



## 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 28 September 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
  2. Acknowledgement of Country
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  4. Confirmation of Minutes
  5. Declarations of Interest & Reportable Political Donations
  6. Deputations
  7. Mayoral Minutes
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**1. Australian National Anthem**

The National Anthem will be performed by Lee.

**2. Acknowledgement of Country**

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

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

**3. Apologies**

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 August 2017 were distributed with the business paper.

A copy of the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Wednesday 6 September 2017 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 August 2017.

That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Wednesday 6 September 2017.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## 8.1 DA 2017/371 - 57 Gallans Road, Ballina

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### 8. Development and Environmental Health Group Reports

#### 8.1 DA 2017/371 - 57 Gallans Road, Ballina

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<b>Applicant</b>	Ardill Payne and Partners (on behalf of Integra Healthcare)
<b>Property</b>	Lot 41 DP 17454, 57 Gallans Road, Ballina
<b>Proposal</b>	Alterations and additions to the existing rural industry
<b>Effect of Planning Instrument</b>	The land is zoned RU2 Rural Production under the provisions of the Ballina LEP 2012
<b>Locality Plan</b>	The subject land is depicted on the locality plan <b>attached</b>

#### **Introduction**

Council is in receipt of a Development Application for alterations and additions to the existing manufacturing facility (rural industry), as shown in the **attached** plans. Two large buildings are existing on the subject site, one being the manufacturing facility and the other being the administration and visitors' centre. This application is being reported to Council as it seeks a variation of more than 10% to the 8.5m height of building development standard contained in the Ballina Local Environmental (BLEP) 2012. In all other respects, the proposed development meets the applicable statutory and merit considerations and warrants favorable consideration.

The proposed development involves a number of components including earthworks to remove the loads on a load-bearing retaining wall of an existing building and extensions to the existing manufacturing facility. The extensions to the existing manufacturing facility, specific to the variation in the height standard, involves a building extension of 28.5m long x 24m wide x 12m high to provide new storage floor space constructed of metal cladding with a metal roof. Not all of this extended area exceeds the height limit.

The existing business functions as a working Tea Tree Farm and a Pack and Fill site for the Thursday Plantation products including essential oils derived from Tea Tree, Eucalyptus, and Rosehip. All products are manufactured at the site for commercial purposes. The proposed extension is designed to accommodate the storage of raw (plant based) materials in preparation for processing into commercial products within the operational area of the facility. The building is intended to be used for the storage of materials to a height of seven pallet racks, therefore a total building height of 10m is proposed, as measured from existing ground levels under the BLEP.

The subject site is zoned RU2 Rural Landscape under the BLEP 2012 and consequently, the provisions of the BLEP 2012 apply to the subject land. The proposed building extension has a maximum height of 10m, as measured from existing ground levels, and therefore exceeds the maximum height

control of 8.5m, as stipulated in Clause 4.3 (Height of Buildings) of the BLEP 2012, by up to 1.5m (or 17.6%).

This report seeks Council's determination of a requested variation to development standard Clause 4.3 (Height of buildings) in the BLEP 2012, as the application proposes a variation of more than 10% to the development standard.

The Council may assume the concurrence of the Director of the Department of Planning and Environment to carry out an assessment of the application under clause 4.6 of the BLEP 2012 and grant approval to the variation sought, if considered reasonable.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

The subject application was placed on public exhibition. No objections were received in relation to the proposed development.

### **Report**

The proposed development has been assessed under the heads of consideration in Section 79 (C) of the *Environmental Planning and Assessment Act 1979* and it can generally be supported. The only matter to be determined by the Council in relation to this report is the requested variation to the height of buildings development standard in Clause 4.3 of the BLEP 2012.

### **Clause 4.6 BLEP 2012**

The mechanism that provides the ability to vary a development standard contained within the BLEP 2012 is an application via Clause 4.6 - Exceptions to development standards of the BLEP 2012. The following assessment has been carried out with respect to Clause 4.6.

<b>BLEP 2012 - Clause 4.6</b>	
<b>Assessment of requested variation</b>	
a) What is the development standard being varied? (provide details of clause in Ballina LEP 2012, including objectives of the development standard, numeric value and percentage variation)	Clause 4.3(2) of the BLEP 2012 being the allowable Height of buildings states the following:  <i>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i>  The building height is defined under the BLEP 2012 "as the vertical distance from ground level (existing) to the highest point of the building". The application seeks to

	<p>vary the 8.5m building height standard by a maximum of 1.5m, with the overall height of the extension being 10m above the existing ground level. Further to this, the variation to the standard does not involve the entire building and only relates to a portion of the extension as shown on the attached elevation/ section drawings. The variation sought is up to 17.6% more than the allowable maximum height.</p>
<p>b) What is the underlying objective of this development standard?</p>	<p>Clause 4.3(1) provides the following objectives of the standard.</p> <p><i>(1) The objectives of this clause are as follows:</i></p> <ul style="list-style-type: none"> <li><i>(a) to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,</i></li> <li><i>(b) to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,</i></li> <li><i>(c) to protect significant views from public places.</i></li> </ul> <p>The underlying objective is to ensure that the building will not have any significant impact on the surrounding uses or properties due to its size, bulk, scale or character and promote aesthetically acceptable development compatible with the area.</p>
<p>c) In accordance with Clause 4.6(4) of the BLEP 2012, consent must not be granted unless Council is satisfied that:</p> <ul style="list-style-type: none"> <li>• compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard?</li> <li>• the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?</li> </ul>	<ul style="list-style-type: none"> <li>• The applicant has suitably addressed the matters for consideration in Clause 4.6(4) within the Statement of Environmental Effects and additional information. The proposed variation is considered to be consistent with the objectives of Clause 4.3 as it will not have any significant negative impact on the character of the locality.</li> <li>• The bulk of the building will be minimised through the varying ground levels and character of the existing buildings on the land. The proposed variation will not cause any overshadowing impacts on surrounding properties due to the building extension's location on the subject site and will not impede on the privacy or amenity to the neighbouring residents. There will be no impact to the streetscape, due to the slope of the site and proposed extent of excavation. This will decrease the impact when viewed from the street, thus no negative scenic impacts are anticipated. The building will not have any impact on views from public</li> </ul>



	<p>places.</p> <p>The proposal is considered to be in the public interest as it will meet the objectives of Clause 4.3 and the objectives of the Rural Landscape zone.</p>
d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?	No – The development is unlikely to create a precedent in the area as the assessment has been based on the merits of the application alone and is warranted due to the proposed use of the extended building for storage in relation to the existing rural industry.
e) The Five Part Test (Note: established by the NSW Land and Environment Court). <ul style="list-style-type: none"> <li>• Are the objectives of the standard achieved notwithstanding non-compliance with the development standard?</li> <li>• Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary?</li> <li>• Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable?</li> <li>• Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable?</li> <li>• Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)?</li> </ul>	<p>The proposed development satisfies the objectives of the standard under Clause 4.3 for the reasons discussed above, notwithstanding the non-compliance with the development standard.</p> <p>Strict compliance with Clause 4.3 is considered unreasonable in this instance as the building will not be able to achieve the intended operational purpose for adequate storage, if it was to comply with the standard. Forcing strict compliance with the height control would impact on the intended and ongoing functioning of the building.</p> <p>The proposed development is expected to achieve an improved outcome in relation to increasing the building height as the proposed variation will ultimately allow improved operational functionality. Furthermore, the proposal meets the objectives of the Environmental Planning and Assessment Act 1979, particularly through promoting the orderly and economic use and development of the land through extension of the current use.</p>

### Options

Option 1 - That Council determines the proposed variation to the height of building standard is appropriate in the circumstances of the case for the reasons discussed in this report and that the application to vary the standard be approved. This is the preferred option.

## 8.1 DA 2017/371 - 57 Gallans Road, Ballina

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Option 2 - That Council determines that the proposed variation to the height of building standard is excessive in the circumstances and that the request should be refused. This option is not recommended.

The proposal is not likely to have a major effect on the streetscape or surrounding landscape as it will be set back a considerable distance from the road and will be screened by landscaping to minimise its impact.

Further to this, it is not expected that the extension will be seen from the surrounding properties.

It has been demonstrated by the applicant that the request complies with the intent of Clause 4.6 and is driven by the nature of the building extension and its use for ongoing rural industry purposes.

Consequently, the request to vary the building height standard in this instance is well founded. Should Council resolve to approve the application to vary this standard, the development application will be determined under delegated authority.

### **RECOMMENDATION**

That the application to vary the Ballina Local Environmental Plan 2012 Development Standard Clause 4.3 – Height of Buildings for DA 2017/432 for the proposed building as depicted in the plans prepared by Amec Foster Wheeler Australia Pty. Ltd, as attached to this report and dated 4 July 2017 be **APPROVED**, for the reasons outlined in this report.

### **Attachment(s)**

1. Locality Plan DA 2017/371
2. Proposed Plans DA 2017/371
3. Clause 4.6 Variation

## 8.2 DA 2017/386 - 61 Piper Drive, Ballina

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### 8.2 DA 2017/386 - 61 Piper Drive, Ballina

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<b>Applicant</b>	Optus Mobile Pty Ltd
<b>Property</b>	Lot 68 DP 1022473, 61 Piper Drive, Ballina
<b>Proposal</b>	Telecommunications Facility
<b>Effect of Planning Instrument</b>	The land is zoned IN1 – General Industrial under the provisions of the Ballina LEP 2012
<b>Locality Plan</b>	The subject land is depicted on the locality plan <b>attached</b>

#### Introduction

Council is in receipt of a Development Application for a *telecommunications facility* proposed to be located on the subject land. This application is being reported to Council as it seeks a variation of more than 10% to the 10m height of building development standard contained in the Ballina Local Environmental Plan (BLEP) 2012. In all other respects, the proposed development meets the applicable statutory and merit considerations and warrants favorable consideration.

The proposed development involves the installation of a telecommunications facility involving a number of components, including a 33.3m monopole, three panel antennas, a radio communications dish, a two bay outdoor equipment cabinet mounted on a platform attached to the pole, and ancillary equipment including obstacle lights at the top of the pole (refer **attached** plans).

The site is zoned IN1 General Industrial under the BLEP 2012, and consequently, the provisions of the BLEP 2012 apply to the subject land. The proposed structure will be in excess of the 10m height limit, required by Clause 4.3 (Height of Buildings) in the BLEP 2012.

This report seeks Council's determination of a requested variation to the development standard under Clause 4.3, as the application proposes a variation of more than 10% to the development standard being 230.8% with the maximum height of the proposed structure (including the Obstacle Lights) being 33.08m Australian Height Datum (AHD).

The Council may assume the concurrence of the Director of the Department of Planning and Environment to carry out an assessment of the application under clause 4.6 of the BLEP 2012 and grant approval to the variation sought, if considered reasonable.

#### Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

**Public Exhibition**

Due to the location of the proposed structure within the General Industrial zone, the development application was not required to be placed on public exhibition under Council’s Public Notification and Exhibition of Development Proposals policy within the *Ballina Development Control Plan 2012*. The application is available for viewing on Council DA’s *Online* service and no objections have been raised in relation to the proposal.

**Report**

The proposed development has been assessed under the heads of consideration in Section 79 (C) of the Environmental Planning and Assessment Act 1979 and it can generally be supported. The only matter to be determined by the Council in relation to this report is the requested variation to the height of buildings development standard under Clause 4.3 of the BLEP 2012.

**Clause 4.6 BLEP 2012**

The mechanism that provides the ability to vary a development standard contained within the BLEP 2012 is an application via Clause 4.6 - Exceptions to development standards of the B LEP 2012. The following assessment has been carried out with respect to Clause 4.6.

<b>Ballina LEP 2012 - Clause 4.6</b>	
<b>Assessment of requested variation</b>	
a) What is the development standard being varied? (provide details of Clause in BLEP 2012, including objectives of the development standard, numeric value and percentage variation)	<p>Clause 4.3(2) of the BLEP 2012 being the allowable Height of buildings states the following:</p> <p><i>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i></p> <p>The building height is defined under the BLEP 2012 “as the vertical distance from ground level (existing) to the highest point of the building”. Further to this, Clause 4.3A (Exemptions to height of buildings) of the BLEP 2012 is applicable on the subject site (flood prone land requiring minimum fill levels) and therefore the proposed structure is required to be measured from the minimum fill level of 2.0m AHD. The application seeks to vary the 10m building height standard by 23.08m with the overall height of the tower being 33.08m after Clause 4.3A has been taken into consideration. The variation sought is 230.8% more than the maximum height allowance.</p>
b) What is the underlying objective of this development standard?	<p>Clause 4.3(1) provides the following objectives of the standard.</p> <p><i>(1) The objectives of this clause are as</i></p>

	<p><i>follows:</i></p> <ul style="list-style-type: none"> <li>(a) <i>to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,</i></li> <li>(b) <i>to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,</i></li> <li>(c) <i>to protect significant views from public places.</i></li> </ul> <p>The underlying objective is to ensure that the building will not have any significant impact on the surrounding uses or properties due to its size, bulk, scale or character and promote aesthetically acceptable development compatible with the area. The proposed facility is appropriately located within an industrial zone.</p>
<p>c) In accordance with Clause 4.6(4) of BLEP 2012, consent must not be granted unless Council is satisfied that:</p> <ul style="list-style-type: none"> <li>• compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard?</li> <li>• the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?</li> </ul>	<ul style="list-style-type: none"> <li>• The applicant has suitably addressed the matters for consideration in Clause 4.6(4) by providing responses in Council's Variation to Development Standard form. The proposed variation is considered to be consistent with the objectives of Clause 4.3 as it will not have any significant negative impact on the character of the industrial locality.</li> <li>• The proposed structure will be in the public's interest as it will meet the objectives of Clause 4.3. The proposal will not have a significant negative impact on the surrounding bulk, scale or character of the locality, as it is considered to be a utility structure and is suitably located with the industrial zone.</li> </ul> <p>The structure has a maximum height of 33.3m (35.08m AHD). The Obstacle Limitation Surface - 2014 (OLS) for the Ballina Byron Gateway Airport on the subject site is 46.5m AHD. The overall height of the proposed structure will not exceed this OLS height limit and therefore, is not anticipated to have any adverse impacts on any aircraft movements.</p> <p>Furthermore, the tower will be compatible with the industrial setting of the locality, and will be</p>

	<p>consistent with the objectives of the IN1 zone and not significantly impact on the amenity of the adjoining properties.</p> <p>The proposed structure is not likely to have any impact on the nearest residential properties nor will it impact on any significant views from public places due to distance separation.</p>
<p>d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?</p>	<p>It is not expected that there will be many other similar structures proposed in the area surrounding the subject site as telecommunication facilities are proposed based on the requirement for the utility within an area. For this reason the proposed variation will not set a precedent in the area, nor will it create any negative cumulative impacts for similar approvals.</p>
<p>e) The Five Part Test (Note: established by the NSW Land and Environment Court)</p> <ul style="list-style-type: none"> <li>• Are the objectives of the standard achieved notwithstanding non-compliance with the development standard?</li> <li>• Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary?</li> <li>• Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable?</li> <li>• Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable?</li> <li>• Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)?</li> </ul>	<p>The underlying purpose of this development standard is not considered relevant in relation to telecommunication facilities as the Height of Buildings Map does not take into consideration the requirement for these facilities to be above the height of other buildings and the surrounding environment to obtain suitable coverage. Furthermore, compliance with this standard is considered unreasonable in this instance.</p> <p>There is a technical requirement for telecommunication facilities to be above the height of the surrounding environment to allow it to function effectively. Therefore, as indicated by the applicant, to obtain coverage for northern Ballina regions, the facility is required to be at least 30m tall, as a shorter tower would be blocked by the surrounding environment. This height cannot be reached without exceeding the standard identified under Clause 4.3 by the Height of Buildings Map. For this reason compliance with the standard is considered unreasonable and unnecessary.</p> <p>The proposal meets the objectives of the Environmental Planning and Assessment Act 1979, and approval is considered to be in the public interest particularly by providing improved communication and utility services to the area.</p>

### **Options**

Option 1 - That Council determines the proposed variation to the height of buildings standard is appropriate in the circumstances of the technical requirements of a telecommunications facility and approve the variation to the development standard being sought. This is the preferred option.

Option 2 - That Council determines that the proposed variation to the height of the structure is excessive in the circumstances and that the request should be refused. This option is not recommended.

Due to the location of the site, being within the General Industrial zone it is considered acceptable for the proposed telecommunications facility to be within this area, and a utility such as this is required to be of a height greater than the surrounding environment and buildings.

Compliance with Clause 4.3 under the Ballina LEP 2012 is considered unreasonable in this circumstance and the request to vary this standard is warranted for the construction of this facility.

Consequently, the request to vary the building height standard in this instance is well founded with the facility being of benefit to the community. Should Council resolve to approve the application to vary this standard, the development application will be determined under delegated authority.

### **RECOMMENDATION**

That the application to vary the Ballina Local Environmental Plan 2012 Development Standard Clause 4.3 – Height of Buildings for DA 2017/386 for the proposed building as depicted in the **attached** plans prepared by Huawei Technologies (AU) Pty Ltd dated 07/04/17 be **APPROVED**, for the reasons outlined in this report.

### **Attachment(s)**

1. Locality Plan DA 2017/386
2. Proposed Plans DA 2017/386
3. Clause 4.6 Variation

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

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

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

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

#### **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 August 2017.

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

Nil



#### 8.4 Development Applications - Works in Progress - September 2017

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#### 8.4 Development Applications - Works in Progress - September 2017

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/274	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
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
2017/129	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	Awaiting Additional Information

#### 8.4 Development Applications - Works in Progress - September 2017

			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	
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 and 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 Drive, Lennox Head	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
2017/251	19/5/2017	Ballina Shire Council	Ross Lane and Byron Bay Road Intersection	Awaiting Additional

#### 8.4 Development Applications - Works in Progress - September 2017

			Upgrade comprising the construction of a two lane roundabout, relocation of telecommunication infrastructure, installation of new culvert drains, 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	Information
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
2017/259	23/5/2017	Ardill Payne & Partners	Two lot Strata Title Subdivision of an Existing Dual Occupancy to create one 619m <sup>2</sup> and one 573m <sup>2</sup> allotments - 32 Castle Drive, Lennox Head	Awaiting Additional Information
2017/332	23/06/2017	Ardill Payne & Partners	To demolish an existing dwelling house and garage and to construct a commercial building and associated car parking – 12 Grant Street, Ballina	Awaiting Additional Information
2017/351	29/06/2017	Zane Grier	Temporary Use of Food Van – 19 Old Pacific Highway, Newrybar	Being Assessed

#### 8.4 Development Applications - Works in Progress - September 2017

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
2017/380	13/07/2017	Jenna Vos	To establish a two bedroom Bed & Breakfast facility and Home Occupation – 67 Platypus Drive, Uralba	Determination Pending
2017/408	27/07/2017	Byron Bay Planning	Establishment of an Attached Dual Occupancy and Tourist and Visitor Accommodation Comprising Three Holiday Cabins and Vegetation Management Works – 64 Ross Lane, Kinvara	On Exhibition
2017/414	28/07/2017	Newton Denny Chapelle	Alterations and additions to an existing dwelling house and establishment of a bed and breakfast facility including new driveway access, car parking, vegetation management works and associated works – 24 Old Pacific Highway, Newrybar	Awaiting Additional Information
2017/421	02/08/2017	Chris Abbott Surveying	Boundary adjustment subdivision between	Referred to Government

#### 8.4 Development Applications - Works in Progress - September 2017

			two lots – 73 North Teven Road, Teven	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	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	Referred to Government Departments & Awaiting Additional Information
2017/447	17/08/2017	Newton Denny Chapelle	Erection of a Neighbourhood Shopping Centre, involving a Supermarket (Woolworths) and Speciality Shops, Associated Car Parking and Other Infrastructure Servicing, Earthworks, Signage and Landscaping within the EPIQ Estate at Lennox Head – Hutley Drive, Lennox Head	On Exhibition
2017/453	21/08/2017	Ron Lange	Vegetation Management Works involving the removal of one Casuarina Tree – 179 Fox Street, Ballina	Being Assessed
2017/463	23/08/2017	Newton	Two Lot Subdivision	Referred to

#### 8.4 Development Applications - Works in Progress - September 2017

		Denny Chapelle	by way of a Boundary Adjustment to Create one x 10.774 ha (proposed Lot 1) and one x 3.4ha (proposed Lot 2) – 441 Sneaths Road & Sneaths Road, Alstonvale	Government Departments
2017/466	24/08/2017	Reginald Ellis	Vegetation Management Works involving the pruning of three trees (Guioa and Tuckeroo) – 13-15 Amber Drive, Lennox Head	Being Assessed
2017/472	28/08/2017	Gail Johnstone	To undertake the removal of three trees, being one x eucalypt, one x Pandanus and one x avocado tree – 170 Old Byron Bay Road, Newrybar	Awaiting Additional Information
2017/486	04/09/2017	R & L Hutton	Vegetation management works comprising the removal of two Sydney blue gums – 65 Jameson Avenue, East Ballina	Being Assessed

## 8.4 Development Applications - Works in Progress - September 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

#### 8.4 Development Applications - Works in Progress - September 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	Awaiting Additional Information
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



#### 8.4 Development Applications - Works in Progress - September 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	On Exhibition  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

#### 8.4 Development Applications - Works in Progress - September 2017

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##### Major Development (Determined by Minister)

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

##### RECOMMENDATION

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

##### Attachment(s)

Nil

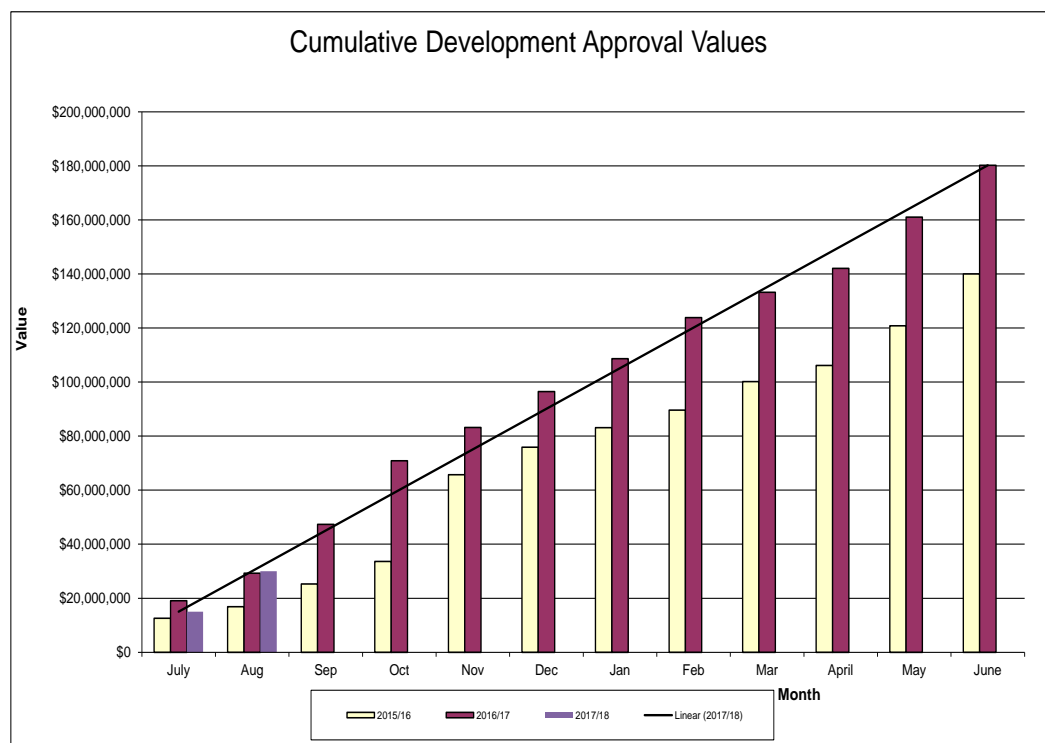
**8.5 Development Consent and Infrastructure Approvals - August 2017**

**8.5 Development Consent and Infrastructure Approvals - August 2017**

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

<b>Number of Applications</b>	<b>Value of Work</b>
42 Other including Changes of Use	\$ 1,755,918
31 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 10,133,059
5 General Developments including Subdivisions	\$ 2,630,562
<b>Total Value</b>	<b>\$ 14,519,539</b>

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



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

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

**RECOMMENDATION**

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

**Attachment(s)**

Nil

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

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### 9. Strategic and Community Facilities Group Reports

#### 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 17/008 - Rural Area Detached Dual Occupancy and to seek direction on the finalisation of this proposed LEP amendment.

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#### **Background**

The Council, at its Ordinary Meeting held on 22 June 2017, received and considered a report on the merits of permitting detached dual occupancy development on land within the RU1 Primary Production and RU2 Rural Landscape zones under the provisions of Ballina Local Environmental Plan 2012 (Ballina LEP 2012).

The Council resolved [Minute No. 220617/23] as follows:

1. *That based on the feedback from the Councillor briefing held 16 May 2017, Council endorses the preparation of a planning proposal which proposes to permit dual occupancy development (attached and detached) with development consent within the RU1 Primary Production and RU2 Rural Landscape zones under the provisions of Ballina LEP 2012.*
2. *That the planning proposal, once prepared, be forwarded to the Department of Planning and Environment for Gateway determination.*
3. *That subject to a Gateway determination allowing the proposal to proceed to community consultation being issued, the planning proposal be placed on public exhibition for a minimum period of 28 days in accordance with the consultation strategy detailed in this report and the requirements of the gateway determination.*
4. *That Council prepares associated draft amendments to Ballina Shire Development Control Plan 2012 – Chapter 7 Rural Living and Activity to align the DCP with the planning proposal.*
5. *That the draft DCP amendments be placed on public exhibition with the planning proposal for a minimum period of 28 days.*
6. *That Council give further consideration to the planning proposal and associated draft DCP amendments following the conclusion of the public exhibition period.*
7. *That Council give further consideration to an appropriate compliance approach following the conclusion of the public exhibition process.*

In accordance with the Council's resolution, the planning proposal has been publicly exhibited. This report outlines the feedback received and seeks direction on the finalisation of the planning proposal.

### Key Issues

- Consideration of the outcomes of the public exhibition process.
- Finalisation of the Local Environmental Plan (LEP) amendment taking into consideration the matters raised by the Department of Planning and Environment in the Gateway determination.
- Consideration of acceptance of delegation from the Department of Planning and Environment to finalise the planning proposal.

### Information

In accordance with the Council's resolution, the planning proposal was referred to the Department of Planning and Environment for a Gateway determination on 4 July 2017.

A Gateway determination allowing the planning proposal to proceed to public exhibition was issued on 28 July 2017. The Gateway determination required, amongst other matters, consultation with the NSW Rural Fire Service (RFS), NSW Department of Primary Industries – Agriculture and the Civil Aviation Safety Authority (CASA).

The Gateway determination also required the agreement of the Department's Secretary relating to non-compliances with s117 Directions *3.5 Development Near Licensed Aerodromes* and *4.4 Planning for Bushfire Protection* prior to the plan being made. Following responses being received from the RFS and CASA, which raised no objection, a submission seeking the agreement of the Department's Secretary has been made. It is anticipated that the Secretary's agreement will be forthcoming.

