



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 14 December 2017 commencing at 9.00 am.**

Business

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

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

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

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

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

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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1. Australian National Anthem
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1. Australian National Anthem

The National Anthem will be performed by Chris and Jenny James.

2. Acknowledgement of Country

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

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

3. Apologies

4. Confirmation of Minutes

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

RECOMMENDATION

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

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2016/506 - Section 82A Review - 37 Converys Lane

8. Development and Environmental Health Group Reports

8.1 DA 2016/506 - Section 82A Review - 37 Converys Lane

Applicant	Newton Denny Chapelle
Property	No. 37 Converys Lane, Wollongbar Lot 2 DP 577649
Proposal	Section 82A Review of Refusal of Development Application 2006/506 (to increase student numbers on a permanent basis from 100 to 235 at the existing educational establishment).
Effect of Planning Instrument	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP 2012.
Locality Plan	The subject land is depicted on the locality plan attached .

Introduction

Development Application 2016/506 sought the consent of Council to permit increased student numbers (from 100 to 235 students) on a permanent basis for an approved educational establishment at No. 37 Converys Lane, Wollongbar.

The application was first reported to the 27 April 2017 Ordinary meeting where Council resolved as follows:

That this matter be deferred to allow a further report to be submitted to Council with draft conditions of consent for approval.

Following preparation of draft conditions of consent, the application was reported to the 22 June 2017 Ordinary meeting where Council resolved to refuse the application for the following reasons:

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

Council is in receipt of a request under Section 82A of the Environmental Planning and Assessment Act 1979 requesting a review of the previous determination.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The request for a Section 82A Review was placed on public exhibition from 11 October 2017 to 25 October 2017. No submissions were received.

Report

A copy of the report to 22 June 2017 Ordinary meeting is included as attachment two.

The applicant has provided additional information, namely additional amendments to the Traffic Management Plan (TMP), in support of the application and to address the reasons for refusal.

The applicant's submission is included as attachment three and the amended Traffic Management Plan is included as attachment five.7

The TMP now proposes to issue 90 car parking permits for each event at the site, with the remaining participants required to attend the site by shuttle bus. The parking permits would be issued using an online booking service during the enrolment process for the educational establishment.

In order to enforce this, the applicant proposes penalties for those participants that drive to the venue without prior approval (towing vehicles without a permit off site).

The proposed arrangement creates a conflict for the business as it may require the business to take action against its own customers.

It also requires the business to spend money on towing vehicles to enforce the Traffic Management Plan.

The proposed management plan is therefore not considered to be a reliable self-enforcing system.

There is also the risk that, despite the best intentions of the applicant/operator, participants can drive to Convery Lane and park their vehicles within the road reserve before walking to the site. The operator has no capacity to prevent this from occurring given the vehicles would be legally parked within the road reserve.

The applicant proposes to utilise mini bus shuttle services to transfer students from the Alstonville and Lismore CBD to the site. The collection points are

proposed at the bus stop in Main Street Alstonville and the bus stop in Molesworth Street Lismore.

These sites both contain a bus stop facility which is capable of servicing the proposed mini buses.

This system would result in vehicles parking in the vicinity of the bus stop, therefore utilising parking within the Alstonville CBD area for a development that is remote from the site.

It is likely, given the timed parking arrangements in Main Street Alstonville, that these vehicles will park in the public car park located between Main Street and Commercial Road.

The businesses in Alstonville may see this as an opportunity to attract additional business from the participants or they may be concerned that CBD parking is being utilised by developments that are not located within the Alstonville CBD.

The educational establishment proposes to only operate the shuttle service on weekends.

This is outside the operating hours of a number of the businesses within the Alstonville CBD area, which may assist in reducing any concerns businesses may have in relation to the use of CBD parking.

Whilst the recent application proposes additional control measures within the TMP, these changes are not considered to be sufficient to make the plan self-enforcing.

As a consequence, there is a high risk of non-compliance with the proposed traffic management strategies, and as a result, these strategies are unlikely to alleviate traffic safety and management concerns at the intersection of the Bruxner Highway and Converys Lane.

Options

In reviewing the determination for refusal to DA 2016/506, including consideration for all relevant matters under section 79C of the Environmental Planning and Assessment Act 1979, the following options are available to Council.

Option One - Approval

That Council resolves to issue development consent to the application, subject to the attached conditions (as per attachment four), on the basis that the development is suitable for the site, the impacts on traffic safety can reasonably be mitigated through the ongoing implementation of the amended TMP (as per attachment five) and the implementation of the plan will not result in any additional traffic movements to/from the development site to that of the approved operations (ie maximum capacity of 100 students).

Option Two - Refusal

That Council confirms its previous decision to refuse the application for the following reasons:

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

Conclusion

Development Application 2016/506 'To Permit Increased Student Numbers (from 100 to 235 students) on a Permanent Basis for an Approved Educational Establishment' on Lot 2 DP 2 DP 577649 No. 37 Converys Lane, Wollongbar was refused by Council on 23 June 2017. The applicant has sought a review of the previous determination under section 82A of the Environmental Planning and Assessment Act 1979.

The applicant has made amendments to the development described in the original application, in response to the reasons for refusal. The development, as amended, is substantially the same development as the development described in the original application.

For the reasons outlined in this report is it recommended that, despite the proposed amendments to the application, the previous decision to refuse the application be maintained.

RECOMMENDATIONS

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

1. The intersection of the Bruxner Highway and Converys Lane has insufficient capacity to service the proposed development and approval of the application would compromise the safety and efficiency of the intersection.
2. The proposed Traffic Management Plan is neither practical nor self-enforcing. There is likely to be a high risk of non-compliance with the proposed traffic management strategies, and therefore these strategies are unlikely to alleviate traffic safety and management concerns at the intersection of the Bruxner Highway and Converys Lane.

8.1 DA 2016/506 - Section 82A Review - 37 Converys Lane

3. For the reasons outlined above, the application is not considered to be in the public interest.

Attachment(s)

1. DA 2016/506 - Locality Plan
2. DA 2016/506 - Council report - 22 June 2017
3. DA 2016/506 - Applicant's request for review
4. DA 2016/506 - Draft Conditions of Consent
5. DA 2016/506 - Amended Traffic Management Plan

8.2 DA 2017/635 – Variation to Development Standards (Building Height)

8.2 DA 2017/635 – Variation to Development Standards (Building Height)

Applicant	Ballina Shire Council
Property	Lot: 244 DP: 1175317, 167 Southern Cross Drive BALLINA
Proposal	Waste management shelter as depicted in plans prepared by Container Domes Australia dated 1 November 2017
Effect of Planning Instrument	The land is zoned RU2 Rural Landscape 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 construction of a waste management shelter (33 x 17 metres in area) consisting of shipping containers strategically placed side by side to support a dome roof as shown in the attached plans (attachments two and three). The containers are used to provide walling and structural stability to the dome roof cover.

The property is owned by Ballina Shire Council (Waste Transfer Station) and used for waste management including landfill.

The proposed site is over the existing recyclables handling area (concrete slab), where the handling process is almost identical (excluding this proposed cover). The process involves the side loader trucks emptying commingled recyclables collected from wheelie bins into a three walled bay. A front loader then compacts and pushes the load to the back of the bay where an excavator from on top of the back wall loads the recyclables into a large loading bin for transport to a Material Recovery Facility.

The height of the facility is required to enable the functioning of the excavator and truck for the loading and unloading of materials.

The main reason for the proposed waste management shelter is to provide improved recyclable recovery/quality by avoiding contamination and quality issues with Council's current recyclables handling. Due to its exposure to weather during periods of rainfall, recyclables quality is detrimentally affected by water contamination.

Wind is also an issue with material being blown across the site where staff resources are needed to manage this issue. The dome cover will address the rainwater issues whilst the structure is orientated to minimise the effects of wind.

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.

8.2 DA 2017/635 – Variation to Development Standards (Building Height)

In all other respects, the proposed development satisfactorily meets the applicable statutory and merit considerations and warrants favorable consideration.

The subject site is zoned RU2 Rural Landscape under the BLEP 2012 and consequently, the provisions of the BLEP 2012 apply to the subject land.

The proposed waste management shelter has a maximum height of 10.75m, 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 2.25m (or 26.5%). The variation area is for a small portion due to the dome roof design and would represent approximately less than 10% of the total structure.

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 not required to be placed on public exhibition. No objections have been 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 and 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 waste management shelter is permissible development upon the RU2 Rural Landscape 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.

8.2 DA 2017/635 – Variation to Development Standards (Building Height)

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
<p>a) What is the development standard being varied?</p>	<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 2.250m, with the overall height of the extension being 10.750m above the existing ground level. The variation sought is up to 26.5% and more than the allowable 10% allowed under Delegated Authority.</p>
<p>b) What is the underlying objective of this development standard?</p>	<p>Clause 4.3(1) provides the following objectives of the standard.</p> <p><i>(1) The objectives of this clause are as follows:</i></p> <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> <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>Due to the location of the structure, there will be no undesirable impacts.</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? 	<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. • There are 2 existing buildings as well as the existing closed landfill cells located nearby on this site with overall heights similar to the proposed Waste Management Shelter. The proposal is also substantially lower than the Airport

8.2 DA 2017/635 – Variation to Development Standards (Building Height)

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
<ul style="list-style-type: none"> 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? 	<p>Obstacle Limitation Surface.</p> <ul style="list-style-type: none"> The proposed variation will not cause any overshadowing impacts on surrounding properties nor will it impede on the privacy or amenity to the neighbouring residents. The building will not have any impact on views from public places and it will also be screened from view by existing buildings, landfill and landscaping on this site.
<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 development standard? 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>The proposed development satisfies the objectives of the standard under Clause 4.3 for the reasons discussed above, notwithstanding the non-compliance with the development standard.</p> <p>Strict compliance with Clause 4.3 is considered unreasonable in this instance due to the intended use (the height of the structure has been determined by the activity intended which includes an excavator loading and unloading within the structure). Forcing strict compliance with the height control would prevent the functionality of the structure for the intended activity.</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 will not create an undesirable precedent in the area.

It has been demonstrated by the applicant that the request complies with the intent of Clause 4.6 and due to the Waste Management Shelter's intended use this is an unavoidable encroachment.

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 DA 2017/635 for the proposed Waste Management Shelter as depicted in the plans prepared by Container Domes Australia dated 1 November 2017, as attached to this report be **APPROVED**, for the reasons outlined in this report.

Attachment(s)

1. Locality Map
2. Plans
3. Structural Engineering Plans

8.3 Compliance Work Plan 2017/18 - Status

8.3 Compliance Work Plan 2017/18 - Status

Delivery Program Development Services

Objective To provide Council with an update on the 2017/18 Compliance Work Plan

Background

At the June 2017 Ordinary meeting, Council adopted a Compliance Work Plan for the 2017/18 financial year. This report provides a half yearly update on the Plan.

Key Issues

- Level of compliance
- Results achieved

Information

The Compliance Work Plan nominated three areas as the priorities for this financial year being:

1. *Audit of Major Developments within the Shire* (Ongoing Program)
2. *Audit of Identified Development Consents* (Ongoing Program)
3. *Review of all Development Consents issued within the Russellton Industrial Estate* (Ongoing Program)

In addition to these areas, the Compliance Team respond to customer requests received from members of the general public as well as from Council staff and State and Federal Government agencies. During this current financial year, to date, there are 78 new requests requiring action.

The June 2017 report identified that there were 55 Outstanding Notices requiring follow up. If a satisfactory resolution is not achieved in these matters, Council may have to commence formal court proceedings.

Given the large numbers of legal notices that are currently outstanding and the legislative time limits that apply should legal action be warranted, staff resources have been dedicated to this area of our work.

Council's investigations into alleged unauthorised uses, including function centres, tourist and visitor accommodation and rural dwelling houses or to alleged breaches of consent conditions are complex and require the dedication of many hours. This process can involve the identification and checking of all available records within Council's systems, as well as a number of inspections coordinating technical officers across various sections within Council's Development and Environmental Health Group and any relevant State Government agencies to ascertain compliance.

8.3 Compliance Work Plan 2017/18 - Status

Of the nominated priority areas within the Compliance Work Plan, Council is provided with the following updates:

1. *Audit of Major Developments within the Shire (Ongoing Program)*

Major Developments are defined as developments consisting of five or more units/parcels of land/dwellings as well as all developments within areas of high environmental significance.

This program commenced in the 2008/09 financial year with an audit of the year 2006 development applications, which included applications that have been determined or withdrawn. This program has continued on to audit the year 2007, 2008, 2009, 2010 and 2011 development applications.

The 2007 financial year audit has been completed, with no matters outstanding, and this year will no longer be reported on.

Further, the audits for 2006, 2008 and 2009 have been completed and all consents have been substantially complied with, however there are ongoing monitoring issues for:

- 2006 - Four developments require further ongoing inspections for approved revegetation management plans for each development
- 2008 – A development for an operational quarry in Westbridge Lane is now operational and requires ongoing monitoring for the life of the quarry; and
- 2009 – Four developments that are major subdivisions are being rolled out in stages.

It is intended for these monitoring activities to take place on an ongoing basis and any significant non-compliance matters will be the subject of a separate advice to Council.

For 2010 and 2011 the current status is as follows.

Item	2010	2011
Number of Major Developments	83	56
Number inspected for compliance	83	0
Number compliant	46	0
Ongoing inspections	17 (1)	0
Consents not commenced	11	0
Lapsed consents	9	0
Number yet to be inspected	0	56

- (1) Relates to a number of premises where the approved development has commenced and is either underway or has not continued. These will be monitored over the next reporting period for re-commencement of works within these sites.

8.3 Compliance Work Plan 2017/18 - Status

2. *Audit of Identified Development Consents (Ongoing Program)*

Identified Development Consents are defined as all approvals issued by Council *EXCEPT* those identified as either (a) Major Developments or (b) Consents that require further approvals from Council or an accredited certifier, (e.g. Construction Certificates, Occupation Certificates, Subdivision Certificates, Food Inspection Certificates) and therefore have a 'built in' mechanism or stage within the consent where compliance with conditions are checked.

This program originally commenced in the 2008/09 financial year with an audit of year 2006 development applications, which included applications that had been determined or withdrawn.

This program has continued on to audit the year 2007, 2008, 2009, 2010 and 2011 development applications.

The 2006, 2007 and 2008 financial year audits have been completed, with all development consents now fully complied with and will no longer be reported on.

The status of the 2009, 2010 and 2011 consents is as follows.

Item	2009	2010	2011
Number of Identified Developments	99	148	96
Number Inspected for Compliance	99	148	0
Number Compliant	97	132	0
Number of Ongoing Inspections	2 (1)	11 (2)	0
Number of Consents not commenced	0	4	0
Number of Consents lapsed	0	1	0
Number yet to be inspected	0	0	96

- (1) These outstanding developments relate to matters in which the works have been commenced, however matters are still outstanding for which final certificates have not been issued. These matters originally came to the attention of Council as the developments had commenced however no certification had been received.
- (2) These developments relate to a number of premises where the approved development has commenced and are either underway or have not continued. These will be monitored over the next reporting period for re-commencement of works within these sites.

3. *Review of all Development Consent approvals issued within the Russellton Industrial Estate (Ongoing Program)*

The audit of businesses within the Russellton Industrial Estate has been undertaken with all but one premise having been the subject of an initial inspection.

8.3 Compliance Work Plan 2017/18 - Status

The majority of these premises have either not been in compliance with all conditions of the existing development consents or have been operating without the requisite development consent and associated approvals.

One of the main areas of non-compliance relates to landowners not providing adequate fire safety provisions within each building itself and to the ongoing maintenance and reporting of these provisions to both Council and Fire and Rescue NSW.

These fire safety issues, also known as Essential Services are currently being actioned and are further addressed under the Essential Services Register section later in this report.

It is anticipated that this audit will be completed within this current financial year. Continuing action will be required to ensure identified non-compliances are suitably remedied.

Local Court Proceedings

Some matters investigated result in the commencement of legal proceedings, either in the Ballina Local Court or, where circumstances warrant, the Land and Environment Court of New South Wales. Any legal action through the Courts is undertaken in line with the provisions of Council's *Enforcement Policy*.

This current financial year, no Council instigated prosecution has been commenced in the Local Court.

There have been three cases where penalty infringement notices were issued for non-compliance with essential services matters that were subsequently court elected by the landowners. On each occasion, the landowners entered a plea of guilty before the Local Court and offered mitigating circumstances by way of explanation.

On each occasion, the landowner was found guilty by the magistrate. A monetary penalty was also imposed in one of these cases.

In addition, there are currently four matters under investigation, which may result in criminal proceedings being recommended. Should this course of action be contemplated, each matter will be the subject of a separate report to Council prior to the commencement of any proceedings.

Land and Environment Court Proceedings

This current financial year, no Council instigated prosecution has been commenced in the Land and Environment Court.

Legal Notices

In addition to any court matters, legal notices are issued for identified breaches and non-compliances. These legal notices are the commencement of the process to remedy identified breaches and non-compliances.

This current financial year, the Compliance Team has:

8.3 Compliance Work Plan 2017/18 - Status

- Issued 54 new formal notices for identified breaches and non-compliances
- Monitored and undertaken additional actions in relation to 109 formal notices that have not yet been resolved to Council's satisfaction and
- Finalised 11 formal notices, where the matter has been resolved to Council's satisfaction.

These new and monitored formal Notices issued by Council do not include non-compliance certificates issued for swimming pools which have failed the initial inspection.

It is only when these swimming pools fail a second inspection does the legislation permit the service of a formal Notice to address all non-compliances.

Liquor Licensing Issues

The Compliance Team also assess and make submissions to Liquor and Gaming NSW (formally known as the Office of Liquor, Gaming and Racing) on liquor licence applications lodged within the Ballina Shire in line with Council's adopted *Liquor Licensing Policy*.

During the current financial year, the Compliance Team has dealt with 15 liquor licence applications. These applications relate to modifications to existing licences, or applications for new limited licences for sporting clubs within Council reserves.

Caravan Parks Register

Caravan Parks are currently licensed through the provisions of Section 68 of the *Local Government Act 1993* (NSW) with the operation of each Park to be undertaken in line with the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2008* (NSW).

This Regulation is currently under review by the State Government and it was anticipated that the new regulations would be implemented towards the middle of 2017. Enquiries are underway with the Department to ascertain a revised time frame for implementation of the new Regulation.

In line with the current legislative requirements, it is proposed to conduct annual inspections of all existing caravan parks by June 2018.

In this regard, Council has directed correspondence to all caravan park operators inviting them to arrange for an annual inspection between January and June 2018.

In the initial annual inspections, there will be a focus on safety and risk issues including smoke detectors, fire services and emergency evacuation plans to ensure the safety of patrons of each of the Caravan Parks.

Essential Services Register

An additional 11 premises have been added to Council's Essential Services Register, giving a current total of 524 properties listed. This number is not, however, a complete record of the properties within the Shire that should be contained within the register.

In addition, the checking of the Annual Fire Safety Statements submitted by landowners to Council has identified a number of non-compliances within the documents themselves.

These non-compliances include:

- Incomplete Annual Fire Safety Statements
- The failure to provide the Annual Fire Safety Statement and relying solely on the service technician's report
- The failure to provide Annual Fire Safety Statements by the due date; and
- The provision of Annual Fire Safety Statements with identified non-compliances outlined on the Service Technician's Report.

Previous legislation required building owners to sign off on annual fire safety statements that are to be submitted, however recently approved legislation now requires competent persons in fire safety to sign off these statements, which will assist in identifying any discrepancies.

As outlined in the Legal Notices Section of this report Council has issued 54 new notices this financial year and 11 of these relate to inadequate fire safety measures.

Swimming Pools Register

An additional 113 premises have been added to Council's Swimming Pools Register, giving a current total of 894 properties listed. This number is not, however, a complete record of the properties in the Shire that should be contained within the Register.

Council has issued a number of non-compliance certificates following the initial inspection of private swimming pools within the Shire. In this regard, 58 non-compliance certificates have been issued since 1 July 2017.

Further non-compliances identified following further inspections will result in formal notices being issued.

An initial review of the operation of the Swimming Pools Register has identified discrepancies between Council's Swimming Pools Register and the NSW Swimming Pools Register.

A program has been developed to cross check all records to ascertain the location of all swimming pools within the Shire and to ensure the integrity of data contained within both the Council's and State Registers.

The initial priority of the Compliance Section is to ascertain that all:

8.3 Compliance Work Plan 2017/18 - Status

- mandatory swimming pools are identified and recorded in the Swimming Pools Register to ensure Council meets the legislative obligations of the *Swimming Pools Act 1992 (NSW)* and
- ongoing servicing of the requirements for swimming pool inspections and certification in line with properties that are for sale and rent are being inspected within legislative time frames.

Sustainability Considerations

- **Environment**
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**
As above
- **Economic**
Compliance with development conditions results in a more level playing field for business operators.

