



## 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 25 May 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

Rod Willis  
**Acting 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 Joan Pickup.

**2. Acknowledgement of Country**

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

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

**3. Apologies**

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 April 2017 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 April 2017.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## **8.1 DA 2016/757 - 111 Tamar Street, Ballina**

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

#### **8.1 DA 2016/757 - 111 Tamar Street, Ballina**

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<b>Applicant</b>	FSG Australia
<b>Property</b>	111 Tamar Street, Ballina Lot C DP 369812
<b>Proposal</b>	Change of Use of Dwelling House and Shed to Community Facility
<b>Effect of Planning Instrument</b>	The land is zoned B3 Commercial Core under the provisions of the Ballina LEP 2012
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

#### **Introduction**

Development Application 2016/757 seeks Council consent for the use of the existing dwelling house and associated garage at No. 111 Tamar Street, Ballina for the purpose of a community facility.

The facility will operate as a “community drop-in centre for families” which runs programs for the community relating to living skills, mentoring, parenting family support and counselling. The existing dwelling house will be used for counselling purposes while the existing garage will be available for activities such as painting, drawing and games.

Hours of operations are from 7.30am to 6.00pm.

The site will cater for two to 10 customers and two community facilitators at any one time.

The application is reported to Council for determination in accordance with Council’s resolution (resolution number 270417/10) of 27 April 2017.

A brief summary of the application history is as follows:

- FSG Australia commenced use of the premises for the proposed land use prior to lodgement of the current application. Building works had also been undertaken without prior approval from Council, including conversion of rear garage for use other than parking and the construction of a bathroom and associated plumbing works without prior approval of Council.
- A pre-DA lodgement meeting was held with Council staff prior to the lodgement of the current application.
- Development Application 2016/757 was lodged with Council on 23 December 2016.
- A site meeting was held 2 February 2017, with Council’s assessment staff and the applicants in attendance.

- A letter requesting additional information in relation to car parking, disabled access, and further details of the proposed use was sent to the applicant on 8 February 2017. The applicant was advised the requested information was to be submitted by 22 February 2017.
- A meeting was held on 23 February 2017, with the Mayor, the Group Manager Development and Environmental Health, Council's Town Planner and the applicants. Various matters were discussed in the meeting, including the details of Council's request for additional information.
- An extension of time to submit the requested information was granted until 17 March 2017.

No additional information has been received to date.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil (or state otherwise if this is not the case)

### **Public Exhibition**

Given the nature of the proposal and commercial zoning of the site the application was not advertised.

### **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 2012 (BLEP 2012)**

##### *Zoning – Clause 2.3*

The site is zoned B3 Commercial Core under the BLEP 2012. Community Facilities are a permissible land use within the B3 zone, with the consent of Council.

Community facility means a building or place:

- a) owned or controlled by a public authority or non-profit community organisation, and
  - b) used for the physical, social, cultural or intellectual development or welfare of the community,
- but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation

##### *Zone Objectives – Clause 2.3*

In assessing the application Council must have regard to the following objectives of the B3 Commercial Core zone:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To maintain a distinct retail hierarchy as identified in Council's strategic planning framework.
- To enable residential and tourist development that is compatible with the commercial nature of activities in the zone.
- To ensure a safe and accessible built environment.
- To encourage development that recognises natural, cultural and built heritage.
- To encourage development that achieves the efficient use of resources such as energy and water.

The proposed use is suitably located within the B3 Commercial Core zone. However, the proposal does not make provisions for sufficient car parking on-site. The proposal therefore does not achieve a safe and accessible built environment and is inconsistent with this zone objective.

*Floor Space Ratio (FSR) – Clause 4.4*

The maximum floor space ratio allowable on the subject site under the Ballina LEP 2012 Floor Space Ratio Map is 2.6:1. The proposal involves conversion of the existing garage for use as part of the proposed community facility. Despite this area now being classified as floor area, the proposal maintains a FSR which is well below the maximum permitted on the site.

*Development within the Coastal Zone – Clause 5.5*

Clause 5.5 of the BLEP 2012 relates to development within the coastal zone. Having regard for the objectives of clause 5.5.1 and matters for consideration outlined in clause 5.5.2 and 5.5.3 the proposed development is considered to be suitable for the proposed site and will not have unreasonable impacts on the coastal environment.

*Essential Services – Clause 7.7*

Clause 7.7 of the BLEP 2012 states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (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.



The servicing required for the proposed development are, or can be made available to the site. However, it should be noted that details of the required car parking spaces, access arrangements and associated stormwater drainage have not been submitted with the application. Consequently, the proposed development has not made adequate arrangements for the provision of these services.

### **Ballina Development Control Plan (DCP) 2012**

#### **Chapter 2 – General and Environmental Considerations**

##### **Road Widening**

Chapter 2 Part 3.17 of the DCP requires dedication of six metres on the Tamar Street frontage for new development and intensification of existing development (except a change of use where there is no change to the building footprint). As this application does not change the building footprint the road widening would not be required if the application was to be approved.

##### **Car Parking**

The change of use from a dwelling house to a community facility results in an intensification of the use and therefore generates the need for additional car parking on-site and the construction of a formal access to the parking area. Further, the unapproved conversion of the existing garage for other uses has reduced the parking currently available on site to one space (in the form of a carport).

The applicant has not provided sufficient information in relation to the use of each component of the premises to allow Council staff to assess the expected parking demand. Despite this lack of detail it is clear that the application does not provide adequate parking on-site.

#### **Chapter No. 6 – Commercial Development**

The proposed development does not comply with the following general controls of Chapter 6 of the DCP.

##### **I. Element – Vehicular Access and Parking**

As discussed previously in this report, the development does not provide adequate parking on-site to accommodate the proposed use. Accordingly, the proposal does not satisfy the development controls outlined in I. Element – Vehicular Access and Parking of the DCP.

##### **SEPP 71 – Coastal Protection**

The Coastal Zone is an area defined on maps issued by the Department of Planning NSW. The subject property falls within the Coastal Zone. The objectives of the Policy and matters for consideration outlined in clause 8 have been considered and the proposal is deemed to be acceptable in this regard, subject to conditions relating to erosion and sediment control measures.

### Options

#### Option One – Refusal

The Council may refuse the development application for the reasons outlined in the recommendation. This is the preferred option as the applicant has already been given sufficient time to prepare and submit the requested information (information which would ordinarily be submitted upon lodgement of the application) and the Council has an obligation to deal with these matters in a timely manner. 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 once the additional information is prepared. Alternatively, the applicant will have a right to appeal the determination in the Land and Environment Court of NSW.

#### Option Two – Defer Determination

Alternatively, the Council may defer determination of the application to allow the applicant additional time to prepare and submit the requested information relating to disabled access and car parking.

### Conclusion

A community facility is a permissible land use within the B3 zone and Council's Development and Environmental Group do not object to the use of the premises for the purposes of a community facility. However, it is recommended that the development application be refused on the grounds that the proposal does not make adequate provision for on-site car parking and associated stormwater management to accommodate the use of the site for the purpose of a community facility and the applicant has had sufficient time to provide such information. Furthermore, these deficiencies cannot otherwise be conditioned as there does not appear to be a reasonable likelihood that the requirements of on-site car parking provision can be met given the constraints of the site and configuration of the land area available.

### RECOMMENDATIONS

That Development Application 2016/757 'Change of Use of Dwelling House and Shed to Community Facility' on Lot C DP 369812 No. 111 Tamar Street, Ballina be **REFUSED** for the following reasons:

1. The proposed development does not provide sufficient car parking on-site to accommodate the proposed land use.
2. The proposed development does not have regard for the objectives of the B3 Commercial Core zone as it has not been demonstrated that it achieves a safe and accessible built environment.
3. The proposed development does not satisfy the car parking requirements of the Ballina Development Control Plan 2012.
4. The proposed development has not made adequate arrangements for the provision of car parking spaces, access arrangements and associated stormwater drainage as required under Clause 7.7 of the Ballina Local Environmental Plan 2012.

**Attachment(s)**

1. Locality Plan
2. Plan Set
3. Request to Applicant for Additional Information

## 8.2 DA 2016/690 - 36 Lot Residential Subdivision, Quays Drive

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### 8.2 DA 2016/690 - 36 Lot Residential Subdivision, Quays Drive

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<b>Applicant</b>	Ardill Payne & Partners (on behalf of Burleigh Heads Nominees Pty Limited)
<b>Property</b>	Lot 71 DP 628164, Quays Drive, West Ballina
<b>Proposal</b>	To undertake a 36 lot Torrens Title Residential Subdivision and associated works
<b>Effect of Planning Instrument</b>	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan <u>attached</u>

#### **Introduction**

The proposal involves a Torrens Title subdivision of an existing 3.045 hectare site that has been zoned residential for a substantial number of years.

Whilst in the previous ownership of the Department of Education (due to it being identified as a future educational establishment site), the site has been utilised by the general public and various sporting groups as open space sports fields. The Department of Education recently sold the property to the current owners.

It is now proposed to construct a 36 lot residential subdivision including the extension of Quays Drive into and out of the site from the west via a half loop road to service the proposed allotments (refer attached subdivision layout plan). The original proposal of 38 lots was subsequently amended to 36 lots due to the inclusion of a stormwater bio retention basin in the south-western corner of the site as the upgrade of the pipe network to discharge stormwater through existing private property easements to the Quays canal could not be negotiated and appropriate landowner's consent was not forthcoming.

The site is relatively flat with no aspect and the majority of the site is cleared land (other than some minor vegetation, goal posts and shelter structures associated with the sporting activities). Immediately surrounding the site is the original Quays residential estate that was initially developed in the 1980s. Immediately adjoining the majority of the site to the north is the Ballina Rugby Ground and associated licensed clubhouse which is owned by Council.

Some filling, infrastructure and minor clearing works are also proposed. Of particular note is the significant stormwater detention basin infrastructure now proposed in the south-western corner of the site.

The site has extensive frontage to Quays Drive and currently has pedestrian/service infrastructure links within the existing/adjoining Quays Estate to the site from the east and south. Although the applicant initially proposed to maintain both of these linkages (as recommended as part of pre-lodgement discussions with Council's assessment staff) only the eastern linkage is now proposed to be maintained/dedicated to Council.

The proposed residential allotments range in size from 600m<sup>2</sup> (being the current minimum lot size of this locality) to approximately 1070m<sup>2</sup> (orientated either north to south or east to west) with the majority of the allotments proposed to be at or just above the 600m<sup>2</sup> minimum.

Despite assessment of the application being incomplete, the applicant only providing further requested additional information to Council on 5 April 2017, and amending the application from 38 lots to 36 to accommodate on-site stormwater detention, on the 4 April 2017 the applicant filed a Deemed Refusal Appeal to the NSW Land and Environment Court (i.e. the day before receipt of the additional information by Council).

The most recent amendment of the application necessitated further direct notification to the residents adjoining the south-west corner of the site.

The action taken by the applicant is considered to be unwarranted as the outstanding matters have been of particular assessment significance and were actively being worked through.

This application is now being reported to Council for a determination recommendation.

At the NSW Land and Environment Court's first telephone callover the Court resolved, with both parties' agreement, to postpone the Council's filing of facts and contentions until 9 June 2017, being after the May Ordinary Council Meeting. This is intended to enable the Court to be given a clear direction from the Council about the course of the Appeal. If the Council determines that development consent should issue, and the applicant is satisfied with the proposed conditioning, the Appeal may be discontinued without a hearing.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

The proposal was received on 29 November 2016 and placed on public exhibition from 11 January to 27 January 2017 with 10 letters of objection received. Copies of each submission are included as attachments to this report.

Since the public exhibition of the originally submitted proposal, the applicant has revised the submitted subdivision plan/lot layout on three occasions, primarily due to stormwater matters.

## 8.2 DA 2016/690 - 36 Lot Residential Subdivision, Quays Drive

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Council most recently directly re-notified the three adjoining owners that are closest to the proposed stormwater detention basin/pond in the south-western corner of the site about that new aspect of the proposal.

The following is a summary of the issues of concern raised within the submissions received.

- The site was gifted to the community by the original Quays Estate developers as open space. This development should not only be providing monetary contributions but also providing actual public open space/recreation facilities for the community as part of the subdivision.

Comment: Refer to “Provision of Public Open Space/Recreation Facilities” section of this report for detailed comment.

- Safe pedestrian access should be provided within and between adjacent subdivisions due to traffic increase. No extension to the pedestrian access is proposed to Howard Crescent.

Comment: The applicant has advised that it is accepting of a condition requiring a pedestrian pathway along the eastern side of Quays Drive for the full frontage to the site north to connect with Kalinga Street on the basis that this will negate the need for an internal footpath within the subdivision. The applicant has also proposed a footpath to the east to Riverview Avenue but during assessment deleted the proposed footpath south to Howard Crescent based on perceived public safety issues.

Refer to “Pedestrian Connectivity to the South” section of this report for further comment.

- The number of lots taking up all of the available land and no public open space causes this to be an overdevelopment of the site.

Comment: Refer to “Provision of Public Open Space/Recreation Facilities” section of this report for detailed comment.

- Stormwater/flood drainage issues.

Comment: Council’s Civil Services Group has accepted the submitted fourth revision of the stormwater design (received on 2 May post filing of the Appeal) and has assessed that the quality and quantity of stormwater discharge will be satisfactory subject to appropriate conditions if it is approved.

Refer to “Stormwater Treatment & Attenuation” section of this report for detailed comments.

- Increased traffic movements and noise.

Comment: The future traffic generation of the proposed residential subdivision will not be of a volume that will unreasonably impact on the amenity of existing or future residents. The road network has the capacity to handle the future traffic volumes of the estate and the proposed carriageway widths are considered acceptable for the location in relation to relevant standards.

- Overlooking/Privacy impact on existing dwellings. A landscaped easement should be provided between proposed and existing lots.

Comment: Having regard for the required fill level in comparison to the existing surrounding heights, there will be overlooking/privacy impacts on existing residents.

Refer to “Potential Overlooking/Privacy Impact” section of this report for detailed comments.

The relevant matters raised by public submissions (including those not addressed specifically above) will be considered throughout this report. Although invited to do so, the applicant has not provided specific responses to the key issues raised in the submissions for Council’s consideration.

### **Applicable Planning Instruments**

The proposed development has been assessed under the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act).

### **Report**

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

### **Provision of Public Open Space/Recreation Facilities**

Substantial dedication of public reserves occurred in the establishing stages of the Quays Estate in the early 1980s that the current land was/is part of. The development site was acquired by the State Government from the developer on 9 November 1983 for the Ballina West Primary School and/or Pre-school and until late last year was in the ownership of the Department of Education.

Whilst in this ownership it has been utilised by various sporting groups since the early 1980s, firstly as a junior soccer field, and later for rugby union and little athletics. On 18 January 1984 Council entered into a permissive occupancy with the Minister for Education over part of the site (70 metres x 50 metres in the north-eastern corner of the site) and has assumed responsibility for the continued maintenance of the entire site as a public reserve since the termination of the permissive occupancy on 8 September 2016.

A significant deficiency of public open space for West Ballina and Ballina District was previously reported to Council Ordinary Meeting of 24 February 2011 as part of the Porter Park development (copy [attached](#)). That report noted that there was a shortfall in West Ballina of the provision of open space (by 3.63ha) and in the Ballina District of winter playing fields (4.7ha) that could be offset or reduced by the utilisation of two unsecured playing fields on the West Ballina Primary School site which is 3.04 ha (i.e. the site of this development).

Due to the consideration of this aspect of the development being of particular public interest, the previously reported deficiency in West Ballina, the long term use and maintenance of the site by Council for public use/reserve, and the application proposing 36 allotments or approximately 100 more residents, Council assessment staff suggested to the applicant that consideration be given to the provision of open space within the development.

The applicant has maintained that it only needs to consider the Ballina Shire Open Space and Community Facilities Contributions Plan 2016 and that the Council has no power to require additional public open space on this site as it is not identified within the contributions plan. This is not technically correct as the current application was lodged on 29 November 2016 (i.e. just prior to the commencement of the current 2016 plan on 14 December 2016).

The savings and transitional provisions of the 2016 plan states that a development application is to be assessed under the contributions plan applicable at the date of submission of the application.

Consequently, the previous Ballina Shire Contributions Plan 2008 “the 2008 plan” applies to this development application. It was the 2008 plan that was utilised in the report to Council’s Ordinary Meeting of 24 February 2011 as part of the Porter Park development.

Irrespective, the provision of additional playing fields at West Ballina is not identified in either the 2008 or 2016 plans. Further, the most recent 2016 Plan identified that the broader Ballina locality (which includes West Ballina) has sufficient public open space (including playing fields) for the period forecast in the plan. It is also noted that the provision of “playing fields” on the subject site was not included in the calculation of “existing open space” in the latest plan review. In that sense, the proposal would not result in the “loss” of playing fields under the terms of the existing formalised public open space/playing fields.

Developer contributions for open space are payable under either of the plans with respect to residential development proposals. Any provision of open space on the land by the developer would need to be credited against contributions payable under the applicable contributions plan. Such would trigger assessment by Council’s Open Spaces and Resource Recovery Section as to whether any open space proposed for the subject site was desirable from an open space management and maintenance perspective.

In the particular merits of this case, the possible public benefit of providing additional public open space/recreational facilities as part of the subdivision would be twofold.

Firstly, the northern boundary of the development site that directly adjoins the rugby playing fields owned by Council (with the south-eastern corner of the playing surface/dead ball area only 10 metres from the boundary) could potentially provide an extension of the rugby playing fields to the south into the development site. This open space area could also provide for a greater buffer to future residents having regard for the noise impact concerns that will be outlined later in this report.



Secondly, the provision of additional open space may also assist in reducing the identified 2011 deficiency in West Ballina, particularly in relation to winter playing fields/courts noting that a deficiency hasn't been identified in the 2016 plan. This would change the subdivision layout and potentially consume a substantial part of the site.

Notwithstanding the potential public benefits, it should be noted that in any case future residents will be within 400 metres of a local park known as "Weerama Park" in Riverview Avenue (albeit not a sporting field/court) and the rugby union ground is immediately adjoining.

In all the circumstances, it is not considered reasonable to insist the proponent dedicate land for open space in addition to, or in conjunction with, paying open space monetary contributions (i.e. only monetary contributions should be attributable if the subdivision is approved).

### **Potential Noise Impacts**

The applicant has noted potential noise exposure of the site by proposing the following works at the adjoining rugby ground to provide a buffer to the proposed residential lots:

- Relocating existing buildings/containers along the southern boundary of the rugby grounds.
- Construction of a new mound and planting to provide screening along southern boundary of the rugby grounds.
- Construction of a new mound on the south-eastern boundary of the playing field.

No details have been provided that such works will limit the potential noise impacts from the use of the rugby clubhouse and grounds on future residents of the proposed subdivision (or if they are predominately visually motivated) and importantly landowner's consent from Council to undertake these works at the rugby ground has not been sought for the purposes of the application. These suggested works are unclear (including who would pay for the works) and are irrelevant to the assessment.

Although no noise complaints have been received from existing surrounding residents, noise generated by the rugby clubhouse (and the associated licensed bar) could detrimentally impact on future residents of the proposed subdivision, particularly as the licence currently has no restrictions/conditions and currently permits up to 52 functions a year to midnight.

Council assessment officers have requested that a noise impact assessment by a suitably qualified and experienced noise consultant be provided. This request was made to allow the Council to assess if there is a likelihood of future residents of the proposed subdivision seeking to restrict the operations of the established sporting facility and whether or not any works or any construction requirements to future dwelling houses, acoustic fencing/mounds, and/or setbacks etc. should be required of the subdivision to mitigate noise. This information has not been provided at the time of writing the report.

The NSW EPA Industrial Noise Policy discusses the importance of appropriate land use planning decisions and the potential noise impacts that may occur when inappropriate land use decisions are made. The application of land use planning as a noise control tool is preferable to waiting until a specific noise impact is identified. The range of noise control measures available to resolve noise issues is restricted once a development is approved without considering or gaining all appropriate information about potential noise impacts.

The NSW EPA Noise Guide for Local Government outlines that in development assessment it is critical for Councils to identify the potential for noise related land use conflict. The Guide also states that where a development that is sensitive to noise is proposed near a potentially noisy development a noise impact assessment is warranted.

Importantly the Guide outlines that the Protection of the Environment Operation Act 1997 does not give priority to existing uses. This would mean that if the Council were to approve a residential subdivision adjacent to a commercial/industrial use, in the circumstances of a justified noise complaint, the commercial/industrial activity would need to reduce their noise irrespective of how long the activity has been operating.

This may not be an appropriate strategic land use planning approach as commercial/industrial activities may have been approved as being suitable uses due to the acceptance of impacts on surrounding users at the time that they were established. Again, approving new land uses without adequately considering noise impacts and possible mitigating measures limits the range of effective control measures open to the community and the Council in the future.

Consequently, it is considered important to assess the potential noise issues as part of the determination of this application. If the Council is of the opinion that the application should be approved on the strength of the submitted information, it is recommended that a Deferred Commencement Condition requiring the submission of a report should be imposed as, in the absence of a specialist report, Council cannot be satisfied that the likely noise impacts will be reasonably considered.

### **Stormwater Treatment & Attenuation**

A fourthly revised preliminary stormwater plan was provided post the filing of the Court Appeal which is considered to be generally acceptable by Council's Civil Services Group.

The land shaping due to the required fill level directs the majority of stormwater to the internal loop road that discharges to Quays Drive. Quays Drive discharges to the Quays canal via a 375mm pipe at No. 10 Quays Drive and a 600mm pipe at No. 30 Quays Drive. Modelling confirms there is additional capacity in the 600mm pipe which allows for direct discharge from the northern catchment of the development site to the canal without detention. The 375mm pipe does not have additional capacity therefore the southern catchment of the development site will require detention. The modelling and report confirms there is adequate space allocated to accommodate the 950m<sup>2</sup> detention basin, however the submitted lot layout indicates that the

stormwater detention basin may also encroach into/rely upon the proposed lot to the east or rely upon retaining walls to stabilise batters which is not preferred due to on-going maintenance issues.

This tight configuration could be of assessment significance as the allotments to the east are at or just above the 600m<sup>2</sup> minimum lot area and therefore do not have sufficient area to be adjusted to accommodate a larger stormwater basin should one be required.

The detention basin will be 0.8m deep and the proposed spillway, in the south western corner of the lot, is reliant upon and discharges over the oddly shaped piece of road reserve before entering the stormwater network (refer attached plan). The overland flow path will conform to depth velocity ratios in the Northern Rivers Guides.

It is important to note that this reliance by the developer on Council's road reservation for the raised berm and stormwater infrastructure would restrict the opportunities for vehicular access being obtained in the future from the Quays Drive frontage to No. 7 Quays Drive and/or No. 25 Howard Crescent (not party to the application). If the Council does not accept the reliance upon its road reservation for such associated infrastructure work, there is the alternative to require that it be contained entirely within the development site (albeit potentially at the loss of a proposed lot).

Council's Civil Services Group are, however, satisfied with the use of the road reserve for stormwater infrastructure by the development despite there being no greater public benefit as the impacts are minor and the required berm only needs to be 300mm high.

Stormwater treatment for the subdivision will be a combination of 8m<sup>2</sup> of bioretention cells per lot and six grassed swales in the road reserve.

The existing concrete dish drains along the eastern and southern boundaries of the lot will be upgraded to a concrete swale and inter-allotment drainage. This will accommodate existing discharge to the development lot from adjoining properties and the minimal catchments from the battered slopes due to site filling. The majority of the lots are shaped to the internal loop road as described above.

### **Pedestrian Connectivity to the South**

The linkage to the south has been planned for and partially created via the provision of a six metre wide existing link since the original Quays Estate was created in the early 1980s.

Although it is likely that this linkage was provided for the intended educational establishment on this site, the need for pedestrian connectivity to the south is still of public benefit as this would allow future residents (particularly children) to access the river foreshore area and associated reserves as no pedestrian pathway is currently provided along Quays Drive to the south. The pathway extension would also be beneficial to existing residents in Howard Crescent to traverse north through the proposed subdivision to the proposed pedestrian pathway along Quays Drive as it would allow a more direct route to the neighbourhood shops in Kalinga Street or alternatively east to the local park.

Chapter 3 – Urban Subdivision of the DCP (Table 3.2 – Subdivision Design Standards) also requests that where a block length or depth is over 130 metres, mid-block pedestrian links are to be provided. In this case the site/block is approximately 200 metres deep x 170 metres long.

Consequently, the need for both the linkage to the east and to the south was emphasised during pre-lodgement meetings and these requests were maintained throughout assessment as it was, and is, considered important to provide the extension to the existing mid-block pedestrian linkage/connectivity as required by the DCP.

The applicant initially proposed this linkage extension to the south but subsequently deleted it from the proposal presumably due to the potential loss of a further allotment following the later design provision for the stormwater detention basin. The applicant still intends to dedicate/create a narrower 3.7 metre wide pedestrian link to the east.

The applicant contends that the wider 6 metre pedestrian link to the south is not safe (despite it being almost twice as wide as the eastern pedestrian path and slightly shorter in length).

The provision of this linkage would also allow easier access for any future infrastructure maintenance requirements within the proposed easements by Council at the rear of the proposed allotments.

Additionally, if the currently provided link to the south is not extended to the proposed street system as part of this subdivision, a dead-end area would be created by the erection of a fence for the proposed subdivision. The creation of a dead-end area is considered to likely be more unsafe than a straight, relatively short link with clear sightlines from two public streets. A dead-end area could also become overgrown and a dumping/litter collection point. Consequently, if the southern linkage is not required, closure of the then unneeded linkage in Howard Crescent should be undertaken and the land transferred into the adjoining residential allotments.

As there is a clear public benefit in providing the missing link through the site that has been in place since the early 1980s, if the subdivision is approved, a condition of consent should be applied requiring the dedication/extension of the link as road reserve to the south and the construction by the subdivider of a pedestrian pathway through to the proposed subdivision. This could taper down from the current 6 metre width to 3 metres within the proposed subdivision, however it is recommended to maintain the existing 6 metre link width due to the improved public safety subsequently highlighted by the applicant.

### **Potential Overlooking/Privacy Impact**

If the subdivision is approved, applications for future dwelling houses will need to have regard for Council's DCP requirements in relation to building setbacks, building height planes and required infrastructure services that will traverse along the common boundary of the majority of the proposed and existing surrounding lots (and associated fill batters and zones of influences/easements at the rear of the proposed lots that cannot be built over).

## **8.2 DA 2016/690 - 36 Lot Residential Subdivision, Quays Drive**

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It is considered that the placement of any future dwelling houses on the proposed lots can be reasonably expected to occur without significantly impacting upon the lower, existing dwelling houses fronting Quays Drive, Riverview Avenue and Howard Crescent.

Although the applicant has not provided an updated Plan of Subdivision to correlate with the revised Stormwater Management Layout Plan, it appears that proposed lots 8, 15 and 16 (“irregular shape”) off the cul-de-sac type heads do not meet the minimum frontage requirements of 12 metres as required in Council’s DCP and therefore could be more akin to battle-axe allotments.

Despite this, a minimum building envelope has still been demonstrated on these lots. Due to their shape, the placement of building envelopes for these lots is towards the rear. Such building siting creates a greater possibility of overlooking and more substantial privacy issues for existing lower residences; particularly as the finished fill and floor levels of the new estate will be substantially higher than surrounding lands/dwellings (in the order of as much as 800mm).

Based on this, and due to the difference in ground levels and limited potential for fencing to reduce privacy impact (including the potential unmaintained area that would be created by the placement of a fence on top of the filled batter rather than the rear common boundary), there could be merit in requiring the filled batters at the rear of all the proposed lots with common boundaries to existing dwelling houses to be landscaped with relatively mature species.

The foliage of the vegetation could provide some screening and also assist in the stabilisation of the batters and absorption of water runoff prior to entering the concrete swales. This landscaping plan, however, would need to be carefully considered and could be problematic if species were not self-maintaining and would need to ensure overshadowing of the existing properties was not significant.

Further, an 88B Instrument restricting the removal of the trees may also be needed to ensure that such was maintained into the future.

The difficulty in reducing privacy and overlooking from filled lands is common within Ballina where older dwellings are substantially lower than later required fill/floor heights for flooding.

If the subdivision is approved, it may be more appropriate to consider each future application for a dwelling house on its own merits. Considering the proposed smaller allotments where usable land areas for dwellings are reduced due to easements and battered slopes at the rear and required front building lines, it is anticipated that two storey dwellings will be attractive to homebuilders.

Notwithstanding this, it could be argued that even without the landscaping measures, the potential impact of the subdivision and future dwelling houses will be relatively comparable with that of the local area.

### **Conclusions**

Despite the applicant prematurely filing an appeal in the Court and proposing works on surrounding lands without appropriate landowner's authority, there have been various design amendments made to the application in an effort to satisfactorily respond to Council's requests for clarification on matters.

Although the land has been utilised for public recreational purposes for almost 40 years, the site has also been zoned for urban development and is now privately owned.

The applicant has suitably identified that the R2 zoned lands can be developed for residential purposes.

Although members of the public would like Council to purchase the site for the continued use of public open space, this has not occurred and Council's Development and Environmental Health Group is satisfied with the proposed development subject to conditions.

Having regard for the outcomes of the assessment undertaken, Council has the following options with regard to advising Council's legal representatives in the pending Court appeal proceedings:

#### **Option One**

That Council resolves to grant deferred commencement approval to the application subject to satisfactorily addressing potential noise impact, provision and dedication of pedestrian linkages, confirmation on the stormwater detention basin as part of detailed design drawings being contained wholly within the development site (other than for the low berm to direct overland flows to the street), minimum lot sizes being more than 600m<sup>2</sup>, suitable landscape plan for batters to provide suitable privacy and less opportunity for overlooking of adjoining lots, and subject to other standard conditions.

