



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 13 December 2018 commencing at 9.00 am.**

Business

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

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

- (a) Deputations by members of the public may be made at Council meetings on matters included in the business paper. Deputations are limited to one speaker in the affirmative and one speaker in opposition. Deputations will be limited to a maximum of two items on the agenda per person.

Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting. Deputations are given five minutes to address Council.

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

- (b) Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- (c) The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.
- (d) To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
- Tenderers during a public tender or request for quotation
 - Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
 - Consultants who are engaged by Council on the matter the subject of the deputation.

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

Table of Contents

1.	Australian National Anthem	1
2.	Acknowledgement of Country	1
3.	Apologies.....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations.....	1
6.	Deputations	1
7.	Mayoral Minutes	2
7.1	Mayoral Minute - Donation Request	2
8.	Development and Environmental Health Group Reports.....	3
8.1	DA 2018/189 - 4 Page Court - Review of Determination	3
8.2	Development Applications - Works in Progress - November 2018	9
9.	Strategic and Community Facilities Group Reports.....	17
9.1	Planning Proposal and DCP Amendments - Burns Point Ferry Road	17
9.2	Planning Proposal and DCP Amendments - Dual Occupancy Alstonville	42
9.3	Planning Proposal - Attached Dual Occupancy, Wardell	49
9.4	Community Property - Lease Renewals	54
10.	General Manager's Group Reports	57
10.1	Use of Council Seal	57
10.2	Investment Summary - November 2018	58
10.3	Long Serving Employees - Recognition	63
10.4	Donations - Australian Representation	65
10.5	Managed Print Services Agreement - Extension	67
10.6	Policy (Review) - Corporate Sponsorship	70
10.7	Lennox Head Community Sports and Recreation Club - Rent Relief	72
10.8	Class Action - Jardine Lloyd Thompson	76
10.9	Organisation Structure - Review	79
11.	Civil Services Group Reports.....	85
11.1	Policy (Review) - Monuments on Public Land	85
11.2	Tender - Provision of Laboratory Services	90
12.	Public Question Time.....	95
13.	Notices of Motion.....	96
13.1	Notice of Motion - Business Community Survey	96
13.2	Notice of Motion - Alstonville Aquatic Centre	97
14.	Advisory Committee Minutes	99
14.1	Commercial Services Committee Minutes - 4 December 2018	99
15.	Reports from Councillors on Attendance on Council's behalf.....	108
15.1	Mayoral Meetings	108

16.	Confidential Session	109
16.1	Class Action - Jardine Lloyd Thompson	109
16.2	Organisation Structure - Review (Staffing)	110

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

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

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 November 2018 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 November 2018.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7.1 Mayoral Minute - Donation Request

7. Mayoral Minutes

7.1 Mayoral Minute - Donation Request

Councillor David Wright

A group of eight likeminded community people from various denominations are requesting a \$500 dollar donation towards the cost of running the Ballina Community Christmas Lunch which is held at the Ballina Presbyterian Hall on Christmas Day.

The donation will go towards buying the food from Coles and Woolworths.

The event is in its fifth year, and last year they catered for around 200 people. These people would normally spend Christmas Day alone but now they have a venue to go to and the difference it makes to their lives is fantastic.

The event organisers hold this event at a cost of around \$2,000. No one is paid, and any funds left over are banked for the next year's event. The costs for this event continue to increase as does the need in the community.

The Ballina Community Free Christmas Lunch has a special account for these funds auspice by the Ballina Presbyterian Church.

RECOMMENDATION

That Council provide the Ballina Community Free Christmas Lunch organiser's with a food voucher to the value of \$500. That the funds come from the Financial Assistance – Community Donations budget.

Attachment(s)

Nil

8.1 DA 2018/189 - 4 Page Court - Review of Determination

8. Development and Environmental Health Group Reports

8.1 DA 2018/189 - 4 Page Court - Review of Determination

Applicant	Mr W R Millar.
Property	Lot: 4 DP: 261887, 4 Page Court Lennox Head.
Proposal	Request for a Review of Determination of DA 2017/569 – Erection of a detached shed.
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP 2012.
Locality Plan	The location of the subject land is depicted in Figure 1.

