



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 26 October 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

The National Anthem will be performed by Rous Public School.

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 28 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 28 September 2017.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

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

8.1 **DA 2017/7 - Service Station 413-423 River Street, West Ballina**

Applicant	RPS Group
Property	Lot 1 DP 543357 413-423 River Street, West Ballina
Proposal	Construction of a service station with convenience store, car parking, signage and associated works.
Effect of Planning Instrument	The land is zoned B6 – Enterprise Corridor under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Development Application 2017/7 was lodged with Council on 4 January 2017.

An assessment of the development application has now been completed and the application is presented to Council for determination in accordance with Council Resolution 250117/14 of 25 January 2017.

Details of Proposal

Consent is sought for the construction and operation of a service station, incorporating a convenience store, car parking, signage and associated works on the subject site (refer to **Attachment 2**). Details of the proposed works are as follows:

- Site preparation works, including installation of services and drainage infrastructure.
- Construction of a service station, comprising a flat roofed canopy linked to a 140m² pre-cast concrete cashier and convenience store building. The convenience store will stock a range of items expected within a contemporary store of this nature, including take away (pre-packaged low risk) food. No seating will be provided within the convenience store.
- Construction of hardstand areas comprising separate entry and exit driveways, car parking for six vehicles (inclusive of one disabled space) and one loading bay.
- Four fuel dispenser stations and one diesel / Ad Blu dispenser station with a small flat roofed canopy for heavy vehicles.
- Two x 55kL underground fuel tanks and one above ground diesel tank.
- Bin storage and plant enclosure area.
- One eight metre high illuminated pylon sign, illuminated canopy signs and fascia signs.

The service station will be open seven days a week, operating 24 hours a day.

The estimated cost of the development is \$1.8 million.

Description of Subject Site

The subject site, described as Lot 1 DP 543357, No. 413 - 423 River Street, West Ballina, has an area of 3,655m² and is irregular in shape. It is located opposite the River Street/Brampton Avenue intersection and is bound by Fishery Creek to the north, River Street to the south, an unformed road to the east (dominated by estuarine vegetation), and a vacant property to the west. Refer to the Locality Plan in **Attachment 1**.

The subject site was previously occupied by a service station, but has remained vacant for many years. Whilst the buildings and structures have since been demolished, a portion of the site is still covered by concrete paved areas and concrete slabs. Two existing driveway crossovers link the site with River Street.

The site contains regrowth Forest Redgum Endangered Ecological Community (EEC) and mapped SEPP 14 Wetland. The Forest Redgum community also extends to the adjoining properties to the east and west. Estuarine habitat, which includes mangroves and Saltmarsh EEC, also occurs to the north and east of the site. Both of these vegetation communities are considered to be of high conservation value.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition from 18 January 2017 to 2 February 2017. A total of seven submissions were received as a result of the exhibition period. These submissions are included as **Attachment 3** (with the exception of one submission which was noted as 'not for publication' and is provided to Councillors under separate cover). The matters raised in these objections are summarised and addressed as follows:

1. *Saturation of business – There are already an adequate number of existing (and approved) petrol stations in the area.*

Comment: It is acknowledged that there are numerous service stations located (or approved to be located) within the Ballina and West Ballina area. However, this is not a relevant matter for consideration under Section 79C of the EP&A Act 1979 and the application cannot be refused on this ground.

2. *Concerns over antisocial behaviour due to the proposal for 24 hour trade.*

Comment: The application was referred to the Crime Management Unit of the NSW Police who provided recommendations in relation to crime prevention, namely the provision of closed circuit television surveillance cameras (CCTV) as well as general design requirements. Suitable conditions are able to be imposed on any consent granted to ensure the risk of crime and antisocial behaviour is minimised.

3. *Concerns over noise impacts on neighbours due to the proposal for 24 hour trade.*

Comment: A revised Noise Impact Assessment (NIA) was requested as part of the assessment of the application. This NIA has recommended some noise mitigation measures to reduce the potential noise impacts. These include:

- Limiting the sound power level of mechanical plant including refrigeration and air conditioning equipment to LA_{eq} 80dB or installing an acoustic barrier if the sound power level cannot be achieved;
- Restricting deliveries by heavy vehicles to the day period 7am-6pm if these vehicles need to be left idling; and
- Installing signage requiring heavy vehicles to shut off engines as soon as they are parked during the evening period 6pm to 10pm.

The revised NIA was reviewed by Council's Environmental Health Officer and is considered sufficient to adequately address and manage potential noise impacts that may occur as a result of the proposed development. Conditions can be imposed (including the three noise mitigations outlined above) to minimise noise impacts from the development and ensure the amenity of neighbouring residents is not unreasonably impacted upon by the operation of the service station.

4. *The development will generate litter from takeaway packaging.*

Comment: The development, if approved, will provide sufficient bins for the collection of waste generated by the staff and customers. The practices and behaviour of individuals, with regard to littering, are not relevant matters for consideration under Section 79C of the EP&A Act 1979.

5. *Traffic congestion*

Comment: Refer to commentary on Traffic Management further in this report.

6. *The entry and exit is unsatisfactory due to the narrow road. Egress will disrupt the function of the road network.*

This part of River Street is on a curve in a narrowing section of dual lane and opposite a turn-in for the street opposite. Vehicle movements from the development will cause a dangerous blending of traffic in an area that is already very congested.

Comment: Refer to commentary on Traffic Management further in this report.

7. *Pedestrian safety – The development will encourage pedestrians (including children) to attempt to cross River Street. This will create pedestrian safety issues due to the high traffic volume along River Street.*

Comment: Council's Civil Services Group recommend that if the application is granted approval, a pedestrian footpath be constructed by the developer along the northern side of River Street to provide pedestrian connectivity between the development and Barlows Road. It is not considered appropriate to provide any additional pedestrian crossings in the immediate vicinity of the site due to the design, traffic volume and function of the River Street and Brampton Avenue intersection.

8. *A service station is not suitable for the site due to environmental sensitivities (proximity to waterway, pollution from petroleum).*

Comment: Council has concluded that the proposed stormwater system is satisfactory for the proposed development and, subject to certain conditions, will ensure the stormwater released to the environment does not cause water pollution. Notwithstanding this, Council's assessment has raised concern over the revised location of the stormwater outlet and the impacts on the adjacent saltmarsh Endangered Ecological Community (EEC) due to the discharge of freshwater into this system.

9. *Within 500m of the stream is a breeding rookery for Egrets.*

Comment: Given this species is not listed under the Threatened Species Conservation Act 1995, there is no requirement to assess the impact of the development on the rookery referred to in the submission under threatened species legislation. That being said, in the context of a broader assessment of the impact of the development on the environment, the 500m separation distance between the rookery and the proposed service station is considered to be adequate.

10. *The development requires the removal of mangroves and other vegetation, leading to the loss of habitat.*

Comment: The proposed development does not involve the removal of any mangroves. However, other vegetation is required to be removed from the site to accommodate the proposed development. The impacts of this vegetation removal are considered further in this report. Refer to commentary on Environmental Considerations.

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Section 79 (C) of the Environmental Planning and Assessment Act 1979. The assessment has identified the following key issues which are elaborated upon for Council's consideration.

State Environmental Planning Policy No. 14 – Coastal Wetlands

Portions of the subject site (north) are affected by SEPP 14 – Coastal Wetlands. No development works are proposed within this area.

NSW Primary Industries – Fisheries preference is for the provision of a foreshore buffer zone of 50-100 metre width adjacent to this specific class of marine vegetation.

This is unachievable on the subject site due to the depth of the property.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

A SEPP 33 assessment, which included a Multi-Level Risk Screening Assessment and Preliminary Hazardous Analysis and Summary, prepared by Myro Design Pty Ltd (dated 15 December 2016), was included as Appendix 5 of the submitted Statement of Environmental Effects.

As the storage screening quantity of 22kL (petrol and diesel) could not achieve the minimum separation distance of 6.1m to the southern property boundary from the dispenser point (within potentially hazardous area as determined by SEPP 33), further analysis was required, which included the Preliminary Hazardous Analysis (PHA).

This analysis indicated the proposed development falls within the 'negligible risk criteria' for societal risk criteria (i.e. multiple fatality situations) under the Hazardous Industry Planning Advisory Paper No. 4 - Risk Criteria for Land Use Safety Planning, NSW Department of Planning, 2000, and also specifies measures that must be implemented to ensure the level of risk is kept to a minimum.

The PHA further outlines that all equipment must be installed to comply with all relevant standards. Conditions can be imposed to ensure the development is constructed, installed and maintained in accordance with the relevant requirements.

The PHA also outlines that the dispenser can achieve the minimum boundary distance of 4m as outlined in the relevant Australian Standard (AS 1940-2004 and AS/NZS 60079.10.1:2009).

The proposal is considered acceptable, subject to conditions, having regard to the requirements of SEPP 33 and the Multi-Level Risk Screening Assessment and Preliminary Hazardous Analysis and Summary.

State Environmental Planning Policy No. 55 – Remediation of Land

The property is on Council's Contaminated Land Register 130-2015-38-1 and Mapping Layer.

The Register and Mapping Layer identify the site has previously been used for residential purposes (up until the 1970s a fibro cottage was located in the south east corner of the site) and as a service station from 1973 to 1990 with demolition of buildings and underground storage tanks being removed in 1993.

The service station contained five underground petroleum tanks, two above ground tanks and one underground waste oil storage tank.

The register further outlines that hydrocarbon contamination has been remediated and validated, with the low potential for contamination, and the site is suitable for commercial and industrial purposes.

As part of the subject application, a Preliminary Site Investigation Report has been prepared by Douglas Partners dated February 2017.

This report identified a number of potential contamination sources as a result of the site history.

The report also outlines that although previous contaminated site assessments indicated the potential for gross contamination from the former service station infrastructure to be low, there is the potential for soil and groundwater impact from the former service station and other contaminants not currently assessed. The recommendation was to conduct additional investigation prior to construction, in order to provide a better level of confidence in the environmental status of the site impacts on construction activities to reduce construction risks.

The consent authority must consider the risk to human health and the environment during the construction and use of the proposed development, including work safety issues, along with the potential for construction to disturb contamination and cause off site movement of chemicals.

Conditions can be imposed, should the application be approved, which requires further investigations to be carried out (as outlined in the Preliminary Site Investigation Report prepared by Douglas Partners dated February 2017) in accordance with relevant guidelines and standards, prior to the issue of any Construction Certificate. This will include the need for remediation and validation where required.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

The application was referred to the Director-General of the Department of Primary Industries, in accordance with Clause 15B (1)(B) due to the nature of the development and its proximity to a priority oyster aquaculture area. General comments were provided by the Department in correspondence dated 23 February 2017, however no specific concerns or conditions were expressed. Refer to **Attachment 7**.

State Environmental Planning Policy No. SEPP 71 – Coastal Protection

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

Clause 8 Matter for Consideration

(a) the aims of this Policy,

(1) This Policy aims:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

Comment: For the reasons outlined throughout this report the application is considered to be inconsistent with the objectives (g), (h), (j) and (k) in relation to the suitability of the development, inconsistency with the principles of ecologically sustainable development and the impacts on native coastal vegetation and the marine environment.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

Comment: There is no public access along the adjacent foreshore.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

Comment: The provision of new public access to and along the coastal foreshore is not considered appropriate in this location.

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

Comment: For the reasons discussed throughout this report, the proposed development is not suitable for the subject site and surrounding environment. In particular, the proposed development will have unreasonable impacts on the surrounding environment and traffic safety/management.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

Comment: The proposed development will not have any detrimental impact on the amenity of the coastal foreshore or result in significant loss of view from a public place to the foreshore. There are various opportunities for the public to view Fishery Creek along this section of River Street.

(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Comment: The proposed development will not have an unreasonable impact on the scenic qualities of the coast.

(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

Comment: The proposed development will have unreasonable impacts on the Forest Redgum EEC located on the site and neighbouring properties to the east and west. Refer to commentary on Environmental Considerations further in this report.

(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,

Comment: Council and the NSW Department of Primary Industries - Fisheries (Fisheries) raise concerns over the impacts of the proposal to discharge stormwater into the adjacent saltmarsh EEC. Refer to commentary on Environmental Considerations further in this report.

(i) existing wildlife corridors and the impact of development on these corridors,

Comment: The development site is identified on Council's Wildlife Corridor Map (prepared by the NSW Office of Environment and Heritage), as referred to in the Ballina DCP 2012, Chapter 2, Section 3.3. The impacts of the development on this Wildlife Corridor are considered unreasonable. Refer to commentary on the Ballina DCP 2012 further in this report.

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Comment: The development is unlikely to impact on coastal processes and coastal hazards and will not, subject to conditions, be unreasonably affected by such processes and hazards. The development can achieve Council's minimum fill and floor level requirements without significantly adversely affecting flood behaviour or resulting in detrimental increases in the potential flood affectation of other development or properties.

(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,

Comment: The proposed development is unlikely to directly conflict with water-based coastal activities.

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

Comment: An AHIMS Search was undertaken for the development which did not identify any recorded Aboriginal sites or Aboriginal places on or near the subject site. Based on the outcome of the AHIMS Basic Search and given the previous development history of the site, the development is not expected to have unreasonable impacts on cultural heritage. Appropriate conditions can be imposed in this regard.

(m) likely impacts of development on the water quality of coastal waterbodies,

Comment: The development will likely have unreasonable impacts on the adjacent saltmarsh EEC due to the location and design of the proposed stormwater outlet (i.e. the release of freshwater into the estuarine environment).

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

Comment: There are no listed heritage items within the vicinity of the site, and it is unlikely that any archaeological sites are on the property. Notwithstanding this, suitable conditions of consent can be imposed should archaeological items be discovered during construction works.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Comment: Not applicable.

(p) only in cases in which a development application in relation to proposed development is determined:

(i) the cumulative impacts of the proposed development on the environment, and

Comment: For the reasons discussed further in this report (refer to commentary on Environmental Considerations), the cumulative impacts of the proposed development on the environment are considered to be unreasonable, in this instance.

(ii) measures to ensure that water and energy usage by the proposed development is efficient.

Comment: The building is to comply with the BCA in terms of energy efficiency which can be addressed at Construction Certificate stage. Water efficient features can be incorporated into the development in accordance with the requirements of Chapter 6 of the Ballina DCP 2012. This can be addressed by way of conditions, should the application be approved.

14 Public access

A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.

Comment: The proposed development will not impede or diminish public access to or along the coastal foreshore.

16 Stormwater

The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.

Comment: The proposed stormwater system will ensure untreated stormwater is not discharged into Fishery Creek (or any other body of water). Notwithstanding this, concern is raised over the impacts on the adjacent Saltmarsh Endangered Ecological Community (EEC) due to discharge of freshwater into this system.

The proposed development is considered to be inconsistent with the aims and objectives of SEPP 71 and the matters for consideration set out in Clause 8 of the plan, in relation to suitability of development given its type, location and design and its relationship with the surrounding area, and its impact on the wildlife corridor, the Forest Redgum EEC located on and adjoining the site, and adjacent Saltmarsh EEC.

Draft Coastal Management SEPP 2016

The Draft SEPP was placed on public exhibition from 11 November 2016 to 20 January 2017. As a consequence, the draft SEPP is a matter for consideration under Section 79C(1)(ii) of the Environmental Planning and Assessment Act 1979.

The draft Coastal Management SEPP seeks to consolidate and improve current coastal-related SEPPs and ensure that future coastal development is appropriate and sensitive to the coastal environment, and public access to beaches and foreshore areas are maintained. The SEPP will repeal SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) upon gazettal.

The subject site is mapped under the Draft SEPP as Coastal Wetlands and Littoral Rainforests Area Map (Proximity Area for Coastal Wetlands), Coastal Environment Area Map and Coastal Use Area Map. The following provisions are therefore relevant to the current application.

Clause 12 - Development on land in proximity to coastal wetlands or littoral rainforest land

(1) Development consent must not be granted to development on land wholly or partly identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

(b) the quantity and quality of surface and ground water flows to the adjacent coastal wetland or littoral rainforest if the development is on land within the catchment of the coastal wetland or littoral rainforest.

Comment: The proposed development is expected to have unreasonable impacts on the biophysical, hydrological and ecological integrity of the adjacent coastal wetland (Saltmarsh EEC) due to the quantity of surface water being discharged into the estuarine system. Refer to commentary on Environmental Considerations further in this report.

Clause 14 - Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is wholly or partly within the coastal environment area unless the consent authority is satisfied that the proposed development:

(a) is not likely to cause adverse impacts on the biophysical, hydrological (surface and groundwater) and ecological environment, and

- (b) is not likely to significantly impact on geological and geomorphological coastal processes and features or be significantly impacted by those processes and features, and*
- (c) is not likely to have an adverse impact on the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, having regard to the cumulative impacts of the proposed development on the marine estate including sensitive coastal lakes, and*
- (d) is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, and*
- (e) will not adversely impact Aboriginal cultural heritage and places, and*
- (f) incorporates water sensitive design, including consideration of effluent and stormwater management, and*
- (g) will not adversely impact on the use of the surf zone.*

Comment: For the reasons discussed under SEPP 71 and further in this report, the proposed development is likely to have an adverse impact on native vegetation (being the Forest Redgum EEC and the Saltmarsh EEC) and is therefore inconsistent with Clause 14(1)(a) and 14(1)(d) of the Draft SEPP.

15 Development on land within the coastal use area

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- (a) is satisfied that the proposed development:*
 - (i) if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
 - (ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
 - (iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
 - (iv) will not adversely impact on Aboriginal cultural heritage and places, and*
 - (v) will not adversely impact on use of the surf zone, and*
- (b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

Comment: The proposed development is consistent with the provisions contained in Clause 15(a). However, for the reasons discussed further in this report, the design, size and location of the development is not considered to be appropriate for the site and surrounding environmental. Therefore the proposal is inconsistent with Clause 15(b).

16 Development in coastal zone generally—development not to increase risk of coastal hazards

(1) Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment: The proposed development is unlikely to cause increased risk of coastal hazards on the subject land or any other land.

Having regard for the relevant provisions of the Draft Coastal Management SEPP 2016 the proposal is inconsistent with the provision of Clauses 12, 14(1)(a), 14(1)(d), and 15(b), as the development will result in adverse impact on the Forest Redgum EEC located on the subject and adjoining site, and the adjacent Saltmarsh EEC.

Ballina LEP 2012

Clause 2.3 – Permissibility

The site is zoned B6 Enterprise Corridor under the Ballina LEP 2012. The proposed development is defined as a Service Station.

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

A service station is a permissible land use within the B6 – Enterprise Corridor zone under the Ballina LEP 2012.

Clause 2.3 - Zone Objectives

The objectives of the B6 Enterprise Corridor zone are as follows:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To provide for residential uses, but only as part of a mixed use development.
- To encourage integrated mixed use development that is centred on business and office-based activity.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To encourage development that achieves the efficient use of resources such as energy and water.

The development has had regard for and is generally consistent with the objectives of the B6 Enterprise Corridor zone.

Clause 5.5 Development within the Coastal Zone

(2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:

(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:

(i) maintaining existing public access and, where possible, improving that access, and

(ii) identifying opportunities for new public access, and

(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:

(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and

(ii) the location, and

(iii) the bulk, scale, size and overall built form design of any building or work involved, and

(c) the impact of the proposed development on the amenity of the coastal foreshore including:

(i) any significant overshadowing of the coastal foreshore, and

(ii) any loss of views from a public place to the coastal foreshore, and

(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

(e) how biodiversity and ecosystems, including:

(i) native coastal vegetation and existing wildlife corridors, and

(ii) rock platforms, and

(iii) water quality of coastal waterbodies, and

(iv) native fauna and native flora, and their habitats, can be conserved, and

(f) the cumulative impacts of the proposed development and other development on the coastal catchment.

Comment: Having regard for the design and size of the proposed development and the resulting environmental impacts (discussed throughout this report, including the section relating to SEPP 71 and the draft Coastal Management SEPP), the proposal is not considered to be suitable for the site.

(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:

(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and

(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

(d) the proposed development will not:

(i) be significantly affected by coastal hazards, or

(ii) have a significant impact on coastal hazards, or

(iii) increase the risk of coastal hazards in relation to any other land.

Comment: The proposal is considered to be consistent with the provisions of Clause 5.5(3). Refer to commentary previously under SEPP 71.

Ballina Development Control Plan 2012

Council's assessment staff have undertaken a comprehensive assessment of the application against the relevant provisions of the Ballina DCP 2012. The assessment has identified areas of non-compliance with numerous provisions of the Ballina DCP 2012. The following areas of non-compliance are elaborated upon for Council's consideration.

Chapter 2 – General & Environmental Considerations

Section 3.3 Natural Areas and Habitat

The site is identified on Council's Wildlife Corridors Map (prepared by the NSW Office of Environment & Heritage) (Refer to the Wildlife Corridor Map in **Attachment 4**). Accordingly, Section 3.3 of Chapter 2 applies as follows:

- i. Development is to be sited, designed and managed to avoid or mitigate potential adverse impacts on natural areas and habitat;

Comment: The site is immediately adjacent to areas subject to the Natural Areas and Habitat Map, and is mapped as being within the buffer to the Natural Areas Habitat (Refer to the Natural Areas and Habitat Map in **Attachment 5**). However, it is noted that the proposed development will impact on the Forest Redgum EEC, which is located within the adjacent unformed road reserve and is mapped as Natural Areas and Habitat and Wildlife Corridors. These impacts could be partly mitigated or avoided by achieving compliance with the vegetated buffer requirements outlined in Chapter 6d of the Ballina DCP 2012 (discussed further in this report).

- ii. All development (except dwellings, basic agricultural buildings and routine agricultural management activities) must demonstrate a net environmental benefit;

Comment: The proposed development does not demonstrate a net environmental benefit, as required by this clause. Instead, the development is considered to result in unreasonable environmental impacts.

- iii. A development application for land containing a wildlife corridor (as identified on the Wildlife Corridor Map), must demonstrate a long term net benefit to the operation and retention of the wildlife corridor. Compliance with this provision may also meet the requirements of (ii);

Comment: The applicant has indicated that they propose to rehabilitate a riparian corridor on the undeveloped portion of the subject site (to the north), although details have not been provided at this stage. Despite this, the area available for this purpose is insufficient to offset the proposed removal of Forest Redgum EEC. Therefore, the development does not demonstrate a long term net benefit to the operation and retention of the wildlife corridor.

- iv. Where development is unable to be sited, designed and managed to avoid potential adverse impacts on natural areas (as identified on the Natural Areas and Habitat Map), a proposal to remove habitat may be considered. If habitat is proposed to be removed or impacted as part of a development, an offset for the loss of biodiversity may be considered by Council provided it can be demonstrated that the proposed offset will maintain or improve biodiversity outcomes and values.

Comment: The proposed development could be designed and sited to reduce adverse impacts on the map natural areas and habitat (ie by increasing setbacks to these areas and reducing the overall development footprint). Furthermore, the development does not propose adequate offset for the proposed impact on vegetation. Refer to commentary on Environmental Considerations further in this report.

- v. Development applications relating to land to which this section applies are to be accompanied by an ecological assessment report prepared by an appropriately qualified and experienced professional.

Comment: The application was accompanied by a flora and fauna report, however this report was based on a previous application for the subject site.

The proposed development does not meet the objectives or satisfy the development controls specified in clause 3.3 of the Ballina DCP 2012.

Chapter 6d – Commercial Development West Ballina Enterprise Corridor

4.1 Element – Building Setback

Control	Proposed	Compliance
Setback to primary road = 10m min. Objectives: a. Maintain a well defined street edge along River Street; b. Provide an attractive street frontage not dominated by car parking; and c. Provide appropriate separation to residential areas.	Service station/convenience store = ~12m Fuel Canopy = 2.74m	Yes No – This area of non-compliance relates to an open structure. Given the site characteristics (e.g. site isolation and lack of an established building line), the proposal will achieve the objectives of the standard despite non-compliance.
Side setback = 1m min.	>1m	Yes

4.2 Element – Access

- i. The number of vehicle crossovers shall be minimised and appropriate sight lines provided to ensure safe pedestrian and vehicle movement.*
- ii. Limited access off River Street to be provided where possible via existing roundabouts or future traffic light intersections.*

Comment: The proposal incorporates separate ingress and egress points directly off River Street. These driveway crossovers are located in similar positions to the existing (redundant) crossovers, which were previously utilised by the former service station. Council Civil Services Group (along with the Local Traffic Development Committee and NSW Roads & Maritime Services) have raised concerns over the proposed use of the easternmost driveway crossover (for egress), due to a conflict with the Brampton Avenue merge into River Street. Furthermore, this driveway is likely to conflict with the future Western Arterial intersection with River Street. These issues are discussed further in this report. Refer to the Traffic Management section of this report.

Development Controls applying to Precinct 7

The subject site is located in Precinct 7 – Environmental Character of the West Ballina Enterprise Corridor. The following controls are applicable to the development.

- Primary buildings in any development are to address the River Street or Barlows Road frontage and are to be of a high architectural standard.

Comment: The proposed development is not considered to be of a high architectural standard. However, the proposed development reflects the features and appearance of that of a modern service station, and is considered acceptable in this instance.

- A singular vehicular access point is provided for each lot.

Comment: The proposed development provides for separate ingress/egress points on the site. Council's Civil Services Group has identified that the proposed eastern exit from the service station is in conflict with the seagull merge from Brampton Avenue and is not supported.

- All car parking spaces required for the development are provided on site and are adequately screened from the River Street or Barlows Road frontage.

Comment: The proposed development complies with the car parking controls outlined in Chapter 2 of the Ballina DCP 2012. Some landscaping areas are provided to assist in screening the hardstand areas from view from River Street.

- A continuous 10 metre wide vegetation screen is to be provided along the site boundary fronting the wetlands associated with Fishery Creek.

Comment: The subject site fronts wetlands associated with Fishery Creek to the north and east. The design incorporates a 10m vegetated buffer setback from the northern boundary, however an extensive hardstand area is proposed up to the eastern boundary (i.e. no buffer is provided). The proposed hardstand area will detrimentally impact upon the root zones of the Forest Redgum EEC vegetation that occurs on the adjoining property to the east. Accordingly, the proposed variation to the minimum 10m vegetated buffer setback to the eastern boundary is not supported on environmental grounds.

- A 3 metre wide vegetation screen is to be provided between on-site parking areas and the frontages of River Street and Barlows Road.

Comment: The proposed development comprises extensive hardstand area for refuelling, vehicle manoeuvring and car parking. A small area of between 1.3m to 4.2m in width is available within the front setback for landscaping purposes. Whilst no landscaping details have been submitted with the application, this can be provided prior to the issue of a Construction Certificate.

- All plant species used in vegetation screen planting and other landscaping on the site are to comprise species indigenous to the Fishery Creek wetland.

Comment: The application was not accompanied by a landscape plan. This matter can be addressed by way of condition.

- Water quality control basins are to be provided for the treatment of all stormwater discharging from the site in accordance with the provisions outlined in Chapter 2 of the Ballina DCP 2012.

Comment: The applicant submitted a stormwater report with the application. The proposed stormwater system is satisfactory for the development and, subject to certain conditions, will ensure the stormwater released to the environment does not cause water pollution. Notwithstanding this, concern is raised over the revised location of the stormwater outlet and the impacts on the adjacent saltmarsh EEC due to the discharge of freshwater into this estuarine system.

Precinct details contained within the West Ballina Enterprise Corridor - Site Recommendations Plan (Appendix A) specifies the following in relation to Precinct 7.

- 1) Desired Future Character - These areas should only harbour future land uses of an environmental sensitive and responsive manner, reflecting their immediate interface with environmentally important wetlands associated with Fishery Creek.
- 2) Land uses to be encouraged - Environment Centres, Residential Accommodation with highly resolved environmental credentials.
- 3) Land uses to be discouraged – All other land uses.

Comment: Whilst the DCP encourages certain environmentally sensitive land uses on the site, it is accepted that the subject site was previously used for the purpose of a service station and this land use is permissible within the B6 Enterprise Corridor zone. Notwithstanding, the design of the proposed development does not adequately address the interface to, and environmental impact associated with, the adjacent wetland and EEC.

Traffic Management

Traffic Committee Comments

The matter was considered at the Traffic Committee meeting of April 2017. The following comments were provided.

The Ballina Traffic Development Committee recommends to Council that conditions be placed on any consent for DA 2017/7 with the effect of:

- 1. All accesses be required to be located at the west end of Lot 1 DP 543357 and that no part of any access be closer than 40 m from the eastern end of the lot.*
- 2. Requiring the service station layout be reconfigured to accommodate the revised access configuration in 1 above.*
- 3. Ensure no structures or essential access ways are constructed in a splayed area, 5 m either side of the south east corner of Lot 1 DP 543357 (to accommodate the future Western Arterial Intersection left turn movement).*
- 4. No development should occur on the eastern edge of the property that could comprise construction of the western arterial. Refer to Plan of Western Arterial Road in **Attachment 6**.*

NSW Roads & Maritime Services Response

The application was referred to the NSW Roads & Maritime Services (RMS) under the provisions of Clause 104(3) of State Environmental Planning Policy (Infrastructure) 2007 (development is listed within Column 1 of the Table to Schedule 3 of the SEPP due to its size and capacity). In correspondence dated 10 April 2017 the RMS provided the following comments:

Roads and Maritime has reviewed the additional information referred and provides the following comments to assist the consent authority in making a determination;

- 1. The proposed eastern exit from the proposed service station is in conflict with the seagull merge from Brampton Avenue. The service station exit should be moved further west to provide safe separation from the seagull merge.*
- 2. The service station development as proposed appears to be in conflict with Council's proposed western arterial. On site development should be compatible with any future planned road proposal. In particular it is suggested that ;*
 - a. no development should occur on the western edge of the property that could compromise construction of the western arterial, and*
 - b. the eastern boundary of the property fronting River Street should be splayed to facilitate sight distances and future construction of the western arterial.*

*All works / new connections to River Street will need to be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and Roads and Maritime Supplements. Refer to **Attachment 7***

Roads and Access

The Council approved the Ballina Shire Roads Contribution Plan Version 4.0 at its Ordinary Council Meeting of 24 September 2015 (item 11.2). This plan identifies the current proposed route for the Western Arterial Road linking Ferngrove Drive, North Ballina to River Street, West Ballina, which traverses the eastern side of the development site (refer to route 1a on **Attachment 6**). To address this issue, Council staff requested (at Pre-DA Lodgement Meeting stage for the proposal) that any future development was to incorporate an estimated 25m wide corridor along the eastern boundary within the development site to accommodate the Western Arterial into the design proposal. This request was not accommodated by the applicant, on the following basis:

The schedule of works has the western bypass programmed between the years 2028 to 2036 a minimum of 12 years away and subject to funding. In response it is noted that:

- *The road corridor has not been zoned for local roads acquisition under Ballina LEP 2012; and*
- *Land to the east and west of the site could conceivably be used for a future road if and when required.*

In the absence of a zoning indicating Council's intention for the road, the absence of any detailed engineering concepts for the road proposal, and having regard for the availability of land to the east and west for the same purpose, it is contended that the proposed development will comply with the relevant planning controls, is considered to be in the public interest and approval will not compromise the overall desire by Council to provide for a Western Arterial road in the next 20 years.

As a consequence of these comments, Council staff then investigated alternate routes for the Western Arterial Road to the east and west of the development site. Due to the lack of available land and swampy low lying ground conditions on either side of the development site, the only feasible location was immediately to the east of the development site in Council's road reserve. This would result in the Western Arterial Road being adjacent to the eastern boundary of the development site and the 25m wide corridor within the development site would not be required.

The applicant was then advised that the eastern driveway crossover, marked as "OUT" on the proposed plan, would be in the functional area of the future Western Arterial Road intersection with River Street and should be relocated 40m to the west. Additionally, this eastern exit is in conflict with the seagull merge from Brampton Avenue, as identified by the RMS. The RMS advised that the exit should be relocated further to the west to provide safe separation and to reduce merging vehicle conflict areas. This change has not been accepted by the applicant.

Council's Local Traffic Development Committee (LTDC) which comprises representatives from Council, NSW Police and the RMS, as well as separate advice from the RMS in accordance with SEPP Infrastructure 2007 requirements, have all advised that the eastern driveway crossover exit should be relocated further to the west. The relocation of the exit would remove the conflict with the seagull merge from Brampton Avenue and the clash with the functional area of the future Western Arterial intersection. As the local roads authority Council should not approve a development that could jeopardise a major link road or create additional intersection conflict points. Therefore Council's Civil Services Group recommends the proposed development be refused on the grounds on road network issues.

Environmental Considerations

The application was not accompanied by a flora and fauna report prepared for the subject application. Rather, the development application has relied on the "*Terrestrial Flora and Fauna Report*" prepared for the previous application on the site (being DA 2011/529 which was withdrawn on 24 May 2012). The use of this Flora and Fauna Report for this proposal is considered acceptable, in this instance, given:

- it had been prepared having regard for Council's ecological concerns at the time,
- the proposed development has a reduced footprint than that of the previous proposal, and
- the vegetation associated with the site has largely remained static.

In an environmental context, the development site is predominately surrounded by highly sensitive and high quality estuarine habitats, which include SEPP 14 Wetlands, extensive mangrove and saltmarsh habitat. Saltmarsh is listed as an EEC pursuant to the Threatened Species Conservation (TSC) Act (1995).

Although extensively disturbed, part of the development site supports an open redgum woodland which is a representative of the EEC "*Subtropical Coastal Floodplain Forest*" and the subject vegetation community has an elevated conservation value.

Whilst the majority of Forest Redgum EEC is growing on the development site (Lot 1 DP 543357), it also occurs on the adjoining property (Lot 2 DP 543357) to the west. Lot 1 and 2 are in common ownership however, Lot 2 does not form part of the current application. Forest Redgum EEC is also growing along the eastern boundary of Lot 1 and within the adjacent unformed road reserve. This road reserve also supports extensive areas of saltmarsh and mangrove habitat. The Forest Redgum EEC, which is located within the road reserve, is considered ecologically important as it provides buffer to the Saltmarsh EEC.

The development will result in the removal of approximately 1200m² of Forest Redgum EEC from the site. The local population of the Forest Redgum EEC is small in size, occupying an area of approximately 1800m². Consequently, the development will remove approximately 66% of the "*local population*" as defined by the TSC Act (1995). This level of impact to the "*local population*" is consistent with the findings contained in the applicant's ecological report.

To offset these impacts on the development site, the applicant has indicated they propose to rehabilitate a riparian corridor on the residual portion of Lot 1 that is located outside of the development footprint. Whilst this outcome is supported, the final form of the restoration program remains unknown. In addition, where a development affects an EEC and when those impacts are considered acceptable, Council requires a five to one offset ratio (i.e. 5m² offset for 1m² of impact). Based on this offset ratio the applicant would be required to achieve a minimum offset ratio of 6000m². However, it is estimated that the area of land available for any offsetting only equates to approximately 800m². This is well below Council's offset ratio requirements and, as such, is not considered adequate.

In addition, given substantial excavation and filling works will be required to remove the existing hardstand areas and to construct the new service station, it is considered the development will also impact on root zones of the retained Forest Redgum EEC vegetation that occurs on the adjoining properties (Lot 2 and the road reserve). It is noted that in the event the development application did incorporate the 10m vegetated buffer along the eastern boundary of the site (as stipulated in Chapter 6d of the Ballina DCP 2012), these additional indirect impacts could have been reduced or avoided.

It is concluded that the development will impact on the majority of the local Forest Redgum EEC population as defined by the TSC Act 1995. This level of impact would generally constitute a significant impact to a local population and would need to be supported by a Species Impact Statement (SIS). However, given the level of disturbance associated with the site and as the EEC in question has regenerated within the footprint of the old development site (and remaining concrete slab), the need to prepare an SIS for this development is questionable. Irrespective, given the impacts to the Forest Redgum EEC are not restricted to the development site, they are deemed unacceptable. It is also noted the applicant has failed to identify the full extent of the indirect impacts of the development on the Forest Redgum EEC.

Concerns are also raised in regard to the applicant's approach to discharging stormwater from the site. When the development application was lodged with Council, stormwater generated from the site was proposed to be discharged into the SEPP 14 wetland. Due to land ownership issues and the potential to trigger other legislative requirements, the applicant relocated the proposed stormwater outlet.