Legal / Resource / Financial Implications

This program aims to efficiently utilise the resources allocated for enforcement activities. Proactive actions can reduce the need for extra compliance at a later date.

Consultation

This report has been provided for public information.

Options

The options are to note the contents of the report or to amend the identified compliance project work program where Council believes there may be higher priorities that need to be addressed.

The recommendation is to note the report as Council has previously endorsed the compliance work plan for 2017/18 and the priorities are considered to reflect the highest priorities for the broader community.

RECOMMENDATION

That Council notes the contents of this report on the status of the Compliance Work Plan for 2017/18.

Attachment(s)

Nil

8.4 Development Applications – Variation to Development Standards

8.4 Development Applications – Variation to Development Standards

In accordance with the Department of Planning's Circular PS08-014 issued on 14 November 2008, this monthly report is provided to outline any development applications where a variation of less than 10% to development standards (via the BLEP 1987 or BLEP 2012) has been approved by staff under delegated authority.

There have been no variations approved for November 2017.

RECOMMENDATION

That Council notes that there have been no applications approved under delegation for variations to development standards less than 10% for November 2017.

Attachment(s)

Nil

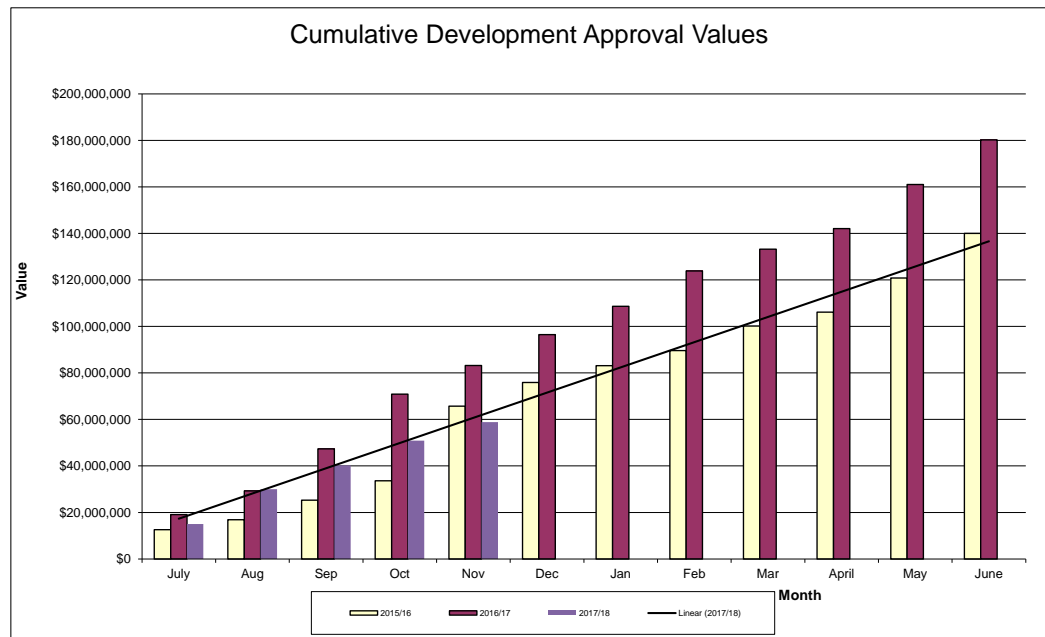
8.5 Development Consent and Infrastructure Approvals - November 2017

8.5 Development Consent and Infrastructure Approvals - November 2017

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

Number of Applications	Value of Work
39 Other including Changes of Use	\$ 2,273,551
13 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 5,696,270
6 General Developments including Subdivisions	\$ 0
Total Value	\$ 7,969,821

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



During the period of 1 November 2017 to 30 November 2017 there were no approvals issued for Public Infrastructure / Civil Construction Works.

RECOMMENDATION

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

Attachment(s)

Nil

8.6 Development Applications - Works in Progress - December 2017

8.6 Development Applications - Works in Progress - December 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	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 realignment of Corks Lane, site filling, vegetation removal and associated works. – Lot 5 DP 123781 Corks Lane, Ballina	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

8.6 Development Applications - Works in Progress - December 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	Being Assessed
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	Being Assessed
2017/370	07/07/2017	Newton Denny Chapelle	Service Station and Childcare Centre – 246-250 Lismore Road, Wollongbar	Awaiting Additional Information
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	Referred to Government Departments
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
2017/430	04/08/2017	Victor	Change of use to light	Awaiting

8.6 Development Applications - Works in Progress - December 2017

		Holmes Town Planning	industry, truck depot and storage facility, with associated business identification sign – 38B Smith Drive, West Ballina	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 Associated Works - 16 & 120 Corks Lane & North Creek Road, Ballina	Referred to Government Departments
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	Being Assessed
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
2017/545	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	Determination Pending
2017/554	13/10/2017	Ballina Shire Council	Construction of a skate park - Lot 2 Elvery Lane, Alstonville	Awaiting Additional Information
2017/557	06/10/2017	Byron Highlander Estate Pty Ltd	Establishment of a Place of Assembly (Function Centre and Refreshment Room) and a Change of Use of an Existing Dwelling House to a Tourist Facility (Accommodation) -	Referred to Government Departments To be Reported to Council

8.6 Development Applications - Works in Progress - December 2017

			North Teven Road, Teven	
2017/565	11/10/2017	Newton Denny Chapelle	Stage 5 - 88 Lot Residential Subdivision comprising 81 Torrens Title Lots and Seven Community Title Lots, Civil Infrastructure Servicing and Associated Earthworks (stage five of 'Epiq)Lennox') - Lot 54 Hutley Drive, Lennox Head	Referred to Government Departments
2017/591	23/10/2017	Nola McAlary	Vegetation management works involving the removal of one Norfolk Island Pine tree - 5 Hindmarsh Street, East Ballina	Awaiting Additional Information
2017/600	30/10/2017	Newton Denny Chapelle	Expansion to an Existing Resource Recovery Facility - 19- 21 Northcott Crescent, Alstonville	On Exhibition
2017/609	31/10/2017	Ardill Payne & Partners	Construction of the Ballina Community Men's Shed - 36 Racecourse Road, Ballina	Awaiting Additional Information
2017/613	3/11/2017	Newton Denny Chapelle	Alterations and additions to the existing Emmanuel Anglican College including construction of additional classrooms, car parking, roof over existing court and associated infrastructure and landscaping works – 62 Horizon Drive, West Ballina	On Exhibition
2017/643	16/11/2017	Newton Denny Chapelle	Demolition and/or relocation of existing structures and erection and Strata Title subdivision of seven x two storey	On Exhibition

8.6 Development Applications - Works in Progress - December 2017

			and two single storey self care seniors living units pursuant to Sate Environmental Planning Policy (Housing for Seniors or People with a Disability), site filling and associated works – 78 Moon Street, Ballina	
2017/645	16/11/2017	Ardill Payne & Partners	Boundary adjustment subdivision pf three rural lots to create three modified rural lots – 60 & 62 Saltwater Creek Road, Wardell	Being Assessed
2017/647	16/11/2017	Logan Architecture	Erection of a Two Storey Building for the Purposes of a Veterinary Clinic with Associated Veterinary Dwelling, Car Parking and Associated Works – 48 Ballina Street, Lennox Head	On Exhibition
2017/652	20/11/2017	Stephen Fletcher & Associates Pty Ltd	Two lot subdivision to create 1 x 8315sqm and 1 x 2725 sqm lots and associated works – 543 The Coast Road, Lennox Head	Referred to Government Departments
2017/653	20/11/2017	Ardill Payne & Partners	Alterations and use of a mezzanine level within an existing industrial unit – 3/7 Piper Drive, Ballina	Awaiting Additional Information
2017/655	20/11/2017	Seedlings Organic	Two lot subdivision to create one x 0.95ha and one x 2.9ha allotments and the erection of a shed for the purpose of an agricultural produce industry – 111 Friday Hut Road, Tintenbar	Referred to Government Departments
2017/662	21/11/2017	Newton Denny Chapelle	Proposed Temporary Use of Land for Five Years Consisting of a Function Centre for the Purpose of	On Exhibition

8.6 Development Applications - Works in Progress - December 2017

			Hosting Up to 38 Wedding Ceremonies in any 12 Month Period – 1 Johnston Road, Newrybar	
2017/666	22/11/2017	Ardill Payne & Partners	Strata Title Subdivision of a Dual Occupancy – 42 Liffey Avenue, Cumbalum	Being Assessed
2017/667	22/11/2017	Ardill Payne & Partners	Strata Title Subdivision of a Dual Occupancy – 3-5 Kestrel Street, Ballina	Being Assessed
2017/675	28/11/2017	Ardill Payne & Partners	Strata Title Subdivision of an Existing Residential Flat Building – 5 Rancher Court, Wollongbar	Being Assessed
2017/679	30/11/2017	Ardill Payne & Partners	Demolition of Existing House and Shed and Torrens Title Subdivision to create 10 Residential Lots Including New Road and Infrastructure Services – 77 Teven Road, Alstonville	On Exhibition

8.6 Development Applications - Works in Progress - December 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 - December 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	Determination Report Submitted to JRPP – Determination Pending

8.6 Development Applications - Works in Progress - December 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 - December 2017

2017/244	17/5/2017	Intrapac Skennars Head Pty Ltd	Amended Proposal: To undertake the first stage of a residential subdivision comprising 218 residential lots, five public reserve lots, eight 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 roundabout 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 6 DP 1225206 (formally Lot 265 DP 1212348) The Coast Road, Skennars Head	On Exhibition
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 - December 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	Awaiting Additional Information
2017/670	23/11/2017	Planners North	Extractive Industry and Concept Approval for future recreational and tourism use – Newrybar Swamp Road, 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 December 2017.

Attachment(s)

Nil

9.1 Alstonville Strategic Plan - Finalisation

9. Strategic and Community Facilities Group Reports

9.1 Alstonville Strategic Plan - Finalisation

Delivery Program Strategic Planning

Objective To seek direction from Council on the finalisation of the Alstonville Strategic Plan.

Background

Council initiated the commencement of the Alstonville Strategic Plan project in April 2016. The preparation of the strategic plan for Alstonville is part of a place based planning program being undertaken by Council for the urban areas in the shire. Under the program, place based strategic plans are complete for Wardell and Ballina, and the planning process has commenced for Wollongbar.

With respect to the Alstonville Strategic Plan, the matter has been reported to the Council on four previous occasions and has been the subject of two Councillor briefings during 2017. The timing for the reports and briefings is outlined below.

- April 2016 – Report to Council: Initiation of Alstonville and Wollongbar strategic plan processes. Resolution to proceed.
- July 2016 – Initial community engagement to inform planning study and strategic plan.
- March 2017 – Councillor briefing - Draft Alstonville Planning and Environmental Study and Draft Alstonville Strategic Plan.
- March 2017 – Report to Council: Draft Alstonville Planning and Environmental Study and Draft Alstonville Strategic Plan. Resolution to proceed to public exhibition.
- April/May 2017 – Public exhibition of draft planning study and strategic plan.
- July 2017 – Report to Council: Finalisation of Alstonville Strategic Plan. Resolution to defer to a Councillor briefing.
- September 2017 – Councillor briefing – Draft Alstonville Strategic Plan (various issues).
- October 2017 – Report to Council: Finalisation of Alstonville Strategic Plan. Resolution to defer.

A copy of the slides presented to the Councillor briefing held on 19 September 2017 is contained in attachment one.

This report is in response to Council's October 2017 decision to defer its decision on the adoption of the Alstonville Strategic Plan. In the course of preparing this report, Councillors were invited to identify any matters where additional information was sought. Several Councillors provided feedback in this regard. The matters raised by Councillors have been collated and responses provided in the table contained in attachment two.

A copy of the draft Alstonville Strategic Plan which is recommended for adoption (inclusive of marked changes relative to the exhibited draft plan), is contained in attachment three.

The purpose of this report is to re-present the Alstonville Planning and Environmental Study and the draft Alstonville Strategic Plan and seek direction on the adoption of these documents.

Key Issues

- Locality based strategic planning

Information

The process and outcomes associated with the Alstonville Strategic Planning process have been reported to Council in detail, particularly to the July and October 2017 Ordinary meetings.

As Council has discussed the strategic plan, a number of issues have emerged as key points for consideration. The following seeks to provide summary information to address these items. Information on matters raised by Councillors since the October 2017 report is also provided in attachment two.

Population Growth

Concern has been raised that the strategic plan does not provide for sufficient population growth at Alstonville, with some suggestion that the strategic plan is a no growth policy.

The strategic plan and the associated background documentation have considered a variety of population growth scenarios for Alstonville. The recommended approach within the draft strategic plan is to enable additional population growth. This involves an increase in the growth rate in Alstonville from around 0.27% per annum to within the range of 0.5% to 0.7% per annum to 2036 (for the period 2016-2036).

This is a doubling of the present population growth rate and compares to a forecast shire wide growth rate of approximately 1% between 2016 and 2036.

The growth strategy for Alstonville is centred on three primary components being to:

- enable planned population growth by providing opportunities for additional housing around the village centre (and particularly the provision of housing suitable for older residents).

9.1 Alstonville Strategic Plan - Finalisation

- enable planned population growth by improving the availability of existing three and four bedroom housing stock (currently occupied by older residents) for occupation by younger couples and families over time.
- enable planned population growth by providing additional opportunity for dual occupancy and medium density housing types in specified locations.

The strategic plan provides for the above approach without lateral expansion of the urban footprint.

As indicated in previous reporting and briefing information provided to the Council, there are extensive planned greenfield housing areas throughout the shire (including at Wollongbar) to accommodate forecast growth, for the shire, for at least 20 years.

Impacts of Infill Development

Concern has been raised that a policy of infill development may lead to extensive undesirable impacts on existing residents.

Infill development is an important part of the overall growth strategy for Ballina Shire. Many parts of the shire are already identified for infill development including significant areas in Ballina and Lennox Head. In the case of Alstonville, the enabling of infill development in targeted locations (not all of Alstonville) is compatible with the planning analysis undertaken for the village. That is, enabling of increased but modest growth with targeted outcomes over the next 20 years.

Infill development can result in poor planning outcomes at times, but it is important to remember that it is not always the case that infill results in significant adverse impacts. Council seeks to avoid, minimise or manage potential and actual impacts associated with infill development through the development control plan.

Chapter 4 – Residential and Tourist Development within Council's existing development control plan includes an extensive set of planning controls that regulate the built form of dual occupancy and multi-unit development across the shire.

Current provisions address matters including floor space ratio, building envelope, building articulation, building lines and setbacks, landscaping and open space, vehicle access and parking, overlooking and privacy, solar access, minimum lot areas and cut and fill.

If Council is of the view that further examination of the planning provisions for infill in Alstonville is necessary (noting there is an existing action – item 4 – to consider expansion of heritage related provisions in the DCP), it is suggested that an action be added into the plan to review the Ballina DCP 2012 relative to the management of potential infill impacts in Alstonville.

This could be added as a dot point to the recommended resolution as follows:

- Include a new action to review the existing development controls in Chapter 4 of the Ballina DCP 2012 focused on building compatibility with existing character, particularly in relation to appearance and materials.

9.1 Alstonville Strategic Plan - Finalisation

This approach should be mindful of the suite of existing development controls currently applying to infill development in Alstonville and the shire as well as whether the Council wishes to increase or otherwise alter regulatory requirements applicable to certain housing forms.

The above additional action is not recommended for inclusion in the strategic plan as the existing planning controls for housing are considered appropriate and are subject to regular review.

As a separate consideration, a more limited range of controls apply to secondary dwellings (granny flats). These dwellings are subject to State planning policy and Council presently has a position to encourage this form of development by waiving developer contributions and charges that would otherwise be applicable. Notably, nothing in the draft strategic plan expands or reduces the permissibility of the land use in Alstonville when compared with existing planning provisions.

If Council is concerned about this form of development and ultimately wishes to restrict it, it is suggested that the removal of the contributions and charges waiver will reduce the occurrence of this form of development. This would need to be weighed against the benefits this housing may provide in terms of housing diversity and choice and housing affordability.

The matter of secondary dwellings is best considered on a shire wide basis as part of the next review of the waiver which is due in early 2018 rather than within the Alstonville Strategic Plan.

Tuckombil Quarry

Council considered a notice of motion in relation to the Tuckombil Quarry and the associated asphalt plant at its November 2017 Ordinary Meeting.

At that meeting, Council resolved as follows:

- 1. That Council invite the EPA to provide a presentation to Councillors and interested members of the community on the EPA's role in monitoring the operation of the Boral Asphalt Plant at the Tuckombil Quarry*
- 2. That Council receive a report on options for the future use of the Tuckombil Quarry and review the requirements of the current lease with Boral.*

The current and planned operation of the quarry has been considered as part of the Alstonville Strategic Plan process. The operation of the quarry, which is expected to be long term, is a significant constraint on the greenfield expansion of Alstonville northwards in the vicinity of Teven Road.

If the quarry was to cease operating, some of the land between the Panorama Estate and the quarry might be otherwise found to be suitable for urban development. However, it is important to recognise that for the 20 year period of the strategic plan, this expansion is not recommended regardless of whether the quarry is operating or not. This is because no compelling planning reasons have been identified through the strategic planning process that are a basis to depart from existing planning policy for the Alstonville Plateau (being to maintain the existing village footprint in the case of Alstonville).

The approach proposed in the draft Alstonville Strategic Plan is consistent with Council's current decision to continue and expand operation of the quarry, being as follows [Minute No. 241116/36]:

1. *That Council authorises the General Manager to continue to prepare the required Environmental Impact Statement and other planning approval documentation for the proposed expansion of Tuckombil and Stokers Quarries.*
2. *That in respect of point one above, a community engagement strategy be developed and implemented for the purposes of proactive community consultation during the preparation of the planning application documentation.*
3. *That Council increase the existing quarry expansion budget from \$140,000 to \$260,000 to finance the estimated cost of the Environmental Impact Statements, with the additional \$120,000 funded from the Quarry Reserve.*
4. *That Council approve a budget of \$250,000 for the Stokers Quarry Stage One rectification works, with that expenditure funded from the Quarry Reserve.*
5. *That Council adjust the Long Term Financial Plan for 2017/18 onwards to remove the forecast Quarry Dividend due to the current uncertainty over the operation and future of the Council owned quarries. This reduction in funding is to be offset by a matching reduction in the road reconstruction program.*

Council needs to be mindful not only of its roles and responsibilities as a planning authority and concerns regarding health, but also its role as a landholder and business operator. It is also important to recognise that the Tuckombil Quarry contains resources of regional significance.

This not only has a financial value to Council and the broader community but also a value related to its potential to enable public infrastructure works over time. Essentially, Council has multiple 'hats' to wear in this case.

Given this, it is suggested that the future of the Tuckombil Quarry should be determined by specific consideration of this matter. Any change to the operation of the quarry can be examined further in the context of the strategic plan through a review process that Council can initiate at any time in the future.

In this regard, the draft Alstonville Strategic Plan identifies a five yearly review process.

Also, if the report on options, as per the November 2017 Ordinary meeting resolution, results in a significant change to the Alstonville Strategic Plan that change could be incorporated into an amendment to the plan.

Maguires Creek Pathway

There has been considerable discussion about enabling pedestrian access along Maguires Creek between the Alstonville urban area and Tosha Falls.

There is presently an easement along Maguires Creek that enables the general public to walk along the creek bank between Lumley Park and Tosha Falls. However, there are limitations to what the easement enables, particularly if Council wishes to construct a formalised pathway.

Importantly, it is possible to enable the pathway through means other than rezoning adjoining property and anything other than a low key nature trail is likely to have a significant cost.

Given this, a detailed analysis of options for a pathway or nature trail, including analysis of the easement, design considerations and costings is considered to be warranted.

The revised draft strategic plan incorporates an action to this effect, thereby placing the investigation of the pathway connection onto the Council's agenda (assuming the action is adopted and funded).

Town Square

There has been discussion about the removal of the town square concept from the strategic plan.

The town square concept is an aspirational idea incorporated into the strategic plan to support principles associated with community meeting places and identity. The intent of the plan is to enable opportunistic action to procure a town square if circumstances conducive to this outcome arise.

However, the implementation of the strategic plan does not hinge on the inclusion or removal of this action. As such, this item can be removed without altering the intent of the plan (as recommended).

If Council wishes to pursue this approach, it is suggested that the following wording be added to the list of recommended changes:

- Action 16 – Delete the town square concept from the plan.

Sustainability Considerations

- **Environment**

The implementation phase following the adoption of the strategic plan for Alstonville may have potential environmental benefits. This is primarily 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.

The mapping of Big Scrub remnants will also improve understanding of key vegetation attributes on the Alstonville plateau.

- **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 the draft strategic plan in attachment three.

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 five 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 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.

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.

