



## Notice of Extraordinary Meeting

An Extraordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Saturday 1 September 2018 commencing at 10.00 am.**

### Business

1. Acknowledgement of Country
2. Apologies
3. Declarations of Interest and Reportable Political Donations
4. Deputations
5. Reports

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a horizontal line underneath.

Paul Hickey  
**General Manager**

## **Deputations to Council – Guidelines**

- (a) Deputations by members of the public may be made at Council meetings on matters included in the business paper. As per Council Resolution 220218/4 this meeting will allow a maximum of two deputations for and against in respect to the assessment report.

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.

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1. Acknowledgement of Country
  2. Apologies
  3. Declarations of Interest & Reportable Political Donations
  4. Deputations
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**1. Acknowledgement of Country**

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

**2. Apologies**

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

**4. Deputations**

## **5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements**

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### **5. Development and Environmental Health Group Reports**

#### **5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements**

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<b>Applicant</b>	Ballina Shire Council – Civil Services Group
<b>Property</b>	Lot: 7002 DP: 1052251, Lots: 1, 2 & 3 DP: 1115145, Lot: 7016 DP: 1113629, PLT: 62 DP: 755725, Lot: 62 DP: 755725, Ross Street LENNOX HEAD, Pacific Parade LENNOX HEAD, 77 Pacific Parade LENNOX HEAD, 6 Ross Street LENNOX HEAD
<b>Proposal</b>	Lake Ainsworth Foreshore Improvement Works
<b>Effect of Planning Instrument</b>	The land is partly zoned RE1 Public Recreation under the provisions of the Ballina LEP 2012 and partly zoned 7(f) Environmental Protection (Coastal Lands) under the provisions of the Ballina LEP 1987
<b>Locality Plan</b>	The subject land is depicted on the locality plan in Attachment 1 and the aerial photo contained in Figure 1.

#### **Introduction**

At the Ordinary meeting held 18 December 2014 Council resolved (resolution No. 181214/4) as follows in respect to the Lake Ainsworth precinct:

*That the eastern road be closed and the area be converted to public open space to improve the amenity of the area and to reduce erosion and stormwater runoff entering the Lake.*

In response to this, Part V Application 2016/14 was lodged with Council's Development and Environmental Health Group and determined by way of approval in October 2016. This approval was then subject to an amended approval issued February 2017.

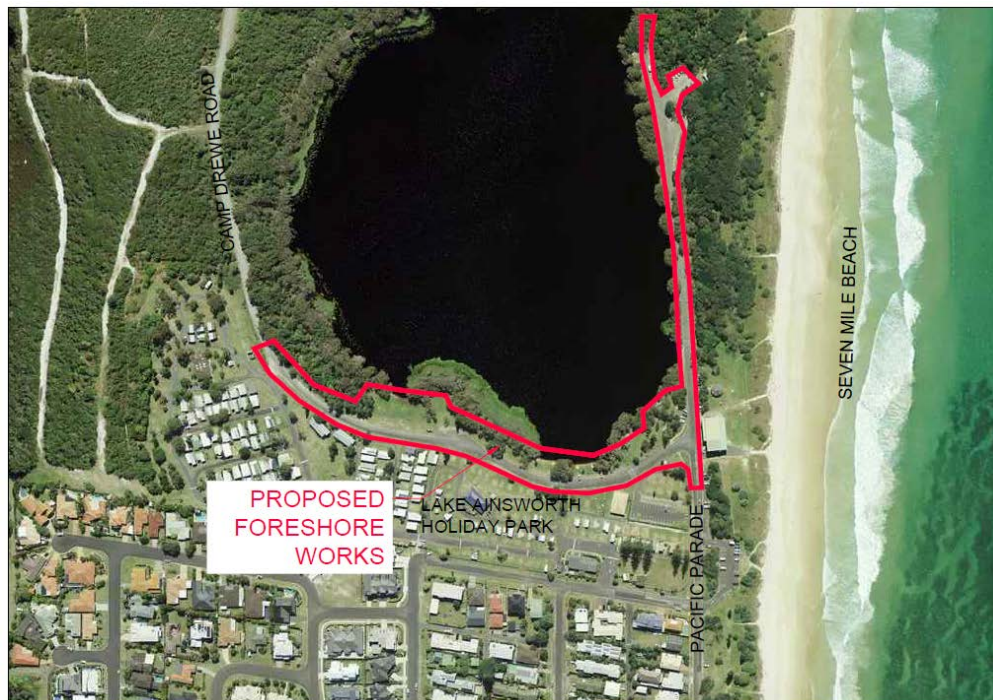
With Council about to commence implementation of the approved works in February 2017, McCartney Young Lawyers, acting for Preserving Lake Ainsworth Inc., advised they would be commencing Class 4 proceedings in the Land and Environment Court of NSW in respect to the notice of determination, and they would be seeking an interim injunction to prevent the works from commencing.

Council sought legal advice and with that advice confirming that aspects of the approval were arguable in law, Council agreed to submit a new planning application.

Part V Application 2017/12 was then prepared on behalf of Council's Civil Services Group and lodged with Council's Development and Environmental Health Group on 20 November 2017.