Introduction

The proposed development is located at 4 Page Court Lennox Head (Figure 1).



Figure 1: Site locality plan (aerial photography) – 4 Page Court Lennox Head marked by yellow dot.

Council has received an application for a review of determination under Section 8.3 of the Environmental Planning and Assessment Act 1979 to review the refusal determination of Development Application 2018/189.

8.1 DA 2018/189 - 4 Page Court - Review of Determination

The application is for a detached steel framed metal clad storage shed located on a residential lot at the end of a cul-de-sac.

The application was originally for a shed that was 18.0m long x 4.5m wide x 4.894m high located 0.2m off the northern boundary.

Since the original application was lodged several discussions were had by staff with the applicant and the adjoining northern neighbour. As part of the discussions, a number of design options have been put forward by the applicant, including a 12 metre length shed which was assessed and reported to Council's internal Development Assessment Panel (DAP). A copy of the DAP report is contained in Attachment 1.

The application was determined by the DAP on 22 October 2018 by way of Refusal for the following reasons.

1. The location, bulk and scale of the development is likely to have an unreasonable adverse impact on the amenity of the adjoining property.
2. The development does not meet the objectives of the Building Envelope provisions of the Ballina Shire Development Control Plan 2012.
3. Approval of the development is not in the public interest as it could lead to the erosion of the planning objectives and controls that have been established for the benefit of the community.

The request for review by the applicant includes a new design for the proposed shed which is discussed in further detail below.

As the applicant has requested a review of determination, it is now a decision for Council to determine whether the proposed development is to be approved or refused.

Reportable Political Donations

Details of known reportable political donations are as follows:

Nil.

Public Exhibition

The development application as assessed and determined was notified in accordance with the Level 1 – Targeted Notification process as described in Clause 3.2.4 of Chapter 1 of the DCP.

One submission in objection was received from the owner of the adjoining property to the north.

The modified design that is now included as additional information for this review process was also notified in accordance with the Level 1 – Targeted Notification process.

One submission in objection to the new design was received from the owner of the adjoining property to the north (Attachment 2).

Applicable Planning Instruments

Ballina Local Environmental Plan 2012

Ballina Shire Development Control Plan 2012

Report

Additional information has been provided by the applicant including an amended design and consultant planning report (Attachment 3).

The amended design is for an 18m long shed with an angled roof design to be within the building envelope on the northern side. The proposal is shown below in Figures 2 and 3.

The submission in objection to the revised design includes documents from two real estate agents stating the possible devaluation of the objector's property should the proposed shed be constructed.

The submission also includes a southern elevation depicting the impact of the shed on the objector's property as shown in Figure 4.

