



Notice of Ordinary Meeting

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 27 April 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

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
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1. Australian National Anthem

The National Anthem will be performed by Councillors and staff.

2. Acknowledgement of Country

In opening the meeting the Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

I would like to respectfully acknowledge past and present Bundjalung peoples who are the traditional custodians of the land on which this meeting takes place.

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 March 2017 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 March 2017.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2016/506 - 37 Converys Lane, Wollongbar

8. Development and Environmental Health Group Reports

8.1 DA 2016/506 - 37 Converys Lane, Wollongbar

Applicant	Newton Denny Chapelle
Property	37 Converys Lane, Wollongbar Lot 2 DP 577649
Proposal	To Permit Increased Student Numbers (from 100 to 235 students) on a Permanent Basis for an Approved Educational Establishment
Effect of Planning Instrument	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached.

Introduction

The subject site is Lot 2 DP 577649 and is known as No. 37 Converys Lane, Wollongbar.

The subject land is regular in shape and has an area of 2.429 hectares. It is situated approximately 400 metres north of the Bruxner Highway and Converys Lane intersection.

On 15 March 2012 Council issued Development Consent 2011/416 for a "Partial Change of Use from a Macadamia Processing Facility to an Educational Establishment (Universal Medicine College) involving alterations to the existing building and car parking area (119 car parks comprising 34 formal car parks 85 informal car parks)".

The development was modified under Section 96 of the Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act) to temporarily increase the maximum number of students at the Educational Establishment from 100 students to 235 students for a two year period. This two year period expired on 4 June 2015. In relation to traffic management matters the following 'advisory notes' were included on the modified consent.

- 1 *The educational facility may continue to use Converys Lane in its current form for a period not longer than 24 months. After 24 months has expired a new application is required to be made where a condition requiring road widening to a width of 7m with suitable drainage shall be applied.*

- 3 *The intersection of Conveys Lane and the Bruxner Highway shall be monitored during the 24 month trial period. After the 24 month trial the intersection may be required to be upgraded to accommodate the increased traffic. This upgrade may include sight line clearing and provision of dedicated turning/merge lanes.*

Consent is now sought to permit an increase in student numbers from 100 students to 235 students on a permanent basis. The Educational Establishment is to continue to operate for no more than a maximum of two weekends per month and from Friday evening to Sunday, in accordance with the terms of DA 2011/146. A Traffic Management Plan has been provided to support the proposed development.

On 15 December 2016 Council resolved (by resolution number 151216/8) that DA 2016/506 be called in and considered by Council.

The key issues arising from the assessment of the application relate to:

- Traffic management and safety concerns created by the development at the intersection of Conveys Lane and the Bruxner Highway.
- Intensification of non-conforming land use and required levels of infrastructure servicing.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition from 12 October 2016 to 27 October 2016. One public submission was received during the exhibition period which did not offer any objection to the proposal. Specifically the submission indicated that:

- It does not appear to be a huge increase in numbers however this establishment has caused no inconvenience to any residents close by to my knowledge.
- Vehicles come and go in a quiet and staggered manner which eliminates any hold-ups for residents leaving their property and entering or leaving the highway.

Report

The proposed development has been assessed under the heads of consideration in Section 79(C) of the EP&A Act. The following matters are of particular relevance in Council's determination of the application.

Applicable Planning Instruments

Ballina Local Environmental Plan (BLEP 2012)

Zoning

The property is zoned RU1 Primary Production under the Ballina Local Environmental Plan 2012.

The current use was previously approved as an Educational Establishment (DA 2011/416) under the BLEP 1987. Under this Plan Educational Establishments were defined as “a building used as a school, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution or child care centre.”

The subject land is now zoned RU1 Primary Production under the BLEP 2012. Gazettal of the BLEP 2012 had the effect of prohibiting the current use (ie educational establishments are not permissible within the RU1 zone and the land use is inconsistent with the new definition of an education establishment under the BLEP 2012). As a consequence, the facility benefits from ‘existing use rights’ under Division 10 of the Environmental Planning and Assessment Act 1979.

The proposal involves enlargement, expansion and intensification of the existing use which is to be carried out only on the land on which the existing use was carried out immediately before gazettal of the BLEP 2012. Accordingly, Council may issue development consent for the proposal pursuant to Part 5 Existing Uses of the Environmental Planning and Assessment Regulation 2000, despite the use now being prohibited under the BLEP 2012.

In assessing the application Council is required to consider whether development, at the proposed capacity and intensity, remains suitable for the site and surrounding area. The proposal involves a significant increase in the number of students approved under the original application, albeit at the same capacity that was permitted previously for a limited period of two years and only during the same hours of operation nominated under DA 2011/416.

For the reasons outlined further in this report relating to traffic management and safety, the subject site and surrounding area is not considered to be suitable for the ‘non-conforming use’ at the capacity and intensity proposed on a permanent basis.

Zone Objectives

In assessing the application Council must have regard to the following objectives of the RU1 Primary Production zone:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.

- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural, cultural and landscape character of the locality.
- To enable development that is compatible with the rural and environmental nature of the land.
- To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.

Converys Lane is currently approximately seven metres wide for the first 150m from the Bruxner Highway intersection then reduces in width to approximately three metres wide for its remaining length. The proposed development, setting aside the strategies proposed in the Traffic Management Plan, would result in a significant increase in traffic along Converys Lane. An increase in traffic generation on this scale would ordinarily require the widening of Converys Lane to a minimum width of seven metres from the intersection of Converys Lane and the Bruxner Highway through to the site's access driveway.

The applicant's traffic engineer acknowledges the impact the development will have on the operation of the Converys Lane/Bruxner Highway intersection and suggests that the intersection will be required to be upgraded in order to accommodate the estimated traffic growth within the region. Modelling indicates that if the proposed development does not proceed the Converys Lane/Bruxner Highway intersection will continue to operate within the desired operating capacity until the year 2021. However, if the application is approved modelling suggests that this intersection will fail to operate within the desired operating capacity in the year 2016. Accordingly, approval of the application will place unreasonable and uneconomic demands on the provision of public infrastructure (i.e. it will bring forward the need for the intersection upgrade) for which the developer will not contribute towards.

Drinking Water Catchments

The property is located within the Wilsons River Catchment. Should the application be approved the applicant will be required, by way of condition, to install appropriate erosion and sediment controls, prior to commencement of any works in regards to car park surface upgrades, to protect sediment runoff into any downstream waterways and in-turn into the drinking water catchment. The proposed permanent increase in student numbers (and associated works) is located and can be managed to avoid any significant adverse impact on water quality and flows.

Essential Services – Clause 7.7

Council must be satisfied that the services that are essential for the development are available or that adequate arrangements have been made to make them available when required, including

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access,
- (f) telecommunication services.

In this case the development is not supplied with adequate and appropriate levels of infrastructure servicing relating to suitable vehicle access to accommodate the development at the proposed capacity. As discussed further in the report the intersection of the Bruxner Highway and Converys Lane has insufficient capacity to service the proposed development. In addition, Converys Lane is not constructed to a sufficient width to cater for the development. In this regard it is recommended that should Council resolve to approve the application a condition be imposed which requires the developer to upgrade Converys Lane to a minimum width of seven metres.

Traffic Management & Parking

Car Parking

The previous development consent (DA 2011/416), as modified on 4 June 2015, provided 119 car spaces for 235 students, which equates to 1.97 students per space. Details recorded in a traffic survey conducted on 15 July 2015 found that 107 spaces were occupied for 207 people on site, which equates to 1.93 students per space. Based on this it appears that the 119 car parking spaces, as nominated within DA 2011/416, are satisfactory.

Condition 2.1 of the modified Notice of Determination 2011/416 required 119 spaces which comprised 34 sealed and marked car spaces and 85 informal car parks of gravel all weather construction. Due to the increase in permanent student numbers, the applicant is now proposing that 85 car parking spaces be either sealed or comprise a high quality all weather dust free finish. Should the application be approved consideration will need to be given to a condition that requires the 85 informal spaces to be sealed.

Under the Building Code of Australia the development is required to provide two disabled spaces. Whilst only one disabled car parking space is provided on-site, a condition of development consent could be applied to require the provision of one additional disabled space should the application be approved.

Site Access and Internal Driveways

The application does not propose any change to the existing access driveway. The driveway crossover off Converys Lane is approximately 12m wide with the property boundary approximately seven metres from the edge of bitumen within Converys Lane (which is all sealed). The access driveway is therefore considered to be sufficient to service the proposed development.

External Roads and Traffic

The development application was accompanied by a traffic report by Bitzios consulting. A traffic survey was undertaken at the site on 18 July 2015 during an event involving 206 people. This information was used to determine the estimated number of vehicles attending the site during an event involving approximately 200 people.

A SIDRA (software package) analysis was then completed for the intersection of Converys Lane and the Bruxner Highway using this data. The analysis showed that, if the development operates at a capacity of 200 participants, the intersection will fail to operate within the desired operating capacity (i.e. Degree of Saturation (DOS) exceeds 0.8 in the year 2016), as referred to in the Roads & Maritime Services' "Guide to Traffic Generating Developments".

The Bitzios report shows the year the DOS exceeds 0.8. At the current approved capacity of 100 students the intersection will not exceed a DOS of 0.8 until the year 2021. Should the development proceed at the proposed increased capacity of 235 students, the intersection will exceed a DOS of 0.8 in the year 2016. The applicant claims that during the trial period (being from 4 June 2013 to 4 June 2015) the facility was operated successfully and without objections from adjoining residents or traffic incidents related directly to the use. However, it should be noted that during this two year period the DOS did not exceed 0.8 and whilst no incidents were recorded during this period, this does not indicate that the intersection has sufficient capacity to safely support the proposed development. Statistics indicate there will be a high level of risk of accidents occurring at the intersection should the development be approved.

The Bitzios report also modelled the intersection with a left out only option from Converys Lane. Under this traffic management arrangement, and with the development proceeding, the intersection operates within a DOS of 0.8 for all scenarios other than the am peak hour for the year 2025. The application therefore suggested that the development could be approved on the basis that a temporary traffic management plan is implemented on the day of events at the site.

This Traffic Management Plan proposes to have a temporary right turn ban from Converys Lane, governed by temporary signs at the intersection. Council's Civil Services and the NSW Roads and Maritime Services both raise concerns that there will be poor compliance with the proposed traffic management plan. For example, those wanting to travel west are encouraged to make a u-turn at Sneaths Road, which if undertaken will add around 3km to a drivers' journey. This distance is anticipated to encourage non-compliance, by even the most compliant of drivers, which will result in delays at the intersection. Delay is a major risk factor in intersection crashes. Those vehicles that do not comply with the traffic management plan will create an increased risk of accidents at the intersection. As the intersection is located in an 80km/hr section of the Highway, crashes at this speed have a high risk of serious injury or death.

The Bruxner Highway is a major arterial road designed to carry traffic at high speeds. In order to increase the capacity of the intersection to accommodate the proposed development, the intersection would need to be upgraded to either a two lane roundabout or traffic lights. This is undesirable at this location given that it would require speed reductions on the highway to accommodate the intersection as well as delays to highway traffic whilst giving way to local traffic. A roundabout or traffic lights at this location is therefore not supported.

The applicant was advised that Council's assessment staff would not support intersection upgrades or the proposed (left turn only) traffic management plan as acceptable solutions. The applicant responded by advising that they will reduce the number of vehicles attending the site by transporting attendees to and from the site via buses. It is proposed to use 18 or 20 seat buses with designated pick-up and drop-off points located at the Blue Hills College and the Blue Hills Medical Centre in Goonellabah. In addition, the applicant has advised that 40 – 60 students “may” arrive to the area via the Gold Coast Ballina-Byron Gateway Airports and would then be transported to the approved educational establishment via shuttle bus arranged by the proponent. The applicant contends that this traffic management strategy will achieve the following outcome:

- Five bus trips will occur to deliver 80 students to each educational event at Converys Lane, Wollongbar from Blue Hills Avenue, Goonellabah through the use of an 18 seat bus. The amount of bus trips would reduce to four should the proponent utilise a 22 seat bus.
- Four bus trips will occur to deliver 60 students to each educational event at Converys Lane, Wollongbar from either the Ballina-Byron Gateway or Gold Coast Airports through the use of an 18 seat bus. The amount of bus trips would reduce to three should the proponent utilise a 22 seat bus.

Car-pooling is also encouraged by the proponent as a traffic management strategy.

The applicant submits that implementation of the traffic management strategies will mean that the proposed increase in student numbers will not generate additional vehicle movements. Refer to Attachment 2 for details of the proposed traffic management plan.

Council's Civil Services Group is concerned that this proposal is neither practical nor self-enforcing. There is a high risk of non-compliance with a system that:

1. increases the travel time for most participants.
2. increases the travel distance for most participants.
3. inconveniences the participants.

Any traffic management system at the site needs to be self-enforcing, given that Council has insufficient resources to monitor the operation of the site and ensure participants comply with the proposed traffic management system. It is therefore recommended that the development application be refused on the grounds that the intersection of the Bruxner Highway and Converys Lane has insufficient capacity to service the proposed development safely.

The volume of traffic on The Bruxner Highway will continue to increase in the future as the North Coast region experiences continued development and population growth. Therefore approval of a permanent increase to student capacity at the existing facility is likely to increase the risk of traffic incidents at the intersection to an unacceptable level.

Land Use Conflict

The NSW Living and Working in Rural Areas Handbook (DPI) recommends a minimum buffer distance of 200m between education facilities and horticultural activities and 50m from grazing stock. The distance of the facility is 65m from the macadamia plantation to the east and 50m from grazing land to the west. However, the nature of the proposed educational facility is different to that of a typical school. The difference is due to the mature age of students and that courses are run within an air conditioned building. In addition, the limitation of the educational facility to operate for no more than two weekends per month and from Friday evening to Sunday can be reinforced by way of condition, should the application be approved.

Council's records show that no complaints about the operation of the facility have been received since consent was given for the increase in student numbers. Due to the operational aspects of the proposed use and restrictions and lack of complaints over the existing use the reduction in the recommended land use conflict buffer distance is supported.

State Environmental Planning Policy 55 – Remediation of Land

The current use is not changing as part of this application. The application is to allow for the increase of student numbers on a permanent basis, and there are limited works proposed. Required works include sealing the informal carpark area. It is concluded that the land is suitable for the use, with minimal risk to the environment and human health.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 Traffic-generating Development of SEPP (Infrastructure) 2007 requires referral of the application to the NSW Roads and Maritime Services (RMS) for comment due to the number of proposed students associated with the educational establishment.

The RMS reviewed the application and, as indicated previously, has expressed concern regarding the expected significant increase in delay at the Converys Lane intersection, degree of saturation and queue length generated by the proposed increase in student numbers, and the likely non-compliance with the proposal to impose a temporary right-turn ban from Converys Lane.

RMS suggested that in order to reduce these identified risks at the intersection, management strategies should be employed to limit the number of vehicles attending the site. Buses are suggested by RMS as a possible option to reduce the number of vehicles and increase the chance of vehicle compliance with the management strategy.

It is anticipated that a number of participants will drive directly to the site to avoid the inconvenience and time constraints associated with the bus system. This arrangement is therefore not supported by Council's Civil Services Group.

Options

In considering the current proposal, Council has the following options in determining the application:

Option One – Approval

That Council resolves to issue development consent to the application, subject to appropriate conditions (including a condition requiring the implementation of the proposed traffic management plan and consideration given to the widening of Converys Lane), on the basis that the development is suitable for the site, the impacts on traffic safety can reasonably be mitigated through the ongoing implementation of the proposed traffic management plan and the implementation of such a plan will not have unreasonable car parking or amenity impacts at the proposed bus collection points. This is not the favoured option for the reasons detailed throughout this report and in the recommendation.

Option Two - Refusal

That Council refuses the development application. This is the preferred option for the reasons discussed in this report and outlined in the recommendation. The applicant will have the opportunity to lodge a new application or seek a review of the determination under Section 82A of the EP&A Act. Alternatively, the applicant will have a right to appeal the determination in the Land and Environment Court of NSW.

Conclusion

It is recommended that the development application be refused on the grounds that the intersection of the Bruxner Highway and Converys Lane has insufficient capacity to service the proposed development safely and non-compliance with the proposed traffic management strategies is likely to occur. The facility can continue to operate at a maximum capacity of 100 students under the terms of DA 2011/416.

RECOMMENDATION

That Development Application 2016/506 'To Permit Increased Student Numbers (from 100 to 235 students) on a Permanent Basis for an Approved Educational Establishment' on Lot 2 DP 2 DP 577649 No. 37 Converys Lane, Wollongbar be **REFUSED** for the following reasons:

1. The intersection of the Bruxner Highway and Converys Lane has insufficient capacity to service the proposed development and approval of the application would compromise the safety and efficiency of the intersection.
2. The proposed Traffic Management Plan is neither practical nor self-enforcing. There is likely to be a high risk of non-compliance with the proposed traffic management strategies, and therefore these strategies are unlikely to alleviate traffic safety and management concerns at the intersection of the Bruxner Highway and Converys Lane.
3. The development will place unreasonable and uneconomic demands on the upgrade of the Bruxner Highway and Converys Lane intersection.
4. For the reasons outlined above, the application is not considered to be in the public interest.

Attachment(s)

1. Location Map
2. Traffic Management Plan

8.2 DA 2016/752 - 31 Russellton Drive, Alstonville

8.2 DA 2016/752 - 31 Russellton Drive, Alstonville

Applicant	GM Project Development and Management
Property	Lot 118 DP 871897, No.31 Russellton Drive, Alstonville
Proposal	To undertake the construction of 30 Mini Storage Sheds and a cleaner's shed (Storage Premises), a bio-retention basin and associated on-site carparking.
Effect of Planning Instrument	The land is zoned IN1 General Industrial under the provisions of the Ballina LEP 2012.
Locality Plan	The subject land is depicted on the locality plan attached.

Introduction

Council is in receipt of Development Application 2016/752 to undertake the construction of 30 Mini Storage Sheds and ancillary cleaner's shed (Storage Premises), a bio-retention basin and associated on-site car parking. The land to which the application applies is described as Lot 118 DP 871897, No.31 Russellton Drive, Alstonville.

The design of the sheds incorporates the use of texture coated blue board wall cladding along Russellton Drive (north elevation) and Colorbond wall cladding on the reveals around the storage shed roller doors (west elevation) fronting Northcott Crescent (Refer Attachment No.1).

The applicant has requested Council to consider varying one of the controls in Ballina Shire Development Control Plan 2012 (BSDCP 2012) – Chapter 5 Industrial Development (Clause 3.1.3) which requires masonry construction for the front elevation to Russellton Drive, to be replaced with texture coated blue board and the west elevation fronting Northcott Crescent to be of colorbond wall cladding around the reveals of the storage shed panel doors.

The subject Development Application will be determined under delegated authority consistent with Council's determination of this particular issue, the subject of this report.

In considering the applicant's request, it is important to note that Council at its Ordinary Meeting of 17 December 2015 considered a Section 96 Modification Application to DA 2015/320 for the erection of self-storage premises containing 30 units at 18 Northcott Crescent Alstonville (Refer Attachment No. 2). The Section 96 modification involved a request for the masonry construction requirement to Northcott Crescent elevation be replaced with colorbond sheeting.

At this meeting, Council resolved to modify Condition No.3 of Development Consent 2015/320 to allow the façade to be constructed of rendered texture board. This development has now been constructed, and the texture coated blue board cladding has been established along the Northcott Crescent frontage of the units (Refer Attachment No.3).

The purpose of this report is to advise Council of a developing trend within the industrial estates for a preference using texture coated blue board, as opposed to masonry (painted) construction materials (in relation to compliance with BSDCP 2012 - Clause 3.1.3 Building Appearance in Chapter 5).

Due to the above mentioned variation to the re-stated masonry DCP requirement (upon adoption of BSDCP 2012), and the potential precedent effect this variation could have, the requested variation is reported to Council for determination.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

The requirement for masonry front elevation construction has been a provision within Council's DCP since 1994 in an effort to ensure a minimum standard of streetscape presentation by requiring selective use of materials of aesthetically suitable textures and colours for developments within Industrial zones. This provision has been re-stated with the adoption of the Ballina Development Control Plan 2012 - Chapter 5 - Clause 3.1.3 Building Appearance.

Chapter 5 - Clause 3.1.3 states

Building Appearance – Control

- i. Exterior walls of buildings, including any outbuildings, shall comprise materials with a low reflective index and must not be constructed using uncoated/untreated metal sheeting, fibre-cement or like materials;*
- ii. The full length of any exterior wall facing a road frontage, including any adjoining exterior wall for a minimum length 5 metres, must be of masonry construction and painted where of plain concrete finish;*

The proposal that is currently being considered is for the Russellton Drive elevation to be clad in texture coated blue board finish and the return along the full length of the eastern boundary to be of stramit uniguard fire rated cladding (similar to colorbond wall cladding). The Northcott Crescent elevation is colorbond wall cladding around the reveals of the storage shed panel doors.

The secondary frontage for the proposed storage sheds is Northcott Crescent. This elevation presents the storage sheds to Northcott Crescent in a greater scale than the Russellton Drive elevation. On these grounds it is considered reasonable to require the provision of texture coated blue board around the reveals of the shed doors, as it would soften the industrial nature of the sheds when viewed from Northcott Crescent.

It is considered that the use of the texture coated blue board with the proposed development at 31 Russellton Drive is consistent with the materials approved by Council for the storage sheds at 18 Northcott Crescent (DA 2015/320).

In view of this, no objection is raised to a variation of this DCP requirement for the current application, subject to the sheds fronting Northcott Crescent being suitably conditioned requiring the provision of texture coated blue board around the reveals of the doors. In all other matters, the proposed development complies with Council requirements and is consistent with the Section 96 Modification Application to DA 2015/320 (approved by Council 17/12/15).

Conclusion

The proponent has requested Council's support to allow the variation to the BSDCP 2012 - Chapter 5 - Clause 3.1.3 Building Appearance to enable the use of texture coated blue board to the Russellton Drive elevation and colorbond wall cladding to the reveals around the storage shed doors.

As a result of the recent modification to DA 2015/320 and the visual similarity of texture coated blue board when compared to rendered masonry finish, it would be reasonable to conclude that either product when used in the construction of storage sheds with exterior walls facing a road frontage, would achieve an acceptable appearance where visible from the street frontage. Therefore, the proposed variation is considered reasonable subject to a condition requiring texture coated blue board finish to the reveals around the storage shed doors fronting Northcott Crescent.

There is a desire for industrial developments in the Shire to use texture coated blue board as an alternative street frontage treatment to the required masonry construction materials. This would appear to be a cheaper alternative whilst achieving a very similar aesthetic outcome.

Discussions have been held with the Strategic and Community Facilities Group in relation to this matter. The Strategic Group have advised that should Council support a variation to the DCP control, then the matter will be scheduled for consideration as part of the next routine review of the DCP.

This DA will be determined under delegated authority, consistent with Council's resolution of the circumstances that apply to this particular building and the appearance controls under its DCP.

Options

1. To resolve to support the proposed variations to the Ballina Shire Development Control Plan 2012 - Chapter 5 Clause 3.1.3 Building Appearance, as requested by the applicant, to permit the use of texture coated blue board wall cladding to the Russellton Drive elevation and colorbond wall cladding around the reveals of the storage shed roller doors fronting Northcott Crescent.
2. To resolve to support the proposed variations to the Ballina Shire Development Control Plan 2012 - Chapter 5 Clause 3.1.3 Building Appearance as supported in this report, to permit the use of texture coated blue board wall cladding to the Russellton Drive elevation and around the reveals of the storage shed roller doors fronting Northcott Crescent.

8.2 DA 2016/752 - 31 Russellton Drive, Alstonville

3. To resolve to maintain the requirements of the Ballina Shire Development Control Plan 2012 - Chapter 5 Clause 3.1.3 Building Appearance to require the full length of any exterior wall facing a road frontage to be of masonry construction and painted where of plain concrete finish.

Option two is recommended for the reasons outlined in the report.

RECOMMENDATION

That Council approves the proposed variations to the Ballina Shire Development Control Plan 2012 - Chapter 5 Clause 3.1.3 Building Appearance, as outlined in this report, to permit the use of texture coated blue board wall cladding to the Russellton Drive elevation and around the reveals of the storage shed roller doors fronting Northcott Crescent in the particular circumstances of DA 2016/752.

Attachment(s)

1. Locality Plan
2. Plans
3. Council Report
4. Front Elevation 18 Northcott Crescent

8.3 Encroachments on Public Lands

8.3 Encroachments on Public Lands

Delivery Program Development Services

Objective To respond to a Council resolution in respect to encroachments on public lands.

Background

This report has been prepared following the Council's resolution of 24 June 2016 in response to its determination of a development application for a rock revetment wall along part of North Creek, Ballina, to protect private lands from erosion.

