



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 25 October 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.

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1. Australian National Anthem
 2. Acknowledgement of Country
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 7. Mayoral Minutes
-

1. Australian National Anthem

The National Anthem will be performed by Councillors and staff.

2. Acknowledgement of Country

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

3. Apologies

An apology has been received from Cr Stephen McCarthy.

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 September 2018 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 September 2018.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

8. Development and Environmental Health Group Reports

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

Delivery Program Environmental and Public Health

Objective To provide an outline of complaints regarding activity associated with the use of the St Vincent de Paul charity bins in Winton Lane and seek direction from the Council in relation to future management of the matter.

Background

Council has recently received renewed complaints regarding the placement of items and material at the Ballina St Vincent de Paul donation charity bins. The bins are located in Winton Lane adjacent to the St Vincent de Paul Society shop as indicated in Figure 1 (northern side of the shop).

The complaints received by Council have been made by the owners of the properties nearby to the St Vincent de Paul shop.



Figure 1: St Vincent de Paul shop Ballina (subject site).

This matter was previously been considered at Ordinary Council meeting in January 2016. A copy of that report and the associated resolution is contained in Attachment 1.

At that time, Council resolved as follows:

1. *That Council notes the contents of this report in respect to the dumping of waste at the St Vincent de Paul property, Winton Lane, Ballina.*
2. *That Council acknowledges the need to balance our available resources in managing complaints and that Council accepts that the current management strategies and allocation of resources that are being applied to this issue are reasonable.*
3. *That Council continue to promote, educate, and encourage responsible waste disposal of unwanted items in the Shire.*

Previous complaints had been primarily from one landowner (not resident at the time). The more recent complaints include the aforementioned landowner and the owners of another nearby property.

These complaints raise additional concerns relating to anti-social behaviour and noise pollution arising from the use of the donation bins (including the depositing of items in the area surrounding the bins) all hours of the night, which are impacting on sleep.

This site has had substantial issues previously with waste littering on the public roadway. However this situation has reduced with the proactive cleanup of the laneway generally on a daily basis by volunteers from the St Vincent de Paul shop.

St Vincent de Paul has been cooperative to date and have trialed and implemented initiatives to manage activities on site. These are further detailed below.

This report provides an outline of behaviours associated with the use of the bins and the surrounding area, the previous actions undertaken and options for dealing with these incidents into the future.

Key Issues

- Concerns that collections are not being dealt with satisfactorily
- Impacts of anti-social behavior
- Impacts on surrounding residential properties
- Dissatisfaction with Council's response
- Impact on charity to provide services to the local area
- Reasonable and feasible options available

Information

St Vincent de Paul has operated a charity store in its current Ballina location for over 40 years. The donation charity bins have also been at the site for many years and given the popularity of this site the number of charity bins has increased over time to support the services offered. Currently there are three donation bins located at this site which are wholly located on private land.

The dumping of material and associated illegal dumping is a common problem experienced and associated with charity stores across Australia.

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

Generally if a donation is not placed in the provided charity donation bins and left separately at the location, it may be considered illegal dumping.

Research currently indicates that Australian charitable recycling organisations are spending over \$13 million per year with unusable donations, often illegal dumped items being disposed to a landfill. This is estimated to be 60,000 tonnes of unwanted items every year.

The subject site is considered to be one of the most popular locations in Ballina Shire for the public to donate goods. It is also generally the most abused site in terms of items being placed outside the bins.

Many local councils have, and are, considering the banning of charity bins that are provided and serviced on public land because of the increase in uncontrolled and illegal dumping. The subject donations bins are not located on public land, however at times unwanted items are spread out and spill onto the public roadway.

The majority of people donate to charities out of good will and kindness and don't realise if they leave items outside an actual donation bin that this is illegal dumping (regardless of whether this is done with good will or the quality of the goods left). Generally people dropping items to charities have good intentions and want to do the right thing.

A primary issue is that when people decide to leave items unsecured unfortunately this then contributes to broader impacts on the environment and public amenity. This can in turn directly affect neighbours in close proximity to the charity bins.

A key factor in the extent of impacts arising are the people that come after the fact, referred to as scavengers, who go through items that have been placed outside the bins (illegally dumped) or try to access the bins. This activity can create a proliferation in the littering of waste.

Associated with this is that donations left at stores out of hours and those not correctly placed in donation bins are often unable to be used. When people donate after hours outside the bins, those donations can be damaged because they are exposed to the elements, or people interfere with or destroy them.

Photograph 1 below shows an example of the extent of goods deposited at the site during the recent October long weekend and photograph 2 indicates the clean up of the site and the state in which the site is typically left at the end of each working day.

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

Photograph 1 - Tuesday 2 October 2018, 7.13am (after long weekend)



Photograph 2 - Tuesday 2 October 2018, 4.39pm



Scavengers are thought to regularly and routinely visit the subject site and take valuable items from St Vincent de Paul, as well as generally create the mess in the location. A discussion with a resident in the area suggests that there are professional scavengers waiting at regular times during the week to go through items placed at the site.

Photographs 3, 4 and 5 below were taken during a typical weekend. It can be seen that depositing of items outside the bins did occur throughout the weekend with items generally placed neatly beside bins. As seen in photographs 6 and 7, by the following day the material had been gone through and spread out into the laneway, impacting on the amenity of the area.

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

Photograph 3 – Sunday 23 September 2018 – 11.32am



Photograph 4 and 5 – Sunday 23 September 2018, 2.57pm



8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

Photograph 6 and 7 - Monday 24 September 2018, 7.51am



Further to the above, Attachment 2 provides a photographic overview of monitoring undertaken at the site between 1 March 2017 and 16 April 2017.

St Vincent de Paul has undertaken measures to assist in reducing the number of illegal dumping incidents and has met with complainants to identify issues and discuss measures to mitigate complaints.

The owners who have raised objection to the location of the bins and their use have indicated they are not satisfied with the extent of action taken by St Vincent de Paul to manage the site.

The measures employed by St Vincent de Paul that Council is aware of include but are not limited to:

- Installation of higher quality CCTV surveillance devices
- Installation of signage stating that CCTV is operating in the area and the types of donations that are accepted
- Waste collection negotiated with private waste contractor to occur at a later time after 7.30am and not at the earlier time slots which is generally the case in commercial business districts to minimise traffic interruptions and reduce risks to pedestrians

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

- Ensuring that adequate lighting is placed in the donation bin area and that it is operational
- Implementing operating procedures to ensure that all donation bins are emptied seven days per week
- Implementing operating procedures for the sweeping and tidying of the paths and roadway around the donation bins including to the fence line across the road on a daily basis
- Regular promotion through media to highlight the issues of illegal dumping with the aim of educating the general public regarding the impact on St Vincent de Paul, the services provided, and the local amenity
- Site meeting with complainants to discuss issues and options for resolution of matters
- Meetings with Council officers to discuss issues and concerns
- Acoustic lining of donation bins to reduce noise.

St Vincent de Paul has a corporate and community responsibility and these actions implemented indicate that they are endeavoring to meet their responsibilities. They have invested a significant amount of time, money and volunteer manpower to implement, monitor and maintain their site.

Charity bins have been recognised by the State Government as being an integral part of the community welfare support offered by organisations and that within guidelines they are able to be installed across the State without approval. The relevant Section from the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 relating to charity bins is detailed below.

Subdivision 10C Charity bins and recycling bins

2.20E Specified development

The construction or installation of a charity bin or recycling bin is development specified for this code.

2.20F Development standards

The standards specified for that development are that the development must:

- be associated with commercial premises or a place of public worship, and*
- if located on the same lot as the commercial premises or place of public worship—be wholly located within the lot and not located on a road or road reserve, and*
- not result in more than 3 such bins on one lot, and*
- be located behind the building line of any road frontage, and*
- be operated by a person or organisation that is the holder of an authority under the Charitable Fundraising Act 1991, and*
- not display any advertising other than details of the person or organisation that operates it, and*
- not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to car parking, loading, vehicular movement, waste management and landscaping.*

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

Charity bins can be placed in accordance with these provisions without any approvals from Council and Council cannot require them to be removed from the site (as in this case the bins are located on private land).

Additional compliance action against St Vincent de Paul in the form of notices or infringement penalties under the Protection of the Environment Operations Act for illegal dumping at the site is an option, however it is not considered suitable or appropriate at this time.

Council needs to consider what action is being taken and whether it is reasonable and feasible in dealing with clean-ups.

A clean up notice deals with pollution incidents and actions required to clean up pollution incidences particularly where this is not being attended to by the responsible party.

A prevention notice deals with matters that are not being dealt with in an environmentally satisfactory manner. In this case it may be argued that the current operational and management plans in place to clean up the material deposited at the site are satisfactory in the context of the framework for clean up and prevention notices.

Council does try to offer a level of assistance to charity stores and not-for-profit community groups in recognition that they often have limited financial resources whilst providing the community with significant support.

The Policy titled "Donations - Waste Disposal Fees for Not-for-Profit Groups" has been developed to provide limited fee relief from waste disposal charges for not-for-profit community groups that run disposal stores for the sale of second hand and reusable items.

Council also recognises that not-for-profit community groups involved in the operation of second hand shops and charity stores do help to divert valuable resources from being sent to landfill.

Research has indicated that where councils have taken strong compliance action for illegal dumping at charity sites there has been considerable backlash on the Council. Council's reputation and values need to be considered if this type of action is to be taken, balancing this with the impacts being experienced by the affected parties and the services offered by St Vincent de Paul.

Further, the resources needed to implement such a program are costly and staff intensive (and as indicated above, Council is not in a position to require the removal of the bins). The social value of the charity service also needs to be balanced with the concerns raised having regard for the whole community.

The concerns relating to noise and anti-social behavior as a result of the use of the site had not been investigated through objective measurement previously by Council. Given this, Council engaged the services of an independent noise consultant to monitor the site for day and night noise generation.

8.1 Charity Bin Management - St Vincent de Paul - Winton Lane, Ballina

The subject site is located at the interface of residential and commercial type activities close to the central business district. As such the area will generally have more activity occurring and potentially higher noise levels at certain times.

The complaints received this year originally raised concerns with the level of noise from people donating items into the bins and then that of vehicles and voices through the evening and night periods that were disturbing sleep.

The noise consultant placed a noise logger at a nearby property to monitor the noise day and night for seven days over a normal period when activities occur.

Attachment 3 contains the full noise report, which has been distributed to Councillors only under separate cover as it contains personal information relating to neighbouring properties.

During this period the consultant undertook on site attended measurements and one of the complainant's also kept a diary of noise impacts during this period.

The consultant noted that the complainants advised that the noise monitoring period was not reflective of the noise impacts and disturbances that they normally are exposed to.

The consultant did arrange with St Vincent de Paul prior to the monitoring period to reconcile noise events with their CCTV footage to determine scale and significance of the event. Unfortunately this information was not provided to the consultant so the details relating to the noise event cannot be correlated to what was actually happening on the site at that time.

The noise from activities in the laneway and adjoining area can have an impact on sleep disturbance for immediately adjacent properties. The significance of this data is that in addition to three occurrences nominated by the complainants to have created a disturbance there were 110 exceedance occasions, on average 14 times a night during the monitoring period.

Importantly, Council nor the consultant has been able to confirm the source of the noise for each exceedance event (i.e. whether it directly related to the use of the St Vincent de Paul site or some other activity in the laneway or surrounds).

The anti-social behavior associated with the use of the charity bins is considered to be mostly from scavengers. Council has also been provided with photographs of people sleeping in this area. Council officers have not been able to identify this as a common and ongoing matter.

It is also alleged that people are taking items from the area adjacent to the bins and then storing these on neighbouring residential properties for sorting or pick up at a later time. These are also matters for consideration in balancing the issues raised with a response.

Sustainability Considerations

- **Environment**

Littering and illegal waste dumping can result from the use of the charity bins. Conversely, charity collections help to divert waste from landfill.

- **Social**

Unacceptable social behavior and habits regarding items and materials disposed of at charity stores can arise in association with use of charity bins.

Antisocial behavior can result in adverse impacts on residents.

- **Economic**

Costs incurred by St Vincent de Paul to manage inappropriate waste deposited can be significant. Conversely, the absence of donations may impact St Vincent de Paul's ability to deliver its charitable services.

Council may also incur costs if charities are not able to receive items as such materials may be dumped at other public locations in the Shire, causing Council to collect and dispose of these items.

During 2017/2018 Council had 248 illegal dumping incidents reported across the Shire with a cleanup and disposal cost estimated at \$83,000.

Legal / Resource / Financial Implications

Council staff have spent considerable time and resources investigating the ongoing complaints.

St Vincent de Paul and other local charities receive, recycle, distribute and dispose of a variety of household goods and clothing. Often this material may otherwise end up as illegally dumped waste on public land and hence then requires the inspection, collection and disposal by Council staff.

Council incurs a significant cost when cleaning up these incidences. Both Council and charities meet the costs of removing and disposing of illegally dumped materials at sites across the Shire.

Consultation

Council has for many years been discussing concerns with St Vincent de Paul management staff and the need to actively manage the site.

There has been consultation with complainants however an outcome has not been agreed or a satisfactory resolution reached with the concerned parties. Given this, direction is sought from Council on the future management of this matter.

Council staff have discussed the issues with other residents in the vicinity of the site to obtain perceived and or actual impacts.

Council engaged an independent and suitable qualified noise consultant to liaise with key complainant regarding noise impacts and undertake a noise impact assessment.

Options

Council has a range of options available to monitor and manage this recurring problem. The options considered to be reasonable and feasible include:

1. Monitor CCTV footage and increase surveillance at the site by St Vincent de Paul.
2. Additional signage to remind people of the consequences.
3. Enforcement by Council officers. However Council does not have the ability to require that the charity bins be removed and enforcement tools available are not unlikely to significantly alter the situation whilst the bins remain in place.
4. Encourage people to donate in the shop during opening hours.
5. Remove charity donation bins and trial accepting donations only through the shop within opening hours.
6. Trial smaller and mobile wheelie bin style receptors for collections which could be placed outside and monitored during opening hours and then removed and placed inside building when shop closes.
7. Contact and work with North East Waste on long term programs and strategies.
8. Engage a security company to monitor site after hours and to take action to stop illegally dumped material from being placed at the donation bins.
9. Remove charity bins and cease the collection of all donations at the site. It should be noted that in relation to this approach, studies have shown that dumpings will likely still occur for a substantial period of time until public habits and practices change.

The recommended approach given the limitations under the legislation is for Council to request St Vincent de Paul to implement the strategies set out in the recommendation as soon as practicable. This is on the basis that management actions are considered to be the most practical avenue to reach a solution to the issues raised and these actions are the responsibility of St Vincent de Paul.

This type of approach recognises the role of St Vincent de Paul as a charity organisation but also acknowledges the concerns raised by adjoining landowners.

If the recommended strategies are not implemented within a period of six months, staff will report the matter back to Council for further direction.

Alternatively, the Council could elect to take no further action on the basis that this is a matter between a private business and adjoining neighbours, or Council could pursue an approach that seeks the removal of the charity bins from their current location (on a voluntary basis by St Vincent de Paul).

RECOMMENDATIONS

1. That Council acknowledges the current measures that St Vincent de Paul has implemented in response to issues of concern raised by adjoining property owners.
2. That Council work with St Vincent de Paul to minimise illegal dumping at the site through the following actions or suitable equivalents:
 - St Vincent de Paul to implement site clean ups at late afternoon and early morning times on weekends and public holidays.
 - St Vincent de Paul to engage a security surveillance company to have a regular presence at the site after the shop closes.
 - Council and St Vincent de Paul to continue to raise awareness and advertise the problems associated with illegal dumping at charity stores.
 - St Vincent de Paul to trial only accepting donations during shop business hours.

Attachment(s)

1. Council 28 January 2016 - Report - Dumping of Waste - St Vincent de Paul, Winton Lane
2. St Vincent De Paul, St Vinnies – Winton Lane, Daily Monitoring of illegal dumping by Public and Environmental Health Team, March 2017
3. Final Noise Impact Assessment by Tim Fitzroy, St Vincent's de Paul Charity Bins, Lot 1 DP848698, 7 Martin Street Ballina (Under separate cover)

8.2 Revegetation Works - 162 Patches Beach Road, Patches Beach

8.2 Revegetation Works - 162 Patches Beach Road, Patches Beach

Delivery Program Development Services

Objective To inform the Council about required revegetation works at 162 Patches Beach Road, Patches Beach and seek direction on the approach to complete the required works.

Background

In November 2011, Council issued an Order to the owner of 162 Patches Beach Road, Patches Beach (Lot 4 DP 581027) requiring revegetation works to be carried out on the land. This Order was issued to address what Council determined to be unauthorised vegetation removal.

The land the subject of the Order is located immediately south of Patches Beach Road and has frontage to Crown Reserve and dunal system abutting Patches Beach. The land parcel is 40.47ha in area and is presently owned by Pazcup Pty Limited. Figure 1 is an aerial photo showing the location of the land.

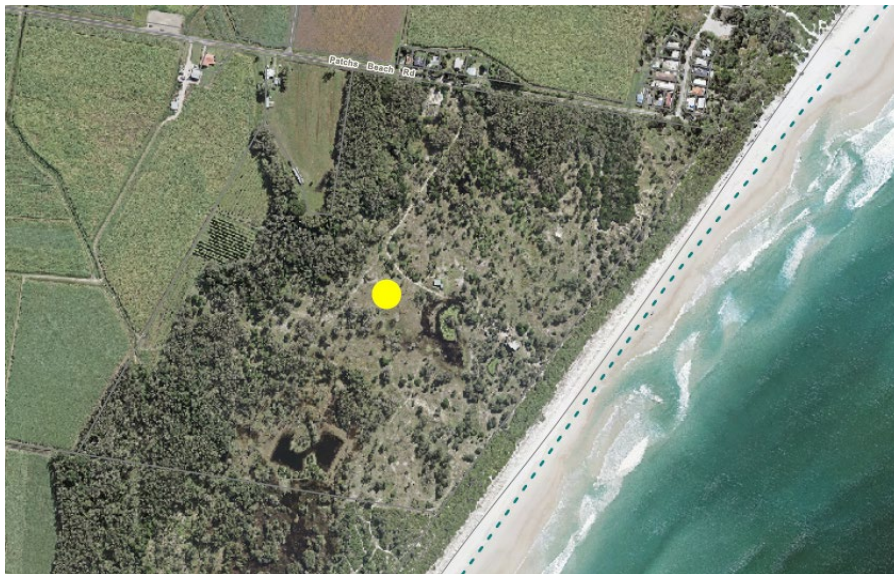


Figure 1: Aerial photograph – 162 Patches Beach Road, Patches Beach

At the time of the Order being issued, the land incorporated substantial areas of native vegetation including two Endangered Ecological Communities, namely Littoral Rainforest and Swamp Sclerophyll Forest. The land also contained exotic weed species such as Bitou Bush. The landowner had been seeking to manage the exotic species on the site, with activity including regular slashing of parts of the property.

8.2 Revegetation Works - 162 Patches Beach Road, Patches Beach

The landowner has been cooperative in seeking to address the requirements of the Order and achieve the required revegetation outcome. However, some of the revegetation techniques applied in association with the environment being particularly challenging has meant that the outcomes sought have not yet been achieved.

From the landowner's perspective, the property has been the subject of an Order for a significant period of time in a circumstance where the owner has made an effort to achieve the required outcomes. This has been at considerable expense to the owner.

From Council's perspective, the required works are not yet complete and as such the necessary environmental outcome has not been achieved.

This report outlines an option for Council to become directly involved in the delivery of the restoration works at the cost of the landowner. This option is being canvassed as an alternate means of achieving the desired environmental outcome in a way that recognises the particular circumstances of this case.

Key Issues

- Completion of required revegetation works at 162 Patches Beach Road
- Council involvement in delivery of required revegetation works

Information

Revegetation works are required on the land at 162 Patches Beach Road, Patches Beach to meet the requirements of a current Order over the land issued by Council in 2011.

The landowner (Pazcup Pty Limited) has made several attempts to complete the works at considerable cost based on the implementation of a suitable revegetation plan endorsed by Council's technical staff. However, the required outcomes have not been achieved and the absence of vegetation along the eastern dunal front is most likely contributing to adverse impacts on the vegetation further west within the property.

The landowner has also indicated a desire to sell the property but is concerned that the Order is an impediment to such a sale proceeding (i.e. the Order impacts the level of interest from potential buyers). This is not necessarily a matter for Council.

However, in the circumstances, recognising the landowner has made substantial effort to meet the requirements of the Order, it is considered reasonable for Council to consider options for the removal of the Order provided that there is a suitable means of achieving the environmental outcomes sought.

Recently, staff and the landowner have examined the approach to the revegetation works. A strategy targeting the eastern parts of the property in the first instance is considered the most likely to be effective as this should support improved outcomes to the west once reasonable vegetation cover is reestablished along the eastern frontage.

8.2 Revegetation Works - 162 Patches Beach Road, Patches Beach

Attachment 1 shows the areas that would be targeted for revegetation works based on the most recent consideration of the site and its circumstances (approximately 12 hectares of land).

Having regard for the circumstances and the overall objective being to complete the required revegetation works to restore the local environment, one option is for Council to now directly manage the revegetation works.

If this approach is to be pursued, it would be on the basis that Council would engage and oversee a suitably qualified bushland regenerator to carry out the required works. The funding for this would be provided by the current landowner as the party currently responsible for meeting the requirements of the Order.

To determine the extent of risk involved for Council and ultimately, what the works would be expected to cost, staff sought fee estimates from two firms and the landowner's consultant was also invited to submit a costing proposal. The two firms invited to provide a costing by Council provided fee proposals. The landowner's consultant did not provide a fee proposal.

The fee amounts provided are set out in separate memorandum distributed to Councillors under separate cover.

It was originally expected that the cost of the works would be in the range of \$120,000 to \$140,000. However, both fee proposals exceeded \$150,000 in value.

Typically in cases where such a cost is anticipated, Council would proceed through a tender process. In this case though, it is considered that there is little benefit in proceeding to tender as the two proposals received are considered appropriate in terms of achieving the necessary revegetation outcomes.

It is also the case that the approach being canvassed is based on the current landowner meeting the cost of the works and it is an entirely voluntary process for the landowner.

In summary, the fee proposals were originally sought for the purpose of determining the scope of works, extent of cost and level of risk involved in Council taking on responsibility for the works.

Given the nature of the proposals received, it is considered to be reasonable to proceed to an engagement, particularly recognising that a tender process would likely yield very similar proposals at further cost to the tendering firms.

Tendering will also further delay the implementation of the works which is not desirable in this instance due to the impacts associated with the lack of vegetation along the eastern boundary of the land.

If Council is to proceed to engage a firm to carry out the works, it is recommended that Council engages Bushland Restoration Services as this firm's proposal provides for the required environmental outcomes at the lowest price.

8.2 Revegetation Works - 162 Patches Beach Road, Patches Beach

The landowner, Mr Noel Holmes (Pazcup Pty Limited) has indicated in principle agreement with the approach on the basis that Council would remove the current Order applying to the property and agree not to issue any new Order (requiring revegetation works in line with the current Order) subject to the following:

- Receipt of payment from the landowner to Council to cover the estimated costs of work (plus 30% in line with Council's practice for bonding of development works), with this funding to be used by Council to implement the required works.
- Any funds not expended at the conclusion of the required works and maintenance period would be refunded to Pazcup.
- Registration of a positive covenant over the land to facilitate the revegetation works on the site over a period of at least five years and ensure suitable access is in place for the duration of the works for Council and its contractor(s).

By way of overview, the scope of works would include the following in relation to the areas shown in Attachment 1:

- Preparation of a restoration plan to guide the works (based on the items below). The plan would document the project outcomes and appropriate measures and also set an end point for the project having regard for environmental outcomes, time and available resources.
- Plantings to restore Coastal Wattle/Banksia Scrubland, Swamp Sclerophyll Forest and Littoral Rainforest.
- Plantings based on a typical plant spacing of 2m in areas requiring intensive rehabilitation.
- Use of fencing and tree guards to protect plantings during establishment.
- Application for fertiliser and water.
- Weed control including spot spraying.
- Work and maintenance period of five years.
- The majority of planting works would occur in the first year with maintenance and stock replacement over the following four years.

In summary, Council involvement in the delivery of the works is the approach most likely to achieve the required outcomes and engagement of Bushland Restoration Services based on the fee proposal already submitted is an efficient means of enabling the commencement works.

With Council directly involved in the delivery of the works, there is no need for the retention of the Order (provided the above mentioned conditions are met).

Sustainability Considerations

- **Environment**
Council's involvement in the delivery of the revegetation works provides an opportunity for more direct management of the required works as a means of progressing what has been a difficult site rehabilitation for an environmental benefit.

- **Social**
Not Applicable.
- **Economic**
If Council becomes involved in the revegetation works, this will be at the landowners cost. The primary risk for Council is where failure in the plantings might occur. This risk can be offset by setting an end point for the project in the restoration plan that is mindful of available resources and Council is requiring the landowner to provide 130% of the estimated cost to Council to cover costs associated with unexpected circumstances.

Legal / Resource / Financial Implications

Council becoming involved in site revegetation works in a situation where a landowner is the subject of an Order is very unusual. It is not an approach that is typically desirable. Therefore, Council will need to be satisfied that the circumstances are sufficiently specific or particular to warrant the application of Council resources in the manner recommended below.

The resource impact is expected to relate to the overall management of the engagement of a bushland regenerator and occasional inspection of the land. This work can be accommodated within the resources of the Development and Environmental Health Group.

Financially, the cost of the works is to be met by the landowner, with Council to hold 130% of the value of the works to mitigate against risks associated with unexpected difficulties or failures associated with the revegetation.

There are no particular legal implications associated with the lifting of the Order or Council electing to directly manage the revegetation works.

Consultation

Council staff have been in regular discussion with the landholder about the works and options for the delivery of a suitable outcome.

No broader community engagement has been undertaken as this is considered to be a matter between Council and the landholder.

Options

The primary options available to Council are:

1. To retain an Order for revegetation works over the land and take no further action on Council's involvement in managing the revegetation works.
2. To lift the Order over the property and take no further action in relation to the revegetation of the land.
3. To enter into an agreement with the landowner for Council to manage the restoration works with the costs to be met by the landowner, with Council removing the Order over the property on the basis that the obligation to complete the works becomes Council's.

