



Notice of Ordinary Meeting

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 24 August 2017 commencing at 9.00 am.**

Business

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Development and Environmental Health Group Reports
9. Strategic and Community Facilities Group Reports
10. General Manager's Group Reports
11. Civil Services Group Reports
12. Public Question Time
13. Notices of Motion
14. Advisory Committee Minutes
15. Reports from Councillors on Attendance on Council's behalf
16. Confidential Session

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

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

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

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

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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1. Australian National Anthem
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1. Australian National Anthem

The National Anthem will be performed by St Joseph's School, Alstonville.

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 July 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 July 2017.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2017/312 - 2 - 12 Greenwood Place, Lennox Head

8. Development and Environmental Health Group Reports

8.1 DA 2017/312 - 2 - 12 Greenwood Place, Lennox Head

Applicant	Mr Adrian Zakaras (Newton Denny Chapelle)
Property	Lot 1 DP 609873, 2–12 Greenwood Place Lennox Head
Proposal	Use of a private skateboard ramp facility forward of the building line
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction/History

A Development Application (DA 2016/227) was lodged with Council on 5 May 2016 seeking approval to erect a skateboard ramp facility, measuring 9.6 x 4.8 x 1.5 metres in height within the rear yard of the above property.

This application was neighbour notified resulting in several written objections being received by Council, which mainly related to noise and amenity issues. Due to the extent of neighbour objection and the request for further expert information being provided to Council regarding acoustic issues, the applicant chose to withdraw the application.

Around the end of December 2016, a skateboard ramp of similar scale to that proposed under DA 2016/227 was then erected, without the prior Council approval, in its current location on the northern side of the driveway at the front of the property, forward of the nominated six metre building line that applies to the area. Neighbour complaints were subsequently received by Council with respect to the installation of the facility without the prior consent of Council.

The owners believed the erected skateboard ramp did not require any approvals and that the development was Exempt Development under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Subsequent Council advice to the owners has been that the development is not Exempt or Complying Development and therefore requires development consent from Council.

Skateboard ramps are not listed as either Exempt or Complying Development under the State Environmental Planning Policy (SEPP) Exempt and Complying Development Codes 2008. Playground equipment is listed as Exempt Development in the SEPP (subject to prescriptive conditions) however no definition of playground equipment is provided within the SEPP.

8.1 DA 2017/312 - 2 - 12 Greenwood Place, Lennox Head

It is considered skateboard ramps do not sit within the category of playground equipment or ancillary development under the SEPP, where skateboard ramps are listed as a recreation facility under the BLEP.

On 23 December 2016, the owner was then served with a written Show Cause Notice from Council as to why the skateboard ramp should not be removed from the property.

The owners continued to have discussions with their planning consultants and Council staff regarding the permissibility of the facility, including agreeing to not use the ramp until the matter is resolved.

As a result of the Show Cause Notice and clarification on the need for approval of the facility, the current Development Application (DA 2017/312) was lodged for the use of the existing private skateboard ramp facility in its current location (refer attached site plan and design plans).

This current application has been neighbour notified, resulting in several written objections from adjoining/nearby neighbours.

Due to the objections and sensitivity of the proposal, the application is reported to Council for determination.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The proposed development was notified in accordance with the Level 1 – Targeted Notification process as described in Clause 3.2.4 of Chapter 1 of the Ballina Shire Development Control Plan (DCP) 2012.

Five written submissions have been received by Council within the 14 day exhibition period.

One submission was received after this period.

A petition requesting that the Councillors' reject the application has also been forwarded to Council.

A copy of the submissions, including the petition is attached.

The confidential submissions with personal information removed, have been distributed to Councillors under separate cover.

A summary of the issues raised in the neighbour submissions is as follows:

- Offensive noise
- Erected without approval
- Precedence in granting an approval
- Impact on privacy

- Adverse health impacts
- Negative impact on property values
- Public skatepark nearby
- Not in the public interest

Applicable Planning Instruments

The relevant planning instruments that apply to this application are:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000
- Ballina Local Environmental Plan (BLEP) 2012
- Ballina Shire Development Control Plan (DCP) 2012

Report

The proposed development has been assessed under the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act (EPAA) 1979. The following matters are relevant in Council's consideration and determination of the application.

Provisions of the Ballina Local Environmental Plan (BLEP) 2012

The subject land is zoned R2 Low Density Residential, where the BLEP defines a skateboard ramp as a recreational facility (outdoor).

Recreation facility (outdoor) is defined as follows:

“a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).”

Recreation facility (outdoor) is permissible within the R2 zone.

The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

Having regard to the zone objectives, bullet point three above is particularly relevant to the determination of this application. The main issue for Council to consider is the appropriateness of the development in the existing residential setting, in particular the noise impacts the facility will have on the general amenity of residents. This issue will be explored later in the report.

Provisions of the Ballina Development Control Plan (DCP) 2012

The overarching planning objectives contained within Chapters 4 (Residential and Tourist Development) and 8 (Other Uses) of DCP 2012 are to promote quality development that is compatible with the local landscape and amenity. The relevant chapters encourage new development to respond to the privacy and amenity of adjoining premises and minimize the potential for land use conflict.

The existing facility is substantial in size and is located within the front yard area of the property however is well screened from streetview by existing front fencing and vegetation. From a visual perspective, the immediate southern neighbour who overlooks the facility is the most affected.

Although the structure itself is not regarded as highly prominent, the use of the facility would have some visual impact on this neighbour regarding privacy intrusion.

Noise generation is the critical determinant with the assessment of the application. Council has been involved with past unauthorised skateboard ramp issues, including those of a smaller scale within urban residential areas, which has resulted in the removal of the facilities. The complaints generated usually relate to noise.

Impacts on the Local Amenity

Part of the documentation submitted by the applicants included a Noise Impact Assessment prepared by their acoustic consultant Tim Fitzroy and Associates, dated 7 June 2017 (attached).

One of the objectors then commissioned Greg Alderson and Associates to critique the Fitzroy report, where a written submission dated 6 July 2017 was submitted (attached).

Tim Fitzroy and Associates then submitted a Revised Noise Impact Assessment dated 21 July 2017, addressing the Alderson submission and additional questions raised by Council's technical experts during the assessment phase of the application (attached).

Council's Public and Environmental Health Section have appraised the acoustic reports and submissions and have provided the following comment.

Skateboard ramps in residential areas are an identified source of complaints in relation to noise impacts. Therefore the application was supported by the submission of a Noise Impact Assessment (and subsequently revised) prepared by Tim Fitzroy & Associates.

8.1 DA 2017/312 - 2 - 12 Greenwood Place, Lennox Head

The Noise Impact Assessment involved undertaking short term (two days) monitoring to determine the rating background level (RBL) for the location, shown below. The RBL is the single figure background noise level (ambient noise level without extraneous noise – use of skate ramp) derived from monitoring the LA90 for 15 minute periods over a representative period of time. In this case the RBL was determined over a two day period.

Period	L _{Aeq(Period)} *	RBL *	Intrusive Noise Criteria RBL+5 dB
(1)	(2)	(3)	
Day	46	37	42
Evening	41	34	39
Night	42	29	34

The RBL was then used to determine the intrusive noise criteria levels (RBL + 5 dB) for each period (day, evening and night) which were used as assessment criteria to compare the potential noise generated by the use of the skate ramp.

The assessment then utilised noise modelling software to predict the noise generated by the use of the skate ramp, the results of the modelling was compared to measured levels of the use of the skate ramp to verify the accuracy of the model's predictions.

The modelled noise levels and the measured noise levels were within 0.1 dB(A) at 4 metres from the noise source which demonstrates that at this distance the noise modelling was predicting noise levels very close to those being measured.

The noise generated also had a 5 dB modifying factor correction applied to compensate for the impulsive nature of the noise, which results in the noise being more annoying than a non-impulsive noise.

In the case of a skate ramp the impulsiveness comes from the difference in the noise levels between skating on the body of the ramp and the higher noise levels generated when the skateboard impacts with the metal lip of the ramp either during skating or when 'dropping in' i.e. commencing skating.

The Fitzroy report identifies 14 sensitive receivers (nearby dwelling houses, refer tables 3.6 and 3.7 below from Fitzroy report) and predicts the noise levels which may be experienced at these properties.

The noise modelling predicts that the Leq (weighted average) noise levels will comply with the intrusive noise criteria levels (RBL + 5 dB) at the boundary of all identified sensitive receivers, except for three properties at which the night period criteria will be exceeded.

The report further identifies that the L_{max} (weighted maximum) noise levels exceed the sleep disturbance criteria (RBL + 15db) at 11 of the identified sensitive receivers during the night period. Those most affected residents are highlighted in yellow.

8.1 DA 2017/312 - 2 - 12 Greenwood Place, Lennox Head

Regarding affected properties, Plate 3.2 below from the Fitzroy report has been modified to depict the location of the most affected residents in respect to the location of the skateboard ramp.

Table 3.6 Predicted L_{eq} noise levels are assessed against intrusiveness criteria RBL + 5dB. Levels are in dB(A), free-field including +5dBa penalty for tonality and impulsiveness.

Receptor		Noise Level (dB(A) L_{eq})		Within Criteria?		
#	Address	Ground Floor	First Floor	Day (42dB(A))	Evening (39dB(A))	Night (35dB(A))
1	Sunrise Crescent, 01 (2/2)	35	38	PASS	PASS	+3
2	Sunrise Crescent, 01 (1/2)	32	34	PASS	PASS	PASS
3	Greenwood Place, 14	37	37	PASS	PASS	+2
4	Greenwood Place, 16	35	35	PASS	PASS	PASS
5	Greenwood Place, 18	28	31	PASS	PASS	PASS
6	Cooloola Avenue, 11	25	27	PASS	PASS	PASS
7	Cooloola Avenue, 09	29	29	PASS	PASS	PASS
8	Cooloola Avenue, 07	29	30	PASS	PASS	PASS
9	Cooloola Avenue, 05	16	16	PASS	PASS	PASS
10	Cooloola Avenue, 03	20	21	PASS	PASS	PASS
11	Lakefield Avenue, 05	16	18	PASS	PASS	PASS
12	Lakefield Avenue, 03	20	21	PASS	PASS	PASS
13	Lakefield Avenue, 01	25	30	PASS	PASS	PASS
14	Sunrise Crescent, 02	34	36	PASS	PASS	+1

Table 3.7 Predicted L_{max} noise levels are assessed against sleep disturbance criteria RBL + 15dB. Levels are in dB(A), free-field including +5dBa penalty for tonality and impulsiveness.

Receptor		Noise Level (dB(A) L_{eq})		Within Criteria?
#	Address	Ground Floor	First Floor	Night (45dB(A) L_{max})
1	Sunrise Crescent, 01 (2/2)	59	62	+20
2	Sunrise Crescent, 01 (1/2)	56	58	+16
3	Greenwood Place, 14	62	62	+20
4	Greenwood Place, 16	59	59	+17
5	Greenwood Place, 18	53	56	+14
6	Cooloola Avenue, 11	50	51	+9
7	Cooloola Avenue, 09	52	53	+11
8	Cooloola Avenue, 07	53	54	+12
9	Cooloola Avenue, 05	40	41	PASS
10	Cooloola Avenue, 03	44	45	PASS
11	Lakefield Avenue, 05	40	43	PASS
12	Lakefield Avenue, 03	45	46	+4
13	Lakefield Avenue, 01	49	54	+12
14	Sunrise Crescent, 02	58	61	+19

Plate 3.2

Location of sensitive receptors



The report therefore recommends that the use of the skate ramp be limited to day and evening periods to avoid unreasonably impacting on the identified sensitive receivers, no other restrictions or mitigation is recommended.

However, due to the nature and location of the noise source and considering its impulsive nature, the intrusive criteria may not be the best criteria under which to assess the potential impacts on the nearby residential premises.

The submitted Revised Noise Impact Assessment prepared by Tim Fitzroy & Associates clearly demonstrates that the noise will be audible at all of the identified sensitive receivers. Therefore it is considered that the most appropriate criteria to assess the potential impacts of the noise generated from the use of the skate ramp may in fact be the "Offensive Noise" definition.

The Protection of the Environment Operations (POEO) Act 1997 defines Offensive Noise as noise:

1. That, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - a. is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - b. interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
2. That is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

Determining if a noise is offensive or not does not necessarily require measurement of the noise and the following factors are relevant in considering if a noise may be classified as offensive or not;

- *Is the noise loud in an absolute sense? Is it loud relative to other noise in the area?*
- *Does the noise include characteristics that make it particularly irritating?*
- *Does the noise occur at times when people expect to enjoy peace and quiet?*
- *Is the noise atypical for the area?*
- *Does the noise occur often?*
- *Are a number of people affected by the noise?*
- *Has the person making the noise done everything reasonable and practical to minimise and reduce impacts?*

In considering these questions it is determined that the use of the skateboard ramp will most likely generate offensive noise and therefore is unsuitable for the assessed location as the impact on nearby sensitive receivers is likely to be unreasonable.

Although the Noise Impact Assessment identifies the Protection of the Environment Operations Act 1997 and offensive noise criteria as the applicable noise criteria, the assessment focused on the noise monitoring and modelling results without commenting on the other factors considered when determining if a noise is considered to be offensive or not.

The Public and Environmental Health Section does not support the submitted development application and note there is most likely no urban residential setting in the Shire at which a similar skateboard ramp would be suitable given the likely impacts on residential amenity.

Conclusion

The proposal has caused concern in the immediate neighbourhood amongst residents mainly due to the anticipated noise to be generated and the potential loss of amenity.

The facility when unused is not considered visually intrusive, with installed lattice screens softening the appearance of the elevated structure.

The structure also appears to be structurally sound.

With the skateboard ramp in use to its full capacity, with the potential for a number of onlookers, a different visual perspective would be experienced by the immediate adjoining southern neighbour, who has previously lodged concerns about the structure being in their direct northerly sightline from their dwelling and exterior first floor deck.

Considering the objectives of the R2 Low Density Residential Zone of the BLEP 2012 and Chapters 4 and 8 of the Ballina DCP 2012 regarding amenity and the compatibility of development within residential areas, it is difficult to support the proposal.

The development appears to clearly conflict with the objectives and intent of both the R2 zone under the BLEP and Chapters 4 and 8 of DCP 2012, where this type of activity and scale of the facility is not suited to an urban residential area, where dwellings are located in reasonable proximity to each other.

The general residential setting in itself is in a quiet area of Lennox Head with little masking background noise sources such as high or moderate traffic flows.

Council's technical experts have appraised the submitted acoustic reports and determined that the likely noise to be generated from such a facility in the location to be regarded as "offensive noise" as defined under the POEO Act.

It would also prove very difficult to regulate the use of such facility should Council be mindful of approving the application with restrictive operational conditions of consent.

Due to the impulsive nature and repetition of the likely sounds from the use of the facility, it is not accepted that the likely noise to be generated from such a facility is common or expected in normal residential areas.

Communal skateboard ramps are constructed in appropriate areas to cater for these needs, where noise impacts are a critical part of the approval assessment process.

The following options are available to Council and for the reasons outlined in the report, it is recommended Option two be adopted.

Options

Option One – Conditional approval of the application for a skateboard ramp facility forward of the building line as submitted.

Option Two – Refusal of the application for the following reasons:

1. Approval of the application is contrary to the objectives contained within the R2 Low Density Residential zone objectives of the Ballina Local Environmental Plan (BLEP) 2012 and Chapters 4 and 8 of the Ballina Shire Council Development Control Plan (DCP) 2012.
2. Approval of the proposal will have significant impacts on the amenity of adjoining and nearby residents.
3. The skateboard ramp facility would likely give rise to "offensive noise" as defined under the Protection of the Environment Operations (POEO) Act 1997.
4. Approval of the application would not be in the public interest.

RECOMMENDATIONS

1. That Development Application 2017/312 for the use of a private skateboard ramp facility forward of the building line at 2-12 Greenwood Place, Lennox Head be **REFUSED** as per the reasons stated in the report (Option Two).
2. That Council pursue the removal of the facility from the property through the issue of an appropriate Notice and Order (if necessary) under the Environmental Planning and Assessment Act (EPAA) 1979.

Attachment(s)

1. Locality Map
2. Site Plan and Design Plans of Skateboard Ramp
3. Noise Impact Assessment - Tim Fitzroy & Associates - 7 June 2017
4. Greg Alderson and Associates Submission - 6 July 2017
5. Revised Noise Impact Assessment - Tim Fitzroy & Associates - 21 July 2017
6. Submissions (public)
7. Submissions (confidential) (Under separate cover)

8.2 DA 2016/148 - 61 Ballina Street, Lennox Head

8.2 DA 2016/148 - 61 Ballina Street, Lennox Head

Applicant	Planners North
Property	Lot 19, Section 1, DP 11687, 61 Ballina Street, Lennox Head
Proposal	Construction of a Mixed Use Development Comprising a Two Storey Business Premises (containing four tenancies) and Three x Two Storey Serviced Apartments and Demolition of Existing Structures, Tree Removal and Associated Works.
Effect of Planning Instrument	The land is zoned B2 Local Centre - BLEP 2012 under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Development Application 2016/148 was lodged with Council on 1 April 2016 and initially sought consent for a Mixed Use Development Comprising the Erection a Two Storey Business Premises (four tenancies) and Three x Two Storey Dwelling-houses and Associated Works. The application also involved the Strata Title subdivision of the development.

Following concerns raised by Council staff over the permissibility of the proposed residential component of the application, the applicant amended the proposal on 24 March 2017 to change the proposed dwellings to serviced apartments and to remove reference to the Strata Title subdivision of the development.

An assessment of the amended development application has now been completed. The application is being presented to Council for determination in accordance with Council Resolution 241116/21 of 24 November 2016.

Details of the Proposal

Consent is sought for the demolition of the existing structures on the site, removal of trees and the construction of a mixed use development comprising business premises and serviced apartments, as depicted on the proposed plans attached.

The proposed two-storey building fronting Ballina Street incorporates two ground floor tenancies, with floor areas of 52.79m², and 49.41m² and two first floor tenancies with floor areas of 42m² and 48m².

First floor balconies are to be provided on the northern, eastern and western elevations of the building.

The rear two-storey building fronts Rayner Lane and comprises three serviced apartments. Each apartment contains two bedrooms and a double garage. The living areas and principal private open space areas of each apartment are located at first floor level.

A total of 10 car parking spaces (inclusive of one disabled car parking space) are being provided on-site to service both the business premises and the services apartments. These car parking spaces are all accessed via Rayner Lane.

Approximately 57m² of the site is proposed to be dedicated to Council for the purpose of widening Rayner Lane.

The estimated cost of the development is \$2.3 million.

Description of Subject Site

The subject site is Lot 19 Section 1 in Deposited Plan 11687 and is commonly known as No. 61 Ballina Street, Lennox Head. The property has an area of 884m² and is regular in shape. It is located in the village centre of Lennox Head and has a primary frontage to Ballina Street to the west and secondary frontage to Rayner Lane to the east.

A single storey commercial building and a two-storey dwelling house are located to the north, and a dwelling and two-storey residential unit development to the south.

On the western side of Ballina Street are commercial developments involving a mixed use type development with commercial at ground floor and some buildings with residential uses above.

On the eastern side of Rayner Lane is a mixture of single and two storey dwelling houses and dual occupancy developments.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The original proposal was placed on public exhibition from 8 April 2016 to the 29 April 2016. As a result of the exhibition of the application one submission was received on behalf of a number of residents. A further public submission was received on behalf of the same residents on 14 November 2016.

The amended proposal was placed on public exhibition from 5 April 2017 to 29 April 2017. A total of three public submissions were received (two of which were lodged on behalf of multiple residents) which are attached.

The matters raised in the objections in relation to the amended proposal are summarised and addressed as follows:

- 1. Servicing by Delivery Vehicles – Large service vehicles will have difficulties entering and existing the site and will have no alternative but to reverse onto Rayner Lane.*

Comment: The applicant initially proposed four 'commercial premises' and indicated that the ground floor tenancies would most likely be occupied by food and drink premises or retail premises, which required servicing by a small rigid vehicle (SRV). Swept path analysis demonstrated that an SRV could not enter and exit the site in a forward direction in accordance with Council's DCP requirements. To address this issue, the proposed use of the four tenancies was changed by the applicant to 'business premises', which are not required by Council to be serviced by a SRV.

Whilst it is no longer the applicant's intention to operate a food and drink premises from these ground floor tenancies, future tenants may be able to rely on the provisions of SEPP (Exempt and Complying Development Codes) 2008 to change the use of the tenancies without the consent of Council, as is the case with many existing commercial developments.

In this regard, if consent is issued to the application, the development will not be serviced by a SRV which will have impacts for future businesses in the development and the surrounding locality.

Notwithstanding this, Council's Civil Services Group is satisfied with the proposed servicing arrangements, given the types of businesses likely to occupy the four business premises tenancies.

- 2. Compliance with AS 2890.1:2004 Parking Facilities Off-street Car Parking – The proposal does not accommodate all expected vehicle sizes (eg the B99 vehicle).*

Comment: Council's Civil Services Group have assessed the proposal and confirmed that all proposed car parking spaces are accessible by the B85 sized vehicle, which represents the 85th percentile class of all car and light vans, and satisfies the requirements of clause B 2.3 of Australian Standards AS/NZ 2890.1 - Off Street Car Parking.

Vehicle swept paths have been submitted to demonstrate that vehicles (B85 sized) can enter the site, park in any of the proposed spaces and exit the site in a forward direction (including when all other spaces are occupied).

In addition, the proposed garages relating to the services apartments can accommodate one B85 and one B99 vehicle at the same time.

- 3. Proposed Disabled Car Parking Space – The nominated disabled space is not covered and the proposed garages do not comply with the disabled car parking space standards.*

Comment: The development is required to provide one disabled car parking space which is to be located adjacent to Office 1. This space complies with AS 2890.1 and the 'shared area' of the space will be covered by the cantilevered balcony above.

This will provide a level of protection from the elements for users of this space.

4. Insufficient on-site car parking is being provided.

Comment: The proposed development complies with Council's car parking requirements. Refer to commentary on Car Parking and Access further in the Ballina Shire DCP section of this report.

5. Car parking contributions will not be spent on additional public parking spaces within close proximity to the development (that will be used in association with this development) and will therefore not address parking problems generated by the development.

Comment: The development is providing seven car parking spaces, inclusive of one visitor car parking space for the serviced apartments, and three car parking spaces for the business premises. As identified in the Ballina Shire DCP 2012 section of this report, the development is required to provide a total of 14.84 car parking spaces.

The land dedication on Rayner Lane provides a credit of 2.98 car parking spaces. In this regard, the development has a shortfall of 1.86 car parking spaces.

There is provision in Chapter 6c of the Ballina Shire DCP 2012 which allows for a car parking contribution to be paid in lieu of on-site provision via Ballina Shire Car Parking Contributions Plan 2014 which the applicant has proposed in this case.

Greater than 25% of the required commercial car parking is available for customer car parking, therefore the development is compliant with Council's DCP requirements.

Generally, applicants are permitted to pay for up to 20% of car parking via contribution schemes. In this case, the applicant is paying for approximately 16% of the total car parking required which is consistent with the scheme and supported by Council's Civil Services Group.

Contributions are used for the provision of additional car parking in the Lennox Head Village Centre in accordance with the Ballina Shire Car Parking Contributions Plan 2014.

6. Impact on amenity of neighbours due to the location and setback of the principal private open space for the serviced apartments.

Comment: The principal private open space area for each serviced apartment is located at first floor level, in the form of terrace areas.

Concern has been raised in the objections that use of these areas will result in unreasonable impacts in terms of noise.

These terrace areas extend from the main living areas and have a side setback to the northern boundary of two metres.

These areas are partially enclosed on the northern side by a planter box and privacy screen (up to a height of 1.8m from finished floor level).

The terraces to Apartments 1 and 2 are adjacent to an existing dwelling to the north. The terrace to Apartment 3 is located immediately adjacent to an existing commercial development to the north and it is considered that this terrace will not have any direct impacts on the amenity of neighbours.

With reference to the terraces to Apartments 1 and 2, the site is zoned B2 Neighbour Local Centre under the BLEP 2012 and tourist and visitor accommodation is a permissible land use within the zone.

Furthermore, tourist and visitor accommodation, such as serviced apartments, is outlined as one of the desired land uses in Precinct D (Commercial Accommodation) of the Lennox Head Village Centre under Chapter 6 C of the Ballina DCP 2012.

It is generally accepted that noise levels in commercial areas are higher than that experienced in lower density residential areas which are located outside town centres.

Increasing the setback of the terraces to the two-storey dwelling to the north, as suggested in the submission, would lead to minimal noise reduction, and a reduction in the size of the terraces is considered unnecessary.

However, as the development is located in the vicinity of residential development conditions of consent will be imposed, if the application is approved, to require the submission of an Operational Management Plan to Council which incorporates suitable measures that can be implemented to mitigate potential noise impacts on neighbouring residents from the use of the serviced apartments. This will also ensure the use and occupation of the proposed development does not give rise to intrusive noise as defined in the NSW Industrial Noise Policy or offensive noise within the meaning of The Protection of the Environment Operations Act, 1997.

7. Loss of Visual Privacy for Neighbouring Properties

Comment: As indicated the first floor terraces are partially enclosed on the northern side by a planter box and privacy screen (up to a height of 1.8m from finished floor level).

These areas do not unreasonably impact on the level of privacy enjoyed by neighbouring residents.

The kitchen windows for serviced apartments 1 and 2 will be required to be of obscure glass to reduce overlooking and loss of privacy for the dwelling to the north from these rooms.

Whilst it is noted that some screening vegetation is located on the neighbouring property to the north, this should not be relied upon as the sole protection against overlooking.

The requirement for obscure glass to be used on the kitchens for apartment 1 and 2 can be imposed as a condition of consent if the application is approved.

As a result, the proposed development will not have unreasonable visual privacy impacts.

8. Noise Impacts from use of Driveway

Comment: Some noise impacts are expected as a result of the use of the proposed driveway for vehicular access. Having regard for the nature of the development and zoning of the property, these impacts are considered to be reasonable.

9. Side Setbacks/Overshadowing

Comment: The proposed plans were modified in relation to the serviced apartments to provide for a minimum 900mm side setback to the north and south, as a result of concerns raised by neighbours following the first exhibition period. Despite this change, neighbours again raised concerns over the proposed side setbacks and the resulting impacts in the second exhibition period.

The proposed setback of 900mm complies with the Building Code of Australia and the Ballina DCP 2012, and is therefore considered acceptable.

Given the orientation of the site and the development, some overshadowing will occur to the neighbouring property to the south, particularly during the winter months (as confirmed in the submitted shadow diagrams for the original design).

This impact has been minimised through the provision of increased side setbacks, first floor articulation and low roof profile, and is considered acceptable given the context of the site and its zoning. The existing development (and vegetation) currently results in a level of overshadowing to the adjoining property to the south.

10. Tree Removal & Impact on Norfolk pine tree location on No 59 Ballina Street, Lennox Head (south of subject site)

Comment: Addressed further in the Ballina DCP 2012 Chapter 2a – Vegetation Management section of this report.

11. Increased traffic in Rayner Lane and associated safety issues.

Comment: Rayner Lane acts as a service lane for commercial developments on Ballina Street and access for residential dwellings. Chapter 6C: Commercial Development – Lennox Head and the masterplan within the Ballina Shire DCP 2012 requires commercial accesses to be provided from this service lane to enable for the free flow of traffic on Ballina Street and additional car parking in the street.

Whilst it is acknowledged that the development will result in increased traffic volumes on Rayner Lane, it will not be greater than that anticipated by the planning controls relating to the B2 zoned site and the preferred land uses for this Precinct in the DCP.

In recognition of pedestrian movements down Rayner Lane, the land dedication required under the DCP provides for a footpath along the western side of the lane.

Whilst this DCP requirement has not been (or is unable to be) widely implemented, due to limited development occurring since its adoption and will take some time for a complete pedestrian linkage to be created, the only other option for Council would be to compulsorily acquire land for widening which is an expensive and problematic alternative.

Pedestrians are able to traverse both the main street and Seven Mile Beach, which run parallel to Rayner Lane, with complete pedestrian linkages to the beach via Rutherford Street to the south and Ross Park to the north.

The proposed development is not considered to significantly impact on pedestrian movement in the area or the safety of those pedestrians.

The ultimate upgrade of Rayner Lane will result in car parking on either side of the Lane, which will have the effect of slowing vehicles.

The use of "Speed bumps", as recommended by one objector, would create noise issues for adjoining residences and are generally not supported by Council's Civil Services Group.

