



## Notice of Ordinary Meeting

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 24 May 2018 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**

- (a) 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. Deputations will be limited to a maximum of two items on the agenda per person.

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.

Deputations on the same matter will be listed together with the opposition first and the speaker in affirmation second.

- (b) Members of the public are advised that 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.
- (c) 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.
- (d) To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
- Tenderers during a public tender or request for quotation
  - Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
  - Consultants who are engaged by Council on the matter the subject of 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.

## Table of Contents

1.	Australian National Anthem .....	1
2.	Acknowledgement of Country .....	1
3.	Apologies.....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations.....	1
6.	Deputations .....	1
7.	Mayoral Minutes .....	1
8.	Development and Environmental Health Group Reports.....	2
8.1	DA 2017/575 - Review of Determination - 3 Suncrest Avenue	2
8.2	Development Applications – Variation to Development Standards	6
8.3	Development Applications - Works in Progress - May 2018	7
9.	Strategic and Community Facilities Group Reports.....	16
9.1	DCP and Amended Planning Proposal - Burns Point Ferry Road	16
9.2	Planning Proposal - Roadside Stalls - Finalisation	27
9.3	Planning Proposal - Housekeeping Amendments - Finalisation	34
9.4	Land Classification - Lot 4 DP 1239938 Hutley Drive, Lennox Head	41
9.5	Land Classification - Lot 1 DP 1237215 Uralba Road, Uralba	44
10.	General Manager's Group Reports .....	48
10.1	Investment Summary - April 2018	48
10.2	Policy (Review) - University Scholarship	53
10.3	Joint Regional Planning Panel - Election of Alternate Delegate	55
10.4	Legal Matters - Update	59
10.5	Financial Review - 31 March 2018	62
11.	Civil Services Group Reports.....	90
11.1	Dwellings in Rural Areas - Flood Mitigation Options	90
11.2	Ballina Roads Contribution Plan - Review	99
12.	Public Question Time.....	107
13.	Notices of Motion.....	108
13.1	Notice of Motion - NBN Rollout - Ballina Shire	108
13.2	Notice of Motion - Master Plan - Shaws Bay Park area	109
13.3	Notice of Motion - Shark Mitigation	112
14.	Advisory Committee Minutes .....	114
14.1	Commercial Services Committee Minutes - 1 May 2018	114
15.	Reports from Councillors on Attendance on Council's behalf.....	120
15.1	Mayoral Meetings	120
16.	Confidential Session.....	121

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1. Australian National Anthem
  2. Acknowledgement of Country
  3. Apologies
  4. Confirmation of Minutes
  5. Declarations of Interest & Reportable Political Donations
  6. Deputations
  7. Mayoral Minutes
- 

**1. Australian National Anthem**

The National Anthem will be performed by the Alstonville Anglican Church Choir.

**2. Acknowledgement of Country**

In opening the meeting the Mayor provided an Acknowledgement of Country.

**3. Apologies**

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 April 2018 were distributed with the business paper.

A copy of the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Tuesday 15 May 2018 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 April 2018.

That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Tuesday 15 May 2018.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## 8.1 DA 2017/575 - Review of Determination - 3 Suncrest Avenue

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### 8. Development and Environmental Health Group Reports

#### 8.1 DA 2017/575 - Review of Determination - 3 Suncrest Avenue

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<b>Applicant</b>	Techton Building Services
<b>Property</b>	Lot 73 DP 240225, 3 Suncrest Avenue Alstonville
<b>Proposal</b>	Secondary Dwelling as depicted in plans prepared by Techton Building Services Project No. AGSabode1 dated September 2017
<b>Effect of Planning Instrument</b>	The land is zoned R2 low Density Residential under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan and aerial image included as Attachment 1.

#### **Introduction**

Council has received a request under Section 8.2 of the *Environmental Planning and Assessment Act* 1979 to review the determination of Development Application 2017/575.

DA 2017/575 is a proposal for a detached secondary dwelling to be constructed facing the secondary road frontage of a corner allotment within an established area of Alstonville.

Following referral to Council's internal Development Assessment Panel (DAP), the application was determined under delegated authority by way of refusal on 22 November 2017. The reasons for the refusal were stated as follows:

1. The proposal will not provide adequate private open space to afford the expected level of amenity for the occupants.
2. A more suitable and reasonable location exists on the property that would provide greater amenity and less impact on the streetscape.
3. It is not in the public interest.

The original DAP Assessment Report is included as Attachment 2.

This report provides information relating to the proposed development to enable Council to undertake a review of the 22 November 2017 determination.

#### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

The proposed development as originally lodged was notified in accordance with the Level 1 – Targeted Notification process as described in Clause 3.2.4 of Chapter 1 of the DCP. The 14 day notification period ended on 4 November 2017.

Two submissions and a petition containing the names, addresses and signatures of 23 people in objection to the proposed development were received.

The application for a review of the determination also includes additional details provided by the applicant in support of the application. This additional information was renotified to those same properties that were originally notified. The renotification period ended on 23 April 2018.

One confidential submission in objection to the proposed development has been received as a result of the renotification process. This submission supported the three reasons for refusal as stated earlier.

### **Report**

The EP&A Act allows for a review of determination decisions. In requesting a review, the applicant may amend the proposed development the subject of the original application.

Council may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

In this instance the plans lodged with the review application indicate the proposed secondary dwelling is located in the same position on the lot, and the floor plan, overall height and elevations are consistent with the plans originally lodged.

The main difference in the submitted documents is the provision of additional details that include fencing, landscape plantings to the Suncrest Avenue and Ashland Street frontages and depiction of the existing trees located on Council land.

The plans lodged with the original application are included as Attachment 3. The plans and supporting information lodged with the review application (including an address of the reasons for refusal) are included as Attachment 4.

The submitted plans indicate the fencing is to be 1.2 metres high to the Suncrest Avenue frontage with a 1.8 metre high section returning to the existing building that fronts Ashland Street.

The principle development control that applies to this aspect of the proposal is Element K of Chapter 4 of the Ballina Shire Development Control Plan 2012. This states that where fences or walls forward of the building line are proposed to exceed 1.2 metres in height the fence or wall is to be designed in accordance with the following:

## **8.1 DA 2017/575 - Review of Determination - 3 Suncrest Avenue**

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- The fence or wall is to be articulated so as to provide visual relief and opportunities for landscape plantings between the wall and public areas;
- The maximum height of the fence or wall is 1.8 metres; and
- The design of the fence or wall incorporates openings with at least 50% visual permeability.

With consideration to consistency of other approvals that have been issued for fencing forward of the building line, it is common practice for the provision for visual permeability to be applied as an alternative to, and not in addition to, articulated sections to allow for landscape screening.

Despite no articulated section being proposed for the fencing, the proposal includes a setback for the fencing of approximately one metre from the Suncrest Avenue boundary to provide space for landscape plantings.

The proposed additional fencing and landscaping is consistent with what is typically approved for fencing forward of the building line. In addition, as the front yard of the secondary dwelling will now be more private, it also addresses the first reason for the previous refusal, being a lack of private open space and amenity for the occupants of the secondary dwelling.

In addressing the other reasons for refusal (location on the site and public interest), there is an improved outcome to the impact on the streetscape. This may not be completely as indicated in the plans until the landscaping is fully established.

However, it may still be considered by the Council that a more suitable and reasonable location exists on the property to the west of the existing dwelling.

### **Options**

Section 8.4 of the EP&A Act provides for Council to confirm or change a determination that has been issued through the review of determination process.

If the determination is changed to approval, it is recommended that (in addition to standard conditions for an application of this type) appropriate conditions be applied to require the proposed fencing and landscaping to be in place and established prior to issue of an Occupation Certificate for the secondary dwelling.

If the refusal determination is confirmed, no additional reasons for the refusal are required to be given.

In considering the approach to the review of determination, it should be noted that in the event that the application is approved, the development will be eligible for a 100% waiver of developer contributions and charges under Council's policy approach to secondary dwellings (on the basis that the application was lodged prior to 1 April 2018).

If the refusal is maintained, any subsequent proposals for a detached secondary dwelling on the site will only be eligible for a 50% waiver of developer contributions and fees (where the applicable fee waiver criteria are met).



Having regard for the fencing and landscaping proposed and the additional information submitted by Newton Denny Chappelle addressing the original reasons for refusal (Attachment 4), the altered proposal is considered to be suitable for approval. It is therefore recommended that Council approves DA 2017/575 subject to conditions as outlined in this report.

**RECOMMENDATION**

That Development Application 2017/575 for a Secondary Dwelling on Lot 73 DP 240225 at 3 Suncrest Avenue, Alstonville be **APPROVED** subject to the application of standard planning, building and engineering conditions and specific conditions identified within this report.

**Attachment(s)**

1. Locality Plan and Image
2. DAP (Development Assessment Panel) Report - 3 Suncrest Avenue, Alstonville - New Second Dwelling / Granny Flat
3. Lodgement Plan Set
4. Review of Determination Plans and Supporting Information

## 8.2 Development Applications – Variation to Development Standards

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## 8.2 Development Applications – Variation to Development Standards

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In accordance with the Department of Planning's Circular PS08-014, the following information is provided with regards to development applications where a variation to development standards (via the BLEP 1987 or BLEP 2012) has been approved.

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

### RECOMMENDATION

That Council notes that there have been Nil applications approved under delegation for variations to development standards less than 10% for April 2018.

### Attachment(s)

Nil

### 8.3 Development Applications - Works in Progress - May 2018

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### 8.3 Development Applications - Works in Progress - May 2018

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

Dwelling house and dual occupancy applications are not included in this report.

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/223	5/5/2017	Ardill Payne & Partners	Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head	Awaiting additional information
2017/232	12/5/2017	GM Project Development & Management	Three Lot Strata Title Subdivision – 6 George Street, Tintenbar	Awaiting additional information
2017/370	07/07/2017	Newton Denny Chapelle	Service Station and Childcare Centre – 246-250 Lismore Road, Wollongbar	Awaiting additional information To be reported to Council
2017/430	04/08/2017	Victor Holmes Town Planning	Change of use to light industry, truck depot and storage facility, with associated business identification sign – 38B Smith Drive, West Ballina	Awaiting additional information
2017/434	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	Determination pending
2017/554	6/10/2017	Ballina Shire Council	Construction of a skate park – Elvery Lane, Alstonville	Referred to Government Departments

### 8.3 Development Applications - Works in Progress - May 2018

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 Estate) - Lot 54 Hutley Drive, Lennox Head	Being assessed
2017/600	30/10/2017	Newton Denny Chapelle	Expansion of an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	On Exhibition To be reported to Council
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	Determination pending
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 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	Awaiting additional information
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	Determination pending

### 8.3 Development Applications - Works in Progress - May 2018

2017/718	19/12/2017	Newton Denny Chapelle	To establish and Strata Title Subdivide a multi-dwelling housing development involving the erection of two attached two storey dwellings in addition to the existing dwelling house, demolition of existing garage, vegetation management works and other associated works - 71 Stewart Street, Lennox Head	Being assessed
2018/35	29/1/2018	Ardill Payne & Partners	To Construct a two storey multi dwelling housing development comprising three dwellings with a maximum height of 8.94 metres which is above the maximum height of 8.5 metres as outlined in the Ballina Local Environmental Plan 2012, and the associated strata subdivision and other works – 65 Blue Seas Parade, Lennox Head	Awaiting additional information
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 103 residential lots and seven super lots, construction or roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage – 20 North Creek Road, Lennox Head	Awaiting additional information
2018/52	2/2/2018	David Butcher	Strata Title subdivision of an existing dual occupancy – 26 Lakefield Avenue, Lennox Head	Determination pending
2018/53	2/2/2018	Ardill Payne & Partners	Alterations and Additions to the Ballina Byron Gateway Airport and Avis Offices – 210 Southern Cross Drive, Ballina	Determination pending

### 8.3 Development Applications - Works in Progress - May 2018

2018/74	13/2/2018	Ardill Payne & Partners	Demolition of Existing Residential Flat Building and Erection and Strata Title Subdivision of a Six Storey Residential Flat Building Containing 14 dwellings, associated car parking and works. The proposed building has a height of 18.4m with the lift over run at a height of 19.3m which is above the building height allowance of 18m under the Ballina Local Environmental Plan 2012 – 8 Grant Street, Ballina	Awaiting additional information
2018/78	14/2/2018	S F Clarke	Vegetation management works involving the removal of three trees – 17 Hill Street, East Ballina	Being assessed
2018/79	14/2/2018	Ardill Payne & Partners	Establishment of a tourist and visitor accommodation development comprising three holiday cabins and associated works – 101 Broken Head Road, Newrybar	Awaiting additional information
2018/82	15/2/2018	Newton Denny Chapelle	To establish an agricultural produce industry and erection of a two storey shed with associated office and the carrying out of civil works including car park, manoeuvring and delivery area – 61 Eden Valley Drive	Referred to Government Departments
2018/96	22/2/2018	Malcolm Scott Consultant Town Planner	Alterations and additions to the Ballina Public School including modifications and additions to Block A, erection of a covered outdoor learning area, covered set down and pick up area with vehicular access to Martin Street and removal of one camphor laurel tree – 30-52 Crane Street, Ballina	Determination pending

### 8.3 Development Applications - Works in Progress - May 2018

2018/99	26/2/2018	M Pampel	Change of use from office to medical centre – naturopathic practice – 144 River Street, Ballina	Being assessed
2018/100	26/2/2018	E S Hill-Lewis	Tourist and Visitor Accommodation comprising one holiday cabin and erection of farm shed, relocation of water tanks and horse stables and associated works – 378 Fernleigh Road, Fernleigh	Being assessed
2018/141	15/3/2018	Northern Rivers Land Solutions	Torrens Subdivision – 14 Chilcott Circuit, Cumbalum	Determination pending
2018/144	16/3/2018	Newton Denny Chapelle	Change of Use of Units 1, 2 and 3 from Light Industrial to a Recreational Facility (Tenancy 1 – Personal Training and Fitness classes, Tenancy 2 – Martial Arts classes) – 3 Sheather Street, Ballina	Awaiting additional information
2018/157	20/3/2018	RLA Building Design	Change of Use of a General Industrial Premises (Brewery) to a Computer Repair and Maintenance Workshop and Ancillary Office (Tenancy 1) and Cabinetry making business (Tenancy 2) – 57 Northcott Crescent, Alstonville	Being assessed
2018/195	11/4/2018	A Johnson	Vegetation management works involving the removal of three trees- 22 Libby Lane, Lennox Head	Awaiting additional information
2018/213	17/4/2018	Newton Denny Chapelle	Erection of sales office and construction of associated car parking associated with EPIQ subdivision – Hutley Drive, Lennox Head	Being assessed

### 8.3 Development Applications - Works in Progress - May 2018

2018/216	20/4/2018	Balanced System Planning	Demolition of existing conference centre and construction of new conference centre, alterations and additions to dormitory accommodation, removal of carport and shed associated with caretakers dwelling, minor changes to kitchen and amenities buildings and associated onsite works, to be undertaken in two stages – 70 Shelly Beach Road, East Ballina	On Exhibition  Referred to Government Departments
2018/217	23/4/2018	Tallow Tree Services Pty Ltd	Vegetation Management Works Comprising the Removal of One Tree – 56 Greenfield Road, Lennox Head	Being assessed
2018/227	26/4/2017	Newton Denny Chapelle	Relocation of Entrance Gates and Security Fencing – 15 Southern Cross Drive, Ballina	Being assessed
2018/234	30/4/2018	DC & JN McDonald	Vegetation Management Works involving the removal of one Leopard Tree – 31 Teven Road, Alstonville	Being assessed
2018/244	3/5/2018	C Blackburn	Vegetation Management Works involving the pruning of Two Trees – 24 Greenfield Road, Lennox Head	Being assessed
2018/245	3/5/2018	Sentinel Tree Care P/L	Vegetation Management Works involving the Removal of One Jacaranda Tree – 58 Commercial Road, Alstonville	Being assessed
2018/249	4/5/2018	Newton Denny Chapelle	Proposed Child Care Centre – Hutley Drive, Lennox Head (EPIQ)	On exhibition
2018/254	7/5/2018	W Hirst	Change of Use - Massage Clinic – 16-22 Cherry Street, Ballina	Being assessed



### 8.3 Development Applications - Works in Progress - May 2018

2018/259	8/5/2018	Planners North	Boundary Adjustment Subdivision of two lots to create one 8.6ha and one 14.9ha allotments, Lot A DP 441478 and Lot 3 DP 589334 – Old Byron Bay Road, Newrybar	Referred to Government Departments
2018/262	9/5/2018	CG Ridley	Vegetation Management Works involving the Removal of One Gum Tree - 100 North Creek Road, Lennox Head	Being assessed

#### 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	Amended Proposal: To undertake the first stage of the urban subdivision of the new Cumbalum Urban Release Area – Precinct B comprising a total of 166 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, Kinvara	Referred to Government Departments
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  Hearing on disputed conditions 15 May 2018

### 8.3 Development Applications - Works in Progress - May 2018

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
2016/746	23/12/16	Ringtank Pty Ltd	Erection of three dwelling houses, 10 site caravan park, equine facilities including stables, veterinary facility, quarantine stalls, horse float and equipment shelters and two equestrian exercise lawns, private outdoor recreation facilities including go-kart track, shooting range, associated buildings, roadworks, earthworks including dam and landscaping - Carrs Lane, Empire Vale Road, Reedy Creek Road- Keith Hall/Empire Vale	Briefing to be held with Councillors  Referred to Government Departments
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

### 8.3 Development Applications - Works in Progress - May 2018

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	Referred to Government Departments
2017/447	17/8/2017	Newton Denny Chapelle	Erection of a Neighbourhood Shopping Centre, involving a Supermarket (Woolworths) and Specialty Shops, Associated Car Parking and Other Infrastructure Servicing, Earthworks, Signage and Landscaping within the EPIQ Estate at Lennox Head – Hutley Drive, Lennox Head	JRPP – Determination deferred
2017/670	23/11/2017	Planners North	Extractive Industry and Concept Approval for future recreational and tourism use – Newrybar Swamp Road, Lennox Head	Awaiting additional information

#### Major Development (Determined by Minister)

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

#### RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for May 2018.

#### Attachment(s)

Nil

## **9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road**

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### **9. Strategic and Community Facilities Group Reports**

#### **9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road**

**Delivery Program** Strategic Planning

**Objective** To inform the Council about draft development control plan (DCP) provisions that have been prepared in relation to the subject land, and to seek direction from the Council on the exhibition of the draft DCP and the re-exhibition of the related Planning Proposal.

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#### **Background**

The Council last considered the planning proposal relating to the land located on the western side of Burns Point Ferry Road in West Ballina at its Ordinary Meeting held on 25 May 2017. On that occasion Council resolved as follows:

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

## 9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road

*the site's Investigation Area – Urban Land designation, and amend the Ballina Shire Growth Management Strategy to reflect the extent of the planned urban area.*

Attachment 1 contains a detailed chronology relating to Council resolutions and actions relating to the Burns Point Ferry Road rezoning site.

### Key Issues

- Consideration of draft DCP provisions prior to exhibition
- Consideration of proposed changes to the planning proposal

### Information

The land the subject of this report is shown on the site location plan contained within Diagram 1.

**Diagram 1 – Site Location Plan**



Diagram 2 shows the land zones that currently apply to the subject land.

9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road

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

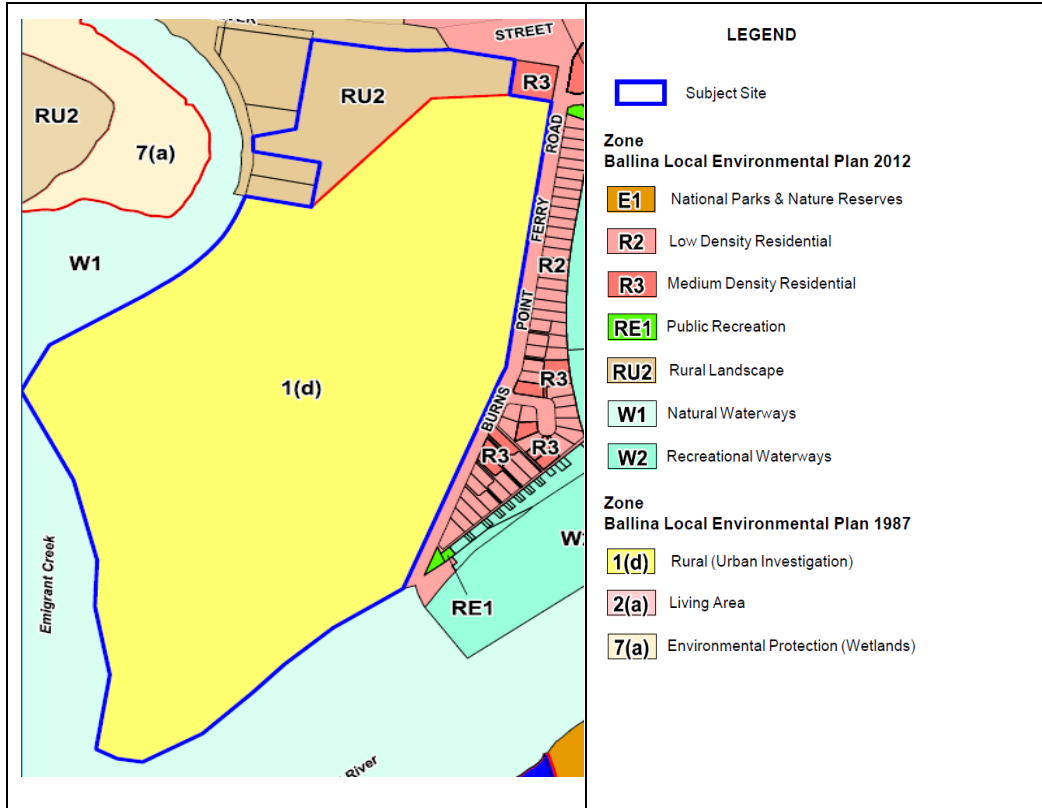
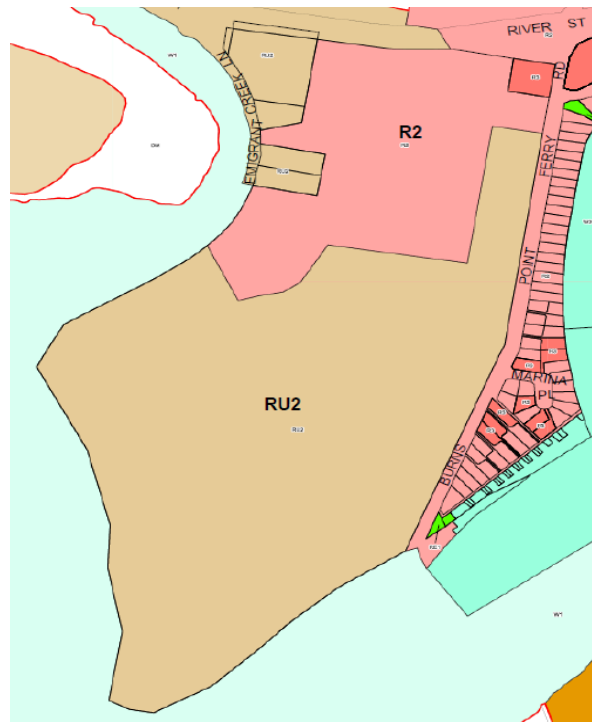


Diagram 3 shows the land use zones proposed by the exhibited planning proposal.

Diagram 3 – Proposed Ballina LEP 2012 Land Zoning Map Extract



## 9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road


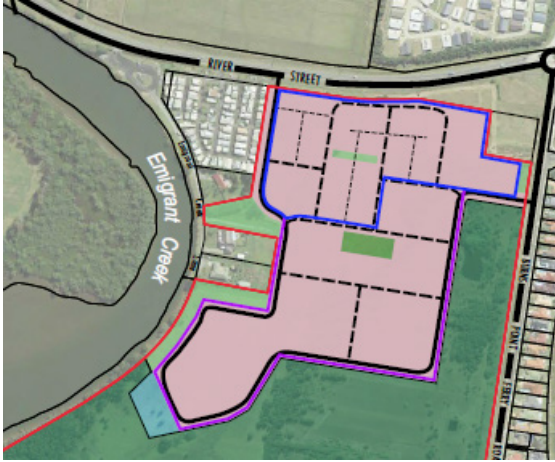
Table 1 lists the significant changes that are proposed to be made to the planning proposal since the proposal was publically exhibited in June – July 2016.