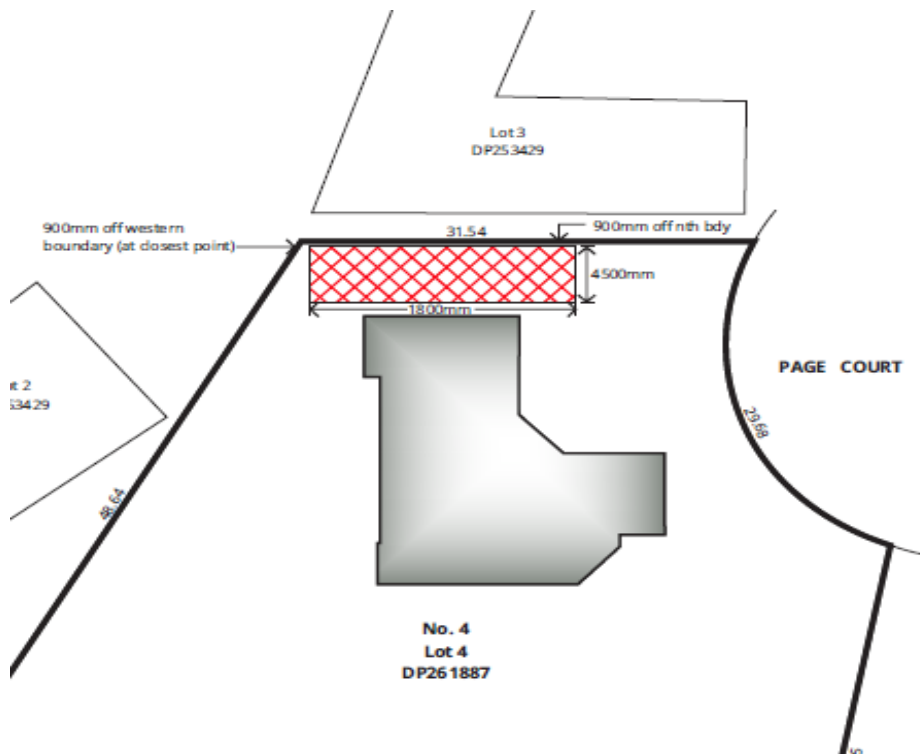
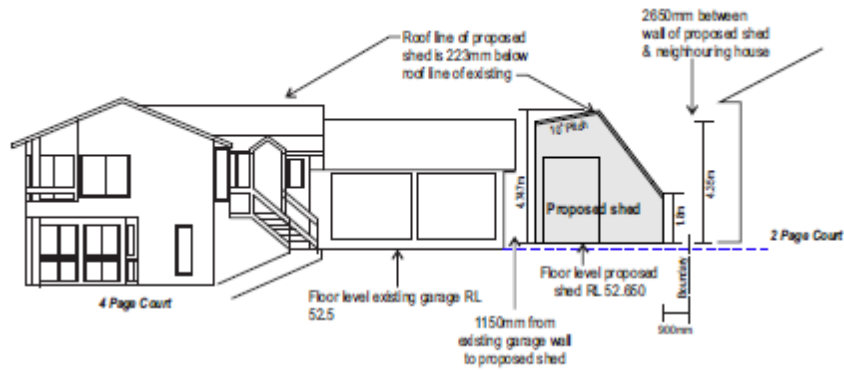
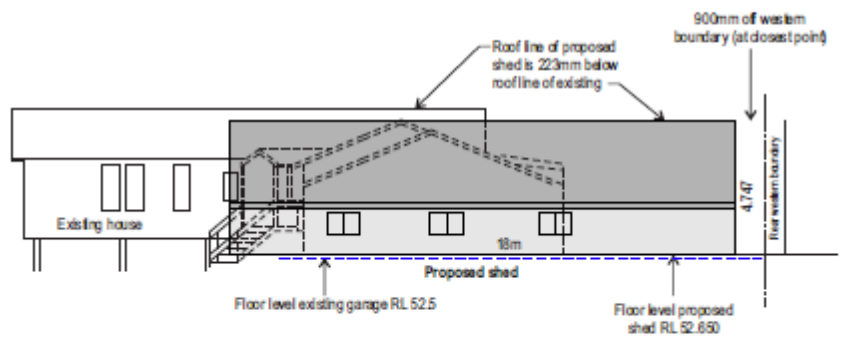