12. Overdevelopment of the site.

Comment: The proposal has a floor space ratio of 0.76:1 which is below the maximum floor space ratio allowed under the Ballina LEP 2012 (ie 0.8:1) and is generally consistent with the objectives and relevant development controls outlined in Chapter 4 – Residential & Tourist Development of the Ballina DCP 2012.

In addition, the development is generally consistent in bulk, scale and design with other developments in the area.

As a result, the proposal is not considered to result in an overdevelopment of the site.

13. Floor Space Ratio – Serviced Apartments should comply with the FSR for residential (ie 0.5:1).

Comment: The proposed development is subject to the maximum floor space ratio of 0.8:1, as prescribed in Clause 4.4(2) of the BLEP 2012. The proposed floor space ratio of 0.76:1 complies with this development standard.

The proposal, as amended, is not subject to the maximum floor space ratio of 0.5:1, as outlined in Clause 4.4(2A) of the BLEP 2012, as it does not comprise any residential component.

14. Lack of Landscaping & Pervious Areas.

Comment: The subject site is located within the B2 Neighbourhood Centre zone and is not subject to an overall landscaping or open space requirement.

The Ballina DCP 2012 does however specify landscape and open space requirements for the tourist component of the development.

Whilst the proposal does not strictly comply with all the numerical provisions, it is considered to meet the objectives of the controls. Refer to the DCP section of this report for further discussion.

The turfed car parking cells originally proposed by the applicant were not supported by Council's Civil Services Group and have since been removed and replaced with concrete car parking spaces.

15. Stormwater

Comment: The applicant has submitted a stormwater management plan that provides on-site detention and does not increase stormwater flows to the street network. The plan is in accordance with Council's DCP requirements (Chapter 2 section 3.9 Stormwater Management) and Stormwater Management Standards for Development.

The existing stormwater infrastructure on Rayner Lane has capacity issues and therefore the developer will be required, by way of condition, to upgrade the street network as part of the lane dedication civil works, should the application be approved.

As a consequence, the development is considered to improve the stormwater network in the area.

16. Garbage Storage and Collection

Comment: Addressed in the Ballina DCP 2012 Clause 3.7 – Waste Management section of this report.

17. Land Contamination Concerns

Comment: The contaminated land assessment was requested due to the age of the buildings onsite, which have the potential to contain material with lead based paint and the use of organochlorine pesticides (termite treatment).

In addition, it is known that fencing and other structures located onsite consist of asbestos containing material, again due to their age.

Conditions of consent can be imposed to ensure any asbestos containing material is appropriately handled including disposal and the site is made suitable for the proposed use.

18. Ground Floor Design and Serviced Apartments – Capable of being used as separate accommodation.

Comment: Each serviced apartment has a nominated storage room as well as an additional bathroom on the ground floor. The storage areas are not considered to be suitable for separate occupation, given that they are only approximately 10m² in floor area.

Approval is only sought for three serviced apartments, therefore these ground floor storage areas cannot be used as separate residential or tourist accommodation, without the prior consent of Council.

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Section 79 (C) of the Environmental Planning and Assessment Act 1979. The proposal has been assessed as being generally compliant with the BLEP 2012, Council's DCP 2012 and the remaining matters listed within Section 79 (C) of the Act. The assessment has identified the following key issues which are elaborated upon for Council's information and consideration.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) provides that contamination and remediation are to be considered in the determination of development applications.

A Contaminated Land Assessment (CLA) prepared by Australian Wetlands Consulting Pty Ltd was submitted with the Development Application. The CLA included a Stage 1 Preliminary Site Investigation carried out in accordance with the requirements of SEPP 55 Remediation of Land, NSW OEH (2011) Guidelines for Consultants Reporting Contaminated Sites and NSW EPA (1995) Contaminated Sites – Sampling Design Guidelines.

The CLA sufficiently demonstrates there is a minimal risk to human health or the environment from contamination and the site is suitable for the proposed use. This information will be added to Council's Contaminated Land Register.

Some fencing on the property is made of asbestos containing material (ACM) and due to the age of other structures on the property, they too may contain ACM.

Conditions of consent can be imposed to ensure the ACM is handled and disposed of correctly including the need for a clearance certificate upon the completion of asbestos removal work.

State Environmental Planning Policy No. SEPP 71 – Coastal Protection

The Coastal Zone is an area defined on maps issued by the NSW Department of Planning & Environment. The subject site falls within the Coastal Zone. The provisions of State Environmental Planning Policy (SEPP) No 71 - Coastal Protection requires Council to consider the Aims and Objectives of the SEPP together with the matters for consideration listed in Clause 8 of the SEPP when determining an application within the Coastal Zone.

The proposed development is considered to be consistent with the aims and objectives of SEPP 71 and the matters for consideration set out in Clause 8 of the plan, for the following reasons.

- Having regard to the type, location and design of the development the proposal is considered to be suitable for the site and will not have unreasonable impacts on the amenity or scenic qualities of the coastal foreshore.
- Land is not identified on the Coastal Hazard Protection Map and is therefore unlikely to impact or be impacted by coastal processes or coastal hazards.

- It is not anticipated that the development will have adverse cumulative impacts of the proposed development on the coastal environment.
- Water and energy efficiency features shall be incorporated into the development in accordance with Chapter 6 of the Ballina DCP 2012 and the BASIX commitments.

Ballina LEP 2012

Clause 2.3 - Permissibility

The site is zoned B2 Local Centre under the Ballina LEP 2012. The proposed development, as described by the applicant, is for the construction of a mixed-use development comprising the erection of a two-storey “business premises” and three x two-storey “serviced apartments” with associated works.

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner’s or manager’s agents.

Both business premises and serviced apartments are permissible land uses within the B2 Local Centre zone under the Ballina LEP 2012.

Clause 2.3 - Zone Objectives

The objectives of this zone are as follows;

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in, and visit the local areas.*
- *To encourage 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 minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *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 development has regard for the objectives of the B2 Local Centre. In particular, the development will assist in providing a range of retail and business uses which will increased employment opportunities in the Lennox Head area. The development has been designed to minimise conflict with surrounding land uses, where possible.

Clause 4.3 - Height of buildings

The maximum building height shown for the land on Height of Building Map is nine metres. The proposed buildings have a maximum height of approximately 7.5 metres and therefore comply with this development standard.

Clause 4.4 – Floor space ratio

The maximum floor space ratio shown for the land on Floor Space Ratio Map is 0.8:1. The proposal has a floor space ratio of 0.76:1 (after land dedication for road widening) and therefore complies with this development standard.

Ballina Development Control Plan 2012

Chapter 2 – General and Environmental Considerations

Clause 3.7 – Waste Management

Construction Waste

Suitable conditions will be imposed for works involving the removal of asbestos containing material. These conditions will include the requirement to provide to Council waste receipts prior to the issue of any Occupation Certificate and the submission of a site waste minimisation management plan to be submitted to the Principal Certifying Authority for demolition works and construction works prior to the issue of Construction Certificate.

Operational Waste

The waste storage facility design standards of Chapter 6 Element J of the Ballina Shire DCP 2012 requires that waste storage areas be accessed from a rear lane or secondary frontage wherever possible. The subject site can be serviced by a rear lane, being Rayner Lane. The applicant proposes to provide the following waste storage for the entire development which will be collected from Rayner Lane.

- Five x 240L wheelie bins for mixed waste storage
- Five x 240L wheelie bins for recyclable waste storage
- Three x 240L wheelie bins for organic waste storage
- One x 1,500L mixed waste skip bin
- One x 1,500L recyclable waste storage

As Rayner Lane is a one-way street, Council serviced kerbside bins can only be collected on the eastern side of Rayner Lane, which is opposite the development site.

As a consequence, wheelie bins (up to eight bins at any one time) will need to be presented in front of the residential properties on the eastern side of Rayner Lane for collection once a week.

Concerns have been raised by objectors that additional bins from the proposed development will overload the verge on the eastern side of the lane and result in bins blocking access driveways and on-street parking and cause a general nuisance for those affected residents (eg odour).

Whilst the available space along the eastern side of Rayner Lane is limited by driveways, Council's Environmental Health Officer (after inspection of the site on garbage collection day) has advised that there is sufficient space to accommodate eight additional bins.

This approach, whilst not ideal, is consistent with that used for many of the existing developments located along the western side of Rayner Lane. Potential impacts can be minimised through the prompt relocation of bins after they have been collected (although this would need to be undertaken by a caretaker/manager, as it is not normally undertaken by tourists).

A suitable condition will be imposed in this regard, should the application be approved.

The waste storage area for the serviced apartments has been adjusted by the applicant so that it is not directly opposite the rear yard of the neighbouring dwelling to the north.

Skip bins (of 1,500L capacity) for the commercial component of the development will need to be moved from the storage enclosure to Rayner Lane for collection by a front loading truck (commercial operator), as this type of vehicle cannot physically access the site. This is not an ideal arrangement for the following reasons:

- Each skip bin will need to be moved approximately 90 metres for each collection, which is an inconvenience to the contractor and may result in noise impacts over a short period.
- When the truck is parked in Rayner Lane during the collection it may impede traffic movement for a short period.

Notwithstanding these concerns, it is considered that to require provision to be made for this type of garbage truck to enter and manoeuvre on-site would significantly and unreasonably reduce the development potential of the site. Council's Civil Services Group have not raised any objection to the proposed garbage collection arrangements for the development.

Clause 3.9 – Stormwater Management

A stormwater plan (prepared by Greg Alderson and Associates – Stormwater Management Report dated 04/03/2016) has been provided with the application which is considered to be generally acceptable. This plan provides a bio-retention basin and four rainwater tanks for treatment and detention.

Clause 3.16 – Public Art

As the proposal has an estimated development cost in excess of \$1,000,000, it is to include public art to the value of at least \$15,000 as an integral part of the development. Details of the public art were not included in the Development Application documentation. The applicant has provided the following comment on this matter.

At this time, the proponent has not made a decision as to the type and nature of the public art to be installed. However, the proponent is committed to any such art being fully accessible to members of the public and being of a permanent and durable nature.

The proponent has requested a Condition of Consent to be imposed which requires the provision of an appropriate design for the public art following the issue of Development Consent.

This matter can be addressed by way of conditions to ensure an acceptable design and location is proposed for the installation of the public art.

Other commercial developments in the town centres of Ballina and Lennox Head have made similar requests and Council has imposed conditions in a similar manner to that proposed for this application.

Clause 3.17 - Road Widening

The subject property is identified on the Road Widening Policy Map in the Lennox Head Village Centre area as being subject to road widening.

The development has a frontage to Rayners Lane, which requires a 3.6m wide strip of land to be dedicated to Council in accordance with the DCP. The 3.6m strip of land has been shown on the proposed plans and will comprise 2.3m of parking and 1.3m of pedestrian footpath for the length of the property.

Clause 3.19 – Car Parking and Access

Car Parking

The commercial areas of the development require car parking at a rate of one space per 25m² in floor area. The tourist component for units greater than 85m² is two spaces plus one visitor space per five units.

The car parking requirements for the development are detailed in the following table.

Car Parking Requirements

Council Requirement		Proposed	Required Number of Parking Spaces
Use	Rate		
Commercial	1 spaces per 25m ² gross floor area	GFA = 196m ²	7.84 spaces
Tourist accommodation	2 per dwelling >85m ² plus one visitor space	3 serviced apartments of >85m ² each	7 spaces
			Subtotal = 14.84 spaces
Credit – Rayner lane dedication	1 space per 5.4m of Rayner lane frontage	16.1m of frontage	-2.98 spaces
Total spaces required			11.86

One disabled space (with covering over the shared area) as well as six tourist spaces and three commercial spaces (10 spaces in total) are proposed on-site. This results in a shortfall of 1.86 spaces.

A condition of consent will be imposed to require the payment of a cash contribution under the Ballina Shire Car Parking Contribution Plan 2014 in lieu of the proposed shortfall.

Access

Vehicular access to the development will occur via Rayner Lane. As indicated previously, all waste collection will need to occur on Rayner Lane.

Chapter 2a – Vegetation Management

The proposal seeks to remove four trees comprising one Hells Weeping Fig (Tree 1), two Tuckeroos (Trees 2 and 3) and one Mango tree (Tree 4) and the pruning of one Norfolk Island pine (Tree 5). The applicant has submitted an Arboricultural Assessment Report prepared by an Australian Qualification Framework (AQF) level 5 Consulting Arborist.

The report indicates that Trees 1, 2, 3, and 4 are assessed as having low and moderate retention value. They are located within the proposed building footprint and cannot reasonably be retained. Accordingly, no objection is raised to the removal of these trees to accommodate the proposed development.

Tree 5 is located on the neighbouring property to the south and overhangs the subject property. The tree is large and in good condition and has been assessed by the Arborist as having a high retention value.

The arboricultural assessment concludes that the proposed 15% encroachment into the Tree Protection Zones of this tree will not result in significant damage to the tree, nor will it cause the tree to become unviable or unsafe.

Four branches that encroach into the proposed building space will need to be pruned off.

The plans have been amended to ensure the building does not encroach into the Structural Root Zone of Tree 5.

The report supports the removal of Trees 1, 2, 3 and 4 and indicates that Tree 5 (located on the neighbouring property) can be retained.

Council assessment staff accepts this conclusion and therefore raise no objection to the proposed vegetation management works.

In addition to the trees identified in the Arboricultural Assessment Report (and other vegetation which are exempt development), the proposal will also require the removal of one ornamental/landscape tree to accommodate the proposed driveway access off Rayner Lane.

As this tree is located within the nominated road widening area, no objection is raised to its removal.

Chapter 4 – Residential and Tourist Development

Chapter 4 of the Ballina DCP 2012 applies to the tourist accommodation component of the proposal. The following table summarises the main controls of Chapter 4 which are applicable to the proposal.

The proposal meets the objectives of Chapter 4 and is generally consistent with the relevant controls.

DCP – Chapter 4 (Residential and Tourist Development)		
Control	Proposed	Compliance
<i>A. Element - Building Height</i>		
9m maximum	~ 7.5m	Yes
<i>C. Element - Building envelopes</i>		
Setback – 900mm side and rear	900mm	Yes
<i>F. Element - Development Front Laneways</i>		
Front Setback - 3.5m	2m (after dedication)	No – However, it complies with the site specific setback of 2m outlined in table 6c.3 of Chapter 6c – Commercial Development Lennox Head.
<i>G. Element Landscape & Open space</i>		
Private Open Space Ground level courtyard = minimum 40m ² , 4m minimum width and maximum gradient of 1:10.	All apartments = 14m ² /16m ² , 2.9m wide & flat.	No – all apartments have ground level courtyards which are smaller in size and width than the minimum requirement. The principal open space is located at first floor level which is considered appropriate given that all living areas are also on that level. Refer to comments below on balcony requirements.
No ground floor entries = balconies with minimum area of 25m ² and a minimum width of 2.5m.	<u>Area</u> A1 = ~35m ² A2 = ~22m ² A3 = ~32m ² <u>Width</u> All apartments = 3m wide.	Whilst each apartment has individual ground floor entries, it is considered appropriate that the principal private open space is located at first floor level (terraces) directly accessible from living areas, as is typically the case with serviced apartments. Each terrace is orientated to the North. The proposal is considered satisfactory.
Landscaped area/private open space = 90m ² per dwelling with GFA 85m ² . 75% of landscaped open	A1 = ~71m ² A2 = ~38m ² A3 = ~48m ² Landscape open	No – Given the B2 zoning of the site and the nature of the proposed land use (tourist accommodation),

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DCP – Chapter 4 (Residential and Tourist Development)		
Control	Proposed	Compliance
space previous surface (eg landscaped areas such as lawn or landscaping)	space = 157m ² Pervious area = 68m ² or ~43%.	sufficient landscaped open space has been provided.
Supported by Landscape Plan	The application was accompanied by a landscape plan which is considered satisfactory.	Yes
<i>H. Element – Vehicular Access & Parking</i>		
Car parking rate	As per table 4.4	Addressed previously in this report. Refer to commentary on Chapter 2 of the DCP.
Setback 5.5m	2m	No – provided parallel to Rayner Lane. Considered acceptable in the instance of this application.
<i>I. Element Overlooking and Privacy</i>		
Habitable windows are to be screened if less than three metres from the side or rear boundary.	First floor kitchen windows are less than three metres from the side boundary.	Kitchen windows are to be of obscure glass. Condition of consent recommended.
Terrace must have a privacy screen if it: <ul style="list-style-type: none"> has a setback of less than 3 metres from a side or rear boundary, and has a floor area of more than 3 square metres 	All first floor terraces are screened by a 1.8m high privacy screen.	Yes
J. Element Solar Access	Living areas of the proposed services apartments are orientated to the north and will receive at least three hours of direct sunlight between 9.00am and 3.00pm on the winter solstice. The development will not unreasonably impact on the direct sunlight provided to the neighbouring properties.	Yes
<i>K. Element – Fences and walls</i>		
1.8m maximum behind building line	Not stated.	Compliance can be addressed by way of condition.
<i>L. Element – Roof Pitch</i>		
Roof Pitch 5 ⁰ minimum	Elements greater than 5 ⁰ in slope.	Yes
<i>R. Element - Tourist Accommodation Length of Stay</i>		
Short term occupation only	Serviced apartments proposed for short term occupation.	Yes - Compliance can be addressed by way of condition.

Chapter 6 – Commercial Development

Chapter 6 of the Ballina DCP 2012 applies to the proposal. The following table summarises the main controls of Chapter 6 which are applicable to the proposal.

The proposal meets the objectives of Chapter 6 and is generally consistent with the relevant controls.

Chapter 6 – Commercial Development		
Clause/control	Proposed	Compliance
Part 3 General Controls		
<i>C. Element Roof Forms</i>		
Roof forms – skillion, gable or hip. Minimum pitch 5 ⁰	Skillion roof (>5 ⁰ pitch)	Yes
<i>D. Element Building Setbacks</i>		
Cantilevered balconies may protrude 1.8m forward of building setback.	Cantilevered balconies proposed to Ballina Street and Rayner Lane (<1.8m)	Yes
<i>F. Awnings</i>		
Awnings providing continuous shelter from the weather are to be provided for the full extent of an active street frontage.	An awning (in the form of a first floor deck) is provided along the full extent of the active street frontage.	Yes
Awnings are to: <ul style="list-style-type: none"> be horizontal or near horizontal with a pitch not exceeding 10%; provide a minimum 3.2 metres and maximum 4.2 metres clearance from the finished ground level at the property boundary; provide a minimum width of 2.5 metres (unless constrained by narrow pavements, street trees, infrastructure or the like); be set back at least 1 metre from the kerb; 	Horizontal and flat 2.8m ~ 2m > 1m	Yes No – The awning is not located within the road reserve (ie contained wholly within the subject property). Considered acceptable given other neighbouring developments along the eastern side of Ballina Street do not provide this. No – however consistent with other awnings in the area. Yes
All contiguous awnings must be of consistent height and depth and of complementary design and materials. New awnings shall be designed to be consistent with and complementary to existing adjoining awning structures and be integrated into the building design.	The proposed awning is a consistent height and depth and compliments the design of the development. This section of the street does not have consistent awning structures.	Complies

Chapter 6 – Commercial Development		
Clause/control	Proposed	Compliance
Under awning lighting shall comply with Australian Standard 1158 – Lighting for roads and public spaces.	Not stated	Compliance can be achieved. To be addressed by way of condition.
J. Element – Waste Storage Facilities		
Comply with design requirements	Separate waste storage areas are proposed for the commercial and tourist accommodation. Facilities are suitably located and are not clearly visible from the street. Some conflict may occur during collection (ie location of domestic and commercial pickup from Rayner Lane	Yes Refer to previous comments in this report on this issue.
K. Element – Pedestrian Entries and Access		
Comply with AS 1428 – Design for Access and Mobility	Development is to comply with Australian Standard 1428 – Design for Access and Mobility	Compliance can only be achieved to the ground floor offices. A ramp or lift is not required to the first floor office area as it is less than 200m ² (as per the provisions of BCA-D3.3 concessions).
Bicycle parking	Secure and convenient parking and storage areas for bicycles are to be provided close to the entrance of the development.	Yes – dedicated area in car park.
L. Element – Energy Efficiency		
<ul style="list-style-type: none"> Comply with BCA energy requirements Development is to be designed to reduce reliance of artificial lighting 	To be addressed under CC. Design considers solar access.	Yes
M. Element – Water Efficiency		
Development to incorporate water efficiency features.	Not stated	Yes – addressed by way of condition.
Part 4 Mixed Use Developments		
A. Element – Building Design		
Maintain a reasonable level of residential Amenity.	Design is suitable for the site and surrounding uses and will maintain a reasonable level of residential amenity.	Yes

Chapter 6c – Commercial Development Lennox Head

Chapter 6c of the Ballina DCP 2012 applies to developments in B2 zoned areas of Lennox Head. The site is located within Precinct D (Commercial Accommodation) of the Lennox Head Village Centre and the proposed business premises and tourist and visitor accommodation are consistent with the preferred land use for the Precinct.

The following table summarises the main controls of Chapter 6c which are applicable to the proposal. The proposal meets the objectives of Chapter 6c and is generally consistent with the relevant controls.

Chapter 6c – Commercial Development Lennox Head		
Clause/control	Proposed	Compliance
Part 4 All Precincts		
<i>Element - Landscaping</i>		
Retain mature trees when visible from street	Existing mature Norfolk pine is to be retained. The proposal to remove four trees is supported by an Arborist report. Vegetation removal will also be required within the nominated road widening (not addressed in Arborist report)	Yes – vegetation removal is considered acceptable (addressed previously in this report).
<i>Element – Vehicle Access</i>		
Intensification of vehicular driveway access from Ballina Street is discouraged. Access should be from Rayner Lane. One vehicular access point. Maximise on-street parking.	Existing access crossover from Ballina Street will be removed. A single vehicular access is to be provided off Rayner Lane.	Yes
Loading bays to be provided on-site and accessed from Rayner Lane.	A loading bay is provided on-site (space 4) and is accessed from Rayner Lane.	Yes
<i>Preferred Land Uses</i>		
Short-term tourist and visitor accommodation, Shop top housing and commercial activities front Ballina Street.	The proposal incorporates commercial activities on Ballina Street and three serviced apartments off Rayner Lane	Yes
<i>Building Design</i>		
Building facades fronting Ballina Street - articulated at intervals of approximately 5 metres horizontally.	Some level of articulation (through window design, use of planter boxes and street furniture) is proposed.	Partial compliance. Considered acceptable.
Building facades fronting Rayner Lane are to be appropriately articulated.	An appropriate level of articulation has been provided.	Yes
Active/accessible street frontage to Ballina Street	An active and accessible street frontage is provided	Yes

Chapter 6c – Commercial Development Lennox Head		
Clause/control	Proposed	Compliance
	at ground floor to Ballina Street in the form of 'shop fronts' to the two business premises (~50% clear glazing).	
Building Setback		
Ballina Street - 2m from NW corner and perpendicular to northern boundary	2m from NW boundary. Not completely perpendicular to northern boundary.	Partial compliance. The aim of this control is to achieve a staggered building line along Ballina Street. The proposal, despite not strictly complying with the standard will achieve the underlying objective.
Rayner Lane - 2m (following land dedication).	Setback of 2m to boundary of land dedication.	Yes
Pedestrian access The provision of pedestrian access linking Ballina Street with Rayner Lane.	A pedestrian access link is provided along the northern boundary and links Ballina Street to Rayner Lane. However given the design of the development, this will appear as a private accessway rather than a public walkway.	Partial compliance. Considered acceptable.
Car Parking - 1 space per 25m ² Gross Floor Area (GFA) for business premises = 7.84 spaces required. - A minimum of 25% available for customers. Rayner Lane - One space credit per 5.4m of street frontage.	4 spaces which equates to approximately 50% available to customers 16.1m of frontage = 2.98 space credit	Yes

Conclusion

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Shire Development Control Plan 2012 and submissions made in response to the exhibition and notification of the proposed development.

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

Option One

That Council approve the development application subject to the **attached** conditions of consent. Should Council choose to proceed with this option, it must be satisfied that the proposal is generally consistent with the provisions of the relevant Environmental Planning Instruments (EPIs), Ballina Shire Development Control Plan 2012 and is worthy of variation to development controls where requested and/or identified, and the likely impacts on neighbouring residents are considered reasonable in this instance.

Option Two

That Council refuse the development application on the grounds that the proposal will have unreasonable impacts on the amenity of the neighboring residents in terms of noise and loss of privacy, the areas of non-compliance with Council's development controls are unacceptable in this instance, and the proposed waste collection arrangements are inadequate for the development as proposed or potential future uses of the business premises tenancies.

Option one is the recommended approach for the reasons outlined in this report.

RECOMMENDATION

That Development Application 2016/148 for the Construction of a Mixed Use Development Comprising a Two Storey Business Premises (containing four tenancies) and Three x Two Storey Serviced Apartments and Demolition of Existing Structures, Tree Removal and Associated Works at Lot 19, Section 1, DP 11687, 61 Ballina Street, Lennox Head be **APPROVED** subject to the non-standard conditions attached to this report and other standard planning, building and engineering conditions.

Attachment(s)

1. Locality Plan
2. Design Plans
3. Public Submissions
4. Proposed Non Standard Conditions

8.3 DA 2017/307 - 22-40 Commercial Road, Alstonville

8.3 DA 2017/307 - 22-40 Commercial Road, Alstonville

Applicant	Alstonville Agricultural Society Inc.
Property	Lot 2 DP 1031929, 22-40 Commercial Road Alstonville (Alstonville Showground)
Proposal	To change the date of the current Alstonville Agricultural Society Community Market from the second Sunday of the month to the third Saturday of the month
Effect of Planning Instrument	The land is zoned RE2 Private Recreation under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted in the locality plan attached

Introduction

Council is in receipt of Development Application 2017/307 to change the date of the current Alstonville Agricultural Society Community Market from the second Sunday of the month to the third Saturday of the month. The land to which this application applies is known as the Alstonville Showground and described as Lot 2 DP 1031929, 22-40 Commercial Road Alstonville. The purpose of this report is to seek Council's determination of the subject application following a signed request by three councillors to report the application to Council (copy attached).

Details of Proposal

The applicant proposes to change the date of the current Alstonville Agricultural Society Community Market from the second Sunday of the month to the third Saturday of each month. The current market was approved via DA 2001/667 (copy attached). There is no other change proposed to this approved market. A site plan is attached.

Council has also approved a weekly farmers' market each Saturday on the subject site (via DA 2015/268). This market is no longer operating and the applicant has subsequently surrendered this consent, under the provisions of Section 104A of the Environmental Planning & Assessment Act 1979.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The proposed development was placed on public exhibition from 21 June to 13 July 2017, and 182 adjoining owners/occupiers were notified of the proposal. At the close of the exhibition period no submissions had been received from adjoining owner/occupiers or local business owners. One submission has been received from the Ballina East Lions Club Inc. A copy of the submission is **attached**.

In summary, the Ballina East Lions Club are of the opinion that having the market on the Saturday before their Sunday market will adversely impact upon their monthly market for the following reasons:

- communications with stall holders over the years has revealed that most stall holders will only attend one market a weekend
- perception that stall holders that attend the Saturday market may not have enough product/stock to attend markets on the following day and
- Alstonville Agricultural Society Community Market has a distinct advantage over other markets in the area as they have a large covered site that would tend to attract stall holders to the detriment of the Ballina East Lions Club Market.

The Ballina East Lions Club firmly believes that, if the Alstonville Agricultural Society Community Market is allowed to operate on the third Saturday of the month, it will be extremely detrimental to the continued operations of their market.

Comment: The Alstonville Agricultural Society Community Markets have been in existence from 2001 (DA 2001/667) on the second Sunday of the month and recently the weekly Saturday Alstonville Farmers' Market (DA 2015/268) has been in operation from June 2015. Council has not been aware of any problems arising due to competition as a result of too many markets in operation in the Shire. There are a number of markets that operate in Ballina Shire and immediately surrounding Shires and the nature and timing of the markets are such that not all stall holders attend all markets.

A response from the Alstonville Agricultural Society Inc is attached.

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Section 79 (C) of the Environmental Planning and Assessment Act 1979. The following matters are considered relevant in Council's consideration and determination of the development application.

Ballina Local Environmental Plan 2012

The subject site, being Lot 2 DP 1031929, 22-40 Commercial Road Alstonville, is zoned RE2 Private Recreation under Ballina LEP 2012 (BLEP 2012).

The objectives of the RE2 zone are as follows:

- To enable land to be used for private open space or recreational purposes.

- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To enable development that is compatible with the recreational nature and environmental character of the land.
- To encourage development that achieves the efficient use of resources such as energy and water.

Under the provisions of the Ballina Local Environmental Plan (BLEP) 2012, the proposal is defined as follows:

Market means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

Markets are a permissible landuse within the RE2 zone and considered compatible with the objectives of the zone.

Report

The proponent has indicated that the proposed change of date will ensure that the market will not operate on the same Saturday as a number of markets that are well patronised both within and outside of the Ballina Shire.

The change in market days has been specifically designed to help revitalise the existing markets at the Showground and this in turn will complement the existing businesses and complement the food hub that is developing along Main Street in Alstonville. No objections have been received from surrounding residents or business owners in Alstonville.

Ballina Shire Development Control Plan 2012

With the change in market day from a Sunday to a Saturday, a review of the car parking and access arrangements has been undertaken.

Chapter 2, Section 3.19 Car Parking & Access

The original consent (DA 2001/667) restricted the number of stalls to 100. The applicant does not propose a change in the number of stalls.

The proposal generates a need for 250 spaces under the BDCP 2012 (calculated at a rate of 2.5 spaces per stall). There are large open areas around the showground which can accommodate informal (temporary) car parking for a large number of vehicles, and an overflow parking area is also available to the north-east off Green Street. The proposed use is relatively low scale (when compared to other events at the showground) and the parking supply, although informal, exceeds the 250 spaces required under the BDCP 2012.

A disabled car parking space shall be provided adjacent to the main entrance to the showground (South Street).

Council's Civil Services Group has assessed the proposed parking requirements and is satisfied that the application can be supported subject to the imposition of a number of conditions of consent.

Conclusion

The application before Council for determination is one which has merit and the proponents have chosen the day to hold the market to maximise the opportunity for the market to succeed where a number of markets at the Showgrounds have not and also to not compete with other markets on the same day within the Shire.

The applicant acknowledges the importance of a successful market to raise important funds to help maintain the Showgrounds.

The market manager has stated that the stallholders tend to work on weekends and have indicated that they will continue to attend other markets, including those that operate within the Ballina Shire.

Issues raised on the grounds of commercial competition are not valid planning reasons to refuse the application.

The current application addresses all statutory and policy requirements and warrants the support of the Council. The absence of any local objection indicates the market has and can operate and co-exist with surrounding residents and local businesses.

RECOMMENDATION

That DA 2017/307 to change the date of the current Alstonville Agricultural Society Community Market from the second Sunday of the month to the third Saturday of each month at Lot 2 DP 1031929, 22-40 Commercial Road Alstonville be **APPROVED** subject to planning, environmental and engineering conditions applicable for this type of development.

Attachment(s)

1. Locality Plan
2. Signed Councillor request to report development application
3. DA 2001/667 - Consent Notice
4. Site Plan
5. Ballina East Lions Club Inc Submission
6. Alstonville Agricultural Society Inc response to the Ballina East Lions Club Submission

Applicant	Bert Bos
Property	122 De Havilland Crescent, Ballina
Proposal	To amend Condition 13 of Development Consent to permit the existing accessible toilet facility to be upgraded to Australian Standard AS 1428.1- 2001 rather than AS 1428.1-2009
Effect of Planning Instrument	The land is zoned IN1 General Industrial under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council at its Ordinary Meeting of 11 September 1997 resolved to grant consent to the erection of an industrial building to be used (initially) as a place of public worship. Council imposed a condition of development consent under DA 1998/3 limiting the operation of the place of public worship to a period not exceeding three years after which it was to be reverted back to an industrial use development.

A further development application was submitted in 2014 (DA 2014/328) for the erection of an awning at the subject premises, where Council advised the applicant that DA 1998/3 for the temporary use of the premises as a place of public worship could no longer be relied upon and that the building has been utilised as a place of public worship without consent for approximately 15 years.

Subsequently DA 2014/328 was amended by the applicant during assessment to include the continued use of the premises as a “place of public worship” for approximately 200 patrons on-going and without any time limitation.

The application was referred to Council for the determination of one particular area of conjecture in relation to the standards Council would impose in relation to disabled access and particularly the accessible sanitary facilities.

Council was presented with three options related to the standard to which the accessible sanitary facilities were to be upgraded.

Option One

Council request the applicant to bring the existing sanitary facilities to the applicable standard for accessibility at the time the building was constructed, being Australian Standard (AS) 1428.1-1993.

Option Two

Council request the applicant to bring the existing sanitary facilities into partial conformity with AS 1428.1-2001.

Option Three

Council request the applicant to bring the existing sanitary facilities into full conformity based on the current Australian Standard AS 1428.1-2009

Council resolved to approve the change of use to a place of public worship proposed under DA 2014/328 and included Condition 13 in line with Option Three above. This upgrade work is conditioned to be completed by 29 April 2018. A copy of the current consent notice is attached.

The conditioned upgrade works have not been carried out to date. Since the time of approval of DA 2014/328, the applicant has sought advice from several sources in relation to the extent of upgrade works that are required under option Three.

Due to the significant upgrade works required, the applicant has now lodged a Modification to Consent application to amend Condition 13 to allow the upgrade works to be generally in accordance with AS 1428.1-2001. Plans and supporting documentation lodged with the modification application are attached.

Due to the full Council determining the original application, this Modification to Consent application is referred to Council for determination.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The original application was not placed on public exhibition.

The modification application has not been placed on public exhibition.

Report

This report only relates to the standard to be applied for the provision of accessible sanitary facilities in the subject building.

The number of facilities available for the use of the building as a place of public worship has been assessed previously and has been determined to be suitable.

This report details the applicable standards, where they are required to be applied, where concessions are provided, where building upgrades are required to be considered and the minor degree of non-compliance of the proposed design.

Australian Standards for Accessibility

A diagram is **attached** showing the existing compartment size and the main areas of non-compliances as discussed below.

AS1428.1 -1993

This is the standard in force at the time of construction of the industrial building.

A final inspection of DA 1998/3 was carried out on the industrial building by Council staff on 3 September 1998. The final inspection noted seven items in the Schedule of Works to be completed including the following that related to the accessible facilities:

Provide grab rail to disabled w.c. and adjust height of light switch, toilet roll holder and paper towel dispenser.

Although an 870mm door is shown on the plans approved under DA 1998/3, an 820mm door has been installed. However, the installed 820mm door is compliant with this standard.

Apart from the non-compliant fitting and fixtures including those noted at the time of the final inspection in 1998, the existing facilities also fail to comply with this standard in that the arc of the opening door is within 300mm of the basin and the toilet pan and cistern clearances to the adjacent walls are less than required.

With the exception of the door arc being within 300mm of the basin, the other non-compliances can be readily rectified within the existing compartment size without incurring substantial cost.

The door clearance to the basin could be improved, but not fully rectified, by the installation of a suitable smaller AS 1428 compliant basin.

The approved compartment size is not sufficient for the door arc clearance required by this standard to be achieved.

AS 1428.1-2001

This standard replaced AS 1993.1-2003 for new building work.

As with the previous standard, the main area of non-compliance of the existing facilities with AS 1428.1-2001 also relates to the installation of the basin within 300mm of the arc of the door leaf and the toilet pan and cistern clearances to the adjacent walls are less than required. The internal compartment size is sufficient to meet all other circulation space and clearance provisions of this standard.

The doorway however, is not wide enough to comply with this standard as it requires an 870mm door.

With the exception of the door arc being within 300mm of the basin, the other non-compliances can be readily rectified without increasing the existing compartment size and incurring substantial cost.

If a wider door is installed the clearance to the basin would be reduced further. However, this could also be improved by the installation of the smaller basin.

AS 1428.1-2009

This Standard requires substantially larger circulation spaces and internal compartment dimensions than required by both AS 1428.1-2001 and AS 1428.1-1993.

Doorways are also required to have a minimum 850mm clear opening. This requires a custom 900mm door or larger standard 920mm door to be provided.

To meet this standard this building would require substantial alterations to provide a completely new accessible sanitary compartment of the appropriate dimensions to be constructed as well as increasing the width of the hallway leading to the facilities and taking some space from either the male or female adjoining sanitary compartments.

A number of these walls are of masonry construction and the applicant has estimated the cost of this work to be \$15,000.

This estimate is considered to be conservative given the redesign and reconstruction of other areas that would be required to enlarge the compartment size by approximately 300mm in length and 200mm in width.

Where the work is required to be carried out to adjoining areas, this would trigger the need for access within, and to, those areas to also comply with the 2009 standard. This may well result in a dramatic escalation in costs.

Disability (Access to Premises- buildings) Standards 2010

Section 23 of the Disability Discrimination Act 1992 (DDA) makes it unlawful to discriminate against a person with a disability in terms of the provision of access to, or the use of, premises.

Compliance with the provisions of the Disability (Access to Premises-buildings) Standards 2010 (Premises Standards) ensures the requirements of Section 23 of the DDA are satisfied in relation to providing equitable access to building for persons with a disability.

Changes were made to the Building Code of Australia (BCA) on 1 May 2011 to ensure consistency between the BCA provisions and the Premises Standards.

Australian Standard 1428.1-2009 is the applicable Australian Standard currently adopted by the BCA for new building work.

This means that compliance with the AS 1428.1-2009 complies with the current BCA provisions and is also considered to meet both the Premises Standards and the DDA for new building work.

Applicable Buildings and Parts

Part 2 of the Premises Standards details which types of new buildings and, where additions or modifications are to be carried out to an existing building, which parts of existing buildings it applies to.

New Buildings

The subject building is not a “new building” as defined in the Premises Standards and therefore is not subject to the provisions for a new building.

New Parts

Some internal building work to the foyer area and the creation of a crèche room was carried out without approval prior to the lodgment of DA 2014/328 for the change of use.

Although an appropriate approval had not been obtained for this work prior to it being carried out, it was considered during the assessment to be a “new part” and therefore was required to be compliant with the provisions of the Premises Standards.

The applicant has not questioned the requirement for these areas to comply with the 2009 standard as conditioned in the current consent. The only area the applicant is requesting not to upgrade to the 2009 standard is the size of the accessible sanitary compartment.

Affected Parts

The definition of ‘affected part’ of a building is limited to areas between, and including, the principal pedestrian entrance and any new work, but does not extend to any toilet facilities or other rooms adjacent to the areas of the new work.

Therefore, the applicant is correct in their submission in that the Premises Standards does not require any works to be carried out to the existing accessible sanitary compartment, as no additions or modifications are proposed to this area of the building and it is not an affected part.

Requirement to Upgrade Buildings

The previous report to Council advised that, as Council was considering the use of the building as part of the application, Council can still require the provision of (or upgrade to) the existing sanitary facilities.

Clauses 93 and 94 of the Environmental Planning and Assessment Regulation relate to the situations where the consent authority (Council in this case) may require buildings to be upgraded.

Clause 94 applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where:

- (a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, or
- (b) the measures contained in the building are inadequate to:
 - i. protect persons using the building, and to facilitate their egress from the building, in the event of fire, or
 - ii. restrict the spread of fire from the building to other buildings nearby.

In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the BCA.

As only minor building works that is un-associated with the accessible sanitary compartment has been carried out in the previous 3 years and there are no fire safety issues in relation to the accessible sanitary compartment, there is no provision for Council to require an upgrade to the sanitary compartment under this clause.

Clause 93 applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.

Although the DA 2014/328 did not propose any rebuilding, alteration, enlargement or extension of the building, some work is required to bring the unauthorised works into compliance with the BCA. This was previously conditioned to be done in conjunction with a Section 149B Building Certificate application under the Environmental Planning and Assessment Act. However, none of this unauthorised works involved the accessible sanitary compartment.

In determining a development application to which Clause 93 applies, Council is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use. There are no issues in relation to the fire protection and structural capacity of the building.

From a financial perspective, it was considered reasonable for Council to require the upgrade of the accessible sanitary compartment, considering the applicant's financial capacity to undertake the works as they had recently constructed a \$40,000 external awning at the premises. The applicant has stated in this modification application that the \$40,000 for the construction of the awning has been borrowed from a financial institution.

The application of the Premises Standards, BCA and planning regulations in general are not means tested or applied based on an applicant's capacity to finance the development. However, it is more common to provide concessions where the cost of complying fully with development controls is disproportionate to the benefit.

Toilet concession

Section 4.5 of the Premises Standards provides a concession for existing accessible sanitary compartments.

The concession states that certain existing accessible sanitary compartments do not have to comply with the 2009 standard as generally required for new buildings, new parts and affected parts. The concession however, is available only where an existing sanitary compartment complies with the circulation and fit-out requirements of the 2001 standard.

If an existing accessible sanitary compartment triggers a requirement for upgrading because it is subject to new work and it does not even meet the requirements of the 2001 standard, it would be required to upgrade to meet the requirements of the 2009 standard.

So, for example, if an existing toilet undergoing new work met the circulation space requirements of the 2001 standard but did not have 2001 compliant grabrails, there would be a requirement to upgrade the grabrails to meet the 2009 standard. If the only way to meet the 2009 standard for grabrails were to extend the size of the compartment this would be inconsistent with the concession. However, the concession could be permitted if a performance based alternative solution was applied to any minor non-compliance in lieu of the prescriptive dimensional provisions of the standard.

There is no comment in the Premises Standards in relation to whether or not a doorway into the compartment is included in the concession. However, to require doorways to be widened appears to be opposed to the concession in that it would require works external to the sanitary compartment. Therefore the concession appears to allow doorways to be unaltered.

This concession recognises that the significant cost of increasing the compartment size of existing sanitary facilities would not be justified where those facilities meet previous accessibility requirements.

Unjustifiable Hardship

The applicant has provided some information in support of a claim of unjustifiable hardship to seek an exemption from complying with the Premises Standards despite there being no requirement to comply with it.

Furthermore, applications for unjustifiable hardship are made to, and assessed by, the appointed Accredited Certifier during the Construction Certificate or Complying Development Certificate process. They are not to be assessed or determined by Council as part of the Development Application process.

Conclusion

Neither this modification application nor the previous application for the change of use to a place of public worship proposed any work to the accessible sanitary compartment.

The number and type of sanitary facilities existing in the building is sufficient to service the place of public worship as approved.

There are minor non-compliances of the existing accessible sanitary compartment with the BCA that was approved in 1998.

With the exception of the encroachment of the basin into the arc of the door leaf, these can be readily rectified without the need to enlarge the size of the compartment.

The Premises Standards provides concessions to exempt existing accessible sanitary compartments from upgrade provisions under certain circumstances.

In determining whether an upgrade to the accessible unisex sanitary compartment in accordance with AS 1428.1-2009 is still required as per the current consent condition 13, the concession provisions of the Premises Standards can be used as a guide.

In considering whether or not any upgrade to the accessible unisex sanitary compartment should be required in this instance, consideration must also be given to consistency with previous and future applications for a change of use where no work is proposed to the facilities given that council must consider if the building is suitable for the new use. This remains a matter of fact and degree in each circumstance.

The applicant has provided supporting documentation in this modification application, that there is no requirement to upgrade to the 2009 standard and that the 2001 standard would be adopted by the Premises Standards if it applied.

Accordingly, the modification application is seeking to require the accessible sanitary compartment to comply as far as is practical with the 2001 standard.

Options

Having regard to all of the matters raised, Council has two options to consider.

Option One – Upgrade within the existing sanitary compartment

This option accepts the applicant's proposed modification.

Based on guidance obtained from the Premises Standards and the toilet concession contained within it, this option will require the applicant to bring the existing sanitary facilities into general compliance with AS 1428.1-2001 without altering the size of the compartment or doorway.

This would involve providing a new pan, backrest, cistern and basin with compliant wall clearances as well as completing the fit-out of grab rails and other fittings within the existing sanitary compartment.

This option would result in Condition 13 being amended accordingly.

This option is recommended due to the relatively minor cost of works and improved accessibility and amenity it provides for the number of building occupants resulting from the change of use.

Option Two – Enlargement of the sanitary compartment

This option is to retain the current requirement in the development consent granted by Council. This requires a larger sanitary compartment to be constructed and fitted out to comply fully with the standard in force in 2014 (and still current) being AS 1428.1 -2009 and adjoining areas to be altered as a consequence of the enlarged sanitary compartment.

This option would result in refusal of the modification application and is not recommended for the reasons outlined in the report. Option one provides a reasonable practical solution in this particular circumstance.

RECOMMENDATION

That the Modification Application to Development Consent 2014/328 to undertake a change of use from an industrial building to a place of public worship and including the rectification of unauthorised alterations to the building and signage be **APPROVED** subject to the amendment of Condition 13 in accordance with Option One.

Attachment(s)

1. Locality Plan - 12 De Havilland Crescent Ballina
2. DA 2014/328 Notice of Determination
3. Plan Set
4. Report - Existing Assessible Toilet
5. Diagram of sanitary compartment non-compliances

8.5 Development Applications – Variation to Development Standards

8.5 Development Applications – Variation to Development Standards

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

DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for variation
2016/691	29 Nov 2016	Ardill Payne & Partners	Erection of a New PAD site building at Ballina Fair Shopping Centre, Modifications to the Existing Car Park and Associated Works - 84 Kerr Street, Ballina	B3 Commercial Core - BLEP 2012	8.5m maximum height control Variation of 1.05m/ 10%	The proposed building will be consistent with the bulk and height and built form of the other commercial buildings on the subject site and other neighbouring properties on the eastern side of Kerr Street

RECOMMENDATION

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

Attachment(s)

Nil

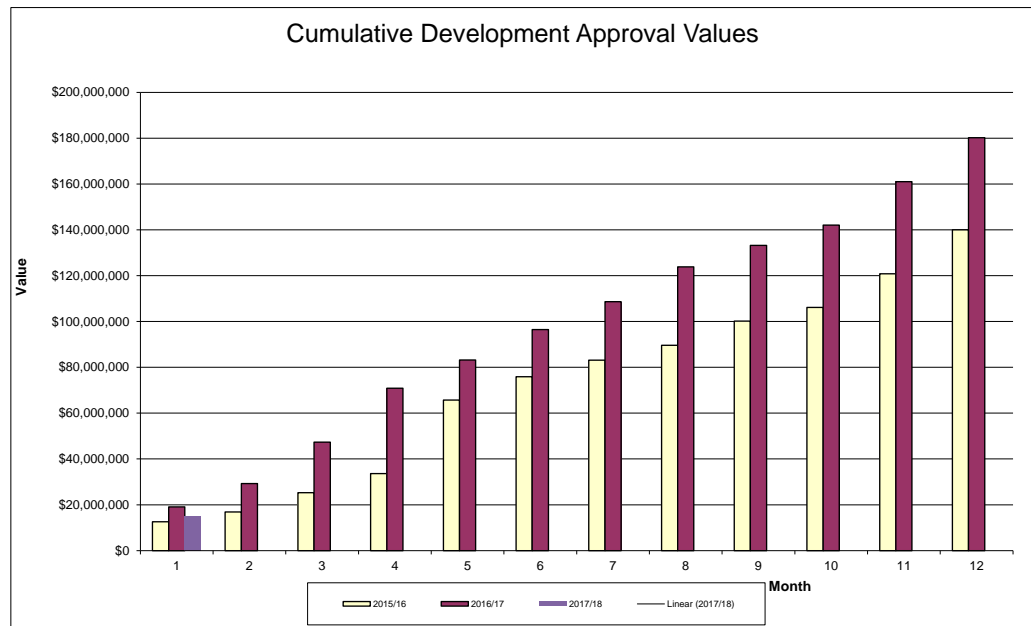
8.6 Development Consent and Public Infrastructure Approvals - July 2017

8.6 Development Consent and Public Infrastructure Approvals - July 2017

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

Number of Applications	Value of Work
36 Other including Changes of Use	\$ 8,947,495
13 Residential Accommodation, Commercial and Industrial Buildings	\$ 5,915,160
2 General Developments including Subdivisions	\$ 0
Total Value	\$ 14,862,655

The following chart details the cumulative consent figures for 2017/18 as compared to 2016/17 and 2015/16.



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

Number of Applications	Value of Work
1 Public Infrastructure / Civil Construction	\$ 150,000
Total Value	\$ 150,000

RECOMMENDATIONS

That Council notes the contents of the report on development consent and public infrastructure approvals for July 2017.

Attachment(s)

Nil

8.7 Development Applications - Works in Progress - August 2017

8.7 Development Applications - Works in Progress - August 2017

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/274	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
2016/704	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	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	Being Assessed
2017/7	4/1/2017	RPS Group	Construction of a service station with convenience store, car parking, signage and associated works – 413-423 River Street, Ballina	Being Assessed
2017/121	15/3/2017	Newton	To establish a rural	Being

8.7 Development Applications - Works in Progress - August 2017

		Denny Chapelle	worker's dwelling - 91 Newrybar Swamp Road, Kinvara	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
2017/160	5/4/2017	S R Schott	Erection and Strata Title Subdivision of a Multi Dwelling Housing Development Comprising Three x Two Storey Dwellings - 103 Cherry Street, Ballina	Determination Pending
2017/165	09/06/2017	Planit Consulting Pty Ltd	Erection and Strata Title Subdivision of an industrial development comprising the staged construction of industrial sheds and self-storage sheds, demolition works, vehicular access and internal road works, stormwater infrastructure an associated works – 16 Kays Lane, Alstonville	Being Assessed
2017/204	26/4/2017	Newton Denny Chapelle	38 Lot Residential Subdivision, Civil Infrastructure Servicing and Associated Earthworks – Hutley	Being Assessed

8.7 Development Applications - Works in Progress - August 2017

			Drive, Lennox Head	
2017/221	5/5/2017	Newton Denny Chapelle	Proposed bulk earthworks associated with the development of the neighbourhood commercial centre within the EPIQ Estate at Lennox Head. The earthworks involve significant excavation by mechanical means and blasting - Lot 54 DP 1222919 Hutley Drive, Lennox Head (EPIQ)	Being Assessed
2017/223	5/5/2017	Ardill Payne & Partners	Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head	Awaiting Additional Information
2017/232	12/5/2017	GM Project Development & Management	Three Lot Strata Title Subdivision – 6 George Street, Tintenbar	Awaiting Additional Information
2017/243	17/5/2017	Richard Mason	Erection of an industrial storage building for the purposes of storage and use of equipment materials and tools associated with a construction and building business, associated office and amenities building, car parking, civil works and tree removal – 48 Northcott Crescent, Alstonville	Awaiting Additional Information
2017/251	19/5/2017	Ballina Shire Council	Ross Lane and Byron Bay Road Intersection Upgrade comprising the construction of a two lane roundabout, relocation of telecommunication infrastructure, installation of new culvert drains,	Awaiting Additional Information

8.7 Development Applications - Works in Progress - August 2017

			installation of lighting and electricity supply, signage, vegetation removal and associated works. The proposed roundabout construction lies within SEPP 14 Coastal Wetlands - Byron Bay Road, Lennox Head	
2017/254	19/5/2017	Ardill Payne & Partners	Boundary adjustment subdivision between two lots to create two modified lots and subsequent erection and Strata Title subdivision of a detached dual occupancy on each modified lot and associated works - 34 & 36 Liffey Avenue, Cumbalum	Awaiting Additional Information
2017/258	23/5/2017	Ardill Payne & Partners	Alterations and additions to Biala Special School and associated works – 78 Fox Street, Ballina	Awaiting Additional Information
2017/259	23/5/2017	Ardill Payne & Partners	Two lot Strata Title Subdivision of an Existing Dual Occupancy to create one 619m ² and one 573m ² allotments - 32 Castle Drive, Lennox Head	Awaiting Additional Information
2017/283	02/06/2017	Newton Denny Chapelle	Change of Use to a Vehicle Repair Station and Vehicle Sales and Hire Premises and Associated Signage – 2-6 Ray O'Neil Crescent, Ballina	Determination Pending
2017/325	23/06/2017	Cabbage Tree Island Medical Centre	Alterations and Additions to professional consulting rooms – Cabbage Tree Island	Determination Pending
2017/332	23/06/2017	Ardill Payne & Partners	To demolish an existing dwelling house and garage	Awaiting Additional Information

8.7 Development Applications - Works in Progress - August 2017

			and to construct a commercial building and associated car parking – 12 Grant Street, Ballina	
2017/351	29/06/2017	Zane Grier	Temporary Use of Food Van – 19 Old Pacific Highway, Newrybar	Being Assessed
2017/353	29/06/2017	Ardill Payne & Partners	Erection of an awning and installation of a bunded above-ground diesel storage tank – 1-5 De-Havilland Drive, Ballina	Awaiting Additional Information
2017/360	30/06/2017	Ardill Payne & Partners	To undertake a tourist and visitor accommodation development comprising the construction of eight tourist cabins in four stages and associated works – 663 Fernleigh Road, Brooklet	Awaiting Additional Information
2017/370	07/07/2017	Newton Denny Chapelle	Services Station and Childcare Centre – 246-250 Lismore Road, Wollongbar	On Exhibition & Awaiting Additional Information
2017/371	07/07/2017	Ardill Payne & Partners	Alterations and Additions to Thursday Plantations/Integria Healthcare Manufacturing Facility – 57 Gallans Road, Ballina	On Exhibition & Awaiting Additional Information
2017/380	13/07/2017	Jenna Vos	To establish a two bedroom Bed & Breakfast facility and Home Occupation – 67 Platypus Drive, Uralba	Awaiting Additional Information
2017/386	19/07/2017	Optus Mobile Pty Ltd	Erection of a 33 metre high telecommunication facility consisting of a single monopole with associated equipment – 61 Piper Drive, Ballina	Awaiting Additional Information
2017/421	02/08/2017	Chris Abbott	Boundary adjustment	Referred to

8.7 Development Applications - Works in Progress - August 2017

		Surveying	subdivision between two lots – 73 North Teven Road, Teven	Government Departments
2017/430	04/08/2017	Victor Holmes Town Planning	Change of use to light industry, truck depot and storage facility, with associated business identification sign – 38B Smith Drive, West Ballina	Being Assessed
2017/432	04/08/2017	Ardill Payne & Partners	Two Lot Subdivision by way of a Boundary Adjustment Subdivision to Create One x 40.1952ha and One x 5.1148ha Allotments – Bagotville Road, Bagotville	Referred to Government Departments & Awaiting Additional Information
2017/433	07/08/2017	Geoffrey Slingsbury	To undertake vegetation management works comprising the removal of one tree – 9 Clarence Street, Ballina	Being Assessed
2017/434	07/08/2017	PalmLake Works Pty Ltd	Seniors Housing Development (Extension to Palm Lake Resort) Comprising 18 Self Contained Dwellings, Infrastructure and Associated Works - 16 & 120 Corks Lane & North Creek Road, Ballina	On Exhibition & Referred to Government Departments
2017/436	08/08/2017	Ardill Payne & Partners	Alterations and additions to Ballina Toyota – 2 Sunset Avenue, West Ballina	On Exhibition

8.7 Development Applications - Works in Progress - August 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

8.7 Development Applications - Works in Progress - August 2017

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 facilities, roads and associated infrastructure and environmental management and protection works – 67 Skennars Head Road, Skennars Head	Referred to Government Departments
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

8.7 Development Applications - Works in Progress - August 2017

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
2017/244	17/5/2017	Intrapac Skennars Head Pty Ltd	To undertake the first stage of a residential subdivision comprising 214 residential lots, six public reserve lots, nine super lots for future subdivision, five utility lots and one residue lot. The proposed subdivision, to be carried out in stages, will involve the construction of a new access to The Coast Road incorporating the Sharpes Beach Car Park Access junction with a signalised intersection and facilitating connection into Headlands Drive. The subdivision also proposes extensive earthworks across the site, utilities augmentation, stormwater management and drainage, vegetation removal and associated works – Lot 265 DP 1212348 The Coast Road, Skennars Head	Awaiting Additional Information

8.7 Development Applications - Works in Progress - August 2017

Major Development (Determined by Minister)

Major Project No./DA No.	Date Rec'd	Applicant	Proposal	Status
Nil				

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for August 2017.

Attachment(s)

Nil

9.1 Land Classification - Lot 2 DP 1221732, Russellton Industrial Estate

9. Strategic and Community Facilities Group Reports

9.1 Land Classification - Lot 2 DP 1221732, Russellton Industrial Estate

Delivery Program Strategic Planning

Objective To determine the classification of land proposed to be acquired by Council under the provisions of the Local Government Act 1993.

Background

Lot 2 DP 1221732 (Lot 2) has a 10 metre wide frontage to Norman Jones Lane and is located near the southern extent of the Russellton Industrial Estate at Alstonville. The area of Lot 2 is 1,770m².