8.2 Revegetation Works - 162 Patches Beach Road, Patches Beach

If the Council is of the view that it does not wish to become involved in the works, Council should retain an Order over the property to require the revegetation of the land. However, in the particular circumstances, it may be a prolonged period of time before the works are completed to a suitable standard.

If Council is of the view that the landowner has made sufficient effort and further works are not required, Council can resolve to remove the Order. This is not recommended as it creates a situation where Council has no ability to enforce the delivery of the revegetation works which are to remedy unauthorised clearing works.

The recommended approach is for Council to seek to enter an agreement with the current landholder (Pazcup) for Council to manage the works at the landowners cost. This would also involve placement of a positive covenant over the land to ensure Council has appropriate site access and the removal of the Order (which has been requested by Pazcup).

It is also recommended that the delivery of the works be on the basis of engaging Bushland Restoration Services to carry out the works in line with the organisation's September 2018 fee proposal provided to Council. This is on the basis that the engagement arises from a special circumstance with Council electing not to proceed to a tender process or seek further quotations for the works on this occasion.

In the event that the conditions for the agreement set out in this report are not met, an Order will remain over the land requiring the revegetation works. Where the property is sold prior to an agreement being reached, the obligation for the works would rest with the new owner (i.e. the presence of the Order is something that a new purchaser should be aware of in their considerations regarding the purchase of the land).

RECOMMENDATIONS

1. That Council invites Pazcup Pty Limited to enter into an agreement for Council to manage the revegetation of the land known as Lot 4 DP 581027, 162 Patches Beach Road Patches Beach subject to the following:
 - Receipt of payment to cover the estimated costs of work (plus 30% in line with Council's practice for bonding of development works), with this funding to be used by Council to implement the required works. Any funds not expended at the conclusion of the required works and maintenance period would be refunded.
 - Registration of a positive covenant over the land to facilitate the revegetation works on the site over a period of at least five years and ensure suitable access is in place for the duration of the works for Council and its contractor(s).
2. If an agreement is reached with Pazcup and the conditions in point 1 are met, that Council remove the Order requiring the revegetation of Lot 4 DP 581027, 162 Patches Beach Road Patches Beach.
3. If an agreement is reached with Pazcup and the conditions of point 1 are met, that Council engages Bushland Regeneration Services to undertake the required revegetation works.

8.2 Revegetation Works - 162 Patchs Beach Road, Patchs Beach

4. That Council approves the engagement of Bushland Regeneration Services as per the contents of this report, on the basis that two quotations have been received, the works are being paid for by the property owner, and further delays in tendering for this work may result in increased negative environmental impacts.
5. That Council authorises the seal to be attached to any documents associated with the engagement of Bushland Regeneration Services and the agreement with Pazcup Pty. Ltd.

Attachment(s)

1. Proposed Revegetation Areas - 162 Patchs Beach Road, Patchs Beach
(Prepared by Planit Consulting)

8.3 Development Applications – Variation to Development Standards

8.3 Development Applications – Variation to Development Standards

In accordance with the Department of Planning's Circular PS18-003, 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 no applications approved under delegation for variations to development standards of 10% or less for September 2018.

Attachment(s)

Nil

8.4 Development Applications - Works in Progress - October 2018

8.4 Development Applications - Works in Progress - October 2018

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

Note that 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	Being assessed
2017/600	30/10/2017	Newton Denny Chapelle	Expansion of an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	Amended application Awaiting additional information To be reported to Council
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 State Environmental Planning Policy (Housing for Seniors or People with a Disability), site filling and associated works – 78 Moon Street, Ballina	Determination pending
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 103 residential lots and seven super lots, construction of 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	Being assessed

8.4 Development Applications - Works in Progress - October 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
2018/144	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	Determination pending
2018/347	18/6/2018	Ardill Payne & Partners	To fill an existing agricultural drain and install a new piped drainage solution – Carneys Lane, East Wardell	Awaiting additional information
2018/405	12/7/2018	Town Planning Studio Pty Ltd	Two Lot Torrens Title Subdivision – 425 Ross Lane, Lennox Head	Awaiting additional information
2018/417	16/7/2018	BUPA Aged Care Australia	Alteration and Additions to Existing Residential Aged Care Facility – 148 North Creek Road, Ballina	Determination pending
2018/424	18/7/2018	Ardill Payne & Partners	Erection and Strata Title Subdivision of a Part Two Storey Multi Dwelling Housing Development Comprising Three Dwellings – 75 Burns Point Ferry Road, West Ballina	Awaiting additional information
2018/431	19/7/2018	Northern Rivers Land Solutions	Two lot subdivision to create one x 648m ² allotment for the purposes of a private temporary road and one x 34 hectare residue lot – 505 North Creek Road, Skennars Head	Being assessed

8.4 Development Applications - Works in Progress - October 2018

2018/432	26/7/2018	Ardill Payne & Partners	Two Lot Subdivision by way of a Boundary Adjustment to create one 1080m ² and one 776m ² allotments and construction of a shed on Proposed Lot 1 - 2 Old Pacific Highway, Newrybar	Awaiting additional information
2018/437	23/7/2018	P Lloyd	Alterations to Child Care Centre (Seeds Early Learning Centre) - 58-62 Westland Drive, West Ballina	Awaiting additional information
2018/438	24/7/2018	A Dougherty	Staged Erection and Strata Title Subdivision of a Two Storey Multi Housing Unit Development and Associated Works - 33 Crane Street, Ballina	Determination pending
2018/439	24/7/2018	Vision Town Planning	Staged development comprising alterations and additions to an existing attached dual occupancy development, erection of a detached garage, demolition of existing outbuildings and two lot subdivision to create one x 600 and one 607sqm allotments and associated works – 20 Newport Street, East Ballina	Being assessed
2018/447	25/7/2018	D Trainor	Staged Erection and Strata Title Subdivision of a part Two Storey Multi Dwelling Housing Development comprising Four Detached Dwellings, Demolition of Existing Dwelling and Consolidation of Lot Boundaries - 58 Cherry Street, Ballina	Being assessed
2018/452	27/7/2018	D Walsh	Boundary Adjustment Subdivision of existing Lots 3 & 4 DP 1220992 and the Subdivision of the reconfigured Lot 4 to create 1 x 2155m ² and 1 x 2646m ² allotments and associated works - 172 North Creek Road, Lennox Head	Being assessed
2018/454	27/7/2018	Ardill Payne & Partners	Alterations and Additions to Existing Industrial Tenancy including use of a mezzanine floor - 3/7 Piper Drive, Ballina	Awaiting additional information

8.4 Development Applications - Works in Progress - October 2018

2018/467	10/8/2018	Wakefield Planning	Change of Use from Boarding House to Boarding House and Community Facility (dog support and activity centre) and associated works - 64 Treelands Crescent, Ballina	Awaiting additional information
2018/470	8/8/2018	Walecorp Pty Ltd	Erection of a Commercial Building and Associated Works – 23 Commercial Road, Alstonville	Awaiting additional information
2018/477	9/8/2018	Northern Rivers Land Solutions	Erection of a Temporary Sales Office and Associated Vehicular Access and Car Parking – Lot 6 The Coast Road, Skennars Head	Being assessed
2018/482	10/8/2018	P & G Smith	To establish a home business comprising a cooking class conducted within an existing holiday cabin – 841 Fernleigh Road, Brooklet	Awaiting additional information
2018/499	21/8/2018	Northern Rivers Surveying P/L	Erection of Industrial Building and Awning for Existing Car Park – 9 Robb Street, Alstonville	On exhibition
2018/510	24/8/2018	Northern Rivers Land Solutions	Temporary Sales Office and Associated Car parking ancillary to the Banyan Hill Residential Subdivision (DA 2016/184) - 33 Mitchell Close, Cumbalum	Being assessed
2018/518	28/8/2018	Northern Rivers Land Solutions	Two Lot Torrens Title Subdivision to Create one 800m ² and one 1882 m ² allotments, site filling, vegetation management works and associated works - 23 Richmond Street, Wardell	Being assessed
2018/519	29/8/2018	Ardill Payne & Partners	Demolition of Existing Dwelling House and Associated Buildings and Two Lot Torrens Title Subdivision to create one 617m ² and one 790m ² Allotments and Associated Works - 100 North Creek Road, Lennox Head	On exhibition

8.4 Development Applications - Works in Progress - October 2018

2018/546	10/9/2018	Impact Accom Pty Ltd	Alterations and additions to establish a studio apartment for purposes of alternate accommodation for the manager – 20-21 Pacific Parade, Lennox Head	On exhibition
2018/550	14/9/2018	Newton Denny Chapelle	Proposed child care centre and associated works and two lot Strata Title subdivision to create one 4300sqm (Child care centre) lot and one 5970sqm (vacant) lot – 27 Kalinga Street, West Ballina	Being assessed
2018/554	13/9/2018	Ardill Payne & Partners	Change of Use to Establish a Depot – Removalist Business and Associated Signage – 6 Waverley Place, West Ballina	On exhibition
2018/559	14/9/2018	Chris Abbott Surveying	Two lot boundary adjustment subdivision to create one x 53.1ha and one x 1.2ha allotments – 331 Hermans Lane, Pimlico	On exhibition
2018/566	17/9/2018	Town Planning Studio Pty Ltd	To construct a building (20m x 12m) to establish a recreation facility (Indoor) for the purposes of a dance studio and associated works including on-site carparking – 1 Summerhill Crescent, Cumbalum	On exhibition
2018/576	28/9/2018	M Kamphorst - Ingen Consulting P/L	To establish a landscape supplies and truck depot business on a temporary basis in conjunction with the industrial development consented to under DA 2017/165 – 14 Kays Lane, Alstonville	Awaiting additional information
2018/580	21/9/2018	Newton Denny Chapelle	Boundary adjustment subdivision to create one x 5114sqm and one x 833 sqm allotments - 260 North Creek Road & 17 McLeans Street, Skennars Head	On exhibition
2018/581	21/9/2018	GeoLINK	Intersection Upgrade at Camp Drewe Road entrance and upgrade of internal access – 164 Camp Drewe Road, Lennox Head	On exhibition

8.4 Development Applications - Works in Progress - October 2018

2018/586	24/9/2018	Andy Piper	Vegetation Management Works comprising the removal of one tree – 5 Hindmarsh Street, East Ballina	Awaiting additional information
2018/594	25/9/2018	Jethro Lampe	Vegetation Management Works comprising the removal of one tree and the pruning of three trees – 51 Seaswell Crescent, Lennox Head	Being assessed
2018/597	26/9/2018	Ardill Payne & Partners	Establishment and operation of a water supply system including the construction of shed and associated works – Lot 15 Ellis Road, Rous	On exhibition
2018/602	4/10/2018	R & J Harris Consulting P/L	Proposed earthworks involving the temporary storage of fill material surplus to the construction of the Pacific Highway Upgrade – 540 Pimlico Road, Pimlico	Awaiting additional information
2018/603	5/10/2018	Balanced Systems Planning Consultants	Alterations and Additions to Existing Conference Centre and Associated Buildings and Works - 70 Shelly Beach Road, East Ballina	Being assessed
2018/608	5/10/2018	Blake Sign Co.	Proposed Pylon Sign - 72-74 Kalinga Street, West Ballina	Being assessed

8.4 Development Applications - Works in Progress - October 2018

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	Being assessed
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	Awaiting additional information

8.4 Development Applications - Works in Progress - October 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	Awaiting additional information
2018/321	13/6/2018	PalmLake Works Pty Ltd	Staged erection of an extension to an existing Seniors Housing Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising of 156 self-care dwellings, recreation facilities and associated car parking, infrastructure works, site filling and associated works – 120 North Creek Road, Ballina	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 October 2018.

Attachment(s)

Nil

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

9. Strategic and Community Facilities Group Reports

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

Delivery Program Strategic Planning

Objective To present the outcomes of the public exhibition and seek the Council's direction with respect to progressing the planning proposal.

Background

This report considers options for rezoning of some parts of the property locally referred to as Stewart's Farm, located at Skennars Head. More particularly, the report provides feedback to the Council following the recent public exhibition of the planning proposal.

Council considered a report at the Ordinary Meeting held on 14 December 2017 with respect to this matter and resolved as follows:

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

The Gateway determination required the provision and review of additional information relating to the proposed neighbourhood centre. Further information regarding this aspect of the proposal is provided in the body of this report.

Following the conclusion of these additional steps, the planning proposal was placed on public exhibition from 8 August 2018 until 28 September 2018.

Eighty one public submissions were received during the public exhibition of the planning proposal.

The planning proposal was also referred to government agencies in accordance with the terms of the Gateway determination.

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

The purpose of this report is to invite the Council's consideration of submissions received from the community and agencies during the public exhibition and seek the Council's direction regarding the finalization of the planning proposal.

Key Issues

- Housing supply
- Medium density development
- Commercial development

Information

Planning Proposal Amendments

A copy of the planning proposal (as publicly exhibited) is provided as Attachment 1 to this report. The proponent's planning proposal submission including supporting technical reports, which also formed a part of the publicly exhibited documentation, has been distributed to Councillors under separate cover.

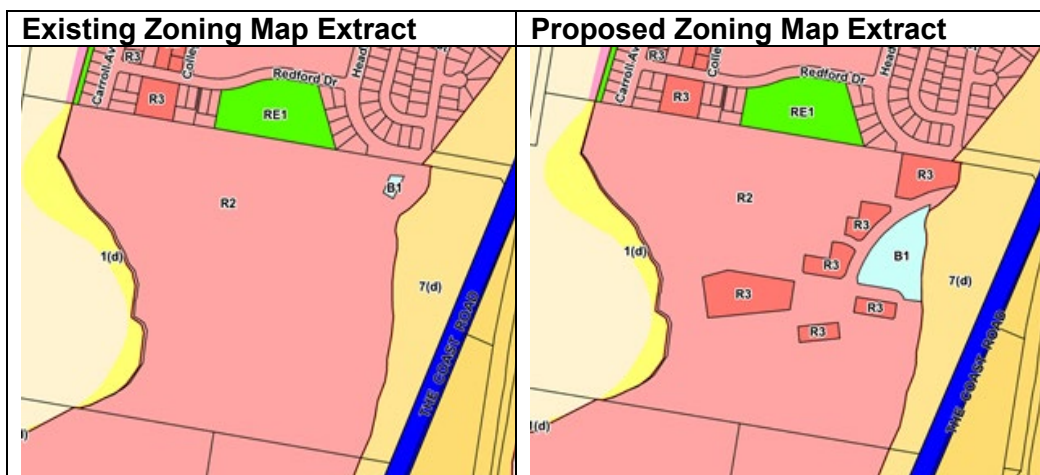
Following Council's consideration of this matter on 14 December 2017, the planning proposal was referred to the NSW Department of Planning and Environment for Gateway determination.

Affirmative Gateway determination was granted on 15 February 2018, a copy of which is provided as Appendix 3 to the planning proposal provided as Attachment 1 to this report.

The proposal involves the application of the B1 Neighbourhood Centre zone to an area of approximately 13,200m² and the application of the R3 Medium Density zone to an area of approximately 29,250m².

The proposal also includes zoning an area of land approximately 870m², which is currently zoned B1 Neighbourhood Commercial zone, to combination of R3 Medium Density Residential zone and R2 Low Density Residential zone.

The existing and proposed zonings are shown on the plan extracts below:



9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

Whilst the planning proposal seeks to facilitate an increase in the size of the neighbourhood centre site it is estimated that there is likely to be no significant difference in terms of the total number of dwellings likely to result on the residential zoned sections of the site as a consequence of the above proposed zoning changes.

The change from a R2 to a R3 zone is likely to yield approximately 30 additional dwellings (difference between 450m² minimum lot size and 300m² lot size).

The reduction in R2 zoned land to facilitate the increased neighbourhood centre size reduces dwelling yield by approximately 27 dwellings.

These assumptions exclude any increase in dwellings that may result from shop top housing within the B1 zone.

The Department's Gateway determination also included the following requirement:

Prior to community consultation a review of the Retail Demand and Impact Analysis report is to be undertaken to confirm that the maximum commercial floor area that could be achieved within the proposed area of B1 Neighbourhood Centre zoned land will not result in an adverse impact on neighbouring commercial centres. If the review identifies that there will be an adverse impact on neighbouring commercial centres then details of the maximum commercial floor area at which an impact does not occur is to be provided.

The Gateway determination required the provision of further information regarding the potential impact of the proposed additional commercial floor space.

As a consequence of the above, the proponent submitted the further information which was reviewed by an independent third party peer review consultant (Jon Norling of Norling Consulting Pty Ltd) engaged by Council.

The peer review is included in Appendix 6 of the planning proposal that is provided as Attachment 1 to this report.

The recommendation of the review concluded as follows:

The ENIA [Economic Need and Impact Assessment] is considered to be fundamentally flawed by defining a series of catchment areas that grossly exceed the proposed status of a Neighbourhood Centre and ignore the established retail hierarchy. Its conclusions are therefore considered optimistic and cannot be relied upon. In addition, despite the ENIA's quantitative analysis supporting only 3,000m² of retail floorspace, it then reaches a conclusion that the retail centre should be between 3,000m² and 4,500m² in size, resulting in a total recommended floorspace of between 5,250m² to 7,450m², with the Planning Proposal then urging the Council to accept that this supports an ultimate floorspace of 10,800m² on the site.

It is my opinion that the proposed Neighbourhood Centre should comprise the following elements at capacity (based upon current LEP zonings):

- (a) A retail centre of up to 2,500m², to be anchored by a supermarket of up to 1,500m²;*
- (b) Supporting commercial facilities (including medical) of up to 1,000m²;*
- (c) A childcare centre (50 places) of about 500m²;*

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

- (d) A gymnasium of about 300m²; and
- (e) A small tavern of about 700m².

Such a Neighbourhood Centre should have a maximum retail and commercial floorspace of 5,000m² (NLA), which only requires a land area of about 0.63ha at a Floor Space Ratio of 0.8:1. However, a Centre of this scale in this location would normally be expected to provide significant at-grade car parking and outdoor areas for the childcare centre and tavern, such that a land area of about 1.3ha would be needed to provide a workable Neighbourhood Centre in this location accommodating 5,000m² of retail and commercial floorspace.

The allocation of 1.3ha of land for a Neighbourhood Centre at this site is therefore supported if the Floor Space Ratio (for retail and commercial elements) were to be reduced to 0.4:1 in order to avoid adverse economic impacts upon surrounding centres.

As a consequence of the above, several options were considered in consultation with the proponent, to achieve the outcomes sought by the proponent within the scope of acceptable impacts that were the subject of the peer review.

The planning proposal was amended accordingly to include a special local provision to align the proposal with Council's peer review consultant's recommendations, as set out below.

The proponent's planning report was also updated to reflect this approach prior to public exhibition.

The amended proposal, as it relates to the neighbourhood centre area, provides for the following:

1. Applying a neighbourhood commercial zoning (B1 Neighbourhood Centre zone) to an area of approximately 13,200m².
2. Applying a floor space ratio of 0.8:1 to the area subject to the neighbourhood commercial zoning; and
3. Including a site specific development control provision that would limit the total area of commercial floor space permissible on the site to a floor space ratio (FSR) of 0.4:1.

The combined effect of the above approach would be to enable and limit the development of commercial floorspace to a maximum of 5,400m² (GFA) with additional non-commercial floor space (such as shop top housing) for the balance of the site up to a maximum floor space ratio (FSR) of 0.8:1.

This approach is also consistent with the recommendations of Council's third party peer review consultant, with respect to providing an area of commercial floor space that would adequately cater for the commercial needs of residents without adversely impacting other commercial centres.

Neighbourhood Supermarket Definition

On 29 August 2018, the Department of Planning and Environment introduced a new definition into the Standard Instrument LEP of "Neighbourhood Supermarket", which is defined as follows:

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

Neighbourhood supermarket means premises the principal purpose of which is the sale of groceries and foodstuffs to provide for the needs of people who live or work in the local area.

Neighbourhood supermarket has been added as a mandatory permissible use in the B1 zone as well as anywhere a 'shop', 'retail premises' or 'commercial premises' are permissible.

Associated amendment to clause 5.4 (Controls relating to miscellaneous permissible uses) of the Standard Instrument LEP restricts the gross floor area of a neighbourhood supermarket to a maximum of 1,000m² GFA.

The consequence of the Standard Instrument amendment outlined above is that the scale of the proposed neighbourhood supermarket within the proposed Skennars Head Neighbourhood Centre will be restricted to a maximum gross floor space of 1,000m² (despite the proponent foreshadowing a 1,500m² supermarket).

Agency consultation

The Gateway determination required consultation with the following Government agencies:

- NSW Roads and Maritime Services (RMS)
- NSW Rural Fire Service (RFS)
- Air Services Australia
- Civil Aviation Safety Authority

The proposal was also referred to the Ballina-Byron Gateway Airport management for comment, with the airport response included in the referral to Air Services Australia.

Responses from Air Services Australia and the Australian Aviation Safety Authority had not been received at the time of the preparation of this report. However, given the current (residential) zoning of the subject site, it is not anticipated that these agencies will raise any objections to the planning proposal proceeding.

The response received from the NSW Rural Fire Service is provided in Attachment 2 to this report. The RFS did not raise any objections to the planning proposal proceeding.

The response received from the Roads and Maritime Service is provided in Attachment 2 to this report.

The RMS did not object to the planning proposal proceeding. It is noted, however, that the RMS submission includes the following comment:

Council should note that the calculations with Traffic Engineering Report (submitted with DA No. 2017/244) do not take into account the proposed increase in maximum Gross Floor Area.

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

With respect to this comment, it is noted that a revised traffic assessment report has been submitted to support the planning proposal (provided under separate cover).

Council's engineers have reviewed this updated traffic report and advise that the proposed road network design has adequate capacity to accommodate the expanded commercial centre uses and medium density development as proposed.

The agreement of the Secretary to the Department of Planning and Environment is required, prior the finalization of the amendment, with respect to the justifiable inconsistencies identified with respect to the following s.9.1 (formerly s.117) Ministerial Directions:

- 1.1 Business and Industrial Zones
- 3.5 Development Near Licensed Aerodromes
- 4.4 Planning for Bushfire Protection

The Secretary's agreement can be obtained following the Council's decision regarding the progress of the planning proposal, prior to the finalization of the amendment.

Public Exhibition

The planning proposal was placed on public exhibition for a period of 50 days from 8 August 2018 until 28 September 2018.

Eighty one submissions were received during the public exhibition period. Copies of all submissions received during the public exhibition are provided as Attachment 3 to this report.

A summary of the matters raised, along with Council staff response are provided in the following table.

Issue raised in Submissions	Staff Response
Objection to the provision of medium density development on the basis of the following: a) It will impact negatively on the coastal amenity b) It will increase traffic within the future estate and access to Skennars Head c) If allowed, medium density should be located at the back of the development and not be visually prominent d) It will increase the numbers of people accessing Sharpes Beach e) Impact on private views from existing dwellings	<u>General comments:</u> It is understood that the developers of the land will seek to provide medium density dwellings in the form of row or terrace housing or detached small lot housing down to 300m ² per dwelling (as integrated development and Strata subdivision) rather than other forms of multi-unit development. There may, however, also be some limited shop top housing provided in the neighbourhood centre, however such development will generally be limited to two storeys (or a maximum height of 8.5m).