In respect to legal obligations it is important to be mindful of the implications of actions 9, 11 and 12 in the draft strategic plan (attachment three). These actions relate to the following areas and land types:

- Residential lots in Alstonville with an area greater than 900m²
- Certain residential lots in Daley Street, The Avenue, Coral Street, Wardell Road and Newbon Street.
- Land presently zoned R3 Medium Density Residential.

If implemented, these actions will result in changes to the planning framework that have the potential to generate economic gains for the properties identified.

Consultation

The strategic planning process for Alstonville has involved a variety of community engagement initiatives since mid 2016.

Details regarding the community engagement undertaken are contained in the Alstonville Planning and Environmental Study and the July and October 2017 reports to Council.

Options

1. Adoption of the Strategic Plan

That Council adopts the Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan 2017 – 2037 with amendments (as set out in attachment three). This is the recommended option.

Amendments recommended for the Alstonville Strategic Plan 2017 – 2037 are as follows (these are marked within the plan contained in attachment three):

- 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 – add consideration of the 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
- Include new action related to Tosha Falls Management Plan and
- Include new action related to Big Scrub mapping.

9.1 Alstonville Strategic Plan - Finalisation

Council could also determine that certain actions recommended for inclusion within the strategic plan be deleted or additional actions be included.

The recommended approach also includes adoption of the Alstonville Planning and Environmental Study as the background document underpinning the strategic plan. The document recommended for adoption is as per the copy of the study previously provided to Councillors with the July and October 2017 agendas.

2. Deferral

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

Should 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.

Any resolution for deferral should clarify which items require additional information.

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 programming and associated funding of actions to take place.

Other Considerations

If 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, the 2036 North Coast Regional Plan and the presence of State and regionally significant farmland around Alstonville.

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 remains 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.

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, the priority to be assigned to the project and the budget to be applied to the required process.

Council has undertaken an extensive community engagement process in respect to the Alstonville Strategic Plan and it is important that Council provides direction to the community as to what is the strategic planning future for Alstonville.

The recommendations that follow support the adoption of the Study and the Plan.

Point two is worded to allow Councillors to adopt the Plan and still debate any individual matters that may be of contention in the Plan. This process is often followed for the adoption of the Operational Plan where the objective is to have the Plan adopted, and still allow Councillors to debate individual matters within the Plan.

RECOMMENDATIONS

1. That Council adopts the Alstonville Planning and Environmental Study.
2. That Council adopts the Alstonville Strategic Plan 2017 – 2037, as per attachment three, inclusive of any further amendments determined at this meeting.

Attachment(s)

1. Alstonville Strategic Plan - Councillor Briefing Slides - September 2017
2. Alstonville Strategic Plan - Councillor Raised Matters for Consideration
3. Draft Alstonville Strategic Plan (Inclusive of Recommended Amendments)

9.2 Planning Proposal - Skennars Head Village Expansion

9.2 Planning Proposal - Skennars Head Village Expansion

Delivery Program Strategic Planning

Objective To seek Council's endorsement of a draft planning proposal for the Skennars Head Village Expansion Area for Gateway determination and public exhibition.

Background

Council considered a report at its Ordinary Meeting held on 26 October 2017 relating to a planning proposal request for land within the Skennars Head Expansion Area.

With respect to this matter Council resolved as follows [Minute No. 261017/06]:

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 13,000m², subject to the required information being received.*

A planning proposal has been prepared in accordance with the Council's resolution, which is provided as attachment one to this report.

The proponent was invited to provide further information in support of the planning proposal request, with particular regard to the relocation and expansion of the proposed B1 Neighbourhood Centre zone. The proponent provided some information in response (provided as Attachment Two to this report) and advised that further information could be provided post-Gateway determination if required. This matter is addressed further below.

The purpose of this report is to invite the Council's endorsement of the attached planning proposal for Gateway determination and subsequent to public exhibition.

Key Issues

- Strategic land release
- Housing choice
- Neighbourhood commercial development

Information

Details regarding the subject planning proposal request are contained in the report presented to Council's Ordinary Meeting held on 26 October 2017. A summary of the proposal is also contained in the planning proposal document contained in attachment one.

As indicated, and in line with the Council's October resolution, the proponent was invited to provide additional information in support of the planning proposal, with particular regard to justification for the expansion of the proposed neighbourhood commercial area. This information is contained in attachment two to this report.

The additional information provided following the 26 October 2017 Ordinary Meeting is largely based on that provided to Councillors during the proponent's deputation.

It is expected that the proponent will provide additional information post Gateway determination to clarify the extent of commercial impacts of the proposed neighbourhood centre on other nearby commercial centers.

Sustainability Considerations

- **Environment**

There are no significant environment impacts associated with this planning proposal as the changes relate to an area of existing urban zoned land.

- **Social**

Changes to the internal layout of the future subdivision, facilitated by the subject planning proposal, should have positive social outcomes associated with improved housing choice, improved pedestrian safety and the provision of commercial and community facilities to service future residents.

- **Economic**

The expansion and relocation of the proposed neighbourhood centre will have positive economic impacts associated with the increasing opportunities for business and employment. Potential adverse impacts on other commercial centers are to be clarified through the provision of additional economic assessment information post Gateway determination.

Legal / Resource / Financial Implications

There are no significant legal, financial or resource implications for Council associated with the planning proposal. The processing of the planning proposal can be undertaken within the existing resources of Council's Strategic Planning Section.

Given the nature of the amendments proposed, it is recommended that in this circumstance Council seeks delegation of plan making functions from the NSW Department of Planning and Environment to enable Council's processing of the amendment to a point of finalisation.

Consultation

Consultation with Government agencies as required by the Department of Planning and Environment will be undertaken if the planning proposal proceeds beyond Gateway determination.

A public exhibition including community notification of the proposed amendments will be undertaken as part of the processing of the amendment post Gateway determination.

Options

The Council has the following options in relation to the planning proposal:

- proceed with the planning proposal
- amend the planning proposal
- defer the planning proposal or
- cease further action on the planning proposal.

On the basis that the draft planning proposal reflects Council's recent deliberation on this matter, and for the reasons outlined in Council's report on this matter presented at the 26 October 2017 Ordinary meeting, it is recommended that Council proceeds with the planning proposal.

This would involve staff submitting the planning proposal to the Department of Planning and Environment for Gateway determination once the proponent has paid Council's applicable fees.

In the event of an affirmative Gateway determination allowing the proposal to proceed, staff would then undertake the procedural steps to progress the proposal to finalisation including public exhibition. A further report would be submitted to the Council in relation to the completion of the amendments following the public exhibition phase of the process.

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

It is open to the Council to amend the planning proposal, defer the matter for further consideration (this could be via a briefing) or to cease progression of the amendments. Given Council's recent deliberations on this matter, these options are not recommended.

RECOMMENDATIONS

1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 relating to the application of B1 and R3 zones as outlined in the planning proposal (BSCPP 17/010 Skennars Head Expansion Area) contained in Attachment One.
2. That Council submit BSCPP 17/010 Skennars Head Expansion Area to the NSW Department of Planning & Environment for Gateway determination.
3. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. 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, including public exhibition.
5. That the planning proposal be reported to the Council for further consideration following the completion of the public exhibition of the proposed LEP amendments.

Attachment(s)

1. Skennars Head Planning Proposal (Council version)
2. Additional information submitted by proponent.

9.3 Planning Proposal - 17 Bath Street Wardell

9.3 Planning Proposal - 17 Bath Street Wardell

Delivery Program Strategic Planning

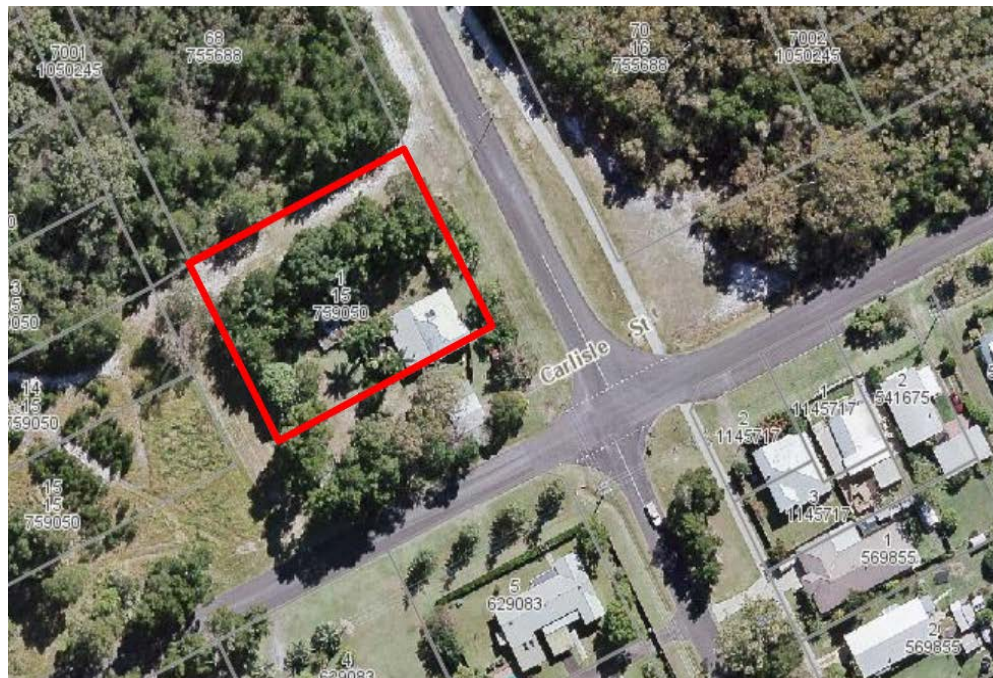
Objective To inform the Council of the outcomes of the public exhibition of Planning Proposal 17/006 - No.17 Bath Street Wardell and to seek direction on the finalisation of this LEP amendment.

Background

The Council, at its Ordinary Meeting held on 25 January 2017, considered a report on an LEP amendment request relating to 17 Bath Street, Wardell. The land is described as Lot 1, Section 15, DP 759050 and is 2023m² in area.

Diagram One is an aerial photo extract which shows the location of the subject land.

Diagram One – Aerial Photo Extract – 17 Bath Street Wardell



The application proposed to rezone this land from RU2 Rural Landscape zone to R2 Low Density Residential zone, apply a 600m² minimum lot size requirement, delete the Strategic Urban Growth Area (SUGA) affectation which applies to the land and amend associated SUGA buffer areas, under the provisions of Ballina Local Environmental Plan 2012 (Ballina LEP 2012).

The Council resolved [Minute No. 250117/15] as follows:

1. That Council endorses the preparation of a planning proposal which proposes to rezone Lot 1, Section 15, DP 759050, 17 Bath Street Wardell to R2 Low Density Residential as outlined in this report.
2. That the planning proposal, once prepared, be forwarded to the Department of Planning and Environment for a Gateway determination.

9.3 Planning Proposal - 17 Bath Street Wardell

3. That subject to a Gateway determination allowing the proposal to proceed to community consultation being issued, and adequate studies in support of the planning proposal being prepared, the procedural steps associated with progression of the planning proposal including public exhibition be undertaken.
4. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

In accordance with Council's resolution, the planning proposal has been prepared and following Gateway determination was publicly exhibited. This report further considers the merits of the planning proposal following consultation and public exhibition and seeks direction on the finalisation of the matter.

Key Issues

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

Information

The planning proposal was referred to the Department of Planning and Environment for a Gateway determination on 11 August 2017. The referral of the planning proposal for a Gateway determination was initially delayed pending the proponent undertaking various site assessments and paying the required Stage 2 application fees.

A Gateway determination allowing the planning proposal to proceed to public exhibition was issued on 30 August 2017. The Gateway determination required consultation with the NSW Rural Fire Service (RFS), NSW Office of Environment and Heritage (OEH), and the Jali Local Aboriginal Land Council (Jali LALC).

In addition to the above, the agreement of the Department's Secretary was required in respect to compliance with Section 117 Direction 4.4 *Planning for Bushfire Protection*. The Secretary's agreement was obtained on 29 November 2017.

The Gateway determination required the proponent to prepare the following studies:

- Heritage Assessment
- Bushfire Threat Assessment and
- Site Contamination Assessment.

In addition to the above studies the proponent has also submitted a Flora and Fauna Assessment and a detailed site survey plan.

9.3 Planning Proposal - 17 Bath Street Wardell

An extract from the site survey plan for Lot 1, Section 15, DP 759050, No. 17 Bath Street, Wardell (Lot 1), prepared by Ardill Payne & Associates, appears below:

Diagram Two - Site Survey Plan Extract



The above studies and survey plan were placed on public exhibition concurrently with the planning proposal.

The submitted studies have been assessed by Council staff and relevant Government authorities.

No issues have been identified which prevent the proposed LEP amendment being finalised or that trigger a requirement for additional information in association with the planning proposal.

It is noted that the heritage assessment of the existing timber inter-war period dwelling house located on Lot 1 (Photo One), prepared by Everick Heritage Consultants, indicates that this dwelling house does not meet the various criteria for local heritage significance when assessed in accordance with the NSW Office of Heritage requirements.

Further, the existing dwelling house was not previously nominated as having heritage value in the Wardell Community Based Heritage Study (2004).

Therefore, having regard to completed heritage assessments, there is no basis upon which the existing dwelling house on Lot 1 should be considered for listing as an Item of Environmental Heritage in Ballina LEP 2012.

Photo One – Dwelling House Located on Lot 1



Sustainability Considerations

- **Environment**
Ecological issues have been investigated in a Flora and Fauna Assessment report prepared by Environmental Assessments and Solutions Pty Ltd. The report found the site suitable for the proposed development. This conclusion was mainly based on the consultant's view that due to historical impacts the rezoning site is of limited ecological value.
- **Social**
There are no significant social impacts anticipated as consequence of this LEP amendment request.
- **Economic**
There are no significant economic impacts anticipated as consequence of this LEP amendment request.

Legal / Resource / Financial Implications

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

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act 1979*.

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 Government agency consultation and the lack of public submissions, it is considered that Council should now process the planning proposal to finalisation under delegated authority.

Consultation

The planning proposal was publically exhibited from 18 October 2017 until 17 November 2017. Notification included an advertisement in the Ballina Shire Advocate, letters to 35 adjoining and nearby property owners, and the planning proposal being displayed on Council’s web site, at the Customer Service Centre and at our shire libraries.

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

In response to the exhibition no public submissions were received.

Consultation was undertaken with the NSW Rural Fire Service (RFS), the NSW Office of Environment and Heritage (OEH) and the Jali Local Aboriginal Land Council (Jali LALC) as required by the Gateway determination.

In addition, the NSW Department of Industry – Crown Lands & Water Division (Crown Lands) were requested to provide specific advice in respect to a Bushfire Asset Protection Zone (APZ) located adjoining the northern boundary of Lot 1 on Crown land.

Copies of all submissions received in response to the Government agency consultation are contained within Attachment Two. The Jali LALC has not made a submission to this planning proposal.

Table One provides a summary of the issues raised in submissions, as well as planning staff comments.

Table One: Submissions Summary Planning Proposal BSCPP 17/006 – 17 Bath Street Wardell

Name	Issues Raised	Staff Comments
1. NSW Rural Fire Service (RFS)	Note that the planning proposal will apply to mapped bush fire prone land. Indicate that the NSW RFS has no objection to the planning proposal proceeding, provided that future residential subdivision development proposals comply with the specifications and requirements of <i>Planning for Bush Fire Protection 2006</i> . In addition it was advised that prior to referral of any future subdivision development application Council will need to provide comments from Crown Lands on future land management practices on adjoining land to the north, east and west of the subject land.	Compliance with the requirements of <i>Planning for Bush Fire Protection 2006</i> is a mandatory part of the development assessment process (S79BA EP&A Act) if the development is proposed on bush fire prone land. The RFS was provided with advice from Crown Lands (see comments in 2 below) as part of the Council’s consultation submission. The RFS response indicates that further consultation with Crown Lands will be required at the subdivision development application stage.

9.3 Planning Proposal - 17 Bath Street Wardell

Name	Issues Raised	Staff Comments
<p>2. NSW Department of Industry – Crown Lands & Water Division (Crown Lands)</p>	<p>Advise that the adjoining asset protection zone (APZ) is currently being maintained as part of the Department's annual bushfire works program.</p> <p>Indicate that the maintenance of this APZ is at the Department's discretion and cannot be guaranteed in perpetuity.</p> <p>Indicate that the Department's position is that adjoining landowners should ensure that proposed developments are designed and sited with appropriate setbacks and firebreaks within their own freehold boundaries to ensure no impact on Crown lands.</p>	<p>The Bush Fire Risk Management Plan for Ballina Shire indicates that Crown land immediately adjoining the northern and western boundaries of 17 Bath Street is subject to a Bushfire APZ. Crown Lands has been maintaining the APZ as land managers under the provisions of the Rural Fires Act 1997. The Crown Lands submission indicates that this APZ cannot be relied upon in perpetuity.</p> <p>Whilst further consideration of bushfire issues will be required at the subdivision DA stage, it is noted that the adjoining land to the north (Lot 68) of the subject land is presently predominantly zoned Residential 2(b) Village Area under the provisions of Ballina LEP 1987 (i.e. the land is a deferred matter under the Ballina LEP 2012) whereas the land immediately to the west is zoned R2 Low Density Residential under the provisions of Ballina LEP 2012.</p> <p>Lot 68 is also subject to an unresolved Aboriginal Land Claim.</p> <p>One consequence of the bushfire constraints impacting 17 Bath Street is that future lot yields may be reduced. The RFS has indicated, in correspondence to the proponent, that future lot yields may be impacted (2 lots instead of 3) unless it can be demonstrated that common residential activities can take place on proposed lots without impacting on the integrity of the APZ for each proposed lot.</p> <p>The issues discussed above will require additional investigation and negotiation between the RFS, Crown Lands and the proponents at the DA subdivision stage. These issues do not require resolution at the planning proposal stage as they are not considered to pose an impediment to the land being zoned for residential purposes.</p>

9.3 Planning Proposal - 17 Bath Street Wardell

Name	Issues Raised	Staff Comments
NSW Office of Environment and Heritage	<p>Advise that it has reviewed the documents provided and indicate that it does not have any issues with the planning proposal.</p> <p>Note that consultation with the Jali LALC will inform the Aboriginal cultural heritage assessment for this site.</p>	<p>As previously indicated, the Jali LALC has not provided a response for consideration by Council.</p> <p>The report previously considered by the Council at its Ordinary Meeting on 25 January 2017 indicated that a search of the OEH AHIMS Register has found that there are no Aboriginal sites or places recorded within 50 metres of Lot 1. Given the relatively small land area occupied by 17 Bath Street (2023m²), the results of the AHIMS search, and the lack of a submission from the Jali LALC, further examination of Aboriginal cultural heritage issues as part of the planning proposal is not considered to be warranted.</p>

Options

Option 1: Finalise the Planning Proposal

This is the recommended option.

Finalisation of the planning proposal would include preparing detailed maps to affect the zoning, minimum lot size and strategic urban growth area changes proposed in the planning proposal documentation (as contained in Attachment One). The planning proposal would also be updated to incorporate the outcomes of the public exhibition and agency consultation undertaken.

The LEP amendment may create the potential for the subject land to be subdivided into two or three residential lots depending on the proponent's ability to resolve bushfire concerns raised by the NSW Rural Fire Service. In the main these concerns relate to whether bush fire asset protection zones are located within the rezoning (future development) site or remain on Crown land as they currently exist. The resolution of these concerns is a matter for a future development (subdivision) application.

The exhibition and consultation processes have not identified issues that suggest that the planning proposal does not have sufficient merit to now be finalised.

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

Option 2: Discontinue the Planning Proposal

The option to discontinue the proposal is open to Council.

If the Council considers that support for this planning proposal may result in significant adverse outcomes, or if issues raised by Government authorities cannot be reasonably resolved, then the merits associated with finalising the planning proposal should be carefully considered.

9.3 Planning Proposal - 17 Bath Street Wardell

On balance, having particular regard for the comments of the NSW Rural Fire Service and its non-objection to the planning proposal, finalisation of the planning proposal as outlined in Option 1 is considered appropriate.

Option 3: Defer the Planning Proposal

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

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

RECOMMENDATIONS

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to rezone Lot 1, Section 15, DP 759050 (Lot 1), No. 17 Bath Street, Wardell, from RU2 Rural Landscape zone to R2 Low Density Residential zone, apply a minimum 600m² minimum lot size to Lot 1, delete the Strategic Urban Growth Area (SUGA) affectation from Lot 1, and amend associated SUGA buffers on nearby land as detailed in Planning Proposal BSCPP 17/006.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 17/006 under delegated authority.

Attachment(s)

1. Planning Proposal BSCPP 17/006 (Public Exhibition version) (Under separate cover)
2. Government Agency Submissions BSCPP 17/006

9.4 Ocean Breeze Reserve - Master Plan

9.4 Ocean Breeze Reserve - Master Plan

Delivery Program Strategic Planning

Objective To report on the community feedback relating to the public exhibition of the draft Ocean Breeze Reserve Master Plan and seek direction on the finalisation of a master plan for the reserve.