The revised stormwater outlet now terminates on an elevated section of the site that has no hydrological flow path to the active (tidal flows) creek system. Consequently, due to this lack of a formalised flow path, stormwater discharging from the site will be directed onto the Saltmarsh EEC. It is considered that over time the introduction of uncontrolled and frequent flows of stormwater will ultimately cause a decline in the ecological value of the saltmarsh.

To date, the applicant has failed to demonstrate that the development can discharge stormwater from their development site without having a significant adverse impact on the Saltmarsh EEC and, as such, the method of stormwater discharge as proposed by the applicant is not supported.

Furthermore, as the Saltmarsh EEC does not occur on land owned by the applicant, and given the requirements of the SEPP 14 legislation, any remedial actions directed at resolving this issue are likely to be complex, time consuming and possibly outside the control of the applicant to rectify.

In view of the above issues, the assessment concludes that the proposed development should not be supported from an ecological perspective.

Department of Primary Industries – Water

The application was referred to NSW Department of Primary Industries – Water under the Water Management Act 2000 as Integrated Development.

In correspondence dated 10 May 2017 the Department issued General Terms of Approval for the development. Refer to **Attachment 7**.

Department of Primary Industries – Fisheries

The application was referred to the NSW Department of Primary Industries – Fisheries (Fisheries) pursuant to the provisions of SEPP 62. Fisheries, in correspondence dated 23 February 2017, did not raise any specific concerns in relation to aquaculture.

Whilst the application was not nominated as integrated development under the Fisheries Management Act 1994, Fisheries provided additional comment on the following issues:

- Integrated referral under the Fisheries Management Act 1994
- Buffer distances to key fish habitats
- Stormwater Outlet
- Works that may trigger Part 7 of the Fisheries Management Act 1994
- Offsetting unavoidable impacts to key fish habitats - Refer to Government Agency responses in **Attachment 7**.

On 19 June 2017, the applicant provided a response to the matters raised by Fisheries, including the submission of an amended site plan showing the revised location for the proposed stormwater outlet.

This response was forwarded to Fisheries for their consideration. The Department's Fisheries Manager, Aquatic Ecosystems [North Coast] advised Council that as the application was not nominated as Integrated Development under the Fisheries Management Act, no further comments were to be provided on the additional information, and the previous comments from the Department still stand (i.e. SEPP 62 and general advice).

A further conversation with the Department's Senior Fisheries Manager Aquatic Ecosystems [North Coast] on 10 October 2017 confirmed that, despite the minor changes to the plans, Fisheries remain concerned that the development impact on the adjacent fisheries habitat, inclusive of the Saltmarsh EEC.

Conclusion

The subject site is located in an environmentally sensitive location and is affected by numerous planning controls which seek to protect and enhance the environmental qualities of the site and area.

The site is also subject to constraints regarding existing and proposed future road network in the immediate vicinity of the development.

The application does not adequately address these issues.

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

The application is recommended for refusal for the reasons outlined in the recommendation.

RECOMMENDATION

That Development Application 2017/7 for the construction of a service station with convenience store, car parking, signage and associated works at Lot 1 DP 543357, 413-423 River Street, West Ballina be **REFUSED** for the following reasons:

1. The proposed development conflicts with the functional area of the future Western Arterial as depicted in the Ballina Shire Roads Contribution Plan 2014.
2. The proposed development does not comply with Clause 8.3 of Chapter 6d of the Ballina DCP 2012 as it involves the provision of more than a single vehicular access point, and as a consequence, the proposed egress point will create a traffic conflict point with the Brampton Avenue merge into River Street and therefore causes a traffic safety and function issue.
3. The extent of impact on the Forest Redgum Endangered Ecological Community located on the development site is not being adequately offset, and therefore the development will have unreasonable environmental impacts.
4. The proposed development will directly impact on the Forest Redgum Endangered Ecological Community located on the neighbouring properties to the east and west, due to the impact on root disturbance resulting from the proposed works.
5. The proposed stormwater discharge point will result in an unacceptable impact on the adjacent Saltmarsh Endangered Ecological Community habitat and will ultimately cause a decline in the ecological value of the saltmarsh.

6. The design of the development does not incorporate a 10 metre wide vegetated buffer to the eastern property boundary, as required by Section 8.3 of Chapter 6d of the Ballina DCP 2012, and as a consequence results in unreasonable impacts on the adjacent Forest Redgum Endangered Ecological Community.
7. The proposed development does not demonstrate a net environmental benefit or a long term net benefit to the operation and retention of the wildlife corridor. The proposed development therefore does not meet the objectives or satisfy the development controls specified in Section 3.3 Chapter 2 of the Ballina DCP 2012.
8. The proposed development is inconsistent with the aims of SEPP 71 and the matters for consideration set out in Clause 8 of the plan, in relation to the suitability of development given its type, location and design and its relationship with the surrounding area, its impact on the wildlife corridor, adjacent Saltmarsh Endangered Ecological Community habitat, fish habitat, and the Forest Redgum Endangered Ecological Community located on, and adjoining, the site.
9. The proposed development will have an adverse impact on native vegetation, being the Forest Redgum Endangered Ecological Community located on, and adjoining, the site, and the adjacent Saltmarsh Endangered Ecological Community, and is therefore inconsistent with the provision of Clauses 12, 14(1)(a), 14(1)(d), and 15(b) of the Draft Coastal Management SEPP 2016.
10. The proposed development is inconsistent with Clause 5.5(b) of the Ballina Local Environmental Plan 2012 in relation to suitability of development given its type, location and design and its relationship with the surrounding area, its impact on the wildlife corridor, and the Forest Redgum Endangered Ecological Community located on, and adjoining, the site.
11. The proposal is inconsistent with the principles of ecologically sustainable development.
12. The design of the development does not have adequate regard for the constraints of the site, including environmental sensitives and the existing and proposed traffic network.
13. The site attributes are not considered to be conducive to the proposed development.
14. The cumulative impacts of the proposed development on the environment are considered to be unreasonable, in this instance.
15. For the reasons outlined above, approval of the application is not considered to be in the public interest.

Attachment(s)

1. Locality Plan
2. Proposed Plans
3. Public Submissions
4. Wildlife Corridors Map
5. Natural Areas and Habitat Map
6. Plan of Western Arterial
7. Government Agency Responses

Applicant	Newton Denny Chappelle (on behalf of Dojoo Pty Ltd)
Property	Lot 1 DP 1146004, No. 31-35 Cherry Street, Ballina
Proposal	Section 96AB Review of Modification Application to Development Consent 2006/148 as determined by Council on 27 July 2017 by way of Refusal
Effect of Planning Instrument	The land is zoned B3 Commercial Core under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of an application under Section 96AB of the Environmental Planning and Assessment Act 1979 requesting a review of the determination of a Modification Application to Development Consent 2006/148, as refused by Council at its Ordinary Meeting held on 27 July 2017.

The Section 96 Modification Application to Development Consent 2006/148 involved a proposal for:

- Payment of monetary contributions under the Ballina Shire Parking Contributions Plan 2014 for 17.18 car parking spaces. The 17.18 car parking spaces are the required number of accessible spaces, which can be utilised by the public, customers etc., within the car parking area on the second floor of the development; and
- An amendment to the Parking Management Plan (approved via consent condition 2.21) to enable closure of the security doors and to now state that access to the car parking area will be available to the tenancies of the building only.

At the Ordinary Meeting held on 27 July 2017, Council resolved to refuse the Section 96 Modification Application to Development Consent 2006/148; i.e.

1. *That Council refuse the application to modify development consent 2006/148 as the application is not a good outcome for the town centre and will have a range of detrimental impacts, as identified within this report and that development should provide on-site accessible parking as per the existing consent.*
2. *That increased signage be placed to advertise the availability of public parking.*
2. *That the provision for ambulance be removed and be replaced with appropriate disability car parking, subject to Local Traffic Committee approval.*

In relation to point one, the purpose of this report is to seek a review (via Section 96AB of the EP&A Act 1979) of Council's determination of the Modification Application to Development Consent 2006/148 as made at the 27 July 2017 meeting.

Point two of this resolution has not been progressed at this time and is dependent on the outcome of the requested Section 96AB review.

For point three, Council's Civil Services Group has written to Wave Radiology in relation to the removal of the parking exclusion zone for ambulance services in Cherry Street, which facilitates patient access to their business.

A response was received via email on 14 August 2017 advising that Wave Radiology supports the proposal to change the designated ambulance parking to disabled parking. The matter was considered by the Local Traffic Committee at its 11 October 2017 meeting with the following recommendations:

In regard to Part 3 of Council resolution 270717/8 relating to 31-35 Cherry Street, Ballina "That the provision for ambulance be removed and be replaced with appropriate disability car parking, subject to Local Traffic Committee approval." Council is advised:

1. *The Committee does not support the replacement of the existing ambulance parking in Cherry Street with disability parking due to unsuitable geometry (levels and grade) of the adjacent footpath and safety risk for disabled persons disembarking in this heavily trafficked part of Cherry Street.*
2. *The Committee supports designation of a disabled parking zone on the Tamar Street side of the premises immediately east of the corner which will replace two existing angle parking spaces.*
3. *The Committee also supports the replacement of the designated ambulance parking bay on the Cherry Street side of the premises with 1 Hour Parking as per the adjacent parking zone, however Council consider retention of the existing Ambulance parking bay.*

Refer to Attachment Two for a copy of the review documentation lodged by the applicant.

Refer to Attachments Three, Four and Five for a copy of the previous report to Council's Ordinary Meeting held on 27 July 2017, Meeting Minutes and Notice of Refusal.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The Section 96AB Review documentation was placed on public exhibition from 20 September 2017 to 5 October 2017. One submission was received during this period. This submission is provided under separate cover due to a request within the submission for it to remain confidential.

The issues raised in the submission are as follows:

- Tenants (and customers of tenants) will be affected due to the parking spaces being available for the exclusive use of tenants and staff.

Comment: At present, the majority of tenancies within the development are occupied by medical related services or financial service businesses, which generally operate on an appointment basis. It is acknowledged that the proposal will result in some changes to customer interactions for these existing businesses, given customers will need to find an on-street car parking space or a car parking space within a public parking area in Tamar Street, as opposed to parking within the roof top car parking area.

It is unknown as to how many customers of these businesses currently utilise the roof top car parking area. It is also unknown as to whether this change in parking arrangements (i.e. parking in an on-street car parking space or a car parking space within a public parking area in Tamar Street), would impact on whether a customer would continue their interactions with these businesses.

- There will be a net loss of public car parking spaces within the town centre.

Comment: The developer proposes to pay monetary contributions for 17.18 car parking spaces, which will mean that the public car parking system (comprising on street parking and parking within existing and future public car parking areas) will need to cater for the 17.18 spaces which are no longer available within the development site for public/customer parking.

The Ballina Shire Car Parking Contributions Plan 2014 includes a car parking infrastructure program in relation to the future provision of these spaces.

The submission also raises concern that tenants may choose to utilise other parking areas elsewhere in the town centre, citing reasons that the landlord is permitted to charge fees to tenants for use of the car parking spaces.

As discussed in the previous report to Council, it is not a matter for Council's consideration as to whether the landlord charges additional fees for the use of car parking spaces to tenants of the building. This could be inbuilt into the rental agreement for the lease of each tenancy.

The application has not been lodged on the basis that a separate lease fee is to be charged to each tenant of the building for car parking spaces.

Regardless of the review of the determination of the modification application, Council requires that car parking be available to all tenancies within the development, whether the tenant chooses to use the car parking area or not. Council does not have a role or involvement in whether an additional lease fee is charged by the landlord (including whether additional fees are charged for more car parking spaces required/requested, than the minimum for each tenancy).

- Use of the roof top parking is prohibitive, as the doorway to the internal stairs and lift to access the roof top parking is still permanently locked.

Comment: As part of the previous compliance investigation carried out by Council in relation to the closure of the security gates at the development site, it was discovered that tenants and customers could not access their vehicles through the building (i.e. through the internal door or lift as they were locked) during business hours.

This resulted in people having to traverse the vehicular ramp alongside vehicles entering and leaving the car parking area, which was contrary to the proper and safe operation of the car parking area.

Correspondence was issued by Council to the applicant in relation to this matter in January 2017.

Inspections of the development site were carried out by Council on 18 May 2017 and 20 September 2017, which confirmed that there was 'unlocked' access through the internal door and lift to the roof top car parking area.

Council has recently contacted the applicant for further advice in relation to this issue, given it was raised as a concern in this submission.

The applicant has confirmed that following on from some recent vandalism and anti-social behaviour in the roof top car parking area, the owner has locked the internal door (and lift access) to the rooftop car parking area.

This means that persons who park their vehicles in the rooftop parking area cannot directly access Level 1 or the Ground Floor of the development, other than through use of a key.

There is also no ability for persons trying to access the rooftop car parking area directly through the building, unless they have a key to the doors (or have arranged with a tenant to unlock the door).

In both instances, this results in persons traversing the vehicular ramp to access their vehicle or Winton Lane.

Council staff have confirmed (via inspections on 20 September 2017 and 9 October 2017) that the fire exit doors from the roof top parking level to the street system (in order to provide a safe path of travel in a fire emergency) are all operational and unlocked.

The applicant has advised that upon determination of the Section 96AB Review, the owner of the development will review the issues with accessing the roof top parking level via the internal door and lift system within the building.

The applicant has advised that the internal doors and lift will be unlocked if the proposed modification to DA 2006/148 is granted consent, given the security gates will remain closed and there will not be an opportunity for unauthorised access to the roof top parking level.

Council staff will need to address this matter from a compliance perspective, should the Section 96AB Review decision be to maintain the refusal of the proposed modification, to ensure proper and safe access can occur through the building to the roof top parking level (and vice versa).

- Public car parking will be impacted through the approval of the modification.

Comment: As discussed in the previous report to Council, the subject site is proximate to the public car parking areas located at No. 74 Tamar Street, No. 78 and No.'s 80-84 Tamar Street (Wigmore Car Park) – being 60 metres and 100 metres from the subject site. These locations are relatively accessible to the development site.

There is no public car parking area proposed in the vicinity of the development at present.

However the Ballina Shire Car Parking Contribution Plan 2014 identifies that additional land is expected to be purchased in close proximity to Council's current landholdings for car parking. This additional land will also be utilised for public car parking purposes. Any extra land purchased will be approximately 600m² in area, which has been estimated to yield approximately 20 car parking spaces.

The Ballina Shire Car Parking Contribution Plan 2014 does not identify any other areas within the Ballina Town Centre as being possible locations for future public car parking spaces/areas. In this regard, any contributions collected would need to be utilised in accordance with the Plan.

- Loss of business to current tenants

Comment: As was stated in the previous report to Council, it is unknown as to whether this would be the case or not and Council cannot take these financial matters into consideration of planning/land use matters.

The submission also states that the nature of their business is such that meetings with clients exceed the on-street parking limits within the immediate vicinity of the Development.

In response to this issue, the on-street parking adjoining the development site and nearby public car parking areas are time limited (one and two hour). However, the on-street parking directly opposite the site along Cherry Street (to the north-west) and half a block north on the eastern side of Cherry Street are unrestricted (i.e. not time limited) parking.

In this regard, there is parking nearby in the street system that could cater for longer parking times for clients of the subject business.

- Negative outcome for the town centre and a negative precedent upon which other commercial developments may seek to rely.

Comment: It is not considered that the proposal will have a negative outcome for the town centre. Whilst car parking will not be allocated for customers within the development, there is a mechanism to collect monetary contributions (through the Ballina Shire Car Parking Contribution Plan 2014) whereby public car parking can be provided in the locality in the future in accordance with the adopted Contribution Plan.

As stated in the previous report to the Council, if the proposed modification is granted consent, the development will result in a total of 84.91 car parking spaces (50 spaces on site + 17.73 spaces in credit + 17.18 spaces in monetary contributions) being provided by the development. This would mean that an additional 20.63 spaces are to be provided by the subject development.

Council staff are unaware of any other commercial development in the Ballina Town Centre which has sought to provide car parking spaces to such an extent above the minimum requirements of Council.

It is not known as to whether other commercial developments will seek to provide no publicly accessible parking spaces within their development site and rely on the payment of Section 94 monetary contributions in lieu of providing these spaces.

The current DCP provisions require that all parking spaces in commercial and industrial developments must be available for unrestricted public access and employee use and where car parking spaces are proposed to be designated for private use then such spaces are required to be additional to the minimum specified requirements.

Therefore, for future large scale commercial developments, all car parking spaces provided on site are to be publicly accessible, as opposed to the requirements of the previous DCP (which was based on shop (retail) and Refreshment rooms – a minimum of 75% of total spaces provided on site are to be accessible parking and office (commercial) – a minimum of 25% of the total spaces provided on site are to be accessible parking).

It is unlikely the circumstances for the subject development will commonly arise in the future, however if this does arise, Council can deal with it on the merits of that particular application.

Report

The following information has been provided by the applicant in support of the proposed modification.

- The Section 96 application did not modify the quantum of car parking offered on-site. The 50 on-site car spaces will be available to the tenancies and their staff. Accordingly, whilst the modification relates to accessible parking, the predominant number of people utilising the currently available accessible parking spaces are the staff of the tenancies of the building.

8.2 DA 2006/148 - Section 96AB Review - 31-35 Cherry Street, Ballina

- As the proposal does not reduce the quantum of parking, there is no impact upon the availability of parking within the Ballina CBD as staff would either be parking in the building (as proposed and currently occurring) or parking within the public parking network.
- All parking on the second floor is to be available for tenant/staff parking purposes. All public parking is to be on-street. There is no impact upon the town centre as the proposal does not result in the net loss of parking spaces available within the Ballina CBD.
- The amendment does not seek in any way to prohibit the opportunity for each tenant to access on-site parking. Each tenant of the building is able to secure parking through an agreement with the landowner. Each tenant, as a minimum, will be supplied with car parking spaces to accord with the minimum prescribed level under the Ballina DCP for their designated land use. Additional parking spaces for staff may then also be secured should the tenant seek additional parking.
- The Section 96 Application lodged sought to provide a monetary contribution under Ballina Shire Car Parking Contribution Plan 2014 for 17.18 car spaces, being the accessible spaces under Council's Development Control Plan. The Contribution per car space equates to \$25,803, hence the total parking contribution proposed to be paid to Council totals \$443,295.54.
- The Ballina Shire Car Parking Contribution Plan 2014 also identifies that additional land is expected to be purchased in close proximity to Council's current landholdings for car parking. This additional land will also be utilised for public car parking purposes. Council staff have identified any extra land purchased will be approximately 600m² in area, which has been estimated to yield approximately 20 car parking spaces.
- Based on the current supply of public parking (65 car parking spaces) at No.'s 74 and 78 Tamar Street ready access to parking is available, whilst the contributions will facilitate additional parking through either the purchase of additional land in the short term or the long-term vision under the Section 94 Plan for a multi-level car park.
- With the development of additional public car parking by Council in the locality (No.'s 74 and 78 Tamar Street), the demand for car parking in the locality is more easily catered for and will not be impacted by the proposed payment of the 17.18 accessible parking spaces.

The additional information provided from the applicant (as summarised above, and as provided in Attachment 2) seeks to address the reasons the Council cited in their refusal of the Section 96 Application to Modify Development Consent 2006/148.

The assessment, conclusions and recommendations made by staff in the previous report to the Council continue to stand and the proposal is considered to be a reasonable and suitable outcome for this development in the circumstances.

Conclusion

As stated in the previous report to Council, the proposed modification to DA 2006/148 does not seek to modify the number of car parking spaces provided on the site as part of the development. The proposal does however, seek to restrict the use of the on-site parking for tenant and employee use only, with the accessible parking spaces provided for by car parking credits (and therefore within the on-street car parking system) and an additional payment of Section 94 monetary contributions for the 17.18 car parking spaces (totalling an amount of \$460,303.74).

As per the provisions of the Ballina Shire Car Parking Contribution Plan 2014, the payment of the monetary contribution will give Council the option to fast-track the multi-level car parking development or contribute to the future acquisition and development of a parking area containing 20 spaces. In this regard, the 17.18 car parking spaces will be provided on public land in the future.

In view of the content of this report and the previous report to Council, it is recommended that the Section 96AB Request for Review of the Determination of the application to modify development consent 2006/148 via Section 96(2) of the Environmental Planning and Assessment Act 1979 be supported and Council's determination of the Section 96(2) Application be changed to the grant of consent.

RECOMMENDATION

That the Section 96AB Request for Review of the Determination of the application to modify development consent 2006/148 via Section 96(2) of the Environmental Planning and Assessment Act 1979 be supported and Council's determination of the Section 96(2) Application be changed to the grant of consent, with the following modifications:

New Condition

- 1.21 A revised plan of management is to be provided for the parking area to ensure satisfactory use and safety of the parking area. This plan is to include signage to advise of the parking area, mirrors to assist with safety exiting the parking area onto the public road, and ensuring access and spaces are allocated and available to the tenancies of the building. The quantum of car parking spaces allocated and available to each tenancy is to adhere to the supply rate calculated per tenancy, in accordance with Table 2.3 within Chapter 2 of the Ballina Shire DCP 2012. Details are to be submitted to and approved by Council prior to the closure of the security gates to the car parking area and payment of the car parking contributions for 17.18 car parking spaces as per condition 2.10 of this amended consent.

Amended Conditions

- 2.10. Prior to the issue of the Construction Certificate for the development, total payment to Council of non-refundable monetary contributions is to be made towards the provision of public services and amenities, which are required as a result of the development. These contributions are required in accordance with s94 of the Environmental Planning & Assessment Act, 1979 and Council's adopted Contribution Plans.

The current amounts required are:

- \$62,687.00 for the provision of major shire wide road infrastructure, being for 942m² of retail floor area plus 1064m² of office floor area minus a credit for the existing service station development on site, in accordance with Plan No1: Ballina Road Contribution Plan.

- \$7,961.00 for the provision of planning and administration of section 94 funds, being at the rate of \$6.75 per m² of g.f.a minus a credit for the existing service station development on site, in accordance with Plan No.3: Section 94 Planning Studies and Administration.

The development is also required to make a monetary car parking contribution under the provisions of the Ballina Shire Car Parking Contribution Plan 2014 for the equivalent of **17.18** car parking spaces, in lieu of providing publicly accessible car parking spaces within the car parking area on the second floor of the development. Refer to Schedule 1 within this amended consent for the contribution rates applicable at the time of the issue of this amended consent.

The payment of the monetary car parking contribution is required to be paid prior to the closure of the security gates on Winton Lane.

These rates are reviewed periodically by Council and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Contribution Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

- 5.5. Car parking spaces
A minimum of 50 car parking spaces shall be provided and available at all times for parking purposes for the tenancies within the development.
- 5.6 Road dedication/Driveway closure - car parking requirement
A total of 65 car parking spaces would ordinarily be required to be provided for the development, however as part of the site was required for road widening purposes and also due to the closure of driveways adjoining the development site, a credit of 17.73 car parking spaces is given.

Deleted Conditions

2.21 A plan of management is to be provided for the parking area to ensure satisfactory use and safety of the parking area. This plan is to include signage to advise of the parking area, mirrors to assist with safety exiting the parking area onto the public road, and ensuring access and spaces are allocated and available to visitors. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.

5.7 Parking signposting
Permanent signposting is to be erected in front of the development stating that visitor parking is available on the site. The car parking spaces shall be clearly designated and kept available for such purpose.

New Schedule

Schedule 1

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
Ballina CBD Car Parking Contribution 2014	4603	per car park not provided	\$26,793.00	17.1800	\$460,303.74

Attachment(s)

1. Locality Plan
2. Section 96AB Review Documentation
3. Report to Council's 27 July 2017 Ordinary Meeting
4. Minutes from Council's 27 July 2017 Ordinary Meeting
5. Notice of Refusal
6. Confidential Submission (Under separate cover)

8.3 DA 2017/420 - Height Variation - 14 Suvla Street, East Ballina

8.3 DA 2017/420 - Height Variation - 14 Suvla Street, East Ballina

Applicant	Barker Studios Pty Ltd
Property	Lot 2 Sec 97 DP: 758047, No. 14 Suvla Street, East Ballina
Proposal	Demolition of existing dwelling and construction of a new dwelling, pool with carport forward of the Building Line
Effect of Planning Instrument	The land is zoned R3 Medium Density Residential under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of a Development Application for the demolition of an existing dwelling and the construction of a new dwelling, swimming pool and carport as shown in the attached plans. 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 satisfactorily meets the applicable statutory and merit considerations and warrants favorable consideration.

The subject site is zoned R3 Medium Density Residential under the BLEP 2012 and consequently, the provisions of the BLEP 2012 apply to the subject land. The proposed dwelling has a maximum height of 10.5 metres, as measured from existing ground level, and therefore exceeds the maximum height control of 8.5m, as stipulated in Clause 4.3 (Height of Buildings) of the BLEP 2012.

This represents a variation to the standard by up to 2m (or 23.5%). The variation is located at the rear of the allotment only and only applies to a relatively small portion of the development.

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 (or state otherwise if this is not the case)

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. There are other minor variations to the DCP that can subsequently be determined under delegated authority. 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

A single dwelling is permissible development upon the R3 Medium Density Residential zoned land. 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.

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
a) What is the development standard being varied?	<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”. The application seeks to vary the 8.5m building height standard by a maximum of 2m, with the overall height of the extension being 10.5m above the existing ground level at the rear of the allotment only. The variation sought is up to 23.5% more than the allowable maximum height.</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 follows:</i></p> <p><i>(a) to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,</i></p> <p><i>(b) to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,</i></p>

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
	<p><i>(c) to protect significant views from public places.</i></p> <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"> • 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? • 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? 	<ul style="list-style-type: none"> • 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. • The subject allotment is extremely steep. The rear of the allotment is the lowest point and this is where the encroachment into the maximum building height takes place, over the rear portion of the dwelling. The encroachment is largest on the eastern elevation and is quite minimal on the western elevation. Sloping allotments can result in unavoidable encroachments. The dwelling appears as single storey when viewed from the street and is similar if not smaller in bulk and scale when compared to other developments within the area and therefore will not create an undesirable precedent in the neighbourhood. The bulk of the building will be minimised through the varying ground levels and character of the proposed building to be constructed. The proposed variation will not cause any overshadowing impacts on surrounding properties and will not impede on the privacy or amenity to the neighbouring residents. The building will not have any impact on views from public places.
<p>d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?</p>	<p>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.</p>
<p>e) The Five Part Test (Note: established by the NSW Land and Environment Court).</p> <ul style="list-style-type: none"> • Are the objectives of the standard achieved notwithstanding non-compliance with the 	<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</p>

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
<p>development standard?</p> <ul style="list-style-type: none"> • Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary? • Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable? • 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? • 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)? 	<p>considered unreasonable in this instance due to the sloping allotment. Forcing strict compliance with the height control would impact on any future construction on site as it would be very difficult to maintain the 8.5m maximum height plane with the site constraints.</p> <p>Furthermore, the proposal meets the objectives of the Environmental Planning and Assessment Act 1979.</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.

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.

Conclusion

The proposal is not likely to have an adverse effect on the streetscape or surrounding landscape as it is consistent with other neighbouring developments and therefore will not create an undesirable precedent in the area.

The application was target notified with no objections being received. That portion of the building exceeding the building height will not have any negative impacts on adjoining properties or the streetscape.

It has been demonstrated by the applicant that the request complies with the intent of Clause 4.6 and due to the sloping allotment, unavoidable encroachments can easily occur.

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 2017/420 for the proposed building as depicted in the plans prepared by Barker Studio dated 31 May, 2017 as attached to this report be **APPROVED**, for the reasons outlined in this report.

Attachment(s)

1. DA 2017/420 - 14 Suvla Street, East Ballina - Locality Plan
2. DA 2017/420 - Lodgement Plan Set

8.4 Development Applications – Variation to Development Standards

8.4 Development Applications – Variation to Development Standards

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

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

RECOMMENDATION

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

Attachment(s)

Nil

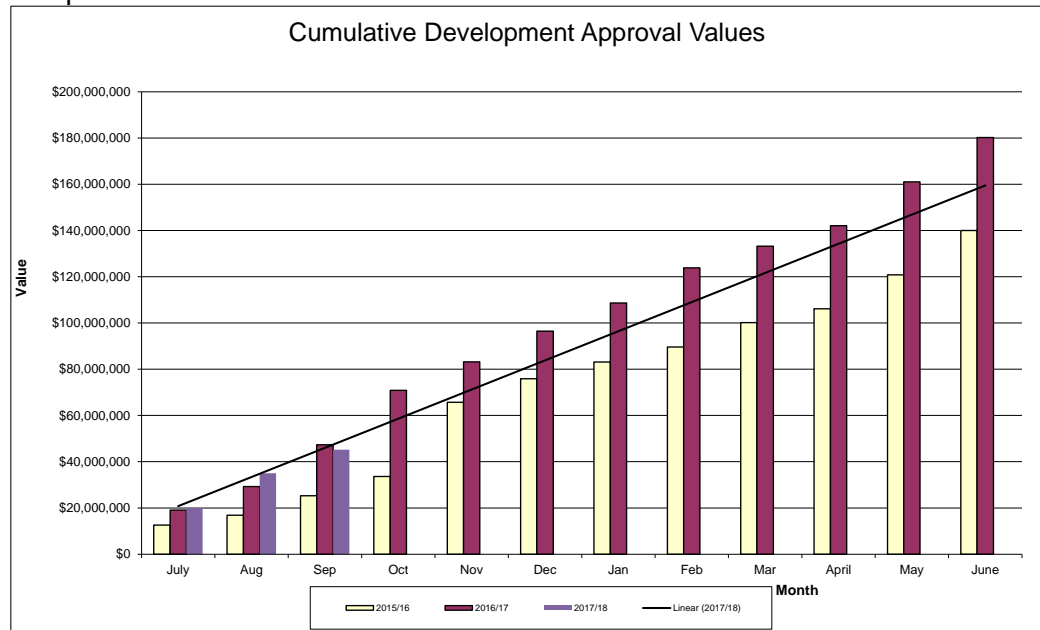
8.5 Development Consent and Infrastructure Approvals - September 2017

8.5 Development Consent and Infrastructure Approvals - September 2017

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

Number of Applications	Value of Work
41 Other including Changes of Use	\$ 3,850,543
14 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 5,039,042
6 General Developments including Subdivisions	\$ 1,319,141
Total Value	\$ 10,208,726

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



During the period of 1 September 2017 to 30 September 2017 there were no applications for Public Infrastructure / Civil Construction Works.

RECOMMENDATION

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

Attachment(s)

Nil

8.6 Development Applications - Works in Progress - October 2017

8.6 Development Applications - Works in Progress - October 2017

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/274	20/05/2016	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create 1 x 1.45ha and 1 x 47ha allotments and the establishment of a rural worker's dwelling upon the larger Proposed Lot 11 – 61 & 145 Brooklet Road, Newrybar	Being assessed
2016/704	5/12/2016	Ardill Payne & Partners	Staged Seniors Housing Development Comprising the Re-Development of Alstonville Maranoa pursuant to S.83B of the EP&A Act with consent also sought for Stage 1 comprising 12 self-contained dwellings, tree removal, new driveway and associated works - 9-19 The Avenue, Alstonville	Determination Pending
2017/129	17/3/2017	CivilTech Consulting Engineers	Construction of a two lane road linking North Creek Road to the Ballina Byron Gateway Airport including three roundabouts at the intersections with North Creek Road, Boeing Avenue and the connection into the airport. The proposal also includes extensions to Boeing Avenue and the	Awaiting Additional Information

8.6 Development Applications - Works in Progress - October 2017

			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	Awaiting Additional Information
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 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	Determination pending

8.6 Development Applications - Works in Progress - October 2017

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 ² and one 573m ² allotments - 32 Castle Drive, Lennox Head	Awaiting Additional Information
2017/351	29/06/2017	Zane Grier	Temporary Use of Food Van – 19 Old Pacific Highway, Newrybar	Awaiting Additional Information
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	Service Station and Childcare Centre – 246-250 Lismore Road, Wollongbar	Awaiting Additional Information
2017/386	19/2/2017	Optus Mobile Pty Ltd	Erection of a 33 metre high telecommunication facility consisting of a single monopole with associated equipment – 61 Piper Drive,	Determination pending

8.6 Development Applications - Works in Progress - October 2017

			Ballina	
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	Awaiting Additional Information
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 two lots – 73 North Teven Road, Teven	Being Assessed
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	Awaiting Additional Information
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	Awaiting Additional Information
2017/434	07/08/2017	PalmLake Works Pty Ltd	Seniors Housing Development (Extension to Palm Lake Resort) Comprising 18 Self Contained Dwellings, Infrastructure and	Referred to Government Departments

8.6 Development Applications - Works in Progress - October 2017

			Associated Works - 16 & 120 Corks Lane & North Creek Road, Ballina	
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 Denny Chapelle	Two Lot Subdivision 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	Referred to Government Departments
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	Determination Pending
2017/486	04/09/2017	R & L Hutton	Amended Application for Vegetation management works comprising the removal of 22 Palm Trees and two Sydney Blue Gums – 65 Jameson Avenue, East Ballina	Being Assessed
2017/493	6/9/2017	Anne Coombs	Construction of a rural farm building and earthworks associated with a horse riding arena – 461 Hinterland Way, Knockrow	Awaiting Additional Information
2017/502	11/9/2017	Richmond River Tyre Company	To undertake a change of use to general industry and associated signage – 2/35 De-Havilland Crescent, Ballina	Being Assessed
2017/521	21/9/2017	S & D	Vegetation	Awaiting

8.6 Development Applications - Works in Progress - October 2017

		Gasbarrone	management works to remove 15 trees – 36 Kell Mather Drive, Lennox Head	Additional Information
2017/534	26/9/2017	Newton Denny Chapelle	Subdivision to create three development lots and residue lots – Lot 54 DP 1222919 Hutley Drive, Lennox Head (EPIQ Estate)	Referred to Government Departments
2017/537	28/9/2017	J Lewis	Vegetation management works comprising the removal of two trees – 14 Palisade Way, Lennox Head	Being Assessed
2017/541	28/2017	D Mallam	Demolition of the existing dwelling house and construction of a new dwelling house with pool, tourist and visitor accommodation comprising nine tourist units, two sheds, car parking and associated works – 421 Coolgardie Road, Coolgardie	On Exhibition & Referred to Government Departments
2017/545	29/9/2017	Swim Loops Pty Ltd T/A JUMP! Swim School	Change of use to a swim school (recreation facility - indoor) including installation of a pool, internal fitout and associated signage – 1/269 River Street, Ballina	Being Assessed
2017/547	3/10/2017	Owners Corporation SP 14662	Vegetation management works comprising the removal of three trees – 9 Robertson Street & 14-18 Alston Avenue, Alstonville	Being Assessed

8.6 Development Applications - Works in Progress - October 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	Subject to Class 1 Appeal in the NSW Land & Environment Court

8.6 Development Applications - Works in Progress - October 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
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	Being Assessed

8.6 Development Applications - Works in Progress - October 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
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	Briefing to be held with Councillors Awaiting Additional Information

8.6 Development Applications - Works in Progress - October 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
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
2017/447	17/8/2017	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	Referred to Government Departments

8.6 Development Applications - Works in Progress - October 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/509	13/9/2017	Conrad Gargett	Alterations and Additions to Lennox Head Public School including the demolition of a number of demountable buildings and construction of new classrooms and amenities including administration building, two storey homebase building (exceeding the 8.5 metre building height standard), canteen, covered outdoor learning area, basketball court, landscaping and associated works – 25 Byron Street, Lennox Head	On Exhibition

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 October 2017.

Attachment(s)

Nil

9.1 Alstonville Strategic Plan 2017 - 2037 Project Completion

9. Strategic and Community Facilities Group Reports

9.1 Alstonville Strategic Plan 2017 - 2037 Project Completion

Delivery Program Strategic Planning

Objective To report on submissions received in response to the public exhibition of the draft Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan 2017 - 2037 and seek direction from the Council with respect to the adoption of the strategic plan.

Foreword

The Council, at its Ordinary Meeting held on 27 July 2017 resolved to defer the Alstonville Strategic Plan 2017 – 2037 to a Councillor briefing [Minute No 270717/4]. The briefing took place on 19 September 2017 with approximately 25 members of the public in attendance.