<p>f) The addition of medium density housing is not balanced by additional open space.</p>	<p>The provision of small lot residential development on the site would, to some extent, provide for greater housing choice and respond to the forecast demand for smaller dwellings as the Shire's population ages.</p> <p><u>With respect to a):</u> In terms of visual impact, it is acknowledged that the visual character of the land will significantly change as a consequence of development.</p> <p>It is arguable, however, that the visual impact of small lot residential development may be less significant than a lesser number of large single detached houses (such as those existing dwellings along the coastal fringe of Headlands Estate).</p> <p>By maintaining the current building height standard of 8.5m, thereby limiting development to two storeys, the bulk and scale of the residential development should be contained to that typical of low-scale residential development, which is the "norm" in Ballina Shire.</p> <p><u>With respect to b):</u> Whilst an increase in traffic is an inevitable consequence of the development of the land, Council's engineers advise that the proposed road network design has adequate capacity to cater for the forecast traffic generation from the proposed medium density development and an expanded neighbourhood centre, as proposed.</p> <p><u>With respect to c):</u> Contemporary town planning practice recommends the clustering of medium density development around 'activity nodes' such as public open space and commercial centres, on the basis of the following:</p> <ul style="list-style-type: none">• Lessen traffic impacts on other development.• Improve pedestrian access and lessen car dependence for medium density residents.
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	<ul style="list-style-type: none"> • Compensate for reduced private open space. • Support the viability of commercial centres. <p><u>With respect to d):</u> It is acknowledged that increased use of the coastal reserve and Council's leased land is likely to occur as a consequence of the subdivision of the land. However, the addition of medium density development is not expected to be a significant contribution to the overall increase in public open space usage associated with the development of the land.</p> <p><u>With respect to e):</u> In terms of impact on views, it is noted that some form of built development can occur on the land under the current zoning. Further, the existing building height standard is to be retained under the proposal. Consequently, the potential impeding of private views may be no greater under the proposal compared with the existing controls (low density housing at 8.5m).</p> <p><u>With respect to f):</u> Local parks have been provided in accordance with the Council's open space standards. Dedication of the land that forms a buffer between the development area and the Coast Road is the subject of a separate report in this business paper.</p> <p>As noted elsewhere in this report, the balance between the reduction in low density residential zoning (to accommodate the neighbourhood centre) and the provision of medium density zoning will mean no significant change in the total number of dwellings, above that permissible under the existing controls.</p>
<p>Objection to the provision of any commercial uses within the estate.</p>	<p>The original design for the Headlands Estate made provision for a small-scale commercial site. However, the original area set aside was small and commercial uses were not found to be viable at the time the Headlands Estate was developed. Over time the</p>

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

	<p>site set aside for commercial uses was subsumed by other uses, such as the high school.</p> <p>It has been a long-standing expectation that some form of commercial uses would be provided for within Skennars Head, albeit at a small-scale, to cater to local residents' demands for convenience items, for recreational and socialisation opportunities and for health services.</p> <p>Other than providing convenience for residents, the provision of commercial uses in the estate may assist in reducing the car dependent nature of the residential area to some degree. This may also have as a consequence, sustainability benefits (though minor) in terms of reduced car usage by residents.</p>
<p>Objection to the scale of the proposed neighbourhood commercial centre.</p>	<p>The two issues with respect to the scale of the commercial centre are:</p> <ul style="list-style-type: none"> • Impact on other commercial centres • The amenity impacts of commercial uses in close proximity to the Coast Road and high amenity coastal environment. <p>With respect to the impact on other commercial centres, the potential impact of an expanded neighbourhood centre has been reviewed by a consultant engaged by Council with the result that the extent of the commercial development has been curtailed under the amended planning proposal as publicly exhibited, in accordance with the terms of the Gateway determination.</p> <p>The advice from Council's peer review consultant is that the revised proposal (as per Council's amended planning proposal) is not likely to have significant adverse impacts on other commercial centres as a consequence of the expanded neighbourhood centre.</p> <p>As also noted elsewhere in this report, due to recent amendments made to</p>

	<p>the Standard Instrument LEP by the Department of Planning and Environment, the future neighbourhood supermarket will be limited to a maximum GFA of 1,000m². Additional to the supermarket, it is anticipated that the neighbourhood centre will be supported by a range of other low-scale commercial uses, possibly including specialty retail, café or restaurant, gym, childcare and/or the like up to a maximum area of 5,400m² GFA.</p> <p>In terms of the visual impact of the neighbourhood centre (as viewed from the Coast Road), it is arguable that commercial uses may have a lesser visual impact than detached housing on large lots (such as that fringing the Headlands Estate).</p> <p>In many respects, it is suggested that future signage and advertising will have a greater potential to impact the locality and detract from coastal and scenic values. Care should be taken in considering and regulating these aspects of future commercial and retail development.</p> <p>It is expected that the commercial centre will be edged by outdoor dining and landscaping and a landscaped neighbourhood park will be located between and The Coast Road and the proposed neighbourhood centre.</p> <p>The commercial development will be set back from the Coast Road by approximately 100 to 150 metres. This is considered to have the effect of mitigating some of the visual impact of the future built form.</p> <p>It is open to the Council to further reduce the gross floor area permissible on the site or reduce the footprint of the neighbourhood commercial area, should the Council be concerned with the visual and amenity impacts of the proposal. However a rationale should be clearly provided given the advice and</p>
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9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

	<p>recommendations of Council's peer reviewer.</p>
<p>Objection to the proposed change from 8.5m to 10m height limit.</p>	<p>The proposal <u>does not</u> seek to amend the current height standard (8.5m), contained within Council's planning instrument.</p> <p>Whilst the developers originally sought to increase the height standard to 10m within the proposed neighbourhood centre, the Council has previously declined this aspect of the original proposal. Consequently, the planning proposal does not seek to amend the height standards that apply to the land.</p> <p>Maintaining the existing building height standard at 8.5m, consistent with the residential height standard applying throughout the shire, should have the effect of attenuating the visual impacts of the proposal in terms of its bulk and scale.</p> <p>A large number of public exhibition respondents appear to not have appreciated the background of the planning proposal as it relates to building height, and that this aspect of the original proposal was rejected by the Council prior to seeking Gateway determination. It is noted however the strong community concern regarding this aspect supports the Council's earlier decision on this matter.</p>
<p>Concerns regarding the adequacy of community engagement and consultation in association with the proposal.</p>	<p>As outlined elsewhere in this report, the development of the Skennars Head Expansion Area has been the subject of extensive community engagement processes including those associated with the initial rezoning of the land from rural to residential and the subsequent preparation of a site specific development control plan by Council.</p> <p>The public exhibition of the planning proposal and consideration of submissions received is the subject of this report.</p> <p>It is also acknowledged that the developers of the land have undertaken their own consultation</p>

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

	processes associated with the proposal, although Council staff was not involved in these processes.
Several submissions proposed alternative public uses such as active open space or other recreational uses for parts of the site, such as the proposed neighbourhood centre and medium density sites.	The existing residential zoning of the land and the nature of the private property system of land development, limits Council's ability to propose alternative uses such as these on parts of the Intrapac land.
Several submissions objected to the construction of traffic lights as the form of intersection on the Coast Road.	This matter has been addressed as part of DA considerations with the proponents accepting that Council requires the construction of a roundabout at the intersection of Headlands Drive and The Coast Road.
In addition, a number of submissions raised concerns relating to the following: <ul style="list-style-type: none"> • Landscaping of the coastal buffer • Stormwater management • Timeframe for the construction of the neighbourhood centre • Future compliance of development conditions. 	Whilst these matters are relevant to the consideration of impacts associated with future development, these are appropriate to be considered in the context of the development assessment process.

General Comments regarding the neighbourhood centre

A large number of the submissions received from members of the community were concerned that any commercial facilities were being proposed on the site, preferring the estate to comprise, exclusively, residential development and associated open space.

Some of these concerns related to the potential visual impact of commercial uses close to Sharpes Beach, whilst other concerns related to the potential impact on the general amenity and character of Headlands Estate and/or potential to increase traffic congestion.

Some of these concerns appear to reflect a misunderstanding that increasing the height standard formed part of the planning proposal, which would increase the bulk and scale of buildings on the site. However, as outlined, this part of the original planning proposal request was rejected by the Council prior to seeking Gateway determination and so does not form part of the planning proposal.

From a town planning perspective there are several potential advantages of having non-residential urban uses at the coastal edge of the development, rather than residential uses which would prevail if the existing low density residential zoning is retained on that part of the site. These potential advantages are set out below.

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

Having residential uses fringe the estate effectively excludes general community use and access and is inflexible to change over time. In comparison, a non-residential space such as a commercial centre has the capacity to change over time (including for other possible community uses) and would provide a greater level of broader community access, use and enjoyment of the site, which has high amenity due to its coastal outlook.

It is on this basis that the developers are seeking to provide a café/restaurant adjacent to the park/playground at the entrance of the estate, which is the most prominent part of the commercial site, to improve the attractiveness of the estate.

Some of the submissions appear to be concerned that a large franchise retail complex will occupy a prominent position within the proposed neighbourhood commercial centre (such as 'K-Mart'). It is noted, however, that the permissible uses within the B1 Neighbourhood Centre zone as provided by the *Ballina Local Environmental Plan 2012* do not provide for large format retail in the zone, but rather provide for neighbourhood shops and neighbourhood supermarket definitions with floor area restrictions of 100m² and 1,000m² respectively (by virtue of clause 5.4).

In terms of the built form, because the height standard is not proposed to change under the planning proposal, the bulk and scale of the neighbourhood centre should be generally in keeping with that of residential development that would otherwise be provided in that location under the current zoning. Consequently, the impacts of either scenario (commercial or residential) in terms of the visibility of future buildings from The Coast Road, the coastal reserve and Sharpes Beach, should generally be the same, in terms of the roof line and building setbacks.

It is also noted that due to the alignment of the internal road network, which will provide access to the commercial area and fronting of commercial development to the 'coastal parkland', car parking to service the commercial area will not form a visually dominant aspect of the development as seen from The Coast Road or coastal areas.

Some of the concerns raised with respect to the neighbourhood centre reflect the view that additional commercial floorspace is not required within the retail catchment. This concern also forms the key point of the submission received from the developers of the Epiq estate in Lennox Head, which also includes the view that additional childcare places are not required.

With respect to this aspect of the proposal it is noted that whilst the site area of the proposed neighbourhood centre is in the order of 13,200m², the effect of the proposed floor space ratio (FSR) controls will be to limit the total area of commercial floorspace to no greater than 5,400m². Commercial floor space in this context includes the shops, supermarket, tavern and any for profit child care centre that may be proposed. This approach is consistent with the recommendations of Council's independent third party peer review consultant.

Further, the range of uses within the neighbourhood centre should be varied by virtue of the maximum floor space restrictions placed on neighbourhood shops of 100m² per shop (with the floor area for a neighbourhood supermarket limited to a maximum of 1,000m²). The combined effect of these controls, and implication of applying the B1 zone objectives, will be to limit the scale of commercial uses such that they cater to local needs predominantly.

Finally, the provision of mixed use development, whereby employment opportunities and housing are provided in reasonable proximity to one another is considered good contemporary town planning practice to provide improved livability and urban design outcomes.

In contrast, single-use housing estates that comprise 'dormitory suburbs' without supporting infrastructure are not considered good examples of contemporary town planning practice.

General comments regarding proposed medium density residential development

A large number of submissions raised concerns regarding the proposal to include medium density residential development on the site.

Some of these comments appear to indicate a misunderstanding of the scale of the medium density residential development proposed, equating it with high rise Gold Coast style development or residential flat buildings.

In this regard it is noted, as outlined above, that due to the 8.5m height standard that applies to the site, the form of medium density development will be generally limited to 2 storeys.

Further, as outlined in the Council report presented at the October 2017 Ordinary meeting regarding this matter, it is understood that the developers will be seeking to provide medium density development largely in the form of integrated small lot development and Strata subdivision (row or terrace housing) down to 300m² as provided for by Clause 4.1A of the *Ballina Local Environmental Plan 2012*, as set out below.

4.1A Exceptions to minimum lot sizes for certain residential development

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

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

In terms of the suitability of smaller dwellings within the estate, due to the changing demographics of our community (particularly aging) and changes in housing preferences, there is a growing need for greater housing choice in Ballina Shire, including for smaller dwellings.

It is noted in this regard that should the planning proposal proceed, medium density zoning would comprise approximately 10% of the total area of urban zoning on the site.

Several submitters stated that the proposal varied from that presented by Intrapac to residents of Headlands Estate during previous community engagement sessions held by the developers.

In particular, these comments appear to relate to the inclusion of a medium density site on land directly adjacent to existing residences on Headlands Drive, as well as the scale of the proposed neighbourhood commercial centre.

Council staff were not involved in these engagement sessions and cannot comment on any inconsistencies there might be between the information provided to residents by Intrapac and the planning proposal request submitted to Council.

Intrapac was invited to comment on this matter and submitted the response provided as Attachment 4 to this report.

Voluntary Planning Agreement

Intrapac has offered to enter into a voluntary planning agreement (VPA) with Council in association with the development of the land, as it relates to the provision of infrastructure and dedication of land, as part of future development of the land.

This matter is addressed in separate reports in this business paper.

Sustainability Considerations

- **Environment**
The proposal is not considered to have significant environmental impacts beyond those already associated with the existing development controls that apply to the land.
- **Social**
The proposal is considered to have net social benefits through the provision of greater housing choice and improved neighbourhood commercial facilities to service the needs of local residents.
- **Economic**
The provision of expanded neighbourhood commercial facilities is considered to have a positive economic impact

Legal / Resource / Financial Implications

The consequence of the planning proposal proceeding will be to enable the lodgment of development applications for the purposes of medium density development in relatively small areas of the site and commercial development (consistent with the provisions of the B1 zone) within the proposed neighbourhood centre zoned land.

Costs associated with finalisation of the planning proposal, if supported by the Council, are required to also be met by the proponent in accordance with Council's adopted fees and charges. The finalisation of the planning proposal can be accommodated within existing resources.

The processing of the LEP and DCP amendments do not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act*.

Council has been granted delegation, subject to conditions, to exercise the functions of the Minister for Planning under Section 3.36(2) 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

The planning proposal was publicly exhibited (following extension of the exhibition) for a period of 51 days from 8 August 2018 until 29 September 2018.

The future development of the land has also been the subject of previous comprehensive consultation processes associated with the initial rezoning of the land from rural to residential (2014) and the preparation of site specific development control provisions (2016).

As noted in the body of this report, the following agencies have been consulted in accordance with the terms of the Gateway determination:

- NSW Roads and Maritime Services
- NSW Rural Fire Service (RFS)
- Air Services Australia (ASA)
- Civil Aviation Safety Authority (CASA)

The proposal was also referred to the Ballina-Byron Gateway Airport Management for comment.

The responses of the public and government agencies to this matter are outlined in the body of this report. At this stage responses have not been received from ASA and CASA. The invitation to provide comments was dated 8 August 2018 with agencies requested to provide a response by 7 September 2018.

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

In each case, given the nature of the planning proposal and the fact that the site is already zoned for urban purposes, it is not envisaged that responses by way of objection will be received. This issue is addressed in the recommendations to this report.

Options

The following options are presented for the Council's consideration.

1. Council may resolve to proceed to finalise the planning proposal as publicly exhibited.

This option would involve updating the planning proposal regarding public exhibition details, agency consultation, Council decisions and standard LEP map sheets. As Council has delegation to finalise the planning proposal, staff would then proceed to liaise with Parliamentary Counsel and the Department of Planning and Environment to give the planning proposal legal effect through amendment to the Ballina Local Environmental Plan 2012.

In respect to the extent of land within the site proposed to accommodate retail and commercial type activities, Council has sought and obtained independent expert advice which indicates that, subject to the floor space limitations proposed, the allocation of the Neighbourhood Centre zoned area is acceptable in the circumstances.

This option is recommended on the basis that the planning proposal, as exhibited, is considered to reflect a reasonable balance between the outcomes sought by the developers of the land and the public interest with respect to protection of scenic and lifestyle amenity, and the provision of improved outcomes with respect to urban design, housing choice and services.

2. Council may resolve to discontinue the planning proposal.

This option is not recommended on the basis that the planning proposal is considered to warrant support for the reasons cited above. The developers could seek to have any decision to discontinue the planning proposal reviewed by the Department of Planning and Environment.

3. Council may amend the planning proposal in response to concerns raised in the submissions received during the public exhibition period.

This option could involve reduction in the area proposed for neighbourhood commercial areas and/or medium density development. This option is available to the Council, it is not recommended for the reasons outlined in the report.

RECOMMENDATIONS

1. That Council endorses the amendment of Ballina Local Environmental Plan 2012 as detailed in the exhibited Planning Proposal BSCPP17/010 – Skennars Head Expansion Area B1 and R3.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP17/010 – Skennars Head Expansion Area B1 and R3 under delegated authority subject to the following:
 - Confirmation of the agreement of the Secretary of the Department of Planning and Environment with respect to identified inconsistencies with s9.1 (s117) Ministerial Directions; and
 - Confirmation being received from Air Services Australia and the Civil Aviation Safety Authority that they raise no substantive objection to the planning proposal.
3. That persons who made submissions to this planning proposal be advised of the Council's decision.

Attachment(s)

1. BSCPP 17/010 - Skennars Head Expansion Area Planning Proposal (exhibition version)
2. Agency Submissions
3. Public Submissions
4. Intrapac response to Council invitation to comment

9.2 Voluntary Planning Agreement - Skennars Head Expansion Area

9.2 Voluntary Planning Agreement - Skennars Head Expansion Area

Delivery Program Strategic Planning

Objective To present for Council's consideration an offer of a voluntary planning agreement associated with the proposed development of the Skennars Head Expansion Area .

Background

The Skennars Head Expansion Area has been the subject of detailed strategic planning consideration since an initial request in 2004 to amend the Council's Local Environmental Plan (LEP) to enable residential development on part of the land referred to locally as the Stewart Farm.

The rezoning of the land from rural (RU2 Rural Landscape Zone) to a mixture of residential (R2 Low Density Residential Zone) and commercial (B1 Neighbourhood Centre Zone) purposes was ultimately completed in 2014.

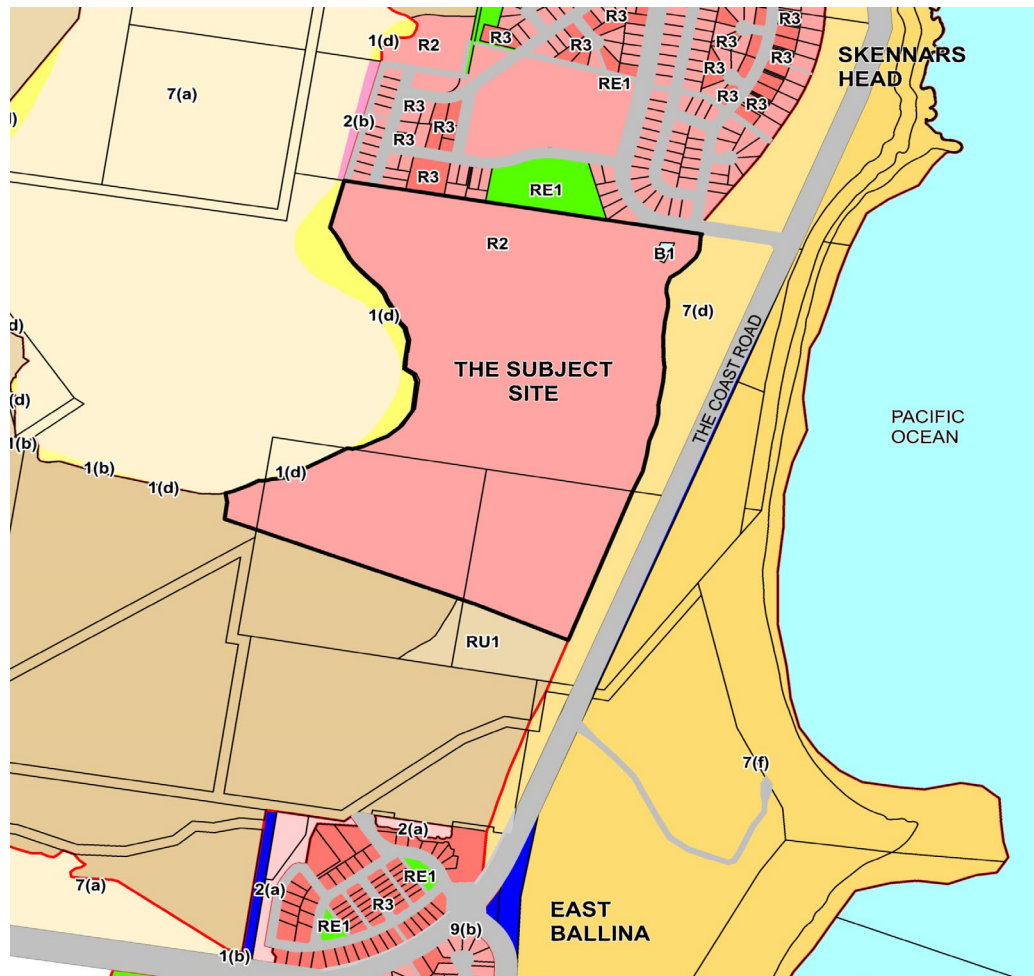
With respect to the rezoning, the NSW Department of Planning and Environment removed Council as the relevant planning authority and had the planning proposal finalised by the Northern Joint Regional Planning Panel (JRPP).

This decision by the Department came about primarily because the Council had been pressing for the rezoning being contingent upon freehold land located on the eastern side of The Coast Road, opposite the future development area (being the land which comprises the Sharpes Beach carpark), being dedicated to the community without cost.

In finalising the plan amendment, the JRPP left unresolved a number of matters identified by the Council as important in the planning of the site.

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

Diagram One – Site Location and Existing Zoning



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

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

Several matters of contention remain between Council and Intrapac with respect to the provision of infrastructure to service the future development. These matters are outlined further in the body of this report.

Council is also currently considering a planning proposal (BSCPP 17/010) to amend the Ballina Local Environmental Plan 2012 to permit medium density development and to expand the scale of the proposed neighbourhood centre zone on the site.

The progress of the planning proposal is the subject of a separate report in this business paper.

9.2 Voluntary Planning Agreement - Skennars Head Expansion Area

Intrapac has recently made an informal offer to enter into a voluntary planning agreement (VPA) with Council addressing the provision of infrastructure to service the development, the Coast Road and coastal reserve.

The purpose of this report is to seek the Council's direction concerning this proposed VPA.

Key Issues

- Infrastructure Delivery
- Urban development
- Developer contributions
- Public benefits

Information

The *Environmental Planning and Assessment Act 1979* provides for the preparation of voluntary planning agreements (VPAs), by local councils and developers, to secure public benefits associated with any of the following:

- a) the provision of (or the recoupment of the cost of providing) public amenities or public services,*
- b) the provision of (or the recoupment of the cost of providing) affordable housing,*
- c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,*
- d) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure,*
- e) the monitoring of the planning impacts of development,*
- f) the conservation or enhancement of the natural environment.*

The process for the negotiation of planning agreements is set out in Council's Voluntary Planning Agreements Policy V01 (adopted 25 August 2016). Importantly, VPAs must be initiated or proposed by development proponents, not councils.

The provisions of the Act relating to VPAs enable the offsetting (or setting aside) of developer contributions where it is in the public interest to do so.

Intrapac Offer

Staff have met with Intrapac representatives and received advice that the developers would be willing to enter into a voluntary planning agreement with Council, to facilitate the following outcomes:

1. *Dedication of land referred to by Intrapac as Coastal Parkland* - The dedication of approximately 5.14 hectares of land that comprises the balance of the area of land located between the proposed urban development on the site and the Coast Road, (zoned 7(d) Environmental Protection Scenic Escarpment zone under the provisions of Ballina LEP 1987). This would essentially see an extension of the buffer corridor which has been achieved across the frontage of the adjacent Headlands Estate.

9.2 Voluntary Planning Agreement - Skennars Head Expansion Area

2. *Contribution towards Sharpes Beach car park improvements* - The payment of a monetary contribution or the provision of works-in-kind for up to \$277,000 towards the road intersection works and stormwater works over and above those that are required for the Stage 1 development application (namely, road works required in the Sharpes Beach car park intersection on land leased by Council).
3. *Contribution towards Coast Road intersection works* - Capital contribution or offset of local developer contributions for the roundabout intersection at the entrance to Skennars Head and Sharpes Beach to an amount of 50% of the cost of works. The estimated total cost of works for the roundabout is \$2.3 million. Therefore, the developer's contribution (and offset against contributions payable) would be approximately \$1.15 Million.

Development Assessment Position

The offer of a voluntary planning agreement by Intrapac has arisen as a consequence of unresolved negotiations between Intrapac and Council's development assessment staff with respect to Intrapac's request for a variation of developer contributions payable (under s.94 and s.64) associated with DA 2017/244.

Intrapac's initial request for a reduction in contributions payable, dated October 2017 is provided as Attachment 1 to this report.

The response of Council staff with respect to the Intrapac request, dated August 2018, is provided as Attachment 2 to this report.

VPA Offer Consideration

Assessment of Intrapac's offer of a voluntary planning agreement, as outlined above, is considered in a separate confidential report included in this business paper. The report is listed as confidential as Council may be involved in commercial negotiations in respect to the preferred outcomes of the VPA.

VPA Process

Intrapac has proposed securing agreements with respect to the above, to the extent that the offer is agreeable to the Council, by way of a voluntary planning agreement.

Subject to the terms of Council's authorization, and following Council's VPA policy, staff would seek to negotiate the terms of the voluntary planning agreement. Subject to the successful conclusion of these negotiations, a draft VPA would be presented to the Council for endorsement prior to a period of public exhibition, in accordance with the terms of the Act and associated Regulations.

Sustainability Considerations

- **Environment**

A voluntary planning agreement in this case may assist in securing environmental improvements associated with the development of the land.

9.2 Voluntary Planning Agreement - Skennars Head Expansion Area

- **Social**

A voluntary planning agreement in this case may assist in securing social benefits associated with certainty and open space usage.

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

The acceptance, by Council, of a voluntary planning agreement would have financial implications for Council in terms of the collection of developer contributions and the delivery of public works projects.

Further details regarding the financial implications of any voluntary planning agreement negotiated between the developers of the land and Council would be the subject of a further report to the Council.

Consultation

No community consultation conducted by Council has occurred to date with respect to this matter. Subject to the Council's endorsement of negotiations over the terms of a voluntary planning agreement, any such agreement would be subject to mandatory public exhibition processes in due course.

Options

This report is for information only.

RECOMMENDATION

That Council notes the contents of this report providing an overview of the terms of an offer to enter a voluntary planning agreement relating to the development of the Skennars Head Expansion Area, with the confidential report later in this agenda outlining options for the agreement.

Attachment(s)

1. Intrapac request for variation to developer contributions payable with respect to DA 2017/244 (dated October 2017)
2. Council response to Intrapac request for variation to contributions payable with respect to DA 2017/244 (dated August 2018).

9.3 Function Centres - Rural Areas

9.3 Function Centres - Rural Areas

Delivery Program Strategic Planning

Objective To present options to the Council regarding potential for regulatory changes as these relate to the operation of wedding reception and similar function venues within non-urban parts of the Shire.

Background

At the Ordinary meeting held on 26 April 2018 Council resolved to adopt a Notice of Motion as follows:

That Council receive an options report to amend current Local Environmental Plans and Development Control Plans to prohibit function/event venues that cater for weddings and other similar events in both rural zoned and environmental protection zoned areas within Ballina Shire.

The purpose of this report is to present options in accordance with the above resolution.

Key Issues

- Rural land use
- Residential amenity
- Economic Development

Information

The North Coast region has emerged and is promoted as an attractive and popular wedding destination. As a consequence, some rural residents in Ballina Shire have become increasingly concerned regarding the impacts associated with wedding events, particularly where held on rural properties.

The key land use conflicts associated with wedding venues are traffic and noise, particularly from amplified music and revelers during evening hours. Impacts are greatest during evening hours due to the low background noise levels at such times and the potential for noise to travel large distances. Such impacts are exacerbated where the history of rural subdivision has resulted in a proliferation of rural dwellings in a particular locality.

The majority of complaints received by Council in association with wedding events relate to facilities operating without authorisation (without having obtained the necessary development consents to enable their legal use for that purpose).

Enforcing compliance in association with unauthorised rural wedding venues is an ongoing issue. Where these activities are occurring illegally, Council undertakes compliance activities to have the activity cease through the issuing of compliance orders and/or landholders are encouraged to seek to legitimise their use through seeking development consent, if legally able to do so.

9.3 Function Centres - Rural Areas

Where development consent is sought, applications are assessed on merit, having regard for the provisions of the prevailing planning instrument and the development controls that apply to the particular use for which consent is being sought. Responses from neighbour notifications can also be relevant in Council's consideration of the applications.

It is acknowledged that some of the legal venues appear to operate without generating significant adverse amenity impacts, due to a combination of appropriate siting and design of the facility, by conforming with development consent conditions and through appropriate and prudent management by the venue operators.