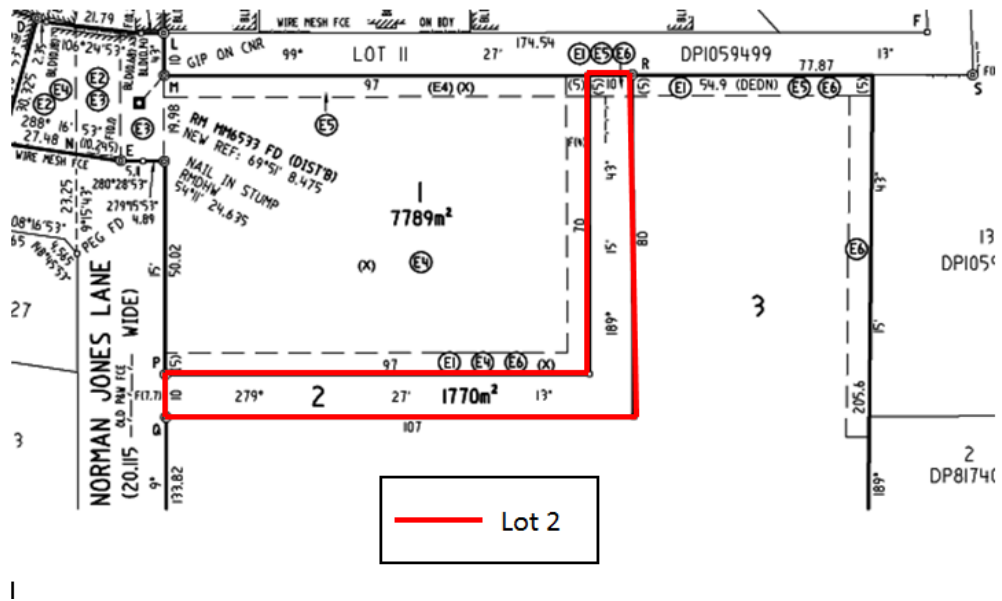
Lot 2 was created on 13 June 2017 in a registered plan of subdivision DP 1221732. At the time of preparing this report (2 August 2017) Lot 2 remains in the ownership of Stoville Pty Ltd.

A land owner agreement and contract for sale have been prepared and executed in accordance with the Council's resolution dated 25 May 2017 [Item 16.1 Minute No CF250517/1] which, when finalised, will bring about the transfer of Lot 2 to Council's ownership. Lot 1 DP 1221732 (Lot 1) will, as part of this process, be transferred from Council's ownership to the ownership of J C and R M Fleming. Stoville Pty Ltd will, as part of this process, retain ownership of the residue (Lot 3 DP 1221732) which currently contains a macadamia nut plantation.

Lot 2 is zoned 7(i) Environmental Protection (Urban Buffer) under the provisions of Ballina LEP 1987. It is proposed to be acquired by Council for buffer purposes so as to promote a physical separation between the industrial activities conducted on Lot 1 (occupied by Duraplas) and the agricultural use conducted on Lot 3.

The subject lots are shown on the extract from DP 1221732 below.

9.1 Land Classification - Lot 2 DP 1221732, Russellton Industrial Estate



The purpose of this report is to determine the classification of Lot 2 under the terms of the *Local Government Act 1993* (LG Act). Part 2 of Chapter 6 of the LG Act regulates the management of public land.

Specifically, sections 26 and 27 of the LG Act require public land owned by councils to be classified as either “community” or “operational” land in accordance with its intended use.

Key Issues

- Classification of the land under the terms of the LG Act
- Nature and use of the land

Information

The subject lot, once it passes into Council’s ownership, will be used for land use buffer purposes.

Lot 2 will not function as open space for public recreation purposes and accordingly, it is recommended that it be classified as operational land in accordance with the provisions of the LG Act. The provision of buffers of this kind is typical of the approach taken in the past by Council in relation to the Russellton Industrial Estate as a means of mitigating potential conflicts arising between adjacent competing land uses.

Section 31 of the LG Act provides that before a council acquires land, or within three months after it acquires land, it may resolve that the land be classified as community land or operational land. If the land has not been classified within the three month period then it is taken to have been classified as community land.

Given that Lot 2 has not yet been transferred into Council’s ownership, a decision to classify the land as operational land can be made well within the required time period.

9.1 Land Classification - Lot 2 DP 1221732, Russellton Industrial Estate

Section 34 of the LG Act requires that public notice of a proposed resolution to classify land must be given, and that a period of not less than 28 days to receive submissions must be provided. A public notice of the proposal to classify the subject land as operational land was provided in the Ballina Shire Advocate on 28 June 2017, in accordance with section 34 of the Act, with submissions invited until 28 July 2017. No submissions were received in response to the notification.

Given that the land will be acquired by Council for land use buffer purposes, and the required public notification has been completed, it is now necessary for the Council to confirm whether or not the land is to be classified as operational land under the terms of the LG Act.

Sustainability Considerations

- **Environment**

The classification of the subject lot as operational land is not expected to result in any negative environmental, social or economic outcomes. An operational land classification is consistent with the proposed use of the land.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The classification of Lot 2 as operational land is a legal mechanism under the LG Act which provides Council with flexibility in the management and maintenance of the land used for operational purposes. The proposed classification will not directly result in adverse resource or financial implications.

Consultation

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act* 1993. Public submissions were invited, with the closing date being 28 July 2017. No submissions in response to the notification were received.

Options

The subject land is proposed to be acquired for land use buffer purposes and is also burdened by Rights of Carriageway (ROWs) benefitting the adjacent Lot 13 DP 1059499 (owned by Tabalon Pty Ltd).

9.1 Land Classification - Lot 2 DP 1221732, Russellton Industrial Estate

Given the proposed buffer use of Lot 2, that the land is not intended for public open space use, and the existence of ROWs over this land, classifying Lot 2 as operational land is considered to be the only reasonable and practical option available. The Council might also note that it has previously indicated its preference to classify the land as operational land at its Ordinary Meeting held on 25 May 2017 [Minute No. CF250517/1].

RECOMMENDATIONS

1. That Council notes the contents of this report relating to the acquisition of Lot 2 DP 1221732, being located adjacent to the Russellton Industrial Estate.
2. That Council classify the land identified as Lot 2 DP 1221732 as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect upon the transfer of the subject allotment into Council's ownership.

Attachment(s)

Nil

9.2 Richmond Tweed Regional Library - Deed of Agreement

9.2 Richmond Tweed Regional Library - Deed of Agreement

Delivery Program Community Facilities and Services

Objective To invite the Council's consideration and endorsement of a draft Deed of Agreement for the continued operation of the Richmond Tweed Regional Library.

Background

Richmond Tweed Regional Library (RTRL) has had a history of unsuccessful attempts to establish a suitable contemporary governance model which meets the requirements of its respective Member Councils. Formed in 1971 by three separate agreements, the RTRL operated autonomously until 2009 with executive support by Lismore City Council (LCC).

In 2009 the RTRL adopted an administrative model consistent with Section 12 of the Library Act 1939, with LCC accepting the role of Executive Council. In 2013 the four Member Councils outlined recommendations and an agreement for the redevelopment of a new partnership model. At this time the RTRL Committee advised Member Councils of the decision not to progress pending the NSW review of local government, which was being undertaken at that time.

In 2016 the RTRL Committee resolved that RTRL should form a steering committee with senior staff from each council – referred to as the Senior Leadership Group (SLG) to assist in the development of a draft Deed of Agreement (DOA). There was a clear need for a modern written agreement between the four councils in respect of joint library services. It was envisaged that the DOA will cover critical aspects of the library's operations, including exit/entry to the RTRL, development of budgets/long term financial plans and service level agreements.

RTRL engaged a suitably qualified and experienced facilitator with a proven track record of working with diverse stakeholders in governance arrangements through an expression of interest out to the industry. UTS: CLG (University of Technology: Centre for Local Government) was selected in September 2016 by the SLG to facilitate the DOA process.

Following a RTRL Committee Meeting held on 3 March 2017, the DOA was given to an experienced legal practitioner for review. The RTRL SLG subsequently worked through the lawyer's comments and suggestions and made appropriate changes to the draft document.

A final 'word by word' review was completed by the SLG and a Draft DOA was presented to the RTRL Committee on 12 May 2017.

The RTRL Committee endorsed the draft DOA subject to minor modifications. A final check of the draft DOA by the engaged lawyer was then undertaken.

A copy of the final recommended version of the draft Deed is attached to this report for perusal by Councillors.

Key Issues

- Finalisation of the draft Deed
- Adoption by all Member Councils

Information

Negotiations between Member Councils to establish a contemporary governance model for the continued effective operation of the library have been prolonged and somewhat challenging. However, through the commitment of elected members of the councils, and key staff from the councils and the library itself, a draft Deed has now been finalised, and is recommended for endorsement.

Through this negotiation process, it has become evident that the model of a shared regional approach remains the most efficient and effective method of continuing to provide the delivery of very important and high quality library services to our respective communities.

The draft Deed largely reflects the existing operations of the RTRL and importantly it will allow all Member Councils to finally formalize an agreement.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The delivery of high quality library services is considered to be essential infrastructure to support the needs of our regional residents, and our visitors. Adoption and implementation of the new Deed will facilitate the continuation of these services.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The DOA provides Member Councils with a governance model, associated contribution formulas and the ability to set service level agreements. It is envisaged that once the DOA is in place, a long term financial plan for library services will be developed.

Consultation

The preparation of the new Deed has basically been an administrative process to underpin the ongoing relationship between Member Councils. Formal community engagement beyond input from the Member Councils has not been necessary.

As a matter of interest the following is a precise of the engagement between the key stakeholders, including the methodology applied by UTS:CLG in its facilitation role:

9.2 Richmond Tweed Regional Library - Deed of Agreement

- Project inception meeting with the SLG
- Document and context review
- Stakeholder interviews
- Charrette One – work with staff to gain agreement between Member Councils on the future governance model and draft Deed for RTRL
- Charrette Two – involved elected members of the Member Councils from the RTRL Committee to gain agreement on the future governance model
- Liaise with the SLG to create a draft Deed; and
- Ms Roberta Ryan, Director, UTS:CLG facilitated a discussion on 3 March 2017 Library Committee meeting based on feedback from Member Councils.

Solicitors Lindsay Taylor Lawyers, Local Government Specialists, provided legal commentary for the preparation of the draft Deed.

Options

Option 1 - To support the Draft Deed of Agreement Version 13 dated 28 July 2017. This is the recommended option.

Option 2 - To seek amendments to the Draft Deed of Agreement Version 13, dated 28 July 2017, as considered warranted by Councillors.

Option 3 - To not support the Draft Deed of Agreement Version 13, dated 28 July 2017. This is not considered an appropriate response as it is suggested the Deed, as endorsed by the Library Committee, is critical to the continued efficient operation of the regional library service.

RECOMMENDATION

That Council endorses the Draft Deed of Agreement Version 13 dated 28 July 2017 to facilitate the continuation of library services within this region and authorises the General Manager to sign the subject agreement.

Attachment(s)

1. Richmond Tweed Regional Library - Deed of Agreement Version 13 - 28 July 2017

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US17/18	<p>Ballina Shire Council Lease to 401 Investments Pty Ltd for Lot 3 DP 1098776 at the Ballina Byron Gateway Airport for a period of twenty years.</p> <p>Explanation: 401 Investments P/L have occupied land at the Ballina Byron Gateway Airport for a number of years under a previous lease. This lease was offered as a result of 401 Investments requesting consent to upgrade their current hangar. The annual lease fee is set at \$6,567.75 p.a. + GST with CPI reviews annually other than market review every five years.</p>
US17/19	<p>Ballina Shire Council Sublease to M Geyer for Part Lots 321 DP 755745 & 7003 DP 92641 being that part of the building and surrounds known as the "Alstonville Hall" sitting upon reserve number D57675 dedicated for town hall site for two years with a three year option.</p> <p>Explanation: Council has a head lease with the Crown over the site known as "The Old Alstonville Hall". The commencing sublease fee is set at \$21,000 p.a. + GST + proportion of outgoings with CPI reviews annually.</p>
US17/20	<p>Crown Sub Lease Agreements between Council and River Street Children's Centre, Little Pelican's Play Group and the Ballina Toy Library for Lot 5 and part Lot 6 in DP 758047, River Street, Ballina. The sub leases offered are at peppercorn rental, each for a period of three years.</p> <p>Note: During 2011 Council entered into Lease No. RE 485718 for a term of 20 years commencing 04/09/11 and terminating 03/09/31. This lease includes the Library, Visitor Information Centre, Richmond Room and the spaces occupied by River Street Children's Centre, Little Pelican's Play Group and the Ballina Toy Library. Sub leases are being offered to the River Street Children's Centre, Little Pelican's Play Group and the Ballina Toy Library as they are not Council run programs, or committees of Council and the sublease documents provide for clarity through specification of lease areas and tenant obligations.</p>

Attachment(s)

Nil

10.2 Investment Summary - July 2017

10.2 Investment Summary - July 2017

Delivery Program Financial Services

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

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary Meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of July 2017.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 July was \$73,798,000. This represents a decrease of \$3,493,000 from June. Council's investments, as at 31 July, are at an average (weighted) rate of 2.71%, which is 1.01% above the 90 Day Bank Bill Index of 1.70%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 July 2017, was \$847,094. This balance is lower than the balance of \$2,744,942 as at 30 June 2017.

The combined movement of investments and bank balances was a decrease of \$5,390,848. Large anticipated expenditure in July related to the Ballina and Alstonville swimming pools refurbishment of \$2.5 million and the remaining movement is attributable to general creditors and wage payments.

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

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

* Based on reserves held as at 30 June 2016

10.2 Investment Summary - July 2017

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.4%	2%
Rated Institutions							
AMP Bank	Yes	A	4,000	4,000	20%	5.4%	
Auswide Bank	No	BBB-	1,000	1,000	1m	1.4%	
Bank Australia	Yes	BBB	1,000	3,000	10%	4.1%	
Bank of Queensland	No	BBB+	5,000	6,000	10%	8.1%	
BankWest	Yes	AA-	5,000	2,000	20%	2.7%	
Bendigo & Adelaide Bank	No	BBB+	5,000	5,000	10%	6.8%	
Beyond Bank	No	BBB	2,000	2,000	10%	2.7%	
Commonwealth Bank of Australia	Yes	AA-	8,003	7,010	20%	9.5%	
Defence Bank Ltd	No	BBB	5,500	5,000	10%	6.8%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.7%	
IMB Bank	No	BBB	1,000	1,000	10%	1.4%	
ING Bank Ltd	Yes	A-	5,000	5,000	10%	6.8%	
Members Equity Bank	No	BBB	4,000	4,000	10%	5.4%	
My State Bank Ltd	No	BBB	5,000	3,000	20%	4.1%	
National Australia Bank	Yes	AA-	8,000	8,000	10%	10.8%	
Newcastle Permanent Bld Society	No	BBB	2,000	2,000	10%	2.7%	
Suncorp-Metway Bank	No	A+	9,000	9,000	20%	12.2%	
Teachers Mutual Bank Limited	No	BBB	1,000	1,000	10%	1.4%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	10%	2.7%	98%
Unrated ADI's					\$1m	0.0%	0%
Total			77,291	73,798		100%	

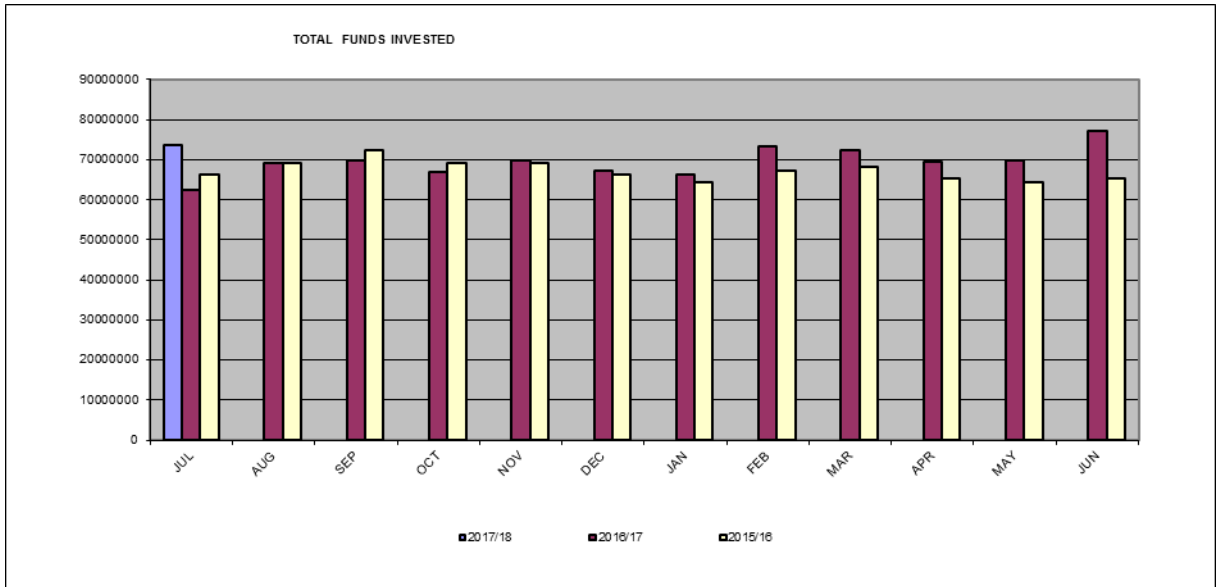
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	34,791 45%	32,798 44%
Non-Fossil Fuel Aligned	42,500 55%	41,000 56%
Not Classified	0 0%	0 0%
Total	77,291 100%	73,798 100%

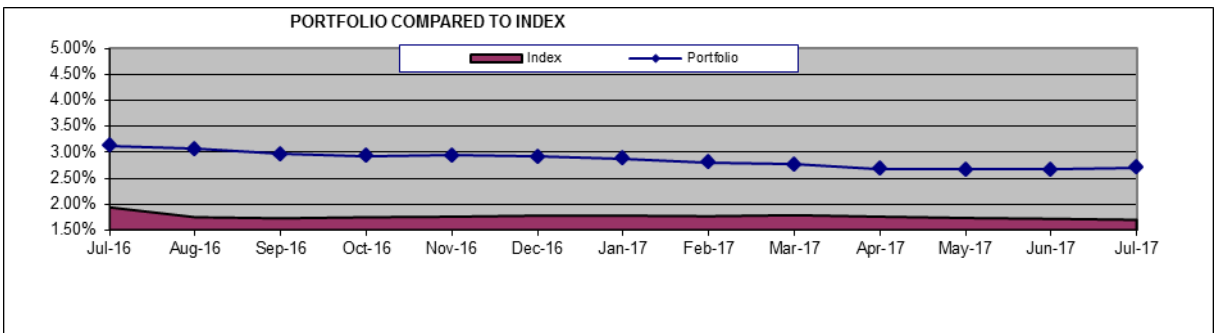
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

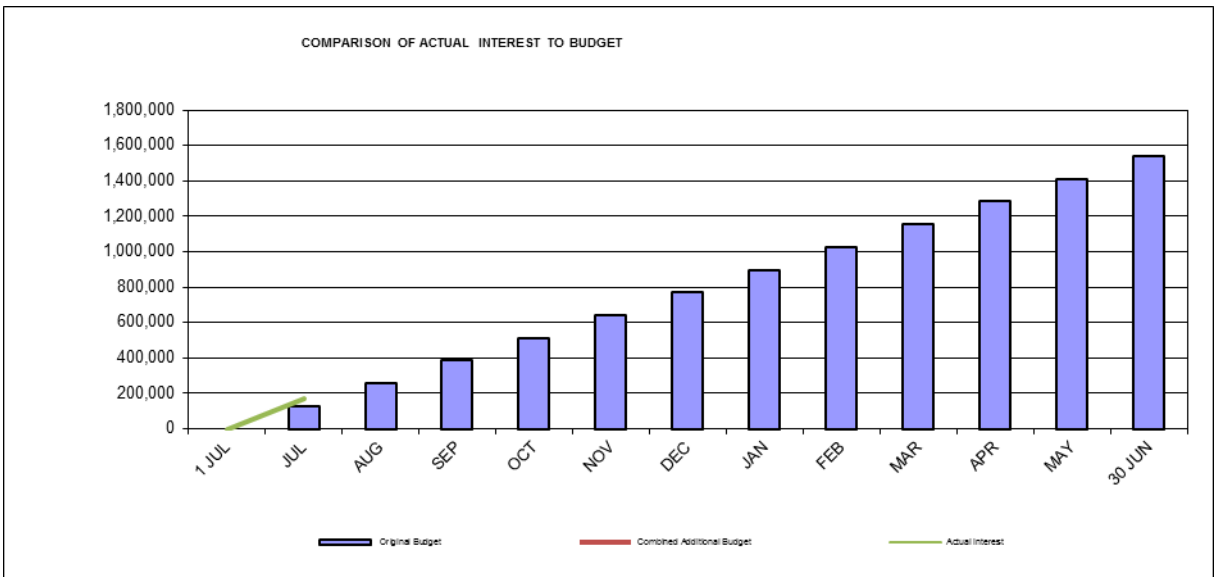
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - July 2017

F. Investments held as at 31 July 2017

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Australia Bank (ASX Listed)	FRN	2.94%	Perpetual	1,788	1,400
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	2,000	2,022
25/02/14	Westpac Banking Corporation	FRN	2.68%	25/02/19	2,000	2,016
17/06/16	Commonwealth Bank Of Australia	FRTD	2.77%	17/06/21	1,000	1,000
28/06/16	Commonwealth Bank Of Australia	FRTD	2.75%	30/06/21	1,000	1,000
26/07/16	Commonwealth Bank Of Australia	FRTD	2.74%	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
30/08/16	Greater Bank Limited	FRN	3.29%	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
03/11/16	Bendigo & Adelaide Bank	TD	2.70%	03/08/17	1,000	1,000
07/11/16	National Australia Bank	TD	2.77%	06/09/17	1,000	1,000
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
23/11/16	Defence Bank Ltd	TD	2.80%	08/11/17	2,000	2,000
28/11/16	My State Bank Ltd	TD	2.81%	05/09/17	1,000	1,000
29/11/16	My State Bank Ltd	TD	2.81%	24/08/17	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
24/02/17	Greater Bank Limited	FRN	3.19%	24/02/20	1,000	1,002
22/03/17	AMP Bank	TD	2.75%	22/11/17	1,000	1,000
30/06/17	Commonwealth Bank Of Australia	Call	1.45%	09/08/17	2,010	2,010
24/05/17	Defence Bank Ltd	TD	2.70%	28/11/17	1,000	1,000
25/05/17	Defence Bank Ltd	TD	2.75%	05/12/17	1,000	1,000
26/05/17	Auswide Bank	TD	2.80%	29/11/17	1,000	1,000
30/05/17	AMP Bank	TD	2.50%	29/08/17	1,000	1,000
30/05/17	Newcastle Permanent Bld Society	TD	2.60%	07/09/17	1,000	1,000
31/05/17	IMB Bank	TD	2.65%	30/11/17	1,000	1,000
02/06/17	Suncorp-Metway Bank	TD	2.60%	12/12/17	1,000	1,000
01/06/17	Bank of Queensland	TD	2.65%	06/12/17	1,000	1,000
06/06/17	My State Bank Ltd	TD	2.70%	07/12/17	1,000	1,000
06/06/17	ING Bank Ltd	TD	2.63%	18/01/18	1,000	1,000
06/06/17	Beyond Bank	TD	2.75%	12/12/17	1,000	1,000
07/06/17	Bank of Queensland	TD	2.65%	14/12/17	1,000	1,000
07/06/17	Bank of Queensland	TD	2.65%	20/12/17	1,000	1,000
07/06/17	Members Equity Bank	TD	2.70%	19/12/17	1,000	1,000
08/06/17	Suncorp-Metway Bank	TD	2.60%	09/01/18	1,000	1,000
08/06/17	Suncorp-Metway Bank	TD	2.60%	10/01/18	1,000	1,000
08/06/17	Members Equity Bank	TD	2.70%	08/12/17	1,000	1,000
09/01/17	Suncorp-Metway Bank	TD	2.60%	11/01/18	1,000	1,000
09/06/17	Suncorp-Metway Bank	TD	2.60%	16/01/18	1,000	1,000
13/06/17	Suncorp-Metway Bank	TD	2.60%	23/01/18	1,000	1,000
13/06/17	Suncorp-Metway Bank	TD	2.60%	24/01/18	1,000	1,000
13/06/17	Suncorp-Metway Bank	TD	2.60%	06/02/18	1,000	1,000
13/06/17	Beyond Bank	TD	2.70%	11/12/17	1,000	1,000
13/06/17	Members Equity Bank	TD	2.70%	11/12/17	1,000	1,000
13/06/17	Members Equity Bank	TD	2.70%	18/12/17	1,000	1,000
15/06/17	Bank of Queensland	TD	2.65%	07/02/18	1,000	1,000
19/06/17	Suncorp-Metway Bank	TD	2.60%	15/01/18	1,000	1,000
20/06/17	Bank Australia	TD	2.80%	15/02/18	1,000	1,000
20/06/17	National Australia Bank	TD	2.47%	20/09/17	1,000	1,000
20/06/17	National Australia Bank	TD	2.47%	21/09/17	1,000	1,000
27/06/17	Defence Bank Ltd	TD	2.70%	08/02/18	1,000	1,000
29/06/17	Teachers Mutual Bank Limited	FRN	3.14%	29/06/20	1,000	1,001
29/06/17	AMP Bank	TD	2.60%	04/04/18	2,000	2,000
04/07/17	Bank Australia	TD	2.80%	15/02/18	2,000	2,000
11/07/17	Newcastle Permanent Bld Society	TD	2.50%	15/11/17	1,000	1,000
19/07/17	Bank of Queensland	TD	2.65%	21/02/18	2,000	2,000
31/07/17	BankWest	TD	2.30%	18/10/17	2,000	2,000
Totals					73,798	73,455
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 July 2017.

Attachment(s)

Nil

10.3 Voting Delegates - LGNSW Annual Conference

10.3 Voting Delegates - LGNSW Annual Conference

Delivery Program Communications

Objective To determine Council's voting delegates to the LGNSW Annual Conference.

Background

The Local Government NSW (LGNSW) Annual Conference is being held in Sydney between 4 – 7 December 2017. At this stage, five Councillors have indicated their interest in attending.

A copy of the draft conference program is attached.

Council is entitled to three voting delegates for the policy motions and for the election of the Association's Office Bearers and Board. Names of voting delegates are required to be submitted prior to 13 October 2017.

The purpose of this report is to confirm the voting delegates.

Key Issues

- Determination of voting delegates

Information

LGNSW is the main industry representative organisation for councils. A large part of this annual conference focuses on motions submitted by councils with the delegates voting on the merits of the motions.

If supported, motions become priority matters for LGNSW to pursue, typically with the State Government.

Sustainability Considerations

- **Environment**
Environmental, social and economic matters would be discussed at the conference.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

Funds are available within the Council's professional development budget to finance Councillors attending this conference and will be allocated from the \$5,000 allowance per year for each Councillor.

Consultation

Not applicable.

Options

Clause 251 of the Local Government (General) Regulations states as follows in respect to voting at Council meetings:

- 1) *A councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.*
- 2) *If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.*
- 3) *The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.*
- 4) *When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.*
- 5) *Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.*

As per point 5) voting must be by open means.

In order to determine the three voting delegates the first step is to determine how many Councillors wish to have the voting right.

If there are more than three nominees it will be necessary to conduct elections for each voting delegate. This will most likely need to be conducted as three different elections.

RECOMMENDATION

That Council confirm its voting delegates (maximum of three) for the LGNSW Annual Conference.

Attachment(s)

1. LGNSW Draft Annual Conference Program

10.4 Code of Conduct Review Panel and Model Procedures

10.4 Code of Conduct Review Panel and Model Procedures

Delivery Program Communications

Objective To endorse the membership of the Conduct Review Panel and to adopt the Code of Conduct Model Procedures.

Background

Section 440AA of the Local Government Act (LGA) states, in part, as follows:

- 1) *The regulations may prescribe a procedure (the "**model procedure**") for administering the model code referred to in section 440.*
- 2) *The model procedure is to set out the procedures for dealing with alleged contraventions of the model code.*
- 3) *A council must adopt a procedure (the "**adopted procedure**") that incorporates the provisions of the model procedure. The adopted procedure may include provisions that supplement the model procedure.*

The model code refers to the model Code of Conduct, which Council adopted in June 2017. The reference to model means it is based on a template provided by the Office of Local Government (OLG).