The topic issues canvassed at the September briefing were largely obtained from Councillor feedback as well as from additional issues identified during the course of preparing the briefing slides.

As outlined in the planning report considered by the Council at its Ordinary Meeting on 27 July 2017, the Council has the following options available to it in relation to the completion of the Alstonville Strategic Plan project:

- 1. That the Council adopts the Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan 2017 – 2037 with appropriate amendments arising from the public exhibition process.*
- 2. That the Council defers further consideration of the Alstonville Strategic Plan 2017 – 2037.*
- 3. That the Council ceases further consideration of the Alstonville Planning and Environmental Study and the draft Strategic Plan 2017 - 2037.*

It is considered that the Councillor briefing has not resulted in the identification of additional information requirements or significant new technical information that warrant variation to the staff recommendations contained within the July 2017 report.

Given the above, and having again reviewed the information provided, and submissions received, including the Alstonville Planning and Environmental Study and the draft Alstonville Strategic Plan 2017 – 2037, it is recommended that Council adopt the Alstonville Planning and Environmental Study and the Alstonville Strategic Plan 2017 – 2037 (with amendments), as contained in Attachments 1 and 2 to this report.

The information provided in the remainder of this report draws largely from the information contained within the report to the Council's Ordinary Meeting on 27 July 2017. The available options have, however, been expanded to provide Council with a pathway, should it consider it desirable, to further investigate the potential for "greenfield" subdivisions within the inter-urban buffer adjoining Alstonville.

Background

The Council, at its Ordinary Meeting held on 28 April 2016 resolved to proceed with the preparation of a place-based strategic planning process for the urban areas of Alstonville and Wollongbar [Minute No 280416/12].

The Council's decision was in response to Action HE3.1.2b of the 2015/16 Delivery Program and Operation Plan (now Action HE3.1c of the 2017/18 plan relating to Alstonville). This action relates to ensuring that Council's planning instruments reflect current and future needs. In this context, the review of the planning framework for Alstonville was undertaken through a planning and environmental study process, incorporating as an initial step a comprehensive community engagement program.

The adopted 2012 Ballina Shire Growth Management Strategy identified a number of strategic actions for Alstonville. The following strategic actions were also examined through the environmental study process:

- Identification of opportunities for additional seniors' living facilities;
- Investigation of the potential for infill development intensification (as distinct from "greenfield" lateral expansion of the township);
- Reviewing planning controls for the township's commercial centre following construction of the Bruxner Highway bypass;
- Preserving the integrity of the township's "footprint";
- Maintaining the urban buffer / inter-urban break between Wollongbar and Alstonville;
- Revisiting the historical Third Plateau Village concept; and
- Managing and/or promoting Aboriginal, European and other non-Aboriginal cultural heritage values in accordance with relevant stakeholders.

Prior to commencing work on the draft Alstonville Planning and Environmental Study (APES) a public consultation program was initiated. This program consisted of the following elements during June and July 2016:

- Letters to the owners of 3000+ properties within the Alstonville township and adjacent rural and industrial areas;
- Pop-up street stall established for three mornings on the corner of Daley and Main Street;
- Meetings held with Chamber of Commerce and Alstonville and District Football Club. Invitations extended to other organisations, such as Alstonville High School, to discuss strategic planning issues;
- Press release prepared which resulted in interviews on ABC radio and NBN News during July 2016; and

9.1 Alstonville Strategic Plan 2017 - 2037 Project Completion

- On line survey and web background content established.

Submissions received in respect to the pre-study community engagement assisted to establish the direction of the draft APES and the various issues that it has examined. It also assisted in the development of a range of suggested actions as contained in the draft Alstonville Strategic Plan 2017 – 2037.

A Councillor briefing on 7 March 2017 provided Councillors with a detailed overview of the findings of the draft APES, the action options to achieve the five vision elements and the documents forming a part of the exhibition.

Following the Councillor briefing a report on the Alstonville strategic planning process, and the exhibition of the draft strategic planning documents, was considered by the Council at its Ordinary Meeting held on 23 March 2017 when it was resolved as follows [Minute No 230317/16]:

1. *That Council endorses the public exhibition of the draft Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan 2017 – 2037.*
2. *That Council give further consideration to the draft Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan following public exhibition.*

The draft APES and draft Alstonville Strategic Plan 2017 – 2037 were placed on public exhibition from 5 April 2017 until 12 May 2017. The exhibition was launched at the Alstonville Plateau Bowls and Sports Club on 3 April 2017 where in excess of 70 people were in attendance. The report to Council's July Ordinary Meeting addressed each of the submissions received in response to the public exhibition of the project documents.

The draft APES has been updated to reference the consultation process, the coming into effect of the NSW Department of Planning and Environment's North Coast Regional Plan, the lodgment of the development application for the Baptist Care Maranoa Village proposal and the referencing of Council's decision with respect to the E Zone Review process, amongst other matters. It has also been updated to correct data relating to the number of R2 zoned lots within various lot size categories and dwelling yields from lots which may have dual occupancy potential.

Attachment 1 to this report contains a copy of the APES as completed in June 2017. Attachment 2 contains a copy of the draft Alstonville Strategic Plan 2017 – 2037 inclusive of recommended amendments.

Key Issues

- Locality based strategic planning
- Community engagement and consultation

Information

The process of preparing and exhibiting the draft Alstonville Planning and Environmental Study and the draft Alstonville Strategic Plan 2017 - 2037, and subsequent adoption and implementation, consists of the following seven key stages:

9.1 Alstonville Strategic Plan 2017 - 2037 Project Completion

- Council endorsement of the approach to be used to prepare the strategic plan for Alstonville (April 2016);
- Initial pre-study preparation community engagement (June – July 2016);
- Council endorsement of the draft Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan 2017 – 2037 (March 2017);
- Exhibition of draft Alstonville strategic planning documentation (April – May 2017);
- Council consideration of submissions and adoption of the Alstonville Strategic Plan 2017 – 2037 with or without amendment (July 2017);
- Incorporation of projects arising from the investigation of Alstonville Strategic Plan 2017 – 2037 actions within Council's Delivery Program and Operational Plan; and
- Completion of projects in accordance with timeframes nominated within the Delivery Program.

Upon adoption of the Alstonville Strategic Plan 2017 – 2037 the next phase of this project will relate to the incorporation of relevant projects, arising from the further investigation of actions, within Council's Operational Plan and Delivery Program.

The draft Strategic Plan as publically exhibited identified 23 actions under the following five locality objectives:

- One - Ensuring that the township's character, sense of community and quiet lifestyle is maintained – 8 actions;
- Two - Providing new housing opportunities that are affordable and provide choice for people to meet changing life needs – 5 actions;
- Three - Enhancing connectivity through the provision of walking paths, cycle ways and a town square – 6 actions;
- Four - Fostering employment opportunities – 3 actions; and
- Five - Maintaining and enhancing our natural environment – 4 actions.

Attachment 2 contains the Alstonville Strategic Plan 2017 – 2037 which has now been updated partly in response to submissions. Post exhibition comments have been incorporated within this document for the information of Councillors, together with indicators of community support derived from analysis of the online survey results.

A total of six actions are no longer proposed to be supported for the reasons indicated within Attachment 2. In addition, two new actions have been proposed which relate to the Tossa Falls Plan of Management and mapping of Big Scrub remnant areas.

In terms of the public access opportunities along the banks of Maguires Creek discussed at the Councillor briefing on 19 September 2017, this is referenced within proposed Action 14 of the draft Strategic Plan 2017 – 2037 (see Attachment 2). In this respect the action relates to examining the feasibility of a nature trail along the banks of Maguires Creek within the existing Easements for Pedestrian Access.

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There is no reference within the draft strategic plan to the construction of a pathway within the easement area. It is recognised, and confirmed by legal advice, that the easement terms afford Council an opportunity to permit public access but not to construct works. The construction of works within the easement area requires land owner consent to be obtained, or alternatively, the area occupied by the easement to be acquired by the Council on a compensative basis.

Draft priority ratings have also been assigned for the Council's consideration and endorsement. High priority ratings are anticipated to be actioned within 5 years or on an ongoing basis. Medium priorities within a 10 year period and Low priorities beyond 10 years or as opportunities arise. This approach is consistent with that previously adopted by the Council in relation to the Wardell Strategic Plan.

In total, there are proposed to be nine high, four medium and four low priority actions which require various degrees of Council investigation and involvement. An additional two actions, being Main Street private property beautification strategy (medium priority) and investigation of produce exporting opportunities (low priority), are not within Council's direct area of responsibility.

During the exhibition process the major community focus has been related to the proposed strategies associated with *Locality Objective Two - Providing new housing opportunities that are affordable and provide choice for people to meet changing life needs.*

Locality Objective Two actions contained within the draft strategic plan are essentially township consolidation initiatives designed to provide housing choice opportunities generally within Alstonville's existing urban area. In summary, the consolidation actions proposed, and the estimated additional people and dwellings that would potentially result, are detailed in the table below:

Proposed Action	Total Dwelling Yield	Total Population Increase	Dwelling Yield to 2036	Population Increase to 2036
Dual Occupancy on 900m ² + lots	250	570	60	135
Rezone of some R2 lots to R3	150	340	38 - 75	87 - 171
Increase R3 density	112	260	28 - 57	64 - 130
Adventist Rezoning	20	30	20	30
TOTAL	532	1,200	146 - 212	316 - 466

It has been estimated that currently, there is capacity within the existing urban area of Alstonville to accommodate an additional 356 dwellings which have the potential to provide housing for an additional 775 people.

Adoption of the consolidation initiatives proposed is estimated to result in Alstonville's annual population increasing to within the range of 0.5% to 0.75% to the year 2036. Without adopting any consolidation initiatives the population is estimated to increase by 0.27% per annum to 2,036 (forecast.id estimate).

Data recently derived from the 2016 Federal Census indicates that in the period 2011 to 2016 Alstonville's resident population increased by 91 people to 5,739 people.

This represents an annual population growth rate of +0.32%, which is below the forecast increase.

Sustainability Considerations

- **Environment**

The implementation phase following the adoption of the strategic plan for Alstonville may have potential environmental benefits. This is due to the housing choice initiatives, documented within the strategic plan, being confined to within Alstonville's existing urban boundaries as opposed to expansion into adjoining rural areas.

- **Social**

The implementation of strategies supported by the local community and aimed at stimulating economic activity, increasing potential housing choice options and improvements to village accessibility and amenity, are all considered to have net social benefits.

- **Economic**

The rationale behind many of the suggested strategies relate to the stimulation of economic activity within Alstonville. Therefore, what is proposed is considered to have net economic benefits.

Legal / Resource / Financial Implications

The implementation of actions detailed in the strategic plan does not raise any specific legal obligations beyond compliance with the *Environmental Planning and Assessment Act 1979* where they relate to LEP and DCP matters.

The majority of actions, where Council has been assigned implementation responsibility, can be scheduled within existing work programs, primarily within the Strategic and Community Facilities Group. Where this is not the case, additional financial resources are required, as estimated within Attachment 2.

In total, it is estimated that for actions which cannot be absorbed within established programs, a one-off financial commitment of approximately \$32,000 is required. Given that these actions, if adopted, are likely to be programmed for implementation over a 5 year period, allocation can be made as part of the Council's normal annual budget development process. One-off funding of this order can be met from the Strategic Planning reserve. This should be considered with the understanding that strategic plans for Wollongbar and Lennox Head are yet to be completed with no implementation funding allocated as yet.

If the Council elects not to fund the implementation of the plan, staff will prioritise the actions that can be met within existing work programs and assign low priorities to those actions requiring additional funding.

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If actions 21 to 23 are retained within the plan then an additional ongoing commitment of approximately \$32,000 per annum has been estimated from when these actions are programmed to commence.

Consultation


The community engagement strategy for the exhibition of the draft Alstonville Planning and Environmental Study and the draft Alstonville Strategic Plan 2017 – 2037 included the following elements:

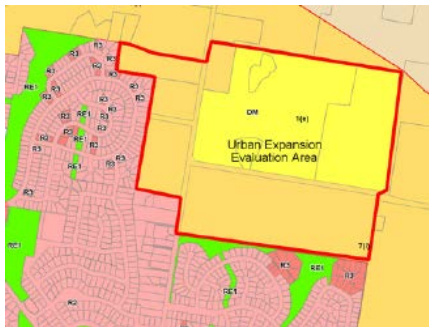
- Advertisements in the Ballina Shire Advocate 29 March and 26 April 2017;
- Media Release prior to exhibition commencement incorporating an invitation to the community to the launch of draft strategy documents;
- Letters (20) to community groups and others identified within exhibition documents (service clubs, schools, Police, Landcare etc.);
- Letters (90) to owners of land identified as candidate R3 zoning sites;
- Emails (70) to persons and groups on contact list from 2016 pre-study consultation;
- Community Connect story (April 2017 edition);
- Exhibition launch and community briefing on 3 April 2017;
- Project webpage and online survey;
- Facebook posts; and
- Letterbox information brochure (2,000) to Alstonville township properties on 5-6 May 2017.

In response to the above engagement initiatives a total of 16 written submissions and 69 survey responses were received. The submissions received and the survey outcomes were outlined in the July report to Council.

Two landholders subsequently provided additional information to augment their earlier submission to the public exhibition process (being in relation to the Prendergast and Roach properties). The outline of the submissions made to the public exhibition in relation to these properties is reproduced from the July report below. The staff recommendation in relation to these properties remains unchanged from the July report



Table 1 – Draft Alstonville Strategic Plan 2017 – 2037 Submissions Summary – Prendergast and Roach Properties

Submission No.6	Terra Spatial on behalf of Tosha Pty Ltd (T J and S G Prendergast) Lot 2 DP 1182136, 1336 Teven Road, and Lot 1 DP 1182136, 5 Banjo Place, Alstonville
Submission Comments:	Response:
<p>The location of the subject land is shown on the map extract below.</p> <p>Location Plan (red outline orange and brown colour)</p>  <p>Submit that the best potential use of the land is for medium or low density housing.</p> <p>Suggest that land is not located between Alstonville and Wollongbar and therefore development will not impact the buffer between the two villages.</p> <p>Suggest that the rural character of the village will be better maintained by strip development not being located along a highly visible main road (Teven Road).</p> <p>State that the land is a key access point to Tosha Falls and currently there are a high number of trespassers traversing the area identified (by property owner) for potential residential development.</p> <p>Claim that the land is also suitable for affordable, accessible seniors living and / or manor house developments due to topography, non – agricultural use and its proximity to the township.</p> <p>Claim that due to the area of Lot 1 (1.271ha) it would be common sense to rezone the whole of the lot (front portion zoned R2) as its small size makes it unviable as rural land.</p> <p>The submission concludes that as the land is not visible from any major rural roads, part of the property appear conducive to more intense development. Request a change to the planning status of the properties to rural or future residential.</p> <p>Advise that the owners are committed to offer a range of community benefits (such as formalised community access to the waterfall) in return for some additional development potential for unconstrained parts of the property.</p>	<p>A brief history of the subdivision and development history of this land is as follows:</p> <p>March 1977 – subdivision registered which created Lot 2 DP 253899. This lot had an area of 18.26ha and is the lot originally purchased by T and S Prendergast. Lot 2 is burdened by an easement for pedestrian access which runs parallel to Maguires Creek and has a width of 20 metres.</p> <p>The easement for access was required to be created under a 1975 Tintenbar Shire Council policy which required rural properties, adjoining major creeks, when subdivided, to incorporate pedestrian access for a width of 20 metres from the creek bank.</p> <p>February 2013, Lots 1 and 2 DP 1182136 created. These lots resulted from a boundary adjustment between Lot 2 DP 253899, 1336 Teven Road, and Lot 218 DP 835001, 5 Banjo Place. Both lots owned by T and S Prendergast. This boundary adjustment was originally approved in 1996 and then again in 2011. It resulted in a residential zoned lot (Lot 218 area of 774.7m²) being joined with land zoned 7(i) – Environmental Protection (Urban Buffer) to create Lot 1 with an area of 1.271 hectares and Lot 2 with an area of 17.07 hectares.</p> <p>Lot 1 is vacant land and Lot 2 contains a wholesale plant nursery (Alstonville Tree Farm). The applicant's stated intention with respect to this boundary adjustment was to consolidate fragmented land on the southern side of a small watercourse with a lot having frontage to Banjo Place.</p> <p>Lot 2 DP 1182136 contains a dwelling house closest to Teven Road approved in 1978 and a rural workers dwelling approved in 1984 in the north western section. Lot 2 also contains a farm shed, and associated amenities building.</p> <p>The draft APES considered these lots and others (Refer s6.3.3.1) and concluded that the expansion of the Alstonville urban area north of Albert Street and Clare Street to Johnsons Road and west to Maguires Creek should not be supported due to its perceived higher environmental and agricultural value and the location of Council's wastewater treatment plant within this area.</p> <p>The urban buffer zoned section of Lot 1 and the whole of Lot 2 1182136 are designated as State Significant Farmland.</p> <p>The location plan also shows the Alstonville Wastewater Treatment Plant (WTP) site. A minimum buffer of 400 metres is nominated in the 2007 NSW DPI publication <i>Living and Working in Rural Areas – A Handbook for Managing Land Use</i> conflicts on the NSW North Coast to sewage treatment plants.</p> <p>The submission is not considered to have provided a compelling case which would support the designation of lots 1 and 2 within an Urban Expansion Evaluation</p>

	<p>Area as an initial step towards potentially achieving a residential zone over part or all of lots 1 and 2.</p> <p>The proposal, whether confined to the 7(i) zoned parts of lot 1 or lots 1 and 2, is also considered to be contrary to the Urban Growth Area Variation Principles contained within the NSW Government's North Coast Regional Plan in respect to potential land use conflict concerns relating to proximity to a sewage treatment works, and agricultural activities. A significant portion of lot 2 is also mapped as bush fire prone land.</p> <p>The Alstonville Strategic Plan 2017 – 2037 proposes a number of actions that support additional housing opportunities being created within the existing urban footprint of Alstonville township. In so doing, it has responded to the expressed desire of the Alstonville community for greater housing choice within the township as opposed to the rezoning and release of rural land for urban purposes.</p> <p>The draft Alstonville Planning and Environmental Study also considered potential opportunities for urban expansion beyond the boundaries of the Alstonville urban area. The area considered least constrained was that area located within the buffer to the existing Tuckombil Quarry fronting Teven Road. This area, whilst considered generally acceptable, did not include the Prendergast property, but ultimately was not further investigated as it is rendered unsuitable whilst ever the quarry is in operation.</p>  <p>The Prendergast property (lot 2) was not nominated within the potential urban expansion evaluation area as it did not align with the boundaries of existing residential zoned properties west of Teven Road, as well as being significantly affected by the buffer to Tuckombil Quarry.</p> <p>A site inspection was undertaken of lots 1 and 2 to better understand opportunities available for the land and impacting land constraint issues.</p> <p>The site inspection has confirmed that, whilst residential subdivision development is problematic, due to site constraint and precedent concerns, it is conceivable that opportunities for low-key rural tourism initiatives could be considered upon lot 2.</p> <p>Some types of tourist facilities are permitted with consent within the 7(i) Environmental Protection (Urban Buffer) zone. Tourist facilities such as refreshment rooms (definition includes cafes, and restaurants) would not be permitted, unless ancillary to accommodation, and would require an LEP amendment.</p>
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	<p>[Note: Draft Strategic Action 18 relates to a review of farm-based tourism initiatives to ensure that they are permitted, and development controls such as parking setbacks and other design standards are supported by the local community.]</p> <p>Recommendation:</p> <p>1. No change to the strategic plan.</p>
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Submission No.8	SDS Civil Enterprises (Peter Williams) on behalf of Mr P B Roach, Lot 2 DP 620552, 59 Lismore Road, Alstonville
Submission Comments:	Response:
<p>Lot 2 is shown by the red outline on the Location Plan below.</p> <p>Location Plan</p>  <p>Lot 2 has an area of approximately 4.6ha and is within the deferred matters area [zoned 7(i) Environmental Protection (Urban Buffer) under BLEP 1987].</p> <p>Seek a low density residential zone. Suggest that this would have negligible impact upon the rural buffer view lines due to site being below a local ridgeline. Also advise that the land has significant urban development about its more visual northern perimeter.</p> <p>Seek clarity in terms of draft Strategic Action No. 1 which states in part: <i>“Advocate a policy position which generally discourages proposals which seek to introduce urban style development”</i></p> <p>Indicate that this objective should provide greater clarity for the term ‘generally’.</p> <p>Suggest that the objective incorporate the following: <i>“permissibility of discrete and appropriate development that has minimal impacts on buffer sight lines and infrastructure servicing corridors”.</i></p> <p>Photo of lower part of site proposed for Subdivision</p>	<p>Lot 2 is located within the urban buffer between Wollongbar and Alstonville. It is designated as State Significant Farmland and does not appear to be currently used for agricultural purposes. Lot 2 is also partly designated as Bushfire and Landslip Prone Land.</p> <p>The area below the ridge line suggested as suitable for low density residential development is also that part of the site impacted by bushfire and landslip constraints.</p> <p>Land Constraint Map Extract</p>  <p> State Significant Farmland Bushfire Prone Land </p> <p>Lot 2 was created in 1982 and is also burdened by an Easement for Pedestrian Access, variable width, which runs parallel with the lot’s boundary to Maguires Creek.</p> <p>As was the case with the response to Submission 7, contemplating a residential zoning being applied to Lot 2 (all or part) is not supported as it would serve to undermine the strategy of maintaining the urban buffer between Wollongbar and Alstonville. Notwithstanding, there are other land constraints which impact lot 2. A concept plan for a 10 large residential lot subdivision forms a part of the submission material .</p> <p>The issue of providing greater clarity to Strategic Action 1 and the use of the word <i>‘generally’</i> within this action is noted. Greater clarity would be provided by removing a reference to <i>‘generally’</i> within Strategic Action No 1.</p> <p>Recommendation:</p> <p>1. No action be taken in respect to designating Lot 2 as a potential low density residential development site.</p> <p>2. Strategic Action No 1 as contained within the draft Alstonville Strategic Plan 2017 – 2037 be amended to remove the word ‘generally’.</p>



In addition to the above, Council received further correspondence from SDS Civil on behalf of Mr Peter Roach in relation to Lot 2 DP 620552, 59 Lismore Road, Alstonville (Attachment 3).

In summary, the submission seeks a change of zoning over the land to enable urban development in the form of seniors living housing (this can range from independent housing in the form of single dwellings for persons aged over 55 through to facilities providing a full suite of aged care services). Such housing is permitted on rural (but not environmental protection) zoned land that adjoins land zoned primarily for urban purposes and hence a rural zone in this case may enable this form of housing on Lot 2 DP 620552.

The inference in the submission that seniors living land uses have not been considered in any great detail in the Alstonville Strategic Plan process is incorrect and misleading. An extensive assessment of the urban planning circumstances associated with Alstonville, including population demographics and existing service provision with respect to seniors housing and aged care, have been undertaken and considered. Key information in this regard is contained within the Alstonville Planning and Environmental Study which has been publicly exhibited. Information in this regard was also presented as part of the Councillor briefing held in September.

The submission also infers that the land will be sterilised if Council does not apply a rural zone to the site. This statement does not take proper account of the existing land use zoning circumstances. That is, the land has been zoned 7(i) Environmental Protection (Urban Buffer) since 1987 and was purchased by Mr Roach with this zoning in place. The zone enables a wide variety of rural land uses but does not enable urban development in line with the intent of the zone. The retention of the current zone arrangement maintains the status quo as opposed to Council removing development potential that is otherwise available.

The application of a rural zone to enable seniors living housing as requested in the submission enables additional greenfield urban development between Alstonville and Wollongbar. Regardless of the form of the development, enabling of urban land use within the currently 7(i) Environmental Protection (Urban Buffer) area is likely to significantly impact the integrity of the separation between the two villages. As indicated in the Councillor briefing and elsewhere within this report, it is the view of staff that there are no compelling planning reasons to enable a policy of lateral expansion or "greenfield" development for Alstonville in the foreseeable planning time horizon.

No changes to the Alstonville Strategic Plan are recommended in response to this additional submission or to otherwise enable seniors housing development by way of greenfield expansion at Alstonville.

Options

1. Adoption of the Strategic Plan

That the Council adopts the Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan 2017 – 2037 with appropriate amendments arising from the public exhibition process, and priorities, as detailed in Attachment 2.

This is the recommended option. Amendments recommended for the Alstonville Strategic Plan 2017 – 2037 are as follows:

- Action 1 – deletion of the word “generally”;
- Action 7 – Deletion of reference to local service clubs from responsibility designation;
- Action 8 – (Garden Competition) deletion of this proposed action due to lack of current support from local service clubs;
- Action 9 – Limit planning proposal to permit dual occupancy development to lots having an area of 900m² or more;
- Action 10 – Lot 1 Pearces Creek Road – Deletion of this action due to impact of land constraints upon Lot 1 which render it potentially unsuitable for seniors living accommodation;
- Action 11 – Request property owner agreement to heritage list properties with assessed heritage potential prior to increasing permitted density (from 1 dwelling per 300m² of site area to 1 dwelling per 200m² of site area);
- Action 14 – Footpath and shared pathway strategy – also consider feasibility of a nature trail along banks of Maguires Creek within the existing pedestrian access easement areas;
- Combining of Action 15 – Incorporation of investigation of fitness stations along shared paths with Action 14 related to shared path strategy development;
- Actions 21 to 23 – Landcare and environmental support actions proposed to be deleted due to cost and lack of specific support from Richmond Landcare;
- Proposed new action related to Tosha Falls Management Plan; and
- Proposed new action related to Big Scrub mapping.

Council could also under this option determine that certain actions recommended for inclusion within the strategic plan be deleted or additional actions be included. For example Action 16, relating to maintaining a watching brief for a suitable town square site, could be deleted if the Council is of the view this action has insufficient merit to warrant inclusion within the strategic plan, or that pursuing it is unrealistic in the foreseeable future.

Importantly, the draft strategy as attached to this report does not establish a no growth approach for Alstonville. Rather, it establishes a growth framework based on infill development in targeted locations.

2. Deferral

That the Council defers further consideration of the Alstonville Strategic Plan 2017 – 2037.

Should the Council require additional information on issues raised in the submissions, or on the planning documents exhibited, then this report could be deferred for a further briefing or workshop.

For example, if the Council considered that proposals such as those related to permitting residential development within the rural buffer, or otherwise outside of the urban boundaries of Alstonville (Submissions No's 6, 7, 8, 14 and 16), warranted more detailed examination then it is appropriate that further consideration of the Alstonville Strategic Plan 2017 – 2037 as presented in this report be deferred.

Should the Council wish to explore further the implications of a no growth strategy as opposed to the consolidation strategy for urban growth developed in the strategic plan then deferral of this report for a briefing or workshop is also considered to be appropriate.

There are no timing imperatives related to this project. It is, however, considered that this project has been generally well received by the Alstonville community and issues raised in submissions are not of a nature that warrants the draft Alstonville Strategic Plan 2017 – 2037 being deferred.

3. Cease the Project

That the Council ceases further consideration of the Alstonville Planning and Environmental Study and the draft Strategic Plan 2017 - 2037.

Given the extent of community engagement undertaken, this approach is not recommended. Adoption of the plan will enable the programing and associated funding of actions to take place.

Other Considerations

If the Council is of the view that further information relating to “greenfield” land release on the Alstonville Plateau is warranted, an alternative approach is to undertake further investigation and reporting on this matter.

This is not recommended at this time having regard for the availability and adequacy of the supply of suitably zoned land or land designated for “greenfield” residential release elsewhere within Ballina Shire, and additionally as it is in conflict with the adopted 2012 Ballina Shire Growth Management Strategy and the 2036 North Coast Regional Plan.

Further to the overall matter of land and housing supply in Ballina Shire, having regard for the historical circumstances associated with Alstonville, the policy context, community feedback, demographics, land suitability and constraints, economic indicators and the shire wide planning framework, it is the view of staff that there are no compelling planning reasons to enable a policy of lateral expansion or “greenfield” development for Alstonville in the foreseeable planning time horizon.

9.1 Alstonville Strategic Plan 2017 - 2037 Project Completion

Pursuing this option would also put on hold further work on the Wollongbar Strategic Plan pending the determination of a policy position in respect “greenfield” land releases on the Plateau and their location.

Notwithstanding the above, if the Council wishes to further examine “greenfield” development in the vicinity of Alstonville, direction will be required in relation to timing, the extent of any further community engagement sought and the budget to be applied to the required process.

RECOMMENDATIONS

1. That Council adopts the Alstonville Planning and Environmental Study, as contained in Attachment 1.
2. That Council adopts the Alstonville Strategic Plan 2017 – 2037 with amendments as contained in Attachment 2.

Attachment(s)

1. Alstonville Planning and Environmental Study (Under separate cover)
2. Draft Alstonville Strategic Plan 2017 - 2037 (with amendments)
3. SDS Civil Submission - 59 Lismore Road

9.2 Killen Falls Management Plan - Finalisation and Adoption

9.2 Killen Falls Management Plan - Finalisation and Adoption

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes associated with the public exhibition of the draft Killen Falls Management Plan and seek direction with respect to the finalisation and adoption of the plan.

Background

In June 2016 the Council resolved to prepare a management plan for the Council-owned land in the vicinity of Killen Falls to assist with the long term planning of the area [Minute No. 230616/23]. The location of the land subject to the management plan is shown in Figure 1 (Council land shaded pink, with Killen Falls denoted by a dotted yellow circle).



Figure 1: Lot 1 DP 251994, Killen Falls Drive, Tintenbar (the subject land)

MikeSvikis Planning was engaged to prepare a draft management plan for the site. The preparation of the plan has included consideration of potential opportunities for facilities, site access and the use of the site, and risk management.

The plan preparation process has also included opportunity for community engagement and consideration of feedback. The engagement process has involved obtaining verbal and written feedback from neighbouring landholders, an online community and user group survey and a public exhibition phase. A visitor count was also undertaken over a weekend in the January 2017 school holidays, along with accompanying discussions and surveys with the site users on the visitor count days.

9.2 Killen Falls Management Plan - Finalisation and Adoption

A Councillor briefing was held on 5 May 2017 following the initial community engagement and prior to the public exhibition of the draft plan.

At its Ordinary Meeting held on 23 June 2017 the Council considered the draft management plan and resolved as follows [220617/6]:

1. *That the Council endorses the draft management plans for Tosha Falls and Killen Falls for public exhibition for a minimum period of four weeks.*
2. *That Council forward a copy of the draft management plans for Tosha Falls and Killen Falls to relevant Government authorities to seek feedback during the public exhibition period.*

In accordance with the Council's resolution, the draft management plan for Killen Falls was placed on public exhibition between 5 July 2017 and 4 August 2017. Those who had previously made submissions in relation to the plan, immediate neighbours to Council's land and Government agencies were contacted by letter and invited to provide feedback on the draft plan as part of the exhibition process.

Separately, Council also resolved to prepare a management plan for Tosha Falls in June 2016 [Minute No.280716/21]. The management plan for Tosha Falls and the outcomes of the exhibition of that draft plan will be the subject of a future report to Council.

With respect to Dalwood Falls, the Council resolved in March 2017 as follows [Minute No. 230317/12]:

1. *The General Manager is authorised to engage in discussions with Jali Local Aboriginal Land Council with a view to the Council-owned property in the immediate vicinity of Dalwood Falls being acquired by Jali LALC under terms and conditions to be negotiated.*
2. *In the event Jali LALC does not wish to purchase the property or discussions extend beyond a period of nine months, the General Manager be authorised to list the property for sale with a local real estate agent for a period of three months to determine if there are any potential purchasers.*
3. *If no offers are received for the purchase of the property, that Council proceed to prepare a formal management plan for the site (similar to the plans being prepared for Killen and Tosha Falls) as the basis for Council's ongoing management of the land.*

Council staff are currently addressing point one of the resolution relating to Dalwood Falls.

The purpose of this report is to provide an overview of the submissions received in response to the public exhibition of the draft Management Plan for Killen Falls and seek direction from the Council with respect to the finalisation and adoption of the Killen Falls Management Plan.

Key Issues

- Outcomes of public exhibition
- Finalisation of the Killen Falls Management Plan for implementation
- Resource implications

Information

The draft Killen Falls Management Plan was placed on exhibition for community feedback between 5 July 2017 and 4 August 2017.

A copy of the draft plan as exhibited is contained in Attachment One.

The draft Management Plan contained a hierarchy of potential actions.

For the public exhibition phase of the plan preparation process, Council did not adopt or give preference to any particular combination of actions but rather invited public feedback through the public exhibition process on all of the possible actions identified.

In response to the exhibition, five written submissions have been received. The submissions are contained in Attachment Two and are further considered in the consultation section of this report.

Strategies and Actions

The draft plan has canvassed options to manage the site, along with discussing associated site issues.

The actions have been considered relative to the key issues identified for the management of the land and the practicalities of Council resourcing the actions and on ground delivery.

Actions identified range from low cost minor works and infrastructure improvements, through to provision of relatively high cost more substantial infrastructure.

Risk and safety has been the dominant factor in prioritising the actions and strategies.

The plan is focused on the Council-owned land adjacent to Killen Falls but also canvasses actions relating to adjoining and nearby land for the Council's consideration.

Preliminary costings have been provided to help evaluate the proposed actions.

These actions, as set out by MikeSvikis Planning in the draft Management Plan, are considered further below.

Priority 1 Strategies & Actions

Priority 1 Strategies and Actions primarily relate to the address of public safety and risk matters.

It is the staff view that most of these can be reasonably implemented within 12 months of adopting the management plan and at a relatively low cost (these items are identified in the table for action in year one in Table 1).

Priority 1 actions proposed for subsequent years (years two, three and four) are also identified.

9.2 Killen Falls Management Plan - Finalisation and Adoption

Table 1 – Priority 1 Killen Falls Management Actions by Year

#	Objective	PRIORITY 1: Strategies and Actions		Cost (ex GST)	Proposed Year			
1	Ensure the ecological viability of the land by protecting its biodiversity and promoting rehabilitation of rainforest ; And Protect and respect the aesthetic, heritage, recreation, education and scientific values of the land and Emigrant Creek.	a.	Declare the subject land to be a dog prohibited area.	Minimal cost	1			
		b.	Provide signage requesting that visitors stay on the designated track and keep out of rainforest rehabilitation areas.	\$480	1			
2	Minimise impacts arising from the use of the subject land on adjacent private land (in particular trespass and privacy).	a.	Provide fencing and additional warning signage to prevent access from next to the viewing platform, which is currently used to access the creek and rocks at the top of the falls.	\$250	1			
		b.	Follow up with tour operators who visit Killen Falls to ensure they have a licence with Ballina Shire Council to operate on public land and that they have appropriate insurance in place (consistent with Council policy).	Minimal cost	1			
3	Provide facilities proportionate to site use that allow public enjoyment of the land; And Provide for the safety of the users of the subject land.	a.	Alert the public of potential risks on the subject land by providing signage based on Australian Standards for hazard signage.	\$1,000	1			
		b.	Provide signage advising that Council does not make any claim that the water in Emigrant Creek meets the standard required for swimming, and that swimming is not advised.	\$250	1			
		c.	At the northern end of the car park, provide signage that identifies the viewing platform track and supplies information regarding its suitability for different ages or abilities as well as distances and hazards.	\$500	1			
		d.	Provide additional signage to properly identify an existing designated turning area at the northern end of the car park. Parking signage improvements are recommended, including no overnight stays and no parking opposite the current nine bays.	\$750	1			
		e.	Provide an edge-to-edge speed hump at the entrance to the car park and designate a 10 kph speed limit in the car park as a shared zone.	\$1,400	1			
		f.	Provide road markings and signage to identify a designated disabled car space in the existing car park.	\$500	1			
		g.	Declare the entire area to be glass free to make it safer for users and discourage anti-social behaviour.	Minimal cost	1			
		h.	Replace the rotted timber bench seat near the car park utilising existing brackets and footings.	\$125	1			
		i.	Undertake periodic water quality monitoring at the falls using the criteria normally assessed for human contact.	\$2,500 per annum recurrent cost	1	2	3	4
4	Provide facilities proportionate to site use that allow public enjoyment of the land; And Minimise the impacts arising from the use of the subject land on adjacent private land (in particular trespass and privacy).	a.	Provide a permanent toilet at the northern end of the car park, near the beginning of the track to the falls. The design and wastewater capacity of the toilet should be assessed by a wastewater management professional.	\$130,000 Installation	2			
				\$15,520 per annum recurrent cost	3	4		
		b.	Undertake track improvements along the 330 metre length of the viewing platform track to make it safer and to reduce slip and trip hazards along its length.	\$25,550	2			
c.	Undertake site safety inspections at the falls not less than monthly.	Undertake at same time as water quality assessment	1					

On review, the costings for year one set out above by the project consultant are considered to be at the low end of estimations.