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

#### **Option Two**

That Council resolves not to support the development application on the basis of potential impacts outlined in this report and for the reason that no public open space is being provided as part of the subdivision application.

This is generally not supported as the application warrants conditional development consent for the reasons outlined in this report.

**RECOMMENDATIONS**

That DA 2016/690 to undertake a 36 Lot residential subdivision and associated works at Lot 71 DP 628164, Quays Drive, West Ballina be granted consent subject to conditions attached to the report.

**Attachment(s)**

1. Locality Plan
2. Subdivision Plan/Stormwater Management Plan
3. Public Submissions
4. 2011 West Ballina Open Space Assessment
5. DA 2016/690 - Quays Drive West Ballina - Proposed Consent Conditions

### 8.3 Healthy Waterways Project - Priorities

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#### 8.3 Healthy Waterways Project - Priorities

**Delivery Program** Environmental and Public Health

**Objective** To update the Council on the Healthy Waterways Project and provide an overview of work to date, as well as priority actions.

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#### **Background**

The Richmond River is a focal part of Ballina Shire, both for our community and visitors alike. The river and its tributaries provide work and recreation opportunities, and a backdrop to our regional lifestyle in its many forms. The most recent community survey by Micromex, as well as letters to the Editor in the local newspapers, demonstrate that the community has a strong commitment to a healthy and beautiful river.

Ballina Shire Council has a long history of undertaking projects aimed at improving different aspects of river health. Work in water and stormwater education, supporting the 'Blackwater' study for the Richmond, undertaking stormwater works in Northlakes, Chickiba and on Maguires Creek have addressed some of the issues identified as being pressures on river health. Collaboration with other organisations including state agencies has also been a feature of past actions.

This report provides an overview of the variety and scope of these issues and confirming activities to date, as well as the forward planning being undertaken by staff in priority actions for waterway health across the shire.

#### **Key Issues**

- To review existing waterway management across Council functions.
- To update Council on the planned activities using the Healthy Waterways Funding for 2017/2018.
- To provide a platform for Council to consider important priorities for the next two to five years for improving waterway health.

#### **Information**

##### **Richmond River**

In 2015 the University of New England presented the Ecohealth Report which highlighted the poor water quality, lack of fish habitat, bank erosion and stability issues in the Richmond River, both within Ballina Shire and in upstream local government areas. Development of this Ecohealth Report was an action of the Coastal Zone Management Plan for the Richmond River Estuary (RRCZMP). This report has been arguably one of the most impactful actions to date in terms of bringing the community together in understanding the complex issues within the Richmond River.



### 8.3 Healthy Waterways Project - Priorities

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The implementation of the RRCZMP has not been as proactive to date as would be desirable. In part, this is due to a lack of cohesive collaboration between agencies and, of late, a transition period whilst the restructure of Rous County Council is bedded down. The Ballina Shire community expects to see tangible improvements in river health as a result of work undertaken, but the fragmented nature of projects and a focus on upstream works has meant these improvements are not clear to our community.

A greater focus on works in Ballina Shire is required, with a link between the works undertaken and a measurable improvement in parameters such as water quality and fish habitat.

The Council's Executive Team has recently considered an internal report on the structure and actions required to support Council's Healthy Waterways Program. The following represent the actions staff consider to be important over the next few months as a starting point:-

- Update of information contained in the 2006 Estuary Processes Study
- Review of the agreed outcomes contained within the Rous County Council Service Level Agreement as they relate to flood mitigation, infrastructure (drains) and performance objectives in Ballina Shire.
- Liaison with NSW Government Agencies regarding priority floodplain management actions, such as riparian vegetation and floodplain drainage management.
- Delivery of informal evening community information sessions on relevant topics.
- Preparation of a Coastal Management Program (CMP formerly known as CZMP) specifically for North Creek. This will be discussed further below.
- Negotiation of riparian buffer planting projects in key locations in partnership with existing Landcare Groups and local residents and landholders (this may occur in part with North Coast Local Land Services).
- Continued implementation of the 'Let's Clean Up Our River' video animations project, in partnership with other catchment councils and some NSW agencies.
- Begin implementation of the 'Chickiba Creek – Moving on up (to a B-)' Project. Dollar for dollar funding for this was recently announced by the Office of Environment and Heritage (OEH) under the Estuary Management Program.

#### **North Creek**

This catchment has significant existing pressures which will intensify with greater levels of development already approved. Issues such as consistently low levels of dissolved oxygen, high acid outflows and oyster deaths have been an issue for some time. Council is currently reviewing how to manage stormwater flows from future residential developments being CURA A, and CURA B, as well as Epic and the existing Pacific Pines Estates. Related to this is the Hutley Drive extension which has required consideration of stormwater flows, both quality and quantity. Primary industries as well as NSW Government agencies are looking for improved outcomes for existing conditions within North Creek. The sand deposits at the confluence of North Creek and upstream attracts considerable community attention and discussion with respect to navigation, fisheries, recreation and the relationship between these deposits and the river mouth.

A Coastal Management Program specifically undertaken for North Creek will allow a comprehensive consideration of all these issues holistically. It would be important to involve as many stakeholders as practical in identifying issues and trends, and to ensure that sufficient time was taken to liaise with landholders so that the full range of issues can be considered in detail. The CZMP process also allows for a Management Options Study to be prepared in due course, which can then provide an informed basis for future decision-making.

This work is considered a high priority for our community, for social, environmental and economic reasons.

#### **Lake Ainsworth**

Council has already supported and committed to the preparation of a Coastal Management Program for Lake Ainsworth on the basis of its social, recreational and economic importance to the Shire. Review of the 1996 Estuary Processes Study for Lake Ainsworth has been undertaken, to underwrite a grant application to the OEH Estuary Management Planning Program. The studies will collate updated information to build on previous work, develop a series of management options, talk to the community about available options in detail and, finally, guide the preparation of a Coastal Management Program with actions for implementation for Lake Ainsworth.

Development of a Lake Ainsworth CMP will provide a works program for inclusion in Council's budgetary cycle to maintain and enhance the lake and its surrounding precinct as a valuable recreational and environmental asset.

#### **Shaws Bay**

Shaws Bay already has a gazetted CZMP and a Works Action Plan (WAP) identified for the next ten years. Council has been successful in obtaining grant funding for stabilization of the east arm of the Shaws Bay, which includes both recreational and habitat restoration outcomes.

Additionally a dredging study in line with the approved CZMP is to be undertaken. This dredging will enhance the recreational experience in areas of Shaws Bay which have lesser environmental importance, thus removing pressure on mangroves in the northern arm and retaining fish habitat into the future.

Actions are being progressed as per the WAP with Part V approvals being sought. Works will commence onsite soon in the south-eastern arm of Shaws Bay.

#### **Projects by other organisations**

Council staff are aware that there a number of other organisations working to implement projects that are expected to have positive river health outcomes within the Shire. These include, but are not limited to:-

### *Lennox Head Landcare*

Lennox Head Landcare have a long-standing water quality monitoring program and undertake planting and bush regeneration activities along our coast and coastal creeks, as well.

### *Tuckombil Landcare Group*

Tuckombil Landcare Group also has longstanding projects planting out riparian areas along Maguires Creek, both on the Alstonville Plateau in various locations and on the floodplain close to Teven.

### *Ozfish Unlimited – Richmond River Chapter*

Ozfish Unlimited are in the final stages of an application to the Recreational Fishing Trust to undertake a hydrological study in the Tuckean catchment, a catchment with substantial exports of both acid and water low in dissolved oxygen. They have received favourable feedback with regard to the application thus far, being invited to complete a full submission to the Trust.

### *Richmond Rivers Rescue*

This group recently held an information evening at the Richmond Room in Ballina. They are hoping to link substantial state or federal government funding with groups (both local government and community) working on issues within the Richmond River Catchment.

### *North Coast Local Landcare Services*

NCLLS are liaising with all Northern Rivers Council to identify priority areas for riparian revegetation and are providing matching funding for projects in each LGA.

## **Sustainability Considerations**

- **Environment**  
There are longstanding water quality and fish habitat issues in the wider Richmond River, in respect of which our community is requesting action. These include 'blackwater' but also drainage issues, fish stocks, general water quality, and riparian vegetation amongst others.
- **Social**  
The identity of many of our communities relate to the Richmond River and its tributaries – whether for recreation or business. The community has made it clear that improvements to the river are a priority.
- **Economic**  
Visitors to the area expect a 'clean and green' area with pristine waterways that support sustainable commercial fishing and other economic and tourism sectors.

#### Legal / Resource / Financial Implications

All of these works and actions require a significant amount of time, community and agency liaison, and budget. The approved IPART Healthy Waterways additional monies will assist in progressing many of these projects and can be used as matching funding through various programs such as the OEH Estuary Management Program. Given that the increase is for one year at this stage, Council is still able to significantly progress the following projects:

Lake Ainsworth Coastal Management Program – Estuary Processes Study Review, WQ Monitoring Program, Core Sediment Sampling, Management Options	\$65 000
North Creek Coastal Management Program – Literature Review, WQ Monitoring, Stakeholder Consultation, Processes Study	\$80 000
Emigrant Creek Hydrology – review floodplain hydrology including drains management	\$15 000
Chickiba Creek – Moving on up to a B- (matching funding for OEH Estuary Management Grant)	\$54 600
Riparian Planting Program – Emigrant, Maguires and Houghlahans Creeks and floodplain locations	\$40 000
Tuckean Hydrological Study Contribution - (Ozfish run project – Recreational Fishing Trust Funded)	\$20 000
Landholders Workshop reviewing property and drainage plans	\$ 8 000
Community Discussion Evenings (2 x 3 speakers)	\$ 2 000
Extended Animations Advertising and Education	\$ 8 000
Sediment and Erosion Program	\$20 000
<b>Total Healthy Waterways Program Projects</b>	<b>\$307 600</b>

It must be highlighted that additional monies may be required over time to progress many of the works and actions to implement Coastal Management Plans. Monitoring of the results of the programs implemented for their effectiveness, and development of CMP's for both Lake Ainsworth and North Creek will provide indicative budgets over time.

Nomination of suitable grant funding is a high priority and is critical to support Council in the delivery of these Projects. Funding is generally applied for on a 50/50 basis, so there is a requirement for commitment by Council before applying for grant funding streams.

#### Consultation

The Micromex community survey regularly undertaken by the Council has identified a rising interest in the water quality, fish habitat and bed and bank stability of the Richmond River. This interest has been gradually rising over time, but was crystallised with the detailed Ecohealth report which provided a grim picture of the health of the Richmond River on a catchment by site basis.

Councillors will also be aware that a number of community groups have expressed their interest and demonstrated their commitment to improving waterway health.

### **8.3 Healthy Waterways Project - Priorities**

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The use of informal evening community information sessions to provide easily understood scientific information for community members on a bi-annual basis is expected to assist interested people to understand some of the complex issues facing the various waterways within the Shire.

Further, the development of Coastal Management Programs for North Creek and Lake Ainsworth will include, as a priority, a number of opportunities for stakeholders (including landholders) and community groups to be part of the process. Broader community consultation will be included at the Management Options Study stage for each waterway.

#### **Options**

This report provides an outline of work that staff are undertaking within the Healthy Waterways program at this time. Council has previously endorsed actions mentioned in this report for both Shaws Bay and Lake Ainsworth. Therefore, options for consideration by Council are as follows:

1. That Council receive and note this report without endorsement of any action.
2. That Council receive and note this report and endorse the works, and in particular, the planning work, as outlined for North Creek and the Richmond River.

#### **RECOMMENDATIONS**

That Council receive and note this report and endorse the works, and in particular, the planning work, as outlined for North Creek and the Richmond River

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

Nil

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

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

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

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

#### **RECOMMENDATIONS**

That Council notes the contents of this report on the development applications approved under delegation for variations to development standards less than 10% for April 2017.

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

Nil

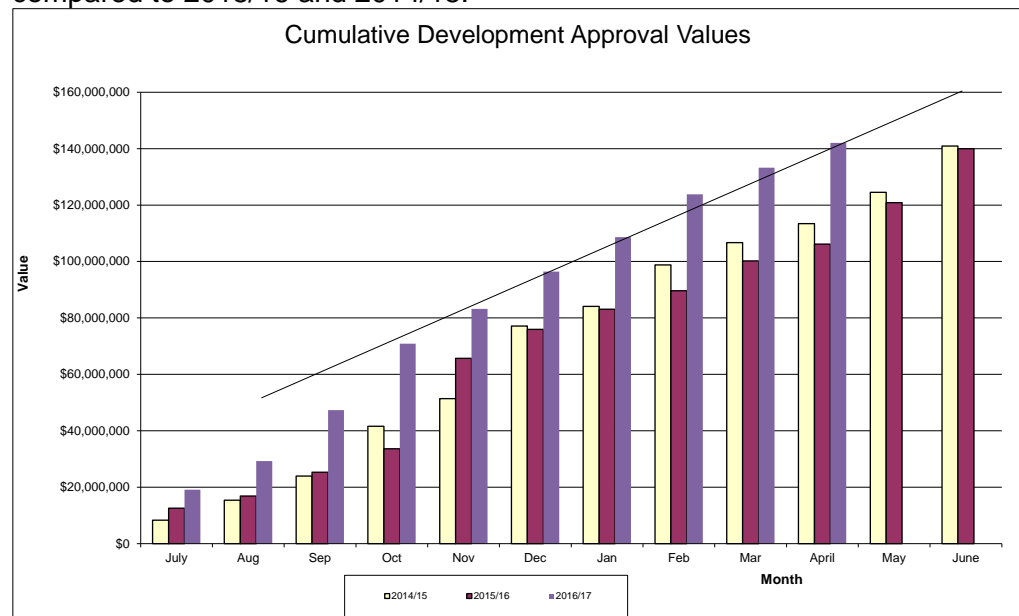
## 8.5 Development Consent and Public Infrastructure Approvals - April 2017

### 8.5 Development Consent and Public Infrastructure Approvals - April 2017

During the period of 1 April 2017 to 30 April 2017 the Development and Environmental Health Group issued Development Consents comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
27 Other including Changes of Use	\$ 1,927,905
17 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 6,468,437
2 General Developments including Subdivisions	\$ 30,318
<b>Total Value</b>	<b>\$ 8,426,660</b>

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



During the period of 1 April 2017 to 30 April 2017 the Development and Environmental Health Group issued Public Infrastructure / Civil Construction Works comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
1 Public Infrastructure / Civil Construction (Installation of a recycled water trunk main along and adjacent to Angels Beach Drive, Bangalow Road and Tamarind Drive, Ballina)	\$ 400,000
<b>Total Value</b>	<b>\$ 400,000</b>

**RECOMMENDATIONS**

That Council notes the contents of the report on development consent and public infrastructure approvals for 1 April 2017 to 30 April 2017.

**Attachment(s)**

Nil



## 8.6 Development Applications - Works in Progress - May 2017

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### 8.6 Development Applications - Works in Progress - May 2017

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

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

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  To be reported to Council for determination
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 - May 2017**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			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
2016/506	08/09/2016	Newton Denny Chapelle	To increase student numbers on a permanent basis from 100 to 235 at the existing educational establishment – 37 Converys Lane, Wollongbar	Awaiting additional information from Applicant following Council's Resolution of April 2017 Ordinary meeting.  To be reported back to Council
2016/655	15/11/16	Ardill Payne & Partners	Amended Proposal - Establishment of Two Holiday Cabins – 56 Tooheys Mill Road, Pearces Creek	Awaiting Additional Information
2016/691	29/11/16	Ardill Payne & Partners	Construction of a new PAD site building of Ballina Fair Shopping	Being Assessed

## 8.6 Development Applications - Works in Progress - May 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			Centre and subsequent modifications to part of the car parking area – 84 Kerr Street, Ballina	
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)	Determination Pending
2016/745	21/12/2016	Ardill Payne & Partners	Subdivision by way of boundary adjustment of five existing lots to create 5 new lots – 520 & 462 Newrybar Swamp Road, Broken Head	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	Awaiting additional information To be reported to Council
2017/57	8/2/2017	Ardill Payne & Partners	Erection of 7 x pole/pylon advertising signs (Lennox Head Service Station – 44-48 Byron Street, Lennox Head)	Determination Pending

## 8.6 Development Applications - Works in Progress - May 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/121	15/3/2017	Newton Denny Chapelle	To establish a rural worker's dwelling - 91 Newrybar Swamp Road, Kinvara	Being Assessed
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	Awaiting Additional Information
2017/146	27/3/2017	Joe Davidson Town Planning	Lease of Road Reserve for Commercial Use (Vehicle sales) and signage - 450-460 River Street, West Ballina	Being Assessed
2017/148	28/3/2017	Northern Rivers Land Solutions	Erection of a temporary Sales Office and construction of associated parking - 33 Mitchell Close, Cumbalum	Being Assessed

## 8.6 Development Applications - Works in Progress - May 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/155	31/3/2017	Planit Consulting Pty Ltd	Lease of Road Reserve for Commercial Use (Vehicle sales) - 444 River Street, West Ballina	Being Assessed
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
2017/163	06/04/2017	Newton Denny Chapelle	Erection and Strata Title Subdivision of a Two Storey Multi Dwelling Housing Development Comprising Three Dwellings and Associated Works – 19 Stewart Street, Lennox Head	On Exhibition
2017/188	13/04/2017	Ardill Payne & Partners	Boundary adjustment subdivision of two existing lots to create two modified lots – 19 Bentinck Street & 65 Norton Street, Ballina	Awaiting Additional Information
2017/191	14/04/2017	Anglican Parish of Alstonville	Boundary adjustment and consolidation of lots (four lots to two lots), alterations to existing garage, and construction of new building – 1 & 3 The Avenue, Alstonville	Awaiting Additional Information
2017/193	19/04/2017	Frances Byrne	Vegetation Management Works Comprising the Pruning of One Tree – 20 Hindmarsh Street, East Ballina	Being Assessed
2017/197	21/04/2017	Brian Gittings	Vegetation Management Works Comprising the removal of one tree – 73B Teven Road,	Being Assessed

**8.6 Development Applications - Works in Progress - May 2017**

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<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			Alstonville	
2017/203	26/04/2017	Dayne Mearns	Erection of a Building for the Purposes of Tourist and Visitor Accomodation – 21 McLeish Road, Kinvara	On Exhibition
2017/204	26/4/2017	Newton Denny Chapelle	38 Lot Residential Subdivision, Civil Infrastructure Servicing and Associated Earthworks – Hutley Drive, Lennox Head	On Exhibition

## 8.6 Development Applications - Works in Progress - May 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	Amended Proposal: Seniors Living Development pursuant to SEPP (Housing for Seniors and People with a Disability) 2004 comprising amended layout, 170 (previously 211) serviced, self-care housing (previously 210) with associated clubhouse, recreation	Amended Proposal on Exhibition

## 8.6 Development Applications - Works in Progress - May 2017

			facilities, roads and associated infrastructure and environmental management and 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  Briefing to be held with Councillors
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
2017/216	3/5/2017	The Office of Sport and	Erection and Use of an Olympic standard multipurpose sports	On Exhibition



**8.6 Development Applications - Works in Progress - May 2017**

		Recreation	training facility including a water jump training/aquatic facility accommodating skiing/snowboarding training and water polo, scuba diving, swimming and diving, construction of a trampoline training area, refurbishment of existing amenities building, demolition of existing structures, construction of a car parking area and associated works. The pool design is 35m by 51m with a maximum depth of approximately 4m. The ski ramps will reach a height of 44.6m AHD being approximately 38m above ground level – 164 Camp Drewe Road, Lennox Head	
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**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 May 2017.

**Attachment(s)**

Nil

## 9.1 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

### 9. Strategic and Community Facilities Group Reports

#### 9.1 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

**Delivery Program** Strategic Planning

**Objective** To outline a proposal to amend the Ballina Local Environmental Plan 2012 to alter the residential zone applying to land in the Visions Estate at Lennox Head and seek direction on the submission of a planning proposal for Gateway determination.

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#### **Background**

Council at its Ordinary Meeting held on 25 January 2017 resolved to approve DA 2016/166 in respect of a proposed 26 lot residential subdivision and associated works relating to land in Henderson Drive and Kellie Ann Crescent, Lennox Head (known as "Visions Estate"). That approval included a requirement to reduce the number of urban lots to 25 and provided for Lots 1 and 15 to be utilised for dual occupancy purposes.

At the same meeting, Council resolved to prepare a planning proposal to rezone each residential lot, other than approved Lot 1 and reconfigured Lot 15, from R3 Medium Density Residential to R2 Low Density Residential zone. A copy of the report and resolution of the January 2017 Ordinary Meeting is provided in the planning proposal (Attachment One).

The Council resolution of the Ordinary Meeting held on 25 January 2017 is reproduced below [Minute No. 250117/8]:

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

## 9.1 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

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2. That Council resolves to prepare a Planning Proposal to rezone each residential lot (other than proposed Lot 1 and reconfigured Lot 15) to R2 Low Density Residential.

The land is located to the north of the established Lennox Palms Estate and is accessed from the northern end of Henderson Drive and the eastern end of the Kellie Ann Crescent cul-de-sac. The 1987 LEP and associated DCP identified the land for medium density development and more recently the 2012 LEP applied an R3 Medium Density Residential Zone over the land.

The proponent has submitted an amended subdivision layout plan having regard for the Council resolution of 25 January 2017. The proponents have requested that Council also consider the inclusion of Lots 2, 6 and 7 within the revised plan for dual occupancy development in addition to Lots 1 and 15. To enable this, an adjustment would be necessary to the attachment planning proposal (Attachment One) to retain additional areas of R3 Medium Density Residential zoning over the site. This zoning permits dual occupancy development as well as other forms of multi dwelling housing.

Information in support of the proponent's request has been prepared by Planners North and is provided in Attachment Two to this report.

Appendix 1 in the planning proposal (as contained in Attachment One to this report) contains plans showing the location of the site, the current land use zoning, the proposed zoning consistent with Council's January 2017 resolution and an alternate zoning arrangement that reflects the proponent's proposed approach.

This report provides an overview of the proposed LEP amendment and seeks the Council's direction on the progress of the matter.

The attachments to this report are provided together under separate cover.

### **Key Issues**

- Merits of proposed LEP amendment.
- Adjustment to an existing zoning arrangement in relation to the determination of a development application for subdivision of land.
- Urban growth management.

### **Information**

#### *The Subject Land*

Visions Estate covers an area of 4.148 hectares (excluding road reserves). The majority of the site is cleared grazing land, with the exception of the north-eastern corner which comprises SEPP 26 Littoral Rainforest. The land is predominantly zoned R3 Medium Density Residential and is subject to a minimum lot size of 800m<sup>2</sup>. The land has been zoned for residential purposes for approximately 40 years. The portion of the site comprising the littoral rainforest is classified as a deferred matter, presently being subject to the 2(a) Living Area Zone under the Ballina LEP 1987.

## **9.1 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head**

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Plans showing the location of the subject land and the current zoning arrangement are contained in Appendix 1 within Attachment One.

### *Summary of the Proposal*

In accordance with the Council resolution of 25 January 2017, the planning proposal involves the rezoning of land from R3 Medium Density Residential to R2 Low Density Residential, with the exception of approved Lot 1 and reconfigured Lot 15. No changes are proposed to the minimum lot size or building height provisions.

Details of the planning proposal are contained in Attachment One. Plans showing the proposed zoning arrangement consistent with Council's January 2017 resolution are contained in Attachment One (see Appendix 1).

### *Alternative Proposal*

The proponent has provided an amended lot layout plan, subject to final survey, and has also requested that Council canvas the inclusion of approved Lots 2, 6 and 7 for dual occupancy development in addition to approved Lots 1 and 15 as provided for in the Council resolution. A copy of the proponent's supporting information is provided in Attachment Two.

This option is presented for the Council's consideration and, if supported, would involve the retention of approved Lots 2, 6 and 7 in the R3 Medium Density Residential Zone (in addition to Lots 1 and 15), with the remaining area rezoned to R2 Low Density Residential Zone. The proposed zoning to enable the proponent's request is shown in mapping within Appendix 1 in Attachment One.

### **Sustainability Considerations**

- **Environment**

The potential impact on native vegetation, including the identified SEPP No. 26 Littoral Rainforest on and surrounding the subject land, was subject to consideration in relation to the assessment of DA 2016/166.

- **Social**

The proposal to provide infill residential housing within an existing residential area provides for additional housing consistent with existing urban planning policy for the Lennox Head and Skennars Head area.

- **Economic**

There are no significant economic implications identified in relation to the proposed rezoning.

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

Should Council resolve to proceed based on its previous resolution (Option 1), then Council will meet the costs of processing the LEP amendment. This is because the change sought has been initiated by Council.

## 9.1 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

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If Council proceeds with the proponent's amended proposal (Option 2), then it is reasonable that costs of processing the LEP amendment request should be split evenly between Council and the proponent. Under this scenario, the change is comprised of both the intentions of Council and the proponent.

### Consultation

There has been no consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date as this matter is in the initial concept phase. The associated development application has been the subject of public exhibition and community feedback as well as reporting to Council in January 2017.

Should the planning proposal continue to proceed, community consultation, public exhibition and agency engagement will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act*.

### Options

1. Prepare a planning proposal to rezone each residential lot, other than approved Lot 1 and reconfigured Lot 15, from R3 Medium Density Residential to R2 Low Density Residential zone.

Council could resolve to proceed with the rezoning in line with the resolution of 25 January 2017. This option would involve referring the planning proposal to the NSW Department of Planning and Environment for Gateway determination.

The assessment of DA 2016/166 considered that the majority of the proposed allotments should be single low density dwelling allotments, having regard for the existing character and density of the existing estate and the strong public support for maintaining the low density character of the area.

In relation to DA 2016/166, the proponent had originally requested that Lot 2 be specified for dual occupancy development in addition to Lots 1 and 15. During the assessment of the development application, the proponent was advised that Lot 2 may not be suitable for dual occupancy development and subsequently the proponent agreed to dual occupancy being permitted on Lots 1 and 15 only.

This option is the recommended course of action as it is in line with the previous resolution of the Council.

Where Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan making functions from the Department. Under these delegations, Council would perform some of the plan making functions that would otherwise be completed by the Department. In the subject case, and given the proposal's consistency with the State and local strategic planning context, it is recommended that Council seeks the delegation.

2. Prepare a planning proposal to rezone each residential lot, other than proposed Lots 1, 2, 6, 7 and reconfigured Lot 15, from R3 Medium Density Residential to R2 Low Density Residential zone.

## 9.1 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

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This option would involve amending the planning proposal to retain approved Lots 2, 6 and 7 (as well as Lots 1 and 15) in the R3 Medium Density Residential zone to enable dual occupancy development. Council could also support inclusion of some but not all of these Lots (i.e. Lots 2, 6 and 7) in an alternative planning proposal.

In considering the R3 zone, it is important to recognise this zone also allows for other forms of multi dwelling housing (being housing forms that incorporate three or more dwellings).

If this approach is taken, an amended planning proposal would be referred to the NSW Department of Planning and Environment for Gateway determination. Under this option, it is recommended that the cost of processing the LEP amendment request should be split evenly between Council and the proponent. If Council prefers this option, it is suggested that the resolution should address the issue of cost apportionment. A suggested point to such a resolution is as follows:

*That Council shares the cost of processing the planning proposal based on a 50/50 split of costs.*

As mentioned previously, the assessment of DA 2016/166 considered Lot 2 to be unsuitable for dual occupancy development and the proponent agreed with this assessment. Given that Lot 6 has similar characteristics to Lot 2 it may also be considered unsuitable for dual occupancy.

There may be some merit in permitting dual occupancy development on proposed Lot 7 as it has similar characteristics to Lots 1 and 15 (corner allotment, dual road frontage). Allowing dual occupancy on an additional lot would assist with adding to the available housing stock which is consistent with the density targets outlined in the North Coast Regional Plan and the Ballina Shire Growth Management Strategy.

This option is not recommended on the basis of the following:

- It is inconsistent with the Council resolution of the 25 January 2017;
- The strong public objection to DA 2016/166 to maintain the low density character of the area.

### 3. Defer or discontinue to planning proposal.

Council may defer the planning proposal to seek additional information or alternatively, may discontinue processing of this matter.

Deferral is not recommended given that the planning proposal seeks to advance Council's January 2017 decision to establish a low density zone over the land in line with the approval for the subdivision for the land.

Discontinuation of the proposal would result in retention of the existing R3 Medium Density zoning over the land. This approach is not recommended unless the Council wishes to retract from the requirement for a low density residential zone to be applied to the majority of the Visions Estate.

**RECOMMENDATIONS**

1. That Council submit the planning proposal for the amendment of the Ballina Local Environmental Plan 2012 (Attachment One), relating to the rezoning of each residential lot and surrounding land in the Visions Estate (other than approved Lot 1 and reconfigured Lot 15) to R2 Low Density Residential, to the NSW Department of Planning & Environment for Gateway determination.
2. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
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.

**Attachment(s)**

1. Planning Proposal BSCPP 17/007 - Visions Estate, Lennox Head (Under separate cover)
2. Proponent's Alternative Proposal - Planners North

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

**Delivery Program** Strategic Planning

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

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**Foreword**

The Council at its Ordinary Meeting on 15 December 2016 resolved as follows in respect to Item 9.2 Planning Proposal – Burns Point Ferry Road, West Ballina [Minute No 151216/2]:

*That this matter be deferred pending further investigation in relation to ecological and any other environmental impacts.*

Staff understood from the discussion associated with this decision that the Council was seeking additional information in relation to the key issues associated with the proposed rezoning of the land.