Background

At 28 July 2016 Ordinary meeting, Council resolved to prepare a draft plan of management for Ocean Breeze Reserve in Lennox Head [Minute No.280716/4].

1. *That Council defer consideration of the cycle track and community garden proposals until the plan of management is prepared and considered.*
2. *That Council authorises the General Manager to prepare a draft plan of management for Ocean Breeze Reserve, with that draft plan to be reported back to Council prior to exhibition. The costs of this plan are to be funded from the Open Spaces and Reserves operations budget.*

This decision originated from a notice of motion that was put forward to the September 2015 Ordinary Council meeting to investigate site options for a BMX facility in Lennox Head and a following decision of Council in November 2015 to seek feedback from adjoining land holders as to the suitability of Ocean Breeze Reserve for a children's BMX track.

Figure 1: Ocean Breeze Reserve Master Plan Study Area



9.4 Ocean Breeze Reserve - Master Plan

The Ocean Breeze Reserve Master Plan provides a framework for provision of facilities within the reserve and use of the land.

Once complete the Ocean Breeze Reserve Master Plan will be incorporated into Council's Plan of Management for Community Land (the relationship with the Plan of Management for Community Land is discussed further below).

The Draft Ocean Breeze Reserve Master Plan document containing three concept plans for the reserve was reported to the Ordinary Meeting held on 27 July 2017 where Council resolved [Minute No. 270717/12]:

1. *That Council endorses the draft Ocean Breeze Reserve Master Plan for public exhibition for a minimum period of 28 days.*
2. *That Council concurrently exhibits a proposed amendment to the Ballina Shire Plan of Management for Community Land to insert a special provision recognising the outcomes of the master planning process for Ocean Breeze Reserve.*
3. *That Council receives a further report concerning the draft master plan and Plan of Management for Community Land amendment following the conclusion of the public exhibition period.*

The draft Ocean Breeze Reserve Master Plan and associated amendment to the Ballina Shire Plan of Management for Community Land was exhibited from 15 August until 2 October 2017.

The purpose of this report is to provide information on the feedback received during the public exhibition period, present the adjustments that have been made to the draft master plan as a result of the community feedback received and seek Council's direction regarding the finalisation of the master plan.

Key Issues

- Community engagement and public exhibition
- Mixture of facilities and use

Information

Ocean Breeze Reserve Master Plan

The preparation of a master plan to guide the use and provision of facilities in the Ocean Breeze Reserve advances the following outcomes identified under the Ballina Shire Community Strategic Plan (2013-2023):

Connected Community:	There are services, facilities and transport options that suit our needs
Healthy Environment:	We use our resources wisely
Engaged Leadership:	Our Council works with the community

Preparation of the master plan is also an action within Council's adopted 2017/18 Delivery Program and Operational Plan (Action No. HE3.1m).

9.4 Ocean Breeze Reserve - Master Plan

The master planning considers previous community feedback regarding proposals for a BMX track and community garden at the site, as well as the outcomes of the master plan specific engagement to ensure the preparation of the plan for the reserve is responsive to the community's vision for the site.

Details regarding the community engagement undertaken are provided in the Consultation section of this report.

The primary purpose of the Ocean Breeze Reserve Master Plan project is to prepare a master plan that guides the future provision of facilities and infrastructure in, as well as use of, the Ocean Breeze Reserve.

The specific project objectives are:

- to identify the Reserve's values and assess their significance
- to engage with stakeholders in relation to the attributes of the Reserve, and its existing and potential future use
- to identify options, challenges and opportunities for the potential future use of the Reserve that protect its values and utilise the opportunities presented by the Reserve and
- to illustrate the preferred future use of the Reserve in a master plan supported by a rationale report and initial estimated costings for the implementation of the master plan.

The background research, previous community feedback and the outcomes of master plan community engagement phases one and two identified a range of priorities with respect to the preferred future use of the reserve.

This directly informed the three concept options presented in the draft Ocean Breeze Reserve Master Plan.

The three publicly exhibited concepts are contained in the Ocean Breeze Reserve Master Plan Background Material contained in attachment one. A summary of the three concepts placed on exhibition is provided below.

- Concept 1
Provided a moderate range of facilities that included walking/cycling paths, passive open space, play equipment, picnic facilities including BBQs, a toilet and exercise stations that provide for a variety of age and abilities.
This concept sought to achieve a balance between retaining the existing characteristics valued by some members of the community (vegetation, serenity and open space) with additional facilities.
- Concept 2
Provided a broader range of the preferred facilities building on those in Concept 1 to include a community garden, a fenced off-leash dog exercise area, a half basketball court, toilets and more pathways.
The intention of this concept was to provide a variety of facilities across the reserve to include both active and passive zones and incorporates all of the facilities identified as desirable by the community.

9.4 Ocean Breeze Reserve - Master Plan

- Concept 3

Limited the number of facilities provide to a pathway, minimal seating and a picnic table and focuses on maximising green open space.

The public exhibition of the draft document and concept plans was accompanied by a feedback survey. This survey sought specific feedback regarding:

- The preferred elements for Ocean Breeze Reserve from those listed in the draft master plan (i.e. vegetation plantings, community garden, public toilet, cycling/ walking pathways, play area etc.).
- The overall preferred draft concept option for Ocean Breeze Reserve (Concept Option 1, Concept Option 2 or Concept Option 3).
- In considering the preferred draft concept, feedback was also sought regarding the element that could be added to or removed from a preferred concept.

Council received 132 survey responses and two written submissions in response to the public exhibition of the Ocean Breeze Reserve concept options. A copy of the survey and results are contained in the Ocean Breeze Reserve Master Plan Background Material contained in attachment one.

The five elements identified as most desirable from all elements proposed across the three concepts were (from most popular):

- A community garden
- A public toilet
- Nature based play area
- Large shelter for gatherings and
- Vegetation management and plantings.

The community garden was identified by 80.77% of participants as one of their four most desired elements.

Option 2 was identified as the most preferred concept option for Ocean Breeze Reserve with 73.48% of participants indicating their preference for this option.

Following the public exhibition period, the survey and submissions received were reviewed relative to the three concept options. Based on the survey results, there were clear trends in the community response to the concept options that established a direction forward for refining the master plan to include:

- Allocating space for a staged community garden
- The provision of a public toilet
- Nature based play elements rather than traditional, 'off the shelf' play equipment
- A large shelter for gatherings including supporting infrastructure such as seating and picnic facilities
- Retaining open grassed areas for informal play and green space

9.4 Ocean Breeze Reserve - Master Plan

- A restrained approach to concrete paths
- Considered vegetation management and planting
- A considered approach to the placement of concept elements in relation to the Reserve's neighbouring residents.

These elements were used as the basis for the preparation of a fourth option that refines a concept plan based on the community feedback during the public exhibition process.

This concept plan along with cross section diagrams, rationale report, anticipated costings and proposed staging forms the Ocean Breeze Reserve Master Plan provided in attachment two.

This master plan is intended to be representative of the primary trends and feedback provided to Council during the project community engagement phases.

Key elements of the master plan (as revised and contained in attachment two) are outlined below. When considering these elements, it is important to consider the costings and financial circumstances of Council which are outlined in further detail in the Legal/resource and Financial Implications section of this report.

Hutley Drive Extension

The master plan reflects and integrates future planning for the Hutley Drive extension including the requirements for a stormwater detention area.

Future drainage for the Hutley Drive extension will require a detention area for stormwater management and the required area has been sited on the lowest part of the reserve.

The master plan suggests that as part of the planning for the Hutley Drive extension, consideration be given to on street parking and a 2.5m concrete path along the northern side of Hutley Drive.

It is proposed that Stage One of the master plan be timed to coincide with the Hutley Drive extension works.

Once complete the footpath and parking provided as part of the Hutley Drive extension works will allow easier access from parking to the planned southern entry to the reserve.

Connections

The master plan formalises existing walking routes through the reserve including from Ocean Breeze Drive to Hutley Drive and the existing end of Hutley Drive up to North Coast Road.

The central path through the Reserve would be a 1.5m wide concrete path and is proposed as part of Stage Two works. Later additional paths would be included as part of the play area construction and increasing the recreational value of the storm water detention area.

Vegetation

The master plan recommends the removal of some existing trees due to their proximity to services, being an inappropriate species or to enhance particular functions of the reserve.

It is proposed the understorey to the retained trees be trimmed and in some cases removed to reduce the potential for mosquito breeding and to enable greater use of these areas.

It is proposed that vegetation along the northern entry of the reserve be removed to increase visibility and awareness of the access to the reserve from Ocean Breeze Drive.

New shrubs along the boundaries could provide a screen for neighbouring properties and shade trees sited along the path will add to the amenity of the reserve entry. New planting would incorporate indigenous tree, shrub and groundcover planting. The intention is to maintain views across the park, to provide shade and to create an attractive setting.

Much of this work would be completed in Stage Two with additional tree planting proposed in conjunction with the play area and storm water detention basin beautification.

Facilities

The master plan reflects community feedback regarding desired facilities within the reserve.

Facilities and active spaces have been located in visible areas away from drainage areas and close to the centre of the reserve rather than immediately adjacent to adjoining residential land uses.

Facilities have been located with a focus on being visible from Hutley Drive whilst being a suitable distance from this future busy road.

The master plan retains areas of open space at the detention basin and between the nature play area and Hutley Drive. This will retain opportunities for informal play.

A community garden is located in the northeast of the site and could be fenced or unfenced. There would be no on-site parking within the reserve for the garden. Parking for the garden is envisaged along Hutley Drive.

However, a restricted access could be provided to facilitate garden deliveries such as soil and mulch. This access could utilise reinforced turf cells and, when not in use, would act as part of the reserve's open grassed space.

Although the community garden is proposed as Stage Three in the plan it could be possible for a community garden group to commence work earlier than this once a tenure agreement to occupy community land is in place.

9.4 Ocean Breeze Reserve - Master Plan

The preparation of the agreement would be based on a suitable proposal being put forward by a community garden group and adequate temporary access arrangements being in place (until the Hutley Drive North extension is completed).

The reserve would provide for both active and passive recreation and is to provide for all age groups and abilities.

The master plan provides a children's play area with a focus on nature based play elements that could include a dry creek bed, boulders, timber balance beams, grassed mounds with a slide, a timber swing, balance logs and timber steppers and be integrated with tree planting and gardens.

If implemented this would be the first nature based playground in the shire.

The master plan provides a large shelter with picnic facilities for group gatherings. Supporting infrastructure in the reserve would include a bike parking rack, water bubbler/tap, bins and seats.

The master plan provides for a public toilet in a visible and accessible location that would be constructed once the majority of the other master plan elements have been completed.

Character

The master plan seeks to achieve a balance between retaining those characteristics identified by some community members as popular (e.g. vegetation, serenity and open space) with additional facilities.

The intention is that these other facilities would retain a 'green' and 'natural' appearance and that the play area for example would incorporate natural materials such as timber, stone and vegetation.

There is the potential for small scale art works to be incorporated in the design of the reserve and these designs could reflect natural elements such a local bird life or flora. Art works could be incorporated in furniture elements or could be as subtle as cast elements sited on boulders in garden areas. All new infrastructure would be visually 'softened' with indigenous gardens.

Maintenance

A designed detention area will assist in managing stormwater runoff in and surrounding the reserve.

Mulching the retained trees will assist in easier mowing of the reserve. Species selection should focus on using reliable indigenous species.

Tree planting, the layout of gardens and the set out of infrastructure should be designed to ensure easy mowing of the reserve.

Materials need to be robust and infrastructure must be designed/selected to minimise the potential for vandalism.

9.4 Ocean Breeze Reserve - Master Plan

Ballina Shire Plan of Management for Community Land

Once finalised the Ocean Breeze Reserve Master Plan will be incorporated into the Ballina Shire Council's Plan of Management for Community Land.

The Ocean Breeze Reserve is currently subject to Council's plan of management for community land (2015). The plan sets an overarching framework for the management of community land.

Under the plan, the land is categorised as General Community Use.

The core objectives for management of such land are to promote, encourage and provide for the use of the land, and provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
- b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

A draft amendment to the Plan of Management for Community Land to include the following special provision relating to the Ocean Breeze Reserve Master Plan was placed on public exhibition with the reserve improvement concept designs.

Land Number & Name	3102601 Ocean Breeze Reserve
Property Address	Ocean Breeze Drive, Lennox Head
Property Description	Lot 31 DP 787876
Categorisation	General Community Use
Improvements	N/A
History	Dedicated to Council as part of subdivision in 1989
Condition of land, buildings or other improvements	Good
Authorised occupation	Occupation and use of land by incorporated body as appointment by Council
Authorised uses	Use of land for recreational activities and other related uses consistent with a Council endorsed master plan for the land. Small scale improvements to the land permitted subject to development consent requirements

No submissions were received in relation to the draft amendment to the Plan of Management for Community Land during the public exhibition.

To reflect the outcomes of the master plan, it is recommended that the Plan of Management for Community Land is amended to insert the above special provision relating to Ocean Breeze Reserve.

The proposed amendment to the plan of management is general in its nature so that it is able to encompass the final master plan in the form preferred by Council.

Sustainability Considerations

- **Environment**

The draft concept option includes retention and planting of native vegetation.

The stormwater retention basin ensures that stormwater runoff associated with the extension of Hutley Drive is treated to an appropriate level before entering the adjoining wetland area.

- **Social**

The embellishment of open space and provision of park facilities in this location is anticipated to provide significant social benefits to the Lennox Head community.

The nature of facilities proposed ensure that the social benefits derived from a well designed and constructed park are available to a broad demographic group from the very young, to families and our older residents.

- **Economic**

The construction phase is considered to have positive economic consequences for the shire.

Legal / Resource / Financial Implications

Should the Council resolve to progress the master plan to implementation, funding is required to complete the actions.

Presently, no funding for any upgrade works at Ocean Breeze reserve is identified in the long term financial plan (LTFP).

A summary of the expected costs relative to a five year implementation period is shown in Table One.

This estimation of costs excludes the cost of the grassed detention basin, the on-street parking and the concrete path on the northern side of Hutley Drive. It is assumed these works would be part of the works associated with the extension of Hutley Drive North.

It is also expected that costs involved with the development of a community garden on this site will be met by a community garden group. As such these have not been included in the costings below.

Table One is based on reserve embellishment works starting once the Hutley Drive North extension works commence.

9.4 Ocean Breeze Reserve - Master Plan

There is no timeframe presently confirmed for the Hutley Drive North extension, but for the purpose of projecting costs in this report, it is assumed the Hutley Drive works would occur in the 2018/19 financial year.

Table One: Ocean Breeze Reserve Master Plan – Component Costs by Year

RESERVE COMPONENTS	YEAR 1 18/19	YEAR 2 19/20	YEAR 3 20/21	YEAR 4 21/22	YEAR 5 22/23	RECURRENT BEYOND Y5
Stage 1						
On street parking	Part of Hutley Drive extension works					
Concrete path on northern side of Hutley Drive						
Grassed storm water detention area						
Stage 2						
Site establishment for construction site		1,500				
Tree removal and under pruning of retained trees		6,000				
Planting and mulching of trees		6,000				
Central concrete path (1.5m)		22,000				
Stage 3						
Preparation of license to occupy Community Land	Staging and components indicative only. Dependent on proposal put forward by a community garden group and conditions of a tenure agreement. Costs of these works to be met by the community garden group.					
Access to community garden						
Raised vegetable gardens, community orchard, deco paths, storage shed and compost areas, fence						
Stage 4 (a)						
Timber swing			8,000			
Nature based play area			30,000			
Grassed mound with slide			35,000			
Mulch soft fall to swing and slide base			5,000			
Subsoil drainage to playground			5,000			
Decomposed granite path			7,000			
Edging			8,000			
Park signage			2,400			
Stage 4 (b)						
New tree planting, gardens and turf				25,000		
Large shade shelter with picnic facilities				27,000		
Park furniture (picnic table, seats, bins, bubbler and bike rack)				28,500		
Stage 5						
Toilet block and ongoing maintenance					120,000	15,000
Exposed aggregate path 1.2 m					26,000	
Tree planting to stormwater detention area					1,000	
Sub total		35,500	100,400	80,500	147,000	
Total ≈	36, 400					

9.4 Ocean Breeze Reserve - Master Plan

It has been assumed under the above approach that a public toilet would be in place by year five, with maintenance costs estimated to be around \$15 000 per year.

In summary, to fully implement the master plan, the actions require \$363 400 in funding. From the fifth year onwards, a recurrent budget of \$15 000 is required to service the onsite amenities.

As indicated these costs are not currently accounted for in the LTFP.

On review of existing budgets, it is reasonable to fund the proposed Stage Two works from existing operating and capital budgets applied to Open Space and Reserves and Engineering Works (for the pathway component). Although this is possible, it is also important to recognise that there may be other priorities on which the Open Space and Reserves operating budget is spent in any given year.

If this approach is adopted, Council could expect to achieve the works for Stages One, Two and Three on the basis that Stage One would be funded in association with the Hutley Drive North extension and Council would not contribute funding to the community garden.

However, it is considered that the completion of the remaining stages is not affordable at this time when having regard for Council's current financial position. That is, there is no readily available source of funding for the later stage works and if the funds are sourced from existing programs this would require significant alteration to current work plans.

For example, the Stage Four expenditure essentially redirects the entire funding stream for playground replacement for the two years this stage crosses over. This would mean that existing planned playground replacements based on factors such as equipment age, need, equipment type and safety and risk factors.

With respect to the construction of a new public toilet on the reserve, this would require deferral of programmed upgrade works for existing amenities in Moon Street and subsequently other existing facilities in Alstonville, Ballina and Lennox Head. A new amenities facility in Ocean Breeze Reserve is not considered to be a priority relative to the upgrade of existing facilities elsewhere in the shire.

If Council is now going to adopt this plan it should be confirming the funding that is to be applied and including that funding in the LTFP.

Based on an approach to complete Stages One, Two and Three of the master plan, the funding strategy summarized below and set out in Table Two, as follows, is recommended:

Stage One: Funded in association with Hutley Drive North upgrade works (note the road upgrade works are not yet budgeted within Council's LTFP).

9.4 Ocean Breeze Reserve - Master Plan

Stage Two: \$35 500 funded from existing Open Space and Reserves operating budget and savings in Open Space and Reserves and Engineering Works Capital budgets (where there are insufficient savings, the planned pathway works would be delayed to a later financial year).

Stage Three: No direct Council funding applied.

With respect to the staging, it is possible for the first three stages to occur in any order. Therefore, if the community is able to advance the community garden, this could occur in advance of the first two stages.

Likewise, if Council has suitable savings within existing programs available, stage two works could be commenced earlier than the 19/20 year.

Table Two: Ocean Breeze Reserve Master Plan – Recommended Funding

STAGE	YEAR 1 2018/19	YEAR 2 2019/20	YEAR 3 2020/21
<i>Stage 1</i>	<i>TBC</i>		
Funded as part of Hutley Drive North Upgrade (not yet budgeted in LTFP)	(TBC)		
<i>Stage 2</i>		<i>(35,500)</i>	
Funded from Open Space and Reserves operating budget		(13,500)	
Funded from savings in Open Space and Reserves and Engineering Works capital budgets		(22,000)	
<i>Stage 3</i>			<i>(0)</i>
No direct funding from Council			(0)

There are arguably higher priorities for expenditure of Council's scarce resources than some of the projects listed in this Table, however if the master plan is to be adopted as per the contents of this report, the financial summary ensures that initial reserve improvements identified in the plan (i.e. Stages One and Two) can be implemented and allows for a community garden to proceed.

Although funding is not identified for the later stages of the master plan, it is recommended that the master plan be adopted in full to reflect the outcomes of the community engagement undertaken.

In doing this though, it is also recommended that the master plan be amended to include text to explain the adopted funding strategy. This would mean identifying that Stages Four and Five will not proceed unless an alternative funding source is identified in the future. This might be a grant, or revenue received as a result of consolidation of open space assets.

This approach is recommended to enable completion of a plan that reflects the feedback provided by the community whilst also being mindful of the financial realities of funding a new project of this type where the identified works are not currently incorporated into the LTFP.

This approach also establishes a long term framework for the future of the reserve that can be actioned if Council's financial position improves.

Consultation

This master planning process included consideration of proposals for a BMX track and community garden that have previously been put forward for the reserve, as well as the completion of specific community engagement for the master planning process.

The first phase of this community consultation was conducted before the preparation of concept options for the reserve. This phase included consultation with stakeholder groups and with the broader community. This included a number of face to face meetings with community members or groups who had provided submissions regarding the previous proposals for the Ocean Breeze Reserve.

Phase 2 consisted of consultation with the broader community through an on-line survey. Council raised awareness of the survey through letter box drops to residences in the proximity of the reserve and via printed and electronic media outlets. The survey was available for completion online at Council's web site for a period of one month. The survey received 150 responses.