Given this, the costings provided in Table 4, as outlined later in this report, for the year one actions, have been increased by 50%.

9.2 Killen Falls Management Plan - Finalisation and Adoption

On Site Toilet Facilities

The implementation of the management plan as recommended includes provision for installation of an on-site permanent toilet facility.

This is identified as a high priority but a permanent toilet is not likely to be operational on the land within 12 months due to the locational and design challenges presented by the limited site area available for such a facility (assuming that it remains viable as detailed design is progressed).

The facility is also not funded in the current financial year. Given this, the installation of the toilet is not programmed until the second year of plan implementation.

However, it is proposed that temporary facilities be provided in the meantime.

Council considered a report in June 2016, which canvassed the option of installing a toilet at the site however it was not approved at that time.

In November 2016, Council decided to support the installation of a temporary toilet at the Killen Falls car park on a three month trial basis (Resolution 241116/8).

One low-flush toilet was installed at the northern end of the carpark and operated between 12 December 2016 and 12 March 2017.

The quantity of effluent pumped out over the three month trial was 6,408 litres (an average of 71 litres per day).

The trial established that regular pump-out services were required every nine days and the facility required servicing twice a week.

Four unscheduled emergency pump-outs were required when the holding tank was full between scheduled pump-outs.

The trial cost \$5,560 (approximately \$62 per day).

The weekly maintenance was difficult at times due to no parking space near the toilet, and there was increased rubbish distribution from the toilet supplies into the adjacent reserve.

It is recommended a temporary toilet be re-installed at the Killen Falls site during the 2017/18 and 2018/19 summer peak periods (November to February).

The estimated cost for the temporary toilet is \$8,000 for each summer period.

Priority 2 Strategies and Actions

Priority 2 Strategies and Actions are proposed for implementation within three years of adopting the management plan and are more expensive to implement.

Details regarding the nature of the Priority 2 Strategies and Actions are contained in Table 2.

9.2 Killen Falls Management Plan - Finalisation and Adoption

Table 2: Killen Falls Management Priority 2 Actions to be implemented in Year 3

#	Objective	PRIORITY 2: Strategies and Actions	Cost (ex GST)	Proposed Year
1	Minimise impacts arising from the use of the subject land on adjacent private land (in particular trespass and privacy).	a. Establish additional landscaping near the front boundary of lot 3 DP 251994 to increase privacy for the dwelling on this lot.	\$3,000	3
		b. Fence both sides of the viewing platform track along its entire length to restrict access to the northern side of Emigrant Creek and to Lot 2 DP 251994.	\$10,500	3
2	Provide facilities proportionate to site use that allow public enjoyment of the land; And Minimise impacts arising from the use of the subject land on adjacent private land (in particular trespass and privacy).	a. Beyond the viewing platform, install a low, fixed handrail along the steep section to improve safety for site users who access the creek.	\$2,400	3
		b. Implement measures to slow traffic along Killen Falls Drive to make it safer for pedestrians, including speed reduction (40kph) for the entire road from the turn-off to the car park and speed cushions (with signage) to make it happen.	\$6,700	3

Priority 3 Strategies and Actions

Priority 3 Strategies and Actions are identified for action in year four. These actions are outlined in Table 3.

Table 3: Killen Falls Management Priority 3 Actions to be implemented in Year 4

#	Objective	PRIORITY 3: Strategies and Actions	Cost (ex GST)	Proposed Year
1	Ensure the ecological viability of the land by protecting its biodiversity and promoting rehabilitation of rainforest ; And Protect and respect the aesthetic, heritage, recreation, education and scientific values of the land and Emigrant Creek.	a. Protect, maintain and continue to rehabilitate environmentally sensitive areas, and continue with rainforest rehabilitation on land in Council control.	\$10,000 per annum recurrent cost	4
2	Provide facilities proportionate to site use that allow public enjoyment of the land; And Provide for the safety of the users of the subject land.	a. Identify parking overflow areas along Killen Falls Drive as well as bus parking. Use <i>Geohex</i> or similar material to control erosion and damage to the road verge in these locations. Use signage to identify the preferred locations and parking patterns.	\$43,500	4
3	Provide facilities proportionate to site use that allow public enjoyment of the land; And Minimise impacts arising from the use of the subject land on adjacent private land (in particular trespass and privacy).	a. A traffic assessment should be conducted for Friday Hut Road at the Killen Falls Drive intersection to assess speed limits, signage and sight lines.	\$10,000	4

Sustainability Considerations

- **Environment**
The draft management plan has been prepared having regard for the environmental, social and economic attributes and values of each site.
- **Social**
As above.
- **Economic**
As above.

9.2 Killen Falls Management Plan - Finalisation and Adoption

Legal / Resource / Financial Implications

Should the plans progress to implementation, funding is required to complete the actions. A summary of the expected costs relative to the expected timing of the recommended management plan actions is shown in Table 4.

This is based on a four year program to fund capital improvements with works starting in the 2017/18 financial year.

The table also includes the cost of the additional actions recommended for inclusion in the plan by Mike Svikis Planning in response to the exhibition submissions received.

Table 4: Killen Falls Management Plan Actions Costs by Year

Priority 1, 2 and 3: Strategies and Actions – Estimated Cost by Years										
Capital Works	YEAR 1	\$7,900*	YEAR 2	\$168,050***	YEAR 3	\$22,600	YEAR 4	\$63,415	RECURRENT BEYOND 4 Y +	\$10,000
Temporary Toilet		\$8,000**		\$8,000**		-		-		-
Water Quality Monitoring		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500
Toilet Maintenance		-		-		\$15,520		\$15,520		\$15,520
Additional items recommended by MSP for inclusion in the plan following public submissions		\$250		\$11,700		-		-		-
	Total ≈	\$19,000	Total ≈	\$191,000	Total ≈	\$41,000	Total ≈	\$82,000		≈ \$28,000

*The consultant estimate is considered to be low so the original estimate has been increased by 50%.

**Based on the previous temporary toilet, for a period of 4 months.

***Inclusive of \$10,000 in design fees and approval costs.

The table above has included the cost of a temporary toilet for a period of four months, envisioned to be installed over the summer period in years one and two.

It has been assumed that by year three, a permanent toilet will be in place, with maintenance costs then incurred at \$15,520 per year (from year three).

The initial review by the project consultant has stated that there is enough space for a permanent toilet, however if this is shown not to be the case, Council may need to consider acquisition of adjoining land at further cost.

In summary, to fully implement the management plan, the initial actions require \$19,000 in funding, with an average of \$105,000 per year required for years two, three and four.

From the fifth year onwards, a recurrent budget of \$28,000 is required to service the onsite amenities, support track maintenance, manage vegetation on site and continue with water quality monitoring.

These costs are not currently accounted for in the long term financial plan (LTFP). If Council is now going to adopt this plan it should be confirming the funding and including that funding in our LTFP. The funding strategy is as follows.

9.2 Killen Falls Management Plan - Finalisation and Adoption

Year One

Capital works - \$7,900
Temporary toilet - \$8,000
Water quality monitoring - \$2,500
Additional items - \$250

The capital works identified are as follows:

Table 5 – Capital Works Year One	Amount (\$)
Provide signage requesting that visitors stay on the designated track and keep out of rainforest rehabilitation areas.	480
Provide fencing and additional warning signage to prevent access from next to the viewing platform, which is currently used to access the creek and rocks at the top of the falls.	250
Alert the public of potential risks on the subject land by providing signage based on Australian Standards for hazard signage.	1,000
Provide signage advising that Council does not make any claim that the water in Emigrant Creek meets the standard required for swimming, and that swimming is not advised.	250
At the northern end of the car park, provide signage that identifies the viewing platform track and supplies information regarding its suitability for different ages or abilities as well as distances and hazards.	500
Provide additional signage to properly identify an existing designated turning area at the northern end of the car park. Parking signage improvements are recommended, including no overnight stays and no parking opposite the current nine bays.	750
Provide an edge-to-edge speed hump at the entrance to the car park and designate a 10 kph speed limit in the car park as a shared zone.	1,400
Provide road markings and signage to identify a designated disabled car space in the existing car park.	500
Replace the rotted timber bench seat near the car park utilising existing brackets and footings.	125

These are essentially maintenance items or improvements and as they have a focus on risk reduction the preference would be to fund this work from the risk rebate Council receives annually as part of the Statewide Mutual. This rebate can vary from nil to \$50,000 per annum dependent on Council's claims history.

Normally this funding would be expended on risk reduction actions for existing assets however it is reasonable to allocate, say \$8,000 of the annual rebate, to this Management Plan. This \$8,000 includes the 50% contingency mentioned earlier in this report.

For the temporary toilet the Manager – Open Spaces and Resource Recovery has approved a reallocation of \$8,000 from the open spaces operating budget to fund this expenditure, as occurred during 2016/17. This should be a permanent reallocation based on this revised level of service whilst ever the temporary toilet is in place. For water quality monitoring there is no readily identifiable funding source and this will increase the recurrent deficit each year. The additional items of \$250 can be absorbed within existing budgets.

Year Two

Capital works - \$168,050
Temporary toilet - \$8,000
Water quality monitoring - \$2,500
Additional items - \$11,700

9.2 Killen Falls Management Plan - Finalisation and Adoption

The capital works represents approximately \$140,000 for a public toilet and \$26,000 for track improvements (approximately).

Council has a recurrent budget of approximately \$110,000 for the refurbishment of existing toilets. The four year program for that funding is as follows.

Description	2017/18	2018/19	2019/20	2020/21
Public Amenities	104,000	108,000	112,000	115,000
North Missingham (Rebuild)	104,000			
Kerr Street Toilets (Rebuild/Reconfigure)		108,000		
Wardell Public Amenities Rebuild Adjacent to Tennis Courts			112,000	
Lennox Head Main Beach				115,000

If Killen Falls is now the priority, the works for Kerr Street onwards should be deferred by one year allowing Killen Falls to be constructed during 2018/19. This still leaves a budget shortfall of approximately \$30,000.

The balance of the funding would need to be sourced from Council's recurrent budget for Asset Renewal works as it is the only recurrent budget that is somewhat related to this type of facility, as our other recurrent budgets focus on roads, footpaths and stormwater.

The four year program for the Asset Renewal budget, which is approximately \$240,000 per annum, is as follows.

Action	Description	2017/18	2018/19	2019/20	2020/21
Lennox Community Centre	External Cladding / Repairs	102,000		48,000	50,000
Lennox Community Centre	AC Unit Replacements				144,000
Ballina Surf Club	External Painting Program	25,000	25,000	25,000	25,000
Ballina Surf Club	Internal Painting and Floors		50,000		
Kentwell Centre	Internal / External Painting	12,000	12,000	12,000	12,000
Kentwell Centre	AC Unit Replacements				73,000
Ballina Library / VIC / Richmond	External Repaint				80,000
ALEC	External / Internal Mods				
Shelley Beach Surf Club	Exterior Finishing		40,000		
Lennox Community Centre	External Painting	25,000	25,000	45,000	
Wollongbar Hall	Repairs / Repaint		43,000		
Newrybar Hall	Repaint		43,000		
Community Gallery	Repaint			15,000	
60 Crane Street	External Repairs / Repaint			13,000	
Naval Museum	Exterior Repaint / Toilets			50,000	
Alstonville Swimming Pool	Building Repaint / Rooms	40,000			
Animal Shelter	Repaint			20,000	
Administration Centre	External Repaint				80,000
71 Tamar Street	External Repaint				15,000
Works Depot	Amenity / Archive Building - Painting				25,000
Former Library - 42 Cherry Street	External Repairs/Repaint			20,000	
Waste Centre Main Building	Internal / External Painting and Repairs				
Totals		204,000	238,000	248,000	504,000

9.2 Killen Falls Management Plan - Finalisation and Adoption

There is an increase in funding in 2020/21 based on a dividend from our Landfill and Resource Management Reserve (waste operations) although there is some uncertainty as to whether that dividend will be forthcoming.

The balance of the funding for the Killen Falls toilet requires deferral of 2018/19 works. The preference would be to defer part of the Ballina Surf Club works (\$30,000) to allow this to proceed.

This then also has flow on impacts for other works being deferred.

The downside to this funding source is that the monies are for asset renewal and by allocating funding to new infrastructure Council is weakening its financial position by reducing the recurrent monies allocated to asset renewal.

One other point with the provision of the new toilet facility is the capital cost compared to the annual cost of providing a temporary toilet.

The temporary toilet, albeit for a period of a few months each year, has an annual hire cost of \$8,000 whereas the cost of providing a new toilet is approximately \$140,000.

This means there is a financial argument that the temporary toilet should be continued due to the very lengthy repayment time (i.e. \$140,000 represents 15 years @ \$8,000 per annum without any recognition of increased maintenance and vandalism costs for the toilet).

The counter argument to this is that the permanent toilet provides a 12 month service as compared to the temporary toilet, which is for the November to February peak period.

This allocation still leaves funding needed for the track improvements (approximately \$26,000).

The recommendation would be to fund this from Council's recurrent footpath budget.

Council has a recurrent budget of approximately \$480,000 for footpath related works and the existing program could be reviewed to include this work.

This will again result in other projects being deferred.

The temporary toilet (\$8,000) and water quality monitoring (\$2,500) would be the same as year one (transfer budget from open spaces and increase recurrent deficit).

The additional items (\$11,700) refer largely to vegetation related matters and the recommendation is to fund these from Council's open spaces program.

Year Three

Capital works - \$22,600

Water quality monitoring - \$2,500

Toilet maintenance - \$15,520

9.2 Killen Falls Management Plan - Finalisation and Adoption

The capital works refers to:

Table 6 – Capital Works Year Three	Amount (\$)
Establish additional landscaping near the front boundary of lot 3 DP 251994 to increase privacy for the dwelling on this lot.	3,000
Fence both sides of the viewing platform track along its entire length to restrict access to the northern side of Emigrant Creek and to Lot 2 DP 251994.	10,500
Beyond the viewing platform, install a low, fixed handrail along the steep section to improve safety for site users who access the creek.	2,400
Implement measures to slow traffic along Killen Falls Drive to make it safer for pedestrians, including speed reduction (40kph) for the entire road from the turn-off to the car park and speed cushions (with signage) to make it happen.	6,700

The recommendation is for the additional landscaping to be sourced from the existing open spaces budget and for the remaining three items, which are risk related, to be sourced from the Statewide risk rebate.

The recommendation for the toilet maintenance (\$15,520) and water quality monitoring (\$2,500) would be the same as years one and two (transfer budget from open spaces and increase recurrent deficit).

Year Four

Capital works - \$63,415

Water quality monitoring - \$2,500

Toilet maintenance - \$15,520

The capital works refers to:

Table 7 – Capital Works Year Four	Amount (\$)
Protect, maintain and continue to rehabilitate environmentally sensitive areas, and continue with rainforest rehabilitation on land in Council control.	10,000 per annum
Identify parking overflow areas along Killen Falls Drive as well as bus parking. Use Geohex or similar material to control erosion and damage to the road verge in these locations. Use signage to identify the preferred locations and parking patterns.	43,500
A traffic assessment should be conducted for Friday Hut Road at the Killen Falls Drive intersection to assess speed limits, signage and sight lines.	10,000

As the rehabilitation works is a recurrent item it is recommended that \$10,000 be reallocated from within Council's existing vegetation management program. This program has limited funding (i.e. \$60,000 for coastal reserves, \$11,800 for bushland reserves and \$44,400 for landcare and other related works) however if Killen Falls is the priority then funding should be reallocated from within an existing budget.

For the car parking overflow areas the recommendation is to reallocate monies from Council's annual road reconstruction budget. Again this results in the deferral of other works. The traffic assessment, as a risk related activity, can be funded from the Statewide risk rebate, assuming a rebate is available that year. The recommendation for toilet maintenance (\$15,520) and water quality monitoring (\$2,500) would be the same as year three (transfer budget from open spaces and increase recurrent deficit).

Year Five and Beyond

Capital works - \$10,000

Water quality monitoring - \$2,500

Toilet maintenance - \$15,520

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The capital works refers to the recurrent cost for rehabilitating environmentally sensitive areas, and as per year the three items (capita works, water quality and toilet maintenance) can be funded from the reallocation of existing recurrent budgets.

Table 8 - Financial Plan Summary (\$'000)

Item	Year 1 2017/18	Year 2 2018/19	Year 3 2019/20	Year 4 2020/21	Year 5 + 2021/22 to 2026/27
Capital Related Works (Improvements)					
<i>Various</i>	8,000				
Funded from Statewide Risk Rebate	(8,000)				
<i>Permanent Toilet plus contingency</i>		140,000			
Funded in part by deferral of other toilet improvements in recurrent program		(110,000)			
Funded in part by deferral of Ballina Surf Club asset renewal works		(30,000)			
<i>Track Improvements</i>		26,000			
Funded by deferral of footpath renewal projects		(26,000)			
<i>Additional landscaping</i>			3,000		
Funded from existing open spaces budget			3,000		
<i>Fencing, handrail and track measures</i>			20,000		
Funded from Statewide Risk Rebate			20,000		
<i>Rehabilitation – recurrent</i>				10,000	10,000
Funded from reallocation within existing Vegetation Management Budget				10,000	10,000
<i>Parking Overflow Areas and Traffic Assessment</i>				53,500	
Funded from deferral of road reconstruction works				(53,500)	
<i>Traffic Assessment – Friday Hut Road and Killen Falls Drive</i>				10,000	
Funded from Statewide Risk Rebate				(10,000)	
Water Quality Monitoring	2,500	2,500	2,500	2,500	2,500
Funded from increase in recurrent deficit	(2,500)	(2,500)	(2,500)	(2,500)	(2,500)
Toilet Operations					
<i>Temporary Toilet and Permanent Toilet</i>	8,000	8,000	15,500	15,500	15,500
Funded from reallocation of Open Spaces operating budget to public toilets budget	(8,000)	(8,000)	(15,500)	(15,500)	(15,500)
Additional Items					
<i>Various</i>	250				
From existing budgets	(250)				
<i>Various</i>		11,700			
Funded from existing open spaces budgets		(11,700)			

There are arguably higher priorities for expenditure of Council's scarce resources than some of the projects listed in this Table, however if the Management Plan is to be adopted as per the contents of this report, the financial summary ensures the items identified in the Plan are implemented.

One concern with this financial summary is the reliance in part on the Statewide risk rebate. This rebate can vary each year and there are many other risk matters that Council tries to address with this funding.

If Council is of the opinion that there are other higher priorities for the expenditure of those monies, the Management Plan should be amended prior to being adopted.

Consultation

The consultation strategy for the exhibition of the draft Management Plan consisted of the following elements:

9.2 Killen Falls Management Plan - Finalisation and Adoption

- Advertisement in the Ballina Shire Advocate
- Information display on Council's website, and in our Customer Service Centre and libraries
- Letters to neighbouring landholders
- Letters to Government Agencies
- Key stakeholder meeting with Council Officers

A total of five written submissions were received in response to the exhibition of the draft Management Plan. Attachment 2 contains a copy of these submissions. A summary of the submissions, together with comments from MikeSvikis Planning ('MSP') is contained in Table 9. Staff comments, where at variance to MSP, are provided in italics.

Table 9 – Submissions Summary

Submitter	<i>Peter and Stephanie Lane</i>
Submission Comments	<ul style="list-style-type: none"> • Concerned about the ecology of Killen Falls and the reserve and the impact of the high visitation numbers. • Need to manage this site for the environment as a priority over public enjoyment. • Reducing visitation, and prohibiting access to the creek and falls, will protect the environment and reduce the demand for facilities. • Council should ban swimming at the falls, stop promotion, no further capital works (toilet not supported), prohibit access below the viewing platform to the falls and limit parking to 1 hour.
Response	<p>Protecting the environment of this locality is a priority for Council. High visitation numbers do put pressure on the environment and this plan of management is a response to concern about the environment and the need to better manage this site.</p> <p>The main driver of visitation in recent years has been "word of mouth" and social media, combined with easy access to online mapping that makes the site easy to find even if you do not know the area. There is a current trend to pursue freshwater swimming locations and Killen Falls is close to both Ballina and Byron Bay so it's an easy drive for tourists/tourism operators. It is also picturesque below the falls. These factors will make it very difficult to reduce visitation.</p> <p>It will not be possible to prohibit access to the creek or water fall, as Council has found at other sites. Fences and signs will be removed and trespass on private land may also increase as alternative access is sought to get to the bottom of the falls. Parking can be signposted at 1 hour but enforcement will be difficult because the site is remote. Most visitors stay for less than 1 hour in any case. A round trip visit to the viewing platform can be easily undertaken in 20 minutes. A round trip to the falls can easily be taken in under 60 minutes.</p> <p>Capital works such as track improvements, fencing and toilets are already required to cope with the existing numbers visiting the site. They are needed for public health and safety reasons and to reduce risk. They also help protect the environment.</p>
MSP Recommendation	Concerns are noted, however, no changes are recommended.

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Submitter	David Bester
Submission Comments	<ul style="list-style-type: none"> • A speed bump is needed on Killen Falls Drive near the first bend to slow traffic. • A sign about placing rubbish in the bins is required. • An extra bin is required in the parking lot. • More seats are required near the track entrance or near the viewing platform. • Bollards should be placed in front of the Bester residence to discourage parking. • Drainage needs to be improved near the Bester residence frontage.
Response	<p>Speed cushions along Killen Falls Drive are included as a <i>Priority 2</i> action in the plan of management. They would be placed at appropriate locations, subject to engineering advice.</p> <p>Signage advising visitors to use the rubbish bins is unlikely to change behaviour. However the bins are prominent and a sticker should be located on each one advising patrons "Don't be a Tosser". There are two 240 litre wheelie bins on the site that are emptied regularly. This should be sufficient.</p> <p>It is a <i>Priority 1</i> action that an existing bench seat near the track entrance be repaired. This should be sufficient for the time being. The nearby Rous Water Walk also has seating and picnic tables for visitors.</p> <p>It is a <i>Priority 2</i> action that landscaping near the front boundary of Lot 3 DP 251994 (Bester property) is warranted. It is reasonable that this includes bollards to discourage vehicles damaging this landscaping. Council can assess the drainage concerns in this location as part of the landscaping works. Stopping vehicles from parking on this verge will also reduce compaction and improve drainage over time.</p>
MSP Recommendation	<p>It is appropriate that existing wheelie bins be used to host signage to discourage littering. It is also appropriate that bollards be included in the landscaping near the front boundary of Lot 3 DP 251994 (Bester property) to discourage vehicles parking there. These matters can be included in existing actions.</p> <p>Assuming that ten dome topped treated pine bollards would be sufficient this would be approximately \$200 for materials cost and approximately \$500 in labour cost. Total cost \$700 (<i>Priority Action 2</i>). Bin stickers would cost approximately \$50 for two (<i>Priority Action 1</i>)</p> <p><i>Staff Comment – It is suggested that signage to discourage littering and bollards in association with site landscaping adjacent to Lot 3 be included in the management plan. However, it is suggested that these actions be included using wording that allows for flexibility in the approach taken (e.g. location of signage, bollard type).</i></p> <p>Other concerns noted, however, no changes are recommended.</p>
Submitter	Liam Cornish-Teal
Submission Comments	<ul style="list-style-type: none"> • Wants to run an eco-tours business visiting Killen Falls. • Supports swimming at the falls. • Water quality is fine for swimming, no history of illness. • Small groups should be allowed to visit Killen Falls. • Need to showcase our environment beyond the coast.

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Response	<p>Eco-tour operators are required to have a licence from Ballina Shire Council. Eco tours provide an opportunity to have small groups visit the site in a single vehicle (less traffic) and with a knowledgeable supervisor. This should increase respect for the environment and impart information on ecology and history. Information on water quality suggests that Emigrant Creek at this location does not always meet the standards for swimming and a <i>Priority 1 action</i> is that signage be installed explaining this, stating that swimming is not advised.</p> <p>The management plan does not recommend small groups be prohibited from the site but it does not recommend promoting that they visit.</p>
MSP Recommendation	Comments are noted, however, no changes are recommended.
Submitter	<i>Office of Environment and Heritage</i>
Submission Comments	<ul style="list-style-type: none"> • OEH commends Council for preparing the Management Plan. • Suggest that Section 4 “Values of the Management Area” be rearranged to align with the Objectives in Section 1. • Include an updated assessment of the biodiversity values of the site as a new benchmark to support monitoring. • Better document the rainforest recovery to date within the subject land. • Address the recovery plans/actions for the threatened flora and fauna on the subject land. • Include an assessment of the aquatic ecology of Emigrant Creek at Killen Falls as a benchmark to support monitoring (including threatened species). • Include Aboriginal heritage values of the site as provided by Jali LALC. • Revise the Killen Falls Vegetation Restoration Plan, 2004. • Rezone the subject land E2 Environmental Protection under Ballina LEP 2012 to recognize its values. • Include in Section 6.2 Monitoring a statement as to what will be monitored.

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Response	<p>Section 4 Values of the Management Area is clear and would not be improved by rearranging it. An updated assessment of the biodiversity values of the site would be useful and is a good idea as a new benchmark. This should be able to be undertaken for about \$8000 and would identify threatened flora and give a guide to fauna. It would not include fauna trapping. It would also allow Council to document the rainforest recovery on the site to date.</p> <p>Once a new biodiversity assessment has been undertaken Council would be in a position to assess any relevant threatened species recovery plans.</p> <p>An assessment of the aquatic ecology of Emigrant Creek at Killen Falls would also be interesting but these studies tend to be more expensive as they involve trapping and sampling and are usually seasonal. Emigrant Creek is not actually in the subject land (it is adjacent to it) and this money would be better spent on other items in the plan of management.</p> <p>For example (based on 2012 costs for proposed Dunoon Dam)</p> <ul style="list-style-type: none"> - Macroinvertebrate monitoring (minimum of five sites) – Sample collection \$6,250/trip bug identification \$750/trip – autumn and spring monitoring is recommended. Combined cost \$14,000. - Monitoring of fish assemblages - \$3,600 / site - Monitoring and mapping of platypus population - \$6,000 <p>Total cost - \$23,600</p> <p>If Council receives comments from Jali LALC it will review them and incorporate any relevant suggestions in the plan of management.</p> <p>Based on the new biodiversity assessment, it may be appropriate to revise the Killen Falls Vegetation Restoration Plan, 2004. This would cost approximately \$3000.</p> <p>Noting the outcomes of the State Government’s E zone review, the subject land may be considered for inclusion in an environmental zone when the zones are reintroduced at some time in the future, but this is not certain. OEH support for that outcome is noted.</p> <p>It is intended that all actions that are adopted by Council will be monitored by Council after five years.</p>
MSP Recommendation	<p>It is appropriate that an updated assessment of the biodiversity values of the site be prepared – estimated cost is \$8,000 – <i>Priority Action 2</i>.</p> <p>Based on the new biodiversity assessment it may be appropriate to revise the Killen Falls Vegetation Restoration Plan, 2004 – estimated cost is \$3000 – <i>Priority Action 2</i>.</p> <p>Other issues and suggestions are noted, however, no changes are recommended.</p>
Submitter	Rous County Council
Submission Comments	<ul style="list-style-type: none"> • Ballina Council should reconsider the overall objectives for the site because the visitation is at a level that is inappropriate for the site. • It will not be possible to provide infrastructure to cater for extended periods of peak demand. • Any improvements may trigger additional visitation and trigger the need for additional parking. • Suggestions to reduce the attraction of the site include: <ol style="list-style-type: none"> a. Paid parking. b. Restricted hours of access by a boom gate at the start of Killen Falls Drive. c. Remove any promotional material on the site on social media or the web. d. Prohibit commercial use of the site by tourism operators.

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Response	<p>This site has become popular with a wide range of visitors and locals despite minimal infrastructure and facilities. The plan of management aims to help keep visitors safe and protect the environment. The recommendations for infrastructure and facilities are modest. It is not intended that the infrastructure will cater for peak demand or trigger additional visitation. There is always a risk that improving infrastructure can create extra visitation but this needs to be balanced against the existing risk, public safety and the likelihood of successfully stopping people visiting the site if that was Council's intention.</p> <p>The plan of management has taken a position that the subject land is a public reserve and should remain available to the public to visit. Council has attempted to restrict access to other waterfall sites and this has resulted in both trespass problems and civil disobedience (climbing over barriers, removing fences and ignoring signage). Actions to reduce visitation levels at this site are likely to have the same result.</p> <p>Paid parking on a public road (Killen Falls Drive parking is entirely in the road reserve) needs to be consistent with the RMS Paid Parking Guidelines. Paid parking is justifiable to improve utilisation of existing space and turnover and reduce over stays and traffic circling (congestion) of local streets. To ensure that paid parking is not seen to be introduced in an area solely for the purposes of revenue raising, parking authorities shall undertake a parking study to establish the justification for the proposal (RMS, 2012).</p> <p>There is evidence that paid parking can reduce frivolous trips, but in this case the subject land is a destination and there is no evidence that demand to visit the site would change significantly unless the parking fee was large. By comparison it costs \$5 per adult to enter the Alstonville pool and Byron Bay parking is only \$4 per hour. The larger the parking fee the more likely that people will risk not paying it. RMS (2012) indicate that "the pricing strategy must generally accord with the principle of user pays, based on recovery of resource cost attributable to implementing the pay parking scheme".</p> <p>Enforcement of paid parking is a normal component of its installation and this needs to be consistent to reduce non-payment. Enforcement is expensive and unpopular. Vandalism of parking machines is a problem particularly in non-urban locations. Maintenance of machines is required to back up any enforcement action. This is in addition to the up-front installation fees for solar powered parking meters (approximately \$10,000 for one meter).</p> <p>If parking does not significantly discourage visitation and it encourages car space turnover (by imposing a short stay limit of 1 hour or less) then it can actually make it easier to get a car park at the site. This could make it more attractive. Given the nature of Killen Falls Drive the entire road reserve beyond the car park (9 spaces) would need to be signposted for no parking to ensure visitors don't just park further up the road and avoid the metered area. Paid parking is not supported.</p> <p>Restricting access to Killen Falls Drive is not easy because it is a public road. Any boom gate needs to be installed where it is safe and in a location where vehicles can see it at night and in poor weather, stop and turn around safely. The boom gate needs to be powered and locals plus their visitors, family and friends need to be able to get access through it. Rous Water staff need access at all times. An approved tourist facility is also located along Killen Falls Drive and guests would need access. Emergency vehicles would also need to get through it quickly if required at any time. The traffic count survey undertaken for Killen Falls Drive indicated that peak use of the site is between 10am and 4pm and closing a boom gate at night would be unlikely to reduce overall visitation significantly. The site is not regularly used at night and there is little evidence of camping. A boom gate is not supported.</p>
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9.2 Killen Falls Management Plan - Finalisation and Adoption

	<p>It is agreed that Ballina Council should not be promoting visiting the subject land.</p> <p><i>Staff Comment: This site is already frequently visited and has previously been promoted from a tourism perspective. It is also contained in recent tourism promotional material. Rather than non-promotion of the site in full, the staff recommendation is to recognise this site as a natural attraction in the shire, but limit marketing of the site commensurate with its limited infrastructure (and in particular, not encourage swimming).</i></p> <p>Eco-tour operators are required to have a licence from Ballina Shire Council. Eco tours provide an opportunity to have small groups visit the site in a single vehicle (less traffic) and with a knowledgeable supervisor. This should increase respect for the environment and impart information on the ecology and history. They also have insurance that covers their guests. On the day that visitors were counted last summer there were 34 persons on two tour groups from 279 visitors overall. This is 12% of the visitors that day.</p> <p>However they arrived in just two vehicles and both groups stayed for less than 30 minutes. Most did not swim at the site. By contrast, a private school (not a commercial tour) arrived with 36 persons, stayed for an hour and many of them swam at the site. Prohibiting tour operators would need to be enforced to be effective.</p> <p>Prohibition of tour operators in not supported.</p>
MSP Recommendation	<p>It is appropriate that Ballina Shire Council should not be promoting visiting the subject land – no direct additional cost – <i>Priority Action 1.</i></p> <p><i>Staff Comment – It is recommended that this action not be added to the management plan on the basis of existing circumstances surrounding site visitation and tourism recognition. The management plan is geared to improving infrastructure having regard to current visitation as opposed to providing significant upgrades on the basis of attracting increased visitation. That is, the strategy is to cater for moderate visitation to the site.</i></p> <p>Other issues and suggestions are noted, however, no changes are recommended.</p>

Options

1. That the Council does not adopt the Killen Falls Management Plan and cease further action on the project.

Due to the extensive consultation undertaken in the preparation of the plan to date and the rationale underpinning the key elements of the proposed use of the site, this option is not recommended.

2. That the Council defer the adoption of the draft plan.

This option could involve further consideration of the draft plan by way of another Councillor briefing or additional community engagement. Given that the Council has already workshopped the matter, considered the draft plan and the outcomes of the community engagement undertaken to date, this option is not recommended.

3. That the Council adopt the plan as exhibited, or with changes.

9.2 Killen Falls Management Plan - Finalisation and Adoption

The Council can adopt the draft plan as is, or with minor changes. Adoption of the plan with changes is recommended. The recommended changes are embodied in the recommendation set out below. These recommendations mostly align with the comments provided by Mike Svikis Planning in response to the submissions received. It is also recommended that the costs estimates in the plan be updated to align with the information contained in Table 4 within this report.

Under this approach, staff will proceed to finalise the plan incorporating the recommended changes, and including any final formatting and typographic adjustments, prior to its publication.

RECOMMENDATIONS

1. That the Council adopts the Killen Falls Management Plan as exhibited, subject to incorporation of the following amendments under Section 6 *Management Strategies and Actions*:
 - Inclusion of actions addressing the following:
 - Provision of stickers or signage encouraging patrons not to litter (*Priority Action 1*).
 - Installation of bollards as part of landscaping near the front boundary of Lot 3 DP 251994 (*Priority Action 2*).
 - Completion of an updated assessment of the biodiversity values of the Council owned land adjacent to Killen Falls (*Priority Action 2*).
 - Revision of the Killen Falls Vegetation Restoration Plan, 2004 based on the updated assessment of the biodiversity values of the site (*Priority Action 2*).
 - Update of action cost estimates to reflect the information contained within Table 4 of this report.
2. That Council convey letters of appreciation to all key stakeholders for their active participation in the preparation of the draft management plan.
3. That Council's Long Term Financial Plan be amended to reflect the Financial Plan for the implementation of this Management Plan, as per Table 8 of this report.

Attachment(s)

1. Draft Killen Falls Management Plan - Parts A and B (As Exhibited) (Under separate cover)
2. Submissions - Draft Killen Falls Management Plan

9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update

9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update

Delivery Program Community Facilities and Services

Objective To provide the Council with a report concerning the status of the Ballina and Alstonville Community Pools Redevelopment Project, including options for changes to the project scope.

Background

Council, at the September 2017 Ordinary meeting received a report on the Ballina and Alstonville Swimming Pools redevelopment.

Information updates are also being provided on a weekly basis through the Councillor Bulletin.

This report aims to maintain the information flow to Council, and to the community, concerning these important infrastructure renewals.

Council's swimming pools have attracted media and community attention during recent weeks, primarily due to projected time delays for completion of the respective redevelopments. The projected delays have mainly been caused by wet weather events since the projects commenced, and also with a possible delay due to required power upgrades to both sites.

Subsequent to the commencement of construction, it was identified that there is a need for major power upgrades at each of the pool sites. This has required electrical reticulation design work to be carried out, and submitted to Essential Energy for approval, for new power reticulation works to be carried out at each of the sites.