The planning proposal seeks to amend Ballina LEP 2012 in the following respects:

- Permit dual occupancy development (attached or detached) with development consent on land within the RU1 and RU2 rural zones;
- Specify additional matters for consideration prior to the granting of development consent for rural area dual occupancies; and
- Amend relevant associated Ballina LEP 2012 clauses (4.2A and 7.8) so as to reference their applicability to dual occupancies generally (instead of dual occupancies attached).

In respect to the specification of additional matters, it is noted that no maximum (or minimum) separation distance between dwellings has been proposed. Both the Lismore City and Byron Shire LEP amendments that permitted detached rural area dual occupancy specified a maximum separation distance of 100 metres. The 100 metre separation distance is not proposed for Ballina Shire as it is considered to be a general and arbitrary figure that is subject to variation in response to individual site circumstances.

The Council's resolution relating to this matter [Minute No 220617/23] also referenced proposed amendments to Ballina Shire DCP 2012 *Chapter 7 Rural Living and Activity* so as to align the DCP with the planning proposal. It is advised that the subject amendments have been incorporated within Draft Amendment No 11 to the DCP.

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

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The above proposed DCP amendments commenced exhibition on 30 August 2017 and will conclude on 29 September 2017. At this stage it is proposed to report the outcomes of the draft DCP public exhibition process to the Council's Ordinary Meeting scheduled to be held on 26 October 2017. If adopted by the Council at this time, they can then be scheduled to commence concurrently with the proposed dual occupancy LEP amendments. Such amendments are estimated to take approximately 6 weeks to complete following the Council's finalisation resolution.

A copy of the proposed DCP amendments relating to dual occupancy on rural land, exhibited as part of Draft Amendment No 11 to Ballina DCP 2012, is contained within Attachment Three.

The proposed changes to Council's rural area dual occupancy policy position also requires consideration of an appropriate compliance response to unauthorised detached dwellings located in rural areas. Advice received from Council's Compliance Coordinator indicates that the number of outstanding unauthorised rural dwelling complaints requiring investigation has increased from 30 (February 2017) to 47 (September 2017).

It is suggested that an appropriate compliance response, if the LEP amendment is finalized, could be to provide a period of time for the owners of unauthorised dwellings to act to seek development consent (unless there are otherwise compelling reasons for Council to act in relation to an unauthorised dwelling e.g. risk or safety concerns). A period of up to 12 months is considered to be sufficient time in which to undertake an initial investigation as to merits of retaining an existing dwelling and to obtain development consent. A recommendation proposing a period of up to 12 months is incorporated within the recommendations to this report.

### **Sustainability Considerations**

- **Environment**

It is considered that there are no significant environmental issues associated with what is proposed or that require further investigation. Environmental matters would be considered on a case by case basis on merit in relation to proposed dual occupancy development.

- **Social**

The proposal has social implications in so far as it may provide additional housing choice for some rural families. There may also be implications in relation to land use conflict but, similar to environmental issues, these matters would be considered on a case by case basis on merit in relation to proposed dual occupancy development.

- **Economic**

The proposal may have positive economic implications if it results in additional lawful building activity within rural areas. In some circumstances, it may also assist rural families to maintain their properties for primary production purposes.

### Legal / Resource / Financial Implications

There are no significant resourcing or financial implications for Council associated with the proposed LEP amendment. The further processing of the amendment can be accommodated within the work program of the Strategic and Community Facilities Group.

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act 1979*. It is noted here that as part of the Gateway determination, an authorisation for Council to exercise delegation to make the plan has been issued. Having regard for the nature of submissions received in response to the public exhibition of the planning proposal, it is considered that Council should now process the planning proposal to finalisation under delegated authority.

### Consultation

The planning proposal was publically notified from 16 August 2017 until 15 September 2017. Notification included an advertisement in the Ballina Shire Advocate, emails to various rural area hall committees and Ward Committee members, Facebook posts, and posters being displayed at a number of rural area halls and post offices.

A copy of the exhibited planning proposal is contained in Attachment One.

In response to the exhibition 25 submissions were received, of which 19 were in support and the remainder raised various issues and concerns.

Consultation was also undertaken with the NSW Rural Fire Service, the Department of Primary Industry – Agriculture, and the Civil Aviation Safety Authority (CASA) as required by the Gateway determination.

Copies of all submissions received in response to the Government agency consultation and the public exhibition of the planning proposal are contained within Attachment Two.

The table below provides a summary of the issues raised in submissions as well as planning staff comments.

Name	Issues Raised	Staff Comments
1. NSW Rural Fire Service  (No Objection)	Note that the planning proposal will apply to mapped bush fire prone land. Indicate that the NSW RFS has no objection to the planning proposal proceeding, provided that future dual occupancy development proposals comply with the specifications and requirements of Planning for Bush Fire Protection 2006.	Compliance with the requirements of <i>Planning for Bush Fire Protection</i> is a mandatory part of the development assessment process (S79BA EP&A Act) if the development is proposed on bush fire prone land.



## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
2. CASA (No Objection)	Indicate no objection to the proposal. Note the requirements of clause 7.5 of Ballina LEP 2012 which requires consultation at the DA stage.	Noted.
3. Department of Primary Industry – Agriculture  (Raise concerns)	<p>Advise that LEPs in NSW are increasingly permitting housing development in rural zones which has the potential to negatively impact on the productive capacity of agricultural industries and the availability of rural agricultural resources.</p> <p>Inter-generational equity issues should be considered. Property prices can become inflated as a result of second dwellings being constructed thereby preventing other farmers from purchasing the land.</p> <p>Close settlement patterns can make it difficult for new agri-businesses to start or expand.</p> <p>DPI Agriculture is developing guidelines for the design and assessment of detached dual occupancy or secondary dwellings.</p>	<p>DPI Agriculture has raised a number of valid concerns consistent with matters raised in previous report by staff.</p> <p>The development of a guideline document is welcome and may assist in siting new dwellings so as to minimise adverse potential impacts on adjoining rural residential and rural primary production land uses.</p> <p>A copy of the draft guideline document forms Attachment Four to this report.</p>
4. Department of Primary Industry – Fisheries  (Raise concerns)	<p>To lessen potential impacts on fish habitats DPI fisheries recommend the following:</p> <ul style="list-style-type: none"> <li>• New detached secondary dwellings should be sited in a location that does not require a new waterway crossing; and</li> <li>• On lots that meet the minimum lot size requirement for future subdivision, new detached secondary dwellings should be sited such that future alternative public road access is available without requiring a new waterway crossing.</li> </ul>	<p>The more specific recommendations of DPI – Fisheries have also been incorporated within the draft DPI Agriculture Guideline document <i>Detached Dual Occupancy and Secondary Dwellings in rural Zones</i>. Once finalized, a reference to the guideline document within Council's DCP would be appropriate so as to highlight the various issues that require consideration when siting a detached dual occupancy dwelling.</p> <p>A copy of the draft guideline document forms Attachment Four to this report.</p>
5. The Wardell and District Progress Association Inc.  (No objection / support)	Indicate support for the proposal to permit detached dual occupancy development upon land within the RU1 and RU2 rural zones.	Noted.
6. Tintenbar Community Hall Committee  (No objection / support)	Committee strongly supports and applauds the Council's decision to move forward with the adoption of this initiative, which will give consistency with our neighbouring shires that are able to demonstrate the advantages of the policy.	Noted.

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
7. Megan Pickford  (No objection / support)	Owns a rural property in Pimlico and supports the planning proposal. Indicates that there are many land constraints that impact upon rural land and that further restrictions such as maximum offset distances from the first house on the lot may make many existing rural properties unable to implement a secondary dwelling.	A maximum separation distance between dwellings is not proposed within the exhibited planning proposal.
8. Karen and Garry Rodwell  (No objection / support)	Applaud Council for the forward thinking applied in this case to move towards detached dual occupancy on rural land. Advise that they will be seeking authorisation to convert an existing "shed" located on their property.	Communication between Council's Building Services staff and the property owners has established that the "shed" is an unauthorised detached dual occupancy. The owners have indicated that they will be seeking to obtain development consent for the conversion of this building into a detached dual occupancy if the proposed planning amendments are finalised.
9. Laura McKinley  (No objection / support)	Supports the planning proposal. Advised that she believes that Council has suitably addressed infrastructure, access, site specific environmental and other development consent requirements whilst providing additional options for lower income earners, property owners and families including those planning for business succession.	Noted.
10. Richard Bacon, LJ Hooker Ballina  (No objection / support)	Indicates that he would like this plan approved. Advises that this has been a problem that he has never been able to explain to his clients. He has lost some clients going to Lismore and Byron Shire. Advises that he also cannot explain to clients why the second dwelling has to be in close proximity to the main house.	There is no maximum separation distance between dwellings proposed in the exhibited planning proposal.
11. Julianne Reid and Paul Sternberg  (No objection / support)	Rural landowners with a secondary dwelling located approximately 60m from the primary dwelling. Indicate that they have approval for holiday letting but would prefer to rent it out permanently or have family live there in the future. Also means that they could provide affordable housing for their children or others.	The secondary dwelling referenced in the submission was previously approved as <i>tourist and visitor accommodation</i> in 2014. It was also the subject of enforcement action to cease the use of the subject building as an unauthorised "second dwelling".  The property owners could lodge a development application for the use of this building as a detached dual occupancy if the proposed LEP amendments are finalised.
12. Gail Mensinga and Dave Rowe  (No objection / support)	Have adult children that they would like to assist with affordable housing options on their land. Would like their children to reside a reasonable distance from the main home. Are aware that Byron and Lismore have specified 100 metres but request that this restriction not apply in Ballina Shire.	The 100 metre maximum separation distance has not been proposed for application in Ballina Shire.

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
<p>13. Pat Carney</p> <p>(No objection / support)</p>	<p>Indicates support for the planning proposal to permit detached dual occupancy on land zoned RU1 and RU2. Support is based on his view it would provide housing diversity and choice and it would help deliver more affordable housing.</p> <p>Indicates It would also be useful for younger family members to build on farms and support their ageing parents</p>	<p>Noted.</p>
<p>14. Adrian Delman</p> <p>(No objection / support subject to condition)</p>	<p>Indicates general support for the planning proposal. Suggests in respect to the proposed requirement that access from a public road be obtained from the same access point as the existing dwelling that consideration be given to <i>“or where an alternative existing or alternative vehicle access from the property is practical”</i>.</p>	<p>Permitting alternative vehicle access points is problematic in so far as it has the potential to create additional environmental impacts associated with opening up additional driveways to public roads. More importantly, however, in the absence of a requirement for both dwellings to be within 100 metres of each other, as is required by the Byron and Lismore LEPs, it will likely create additional pressure to permit the subdivision of these detached buildings at a future time. For these reasons, permitting alternative access points is not supported.</p>
<p>15. Terry Lavis</p> <p>(Requests additional considerations)</p>	<p>Requests that the following additional conditions for detached dual occupancy be incorporated into the planning proposal:</p> <ul style="list-style-type: none"> <li>• Can only be built in an area of the same land so as not to hinder or obstruct residential amenity or views of other homesteads nearby;</li> <li>• Right of views and continued residential amenity should apply to all neighbouring homesteads;</li> <li>• Fencing and other barriers should also be considered from a view obstruction potential;</li> <li>• Multiple commercial purposes should not be permitted and neighbouring homesteads should not be subject to unacceptable noise and disturbance;</li> <li>• New dwellings should not be placed any closer to other neighbouring homesteads than the applicants own homestead without the consent of the affected owner;</li> <li>• For certain properties along Ross Lane no dual occupancies should be placed closer to the road than the original homestead, and also be insulated against traffic noise.</li> </ul>	<p>The proposed LEP amendment incorporates provisions designed to ensure that adjoining land used for agricultural or rural industry uses are not adversely impacted. What is requested in this submission is consideration of impacts on adjoining dwellings from proposed dwellings.</p> <p>Council could, if it saw merit in the submission, broaden the matters that the Council must be satisfied on to specifically reference adjoining rural residential land uses.</p> <p>It is however considered, having regard to the general matters for consideration prior to a development application being determined under s79C of the <i>Environmental Planning and Assessment Act</i>, that the identified potential impacts relative to the built and natural environment can be adequately considered.</p>

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
<p>16. Janet Lavis  (Objection to DA)</p>	<p>Does not object to the proposed change in definition of dual occupancy to include both attached and detached.</p> <p>Does strenuously object to one of the grounds upon which the Council supports this planning proposal being the removal of an anomaly (attached dual occupancy, tourist and visitor accommodation and studios already permitted with development consent).</p> <p>Claims Council is providing a personal favour to the proponents of DA 2017/408 Byron Bay Planning for a change of definition across the whole shire.</p>	<p>The submission has also been lodged as an objection to DA 2017/408. This DA was lodged on 27 July 2017. It relates to the establishment of an attached dual occupancy, and tourist and visitor accommodation consisting of 3 holiday cabins, and vegetation management works on a site at 64 Ross Lane Kinvara. This DA is still under assessment.</p>
<p>17. Mrs Kath Robb, NSW Farmers  (Raises concerns)</p>	<p>Raises issues of concern. States that current provision for manager / worker cottage already creates a facility for a second dwelling for succession planning and also rental income. Questions whether it means that rural lifestyle blocks on RU1 and RU2 zoned land may build a second dwelling? Is this then a second building entitlement?</p> <p>Concerns relate to potential complaints about routine agricultural activities being received from occupiers of proposed dwellings.</p> <p>Indicates Council may face pressure to allow separate titles for these dwellings placing further pressure on legitimate primary production.</p> <p>Alstonville Plateau and Ballina Shire is one of the most secure areas for sustainable primary production this should not be put under pressure by providing greater population density.</p> <p>Urges Council to reject the proposal.</p> <p>Requests documents to be signed that no ability exists to obtain separate title.</p>	<p>The author raises legitimate concerns relating to the potential impacts on farming as a consequence of permitting additional dwelling types within rural areas. These issues have previously been carefully considered by the Council.</p> <p>The proposal to require a document to be signed acknowledging that no potential for future separate title exists is not considered a solution to the concern that in the longer term additional detached dwellings in rural zones will increase pressure for subdivision.</p> <p>Pressure for subdivision may come from proposals to reduce the minimum lot size and in such cases Council would need to guard against supporting such proposals on an individual basis without considering shire wide implications.</p>

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
<p>18. Dave Rowe</p> <p>(No objection / support)</p>	<p>Fully supports the proposal.</p> <p>Advises that his property has steep terrain and is only suitable for a dual occupancy in two spots 300m and 350m apart.</p> <p>Does not support a 100 metre maximum separation rule as it would be limiting and impractical on many blocks.</p> <p>Advises that the location of the second dwelling should be decided after discussion with Council staff as to the most appropriate location to facilitate disposal of wastes, impacts on neighbours, and riparian vegetation.</p>	<p>The 100 metre maximum separation distance was not incorporated within the exhibited planning proposal due to its arbitrary nature and the fact that suitable sites may, as indicated in this submission, be located at distances greater than 100 metres from the existing dwelling.</p>
<p>19. Daryl and Julie Spencer</p> <p>(No objection / support)</p>	<p>Fully supports proposal.</p> <p>Advises that their daughter and husband have moved back and are unable to afford to rent or purchase within the local area. The proposal may enable them to build their own home on the 50 acre family property.</p>	<p>Noted.</p>
<p>20. Jodie Shelly</p> <p>(No objection / support)</p>	<p>Supports Council allowing a second detached home on rural zoned farmland.</p> <p>Indicates that it may enable one of her sons to build a home on their 80 acre farm.</p>	<p>The proposal only applies to land zoned RU1 or RU2 under the provisions of Ballina LEP 2012. Only part of this owner's property is located within a suitable zone with the remainder being zoned under the provisions of Ballina LEP 1987 (1(b) Rural Secondary Agricultural Land).</p>
<p>21. Peter and Judy Small</p> <p>(No objection / support)</p>	<p>Fully supports planning proposal.</p> <p>Indicates that he has 48 hectares and it would greatly help his family.</p>	<p>Only a small portion of the property owned by the Mr and Mrs Small is zoned RU1 Primary Production. The remainder is zoned under the provisions of Ballina LEP 1987 and is located within a 7(d) Scenic Escarpment zone and a 1(d) Rural (Urban Investigation) zone.</p>
<p>22. TW Dorey &amp; Sons Pty Ltd</p> <p>(No objection / support)</p>	<p>Advise that the Dorey family supports Council's proposal to allow detached dual occupancy development.</p> <p>Advise that the Doreys are a large family-based farming operation with five brothers owning seven farms in Ballina Shire.</p> <p>Indicate that the flexibility of having another dwelling on farm to allow for part or full time retirement for the ageing brothers as well as the next generation would be of great advantage to their succession planning.</p>	<p>Noted.</p>

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
23. Warren Elvery  (Raises concerns)	<p>Provides reasons as to why the proposal should not proceed. He is responsible for over 500 hectares of prime agricultural land and which has over 120 neighbours.</p> <p>Concerned it will make it harder to carry out genuine primary production by allowing more neighbours.</p> <p>Pressures relating to noise, sight and odour impacts will increase as well as more dust from gravel roads.</p> <p>Increased pressure on water supply will result.</p> <p>The road network will require more maintenance, electricity will be difficult to upgrade.</p> <p>An education program is needed to teach people what to expect from farms.</p> <p>Concerned that the proposal is only to allow illegal dwellings to gain approval without meeting necessary criteria.</p> <p>Negatives far outweigh the positives.</p>	<p>The negative implications raised have previously been considered by Councillors.</p> <p>It is relevant to note that attached dual occupancy development is already permitted as are a variety of other accommodation options in RU1 and RU2 zoned areas.</p>

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
<p>24. Richard Lutze on behalf of Building Designers Association of Australia Tweed Richmond Clarence Chapter.</p> <p>(No objection / support subject to conditions)</p>	<p>Supports the planning proposal. Raises an issue relating to the need to use the same vehicle access point from a public road. Requests the incorporation of the words "<i>or where an alternate existing or alternative vehicle access from the property is practical</i>".</p> <p>Suggest that Council's requirement is related to dual occupancy residences that were attached to another dwelling whereas the intent is to be more non prescriptive and meeting the objectives of the DCP. Indicates that some rural properties may already have an alternative access point which may yield a better outcome.</p> <p>Requests that parts of the shire that are covered by Ballina LEP 1987 such as certain rural and environmental zones also be incorporated within the proposal.</p>	<p>Ballina DCP 2012 currently contains a provision relating to attached dual occupancy development which requires that the second dwelling must have the same road access as the first dwelling. This provision is proposed to be incorporated within Ballina LEP 2012. It is noted here that both Lismore and Byron LEPs have had similar provisions incorporated within their LEPs as part of the amendments which permitted detached dual occupancy development.</p> <p>Whilst it may arise on some occasions that rural properties may be accessed from an alternative access road, as opposed to the access road to the main dwelling, this should not be encouraged. Removing the same access road requirement at the same time as not specifying a maximum distance separating the existing and proposed dwelling is considered problematic. To do so would enable both dwellings to function completely independently and could therefore reduce the arguments against future subdivision and thereby facilitate a process which may lead to greater land fragmentation. For these reasons, maintaining the same access road requirement is supported.</p> <p>Areas subject to the 1987 LEP that are not environmental protection zoned at present are subject to a separate process to determine land use zoning. It is recommended that this process is allowed to run its course, particularly as some areas may be zoned RU1 or RU2 based on the State Government criteria for E zones.</p> <p>Environmental protection zone areas were discussed as part of the Councillor workshopping on detached dual occupancies and it was determined that the change to allow detached dual occupancy would be limited to RU1 and RU2 zones. Staff recommended that this remains the case but if the Council is of a mind to consider a change it is recommended that this be considered as a separate process to enable deeper consideration of the relevant issues.</p>

## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

Name	Issues Raised	Staff Comments
25. Richard Lutze on behalf of the Alstonville Wollongbar Chamber of Commerce  (No objection / support subject to conditions)	Indicates general support. Raises an issue relating to the need to use the same vehicle access point from a public road. Request the incorporation of the words “ <i>or where an alternate existing or alternative vehicle access from the property is practical</i> ”. Suggests that Council’s requirement is related to dual occupancy residences that were attached to another dwelling whereas the intent is to be more non prescriptive and meeting the objectives of the DCP. Indicates that some rural properties may already have an alternative access point which may yield a better outcome. Requests that parts of the shire that are covered by Ballina LEP 1987 such as certain rural and environmental zones also be incorporated within the proposal.	See previous comments in relation to the submission from Richard Lutze on behalf of Building Designers Association of Australia Tweed Richmond Clarence Chapter.

### Options

#### ***Option 1: Finalise the Planning Proposal***

This is the recommended option.

Finalisation of the planning proposal, as exhibited for community feedback, would include updating the planning proposal documentation (as contained in Attachment One) to reflect the outcomes of the public exhibition process and Council’s decision in respect to the proposed amendment.

The LEP amendment will enable detached dual occupancy development to be built within the RU1 and RU2 zones under the provisions of Ballina LEP 2012, subject to the grant of development consent. This in turn will provide additional housing choice for those rural residents who are presently limited only to building attached dual occupancy development.

This approach is recommended subject to finalisation of the associated DCP amendments that are currently on public exhibition and confirmation of the Secretary’s agreement with respect to the identified inconsistencies with s117 Directions as noted above.

Under this approach, it is further recommended that Council provides a defined period of time for property owners with unauthorised detached dwellings to act to seek an appropriate development approval (unless there is a compelling reason to continue to pursue compliance action e.g. risk or safety matters).

It is suggested that such an opportunity be subject to an initial inspection determining that there is sufficient merit to warrant further investigation in relation to compliance with the BCA, on-site sewage management, land use buffers, land zoning and other constraints. That is, there needs to be a



## 9.1 Planning Proposal - Rural Area Detached Dual Occupancy

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reasonable level of potential for an unauthorised structure to be able to comply with relevant planning and building requirements.

As indicated previously, it is also recommended that Council exercise the authority granted by the Department of Planning and Environment and proceed to finalise the planning proposal under delegated authority.

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

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

If the Council considers that support for this planning proposal may result in undesirable consequences such as the potential for future fragmentation of rural land, an increase in rural residential land uses, as opposed to agricultural land uses, or an increase in the potential for additional rural land use conflicts then Council may resolve to discontinue this planning proposal.

Having regard to the generally supportive nature of submissions received and the Council's previous detailed assessment of the merits of this planning proposal (Reports to the Council on 23 March 2017 and 22 June 2017 and briefing on 8 March 2016 and 16 May 2017) the discontinuation option is not recommended.

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

The Council may wish to defer the finalisation of the planning proposal should it consider that there are unresolved issues or if further information is required.

Given the nature of the planning proposal and the results of the public exhibition process, this option is not recommended.

## **RECOMMENDATIONS**

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to permit detached dual occupancy development within the RU1 and RU2 zones under the provisions of Ballina LEP 2012 as detailed in Planning Proposal BSCPP 17/008.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 17/008 under delegated authority subject to the following:
  - Finalisation of the associated DCP amendments relating to detached dual occupancy on rural land (zones RU1 and RU2); and
  - Confirmation of the agreement of the Secretary of the Department of Planning and Environment with respect to identified inconsistencies with s117 Ministerial Directions.
3. That the General Manager is authorised to provide a period of up to 12 months during which the owners of properties containing unauthorised detached dwellings may seek to obtain an appropriate development consent, subject to an initial inspection determining that there is sufficient merit to warrant further investigation in relation to compliance with the Building Code of Australia, on-site sewage management, land use buffers, land zoning and other constraints.

**Attachment(s)**

1. Planning Proposal - Rural Area Detached Dual Occupancy
2. Submissions
3. Extract from Draft DCP 2012 Amendment 11 related to Rural Area Dual Occupancies
4. Department of Primary Industries Draft Detached Dual Occupancy Guidelines

## 9.2 Ballina Marina Master Plan

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### 9.2 Ballina Marina Master Plan

**Delivery Program** Strategic Planning

**Objective** To adopt the Ballina Marina Master Plan which will then allow Council to approach the State and Federal Governments to secure funding to advance the plan.

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#### **Background**

Council has been undertaking preparation of a draft master plan as a means of facilitating the future redevelopment of the West Ballina Trawler Harbour site (known as the Ballina Marina Master Plan project). The area being examined under the project is shown in Figure 1.



**Figure 1: Ballina Marina Master Plan Study Area**

The study area is comprised of Crown Land and land owned by the NSW State Government. A part of the site is managed by Council, with the study area also incorporating a Roads and Maritime Services depot and an existing harbour area which is leased by the Crown to the Ballina Fishermen's Cooperative.

Given that Council is not a land owner, the project has principally focused on encouraging the redevelopment of the site as a significant local and regional economic stimulus and employment generating initiative, rather than Council undertaking or partnering in the development of a marina.

The overarching purpose of the Ballina Marina Master Plan project is to prepare a master plan and associated supporting documents to encourage and facilitate redevelopment of the Trawler Harbour site, inclusive of enhanced marine infrastructure.

## 9.2 Ballina Marina Master Plan

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Fundamentally, the project seeks to document a conceptual plan for the provision of a substantial marina and associated land uses in Ballina.

The primary objective of the project is to demonstrate to Government and the private sector that it is both practical and economically feasible to develop a marina on the site. This is considered to be fundamental to attracting public and/or private investment to the site and has meant that a mixture of land uses associated with a marina have been considered as part of the project.

The Council considered draft master planning documentation at its Ordinary Meeting held on 23 February 2017. This followed a Councillor briefing on the project on 7 February 2017. At the Ordinary Meeting, the Council resolved to place the draft master plan and associated information on public exhibition as follows [Minute No: 230217/14]:

1. *That Council endorses the draft Ballina Marina Master Plan (as contained in Attachment 1) for public exhibition for a period of at least 28 days.*
2. *That Council receives a further report concerning the draft master plan following the conclusion of the public exhibition period.*

Subsequently, the draft Ballina Marina Master Plan (including a draft boating demand and feasibility analysis report, design rationale reporting and perspective sketches) was placed on public exhibition for six weeks during March and April 2017. A Councillor briefing was held on 6 June 2017 in relation to the status of the project and the public exhibition and community engagement undertaken.

At its June 2017 Ordinary Meeting, the Council considered the finalisation and adoption of the Ballina Marina Master Plan (as a package of information). The Council resolved as follows [Minute No 220617/24]:

*That the Master Plan be deferred to a Councillor workshop where anyone who made a submission during the consultation period be invited to attend.*

In response to this decision, a public workshop was held on 2 August 2017. The workshop was managed by an external facilitator, with those who had made submissions to the exhibition of the draft master plan invited to attend and make a presentation during the meeting.

A report on the comments and feedback provided by workshop participants is contained in Attachment 1.

The key matters raised are also further addressed below in the Information section of this report.

This report addresses the outcomes of the community engagement recently undertaken and seeks direction with respect to the finalisation of the master planning project.

### Key Issues

- Approach to the establishment of a marina in Ballina
- Community engagement
- Finalisation of the master planning for the West Ballina Trawler Harbour site

### Information

#### Context – Why has Council undertaken this project?

In summary, a marina within the lower reaches of the Richmond River is an item of key infrastructure that the Ballina Shire community has consistently expressed interest in and that successive Councils over an extended period have sought to realise.