At that time, the Council was reminded about the extent of private land ownership into North Creek and that, if they so wished, the private landholders concerned could restrict pedestrian access across their lands and, effectively, along North Creek at that location between Skinner Street and Norton Street.

At the time the Council was also conscious of having dealt with an encroachment onto a public walkway at Lennox Head that also restricted public accessibility to the beach.

Consequently, among other resolutions that have been separately dealt with, the Council resolved to *"receive information on options to manage private encroachments into foreshore areas and waterways"*.

Key Issues

- Number of encroachments that occur across the Shire
- Frequency that encroachments are identified
- Effect that encroachments have on the public interest
- Resourcing priorities

Information

During the course of time, encroachments from one property onto another do occur and there would be many encroachments between private landholdings, from private landholdings onto public lands, and of public works onto private land.

These would range from, in the main, minor encroachments relating to boundary fencing, landscaping, accesses, building siting, and the like, to more substantial encroachments of infrastructure onto private lands, and the occupation of public lands by adjoining private landholders.

Encroachments occur in a whole range of areas and for many different reasons.

Largely they have individual circumstances and impacts that require the particular circumstances of each case to be considered when dealing with them from a public authority's perspective.

8.3 Encroachments on Public Lands

With regard to encroachments into or onto foreshore areas and public waterways, the Council would usually be made aware of these via reporting from the public about the environment being damaged or access being constricted or denied, or be identified by Council's operational staff as they go about their normal duties.

Whilst they do arise from time to time, there are unlikely to be any significant encroachments or occupations of public foreshore lands or waterways that cause environmental damage or that hinder or prevent public accessibility that do not get identified by these means.

There would, however, likely be numerous minor encroachments both ways that could only be identified and confirmed by detailed survey work.

Sustainability Considerations

- **Environment**

At times the environment of the public domain is damaged by encroachments of works into reserves for a variety of reasons including gaining views, establishment of lawns and gardens, and parking of vehicles.

- **Social**

Private occupation of public lands can deny the wider public of recreational opportunities and the protection of places of historic, scientific or cultural significance.

- **Economic**

The cost of any program to identify and correct encroachments needs to be measured against the benefits that different programs are likely to bring.

Legal / Resource / Financial Implications

Fundamentally it is thought that there are two reasonably available approaches that the Council could take to addressing encroachment issues.

Firstly, it could continue the existing approach of relying upon notifications from the general public including Shire residents who have detailed knowledge of their local communities and environments and the Council staff who are out and about across the Shire on a daily basis while undertaking their normal work duties.

Secondly, the Council could seek to establish a detailed pro-active program to identify areas of the Shire where it is concerned historical encroachments could have occurred, and then undertake detailed cadastral survey work to seek to identify properties where encroachments occur and then seek to rectify these.

The first approach is one that does not require the commitment of additional resources as it is effectively the current approach. Council's experience of this is that significant encroachments do become known and they can generally be addressed on the individual circumstances of the case as they arise.

8.3 Encroachments on Public Lands

Depending on the scale of investigations the Council might seek to commit to, the second approach would require the establishment of a substantial budget to undertake the scoping of a program and then the commencement of the necessary detailed cadastral survey.

Such a program would likely identify numerous minor encroachments and the Council would need to have a considered approach to how it would want to deal with those.

Conceivably these would prove to be an unwanted distraction as correction of even minor individual encroachments takes time and can be a relatively expensive legal process. The Council would also need to consider how long it wanted to run the program.

Consultation

No public consultation has been undertaken for the preparation of this report.

Options

1. Continue to address encroachments across the Shire in the current manner. This option has the advantage of generally being within current resourcing, deals properly with identified encroachments having regard for the particular circumstances and significance of each case, and handles future encroachments as well as historic ones. Experience is that not many situations arise across the Shire in any one year and the responses are manageable.
2. Plan and establish a survey program to pro-actively identify existing encroachments into and onto waterways and foreshore lands. This would require the establishment of a purposeful budget to engage survey staff and to finance the corrective actions that would arise, it would likely become involved with perhaps numerous minor matters that have no geographical, operational or environmental significance.

Given the operational capacity of the organisation to manage the first option and the overall success of the current approach in dealing with significant encroachment issues when they arise compared to the substantial additional costs involved in establishing and undertaking a specialized program and the likelihood of it becoming enmeshed in minor but costly and time consuming matters, it is considered that the Council should retain its current approach to identifying and dealing with encroachments as they arise.

RECOMMENDATION

The Council notes the contents of this report and based on existing resources agrees to retain its existing approach to identifying and managing private encroachments into foreshore areas and waterways.

Attachment(s)

Nil

8.4 Development Applications – Variation to Development Standards

8.4 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
2016/539	9/3/2017	CivilTech Engineers	Four lot integrated subdivision with the erection of a two storey dwelling on each lot, vegetation removal and associated works – 7 Byron Street, Lennox Head	R3 Medium Density Res - BLEP 2012	Clause 4.6 Floor Space Ratio - 0.5:1 Approved Variation: Lot 1 0.549:1 Lot 2 0.507:1 Lot 3 0.507:1 Lot 4 0.499:1	Minor variation with no adverse impact. Designed and approved as an integrated concept.
2016/731	22/3/2017	Ardill Payne & Partners	Two Lot Subdivision to create 1 x 1705m ² and 1 x 1180m ² lots – 45 Greenfield Road, Lennox Head	R2 Low Density Res - BLEP 2012	Clause 4.6 – Minimum Lot size of 1,200 m ² Approved lot size 1,180m ² .	Minor variation (1.7%) with no adverse impact

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 March 2017.

Attachment(s)

Nil

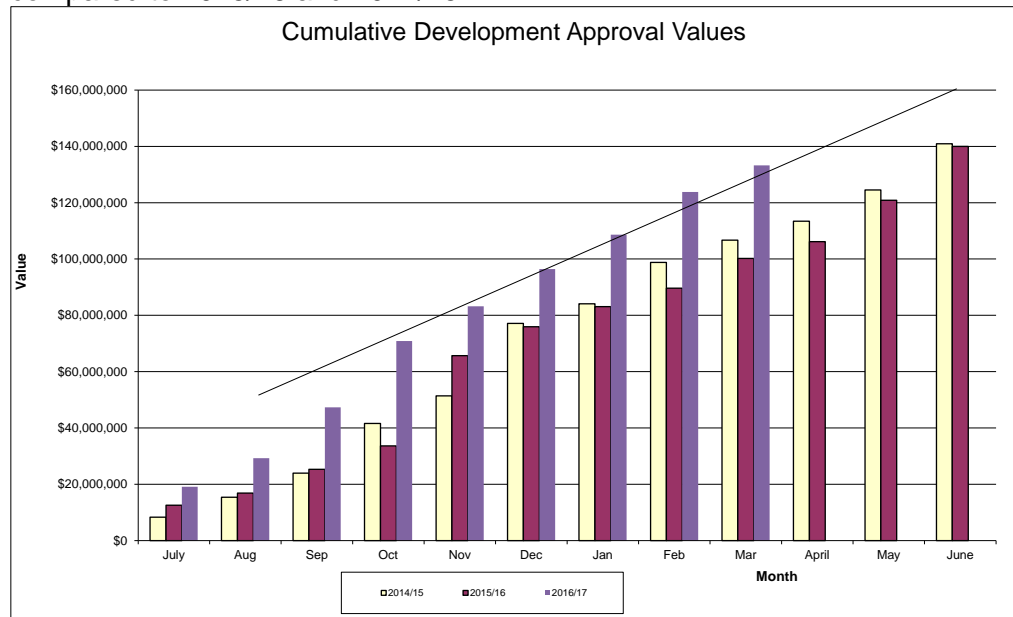
8.5 Development Consent and Infrastructure Approvals - March 2017

8.5 Development Consent and Infrastructure Approvals - March 2017

During the period of 1 March 2017 to 31 March 2017 the Development and Environmental Health Group issued Development Consents comprising of:

Number of Applications	Value of Work
39 Other including Changes of Use	\$ 1,574,699
17 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 7,039,175
4 General Developments including Subdivisions	\$ 0
Total Value	\$ 8,613,874

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



During the period of 1 March 2017 to 31 March 2017 the Development and Environmental Health Group issued Public Infrastructure / Civil Construction Works approvals comprising of:

Number of Applications	Value of Work
1 Public Infrastructure / Civil Construction (Shaws Bay Foreshore Upgrade)	\$ 800,000
Total Value	\$ 800,000

RECOMMENDATION

That Council notes the contents of the report on development consent and public infrastructure approvals for 1 March 2017 to 31 March 2017.

Attachment(s)

Nil

8.6 Development Applications - Works in Progress - April 2017

8.6 Development Applications - Works in Progress - April 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	Amended Proposal - Mixed Use Development Comprising the Erection of a Two Storey Business Premises and Three x Two Storey Serviced Apartments -Tourist and Visitor Accommodation and Associated Works – 61 Ballina Street, Lennox Head	Awaiting Additional Information
2016/274	20/05/2016	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create 1 x 1.45ha and 1 x 47ha allotments and the establishment of a rural worker's dwelling upon the larger Proposed Lot 11 – 61 & 145 Brooklet Road, Newrybar	Being assessed.
2016/375	8/7/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of and Alterations and Additions to the Existing Dwelling House, Demolition of Existing Garage, Vegetation Removal and Associated	Awaiting Additional Information

8.6 Development Applications - Works in Progress - April 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			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	Referred to Government Departments
2016/389	19/07/2016	McDonald's Australia Pty Ltd	Erection of a McDonald's Restaurant and Associated Signage on the Approved Highway Service Centre Site – 565-589 River Street, West Ballina	Being Assessed
2016/426	04/08/2016	Ballina Shire Council c/- CivilTech Consulting Engineers	Extension of Skennars Head Playing Fields – Skennars Head, Lennox Head	Awaiting Additional Information
2016/604	21/10/16	Ardill Payne & Partners	Alterations and Additions to Ballina Toyota – 2 Sunset Avenue, West Ballina	Awaiting Additional Information
2016/655	15/11/16	Ardill Payne & Partners	Amended Proposal - Establishment of Two Holiday Cabins – 56 Tooheys Mill Road, Pearces Creek	Awaiting Additional Information

8.6 Development Applications - Works in Progress - April 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/690	29/11/16	Ardill Payne & Partners	To undertake a residential subdivision to create 38 residential lots, including construction of roads and installation of public infrastructure services – Quays Drive, West Ballina	Awaiting Additional Information Council has been notified of an Appeal to the Land & Environment Court against the 'Deemed Refusal' of the DA
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	Awaiting Additional Information
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 associated works - 9-19 The Avenue, Alstonville	Awaiting Additional Information
2016/741	20/12/2016	Newton Denny Chapelle	Subdivision of Land Comprising 121 Residential Allotments – Hutley Drive, Lennox Head (EPIQ)	Awaiting Additional Information
2016/745	21/12/2016	Ardill Payne & Partners	Subdivision by way of boundary adjustment of five existing lots to create 5 new lots –	Referred to Government Departments

8.6 Development Applications - Works in Progress - April 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			520 & 462 Newrybar Swamp Road, Broken Head	
2016/754	23/12/2016	Ballina Shire Council	Alterations to the existing building and use as a commercial premises - 60 Crane Street, Ballina	Awaiting Additional Information
2016/757	23/12/2016	FSG Australia	Change of Use of Dwelling House and Shed to Community Facility – 111 Tamar Street, Ballina	Awaiting Additional Information
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	Referred to Government Departments
2017/27	18/1/2017	Vision Town Planning	Alterations to Health Services Facility - 64 Cherry Street, Ballina	Determination Pending
2017/40	31/01/2017	WJ Townend – Town Planning Pty Ltd	Change of Use from Light Industrial to Take-Away Food and Drink Premises – 6 Endeavour Close, Ballina	Determination Pending
2017/57	08/02/2017	Ardill Payne & Partners	Erection of 7 x pole/pylon advertising signs (Lennox Head Service Station) – 44-48 Byron Street, Lennox Head	Awaiting Additional Information
2017/66	13/02/2017	Lightwaves @bangalow	Staged alterations and additions to enable a change of use from a dwelling house to a medical centre – 13 Commercial Road, Alstonville	Determination Pending
2017/72	15/02/2017	Robert Kain	To change the use of an existing dwelling house to tourist and visitor accommodation and	Awaiting Additional Information

8.6 Development Applications - Works in Progress - April 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			to convert an existing shed into a dwelling house with an ancillary amenities building – 245 Friday Hut Road, Tintenbar	
2017/121	15/3/2017	Newton Denny Chapelle	To establish a rural worker's dwelling - 91 Newrybar Swamp Road, Kinvara	Awaiting Additional Information
2017/122	15/3/2017	Croft Building	Erection of an Industrial Building and Associated Works - 29 Cessna Crescent, Ballina	Awaiting Additional Information
2017/125	16/3/2017	Messrs T A Muller & J Coote	To change the use of an existing industrial tenancy to a recreation facility (indoor) comprising a one on one personal training facility - 1/15 De Havilland Crescent, Ballina	Being Assessed
2017/129	17/3/2017	CivilTech Consulting Engineers	Construction of a two lane road linking North Creek Road to the Ballina Byron Gateway Airport including three roundabouts at the intersections with North Creek Road, Boeing Avenue and the connection into the airport. The proposal also includes extensions to Boeing Avenue and the realignment of Corks Lane, site filling, vegetation removal and associated works. – Lot 5 DP 123781 Corks Lane, Ballina	On exhibition and Awaiting Additional Information
2017/146	27/3/2017	Joe Davidson Town	Lease of Road Reserve for Commercial Use	Awaiting Additional Information

8.6 Development Applications - Works in Progress - April 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
		Planning	(Vehicle sales) and signage - 450-460 River Street, West Ballina	
2017/148	28/3/2017	Northern Rivers Land Solutions	Erection of a temporary Sales Office and construction of associated parking - 33 Mitchell Close, Cumbalum	Awaiting Additional Information
2017/155	31/3/2017	Planit Consulting Pty Ltd	Lease of Road Reserve for Commercial Use (Vehicle sales) - 444 River Street, West Ballina	Awaiting Additional Information
2017/160	5/4/2017	S R Schott	New Residential Flat Building (1 or 2 storeys) Subdivision - Strata (Residential) - 103 Cherry Street, Ballina	On Exhibition

8.6 Development Applications - Works in Progress - April 2017

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/01/16	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
2016/184	15/4/16	Planners North	To undertake urban subdivision of the new Cumbalum Urban Release Area – Precinct A comprising a total of 633 residential allotments, road construction, earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - Sandy Flat Road, 88 Sandy Flat Road, 52 Albert Sheather Lane, Tamarind Drive and 658 Tamarind Drive, Cumbalum	Awaiting Additional Information Subject to Class 1 Appeal in the NSW Land & Environment Court
2016/524	16/9/16	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	Awaiting Additional Information

8.6 Development Applications - Works in Progress - April 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			protection works – 67 Skennars Head Road, Skennars Head	
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	Awaiting Additional Information
2016/746	23/12/16	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
2017/149	28/3/2017	Ardill Payne & Partners	Alterations & Additions to existing terminal building – Ballina Byron Gateway Airport – Lot 264 DP 1195313 & Lot 7 DP 793980 Southern Cross Drive, Ballina	On exhibition

8.6 Development Applications - Works in Progress - April 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 April 2017.

Attachment(s)

Nil

9.1 Local Environmental Plan - Deferred Matters Integration

9. Strategic and Community Facilities Group Reports

9.1 Local Environmental Plan - Deferred Matters Integration

Delivery Program Strategic Planning

Objective To seek the Council's direction on the approach to addressing deferred matters under the Ballina Local Environmental Plan 2012.

Background

The integration of deferred matters into the Ballina Local Environmental Plan 2012 (BLEP 2012) is currently being implemented by way of a staged approach which aims to complete the integration program over a two year period.

An initial staged approach was adopted by the Council at its April 2016 Ordinary Meeting. However, in response to an offer of funding support from the NSW Department of Planning and Environment, Council resolved at its October 2016 Ordinary Meeting to adjust the staging of the integration program based on a shorter timeframe [Minute No. 271016/10]. Under the current program, planning proposals need to be submitted to the Department of Planning for Gateway determination by 30 June 2017.

Stage 1 of the program commenced with the Council requesting a Gateway determination for its Stage 1 planning proposal in December 2016. A Gateway determination allowing the Stage 1 planning proposal to proceed to the stakeholder and community consultation phase was issued by the Department of Planning on 9 March 2017.

Stage 1 addresses zoning arrangements for land predominantly zoned 7(c) Environmental Protection (Water Catchment Zone) under the Ballina Local Environmental Plan 1987 (BLEP 1987) as well as other contiguous areas that are deferred from the BLEP 2012. Stage 1 also introduces land use tables into the LEP for the E2 Environmental Conservation and E3 Environmental Management zones and includes a special provision requiring consideration of natural areas and habitat in relation to certain development applications.

Stage 2 of the program is centred on the integration of land currently zoned 7(d) Environmental Protection (Scenic/Escarpment) and 7(d1) Environmental Protection (Newrybar Scenic/Escarpment) under the BLEP 1987 as well as other contiguous areas that are deferred from the BLEP 2012. At its Ordinary Meeting held on 23 March 2017 Council resolved to delay consideration of the Stage 2 planning proposal until after a Councillor briefing on the matter.

In response to the resolution, a Councillor briefing was held on 6 April 2017. Councillors present expressed an interest in reconsidering the current approach to the deferred matters integration, including review of ways to enable retention of existing environmental protection zones as contained in the Ballina Local Environmental Plan 1987.

9.1 Local Environmental Plan - Deferred Matters Integration

The purpose of this report is to re-present the planning proposal for Stage 2 of the deferred matters integration and also provide an overview of the key options available to address the overall integration of deferred matters into the Ballina LEP 2012.

Key Issues

- Comprehensive local environmental plan for Ballina Shire
- Environmental protection zoning under the local environmental plan
- Allocation of staff and financial resources

Information

Based on the outcomes of the Councillor briefing held on 6 April 2017, it is apparent that a number of Councillors are not entirely comfortable with the current approach to the integration of deferred matters into the BLEP 2012.

Specifically, a number of the concerns expressed relate to the following matters:

- The Department of Planning and Environment's process and approach to the E zone review and the application of environmental protection zones.
- The financial and administrative costs to Council (the community) associated with the implementation of the E zone review.
- The outcomes for the community including the lack of recognition of environmental attributes that are not predominately ecological (e.g. coastal land, water catchments, urban buffer).

Environmental protection zone matters are an emotional and often divisive consideration in planning. This is why the Council applied extensive resources over a period of five years to study, understand and contemplate environmental attributes and associated zoning in the shire before proceeding to endorse a new draft local environmental plan for implementation in December 2011.

For Ballina Shire the NSW Government's review recommendations result in the loss of opportunity to apply environmental protection zones to areas on the basis of scenic and amenity value, coastal value, water catchment characteristics and urban buffer characteristics. This is a substantial shift for Ballina Shire and one that represents a significant change in long standing Council planning policy. In considering this, it is important to recognise that environmental protection zones have been part of Ballina Shire since 1987 and the majority of the areas so zoned in 1987 remain zoned environmental protection under that plan at present.

During the Councillor briefing a number of Councillors expressed an interest in maintaining the status quo in relation to the existing environmental protection zones under the Ballina LEP 1987. This reflects a view that the BLEP 1987 has been in place for a long time and has been very successful with respect to the management of the shire's environmental values, particularly given that adverse impact from development within existing environmental protection zone areas has been limited.

9.1 Local Environmental Plan - Deferred Matters Integration

The State Government's decision to remove environmental protection zones from Council's LEP prior to implementation has resulted in additional financial and administrative costs to Council.

Although the Department of Planning has offered grant funding in the amount of \$40,000 for the overall integration project, the total cost to Council is estimated at \$150,000 to \$200,000 (in staff time and cash, with cash estimated to be in the order of \$40,000 to \$60,000).

In considering the approach to the deferred matters, a balancing of planning, community, financial, intrinsic, intragenerational and intergenerational considerations is necessary. It is also suggested that the approach taken needs to be one made at a principle level as environmental protection zones (as with many planning provisions) involve the potential for some to be advantaged whilst others may feel disadvantaged. That is, whatever the approach to the deferred matters, it is unlikely that Council will be able to appease all interests.

On one hand, consolidation of the 1987 and 2012 LEPs would reduce complications associated with having to consider multiple zones under two LEPs. On the other hand, the limited scope of the Department's E zone criteria and reduced palate of zones under the Standard Instrument LEP has the potential to undermine the ability of the planning scheme to adequately recognise and protect the environmental values of the shire. This is an important consideration as on recent occasions where Council has sought community feedback, the environment and associated lifestyle opportunities are consistently identified as key attributes of the shire (e.g. through the recent Ballina Major Regional Centre Strategy).

Several options to address the deferred matters integration are set out in the options section below to assist the Council in determining the preferred course of action.

Sustainability Considerations

- **Environment**

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

- **Social**

Environmental protection zones can be a divisive issue having regard for differing public and private interests and the interests of individuals and the broader community. However, they also provide certainty and clarity regarding community expectations.

- **Economic**

Environmental protection zoning influences the way in which land is permitted to be used and hence can influence economic outcomes.

Legal / Resource / Financial Implications

The primary legal consideration is compliance in terms of the *Environmental Planning and Assessment Act 1979*, particularly including adherence to relevant Ministerial Directives made under section 117 of the Act, and the associated Regulation.

From a legal perspective, the Ministerial Direction regarding the E zone review does not direct Council to implement the review, nor does it specify a specific timeline for the deferred matters to be addressed. Rather, it says that if Council seeks to apply E2 Environmental Conservation or E3 Environmental Management zones in its Standard Instrument LEP, Council must do this in a manner consistent with the E zone review recommendations report. The June 2017 timeframe that has been referenced in relation to the deferred matters is a requirement of the Department of Planning's grant funding. It is not a statutory requirement.

Resource and finance wise, the State Government's E zone review process has impacted Council in both a financial and administrative sense. The work required to be undertaken in relation to the deferred matter integration program is presently being funded through grant funds from the Department of Planning and Environment (in the amount of \$40,000 for the overall integration project) and Council funds. If Council adopts an approach that does not involve addressing all of the deferred areas under the Ballina LEP 2012 by 30 June 2017, then Council will not be eligible for the \$40,000 in grant funds. This will, however, be offset by a reduced work volume associated with Council's preferred approach.

Although considered manageable at present, the completion of the integration program is impacting on Council's endorsed work program and is less than optimal in that such work would normally be completed over a longer timeframe.

Council has engaged external consultants to provide ecological assessment and advice in relation to the identification of environmental protection zones in the shire. Regardless of the approach taken to the address of the deferred matters, it is recommended that these engagements be completed as they are well progressed and the information to be obtained will have other benefits for Council.

Consultation

Community engagement in response to the deferred matters program is scheduled to occur post Gateway determination for each part of the current staged implementation program. Specifically, the program involves providing an opportunity for affected landholders to engage with Council prior to public exhibition of proposed zones.

Options

The options relate to the broader progress of the deferred matters program in response to the outcomes of the Councillor briefing held on 6 April 2017.

9.1 Local Environmental Plan - Deferred Matters Integration

In considering the options, it is noteworthy that Tweed, Lismore and Byron councils have not resolved to progress the deferred matters integration through application of the Department of Planning's criteria in line with the grant funding timeframe set by the Department of Planning (being to have a planning proposal for all deferred areas submitted for Gateway determination by 30 June 2017).

Option 1: Continue with the adopted staged program

As noted previously, Council resolved at its October 2016 Ordinary Meeting to progress with an adjusted staging program which aims to accelerate completion of the deferred matters integration program. Stage 1 of the program has received a Gateway determination from the Department of Planning and Environment to proceed to the stakeholder and community consultation phase. The planning proposal for Stage 2 was initially presented to Council at its March 2017 Ordinary Meeting. Council resolved to delay consideration of the Stage 2 planning proposal until after a Councillor briefing on the matter.

The advantage of this option is the consolidation of planning controls resulting in only one comprehensive LEP for the shire, thereby simplifying the planning system. It has the disadvantage that environmental protection zones will only be centred on ecological and cultural heritage attributes (and only where evidence of those values has been verified). This means the community foregoes the operation of urban buffer, scenic, water catchment and coastal zones in the local planning framework.

If the Council resolves to continue with the adopted staged program, it is recommended that Council progress the planning proposal for Stage 2 by submitting the planning proposal to the Department of Planning and Environment for Gateway determination. The planning proposal for Stage 2 is provided at Attachment One. Further planning proposals for three more stages would then be presented in the coming months to June 2017.

In line with Council's October 2016 resolution, continuation of the staged implementation program is the recommended approach.