However, some other venues that have received consent generate complaints. Table 1 lists some of the sites that have been subject to recent compliance action and provides some relevant details regarding these venues:

Table 1 – Wedding Reception Venue Compliance Information

Site	Comments
Newrybar Downs – 1 Johnston Road, Newrybar	Originally an unauthorised establishment, compliance action resulted in a DA being lodged. This was subsequently approved for ceremonies only, but was also given a limited life consent (DA 2017/662 dated 26 April 2018 valid until 26 April 2023.)
Church of Two Grandfathers – 260-266 Rous Road, Rous	Original church constructed around 100 years ago and still being used as church. Farm building converted to a function centre and weddings held, but use of function centre is prohibited in RU1 zone. Function portion of the premises recently suffered a catastrophic fire event and not operational.
104 Victoria Park Road, Dalwood	DA approved for Bed and Breakfast as well as hosting wedding functions – Deux Bellettes. Consent granted for weddings but limit on consent to 12 weddings per annum and maximum of 100 guests at each event. Requirement for notification of number of weddings to both adjoining neighbours within 200m distance (identified by Lot and DP) as well as Council. Requires ongoing compliance monitoring.
12 Converys Lane, Wollongbar (Down Converys Lane)	Previous ongoing non-compliances resulted in matter being reported to the Council for criminal prosecution. The Council resolved to prosecute current and future breaches. On-call Rangers called out on a number of occasions when trading hours breached or noise complaints raised as a result of functions. No current issues requiring compliance action.
Current Compliance Investigations	A small number of properties currently don't have approvals to operate as wedding venues but neighbours claim this is occurring. Landowners alternatively claim private parties for family (which doesn't need consent) or family members being married on family farm (difficult to prove family relationship). These issues relate to current investigations concerning premises located at Newrybar, Brooklet, Teven and Tintenbar.

9.3 Function Centres - Rural Areas

There are distinct land use conflicts associated with the different 'stages' of wedding events, being the ceremony and the reception. The majority of adverse impacts (and their magnitude) associated with weddings relate to receptions rather than ceremonies. As noted, this is primarily due to high levels of noise and nuisance traffic during evening periods, when background noise and activity levels in rural areas are typically low.

Traffic volumes associated with wedding ceremonies can also be high at intermittent periods. Unfortunately, there is limited scope within the standard definitions of Council's planning instruments to provide separate permissibility/assessment pathways for wedding ceremonies and receptions.

Other issues of concern relating to unauthorised venues relate to adequacy of onsite sewage management systems, damage to road infrastructure due to traffic volumes, property access and parking, fireworks associated issues including stock fright concerns, the provision of unauthorised accommodation within the property and land use conflicts such as horticultural pesticide spraying on adjacent farm land on wedding days.

Whilst not having been a reason for the lodgement of complaints from neighbours, it is also conceivable that noise emanating from functions, and other activities, such as increased traffic, can have an impact on nearby native fauna, at least in some parts of our Shire.

Existing legally operating facilities accommodating wedding functions

Existing legally operating facilities that are able to accommodate wedding functions reflect a diversity of development consent histories, including those located in the rural parts of the shire. To date, the majority of these venues have been approved under the terms of the *Ballina Local Environmental Plan 1987*, variously as:

- Tourist Facilities
- Place of Assembly
- Refreshment rooms

Whether each the above facilities can legally be used for wedding ceremonies and/or receptions depends on whether such use reasonably falls within the terms of the venue's consent conditions (in terms of matters such as seating capacity, parking and hours of operation). On occasions, these facilities may also have other associated uses, such as bed and breakfast or other tourist accommodation provided.

Churches and community halls located in rural areas may also be legally able to be used for weddings and receptions, depending on the particular circumstances and history of use. Where a wedding is held on private property as a private function, rather than by commercial arrangement, Council has little regulatory control over such events. Nevertheless, the impacts of private wedding events should be mitigated by their infrequency on any particular property.

In addition to venues located in rural areas, weddings are currently held in a range of facilities in urban areas including cafés, restaurants, clubs and conference facilities.

9.3 Function Centres - Rural Areas

Current permissibility

The majority of legal 'wedding venues' operating in Ballina Shire have been approved under the terms of the *Ballina Local Environmental Plan 1987* (Ballina LEP 1987), primarily as 'place of assembly', 'tourist facility' or in association with a 'refreshment room'. Under the terms of the Ballina LEP 1987 (and through adoption of the Model Provisions 1980), a 'place of assembly' is defined as follows:

place of assembly means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

A tourist facility is defined as follows:

tourist facilities means an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities.

A refreshment room is defined as follows:

refreshment room means a restaurant, cafe, tea room, eating house or the like.

The permissibility of the above uses under the terms of the Ballina LEP 1987 (where it applies) is outlined in the table below.

Table 1 - Permissibility Matrix Ballina LEP 1987 (Rural and Environmental Zones Only)

Zone	Place of Assembly	Tourist Facility*	Refreshment Room
1(a1) Rural (Plateau Lands Agriculture)	✓	x	✓
1(a2) Rural (Coastal Lands Agriculture)	✓	x	✓
1(b) Rural (Secondary Agricultural Land)	✓	✓	✓
1(d) Rural (Urban Investigation)	✓	✓	✓
1(e) Rural (Extractive and Mineral Resources)	✓	✓	✓
7(a) Environmental Protection (Wetlands)	x	x	x
7(c) Environmental Protection (Water Catchment)	x	x	x
7(d) Environmental Protection (Scenic/Escarpment)	✓	✓	✓
7(d1) Environmental Protection (Newrybar Scenic/Escarpment)	x	x	x
7(f) Environmental Protection (Coastal Lands)	x	x	✓
7(i) Environmental Protection (Urban Buffer)	x	x	x
7(l) Environmental Protection (Habitat)	x	x	x

*Refers here to tourist facilities relating to wedding venues only. Tourist facilities which comprise only accommodation are permitted in some rural and environmental zones.

9.3 Function Centres - Rural Areas

Under the terms of the *Ballina Local Environmental Plan 2012*, the holding of weddings (whether ceremonies, receptions or both) could potentially occur in association with the legal operation of an approved 'function centre', 'food and drink premises' or 'registered club'.

A 'function centre' is defined as follows:

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

The function centre definition includes facilities established for the purpose of wedding venues but may also include other uses which do not have the same level or range of potential impacts (such as conference facilities, for example).

A food and drink premises is defined as follows (and is a form of retail premises for the purpose of the 2012 LEP):

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

A registered club is defined as follows:

registered club means a club that holds a club licence under the Liquor Act 2007.

The permissibility of the above uses under the terms of the Ballina LEP 2012 is outlined in the table below.

Table 2 - Permissibility Matrix Ballina LEP 2012

Zone	Function Centre	Food and Drink Premises	Registered Clubs
RU1 Primary Production	x	x	x
RU2 Rural Landscape	✓	✓*	x
R2 Low Density Residential	✓	x	x
R3 Medium Density Residential	✓	x	✓
B1 Neighbourhood Centre	✓	✓	✓
B2 Local Centre	✓	✓	✓
B3 Commercial Core	✓	✓	✓
B4 Mixed Use	✓	✓	✓
B5 Business Development	x	✓*	x
B6 Enterprise Corridor	✓	✓	✓
IN1 General Industrial	x	x**	x

9.3 Function Centres - Rural Areas

Zone	Function Centre	Food and Drink Premises	Registered Clubs
SP2 Infrastructure	x	x	x
RE1 Public Recreation	✓	x**	✓
RE2 Private Recreation	x	✓*	✓
E1 National Parks and Nature Reserves	***	***	***
W1 Natural Waterways	x	x	x
W2 Recreational Waterways	x	x	x

*Restaurant or cafes, a form of food and drink premises, are permissible in the zone.

**Takeaway food and drink premises are permissible in the zone, but are incompatible for wedding venue use.

***Permits uses authorised by the *National Parks and Wildlife Act 1974* without consent. No other uses permitted.

Importantly, whether any particular approved facility (whether function centre, food and drink premises or registered club, or similar such use approved under the Ballina LEP 1987) can be used as a wedding venue (for either ceremonies and/or receptions) will depend on the consistency of the activity with the facility's conditions of consent, with particular regard to capacity and hours of operation.

Weddings as Temporary Events

In some situations rural wedding venues in Ballina Shire were operating under consents issued for the activity as a 'temporary use of land', subject to clause 2.8 of the Ballina LEP 2012.

Clause 2.8 allows for temporary uses, occurring no greater than 52 days in any 12 month period, provided that the land is returned to its original condition after use.

This approach was also being used by other North Coast local councils.

In 2016, the Supreme Court of Appeal for NSW set down a judgement in a case (*Roden v Bandora Holdings Pty Ltd [2016] NSWCA 220*) involving a third party appeal against an approval granted by Byron Shire Council for a wedding venue as a temporary use of land, on land for which function centres were a prohibited use.

In that judgement the Court found that a development consent granted by Byron Shire Council was invalid and of no effect as Byron Shire Council had misinterpreted the meaning of the 'tourist facility' definition within Byron LEP 1988.

The temporary use of land provisions contained in Clause 2.8 of the Standard Instrument LEP and in Ballina LEP 2012 provide, amongst other matters, that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, (cl 2.8(3)(b)). The test to be applied here of "not adversely impact" is higher than the general test applied to amenity impacts which provides for "no significant impact".

The test and the words contained in cl 2.8(3)(b) were considered in the case of *Marshall Rural Pty Ltd v Hawkesbury City Council [2015] NSWLEC 197*. Moore JA found in that case that applications for activities permitted that would otherwise be prohibited seeks a significant indulgence for such a substantial departure from the planning controls. He held that in respect to the requirement that the proposal will “not adversely impact” in the fashion specified in cl 2.8(3)(b) that:

This test, cast in absolute terms reflecting the seriousness with which an application of this nature is required to be assessed, puts a very high hurdle in the path of any such application. The placing of such a hurdle requires that the Council must approach the consideration and determination of any such application with a marked degree of precision and caution.

The *Roden v Bandora Holdings Pty Ltd* case as well as the case of *Marshall Rural Pty Ltd v Hawkesbury City Council* highlights the fact that it may be extremely difficult in a rural environment to meet the higher tests associated with permitting temporary uses otherwise prohibited within a zone. This is especially so in the case of uses such as function centres which may have some adverse noise and other impacts.

Economic benefits associated with wedding venues

It is acknowledged that the use of land for weddings has a number of potential positive economic impacts, associated with the following:

- Contributing to the visitor economy, particularly food and accommodation services associated with wedding guests visiting the Shire including supporting the growth of general tourism through repeat future visitation by wedding guests
- Supporting local business involved in servicing wedding events (such as catering, florists, transport etc).

Options for restricting wedding venues

Prohibit function centres

The options available to the Council to restrict opportunities for new wedding venues in rural areas are limited to making amendments to the Ballina LEP 2012 (where it applies). The Department of Planning and Environment has previously advised Council that it will not support amendments to the Ballina LEP 1987 as a matter of course.

As noted above, the holding of wedding events can occur in association with a range of approved development types including (under the terms of the Ballina LEP 2012) ‘function centres’, ‘food and drink premises’ and ‘registered clubs’.

Registered clubs are already prohibited within the shire’s rural zones. Function centres and food and drink premises (which includes restaurants and cafes) are both prohibited in the RU1 Primary Production zone and permissible with consent in the RU2 Rural Landscape zone.

9.3 Function Centres - Rural Areas

In order to prohibit any further wedding reception events in rural areas, it is suggested Council would need to list function centres and food and drink premises as prohibited uses within the RU2 Rural Landscape zone. This would, however, have the effect of restricting such development types that are not associated with wedding events and which, subject to development assessment, may be considered acceptable and/or desirable in some circumstances.

Introduce a special provision

An alternative approach, and one that Byron Shire Council is currently considering, involves allowing function centres as permissible development in the RU2 zone with the addition of a special clause to address impacts associated with such development.

The Byron Shire proposed special provision is as follows:

Function Centres in RU2 Rural Landscape Zone

- (1) *Development consent must not be granted for a function centre on land zoned RU2 Rural Landscape unless the consent authority is satisfied that:*
 - (a) *Events will occur in a location that is a minimum of 500m from an existing dwelling house on adjoining property. Council will consider a variation to the minimum separation distance, but not less than 250m, only where:*
 - i. *Existing topography and vegetation on the land is such that there is not a clear line of sight between the event site and adjacent dwellings; and*
 - ii. *an acoustic assessment clearly demonstrates that event use will not result in unacceptable noise impacts at the neighbouring dwelling;*
 - (b) *the proposal is supported by a site specific acoustic assessment, prepared by a suitably qualified person, quantifying existing background noise levels and noise levels are predicted for events in relation to all nearby dwellings;*
 - (c) *the subject site is accessed by way of a sealed road with sufficient capacity for the traffic volume and type generated by the function centre, and that buses are able to access and exit the property in a forward direction;*
 - (d) *the use of the site for events will not result in unacceptable adverse impacts on any adjoining land or the amenity of the neighborhood, particularly in relation to noise and traffic;*
 - (e) *the use of the site for events will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities; and*
 - (f) *no tree clearing is required for the function centre.*
- (2) *Applications for development consent for a function centre must include an Events Management Plan, which contains (as a minimum) provisions that:*
 - (a) *ensure that the majority of event attendees will be transported to and from each event by bus as deemed appropriate to the applicable road network; and*
 - (b) *require all amplified activities (music, speeches, etc.) to be undertaken within a temporary or permanent structure after 7.00pm; and*
 - (c) *ensure that all amplified music will cease no later than 10:00pm; and*
 - (d) *ensure that all event attendees will be off-site no later than 10.30pm; and*
 - (e) *outline measures that will be in place to ensure predicted noise levels are not exceeded at nearby dwellings; and*

9.3 Function Centres - Rural Areas

- (f) provide for the monitoring of noise generated at events and six-monthly reporting of results to Council; and*
 - (g) provide for the notification of nearby residents prior to each event, including contact details for an appropriate management person who must be on-site and contactable during each event; and*
 - (h) ensure that adequate arrangements are in place to manage wastewater and general waste for each event; and*
 - (i) manage the potential noise/ amenity impacts associated with any persons staying overnight at the site at the conclusion of the function; and*
 - (j) the use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities will be prohibited.*
- (3) In deciding whether to grant consent for a function centre on land zoned RU2 Rural landscape, the consent authority must consider:*
- (a) the need for a development consent to be limited to a particular period and/or number of events;*
 - (b) the potential loss of farming on land that is mapped as either State or Regionally Significant Farmland;*
 - (c) the potential impact on areas of environmental value, whether on the function centre site or on adjacent and nearby land, including koala habitat; and*
 - (d) the need to impose a condition specifying that development consent would cease if three substantiated complaints were received in relation to functions at the site.*

The above development control provisions would have the effect of restricting the circumstances under which consent for a function centre could be granted, whilst still allowing for the approval of such activities where the provisions can be satisfied.

It is understood that the Byron Shire planning proposal has received affirmative Gateway determination, indicating a level of endorsement by the Department of Planning and Environment of this approach as a means to mitigate impacts associated with function centres in rural areas.

Whilst this approach does not address wedding events that occur within approved food and drink premises (such as restaurants and cafes) located in rural areas, it is suggested that the development assessment process for such activities (including consideration of amenity impacts, access arrangements, capacity and hours of operation) should address as a matter of course the potential impacts associated with the use of such facilities as occasional wedding venues.

Sustainability Considerations

- **Environment**

This matter has implications for the carrying out of development on land within rural zones that may impact on the natural environment.

- **Social**

The holding of wedding events can have positive and negative social impacts associated with a sense of place, rural and neighbourhood amenity and community cohesion.

- **Economic**

Commercial wedding events can have positive economic impacts associated as well as negative impacts associated with neighbourhood amenity impacts and impacts on agriculture.

Legal / Resource / Financial Implications

Should the Council seek to address this matter through amendment to our local environmental plan (LEP), the processing of the planning proposal can occur within existing resources.

It is suggested that amendment to the LEP would provide a greater level of certainty regarding the legal status of wedding events in the Shire.

Consultation

If Council resolves to proceed to prepare a planning proposal, the usual community consultation processes would apply. Typically, this involves the public exhibition of the planning proposal for a minimum of 28 days.

Options

1. Council could resolve to prepare a planning proposal to list 'function centre' as prohibited development on land zoned RU2 Rural Landscape under the provisions of Ballina LEP 2012.

This option is not recommended on the basis that it would have the effect of prohibiting other uses (not involving wedding events) that also fall within the 'function centre' definition and which might otherwise be considered acceptable on land zoned RU2 Rural Landscape.

2. Council could resolve to prepare a planning proposal to introduce a special provision into the 2012 Plan to identify matters to be considered in association with the assessment of development applications for function centres on land zoned RU2 Rural Landscape. These provisions could resemble those referred to above (currently being considered by Byron Shire Council). In addition, suitable development controls could be considered for inclusion within Ballina Shire DCP 2012 (DCP). The DCP controls could relate to premises which are proposed to be used for the holding of wedding receptions in rural and environmental zones such as function centres, food and drink premises, refreshment rooms and places of assembly.

This option is recommended on the basis that it would have the effect of placing additional LEP restrictions on the approval and operation of wedding venues located on land in the RU2 Rural Landscape zone under the provisions of Ballina LEP 2012, without impacting on other distinct but similarly defined uses that may be considered acceptable in this zone. In addition, it has the advantage of providing for the incorporation of suitable supplementary controls within the DCP. Such controls could then be applied to development proposals on land zoned under the provisions of Ballina LEP 1987 as well as Ballina LEP 2012.

3. Council could resolve to take no further action with respect to this matter.

9.3 Function Centres - Rural Areas

This option is not recommended on the basis that some further control of rural wedding venues appears justified by concerns raised by residents in rural areas impacted by rural wedding venues operating illegally or outside the terms of existing consents.

RECOMMENDATIONS

1. That Council prepare a planning proposal to introduce a special provision to identify matters to be considered in association with the assessment of development applications for function centres on land zoned RU2 Rural Landscape under the provisions of the Ballina Local Environmental Plan 2012.
2. The planning proposal be referred to Council for endorsement prior to being forwarded to the Department of Planning and Environment for a Gateway determination.
3. That suitable draft development controls be prepared for inclusion within Ballina Shire Development Control Plan 2012 which relate to premises which are proposed to be used for the holding of wedding receptions in rural and environmental zones, such as function centres, food and drink premises, refreshment rooms and places of assembly. The proposed draft DCP controls be reported to the Council for consideration together with the planning proposal referred to in Item 2 above.

Attachment(s)

Nil

9.4 LEP Amendments and Planning Proposals - Status

9.4 LEP Amendments and Planning Proposals - Status

Delivery Program Strategic Planning

Objective To inform the Council of the status of Local Environmental Plan amendment requests and planning proposals that are currently under consideration.

Background

Council has an ongoing program of assessing and processing requests to amend the Ballina Local Environmental Plans 1987 and 2012 (LEPs) and associated planning proposals. This report provides an update of those matters which are currently pending.

Key Issues

- Status of rezoning and LEP amendment requests.

Information

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council. With respect to terminology used in this report, the term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan/s.

Requests are typically referred to as planning proposals once the Council has agreed to progress the initial LEP amendment request and has prepared the required planning proposal documentation for Gateway determination by the NSW Department of Planning and Environment (DPE).

9.4 LEP Amendments and Planning Proposals - Status

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
13/005	Southern Cross Industrial Estate Expansion, Ballina (Stage 4)	<p>Proposal by Ballina Shire Council for the rezoning of land northward of the existing Southern Cross Industrial Estate from its current rural zoning to enable a mixture of industrial land uses.</p> <p>The proposed link road (Airport Boulevard) has now been approved under Part 5 of the <i>Environmental Planning and Assessment Act 1979</i>. This will facilitate the completion of planning documentation required to support the planning proposal.</p> <p>A 12 month extension to complete the planning proposal was requested from the Department of Planning and Environment (DPE) on 3 October 2018. If granted, this will require the planning proposal to be finalised by 30 October 2019.</p>	30/10/2018
14/008	Burns Point Ferry Road, West Ballina (Ballina Waterways) (Stage 6)	<p>Proposal for the rezoning of land located adjacent to Burns Point Ferry Road and River Street in West Ballina to enable a mixture of employment and residential land uses.</p> <p>The planning proposal was amended to incorporate an additional access point from Burns Point Ferry Road and to reduce the size of the live-work area and location of the proposed restaurant/interpretative centre.</p> <p>Public exhibition of the amended proposal and draft DCP chapters has now concluded. Council is awaiting an independent assessment of submissions received. The matter will then be reported back to the Council for its further consideration.</p>	01/10/2018
17/001	Stage 1 Deferred Matters Integration Program (Stage 3)	<p>Proposal to integrate land identified as a “deferred matter” into the Ballina LEP 2012 through the application of appropriate zones and planning controls. Relates primarily to water catchment areas in the Shire.</p> <p>A request to discontinue the planning proposal was submitted to the DPE on 26 June 2017, in accordance with the Council’s decision.</p> <p>On 17 July 2017 the DPE advised it is considering possible options to facilitate the implementation of the E Zone review and will advise of a decision on the discontinuation request once the preferred option for implementation has been determined.</p> <p>At the time of writing this report, no further correspondence has been received from the Department.</p>	14/12/2017

9.4 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
17/009	Byron Bay Road (No.9) and the Telstra exchange site, Lennox Head (Stage 4)	<p>Proposal to amend the LEP 2012 to rezone land from RU1 Primary Production to R2 Low Density Residential, and to apply a minimum lot size of 600m².</p> <p>A nine month extension to complete the planning proposal by 16 April 2019 was granted by the DPE on 13 August 2018.</p> <p>Awaiting proponent (now Council) to submit specialist planning reports to enable the planning proposal to proceed.</p>	16/04/2019
17/010	Skennars Head Expansion Area, Skennars Head (Stage 5)	<p>Proposal relating to the Skennars Head Expansion Area to amend the LEP to relocate and increase the size of the neighbourhood commercial area and apply medium density zoning to parts of the site.</p> <p>Public exhibition of the planning proposal has now concluded. This matter is the subject of a separate report elsewhere in this business agenda.</p>	15/02/2019
17/011	General Amendment 2017 Complete	<p>Proposal to undertake a number of amendments to the LEP maps to address cadastral changes and minor mapping errors.</p> <p>The amendment was completed via Amendment No. 39 to the Ballina LEP 2012 on 17 August 2018.</p>	Complete
17/012	Compton Drive (No. 23), East Ballina (Stage 3)	<p>Proposal to amend the LEP to rezone part of the land and all or part of the adjacent Council-owned land from Deferred Matter to R2 Low Density Residential, and to apply a minimum lot size of 600m².</p> <p>A Gateway determination was issued by DPE on 6 June 2018. The Gateway requires the proponent's submission of further information and site investigations relating to contamination, bushfire assessment, geotechnical assessment (including assessment of land slip hazards) and a revised site survey plan.</p> <p>Currently awaiting submission of the additional information.</p>	06/12/2019
17/013	Roadside Stalls Complete	<p>Proposal to provide for small scale roadside stalls in rural parts of the Shire as exempt development, subject to obtaining approval under s138 of the Roads Act 1993.</p> <p>The amendment was completed via Amendment No. 37 to the Ballina LEP 2012 on 20 July 2018.</p>	Complete

9.4 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none"> 1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council. 2. Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council). 3. Gateway Determination - DP&E determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination). 4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation. 5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment. 5a. Public Hearing - Public Hearing held, where required. 6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal. 7. Finalisation - DP&E finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Environment may finalise, alter or terminate the amendment. <p># Denotes proposal number and due date subject to Gateway determination.</p> <p>The completion due date is a date for completion determined by the Department of Planning and Environment.</p>			

Sustainability Considerations

- **Environment**
Environmental, social and economic considerations form part of the Council's assessment of all planning proposals and LEP amendments.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

The work program is being undertaken within existing resources or on a fee for service basis for specific proposals.

Consultation

This report is provided for the information of the community. Community consultation is, has been, or will be undertaken in relation to individual planning proposals.

Options

The status of the LEP amendments outlined above is provided for information only. All matters are being processed within the legislative framework in accordance with previous decisions of the Council.

RECOMMENDATION

That Council notes the contents of this report concerning the status and approach regarding the current LEP amendment requests and planning proposals that are being processed.

Attachment(s)

Nil

9.5 Policy (Review) - Extractive Industry

9.5 Policy (Review) - Extractive Industry

Delivery Program Strategic Planning

Objective To review the land use planning policy framework applicable to extractive industries within Ballina Shire

Background

The Council at the Ordinary meeting held on 20 February 2018 resolved as follows:

1. *That as part of the 2018/19 Operational Plan Council include an action to investigate the merits of implementing a policy position that is consistent with the current NSW planning legislation and EPA requirements that seeks to address current and future impacts of extractive industries (eg. quarries) on residential areas.*
2. *This is to include a review of relevant provisions in the Ballina Shire Development Control Plan 2012 and specifically consider the introduction of a provision requiring that asphalt-producing industry be located at least 1,000m away from any residential development having regard to the health and amenity of our residents.*

Subsequent to the above resolution Council's adopted 2018/19 Delivery Program and Operational Plan included Action HE3.1s which required a review of the policy framework in relation to extractive industry in Ballina Shire during the 2018/19 financial year.

A Councillor briefing was held on 20 September 2018 at which time a discussion paper titled *Extractive and associated industries in Ballina Shire* was presented. This document is contained within Attachment One to this report.

Key Issues

- Extractive industry policy review
- Legislative framework applicable to extractive industries
- Proposed Hotmix / Bitumen Plant buffer distances

Information

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (SEPP) is the primary land use legislative mechanism which regulates the permissibility of extractive and associated industries in NSW.

Extractive industries are permitted with development consent upon all land within Ballina Shire where agriculture or industry is permitted under the provisions of the applicable planning instrument (LEPs). Only the B3, B5 and B6 business zones, and the SP2 Infrastructure zone, under the provisions of Ballina LEP 2012 do not permit extractive industries.

The SEPP also permits the co-location of the following industrial activities, subject to development consent, on land where an extractive industry is operating with development consent:

- (a) the processing of extractive material,*
- (b) the processing of construction and demolition waste or of other material that is to be used as a substitute for extractive material,*
- (c) facilities for the processing or transport of extractive material,*
- (d) concrete works that produce only pre-mixed concrete or bitumen pre-mix or hot-mix.*

There is considered to be little scope to prohibit extractive industries within Ballina Shire as to do so would require the SEPP to be amended to exclude the Shire, or certain specified sites, from its provisions. Since the SEPP was proclaimed in 2007 only one site at Somersby (near Gosford) was excluded from the SEPP provisions so as to prohibit a then proposed sand mine in 2010.