More specifically, Ballina Shire Council has had a long standing (and documented) interest in the redevelopment of the Ballina Trawler Harbour into a larger and more diverse marina.

The delivery of the current Ballina Marina Master Plan project was an action in the Council's 2016/17 delivery program and operational plan (PE1.2.1d) and aligns with the outcomes envisaged under the following key documents:

- Ballina Shire Community Strategic Plan (both the 2013-2023 and 2017-2027 versions).
- Delivery Program and Operational Plan (2016/17 and 2017/18).
- Lower Richmond Recreational Boating Study (GHD 2005).
- Ballina Foreshore Master Plan (GHD 2008).
- Ballina Shire Local Growth Management Strategy (BSC 2012).
- Ballina Major Regional Centre Strategy (BSC 2016).

The project is also considered to be generally consistent with the following State Government plans:

- Northern Rivers Regional Action Plan (NSW State Government 2012).
- Far North Coast Regional Strategy (NSW State Government – Department of Planning 2006 – now superseded) and the more recent North Coast Regional Plan 2036 (Department of Planning and Environment 2017).
- Marine-Based Industry Policy – Far North Coast & Mid North Coast NSW (NSW State Government – Department of Planning and Environment 2015).

Further, the promotion of the project outcomes (assuming Council endorses a master plan approach) is identified as an action in Council's current delivery program and operational plan (PE1.3b).

#### What is the intention and scope of the project?

As Ballina Shire Council is not a land owner within the study area, the intention of the master plan project is to prepare a package of material to assist Local, State and Federal Governments as well as private interests to consider the site for potential investment and redevelopment.

Fundamentally, the project is about sparking interest in the site to encourage investment in marine infrastructure in Ballina, noting that the Ballina community is competing for public and private investment to underpin a marina project in a regional area.

## 9.2 Ballina Marina Master Plan

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The inference throughout the project has been that attracting the kind of investment necessary to bring a marina to fruition requires a plan, tangible supporting information and clarity in the policy framework that directs and governs the use of the site and, ultimately, development of a marina.

Making provision for a significantly enhanced marina in the shire is not any easy task and involves advantages and disadvantages relative to a variety of stakeholders.

Whilst the project involves the somewhat traditional approach of preparing a master plan and examining site opportunities and constraints, the intention of the project is to provide information beyond the master plan itself to enable and facilitate delivery of a preferred redevelopment outcome.

The project has involved the examination of a variety of site redevelopment options, an assessment of the feasibility of redevelopment of the site and engagement with Stage Government agencies through a Government Agency Working Group.

The project has now progressed to a point where a master plan package to guide and support the redevelopment of the site has been prepared (Ballina Marina Master Plan Attachment 2).

The master planning for the site has been revised and refined based on the feedback received during the public exhibition phase of the project.

Importantly, the master plan package incorporates the progression of the site planning from initial designs through to the plans recommended as the basis for continuation of the project. This site planning has been responsive to community and stakeholder feedback.

Most notably, the master plan package is comprised of various plans and information as opposed to a single site redevelopment plan. The intention behind this is to provide for an overarching direction but retain flexibility as there are a number of significant steps yet to be taken to bring the redevelopment of the site (and provision for a marina on the land) to fruition.

Importantly, by advancing based on a package of information rather than a single plan, Council keeps options open to both public and private funding of the marina and associated development.

This is significant as there are many more steps to be taken to bring a new and enlarged marina on the Trawler Harbour site to operation (see next steps section below).

Demonstrating an understanding of the practicalities and economic realities of a marina development through realistic higher order site plans, combined with inbuilt flexibility, is considered to be of key importance to improving the chances of progressing the redevelopment over time.

This means setting a vision and overall direction for the site with core parameters but being open to working through details and design through a somewhat iterative process.

## 9.2 Ballina Marina Master Plan

What is the current planning framework applicable to the master plan study area?

Table 1 summarises the key Crown Land and planning considerations currently applicable to the four land parcels that make up the study area. Figure 1 shows zoning information under the Ballina Local Environmental Plan 2012 for each land parcel that has been examined as part of the project.

**Table 1 Ballina Marina Master Plan Study Area Property Information**

Property Description	Land Ownership and Management	Current Key Planning Provisions
Lot 1 DP 791628 Trawler Harbour and surrounding land 6.1ha in area	Crown Land <ul style="list-style-type: none"> <li>Devolved to Council for management (management is subject to ongoing discussion with Crown Lands).</li> <li>Harbour area managed by Fishermen's Co-op under licence from Crown Lands.</li> </ul> Reserve Purpose: Port Facilities and Services and Public Recreation.	IN1 General Industrial Zone. Variety of industrial land uses permitted with development consent. Buildings up to 8.5m in height permitted with consent. Subdivision to create lots with a minimum size of 1000m <sup>2</sup> permitted with consent.
Lot 232 DP 755684 RMS depot site 2ha in area	NSW State Government	RE3 Medium Density Residential Zone. Variety of residential housing types including residential flat buildings permitted with development consent. Buildings up to 8.5m in height permitted with consent. Subdivision to create lots with a minimum size of 800m <sup>2</sup> permitted with consent.
Lot 458 DP 728654 Fishery Creek boat ramp access point 1123m <sup>2</sup> in area	Crown Land Reserve Purpose: Access	RE1 Public Recreation Zone. Buildings up to 8.5m in height permitted with consent. No minimum lot size applicable for subdivision.
Lot 459 DP 728654 Fishery Creek boat ramp, car park and foreshore land 1.05ha in area	Crown Land <ul style="list-style-type: none"> <li>Council appointed as Reserve Trust Manager</li> </ul> Reserve Purpose: Public Recreation.	RE1 Public Recreation Zone. Buildings up to 8.5m in height permitted with consent. No minimum lot size applicable for subdivision.

## 9.2 Ballina Marina Master Plan



**Figure 1 Ballina Marina Master Plan Study Area Land Use Zoning**

The majority of the study area is currently zoned for urban purposes (either industrial or residential) and is capable of subdivision and two storey development under existing planning controls, subject to the grant of development consent. The existing open space area along Fishery Creek is largely reflected in the master plan layouts recommended for endorsement.

To facilitate the outcomes under the recommended master plan package, the Ballina Local Environmental Plan 2012 will require amendment. It may also be necessary to seek approval from the State Government to change or vary from the Reserve Purposes associated with the Crown Land.

### How was the final Ballina Marina Master Plan package compiled?

A final Ballina Marina Master Plan package was recommended to the Council for endorsement at its June 2017 Ordinary Meeting (with the Council resolving to defer its decision on endorsement until after a workshop).

The Direction Forward Section of the Ballina Marina Master Plan contained in Attachment 2 outlines the approach taken to preparing the final master plan documentation, as presented in June 2017. The Ballina Marina Master Plan package includes the following key elements:

- Two master plan design options with associated design rationale.
- Detailed design plans for the Fishery Creek boat ramp area (in relation to the two master plan options).
- Explanation of master plan strategies (key planning and design elements).
- Perspective sketches of marina esplanade and Fishery Creek open space areas.
- Two staging plans based on different funding models (private funding and initial public funding).

With respect to both master planning options, the following provides a summary of the key planning elements:



## 9.2 Ballina Marina Master Plan

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- Provision of an enlarged wet area for boat berths.
- Provision of berths for a mixture of private, commercial and government agency vessels of varying sizes.
- Provision for residential development in the form of apartments in buildings varying between two to three stories and four to five stories (different scenarios are shown under the two master plan options with master plan option 2 showing a reduced scale of residential development).
- Establishment of enhanced public spaces including foreshore open space and a boulevard area around the marina (boat harbour area).
- Provision for commercial outlets, possibly including a seafood outlet.
- Provision for dry storage for boats.
- Provision for a community building.
- Retention of the existing boat ramp (and part of the existing car parking area).
- Establishment of an enhanced site entry as well as car parking.

In considering the plan, it is important to note that the marina development and associated uses utilises the land currently occupied by the Roads and Maritime Services depot. Therefore, the depot would need to be relocated if this master plan is implemented. The impacts and logistics of such relocation require further consideration as the redevelopment of the site is progressed.

With respect to the feasibility analysis undertaken to date, it is evident that there is demand for enhanced marina infrastructure in the shire. Further, the analysis conducted indicates that the publicly exhibited master plan approach (Draft Ballina Marina Master Plan which is now essentially master plan option 1 in the Ballina Marina Master Plan package contained in Attachment 2) can be feasibly achieved in a staged fashion (over up to 20 years) from an economic perspective.

The boating demand and feasibility analysis has been updated having regard for feedback received in response to the public exhibition of the draft master plan. However, much of the analysis remains based on the core assumptions made in relation to the exhibited draft master plan. Also, feasibility assessment has not been extended to the northward expansion option now included within the master plan reporting. A copy of the revised boating demand and feasibility analysis was previously provided to Councillors in association with the report to the June 2017 Ordinary Meeting.

Importantly, the purpose of the feasibility analysis is to illustrate the mix and scale of development that is presently expected to provide for an economically feasible redevelopment outcome. That is, the analysis provides a sense that the project can be feasible and highlights development elements considered necessary to attract private sector interest in the project.

The staging plans shown in the master plan package illustrate the potential sequencing of the marina delivery under private and public funding models. These staging plans relate only to master plan option 1 but the logic of the sequencing can be applied to master plan option 2.

## 9.2 Ballina Marina Master Plan

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However, in considering master plan options 1 and 2, it is important to recognise that implementation is impacted by the funding model applied. In particular, whilst it is likely that option 1 could be implemented under either a private or public funding model, it is considered that option 2 does not incorporate the extent of economic return necessary for full delivery via the private sector at this time. That is, the view of staff is that delivery of option 2 is reliant on substantial up front public funding to support creation of the enlarged marina waterbody and associated public domain works.

### What are the next steps in the process to progress a marina on the site?

The master planning for the Trawler Harbour site is an early step in the delivery of a marina in the shire. The function of a master plan is to set overarching direction and vision for the use of the land so that more detailed assessment, design and planning steps can be undertaken. With direction set under a master plan, certainty increases as further steps in the planning and design process are advanced.

In the case of the Ballina marina Master Plan project, there is a number of key steps necessary to further ready the site for redevelopment. The following is an extract from page 74 of the Ballina Marina Master Plan (Attachment 2) that provides the overall project summary and lists further steps to be undertaken to enable a new marina development on the site.

The preparation of a master plan for the Ballina Marina is intended to set overarching direction for future redevelopment of the West Ballina Trawler Harbour site. It is designed to enable and underpin further more detailed site investigations and planning as well as illustrate fundamental intentions and support decision making.

It is not expected that the site will be developed exactly as shown in the master plan material. Rather, the aim is to enable the establishment of a marina on the land over time, with the development including the core elements identified through the master planning process. That is, based on the master planning process, it is expected that the site will provide for increased boating berths through a larger wet area, a place for the local fishing fleet as well as private recreational boats and other commercially operating vessels, a mixture of commercial development outcomes, public open space including pathways around the marina and the site more generally, residential development, new road infrastructure, space for community uses, dry boat storage and boat launching facilities. It is also envisaged that the site will have connection with the Martin Street Harbour in the Ballina CBD.

The master planning for the site has considered two options for the configuration of an enlarged harbour, the aim being to demonstrate that there is likely to be more than one way to achieve the intended redevelopment outcomes. The precise nature of the redevelopment will continue to be refined over time, noting that any redevelopment of the site for a marina is likely to be a ten to 15 year project from beginning to end. The marina master plan should not be viewed as a static document but more as a starting point or platform to progress the provision of enhanced marina facilities in Ballina and more specifically on the site.

Importantly, the master plan should be viewed as a package of information that sets overarching direction and supports further and more detailed site planning. The key documents in terms of direction are master plan options one or two, being the overarching design plans resulting from the master planning process.

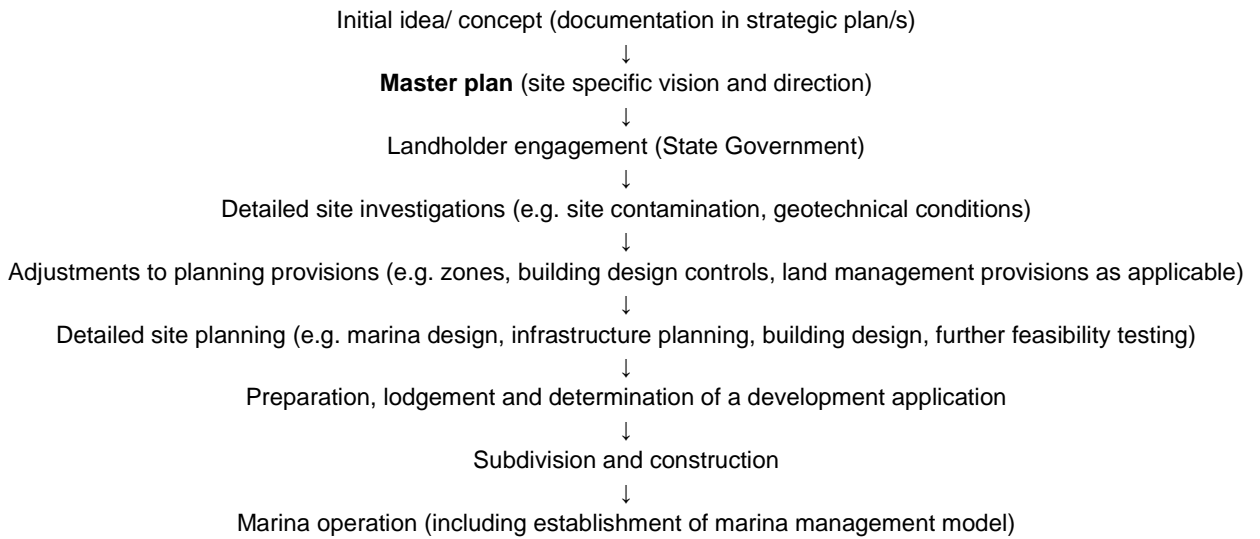
With respect to further advancing the marina project, there are a number of key steps necessary to further ready the site for redevelopment in line with the master plan. These steps include:

- Amending the local environmental plan to enable mixed use development of the site.
- Preparation of site specific development controls to guide the nature and form of development on the land over time.
- Detailed geotechnical and sediment assessments in relation to the enlargement of the harbour area.
- Detailed site contamination assessment and associated remediation works.
- Detailed marina design planning (including berthing infrastructure).
- Detailed design of internal road network and external road configurations to service the redevelopment.
- Further testing and assessment of development feasibility as more detailed information becomes available.
- Analysis of marina management models and options.
- Identification of an appropriate commercial development mix, including tourism and retail elements.
- Engagement with Department of Primary Industries - Lands and Roads and Maritime Services as key government agencies with interests in the land.
- Ongoing stakeholder and community engagement.

## 9.2 Ballina Marina Master Plan

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With respect to the steps necessary to bring a project of this scale from vision and strategy to construction and operation, the following provides an overview of the primary tasks to be completed and includes the master planning phase for context.



A key part of the marina master plan project is giving Government and private interests the confidence and incentive to evaluate risk, spend money and invest time to take the abovementioned steps.

### Who are the stakeholders?

Residents and neighbours adjacent to the Trawler Harbour site are key stakeholders in the marina master plan process. As well, stakeholders include:

- commercial fishing vessel owners and operators,
- the Ballina Fishermen's Co-op and other local seafood outlets,
- Government agencies including Crown Lands, Roads and Maritime Services, Transport for NSW, Department of Premier and Cabinet and Industry NSW,
- marine industry business,
- recreational boaters and fishers,
- marine travellers,
- the tourism sector,
- small business owners,
- the general community,
- investors and tax payers (in terms of funding).

### Summary

The master plan project has now progressed to a point where it can be reasonably concluded. It is recommended that the Council adopts the Ballina Marina Master Plan as a package of information that can provide a basis for further steps in the progress towards redevelopment of the West Ballina Trawler Harbour site for a marina.

Essentially, adopting the marina master plan package achieves three key outcomes, being:

- Demonstration of a clear intent by Council to pursue/promote a marina development on the land.
- Demonstration that the provision of a marina is feasible through a mixed use development outcome.
- Establishment of a platform as the basis for further planning and progress to support implementation over time.

The above outcomes are considered to be critical to attracting investment to the site and ultimately delivering enhanced marina infrastructure on the land through a marina of regional scale.

### Sustainability Considerations

- **Environment**

The site is generally in a degraded state from an environmental perspective. However, environmental attributes of the site have been considered in the master plan design. The conceptual design includes retention of mangrove areas on the western edge of the site as well as embellishment of the foreshore areas for open space purposes.

More broadly, the Council is highly aware of the sensitivities of the Richmond River catchment and, in particular, its estuary. It is acknowledged that a critical issue for consideration by the community and governments would be to ensure that any future redevelopment of the Trawler Harbour is undertaken without impinging on the ecological values of the estuary.

- **Social**

The redevelopment of the site for a marina and associated residential and commercial land uses has the potential to provide for extensive positive housing and service outcomes as well as public domain improvements of social benefit.

However, there may be adverse impacts associated with the redevelopment of the site on nearby residents and existing site users including the RMS in relation to its present depot site.

- **Economic**

The provision of enhanced marine infrastructure and a marina in Ballina has the potential to result in significant immediate and enduring economic benefits associated with boating and maritime activity, as well as tourism more broadly.

It is expected that there would also be positive economic benefits associated with the residential and commercial uses proposed under the plan.

All relevant social, environmental and economic considerations associated with the possible redevelopment of the site would be undertaken in great detail as particular proposals are examined. This analysis is a requirement of prevailing NSW land use planning and natural resource management legislation.

**Legal / Resource / Financial Implications**

There are no significant legal, resource or financial implications associated with the project at this stage based on the recommended approach outlined in this report.

With respect to finance, it is recommended that the Council does not commit further funding to the next steps of the project (beyond promotion) at this time, particularly given the expected costs, and that Council is not a landholder in the study area.

However, if the Council is inclined to directly seek to advance the project through application of local resources, it is suggested that we would benefit from engaging external expertise (specialised in delivering marina projects).

Progression of the next steps identified in the master plan is estimated to have a cost in the order of several hundred thousand dollars.

Adoption of the master plan does improve the status of the project in relation to seeking grant funding.

Grant funds could be sought for key steps in the redevelopment project or more broadly to enable construction of marina elements.

Council involvement in seeking funding for construction works should be carefully considered in the context of financial risk associated with Council undertaking a project of this type, particularly given the current land tenure circumstances.

The master plan project has been supported by grant funding from Transport for NSW.

**Consultation**

In addition to a variety of community engagement initiatives undertaken in relation to the plans and documents referred to in the information section above, the master plan project has also involved project specific engagement with the community and stakeholders.

Dr Liz Baker was initially engaged by Council to discuss ideas and feedback from stakeholders and the community to inform the preparation of the draft master plan (i.e. engagement was undertaken prior to the drafting of the master plan for the site). The engagement occurred between May and July 2016.

This engagement included individual meetings with marine industry stakeholders and an online survey. Council invited feedback through media, letters to stakeholders and surrounding residents and publication and distribution of a project postcard.

A report on the outcomes of the initial community engagement undertaken is contained in Attachment 3.

## 9.2 Ballina Marina Master Plan

In addition to the above, consultants Hill PDA, appointed by Council, engaged with stakeholders in the initial phases of the project when undertaking their feasibility analysis work. This included marine industry stakeholders and real estate agents.

With respect to the public exhibition phase of the project, Council received 52 submissions. Key stakeholders were also invited to meet with staff to discuss the draft master plan. Representatives from the Ballina Fishermen's Cooperative and the Boating Industry Association of Australia provided feedback through this forum.

Dr Liz Baker was engaged to undertake a review of the submissions received in response to the public exhibition. A copy of Dr Baker's report on the exhibition submissions is contained in Attachment 4. The feedback received informed the finalisation of the master plan material with various changes made in response to the information received (see The Direction Forward Section of the Ballina Marina Master Plan in Attachment 2). This material was reported to the Council's June 2017 Ordinary Meeting.

In August 2017, Council held a workshop, inviting those who had made submissions to the public exhibition of the draft plan to speak in relation to the master plan documentation. Dr Baker was engaged to facilitate this meeting and also prepare a report on the feedback provided by participants (Attachment 1). Five people gave a presentation at the workshop, with a further 13 members of the community and stakeholders attending.

Table 2 provides an overview of the key issues arising at the workshop, along with a staff comment relative to the master plan package that has been prepared.

**Table 2 Summary of Key Issues Arising – August 2017 Workshop**

Issue	Staff Comment
<p>Scale of residential development. Redevelopment should not include residential or commercial components.</p>	<p>The exhibited version of the master plan was based on 4-5 storey buildings located on the site of the RMS depot and 2-3 storey residential buildings to the west of the existing harbour. This approach has been retained in master plan option 1.</p> <p>Subsequently, in response to exhibition feedback, an alternative master plan was prepared identifying 2-3 storey buildings in both locations. This approach is contained within master plan option 2.</p> <p>The areas where residential development has been identified in both options align with existing urban zones applicable to the land (being R3 Medium Density Residential and IN1 General Industrial).</p> <p>The current building height standard applicable to the study area is 8.5m meaning that 2 storey buildings are currently permitted on the land. So in the case of the buildings west of the harbour in option 1 and all residential development in option 2, if 2 storey development is favoured, no change to the building height standard would be required.</p> <p>Residential and commercial components have been incorporated into the marina planning to support the economics of the harbour redevelopment. In the case of option 1, the residential development along with commercial development components has been scaled to demonstrate the extent of development necessary for private interests to develop the marina in an economically viable way. It is essentially a plan to show what it would take at present to realise the development by the private sector.</p> <p>Option 2 is more modest in the extent of development, but is considered unlikely to be realised without significant public funding.</p> <p>In either scenario, design standards and other mitigation measures can</p>

## 9.2 Ballina Marina Master Plan

Issue	Staff Comment
	<p>be put in place to seek to minimise impact on adjoining residents (e.g. visual impacts, noise impacts, traffic impacts). It is also important to recognise the existing urban zoning of the subject land.</p> <p>It is also considered that a marina facility of the scale envisaged warrants the inclusion of commercial facilities to support the site as a destination and to enhance economic activity associated with the marina.</p>
<p>Lack of clarity in relation to demand for harbour and marine infrastructure and viability of a marina.</p>	<p>The boating demand and feasibility analysis prepared by Hill PDA, along with the key background documents (and associated community engagement) referred to in the information section show that there is extensive interest in enhanced marina infrastructure in the shire and demand for additional boating berths and supporting infrastructure.</p> <p>Community interest in enhanced marine infrastructure has also been clearly evident through the community engagement undertaken for the marina master plan project.</p> <p>The viability of a marina is influenced by a range of specific factors such as berthing management structure and rental costs as well as up front capital investment. The aim of the master plan project has been to show that the up-front establishment of a marina can be economically feasible rather than address the model of marina management.</p>
<p>Permissibility of residential and commercial development on Crown Land.</p>	<p>Some components of the master plan options may require a change to currently designated reserve purposes under the Crown Lands Act. Such changes can be made with the approval of the Minister for Lands. It is recognised that this may be a step necessary to enable the provision of an enhanced marina and associated development on the Trawler Harbour site.</p> <p>This also relates to the likely need for local planning provisions applying to the land to be changed to enable the development identified in the master plan options.</p>
<p>Master plans should provide more detail in relation to facilities and their location.</p>	<p>The master plan package recognises and makes allowance for key facilities such as toilets, showers, parking, boat storage, pump out services, refuelling, marina management, fish cleaning and the like.</p> <p>The intention of the master plan though is not to prescribe the location of these facilities but rather identify that they should form part of more detailed marina design and site planning moving forward. The types of facilities nominated in the master plan package have been based on the feedback provided through the community engagement phases of the project.</p> <p>The location, extent and functionality of these facilities requires further more detailed consideration as part of future phases to deliver the marina development.</p>
<p>Recognition of the commercial fishing fleet and Fishermen's Cooperative (and associated operational needs).</p>	<p>Both master plan options provide for the presence of commercial fishing vessels and a commercial seafood outlet in the vicinity of a new harbour. Master plan option 2 responds to feedback provided by the Fishermen's Cooperative through location of fishing vessels along the southern side of the harbour with provision for limited access, as well as identification of a seafood outlet alongside the Richmond River.</p> <p>However, regardless of the option or options endorsed, the location and the promotion and operation of the fishing fleet and associated cooperative infrastructure would continue to be refined should the marina redevelopment progress.</p>
<p>Location and scale of dry boat storage.</p>	<p>Dry boat storage facilities on the site require further and more detailed design. The purpose of the master plan options is to show that such facilities are considered to be important as part of the marina development and that such facilities can fit into the design.</p> <p>It is possible through a future detailed design process to relocate or alter the approach to dry boat storage facilities (e.g. locate closer to the harbour area).</p>
<p>Parking for cars and</p>	<p>Similar to the dry boat storage, the purpose of the master plan options</p>

## 9.2 Ballina Marina Master Plan

Issue	Staff Comment
trailers associated with Fishery Creek boat ramp.	is to show that the boat ramp is to be retained and that car/trailer parking will be provided for. The extent of parking is somewhat related to the extent of dry boat storage and its use. As such, parking is a matter that would also be subject to more detailed and refined design work as the redevelopment is progressed.
Ballina bar and dredging.	<p>The project is predicated on the principle that the planning for and ultimate presence of an enhanced marina in Ballina will add significant weight to the social, environmental and economic benefits associated with maintenance of the Ballina bar.</p> <p>That is, the decision on this project has been to not wait for the bar to be resolved, but rather show that Council sees value in enhanced marine infrastructure and to provide more reasons as to why the navigability of the bar is important and worthy of State Government attention and commitment.</p>

Upon review of the feedback received, the staff view remains that the marina master plan package (inclusive of the two master plan options) achieves the objectives of the project and is responsive to the key issues raised through community and stakeholder feedback (bearing in mind that a master plan is designed to set only “the big picture” with further detail to follow).

### Options

Given that the project is underpinned by an extensive set of strategic documents, detailed site assessment and economic evaluation as well as recent community, stakeholder and Government agency engagement, it is recommended that the Council proceed to endorse the Ballina Marina Master Plan (as set out in Attachment 2) as a package of information without further amendment. In considering this, however, it is open to the Council to adopt the master plan package with amendments.

Adopting the master plan package would have the effect of bringing the master planning phase of the project to a conclusion. That is, adoption of the master plan as a package provides for an overarching, but flexible, direction for redevelopment of the site and allows interested parties to consider advancing the next steps in the marina project. Key steps considered to be necessary to advance the project are noted in the Summary and Next Steps Section of the Ballina Marina Master Plan (Attachment 2).

In association with the adoption of the Ballina Marina Master Plan, it is envisaged that the final boating demand and feasibility analysis, as well as a summary document outlining the master planning process and outcomes, would be published in support of the project.