Figure 2: Proposed development location on land



Eastern Elevation



Northern Elevation

Figure 3: Proposed development elevations

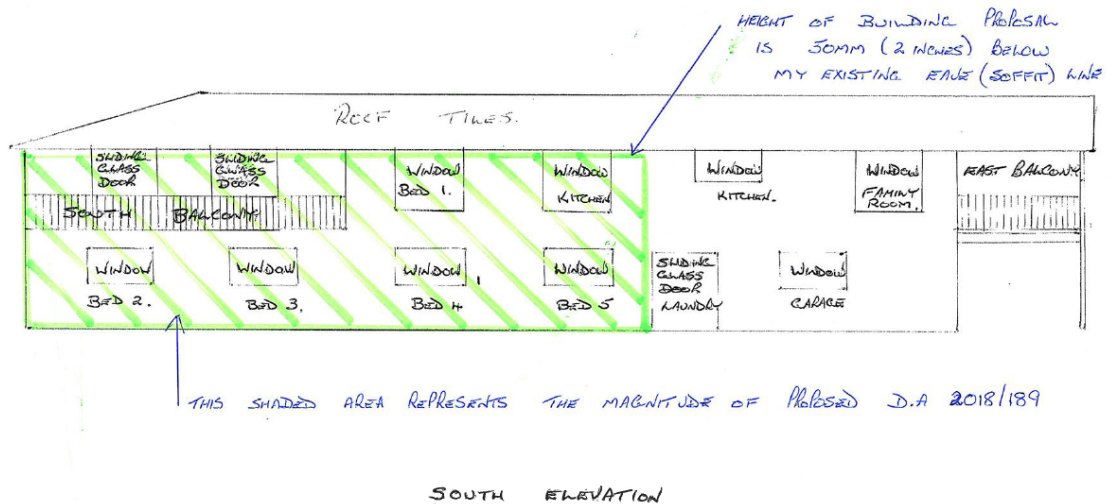


Figure 4: Objector assessment of impact on dwelling to North of 4 Page Court

Although the amended proposal now meets the building envelope controls under DCP 2012, it is maintained that the scale and bulk of the amended proposal will have an unreasonable adverse impact on the amenity of the adjoining premises to the north.

With respect to the revised design's compliance with the building envelope provisions of the DCP, the NSW planning principle established by the *Land and Environment Court* in *PDE Investments No 8 Pty Ltd v Manly Council* [2004] NSWLEC 355 states that:

A building envelope is determined by compliance with controls such as setback, landscaped area and height. Its purpose is to provide an envelope within which development may occur but not one which the development should necessarily fill.

Having regard for the above, the recommendation set out below is for refusal of the development application.

Options

1. Council uphold the refusal determination of the development application including the amended plans as part of this review process for the following reasons:
 - The scale and bulk of the development as amended will have an unreasonable adverse impact on the amenity of the adjoining neighbor.
 - Approval of the development as amended is not in the public interest.
2. Approve the application in accordance with the amended plans submitted as part of this review subject to the application of appropriate conditions of consent.

With regard for the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act*, the proposed shed is a permitted land use within the R2 Low Density Residential Zone under the Ballina LEP 2012. The amended design complies with the building height plane provisions of the Ballina Shire DCP 2012.

However, in relation to the impact of the development and suitability of the site for the structure as proposed, the assessment is that the proposed shed structure will have an unreasonable adverse impact on the amenity of the neighbour immediately to the north of the development.

The assessment has considered the issues raised in the submissions received which include concerns about amenity impacts raised by the owner of the land to the north of the subject site.

Having regard for the issues and amenity impacts associated with the proposed development, the development is not considered to be in the public interest.

Therefore, the recommendation is that Council refuse the development application.

RECOMMENDATION

That DA 2018/189, as amended, be refused for the following reasons:

- The scale and bulk of the development as amended will have an unreasonable adverse impact on the amenity of the adjoining neighbour;
- Approval of the development as amended is not in the public interest.

Attachment(s)

1. DA 2018/189 - Development Assessment Panel Report - 4 Page Court, Lennox Head
2. DA 2018/189 - Request for Review of Refusal
3. DA 2018/189 - Submission - B A Campbell

8.2 Development Applications - Works in Progress - November 2018

8.2 Development Applications - Works in Progress - November 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	Awaiting additional Information
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
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	Awaiting additional information
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
2018/405	12/7/2018	Town Planning Studio Pty Ltd	Two Lot Torrens Title Subdivision – 425 Ross Lane, Lennox Head	Awaiting additional Information

8.2 Development Applications - Works in Progress - November 2018

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	Determination pending
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
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
2018/439	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	Determination pending
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	Awaiting additional information
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