A letter was issued to Essential Energy, on 5 October 2017. This letter asked Essential Energy to expedite the design approval for the upgrade, and also for technical assistance to examine the network to see what temporary arrangements could potentially assist to avoid the delay currently envisaged by the contractor.

Advice has subsequently been received that Essential Energy will work proactively to assist Council in achieving the power upgrades in the earliest possible timeframe.

Council staff are having regular meetings with our pool management contractors and key pool stakeholder groups.

These meetings have highlighted aspects of the redevelopment of the facilities that could be improved, subject to funding constraints.

These include the type of shade covering over the proposed tiered seating, additional sheltered areas for improved accessibility needs, additional equipment storage at the Alstonville Pool and ensuring provision is made for future solar utilisation opportunities at both sites.

Key Issues

- Time delays
- Risk management
- Power upgrade
- Addition improvements
- Financial impacts on recurrent budget

Information

Time Delays

Work at both sites has been impacted by wet weather delays. These delays are unavoidable and result in approved contract variations, in the form of Extension of Time (EOT). At the time of preparing this report, there have been five contract variations for EOT approved for wet weather to date. These EOT accumulate to 38 days at Ballina, and 37 days at Alstonville.

Further to the wet weather EOT, there has been an EOT approved for the removal of addition asbestos within the concrete at the bottom of the former pools at both sites. This EOT extended the contract an additional 22 days at both sites.

The EOTs that have been approved to date give the completion dates for construction work as, Ballina Pool Facility, 15 January 2018 and Alstonville Pool Facility, 8 January 2018. We have had further rain events since the most recent approval, which will likely result in the project contractor submitting further claims for EOT.

Progression of work is heavily weather dependent, and Council has been very fortunate with the months of dry weather that we have received during the construction phases.

The contractor has been performing extremely well trying to get as much work done as practical on a daily basis, at each site, knowing that weather conditions can bring the project to a sudden halt at any time.

The contractor has also submitted a 'Notice of Delay'; this being for the need to upgrade the power at each of the pool facilities. The contractor determined that the advice provided by the project consultant was incorrect, and both sites require substantially more power than has previously been supplied.

The Notice of Delay is to allow for the required time for the upgrade processes.

This power upgrade is subject to a design and approval process, to supply the required equipment, and the installation of the underground power infrastructure and equipment.

9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update

The project contractor put forward a possible delay caused by the unavailability of power, as forecast completion dates being:

Alstonville Swimming Pool Facility, 23 March 2018 and
Ballina Swimming Pool Facility 27 March 2018.

Council staff, in consultation with the energy authority and the contractor, is currently examining options for temporary power alternatives that can improve the completion dates to be more closely aligned with the approved Extensions of Time and any subsequent events in addition to those.

Asbestos Removal

An extension of time was approved for the removal of asbestos. This was for the removal of asbestos material enclosed in concrete at the bottom of the former pools.

Currently, there is no change in approved contracted costs with this variation of time, however the contractor has submitted a variation of cost for this aspect of work.

The cost, and time delay, to remove and dispose of this material was significant and currently, there is not agreement between Council and the contractor regarding responsibility for these costs.

As previously reported to Council, the issue of apportionment of these related costs is being negotiated and will be reported as the matter progresses.

Discussions between Council and the contractor have resulted in agreement on the utilisation of a mediator as a next step forward.

Council and the contractor have now selected a mediator, and are arranging a suitable time for this process to take place.

Power Upgrades

The project contractor determined that the advice originally received from the pool project consultant (who assessed that the power at both pool sites had adequate capacity for the additional load of the redevelopment) was incorrect.

The new facilities are now going to have a much larger water holding capacity, enhanced water filtration systems and high-load electric heat pump systems.

This determination was made after construction works had commenced, and the contractor, sub-contractors and Council staff have been working together to have design work carried out for new 11kv high voltage reticulation and substations at each site.

The Alstonville site's high voltage reticulation will also require a high voltage switching station, to be positioned where the high voltage will be connected at the entry to Alston Ave.

9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update

Initial design approval from Essential Energy has been received and final plans have now been submitted by the electrical design engineer, to be taken through Essential Energy's final approval process. Essential Energy have offered their assistance to fast track the approval, however the issue is the delivery time for key components of the upgrade. Based on the feedback from the initial design approval, the contractor ordered these products so the approval process is now not critical to the delivery.

As mentioned, correspondence was sent to Essential Energy. This letter asked Essential Energy to expedite the design approval for the upgrade and for technical assistance to examine the network to see what temporary arrangements could potentially assist to avoid the delay currently envisaged by the contractor.

Early indications from Essential Energy and the contractor appear to be that there may be sufficient capacity within the existing reticulation to enable the pools, although not at full capacity, to operate within the timeframe of the currently approved contract period. Efforts are being made to confirm this.

The work at each site involves the installation of 11kv underground power cables to a 315kva substation (mounted in the road reserve adjacent each of the pool sites). The Alstonville underground cabling will be required to be under bored from outside the pool site, along Alston Ave, to a new switching station.

If these works cannot be implemented prior to completion of the pool redevelopment projects, Essential Energy's assistance may identify other temporary alternatives to provide power to the sites.

If there is an inability to provide enough temporary grid power, Council can look at supplying temporary power to the sites via diesel generators, or a combination of both.

The current price estimates for the power upgrade works are Ballina approximately \$140,000 and Alstonville approximately \$165,000, which were not included in the original budget. With other incidentals the likely cost is approximately \$320,000.

Budget Constraints and Additional Improvements

Council has maintained a close relationship during the pool redevelopment process with both the respective pool management contractors and the various key pool stakeholder groups.

This has been done firstly through the initial early consultation stage, prior to the redevelopment beginning, and also through subsequent regular stakeholder meetings.

As information about the project design became available, it has been presented to the group for discussion.

It was determined that shade covering over the tiered seating around parts of the deep end of the main 50 metre pool at both sites, was semi-permeable.

9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update

After discussion, it was evident that a waterproof material would be far more suitable to enhance school, sporting and social events in wet weather.

The cost to replace the current selected covering with waterproof material is estimated at:

- Ballina \$20,000
- Alstonville \$25,000

Additional Shelter Alstonville Main Pool

Through discussion at the stakeholder meetings, it became evident that the Alstonville Pool site would benefit from another accessible shelter.

The Alstonville facility is highly used by sporting groups, and a shelter on the deep end, northern side of the main pool, without tiered seating, would provide an area for score keepers, sports bags, wheel chairs, prams etc. out of the weather.

An estimated cost to provide this additional shelter is \$25,000

Covered Storage Area Alstonville Pool

The Alstonville Pool facility is on a much smaller allotment of land than the Ballina facility.

Therefore, efficient storage of equipment is important to maximise user space.

Discussion at a recent stakeholder meeting highlighted that an area behind the Plant Room/Club House on the site could be concreted and roofed over, for the storage of the main pool's blankets and other plant, when not in use.

This would keep a large area of the site clear when in use.

An estimated cost to establish this area is \$20,000

Solar Utilisation

The pool redevelopment budgets were established with the primary focus being to have excellent pool facilities.

Both sites will have an eight lane, 50 metre, FINA compliant swimming pool, an enclosable 25 metre x 16 metre swimming pool and outdoor children's wet play area.

Whilst our communities will benefit from these enhanced facilities, there is also the opportunity to look at capitalising on the roof area at each site, and utilising solar technology to reduce ongoing operating costs.

The Ballina Pool buildings will have around 800 square metres of roof oriented in the preferred direction for solar, which could be used for either solar energy or solar heated water.

The Alstonville Pool facility will have approximately 600 square metres of roofing oriented in the preferred direction, which could do the same.

If Council was to target the roof over the 25 metre pool at each facility, as a first step for the use of solar energy within the facilities, there is approximately 400 square metres of roof area available at each site.

This could provide approximately 40 kilowatts of Solar Photovoltaic (PV) at an estimated capital cost of \$55,000 per site.

Because of the enclosed type of roofing structure covering these pools, Council is having the roofs pre-cabled for the purpose of preparing for the future installation of this solar.

This is to avoid any installation issues and extra costs in installation work when solar installation can occur.

The energy produced by this amount of solar PV when installed, is estimated to save \$18,000 in electricity charges per annum, *(keeping in mind that all these figures are approximate at this stage)*.

Full operational data of the pool electrical systems will not be known until the facilities have been fully operational through all seasonal weather conditions.

Using those estimated savings, the payback period for the installation of the solar systems could be between three and five years.

This is very much dependent on the time period that the facilities will be open for, with the sites now going to have the ability to enclose the new 25 metre pools.

Council could potentially extend the pool season, or even allow the operation of the 25 metre pools throughout winter, (this will continue to be reviewed), though this would obviously have cost implications.

Sustainability Considerations

- **Environment**

The use of Solar Photovoltaic systems at the pool sites would provide a positive sustainable image for Council to the community that it services.

- **Social**

The Ballina and Alstonville swimming pool facilities provide a range of social, cultural and recreational benefits to the community. These include places for social gatherings, sporting groups, structured and informal recreation, learn to swim classes, water-based therapy etc.

- **Economic**

The inclusion of waterproof shelter tops at each of the pool facilities will be variations to the original contracted sum. The inclusion of a solar PV system at each site would assist in reducing future operating costs, however would be a variation to the contracted sum. The required power upgrades at each of the pool facilities represent a substantial financial increase on the original contracted sum, though necessary nevertheless.

Legal / Resource / Financial Implications

This report highlights financial resource requirements to provide additional items to the shire's community swimming pool facilities, either during or post their respective redevelopments.

The funding implications are:

Power Upgrades - \$320,000 (essential)
Additions / Improvements - \$90,000 (optional)
Solar - \$110,000 (commercial return – approximate five year payback)
Asbestos - Remains an unknown quantity

The majority of this project is being funded through low interest loans from the NSW Tcorp. Council has already had the loan funding approved for 2016/17 (\$6,711,700 @ 3.575% for 20 years) and 2017/18 (\$5,927,800 @ 4.02% for 20 years).

Council is eligible for low interest loans for asset renewal works from Tcorp as the State Government has confirmed Council is Fit for the Future based on our Fit for the Future submission.

The total budget for the project with loans and internal reserves included is approximately \$14.1m.

Council is not in a position to fund additional expenditure of this magnitude from revenue and with all our reserve funds allocated to other projects the most realistic option is to seek further loan funding.

Depending on what course of action the Council chooses to take the financial implications are as follows:

- Loan of \$320,000
- 20 year term
- Indicative rate 4.02%
- Annual repayments \$23,600 (say \$24,000)

This would fund the necessary power upgrades for the two pool sites.

If Council decides to commit to the power upgrades and the discretionary items the financial implications are as follows:

- Loan of \$520,000
- 20 year term
- Indicative rate 4.02%
- Annual repayments \$38,300 (say \$38,000)

Council's adopted Long Term Financial Plan (LTFP) includes total annual repayments of \$910,000 for the forecast loans from 2018/19 onwards.

The Tcorp loan repayments will be \$907,000 based on the actual loan rates secured, which is right on budget.

9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update

Based on the \$320,000 to \$520,000 identified in this report this will result in extra annual loan repayments of \$24,000 to \$38,000 per annum. These additional repayments have a direct negative impact on the working capital result for the General Fund, with that Fund already forecasting recurrent deficits for the next ten years; i.e.

Forecast Working Capital Deficits – General Fund (\$'000)

Year	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27
Deficit	(192)	(341)	(504)	(574)	(488)	(465)	(329)	(329)	(369)	(262)

The additional repayments will add to these deficits. The figures for 2019/20 onwards (and even 2018/19) are far too high and represent an unsustainable position for the General Fund and Council.

With Council having to borrow at least \$320,000 for the power upgrades it is now essential that a review of the General Fund is undertaken to identify how recurrent savings of approximately \$200,000 to \$300,000 can be achieved to improve the financial sustainability of the Fund.

The recommendations to this report include this course of action.

Consultation

Community consultation during the construction project has been with the existing pool management contractors and key pool stakeholder groups.

Options

Council is able to continue with the redevelopment of its pool facilities without making any major changes to the general scope of works, already included in the contract. However, it has been determined that the power upgrades are unavoidable and must proceed to achieve functional pool facilities at Ballina and Alstonville, at an estimated cost of \$320,000.

Beyond that, the Council may also decide to fund any or all of the four additional discretionary items which have been outlined in the report following ongoing key stakeholder engagement.

The additional costs to change the authorised scope of the project are set out with each of the items in the report.

It is a matter for Councillors to determine the overall level of service to the community and the recommendations that follow allow the discretionary items to be determined by Council.

In conclusion it is important to keep perspective in respect to the project Council is undertaking. The redevelopment of both swimming pools is a once every 40 to 50 years' project and Council is looking at a cost of approximately \$7m to \$7.5m per swimming pool.

This compares favourably with other swimming pool redevelopments undertaken by councils with examples over the last decade or so in this region including Murwillumbah (\$11m - 2008), Lismore (\$9m - 2005) and the Goonellabah Sports and Aquatic Centre (\$15m - 2009).

9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update

Certainly there are different scopes to these projects however the figures highlight the magnitude of expenditure required to provide contemporary public facilities.

Council has also determined the scope of the overall project on behalf of the community through regular reports along with on-going stakeholder consultation. The funding strategy has also been confirmed in conjunction with that regular reporting.

The one remaining issue with this project is the resolution of the asbestos removal and that will need to be subject to a further report to Council once more accurate information is available.

RECOMMENDATIONS

1. That Council notes the contents of this report on the Ballina and Alstonville Swimming Pools redevelopment.
- 2A. That Council authorises a budget variation of \$320,000 for the essential power upgrades to service the pool redevelopments

OR

- 2B. That Council authorises a budget variation of \$520,000 for the essential power upgrades, the inclusion of solar and the other additions and improvements as identified in this report.
3. The funding for these works is to be secured from loan borrowings.
4. That Council receive a report on options to reduce the magnitude of the forecast General Fund working capital deficits as per the Long Term Financial Plan.

Attachment(s)

Nil

9.4 Economic Development Strategy - Public Exhibition

9.4 Economic Development Strategy - Public Exhibition

Delivery Program Strategic Planning

Objective To report on engagement activities associated with the preparation of a draft Ballina Shire economic development strategy and invite the Council's endorsement of the draft strategy for public exhibition and feedback.

Background

The Council, at its Ordinary Meeting held on 24 September 2015, resolved as follows [Minute No. 240915/10]:

That Council prepare an economic development strategy for Ballina Shire, including a review of Council's existing economic development activities and identification of opportunities to enhance economic outcomes for the Ballina Shire community.

Subsequently, the existing Council approach to economic development has been reviewed along with an analysis of opportunities to enhance economic outcomes. Key economic indicators and background information is contained within the Economic Development Strategy Discussion Paper published in January 2017 (Attachment 1). The discussion paper and an associated community and stakeholder engagement program have informed the preparation of a draft economic development strategy.

At one point in time Council employed an economic development officer through a dedicated position under a shared funding arrangement, supported by the shire's respective chambers of commerce and the NSW Office of State and Regional Development. The funding was approved only for a fixed period, and when this period expired, the dedicated position was discontinued.

Presently Council supports direct economic development activities through a Strategic Planner role in the Strategic Planning Section (notably, other Sections of Council including Communications, the General Manager's Office and the Commercial Services Unit also engage in economic development related initiatives at different times).

The Council currently allocates a recurrent annual budget of \$15,000 to specific economic development programs whilst numerous other infrastructure and service delivery budgets provide economic benefits to the shire.

Council's long standing approach to economic development is centred on delivery of enabling infrastructure, provision of information and providing a point of contact for general enquiries from existing or prospective businesses, government departments and the like. The approach also seeks to integrate consideration of economic elements and outcomes into broader planning for the shire.

Council's initiatives in terms of economic development are less focused on direct business related interventions or specific economic programs.

9.4 Economic Development Strategy - Public Exhibition

The preparation of an economic development strategy for the shire aligns with the Prosperous Economy direction and its associated outcomes under the Council's adopted Community Strategic Plan. The preparation of an economic development strategy was an action in the 2016/17 Delivery Program and Operational Plan and implementation of the strategy is a current action in the 2017/18 Delivery Program and Operational Plan (Action PE2.1d).

The purpose of this report is to provide the Council with an overview of the stakeholder engagement activities undertaken to inform the preparation of an economic development strategy and to invite the Council's consideration of the draft strategy for the purpose of public exhibition.

Key Issues

- Approach to economic development and associated resourcing.
- Balancing social, environmental and economic objectives

Information

Stakeholder Engagement

The preparation of the draft strategy has been informed by stakeholder engagement. These engagement activities commenced with the preparation of an economic development discussion paper, a copy of which is provided as Attachment 1 to this report. The discussion paper provided relevant economic development statistics, along with analysis of global trends and regional influences on economic development and activity in Ballina Shire. The purpose of the initial paper was to stimulate discussion and provide stakeholders with 'food for thought' and key points to generate feedback.

As part of this phase of the project, Council sought to advise the business community of the strategy and invite feedback. This included 6,548 letters being sent to shire-based businesses listed on the Australian Business Register.

By way of summary, Council undertook the following engagement activities to obtain stakeholder input following the release of the discussion paper:

- *Online Engagement* – Facebook was utilised with an online survey (via SurveyMonkey).
- *Letters to local businesses* – All businesses registered in Ballina Shire were contacted by post to invite participation and input.
- *Meetings with Chambers of Commerce* – Meetings were held with the Ballina, Lennox Head and Alstonville-Wollongbar Chambers of Commerce.
- *Stakeholder Workshops* – Facilitated workshops with invited business participants were held to identify key concerns and priorities.

9.4 Economic Development Strategy - Public Exhibition

In addition, input was gleaned from other recent relevant Council community engagement projects, in particular:

- The Ballina Major Regional Centre Strategy (2016).
- The Alstonville and Wollongbar Strategic Plan projects (2017).

Draft Economic Development Strategy

A Draft Economic Development Strategy for Ballina Shire has been prepared on the basis of analysis of global trends, regional influences and local circumstances as well as stakeholder input. A copy of the draft strategy is provided as Attachment 2 to this report.

The draft strategy has the following key elements:

- Background and planning context
- Key economic data
- SWOT analysis - strengths, weaknesses, opportunities & threats
- Economic Development Strategies
- Implementation and Resources

The draft strategy is underpinned by a philosophy of Council being an 'enabler' of economic activity that is driven by entrepreneurs and business people.

The vision of the draft strategy is that:

Ballina Shire is a vibrant and engaging place, built on its beautiful natural amenity and lifestyle character, where Council leadership and strong business networks support entrepreneurial opportunities that contribute to the shire's prosperity and quality of life.

The vision is supported by the following objectives:

- *Support the development of a strong entrepreneurial culture* – A strong entrepreneurial culture is one that welcomes new ideas, and where the knowledge, resources and skills are available to enable potential entrepreneurs to identify and pursue business opportunities.
- *Build confidence through leadership* – Providing stable and decisive leadership will provide business owners and entrepreneurs with confidence to invest, take a risk on establishing a new business or relocate to the shire.
- *Attract key anchor industries and talent* – Attracting potential growth industry sectors and highly skilled workers/entrepreneurs to relocate to the shire could help anchor innovation and support jobs growth by increasing export income, deepening the local talent pool and driving the development of new businesses through spin-offs and associated service industries.
- *Provide proactive community engagement and communication* – Engaging with our local resident and business community in relation to Council projects and programs and promoting the activities and attractions of the shire to residents, visitors and businesses.

9.4 Economic Development Strategy - Public Exhibition

The actions identified to meet these objectives seek to take advantage of opportunities presented by Ballina Shire's 'natural endowments' and opportunities presented by the changing global and technological trends in business and employment, and address the matters raised by stakeholders.

The actions fundamentally seek to build on Council's strengths as a provider of infrastructure and information and to undertake initiatives that seek to remove initial barriers to business and entrepreneurial activity in the shire. This positions Council as more of a facilitator than a body that directly delivers programs or funding to business.

It is intended that, following adoption, the strategy's actions will be progressively incorporated into Council's Operational Plan and Delivery Program.

The Council has resolved, separately, to consider several related matters in the context of the economic development strategy, specifically:

- Developer Contributions for Small Business [Minute No. 280716/18]
- Roadside Stalls [Minute No. 271016/27]

These matters are addressed in the draft strategy in relation to the proposed policy and action.

Sustainability Considerations

- **Environment**
The draft economic development strategy seeks to facilitate economic opportunities in a manner sympathetic to the environmental values of the shire.
- **Social**
The draft strategy seeks to facilitate economic opportunities in a manner sympathetic to the social values of the shire.
- **Economic**
The draft strategy seeks to facilitate economic opportunities to the benefit of the broader community having regard for the social characteristics and environmental attributes of the shire.

Legal / Resource / Financial Implications

The draft economic development strategy identifies actions and resource allocations that seek to improve the shire's economic prosperity, for possible inclusion in Council's operational plans and delivery programs.

Many of the items listed in the strategy do not incur additional costs however there are certain items that require additional funding. The financial implications of the draft strategy are summarised in Table One. Actions have been grouped into periods based on the estimated timing for completion of the actions.

9.4 Economic Development Strategy - Public Exhibition

Table One: Draft Economic Development Strategy – Action Cost Estimates

Item	Years 1-2	Years 3-5	Years 6-10
Annual Operating Costs (Recurrent)	\$10,000	\$30,000	\$50,000
Project Costs (once off)	\$55,000	\$60,000	\$15,000
Aspirational – Communications Resource	N/A	\$240,000	\$400,000
Aspirational Item – Place Making	N/A	\$180,000	N/A
Totals	\$65,000	\$510,000	\$465,000

Council's Long Term Financial Plan (LTFP) has continuing working capital deficits for the General Fund and these deficits increase significantly once the Ballina Indoor Sports Centre is operational. This means Council is not in a position to fund any additional services unless monies are reallocated from existing programs.

The items in the strategy that incur additional costs are as follows:

Years One to Two

- A4 - Establish an internal Council process with an external facilitator as Chair for coordinating the assessment of priority proposals that involve strategically important industries and/or redevelopment projects occurring in the shire's business centres - \$5,000 per annum
- A5 - Work with stakeholders to facilitate the establishment of co-working spaces that provide a variety of flexible office spaces, office facilities (meeting rooms, internet, copiers) and networking and mentoring opportunities for small business and start-ups - \$15,000 once off
- A11 - Review developer contribution arrangements for business - \$20,000 once off
- C7 - Prepare a place-making strategy to encourage people to 'linger for longer' in key locations - \$20,000 – once off

Years Three to Five

- A6 - Work with local businesses to facilitate a more vibrant and active public domain through place-making projects that encourage passive networking and opportunities for social interaction - \$60,000 per annum for three years
- B2 - Provide leadership in association with the development of Council's industrial landholdings - \$30,000 once off
- C2 - Establish a proactive program of engagement with the local business community through face-to-face interaction, use of social media platforms and consistent generation of promotional media content - \$80,000 per annum
- C4 - Prepare an investment prospectus to attract emerging and strategically important industries and talent that take advantage of the shire's natural endowments and opportunities - \$30,000 once off

9.4 Economic Development Strategy - Public Exhibition

- D3 - Hold public information events in conjunction with local chambers and other agencies (Industry NSW, TAFE, NORTEC) addressing matters such as “How to lodge a development application”, “Setting up a food premises” etc - \$5,000 per annum

Years Six to Eight

- C5 - Prepare a creative arts strategy - \$15,000 once off

If Council is going to exhibit or endorse a strategy it needs to be achievable financially otherwise unrealistic expectations are created in the community.

With respect to the recurrent cost items, Council allocates \$15,000 annually to economic development programs. An amount of \$7,000 from this budget is typically expended on sponsorship of local business awards and the provision of economic and statistical data to the community. The remaining \$8,000 is expended on miscellaneous economic development related projects or transferred to reserve if unexpended during the year.

Based on the \$5,000 per annum needed for years one and two, and \$10,000 as a recurrent budget onwards, this is affordable from within that existing budget (i.e. the recurrent \$15,000 can be incremented up in future years).

In respect to the project costs (i.e. once off), options for funding the various items are:

- A5 – \$15,000 – The Strategic Planning Section has a \$20,000 recurrent budget for consultants, with that budget expended on consultants supporting various studies etc that are undertaken each year. If this strategy is now the priority of Council \$15,000 of that \$20,000 could be allocated to this item for one year.
- A11 - \$20,000 – This can be funded from Council’s Section 94 internal reserve – These funds are normally used to review Section 94 Plans and the monies in the reserve could be expended on this project – the preference would be to do this work in the current financial year as Council has a resolution outstanding from 2016 to review developer contributions for small business.
- C7 - \$20,000 – This item is problematic as it is directly linked to item A3 which has an estimated cost of \$180,000 (i.e. \$60,000 per annum for three years). There is no opportunity in Council’s LTFP to finance the \$180,000 unless Council significantly diverts existing resources to this project. The recommendation from a financial perspective is to confirm this item is aspirational only as it cannot be funded.
- B2 - \$30,000 – This item is related to Council’s industrial land activities and it is reasonable for the funding to be sourced from Council’s Property Development Reserve, if this is the priority of Council.
- C4 - \$30,000 – As an investment prospectus for the entire Shire this item could be funded from a range of corporate budgets (i.e. advertising, printing and stationery, Strategic Planning consultancies etc).

9.4 Economic Development Strategy - Public Exhibition

- C5 - \$15,000 – This item is for years' six to eight and could be funded from an area such as the Strategic Planning consultancy budget.

Two potential major costs attributable to the strategy are the provision of additional staff resources to support communications initiatives (C2 - \$80,000 annually from the third year of implementation) and implementation of a broad scale place making program (A6 - \$60,000 annually for three years).

Over the ten year life of the strategy these two actions are estimated to have a cost of \$820,000. The costs for these items are identified in Table One by reference to aspirational actions.

Although both actions may be potentially beneficial from an economic development perspective, actions of this scale are unaffordable in Council's LTFP especially considering that Council has so many unfunded or underfunded core services (i.e. compliance, planning assessment, environmental scientist etc).

A number of years ago Council did consult with the business community in respect to the levying of a special rate variation entirely on business properties to fund marketing and business related strategies, which was an initiative driven by the Chambers of Commerce, however that was not supported by a large number of businesses and did not proceed. Unless such an idea comes to fruition in the future, Council is not in a position to fund these items unless there is a significant reallocation of existing resources.

A summary of the funding scenario based on this financial information is as follows.

Table Two – Ten Year Financial Plan for Items Funded in Strategy (\$'000)

Item	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27
A4 – Priority Proposals	5	5	5	5	5	5	5	5	5	5
D3 – Information Events	0	5	5	5	5	5	5	5	5	5
Sub Total	5	10	10	10	10	10	10	10	10	10
Funded from Economic Development Budget	(5)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
A5 – Co-working spaces		15								
Funded from Strategic Planning Consultancies		(15)								
A11 – Developer Contributions	20									
Funded from Section 94 Internal Reserve	(20)									
B2 – Industrial Land			30							
Funded from Property Development Internal Reserve			(30)							
C4 – Investment Prospectus				30						
Funded from mixture of Corporate budgets				(30)						
C5 – Creative Arts Strategy							15			
Funded from Strategic Planning Consultancies							(15)			

9.4 Economic Development Strategy - Public Exhibition

The following items remain unfunded and are aspirational:

- C7 - Prepare a place-making strategy to encourage people to 'linger for longer' in key locations - \$20,000 – once off
- A6 - Work with local businesses to facilitate a more vibrant and active public domain through place-making projects that encourage passive networking and opportunities for social interaction - \$60,000 per annum for three years
- C2 - Establish a proactive program of engagement with the local business community through face-to-face interaction, use of social media platforms and consistent generation of promotional media content - \$80,000 per annum

If Council approves the exhibition of this strategy it is recommended that the material also include a summary of this financial information to highlight that certain items are aspirational and can only be funded through the raising of additional revenues and / or the reallocation of existing resources.

Importantly there are still many items in the strategy that can be undertaken within existing resources.

Consultation

Initial stakeholder consultation was undertaken to inform the preparation of the draft Economic Development Strategy.

Subject to the Council's endorsement, the draft strategy will be placed on public exhibition for broader community feedback for a period of at least six weeks. Further stakeholder engagement (with local chambers of commerce and original workshop participants) will be undertaken during the exhibition period. A further report concerning the draft strategy and exhibition outcomes will then be presented to Council.

Options

The Council has the following options regarding this matter:

1. The Council could resolve to discontinue the consideration of an economic development strategy.

This option is not recommended on the basis that stakeholder input has identified a number of areas that Council could address to improve economic development outcomes in the shire.

2. The Council could resolve to hold a further Councillor briefing regarding this matter.

This option is available to the Council, although it is not recommended. Alternatively, a Councillor briefing could be held following the public exhibition of the draft strategy, if desired by the Council.

9.4 Economic Development Strategy - Public Exhibition

3. The Council could resolve to place the Draft Economic Development Strategy (as contained in Attachment 2) on public exhibition.

This option is recommended on the basis that the draft strategy seeks to respond to the key issues and factors identified in relation to enhancement of economic outcomes in Ballina Shire. Should the Council endorse this option, it is recommended that the strategy be placed on exhibition for a period of six weeks. The draft strategy would also be accompanied by information broadly outlining the financial implications and potential impacts of fully funding its implementation.

Following the public exhibition, the matter (including a review of submissions) will be presented back to the elected Council for further consideration.

The Council could also elect to progress to public exhibition with changes to the draft strategy as it considers appropriate.

4. The Council could resolve to amend the Draft Economic Development Strategy to remove actions presently not funded prior to publicly exhibiting the draft document.

This option is presented in the event that the Council is of the view that the actions identified in the draft strategy are too ambitious and/or too costly, having regard for Council's limited role in economic development matters and current financial circumstances.

The Council may prefer to pursue a more modest strategy due to financial constraints to align the expectations of stakeholders with the Council's intentions regarding resourcing and approach with respect to economic development matters before seeking community feedback on potential actions.

This option is not recommended on the basis that the actions identified in the draft strategy that have resourcing implications (such as those relating to communications and place-making) seek to address issues raised during the initial stakeholder engagement and actively advance economic development opportunities for Ballina Shire. It is recommended that Council seeks feedback on the action items in the draft strategy before making a final decision on their inclusion and funding.

RECOMMENDATIONS

1. That Council endorses the Draft Ballina Shire Economic Development Strategy, as attached to this report, for public exhibition.
2. The exhibition material is to include financial information based on Table Two of this report, with that summary to clearly outline which actions in the Strategy can be funded from Council's existing financial resources and which items are aspirational.

Attachment(s)

1. Economic Development Strategy Discussion Paper (January 2017) (Under separate cover)
2. Draft Economic Development Strategy (October 2017) (Under separate cover)

9.5 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 17/007 - Visions Estate, Henderson Drive, Lennox Head and to seek direction from the Council concerning the finalisation of this proposed LEP amendment.

Background

At its Ordinary Meeting held on 25 January 2017 the Council resolved to grant consent, subject to conditions, to development application No. 2016/166 relating to the residential subdivision of the subject land. As part of its determination, the Council also resolved to prepare a planning proposal to rezone each proposed residential lot (other than proposed Lot 1 and reconfigured Lot 15 in the future subdivision) to R2 Low Density Residential.

The Council considered the subject planning proposal at its Ordinary Meeting held on 25 May 2017. At the request of the proponent an alternative proposal was presented to the Council seeking additional lots for retention in the R3 Medium Density Residential zone (making a total of three medium density zoned lots). The Council resolved as follows [Minute No. 250517/9]:

- 1. That Council submit the planning proposal for the amendment of the Ballina Local Environmental Plan 2012 (Attachment One), relating to the rezoning of each residential lot and surrounding land in the Visions Estate (other than approved Lot 1 and reconfigured Lot 15 and Lot 7) to R2 Low Density Residential, to the NSW Department of Planning & Environment for Gateway determination.*
- 2. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
- 3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken.*

A Gateway determination enabling the planning proposal to proceed was obtained on 25 July 2017. The determination specified a minimum 14 day public exhibition period and required that the planning proposal be completed within a 9 month timeframe. The planning proposal was exhibited for community feedback from 23 August 2017 until 8 September 2017.

The Gateway determination also required address of certain issues prior to community consultation and specified required government agency consultation (see below). A copy of the Gateway determination is contained within the planning proposal which forms Attachment 1 to this report.

The purpose of this report is to outline the outcomes of the public exhibition process and seek direction from the Council concerning the finalisation of the planning proposal.

Key Issues

- Consideration of the outcomes of the public exhibition process.
- Finalisation of the LEP amendment.
- Consideration of acceptance of delegation from the NSW Department of Planning and Environment to finalise the planning proposal.

Information

The Visions Estate land has been zoned for future urban development for over thirty years. Prior to the commencement of the Ballina Local Environmental Plan (LEP) 2012, the land was zoned 2(a) Living Area Zone under the Ballina LEP 1987. Prior to 2013, the land was identified as an M1 medium density area under the Council's former development control plan. This medium density designation was carried forward into the zoning applied under the Ballina LEP 2012.

In the Statement of Environmental Effects submitted with DA 2016/166, the applicant indicated their intent for low density usage of the site by proposing single dwelling covenants on the majority of the lots and nominating three lots for dual occupancy use. Although this rezoning was not asked for by the proponent, this situation is similar to previous proposals relating to the rezoning of land at Cumbalum and Wollongbar. In these cases, land was rezoned from R3 Medium Density Residential to R2 Low Density Residential at the request of the developer to reflect the market demand for low density residential lots and provide certainty to future home owners.

In relation to the subject land, the Council initially resolved to approve only two lots for dual occupancy use having regard for the environmental constraints of the site (sensitive SEPP 26 Littoral Rainforest on and surrounding the site), the low density zoning of the established subdivision to the south (known locally as Lennox Palms Estate) and the strong public support for maintaining the low density character of the area.

At its May 2017 Ordinary Meeting the Council considered the proponent's request to include a further three lots for dual occupancy use. In response, the Council resolved to retain a total of three lots in the R3 Medium Density Residential zone and to rezone the remaining lots to R2 Low Density Residential zone.

The Gateway determination issued by the Department of Planning and Environment on 25 July 2017 required the planning proposal to be updated prior to community consultation in relation to the description and illustration of the affected land.

9.5 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

The planning proposal was amended prior to public exhibition accordingly to clarify the land parcels that are the subject of the planning proposal. Prior to receiving the Gateway determination, the planning proposal included land that at the time was a Crown road. The Crown road has since been closed and part of the resulting lot (Lot 1 in Deposited Plan 1217906) is included in the rezoning proposal.

In summary, the planning proposal relates to part Lot 7 DP 1216761 and part Lot 1 DP 1217906, Henderson Drive, Lennox Head and part of the adjacent Henderson Drive road reserve as outlined in blue and shown in Figure 1 below.



Figure 1: The subject land

The Department of Planning and Environment also advised Council that it considered the proposal's inconsistency with section 117 Direction 3.1 Residential Zones is of minor significance and no further approval is required in relation to this Direction. The agreement of the Secretary for the Department of Planning is, however, required in relation to inconsistencies associated with S.117 directions relating to development near licensed aerodromes and planning for bushfire protection. This agreement will need to be obtained prior to completion of the planning proposal.

Sustainability Considerations

- **Environment**

The potential impact on native vegetation, including the identified SEPP No. 26 Littoral Rainforest on and surrounding the subject land, was considered in the assessment of the subdivision application DA 2016/166. The Department of Planning and Environment has issued conditional concurrence in respect of works proposed via DA 2016/166. The proposed rezoning is not expected to have any significant environmental impacts, subject to compliance with the conditions attaching to the development consent.

- **Social**

The proposal to provide infill housing within an existing residential area does not raise any significant social implications as it provides an outcome consistent with existing urban planning policy for the area. The development of the land under the terms of the consent is effectively a “rounding off” of the Lennox Palms Estate, as was initially envisaged by structure planning for this locality as far back as the late 1970s.

- **Economic**

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

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the proposed amendment. The further processing of the amendment can be accommodated within the work program of the Strategic and Community Facilities Group. Council has met the costs associated with the processing of this planning proposal as the changes sought have been initiated by the Council.