In addition to adopting the model code, Section 440AA of the LGA requires councils to adopt procedures for administering the model code.

The latest model procedures were issued by the OLG in March 2013. Council is required to adopt, at least every four years, a new Conduct Review Panel, with the Panel referenced in the model procedures.

The report that follows provides an overview of the model procedures for the Code of Conduct along with recommending the appointment of a new Conduct Review Panel.

Key Issues

- Overview of model procedures
- Membership of Conduct Review Panel

Information

The first attachment to this report is the OLG's model "Procedures for the Administration of the Model Code of Conduct" (March 2013.)

Briefly the procedures detail how Code of Conduct complaints are to be handled, along with the procedures for the establishment of a panel of conduct reviewers.

Council has had limited Code of Conduct complaints in recent years which has meant that there has been little need to engage conduct reviewers.

10.4 Code of Conduct Review Panel and Model Procedures

Other councils have not been so fortunate with some councils spending tens of thousands of dollars in managing these complaints.

Within three months of 31 August each year a report must be submitted to Council on Code of Conduct complaints received and a summary of the reports for the last three years for Ballina Shire is as follows.

Description	2013/14	2014/15	2015/16
Number of complaints made about councillors and the general manager	3	1	1
Number of complaints referred to a conduct reviewer	3	0	1
Number of complaints finalised by a conduct reviewer at the preliminary assessment stage Outcome – Take No Action	2 2	0	1
Number of complaints investigated by a conduct reviewer Outcome – Training or Education	1 1	0	0
Number of complaints investigated by a conduct review committee	0	0	0
Number of matters reviewed by the Division	0	0	0
Total cost of dealing with code of conduct complaints	8,191	1,500	2,707
Invoiced from conduct reviewers	6,691	0	2,557
Approximate staff costs	1,500	1,500	150

The report to Council on the complaint statistics does not provide details of the complaints as outlined in the model procedures (refer to clause 12.1).

A key part of the Code of Conduct complaint management process is the appointment of the Conduct Review Panel.

As per clauses 3.1 to 3.5 of the model procedures expressions of interest must be called and the panel members must meet certain requirements.

In recent years this expression of interest process has been conducted by NOROC on behalf of the member councils.

That process has once again been completed and at its last meeting NOROC endorsed a preferred panel for distribution to member councils.

The preferred panel was determined after representatives from Byron, Tweed, Lismore and Kyogle Councils were appointed by the General Managers from each Council to form an Assessment Group.

Advertising for expressions of interest occurred in the:

- Northern Star, Grafton Examiner, Coffs Advocate, Tweed News (26 and 29 April)
- Courier Mail, Gold Coast Bulletin (29 April)
- Sydney Morning Herald (2 May)

10.4 Code of Conduct Review Panel and Model Procedures

A total of 33 applications were received and following an assessment process, based on the criteria outlined in the model procedures, the Assessment Group recommended the appointment of the following panel.

Nominee	Organisation / Person	Locality
Nicolas A P Harrison	Nicolas A P Harrison	Lismore
Michael Symons	Michael Symons	Sydney
Graham Evans	O'Connell Workplace Relations	Sydney
Kathy Thane	Train Reaction PTY LTD	Balmain
Peta Tupney	Tress Cox Lawyers	Sydney
Monica Kelly	Prevention Partners	Sydney
Chris Gallagher	Chris Gallagher Consulting	The Entrance
Alison Cripps	Cripps Consulting	Mosman
Kath Roach	Sincolutions	Glebe
Phil O'Toole	Centium	Sydney
Emma Broomfield	Locale Consulting	Woolgoolga

NOROC then endorsed this Panel at their August meeting. All the recommended Panel Members have the relevant expertise and experience as outlined in the model procedures.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct, Model Procedures and Conduct Review Panel all have the objective of ensuring appropriate behaviours is maintained.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

NOROC has overseen and funded the cost of this process to date.

Council is legally required to adopt Procedures for the Code of Conduct and a Conduct Review Panel.

Consultation

The recommended Conduct Review Panel has been formulated following an external advertising process.

Options

The recommendation that follows includes the adoption of the Model Procedures along with the Conduct Review Panel.

In respect to options Council can add to the Model Procedures if it so wishes, however that option is not recommended as the Model Procedures are considered to operate effectively.

10.4 Code of Conduct Review Panel and Model Procedures

Council can also amend the Conduct Review Panel, however that option is not recommended as a thorough selection process has been completed.

RECOMMENDATIONS

1. That Council adopts the Office of Local Government Procedures for the Administration of the Code of Conduct, as per attachment one to this report.
2. That Council adopts the NOROC endorsed Code of Conduct Review Panel as per the following table:

Nominee	Organisation / Person	Locality
Nicolas A P Harrison	Nicolas A P Harrison	Lismore
Michael Symons	Michael Symons	Sydney
Graham Evans	O'Connell Workplace Relations	Sydney
Kathy Thane	Train Reaction PTY LTD	Balmain
Peta Tupney	Tress Cox Lawyers	Sydney
Monica Kelly	Prevention Partners	Sydney
Chris Gallagher	Chris Gallagher Consulting	The Entrance
Alison Cripps	Cripps Consulting	Mosman
Kath Roach	Sincolutions	Glebe
Phil O'Toole	Centium	Sydney
Emma Broomfield	Locale Consulting	Woolgoolga

Attachment(s)

1. OLG Procedures for Administration of the Code of Conduct
2. NOROC - Report on Code of Conduct Review Panel membership

10.5 Rates and Charges Write Offs - 2016/17

10.5 Rates and Charges Write Offs - 2016/17

Delivery Program Financial Services

Objective To provide Council with details of the rates and charges written off during the 2016/17 rating year.

Background

Clause 131 of the Local Government (General) Regulation 2005 (LGGR) and section 607 of the Local Government Act 1993 (LGA), outline procedures that councils must follow to write off certain rates, charges, and interest.

Write offs not covered by specific sections of the LGA must be approved by Council resolution, unless the General Manager has been provided with delegated authority by the Council.

The existing Council delegated authority for the General Manager provides authority to write off general debts to a maximum of \$1,000 per debt.

The General Manager has also provided the Coordinator Rating with delegated authority to write off interest amounts, pursuant to section 567 of the LGA, up to the value of \$100 per assessment.

Sub clause (6) of clause 131 also requires the General Manager to inform the Council of any amounts written off under delegated authority.

This report complies with that clause.

Key Issues

- Compliance with clause 131 (6) of the LGGR.

Information

Table One details write offs approved by way of separate Council resolution and Table Two under Council's resolution to implement a Concealed Water Leaks Policy.

In accordance with clause 131 of the LGGR, details of the 2016/17 rates, charges, and interest, written off under delegated authority, are provided in Table Three. Detailed information regarding individual assessments is recorded in Council's rating files.

Although not required under clause 131 of the LGGR, further tables detailing other debts (besides rates, charges and interest) written off during 2016/17 have also been provided.

All rates, charges and interest written off during the period 1 July 2016 to 30 June 2017, totalling **\$17,578.01**, are included in Council's Annual Report (clause 132 LGGA).

10.5 Rates and Charges Write Offs - 2016/17

In respect to the postponed rates Council is required to write rates off where the property meets certain criteria (refer to notes in Table Four).

Table One - Write-offs – Approved by Council

Assessment	Amount	Description
RT 202652	\$4,000.00	12 Banksia Avenue Lennox Head – Water charges for a concealed water leak event.
DR 12772.01	\$8,307.54	Private works – Motor vehicle accident damage to fence
Total:	\$12,307.54	

Table Two - Write-offs – Concealed Water Leaks under Council Resolution

Assessment	Amount	Description
217160	\$365.04	11 Palisade Way Lennox Head
202652	\$252.72	12 Banksia Avenue Lennox Head
280058	\$1,195.56	2 Maple Drive Alstonville
222725	\$93.96	12B Stonehenge Place Lennox Head
Total:	\$1,907.28	

Council resolved at the 27 April 2017 Ordinary Meeting to waive step 2 of the water charges for concealed water leaks.

A new Concealed Water Leaks Policy is currently being drafted and is likely to be submitted to the September 2017 Ordinary meeting.

Table Three - Write-offs – Under General Manager’s Delegated Authority

Assessment	Amount	Description
DR 12168.09	\$733.50	Debt recovery costs incurred by Council in following up outstanding Art Gallery Exhibition Fees. The original debt was subsequently paid to Council with the exclusion of the debt recovery costs. At the recommendation of the program manager these costs were not pursued to avoid damage to Gallery’s reputation and community relationships.
DR 12772.01	\$870.00	Compliance Cost Notice (and late fee) for unauthorised and undisclosed disposal of household liquid chemicals at Council’s Waste Management Facility. At the recommendation of the program manager these amounts were considered non recoverable as the debtor was considered to be in financial hardship, medically unfit and had moved interstate.
Total:	\$1,603.50	

10.5 Rates and Charges Write Offs - 2016/17

Table Four - Write-offs – Postponed Rates - Required by LGA Legislation

Assessment	Amount	Description
5 assessments	\$1,580.54	Year six write off of postponed ordinary rate and interest charges - Section 595 LGA - Postponements typically relate to a single dwelling house that is zoned for multiple occupancy - The Valuer General supplies a land value for the highest potential use of the land. Upon application for postponement the Valuer General supplies an attributable value (i.e. extra value due to subdivision or higher use potential) and Council levies but postpones the attributable component. Interest is also charged - After five years the postponed amount and interest is written off. If the entitlement to postponement ceases at any time, any amounts not written off become due.

Table Five - Write-offs – Small Balances

Assessment	Amount	Description
346 assessments	\$179.15	End of year write-off of small balances (less than \$1.00). This process is run as a good will gesture as some angst is caused by such a small arrears balance brought forward on the rates notice.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
There may be socio-economic reasons that support writing off a person's account.
- **Economic**
There is a loss of income in any write-off, albeit that the percentage written off is extremely small as compared to the total rates and charges levied.

Legal / Resource / Financial Implications

Revenue to the value of \$17,578.01 has been foregone.

Consultation

This information is included in Council's annual report.

Options

This report is provided for information purposes only.

RECOMMENDATION

That Council notes that rates, charges, and interest totalling \$3,363.19 (per Tables Three, Four and Five) were written off under delegation of the General Manager for the 2016/17 rating year pursuant to clause 131 of the Local Government (General) Regulation 2005.

Attachment(s)

Nil

10.6 Budgets Carried Forward and Reserve Movements

10.6 Budgets Carried Forward and Reserve Movements

Delivery Program Financial Management

Objective To provide a preliminary overview of the 2016/17 end year outcomes and to advise Council of any budgets carried forward to 2017/18, along with the transfers to reserves included in the finalisation of the 2016/17 results.

Background

The purpose of this report is to provide a preliminary overview of the 2016/17 financial results.

The report also seeks Council approval to carry funds forward from 2016/17 to 2017/18 regarding ongoing or incomplete projects and to advise on transfers to reserve for future use.

Key Issues

- Financial performance

Information

This section of the report provides a brief overview of the results for the different operations of Council.

The results will still be subject to change due to end year accounting adjustments, such as leave accruals, disposal of assets, recognition of non-cash income for the revaluation of investment properties and the handover of road assets from the RMS however they still provide a reasonable summary of the outcomes for 2016/17.

General Fund

Table One, as follows, outlines the General Fund Operating Result, with the result being \$6.29 million better than forecast (as at March 2017) and achieving a positive result for the first time.

Operating revenue exceeded forecast by \$3.5 million.

The most significant influence here was a \$2.1 million advance payment by the State Government of the 2017/18 Financial Assistance Grant in June 2017.

This has the impact of, somewhat misleadingly, inflating the 2016/17 operating result. Council had not budgeted for this revenue and the Federal Government only advised of this advance payment during the final quarter.

10.6 Budgets Carried Forward and Reserve Movements

The second item is the operating grant of \$1.6 million Council received from the RMS for the handover of the Tintenbar to Newrybar section of the former Pacific Highway.

This is a one-off grant to fund 10 year's worth of maintenance on the road asset transferred to Council.

Again this was not budgeted as an operating grant.

Once these two items are eliminated operating revenue was slightly under budget by \$0.3m.

Interest on investments was above budget, with the timing of large expenditures (such as Wollongbar Sportsfields and Swimming Pools) having some impact here, combined with actual returns above a conservatively set budget.

The above increases above budget were offset in part by the non-receipt of operating grant revenue of \$1.01 million for the Richmond Roads Package, which had been promised under a re-elected Coalition Government and had been budgeted for receipt in 2016/17.

It is hoped that this funding may be received in 2017/18.

Operating expenditure was below budgeted expenditure by \$2.8 million. Approximately 80% of this 'improvement' represents operating expenditure related projects in progress and the unexpended budgets will be carried forward to the 2017/18 financial year.

Some of the larger carry over projects are \$725,000 for the BBRC Landbuyers Scheme, \$491,000 for quarry rectification works and expansion studies, \$102,000 for vegetation works, \$95,000 for stormwater grant funded project and \$59,000 for LRM projects.

Once allowance is made for the carry over projects and the one-off major revenue items the net result is approximately \$318,000 better than forecast and it actually represents an operating deficit for the General Fund; i.e.

Item	(\$'000)
Current Operating Result	5,948
Less	
2017/18 Financial Assistance Grant	2,100
RMS Hand-over Grant	1,634
Carry Over Projects from Operating Expenditure	2,317
Revised Operating Result (Deficit)	(103)

This is reasonably close to the forecast operating deficit of \$344,000.

The operating results by program for the General Fund are outlined in the following table.

10.6 Budgets Carried Forward and Reserve Movements

Table One: General Fund Operating Result by Section (\$'000)

Description	Revenues March Estimate	Revenues June Actual	Expenses March Estimate	Expenses June Actual	Result March Estimate	Result June Actual
Strategic / Comm Fac Group						
Strategic Planning	256	302	1,541	1,263	(1,285)	(961)
Community Facilities	444	454	1,426	1,386	(982)	(932)
Northern Rivers Comm Gallery	98	99	309	302	(211)	(203)
Library Services	119	118	1,549	1,461	(1,430)	(1,343)
Swimming Pools	430	435	714	720	(284)	(285)
Tourism and Communications	114	108	701	686	(587)	(578)
Sub Total	1,461	1,516	6,240	5,818	(4,779)	(4,302)
Development and Environmental Health Group						
Development Services	725	801	1,279	1,518	(554)	(717)
Building Services	1,439	1,480	968	1,040	471	440
Environment and Public Health	279	273	856	860	(577)	(587)
Admin and Public Order	189	183	1,257	1,263	(1,068)	(1,080)
Sub Total	2,632	2,737	4,360	4,681	(1,728)	(1,944)
Civil Services Group						
Engineering Management	297	409	2,580	2,518	(2,283)	(2,109)
Procurement and Building Mgmt	0	0	2,082	2,132	(2,082)	(2,132)
Stormwater and Env Protection	579	554	928	544	(349)	10
Roads and Bridges	2,559	3,708	3,333	3,447	(774)	261
Ancillary Transport Services	427	405	1,269	1,192	(842)	(787)
Ferry, Wharves, Jetties	531	529	659	659	(128)	(130)
Roads and Maritime Services	1,003	1,003	942	915	61	88
Open Space and Reserves	353	373	2,796	2,629	(2,443)	(2,256)
Vegetation Management	58	53	452	355	(394)	(302)
Cemeteries	400	452	286	318	114	134
Sporting fields	0	0	388	447	(388)	(447)
Fleet Mgmt and Workshop	4,268	4,009	3,052	2,752	1,216	1,257
Rural Fire Service	219	200	394	353	(175)	(153)
Quarries and Sandpit	70	69	703	113	(633)	(44)
Landfill and Resource Mgmt	6,707	6,681	4,902	4,631	1,805	2,050
Domestic Waste Management	6,929	6,948	6,362	6,470	567	478
Sub Total	24,400	25,393	31,128	29,475	(6,728)	(4,082)
General Manager's Group						
Communications	24	21	2,042	1,936	(2,018)	(1,915)
Financial Services	25,141	27,454	(4,152)	(4,257)	29,293	31,711
Information Services	177	231	2,313	2,254	(2,136)	(2,023)
Human Resources / Risk Mgmt	432	447	1,114	715	(682)	(268)
Property Management	2,603	2,547	2,859	1,794	(256)	753
Flat Rock Tent Park	430	414	282	260	148	154
Ballina Byron Airport	5,761	5,780	4,163	4,151	1,598	1,629
Sub Total	34,568	36,894	8,621	6,853	25,947	30,041
Operating Result (excl dep)	63,061	66,540	50,349	46,827	12,712	19,713
Depreciation Expense	0	0	13,056	13,765	13,056	13,765
Operating Result (incl dep)	63,061	66,540	63,405	60,592	(344)	5,948

The table also includes the latest depreciation estimate of \$13.7 million.

Even though the net result is better than forecast, it is important to note the impact of the advance Financial Assistance Grant and carry forward works on the bottom line for 2016/17, and also to again note that the overall result will change once year end accounting adjustments are completed.

Of particular importance is that, although the 2016/17 year has a favourable outcome, Council's Long Term Financial Plan highlights difficulties that the General Fund may have in achieving operating surpluses in future years.

10.6 Budgets Carried Forward and Reserve Movements

Council's Long Term Financial Plan is based on the assumption that permanent special rate variations for the 2018/19 and 2019/20 years will be approved. Without these increases in income it will be almost impossible to achieve a permanent operating surplus, without cutting existing services.

Brief comments for each section on the major items of interest for the final quarter of the year (i.e. comparisons to March 2017 forecast) are as follows:

Strategic and Community Services

Strategic Services

Interest earned on section 94 balances was \$27,000 higher than forecast.

Expenditure was \$278,000 below forecast and a large proportion of this relates to plans, studies and rezoning works in progress.

The next part of this report identifies \$158,000 to be carried forward to the next financial year, to allow these projects to continue.

Net savings across a number of areas totalling \$30,000 have been transferred to reserve.

The largest underspend was in relation to employee expenses, \$19,000 below forecast.

Community Facilities

The favourable variation in operating income relates predominantly to the receipt of \$8,500 for Northlakes Hall, for which a carry forward expenditure budget for unspent funds has been raised.

Operating expenditure was \$40,000 less than forecast, with \$22,000 transferred to reserve or carried forward to 2017/18, and net savings of approximately \$18,000 across other areas.

The largest individual area of savings was for Ballina Surf Club, with cleaning costs coming under budget by \$17,000.

Gallery

The underspend of Gallery operating expenses relates to two grant funded projects which are identified in the carry forwards.

Library Services

Operations were close to forecast with the net cost being approximately \$1.4 million. The expenditure saving to budget represents grant funded projects which will be carried forward to 2017/18.

Swimming Pools

Operations were close to the March 2017 forecast, with an operating deficit of \$285,000.

10.6 Budgets Carried Forward and Reserve Movements

Tourism and Communications

Income was close to budget.

Operating expenses were adversely affected by the raising of a provision for doubtful debt of \$55,000. It is possible that this may be reversed as part of 2016/17 year-end adjustments or in the 2017/18 year, dependent on what eventuates in the short and medium term.

The \$55,000 relates to an outstanding debt due from the North Coast Destination Network, the funding source for Council's FlyDrive marketing campaign. As this entity has recently wound up, there is some uncertainty around the receipt of these funds, however Destination NSW, which is the new State Government entity overseeing this tourism marketing, should ultimately be responsible for these funds.

Other impacts on overall expenditure include an overspend of \$37,000 for employee costs, with offsetting \$49,000 underspend in tourism promotional expenses.

The community event program was underspent by \$35,000, with those funds being carried forward to 2017/18 as these payments are still in progress.

Development and Environmental Health

Development Services

Income exceeded forecast by \$76,000 with a strong quarter contributing to the final outcome.

Expenses were \$239,000 more than forecast, with legal expenses totalling \$327,000 (\$177,000 above forecast), a provision for doubtful debts of \$16,000 being raised and quarries baseline survey costs of \$23,000 being carried forward to 2017/18.

Building Services

Income exceeded forecast by \$41,000.

This was offset by expenses, a result of employee costs, exceeding forecast by \$72,000.

Increased casual staff have been engaged to manage the workload for this section.

Environmental and Public Health

Operating expenditure exceeded budget by \$4,000 and a further \$36,000 was carried forward to 2017/18. The largest over expenditure relates to employee costs, over budget by \$26,000.

Administration and Public Order

Operating expenditure exceeded budget by \$6,000 and a further \$6,500 was carried forward to 2017/18.

Civil Services

Engineering Management

Operating income was \$112,000 above forecast, significantly due to Development Engineer Inspection Fees received in the last quarter in relation to the EPIQ estate.

Infrastructure Planning salaries were \$48,000 below forecast due to changes in staffing levels.

Procurement and Building Management

Preliminary operating expenditure was over forecast by \$50,000, however will come in around forecast once the year end accounting adjustments for stockpiles is completed.

Administration building costs were \$77,000 less than budget. Contributors to this were lower than anticipated electricity costs, air conditioning maintenance costs and security costs.

OSR building maintenance costs were over budget by \$18,000, public toilet costs over by \$13,000 and unbudgeted storm damage costs of \$21,000 were incurred.

Stormwater and Environmental Protection

Operating expenses were \$384,000 less than forecast.

Of this, \$95,000 is being carried forward and \$242,000 placed back in reserve, relating to ongoing projects.

The balance represents net savings across a large number of projects.

The projects in progress include the Enviro Trust Video, various flood studies and the Richmond River CZMP.

Roads and Bridges

Operating income was under budget by \$485,000.

This was due to budgeted grant revenue of \$1,011,000 for the Richmond Roads Package, which had been promised under a re-elected Coalition Government, but has not yet been delivered. It is hoped that this funding may now be received in 2017/18.

This was offset by the unbudgeted receipt of \$437,000 for Natural Disaster Funding (relating to the June 2016 event).

Unbudgeted interest revenue of \$86,000 was also allocated based on the reserve balances for the Alstonville Bypass and Ballina Bypass held through the year.

10.6 Budgets Carried Forward and Reserve Movements

Operating expenditure exceeded budget by \$114,000 and this mainly relates to the April 2017 natural disaster. Emergency expenses of \$186,000 were incurred and there was no budget for these works. It is expected that grant funds will be forthcoming in 2017/18 however agreement has not been reached as to the extent of funding that will be approved.

These costs have been offset by net savings of \$72,000 within other roads operating budgets and also savings within the roads capital works budgets.

Ancillary Transport

Operating income was \$22,000 lower than budget, with the main contributor being the balance of Pedestrian Access & Mobility Plan (PAMP) grant income not received in 2016/17 (carried forward to 2017/18).

Operating expenditure was \$77,000 lower than budget. Contributors were lower than budget PAMP expenditure of \$39,000 (carried forward to 2017/18), footpath inspection costs down \$22,000 and street lighting down by \$18,000.

Roads and Maritime Services (RMS)

All costs in this section are funded by a grant from the RMS. Operating expense was \$27,000 less than budget which was offset by capital expense over by \$27,000.

Open Spaces and Reserves

Expenses were \$167,000 less than forecast. Projects in progress requiring funds to be carried forward were Street Tree Planting and Ballina Entrance Street Trees, totalling \$62,000.

Other savings from this area have been applied towards over expenditure in the Sporting Fields section.

Vegetation Management

Once again expenditure savings to budget relate to a number of ongoing grant funded and vegetation works.

Cemeteries

Cemetery operations resulted in a surplus of \$134,000. A dividend of \$50,000 to general revenue results in a net increase to the reserve of \$84,000.

Sporting Fields

Expenses were \$59,000 above forecast.

As noted at Open Spaces and Reserves above, these overs are more than covered by significant savings within that section.

Fleet Management and Workshop

Plant charged to works was \$259,000 less than forecast.

10.6 Budgets Carried Forward and Reserve Movements

This was more than offset by actual expenditure \$300,000 down on forecast. Whilst most cost centres were under budget, the main items were insurance, general repairs and plant lease payments.

Quarries and Sandpit

Operating expense \$590,000 below forecast, however carry forwards of \$571,000 relate to the Tuckombil and Stokers quarries and the North Creek dredging plan.

Other savings were also achieved, including sandpit operations under budget by \$14,000.

With a dividend to General Fund of \$200,000, the Quarry reserve will decrease by \$248,000.

Landfill and Resource Management (LRM)

A net surplus of \$2,050,000 was achieved which was \$245,000 better than forecast.

Recent confirmation of a credit for State Government Levy favourably impacted the result.

There was also a carry forward of \$59,000 for asbestos and illegal dumping programs.

Domestic Waste Management (DWM)

DWM operations produced a net surplus of \$478,000.

The expenditure budget was exceeded, the largest contributor being green waste collection.

General Manager's Group

Communications

Total operating expenditure was impacted by \$40,000 savings in employee costs, a carry forward of \$37,000 for donations yet to be finalised and councillor allowance and expenses under spent by \$17,000.

Financial Services

The first instalment of the 2017/18 Financial Assistance Grant (FAG), \$2.1 million, was paid to Council in June 2017 significantly impacting on the operating result. This amount has been transferred to reserve.

Other favourable outcomes included interest on investments exceeding forecast.

10.6 Budgets Carried Forward and Reserve Movements

Information Services

Information fee income for the year totalled \$226,000, above forecast by \$52,000. Salaries and telephone mobile hardware costs were less than forecast.

Human Resources and Risk Management (HR)

This section of the budget manages amongst other things staff leave, superannuation, workers compensation and public liability for the entire organisation which have a total budget of approximately \$7.5 million.

Also staff on-costs are located in this area.

On-costs are a percentage based increase to wages that looks to apportion costs for leaves, super and insurances to discreet sections such as water, wastewater, waste, roads etc.

HR receives the credits from the on-costs and the budget is \$6.6 million.

There are some very large variables that can affect this budget and it is not uncommon to get positive and negative variations.

In this period there were positive variations resulting in expenditure savings to budget of \$104,000.

Other savings relate to workers compensation \$111,000, total training and development costs \$30,000 and HR employee costs \$16,000.

There was also a carry forward of \$76,000 relating to the grant funded Elson Dixon Employment program.

Property Management

The Better Regional Cities (BBRC) Section 94 and Section 64 \$25,000 rebates are shown in this program and these costs totalled \$725,000 in 2016/17, compared to budgeted \$1,450,000. The remaining rebates (totalling \$725,000 for 29 lots within the Ballina Heights Scheme) have been carried forward to 2017/18.

Unexpended funds of \$170,000 for the Southern Cross Master Plan will also be carried forward to 2017/18.

Not included in the results reported to date, a revaluation increment of \$635,000 will be recognised as a year-end accounting adjustment, resulting from the revaluation of investment properties at 30 June 2017.

Ballina Byron Airport

The Airport achieved an operating surplus of \$1,629,000 excluding depreciation. This was close to the forecast as at March 2017.

On top of this, capital expenditure amounted to \$699,000 and external loan payments of \$1,073,000 resulting in an increase to the internal loan from property reserves of \$143,000.

Water Operations

The preliminary result for Water Operations is shown in Table Two, with a comparison to the March forecast.

Table Two - Water Operations Financial Results (\$'000)

Item	March Estimate	June Actual
Operating Revenues	12,284	12,410
Operating Expenses	11,197	12,079
Operating Surplus	1,087	331
Eliminate Depreciation Expense	1,428	2,313
Surplus Excluding Depreciation	2,515	2,644
Capital Income	560	469
Capital Expenditure	2,330	1,143
Net Cash Increase	745	1,970

The operating result is positive, inclusive of depreciation which is a very important benchmark to achieve. This goes a long way to ensuring that the Fund is sustainable over the long term.

Operating income came in slightly higher than the March 2017 forecast, with large increases to budgeted water consumption income made in each quarterly budget review through the year.

Operating expense was \$880,000 more than forecast. This was solely due to an increase in the depreciation expense, the result of which is now known following the finalisation of a revaluation of water infrastructure in 2016/17.

Capital income refers to developer contributions which amounted to \$469,000 for the year. Capital expenditure was \$1.1 million which was almost \$1.2 million less than forecast. Budgets carried forward for works not completed amount to almost \$1.2 million.

Wastewater

The preliminary result for Wastewater Operations is shown in Table Three, with a comparison to the March forecast.

Table Three - Wastewater Operations Financial Results (\$'000)

Item	March Estimate	June Actual
Operating Revenues	17,745	17,873
Operating Expenses	16,726	17,790
Operating Surplus	1,019	83
Eliminate Depreciation Expense	2,678	4,138
Surplus Excluding Depreciation	3,697	4,221
Capital Income	1,070	764
Capital Expenditure	7,153	5,460
Net Cash Decrease	(2,386)	(475)

10.6 Budgets Carried Forward and Reserve Movements

For a business of this size actual operating income and expense were quite close to forecast.