8.2 Development Applications - Works in Progress - November 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	Being assessed
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	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	Determination pending
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	Awaiting additional information
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	Awaiting additional information
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	Awaiting additional information
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	Determination pending

8.2 Development Applications - Works in Progress - November 2018

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	Determination pending
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	Being assessed
2018/580	21/9/2018	Newton Denny Chapelle	Boundary adjustment subdivision to create one x 5114 sqm and one x 833 sqm allotments - 260 North Creek Road & 17 McLeans Street, Skennars Head	Being assessed
2018/581	21/9/2018	GeoLINK	Intersection Upgrade at Camp Drewe Road entrance and upgrade of internal access – 164 Camp Drewe Road, Lennox Head	Referred to Government departments
2018/586	24/9/2018	Andy Piper	Vegetation Management Works comprising the removal of one tree – 5 Hindmarsh Street, East Ballina	Determination pending
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	Referred to Government Departments Councillor briefing to be held – date to be advised To be reported to Council
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

8.2 Development Applications - Works in Progress - November 2018

2018/616	9/10/2018	Northern Rivers Land Solutions	To undertake bulk earthworks associated with the subdivision consented to under DA 2016/184 – 658 Tamarind Drive, 33 Mitchell Close, 52 Albert Sheathers Lane & 88 Sandy Flat Road, Cumbalum	Awaiting additional information
2018/620	11/10/2018	P Witchard	Vegetation management works comprising the removal of three trees – 38 Summerhill Crescent, Cumbalum	Determination pending
2018/621	11/10/2018	AGS Commercial Pty Ltd	Alteration and additions to an existing industrial building – 5 Connell Street, Alstonville	Awaiting additional Information
2018/625	15/10/2018	G V Muldoon	Vegetation management works comprising the removal of one tree – 1/26 Lakefield Avenue, Lennox Head	Being assessed
2018/631	17/10/2018	GM Project Management	Proposed two lot subdivision to create one x 574sqm and one x 708sqm allotments and partial demolition and reconstruction of existing dwelling house – 7 Evelyn Villa Drive, Alstonville	Awaiting additional Information
2018/653	26/10/2018	TC Crawford	Vegetation Management Works – 8 Maple Drive, Alstonville	Being assessed
2018/674	6/11/2018	Ardill Payne & Partners	Two Lot Subdivision to create 1 x 1200m ² and 1 x 1948m ² lots, associated works and removal of seven trees – 51 Greenfield Avenue, Lennox Head	Awaiting additional Information
2018/686	12/11/2018	Creative Planning Solutions	Demolition of two dwelling houses, associated structures and vegetation removal and the subsequent construction of a permanent group home under State Environmental Planning Policy (Affordable Rental Housing) 2009, associated infrastructure works and landscaping – 9 & 11 Marshall Street, Ballina	Awaiting additional Information

8.2 Development Applications - Works in Progress - November 2018

2018/687	12/11/2018	Creative Planning Solutions	Demolition of an existing dwelling house, associated structures and vegetation removal and the subsequent erection of a permanent group home under State Environmental Planning Policy (Affordable Rental Housing) 2009, associated infrastructure works and landscaping – 106 Cherry Street, Ballina	Awaiting additional Information
2018/696	16/11/2018	Swift Sign Industries Pty Ltd	To undertake the erection of business identification signage on an existing industrial building – 23 De-Havilland Crescent, Ballina	Awaiting additional Information
2018/697	15/11/2018	Ardill Payne & Partners	Alterations, additions and change of use of an existing garage building and Strata Title subdivision of an existing dual occupancy – 32 Castle Drive, Lennox Head	On exhibition
2018/699	16/11/2018	J Bramann	Vegetation Management Works involving the removal of one x Grevillea Banksia – 24 Isabella Drive, Skennars Head	Being assessed
2018/701	19/11/2018	DV McCaffery	Vegetation Management Works involving the removal of one x pandanus tree and the pruning of one x pandanus tree – 3 Bradman Court, Skennars Head	Being assessed
2018/702	19/11/2018	Ardill Payne & Partners	Boundary adjustment subdivision of two existing lots to create two modified lots – Proposed Lot A 1.95ha and Proposed Lot B 29.9ha – 140 Broken Head Road, Newrybar	On exhibition