Endorsement of the Ballina Marina Master Plan effectively makes a statement to Government and our shire and regional community that Council is supportive in principle of a mixed use redevelopment of the Trawler Harbour site for the purposes of establishing an enlarged and modern marina on the site. This identifies the key pieces of the planned redevelopment and is a foundation for the undertaking of future steps towards redevelopment of the site. The package of information also recognises that there are two ways to deliver the project, one being through the private sector and the other being with the application of a significant amount of public money.

Alternatively, Council could again defer the adoption of the master plan to seek further information. This approach is not recommended on the basis that



## **9.2 Ballina Marina Master Plan**

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three briefings have been held with Councillors (inclusive of the August 2017 workshop) and there has been extensive community engagement undertaken with the outcomes informing the content of the final plan and associated documentation.

Council may also elect to cease further work on this project. This approach is not recommended given the extent of general support for the project evident from the community engagement undertaken to date, as well as the potential long term local and regional benefits that could be derived from redevelopment of the Trawler Harbour site.

### **RECOMMENDATIONS**

1. That Council endorses the Ballina Marina Master Plan (as contained in Attachment 2) as the basis for planning for the future redevelopment of the Ballina Trawler Harbour site in West Ballina.
2. That Council advise Government agencies, stakeholders and community members who have participated in the master planning process of the Council's decision to endorse the Ballina Marina Master Plan.
3. That Council advise relevant Ministers and local members of parliament of the outcomes of the Ballina Marina Master Plan project.

### **Attachment(s)**

1. Ballina Marina Master Plan - Workshop - Facilitator's Report - August 2017
2. Ballina Marina Master Plan (Final) (Under separate cover)
3. Ballina Marina Master Plan - Community Engagement Stage 1 Report - July 2016
4. Ballina Marina Master Plan - Community Engagement Stage 2 Report - May 2017

## 10.1 Use of Council Seal

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### 10. General Manager's Group Reports

#### 10.1 Use of Council Seal

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#### RECOMMENDATION

That Council affix the Common Seal to the following documents.

US17/21	<p>Creation of an easement for electricity supply within Lot 264 DP 1195313 (Council owned land - Ballina Byron Gateway Airport) for the benefit of Lot 2 SP 34603 (KOTO Investments Pty Ltd) as follows:</p> <ol style="list-style-type: none"><li>1. Creation of Deed of Agreement with Essential Energy for the proposed easement</li><li>2. Creation of easement on Council's certificate of title by registration with NSW LPI</li></ol> <p><b>Explanation</b></p> <p>The existing overhead electricity supply is located on airport land (Lot 264) and services the airport and part of Lot 2 SP 34603 (Lot 2).</p> <p>The proposed development on Lot 2 requires upgrading the electricity supply network with a new pole mounted transformer on the existing pole and an underground service. The proposed easement over Lot 264 is for the underground service connection from this pole to Lot 2. The easement is proposed on Council land which is currently the footpath area adjacent to Lot 2 and the airport access road.</p> <p>The owner of Lot 2 has requested Council agree to the creation of an easement for electricity supply over the proposed upgrade works.</p> <p>The owner of Lot 2 is required to pay for all the electrical upgrade works, compensation for the easement and all costs associated with the easement creation.</p> <p>The creation of the easement for electricity supply is considered acceptable.</p>
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#### Attachment(s)

Nil

## 10.2 Investment Summary - August 2017

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### 10.2 Investment Summary - August 2017

**Delivery Program** Financial Services

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

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#### **Background**

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary Meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of August 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 August was \$79,288,000. This represents an increase of \$5,490,000 from July. Council's investments, as at 31 August, are at an average (weighted) rate of 2.72%, which is 1.02% above the 90 Day Bank Bill Index of 1.70%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 August 2017, was \$1,750,813. This balance is higher than the balance of \$847,094 as at 31 July 2017.

The combined movement of investments and bank balances was an increase of \$6,393,719. Large receipts relating to rates and grant funding late in August resulted in increased cash holdings.

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	13.8%
Water Fund (incl developer contributions)	External	19.9%
Section 94 Developer Contributions	External	8.0%
Bonds and Deposits	External	3.2%
Other External Restrictions	External	4.8%
Carry Forward Works	Internal	3.6%
Bypass Maintenance Funding	Internal	5.0%
Landfill and Resource Management	Internal	3.8%
Employee Leave Entitlements	Internal	3.7%
Quarries	Internal	1.3%
Property Reserves	Internal	5.5%
Plant and Vehicle Replacement	Internal	1.1%
Road Works	Internal	3.3%
Swimming Pools Capital	Internal	6.5%
Indoor Sports Centre	Internal	1.7%
Miscellaneous Internal Reserves	Internal	5.3%
Financial Assistance Grant in Advance	Internal	2.5%
Unrestricted		7.0%
<b>Total</b>		<b>100%</b>

## 10.2 Investment Summary - August 2017

\* Updated to reflect reserves held as at 30 June 2017

### A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
<b>Grandfathered Investments</b>							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.3%	<b>2%</b>
<b>Rated Institutions</b>							
AMP Bank	Yes	A	4,000	4,000	20%	5.0%	
Auswide Bank	No	BBB-	1,000	1,000	1m	1.3%	
Bank Australia	Yes	BBB	3,000	3,000	10%	3.8%	
Bank of Queensland	No	BBB+	6,000	6,000	10%	7.6%	
BankWest	Yes	AA-	2,000	2,000	20%	2.5%	
Bendigo & Adelaide Bank	No	BBB+	5,000	3,000	10%	3.8%	
Beyond Bank	No	BBB	2,000	2,000	10%	2.5%	
Commonwealth Bank of Australia	Yes	AA-	7,010	11,500	20%	14.5%	
Defence Bank Ltd	No	BBB	5,000	5,000	10%	6.3%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.5%	
IMB Bank	No	BBB	1,000	1,000	10%	1.3%	
ING Bank Ltd	Yes	A-	5,000	6,000	10%	7.6%	
Members Equity Bank	No	BBB	4,000	5,000	10%	6.3%	
My State Bank Ltd	No	BBB	3,000	2,000	20%	2.5%	
National Australia Bank	Yes	AA-	8,000	7,000	10%	8.8%	
Newcastle Permanent Bld Society	No	BBB	2,000	2,000	10%	2.5%	
Suncorp-Metway Bank	No	A+	9,000	9,000	20%	11.4%	
Teachers Mutual Bank Limited	No	BBB	1,000	1,000	10%	1.3%	
Westpac Banking Corporation	Yes	AA-	2,000	5,000	10%	6.3%	<b>98%</b>
<b>Unrated ADI's</b>					\$1m	0.0%	<b>0%</b>
<b>Total</b>			<b>73,798</b>	<b>79,288</b>		<b>100%</b>	

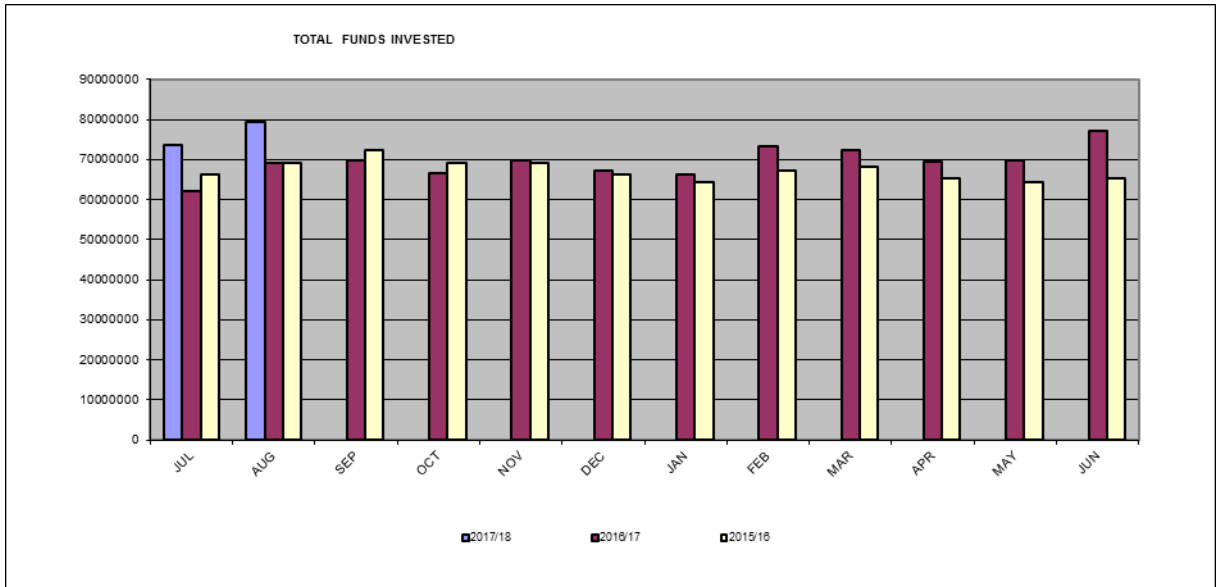
### B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
<b>Fossil Fuel Aligned</b>	32,798 <b>44%</b>	40,288 <b>51%</b>
<b>Non-Fossil Fuel Aligned</b>	41,000 <b>56%</b>	39,000 <b>49%</b>
<b>Not Classified</b>	0 <b>0%</b>	0 <b>0%</b>
<b>Total</b>	73,798 <b>100%</b>	79,288 <b>100%</b>

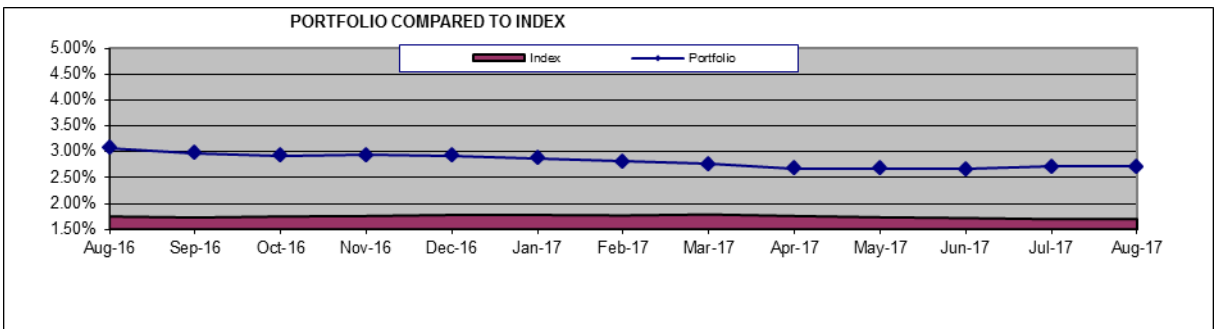
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

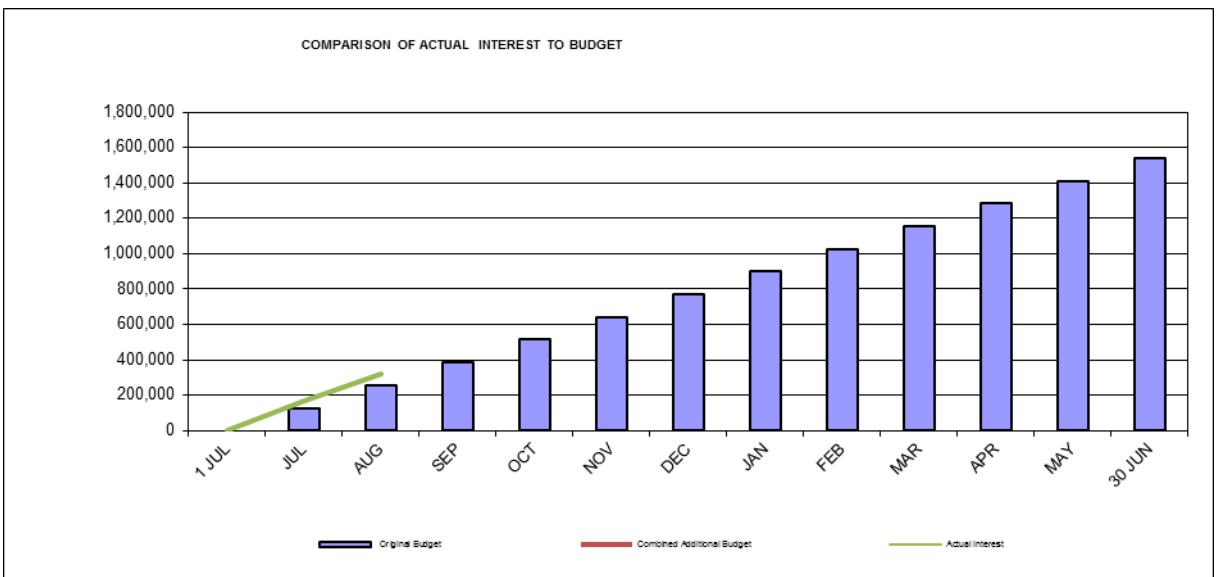
**C. Monthly Comparison of Total Funds Invested**



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



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



## 10.2 Investment Summary - August 2017

### F. Investments held as at 31 August 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	1,391
31/08/17	Commonwealth Bank Of Australia	at call	1.45%	05/09/17	6,500	6,500
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	2,000	2,018
25/02/14	Westpac Banking Corporation	FRN	2.65%	25/02/19	2,000	2,018
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
03/08/17	Westpac Banking Corporation	FRN	2.74%	02/08/22	2,000	2,000
30/08/16	Greater Bank Limited	FRN	3.26%	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
07/11/16	National Australia Bank	TD	2.77%	06/09/17	1,000	1,000
15/11/16	National Australia Bank	TD	2.82%	15/09/17	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
24/02/17	Greater Bank Limited	FRN	3.14%	24/02/20	1,000	1,002
22/03/17	AMP Bank	TD	2.75%	22/11/17	1,000	1,000
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	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	1,000
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
08/08/17	ING Bank Ltd	TD	2.61%	08/08/18	1,000	1,000
08/08/17	Bendigo & Adelaide Bank	TD	2.70%	14/08/18	2,000	2,000
09/08/17	Bendigo & Adelaide Bank	TD	2.70%	22/08/18	1,000	1,000
15/08/17	ING Bank Ltd	TD	2.68%	20/11/18	1,000	1,000
16/08/17	ING Bank Ltd	TD	2.68%	15/11/18	2,000	2,000
16/08/17	Members Equity Bank	TD	2.60%	16/05/18	1,000	1,000
16/08/17	AMP Bank	TD	2.65%	16/08/18	1,000	1,000
17/08/17	ING Bank Ltd	TD	2.70%	20/11/18	1,000	1,000
18/08/17	Westpac Banking Corporation	FRN	2.74%	18/08/22	1,000	1,000
<b>Totals</b>					<b>79,288</b>	<b>78,933</b>
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

**RECOMMENDATION**

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

**Attachment(s)**

Nil

## 10.3 Deputy Mayor - Election

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### 10.3 Deputy Mayor - Election

**Delivery Program**      Communications

**Objective**                      To determine whether Council wishes to appoint a Deputy Mayor and if so, how that position is to be elected.

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#### **Background**

Section 231 of the Local Government Act states:

- (1) *The councillors may elect a person from among their number to be the deputy mayor.*
- (2) *The person may be elected for the mayoral term or a shorter term.*
- (3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

It is normal practice for Ballina Shire Council to elect the Deputy Mayor for one year although Section 231(2) allows the election to be for the entire term of Council.

Nominations for the office of Deputy Mayor are to be submitted in writing to the General Manager, signed by the nominee and at least one other Councillor, prior to this report being discussed at the Ordinary meeting.

Copies of the nomination forms are attached under separate cover.

The Deputy Mayor can be paid an allowance for such time as the Deputy Mayor acts in the office of the Mayor. The Office of Local Government has advised that such an allowance cannot be established on an annual basis and paid as an annual figure. Rather it must reflect actual time acting as the Mayor. Therefore the Deputy Mayor will only receive an allowance if the Mayor is on a period of extended leave and Council has resolved to pay such an allowance.

#### **Key Issues**

- To determine whether Council wishes to appoint a Deputy Mayor
- If yes, Council must determine the method of voting

#### **Information**

An election must be held if more than one nomination is received. Council must then determine whether the voting is to be by preferential ballot (only a



### 10.3 Deputy Mayor - Election

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viable option if three or more candidates nominated), ordinary ballot (secret ballot) or open voting.

Section 251(5) of the Local Government (General) Regulation states as follows:

*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. (Reg 251)*

*Note: Part 11 of this Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.*

The Deputy Mayor position is largely ceremonial with the Deputy Mayor able to fill in for the Mayor at functions where the Mayor is not available.

#### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
Not Applicable

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

There is no legal obligation for Council to elect a Deputy Mayor.

#### **Consultation**

Not applicable.

#### **Options**

The options are to either have, or not have, a Deputy Mayor and the method of voting. The recommendation that follows reflects Council's traditional practices.

#### **RECOMMENDATIONS**

1. That Council elect a Deputy Mayor for the period to September 2018.
2. That the method of voting for the election of Deputy Mayor be by way of ordinary (secret) ballot.
3. That the number of votes at the ballot be revealed at the meeting and that the General Manager, following the meeting, destroy the ballot papers.

**Attachment(s)** Nil

## 10.4 Community Donations

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### 10.4 Community Donations

**Delivery Program**      Communications

**Objective**              To consider donation requests received outside the nominated timeframe.

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#### **Background**

Council approved a number of general and capital assistance donations at the July 2017 Ordinary Meeting for the 2017/18 financial year. Generally if applications are received outside of the standard advertising timeframe, applicants are advised to re-apply in the following financial year. This allows Council to assess all applications at the one time and to achieve a more equitable distribution of funding.

The following requests are considered justifiable in reporting to Council for separate consideration based on the reasons outlined in the report.

#### **Key Issues**

- Community benefit
- Funding available

#### **Information**

##### ***North Coast Academy of Sport (NCAS)***

NCAS is a non-government and not-for-profit organisation that offers a service focusing on alleviating disadvantages faced by junior sub-elite regional athletes in terms of access to quality coaching, competition and sports science as well as assisting in the development of coaches.

NCAS has applied for and been successful in obtaining donations over many years, however they failed to submit their request for 2017/18 until August 2017.

A copy of the request is attached. They are seeking a donation of \$5,000 to help fund the Academy's service to sport in the region.

##### ***Ballina Country Music Club Inc***

The Mayor and staff met with representatives of the Ballina Country Music Club on 5 September 2017.

The Club is seeking financial assistance from Council towards a fundraising day in aid of the Ballina SES.

The Mayor had intended to submit this item as a Mayoral Minute however it has been included in this report to allow it to be considered with the other late requests.

## 10.4 Community Donations

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The details of the request are included as the second attachment.

### ***Country Rugby League***

The Country Rugby League of NSW will be hosting Scotland Braveheart Rugby League from 17 October to 21 October within Ballina Shire and seeks financial assistance from Council towards a Civic Reception on Wednesday 18 October 2017.

A copy of the request is included as the third attachment.

### ***Ballina Tennis Club***

The Club is seeking waiver of the Council water (\$801.12) and wastewater (\$1,992.09) Section 64 developer charges, as well as the Rous Water charges (\$2,344.79) that are applicable to their extension to the Ballina Tennis Clubhouse.

The Club's letter states that the services are already provided to the tennis clubhouse and they should not be charged.

The advice from Council staff is that the development application is described as *'additions to the eastern end of the existing clubhouse building comprising additional amenities'*.

This means that the extension is likely to place an additional burden on those services, and that burden needs to be managed to ensure we maintain appropriate levels of service to the tennis club and all water and wastewater customers.

For the Rous Water contribution, where Council has resolved to donate Ballina Shire Council water and wastewater contributions, the applicant has then been asked to write to Rous Water to seek a similar donation, as any monies collected by Council on behalf of Rous Water, have to be forwarded to Rous Water.

Rous has typically followed the decision made by Council in respect to their contributions.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Donations can provide community benefits to the Ballina Shire.
- **Economic**  
Any donation will represent income foregone by Council or an expense incurred by Council.

## 10.4 Community Donations

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### Legal / Resource / Financial Implications

The remaining amount in the community donations budget for 2017/18 is approximately \$5,000.

### Consultation

The annual donation program is subject to formal public exhibition and Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process.

### Options

The options are to approve or decline the requests.

For the NCAS Council has approved the following funding in recent years

Year	Request	Approved
2016/17	5,000	2,000
2015/16	5,000	2,100
2014/15	5,000	3,000

A donation of \$2,000 to \$2,200 would be consistent with recent years for this organisation.

It is a matter for Councillors to determine what funding it wishes to allocate, if any, to these community groups and the recommendations allow for a determination by Council.

### RECOMMENDATIONS

1. That Council determine the level of support to the North Coast Academy of Sport.
2. That Council determine the level of support to the Ballina Country Music Club Inc.
3. That Council determine the level of support to Country Rugby League of NSW.
4. That Council determine the level of support to the Ballina Tennis Club, with the request for the Rous Water contributions to be forwarded to Rous Water for their determination.

### Attachment(s)

1. Financial Assistance - North Coast Academy of Sport
2. Financial Assistance - Ballina Country Music Club Inc
3. Financial Assistance - Country Rugby League
4. Financial Assistance - Ballina Tennis Club
5. Ballina Tennis Club - Developer Contributions

## 10.5 Hardship Relief - Application

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### 10.5 Hardship Relief - Application

**Delivery Program** Financial Services

**Objective** To provide the open information in relation to Council determining whether it wishes to write off a debt in full, or in part.

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#### **Background**

A request has been received for relief of interest and legal costs accrued on outstanding rates and charges, on financial hardship grounds. This request is considered justifiable in reporting to Council and further information on the person who has incurred the debt is disclosed in the confidential meeting notes.

#### **Key Issues**

- Fair and equitable allocation of Council funds

#### **Information**

The debt under discussion relates to rates and charges, and interest and legal costs accrued in relation to such amounts, and is currently subject to a repayment plan. A repayment plan was provided by Council in August 2016 with a required increase to the weekly repayment to occur from 1 July 2017.

Several requests have been made by the ratepayer in relation to their inability to increase their weekly repayments and, to date, the ratepayer has continued to make payments at the same rate as the previous financial year. These repayments cover current rates and current interest only and do not address the arrears.

The ratepayer has made a request to continue repayments at the same rate as the previous financial year, and for Council to write-off the accrued interest and legal costs, and has made an offer to make a part upfront payment, in an effort to bring their debt to a manageable and repayable level.

Details of the correspondence and information supplied in relation to the financial status of the ratepayer are included in the confidential report later in this agenda.

#### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
The payment of rates and charges can have social impacts on the finances of ratepayers.
- **Economic**  
Any rates and charges written off results in income foregone by Council.

## 10.5 Hardship Relief - Application

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### Legal / Resource / Financial Implications

As at 6 September 2017, there is a debt owed of \$13,313.66 for this property.

This debt is inclusive of interest charges of \$3,076.70 and legal costs incurred by Council of \$1,100.

Continuation of the current repayment plan would be insufficient to repay this debt in a reasonable time frame, with the current repayments covering current rates and current interest charges, but not addressing the arrears.

If Council resolved to pursue recovery, additional costs would be incurred by Council and are unlikely to be recoverable without the eventual sale of the property.

Under Section 567 of the Local Government Act, the Council may write off accrued interest on rates or charges payable by a person if, in its opinion:

- a) The person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or
- b) The person is unable to pay the accrued interest for reasons beyond the person's control, or
- c) Payment of the accrued interest would cause the person hardship.

Council levies tens of millions of dollars in rates and charges each year, with a number of staff actively involved in debt recovery. Council's overall debt outstanding, as at 30 June 2017 is again well under the industry average (latest figure available for the industry is 5.85%) as per the following table, following an increase in this figure when staff resources were redirected to the implementation of a new corporate information system.

End of June	Actual
1998/99	4.44%
1999/00	4.32%
2000/01	3.96%
2001/02	3.15%
2002/03	2.90%
2003/04	2.34%
2004/05	2.64%
2005/06	3.42%
2006/07	2.24%
2007/08	2.28%
2008/09	2.77%
2009/10	5.42%
2010/11	7.40%
2011/12	6.72%
2012/13	6.06%
2013/14	4.78%
2014/15	3.99%
2015/16	3.74%
2016/17	2.96%

## **10.5 Hardship Relief - Application**

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### **Consultation**

There has been ongoing consultation with the ratepayer and previously with Council's debt recovery agency, in an attempt to recover this debt.

### **Options**

This report is for noting only, with the options provided in the confidential report.

### **RECOMMENDATION**

That Council notes the contents of this report in respect to the overview of the outstanding debt for the hardship application.

### **Attachment(s)**

Nil

## 10.6 Resources - Plumbing and Drainage Inspections

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### 10.6 Resources - Plumbing and Drainage Inspections

**Delivery Program** Financial Services

**Objective** To consider the allocation of additional resources for plumbing and drainage inspections.

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#### **Background**

The Plumbing and Drainage Act (2011) and Regulations (2012) enable the local authority in regional areas to determine what inspections they wish to carry out on plumbing and drainage.

Under this legislation there is no requirement to inspect however Council is required to ensure any plumbing and drainage work does not threaten public health or safety.

Prior to 2008 our Building Surveyors / Plumbing and Drainage Inspector carried out water and sewer inspections comprising underslab, internal water supply rough-in and external sewer drainage involving the connection to Council's main. No additional final inspection was carried out.

With the introduction of BASIX (the Building Sustainability Index which aims to deliver equitable, effective water and greenhouse gas reductions across NSW) the inspection regime increased to include final inspections due to the increased complexities of water supply connections, an increased risk of backflow to Council's water supply and the need to inspect rainwater tank installations to ensure there are no unauthorised cross connections.

In 2013 Council adopted its Dual Water Supply Plumbing Policy (copy on our website) in readiness for the commencement of the dual reticulation water supply.

This policy, which was established in consultation with the State Government, states that during plumbing work there will be five separate inspections completed by Council, due to the potential backflow risk associated with the incorrect connection of the recycled water; i.e.

#### *2.5.1 During Plumbing Work*

*Five separate inspections must be completed by Ballina Shire Council's Building Services after each of the stages of work set out below have been completed:*

- 1. Water meter to dwelling*
- 2. Internal underfloor plumbing and drainage prior to cladding*
- 3. Internal rough-in water supply network*
- 4. External plumbing and drainage prior to backfilling*
- 5. Final commissioning and testing*

As the roll-out of the dual reticulation increases there are significant resource pressures being placed on Council's one permanent Plumbing and Drainage Inspector position, as well as the Building Surveyor positions. This report examines the issues associated with this and options to remedy.



### Key Issues

- Public health and safety considerations
- Resource limitations
- Options to address limitations

### Information

Dual reticulation connections form part of all our major new land releases such as the Cumbalum / Ballina Heights, Ferngrove, Riveroaks, Elevation and EPIQ Estates.

Once the Ballina scheme comes on line from 1 October 2017 (Riveroaks / Ferngrove / Ballina Heights etc) we will have approximately 900 connected dual reticulation customers, with the recycled water master plan predicting a total of approximately 7,200 customers over the next 20 years.

The advice from our Building Services Section is that the inspection regime for dual connections has resulted in the average dwelling taking up to one and a half hours longer to inspect, from commencement to completion. The additional hours dedicated to the dual reticulation inspection process equates to approximately 10 to 15 hours per week.