## 5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements

The area the subject of the application and the land subject to the proposed foreshore improvement works is shown in Figure 1. Attachment 1 shows the land parcels that are the subject of the Part V application.



**Figure 1: Location of proposed Lake Ainsworth foreshore works (outlined in red)**

Land ownership and management details are contained in Table 1 as follows.

Significantly, the infrastructure known as the eastern and southern roads is not contained within a road reserve.

This infrastructure connects to the public road network from the Crown Reserve, at Pacific Parade in the east, and Camp Drewe Road in the west.

A review of the application has now been completed and the application is presented to Council for determination due to the level of public interest in the proposed activity and history of the project.

The purpose of the Part V assessment system is to ensure public authorities fully consider environmental issues before they undertake or approve activities that do not require development consent.

In considering this application Council must review matters affecting or likely to affect the environment by reason of the activity.

The determination of this application is not a decision on whether or not the project should proceed, but rather, whether the environmental impacts of the activity as proposed can be adequately mitigated.

Council can make a decision as a planning authority that the Part V application can be approved, but make a different decision as to the commencement or funding of the works.

The next report in this agenda seeks direction from Council on the approach to the works and associated funding.

### **Details of Proposal**

Approval is sought under Part V of the Environmental Planning and Assessment Act 1979 (EP&A Act) for an activity to undertake foreshore improvement works along the eastern and southern foreshore of Lake Ainsworth. Refer to the proposed plans in Attachment 2.

The proposed works comprise:

#### **Eastern Foreshore Area**

- Rehabilitating the road by profiling the existing pavement and constructing a footpath (to a standard enabling emergency access), and landscaping the area of public reserve along to the overbank area of the eastern shore of Lake Ainsworth.
- Relocation of the existing 100m diameter water main.
- Installation of picnic settings, seating and wheelchair ramps into Lake Ainsworth.
- Reinstatement of existing eroded embankments and the ongoing maintenance required to maintain the Lake Ainsworth beach access in perpetuity. This may require ongoing sand replenishment, replacement of logs and ramps, and periodically reshaping sand after heavy usage.

#### **Intersection Works**

- Reconstruction of the three-way intersection between Pacific Parade, the eastern road and the southern road adjacent to the existing Lennox Head/Alstonville Surf Life Saving Club building. The new intersection will be a 2-way intersection incorporating a turn facility and will be the termination point of the existing eastern road (open to emergency vehicles and maintenance service vehicles only).

#### **Southern Foreshore Area**

- Reconstruction of the existing road way and formalising the adjoining car parking bays between Pacific Parade and Camp Drewe Road. These works are along the overbank area of public reserve along the southern shore of Lake Ainsworth. It includes bank stabilisation, improvement of the open spaces for passive recreation and pedestrian linkages between existing isolated open spaces.
- Minor realignment of the southern road is proposed such that it ultimately defines the boundary between the Lake Ainsworth Caravan Park (NSW Crown Holiday Parks Trust) and the Lake Ainsworth Foreshore Reserve (Ballina Shire Council Trust Manager).
- Construction of low impact boardwalks linking through the pockets of vegetation is also proposed.

Following the closure of the eastern road, increased traffic is expected to be generated on the western road (Camp Drewe Road).



## 5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements

It is not proposed to seal Camp Drewe Road from the southern road to the Lake Ainsworth Sport and Recreation Centre entrance as part of the proposed foreshore improvement works.

However, the sealing of this road is foreshadowed in the proponent's information accompanying the Part V application.

The sealing of the western road does not form part of the Part V application but is addressed in the second report in this agenda.

As outlined in that report it is recommended that Council proceed with sealing Camp Drewe Road. This approach assists in addressing bushfire management and access issues raised through the assessment of the Part V application.

### Description of Subject Site

The land to which this application relates is described as Lot 62 DP 755725, Lot 7016 DP 1113629, Lots 1, 2 and 3 DP 1115145, Lot 7022 DP 1052251 Pacific Parade and the Camp Drewe road reserve (western road).

Refer to Attachment 1 and Figure 1.

Details of the subject lots are as follows:

**Table 1: Summary of Lots**

Lot	DP	Owner	Trustee/Crown Land Manager	Zoning
62	755725	Crown	Part Council	Part RE1 BLEP 2012 Part 7(f) BLEP 1987
62	755725	Crown	Part NSW Crown Holiday Parks Trust	Part RE1 BLEP 2012 Part 7(f) BLEP 1987
7016	1113629	Crown	N/A	7(f) BLEP 1987
1	1115145	Crown	Council (Lennox Head Surf Club)	7(f) BLEP 1987
2	1115145	Crown	Council	7(f) BLEP 1987
3	1115145	Crown	Council	7(f) BLEP 1987
7002	1052251	Crown	Council	7(f) BLEP 1987

### Public Exhibition

The application was placed on public exhibition from 29 November 2017 to 30 January 2018 (being a period of approximately two months).

Approximately 4,770 submissions were received as a result of the exhibition period.

These submissions are included as Attachment 4 (Public Submissions) and Attachment 5 (Confidential Public Submissions).

Where pro-forma submissions have been used, only one copy has been attached for Council's consideration.

## **5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements**

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All matters raised in the public submissions have been summarised and addressed by DAC Planning Pty Ltd (Council's planning consultant) in Attachment 6.