The end result was a surplus of \$83,000, a shortfall of approximately \$1 million from the March forecast.

As with the water fund, an increase in the depreciation expense for the wastewater fund has resulted following the finalisation of a revaluation of wastewater infrastructure in 2016/17.

Capital income again refers solely to developer contributions and payments from this source were under forecast by a considerable margin. This is a difficult item to forecast and is very variable year on year.

Capital expenditure includes loan capital repayments of \$3.0 million whilst total capital expenditure on assets was \$1.7 million less than forecast. Budgets carried forward for works not completed amount to \$1.9 million.

In addition to the identified carry forward capital works budgets, a further review of capital budgets was completed based on revised total budget costs for various projects. These works have also been listed in Table Five, noted as additional budgets, and amount to \$684,000. This brings the total budget to be added to the adopted 2017/18 budget to \$2.6 million.

Employee Leave Entitlements (ELE) Reserve - General Fund

Table Four provides a summary of the actual cash cost of leave payments in recent years and it can be seen that the costs of leave have declined in comparison to the highs of 2014/15.

Staff continue to be encouraged to take leave entitlements to keep the liability at a manageable level.

Table Four - General Fund Leave Payments (\$)

Item	2013/14	2014/15	2015/16	2016/17
Leave Expenditure	2,521,000	2,626,000	2,383,000	2,466,000

The General Fund leave liability is estimated to be \$7.7million, which is an increase to the liability of approximately \$70,000 in comparison to last year.

The annual leave component of the liability increased by \$160,000 due to increased employee numbers and wage increases.

The long service leave liability decreased by \$113,000, with the increase in employee numbers and wage increases offset by the impact that an increase in the 10 year bond rate had on the net present value calculation of this liability.

The anticipated balance of the cash reserve to fund the leave liability is \$3.0 million, which includes a transfer to reserve of \$220,000 in 2016/17.

This means the liability will be approximately 39% funded which is reasonable.

Works Carried Forward and Reserve Transfers

It is important for budgeting purposes that any incomplete projects / tasks / actions that are still on-going are carried forward to the next year. This ensures that the current budget reflects the totality of the works and services program.

Table Five shows ongoing works that are proposed to be commenced or completed in 2017/18, whilst Table Six shows transfers to reserve.

Typically items in Table Five have previously been approved by Council and the designated funding source will also be carried forward, although there are some items where savings have been transferred to other projects.

As noted previously in this report, a review of wastewater capital budgets has identified a further \$684,000 budget to be added to the 2017/18 capital works program, in addition to the carry forward budgets. These additional capital works budgets are funded by the wastewater reserves and are noted in Table Five as additional.

Similarly, a review of the Shaws Bay Coastal Zone Management Plan budget requirements has identified a required additional budget of \$296,700 over and above the adopted 2017/18 budget of \$208,000 and 2016/17 carry over amount of \$417,300. This brings the total revised budget to \$922,000. This has also been included in Table Five as a separate line item noted additional. It is proposed that this additional budget be funded as follows:

Section 94 Open Spaces Ballina	\$109,200
Additional Grant to be received from OEH	\$ 53,000
Shaws Bay Plan Reserve	\$ 59,000
Stormwater Reserve	\$ 25,000
Shaws Bay Traps Internal Reserve	\$ 20,500
Shaws Bay 2017/18 operations budget	\$ 30,000
Total additional	\$296,700

This variation is due to an increase in the costs of works associated with progressing the Actions that have been nominated in the Coastal Zone Management Plan (CZMP) for Shaws Bay. The original funding plan for the CZMP nominated draft budgets for works back in 2014 and with the recent completion of the detailed design works to implement Action 4, Western Foreshore Improvements - Compton Drive precinct, these works have significantly increased in costs since the concept plans were adopted.

The detailed design works also now incorporate additional works to improve stormwater quality and discharge into the Bay and incorporate the provision of improved accessible for people with disabilities in accordance with Council's Disability Inclusion Action Plan 2017-2021.

The works will also enhance safety and the recreational amenity of the Compton Drive Foreshore and include the relocation of shared pathway to foreshore, provision of formalised parking areas (including disability parking spaces) traffic calming devices, an accessible ramp into the water and additional recreational facilities and picnic facilities.

10.6 Budgets Carried Forward and Reserve Movements

The expenditures in Table Five (with the exception of those line items marked as additional) were forecast for 2016/17 and did not occur, which improves the operating result for that year.

However once these budgets are carried forward the forecast operating result for 2017/18 will be adversely impacted.

Table Five - Summary of Items Carried Forward to 2017/18

Description	Dollars	Comment	Capital / Operating
Group - Strategic and Community Facilities			
<i>Strategic Services</i>			
Rezoning Assessments	118,600	LEP reviews in progress	Operating
Plans of Management	21,300	Killens falls/Tosha Falls/Ocean Breeze	Operating
Major Regional Planning	18,200	Planning project in progress	Operating
<i>Community Facilities and Customer Service</i>			
Northlakes Hall	7,900	Funds received from outgoing management committee for operating costs	Operating
<i>Community Art Gallery</i>			
Gallery Expansion Project for Fire Station	21,300	Project in progress	Capital
Lighting Project	40,900	Project in progress	Capital
Lifelong Learning Program & Audience Development Program	8,100	Grant funded projects in progress	Operating
Gallery Projects	700	Net gain from 2016/17 fundraising activities	Operating
<i>Swimming Pools</i>			
Alstonville and Ballina Pools Redevelopment	5,013,800	Projects in progress	Capital
<i>Tourism</i>			
Community Event Program	35,000	2016/17 Community Event Program not finalised	Operating
Group Total			
	5,285,800		
Development and Environmental Health			
<i>Development Services</i>			
Quarries Baseline Survey	23,000	Project not commenced	Operating
<i>Public and Environmental Health</i>			
Shaws Bay Coastal Zone Management Plan	417,300	Project not commenced. Existing capital budget of \$395,900 plus unexpended operating budget of \$21,400.	Capital
Shaws Bay Coastal Zone Management Plan	296,700	ADDITIONAL Budget for 2017/18, based on revised budget forecast - discussed separately in report.	Capital
Lake Ainsworth Management Plan	14,600	Project in progress	Operating
<i>Public Order</i>			
Dog Control & Other	6,500	Grant funded project in progress	Operating

10.6 Budgets Carried Forward and Reserve Movements

Animals			
Group Total	758,100		
Civil Services Group			
<i>Administration Centre and Depot Facilities</i>			
Depot Improvements	110,200	Project in progress	Capital
Admin Centre Air Conditioning	196,600	Project in progress	Capital
<i>Procurement & Building Management</i>			
Lennox Head Surf Club	50,000	Design work on-going	Capital
Pop Denison Toilet & BBQ Facility	151,000	Works not commenced	Capital
Ballina Surf Club	683,500	Project in progress - Building B	Capital
Ballina Indoor Sports Centre	75,000	Project in progress	Capital
Building Asset Management Program	127,600	Projects in progress	Capital
<i>Stormwater & Environmental Protection</i>			
USMP Enviro Trust Video	94,600	Grant funded project in progress	Operating
Coogee St Pump Station	15,500	Works in progress	Capital
Grant Street	125,300	Works in progress	Capital
Rutherford St & Tresise PI Backflow	6,300	Works in progress	Capital
Burns Point Ferry Road Tide Gates	25,100	Works in progress	Capital
<i>Roads and Bridges</i>			
Ballina Heights Drive	10,000	Works in progress	Capital
Maguires Bridge	45,900	Works in progress	Capital
Carrs Bridge	39,500	Works in progress	Capital
Howards Rd Alignment	14,700	Works in progress	Capital
Heavy Patching	82,700	Works in progress	Capital
Grant Street	20,500	Works not commenced	Capital
Grant Street	437,000	ADDITIONAL Budget for 17/18, being allocation of unbudgeted Natural Disaster Funding received in 16/17	Capital
Teven Road	257,300	Works in progress	Capital
Hutley Drive	55,600	Works in progress	Capital
Lake Ainsworth Southern Precinct	900,000	Works in progress	Capital
Lake Ainsworth Eastern Precinct	603,600	Works in progress	Capital
Fawcett Lane Seg 10	74,100	Works not commenced	Capital
Sunnybank Drive	207,000	Works not commenced	Capital
Marom Creek Rd Devils Elbow	329,700	Works in progress	Capital
Ross Lane/Coast Rd R/about	861,900	Works in progress	Capital
Skennars Hd Rd/Coast Rd R/about	493,800	Works in progress	Capital
Canal Bridge Guard Rail	30,000	Works in progress	Capital
River Drive	465,900	Works in progress	Capital
Riverbank Rd	307,800	Works in progress	Capital
Hutley Dr Elevation Estate	239,900	Works not commenced	Capital

10.6 Budgets Carried Forward and Reserve Movements

Angels Bch Dr & Links Ave R/about	27,000	Works in progress	Capital
<i>Ancillary Transport Services</i>			
Pedestrian Access & Mobility Plan (PAMP)	38,800	Grant funded project in progress	Operating
Coastal Recreational Path	95,900	Works in progress	Capital
Footpath - River Street plus Median	13,200	Works in progress	Capital
Footpath - Martin St to Winton Ln	7,500	Works in progress	Capital
Footpath - Compton Dr to Nth Wall Ballina	24,300	Works in progress	Capital
<i>Ferry, Wharves and Jetties</i>			
Various Ramps and Pontoons	1,027,000	Projects in progress	Capital
<i>Open Spaces and Reserves</i>			
Street Tree Planting	19,600	Project in progress	Operating
Ballina Entrance Street Trees	42,800	Project in progress	Operating
Playground Improvements	34,000	Works in progress	Capital
Wollongbar Skate Park	50,000	Works in progress	Capital
Sharpes Beach Observation Tower	39,800	Works not commenced	Capital
Ocean Pool - Shelly Beach Study	50,000	Project not commenced	Capital
Pop Denison Master Plan	342,600	Project in progress	Capital
Captain Cook Master Plan	148,900	Project in progress	Capital
<i>Vegetation Management</i>			
Grant Projects	89,600	Works in progress	Operating
Vegetation Management	12,300	Annual vegetation management	Operating
<i>Sporting Fields</i>			
Sportsfield Improvement Projects	107,000	Projects in progress	Capital
Wollongbar Sports Field	106,700	Project in progress	Capital
Pearces Creek Road	95,300	Project in progress	Capital
<i>Quarry</i>			
Tuckombil & Stokers Expansion Study	241,100	Project in progress	Operating
Stokers Stage 1 Rectification Works	250,000	Work not commenced	Operating
North Creek Dredging Plan	79,400	Project in progress	Operating
Quarry Road Construction	78,800	Work in progress	Capital
<i>Plant</i>			
Capital Purchases	667,500	Purchases scheduled	Capital
<i>Landfill and Resource Management</i>			
Asbestos Program	57,300	Project in progress	Operating
Illegal Dumping Program	1,900	Project in progress	Operating
Group Total			
	10,885,900		
General Manager's Group			
<i>Governance</i>			

10.6 Budgets Carried Forward and Reserve Movements

Community Donations	37,300	Donations not finalised	Operating
<i>Information Services</i>			
BIS Training	5,200	Allocated budget for training deferred to 17/18	Operating
Telephone System	37,800	Project in progress	Operating
<i>Human Resources and Risk Management</i>			
Elson Dixon Employment	76,100	Grant funded project in progress	Operating
Risk Management Project	40,900	Unspent funds	Operating
<i>Commercial Property</i>			
Shelly Beach Cafe Sewer	47,000	Project in progress	Capital
<i>Land Development</i>			
BBRC	725,000	Provision for land subsidies	Operating
Subdivision 54 North Creek Road	935,700	Project in progress	Capital
Wollongbar Estate Preliminary	22,700	Carry forward of unspent budget for stage 3	Operating
Wollongbar Land Development Costs	1,193,000	Project in progress	Capital
Southern Cross Estate Master Plan	170,200	Project in progress	Operating
Russelton Estate Selling Costs	10,500	Carry forward of unspent budget for Lot 20 settlement	Operating
Russelton Estate Land Development Costs	39,300	Project in progress	Capital
Property Assessment & Evaluation Costs	20,400	Unspent funds	Operating
<i>Caravans and Camping Ground</i>			
Flat Rock Improvements	20,000	Unspent funds, identified for boom gates	Capital
<i>Airport</i>			
Miscellaneous Infrastructure	18,000	Unspent funds, identified for office renovations	Capital
Group Total	3,399,100		
General Fund Total	20,328,900		
<i>Water Services</i>			
BIS Training	1,000	Allocated budget for training deferred to 17/18	Operating
Water Reservoirs - Ross Lane	500,000	Work not commenced	Capital
Ethernet Telemetry Upgrade	83,100	Project in progress	Capital
Water P/S Basalt Court HLZ Booster	21,500	Project in progress	Capital
Water P/S East Ballina HLZ Booster	87,500	Project in progress	Capital
East Ballina Boosted PZ Aug	366,800	Project in progress	Capital
Marom Creek WTP	45,400	Project in progress	Capital
Plant Purchases	53,000	Purchases scheduled	Capital
Water Services total	1,158,300		
<i>Wastewater Services</i>			
BIS Training	1,500	Allocated budget for training deferred to 17/18	Operating

10.6 Budgets Carried Forward and Reserve Movements

New Wastewater Connection E One	43,000	Project in progress	Capital
SP 3001 Byron Street Pump Station	522,300	Project in progress	Capital
Emergency Storage Program	66,700	Project in progress	Capital
SP3101-02 Sknrs Hd & Tara D Upgrades	87,900	Project in progress	Capital
SPS Wet Well Relining Program	50,000	Project in progress	Capital
Pump Upgrades	45,100	Project in progress	Capital
Comm Manifold Blower Upgd Bal WWTP	34,200	Project in progress	Capital
Kubota Membrane Turb Repl Bal WWTP	200,000	ADDITIONAL Budget for 17/18, based on revised budget forecast - discussed separately in report.	Capital
Ballina WWTP DAF Dismantling	4,500	Project in progress	Capital
Alstonville SCADA Upgrade	393,400	Project in progress	Capital
Wardell SCADA Upgrade	226,100	Project in progress	Capital
Sewer Reverse Osmosis Plant	50,000	ADDITIONAL Budget for 17/18, based on revised budget forecast	Capital
Reloc W&WW Network Servers Pine Av	30,000	Work not commenced	Capital
Plant Purchases	216,000	Purchases scheduled	Capital
Ballina Upgrade Project Management	27,200	Project in progress	Capital
Recycled Water Meters New	100,000	ADDITIONAL Budget for 17/18, based on revised budget forecast	Capital
Montwood Dr Recycled Wtr Main(new)	155,600	Project in progress	Capital
Montwood Dr Recycled Wtr Main(new)	334,400	ADDITIONAL Budget for 17/18, based on revised budget forecast	Capital
Recycled Water Hydrant Install	8,700	Project in progress	Capital
Re Use Recycled Water Alstonville WO356	10,000	Work not commenced	Capital
Wastewater Services Total	2,606,600		

For the additional budget items the revised budgets reflect more detailed estimates for the various projects listed.

There are sufficient wastewater reserves to finance these projects.

Funds Transferred to Reserve

This next section of the report details transfers to reserves, with Table Six providing a summary of those transfers

The comment column provides a brief explanation of the transfer.

10.6 Budgets Carried Forward and Reserve Movements

Table Six - Summary of Reserve Transfers

Reserve Description	Amount \$	Comment
Strategic and Community Facilities		
<i>Strategic Services</i>		
Strategic Projects (identified)	32,700	Strategic planning projects - Koala Study and Community Investigations
Strategic Projects (unidentified)	30,000	Savings from 16/17 quarantined for future projects
Section 94	2,636,000	Actual contributions plus interest
<i>Community Facilities and Customer Service</i>		
Crown Rent	21,100	Funds to meet rental commitments (LHCCC, Ballina Surf Club, Ballina Hockey Club)
<i>Library</i>		
Library Special Projects	17,400	Net unexpended grant funding received
<i>Community Gallery</i>		
Public Art	10,000	Funds to pay for public art
Group Total	2,747,200	
Development and Environmental Health		
<i>Development Services</i>		
Legals	210,000	Reserve to enable future legal fees to be funded
Group Total	210,000	
Civil Services		
<i>Asset Management</i>		
Surveying Equipment	10,000	Reserve to fund surveying equipment
Lennox CBD Masterplan	26,600	Project not commenced, transferred to reserve until required
<i>Stormwater</i>		
Richmond River CZMP	70,000	Project not commenced, transferred to reserve until required
<i>Roads and Bridges</i>		
Highway Handover	1,634,000	Contribution received from RMS in 16/17 for future maintenance works re highway handed over
Alstonville Bypass	24,500	Interest on reserve balance
Ballina Bypass	61,900	Interest on reserve balance
Roads	100,000	Contingency for roads expenditure
<i>Ancillary Transport Services</i>		
Shared Path Vegetation	30,000	Reserve for future maintenance of share path
<i>Cemeteries</i>		
Cemetery Operations	84,100	Operating surplus of \$134,100. The business paid a dividend of \$50,000 to general revenue so a net increase to reserve of \$84,100
<i>Open Spaces</i>		
Open Spaces Reserve	50,000	Part of savings transferred to reserve
<i>Sporting Fields</i>		
Sports Fields Reserve	59,300	Unexpended budget
Sports Fields Reserve	100,000	Contingency for sports fields expenditure
<i>Quarry</i>		
Transfer to Quarry Reserve	0	Operating loss of \$43,500, capital expenditure of \$4,200 and a dividend of \$200,000 paid to general revenue, so a net decrease to the reserve of \$248,000
<i>Plant Operations</i>		

10.6 Budgets Carried Forward and Reserve Movements

Transfer to Plant Reserve	0	Operating surplus of \$1,256,300. The net cost of plant purchases/sales was \$1,381,400 resulting in a net decrease to the reserve of \$125,100
<i>Domestic Waste Management</i>		
Transfer to DWM Reserve	478,500	Operating surplus of \$478,500 with no offsetting expenditures resulting in a net increase to the reserve of \$478,500
<i>Landfill & Resource Recovery</i>		
Transfer to Waste Reserve	937,400	Operating surplus for the year of \$2,049,000 less loan repayment of \$1,111,600 resulting in a net increase to the reserve of \$937,400
Group Total	3,616,300	
General Manager's Group		
<i>Governance</i>		
17/18 Financial Assistance Grant	2,108,000	17/18 funding received in advance
<i>Information Services</i>		
Information Fee Reserve	96,700	Reserve for future projects
<i>Human Resources and Risk Management</i>		
Employee Leave Entitlements	220,000	Reserve to fund staff leave entitlements
Group Total	2,424,700	
Commercial Services Unit		
<i>Property Management</i>		
Crown Properties Rental	61,700	Funds to meet rental commitments
Property	80,100	Interest on funds invested
Property	249,000	ARC rent
Wigmore Arcade	53,000	For future refurbishment works
Property	146,200	Norfolk Homes rent
Property	66,100	Fawcett café rent
Property	702,500	Tamar Street rent
Property	411,200	Recoupments from section 94 reserves
Property	203,200	Sale of 7 North Creek Rd
Property	719,600	Land sales Southern Cross Estate
Property	387,500	Land sales Wollongbar
<i>Caravans and Camping Ground</i>		
Flat Rock	153,700	Operating cash surplus for the year
<i>Airport</i>		
Operations	0	Operating surplus of \$1,629,100 with capital expenditure of \$1,772,400. Net decrease to reserves of \$143,300
Group Total	3,233,800	
General Fund Total	12,282,000	
Water Supply		
Section 64 (net change)	199,400	Developer contributions of \$469,100 and interest of \$215,500, with s64 funded capital expenditure \$385,200 and BBRC recoupment \$100,000. Net increase to reserve of \$199,400.
Refurbishment (net change)	1,771,200	Operating surplus of \$2,528,500 (excludes depreciation, s64 interest and recoupment for BBRC) with refurb reserve funded capital expenditure of \$757,300. Net increase to reserve of \$1,771,200
Net Reserves Movement	1,970,600	

10.6 Budgets Carried Forward and Reserve Movements

Wastewater Services		
Section 64 (net change)	240,500	Developer contributions of \$763,500 and interest of \$183,300 with s64 funded capital expenditure \$366,300 and BBRC recoupment \$340,000. Net increase to reserve of \$240,500.
Refurbishment (net change)	(715,300)	Operating surplus of \$4,378,200 (excludes depreciation, s64 interest and recoupment for BBRC) with refurb reserve funded capital expenditure of \$5,093,500. Net decrease to reserve of \$715,300
Net Reserves Movement	(474,800)	
NEWLOG		
NEWLOG Operations	11,400	Operating cash surplus.

Sustainability Considerations

- **Environment**
Many of the projects have environmental, social or economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

There are no net financial implications from this report as the report details movements between years and surplus funds going into reserves.

Consultation

Provided for public information.

Options

This report is designed to ensure Councillors are informed on the works and services carried forward and the transfers to reserves. The options are to approve or not approve the adjustments.

RECOMMENDATIONS

1. That Council notes the contents of this report in respect to the forecast operating results for 2016/17.
2. That Council approves the works and services carried forward and reserve movements, as outlined in Tables Five and Six of this report, for inclusion in the Long Term Financial Plan.

Attachment(s)

Nil

10.7 Community Engagement Strategy - Proposed Special Rate Variation

10.7 Community Engagement Strategy - Proposed Special Rate Variation

Delivery Program Communications

Objective To endorse the draft Community Engagement Strategy for the proposed Special Rate Variation (SRV)

Background

The NSW State Government established its Fit for the Future Program in 2014, whereby they asked all councils in NSW to identify how they would comply with a range of financial criteria to demonstrate that the council was financially sustainable.

Ballina Shire Council, in responding to this program, as well as identifying a range of efficiency measures and revenue opportunities, included in our submission a proposal to increase our general rate income by 2.9% each year, on top of the standard rate pegging limit, for the three year period from 2017/18 to 2019/20, with this income being a permanent increase.

This proposal was submitted to the Independent Pricing and Regulatory Tribunal (IPART) and Ballina Shire Council was confirmed as a Fit for the Future Council by the State Government. Many other councils submitted rate increases as part of their Fit for the Future submissions.

The additional revenue generated by Council from this proposal is to be spent on the renewal of core infrastructure assets, such as road reconstruction works, stormwater and drainage reconstruction, and the replacement of playground equipment and sports grounds facilities. Council has an extensive asset renewal program and this additional revenue, as well as ensuring that Council is financially sustainable, will also mean that our existing infrastructure is renewed in a timelier manner.

In considering this proposal, the elected Council resolved to amend our Fit for the Future submission and apply for a 4.9% (3.4% above the rate peg limit of 1.5%) increase in 2017/18 and a 5.9% (3.4% above an assumed rate peg limit of 2.5%) increase in 2018/19 and in 2019/20. This proposal was submitted to IPART in February 2017, and the increase was approved for a temporary one year period for 2017/18. Subsequent years were not approved.

Feedback from IPART was Council's Integrated Planning and Reporting documents, specifically the Delivery Program, did not sufficiently address Council's special rate variation application.

In light of this information, Council included information in the new Delivery Program for 2017/18 – 2020/21 on the proposed SRV in a new section called Funding our Future. Further detailed and specific information is also available in Appendix B which details the expenditure of the proposed SRV.

The Revenue Policy in the Delivery Program also includes scenarios with and without the SRV.

10.7 Community Engagement Strategy - Proposed Special Rate Variation

Key Issues

- Engagement with the community on a proposed special rate variation (SRV)
- Re-engagement and public exhibition of the 2017/18 – 2020/21 Delivery Program and 2017/18 Operational Plan

Information

IPART granted Ballina Shire Council a temporary one year special rate variation this year (2017/18). This special rate component of 3.4% will expire on 30 June 2018. Should Council continue to strive to meet the Fit for the Future benchmarks, Council needs to seek a further two year special rate variation in 2018/19 and 2019/20 to be permanently retained in the rate base.

It is important to acknowledge that this increase is focused on Council generating an operating surplus for the General Fund and allocating additional funds for asset renewal. Currently a number of Council's core infrastructure assets, such as roads, are under funded when balancing the recurrent revenue allocation against the annual depreciation expense.

The increase Council is now seeking is 9.3% for 2018/19 (3.4% extra for 2017/18 brought forward, 3.4% extra for 2018/19 plus an assumed rate peg of 2.5%) and 5.9% for 2019/20 (3.4% extra plus rate peg of 2.5%). Overall, the special rate variation proposal seeks a cumulative rate increase of 15.75%. Council at its June 2017 meeting, resolved to proceed with the SRV.

In reality the cumulative increase is actually 12.15% as Council already has applied the 3.4% for 2017/18 in the current financial year, however as this is not a permanent increase it now needs to be included in Council's SRV application.

In order to ensure that the community is aware of the SRV proposal and that they have the opportunity to provide feedback to Council, staff have developed a draft Community Engagement Strategy. The Strategy details how we will consult and inform the community to determine whether Ballina Shire Council should apply to the State Government for a permanent increase in our general rate income. This engagement exercise is additional to what was undertaken in May and June 2017, and in response to IPART's feedback.

Council has an adopted policy in respect to community consultation (Policy C14 – Community Consultation), a copy of which is available on Council's website. That policy outlines the range of consultation options available dependent upon the level of impact on the community of the Council decision. This draft Community Engagement Strategy (CES) has been developed with reference to those Policy principles.

The draft CES provides a comprehensive range of actions with items of note including:

- Letter to all ratepayers with factsheet
- Information in Council's newsletter Community Connect
- Online survey
- Ward Committees
- Advertising

10.7 Community Engagement Strategy - Proposed Special Rate Variation

- Media releases
- Information on website
- Social media
- Targeted survey

The Delivery Program and Operational Plan, although already adopted by Council, need to clearly explain as per IPART's Guidelines:

- The need for and the purpose of the SRV
- The extent of the rate rise under the SRV
- The impact on affected ratepayers of the SRV.

Council needs to feel comfortable that these requirements have been clearly articulated in the Delivery Program and Operational Plan. As the Delivery Program and Operational Plan are key elements of IPART's assessment it is proposed that this document be re-exhibited as part of the SRV community consultation process.

The timeline for the re-exhibition and community consultation on the SRV is to commence in September 2017. Submissions on both the Delivery Program and SRV proposal will close on 31 October 2017 and be reported to the November 2017 Council meeting.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
Rating has a social impact on the community
- **Economic**
The proposed special rate variation will enable Council to be financial sustainability

Legal / Resource / Financial Implications

The development of the draft Community Engagement Strategy has been undertaken through existing staff resources.

There is no specific budget available for this project which means costs such as advertising, printing, postage and surveys will be funded from Council corporate budgets for these types of activities.

Consultation

The focus of this report is to ensure that Council supports a comprehensive Community Engagement Strategy. It includes principles of the International Public Participation Spectrum and IPART's guidelines for community engagement.

Options

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

Council also needs to recognise that each time this consultation process has been undertaken for a special rate variation the on-line survey and written responses typically range from 80% to 90% opposing the variation.

Generally Council consultation processes, involving written or on-line responses, result in the people feeling the strongest for, or against, a proposal to take the time to make a submission. Very few people strongly support proposed rate increases.

The one avenue Council has applied in special rate consultations to obtain broader community feedback has been to engage Micromex Pty. Ltd., a specialist research company, to undertake a community survey, which is theoretically more representative of the entire community. The Micromex surveys have provided results that are almost the opposite to the on-line or written submissions.

The Community Engagement Strategy again includes a survey by Micromex, which is estimated to cost approximately \$10,000.

Some people have questioned the legitimacy of the Micromex survey methods. If Councillors are not supportive of the survey it should be removed from the engagement strategy as it represents a significant cost.