Consultants, GeoLINK, engaged by Council to provide a peer review and third party analysis of the adequacy of documentation which supported the planning proposal, and report to the Council on the merits of the planning proposal, briefed Councillors in relation to the planning proposal on 29 March 2017. The briefing covered a variety of issues impacting on the planning proposal and specifically addressed site ecological issues.

To assist in addressing the key issues associated with the proposal, GeoLINK has also prepared a *Peer Review Supplementary Report* which forms Attachment Five to this report. The conclusion of this report is reproduced below:

*As outlined in the planning report considered by Council at its Ordinary Meeting held on 15 December 2016, Council has the following options available to it:*

- *Option 1: Finalise the Planning Proposal and Voluntary Planning Agreement*
- *Option 2: Discontinue the Planning Proposal and Voluntary Planning Agreement process*
- *Option 3: Defer the Planning Proposal and request additional information from the proponent.*

*After having reviewed the information provided, including Planning Proposal, technical reports and supporting information provided by the proponent and government and public submissions, it is our position that the Planning Proposal should be finalised and sent to the Department of Planning for Gazettal.*



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

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GeoLINK also considered the mechanisms available to ensure a development control plan (DCP) is prepared to enable certain matters to be addressed in more detail in the event that a proposal for development of the land is received in the future. This included who should be responsible for its preparation and when it should be prepared. The options considered were as follows:

- Option 1 – Include the site as an Urban Release Area under Ballina LEP 2012. Under this option the DCP would be prepared at the land owners cost prior to a DA being submitted but after the rezoning being finalised.
- Option 2 – Negotiate with the proponent to amend the Voluntary Planning Agreement associated with the planning proposal to include a requirement for the DCP to be funded by the proponent. This option would mean delaying the DCP until after the planning proposal has been determined.
- Option 3 – Advise the proponent that the planning proposal would not be finalised until the DCP is prepared and that the Council's position is that the cost of funding of the DCP should be met by the proponent. This is GeoLINK's recommended option as it would ensure that the DCP is prepared prior to the Planning Proposal being determined and could give due consideration to the issues raised by Council's Development Services Section.

It is recommended that Council requires that the DCP is prepared and adopted prior to finalisation of the rezoning.

The Councillor briefing and additional reporting compiled by GeoLINK has not resulted in the identification of additional information requirements or deficiencies in the planning proposal that create cause for the recommendations of the December 2016 report to be significantly varied.

Given the above, the finalisation of the planning proposal to rezone the subject land for the purposes of employment, residential and environmental protection land uses remains as the recommended approach. As such, the information provided in the remainder of this report draws on the information previously presented to the Council in the December 2016 report, with the additional GeoLINK reporting provided as supplementary information.

The purpose of this report is to revisit the outcomes of the public exhibition of the LEP amendment, and draft VPA, and seek direction with respect to the finalisation of the planning proposal.

### **Background**

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

Diagram 1 – Site Location Plan



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

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

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

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

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

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

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

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

- 1. That in relation to the proposal to amend the Ballina Local Environmental Plan 2012 as it applies to Lot 4 DP 537149, Burns Point Ferry Road, West Ballina, Council submit the planning proposal attached to this report (Attachment Five) to the Department of Planning and Environment for review and Gateway determination.*
- 2. That the Department of Planning and Environment be advised that at this stage of the process it is Council's intention to exercise its delegated plan making functions.*
- 3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal and potential environmental, social and economic implications.*
- 4. That upon the requested information being submitted by the proponent, Council initiate a third party review including preparation of an environmental assessment and planning report relating to this planning proposal. Costs for this engagement are to be borne by the proponent.*
- 5. That a further report be presented to the Council in relation to this matter following the preparation of the independent environmental assessment and planning report and at the conclusion of the community and Government agency consultations, as specified by the Gateway.*

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

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

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

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

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

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

The March 2016 GeoLINK Gap Analysis report forms Attachment Six to this report.

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

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

The Department of Planning and Environment subsequently altered the Gateway determination on 8 April 2016. The altered Gateway determination related to the rezoning of the land *to part R2 Low Density Residential and part RU2 Rural Landscape, apply appropriate planning controls to the land and enable the development of "work" related uses in the R2 Zone, and a restaurant or café incorporating information and education facilities and a dwelling in the RU2 Zone as additional permitted uses.*

The altered Gateway determination allowed the amended planning proposal to proceed to public exhibition, subject to conditions, and extended the period for completing the LEP until 1 April 2017. The period to complete the planning proposal was subsequently again extended on 24 March 2017 to require completion by 1 January 2018.

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

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

Attachment Two contains the planning proposal document as publically exhibited.

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

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

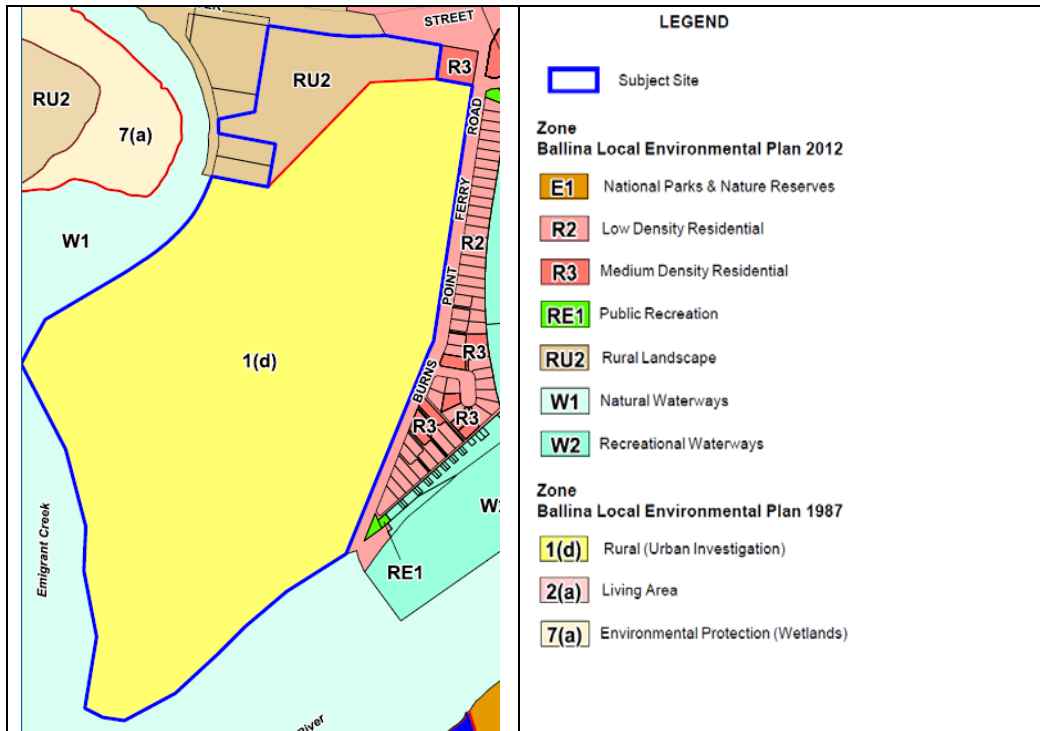
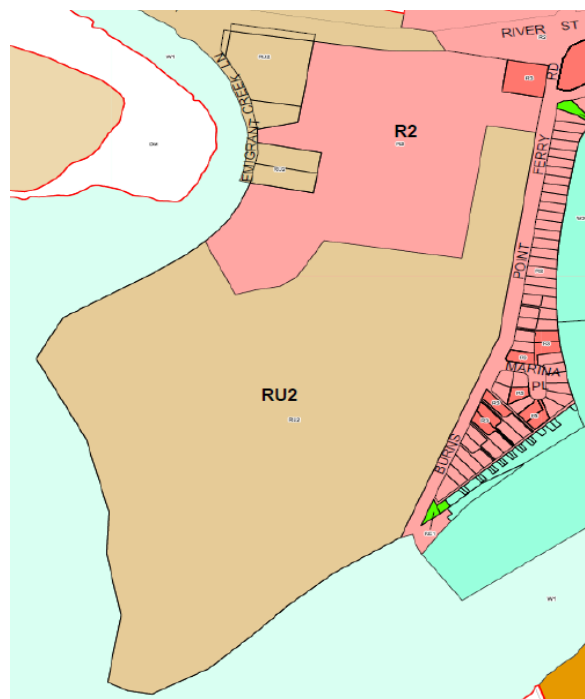


Diagram 3 shows the manner in which the site is proposed to be rezoned under the provisions of Ballina LEP 2012.

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



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

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

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



### Key Issues

- Consideration of the outcomes of the public exhibition process and supplementary reporting from GeoLINK.
- Consideration of the comments received by government agencies and Council’s Development and Environmental Health Group internal review.
- Proposed zoning for mixed land uses.
- Ecological constraints.
- Timing of the preparation of the proposed biobanking statement.
- Flooding constraints.
- Consideration of acceptance of delegation from the Department of Planning and Environment to finalise the planning proposal.

### Information

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

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

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

The following provides an outline in relation to key issues associated with the planning proposal. Key issues were also discussed at the Councillor briefing held in March 2017 and are addressed in the Peer Review Supplementary Report prepared by GeoLINK in April 2017 (Attachment Five).

### Biodiversity Considerations

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

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

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

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

It should be noted that since 2005 there have been eight assessments / investigations undertaken in relation to ecological attributes associated with part or all of the subject land (although not all specifically in relation to the attributes of the entire area proposed for urban development). This is in addition to assessments undertaken by Council's Environmental Scientist and consideration of issues raised by the Office of Environment and Heritage. Two of the assessments have been undertaken by independent consultants engaged by Council (Blackwood 2014 and GeoLINK 2016).

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

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



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

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

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

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

Diagram 5 contains an extract from the Blackwood Ecological Assessment and shows the location of vegetation communities found to be present on the land. Note the Blackwood Ecological Assessment did not examine the south western portion of the land that over which an R2 Low Density Residential zone is proposed. This was subsequently considered by GeoLINK as part of the third party review of the planning proposal.

Diagram 5 - Blackwood's Vegetation Communities Map

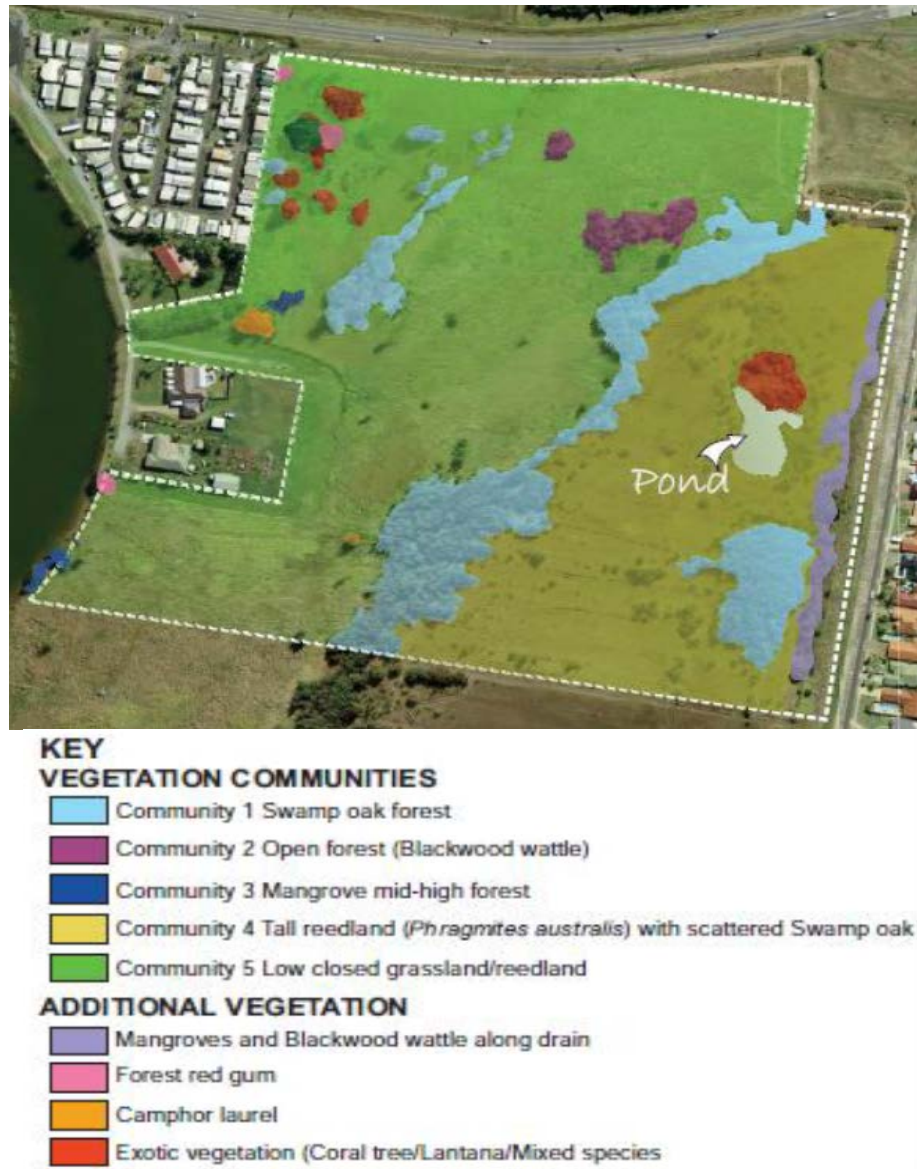
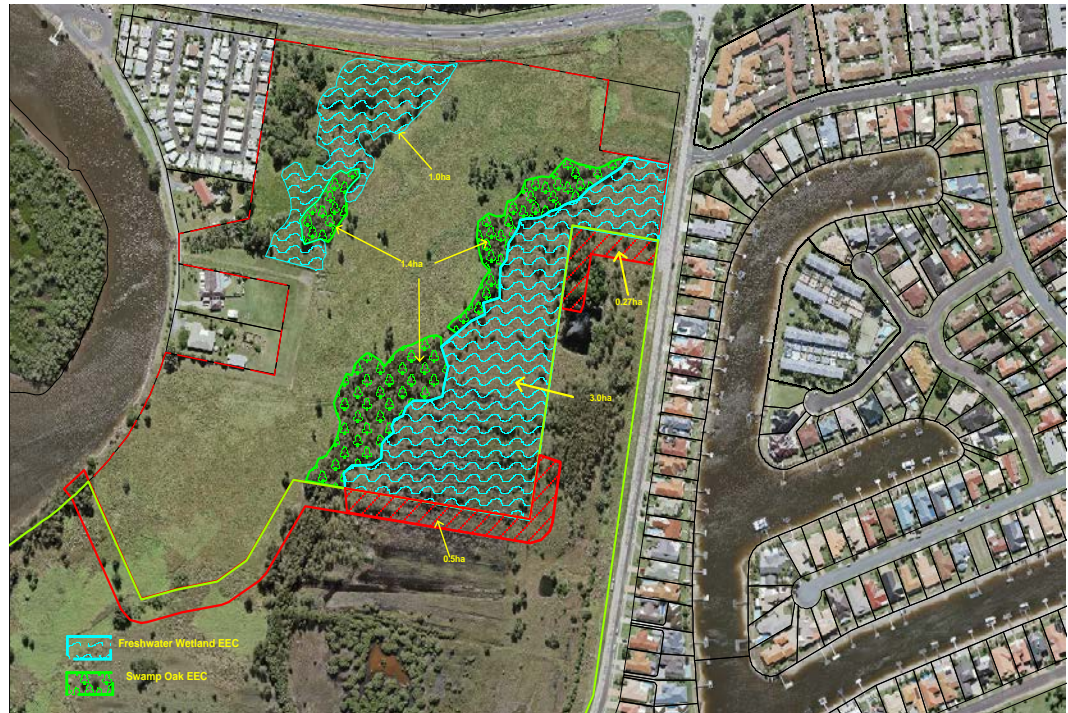


Diagram 6 contains a map produced by Council's Environmental Scientist which indicates his assessment of the extent of Freshwater Wetland EEC and Swamp Oak EEC considered to be present within the area proposed to be rezoned for urban purposes.

Diagram 6 – Council Environmental Scientist’s Vegetation Mapping



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

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

Diagram 7 – Potential Freshwater Land (blue wave area)



The Blackwood report nominates the area depicted in Diagram 7 (blue hatch) as Community 5 – Low closed grassland / reedland. In respect to this area the report indicates that this vegetation community is not considered to be consistent with the description of Freshwater Wetland EEC as defined by the NSW Committee's final determination. An overall low conservation value is assigned to this land. The GeoLINK peer review supported the Blackwood conclusion that this area is not a Freshwater Wetland EEC (Attachment Six). GeoLINK's original conclusion is also reinforced in the Peer review Supplementary Report prepared by GeoLINK in April 2017 (Attachment Five).

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

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

### **Buffer Areas**

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

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

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

### **Draft Voluntary Planning Agreement**

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

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

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

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

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

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

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

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

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

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

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

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

It is also proposed to incorporate a restaurant or café, information and education facility, and a dwelling upon a 1300m<sup>2</sup> site located within the proposed RU2 Rural Landscape zone accessed from Burns Point Ferry Road. The exact location of this facility is not yet known and will be determined as part of the DA process. A site previously nominated by the proponent close to the end of Burns Point Ferry Road was found to be unsuitable due to significant flooding risks. A 40ha minimum lot size is applicable to the proposed RU2 zone. This would prevent the future subdivision of the 1300m<sup>2</sup> from the larger proposed RU2 zoned site. It is also planned that the restaurant and dwelling site would be serviced by reticulated sewer and water with this approach able to be reinforced within DCP provisions applying to the land.

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

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

### Ballina LEP 2012 Proposed Mapping Changes

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

#### *Live-Work Precinct*

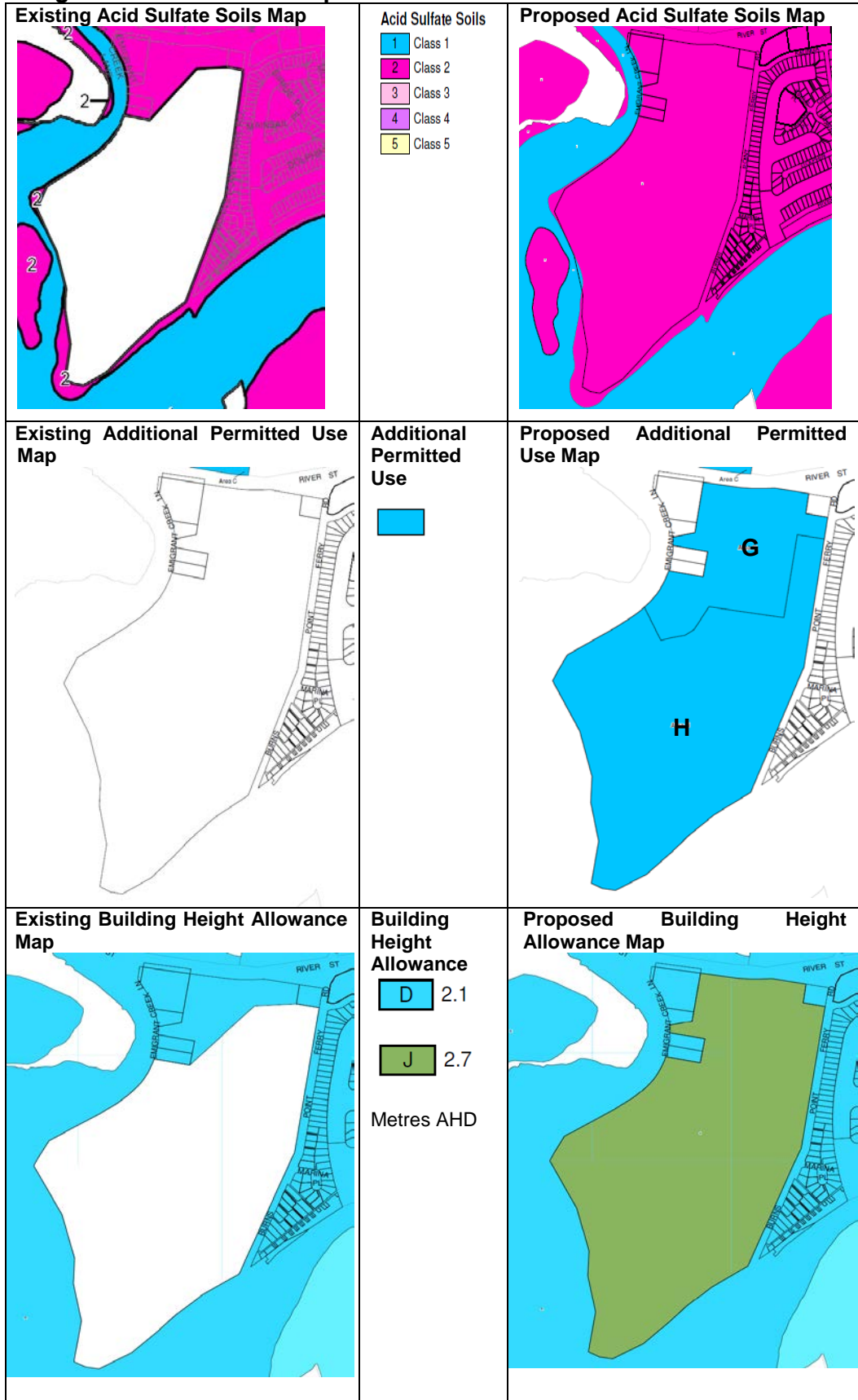
- **Lot Size Map** - Application of a minimum 450m<sup>2</sup> minimum lot size standard.
- **Additional Permitted Use Map** - Utilisation of the additional use provisions contained within BLEP 2012 together with other provisions to permit and regulate live-work development.
- **Floor Space Ratio Map**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

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

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

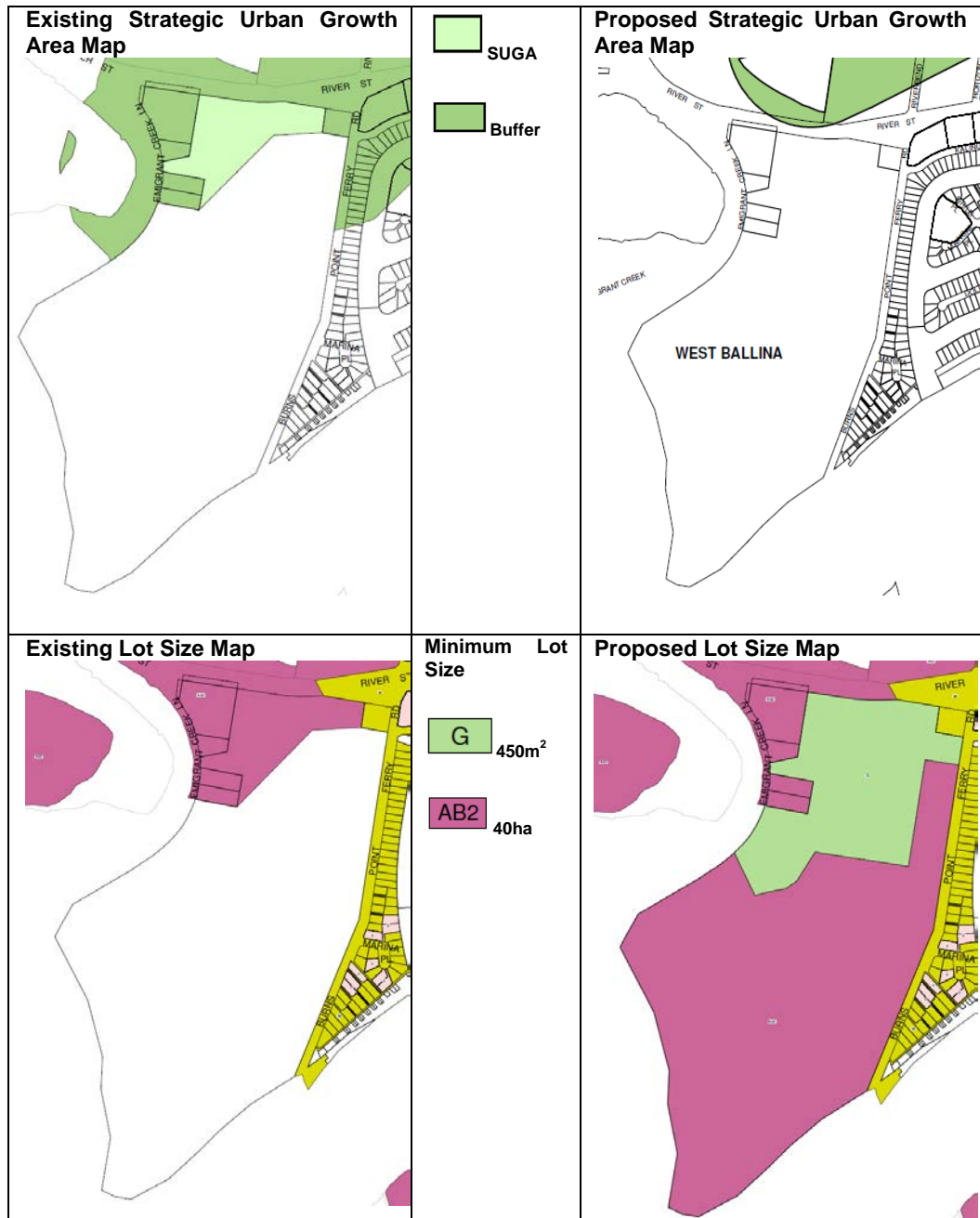
Diagram 7 below provides a comparison between relevant existing and proposed control maps contained in BLEP 2012 which require amendment as a consequence of this planning proposal.

Diagram 7 – BLEP 2012 Map Extracts

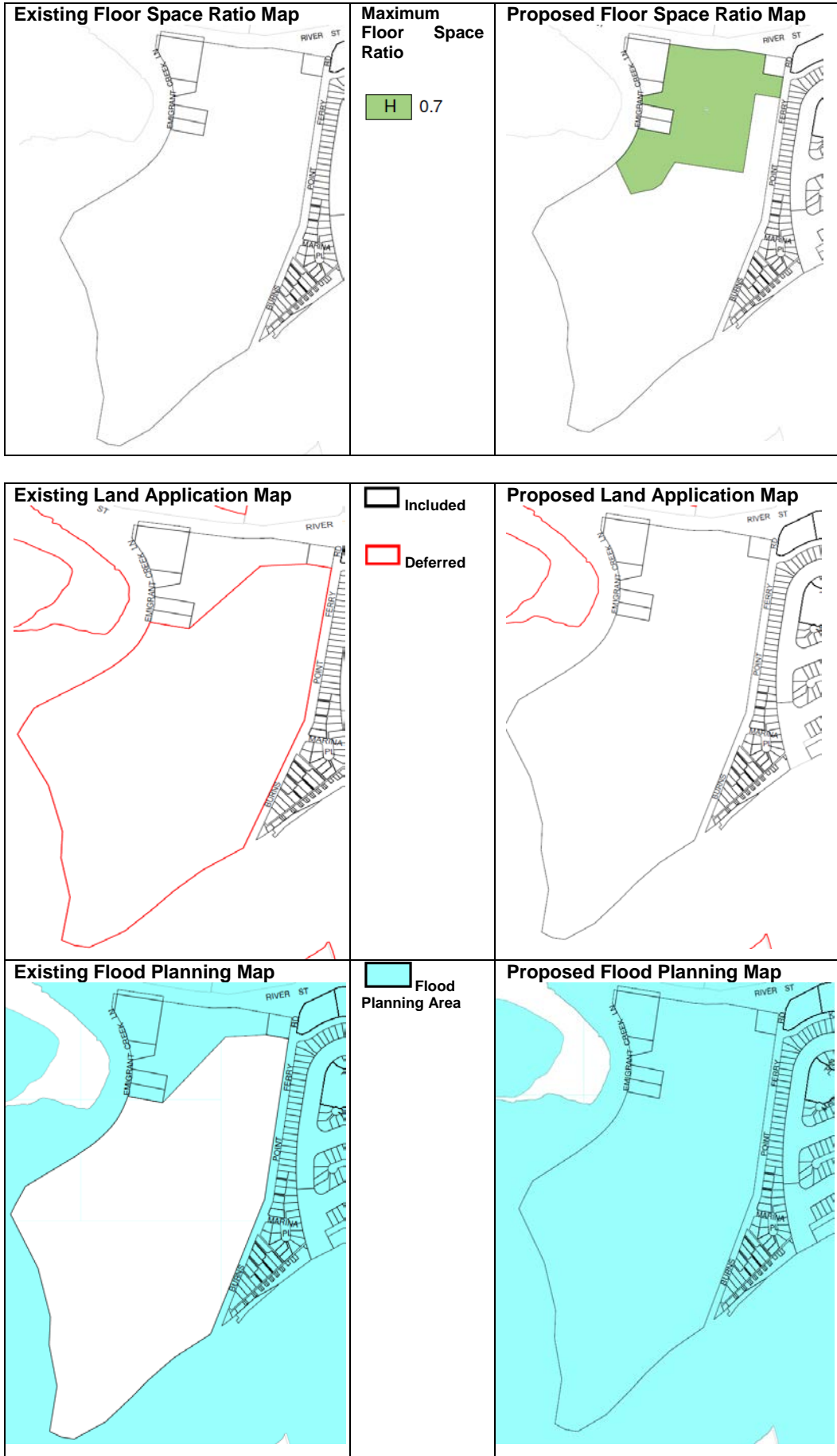


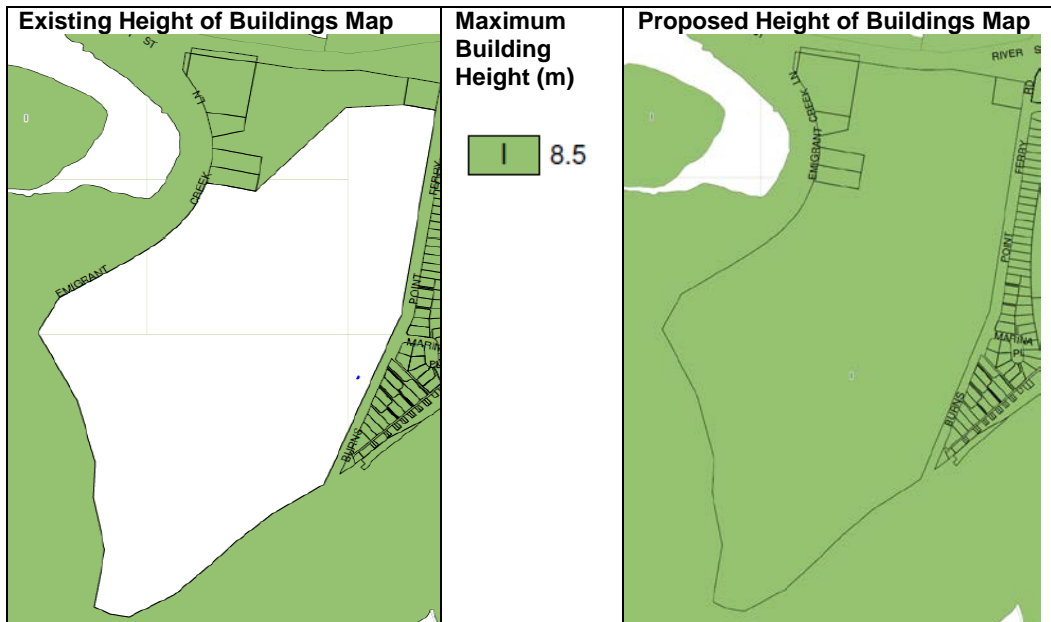


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Note: The Height of Buildings and Building Height Allowance maps have different functions in the LEP. The Height of Buildings Map sets the maximum height of a building from the ground level from which it is measured. The Building Height Allowance Map adjusts the ground level from which height is measured to take required filling to address flooding into account. Both maps have formed part of the 2012 LEP since its inception.