It is these changes, if endorsed by the Council, that are considered to warrant the re-exhibition of the planning proposal concurrently with the draft DCP provisions.

**Table 1 – Summary of Significant Changes proposed to Planning Proposal**

Description of proposed Change to Planning Proposal	Comments regarding Proposed Changes
<p>Light industrial uses no longer proposed as an additional specific permitted use within the proposed R2 <i>live work</i> precinct.</p> <p>Reference to business premises, other than funeral home or office premises to be removed.</p> <p>The <i>work</i> component of <i>live work</i> development is proposed to be permitted as a <i>home business</i>. This is subject to the floor area limit for home businesses in the designated live – work precinct being increased from a maximum 50m<sup>2</sup> to 120m<sup>2</sup>.</p> <p>A home business is defined as:</p> <p><b>home business</b> means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:</p> <p>(a) the employment of more than 2 persons other than those residents, or</p> <p>(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or</p> <p>(c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or</p> <p>(d) the exhibition of any signage (other than a business identification sign), or</p> <p>(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.</p>	<p>Concerns regarding compatibility of light industrial uses with residential uses and the potential difficulties associated with mitigating land use conflict and associated amenity impacts have resulted in light industrial uses no longer being proposed to be incorporated within the planning proposal.</p> <p>Home businesses and home industries are already permitted, with development consent, in the R2 Low Density Residential zone under the provisions of Ballina LEP 2012.</p> <p>Home occupations are permitted without consent.</p> <p>The proposed change recognises that within a designated <i>live – work</i> precinct an agglomeration of home businesses may take place and as a consequence a floor area larger than the standard 50m<sup>2</sup> may be appropriate.</p> <p>Other elements of the home business definition, such as the restriction on employee numbers, are proposed to be retained.</p> <p>The planning proposal originally proposed to limit the <i>work</i> component to 120m<sup>2</sup> or a floor space ratio of 0.2:1 whichever is the greater. This would have permitted work areas exceeding 120m<sup>2</sup> in cases where the lot had an area exceeding 600m<sup>2</sup>.</p> <p>Given that the proposed minimum lot size is 450m<sup>2</sup> it is now proposed that on such lots the work component will be no larger than 90m<sup>2</sup>. The work area may then increase to a maximum of 120m<sup>2</sup> on lots of 600m<sup>2</sup> or greater.</p> <p>The proposed change is designed to ensure that the <i>work</i> component of <i>live work</i> development is of a size that is more compatible with nearby residential uses and thereby less likely to create amenity impacts.</p>

## 9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road

Description of proposed Change to Planning Proposal	Comments regarding Proposed Changes
<p>Relocation of the proposed restaurant or café incorporating information and education facilities and a dwelling away from an undefined site with access to Burns Point Ferry Road to a new defined site adjoining the south - western section of the area designated for live- work purposes, as shown by blue colour on the map extract below.</p> <p>The area occupied by the proposed restaurant or café incorporating information and education facilities (Interpretive Centre) and a dwelling has also increased in area from the originally proposed 1300m<sup>2</sup> to 3,300m<sup>2</sup>.</p> 	<p>The new location is proposed in response to concerns which relate to the generally unspecified location of the previous proposal somewhere within the proposed RU2 zoned land.</p> <p>The new location will require the proposed Additional Permitted Use map to be amended to reflect the proposed new location.</p> <p>The reason for the increased area devoted to the proposed additional permitted use site relates to buffers for bushfire and mosquito control being located within the designated additional use area and not within the adjoining biobanking site.</p>
<p>Amendment of the extent of proposed live – work area and incorporation of an area with a single dwelling only focus within the proposed R2 zoned area.</p> 	<p>This is the proponent's initiative arrived at through the process of undertaking structure planning for the site.</p> <p>The single dwelling focused area is located in the northern part of the proposed R2 zoned area as outlined in blue on the map extract opposite. This area will permit home offices as a traditional home occupation use without consent, or home businesses with consent subject to the 50m<sup>2</sup> floor area limit applicable to home businesses in residential zones under the provisions of BLEP 2012.</p> <p>The southern section, outlined in purple, is proposed to retain its live – work focus and permit a dwelling in conjunction with a home business (up to 120m<sup>2</sup> of floor area).</p> <p>The new smaller area for live-work development will require the proposed Additional Permitted Use map to be amended to reflect the changed development outcomes now proposed for the proposed R2 zoned area.</p>

Draft DCP amendments to Ballina Shire DCP Chapters 3 and 4 were initially prepared by GeoLINK and subsequently amended by staff following consultation with various technical staff and the proponent.

Table 2 details the more significant matters addressed by the draft DCP amendments.

Attachments 2 and 3 contain the proposed amendments to Chapters 3 and 4 of Ballina Shire DCP 2012 as they relate to the Burns Point Ferry Road Expansion Area.



## 9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road

**Table 2 – Summary of Significant Draft DCP Provisions**

<b>Draft Provisions of Chapter 3 – Urban Subdivision</b>	
Structure Plan	The Structure Plan defines the location of the residential component of the development including the local park and road network as well as the conservation portion of the site. The location of the restaurant, information, educational facility (Interpretive Centre) and dwelling is also defined.
Mosquito Management Plan	The plan shows the location of 30 metre wide mosquito buffers within the development section of the site. Mostly the buffers follow the road network. This buffer also serves as an Asset Protection Zone buffer for the purpose of bushfire protection.
Residential Intensity Plan	This plan divides the residential precinct into two sections. The northern section will have a single dwelling focus, but also permitting home occupations and home businesses whereas the southern section will have a <i>live – work</i> focus.  The <i>live – work</i> focus will be achieved by permitting larger home businesses (floor area up to 120m <sup>2</sup> ) within this area.
Open Space Plan	This plan shows the location of a minimum 2000m <sup>2</sup> proposed public open space area as well as other proposed open space areas. Provisions of the draft DCP detail the nature of improvements required to be contained within the public open space. These include infrastructure such as child play facilities, shade structure, BBQ etc.
Access Plan	This details the general location of proposed roads and laneways. Importantly, the plan also shows the location of access points to River Street and Burns Point Ferry Road. Other provisions of the draft DCP indicate that the access to River Street will be required to be left in left out. A roundabout was previously proposed by the proponents but this was found not to be feasible by Council's Traffic Engineers due to the proximity to existing roundabouts.  The proposal includes permanent access to Burns Point Ferry Road whereas previously only temporary access was proposed pending the construction of the then proposed roundabout.  All roads within the site, including that part of the site that may be developed under community title provisions, will be required to be public roads complying with Council's normal public road design standards.
Infrastructure and Buffer Location Requirements	The draft DCP requires all infrastructure and buffers which service the development section of the site to be located within the development site, as opposed to encroaching the proposed RU2 zoned conservation area.
Geotechnical, Land Contamination, Stormwater Management and Waste Management	The draft DCP contains specific provisions relating to the development site which address the subject issues.
On-street Car Parking Requirement as part of Road Design	The draft DCP specifies that on street car parking for visitors and non- resident employees must be provided at a minimum rate of 1 space per two lots within the street network. This is additional to off street car parking required on each lot.

## 9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road

Draft Provisions of Chapter 4 – Residential and Tourism Development	
Parking	Off Street parking requirements consist of two spaces per dwelling, one of which is to be a covered space, plus one space for visitors and 1 space per two employees. This means that a standard home business with no non-resident employees will be required to make provision for 3 off street parking spaces. This increases to 4 spaces where non-resident employees (maximum 2) are proposed.  The above requirements are Council's standard DCP parking requirements for home business.  Spaces within the road network design (Chapter 3) are additional to this requirement.
Design of Live – Work Development	Specific controls relating to required ceiling heights, location of business and residential sections of the building and the need for the work operator to reside within the live component of the development have been specified.
Operating Hours	Operating hours for noise generating activities associated with home business usage have been specified.
Noise	Maximum design sound levels have been specified for the residential components of the live work development. These reflect requirements contained within <i>AS 2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors</i> .

It is considered that the draft DCP provisions proposed for the Burns Point Ferry Road Expansion Area adequately preserve Council's interests as they relate to this site and build on existing controls already contained within the DCP such as building envelope and setback requirements.

In the development of the draft DCP provisions it became necessary for the proponent and staff to review various aspects of the planning proposal as originally exhibited.

The location of the proposed restaurant or café incorporating information and education facilities (Interpretive Centre) and a dwelling has now changed. The extent and nature of the live-work development has also been altered through the deletion of light industrial uses and the concept now being based on the existing definition of home business, albeit with a larger permissible floor area.

It is these alterations that have necessitated changes to the planning proposal as originally publically exhibited. It is also these changes that have triggered a requirement for an altered Gateway determination to be obtained from the Department of Planning and Environment prior to public exhibition.

Should Council support the draft DCP provisions and the proposed changes to the planning proposal then the next step will be to seek an altered Gateway determination and then to publically exhibit these documents.

### Sustainability Considerations

- **Environment**

The subject land has environmental and ecological values. Biodiversity matters have been previously comprehensively assessed in a number of ecological reports, some of which formed a part of the planning proposal when it was previously exhibited for public comment during June – July 2016.

These reports were also considered by GeoLINK consultants in their peer review report. The Council considered these issues at its Ordinary Meetings held on 16 December 2016 and 25 May 2017. The draft DCP provisions contain requirements which seek to limit the impact of the proposed development on that portion of the site proposed to be retained for ecological purposes.

Importantly, an area of approximately 40ha will be designated as a biobanking site under the requirements contained within a Voluntary Planning Agreement (VPA). This land, which is the subject of a VPA, is proposed to be restored and maintained in perpetuity.

- **Social**

Social issues of relevance, such as the social benefits of the live-work concept, including the ability of residents to live and work within the same building, have been considered in the proponent's rezoning submission.

- **Economic**

The proposal will likely have positive economic impacts associated with the provision of additional housing, business and employment opportunities.

### Legal / Resource / Financial Implications

To date the proponent has met costs associated with the processing of this planning proposal, including the preparation of the draft DCP and the now executed VPA.

Costs associated with the exhibition of the draft DCP and planning proposal, and the subsequent finalisation of the planning proposal post exhibition, are required to be met by the proponent in accordance with Council's adopted fees and charges.

The further processing and exhibition of the draft DCP and the amended planning proposal can be accommodated within existing resources.

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

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

### Consultation

It is proposed to consult with the same range of stakeholders who were previously consulted in 2016. This included approximately 400 owners of nearby properties and government authorities including the Office of Environment and Heritage as well as Roads and Maritime Services. All persons and authorities that previously made submissions will also be consulted / advised.

As a generalisation, it is fair to say this parcel of land has its challenges in attempting to achieve a balanced development outcome. It has been under consideration for many years, with a number of different development proposals having been considered.

It has previously been determined that the larger, southern portion of the site is not suited to development due to environmental constraints. Council has accepted that this area should ultimately be returned to a natural state, and this is to be achieved through a formal biobanking scheme.

Within the northern portion of the site, a potential “urban footprint” has been identified as being generally capable of accommodating housing. Here, the landowner representatives are keen to promote an unconventional development outcome where incoming residents are encouraged to both live and work in their premises, subject to certain limitations.

This is seen as desirable for a number of social, environmental and economic reasons, including that an estate of this kind will provide greater housing choice for shire residents.

The key however is to ensure the planning framework relating to the proposed new neighbourhood clearly conveys to the community the different set of outcomes sought to be achieved in a live-work setting and the parameters within which that can reasonably occur.

The proposed “rules” for the new area have now been documented as draft DCP provisions in the material attached to this report and staff consider it is now appropriate for them and a modified planning proposal to be presented for community feedback (assuming an amended Gateway authorization is received).

### Options

**Option 1: Exhibit the draft DCP provisions together with the amended planning proposal once an altered Gateway determination has been obtained.**

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

The process of preparing the draft DCP has highlighted issues relating to the nature of the residential subdivision proposed, the nature of the proposed live – work development, as well as the most appropriate location for the restaurant, information, educational facility (interpretive centre) and dwelling within the proposed RU2 zoned part of the site.

It is in terms of addressing these issues through draft DCP provisions that it has also been considered appropriate that the planning proposal be amended to better reflect the nature and extent of development now proposed. This approach has been supported by the proponent.

It is therefore proposed to re-exhibit the planning proposal concurrently with the draft DCP once the Department of Planning and Environment has issued an altered Gateway determination.

### **Option 2: Discontinue the Draft DCP and Altered Planning Proposal Process**

This option is not recommended.

If Council is not satisfied that the draft DCP provisions and changes proposed to the planning proposal provide a suitable response to the constraints of this site then it may discontinue the planning proposal and draft DCP processes.

The original planning proposal has generated significant investigation into site constraints. Constraints which have been investigated included flooding and stormwater, ecology, traffic and access management, visual amenity, entomology and geology. Expert reports were also independently peer-reviewed by consultants GeoLINK who found that adequate justification exists for approximately 16 hectares of the site to be rezoned to support urban development.

The original live-work development concept has now been significantly scaled back and now covers approximately 60% of the area previously proposed, with the balance of the proposed R2 zoned area being designated for single dwelling focused development.

It is also relevant to consider that in response to the Council's resolution of 25 May 2017, a Voluntary Planning Agreement (VPA) relating to the subject site has been executed. The VPA, whilst relying on the rezoning to be finalised, ensures that the bulk of the subject site will be preserved for ecological purposes.

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

### **Option 3: Defer the Draft DCP and Altered Planning Proposal**

Should the Council require any additional information in relation to the draft DCP provisions or the changes now proposed to the planning proposal then it may resolve to defer this matter pending a briefing and or additional information being provided.

## **9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road**

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Given the extent of investigation already undertaken into this site, and the nature of the changes now proposed which reduce the intensity of what is envisaged to occur, this option is not recommended.

### **RECOMMENDATIONS**

1. That the planning proposal as it relates to Lot 4 DP 537419, Burns Point Ferry Road, West Ballina, be amended generally as detailed in Table 1 to this report and an altered Gateway determination be sought from the Department of Planning and Environment.
2. That the Department of Planning and Environment be advised that at this stage of the process it is Council's intention to exercise its delegated plan making functions.
3. That upon an altered Gateway determination being received from the Department of Planning and Environment, the amended planning proposal and the draft amendments to Chapters 3 and 4 of the Ballina Shire Development Control Plan 2012 (as contained in Attachments 2 and 3), be publically exhibited in accordance with the terms of the *Environmental Planning and Assessment Act* and the associated Regulation.
4. That a further report be submitted to the Council following the public exhibition of the amended planning proposal and the draft amendments to Chapters 3 and 4 of the Ballina Shire Development Control Plan 2012.

### **Attachment(s)**

1. Attachment One - Chronology to April 2018
2. Attachment Two - Draft BSDCP 2012 - Chapter 3 Urban Subdivision Amendments
3. Attachment Three - Draft BSDCP 2012 Chapter 4 Residential and Tourist Development Amendments

## 9.2 Planning Proposal - Roadside Stalls - Finalisation

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### 9.2 Planning Proposal - Roadside Stalls - Finalisation

**Delivery Program** Strategic Planning

**Objective** To seek the Council's direction on the finalisation of planning proposal BSCPP 17/013 relating to roadside stalls.

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#### **Background**

The Council, at its Ordinary Meeting held on 27 October 2016, considered a notice of motion regarding the operation of roadside stalls in the shire. The Council 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.*

Following the recent completion and adoption of the Ballina Shire Economic Development Strategy, the Council considered a report regarding facilitating low impact roadside stalls in rural areas of the shire at its Ordinary Meeting held on 14 December 2017. Notably, the proposed change to the local environmental plan is consistent with the actions adopted within the Economic Development Strategy.

In respect to this matter the Council resolved as follows:

- 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.*

The planning proposal was forwarded to the NSW Department of Planning and Environment for Gateway determination. An affirmative Gateway determination was received, requiring also consultation with the NSW Roads and Maritime Service (RMS) and the NSW Rural Fire Service (RFS).

A copy of the Gateway determination is provided in Appendix 1 to the Planning Proposal (contained in Attachment 1 to this report).

The Gateway determination also sought clarification, within the planning proposal, with respect to the following:

## 9.2 Planning Proposal - Roadside Stalls - Finalisation

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- Ensuring consistency in the definitions of roadside stalls within the standard instrument and proposed local clause, with respect to handcrafted goods and primary produce; and
- The number of roadside stalls being limited to one per landholding.

The planning proposal was updated accordingly prior to public exhibition.

The responses received from the NSW Roads and Maritime Service and the NSW Rural Fire Service are provided in Attachment 2. The RMS raised concerns with the planning proposal to the extent that it relates to classified roads. The RFS did not raise any concerns regarding the matter.

The planning proposal was publicly exhibited from 4 April 2018 until 4 May 2018 (30 days). One submission was received from a member of the public during the public exhibition (Attachment 3). The matters raised are addressed in the body of this report.

This report seeks direction from the Council on the finalisation of the planning proposal.

### Key Issues

- Rural activity
- Regional food tourism
- Road safety

### Information

#### *Agency Submissions*

The Roads and Maritime Service (RMS) was consulted in accordance with the terms of the Gateway determination. The RMS response is provided as Attachment 2.

The RMS does not support the planning proposal to the extent to which it relates to classified roads, on the basis of road safety concerns.

Under the terms of the alternative approach to low impact roadside stalls proposed by the subject planning proposal, the concurrence of the RMS is required in relation to the grant of s138 *Roads Act* approvals for works within the road reserve on classified roads (by virtue of the *Roads Act* 1993).

Classified Roads within Ballina Shire comprise the following:

- The Pacific Highway and the Bruxner Highway
- Angels Beach Drive between Ballina and East Ballina
- The Coast Road between East Ballina and the Shire boundary with Byron Shire
- Ross Lane between the Pacific Highway and the Coast Road
- Tintenbar-Wollongbar Road (Tintenbar Road/Teven Road/Tuckombill Road/Rifle Range Road/Lismore Road) between the Pacific Highway at Tintenbar and the Bruxner Highway at Wollongbar
- The Old Pacific Highway (Tamarind Drive/Kerr Street/River Street) in Ballina



## 9.2 Planning Proposal - Roadside Stalls - Finalisation

As a consequence of the RMS submission, it is recommended that an additional condition be introduced into the proposed exempt development criteria that exempt roadside stalls must not be located on or adjacent to a classified road.

Under this approach, a development application would be required for all roadside stalls located on properties adjacent to classified roads.

The RMS submission also notes that in providing for roadside stalls, Council is required by sections 139A - F of the *Roads Act* to comply with guidelines relating to street vending jointly issued by RMS and the Office of Local Government (OLG).

A copy of these guidelines ("Street Vending") is provided in Attachment 4.

The guidelines can be applied to inform Council's approach to the *Roads Act* approvals for low impact roadside stalls.

It is proposed that the existence and application of these guidelines be promoted in an information fact sheet that will be prepared to support the arrangements for roadside stalls, once given effect.

It is noted, however, that the RMS-OLG guidelines do not impose additional considerations beyond those already provided for by the proposed s138 *Roads Act* approval arrangements.

### *Public Submission*

One public submission was received during the exhibition period and is provided as Attachment 3 to this report.

The submission raises the following concerns regarding Council's proposed approach:

<b>Issue</b>	<b>Submission</b>	<b>Staff response</b>
Fees and charges	<p>Calls for the waiver of all fees on the basis that:</p> <ul style="list-style-type: none"><li>• Financial returns to stall owners are low, thus making fees a significant deterrent; and</li><li>• Roadside stalls make a positive contribution to the community through supporting rural tourism and reducing food waste.</li></ul>	<p>The proposed application fee set down for small scale roadside stalls (s.138 <i>Roads Act</i> approvals) of \$165 was based on partly offsetting staff costs associated with assessment and site inspections.</p> <p>Introduction of this fee is recommended, however, the setting of fees in this instance is at the discretion of the elected Council.</p>

## 9.2 Planning Proposal - Roadside Stalls - Finalisation

Issue	Submission	Staff response
Provision of gravel shoulder	<p>Objects to the requirement that an all-weather gravel shoulder be provided at the applicant's cost.</p> <p>The submission argues that road users should be responsible for ensuring road conditions are safe when using the road and that this requirement imposes an unreasonable impost on landowners.</p>	<p>Whilst road users are expected to take reasonable care when using the road, Council should avoid encouraging road users to act in an unsafe manner.</p> <p>The requirement for an all-weather gravel surface is included to ensure that patrons of roadside stalls can enter and exit the roadside in a safe manner.</p> <p>On this basis, removing this requirement is not recommended.</p>
Insurance	<p>Notes that the Adelaide Hills Council provides insurance coverage for roadside stalls and calls on Ballina Shire Council to do the same.</p>	<p>It is envisaged that having appropriate public liability insurance in place will be a condition of Council granting of <i>Roads Act</i> approvals for roadside stalls.</p> <p>Council's insurers have been contacted regarding whether such activities could be covered by Council's insurance arrangements.</p> <p>Whilst it appears there may be some scope for such an arrangement that could apply to a range of similar activities impacting public areas, the scope of application, terms and administrative arrangements for such an approach requires more detailed consideration.</p> <p>At this time it is recommended that the provision of public liability insurance be the responsibility of the owner of the roadside stall as originally envisaged.</p>
Roadside stalls in urban areas	<p>Calls for Council to also exempt roadside stalls located in urban areas from requiring development consent.</p>	<p>The proposed approach to exempting rural roadside stalls from requiring development consent does not easily translate to the urban environment due to the greater complexity of structures, road conditions and other land uses within urban areas.</p> <p>As a consequence, the application of the proposed exempt development criteria to urban zones is not recommended at this time.</p>

The submission suggests that Council should base its approach to small scale roadside stalls on that of Adelaide Hills Council in South Australia.

Council's proposed approach addresses the same range of matters as the Adelaide Hills Council policy, though in a manner appropriate to the legislative context in NSW.

In summary, staff recommend the following adjustment be made with respect to the proposed arrangements for exempting small scale roadside stalls in rural zones:

## 9.2 Planning Proposal - Roadside Stalls - Finalisation

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- Remove land located adjacent to classified roads from eligibility for exempt development for the purpose of low impact roadside stalls in response to the RMS submission. This will involve amendment to the draft planning proposal.

### Sustainability Considerations

- **Environment**  
Roadside stalls have the potential to have a positive environmental contribution by helping reduce food waste associated with farm produce.
- **Social**  
Roadside stalls can support the community's sense of place by providing access to local agricultural produce.
- **Economic**  
Roadside stalls contribute to local food tourism and support local producers in the sale of farm produce.

### Legal / Resource / Financial Implications

The proposed approach provides for small scale roadside stalls in low risk situations without the need for a development application. However, this approach retains a Council assessment and authorisation process through the necessity to grant a *Roads Act* approval for works within road reserves.

This process seeks to protect road users and fulfil Council's legal responsibilities as a local roads authority, whilst facilitating low impact roadside stalls.

The administration of the proposed (reduced) regulatory arrangements will potentially generate costs to Council associated with staff time involved in assessment and site inspections.

Charging a modest application fee associated with the s138 *Roads Act* approval to address the costs to Council (assessing what will be proposals for private business activities) is recommended.

The one-off application fee is proposed to be \$165 (inclusive of GST).

### Consultation

The planning proposal was publicly exhibited for a period of 30 days from 4 April 2018 until 4 May 2018. The NSW Roads and Maritime Service and NSW Rural Fire Service were consulted in accordance with the terms of the Gateway determination. One public submission was received during the exhibition period. The submission and agency responses are addressed in the body of this report.

### Options

The following options are available.

1. Council could discontinue the subject planning proposal.

This option is not recommended on the basis that the proposed approach seeks to facilitate low impact roadside stalls without compromising road safety.

2. Council could resolve to proceed with the planning proposal and supporting policy arrangements as publicly exhibited.

This option is not recommended on the basis of agency advice received from the NSW Roads and Maritime Service in response to agency consultation undertaken in accordance with the Gateway determination.

3. Council could resolve to proceed with the planning proposal and supporting policy arrangements, subject to minor amendments as outlined in the body of this report.

This option is recommended on the basis that, subject to the amendments outlined below, the proposed approach provides for a reasonable facilitation of low impact roadside stalls in a manner that does not compromise road safety.

Under this option the following amendment would be made to the proposed exempt development criteria for roadside stalls in the planning proposal:

- Remove land located adjacent to classified roads from eligibility for exempt development for the purpose of low impact roadside stalls.