Option 2: Cease further progression of the deferred matters program

Council could decide to cease with the implementation of the deferred matters program and retain the operation of Ballina LEP 1987 in relation to the deferred areas. This option has the advantage of retaining the status quo in terms of identifying a variety of environmental protection values in Ballina Shire and incurs no direct financial costs. It has the disadvantage of requiring the ongoing administration of two plans (including a significant number of zones under the 1987 LEP) and there is the risk that the Minister may appoint another planning authority to complete the integration of deferred matters.

If Council resolves to proceed with this option, a resolution is required to withdraw the Stage 1 planning proposal from the Department of Planning and Environment.

If this approach is preferred, it is recommended that the Council resolves as follows:

9.1 Local Environmental Plan - Deferred Matters Integration

1. That Council takes no further action with respect to the integration of the deferred matters into the Ballina Local Environmental Plan 2012.
2. That Council withdraws the Stage 1 Deferred Matters Integration Program planning proposal.

Option 3: Pursue a hybrid approach to address the deferred matters

As an alternative to the adopted staged approach, the Council may elect to progress the integration of the deferred areas in the BLEP 2012 by way of a hybrid approach. This would involve the retention of the existing environmental protection zones under the BLEP 1987 (that is retain the status quo for those already subject to environmental protection zones) and the integration of the remaining deferred areas into BLEP 2012.

The integration of the remaining deferred areas could occur either through the application of zones based on the outcomes of the State Government's E zone review (i.e. include E zones where the criteria is met) or by attempting to apply zones other than environmental protection zones. The second option here may prove difficult in that where environmental attributes are known to occur s117 Ministerial Direction 2.1 Environmental Protection Zones (separate to the E zone review direction) requires that environmentally sensitive areas are zoned for environmental protection purposes (or provisions to facilitate protection and conservation are otherwise put in place).

In any case, Council can determine its preferred approach to these deferred areas through a more detailed further report.

The primary advantage of this option is the retention of the status quo for most properties affected by environmental protection considerations and in terms of identifying a variety of environmental protection values in Ballina Shire. It also results in a significant reduction in the number of properties subject to a change in zoning arrangements.

It has the disadvantage of requiring the ongoing administration of two separate LEPs, albeit retaining fewer zones under the BLEP 1987 (compared to option 2), and there is the risk that the Minister may appoint another planning authority to complete the integration of deferred matters.

This approach also has the advantage of requiring those who are seeking to have their properties removed from existing environmental protection zones to lodge a planning proposals and justify the proposed outcome through suitable supporting information and studies (as is the case with others who seek a zoning change and particularly zoning changes that increase the range of permissible land uses). This reduces the financial impact on Council as the costs for such requests are met by the landholder in accordance with Council's fees and charges.

If the Council resolves to proceed with this option, staff would proceed to prepare a planning proposal to address the deferred areas that are not subject to existing environmental protection zones and report this to Council for further consideration.

9.1 Local Environmental Plan - Deferred Matters Integration

It is noted that there are other matters such as permissibility of tourist uses in environmental protection zones, environmental protection zone arrangements in the Cumbalum Urban Release Areas and the overall range of permissible land uses in rural zones that also require further consideration should this option be pursued (having regard for the circumstances associated with the approach adopted). These matters would be addressed further in future reporting to Council associated with a planning proposal designed to progress this approach.

The recommended resolution to progress this option is as follows:

1. *That Council ceases implementation of the deferred matters program via the staged implementation program previously adopted.*
2. *That Council withdraws the Stage 1 Deferred Matters Integration Program planning proposal.*
3. *That Council addresses the deferred matters under the Ballina Local Environmental Plan 2012 through the following:*
 - (a) *Retention of all deferred areas the subject of an environmental protection zone under the Ballina Local Environmental Plan 1987 as deferred areas (having the effect that the Ballina LEP 1987 will continue to apply).*
 - (b) *Preparation of a planning proposal to integrate all deferred areas that are not subject to existing environmental protection zones under the Ballina Local Environmental Plan 1987 into the Ballina Local Environmental Plan 2012.*
 - (c) *Application of the criteria established under the Northern Councils E Zone Review to the areas to be integrated into the Ballina Local Environmental Plan 2012 under point (b).*

Overall, the Council is in a position now where a decision is required as to the overarching direction preferred to address the deferred matters. Based on broad principles, the options can be summarised as follows:

- If the Council wishes to comply with the outcomes of the E zone review and utilise grant funding, option 1 is the most suitable approach.
- If the Council more bluntly does not wish to apply further resources to this matter, option 2 is the most compatible approach.
- If the Council wishes to maintain the existing approach in relation to environmental protection zoning in the shire (being to recognise a broad range of characteristics), then option 3 is the approach to achieve this outcome.

The recommendation is consistent with earlier decisions of Council. It is now a matter for Council to determine whether it wishes to continue with that approach.

RECOMMENDATIONS

1. That Council endorses, for Gateway determination, the application of land use zones and associated planning provisions in relation to the land identified within Stage 2 of the deferred matter integration program as contained in Attachment 1.
2. That Council submits the planning proposal contained in Attachment 1 to the NSW Department of Planning and Environment for review and Gateway Determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken.
4. That Council receive a further report on Stage 2 of the deferred matters integration program following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. Planning Proposal Stage 2 Deferred Matters (Under separate cover)

9.2 Policy (New) - Mobile Vending on Public Land

9.2 Policy (New) - Mobile Vending on Public Land

Delivery Program Strategic Planning

Objective To outline a proposed new policy for the management of mobile vending on public land and roads and seek direction on the public exhibition of the draft policy.

Background

Council has received several recent enquiries about the establishment of various food vending businesses in prominent areas of the coastline. Such proposals have typically related to the selling of coffee and ice cream along with associated food and beverages. Historically, Council has also on occasion received enquires relating to vending on public land and within the public road network.

The current approach to mobile vending on public land is that it is not permitted under Council's adopted Commercial Activities on Public Land Policy. There are also further limitations on mobile vending on Crown Land in the Coastal Reserve under the Ballina Shire Coastal Reserve Plan of Management.

Under the current circumstances, mobile vending in the shire as far as it relates to public land and roads is essentially limited to mobile food vending within the road network (including car parks) through fully self-contained vehicles such as coffee vans. A complexity here though is that not all roads and car parking areas are within road reserves, with some of these areas being on public land. This necessitates differing approaches to management due to the applicability of different legislation.

The draft Mobile Vending on Public Land Policy seeks to identify the form of mobile vending permitted on public land and roads and establish a single system for the approval and management of such vending activities.

In considering the policy, it is important to note that enabling mobile vending on public land might appear simple but it is subject to a complex range of legislation and land management obligations that are applicable to Council.

Key Issues

- Provision for mobile vending on public land and public roads
- Form of mobile vending to be permitted
- Requirements for mobile vendor trading on public land

Information

Mobile vending can take a variety of forms and involve a wide range of offerings for sale. For example, mobile vending can range from sale of food from vans (e.g. coffee vans) and small trucks (e.g. ice cream) through to large food truck, caravans (such as those seen at markets) and trailers or carts.

9.2 Policy (New) - Mobile Vending on Public Land

Where food is sold, it can be anything from relatively simple and low risk food (e.g. coffee and pre-packaged snacks and drinks) through to cooked food prepared on-site (such as burgers, tacos or hot dogs). Products offered for sale can go also beyond food to include items such as flowers, souvenirs, crafts and the like.

Given this, a key consideration for the Council is the determination of the nature and scale of vending that is considered appropriate from public land. This not only needs to consider the specific nature of vending on public land but also implications associated with the sale of goods that might otherwise be available through conventional businesses premises (e.g. existing take away shops). The draft policy seeks to address these considerations whilst enabling mobile food vending in particular circumstances.

In summary, the key aspects of the draft policy are set out in Table 1.

Table 1: Key Aspects of Draft Mobile Vending on Public Land Policy

Policy Element	Rationale
Permits mobile food vending on public land and from public roads (including car parks) without the need for development consent subject to meeting specified criteria including conformity with the definition of mobile food and drink premises under State planning policy.	Aligns policy with existing State based exemptions and reinforces consistency in definition of mobile food vending uses. This approach allows mobile food vending proposals that meet the criteria to be approved from a public land management perspective without the need for a development application.
Requires that any other forms of mobile vending (non-food vending such as sale of flowers or souvenirs) must be subject to the development application process and limits circumstances under which Council would provide land owner agreement for the use of the land.	Sets a higher standard for non-food vending operations with the intention of discouraging these forms of vending on public land and public roads.
Provides for two forms of approvals (in the form of a permit) being location specific and within the road network.	Enables mobile vending throughout the road network and within formed car parking areas. Enables mobile vending in specified locations within public reserves.
Provides for short term vending and longer term (day based) vending.	Provides allowance for self-contained vehicles to move around the road and car parking network based on short term stops. Provides allowance for vending from within reserves on a day basis (i.e. a vendor could set up in a specified location for up to six hours a day).

9.2 Policy (New) - Mobile Vending on Public Land

Policy Element	Rationale
Nominates Missingham Park, Pop Denison Park and Sharpes Beach as within reserve vending locations.	<p>Specific sites are nominated for within reserve trading having regard for the proximity of existing businesses as well as the suitability of the road network and applicable land management requirements.</p> <p>Other locations considered along with the rationale for not nominating them as within reserve (or longer term day based) trading sites include:</p> <ul style="list-style-type: none"> - Pat Morton Lookout (trading from areas outside the formed car park not permitted under the Coastal Reserve Plan of Management. Car park provides suitable area in any case for short term trading). - Shelly Beach (close proximity to existing café outlet to the north (250m) as well as a planned café to the south (120m). Car park provides suitable area in any case for short term trading. - Captain Cook Park (close proximity to CBD and existing food and drink premises) - Fawcett Park (close proximity to CBD and existing food and drink premises).
Establishes a permit approval system.	<p>Combines consideration of various legislation and land management requirements into a single approval process, including the linking of approval requirements for the handling and sale of food.</p> <p>Enables Council to levy a fee for the administration of the approval system and the use of public land and public roads for commercial purposes.</p>
Sets no limitation on the number of permits issued.	<p>The policy is designed not to create exclusivity for the use of public land and roads for mobile food vending.</p> <p>This aims to remove any sense of ownership associated with a permit approval (i.e. the vendors will not own special rights to a particular area, rather a permit simply authorises them to trade from public land or public roads).</p> <p>Recognises that the land is that of the community rather than any one business.</p>
Sets out guidelines to guide the form of mobile food vending and how such vending may be carried out.	<p>Provides details of requirements for food vending to address key issues such as safety, operating impacts, waste disposal, signage and insurance.</p>

Specifically with respect to Pat Morton Lookout and vending from other locations within the coastal reserve (i.e. Crown Land along the coast), it is important to recognise that such vending is limited to car parking areas under the adopted Coastal Reserve Plan of Management.

This POM is endorsed by the Minister for Lands and as such, any changes to the approach to vending in this area requires Ministerial agreement through a change to the Plan. Any change to the POM is likely to involve a significant timeframe and will require support from Crown Lands.

That is, changing the POM involves a notable resource commitment (including public exhibition) and is neither a quick nor easy process.

With respect to existing mobile vendors operating within the road system in the shire, the policy will require these businesses to obtain a permit.

9.2 Policy (New) - Mobile Vending on Public Land

Although this is a new requirement, it is considered to be reasonable as it addresses the existing requirements of applicable legislation and provides for a clear system that acknowledges where mobile vendors may trade and who is permitted to trade in Ballina Shire.

In relation to sporting fields, the policy will enable authorised mobile food vendors to trade in the vicinity of sporting fields from within the road network and formed car parking areas. The policy requires though that such trading is at least 100m away from existing outlets serving similar food and/or beverages.

Sustainability Considerations

- **Environment**

The draft policy has been prepared having regard for potential impacts on the environmental attributes of public land. The policy includes requirements that seek to minimise adverse impacts on public land.

- **Social**

The draft policy has been prepared having regard for potential impacts on local residents and users of public land. The policy includes requirements that seek to minimise adverse impacts on neighbours and ensure that public land remains available to the public for its intended purpose. By enabling mobile food vending, the policy also provides

- **Economic**

The draft policy has been prepared having regard for potential impacts on existing businesses, but also opportunities for small business and the economic use of public land. The policy includes provisions that seek to recognise existing 'bricks and mortar' businesses and provide a balanced approach to enabling mobile businesses to operate in the shire.

Legal / Resource / Financial Implications

The introduction of a policy in relation to mobile food vending is generally beneficial from a legal perspective as it establishes clear parameters for Council's administration and management of this activity.

There is a modest impact on Council's resources associated with managing the policy and processing applications. This is offset in part by the proposed introduction of licence fees for mobile vending activities.

The proposed fee structure for mobile food vending activities (inclusive of GST) is as follows:

Application Fee	\$66
Annual Fee (Roads and Car Parking Licence)	\$220
Annual Fee (Location Specific Licence)	\$660 for the first location plus \$330 for each additional location
Note: Vendors will also be required to meet food registration and inspection charges in the amount of \$225 (as at April 2017) levied by Council.	

Consultation

It is proposed that the draft policy be publicly exhibited for a period of at least four weeks to invite community and stakeholder feedback. Where no submissions are received, it is recommended that the policy be adopted. A further report on the policy will be presented to the Council if submissions are received.

Options

Council may accept or amend the proposed draft policy as the basis for a public exhibition. Alternatively, Council may seek further information or cease work on this policy.

As the policy has been prepared in response to a series of enquiries, and improves governance arrangements for public land and the road network in relation to mobile vending, it is recommended that the draft policy is placed on public exhibition.

RECOMMENDATIONS

1. That Council endorses the Draft Mobile Vending on Public Land Policy, as attached to this report, for public exhibition.
2. That Council approves the public notice of the new fees associated with the policy is provided in accordance with Section 610F of the *Local Government Act* and included in Council's Fees and Charges document.
3. If no submissions are received in response to the public exhibition, Council adopts the Mobile Vending on Public Land Policy, as exhibited, and where submissions are received, that Council receive a further report on the policy and the outcomes of the public exhibition process.

Attachment(s)

1. Policy - Mobile Vending on Public Land (New)

9.3 Community Property - Lease Renewals

9.3 Community Property - Lease Renewals

Delivery Program Community Facilities and Services

Objective To seek direction in relation to tenure renewals for properties within Council's Community Property portfolio.

Background

The Community Property Leasing and Licensing Policy was adopted at the Council's July 2016 Ordinary Meeting [Minute No. 280716/32]. This policy establishes Council's approach to the occupation of Council owned properties in the Community Property portfolio.

Several properties that are the subject of the policy are presently due for tenure renewals.

This report sets out the details of the properties, and the proposed renewals in accordance with the policy.

Key Issues

- Tenure renewals
- Occupation and use of community assets

Information

The properties in Table 1 are recommended for tenure renewal in accordance with the Community Property Leasing and Licensing Policy. Each of these renewals is proposed on a peppercorn rental.

Table 1: Three Year Tenure Renewals – Community Property

Property	Lessee	Renewal Term	Rental	Comments
21 Alston Avenue, Alstonville	Alstonville & District Football Club (Crawford Park Clubhouse)	3 years	\$1.00	
2 Deegan Drive, Alstonville	Alstonville & District Football Club and/or Alstonville Cricket (Geoff Watt Oval – Kiosk)	3 years	\$1.00	There has historically not been tenure in place for the kiosk building. Negotiations with users of that facility will need to be undertaken to determine the appropriate lessee for the kiosk.
24 Swift Street, Ballina	Ballina Players Theatre (Theatre building and old public toilet)	3 years	\$1.00	

9.3 Community Property - Lease Renewals

Property	Lessee	Renewal Term	Rental	Comments
26 Swift Street, Ballina	Ballina Senior Citizens (Part Wigmore Hall)	3 years	\$1.00	
26 Swift Street, Ballina	Girl Guides NSW (Part Wigmore Hall)	3 years	\$1.00	
26 Swift Street, Ballina	Ballina Shire Concert Band (Part Wigmore Hall)	3 years	\$1.00	
96-98 Kalinga Street, West Ballina	Ballina Seahorses Rugby Union (Quays Reserve Clubhouse)	3 years	\$1.00	
13-15 Old Pacific Highway, Newrybar	Newrybar Community Hall Incorporated (Newrybar Hall)	3 years	\$1.00	
5 Cawarra Street, Ballina	Northern Rivers Outrigger Canoe Club Inc (Boating complex, Cawarra Park)	3 years	\$1.00	Council previously resolved to grant tenure for the boating compound to the Northern Rivers Kawaihae Outrigger Canoe Club. The club occupying the area has changed executive and now operates under a new name.
5 Cawarra Street, Ballina	Ballina Sharks Baseball (Clubhouse, Cawarra Park)	3 years	\$1.00	There has historically not been tenure in place for the baseball clubhouse. Negotiations with users of the facility will need to be undertaken to determine the appropriate lessee.
5 Hall Court, Wollongbar	Wollongbar Progress Association (Wollongbar Hall)	3 years	\$1.00	
49 Richmond Street, Wardell	Wardell Progress Association (Wardell Hall)	3 years	\$1.00	
Gallans Road, Ballina	Ballina Equestrian Club	3 years	\$1.00	Club is located on operational land (not subject to community property requirements of the Local Government Act) but is utilised by the community for not for profit activities.

9.3 Community Property - Lease Renewals

Property	Lessee	Renewal Term	Rental	Comments
Gap Road, Alstonville	Alstonville Croquet, Alstonville Cricket, Alstonville Hockey, and various groups occupying storage sheds	3 years	\$1.00	Facilities located on operational land (not subject to community property requirements of the Local Government Act) but is utilised by the community for not for profit activities. There has historically not been tenure in place for the kiosk building. Negotiations with users of the facility will need to be undertaken to determine the appropriate lessee.
New Wollongbar Sports Fields	Alstonville Tennis Club	3 years	\$1.00	Facilities located on operational land (not subject to community property requirements of the Local Government Act) but is to be utilised by the community for not for profit activities. This will be the first tenure at the new Wollongbar sports fields.

The properties in Table 2 are subject to recommended lease terms in excess of three years. The table sets out the current tenant and the proposed length of tenure renewal, noting these lessees have requested longer tenure and are considered to have exceptional circumstances.

Table 2: Tenure Renewals Exceeding Three Years – Community Property

Property	Lessee	Renewal Term	Rental	Comments
21 Mackney Lane, Lennox Head	Lennox Head Community Preschool Inc	10 years with a 10 year option in Council's favour.	\$1.00	Nil
84 Fox Street, Ballina	Fox Street Community Preschool Inc	10 years with a 10 year option in Council's favour.	\$1.00	Nil

As is evident within the Table 2, the ten year renewals relate to community preschools. The exceptional circumstances are that childcare services are considered to be an essential service to the community, and one which is not offered by Council.

Early childhood services must be registered with the relevant State and Federal Government bodies overseeing early childhood education, with much higher level of reporting, maintenance standards, long term planning, accountability and financial oversight than is provided by Council.

It is reasonable to allow preschools to operate within the applicable State and Federal Government framework with less frequent review of lease terms by Council.

9.3 Community Property - Lease Renewals

Granting longer tenure to these preschools will also provide some consistency for preschools in the shire, noting that Alstonville Preschool received a 20 year lease and Wollongbar Preschool received a 10 year lease to ensure the receipt of state government funding for the facility.

The Porter Park Child Care Centre also received a 20 year lease as a requirement of State and Federal Government funding.

Tenure agreements for the properties listed in Table 3 are not recommended for renewal at present for the reasons noted. Occupation of the property is or has continued under the holding over provisions of the prior tenure documents:

Table 3: Community Properties Not Currently Recommended for Tenure Renewal

Property	Lessee	Explanation
Northlakes Hall	Northlakes Community Centre Incorporated	Committee retiring. See comments below regarding future options.
30 Ceretto Circuit, Wollongbar	Wollongbar Rugby Union	Tenure will be continued under holding over provisions as this group will be relocating to the new Wollongbar Sporting Fields
Pimlico Hall	Pimlico Ladies Charitable Organisation	Committee retiring. Located on operational land but utilised by the community for not for profit activities. Further details regarding this property will be provided in a separate report to Council.
West End Hall	Ballina Lions Club	Building condition is under assessment. Occupants are presently utilising other meeting and activity spaces whilst this work is undertaken. Located on operational land but utilised by the community for not for profit activities. Further details regarding this property will be provided in a separate report to Council.
Alstonville Tennis Courts (Russellton Estate Courts)	Alstonville Tennis Club	New courts available at the Wollongbar sports fields. See also Table 1.

The existing lessee of the North Lakes Hall recently advised Council that they no longer wished to manage the hall. Direction is sought from the Council as to a preferred approach in relation to the future use and management options of the Northlakes Hall. One option available is for Council to direct manage the hall. This is not recommended at this stage, as additional staff may be required to manage bookings, assist with set up and pack down and cleaning.

The other option is to seek expressions of interest for a new management committee to become the lessee for the hall. Council staff have had preliminary discussions with some interested parties and it is recommended that formal expressions of interest are sought and then a further report be provided to Council regarding the future management of this property.

Sustainability Considerations

- **Environment**
Not applicable.
- **Social**
There are significant social benefits provided to the community by many of the occupants of Council community properties through the range of services they deliver. It is important to ensure that these groups are able to operate affordably and sustainably. It is also important that the use of community property is transparent and considered in the broader public interest.
- **Economic**
The waiving of commercial rental represents an economic loss to Council. However, that loss can be offset to some extent by the broader social, welfare and recreational benefits which are provided by community groups. In accordance with the endorsed implementation of the Community Property Leasing and Licensing Policy (that is, rental structure is to be reviewed after 18 months of the policy's operation), some of the groups the subject of this report may no longer receive the benefit of a peppercorn rental at their next tenure renewal.

Legal / Resource / Financial Implications

In accordance with section 46 of the Local Government Act, Council must only authorise occupation of community land by way of tenure agreements which have a special provision in a plan of management. Council's Plan of Management for Community Land authorises these tenure renewals.

Sections 47 and 47A of the Local Government Act requires Council to publicly exhibit tenure renewals for community land. With the exception of the two preschool renewals, all tenures are recommended for a term of three years, in accordance with Council's Community Property Leasing and Licensing Policy.

There are no negative resource impacts or financial implications associated with the tenure renewal process as these works are funded and accommodated in existing budgets and work programs.

Consultation

Consultation has occurred with the occupants of the properties. Public notice will be given of the intention to renew leases in accordance with sections 47 and 47A of the Local Government Act.

If any submissions are received, these will be reported back to the Council.

Options

The options available are to grant tenure as recommended in Tables 1 and 2 (or otherwise as varied by the Council), to not grant tenure to all or some of the community groups the subject of this report or to defer all or some of the renewals to seek further information.

9.3 Community Property - Lease Renewals

Given that the tenure arrangements recommended are consistent with Council's Community Property Leasing and Licensing Policy, provision of the tenure renewals provides for orderly and reasonable management of Council's community properties, and the renewals confirm arrangements for the groups involved for at least the next three years, it is recommended that Council grants the various tenures as set out in Tables 1 and 2.

RECOMMENDATIONS

1. That Council enters into lease agreements as set out in Tables 1 and 2 in accordance with the provisions of the *Local Government Act* and associated Regulation.
2. The Council authorises the General Manager to affix the seal to the lease documents and any other documents required to allow tenure to be granted in accordance with Tables 1 and 2 and the terms of the *Local Government Act* and associated Regulation.
3. That expressions of interest are sought for a new management committee for North Lakes Hall and that Council receives a further report on this property following the expressions of interest process.

Attachment(s)

Nil

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US17/13	<p>Forms and documents to enable the closing of a temporary road - Lot 229 DP 1107781, Perkins Close, Cumbalum.</p> <p>Explanation</p> <p>Lot 229 DP 1107781 was created as temporary road by DP 1107781 at the northern end of Perkins Close at Cumbalum to allow for a vehicle turning area. This temporary road is now to be closed to enable the extension of Perkins Close to cater for the next stage of the development at Ballina Heights.</p> <p>Council, as the roads authority, must publish a notice in the Gazette and then lodge a request with NSW LPI. The temporary road notification on the title will then be removed under the provisions of s39 Roads Act 1993. The land can then be transferred back to the original subdivider.</p> <p>The Gazette notice, request and land transfer are required to close the temporary road and is considered acceptable to enable the ongoing development.</p>
US17/14	<p>Lennox Community Market Licence Agreement - Renewal of temporary licence for the Lennox Head Community Market following the restructure and renaming of the licensee (formerly 'Northern Region SLSA Helicopter Rescue Service Pty Ltd' now 'Northern NSW Helicopter Rescue Service Ltd'). Term of licence agreement – 26 April to 30 September 2017.</p>

Attachment(s)

Nil

10.2 Investment Summary - March 2017

10.2 Investment Summary - March 2017

Delivery Program Financial Services

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 March 2017.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 March was \$72,286,000. This represents a decrease of \$1,000,000 from February. Council's investments, as at 31 March, are at an average (weighted) rate of 2.77%, which is 0.98% above the 90 Day Bank Bill Index of 1.79%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 March 2017, was \$603,616. This balance is lower than the balance of \$1,591,660 as at 28 February 2017.