Staff do not share those concerns in respect to Micromex and the Managing Director of Micromex, Mr Stuart Reeve, provided a detailed response to Council in February this year, when concerns were raised, with key extracts from that response as follows:

- *We are a mid-sized full service vertically integrated market research company – we have our own call centre, field interviewers, and online survey capabilities, plus extensive qualitative research experience.*
- *In 2011 Micromex Research gained contractor accreditation to the Local Government Procurement Community Services Panel LGP 12.08. We are also on the 2014 NSW Performance and Management Supplier Panel and the current NSW Transport Surveys & Fieldwork Services Supplier Panel. And we were accepted onto the NSW Office of Local Government's Fit for Future Technical Advisory Panel to provide community engagement/research advice to government.*
- *Our Special Rate Variation experience - Since 2010 we have provided technical survey services for over 30+ SRV consultations – and in all our submissions IPART has never expressed concern with our survey approach or scale. The community support and preference for Option 4 has the strongest support score and preference score we have seen for the highest option in an SRV.*

10.7 Community Engagement Strategy - Proposed Special Rate Variation

- *The Support Scale - Why do we use a unipolar support scale? Quite simply because a **unipolar** scale prompts a respondent to think of the presence or absence of a quality or attribute.*
- *A perfect example of this is a response to a concept like an SRV option. Our unipolar scale includes the following choices:*
 - *not at all supportive*
 - *not very supportive*
 - *somewhat supportive*
 - *supportive*
 - *very supportive*
- *A **bipolar** scale prompts a respondent to balance two opposite attributes, determining the relative proportion of these opposite attributes. Where a unipolar scale has one “pole,” a bipolar scale has two polar opposites. For example:*
 - *Much too hot*
 - *A little too hot*
 - *Just right*
 - *A little too cold*
 - *Much too cold*
- *In the case of our support rating, trying to use a bipolar scale would be ‘messy’ – for instance, it would run from ‘very supportive’ to ‘very unsupportive’. In reality, you either don’t support an issue at all, or you support it to some extent – hence our use of the unipolar scale.*
- *Capturing community feedback - There are a number of options for capturing community feedback. Generally the best way of capturing representative and quantifiable community feedback is by undertaking a statistically significant, random survey. IPART anticipates that councils applying for a special variation will need to conduct such a survey.*

In conclusion Council now needs to decide whether it wishes to proceed with the Community Engagement Strategy. The additional funds, both for the Healthy Waterways Program and the increase in asset renewal funding, are considered essential for the long term sustainability of Council.

However Council also needs to accept that this strategy, once commenced, will create a significant amount of angst in sections of our community, and even more angst is created when, and if, Council resolves to proceed with an application when the majority of submissions, written and online, do not support the application.

RECOMMENDATIONS

1. That Council endorses the draft Community Engagement Strategy for the proposed special rate variation, as attached to this report.
2. That Council re-exhibit the 2017/18 – 2020/21 Delivery Program and 2017/18 Operational Plan, as part of this Community Engagement Strategy.

Attachment(s)

1. Community Engagement Strategy for Proposed Special Rate Variation 2018/19 - 2019/20

11.1 Proposed Road Closing - Henderson Lane, Lennox Head

11. Civil Services Group Reports

11.1 Proposed Road Closing - Henderson Lane, Lennox Head

Delivery Program Asset Management

Objective To revisit Council decision in relation to a proposed road closing of part of the former Henderson Lane at Lennox Head.

Background

A report to Council to consider closing part of the former Henderson Lane at Lennox Head was considered at the meeting on 23 March 2017 and in response Council resolved the following:

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

As it was not possible to implement this resolution in a reasonable time frame, a further report was determined at the meeting on 27 April 2017 resulting in a further resolution which is reproduced below:

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

The adjoining residents have now proposed an alternative arrangement to facilitate the road closing. This report is presented to review the resolution refusing the request for the road closing.

Key Issues

- To review the resolution refusing the road closing application

Information

A copy of the reports to the March 2017 and April 2017 meetings are attached (see attachment one and two). As per those reports, Council received a request from the property owners of 37 and 40-46 Kell Mather Drive to close an unused section of Henderson Lane (the “road”).

The latest request has been from the property owners of 40b, 42, 44 and 46 Kell Mather Drive.

11.1 Proposed Road Closing - Henderson Lane, Lennox Head

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

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

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

The development consent for the EPIQ estate requires works within their property adjacent to this road reserve in accordance with their Littoral Rainforest Rehabilitation Plan (LRRP). The location of these works is shown on attachment four.

The rehabilitation works will provide an enhanced buffer between the existing lots in Kell Mather Drive and the future lots in EPIQ. The rehabilitated area is located in the rear of the future EPIQ lots. It is therefore considered these property owners would have a limited, if any, interest in the closed road beyond the rehabilitated area. However, Council should be mindful of the interests of these future owners when considering this request to close the road.

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

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

The current development consent for EPIQ (DA 2016/238) condition 65 refers to the Littoral Rainforest Rehabilitation Plan (LRRP). This condition requires a number of work practices, monitoring and performance goals to be achieved. If these goals are not met, the time period will be extended. In this regard, the initial time period to meet these goals is a minimum of four years.

The Kell Mather Drive landowners have proposed an access agreement to alleviate any concerns from EPIQ regarding their ability to meet the LRRP obligations.

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

Through consultation, the residents and the developer have agreed that a deed can be prepared which provides the necessary ongoing access to the site.

This 'Deed of Agreement' is to be legally binding with each property owner, and subsequent owners if properties are sold, to ensure access is available for the developer to meet the requirements of the LRRP.

11.1 Proposed Road Closing - Henderson Lane, Lennox Head

All the relevant land owners and the developer have provided support for this process.

To ensure the 'Deed of Agreement' for access provides security for all parties, the creation of an easement on title for the sections of closed road would be considered an appropriate method to ensure the agreement is legally binding on all the affected properties.

The property owners are keen to acquire this section of road and, with support of the EPIQ developer, consider this process will assist in progressing this matter.

This type of arrangement was canvassed previously with Council.

The difficulty is for it to be successful, all parties will need to be satisfied and be signatories to the deed of agreement and other documentation, including cost allocations.

In the view of staff, without full agreement of all the landowners it is unreasonable for Council to allocate staff time and funds to facilitate the preparation of the deed of agreement in light of the risk that the process may not proceed to completion.

As well as each party being satisfied with the documentation, it will be necessary for all parties to be satisfied with the land valuation and transfer costs.

However, if the landowners are prepared to assume that risk and effort, in light of Council's first resolution regarding this matter, this report has been prepared to enable Council to consider indicating its support for such a process to proceed.

Sustainability Considerations

- **Environment**

The road reserve has limited revegetation opportunities due to the proximity of the adjoining residential dwellings in Kell Mather Drive, however, the road is adjacent to the littoral rainforest revegetation area proposed on the EPIQ Estate.

The road is currently maintained to various standards by some residents and, to a lesser extent, Council.

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

- **Social**

The road is public land and does provide public access. There is no formed walkway along this road and the future needs of this land within a growing urban area are not fully known.

The benefits of retaining this land for future public use does provide the community with options should future needs be identified.

11.1 Proposed Road Closing - Henderson Lane, Lennox Head

Alternatively the road could be closed and consolidated with the adjoining private land and therefore would not be available for public use.

- **Economic**

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

Legal / Resource / Financial Implications

The landowners have engaged with the developer and agreed a 'Deed of Agreement' is acceptable to enable the necessary access required by the developer to ensure the rehabilitation requirements of the LRRP are met.

If the road closing is to proceed, it will be necessary for the landowners to complete the necessary documentation at their expense.

Consultation

There has been further consultation since the April 2017 meeting. The land owners have engaged with the developer and agreed a 'Deed of Agreement' is acceptable to enable the necessary access required by the developer to ensure the rehabilitation requirements of the LRRP are met.

Options

1. That Council reviews the resolution of 27 April 2017 and supports the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 & 46 Kell Mather Drive at Lennox Head.

The advantage of this option is to ensure the Council does not have any future liability attached to this unnecessary section of road. It also allows for the adjoining land owners to proceed with their preference for the road closing application and, if approved, consolidate the closed road with their adjoining properties.

2. That Council maintains its current position, being the resolution of 27 April 2017 to oppose the road closing application for part of the former Henderson Lane adjacent to 37, 40, 42, 44 & 46 Kell Mather Drive at Lennox Head.

Option two enables Council to retain the option to retain this land for future community access, environmental management or public infrastructure, albeit there are no immediate needs identified.

Option two also means no road closing will occur before the new owners in the Epiq estate are established and able to comment on the proposal, although as noted in the report, it is arguable their interest may not be strong.

11.1 Proposed Road Closing - Henderson Lane, Lennox Head

There are some financial implications to provide ongoing maintenance for the land should Council wish to retain this section of road.

The recommendation below follows Council's initial preference to support the request from residents, subject to the Council not meeting any of the legal and other costs associated with managing the development execution of a deed of agreement, easement registration and any other documentation.

RECOMMENDATIONS

1. That Council re-establishes its support in response to the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 & 46 Kell Mather Drive at Lennox Head, subject to the execution of a 'Deed of Agreement', and any other documentation or property title registration processes, occurring between all relevant land owners prior to the road closing application being lodged by Council with Crown Lands.
2. That the Council authorises the Council seal to be attached to the road closing application, associated documents and land dealings to finalise the road closing.

Attachment(s)

1. Copy of Council Report from 23 March 2017
2. Copy of Council Report from 27 April 2017
3. Locality Plan - Henderson Lane
4. Location Plan of Rehabilitation Area

11.2 Alcohol Free Zones - Lennox Head, Alstonville, Ballina and Wardell

11.2 Alcohol Free Zones - Lennox Head, Alstonville, Ballina and Wardell

Delivery Program Open Spaces and Reserves

Objective To seek endorsement for the re-establishment of the Alcohol Free Zone that applies to Lennox Head, Alstonville, Ballina and Wardell.

Background

Council has a number of Alcohol Free Zones (AFZ) in the Shire, which have been established to assist in the management and mitigation of anti-social behavior. These zones have been continuously supported by the NSW Police. AFZs can only be implemented for a set period of time and a further resolution of Council is required if it is preferred to reestablish the zone after its expiry.

The required processes for Council to follow are set out in the "*Ministerial Guidelines for Alcohol Free Zones 2009*" (Ministerial Guidelines). The AFZs within the Ballina Shire are due for renewal consideration.

The history of the AFZs that are subject to this report is set out below.

Ballina

Established August 2007
Renewed October 2010
Renewed August 2015

Wardell

Established October 2010
Renewed August 2015

Lennox Head

Established December 2008
Renewed January 2012
Renewed March 2016

Alstonville

Established December 2008
Renewed January 2012
Renewed March 2016

Maps showing the locations of these AFZ's are attached (Attachments One, Two, Three and Four).

11.2 Alcohol Free Zones - Lennox Head, Alstonville, Ballina and Wardell

All of the above AFZs are now due expire on 31 January 2018. Council has received a submission from the NSW Police, copy attached (Attachment Five) to reinstate the AFZ's to support their strategies to manage crime and anti-social behavior.

Key Issues

- Re-establishment of the AFZs

Information

An AFZ prohibits the drinking of alcohol in public places that are public roads, footpaths or public car parks. The declaration of an AFZ provides the NSW Police with the power to seize and dispose of alcohol without the need to issue a warning. In circumstances where a person does not cooperate with a Police Officer they can be charged with obstruction under Section 660 of the Local Government Act 1993 which carries a maximum penalty of \$2,200.

The declaration of AFZs in Lennox Head, Alstonville, Ballina and Wardell was made in response to situations where alcohol consumption in these public places was resulting in anti-social behavior by some persons.

The Ministerial Guidelines identify that AFZs may be established for a maximum period of three years. The AFZ is described in the Ministerial Guidelines as:

"...a short term control measure and in many instances a zone will achieve the desired objectives within its operational period."

The AFZs cannot be re-established without advertising and consultation on the proposal as per the Ministerial Guidelines which apply under section 646 Local Government Act 1993. The NSW Police continue to note the importance of the AFZ in managing anti-social behavior and crime.

On the last occasion this process was reported to Council, it was resolved to reestablish the AFZ's at Lennox Head and Alstonville for a shorter timeframe. The purpose of this decision was to align all expiry dates within the Shire to improve the efficiency and management of all the AFZ's.

It is now proposed to re-establish the AFZ's at Lennox Head, Alstonville, Ballina and Wardell for a declaration period from 1 February 2018 to 31 January 2021.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The key message of this report is to consider a social issue.
- **Economic**
Management of anti-social behavior draws on community resources however anti-social behavior can also be an impediment to business and a direct cost to the community.

Legal / Resource / Financial Implications

The Local Government Act sets out the statutory framework for the creation of an AFZ. The statute is facilitated by the Ministerial Guidelines.

The costs to Council relate to signage implementation and maintenance. These costs can be accommodated within existing budget allocations.

Consultation

The Ministerial Guidelines specify consultation arrangements. Consultation is required with the Police, licensed premises around which the zones will be prepared, Aboriginal and ethnic groups, surrounding businesses and the general community.

Options

Council may decline the submission from the NSW Police to re-establish the AFZs in Lennox Head, Alstonville, Ballina and Wardell past their expiry date 31 January 2018 or Council can resolve to support the NSW Police to re-establish the zones.

Given the advice of NSW Police, it is recommended that Council initiate the consultation process to allow the appropriate assessment of this proposal.

RECOMMENDATIONS

1. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Lennox Head as per the location map attached to this report.
2. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Alstonville as per the location map attached to this report.
3. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Ballina as per the location map attached to this report.
4. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Wardell as per the location map attached to this report.

Attachment(s)

1. Map of Alcohol Free Zone Lennox Head
2. Map of Alcohol Free Zone Alstonville
3. Map of Alcohol Free Zone Ballina
4. Map of Alcohol Free Zone Wardell
5. NSW Police Submission - Alcohol Free Zone Re-establishment for Lennox Head, Alstonville, Ballina and Wardell.

11.3 Policy (Review) - Water Metering (Smart Metering)

11.3 Policy (Review) - Water Metering (Smart Metering)

Delivery Program Water and Wastewater

Objective To clarify the scope of smart metering services to be provided by Council.

Background

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

Council first adopted this policy in 2007. The policy was last reviewed in 2016, however since that review Council has adopted a new technology which allows for the provision of 'Smart Metering' services and Rapid Customer Leak Detection.

Key Issues

- Whether the policy meets the requirements of Council
- Provision of new services (Smart Metering, Rapid Customer Leak Detection)
- Transition to Broad Scale 'Smart Metering'

Information

Definitions (developed by Water Services Association of Australia)

Automated Meter Reading (AMR)	the automated collection of meter reads but still requiring a meter reader to visit the property or be nearby.
Advanced Metering Infrastructure (AMI)	installation of fixed wireless collection network and the backhaul of metering data to a metering data management (MDM) system.
Smart Water Metering (SWM)	the integration of meter data into business systems (e.g. Billing System) and the sharing of information with customers (e.g. Customer Portal/Web).

Council Definitions

'Smart Metering'	the sharing of detailed water consumption information with customers
Rapid Customer Leak Detection	The weekly analysis of water monitoring data to detect potential leaks in customer's water services
Category 1 Liquid Trade Waste dischargers	are those conducting an activity deemed by Council as requiring nil or only minimal pre-treatment equipment and whose effluent is well defined and of a relatively low risk to the sewerage system.

11.3 Policy (Review) - Water Metering (Smart Metering)

Category 2 liquid trade waste dischargers	are those conducting an activity deemed by Council as requiring a prescribed type of liquid trade waste pre-treatment equipment and whose effluent is well characterised.
Category 3 liquid trade waste dischargers	are those conducting an activity which is of an industrial nature and/or which results in the discharge of large volumes (over 20 kL/d) of liquid trade waste to the sewerage system. Any Category 1 or 2 discharger whose volume exceeds 20 kL/d becomes a Category 3 discharger, except shopping complexes and institutions (e.g. hospitals, educational facilities, correctional facilities, etc.)

Council has for some time had an AMR/AMI system (called Tapwatch) which had some level of integration with Council’s billing system. This system was aging and subject to frequent and costly maintenance to keep it operating. It also didn’t provide the level of service required for consistent and accurate billing and resulted in regular skipped reads.

In 2016 Council commenced a capital renewal project (\$50,000) to replace the Tapwatch system with a new technology that met our requirements in a cost effective way.

The selected technology for this task was the Taggle Low Power Wide Area Network (see www.taggle.com.au for more details). As well as meeting our specific project needs (reliable and accurate AMR/AMI) it also provides data that allows Council to undertake Rapid Customer Leak Detection (RCLD) and provide ‘Smart Metering’ services to our customers.

What is Rapid Customer Leak Detection (RCLD)?

Currently, Council reviews customer consumption information on a quarterly basis (after the manual meter read) to determine if customers have abnormal use patterns. If consumption in one quarter is double the previous then this is considered a potential leak and Council proactively notifies those customers of the potential issue.

With the new Taggle technology Council can now review hourly consumption the day after it occurs. We can detect a leak *when it happens* and notify the user accordingly, for example:



11.3 Policy (Review) - Water Metering (Smart Metering)

There are some limitations to the data – for example a stuck toilet cistern, a tap accidentally left on or intentionally leaving a hose on overnight will appear the same as a genuine leak.

Council is also limited in its ability to proactively notify customers; email and mobile phone number information is not systematically stored or accessible via automated systems to allow automated email or SMS alerts of the issue and Council does not have sufficient resources to address leaks on a customer property every day.

Additionally, not all leaks are equal and some leaks may be too costly to fix to justify the expenditure, a reasonable threshold (used by others in the water industry) is 10 litres per hour, which equates to \$286.45 (10 litres per hour x 24 hours a day x 365 days a year x \$3.27 per kilolitre ÷ 1000 = \$286.45).

Further; some sites such as bakeries or 24/7 gyms may have genuine minimum consumption levels above 10 litres per hour and so a custom threshold would need to be applied in those circumstances.

For these reasons, in updating the water metering policy, the following provisions have been made;

- Council's automated systems prepare a weekly report on all water meters fitted with these devices, where sites have a minimum daily usage greater than 10 litres per hour (or some other threshold as advised – and justified - by the customer).
- Council's rates staff advises the relevant customers of potential leakage on their property three times in a quarter and then do not advise them again until the next quarter.
- If a customer does not respond to the notification of the leak in a reasonable time frame, and, depending on the nature of the leak, Council staff would then determine if the customer is wasting water under section 159 of the *Local Government Regulation (2005) Prevention of waste and misuse of water*, which states:

"The owner, occupier or manager of premises to which water is supplied by the council must:

- (a) prevent waste of water by taking prompt action to repair leaking taps, pipes or fittings located on the premises..."

Wasting water is an offence under Section 637 of the *Local Government Act (1993)* and subject to 20 penalty units (currently \$110 per penalty unit).

What is Smart Metering?

By 'Smart Metering' we specifically mean the component of SWM which relates to the provision of detailed consumption information to the customer (see above definitions).

The service that can be offered is the routine provision via email of:

11.3 Policy (Review) - Water Metering (Smart Metering)

- A detailed graph of hourly consumption for a seven day period
- A graph of daily consumption for a two month period
- Detailed data for a two month period

See example of the data to be provided included as an attachment to this report.

Council will further develop its report formats as we get feedback from our customers about what information is useful for them.

Council has discussed the format of this data with other councils using this technology across Australia and feel this approach is consistent with and even slightly better than that currently provided by other councils.

Council does not currently have the capacity to offer a 'portal' to access information, which is why email provision is the only way to provide it at the moment, but it is also not entirely clear what advantages the portal offers.

Another council that has such a system has found that the portal is 'set and forget' and the user doesn't access it on a regular basis. More recently; that council also found that their 'unsubscribed customers' (who have never used the available portal) believed that the council was proactively reviewing their data for leaks when the council was not.

Finally, because of the aforementioned non-systematic storage of email and phone numbers, it is necessary to have a process of updating and verifying customer details for the provision of Smart Metering data.

It is for these reasons that:

- a) Council will undertake Rapid Customer Leak Detection regardless of the customers' interest in their data, and
- b) Council will only provide data via email upon a paid subscription (\$20 per year, paid upfront on an annual basis) managed by Council's new eServices system.

The fee will be payable on a 'per assessment' basis, so a facility which has multiple water meters on an assessment would obtain all their data for \$20 per year.

The frequency of the submission of data will be customisable, and is suggested on a fortnightly basis.

Subscribers will be asked to set a target consumption for each water meter so that they can identify high and low use patterns and modify their consumption behaviour to suit the target. This feature will be subject to customer feedback.

Policy Update

This review of this policy identified changes as follows:

- New sections relating to smart metering and rapid customer leak detection
- Minor adjustments elsewhere to suit the new system.

The changes have been marked in yellow.

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

Transition to Broad Scale 'Smart Metering'

It is an emerging trend in Utilities (water, energy, gas etc.) to roll out 'Smart Meters' across the entire network. This policy sets a framework for a transition to this technology without committing Council to a large capital investment.

Other water utilities in Australia (including NSW) have rolled out these kinds of meter reading devices across their entire water meter network. For Council to do so would cost in excess of \$2/5m and increase annual meter reading costs from around \$70,000 to approximately \$170,000 with the potential impact of reducing revenue from water consumption. Some councils report that consumption awareness reduces consumption.

Regardless of the economic considerations, next generation water meters are being manufactured with this kind of technology embedded in the water meter and so, as an industry trend, Council's water meters will eventually all become 'Smart' or at least 'smarter'.

Council's decision is whether this occurs in 5 years, 10 years or 20 years – rather than whether this will happen at all.

There have been recent funding opportunities, such as the Australian Government Smart Cities and Suburbs Program, which appear targeted towards these kinds of initiatives and, as a recommendation of this report, it is suggested that Council undertake a feasibility study into a full deployment of this technology across its network including an understanding of the impact to the typical residential bill.

This information could then be used to make an application to the next available funding source.

Finally, awareness of consumption is a key step to modifying behaviour and this technology should have a place in the Rous Water Regional Demand Management Plan. It may be the Rous Water can offer a full or partial subsidy to the upfront cost consistent with their Future Water Strategy. The Rous County Council Regional Demand Management Plan is currently being reviewed, and Council will be raising this subject as part of the review.

Sustainability Considerations

- **Environment**

The provision of Smart Metering Services provides timely information to customers who endeavour to manage their water consumption in an environmentally friendly and efficient manner. Council is more able to identify leaks and ensure water is not wasted.

- **Social**

Where customers want these services they must pay a subsidised installation fee (\$150 per meter).

Alternatively Council could provide devices to all customers, creating a greater level of social equity; however this would cost over \$2.5m and is not part of Council's current delivery plan.

Occasionally Council installs these devices on meters for our own operational reasons. In those circumstances the customer would not need to pay the \$150 installation fee and this could create some level of inequity (we may install it 'for free' for one neighbour and not the other). While not desirable the alternative is to require the neighbour who has the device for Council's operational purposes to pay \$150 even though they did not request it and it is hard to justify why that fee would be payable.

If Council converts more of its water meter fleet to Smart Meters in the future then potentially customers who paid for the devices may feel hard done by if the devices were then provided to others for free at a later date. It should be clearly communicated that this is an industry trend and a possibility for the future.

- **Economic**

The annual fee payable for Smart Metering to Council is on a full cost recovery basis but does not include payment for the data or data processing services which occur automatically and irrespective of the customer's subscription to Smart Metering services.

Having access to Smart Metering data will enable business and residents to identify where costs savings in water consumption may be found.

Legal / Resource / Financial Implications

If there is a large uptake of these services then the subsidised installation fee of \$150 per device may have an impact on budgets as the residual funding will need to be sourced from operational budgets. Mackay Regional Council advises that, after an extensive media campaign, 25% of residents have subscribed to their free portal service. It is felt that the price barrier of \$150 + \$20/year will ensure that only a limited number of users take the services up on their own initiative.

Council is currently deploying approximately 150 additional devices as part of its operational program, meaning that in 12 months' time there will be around 300 customers with these devices fitted and able to subscribe to the \$20/year service without the \$150 upfront fee.

While there is a 'strict liability' on the customer relating to wasting water under section 637 of the *Local Government Act (1993)*, it would seem incumbent upon Council to notify the customer as soon as Council has detected a leak. The weekly Rapid Customer Leak Detection process will discharge Council's liability in that context, even though that liability is most likely non-legal.

Relevant fees are already listed in Council's Fees and Charges as \$POA.

Consultation

Council's Water and Wastewater staff and Rates sections have worked closely on this project for six months. Once the on-line registration system is in place Council will conduct a low key information campaign to roll out these devices, starting with existing AMR/AMI customers and then widening out the scope as the systems and infrastructure is tested and improved.

Council staff also consulted across the water industry in Australia to help determine the scope and nature of smart metering services as well as with staff from Rous County Council, who have previously reviewed the implementation of a Taggle system.

Options

Council may accept or amend the proposed changes to the policy. Other than the changes which are proposed to properly describe how the new infrastructure operates there is a discretionary decision to make regarding which new connections are required to install these devices. Currently they are required to be installed on all connections where there are three or more water meters on the property (commercial and residential). The revised policy expands this requirement to include all new services that meet the following criteria:

- Where there are more than two metered services on the property (except for residential dual reticulation services in which case where there are more than four).
- All connections that are greater than 20mm
- Any location that has a master/subtract meter reading arrangement
- Any location that has a Classification 2 or 3 liquid trade waste agreement
- Any metered wastewater discharge

The item here which will have the greatest impact will be properties that have a Category 2 or 3 liquid trade waste agreement. As the agreements are reviewed every five year, this requirement will be imposed on existing connections. So, within five years, an additional 395 Category 2 and 17 Category 3 users will have the devices installed at their own cost, unless they apply for a subsidised installation prior to the revised agreement. There are an additional 147 low risk (Category 1) users which could have a similar condition imposed on them if desired but this is not part of draft revised Policy.

Council could also require that all new development (including 20 mm service connections) have these devices fitted however at this stage it is recommended to wait until the next generation of integrated water meters are available on the market (rather than using the add-on radio devices currently employed).

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

RECOMMENDATIONS

1. That Council adopts the amended Water Metering Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. That Council write to Rous County Council and request the inclusion of smart metering services for residential and commercial properties in the Regional Demand Management Plan, as well as a fee-subsidy from Rous County Council for these services.

Attachment(s)

1. Example of Smart Data Report
2. Water Metering Policy

11.4 Tender - Design of the Ballina Indoor Sports Centre

11.4 Tender - Design of the Ballina Indoor Sports Centre

Delivery Program Community Facilities and Services

Objective To obtain approval to award the contract to undertake the design and documentation of the Ballina Indoor Sports Centre.

Background

In December 2016, Council resolved to continue its commitment to the provision of an indoor sports facility on the Ballina High School site and to complete negotiations with the Department of Education.

In July 2017, the agreement with the Department of Education was finalised and signed by both parties.

Tenders were advertised in July 2017 to undertake the design and documentation of the Ballina Indoor Sports Centre and at the close of the tender period on 8 August 2017, 11 tenders were received.

This report provides an overview of the tender assessment.

Key Issues

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

Information

The evaluation criteria and weightings were determined in accordance with Council's "Local Procurement Policy" and were noted within the tender as:

Mandatory Criteria

- Project Experience – a minimum of three similar community facilities;
- References – positive references on similar programs in regards to time management, innovation, and management systems;
- Appropriate resources – relevant experience of nominated subconsultants;
- Time performance – suitability of proposed timelines;
- Appropriate insurance coverage – for public liability, professional indemnity and workers compensation.

Weighted Criteria

- Total Price - 80%
- Local & Community - 20%

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

11.4 Tender - Design of the Ballina Indoor Sports Centre

The tender from Powell Dods & Thorpe Pty Ltd (t/a PDT Architects) is the lowest price tender. When the non-priced and priced evaluation criteria are combined, Powell Dods & Thorpe Pty Ltd (t/a PDT Architects) is the highest ranked tender.

Powell Dods & Thorpe Pty Ltd (t/a PDT Architects) were originally appointed by Council to undertake the design of an indoor sports centre in 2011. These works included a review of several sites together with concept designs. Due to issues with the preferred site being on Crown Land and a proposal at the time by the State Government to review the Crown Lands Legislation, Council was not in a position to proceed with the contract and both parties agreed to terminate the contract.

Powell Dods & Thorpe Pty Ltd (t/a PDT Architects) are a very experienced architectural firm and have completed the design of a large number of indoor sports/leisure/aquatic centres, including the Logan Metro Indoor Sports centre, Townsville Sports centre and the University of Queensland sports centre. During the previous contract with Council, they demonstrated an understanding of designing a centre that would meet the budget constraints of Council, while still delivering a quality outcome.

In respect to the tendered price from Powell Dods & Thorpe Pty Ltd (t/a PDT Architects), staff had previously estimated the cost of the design component as being between 8%-12% of the construction cost. Powell Dods & Thorpe Pty Ltd (t/a PDT Architects) has provided a very competitive tender price in relation to the initial estimated cost.

Further information on Powell Dods & Thorpe Pty Ltd is available on their website (www.pdt.com.au).