With respect to the integration of deferred matters into the Ballina LEP 2012, under the current approach adopted by Council, consideration will be given to whether that part of the site proposed to be zoned RU2 Rural Landscape Zone meets the criteria for an E zone. If so then an E zone may be recommended for the residue part of the site in a future planning proposal. This issue has been addressed in a recommendation to this report.

### Additional Environmental Constraints

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

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

### Sustainability Considerations

- **Environment**

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

- **Social**

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

- **Economic**

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

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

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

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

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

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

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

Having regard to the limited number and the nature of the public submissions received in response to the public exhibition of the planning proposal, it is recommended that Council proceed to finalise the planning proposal under delegated authority.

**Consultation**

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

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

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

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

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

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

<b>Organisation or Person</b>	<b>Summary of Comments / Issues Raised</b>	<b>Planning Comments</b>
Newton Denny Chapelle (on behalf of Mr Chris Elliot and Mr David Westaway, owners of adjoining land - Lot 1 DP 522558 old Ferry Boat Motel site).	<ul style="list-style-type: none"><li>Do not object to the planning proposal or to the development foreshadowed therein.</li><li>Wish to work with the proponents with the view of providing improved access to the development site from Burns Point Ferry Road over part of their property.</li></ul>	Noted.
Ballina Waterfront Village and Tourist Park (adjoins the subject site)	<ul style="list-style-type: none"><li>Disagrees with the planning proposal on the grounds listed below:</li></ul>	

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

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

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

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

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

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>Watercourse Management and the need for Controlled Activity Applications.</li> </ul>	Noted. Controlled Activity applications would be lodged at the DA stage for any future development of the site.
	<ul style="list-style-type: none"> <li>Sewerage Infrastructure.</li> </ul>	Any future development would be connected to Council's reticulated sewer system.
	<ul style="list-style-type: none"> <li>Future Development Application requirements and the need for specialist studies and investigations.</li> </ul>	All of the listed potential impacts would be addressed via specialist investigations and studies as part of any future DA.
Department of Primary Industries – Fisheries	<ul style="list-style-type: none"> <li>Buffers between urban development and conservation interface need to be revised to reduce impacts on fish habitat.</li> </ul>	It is likely that the buffers proposed in the concept design (included in the Planning Proposal) will not be appropriate given the occurrence of sensitive wetland and estuarine communities south of the proposed urban area. Details relating to ecological buffers will need to be justified and set as part of the design and development application stage. Parameters can also be set and reinforced through DCP based provisions for the land.
Department of Primary Industries – Agriculture	<ul style="list-style-type: none"> <li>No additional comments to those previously made in February 2015. Previously indicated that no major implications for agriculture were identified. Recommended consultation with NSW Office of Water, Fisheries and the local cane industry.</li> </ul>	Noted. Consultation as recommended was undertaken with comments received contained within this report.
Department of Primary Industries – Aquaculture	<ul style="list-style-type: none"> <li>No objection provided that the resultant lots are connected to reticulated sewerage and future development does not adversely affect the Priority Oyster Aquaculture Areas located both upstream and downstream of the site.</li> </ul>	Noted. Reticulated sewer is available to the land. This matter will also be further addressed at the development application stage.
Office of Environment and Heritage (OEH)	<ul style="list-style-type: none"> <li>Rezoning area should be reduced to limit biodiversity impacts.</li> </ul>	Biodiversity impacts of the development are intended to be offset by a Biobanking agreement which is in accordance with current OEH policy.
	<ul style="list-style-type: none"> <li>The area proposed to be rezoned needs to contain all impacts associated with future development scenarios.</li> </ul>	The concept plan may require adjustment at the DA stage to ensure all impacts are contained within the rezoned area. Any future development application (which would include specialist investigations and studies) would need to demonstrate this.



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Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>A revised biobanking statement should be obtained prior to finalising the planning proposal.</li> </ul>	<p>Requiring the preparation of a biobanking agreement before the land is rezoned will delay the rezoning by approximately 6 months to a year (proponent's consultant has estimated 2 years and a cost of \$50,000 based on their experience). Given the timeframe restrictions of processing planning proposals, the planning proposal may need to be withdrawn whilst the biobanking agreement is prepared by the proponent and assessed and approved by OEH.</p> <p>As an alternative to this, the landowner has proposed a Voluntary Planning Agreement (VPA) to secure the requirement for a biobanking agreement prior to development consent for the future urban development of the site. This will enable the planning proposal to proceed whilst securing a biobanking agreement for the proposed conservation area within the site. This is considered an acceptable outcome.</p>
	<ul style="list-style-type: none"> <li>The VPA should ensure that all biodiversity credits required to offset the impacts of the future development of the site are retired prior to any development application being approved for the site.</li> </ul>	<p>Refer comments above. The VPA will secure the requirement for a biobanking agreement prior to development consent for the future urban development of the site. The biobanking statement will specify when credits are required to be retired. Credits could be retired prior to development consent or more reasonably prior to a construction certificate being issued.</p> <p>The proponent is required to negotiate the terms of the Biobanking agreement with the Minister for the Environment. It is through this process that the OEH's position can be negotiated with the proponent.</p>
Roads and Maritime Services	<ul style="list-style-type: none"> <li>It would be beneficial to both road safety and traffic efficiency to remove the delay created by U-turns at the Pacific Highway interchange roundabout due to the proposed left in/left out access treatment on River Street.</li> </ul>	<p>The proposed left in/left out system is an interim measure. The traffic engineering report proposes that a roundabout will be constructed in River Street to service the future development.</p> <p>The proponent has advised that discussions have been held with adjoining property owners about obtaining access via Burns Point Ferry Road, however the proponent's preferred approach is the implementation of the roundabout scheme.</p>

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Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
Ballina Shire Council Development Services	<ul style="list-style-type: none"> <li>Concerns about the proposed planning controls including, floor space ratio residential land use, land use conflict, character of the precinct, approval requirements, compliance issues, flooding, geotechnical matters etc.</li> </ul>	<p>It is considered that the proposed LEP controls in conjunction with supporting DCP provisions will adequately regulate the future development of the site. The detail raised by Council's Development Services Section in regard to floor space ratio, land use conflict, development guidelines and future character of the precinct can be addressed in DCP provisions.</p> <p>BSC Development Services Section has suggested this approach and the proponent has advised that no objection is raised to the requirement for DCP provisions to be prepared and adopted to guide future development of the site. It is therefore recommended that Council resolve to prepare site specific DCP provisions to guide future development of the land.</p>
	<ul style="list-style-type: none"> <li>Market demand for this type of land use.</li> </ul>	<p>Although the live-work concept is new to Ballina it has been successfully adopted in other localities. There are many case studies that demonstrate that the concept works and has significant advantages in terms of reduced travel costs, affordable housing and work/life balance. Like most development proposals there is always an element of risk involved. It would be up to the developer to ensure the proposed development is viable whilst complying with Council's development controls.</p>

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

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>Inconsistencies with the Growth Management Strategy</li> </ul>	<p>The proposal is inconsistent with the provisions of the Ballina Shire Local Growth Management Strategy. The urban footprint proposed extends beyond the identified growth area. In the circumstances, given that the land is currently zoned 1(d) Rural – Urban Investigation (as a result of the E zone deferral) and the land is identified as an Investigation Area – Urban Land as part of the Ballina Urban Growth Area under the State Government’s North Coast Regional Plan 2036, and having regard for detailed site assessment and the potential delivery of environmental outcomes for the residue of the site, this is considered acceptable.</p>
	<ul style="list-style-type: none"> <li>Interface between existing and approved adjoining land uses requires further consideration and resolution at the planning proposal stage.</li> </ul>	<p>It is considered that matters such as buffers, land use conflicts, APZs, vegetation of land and filling cannot be comprehensively addressed at the rezoning stage due to the conceptual nature of the proposal. In relation to these items they can be considered in a Development Control Plan and / or via the Development Application process.</p>

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

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<p>Ecological Issues including:</p> <ul style="list-style-type: none"> <li>• Distribution of Freshwater EEC</li> <li>• Threatened Species EEC</li> <li>• Predicted Impacts to EEC habitat.</li> </ul>	<p>Ecological assessments have been undertaken for the northern part of the site which identify the presence of several endangered ecological communities. These vegetation communities, whilst representative of EECs, have been found by Blackwood Ecological Services to be generally of poor to moderate condition, fragmented, having low species diversity, young age structure and / or generally of low to moderate conservation value. No threatened flora species were found on this part of the site.</p> <p>As a consequence of the ecological assessments undertaken by Blackwood, Melaleuca Group, Peter Parker, Aspect North and GeoLINK it has been concluded that the northern part of the site is generally suitable for urban development as proposed, subject to appropriate biobanking offsets or compensatory habitat being established.</p>
	<p>Mosquito Management including:</p> <ul style="list-style-type: none"> <li>• Requirement of additional mosquito assessment to assess amended layout.</li> <li>• Age of assessment.</li> <li>• Buffer requirements.</li> </ul>	<p>The Mosquito Impact Assessment report prepared by Mosquito Consulting Services Pty Ltd, was prepared over ten years ago. However, the assessment is considered to be generally consistent with Ballina DCP 2012. The extent of development envisaged in the Mosquito Impact Assessment report (2005) has since been reduced in size. There has also been no obvious change in the general characteristics of the subject site and the locality. As such no further mosquito trapping or assessment is considered necessary to progress the Planning Proposal. Careful assessment and consideration of mosquito impacts and management will be required during the preparation of any development application for future development of the land.</p>
	<ul style="list-style-type: none"> <li>• Acid Sulphate Soils – the information submitted is sufficient. An ASSMP will need to be implemented prior to any constructions works.</li> </ul>	<p>Noted</p>

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

Organisation or Person	Summary of Comments / Issues Raised	Planning Comments
	<ul style="list-style-type: none"> <li>Contaminated land – information is adequate except for the southern portion of the site.</li> </ul>	The report did not undertake any soil sampling and analysis in the south of the site. Notwithstanding this it is considered that land contamination presents a relatively low risk to the proposed rezoning of the site. A Phase 2 ESA and potentially a remediation plan will need to be undertaken as part of a DA for the proposed future development of the land.
	<ul style="list-style-type: none"> <li>Ground water extraction licence may be required.</li> </ul>	Refer to planning comments above on DPI – Water's response.
	<ul style="list-style-type: none"> <li>Controlled activity approval may be required.</li> </ul>	Refer to planning comments above on DPI – Water's response.
	<ul style="list-style-type: none"> <li>Impact on amenity/land use conflict.</li> </ul>	Refer to previous planning comment above.
	<ul style="list-style-type: none"> <li>The above issues must be considered and adequately addressed at the planning proposal stage.</li> </ul>	It is considered that the issues raised by Council's Development Services Section have been adequately addressed in the planning proposal and the additional information provided by the proponent.

### Assessment

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

GeoLINK has also prepared a Peer Review Supplementary Report that addresses key issues associated with the planning proposal (Attachment Five).

By way of a summary, the following issues are considered particularly pertinent to the consideration of the planning proposal.

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

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

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

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

### **Ecological constraints**

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

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

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

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

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

It has been suggested that an option available is to require the proponent to calculate the biobanking credits required to offset the proposed future developments impact, and those available upon the land proposed for use as a biobanking site, prior to the rezoning being finalised. This option would not require the formal biobanking agreement to be entered into or the biobanking site established prior to the rezoning being finalised. The VPA would still control the establishment of the biobanking site and require that it is in place prior to the grant of development consent.

The above option would serve to clarify the issue of whether the residue of the site contains sufficient biobanking credits to be able to offset the proposed future development. It should be noted though that unless agreed to under a revised VPA or other suitable legal agreement, there is nothing that would compel the proponent to offset the impacts of the proposed development using biobanking credits available from the residue of the site. It is open to the proponent to source these credits elsewhere if a suitable site became available.

A further difficulty with the above proposal is that a detailed site development plan has not yet been prepared. Such a plan would inform determination of the ecological impacts associated with the future development and the associated buffer areas. Putting in place requirements that would require detailed development planning to take place prior to the rezoning being finalised is considered to be onerous.

In considering biobanking, it is important to recognise that there are two components in relation to this development. One being the establishment of biobanking areas (i.e. places where impacts elsewhere can be offset through the purchase of credits that provide for restoration and management of these areas). The second component is the calculation of biobanking credit needs due to the loss of vegetation that is considered to have ecological value that warrants a compensatory measure (i.e. determining what the clearing of an area of vegetation is worth in biobanking credits to calculate what the developer needs to purchase in relation to the biobanking scheme).

The recommendation of this report provides for a Biobanking Agreement being entered into which creates a biobanking site being created over the proposed RU2 zoned area, prior to the grant of development consent for certain development within the proposed R2 zone.

### **Flood Constraints**

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

### **Stormwater**

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

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

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

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

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

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

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



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

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

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

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

### **Options**

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

This is the recommended option. The planning proposal as exhibited has been the subject of extensive investigation which has included an independent review of technical reports as well as submissions received in response to the public exhibition process.

It is considered that the planning proposal has merit especially in terms of securing the conservation of the residue part of the site (approximately 40ha) under a Biobanking Agreement. The Biobanking Agreement is required to be in place prior to the granting of Development Consent under provisions contained in the exhibited draft VPA.

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

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

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

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

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

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

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

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

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

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

Further investigation could include the calculation of credits required for the future development and those available on the RU2 proposed zoned area. Or alternatively the entering into of a Biobanking Agreement prior to the rezoning being finalised, and may also include the associated retirement of credits. As has been previously stated in this report such an approach is considered to be onerous at rezoning stage. Further, unless the offsetting of impacts is tied to the biobanking scheme through a VPA or other suitable legal agreement, additional analysis of biobanking credit needs is not considered to provide significant benefit at this time. In considering this approach, it is important to note that a VPA must be voluntary, meaning that Council cannot incorporate elements into a VPA without the proponent's agreement.

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

**RECOMMENDATIONS**

1. That Council endorses the amendment of the Ballina Local Environmental Plans 1987 and 2012 to rezone Lot 4 537419, Burns Point Ferry Road, West Ballina, by applying a part R2 Low Density Residential Zone and a part RU2 Rural Landscape Zone to the land, together with associated controls and additional permitted uses as detailed in Planning Proposal BSCPP 14/008.
2. That, in amending the Minimum Lot Size Map in relation to that part of the site proposed to be zoned R2 Low Density Residential Zone, Council endorses a minimum lot size of 450m<sup>2</sup>.
3. That Council resolves to prepare a draft amendment to Ballina Shire Development Control Plan 2012 to introduce site specific controls relating to the future development of Lot 4 DP 537419 for live – work and environmental protection and enhancement purposes.
4. That Council consider a further report once the draft DCP has been prepared and prior to its public exhibition.
5. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/008 under delegated authority subject to the proposed draft DCP amendments being adopted by Council and the Voluntary Planning Agreement being executed and registered on the title of Lot 4 DP 537419.
6. That Council authorises the use of the Common Seal to execute the Voluntary Planning Agreement associated with Planning Proposal BSCPP 14/008.
7. That Council give further consideration to replacing the proposed RU2 Rural Landscape Zone with an environmental protection zone as part of its deferred matters integration program.
8. That upon the planning proposal being finalised Council seek an amendment to the North Coast Regional Plan 2036 so as to remove the sites Investigation Area – Urban Land designation, and amend the Ballina Shire Growth Management Strategy to reflect the extent of the planned urban area.

**Attachment(s)**

1. Attachment One - Chronology
2. Attachment Two - Planning Proposal as Exhibited
3. Attachment Three - Submissions
4. Attachment Four - Draft VPA and Explanatory Note
5. Attachment Five - Peer Review Supplementary Report (GeoLINK 2017)
6. Attachment Six - GeoLINK Peer Review and Gap Analysis Report

### 9.3 Disability Inclusion Action Plan

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#### 9.3 Disability Inclusion Action Plan

**Delivery Program** Community Facilities and Services

**Objective** To outline the draft Disability Inclusion Action Plan for Ballina Shire and seek endorsement for public exhibition.

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#### **Background**

The NSW State Government, through the NSW Disability Inclusion Act 2014 (DI Act 2014), requires all councils in NSW to undertake disability inclusion action planning by 1 July 2017.

This report provides an outline of the process undertaken to develop a Disability Inclusion Action Plan (DIAP) for Ballina Shire and seeks endorsement from Council for the public exhibition of the draft DIAP. The draft DIAP has been prepared to meet the requirements of the DI Act 2014

A copy of the draft DIAP has been provided to Councillors under separate cover.

The DIA 2014 sets out four key areas that all councils must address being;

- Developing positive community attitudes and behaviours,
- Creating liveable communities,
- Supporting access to meaningful employment, and
- Improving access to services through better systems and processes the NSW.

A core principle of the DIAP concept is that people with disability should have the same opportunities to participate in community activities and have access to equitable services. There is recognition that Ballina Island in particular is and will likely continue to be a desirable place for people with mobility issues to live. The challenge for our community is to ensure that our services and facilities meet the needs of people with a disability.

A plan such as the DIAP can assist in matching identified needs with current community assets and developing long term goals that set out opportunities to improve existing services and community facilities as well as supporting provision of community assets and services that are accessible and inclusive.

The draft DIAP is focused on the role of Council and associated actions that can be taken to advance outcomes associated with the four key areas of the DI Act 2014 set out above.

The preparation of the DIAP has included a community survey and targeted stakeholder consultation process. This report seeks Council's direction on the progression of the draft plan.

### 9.3 Disability Inclusion Action Plan

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#### Key Issues

- Promoting and enhancing opportunities for people with disability to participate in community life.
- Addressing the needs of people with a disability and their careers.
- Public exhibition of the draft Disability Inclusion Action Plan.

#### Information

All NSW councils were advised by the NSW State Government of a requirement to develop DIAP in 2016. At the regional level the Council officers who have responsibility for access and inclusion determined that it would be beneficial to work collaboratively. Ballina Shire Council along with Byron Shire Council, Clarence Valley Council, Kyogle Shire Council, Lismore City Council and Richmond Valley Council formed a regional partnership to work on developing DIAP's for each local government area.

A regional forum on developing DIAP's was held in Ballina in May 2016. The forum attracted in excess of 70 participants from the councils across the Norther Rivers Region. This forum involved informing council staff about the requirements of the DIAP, listening to some of the issues people with disability experience, identifying current legislative requirements and identifying opportunities for developing partnerships.

As a direct result of the regional forum Council officers also undertook a regional stakeholder analysis and identified key groups that we would need to consult with. The process of targeted consultations included staff from different councils working together and conducting consultations with the key stakeholder groups.

The information gathered was shared amongst all partner councils. Each partner council also conducted local consultation with people with disabilities, carers, service providers and other individuals.

The DIAP includes strategies and actions aimed at addressing the issues identified during the consultation phase. The primary aim is to improve access and inclusion for people with disabilities. In support of the DIAP and its objectives (once adopted by the Council), an Access and Inclusion team made up from staff across the organisation has been formed. The team has been established to assist in coordinating the actions in the DIAP with a view to improve the delivery of inclusive and accessible services and infrastructure.

#### Sustainability Considerations

- **Environment**

Not Applicable.

- **Social**

The Disability Access and Inclusion Plan has been developed to align with Council's Community Strategic Plan (CSP). The CSP includes a connected community as one of its key directions. Improving opportunities for people with disabilities to gain access to facilities and services is one way to achieve this. Other broader social benefits also include a greater sense of belonging, improved opportunities for people with disabilities to participate in community life, promoting employment opportunities, and improved quality of life.

- **Economic**

The DIAP seeks to support participation in, and access to, employment opportunities for people with disability.

In the tourism sector, accessible tourism is a growing concept and ensuring the shire is inclusive and accessible will create additional opportunities for visitation to the shire. This in turn supports local tourism operators and business through opportunity for increased patronage from people with disabilities.

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

As the DIAP is a strategic level document for the purpose of planning for the needs of residents and visitors with disabilities there are no direct legal implications associated with its endorsement for exhibition purposes or subsequent adoption. However, resourcing will need to be considered before a number of projects or activities suggested in the plan can be actioned. As indicated in the plan, most actions can be supported within existing work programs or by integrating considerations into existing activities of Council.

Key opportunities or projects identified from the plan will be integrated into Council's Delivery Programs and Operational Plans over time. Funding and resource provision in relation to actions that cannot be supported through existing budgets and programs would be considered in the context of the broader Council budgetary process when considering the Delivery Program and Operational Plan.

With respect to timing, the State Government requires that Council completes and publishes its DIAP by 1 July 2017.

### **Consultation**

A joint regional survey was developed and the survey was released simultaneously across the Northern Rivers region. Hard copies of the survey were also made available at key locations, the survey was advertised and promoted extensively and it was distributed to local services and inter-agency groups across the region. At the completion of the survey period 540 responses were received, 91 from the Ballina LGA. The data collected was able to be analysed as a whole region or on an individual LGA level.

Local community consultation was also undertaken with a number of disability groups operating within the Ballina Shire. Council's Disability Access Reference Group (ARG) has also provided input into the formulation of the plan.

#### Options

1. Council may decide not to endorse the draft plan for public exhibition or adoption. Given the extent of engagement undertaken to date and the requirements of the DI Act 2014, the strategic nature of the document and the opportunities it may afford in assisting the residents of the shire with disabilities, this option is not recommended.
2. Council may elect to finalise the draft plan without going to public exhibition. This option is not recommended, as provision for community feedback on the draft plan before implementation is considered to be both appropriate and desirable.
3. Council may endorse the attached draft Disability Inclusion Action Plan for public exhibition, with or without amendment (subject to final formatting, typographic and publication adjustments).

It is recommended that the draft plan as attached to this report is endorsed for public exhibition. This approach provides an opportunity for further stakeholder and community feedback and enables the project to advance towards completion.

A period of 21 days is recommended for exhibition of the plan as Council is required to complete and publish the plan before 1 July 2017.

Where submissions are received in response to the exhibition, the DIAP will be reported back to Council for further consideration. Where no submissions are received, it is recommended that the DIAP is adopted as exhibited (subject to formatting, typographic and publication adjustments).

#### RECOMMENDATIONS

1. That Council endorses the draft Disability Inclusion Action Plan for Ballina Shire for public exhibition.
2. That in the event that no submissions are received, Council adopts the Disability Inclusion Action Plan as exhibited (subject to formatting, typographic and publication adjustments) and authorises publication of the plan to meet the requirements of the NSW State Government.

#### Attachment(s)

1. Draft Disability Inclusion Action Plan - Ballina Shire (Under separate cover)

## 10.1 Investment Summary - April 2017

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### 10. General Manager's Group Reports

#### 10.1 Investment Summary - April 2017

**Delivery Program** Financial Services

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

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#### **Background**

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary Meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of April 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 30 April was \$69,586,000. This represents a decrease of \$2,700,000 from March. Council's investments, as at 30 April, are at an average (weighted) rate of 2.68%, which is 0.92% above the 90 Day Bank Bill Index of 1.76%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 April 2017, was \$1,127,384. This balance is higher than the balance of \$603,616 as at 31 March 2017.

It is anticipated that the balance of investments will be lower through the months of May 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
<b>Total</b>		<b>100%</b>

\* Updated to reflect reserves held as at 30 June 2016



## 10.1 Investment Summary - April 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
<b>Grandfathered Investments</b>							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.6%	<b>3%</b>
<b>Rated Institutions</b>							
AMP Bank	Yes	A+	2,000	2,000	20%	2.9%	
Bank of Queensland	No	A-	5,000	3,000	10%	4.3%	
BankWest	Yes	AA-	12,500	9,500	20%	13.7%	
Bendigo & Adelaide Bank	No	A-	5,000	5,000	10%	7.2%	
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-	6,498	10,798	20%	15.5%	
Defence Bank Ltd	No	BBB+	4,500	4,500	10%	6.5%	
Greater Bank Limited	No	BBB+	2,000	2,000	10%	2.9%	
Credit Union Australia	No	BBB+	2,000	2,000	10%	2.9%	
ING Bank Ltd	Yes	A-	4,000	4,000	10%	5.7%	
Members Equity Bank	No	BBB+	3,000	3,000	10%	4.3%	
National Australia Bank	Yes	AA-	6,000	6,000	20%	8.6%	
Newcastle Perm Bld Society	No	BBB+	1,000	1,000	10%	1.4%	
Rural Bank Ltd	No	A-	2,000	2,000	10%	2.9%	
Suncorp-Metway Bank	No	A+	6,000	4,000	20%	5.7%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	2.9%	
My State Bank Ltd	No	BBB+	5,000	5,000	10%	7.2%	<b>97%</b>
<b>Unrated ADI's</b>					\$1m	0.0%	<b>0%</b>
<b>Total</b>			<b>72,286</b>	<b>69,586</b>		<b>100%</b>	

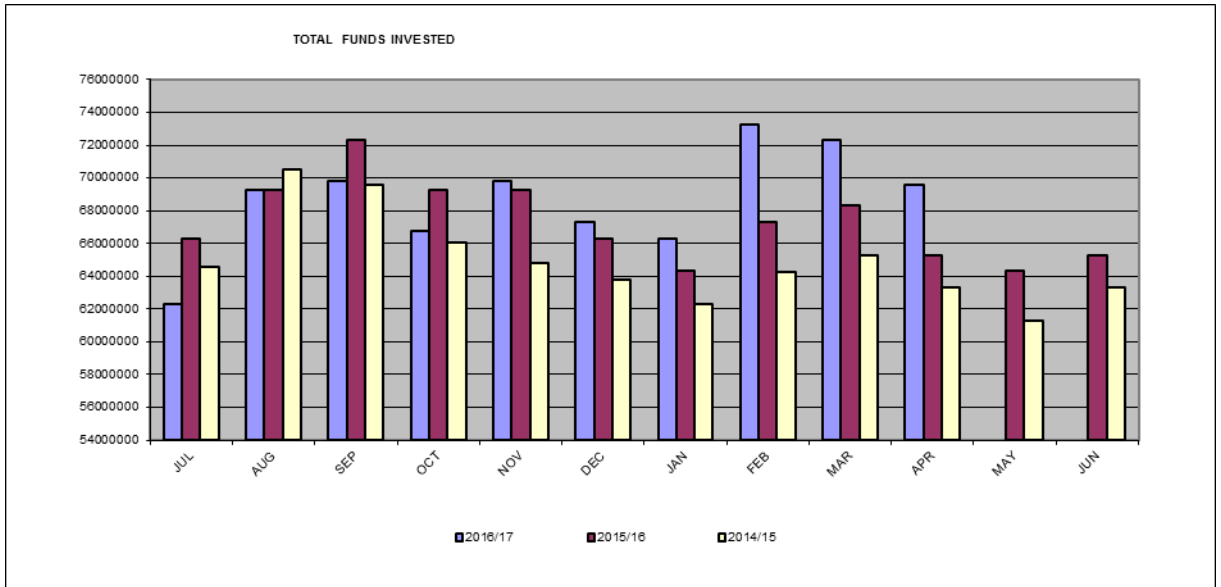
### B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
<b>Fossil Fuel Aligned</b>	34,786 <b>49%</b>	36,086 <b>52%</b>
<b>Non-Fossil Fuel Aligned</b>	36,500 <b>50%</b>	32,500 <b>47%</b>
<b>Not Classified</b>	1,000 <b>1%</b>	1,000 <b>1%</b>
<b>Total</b>	<b>72,286</b> <b>100%</b>	<b>69,586</b> <b>100%</b>