Council's assessment staffs are satisfied that the assessment of the submissions undertaken by DAC Planning Pty Ltd is a proper and reasonable analysis of the matters raised.

### **Approval Pathway**

Council has sought advice on the correct and appropriate assessment pathway for the proposal. This advice confirms that the proposal constitutes an 'Activity' to which Part 5 of the EP&A Act applies (rather than 'Development' to which Part 4 relates), pursuant to various provisions in State Environmental Planning Policy (Infrastructure) 2007, and the Ballina LEP 2012. Refer to Attachment 7.

Some proposed minor works constitute exempt development and do not require consent or approval.

### **Environmental Assessment of the Significance of the "Activity" Under Part 5 of the EP&A Act 1979**

For the purpose of attaining the objects of the EP&A Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of the Act or the provisions of any other Act or of any instrument made under the Act or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

Clause 228 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) identifies specific factors that must be taken into account concerning the impact of an activity on the environment.

An extract from the Regulation is contained in Attachment 8.

In this regard, the application has been accompanied by a comprehensive Review of Environmental Factors (REF) (and accompanying documents) which has been prepared by an independent Town Planning Consultant (and other qualified consultants).

The REF, contained in Attachment 3, addresses the legislative requirements and matters for consideration which are of relevance to the proposal.

The following key environmental considerations are elaborated upon for Council's information and consideration.

### **Traffic Impacts and Car Parking**

An Engineering Services Report has been prepared by Council's Civil Services Group for the proposed activity.

#### Traffic Impacts

## 5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements

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The traffic analysis contained in the Engineering Services Report indicates the following:

*“Based on the estimated volumes (including allowances for dog walkers), the existing formation and road reserve widths are adequate for the anticipated redirected traffic volumes ancillary to closure of the Eastern Road. The additional volume and heavy vehicle component will require more frequent maintenance/regrading of the unsealed section of road, especially the section south of the secondary entrance to the Sport and Recreation Centre.*

*The life cycle costs of additional maintenance of the unsealed road will most likely exceed the upfront cost of sealing. The actual traffic volumes and maintenance costs will be monitored following the Eastern Road closure to consider if sealing in the future is the most cost effective wearing surface for Camp Drewe Road.*

*There is no engineering basis in which Council is required to seal the road to meet a minimum acceptable level of service, however a sealed wearing surface would generally be considered to provide a higher level of service to the road users as compared to an unsealed road.”*

The closure of the eastern road will redirect traffic along the southern road and Camp Drewe Road.

Despite this, the Engineering Services Report concludes that the existing road network has adequate capacity for the predicted increase in traffic volume.

As mentioned earlier this application does not incorporate the sealing of Camp Drewe Road.

### Car Parking

The parking analysis contained in the Engineering Services Report indicates the following:

*“...there is no net loss in total parking provisions resulting from the eastern road closure and foreshore improvement works with the inclusion of the new car park extension including the Ross Street on street parking upgrade.*

*However, the quantity of lake side parking will be reduced and the effect of walking distance to access the offset parking will most likely result in parking priority to fill more frequently along the Southern Road more frequently than currently occurs.*

*There is currently adequate parking for the current usage throughout the year, however there are periods in the warmer months during school holidays when demand exceeds the available spaces and this will continue to occur.*

*The advantage with formalising the parking in the Lake Ainsworth precinct is parking can be enforced and the incidence of illegal parking is likely to reduce, however it should be anticipated that excess parking will at times spill onto the Western Road and the adjacent residential areas during these peak periods.”*

Based on the findings of the Engineering Services Report, the car park extension and Ross Street road side parking upgrades compensates in

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quantity for the loss in road side car parking spaces resulting from the closure of the eastern road.

### **Potential Impacts on Natural Environment**

The REF was accompanied by an Ecological Assessment, prepared by Blackwood Ecological Services, which considered the potential direct and indirect impacts resulting from the proposed activity on fauna and flora.

These impacts include, but are not limited to, the following:

- Removal of one small Tuckeroo and one small Swamp she-oak on the eastern side of the lake.
- Removal of some small trees and understory vegetation to accommodate the construction of the boardwalk along the southern portion of the lake.
- Potential that increased traffic may lead to an increase in road kill (including freshwater turtles) along Camp Drewe Road.

The assessment indicates that there would be a long-term gain in fauna habitat values as a result of proposed rehabilitation works including the expansion and improvement of riparian vegetation through compensatory plantings and weed control works.

The removal of vehicles from the eastern road will further enhance opportunities for fauna movement between dune vegetation and the lake. The loss of the two trees east of the Lake and some vegetation within the southern boardwalk corridor is to be compensated for by the planting of 93 native species typical of Swamp Sclerophyll Forest (i.e. a ratio of 3:1).

Assessments of significance (seven part tests) were completed for a number of species of threatened fauna recorded on the site or considered possible occurrences on the site over time.

These assessments confirm that the proposed activity is unlikely to result in a significant impact on any threatened species, population or ecological community. A Species Impact Statement is therefore not required.

Furthermore, the proposed development is unlikely to result in a significant impact on any matters of National Environmental Significance as defined under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999*.