The extractive industry policy review has found the SEPP provisions do not reference any guideline documents which may assist the assessment of extractive industry development applications. A review of development consents granted by a number of councils and the Minister for Planning has shown there are significant differences in terms of how matters such as the following are addressed:

- Prevention, mitigation and/or offset of adverse environmental impacts
- Standards and performance measures related to acceptable environmental performance
- Requirements for monitoring and reporting
- Ongoing environmental management of the development
- The manner in which extractive resources are described eg tonnes or cubic metres, wet or dry weight
- Reconciliation of volumetric resource estimates against product leaving the quarry
- Rehabilitation – restoration requirements, the requirements for rehabilitation bonds or securities, and how such bonds are estimated
- Independent audit requirements, their subject matter and frequency; and
- Impacted person consultation/engagement requirements following the grant of a development consent.

Given that Council receives relatively few applications for extractive industry, and numerous councils in NSW are in similar positions, there may be benefit in the Department of Planning and Environment being requested to prepare a best practice development assessment guideline relating to extractive industry (and mining) in NSW.

9.5 Policy (Review) - Extractive Industry

Such guidelines, once prepared, could then be referenced in the SEPP and be required to be considered in the same manner as guidelines prepared for other development types (residential flat buildings, medium density housing etc).

A review of the provisions of *Ballina Shire Development Control Plan 2012 – Chapter 2 General and Environmental Provisions* (DCP) as they relate to buffer distances and extractive industry buffers has found that these provisions would benefit from guidance being provided as to how buffer distances should be measured.

Accepted practice in Ballina Shire is that buffer distances are measured from the site of the actual land use which requires the buffer to the site of the existing or proposed sensitive land use.

Inserting diagrams within the DCP would assist to provide clarity relating to this issue.

The DCP is also considered to benefit from specifying minimum buffer distances for hotmix / bitumen plants. In this respect, and having regard for research conducted to date, the provisions nominated by the EPA in South Australia based on new technology (500 metre buffer) and old technology plants (1000 metre buffer) are considered to be the most relevant for further investigation and evaluation.

Sustainability Considerations

- **Environment**

Reviewing the provisions of Council's DCP to incorporate minimum buffer distances for bitumen / hotmix plants to sensitive land uses such as dwellings may assist to improve the environmental amenity of Ballina's rural / residential interface areas.

Incorporating buffer distances in the DCP cannot be applied retrospectively to existing facilities, nor does it take the place of a detailed land use conflict risk assessment process.

- **Social**

There are considered to be net social benefits derived from effectively separating land uses and reducing the impacts of industry through buffers and other mitigation strategies.

- **Economic**

Effectively separating industries from sensitive land uses is considered to assist the long term viability of extractive and other industries operating in Ballina Shire.

Continued access to extractive resource material will be exceptionally important for future economic growth and development within Ballina Shire.

Legal / Resource / Financial Implications

There are no legal impediments identified which would prevent the Council amending its DCP to incorporate buffer distances for bitumen / hotmix plants.

The amendment of the DCP is able to be undertaken within existing allocated resources.

Consultation

At this stage there has been no community or agency consultation undertaken with respect to the recommendations contained within this report.

Should the recommendations be adopted then consultation with the EPA and other relevant stakeholders will be undertaken as part of the public exhibition process associated with proposed DCP amendments.

Options

Options available to the Council when giving consideration to extractive industries in a policy review context include the following:

1. Prepare an amendment to *Ballina DCP 2012 – Chapter 2 General and Environmental Considerations* to incorporate minimum buffer distances between bitumen / hotmix plants and sensitive land uses such as dwellings. The proposed DCP amendment to also incorporate diagrams which detail the manner in which buffer distances should be determined.

This is the recommended option, together with the making of a submission to the Department of Planning and Environment which requests that the Department gives consideration to the preparation of best practice development assessment guidelines relating to extractive industries and mining.

2. Note the policy review document *Extractive and associated industries in Ballina Shire* (Attachment One) and take no further action in respect to changing the land use planning policy framework applicable to extractive and associated industries in Ballina Shire.

This option could be adopted if the Council considers that its existing DCP provisions are sufficiently robust to accommodate the assessment of extractive and related industries through the DA process.

This option is not recommended as the policy review has found a number of gaps associated with the current policy position which potentially could be better articulated.

3. Prepare amendments to the DCP as per option 1 and expand the proposed submission to the Department of Planning and Environment to incorporate an amendment to the SEPP which seeks to prohibit extractive industries within the Shire, or on certain specified sites.

9.5 Policy (Review) - Extractive Industry

The preparation of a detailed submission seeking to prohibit extractive industries is likely to be expensive and time consuming, and considered to have virtually no chance of a successful result.

For this reason, and having regard for the benefits derived from extractive industries operating within Ballina Shire, for the longer term economic development of the Shire, this option has not been recommended.

RECOMMENDATIONS

1. That at the next scheduled housekeeping amendment of Ballina DCP 2012 amendments to *DCP Chapter 2 – General and Environmental Considerations* minimum buffer distances for bitumen and hotmix plants, as well as diagrams which detail the manner in which buffer distances should be calculated, be incorporated for exhibition purposes.
2. That a submission be forwarded to the Department of Planning and Environment which seeks to have the Department prepare best practice guidelines for the assessment of extractive industries and mines in NSW and the referencing of such guidelines within *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

Attachment(s)

1. Extractive Industry Policy Review Discussion Paper

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following document.

US 18/06	<p>Licence Agreement for Lot 12 DP 814359, Bruxner Highway, Alstonville between Council and Northern Rivers Dirty Wheels Mountain Bike Club Inc (NRDWMBC), at a nominal licence fee for the period 1 October 2018 to 30 September 2021.</p> <p>Explanation: The NRDWMBC hold a three year licence for a portion of Gap Road Quarry which is currently not being used for operational purposes to establish mountain bike riding trails, which expires on 30 September 2018. As per DA 2014/512 all development and works are to be completed prior to occupation and use of the site, which is anticipated to be finalised by the end of October 2018.</p>
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Attachment(s)

Nil

10.2 Investment Summary - September 2018

10.2 Investment Summary - September 2018

Delivery Program Financial Services

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

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of September 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 September was \$79,538,000. This represents a decrease of \$1.9m from August. Council's investments, as at 30 September, are at an average (weighted) rate of 2.86%, which is 0.92% above the 90 Day Bank Bill Index of 1.94%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 September 2018, was \$4,987,034. This balance is lower than the balance of \$6,933,788 as at 31 August 2018. The combined movement of investments and bank balances was a decrease of \$3,846,754. This overall decrease is attributable to general creditor payments and loan repayments in September.

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	10.8%
Water Fund (incl developer contributions)	External	21.8%
Section 94 Developer Contributions	External	11.2%
Bonds and Deposits	External	2.7%
Other External Restrictions	External	5.1%
Carry Forward Works	Internal	3.5%
Bypass Maintenance Funding	Internal	4.6%
Landfill and Resource Management	Internal	2.1%
Employee Leave Entitlements	Internal	3.7%
Quarries	Internal	1.0%
Property Reserves	Internal	5.9%
Plant and Vehicle Replacement	Internal	1.4%
Road Works	Internal	6.8%
Swimming Pools Capital	Internal	0.2%
Indoor Sports Centre	Internal	3.7%
Miscellaneous Internal Reserves	Internal	7.1%
Financial Assistance Grant in Advance	Internal	2.8%
Unrestricted		5.6%
Total		100%

* Reflects reserves held as at 30 June 2018.

10.2 Investment Summary - September 2018

A. Summary of Investments by Institution

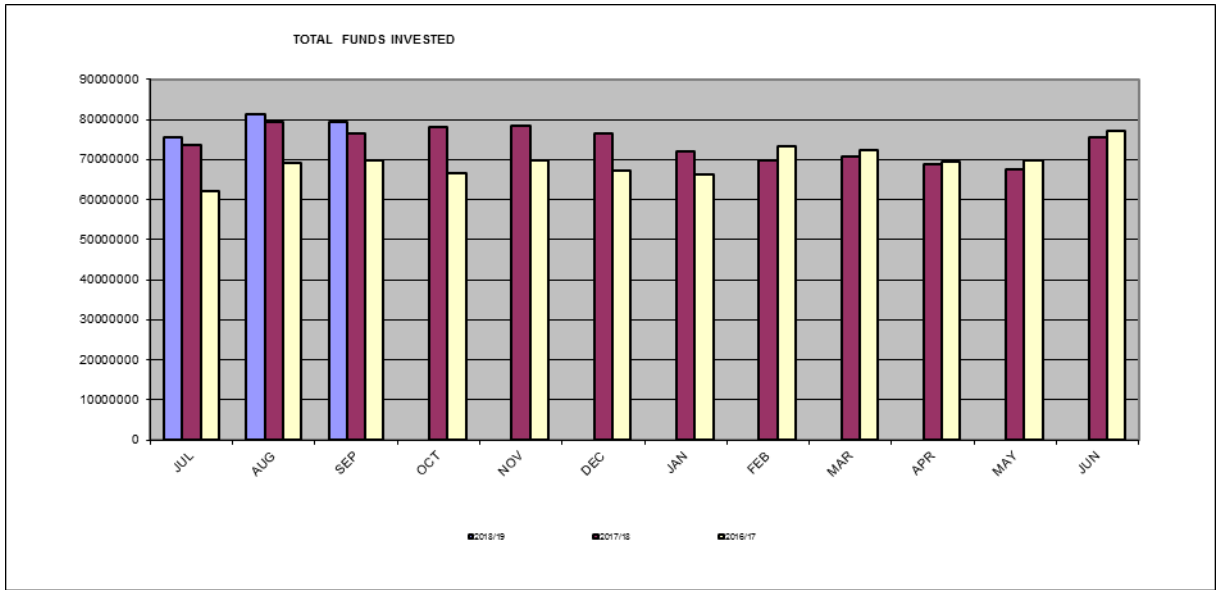
Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.2%	2%
Rated Institutions							
AMP Bank	Yes	A	10,000	11,500	20%	14.5%	
Auswide Bank	No	BBB	1,500	1,500	10%	1.9%	
Bank of China	Yes	A	2,000	2,000	20%	2.5%	
Bank of Queensland	Yes	BBB+	2,000	2,000	10%	2.5%	
BankWest	Yes	AA-	8,000	8,000	20%	10.1%	
Commonwealth Bank of Australia	Yes	AA-	5,000	5,000	20%	6.3%	
Credit Union Australia	No	BBB	3,000	3,600	10%	4.5%	
Defence Bank Ltd	No	BBB	5,500	5,500	10%	6.9%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.5%	
Heritage Bank	No	BBB+	4,500	2,000	10%	2.5%	
ING Bank Ltd	Yes	A	4,000	4,000	20%	5.0%	
ME Bank	No	BBB	3,750	3,750	10%	4.7%	
My State Bank Ltd	No	BBB+	5,000	5,000	10%	6.3%	
National Australia Bank	Yes	AA-	2,000	0	20%	0.0%	
Newcastle Permanent Bld Society	No	BBB	700	1,700	10%	2.1%	
Rural Bank Ltd	No	BBB+	4,000	4,000	10%	5.0%	
Suncorp-Metway Bank	No	A+	4,000	3,500	20%	4.4%	
Teachers Mutual Bank Limited	No	BBB	1,700	1,700	10%	2.1%	
Westpac Banking Corporation	Yes	AA-	11,000	11,000	20%	13.8%	98%
Total			81,438	79,538		100%	
Credit Rating Summary as per the Investment Policy							
	Maximum Allowed		Value	Value	%	%	
	%	Value	Previous	Current	Previous	Current	
A- or Higher	100%	79,538	46,000	45,000	56%	57%	
BBB	60%	47,723	35,438	34,538	44%	43%	
Total			81,438	79,538	100%	100%	

B. Summary of Investments Fossil Fuel Aligned

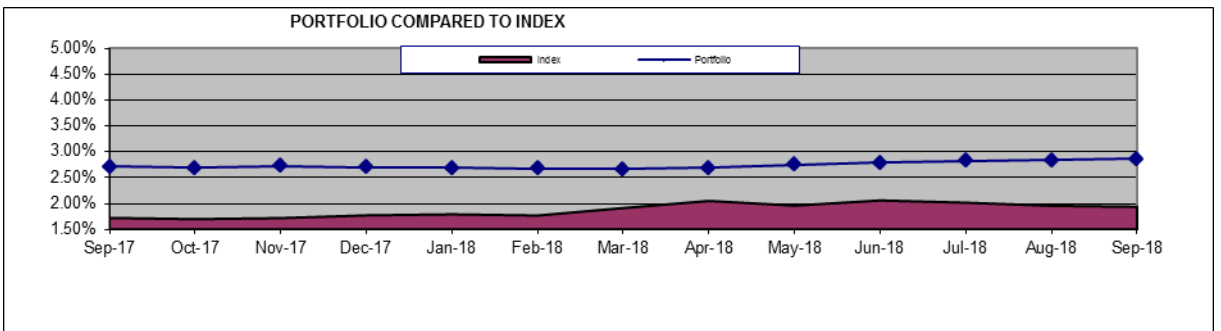
	Previous Month	Current Month
Fossil Fuel Aligned	45,788 56%	45,288 57%
Non-Fossil Fuel Aligned	35,650 44%	34,250 43%
Not Classified	0 0%	0 0%
Total	81,438 100%	79,538 100%

Classification based on advice from 'Market Forces' and 'Bank Track'.

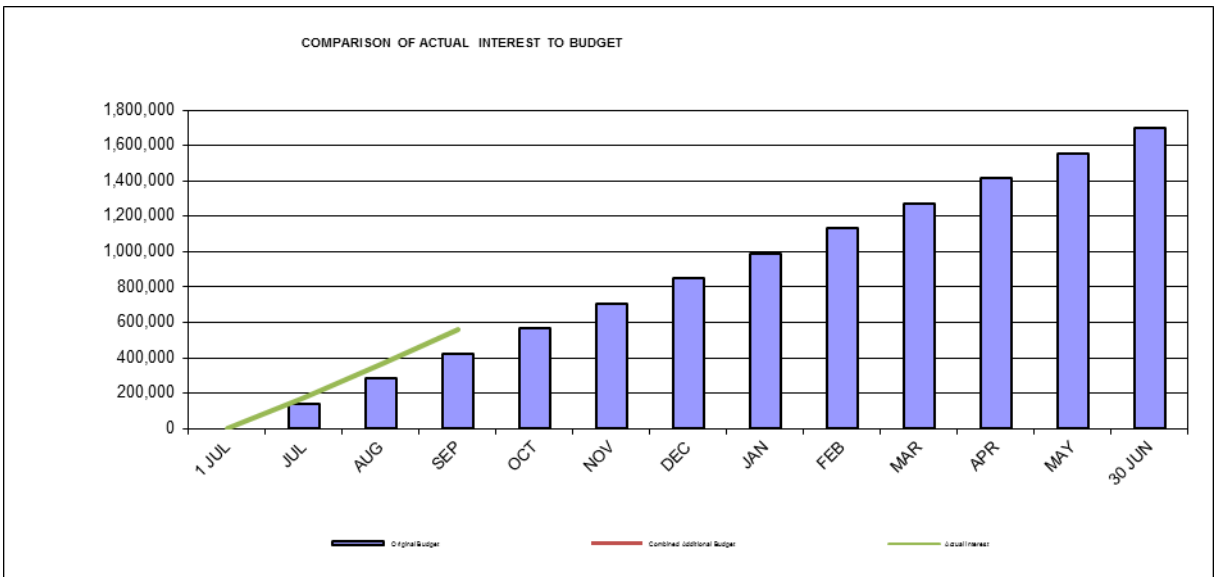
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



Interest earned for the quarter ended 31 September is trending higher than the original forecasts, for which a revision will be proposed as part of the September budget quarterly review (reported to November Ordinary meeting).

10.2 Investment Summary - September 2018

F. Investments held as at 30 September 2018

PURCH DATE	ISSUER	TYPE	RATE	NEXT MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
30/06/16	Commonwealth Bank of Australia	FRN	3.14%	30/12/18	1,000	1,000
02/07/18	Teachers Mutual Bank Limited	FRN	3.47%	02/10/18	700	702
26/03/18	Bank of China	TD	2.74%	02/10/18	2,000	2,000
09/04/18	ME Bank	TD	2.75%	09/10/18	1,000	1,000
09/10/17	Westpac Banking Corporation	TD	2.57%	09/10/18	2,000	2,000
18/01/18	AMP Bank	TD	2.65%	18/10/18	1,000	1,000
26/07/16	Commonwealth Bank of Australia	FRN	3.04%	26/10/18	1,000	1,000
30/07/18	Westpac Banking Corporation	FRN	2.89%	30/10/18	1,000	1,000
31/07/18	Westpac Banking Corporation	FRN	2.89%	31/10/18	1,000	1,000
03/08/17	Westpac Banking Corporation	FRN	3.02%	05/11/18	2,000	2,000
07/08/18	Newcastle Permanent Bld Society	FRN	3.37%	06/11/18	700	698
06/09/18	Newcastle Permanent Bld Society	FRN	3.37%	06/11/18	1,000	1,000
09/11/17	Defence Bank Ltd	TD	2.75%	08/11/18	1,500	1,500
09/11/17	ME Bank	FRN	3.21%	09/11/18	750	751
16/08/17	ING Bank Ltd	TD	2.68%	15/11/18	2,000	2,000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.20%	15/11/18	1,788	1,545
18/08/17	Westpac Banking Corporation	FRN	3.01%	15/11/18	1,000	1,000
15/08/18	ING Bank Ltd	TD	2.68%	20/11/18	1,000	1,000
17/08/18	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
24/05/18	Greater Bank Limited	FRN	3.40%	24/11/18	1,000	1,002
25/05/18	Westpac Banking Corporation	FRN	2.89%	26/11/18	2,000	2,005
30/08/16	Greater Bank Limited	FRN	3.50%	30/11/18	1,000	1,004
31/08/18	Suncorp-Metway Bank	TD	2.65%	03/12/18	3,500	3,500
04/12/17	Defence Bank Ltd	TD	2.75%	04/12/18	1,000	1,000
06/09/18	Credit Union Australia	FRN	3.20%	06/12/18	600	601
10/09/18	AMP Bank	FRN	3.07%	10/12/18	1,500	1,501
09/03/18	Westpac Banking Corporation	TD	2.65%	10/12/18	2,000	2,000
11/12/17	Credit Union Australia	TD	2.60%	11/12/18	2,000	2,000
17/06/16	Commonwealth Bank of Australia	FRN	2.97%	17/12/18	1,000	1,000
04/06/18	ME Bank	TD	2.77%	18/12/18	1,000	1,000
29/06/17	Teachers Mutual Bank Limited	FRN	3.36%	31/12/18	1,000	1,005
27/04/18	Rural Bank Ltd	TD	2.80%	09/01/19	2,000	2,000
06/06/18	My State Bank Ltd	TD	2.83%	15/01/19	1,000	1,000
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
27/07/18	Bank of Queensland	TD	2.80%	01/02/19	2,000	2,000
03/04/18	Credit Union Australia	TD	2.72%	05/02/19	1,000	1,000
01/05/18	Rural Bank Ltd	TD	2.80%	12/02/19	1,000	1,000
03/05/18	My State Bank Ltd	TD	2.80%	19/02/19	1,000	1,000
17/05/18	AMP Bank	TD	2.83%	19/02/19	2,000	2,000
22/05/18	AMP Bank	TD	2.80%	26/02/19	1,000	1,000
29/05/18	AMP Bank	TD	2.83%	05/03/19	3,000	3,000
01/06/18	AMP Bank	TD	2.90%	11/03/19	1,000	1,000
05/06/18	My State Bank Ltd	TD	2.83%	13/03/19	3,000	3,000
06/06/18	AMP Bank	TD	2.83%	19/03/19	1,000	1,000
19/06/18	Auswide Bank	TD	2.88%	26/03/19	1,500	1,500
10/07/18	Defence Bank Ltd	TD	2.90%	09/04/19	1,000	1,000
07/08/18	BankWest	TD	2.80%	14/05/19	4,000	4,000
14/08/18	BankWest	TD	2.81%	21/05/19	4,000	4,000
27/06/18	Heritage Bank	TD	3.05%	24/06/19	2,000	2,000
16/08/18	AMP Bank	TD	2.85%	16/08/19	1,000	1,000
28/08/18	Defence Bank Ltd	TD	2.85%	27/08/19	1,000	1,000
07/09/18	ME Bank	TD	2.75%	05/09/19	1,000	1,000
Totals					79,538	79,314
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

10.3 Disclosure of Interest Returns

10.3 Disclosure of Interest Returns

Delivery Program Communications

Objective To comply with the provisions of the Local Government Act relating to the tabling of disclosure of interest returns.

Background

Section 449 (3) of the Local Government Act requires Councillors and designated persons to complete a pecuniary interests return within three months of the end of the financial year.

Section 450A (2) (b) then requires the General Manager to table those returns at the first available Council meeting following the completion of the three month period.

This report complies with the above sections of the Local Government Act for the period 1 July 2017 to 30 June 2018.

Key Issues

- Ensuring compliance with the Local Government Act.

Information

Disclosure of interest returns are to be tabled by Councillors and designated persons. Section 441 of the Local Government Act defines designated persons as the General Manager, Senior Staff and other positions or members of committees that exercise functions that could give rise to a conflict of interest.

To manage the determination of designated positions an internal procedure has been adopted by staff to ensure that the following positions complete the returns.

- Senior management (General Manager, Group Managers and Senior Leadership Team).
- Staff with the delegation to determine development applications, approve construction certificates and approve re-zoning (planning proposal) applications.
- Staff authorised to order goods and services to the value of \$50,000 and over, as per Council's purchasing procedures
- Staff who have permanent or re-occurring secondary employment approvals. Exemptions to this include one-off instances, for example working at an event, such as an election, or where the Group Manager has determined that the secondary employment does not conflict with their Council role.

10.3 Disclosure of Interest Returns

No committee members, other than Councillors, are required to complete returns, as all Council's committees, other than those consisting entirely of Councillors, have no delegated authority.

The completed returns and the register will be tabled at the meeting for the information of the public.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The disclosure of interest returns help to improve transparency in the decision making process.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council must comply with the Local Government Act.

Consultation

This report is provided for the information of the public.

Options

The purpose of this report is for noting.

RECOMMENDATION

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2017 to 30 June 2018.

Attachment(s)

Nil

10.4 Ordinary Meeting Date - April 2019

10.4 Ordinary Meeting Date - April 2019

Delivery Program Communications

Objective To select an alternate date for Council's April 2019 Ordinary meeting.

Background

The Code of Meeting Practice sets the dates for Council's Ordinary meetings as the fourth Thursday of each month, except for December which is the third Thursday. The date of the April 2019 Ordinary meeting falls on Anzac Day, 25 April. It is suggested that the Ordinary meeting for April 2019 be held on Wednesday 24 April 2019.

Councillors may also note that the December 2018 Ordinary meeting is scheduled to be held on Thursday 20 December (the third Thursday of the month). In 2017 Councillors changed the date of the December meeting (from 21 to 14 December) as the date was seen to be too close to the official close-down date for Council. Councillors may or may not wish to change the December 2018 date.

As there are five Thursdays in November it is possible to change this date to the second Thursday (13 December). This would still result in there being three weeks between the November and December meetings. No change is recommended as part of this report as Council staff can work towards the meeting date of 20 December 2018, if that is the preferred option.

Legal / Resource / Financial Implications

There are no legal or financial implications of changing the meeting date.

Consultation

Advertising of any changed dates will take place.

Options

In respect to the April 2019 meeting, the options are to reschedule the meeting to Wednesday 24 April 2019 or to another date. The recommendation is to change the date to Wednesday 24 April 2019. In respect to the December 2018 meeting, the options are to reschedule the meeting to Thursday 13 December or leave at Thursday 20 December 2018. No recommendation is made on this date.

RECOMMENDATION

That Council's Ordinary meeting for April 2019 be held on Wednesday 24 April 2019.

Attachment(s)

Nil

10.5 Code of Conduct - Reporting

10.5 Code of Conduct - Reporting

Delivery Program Information Services

Objective To comply with Council's Code of Conduct and directions from the Office of Local Government.

Background

The Office of Local Government's (OLG) Model Code of Conduct requires a report to be submitted annually on code of conduct complaints within three months of the end of August. This report satisfies these requirements.

Key Issues

- Number and nature of complaints

Information

The last report was for the 12 month period 1 September 2016 to 31 August 2017 and this report is for the period 1 September 2017 to 31 August 2018.

Number of Code of Conduct Complaints	
Number of complaints <i>received</i> about councillors and GM	4
Number of complaints <i>finalised</i> in the period about councillors and GM	4
Overview of Code of Complaints	
Number of complaints <i>finalised</i> at the outset by alternative means by GM or Mayor	0
Number of complaints <i>referred</i> to a conduct reviewer	4
Number complaints <i>finalised at preliminary assessment</i> by a conduct reviewer	4
Number of complaints <i>investigated</i> by a conduct reviewer	0
Number of complaints <i>investigated</i> by a conduct review committee	0
Number of complaints referred to the ICAC, NSW Ombudsman, OLG or police	0
Complaint Assessment Statistics	
Number <i>determined</i> by the conduct reviewer at the preliminary assessment stage by;	
Taking no action (or to not proceed to an investigation)	4
Resolving the complaint by alternative and appropriate strategies	4
Referring matter back to GM or Mayor for resolution by alternative and appropriate strategies	0
Referring the matter to the ICAC, NSW Ombudsman, OLG or police	0
Proceeding to investigate the matter	0
Recommending that the complaints coordinator convene a conduct review committee to investigate the matter	0
Cost of Dealing with Code of Conduct Complaints	
Total cost of managing complaints about councillors and GM for the period	\$13,438
Invoiced from conduct reviewers	\$11,438
Approximate staff costs	\$2,000

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct exists to ensure there are appropriate standards of behaviour.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The Council's Code of Conduct is based on the Office of Local Government's Model Code of Conduct, and requires a report to be submitted annually on Code of Conduct complaints. This report satisfies that legal requirement.

Consultation

This report is provided for information.

Options

This report is for information purposes only.

RECOMMENDATION

That Council notes the contents of this report on Code of Conduct complaints for the period 1 September 2017 to 31 August 2018.

Attachment(s)

Nil

10.6 Debtor Write-off

10.6 Debtor Write-off

Delivery Program Financial Services

Objective To obtain Council approval to write off a debt.

Background

Council staff responded to an after-hours call in June 2016 regarding a dredge spoil spill in West Ballina. An invoice to cover costs incurred by Council was subsequently raised to NSW Department of Primary Industries – Land (DPI). DPI has rejected the invoice and attempts to recover costs have been unsuccessful.