It is anticipated that the balance of investments will be lower through the months of April to June 2017 (with anticipated capital expenditure including pool projects) and therefore the interest earned in the remaining months of this year will be lower than that achieved in recent months.

The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for the following purposes:

Reserve Name	Restriction	% Portfolio*
Wastewater Fund (incl developer contributions)	External	22.6
Water Fund (incl developer contributions)	External	16.0
Section 94 Developer Contributions	External	7.9
Bonds and Deposits	External	3.0
Other External Restrictions	External	7.5
Carry Forward Works	Internal	9.8
Sportsfields	Internal	5.8
Landfill and Resource Management	Internal	5.3
Employee Leave Entitlements	Internal	4.2
Quarries	Internal	2.0
Property Reserves	Internal	4.0
Plant and Vehicle Replacement	Internal	1.5
Miscellaneous Internal Reserves	Internal	7.8
Unrestricted		2.6
Total		100%

* Updated to reflect reserves held as at 30 June 2016

10.2 Investment Summary - March 2017

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	2.5%	2%
Rated Institutions							
AMP Bank	Yes	A+	5,000	2,000	20%	2.8%	
Bank of Queensland	No	A-	5,000	5,000	10%	6.9%	
Bank of Western Aust	Yes	AA-	8,000	12,500	20%	17.3%	
Bendigo & Adelaide Bank	No	A-	5,000	5,000	10%	6.9%	
Beyond Bank	No	BBB+	1,000	1,000	10%	1.4%	
Big Sky Building Soc	N/A	BBB	1,000	1,000	10%	1.4%	
Commonwealth Bank of Australia	Yes	AA-	9,998	6,498	20%	9.0%	
Defence Bank Ltd	No	BBB+	4,500	4,500	10%	6.2%	
Greater Building Society	No	BBB	2,000	2,000	10%	2.8%	
Credit Union Australia	No	BBB+	2,000	2,000	10%	2.8%	
ING Bank Ltd	Yes	A-	4,000	4,000	10%	5.5%	
Members Equity Bank	No	BBB+	2,000	3,000	10%	4.2%	
National Australia Bank	Yes	AA-	6,000	6,000	20%	8.3%	
Newcastle Perm Bld Society	No	BBB+	1,000	1,000	10%	1.4%	
Rural Bank Ltd	No	A-	2,000	2,000	10%	2.8%	
Suncorp-Metway Bank	No	A+	6,000	6,000	20%	8.3%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	2.8%	
My State Bank Ltd	No	BBB+	5,000	5,000	10%	6.9%	98%
Unrated ADI's					\$1m	0.0%	0%
Total			73,286	72,286		100%	

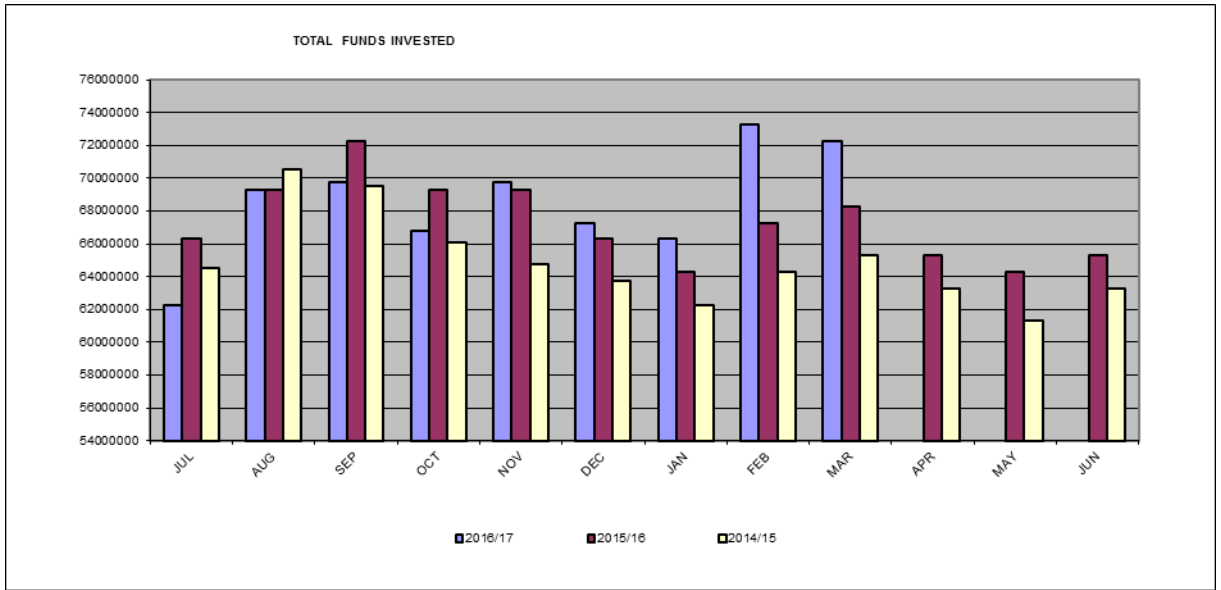
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	36,786 50%	34,786 49%
Non-Fossil Fuel Aligned	35,500 49%	36,500 50%
Not Classified	1,000 1%	1,000 1%
Total	73,286 100%	72,286 100%

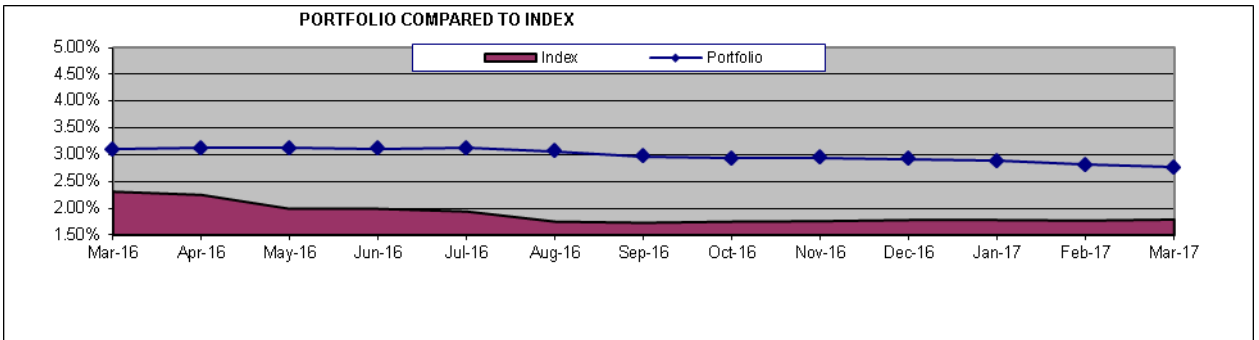
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

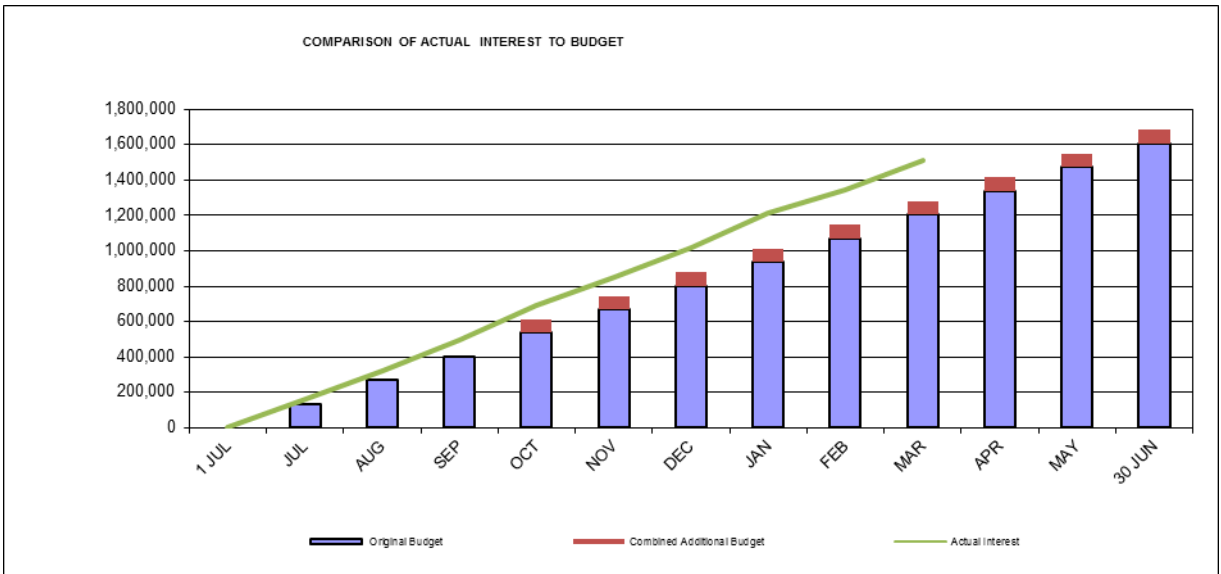
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - March 2017

F. Investments held as at 31 March 2017

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.02%	Perpetual	1,788	1,364
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	1,998	2,049
25/02/14	Westpac Bank	FRN	2.72%	25/02/19	2,000	2,017
31/05/16	AMP Bank	TD	3.00%	30/05/17	1,000	1,000
17/06/16	Commonwealth Bank Of Australia	FRTD	2.85%	17/06/21	1,000	1,000
28/06/16	Commonwealth Bank Of Australia	FRTD	2.84%	30/06/21	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	2.82%	26/07/21	1,000	1,000
16/08/16	Bendigo & Adelaide Bank	TD	2.80%	16/08/17	2,000	2,000
23/08/16	Bendigo & Adelaide Bank	TD	2.75%	22/08/17	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	1,008
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
11/01/17	Newcastle Permanent Bld Society	TD	2.80%	13/07/17	1,000	1,000
17/01/17	Bank of Queensland	TD	2.80%	19/07/17	1,000	1,000
24/01/17	ING Bank Ltd	TD	2.80%	01/08/17	1,000	1,000
30/01/17	ING Bank Ltd	TD	2.80%	08/08/17	1,000	1,000
02/02/17	ING Bank Ltd	TD	2.80%	17/08/17	1,000	1,000
06/02/17	ING Bank Ltd	TD	2.80%	15/08/17	1,000	1,000
15/02/17	BankWest	TD	2.50%	18/04/17	1,000	1,000
15/02/17	Bank of Queensland	TD	2.60%	15/06/17	1,000	1,000
16/02/17	BankWest	TD	2.50%	04/05/17	1,000	1,000
16/02/17	BankWest	TD	2.50%	11/05/17	1,000	1,000
17/02/17	BankWest	TD	2.50%	19/04/17	1,000	1,000
17/02/17	BankWest	TD	2.50%	20/07/17	1,000	1,000
17/02/17	BankWest	TD	2.50%	26/04/17	1,000	1,000
24/02/17	Greater Building Society	FRN	3.22%	24/02/20	1,000	1,007
27/02/17	BankWest	TD	2.25%	04/04/17	2,000	2,000
28/02/17	Credit Union Australia	TD	2.65%	28/06/17	2,000	2,000
01/03/17	Members Equity Bank	TD	2.60%	08/06/17	1,000	1,000
01/03/17	Members Equity Bank	TD	2.60%	14/06/17	1,000	1,000
02/03/17	BankWest	TD	2.25%	06/04/17	2,000	2,000
22/03/17	AMP Bank	TD	2.75%	22/11/17	1,000	1,000
30/03/17	BankWest	TD	2.50%	06/06/17	2,500	2,500
31/03/17	Commonwealth Bank Of Australia	At Call	1.45%	04/04/17	1,500	1,500
Totals					72,286	71,945
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 March 2017.

Attachment(s)

1. TCorp Local Government Economic Commentary March

10.3 Ward Committees - Membership

10.3 Ward Committees - Membership

Delivery Program Governance and Finance

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

Background

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

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

Expressions of interest for new members to our Internal Committees have been called and Council has received applications for Ward membership from the following groups:

B Ward

Preserving Lake Ainsworth Assoc (Inc)

A copy of the Group's nomination letter is attached.

C Ward

Rotary e-Club NextGen

The Group has expressed an interest by email and at this stage has not supplied further information in the form of a nomination.

Key Issues

- Level of community representation on Council's ward committees

Information

The nominations are from community based groups and it is recommended that the nominations be supported.

Sustainability Considerations

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

Legal / Resource / Financial Implications

Nil

Consultation

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

Options

The options are to approve or not approve the nominations. The Ward Committees are one of the primary avenues for community members to provide direct feedback to Councillors and staff. The Preserving Lake Ainsworth Association (Inc) and the Rotary e-Club NextGen group have advised they are community based groups and the recommendation is to support the nominations.

RECOMMENDATION

1. That Council approves the nominations from the Preserving Lake Ainsworth Association (Inc) to the B Ward Committee and the Rotary e-Club NextGen to the C Ward Committee.
2. The approval for Rotary e-Club NextGen is subject to satisfactory documentation being provided to Council that they are a community based group.

Attachment(s)

1. B Ward Application - Preserving Lake Ainsworth Association (Inc)

10.4 Ballina Fair Go Skateboard Event - Funding Allocation

10.4 Ballina Fair Go Skateboard Event - Funding Allocation

Delivery Program Governance

Objective To examine the allocation of funds for the Ballina Fair Go Skateboarding Event for 2017.

Background

Each year Council allocates a budget of \$4,000 for the coordination of a youth skateboarding event, Fair Go.

Fair Go Skateboarding Festival has been operating since 2001, and was initially coordinated by Ballina District and Community Services Association (BDCSA). Council has supported this event since that time.

The event has been coordinated by a number of organisations in recent years including:

- Skateboarding Australia in 2012 and 2013
- Ownlife in 2014
- Ballina Skateboarding Competition Committee (a group of likeminded committee members with lead applicant being Truckstop Sk8) in 2015

In 2016, Council called for expressions of interest (EOI) for the coordination of the event. Truckstop Sk8 was the successful applicant, and held the event in conjunction with the Ballina Prawn Festival.

This report examines options available to allocate the funding for the 2017/18 financial year.

Key Issues

- Equitable and transparent allocation of Council funding

Information

Council's work program formally supports two youth event activities, one being a youth skateboarding event called Fair Go, and another being Youth Week. Information on these two programs is below.

Youth Week

Youth Week began as a NSW Government initiative in 1989, and has since grown to be a celebration of young people in every state and territory across the country.

Youth Week is held in April each year, with Council receiving grant funds from the NSW Government, matched with Council funds, to provide for youth activities. As part of the funding agreement with the NSW Government, councils agree to involve young people in all aspects of Youth Week, including the planning, development and management of activities.

10.4 Ballina Fair Go Skateboard Event - Funding Allocation

This year, Council provided funds to the Youth Interagency, B Space, to provide a pizza making and movie night. Council also hosts youth workshops at the Northern Rivers Community and hosts an exhibition, *LOUD in the Gallery*. This exhibition celebrates National Youth Week, with final year works on showcase from secondary schools in the Ballina Shire.

Students from Alstonville High, Ballina High, Southern Cross School K-12, Xavier Catholic College and the Emmanuel Anglican College experience their artwork being exhibited in a professional gallery while giving the community a valuable insight into the processes, skills and concepts the students explore in art making.

Fair Go Skateboarding Event

The 2016 event was coordinated by Truckstop Sk8 as part of the Prawn Festival and they have provided the following information as part of their acquittal documentation.

Description	Income (\$)	Expenses (\$)
Council support	4,000	
Sponsorship	5,200	
Merchandise	135	
Total Income	9,335	
Insurance		206
Infrastructure		800
Waste Management		500
Marketing and promotion		2,423
Administration		612
Other		5,200
Total Expenses		9,741
Profit/Loss	406	

Our event added an extra element to the Ballina Prawn Festival which not only attracted skateboarders to the festival but their families and spectators as well. We know there were several families from the Sunshine Coast QLD staying at the Shaws Bay caravan park for several days, we had overnight visitors from the Gold Coast QLD and even a family of 5 from Newcastle visiting for a few days.

We are hoping to expand our event to a two day event next year, although this hinges on factors which are yet to be determined this is what we are hoping to achieve. This would give us the ability to run the event with the appropriate time given to competitors to run through registration and heats on the first day, then to run the finals and bowl jam on the second day.

10.4 Ballina Fair Go Skateboard Event - Funding Allocation

This would also allow more flexibility for any, unexpected weather events to complete our event without sacrificing time for our competitors. If we are not able to expand to a two day event we are still looking to increase our events participation and grow the event. In only our second year we had a steady growth in competitor numbers and also we able to bring on some new sponsors this year whilst still retaining, our previous sponsors. There are no other skateboarding competitions that rival ours between Newcastle and possibly Brisbane....we are uniquely situated to grown our event run by locals and attract more competitors from SE Qld and further south in NSW.

Council staff has made contact with the organisers of Fair Go last year, and they have indicated their willingness to proceed with organising the event in 2017. They however had not made contact with the Ballina Prawn Festival at this time.

Truckstop Sk8 is registered as a sole trader on the Australian Business Register website. Historically, Council provides event funding to not for profit incorporated organisations. However an exception was made for this event due to a lack of other organisers.

Sustainability Considerations

- **Environment**
Events are managed to limit adverse environmental impacts.
- **Social**
Events provide social benefits to the broader community.
- **Economic**
Events make a positive contribution to the local economy.

Legal / Resource / Financial Implications

Pending the resolution of Council, an agreement on financing between the successful applicant and Council will be prepared. A total of \$4,000 has been allocated in the draft 2017/18 budget. The expenditure will be subject to an acquittal process.

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

Consultation

An advertised expression of interest process has been undertaken over the prior two years which is considered a form of consultation. The matter has also been the subject of a number of Council reports.

Options

One option is to continue with an expression of interest process for the coordination of Fair Go Skateboarding event in 2017. This is the fair and equitable option to allocate funds.

10.4 Ballina Fair Go Skateboard Event - Funding Allocation

In considering this option, Council could decide, so that the process provides some financial security to the successful applicant, to allocate the event for a two year period for coordination in 2017 and 2018.

A second option Council may wish to consider is not to proceed with a skateboarding event and instead direct the funds to the Youth Week program. This could mean an expanded program of events in April 2018.

Given the track record and prior experience of the existing event coordinators, a third option is to grant the \$4,000 funds to Truckstop Sk8 to organise the 2017 Ballina Fair Go Skateboarding event.

In order to provide an equitable and transparent allocation of funds, it is recommended that Council undertake an expression of interest process for the coordination of Ballina Fair Go Skateboarding event in 2017 and 2018.

RECOMMENDATION

That Council continues with an expression of interest process for the coordination of the Ballina Fair Go Skateboarding event for 2017 and 2018. The events will be subject to a finance agreement between Council and the successful applicant. The events will also be subject to an acquittal process.

Attachment(s)

Nil

10.5 Delegations - Review

10.5 Delegations - Review

Delivery Program Governance

Objective To review the Council delegations in accordance with Section 380 of the Local Government Act.

A council is structured to operate by delegating responsibilities to the General Manager, and possibly other bodies, leaving the elected council to focus on policy related matters. The authority of a council to delegate is governed by Section 377 of the Local Government Act (LGA), which states, in summary, a council may by resolution delegate to the general manager, or any other person or body (not including another employee of council) any of the functions of the council other than those listed.

The items excluded from being delegated, are:

- a) *the appointment of a general manager*
- b) *the making of a rate*
- c) *a determination under section 549 as to the levying of a rate*
- d) *the making of a charge*
- e) *the fixing of a fee*
- f) *the borrowing of money*
- g) *the voting of money for expenditure on its works, services or operations,*
- h) *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)*
- i) *the acceptance of tenders to provide services currently provided by members of staff of the council*
- j) *the adoption of an operational plan under section 405*
- k) *the adoption of a financial statement included in an annual financial report,*
- l) *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6*
- m) *the fixing of an amount or rate for the carrying out by the council of work on private land*
- n) *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work*
- o) *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979*
- p) *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194*
- q) *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*
- r) *a decision under section 234 to grant leave of absence to the holder of a civic office*
- s) *the making of an application, or the giving of a notice, to the Governor or Minister*
- t) *this power of delegation*
- u) *any function under this or any other Act that is expressly required to be exercised by resolution of the council.*

10.5 Delegations - Review

Once the general manager is provided with delegations, the general manager, under Section 378 of the LGA, then has the authority to delegate any of the delegations, excluding the power of delegation.

These delegations are provided on an individual basis to staff members by the general manager, with the level of delegation reflecting the staff member's authority within the organisation.

Delegations are a critical component of the operation of a council, as it is essential that staff, or any other bodies that carry out council functions, have the authority to operate with sufficient autonomy to undertake their duties effectively and efficiently.

As delegations are important in the functioning of a council, Section 380 of the LGA then states as follows:

Each council must review all its delegations during the first 12 months of each term of office.

The purpose of this report is to comply with Section 380 of the LGA.

Key Issues

- Level of delegation provided

Information

Council currently has two specific delegations in place, as determined by the elected Council; i.e.

1. Delegation to the General Manager

A copy of the existing delegation is included as the first attachment to this report. The format of the General Manager's delegations is based on the position receiving, essentially total delegation from Council, subject to some limitations or exclusions. Those limitations are listed in schedule 2 of the delegation. The limitation section is a key part of this delegation in that it identifies the items that Council has not delegated to the General Manager.

Clause 3 of schedule 2 is important in that it confirms that the General Manager can adjust activities or resources within the organisation only below section/ function level. What this means is that the major sections of Council cannot be changed from one group to another group without a resolution of Council. For example the Financial Services Section cannot be changed from the General Manager's Group to another Group without a resolution. However this delegation does not exclude a service within that section, such as debtors, being potentially transferred by the General Manager, without a Council resolution.

Clause 6 of schedule 2 is also important as it specifies which development applications cannot be determined by the General Manager. Overall, the delegation is considered to be operating effectively and no change is recommended.

2. *Delegation to the Reserve Trust Committee*

The current delegation to this committee, as resolved at the September 2016 meeting, is as follows:

"To determine all matters presented to the Committee in respect to items where Ballina Shire Council is the Reserve Trust Manager, excluding those not able to be delegated as per Section 377 of the Local Government Act".

No change is recommended.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The use of delegations is designed to ensure that organisations operate effectively and efficiently.

Legal / Resource / Financial Implications

Council is legally obliged to review its delegations within 12 months of an election.

Consultation

This report provides public information on the delegation process.

Options

The options for Council are based around the level of delegations provided. From an operational perspective the current delegations are considered to operate effectively and no change is recommended.

Some councils provide delegations to the Mayor, although this has not been the practice of Ballina Shire Council and the Mayor has not requested any delegation.

RECOMMENDATIONS

1. That Council delegates to the position of General Manager the functions and authorities of Schedule 1 and Schedule 2 of this report.
2. That Council confirms its delegations to the Reserve Trust Committee; are as follows, and as resolved at the September 2016, Ordinary meeting:

"To determine all matters in respect to items where Ballina Shire Council is the Reserve Trust Manager, excluding those not able to be delegated as per Section 377 of the Local Government Act".

Attachment(s)

1. Signed Delegations - General Manager

10.6 Policy (Review) - EEO Policy and Management Plan

10.6 Policy (Review) - EEO Policy and Management Plan

Delivery Program Human Resources and Risk Management

Objective To review Council's EEO Policy and EEO Management Plan

Background

In 1977 the NSW Government passed the Anti Discrimination Act. Subsequent amendments of the Act have outlawed discrimination on the grounds of sex, disability, race, homosexuality, marital status, age, transgender and carers' responsibilities.

To comply with the requirements of the Anti Discrimination Act 1977 and Section 345 of the Local Government Act 1993, Council is required to develop and adopt an Equal Employment Opportunity (EEO) Management Plan/

The purpose of this report is to review the current EEO Policy and Management Plan.

Key Issues

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

Information

Council has an existing EEO Policy and EEO Management Plan. To reinforce Council's commitment to EEO, Council's EEO Policy identifies Council's commitment to the principles of EEO. This policy makes reference to the EEO Management Plan. This plan is an operational document that identifies strategies, specific actions and targets to support the EEO goals and objectives.

A review of the current policy has identified that there are no changes necessary as the policy is still considered to be contemporary and reflects current legislation. Therefore no further changes are recommended. A copy of the policy is attached to the report.

Council's Risk and Human Resources Section reviews and updates the EEO Management Plan in consultation with the staff Consultative Committee (this Committee comprises staff and union representatives from a cross section of all occupational groups) and other members of the workforce.

The review of the EEO Management Plan identified only minor changes relative to defining the officers responsible for implementing the actions and tasks outlined in the plan. The plan was endorsed by the Consultative Committee at its meeting on 7 February 2017.

A copy of the amended EEO Management Plan is attached.

Sustainability Considerations

- **Environment**
Not applicable.