For 2016/17 Council undertook 1,800 plumbing and drainage inspections, with approximately 1,050 of those in dual reticulation precincts. As these precincts are developed and existing properties are connected to the dual reticulation system, the impact on the existing workload is substantial.

Council has been managing this extra workload, to date, through a combination of options;

- a) Initial funding was provided by the Wastewater Program to undertake the significant number of inspections that were needed before the dual reticulation commenced operation. This involved inspections of all houses built in recent years with the dual reticulation connection in place, to ensure that those connections were still compliant prior to commencing operation of the dual reticulation; and
- b) Engagement of casual resources by the Building Services Section to manage the additional workload, with those extra resources being funded by higher than normal building revenues due to the increased level of construction currently taking place.

With the dual reticulation system now operational and the roll-out expanding across the Shire it is evident that an additional Plumbing and Drainage Inspection resource is required, if Council wishes to maintain an adequate plumbing and drainage inspection regime.

Based on the additional workload and recognising that over time dual reticulation connections will form a major part of the plumbing network, it is estimated that an additional two days per week, permanent position, is currently required.

With oncosts, the annual cost of this position is estimated at approximately \$36,000.

## 10.6 Resources - Plumbing and Drainage Inspections

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The options available to Council to finance this position are:

a) Finance the additional resource from the Wastewater Fund

As the demand for the resource has been created by the recycling of wastewater it can be argued that wastewater should pay for this service.

The argument against this is that Council's plumbing and drainage inspections are a General Fund function and all revenues from those inspections are included in the General Fund's operations.

The Building Surveyors and existing Plumbing Inspector are all General Fund costs as part of any plumbing and drainage inspection will also include other activities related to building inspections, house certification etc. Therefore to fully fund this additional resource from Wastewater is not reasonable as the role performs a range of General Fund related functions and current revenues go the General Fund.

b) Increase the plumbing and inspection fees for dual reticulation properties

The current fees for plumbing and drainage inspections are as follows:

<b>Description</b>	<b>Amount (\$)</b>
Minor Plumbing and Drainage Works (one fixture)	205
Value of works - \$0 to \$50,000	330
Value of works - \$50,001 to \$400,000	485
Value of works - \$400,001 to \$1,000,000	785
Exceeding \$1m	Price on application

In recognition that the dual reticulation inspection program is taking an additional 10 to 15 hours per week to operate, Council could introduce two sets of fees; one for standard properties and one for dual reticulation properties.

To recover the cost of the extra inspections the dual reticulation fees would need to be approximately \$300 extra per threshold taking into account extra staff time and associated overheads.

c) Increase the Plumbing and Drainage Fees for all properties.

The existing Plumbing and Drainage Inspection role undertakes a range of functions including:

- determine applications for connections to Council's sewer and stormwater infrastructure
- determine applications for On-site Sewage Management (OSSM) systems related to development applications in non-sewered areas.
- approve consultant hydraulic plans for larger multi-residential, commercial and industrial developments, including stormwater detention devices, BASIX requirements, required fire services and commercial/industrial sewer discharges.
- progress building inspections include internal underslab drainage prior to backfilling, internal water supply rough-in at framing stage prior to

## 10.6 Resources - Plumbing and Drainage Inspections

lining, external sewer and stormwater drainage prior to backfilling and final inspection.

- general plumbing related complaints and advice regarding water supply, sewer and stormwater.

This means that rather than just focusing on the dual reticulation customers it is reasonable for Council to increase all the plumbing and drainage inspection fees to recognise the extra resource will share the workload with the existing inspector position and will undertake a wide range of duties.

The dual reticulation inspection program also has a wider benefit to the community, in minimizing the risk of cross connections and contamination of the Shire's reticulated water supplies in addition to drinking water conservation.

Actual income from plumbing and drainage inspections for the last five years is as follows:

Year	2012/13	2013/14	2014/15	2015/16	2016/17
Income	57,900	123,900	172,900	214,900	227,400

The forecast budget for 2017/18 is \$206,000 with \$50,000 received to date (24% of budget - 22% of the year).

Income for the last five years has averaged \$159,000 from these inspection fees and if Council wishes to fully fund the additional resource, which is estimated at an annual cost of \$36,000, the extra income needed is an increase of 22%.

Based on this methodology the revised fees (rounded) would be:

Description	Amount (\$)
Minor Plumbing and Drainage Works (one fixture)	250
Value of works - \$0 to \$50,000	400
Value of works - \$50,001 to \$400,000	590
Value of works - \$400,001 to \$1,000,000	960
Exceeding \$1m	Price on application

The benefit of this option is that it reduces the impact of the fee increase, albeit all customers pay the increase.

It is also a simpler fee structure to manage as opposed to introducing separate fees dependent on whether the premises has dual reticulation or not.

This is a fairly simplistic calculation for the new fees however it does take into account revenues over a reasonable period of time (five years).

Recognising that 2012/13 was a relatively poor year in respect to income, an average income for the past four years (2013/14 to 2016/17 – excluding 2012/13) is \$185,000, which means Council would need to increase fees by 20% to achieve the same outcome.

## 10.6 Resources - Plumbing and Drainage Inspections

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### d) Decreasing the inspection regime

The other option available to Council is rather than increasing fees and costs we actually decrease the current inspection regime.

This option was canvassed with staff however the consensus is that the general plumbing inspection program has high community and organisational benefits due to the potential public health impacts with cross connections, and the integrity of the entire wastewater treatment scheme.

An additional resource, albeit part-time, also helps to provide back-up to the one additional Plumbing and Drainage Inspection position.

### Sustainability Considerations

- **Environment**  
The dual reticulation and the plumbing inspection process have a strong focus on providing positive environmental outcomes.
- **Social**  
Council needs to be mindful of the social impact of any increases in fees and charges.
- **Economic**  
The plumbing and inspection process and workload are directly connected to the level of economic activity in the Shire.

### Legal / Resource / Financial Implications

Council always needs to be careful in increasing permanent resources for functions such as Building Services, as income figures can vary significantly dependent upon the level of economic activity.

This is demonstrated by the actual results for the program for the last five years.

Year	2012/13	2013/14	2014/15	2015/16	2016/17
Income	571,500	846,400	1,144,000	1,387,400	1,489,500
Expenses	999,000	949,000	926,900	1,070,600	1,026,800
<b>Surplus / (Deficit)</b>	<b>(427,500)</b>	<b>(102,600)</b>	<b>217,100</b>	<b>316,800</b>	<b>462,700</b>

The Section has had a greater focus on true cost recovery in more recent years regarding its contested fees area with the private sector. Some fees however, such as those related to development applications are prescribed by legislation and often do not cover the work involved.

The 2017/18 budget is forecasting income of \$1,290,600, with expenses of \$1,102,500 for a surplus of \$188,100. Almost all of the expenses relate to permanent staff.

Any increase in fixed staff costs increases the risk that in a downturn in the economy, the recurrent General Fund budget could be directly negatively impacted by hundreds of thousands of dollars through a negative turnaround in the operating result for this program.

## 10.6 Resources - Plumbing and Drainage Inspections

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Council tries to manage high levels of economy activity, as is currently occurring, with the use of casual staff, however it is never easy to source those staff as specialist skills are required.

There is also limited private certification occurring in Ballina Shire meaning that the private sector is unable to pick up any significant amount of extra building inspection related work. Private certifiers are also not able to approve plumbing and drainage applications or carry out the necessary inspections.

There is certainly some financial risk in increasing additional permanent resources and Council needs to balance this risk against potential increases in income.

### Consultation

There have been a number of discussions between various sections within Council in respect to the contents of this report.

### Options

The merits of the various options are outlined in the information section of this report.

On balance the preferred option is an increase in the fees for the entire plumbing and inspection regime, which represents option three. This recognises that the extra resource will undertake a wide range of plumbing and drainage inspections and it also helps to minimize the overall increase in fees.

Based on this option the proposed change in the current fees is as follows:

Description	Current (\$)	Proposed (\$)
Minor Plumbing and Drainage Works (one fixture)	205	250
Value of works - \$0 to \$50,000	330	400
Value of works - \$50,001 to \$400,000	485	590
Value of works - \$400,001 to \$1,000,000	785	960
Exceeding \$1m	POA	POA

As Council has already adopted its fees and charges for 2017/18, public notice of the amended fee must be provided before it is implemented, in accordance with Section 610F of the Local Government Act; i.e.

#### *610F PUBLIC NOTICE OF FEES*

*(1) A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.*

*(2) Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft operational plan for the year in which the fee is to be made.*

*(3) However, if, after the date on which the operational plan commences:*

*(a) a new service is provided, or the nature or extent of an existing service is changed, or*

*(b) the regulations in accordance with which the fee is determined are amended,*

*the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.*

*(4) This section does not apply to a fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in an applicable filming protocol.*

## 10.6 Resources - Plumbing and Drainage Inspections

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Essentially Council is changing the nature of service and resources available therefore the new fee will need to be exhibited for a minimum of 28 days prior to implementation.

### RECOMMENDATIONS

1. That Council, based on the contents of this report, approves the appointment of an additional two days permanent resource for plumbing and drainage inspections with that position to be funded from extra income generated by an increase in the relevant fees as follows:

<b>Description</b>	<b>Current (\$)</b>	<b>Proposed (\$)</b>
Minor Plumbing and Drainage Works (one fixture)	205	250
Value of works - \$0 to \$50,000	330	400
Value of works - \$50,001 to \$400,000	485	590
Value of works - \$400,001 to \$1,000,000	785	960
Exceeding \$1m	POA	POA

2. That Council provide a minimum of 28 days public notice prior to the implementation of this revised fee structure.

### Attachment(s)

1. Amended fees and charges

## 10.7 Legal Matters - Update

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### 10.7 Legal Matters - Update

**Delivery Program**      Communications

**Objective**                      To provide an update on legal matters involving Council.

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#### **Background**

At various times Council has received legal update reports providing a summary of legal action involving Council. In recent years there has been limited court action underway and the reports presented to Council have focused more on specific court action to determine Council's preferred course of action.

With Council incurring a significant amount of legal expenditure in 2016/17 and the possibility that there may again be significant expenditure during 2017/18, it is timely for Council to now receive a more general update on the current or recent legal matters involving Council.

#### **Key Issues**

- Type and cost of litigation

#### **Information**

This report provides an opportunity to examine legal matters in which the Council is, or has been, involved, with reference to the current or most recent financial year. The report has been provided in open Council to ensure the information is available to the public. Details of the current case(s) are as follows:

<b>Solicitor for Council</b>	<b>Parties</b>	<b>Description</b>	<b>Cost Estimate</b>	<b>Expenses to Date</b>
Norton Rose Fulbright Australia	Glen Wright and LLCP Pty. Ltd. v Ballina Shire Council	Local Government and miscellaneous appeals and applications - Land and Environment Court - Class 2 Appeal Proceedings	150,000	93,000
<b>Comment</b> A Section 34 Conciliation Conference (Directions hearing) was held on-site between Commissioner Bish, and relevant experts on the 31 August 2017. Subsequently, Council's experts and the defendant's experts held a without prejudice discussion on 5 September 2017 in an endeavour to resolve issues outside of Court. Agreement could not be reached on all issues and accordingly the matter has been set down for a further Directions hearing with Commissioner Bish on 18 September 2017, where it appears likely that the matter will proceed to a Court appeal hearing early in 2018. The main issue is the connection of a functional sewage connection point to all Long and Short term sites.				
Allens Linklaters	Planners North	<i>Land &amp; Environment Court</i> Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2016/184 –	400,000 to 500,000	290,000

## 10.7 Legal Matters - Update

### Comment

The applicant is challenging the Council's deemed refusal of Staged DA 2016/184 (Cumbalum views Estate) for an urban subdivision of the Cumbalum Urban Release Area – Precinct A (CURA A) comprising a total of 642 residential allotments, four future development lots, eight residual rural lots, 18 open space lots, road construction, earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works.

The matter has been through a Section 34 Conciliation Conference, which was terminated by Commissioner Chilcott on 31 August 2017. A further directions hearing is scheduled for 21 September 2017, which is to enable the applicant time to amend its plans and seek leave to rely on those plans. Following the further directions hearing, there should be additional advice to the Council as to the amended proposal and hearing dates for the appeal.

### Legal / Resource / Financial Implications

This section provides an update on the legal costs for recent years.

Description	2015/16	2016/17	2017/18
Seabreeze Caravan Park	38,000	25,000	30,000
Planners North – DA 2016/184 (CURA A)	12,000	273,000	5,000
Complex Field – DA 2015/377 (51 Blue Seas Parade)	27,000	0	0
Quays Drive Advice	0	0	10,000
Lake Ainsworth Advice	0	8,000	0
Retail Fuel – DA 2016/25	0	5,000	0
Rock Wall North Creek	0	6,000	0
Riveroaks / Ferngrove Consent	0	6,000	0
Illegal Clearing	0	9,000	0
Miscellaneous advice	11,000	21,000	3,000
<b>Total Expenditure</b>	<b>88,000</b>	<b>353,000</b>	<b>48,000</b>
<b>Expenditure Budgets</b>	<b>215,000</b>	<b>167,500</b>	<b>175,000</b>
<b>Legal Budget – Surplus / (Overdrawn)</b>	<b>127,000</b>	<b>(185,500)</b>	<b>127,000</b>

Generally where savings are made in the legal budget each year the surplus is transferred to an internal reserve to assist in funding any over-expenditure in future years. As at 30 June 2017 there is an internal legal reserve with a balance of approximately \$80,000.

Fortunately in 2016/17, savings in other areas of Council's operations helped to largely offset the over expenditure in the legal budget for that year, as reported to the August 2017 Ordinary meeting of Council.

Legal expenditure can vary significantly from year to year as shown in the following table.

Year	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Expense	790,000	412,000	710,000	136,000	149,000	265,900	103,000
Recouped	161,000	0	353,000	8,000	19,000	34,000	5,000
<b>Net</b>	<b>629,000</b>	<b>412,000</b>	<b>357,000</b>	<b>128,000</b>	<b>130,000</b>	<b>231,900</b>	<b>98,000</b>

These figures exclude legal costs relating to lease documentation, property matters, contracts etc.

### Consultation

This report is provided in open Council to ensure the community is informed on legal matters involving Council. If Council wishes to discuss any matters of detail for the matters listed it may be necessary to resolve into confidential session to ensure any legal advice is not provided in open session.



## **10.7 Legal Matters - Update**

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### **Options**

This report is provided for information purposes.

### **RECOMMENDATION**

That Council notes the contents of this legal matters update.

### **Attachment(s)**

Nil

## 10.8 Policy (New) - Concealed Water Leaks

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### 10.8 Policy (New) - Concealed Water Leaks

**Delivery Program** Financial Services

**Objective** To develop a Concealed Water Leaks policy that outlines how Council will manage excess water consumption and to ensure that there is consistency in decision making.

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#### Background

Following the rescission of the previous Concealed Water Leaks Policy at the May 2014 Ordinary Council meeting, property owners continued to approach Council for financial relief due to higher than normal water consumption and volumetric wastewater charges due to concealed water leaks.

At the February 2017 Ordinary meeting Council considered a Notice of Motion regarding financial relief to provide a 50% discount against water consumption charges in relation to two concealed water leaks.

Council resolved (230217/5), in part, as follows;

*That Council hold a briefing and receive a report on options to provide some relief for ratepayers from water charges resulting from a concealed water leak in circumstances where:*

- *There was a delay in notifying the property owner of the leak,*
- *The leak is the result of actions by a third party and costs are not recoverable by the property owner,*
- *The imposition of the charge results in exceptional circumstances.*
- *That Council removes the step two charges.*

A report on options to provide financial assistance owners was submitted to the April 2017 Finance Committee meeting. The recommendation from the Finance Committee meeting, which was then adopted at the April 2017 Ordinary meeting, was as follows:

1. *That Council not charge the step two water rate when a concealed water leak is identified subject to satisfactory evidence being provided.*
2. *That Council not charge interest on concealed water leaks for customers entering into a repayment plan.*
3. *That General Manager prepare a policy to manage concealed water leaks.*
4. *That this policy will only apply to residential properties.*
5. *That the policy allow an appropriate timeframe (i.e. two months) for applications to be submitted.*

This report responds to that resolution.

## 10.8 Policy (New) - Concealed Water Leaks

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### Key Issues

- Equity and fairness
- Consistency in decision making

### Information

A draft policy has been prepared based on the April 2017 resolution and a copy of that policy is attached.

The key issues considered in preparing this policy are:

- Not charging the Step 2 water rate – this has been included, subject to satisfactory evidence of the concealed water leak.
- Not charging interest on concealed water leaks for customers entering into a repayment plan – this has been included, although there are some concerns that all other ratepayers who are on payment plans are paying interest. The logic behind not paying interest in the instance of the concealed water leak is that the leak and resultant bill were unforeseen, which helps to justify this policy arrangement.
- Only applies to residential properties – this has been included in the draft policy. Again this is not easy to justify on an equity basis.
- Appropriate timeframe for notification – a period of two months has been included along with clarification as to the dates from which the two months applies.

A large part of the policy has been sourced from the previous Council policy that was rescinded in May 2014.

### Sustainability Considerations

- **Environment**  
Not Applicable

- **Social**  
Providing financial relief by reducing the cost of a concealed leak will assist residential ratepayers who experience financial stress due to this unexpected event. The availability of an interest free period provides further support for the ratepayer.

As mentioned, interest is not waived for other ratepayers experiencing difficulty in paying rates and charges.

An exemption to this rule is approved under the Council Policy titled - Financial Assistance – Rates Annual Charges and Fees, which only applies if rates and charges are deferred against the Estate.

A further exemption is allowed under Section 567 of the Local Government Act, which allows Council to write-off interest in cases of hardship.

- **Economic**

By continuing to charge for water lost in leaks at the Step 1 rate and not waiving charges in full, Council will not have to fund any shortfall in the cost of purchasing bulk water Rous County Council.

Whilst Council will receive less income by waiving the difference between Step 1 and Step 2, the ratepayer will remain responsible for costs of any water lost from private plumbing.

In allowing customers an interest free period of up to one year to pay for the water lost, Council will have a slight loss of interest income and delays in receiving payment.

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

Council will receive less income by reducing the charge to the ratepayer by reducing the charge from Step 2 to Step 1 for water lost in a leak event.

Council also needs to be mindful of the relevant Sections of the Local Government Act and Regulations. For example Section 131 of the Local Government (General) Regulation states as follows:

#### **131 PROCEDURES FOR WRITING OFF RATES AND CHARGES**

*(1) The council must, from time to time, by resolution, fix the amount of rates and charges above which any individual rate or charge may be written off only by resolution of the council.*

*(2) An amount of rates or charges of or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager. In the absence of a resolution under subclause (1), rates and charges can be written off only by resolution of the council.*

*(3) A resolution or order writing off an amount of rates or charges must:*

*(a) specify the name of the person whose debt is being written off, and*

*(b) identify the account concerned, and*

*(c) specify the amount written off,*

*or must refer to a record kept by the council in which those particulars are recorded.*

*(4) An amount of rates or charges can be written off under this clause only:*

*(a) if there is an error in the assessment, or*

*(b) if the amount is not lawfully recoverable, or*

*(c) as a result of a decision of a court, or*

*(d) if the council or the general manager believes on reasonable grounds that an attempt to recover the amount would not be cost effective.*

*(5) The fact that an amount of rates or charges is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the amount.*

*(6) The general manager must advise the council of rates and charges written off by written order of the general manager.*

The existing delegation to the General Manager allows that position to write off rates and charges to a maximum value of \$1,000. All rates and charges written off under delegation are then reported to Council annually, as occurred at the August 2017 Ordinary meeting.

## 10.8 Policy (New) - Concealed Water Leaks

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Council also donates rates and charges to community groups each year, with those instances being a donation, not a write-off.

Section 567 of the Local Government Act is also important; i.e.

### **567 WRITING OFF OF ACCRUED INTEREST**

*The council may write off accrued interest on rates or charges payable by a person if, in its opinion:*

*(a) the person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or*

*(b) the person is unable to pay the accrued interest for reasons beyond the person's control, or*

*(c) payment of the accrued interest would cause the person hardship.*

As per these extracts there are significant limitations in respect to the write-off of Council rates and charges (as against Council fees) due to their statutory nature.

From a staff perspective the draft policy complies with the Local Government Act and Regulations in that it clarifies that Council will only charge Step 1 for concealed water leaks. The argument being that this is not a write-off of the Step 2 charge, but rather a different pricing structure. Council will also not charge interest for repayment plans relating to concealed water leaks.

### **Consultation**

Many customers in receipt of large and unexpected bills following a concealed water leak have enquired about assistance from Council in respect of these charges.

With no policy in place, no assistance was able to be provided.

The policy will be exhibited for public comment, once approved by Council.

### **Options**

Council may adopt or amend the proposed policy. The basis for the policy is outlined in the information section of this report and the recommendation is to adopt the policy, as well as exhibiting the policy for public comment.

This report also provides an opportunity to respond to an email all Councillors received from Mr Rob Evans, dated 21 August 2017, regarding the excess water account for his 89 year old mother, who resides in Alstonville (copy attached).

The resolution to only charge Step 1 has resulted in the original water consumption bill being reduced from \$2,561.02 to \$1,928.14, a reduction of \$632.88.

Mr Evans has been asking for this matter to be reported to Council seeking a write-off of the full amount.

## **10.8 Policy (New) - Concealed Water Leaks**

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The responses from Council have confirmed the reduction in the account, along with the option of no interest being charged on any repayment plan.

Mr Evans has been advised that this matter would not be the subject of a separate report to Council as the elected Council has previously determined the relief it will provide (April 2017 resolution), which is now being substantiated by the attached policy. However Mr Evans was advised that his email would be referenced in this report, which he appreciated. Copies of those emails are also attached.

No additional write-off is recommended as it would be inequitable to other water consumers who are also facing payment difficulties and dependent on the amount, it could breach the Local Government Act.

### **RECOMMENDATIONS**

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

### **Attachment(s)**

1. Policy (new) - Concealed Water Leaks
2. Email from Rob Evans and attachments dated 21 August 2017
3. Response to Rob Evans dated 5 September 2017
4. Response from Rob Evans dated 6 September 2017

## **10.9 Policy (Review) - Code of Meeting Practice**

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### **10.9 Policy (Review) - Code of Meeting Practice**

**Delivery Program**      Communications

**Objective**              To review the Code of Meeting Practice.

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#### **Background**

Council has an adopted practice of reviewing all policies during the term of the elected Council to ensure those policies remain contemporary.

One of the more important policies is the Code of Meeting Practice as it guides the conduct and management of Council meetings.

It has now been 12 months since the Local Government election and this timeframe has allowed the current Council an opportunity to identify any areas where it may like to amend or improve the Code.

A copy of the existing Code, with suggested amendments, is attached to this report.

#### **Key Issues**

- Whether the policy meets the requirements of Councillors

#### **Information**

The majority of the Code of Meeting Practice is a repeat of various sections of the Local Government Act and Local Government (General) Regulations.

Some councils have briefer Codes of Meeting Practice where they focus on the non-legislative matters, whereas others have more extensive Codes that try and cover every scenario.

Councillors may wish to research other websites for examples of other practices followed.

In respect to Council's Code of Meeting Practice there are some discretionary items and the more relevant items, along with a couple of minor changes that could be considered, are as follows:

- Clause 2.1 (2) – Meeting time - Council has met for many years on the fourth Thursday of the month, with meetings starting at 9am. This date and time could be varied if Council feels there is a more suitable time for Councillors and / or the public.
- Clause 3.1 (1) and (2) – Order of business – These clauses include the Australian National Anthem, along with the Acknowledgement of Country. These are discretionary items.

## 10.9 Policy (Review) - Code of Meeting Practice

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- Clause 3.1 (3) 3 (Reference to Schedule 1) – Schedule 1 outlines the Order of Business as determined by Council.
- Clause 3.3 (1) (a) – Councillors must provide any notice of motion to the General Manager at least nine days before the meeting (by the Tuesday before the meeting). The nine days is a period determined by Council.
- Clause 3.3 (5) – Requests for funding of community groups or individuals from Section 356 of the Act cannot be dealt with by notice of motion. It is recommended that this clause be deleted as there may well be instances where this has been breached in notices of motion. The practice in recent years has been more towards advising applicants for donations that the funding is only considered once per annum and typically applicants have had to ask Councillors for support through a notice of motion.

Section 374 (e) of the Local Government Act states that Council decisions are not invalidated by failure to comply with the Code of Meeting Practice, although every effort should be made to always comply.

- Clause 4.1 – Closure of part of meeting – The current clause states that a member of the public has ten minutes to object to part of a meeting being closed. This does not occur as the Mayor asks for any objections and if there are no objections the closure proceeds. The ten minutes should actually read one minute, as a minimum practical time.
- Clause 6.4 (8) – Non-pecuniary conflicts of interest – This clause outlines an exceptional circumstance relating to non-pecuniary conflicts of interest and is considered unnecessary in the Code of Meeting Practice.
- Clause 8.4 (6) – Audio and visual recordings. This clause makes reference to copies of the meetings being available at a fee. These recordings are now available online at no charge and it is recommended that the wording be expanded to confirm that availability. It is also recommended that clauses 8.4 (5) and (6) be expanded to confirm Council will record Extraordinary and Reserve Trust meetings, as actual resolutions are passed at those meetings. This way all meetings where decisions are made will be recorded.
- Clause 8.5 – Deputations – The number of deputations allowed per person has been capped at two items on the agenda. There was previously no limit which occasionally resulted in persons making numerous deputations. The current limit of two works reasonably well.
- Clause 8.6 – Public Question Time – The merits of this item have been often debated as it was originally intended for this item to provide an opportunity for various members of the public to ask questions of the Council. In reality it is only used by a very few people and the public benefit is somewhat debatable. No change is recommended.
- Clause 8.8 – Food and Beverage – There has been debate over the merits of this item, particularly as there are times when members of the gallery and / or Councillors wish to have a cup of coffee / tea etc. Currently that is not allowed under the existing Code.



## **10.9 Policy (Review) - Code of Meeting Practice**

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Importantly any discretionary items in the Code of Meeting Practice cannot override the Local Government Act and Regulations.

The suggest changes are all marked in yellow in the attached document.

The one other matter of interest is the actual format of the reports submitted in the agenda.

Council has a standard template for reports based on having itemised sections such as Background, Key Issues, Information etc. This excludes development assessment reports which are based on the technical assessment process.

There are many formats for council reports and Councillors may wish to recommend changes based on their experience and / or observations of other councils. From a staff perspective the current format works well and no change is recommended.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
The Code of Meeting Practice helps to provide consistency and equity in the management of meetings.
- **Economic**  
Not Applicable

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

To comply with the Local Government Act (the Act) Council must have a Code of Meeting Practice and the Code cannot override any elements of the Act. Councils can add extra requirements, so long as they are not inconsistent with the Act.

### **Consultation**

Sections 361 and 362 of the Local Government Act require changes to the Code of Meeting Practice to be exhibited for at least 28 days, with 42 days to be allowed for submissions.

The changes can then only be adopted following a report submitted to Council on the submissions received. This means if changes are recommended they will need to be exhibited for public comment.

The Office of Local Government has been looking to issue a Model Code of Meeting Practice following consultation with the industry however to date that Model Code has not been produced.