The purpose of this report is to obtain approval to write-off the debt.

Key Issues

- Cost of debt recovery

Information

In June 2016 Council received an after-hours call from residents at West Ballina regarding a dredge spoil spill as part of the dredging in the West Ballina Boatharbour.

Council was advised that the residents had tried calling a phone number on a sign on a fence surrounding the affected area but there was no answer. Residents then called Council's after-hours number and Council staff were mobilised to clean up the area. As it was a dredge spill the impact was mainly on the water and Council staff were limited in works that they could do, other than responding to the concerns raised by the residents.

An invoice for the staff time incurred on the call, plus Council's normal private works margin, totalling \$1,053.35 was issued on 8 July 2016 and sent to NSW Public Works. On 13 July 2016 Council staff were advised by NSW Public Works that the invoice belonged to the Department of Primary Industries (DPI) and the invoice was amended and redirected.

A reminder letter was sent to DPI on 6 September 2016, followed by a final notice on 21 September 2016. Following the above actions, Council's engineering works staff have consulted with DPI staff on a number of occasions.

DPI staff hold the view that Council should have called Hazmat rather than respond to the incident directly and DPI had not requested or authorized Council to complete the clean-up works. On that basis, DPI do not consider themselves liable for the costs incurred by Council.

Based on the numerous conversations that have occurred between DPI and Council, and on the advice of the Manager of Engineering Works, further debt recovery has not been undertaken.

Sustainability Considerations

- **Environment**
Not Applicable.
- **Social**
Council has a social and statutory obligation to provide services to the community.
- **Economic**
Staff time and other costs were incurred in respect to the clean up, as well as in-house debt recovery actions.

Legal / Resource / Financial Implications

If Council resolved not to pursue recovery, the amount written off would show as a loss in private works.

Consultation

Council's engineering works staff have consulted with DPI staff subsequent to the raising of the invoice. It is the view of DPI staff that DPI is not liable for the costs incurred by Council.

Options

The following options are available:

1. Approve the request for write-off of the debt of \$1,053.35.

This option is recommended as proceeding with further debt recovery action will incur costs to Council and that action may not be successful. Legally DPI is most likely technically correct in that Hazmat should have been called, however Council staff acted proactively in responding to the cleanup, albeit there was little in the way of cleanup work that could be undertaken.

2. Refuse the request for a write-off of the debt and refer the matter to Council's debt recovery agency to proceed with further debt recovery action. This option is not recommended by staff as this will incur further costs and is likely to incur more costs than those that may be recovered.

RECOMMENDATION

That Council approves the write-off of the debt raised to the Department of Primary Industries, in the amount of \$1,053.35, as outlined in this report.

Attachment(s)

Nil

10.7 Building Better Regions Fund - Infrastructure Stream

10.7 Building Better Regions Fund - Infrastructure Stream

Delivery Program Communications

Objective To determine the priority projects for grant funding applications.

Background

Council has been successful with a number of grant applications in 2018. Due to this success, it is important to regularly seek direction from the elected Council on the priority projects.

The Building Better Regions Fund (BBRF) is a Federal grant that commenced in 2017/18 and will continue for five years. Its objectives are to drive economic growth and build stronger regional communities in the future.

Round three of the BBRF, which is an infrastructure stream, will support projects for new infrastructure or the upgrade of existing infrastructure. The grant has earmarked up to \$45 million for tourism related infrastructure projects that will stimulate regional communities. Refer to Attachment 1 for further details.

This report will present a number of projects that may be suitable for funding and provide an opportunity for Councillors to review the projects and indicate their priority for grant funding.

Key Issues

- Priority projects for Council

Information

The BBRF will support new infrastructure or the upgrade of existing infrastructure. The minimum grant amount available is \$20,000 and the maximum is \$10 million.

There is no limit to the number of applications lodged, and each grant application seeking more than \$1 million will need a cost benefit analysis.

Projects should be investment ready, have funding contributions confirmed and have identified all approvals, demonstrate robust planning and can commence the project shortly after execution of a grant agreement.

The grant amount needs to be 50% of the total project costs, and the contribution must be cash and not in-kind. Projects must be complete by December 2021. Applications close on 15 November 2018.

There are a number of projects that were identified in the Community Infrastructure – Non-Recurrent Projects report that was presented to the March 2018 Finance Committee meeting.

Those projects are as follows.

10.7 Building Better Regions Fund - Infrastructure Stream

Ballina Town Entry Statements – There is no funding allocated to this project and it is now on hold. The latest estimate for this project is \$980,000. This project could be coupled with the duplication of entry roads to Ballina (River Street and Tamarind Drive) to become a substantial project for Council and attract further grant funding. The cost of duplication of the north and west approaches to Ballina from the Pacific Motorway interchange is estimated to be \$35 million. This project was subject to a Federal grant application (Regional Growth Fund) earlier this year, and the outcome of that funding application is still unknown. This matter was also reported to the April 2018 Finance Committee meeting, where it was considered a priority for funding. This is a feasible option for grant funding, and 50% of the funds could be identified through developer contributions and loan funds.

Captain Cook Park Masterplan – stage one of this five stage project is complete. This project is now on hold with \$2.65 million of outstanding works which are not funded. This could be a feasible option for grant funding, however 50% of the funds will need to be identified should a grant application be successful.

Ballina Town Centre Upgrades (Moon Street to Grant Street) – this project is fully funded in 2018/19, however could still be eligible for grant funds. The project value is estimated at \$2.5 million. Given that this project is already funded it is not recommended to apply for grant funds.

Lennox Head Town Centre Village Renewal – this project is progressing with the latest cost estimate for the works being \$6.5 million. This project is in the adopted Delivery Program and Operational Plan. This project is due to be funded by December 2021 with loans, LRM dividends and by the Community Infrastructure Reserves. This could be a feasible option for grant funding.

SES Building – Council has a statutory responsibility to provide a new building and there are no funds allocated. This is becoming a high priority project due to the existing site constraints for the SES. This project may not be suitable or eligible for funding through this program.

Ballina Marina Masterplan – Council has adopted a master plan and it is not intended for Council to fund any of the work. The preference is to lobby the NSW Government to progress the project.

Martin Street Boat Harbour – Council has adopted a master plan for this precinct with no funds allocated. This project is compatible with the grant fund, however on staff review; the project is still in its infancy and other projects may be more suitable.

North Creek Dredging – The estimated cost of this project is approximately \$729,000 and this is to obtain planning consent only. This project has no funds allocated to this project. On review, this project may not be advanced enough to be competitive in a grant funding round.

10.7 Building Better Regions Fund - Infrastructure Stream

Lennox Head Surf Club - Estimated costs for this project are now at \$7.9 million which includes external works such as demolition of existing building and asbestos removal. Council endorsed the concept plans for this project at the August 2018 meeting. This project has also been the subject of two NSW Government funding applications which closed in September and October 2018. We will not know the outcome until after the BBRF closes.

Lennox Head Rural Fire Shed – The current shed has temporary development consent, and Council is obliged to fund a new permanent shed. The consent is for a period of ten years. Council needs to provide a new facility prior to November 2022. This project may not meet the criteria for grant funding.

Ballina Ocean Pool – Council resolved to recently endorse the preparation of an application to seek planning approval for the project, and obtain legal advice in relation to Native Title and Crown Land Management Act 2016. Based on the status of this project, it is considered too premature to apply for grant funds.

Section 94 Roads Plan – There are large number of projects in that plan with the priority being Hutley Drive and the four laning of River Street and Tamarind Drive.

New projects

Ballina Byron Gateway Airport – Airside Upgrades – Airline carriers serving the BBGA have recently advised they will be upgrading their fleet of aircraft from 2020. This will significantly impact the airside infrastructure and the design of the runway and aprons will need to be upgraded to cater for the new aircraft. A summary of the required upgrades are:

- Expansion of the parking apron by 45% (northern end)
- Strengthening of the runway by a further 200mm of asphalt
- Widening of the runway from 30m to 45m to meet Civil Aviation Safety Authority (CASA) compliance
- Construction of a Runway End Safety Area (RESA) on the eastern end of the runway to meet CASA compliance

The estimated cost of these works is in the order of \$20 million. This could be a feasible option for grant funding as it meets the eligibility criteria and the project is competitive against the merit criteria. The 50% contribution of the funds from Council could be identified as BBGA is in a strong financial position with positive net operating result from 2019/20 into the future.

Lennox Head Foreshore Masterplan Improvements – This plan covers the foreshore that runs along Ballina Street in the Lennox Head central retail and business district. The Masterplan has been prepared in consultation with key Lennox Head stakeholders. The Master Plan is intended to be used as a guide for the future development of the park, as funds become available to undertake work. The plan proposes to replace the old bus shelter, provide toilet facilities, additional seating and picnic tables. There is no estimated cost for this project and no funds are allocated at this time.

10.7 Building Better Regions Fund - Infrastructure Stream

Alstonville Leisure and Entertainment Centre (ALEC) Upgrades – The ALEC facility is over 35 years old and requires works both to protect the building and to enhance the user comfort, these upgrades include:

- Replacement of the roof sheeting
- Replacement of the Solar PV System
- Installation air conditioning in the multipurpose hall, foyer and meeting rooms
- Installation of a mechanical ventilation system to sports hall/auditorium.

The completion of this project will provide the community at large with a venue to encourage and increase cultural experiences, such as theatre, dance and other performing artists. The estimated costs for the works are \$1.06 million. This project is eligible for funding, and 50% of the funds will need to be identified should a grant application be successful.

Successfully funded projects in prior rounds

To allow Councillors to get an understanding of what has and has not been funded in previous years, a summary of successful local projects funded in the first two rounds is provided below. The full list of successful projects (NSW only) is attached for the benefit of the Councillors (Attachments 2 and 3).

Round one of the program saw the Ballina Tennis Club secure funds for the clubhouse upgrade (\$93,000). Other local projects included Byron Shire Council's road upgrade for the Bayshore Drive intersection with Ewingsdale Road (\$2.6million). Kyogle Council was also successful with a memorial hall revitalization project (\$540,000).

Round two successful projects were Summerland House with No Steps for their agri-tourism expansion and upgrades (\$4.7 million). Richmond Valley Council was successful in securing \$837,000 for the upgrade to a drill hall and Tweed Shire Council was successful with upgrades to a civic and cultural centre (\$536,000).

Council applied for funding for the Ballina Indoor Sports Centre and Hutley Drive (north) in rounds one and two, with those applications being unsuccessful. Both of those projects now have funding strategies in place.

Sustainability Considerations

- **Environment**
Many of the projects lists in the information section of this report have positive environmental outcomes for the community.
- **Social**
Many of the projects lists in the information section of this report have positive social outcomes for the community.
- **Economic**
Many of the projects lists in the information section of this report have an economic impact.

Legal / Resource / Financial Implications

The financial implications of this report are dependent on the priorities determined by Council.

Consultation

The majority of the projects mentioned in this report have been identified through public consultation processes.

Options

There are numerous options available to Council in respect to the priority project for grant funding.

Based on information previously reported to the March and April 2018 Finance Committee meeting, the community need for infrastructure, information in the Long Term Financial Plan, and the criteria of the Building Better Regions Fund, the preferred priority projects are as follows:

1. Ballina Byron Gateway Airport – Airside Upgrades – Airline carriers serving the BBGA have advised they will be upgrading their fleet of aircraft from 2020. This will significantly impact the airside infrastructure and the estimated cost is \$20 million.

The rationale for this as a priority project is due to the strength of it aligning against the merit criteria. The merit criteria are weighted 15 points for economic benefit and social benefits and 5 points for project delivery and impact.

There is also a demonstrated need for the project, and Airport staff expects the airline carriers can provide letters of support for this project. The new fleet will be implemented by 2020, so it is an important project to ensure the continued growth of the airport.

The new airline fleet means that there is additional passengers for both Airbus (23% additional passengers) and Boeing (18% additional passengers) aircraft. This information alone is a very good economic case.

2. Duplication of Ballina Entry Roads – This project duplicates the entry roads to Ballina (River Street and Tamarind Drive). The cost of duplication of the north and west approaches to Ballina from the Pacific Motorway interchange is estimated to be \$35 million.

The rationale for this project as a priority is it strongly aligns with the merit criteria of the funding program. There is a demonstrated need for this project, our Roads Contributions Plan identifies that this upgrade is required in the short term according to traffic volumes. Similar to the airport project, the roads project will make a good economic case through the sheer number of user benefits and time savings applied. It is an important project for the entire community of the Ballina Shire.

10.7 Building Better Regions Fund - Infrastructure Stream

Typically Council may not be successful in the first instance in securing grant funds for a project, however the information compiled for the application, which can be extensive, is able to be replicated for further applications.

RECOMMENDATION

That Council approves grant funding applications for the Building Better Regions Fund (round three) for the following projects:

- 1) Ballina Byron Gateway Airport, Airside Upgrades
- 2) Duplication of Entry Roads to Ballina

Attachment(s)

1. Building Better Regions Fund - Round Three - Infrastructure Stream - Guidelines
2. Building Better Regions Fund - Round One - Successful Applicants (NSW)
3. Building Better Regions Fund - Round Two - Successful Applicants (NSW)

10.8 Policy (Review) - Fundraising for Community Groups

10.8 Policy (Review) - Fundraising for Community Groups

Delivery Program Communications

Objective To review the Fundraising for Community Groups Policy.

Background

Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Fundraising for Community Groups Policy.

Council first adopted this policy in 2003.

The objective of the policy is to provide guidance for local community groups to hold street stalls for fundraising activities in the central business districts of Ballina, Alstonville and Lennox Head.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.

Information

This review of this policy identified changes as follows:

- Updated information for food stalls (reference to NSW Food Authority) and fundraising stalls (reference to NSW Fair Trading)
- Updated information that will prevent political parties campaigning. The policy has been silent on political parties, and historically there has always been the view political parties do not fall under this policy. Council staff view that the purpose of the policy is for bona fide local groups that wish to raise funds.
- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.

Additions are marked in yellow. Deletions are marked with red strikethrough.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is attached to the report.

Sustainability Considerations

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

10.8 Policy (Review) - Fundraising for Community Groups

This policy is aimed at assisting with fundraising for community groups that play an important role in the social fabric of the shire.

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The policy looks to assist and regulate charities and community groups who wish to fundraise in the central business district of Ballina, Alstonville and Lennox Head. There are no particular financial implications however the administration of the policy does take resources.

Consultation

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, however it is recognized that exempting political parties from this policy may raise questions from the community. Overall though, given the historical application of the policy, 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.

RECOMMENDATIONS

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

Attachment(s)

1. Policy (Review) - Fundraising for Community Groups

10.9 Annual Financial Statements - 2017/18

Delivery Program Financial Services

Objective To obtain Council approval to exhibit the 2017/18 Financial Reports for public comment and to sign the certified statements for both the General Purpose and Special Purpose Statements.

Background

Council must prepare financial statements for each financial year that are in accordance with:

- The Local Government Act 1993 (as amended) and Regulations
- The Australian Accounting Standards and professional pronouncements
- The Local Government Code of Accounting Practice and Financial Reporting
- NSW Government Policy Statement "*Application of National Competition Policy to Local Government*"
- Office of Local Government guidelines "*Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality*"

Once completed and audited Council must resolve to exhibit the statements for public comment. Council must then consider the statements again (typically at the November Ordinary meeting of Council), together with submissions, and formally resolve to adopt the statements.

This report seeks Council approval to exhibit the annual financial statements.

Key Issues

- Financial results
- Council must be satisfied that the statements present a true and fair picture of the Council's financial position as at 30 June 2018

Information

The Annual Financial Statements for the year ended 30 June 2018 have been completed and audited. A copy of the statements, together with the Auditor's Reports, are enclosed with this business paper. A copy of the statements is available for the public at the Customer Service Centre and Council's website.

The purpose of this report is to obtain Council's approval for the exhibition of the financial statements and to provide Council an opportunity to discuss the information contained within the documents.

Council must also provide approval for the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer to sign the statements confirming that, in the opinion of Council, the financial statements are fair and accurate. Copies of the two statements to be signed are attached to the end of this report.

Once the financial statements are approved the statements must be advertised for public comment. The statements must then be adopted at a meeting of Council not more than five weeks after the meeting where approval was provided to advertise.

Subject to Council approval to advertise at this meeting, the statements will be advertised and then presented, with any public comments received, to the meeting scheduled for Thursday 22 November 2018.

Council's auditors, Mr Karen Taylor of the Audit Office of New South Wales and Mr Geoff Dwyer, of Thomas Noble and Russell, contract auditor for the Audit Office of New South Wales, will be present at this meeting to provide an overview of the audit report.

The documents enclosed with the business paper can be broken down into:

Attachment 1 – Statement by Councillors and Management

These statements are to be signed by the Mayor, a Councillor, General Manager and Responsible Accounting Officer. They are an extract from the draft General Purpose and Special Purpose Financial Statements.

Attachment 2 – Council's End of Year Financial Analysis

This report provides an analysis of Council's results for the 2017/18 financial year and the financial position as at 30 June 2018.

Attachment 3 – Draft Annual Financial Statements 2017/18

Part A – Auditor's Report on the Conduct of the Audit

This includes the auditor's report on the general purpose financial reports and the special purpose financial reports.

Part B – General Purpose Financial Statements

These statements provide the consolidated operating result for 2017/18 and the consolidated financial position of Council as at 30 June 2018. The notes included with the statements provide details on income and expenditure, assets and liabilities. The notes also highlight the cash position of Council and identify which funds are externally restricted.

Part C – Special Purpose Financial Statements

These statements are prepared as a result of National Competition Policy and relate to those aspects of Council's operations that are considered to be business activities.

Part D – Special Schedules

These schedules are prepared primarily for the Australian Bureau of Statistics and are used to gather information for comparative purposes.

The Auditor has issued an 'unqualified report', which means that they are of the opinion that the financial reports represent a fair and accurate assessment of Council's financial position.

Sustainability Considerations

- **Environment**
This report encompasses Council's finances in total and as such has implications for environmental, social and economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Council is legally obliged to adopt the financial statements.

Consultation

No specific community consultation has been taken in respect to this report however the intent is to advertise the Draft Statements for public comment.

Options

Council may approve to exhibit or not exhibit the documents. As Council's auditor has approved the statements it is recommended that Council authorise approval.

RECOMMENDATIONS

1. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, by the Mayor, the Deputy Mayor, the General Manager and the Responsible Accounting Officer.
2. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2018, as attached to this report, for public comment.

Attachment(s)

1. Statement by Councillors and Management - General Purpose and Statement by Councillors and Management - Special Purpose
2. End of Year Financial Analysis (Under separate cover)
3. Draft Annual Financial Statements 2017/18 (Under separate cover)

10.10 Delivery Program and Operational Plan - 30 September 2018 Review

10.10 Delivery Program and Operational Plan - 30 September 2018 Review

Delivery Program Communications

Objective To provide the quarterly review of the 2018/19 Delivery Program and Operational Plan.

Section 404 (5) of the Local Government Act states as follows:

Delivery Program

"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months".

Even though Council is only required to receive six monthly progress reports the preferred practice is to receive more timely quarterly reports. This report represents the first review of the 2018/19 - 2021/22 Delivery Program and the 2018/19 Operational Plan, with the information contained in the report based on work undertaken up to 30 September 2018 (three months) representing the first quarter of the 2018/19 financial year.

The review documentation is included as a separate attachment to this report and the attachment provides an overview of all the programs included in the Delivery Program and Operational Plan, with comments provided by the group and / or section manager.

Copies of the current Delivery Program and Operational Plan are available on Council's website and also accessible by Councillors on their iPads.

Key Issues

- Compare actual results against the adopted goals and priorities

Information

The Delivery Program and Operational Plan are the two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year.

The attachment to this report provides a comprehensive overview of the actions being progressed, with the information also being linked to Council's Community Strategic Plan (CSP) Objectives. The attachment has two main sections being:

- Program Actions - This section provides a comment on the status of all the major actions in the Operational Plan
- Service Indicators - This section provides details on the key indicators within the Operational Plan.

All items are marked with a green (on track for this financial year) amber (behind schedule or below target) or red (not progressing as planned or off track) traffic light.

10.10 Delivery Program and Operational Plan - 30 September 2018 Review

There are a total of 116 major tasks listed in the Operational Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	SACF	GM	Civil	DEHG	Total
Green	37	27	41	8	113
Amber	1	1	1	0	3
Red	0	0	0	0	0
Total	38	28	42	8	116

Program Actions Overview - By Percentage

Group / Status	SACF	GM	Civil	DEHG	Total
Green	97	96	98	100	97
Amber	3	4	2	0	3
Red	0	0	0	0	0
Total	100	100	100	100	100

The majority of items are on track, albeit that it is early in the financial year, and items of interest in the attachment include:

- Implement Community Gallery Services at the Fire Station (Ignite Studios) (page 4) – This facility is now operational and the Northern Rivers Community Gallery continues to grow in popularity.
- Support Aboriginal employment (page 5) – Council has secured funding to provide 13 school based traineeships which provides an excellent opportunity for local Aboriginal children to experience working with Council.
- Enhance sporting field facilities (page 6) – Council has secured \$990,000 in grant funding for the Skennars Head Sports Fields expansion. This now provides a budget of over \$2.0m and tenders are in the process of being called for construction of the expanded facilities. Grant funding of \$400,000 was also secured for the Wollongbar Sports Fields to allow improved drainage and irrigation.
- Deliver an indoor sports stadium (page 6) – Council has now appointed a contractor for the construction of this facility with work expected to start shortly.
- Implement Pop Denison Master Plan (page 6) – Council has secured additional grant funding of \$252,000 to expand the magnitude of works to be undertaken at Pop Denison Park this financial year.
- Participate in the Roads and Maritime Services Location Marker Program (page 8) – This project has again been delayed due to a change in the program by the State Government.
- Reduce the volume of unaccounted water (page 15) – The figure for this quarter is 10.3% which is an excellent result. There are still some concerns about the accuracy and variability of this figure and it will be important to see whether this overall reduction continues.

10.10 Delivery Program and Operational Plan - 30 September 2018 Review

In respect to the Service Delivery Indicators there are a total of 98 indicators identified in the Operational Plan and the following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

Service Indicators Overview - By Number of Activities

Group / Status	SACF	GM	Civil	DEHG	Total
Green	22	20	24	16	82
Amber	4	0	6	4	14
Red	1	0	0	1	2
Total Tasks	27	20	30	21	98

Service Delivery Indicators Overview - By Percentage

Group / Status	SACF	GM	Civil	DEHG	Total
Green	82	100	80	76	84
Amber	15	0	20	19	14
Red	3	0	0	5	2
Percentage Total	100	100	100	100	100

A number of these indicators are beyond the control of Council and the indicator's primary purpose is to provide an idea of how a service may be tracking compared to previous years.

Items of note include:

- Building Services (page 30) - Percentage of Construction Certificates issued by Council (% of total market) – 63% - Council's market share of 63% has been trending lower than normal as there are a large number of project homes being approved by private certifiers.
- Commercial Services (Airport) (page 31) – Passenger numbers continue to achieve record levels at in excess of 536,000 for the rolling year.
- Community Facilities (pages 32 and 33) – A number of the library indicators are continuing to trend lower. The Richmond Tweed Regional Library is undertaking a stakeholder survey to examine options to improve service levels.
- Development Services (pages 35) – The indicators for this section are very good considering the existing high workload.

Sustainability Considerations

- **Environment**
There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.
- **Social**
As above.
- **Economic**
As above.

10.10 Delivery Program and Operational Plan - 30 September 2018 Review

Legal / Resource / Financial Implications

The Delivery Program and Operational Plan identify the allocation of Council's resources and finances.

Consultation

The purpose of this report is to provide the community with information on how Council is performing in respect to the Delivery Program and Operational Plan.

Options

The report is for noting purposes with the information highlighting the many and varied activities being undertaken by Council.

RECOMMENDATION

That Council notes the content of this report in respect to the 30 September 2018 review of the implementation of the 2018/19 Delivery Program and Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan - 30 September 2018 Results
(Under separate cover)

10.11 Capital Expenditure Program - 30 September 2018 Review

10.11 Capital Expenditure Program - 30 September 2018 Review

Delivery Program Communications

Objective To review the delivery of the capital expenditure program for 2018/19.

Background

Council has a significant capital expenditure program included in the annual Operational Plan. Due to the magnitude of the program it is important that updates are provided on a regular basis.

The current practice is to provide a quarterly status report on all the major capital projects. This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure. This is the first report for 2018/19.

Key Issues

- Status of works

Information

To assist in understanding the delivery of the capital works program the attachments to this report provide information on the following items for the major capital projects:

- Total Project Value – As certain projects can occur over a number of financial years, this column identifies the total project value which may include expenditure from previous financial years or estimated expenditure in future years.
- Original 2018/19 Estimate - Represents the original 2018/19 estimate as per Council's adopted Operational Plan for 2018/19.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2018 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- New Variations – Represents variations recommended as part of this report.
- Latest 2018/19 Estimate - Sum of the original estimate plus variations.
- Expended This Year - Expenditure to 30 September 2018 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 30 September 2018 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones.
- Status - Allows additional comments to be provided.

10.11 Capital Expenditure Program - 30 September 2018 Review

The attachments are split into the main sections within Council undertaking the works: i.e. Open Spaces, Waste, Environmental and Public Health, Community Facilities, Operations Support, Commercial Services, Water and Wastewater and Engineering Works.

Points of interest are as follows.

Open Spaces (attachment one)

Play Equipment – Various – The Fawcett Park equipment has now been installed and is fully operational, with Council receiving a number of positive comments about the facility.

Wollongbar Skate Park – The development application was refused during this quarter with Council now examining other site options.

Pop Denison Master Plan – Grant funds of \$252,000 were secured during this quarter, which will allow the scope of works planned for 2018/19 to be expanded.

Skennars Head Sports Fields Expansion – With Council now having \$990,000 in grant funds confirmed, tenders can be called for construction of the fields.

Environmental and Public Health (attachment one)

Shaws Bay – Compton Drive and Eastern Arm – Works are on-going and the infrastructure is being very well utilised.

Community Facilities (attachment two)

Lennox Head Community Centre – The works program for this facility is being reviewed as more accurate pricing has resulted in an increase in the required budget.

ALEC – Similar to the above item, the overall condition of the building is being reviewed to determine an appropriate schedule of works.

Grant funds are also being sought for both of these facilities.