- **Social**
Elimination of discrimination will assist in creating a skilled and diverse workforce and improve the well being and morale of Council employees whilst ensuring Council maintains a reputation as an EEO compliant employer.

- **Economic**
Not applicable.

Legal / Resource / Financial Implications

Council is required to comply with the Anti Discrimination Act and Local Government Act requirements.

Consultation

The EEO Policy and Management Plan has been reviewed by the staff Consultative Committee and Council's senior management team. As the changes are only minor it is recommended that Council adopt the policy and plan as presented. The documents will also be exhibited for public comment. If any submissions are received they can be reported back to Council however, there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the policy and approve or not approve the exhibition of the policy and amended plan. The only changes made were to the EEO Management Plan and these changes are largely house-keeping. The plan has been reviewed by the staff Consultative Committee. Therefore, it is recommended that the policy and plan be approved for exhibition for public comment.

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

RECOMMENDATIONS

1. That Council adopts the EEO Policy and amended EEO Management Plan, as attached to this report.

2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Equal Employment Opportunity Policy
2. Equal Employment Opportunity Management Plan (Under separate cover)

10.7 Policy (Review) - Interaction Between Councillors and Staff

Delivery Program Governance

Objective To review the Interaction Between Councillors and Staff Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Interaction Between Councillors and Staff policy. Council first adopted this policy in May 2004 and the policy is typically reviewed within the first few months of the Councillor election.

Key Issues

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

Information

It is essential that councils have a staff and councillors interaction policy to ensure that all parties are clear as to what are the boundaries for appropriate interaction. The current Council policy is based on documents provided by the Office of Local Government (OLG).

The policy remains contemporary and reflects current legislation and only minor changes have been identified.

It is submitted to Council as a matter of housekeeping and to provide a guide to Councillors on how councillors and staff should interact. A copy of the updated policy is attached to the report. Some of the key points in the policy include:

- Councillors cannot direct staff (clause 1.1)
- Staff must carry out lawful directions (clause 1.2)
- Councillors should only contact the General Manager, Group Managers, or with the Group Manager's approval, Section Managers (clause 1.4)
- A summary of inappropriate interactions (clause 1.5)
- Councillors do not have a right to matters they are only curious about (other than the same rights as a member of the public (clause 2.2)

Sustainability Considerations

- **Environment**
Not Applicable

10.7 Policy (Review) - Interaction Between Councillors and Staff

- **Social**

The Interaction between Councillors and Staff policy guides councillors, staff and the community on how councillors and staff should interact. This policy, in combination with the Code of Conduct, regulates the behaviour of councillors and staff.

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

Nil

Consultation

It is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the policy as presented. It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopts the Interaction Between Councillors and Staff Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Interaction Between Councillors and Staff

10.8 Policy (Review) - Investments Policy

10.8 Policy (Review) - Investments Policy

Delivery Program Financial Services

Objective To review the Investments Policy

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements.

The purpose of this report is to review the Investments policy.

Councils are required to have an Investments Policy to ensure that all surplus cash is invested consistent with the terms of the policy.

The policy is also guided by the Local Government Minister's Order, which defines the financial instruments in which councils can invest.

The Minister's Order and the Investments Policy became particularly relevant during the global financial crisis (GFC) where many councils and other institutions lost significant amounts of money by investing in instruments that were considered to be safe and capital guaranteed, however the GFC proved that was not the case.

Key Issues

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

Information

The policy provides a good overview of the issues to be considered when investing, along with the parameters where investments can be placed (refer to clause 12.3 for the investment thresholds).

The policy is still contemporary and reflects current legislation therefore no further changes are recommended.

Sustainability Considerations

- **Environment**
Subject to obtaining a comparable rate of return or better and compliance with other investment policy parameters, investments shall be placed with non-fossil fuel aligned institutions where possible.
- **Social**
Not applicable.
- **Economic**
No impact.

Legal / Resource / Financial Implications

The policy looks to establish a framework to invest Council's excess cash in a manner that mitigates risks whilst enabling a fair return on funds invested.

Consultation

It is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the policy. It is recommended that the policy be adopted as presented.

RECOMMENDATIONS

1. That Council adopts the Investments Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy - Investments (Review)

10.9 Delivery Program and Operational Plan Review - 31 March 2017

Delivery Program Governance

Objective To provide the quarterly review of the implementation of the 2016/17 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 third review of the current Delivery Program, which includes the Operational Plan, with the information contained in the report based on work undertaken up to 31 March 2017.

The review is included as a separate attachment which provides an overview of all the programs included in the 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.

Key Issues

- Compare actual results against the adopted goals and priorities

Information

The Delivery Program / Operational Plan is the key corporate document 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 document, 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.

10.9 Delivery Program and Operational Plan Review - 31 March 2017

- 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. Some of the figures are benchmarks and others are performance targets.

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.

Program Actions

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	7	33	30	97
Amber	2	0	1	1	4
Red	0	0	1	1	2
Total	29	7	35	32	103

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	93	100	94	94	94
Amber	7	0	3	3	4
Red	0	0	3	3	2
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 item continues to be marked as amber as the attendance numbers for meetings remain poor.
- Implement East Ballina Cemetery Master Plan (page 4) – Funding for this project will now be included in the 2017/18 capital expenditure budget. Works to be funded next year focus on items 3, 4 and 8 in the master plan, which relate to entrance road improvements and tree plantings.
- Provide skate park facilities for Alstonville / Wollongbar (page 5) – This item is marked as amber as construction will not occur this financial year.
- Implement Captain Cook and Pop Denison Master Plans (page 5) – These two items are marked as green as implementation of the plans is being advanced through the planning process, however limited physical on-ground works may occur this financial year due to the detail design and planning approval processes, along with the refurbishment at the Ballina RSL taking longer than originally anticipated.
- Progress availability of land at the Russellton Industrial Estate (page 9) – 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 also 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 12) – 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 Local Growth Management Strategy (page 15) – The Strategic Planning section has a significant number of projects underway and this review will now occur during 2017/18.

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

Service Delivery Targets / Benchmarks

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

Service Delivery Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	19	20	20	16	75
Amber	1	2	13	4	20
Red	0	1	4	0	5
Total Tasks	20	23	37	20	100

Service Delivery Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	95	87	54	80	75
Amber	5	9	35	20	20
Red	0	4	11	0	5
Percentage Total	100	100	100	100	100

When reviewing the indicators, certain items are cumulative 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 indicators the items of note include the following:

- Development Services (page 26) – Various - Some items are marked amber. This reflects the high workload currently placed on this section due to the level of building activity in the Shire.
- Environment and Public Health (page 28) – Number of onsite effluent disposal systems inspected per annum (Target > 100, 33 to date) – This area continues to be problematic based on resourcing and system compliance levels – staff are also involved in the assessment of development applications.

- Water and Wastewater Services (Various – pages 33 to 35) – There are a number of amber and red indicators with some indicators more reflecting preferred outcomes, rather than targets, although there are areas where extra resources may need to be allocated over time. The new section manager is also undertaking a review of the current indicators.

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. 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.

RECOMMENDATION

That Council notes the contents of this nine month review in respect to the implementation of the 2016/17 Delivery Program and Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan Review - 31 March 2017 (Under separate cover)

10.10 Capital Expenditure Review - 31 March 2017

10.10 Capital Expenditure Review - 31 March 2017

Delivery Program Governance

Objective To provide a quarterly update on the implementation of the capital expenditure program.

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 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 nine month period to 31 March 2017 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)

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. Renovations at the RSL are continuing to delay the implementation of this project as scaffolding is in place at the western end of Captain Cook Park.

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 new public amenities. The planning consent has now been issued allowing work to commence shortly.

Wollongbar Skate Park – With Council still to confirm a design and obtain planning consent the majority of the funding is recommended to be transferred to 2017/18. Dependent upon the extent of community consultation undertaken, along with any public exhibition of the planning application, once submitted, it is likely that construction of this project may not commence until 2018.

Wollongbar Sports Fields – The budget variation for this project has been reported to the April 2017 Finance Committee meeting.

Waste Management (attachment one)

Various – The funding for a number of projects will be deferred to 2017/18 as reviews of existing proposals are being undertaken based on continuing changes in waste related legislation.

Environmental and Public Health (attachment one)

Shaws Bay Coastal Zone Management Plan – As per 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 now been successful in obtaining grant funding of \$95,000 and \$128,900 to extend the scope of works.

The recommendations to this report provide for the adjustment of this budget to include the \$128,900 grant monies which relate to east arm stabilisation and erosion control works.

A grant of \$52,930 has also been secured to investigate dredging, with that expenditure to be treated as an operating expense.

Operations Support (attachment two)

Ballina Indoor Sports Centre – Lease negotiations are now largely finalised with the Department of Education. Due to delays in these negotiations Council will now directly manage the construction of the two court facility. The increase in the budget to \$100,000 is to fund the procurement of consultants to finalise the design and approvals process. This funding is sourced from an internal reserve created for this project.

10.10 Capital Expenditure Review - 31 March 2017

Ballina Surf Club – Building B – The design has been reviewed and direct negotiations are occurring with two suppliers for the delivery of this project.

Swimming Pools – Woollams has now commenced works. The budget adjustment represents the likely expenditure this financial year based on the cash flow provided by Woollams.

This work is funded by loans and an internal reserve.

Commercial Services (attachment three)

Wigmore Arcade – The budget adjustment reflects the final cost for this project.

Wollongbar Urban Expansion Area – The budget adjustment reflects figures provided to the April Finance Committee meeting based on the likely cash flows for this project.

Water and Wastewater (attachments four and five)

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

Engineering Works (attachment six)

Urban Roads

Skinner Street – As reported previously 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 adjustments.

Rural Roads

As reported previously 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 2016 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 remain concerns that the Federal Government may not honour the commitments to these two projects as the works are completed.

Council continues to work with the RMS, which is acting as the liaison between Council and the Federal Government, to put forward alternative projects for consideration, with similar outcomes and value to the Shelly Beach and Skennars Head Road funding allocations.

Sustainability Considerations

- **Environment**
Many of the works listed provide positive environmental outcomes

10.10 Capital Expenditure Review - 31 March 2017

- **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 March 2017 (\$'000)

Section	Budget (%)	Expended (%)	Percentage
Open Spaces	4,747,500	3,617,000	76
Waste	34,000	0	0
Public and Environmental Health	395,900	0	0
Operations Support	14,230,600	2,605,500	18
Commercial Services	4,774,000	985,400	21
Information Services	103,500	21,600	21
Water	2,330,000	792,700	34
Wastewater	4,171,400	1,542,300	37
Engineering Works	17,830,800	7,482,800	42
Total	48,617,700	17,047,300	35

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 report in respect to the capital expenditure review for the period ending 31 March 2017.
2. That Council approves the following budget adjustments, as outlined in the attachments to this report, excluding items subject to separate reports to Council.

Item	Current Budget	Revised Budget	Variation	Comment
Open Spaces				
Wollongbar Skate Park	500,000	50,000	(450,000)	Transfer to 2017/18
Waste Management				
Conveyor System	315,000	15,000	(300,000)	Transfer to 2017/18
Resource Recovery	105,000	5,000	(100,000)	Transfer to 2017/18
Stockpile Processing	56,000	0	(56,000)	Transfer to 2017/18
External Roads	47,000	0	(47,000)	Transfer to 2017/18
Public and Environmental Health				
Shaws Bay CZMP	267,000	395,900	128,900	Inclusion of grant monies received
Operations Support				
Ballina Sports Centre	3,000	100,000	97,000	Increase based on likely expenditure – funded from internal reserve
Swimming Pools	1,379,000	8,090,700	6,711,700	Increase based on likely expenditure – funded from internal reserve and loans
Property – Commercial				
Wigmore Arcade	343,000	378,000	35,000	Increase based on actual expenditure – funded from internal reserve
Water				
Main Renewals	350,000	225,000	(125,000)	Saving based on likely expenditure
Reservoirs - Integrity Upgrades	500,000	100,000	(400,000)	Transfer to 2017/18
Water Pressure Management Zones	234,000	0	(234,000)	Transfer to 2017/18
Pump Stn – Basalt	210,000	50,000	(160,000)	Transfer to 2017/18
Trunk - East Ballina	800,000	600,000	(200,000)	Transfer to 2017/18
Marom Ck - Secure Yield	150,000	75,000	(75,000)	Transfer to 2017/18
Wastewater				
Pump Upgrade – Byron Street	1,531,000	931,000	(600,000)	Transfer to 2017/18
Pump - Skennars Head	204,000	100,000	(104,000)	Transfer to 2018/19
Treatment Plant – Lennox Decanters	100,000	0	(100,000)	Transfer to 2017/18
Treatment Plant – Alstonville	115,000	0	(115,000)	Transfer to 2017/18
Treatment Plant – Lennox Various	76,000	64,400	(11,600)	Saving
Trunk Mains – WUEA	155,000	45,000	(110,000)	Transfer to 2017/18
Desalination	545,000	300,000	(245,000)	Saving
Montwood Drive	575,000	240,000	(335,000)	Saving

10.10 Capital Expenditure Review - 31 March 2017

Engineering Works				
Stormwater - Cherry	0	21,000	21,000	Increase based on estimated costs
Stormwater - Martin	16,000	0	(16,000)	Offset for above item
Stormwater – Lanes	5,000	0	(5,000)	As above
Skinner Street (segment 10)	312,000	469,700	157,700	Based on actual cost
Sunnybank Drive, Ballina	313,000	269,300	(43,700)	Offset for above adjustment
Swift Street, Ballina	114,000	0	(114,000)	As above
Path - Gibbon Street	40,000	51,000	11,000	Based on actual
Path - Park Lane	11,000	0	(11,000)	Offset for above item

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

11.1 **Bike Plan - Review of Public Exhibition**

11. **Civil Services Group Reports**

11.1 **Bike Plan - Review of Public Exhibition**

Delivery Program Asset Management

Objective To provide Council with the results of the exhibition of the draft Bike Plan.

Background

A significant effort is being made to make Ballina Shire a bicycle-friendly environment and to better integrate cycling as an active transport option into our existing transport network. The development of a Bike Plan has been undertaken in response to this, and to provide a coordinated and strategic approach to delivering bicycle infrastructure and education across the Shire.

The development of the Bike Plan aligns with Council's Community Strategic Plan (2013-2023) to provide a more connected community, a healthy community and a healthy environment.

Development of the Plan is also a commitment of Council's Road Safety Strategy (2014/15-2023/24) and is needed in order to improve path connectivity within our Shire and with neighbouring local government areas, while maximising opportunities to separate cyclists and pedestrians from traffic.

The Bike Plan will ensure existing network commitments, including the Coastal Recreational Path and Shared Path, the NSW Coastline Cycleway, and shared path projects detailed in the Pedestrian Access and Mobility Plan (PAMP) (currently under review), form part of a well-planned bicycle network.

The adoption of the Plan will also assist Council in securing grant funds for specific projects in the Plan.

The Draft Plan has four main areas of focus, including:

- Shared path connections within and between towns in the Shire
- Safety for cyclists
- Cycling support facilities, such as signs, lighting, bike parking areas and
- Promotion of cycling in the community.

The Draft Plan includes a review of existing shared path networks in Alstonville, Ballina Island, East Ballina and West Ballina, Cumbalum, Lennox Head, Skennars Head, Wardell, and Wollongbar. New shared paths are also identified in the Plan.

For the purpose of the draft Plan, 'cycling' means cycling for recreation, commuting, touring, utility (such as for shopping), and for sport. It excludes BMX, mountain bike riding, and track cycling.

11.1 Bike Plan - Review of Public Exhibition

This report outlines the submissions received from the public exhibition of the Draft Ballina Bike Plan. A copy of the exhibited plan is provided in attachment one.

Key Issues

- Review of submissions

Information

Thirty-nine submissions were received in response to the exhibition of the Draft Ballina Bike Plan (including two submissions comprising 234 form letters).

The submissions are included as an attachment two to this report.

The submissions may be categorised into the following subgroups:

- Suggestions for new paths
- Coastal Recreational Path
- Beachfront Parade
- Signage
- General issues (including lighting, safety and community education, line marking, and path maintenance) and
- Mountain biking.

There are three relevant Council resolutions:

- 23 July 2016: *Any consideration of public access to North Creek foreshore be deferred until future updates of the Draft Bike Plan and PAMP are undertaken to consider within broader context of Shire-wide assessment of shared/pedestrian access needs and is prioritized accordingly.*
- 28 July 2016: *That the Draft Ballina Bike Plan be amended to exclude the proposed shared pathway from Beachfront Parade and remove Beachfront Parade footpath from the PAMP.*
- 26 June 2014: *That Council consider the use of mutual respect signage (bikes/ walkers / wheelchairs – keep left) on shared pathways. Mutual respect signage should be considered when developing designs, inspecting paths or responding to community suggestions/complaints.*

With consideration to the submissions and relevant Council resolutions, the following responses and amendments are recommended.

New Paths

A number of new paths were referred to the Draft Bike Plan from ancillary Council planning processes, such as the Wardell Strategic Plan (2015-2035), and community engagement for the Alstonville 2037 Plan.

Opportunities for these paths will be reviewed if funding becomes available and as part of specific village forward planning processes (in accordance with priorities identified through community engagement processes).

11.1 Bike Plan - Review of Public Exhibition

A submission regarding a new cycling circuit for recreational purposes to Tosha Falls and Crawford Park has been referred to the Tosha Falls Plan of Management (under development).

In response to submissions regarding a shared path at North Creek, these proposals have not been included in the recommended plan although consideration of this has been given in response to the required review of public access of North Creek foreshore (as per Council Resolution 230606/4 above).

The reason for not showing this proposal at this point in time is it is very uncertain whether such a project would be approved and whether the cost benefit ratio would make it feasible. Further investigation into these questions is required, however in light of the extensive list of requested work for the existing road system and the priority for safety improvements, it is not recommended to include this proposal in the current plan.

Other proposals for new paths and connections will be incorporated as actions into the Ballina Bike Plan where the proposal is not a duplication, is not accommodated in other planning and development processes, and where funding and resources are available.

Coastal Recreational Path

Ten submissions were received regarding the existing Coastal Recreational Path (CRP) and planned construction sections. One of the major concerns was that the pathway between Sharpes Beach and Pat Morton Lookout will be for pedestrians only (footpath or walkway), and that existing options for cyclists will create an unsafe cycling environment. Three of the submissions supported the proposal for on-road cycling route along Silver Gull and The Terrace (rather than a shared path).

The planning consent for the CRP does not support cycling north of Sharpes Beach (this section has generally been referred to as the Coastal Walk as the consent is for a walking track).

Improvements for the safety and amenity of cyclists between Sharpes Beach and Pat Morton will be achieved through the construction of the Coastal Shared Path / Cycleway (Shared Path East).

The CRP has been subject to a public submission process in 2015, and the implementation of forward actions is subject to resolutions derived from this process, and from existing consenting authorities, approvals and conditions.

It is recommended that suggestions received on the Draft Bike Plan regarding the forward planning for the CRP be addressed in the context of the CRP project implementation.

Beachfront Parade

Five submissions were received regarding a proposed shared path on Beachfront Parade. Two of these submissions included 234 form letters from local community members in support of the exclusion of a shared path from the Bike Plan and PAMP.

11.1 Bike Plan - Review of Public Exhibition

It is recommended that this proposal be excluded from actions and maps in the Ballina Bike Plan, in accordance with the Council resolution from July 2016.

Signage

A number of submissions indicated that shared paths require better signage to promote safety and the shared path etiquette.

These submissions align with signage proposals in the Bike Plan and with the Council resolution from June 2014. Additional etiquette and safety signage has also recently been installed on the shared path extending from the Richmond River Sailing Club and Kerry Saxby Walk to Sharpes Beach.

General

A number of submissions supported ideas for improved lighting, line marking, community education and improved path maintenance.

These submissions align with existing actions in the Bike Plan and with existing Council road safety and maintenance policies.

Mountain Biking

Seven submissions felt that mountain biking should have been included in the Draft Bike Plan. For the purpose of the draft Plan, 'cycling' denoted cycling for recreation, commuting, touring, utility (such as for shopping), and for sport. It excluded BMX, mountain bike riding, and track cycling.

It is recommended that respondents be advised that the Draft Bike Plan excludes mountain biking because this activity is beyond the scope of the Bike Plan, and that Council continues to support mountain biking activities and business enterprises through other program initiatives.

Sustainability Considerations

- **Environment**

Cycling is a healthy and sustainable form of transport. The provision of safe and convenient routes as part of the Draft Bike Plan will facilitate reduced car use, resulting in environmental benefits such as reduced traffic congestion, improved air quality, reduced traffic noise and reduced carbon emissions.

- **Social**

The Draft Bike Plan can have positive social impacts by encouraging cycling as a physical and social opportunity, and by addressing road user conflict through the improvement of shared path connections. Cycling offers social benefits including increased social cohesion and connectivity, and access to recreational, social and service opportunities. Cycling may also offer specific benefit to older riders such as prolonged independent living and social inclusion.

11.1 Bike Plan - Review of Public Exhibition

- **Economic**

A major benefit of the Draft Bike Plan is that it aims to reduce the trauma and costs associated with traffic crashes. It may also afford cost savings associated with participation in physical activity with flow-on effects to the health system. In addition, cycling is a low cost form of transport for individuals.

Legal / Resource / Financial Implications

The Draft Bike Plan includes a prioritised and costed works program for all identified actions, and is linked to the recurrent budget allocation for shared paths in the capital works program. This is approximately \$200,000 per annum.

The Plan also identifies additional potential funding partners and streams to deliver the Implementation Plan and Schedule of Works, enabling Council to maximise funding opportunities.

Consultation

The Draft Ballina Bike Plan was developed in consultation with the community. The consultation included:

- Consultation with key internal and State government stakeholders in establishing terms of reference for the project
- Surveys completed as part of NSW Bike Week and Bike Week drop-in sessions
- Local school engagement
- Community survey (online and hard copy)
- Consultation with internal Council staff and with adjoining Local Government Area councils.

Community consultation on the Draft Bike Plan was driven and collated by Ross Planning, and involved contacting all agencies, groups and individuals involved in the previous stages of the Plan's development with an invitation to a public drop-in session to discuss the Plan's proposals.

The Draft Plan was on public exhibition during September-October 2016 at Council's Customer Service Centre (40 Cherry Street Ballina), and at the Ballina, Alstonville and Lennox Head libraries. It was also accessible on Council's website which included a Feedback form.

Options

1. To endorse proposed responses to submissions and complete final amendments to the Draft Bike Plan, and adopt the Plan as final.

The recommendation to this report lists a number of specific proposed amendments. These have generally been discussed in the above report in the information provided responding to the submissions received.

2. Make other amendments or not endorse proposed responses to submissions and amendments to the Draft Bike Plan.

RECOMMENDATIONS

That Council adopts the exhibited Draft Bike Plan, as attached, subject to the following amendments:

- a) Introduction, Reader's Note, to include: "Please also note that for the purpose of this Bike Plan, 'cycling' denotes cycling for recreation, commuting, touring, utility (such as for shopping), and for sport. It excludes BMX, mountain bike riding, and track riding."
- b) East Ballina's Cycling Environment, p.23: Change from "There are existing issues with sight lines exiting the underpass from The Coast Road at Silver Gull Drive." Change to: "There are existing issues with sight lines exiting the underpass from The Coast Road to Beachfront Parade."
- c) Map 5 East Ballina's Cycling Environment p.38: Amend alignment of the Coastal Recreational Path on The Coast Road to more clearly illustrate approved plans.
- d) Map 5 East Ballina's Cycling Environment p.38: Delete proposed shared path (red line) along The Coast Road.
- e) Map 5 East Ballina's Cycling Environment p.38: Change existing shared path (blue line) near The Coast Road to proposed on-road (red dotted line).
- f) Map 8 Skennar's Head Cycling Environment p.41: To be consistent with changes on Map 5, delete proposed shared path (red line) along The Coast Road.
- g) Map 8 Skennar's Head Cycling Environment p.41: To be consistent with changes on Map 5, change existing shared path (blue line) near The Coast Road to proposed on-road (red dotted line).
- h) Map 8 Skennar's Head Cycling Environment p.41: Change existing on road (blue dotted line, south-east corner) to existing shared path (blue line).
- i) Map 8 Skennar's Head Cycling Environment p. 41: Remove small section of proposed shared path (red line, south-east corner) along Beachfront Parade.
- j) Objective One Action Plan, EB1.15, p.50: Signage Silver Gull Drive: Amend wording of action detail to read "Install on road line-marking/signage along Silver Gull Drive".

Attachment(s)

1. Draft Bike Plan (Under separate cover)
2. Bike Plan Submissions (Under separate cover)

11.2 Kings Court Reserve - Embellishments

11.2 Kings Court Reserve - Embellishments

Delivery Program Water and Wastewater

Objective To consider embellishments at Kings Court Reserve, such as shade sails for the playground equipment and BBQs.