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

Public Authority Consultation

Consultation with public authorities was undertaken as required by the Gateway determination. This included consultation with the NSW Rural Fire Service, Ballina-Byron Gateway Airport, Air Services Australia and the Civil Aviation Safety Authority. A summary of responses received is provided in the table below. Copies of all submissions received in response to the Government agency consultation are contained within Attachment 2.

9.5 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

Name	Issues Raised	Staff Comments
NSW Rural Fire Service	Raise no objection to the planning proposal proceeding provided the requirements of Bush Fire Safety Authority dated 15 June 2016 are satisfied.	Noted.
Ballina-Byron Gateway Airport	Recommendations: 1. Referral to CASA. 2. Referral to Air Services Australia. 3. The proponent will need to consider the potential for dangerous lights. 4. The proponent will need to consider the use of cranes during construction.	1. See below. 2. See below. 3. Noted. 4. Noted.
Air Services Australia	<ul style="list-style-type: none"> The rezoning will not affect any sector or circling altitude, nor any instrument approach or departure procedure at Ballina Airport. The rezoning will not adversely impact the performance of any communications, navigation or surveillance facilities. 	Noted.
Civil Aviation Safety Authority (CASA)	The proposal will not increase the risk to aviation safety due to: <ul style="list-style-type: none"> The natural terrain and existing vegetation at the proposed site already penetrates the inner horizontal surface of the obstacle limitation surface; and The site is surrounded by existing developments which are lit at night, as the future proposal will be, and therefore provides a visual indication of the height of the area. 	Noted.
	Any development on the site is not to exceed the nominated maximum building height of 8.5m. Any crane activity during construction exceeding 8.5m will require a separate assessment.	Noted.
	Proposed street lighting will require a separate assessment based on the maximum design height.	Council's Development Engineer was advised of the requirement and will advise Essential Energy.

Community Consultation

The planning proposal was publically notified from 23 August 2017 until 8 September 2017. Notification included an advertisement in the Ballina Shire Advocate and letters to 70 adjoining and nearby property owners. A copy of the exhibited planning proposal is contained in Attachment 1.

In response to the public exhibition, one submission has been received from a nearby landholder objecting to the proposal. A copy of the submission is provided in Attachment 3. A summary of the matters raised in the submission is provided below (in italics).

- Objection to the change to the LEP for this estate as there is not sufficient medium density residential housing opportunities in what is becoming an aging population and smaller family sizes in our area. Not everyone has the finances, need or desire for a large home with all the trimmings.*

9.5 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head

Comment: There is land within the immediate vicinity of the area (north-west of the subject site), as well as land in other parts of the shire, that is zoned for medium density development. Secondary dwellings (granny flats) are permissible with consent in the R2 and R3 residential zones, thereby presenting an alternative housing option. It is important to recognize that single dwellings are permissible and can be built on medium density sites regardless of a medium density zone being in place.

- *This estate was sold as single dwellings only so don't see the need to change the LEP.*

Comment: Notwithstanding any covenants which may or may not exist on the title of land and imposed by the developer at the time of sale, the number of dwellings that can be built on the land is ultimately determined by the applicable zoning and density controls contained within the Council's planning instruments, or others provided by the State Government. That is, a covenant can have some relevance, but it is not certain that it will ensure the intended planning outcome in the long term.

- *The objection from the neighbouring residents is rather interesting as some have granny flats which create a dual occupancy without contributing to council for extra garbage etc.*

Comment: This comment likely refers to the objections made in respect to the subdivision development application DA 2016/166 in which 23 letters of objection were received. Granny flats (secondary dwellings) are permissible, with development consent, in the R2 and R3 residential zones.

Secondary dwellings are currently exempt from the payment of developer contributions until 31 March 2018 but this is subject to compliance with the relevant exemption criteria. Additional charges apply to properties with secondary dwellings in relation to waste, water and sewer services.

- The objections should have been addressed at the time of the Ballina LEP 2012. It was well advertised and displayed at the time.

Comment: The draft Ballina LEP 2012 did provide an opportunity for interested persons to consider the medium density zoning applied to the land. However, in relation to DA 2016/166 (which was publicly advertised) any person is entitled to make a written submission in respect of a development proposal during the exhibition period, which must be considered prior to determination of a development application.

Whilst the views of the respondent are acknowledged, the matters raised do not, in the view of staff, warrant any changes to the Council's position concerning the planning proposal.

Options

Option 1: Finalise the Planning Proposal

This is the recommended option. The LEP amendment will alter the residential zone applicable to the subject land in accordance with a resolution of the Council.

Finalisation of the planning proposal would include updating the planning proposal documentation (as contained in Attachment 1) to reflect the outcomes of the public exhibition process and Council's decision in respect to the proposed amendment.

Confirmation of the Secretary's agreement with respect to the identified inconsistencies with s117 Directions as noted above is also required prior to finalisation of the LEP amendment. This matter can be suitably addressed on the basis of the responses Council has now received from aviation authorities and the NSW Rural Fire Service.

As indicated above, it is recommended that Council exercise the authority granted to it 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 planning proposal is open to the Council.

This option is not recommended. The planning proposal is generally consistent with local and State Government planning policy and reflects the Council's intended planning outcome for the land (being primarily subdivision enabling single dwellings and a small number of dual occupancies). Where minor inconsistencies with State Directives have been identified, as discussed above, these inconsistencies are justified in the circumstances.

There are no outstanding matters identified as a basis for discontinuation of the proposal, nor has the community engagement raised any issues of significant concern in the context of local planning.

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, the consideration of issues during assessment of the subdivision development application 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 rezone part Lot 7 DP 1216761 and part Lot 1 DP 1217906, Henderson Drive, Lennox Head and part of the adjacent Henderson Drive road reserve to apply an R2 Low Density Residential zone as detailed in Planning Proposal BSCPP 17/007.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 17/007 under delegated authority subject to:
 - confirmation of the agreement of the Secretary of the Department of Planning and Environment with respect to identified inconsistencies with S.117 Ministerial Directions.

Attachment(s)

1. Planning Proposal (Exhibition Version)
2. Public Authority Consultation
3. Submission

9.6 LEP Amendment Request - Skennars Head Expansion Area

9.6 LEP Amendment Request - Skennars Head Expansion Area

Delivery Program Strategic Planning

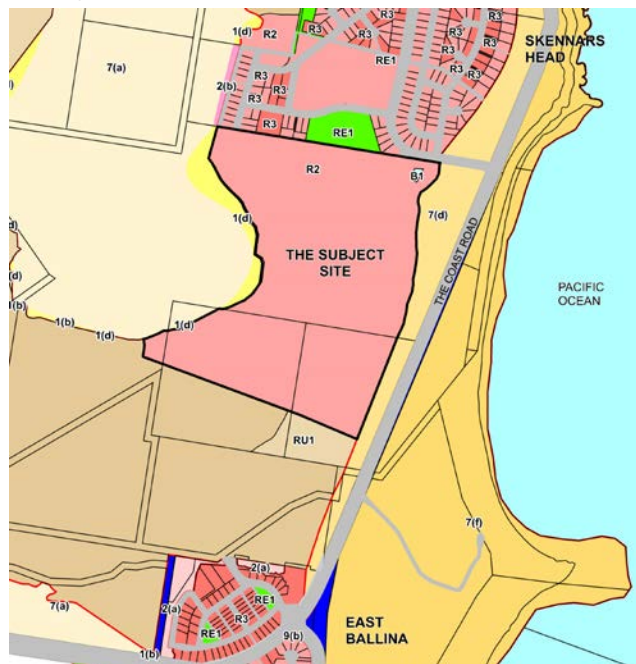
Objective To seek the Council's direction regarding an LEP amendment request to relocate the neighbourhood commercial centre and amend density provisions in the Skennars Head Expansion Area.

Background

The Skennars Head Expansion Area has been the subject of detailed strategic planning consideration since an initial request in 2004 to amend the Council's Local Environmental Plan (LEP) to enable residential development on part of the land referred to locally as the Stewart Farm. The rezoning of the land from rural (RU2 Rural Landscape Zone) to a mixture of residential (R2 Low Density Residential Zone) and commercial (B1 Neighbourhood Centre Zone) purposes was ultimately completed in 2014.

With respect to the rezoning, the NSW Department of Planning and Environment removed Council as the relevant planning authority and had the planning proposal finalised by the Northern Joint Regional Planning Panel (JRPP). This decision by the Department came about primarily because the Council had been agitating for the rezoning being contingent upon freehold land located on the eastern side of The Coast Road opposite the future development area (being the land which comprises the Sharpes Beach carpark) being dedicated to the community without cost. In finalising the plan amendment, the JRPP left unresolved a number of matters identified by the Council as important in the planning of the site.

The location of the expansion area and current zoning is shown in the map below (black outline).



9.6 LEP Amendment Request - Skennars Head Expansion Area

Following the finalisation of the initial planning proposal, Council prepared, publicly exhibited and subsequently adopted a development control plan (DCP) sub-chapter (to Chapter 3 of the Ballina DCP 2012) which sought to address a number of the matters left unresolved at the rezoning stage.

The development proponent (Intrapac Property) has also lodged a subdivision application (DA 2017/244) which is currently being assessed by Council's Development and Environmental Health Group. The subdivision application will be determined in due course by the JRPP.

Separate to the development application, Council has received a fresh LEP amendment request to make the following changes to the Ballina Local Environmental Plan 2012:

- Relocate and expand the B1 Neighbourhood Centre (commercial) zone;
- Apply a building height standard of 10m in the proposed zoned commercial area (increasing from an 8.5m standard which currently applies); and
- Facilitate medium density development on parts of the site through application of the R3 Medium Density Residential zone and application of a 300m² minimum lot size standard.

The request was lodged with Council by Elton Consulting on behalf of Intrapac Property on 27 June 2017.

The purpose of this report is to seek the Council's direction concerning the fresh LEP amendment request.

Key Issues

- Provision of appropriate commercial and neighbourhood facilities.
- Efficient use of residential land.
- Housing choice.
- Scenic values of the coastal environment.

Information

The LEP amendment request received in relation to the site has been submitted to Council by Elton Consulting on behalf of Intrapac Property in two parts:

- Documentation submitted dated June 2017 provided as Attachment 1 to this report (under separate cover).
- Additional information dated September 2017, provided as Attachment 2 to this report.

The information submitted in September 2017 was provided in response to Council staff requesting further information relating to the neighbourhood commercial area (including building heights, built form and land use mix) and the proposed small area residential lots (including built form and access).

The following section outlines the key outcomes sought in the planning proposal request, together with staff responses.

Relocation and expansion of B1 Neighbourhood Centre zoned area

The provision of neighborhood level commercial facilities within the Skennars Head locality has been considered as far back as the original rezoning of the Headlands Estate residential area, which occurred in 1989.

The Ballina Shire Retail Strategy 2004, which from a planning policy perspective, established the shire's retail hierarchy, envisaged commercial facilities of a modest scale within the Headlands Estate. The land which had been nominated to accommodate the shopping area was used to provide for an expansion of the adjoining Holy Family Catholic High School. A small commercial area was provided for, however, in the form of the existing zoned B1 Neighbourhood Centre land, as part of the planning proposal to expand the Skennars Head residential area (to include the subject land) in 2014.

The land comprising the existing B1 zone is approximately 870m² in area and is located near the northern boundary of the subject site. The new LEP amendment request seeks to expand the area of zoned B1 land to approximately 13,000m² and reposition it to the south east in order to improve access to the future commercial area and the estate and to take better advantage of the site's planned open space assets and proximity to the coastal environment.

The relocation of the zoned B1 area was recently considered, in general terms, during the preparation of development control plan (DCP) provisions for the subject land. As previously reported to the Council in the context of the DCP preparation, the relocation of the B1 zone to the part of the site proposed is considered an improved approach in terms of road safety, pedestrian access and urban design. Consequently, the adopted DCP provisions reflect the relocation as sought in the subject planning proposal.

With respect to the request to expand the area of zoned B1 land from 870m² to 13,000m² (approximately), the proponent has provided a report titled 'Retail demand and impact analysis to support rezoning' dated June 2017 (Attachment 1). The retail demand and impact analysis report has two parts. The first part focuses on determining whether there is sufficient demand (existing and projected) to support the proposed facilities (and determine the appropriate mix of commercial uses) and the second part focuses on the potential impact of those facilities on other centres within the retail catchment (including Ballina and Lennox Head).

With respect to the first part, taking into account projected demand associated with the development of new residential estates in the retail catchment, the report suggests there is sufficient demand to accommodate additional retail facilities on the site, having regard also for other planned retail facilities within the catchment (such as proposed additional supermarket floor space within the Epiq Estate in Lennox Head).

9.6 LEP Amendment Request - Skennars Head Expansion Area

In terms of the suitable commercial mix, the report suggests the site could accommodate a small (1,100m²) supermarket, approximately 1,000m² of specialty retail floor space (such as café/restaurant, grocer, bakery, butcher, hairdresser, newsagent, boutique apparel) and approximately 900m² of non-retail floor space (such as childcare, medical, small office suites, fitness). The rezoning request also suggests the development of the commercial centre would incorporate shop-top housing (so-called "SoHo", or 'Small office housing') above the commercial uses, however the amount is unspecified.

The actual mix of uses within the zoned B1 area would be subject to assessment at development application stage and could ultimately vary from that outlined above. The key issue for the LEP amendment request is the area of commercial zoned land having regard for the range of permissible land uses. Attachment 3 is the land use table for the B1 zone under the *Ballina Local Environmental Plan 2012*.

With regard to the second part of the proponent's report, relating to the potential impact of the proposed retail facilities on other retail centres within the catchment (existing and planned), the report provides only indicative impacts based on the author's experience. Notwithstanding, the report concludes that due to the growth of demand more broadly and current undersupply of supermarket facilities within the main trade area, it is anticipated that any impacts on other centres would be minor.

In summary, the retail demand and impact analysis report suggests that a neighbourhood commercial area comprising approximately 3,000m² of gross floor area could be provided at the subject site without adversely impacting other existing and planned retail centres to any significant degree.

Within the Neighbourhood Centre development site (the area of land to be occupied by the B1 zone), additional uses such as car parking, stormwater management, amenities and pedestrian access would also need to be provided. A basic assessment of the standard requirements (for car parking and stormwater management) has been undertaken on the basis of the commercial mix anticipated in the proponent's report and assuming a nominal 5 shop-top residential units.

This assessment suggests an additional 3,300m² (approximately) would be required to accommodate car parking and associated on-site stormwater management infrastructure, making a combined total land area of approximately 6,300m² required for commercial and residential buildings and carparking. Even accounting for a need to set aside additional land area for amenities and pedestrian access, the proponent has not provided sufficient information to justify the rationale for requesting 13,000m² of land within the B1 Neighbourhood Centre zone.

The general concept plan for the commercial area, provided by the proponent, is shown below.

9.6 LEP Amendment Request - Skennars Head Expansion Area



Source: CHC Architect, 2017

The neighbourhood centre concept plan above appears to show considerably more than 3,000m² of commercial floor space and under-allocation of land for car parking purposes.

The total amount of commercial and residential floor space within the neighbourhood centre (as well as the amount of car parking required) will also be influenced by the number of stories permissible by the allowable building height standard, which is a matter addressed in the following section of this report.

All things considered, staff's view is that a land area of approximately 8,000m² to be zoned B1 Neighbourhood Centre will be sufficient to accommodate the projected commercial needs of the Skennars Head locality. This figure comprises allowance for a gross retail floor area of about 3,000m², a carparking and associated infrastructure area of about 3300m² and a contingency of about 1700m² for other miscellaneous-type uses/activities that might reasonably be associated with a neighbourhood services precinct. As a matter of interest, 8,000m² is the approximate area of business-zoned land in Links Avenue, East Ballina, which comprises the mixed retail area, childcare centre and adjoining service station.

Proposed 10m building height standard within Neighbourhood Centre

The proposal seeks to amend the building height standard applying to the proposed B1 Neighbourhood Centre zone to 10 metres, from the current height standard of 8.5 metres. In response to a staff request for further information, the proponent has provided additional information regarding the justification for this variation request (Attachment 2).

The information submitted indicates that the proponent is seeking to provide for three story buildings within the neighbourhood centre, to take advantage of the extensive coastal views and maximise the range of uses within the centre.

It is noted that provision for three stories of development at the site would be inconsistent with that of other neighbourhood commercial centres at the same level in the shire's retail hierarchy (8.5 metres) and would be a departure from the long standing policy position of the Council with regard to building heights. If supported, and in terms of relativities, this would result in the Skennars Head neighbourhood commercial area having a greater permissible building height than the Lennox Head town centre (9 metres). The 10 metre height request is also in excess of the 8.5 metre standard in place for the surrounding zoned residential land.

The visual sensitivity of the site, due to its proximity to the coast road and coastal scenic values, has been acknowledged at every preceding stage of land's planning history. Given the scenic values of the land and the inconsistency of the proposal with the current approach to building height in the shire, it is recommended that the existing 8.5m height standard be retained. That is, no change to the 8.5m standard would be applied should the Council resolve to progress other aspects of the planning proposal.

Application of the R3 Medium Density Residential zone to parts of the site

The residential zoned parts of the subject development site are currently zoned R2 Low Density Residential under Ballina LEP 2012 and have a minimum lot size standard of 450m². The proposal seeks to apply the R3 Medium Density Residential zone to several proposed 'master lots' (that are the subject of DA 2017/244) and to apply a 300m² minimum lot size standard. The locations of these proposed medium density areas are identified with brown shading on the proposed subdivision plan below.



The proposed location of the medium density areas, concentrated in proximity to open space areas and the proposed neighbourhood centre, is consistent with good planning and contemporary urban design thinking. In principle, the provision of housing diversity is considered a desirable planning outcome for new urban release areas. It is also acknowledged that the demand for dwellings in the range of 2-3 bedrooms is expected to increase significantly into the future, due to broad demographic shifts occurring in our population.

Nevertheless, it is noted that the current minimum lot size for the Skennars Head Expansion Area is 450m², already below the typical average residential lot size in Ballina Shire. Further, it is relevant to note that clause 4.1A of the Ballina Local Environmental Plan 2012 states:

4.1A *Exceptions to minimum lot sizes for certain residential development*

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *This clause applies to development on land in Zone R3 Medium Density Residential.*
- (3) *Development consent may be granted to a single development application for development to which this clause applies that is both of the following:*
 - (a) *the subdivision of land into 4 or more lots,*
 - (b) *the erection of dwelling house, an attached dwelling or a semi-detached dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than:*
 - (i) *for the erection of a dwelling house – 400 square metres, or*
 - (ii) *for the erection of an attached dwelling – 300 square metres, or*
 - (iii) *for the erection of a semi-detached dwelling – 300 square metres.*

Clause 4.1A allows for Torrens title allotments to be approved on land within the R3 Medium Density Residential Zone, to a minimum area of 300m² in the case of attached and semi-detached dwellings and 400m² in the case of separate dwellings, but only where the dwelling construction and subdivision are the subject of a single development application. This approach ensures the integrated design and development of the dwellings and subdivision, where small lots are to be created. This approach seeks to mitigate against issues such as loss of privacy, noise, overshadowing and access problems.

Responding to the staff request for further information, the proponent in correspondence dated 10 September 2017 (Attachment 2) advised as follows:

“The lots closer to the size of 300sqm will be designed and constructed as an integrated lot where the subdivision and dwellings will be undertaken in an integrated manner. Lots closer to the size of 450sqm can have subdivision and built form to occur as a separate development application for the mum and dad home purchaser”.

Having regard for the above, the application of the R3 Medium Density Residential zone with reliance on clause 4.1A for the creation of integrated attached dwellings on lots of 300m² should be sufficient to achieve the outcomes sought by the proponent (i.e. providing housing diversity through medium density dwellings on smaller lots). It is acknowledged, however, that the requirement of clause 4.1A is that dwellings on lots of 300m² must be either attached or semi-detached (in other words, in the form of row or terrace housing). Alternatively, Strata titled multi-unit dwellings can be approved on larger lots within the R3 Medium Density zone.

Council invited the proponent to provide further details regarding the built form and variations required to existing residential development controls for separate dwellings on 300m² lots, if an alternative to outcomes facilitated by clause 4.1A was being sought. The information provided (Attachment 2) is considered insufficient to justify a variation to Council’s current approach to providing for dwellings on small lots.

It is noted that the developer’s response above reflects recognition that an integrated approach to dwelling design and subdivision is preferred in terms of achieving good design outcomes and mitigating future neighbour conflict/tension.

Further, the analysis provided by the developers in support for the provision of smaller allotments (‘Small Lot Analysis and Justification Report’ dated April 2017 prepared by MacroPlanDimasi) appears to support Council’s existing approach of providing for attached and semi-detached dwellings through Strata titled multi-unit developments or integrated development on lots to 300m² rather than as separate dwellings, concluding as follows:

“In the case of the subject site and based on the results of the analysis, we recommend that 15-25% of the total stock be considered for and would more appropriately be delivered as multi-unit product as opposed to pure detached dwelling product”.

9.6 LEP Amendment Request - Skennars Head Expansion Area

In conclusion, it is suggested that the existing provisions of the Ballina LEP 2012 and the Ballina DCP 2012 provide adequate opportunities for facilitating housing choice and flexibility in the provision of medium density development. Consequently, it is recommended that should Council resolve to proceed with the planning proposal to apply the R3 Medium Density Zone to parts of the site, that the existing minimum lot size of 450m² be maintained.

Laneway Frontage

The subdivision plan proposed by DA 2017/244 (that forms the basis for the proposed application of medium density zoning the subject of this report) includes provision of a 'master lot' having rear lane access as the only road frontage, with laneway widths below the current standard (being the south western most proposed medium density master lot).

Council's engineering staff has advised the proponent that these future lots are to be serviced by a road rather than a laneway, to ensure that access and services can be adequately provided. The proponent currently disagrees with this requirement.

The map below (which is a zoomed in version of the map provided above) identifies the area referred to in this section (outlined in red).



In light of the uncertainty regarding the configuration of this part of the subject site (which will not be known until DA 2017/244 has been determined), should Council resolve to proceed with the subject LEP amendment, it is recommended that the affected master lot be omitted from the proposed medium density zoning.

Voluntary Planning Agreement

In the documentation submitted to support the subject planning proposal request, the developers have foreshadowed that a voluntary planning agreement (VPA) may be offered to deliver material public benefits in association with the development of the land.

9.6 LEP Amendment Request - Skennars Head Expansion Area

Council staff met with Intrapac representatives on 29 August 2017 to discuss the range of matters that might be included in a VPA. The items discussed related largely to the delivery of infrastructure, the costs of which the developer is seeking to offset against developer contributions that would otherwise be payable.

Public benefits could be associated with a VPA if an agreement is to address matters such as:

- Securing agreement on the preferred Coast Road intersection design and associated costs on terms beneficial to the community.
- Securing arrangements for open space management areas prior to handover to Council.
- Providing certainty regarding land dedications on terms beneficial to the community.
- Providing certainty regarding environmental restoration works and habitat corridors.
- Providing additional public benefits above and beyond contributions plan requirements.

To date, the matters (and terms) referred to above have not been progressed through the VPA negotiations.

Whilst an offer of a VPA has been foreshadowed, a formal offer is yet to be presented to the Council. On this basis, it is considered prudent that should Council resolve to proceed with the subject LEP amendment, this done without the assumption or expectation that a VPA will ultimately be forthcoming.

Summary

The following table provides a summary of the amendments to the Ballina Local Environmental Plan 2012 sought by the planning proposal request, with Council staff comments and recommendations.

Proposal	Staff Comment and Recommendation
Relocate proposed B1 neighbourhood commercial centre.	This request is supported on the basis that the relocation of the commercial area would provide for improved access, safety and amenity.
Expand proposed B1 neighbourhood commercial centre from 870m ² to 13,000m ² .	Insufficient information has been provided to justify the amount of land sought to be included within the B1 zone. From the information provided, an area in the order of 7,000-8,000m ² appears justified.
Application of 10m building height to the proposed B1 Neighbourhood Centre zone.	<p>The request for a 10m building height is inconsistent with Council's approach to building height in commercial areas in the shire. It is also inconsistent with the height standard for the adjacent residential land. Further, the proposed B1 zone is located in a highly visually sensitive and prominent coastal location. There are no compelling reasons to alter the 8.5m standard that currently applies.</p> <p>On this basis it is recommended that the 8.5m building height standard be maintained.</p>
Application of R3 medium density zone to parts of the site.	<p>The location and extent of the proposed medium density lots is considered appropriate. The only exception relates to the south-western most proposed medium density master lot which is referred to in the body of this report in relation to laneway access. It is recommended that this particular master lot be omitted from the medium density zoning at this stage.</p> <p>With the exception referred to above, it is recommended that Council proceed to prepare a planning proposal to apply the R3 Medium Density Zone to master lots identified in the proponent's request to Council.</p>
Application of 300m ² minimum lot size to the proposed medium density sites.	<p>As outlined in the body of this report, the Ballina LEP 2012 currently provides a range of opportunities for facilitating medium density development including attached and semi-detached dwellings on Torrens title allotments of 300m² through integrated development.</p> <p>On this basis, it is recommended that the existing minimum lot size standard of 450m² be maintained.</p>

Sustainability Considerations

- **Environment**

The preparation of a planning proposal as it relates to the provision of commercial facilities has the potential to impact on the scenic and environmental values of the coastal environment.

- **Social**

The planning proposal request, the subject of this report, has potential to impact on the social values associated with the scenic values of the site and adjacent coastal environment.

The provision of commercial facilities and housing choice are positive social outcomes associated with this matter.

- **Economic**

The provision of commercial facilities at the site is expected to have positive economic impacts associated with employment and improving the lifestyle character of the locality. The potential adverse impacts of additional commercial facilities on other commercial areas in the shire are likely to be minor.

Legal / Resource / Financial Implications

There are no specific legal or financial implications for Council associated with the progress of the LEP amendment. The processing of the amendment (if it proceeds) can be accommodated within the existing work program of the Strategic and Community Facilities Group and the amendment is subject to Council's adopted fees and charges.

Consultation

Should Council resolve to proceed, a planning proposal will be drafted to give effect to the Council's decision on the matters set out in this report.

Following the Council's endorsement of a planning proposal, the matter will be referred to the Department of Planning and Environment for Gateway determination. Following an affirmative Gateway determination, the matter will be publicly exhibited for comment, before being reported back to the Council for further consideration.

Options

The following options are presented for the Council's consideration:

1. Council could resolve to decline the proponent's request that a planning proposal be prepared.

This option is not recommended on the basis that the relocation of the B1 Neighbourhood Centre zone and application of the R3 Medium Density zone to parts of the site are considered to be reasonable for the reasons outlined in this report.

2. Council could resolve to proceed with the planning proposal on the basis of the proponent's request.

This option is not recommended on the basis that certain aspects of the proponent's request, specifically those relating to the application of a 10m building height standard to the commercial area and application of a 300m² minimum lot size standard to the proposed medium density sites, may result in undesirable development outcomes including impacts on the scenic values of the coastal environment and poor medium density housing outcomes.

3. Council could proceed with the preparation of a planning proposal on the basis of the recommendations contained in this report.

This option is recommended on the basis that a balanced approach, as set out in the body of this report, can facilitate appropriate development opportunities for the site (with respect to commercial and residential purposes) whilst protecting the public interest in relation to neighbourhood amenity, managing land use conflict and protecting the scenic values of a sensitive coastal site.

In summary, a planning proposal to amend the LEP on this basis would involve:

- Applying the R3 Medium Density zone to parts of the site.
- Applying the B1 Neighbourhood Centre zone to the site over an area of up to approximately 8,000m².

Existing building height and minimum lot size standards would remain unchanged. In addition, the area outlined in red referred to in the section of the report relating to laneway frontage would be omitted from application of the R3 Medium Density zone, at least for the time being.

RECOMMENDATION

That Council proceed to prepare a planning proposal relating to Lot 6 DP 1225206, located adjacent to The Coast Road Skennars Head on the basis of the following, and consistent with the details contained within this report:

- Application of the R3 Medium Density zone to parts of the site (excluding the south western most master lot).
- Relocation of the B1 Neighbourhood Centre zone on the site and expansion of its area up to 8,000m².

Attachment(s)

1. Planning Proposal and LEP Amendment Application - 505 North Creek Road Skennars Head (Under separate cover)
2. Additional Information - LEP Amendment Request 505 North Creek Road - Elton Consulting - September 2017
3. Ballina LEP 2012 B1 Zone Table

9.7 LEP Amendments and Planning Proposals - Status

9.7 LEP Amendments and Planning Proposals - Status

Delivery Program Strategic Planning

Objective To inform the Council of the status of Local Environmental Plan amendment requests and planning proposals that are currently under consideration.

Background

Council has an ongoing program of assessing and processing requests to amend the Ballina Local Environmental Plans 1987 and 2012 (LEPs) and associated planning proposals. This report provides an update of those matters which are currently pending, for the information of Councillors and the community.

Key Issues

- Status of rezoning and LEP amendment requests.

Information

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council. With respect to terminology used in this report, the term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan/s.

Requests are typically referred to as planning proposals once the Council has agreed to progress the initial LEP amendment request and has prepared the required planning proposal documentation for Gateway determination by the NSW Department of Planning and Environment (DPE).

9.7 LEP Amendments and Planning Proposals - Status

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
13/005	Southern Cross Industrial Estate Expansion, Ballina. (Stage 4)	<p>Proposal by Ballina Shire Council for the rezoning of land northward of the existing Southern Cross Industrial Estate from its current rural zoning to enable a mixture of business and industrial land uses.</p> <p>Proponent's consultant was asked on 13 April 2016 to supply additional information as highlighted in a gap analysis report prepared by an independent planning consultant.</p> <p>Currently awaiting submission of additional information.</p> <p>A request for an extension of time to complete the planning proposal was submitted to the Department of Planning & Environment on 27/9/17.</p>	30/10/2017
14/008	Burns Point Ferry Road, West Ballina (Ballina Waterways). (Stage 7)	<p>Proposal for the rezoning of land located adjacent to Burns Point Ferry Road and River Street in West Ballina to enable a mixture of employment and residential land uses. The proposal includes implementation of a biobanking scheme over part of the land.</p> <p>A draft Development Control Plan and draft Structure Plan for the site is currently being prepared. Once prepared, the documents will be reported to the Council for further consideration.</p>	01/01/2018
16/002	Stoneyhurst Drive, Lennox Head. Discontinuation recommended	<p>Proposal to rezone land located adjacent to Stoneyhurst Drive in Lennox Head for residential purposes and to enable subdivision of the land.</p> <p>Newton Denny Chapelle has provided written advice that the proponents do not wish to proceed with the planning proposal.</p> <p>Further discussion on this matter is provided at the end of this table.</p>	Discontinued
16/003	Southern Cross Industrial Estate, Bulky Goods Precinct (Stage 7)	<p>Proposal by Council to rezone land within the Southern Cross Industrial Estate bulky goods precinct to enable broader industrial land uses (whilst retaining potential for bulky goods/large format retailing development).</p> <p>Final rezoning material submitted to the Department of Planning in June 2017.</p> <p>Awaiting completion of final processing steps by the Department of Planning.</p>	27/11/2017
16/004	Friday Hut Road (No 111), Tintenbar. Complete	<p>Proposal to amend the LEP to enable the creation of an allotment of land having an area below the LEP's minimum lot size for subdivision for the purpose of enabling a primary production land use.</p> <p>The amendment was completed via Amendment No. 33 to the Ballina LEP 2012 on 4 August 2017.</p>	Complete

9.7 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
17/001	Stage 1 Deferred Matters Integration Program. (Stage 3)	<p>Proposal to integrate land identified as a "deferred matter" into the Ballina LEP 2012 through the application of appropriate zones and planning controls. Relates primarily to water catchment areas in the shire.</p> <p>A request to discontinue the planning proposal was submitted to the Department of Planning on 26 June 2017.</p> <p>On 17 July 2017 the Department advised it is considering possible options to facilitate the implementation of the E Zone review and will advise of a decision on the discontinuation request once the preferred option for implementation has been determined.</p>	14/12/2017
17/006	Bath Street (No 17), Wardell. (Stage 5)	<p>Proposal to amend the LEP to rezone a single land parcel in Wardell from RU2 Rural Landscape to R2 Low Density Residential.</p> <p>A Gateway determination was issued on 30 August 2017. The proponent has submitted the required technical information and the planning proposal will be publicly exhibited from 18 October 2017 to 17 November 2017.</p>	06/06/2018
17/007	Visions Estate, Henderson Drive and Kellie Ann Crescent, Lennox Head (Stage 6)	<p>Proposal by Council to rezone land within the Visions Estate from R3 Medium Density Residential to R2 Low Density Residential with the exception of Lots 1, 7 and 15.</p> <p>This matter is the subject of a separate report elsewhere in this business agenda.</p>	02/05/2018
17/008	Rural Area Detached Dual Occupancy (Stage 7)	<p>Proposal to amend the LEP to allow the construction of detached dual occupancy dwellings in rural areas of the shire.</p> <p>The Council, at its Ordinary Meeting held on 28 September 2017 resolved to complete the planning proposal subject to the finalisation of associated DCP amendments and confirmation of the agreement of the Secretary of the Department of Planning & Environment regarding identified inconsistencies with s.117 Ministerial Directions.</p> <p>The DCP amendments are the subject of a separate report elsewhere in this business agenda.</p> <p>The agreement of the Secretary of the Department of Planning & Environment has been obtained.</p> <p>The planning proposal has been forwarded to the NSW Parliamentary Counsel for the legal drafting of the LEP amendment.</p>	05/05/2018
17/009	Byron Bay Road (No.9) and the Telstra exchange site, Lennox Head (Stage 2)	<p>Proposal to amend the LEP to rezone land from RU1 Primary Production to R2 Low Density Residential, and to apply a minimum lot size of 600m².</p> <p>On 26 September 2017 the planning proposal was forwarded to the Department of Planning and Environment requesting a Gateway determination.</p>	#

9.7 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
17/010	Skennars Head Expansion Area, Skennars Head (Stage 1)	Proposal relating to the Skennars Head Expansion Area to amend the LEP to relocate and increase the size of the neighbourhood commercial area, increase the maximum building height within the commercial area, apply medium density zoning to parts of the site and apply a 300m ² minimum lot size for subdivision to parts of the site. This matter is the subject of a separate report elsewhere in this business agenda.	#
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none"> 1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council. 2. Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council). 3. Gateway Determination - DP&E determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination). 4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation. 5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment. 5a. Public Hearing - Public Hearing held, where required. 6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal. 7. Finalisation - DP&I finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Environment may finalise, alter or terminate the amendment. <p># Denotes proposal number and due date subject to Gateway determination.</p> <p>The completion due date is a date for completion determined by the Department of Planning and Environment.</p>			

Stoneyhurst Drive, Lennox Head (BSCPP 16/002)

At its April 2016 Ordinary Meeting, the Council resolved to submit the planning proposal relating to the application of a residential zone and provision for subdivision of land in Stoneyhurst Drive at Lennox Head to the Department of Planning and Environment for Gateway determination. A Gateway determination allowing the matter to proceed was issued on 26 May 2016 and required numerous site investigations to be undertaken prior to the matter being publicly exhibited.

On 2 May 2017 the Department of Planning and Environment, at the request of the proponent, issued an altered Gateway determination granting a 12 month extension of time to complete the planning proposal.

The proponents' consultant, Newton Denny Chapelle has now advised that the proponents do not wish to proceed with the planning proposal as a number of key landholders have decided to withdraw from the rezoning process. The key reasons for this decision relate to:

- a) The substantial costs associated with advancing from 'Gateway' to 'Public Exhibition' (an estimated \$110,000); and
- b) The procedural uncertainty arising from the non-involvement of certain landholders within the precinct.

9.7 LEP Amendments and Planning Proposals - Status

The proponent was advised by Council staff prior to the submission of the LEP amendment request that a majority of landholders within this discrete locality would be required to participate in the process for the matter to proceed.

Having regard for the above, it is recommended that Council formally request the NSW Department of Planning and Environment to discontinue the processing of the planning proposal as required under section 58(4) of the *Environmental Planning and Assessment Act 1979*.

Sustainability Considerations

- **Environment**
Environmental, social and economic considerations form part of the Council's assessment of all planning proposals and LEP amendments.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

The work program is being undertaken within existing resources or on a fee for service basis for specific proposals.