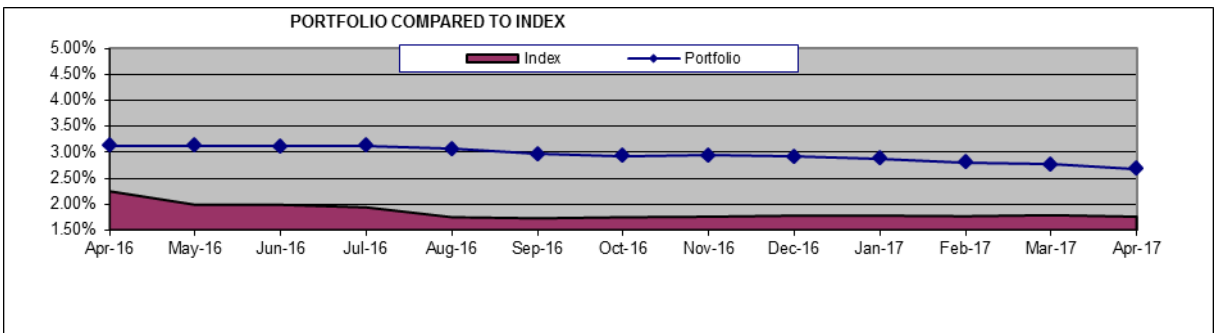
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

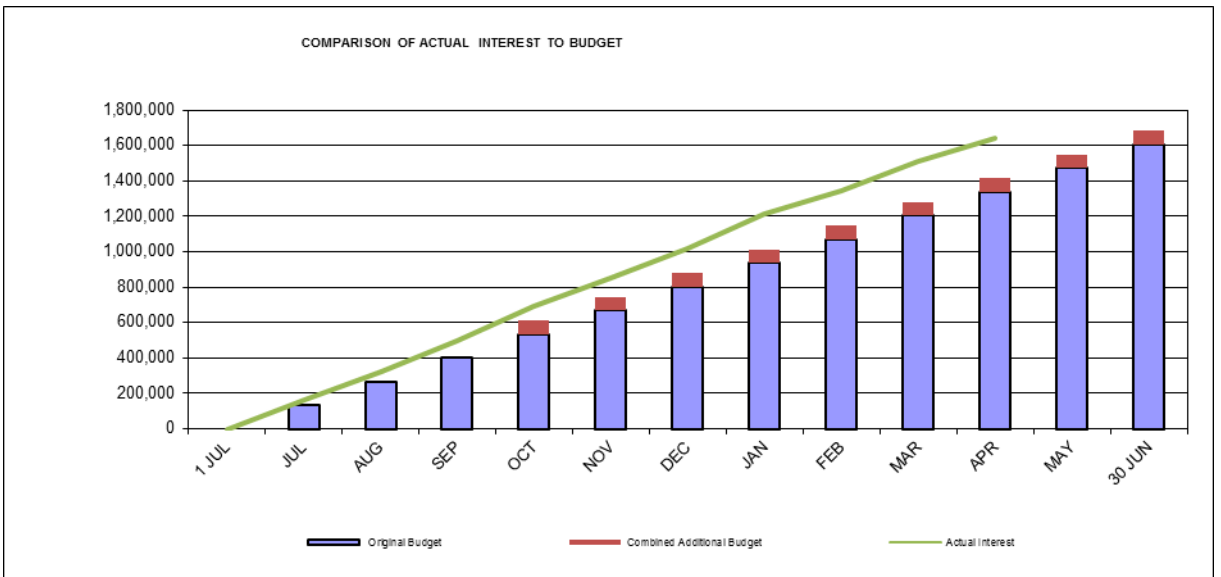
**C. Monthly Comparison of Total Funds Invested**



**D. Comparison of Portfolio Investment Rate to 90 Day BBSW**



**E. Progressive Total of Interest Earned to Budget**



## 10.1 Investment Summary - April 2017

### F. Investments held as at 30 April 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	1,354
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	1,998	2,031
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
26/07/16	Commonwealth Bank Of Australia	FRTD	2.80%	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 Bank Limited	FRN	3.32%	30/08/19	1,000	1,004
04/10/16	National Australia Bank	TD	2.77%	04/10/17	1,000	1,000
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	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
30/06/16	Greater Bank Limited	FRN	3.22%	24/02/20	1,000	1,003
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
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
04/04/17	BankWest	TD	2.50%	07/06/17	2,000	2,000
18/04/17	BankWest	TD	2.25%	18/05/17	1,000	1,000
19/04/17	BankWest	TD	2.25%	19/05/17	1,000	1,000
26/04/17	BankWest	TD	2.25%	31/05/17	1,000	1,000
28/04/17	Commonwealth Bank Of Australia	At Call	1.45%	02/05/17	5,800	5,800
<b>Totals</b>					<b>69,586</b>	<b>69,209</b>
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

**RECOMMENDATION**

That Council notes the record of banking and investments for April 2017.

**Attachment(s)**

1. TCorp Local Government Economic Commentary April

## 10.2 Rotary District Conference

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### 10.2 Rotary District Conference

**Delivery Program** Governance

**Objective** To provide Council with an update on the 2017 Rotary District Conference.

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#### **Background**

The Rotary District 9640 Conference was held in Ballina between 5 – 8 May 2017. The Conference attracted 450 Rotarians and their families to Ballina Shire.

Colin Lee, the District President and Jodie Shelley, will be in attendance at 10.30 am to provide Councilors with an update on the conference.

#### **Key Issues**

- Economic benefits of the conference to the community

#### **Information**

Council resolved at the April 2016 Finance Committee to provide \$15,000 in financial assistance towards the conference from the following funding sources:

\$5,000 from the Airport Marketing Budget  
\$5,000 from the Tourism Promotion Budget  
\$5,000 from Working Capital

#### **Sustainability Considerations**

- **Environment**  
N.A.
- **Social**  
The Club considers the conference to have substantially added to the social environment of the Shire.
- **Economic**  
The Club considers that the conference and the Council's support for it has substantially added to the local economy.

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

Council contributed \$15,000 towards the conference.

## **10.2 Rotary District Conference**

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### **Consultation**

No specific consultation was required from Council. However the Rotary Clubs provided broad consultation throughout their membership.

### **RECOMMENDATIONS**

That Council notes the presentation on the 2017 Rotary District Conference.

### **Attachment(s)**

Nil

### 10.3 Richmond Tweed Regional Library Committee - Election of Alternate Delegate

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### 10.3 Richmond Tweed Regional Library Committee - Election of Alternate Delegate

**Delivery Program** Governance

**Objective** To elect an alternate delegate to represent Council on the Richmond Tweed Regional Library Committee.

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#### **Background**

Council is represented by Councillors on a number of external committees and organisations. Council at the September 2016 meeting elected delegates to external organisations.

Council elected two delegates to the Richmond Tweed Regional Library Committee, (being Crs Cadwallader and Willis) however an alternate delegate is also required in the event that our two delegates are unavailable to attend meetings.

#### **Key Issues**

- Nomination of delegates

#### **Information**

Council provides input into a number of other organisations and groups. The majority of that representation is on a voluntary basis.

#### **Sustainability Considerations**

- **Environment**  
Environmental, social and economic factors will all be considerations in representing councils on other bodies.
- **Social**  
As above
- **Economic**  
As above

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

If nominated as a delegate (or alternate delegate), Councillors are automatically entitled to claim travelling expenses from Council to attend formal meetings.

### **10.3 Richmond Tweed Regional Library Committee - Election of Alternate Delegate**

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#### **Consultation**

Representation on external bodies is an important component in Ballina Shire's consultation with the broader community.

#### **Options**

To elect an alternate delegate, or not to elect an alternate delegate.

#### **RECOMMENDATIONS**

That Council confirm its representation for the Richmond-Tweed Regional Library Committee (RTRL) with our two delegates being Crs Cadwallader and Willis with an alternate delegate to be elected at this meeting.

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

Nil



## 10.4 Policy (New) - Related Party Disclosures

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### 10.4 Policy (New) - Related Party Disclosures

**Delivery Program** Financial Services

**Objective** To consider the implementation of a Related Party Disclosures Policy

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#### **Background**

Changes to the scope of Australian Accounting Standard *AASB 124 Related Party Disclosures (AASB 124)* for not-for-profit public sector entities, requires the adoption of this standard by Council in its preparation of the annual financial statements.

This change for not-for-profit public sector entities in the application of *AASB 124* is mandatory, with an effective date of application being 1 July 2016.

This policy has been drafted to assist Council meet these additional mandatory reporting requirements under *AASB 124*.

#### **Key Issues**

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

#### **Information**

The key elements of this policy are as follows:

- to outline the reporting requirements of *AASB 124* that are effective 1 July 2016;
- to define the meaning of “related party” and “related party transactions” and to assist in the collation and recording of this information.

From 1 July 2016, Council is required to disclose in their general purpose financial statements all relevant related party transactions. To capture this information all Key Management Personnel (KMP) must provide a notification, in the approved form to the General Manger, detailing any existing or potential related party, and any related party transactions between Council and any related parties of the KMP.

The disclosures made by KMP must be disclosed in the 2016/17 annual financial statements. It should be noted these disclosures are in addition to details disclosed as part of the annual report.

KMPs are people having authority and responsibility for planning, directing and controlling the activities of Council, directly or indirectly.

## 10.4 Policy (New) - Related Party Disclosures

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For Ballina Shire Council, KMPs have been assessed to include:

- the Mayor
- Councillors
- the General Manager
- Group Managers

This also includes any and all people acting in the above positions during the financial year.

A person or entity is a related party of Council if they are any of the following:

- (a) entities related to Council;
- (b) KMP of Council;
- (c) close family members of KMP;
- (d) possible close family members of KMP's; and
- (e) entities or people who are controlled or jointly controlled by KMP, or their close family members, or their possible close family members.

Close family members, or possible close members of the family, of a KMP are family members who may be expected to influence, or be influenced by, that person in their dealings with Council and include:

- (a) that person's children and spouse or domestic partner;
- (b) children of that person's spouse or domestic partner; and
- (c) dependents of that person or that person's spouse or domestic partner.

For *AASB 124*, close family members could include extended members of a family (such as, without limitation, a parent, grandparent, siblings, etc) if they could be expected to influence, or be influenced by, the KMP in their dealings with Council. The following table may assist in identifying close family members:

<b>Definitely a close family member</b>	<b>Perhaps a close family member</b>
Your spouse/domestic partner	Your brothers and sisters, if they could be expected to influence, or be influenced by, you in their dealings with Council.
Your children	Your aunts, uncles and cousins, if they could be expected to influence, or be influenced by, you in their dealings with Council.
Your dependents	Your parents and grandparents, if they could be expected to influence, or be influenced by, you in their dealings with Council.
Children of your spouse/domestic partner	Your nieces and nephews, if they could be expected to influence, or be influenced by, you in their dealings with Council.
Dependents of your spouse/domestic partner	Any other member of your family if they could be expected to influence, or be influenced by, you in their dealings with Council.

Related party transactions are required to be disclosed, regardless of whether a price is charged. Such transactions may include:

## 10.4 Policy (New) - Related Party Disclosures

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- purchase or sale of goods;
- purchase or sale of property and other assets;
- rendering or receiving services;
- leases;
- quotations and/or tenders;
- commitments; and
- settlements of liabilities on behalf of Council or by Council on behalf of the related party.

Disclosures must include all material and significant related party transactions in its annual financial statements and include the following detail:

- the nature of the related party relationship; and
- relevant information about the transaction including:
  - a) the amount of the transaction;
  - b) the amount of the outstanding balances, including commitments and their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlements and details of any guarantee given or received;
  - c) provision for doubtful debts related to the amount of outstanding balances; and
  - d) the expense recognised during the period in respect of bad or doubtful debts due from related parties.

When considering whether a disclosure of a related party transaction is material, consideration will be given to not just the financial amount, but whether the user of the financial statements would be impacted by the information in making decisions, ie for Councillors in their vote etc. An alternative way of thinking about whether a disclosure should be included is whether omitted information may make newspaper headlines if it were to be discovered.

KMP will be required to include in their reporting to Council all related parties and transactions irrespective of the nature or amount. Once information is obtained and collated, the results will be considered with reference to both qualitative and quantitative factors and an assessment as to whether a transaction is material and significant requiring disclosure will be made by the General Manager and Manager Financial Services.

The following is an extract of the example included in the Draft Local Government Code of Accounting Practice and Financial Reporting No. 25, for other transactions with KMP and their related entities:

*Council has determined that transactions at arms lengths between KMP and Council as part of Council delivering a public service objective (e.g. access to library or Council swimming pool by KMP) will not be disclosed.*

## 10.4 Policy (New) - Related Party Disclosures

<b>Nature of the transaction</b>	<b>Amount of the transactions during the year</b>	<b>Outstanding balances, including commitments at year end</b>	<b>Terms and conditions</b>	<b>Provisions for doubtful debts related to the amount of outstanding balances</b>	<b>The expense recognised during the period relating to bad or doubtful debts due from related parties</b>
<i>Cleaning services<sup>1</sup></i>	\$100,000	Council owes \$5,000	30-day terms on invoices	-	-
<i>Supply of building materials<sup>2</sup></i>	\$2,000,000	Council owes \$60,000	30-day terms on invoices	-	-
<i>Employee expenses relating to close family members of KMP<sup>3</sup></i>	\$170,555	Payroll accrual for the final 2 working days of the year	Council staff award	-	-
<i>Fees and charges<sup>4</sup></i>					

<sup>1</sup> The Council entered into a 3 year contract in 2016 with CleanMyOffice Limited, a company which is controlled by a member of the KMP of the Council. The total contract value is \$350,000 and the contract was awarded through a competitive tender process based on market rates for these services. Amounts are payable on a quarterly basis for the duration of the contract.

<sup>2</sup> The Council purchased aggregate concrete during the year from ABJ Pty Ltd, a company which has a member of Council's KMP as a director. Amounts were billed based on normal rates for such supplies and were due and payable under normal payment terms.

<sup>3</sup> Close family members of Council's KMP are employed by the Council under the relevant pay award on an arms length basis. There are 3 close family members of KMP currently employed by the Council.

<sup>4</sup> Planning fees were received in relation to planning applications from two companies which are associated with Council KMP. The applications relate to blocks of land in Smith Road and Brown Street. These applications are currently being assessed by Council.

### Sustainability Considerations

- **Environment**  
No applicable.
- **Social**  
Not applicable.
- **Economic**  
No impact.

## **10.4 Policy (New) - Related Party Disclosures**

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

The policy looks to establish a framework for the collation and recording of “related party transactions” to allow Council to comply with mandatory reporting requirements.

### **Consultation**

This policy was prepared after consultation with the Office of Local Government.

The General Manager of Ballina Shire Council was consulted to determine who should be considered as Key Management Personnel of Ballina Shire Council.

It is recommended that Council adopt the policy as presented, and the document will also be exhibited as adopted.

### **Options**

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

### **RECOMMENDATIONS**

That Council adopts the Related Party Disclosures Policy, as attached to this report.

### **Attachment(s)**

1. Related Party Disclosures Policy

## **10.5 Russellton Industrial Estate - Adjoining Land Owners Agreement**

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### **10.5 Russellton Industrial Estate - Adjoining Land Owners Agreement**

**Delivery Program** Commercial Services

**Objective** To seek Council's concurrence to an adjoining land owners' agreement.

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#### **Background**

Council owns a portion of land zoned for industrial use on the southern fringe of the Russellton Industrial Estate at Wollongbar. This portion of land comprises an area of 8.916 hectares and is described as Lot 2 DP 1169153. This is the residue of land left after previous stages of the Russellton Estate were developed by Council.

On 28 April 2005 consent was granted to DA 2005/179 to undertake a subdivision of the land to create 36 industrial lots.

On 19 May 2008 a fresh development application was lodged for the land (DA 2008/803) with revised lot and road layouts. A report was presented to the Council meeting of 25 September 2008, to consider DA 2008/803. It was noted on Page 2 that:

*“A land use conflict already exists between an adjoining macadamia farm and the industrial estate and the expansion of the estate will increase the noise issue.”*

The report noted on Page 3 that:

*“The rezoning of a portion of the adjoining land east of the industrial estate (encompassing an existing dwelling house) from Zone No. 7(i) – Environmental Protection (Urban Buffer) to Zone No. 4 – Industrial should be considered as part of this DA.”*

A proposal to rezone this portion of land owned by Stoville Pty Ltd failed to obtain Council support.

In regards to noise management for DA 2008/803, the report adopted a proposal put forward by the applicant and recommended on Page 13 that:

*“Two (2) constructed acoustic barriers are to be provided along the rear of lots 1, 2, 3, 4 and lots 27 and 28. The barriers are to be incorporated into the landscaping buffer. Details on the acoustic barrier shall be submitted to and approved by Council prior to the issue of the Construction Certificate.”*

Please note that Lots 27 and 28 were renumbered to be Lots 14 and 15.

## **10.5 Russellton Industrial Estate - Adjoining Land Owners Agreement**

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DA 2008/803 was approved on 25 September 2008 for the development of 28 lots. The Notice of Determination was issued on 19 December 2008. Condition 2.6 required the construction of acoustic barriers along the eastern boundary of Lots 14 and 15 and the western boundary of Lots 1, 2, 3 and 4, with the design for same to be submitted with the construction certificate for the project in accordance with the development application's proposals.

On 25 November 2011, a Section 96 amendment was lodged to modify DA 2008/803 in regards to lot and road layout. This application was approved on 27 November 2012.

Condition 7.4 of the amended consent requires a Restriction on User to be placed on Lots 14 and 15 restricting the use of the subject lots to light industrial uses with low noise generating operations. Any heavy or noisy industries wanting to locate on these allotments must include an adequate acoustic assessment report with a development application for their proposed use.

Condition 7.5 requires the construction of an acoustic barrier along the eastern boundaries of Lots 14 and 15. Condition 7.6 requires a restriction of use be placed on the titles of Lots 14 and 15 requiring the owners to be responsible for the ongoing maintenance of an acoustic barrier if an acoustic barrier is determined to be an adequate mitigation measure.

In early 2014 consultants were briefed to prepare and lodge a construction certificate for DA 2008/813 (as amended). On 3 November 2014 a construction certificate application was lodged with Council that included a proposal for the acoustic barrier.

The proposed acoustic barrier along the eastern boundary of Council's property (Lots 14 and 15) as required by Condition 7.5, would be approximately 92 metres long, and due to site topography could be up to 10 metres high in sections.

Furthermore the proposed acoustic barrier may not perform to prevent or minimize noise from the existing industrial estate affecting the house on the Stoville Property. Discussions with Mr Tim Reilly, an owner of the Stoville Property, indicate he and his co-owners are prepared to take legal action if the proposed acoustic barrier failed to perform in preventing noise transmission to the house on their property.

Condition 7.6 also requires a notation on the titles of Lots 14 and 15 making the owners of the lots responsible for the maintenance of the acoustic barrier. Such a condition detracts from the saleability of these two lots.

Construction of the acoustic barrier and the threat of legal action could be negated if the house on the Stoville Property were to be relocated at least 300 metres to the south (remaining on the Stoville Property).

## **10.5 Russellton Industrial Estate - Adjoining Land Owners Agreement**

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Another issue for Council to consider is that for a number of years now Duraplas Tanks (Mr John Fleming), a major business on the Russellton Industrial Estate, has rented a portion of the Stoville Property, including the house, for storage purposes. It is understood Council's Development and Environmental Health Department have advised Mr Fleming and Mr Reilly that unapproved use of this land for storage purposes must cease or else legal action may be taken by Council.

A report on these issues and the viability of developing the final stages of the Russellton Industrial Estate was presented at the Commercial Services Meeting of 18 November 2014. The resolution arising from that was as follows:

1. *That Council notes the contents of this update report for the Russellton Industrial Estate.*
2. *That Council supports the following actions to progress the development of this Estate:*
  - a) *A revised staging plan to increase the viability of any development*
  - b) *Investigations into the possibility of selling the house on the Stoville property*
  - c) *Investigations into the possibility of completing boundary adjustments with Mr Fleming and Mr Flynn.*
  - d) *That funds of \$25,000 be allocated from the Property Development Reserve to cover the investigations referred to in a), b) and c).*
3. *That Council approves a further allocation of \$30,000 from the Property Development Reserve to offset the expenditure already incurred this financial year on the Russellton Industrial Estate, primarily relating to the payment of Council fees.*

Since the date of that last report Council staff have been in negotiations with Mr Reilly (Stoville Pty Ltd) and Mr Fleming to reach an acceptable agreement for all parties. The outcomes of those negotiations are detailed in a confidential report included in this meeting agenda.

### **Key Issues**

- Sale of Council land.
- Purchase of land by Council.
- Payment of compensation by Council to an adjoining landowner.
- Execution of plan of subdivision.
- Execution of adjoining land owner agreements.

### **Information**

Following on from negotiations with Mr Reilly (Stoville Pty Ltd) and Mr Fleming a plan of subdivision was formulated whereby:



## **10.5 Russellton Industrial Estate - Adjoining Land Owners Agreement**

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- a) Mr Fleming acquires a portion of vacant Council industrial land that adjoins his property (Lot 2 DP 707837) by way of a boundary adjustment. This portion of land is described as Lot 1 DP 707837 and classified as operational land.
- b) Mr Fleming acquires a portion of Stoville Pty Ltd property (Mr Reilly's) being part of Lot 1 DP 817406 comprising an area of 9,544m<sup>2</sup>. This land is zoned 7(i) Environmental Protection (Urban Buffer) under BLEP 1987. This acquisition would be undertaken by way of a boundary adjustment.
- c) Council acquires a portion of land from Mr Fleming comprising an area of 1,770m<sup>2</sup> to create a new buffer zone between the residue of Stoville's property and the industrial estate.

A development application (DA 2015/458) for this proposed subdivision was approved by Council on 28 January 2016 and the consent was issued on 5 April 2017. A copy of the plan detailing the proposed subdivision is **attached**.

Since the approval of DA 2015/458 ongoing negotiations have been conducted with Messrs Fleming, Reilly (Stoville Pty Ltd) and Porter (Tabalon Pty Ltd) relating to land sales, acquisitions, compensation, and relocation of a right of way. Those negotiations have now concluded and Council's solicitor CH Law has reviewed the proposal and drafted two adjoining land owner agreements, the details of which are included in a confidential report included in this meeting agenda.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
A resolution of the issues impinging upon the viability of the proposed 28 lot industrial subdivision and the operations of Duraplas will provide a good economic outcome for all parties.

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

#### *Legal*

Council's solicitor CH Law has drafted the two land owner agreements based upon the terms and conditions negotiated between Council, Fleming, Stoville Pty Ltd & Tabalon Pty Ltd.

#### *Financial*

The draft 2017/18 budget has \$500,000 allocated for expenditure at the Russellton Industrial Estate. That funding was allocated based on the contents of this report to cover land acquisition, compensation, and ancillary costs such as professional fees, legal fees, plan registration etc.

### **Consultation**

Council staff have undertaken extensive negotiations with the adjoining land owners; i.e. Mr Fleming, Mr Reilly of Stoville Pty Ltd, and Mr Porter of Tabalon Pty Ltd.

### **RECOMMENDATIONS**

That Council notes the contents of this report regarding the Russell Industrial Estate Adjoining Land Owner Agreement.

### **Attachment(s)**

1. Russellton Industrial Estate Aerial Photo Plan
2. Plan of Proposed Boundary Adjustment Subdivision

10.6 Financial Review - 31 March 2017

**Delivery Program** Governance and Finance

**Objective** To provide a review of the 2016/17 financial year budget based on the known results to 31 March 2017

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**Background**

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

**Key Issues**

- Variations to the budget and financial performance of Council

**Information**

The purpose of this report is to provide information on known budget variances as at 31 March 2017. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

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

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

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

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

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

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

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

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

**Section 1 – Operating Income and Expenditure**

**General Fund – Operating Income and Expenses**

This section deals with the General Fund operations. Tables for operating income and expenses follow, including recommended variations to budget.

Following the tables are comments in respect to proposed budget variations that are considered to be material.

Operating Income	Original	December	Approved	Revised	Changes	March	Actual to
	Budget	Budget	Changes	Budget	for	Budget	March
	000's	000's	000's	000's	Approval	000's	000's
<b>Strategic and Community Facilities Group</b>							
Strategic Planning	154	226	0	226	30	256	84
Community Centres and Halls	398	403	0	403	5	408	319
Cultural and Community Services	113	135	0	135	(1)	134	116
Library Services	79	119	0	119	0	119	118
Swimming Pools	388	388	0	388	42	430	426
Tourism and Communications	52	115	0	115	(1)	114	101
<b>Sub Total</b>	<b>1,184</b>	<b>1,386</b>	<b>0</b>	<b>1,386</b>	<b>75</b>	<b>1,461</b>	<b>1,164</b>
<b>Development and Environmental Health Group</b>							
Development Services	458	717	0	717	33	750	569
Building Services	1,229	1,393	0	1,393	22	1,415	1,093
Environment and Public Health	281	279	0	279	0	279	264
Admin and Public Order	215	209	0	209	(20)	189	138
<b>Sub Total</b>	<b>2,183</b>	<b>2,598</b>	<b>0</b>	<b>2,598</b>	<b>35</b>	<b>2,633</b>	<b>2,064</b>
<b>Civil Services Group</b>							
Engineering Management	285	289	0	289	8	297	256
Procurement and Building Mgmt	0	0	0	0	0	0	0
Stormwater and Env Prot	370	579	0	579	0	579	554
Roads and Bridges	2,578	2,559	0	2,559	0	2,559	1,125
Ancillary Transport Services	787	960	0	960	(3)	957	607
Roads and Maritime Services	1,027	893	0	893	33	926	844
Open Space and Reserves	772	764	0	764	47	811	665
Fleet Mgmt and Workshop	254	254	0	254	14	268	173
Rural Fire Service	194	219	0	219	0	219	163
Quarries and Sandpit	31	66	0	66	5	71	62
Landfill and Resource Management	3,521	3,567	0	3,567	(118)	3,449	2,923
Domestic Waste Management	6,164	6,295	0	6,295	14	6,309	6,363
<b>Sub Total</b>	<b>15,983</b>	<b>16,445</b>	<b>0</b>	<b>16,445</b>	<b>0</b>	<b>16,445</b>	<b>13,735</b>
<b>General Manager's Group</b>							
Governance	0	0	0	0	0	0	0
Administrative Services	40	30	0	30	(5)	25	16
Financial Services	219	233	0	233	0	233	148
Financial Services-General Purpose Revenues	24,529	24,850	0	24,850	58	24,908	24,058
Information Services	145	177	0	177	0	177	163
Human Resources and Risk Mgmt	171	323	0	323	109	432	273
Property Management	2,973	3,033	0	3,033	0	3,033	2,219
Ballina Byron Airport	5,674	5,592	0	5,592	169	5,761	3,881
<b>Sub Total</b>	<b>33,751</b>	<b>34,238</b>	<b>0</b>	<b>34,238</b>	<b>331</b>	<b>34,569</b>	<b>30,758</b>
<b>Total Operating Income</b>	<b>53,101</b>	<b>54,667</b>	<b>0</b>	<b>54,667</b>	<b>441</b>	<b>55,108</b>	<b>47,721</b>

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

Operating Expenses (excluding depreciation)	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to March
<b>Strategic and Community Facilities Group</b>							
Strategic Planning	1,163	1,521	0	1,521	19	1,540	924
Community Centres and Halls	827	857	0	857	12	869	621
Cultural and Community Services	816	868	0	868	(2)	866	634
Library Services	1,434	1,539	0	1,539	10	1,549	1,443
Swimming Pools	911	706	0	706	8	714	584
Tourism and Communications	564	706	0	706	(5)	701	497
<b>Sub Total</b>	<b>5,715</b>	<b>6,197</b>	<b>0</b>	<b>6,197</b>	<b>42</b>	<b>6,239</b>	<b>4,703</b>
<b>Development and Environmental Health Group</b>							
Development Services	1,252	1,278	0	1,278	1	1,279	951
Building Services	917	965	0	965	3	968	775
Environment and Public Health	822	853	0	853	3	856	618
Admin and Public Order	1,261	1,261	0	1,261	(3)	1,258	929
<b>Sub Total</b>	<b>4,252</b>	<b>4,357</b>	<b>0</b>	<b>4,357</b>	<b>4</b>	<b>4,361</b>	<b>3,273</b>
<b>Civil Services Group</b>							
Engineering Management	2,555	2,569	0	2,569	11	2,580	1,887
Procurement and Building Mgmt	2,015	2,082	0	2,082	0	2,082	1,706
Stormwater and Env Prot	742	928	0	928	0	928	379
Roads and Bridges	3,280	3,300	0	3,300	0	3,300	2,597
Ancillary Transport Services	1,636	1,931	0	1,931	(3)	1,928	1,367
Roads and Maritime Services	1,027	909	0	909	33	942	509
Open Space and Reserves	3,559	3,892	0	3,892	30	3,922	2,776
Fleet Mgmt and Workshop	(879)	(879)	0	(879)	(70)	(949)	(685)
Rural Fire Service	400	394	0	394	0	394	275
Quarries and Sandpit	83	683	0	683	0	683	85
Landfill and Resource Management	1,663	1,676	0	1,676	(31)	1,645	977
Domestic Waste Management	5,666	5,666	0	5,666	75	5,741	4,029
<b>Sub Total</b>	<b>21,747</b>	<b>23,151</b>	<b>0</b>	<b>23,151</b>	<b>45</b>	<b>23,196</b>	<b>15,902</b>
<b>General Manager's Group</b>							
Governance	1,613	1,653	0	1,653	22	1,675	1,247
Administrative Services	271	297	0	297	70	367	318
Financial Services	0	0	0	0	0	0	0
Financial Services-General Purpose Revenues	(4,167)	(4,198)	0	(4,198)	46	(4,152)	3,168
Information Services	2,243	2,303	0	2,303	10	2,313	1,770
Human Resources and Risk Mgmt	968	1,011	0	1,011	104	1,115	624
Property Management	3,009	3,107	0	3,107	34	3,141	1,734
Ballina Byron Airport	4,227	3,963	0	3,963	201	4,164	3,109
<b>Sub Total</b>	<b>8,164</b>	<b>8,136</b>	<b>0</b>	<b>8,136</b>	<b>487</b>	<b>8,623</b>	<b>11,970</b>
<b>Total Operating Expenses</b>	<b>39,878</b>	<b>41,841</b>	<b>0</b>	<b>41,841</b>	<b>578</b>	<b>42,419</b>	<b>35,848</b>
<b>Net Operating Result Before Depreciation</b>	<b>13,223</b>	<b>12,826</b>	<b>0</b>	<b>12,826</b>	<b>(137)</b>	<b>12,689</b>	<b>11,873</b>
Depreciation Expense	13,262	13,262	0	13,262	0	13,262	9,947
<b>Net Operating Result Continuing Operations</b>	<b>(39)</b>	<b>(436)</b>	<b>0</b>	<b>(436)</b>	<b>(137)</b>	<b>(573)</b>	<b>1,927</b>

**General Fund Working Capital Forecast**

Item	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to March
Working Capital	(157,200)	67,900	0	67,900	48,000	115,900	

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

**Comments - General Fund**

The **forecast operating result as at March** is a loss of \$573,000 which is a deterioration of \$137,000 from the budget forecast of a loss of \$436,000 as at the December quarterly review.