Having regard for the potential impacts on flora and fauna, the Ecological Assessment recommends appropriate amelioration measures in respect to vegetation management, fauna management, management of soils and disturbed areas, water quality and vegetation offset works.

### **Cultural Heritage**

Given the proposed activity is to occur in a landscape that is considered of high cultural importance to the Aboriginal Community, and having regard for previous concerns raised on behalf of the Aboriginal Community regarding this proposal the REF was accompanied by an Aboriginal Cultural Heritage Assessment which was prepared by Remnant Archaeology in consultation with members of the local Aboriginal Community that had registered as Aboriginal parties to the project.

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This assessment concluded that the proposed upgrade works will have a direct impact upon the cultural landscape, however, potential physical impact upon particular landforms (the barrier dune along Pacific Parade) and individual sites (the paperbark trees along Pacific Parade) can be avoided.

Accordingly, no further archaeological investigation is required along the sections of Pacific Parade and Camp Drewe Road designated for upgrade works.

Whilst the proposed works will not impact any known physical evidence of cultural heritage, there remains potential for cultural heritage material to exist within the Pacific Parade barrier dune system and a low-medium possibility for unexposed subsurface material to occur during works.

As a result of the findings in the report, suitable amelioration measures have been recommended in relation to Cultural Heritage.

### **Additional Information**

On 6 February 2018, a Request for Additional Information was made in relation the matters raised in public submissions, waste collection and disposal, and bushfire protection and access.

On 4 July 2018 Council's Civil Services Group provided additional information and amended plans in response, which adequately address the concerns raised.

#### Public Submissions

A summary of the issues raised in the public submissions and the applicant's response to each matter is provided in Attachment 6.

#### Waste Collection and Disposal

Strategically placed waste receptacles will be located along the eastern and southern lake foreshores in proximity to picnic facilities.

Access for garbage trucks to service the receptacles will be available from the southern road and the eastern road up to the new roundabout, which will be open to emergency vehicles and other vehicles authorised by Council.

The need for additional receptacles along the northern most portion of the eastern foreshore will be monitored and additional bins placed if required.

#### Bushfire Protection and Access

A Bushfire Report, prepared by a suitably qualified bushfire consultant, was prepared to address the concerns raised over the adequacy of the emergency and evacuation corridor (east of the lake) for firefighters and occupants faced with evacuation (including staff and patrons of the Lake Ainsworth Sport and Recreation Centre (LASRC) located to the north).

The report concludes the following:

## 5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements

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*... the proposal will result in the establishment of a new primary access to the LASRC from an upgraded Camp Drewe Road (currently the secondary access) while still providing for a suitable emergency access from the current primary Eastern Road access.*

*Although, public access to the latter will be revoked, the access corridor will be retained and will provide the same and indeed improved emergency and evacuation corridor to and from the public road system for firefighters and occupants faced with evacuation.*

Amended plans were also submitted to ensure the provision of a six metre wide emergency access eastern corridor with a three metre wide concrete pavement and vehicle passing bay to the east of the lake, thus maintaining an adequate emergency and evacuation corridor to and from the public road system for firefighters and occupants faced with evacuation (including staff and patrons of the Lake Ainsworth Sport and Recreation Centre located to the north).

The application (and additional information submitted on 4 July 2018) was forwarded to the NSW Rural Fire Service (RFS) for general comment due to the impact the activity will have on vehicular access to the Lake Ainsworth Sport and Recreation Centre (LASRC), which is classified as a 'special fire protection purpose' under the Rural Fires Act 1997.

The RFS does not have a legislative concurrence role in the determination of this Part V application. However the RFS was invited to provide technical advice on bushfire issues to assist Council in assessing the application.

In correspondence dated 9 August 2018 the RFS recommended certain conditions of approval.

Details of these recommended conditions and assessment staff comments are as follows:

- 1. Construction works on Pacific Parade, including the closing of part Pacific Parade to vehicle traffic shall not be undertaken until:*
- Lake Ainsworth Sport and Recreation Complex has lodged an application to amend the access arrangements under S100B of the Rural Fires Act 1997, received approval and constructed the approved internal access road and Camp Drewe intersection works;*

One of the main purposes of the eastern road works is to prevent vehicular access by the general public to the eastern side of the lake, noting that emergency access will still be provided by Council along the proposed eastern corridor (via a three metre wide pathway in six metre corridor).

It is understood that the RFS considers that this corridor, which will be reconstructed to a fire trail standard (rather than a public road standard), is not considered a 'public road' for the purposes of Planning for Bushfire Protection 2006 (PBP).

## 5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements

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As a consequence, eastern road works will effectively change the LASRC primary entrance from the northern extent of Pacific Parade (south of the centre) to Camp Drewe Road (north of the centre).

The RFS have advised Council verbally that this change will place the LASRC in breach of their existing Bushfire Safety Authority (issued under Development Application 2015/19 – Teacher’s Accommodation Buildings), as the development relies on the eastern road as its primary access to a ‘public road’.

Accordingly, the RFS has recommended that Council does not undertake the eastern road works until such time as the LASRC has obtained the appropriate approvals and undertaken upgrade works to internal road networks and the access to Camp Drewe Road.