## **10.9 Policy (Review) - Code of Meeting Practice**

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### **Options**

The options depend on any changes Councillors would like to see made to the existing Code. This report provides the opportunity for changes to be discussed.

There are some changes outlined in this report and those changes are identified in yellow in the attached document.

As per Sections 361 to 362 of the Local Government Act these changes will need to be exhibited for public comment.

### **RECOMMENDATION**

That Council approves the exhibition of the amended Code of Meeting Practice as per attachment one to this report.

### **Attachment(s)**

1. Policy (Review) - Code of Meeting Practice

## **11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach**

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### **11. Civil Services Group Reports**

#### **11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach**

**Delivery Program**      Engineering Works

**Objective**              To respond to a Council resolution dealing with public 4WD access at Angels Beach.

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#### **Background**

Over the last 15 months there have been a number of Notices of Motion, reports and Councillor briefing sessions dealing with the current arrangements prohibiting 4WD access at Angels Beach; i.e.

- Notice of Motion 28 July 2016 and 23 June 2017
- Council reports 25 August 2016 and 24 November 2016
- Councillor briefings 15 August 2016 and 18 April 2017

The Council report of 24 November 2016 is included as Attachment One as it contains the background material.

This report follows-up on the last Councillor briefing session held in April 2017, where it was requested staff investigate another option for providing 4WD access to Angels Beach, being off Black Head, at the very southern end of Angels Beach.

#### **Key Issues**

- Reassess 4WD access arrangements for Angels Beach
- Balancing environmental, cultural and social benefits
- Cost and community benefit

#### **Information**

The recurrent reporting of this matter has been triggered by the 2014 consent conditions for stage one of the Coastal Recreational Path (CRP), which was successfully completed (path component) in December 2016.

The current consent for the CRP, and the construction of stage one of the CRP, follows a design and safety requirement at the Angels Beach carpark to provide *"...restricted access onto the CRP for emergency vehicles via a removeable bollard."*

Under this consent condition only emergency and service 4WD vehicles, with appropriate markings and warning lights and/or sirens, would use the Angels Beach carpark and CRP for emergency, public safety and maintenance purposes.

The existing 4WD access at Sharpes Beach carpark remains unaltered, and will continue to provide emergency and public 4WD beach access to Sharpes

## 11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach

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Beach and also Angels Beach via Flat Rock. Due to the completion of stage one of the CRP this arrangement has been in place since December 2016.

Council has responded to the Northern Beaches Users Club (NBUC) where there remains an interest to continue with providing direct public 4WD access at Angels Beach. The NBUC refers to the Coastal Reserve Plan of Management (CRPoM, 2003, 2011) as a document which prescribes the need for maintaining public 4WD access at Angels Beach.

The CRPoM does document the Angels Beach 4WD access as an existing beach access, however it also makes it clear that Council should review the ongoing feasibility of continuing to provide public 4WD access onto its beaches generally, in future consideration of the environment, amenity and safety.

Under the terms of the consent conditions of the CRP, and the management objectives of the CRPoM, the current arrangement at Angels Beach after construction of stage one of the CRP appears to be satisfactory.

Council's insurer also provided independent advice (refer Attachment One) which supported the design intent and which is now the constructed arrangement. However, in response to Council's resolution to maintain public 4WD access at Angels Beach, the insurer did recommend that from an insurance and risk management perspective a separate 4WD should be provided.

The Council report of 24 November 2016 nominated three options for providing a separated 4WD accesses onto Angels Beach. The report comments are reproduced below and also shown as part of Attachment One.

### Option One

*Do not proceed with rehabilitation of the existing gravel road north of the Angels Beach carpark, and use the remnant gravel road for 4WD access up to the Cultural Ways entry node.*

*Clear and construct a new 4WD access track around the entry node to connect to the existing 4WD access track north of the entry node.*

### Option Two

*Clear and construct a new 4WD access track to the beach at the location of the proposed Angels Beach carpark.*

### Option Three

*Clear and construct a new 4WD access track off The Coast Road (with associated roadworks) at the location of the existing 4WD access track.*

### Option Four – Black Head

At the Councillor briefing held April 2017 all of the above history and issues were re-presented and the NBUC also made a deputation.

## **11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach**

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In response, staff were requested to further investigate another option for providing 4WD access to Angels Beach, being off Black Head, at the very southern end of Angels Beach.

Attachment Two shows a plan of the site immediately north of Black Head and also includes recent images of the site.

There is a significant boulder field for approximately 160 metres north of Black Head which needs to be negotiated to offer any direct access onto a clear beach area of Angels Beach. Historical photo images of this area shows this boulder field to be consistently on this part of the beach, and is likely due to the near-shore boulder supply and prevailing conditions.

One approach, with unknown and doubtful permanency, may be to attempt to remove the rocks, and provide a "clear" path for 4WD access. Given there has been no direct monitoring of this section of the beach, the reliability of maintaining a clear path is very much unknown. A high maintenance burden and abandonment may be an outcome should boulder movement be a regular occurrence.

Another approach may be to construct a rock platform on top of the existing boulders along the upper side of the beach, which would be along and in front of the existing dune. This would be costly infrastructure and would also be susceptible to extreme coastal conditions, and therefore carry a possible (irregular) maintenance burden.

The benefit of progressing with this option over the other three options is that vegetation removal is not required, and this aspect of any environmental assessment would not be required.

However, there will still be a requirement to fulfil planning approval requirements, and in particular this site is also located within the East Ballina Aboriginal Place.

Therefore previous reporting about the planning approval process for considering direct public 4WD access onto Angels Beach also applies to this option four.

If option four does not offer an easy solution, and should Council wish to proceed with considering the provision of a direct public 4WD access at Angels Beach, then option four could be included in the next investigation phase to consider these four options in more detail to see which is the most feasible.

All of the above options would require further investigation, concept design and reporting to determine a preferred option. For a preferred option, a new Part 5 approval would be required.

The following scope of work is likely:

- Survey, concept design and preferred option assessment
- Ecological assessment
- Cultural Heritage Assessment including archaeological reporting and consultation with Registered Aboriginal Parties
- Preparation of Review of Environmental Factors

## 11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach

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- Part 5 submission and likely public exhibition
- Aboriginal Heritage Impact Permit due to works being within the declared East Ballina Aboriginal Place

This scope of work is likely to cost in excess of \$50,000 and may take up to two years for completion due to the reporting and consultation, and in particular the mandatory timeframes and consultation with the CRP project's Registered Aboriginal Parties.

The above estimates are indicative only, however the approval process undertaken for the adjustment to the route at the Flat Rock Tent Park, is an example of the cost and time frames that can be involved.

To advance the formal investigation of these options Council will need to confirm a funding allocation.

### **Sustainability Considerations**

- **Environment**  
The CRP project has received project consent with significant consideration for environmental outcomes, and implementation of the Vegetation Management Plan is underway. The Cultural Ways project provides education dealing with traditional environmental matters.
- **Social**  
The CRP project provides excellent recreational, health and wellbeing outcomes. The path connects to existing path networks and coastal destinations. The Cultural Ways project provides important education dealing with the significance of the East Ballina Aboriginal Place.
- **Economic**  
The CRP project provides tourism opportunities as well as providing infrastructure that will encourage people to live and invest in the Shire.

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

Should the decision be made to continue with the status quo and retain general 4WD access then the insurer's advice is to isolate the risk and separate the general 4WD vehicles with provision of a separate road.

These options have been previously reported and expanded in the information section of this report.

At this stage early estimates for a consulting team to proceed with investigations and determination of a preferred option for planning approval documentation would be in excess of \$50,000 with allowance for up to two years to obtain that consent, if it is obtained at all, based on recent project experiences.

Construction costs and environmental offset, or mitigation costs, for the alternative options outlined in this report are yet to be prepared and would form part of the next phase of investigation.

There is no specific funding in the Council budget for this work and if Council wishes to proceed with the investigations a further report will need to be

## **11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach**

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submitted to identify which project(s) will be deferred to allow this work to proceed.

### **Consultation**

The development of the CRP project has seen extensive consultation over many years.

The culmination of this work has seen the lodgement of project planning documentation which has resulted in planning approval with associated consent conditions. The planning assessment process also included further public exhibition and consultation.

The reporting of this project has comprised advertising and media releases, which has also included the full public exhibition of documentation associated with seeking planning consent.

Further preparation of Part 5 documentation for direct public 4WD access purposes would likely comprise public exhibition in line with other Part 5 elements of the project.

### **Options**

The information section of this report presents options for further investigation. This is consistent with previous Council resolutions to investigate alternative 4WD access in order to maintain the status quo prior to the construction of the CRP, with the addition of a fourth option in relation to Black Head.

The options available are:

1. Council to return to its original position, being the approved consent, which only allows access to the path for emergency and maintenance vehicles only. The reasons for the original advice to Council are set out in the first attachment to this report.
2. Council determines it wishes to advance this project further and reallocates \$50,000 from an existing project within the 2017/18 budget. This would require a further report to Council, most likely as part of the September 2017 Quarterly Financial Review to the November 2017 Ordinary meeting, to confirm which projects are deleted from the budget.
3. Council assess the allocation of funding for this project as part of the deliberations for the 2018/19 Operational Plan during March / April 2018. With this option the project is then measured against all the other capital works priorities.

The allocation of Council's scarce financial resources, including the staff time already committed to this project to date, is extremely difficult to justify from a public accountability perspective, when balancing the likely environmental and cultural impacts of any works, against the public benefit of those works.

This is extenuated when there is already an alternative 4WD access at Sharpes Beach, albeit that occasionally this access may not be able to reach Angels Beach due to high tides.

## **11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach**

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The overall level of 4WD use in this locality is also thought to be very limited, with Council being unable to quantify that use.

The elected Council has previously resolved to further advance this project which means that options 2 and 3 have to be the preferred options for the purposes of this report.

On balance option 3 is the preferred option as it then allows Council to assess the public benefit of this project against all the other essential infrastructure works that form part of the annual Operational Plan. That assessment will include the estimated planning costs of approximately \$50,000 along with an estimated construction cost.

### **RECOMMENDATIONS**

1. That Council notes the contents of this report regarding the update on the 4WD access at Angels Beach.
2. That Council assess the allocation of funds towards this project, including the likely capital cost, as part of the preparation of the 2018/19 Operational Plan, when all the various other infrastructure priorities of Council are also examined.

### **Attachment(s)**

1. Report - 24 November 2016
2. Photos



## 11.3 Sharpes Beach - Observation Tower

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### 11.2 Asset Management Plan 2017 - Foreshore Management

**Delivery Program**      Asset Management

**Objective**              To provide Council with information regarding the Draft Foreshore Asset Management Plan 2017 and to seek endorsement for public exhibition.

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#### **Background**

A resolution was passed at the Ordinary Council meeting of 29 July 2016 that Council receive a report that provides a draft strategic asset management program for viewing platforms, walkways and beach access points within the coastal reserve.

#### **Key Issues**

- Levels of service
- Financial sustainability of the foreshore area
- Asset Management

#### **Information**

In response to this motion, a draft Foreshore Asset Management Plan (attachment one) has been prepared. This asset management plan is small compared to others (in terms of total value of the assets) however these assets are unique in terms of the service provided and these assets are considered important as beach access is highly valued and utilized by many residents and is a primary support to our attraction as a tourist location.

The resolution was proposed in response to complaints about the maintenance of some of our viewing platforms. Many of these platforms have been acquired over time from miscellaneous grants and the industry of dune care groups.

In some locations, Council's technical officers were of the opinion further maintenance was no longer appropriate as the structures were beyond their economic life.

Rather than making decisions in response to concerns about an individual structure, the purpose the asset management plan is to consider the strategic direction for Council across the whole of the relevant land areas to ensure there is an assessment of the preferred service needs and the capacity for the community to maintain and renew existing assets, and consider the introduction of new assets where required and prioritized.

The plan represents good governance by the Council as it strategically documents a projection of the financial resources needed to maintain this service in the future.

### 11.3 Sharpes Beach - Observation Tower

The Foreshore Asset Management Plan encompasses the following asset groups located in the foreshore region:

- Viewing Platforms
- Timber Beach walkways & railing
- Beach Showers
- Drinking bubblers
- Boat Ramps with direct beach access
- Picnic facilities with foreshore access
- Tracks

There is currently limited maintenance funding available for the identified foreshore structures and no formal capital replacement budget. A desktop analysis has identified a capital renewal program but this should be verified with a series of formal on-site asset condition inspections. This can be incorporated into later revisions of the plan if this first draft is supported by Council.

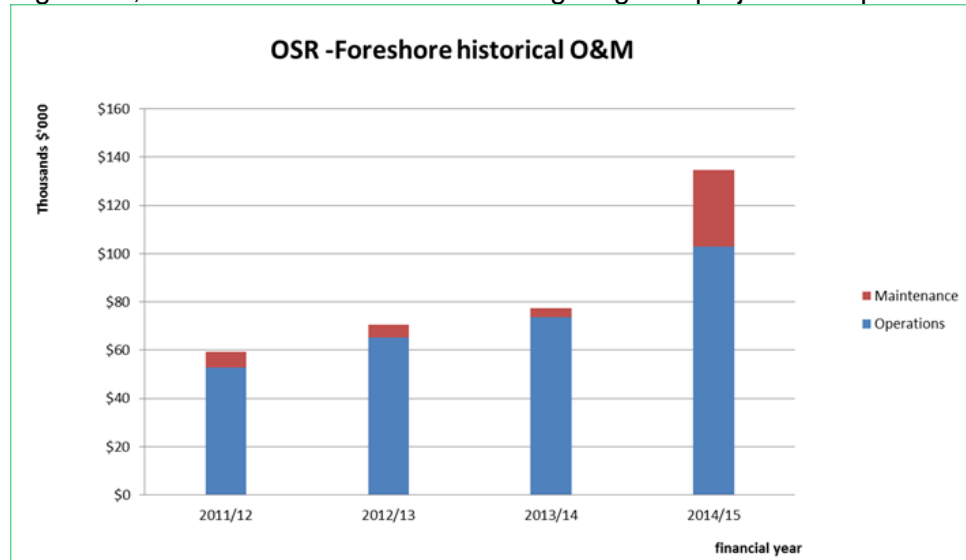
The plan reports there is a need for a moderate increase for operational & maintenance for inspections & general maintenance & capital funding for the existing assets.

This can be further considered at the next update of Council's Long Term Financial Plan (LTFP) as a key purpose of our Asset Management Plans is to inform the LTFP.

The Council has previously adopted a Sharpe's Beach Masterplan, however to date the implementation of the plan has not been funded. This Foreshore Asset Management Plan will be heavily affected by the implementation for this project. As the Masterplan has been adopted by Council, and is however not included in the LTFP, for the purposes of this Asset Management Plan, the implementation is shown at a time beyond the ten year period used by the LTFP.

A copy of the draft Foreshore Asset Management Plan is provided as attachment one.

Figures 1, 2 & 3 summaries historical budgeting and projected requirements



### 11.3 Sharpes Beach - Observation Tower

FIG 1: Historical Budget Expenditure.

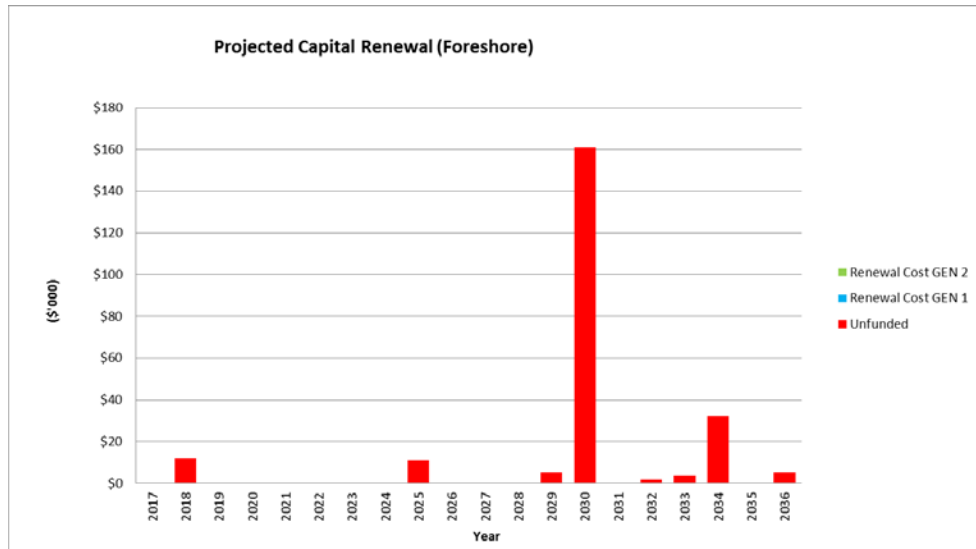


FIG 2: Capital Renewal Projections (excludes concept Sharpes Beach Master Plan)

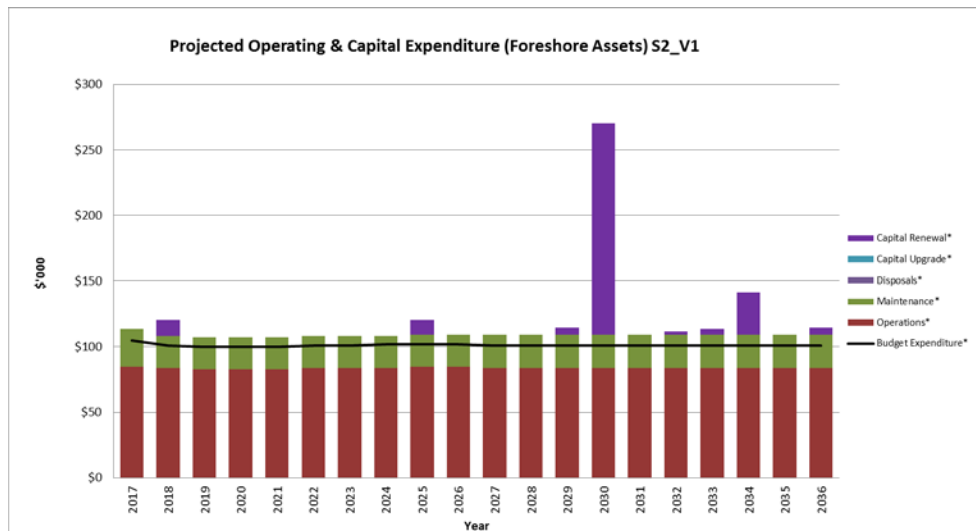


FIG 3: Projected Operational, Maintenance & Capital Renewal Expenditure vs budget

The review undertaken through the process to prepare this plan has not identified any further assets not to be renewed. However, in adopting the plan, the plan is a signal to community groups and residents in respect of the Council's focus for its funds in this area into the future is to maintain our existing assets rather than the creation of additional items.

#### Sustainability Considerations

- Environment**  
 The strategic planning of infrastructure needs assists to mitigate the impacts of the built environment on the natural environment.
- Social**  
 Levels of service are important for community wellbeing and satisfaction.

### 11.3 Sharpes Beach - Observation Tower

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- **Economic**

The foreshore area is a major tourist attraction and hence impacts on the economic development of the community.

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

The Asset Management Plan provides a strategic analysis of the financial sustainability of the options to maintain our foreshore assets, now and into the future.

#### **Consultation**

The recommendation to this report is for the Asset Management Plan is placed on public exhibition.

#### **Options**

##### Option One

The draft Foreshore Asset Management Plan, as attached or amended by Council, is placed on public exhibition.

##### Option Two

Take no further action in respect of the draft plan.

Developing Asset Management Plans for our assets is an important governance responsibility for the Council. For this reason, option one is recommended.

Ideally the contents of this plan could be rolled into one of our existing asset management plans, such as the Open Spaces and Reserves Plan.

However there is still a need to develop a plan for rock revetments, boardwalks and the like and the Open Spaces Plan primarily deals with parks with playgrounds and sporting facilities.

As all of our Asset Management Plans are a continuous process of developing maturity, it is considered beneficial for this plan to be stand alone for the moment while we advance the further work on condition assessment and so forth. Incorporation into other plans can be considered when our plans are at a more sophisticated level.

#### **RECOMMENDATION**

That Council endorses the Draft Foreshore Asset Management Plan for public exhibition, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required and the Plan is adopted by Council.

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

1. Draft Foreshore Asset Management Plan (Under separate cover)

## 11.3 Sharpes Beach - Observation Tower

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### 11.3 Sharpes Beach - Observation Tower

**Delivery Program** Open Spaces and Reserves

**Objective** To report a funding shortfall in respect of the Sharpes Beach Observation Tower.

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#### **Background**

In response to an increase in the number of shark incidences in 2015/16 on the NSW north coast, the NSW Government's Shark Management Strategy includes a targeted north coast response. As part of the shark management strategy the Department of Primary Industries provided an Observation Tower Grant Program for the installation of new observation towers to improve the spotting of sharks and people in distress at popular surf beaches.

Council applied to the grant program for \$65,000 to construct a tower at Sharpes Beach.

Following the adoption of a masterplan for the Sharpes Beach area, a development application for the Sharpes Beach car park upgrade and associated works received consent 31 October 2012. A copy of the master plan is attached.

The construction of a surf lifesaving observation tower is included in the approved works, however no steps to implement the masterplan has occurred as the works have not been included in the Council's long-term financial plan.

Council was successful in being allocated grant funds for the project, however the level of support is \$39,800 (approx). Design and preliminary site investigation for the observation tower have been carried out and cost estimates developed for completion of the project are currently estimated at \$85,000.

Additional funding will be required for the project to be completed to a standard that will ensure its long term sustainability.

The purpose of this report is to consider whether or not to proceed with this project.

#### **Key Issues**

- Funding
- Public Safety
- Infrastructure needs

#### **Information**

The Shark Management Strategy is based on an integrated approach using a number of techniques and technologies, including improving observation of patrolled areas.

### 11.3 Sharpes Beach - Observation Tower

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There have been numerous regular sightings and catch and release events of target shark species directly off Sharpes Beach since the Shark Management Strategy mitigation measures have been in place.

Although Sharpes beach is a popular swimming and surfing beach with a growing local population, there is no permanent surf lifesaving facilities at the beach.

The beach is patrolled by Council lifeguards during the school holiday period.

On each of these occasions it is a requirement for the Council to provide some temporary amenities for the use of the lifeguard staff. The construction of an observation tower at Sharpes Beach will greatly improve community safety at this location.

Numerous design options for the observation tower were investigated with consideration of price, design and sustainability. The design chosen for the observation tower is similar to those successfully installed and maintained on many beaches up and down the East coast of Australia and generally in accordance with the concept design for the observation tower on the approved plans for DA 2012/32.

It is a steel framed structure, engineered to withstand the harsh and dynamic conditions that the location on the beach will require. The design also needed to have minimal visual impact on the scenic amenity of the location. The design chosen is also the most cost efficient of the designs investigated.

#### **Sustainability Considerations**

- **Environment**

The location and design of the tower have been considered against any potential environmental impacts.

The location will utilise existing degraded carpark area and provide overall environmental benefit through improved drainage and stability measures.

The design and colour scheme of the tower have been chosen to minimize visual impacts to the community and scenic environmental amenity of the location.

- **Social**

The potential social impacts of the design and location have been considered. The observation tower will provide improved community safety to the location and facilities for the surf lifesaving volunteers that provide a valuable community service. The observation tower is the first element of the upgrade plan for the site that will provide additional community benefits through ongoing upgrade of community facilities at the site.

### **11.3 Sharpes Beach - Observation Tower**

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The tower can potentially be utilized by other community groups outside of the surf lifesaving season to provide additional shark observation services.

- **Economic**

The potential economic impacts of the observation tower have been considered. The design and materials for the observation tower have been chosen to minimize both the costs of construction and ongoing maintenance of the structure.

Additional economic benefit can be gained by the region through increased visitation to our beaches through improved perception of safety due to the installation of suitable infrastructure such as permanent observation towers and surf lifesaving facilities.

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

Current funding has been acquired through the Observation Tower Grant Program from the Department of Primary Industries to the value of \$39,783.18. The grant funding provided is required to be spent during 2017. Inability to complete the project that the funding was provided for may lead to it being withdrawn.

It is currently estimated that an additional \$45,000 will be required to complete the project to the standard specified. The project is not currently identified within the Long Term Financial Plan.

The development application DA 2012/32 will lapse on the 31 October 2017 if works have not commenced. Commencing works for the tower prior to this date will allow additional time to establish funding for completion of the remaining works approved under the consent; providing improved parking and facilities for the community. Relatively minor works (eg geotech, survey or footing installation) can be undertaken to ensure the DA is enacted and this is being managed by the Open Spaces Section.

#### **Consultation**

Public consultation and advertising was undertaken in accordance with the development application process. The concept design for the tower was modified through this process to the design specification currently being engineered for construction.

Additional consultation on the design and support for the installation of the observation tower has been provided by Australian Lifeguard Services.

### Options

1. Identify an additional funding source to allow completion of the observation tower in accordance with the development consent and DPI grant conditions.

At this point staff have not been able to identify a funding source from projected savings or a reasonable option in respect of deferring other planned capital works within the Open Spaces and Reserves Program area.

2. Determine not to proceed with the works and return unexpended funds to the DPI.

This option is not recommended as this beach is the only beach in the Shire that operates a patrolled swimming area which does not have access to lifeguard observation and amenity facilities. The beach is becoming more popular and has a high visitation notwithstanding there is no club presence at the beach.

3. Request further support from the NSW Government towards the project.

This option is recommended on the basis that the Government may be in a position to assist further if requested, and if the request is declined, Council can reconsider options one and two. Due to the tight timeframe for the enactment of DA 2012/32 the recommendation also makes mention that minor works will be undertaken to ensure that consent remains valid. These works can be funded from within existing operating budgets.

### RECOMMENDATIONS

1. That Council request further financial assistance from the NSW Government towards the cost to construct the proposed Sharpes Beach Observation Tower.
2. That the response from the NSW Government in respect of point one above be reported to Council.
3. That the General Manager undertake any relatively minor works necessary to ensure that the development consent (DA 2012/32) remains valid.

### Attachment(s)

1. Sharpes Beach Master Plan - July 2011



**11.4 Kings Court Shade Structure - Funding**

**Delivery Program** Water and Wastewater

**Objective** To review funding requirements for the installation of a shade structure at the Kings Court playground

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**Background**

Council resolved at the Council meeting of 27 April 2017:

1. That Council allocates \$10,500 for the provision of one BBQ at the Kings Court Reserve and sufficient funds to install covered table and seating.
2. That Council allocates \$50,000 for the provision of a shade structure at the Kings Court Reserve.
3. That the source of funds for the works in points one and two is the Wastewater Reserve.

The budget allocated for these works is not sufficient and this report reviews the options available to Council.

**Key Issues**

- Funding amount
- Provision of shade
- Site constraints

**Information**

A new BBQ has been installed in accordance with point one of the resolution. Point 1 of the resolution also requested the installation of covered table and seating, but does not allocate a specific budget value.

There are two existing picnic table settings in the park. Basic shelter kits to provide cover for these settings start at around \$6,500 to purchase and cost approximately \$5,000 to install. This means installation of two shelters over the existing table settings is estimated to require funding of \$25,000 to be purchased and installed.