Ballina Surf Club – Building B – This project is well advanced, which should allow it to be operational prior to the summer holidays.

Ballina Indoor Sports Centre – Tender accepted by Council and work to commence shortly.

Ballina and Alstonville Swimming Pools – These facilities are now fully operational. The final expenditure was \$62,000 over budget and it is recommended that this shortfall is funded from savings now available in the Council monies allocated to the Ballina Indoor Sports Centre, as occurred with the allocation for the shade structures (i.e. LRM reserve).

Council has also been requested to improve the disability access, as there is no longer a disabled lift suitable for the new facilities.

Preliminary quotations have been obtained and it is recommended that Council allocate \$15,000 to these improvements for the Ballina swimming pool, as it is the most utilised facility.

That funding is also recommended to be financed from the savings in the monies allocated to the Ballina Indoor Sports Centre.

Operations Support (attachment two)

Killen Falls – Public Amenities – All approvals are close to be finalised for this project to allow the works to proceed.

Commercial Services (attachment three)

Car Park, Solar and Boom Gates – This project is under review as the impact of further works in the car park, while the terminal expansion is underway, may be unreasonable to manage.

An update on the long term plan for the airport is scheduled to be submitted to the November 2018 Commercial Services Committee meeting.

Water and Wastewater (attachments four and five)

There is a significant saving in wastewater as the performance of stage one of the new trunk main at Wollongbar indicates that further stages can be deferred, resulting in a transfer back to reserve of approximately \$1.1m.

Engineering Works (attachment six)

Urban and Rural Roads

Part funding for major projects such as Hutley Drive and Airport Boulevard is recommended for deferral to 2019/20, to reflect the reality of the timing of construction.

These projects require significant pre-construction activities to be approved prior to commencement of the works.

Ancillary Transport Services - Shared Paths and Footpaths

Coastal Shared Path and Coastal Walk – Similar to the previous comments these two projects have significant pre-construction approval requirements prior to construction.

Based on this it is recommended that \$1m for the Coastal Walk is deferred to 2019/20.

Water Transport - Pontoons and Ramps – Council does not have sufficient funding for the construction of the Brunswick Street Boat Ramp and the North Creek Road (Lennox Head) Boat Ramp, therefore the available funding is recommended to be transferred to reserve, until Council secures grant funding to complete the works.

10.11 Capital Expenditure Program - 30 September 2018 Review

Summary

As per the following table there is an extremely high level of capital expenditure forecast for 2018/19 totalling approximately \$62m, even with in excess of \$10m worth of works recommended for deferral to 2019/20.

Capital Works Summary – 30 September 2018 (\$'000)

Section	Budget (\$)	Cash Expenditure (\$)	Percentage Expended
Open Spaces	4,592,600	282,300	6
Waste	325,900	12,700	4
DEHG	265,000	7,900	3
Operations Support	9,693,500	392,400	4
Community Facilities	3,284,800	39,700	1
Commercial Services	15,652,600	555,700	4
Information Services	31,500	2,200	7
Water	4,357,100	111,500	3
Wastewater	5,980,800	1,301,400	22
Engineering Works	17,766,100	2,249,600	13
Total	61,949,900	4,955,400	8

It will be difficult for Council to achieve this level of expenditure during the year, recognising the limited resources available to Council, however the magnitude of work does highlight the level of infrastructure that is planned to be delivered to the community over the next 12 to 18 months.

There is currently a lot of preplanning work underway in respect to the delivery of a number of the larger projects, with the aim being to turn this into actual construction works during 2019.

Many of these projects are complex in respect to the various environmental, cultural and drainage approvals and the timing of delivery can be delayed if the approvals are not forthcoming.

Sustainability Considerations

- **Environment**
Many of the works listed provide positive environmental outcomes
- **Social**
Certain items provide significant social benefits
- **Economic**
Improved infrastructure can benefit the local economy.

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information.

10.11 Capital Expenditure Program - 30 September 2018 Review

Options

This report is primarily for noting to provide an update on the capital works program for 2018/19, however there are a number of budget adjustments (primarily deferrals) that are outlined in the attached schedules.

That information is included in the following recommendations.

RECOMMENDATIONS

1. That Council notes the contents of this status report on the Capital Expenditure Program for the 2018/19 financial year.
2. That Council approves the following budget amendments as outlined in the attachments to this report:

Item	Current Budget	Revised Budget	Variation	Comment
Open Spaces and Reserves				
Killen Falls – Plans of Management	20,000	0	(20,000)	Transfer from capital to open spaces operating expense as planned expenditure is not classified as capital.
Pop Denison Master Plan	134,100	386,100	252,000	Grant funding approved by State Government
Sports Fields				
Kingsford Smith – Retaining Wall	0	30,000	30,000	Grant funding approved by State Government
Skennars Head Sports Fields – Expansion	2,185,000	2,275,000	90,000	Grant funding approved by State Government
Wollongbar Sports Fields – Drainage	0	400,000	400,000	Grant funding approved by State Government
Williams Reserve Lighting	62,000	141,000	79,000	Grant funding approved by State Government
Sports and Recreation Plan	35,000	0	(35,000)	Transfer from capital to sports fields operating expense as planned expenditure is not classified as capital.
Waste Management				
Recycled Handling Covered Area	91,100	0	(91,100)	Project complete – funding transferred back to reserve
Transfer Station - Security Cameras	0	12,500	12,500	Improvement – funded by transfer from reserve
Transfer Station - Signage	0	13,400	13,400	Improvement – funded by transfer from reserve
Community Facilities				
Community Centres – Miscellaneous	24,000	0	(24,000)	Transfer to Lennox Head Community Centre
Lennox Head Community Centre - Cladding	82,300	106,300	24,000	Increase in budget as scope of works being redefined.
Swimming Pools				
Ballina and Alstonville	119,400	181,400	62,000	Transfer from LRM to finalise this project
Ballina – Disabled Facilities	0	15,000	15,000	Transfer from LRM to provide this service.
Property – Commercial				
Airport – Master Plan	100,000	0	(100,000)	Transfer from capital to airport operating expense as planned expenditure is not classified as capital.
Water				
Main Renewals	706,000	646,000	(60,000)	Budget saving – transfer back to reserve

10.11 Capital Expenditure Program - 30 September 2018 Review

Water Meters – Replacement Connections	61,000	121,000	60,000	Budget saving – transfer back to reserve
Wastewater				
WWTP – Ballina – Septic Receiving	70,000	90,000	20,000	Increase in estimated cost – Funded by transfer from wastewater reserve
Trunk Mains – Gravity Main Wollongbar – Stage Two	1,138,000	0	(1,138,000)	Budget saving – transfer back to wastewater reserve – Project deferred for lengthy period of time
Gravity Main - Alstonville	340,000	700,000	360,000	Increase in scope of works - Funded by transfer from wastewater reserve
Engineering Works – Stormwater				
Asset Data Collection	60,000	0	(60,000)	Transfer from capital to operating expense as planned expenditure is not classified as capital.
Engineering Works – Roads and Bridges				
Reseals Urban	606,300	556,300	(50,000)	Transferred to sealing Camp Drewe Road
Teven Road (segments 70, 58-60)	318,000	0	(318,000)	Transfer to 2019/20
Hutley Drive – Northern Connection	4,476,000	176,000	(4,300,000)	Transfer to 2019/20
Airport Boulevard	6,946,900	1,446,900	(5,500,000)	Transfer to 2019/20
River Drive	792,000	192,000	(600,000)	Transfer to road contingency reserve
River Street Beautification	2,700,000	1,700,000	(1,000,000)	Transfer to 2019/20
Chickiba Drive (segments 10-20, part 30)	140,200	0	(140,200)	Transferred to sealing Camp Drewe Road
Pimlico Road (segments 110 and 20)	296,000	0	(296,000)	Transfer to 2019/20
Camp Drewe Road	0	190,200	190,200	Funded by transfers from reseals and Chickiba Drive
Engineering Works – Footpaths and Cycleways				
Coastal Walk	1,502,000	502,000	(1,000,000)	Transfer to 2019/20
River Street – Pedestrian Refuge	16,000	0	(16,000)	Transfer to internal reserve as works being completed by private party.
Engineering Works – Water Transport				
Brunswick Street Boat Ramp	140,000	20,000	(120,000)	Transfer to reserve until additional funding secured
Lennox Head North Creek Road Boat Ramp	90,000	20,000	(70,000)	Transfer to reserve until additional funding secured

Attachment(s)

1. Capital Expenditure - Open Spaces, Waste and Environmental Health
2. Capital Expenditure - Community Facilities and Operations Support
3. Capital Expenditure - Commercial Services and Information Services
4. Capital Expenditure - Water Operations
5. Capital Expenditure - Wastewater Operations
6. Capital Expenditure - Engineering Works

11.1 Disaster Recovery Funding Arrangements (DRFA)

11. Civil Services Group Reports

11.1 Disaster Recovery Funding Arrangements (DRFA)

Delivery Program Support Operations

Objective To respond to the Office of Emergency Management on the new Disaster Recovery Funding Arrangements (DRFA).

Background

The Commonwealth Government's reform of the Natural Disaster Relief and Recovery Arrangements (NDRRA) has resulted in some significant changes, including the establishment of the newly named "Disaster Recovery Funding Arrangements" (DRFA).

The DRFA creates a revised framework for the Commonwealth to share the cost of disasters with the State Government, local councils and other stakeholders.

The DRFA is the Commonwealth's response to the 2015 Productivity Commission's inquiry into disaster funding arrangements and a major audit of the NDRRA, carried out by the Australian National Audit Office.

Initial consultation and testing of the DRFA occurred with 15 selected councils across the state in collaboration with the Office of Local Government, Roads and Maritime Services, and Public Works Advisory.

Seventy percent of councils, including Ballina Shire Council, provided feedback via an on-line survey circulated in April 2018. Several councils expressed a preference to claim disaster funding assistance for costs relating to day labour, including internal plant and equipment hire. Claims for these costs have not been eligible now for some time, despite the ongoing concerns of local government.

In considering the inclusion of day labour, internal plant and equipment hire costs, the Office of Local Government evaluated the Commonwealth funding model and impact on NSW. A fundamental principle of DRFA is that recovery is a shared responsibility and that councils affected by the same eligible disaster should receive the same assistance.

The new funding arrangement will commence for disaster events occurring on or after 1 November 2019. Until this time, the existing NDRRA will continue to apply.

The NSW Government is providing Local Government the opportunity to adopt the DRFA model earlier than the compulsory implementation meaning Council has the opportunity to implement the DRFA model earlier than 1 November 2019.

There are certain conditions associated with this decision and the purpose of this report is to enable Council to determine a preference.

Key Issues

- Funding eligibility to assist with disaster events
- Capacity to respond to disaster events in the most effective way

Information

The inability to claim day labour costs, internal plant costs and the timeframes to complete works has been problematic for councils under the existing funding arrangements (NDRRA). Some of the difficulties include:

- Timeliness of restoration works is often the most important driver, especially in situations when local access is restricted. End-to-end quoting, tendering and procurement processes can result in delays between the disaster event and required restoration works.
- Not all damage restoration works can be carried out by contract services due to the limited availability of contractors in the local area following an event. In these situations, councils have no choice but to use day labour (their own staff) at their own cost.
- It can be costly and inefficient to engage contract labour to carry out minor works particularly when the works are spread over large areas. In these circumstances, day labour is often preferred.
- Given the urgent nature of Emergency Works, Council typically use day labour to complete these works, whilst reconstruction works are more likely to comprise a mixture of day labour, overtime and contract labour. The key point is Council is best placed to assess the task, the local market, and its own resources to optimise the procurement of the work.

The new DRFA, which commences on 1 November 2019, will allow councils to:

- Claim for costs related to day labour, including internal plant and equipment hire
- Have an extended time limit for Emergency Works from 21 days to 3 months, and
- Provision of a new co-funding model that align with the DRFA cost-sharing principle.

For the period from 1 November 2018 until the commencement of the new scheme a year later, the NSW Government is providing councils with two options.

These two options are outlined in Table 1.

In summary, option one (New Co-Funding Model) is representative of the arrangements that will be in place post 1 November 2019 and option two (Pre-DRFA Co-Funding Model) is representative of the current arrangements.

Table 1: Comparison of the funding model to disaster recovery

New Co-Funding Model	Pre-DRFA Co-Funding Model
<p>Outlined below is the new co-funding model aligned with the DRFA cost-sharing principle.</p> <ol style="list-style-type: none"> i. Each financial year, a threshold for activating Restoration of Essential Public Asset funding (Emergency Works, Immediate Reconstruction Works and Essential Public Asset Reconstruction Works) will be calculated for every local council. This threshold will be the lesser of 0.75% of the council's total rate revenue in the financial year two (2) years prior or \$1 million (excluding GST). ii. For a council to receive funding for Restoration of Essential Public Assets arising from an eligible disaster, the total estimated cost of restoration works must exceed the council's threshold (excl. GST). iii. The council must contribute funding or resources to a level that is equivalent to their threshold or 25% of the cost of these works, whichever is lower. iv. A council's contribution for restoration of essential public assets arising from all declared eligible disasters in a financial year will be capped at 2% of their total rate revenue in the financial year two years prior to the financial year in which the eligible disasters occurred. 	<p>Outlined below is the pre-DRFA co-funding model.</p> <ol style="list-style-type: none"> i. Roads and Maritime Services and/or Public Works Advisory will fund 100% of eligible Emergency Works costs (limited to 21 days, and excluding day labour and council's own plant and equipment); and ii. For Immediate Reconstruction Works and Essential Public Asset Reconstruction Works on local roads and road infrastructure, councils will be required to contribute 25% of the assessed cost up to \$116,000 (i.e. \$29,000 maximum) for each eligible disaster, capped at \$58,000 per financial year; and iii. For Immediate Reconstruction Works and Essential Public Asset Reconstruction Works on other essential public assets, councils will be required to contribute 25% of the assessed cost up to \$116,000 (i.e. \$29,000 maximum) for each eligible disaster, capped at \$68,000 per financial year, and minus any contributions made for works on local roads and road infrastructure in (ii). <p>Councils staying with the pre-DRFA arrangements are not eligible for day labour, internal plant and equipment hire costs, and must complete Emergency Works within 21 days.</p>

Option one has the advantage that day labour, internal plant and equipment hire costs are eligible in a claim. Also this option provides an important benefit in that it changes the time limits for Emergency Works and Immediate Reconstruction Works, increasing these from 21 days to three months.

Emergency Works are the urgent activities necessary following a disaster to temporarily restore an essential public asset. Enabling the assets to operate at an acceptable level supports the immediate recovery for the community. The approval process for these works is considerably faster than for other eligible works.

This additional time in completing these works means that Council would be able to better manage resources in arranging these urgent activities.

Previously when executing these works with a combination of day labour and external contractors, challenges have been faced in meeting the immediate 21 day timeframe as a result of general unavailability of resources in the local area following a disaster event.

Currently, in the event that the 21 day timeframe for Emergency Works is not met, councils are at high risk of being locked out of recovery funds to support their Emergency Works, or having approval to undertake the works delayed.

However option one, also has a potential disadvantage in that it applies new threshold arrangements to determine Council's contribution to the works. The

11.1 Disaster Recovery Funding Arrangements (DRFA)

thresholds are explained in Table 1. The impact of this difference is difficult to predict as obviously the scale of any future claims from an event in the next year is unknown.

The option one threshold would result in a higher contribution from Council. The first part of the threshold assessment is to determine which is the least of 0.75% of Council's rate revenue or \$1 million.

Last year our revenue from ordinary rates was \$20,897,000 (although the threshold is calculated from two financial years ago). Therefore, applying the 0.75%, results in a threshold of \$156,727.

The worst case scenario is if Council made claims that resulted in it reaching its maximum contribution amount (capped at 2% of our rate revenue) which is \$417,940.

Under option two, the maximum contribution Council would make in any financial year is \$68,000.

For a year in which Council made a claim of \$500,000, the option one contribution would be \$125,000 and the option two contribution would be \$68,000.

Therefore Council has to choose (for the next year only) between the benefits of the option one model (day labour/extended emergency works) compared to the benefit of option two, which results in a smaller Council contribution for a claim.

This is a question of cost versus service flexibility, however looking at the scenarios discussed above, from the perspective of staff, on balance, option one appears to be to Council's best advantage.

For the \$500,000 claim example, the extra estimated cost by selecting option one compared to option two is \$57,000. However this is money spent directly on the repair and effective renewal of Council assets and enables Council to access the significant advantages of option one. This would not cause a major budget issue as the funds could be sourced from existing maintenance allocations.

For the maximum contribution example, the budget implications are much more significant. The cost in selecting option one would be \$350,000 more than the option two result (i.e. \$417,940 compared to \$68,000 – approximately).

In this case it is possible that Council could be responding to emergency works or a total claim costing many millions of dollars and the most effective response is likely to need a combination of day labour and contract service provision.

In the case of a disaster claim for roads, it is likely the disaster recovery work would replace or enable the deferral of a portion of Council's renewal program.

Therefore, even for this maximum example, in most circumstances it could be expected funding of Council's contribution could be managed from existing budgets.

11.1 Disaster Recovery Funding Arrangements (DRFA)

This would be more problematic for other infrastructure such as revetment walls and buildings, where there is not the same magnitude of recurrent budgets.

OEM has asked Council to provide a response by 31 January 2019 to the two options.

If Council responds now, with the selection of option one that will apply from the time of our response. Otherwise OEM will assume Council has opted to remain with the pre-DFRA arrangements.

Further to the comment above in respect to funding a large contribution to road assets, as the option one model will be in place from the end of next year, it may be prudent for Council to respond to this change by developing (over time) a reserve which is capable of funding the maximum contribution to avoid the risk of budget shock following a natural disaster.

This report has not examined all of the reforms to these arrangements. Another aspect of the reforms deal with disaster grants only funding restoration to current condition, not replacement. This means the amount claimed by Council will be significantly less than previous. The concept of a financial reserve may also assist in these circumstances.

Sustainability Considerations

- **Environment**
One purpose of the funding arrangements is to help prevent environmental issues being created following a disaster.
- **Social**
The purpose of these funding arrangements is to help the community recover following a disaster.
- **Economic**
Restoration of critical assets after a disaster is important to address the economic impacts of the event.

Legal / Resource / Financial Implications

The information in the report discusses the resource and financial implications of the new scheme.

Consultation

The Office of Emergency Management consulted with the Office of Local Government, Roads and Maritime Services, and Public Works Advisory.

11.1 Disaster Recovery Funding Arrangements (DRFA)

Council also provided input to the existing and proposed models via a survey earlier this year.

No external consultation has been undertaken with the community regarding this issue.

Options

The DRFA model is being implemented throughout Australia as of the 1 November 2019. Council has been provided the opportunity to adopt this model earlier as of 1 January 2019.

The options available to Council:

1. Pre-DRFA Co-Funding Model.

Under this option Council would operate under the existing disaster recovery arrangements up to the point where the compulsory implementation of the DRFA occurs on 1 November 2019.

This would not allow for any day labour and plant costs to be claimed. The time limit for emergency works would remain at 21 days.

2. New Co-Funding Model

Under this option Council would volunteering to adopt the DRFA early and commence operation under the new disaster recovery arrangements.

This would allow for day labour and plant costs can be claimed in the event of a disaster. The time limit for Emergency Works would also be extended to three months.

As per the discussion in the report, on balance, transitioning to the new arrangements now is recommended.

The recommendation also suggests Council review the need to develop a financial reserve for disaster funding contributions.

RECOMMENDATIONS

1. That Council advise the Office of Emergency Management that it agrees to the option to Opt-In now in respect to the New Co-Funding Model Disaster Recovery Funding Arrangements.
2. That, during the preparation of the 2019/20 Delivery Program and Operational Plan, Council consider the establishment of a financial reserve to fund future contributions to natural disaster claims.

Attachment(s)

Nil

11.2 Street Lighting - LED Bulk Replacement Program

11.2 Street Lighting - LED Bulk Replacement Program

Delivery Program Support Operations

Objective To examine a proposal from Essential Energy for the upgrade of street light fittings to LED fittings.

Background

Street lighting across NSW is moving towards LED technology and this is programmed to occur over the next several years for both local and main roads.

Essential Energy has recently written to seek a partnership with Council in a proposed program to upgrade eligible local road street lighting to LED technology. The number of light fittings to be replaced within the Shire would be in the order of 2,310.

The program would provide Council with the opportunity to reduce energy consumption and CO2 emissions, both of which are directions outlined in our Community Strategic Plan and Delivery Program to reduce our resource usage through innovation.

A report was presented to the August 2018 ordinary meeting where it was resolved *'That Council receives a report to consider Council's future investment in street light infrastructure and power sources'*. The information from this report is generally reproduced again as follows.

A Councillor Briefing was held on 20 September 2018, where Essential Energy presented to Council members. A copy of the presentation provided is Attachment 1 to this report.

This report responds to key items raised during the briefing and corrects data that was provided by Essential Energy on the payback periods. The incorrect data does not change the preferred option, only the annual savings value and payback period.

Key Issues

- Reduce energy consumption and CO2 emissions
- Reduce energy costs
- Funding

Information

Essential Energy has proposed four options for the upgrading of street lights in the Ballina Shire local government area, as direct replacements for suitable existing street lights.

Essential Energy, based on their existing streetlight asset register, is proposing that approximately 2,310 street lights would be upgraded with LED fittings.

11.2 Street Lighting - LED Bulk Replacement Program

The four options proposed by Essential Energy are based on:

- a) capital cost for the LED streetlight fitting, and
- b) annual energy usage for the proposed fittings.

The proposals only consider replacing lighting that is for current Category P lighting. This category is typically for roads and other areas where the visual requirements of pedestrians are dominant.

The proposal does not include the replacement of Category V lighting, which is typically applicable to roads on which motorists are dominant.

An average energy usage of 14c per kWh has been used as the basis of energy cost calculations for this summary. Based on the existing street light fittings, Essential Energy estimate that the current annual cost of energy for the fittings proposed for upgrade is in the order of \$200,000.

The four LED luminaire options presented by Essential Energy are:

Option 1: Gerard 17W + 42W

Essential Energy has proposed Gerard 17W StreetLED as a replacement for the existing P4/5 street lights and Gerard 42W StreetLED as a replacement for the existing P3 street lights.

Total Capital Cost to Council:	\$893,928
Energy Saving Certificate value to Council:	\$62,575
Estimated Annual Energy Saving:	\$206,612

Payback Period, in the order of: 4 years 0 months

Option 2: GE 25W + Gerard 42W

Essential Energy has proposed GE 25W Evolve as a replacement for the existing P4/5 street lights and Gerard 42W StreetLED as a replacement for the existing P3 street lights.

Total Capital Cost to Council:	\$764,398
Energy Saving Certificate value to Council:	\$53,508
Estimated Annual Energy Saving:	\$189,498

Payback Period, in the order of: 3 years 9 months

Option 3: GE 25W + Pecan 35W

Essential Energy has proposed GE 25W Evolve as a replacement for the existing P4/5 street lights and Pecan 35W as a replacement for the existing P3 street lights.

11.2 Street Lighting - LED Bulk Replacement Program

Total Capital Cost to Council:	\$787,277
Energy Saving Certificate value to Council:	\$55,109
Estimated Annual Energy Saving:	\$187,814

Payback Period, in the order of: 3 years 10 months

Option 3: GE 25W + Pecan 35W

Essential Energy has proposed Gerard 17W StreetLED as a replacement for the existing P4/5 street lights and Pecan 35W as a replacement for the existing P3 street lights.

Total Capital Cost to Council:	\$916,807
Energy Saving Certificate value to Council:	\$64,176
Estimated Annual Energy Saving:	\$204,928

Payback Period, in the order of: 4 years 3 months

Comparative Analysis

The data corrections provided by Essential Energy did not change the scoring or outcome of the comparative analysis. The factors for assessment included: Total Cost to Council, Annual Energy Cost, Indicative Payback Period, and Lifecycle Cost (10 years).

Critical Factors	Option 1	Option 2	Option 3	Option 4
Total Cost to Council	2	4	3	1
Annual Energy Cost	4	2	1	3
Indicative Payback Period	2	4	3	1
Life cycle cost (10 years)	2	4	3	1
Score	10	14	10	6

A basic life cycle analysis was conducted to determine the total cost over the expected life of the fittings proposed by Essential Energy.

All of the lamps proposed had an estimated life expectancy in the order of 100,000 hours, and Essential Energy estimate that the average annual lamp usage is in the order of 4,300 hours, or 20+years.

The higher capital cost options have a longer payback period, however they also provide higher annual savings.

Warranty

Essential Energy advised that all of the LED manufacturers have provided a 10 year warranty with the light fittings.

This significantly reduces the maintenance and lamp replacement costs during this period.

Future Technology

Essential Energy advised that there are no significant alternatives to LED technology at this point in time, however continuous improvements are being made to the efficiency of LED lighting.

Essential Energy indicated that the significant advantage of LED lighting, other than the luminous efficiency, was the future ability to be interfaced with Smart lighting technology. Smart interface units can be installed in the standard LED light fittings that would be able to control the light output level.

The briefing was comprehensive and the response to the following key questions which arose in debate at the August Council meeting are discussed below.

1. Can Council defer this proposal?

Yes, however the reason it is happening now is because Essential Energy are required to complete a bulk upgrade of the current fittings. This upgrade occurs every four years for the current compact fluorescent lights. Avoiding this bulk upgrade is a cost saving that is able to be used to reduce the capital cost to Council to change to LED. Also, a deferral will result in an increase in outages due to the age of the existing infrastructure.

2. How is Council satisfied the proposal is value for money?

Essential Energy confirmed they have tendered the supply of the units and the contract for installation.

Also public lighting is a service that is provided to customers on the basis of the direct costs incurred. These costs are subject to independent regulatory assessment.

3. Can Council move to alternate technology such as solar?

Due to the networked nature of the infrastructure the current arrangements are considered to be the most efficient and effective. As street lighting provides an essential service from a safety perspective, under a solar arrangement, sufficient energy generation and storage is required at each pole to ensure the provision of the service irrespective of weather. This would add large redundancy costs into a solar scheme. Also maintenance costs would be expensive. Therefore the preferred method to use renewable energy is for bulk supply to the network, rather than individual units.

Also, to achieve improved environmental sustainability going forward Council should continue to invest in the most advanced technology in terms of energy efficient lights and in time consider the SMART street lighting systems which will provide the capability to optimize the use of street lights.