Council has no control over when these works will be completed, which could affect the timing of the eastern road closure and associated foreshore improvements to this portion of the site (noting that works in the southern portion of the site are not restricted by this requirement and may still occur independent of this requirement).

With respect to timing, the LASRC has confirmed that a Development Application is to be submitted for the new driveway access from the LASRC land to Camp Drewe Road.

Furthermore, the Office of Sport has also indicated its intention to upgrade the internal driveway to Camp Drewe Road independently of whether or not the Lake Ainsworth Foreshore Improvement Works proceed, and have not raised any objection to the current application.

The applicant’s bushfire consultant has provided the following response on this issue:

*Upgrade of the northern access would obviously improve traffic flow and will accommodate heavy vehicles undertaking a left/right turn manoeuvre at the intersection between Camp Drewe Road and the northern entry point. We understand that such DA has not yet been lodged with BSC. It should be noted however, that in case of a bushfire emergency, evacuation will occur via the southern emergency access (assuming the Eastern Parade portion will be closed to traffic, it will nevertheless retained as an emergency access as noted by DAC).*

The RFS does not have a legislative concurrence role in determination of this Part V application. However given the concerns raised in relation to bushfire risk associated with the LASRC, it is recommended that these requirements be adhered to. Council could address the RFS advice in several ways with options as follows:

- Applying a mitigation measure requiring that the eastern foreshore works are not undertaken prior to the Lake Ainsworth Sport and Recreation Centre completing upgrades works to the internal access road and Camp Drewe Road intersection to the satisfaction of the RFS, or Council has otherwise negotiated an alternative solution with the RFS in relation to the vehicular access to and within the LASRC.



## 5.1 Part V Application 2017/12 - Lake Ainsworth Foreshore Improvements

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- Applying a mitigation measure requiring that Council provides the Sport and Recreation Centre (Office of Sport) with six months' notice of its intention to carry out the eastern foreshore works and close the road, or
- Not imposing a mitigation requirement under the Part V but addressing the timing of the works under the construction schedule.

Under an approach that manages this matter through the construction process, Council would need to incorporate a hold point into the works.

That is, if Council is inclined to approve the Part V (without a specific mitigation measure to address the bushfire access matter) and is concerned about the bushfire issue, Council's resolution on the approach to the works should address the sequencing and provision of time for the LASRC to address its bushfire issues.

This can be addressed as part of the report on the approach to the works located next in this agenda.

Where a mitigation requirement is applied to provide the LASRC regarding advance notice of the planned works, it is suggested that this should also include a further requirement to prevent the works from proceeding where the LASRC is unable to comply with relevant bushfire standards for its internal access.

All of the above approaches allow southern works and western road sealing (if pursued) to proceed, and time for the LASRC to act on its pursuit of development approval for its new internal driveway access and associated improvements, and undertake such works.

If Council prefers to apply a requirement that prevents the closure of the eastern road before the LASRC has resolved its internal driveway access, this could be revisited by Council and an amendment sought if the project is unable to progress because of time delays with action on the LASRC bushfire access.

This could be done by way of an amendment to the Part V approval having regard for new or additional information that might be available in future.

Having regard for the above and the advice of the RFS, it is recommended that Council applies a requirement that the eastern foreshore works are not undertaken prior to the LASRC completing upgrades works to the internal access road and Camp Drewe Road intersection to the satisfaction of the RFS, or Council has otherwise negotiated an alternative solution with the RFS in relation to the vehicular access to and within the LASRC.

This approach is incorporated into the mitigation measures set out in Attachment 9.

- *Council has completed the upgrade construction works of Camp Drewe Road.*

Comment: Refer to commentary below.

2. *Reconstruction of Camp Drewe road shall meet the minimum public road requirements of section 4.1.3 (1) Public Roads of Planning for Bush Fire Protection 2006.*

Comment: Council's Civil Services Group have made a commitment that works will be undertaken to upgrade Camp Drewe Road, however, these works do not form part of this application. Council's Bushfire consultant has advised that the upgrade to Camp Drewe Road can generally meet these public road requirements.

In line with the RFS recommendations, a requirement to confirm that Camp Drewe Road meets the relevant access standards before the eastern road is closed has been included as part of the identified mitigation measures in Attachment 9.

3. *The emergency access arrangements proposed for Pacific Parade shall meet the minimum requirements of section 4.1.3 (3) Fire Trails of Planning for Bush Fire Protection 2006. The emergency access works shall commence from the proposed intersection treatment with Camp Drewe road.*

Comment: Council's Bushfire consultant has advised that the emergency access arrangements proposed for Pacific Parade can meet the requirements of Planning for Bush Fire Protection.

The proposed activity will not result in an unreasonable bushfire risk, provided the requirements of the RFS are adhered to.

#### **Other External Referrals**

The application was referred to the Office of Environment & Heritage, Department of Lands, Jali Local Aboriginal Land Council, the Cook Family and the Anderson Family. No comments were provided as a result of this consultation.

#### **Conclusion**

The application for the proposed activity was accompanied by a detailed REF (and subsequent additional information) which addresses the relevant legislation and the matters affecting or likely to affect the environment by reason of that activity.

The REF concludes that, subject to the implementation of appropriate ameliorative/measures, the activity (as amended) will not significantly affect the environment and therefore an Environmental Impact Statement is not required in this instance.