Under this option the following adjustments would also be made to documentation (fact sheets and the like) supporting the arrangements for exempt development for low impact roadside stalls:

- Including reference to the need to conform to the requirements of guidelines issued by the Office of Local Government and Roads and Maritime Services relating to Street Vending, as a condition of the s.138 *Roads Act* approval for roadside stalls.
- Including reference to the need for landholders to hold public liability insurance in relation to their roadside stall.

In finalising the planning proposal, it is also recommended that an application fee of \$165 be included in Council's Fees and Charges Schedule for s138 *Roads Act* approval applications relating to roadside stalls. It is noted that this will require public exhibition of the proposed fee in accordance with the provisions of the *Local Government Act 1993*.

### RECOMMENDATIONS

1. That Council endorses the finalisation of planning proposal BSCPP 17/013 Roadside Stalls to enable certain roadside stalls as exempt development under the Ballina Local Environmental Plan 2012 subject to the following amendment:
  - Remove land located adjacent to classified roads from eligibility for exempt development for the purpose of low impact roadside stalls.
2. That Council approves the public notice of a new fee (being a s138 *Roads Act* approval application fee in the amount of \$165) in accordance with Section 610F of the *Local Government Act* and the inclusion of the fee in Council's Fees and Charges document for the 2018/19 financial year.

### Attachment(s)

1. BSCPP 17/013 Roadside Stalls Planning Proposal (exhibition version)
2. Agency Submissions
3. Public Submission
4. Street Vending Guidelines

### 9.3 Planning Proposal - Housekeeping Amendments - Finalisation

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#### 9.3 Planning Proposal - Housekeeping Amendments - Finalisation

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the outcomes of the public exhibition of Planning Proposal 17/011 relating to various housekeeping amendments to the Ballina Local Environmental Plan 2012 and to seek direction on the finalisation of this LEP amendment.

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#### **Background**

As part of a periodic 'housekeeping' review of the Ballina Local Environmental Plan 2012 (the LEP), staff identified a number of minor amendments that are required to ensure the efficient operation of the LEP. The majority of amendments are proposed to align zoning and other planning attributes to the cadastre as a result of updated cadastral information, or to correct minor mapping errors which have been identified.

One of the amendments proposes to correct a mapping error that occurred with respect to the recent rezoning of the property at No. 44 – 52 Blue Seas Parade, Lennox Head (Ballina LEP Amendment No. 30). Unfortunately, in the process of preparing the land subdivision application it was determined that the incorrect map set had been incorporated into the LEP amendment, resulting in the application of a 50 metre rural buffer instead of the 30 metre buffer adopted by the Council at its July 2016 Ordinary Meeting.

Details of the proposed mapping changes are further discussed in the planning proposal included in Attachment 1. Maps identifying the proposed changes are provided in Attachment 2.

This matter was reported to the Ordinary Meeting of the Council held on 23 November 2017 and the Council resolved as follows [Minute No. 231117/14]:

1. *That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 17/011 Housekeeping Amendment 2017) contained in Attachment 1.*
2. *That Council submit BSCPP 17/011 Housekeeping Amendment 2017 to amend the Ballina Local Environmental Plan 2012 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.*

### 9.3 Planning Proposal - Housekeeping Amendments - Finalisation

In accordance with the Council's resolution, the planning proposal was referred to the NSW Department of Planning and Environment for Gateway determination and was publicly exhibited following a Gateway determination allowing the planning proposal to proceed. This report seeks direction on the finalisation of the matter following consultation and public exhibition.

#### Key Issues

- Efficient functioning and operation of the Ballina LEP 2012
- Consideration of the outcomes of the public exhibition and government agency consultation process
- Consideration of acceptance of delegation from the Department of Planning and Environment to finalise the planning proposal

#### Information

Table 1 outlines the proposed amendments to the LEP as a result of the housekeeping review and the mapping errors that occurred during the processing of Amendment No. 30 to Ballina LEP 2012 relating to No. 44 – 52 Blue Seas Parade, Lennox Head. Further details in relation to the amendments are contained in the planning proposal in Attachment 1.

**Table 1 BSCPP 17/011 Amendment Summary**

Amendment Item	Map Sheets Affected	Amendment Summary	Primary Reason	
1		Item 1 was reported to Council's Ordinary Meeting held on 23 November 2017 (see Appendix 4) and was included in the request to the Department of Planning and Environment (DPE) seeking a Gateway determination. The aim was to improve the clarity of clause 4.2A in relation to replacement of a lawfully erected dwelling house on land in cases where a dwelling has been destroyed and/or is otherwise not currently located on the land. On review, and following discussions with the Department of Planning and Environment, a number of ambiguities and potential unintended outcomes were identified in relation to the proposed change. As a result, item 1 was removed from the overall housekeeping amendment.		
2	River Street, West Ballina	SGA Map	Adjust area affected by Strategic Urban Growth Area (SUGA) mapping to remove SUGA designation from land identified as a Deferred Matter (DM) in the LEP and which is subject to the provisions contained in the Ballina LEP 1987.	Correct a minor mapping error contained within the SGA map.
3	Emigrant Creek	LZN Map LSZ Map	Adjust mapping to align attributes with cadastre. Involves a reduction of the W1 zone and an increase in the RU1 and RU2 zones and the application of a 40ha minimum lot size standard to RU1 and RU2 zoned areas.	Reflect updates to cadastral boundaries in Council's mapping system.

### 9.3 Planning Proposal - Housekeeping Amendments - Finalisation

Amendment Item		Map Sheets Affected	Amendment Summary	Primary Reason
4	Pimlico Road, Pimlico	LAP Map LZN Map LSZ Map ASS Map FLD Map BHA Map HOB Map	Adjust mapping to align attributes with cadastre. Involves adjustment to include land within the LEP by removing land from a Deferred Matter (DM) designation and zoning it RU1 and application of a 40ha lot size standard, 8.5m building height and flooding, height allowance and acid sulfate soils attributes.	Reflect updates to cadastral boundaries in Council's mapping system.
5	Tara Downs, Lennox Head	LAP Map LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves adjustment to remove land from within the LEP to reduce the RU1 zone and increase the DM area in BLEP 1987; realignment of the R2 and RE1 zones in the LEP; reduce the 40ha minimum lot size standard and increase the 800m <sup>2</sup> minimum lot size standard.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
6	Blue Seas Parade, Lennox Head	LZN Map LSZ Map	Adjust mapping to part of Lot 1 DP 1165957 to reduce the RU1 zone and increase the R2 zone, and to alter the minimum lot size from 40ha to 1200m <sup>2</sup> .	Amendment No.30 to the Ballina LEP 2012 was completed with a mapping error. This resulted in the full extent of the rezoning not currently being reflected in the LEP. This amendment corrects the mapping error.
7	Blue Seas Parade, Lennox Head	HOB Map	Adjust mapping to apply an 8.5m building height standard to the Blue Seas Parade road reserve to achieve alignment with the Land Zoning Map.	Correct a minor mapping error.
8	North Creek Road, Lennox Head	LZN Map HER Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves realignment of R2 and R3 zones for land with frontage to North Creek Road, Lennox Head and adjacent land with frontage to Fieldcrest Place, Lennox Head. Also involves adjustment of the heritage mapping for item I71 by increasing the area of application of the heritage layer.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.



### 9.3 Planning Proposal - Housekeeping Amendments - Finalisation

Amendment Item		Map Sheets Affected	Amendment Summary	Primary Reason
9	Hutley Drive South, Lennox Head	LAP Map LZN Map LSZ Map ASS Map HOB Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves adjustment to include land within the LEP by redesignating land within the Hutley Drive road reserve from DM and applying a R2 zone, application of a 600m <sup>2</sup> minimum lot size standard, 8.5m height of buildings standard and acid sulfate soils attributes within the western boundary of Hutley Drive South.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
10	Castle Drive, Lennox Head	LSZ Map	Remove lot size standard from an area of open space at the intersection of North Creek Road and Castle Drive, Lennox Head. Open space is not subject to minimum lot size restrictions under the LEP.	Correct a minor mapping error.
11	Skinner Street, Ballina	LZN Map LSZ Map	Adjust zoning and lot size mapping to align with location of approved dwelling house at 2 Skinner Street, Ballina. Involves a reduction of the W1 zone and an increase of the R2 zone and the application of a 1200m <sup>2</sup> minimum lot size standard.	Reflect location of existing approved dwelling house.
12	Ballina Heights – Liffey Avenue, Cumbalum	LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves realignment of RE1, R2 and R3 zones for land adjacent to Liffey Avenue and Lindsay Avenue, Cumbalum; removal of the minimum lot size standard from the RE1 zoned land; and application of a 600m <sup>2</sup> and 800m <sup>2</sup> minimum lot size standard to the R2 and R3 zones respectively.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
13	Ballina Heights – Chilcott Avenue, Cumbalum	LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves realignment of RE1, R2 and R3 zones for land with frontage to Chilcott Avenue, Kemp Street and O'Rourke Street, Cumbalum; removal of the minimum lot size standard from the RE1 zoned land; and application of a 600m <sup>2</sup> and 800m <sup>2</sup> minimum lot size standard to the R2 and R3 zones respectively.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.

### 9.3 Planning Proposal - Housekeeping Amendments - Finalisation

Amendment Item		Map Sheets Affected	Amendment Summary	Primary Reason
14	Richmond Street, Wardell	LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre. Involves a reduction of R2 and R3 zones and an increase to the R3 and W1 zones for land with frontage to the Richmond River, Richmond Street and Swamp Street, Wardell, and application of a 600m <sup>2</sup> and 800m <sup>2</sup> minimum lot size standard to the R2 and R3 zones respectively.	Reflect updates to cadastral boundaries in Council's mapping system.
15	Newports Lane, Uralla	LAP Map LZN Map LSZ Map HOB Map	Adjust mapping to align attributes with updates to cadastre. Involves adjustment to include land within the LEP by redesignating land from DM and applying a RU1 zone, and application of a 40ha minimum lot size standard and 8.5m height of buildings standard.	Reflect updates to cadastral boundaries in Council's mapping system.

*Key to map abbreviations: ASS – Acid Sulfate Soils Map, BHA – Building Height Allowance Map, FLD – Flood Planning Map, HER – Heritage Map, HOB – Height of Buildings Map, LAP – Land Application Map, LSZ – Lot Size Map, LZN – Land Zoning Map, SGA – Strategic Urban Growth Area Map.*

The planning proposal was referred to the NSW Department of Planning and Environment for Gateway determination on 7 December 2017. A Gateway determination allowing the planning proposal to proceed to public exhibition was issued on 2 February 2018. A copy of the Gateway determination is included in Appendix 1 to the planning proposal provided as Attachment 1 to this report.

The Gateway determination required that Council amend the planning proposal prior to community consultation to enable proposed changes to be clearly identified by the community. This involved changes to the mapping to include street names and to highlight each mapping change, and also included a written explanation of the housekeeping changes and proposed change to Blue Seas Parade (Amendment No. 30 to Ballina LEP 2012).

The Gateway determination also required consultation with the NSW Rural Fire Service (RFS). Details are provided under the consultation section of this report.

In addition to the above, the agreement of the Department's Secretary is required in respect to compliance with Section 117 Direction 4.4 Planning for Bushfire Protection. The Secretary's agreement was obtained on 13 May 2018.

Council is now able to proceed to finalise the LEP amendment.

#### Sustainability Considerations

- **Environment**

The amendments proposed are not expected to result in any direct or substantial social or economic impacts, or impacts on the shire's natural environment.

- **Social**  
As above.
- **Economic**  
As above.

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

Having a functionally efficient and up to date local environmental plan is an important component of Council's role as a planning authority under the provisions of the *Environmental Planning and Assessment Act 1979*. The various changes proposed to the Ballina LEP 2012 seek to ensure the plan serves efficiently as the primary local regulatory planning instrument for Ballina Shire.

As part of the Gateway determination, an authorisation for Council to exercise delegation to make the plan has been issued. Having regard for the NSW Rural Fire Service's no objection 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 21 March 2018 to 13 April 2018. Notification included an advertisement in the Ballina Shire Advocate and the planning proposal being displayed on Council's website, at the Customer Service Centre and at all shire libraries.

87 landholders of affected and adjoining properties were advised of the public exhibition. This involved written notification and included copies of maps indicating the proposed map changes relating to the landholder/adjoining owner's property.

A copy of the exhibited planning proposal is contained in Attachment 1.

In response to the public exhibition no written submissions were received.

Consultation was undertaken with the NSW Rural Fire Service (RFS) as required by the Gateway determination. The RFS did not raise any objections to the planning proposal proceeding. A copy of the RFS submission is provided in Attachment 3.

### **Options**

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

This is the recommended option.

Finalisation of the planning proposal would include the preparation of detailed maps to affect the changes to zoning, minimum lot size and other attributes as 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.

### **9.3 Planning Proposal - Housekeeping Amendments - Finalisation**

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The exhibition and consultation processes have not identified issues or elicited submissions that warrant a delay or discontinuation of the planning proposal.

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***

This option would involve the discontinuation of the subject amendment, with no further action to be taken.

The purpose of the subject planning proposal is to implement mapping amendments to improve the function, content and consistency of the Ballina LEP 2012 or to correct errors to previously endorsed LEP amendments. The amendments seek to ensure the Ballina LEP 2012 functions efficiently and that its provisions are up to date. As a consequence, this option is not recommended.

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

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

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

### **RECOMMENDATIONS**

1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 17/011 Housekeeping Amendment 2017) contained in Attachment 1.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 17/011 under delegated authority.

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

1. Planning Proposal BSCPP 17/011 - Housekeeping Amendment 2017 (Exhibition Version)
2. Maps (Exhibition Version) (Appendix 2 of Planning Proposal BSCPP 17/011)
3. NSW Rural Fire Service Submission (BSCPP 17/011)

## 9.4 Land Classification - Lot 4 DP 1239938 Hutley Drive, Lennox Head

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### 9.4 Land Classification - Lot 4 DP 1239938 Hutley Drive, Lennox Head

**Delivery Program** Strategic Planning

**Objective** To determine the classification of land under the provisions of the Local Government Act 1993

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#### Background

The subject land is described as Lot 4 DP1239938 (Lot 4). The land is located on the south-eastern corner of Hutley Drive and Snapper Drive in Lennox Head. Lot 4 has an area of 1,811m<sup>2</sup> and is zoned B1 Neighbourhood Centre under the provisions of Ballina LEP 2012.

Council received the transfer documents relating Lot 4 in early May 2018 for execution. At the time of finalising this report (11 May 2018) Lot 4 had not yet been transferred to the ownership of Ballina Shire Council from the current owners (The Trust Company (Australia) Limited ACN 000 000 993). However, this transfer is considered to be imminent.

Lot 4 forms a part of the Epiq estate subdivision being developed by Clarence Property and is shown by the red outline in Figure 1.

**Figure 1 - Site Location Plan Lot 4 DP 1239938**



The purpose of this report is to invite the Council to determine the appropriate classification of Lot 4 under the terms of the *Local Government Act* 1993 (LG Act) once Lot 4 has transferred into Council's ownership.

Part 2 of Chapter 6 of the LG Act regulates the management of public land. Specifically, sections 26 and 27 of the LG Act require public land to be classified as either "community" or "operational" land in accordance with its intended use.

### Key Issues

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

### Information

Given the B1 Neighbourhood Centre zoning applicable to Lot 4, and its pending transfer into Council's ownership, the application of an operational classification is considered appropriate. At this stage Council has not yet determined the nature of facilities that are intended to be constructed on Lot 4. For this reason it is considered that an operational classification provides Council with greater flexibility regarding the future use of the land.

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

Section 34 of the LG Act requires that public notice of a proposed resolution to classify land must be given and that a period of not less than 28 days to receive submissions must be provided.

A public notice of the proposal to classify the subject land as operational land was provided in the Ballina Shire Advocate on 11 April 2018, in accordance with section 34 of the Act, with submissions invited until 11 May 2018. The notification period in this case commenced prior to the land being transferred to Council's ownership.

It is now necessary for the Council to confirm whether or not the land is to be classified as operational land under the terms of the LG Act once it is transferred into Council's ownership.

### Sustainability Considerations

- **Environment**  
The proposed operational classification of Lot 4 is not expected to result in any negative environmental, social or economic outcomes. An operational land classification will provide Council with the maximum flexibility with respect to the future use of Lot 4.
- **Social**  
As above.
- **Economic**  
As above.

### Legal / Resource / Financial Implications

The classification of Lot 4 as operational land is a legal mechanism under the LG Act that enables Council to utilise the land for operational purposes. The proposed classification will not result in adverse resource or financial implications.

**Consultation**

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act* 1993. Public submissions were invited, with the closing date being 11 May 2018. No submissions in response to the notification were received.

**Options**

1. The Council may resolve to classify Lot 4 as operational land.

Under this option, the proposed classification of Lot 4 as operational land would take effect immediately upon the land being transferred into Council's ownership. This is the recommended option as it provides Council with the greatest flexibility with respect to the future use and development of this land.

2. The Council may resolve to classify Lot 4 as community land.

Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given that the land has been transferred to Council to facilitate its use for operational purposes, classifying the land as community land is not recommended.

The classification of Lot 4 as operational land as per option one is the recommended approach.

**RECOMMENDATION**

That Council classify the land identified as Lot 4 DP 1239938, corner of Hutley Drive and Snapper Drive, Lennox Head as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect upon the land being transferred into Council's ownership.

**Attachment(s)**

Nil

## 9.5 Land Classification - Lot 1 DP 1237215 Uralba Road, Uralba

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### 9.5 Land Classification - Lot 1 DP 1237215 Uralba Road, Uralba

**Delivery Program** Strategic Planning

**Objective** To determine the classification of land recently acquired by Council under the provisions of the Local Government Act 1993

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#### Background

The subject land located along Uralba Road at Uralba is known as Lot 1 DP 1237215. Title was created and the road was closed under the provisions of the Roads Act 1993 on 22 March 2018.

The land is surplus to road requirements and as a consequence this section of Uralba Road has been closed.

The title to Lot 1, which has an area of 787.5m<sup>2</sup>, has been vested in Ballina Shire Council, under the provisions of the Roads Act 1993, following the publication of a notice in the NSW Government Gazette on 29 March 2018. The Gazette notice indicates that the land is vested in Council as operational land.

The area occupied by the subject lot is shown by the red outline on the aerial photo in Figure 1.

**Figure 1 - Extract from Aerial Photo Showing Location of Lot 1 DP 1237215**



Lot 1 is located on the northern side of Uralba Road approximately opposite No. 305 Uralba Road, Uralba.

The purpose of this report is to determine the classification of Lot 1 under the terms of the *Local Government Act* 1993 (LG Act). Part 2 of Chapter 6 of the LG Act regulates the management of public land.



## **9.5 Land Classification - Lot 1 DP 1237215 Uralba Road, Uralba**

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

It is considered that the vesting of the land in Council’s ownership as operational land under the provisions of the *Roads Act* 1993 does not suitably address the requirements contained within the LG Act to classify the subject land once it comes into Council’s ownership.

### **Key Issues**

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

### **Information**

The subject lot is a closed public road, being land no longer required for road purposes. As Lot 1 has already been vested in Council’s ownership, as operational land under the provisions of the *Roads Act* 1993, it now remains for Council to also resolve to classify this land as operational land in accordance with the provisions of the LG Act.

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

Council acquired the land on 29 March 2018 when the land was vested in Council via a notice in the NSW Government Gazette. The three month classification “window” expires on 29 June 2018.

Section 34 of the LG Act requires that public notice of a proposed resolution to classify land must be given, and that a period of not less than 28 days to receive community submissions must be provided.

A public notice of the proposal to classify the subject land as operational land was provided in the Ballina Shire Advocate on 11 April 2018, in accordance with section 34 of the Act, with submissions invited until 11 May 2018. No submissions have been received.

Given that the land has already been vested in Council’s ownership as operational land and the required public notification has been completed, it is now necessary for Council to confirm whether or not the land is to be classified as operational land under the terms of the LG Act.

### Sustainability Considerations

- **Environment**

The classification of Lot 1 as operational land is not expected to result in any negative environmental, social or economic outcomes. An operational land classification will facilitate the sale of the land to the adjoining owner and its consolidation with Lot 1 DP 1217967. It is noted that the owner of the land adjoining the subject allotment has been liaising with Council staff and has expressed an interest in acquiring the closed road at market value.

- **Social**

As above.

- **Economic**

As above.

### Legal / Resource / Financial Implications

The classification of Lot 1 as operational land is a legal mechanism under the LG Act that enables Council to sell the land which in this case is no longer required for road purposes. The proposed classification will not result in adverse resource or financial implications but will enable Council to dispose of land surplus to road requirements.

### Consultation

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act* 1993. Public submissions were invited, with the closing date being 11 May 2018. No submissions in response to the notification were received.

### Options

1. The Council may resolve to classify Lot 1 as operational land.

This is the recommended option. Under this option, the proposed classification of Lot 1 as operational land would take effect immediately upon the resolution of the Council.

2. The Council may resolve to classify Lot 1 as community land.

Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given that the land is surplus to Council requirements, and is proposed to be sold, classifying the land as community land is not recommended.

The classification of the land as operational land as per option one is the recommended approach as the land has been specifically vested in Council as operational land under the provisions of the LG Act.

**RECOMMENDATION**

That Council classify the land identified as Lot 1 DP 1237215, Uralba Road, Uralba, as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect immediately.

**Attachment(s)**

Nil

## 10.1 Investment Summary - April 2018

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### 10. General Manager's Group Reports

#### 10.1 Investment Summary - April 2018

**Delivery Program** Financial Services

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

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#### **Background**

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of April 2018.

#### **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 April was \$68,738,000. This represents a decrease of \$2m from March. Council's investments, as at 30 April, are at an average (weighted) rate of 2.69%, which is 0.64% above the 90 Day Bank Bill Index of 2.05%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 April 2018, was \$3,097,169. This balance is higher than the balance of \$2,918,220 as at 31 March 2018. The combined movement of investments and bank balances was a decrease of \$1,821,051. This overall decrease is attributable to payments for creditors and wages in April.