A Councillor Briefing was held on 6 June 2017 to discuss the draft Ocean Breeze Master Plan and three draft concept designs prior to it being placed on public exhibition.

Phase 3 of the community engagement involved the public exhibition of the draft Ocean Breeze Reserve Master Plan including three different concept designs based on the community feedback received through Phase 2. The draft plan was also accompanied by an on-line feedback survey.

The material was on public exhibition from 15 August – 2 October 2017 and was available at the Lennox Head Library or on-line at Council's website. 132 survey responses and two written submissions were received over this period.

The Ocean Breeze Reserve Master Plan and associated background material (attachments one and two) include summary information on the community engagement outcomes.

In addition to the master planning undertaken, a draft amendment to the Ballina Shire Plan of Management for Community Land was placed on public exhibition from 15 August – 2 October 2017. Information on the amendment was available at the Lennox Head Library and online at Council's website. No submissions or other feedback was received on the draft amendment to the Ballina Shire Plan of Management for Community Land over this time.

Options

1. That the Council does not adopt the Ocean Breeze Reserve Master Plan and cease further action on the project.

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

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

9.4 Ocean Breeze Reserve - Master 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 and the extent of community engagement undertaken to date, this option is not recommended.

3. That the Council adopt the master plan.

The Council can adopt the draft Ocean Breeze Master Plan as set out in Attachment Two, or with changes. In this regard, Council may wish to adopt the plan in Attachment Two in its entirety to set a long term direction for the reserve, or adjust the plan to reflect the available funding for implementation (i.e. remove Stages Four and Five). Council may also make other amendments as considered appropriate.

To reflect the outcomes of the master plan, this approach also involves amending the Plan of Management for Community Land to insert the special provision relating to Ocean Breeze Reserve as follows:

Land Number & Name	3102601 Ocean Breeze Reserve
Property Address	Ocean Breeze Drive, Lennox Head
Property Description	Lot 31 DP 787876
Categorisation	General Community Use
Improvements	N/A
History	Dedicated to Council as part of subdivision in 1989
Condition of land, buildings or other improvements	Good
Authorised occupation	Occupation and use of land by incorporated body as appointment by Council
Authorised uses	Use of land for recreational activities and other related uses consistent with a Council endorsed master plan for the land. Small scale improvements to the land permitted subject to development consent requirements

Adoption of the Ocean Breeze Master Plan as contained in attachment two and the amendment to the Plan of Management for Community Land is recommended.

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. The LTFP and works programs will also be updated to reflect the works and financial arrangements set out in tables 1 and 2.

RECOMMENDATIONS

1. That Council adopts the Ocean Breeze Reserve Master Plan as per attachment two to this report.
2. That Council amends the Plan of Management for Community Land to include a special provision relating to Ocean Breeze Reserve as exhibited.
3. That Council's Long Term Financial Plan be amended to reflect the Financial Plan for the implementation of this Master Plan, as per Table Two of this report.

Attachment(s)

1. Ocean Breeze Reserve Master Plan - Background Material (Under separate cover)
2. Ocean Breeze Reserve Master Plan

9.5 Economic Development - Roadside Stalls Policy

9.5 Economic Development - Roadside Stalls Policy

Delivery Program Strategic Planning

Objective To outline the Council's current planning policy relating to roadside stalls and seek direction regarding potential changes to the policy.

Background

Council considered its approach to roadside stalls at the Ordinary Meeting held 27 October 2016 and resolved as follows:

1. *That Council receive a report on options and case studies of how councils have allowed safe roadside street stalls to operate to provide benefits such as the sale of local produce, less miles travelled for the distribution of produce and an enhanced social fabric.*
2. *That this proposal be considered as part of the preparation of Council's Economic Development Strategy.*

This matter has been considered, at a broad policy level, in the context of the draft Economic Development Strategy which was presented to Council at the October 2017 Ordinary meeting.

The draft strategy includes an action to facilitate low scale commercial activities in rural areas such as roadside stalls and rural food tourist activities through changes to the land use planning regime (item C6).

Having regard for the content of the draft Economic Development Strategy, this report seeks to action point one of the Council's October 2016 resolution.

Key Issues

- Rural activity
- Regional food tourism
- Road safety

Information

Existing requirements for roadside stalls

Roadside stalls are defined as follows under the terms of the Ballina Local Environmental Plan 2012:

***roadside stall** means a place or temporary structure used for the retail sale of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.*

Clause 5.4 of the LEP requires that the gross floor area of roadside stalls not exceed eight square metres.

9.5 Economic Development - Roadside Stalls Policy

Under Council's current LEP, roadside stalls are permitted, with consent, on land zoned RU1 Primary Production and RU2 Rural Landscape, meaning a development application is required to be lodged, assessed and determined.

Chapter 7 (Rural Living and Activity) of the Ballina Development Control Plan (DCP) 2012 requires that:

Roadside stalls must be erected within the property boundary with no part of the roadside stall, other than access, to be located in the road or road reserve.

Chapter 2 of the Ballina DCP 2012 requires the provision of four car parking spaces per roadside stall (located on private land).

A key rationale for the current planning requirements in the assessment of roadside stall applications is road safety, with the need for safe sight distances (in both directions) and access being a basic requirement for approval.

In summary, the existing planning provisions require that roadside stalls be located entirely on private land, be limited in area to eight square metres and that four car parking spaces be provided on site. Additionally, engineering requirements may also require the property access to be upgraded, depending on the circumstances. These provisions seek to support road safety within the public road network.

Currently, Council receives very few applications for roadside stalls. Possible reasons include:

- Scarcity of safe roadside stall locations (having regard to sight distances and access)
- Low return on investment for landholders from selling produce at a roadside stall considering the costs associated with compliance with Council's standards and requirements (and payment of DA fee) and
- Low level of compliance activity by Council resulting in illegal operation of roadside stalls.

There may be circumstances where road conditions are suitable for access to be provided within the road reserve (with the stall located on adjacent private land), making Council's current requirements onerous under the circumstances.

To the extent that this may be case, this report considers whether less onerous regulatory arrangements could be introduced to facilitate low risk roadside stalls and improve any existing levels of non-compliance.

In terms of existing compliance activities, Council staff respond to reports of unsafe roadside stalls typically where road users accessing the stall are engaging in dangerous road manoeuvres.

Benefits of roadside stalls

Beyond the obvious financial benefit to rural landholders of having roadside stalls, other benefits (for the shire) include:

9.5 Economic Development - Roadside Stalls Policy

- Tourism – adding value to visitor experiences (particularly tourist drives), and contributing to the local ‘food culture’ experience.
- To local residents – contributing to the local ‘food culture’ and providing interest, activities and connection to place.
- Reduction of waste – providing an alternative outlet for excess (or blemished) fresh produce that might otherwise go to waste.

Alternative approach

Alternatives to the current approach have been considered to provide for small scale roadside stalls with respect to minimising the regulatory requirements whilst maintaining protections for road users.

As part of the review of Council’s approach, the way in which roadside stalls are addressed in other jurisdictions has been examined. The research undertaken did not identify any case studies of particular relevance to the circumstances in Ballina Shire. Given this, the following information concentrates on a planning pathway to reduce the need for development consent for roadside stalls specific to Ballina Shire.

There are few approaches that provide for a suitable balance between the key issues. In this regard, enabling all roadside stalls across the shire without due consideration of potential impacts, particularly in relation to the road network, is not recommended.

An alternative approach that could achieve a reduced regulatory approach for some roadside stall proponents involves the following:

- Council could exempt roadside stalls from requiring development consent in certain circumstances by inclusion of roadside stalls within Schedule 2 of the Ballina Local Environmental Plan 2012.
- The criteria by which roadside stalls would be considered exempt development could include a requirement that an approval for works within the road reserve be obtained (under section 138 of the Roads Act 1993, with Council typically being the roads authority). This would mean Council engineering staff would review the circumstances of the proposed roadside stall to ensure compliance with applicable road safety standards, particularly in relation to site distances and verge widths.

Exempt development is small scale development that has minimal environmental impact and must be undertaken in accordance with specified criteria set out in either the Exempt and Complying Developments Codes SEPP or councils’ local environmental plans (Schedule 2).

Essentially, designation as exempt development “turns off” the consent requirements of the LEP and the planning controls in the development control plan (DCP).

If the above approach is pursued, it is proposed that the following criteria would be included in Schedule 2 of the BLEP 2012:

Roadside stalls to which this clause applies must comply with the following:

9.5 Economic Development - Roadside Stalls Policy

- a. *Be located on land zoned RU1 Primary Production zone or RU2 Rural Landscape zone;*
- b. *Must be located wholly on private land;*
- c. *Must be only for the sale of primary produce;*
- d. *Must not exceed an area of 4m² in relation to the area from which produce is sold; and*
- e. *Must have a relevant approval for works within the road reserve, under the provisions of section 138 of the Roads Act 1993 with respect to the roadside stall.*

The concurrence of the Roads and Maritime Service is required for works within a Classified Road, which include major rural arterial roads (for example, Wardell Road).

This would be addressed as part of the s138 approval process and may limit the potential for roadside stalls to be located on Classified Roads.

Importantly, this change will relax the planning provisions but will not enable all roadside stalls without the need for development consent.

That is, property owners who wish to provide a stall which exceeds or does not satisfy the above criteria may lodge a development application in the normal way.

In addition, it is proposed that an information sheet be prepared to inform applicants of Council's road safety requirements that would form part of the s138 assessment, namely:

There must be adequate space within the road verge to allow parking for at least two vehicles and must:

- i. be sufficient to enable vehicles to enter and exit the roadway in a forward direction;*
- ii. be of consistent vertical alignment and grade with the roadway;*
- iii. have an all-weather gravel sealed shoulder with sufficient width to allow vehicle occupants to enter and exit vehicles in a safe manner, being a minimum area of 3.5m x 15m; and*
- iv. have adequate unimpeded minimum sight distances in both directions (in accordance with AS2890.1.2004) as outlined in the following table:*

<i>Speed zone</i>	<i>Minimum sight distance</i>
<i>60km/hr</i>	<i>65m</i>
<i>80km/hr</i>	<i>105m</i>
<i>100km/hr</i>	<i>160m</i>

It is acknowledged that costs for works within the road reserve which may be required, such as grading and gravelling the roadside where parking is to be provided, may still be a deterrent to applicants.

However, it is considered reasonable that such costs be borne by applicants and that road safety not be compromised.

With respect to application fees for an approval (under s138) for works within the road reserve, it is considered that a fee of \$165 (inclusive of GST) be set to offset Council staff time associated with assessment of the application would be appropriate. Council may elect to waive the charging of a fee or set an alternative fee.

To progress and implement the changes suggested Council will need to amend the Ballina LEP 2012. Given this, it is recommended that Council prepares a planning proposal to enable roadside stalls as exempt development under the criteria outlined above.

Sustainability Considerations

- **Environment**
The provision for roadside stalls has the potential to reduce food wastage, thereby having positive environmental outcomes.
- **Social**
Roadside stalls contribute to the social values associated with agricultural areas by contributing to sense of place. Maintaining road safety is an important consideration in providing for roadside stalls.
- **Economic**
Roadside stalls provide potential economic benefits associated with rural tourism.

Legal / Resource / Financial Implications

Progress of this matter can be accommodated within existing resources.

Having regard to public safety (and associated legal responsibilities), it is important that Council ensures that appropriate regulatory oversight is maintained when allowing activities, such as roadside stalls, within the shire's road reserves.

Consultation

Should the Council resolve to introduce exempt development criteria for small scale roadside stalls, an amendment to the Ballina Local Environmental Plan 2012 is required.

The LEP amendment process will include a public exhibition phase that will provide an opportunity for stakeholders and the broader community to provide feedback on the proposed approach. Stakeholders could include Council's Local Traffic Advisory Committee.

Options

The Council has the following options with respect to changing the current planning provisions relating to roadside stalls:

1. Maintain existing arrangements in relation to roadside stalls,

9.5 Economic Development - Roadside Stalls Policy

2. Change Council's planning provisions to enable small scale roadside stalls in certain circumstances as exempt development under the terms of the Ballina Local Environmental Plan 2012, or
3. Defer further action in relation to roadside stalls pending further information.

If option one is preferred, this would mean no change to the current approach to roadside stalls in Council's planning instruments. Under this approach, no further action is required although it would be prudent to update the economic development strategy post its exhibition to remove reference to roadside stalls as an area targeted for policy adjustment.

Option two provides a pathway to enable some roadside stalls as exempt development. Exempt development is a considerably easier and less expensive pathway for landholders wishing to have a roadside stall to follow. However, it is important to recognise that not all roadside stall proposals will meet the exempt development criteria and would therefore be subject to the existing requirements for this land use.

If option two is the preferred approach, Council will need to prepare a planning proposal to amend the Ballina LEP 2012. This is the recommended approach as it suggested that it provides for an improved balance between safety and oversight in relation to the public road network and enabling of economic opportunities for rural landholders in relation to roadside stalls.

With respect to the exempt development criteria, the inclusion of a requirement to obtain a s138 Roads Act approval is central to enabling road safety to be adequately considered. It is considered appropriate that Council introduces a modest fee of \$165 (for preliminary assessment purposes only – no annual charge) for applications made in this regard.

The matter of the fee will be further addressed at the conclusion of the planning proposal process. In the meantime, the proposal to introduce a fee will be incorporated into public exhibition documentation associated with the planning proposal.

The recommendation below enables staff to prepare and submit a planning proposal (consistent with the content of this report) to the Department of Planning and Environment for Gateway determination.

In the event of an affirmative Gateway determination allowing the proposal to proceed, staff would then undertake the procedural steps to progress the proposal to finalisation including public exhibition. A further report would be submitted to the Council in relation to the completion of the amendments following the public exhibition phase of the process.

Where Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan making functions from the Department.

Under these delegations, Council performs some of the plan making functions that would otherwise be completed by the Department.

In the subject case it is recommended that Council seeks the delegation.

9.5 Economic Development - Roadside Stalls Policy

Option three provides Council with an opportunity to receive further information about the policy and planning approach to roadside stalls.

If the preferred approach is to adjust the proposed exempt development criteria, wait for the completion of the economic development strategy (expected in the second quarter of 2018) or obtain additional information before deciding on the progress of this matter, deferral to a Councillor briefing is suggested.

Alternatively, if the Council does not wish to alter the current planning provisions relating to roadside stalls in the shire, it is open to Council to cease further work.

RECOMMENDATIONS

1. That Council endorses the preparation of a planning proposal which proposes to introduce exempt development criteria for small scale roadside stalls in zoned rural areas within Ballina Shire as outlined in this report.
2. That the planning proposal, once prepared, be forwarded to the Department of Planning and Environment for a Gateway determination.
3. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. 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, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

Attachment(s)

Nil

9.6 Epiq Development - Community Facilities and Infrastructure

9.6 Epiq Development - Community Facilities and Infrastructure

Delivery Program Strategic Planning

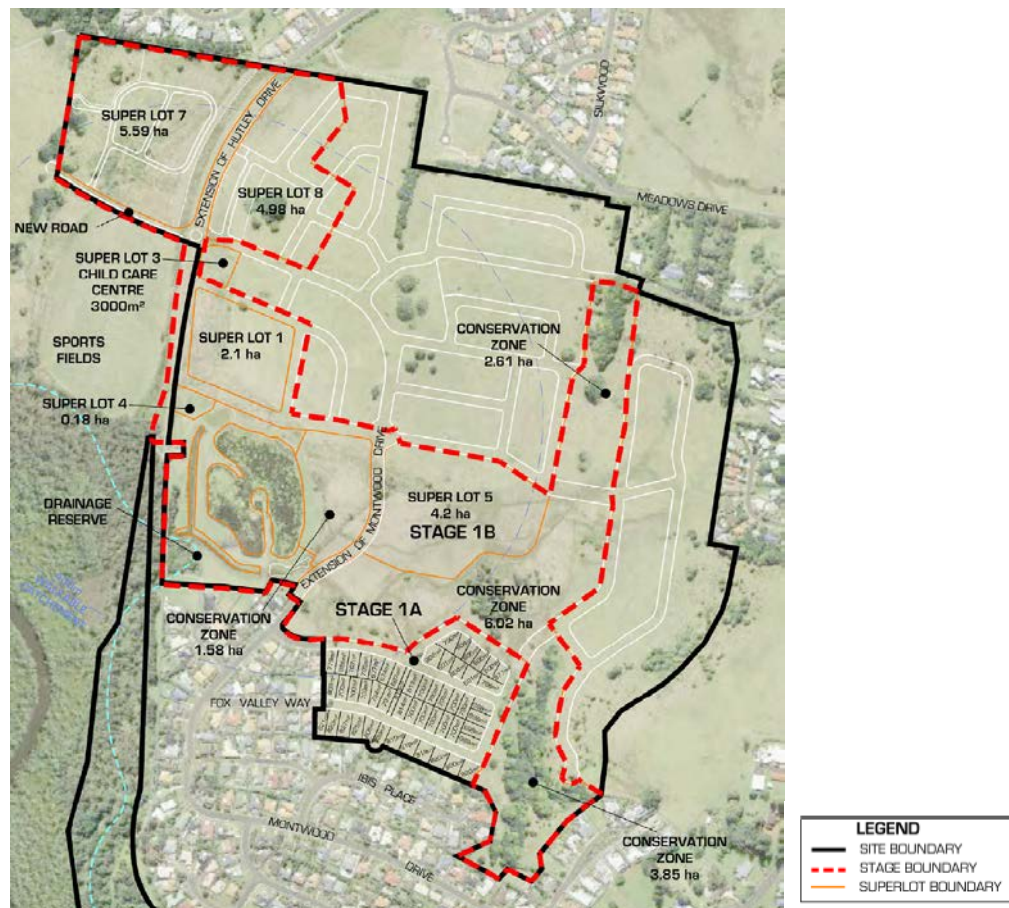
Objective The purpose of this report is to seek direction from Council in relation to preferred community facility and infrastructure outcomes associated with the Epiq development at Lennox Head.

Background

Epiq at Lennox Head (formerly known as Pacific Pines) is a greenfield urban release area that incorporates residential development, a commercial area and community infrastructure including sporting fields and road works. The development is being undertaken by Clarence Property.

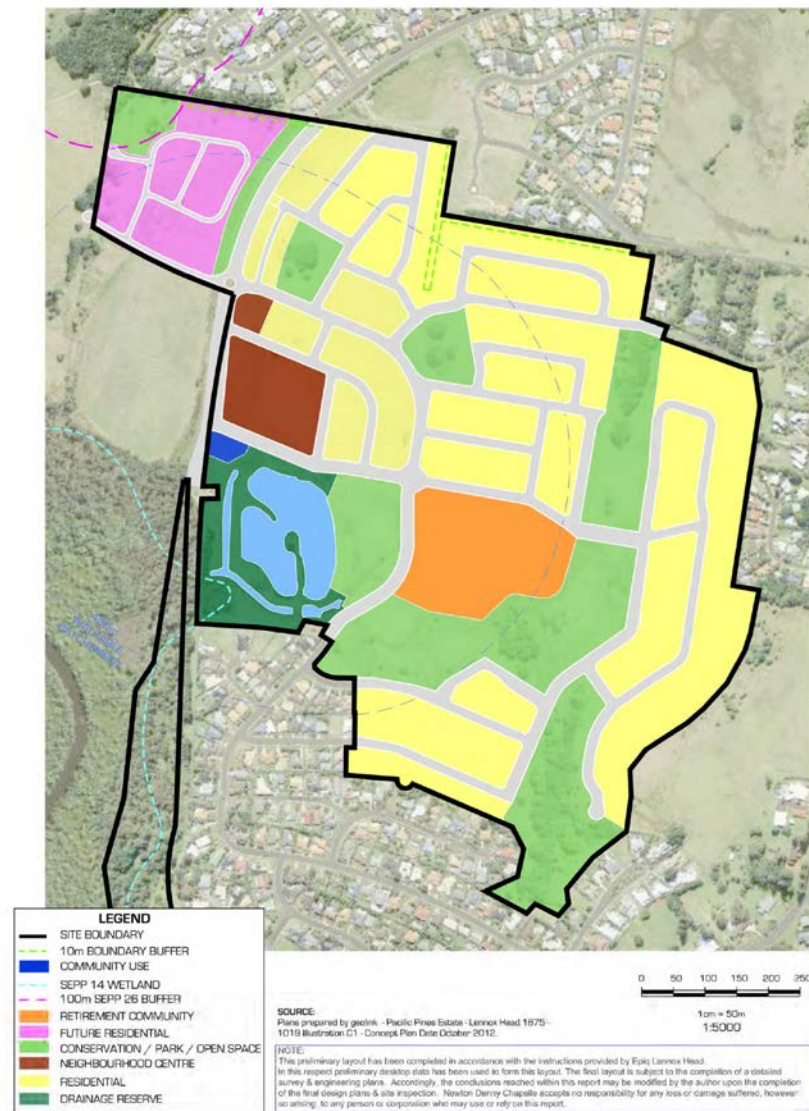
The location of the land and the current overall layout of the development as approved is shown in Figure 1.