The REF and associated reports were prepared by qualified and experienced experts, and Council can reasonably rely upon this information in making a decision.

The RFS has recommended certain conditions in relation to bushfire protection matters. These have been incorporated into the recommended

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ameliorative/measures (refer to Attachment 9). Compliance with these conditions may impact on the timing and staging of the proposed works.

However, if the LASRC resolves its internal access arrangements promptly (whilst Council is completing the southern foreshore works – assuming this is approved and Council resolves to start with these works) and Council suitably addresses the matters associated with Camp Drewe Road, progress to the eastern foreshore works could still occur in the relatively short term.

In summary, adherence to the principles underpinning the RFS advice means that it would be appropriate for Council to undertake the eastern foreshore works as the last stage of the project to provide maximum time for works on Camp Drewe Road and the address of the internal access within the LASRC.

Having regard for the information submitted and comments provided, the application is recommended for approval based on the mitigation measures identified in the REF and the additional measures set out in Attachment 9.

### **RECOMMENDATION**

That Part V application 2017/12 for the Lake Ainsworth Foreshore Improvement Works at Lot 62 DP 755725, PLT 62 DP 755725, Lot 7016 DP 1113629, Lots 1, 2 and 3 DP 1115145, Lot 7022 DP 1052251, Ross Street, Pacific Parade, 77 Pacific Parade & 6 Ross Street LENNOX HEAD be **APPROVED** subject to the attached ameliorative/measures.

### **Attachment(s)**

1. Locality Plan
2. Proposed Plans (Under separate cover)
3. Review of Environmental Factors (Under separate cover)
4. Public Submissions
5. Public Submissions (Confidential and Redacted) (Under separate cover)
6. Applicant's Response to Public Submissions
7. Summary of Relevant Legislation
8. Extract from EP&A Regulation - REF Matters for Consideration
9. Lake Ainsworth Foreshore Improvement Works - Ameliorative/Mitigation Measures

## **6.1 Lake Ainsworth - South Eastern Precinct Plan**

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### **6. Civil Services Group Reports**

#### **6.1 Lake Ainsworth - South Eastern Precinct Plan**

**Delivery Program**      Engineering Works

**Objective**              To review the staging options for the Lake Ainsworth South Eastern Precinct works.

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#### **Background**

The purpose of this report is to re-assess the options in regards to the works program for the delivery of the Lake Ainsworth South Eastern Precinct works (the project) on the basis that the recommendation for the previous report in this agenda is supported by Council.

The schedule of works for this project was last determined at the Ordinary meeting held 25 January 2017 where Council resolved as follows:

*That Council commence the closure of the eastern road at Lake Ainsworth as the first priority for this project.*

This direction remains one option, however the Part V assessment report has raised matters in respect to the implementation of the works, and with the peak holiday season only a few months away, it is important that Council confirm or amend this decision based on the latest available information.

If Council resolves not to approve the Part V application the project can be deferred, or ceased, based on the preferred approach.

#### **Key Issues**

- Impact on traffic movements and parking
- Cost implications
- Matters raised in the planning assessment

#### **Information**

The works broadly include the following activities:

- Closure of the eastern road (with emergency access maintained)
- New shared path
- Open space and landscaping enhancements
- Reconstruction and formalization of car parking along the southern road
- Stormwater improvements
- Possible sealing of the western road (Camp Drewe Road)

There are four distinct packages of work being:

- Eastern road closure and redevelopment
- Southern road closure

## 6.1 Lake Ainsworth - South Eastern Precinct Plan

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- Roundabout construction
- Sealing of western road

From a civil works perspective, the roundabout construction is required to be the final stage of the project as it essentially joins the other packages of work.

The sealing of the western road, if undertaken, will involve the placement of gravel, some road geometry correction and the spraying of a bitumen seal. These works are typical of our rural road maintenance regime and can be completed wholly independent of the works associated with the southern and eastern parts of the precinct.

The sealing of the western road will take approximately two weeks. This work can be completed with traffic control to enable access to be unaffected.

The eastern area work involves substantial turfing and vegetation rehabilitation, which will take time to establish and early commencement of this part of the project offers some advantages.

However, the construction of the southern road first establishes the new parking prior to any changes being implemented in the eastern area.

There are additional time and cost implications if the eastern area is completed first.

The following information examines in more detail the balance between undertaking the eastern area works, as a priority, compared to the southern area or vice versa.

### Construction Staging Priority

For the purposes of this report, option one is the option consistent with Council's existing resolution to prioritise the eastern area works. Option two is to undertake the southern road works first.

Attachment one to this report is the construction program for the two options.

Both options are scheduled to commence on 15 October 2018, being the conclusion of the next school holidays.

As per the attachment, option one will not conclude until the end of August 2019, compared to the end of May 2019 for option two.

The key reason for the difference is the construction methodology that can be applied to the southern area, while ever the eastern area is still open for vehicular access.

If the eastern area is open, the southern road can be constructed with a full road closure in place (with exemptions for local access).

However if the eastern area is already closed, the methodology to construct the southern road will have to take into account the need to provide for through traffic and maintain as much parking as possible during construction.