Background

At the February 2017 Ordinary meeting Council considered a Notice of Motion requesting that Council allocate \$20,000 for the installation of BBQ facilities at the playground in Kings Court Reserve, funded from the wastewater reserves.

A copy of the Notice of Motion is attached.

An amendment to the motion was moved and carried, resulting in the following resolution:

Resolution 230217/21:

That a further report be presented to Council that considers further embellishments at Kings Court Reserve such as shade sails for the playground equipment and BBQs as per the original Management Plan for the park.

The following report addresses this resolution.

Key Issues

- Infrastructure needs
- Funding

Information

The following information is provided in response to the resolution.

BBQ facilities

The provision of BBQs at Kings Court Reserve was originally proposed as part of the Kings Court Embellishment Project debated at the November 2014 Ordinary meeting; there the matter was deferred to a December 2014 briefing over concerns at the scale of the proposed project and budget estimates.

The briefing resulted in a number of design modifications, including deletion of the BBQs from the project.

This site already has a power supply and three locations have previously been designated for three BBQs.

Each BBQ would cost \$10,000 plus \$500 to install.

11.2 Kings Court Reserve - Embellishments

Shade sails:

The playground equipment footprint is relatively large (see photo below) with a drop of over 1,500mm across the diagonal.

Several assets are located in and alongside the play area, namely two water mains (recycled and potable), a footpath, seating and a retaining wall.

See attached site layout plan.

The site is in a high-wind area.



A “Hypar” sail shade structure with six posts of size 15 x 9m costs around \$25,000. To install a shade over the 15 x 15m play area at Kings Court can be expected to cost around \$35,000.

However, there will be additional costs because of the need to increase post sizes and depths to account for the fall of land and to re-design the shade around the existing infrastructure; which makes a more accurate cost estimate difficult in the absence of a detailed design.

Council’s built asset staff do not recommend shade sails for the site due to the risk of damage from high winds and vandalism. Manufacturer warranties do not include damage from high winds.

An ongoing annual maintenance budget of say \$5,000 would appear necessary to factor in likely repairs arising from wind damage and vandalism.

11.2 Kings Court Reserve - Embellishments

In light of these risks, rather than a sail structure staff recommend the construction of a built structure. To achieve the best function and amenity it would be preferred for any structure to be designed by a landscape architect. Without a design it is difficult to estimate a cost, however for the purpose of this report a budget of \$50,000 has been assumed.

The other items removed from the original masterplan were car parking, footpath and a water play feature.

It is not possible to provide the water play area or footpath without removing the new playground equipment, which was installed after a redesign of the site in response to Council's revised direction for the project.

The car parking demand at this point in time does not justify the expenditure and assuming BBQ facilities and shade are a higher priority, the additional costs of car parking would exceed the amount of funds transferred to reserve from the savings for this project.

Sustainability Considerations

- **Environment**

The proposed embellishments will be designed in accordance with established codes of practice in NSW. Construction, operation and maintenance of the proposed embellishments are unlikely to have an unacceptable or unsustainable environmental impact

- **Social**

Proposed embellishments are considered improvements to the open space area as they will enhance the potential of the park and its views and therefore increase its utilization.

- **Economic**

The proposal has the potential to enhance the visitor attraction to Lennox Head and Ballina.

Legal / Resource / Financial Implications

As indicated by staff in the February 2017 Notice of Motion, the budget for the Kings Court Embellishment Project for 2016/17 was \$179,000 but this was reduced to \$120,000 at the January 2017 Ordinary meeting, based on actual expenditure. Those savings were transferred back to the internal wastewater reserves.

This means there are funds in reserve to finance this work if this is the preferred level of capital expenditure.

However Councillors needs to be mindful that even though there may be funds held in reserve the provision of park embellishments is not the reason why those funds are being held and any expenditure of monies means that future funds will need to be raised from residents for other wastewater infrastructure works. Therefore Councillors need to be certain there is justification for the expenditure of wastewater monies on this project.

Consultation

Previous consultation has been undertaken over an extended period of time with community representatives from community groups (Kings Court Reserve Protection Group, Lennox Head Chamber of Commerce and Lennox Head Residents Association) during the concept design phase.

Previous public exhibition was undertaken of the concept plan including a request for submissions.

Options

1. That Council allocates funds for the provision of a shade sail over the play area, estimated at around \$35,000, plus additional costs to overcome site constraints (to be determined at detailed design).

This option is not recommended due to the risk of damage to shade sails from high winds and vandalism.

2. That Council allocates funds for the provision of a shade structure over the play area at Kings Court Reserve, estimated at around \$50,000 with a final budget to be determined at detailed design.

At the last Council meeting, in response to a notice of motion in respect of Council's policy for shading playgrounds, Council resolved;

1. That Council amend its Playground policy to require all new playground installations to include a shade structure where they do not have adequate overhead shade from trees.

2. As part of the \$170,000 of recurrent funding for Playgrounds, Council consider retrofitting shade structures to existing playgrounds.

The recommendation to this report follows this policy direction.

3. That Council allocates funds for the provision of three BBQs at an estimated cost of \$10,500 each.

This action is recommended as it will enhance the parks potential and it is in line with the outcomes of the community consultation process conducted for the development of this reserve.

If both recommendations are supported, the total cost is estimated to be \$81,500. \$59,000 was the amount of savings originally identified and returned to the reserve.

RECOMMENDATIONS

1. That Council allocates \$31,500 for the provision of three BBQs at the Kings Court Reserve.
2. That Council allocates \$50,000 for the provision of a shade structure at the Kings Court Reserve.
3. That the source of funds for the works in points one and two is the Wastewater Reserve.

Attachment(s)

1. Notice of Motion - 23 February 2017 Ordinary Meeting - Kings Court Water Reservoir and Playground
2. Kings Court Reserve - Site Layout Plan

11.3 Road Maintenance Works on Private Land

11.3 Road Maintenance Works on Private Land

Delivery Program Engineering Works

Objective To consider Council's obligations when undertaking road maintenance works on private land.

Background

A review of maintenance works by Council on several private carriageways has raised concerns that Council may not be fulfilling its obligations under Section 67 of the Local Government Act (LGA, the Act).

The following report is intended to inform Council of its obligations under the Act when road maintenance work is carried out on private land.

Road maintenance works on private land are commonly associated with the provision of a waste collection service. Where waste collection vehicles are travelling along a private road, Council must ensure the road is maintained to a suitable standard and that vehicles can manoeuvre safely. Council has traditionally carried out any necessary maintenance on a fee-free basis.

While the focus of this report is on road maintenance works associated with waste collection services; the same considerations could apply to other kinds of work carried out on private land, such as those referred to in the Act.

By way of background, at the last meeting of Council, a Notice of Motion was debated regarding the level of road maintenance services to be delivered for Whytes Lane West. Mr Pickford, the resident who made representations to Council regarding this issue included in his submission concerns that Council was maintaining a private access adjacent to a public road (Whytes Lane West) while declining the request to maintain the public road. The staff comment in response noted that this is a matter staff would review regardless of the determination of Council in respect of Whytes Lane West.

Key Issues

- Equity
- Compliance with legal obligations
- Fees and charges for Council works on private land

Information

LGA Section 67 Private Works states that:

- (1) *A council may, by agreement with the owner or occupier of any private land, carry out on the land any kind of work that may lawfully be carried out on the land.*

Note. Examples of the kind of work that a council might carry out under this section include:

11.3 Road Maintenance Works on Private Land

- *paving and roadmaking*
- *kerbing and guttering*
- *fencing and ditching*
- *tree planting and tree maintenance*
- *demolition and excavation*
- *land clearing and tree felling*
- *water, sewerage and drainage connections*
- *gas and electricity connections.*

(2) *A council must not carry out work under this section unless:*

(a) *it proposes to charge an approved fee for carrying out the work as determined by the council in accordance with Division 2 of Part 10 of Chapter 15 [i.e. LGA Sections 610A and 610B], or*

(b) *if it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the council at an open meeting before the work is carried out.*

(3) *A council must include details or a summary of any resolutions made under this section and of work carried out under subsection (2) (b) in its next annual report.*

(4) *A report of work to which subsection (2) (b) applies must be given to the next meeting of the council after the work is carried out specifying:*

- *the person for whom the work was carried out*
- *the nature of the work*
- *the type and quantity of materials used*
- *the charge made for those materials*
- *the total of the number of hours taken by each person who carried out the work*
- *the total amount charged for carrying out the work (including the charge made for materials)*
- *the reason for carrying out the work.*

Council has in the past extended its waste bin pick-up routes over private land, either for reasons of safety and/or for practical reasons. In such cases, Council has then maintained the road to a standard suitable for use by waste collection vehicles. There are reasons why Council might choose to extend this service across private land, for example:

- *to improve maneuverability and provide a safe turn-round point for waste collection vehicles.*
- *where multiple residences are serviced by a private road at considerable distances from the adjoining public road.*

The following case studies illustrate some of the issues associated with Council providing a waste collection service along a private road:

11.3 Road Maintenance Works on Private Land

- Coolgardie Road

Council waste collection vehicles currently enter a private easement at the end of Coolgardie Road in order to empty bins from up to six properties and also to access a turning circle further along on private land.

Council has maintained this private easement since the service was first extended along the easement (reportedly 10-20 years ago).

In March 2016 Council staff investigated complaints that bins were being permanently left in the private easement and were not being returned to the owners' properties. It is understood that a neighbourhood dispute on this issue has been ongoing.

Staff inspected the waste collection route on 4 April 2017 and formed the view that it made good practical sense to continue this service along the private easement. Otherwise, the collection service would need to terminate at the end of Council's public road boundary at considerable inconvenience to residences. Furthermore, the turning circle at this point is inadequate, and to construct a new one to a suitable standard would likely involve the removal of mature trees and acquisition of land.

On the other hand, if Council decided to terminate the service at the end of the public road, it would no longer incur the recurrent cost of maintaining the private easement. Alternatively, Council could enter a cost sharing agreement, or require the residents to maintain the road to the required standard if they prefer the service to be extended beyond the public road.

- Deadmans Creek Road

Council maintains Deadmans Creek Road including a 0.5 km gravel section servicing two properties beyond the end of the sealed section of the road. Council maintains the gravel road so that waste collection vehicles can pick up bins at these two properties rather than have residents deliver their bins to the end of the sealed road.

Staff inspected the waste collection route on 4 April 2017 and formed the view that Council is maintaining a considerable length (0.5 km) of gravel road in order to provide waste collection to only two properties. It was noted that a suitable turning circle is available at the end of the sealed section of Deadmans Creek Road.

The private land is burdened by an unformed public road reserve. However, the gravel road lies well outside the public road reserve in places. Where this occurs, Council is in effect maintaining the road on private land.

It is noted that the gravel road is identified as a 'right of carriageway 20 m wide & variable' on DP 771794. However, the right of carriageway does not benefit Council.

11.3 Road Maintenance Works on Private Land

- Whytes Lane (West)

Council maintains an approximate 870 m section of unsealed road along Whytes Lane (West). This comprises approximately 720 m of public road reserve and a 150 m section along a right of way across private land to bin pick-up point for a number of residences. Both these sections of road are maintained to facilitate a waste collection service and this arrangement has likely been in place since the introduction of rural waste services at least some twenty years ago.

Staff inspected the waste collection route on 4 April 2017 and formed the view that it made good practical sense to continue this service along the private road in order that waste collection vehicles can access a more favourable turn-round point.

It is noted that Council resolved at its February 2017 Ordinary Meeting to *“include Whytes Lane (West) onto its register of roads to be maintained under the Road Maintenance and Renewal Policy, because of the number of properties this road services (five)”*.

During the aforesaid site inspection staff could only identify one property likely to benefit from maintenance of the additional stretch of road referred to in the Council Resolution. It is possible that the other four properties referred to in the resolution are in fact already being serviced along the existing maintained private road. This situation is illustrated in the attached aerial photograph sourced from Mr Pickford’s deputation to the Council meeting.

In light of this information, the Council may like to consider terminating its maintenance of the private access in lieu of its decision to maintain Whytes Lane West. Alternatively, the Council could revisit its decision to maintain Whytes Lane West, subject to complying with Section 67. It is an option to maintain both the public road and the access.

In all of the above cases, the decision to provide a waste collection service across private land is historic and appears to have been determined on a case-by-case basis, rather than on application of any prescribed criteria. Indeed, it may be difficult to establish criteria that would deliver a desirable degree of equity. Furthermore, the instances of road maintenance on private land are few hence may not warrant the need for such criteria.

It would appear then that Council has yet to exercise its obligations under *LGA Section 67* in relation to the road maintenance works on private land along Coolgardie Road, Deadmans Creek Road and Whytes Lane (West).

Essentially, this means that Council needs to determine a fee for the road maintenance works on private land arising from the need to maintain the road to a standard suitable for waste collection vehicles.

It is noted that Council already levies an annual charge for properties that receive a domestic waste management service pursuant to *LGA Section 496*. However, this charge does not make provision for any consequential road maintenance works on private land. Fees for the latter must be determined pursuant to *LGA Section 610B* which states:

11.3 Road Maintenance Works on Private Land

- (1) *A council may determine a fee to which this Division applies only in accordance with a pricing methodology adopted by the council in its operational plan...*
- (2) *However, a council may at any time determine a fee otherwise than in accordance with a pricing methodology adopted by the council in its operational plan, but only if the determination is made by a resolution at an open meeting of the council.*

This suggests that Council must either adopt a fee for road maintenance works on private land as part of its operational plan or otherwise determine a fee (if any) on a case-by-case basis through a resolution of Council.

Sustainability Considerations

- **Environment**

Council provides a rural waste collection service which occasionally, for safety reasons or because it makes good practical sense, involves waste vehicles travelling along private roads.

- **Social**

Council has a Road Maintenance and Renewal Policy which establishes the framework for implementing consistent and equitable road management processes throughout Ballina Shire Council.

Roads vary in their construction and the environment in which they are required to function. Competing demands for resources across a full range of Council services means that the resources available to undertake new construction work and maintenance activities may not always meet community expectations. Council has adopted a strategic approach to road management that delivers the highest level of service within budget constraints.

- **Economic**

A council must not carry out work on private land pursuant to *LGA Section 67* unless:

- it proposes to charge an approved fee for carrying out the work as determined by the Council pursuant to 610A and 610B] of the Act, or
- it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the council at an open meeting before the work is carried out.

Legal / Resource / Financial Implications

This report highlights instances where road maintenance works, aimed at facilitating a waste collection service, have occurred on private land without regard to the provisions in *LGA Section 67*.

11.3 Road Maintenance Works on Private Land

When evaluating the need for a waste collection service involving the use of private land, Council must consider the costs associated with any road maintenance works required to facilitate that service.

A “one solution fits all” approach to determining a fee for such works is unlikely when considering the cost-benefits of each situation. Council could, for example, be benefiting from the use of private land by avoiding the need for capital works on public land that would otherwise be needed, such as for the construction of a vehicle turn-round point.

Consultation

Not applicable.

Options

1. Council shall not provide waste collection services on private land.

Council is not obligated to provide a waste collection service on private land. In the examples discussed above it is feasible to simply terminate the service at the end of a public road reserve, thereby requiring residents to place their bins at that location. Council would then avoid the need to carry out road maintenance work on private land, although this could result in the other works, such as the need to provide a suitable turn-round area for waste collection vehicles on the adjoining public road, as is the case with Coolgardie Road.

2. Council shall undertake a cost-benefit analysis where road maintenance is required on private land, and that the net cost shall be levied against the private landowner(s) on whose land the works are undertaken, or on the residences benefiting from the works.

This would result in a fee being charged on a case-by-case basis that might reasonably reflect the actual cost of maintaining the road to a standard suitable for a waste collection service.

3. Council could develop a pricing methodology and fee structure as part of its operational plan to cover the cost of road maintenance works on private land pursuant to *LGA Section 67*.

Such a fee could be relatively easy to administer but would not necessarily reflect the actual cost associated with each case, although this would depend somewhat on the adopted pricing methodology. As we are currently only aware of three issues, although there may be more, option two is preferred over option three as it is not difficult to administer an actual cost charge to each location and this is considered to be the most equitable outcome.

4. Continue to maintain the private access at Council's expense.

If this is the preferred direction, Council will need to pass a resolution to ensure the works are compliant with section 67. For the purposes of s67 (2)(b), the approved fee would be the actual costs of the work, and the amount of the fee reduced is the whole amount and these costs would need to be reported in Council's annual report.

11.3 Road Maintenance Works on Private Land

The Council is not obligated to provide a waste collection service beyond the public road boundary.

In circumstances where it is preferred for logistical and safety reasons for our waste collection vehicles to use a private accessway, it is reasonable for the owners of the private access way to maintain the road for that purpose (and their other purposes).

That is, these historical arrangements are not considered appropriate now and option two is recommended.

It is always difficult for a Council to withdraw a service, and if the recommendation is supported Council, could provide a twelve month notice period of its intention to enable residents to plan for the change.

Under this option the residents would be able to elect to either transport their bins to the public road for service, or maintain the access way and establish an agreement for Council to use it for the purposes of collecting their waste service.

The recommendation enables a further report to be prepared to Council if there is a need to review the circumstances for each location following feedback from residents at each location.

RECOMMENDATIONS

1. That Council notes the history of providing road maintenance services on private land at Coolgardie, Whytes Lane West and Deadmans' Creek Road as outlined in this report.
2. That based on the contents of this report Council confirms that it now considers these arrangements to be an inappropriate use of public monies as they provide a direct benefit to private persons beyond the level of waste collection service provided by Council for all other residents.
3. That Council confirms it will terminate its road maintenance service on private land at Coolgardie, Whytes Lane West and Deadmans' Creek Road, and any other locations that are identified in the future, with a twelve month notice period to residents. Affected residents may elect to receive their waste collection service at a suitable location on a public road, or enter an agreement authorising Council to use the private access, maintained at the owner's expense, for the purpose of providing the waste service.

Attachment(s)

1. Deputation to 23 February Council Meeting

11.4 Road Closing - Henderson Lane, Lennox Head (Review)

11.4 Road Closing - Henderson Lane, Lennox Head (Review)

Delivery Program Asset Management

Objective To review Council's resolution relating to the proposed road closing of part of the former Henderson Lane at Lennox Head.

Background

A report to Council to consider closing part of the former Henderson Lane at Lennox Head was determined at the meeting on 23 March 2017 with the following resolution:

“That Council authorises the General Manager to proceed with the road closing application at a time that takes into account the EPIQ development rehabilitation plan requirements to Council’s satisfaction within a reasonable time period.”

This report is presented to review the resolution in relation to a ‘reasonable time period’. The time period constraints imposed on the adjacent rehabilitation area on the adjoining EPIQ development refer to a minimum of four years, with the option for this period to be extended if rehabilitation works are incomplete.

This is considered to be a long period of time for a resolution to be open.

Key Issues

- Reasonable time period

Information

A copy of the report to the March meeting is attached. As per that report Council has have received a request from the property owners of 37 and 40-46 Kell Mather Drive to close an unused section of Henderson Lane (the “road”).

This section of road abuts the rear of these properties and the diagram (attachment two) shows the location of the proposal.

This section of Henderson Lane was in use as a rural road prior to development of the ‘Lennox Meadows’ estate. This road abuts the rear of some properties in Kell Mather Drive on the eastern side and the EPIQ Estate on the western side.

There is existing vegetation along the western side of the road and within the adjoining EPIQ Estate.

The development consent for the EPIQ estate requires works within their property adjacent to this road reserve in accordance with their Littoral Rainforest Rehabilitation Plan (LRRP).

11.4 Road Closing - Henderson Lane, Lennox Head (Review)

Although the developer is not required to undertake any rehabilitation works within the road reserve, unencumbered access to their site from the road reserve may be necessary to ensure the rehabilitation works are not hindered.

The developer is not opposed to the road closing after the completion and approval of their adjoining rehabilitation works, however is concerned a road closure at this time may hinder their works.

The current development consent for EPIQ (DA 2016/238), condition 65, refers to the LRRP.

This condition requires many work practices, monitoring and performance goals to be achieved. Should these goals not be met, the time period will be extended.

In this regard, the initial time period to meet these goals is a minimum of four years.

In light of the need for access by the EPIQ developers, the Kell Mather Drive landowners have proposed an access agreement to alleviate any concerns from EPIQ regarding their ability to meet their LRRP obligations.

As with any property access agreement, it is made between, and requires the consent of, all property owners. The road is currently owned by Council, but if closed and sold to the adjoining owners, any agreement would be part of the land transfers.

To ensure the access agreement provides security for all parties, the creation of an easement on title would be considered an appropriate method to achieve this. The property owners are keen to acquire this section of road and they are looking at options for the matter to progress.

The road closing process takes a minimum of 12 months and the added complexities of multiple owners and easement agreements will result in an extended time frame and considerable more financial and human resources to resolve.

Furthermore, the creation of an easement may not solve all the issues as there is a risk of non-compliance, and the terms and conditions of an easement can create problems in the future.

The minimum four year period, or extended time period, may result in a change in land owners, land owner circumstances or Council policy and it is considered prudent to refuse the road closing request at this point in time and reconsider a new road closing request at a more appropriate time.

Sustainability Considerations

- **Environment**

The road reserve has limited revegetation opportunities due to the proximity of the adjoining residential dwellings in Kell Mather Drive, however, the road is adjacent to the littoral rainforest revegetation area proposed on the EPIQ Estate. The road is currently maintained to various standards by some residents and, to a lesser extent, Council.

The sale and consolidation of the land with adjoining land will remove the public commitment of resources to maintain this area and may result in enhancement of the land.

- **Social**

The road is public land and does provide public access. There is no formed walkway along this road and the future needs of this land within a growing urban area are not fully known. The benefits of retaining this land for future public use does provide the community with options should future needs be identified. Alternatively the road could be closed and consolidated with the adjoining private land and therefore would not be available for public use.

- **Economic**

The recommendations seek to support efficient land management principles. The options reflect the outcomes of retaining the land in public ownership and the inherent costs of maintenance or to close and sell the road and relieve the public cost burden.

Legal / Resource / Financial Implications

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

The retention of the road as public land will require a future commitment from Council.

There may be financial implications and liability for Council to maintain this area through a weed/tree management program and to clean up any illegal dumping.

At present, the land is partly maintained by the adjoining residents.

Dealing with this matter now will require the creation of legal agreements and easements and this will add to the complexity, cost and time to complete the land transfer.

Consultation

There has been no further consultation since the March 2017 meeting

Options

1. That the Council reviews the resolution of 23 March 2017 and opposes the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 & 46 Kell Mather Drive at Lennox Head.

The advantage with retaining this section of public road is it remains in public ownership and this position can be reassessed for road closure when the adjoining LRRP works are completed.

Council also retains the option to reconsider this land for future community access or public infrastructure. There are financial implications to provide ongoing maintenance for the land should Council wish to retain this section of road.

2. That the Council supports the resolution of 23 March 2017 for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 & 46 Kell Mather Drive at Lennox Head as per the resolution of 23 March 2017.

The advantage of this option is it meets the preferences of the adjacent residences and it does remove future liability attached to this road for Council.

It also allows for the adjoining land owners to proceed with the road closing application and, if approved, consolidate the closed road with their adjoining properties.

The period of four years is considered to long for a Council resolution to be open and not implemented. As per the information in this report, during that time it is possible land ownership and interests may change, and the work required to create easements is not justified and carries some risk for Council.

On this basis it is recommended Council revisit this issue once the rehabilitation works have been addressed and access via this road reserve is no longer required.

RECOMMENDATION

That in relation to Council resolution 230317/6 and in light of the information in the above report advising the resolution cannot be commenced for a minimum period of four years, Council now refuses the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 & 46 Kell Mather Drive at Lennox Head until such time as the Littoral Rainforest Restoration Plan works have been completed to the satisfaction of Council.

Attachment(s)

1. Report to 23 March 2017 Ordinary Council meeting
2. Henderson Lane Locality Plan

11.5 Commercial Activities on Public Land - Surf School Licences

11.5 Commercial Activities on Public Land - Surf School Licences

Delivery Program Open Spaces and Reserves

Objective To consider an extension of current surf school licences and confirm future direction.

Background

Council has a Commercial Activities on Public Land policy that outlines what commercial activities may be carried out on public land and how those activities are regulated and managed, ensuring an appropriate balance between public recreation and economic activity.

A key component of this policy is the issuing of commercial licenses. These licenses assist Council to protect the amenity of our public land for all users, regulate the demand and supply where that is appropriate, manage safety and access responsibly and also recognise the commercial gain derived by individual businesses from the use of public land.

Council currently has five surf school licenses (maximum 20 clients), six elite surf coaching licenses and two stand up paddle boarding licenses operating under this policy. These licenses were originally issued through a tender process in 2010. Further resolutions by Council in September 2013 and August 2016 extended the licence term without tender to the current expiration date of 30 June 2017.