Figure 1 – Epiq Development Lennox Head (Source: Newton Denny Chapelle)



Epiq is subject to a Concept Approval (MP 07_0026 MOD 5) and a Project Approval issued by the NSW Department of Planning. The approved concept plan layout for Epiq is shown in Figure 2.

Figure 2 – Epiq Approved Concept Plan (Source: Newton Denny Chapelle)



The concept approval provides the overall context for the development, and the development of the land must be carried out in a manner consistent with this approval. The existing project approval and subsequent development approvals relate to the delivery of project stages and incorporate a greater level of detail.

The current Concept Approval for Epiq provides for several key elements within the development to be delivered over seven stages as follows:

- Residential subdivision to create a variety of lot types and sizes.
- A neighbourhood commercial centre with a maximum retail floor space of 5,500m² in gross leasable floor area and a maximum of 800m² gross leasable floor area for other commercial purposes.
- A multi-purpose community hall with a floor space of 300m².
- A retirement community (note an alternative approach to this area was discussed with Councillors at a briefing held in November 2017).
- Medium density housing.

9.6 Epiq Development - Community Facilities and Infrastructure

- An open space network including water quality control, conservation and general open space areas.
- Road network (including extensions to Montwood Drive and Hutley Drive).
- Other associated infrastructure (including playing fields and sporting amenities).

Stage 1A of the development, being for 51 residential lots, has been subdivided and constructed; with the majority of the lots now containing dwellings that are complete or nearing completion. Stage 1A also included construction of the Epiq playing fields which are complete and have been handed over to Council.

Council is currently finalising its assessment in relation to the release of the subdivision certificate for Stage 1B of the development. This stage includes the creation of super lots, the construction of Main Street, construction of an extension to Hutley Drive within the Epiq site and provision of various other internal roads.

Council has also granted approval for Stages 2 and 3, both being predominately for residential development. Council is also currently undertaking the assessment of the development application for the neighbourhood commercial centre.

The purpose of this report is to provide the Council with an overview of the community infrastructure planned for the Epiq development and seek direction from the Council with respect to the provision of this infrastructure as the development proceeds.

Key Issue

- Provision of community infrastructure within the Epiq development site
- Reasonable balance and future planning

Information

Overview

Under the current Concept Approval for the Epiq development, the developer has an obligation to provide various items of community infrastructure at different points in the progress of the development.

The infrastructure items and their status are outlined in Table 1 as follows.

In reviewing Table 1 it is important to recognise that the developer, Clarence Property, has met all obligations and requirements to date as set out by the approval and Council with respect to the infrastructure.

9.6 Epiq Development - Community Facilities and Infrastructure

Table 1: Epiq Community Infrastructure Status Summary

Infrastructure Item	Status
Epiq playing fields and car parking	Complete and handed over to Council.
Sporting infrastructure – cricket nets	Item bonded. Provision subject to determination of preferred approach to community infrastructure provision.
Sporting infrastructure – tennis courts	Item bonded. Provision subject to determination of preferred approach to community infrastructure provision.
Playing field amenities	Item bonded. Provision subject to determination of preferred approach to community infrastructure provision.
Community facility (community hall)	Item bonded. Provision subject to determination of preferred approach to community infrastructure provision.

Council is currently holding bonds (or will soon receive bonds for) a number of infrastructure items on the basis that there is opportunity to reconfigure the approach to the infrastructure.

By pausing to consider the type of infrastructure provided, it may be possible to achieve a better long term outcome for the community that is responsive to needs (noting the original approval for the Epiq development dates to 2008).

The idea here is for Council to consider the best infrastructure outcome drawing on the value of the developer's community infrastructure obligations. That is, what is the optimal way to spend the funds the developer is required to apply to community infrastructure. Clarence Property has indicated a willingness to engage with Council in this regard.

For the items not yet built, these items have an estimated value in excess of \$1.5m. It is important to note that the monetary value of the infrastructure items that could form the basis of a negotiation is yet to be agreed between Council and Clarence Property.

The current status of the development offers an opportunity for Council to consider whether the proposed facilities represent the best outcome for the community, or whether there are alternative outcomes that may be more beneficial, especially in the long term.

This report seeks direction from Council in relation to enabling staff to negotiate with Clarence Property with respect to a preferred community infrastructure outcome. To assist in the consideration of this, the infrastructure items listed in Table 1 not yet built are addressed in further detail as follows.

9.6 Epiq Development - Community Facilities and Infrastructure

Infrastructure Item Summaries (Existing Concept Approval)

Cricket Nets

The current approval requires that cricket practice nets are provided on the playing fields site. Given that Council already has practice nets on Williams Reserve and at the Skennars Head playing fields, it may not be necessary to provide further infrastructure of this type at Epiq.

The provision of cricket practice nets should be considered in consultation with the end users of the playing fields. Therefore, it is recommended that Council engages with cricket stakeholders to determine the likely use of the fields and need for the wickets. This information would then inform negotiations between Council and Clarence Property.

Tennis Courts

The current approval requires that two tennis courts are provided on the site of the playing fields.

The staff view is that tennis courts are not required in Lennox Head and that further tennis infrastructure in the shire is best consolidated at Hampton Park in Ballina. Such consolidation provides the optimal opportunity for the management of such infrastructure and is most cost effective for Council.

Further, the playing fields have been reconfigured to improve their layout, and in particular, bring the amenities and car parking closer to Hutley Drive. This has resulted in limited space (on an already small area relative to the infrastructure to be provided) for the provision of tennis courts on the site.

That is, placing tennis courts on the land would be problematic from a space perspective, especially if an enhanced amenities facility is provided for (see below).

Having regard for the above, it is recommended that Council negotiates with Clarence Property to redistribute the value associated with the tennis courts into other community infrastructure.

Sporting Amenities

The current approval for Epiq requires that the developer provides a modest amenities building comprised of toilets, small storage areas and an awning area.

There is an opportunity to provide for a significantly improved amenities outcome on the land in the form of a facility that includes change rooms, a canteen space and possibly a meeting space. This outcome requires the redirection of funds from the infrastructure the developer is required to provide and/or additional funding from Council.

It is recommended that Council negotiates with Clarence Property to facilitate an improved amenities building at the Epiq playing fields inclusive of toilets, change rooms, a canteen space, storage areas and a meeting space.

Community Facility

The Statement of Commitments under the Concept Approval requires the developer to provide a 300m² community facility within the Epiq site. This facility was originally envisaged on the land shown as super lot 4 in Figure 1.

Although a new community facility appears beneficial at first consideration, this may not be the best spend of available funds at this time.

Council's developer contributions plan for community facilities plans for a second community facility in Lennox Head over the next 20 years.

However, there is little evidence that a second community facility is required in Lennox Head at present (in particular, there is capacity for the existing community centre in Mackney Lane to accommodate additional use).

Further, bringing a new facility on line too early also means that Council will incur maintenance and management costs and may also lead to a loss of use at the existing community centre.

Council also has options with respect to the provision of additional community facility space in Lennox Head as the current developer contributions plan does not nominate a site or the form of the facility.

For example, Council could augment the Mackney Lane facility or incorporate the facility into a new surf club development in the future.

Not proceeding with the construction of the community facility on Lot 4 also provides Council with a potential commercial opportunity as super lot 4 is zoned B1 Neighbourhood centre (commercial).

Having regard for the above, it is recommended that Council negotiates with Clarence Property to redistribute the value of the Epiq community facility to enable other community infrastructure.

Other Community Infrastructure Options

The recommendation to negotiate with the Epiq developer is based on the knowledge that there is a variety of community infrastructure needs in Lennox Head, as well as the potential to obtain an improved sporting amenities building. Some of these items as relevant to the Epiq development are as follows:

- Provision of land and accommodation for the Lennox Head Rural Fire Service (relocation from the current site in the village centre).
- Provision of land for a second community preschool in Lennox Head.
- Provision of lighting at the Epiq sporting fields.

Aside from the above items, Council could also consider redirection of funds to support delivery of the Hutley Drive North extension (noting that the developer obligations would not fund this road link in full). This approach is not recommended on the principle that the funds available for community infrastructure should be spend on community infrastructure.

9.6 Epiq Development - Community Facilities and Infrastructure

Overall, this report recommends that Council authorises the General Manager (or delegate) to undertake negotiation with Clarence Property to apply the value of the community facility infrastructure at Epiq (that is yet to be developed) to achieve the following outcomes:

- An enhanced amenities building at the playing fields inclusive of toilets, change rooms, a canteen space, storage areas and a meeting space.
- A piece of land in a future development stage suitable for the siting of a community preschool and/or community facility.

If the above items are secured and any funding remains, it is suggested that Council negotiates for such monies to be applied to the lighting of the Epiq playing fields.

The above approach means that Council would be deferring the construction of a second community facility in Lennox Head for an undefined period and that tennis courts will not be built within the Epiq development.

The requirement for cricket practice wickets (nets) would be determined following consultation with stakeholders.

Separate to the above, it is recommended that Council gives consideration to a suitable location for the relocation of the Lennox Head Rural Fire Service as part of the negotiation process. This approach would be beneficial because the siting of the Rural Fire Service may be influenced by the community infrastructure approach within Epiq.

This matter would then be subject to a separate report to Council to determine a suitable strategy and location for the longer term housing of the Rural Fire Service in Lennox Head

Council's decision on the long term location of the Rural Fire Service could then be reflected in the infrastructure plan that is identified in point three of the recommendations in this report.

Sustainability Considerations

- **Environment**
Not Applicable.
- **Social**
The approach proposed in this report seeks to achieve optimal outcomes to meet community infrastructure needs.
- **Economic**
The approach proposed in this report seeks to achieve optimal use of available funds to meet community infrastructure needs.

Legal / Resource / Financial Implications

A negotiation of this type needs to be mindful of the need for probity and transparency. It is also important to recognise that any change to the nature of the community infrastructure provided will require a modification to the existing Concept Approval (which in turns requires agreement from Clarence Property).

Financial implications associated with negotiation outcomes will be the subject of a future report to the Council.

The negotiation can be attended to within existing resources.

Consultation

Relevant stakeholders will be consulted in relation to the infrastructure items that are the subject of the negotiations.

Options

Council has the following options available in relation to the content of this report.

1. Take no further action and require Clarence Property to deliver the infrastructure required under the current approval (see Table 1 and the associated discussion).

This approach is not recommended as there is an opportunity to improve the community infrastructure outcomes associated with the Epiq development. The recommendation is to explore the options available with Clarence Property and then report the matter to Council for further consideration.

2. Authorise the General Manager (or delegate) to negotiate with Clarence Property for an alternative community infrastructure outcome.

Commencement of a negotiation process is the recommended approach. It is further recommended that the negotiation be based on the following principles.

- That Council works with Clarence Property to determine an agreed value for the community infrastructure works required under the current Concept Approval.
- That the negotiation be based on the application of the value of the required community infrastructure works to Council's preferred infrastructure outcomes.
- That Council negotiates for an enhanced amenities building at the playing fields inclusive of toilets, change rooms, a canteen space, storage areas and a meeting space.
- That Council negotiates for piece of land in a future development stage suitable for the siting of a community preschool and/or community facility.

9.6 Epiq Development - Community Facilities and Infrastructure

- That if the above items are secured and any funding remains, that Council negotiates for such monies to be applied to the lighting of the Epiq playing fields.
- That the requirement for cricket practice wickets (nets) is to be determined following consultation with stakeholders.

Under this approach it is proposed that a further report will be presented to Council to enable consideration of the outcomes of the negotiation process.

3. Defer the matter to seek additional information.

Council may defer its consideration of this matter to obtain additional information. If this approach is preferred, it is recommended that a Councillor briefing be held.

Deferral is not recommended on the basis that commencing a negotiation will enable staff to compile further details about an alternative community infrastructure outcome, with this information being the subject of a further report to Council.

RECOMMENDATIONS

1. That Council authorises the General Manager (or delegate) to negotiate with Clarence Property for an alternate community infrastructure outcome at the Epiq development site based on the following principles:
 - That Council works with Clarence Property to determine an agreed value for the community infrastructure works required under the current Concept Approval.
 - That the negotiation be based on the application of the value of the required community infrastructure works to Council's preferred infrastructure outcomes.
 - That Council negotiates for an enhanced amenities building at the playing fields inclusive of toilets, change rooms, a canteen space, storage areas and a meeting space.
 - That Council negotiates for piece of land in a future development stage suitable for the siting of a community preschool and/or community facility.
 - That if the above items are secured and any funding remains, that Council negotiates for such monies to be applied to the lighting of the Epiq playing fields.
 - That the requirement for cricket practice wickets (nets) is to be determined following consultation with stakeholders.
2. That a further report on the outcomes of the negotiations be presented to the Council prior to the formalisation of an alternative community infrastructure outcome.
3. That Council prepares an infrastructure plan to document the outcomes associated with points one and two where an alternative community infrastructure outcome is agreed between the parties.

Attachment(s)

Nil

9.7 Ballina and Alstonville Swimming Pools - Management

9.7 Ballina and Alstonville Swimming Pools - Management

Delivery Program Community Facilities

Objective To consider an extension to the existing management contracts for the Ballina and Alstonville Swimming Pools.

Background

Council operates the Ballina and Alstonville public swimming pools under contract management. The incumbent managers have held these roles for approximately fifteen years. The original five year contracts had extension clauses of two x five years at the discretion of the contractors (ie total contract periods of fifteen years).

The current contracts are due to expire in May 2018. The following report invites Council to consider a proposal to extend the term of the current management contracts for a further period of twelve months.

As an associated issue, the Ballina waterslide within the Ballina pool complex operates under lease from the Reserve Trust (Council), with the term of the lease coinciding with that of the Ballina pool management contract. Consequently, Council's decision regarding possible extension of the Ballina pool management contract has implications for the operation of the waterslide.

Key Issues

- Transparency in respect to contract management
- Reasonableness in respect to the management arrangements

Information

The management of the Alstonville swimming pool is contracted to G and K Fettell Pty Ltd. This pool operates on Operational Land owned by Council.

The Ballina swimming pool management is contracted to Good Hydration Pty Ltd. Good Hydration Pty Ltd also owns the Ballina waterslide infrastructure and operates this business under a lease of part of the public reserve on which the Ballina pool operates. Council is the appointed Trust Manager for this reserve.

The management contracts for the Alstonville and Ballina pools expire in May 2018. This will be immediately following the conclusion of the current scheduled swimming season.

Given that both the new pools will be heated, there may be a community expectation or desire for the pool season to be extended, however the respective benefits/costs of doing so will need to be carefully assessed. Council is not being asked to determine this now.

9.7 Ballina and Alstonville Swimming Pools - Management

The matter that does require direction is whether to continue with the current management contracts until after the closure of the 2018/19 swimming season or refresh the management contracts when the current contracts expire in May 2018.

Short term extension

Under the short term extension approach, the respective contractors would be invited to maintain their current roles under the general terms and conditions of the existing agreements. Both contractors have continued to perform in a professional and satisfactory manner and provide safe, compliant and enjoyable operating environments for pool patrons.

In the case of Ballina, Good Hydration Pty Ltd manage the pool and operate the waterslide seamlessly for the public benefit, with each facility complementing the other.

With this arrangement the existing contractors would have the period following the reopening of the pools in the first half of 2018 (exact date still to be determined) and then one full swimming season, (and the off season leading up to this) to work with Council to 'bed down' the new pools and to understand the nuances of the new technology under full operating conditions.

Whilst this could be seen as being beneficial to the existing contractors, particularly in the context of future tendering, Council will also be beneficiaries.

We will be able to glean information concerning changed operating costs with the new pools (eg chemical usage and power consumption) which can then inform a subsequent tender process.

Deferring the tendering process for pool management services for twelve months will also be beneficial in understanding operating options and the steps which may need to be taken in regard to the Ballina waterslide in the event that Good Hydration Pty Ltd chooses not to tender for pool management, or is unsuccessful in doing so.

The downside to this option is that the value of the management contracts is a significant figure (i.e. approximately \$170,000 per annum per contractor plus extra payments for additional lifeguards) and for transparency and accountability reasons Council would normally call tenders for this service.

Proceed to tender

The alternative to granting the short term extension to the incumbent contractors is to immediately proceed to call fresh tenders for pool management services.

This would need to be done early in 2018 to have the newly contracted parties for both Ballina and Alstonville transition to the facilities and be ready to commence operations by September 2018.

A recent review of the situation undertaken by staff indicates this is achievable and there can also be benefits in that it allows any interested party to provide feedback to Council on options to improve the operation of the facilities.

9.7 Ballina and Alstonville Swimming Pools - Management

This option also allows Council to prepare new tender and contemporary contract documentation with robust performance measures for incoming operators.

This would be highlighting that we have the new pool facilities and we are then asking the private sector to inform Council on innovative and contemporary approaches to pool management for the benefit of the community.

The downside to this option is that Council is not yet conversant with the operation of the new infrastructure and there has not yet been any discussion around possible changes in service levels.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The upgraded facilities are designed to improve the social outcomes to the community.
- **Economic**
Council aims to operate and promote the pools in the most cost-effective manner for our community.

Legal / Resource / Financial Implications

The options discussed can be implemented within available Council resources.

If it is Council's preference to offer a short term extension to the incumbent pool managers, this is able to be achieved under the terms of the existing management contracts.

It is also important for Council to document any reason not to call tenders for a contract of this magnitude.

Consultation

No community engagement has been undertaken in relation to this matter.

A procurement workshop with Council staff and a former employee of NSW Public Works did identify that outsourcing management arrangements for swimming pools to external management companies remained the preferred option. This workshop did also identify that there could be benefits in calling tenders early in 2018 to allow the appointed contractors to work closely with Council in the structure and operation of the new infrastructure.

Options

The primary options are to extend the contracts for one year or to call tenders. Both are viable options.

9.7 Ballina and Alstonville Swimming Pools - Management

On balance, the preferred option is to offer the current pool management companies an extension of their respective contracts for a period of approximately twelve months, to conclude at the end of the 2018/19 swimming season, noting that Council could possibly extend that season as a result of the new heated pool infrastructure.

The main reason for preferring this option is to enable staff to work with the contractors to 'bed down' the new pools and associated operating systems, and costs, to better inform the subsequent tendering processes, and also to recognise that the existing contractors have provided an excellent service to the Council and the community over many years.

It is preferable for Council to be fully informed on the operating environment for the pools prior to going to tender and this extension, if accepted by the contractors, will allow further reports to be submitted to Council on the operation of the pools once they are open.

RECOMMENDATIONS

1. That Council authorises the General Manager to extend the existing management contracts for the Alstonville and Ballina swimming pools until the end of the 2018/19 swimming season.
2. That Council authorises the Council seal to be attached to the contract documentation.
3. That Council acknowledges that it has not called tenders for this contract extension for a number of reasons including:
 - Uncertainty regarding the future operating arrangements for the redeveloped infrastructure
 - Recognition of the excellent service that the existing management companies have provided to Council over many years
 - Recognition that working with the existing contractors allows Council the opportunity to more clearly understand the operating arrangements and service levels that Council wishes to set for the new management contracts once tenders are called.

Attachment(s)

Nil

10.1 Investment Summary - November 2017

10. General Manager's Group Reports

10.1 Investment Summary - November 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 November 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 November was \$78,538,000. This represents an increase of \$250,000 from October. Council's investments, as at 30 November, are at an average (weighted) rate of 2.73%, which is 1.01% above the 90 Day Bank Bill Index of 1.72%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 November 2017, was \$3,476,647. This balance is higher than the balance of \$1,566,593 as at 31 October 2017. The combined movement of investments and bank balances was an increase of \$2,160,054. The increase is attributable to approx. \$2 million for rates receipts on the last day of November (as this was the instalment due date).