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

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

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

**A. Summary of Investments by Institution**

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
<b>Grandfathered Investments</b>							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.6%	<b>3%</b>
<b>Rated Institutions</b>							
AMP Bank	Yes	A	5,000	3,000	20%	4.4%	
Auswide Bank	No	BBB	1,000	1,000	10%	1.5%	
Bank of China	Yes	A	2,000	2,000	20%	2.9%	
Bank of Queensland	Yes	BBB+	4,000	4,000	10%	5.8%	
BankWest	Yes	AA-	3,000	3,000	20%	4.4%	
Bendigo & Adelaide Bank	No	BBB+	3,000	3,000	10%	4.4%	
Commonwealth Bank of Australia	Yes	AA-	8,000	8,000	20%	11.6%	
Credit Union Australia	No	BBB	2,000	3,000	10%	4.4%	
Defence Bank Ltd	No	BBB	5,500	5,500	10%	8.0%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.9%	
ING Bank Ltd	Yes	A	5,000	5,000	20%	7.3%	
ME Bank	No	BBB	4,750	5,750	10%	8.4%	
My State Bank Ltd	No	BBB+	5,000	4,000	10%	5.8%	
National Australia Bank	Yes	AA-	6,000	4,000	20%	5.8%	
Newcastle Permanent Bld Society	No	BBB	700	700	10%	1.0%	
Rural Bank Ltd	No	BBB+	0	3,000	10%	4.4%	
Suncorp-Metway Bank	No	A+	2,000	0	20%	0.0%	
Teachers Mutual Bank Limited	No	BBB	1,000	1,000	10%	1.5%	
Westpac Banking Corporation	Yes	AA-	9,000	9,000	20%	13.1%	<b>97%</b>
<b>Total</b>			<b>70,738</b>	<b>68,738</b>		<b>100%</b>	
<b>Credit Rating Summary as per the Investment Policy</b>							
	<b>Maximum Allowed</b>		<b>Value</b>	<b>Value</b>	<b>%</b>	<b>%</b>	
	<b>%</b>	<b>Value</b>	<b>Previous</b>	<b>Current</b>	<b>Previous</b>	<b>Current</b>	
A- or Higher	100%	68,738	40,000	34,000	57%	49%	
BBB	60%	41,243	30,738	34,738	43%	51%	
Total			70,738	68,738	100%	100%	

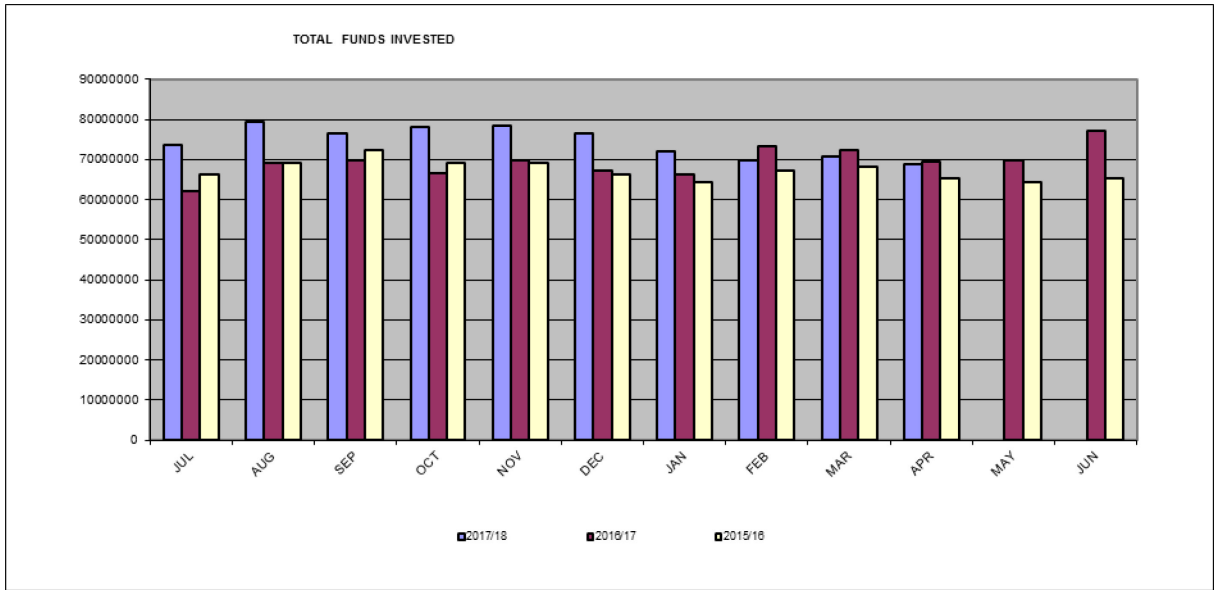
**B. Summary of Investments Fossil Fuel Aligned**

	Previous Month	Current Month
<b>Fossil Fuel Aligned</b>	43,788 <b>62%</b>	39,788 <b>58%</b>
<b>Non-Fossil Fuel Aligned</b>	26,950 <b>38%</b>	28,950 <b>42%</b>
<b>Not Classified</b>	0 <b>0%</b>	0 <b>0%</b>
<b>Total</b>	70,738 <b>100%</b>	68,738 <b>100%</b>

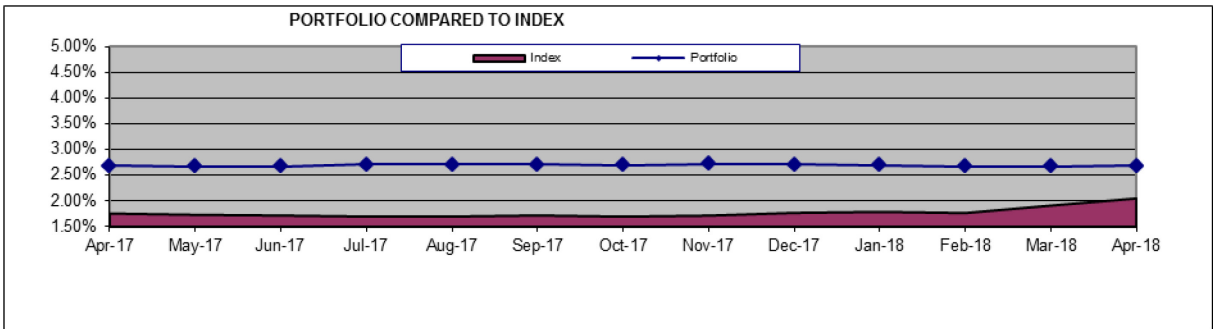
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

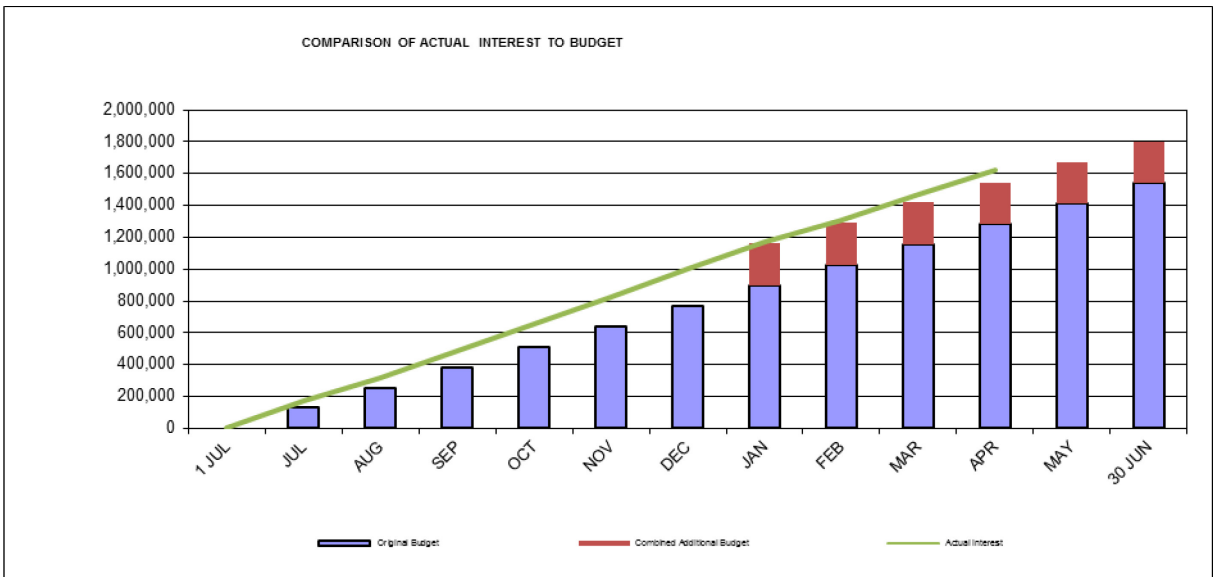
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



## 10.1 Investment Summary - April 2018

### F. Investments held as at 30 April 2018

PURCH DATE	ISSUER	TYPE	RATE	NEXT MATURITY	PURCH VALUE \$'000	FAIR VALUE \$'000
26/02/18	BankWest	TD	2.30%	01/05/18	3,000	3,000
03/08/17	Westpac Banking Corporation	FRN	2.82%	03/05/18	2,000	2,000
06/02/18	Newcastle Permanent Bld Society	FRN	3.18%	06/05/18	700	698
09/11/17	ME Bank	FRN	3.01%	09/05/18	750	751
15/02/18	National Australia Bank (ASX Listed)	FRN	3.01%	15/05/18	1,788	1,416
16/08/17	ME Bank	TD	2.60%	16/05/18	1,000	1,000
18/08/17	Westpac Banking Corporation	FRN	2.81%	18/05/18	1,000	1,000
21/11/17	Defence Bank Ltd	TD	2.60%	22/05/18	1,000	1,000
23/01/18	Commonwealth Bank of Australia	TD	2.41%	23/05/18	1,000	1,000
28/02/18	Greater Bank Limited	FRN	3.32%	24/05/18	1,000	1,003
25/02/14	Westpac Banking Corporation	FRN	2.72%	25/05/18	2,000	2,009
24/11/17	Greater Bank Limited	FRN	3.23%	25/05/18	1,000	1,000
30/11/17	My State Bank Ltd	TD	2.63%	29/05/18	3,000	3,000
27/11/17	ME Bank	TD	2.61%	05/06/18	1,000	1,000
07/12/17	My State Bank Ltd	TD	2.60%	06/06/18	1,000	1,000
09/03/18	Westpac Banking Corporation	TD	2.65%	12/06/18	2,000	2,000
17/06/16	Commonwealth Bank of Australia	FRN	3.01%	17/06/18	1,000	1,000
12/09/17	AMP Bank	TD	2.60%	13/06/18	1,000	1,000
29/11/17	Auswide Bank	TD	2.65%	19/06/18	1,000	1,000
01/12/17	Bank of Queensland	TD	2.63%	26/06/18	2,000	2,000
29/06/17	Teachers Mutual Bank Limited	FRN	3.45%	29/06/18	1,000	1,001
30/06/16	Commonwealth Bank of Australia	FRN	2.97%	30/06/18	1,000	1,000
05/09/17	Commonwealth Bank of Australia	TD	2.58%	05/07/18	2,000	2,000
09/10/17	Westpac Banking Corporation	TD	2.57%	09/07/18	2,000	2,000
06/09/17	National Australia Bank	TD	2.57%	11/07/18	2,000	2,000
12/01/18	ME Bank	TD	2.65%	17/07/18	1,000	1,000
26/07/16	Commonwealth Bank of Australia	FRN	3.11%	26/07/18	1,000	1,000
07/02/18	Bank of Queensland	TD	2.60%	07/08/18	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
16/08/17	AMP Bank	TD	2.65%	16/08/18	1,000	1,000
08/02/18	Defence Bank Ltd	TD	2.60%	28/08/18	1,000	1,000
09/08/17	Bendigo & Adelaide Bank	TD	2.70%	22/08/18	1,000	1,000
11/12/17	ME Bank	TD	2.62%	07/09/18	1,000	1,000
05/03/18	National Australia Bank	TD	2.57%	11/09/18	2,000	2,000
26/03/18	Bank of China	TD	2.74%	11/09/18	2,000	2,000
09/04/18	ME Bank	TD	2.75%	09/10/18	1,000	1,000
18/01/18	AMP Bank	TD	2.65%	18/10/18	1,000	1,000
09/11/17	Defence Bank Ltd	TD	2.75%	08/11/18	1,500	1,500
16/08/17	ING Bank Ltd	TD	2.68%	15/11/18	2,000	2,000
15/08/17	ING Bank Ltd	TD	2.68%	20/11/18	1,000	1,000
17/08/17	ING Bank Ltd	TD	2.70%	20/11/18	1,000	1,000
20/11/17	Defence Bank Ltd	TD	2.75%	22/11/18	1,000	1,000
04/12/17	Defence Bank Ltd	TD	2.75%	04/12/18	1,000	1,000
11/12/17	Credit Union Australia	TD	2.60%	11/12/18	2,000	2,000
27/04/18	Rural Bank Ltd	TD	2.80%	09/01/19	2,000	2,000
30/04/18	Rural Bank Ltd	TD	2.80%	22/01/19	1,000	1,000
29/01/18	Commonwealth Bank of Australia	TD	2.66%	29/01/19	2,000	2,000
03/04/18	Credit Union Australia	TD	2.72%	05/02/19	1,000	1,000
<b>Totals</b>					<b>68,738</b>	<b>68,378</b>
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

**RECOMMENDATION**

That Council notes the record of banking and investments for April 2018.

**Attachment(s)**

Nil



## 10.2 Policy (Review) - University Scholarship

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### 10.2 Policy (Review) - University Scholarship

**Delivery Program**      Communications

**Objective**                      To review the University Scholarship Policy.

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#### **Background**

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

Council first adopted this policy 25 March 2010, with the last review being 22 May 2014.

#### **Key Issues**

- Whether the policy meets the requirements of Council and current practices and budget.

#### **Information**

Council has been working with Southern Cross University (SCU) for over eight years to provide a scholarship to a Ballina Shire resident who is studying an undergraduate degree full-time.

The scholarship is provided under SCU's Rising Stars Program and Council's scholarship equates to \$5,000 per student per annum for three years.

Council originally allocated a budget of \$15,000 for this scholarship (i.e. three students per year over a rolling three year period) however this budget was reduced in 2014/2015 to \$10,000 with \$5,000 reallocated to the Festivals and Events Program. This reduction in the scholarship budget was possible as there were only two scholarships running at the time.

The budget has remained at \$10,000 and Council continues to provide two scholarships at a time.

In respect to the policy review, recommended amendments to the attached document are considered minor and are highlighted yellow with deletions lined through.

The template for Council policies has changed since this policy was adopted, the existing policy includes all the elements of the new template but the framework has been reordered.

Otherwise the policy is still considered to be contemporary and reflects current practices therefore no further changes are recommended.

A copy of the amended policy is attached to the report.

### **Sustainability Considerations**

- **Environment**  
Scholarship recipients may potentially deliver or promote improved environmental outcomes for the shire.
- **Social**  
The scholarship will encourage participation in learning opportunities.
- **Economic**  
The scholarship assists to foster youth undertaking tertiary education.

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

Full Council scholarships are valued at \$15,000 over a three-year period, and paid in three instalments over that period. The annual allocation to the program is \$10,000.

### **Consultation**

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document 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 proposed changes to the policy. The changes included are largely housekeeping therefore it is recommended that the policy be adopted as presented.

It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

### **RECOMMENDATION**

1. That Council adopts the amended University Scholarship Policy, as attached to this report.
2. That the reviewed policy be placed on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

### **Attachment(s)**

1. Policy (Review) - University Scholarship

### **10.3 Joint Regional Planning Panel - Election of Alternate Delegate**

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#### **10.3 Joint Regional Planning Panel - Election of Alternate Delegate**

**Delivery Program**      Communications

**Objective**              To elect an additional alternate delegate to the Northern Joint Regional Planning Panel.

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#### **Background**

Joint Regional Planning Panels (JRPPs) were established by the NSW State Government on 1 July 2009. Key extracts from the NSW Government website relating to JRPPs ([planning.panels.nsw.gov.au](http://planning.panels.nsw.gov.au)) in respect to their establishment and operation are as follows:

*The Joint Regional Planning Panels (JRPPs) were introduced in NSW on 1 July 2009 to strengthen decision making on regionally significant development applications (DAs) and certain other planning matters.*

*The Planning Panels are independent bodies. Determinations made by the Panels are not subject to the direction of the Minister for Planning.*

*The Planning Panels:*

- *determine 'regionally significant' development applications (DAs) and certain other DAs and modification applications.*
- *act as the relevant planning authority (RPA) when directed.*
- *undertake rezoning reviews.*
- *provide advice on other planning and development matters when requested.*

*The Planning Panels determine the following types of development applications (DAs) and modification applications:*

- *Regional development, as outlined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011*
  - *development with a capital investment value (CIV) over \$30 million.*
  - *development with a CIV over \$5 million which is:*
    - *council related.*
    - *lodged by or on behalf of the Crown (State of NSW).*
    - *private infrastructure and community facilities.*
    - *eco-tourist facilities.*
  - *extractive industries, waste facilities and marinas that are designated development.*
  - *certain coastal subdivisions.*
  - *development with a CIV between \$10 million and \$30 million which is referred to the Planning Panel by the applicant after 120 days.*

### 10.3 Joint Regional Planning Panel - Election of Alternate Delegate

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*Developments which meet State Significant Development criteria are not determined by the Planning Panels.*

*Each Planning Panel consists of five members:*

- *three members, including the Chair, appointed by the Minister (State members) and*
- *two members nominated by the relevant Council (Council members).*

Ballina Shire Council is a member of the Northern Joint Regional Planning Panel (which includes councils from Tweed to Port Macquarie and as far west as Moree Plains and Liverpool Plains). Council's representatives (elected by Council on 27 July 2017) on the Panel are:

- Cr David Wight, Mayor
- Cr Keith Williams, Deputy Mayor
- Cr Eoin Johnston, alternate delegate

Alternate members may also act in the place of the regular members, if required.

NSW Planning and Environment has recently advised of new legislative provisions relating to the Joint Regional Planning Panels. A copy of that correspondence is attached to this report.

Key changes in relation to the operation of the panels include:

- Property developers and real estate agents are no longer eligible to sit as either state-nominated or council-nominated panel members.
- The categories of regional significant development can now be found in schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011. The threshold for general development has changed – development that has a capital investment value (CIV) of more than \$30 million is now considered regionally significant development (the CIV was previously \$20 million).
- Under section 8.2 of the *Environmental Planning and Assessment Act* 1979, panel determinations are now subject to reviews of decisions made in relation to development applications. These reviews are to be undertaken by different panel members to those that made the original decision.

This means that Council should have sufficient alternate members appointed to enable this decision review function to be carried out. It is a matter for Council to decide whether it wishes to have more than two alternate delegates.

- All public panel meetings are to be recorded and the recording made available on the Planning Panel website. Council's recording facilities in the Council Chambers are able to be used. This will necessitate the use of the Council Chamber for future Panel meetings so that recording can be carried out.

The JRPPs have detailed operating procedures, along with a Code of Conduct.

### 10.3 Joint Regional Planning Panel - Election of Alternate Delegate

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Declarations of interest are an important consideration in that Code and as per Council's Code of Conduct there is an onus on panel members to declare any interests and manage that interest appropriately.

The purpose of this report is to seek direction on the appointment of an extra alternate delegate to the Northern Joint Regional Planning Panel in order to address the changes relating to Section 8.2 of the EP&A Act.

#### Key Issues

- Council representation

#### Information

The local council is the body that determines the two council and any alternate representatives on the JRPP.

A number of methods for representation are used by councils including:

- Councillors only.
- Councillors and staff.
- Staff and technical experts.
- Entirely technical representatives.
- Joint arrangements where neighbouring councils sit on each other's panel.

Council is now required to determine whether to appoint an extra alternate delegate to the Northern Joint Regional Planning Panel to address the requirement for different delegates to consider proposals where a review of determination has been sought by an applicant.

- **Environment**  
Applications before the JRPP must consider environmental, social and economic factors.
- **Social**  
As above
- **Economic**  
As above

#### Legal / Resource / Financial Implications

Ballina Shire Councillors on the JRPP are paid \$600 per meeting which is the figure included in Council's Councillor Expenses and Facilities Policy. Council determines this figure. Any staff representatives are not paid (above their normal remuneration).

#### Consultation

Council needs to determine whether it wishes to appoint an extra alternate delegate to the Northern Joint Regional Planning Panel.

### **10.3 Joint Regional Planning Panel - Election of Alternate Delegate**

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#### **Options**

The primary purpose of this report is to seek an extra alternate representative on the Panel.

The options are to appoint:

- additional Councillor.
- external technical expert.
- adjoining council representation.
- call for expressions of interest from members of the public.

Representation on this Panel is a matter for Councillors to determine on behalf of the community, however to provide some direction the recommendation has Councillors representing the community.

It is always difficult to select a representative(s) from the community and Councillors have the benefit of having been selected from the entire community through the electoral process (on a Ward basis at least).

It is suggested that given Council already has one alternate delegate nominated, it is only necessary to nominate one further alternative on the basis that this would provide for a total of two alternates to replace the two appointed panel members, where a review of a decision is to be undertaken.

The JRPP is still able to proceed and determine matters without any Council representation, if for some reason all of Council's nominated representatives could not attend a meeting (due to conflicts of interest or being away).

#### **RECOMMENDATION**

That Council confirms its alternate delegate representation on the Northern Joint Regional Planning Panel is Cr Eoin Johnston with one other Councillor, as elected by the Council.

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

1. Letter from NSW Planning & Environment

## 10.4 Legal Matters - Update

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### 10.4 Legal Matters - Update

**Delivery Program**      Communications

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

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#### **Background**

The purpose of this report is to provide an update on current or recent legal cases involving Council.

#### **Key Issues**

- Type and cost of litigation

#### **Information**

This report provides an opportunity to examine legal matters in which the Council is, or has been, involved, with reference to the current or most recent financial year.

The report has been provided in open Council to ensure the information is available to the public.

Details of the current case(s) are as follows:

<b>Solicitor for Council</b>	<b>Parties</b>	<b>Description</b>	<b>Cost Estimate</b>	<b>Expenses to Date</b>
Norton Rose Fulbright Australia	Glen Wright and LLCP Pty. Ltd. v Ballina Shire Council	Local Government and miscellaneous appeals and applications - Land and Environment Court - Class 2 Appeal Proceedings	180,000	167,000
<b>Comment</b> <p>Council and LLCP Pty Ltd have now reached agreement in principle on the matter, with the Applicant withdrawing their appeal proceedings which were set down for early February 2018.</p> <p>This section 34 agreement was reached early February 2018 and amended Orders were made and endorsed by the Land and Environment Court. In forming the agreement, the applicant has proposed to scale down the operations at the Park, substantially reducing the number of sites.</p> <p>As part of the agreement, the applicant is required to carry out certain works in the near future regarding the On-site Sewage Management and water supply systems, in addition to the lodgment of a new Approval To Operate the Park for the reduction in site numbers.</p> <p>LLCP Pty Ltd have completed the works required by the Orders and a Section 82 Exemption has been received from the Department Of Planning &amp; Environment to allow two sites not to be connected to the parks On-Site Sewage Management System for a period of 12 months.</p> <p>A draft Approval to Operate the park has been prepared for submission to Council's solicitor.</p> <p>The Approval to Operate is proposed to license the park for 12 months only for the abovementioned two sites and 5 years for the remainder of the sites.</p>				

## 10.4 Legal Matters - Update

Allens Linklaters	Planners North v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2016/184	1,000,000	875,000
<b>Comment</b>				
<p>The applicant appealed the Council's deemed refusal of DA 2016/184 (Cumbalum views Estate) for an urban subdivision of the Cumbalum Urban Release Area – Precinct A (CURA A) originally comprising a total of 642 residential allotments, four future development lots, eight residual rural lots, 18 open space lots, road construction, earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works.</p> <p>The matter has been through a Section 34 Conciliation Conference, which was terminated by Commissioner Chilcott on 31 August 2017. The appeal was also scheduled for a one week formal hearing before Commissioner Brown commencing Monday 12 February 2018. The applicant has sought leave of the Court to formally amend the application on three occasions. These ongoing changes to the proposed subdivision from that originally proposed have been in response to Council's planning and environmental outcomes for this locality and following joint expert reporting. A hearing before Commissioner Brown on the conditions in dispute was held on 15 May 2018.</p>				
CH Law	Byron Highlander Estate v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge refusal of development application 2017/557	30,000	2,800
<b>Comment</b>				
<p>The applicant has appealed Council's decision to refuse DA 2017/557 for a function centre, restaurant and tourist facility at North Teven Road, Teven. The matter is set down for a Section 34 Conciliation Conference on 30 October 2018.</p>				
CH Law	Babson Holdings Pty Ltd and Traypax Pty Ltd v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge refusal of development application 2017/7	50,000	0
<b>Comment</b>				
<p>The applicant has appealed Council's decision to refuse DA 2017/7 for a service station with convenience store at River Street, West Ballina. The matter is set for its first telephone directions hearing on 28 May 2018.</p>				

### Legal / Resource / Financial Implications

This section provides an update on the legal costs for recent years. The expenditure for 2017/18 is at 16 May 2018.

Description	2015/16	2016/17	2017/18
Seabreeze Caravan Park	38,000	25,000	103,700
Byron Highlander Est – DA 2017/557 (Function Centre)	0	0	2,800
Planners North – DA 2016/184 (CURA A)	12,000	273,000	589,800
Complex Field – DA 2015/377 (51 Blue Seas Parade)	27,000	0	300
Quays Drive Advice – DA 2016/690	0	0	9,800
Quarry Advice – Newrybar Swamp Road	0	0	4,000
Parrington Advice – DA 2016/140 – 47 Ellis Road	0	0	4,800
Lake Ainsworth	0	8,000	0
Retail Fuel – DA 2016/25	0	5,000	0
North Creek – Wall	0	6,000	0
Riveroaks / Ferngrove Consent	0	6,000	0
Illegal Clearing	0	9,000	0
Miscellaneous	11,000	21,000	6,900
<b>Total Expenditure</b>	<b>88,000</b>	<b>353,000</b>	<b>722,100</b>
<b>Expenditure Budgets</b>	<b>215,000</b>	<b>167,500</b>	<b>1,005,000</b>
<b>Legal Budget – Surplus / (Overdrawn)</b>	<b>127,000</b>	<b>(185,500)</b>	<b>282,900</b>



## 10.4 Legal Matters - Update

The legal expenditure budgets are divided between the three sections within the Development and Environmental Health Group as per the following table for 2017/18:

Section	Budget	Actual	Variance
Development Services	865,000	618,400	246,600
Building Services	70,000	57,800	12,200
Environmental and Public Health	70,000	45,900	24,100
<b>Total</b>	<b>1,005,000</b>	<b>722,100</b>	<b>282,900</b>

The Development Services budget figure in this report includes an increase of \$365,000 as recommended in the Quarterly Financial Review report, later in this agenda.