A Council briefing was convened on 16 February 2017 as part of the August 2016 resolution to consider options for the renewal of these licenses.

Key Issues

- Expiration of Head Licence during April 2018
- Surf school licence expiration of 30 June 2017
- Confirmation of preferred approach for the allocation of licenses
- Equity and transparency

Information

Head Licence

Council is the Reserve Trust Manager for the Coastal Reserve, which extends out to the Mean Low Water Mark of all beaches in the Shire. The responsibility for the waterbody rests with the Minister for Crown Land.

To assist surf school businesses in navigating the various approvals required, Council entered into a head licence with the Crown for the waterbody, the terms of which allow Council to issue licenses for commercial activity occurring in the water.

The head licence commenced in April 2012 and expires April 2018.

11.5 Commercial Activities on Public Land - Surf School Licences

It is expressly stated in the Head Licence that “No sub licence can be granted for a term beyond the term of the head licence.” Therefore, the head licence limits Council in making any decisions in extending or issuing new licenses beyond this 12 month time frame.

Council has engaged with the Department of Primary Industries – Lands in relation to the requirements of a new Head Licence and tenure options available.

The existing Head Licence is for a term of six years; however it is anticipated that should an offer of a new head licence be made, Council request a ten year licence, and have the sub-licenses run concurrently with the head-licence term.

At this stage it is expected that the renewal of the head licence would not be completed in time to give certainty to existing licence holders prior to the commencement of the 2017/18 summer peak season.

Existing Surf School Licences

The issue of having not undertaken a tender has become problematic as Council staff have received enquiries regarding the date for the next tender, as new businesses are seeking to enter the market. However, the existing licence operators have indicated that they do not want to go through another tender process as it is considered disruptive to their businesses.

Confirmation of preferred approach for the allocation of licences

Legal advice has been received regarding the position of the capped market, with recommendations that Council consider an open and transparent process to return to tender or expression of interest to review and assess the existing operators, the local impact and opportunities for local businesses. It will also allow further consideration of an appropriate price point and review of operating conditions.

Given the extended timeframe since the 2010 tender process was undertaken it is recommend that a tender process commence upon confirmation of head licence renewal.

This legal advice does not mean it is mandatory for Council to call tenders, however the tender process is the more open and transparent approach.

Sustainability Considerations

- **Environment**
By managing the licenses Council is taking steps to minimise any negative impacts on the environment and ensure an appropriate balance between public recreation and commercial business
- **Social**
Surf School licenses provide a social activity for participants however it is important to ensure an appropriate balance between economic and public benefit, and to preserve the amenity of the coastal areas

- **Economic**

Council generates an income from the licenses which offsets a small portion of the expenses associated with maintaining the Coastal Reserve. Existing licence operators have claimed there may be some tourism benefits from having the licenses available however there is no independent information to provide detailed analysis of this aspect of the licenses.

Legal / Resource / Financial Implications

Before Council is able to consider issuing new approvals, or returning to tender, the position on a new head licence from the Crown must be known. If for any reason a new head licence is not able to be issued, Council is not able to issue approvals to conduct surf schools.

The administration of the existing licenses is able to be accommodated within existing staff portfolios. There are not anticipated to be any significant financial implications associated with securing a new head licence.

Consultation

In January this year, an independent consultant and a Council officer conducted individual consultations with the current surf school licence holders seeking feedback on issues relating to their licenses, activities and operational matters.

At the end of a series of standard questions, each licence holder was given opportunity to discuss any issue or concern they may have.

Mojo Surf and Summerland Surf also provided a written submission. A summary of the issues raised during the consultation was presented at the Council briefing and feedback received will be taken into account in Council's future management of surf school licenses.

Options

1. Council extends the current licenses for surf schools, elite surf coaching and stand up paddle boarding until 30 April 2018 and implement a pro rata charge of the 2017/18 fees and charges.

Council undertakes a tender process upon the renewal of a head licence with Department of Primary Industries – Lands

2. Council confirms the current expiration date of 30 June 2017 for surf schools, elite surf coaching and stand up paddle boarding.

Ordinarily option two would be preferred as it is important, from the perspective of staff, for a revised tender process to be conducted. However, as the term would be limited to 30 April 2018, option one is recommended to enable the head licence issue to be finalised and future tendering to be aligned to the terms of the head licence.

RECOMMENDATIONS

1. That Council extend the current licenses for surf schools, elite surf coaching and stand up paddle boarding until 30 April 2018 and implement a pro rata charge of the 2017/18 fees and charges, with these licences to be generally administered within the terms of Council's Commercial Activities on Public Lands Policy.
2. Council undertakes a tender process upon the renewal of a head licence with Department of Primary Industries – Lands for commercial activities on public land involving waterbody access.

Attachment(s)

Nil

11.6 Nursery Operations - Overview

11.6 Nursery Operations - Overview

Delivery Program Open Spaces and Reserves

Objective To provide information regarding the operation of the Council Nursery at Gap Road, Alstonville.

Background

Council currently operates a nursery at Gap Road, Alstonville to service the needs of Council and support community groups by managing the procurement, maintenance and propagation of plants.

The nursery consists of a propagation shed, two shade houses, large standing out area and support facilities including offices and machinery storage area.

Since 2006, the nursery has operated with a permanent supervisor and provides social benefit and meaningful employment for disabled staff. Council currently employs a Nursery Supervisor to support 5 staff employed with a variety of disability levels.

Council resolved to have a report submitted on the operations of the nursery and this report provides that overview.

Key Issues

- Benefit and cost to the community
- Disability employment
- Supply and maintenance of plants

Information

Key Functions

Nursery

Council's nursery (Alstonville) is responsible for the procurement, maintenance and propagation of plants for supply through the following programs:

- Landcare / Coastcare on Council managed lands
- Street Tree Planting
- National Tree Day and Schools National Tree Day
- World Environment Day
- Council's restoration projects

Many of the plants propagated at the nursery are grown from seed. This assists in not only reducing cost but ensuring local provenance, which is generally not available at commercial nurseries. Local provenance ensures plantings are undertaken with native plant populations that naturally occur in our local area.

11.6 Nursery Operations - Overview

The nursery also coordinates and provides free trees to residents under programs and policies of Council including the New Home Native Garden Gifts, New Baby Tree Gift, Citizenship Ceremonies and Memorial Trees.

Disability Employment

Council is a provider of local employment for people with disabilities. There is currently five staff employed part time at the nursery undertaking duties such as potting, weeding and general nursery maintenance.

Staff members within the team are assessed on their capacity and productivity and are paid under a Special Wage Permit in line with requirements from the Department of Social Services.

The Council's disability employment program is subject to annual audits to ensure compliance.

Council also employs six part time disability staff within its Open Spaces Regional Works Crew (RWC). There is the capacity for staff members to operate between both the RWC and the nursery dependent on operational needs and to assist in managing issues associated with staff's disabilities.

The RWC crew also utilises the Alstonville Nursery as a base for operations, in addition to other Council staff servicing the Alstonville and Wollongbar areas.

The work undertaken at the nursery by disability staff is supported by participants from the Work for the Dole scheme, which is currently managed by Nortec.

Performance

The nursery supplies an average of 7,800 plants annually to support Council operations and community groups. This does not include plants that are purchased for Council projects and held at the nursery for maintenance and development prior to use.

Financial Implications

Council's current operating budget for the nursery is \$248,000. This includes staff wages (including overheads), plants hire charges, operating costs and building maintenance. The operating budget for the nursery is funded from Council's Open Spaces and Reserves Long Term Financial Plan

Council generates income through the nursery from the internal sale of stock (\$28,500) and funding from the Federal Government supported wages towards supervision (\$29,500) to offset operational costs. This represents an overall net operating cost of approximately \$190,000.

Council is currently registering to become a service provider for employment the National Disability Insurance Scheme (NDIS), scheduled to commence in July 2017.

There is no negative impact on staff or Council as part of the NDIS implementation.

Sustainability Considerations

- **Environment**
The nursery provides plants of local provenance for Council and community groups.
- **Social**
Meaningful employment provides social benefit to disabled staff.
- **Economic**
The nursery provides local provenance plants generally not commercially available.

Legal / Resource / Financial Implications

Council has allocated resources in the Long Term Financial Plan to operate the nursery.

Consultation

There has been internal consultation in respect to this report.

Options

Council's management continue to consult with the disability sector to ensure the employment opportunities we are providing are meaningful and contemporary.

The nursery service is unique in that it provides support to Council and government programs where private operators are not able or interested to provide this service.

In particular the propagation of local native species from seed is considered an important part of Council's bushland regeneration projects.

Staff will continue to examine process improvement opportunities and other changes that will improve the efficiency of the nursery.

The original resolution in respect to the nursery arose from a Finance Committee meeting where Councillors were examining the overall operating costs for Council and the cost of providing the nursery.

Councillors need to be confident that the expenditure of approximately \$190,000 per annum (net cost) on the provision of plants for Council (approximately 7,800 plants per annum) and the provision of disability employment is considered of appropriate value to the community.

This report provides an overview of the operations and the recommendation is for noting only. If Councillors wish to further review the operations then the direction being sought should be included in the final resolution.

RECOMMENDATION

That Council notes the contents of this report in respect to the operation of the Gap Road Nursery, Alstonville.

Attachment(s)

Nil

11.7 Fig Tree - Castle Drive

11.7 Fig Tree - Castle Drive

Delivery Program Human Resources and Risk Management

Objective To provide Council with legal advice regarding the Fig Tree in Castle Drive.

Background

Council considered a report dealing with insurance claims in respect of property damage from a fig tree in Castle Drive at the December 2016 Ordinary meeting.

The resolution arising from that report was as follows.

1. *That, in relation to the Fig Tree in Castle Drive, it is the position of the elected Council that based on the substantial social and environmental amenity provided by the tree, the tree is to be retained.*
2. *That the General Manager implement an ongoing, formal inspection and reporting program in respect of proactive tree management and maintenance, and adjacent property condition assessments.*
3. *That an investigation into the history of the houses being situated close to the tree be undertaken.*

This report responds to this resolution.

Key Issues

- Property damage liability
- Legal advice and confidentiality

Information

Since the Council resolution to retain the tree was made, an independent arborist has inspected the tree and prepared a report. The future maintenance of the tree will be undertaken following the recommendations in this report.

A separate confidential report, which includes a copy of the legal advice received in response to Council's inquiry, is included later in this agenda. As the objective of the confidential report is to consider confidential legal advice, it is not possible to record further information here.

Sustainability Considerations

- **Environment**
The history and scale of the tree means it represents an important aspect of the environment.

11.7 Fig Tree - Castle Drive

- **Social**

The tree provides a significant level of amenity to local neighbourhood. However, the also has significant impacts on adjacent property.

- **Economic**

Council is exposed to potential future liability costs associated with the damage from this tree to private property

Legal / Resource / Financial Implications

The legal advice, which has potential resource and financial implications to Council, is included in a separate report.

Consultation

No external consultation has been undertaken in preparing this report.

Options

This report is presented for information only.

RECOMMENDATION

That Council notes the contents of this report in respect to the Fig Tree in Castle Drive.

Attachment(s)

Nil

11.8 Ocean Pool - Acceptance of Grant Funds

11.8 Ocean Pool - Acceptance of Grant Funds

Delivery Program Community Facilities and Services

Objective To report the receipt of a grant for the proposed Ocean Pool.

Background

Council resolved to seek funding support for the proposed ocean pool under the NSW Government's Shark Mitigation Strategy. The Government response was this strategy was not the appropriate potential source of funding and therefore Council requested the Government to examine other program opportunities to support the request.

The purpose of this report is to advise Council that a \$50,000 grant has now been awarded to Council in response to these representations.

Key Issues

- Details of grant funds
- Grant conditions

Information

A copy of a letter from the Premier advising of the grant is provided below.

Dear Mr Franklin,

On behalf of the New South Wales Government, I am pleased to provide a one off grant of \$50,000 (+\$5,000 GST) to Ballina Shire Council towards engineering and environmental reports as part of the approval process for an ocean pool at Shelley Beach.

To arrange for payment of this grant, please ask the Council to complete and return the documentation as per the enclosed information sheet to Ms Louise Mahady, Corporate and Operational Services, Department of Premier and Cabinet.

Thank you for your interest and support of this matter.

Yours faithfully,



Gladys Berejiklian MP
Premier
Member for Willoughby

The grant is to Council and not to the Ballina Ocean Pool Committee Inc. This means it is essential that Council manage the expenditure of the funds.

In accepting the grant and being responsible for its acquittal, it is reasonable for Council to understand the details of the planned expenditure and how this fits within the overall framework for the preconstruction activities for this project.

11.8 Ocean Pool - Acceptance of Grant Funds

The purpose of this information is to then understand the full scope of works required, the estimated costs and how resources and funds are being prioritised to achieve this scope of works.

This could be dealt with by requesting the Committee to submit to Council a project plan setting out the key activities, required resources and program expected to achieve planning approval.

It is also important that the procurement of any professional or other services using this public money is undertaken in accordance with Council's procurement procedures.

Sustainability Considerations

- **Environment**
The pool project will need to meet statutory environmental requirements.
- **Social**
The pool project has been identified by a community committee for its ability to support safe ocean swimming experiences for the community.
- **Economic**
A pool facility of this type offers economic development opportunities as it supports the social needs of the community and visitors.

Legal / Resource / Financial Implications

This report deals with an opportunity to receive grant funds. The report also discusses governance issues associated with the management of these funds.

Consultation

No external consultation has been undertaken in preparing this report.

Options

The Council can either accept or decline the grant.

The recommendation is to accept the grant as this is consistent with Council's previous resolution to make a request to Government and further a local community group and Council has identified this project as an important initiative to pursue.

The recommendation also seeks Council to consider the governance arrangements that should be in place to ensure the appropriate use of public funds.

RECOMMENDATIONS

1. That Council accept and thank the NSW Government for the grant offered to support the preparation of the planning approval documentation for the proposed ocean pool.
2. That Council write to the Ballina Ocean Pool Committee Inc advising the Committee of Council's decision in point one and Council's requirements for the funds which include:
 - a) The Committee is to submit a project plan setting out the key activities, required resources, budget estimates, key risks, and the program expected to achieve planning approval for the project
 - b) Expenditure of the grant funds is to be completed in accordance with Council's procurement procedures
 - c) Any other requirements established as conditions of the grant or to ensure compliance with existing Council policy or procedures.

Attachment(s)

Nil

11.9 Policy (Review) - Community Events Signage

11.9 Policy (Review) - Community Events Signage

Delivery Program Open Spaces and Reserves

Objective To review the Community Events Signage Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Community Events Signage policy.

Council first adopted the Community Event Signage Policy in March 2013. The Banner Pole Policy was first adopted in 2005. The two policies were combined into a single policy document and were adopted at the 23 July 2015 meeting.

Key Issues

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

Information

A minor change has been made to the policy regarding the conditions of use 2.5 b) changing from "within three days" to "the next working day after the event".

The changes have been marked in yellow.

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

Sustainability Considerations

- **Environment**
Appropriate management of signage reduces potential impacts to the environment.
- **Social**
Signage infrastructure allows community groups to promote events and activities, thereby enhancing social inclusion.
- **Economic**
Events and activities have the potential to generate economic benefits for the Shire. The policy is seeking to support their promotion.

Legal / Resource / Financial Implications

There are no legal or resource implications with the review of this policy.

Consultation

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the proposed changes to the policy. The changes included are largely house keeping therefore it is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Community Events Signage Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy - Community Event Signage (Review)

11.10 Policy (Review) - Naming of Council Owned Facilities

11.10 Policy (Review) - Naming of Council Owned Facilities

Delivery Program Governance

Objective To review the Naming of Council Owned Facilities Policy

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements.

The purpose of this report is to review the Naming of Council Owned Facilities policy.

Council first adopted this policy in September 2012 (Resolution 270912/13).

Key Issues

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

Information

This review of this policy identified only minor changes as follows:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.

Also an incorrect reference to Naming of Roads, Bridges and Public Places Policy has been changed to Naming of Roads, Bridges and Places Policy.

The changes have been marked in yellow for amended or additional items and shown as ~~red strikethrough~~ for items proposed to be deleted.

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

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The policy has the potential to reinforce the 'sense of place' concept and reflect some of the cultural and social values of our community.

11.10 Policy (Review) - Naming of Council Owned Facilities

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The review of the policy has been undertaken within available resources. Its adoption will not have any adverse consequences for Council from a resource perspective.

Consultation

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the proposed changes to the policy. The changes included are largely house keeping therefore it is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Naming of Council Owned Facilities Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy - Naming of Council Owned Facilities (Review)

11.11 Tender - Treatment Plant SCADA Integration

11.11 Tender - Treatment Plant SCADA Integration

Delivery Program Water and Wastewater

Objective To complete the tender assesment for the Treatment Plant SCADA Integration Project.

Background

All of Council's Wastewater Treatment Plants (WWTPs) operate using Supervisory Control and Data Acquisition (SCADA) control system architecture. This control system architecture allows Council's Treatment Plants to operate autonomously with minimal operator intervention.

Alstonville and Wardell WWTPs have been identified as having antiquated SCADA componentry that no longer has hardware or software manufacturer support.

Preliminary investigations for a project to address this issue identified the scope and expected budgetary expenditure. In preparation for the works an Electrical Engineering Consultant (GHD) was engaged to review the scope and tender specifications. During this review of the project, the scope was expanded to include a new Motor Control Centre (MCC) switchboard for Alstonville and a Power Factor Correction (PFC) unit for Wardell.

The current MCC switchboard at Alstonville, which houses the majority of the telemetry equipment for the plant, does not meet current electrical safety standards. While the existing MCC is still able to operate at its current standard, any modification to the switchboard would require the entire switchboard to be updated to meet the current standard. Modification requirements were assessed, and found to be impractical compared with a complete switchboard replacement.

The PFC unit for Wardell was included in the scope due to changes in the electricity tariff for the Wardell Treatment Plant site, which from July 2017 will include electricity demand charges, increasing the cost of electricity for an equivalent site without power factor correction.

Following this review and amendment an open call for tender was made for the Treatment Plant SCADA Integration. During the tender period a pre-tender meeting was held at the Alstonville and Wardell Treatment Plant sites with 15 contractors attending.

Eight tender submissions were received by the close of the tender period on 12 April 2017.

This report details the outcomes of the tender evaluation process.

Key Issues

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

11.11 Tender - Treatment Plant SCADA Integration

Information

Tender submissions were received from:

- 360 Engineering Pty Ltd
- Alliance Automation Pty Ltd
- CNF & Associates Pty Ltd
- MPA Engineering Pty Ltd
- Nexus Group Au Pty Ltd
- Process Safety & Automation Engineering Pty Ltd
- SJ Electric Group (QLD) Pty Ltd
- TEW Solutions Pty Ltd

Each tender was assessed against the mandatory criteria before progression through to Stage Two of the evaluation. Those tenders that do not meet all requirements of the mandatory criteria were not considered. The mandatory criteria include the following:

Criteria	Requirement
Project Experience	<ul style="list-style-type: none">• The Tenderer must have undertaken a minimum of three control system / electrical upgrades at municipal water / wastewater treatment plants within the past 5 years, with a value of at least \$200,000, and where the Tenderer was the principal contractor; and• All cited experience projects sites must have been in Australia.
Methodology	<ul style="list-style-type: none">• The Tenderer must demonstrate a thorough understanding of the scope of works and provide a concept design, including single line diagrams and network architecture schematics.• The Tenderer must provide a detailed methodology for executing the works;• The Tenderer must provide a copy of a Commissioning Plan from a previous relevant project.• The Tenderer must outline a minimum of 10 reasonable contract risks, including: risk description; priority; and proposed mitigation action(s); and• The Tenderer must provide a works program in the form of a preliminary bar chart and network diagram.
References	<ul style="list-style-type: none">• The Tenderer must provide three positive references for similar projects as the Principal Contractor; and• At least one reference is to be from a local government organisation or water utility.
Key Project Personnel	<ul style="list-style-type: none">• The Tenderer must demonstrate that the Project Manager, Commissioning Engineer and Design Engineer have all completely delivered two control system / electrical upgrades at a municipal water / wastewater treatment plants within the last 5 years;• Each project to have been delivered at separate sites, with a contract value of at least \$150,000;• Personnel do not need to have worked on the same projects; and• All projects must have been based within Australia.

11.11 Tender - Treatment Plant SCADA Integration

Work Health & Safety	<ul style="list-style-type: none"> The Tenderer must have a documented WHS Management System and be able to demonstrate an acceptable record of safety to the satisfaction of Council; and Over the last three years, there shall have been no regulatory enforcement action for any similar offences.
Environment	<ul style="list-style-type: none"> The Tenderer must have a documented Environmental Management System and be able to demonstrate an acceptable record of environmental compliance to the satisfaction of Council; and Over the last three years, there shall have been no regulatory enforcement action for any similar offences.
Quality	<ul style="list-style-type: none"> The Tenderer has a documented Quality Management System and has provided quality control documentation from previous relevant projects; and Each set of quality control documentation includes as a minimum appropriately detailed: Lot Register; Inspection Test Plans; Inspection Test Check sheets (including SAT & FAT); copies of test results; data sheets and photos.
Insurances	<ul style="list-style-type: none"> The Tenderer has a minimum \$20m public liability insurance policy, for contractor and all nominated subcontractors; The Tenderer has a minimum of \$10m professional indemnity insurance policy for the design component of the works; The Tenderer has a workers compensation insurance policy; The Tenderer has an appropriate motor vehicle and plant insurance policy; and The Tender is willing to undertake works insurance for the full contract amount.

CNF & Associates Pty Ltd, Nexus Group Au, Process Safety and Automation Engineering Pty Ltd, SJ Electric Group (QLD) Pty Ltd and TEW Pty Ltd failed to meet the mandatory requirements in regards to Project Experience and Methodology and were excluded from Stage Two.

Following the Stage One evaluation each compliant tender was evaluated against the weighted criteria and ranked against all other tenders. The weighted criteria include the following:

Criteria	Weighting	Requirement
Price	85%	<ul style="list-style-type: none"> Comparison of tendered price with other Tenders; Comparison of tendered price with internal; and Analysis of individual tendered rates.
Local Contribution	15%	<ul style="list-style-type: none"> The Tenderer demonstrates knowledge and experience with the local conditions - whether the supplier is a locally based business and / or whether they have worked locally; Social impact on local economy – local jobs created, maintained or lost; and Level of local content – whether products and materials are sourced locally.

The price of \$958,516.61 (ex GST) offered by 360 Engineering Pty Ltd is less than other tenders, and was comparable to the pre tender estimate of \$890,000 (ex GST). This suggests that 360 Engineering Pty Ltd's offered price represents value for money.

11.11 Tender - Treatment Plant SCADA Integration

The tendered price is approximately 150% of the original project budget but this difference can be explained by the inclusion of the MCC switchboard and PFC unit to the project scope. The pre-tender estimate based on the revised project scope indicated that additional project budget would be required, however it was determined to leave budget revision until the response from the market was received and confirmed the extent of budget revision needed.

Sustainability Considerations

- **Environment**

The upgrade of Alstonville's and Wardell's SCADA telemetry systems will be in accordance with all legislative requirements and development consent to manage potential impact to the environment.

- **Social**

Upgrading Alstonville's and Wardell's SCADA telemetry systems is critical for ensuring the continuing operation of the treatment plants that service Alstonville and Wardell.

- **Economic**

Upgrading Alstonville's and Wardell's SCADA telemetry systems will support the optimisation of chemical and electrical operating costs for the plants.

Legal / Resource / Financial Implications

Compliance with Part 7 Tendering of the Local Government (General) Regulation 2005 is required.

The current 2016/17 and 2017/18 budget allocations for the project are made up as follows:

Alstonville WWTP	\$322,000
Wardell WWTP	\$300,000
TOTAL	\$622,000

Including provisions for this tender, the revised 2016/17 and 2017/18 budget requirements for the project are as follows:

Alstonville WWTP	\$575,645.44*
Wardell WWTP	\$308,852.41*
Additional Project Costs (Insurances and UPS as required in scope)	\$74,018.76*
TOTAL	\$958,516.61*

*ex GST

There is a shortfall in the allocated 2016/17 and 2017/18 budgets for this project of approximately \$337,000.

This shortfall is primarily due to the inclusion in the scope of the MCC switchboard for Alstonville and PFC unit for Wardell; combined these two line items increase the project cost by approximately \$230,000.

11.11 Tender - Treatment Plant SCADA Integration

The budget shortfall for the Treatment Plant SCADA Integration project is more than covered by savings from other wastewater projects including the Skennars Head / Tara Downs SPS Upgrade Project and the Montwood Drive Recycled Water Main Project. These adjustments are included elsewhere in the business paper under the quarterly capital works update report.