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

10.1 Investment Summary - November 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	5,000	4,000	20%	5.1%	
Auswide Bank	No	BBB-	1,000	1,000	1m	1.3%	
Bank Australia	Yes	BBB	3,000	3,000	10%	3.8%	
Bank of Queensland	No	BBB+	6,000	6,000	10%	7.6%	
Bendigo & Adelaide Bank	No	BBB+	3,000	3,000	10%	3.8%	
Beyond Bank	No	BBB	2,000	2,000	10%	2.5%	
Commonwealth Bank of Australia	Yes	AA-	10,500	8,500	20%	10.8%	
Defence Bank Ltd	No	BBB	5,000	5,500	10%	7.0%	
Greater Bank Limited	No	BBB+	2,000	2,000	10%	2.5%	
IMB Bank	No	BBB	1,000	0	10%	0.0%	
ING Bank Ltd	Yes	A	6,000	6,000	20%	7.6%	
Members Equity Bank	No	BBB	5,000	6,750	10%	8.6%	
My State Bank Ltd	No	BBB	2,000	5,000	20%	6.4%	
National Australia Bank	Yes	AA-	7,000	7,000	10%	8.9%	
Newcastle Permanent Bld Society	No	BBB	1,000	0	10%	0.0%	
Suncorp-Metway Bank	No	A+	9,000	9,000	20%	11.5%	
Teachers Mutual Bank Limited	No	BBB	1,000	1,000	10%	1.3%	
Westpac Banking Corporation	Yes	AA-	7,000	7,000	10%	8.9%	98%
Unrated ADI's					\$1m	0.0%	0%
Total			78,288	78,538		100%	

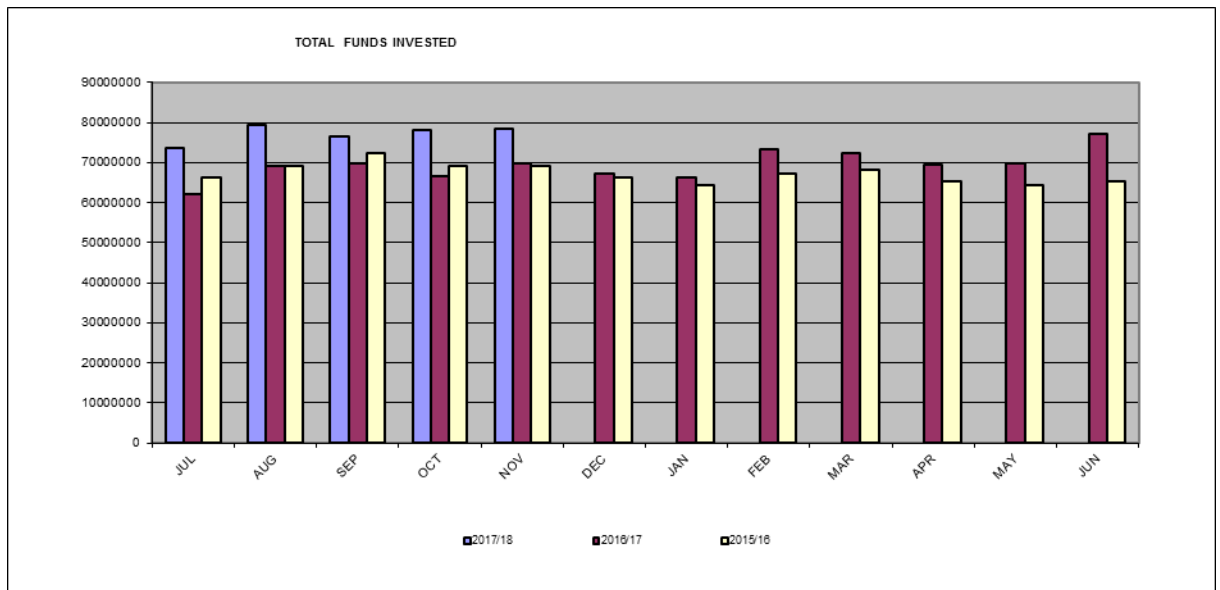
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	40,288 51%	37,288 47%
Non-Fossil Fuel Aligned	38,000 49%	41,250 53%
Not Classified	0 0%	0 0%
Total	78,288 100%	78,538 100%

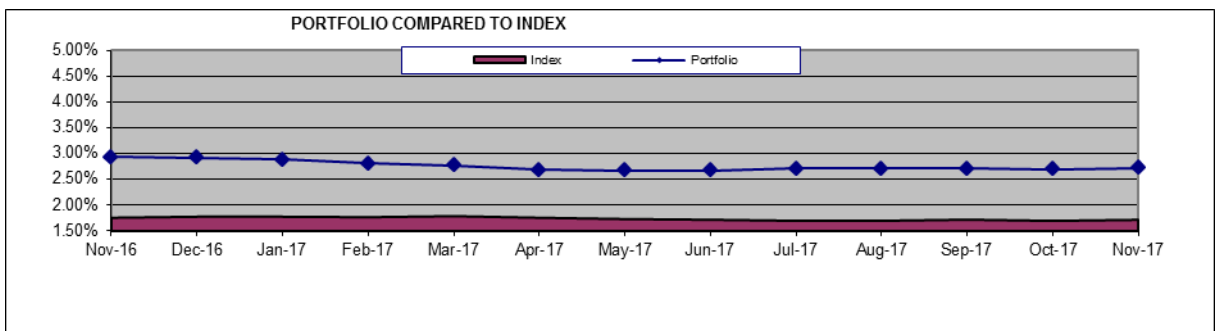
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

- 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.

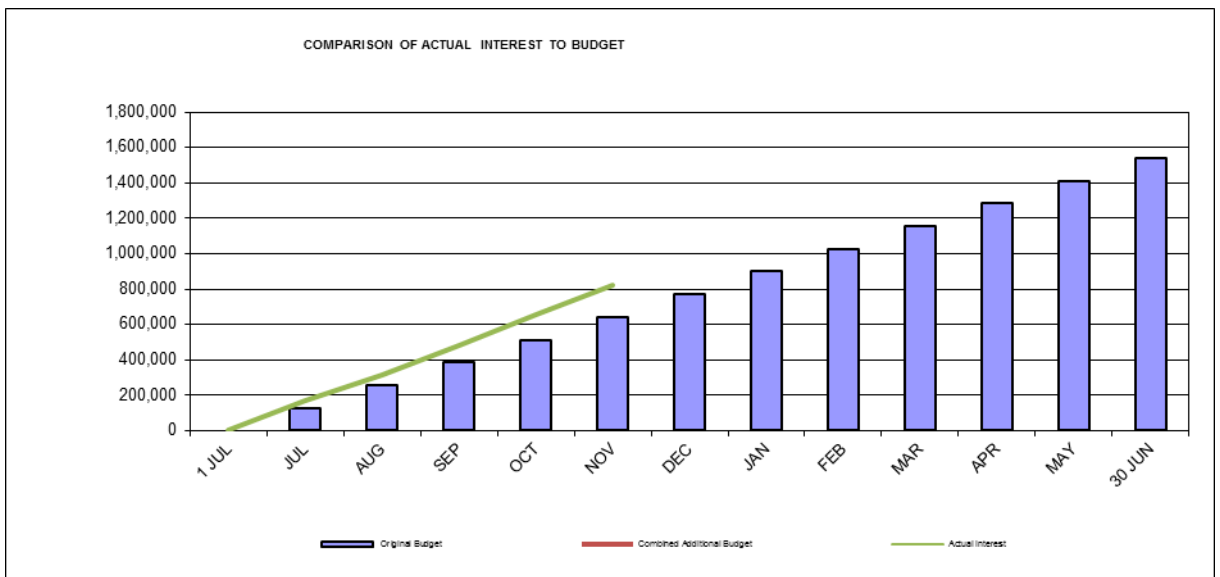
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - November 2017

F. Investments held as at 30 November 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	1,398
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	2,000	2,007
25/02/14	Westpac Banking Corporation	FRN	2.67%	25/02/19	2,000	2,015
17/06/16	Commonwealth Bank Of Australia	FRTD	2.75%	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	2.75%	02/08/22	2,000	2,000
30/08/16	Greater Bank Limited	FRN	3.29%	30/08/19	1,000	1,004
24/02/17	Greater Bank Limited	FRN	3.18%	24/02/20	1,000	1,003
25/05/17	Defence Bank Ltd	TD	2.75%	05/12/17	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
19/07/17	Bank of Queensland	TD	2.65%	21/02/18	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	2.77%	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
04/10/17	National Australia Bank	TD	2.57%	18/04/18	2,000	2,000
09/10/17	Westpac Banking Corporation	TD	2.57%	09/10/18	2,000	2,000
10/10/17	National Australia Bank	TD	2.54%	14/03/18	2,000	2,000
19/10/17	National Australia Bank	TD	2.52%	21/03/18	1,000	1,000
09/11/17	Members Equity Bank	FRN	2.95%	09/11/20	750	751
09/11/17	Defence Bank Ltd	TD	2.75%	08/11/18	1,500	1,500
20/11/17	Defence Bank Ltd	TD	2.75%	08/11/18	1,000	1,000
21/11/17	Defence Bank Ltd	TD	2.60%	22/05/18	1,000	1,000
27/11/17	Members Equity Bank	TD	2.61%	05/06/18	1,000	1,000
29/11/17	Auswide Bank	TD	2.65%	19/06/18	1,000	1,000
30/11/17	My State Bank Ltd	TD	2.63%	29/05/18	3,000	3,000
30/11/17	Commonwealth Bank Of Australia	at call	1.45%	01/12/17	1,500	1,500
Totals					78,538	78,179
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 November 2017.

Attachment(s)

Nil

10.2 Long Serving Employees - Recognition

10.2 Long Serving Employees - Recognition

Delivery Program Human Resources and Risk Management

Objective To formally recognise long serving Council employees.

Background

Council has a practice of annually recognising employees who have completed either 10, 20, 30 and 35 years plus, of service by providing an annual presentation at the December Council meeting, along with joining the Councillors for morning tea.

Key Issues

- Acknowledgment of the service of employees

Information

At 10.30 am Council will recognise the service of the following employees:

35 Years

Paul Outerbridge

30 Years

Timothy Godbee

20 Years

Cathy Hepworth
Peter Kennedy
Steve Lynch
Ian Johnson
Ezio Polese

10 Years

Peter Leeson
Chris Hendry
Hugh Johnson
Veronica Lethorn
Sandra Jackson
James Kemp
Paul Wilson
Michael Wort
Scott Bullen
Neil McCowan

The majority of the employees will be present at the meeting.

Sustainability Considerations

- **Environment**
Not Applicable

10.2 Long Serving Employees - Recognition

- **Social**
Long term employees make a significant contribution to the expertise, tradition and social fabric of the Council.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council has a recurrent budget for this program.

Consultation

This report is provided to publicly recognise long serving employees.

Options

This report recognises long servicing employees and the valuable contribution they have made to the Ballina Shire.

RECOMMENDATION

That Council acknowledges, congratulates and thanks the staff members outlined in this report on their service with Council.

Attachment(s)

Nil

10.3 Service NSW - Partnership

10.3 Service NSW - Partnership

Delivery Program Communications

Objective To obtain Council approval to enter into a Partnership Agreement with Service NSW to implement the Easy to do Business program.

Background

The Easy to do Business program was established by the NSW Department of Premier and Cabinet, Service NSW and the Office of the NSW Small Business Commissioner to assist small business in their interactions with local, State and Federal government requirements.

The first initiative of this program is to streamline the process of opening a new business, with specific reference to cafés, bars and restaurants.

Council is already a member of the Small Business Friendly Council program that was launched in 2014 by the NSW Small Business Commissioner, with that program focused on opportunities to improve relationships and interactions between Council and small business. The Easy to do Business program will extend our progress with that program.

Service NSW recently provided a presentation to NOROC on implementing the Easy to do Business program and a Council resolution is required by Service NSW to progress this project.

A copy of the NOROC presentation is included as the first attachment to this report and the second attachment is a flyer produced by Service NSW.

Key Issues

- Potential benefits of program

Information

Service NSW has totally transformed doing business with agencies such as the RMS through their creation of one stop shop fronts throughout the State. The feedback from Service NSW is that this has resulted in significant increases in customer satisfaction levels, as well as efficiency and productivity gains.

Service NSW is now partnering with the Department of Premier and Cabinet and the Office of the NSW Small Business Commissioner to improve the way in which small businesses do business or interact with government.

Together they have developed the Easy to do Business program, which aims to streamline the processes of opening a new café, restaurant or small bar business.

10.3 Service NSW - Partnership

The first attachment to this report provides a summary of this program with some of the key points as per that attachment being:

- They aim to bring agencies, local councils and industry bodies together to make the process of opening or expanding a small business simpler and faster (page two of attachment)
- Progress to date includes reducing times from up to 18 months to less than 90 days - one application replaces 30 forms (page three)
- Four participating councils to date; Parramatta, Dubbo, Georges River and Northern Beaches (page four)
- Based on implementing one digital portal (pages six to eight)
- Business concierge provided by Service NSW (page nine)

In summary the benefits of the program include improved support to customers and a single source of information for businesses, reduced duplication, and improved quality of information for all parties.

Service NSW is now seeking other councils to support this program and a Council resolution is required to initiate this partnership.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
There can be social benefits generated from less time being spent on administrative processes and reducing time needed to obtain approvals.
- **Economic**
Any steps that streamline government administrative processes have merit.

Legal / Resource / Financial Implications

The operation of Service NSW is supported by the Service NSW (One-stop Access to Government Services) Act 2013. Clause 7 of that Act states as follows:

A customer service function of a council or a county council within the meaning of the Local Government Act 1993 must not be delegated to the CEO by the council or county council or any other person unless the council or county council, by a resolution of the council or county council, approved the delegation before it was made.

The CEO reference in this clause refers to the CEO of Service NSW.

10.3 Service NSW - Partnership

It appears that some of the original councils (i.e. Northern Beaches) specifically resolved to delegate the customer service function to Service NSW, however the latest request from Service NSW is that they only require a resolution supporting the General Manager entering into an agreement.

Consultation

This proposal was discussed by NOROC at their October 2017 meeting and Service NSW has advised that Tweed Shire Council will be joining the program.

Internal consultation has occurred with the Development Services, Strategic Planning, Information Services and Communications sections of Council.

Discussions were also held with Dubbo Council to seek their feedback, as they are a rural and regional council. The feedback was:

- Service NSW were well resourced to support the process
- Service NSW learnt a lot through this initial process in respect to the complexities of councils and the approval processes
- From Dubbo Council's perspective nothing has really changed as it does not change the internal processes and Dubbo has not had any increase in applications, with very few applications being submitted on an annual basis
- Dubbo Council already had good processing times for these types of applications
- There may be some upside in working with Service NSW for future projects although to date there has been no further projects discussed
- There may well be benefits for small business in respect to their interactions with other levels of government.

Options

The options are to proceed with engaging in the Easy to do Business program or not.

In respect to proceeding there may not be any significant benefits generated for processing times, as Council is very similar to Dubbo in already having reasonable processing times and limited applications are submitted on an annual basis. However there may well be opportunities and future opportunities to improve Council's communication and interaction with small business.

There are also no obvious disadvantages and no direct costs associated with the program and with the agreement only for one year the recommendation is to proceed. The recommendation is formatted as per the requirements of Service NSW.

RECOMMENDATIONS

1. That Council delegates authority to the General Manager to enter into a contract with Service NSW for Easy to do Business.
2. That any necessary documents be authorised for execution under the Common Seal of Council.

Attachment(s)

1. NOROC presentation
2. Information Flyer - Easy to do Business program

10.4 Flat Rock Tent Park - Proposed Charges - 2018/19

10.4 Flat Rock Tent Park - Proposed Charges - 2018/19

Delivery Program Commercial Services

Objective To seek Council's concurrence to exhibit the draft fees and charges for the Council operated tent park for the period 1 February 2018 to 31 January 2019

Background

The NSW Local Government Act requires councils to formally advertise and adopt their fees and charges prior to implementation. The majority of Council's fees are set each June as part of the annual Operational Plan, however Flat Rock Tent Park's fees are set for the twelve months from 1 February each year.

With Flat Rock Tent Park it is important that our regular guests are informed well in advance as to the fees for their next holiday during the following year and also enable fees and charges to be included in holiday and camping publications.

This report has been prepared to obtain Council approval to advertise next year's tent park fees and charges. The period the fees are applicable for is 1 February 2018 to 31 January 2019.

Key Issues

- Variation in fees
- Conditions attached to the fees

Information

A copy of the proposed fees, charges and cancellation policy is included as an **attachment** to this report.

The attachment provides a comparison between the existing and the proposed fees.

The proposed fees have been formulated taking into account factors such as park facilities and standards, feedback from Park Managers and guests, as well as industry comparisons with similar parks on the NSW Far North Coast and the latest Consumer Price Index (CPI).

In summary the changes are set out as such:

Current Fees	Off Peak	Shoulder	Peak
Unpowered site (based on 2 people)	\$34.00	\$41.00	\$46.00
Adult (extra)	\$15.00	\$15.00	\$15.00
Child (4-16 years incl)	\$8.00	\$8.00	\$8.00

10.4 Flat Rock Tent Park - Proposed Charges - 2018/19

Proposed Fees	Off Peak	Shoulder	Peak
Unpowered site (based on 2 people)	\$35.00	\$42.00	\$47.00
Adult (extra)	\$16.00	\$16.00	\$16.00
Child (4-16 years incl)	\$9.00	\$9.00	\$9.00

Minimal changes are recommended based on current market conditions.

Legal / Resource / Financial Implications

Council is legally required to exhibit and adopt its fees. In respect to income figures in recent years the following is a summary of the revenue collected by the end of each quarter as per Council's financial records. The figures are accumulated for each quarter as the year progresses.

Year	30 September	31 December	31 March	30 June
2017/18	108,000	N/A	N/A	N/A
2016/17	81,000	222,000	338,000	421,500
2015/16	106,900	248,200	331,400	432,400
2014/15	82,700	235,700	316,600	422,600
2013/14	71,500	213,900	268,000	354,600

The occupancy of the Park is subject to a range of matters including weather, marine activity, etc. The September quarter is especially dependent on the weather and timing of NSW and QLD school holidays.

Consultation

The draft fees and charges are to be exhibited for public comment.

Options

The options are to either adopt the recommendation to advertise the proposed fees as presented or amend the fees.

The preferred option is to exhibit the fees and charges, as any changes are consistent with industry trends and competitors. The fees will be re-submitted to Council for adoption following the exhibition period.

RECOMMENDATION

That Council authorises the exhibition of the draft Flat Rock Tent Park fees and charges for 1 February 2018 to 31 January 2019, as attached to this report, for public comment.

Attachment(s)

1. Flat Rock Tent Park Draft Fees and Charges - 2018/19

10.5 Joint Organisations

10.5 Joint Organisations

Delivery Program Communications

Objective To obtain a Council resolution to join the proposed Northern Rivers Joint Organisation.

Background

The Local Government Amendment (Regional Joint Organisations) Act 2017 has now been passed which establishes the pathway for the creation of Joint Organisations (JOs).

JOs have been a key part of the NSW State Government's reform program with the objective of these organisations being to improve the co-operation between councils, along with improving the relationship between councils and the State Government. The two attachments to this report are the latest State Government publications outlining the purpose of JOs and how they will operate.

A resolution is now required to join the JO and this report seeks that resolution.

Key Issues

- Legislative framework
- Benefits / cost

Information

The definition of a Joint Organisation, as per the second attachment to this report, is as follows:

A Joint Organisation is a new entity under the Local Government Act comprising member councils in regional NSW to provide a stronger voice for the communities they represent.

A Joint Organisation will provide a more structured, permanent way for local councils, State agencies and other interested groups to collaborate. Each region will decide its own priorities, working on short and long term projects such as attracting a new industry to the region or improving the health of a river system. By putting their resources together and focusing on the unique challenges and strengths of their whole region, Joint Organisation members can drive better outcomes for local residents.

Each Joint Organisation will comprise at least three member councils and align with one of the State's strategic growth planning regions. One of the member council's mayors will be elected chairperson and an Executive Officer may be appointed.

In summary the State Government is seeking to have a more regional approach from councils and to improve the interaction between both levels of government.

10.5 Joint Organisations

The proposal for JOs was initially raised in October 2013 as part of the NSW Independent Local Government Review Panel's report on Revitalising Local Government. This report was the initial step in identifying a number of amalgamations across NSW, many of which were then enacted by the State Government.

Further information on that entire process is available on the Office of Local Government's website (olg.nsw.gov.au), under the heading of Strengthening Local Government.

Council has previously considered a report on JOs at the Ordinary meeting held 23 July 2015. The resolution from that meeting was to provide in principle support for the Northern Rivers Joint Organisation albeit that Council wanted to ensure that any significant increase in member fees was only approved once all member councils endorsed such an increase.

At that point in time there were concerns that the JO would be engaging significant staff and substantially increasing Council's annual contribution to the organisation.

The model now proposed largely focuses on the current role of NOROC, being regional leadership, advocacy and intergovernmental collaboration.

NOROC (the Northern Rivers Regional Organisation of Councils) is one of a number of ROCs that currently exist across the State. The establishment of ROCs has always been encouraged by the State Government, and some councils, as they can provide a regional focus and a single point of contact for Federal and State Government agencies.

NOROC currently meets four times per annum with the Mayor from each council being the appointed delegate. Membership of NOROC, which has existed for over 20 years, has varied, with Clarence Valley Council once being a member and some of the existing members withdrawing and rejoining over time. The current member councils are Tweed, Byron, Ballina, Lismore, Richmond Valley and Kyogle, with the Kyogle Mayor, Cr Danielle Mulholland, being the current President.

The proposed JOs have the ability to increase the tasks / services they provide to the region, however from a NOROC perspective the currently proposed role of the Northern Rivers JO is the status quo (i.e. advocacy, leadership etc).