This budget was originally \$150,000 for 2017/18 and the adjustments to date of \$715,000 have significantly drained funds from other areas of Council's operations, and from internal contingency reserves that were established to fund larger than anticipated legal costs.

Legal expenditure can vary significantly from year to year as shown in the following table and unfortunately 2016/17 and 2017/18 are substantial expenditures, as compared to previous years, largely due to the CURA A matter.

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

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

### Consultation

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

### Options

This report is provided for information purposes.

### RECOMMENDATION

That Council notes the contents of the legal matters update report.

### Attachment(s)

Nil

10.5 Financial Review - 31 March 2018

**Delivery Program** Financial Services

**Objective** To provide a quarterly review of the 2017/18 financial year budget based on the known results to 31 March 2018.

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**Background**

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. This report provides the review for the third quarter of the 2017/18 financial year.

**Key Issues**

- Variations to the budget and financial performance of Council

**Information**

The purpose of this report is to provide information on known budget variances as at 31 March 2018. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

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

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

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

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

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

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

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

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

**Section 1 – Operating Income and Expenditure**

**General Fund – Operating Income and Expenses**

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

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

Operating Income	Original Budget 000's	December Budget 000's	Approved Changes 000's	Revised Budget 000's	Changes for Approval 000's	March Budget 000's	Actual to December 000's
<b>Strategic and Community Facilities Group</b>							
Strategic Planning	175	285	0	285	34	319	127
Community Facilities	543	625	0	625	59	684	583
Library Services	78	124	0	124	0	124	124
Swimming Pools	388	433	(388)	45	0	45	2
Tourism	65	61	0	61	151	212	152
<b>Sub Total</b>	<b>1,249</b>	<b>1,528</b>	<b>(388)</b>	<b>1,140</b>	<b>244</b>	<b>1,384</b>	<b>988</b>
<b>Development and Environmental Health Group</b>							
Development Services	799	699	0	699	(50)	649	502
Building Services	1,291	1,315	0	1,315	0	1,315	1,031
Environmental and Public Health	280	408	0	408	4	412	364
Public Order	210	242	0	242	19	261	229
<b>Sub Total</b>	<b>2,580</b>	<b>2,664</b>	<b>0</b>	<b>2,664</b>	<b>(27)</b>	<b>2,637</b>	<b>2,126</b>
<b>Civil Services Group</b>							
Engineering Management	286	296	0	296	20	316	230
Procurement and Building Mgmt	0	0	0	0	0	0	0
Stormwater and Environmental Protection	496	531	0	531	0	531	402
Roads and Bridges	948	1,028	0	1,028	526	1,554	1,073
Ancillary Transport Services	758	832	0	832	100	932	567
Roads and Maritime Services	746	746	0	746	192	938	689
Open Spaces and Reserves	772	855	0	855	3	858	686
Fleet Mgmt and Workshop	248	257	0	257	0	257	164
Rural Fire Service	168	194	0	194	0	194	115
Quarries and Sandpit	53	65	0	65	0	65	61
Landfill and Resource Management	2,058	2,091	0	2,091	7	2,098	1,728
Domestic Waste Management	6,435	6,523	0	6,523	9	6,532	6,475
<b>Sub Total</b>	<b>12,968</b>	<b>13,418</b>	<b>0</b>	<b>13,418</b>	<b>857</b>	<b>14,275</b>	<b>12,190</b>
<b>General Manager's Group</b>							
Communications	20	22	0	22	0	22	16
Financial Services	236	226	0	226	9	235	148
Financial Services-General Purpose Revenues	26,000	26,277	0	26,277	13	26,290	23,651
Information Services	103	103	0	103	0	103	84
Human Resources and Risk Mgmt	162	214	0	214	89	303	246
Property Management	2,534	2,632	0	2,632	(35)	2,597	2,196
Ballina Byron Gateway Airport	6,186	6,074	0	6,074	220	6,294	4,399
<b>Sub Total</b>	<b>35,240</b>	<b>35,548</b>	<b>0</b>	<b>35,548</b>	<b>296</b>	<b>35,844</b>	<b>30,740</b>
<b>Total Operating Income</b>	<b>52,037</b>	<b>53,158</b>	<b>(388)</b>	<b>52,770</b>	<b>1,370</b>	<b>54,140</b>	<b>46,044</b>

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

Operating Expenses (excluding depreciation)	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to December
<b>Strategic and Community Facilities Group</b>							
Strategic Planning	1,209	1,408	0	1,408	(15)	1,393	847
Community Facilities	1,401	1,447	0	1,447	32	1,479	1,005
Library Services	1,439	1,487	0	1,487	19	1,506	1,078
Swimming Pools	1,187	1,202	(349)	853	0	853	591
Tourism	484	468	0	468	140	608	330
<b>Sub Total</b>	<b>5,720</b>	<b>6,012</b>	<b>(349)</b>	<b>5,663</b>	<b>176</b>	<b>5,839</b>	<b>3,851</b>
<b>Development and Environmental Health Group</b>							
Development Services	1,705	2,043	0	2,043	322	2,365	1,481
Building Services	1,103	1,146	0	1,146	32	1,178	946
Environmental and Public Health	1,464	1,638	0	1,638	(98)	1,540	1,172
Public Order	563	554	0	554	0	554	425
<b>Sub Total</b>	<b>4,835</b>	<b>5,381</b>	<b>0</b>	<b>5,381</b>	<b>256</b>	<b>5,637</b>	<b>4,024</b>
<b>Civil Services Group</b>							
Engineering Management	2,592	2,481	0	2,481	(53)	2,428	1,784
Procurement and Building Mgmt	2,080	2,013	0	2,013	75	2,088	1,456
Stormwater and Environmental Protection	841	1,004	0	1,004	66	1,070	776
Roads and Bridges	3,432	3,432	0	3,432	166	3,598	2,639
Ancillary Transport Services	1,803	1,879	0	1,879	179	2,058	1,509
Roads and Maritime Services	746	586	0	586	180	766	467
Open Spaces and Reserves	3,671	3,889	0	3,889	(3)	3,886	2,792
Fleet Mgmt and Workshop	(965)	(765)	0	(765)	4	(761)	(500)
Rural Fire Service	382	424	0	424	0	424	304
Quarries and Sandpit	45	653	0	653	0	653	115
Landfill and Resource Management	1,093	1,149	0	1,149	15	1,164	791
Domestic Waste Management	5,914	5,914	0	5,914	30	5,944	4,249
<b>Sub Total</b>	<b>21,634</b>	<b>22,659</b>	<b>0</b>	<b>22,659</b>	<b>659</b>	<b>23,318</b>	<b>16,382</b>
<b>General Manager's Group</b>							
Communications	2,283	2,342	0	2,342	(4)	2,338	1,704
Financial Services	(4,402)	(4,397)	0	(4,397)	13	(4,384)	(3,761)
Financial Services-General Purpose Revenues	0	0	0	0	0	0	0
Information Services	2,580	2,631	0	2,631	26	2,657	2,214
Human Resources and Risk Mgmt	985	1,326	0	1,326	(169)	1,157	1,216
Property Management	1,497	2,421	0	2,421	(15)	2,406	1,424
Ballina Byron Gateway Airport	4,468	4,371	0	4,371	(75)	4,296	2,928
<b>Sub Total</b>	<b>7,412</b>	<b>8,694</b>	<b>0</b>	<b>8,694</b>	<b>(224)</b>	<b>8,470</b>	<b>5,725</b>
<b>Total Operating Expenses</b>	<b>39,601</b>	<b>42,746</b>	<b>(349)</b>	<b>42,397</b>	<b>867</b>	<b>43,264</b>	<b>29,982</b>
<b>Net Operating Result Before Depreciation</b>	<b>12,436</b>	<b>10,411</b>	<b>(39)</b>	<b>10,373</b>	<b>503</b>	<b>10,876</b>	<b>16,062</b>
Depreciation Expense and Other Non Cash	13,504	13,504	0	13,504	0	13,504	10,128
<b>Net Operating Result Continuing Operations</b>	<b>(1,068)</b>	<b>(3,093)</b>	<b>(39)</b>	<b>(3,131)</b>	<b>503</b>	<b>(2,627)</b>	<b>5,934</b>

**General Fund Working Capital Forecast**

Item	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to December
Working Capital Surplus/(Deficit)	(192,000)	(60,800)	0	(60,800)	(5,200)	(66,000)	

Working capital is a measure of short term liquidity and as a rule Council aims to target a break even result for the General Fund.

## Comments - General Fund

The **forecast operating result as at 31 March** is a loss of \$2,626,800 which is an improvement of \$466,600 from the budget forecast of a loss of \$3,093,400 as the December quarterly review. Of this total change, improvement of \$503,000 is a consequence of this review, offset by a decrease of \$39,000 already approved.

The more significant adjustments to general fund income include an increase to forecast Airport revenue of \$219,800 and a \$150,000 grant confirmed for the Tourism area for the Northern Rivers Business Recovery Program.

This quarterly review includes large increases to RMS approved funding for Regional Roads & Traffic Facilities and Natural Disaster funding, with these amounts offset by increases to expenditure budgets, and forward payment of Roads to Recovery, with this amount placed into reserve for 2018/19.

The more significant adjustments to general fund expenditure include an increase to the legal costs budget within the Development Services area of \$365,000 and a decrease to workers compensation costs within the Human Resources area of \$180,000.

There are also forecast savings to various salaries budgets across council areas due to unfilled positions.

The estimated movement in **unrestricted working capital** has deteriorated from an anticipated loss of \$60,800 to an anticipated loss of \$66,000.

Comments on the larger budget variations are contained in the report as follows. The adjustments shown in the tables are inclusive of all amendments and the comments do not account for minor budget changes.

## General Fund - Operating Revenues

### *Strategic and Community Facilities Group*

#### *Strategic Planning*

An increase of \$20,000 to budgeted income for rezoning fees has been made based on income actually received.

An equivalent budget adjustment has been made to expenditure for these projects.

A new income budget of \$13,800 has been raised in 2017/18 for income for Holiday Park licence fees (caravan park lease of crown land), a new income stream for the 2017/18 to 2019/20 years. The budgeted income for 2018/19 and 2019/20 have already been included in the draft 18/19 budgets reviewed by Council for exhibition.

#### *Community Facilities*

Overall, there is a proposed increase of \$59,000 to the forecast income for Community Facilities.

A large budget increase, of \$30,000, is proposed for the Alstonville Leisure & Entertainment Centre income, based on the trending of income received to date. This will bring the revised budgeted income to \$52,000 for 2017/18.

This is a pleasing outcome of the transition of this facility to Council management. The 2018/19 budget, as reviewed by Council for exhibition, has been set at \$60,000.

Forecast income for Kentwell Community room hire has been increased by \$8,000 to \$147,000.

Forecast income for the Lennox Head Cultural and Community Centre has been increased by \$7,000 in total, to \$151,300. Increases in forecast kiosk sales and auditorium event hire of \$5,000 and \$4,000, respectively, were offset slightly by a reduction of \$2,000 in forecast vacation care income.

Forecast income for Ballina Surf Life Saving Club kiosk rent and outgoings has been increased by \$6,000 to \$70,000. The forecast for casual room hire, of \$64,000, has been left unchanged.

Pimlico Hall is now under the management of Council staff. Based on income received to date, a new income budget of \$3,000 has been raised.

Forecast income for Northlakes Hall has been increased by \$2,000, to \$6,000, based on income received, with this hall continuing to be being managed by Council staff.

Gallery commission income from consignment sales has been increased by \$3,000 to bring the forecast income to \$19,000 to match income received to date.

#### *Tourism*

Grant funding of \$150,000 has been confirmed from the Department of Premier and Cabinet under the Northern Rivers Business Recovery Program.

This funding is partly for flood recovery and also for marketing to encourage visitation to the northern rivers area.

### ***Development and Environmental Health Group***

#### *Development Services*

Forecast operating income has been revised down by a further \$50,000 to a revised forecast of \$648,900.

This is further to the revision of \$100,000 in the December quarterly budget review, which was noted as a conservative adjustment at that time.

The areas for adjustment are decreases for Development Application Compliance Levy \$30,000, Development Application Fees \$10,000, Legal fees/fines income \$5,000 and Certificates of Compliance for Swimming Pools \$5,000.

*Environmental and Public Health*

Forecast income from Registration and Annual Inspection Food has been increased by \$4,500, to \$117,500, based on actual income received.

*Public Order*

Companion Animal Registrations have been increased by a further \$19,000, to a revised budget of \$59,000 based on actual income received.

**Civil Services Group**

*Engineering Management*

Forecast income from the Section 94 Plans Administration Fee has been increased by \$20,000, to \$40,000, based on actual income received.

*Roads and Bridges*

Natural disaster funding of \$246,700 has been approved by the NSW RMS in relation to the March 2017 event. Of this amount, \$231,700 has been allocated to the Roads and Bridges section, and \$15,000 to RMS.

Corresponding expenditure budgets have been raised.

The Roads to Recovery grant funding budget has been increased by \$295,000, to \$1,195,000, being the total income to be received in 2017/18. This additional amount is being transferred to reserve, as it represents the funding for projects included in the 2018/19 capital works.

*Ancillary Transport Services*

Grant funding of \$100,000 has been confirmed from Roads and Maritime Services towards expenditure on the Duck Creek Mountain Driveway, as an access for the Mountain Bike facility.

*Roads and Maritime Services*

As noted above, of the natural disaster funding approved, an amount of \$15,000 has been allocated to this section, with a corresponding expenditure budget raised.

Confirmation of funding amounts has a revision to the RMS regional roads and traffic facilities income budgets, increased \$177,000 to \$923,000. Corresponding increases to expenditure budgets have been raised.

*Open Spaces and Reserves*

Forecast income from Seven Mile Beach 4WD permits has been increased by \$4,000, to \$54,000.

*Landfill and Resource Management (LRM)*

Forecast income from annual business waste management charges has been increased by \$6,500 to \$472,500, based on actual income received.

*Domestic Waste Management (DWM)*

Forecast income from annual charges has been increased by \$9,000 to \$6,335,500, based on actual income received.

**General Manager's Group**

*Financial Services*

Forecast income for legal costs recovery has been increased by \$9,700, to \$59,300, based on actual income received.

*Financial Services - General Purpose*

Rates income has been increased \$23,500 based on amounts levied.

Forecast interest on overdue rates and charges has been further decreased by \$10,000 as an outcome of continued strong debt recovery.

*Human Resources and Risk Management*

Forecast refunds received from Statecover Workers Compensation and Statewide have been increased by \$75,400. These amounts have been placed into reserve for potentially variable future premium costs.

The contributions budgets for Long Service Leave and Department of Employment and Training have been increased by \$6,900 and \$2,100 respectively, based on amounts received.

A new income budget has been raised for grant funding to be received to fund a twelve month part time position for trainees and apprenticeships administration.

The grant funding has been proportioned across two financial years, in a similar proportion to the proposed salary expenditure, with \$4,100 income raised for the 2017/18 year and the balance of \$20,800 to be raised for the 2018/19 year.

*Property Management*

Forecast income from the Old Tintenbar Council Chambers and residential properties for the current year has been decreased by \$30,000 due to recent vacancies.

*Ballina Byron Gateway Airport*

Overall the forecast income for the airport has been increased by \$219,800 as part of the quarterly budget review. The large areas of note are:

The forecast for car rental income has been increased by \$100,000 to \$518,200. This income stream has trended extremely well all year. The budget had been retained at a conservative level as there was some consideration of possible allowance required for the terminal expansion works.



With the timing of the works now more certain, this budget has been reviewed.

The forecast for car parking fees has been increased by \$35,000 to \$695,000, similar comment as for car rental income.

ABaSS landing fees have been increased by \$34,000 to \$68,000, based on trending to date.

Mandated security charges have been increased by \$30,000 to \$1,454,000, based on trending to date.

Forecast income from advertising fees has been increased by \$12,000, to \$85,000.

Adjustments as the per new airline agreements, as reported at the Commercial Services Meeting earlier this month have not been included as part of this quarterly budget review, as they are subject to ratification by Council as part of this meeting.

Any corresponding adjustments required for 2018/19 will be made to the draft budgets prior to presentation for adoption at the June ordinary meeting.

### **General Fund - Operating Expenses**

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

##### *Strategic Planning*

With the continuation of extended sick leave the salaries budget has been reduced by a further \$20,000, with this amount transferred to sick leave within the Human Resources area for the leave taken to date.

Additional budget of \$20,000 has been raised for rezoning and planning proposals corresponding to the income received.

Budget of \$15,000 has been transferred from the Strategic Planning area to an Open Spaces reserve, set aside for the Sport and Recreation plan.

##### *Community Facilities*

With the transfer of the Altstonville Leisure & Entertainment Centre to Council management, an increase of \$45,000 to the 2017/18 Community Services salaries budget is required for the initial training and staffing of these facilities.

Operating budgets of \$17,500, for cleaning, security, telecommunications and other such costs, have also been raised for the remainder of 2017/18.

The above increases are offset by a decrease to the budget for contract management of \$48,000.

Budgets for Council management and operation of this facility have already been included within the 2018/19 budget reviewed by Council for exhibition.

Operating budgets for the Lennox Head Cultural & Community Centre have been increased by \$6,300, to \$414,600 in total.

The larger adjustments are budgets for cleaning contracts and auditorium event hire costs have been increased by \$4,000 and \$3,000 respectively.

Kentwell Community Centre and Ballina Surf Club air conditioning maintenance costs are high in 2017/18 due to large repairs, requiring increases to budget of \$4,000 and \$2,000, respectively.

Increases to budgets of \$3,000 and \$2,000 have been raised for Pimlico and Northlakes Halls, respectively, corresponding to the income received.

### *Library Services*

The budget for the contribution for the regional library has been increased by \$16,500.

This reflects an additional amount of \$15,500 paid for "Local Priorities" technology and operating costs and an amount of \$1,000 towards legal costs for the Deed of Agreement.

The budget for security expenses has been increased by \$2,000, due to the need to replace the security system after breakdown.

### *Tourism*

As noted previously in this report, funding of \$150,000 has been confirmed under the Northern Rivers Business Recovery Program.

An expenditure budget of \$156,000 has been raised, representing the funding to be received with an additional \$6,000 budget reallocated from within the Tourism Promotional Expenses budget.

The forecast for Tourism salary expenses has been revised down by \$10,000, due to a vacancy.

## **Development and Environmental Health Group**

### *Development Services*

The budget for legal expenses has been increased by \$365,000 to a revised budget of \$865,000. This is due to continued expense attributable to the CURA A matter and is based on latest estimates provided by the Manager - Development Services.

Offsetting to a degree the large increase in budget to legal budgets noted above, is a decrease of \$50,000 to the Development Services area salaries budget.

With the Strategic and Community Facilities Group Manager on extended sick leave together with the retirement, vacancy and reappointment of the Development and Environmental Health Group Manager position, a temporary organisational structure change was required.

This has resulted in salary savings within the Development Services area for 2017/18.

*Building Services*

The salaries budget within the Building Services area has been increased by \$30,000. This is largely due to additional resourcing through labour hire, with \$50,000 on labour hire since 1 January 2018 to date. These additional costs have been offset by savings resultant from the temporary structure changes which provided salary savings across a number of areas, as noted above with Development Services.

*Environmental and Public Health*

As noted in the Development Services area, temporary organisational structure changes resulted in salary savings across a number of areas.

Further, additional savings due to the timing of replacement of the OSSM (On Site Sewage Management) officer and the Environmental Health Officer have occurred.

As a consequence of the above, the salaries budget within the Environmental and Public Health area has been reduced by \$100,000 for 2017/18.

**Civil Services Group**

*Engineering Management*

The salaries budgets have been reduced a further \$60,000 due to a continuation of position vacancies and sick leave. Relating to this, an amount of \$10,000 has been transferred to leave balances.

The budget for the Walk, Cycle, Public Transport Road Safety project has been increased by \$6,000, bringing this budget to \$19,100.

This increase represents a required Council contribution to this project for funding, of \$13,100, provided.

This increase was funded by transfer of budgets from within the Engineering Management (\$1,600), Roads (\$2,800) and Tourism (\$1,600) sections.

*Procurement and Building Management*

A budget of \$47,200 is required for the excess insurance claim cost incurred in relation to the Newrybar Hall. This amount has been funded by a transfer from the insurance reserve.

Rates budgets for Open Spaces & Reserve buildings and sportsfields have been increased in total \$25,000, based on trended costs for the year.

*Stormwater and Environmental Protection*

The budget for stormwater expenses has been increased by \$86,500, to \$349,000, with \$20,000 budget transferred from beach foreshore maintenance budgets within this section and \$66,500 budget transferred from roads operating budgets.

*Roads and Bridges*

Expenditure budgets totalling \$231,700 have been raised for the natural disaster funding (March 2017 event) to be received.

These budgets are:

Description of Works	Budget (\$)
Cooks Lane Wharf	+100,700
Pavement Restoration	+39,100
Scour Restoration	+56,800
Rural Roads Reserves operations	+35,100
<b>Total</b>	<b>+231,700</b>

The amount of \$35,100 added above to Rural Roads Reserves is to compensate for emergency works expenditure already incurred by Council in the previous financial year. The other expenditure budgets are specifically for natural disaster works still to be completed.

Other operating budget adjustments within the roads and bridges section are:

Description of Works	Budget (\$)
Rural Road Reserves Operations	+30,000
Rural Road Reserves Maintenance	+20,000
Rural Roads Sealed Maintenance	-100,000
Urban Roads Maintenance	-16,500
<b>Total</b>	<b>-66,500</b>

The net decrease of \$66,500 is from a transfer of budgets to stormwater operating expenses.

*Ancillary Transport Services*

A budget of \$178,800 has been raised for the Duck Creek Mountain Driveway, being \$100,000 grant funded and \$78,800 funded from LRM reserves.

It is noted that the ferry annual slippage and overhaul costs exceeded budget, with actual costs incurred to date of \$216,600 compared to a budget of \$138,000. At the request of the Manager Engineering Works, the ferry overspend will be deducted from budgets as part of the year-end carry forward process, rather than adjusted against budgets at this point in time.

*Roads and Maritime Services*

In relation to the revised regional roads funding, increased by \$177,000, the following budget increases have been proposed:

Description of Works	Budget (\$)
Regional Roads MR545 Operations	+45,000
Regional Roads MR7734 Maintenance	+35,000
Regional Roads MR695 Operations	+38,000
Regional Roads MR695 Maintenance	+40,000
Regional Roads Bridge Maintenance	+19,000
<b>Total</b>	<b>+177,000</b>

An expenditure budget of \$15,000 has been raised for the Tamarind Drive slip, funded by the natural disaster funding (March 2017 event) to be received.

Budget of \$12,000 has been transferred from the RMS Regional Roads maintenance budgets to the roads capital budgets.

### *Open Spaces and Reserves*

The expenditure budget for ground mowing of the Wardell Recreation Grounds has been reduced by \$3,000, as this budget appears to have been higher than required for the last couple of years.

### *Fleet Management and Workshop*

The expenditure budget for plant insurance within the plant fund has been increased by \$3,500, to \$223,300.

Total (council wide) vehicle insurance costs increased by approximately \$36,000.

In the current year, a review of the methodology of the allocation of plant insurance costs was undertaken, with a revision from allocation based on plant numbers to allocation based on plant values. Plant value is considered to be a more appropriate and equitable allocation basis.

The increase in total costs together with this review of allocation has resulted in an increase to the plant fund budget of \$3,500, an increase to Domestic Waste Management budget of \$30,000, savings to the Water fund budget of \$5,700 and savings to the Wastewater fund budget of \$7,000.

### *Quarries and Sandpit*

A budget of \$4,000 has been raised for electricity costs, as this was not previously separately budgeted for.

This budget increase has been offset by a reduction in the budget for licence fees, which appears to be higher than previous year expenditure would indicate as required for 2017/18.

In relation to the North Creek dredging plan, it is anticipated that a report to Council will be provided for the June Ordinary meeting.

### *Landfill and Resource Management (LRM)*

A budget of \$15,000 has been raised for the CDS (Container Deposit Scheme) contract development and negotiation, funded from the restricted reserve.

### *Domestic Waste Management (DWM)*

As noted within the Fleet Management and Workshop commentary above, there is a required increase to plant insurance budget of \$30,000 for DWM vehicles.

This is the result of a change in methodology of allocation of insurance costs, with DWM vehicles bearing a higher portion due to the large value of these vehicles.

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

#### *Communications*

An increase of \$2,800, to \$7,800, is proposed for the Code of Conduct complaint management budget, based on costs incurred to date.