Consultation

This report is provided for the information of the community. Community consultation is, or has been, undertaken in relation to individual planning proposals.

Options

The status of the LEP amendments outlined above is provided for noting only. All matters are being processed within the legislative framework in accordance with previous decisions of the Council.

RECOMMENDATIONS

1. That Council notes the contents of this report concerning the status and approach regarding the current LEP amendment requests and planning proposals that are being processed.
2. That Council write to the NSW Department of Planning and Environment requesting that Planning Proposal BSCPP 16/002 relating to land in the vicinity of Stoneyhurst Drive, Lennox Head be discontinued, based on advice received by Council from the respective landowners' planning consultant.

Attachment(s)

Nil

9.8 Ballina Shire Development Control Plan 2012 - Amendment No. 11

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition of proposed amendments to the Ballina Shire Development Control Plan 2012 and to seek direction in relation to the adoption of the recommended amendments.

Background

Draft Amendment No. 11 to the Ballina Shire Development Control Plan 2012 (the DCP) was considered by the Council at its Ordinary Meeting held on 27 July 2017. At that meeting the Council resolved as follows [Minute No. 270717/14]:

- 1. That Council proceed to undertake the public exhibition of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012 (as contained in Attachment One), in accordance with the terms of the Environmental Planning and Assessment Act and the associated Regulation.*
- 2. That a further report be submitted to the Council following the public exhibition of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012.*

In accordance with the above resolution, Draft Amendment No. 11 was placed on public exhibition from 30 August 2017 to 29 September 2017. The requirements for rural area dual occupancy development relating to planning proposal BSCPP 17/008 were also exhibited as part of this DCP amendment.

The purpose of this report is to seek direction from the Council in relation to the adoption of the proposed amendments to the DCP.

Key Issues

- Implementation of amendments to the development control plan.
- Ensuring the DCP provides for intended and consistent planning outcomes.

Information

Details of the draft amendments to the DCP were reported to the Council at its Ordinary Meeting held on 27 July 2017. The proposed amendments, inclusive of the changes recommended within this report, are set out in Attachment 1.

In summary, the amendments include the following items:

- Removal of the 300mm high minimum underfloor clearance height for buildings in coastal hazard areas contained within Chapter 2 – General and Environmental Considerations;
- Inclusion of a provision within Part 3.2.3 of Chapter 3 – Urban Subdivision relating to local parks which specifies a requirement for shade cover over play equipment;
- Removal of the third storey/loft provisions contained within Chapter 4 – Residential and Tourist Development (reduces design limitations on the third storey of residential buildings);
- Amendment of provisions in Chapter 5 – Industrial Development relating to the materials permitted for use on the exterior of industrial buildings;
- Amendment of various provisions to align development controls with the recently amended Part 3 Housing Code provisions contained within the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008; and
- Amendment of Chapter 7 Rural Living and Activity to align requirements relating to dual occupancy development with the Rural Area Detached Dual Occupancy Planning Proposal.

BSCPP 17/008 – Rural Area Detached Dual Occupancy Planning Proposal

At its September 2017 Ordinary Meeting, the Council resolved to endorse the amendment to the Ballina Local Environmental Plan 2012 (BLEP 2012) to permit detached dual occupancy development on land within the RU1 Primary Production and RU2 Rural Landscape zones [Minute No. 280917/13].

The report to the Council included a summary of the consultation that occurred with the Department of Primary Industry (DPI) Agriculture and Fisheries. The DPI raised concerns regarding the impact of new dwellings and future public road access on waterways and the agricultural viability of land. In response to these concerns, the DPI has developed draft guidelines for the design and assessment of detached dual occupancy and secondary dwellings in rural zones. It is intended that the DCP will be amended at a future date (upon finalisation of the guidelines) to reference the various issues that require consideration when siting a detached dual occupancy dwelling.

In relation to the exhibited amendments to Chapter 7 Rural Living and Activity, it is proposed to include requirements associated with detached dual occupancy but now also retain the provisions relating to attached dual occupancy development. This is proposed to address dual occupancy (attached) development proposed in the areas of the shire identified as deferred matters under the Ballina LEP 2012 as the LEP amendment does not apply to the deferred areas. The schedule of proposed amendments has been updated to reflect the retention of the attached dual occupancy provisions (Attachment 1).

Sustainability Considerations

- **Environment**

The DCP establishes local planning policy in relation to a variety of environmental, social and economic considerations. Specifically, it establishes guidelines for development proposals within the shire. As such, the DCP provides an opportunity for Council to address a wide range of sustainability considerations in relation to development. Amendment No. 11 to the DCP seeks to improve the application of these sustainability considerations.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The preparation of Draft Amendment No. 11 to the Ballina Shire Development Control Plan 2012 has been undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and its associated Regulation. The amendment can be completed and implemented within the existing resources of the Strategic and Community Facilities Group.

Clause 21(1) of the *Environmental Planning and Assessment Regulation 2000* sets out the process applicable once Council has considered submissions. Clause 21(1) is reproduced below:

21 Approval of development control plans

(1) *After considering any submissions about the draft development control plan that have been duly made, the council:*

- (a) *may approve the plan in the form in which it was publicly exhibited, or*
- (b) *may approve the plan with such alterations as the council thinks fit, or*
- (c) *may decide not to proceed with the plan.*

Consultation

Draft Amendment No. 11 to the DCP was publicly exhibited between 30 August and 29 September 2017 in accordance with the requirements of the EP&A Act and associated Regulation. Details of the proposed amendments were posted on Council's web site and made available at library community access points and at Council's Customer Service Centre. An advertisement also appeared in the Ballina Advocate on 30 August 2017.

In response to the public exhibition one staff submission has been received. The submission suggests the following changes to the proposed amendments relating to expanded dwelling provisions in Chapter 7 Rural Living and Activity:

- In lieu of the proposed new criterion "No outbuildings are to contain facilities (eg. kitchen, sink or the like) that would enable the preparation of food or beverages", it is suggested "No outbuildings are to contain cooking facilities".

Comment: The suggested change is considered reasonable given that sinks are generally allowed in these types of developments. Additionally, the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP) does not prohibit the inclusion of a sink in a detached studio, it merely specifies that the detached studio must not contain any cooking facilities. This change will align the control with the provisions of the Codes SEPP.

- In lieu of the proposed new criterion “No separate driveway, car parking area, garage or carport structure is to be provided to service any outbuilding”, it is suggested “No separate driveway is to be provided to service any outbuilding”.

Comment: From a compliance perspective, it can be hard to determine if a carport that is attached to an expanded dwelling is intended to service the expanded dwelling or the main dwelling. Given that an expanded dwelling is required to function as a single dwelling house, and that car parking is governed by other development controls (e.g. setback, number of spaces required), the relevant matter for consideration is the provision of only one driveway to service the property. The suggested change is supported.

Options

1. Adopt and implement Amendment No. 11 to the DCP as exhibited, including changes to Chapter 7 Rural Living and Activity.

This approach would involve the adoption of Draft Amendment No. 11 as exhibited, including the following recommended changes to Chapter 7 Rural Living and Activity:

a) Clause 3.1.3 Element E – Expanded Dwellings:

- Rewording of proposed dot point 6 to read “No outbuildings are to contain cooking facilities”.
- Rewording of proposed dot point 9 to read “No separate driveway is to be provided to service any outbuilding”.

b) Clause 3.1.3 Element F – Dual Occupancies:

- Retention of the existing provisions relating to attached dual occupancy (this means the DCP will include provisions for both attached and detached dual occupancy to address the two forms of dual occupancy development).
- Inclusion of a note that addresses dual occupancy with respect to the Ballina LEP 2012 and Ballina LEP 1987 for explanatory purposes.
- Retention of the existing wording in the ‘Notes’ section that refers to the separation measurements between dwellings and structures.

c) Clause 3.1.3 Element G – Water Supply

- Adjustment of the wording of (ii) to clarify the requirement for provision of an additional water source (or sources) in association with rural dwellings as required under Planning for Bushfire Protection.

This is the recommended course of action and will support the provision of sound and consistent land use planning outcomes in the shire. The concept of regularly monitoring the DCP and adapting its provisions to changing circumstances, particularly with input from planning consultants and council assessment officers, is one that the Council has successfully applied over a considerable period and it is suggested this process should continue.

If this is the approach adopted by the Council, it is proposed that the amendment will take effect from 13 November 2017. Public notice is required to be given of the amendment's adoption within 28 days of the Council's decision.

Alternatively, Council could proceed to adopt the amendments subject to changes as specified by the Council.

2. Decline the adoption of DCP Amendment No. 11

The Council may resolve to decline to adopt Draft Amendment No. 11 to the DCP in whole or in part. This is not the recommended course of action as it will result in the identified changes, corrections and interpretive improvements not being incorporated into the DCP which will impact on its efficiency in providing intended and consistent land use planning outcomes.

3. Defer adoption of DCP Amendment No. 11

The Council may resolve to defer the adoption of Draft Amendment No. 11 to the DCP and seek additional information and/or further consideration of the identified issues.

As detailed in this report, it is the intent of Draft Amendment No. 11 to provide better function and clarity to the DCP and as such, this option is not recommended.

It is also noted that the work program for Council's Strategic and Community Facilities Group includes the monitoring of Council's key strategic land use planning documents, and their regular reporting to the Council. This assists in ensuring that the DCP remains relevant in achieving the desired development outcomes in the shire.

RECOMMENDATIONS

1. That Council adopts Draft Amendment No. 11 to the Ballina Shire Development Control Plan 2012 as exhibited for public comment, inclusive of the following changes to Chapter 7 Rural Living and Activity:
 - a) Clause 3.1.3 Element E – Expanded Dwellings:
 - Rewording of proposed dot point 6 to read “No outbuildings are to contain cooking facilities”.
 - Rewording of proposed dot point 9 to read “No separate driveway is to be provided to service any outbuilding”.
 - b) Clause 3.1.3 Element F – Dual Occupancies:
 - Retention of the existing provisions relating to attached dual occupancy (this means the DCP will include provisions for both attached and detached dual occupancy to address the two forms of dual occupancy development).
 - Inclusion of a note that addresses dual occupancy with respect to the Ballina LEP 2012 and Ballina LEP 1987 for explanatory purposes.
 - Retention of the existing wording in the ‘Notes’ section that refers to the separation measurements between dwellings and structures.
 - c) Clause 3.1.3 Element G – Water Supply:
 - Adjustment of the wording of (ii) to clarify the requirement for provision of an additional water source (or sources) in association with rural dwellings as required under *Planning for Bushfire Protection*.
 - d) That Council provide a copy of Ballina Shire Development Control Plan 2012, once amended, to the NSW Department of Planning and Environment as required by the Environmental Planning and Assessment Regulation.
 - e) That Council provide public notice of the adoption of Ballina Shire Development Control Plan Amendment No. 11, with the amended DCP taking effect on 13 November 2017.

Attachment(s)

1. DCP Amendment No.11 - Revised Schedule of Proposed Amendments

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following document.

US17/22	All Waterways licences issued in accordance with the Private Structures Within Council Owned (Public) Waterways Policy for the Council owned waterways of Quays Canals, Banyanda Lake and Endeavour Lake
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Attachment(s)

Nil

10.2 Investment Summary - September 2017

10.2 Investment Summary - September 2017

Delivery Program Financial Services

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

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary Meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of September 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 Investment Policy. The balance of investments as at 30 September was \$76,588,000. This represents a decrease of \$2,700,000 from August. Council's investments, as at 30 September, are at an average (weighted) rate of 2.72%, which is 1.00% above the 90 Day Bank Bill Index of 1.72%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 September 2017, was \$825,755. This balance is lower than the balance of \$1,750,813 as at 31 August 2017. The combined movement of investments and bank balances was a decrease of \$3,625,058. Large anticipated expenditure in September related to the Ballina and Alstonville swimming pools refurbishment of \$2 million and the remaining movement is attributable to loans, general creditors and wage payments.

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

Reserve Name	Restriction	% Portfolio*
Wastewater Fund (incl developer contributions)	External	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%
Total		100%

* Updated to reflect reserves held as at 30 June 2017

10.2 Investment Summary - September 2017

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.3%	2%
Rated Institutions							
AMP Bank	Yes	A	4,000	5,000	20%	6.5%	
Auswide Bank	No	BBB-	1,000	1,000	1m	1.3%	
Bank Australia	Yes	BBB	3,000	3,000	10%	3.9%	
Bank of Queensland	No	BBB+	6,000	6,000	10%	7.8%	
BankWest	Yes	AA-	2,000	2,000	20%	2.6%	
Bendigo & Adelaide Bank	No	BBB+	3,000	3,000	10%	3.9%	
Beyond Bank	No	BBB	2,000	2,000	10%	2.6%	
Commonwealth Bank of Australia	Yes	AA-	11,500	11,800	20%	15.4%	
Defence Bank Ltd	No	BBB	5,000	5,000	10%	6.5%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.6%	
IMB Bank	No	BBB	1,000	1,000	10%	1.3%	
ING Bank Ltd	Yes	A	6,000	6,000	20%	7.8%	
Members Equity Bank	No	BBB	5,000	5,000	10%	6.5%	
My State Bank Ltd	No	BBB	2,000	2,000	20%	2.6%	
National Australia Bank	Yes	AA-	7,000	4,000	10%	5.2%	
Newcastle Permanent Bld Society	No	BBB	2,000	1,000	10%	1.3%	
Suncorp-Metway Bank	No	A+	9,000	9,000	20%	11.8%	
Teachers Mutual Bank Limited	No	BBB	1,000	1,000	10%	1.3%	
Westpac Banking Corporation	Yes	AA-	5,000	5,000	10%	6.5%	98%
Unrated ADI's					\$1m	0.0%	0%
Total			79,288	76,588		100%	

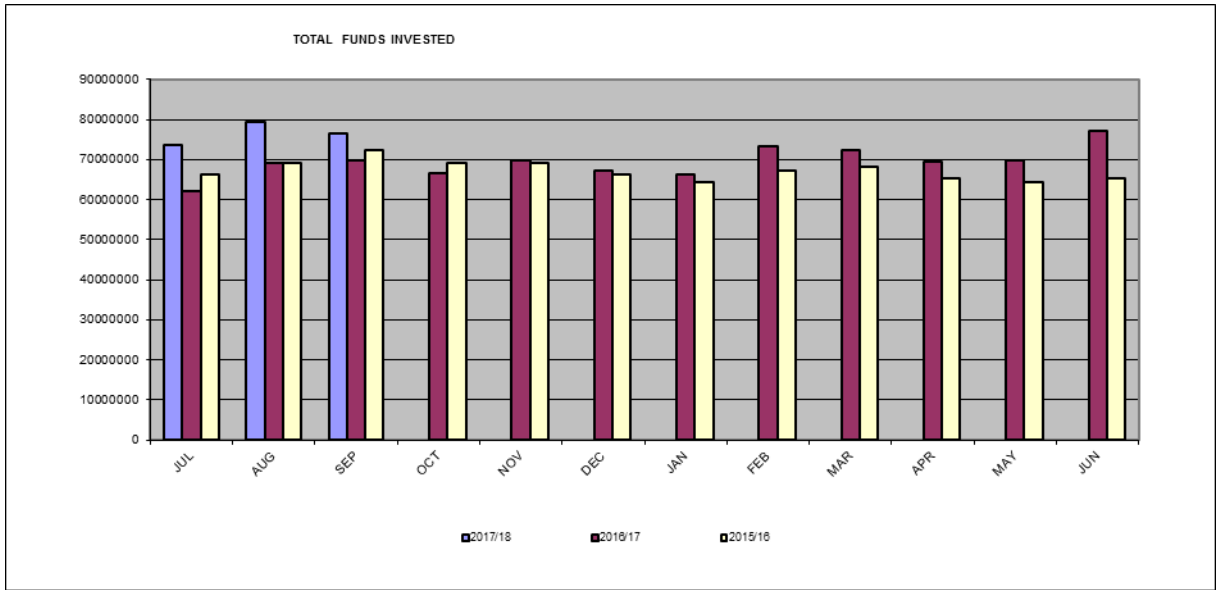
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	40,288 51%	38,588 50%
Non-Fossil Fuel Aligned	39,000 49%	38,000 50%
Not Classified	0 0%	0 0%
Total	79,288 100%	76,588 100%

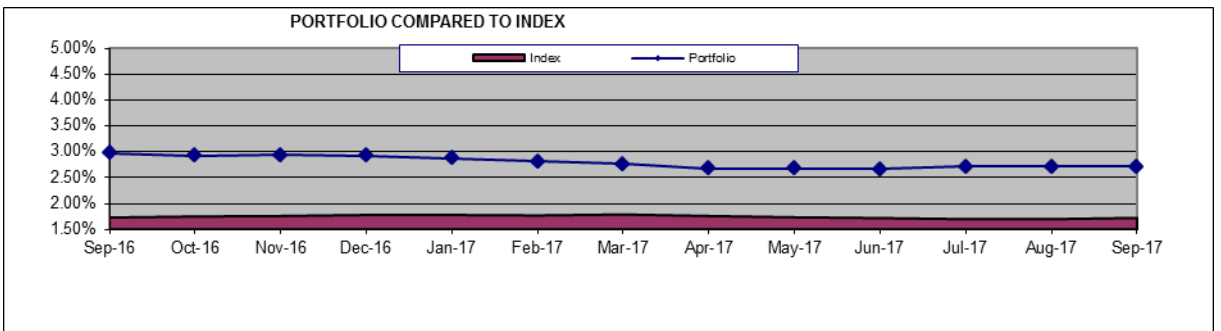
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

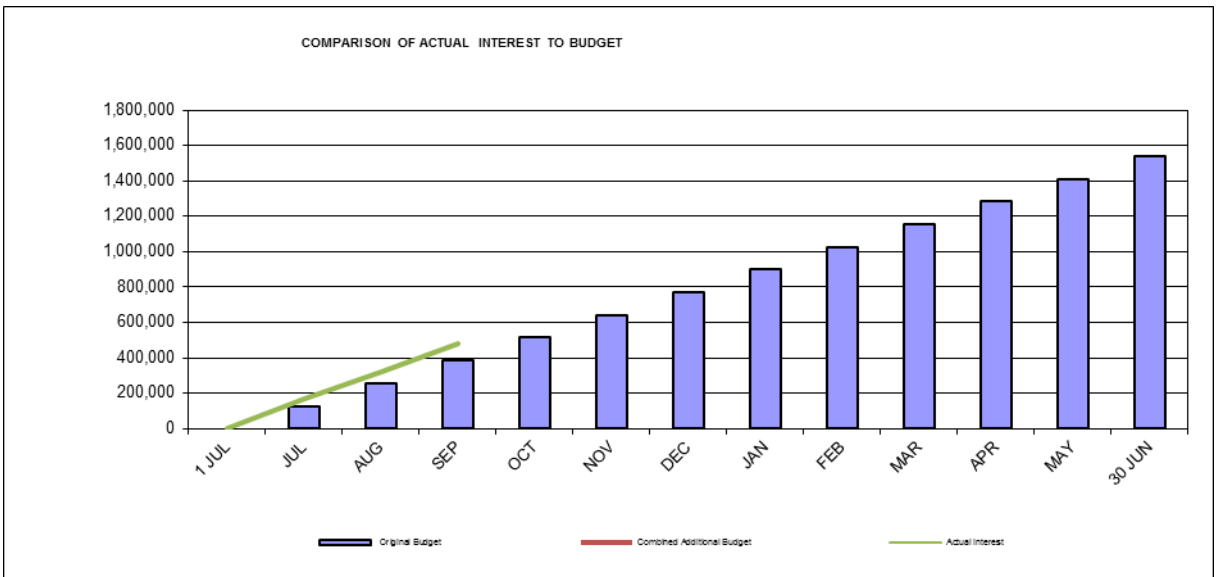
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - September 2017

F. Investments held as at 30 September 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	1,386
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	2,000	2,014
25/02/14	Westpac Banking Corporation	FRN	2.65%	25/02/19	2,000	2,017
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
15/11/16	National Australia Bank	TD	2.82%	19/10/17	1,000	1,000
23/11/16	Defence Bank Ltd	TD	2.80%	08/11/17	2,000	2,000
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
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
27/06/17	Defence Bank Ltd	TD	2.70%	08/02/18	1,000	1,000
29/06/17	Teachers Mutual Bank Limited	FRN	3.13%	29/06/20	1,000	1,001
29/06/17	AMP Bank	TD	2.60%	04/04/18	2,000	2,000
04/07/17	Bank Australia	TD	2.80%	15/02/18	2,000	2,000
11/07/17	Newcastle Permanent Bld Society	TD	2.50%	15/11/17	1,000	1,000
19/07/17	Bank of Queensland	TD	2.65%	21/02/18	2,000	2,000
31/07/17	BankWest	TD	2.30%	18/10/17	2,000	2,000
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
05/09/17	My State Bank Ltd	TD	2.60%	11/04/18	1,000	1,000
05/09/17	Commonwealth Bank Of Australia	TD	2.58%	05/07/18	2,000	2,000
06/09/17	National Australia Bank	TD	2.57%	11/07/18	2,000	2,000
12/09/17	AMP Bank	TD	2.60%	13/06/18	1,000	1,000
29/09/17	Commonwealth Bank Of Australia	call	1.45%	04/10/17	4,800	4,800
Totals					76,588	76,224
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 September 2017.

Attachment(s)

Nil

10.3 Disclosure of Interest Returns

10.3 Disclosure of Interest Returns

Delivery Program Communications

Objective To comply with the provisions of the Local Government Act relating to the tabling of disclosure of interest returns.

Background

Section 449 (3) of the Local Government Act requires Councillors and designated persons to complete a pecuniary interests return within three months of the end of the financial year.

Section 450A (2) (b) then requires the General Manager to table those returns at the first available Council meeting following the completion of the three month period.

This report complies with the above sections of the Local Government Act for the period 1 July 2016 to 30 June 2017.

Key Issues

- Ensuring compliance with the Local Government Act.

Information

Returns are to be tabled by Councillors and designated persons. Section 441 of the Local Government Act defines designated persons as the General Manager, Senior Staff and other positions or members of committees that exercise functions that could give rise to a conflict of interest.

To manage the determination of designated positions an internal procedure has been adopted by staff to ensure that the following positions complete the returns.

- Senior management (General Manager, Group Managers and Senior Leadership Team).
- Staff with the delegation to determine development applications, approve construction certificates and approve re-zoning (planning proposal) applications.
- Staff authorised to order goods and services to the value of \$50,000 and over, as per Council's Purchasing procedures
- Staff who have permanent or re-occurring Secondary Employment approvals. Exemptions to this include one-off instances, for example working at an event, election etc or where the Group Manager has determined that the secondary employment does not conflict with their Council role.

10.3 Disclosure of Interest Returns

No committee members, other than Councillors, are required to complete returns, as all Council's committees, other than those consisting entirely of Councillors, have no delegated authority.

The completed returns and the register will be tabled at the meeting for the information of the public.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The disclosure of interest returns help to improve transparency in the decision making process.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council must comply with the Local Government Act.

Consultation

Provided for the information of the public.

Options

The purpose of this report is for noting the information presented.

RECOMMENDATION

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2016 to 30 June 2017.

Attachment(s)

Nil

10.4 Councillor Expenses - Claim

10.4 Councillor Expenses - Claim

Delivery Program Communications

Objective To seek Council support for the payment of expenses for Councillors.

Background

The Councillor Expenses and Facilities Policy clarifies the reimbursement of expenses to Councillors.

Clause 11.19 of the Councillor Expenses and Facilities Policy states as follows:

Timeframe for reimbursement

11.19 Unless otherwise specified in this policy, councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

This report deals with a claim received after the three months.

Key Issues

- Compliance with Expenses Policy
- Fair reimbursement of expenses

Information

Cr Parry has submitted a claim for expenses for July, August and September 2017 with the July telephone claim being over the three month limit as contained in the Expenses Policy (the telephone expense claim being \$50).

Cr Parry has asked for this matter to be reported to Council to seek a Council determination on this issue. Council has followed a similar process with late claims from other Councillors, all of which have been approved.

Sustainability Considerations

- **Environment**
Nil
- **Social**
This policy is provided to ensure Councillors are not out of pocket for expenses incurred.
- **Economic**
Nil

10.4 Councillor Expenses - Claim

Legal / Resource / Financial Implications

Funds are available within Councillor's professional development budget to finance these expenses.

Consultation

The Councillor Expenses and Facilities Policy was recently exhibited for public comment.

Options

The options are to either approve or not approve the payment of the claim in excess of the three month timeframe from Cr Parry. In order to maintain consistency with prior decisions made in respect to late expenses claims, the recommendation is for approval.

RECOMMENDATION

That Council authorises the \$50 claim for expenses from Cr Parry, in excess of the three month timeframe, as per the contents of this report.

Attachment(s)

Nil

10.5 Ballina Cup - Holiday Arrangements

10.5 Ballina Cup - Holiday Arrangements

Delivery Program Communications

Objective To determine the application Council wishes to make to the NSW State Government in respect to holiday arrangements for the Ballina Cup in 2018 and 2019.

Background

The NSW Treasury has advised Council of Guidelines for Local Public Holiday and Local Event Day Applications.

The Guidelines were amended in 2015 to provide for the making of biennial public holiday applications. That amendment enabled councils to make applications for the declaration of full or part-day public holidays and local event days for two consecutive years to reduce the administrative burden on councils regarding the process for the making of annual applications under the Act. Councils may still elect to make application on an annual basis, if deemed more convenient and dates are unknown.

A copy of the latest correspondence from NSW Treasury outlining the process is included as an attachment to this report.

Historically, following an approach from the Ballina Jockey Club, Council has applied annually to the NSW Treasury for either a half-day public holiday or a part day holiday between 12 noon and 6 pm, for holding of the Ballina Cup.

In 2015, Council applied for and was granted a Local Event Day for 2016 and 2017 Ballina Cup days. This report is for Council to consider the dates and holiday allocations for years 2018 and 2019.

Key Issues

- Options available
- Impact on local economy

Information

The Ballina Jockey Club has requested that Ballina Shire Council continue to support a Local Event Day for the Ballina Cup for Thursday 6 September 2018 and Thursday 5 September 2019.

A copy of their correspondence is attached to this report.

There are two main options available to Council in respect to this proposal.

Local Part Day Public Holiday (half / quarter or other timeframe)

- Banks required to close unless they hold a special approval to open
- Shops are free to open without restriction
- All employees are entitled to be absent from work
- Employees who work are entitled to penalty rates

10.5 Ballina Cup - Holiday Arrangements

Local Half Day Event Day

- Does not preclude banks or shops from opening
- Does not automatically mean employers are compelled to treat the day as a public holiday
- Entitlements to paid time off work or penalty rates will only apply where they have been agreed at the workplace, usually in the form of an enterprise agreement or contract.

NSW Treasury has advised that the deadline for receipt of applications is 24 November 2017.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
The Ballina Cup is a part of the social calendar for the Ballina Shire. There is also a social impact by schools having to close for a half day public holiday.
- **Economic**
There are economic benefits gained from the staging of an event such as the Ballina Cup through promotional activities and increased visitors. There is also a significant cost to businesses in closing for the afternoon.

Legal / Resource / Financial Implications

NSW Treasury invites councils to apply for approval to meet their legislative responsibilities. Council's response is due back by Friday 24 November 2017 to allow all the State wide holidays to be published by the Government.

Consultation

Council is required to consult with relevant stakeholders and various organisations such as schools, local banks, major employers, the Chambers of Commerce and local transport companies to make a decision in respect to the preferred option.

A public consultation process has occurred between 13 September and 13 October 2017.

Correspondence was forwarded to all schools, pre-schools and child care centres in the Shire, the three Chambers of Commerce and local bus companies as part of this process.

Both the Ballina and Lennox Chambers of Commerce also direct mailed their members as part of this process.

Advertisements were also placed in the Advocate and on Council's website and Facebook page and a media release issued.

Six responses were received by Council, four responses by the Ballina Chamber of Commerce and 13 comments received on our Facebook page.

10.5 Ballina Cup - Holiday Arrangements

Copies of the submissions received in response to the public consultation process are attached to this report, together with comments received via Facebook.

Options

The options available to Council are to apply on an annual or biennial basis and to apply for both dates for a:

1. Half day Public Holiday (12 noon to 12 midnight)
2. Part day Public Holiday (12 noon to 6 pm)
3. Part day Public Holiday (for any other period of time)
4. Local Event Day
5. Part Day Local Event Day

Or alternatively, not apply at all.

As the most recent decision of Council is to support a Local Event Day the recommendation that follows is consistent with that decision.

RECOMMENDATION

That Council confirms its support for the declaration of a Local Event Day throughout the Ballina Shire for Thursday 6 September 2018 and Thursday 5 September 2019 for the Ballina Cup, with the General Manager authorised to make an application to the NSW State Government for this declaration.

Attachment(s)

1. NSW Treasury Guidelines for Local Public Holiday and Local Event Day Applications
2. Correspondence from Ballina Jockey Club
3. Submissions received

10.6 Annual Financial Statements - 2016/17

Delivery Program Financial Services

Objective To obtain Council approval to exhibit the 2016/17 Financial Reports for public comment and to sign the certified statements for both the General Purpose and Special Purpose Statements.

Background

Council must prepare financial statements for each financial year that are in accordance with:

- The Local Government Act 1993 (as amended) and Regulations
- The Australian Accounting Standards and professional pronouncements
- The Local Government Code of Accounting Practice and Financial Reporting
- NSW Government Policy Statement *“Application of National Competition Policy to Local Government”*
- Office of Local Government guidelines *“Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality”*
- The NSW Office of Water guidelines.

Once completed and audited Council must resolve to exhibit the statements for public comment. Council must then consider the statements again (typically at the November Ordinary meeting of Council), together with submissions, and formally resolve to adopt the statements.

This report seeks Council approval to exhibit the annual financial statements.

Key Issues

- Financial results
- Council must be satisfied that the statements present a true and fair picture of the Council's financial position as at 30 June 2017

Information

The Annual Financial Statements for the year ended 30 June 2017 have been completed and audited. A copy of the statements, together with the Auditor's Reports, are enclosed with this business paper. A copy of the statements is available for the public at the Customer Service Centre and Council's website.

The purpose of this report is to obtain Council's approval for the exhibition of the financial statements and to provide Council an opportunity to discuss the information contained within the documents.

Council must also provide approval for the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer to sign the statements confirming that, in the opinion of Council, the financial statements are fair and accurate. Copies of the two statements to be signed are attached to the end of this report.

Once the financial statements are approved the statements must be advertised for public comment. The statements must then be adopted at a meeting of Council not more than five weeks after the meeting where approval was provided to advertise.

Subject to Council approval to advertise at this meeting, the statements will be advertised and then presented, with any public comments received, to the meeting scheduled for Thursday 23 November 2017.

Council's auditor, Mr Kevin Franey, of Thomas Noble and Russell contract auditor for the Audit Office of New South Wales, will be present at this meeting to provide an overview of the audit report.

The documents enclosed with the business paper can be broken down into:

Attachment 1 – Statement by Councillors and Management

These statements are to be signed by the Mayor, a Councillor, General Manager and Responsible Accounting Officer. They are an extract from the draft General Purpose and Special Purpose Financial Statements.

Attachment 2 – Council's End of Year Financial Analysis

This report provides an analysis of Council's results for the 2016/17 financial year and the financial position as at 30 June 2017.

Attachment 3 – Draft Annual Financial Statements 2016/17

Part A – Auditor's Report on the Conduct of the Audit

This includes the auditor's report on the general purpose financial reports and the special purpose financial reports.

Part B – General Purpose Financial Statements

These statements provide the consolidated operating result for 2016/17 and the consolidated financial position of Council as at 30 June 2017. The notes included with the statements provide details on income and expenditure, assets and liabilities. The notes also highlight the cash position of Council and identify which funds are externally restricted.

Part C – Special Purpose Financial Statements

These statements are prepared as a result of National Competition Policy and relate to those aspects of Council's operations that are considered to be business activities.

Part D – Special Schedules

These schedules are prepared primarily for the Australian Bureau of Statistics and are used to gather information for comparative purposes.

The Auditor has issued an 'unqualified report', which means that they are of the opinion that the financial reports represent a fair and accurate assessment of Council's financial position.

Sustainability Considerations

- **Environment**
This report encompasses Council's finances in total and as such has implications for environmental, social and economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Council is legally obliged to adopt the financial statements.

Consultation

No specific community consultation has been taken in respect to this report however the intent is to advertise the Draft Statements for public comment.

Options

Council may approve to exhibit or not exhibit the documents. As Council's auditor has approved the statements it is recommended that Council authorise approval.

RECOMMENDATIONS

1. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, by the Mayor, one Councillor, the General Manager and the Responsible Accounting Officer.
2. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2017, as attached to this report, for public comment.

Attachment(s)

1. Statement by Councillors and Management - General Purpose and Statement by Councillors and Management - Special Purpose
2. End of Year Financial Analysis (Under separate cover)
3. Draft Annual Financial Statements 2016/17 (Under separate cover)

10.7 Delivery Program and Operational Plan - 30 September 2017 Review

10.7 Delivery Program and Operational Plan - 30 September 2017 Review

Delivery Program Communications

Objective To review Council's performance in implementing the 2017/18 Delivery Program and Operational Plan.

Section 404 (5) of the Local Government Act states as follows:

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice has been to receive more timely quarterly reports. This report represents the first review of the 2017/18 - 2020/21 Delivery Program and the 2017/18 Operational Plan, with the information contained in the report based on work undertaken up to 30 September 2017 (first quarter).

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

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

Key Issues

- Compare actual results against the adopted goals and priorities

Information

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

- Program Actions - This section provides a comment on the status of all the major actions in the Operational Plan
- Service Delivery Indicators - This section provides details on the key indicators within the Operational Plan.

All items are marked with a green (on track for this financial year) amber (behind schedule or below target) or red (not progressing as planned or off track) traffic light.

10.7 Delivery Program and Operational Plan - 30 September 2017 Review

In respect to the Operational Plan there are a total of 111 major tasks listed in the Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	GM	DEH	Civil	SCF	Total
Green	25	9	39	35	108
Amber	1	0	2	0	3
Red	0	0	0	0	0
Total	26	9	41	35	111

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	96	100	95	100	97
Amber	4	0	5	0	3
Red	0	0	0	0	0
Total	100	100	100	100	100

Items of interest in the attachment include:

- Implement public art program (page 4) – It is pleasing to see that the public art in the roundabouts in Cherry Street and Moon Street have been generally well accepted. An extensive amount of planning and preparation is undertaken in selecting the public art prior to installation.
- Implement community gallery services at the fire station site (page 4) – This project is now advancing after the site was used as temporary accommodation for office staff.
- Deliver an indoor sports stadium (page 6) – The deed has now been signed for the use of the school site and Council has accepted the tender for the design of the facility.
- Participate in and leverage opportunities to market the Ballina Coast and Hinterland (page 8) – Significant amounts of work went into the preparation and launch of the Discover the undiscovered promotional video.
- Proactively manage quarries (page 10) – Extended sick leave for the section manager has resulted in delays for this item.
- Pursue sand dredging of North Creek to provide a valuable resource and economic / tourism benefits (page 11) – Delays are occurring with this project due to difficulties in obtaining licences from the State Government.
- Progress construction of Airport Boulevard and associated developments (page 11) – Delays are occurring with this project as the lodging of the planning application has highlighted noise impacts from the proposed development.
- Increase the provision of recycled water to dual Reticulated Properties (page 15) – Recycled water has recently been connected to an additional 800 properties.

10.7 Delivery Program and Operational Plan - 30 September 2017 Review

- Enhance online employee services (page 20) – An on-line performance management system has been implemented which achieved significant efficiencies across the organisation.

In respect to the Service Delivery Indicators there are a total of 103 indicators identified in the Operational Plan and the following two tables provide an overview of how Council is performing against those indicators, again on a number and percentage basis.

Service Delivery Indicators Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	19	23	33	22	97
Amber	1	0	3	2	6
Red	0	0	0	0	0
Total Tasks	20	23	36	24	103

Service Delivery Indicators Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	95	100	92	92	94
Amber	5	0	8	8	6
Red	0	0	0	0	0
Percentage Total	100	100	100	100	100

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

- Building Services (page 29) - Percentage of construction Certificates issued by Council (% of total market) – 73% - Council's market share has decreased with an increase in private certification. This item remains green as it is unclear as to whether this will be a long term trend.
- Commercial Services (Airport) (page 30) – Income and passenger numbers are at record levels, with passenger numbers now over the 500,000 mark.