The larger adjustments to income proposed in this report include a decrease of \$118,000 to forecast income for Landfill Resource Management (LRM), with waste disposal fees significantly down.

Human Resources & Risk Management income has increased, predominantly due to a grant of \$93,800 for an indigenous trainee employment program. An offsetting expenditure was also raised for this amount.

Airport income continues to grow strongly, however in this quarter has been more than offset by a large increase in forecast expenditure.

The net change to forecast airport income is an increase of \$169,000, with the more significant factors being an increase to forecast car rental income of \$100,000 and additional landing fees of \$40,000 following negotiation and settlement of an outstanding amount.

In respect to airport operating expenditure, the proposed adjustments amount to an increase of \$200,500 to forecast expenditure, with the larger increases being a revision of \$80,000 in CAGRO expenditure and \$60,000 additional expenditure in promotion.

Fleet operating costs have been reviewed with savings of \$70,000 identified for the current year.

Another large operating expense adjustment relates to a decrease to forecast expenditure for LRM in waste disposal costs (consistent with the decrease in waste disposal fee income), offset by large asbestos removal costs.

The estimated movement in **unrestricted working capital** has improved from an anticipated surplus of \$67,900 to an anticipated surplus of \$115,900. Importantly even this with improved forecast working capital surplus for 2016/17, the forecasts for future years remain in deficit, with that deficit figure varying from approximately \$170,000 to \$400,000.

Again, this highlights that many of the items, particularly related to income levels, in the 2016/17 forecast result, may not be sustained into the future. It also reinforces the point that if Council wishes to add new services, or increase service levels, savings will need to be made in existing programs.

Comments on the larger budget variations are contained in the report as follows.

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

### **General Fund - Operating Revenues**

#### ***Strategic and Community Facilities Group***

##### *Strategic Planning*

Grant funding of \$12,000 and \$5,000 has been received for the 20 Million Trees project and Back to Business Week Event funding, respectively.

Equivalent budget adjustments have made to expenditure for these projects.

Budgeted Footpath Lease income of \$13,100 has been transferred from the Commercial Property area to the Strategic Planning area, in line with responsibility for the administration of this income.

##### *Community Centres and Halls*

Overall an increase of \$4,500 has been proposed to forecast income.

The movements consist of Kentwell Community Centre, an increase of \$7,000; Alstonville Leisure Centre, a decrease of \$5,000; and Lennox Head Cultural & Community Centre, an increase of \$2,500.

##### *Cultural and Community Services*

Forecast income for reimbursements received from the Aboriginal Children's Centre has been increased by \$5,000 and forecast rates income from the Ballina Men's Shed has been increased by \$1,000.

Gallery income has been adjusted down by \$7,000, predominantly due to lower than forecast commission on consignment sales.

##### *Swimming Pools*

Operating income for both the Ballina pool and the Alstonville pool continued to trend well for the remainder of the open season, with income for Ballina Pool \$26,000 and Alstonville Pool \$15,500 over the forecast income as at December. (The forecast incomes as at December were kept at a conservative level, with uncertainty over the impact of the starting of the refurbishment works).

##### *Tourism and Communications*

Budgeted income of \$2,100 from Community Event signage has been transferred to the Open Space and Reserves section of Council.

Forecast income from Commission on consignment sales has been increased by \$1,500 to reflect actual income achieved for the period.

***Development and Environmental Health Group***

*Development Services*

Reasonably large increases to forecast operating income have been made in the last two quarterly budget reviews, with a further \$33,000 proposed for this review to a revised annual forecast of \$750,000.

The larger areas for adjustment are Development Application Compliance Levy income increased by \$16,000, Sundry Income increased by \$6,000 and Legal fines income increased by \$5,000.

*Building Services*

Forecast operating income has been increased by \$21,500 to a revised forecast of \$1,414,000.

The larger areas for adjustment are increases for Plumbing & Drainage increased by \$12,000, Building Inspection fees increased by \$7,000 and Building Enquiry fees increased by \$7,000, offset by a decrease of \$7,000 for Inspection Fees for Swimming Pools.

*Environment and Public Health*

Overall, forecast operating income has been increased by \$500.

The forecast for Improvement Notice (Food Act) income has been reduced by \$5,000 to \$5,000, based on trend of actuals to date.

Forecasts for Registration & Annual Inspections (Food) and OSSM Inspections income have been revised up by \$2,000 each, based on actual income received.

*Administration and Public Order*

Parking fines income continues to trend low, with forecast income decreased by \$20,000, to \$105,000.

***Civil Services Group***

*Engineering Management*

Development Engineer Inspection fees forecast income has been increased by \$25,000 to \$205,000, based on income achieved.

This increase has been offset in part by reductions of \$10,000 in forecast income for Engineering Survey Design & Supervision and a reduction of \$5,000 in forecast income from Fill & Floor levels.

*Roads and Maritime Services (RMS)*

Natural disaster fund of \$33,200 has been received in the period, with the income budget raised offset by an increase to the regional roads traffic facilities budget.



*Open Space and Reserves*

Vegetation management, grant money of \$28,300 has been received from the Office of Environment & Heritage for Northlakes. An income budget and an offsetting expense budget have been raised for this amount.

Income from 4WD permits for Seven Mile Beach have continued to be more than anticipated and the forecast has been increased by \$11,000.

Contributions for memorial park seats have also been above forecast, with the forecast increased by \$3,000.

As previously noted, budgeted income of \$2,100 from Community Event signage has been transferred to the Open Space and Reserves section of Council.

*Fleet Management and Workshop*

Unbudgeted other plant income of \$21,500 has been realised, with amounts received from vehicle rebates and a motor vehicle insurance bonus refund.

Partially offsetting the above, the forecast income for scrap metal sales has been revised down by \$10,000 to \$8,000.

*Quarries*

Lease fees are received from Boral and Ron Southern. Trending of these amounts indicates a required increase to budgeted income of \$5,000.

*Landfill and Resource Management (LRM)*

Disposal Fee Income: Forecast income for waste disposal fees and for Inert waste disposal fees have been decreased, by \$130,000 and \$50,000, respectively, based on current trending.

Forecast Council (internal) waste disposal income has been increased by \$40,000, based on current trending, with an increase to the corresponding expense within Domestic Waste Management.

Recyclable Revenue: Recyclable metal sales have been increased by \$23,000 based on actual income.

*Domestic Waste Management (DWM)*

Further adjustments to annual charges have resulted in an increase to revenue of \$13,000. The original forecast did not allow for sufficient growth in services.

***General Manager's Group***

*Administrative Services*

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

*Financial Services - General Purpose*

The larger proposed adjustments are:

A one-off contribution of \$45,800 was received from the Office of Local Government in relation to anticipated costs to be incurred by Council in implementation of the new Fire & Emergency Services Levy. A corresponding expense budget has also been raised.

Rates & Charges income: an increase of \$10,600.

Pensioner Subsidy received from the NSW State Government: an increase of \$4,800.

Interest income on outstanding rates and charges: a decrease of \$3,000 to forecast interest to be received.

*Human Resource and Risk Management*

Council has been successful in obtaining funding of \$93,800 through the Elson Dixon Employment program, to fund 7 indigenous school based trainees from February 2017 to December 2018. A corresponding expense budget has been raised for this amount.

Forecast income has been increased by \$10,000 based on refund amounts anticipated from Council's public risk insurer, Statewide.

The contributions budget from the Department of Employment and Training has also been increased by \$5,000 based on amounts received.

*Ballina Byron Airport*

Overall, the forecast income for the airport has been increased by \$169,000.

The larger movements in forecast income are outlined below.

Income from Car Rental Franchises are showing a strong positive trend, with forecast income increased by \$100,000.

An outstanding landing fees amount from Toll has been negotiated and settled, with an additional \$40,000 received.

Security charges have been increased by \$20,000 to \$1,350,000.

Passenger charges have been increased by \$8,000 to \$2,366,000.

## **General Fund - Operating Expenses**

### ***Strategic and Community Facilities***

#### *Strategic Planning*

As noted earlier, expenditure budgets of \$12,000 and \$5,000 have been raised in respect of the 20 Million Trees project and the Back to Business Week event funding.

#### *Community Centres and Halls*

Overall an increase of \$13,000 has been proposed to forecast expenditure.

The movements consist of Lennox Head Cultural & Community Centre, increase of \$19,700; Ballina Surf Club, saving of \$3,500; Alstonville Leisure Centre, saving of \$2,000; Kentwell Community Centre, saving of \$1,500; and Richmond Room, saving of \$500.

The increase expense to the Lennox Head Cultural & Community Centre results from expenditure of \$13,200 for computer software, increased air conditioning maintenance of \$2,500 and increased costs of \$2,500 relating to the kiosk (offset by an increase to kiosk sales).

#### *Cultural and Community Services*

Savings of \$30,000 have resulted due to unfilled position for Manager Customer Service & Community Facilities for the later part of this year, with a proposed decrease in the salaries budget for the 16/17 year.

A reduction of \$3,000 in budgeted expenses is also proposed relating to the Northern Rivers carpool program.

Forecast gallery expenses have been increased by \$32,800. The largest contributor to this is for forecast salaries expense, which due to additional hours incurred by gallery staff over the year is forecast to require a \$20,000 adjustment to cover costs to the year end. Should gallery staff be able to take accrued time in lieu across parts of the remainder of the year, the actual expense may come in under this revised budget.

The other more significant impact on the forecast gallery expenses is an increase of \$15,700 to the budget for Crown lease rental. This lease expense is payable annually, however the Department of Lands are requesting payment from Council for two years in the 16/17 financial year (for 2016 and 2017) to catch up a one year lag.

Small savings amounting to \$2,900 have been identified in other gallery budgets.

#### *Libraries*

An additional expenditure budget of \$10,000 has been raised in respect of a contribution paid towards the Richmond Tweed Regional Library governance model development.

*Swimming Pools*

Operating expense budgets have been adjusted, meeting actual expense, for the Ballina Pool an increase of \$8,500 and for Alstonville Pool a decrease of \$1,000.

*Tourism and Communications*

Forecast expenses have been decreased by \$5,100.

Budgets for Anzac Day and Banner sales, of \$3,000 and \$1,600 respectively, have been transferred to the Open Spaces & Reserves section of Council.

***Development and Environmental Health Services***

*Building Services*

Forecast operating expenses have been increased \$3,000, with an increase of \$7,000 to sundry expenses partially offset by decreases to conference expenses and training costs.

The increase to sundry expenses is required to cover actual costs incurred. Based on review of previous years' expenditure and budgets, it would appear that the original 16/17 budget was not set at a sufficient level to cover anticipated costs.

*Environment and Public Health*

The budget for legal expenses has been increased by \$2,500 to \$7,500 to reflect the actual costs incurred in this year.

*Administration and Public Order*

Forecast operating expenses have been decreased by \$3,500, with the larger adjustments being a decrease to dog pound cleaning costs of \$5,000 offset by an increase in impounding expenses of \$3,500.

***Civil Services***

*Engineering Management*

The budget for Sundry office administration expenses has been increased by \$6,000 and for SES sundry expenses by \$4,300, to meet actual costs incurred.

For the Sundry office administration expenses, based on review of previous years' expenditure and budgets, it would appear that the original 16/17 budget was not set at a sufficient level to cover anticipated costs.

The increased cost for SES sundry was a consequence of sand purchases in recent flood events.

*Procurement and Building Management*

Overall the total forecast operating expenses budget has remained unchanged, with a number of minor offsetting adjustments made between budgets in this area.

It is noted that unbudgeted expenditure of approximately \$37,000 as at 31 March has been incurred in relation to the recent storm event. No budget has been provided for this expenditure at this time as it is anticipated that a claim will be made to recover part of these costs.

*Roads and Bridges*

Unbudgeted expenditure of approximately \$123,000 as at 31 March has been incurred in relation to the recent storm event. It is anticipated that a claim will be made to substantially recover these costs.

*Roads and Maritime Services (RMS)*

The budget for regional roads traffic facilities has been increased by \$33,200. This additional expenditure is effectively offset by natural disaster funding received.

*Open Space and Reserves*

The operating budget for Surf Life Saving has been increased by \$30,000 to meet actual costs incurred.

This increase has been offset by savings of \$20,000 in the Arborist budget, due to an unfilled position, and savings of \$10,000 in the general operations budget.

For vegetation management, an expense budget of \$28,300 has been raised for Northlakes in relation to the grant income received from the Office of Environment & Heritage.

Also as previously noted, budgets for Anzac Day and Banner sales, of \$3,000 and \$1,600 respectively, have been transferred to the Open Spaces & Reserves section of Council.

*Fleet Management and Workshop*

Total forecast operating expenses have been revised down by \$70,000, with the major savings identified in the general repairs, decreased by \$32,000, and plant lease payments, decreased by \$20,000.

*Landfill and Resource Management (LRM)*

A number of budget adjustments are proposed within the LRM expenditures, with an overall decrease to total operating expenditure of \$31,000.

Total combined budgets for waste disposal have decreased by \$63,000 to \$2,301,800. This decrease would have been more, but for additional expenditure required for asbestos removal and re-use green waste costs. A decrease in waste disposal costs is consistent with the decrease in waste disposal fees noted previously in this report.

The budget for asbestos removal has been increased by \$32,000 to a budget of \$122,000 and the budget for re-use green waste has been increased by \$90,000 to \$237,000.

Other disposal costs combined have decreased by \$185,000

Total forecast receival costs have also been revised down by \$23,000.

Other budget adjustments, following, relate to the Administration area of the budget.

Additional budget of \$30,000 has been raised for Waste audits, funded from the restricted reserve.

Expenditure for bin purchases has continued to grow, with additional budget of \$20,000 required to bring the total budget to meet the actual expenses incurred of \$86,000.

A number of other minor adjustments within the Administration area, with a net impact of a \$5,000 increase to budgeted expense, are also proposed.

### *Domestic Waste Management*

There has been a net increase to forecast operating expenses of \$40,000 for Kerbside Collection Council fees payable to Landfill & Resource Recovery (LRM).

An offsetting increase has been made to the (negative) expense recognised in LRM.

Domestic Recycling costs have shown an increase, with an additional budget of \$30,000 proposed to meet costs expected for the year.

### **General Manager's Group**

#### *Governance*

The budget for Election expenses has been increased by \$16,000 to \$246,000 to meet actual expenses incurred, with the required payment to the NSW Electoral Commission now confirmed. This expenditure is funded from reserve.

A new budget of \$5,700 has been raised to cover costs incurred for Councillor induction.

*Administrative Services*

An additional \$46,000 expense has been incurred in relation to staff mobile phones for hardware costs. As noted in the previous quarterly review reports, these costs were not being covered for an interim period whilst the contract with Telstra was being renewed.

The sundry expenses budget has been increased by \$17,500. Costs of \$13,000 were incurred for the mail-out costs associated with the special rate variation and \$5,000 associated with the Community Strategic Plan.

An additional \$5,000 expense has been incurred in relation to staff mobile phone call costs.

*Financial Services – General Purpose*

As noted earlier in this report, an expense budget of \$45,800 has been raised for implementation costs for the new Fire & Emergency Services Levy, funded by a contribution received from the Office of Local Government.

*Information Services*

A further \$10,000 has been added to the Computer hardware budget to meet costs incurred.

*Human Resource and Risk Management*

As previously noted in this report, an expense budget of \$93,800 has been raised for the Elson Dixon Employment program, funded by grant money received. The program extends across the 16/17, 17/18 and 18/19 financial years. Unspent budget at the end of the 16/17 will be carried forward to the 17/18 financial year.

An additional budget of \$10,000 has been added to the Halls Risk Management project, to offset the increased income budget in relation to the Statewide bonus refunds to be received.

The budget for manager reimbursements has been decreased by \$5,000 based on historical expenditure, with offsetting increases made for the educational assistance policy, \$3,000, and staff service awards, \$2,000, to meet these growing expenditure areas.

*Property Management*

Budgeted expenditure for Wigmore Arcade has been increased by \$22,000 due to high building maintenance costs incurred.

Budgeted expenditure for 89 Tamar St has been increased by \$13,000 primarily due to high air conditioning maintenance costs incurred.

*Ballina Byron Airport*

Overall, the forecast expense for the airport has been increased by \$200,500.

## 10.6 Financial Review - 31 March 2017

The most significant factor is an increase of \$80,000 in the anticipated Certified Air Ground Operator (CAGRO) costs.

A further budget of \$60,000 was added to the Promotions budget, bringing this budget to \$280,000, in part due to large (start-up) costs incurred in enticing Fly Pelican Airlines to become established.

The building maintenance budget has been increased by \$30,000 to meet costs anticipated to the end of the year.

Other areas with additional budgets required identified include the markers/cones/wind indicator budgets and consultant expenditure.

### Water Operations

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

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

Item	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to March
Operating Income	11,450	11,914	0	11,914	370	12,284	7,610
Operating Exps (excl. dep)	9,703	9,842	0	9,842	(39)	9,803	6,941
<b>Net Operating Result Before Depreciation</b>	<b>1,747</b>	<b>2,072</b>	<b>0</b>	<b>2,072</b>	<b>409</b>	<b>2,481</b>	<b>669</b>
Depreciation Expense	1,428	1,428	0	1,428	0	1,428	1,071
<b>Net Operating Result from Continuing Operations</b>	<b>319</b>	<b>644</b>	<b>0</b>	<b>644</b>	<b>409</b>	<b>1,053</b>	<b>(402)</b>

The **forecast operating position** (inclusive of depreciation) **as at March** is a surplus of \$1,053,000 which is an improvement of \$409,000 from the budget surplus of \$644,000 as the December quarterly review.

Forecast operating revenues have been increased by \$370,000. This increase to forecast is the result of residential and non-residential consumption charges being significantly higher due to a large part of this financial year being dryer than average, impacting significantly on the number of kilolitres used.

Forecast operating expenditure has been decreased by \$39,000.

Of the largest decreases to operating expenses were a reduction to plant repairs of \$20,000 and a reduction to salaries expenses of \$10,000.

### Wastewater Operations

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

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



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

Item	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to March
Operating Income	17,486	17,706	0	17,706	39	17,745	15,910
Operating Exps (excl. dep)	14,360	(192)	0	14,426	(192)	14,234	10,657
<b>Net Operating Result Before Depreciation</b>	<b>3,126</b>	<b>3,280</b>	<b>0</b>	<b>3,280</b>	<b>231</b>	<b>3,511</b>	<b>5,253</b>
Depreciation/loan unwind Expense	2,927	2,927	0	2,927	0	2,927	2,195
<b>Net Operating Result from Continuing Operations</b>	<b>199</b>	<b>353</b>	<b>0</b>	<b>353</b>	<b>231</b>	<b>584</b>	<b>3,058</b>

The **forecast operating position** (inclusive of depreciation) **as at March** is a surplus of \$584,000 which is an improvement of \$231,000 from the budget surplus of \$353,000 as the December quarterly review.

Forecast operating revenues have been increased by \$39,000.

This was the result of an increase to user charges.

Forecast operating expenditure has been decreased by \$191,500.

A number of adjustments were made to operational budgets, to improve the accuracy of forecasting across the various areas with time, now that some historical data is in existence for the new general ledger structure implemented in the previous financial year.

One of the largest decreases to operating expenses was a decrease to the budget of \$100,000 for treatment scheduled maintenance, which was partially offset by an increase of \$60,000 for treatment reactive maintenance.

Other large decreases included \$48,500 for recycled water budgets, \$40,000 for energy costs, \$25,000 for other operations budgets and a reduction to salaries expenses of \$10,000.

**Section Two – Capital Budget**

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

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

General Fund Capital works	Original Budget 2016/17 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval \$'000	March Budget \$'000	Actual to March \$'000
<b>General Fund Capital Funding</b>							
General revenue	5,110	5,245	0	5,245	(21)	5,224	
Reserves	10,299	19,555	(641)	18,914	16	18,930	
Loans	12,500	7,612	(900)	6,712	0	6,712	
Section 94 contributions	246	707	0	707	79	786	
Grants and contributions	12,817	9,959	129	10,088	113	10,201	
<b>Total Funding</b>	<b>40,972</b>	<b>43,078</b>	<b>(1,412)</b>	<b>41,666</b>	<b>187</b>	<b>41,853</b>	
<b>General Fund Capital Expense</b>							
<i>Strategic and Community Facilities Group</i>							
Cultural and Community Services	22	48	0	48	40	88	11
Swimming Pools	11,600	8,091	0	8,091	0	8,091	148
Libraries	0	0	0	0	0	0	0
<i>General Manager's Group</i>							
Administration & Information Services	91	104	0	104	0	104	22
Human Resources & Risk Management	0	36	0	36	0	36	36
Property Management	3,468	4,396	(685)	3,711	0	3,711	603
Camping Ground	10	20	0	20	0	20	0
Ballina Airport	5,478	1,043	(400)	643	0	643	383
<i>Development &amp; Environ Health Group</i>							
Environmental Health	172	267	129	396	0	396	0
<i>Civil Services Group</i>							
Procurement & Building Management	2,148	4,723	(73)	4,650	0	4,650	1,538
Stormwater	438	427	0	427	0	427	120
Roads and Bridges	10,603	13,400	0	13,400	41	13,441	5,798
Ancillary Transport Services	2,267	2,002	59	2,061	47	2,108	1,469
Water Transport and Wharves	963	1,134	0	1,134	0	1,134	92
Open Space -Parks and Reserves	1,226	1,230	(450)	780	40	820	41
Open Space - Sporting Fields	788	3,467	500	3,967	30	3,997	3,576
Cemeteries	0	0	0	0	0	0	0
Fleet and Plant	1,510	2,070	0	2,070	0	2,070	904
Quarries and Sandpits	83	83	0	83	0	83	4
Waste Management	105	537	(503)	34		34	0
<b>Total Capital expense</b>	<b>40,972</b>	<b>43,078</b>	<b>(1,423)</b>	<b>41,655</b>	<b>198</b>	<b>41,853</b>	<b>14,586</b>

**General Fund****Strategic and Community Services Group***Cultural and Community Services*

A new capital expenditure budget has been raised, for \$40,000, for lighting, funded by a grant received from Arts NSW.

**Civil Services Group***Stormwater*

There is no net change to the budget proposed. The changes are as follows:

## 10.6 Financial Review - 31 March 20174

Description of Works	Adjustment (\$)	Comments
Grant Street	-14,000	From \$14,000 to nil, budget transferred to stormwater asset data collection costs
Stormwater Data Collection	+14,000	From \$1000 to \$15,000
<b>Total</b>	<b>-0</b>	

### *Roads and Bridges*

Budgets have been increased by a total of \$41,300. The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Gap Road culvert	35,000	Additional budget required based on actual costs. Funded from section 94 reserve. Revised budget of \$222,400.
Teven Road heavy patching	-35,000	Transferred back to section 94 reserve, for reallocation.
Heavy patching	33,000	Additional budget required based on actual costs. Funded from section 94 reserve. Revised budget of \$192,500.
S94 Reseals	26,000	New budget required based on actual costs. Funded from section 94 reserve.
Skinner St Seg 10	12,300	Additional budget required based on actual costs, further to \$157,700 additional budget already approved through the quarter. Revised budget of \$482,000.
Sunnybank Dr Seg 20	-62,300	Portion of budget reallocated, further to \$43,700 reallocation already approved through the quarter. Revised budget of \$207,000.
Skennars Head Rd	8,000	Additional budget required based on actual costs. Revised budget of \$316,000.
Friday Hut Road	10,000	Additional budget required based on actual costs. Revised budget of \$425,000.
Airport Boulevard	14,300	Additional budget required based on actual costs. Funded from roads capital reserve. Revised budget of \$35,800.
<b>Total</b>	<b>41,300</b>	

The net increase of \$41,300 is funded as \$59,000 from s94, \$14,300 from the roads capital reserve and an overall savings to revenue funded projects of \$32,000.

*Ancillary Services*

Budgets have been increased by a total of \$47,000. The changes are as follows:

<b>Description of Works</b>	<b>Budget Adjustment (\$)</b>	<b>Comments</b>
Footpath Carlisle St Wardell	20,000	Additional budget required based on actual costs. Funded from section 94 reserve. Revised budget of \$70,000.
Footpath Gibbon St Lennox Hd	17,000	Additional budget required based on actual costs. Revenue funded. Revised budget of \$57,000.
Footpath Horizon Dr West Ballina	3,000	Additional budget required based on actual costs. Revenue funded. Revised budget of \$15,000.
Footpath Sneaths Rd Wollongbar	3,000	Additional budget required based on actual costs. Revenue funded. Revised budget of \$68,000.
Shared Path – Coastal Recreation Path	2,600	Additional budget allocated based on additional RMS funding received.
Car Park Commercial Rd	1,400	Additional budget required based on actual costs. Revenue funded. Revised budget of \$31,400.
<b>Total</b>	<b>47,000</b>	

The net increase of \$47,000 is funded as \$20,000 from s94, \$2,600 grant funding and an overall increase to revenue funded projects of \$24,400 (note, however, that there was an overall savings to the roads and bridges revenue funded projects noted above of \$32,000).

*Open Space – Parks and Reserves*

Grant funding of \$39,800 has been received for the Sharpes Beach Observation Tower, so a capital expense budget has been raised for this amount.

*Open Space – Sporting Fields*

An additional \$30,000 budget has been raised for the Wollongbar Sports Fields project, with contributions of this amount received from the Wollongbar & Alstonville Rugby Club.

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

Water Supply Capital Works	Original Budget 2016/17 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval \$'000	December Budget \$'000	Actual to December \$'000
<b>Water Capital Funding</b>							
Reserves	1,714	1,664	(494)	1,170	0	1,170	
Section 64 contributions	1,820	1,860	(700)	1,160	0	1,160	
Grants & Contributions	0	0	0	0	0	0	
<b>Total Funding</b>	<b>3,534</b>	<b>3,524</b>	<b>(1,194)</b>	<b>2,330</b>	<b>0</b>	<b>2,330</b>	
<b>Water Capital Expense</b>							
Main Renewal	440	390	(125)	265	0	265	209
Reservoirs	1,019	1,019	(400)	619	0	619	25
Pressure Management	234	234	(234)	0	0	0	0
Water pump and bores	362	402	(160)	242	0	242	107
Trunk mains	800	800	(200)	600	0	600	96
Treatment Plant	173	173	(75)	98	0	98	51
Plant	140	140	0	140	0	140	71
Connections	260	260	0	260	0	260	220
Other	106	106	0	106	0	106	7
<b>Total Capital expense</b>	<b>3,534</b>	<b>3,524</b>	<b>(1,194)</b>	<b>2,330</b>	<b>0</b>	<b>2,330</b>	<b>786</b>

The capital works program was reviewed for the April 2017 Ordinary Meeting. There are no further proposed changes at this time.

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

Wastewater Services Capital works	Original Budget 2016/17 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval \$'000	December Budget \$'000	Actual to December \$'000
<b>Wastewater Capital Funding</b>							
Reserves	3,721	3,528	(1,487)	2,041	0	2,041	
Section 64 contributions	2,264	2,264	(110)	2,154	0	2,154	
Loans	0	0	0	0	0	0	
<b>Total Funding</b>	<b>5,985</b>	<b>5,792</b>	<b>(1,597)</b>	<b>4,195</b>	<b>0</b>	<b>4,195</b>	
<b>Wastewater Capital Expense</b>							
Pumping stations	2,640	2,335	(704)	1,631	0	1,631	615
Treatment Plants	1,800	1,680	(472)	1,208	0	1,208	439
Trunk Mains	217	217	(110)	107	0	107	32
Mains renewals	253	263	0	263	0	263	77
Plant	290	377	4	381	0	381	95
Reuse program	740	860	(315)	545	0	545	196
Other	45	60	0	60	0	60	83
<b>Total Capital expense</b>	<b>5,985</b>	<b>5,792</b>	<b>(1,597)</b>	<b>4,195</b>	<b>0</b>	<b>4,195</b>	<b>1,537</b>

The capital works program was reviewed for the April 2017 Ordinary Meeting. There are no further proposed changes at this time.