A reduction of \$3,000 is proposed to the Civic Functions and Ceremonies budget, based on review of expenditure to date and historical costs.

#### *Financial Services*

The budget for legal expenses for debt recovery has been increased by \$13,000 to \$57,700.

#### *Information Services*

Budget of \$19,200 has been transferred from the Human Resource section to the Information Services software support budget, for the Pulse performance management and onboarding module annual costs.

Increases to the internet connections and BIS training budgets, of \$4,000 and \$2,400 respectively, have been made to meet actual costs incurred.

#### *Human Resources and Risk Management*

The required 2017/18 budget for workers compensation has been confirmed as \$300,000 and this provides a saving of \$180,000 on the existing budget of \$480,000.

As a consequence of the above, the forecast for 2018/19 has also been reviewed, with that budget anticipated to be reduced from \$492,000 (per exhibited draft budget) to \$330,000, which will represent an improvement to the 2018/19 results of \$162,000. This will most likely be offset by an increase in the legal expenses budget based on cases involving Council.

Employee entitlements have been increased by \$30,000, for amounts transferred here to offset the salary savings from the extended sick leaves.

As noted above within Information Services, budget of \$19,200 was transferred to the Information Services area, for the Pulse performance management and onboarding module annual costs.

A new expenditure budget of \$5,200 has been raised in relation to a twelve month part time grant funded position.

The total budget required for this twelve month position is \$31,000. This has been apportioned across two financial years, with \$5,200 raised for the 2017/18 year and \$25,800 to be raised for the 2018/19 year. The total grant funding to be received is \$24,900 (excluding GST), hence a net cost to Council of \$6,100, which has been apportioned between the two years.

*Property Management*

The budget for building maintenance costs for Council owned residential properties has been increased by \$18,000 for the current year, due to large repair costs incurred for the 70 Gallens Road property.

The budget for 89 Tamar Street maintenance has been increased by \$2,000, with roofing repair costs of \$4,000 impacting on this budget.

Rates budgets have been reviewed, with an overall reduction of \$4,500 across the area.

Overspends are also offset partly by a reduction of \$4,000 for the current year building maintenance costs for the Fawcett Street Café and \$1,000 for the ARC Building.

Saving of \$4,300 is also recognised for electricity cost for Council owned commercial properties, with that saving flowing through for future years also.

*Ballina Byron Gateway Airport*

Overall, the forecast expense for the airport has been decreased by \$75,000.

The MSS security budget has been revised down by a further \$50,000 based on trend.

Cleaning contract costs have been revised down by \$15,000 and CAGRO expenses have been revised down by \$10,000.

**Water Operations**

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

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

Item	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to December
Operating Income	11,778	12,008	0	12,008	365	12,373	7,712
Operating Exps (excl. dep)	9,825	9,738	0	9,738	(130)	9,608	7,173
<b>Net Operating Result Before Depreciation</b>	<b>1,953</b>	<b>2,270</b>	<b>0</b>	<b>2,270</b>	<b>495</b>	<b>2,765</b>	<b>539</b>
Depreciation Expense	1,380	1,380	0	1,380	0	1,380	1,035
<b>Net Operating Result from Continuing Operations</b>	<b>573</b>	<b>890</b>	<b>0</b>	<b>890</b>	<b>495</b>	<b>1,385</b>	<b>(496)</b>

The **forecast operating position** (inclusive of depreciation) **as at December** is a surplus of \$1,385,000, which is an improvement of \$495,000 from the forecast surplus of \$890,000 as the December quarterly review.

Forecast operating income has been increased by \$364,300, with the most significant adjustments relating to residential and non-residential water consumption, increased by \$100,000 and \$45,000 respectively.

The forecast for water sales from main bulk filling stations has also been increased by \$73,000.

A contribution from the wastewater fund, an amount of \$176,300, has been raised, representing 50% of the cost of purchase of a Vac E truck, noted further within the capital section of this report.

Offsetting the above increases slightly, the forecast for tapping fees have been revised down by \$30,000 based on trending to date.

Forecast operating expenditure has been decreased by \$130,700.

The larger areas for adjustment are decreases to mains maintenance of \$45,000, plant insurance costs of \$30,000 and mains operations and payroll tax of \$15,000 each.

**Wastewater Operations**

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

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

Item	Original Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to December
Operating Income	18,218	18,297	0	18,297	0	18,297	16,470
Operating Exps (excl. dep)	14,030	13,732	0	13,732	(42)	13,690	9,624
<b>Net Operating Result Before Depreciation</b>	<b>4,188</b>	<b>4,565</b>	<b>0</b>	<b>4,565</b>	<b>42</b>	<b>4,607</b>	<b>6,846</b>
Depreciation/loan unwind Expense	3,775	3,775	0	3,775	0	3,775	2,831
<b>Net Operating Result from Continuing Operations</b>	<b>413</b>	<b>790</b>	<b>0</b>	<b>790</b>	<b>42</b>	<b>832</b>	<b>207</b>

The **forecast operating position** (inclusive of depreciation) **as at December** is a surplus of \$831,900 which is an improvement of \$41,900 from the budget surplus of \$790,000 as the December quarterly review.

Forecast operating income adjustments have a net change of nil. Small increases are proposed to the forecast income for trade waste fixed charges and non-residential sewer usage charges of \$28,000 and \$20,000, respectively. These increases were largely offset by a reduction of \$37,500 in the forecast income from plant charged to works.

Total forecast operating expenditure has been decreased by \$41,800.

The largest adjustment to expenditure was the addition of a contribution of \$176,300 payable to the water fund, representing 50% of the cost of purchase of a Vac E truck.

Decreases were made to a number of operational areas including treatment scheduled maintenance of \$102,000, pumping station maintenance \$41,600, other operations \$37,000, mains maintenance \$32,800, treatment operations \$22,000 and energy cost \$20,000.

Increases were made to treatment reactive maintenance of \$39,000 and payroll tax \$30,000.



**Section Two – Capital Budget**

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

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

General Fund Capital Works	Original Budget 2017/18 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	March Budget \$'000	Actual to December \$'000
<b>General Fund Capital Funding</b>							
General revenue	5,317	3,911	139	4,050	9	4,059	
Reserves	17,032	19,531	(341)	19,190	27	19,217	
Loans	8,328	6,448	800	7,248	0	7,248	
Section 94 contributions	184	1,166	140	1,306	0	1,306	
Grants and contributions	10,086	9,333	(2,275)	7,058	120	7,178	
<b>Total Funding</b>	<b>40,946</b>	<b>40,389</b>	<b>(1,537)</b>	<b>38,852</b>	<b>156</b>	<b>39,008</b>	
<b>General Fund Capital Expense</b>							
<i>Strategic and Community Facilities Group</i>							
Community Facilities	3,280	1,044	(700)	344	0	344	297
Swimming Pools	5,928	11,382	1,058	12,440	0	12,440	12,212
Library	15	0	0	0	0	0	0
Northern Rivers Community Gallery	0	77	18	95	0	95	10
<i>General Manager's Group</i>							
Information Services	87	183	0	183	0	183	166
Human Resources & Risk Management	0	0	0	0	0	0	0
Property Development and Management	3,720	4,380	(743)	3,637	0	3,637	3,073
Flat Rock Tent Park	100	120	(120)	0	0	0	0
Ballina Byron Gateway Airport	6,475	2,493	(1,840)	653	0	653	195
<i>Development &amp; Environmental Health Group</i>							
Environmental Health	208	816	40	856	0	856	328
<i>Civil Services Group</i>							
Depot and Administration Centre	168	225	(18)	207	0	207	184
Procurement & Building Management	304	1,165	(99)	1,066	0	1,066	281
Public Amenities	104	255	0	255	16	271	173
Stormwater	434	339	0	339	0	339	93
Roads and Bridges	13,064	11,299	1,959	13,258	(21)	13,237	8,245
Ancillary Transport Services	1,265	1,455	(800)	655	0	655	435
Water Transport and Wharves	200	997	0	997	0	997	523
Open Spaces -Parks and Reserves	643	1,456	(410)	1,046	0	1,046	224
Open Spaces - Sporting Fields	1,320	392	66	458	155	613	272
Cemeteries	90	90	0	90	6	96	92
Fleet and Plant	1,397	2,064	(100)	1,964	0	1,964	657
Quarries and Sandpits	0	0	0	0	0	0	0
Waste Management	2,145	157	150	307	0	307	7
<b>Total Capital Expense</b>	<b>40,946</b>	<b>40,389</b>	<b>(1,537)</b>	<b>38,852</b>	<b>156</b>	<b>39,008</b>	<b>27,467</b>

**General Fund**

**Civil Services Group**

*Public Amenities*

The budget for the North Missingham Toilets has been increased by \$16,200, to a revised budget of \$120,200, to match expenditure incurred.

This expenditure is funded from the building asset renewal reserve.

*Stormwater*

Budgets, in total, have been kept the same. The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Skinner St	-5,600	Reallocation of budget to Seamist Place. Revised budget \$4,400.
Seamist Place	+5,600	New budget of \$5,600 allocated from Skinner St.
<b>Total</b>	<b>+0</b>	

*Roads and Bridges*

Budgets have been decreased by a total of \$20,800. The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Pearces Creek Bridge Repairs	+50,000	New budget of \$50,000 funded from reallocation of budgets.
Skennars Hd Rd / Coast Rd Roundabout	+12,000	Reallocation of budget from RMS operating budget. Revised budget of \$733,000.
Burnett St Seg 80	+5,000	Increase to budget funded from road reserve. Revised budget of \$6,000.
Foot Bridget – Fawcett Park to Ramada	-39,500	Reallocation of budget to Pearce Creek Bridge Repairs. Revised budget of \$0.
Bridges - Other	-10,500	Reallocation of budget to Pearce Creek Bridge Repairs. Revised budget of \$83,900.
Rural Roads Reseals	-35,000	Reallocation of budget to Sportsfields area for Wollongbar Sportsfields
Urban Road Reseals	-2,800	Reallocation of budget to Asset Engineering area. Revised budget of \$321,200.
<b>Total</b>	<b>-20,800</b>	

Of the decrease, an amount of \$37,800 has been transferred to other areas (i.e. sportsfields and asset engineering areas) offset by a transfer from RMS of \$12,000 and a transfer from roads reserve of \$5,000.

*Ancillary Transport Services*

Budgets, in total, have been kept the same. The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Ballina Pool Offsite Concrete Paths	+8,500	Reallocation of budget from Compton Dr to Nth Wall footpath. Revised budget \$78,500.
Altsonville Pool Offsite Concrete Paths	+11,500	Reallocation of budget from Compton Dr to Nth Wall footpath. Revised budget \$21,500.
Compton Dr to Nth Wall footpath	-20,000	Reallocation of budget to Pool Offsite Concrete Paths. Revised budget \$4,300.
<b>Total</b>	<b>+0</b>	

*Open Spaces- Sporting Fields*

A new budget has been created, \$62,000, for Williams Lighting and additional budget, of \$58,000, has been added to the budget for Ballina Tennis Courts.

The above increases are funded under the Stronger Country Communities grant funding through the NSW Department of Industry.

The budgets for Wollongbar Sportfields and the associated works for Pearces Creek Road have been increased by \$22,700 and \$12,300, respectively. These amounts were funded by transfer of budget from Rural Road Reseals within the Roads and Bridges section of Council.

*Cemeteries*

The budget for the East Ballina Master Plan has been increased by \$6,000, to a revised budget of \$96,000, to match expenditure incurred. This expenditure is funded from the cemeteries reserve.

**Water Fund**

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

Water Supply Capital Works	Original Budget 2017/18 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	March Budget \$'000	Actual to December \$'000
<b>Water Capital Funding</b>							
Reserves	2,828	3,268	(513)	2,755	108	2,863	
Section 64 contributions	1,669	681	(160)	521	0	521	
<b>Total Funding</b>	<b>4,496</b>	<b>3,949</b>	<b>(673)</b>	<b>3,276</b>	<b>108</b>	<b>3,384</b>	
<b>Water Capital Expense</b>							
Main Renewal	634	100	(50)	50	0	50	0
Reservoirs	475	275	(170)	105	0	105	76
Pressure Management	734	50	0	50	0	50	28
Water pump and bores	822	631	(160)	471	0	471	43
Trunk mains	375	1,743	(20)	1,723	0	1,723	1,560
Treatment Plant	767	175	0	175	0	175	61
Plant	323	376	0	376	108	484	52
Connections	299	299	0	299	0	299	195
Other	67	300	(273)	27	0	27	8
<b>Total Capital Expense</b>	<b>4,496</b>	<b>3,949</b>	<b>(673)</b>	<b>3,276</b>	<b>108</b>	<b>3,384</b>	<b>2,023</b>

The water capital works program was reviewed for the April 2018 Ordinary meeting.

The only further adjustment to capital budgets proposed is to the Plant Replacement budget.

A budget of \$200,000 had been raised within the water fund and \$350,000 within the wastewater fund for a Vac Ex Truck.

This plant has now been purchased at a cost of \$353,400, with this cost to be shared equally between the water and wastewater funds, at \$176,700 per fund.

This plant item is to be "owned" by the water fund.

So the capital budget required in the water fund is \$353,400 (an increase of \$153,400 to the capital budget for this item), with a funding contribution of \$176,700 from the wastewater fund.

Other savings within the water plant fund, of \$45,000, have also been identified for other plant items (specifically the site caravan).

The overall required change to the water capital budget is an increase of \$108,400 (being \$153,400 less \$45,000) and the overall savings to the water fund for these plant purchases is \$68,700.

**Wastewater Fund**

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

Wastewater Services Capital Works	Original Budget 2017/18 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	March Budget \$'000	Actual to December \$'000
<b>Wastewater Capital Funding</b>							
Reserves	5453	7,283	(4,155)	3,128	(276)	2,852	
Section 64 contributions	1247	1,147	3,731	4,878	0	4,878	
<b>Total Funding</b>	<b>6,700</b>	<b>8,430</b>	<b>(424)</b>	<b>8,006</b>	<b>(276)</b>	<b>7,730</b>	
<b>Wastewater Capital Expense</b>							
Pumping stations	2,538	3,497	(29)	3,468	0	3,468	2,486
Treatment Plants	947	1,492	(20)	1,472	0	1,472	487
Trunk Mains	2,143	1,556	(340)	1,216	0	1,216	457
Mains renewals	200	100	0	100	74	174	89
Plant	596	812	0	812	(350)	462	231
Reuse program	110	734	75	811	0	811	661
Other	166	239	(110)	127	0	127	67
<b>Total Capital expense</b>	<b>6,700</b>	<b>8,430</b>	<b>(424)</b>	<b>8,006</b>	<b>(276)</b>	<b>7,730</b>	<b>4,478</b>

The wastewater capital works program was reviewed for the April 2018 Ordinary meeting.

Further adjustments to capital budgets are as follows:

Description of Works	Adjustment (\$)	Comments
Seamist PS sewer rising main	+32,800	New budget.
Angels Beach Drive sewer rising main	+21,600	New budget.
Sewer main extension 40-44 Blue Seas Parade	+20,000	New budget.
Plant Purchases	-350,000	Vac Ex Truck purchased by water fund, refer comments below. Revised plant budget \$462,000.
<b>Total</b>	<b>-275,600</b>	

A budget of \$350,000 had been raised within the wastewater fund plant budget for a Vac Ex Truck.

This plant has now been purchased at a cost of \$353,400, to be shared equally between the water and wastewater funds, at \$176,700 per fund.

This plant item is to be “owned” by the water fund. So the capital budget required in the wastewater fund for this item is \$nil (a decrease of \$350,000 to the plant capital budget), with a funding contribution of \$176,700 created from the wastewater fund to the water fund. Overall there is a saving of \$173,300 to the wastewater fund.

**Section Three – Cash and Investment Statement**

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

## 10.5 Financial Review - 31 March 20184

	Original Budget 2017/18 \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval March \$'000	Revised Budget March \$'000
<b>Unrestricted</b>	<b>5,971</b>	<b>5,971</b>	<b>0</b>	<b>5,971</b>	<b>0</b>	<b>5,971</b>
<b>Externally Restricted</b>						
- Section 94	11,426	8,474	(140)	8,334	575	8,909
- Domestic Waste M'tment	1,439	2,472	0	2,472	(21)	2,451
- Section 64 Water	4,881	7,707	160	7,867	350	8,217
- Water	4,472	7,081	513	7,594	387	7,981
- Section 64 Wastewater	5,349	2,686	473	3,159	689	3,848
- Wastewater	(69)	3,143	(196)	2,947	318	3,265
<b>Total Externally Restricted</b>	<b>27,498</b>	<b>31,563</b>	<b>810</b>	<b>32,373</b>	<b>2,298</b>	<b>34,671</b>
<b>Internally Restricted</b>						
- Strategic and Community Services	422	3,233	408	3,641	0	3,641
- Employee Leave Entitlements	2,853	3,013	0	3,013	0	3,013
- Plant Renewal/Replacement	(9)	(139)	100	(39)	(3)	(42)
- Quarries	350	324	0	324	0	324
- Property and Airport Reserves	5,599	1,775	(91)	1,684	328	2,012
- Open Spaces and Reserves	0	1,384	(40)	1,344	14	1,358
- Landfill and Resource Management	1,006	2,291	(150)	2,141	(88)	2,053
- Civil Services	5,327	12,925	(2,025)	10,900	(533)	10,367
- Other	1,621	3,642	120	3,762	19	3,781
<b>Total Internally Restricted</b>	<b>17,168</b>	<b>28,447</b>	<b>(1,678)</b>	<b>26,769</b>	<b>(263)</b>	<b>26,507</b>
<b>Total Restricted</b>	<b>44,666</b>	<b>60,010</b>	<b>(868)</b>	<b>59,142</b>	<b>2,035</b>	<b>61,178</b>
<b>Total Cash and Investments</b>	<b>50,637</b>	<b>65,981</b>	<b>(868)</b>	<b>65,113</b>	<b>2,035</b>	<b>67,149</b>

The unrestricted cash figure is not inclusive of transactions that would normally be included when calculating working capital; i.e. it is exclusive of movements in items such as debtors and creditors.

The available cash figure is taken from note six of the financial statements as at 30 June 2017.

### Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for March 2018, funds invested amounted to \$70,738,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 March to the amount of \$2,918,220.
4. Actual year to date cash and investments amounted to \$73,656,220 as at 31 March 2018. This amount includes cash at bank of \$2,918,220 and funds invested of \$70,738,000 which has been reconciled to bank statements and investment reports.

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

The forecast reserves position has decreased from \$61.8 million as at the December quarterly review to \$61.2 million.

Details of the major changes as part of this quarterly review are summarised below.

#### *Section 94*

Net reserves have been increased by \$575,000, based on contribution amounts received to date.

This overall increase was reflective of increases for community facilities, open spaces, WUEA and car parking reserves, offset by a large decrease to roads contributions.

#### *Domestic Waste Management*

Net reserves are predicted to decrease by \$21,000, which is the result of a deterioration to the operational outlook, primarily due to increased budget for plant insurance costs.

#### *Plant Renewal/Replacement Reserves*

There is a decrease of \$3,500 resulting from budget increase for plant insurance costs.

#### *Property and Airport Reserves*

There is an increase of \$33,000 to the forecast property reserves resulting from a decrease in capital expenditure of \$43,100 for Shelly Beach Café Sewer, offset by a deterioration in the operating result. In addition, there is an increase of \$294,800 to the forecast airport reserves balance resulting from an improvement in the operating result.

#### *Open Spaces and Reserves*

There is an increase of \$15,000, being a transfer from Strategic's operating budgets into the open spaces reserve, towards a sport and recreation plan.

#### *Landfill and Resource Management*

Net reserves are predicted to decrease by \$87,300.

This is the result of an improvement in the operating result of \$6,500 offset by expenditure for the CDS contract development of \$15,000 and capital expenditure of \$78,800 for the Duck Creek Mountain Driveway.

#### *Civil Services- Building Asset Renewal Reserve*

There is a decrease of \$16,200 resulting from budget increase to North Missingham Toilets.

### *Civil Services - Cemeteries*

There is a decrease of \$6,000 resulting from budget increase for the East Ballina Master Plan.

### *Civil Roads Reserve*

An amount of \$295,000 has been transferred to reserve for the Roads to Recovery funding to be received in 2017/18 which is funding for expenditure proposed 2018/19.

An amount of \$5,000 has been transferred from the roads reserve to fund additional budget for Burnett St.

### *Other - Insurance Reserve*

An amount of \$47,200 has been transferred from this reserve to fund excess amounts paid under the insurance policy covering Newrybar Hall.

### *Water Reserves*

Net reserves are predicted to increase by \$737,500, which is the result of an improvement in the operating result of \$495,000 and increase in capital section 64 contributions of \$350,000, offset by an increase in the capital budget for plant purchases of \$107,500.

### *Wastewater Reserves*

Net reserves are predicted to increase by \$1,006,400, which is the result of an improvement in the operating result of \$41,800 and increase in capital section 64 contributions of \$689,000, offset by a decrease in capital expenditure of \$275,600.

## **Section Four - Key Performance Indicators**

This section of the report takes selected financial benchmarks and compares the 30 June 2016 and 2017 ratios with the forecast at March to 30 June 2018.

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

### **Key Performance Indicators - Description**

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

Measured: as a ratio

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

Indicator type: Financial Position

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

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

Measured: as a ratio

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

Indicator type: Financial Performance

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

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

Measured: as a ratio

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

Indicator type: Financial Position

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

### Benchmark Indicators – General Fund

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

Benchmark: >1.5:1

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
4.02:1	4.71:1	3.44:1
Pass	Pass	Pass

#### Comment

The ratio is predicted to fall in 2017/18 in comparison to the 2016/17 result. Whilst the forecast remains a pass in comparison to the benchmark the trend is negative. This serves as a warning that any new borrowings need to have a ready funding source and to keep a close eye on cash reserves.



**2. Operating Performance Ratio – General Fund**

Benchmark: >0

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
-1.33%	11.39%	-0.05%
Fail	Pass	Fail

**Comment**

The current forecast for the ratio to June 2018 is looking close to reaching the benchmark. The 2017/18 ratio is inclusive of the income from the temporary rate variation.

The ratio is affected by many variables. The strategy to improve this ratio is to continue to closely monitor, maintain and even reduce operating expenses and increase income, while pursuing additional rate income.

**3. Debt Service Cover Ratio – General Fund**

Benchmark: > 2

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
4.93	4.97	2.68
Pass	Pass	Pass

**Comment**

This ratio is sourced from the operating result and loan repayments.

Swimming pool loans impact on loan repayments from 2017/18 onwards.

The strategy to continue to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by a combination of increasing income and decreasing expense.

**Benchmark Indicators - Water**

**1. Unrestricted current ratio - Water**

Benchmark: >1.5:1

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
78.58:1	132.47:1	29.60:1
Pass	Pass	Pass

**Comments**

The ratio meets the benchmark comfortably as the Fund has reasonable reserves and no debt.

**2. Operating Performance Ratio - Water**

Benchmark: > 0

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
3.77%	10.03%	11.19%
Pass	Pass	Pass

**Comments**

The Water Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years.

**3. Debt Service Cover Ratio - Water**

Benchmark: >2

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

**Comments**

The Fund has no external borrowings.

**Benchmark Indicators - Wastewater**

**1. Unrestricted current ratio - Wastewater**

Benchmark: >1.5:1

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
2.85:1	1.59:1	2.57:1
Pass	Pass	Pass

**Comments**

This ratio should remain around this benchmark moving forward.

**2. Operating Performance Ratio - Wastewater**

Benchmark: >0

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
-5.70%	-0.01%	4.55%
Fail	Fail	Pass

**Comments**

The forecast is for a positive result, which means a pass in comparison to the benchmark. A positive result is expected to continue.

**3. Debt Service Cover Ratio - Wastewater**

Benchmark: > 2

2015/16	2016/17	2017/18 Mar
Actual	Actual	Estimate
0.81	1.02	1.21
Fail	Fail	Fail

**Comments**

This ratio will fail the benchmark for many years due to the extremely high level of borrowings for the Fund. The forecast is that the ratio will gradually improve year on year as the operating surplus continues to grow.

**Section Five – Contractors/Consultants/Legal Expenses**

**Contractors**

New contracts entered into during the quarter that meet the definition are detailed in the table below.