Quotes and designs for shade structures over the playground have been received to address point two. The site is challenging due to wind, slope, height of equipment, location of existing infrastructure and underground services.

Due to these constraints it is preferred for the shade structure to be built of solid materials rather than shade sails, however the estimated cost of a shade structure with a solid roof based on the quotes received is in excess of \$100,000.

## 11.5 Pedestrian Access and Mobility Plan 2018-2027

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Due to the costs of providing a hard roof shade structure, quotes for shade sail designs for the site were requested. The estimated costs from recommended contractors are in the range of \$61,000 to \$65,500.

These quotes do not include removal of spoil or site rectification.

The additional works and contingency are estimated to cost \$15,000 to \$20,000 extra, carried out either by Council or under an external contract.

These costs exceed the \$50,000 budget allocated by Council.

Further investigation of shade structure options was discussed with various shade suppliers given consideration for the allocated budget.

A reduced shade sail design that covers the northern section of the playground, avoiding the height requirement to cover the space net and avoiding requirement for installation of posts down the slope or within the retained gardens has been investigated. Estimates for this reduced shade sail design are estimated at \$48,000.

While a suitable design for a shade sail can be procured, staff remain concerned about this option for this site due to the risk of damage from high winds and vandalism. Manufacturer warranties do not include damage from high winds.

Giving consideration to the available budget, site constraints and impacts to scenic amenity of the park and surrounding residences; an alternative approach for the effective and efficient provision of shade to this site is to install shelters over the existing picnic table settings and establishment of suitable advanced shade trees to the north of the playground.

This strategy will provide immediate shade in the park through both the shelters and the trees, with minimal impact to the scenic amenity of the adjacent residences.

As the trees establish they will provide increased shade cover to the park and playground area with minor soft filtering of the existing scenic views.

### **Sustainability Considerations**

- **Environment**

The sustainability of installing a shade structure has taken environmental impacts into consideration. The installation of a structure will have no immediate impacts on significant ecological features.

The design for the structure has to take the environmental influences on the location into consideration regarding susceptibility to exposure from wind and weather.

The impacts to the scenic amenity and views and vistas visible from the park and surrounding residences have also been considered.

- **Social**

The installation of a shade structure has considered the potential social implications. The key driver for installation of a shade structure over the play area is to improve the usability of the playground year round, providing protection from the sun.

The installation of shade structures and BBQ facilities should increase use of the site by local and visiting members of the public. The design of a structure also has to consider public safety, sustainable management and prevention of vandalism.

- **Economic**

Investigation into the provision of a shade structure has considered both the economic cost of installing a shade structure, the potential impacts to surrounding property values due to loss of views and the sustainability of maintenance and management.

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

The estimated costs of providing the infrastructure intended by the resolution are in excess of the proposed budget which will be sourced from the internal wastewater reserves. Installation of the type of shade structure intended by the resolution will also be costly to maintain in this location due to the environmental influences that act on the site and requirements to ensure that the structure is maintained to a standard that ensures public safety.

In setting the budget for this project, the Council needs to find the appropriate balance in respect of the use of wastewater funds. The reason for this project was to support the installation of the new water reservoir by mitigating the visual impacts of the reservoir and this has been achieved by the work done to date.

Arguably further embellishment represents an enhancement of the open space asset rather than a requirement of the original project.

The General Fund will need to provide for the ongoing maintenance of this asset.

### **Consultation**

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

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

The previous consultation did not include discussion in respect of a shade structure for the playground.

Consultation with residents potentially impacted by installation of a shade structure will need to be undertaken once a suitable design for a shade structure in this location has been selected.

Installation of a shade structure over the playground will possibly be considered by some residents to negatively impact the scenic views, especially from those living adjacent to the park.

### Options

1. That Council allocates funding to install two shelters over the existing picnic table settings in the park and provide additional advanced shade tree planting as a low cost shade option to the north of the playground.

That the cost of these works be funded from the \$50,000 previously allocated from the wastewater reserve.

2. That Council allocates funding to the value of \$75,000 from the wastewater reserve for installation of a full cover shade sail structure over the playground.
3. That Council allocates funding to the value of \$65,000 from the wastewater reserve for installation of a half cover shade sail structure over the playground.
4. That Council allocates funding to the value of \$106,500 from the wastewater reserve for installation of a shade structure with a solid roof over the playground.

If the Council selects either Options 2, 3 or 4, Council should also determine whether or not it prefers to also proceed with shelters on the picnic settings as per point one in the existing resolution. This would add a further requirement of \$25,000 to the budget for this project.

Council has recently set a clear direction in respect of its desire to increase the shade provided at all of its playgrounds.

It is also the case that it is necessary to be mindful of the funds required for the construction and importantly the ongoing cost implications to maintain and then later renew new assets.

Having regard to achieving the best overall balance between providing additional shade and managing cost in accordance with the preferred budget and future maintenance liabilities, option one is recommended.

### RECOMMENDATIONS

1. That due to the site constraints and costs mentioned in this report, Council approves the scope of work for the provision of shade at Kings Court Reserve to now be the installation of two shelters over the existing picnic table settings in the park and additional advanced shade tree planting to the north of the playground in lieu of providing a shade structure over the playground.
2. The cost of these works is to be funded from the \$50,000 previously allocated from the wastewater reserve.

### Attachment(s)

Nil

## **11.5 Pedestrian Access and Mobility Plan 2018-2027**

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### **11.5 Pedestrian Access and Mobility Plan 2018-2027**

**Delivery Program**      Asset Management

**Objective**              To seek endorsement for the public exhibition of the draft Pedestrian Access and Mobility Plan.

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#### **Background**

The Pedestrian Access and Mobility Plan (PAMP) is a framework developed by the Roads and Maritime Service (RMS) for councils which provides a comprehensive and integrated process for developing coordinated, convenient and safe pedestrian networks within Ballina Shire's towns and villages.

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

Development of the PAMP is also a commitment of Council's Road Safety Strategy (2014/15-2023/24), and is needed in order to improve path connectivity within our Shire, and improving the safety of vulnerable road users. The PAMP also relates with the recently adopted Ballina Shire Bike Plan to ensure a well-planned pedestrian network.

The PAMP can also contribute to the implementation of Council's Disability Inclusion Action Plan (2017-2021), through the construction and repair of a network of Continuous Accessible Paths of Travel, towards the objective of universal access.

Council's first PAMP was adopted in 2004. In 2010 a new PAMP was developed and adopted. In 2013, the PAMP was reviewed, and a revised priority delivery program was adopted.

As the current PAMP was adopted four years ago, it was considered appropriate to develop an updated PAMP report and priority delivery program. The new PAMP takes into account existing planned works, new community submissions and allows for potential changes in priorities.

The PAMP coordinates investment in pedestrian routes, and, if adopted, will assist Council in securing grant funding for specific works in the Plan.

The process to prepare the updated PAMP has advanced to the point where a draft document is now presented to Council for consideration for public exhibition.

#### **Key Issues**

- Enhancing pedestrian access, mobility and safety
- Determining the preferred priority for the allocation of Council's resources

### Information

A copy of the draft PAMP, inclusive of a draft program for the 2018/19 – 2026/27 Delivery Program, is included as an attachment to this report.

The PAMP is a framework for pedestrian infrastructure. 'Pedestrians' are taken to include:

- Any person walking – all ages, ably or with an impairment,
- A person pushing a pram, shopping trolley or wheelchair,
- A person pushing a wheelchair
- A person using a motorized wheelchair or mobility scooter
- A person using a wheeled recreational device or wheeled toy (such as a skateboard, roller-skates and roller blades) and
- A child under 12 years of age riding a bicycle, and an adult accompanying a rider under 12 years of age.

The PAMP focuses on improving connections between major pedestrian attractors (built or natural destination that attracts people) and generators (residential areas or transport interchanges from where significant concentrations of people commence pedestrian travel).

Town and village centres within Ballina Shire that have high levels of pedestrian activity were considered in the PAMP. These include:

- Alstonville
- East Ballina
- Ballina Island
- North Ballina
- West Ballina
- Ballina Heights/ Cumbalum
- Skennars Head
- Lennox Head, South
- Lennox Head, North
- Tintenbar and Newrybar
- Wardell
- Wollongbar

The PAMP was prepared using the core methodology recommended by the RMS PAMP Guidelines (RTA 2002). This included:

- Monitoring and development of PAMP objectives
- Research and review of relevant existing legislation and policy
- Review of pedestrian research
- Collection and analysis of pedestrian crash data
- Community consultation
- Field audit of community proposals for pedestrian infrastructure
- Prioritisation of works.

## 11.5 Pedestrian Access and Mobility Plan 2018-2027

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Approximately 280 community submissions were received during the public consultation phase. Suggestions focused on paths between businesses and residential areas (such as access to schools, retirement and aged care residences, and shopping centres), as well as community facilities and recreational areas (such as cemeteries, scenic walks, beaches and sports facilities).

Major issues for the community were safety, access and improving the walkability of Ballina Shire.

Proposed PAMP works are prioritized because of budget and resource constraints. All community submissions were evaluated to identify high, medium and low priority pedestrian routes. All submissions were rated using the following criteria:

- Linkages to pedestrian crash sites
- Analysis of Facility User Groups (including vulnerable pedestrian groups)
- Feasibility and
- The RMS weighted scoring criteria system.

Not all proposals were able to be included in the PAMP.

- Approximately half of all community submissions (140) were duplicates of other suggestions.
- Sixteen submissions corresponded to existing and ongoing PAMP works.
- Some submissions pertained to privately owned land, or were not requests for infrastructure treatments.
- Some generated a low priority score according to the RMS weighting criteria, were not technically feasible, or were requests for enhancements, extensions or additions to facilities that already are considered to provide an adequate level of service.
- Some submissions were encompassed by other planned connections that are deemed safer options.

At the end of the rating process, 86 projects were assessed as eligible for inclusion in a 10 year delivery plan based on a capital works allocation of \$460,000 per annum.

In addition to the community submissions, two resolutions of Council are also relevant and these are discussed below.

### 1. North Creek Foreshore

At the Council meeting held 23 June 2016 the following resolution was passed:

*Any consideration of public access to North Creek foreshore be deferred until future updates of the Draft Bike Plan and PAMP are undertaken to consider within broader context of Shire-wide assessment of shared/pedestrian access needs and is prioritized accordingly.*

The PAMP process received one submission requesting a pathway/ shared path/ boardwalk arrangement from Crowley Village to Ballina RSL Lifecare Kokoda Retirement Village.

The PAMP assessment and prioritization process for a pathway along the North Creek foreshore was assessed as a low priority due to high cost, existing land ownership and acquisition requirements, and approvals processes involving Crown Lands, environmental authorities, and cultural and heritage considerations.

Additionally, there are approved projects in the draft PAMP (BCW37 and BCW44 – refer to Figure 5C) that will provide an equivalent alternative in respect of connectivity.

The Ballina Shire Bike Plan, adopted by Council recently, refers to Action BI1.1 being the development of a new shared path from Meldrum Park to Cawarra Park along North Creek foreshore (low priority).

### 2. Beachfront Parade

At the Council meeting held 28 July 2016 the following resolution was passed:

*That the Draft Ballina Bike Plan be amended to exclude the proposed shared pathway from Beachfront Parade and remove Beachfront Parade footpath from the PAMP.*

In response to this resolution, the Beachfront Parade footpath has been removed from the future planned PAMP works (Figure 5B Delivery Plan Maps).

The purpose of this report is to present to Council information confirming the process undertaken to prepare the draft PAMP.

It is beyond the capacity of this report to provide a further analysis for the priority ranking of projects, however should any Councillor require further information on the assessment of particular projects before the Council meeting they should contact the Group Manager Civil Services.

Council's draft Delivery and Operational Plan is prepared on the basis of the priority ranking with the PAMP and the ranking is used to support grant funding submissions made by Council to Government.

### Sustainability Considerations

- **Environment**

Pedestrian activity (such as by walking, wheelchair, mobility scooter) are healthy and sustainable forms of transport and provision of safe and convenient pedestrian routes will facilitate reduced car use, resulting in environmental benefits such as decreased road congestion, and improved air quality.

- **Social**

Pedestrian networks provide enhanced social connectivity, and there are physical, social and mental health benefits from walking for individuals and groups. Pedestrian networks also enhance recreational opportunities and improve the liveability of communities.



- **Economic**

A major benefit of the PAMP process is that it aims to reduce the trauma and costs associated with traffic accidents. In addition, walking and pedestrian activity are low cost forms of transport, which results in both reduced vehicle operating and infrastructure costs. Promotion of pedestrian networks can also contribute to economic development with increased consumer expenditure on local businesses, and attraction of tourism.

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

The PAMP Delivery Program is linked to the recurrent budget allocation for footpaths and shared paths in the capital works program. This is approximately \$460,000 per annum.

The prioritisation of works in the Delivery Program also enables Council to maximize external funding opportunities.

### **Consultation**

Extensive community consultation was undertaken for the preparation of the draft PAMP. The consultation included:

- Three months of community consultation between September and December 2016
- Provision of maps showing existing footpath networks
- Mail-out letters with a semi-structured survey to targeted community groups and organisations
- Pop-up stalls in Ballina (Ballina Fair, River Street), Alstonville, and Lennox Head
- Advertisements and promotion in Ballina Shire Council's newsletter, the 'Community Connect'
- Newspaper advertisements and media releases (at monthly intervals during the three month submission period)
- Advertising on community radio
- Open submission from the community

Submissions to the PAMP were able to be made through the Ballina Shire Council website, as well as through paper forms, email, and telephone submissions.

The following targeted community groups were included in the mail-out:

- Local Government Area Residents and Progress Associations
- Caravan parks and tourism operators
- Aged care facilities
- Schools and tertiary education organisations
- Disability services and advocates
- Sports and activity groups
- Transport providers
- Aboriginal services and community groups
- Shopping centres and major retailers
- Health services

## **11.5 Pedestrian Access and Mobility Plan 2018-2027**

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- Charities and churches
- Tourist accommodation providers and
- Environmental groups.

A PAMP focus group was offered to the Ballina Shire Council's Access Reference Group, and Aboriginal Community Committee. A PAMP focus group was conducted at the request of the Access Reference Group.

The purpose of this report is for the outcomes of this work and community feedback to be now placed on exhibition for further comment.

### **Options**

1. Endorse the draft PAMP for public exhibition.

This is the recommended option.

2. Amend the draft PAMP for public exhibition.

Feedback from Councillors can included and the plan amended. It is noted that as the projects are assessed under a qualitative assessment process, it is preferred for any additional projects to be nominated and assessed so that the process remains consistent.

3. Conclude the project and not adopt an updated PAMP.

This option is not recommended. Council has had an adopted PAMP since 2004 and this process has been very successful in terms of reducing the reported number and severity of pedestrian safety incidents and an adopted PAMP is considered critical to support grant applications.

### **RECOMMENDATIONS**

That Council endorses the Draft PAMP for public exhibition, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required and the Plan is adopted by Council.

### **Attachment(s)**

1. Draft Pamp 2017 (Under separate cover)

**11.6 No Advertising Material Stickers**

**Delivery Program**      Waste Management

**Objective**              To report to Council on the benefits and costs of providing 'No Advertising' stickers to residents in the Shire.

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**Background**

At the July 2017 meeting Council resolved to investigate the benefits and costs of providing “no advertising material” stickers to residents as part of our waste minimisation strategy. This report provides information in response to the resolution.

**Key Issues**

- Benefits and cost

**Information**

Council continues to deliver information to residents on ways to minimise the generation of household waste and increase recycling rates while decreasing recycling contamination rates.

Results from our recent compositional waste audit indicate that our household paper and cardboard recycling rate is 90% which places this product near the maximum recovery rate.

Advertising material delivered to households on a regular basis contributes to the volume of recyclable waste currently sent to the Northern Rivers Waste Materials Recycling Facility in Lismore. A small proportion of this material would be disposed via the general municipal waste stream.

Council’s most recent audit has revealed the paper recycling rate is currently very high and people generally have very clear understanding that this material can be recycled.

A number of residents that do not wish to receive advertising material have already placed signs on their letterbox. A review of local hardware stores identified a comprehensive range of “No junk mail” or “No advertising material” signs from acrylic adhesive stickers to screw on plastic, brass or stainless steel signs. Prices range between \$3.50 and \$14.

The benefit of Council providing residents with a “no advertising material” sticker is that it sends a positive message that Council supports initiatives that may assist the minimisation of waste generation. A number of residents may be motivated to participate in a free scheme.

The underlying issue remains that reducing the catalogue delivery circulation (via “no advertising material” stickers) is unlikely to reduce the number of

## 11.7 Single Use Plastic Bags - LGNSW Conference Motion

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catalogues printed in the short to medium term as it remains significantly cheaper to print large quantities.

This is not a reason for Council not being involved in distributing stickers, however the budget and resource effort for any project should be considered in this context.

Until there is reduction in the number of catalogues produced, the same volume of catalogues will require disposal either by individual households (via household recycling) or by the catalogue distributors (it is unclear if this material is recycled).

Nevertheless, providing an incentive (such as a free sticker) may encourage residents to think about how they generate and recycle their waste. This is an important step in initiating behavioural changes in the management of household waste.

The next 12 months will see a number of significant changes to waste and recycling practices with the phasing out of single use plastic bags and the introduction of the container deposit scheme, where eligible containers can be redeemed for 10 cents each.

### **Sustainability Considerations**

- **Environment**

There is not anticipated to be any net environmental benefit with the provision of “no advertising material” stickers as there won't be any reduction to the number of brochures in the short to medium term. It remains unclear if the local catalogue distribution companies recycle excess catalogues.

- **Social**

Assisting residents to refuse unwanted advertising material will create opportunities for individuals to explore and modify their waste generation and management habits that could flow through to all types of household waste streams.

- **Economic**

On the basis that Council will provide “no advertising material” stickers to residents, this is likely to result in an annual reduction of 1-2 tonnes in the volume of paper sent for recycling with our commingled stream.

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

The cost implications for such a project are relatively minor with the printing costs for 500 stickers being around \$1,000. The vinyl stickers will be UV resistant and may not be suitable for use on brick, but adhere to smooth finishes.

This cost has not been included in this year's Resource Recovery budget, however, given the relatively low amount can be funded from existing operational budgets.

## **11.7 Single Use Plastic Bags - LGNSW Conference Motion**

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It is proposed that 1,000 stickers be produced and made available for collection by interested Shire residents at the Council Customer Service Centre, 40 Cherry Street, Ballina and the uptake of stickers be monitored.

### **Consultation**

Consultation was undertaken with local catalogue delivery companies to determine if there was any ability or control in reducing the number of catalogues to be delivered. The companies continue to be sent the same number of catalogues despite slowly reducing circulation numbers as it remains cheaper to print greater numbers.

### **Options**

Local hardware stores stock an extensive range of signage, therefore this initiative will appeal to residents that are motivated to participate in a free scheme and it may assist Council to promote its ongoing interests in sustainability.

Given the low cost of the provision and the potential benefits associated with greater community awareness regarding waste generation and disposal, it is recommended that Council make 500 stickers available and monitor the uptake by local residents.

The alternative would be to distribute stickers to all residents say via the Community Connect. A much larger budget would be required, say around \$10,000. The difficulty with this option is it is a counterproductive message as those stickers not wanted by residents who prefer to receive the catalogues will then generate waste. Therefore it is important for the distribution to be self-directed by residents.

Alternatively, Council may choose to not to provide free “No advertising material” stickers at all.

As the cost of this program can be accommodated in existing budgets, the recommendation is to proceed with an initial offering of 500 stickers.

### **RECOMMENDATIONS**

1. That Council commence a “No Advertising Material” sticker campaign as part of its efforts to minimize waste generation with the initial purchase and distribution of 500 stickers to Shire residents. Stickers will be available for collection at the Council Customer Service Centre and Waste Management Centre, and the General Manager is authorised to extend or continue the scheme if there is ongoing interest and participation by the community.
2. The campaign is to be promoted through our waste education activities along with information being included in publications such as Community Connect.

### **Attachment(s)**

Nil

## 11.7 Single Use Plastic Bags - LGNSW Conference Motion

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### 11.7 Single Use Plastic Bags - LGNSW Conference Motion

**Delivery Program** Waste Management

**Objective** For Council to resolve to include a motion in the proceedings for the upcoming Local Government NSW conference.

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#### **Background**

At the July 2017 meeting of Council, the following motion was passed.

*That Council make representations to the LGNSW, the Premier, the relevant Minister and our local members, asking that the NSW State Government introduce legislation to ban single use, plastic shopping bags, including reusable plastic bags and double strength plastic bags, to a level at least consistent with other Governments such as South Australia, Tasmania and ACT and NT.*

A response from the NSW Government to our representations has been received however this response spoke generally in respect of the Government's commitment to waste minimization and recycling and did not directly answer our request. A copy of this response has previously been provided to Councillors via the bulletin. In response, a further letter was sent to the NSW Government seeking a direct answer to our original request. We are yet to receive a reply to this second submission.

NSW Local Government have responded to our letter and advise,

*"LGNSW has been advocating on the issue of single-use plastic bags and most recently raised it with the EPA in our submission on the NSW Litter Prevention Strategy 2017-2020. However it would be good to have a member resolution (via the LGNSW Annual Conference) specifically on this issue. As such, I'd suggest Council submit a motion to the annual conference as per your letter."*

While Council has clearly endorsed a position on this matter, in response to our request to include a motion in the conference proceedings, LGNSW advised they need a resolution of Council specific to a motion for their conference.

Their request is reproduced below.

The wording at the end of the submission form indicates that Council needs to support the motion going to Conference: *"Please provide evidence of Council's support for the motion to be included. Such evidence should be in the form of an attachment or addendum and may include an extract of the minutes of the meeting at which the member resolved to submit the motion for consideration by the Conference."*

Therefore the purpose of this report is to deal with the administration of submitting the motion to the conference.

## 11.7 Single Use Plastic Bags - LGNSW Conference Motion

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### Key Issues

- Compliance with LGNSW Conference.

### Information

No further information is reported.

### Sustainability Considerations

- **Environment**  
The purpose of the Council's submission is to protect the environment.
- **Social**  
Not Applicable
- **Economic**  
Not Applicable

### Legal / Resource / Financial Implications

There is no legal, resource or financial implications in respect of the recommendation to this report.

### Consultation

No consultation is required for this matter.

### Options

1. The Council can decide to submit a motion to the LGNSW Conference.
2. The Council can take no further action in respect of the LGNSW Conference and continue our own lobby the NSW Government.

Option one is recommended as it is preferred to assist LGNSW to undertake the further actions in respect of this matter on behalf of all councils in NSW.

### RECOMMENDATION

That Council submit a motion to the 2017 Local Government NSW Conference that calls on the NSW State Government to introduce legislation to ban single use, plastic shopping bags, including reusable plastic bags and double strength plastic bags, to a level at least consistent with other Governments such as South Australia, Tasmania and ACT and NT.

### Attachment(s)

Nil

## 11.8 Tender - Transport and Disposal of Biosolids

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### 11.8 Tender - Transport and Disposal of Biosolids

**Delivery Program** Water and Wastewater

**Objective** To complete the tender assessment for the Transport and Disposal of Biosolids from Wastewater Treatment Plants.

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#### **Background**

All of Council's Wastewater Treatment Plants (WWTPs) operate using an activated sludge process by which biodynamic activated sludge metabolise soluble contaminants in the wastewater. The byproduct of this process is a nutrient rich biosolid material made up of the discharged/digested activated sludge. Current best practice for this material is beneficial reuse on agricultural land as a substitute for industrially manufactured slow release fertilizers.

Council had a contract for the transport and beneficial reuse of biosolids from three of its Wastewater Treatment Plants, which has now expired.

A request for tender was advertised on 15 August 2017 for a schedule of rates contract for the removal of biosolids from the Ballina, Lennox Head and Alstonville Wastewater Treatment Plants (WWTP) for a period of three years.

The biosolids are to be transported and applied to approved sites in accordance with the NSW EPA Biosolids Reuse Guidelines.

At the close of the tender period four tenders were received.

This report details the outcome of the tender evaluation process.

#### **Key Issues**

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

#### **Information**

Tender Submissions were received from:

- Compass Equipment Hire Pty Ltd
- Arkwood Organic Recycling
- Epsom Environmental Services Pty Ltd
- Rugendyke and Bashford Contracting Pty Ltd



## 11.8 Tender - Transport and Disposal of Biosolids

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

Criteria	Requirement
Details of Beneficial Use Sites	<ul style="list-style-type: none"> <li>• Three proposed sites locations identified</li> <li>• All proposed sites have required evidence to show that these sites were in fact assessed in accordance with the EPA NSW Biosolids Guidelines.</li> <li>• Sensitive areas and buffer zones identified</li> <li>• Maximum allowable application rates considered</li> </ul>
Methodology	<ul style="list-style-type: none"> <li>• Availability for attending/mobilising to site when notified by Council</li> <li>• Timeframes for removing specific volumes of biosolids, including operating hours</li> <li>• Equipment to be used and, if applicable, production rates (m<sup>3</sup>/hr)–Methodology for calculating dry tonnes of dewatered biosolids</li> <li>• Record keeping and reporting process</li> <li>• Any proposed site and/or laboratory testing (moisture content)</li> </ul>
Capability	<ul style="list-style-type: none"> <li>• Contractor is experienced and capable of conducting the project works safely and within the requirements of the Tender Specification</li> </ul>
Current and Previous Works	<ul style="list-style-type: none"> <li>• List of current relevant works and their respective contract values</li> <li>• List of works of a similar nature performed by Contractor over the last three years</li> </ul>

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

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

Based on the assessment criteria, Compass Equipment Hire is ranked the highest in the evaluation and has tendered the lowest rates, whilst conforming to the mandatory requirements. Further details regarding the pricing and evaluation have been provided to Councillors via a confidential memorandum.

## 11.8 Tender - Transport and Disposal of Biosolids

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Based on the tender rates and the estimated amount of work, it is expected that the annual cost of these works will be approximately \$75,000. This amount is in line with the current budgeted cost for the beneficial reuse of biosolids of approximately \$90,000 per year.

### Sustainability Considerations

- **Environment**  
Beneficial reuse is considered industry best practice for biosolids handling and is a sustainable management strategy for this product.
- **Social**  
Not Applicable
- **Economic**  
Cheaper alternative than discharge to landfill and as beneficial reuse of biosolids continues to mature, the economic value of the product will increase

### Legal / Resource / Financial Implications

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

The works will be performed when required, based on the schedule of rates provided by the tenderer.

The tender outcome is an improved financial outcome when compared to alternative disposal methods (i.e. discharge to landfill).

### Consultation

A public tender process was undertaken.

### Options

In accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

*A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*

## **11.8 Tender - Transport and Diposal of Biosolids**

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- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract;*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender; and*
- (f) carry out the requirements of the proposed contract itself.*

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

### **RECOMMENDATIONS**

1. That Council accepts the tender from Compass Equipment Hire Pty Ltd for the Transport and Disposal of Biosolids from Ballina, Lennox Head and Alstonville Wastewater Treatment Plants for the period of three years.
2. That Council authorises the Council seal to be attached to the contract documents.