Sustainability Considerations

- **Environment**

The ability to reduce resource use through innovation; the reduction of energy consumption and CO2 emissions from these assets.

11.2 Street Lighting - LED Bulk Replacement Program

- **Social**
Not Applicable
- **Economic**
This scheme has a payback period of less than three years based on current consumption predication and rates.

Legal / Resource / Financial Implications

Accepting the offer for Essential Energy to undertake the bulk replacement of the street lighting in accordance with Option 2 (the preferred option) comes at a capital cost of \$764,398.

This option has a payback period of less than four years, the shortest payback period of the four options presented.

As it was outlined in the original report presented to Council, from a financial perspective, the preferred approach to funding this proposal is:

- a) Determine from the Office of Local Government whether an internal loan from the water and / or wastewater funds is a viable option, as the preferred funding source. The reason for this is that these two funds have significant reserve funds immediately available.
- b) If water and / or wastewater are not a viable option, the Employee Leave Entitlements Reserve is the preferred funding source.
- c) Any internal loan is to be repaid in full based on three annual repayments of \$265,000.
- d) Any over-expenditure in the capital cost, or reduced savings in forecast street lighting operating expenses, is to be offset by other budget adjustments. This then ensures the internal loan is repaid as priority.

The alternate option is to request a tariff from Essential Energy which is based on capital provided by Essential Energy. Assuming the cost of capital is similar between Council and Essential Energy, the advantage of this option is it avoids the internal loan arrangements described above. The disadvantage is recurrent street lighting costs will be higher each year to fund this type of tariff meaning those funds are not available for other activities. There may also be a financing cost applied by Essential Energy.

Consultation

Other Local Government Areas also partnering with Essential Energy in implementing this LED street lighting upgrade program include: Lismore City Council, Coffs Harbour City Council, and Nambucca Shire Council.

Options

Council has the option to proceed with the partnership with Essential Energy in the bulk street lighting upgrade program by selecting one of the four luminaire options.

11.2 Street Lighting - LED Bulk Replacement Program

Alternatively, Council has the option to not proceed with the program at this time.

With significant energy consumption savings, reductions in CO2 emissions and a quick payback period, it is preferable to accept the offer to bulk upgrade these street lights.

Four luminaire options were presented in the report and the comparative analysis indicates the most beneficial technology with the favorable payback period is Option 2.

Due to Essential Energy requiring a response on this item for works to occur in November 2018, it is recommended that Council support the implementation of Option 2 with a capital cost of \$764,398.

As noted in the financial implications of this report, it is also an option to request a capital funded tariff price from Essential Energy.

RECOMMENDATIONS

1. That Council accepts Essential Energy's offer for the bulk replacement of street lighting with LED fittings, in accordance with Option 2 as detailed in the above report.
2. The capital cost for point one of approximately \$765,000 is to be funded from an internal loan through a transfer from either Water and / or Wastewater Reserves, or the Employee Entitlements Reserve, with the General Manager authorized to make this funding determination based on advice from the Office of Local Government.
3. The Council also approves a variation to the Long Term Financial Plan to have the internal loan repaid within four years.

Attachment(s)

1. Presentation - Essential Energy to Councillor Briefing on LED Lighting Proposal (Under separate cover)

11.3 Native Title Managers - Council Approval

11.3 Native Title Managers - Council Approval

Delivery Program Open Spaces and Reserves

Objective To comply with a statutory requirement under the Crown Lands Management Act and confirm the Native Title Managers for Council.

Background

The Crown Lands Management Act (CLMA) 2016 commenced 1 July 2018. Under the Act, Council is responsible for compliance with native title legislation in relation to vested land and dealings and activities on Crown reserves which they manage.

In accordance with Section 8.8 of the CLMA, Council is required to provide written notice to the Minister of details of persons that Council has employed as Native Title Managers by 31 October each year.

Key Issues

- Compliance with requirements of the Crown Lands Management Act 2016
- Compliance with requirements of the Local Government Act 1993

Information

Council is required to employ or engage at least one native title manager to ensure Council's dealing with land comply with any applicable provision of native title legislation.

A Native Title Manager must have undertaken approved training.

The following staff have undertaken the approved training provided by the NSW Crown Solicitor's Office:

- Cheyne Willebrands (Manager Open Spaces and Resource Recovery)
- Jessica Saad (Property Officer – Community Land)
- Leanne Harding (Property Officer – Commercial Land)

Council is required to provide notice of the trained staff in writing to the Minister as prescribed in Section 8.8 of the Crown Land Management Act.

As per the advice from Dr Lindsay Taylor at a recent Councillor briefing, the role of Native Title Manager will deal with complex legislation and processes and accordingly governance support to our managers will be required to ensure they are able to perform the required functions.

11.3 Native Title Managers - Council Approval

Once more is understood about the role and our management of the changes to the CLMA, to provide this support and manage our corporate and personnel risks, in the future it may be beneficial for other staff to also complete the required training.

Sustainability Considerations

- **Environment**
Native Title Managers will deal with many complex environmental and social considerations in respect to management of Crown Land.
- **Social**
As above
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council is complying with its legal responsibilities.

Consultation

Not applicable.

Options

As this is a statutory responsibility, no alternative options are provided further to the recommendation to write to the Minister informing the names of qualified Native Title Managers being:

- Cheyne Willebrands
- Jessica Saad
- Leanne Harding

RECOMMENDATION

That Council, in accordance with Section 8.8 of the Crown Lands Management Act 2016, write to the Minister for Primary Industries for the purpose of informing the Minister the names of our qualified Native Title Managers being:

- Cheyne Willebrands
- Jessica Saad
- Leanne Harding

Attachment(s)

Nil

11.4 Tender - Ballina Island and West Ballina Flood Study

11.4 Tender - Ballina Island and West Ballina Flood Study

Delivery Program Asset Management

Objective To complete the tender assessment for the Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan.

Background

Council adopted the Ballina Floodplain Risk Management Plan (BFRMP) in May 2015. The BFRMP includes implementation actions across a number of initiative areas comprising:

- Property Modification Measures (P) - Updating development controls, agricultural levee guidance, voluntary house raising
- Response Modification Measures (R) – Evacuation planning, community engagement, flood gauging network, flood warning and prediction systems, evacuation routes
- Flood Mitigation Measures (F) – consider feasibility for Gallans Road flood relief, Deadmans Creek Road flood relief, Cabbage Tree Island deflector, Newrybar study and Ballina Island alternative measures

This tender deals with the appointment of a specialist consultant to undertake further investigation, study and reporting on some key implementation actions. These implementation actions are:

- F8 - Investigate the feasibility of alternative systems of flood structural measures that may include a combination of levee, pump and floodgates to provide protection for the Ballina Island precinct
- R8 – Investigate the potential to improve evacuation route capacity through raising low points

This project, and tender process, has been able to be commenced due to the receipt of a two-thirds grant offer from OEHL under their Floodplain Management Program.

The project will develop a strategy that will enable Council to make informed decisions on prioritising protection to property and critical infrastructure.

Importantly implementation action F8 is the principal driver of this project. It is identified as an early action of the BFRMP. This project has been forecast to extend over three years to enable the collection of data and undertake the overland flood study necessary to inform the feasibility study component of this project.

The nature of mainstream flooding is well understood for the study areas of Ballina Island and West Ballina.

11.4 Tender - Ballina Island and West Ballina Flood Study

The priority of previous flood studies has been focused on mainstream flooding because in the existing conditions the 1% AEP flood level from mainstream flooding is substantially higher than that caused by local overland flow.

No local overland flood studies have been undertaken on Ballina Island or West Ballina. Local overland flooding is common on Ballina Island and some lower lying areas of West Ballina.

The centre of the island is characterised by a "bowl" formation with the lowest points of the island generally around Tamar Street, Grant Street and Moon Street. These unusual conditions demonstrate complex overland flooding characteristics which are mostly driven by the complex interactions between rainfall runoff, surface storage, pipe capacity and tide oscillations.

The various factors affecting overland flooding make it challenging to manage on Ballina Island and the nature of overland flooding is poorly understood.

Development of a strategy for the protection of private property and public infrastructure must consider all aspects of flooding including how local overland flooding is managed in conjunction with protection against mainstream flooding. Under this study this will need to consider measures such as levees, pumps and floodgates.

The overland flood study and the flood protection feasibility study and plan will require specialist consultants to undertake overland flood studies and technical aspects of this project.

The issues are complex and any strategy for protection against flooding will have significant costs to development and public infrastructure. It is therefore of high importance to engage highly experienced consultants guiding the development of a flood protection strategy.

In August 2018 tenders were called to undertake the overland flood study and preparation of a flood protection feasibility study and plan. Nine tenders were received by the close of the tender period. This report details the outcomes of the tender evaluation process

Key Issues

- Compliance with the Local Government (General) Regulation 2005
- Achieve best value for money
- Obtain advice from high quality expertise

Information

Tender Submissions were received from:

- WMA Water
- Water Modelling Solutions Pty Ltd
- Jacobs Group (Australia) Pty Ltd
- Flume Engineering
- GHD Services Pty Ltd
- EnviroConsult Australia Pty Ltd

11.4 Tender - Ballina Island and West Ballina Flood Study

- Engeny Water Management
- BMT Eastern Australia Pty Ltd
- Ardill Payne and Partners

The assessment of conforming tenders was undertaken using the following mandatory criteria:

- Public Liability insurance \$20M
- Professional Indemnity insurance \$10M
- Appropriate Workers Compensation Insurance

And the evaluation assessment was based on weighting criteria as denoted in the following table.

Evaluation Criteria	Weighting
Pricing structure	35%
Capability/staffing	30%
Past Performance	30%
Social and Community	5%

Further information in respect of the pricing has been provided to Councilors through a confidential memorandum separate to this report.

The confidential assessment information notes there was a wide range in pricing and the directly related experience and capacity of the tenderers.

Therefore it is likely the difference in pricing can be attributed to experience in assessing the full scope and scale of the project.

The assessment of the selection criteria, which includes specific advice from OEH, ranked Jacobs Group (Australia) as the recommended consultant.

Sustainability Considerations

- **Environment**
The overland flood study will be conducted by specialist consultants and in consideration of the broader environment in the development of the options and recommendations.
- **Social**
This study will assist Council in developing strategic plans for managing flood affected property works and infrastructure across Ballina Island and West Ballina, and which will consider impacts across the community.
- **Economic**
This study will consider financial impact to the community from flood events and consider mitigation options that reduces the risk.

Legal / Resource / Financial Implications

Compliance with Part 7 Tendering of the Local Government (General) Regulation 2005 is satisfied under this tender process.

11.4 Tender - Ballina Island and West Ballina Flood Study

The project will take place over the next three financial years and Council's Long Term Financial Plan has funding allocated as follows:

FY	Budget	Tender Forecast
2018 - 2019	\$107,000	\$40,000
2019 - 2020	\$130,000	\$70,000
2020 - 2021	\$30,800	\$16,000
		\$126,000

Consultation

A public tender process was undertaken.

Options

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

Option One - Accept the tender that having regard to all the circumstances, appears to be the most advantageous, or

Option Two - Decline to accept the tenders

Option One is recommended.

Staff (including a representative of OEH) has reviewed the tenders in detail. The preferred tender is conforming and satisfies the project brief and allocated budget.

RECOMMENDATIONS

1. That Council awards the tender for Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan to Jacobs Group (Australia) Pty Ltd, for a tender price of \$125,750 excluding GST.
2. That upon the conclusion of negotiations Council authorises the General Manager to affix the Council seal to the relevant contract documents and execute same.

Attachment(s)

Nil

11.5 Tender - Supply and Delivery of Quarry Products

11.5 Tender - Supply and Delivery of Quarry Products

Delivery Program Engineering Works

Objective To finalise the tender for the Supply and Delivery of Quarry Products.

Background

Tenders were advertised for Supply and Delivery of Quarry Products, closing on 21 August 2018. The tender is initially for a two year period until 31 August 2020 however the tender documentation enables Council to extend the contract a further one year period up until 31 August 2021.

The following tenders were received:

- Ballina Sands
- Boral
- Holcim
- Quarry Solutions
- Richmond Quarry

Pricing has been provided by way of a separate memorandum to Councillors.

Key Issues

- Appropriate assessment of suppliers of quarry products for the next two year period.
- Comply with the Local Government (General) Regulation 2005

Information

Council recently called tenders for the Supply and Delivery of Quarry Products. For previous expirations of this contract, staff have assessed it has been Council's best advantage to extend the contract for the additional year.

On this occasion the staff assessment was to retender without the extension. The reason for this was staff were observing strong market competition for quoted work outside of the contract. This trend has translated into the tender result with changes in the price rankings amongst suppliers (excluding haulage factors). The lowest price for the major product used is only a 2.5% increase which is considered a good result when compared to previous tenders.

This report provides details of the tender results.

The Boral, Holcim, and Ballina Sands quarries have supplied quarry products to Council over a number of years and have proven to be reliable and competent and provide products suitable for Council's purposes. The tenders from Quarry Solutions and Richmond Quarry are also capable of meeting Council's requirements.

11.5 Tender - Supply and Delivery of Quarry Products

Previously sand was provided to Council under a different contract, however the number of suppliers has declined. An opportunity was taken to include sand in this tender and this will assist with contract administration efficiencies.

There is provision in the contract for the calling of separate quotations (at Councils discretion) for construction projects that require larger quantities of material than might ordinarily be required for a routine project.

This allows Council to have access to tendered rates for the tender period and allow Council the opportunity to seek fresh competitive pricing on individual projects.

A comparison of tender rates requires consideration of the product cost (ex quarry) and haulage costs.

The separate memorandum to Councillors includes a general guide for rate comparisons by summarising the preferred supplier for each respective quarry product based on deliveries to Ballina, Alstonville, Wardell and Lennox Head.

The assessment sheet was developed based on a lowest price comparison that included both the product cost and the estimated haulage cost to these locations within the Shire from the different quarry sites.

Council generally hauls quarry material with contractors listed on Council's truck hire tender. The actual haulage costs will vary depending on the rate for the contractor chosen from the truck hire tender list.

The rate comparison provided in the memorandum is based on a common haulage rate from the truck hire contract.

In accordance with current practice, rates will be checked at the time of the works (when truck contractors are known) to ensure that Council utilises the Quarry that achieves the lowest overall supply and deliver cost to Council.

Sustainability Considerations

- **Environment**
All quarries are required to operate in accordance with an environmental management plan.
- **Social**
This tender will assist in the maintenance and construction of the road network and associated infrastructure and thereby support the community's transport needs.
- **Economic**
This tender will provide competitive prices for materials used in the maintenance and construction of the road network, an essential asset for economic development.

11.5 Tender - Supply and Delivery of Quarry Products

Legal / Resource / Financial Implications

This report aims to assist Council to meet its statutory and other legal obligations. Purchases made utilising this tender will be costed against applicable project and program budgets.

The pricing under this tender for Council's key roadbase product, No 1 crushed roadbase, is approximately the same rate for the other main supplier.

In light of indexation this is a good outcome for this product. This round of tendering has benefited from increased competition.

Consultation

A public tender process was conducted.

Options

On previous occasions, Council has adopted a list of preferred suppliers. This allows Council the opportunity to use the supplier with the most advantage to program requirements applying at the time.

The recommendation to this report is to accept all tenders consistent with this previous practice. All tenders have been assessed as meeting Council's needs and procurement will be based on pricing for each project.

RECOMMENDATIONS

1. That Council accepts the Tenders of Boral Country Concrete & Quarries, Holcim (Australia) P/L, Ballina Sands P/L, Quarry Solutions P/L and Richmond Quarry as preferred contractors for the supply of quarry products for the period from 31 August 2018 to 31 August 2020, with the preferred supplier for each order determined by an assessment undertaken having regard to cost and program requirements applicable at the time of the order.
2. That in accordance with the terms of the Contract, the General Manager is authorised to extend the contract period to 31 August 2021, if that arrangement is to the best advantage of Council.
3. That Council authorises the seal to be attached to any contract documents.

Attachment(s)

Nil

11.6 Policy (Review) - Kerbside Waste Bin Entitlement

11.6 Policy (Review) - Kerbside Waste Bin Entitlement

Delivery Program Waste Management

Objective To review the Kerbside Waste Bin Entitlement Policy.

Background

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

Council first adopted this policy in July 2014.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.

Information

During the review process several changes were made to this policy to incorporate the range of customers who utilise a kerbside collection service and the range of issues commonly encountered with mobile garbage bins (MGB).

The policy has been modified to more accurately reflect current waste management procedures and legislation. A copy of the amended policy is attached to the report. Changes have been marked in yellow.

The key changes to the policy include:

- Clarification of the Domestic Waste Management (DWM) entitlement charges for domestic, commercial or tenanted properties including properties that require additional services.
- Council now own and supply all MGBs as part of the DWM service charge. Additional detail has been provided on the repair (Council's preferred initial response to damaged MGBs) and replacement of damaged, lost or stolen MGBs to reflect this operational change.
- The revised Policy states that Council will no longer provide the 360 L recycling MGBs free of charge.

The Policy recommends that a one off (at cost) supply fee be charged to upgrade from a 240 L to a 360 L MGB. This supply fee reflects that the 360 L MGB costs \$100 per unit compared with less than \$30 per unit for a standard 240 L MGB.

11.6 Policy (Review) - Kerbside Waste Bin Entitlement

Council issues approximately 425 of the 360 L MGBs per year (a total of 1,748 since the service commenced in 2012). The supply of 425 of the 360 L MGBs costs Council \$29,750 more per year compared to supplying 425 standard 240 L MGBs, not including the additional costs to collect, transport and dispose of a larger volume of kerbside recycling material.

Imminent changes to the acceptable recyclable product list mean that it will be significantly harder for residents to generate more than 240 L of recycling per fortnight.

The 360 L bins will remain available for customers, however placing a fee on this product will encourage only those with a genuine need for this service to obtain it.

Sustainability Considerations

- **Environment**

The provision of a domestic urban 3 bin service assists in reducing the amount of waste impacting on the environment.

- **Social**

This policy supports the legitimate reissue of bins to residents and commercial operators and encourages those with a bin entitlement to be responsible for the management and storage of their MGBs.

- **Economic**

Cost effective and efficient Council services support economic development.

Clarification of the bin repair and replacement procedure will provide ongoing operational efficiencies and cost savings. It is Council's position to repair bins wherever possible before replacing them.

Placing a one off fee on the supply of 360 L recycling MGBs will offset the additional cost of this service and ensure that only those with a genuine need for this increased service will obtain these bins.

Legal / Resource / Financial Implications

There are no legal, resource or financial implications relating to the implementation of this policy. Bin replacement is part of the budgeted costs within the Waste Management program. The one off fee charged for 360 L recycling MGBs will be set at the cost purchase price.

Consultation

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.

The introduction of the new fee will need to be exhibited for a minimum period of 28 days prior to implementation.

11.6 Policy (Review) - Kerbside Waste Bin Entitlement

Options

Council may accept or amend the proposed changes to the policy. The changes included are largely to update terminology to be in line with current waste management operations, 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 and further advertised to the public for an additional 28 days regarding the proposed new fee.

RECOMMENDATIONS

1. That Council adopts the amended Kerbside Waste Bin Entitlement Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. That Council provide public notice for a minimum period of 28 days in regard to the proposed new fee as per the policy.

Attachment(s)

1. Policy (Review) - Kerbside Waste Bin Entitlement

11.7 Policy (Review) - Procurement

11.7 Policy (Review) - Procurement

Delivery Program Support Operations

Objective To review the Local Procurement Policy.

Background

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

Council first adopted the Local Procurement policy, in September 2013.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.

Information

Council's current policy for procurement was developed to guide the consideration of local economic factors in the assessment of quotes and tenders. In addition to this policy, staff work in accordance with a procurement procedure which deals with the other aspects of procurement, including probity, value for money, efficiency, and authority.

The review of this policy proposes changes that look further than just the social implications of procurement in the local area.

The policy has been extended to provide Council with a sustainable direction for procurement. Sustainable procurement considers the:

- Value for money, the cost and economic impact of the purchase;
- Social and ethical implications of the purchase;
- Environmental impacts of the purchase; and applying
- Good Governance.

Attachment 1 to this report is a copy of the current policy. A copy of the draft update to the policy is provided as Attachment 2.

In the draft policy, the social implications of procurement are still included through the Local Content aspect to support local suppliers where the benefits of that support in our local economy outweigh any additional costs incurred. This will continue to be reflected in the use of assessment selection criteria as 'Social & Community' with a minimum weighting of 15%.

In addition, Indigenous Communities is proposed to be reflected as a social consideration in procurement activities. The updated policy recognises the significance of increasing Indigenous employment and supporting Indigenous businesses through our procurement practices.

11.7 Policy (Review) - Procurement

Attachment 3 to this report is a letter from the Federal Minister for Indigenous Affairs. In this letter the Minister outlines the Government's Indigenous Procurement Policy (IPP) which includes a target that 3% of Commonwealth contracts be awarded to Indigenous businesses. The Minister has asked local government councils to consider a similar approach.

A target of the type adopted by the Federal Government is not considered practical at the local level as it is unlikely there are sufficient Indigenous businesses in the local area supplying services needed by Council. However the draft policy does include the provision for procurement officers to not only consider value for money, but to promote seeking goods and services from Indigenous businesses, allowing Council to support Indigenous Australians.

Sustainability Considerations

- **Environment**
The policy encourages sustainability considerations, including the environment, be included in Council's procurement processes.
- **Social**
The policy encourages sustainability considerations, including social perspectives, be included in Council's procurement processes.
- **Economic**
The policy encourages sustainability considerations, including economic development, be included in Council's procurement processes.

Legal / Resource / Financial Implications

The major financial implication of a local preference policy would be the possibility of a price premiums being paid for goods and services supplied by local suppliers and/or Indigenous businesses. However, this issue can be offset the benefit to the local economy and Indigenous Australians.

Consultation

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 recommendation is to adopt the draft policy.

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

RECOMMENDATIONS

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

Attachment(s)

1. Policy (Current) - Local Procurement (September 2013)
2. Policy (Review) - Procurement
3. Letter from Minister for Indigenous Affairs

11.8 Policy (Review) - Grazing of Stock on Road Reserves

11.8 Policy (Review) - Grazing of Stock on Road Reserves

Delivery Program Asset Management

Objective To review the Grazing of Stock on Road Reserves Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Grazing of Stock on Road Reserves policy.

Council first adopted this policy on 27 July 2006, and was subsequently reviewed on 26 August 2010 and 23 October 2014.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.

Information

The policy is still considered to be contemporary and reflects current legislation therefore no changes are recommended. A copy of the policy is attached to the report.

The policy prohibits the use of our road reserves for the grazing of stock.

The prohibition is preferred from a risk mitigation perspective and to support environmental management.

Sustainability Considerations

- **Environment**
The containment of stock within private landholdings avoids spread of cattle/stock waste.
- **Social**
The containment of stock within private landholdings avoids disruption to the public road system.
- **Economic**
The containment of stock within private landholding avoids risk of potential accident costs.

Legal / Resource / Financial Implications

The policy avoids potential liability claims due to accidents, by not allowing stock on the public road system.

11.8 Policy (Review) - Grazing of Stock on Road Reserves

Consultation

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 policy. It is however 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.

RECOMMENDATIONS

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

Attachment(s)

1. Policy (Review) - Grazing of Stock on Road Reserves

12. Public Question Time

12. Public Question Time

13. Notices of Motion

13. Notices of Motion

Nil Items

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

15. Reports from Councillors on Attendance on Council's behalf

15.1 Mayoral Meetings

Councillor David Wright

Activities I have attended, or propose to attend, as at the time of writing this report, since the September 2018 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
25/9/18	Meeting - John Gosper - Ramada
26/9/18	Meeting – Planning Proposal
26/9/18	Pre-Record Welcome for Virtual Shark Excursion - DPI
27/9/18	Reserve Trust Meeting
28/9/18	Alstonville High Year 12 Graduation Assembly
28/9/18	Church Group, Meeting Ben Trollope – Little Ripper Lifesaver
28/9/18	Ballina Basketball Presentation
29/9/18	Wardell Announcement – Floor Upgrade - Ben Franklin
29/9/18	Drone Allocation Organisation
30/9/18	Drone Allocation Organisation
1/10/18	International Day of Older Persons – Richmond Room
3/10/18	Richmond Police District Awards - RSL
5/10/18	Announcement of Funding – Ben Franklin –Wollongbar
5/10/18	NRJO Regional Priorities Meeting
6/10/18	Naming of Australian Masters Hockey team - Goonellabah
7/10/18	Commemoration Park Markets
9/10/18	Alstonville Wollongbar Chamber Meeting – SDA, Citizenship Ceremony
10/10/18	Local Traffic Committee, NDIS Rally – Missingham Park
10/10/18	Briefing – Crown Land Management Act
10/10/18	Koala Information Session Workshop – Richmond Room
12/10/18	Meeting – Country Music Festival, Meeting - Peter Plummer – AFL
12/10/18	Meeting – Evans Head Aviation Museum, Meeting Ben Franklin
13/10/18	Volecette Rally – Lennox Bus shelter
13/10/18	Meeting – Ben Franklin and Ben Trollope - Drones
14/10/18	Commemoration Park Markets, Lennox Head Markets - Wet
15/10/18	On Line Week – Cake Cutting - Surf Club
15/10/18	Small Business Friendly Councils Executive Roundtable – Ramada
16/10/18	Meeting with Airport Manager – Inspection of New Works
17/10/18	Northern Rivers JRPP meeting for Epiq Shopping Centre
17/10/18	Wardell Progress Association Meeting
18/10/18	Briefing – Ocean Pool
18/10/18	Ballina Networking Event – Australian General Practice Training
20/10/18	Wastewater Treatment Tour – Lennox Head, Tintenbar Hall new floor
21/10/18	Commemoration Park Markets, Ballina Markets
25/10/18	Council Meeting, Reserve Trust Meeting
27/10/18	Alstonville Show - Opening
28/10/18	Commemoration Park Markets
30/10/18	Ballina Shire Public Art Advisory Board
30/10/18	Duck Creek Mountain Bike Park Official Launch

RECOMMENDATION

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

Attachment(s) - Nil

16. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

16.1 Voluntary Planning Agreement - Skennars Head Expansion Area

Refer to Item 9.2 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

16.1 Voluntary Planning Agreement - Skennars Head Expansion Area

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 disclosure of the information may prejudice Council's negotiation position with respect to the voluntary planning agreement.