**Section Three – Cash and Investment Statement**

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

	Original Budget 2016/17 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval December \$'000	Revised Budget December \$'000
<b>Unrestricted</b>	<b>1,736</b>	<b>1,736</b>	<b>0</b>	<b>1,736</b>	<b>0</b>	<b>1,736</b>
<b>Externally Restricted</b>						
- Section 94	7,540	6,643	(100)	6,543	(334)	6,209
- Domestic Waste M'ment	2,027	2,013		2,013	(62)	1,951
- Section 64 Water	5,879	6,294	514	6,808	(70)	6,738
- Water	3,843	4,633	700	5,333	409	5,742
- Section 64 Sewer	4,479	5,004	150	5,154	(270)	4,884
- Sewer	4,036	5,299	1,321	6,620	231	6,851
<b>Total Externally Restricted</b>	<b>27,804</b>	<b>29,886</b>	<b>2,585</b>	<b>32,471</b>	<b>(96)</b>	<b>32,375</b>
<b>Internally Restricted</b>						
- Strategic and Community Services	2,797	1,679	0	1,679	0	1,679
- Employee Leave Entitlements	2,527	2,853	0	2,853	0	2,853
- Plant Replacement	(232)	66	(66)	0	83	83
- Quarries	629	441		441	5	446
- Property Reserves	4,536	4,202	(3,430)	772	(38)	734
- Open Spaces and Reserves	547	534	(210)	324		324
- Landfill Management	2,729	2,929	503	3,432	(86)	3,346
- Civil Works	2,352	4,083	1,498	5,581	0	5,581
- Other	1,236	1,722	28	1,750		1,750
<b>Total Internally Restricted</b>	<b>17,121</b>	<b>18,509</b>	<b>(1,677)</b>	<b>16,832</b>	<b>(36)</b>	<b>16,796</b>
<b>Total Restricted</b>	<b>44,925</b>	<b>48,395</b>	<b>908</b>	<b>49,303</b>	<b>(132)</b>	<b>49,171</b>
<b>Total Cash and Investments</b>	<b>46,661</b>	<b>50,131</b>	<b>908</b>	<b>51,039</b>	<b>(132)</b>	<b>50,907</b>

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

**Statements**

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for March 2017, funds invested amounted to \$72,286,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 March to the amount of \$603,616.

4. Actual year to date cash and investments amounted to \$72,889,616 as at 31 March 2017. This amount includes cash at bank of \$603,616 and funds invested of \$72,286,000 which has been reconciled to bank statements and investment reports.

#### **Comment on Cash and Investment Position**

The forecast reserves position has increased slightly, from \$48.4 million to \$49.2 million.

Details of the major changes for approval are summarised below.

##### *Section 94 Reserves*

Net reserves are predicted to decrease by \$334,000, with \$59,000 additional funding for roads heavy patching, \$20,000 additional funding for footpaths and a decrease in forecast contributions income of \$255,000.

##### *Domestic Waste Management*

Net reserves are predicted to decrease by \$61,500, which is the result of a deterioration to the operational outlook.

##### *Water Reserves*

Net reserves are predicted to increase by \$339,000, which is the result of a significantly improved operational outlook, of \$409,000 (predominantly from increased forecast revenue) offset partially by a decrease in forecast contributions of \$70,000.

##### *Wastewater Reserves*

Net reserves are predicted to decrease by \$39,500, which is the result of an improved operational outlook, of \$230,500 (predominantly from decreased forecast expense) offset by a decrease in forecast contributions of \$270,000.

##### *Quarries*

Net reserves are predicted to increase by \$5,000, which is the result of an improvement in the operational outlook.

##### *Property Reserves*

There is a net decrease of \$38,000 to the forecast reserves balance with the main adjustments being as follows:

- An increase in forecast properties operating expenses of \$33,800
- An increase in capital income of \$20,800 (re 7 North Creek Rd)
- A decrease in forecast airport operating result of \$31,500.

##### *Landfill Resource Management*

Net reserves are predicted to decrease by \$86,000, which is the result of a deterioration to the forecast operating result of \$56,000 and an increase to waste audits (funded by the restricted reserve) of \$30,000.

## Section Four - Key Performance Indicators

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

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

### Key Performance Indicators - Description

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

Measured: as a ratio

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

Indicator type: Financial Position

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

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

Measured: as a ratio

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

Indicator type: Financial Performance

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

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

Measured: as a ratio

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

Indicator type: Financial Position

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



**Benchmark Indicators – General Fund**

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

Benchmark: >1.5:1

2014/15	2015/16	2016/17 Mar
Actual	Actual	Estimate
3.26:1	4.02:1	2.31:1
Pass	Pass	Pass

**Comment**

The ratio is predicted to fall in 2016/17 in comparison to the 2015/16 result.

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

**2. Operating Performance Ratio – General Fund**

Benchmark: >0

2014/15	2015/16	2016/17 Mar
Actual	Actual	Estimate
-5.3%	-1.3%	-0.5%
Fail	Fail	Fail

**Comment**

The current forecast for the ratio to June 2017 is looking to not reach the benchmark.

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

**3. Debt Service Cover Ratio – General Fund**

Benchmark: > 2

2014/15	2015/16	2016/17 Mar
Actual	Actual	Estimate
2.94	4.93	2.85
Pass	Pass	Pass

**Comment**

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

Swimming pool loans will impact on loan repayments from 2017/18 onwards.

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

**Benchmark Indicators - Water****1. Unrestricted current ratio - Water**

Benchmark: >1.5:1

<b>2014/15</b>	<b>2015/16</b>	<b>2016/17 Mar</b>
Actual	Actual	Estimate
73.05:1	78.58:1	58.31:1
Pass	Pass	Pass

**Comments**

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

**2. Operating Performance Ratio - Water**

Benchmark: > 0

<b>2014/15</b>	<b>2015/16</b>	<b>2016/17 Mar</b>
Actual	Actual	Estimate
1.2%	3.77%	8.57%
Fail	Pass	Pass

**Comments**

The Water Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years.

**3. Debt Service Cover Ratio - Water**

Benchmark: >2

<b>2014/15</b>	<b>2015/16</b>	<b>2016/17 Mar</b>
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

**Comments**

The Fund has no external borrowings and none are anticipated this financial year.

**Benchmark Indicators - Wastewater**

**1. Unrestricted current ratio - Wastewater**

Benchmark: >1.5:1

2014/15	2015/16	2016/17 Mar
Actual	Actual	Estimate
3.09:1	2.85:1	2.00:1
Pass	Pass	Pass

**Comments**

The ratio is forecast to fall in comparison to 2015/16. The reason for the decline is due to the use of cash reserves to fund the capital works program and to finance loan repayments.

**2. Operating Performance Ratio - Wastewater**

Benchmark: >0

2014/15	2015/16	2016/17 Mar
Actual	Actual	Estimate
-7.7%	-5.7%	3.29%
Fail	Fail	Pass

**Comments**

The latest forecast is for a positive result, which means a pass in comparison to the benchmark.

A positive result is expected to continue over the next few years.

**3. Debt Service Cover Ratio - Wastewater**

Benchmark: > 2

2014/15	2015/16	2016/17 Mar
Actual	Actual	Estimate
0.85	0.81	1.04
Fail	Fail	Fail

**Comments**

This ratio will fail the benchmark for many years due to the extremely high level of borrowings that have occurred in recent years, although the forecast is that the ratio will gradually improve year on year as the operating surplus continues to grow.

**Section Five – Contractors/Consultants/Legal Expenses**

New contracts entered into during the quarter that meet the definition are detailed in the table below.

Contractor Name	Purpose	Amount (Excl GST)	Start Date	Duration of Contract	Incl in Budget Yes/No
Morgans Earthworks	Provision for Wollongbar Residential Estate – Stage 2	\$1,559,066	1/3/17	6 months	Yes
Ray's Machinery Painting Pty Ltd	Design and Construction of East Ballina Reservoir Refurbishment	\$647,722	24/01/17	12 months	Yes
NJ Constructions Pty Ltd	Supply and installation road lighting ' Skennars Head/Coast Rd roundabout	\$158,900	1/4/17	5 months	Yes
Liberty Industrial	Loading, transportation and disposal of friable asbestos	\$205,105	1/3/17	3 months	Yes

**Consultants**

Total expenditure to date on consultants that appear to meet the definition is detailed below.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Consultancies	\$354,896	Yes

**Legal Expenses**

The next table summarises the expense incurred to the end of March on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Legal Fees	\$167,432	Yes

**Certification**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31 March 2017 indicates that Council's projected financial position at 30 June 2017 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The satisfactory position is based on the short term (twelve month) outlook.



Signed Linda Coulter, Responsible Accounting Officer

### **Sustainability Considerations**

- **Environment**

This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.

- **Social**

As above

- **Economic**

As above

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

This report informs Council of actual financial results to date in comparison to budget. Where legal ramifications are envisaged they are detailed within the information section of this report.

### **Consultation**

This report has been prepared to inform the community of budget variations. Relevant staff have been consulted in the preparation of this report.

### **Options**

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

### **RECOMMENDATION**

That Council notes the contents of the March 2017 Quarterly Budget Review and approves the changes identified within this report.

### **Attachment(s)**

Nil

## 11.1 Flood Mitigation Options for Dwellings in Rural Areas

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### 11. Civil Services Group Reports

#### 11.1 Flood Mitigation Options for Dwellings in Rural Areas

**Delivery Program**      Engineering Works

**Objective**              To consider alternative flood mitigation options for dwellings in rural areas

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#### **Background**

Council resolved (151216/3) at its meeting on 15 December 2016:

“That Council receive a report on options to enable alternative flood mitigation measures (e.g. stilts) for dwellings in rural areas.”

The originating Notice of Motion (Attachment one) made comment that Council’s current preference for the use of fill to mitigate against flood events (e.g. 1 in 100 year events etc.) for dwellings in rural areas can often be *“seen as excessive, can disrupt the floodplain more broadly and is often very costly.”*

The Notice of Motion suggested that other housing design options such as Queenslanders are a practical way to mitigate flood events, to provide more affordable housing and to not interfere with water flows by creating artificial mounds across rural areas.

Council staff provided comments in the Notice of Motion which sought to explain how development of the Ballina Floodplain Risk Management Plan promulgated the current approach that led to the development controls in the Ballina Development Control Plan (DCP).

The following report is in response to this resolution.

#### **Key Issues**

- Floodplain risk management
- Planning and development controls

#### **Information**

As noted in the staff comments of the Notice of Motion, during the development and preparation of the Ballina Floodplain Risk Management Study and Plan (BFRMS&P), and the revised and adopted DCP, the issue of isolated rural dwellings located on the floodplain was considered.

The development of the BFRMS&P, the application of flood risk precincts and the issue of isolated rural dwellings was also discussed with Council’s floodplain management specialist consultant Ben Caddis of BMT WBM Pty Ltd at a Councillor Briefing session held on 8 March 2017.

## 11.1 Flood Mitigation Options for Dwellings in Rural Areas

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A key discussion about this issue centres on the additional information developed and considered during the BFRMS&P process, being the identification of flood risk precincts. In addition to flood height predictions, the mapping of flood risk precincts classifies the floodplain based on potential flood risk. This flood risk classification has formed part of the State Government guidelines and has been developed following the assessment of many Australia-wide historic floods.

The flood risk classification considers both depth of floodwater and velocity of floodwater, and ranks the flood risk precincts from extreme flood risk to low flood risk. This mapping is a further tool (and a DCP assessment step) to guide the consideration of development within the floodplain.

Not surprisingly this flood risk precinct map for the lower reaches of the Richmond River shows extreme flood risk along the existing rivers and creeks and break out corridors, and shows high flood risk across most of the broader undeveloped (rural) floodplain. This is largely due to the predicted depth of floodwaters in a 1 in 100 year flood event which is considered dangerous flood conditions. Low and medium flood risk precincts are mostly within existing filled urban areas or pockets of high ground where flood depths are predicted to be less. (Refer DCP Map 1 Figure 1, Attachment two)

During the preparation of the BFRMS&P documents, it was recommended that a more secure and robust fill scenario would be preferred for isolated and stranded families within the rural floodplain, where residences are surrounded by dangerous floodwaters with high damage potential. Providing for the fill scenario would also allow for other additional storage such as vehicles, equipment and the like. As well as assisting to protect inhabitants, this policy approach was also seeking to minimise the demand and therefore associated risk for emergency services in respect of responding to requests for assistance emanating from isolated locations subject to potentially high velocity and deep water.

An assessment of vacant rural lands with building entitlements was also undertaken during the study, and GIS data determined there were less than 100 potential future residential building sites within the floodplain. This quantum of future filling across the rural floodplain was viewed as not contributing to flood impact or compromising flood flows, or adding to the significant addition of mounds across the floodplain. The underlying intention is to provide a safe emergency refuge for residences.

An alternative to the prescribed fill scenario would be a pole solution, like a Queenslander being suggested, and this relies on a structural support system for the dwelling. Again the discussion during the development of the BFRMS&P identified high damage potential associated with extreme and high flood risk precincts. Furthermore there is also potential for unapproved building additions and amendments associated with enclosing the understorey supports. This can increase the risk of flood damage and reduce safety.

## 11.1 Flood Mitigation Options for Dwellings in Rural Areas

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For the Wardell village the circumstances are such that for the low flood risk areas of East Wardell, pole and or pier residences are permitted (with restrictions.) This occurs where the residences are in an existing urban environment and are not isolated or remote and would be under surveillance from emergency services. However, upstream of the Wardell highway bridge, the existing residences are located in a high hazard area, and consequently the current DCP prescribes that fill be utilised for building or rebuilding in this precinct. This is consistent with the application of the DCP prescribing fill across the broader floodplain in high hazard flood precincts.

The DCP floodplain management provisions are derived from the Floodplain Risk Management Study that was completed in 2012 and which in turn led to the Ballina Floodplain Risk Management Plan adopted by Council at its Ordinary Meeting on 28 May 2015.

The planning provisions within the DCP have been formulated to ensure that development achieves a number of planning objectives, and the current approach is consistent with these objectives below:

- a. Provide a holistic approach to managing development on the floodplain;
- b. Minimise the impact of flooding on individual owners and occupiers of land and public assets;
- c. Encourage the development and use of land in a manner compatible with the likely flood hazard;
- d. Maintain the function of flood mitigation measures;
- e. Minimise the extent to which emergency vehicles and public infrastructure need to be relied upon in terms of evacuation or other flood responses; and
- f. Consider the future projected impacts of sea level rise on the floodplain.

The DCP provisions comprise prescriptive measures and performance criteria, with the following purpose:

- a. The prescriptive measures are those which, when complied with, would be expected to satisfy the objectives of the Policy.
- b. The performance criteria represent a means of assessing whether a proposal which does not comply with the prescriptive measures can nonetheless achieve the desired outcomes. Where an applicant is reliant on the performance criteria, adequate documentation must be submitted to enable Council to determine that non-compliance with the prescriptive measures is justified in the circumstances of the case and that the performance criteria can be satisfied. The determination of whether the performance criteria are satisfied is the subject of Council assessment.

All development should comply with the prescriptive standards. The performance criteria should only be relied upon where the circumstances of the case are such that:



## 11.1 Flood Mitigation Options for Dwellings in Rural Areas

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- a. the situation is distinguishable from the typical situation for which the measures are likely to apply; and
- b. an equal or better planning outcome would occur; and
- c. the planning objectives are satisfied.

So, it follows therefore that alternative approaches to filling are already feasible under current development controls so long as the development meets the performance criteria in the DCP, which are:

- a. The risk associated with the inundation of development comprising danger to life and damage to property is minimised or not increased beyond the level acceptable to the community.
- b. The additional economic and social cost which may arise from damage to property from inundation is not greater than that which can reasonably be managed by the property owner and general community. The cost of damages that may be incurred over the expected life of a development should be no greater than that which could be reasonably expected to be met by the occupants and/or the developer without Government assistance.
- c. Effective warning time and reliable access is available for the evacuation of an area potentially affected by floods. Evacuation should be consistent with any relevant or flood evacuation strategy where in existence.
- d. Appropriate procedures (such as warning systems, signage or evacuation drills) for land use categories of “critical uses and facilities” and “sensitive uses and facilities” be in place, if necessary, so that people are aware of the need to evacuate personnel and relocate goods and motor vehicles during inundation, and are capable of identifying an appropriate evacuation route.
- e. Development does not detrimentally increase the potential flood affectation on other development or properties either individually or in combination with the cumulative impact of development that is likely to occur in the same floodplain. Development should not change the height or behaviour of flood waters elsewhere in the floodplain in a manner which is likely to materially and adversely impact other property or the environment. The assessment of these effects must include the potential for similar impacts that would arise as a consequence of other development in the floodplain that has the potential to occur in the future under current zoning and planning controls.

Note: Critical areas of the floodplain have been identified where zero change on height of floodplains is required.

- f. Motor vehicles associated with the development are able to be practically relocated, undamaged, to an area with substantially less likelihood from inundation, within the effective warning time.

## 11.1 Flood Mitigation Options for Dwellings in Rural Areas

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- g. Development does not result in significant impacts upon the amenity of an area by way of unacceptable overshadowing of adjoining properties, privacy impacts (e.g. by unsympathetic house-raising) or by being incompatible with the streetscape or character of the locality.
- h. The design of car parking (enclosed or uncovered) and associated driveways should not result in unacceptable environmental or amenity impacts, such as visual intrusion from elevated driveways and parking structures and over shadowing of adjoining residential properties.
- i. The proposal must not have an unacceptable adverse impact upon the ecological value of the waterway corridors, and where possible, should provide for their enhancement. Proposed development must be consistent with ESD principles.
- j. Any geomorphic instability of a waterway corridor must not impose an unacceptable risk to human life or property.
- k. Development must not prejudice the economic viability of any Voluntary Acquisition Scheme, by significantly increasing the value of property above that which otherwise apply.

Despite the above DCP provisions the fact remains that alternative proposals such as “stilt” homes do not satisfy the DCP’s performance criteria in all situations. A property’s degree of isolation, its accessibility and risk to emergency services, and/or the localized flood hazard are among a range of issues. Buildings may prove to be incapable of withstanding the force of floodwater and debris loading, resulting in structural collapse.

From the point of view of considering options it remains the view that the prescription of a fill pad for residential dwellings in an isolated rural high flood risk precinct is supported as it meets the objectives of the DCP

### **Sustainability Considerations**

- **Environment**  
The Floodplain Risk Management Plan and DCP provide the development controls that allow Council to manage existing and future flood risk to an acceptable level, taking into account social, economic and ecological, as well as flooding consideration.
- **Social**  
The Floodplain Risk Management Plan and DCP provide the development controls that allow Council to manage existing and future flood risk to an acceptable level, taking into account social, economic and ecological, as well as flooding consideration.
- **Economic**  
The Floodplain Risk Management Plan and DCP provide the development controls that allow Council to manage existing and future flood risk to an acceptable level, taking into account social, economic and ecological, as well as flooding consideration. Flood prone land is a valuable resource that should not be sterilised by unnecessarily precluding its development.

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

Council would first need to formally review its Floodplain Risk Management Plan in order to establish and then prescribe alternative flood mitigation measures and/or to amend the DCP. The work will need to be completed in accordance with the NSW State Government Floodplain Management Manual and having regard to the amount of work being involved, this will require the Council to amend its Delivery Plan to include the work in the program and allocate sufficient funds for the review and consultation process.

### **Consultation**

It is noted that any amendments to the plan should follow the same process established by the NSW Government's floodplain management process, where the management study and plan were issued for public consultation. Also amendments to the DCP's objectives, criteria and clauses to allow alternatives to fill pads would also need to follow the public consultation process.

### **Options**

This report has sought to elaborate on staff comments provided in the aforesaid Notice of Motion and to consider options to enable alternative flood mitigation measures for dwellings in rural areas.

The DCP already permits consideration of alternative flood mitigation options for dwellings on floodplains provided they meet the performance criteria in the DCP where deviation from the prescribed measures is proposed.

The assessment of these alternatives (stilt housing) is that it introduces additional risk and reduces safety and does not meet the performance criteria.

Should this be unsatisfactory to Councillors then there would need to be a direction by Council to nominate stilt housing as an alternative prescriptive measure, and formally proceed with consultation as described above. This consultation and process would require compliance with the NSW Government Floodplain Management Guidelines and any changes that potentially increase Council's liability or risk exposure will need to be reviewed by our Insurer. Typically Council would need to carefully document why a lower standard or increased risk is on balance the overall preferred public policy position. This being the case, and having regard to the amount of work being involved, this option will require the Council to amend its Delivery Plan to include the work in the program and allocate sufficient funds for the review and consultation process.

During the normal monitoring and review of the BFRMP it remains feasible for consideration to be given to alternative flood mitigation options for dwellings in rural areas as part of this review should there be new flood data or changes with contemporary flood risk practice.

## **11.1 Flood Mitigation Options for Dwellings in Rural Areas**

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In closing, it is understood Councillors are seeking to limit to the extent possible the impact on housing affordability Council regulation and further risk adversity can be a subjective and individual position to assess. However, these issues are properly considered and reviewed through the development of the risk management study and plan under the floodplain management plan framework and if the Council is of the mind the current policy is now not the preferred direction, it is not possible for staff to provide alternate options via this report. Rather it is necessary for Council to embark on an update to the Risk Management Study.

### **RECOMMENDATIONS**

1. That Council notes the contents of this report.
2. That Council endorses the current Ballina Floodplain Risk Management Study and Risk Management Plan and DCP

### **Attachment(s)**

1. Copy of Notice of Motion - Flood Mitigation - 15 December 2016
2. DCP Floodplain Map

## 11.2 Alstonville Wollongbar Skate Park

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### 11.2 Alstonville Wollongbar Skate Park

**Delivery Program** Open Spaces and Reserves

**Objective** To consider design options to progress the development of a skatepark in Wollongbar

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#### **Background**

Council resolved to accept the tender for the construction of the Wollongbar Skatepark from Precision Skate Parks Pty Ltd for \$350,000 (excl GST) in the Council Meeting on 27 October 2016 with the following resolution:

1. *That Council accepts the tender for the construction of the Wollongbar Skatepark from Precision Skate Parks Pty Ltd for \$350,000 (excl GST).*
2. *That Council authorises the Council seal to be attached to the contract documents.*
3. *That in addition to this tender, and prior to the lodging of a planning application for the skate park, the General Manager, with assistance from Precision Skate Parks Pty. Ltd., provide Council with a design options report for the Plateau Drive and Wollongbar Sports Fields sites, with that reporting detailing the following, as a minimum:*
  - a) *Preferred skate park designs for both sites based on the current and future demographics of Alstonville / Wollongbar*
  - b) *An overview of the advantages and disadvantages of each design for the sites, along with clarification of the skateboard user market reflected in the preferred designs (i.e. age groups) and likely usage*
  - c) *Estimated construction costs, including embellishments, for each option*
  - d) *The recommended design and location for the provision of a skatepark facility for Wollongbar and Alstonville based on the designs submitted.*

This report is the response to part 3 of the resolution. As part of the development of this report, a Councillor briefing was presented on the 19 April 2017 with the assistance and professional expertise of Precision Skate Parks Pty Ltd, to detail the design considerations and options identified for the skate park. Concept designs for both the Plateau Drive and the Wollongbar sportsfield site were presented at this briefing.

Site inspections of the two potential sites for the skate park were carried out with Councillors on 1 May 2017 in addition to an inspection of the Wollongbar Sports Fields and facilities.

Consultation was undertaken with the Wollongbar Alstonville Skate Park Committee on the 11 May 2017 to seek feedback on the two proposed concept plans.

#### **Key Issues**

- Suitability of the skate park design for the current and future Wollongbar and Alstonville population demographic.
- Advantages and disadvantages of each design and location.
- Estimated construction cost, including embellishments for each option.

### Information

#### Community Demographic

An analysis of the existing census population data for the Wollongbar and Alstonville communities in the design target age range indicates the following demographic age grouped by the percentage of the population:

- Primary School (aged 5-11) approximately 8.9%;
- Secondary School (aged 12-17) approximately 8.55%;
- Tertiary Education/Independence (aged 18-24) approximately 5.4%;
- Young Workforce (aged 25-34) approximately 8.35%; and
- Parents Home builders (aged 35-49) approximately 19.1%.

These are the age groups most likely to use the skate park facility, either individually or in association with other age groups. This target section of the demographic make-up, approximately 50% of the community profile.

The sections of the population aged 0-5 and 50+ are still likely to visit the facility, but are more likely to visit the facility only in association with people from the identified target age range.

This report takes into consideration the implications of this population data in relation to suitable design and location for the skate park. Key design factors relating to population demographics and social impacts include; access, availability to transport, community engagement and safety.

#### Design

Precision Skate Parks advise that the design of the Wollongbar skate park considers all aspects of a safe facility design including siting, access and sight lines, provision for all skill levels and ages, and providing opportunities for continuous development and challenge.

The approach to the design took note of feedback received through previous public exhibition and consultation submissions. The preferred design approach is to provide an open 'plaza' styled facility in line with more recent and contemporary skate parks; making a point of difference from existing skate parks in the region.

Surrounding facilities include Ballina skate park that has an open and closed bowl with street course; Bangalow that has a traditional kidney bowl and bowl with spine; Goonellabah provides an interesting expanse of ledges, hips and banks; Lennox Head has a closed bowl with street elements; and Suffolk Park has a more dated and traditional front and back street course with central fun box elements.

The layout of both design options will encourage all ages to participate. The spaciouly arranged elements of the designs ensure flow through the parks. Younger and inexperienced riders can have fun rolling around the park, up and down banks. More experienced riders can hit elements along the way with progressive degrees of difficulty and challenge.

## 11.2 Alstonville Wollongbar Skate Park

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The proposed designs for the Wollongbar skate park offer a different place to skate or ride, compared with existing parks in the region, and have been designed to encourage young people and families to spend time at the park as well as provide for more advanced progression.

### Design Option A

A copy of the design is provided as attachment one.

This design is a continuous circuit skate plaza, designed to allow young riders to continuously pump around the facility. It has a low mini ramp at one corner for riders to find their own space and practice lip tricks or pump and transfer out into the rest of the facility. All elements of the design will cater for beginner through to intermediate skill levels.

#### *Advantages*

1. The mini ramp is a popular feature of skate parks and provides an additional social element to the park
2. The open circuit design encourages a uniform direction of flow

#### *Disadvantages*

1. Reduced number of technical elements; due to the additional expense in providing a mini ramp
2. Reduced skate park area (approx. 535m<sup>2</sup>, compared to 574m<sup>2</sup> for Option B)
3. A more traditional design that is not considered as progressive as Option B

### Design Option B

A copy of the design is provided as attachment two.

This design provides a longer than usual skate plaza. At 54 meters long with 7-8 meters between elements it allows a genuine street styled skate experience where young and older riders can flow through the park. All elements are suitable for beginner through to intermediate skill levels.

#### *Advantages*

1. Larger skate park (better value for money)
2. Better opportunity for noise attenuation; if required
3. Greater number of technical elements and features
4. More spectator friendly; due to narrow layout
5. Greater opportunity for variation in tricks combinations
6. Includes provision for shaded seating

#### *Disadvantages*

1. No mini ramp or bowl

## 11.2 Alstonville Wollongbar Skate Park

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### Siting Considerations

Precision Skate Parks advise that the critical considerations for siting any modern skate facility are:

- (1) safe access;
- (2) visibility and natural surveillance; and
- (3) noise and visual impact.

Skate parks need to be on prominent frontages where there is the most casual observation by passing pedestrian and vehicle traffic. This ensures consistent and passive supervision and importantly encourages passers-by to enter the facility and participate. A facility located where it has regular and multiple sources of passive surveillance is far less likely to attract forms of antisocial behaviour.

If the community can see the positive use of a facility they are more likely to bring their children to have a go. The greater the community participation the safer the facility and greater social benefit achieved from the facility.

It is important that facilities are located on route to and from schools so that young people can have an opportunity to use the facility easily and regularly. Proximity to residential areas, with safe access pathways is also important as ideally young people should feel safe and comfortable to ride or walk to the facility with or without being reliant on parents for transport.

Noise and visual amenity impacts must also be considered, to ensure that the facility does not detract from the landscape character of an area or negatively influence the lifestyle or values of the surrounding community. These considerations have been evaluated for each of the site options proposed for the facility.

### Site Option 1 – Plateau Drive

Site Option 1 is located on the corner of Plateau Drive and Rifle Range Road, Wollongbar.

The propose location has been altered from the original master plan for this site. This is the result of further site analysis and consideration of the results from community consultation and noise attenuation reporting carried out for the site. The proposed location uses the site's natural features to minimise potential negative impacts and maximise value for money. A copy of the site concept design is provided as attachment three.

### *Advantages*

1. Close to existing public transport route; making it accessible to a wider community demographic.
2. Close to existing residential areas; making it easily accessible and encouraging community involvement.
3. Clear view lines for passive surveillance from passing traffic on Rifle Range Road; improving user safety and discouraging antisocial behavior.
4. Connection to existing pedestrian pathways; increasing safe access and passive surveillance opportunities.



### *Disadvantages*

1. Close to existing residential area; potential for negative noise or visual impacts to adjoining residences and requirement for additional mitigation measures
2. Community concern for potential increase of antisocial behavior to the area
3. Community concern for potential negative impacts to property prices

### Site Option 2 – Wollongbar Sports Fields

Site Option 2 is located approximately 700m East from Ramses Street, Wollongbar or 1km West from Pearces Creek Road, Alstonville along a newly constructed service road to the Wollongbar Sports Fields site.

The location on the site is an existing level area used for construction site storage and identified as future overflow parking for the sports fields.