Contractor Name	Purpose	Amount (Excl GST)	Award Date	Duration of Contract	Incl in Budget Yes/No
Coastal Work Pty Ltd	Wollongbar Gravity Sewer Main	\$348,220	21/2/18	4 weeks from possession of site (possession date 16/4/18)	Yes

**Consultants**

Total expenditure to 31 March 2018 on consultants that meet the definition is detailed below.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Consultancies	\$107,960	Yes

**Legal Expenses**

The next table summarises the expense incurred to the end of March on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Legal Fees	\$569,080	Yes

The expenditure shown in the table above is for the period ended 31 March 2017.

The proposed budget adjustment for legal costs as per this report includes anticipated costs to be incurred for the remainder of 2017/18.

### **Certification**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31 March 2018 indicates that Council's projected financial position at 30 June 2018 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The satisfactory position is based on the short term (twelve month) outlook.



Signed Linda Coulter, Responsible Accounting Officer

### **Sustainability Considerations**

- **Environment**

This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.

- **Social**

As above

- **Economic**

As above

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

This report informs Council of actual financial results to date in comparison to budget.

### **Consultation**

This report has been prepared to inform the community of budget variations. Staff have been consulted in the preparation of this report.

### **Options**

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

**RECOMMENDATION**

That Council notes the contents of the March 2018 Quarterly Budget Review and approves the changes identified within this report.

**Attachment(s)**

Nil

## 11.1 Dwellings in Rural Areas - Flood Mitigation Options

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### 11. Civil Services Group Reports

#### 11.1 Dwellings in Rural Areas - Flood Mitigation Options

**Delivery Program**      Engineering Works

**Objective**              To consider alternative flood mitigation options for dwellings in rural areas.

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#### **Background**

Council resolved (250517/5) at its meeting on 25 May 2017:

*“That the General Manager seek feedback from Council’s insurer and the NSW Government’s Office of Heritage and Environment in respect of a proposal to amend the Ballina Floodplain Risk Management Plan and Development Control Plan for rural land in the lower Richmond area from Boundary Creek to Wardell to enable the construction of pole type dwellings, and this feedback be reported to Council.”*

The above resolution describes the rural land area as Boundary Creek to Wardell, however it has been taken that the rural land encompasses the area from Boundary Creek to Burns Point, and this latter area has been considered as part of the feedback for this issue.

The report that was presented to Council in May 2017 comprised an overview of the development of the Ballina Floodplain Risk Management Study and Plan (BFRMS&P) which also described how isolated rural dwellings located on the floodplain were considered during this process.

Prior to presenting this report Councillors were provided with a background to the development of Council’s flood modelling, with a Councillor briefing held in March 2017 where Council’s floodplain management specialist consultant BMT WBM Pty Ltd attended.

In response to the above resolution a meeting was coordinated with Council’s insurer and the Office of Environment and Heritage (OEH) in October 2017.

An outcome of the meeting was that as a first step our insurer and OEH recommended seeking a specialist flood risk assessment and review of the proposed amendment to Council’s BFRMS&P and Development Control Plan (DCP).

Council’s insurer supported this process with the following conditions:

*“Further to our recent meeting, Statewide has confirmed that Council’s liability cover won’t be prejudiced should Council review and change its Floodplain building approval requirements, provided the proper risk procedures are put in place and the appropriate records are kept by Council.”*

## 11.1 Dwellings in Rural Areas - Flood Mitigation Options

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Seeking this specialist flood risk advice was viewed as an alternative to recommencing a more lengthy and expensive formal review of the BFRMS&P and DCP in accordance with the NSW State Government's Floodplain Development Manual.

Accordingly, with support from OEH, Council engaged Bewsher Consulting Pty Ltd (Bewsher) for this specialist flood risk advice.

Bewsher was engaged in December 2017 and the engagement included a visit to Ballina with site inspections and stakeholder meetings.

The stakeholder meetings included engagements with the Wardell Progress Association, a building industry representative, the NSW State Emergency Service (SES), OEH and Council staff.

The following Council report presents the Bewsher report plus additional responses from SES and OEH.

### Key Issues

- Floodplain risk management
- Planning and development controls

### Information

An extract of the Bewsher report is provided below, and the entire report is provided as an attachment to this report. The Bewsher report describes and assesses the many relevant issues under consideration, including specific matters raised during the stakeholder engagement.

*"Our advice is set out in the remainder of this report. It is comprised of two parts:*

- *commentary on the various flood risk management issues; and*
- *our opinion on the appropriateness of amending Council's controls to allow pole-type dwellings.*

### ADVICE

#### 1. Commentary on Key Issues

(a) Affordability and Constructability – *the additional burden of complying with the fill pad policy.*

(i) *The cost of importing and placing fill is significant. This is apparently the key impetus behind the present consideration for relaxing the fill pad requirements.*

(ii) *Various estimates of the cost of the fill pad were provided to the reviewer ranging from a few \$10Ks to \$160K. Clearly the cost will vary depending on location, volume and depth of fill, source of fill and the proposed compaction. It would appear that typically an additional cost of about \$50K might be required to comply with the current policy, relative to the situation if pole-type dwellings were allowed.*

## 11.1 Dwellings in Rural Areas - Flood Mitigation Options

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- (iii) *The foundations and substructure of a dwelling on fill differ from a dwelling on poles. There are additional costs associated with the pole-type dwelling but apparently these additional costs are small relative to the cost of filling.*
        - (iv) *Settlement issues influence the design of dwellings in many rural areas because of the unconsolidated nature of the sub-surface (for both the pole-type and fill pad alternatives). In some cases a delay of 1-3 years may be necessary after placement of fill before dwelling construction can begin.*
- (b) *Obstruction to Floodplain Flows – dwellings on poles allow floodwaters to pass under and around dwellings whereas fill pads obstruct the passage of floodwaters.*
  - (i) *This issue was investigated during the 2012 FRMS&P using BMT WBM's flood model, when the merits of fill pads were being assessed.*
  - (ii) *As part of this review in 2011/12 less than 100 rural lots with an existing 'dwelling entitlement' were identified. Because of the isolated nature of these lots and the typically slow and deep floodwaters, the modelling indicated that the impacts of allowing fill pads were not significant.*
  - (iii) *Consequently there would not be changes to the flood behaviour by constructing these rural dwellings on poles.*
- (c) *Access by Emergency Services Personnel during a Flood – because these dwellings can become surrounded by floodwaters, occupants who don't evacuate ahead of inundation are effectively 'trapped' and may require emergency assistance from the SES during floods.*
  - (i) *This issue is a major concern of the SES.*
  - (ii) *Flood time access by boat or helicopter is inherently dangerous. Not only is the safety of dwelling occupants jeopardised, the lives of the SES personnel are also endangered.*
  - (iii) *SES' experience with numerous flood emergencies on NSW's northern rivers indicates that isolated dwelling occupants frequently require assistance and despite the best intentions, the occupants are often unprepared for the isolation and medical emergencies that may eventuate (e.g. stress-related medical incidents, depleted medical supplies, need to access hospital, etc).*
  - (iv) *Flood time access by boat or helicopter to a fill pad is considerably safer than access to a pole-type dwelling. This is a key reason why the SES does not support the proposed amendment.*
- (d) *Concerns about Pole-Type Dwellings being Washed Away – concerns have been raised that pole-type dwellings might be significantly damaged or washed away if impacted by large floating debris during extreme floods.*
  - (i) *This is a real concern given the potential damage that could occur if a dwelling was hit by a large tree or shipping container during a flood.*



## 11.1 Dwellings in Rural Areas - Flood Mitigation Options

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- (ii) *In the reviewer's opinion these flood debris loading constraints can usually be addressed through strengthening of the dwelling's supporting structure. If the pole-type dwellings were to be permitted it is anticipated that Council would require rigorous structural design and certification of adequacy by a structural engineer.*
- (iii) *Whilst requirements for higher standards of structural integrity during floods would increase the cost of construction, in the experience of the reviewer these additional costs are unlikely to be prohibitive.*
- (iv) *In the opinion of the reviewer, concerns about the structural integrity of pole-type houses can be addressed, and the structures can be designed and built to withstand all reasonable loads that might occur in most parts of the Lower Richmond floodplains.*
- (e) SES' Policy on Isolation – *the SES generally does not support any additional dwellings being constructed in hazardous floodplains where the dwellings could become surrounded by floodwaters and the occupants could become trapped. Their preference would be that Council not allow any future dwellings (either on fill pads or on poles). Nevertheless for the reasons noted above, dwellings on fill pads have less inherent risks than pole-type dwellings.*
- (f) Flood Damages – *the curtilage around the dwelling, which is a requirement for a fill pad, can provide a refuge area for stock, vehicles and other items of equipment that would otherwise be unavailable with a pole-type dwelling.*

  - (i) *The refuge area created by a fill pad will reduce flood damages (except in extreme flood events when the pad is overtopped).*
  - (ii) *Where filling is required in order to provide an effluent disposal area adjacent to a pole-type dwelling, this area might be used as a refuge area (although of lower height and smaller area than provided by the curtilage around a dwelling constructed on a fill pad).*
  - (iii) *Overall the fill pad will lead to lower flood damage costs.*
  - (iv) *An extra flood damage risk exists with a pole-type dwelling if the under-floor area is used for storage of goods that could be damaged or washed away by floodwaters. These types of structures within other floodplains of the State have, on occasions, been enclosed or converted into habitable rooms without approval. Pole-type dwellings therefore present an additional compliance responsibility for Council so that flood damages are not increased.*
- (g) S733 Indemnity Issues – *Council should seek legal advice on this issue. Based on our experience as flood risk management practitioners, we make the following comments:*

## 11.1 Dwellings in Rural Areas - Flood Mitigation Options

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- (i) Because the existing fill pad policy was confirmed as part of the Ballina FRMS&P, the policy has already undergone community consultation and scrutiny by Council's flood committee and OEH. Further these activities and the preparation of the FRMS&P itself are key components of the flood risk management process set out in the NSW Floodplain Development Manual. As Council's indemnity under s733 of the Local Government Act relies on it acting in accordance with the Manual, the existing fill policy has likely been prepared in a manner which would attract this indemnity.*
  - (ii) Should Council decide to change the policy and allow pole-type dwellings, it will likely be necessary to revise the FRMS&P and undertake consultation and other activities which were a precursor to the adoption of the fill pad policy. In the opinion of the reviewer it would be unwise for Council to pursue the proposed amendment to the fill pad policy without revising the FRMS&P and undertaking the associated activities referred to above.*
  - (iii) This revision process might normally take 1-2 years but could possibly be expedited if the revisions were soundly based and well-supported by OEH and the SES. (As noted below, our review does not consider the proposed amendments to the fill policy to be consistent with good floodplain practice and accordingly the revision process would likely be protracted, particularly if it proceeded without SES and OEH support).*
- (h) Best Practice Considerations & Comparisons with Other Councils – the commentary provided below is based on discussions with staff of Tweed, Port Stephens and Hastings Councils during the course of the review, and the reviewer's experience and knowledge of policies in other NSW councils with similar rural floodplains.*
- (i) The 'high' and 'extreme' flood risk precincts which characterise much of the Lower Richmond are dangerous places during major floods. The NSW Floodplain Development Manual identifies these areas as unsuitable places for dwellings due to the flood risk.*
  - (ii) The reviewer is unaware of any NSW council that would allow new dwelling entitlements to be created in these hazardous areas (i.e. through subdivision or rezoning).*
  - (iii) The issue is more complicated when there are legacy dwelling entitlements which came into existence before the severity of the flood hazard was properly understood. In these situations there are social-economic consequences of sterilising the legacy entitlements. Consequently in the reviewer's experience the exercise of the entitlements is often only permitted under very special conditions (e.g. fill pads) which are onerous compared with the requirements for development in other areas where the flood hazard is not as severe.*

## 11.1 Dwellings in Rural Areas - Flood Mitigation Options

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(iv) *In respects of the current floodplain development controls within the Tweed, Hastings and Port Stephens Councils, none would permit development with pole-type dwellings as envisaged in the proposed amendment. Each of these councils has taken a different approach to their controls which in part reflect their different floodplain characteristics and different history of the preparation of their controls. Development of pole-type houses in the Tweed is permitted however only in conjunction with the provision of a PMF refuge.*

*(PMF - probably maximum flood. This is meteorologically the largest flood that can possible occur and has an annual exceedance probability of approximately 1 in 100,000 years).*

### 2. Opinion

- (a) *Council's 2012 decision to allow construction of isolated rural dwellings, in high or extreme flood risk precincts on lots with a dwelling entitlement, was a concession. Judged against the standards of the NSW Floodplain Development Manual and the practice of other councils, these risks, which were only fully recognised and understood in 2012, would of themselves have precluded construction of new dwellings.*
- (b) *The decision to allow new dwellings on fill pads in these dangerous and isolated floodplain areas recognised that additional difficulties and costs would be incurred in development. This was seen at the time as a deterrent to further development (and it still is a deterrent).*
- (c) *The additional costs of providing fill pads are real and this reduces dwelling affordability. These additional costs however provide for some limited reduction in flood damages and limited improvement in flood safety risks during a major flood event. Nevertheless these flood risk reductions although small cannot be easily discounted because of the high and extreme hazards in large floods.*
- (d) *The SES is opposed to the proposed amendment. Their key concern is that the fill pad is a safer place for boat and helicopter access during emergencies when occupants remain in the dwelling, (having not previously evacuated ahead of inundation, which would be the safest course of action). Even with a fill pad, flood rescues by emergency service personnel are inherently dangerous although with a pole-type house, the SES consider them to be even more dangerous.*
- (e) *If Council decides to proceed with amendment to its DCP to allow pole-type dwellings, it will likely be necessary to obtain written support from OEH. Such support may not be forthcoming.*
- (f) *Despite the additional costs and imposts on development, the flood risks in these isolated rural lots are severe and accordingly any relaxation of the existing fill pad policy would increase risk and would, in the opinion of the reviewer, be contrary to NSW best practice and cannot be supported.*

## 11.1 Dwellings in Rural Areas - Flood Mitigation Options

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- (g) *The existing fill pad policy was the outcome of the process outlined in the Manual. This process is foundational to Council's indemnity under s733 of the Local Government Act. Therefore before Council could relax the fill pad policy it would need to re-engage in the Manual's process and gauge the support of the community, industry experts, SES and OEH. In the opinion of the reviewer this process, if undertaken, is likely to become protracted and might not ever be finalised given the likely objections from the SES and a possible lack of support from OEH.*
- (h) *In the opinion of the reviewer, the proposed relaxation to allow pole-type dwellings is contrary to best practice. Further it would be inappropriate for Council to pursue the pole-type dwelling amendment to its DCP without first achieving endorsement from a revised FRMS&P prepared under the Manual's process. To do so might leave Council without the statutory indemnity it currently has in relation to the fill pad policy."*

Formal feedback was also provided by SES headquarters following initial stakeholder engagement with regional and local SES representatives during February 2018. This is provided as Attachment 2. The formal SES advice confirms the above reporting made by Bewsher.

Furthermore, OEH have also provided a response to the above Bewsher report. OEH support the outcomes of the specialist flood risk assessment and review, and the sound basis for Council's existing policy and DCP. This is provided as Attachment 3.

### **Sustainability Considerations**

- **Environment**  
The Floodplain Risk Management Plan and DCP provide the development controls that allow Council to manage existing and future flood risk to an acceptable level, taking into account social, economic and ecological, as well as flooding consideration.
- **Social**  
The Floodplain Risk Management Plan and DCP provide the development controls that allow Council to manage existing and future flood risk to an acceptable level, taking into account social, economic and ecological, as well as flooding consideration.
- **Economic**  
The Floodplain Risk Management Plan and DCP provide the development controls that allow Council to manage existing and future flood risk to an acceptable level, taking into account social, economic and ecological, as well as flooding consideration. Flood prone land is a valuable resource that should not be sterilised by unnecessarily precluding its development.

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

The specialist flood risk assessment and review undertaken as part of this reporting has been completed within the existing budget from the current operational plan.

Should this review not be supported by Council and a more-lengthy and expensive formal review of the BFRMS&P and DCP in accordance with the NSW State Government's Floodplain Development Manual be required, this will require Council to amend its delivery program to allocate sufficient funds for the review and consultation process.

### **Consultation**

The specialist flood risk assessment and review undertaken as part of this reporting has been completed with targeted stakeholder engagement.

This has been described in the Bewsher report where stakeholders with formal BFRMS&P and DCP involvement like OEHL, SES and Council staff have been consulted.

In particular further external consultation has occurred with building company representatives and the Wardell Progress Association who have both made direct representations regarding the current BFRMS&P and DCP.

Should this review not be supported by Council and a more lengthy and expensive formal review of the BFRMS&P and DCP in accordance with the NSW State Government's Floodplain Development Manual be required, this will require Council to follow the appropriate public consultation process.

### **Options**

As previously advised to Council, it is not possible to establish an alternative prescriptive flood mitigation measure, like stilt housing, without completing a formal update of the BFRMS&P and DCP in accordance with the NSW State Government's Floodplain Development Manual.

Therefore the options available to Council are;

1. Initiate a review and update of the BFRMS&P and DCP
2. Take no further action at this point in time.

The specialist flood risk assessment and review undertaken as part of this report recommends option two. The report discusses best practice floodplain mitigation planning and importantly notes amending the DCP is not supported by SES or OEHL.

If the Council decides to support option one, it will be necessary to allocate sufficient funds to undertake the project and be mindful this investment may not achieve the changes that have been requested by some members of the community based on the advice in this report and the wider consultation that is a requirement of preparing the new plan.

## **11.1 Dwellings in Rural Areas - Flood Mitigation Options**

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If the Council supports option two, it is possible to revisit this issue again when the BFRMS&P and DCP are next planned for a full review. Previously the extensive costs to prepare these plans have been supported by NSW Government grants.

### **RECOMMENDATION**

That Council, in response to the specialist risk planning, best practice floodplain mitigation planning, NSW State Emergency Service and the NSW Office of Environment and Heritage advice, as outlined in this report, confirms the retention of the existing planning controls set out in the Ballina Floodplain Risk Management Study and Plan, and the related Development Control, for the management of rural dwellings in the floodplain.

### **Attachment(s)**

1. Bewsher Report
2. NSW SES correspondence
3. Office of Environment and Heritage correspondence

## **11.2 Ballina Roads Contribution Plan - Review**

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### **11.2 Ballina Roads Contribution Plan - Review**

**Delivery Program**      Asset Management

**Objective**              To endorse an update of the Ballina Roads Contribution Plan.

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#### **Background**

Ballina Roads Contribution Plan Version 4.0 was adopted by Council 24 September 2015.

Draft Version 4.1 has been prepared for public exhibition to include changes to the works schedule arising from a revision of the network configuration planned for Byron Bay Road and Hutley Drive, Lennox Head and subsequent adjustments to the works program, staging and contribution rates.

A copy of the exhibition document is included as Attachment 1.

#### **Key Issues**

- Adjust the Roads Contribution Plan to incorporate direct connection of Hutley Drive to Byron Bay Road at Lennox Head
- Need for subsequent adjustments to the Roads Contribution Plan works schedule, staging and contribution rates

#### **Information**

##### Proposed Changes to Ballina Roads Contribution Plan Version 4.0

Ballina Roads Contribution Plan Version 4.0 was adopted by Council on 24 September 2015.

This version of the plan included amendments for works to:

- relocate the northern section of North Creek Road to west of the water reservoir, prior to its intersection with the Coast Road/Ballina Street/Byron Bay Road
- a new North Creek Road roundabout and
- extend Hutley Drive to intersect with the relocated North Creek Road with a new roundabout 50m south of the existing Coast Road/Ballina Street/Byron Bay Road/North Creek Rd roundabout.

These works were to provide an efficient network connection between The Coast Road/Lennox Head to the developing residential areas between Lennox Head and Skennars Head along and west of North Creek Road.

## 11.2 Ballina Roads Contribution Plan - Review

These works depended on obtaining agreement to construct the works on Lot 1 DP 515111. In the absence of being able to secure an agreement in a reasonable time frame, and with an opportunity to save costs, Council has pursued an alternative road configuration that will provide the same level of network connectivity.

This alternative road configuration provides an extension of Hutley Drive through Lot 2 DP 620838 (recently purchased by Council) and connection by roundabout to Byron Bay Road. This alternative configuration enables the proposed deviation works on North Creek Road and its connection to Hutley Drive through Lot 1 DP 517111 to be deleted from the works program.

Council purchased Lot 2 DP 620838 and provided funds in the Capital Expenditure Program Review that was presented to and adopted by the 31 March 2018 Council meeting. This program also provided funds for "Preliminary works to finalise alignment underway following acquisition".

It is now necessary to amend the existing *Ballina Road Contributions Plan Version 4.0* to enable financing and further implementation of the changed road configuration. The following changes are proposed for *Draft Ballina Road Contributions Plan Version 4.1*.

### Proposed Changes to Works Schedule in Draft Contributions Plan

Item	Description	Cost	Reasons for change
<b>Additional Works</b>			
42	Byron Bay Road/Hutley Drive Roundabout and connection to Hutley Drive	\$2,919,717	Substituted for Item 37 and reduction in Item 12-14
42a	Byron Bay Road/Hutley Drive Roundabout, Land Component	\$1,584,000	
43	Improvements to Coast Rd/Nth Creek Rd/Byron Bay Rd/Ballina St Roundabout	\$1,500,000	
<b>Works Omitted</b>			
37	North Creek Road - Northern Reservoir Hill Deviation joining Hutley Dr (350m + R/B)	\$3,360,044	Not required with addition of Item 42, 42a and 43
<b>Works Amended</b>			
12-14	Hutley Drive Extension (HDE)	Reduced from \$15,303,017 to \$13,481,027	Deletion of northern extension to connect to North Creek Road

In regard to Item 42a, although the land (Lot 2 DP 620838) was purchased for \$2.4 million, only a portion has been attributed to the contributions plan, as it is likely only part of the lot will be required for road purposes and the balance of the lot may be used for purposes not related to the contributions plan.

The balance of the acquisition will be funded by Council's Property Development Reserve, which has provided the interim funding for the purchase.



## 11.2 Ballina Roads Contribution Plan - Review

The total change to the Works Schedule is an increase from \$153,529,549 to \$160,283,232 which also includes an indexation to 1/7/2017 on version 4.0 estimates.

After apportionment of the costs to be funded by the contributions plan and directly by Council, the change in value of works to be funded by the plan is an increase from \$132,038,780 to \$139,850,173, a change of \$7,811,393.

### Proposed Changes to Contributions

The increase in the cost of works to be funded by the contributions plan causes the following subsequent increases to contribution rates in Draft Version 4.1.

Item	Road Contributions		Change
	Version 4.0 Rate Indexed to 1 July 2017	Rate in Draft Version 4.1	
Per trip	\$1,830	\$1,866.92	\$36.92 (1.02%)
Per Lot	\$11,806	\$12,042	\$236 (1.02)%

Proposed Draft Version 4.1 Contribution Rates for a range of development types are shown in Table 1.3 of the Draft Plan.

### Proposed Changes to Staging of Works

Table 4.7 of Draft Version 4.1 shows the works schedule and proposed staging of the works.

The staging of the works is allocated to three periods being 2011 - 2019, 2019 - 2028 and 2028 - 2036.

The staging of some works to be funded by the Contributions Plan has been amended in Draft Version 4.1.

Item	Staging V4.0	Staging V4.1	Comments
12-14 Hutley Drive Extension (south)	2011-2019	2028-2036	Traffic modelling indicates volumes of 2,191 vpd south of Pacific Pines and 3,154/3,090 vpd adjacent to Aspects/Elevations up to the year 2036. These volumes do not support early prioritisation of works
30 Angels Beach Drive / Bangalow Road Roundabout Lane Extensions	2028-2036	2011-2019	Intersection is already congested in peak hours and lane extensions will help increase the capacity of the roundabout.
41 Bangalow Rd, additional Lane, 200 m east from Angels Beach Dr	2028-2036	2011-2019	Intersection is already congested in peak hours and lane extensions will help increase the capacity of the roundabout.
42 Byron Bay Road/Hutley Dr Roundabout and connection to Hutley Dr	NA	2011-2019	Connection required to service developing residential areas and shopping centre south of Lennox Head.
42a Byron Bay Road/Hutley Dr Roundabout, Land Component	NA	2011-2019	Expenditure already committed to land purchase.

## 11.2 Ballina Roads Contribution Plan - Review

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### Changes to the Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act 1979 has recently been significantly amended.

The amendments have included changes to numbering of sections. Developer Contributions Plans were previously made in accordance with Section 94 of the Act.