### **Attachment(s)**

Nil

## **11.9 Swimming Pools Upgrade - Update**

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### **11.9 Swimming Pools Upgrade - Update**

**Delivery Program**      Community Facilities and Services

**Objective**              To provide an update on the progress to redevelop the swimming pools.

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#### **Background**

At the July 2017 meeting a report was considered in relation to several contract issues that are being managed in relation to the project to upgrade the Council's swimming pools.

The three matters discussed were:

- Removal of asbestos from the site
- Power Upgrades
- Screw Piling

The screw piling issue is resolved and this issue has not caused any delay or additional cost to the Council. The purpose of this report is to provide an open council update regarding the other two matters.

#### **Key Issues**

- Contract dispute resolution
- Management of risks and costs
- Achieving project completion on time

#### **Information**

The contractor has made a substantial claim for additional costs to remove asbestos from the site. Council staff have not accepted the validity of this claim under the terms of the contract.

The details of this assessment are reported to Council in the confidential section of the agenda as the advice and negotiations are commercially sensitive.

Following the commencement of construction, it has been identified that major upgrades to the electricity supply are required at both sites.

This is in contradiction to advice Council received from the specialist consultants during the concept development phase of the work. The extent of the delay is uncertain at this point in time, however as a worst case it could be a matter of months for the permanent electricity supply to be in place. This may result in the need for generators, if practical, as an interim measure.

There are a number of contractual issues to negotiate to possibly reduce this delay and information in this regard is also reported in the confidential section. Every endeavour is being made by Council staff and the contractor to see if this delay can be avoided.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Delays may result in deferral of the re-opening of the swimming pools.
- **Economic**  
There are direct financial costs related to these contractual issues.

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

The issues may have significant cost and time implications for this project.

### **Consultation**

Extensive consultation is occurring between the contractor, suppliers and Council staff.

### **Options**

This report is for information only. The substantive information is provided to Council in the confidential section.

### **RECOMMENDATION**

That Council notes the contents of this report regarding the swimming pool upgrades.

### **Attachment(s)**

Nil

12. Public Question Time

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**12. Public Question Time**

**13. Notices of Motion**

**13.1 Notice of Motion - Public Toilets**

**Councillor** Cr Meehan

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I move

1. That the new Council toilet facility at Pop Denison Park be equipped with two specific female toilet cubicles and that toilet seats be fitted to the bowls in those spaces.
2. That all Council toilet facilities currently configured with unisex cubicles be reconfigured to designate 50% of cubicles as specifically female. eg. Fawcett Park, Tamar Street, Ballina Surf Club, Shelley Beach. Where there are three cubicles, one to be designated as female.
3. That all Council toilet facilities designated as female have a toilet seat fitted to the bowl. Retro-fitting of toilet seats to occur as required in designated female spaces.

**Councillor Comment**

The provision of 'only' unisex toilet cubicles in new council toilet facilities is causing concern, non-use and quite frankly a level of disgust among many female community members and visitors. This has been communicated to me now on a number of occasions.

There are a number of reasons presented for this concern:

- The vast majority of women feel much more comfortable with a female only toilet space. This is particularly strong with the elderly and mothers with children.
- In toilet areas used by men, there is invariably a wetting of the floor area immediately in front of the bowl by male urine spillage. This occurs in virtually all male toilet spaces and most unisex spaces. It is completely unacceptable and repugnant for women to then have to use these spaces.
- Many mothers use toilet facilities with young children. It is not appropriate for young children to have to sit on a metal bowl nor be standing in an area with urine spillage.
- The vast majority of women, young and old, prefer a seat in all toilet cubicles that they use. There are issues of physical comfort and cleanliness that must be catered for, particularly for the elderly and women with children.

While there may be an increased cost in providing female specific toilet spaces and seats, this is a basic service provision that should be delivered and maintained by Council.

The other 50% of toilet cubicles could be designated as unisex, as in busy times it is usually the female toilet facilities that have longer lines and waits (as may occur).

### Staff Comment

The contemporary design approach is to use unisex toilets where single units are available as this provides more efficient access as all of the units are available to all persons. Feedback to operations staff is that this approach also assists transgender persons in our community.

Council has only implemented unisex toilet units where the units are self-contained and there are no common facilities to share. This approach is consistent with the direction of many other councils and public authorities.

Feedback from our operations and cleaning staff is that they do not notice any discernible difference between our male and female toilets in respect of the condition and hygiene state they are left in after a period of use. The use of the stainless steel is a design to manage vandalism.

Staff are continuously replacing toilet seats in the older toilet blocks and the extent of maintenance work this generates means the stainless steel model is recommended.

In light of the number of toilet facilities managed by Council, if the Council is inclined to support point three in the motion, it is recommended that, before proceeding, a report be prepared which examines the number of units to be replaced and the cost and feasibility of this task.

This is not a matter that has seen any formal feedback generated to Council that indicates a lack of support from the community in respect of unisex toilets, which we now have at a number of locations including (Fawcett Park, Tamar Street, Surf Club and Shelly Beach).

As the access is more efficient and cleanliness the same, from a staff perspective, unisex is preferred. Should the Council provide a different direction, or we receive complaints in the future, we can convert the units to a male/female configuration by changing the signage.

Fawcett Park and Shelly Beach have two units. The Tamar Street, Surf Club, Shelly Beach and Pop Dennison have three units. Stainless steel pans have already been installed in the Pop Dennison facility and it is not considered to be a good use of public money to remove these.

### COUNCILLOR RECOMMENDATIONS

1. That the new Council toilet facility at Pop Denison Park be equipped with two specific female toilet cubicles and that toilet seats be fitted to the bowls in those spaces.
2. That all Council toilet facilities currently configured with unisex cubicles be reconfigured to designate 50% of cubicles as specifically female. eg. Fawcett Park, Tamar Street, Ballina Surf Club, Shelley Beach. Where there are three cubicles, one to be designated as female.
3. That all Council toilet facilities designated as female have a toilet seat fitted to the bowl. Retro-fitting of toilet seats to occur as required in designated female spaces.

**Attachment(s)** Nil



## **13.2 Notice of Motion - Plateau Drive Playground and BBQ Facilities**

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### **13.2 Notice of Motion - Plateau Drive Playground and BBQ Facilities**

**Councillor**

Cr Smith

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I move

1. That as part of the Stage 3 WUEA development, Council develop the new Plateau Drive open space, to include facilities such as playground equipment, an outdoor basketball court and BBQ facilities with shade.
2. That Council investigate future options in relation to the existing outdoor basketball court facility at Russellton Industrial Estate such as either selling a portion of the land, or acquisition by the water/sewer section of Council.

#### **Councillor Comment**

The last Council resolution in relation to the Plateau Drive open space took all funding away from the site meaning Council needs to fund embellishment of the site through profits from Stage 3 of the WEUA development to ensure Council doesn't develop its own land and leave nothing behind.

The objective of this motion is to develop an open space that suits a wide range of users, similar to sites like Kadina (in Goonellabah) that include open space, an outdoor basketball court, playground equipment and BBQ facilities with shade. These types of parks are hugely successful.

Open spaces like these suit both younger and older kids, as well as adults.

Surrounding parks in Wollongbar are local parks that lack a range of activities. With 10,000m<sup>2</sup>, this site is the best opportunity to develop an open space to be proud of.

It should be noted, some cost efficiencies may be gained (such as land clearance, using the one contractor etc) if this park is created during Stage 3 of the WUEA development.

Separately, to this motion but related, the nearest basketball court is in the Russellton Industrial Estate. The court is dilapidated and shares the space with a sewer pump.

Opportunities may exist for water/sewer operations to acquire the site, or alternatively sell a portion of the site off if a new court is installed at the Plateau Drive.

This may also further assist with funding of the open space and rationalisation of Council's resources.

#### **Staff Comment**

Council has pre-sold 16 of the 18 lots for stage two of the Council subdivision, with the construction of that stage currently underway.

## **13.2 Notice of Motion - Plateau Drive Playground and BBQ Facilities**

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This means Council will be looking to lodge the development application for stage three (the final stage) in the near future.

It is reasonable to also include the planning for the district park as part of that application, as Council's land effectively surrounds the park, and a joint application for both parcels of land is supported.

Council has previously had a basic plan for the district park prepared, albeit that the plan included the skate park (as per attachment one). That plan can now be amended to remove the skate park and include further passive open space embellishments.

With the transfer of the \$500,000 in funding for the skate park to the Wollongbar Sports Fields there is no budget in the Long Term Financial Plan for this district park.

The embellishment of the park must be a high priority for Council considering that a significant amount of residential land development is already occurring in the Wollongbar Urban Expansion Area (WUEA).

The embellishment of the park is included in the Section 94 Open Spaces Plan with that embellishment 100% funded from developer contributions. There are limited contributions currently collected, although these funds will increase as the linen plans are released for stages two and three of Council's development, as well as any other land releases in the WUEA.

Once the consent for stage three and the district park is obtained it will then be a matter of determining the costs of the land development and the park embellishment to clarify the funding available. A review of the Section 94 contributions collected will also be critical to the overall funding. This will need a further report to Council at that time.

The land mentioned in point two is categorised as community land and a reclassification process would need to be undertaken if the land was to be sold. There may be some merits in this proposal once the district park embellishment is completed, along with the new sports fields being operational. This can be investigated as part of the overall project although there may be limited revenue opportunities as the land does also provide drainage benefits for Council.

### **COUNCILLOR RECOMMENDATIONS**

1. That as part of the Stage 3 WUEA development, Council develop the new Plateau Drive open space, to include facilities such as playground equipment, an outdoor basketball court and BBQ facilities with shade.
2. That Council investigate future options in relation to the existing outdoor basketball court facility at Russellton Industrial Estate such as either selling a portion of the land, or acquisition by the water/sewer section of Council.

### **Attachment(s)**

1. Plateau Drive - Preliminary Park Concept

### **13.3 Notice of Motion - Community Donations Budget**

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#### **13.3 Notice of Motion - Community Donations Budget**

**Councillor**                      Cr Willis  
   Cr Williams  
   Cr Wright

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We move

1. That Council consider as part of the 2018-2019 Budget and Long Term Financial Plan options to increase the community donations budget over the Council term.
2. That Council undertake a review of the Community Donations policy.

#### **Councillor Comment**

Further to our debate at the August 2017 Ordinary Meeting, this amended motion calls for consideration of options to increase the community donations budget over the current term. You will note that both the quantum of the donations budget and the source of the funding will be determined through the usual budget process.

It also became apparent during our debate in August that a review of the Community Donations policy would be prudent to ensure that meritorious requests for contributions from Council are considered and that where funds are available, funded.

It is envisaged that consideration could be given to donations towards waste charges for charitable groups and community halls together with more targeted responses to social justice issues such as homelessness, domestic violence and emergency accommodation in our Shire.

It is a key tenet of local government in NSW that Councils in their decision making should consider social justice principles. This is enshrined in the Local Government Act (section 8A(2)(b)).

In summary, this motion seeks to recognise the need to increase our community donations budget to ensure that meritorious requests for contributions from Council are considered, and further, that the principles of social justice are reflected in our Community Donations budget as required by the Local Government Act.

#### **Staff Comment**

A similar motion was lost at the August 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.

**COUNCILLOR RECOMMENDATIONS**

1. That Council consider as part of the 2018-2019 Budget and Long Term Financial Plan options to increase the community donations budget over the Council term.
2. That Council undertake a review of the Community Donations policy.

**Attachment(s)**

Nil

#### **13.4 Notice of Motion - Houghlahans Creek Road - Dust Sealing**

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#### **13.4 Notice of Motion - Houghlahans Creek Road - Dust Sealing**

**Councillor**

Cr Eoin Johnston

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I move

That Council consider, as part of the preparation of the draft 2018/19 Delivery and Operational Plan, a report that reviews the status of Council's dust sealing program and in particular consider the options in regard to dust sealing a portion of Houghlahans Creek Road.

#### **Councillor Comment**

At the Finance Committee meeting held 16 March 2017, Council considered a report in response to a Notice of Motion I had previously brought to the Council seeking consideration of the funding of a road upgrade for Houghlahans Creek Road. In response to this report, Council resolved (in part) the following.

*That based on the contents of this report Council confirms it will not include the sealing of Houghlahans Creek Road in the draft 2017/18 – 2020/21 Delivery and Operational Plan.*

The second part of the resolution set out the reasons for Council's decision.

As per my originating notice of motion, a section of Houghlahans Creek Road is a gravel surface, however the road is a through road with relatively high usage, including providing a rural freight task. The condition of Houghlahans Creek Road is a concern for residents as it is regularly exposed to considerable wash outs and erosion due to the surrounding topography.

In light of Council's decision and my ongoing concern that there will be no upgrade delivered on this road in the foreseeable future, I have further investigated this matter with local residents and the purpose of this motion is for the Council to consider dust sealing a portion of the road as an alternative to the options considered within the Finance Committee Report.

Dust sealing is a strategy Council has applied on some occasions for the sealing of gravel roads. The objective of the strategy is to seal the existing formation, where appropriate, and this avoids the cost of the reconstruction typically associated with a fully engineered road upgrade. While this technique carries some engineering risks in respect of expected life of the seal, the approach can provide an improved level of service in a cost effective manner.

The report to the Finance Committee noted dust sealing was not preferred for Houghlahans Creek Road due to safety concerns from increased vehicle speeds following the sealing on sections of the road with poor vertical and horizontal alignments. Also the funds required were substantial. However, I propose there is merit in sealing smaller portions of the road as a trial, in locations where it is considered safe to do so.

### **13.4 Notice of Motion - Houghlahans Creek Road - Dust Sealing**

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Specifically, the Finance Committee report noted Segment 80 is a 290 metre section of gravel with sealed sections at either end, meaning there are advantages in making the surface here contiguous with the adjoining sections of road.

The Council has an existing dust sealing policy and program however no funds have been allocated to any Council works for a very long period of time. Therefore my motion is an opportunity to review the objectives of this policy generally and how it fits within in our overall road strategies, as well as looking at the specifics again for Houghlahans Creek Road.

#### **Staff Comment**

As discussed in the report to the Finance Committee mentioned above, Council's current Delivery and Operational Plan does not include a program for the sealing of unsealed roads. Our roads budget includes a maintenance program for the gravel roads and maintenance and asset renewal (reconstruction/rehabilitation) programs for the sealed network.

New roads or road upgrade or improvements are delivered either through developer contribution funded works or grant programs such as the Black Spot Program or the REPAIR grant.

This strategy has been in place for 15 years and has contributed to our adopted strategy to meet the Fit for the Future financial benchmarks which highlight the need for councils to ensure they manage their existing assets appropriately before considering upgrades or new infrastructure. Sealing an unsealed road is a road upgrade.

In the period 2004 – 2007, Council did undertake a successful trial of a road maintenance program we called "dust sealing". A dust seal is a low cost technique which consists of a seal being applied to the existing road configuration because there is a limited need for road drainage, road formation and road pavement reconstruction.

A dust seal is usually most suitable for low traffic roads where the cost of a dust seal can offer maintenance savings, improved amenity and/or environmental outcomes. Therefore a dust seal is a risk-based solution for locations where road works to standard engineering specifications are non-economic.

The risk relates to the possibility of an early failure of the seal due to low cost construction technique that is applied.

The strategy of the Council was to implement the trial as and when savings in the budget could be found.

During this period the Council was able to accrue some savings from its road maintenance budget (mainly due to the prevailing weather conditions and some other circumstances at the time) and these savings were invested in trialling some dust seals, and the outcomes were successful.

The works undertaken at the time were relatively small projects compared to Houghlahans Creek Road, as typically they were short, rural cul-de-sacs with very low traffic volumes.

## **13.4 Notice of Motion - Houghlahans Creek Road - Dust Sealing**

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To provide direction for the implementation of this program in terms of suitable locations and priority, Council adopted a list of potential projects, however the program has not advanced as we have not been able to generate the required savings opportunities.

Houghlahans Road was included in the list of potential projects.

While we have not been able to fund further dust seals since the trial dust sealing remains an option for Council to consider in respect of optimising the long term cost management of its road network and as such we continue to monitor our costs and the performance of our road network through condition assessment and other factors so that our asset management strategy continues to mature and be adapted as circumstances change.

In respect of the suggested report in the Councillor recommendation the first step in the analysis would be to determine if there are long term economic benefits to be achieved if some of the roads budget was to be reallocated from the existing maintenance and renewal programs to a dust sealing program. If this change is preferred, the next step would be to then determine a revised list of potential projects and rank their priority.

### **COUNCILLOR RECOMMENDATION**

That Council consider, as part of the preparation of the draft 2018/19 Delivery and Operational Plan, a report that reviews the status of Council's dust sealing program and in particular consider the options in regard to dust sealing a portion of Houghlahans Creek Road.

### **Attachment(s)**

Nil

## 15.1 Mayoral Meetings

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### 14. Advisory Committee Minutes

#### 14.1 Commercial Services Committee Minutes - 6 September 2017

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##### Attendance

Crs David Wright (Mayor - in the chair), Phillip Meehan, Sharon Parry, Jeff Johnson, Eoin Johnston, Stephen McCarthy, Nathan Willis, Keith Williams, Sharon Cadwallader and Ben Smith.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Vince Hunt (Acting Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Manager Commercial Services), Leanne Harding (Property Officer Commercial), Kylie Hardy (Airport Chief Operating Officer), Linda Coulter (Manager Financial Services) and Sandra Bailey (Secretary) were in attendance.

There were 16 people in the gallery at this time.

#### 1. Apologies

Nil

#### 2. Declarations of Interest

**Cr Sharon Cadwallader** – declared an interest in Item 4.3 – Brighton Street, East Ballina – Options. (Nature of Interest: non pecuniary non significant – she owns properties in Brighton Street). She will be remaining in the meeting while the matter is discussed and voting on the matter.

#### 3. Deputations

- **Nerida Baker, Café Horizon** – spoke in favour of Item 4.4 – Airport Café – Leasing Proposal.
- **Meleta Wood, Ballina Meals on Wheels** – spoke in favour of Item 4.2 – Ballina Shire Meals on Wheels Inc – 61 Crane Street, Ballina.
- **Karen Miller, TS Lismore Naval Cadets** – spoke in favour of Item 4.1 – Operational Land – 26 Endeavour Close, Ballina.



**4. Committee Reports**

**4.1 Operational Land - 26 Endeavour Close, Ballina**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council notes the contents of this report and approves a three year community group lease at a nominal rent to TS Lismore Australian Naval Cadets at 26 Endeavour Close, Ballina.
2. This new lease is to include an allowance for the facilities to be shared with other community groups, subject to Council approval.
3. That Council authorises the General Manager to finalise negotiations, execute and affix the Council seal to all relevant lease documentation.
4. That during the course of the lease period Council make contact with the Australian Naval Cadets regarding that body's intention to take charge of lease negotiations for Naval Cadet units and what type of rental arrangements they will be considering as part of those negotiations.

FOR VOTE - All Councillors voted unanimously.

**4.2 Ballina Shire Meals on Wheels Inc - 62 Crane Street Ballina**

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Sharon Cadwallader)

1. That Council offer Ballina Shire Meals on Wheels Incorporated a 5 + 5 year lease of 62 Crane Street, Ballina at a rental reflecting the service to the community provided by the organisation (i.e. \$1.00).
2. That Council authorises the General Manager to finalise negotiations, execute and affix the Council seal to all relevant lease documentation.

FOR VOTE - All Councillors voted unanimously.

## 15.1 **Mayoral Meetings**

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### 4.3 **Brighton Street, East Ballina - Options**

#### **RECOMMENDATION**

(Cr Ben Smith/Cr Phillip Meehan)

That Council notes the contents of this report and agrees to take no further action in regards to the northern section of Brighton Street (between Bonview Street and The Serpentine) at East Ballina.

FOR VOTE - All Councillors voted unanimously.

### 4.4 **Airport Cafe - Leasing Proposal**

#### **RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of this report in respect to the current arrangements for the lease of the Airport Café.

FOR VOTE - All Councillors voted unanimously.

## 5. **Confidential Session**

#### **RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

### 5.1 **Airport Cafe - Leasing Options**

#### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as commercial leasing matters are to be discussed.

FOR VOTE - All Councillors voted unanimously.

(The Council moved into Confidential Session at 4.47 pm).

## 15.1 **Mayoral Meetings**

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### **Open Council**

#### **RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

(The Council moved into Open Council at 5.03 pm).

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

### **5.1 Airport Cafe - Leasing Options**

#### **RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts option one as outlined in this report and authorises the General Manager to offer a new five plus five year agreement for lease to Elmia Air Pty Ltd based upon the terms and conditions detailed in this report.
2. That Council authorises the General Manager to finalise negotiations, execute and affix the Council seal to all relevant lease documentation.

FOR VOTE - All Councillors voted unanimously.

### **Adoption of Recommendations from Confidential Session**

#### **RECOMMENDATION**

(Cr Keith Williams/Cr Nathan Willis)

That the recommendations made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

#### **MEETING CLOSURE**

5.03 pm

#### **RECOMMENDATION**

That Council confirms the minutes of the Commercial Services Committee meeting held 6 September 2017 and that the recommendations contained within the minutes be adopted.

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

Nil

## 15.1 Mayoral Meetings

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

### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities since the August 2017 Ordinary meeting:

<u>Date</u>	<u>Function</u>
17/8/17	Meeting – Alstonville Strategic Plan
18/8/17	Meeting – Jamie Hoile – Skate Ramp
20/7/17	Ballina Markets
23/8/17	Meeting – Pip Carter
23/8/17	Meeting – Visitor Information Centre
27/8/17	Commemoration Park Markets
28/8/17	Telephone Conference – Chris Murphy
29/8/17	Meeting with Leigh Duncan – Rural Health Survey
30/8/17	Veterans' Advocacy Centre
30/8/17	Shark Mitigation Pre-Meeting and meeting Ballina Surf Club
1/9/17	Meeting - DPI
2/9/17	Alstonville Orchid Society
3/9/17	Commemoration Park Markets
4/9/17	Briefing – GM Performance Review
5/9/17	Alstonville/Wollongbar Chamber Meeting
6/9/17	Meeting – Re Youth Rehabilitation
6/9/17	Meeting – Country Music Club Fundraiser
6/9/17	Commercial Services Meeting
6/9/17	Extraordinary Meeting
7/9/17	Ballina Cup
10/9/17	Lennox Head Markets
10/9/17	Air Force Assoc – Commemoration Day - Battle of Australia / Britain
11/9/17	Church Group
14/9/17	St Francis Xavier School Visit – Year Five
14/9/17	Onsite Meeting – 59 Lismore Road
14/9/17	'C' Ward Meeting
15/9/17	Town and Gown Art Exhibition – Lennox Head
16/9/17	Paddy Bugden Celebration
16/9/17	Public School Open Day
17/9/17	Farewell to Sister Larelle and Sister Grace - Wardell
17/9/17	Ballina Markets and Commemoration Park Markets
18/9/17	Red Cross Country Zone Conference - Tintenbar Hall
18/9/17	Meeting – Lennox Head Sports & Recreation Club Ltd
18/9/17	'B' Ward Committee
19/9/17	Briefing – Alstonville Strategic Plan
20/9/17	Meeting Neil Taylor – Conservation Volunteers Australia
21/9/17	Gallery Opening
24/9/17	Commemoration Park Markets
28/9/17	Ordinary Meeting
30/9/17	Alstonville Show

### **RECOMMENDATION**

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

### **Attachment(s)**

Nil

## 15.2 General Manager - Performance Review

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### 15.2 General Manager - Performance Review

**Councillor**

David Wright

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#### **Background**

The General Manager's Performance Review Committee (PRC) comprises the Mayor and the Deputy Mayor as resolved by Council in September 2016. The PRC met with the General Manager on Friday 7 July 2017 to perform the twelve monthly performance review for the 2016/17 financial year.

Since that review the Council resolved at the July 2017 Ordinary meeting, as follows in respect to the performance review process:

*That this matter be deferred to a Councillor briefing from an external expert on best practice approach to General Manager Performance Reviews.*

This briefing was held on Monday 4 September 2017 with the external expert being Mr Mark Anderson from LGNSW. LGNSW oversee General Manager performance reviews for approximately 40 plus councils in NSW.

The purpose of this report is to provide a brief outline of the General Manager's performance review process for 2016/17, with the results of that review included in a confidential report later in this agenda, and secondly to determine how Council wishes to conduct the performance review process for 2017/18 onwards.

#### **Key Issues**

- Compliance with the General Manager's contract conditions
- Employee performance

#### **Information**

Council is legally obliged to fulfil its contractual obligations with the General Manager. This includes a 12 monthly appraisal.

Council has a number of options in managing the appraisal process. Some councils use the whole council to conduct the appraisal while other councils vary this from the Mayor only to any sub-component of the elected council. The Council and/or General Manager also have the option of utilising an external consultant to assist the process.

Many of these options have been trialled by Council and the most effective process for the last ten years has been to use a small committee (i.e. Mayor and Deputy Mayor as the PRC), with the recommendations from that committee then presented to the full Council for determination.

As a result of the briefing held 4 September 2017, the current Council may wish to expand the existing PRC for 2017/18 onwards. The Council may also

## **15.2 General Manager - Performance Review**

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wish to use an independent facilitator, although there is no budget for that expenditure.

### **Consultation**

The Office of Local Government (OLG) has produced guidelines for the management of General Managers and a copy of that document is available on their website ([olg.nsw.gov.au](http://olg.nsw.gov.au) – “Guidelines for the Appointment and Oversight of General Managers”). That document provides useful background material in respect to the annual appraisal process.

The results of the 2016/17 performance appraisal have been listed as confidential as they involve personnel matters.

### **Options**

It is a matter for the elected Council to determine the structure of the PRC.

Based on the recent briefing the preference with the current Council appears to be a PRC of four Councillors. Council will need to determine the four Councillors, with the Mayor and Deputy Mayor typically on the PRC.

Also Council has indicated a preference for an external facilitator and the recommendation also makes allowance for LGNSW to be that facilitator. The cost of this facilitator will need to be funded from general revenue.

### **RECOMMENDATIONS**

1. That Council notes the contents of this report on the General Manager's performance review process.
2. That Council amend the makeup of the existing Performance Review Committee to consist of four Councillors, inclusive of the Mayor and Deputy Mayor.
3. That Council appoint LGNSW as the external facilitator for the performance review process, based on an estimated annual cost of approximately \$6,000, with this expenditure to be funded from general revenue.

### **Attachment(s)**

Nil

**16. Confidential Session**

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

16.1 Swimming Pools Upgrade - Contract

This report provides commercial information relating to the contract for the redevelopment of the swimming pools.

16.2 Hardship Relief - Application (Confidential)

This report contains personal information relating to financial hardship.

16.3 General Manager - Performance Review (Assessment)

This report contains information relating to the employee's performance review and performance agreement.

**RECOMMENDATION**

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

**16.1 Swimming Pools Upgrade - Contract**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest this report deals with commercial information in respect of a contract made between Council and a civil construction company.

**16.2 Hardship Relief - Application (Confidential)**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(b) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- b) the personal hardship of any resident or ratepayer

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the nature of the personal matter.

**16.3 General Manager - Performance Review (Assessment)**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it involves discussion relating to the employee's performance.