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The impact of this is to extend the time required to complete the works by an estimated nine weeks.

In addition to time, this has significant cost factors. Council's technical officers estimate the additional cost to be approximately \$337,000. These costs arise from the need to maintain additional traffic control, the rework associated with temporary access provisions, additional safety management and the additional plant and labour resources.

The additional plant and labour costs are summarised as follows.

**Table One Additional Plant and Labour Costs for Option One**

<b>Plant/Resources</b>	<b>Number</b>
Excavator	1
Grader	1
Water Cart	1
Trucks	2
Rollers	2
Traffic Controller	2
Cost per day	\$7,500
Cost per week	\$37,500
Cost for nine weeks	\$337,500

Under option two, there is sufficient time to complete the southern area work prior to the forthcoming Christmas holiday season.

Under this option, the eastern area works would then follow with a commencement in early February 2019.

In addition to reduced time and cost, under option two, the upgraded and formalized parking, which are part of the southern area works, will be in place to service the demand that will be generated once the eastern area is closed.

Under option one, staff have considered a number of construction programs, however it is not possible to complete the eastern area works until the end of January 2019, even with the mid October commencement.

The reason for this is the need to maintain emergency access during construction and some establishment time is needed for the vegetation to be planted. Also staff have estimated the maximum possible length per day it is reasonable for the construction crew to excavate, place form and mesh, and then pour and screed the concrete.

The preferred construction process is to work in a southerly direction and this means the whole precinct becomes unavailable for public recreational access during the construction period.

The key advantage of option one is vegetation is planted during the growing season.

Finally, the needs of the Lake Ainsworth Sport and Recreation Centre (LASRC) are a consideration. The management of the LASRC has requested

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the eastern access be kept open until the centre has implemented required changes to their driveway access to Camp Drewe Road.

As per the first item in this agenda, as well as access, this work is important to enable the LASRC to meet certain obligations in respect to bushfire risk mitigation.

Under option two, this would provide the LASRC four months to arrange these works. The recommendation to this report proposes correspondence be sent to LASRC confirming Council's program.

### Sealing of the Western Road (Camp Drewe Road)

The approval sought under the Part V application does not include the works to seal Camp Drewe Road, as these works were not included in the original scope of works previously approved by Council, due to the size of the available budget.

While not included in the application, in response to the assessment process, the Civil Services Group has reviewed the options to seal the road and advised the Development and Environmental Health Group, the sealing works can now form part of the total works package.

The works are not included in the planning application as a Part V approval is not required.

Staff have completed further investigations of the pavement conditions of Camp Drewe Road and are now of the view a low cost two coat sealing approach can be implemented that will provide a good level of service with a reasonable risk profile.

The cost of this work, to the entrance to the LASRC, is estimated to be \$140,000. As well as improving the service level and amenity of this road, the sealing work will avoid gravel maintenance costs. Typically Council regrades and resurfaces this road twice each year.

The estimate of \$140,000 is a substantial saving when compared to the \$750,000 reconstruction option previously reported to Council.

Further to this, the sealing of Camp Drewe Road is consistent with the recent policy assessment undertaken by Council in respect to the sealing of unsealed rural roads.

Camp Drewe Road was one of the roads identified for sealing after endorsement of the Dust Sealing Weighted Prioritisation Criteria and the Priority Ranking for Sealing of Unsealed Roads policy position of Council, which now forms part of our Road and Transport Asset Management Plan.

The sealing works represent a routine upgrade project for Council and staff are currently conducting Aboriginal heritage due diligence prior to the works being programmed, subject to Council approval.

The timing of these works can be completed independently of the other works and will only require two weeks to implement.

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In addition to this it is proposed to provide a dust seal from the LASRC entrance to the end of Camp Drewe Road (i.e. horse riding access area), as well as the parking area for the 4WD access.

This is estimated at \$50,000 and can be funded from Council's annual resealing program.

This ensures that traffic will be able to access a sealed (a mixture of two coat and dust sealing) road for the total length of Camp Drewe Road.

Another added benefit of this is that people wishing to walk their dogs will be able to drive to the 4WD access, or the horse riding access, on a sealed road and park, immediately adjacent to the off-leash beach area.

### Sustainability Considerations

- **Environment**  
The works will incorporate environmentally sustainable initiatives including current water sensitive urban design practices.
- **Social**  
The staging of works should consider the access arrangements for the area to mitigate the impacts of the construction program to the extent that is possible.
- **Economic**  
Investment in infrastructure that supports improved environmental and social amenity supports economic development.

### Legal / Resource / Financial Implications

On the basis of Council endorsing the project, subject to planning approval, there are no impediments to programming the construction works as described in this report.