Under the amended act, Developer Contributions Plans are now made in accordance with Section 7.11 of the Act.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
  
- **Social**  
Proposed adjustments to the Road Contributions Plan works schedule to facilitate the proposed Hutley Drive extension and connection to Byron Bay Road will facilitate the community connectivity and social interaction between existing and proposed residential areas south of Lennox Head and the existing Lennox Head Village.
  
- **Economic**  
Proposed adjustments to the Road Contributions Plan works schedule to facilitate the proposed Hutley Drive extension and connection to Byron Bay Road will facilitate the orderly economic development of proposed residential areas and shopping centre south of Lennox Head.

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

Section 7.11 developer contribution plans enable the cost of future trunk road network optimisation to be equitably shared between future development and the existing population. The proposed draft contributions plan will fine tune the works program to better align with future demographic and traffic patterns.

*Draft Ballina Shire Roads Contribution Plan Version 4.1* has had regard to the nexus, or relationship, between the expected types of development and the demand for additional public facilities to meet that demand.

It has been prepared in accordance with the relevant provisions of the Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment Regulation 2000 and Departmental Practice Notes.

The Roads Contribution Plan represents the Council's largest financial liability in respect to works that must be delivered.

As per the following table the total value of the works in the plan is approximately \$154m (prior to indexation). Only \$19m of that represents Council's liability, however the difficulty with Contribution Plans is that the contributions are often not collected at the time the community, or Council, is seeking to have the works delivered.

## 11.2 Ballina Roads Contribution Plan - Review

Proposed works	Estimate	Council's Liability	1-8 years (2011-2019)	9-17 years (2019-2028)	17-25 years (2028-2036)
Western Arterial	31,669,625	0			✓
Western Arteria (Land Component)	754,220	0			✓
River Street Fisheries Ck Bridge to Tweed St - 4 Laning	3,886,480	1,958,985	✓		
Tamarind Dr, North Creek Rd to Kerr St - 4 Laning	7,165,698	102,038	✓		
River St, Upgrade Fisheries Creek Bridge - 4 Lane	5,343,911	2,693,604	✓		
Tamarind Dr, Duplication of North Creek Canal Bridge - Separate Two Lanes	4,007,933	57,072	✓		
River St, Fisheries Ck Bridge to Sthn Interchange of Bypass - 4 Laning	9,582,603	2,505,712	✓		
Other River Street Improvements (land)	133,598	34,934	✓		
Hutley Drive Extension	13,481,027	0			✓
Bangalow Road / Hogan Street - new Left In / Left Out	667,989	0		✓	
Angels Beach Drive / Sheather Street - new Left In / Left Out	607,263	0		✓	
Angels Beach Drive / Sheather Street - LILO (Land)	109,307	0		✓	
North Creek Road and Bridge	19,432,402	0		✓	
North Creek Road and Bridge (Land Component)	12,145	0		✓	
Ross Lane Improvements – West	4,683,750	0		✓	
Ross Lane Improvements – East	10,590,659	5,450,452		✓	
Ross Lane Improvements - East (Land Component)	97,162	50,004		✓	
Tintenbar Road / Teven Road - Climbing Lanes	1,943,240	1,320,733			✓
Tintenbar Road / Teven Road - Climbing Lanes	1,943,240	1,320,733			✓
Tintenbar Road / Teven Road - Climbing Lanes (Land)	1,215	825			✓
Tamarind Dr to Southern Cross Drive - Right Turn Ban	157,888	0		✓	
North Creek Road / Reservoir Rd / Hutley Dr, Traffic calming	2,793,408	794,069		✓	
River Street / Cherry Street Roundabout	1,165,944	349,783	✓		
River Street / Moon Street Roundabout	1,165,944	349,783	✓		
Tamar Street / Cherry Street Roundabout	643,698	193,109	✓		
Angels Beach Dve / Bangalow Rd R'about Lanes Ext	896,480	0	✓		
Ballina Heights Drive	4,858,101	1,457,430	✓		
Cumalum - Interchange, eastern roundabout	3,460,000	1,038,000	✓		
Cumalum - Interchange, upgrade eastern roundabout	761,098	0			✓
Sandy Flat Road	3,018,600	0		✓	
North Creek Rd - Tamarind Dr to Southern Cross Dr, 4 lane	1,436,350	0		✓	
Tamarind Dr, 4 lanes Cumalum to North Ck Rd, 4.15 km	10,627,536	0			✓
Bangalow Rd, additional Lane, 200 m east from Angels Beach Dr	1,249,000	0		✓	
Byron Bay Road/Hutley Dr R'about connect Hutley Dr	2,919,717	0	✓		
Byron Bay Road/Hutley Dr R'about, Land Component	1,584,000	0	✓		
Improvements to Coast Rd/Nth Ck Rd/Byron Bay Rd/Ballina St Roundabout	1,500,000	0			✓
<b>Totals</b>	<b>154,351,232</b>	<b>19,677,268</b>			

## 11.2 Ballina Roads Contribution Plan - Review

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The items in green have been completed and the priorities remaining for the 2011 – 2019 period, marked in blue, are:

1. Byron Bay Road / Hutley Drive Roundabout and connection to Hutley Drive - \$2.9m – the aim will be to complete this project by the end of 2019
2. Angels Beach Dve / Bangalow Rd Roundabout Lanes Extension – \$0.9m - The timing of this project has moved forward as per this report. This should be a relatively straight forward project once Council has the funds available. It is proposed to confirm the funding for the Hutley Drive extension and then plan for this project as additional contributions are collected.
3. Four laning of River Street and Tamarind Drive – listed as six separate projects totaling almost \$30m – This project represents a significant liability in the short term. Council has applied for a Federal Government grant for 50% of the cost of the works and once the above two projects are completed it will be a matter of continuing to seek grants and looking at options such as loans to possibly fund this work in a timely manner.

Council is regularly approached to construct other high profile projects such as the North Creek Bridge (\$19m), Ross Lane improvements (\$16m) and the Western Arterial (32m).

All of these are identified priorities in the Roads Contribution Plan, however it is essential that from an overall traffic modelling and financial management perspective that Council follows the identified priorities in the Plan.

### Consultation

The Environmental Planning and Assessment Regulation 2000, requires public exhibition of draft contributions plans.

Following exhibition Council must consider any submissions and may approve the plan in the form publically exhibited, approve it with alterations as the Council sees fit or may decide not to proceed with the plan.

Placing the draft plan on public exhibition will enable the public and key stakeholders to assess the proposed contributions plan and associated works program changes and make submissions which Council can assess when the exhibited plan is re-submitted, post exhibition.

### Options

1. Place *Draft Ballina Shire Roads Contribution Plan Version 4.1* on public exhibition.
2. Take no action to amend the existing *Ballina Shire Roads Contribution Plan Version 4.0*.
3. Amend *Draft Ballina Shire Roads Contribution Plan Version 4.1* prior to placing on public exhibition.

Option 1 "Place *Draft Ballina Shire Roads Contribution Plan Version 4.1* on public exhibition" is the preferred option.

## 11.2 Ballina Roads Contribution Plan - Review

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It enables adoption of the proposed changes to the works schedule and implementation of the Hutley Drive/Byron Bay Road works to be progressed, facilitates stakeholder input and Council retains the option to modify the plan, if deemed appropriate, when it is re-submitted after public exhibition.

Finally the Joint Regional Planning Panel (JRPP) recently resolved to defer the determination of DA 2017/447 relating to the EPIQ Neighbourhood Shopping Centre for the following reason:

*The panel agree to defer the determination of the matter until satisfactory provisions have been made, including financial arrangements and all necessary third party concurrences, to ensure that safe and effective traffic capacity and connectivity will exist on the road network in the locality, prior to the proposed use of the site commencing.*

This relates to Council's extension of Hutley Drive north into Byron Bay Road.

Council engineering staff are in the process of finalizing the design of this road prior to seeking planning consent for the construction of the road. Written concurrence from the RMS is also being sought.

In respect to Council funding the construction of the Hutley Drive northern extension, as at 30 June 2017 there was a total of \$2.7m in roads contributions held in reserve and funds collected for the year to date are approximately \$1.3m, providing a total of almost \$4m immediately available.

The funds required for the Hutley Drive extension, as per this updated Roads Contribution Plan are \$4.5m (\$1.58m acquisition and \$2.92m construction). The project can be 100% funded from developer contributions.

Assuming it takes the balance of this calendar year to finalise the designs and approvals it is reasonable to assume that Council would construct the northern extension during 2019.

Even though there is currently a shortfall of approximately \$0.5m in funding (\$4.5m required for acquisition and construction less \$4.0m held) this is manageable as:

- Council holds approximately \$1.3m in contributions from an earlier version of the roads contribution plan in reserve, which can also be applied to this project
- Any further roads contributions collected from now to the completion of the construction of Hutley Drive can be applied to the project. As mentioned earlier, Council has collected \$1.3m in roads contributions for the year to date. Allowing for a period of approximately 18 months to complete the project should provide plenty of time for additional contributions to be collected.

For example, Clarence Property Corporation, the developers of the EPIQ Estate, have advised in writing that their anticipated cash flows for payment of roads contributions to Council are as follows:

## 11.2 Ballina Roads Contribution Plan - Review

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- Release 3 – approximately \$1.4m to be paid January 2019 at subdivision certificate application
- Release 4 - approximately \$0.455m to be paid January 2019 at subdivision certificate application
- Shopping Centre - approximately \$2.4m to be paid April 2019 at construction certification application, subject to timing of the development application consent
- Release 5 – approximately \$1.1m to be paid November 2019 at subdivision certificate application, subject to timing of the development application consent.

Clarence Property does have a roads contribution credit of \$0.727m for works they have undertaken on extending Hutley Drive to the new sports fields. Nevertheless the contributions from Clarence Property alone would cover any current shortfall.

Clarence Property has a significant interest in Council confirming the planning for the Hutley Drive extension due to the deferral of the shopping centre development application by the JRPP.

Overall it is anticipated that Council will fund and complete the construction of Hutley Drive by the end of 2019, and this remains the number one priority in the works identified in the Roads Contribution Plan.

### RECOMMENDATION

That the *Draft Ballina Shire Roads Contribution Plan Version 4.1*, included as an attachment to this report, be placed on public exhibition, in accordance with Clause 28 of the Environmental Planning and Assessment Regulation 2000 for a period of not less than 28 days.

### Attachment(s)

1. Pre Exhibition Draft Ballina Roads Contribution Plan Version 4.1 (Under separate cover)

12. Public Question Time

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**12. Public Question Time**

### **13.1 Notice of Motion - NBN Rollout - Ballina Shire**

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### **13. Notices of Motion**

### **13.1 Notice of Motion - NBN Rollout - Ballina Shire**

**Councillor** Cr Smith

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I move

That Council write to NBN Co requesting a meeting to provide an update on rollout status within the Ballina Shire.

#### **Councillor Comment**

There's been recent and ongoing discussion in relation to NBN Co's current and planned service delivery for Ballina Shire residents.

NBN Co has quietly shifted the technology goal posts across the network in recent times providing some residents with improved services, and others a lower quality of service.

Requesting a meeting with NBN Co is the first step in understanding what can be done to improve the situation.

#### **Staff Comment**

NBN has agreed to meet with Councillors at 4pm Monday 28 May 2018 in the Council committee room.

#### **COUNCILLOR RECOMMENDATION**

That Council write to NBN Co requesting a meeting to provide an update on rollout status within the Ballina Shire.

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

Nil



## **13.2 Notice of Motion - Master Plan - Shaws Bay Park area**

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### **13.2 Notice of Motion - Master Plan - Shaws Bay Park area**

**Councillor** Cr Meehan

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I move

That Council develop a master plan for the Serpentine area / Pioneer Park area (and associated car park) / Shaws Bay area (east of Missingham Bridge).

#### **Councillor Comment**

These reserve areas are amongst the most popular and heavily used in Ballina Shire. Walkers, swimmers, picnickers, surfers, fisher folk and people simply wanting to sit in the shade by the river, use them year round.

The Shaws Bay area is the base for Ballina's professional fishermen during mullet season and a frequent location for a number of licensed surf schools.

It has adjacent to it

- Reflections Holiday Park
- Shaws Bay Hotel and
- two popular cafes.

Recently the Shaws Bay reserve toilet block was modernised and re-furbished.

This is an excellent outcome for the thousands of visitors.

Many other aspects of the reserve areas warrant Council developing a master plan, including:

- Car parking - formalisation and over-flow areas.
- BBQs and picnic facilities – provision and enhancement.
- Beach accesses – safety and accessibility.
- Formal naming (Shaws Bay area) and cultural signage.

The broader area was considered in the Ballina Major Regional Centre Strategy and flagged for embellishment over time through an overarching landscape plan containing some initial ideas to work towards (see image below).

A master plan would look at the land on a more site specific basis and build on the initial concepts raised through the BMRCS leading towards its enhancement and protection.

A copy of the landscape plan for the area which formed part of the BMRCS is attached to this report.

It is suggested that the master plan for the Serpentine / Pioneer Park / Brighton Street area be scheduled for the 2019/20 year subject to the final 2018/19 Delivery Program and Operational Plan.

## **13.2 Notice of Motion - Master Plan - Shaws Bay Park area**

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The expected cost for the preparation of a master plan of this type is approximately \$25,000 for the locality. The master plan preparation would include a community engagement program similar to that employed in relation to Ocean Breeze Reserve and the two waterfall management plan projects completed last year.

### **Staff Comment**

The preparation of plans of management (or master plans) for high profile / popular or competing use locations is supported. The adoption of a plan has a number of benefits as it can assist in seeking grants funds, provide a strategic direction and clarity to the community to help in dealing with requests, funding allocations etc.

Council has a number of adopted plans in place including:

- Pop Denison (complements the Shaws Bay Coastal Management Plan)
- Ballina Town Entry Statement
- Captain Cook Park
- Tosha Falls
- Killen Falls
- Ocean Breeze Reserve
- Ballina Foreshore
- Lennox Foreshore
- Alstonville Cemetery
- East Ballina Cemetery
- Hampton Park
- Williams Reserve

The draft 2018/19 Delivery Program / Operational Plan identifies the priorities for new or updated plans of management for 2018/19 as:

- Cawarra Park – number of competing uses for storage and watercraft access
- Kingsford Smith Reserve – mixture of sporting groups looking to clarify their footprint.

For 2019/20 onwards there are no specific priorities identified.

The actual cost of the preparation of a plan depends on the level of consultation undertaken and the landscape planning needed to formalize the document.

It is also important to manage community expectation, as there can be a belief that once works are included in a plan they will be funded / completed in the near future.

With there already being a landscape plan, as per the Ballina Major Regional Centre Strategy, albeit at a very high level, there are some minor concerns that a detailed plan for this site may create unrealistic expectations when Council is still struggling to fund other high profile locations such as Captain Cook Park, Pop Denison, Ballina Town Entry Treatments etc.

## **13.2 Notice of Motion - Master Plan - Shaws Bay Park area**

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It is also important to acknowledge that this is crown land which may create complexities in undertaking the plan and proceeding with any proposed works, although the crown land reforms may simplify that process.

Another option that Council could consider is a report that provides a more holistic overview of locations, along with a recommended yearly program, where the preparation of contemporary plan(s) of management or masterplan(s) would be of benefit from a community engagement, strategic planning and financial planning perspective.

This could provide a cycle, perhaps eight yearly, which ensures key plans are reviewed in a timely manner, similar to how Council manages its policy reviews. Council could add to, or amend, that cycle based on changes to priorities as they arise.

### **COUNCILLOR RECOMMENDATION**

That Council develop a master plan for the Serpentine area / Pioneer Park area (and associated car park) / Shaws Bay area (east of Missingham Bridge).

### **Attachment(s)**

1. Landscape Plan from BMRCs for the area

### **13.3 Notice of Motion - Shark Mitigation**

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### **13.3 Notice of Motion - Shark Mitigation**

**Councillor**

Cr Williams

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I move

1. That Council make a submission NSW DPI Community Consultation on the North Coast Shark Meshing Trial.
2. That the submission thank the NSW DPI for their efforts to develop new and innovative responses to shark mitigation in the Ballina Shire, and pledge our continued support and cooperation for research and deployment of non-lethal shark mitigation measures such as increased capability of drone technology, SMART drumlines, research tagging, shield devices, spotting technologies and non-lethal barriers.
3. That the submission also requests the Minister to advise Council of the results of the community consultation currently being undertaken by DPI before any further consideration or decision is taken in respect of deploying nets for a third time.

#### **Councillor Comment**

Community sentiment in Ballina Shire has shifted significantly in favour of non-lethal shark mitigation technologies as the capability of the technology, such as the Little Ripper Drone and shark shield devices, has rapidly matured over the last two years.

Ballina Shire has made an important contribution to that development and we should acknowledge progress to date and continue to support innovation in shark mitigation and surf safety technology.

Community sentiment has also continued to shift away from shark nets, with the most recent data from the 2nd North Coast Shark Meshing Trial showing twice as many dolphins caught as target species sharks (2), in addition to an array of other threatened and protected marine species.

**COUNCILLOR RECOMMENDATIONS**

1. That Council make a submission NSW DPI Community Consultation on the North Coast Shark Meshing Trial.
2. That the submission thank the NSW DPI for their efforts to develop new and innovative responses to shark mitigation in the Ballina Shire, and pledge our continued support and cooperation for research and deployment of non-lethal shark mitigation measures such as increased capability of drone technology, SMART drumlines, research tagging, shield devices, spotting technologies and non-lethal barriers.
3. That the submission also requests the Minister to advise Council of the results of the community consultation currently being undertaken by DPI before any further consideration or decision is taken in respect of deploying nets for a third time.

**Attachment(s)**

Nil

**14. Advisory Committee Minutes**

**14.1 Commercial Services Committee Minutes - 1 May 2018**

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**Attendance**

Crs David Wright (Mayor - in the chair), Phillip Meehan, Jeff Johnson (arrived at 4.03 pm), Eoin Johnston, Stephen McCarthy, Keith Williams (arrived at 4.07 pm), Sharon Cadwallader and Ben Smith.

Paul Hickey (General Manager), Paul Tsikleas (Manager Commercial Services), Linda Coulter (Manager Financial Services), Leanne Harding (Coordinator Property and Airport Administration) and Sandra Bailey (Secretary) were in attendance.

There were no people in the gallery at this time.

**1. Apologies**

Apologies were received from Cr Sharon Parry and Cr Nathan Willis.

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Nathan Willis and Cr Keith Williams

**2. Declarations of Interest**

Nil

**3. Deputations**

Nil

**4. Committee Reports**

**4.1 Disposal of Council Land**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of this report in respect to the disposal of the two surplus parcels of land.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Nathan Willis and Cr Keith Williams

**4.2 Property Development - Feasibility and Cash Flows**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council approves the short term loan funding, estimated at \$5.6m maximum for the development of Council's Wollongbar Urban Expansion Area – Stage Three, as per Attachment Six to this report. The cash flows as per Attachment Six are also to be included in the 2018/19 Delivery Program and Operational Plan.
2. That Council provides in principle support for the progress of the Boeing Avenue Lots Two and Three project, subject to further reports being submitted on the viability of the project once there is more certainty in respect to major costs such as the fill required for the development. The cash flows as per Attachment Four to this report are also to be included in the 2018/19 Delivery Program and Operational Plan.
3. That Council notes the contents of this report and approves the inclusion of the latest review of the Community Infrastructure Reserve and Property Development Reserve in the 2018/19 Delivery Program and Operational Plan, as per Attachments One and Two to this report.

Cr Jeff Johnson arrived at the meeting at 04:03 pm.

Cr Keith Williams arrived at the meeting at 04:07 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**4.3 Ballina Byron Gateway Airport - Airline Pricing Agreement**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of this report regarding notification of a confidential report later in this agenda in respect to an airline pricing agreement.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**5. Confidential Session**

**RECOMMENDATION**

(Cr Ben Smith/Cr Keith Williams)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

**5.1 Disposal of Council Land - Pricing**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as Council is in the process of negotiating a sale for the properties in question.

**5.2 Ballina Byron Gateway Airport - Pricing**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the release of any confidential information could prejudice those negotiations.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

(The Council moved into Confidential Session at 4.10 pm).



**Open Council**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

(The Council moved into Open Council at 4.28 pm).

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

**5.1 Disposal of Council Land - Pricing**

**RECOMMENDATION**

(Cr Ben Smith/Cr Keith Williams)

1. That Council adopts options one and two as detailed in this report and authorises the General Manager to finalise negotiations for the sales of Lot 1 DP 850774 and Lot 104 DP 871675.
2. That Council authorises the General Manager to fix the Council seal and execute all contract documentation for the sales of Lot 1 DP 850774 and Lot 104 DP 871675.
3. The net proceeds from these land sales are to be transferred to the Community Infrastructure Reserve.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**5.2 Ballina Byron Gateway Airport - Pricing**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council authorises the General Manager to finalise the negotiations for the new Virgin pricing agreement as per the terms and conditions outlined in this report.
2. That Council authorises the Council seal to be placed on the final agreements and execution of same as per point one.
3. That Council endorses the revised agreement negotiated with Jetstar effective from 1 July, 2017 and concluding on 31 December, 2021 as outlined in the confidential memorandum dated 1 May 2018.
4. That Council authorises the General Manager to finalise the negotiations for the new Jetstar agreement as per the terms and conditions outlined in this memorandum.
5. That Council authorises the Council seal to be placed on the final agreements and execution of same as per point four.
6. That Council review the proposed capital works program for the airport based on the latest airline agreements, with that information to be submitted back to the June Ordinary meeting, to be adopted as part of the 2018/19 Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**Adoption of Recommendations from Confidential Session**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

That the recommendations made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**MEETING CLOSURE**

4.29 pm

**RECOMMENDATION**

That Council confirms the minutes of the Commercial Services Committee meeting held 1 May 2018 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

## 15.1 Mayoral Meetings

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### 15. Reports from Councillors on Attendance on Council's behalf

#### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities I have attended, or propose to attend, as at the time of writing this report, since the April 2018 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
22/4/18	SLSC Branch Meeting – Winter Schedule
23/4/18	Church Group, Run through – Sporting fields opening
29/4/18	Meeting – Drone Deployment
30/4/18	An Inconvenient Sequel - Cinema
1/5/18	Meeting – Alstonville Cricket Club – sporting fields
1/5/18	Commercial Services Committee
1/5/18	Alstonville/Wollongbar Chamber Meeting – Heartfelt House
2/5/18	Public Art Advisory Panel Meeting
3/6/18	Gallery Opening
5/5/18	Launch of Ignite Studios, Relay For Life
6/5/18	Our Kids Day Out – Missingham Bridge, Commemoration Park Markets
7/5/19	Meeting – DPI and Ben Franklin, North Coast Shark Strategy
8/5/18	'A' Ward Committee, Indonesian Delegation Welcome
9/5/18	Domestic Violence Powerplay - Preliminary Meeting
9/5/18	Meeting - Alstonville Christmas at Showground
10/5/18	Meeting – Police and Council – Flash Parties, 'C' Ward Committee
11/6/18	CSPC Meeting – Lismore, Meeting 'Little Ripper' – Eddie Bennet
12/5/18	Alstonville Anglican Fete
13/5/18	Mothers' Day Classic
13/5/18	Commemoration Park Markets, Lennox Head Markets
14/5/18	Wollongbar/Alstonville Rugby Club – Announcement
14/5/18	Briefing – Festival and Events Taskforce
14/5/18	Briefing – Community Engagement Transparency Policy
15/5/18	Meeting – Chris Murphy INXS
15/5/18	Briefing – Ballina Indoor Sports Centre, Extraordinary Meeting
18/5/18	Meeting – Croquet Club
18/5/18	Meeting – Asren Pugh - Labor Candidate for Ballina
19/5/18	Alstonville Markets, Rotary Antiques Fair
20/5/18	Commemoration Park Markets, Ballina Markets
21/5/18	Council and Police Meeting, 'B' Ward Committee
21/5/18	Delivery Program and Operational Plan Meeting - Lennox Head
22/5/18	Church Group, Volunteer Morning Tea – Surf Club
22/5/18	Delivery Program and Operational Plan Meeting - Wardell
24/5/18	Council Meeting
26/5/18	Lennox Head/Alstonville SLSC, Ballina Surf Club Presentations
27/5/18	Commemoration Park Markets
28/5/18	NOROC Meeting - Byron Bay, Joint Organisation
28/5/18	Briefing – NBN Rollout
29/5/18	Wollongbar TAFE Awards of Excellence – Lismore Workers

#### **RECOMMENDATION**

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

**Attachment(s) - Nil**

16. Confidential Session

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**16. Confidential Session**

Nil Items