As a general comment a number of our facilities are also being well patronised.

Sustainability Considerations

- **Environment**
There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

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

10.7 Delivery Program and Operational Plan - 30 September 2017 Review

Consultation

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

Options

The report is for noting purposes.

RECOMMENDATION

That Council notes the content of this report in respect to the implementation of the 2017/18 Delivery Program and Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan - 30 September 2017 Results
(Under separate cover)

10.8 Capital Expenditure Program - 30 September 2017 Review

Delivery Program Communications

Objective To review the level of capital expenditure for the first quarter of the 2017/18 financial year.

Background

Council has a significant capital expenditure program included in the annual Operational Plan. Due to the scale and magnitude of the program it is important that updates are provided on a regular basis.

The current practice is to provide a comprehensive quarterly status report on all the major capital works included in the Operational Plan.

This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure.

This is the first report for the 2017/18 financial year.

Key Issues

- Status of works

Information

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

- Total Project Value – As certain projects occur over a number of financial years this column identifies the total project value which may include expenditure from previous financial years or estimated expenditure in future years. Where a project is being completed from start to finish in the current financial year the Total Project Value and the Latest 2017/18 Estimate figures will be the same.
- Original 2017/18 Estimate - Represents the original estimate as per Council's adopted Operational Plan for 2017/18.
- Carry Forwards - Includes budgets carried forward from the previous financial year that were approved by Council at the August 2017 Ordinary meeting
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- New Variations – Variations recommended as part of this report.
- Latest 2017/18 Estimate - Sum of the original estimate plus the variations.
- Expended This Year - Expenditure to 30 September 2017.
- % Expended - Percentage of budget expended to 30 September 2017.
- Milestone Dates - Represents target dates for the major milestones.
- Status - Allows additional comments to be provided.

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

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

Open Spaces (attachment one)

Wollongbar Skate Park – The development application has been lodged and the planning assessment commenced. The timing of the construction of the facility is dependent on the planning assessment timeframe.

Wollongbar Sports Fields - This project is nearing completion. Payment for street lighting is still to be finalised and the entrance / exit road to Pearces Creek failed during a stormwater event. Council is in negotiation with Cardno Pty. Ltd. the road designer to remedy these works. Council has contingency funds held in reserve for this project that are likely to be needed to fund the balance of the works.

Waste Management (attachment one)

The majority of projects in this program have been deferred until 2018/19. For the domestic waste vehicles there is a long delay between ordering and payment for the equipment, and payment will occur in 2018/19.

Environmental and Public Health (attachment one)

Work at Shaws Bay is in the process of commencing and with Council having a total of approximately \$1.5m to expend this financial year at Shaws Bay and Pop Denison, these works will make a significant difference to this precinct.

Operations Support (attachment two)

Depot No 1 – Improvement Program – It is recommended that Council transfer \$250,000 of this project to reserve as the majority of works are unlikely to be completed this financial year. Extended sick leave for the Section Manager is resulting in delays in this program.

Ballina Surf Club – Building B – A building contractor has been appointed to allow this project to proceed. The works are being delayed as Council is required to have a Section 140 permit from the Office of Environment and Heritage (OEH) as the area is potentially considered an archaeological site.

Council has applied for an exemption for this permit due to other works previously undertaken in this location and the low level of impact of the planned works. This exemption outcome will be known shortly and if it is not forthcoming Council may need to wait for two to three months before the Section 140 permit is granted by OEH.

Ballina Indoor Sports Centre – Council has accepted a tender from PDT Pty. Ltd. to design the facility. It is recommended that \$2.332m of the budget be transferred to 2018/19 as this more accurately reflects the likely cash flows for the construction of the building.

Lennox Head Surf Club Building – Agreement is still to be finalised on a preferred design for the replacement building.

Quarries – Road Extension – This project is being managed by the Northern Rivers Dirty Wheels Mountain Bike Club. They are having difficulties confirming access and other requirements from the RMS, therefore it is recommended that the funds be held in reserve until the project is ready to commence.

Community Facilities (attachment two)

Ballina and Alstonville Swimming Pools – This contract is well underway and the overall project contract and budget are separately reported to Council.

Commercial Services (attachment three)

Terminal Expansion – It is recommended that \$3m be transferred to 2018/19 to more accurately reflect the forecast cash flows for this project.

54 North Creek Road – There have been significant cost increases due to substantial variations in the fill and excavation originally estimated for the project.

As this relates to a commercial project the variation and forecast results will be submitted to a Commercial Services Committee meeting in November.

Wollongbar Urban Expansion Area – There are also forecast increases in the development costs for this project and those variations will also be submitted to the November Commercial Services Committee meeting. Council has now pre-sold all 18 lots under construction.

Water and Wastewater (attachments four and five)

The Civil Services Group has undertaken a thorough review of the forecast capital expenditure and a number of projects have been deferred to 2018/19 to reflect a more accurate construction timeframe and a number of budgets have also been reduced through savings in the original estimates.

The one major budget change is the East Ballina Trunk Main Booster project (Water). The background to this is as follows.

Council resolved at the March 2017 Ordinary meeting to award a tender to Rays Machinery Painting (RMP) to undertake the refurbishment of the East Ballina Reservoir. A letter of acceptance to undertake the refurbishment was issued to RMP and a contract formed for the value of \$648,000 (excluding GST), which includes \$53,000 of provisional sum items (unguaranteed works only to be directed by the Superintendent).

Following the commencement of the contract new information has confirmed the works cannot be completed for this price.

A requirement of the contract was for RMP to undertake an independent condition assessment of the external and internal surfaces of the reservoir structure and recommend which provisional sum items were to be utilised.

RMP engaged KTA-TATOR Australia to undertake the condition assessment, and inspections were undertaken on 17 May 2017 for the external surfaces and 6 June 2017 for internal surfaces (including roof and wind girder re-inspection).

The reason for this approach was inspections were undertaken to inform the tender specification, however it was uneconomic to complete the more expansive condition assessment required outside of the contract in light of the access and other limitations that are in place until a fully equipped contractor mobilises and establishes on the site.

The inspections uncovered significant amounts of additional works including:

1. Blasting, Reinspection and Repaid / Replacement of Wind Beam

The external surface inspection of the reservoir identified that the wind girder around the top perimeter of the reservoir was corroded and would require blasting to fully assess its condition. Any work on the wind girder is outside the scope of the contract, therefore a variation was directed to undertake the blasting under Day Work Rates. Following blasting and re-inspection of the wind girder, it was confirmed that significant repair work or replacement would be required.

2. Repair / Replacement of Roof Structure

The internal surface inspection of the reservoir identified significant defects in hidden sections of the roof structure. It was advised that a full replacement of the roof structure would be required within three to four years, however immediate repairs should be made to the eaves tie brackets, guttering, downpipes and fascia sheeting to ensure the ongoing structural integrity. Any work on the roof structure is outside the scope of the contract.

3. Removal of Zinc Metal Spray Lining

Upon commencement of blasting of the internal surface of the reservoir (works under contract) it was noticed that beneath the existing epoxy coating was an additional metal layer.

The internal surface inspection confirmed the metal layer as being a sprayed zinc coating and recommended that it be removed prior to repainting. The zinc coating varies in thickness between 300 and 1,200 microns, and is highly malleable. Removal of any internal coating other than the existing epoxy coating is outside the scope of the contract.

In response to the identified work, which was of a larger scale than anticipated, RMP were instructed to stand-down and provide a price to repair the wind beam, repair or replace the roof and remove the zinc metal spray liner.

RMP provided a single price to remove the zinc metal spray liner and combined prices to either repair both the wind beam and roof, or remove the wind beam and replace the roof (RMP have advised that the wind beam can only be removed if the roof is replaced). The stand down was to enable Council to review its options and the analysis of these is discussed below.

Analysis

To determine the most appropriate course of action an NPV 'Whole of Life' Financial Model was developed for the East Ballina Reservoir, incorporating maintenance, eventual demolition of the structure and replacement with a 5ML concrete reservoir. The expected life of the current reservoir is 30 years once refurbished. The model assessed three scenarios:

Scenario One – Refurbish Reservoir (Replace roof in year five)

- Repair wind beam
- Repair roof
- Remove zinc metal spray liner
- Replace roof in year five
- Undertake maintenance on internal and external coating every 20 years
- Demolish and replace reservoir in year 30

Scenario Two – Refurbish Reservoir (Replace roof now)

- Remove wind beam
- Replace roof
- Remove zinc metal spray liner
- Undertake maintenance on internal and external coating every 20 years
- Demolish and replace reservoir year 30

Scenario Three – Temporarily Abandon Reservoir

- Abandon current refurbishment contract
- Demolish reservoir in year one
- Replace reservoir in year ten (when operational need require the storage)

Scenario Three was eliminated as a high risk option, as it delivers no operational redundancy for the Pine Avenue Reservoir for the next ten years and provides no value for money already spent of the current refurbishment contract.

Scenario One was found to be a less economical solution when analysed in the model. Scenario Two was therefore selected as the recommended option.

The following two tables outline under Scenario Two the revised reservoir refurbishment contract sum and the revised East Ballina and Basalt Court Boosted Pressure Zones project budget:

Table One – Revised Contract Sum	Amount (\$)
Original Contract Sum (including provisional sums)	647,721.70
Variation 1 – Wind Beam Blasting and Inspection (approved)	35,567.50
Variation 2 – Stand Down Costs (approved)	10,600.00
Variation 3 – Remove Wind Beam & Replace Roof (awaiting approval)	726,234.00
Variation 4 – Remove Zinc Metal Spray Liner (awaiting approval)	110,000.00
Total	1,530,123.20

Table Two – Revised Project Budget	Amount (\$)
Original Project Budget	1,601,014.70
Extra - Reservoir Refurbishment	882,401.50
Extra - Contract / Project Management	40,000.00
Extra – Contingency	100,000.00
Total	2,573,416.20

Budget Adjustments

The variation of \$1,022,400 has been funded in the attached budget review by savings in the following projects:

7000.3946 – Water Main Renewals	\$322,400	
7003.5306 - Pressure Management Zones	\$400,000	(adjustment is \$550,000)
7005.3869 - Wollongbar Booster Pump Station	\$300,000	

Engineering Works (attachment six)

Stormwater

Many stormwater projects require significant design and scoping before construction works commenced.

Funding has been transferred to reserve for projects where it is uncertain when construction will take place due to the need for more detailed design and possible planning approvals.

Urban and Rural Roads

The Engineering Works Section has been successful in obtaining Black Spot funding for the Ross Lane / The Coast Road Roundabout and straightening of The Coast Road (Byron Bay Road) north of Ross Lane. These two projects total almost \$4m in additional works that Council would not normally undertake.

This means that a number of revenue funded projects are unlikely to be completed this financial year and need to be deferred until 2018/19.

Major components of the budgets for Lake Ainsworth and Airport Boulevard projects have also been transferred to 2018/19.

Planning consents for these projects have not yet been obtained and due to the uncertainty of the timing of any consent (if secured) the preference is to defer a major part of the budgets to the next financial year. The deferred amounts can be brought back into 2017/18 if the projects advance quicker than currently anticipated.

Ancillary Transport Services - Shared Paths and Footpaths

Coastal Shared Path – Skennars Head to Pat Morton – Council was unsuccessful in obtaining matching funding for this project through the RMS Safer Roads and Active Transport Program for 2017/18, however there is a high possibility Council will secure the matching funding through the State Government’s Stronger Country Communities Fund. Results of that program should be known by the end of the calendar year.

Coastal Walk – Council applied for grant funding for this project through the State Government’s Regional Growth Environment and Tourism Program, with an application for \$750,000 lodged in March 2017. This application has now progressed to round two of the assessment process with a further submission due 31 October 2017. The project cost is \$1.5m which means that

10.8 Capital Expenditure Program - 30 September 2017 Review

if the grant is successful Council will need to defer other projects to allow the works to proceed.

Water Transport

The construction tender for these projects was accepted at the July 2017 Ordinary meeting.

Summary

As per the following table there is an extremely high level of capital expenditure forecast for 2017/18 totalling over \$53m, which excludes the various works that are recommended for deferral to 2018/19.

Capital Works Summary – 30 September 2017 (\$'000)

Section	Budget (\$)	Expended (\$)	Percentage (%)
Open Spaces	3,027,300	218,500	7
Waste	47,000	0	0
DEHG	922,000	300	0
Operations Support	4,709,000	669,000	14
Community Facilities	11,062,600	4,740,400	43
Commercial Services	7,548,000	926,100	12
Information Services	124,800	16,600	13
Water	4,160,700	146,100	4
Wastewater	8,630,100	1,023,700	12
Engineering Works	12,851,400	2,209,600	17
Total	53,082,900	9,950,300	19

This is a major construction program and the overall magnitude of work places stress on Council's limited resources to deliver the entire program.

All Section Managers have carefully reviewed the capital works budgets to ensure the works are deliverable during 2017/18 and at this point in time the Section Managers are confident the remaining works can be delivered this year.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information.

Options

This report is primarily for noting although a number of budget amendments are recommended. Those amendments are outlined in the recommendations as follows.

RECOMMENDATIONS

1. That Council notes the contents of this status report on the Capital Expenditure Program for the 2017/18 financial year.
2. That Council approves the following budget amendments as outlined in the attachments to this report:

Item	Current Budget	Revised Budget	Variation	Comment
Waste Management				
DWM Vehicles	1,533,000	0	(1,533,000)	Transfer adjustment to 2018/19
Conveyor System/Shed	300,000	0	(300,000)	Transfer budgets to reserve – works under review – subject to further report
Resource Recovery	209,000	0	(209,000)	
Stockpile Processing	56,000	0	(56,000)	
Operations Support				
Depot No 1	278,200	28,200	(250,000)	Transfer to reserve – works under review
Ballina Indoor Sports Centre	3,332,000	1,000,000	(2,332,000)	Transfer adjustment to 2018/19
Quarries – Road Extension	78,800	0	(78,800)	Transfer to reserve until funds required
Property – Commercial				
Airport – Terminal Expansion	6,400,000	3,400,000	(3,000,000)	Transfer adjustment to 2018/19
Southern Cross Industrial Estate	2,500,000	500,000	(2,000,000)	Transfer adjustment to 2018/19
Water				
Main Renewals	634,000	311,600	(322,400)	Budget saving
Reservoir - Ross Lane	500,000	0	(500,000)	Transfer adjustment to 2018/19
Reservoir - Access Upgrades	400,000	200,000	(200,000)	Budget saving
Water Pressure Management Zones	600,000	50,000	(550,000)	Budget saving
Wollongbar - Booster	662,000	362,000	(300,000)	Budget saving
East Ballina – Booster	700,800	1,723,200	1,022,400	Budget increase
Pressure Reduction Valves	150,000	20,000	(130,000)	Transfer adjustment to 2018/19
Pine Avenue Distribution Main	25,000	0	(25,000)	Budget saving
Treatment Plan – Marom Creek	668,000	30,000	(638,000)	Transfer adjustment to 2018/19
Wastewater				
Treatment Plant – Security	10,000	0	(10,000)	Transfer adjustment to 2018/19
Lennox – Decanters	100,000	0	(100,000)	Transfer adjustment to 2018/19
Treatment Plant – Ballina	127,200	27,200	(100,000)	Budget saving
Treatment Plant – Alstonville	315,000	50,000	(265,000)	Budget saving
Trunk Mains – WUEA	110,000	10,000	(100,000)	Budget saving
Engineering Works – Stormwater				
Stormwater Asset Data Collection	61,000	0	(61,000)	Transfer to reserve
Megan Crescent / Dodge Lane	0	22,000	22,000	Transfer from urban lane improvements
Kerr Street	120,000	20,000	(100,000)	Transfer to reserve

10.8 Capital Expenditure Program - 30 September 2017 Review

Urban Lane Improvements	22,000	0	(22,000)	Transfer to Megan Crescent
Grant Street (Tamar to River St), Ballina	80,000	20,000	(60,000)	Transfer to reserve
Tidal Gates to Urban Streets	21,000	0	(21,000)	Transfer to reserve
Engineering Works – Roads and Bridges				
Grant Street, Ballina	457,500	426,500	(31,000)	Saving
Airport Boulevard	7,000,000	100,000	(6,900,000)	Transfer adjustment to 2018/19
Lake Ainsworth – Eastern	773,600	53,600	(720,000)	Transfer to reserve until works approved to commence
Lake Ainsworth – Southern	900,000	0	(900,000)	
Hutley Drive, Elevation Estate	239,900	0	(239,900)	Transfer to reserve
Cherry Street, Ballina	250,000	100,000	(150,000)	Transfer adjustment to 2018/19
Northumberland Ave	320,000	5,000	(315,000)	Transfer adjustment to 2018/19
Cumbalum Widening	0	27,400	27,400	Fund from Ballina Bypass reserve
Teven Road	257,300	0	(257,300)	Transfer adjustment to 2018/19
Marom Creek	601,700	566,400	(35,300)	Transfer to Nashua Rd
Nashua Road	0	35,300	35,300	Transfer from Marom Ck
Wardell Road	350,000	0	(350,000)	Transfer adjustment to 2018/19
The Coast Road	0	1,992,000	1,992,000	Grant funded project
Maguires Bridge	45,900	0	(45,900)	Transfer to reserve
Engineering Works – Shared Paths and Footpaths				
Shared Path – Angels to Sharpes	95,900	40,000	(45,900)	Transfer to reserve
Sneaths Road	92,000	112,000	20,000	Transfer from Burnett St
Chickiba Drive – Refuge	25,000	0	(25,000)	Transfer to reserve
Burnett Street	147,000	127,000	(20,000)	Transfer to Sneaths Rd
Wardell Boardwalk	31,000	31,000	31,000	Transfer from reserve

Attachment(s)

1. Capital Expenditure - Open Spaces, Waste and Environmental Health
2. Capital Expenditure - Operations Support and Community Facilities
3. Capital Expenditure - Commercial Services and Information Services
4. Capital Expenditure - Water Operations
5. Capital Expenditure - Wastewater Operations
6. Capital Expenditure - Engineering Works

11.1 Tender - Supply and Delivery of Pre-Mixed Concrete

11. Civil Services Group Reports

11.1 Tender - Supply and Delivery of Pre-Mixed Concrete

Delivery Program Engineering Works

Objective To provide Council with the results of Tender RFT811
- Supply and Delivery of Pre-Mixed Concrete

Background

Tenders were invited for Tender RFT942 - Supply and Delivery of Pre-Mixed Concrete, closing on 22 August 2017.

The tender is initially for a two year period until 30 June 2019, with provision for extension of a further one year period up until 30 June 2020, subject to approval from the General Manager or delegate.

The following tenders were received:

- Holcim (Australia) P/L
- Nucon Concrete P/L
- Hanson Construction Materials P/L

This report provides details on the outcome of the tender evaluation process.

Key Issues

- Assessment of tenders in accordance with the Local Government (General) Regulations 2005.

Information

Council recently called tenders for the Supply and Delivery of Pre-Mixed Concrete. The term of the supply arrangement is initially for a two year period until 30 June 2019, with the option of extension of a further one year period up until 30 June 2020, subject to approval from the General Manager or delegate.

Three tenders were received, being from Holcim Australia Pty Ltd, Nucon Concrete Pty Ltd, and Hanson Construction Materials Pty Ltd. One company that has previously supplied pre-mixed concrete, Boral Country Concrete and Quarries, did not submit a tender.

A summary of the assessment and ranking of the tenders, with pricing information, has been provided by separate memo to Councillors.

The assessment sheet in the memo was developed based on a lowest price comparison that included both product cost ex plant and haulage cost to different locations.

11.1 Tender - Supply and Delivery of Pre-Mixed Concrete

In accordance with current practice, it is intended that rates will be checked at the time of construction works at a particular site to ensure that Council utilises the supplier who is available to meet program requirements and achieves the lowest overall supply and deliver cost to Council.

Over the preceding two years there have been intermittent quality issues with footpath concrete supplied by one of the tenderers, however these have been rectified and staff will continue to monitor this situation.

The tender still allows for Council to seek pricing outside of the tender on occasions. Typically this is done when the quantity required means there is likely better value for money for Council to seek a job specific quotation.

Sustainability Considerations

- **Environment**
All plants are required to operate in accordance with an environmental management plan.
- **Social**
This tender will assist in the maintenance and construction of the road network and associated infrastructure and thereby support the community's transport needs.
- **Economic**
This tender will provide competitive prices for materials used in the maintenance and construction of the road network and associated infrastructure, an essential asset for economic development.

Legal / Resource / Financial Implications

This report aims to assist Council to meet its statutory and other legal obligations.

Purchases made utilising this tender will be costed against applicable project and program budgets. The price under this contract for 25MPa Concrete and Kerb Mix has not changed significantly since the 2015/17 tenders.

The number of tenderers has increased from two to three and this increase in suppliers will assist by providing increased availability for Council works.

Consultation

A public tender process was conducted.

Options

Under the Local Government (General) Regulations 2005 Council must either accept the tender that "appears to be the most advantageous" or decline to accept any of the tenders.

1. Council may determine not to accept any of the tenders received and invite fresh tenders.

11.1 Tender - Supply and Delivery of Pre-Mixed Concrete

2. Council may accept the most advantageous tender.
3. Council may accept all suitable conforming tenders and adopt a list of preferred suppliers.

The tender assessment indicates that all Tenders received are competitive and that a market has been established. On previous occasions, Council has accepted all suitable tenders and adopted a list of preferred suppliers. This allows Council the opportunity to use the contractor most advantageous to program requirements applying at the time.

Therefore option three is recommended.

RECOMMENDATIONS

1. That Council accepts the tenders of Nucon Concrete P/L, Holcim (Australia) P/L and Hanson Construction Materials P/L as preferred contractors for the supply of pre-mixed concrete for the revised period to 30 June 2019, with the preferred supplier for each order determined by an assessment undertaken by staff having regard to cost and program requirements applicable at the time of the order.
2. That the contractor performance and market conditions be reviewed after the first two years and a call for fresh tenders to be made if this is determined to be favourable to Council.
3. In the event point two above is not preferred, then in accordance with the revised terms of the Contract, the General Manager is authorised to extend the contract period to 30 June 2020, if that arrangement is to the best advantage of Council.
4. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.2 Ballina Wastewater Treatment Plant - Contract Update

11.2 Ballina Wastewater Treatment Plant - Contract Update

Delivery Program Water and Wastewater

Objective To provide an update in relation to the Expert Determination Process established to resolve a contract dispute for this project

Background

As per previous reporting and a Councillor briefing, a number of issues in relation to the contract for the construction of the West Ballina Wastewater Treatment Plant were referred to an expert determination process for resolution.

A report with detailed information is provided in the confidential section of the business paper as this matter involves legal issues.

Key Issues

- Achieving defect free completion of the project

Information

In accordance with the contract provisions, a party to this contract can require disputes to be resolved by expert determination.

This dispute relates to whether or not the contractor has achieved defect free completion within the meaning of the terms of the contract.

The parties appointed Mr John Tyrill as the Expert and Mr Tyrill's determination was received by Council on 9 October 2017.

The details of the determination are provided in the confidential report.

Sustainability Considerations

- **Environment**
Achieving the wastewater treatment plant's objective of supplying recycled water is a major environmental program for the Council.
- **Social**
Not Applicable
- **Economic**
The provision of essential infrastructure that represents value for money is important for economic development.

Legal / Resource / Financial Implications

The legal, resource and financial implications of this matter are discussed in the confidential report.

Consultation

There have been extensive on-going negotiations in respect to this contract.

Options

This report is for noting only.

RECOMMENDATION

That Council notes the contents of this open Council report in respect to the Expert Determination for the West Ballina Wastewater Treatment Plant contract dispute.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Social Plan

13. Notices of Motion

13.1 Notice of Motion - Social Plan

Councillor

Cr Willis

I move

1. That Council receive a report on the benefits and estimated costs of preparing a Social Plan, or similar document, for the Ballina Shire, as part of the 2018/19 Operational Plan.
2. This report is to include input from government agencies, and other councils where possible, on the merits and options of local government and other levels of government working together through a document / strategy such as a Social Plan to deliver improved social outcomes for the local community.

Councillor Comment

With Council having finalised the Ballina Marina Master Plan last month, it is clear that Council plays a pivotal role in developing plans for the private sector and other tiers of Government. Such plans allow these other entities to respond to data gathered by Council and Consultants in order to respond to the issues identified.

It is my understanding following enquiries with the General Manager that not since 2009 has Council developed a Social Plan document which addresses social issues (such as homelessness and domestic violence) in any substantive manner.

Accordingly, it seems prudent to receive a report which considers the merits and options in relation to a Social Plan in our Shire. Such a plan may consider issues such as homelessness and domestic violence and ensure that Council has the data with which to invite a response from the private sector/not-for-profit agencies (community groups, churches etc.) together with other tiers of Government (State and Federal).

COUNCILLOR RECOMMENDATIONS

1. That Council receive a report on the benefits and estimated costs of preparing a Social Plan, or similar document, for the Ballina Shire, as part of the 2018/19 Operational Plan.
2. This report is to include input from government agencies, and other councils where possible, on the merits and options of local government and other levels of government working together through a document / strategy such as a Social Plan to deliver improved social outcomes for the local community.

Attachment(s)

Nil

13.2 Notice of Motion - Permanent Firefighters for Ballina

13.2 Notice of Motion - Permanent Firefighters for Ballina

Councillor

Cr Willis

I move

1. That Council acknowledges the recently received letter from the Minister for Emergency Services ('the Minister') in response to Council's representations for permanent full-time firefighters in Ballina.
2. That Council continues to call on the NSW Government to provide permanent full-time firefighters in addition to the retained firefighters in recognition of the growth in our Shire.
3. That Council seek a meeting with the Minister during the upcoming LGNSW Conference and delegates any interested Councillors in Sydney for the LGNSW Conference to meet with the Minister and advocate the position of Council in relation to this matter.

Councillor Comment

Following the motion on this issue last year Council wrote to the relevant Minister. Council did not receive a reply. Council again wrote to the new relevant Minister as requested by the new Minister Troy Grant when he attended the opening of the Marine Tower. Council received a reply on 18 October 2017 which was dated 31 May 2017. It is not clear why there was a delay between the date on the letter and receipt by Council.

On 14 July 2017 a working group comprised of the Mayor, a number of Councillors, the General Manager, representatives of Fire and Rescue NSW, a representative of Tamara Smith's office and Ben Franklin MLC met in the Council Chambers.

The outcome of that meeting was that Mr Ben Franklin MLC was to follow-up Council's unanswered correspondence with the Minister.

The working group was briefed on the role of adding permanent full-time firefighters to existing retained firefighters in a mixed staffing model as communities, such as Ballina, grow to ensure adequate fire fighting coverage.

It was also clear that the new fire station has capacity to accommodate permanent full-time firefighters in Ballina to work with the retained firefighters.

A role of an elected Council is to advocate for the appropriate provision of emergency services, including fire.

This motion seeks to re-inforce Council's position and seek a meeting with the Minister during the LGNSW Conference to allow the LGNSW Conference delegates of Council to attend a meeting with the Minister in relation to this issue.

COUNCILLOR RECOMMENDATIONS

1. That Council acknowledges the recently received letter from the Minister for Emergency Services ('the Minister') in response to Council's representations for permanent full-time firefighters in Ballina.
2. That Council continues to call on the NSW Government to provide permanent full-time firefighters in addition to the retained firefighters in recognition of the growth in our Shire.
3. That Council seek a meeting with the Minister during the upcoming LGNSW Conference and delegates any interested Councillors in Sydney for the LGNSW Conference to meet with the Minister and advocate the position of Council in relation to this matter.

Attachment(s)

1. Response from Hon Troy Grant dated 31 May 2017, received 18 October 2017

13.3 Notice of Motion - Disposal of Large Marine Animal Carcasses

13.3 Notice of Motion - Disposal of Large Marine Animal Carcasses

Councillor

Cr Cadwallader

I move

That Council write to the NSW Government with a request for the Government to review the procedure to manage marine carcasses on beaches.

Councillor Comment

The recent process to bury, and then remove to landfill, a dead whale washed up on South Ballina Beach resulted in significant interest from the community. Some residents are concerned that beach burials create a risk of increasing the presence of sharks at these locations. This incident follows a recent similar incident in Port Macquarie.

A review would provide the opportunity for the Government to inform the community in respect of the scientific information that is available assessing the likely risks and consequences of beach burials. The Port Macquarie incident resulted in significant public funds being used for the exhumation and disposal of the large whale. The source of these funds was from Government and Council. Therefore it is important under any process to consider the scientific information or risk analysis for the local community to be aware there is a potential financial liability to Council if we were to be involved in an operation of this type in the future.

Council staff have observed that, along with the high level of community interest there was also a level of misinformation about the circumstances of this incident and certainly there was a misunderstanding by some in respect of the role of Council in the response to these types of events. This is understandable as Council can be the responsible land manager. Therefore, from Council's perspective, it would be helpful if the current protocol was reviewed to ensure there is explicit confirmation of the roles and responsibilities, and who bears the costs. A review of the communication obligations by the lead agency, the National Parks and Wildlife Service, to other agencies, Council and the public is also required. It may be the case the current practice of burial is retained as the preferred policy direction, however in light of the elevated concerns within the community about the risks of shark attack, it is timely for the procedure to be reviewed and assessed against contemporary community expectations.

COUNCILLOR RECOMMENDATION

That Council write to the NSW Government with a request for the Government to review the procedure to manage marine carcasses on beaches.

Attachment(s)

Nil

13.4 Notice of Motion - North Creek Dredging

13.4 Notice of Motion - North Creek Dredging

Councillor

Cr Cadwallader

I move

That Council write to the Minister for Lands requesting a meeting in regards to Council's requests for financial assistance to support the North Creek Dredging Project's environmental approval and project feasibility investigations.

Councillor Comment

In August 2016 Council resolved to write to the NSW Government with a request for part or full funding for the preconstruction activities associated with the proposal to dredge North Creek.

This decision was in response to a staff report which noted the cost to document a competent planning approval submission is estimated to be \$729,000.

The staff report also noted the risks associated with a project of this type. Council has not received a favourable response to our letter.

Furthermore, staff made an application under the Coastal and Estuary Grants Program – Planning Stream, however advice was received in March 2017 that this application was not successful.

This project is very important and the community interest in the project has been evident in some of the responses to the Council's current community consultation in respect of the proposed special rate variation to support the Healthy Waterways Project.

North Creek is important to the local community, however the estuary is not Council's responsibility.

Therefore it is appropriate that the NSW Government and Council share the cost burden and the risks associated with seeking approval for this project.

As well as assisting Council financially, a partnership with Government will expedite the project. On the advice of staff, the preferred way to manage the risk exposure is to take a step by step approach, meaning we only invest in the next critical factor once we are satisfied with the information from a current activity.

The project work authorised by Council at this point in time is sedimentation testing, however Government support would allow other critical activities to be completed concurrently.

The following photographic records illustrate the change in sediment volume and location over time.

13.4 Notice of Motion - North Creek Dredging



In light of the previous resolution appearing to be unsuccessful, the purpose of this resolution is to support further lobby efforts to advance this important project.

COUNCILLOR RECOMMENDATION

That Council write to the Minister for Lands requesting a meeting in regards to Council's requests for financial assistance to support the North Creek Dredging Project's environmental approval and project feasibility investigations.

Attachment(s)

Nil

13.5 Notice of Motion - Management of Indoor Sports Centre

13.5 Notice of Motion - Management of Indoor Sports Centre

Councillor

Cr Jeff Johnson

I move

That Council authorises the General Manager to undertake discussions with the NSW Police Citizens Youth Club in respect to the potential management of the Ballina Indoor Sports Centre, and other Council facilities with the aim being to:

- Increase the range of programs available to the community
- Decrease operating costs for Council
- Decrease capital costs of the new Indoor Sports Centre for Council

Councillor Comment

An opportunity exists for Ballina Council and the community to benefit from the NSW PCYC's facilities management experience with regards to the soon to be constructed Ballina Indoor Sports Centre.

The PCYC manage a number of Council owned sports centres throughout NSW and have shown to foster wide-spread community support both through the number of programs and activities that they can offer, as well as an increase in the number of volunteers who will actively encourage a greater participation in group activities and sports across the community for both the young and the not so young.

Having the PCYC manage the new sports centre would result in a significant reduction in the ongoing management costs to Council, reduce Council's initial capital contribution through access to grants, and a significant reduction in the costs associated with the fit out and equipment needed for the centre.

These benefits could amount to millions of dollars in savings.

Having attended group activities at the Lismore PCYC centre I have seen first-hand the support that the PCYC organisation has in the community and the range of activities that they can bring to these centres.

There is also the added benefit of having programs that encourage constructive social interactions and role models for young people that might otherwise not get these opportunities.

I have spoken to representatives of the PCYC management and there is an opportunity to have up to 4 full time staff members available to coordinate events and sporting competitions at no cost to Council.

Furthermore the PCYC would commit to covering the costs of the ongoing maintenance and upkeep of the facility.

COUNCILLOR RECOMMENDATION

That Council authorises the General Manager to undertake discussions with the NSW Police Citizens Youth Club in respect to the potential management of the Ballina Indoor Sports Centre, and other Council facilities with the aim being to:

- Increase the range of programs available to the community
- Decrease operating costs for Council
- Decrease capital costs of the new Indoor Sports Centre for Council

Attachment(s)

Nil

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the September 2017 Ordinary meeting:

<u>Date</u>	<u>Function</u>
21/9/17	Shark Management Strategy – Dept of Premier and Cabinet
26/9/17	Meeting Fish Co-Op Management / Meeting with Police
27/9/17	70 th Wedding Anniversary – Ballina Hospital
29/9/17	Presentation Cheque to Oscar – re Olympics
30/9/17	Lennox Head Enduro
1/10/17	Commemoration Park Markets
4/10/17	Meeting re Sand Mining
5/10/17	Meeting re Rous
6/10/17	Meeting Lyn Walker
8/10/17	Commemoration Park Markets / Lennox Head Markets
9/10/17	Public Meeting – Proposed Special Rate Variation – Alstonville
10/10/17	Alstonville/Wollongbar Chamber Meeting
10/10/17	Citizenship Ceremony
10/10/17	Public Meeting – Proposed Special Rate Variation - Lennox Head
11/10/17	Funeral – Mrs Melverton
11/10/17	Public Meeting – Proposed Special Rate Variation – Ballina
12/10/17	Ballina Bowls Function RSL
12/10/17	Public Meeting – Proposed Special Rate Variation – Wardell
14/10/17	Biala Spring Fair
15/10/17	Commemoration Park Markets
16/10/17	Meeting Ben Franklin
16/10/17	Meeting – Bahai Community Representatives
16/10/17	Internal Audit Committee
16/10/17	Scope – Annual Quiet Achiever Award
18/10/17	Tour Recycled Water Facility – Skennars Head
18/10/17	Civic Reception Country Rugby League and Scotland Bravehearts
18/10/17	Wardell Progress Association
19/10/17	Meeting – Bill Knobel – Intrapac / Cr Briefing – Intrapac – Stewart Farm
19/10/17	Gallery Opening
20/10/17	Meeting – Kathryn Tyson – Friday Hut Road
20/10/17	Launch Event National Water Week – Ballina Soccer Club
20/10/17	Wardell Public School Dinner / Country Rugby League v Scotland
21/10/17	Wardell Public School Sesquicentenary
21/10/17	BAHAI – 200 Year Celebration
22/10/17	Shelly Beach Facility – Stage 2 Upgrade Opening
23/10/17	Meeting Ben Franklin – Chambers
24/10/17	Councillor Briefing – 35 Cherry Street
26/10/17	Council Meeting
27/10/17	Youth Frontiers - Ramada
27/28/10/17	Alstonville Show
31/10/17	Briefing – Festival and Event Funding / Code of Meeting Practice Review

RECOMMENDATION

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

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 Ballina Wastewater Treatment Plant - Contract Update

Refer to Item 11.2 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

16.1 Ballina Wastewater Treatment Plant - Contract Update

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as this report provides advice concerning possible litigation.