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.*

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

RECOMMENDATIONS

1. That Council accepts the tender from 360 Engineering Pty Ltd for the Treatment Plant SCADA Integration of Alstonville and Wardell WWTPs for the tendered amount of \$958,516.61 (ex GST).
2. That Council fund this project by transferring \$337,000 from wastewater reserves, with that funding more than offset by savings in other capital expenditure projects as reported to Council in the 31 March 2017 Capital Expenditure Update report included elsewhere in this business paper.
3. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.12 Tender - Industrial Subdivision North Creek Road Ballina

11.12 Tender - Industrial Subdivision North Creek Road Ballina

Delivery Program Commercial Services

Objective To obtain approval to award the contract to undertake civil construction works for the industrial subdivision North Creek Road Ballina

Background

In October 2015 Council resolved to lodge a development application to create six serviced industrial lots on North Creek Road Ballina.

At the November 2015 Commercial Services Committee meeting, Council recommended to place the proposed six serviced lots on the market for sale off the plan at prices.

To date Lots 1, 2, 3 and 4 have been pre-sold for a total of \$1,235,000 + GST. Lots 5 and 6 will be put to public auction once civil works have been substantially completed and it is hoped to achieve in excess of \$1,200,000 + GST for these two lots.

A construction certificate application was approved by Council 27 March 2017.

Tenders were called in February 2017 to undertake civil construction works to create the six industrial lots. At the close of the tender period on 7 March 2017, four tenders were received. This report provides an overview of the tenders along with recommendations.

Key Issues

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

Information

The evaluation criteria and weightings were determined in accordance with Council's "Local Procurement 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%

11.12 Tender - Industrial Subdivision North Creek Road Ballina

Pricing information and tender ranking has been provided by separate memorandum to Councillors.

The tender from Civil Logic Pty Ltd is the lowest price tender. When the non-priced and priced evaluation criteria are combined, Civil Logic Pty Ltd is the highest ranked tender.

There are issues relating to the current earth berm on the land. It had been proposed that the topsoil used to construct the earth berm could be used as fill material for the civil works.

Further testing has determined that the required compaction rates will not be achieved using this material.

Council is currently finalising details with Civil Logic Pty Ltd as to the pricing for the contractor to supply and compact fill, or as an alternative Council may have access to suitable materials and the contractor would be required to spread and compact the materials.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The development of North Creek Road will provide for additional industrial lots in the Ballina Shire and further develop the Southern Cross Industrial Estate.

Legal / Resource / Financial Implications

A feasibility report for the project was included in the Commercial Services Report of 15 October 2015. This had an allowance of \$622,500 (excl GST) for the development costs; including electricity, landscaping, Council contributions and professional fees. The forecast development profit was estimated to be \$1,230,000 based on information available, as shown in the table below.

Forecast Costs / Profit – Feasibility Report prepared 15 October 2015

Estimated gross sale proceeds		\$2,255,000
Less selling costs		\$80,000
	Sub Total	\$2,175,000
Less		
	Estimated development costs including professional fees and contingencies (as per Civiltech estimates).	\$622,500
	Estimated S.64 & S.94 development contributions	\$322,500
	Sub Total	\$945,000
	Estimated development profit	\$1,230,000

11.12 Tender - Industrial Subdivision North Creek Road Ballina

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 (\$) Estimate as per 15/10/2015	Revised Budget
Development Costs (including contributions)	\$622,500	\$1,110,000

There is a time difference of more than twelve months from when estimates were initially prepared and actual costs estimates received and further adjustments may need to be made once the electrical and telco design is approved and priced.

Contracts have been exchanged on four of the six proposed lots:

Estimated Sales Revenues	Amount (\$) (excl GST)
Sales to date (Lots 1,2 3 & 4 under contract)	1,235,000
Lots 5 & 6 – estimated sales prices	1,412,000
Total	\$2,647,000

Based upon the revised costings the financial performance for this project is forecast as follows:

Item	Amount (\$)
Projected Revenue	2,647,000
Less selling expenses	91,000
Net Sales Proceeds	2,556,000
Less Estimated Costs (incl. 10.00% contingency)	1,447,000
Forecast Development Margin (Net Profit)	\$1,109,000

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

Whilst development costs have increased it is anticipated the sale prices for Lots 5 and 6 may eclipse initial estimates due to the lack of supply. Based upon these figures the project is also forecast to return about 77% on 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.

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 Civil Logic Pty Ltd for civil construction works for industrial subdivision North Creek Road Ballina.
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.

The budget for this project has already been reviewed through Council's Finance Committee meetings.

RECOMMENDATIONS

1. That Council authorises the General Manager to accept the tender from Civil Logic Pty Ltd for civil construction works for North Creek Road industrial subdivision, subject to satisfactory negotiations for additional works relating to the berm, as per the information outlined in this report.
2. That upon the conclusion of negotiations Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - NBN Co for Wardell

13. Notices of Motion

13.1 Notice of Motion - NBN Co for Wardell

Councillor Cr Smith

I move

That Council write to the local member, NBN Co and relevant Federal Ministers requesting NBN Co reverse its decision to delay its service delivery by another two years to Wardell.

Councillor Comments

Wardell was planned to receive a FTTN (Fibre to the Node) deployment in 2018, recently however, NBN Co have revised their plan without notice and have now indicated that Wardell will receive NBN connectivity via Fixed Wireless in 2020.

NBN Co has already completed the majority of its NBN Wireless deployment on the Northern Rivers, had this decision been made over a year ago, Wardell would already have Fixed Wireless NBN.

Instead, due to the sudden change in plans, Wardell is now at a substantial disadvantage and under the current plan will be one of the last towns in the country to receive NBN.

The objective of this letter is to petition the government to put Wardell back onto service delivery for 2018.

Given the Federal Government's focus on housing affordability and Wardell being identified as village for affordable residential growth, it's critical that the infrastructure is in place to enable it.

COUNCILLOR RECOMMENDATION

That Council write to the local member, NBN Co and relevant Federal Ministers requesting NBN Co reverse its decision to delay its service delivery by another two years to Wardell.

Attachment(s)

Nil

13.2 Notice of Motion - Concealed Water Leak - 33 Redford Drive

13.2 Notice of Motion - Concealed Water Leak - 33 Redford Drive

Councillor

Cr Cadwallader

I move

That Council only charge the step one rate for water consumed above the average annual consumption in respect to the units on 33 Redford Drive, Skennars Head, for water consumed during 2017/18, as the owners were not aware of the concealed leak that resulted in a large excess water charge.

Councillor Comments

This is yet another example where property owners are penalised at the step two rate for water consumed during the year, when they were not aware that there was leak in their water supply. This notice of motion asks that they not be penalised by paying the step two rate for any water consumed above their normal consumption. Council staff are in a position to determine the normal consumption and any water consumed above the 350 kilolitre limit, excluding that consumption that resulted from the concealed leak, will still be charged at the step two rate, if that does occur.

Staff Comments

Staff have previously provided comments highlighting that ad hoc approaches to adjusting debtor accounts is poor practice as it results in inconsistencies in the treatment of applicants and inequity.

If Council is going to support these types of decisions, adjustments should be made to Council policy (or create a policy) to ensure that all applicants are treated in the same manner.

As background to this water account, total consumption is generally around 600 to 700kl per quarter. There are 12 units on this property.

On 26 September 2016 Council staff telephoned the office of the strata managers to advise of a high consumption during the first quarter. Although the consumption was not exceedingly high, a courtesy call was made as the average daily usage had increased.

The response at that time was that it would be investigated further with the tenants.

This call from Council related to consumption on a replacement meter, which resulted in an average daily consumption of 7.9286kl, whereas the replaced meter was showing 7.2683.

This was up from an average daily usage of 6.2717 for the previous quarter.

The December quarter consumption was then 5,132kl with total charges of \$12,752 (3,493kl @ \$2.14 then 1,639kl @ \$3.22).

13.2 Notice of Motion - Concealed Water Leak - 33 Redford Drive

On 15 December 2016 Council staff again telephoned the strata managers to advise of the meter reading of 5,243 and consumption of 5,132 kilolitres (KL) recorded to 9 December. Plus a secondary confirmation read of 5,340 on 15 December.

The response to staff at that time, as recorded in Council's records, was that regarding the previous high consumption, feedback received from the Executive Committee was that it would have been due to high pressure hosing of the building prior to painting. Also the current high consumption was due to a water leak, which was repaired on 25 November, which is confirmed by the plumber's invoice.

The March quarter consumption was then 874kl with total charges of \$2,814 (all at \$3.22)

As there 12 units, the property does not usually exceed the combined allowance of 4,200kl (12 x 350) per annum at the lower rate.

The owners corporation has been advised by Council staff they are not entitled to any reduction as Council does not have a policy concerning concealed water leaks.

In respect to the notice of motion it is important to acknowledge that the initial call from Council occurred on 26 September 2016. If the strata managers, or owners, had been more proactive at that time, it may well have been possible to reduce the amount of excess water used.

This is where Councillors need to be careful making ad hoc decisions, without any policy, as these types of decisions can be perceived, rightly or wrongly, as inequitable to the rest of the community.

COUNCILLOR RECOMMENDATION

That Council only charge the step one rate for water consumed above the average annual consumption in respect to the units on 33 Redford Drive, Skennars Head, for water consumed during 2017/18, as the owners were not aware of the concealed leak that resulted in a large excess water charge.

Attachment(s)

Nil

13.3 Notice of Motion - Enclosed Off-Lead (Dog) Exercise and Training Areas

13.3 Notice of Motion - Enclosed Off-Lead (Dog) Exercise and Training Areas

Councillor

Cr Jeff Johnson

I move

That Council include in the 2017/18 Operational Plan an action to investigate the feasibility and establishment, subject to funding, of at least one enclosed off-lead dog exercise area in Ballina Shire.

Councillor Comments

Currently there is no dedicated enclosed off-lead exercise/training area for dogs within the Ballina Shire. The Ballina Shire is considered a dog friendly area with many off lead areas for dogs throughout the Shire.

There appears to be a growing number of households that have dogs and it's important for the Council to provide areas for these dogs to be trained and to socialise. There is a wider community benefit also from having dogs that are better trained and socialised.

The inclusion of this action in the 2017/18 Operational Plan will allow staff to investigate this proposal, along with identifying possible funding options for the construction of the facility during 2017/18.

Staff Comments

If included in the 2017/18 Operational Plan this project can be actioned by staff.

COUNCILLOR RECOMMENDATION

That Council include in the 2017/18 Operational Plan an action to investigate the feasibility and establishment, subject to funding, of at least one enclosed off-lead dog exercise area in Ballina Shire.

Attachment(s)

Nil

13.4 Notice of Motion - Wild Dogs

13.4 Notice of Motion - Wild Dogs

Councillor

Cr Eoin Johnston

I move

That Council write to the relevant members of Parliament and State Government Agencies seeking a far more proactive approach to address the problem of wild dog control in areas that are known as "peri-urban" regions across our Shire and the Far North Coast.

Councillor Comments

These areas are recognised by the North Coast Local Land Services as areas on the perimeter of towns and villages that are on large blocks or small acreages that do not fall under the umbrella of Land Services.

Effective control of this increasing problem would present a considerable cost to local government but to allow it to escalate unchecked in light of rapid population growth in estates bordering on scrub and bushland areas will seriously affect the amenity of residents.

There is substantial anecdotal and solid evidence as to the negative effect wild dogs and cats have on native fauna and this aspect cannot be discounted and it is essential that the State Government commit more resources to this issue.

COUNCILLOR RECOMMENDATION

That Council write to the relevant members of Parliament and State Government Agencies seeking a far more proactive approach to address the problem of wild dog control in areas that are known as "peri-urban" regions across our Shire and the Far North Coast.

Attachment(s)

Nil

14. Advisory Committee Minutes

14.1 Finance Committee Minutes - 20 April 2017

Attendance

Crs David Wright (Mayor - in the chair), Sharon Parry, Jeff Johnson, Eoin Johnston, Stephen McCarthy, Keith Williams, Sharon Cadwallader and Ben Smith.

Paul Hickey (General Manager), John Truman (Group Manager Civil Services), Rod Willis (Group Manager Development and Environmental Health), Matthew Wood (Acting Group Manager Strategic and Community Facilities) and Joanne Cordery (Secretary) were in attendance.

There were six staff members and one member of the community in the gallery at this time.

1. Apologies

Apologies were received from Cr Phillip Meehan and Cr Nathan Willis

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

2. Declarations of Interest

Cr Eoin Johnston – later in the meeting declared an interest in Item 4.9 – Wollongbar Sports Fields – Budget Variance. (Nature of Interest: non significant, non pecuniary – he is a Life member of the Alstonville/Wollongbar Rugby Club). He will be remaining in the meeting while the matter is discussed and voting on the matter.

3. Deputations

Bruce Cadwallader – spoke in opposition to 4.2 - Water Operations - Pricing Structure Review

4. Committee Reports

4.1 Interest Write Off - Survey Street, Lennox Head

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That due to the acknowledgment by Council staff that the concerns over the rates and charges levied on the subject property, as raised by the property owner could have been investigated in a more timely manner, Council approves the write off of interest charges on assessment No 224620 for the period between 12 September 2012 and 30 December 2016 for the amount of \$3,711.60.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.2 Water Operations - Pricing Structure Review

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Jeff Johnson)

1. That Council retain the existing water charging structure for 2017/2018.
2. That Council receive a report on having a separate water consumption charge for residential and non-residential properties that achieves the same level of consumption income in total.
 - a.

FOR VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr David Wright

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.3 **Concealed Water Leak - Options for Management**

A **Motion** was moved by Cr Johnson and seconded by Cr Williams.

1. That Council not charge the step two water rate when a concealed water leak is identified subject to satisfactory evidence being provided.
2. That Council not charge interest on concealed water leaks for customers entering into a repayment plan.
3. That General Manager prepare a policy to manage concealed water leaks.

An **Amendment** was moved by Cr Smith and seconded by Cr Cadwallader.

1. That Council not charge the step two water rate when a concealed water leak is identified subject to satisfactory evidence being provided.
2. That Council not charge interest on concealed water leaks for customers entering into a repayment plan.
3. That General Manager prepare a policy to manage concealed water leaks.
4. That this policy will only apply to residential properties.
5. That the policy allow an appropriate timeframe (i.e. two months) for applications to be submitted.

The **Amendment** was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Stephen McCarthy, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Eoin Johnston

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

The **Amendment** then became the **Motion** and was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Stephen McCarthy, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Jeff Johnson and Cr Eoin Johnston

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council not charge the step two water rate when a concealed water leak is identified subject to satisfactory evidence being provided.
2. That Council not charge interest on concealed water leaks for customers entering into a repayment plan.

14.1 Finance Committee Minutes - 20 April 2017

3. That General Manager prepare a policy to manage concealed water leaks.
4. That this policy will only apply to residential properties.
5. That the policy allow an appropriate timeframe (i.e. two months) for applications to be submitted.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Stephen McCarthy, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Jeff Johnson and Cr Eoin Johnston

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.4 Concealed Water Leak - Palisade Way, Lennox Head

RECOMMENDATIONS

1. That Council only charge the step 1 rate for the financial year and declines to provide further financial relief to Mr Rod Hornby as:
 - a) Council staff undertook reasonable efforts to inform Mr Hornby of the high water usage and
 - b) The circumstances in respect to the notification correspondence being returned to Council were beyond Council's control.
2. That Council confirms that Ms Tania Watson is not to pay the step 2 rate for the remainder of the financial year.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.5 Water Operations - Long Term Financial Plan

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council endorses the annual charges, as per the following table, for exhibition in the draft 2017/18 Operational Plan, as well as the long term financial plan, as per the attachments to this report.

Charge Type	2016/17	2017/18	% Increase
Water Access Charge 20mm meter (1)	200	204	2.0
Water Consumption under 350kl	2.14	2.18	1.9
Water Consumption over 350kl	3.22	3.27	1.6
Vacant Land Charge	200	204	2.0

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.6 Workforce Plan - 2017/18 to 2020/21

RECOMMENDATION

(Cr Jeff Johnson/Cr Eoin Johnston)

That Council approves the exhibition of the draft Workforce Plan, as attached to this report, in conjunction with the exhibition of the draft Delivery Program and Operational Plan for 2017/18 to 2020/21.

b.

FOR VOTE - All Councillors voted unanimously.

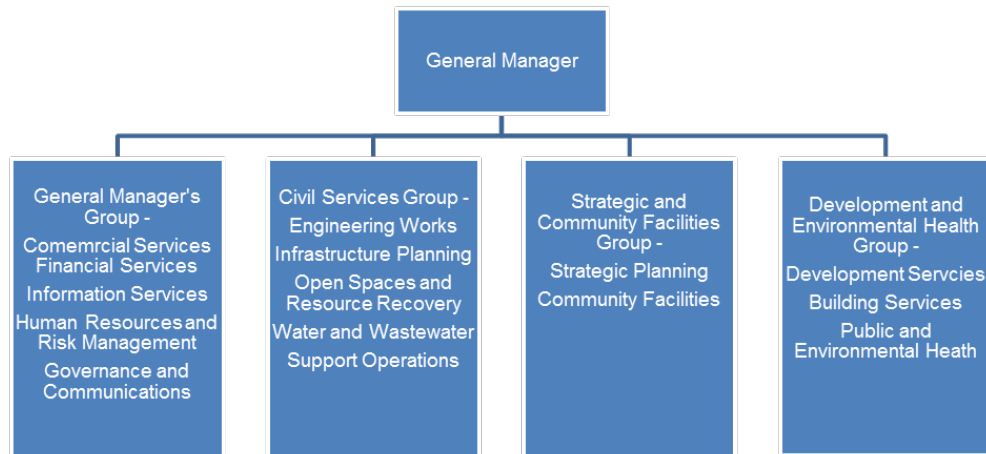
ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.7 **Organisation Structure – Review**

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts the following organisation structure for the purposes of the Section 322 of the Local Government Act;



with the General Manager to review the title for the Governance and Communications Section with the reference to Governance to be removed.

2. That Council approves the reallocation of the customer services function from the Strategic and Community Facilities Group to the General Manager's Group, as detailed within this report.
3. That Council confirms that the senior staff positions within the organisation structure are as follows:
 - General Manager
 - Group Manager – Civil Services
 - Group Manager – Development and Environmental Health.

Cr Jeff Johnson left the meeting at 5:00 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan, Cr Jeff Johnson and Cr Nathan Willis

4.8 Fees and Charges - 2017/18

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

That Council approves the exhibition of the draft schedule of fees and charges for 2017/18 as attached, including any amendments resulting from this meeting.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan, Cr Jeff Johnson and Cr Nathan Willis

Cr Eoin Johnston at this point declared an interest in Item 4.9.

4.9 Wollongbar Sports Fields - Budget Variance

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Parry)

1. That based on the contents of this report Council approves an increase in the 2016/17 budget for the Wollongbar Sports Fields of \$500,000 funded as follows:

- a) Transfer of \$110,000 from the Sports Fields contingency reserve
- b) Transfer of \$100,000 from the Open Spaces Reserve
- c) Transfer of \$120,000 from the Management Plans Reserve
- d) Transfer of \$170,000 from the 2016/17 budget for the Lake Ainsworth Southern Precinct project

2. The \$170,000 for the Lake Ainsworth Southern Precinct is to be reimbursed in the 2017/18 budget funded as follows:

- a) \$148,000 reallocated from the Sports Fields Capital Works budget with the current program of works deferred by one year
- b) \$22,000 reallocated from the Stormwater Capital Works budget through the deletion of the Urban Stormwater Management Plan (\$22,000) project.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Keith Williams and Cr Ben Smith

AGAINST VOTE - Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Phillip Meehan, Cr Jeff Johnson and Cr Nathan Willis

4.10 Community Infrastructure - Non-recurrent Projects and Funding

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council notes the contents of this report in respect to the numerous non-recurrent community infrastructure projects under consideration by Council.
2. That Council endorses for inclusion in the draft 2017/18 Long Term Financial Plan the forecast movements in the Property Development Reserve and Community Infrastructure Reserve as per attachments five and six of this report.
 - c.
3. That Council review the timing of the funds allocated for the implementation of the Captain Cook Park Masterplan and examine other options for the allocation of these monies.
 - d.
4. That Council receive a report on the timing of the implementation of the Ballina Town Entry Treatment Masterplan.

Cr Jeff Johnson returned to the meeting at 5.30pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.11 Long Term Financial Plan - Consolidated Forecast and General Fund

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council approves the exhibition of the draft Long Term Financial Plan document, as attached to this report, subject to any amendments arising from this meeting.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

4.12 Delivery Program and Operational Plan - Exhibition

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council approves the exhibition of the draft Delivery Program and Operational Plan document, as attached to this report, inclusive of any changes arising from this meeting.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Nathan Willis

MEETING CLOSURE

5.57pm

RECOMMENDATION

That Council confirms the minutes of the Finance Committee meeting held 20 April 2017 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the March 2017 Ordinary meeting:

<u>Date</u>	<u>Function</u>
21/3/17	Briefing - CURA A
22/3/17	Meeting – Alstonville Wollongbar Rugby Club – Clubhouse Funding
26/3/17	Commemoration Park Markets
26/3/17	Sport and Rec – Olympic Facility Open Day
26/3/17	Lennox Head Fire Brigade Fund Raiser
28/3/17	Ballina Chamber Meeting – Homestead Motel
28/3/17	Meeting - President Alstonville RSL – Paddy Bugden – Elizabeth Ann Brown Park
29/3/17	Bulwinkle Park Tree Planting
30/3/17	Meeting – Creative Artisans – Shop Size
1/4/17	Missingham Markets
1/4/17	Gallery Opening
1/4/17	Alstonville Orchid Club Presentation
2/4/17	Commemoration Park Markets
3/4/17	Church Group
3/4/17	Launch Alstonville Strategic Plan – Bowling Club
4/4/17	Alstonville/Wollongbar Chamber of Commerce
4/4/17	Meeting – Rugby Club, Staff and Kevin Hogan – date changed due to flood
4/4/17	Meeting Ballina Schools Historical Society
5/4/17	House With No Steps – Heroes Presentation
5/4/17	Wollongbar TAFE Awards of Excellence – Lismore Workers - date changed because of floods
5/4/17	Wollongbar Progress Association Meeting
6/4/17	Site Visit Convery's Lane – Education Establishment
6/4/17	Councillor Briefing – 'E' Zones
7/4/17	Meeting – Gibbon Street – Dave Kelly – Charges for Drainage Pit
8/4/17	SES Tsunami Exercise – Shaws Bay - Date changed because of Flood Water Contamination
8/4/17	Ballina Meals on Wheels – High Tea Jockey Club
8/4/17	Park Lane Theatre Set Up – Roy Orbison Concert
9/4/17	Commemoration Park Markets
9/4/17	Alstonville Markets
9/4/17	Lennox Head Markets
9/4/17	Palm Sunday Refugee Rally
10/4/17	Meeting Tamara Smith - Sand Mining
11/4/17	Citizenship Ceremony
12/4/17	Traffic Committee
12/4/17	Meeting Ralph Mamone – Shelleys on the Beach

15.1 Mayoral Meetings

13/4/17	Little Ripa – Launch Algorithm – Lighthouse Beach
13/4/17	Presentation Beach Pool by MLC Ben Franklin
13/4/17	Meeting DPI – Trials and Plans
13/4/17	Aboriginal Community Meeting – No Quorum
15/4/17	Bluesfest Function – Deputy Mayor
16/4/17	Commemoration Park Markets – New Siting
18/4/17	Meeting – Helicopter Disbursement Funds
18/4/17	Briefing - Operation of Quarries
18/4/17	Briefing of Four Wheel Drive Access
19/4/17	Meeting Rosie Lempriere – Shark Study
19/4/17	Meeting Staff – Marine Rescue Tower Opening
19/4/17	Briefing – Wollongbar Skate Park
19/4/17	Wardell Progress Association
20/4/17	Meeting - David Huett – Rate Variation
20/4/17	Meeting – Rate payer
20/4/17	Finance Committee Meeting
21/4/17	Opening Marine Rescue Tower
21/4/17	SES Building Inspection with Minister Troy Grant
21/4/17	Ballina Lighthouse and Lismore Surf Club Thank You
22/4/17	Opening Touch Football Regional Finals
23/4/17	Presentations – Touch Football Regional Finals
23/4/17	Ballina on Richmond Rotary Flood Fund Raiser
25/4/17	ANZAC Dawn Service – Ballina
25/4/17	ANZAC Service – Alstonville
25/4/17	ANZAC Service – Ballina
26/4/17	FSG Board Visit
27/4/17	Council Meeting
27/4/17	Gallery Opening
29/4/17	Launch Mobi Mat - Tracy Everingham

RECOMMENDATION

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

Attachment(s)

Nil

16. Confidential Session

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

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

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

16.1 Fig Tree - Castle Drive - Legal Advice

Refer to Item 11.7 of this agenda.

RECOMMENDATION

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

16.1 Fig Tree - Castle Drive - Legal Advice

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the report contains information in respect of Council's legal liability.