In relation to the financial implications of the project, the construction costs will be sensitive to the actual staging that is adopted by Council. The total budget available for this project is as follows:

Item	Amount (\$)
Funding Approved	1,730,000
Less Expenditure 2016/17 Design and Consent	45,000
Less Expenditure 2017/18 Revised Planning Consent	65,000
<b>Available Funding (2018/19 Budget)</b>	<b>1,620,000</b>

Updated estimates for implementing the works included in the Part V application, based on option two for this report, are as follows:

Item	Amount (\$)
<b>Eastern Precinct</b>	
General including establishment and mains	85,000
Civil Works including Stormwater and Demolition	135,000
Roundabout	242,000
Pathway	183,000



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Open Spaces Furniture and Landscaping	193,000
Contingency (5%)	42,000
<b>Total</b>	<b>880,000</b>

### **Southern Precinct**

Civil Works including Stormwater and Demolition	60,000
Road reconstruction	270,000
Car parking including Turf Cells	270,000
Open Spaces Furniture, Boardwalk and Landscaping	260,000
Contingency (10%)	43,000
<b>Total</b>	<b>903,000</b>

The combined total of this work is \$1,783,000 excluding the western road works. With Council having funding available of \$1,620,000 the \$1,783,000 represents a shortfall of \$163,000.

The preferred funding source for this shortfall is from the Community Infrastructure Reserve.

This reserve is forecast to have a closing balance of approximately \$400,000 as at 30 June 2019. This is after Council resolved to source \$950,000 from the reserve for the Ballina Indoor Sports Centre at the August 2018 Ordinary meeting, due to actual Section 94 recoupments being well above budget for 2017/18.

In respect to the \$140,000 for the sealing of Camp Drewe Road, the preference is to defer the Chickiba Drive reconstruction works planned for 2018/19 to 2019/20.

This reconstruction project is actually spread over two financial years (2018/19 \$140,000 and 2019/20 \$229,000) and the works are most likely to take place in the early part of 2019/20.

The deferral still allows the full Chickiba Drive works to be undertaken in 2019/20 albeit that \$140,000 worth of other works identified for 2019/20 will also have to be deferred to future years.

The future deferrals for 2019/20 and onwards can be determined when Council prepares the 2019/20 Delivery Program.

### **Consultation**

Consultation has been undertaken with management of the Reflections Caravan Park and the LASRC.

Both operators have raised concerns in respect to commencing works with the closure of the eastern road.

- The LASRC have specifically requested (as described earlier in this report) that the eastern road closure not be undertaken until such time as they have upgraded their access from Camp Drewe road.
- The caravan park operators have indicated support to commencing works on the southern road on the basis that they can be completed prior to Christmas. The operators, who are also members of the Rural Fire Service

have requested that access be maintained through to Camp Drewe throughout the construction phase as the bushfire season approaches.

### **Options**

The following two options have been considered in the report.

#### *Option One - Eastern area work completed as the first stage of work*

The advantages of this option are it provides immediate delivery on a long standing project, vegetation establishment can commence during the growing season and the option is consistent with Council's current position.

The disadvantage is increased costs and the concerns raised in the Part V planning assessment in respect to rural fire service related matters.

#### *Option Two - Southern area work completed as the first stage of work*

The key advantages of this option include substantial cost (\$337,000) and time (nine weeks) savings. The option provides the preferred safety and traffic control systems. Importantly, this option allows for the provision of new formalised car parking in the southern area prior to the closure of the eastern area, and allows traffic to use the new road unencumbered when it is time to close the eastern area.

Furthermore, option two provides the LASRC a four month period to undertake works to support their new access and bush fire requirements.

For these reasons option two is preferred, although it is different to the current preference of Council.

The recommendation also seeks Council to support the inclusion of the works to seal Camp Drewe Road as part of the overall project.

A further recommendation is made in respect to confirming the construction program to the LASRC. This includes seeking confirmation they are able to complete the works they are responsible for prior to the end of January 2019.

If the LASRC is not able to accommodate Council's request, it is recommended a further report be presented to Council to assess our options. These options are discussed in item one of this agenda in respect of the assessment of bush fire risk mitigation.

### **RECOMMENDATIONS**

1. That Council confirms, that to achieve savings in cost and time, and to provide preferred access to the upgraded car parking, the construction program for the Lake Ainsworth Precinct Improvement works is for stage one to be the upgrade of the southern area and stage two to be the eastern area works, as per option two in the attachment to this report.
2. That Council write to the Lake Ainsworth Sport and Recreation Centre to advise the Centre of the construction program proposed under point one above. If the Lake Ainsworth Sport and Recreation Centre respond with

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advice they are not able to comply with the Council's request, a further report be prepared to enable Council to review its options, as per the advice contained in the report for item one of this business paper.

3. That Council approves an increase in the Lake Ainsworth South Eastern Precinct budget of \$163,000 funded from the Community Infrastructure Reserve.
4. That Council approves the inclusion of the low cost two coat sealing of Camp Drewe Road as part of the proposed Lake Ainsworth Precinct Improvement Works, to the entrance to the Lake Ainsworth Sport and Recreation Centre, based on an estimate of \$140,000. That project is to be funded through the deferral of the Chickiba Drive reconstruction project of \$140,000 from 2018/19 to 2019/20. Council also notes that this will result in projects to the value of \$140,000 being deferred from 2019/20 onwards in respect to Council's four year Delivery Program.
5. That Council notes that a dust seal will also be provided from the works in point four to the end of Camp Drewe Road, including the car parking area adjacent to the 4WD access. This work, estimated at \$50,000, is to be funded from Council's annual resealing program.

### **Attachment(s)**

1. Construction Program Options

7. Confidential Session

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7. **Confidential Session**

Nil Items