Sustainability Considerations

- **Environment**
JOs will consider matters of environmental, social and economic interest to the community.
- **Social**
As above
- **Economic**
As above

10.5 Joint Organisations

Legal / Resource / Financial Implications

At this stage there is not anticipated to be any additional resource or financial implications to Council, although this could change over time if the JO sought to increase its level of service to the member councils and a higher staff resource was needed. This would only occur in consultation with the member councils.

The current contribution to NOROC is approximately \$17,000.

Initial establishment funding is to be provided by the State Government, with \$3.3 million to be allocated to the project. NOROC, or the new JO, will look at opportunities to access this funding for projects that may benefit the region.

Consultation

The JO process has been the subject of lengthy consultation across the State in regard to issues such as membership, representation and role.

Options

The options are to support the Northern Rivers Joint Organisation or not support that model.

The member councils of NOROC, and NOROC, have previously resolved to support this model therefore the recommendation is to support the proposed JO.

This model consists of all the councils in this region and is the logical approach.

There is also considered to be more advantages for regional collaboration and accessibility to the State Government through joining the JO, than not joining.

The recommendation is based on a template provided by the State Government.

RECOMMENDATION

That Council endorses the proposal in accordance with the Local Government Amendment (Regional Joint Organisations) Act 2017, that the Northern Rivers Joint Organisation of Councils be established with the membership consisting of Kyogle, Richmond Valley, Tweed Shire, Byron Shire, Lismore City and Ballina Shire councils.

Attachment(s)

1. Joint Organisations – ‘Working together for regional communities’
2. Joint Organisations – Frequently asked questions

10.6 Policy (New and Review) - Debt Recovery and Financial Assistance

10.6 Policy (New and Review) - Debt Recovery and Financial Assistance

Delivery Program Financial Services

Objective To consider the implementation of a (new) Rates and Charges Debt Recovery Policy and review the (existing) Financial Assistance Policy

Background

Council has in place internal procedures for debt recovery processes that guide current practice. An adopted Debt Recovery Policy does not currently exist.

A Debt Recovery Policy, if adopted, would provide consistent boundaries for Council staff and transparency to ratepayers in regards to debt recovery processes.

Debt recovery and financial assistance are inextricably linked. Council has an adopted Financial Assistance Policy, which was last reviewed on 26 November 2015. The Financial Assistance Policy relates to assistance Council will provide in respect to debt recovery in cases of financial hardship. A review of the existing Financial Assistance Policy has also been completed.

The existing Financial Assistance Policy is a combination of assistance provided in relation to Rates and Charges and also for Ranger Associated Fees and Charges.

As part of the review, the Ranger Associated Fees and Charges have been separated and created as a stand-alone policy, as they differ greatly in respect to the Rates and Charges processes.

The existing Financial Assistance Policy provides limited options for ratepayers experiencing genuine financial hardship. As a result, there have been occasions where one off reports have been put to Council to consider circumstances of particular ratepayers.

The revised Financial Assistance (Hardship) – Rates and Charges Policy aims to provide expanded options for ratepayers deemed to be in genuine financial hardship and to provide equitable access to financial assistance for all ratepayers.

Key Issues

- Social conscience
- Whether the policies are balanced and effective
- Transparency in Council processes

Information

An outline of the proposed Debt Recovery Policy and the existing and revised Financial Assistance Policies is provided as follows.

Rates and Charges Debt Recovery Policy (New)

The proposed policy, as per attachment one, outlines the processes for the recovery of outstanding rates and charges. These processes include:

- Issue of Rates and Charges Notices
- Charging of Interest on Overdue Rates and Charges
- Issue of Overdue Reminder Notices
- Entering into Payment Arrangements for up to 24 months
- Broken Arrangements and/or Dishonoured Direct Debit Payments
- Commencement of Legal Action
- Issue of letter of Advice re Consideration of Sale of Land and
- Reporting to Council for possible sale of land.

This policy reflects Council's current practices which are considered reasonable and balanced and result in Council having a relatively low level of outstanding debt for rates and charges.

Existing Financial Assistance Policy

The existing policy, as per attachment two, had provision for deferral of rates and charges against the ratepayer's Estate.

In practice, this option has not been used since the policy was introduced in 2002, was very difficult for applicants to apply for and, if successful, the applicant had to reapply on an annual basis.

This provision has been removed from the revised policy, as per attachment three, on the basis that the new provisions are more accessible for ratepayers.

Another provision in the existing policy is the deferral of the general rate following a revaluation. This provision is as per section 601 of the Local Government Act and allows deferral of the increase in the year following a revaluation. This provision has been retained.

Revised Financial Assistance (Hardship) Policy- Rates and Charges

The revised policy, as per attachment three, provides the following provisions:

- Entering into Payment Arrangements exceeding 24 months. This arrangement is still subject to interest charges as per Council's Fees and Charges.
- Entering into direct debit Payment Arrangements to be finalised within 12 months with interest waived for the duration of the direct debit agreement.
- Entering into Payment Arrangements to be finalised within 13 to 36 months, with 50% of interest accrued in the agreed timeframe to be written off at the completion of the agreed timeframe.

10.6 Policy (New and Review) - Debt Recovery and Financial Assistance

- Deferral of the general rate following a revaluation. This provision is as per section 601 of the Local Government Act and allows deferral of the increase in the year following a revaluation.
- Provision of other assistance, to be considered on a case by case basis.
- Cancellation of Hardship Assistance in certain circumstances.

Applications for Financial Assistance under the policy are to be assessed by a Hardship Committee (internal staff committee) consisting of up to three persons, as appointed by the General Manager.

The establishment of a Hardship Committee will assist the objectivity and consistency of decisions made.

Those applying for Hardship Rate Relief for full or partial interest write-offs, deferral of the general rate following a revaluation, or other assistance outside of the noted provisions must complete a Hardship Rate Relief Application Form.

The Hardship Committee is to make recommendations to the General Manager for approval of payment terms exceeding 24 months or write-offs less than \$1,000. The Hardship Committee, through the General Manager, is to make recommendations to Council for write-offs greater than \$1,000, or other assistance, as considered appropriate under extenuating circumstances.

Revised Financial Assistance Policy - Ranger Associated Fees and Charges

The details of the provisions relating to financial assistance for Ranger Associated Fees and Charges remain unchanged and are included in the new policy as per attachment five.

Sustainability Considerations

- **Environment**
Not applicable.
- **Social**
Debt Recovery – This policy provides transparency in the debt recovery process.

Financial Assistance (Hardship) - Rates and Charges – This policy provides support for ratepayers experiencing genuine hardship and aims to provide equitable access to financial assistance for all ratepayers.

Financial Assistance - Ranger associated Fees and Charges – This policy allows the ranger discretion to act immediately if there are concerns for animal welfare and / or an obvious benefit to the community.

- **Economic**
It is important that Council takes all reasonable steps to recover outstanding rates and charges to ensure that outstanding debt does not reach unacceptably high levels.

Legal / Resource / Financial Implications

All three policies look to establish frameworks that meet current legislation.

Financial Assistance - Rates and Charges – This policy looks to provide ratepayers with a wider range of options if in genuine hardship.

Financial Assistance - Ranger Associated Fees and Charges – Approximately \$500 - \$1,000 in animal surrender fees are waived per annum.

Consultation

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

Options

Council may accept or amend the policies, or not approve the adoption of the policies. It is recommended that the policies be adopted as presented.

RECOMMENDATIONS

1. That Council adopts the Rates and Charges Debt Recovery Policy, as attached to this report.
2. That Council adopts the Financial Assistance (Hardship) Policy – Rates and Charges, as attached to this report.
3. That Council adopts the Financial Assistance Policy – Ranger associated Fees and Charges, as attached to this report.
4. That Council approves the exhibition of the three policies for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, no further action is required.

Attachment(s)

1. Policy (New) - Rates and Charges Debt Recovery Policy
2. Policy (Existing) - Financial Assistance Policy - Rates, Annual Charges and Fees
3. Policy (Revised) - Financial Assistance Policy - Rates and Charges
4. Hardship Rate Relief Application Form
5. Policy (Revised) - Financial Assistance - Ranger associated Fees and Charges

11.1 Road Closing - Section of Unconstructed Road

11. Civil Services Group Reports

11.1 Road Closing - Section of Unconstructed Road

Delivery Program Asset Management

Objective To confirm Council's position on the proposed road closing of a section of unconstructed public road adjacent to 5 and 7 Cunningham Street and 13 and 21 Riverside Drive, West Ballina

Background

At the Ordinary meeting held 25 June 2009, Council resolved to support a road closing for a section of unconstructed public road adjacent to 5 and 7 Cunningham Street and 13 and 21 Riverside Drive, West Ballina.

In response to this resolution, the road closing application was submitted to the office of Crown Lands and subsequently approved for closure on 28 May 2012. As the road is unformed, upon closure the land will vest in the Crown (not Council) in accordance with section 38(2)(b) of the Roads Act 1993.

Although the unformed road has been approved for closing, it has not been gazetted as a closed road by the Crown and currently remains as Council public road. For road that is to be vested in the Crown, the subsequent sale and gazettal of the land is to be done concurrently.

Crown Lands advises the land is being prepared for sale as a two lot subdivision.

The NSW Department of Industry – Crown Lands is now preparing to dispose of this land and has requested confirmation from Council, as the current land owner, that Council still supports the road closing. As there is a significant time lapse since the original decision of Council, the purpose of this report is for Council to consider the confirmation request. A site map is attached.

Key Issues

- The potential closure an unformed Council public road
- Impact on neighbourhood
- Loss of public land

Information

The road reserve is between Lot 71, DP 246452, No. 5 Cunningham Street, Lot 73, DP 246453, No. 7 Cunningham Street, Lot 81, DP 31154, No. 13 Riverside Drive and Lot 80, DP 31154, No. 21 Riverside Drive, West Ballina (refer to the attachment).

11.1 Road Closing - Section of Unconstructed Road

This section of road reserve was dedicated as public road to Council in 1974 as part of the surrounding subdivision. A road was never constructed within this road reserve and is not required to form part of our road network. The land is currently vacant, has no public recreation facilities and is maintained by Council's Open Spaces and Reserves.

The road closing proposal was submitted by Council with some expectation that the closed road would vest in Council and its disposal or use would be managed by Council. During the road closing process, it became apparent that as the road was never constructed, the road would vest in the Crown upon closing in accordance with the provisions of the Roads Act 1993.

The current land owners of the four adjoining properties were not the land owners when this matter was previously presented to Council in 2009. These adjoining properties have traditional sealed road frontages to Cunningham Street or Riverside Drive, however, they utilise the unformed road for recreational use and occasional vehicle access to the rear of their yards. Council has not approved any formal vehicle access to the rear of these properties from the unformed road.

The road proposed to be closed will not affect any formal public access or functioning of Riverside Drive or Cunningham Street. The land does provide an open space access between the adjoining streets and is utilized by nearby residents for casual recreation purposes.

The unformed road is not required by Council for road improvements or considered necessary for future strategic road use. Council has stormwater and sewer pipes in this land and easements would be required over this infrastructure should the land be sold.

Council is the roads authority for this public road and any request to close a section of Council public road must first be endorsed by Council. This was approved by Council in 2009 and the matter is now about to be finalised.

Council has the opportunity to reassess its position on the matter, however the reasons for considering the closing of this section of road have not changed.

If the road is closed it will vest in the Crown. If the land is disposed of, it could be potentially developed as a single parcel, potentially subdivided into freehold lots to be developed individually or consolidated with the adjoining properties, should the adjoining landowners be successful in the public competitive sale process with Crown Lands. The current intention of Crown Lands is to subdivide the land into two lots for sale.

Sustainability Considerations

- **Environment**

The road closing and subsequent subdivision will provide lots for new development or land able to be consolidated with the adjoining properties. Vacant residential land in this locality is in demand and the development of this site would be considered a suitable use of the land.

11.1 Road Closing - Section of Unconstructed Road

- **Social**

The road is public land and currently provides an informal open space area for recreation and access between existing streets. There are currently no plans to embellish this area as a formal open space recreation area.

There is a level of enjoyment and use by the adjoining landowners as they have an open space area adjacent to their properties. There are no formal approved accesses from this unformed road to the adjoining properties.

- **Economic**

The recommendation seeks to support efficient land management principles with the unformed road to be closed and developed, subdivided or consolidated with the adjoining land.

The section of road is currently grassed and the maintenance is primarily done by Council with some contribution by the adjoining residents.

Legal / Resource / Financial Implications

The road is not identified by Council for current or future road projects. The maintenance of the road reserve (eg: mowing) is currently met by Council and arguably this service provides direct benefits for the adjoining landholders, however there is limited benefits to the broader public. The costs associated with the road closing have been covered by Council, as the applicant. Upon closure of the road, the land would vest in the Crown along with any proceeds from the sale of the road.

Consultation

During the road closing process undertaken by Crown Lands, the previous adjoining land owners were notified by mail and the road closing was advertised in the Northern Star newspaper on 8 June 2011. No submissions were received.

The adjoining landowners have not been consulted during the preparation of this report, however a copy has been provided to them.

Options

1. That Council confirms support for the road closing and sale of this section of unformed road by the Crown via a public competitive sale process.

The advantage of this option is it ensures the Council does not have any future liability or maintenance attached to this unformed section of road which does not provide a broad public benefit.

2. That Council withdraws support for the road to be closed and sold.

The land would remain as unformed public road and require ongoing maintenance by Council.

11.1 Road Closing - Section of Unconstructed Road

3. A third option would be to write to the residents of Cunningham Street and Riverside Drive to assess if there is any objection to the proposal, albeit it is noted in the above report previously there were no submissions received in response to the advertising of the road closing.

The recommendation below follows the previous resolution of Council which is option one above.

RECOMMENDATION

That Council reconfirms its support for the proposed road closing of the unformed public road adjacent to 5 and 7 Cunningham Street and 13 and 21 Riverside Drive, West Ballina and advises the Crown to proceed with the road closing.

Attachment(s)

1. Aerial Photo of Road Reserve

11.2 Tender - Bus Shelter Advertising

11.2 Tender - Bus Shelter Advertising

Delivery Program Asset Management

Objective To determine a tender for bus shelter advertising.

Background

The current contract for advertising on bus shelters expires 31 December 2017. Under the terms of this contract, Claude Outdoor Pty Ltd provided advertising and maintenance to 32 bus shelters in the Ballina Shire.

Tenders were advertised in November 2017 to provide advertising and to undertake maintenance on nominated bus shelters at the close of the tender period on 28 November 2017, two tenders were received. This report provides an overview of the tender assessment.

Key Issues

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

Information

The evaluation criteria and weightings were determined in accordance with Council's "Local Procurement Policy" and were noted within the tender as:

Mandatory Criteria

- Capability and Experience – demonstrated capability to perform the works and relevant experience contracts of a similar nature
- Methodology – financial arrangements & maintenance program
- References – positive references on similar programs in regards to similar projects
- Work Health and Safety systems – a documented WHS management system to an acceptable standard
- Appropriate insurance coverage – for public liability, vehicle/plant, works and workers compensation.

Weighted Criteria

- Total Price - 85%
- Local and Community - 15%

Tender were received from the following companies

- Claude Outdoor Pty Ltd
- Sidewinder Advertising Pty Ltd

Pricing information and tender ranking has been provided by separate memorandum to Councillors. Claude Outdoor Pty Ltd met all the mandatory evaluation criteria and their tender submission provides the best value for Council.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
Not applicable
- **Economic**
Bus shelter advertising provides income for Council, promotes local business and renews and maintains bus shelters within the Shire.

Legal / Resource / Financial Implications

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

Consultation

A public tender process was undertaken.

Options

In accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract;*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender; and*
- f) carry out the requirements of the proposed contract itself.*

Option one - Council may award the contract to Claude Outdoor Pty Ltd for the provision of bus shelter advertising and maintenance for a five year period

Option two - Council may determine not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more service providers.

11.2 Tender - Bus Shelter Advertising

Option two is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005. The tenders submitted indicate a fair test of the market and a fair rate has been achieved representing value to Council.

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

RECOMMENDATIONS

1. That Council accepts the tender for the provision of bus shelter advertising and maintenance for a five year period from Claude Outdoor Pty Ltd.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13. Notices of Motion

13. Notices of Motion

Nil Items

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 November 2017 Ordinary meeting:

<u>Date</u>	<u>Function</u>
19/11/17	Commemoration Park Markets
19/11/17	Ballina Markets
25/11/17	Lennox Head Shark Net Protest
25/11/17	Wardell Art Show
26/11/17	Commemoration Park Markets
28/11/17	Church Group
28/11/17	Meeting Alstonville/Wollongbar Rugby
28/11/17	Presentation of Cheques – Lions Fun Run
29/11/17	Library Agreement – Tweed Heads Library
29/11/17	Briefing Ballina Indoor Sports Centre
30/11/17	Meeting – Doug Ellison – Export Potential
1/12/17	Meeting Cherry Street Sports Club
1/12/17	Simon Chate - CD Launch
3/12/17	Commemoration Park Markets
3/12/17	Ballina Shire Band Christmas Concert
3/12/17	Lennox Head Carols
5/12/17	Meeting – Summerland House Farm – Grant Support
6/12/17	Emmanuel Anglican College – Kinder to Year 6
6/12/17	Emmanuel Anglican College – Year 7 to 11
6/12/17	Alstonville/Wollongbar Chamber Meeting
7/12/17	Ballina Lighthouse RSL Day Club – Richmond Room
7/12/17	FSG Australia's NSW End of Year Meeting
8/12/17	Briefing – Ballina Indoor Sports Centre
8/12/17	Christmas in the Park Opening
8/10/17	Promotion Veterans' Services – Alstonville
9/12/17	Sign Unveiling - Ross Park - Lennox Head
10/12/17	Ballina Riverside Carols
11/12/17	CWA Morning Tea
11/12/17	Australia Day Committee
11/12/17	Flavours of Lennox - Pancho Villa
12/12/17	Love It or Lose It – Ballina RSL
13/12/17	Volunteer Tourist Ambassadors Presentation - Airport
13/12/17	Meeting Re Reflections Holiday Parks Lennox Head
13/12/17	NNSWLHD Board Meeting
14/12/17	Council Meeting
18/12/17	Council Christmas Tree Judging
31/12/17	New Year's Eve - Alstonville

RECOMMENDATION

That Council notes the contents of the report on Mayoral meetings.

Attachment(s)

Nil

15.2 Delegate's Report - Artstate NSW

15.2 Delegate's Report - Artstate NSW

Councillor

Sharon Parry

Thank you very much for the opportunity to attend ARTSTATE NSW in Lismore. The conference was a fabulous showcase of the contribution to the Arts by residents of the Northern Rivers shires, including Ballina, of course. There was also enriching contribution from national and international arts practitioners, from the performing arts to literature, poetry, dance, music genres and installations. There was a rich mix of indigenous arts achievements as well as a wide range of arts achievements represented, and I must say that Lismore was **Buzzing**, the Quad alive with concerts, performances, exhibitions and of course the conference presentations and a world-class, extremely polished performing arts schedule (optional, at attendees' cost).

Highlights were meeting Rhoda Roberts and Djon Mundine, who need no introduction, and discussing indigenous performing arts and poetry, literature and language: Rhoda is truly a force to be reckoned with, but humble and gracious.

I met Samouk Datta, (Bengali Londoner) who plays a fretless sarod with fifteen bronze and steel strings. The instrument is originally from ancient Persia, when warriors used to play, riding into battle. After his performance, during a Q and A, an eleven-year old girl from the Conservatorium asked him whether he had to practise for twelve hours a day (implication that she would need to as well).

Sounik asked her which instrument she played; it was violin. He said to her, well you have five strings AND frets, but I have fifteen strings and NO frets! But violin is beautiful! He explained to her that when you and your instrument are one, you speak a special, tacit language, and after all that practice, you reach the ability to be free to engage in that tacit language with other musicians too. It was a salutary moment.

Of note was a panel of regional arts' directors speaking about community based arts projects they had orchestrated. What came through clearly was the message that making art as a community is therapeutic for individuals, and healing for communities.

An endearing example was the Hat Project (far out western NSW) with drought affected farmers. The emotional healing of the community art project, involving wizened, isolated farmers both male and female, was palpable.

Another strong theme was the burden of responsibility felt by artists in every sphere to speak for their communities, to represent them well and to do justice to them.

This theme came resounded through the performing arts, visual arts and a wide range of arts practice, but it was a very strong and enduring theme for all artists, regardless of their chosen field or ethnicity, cultural belonging or social status.

15.2 Delegate's Report - Artstate NSW

I came away energised by the experience and proud of our Shire Council's commitment to the arts generally, to our Ballina Regional Gallery and the new arts' space now happening at the old fire station. These investments are in the emotional and cultural health of our shire's communities and we should stand immensely proud of them and of those whose decisions in the past have ensured BSC's current commitment to the advancement of the arts in our shire.

RECOMMENDATION

That Council notes the contents of the report from Cr Parry on the ARTSTATE NSW Conference.

Attachment(s)

Nil

16. Confidential Session

16. Confidential Session

Nil Items