### *Advantages*

1. Offset of approximately 525m from existing residential areas; will mitigate potential negative visual or audible impacts
2. Located in the same vicinity as other sporting facilities, providing a centralised sporting facility venue for the Alstonville and Wollongbar communities

### *Disadvantages*

1. No connection to public transport routes; will reduce accessibility and passive surveillance
2. No connection to pedestrian pathways; will reduce accessibility. No safe pedestrian access to the site creates safety risk with youths using busy roadways and roads with no surveillance to access the site
3. Distance from residential and community areas; will reduce likelihood of community involvement and family use of the facility
4. Limited passive surveillance opportunities; reduces the safety for users and increases the risk of antisocial behavior occurring at the site
5. Reliance on personal vehicles for access will increase demand for parking facilities

### **Sustainability Considerations**

- **Environment**

The potential environmental impacts of both design and location options for the Wollongbar Skate Park have been considered. The designs have taken environmental factors into account and the final embellishment of the selected site will provide overall environmental benefit.

## 11.2 Alstonville Wollongbar Skate Park

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- **Social**

The potential social impacts of both design and location options for the Wollongbar Skate Park have been considered. The embellishment of open space areas and provision of a skate park facility for the Alstonville/Wollongbar community will provide valuable social benefit, especially to the youth.

- **Economic**

Not Applicable

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

The contract for delivery of the skate park by Precision Skate Parks Pty Ltd is \$350,000 (excl GST); as resolved by Council 27 October 2016.

Additional landscape and embellishment of the community areas surrounding the skate park structure has been allocated at \$150,000 within the budget for the project. This will provide basic landscaping to the area surrounding the skate park facility. The type and level of landscape embellishment that can be provided at each location will vary based on the different opportunities and constraints of each site and the final approved design for the skate park.

In considering the two site options, there is no budget allocated to improve road or footpath connections to the sites, or provide additional policing or surveillance.

An application for approval is required prior to construction of the skate park. This process allows for public submissions as part of the assessment. As extensive public consultation has already been undertaken during the master planning for this project, no further consultation is recommended as necessary prior to lodging the application.

### **Consultation**

Further consultation with members of the Wollongbar Alstonville Skate Park Committee was carried out on 11 May 2017, to determine preference for the proposed design options and sites.

The consultation process identified that the Wollongbar Alstonville Skate Park Committee had a very strong preference for design option B. Considering it a far better design as it is a very different to other parks in the area; is a much more progressive design; allows for good flow through the park; and includes more innovative and contemporary elements.

Preference for the original Plateau Drive site was also expressed, with priority given to the importance of accessibility and safety in locating the facility. Community concerns regarding potential negative impacts were duly noted by the committee members who also indicated that importance should be placed on the timely delivery of the facility.

## 11.2 Alstonville Wollongbar Skate Park

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The consultation regarding this project has been comprehensive. Most recently the Council publically exhibited a masterplan for the Plateau Drive site. Previously there has been a land rezoning process which includes public input and prior to that the Council conducted an exhaustive search and reporting process to review the site options available on the Plateau that could potentially accommodate this facility. The outcomes of these processes eventually lead to the resolution recorded by Council above to look at concept design options for these final two locations.

### Options

Precision Skate Parks Pty Ltd provided two alternate concept designs for the skate park that use different layouts and elements. These two designs have been considered in relation to the constraints of the sites, budget for the project and preferences of the skating community.

Consultation with Precision Skate Parks Pty Ltd and the Wollongbar Alstonville Skate Park Committee indicate a strong preference for design Option B located at the Plateau Drive site.

In order to progress the project and commence the design and construct contract, the final design concept and site need to be selected.

The options for consideration are;

1. Skate park design option A at the Plateau Drive site
2. Skate park design option B at the Plateau Drive site
3. Skate park design option A at the Wollongbar Sports Field site
4. Skate park design option B at the Wollongbar Sports Field site

As noted above, the professional design recommendation and feedback from skate park users is strong support for Option 2. Further to the information in the above report, it is also noted;

1. If the skatepark is constructed on the Sports Field site it will consume the overflow car parking area. This is a significant concern given the long term use of this site and its intended design to accommodate the future ultimate population for Alstonville and Wollongbar. The sporting fields have the facilities to support major sporting events or a number of sports operating at the same time and therefore the provision of sufficient car parking is essential.
2. Previously deputations and submissions have been made to Council expressing concern that it is not fair for passive surveillance responsibilities to be allocated to residents living near the proposed facility. This is a misuse of the term passive surveillance as it does not create a responsibility on any member of the community. Rather siting and design provides the sense of surveillance because a facility is not hidden from general view and is easily accessible. That is, the deterrent for anti-social behaviour comes from the popular use and ease of access as well as the sense of passing pedestrian and vehicle traffic rather than relying on the reporting or other activities of nearby neighbours. It is also interesting to

## **11.2 Alstonville Wollongbar Skate Park**

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note the advice from Precision Skateparks was that skateparks do not generate anti-social behaviour themselves, rather, if behaviour issues exist in a community they may manifest further at a skate park (or any other facility) that is poorly designed or located. The skatepark itself will not be the cause or creation of antisocial behaviour. This advice is consistent with our experience at the Ballina and Lennox Head skate parks.

3. The Council is also reminded that the application process is a further opportunity to explore and address any issues, such as noise, landscaping presentation and so forth once the detail design information is available.

In light of the information in this report, Option Two is recommended as the preferred option to implement.

### **RECOMMENDATIONS**

1. That Council authorises the General Manager to commence detailed design and construction of the Wollongbar skate park in accordance with concept design Option B at the Plateau Drive site.
2. The Council authorises the General Manager to lodge the required application to support point one above.

### **Attachment(s)**

1. Design Option A
2. Design Option B
3. Plateau Drive Concept Plan

### 11.3 Road Maintenance on Deadmans Creek Road

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#### 11.3 Road Maintenance on Deadmans Creek Road

**Delivery Program**      Engineering Works

**Objective**                      To consider the cessation of road maintenance works on private land along Deadmans Creek Road

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#### **Background**

Council received a report (attached) at its April 2017 meeting concerning road maintenance works on private land, which included sections of Deadmans Creek Road. The resulting resolution is:

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 and Whytes Lane West, 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.
4. That Council receive a further report on Deadmans Creek Road.

The following report addresses item 4 of the resolution.

#### **Key Issues**

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

#### **Information**

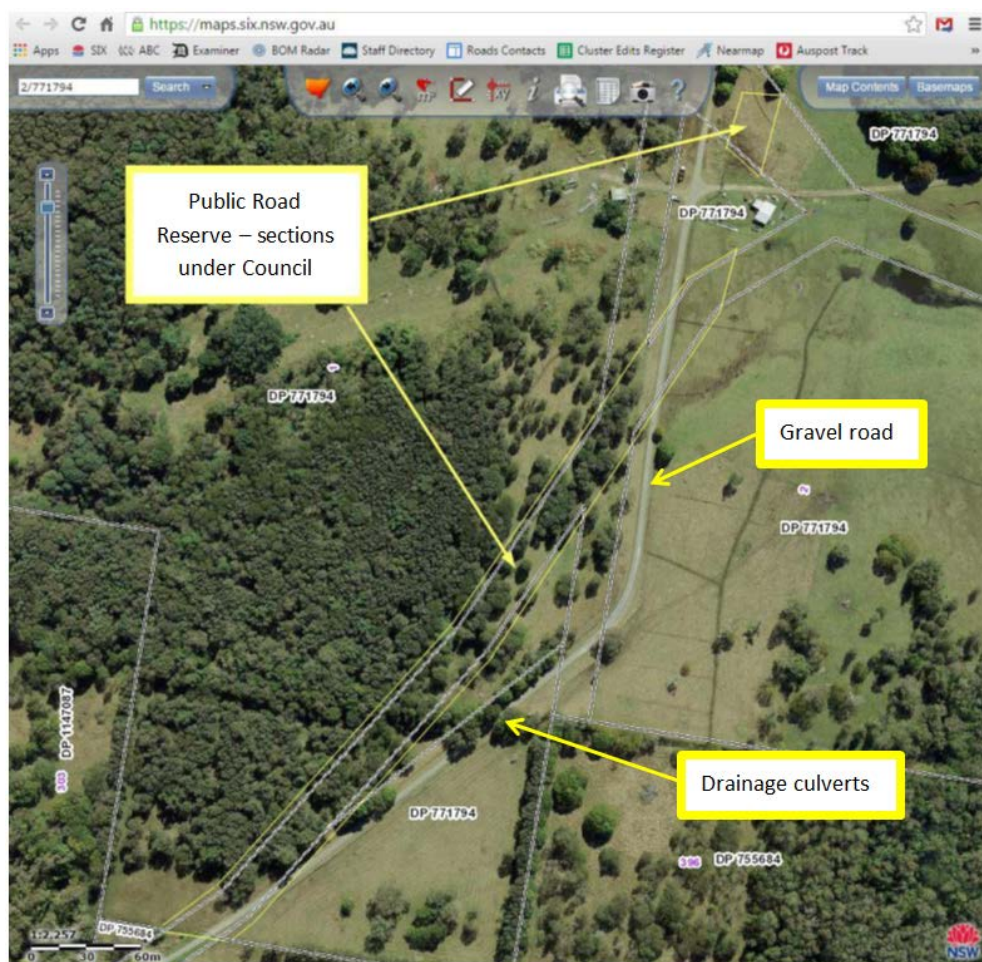
Deadmans Creek Road consists of an 1190 m section of sealed public road, a 300 m section of gravel road wholly within a public road reserve, and a further 510 m gravel road predominantly on private land (see attachment 1).

### 11.3 Road Maintenance on Deadmans Creek Road

It was reported at the April 2017 Council meeting that Council maintains Deadmans Creek Road including a 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 up a hill to the end of the sealed road or to where the gravel road leaves the public road and enters private property.

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

As shown below, the gravel road diverges to the right from the public road reserve at the bottom of the picture, before crossing back over to the left of the road reserve towards the top of the picture.



The gravel road (and associated drainage culverts) are currently maintained by Council, extending from the turning circle at the end of the sealed section of Deadmans Creek Road (just off the bottom of the above picture) to the intersection between the two dwellings (at the top of the picture); the latter is where the waste collection service terminates.

### 11.3 Road Maintenance on Deadmans Creek Road

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It is noted that the gravel road is identified as a 'right of carriageway 20 m wide & variable' on DP 771794 (see attachment 2). However, this right of carriageway does not benefit Council.

It is further noted that an application to close the public road reserve is currently before Council and the NSW Department of Industry – Lands. Council's Infrastructure Planning Manager is supportive of the current application to close the public road reserve as it is not needed for Council or public access.

In light of the above considerations, there are no overriding circumstances that would distinguish this location to the other properties affected by the decision of Council at its last meeting. It remains the case that Council works on the vehicle carriageway, and associated drainage structures, along Deadmans Creek Road are 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. As per the previous report to Council regarding this matter, if the Council does prefer to expend public money on private land for this purpose, a resolution compliant with Section 67 of the Local Government Act is required to be passed.

Perhaps the only other opportunity open to the impacted landowners that might permit continuation of the waste collection service in its current form is to move the public road reserve (i.e. close the existing unformed road and open a new road) such that it aligns with the existing gravel road (i.e. the section currently maintained by Council). Continuation of road maintenance works would then not contravene *LGA Section 67* because it would no longer involve works on private land, hence would no longer be subject to the aforesaid Council resolution. This would require a land acquisition by Council or the dedication of the land to Council for the new road.

However, the current application to close the public road reserve does not include its re-alignment as discussed above as the Council does not need a public road in this location and all allotments have a legal access. Nor is it a given that the access road would continue to be included in Council's maintenance program. As Council is aware from recent reporting in relation to Whytes Lane West, the Council has established a policy with criteria guiding the decision on the locations where road maintenance services will be provided by 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.

### 11.3 Road Maintenance on Deadmans Creek Road

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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 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 confirms that road maintenance works, aimed at facilitating a waste collection service, have occurred on private land along sections of Deadman's Creek Road without regard to the provisions in *LGA Section 67*.

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.

#### **Consultation**

Council staff have been consulted in the formulation of this report. As per the previous report and mentioned again below, if Council elects to proceed as per the recommendation to this report, staff will write to all affected landowners providing twelve months' notice of Council's intention.

#### **Options**

Given that the findings of this report reaffirm the findings in the April 2017 report, the options and recommendations are broadly the same.

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 example 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.



### 11.3 Road Maintenance on Deadmans Creek Road

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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.

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 access way, 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.

#### RECOMMENDATIONS

1. That Council notes the history of providing road maintenance services on private land at 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 Deadmans Creek Road, 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. Copy of Report - April 2017
2. Deadmans Creek Road - Locality Map
3. Deposited Plan DP771794

## **11.4 RFT922 Tender for the Hire of Truck, Plant and Traffic Control**

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### **11.4 RFT922 Tender for the Hire of Truck, Plant and Traffic Control**

**Delivery Program**      Operations Support

**Objective**              To consider the tender for the Hire of Truck, Plant and Traffic Control

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#### **Background**

Council recently called tenders for the Hire of Truck, Plant & Traffic Control. This tender was advertised in the Northern Star, Daily Telegraph & Advocate beginning on the 4 March and closing at 3pm 7 April 2017. The contract commences on 1 July 2017 and remains effective for a period of two years to 30 June 2019.

Council has historically called tenders for these services to compile a database of resources available to Council at fixed prices. The process of plant hire is essential in ensuring that Council is able to deliver its works and services.

Under this contract all tenders are given the opportunity of altering their tendered hire rates every six months. This allows the contractor to more accurately reflect their cost of services given the history of significant fluctuation in fuel prices. Any lesser term would create difficulties with the administration of the contract.

#### **Key Issues**

- Compliance with regulations.
- Ensuring a fair, value for money and appropriate procurement arrangement is in place for these services.

#### **Information**

A total of 35 submissions were received prior to tender closing time with various items of plant available under a wet hire arrangement.

Prior to commencement of the contract, tenderers have to demonstrate that they have an appropriate Work Health and Safety Management system in place.

Any contractor that has failed to meet legislative requirements in respect to their WH&S management system, have been notified in writing with a request to amend the issue. Should the issue not be amended, Council will be unable to utilise their services.

As Council requires the services of plant and trucks, contractors will generally be contracted in rank order of assessment based on the tendered prices. It should be noted however that price will not be the only factor used to determine the most suitable contractor or item of plant procured at any given time.

## **11.4 RFT922 Tender for the Hire of Truck, Plant and Traffic Control**

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The engagement of contractors shall be based on an assessment of the contractor's ability to provide the services. The main criteria used for the engagement of contractors will include but not be limited to:

- Price
- Age, condition, and capacity of the plant and operator.
- Fitment of on-board weighing systems on haulage trucks
- The availability of certain plant attachments
- Proven reliability of the contractor
- Experience and performance of the contractor.

Whilst this process provides Council a list of preferred services providers, Council is not bound to hire from the database and may invite separate quotations or tenders for specific works.

### **Sustainability Considerations**

- **Environment**  
As reported in Tender Specifications, contractors were reminded of their responsibilities and obligations. Section 7 of the Tender Specification highlighted the contractors' Environmental responsibilities with respect to plant and equipment and also in respect to the operator.
- **Social**  
Not Applicable
- **Economic**  
Not Applicable

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

The process ensures Council meets the requirements of the Local Government Act and Tendering Regulations, and obtains best value for money through a competitive process for plant hire. Each successful contractor will be presented with a "Letter of Engagement" highlighting the terms and conditions of the contract.

### **Consultation**

As advertised within the Tender specifications, Tender information workshops were held in the Council Chamber at 7pm on the 21 & 28 March 2017. Information was presented by Council staff to the Contractors regarding Council's requirements. Furthermore, WorkSafe NSW was also invited and presented the legislative requirement expected for all parties involved in the tender.

### **Options**

This process is established through the formal tender process, which is in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005.

Given the process is about creating an availability, and the terms of engagement for a number of services and service providers on a temporary or ongoing basis, it is recommended that Council resolve to endorse the process created and followed rather than accept the tender as it would normally for a procurement process for a specific project.

### **RECOMMENDATIONS**

1. That tenders for the Hire of Truck, Plant and Traffic Control discussed in this report be accepted as unit rates and be implemented on a "best advantage to Council" basis in accordance with the specification and other related tender documents.
2. That Council seal is authorised to be attached to any contract documentation associated with this tender.

### **Attachment(s)**

Nil

## **11.5 Policy (Review) - Monuments and Memorials on Public Land**

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### **11.5 Policy (Review) - Monuments and Memorials on Public Land**

**Delivery Program**      Open Spaces and Reserves

**Objective**                To review the Monuments and Memorials on Public Land Policy

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#### **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 represent the Monuments and Memorials on Public Land policy. In response to a report to the last meeting of Council, it was resolved to defer the revised draft policy to a Councillor briefing and this was held on 9 May 2017.

Council first adopted this policy in October 2007 and it was reviewed in September 2011 and again November 2015.

#### **Key Issues**

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

#### **Information**

The general feedback from the briefing was there is a level of support for the policy direction recommended by staff in the previous report. This direction seeks to recognise that seating memorials are a private benefit on public land and, unfortunately, the increasing demand means that there are a number of issues for Council to manage if it is to provide this as an option to the community. In particular there are concerns in relation to how Council can allocate priority for seats in the locations of high demand such as at iconic coastal and other areas.

The policy direction proposed in the draft policy is to make the placement of seats with plaques consistent with the process for the placement of plinths and rocks which says "Such memorials will not be permitted on public land unless the person, event or location is of historical significance and the memorial is approved by resolution of Council."

A copy of the previous report and the recommended draft policy is attached to this report.

Councillors at the briefing suggested the draft policy be amended to include a requirement for plaques attached to seats to contain wording to recognise the donation rather than a memorial. The purpose of this process is to encourage the recognition of the public nature of the land and not create the perception of the land being used as a site of aggregation of private memorials.

## **11.5 Policy (Review) - Monuments and Memorials on Public Land**

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There was also some discussion in respect of the opportunities to include memorial seating and other ideas for our cemeteries. As these locations are land specifically dedicated for this purpose, it is preferred to highlight in the policy that cemetery land is excluded from the policy. This will enable cemetery specific considerations to be undertaken and applied at the cemeteries.

Finally, the draft policy has also been amended to include a provision that the Council will provide free memorial trees, for approved areas, for planting on public land rather than the applicant bearing the expense. This is consistent with Council's existing "Urban Vegetation on Public Land" policy.

The briefing also noted that the existing applications before Council will be determined in accordance with the current policy.

### **Sustainability Considerations**

- **Environment**  
This policy manages the aggregation of memorials in the natural environment.
- **Social**  
This policy seeks to assist those in the community wanting to recognize the memory of a family member or friend.
- **Economic**  
Ensure efficient and sustainable use of Council resources.

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

There are no other specific legal, resource or financial implications associated with this report.

### **Consultation**

The recommendation of this report is to place the revised policy on public exhibition.

### **Options**

Council may accept or amend the proposed changes to the policy.

Further to the information discussed above about the recommended policy, the briefing discussed alternate policy options, namely;

1. Amend the existing policy to exclude high profile geographic areas due to their high demand. The advantage of this option is it continues to provide a service that is of interest to some members of the community and it largely deals with the issues reported to Council about the current policy. The disadvantage is the perception or concerns in respect of private benefits being made available on public land.
2. Amend the policy to establish community service or some other criteria as a measure to determine the allocation of seats when places

## **11.5 Policy (Review) - Monuments and Memorials on Public Land**

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become available. The advantage of this approach is it continues to allow asset renewal at no cost to the Council, provides a service and potentially is able manage the supply and demand issue. The disadvantage is the selection of criteria will be subjective and may not be seen to be fair or equitable. If the Council prefers this direction it is recommended that it seek another report to enable staff to consider and present criteria options that are well defined and preferably measurable to ensure the Council can properly determine applications in the future.

3. The Council could adopt a hybrid of these first two options whereby the criteria approach is applied to set geographic areas where there is the high demand and the existing policy apply to the remaining parts of the Shire.
4. The briefing also discussed increasing the fee as a way of generating revenue and managing the supply and demand issue. From the perspective of staff this is not supported as it means those with a greater capacity to pay gain an advantage to benefit from public land. Similarly, the suggestion to provide memorial plaque opportunities as funding raising for community infrastructure (such as a buy a brick type scheme) is not supported as the Council receives rate revenue and grants from Government and it is therefore preferred to leave this type of fundraising as an option to charities and community groups seeking to deliver projects.

For the reasons set out above and in the previous report, and based on the feedback from the briefing, the draft policy attached to this report is recommended for exhibition. 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 place the amended Monuments and Memorials on Public Land Policy, as attached to this report, on public exhibition.
2. If no responses are received to the public exhibition, the policy will be considered to be adopted by Council. Any responses received will be the subject of a further report to Council.

### **Attachment(s)**

1. Policy (Review) - Monuments and Memorials on Public Land
2. Copy of Report from 23 March 2017



12. Public Question Time

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**12. Public Question Time**

### **13.1 Notice of Motion - Proposed Olympic Training Facility at Lennox Head**

#### **13. Notices of Motion**

### **13.1 Notice of Motion - Proposed Olympic Training Facility at Lennox Head**

**Councillor**

Cr Meehan

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I move

1. That Ballina Shire Council states it is not supportive of the proposed construction of an Olympic sports training facility (snow ski jump ramps and pool) at the Lake Ainsworth Sport and Recreation Camp (DA 010.2017.00000216.001) due to:
  - The proposed development being in conflict with the objectives of the land zoning that applies to the subject site – BLEP 1987; 7(f) Environmental Protection (Coastal Lands) and 7(a) Environmental Protection (Wetland).
  - The proposed development having an unacceptable visual impact on the coastal landscape of Lennox Head, Lake Ainsworth and Seven Mile Beach.
  - The proposed development not being in the public interest of residents of Lennox Head, Ballina Shire and visitors to the area.
2. That in the normal course of the assessment and determination procedures for the development application that the Council confirm its position and prepare submissions to the Panel and to the Government seeking the abandonment of the project for Lennox Head.

#### **Councillor Comments**

Under the BLEP 1987 the Lake Ainsworth Sport and Recreation Camp is zoned as an Environmental Protection Zone with 7(f) Environmental Protection (Coastal Lands) and 7(a) Environmental Protection (Wetland) being relevant.

The Zone 7(f) Objectives are in place to “to protect environmentally sensitive coastal lands” and to only “enable the development of public works and recreation amenities where such development does not have significant detrimental effect on the habitat, landscape or scenic quality of the locality.”

The height (44 metres AHD) of the proposed ski jump structure is more than twice as high as any permissible building structure in Ballina Shire. For example The Ramada Hotel and other like buildings. It is approximately seven times higher than the stated maximum building height (6.4 metres) within the applicable land zone provisions and five times higher than the allowed building height in Lennox Head (8.5 meters).

### **13.1 Notice of Motion - Proposed Olympic Training Facility at Lennox Head**

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The height and bulk of the proposed ski jump structure will be seen from kilometres, emerging from the vegetated coastal dune landscape. It is unacceptable in terms of its visual dominance and significant detrimental impact on the coastal landscape and scenic quality of Lennox Head, Lake Ainsworth and Seven Mile Beach.

The Zone 7(f) Objectives state that the development of public works, outside the objectives, should only occur “in cases of demonstrated and overriding public need”. There is no demonstrated overriding public need for the ski jump facility to be constructed in this coastal Environmental Protection Zone at Lennox Head. If required for the training of elite Olympic athletes the structure/facility is better placed in an already existing (suitable) built environment or actual snow ski area of Australia.

The community of Lennox Head and other Ballina Shire residents are clearly demonstrating their majority opposition to the proposed ski jump development. This is occurring through numerous submissions to Council addressing the DA exhibition, Public protest meetings of many hundreds of people, media representations by individuals and extensive social media communication. There is clearly a great deal of concern within the community about the detrimental visual impact of the ski jump structure on the coastal landscape.

Within the Development Application there is not a proven case for any social, financial or amenity benefits to the local community from the proposed development. The ski jump facility will only be used periodically for parts of the year but will be in place permanently throughout the year.

What is clear from the visual representations is that people at Fig Tree Hill, many parts of Lennox Head, visitors to Lake Ainsworth, tourists at Lake Ainsworth Caravan Park and all people walking, swimming and surfing at Seven Mile Beach will experience degraded scenic quality on this section of the coastal landscape if the development proceeds.

The proposed ski jump development is not in the public interest of the broad Ballina Shire Community nor visitors to the area.

#### **Staff Comment**

The development application for this project has only recently been received and assessment has not progressed. The applicants scheduled a briefing with interested councilors for 18 May. The application is scheduled to be exhibited for public comment until 15 June 2017.

The Council is aware that the application is a State Government application that is to be determined by the Joint Regional Planning Panel subject to the legislative provisions that afford protection for State applications.

In the absence of consideration being able to be given to the outcomes of the public exhibition of the application and a detailed assessment report, the Council should be cautious about pre-determining its position on development matters.

**COUNCILLOR RECOMMENDATIONS**

1. That Ballina Shire Council states it is not supportive of the proposed construction of an Olympic sports training facility (snow ski jump ramps and pool) at the Lake Ainsworth Sport and Recreation Camp (DA 010.2017.00000216.001) due to:
  - The proposed development being in conflict with the objectives of the land zoning that applies to the subject site – BLEP 1987; 7(f) Environmental Protection (Coastal Lands) and 7(a) Environmental Protection (Wetland).
  - The proposed development having an unacceptable visual impact on the coastal landscape of Lennox Head, Lake Ainsworth and Seven Mile Beach.
  - The proposed development not being in the public interest of residents of Lennox Head, Ballina Shire and visitors to the area.
2. That in the normal course of the assessment and determination procedures for the development application that the Council confirm its position and prepare submissions to the Panel and to the Government seeking the abandonment of the project for Lennox Head.

**Attachment(s)**

Nil

14. Advisory Committee Minutes

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**14. Advisory Committee Minutes**

Nil Items

## 15.1 Mayoral Meetings

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

#### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities since the April 2017 Ordinary meeting:

<u>Date</u>	<u>Function</u>
21/4/17	Wollongbar Strategic Plan
22/4/17	Missingham Markets
22/4/17	Cancer Walk
26/4/17	Meeting Granada Parade Easement
27/4/17	Reserve Trust Meeting
28/4/17	Meeting – Volunteer Trust – Conference Delegate Plantings
30/4/19	Lennox Head Markets
30/4/17	Commemoration Park Markets
30/4/19	Rugby League Grandstand Opening
1/5/17	Funeral - Dr Nigel Chamberlain
1/5/17	Inspection Wollongbar Sporting Fields
2/5/17	Alstonville Wollongbar Chamber of Commerce Meeting
2/5/17	Senate Environment and Communications Committee - Inquiry
3/5/17	Church Group
4/5/17	Launch Dementia Friendly Community Initiative - FSG
5/5/17	NOROC - Lismore
5/5/17	Rotary Conference Welcome Dinner
6/5/17	Rotary Conference
7/5/17	Kids' Day Out
7/5/17	Rotary Conference
7/5/17	Commemoration Park Markets
8/5/17	Ballina Shire/Richmond Local Area Command Meeting – At Council
8/5/17	Meeting with DPI – Deputy Director General
8/5/17	Briefing: Monuments and Memorials on Public land
8/5/17	North Coast Shark Strategy Meeting – Lennox Surf Club
9/5/17	Opening Greg Kramer – Footprints Gear
10/5/17	Volunteer Morning Tea – Ballina Surf club
10/5/17	Briefing – Crown Lands Act
10/5/17	Briefing – Killen and Tosha Falls – Draft Plan
11/5/17	'C' Ward Meeting
12/4/17	Lennox Head Public School - Expositions
13/5/17	St Bartholomew's Anglican Church Fete
13/5/17	Opening Northern Rivers Outrigger Canoe Club
14/5/17	Mothers' Day Classic
14/5/17	Commemoration Park Markets

## 15.1 Mayoral Meetings

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14/5/17	Alstonville Markets
14/5/17	Lennox Head Markets
15/5/17	Meeting Justine Elliott - Priorities
15/5/17	Meeting – Skenners Head Roundabout Concerns
15/5/17	'B' Ward Meeting
16/5/17	Opening – Cross Pollination General Meeting
16/5/17	Meeting Country Rugby League – Game V Scotland
16/5/17	Meeting Pip Carter – Preserving Lake Ainsworth
16/5/17	Briefing – Rural Area Detached Dual Occupancy and Secondary Dwellings
16/5/17	Briefing – Location Marking
17/5/17	Film Interview – Karlyn Major
17/5/17	Internal Audit Committee – Observer
18/5/17	JRPP – Code of Conduct
18/5/17	Biggest Morning Tea – Lennox Head – Main Street
19/5/17	BACCI Arts and Crafts Exhibition Tintenbar
20/5/17	Alstonville Rotary Antique Fair
21/5/17	Commemoration Park Markets
22/5/17	Land Services – Wild Dog Services
23/5/17	Biggest Morning Tea Garden Party Cherry Street Sports Club
25/5/17	Council Meeting
25/5/17	Gallery Opening
26/5/17	RMS Drop In Session – Wardell
27/5/17	Lennox Head Surf Club Presentation
27/5/17	Drop-In Session Skenners Head Subdivision
28/5/17	Commemoration Park Markets
28/5/17	Alstonville Family Festival
29/5/17	Peace Relay - Welcome
29/5/17	Delivery Program – Wardell
30/5/17	Delivery Program – Lennox Head
31/5/17	Biggest Morning Tea – Wardell

### RECOMMENDATIONS

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 Russellton Industrial Estate - Adjoining Land Owners Agreement

Refer to Item 10.5 of this agenda.

**RECOMMENDATION**

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

**16.1 Russellton Industrial Estate - Adjoining Land Owners Agreement**

**Reason for Confidentiality**

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it involves the sale and purchase of land, and payment of compensation.