Sustainability Considerations

- **Environment**
The successful consultant will be required to consider environmentally sustainable options as part of the final design.
- **Social**
The provision of the indoor sports centre will enhance the sporting facilities within the shire.
- **Economic**
The indoor sports centre has the potential to attract sporting and other events to the shire.

Legal / Resource / Financial Implications

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

Council has approved a budget of \$8m for the project.

As part of the tender process, tenderers were advised of the total project budget.

Consultation

A public tender process was undertaken.

Options

In accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract;*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender; and*
- (f) carry out the requirements of the proposed contract itself.*

Accordingly,

1. Council may award the contract to Powell Dods & Thorpe Pty Ltd (t/a PDT Architects) for design and documentation of the indoor sports centre.
2. Council may determine not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more service providers.

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

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

RECOMMENDATIONS

1. That Council accepts the tender for the design and documentation of the Ballina Indoor Sports Centre from Powell Dods & Thorpe Pty Ltd (t/a PDT Architects)
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.5 Tender - Swift Street Sewer Pump Station Refurbishment

11.5 Tender - Swift Street Sewer Pump Station Refurbishment

Delivery Program Water and Wastewater

Objective To complete the tender assessment for the Swift Street Sewer Pump Station Refurbishment project.

Background

Swift Street Sewer Pump Station (SPS) is the largest pump station within the Ballina Shire sewer network and its operation ensures the disposal of all sewage from Ballina Island. Recent increases in reactive maintenance and feedback from operations staff prompted an asset condition assessment. The assessment concluded that the mechanical and electrical components require significant renewal to continue to meet the current and future operational needs of Council. A design solution has been developed to completely refurbish the pump station.

An open call for tenders was made for the refurbishment of the SPS. During the tender period a compulsory pre-tender meeting was held at the Swift Street site and was attended by eight civil contractors. Four tender submissions were received by the close of the tender period on 8 August 2017. This report details the outcomes from the tender evaluation process.

Key Issues

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

Information

Tender submissions were received from:

- Coastal Works
- Fewster Brothers Pty Ltd
- J & P Richardson industries Pty Ltd
- Ledonne Construction Pty Ltd

All tenders submissions were assessed to ensure conformance with the conditions of tender and mandatory assessment criteria, being:

- Relevant project experience
- Methodology
- Preliminary program of works
- References
- Key project personnel
- Work health & safety
- Provision of a documented environmental, safety and quality management systems
- Insurances

11.5 Tender - Swift Street Sewer Pump Station Refurbishment

All tender submissions met all mandatory assessment criteria.

Tender assessments were finalised using the following weighted selection criteria:

- Total Price - 85%
- Local Content - 15%

Ledonne Constructions was selected as the preferred tender. The \$488,821 price offered by Ledonne Constructions is within 3% of the estimate provided by the design engineer (Willow & Sparrow) and is substantially less than any of the other tenders received, which suggests that the offered price represents good value for money.

Sustainability Considerations

- **Environment**
The refurbishment of the Swift Street SPS will be in accordance with all legislative requirements and development consent to manage potential impact to the environment.
- **Social**
Refurbishment of the Swift Street SPS is critical for ensuring the continuing and future operation of the sewerage reticulation network in Ballina Island.
- **Economic**
Refurbishment of the Swift Street SPS includes the replacement of the existing pumps with high efficiency alternatives, which should significantly improve running costs at the site.

Legal / Resource / Financial Implications

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

The 2017/18 budget allocation for this project is based upon a high level estimate developed prior to confirming the full scope of the refurbishment. The current scope ensures the long term security of operation of the Swift Street SPS.

Including all provisions for this project, the revised 2017/18 budget requirements indicate a shortfall in allocated budget of \$187,000.

The Wollongbar Gravity Main Upgrade is a project funded in the 2017/18 budget and innovation in construction methodology has decreased the estimated cost to complete this project.

It is recommended to cover the budget shortfall for this tender from expected savings in the Wollongbar Gravity Main Upgrade project.

Consultation

A public tender process was undertaken.

Options

In accordance with Part 7 Clause 178 of the *Local Government (General) Regulations 2005*, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract;*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender; and*
- (f) carry out the requirements of the proposed contract itself.*

It is recommended that Council accept the tender for this project.

RECOMMENDATIONS

1. That Council accepts the tender from Ledonne Construction Pty Ltd for the refurbishment of the Swift Street Sewer Pump Station, Ballina for the tendered amount of \$488,821.00 (ex GST).
2. In order to fund this project the 2017/18 Operational Plan be adjusted by transferring \$187,000 from the Wollongbar Gravity Main Upgrade project.
3. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Rescission Motion - Fair Go Skateboarding Event

13. Notices of Motion

13.1 Rescission Motion - Fair Go Skateboarding Event

Councillor Cr Meehan
Cr Smith
Cr Williams

We move

That Resolution 270717/23, as follows, be rescinded:

- 1. That Council award \$4,000 funding for the 2017 Fair Go Skateboarding events to Truckstop Sk8 and that a finance agreement be executed by the General Manager, including an appropriate acquittal process, subject to there being no spectator or participant entry fee for the skatepark event.*
- 2. That Council receive a report on options for future events.*

Councillor Comment

In the event that the above rescission motion is carried, we intend to move the following alternative motion:

- 1. That Council award \$4,000 funding for the 2017 Fair Go Skateboarding events to Truckstop Sk8 and that a finance agreement be executed by the General Manager, including an appropriate acquittal process, subject to there being no participant entry to the Prawn Festival.*
- 2. That Council receive a report on options for future events.*

The intent is that Fair Go will occur within the Festival site and spectators will pay the subject admission fee.

Staff Comment

The staff recommendation for this item from the July 2017 Ordinary meeting was as follows:

That Council award \$4,000 funding for the 2017 and 2018 Fair Go Skateboarding events to Truckstop Sk8 and that a finance agreement be executed by the General Manager, including an appropriate acquittal process.

The reason for this recommendation is that Truckstop Sk8 has conducted this event for the past two years and the feedback on the event has been overall positive. It is accepted that Council is providing funding to a private entity, however the difficulty Council faces is that no community based organisation has been prepared to conduct the event in recent years.

Prior to 2012 there was a community based committee that managed this event with support from Council.

13.1 Rescission Motion - Fair Go Skateboarding Event

In 2012 the community representatives advised that they were no longer able to offer the same level of support.

Skateboard Australia, a subsidiary of Skate Australia Inc, which is the governing body for all skating-based sports disciplines in Australia, then agreed to co-ordinate the event for three years. At that time Council was allocating \$10,000 to the event.

In 2014 (after two years) Skateboarding Australia advised that they were no longer in a position to run the event.

Council then resolved to provide \$10,000 to Ownlife Events to manage the event for 2014. Ownlife was a newly formed entity, specialising in skateboarding events, with the business owner being a previous employee of Skateboarding Australia, with experience in running Fair Go.

Council then resolved in 2015 to only provide \$4,000 to support this event and call for expressions of interest (EOI). In response to this EOI process submissions were received from Ownlife and a newly formed committee titled the Ballina Skateboard Competition Committee. The actual resolution was as follows:

That Council authorises the General Manager to provide the Ballina Skateboard Competition Committee up until Friday 17 July 2015 to satisfactorily address the outstanding matters in relation to their expression of interest for the Ballina Skateboarding Event. If the outstanding matters are addressed to the satisfaction of the General Manager, the General Manager is authorised to award the expression of interest to this group. If the matters are not satisfactorily addressed the expression of interest is to be awarded to Ownlife.

During 2015 the Ballina Skateboard Competition Committee was superseded by Truckstop Sk8 to co-ordinate the event, as it was representatives from this organisation that were the main members of the committee.

In 2016 Council again called expressions of interest with responses received from Ownlife and Truckstop Sk8 with Truckstop Sk8 being awarded the event, with funding of \$4,000.

The July 2017 report to Council outlined that expressions of interest were called for 2017 and 2018, with only Truckstop Sk8 providing a response.

The current resolution seeks a report on further options and the difficulty that Council faces is that there are limited options available.

If Council does not want to provide funding to a private organisation there is currently no community based committee to co-ordinate the event and Council does not have the network of contacts to manage and promote this type of event within our staff resources.

13.1 Rescission Motion - Fair Go Skateboarding Event

Fair Go has been a signature event for the Ballina Shire for many years, with it actively promoting the Ballina Skate Park, which is one of the stand out facilities for skating in Australia. The reason expressions of interest were called for two years was to provide increased certainty to the organiser of the event. Truckstop Sk8 has advised that they need to co-ordinate the event with the Prawn Festival to support Fair Go being a nationally sanctioned event. It also allows the organisers to leverage Council's contribution with the infrastructure associated with the Prawn Festival.

COUNCILLOR RECOMMENDATION

That Resolution 270717/23, as follows, be rescinded:

270717/23 RESOLVED

(Cr Sharon Cadwallader/Cr Eoin Johnston)

1. *That Council award \$4,000 funding for the 2017 Fair Go Skateboarding events to Truckstop Sk8 and that a finance agreement be executed by the General Manager, including an appropriate acquittal process, subject to there being no spectator or participant entry fee for the skatepark event.*
2. *That Council receive a report on options for future events.*

Attachment(s)

Nil

13.2 Notice of Motion - Beach and River Debris

13.2 Notice of Motion - Beach and River Debris

Councillor Cr Cadwallader
Cr Parry
Cr Eoin Johnston

We move

1. That Council develop a policy that determines the level of service that Council will provide in respect to clean up works related to the removal of major flood debris from our high profile beach and river locations to improve the amenity for our residents and visitors.
2. That the report back to Council identifies the level of funding that will need to be provided on an annual basis to support this policy, along with options to finance this funding.
3. That this report be submitted back to Council at the latest by the October 2017 Ordinary meeting to ensure that Council is in a position to determine whether it wishes to undertake works related to this policy prior to the Christmas / New Year holidays.
4. That Council also undertake a one-off clean up within the next 30 days of the Lighthouse Beach, Shelly Beach, Spit and Serpentine areas to remove any major flood and storm debris due to the current poor state of those areas. The estimated cost of this service, which is currently unknown, but is not likely to be significant, is to be offset by savings in other recurrent budgets, with the General Manager authorised to make those savings where necessary.

Councillor Comment

It is accepted that Council needs to balance our limited resources against the level of service we provide to the community. It is also acknowledged that Council did resolve many years ago not to provide a regular beach cleaning service. There is also a risk in that removing flood debris that further debris may continue to arrive or another weather event.

This is why it is important we have a policy that clarifies Council's level of service which can then be communicated to the community. We have all been approached by people wanting us to provide this service based on the current condition of our beaches and a policy will help Councillors and staff answer the questions we receive.

We do need to provide some level of service in respect to removing excess debris, as our beaches and foreshore areas are a major attraction for residents and tourists.

13.2 Notice of Motion - Beach and River Debris

In respect to point four, based on the current state of the locations mentioned, it is appropriate to provide this one-off service. Point four authorises the General Manager to make savings in other service areas to fund this one-off cost. Those savings would be reported to Council as part of the September quarterly review of our finances.

Staff Comment

This motion was lost at the July 2017 Ordinary meeting. This means that to consider this matter again within a three month period, a notice of motion must include three signatures. This notice complies with the requirements of the Local Government Act. If the motion is again lost it cannot be re-considered for three months.

The staff comments from the July 2017 Ordinary meeting are as follows.

The level of service delivered by Council, and the allocation of funding resources to support desired service levels are matters for the elected Council to determine. In this case, the relevant level of service relates to amenity and amenity in general is considered a matter of opinion, meaning it is therefore difficult for staff to provide professional advice. Therefore the following brief comments are presented by way of background to assist the Council reach a position in response to the above notice of motion.

The Council's current level of service, determined by resolution many years ago, is to clear debris that is considered a risk to public health and safety. In response to the recent weather events, staff have been regularly inspecting our beaches and undertaking the ongoing collection of debris in locations that may potentially cause a risk issue for beach users and swimmers. This mainly involves removal of debris in the surf zone.

The costs of cleaning up flood debris on beaches is not a cost we can seek reimbursement for from the Federal or NSW Governments under the Natural Disaster Relief and Recovery Arrangements. In considering costs, Council will need to balance the objective of the amenity improvements against the risk that the expenditure can be inefficient as the areas, once they are cleaned, can be exposed again to more debris immediately or soon after if a second or third event occurs. For example, this was the case recently when other storm events followed the flooding associated with Cyclone Debbie. It is our experience that the beaches return to a reasonable condition relatively quickly, and we can intervene where this is too slow and a problem is arising. Also the clean-up can interfere, to a certain extent, with natural processes as tree debris is a source of habitat for some fauna in the coastal dunes and the flood events are a source of replenishment for this.

COUNCILLOR RECOMMENDATIONS

1. That Council develop a policy that determines the level of service that Council will provide in respect to clean up works related to the removal of major flood debris from our high profile beach and river locations to improve the amenity for our residents and visitors.
2. That the report back to Council identifies the level of funding that will need to be provided on an annual basis to support this policy, along with options to finance this funding.
3. That this report be submitted back to Council at the latest by the October 2017 Ordinary meeting to ensure that Council is in a position to determine whether it wishes to undertake works related to this policy prior to the Christmas / New Year holidays.
4. That Council also undertake a one-off clean up within the next 30 days of the Lighthouse Beach, Shelly Beach, Spit and Serpentine areas to remove any major flood and storm debris due to the current poor state of those areas. The estimated cost of this service, which is currently unknown, but is not likely to be significant, is to be offset by savings in other recurrent budgets, with the General Manager authorised to make those savings where necessary.

Attachment(s)

Nil

13.3 Notice of Motion - Lake Ainsworth Coastal Zone Management Plan

13.3 Notice of Motion - Lake Ainsworth Coastal Zone Management Plan

Councillor

Cr Williams

I move

That Council discontinue major works in the South East precinct of Lake Ainsworth until the completion of the Coastal Zone Management Plan for Lake Ainsworth.

Councillor Comment

Community members continue to be concerned that Council is proceeding to remove the access provided by the East Road at Lake Ainsworth with no certainty around the timing of works, due to the preparation of a new DA for the proposal.

Council has allocated funding and work is commencing on the Coastal Zone Management Plan for Lake Ainsworth to develop a more holistic view of the Lake and its immediate environs. It is expected that a CZMP will examine:

- Water quality and remediation of historical and current nutrient sources
- Ecological importance of the catchment and surrounding habitat;
- Foreshore erosion
- Maintaining access to the water body
- The effect of increased traffic on surrounding roads and impacts on the catchment and it's flora and fauna
- Indigenous heritage and land use.

As many of these issues are directly affected by the proposed works in the South East precinct, it is a reasonable expectation of the community that Council will consider the wider picture before commencing major works in and adjacent to the Lake.

Staff Comment

Council has not debated a motion relating to ceasing the eastern road works since January 2017, which means this motion can be debated by Council (i.e. three months has elapsed).

Council has a number of options available in respect to this project including:

- proceed with the current development application (DA) process and then, if a consent is granted, implement the works, with the Coastal Zone Management Plan (CZMP) being prepared in conjunction with this process
- immediately cease the DA preparation and focus entirely on the preparation of the CZMP or
- proceed with the current DA and then if consent is granted, not implement the works approved until the CZMP is completed.

These are all valid options.

13.3 Notice of Motion - Lake Ainsworth Coastal Zone Management Plan

Pleasingly Council has recently received a grant of \$60,000 from the Office of Environment and Heritage (OEH), to be supported by Council funds, to prepare a new Lake Ainsworth Coastal Management Plan (the terminology from OEH is to now refer to these statutory plans as Coastal Management Plans (CMPs) rather than CZMPs).

As background information to the new CMP, Council's grant application to OEH identified the project need and outcomes as follows:

Project Need

A Coastal Management Program for Lake Ainsworth will ensure the Lake remains an appealing destination for tourists, students, teachers, athletes, the surf club and local residents whilst retaining key habitat for native flora and fauna. The recreational and environmental values of Lake Ainsworth have been compromised due to poor water quality, increased visitor pressures, ongoing erosion of the foreshore and barrier sand dunes, and the invasion of introduced species. A scoping study will further identify key issues which will need to be addressed in the CMP, as well as the execution and ongoing viability of previous management options outlined in the 2002 Lake Ainsworth Management Plan.

Lake Ainsworth currently exhibits almost twice the total phosphorous levels in 2016 compared with 1995 and an order of magnitude higher than the ANZECC (2000) guidelines and, as a result, cyanobacteria blooms are a regular occurrence in Lake Ainsworth. The reason for a significant increase in nutrient levels is unknown and requires an investigation. The NHMRC (2008) guidelines also state that with TP levels higher than 100ug/L, water temperature > 25C, a history of cyanobacteria and frequent and persistent/strong thermal stratification, the waterbody is very highly susceptible to cyanobacteria blooms. Lake Ainsworth ranks in the worst category for water quality using these guidelines (with a mean TP value of 123.8 ug/L and with water temperatures up to 31C).

Lake Ainsworth has also been given a poor water quality grade by the OEH in regards to high Enterococci levels and is often unsuitable for swimming during peak demand periods. This poses significant risks to human health, and must be managed accordingly using the appropriate public health frameworks.

The foreshore areas of Lake Ainsworth are also experiencing erosion with both sandy beach areas and surrounding grass dunes compromised. This appears to be due to increased visitor numbers and ad hoc public access, poorly managed overland stormwater flow and wind/wave forces. Over time this has resulted in intensive competition for space for between users and a reduction in the ecological health and condition of the riparian zone. The impact on the habitat within the Lake are unstudied at present, but likely to be significant. Additionally, public access to the Lake and its surrounds is problematic at best, and unsafe during periods of heavy visitor demand. Balancing access, habitat, scenic amenity and visitor demand is an ongoing issue.

As the barrier sand dunes to the east are also eroding there is a possibility in the future of the Lake opening up to the sea, threatening the future of both Lake Ainsworth and the surrounding coastal development and infrastructure.

Finally, the influence of groundwater is poorly understood with respect to both the water quality and water level of Lake Ainsworth. There is also concern regarding the invasion of introduced species such as water primrose, salvinia, water hyacinth, red-claw crayfish, cane toads etc, and the implications this might have on the recreational and environmental value of Lake Ainsworth. The flora and fauna of Lake Ainsworth is largely unstudied..

The diversity, complexity and competing nature of the range of issues which are a consideration in the ongoing sustainable management of Lake Ainsworth, require a CMP process to focus management objectives, funding and attention into the future. A targeted CMP will ensure it maintains and enhances its scenic, cultural, recreational and ecological values into the future for the benefit of all stakeholders including the environment.

Project Outcomes

The development and implementation of a Coastal Management Plan (CMP) for Lake Ainsworth will enhance the Lake's recreational and environmental values. An engaging and collaborative Scoping Study process is envisaged to allow community and stakeholders to work with the CMP process, and full understand its findings and implications. Lake Ainsworth is important culturally, recreationally, economically and ecologically in our community and beyond, and intense interest in the process is expected.

The overall project outcome will be the development of the Lake Ainsworth CMP. It will provides management frameworks to:

- 1) Effectively reduce the occurrence of cyanobacteria blooms (through the reduction of nutrients and enhanced destratification)*
- 2) Understand mechanisms of nutrient influx/outflux and designing preventative/control measures to reduce nutrient levels in Lake Ainsworth*
- 3) Improve water quality by reducing Enterococci levels through improved management of stormwater, visitor pressures and other options*
- 4) Formalise public access to reduce pressure on foreshore areas including reducing dune erosion around the perimeter of the Lake. Stabilise and enhance high demand areas for recreational access.*
- 5) Describe the native flora and fauna of the local area and how these species interact with each other and the environment*
- 6) Describe the introduced flora and fauna of the local area and how best to manage pest species*
- 7) Recognise and describe potential impacts associated with climate change and the best possible actions to manage these impacts to ensure longevity of Lake Ainsworth*
- 8) Recognise the relationship between visitor demand and ecological impacts on the Lake, including possible ways to reduce associated impacts*
- 9) Recognising the significance of Aboriginal and European heritage in the local area and how we can use this information in a respectful way to enhance appreciation of culture.*

As per these comments the CMP has a strong focus on water quality issues.

The grant application also allows for a period of three years to complete the CMP, with the estimated completion date, in the application, being 31 August 2020.

13.3 Notice of Motion - Lake Ainsworth Coastal Zone Management Plan

One of the key reasons that this CMP will take such an extended period of time is that Council will be undertaking further sampling and analysis of sediment cores to help determine impacts on the water quality. This type of process typically takes 18 months.

Also the preferred approach is to source water quality results over two summer periods, to determine any differences that may occur during that period of time.

The reason that, from a technical perspective, Council can still proceed with the current DA process, is that a significant amount of the information currently being prepared for the DA, will also be able to be used in the preparation of the CMP.

Relevant studies and work currently underway by specialist consultants include:

- Flora and fauna study
- Aboriginal cultural consultation
- Landscape and open space planning
- Specialist planning advice

These reports, even though they may focus on the southern and eastern section of Lake Ainsworth, will still be cognizant of the broader impacts of any infrastructure works on the entire precinct.

Council staff are also preparing the detailed designs and reports in respect to urban storm water management, road and pathway construction and traffic modelling. All of this work has a strong focus on applying modern environmental designs to minimise negative impacts on the water quality in Lake Ainsworth.

A number of the objections being raised to the current proposal such as negative impacts on flora and fauna, cultural impacts, traffic impacts etc, are being considered in the preparation of this documentation, which will be included in the DA when submitted to Council.

That DA will then be exhibited for public comment prior to being submitted to the elected Council for determination.

If a planning consent is eventually obtained for the DA, it will then be a matter for Councillors to determine when the consent is implemented. Council could decide, at that time, that the consent not be implemented until the CMP is completed.

There is the risk with this approach that the CMP outcomes may then differ with the DA consent outcomes and a new DA may be needed for any future southern and eastern works.

In respect to the current decision of Council to proceed with the DA process there have been staff concerns in respect to inconsistencies, or inaccuracies, in correspondence to Council and letters in the media regarding what is planned and the benefits.

13.3 Notice of Motion - Lake Ainsworth Coastal Zone Management Plan

In response to this an updated fact sheet has recently been included on the front page of Council's website, along with this factsheet and the latest plans being distributed to the Lennox Head Community Centre and library.

It is also planned to include a significant editorial in the next edition of Community Connect to clarify the current position of Council and the works planned. A copy of the latest factsheet is included as an attachment to this notice of motion.

A significant amount of staff time, along with financial resources in consultancy reports, is currently being allocated to the preparation of the DA. Expenditure to date on this project, excluding staff time, is approximately \$82,000 with the current consultancy engagements also having significant accrued expenses, where Council has not yet been billed for the work.

There is also discontent amongst certain sections of the community in regard to the current position of Council.

This means it is essential that Council continue to provide clear direction to staff and to the community in how it wishes to advance this entire project.

If Council wishes to cease the current DA process, or not implement any future DA consent until the CMP is completed, it is unlikely that any infrastructure works will be undertaken in the southern and eastern precincts during this term of Council, based on the estimated completion date of 31 August 2020 for the CMP.

If this is the position of Council, it may be a viable option to examine the benefits of swapping the approximately \$1.7m in funding currently allocated to Lake Ainsworth to other key infrastructure works that are identified in our Long Term Financial Plan in future years. Lake Ainsworth works, as per any future gazetted CMP, could then be undertaken in the next term of Council.

In conclusion it is important to emphasise the difference between the current project and the CMP. The currently planned infrastructure works have a primary focus to deliver social and recreational improvements through the provision of additional open space areas and associated facilities such as pathways, improved disabled access, picnic facilities etc, as well as restoring some of the degraded foreshore areas, along with removing traffic movements from the eastern side of the Lake.

The primary purpose of the CMP will be to identify actions to be implemented over the longer term to address priority management issues. The issues to be considered include:

- managing risks to public safety and built assets
- pressures on coastal ecosystems, and
- community use of the coastal zone.

The CMP is more a holistic and scientifically focused evaluation particularly relating to water quality and the ecological value associated with Lake Ainsworth.

COUNCILLOR RECOMMENDATION

That Council discontinue major works in the South East precinct of Lake Ainsworth until the completion of the Coastal Zone Management Plan for Lake Ainsworth.

Attachment(s)

1. Factsheet - July 2017

13.4 Notice of Motion - Community Donations Budget

13.4 Notice of Motion - Community Donations Budget

Councillor

Cr Willis

I move

That Council receive a report on options to increase the community donations budget over the Council term to \$120,000 pa. by way of an increased airport dividend.

Councillor Comment

As Councillors will be aware from our July meeting, passenger numbers to our airport have now reached 500,000. Councillors will also be aware that many meritorious funding requests from community and sporting groups were unable to be met due to inadequate funds being available.

This motion calls for a report to consider options to increase the community donations budget over the current term from \$60,000 pa. to \$120,000 pa. by way of an increased airport dividend.

While we must ensure that we do not strip this important Shire asset, it remains open to Council to consider possibilities such as a small increase to the dividend derived from the airport.

A dividend derived in such a manner may meet the unmet funding need of our community groups - without raising rates further, nor moving funds from other worthwhile budgeted measures.

Staff Comment

Typically the requests for community donations exceed the budget allocated with the approximate figures for recent years as follows:

Year	Requested (\$)	Funded (\$)
2017/18	90,000	60,000
2016/17	146,000	54,000
2015/16	180,000	68,000
2014/15	190,000	50,000

These are approximate figures only as some donation requests are difficult to place a value on and during each financial year the Council has, at times, resolved to provide further support. These figures also exclude requests for donations for the public halls.

The important issue with this notice of motion is that Council needs to determine whether an increase in the community donations budget is the preferred allocation of funding, if an increased donation is sourced from the airport program.

Council's Long Term Financial Plan (LTFP), for 2018/19 onwards, now includes an airport dividend to the General Fund of \$100,000.

13.4 Notice of Motion - Community Donations Budget

This dividend currently has a loose linkage to the Tourism Marketing budget, which is also \$100,000. Effectively the dividend is helping to support the working capital result for the General Fund, by providing \$100,000 to improve the forecast working capital deficits.

The current General Fund LTFP has forecast working capital deficits for the next ten years; as follows:

Forecast Working Capital Deficits (\$'000)

Year	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27
Deficit	(192)	(282)	(443)	(511)	(422)	(396)	(258)	(256)	(294)	(184)

As previously advised this deficit increases significantly in 2019/20 as the Ballina Indoor Sports Centre becomes operational.

Therefore Council needs to be careful to start increasing budgets for other programs, without first focusing on improving the forecast deficits.

The 2018/19 dividend from the airport is the first time that Council has decided to take a dividend from this program. The advice from the former Airport Manager was that the business was of such a scale and turnover that a dividend was feasible without adversely impacting on the business.

However any dividend reduces the capital available for infrastructure improvements and the \$100,000 over ten years represents one million dollars that will no longer be available for future improvements.

Also Council is not just able to increase charges to the airlines to fund any increase in the dividend, as there are agreements in place in respect to the landing fees payable to Council. Those agreements are in the process of being negotiated with the airlines wanting to ensure that revenues generated are invested back into infrastructure that supports their business.

COUNCILLOR RECOMMENDATION

That Council receive a report on options to increase the community donations budget over the Council term to \$120,000 pa. by way of an increased airport dividend.

Attachment(s)

Nil

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the July 2017 Ordinary meeting:

<u>Date</u>	<u>Function</u>
24/7/17	Meeting Year Five – Holy Family School
13/8/17	Commemoration Park Markets
13/8/17	Lennox Head Markets
13/8/17	Lake Ainsworth Memorial – Don Apps
14/8/17	Meeting Craft Brewery – Ballina
16/8/17	Meeting – Alan Davies – Building Matters
18/8/17	Victory in the Pacific, Vietnam Veterans' Day and Ex-Prisoner-of-War-Day
18/8/17	Lioness Club of Ballina Kings
19/8/17	Vietnam Veterans' Day
20/8/17	Commemoration Park Markets
20/8/17	Youth Care UPA – Showground
22/8/17	Ballina RSL Community Grants
22/8/17	Regional growth Funds Workshop
22/8/17	Inspection Skate Board Ramp
22/8/17	Goonellabah – Wollongbar Lions Changeover
24/8/17	Council Meeting
24/8/17	Gallery Opening
26/8/17	Quota Fair
27/8/17	Wreath Laying - Legacy
27/8/17	Rainbow Region Dragon Boat Club
29/8/17	Public Citizenship Ceremony
29/8/17	Port Ballina Taskforce
29/8/17	Launch of new Visitor Information Promotional Clip

RECOMMENDATION

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

Attachment(s)

Nil

16. Confidential Session

16. Confidential Session

Nil Items