8.2 Development Applications - Works in Progress - November 2018

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/1/16	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	Being assessed
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

8.2 Development Applications - Works in Progress - November 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	To be determined at JRPP meeting to be held 12.12.18
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	Subject to Land and Environment Court appeal

Major Development (Determined by Minister)

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

RECOMMENDATION

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

Attachment(s)

Nil

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

9. Strategic and Community Facilities Group Reports

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Delivery Program Strategic Planning

Objective To present the outcomes of the public exhibition of BSCPP 14/008 and seek the Council's direction with respect to progressing the planning proposal and associated draft DCP amendments.

Background

This report relates to Lot 4 DP 537419 (Lot 4) as shown outlined in red in Diagram 1 below.

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

Diagram 1 – Site Location Plan



9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Lot 4 has an area of 56.6 hectares. Of this area approximately 16 hectares is proposed to be zoned R2 Low Density Residential with the remaining 40 hectares proposed to be zoned RU2 Rural Landscape zone.

Council considered a report at its Ordinary Meeting held on 24 May 2018 which related to an LEP and associated DCP amendments proposed for Lot 4 and resolved as follows:

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

The Delegate of the Minister for Planning issued an altered Gateway determination on 24 July 2018. The determination related to:

Planning proposal to rezone Lot 4 DP537419, Burns Point Ferry Road, West Ballina to part R2 Low Density Residential and part RU2 Rural Landscape, apply appropriate planning controls to the land and enable the development of "work" related land uses on part of the R2 Zone, and a restaurant or café incorporating information and education facilities and a dwelling in the RU2 Zone as additional permitted uses.

The altered Gateway determination also required the public exhibition of the planning proposal for a minimum period of 28 days and further consultation with a number of public authorities, as well as specifying other requirements.

Attachment 1 to this report contains the exhibited planning proposal. A copy of the altered Gateway determination is contained within Appendix G of the planning proposal. Attachments 2 and 3 to this report contain the exhibited draft amendments to Chapters 3 and 4 of the Ballina Shire Development Control Plan 2012. Attachment 4 contains copies of the submissions received during the public exhibition of the planning proposal. Attachment 5 contains a detailed chronology relating to part of the rezoning history of the subject site.

Key Issues

- Proposed rezoning
- Flooding and other site constraints

Information

The development that would be facilitated by the planning proposal and draft DCP amendments is one based on the creation of approximately 250 residential lots subject to a minimum lot size requirement of 450m².

Approximately one third of the proposed lots are proposed to be conventional residential lots with the remaining lots having expanded home “work” capacity via a proposed site specific increase in the maximum size limit applicable to home businesses. The area devoted to a home business on each of the proposed allotments within the proposed “work” part of the estate would increase above the 50m² already permitted, within the R2 and R3 zones, to between 90m² and a maximum of 120m². The permitted home business floor space is related to lot size with the minimum 90m² being applicable to a lot having an area of 450m².

As exhibited, the planning proposal also enabled a facility containing a restaurant or café, incorporating information and education facilities, and a dwelling (interpretive centre) in the area proposed for an RU2 Rural Landscape zone. This facility was proposed for use by the public to view and learn about the adjoining wetland area. However this facility (site area of 3,300m² and floor area of 200m²) has, during the course of the public exhibition process, been found to be inconsistent with the proposed biobanking site and is now recommended to be deleted from the planning proposal. The wetland area, as is the case with all of the area proposed to be zoned RU2, is required to be established as a biobanking site. The establishment of the biobanking site is required by provisions contained within an executed planning agreement.

The planning agreement requires a biobanking agreement to be in place which provides for the establishment of the biobanking site prior to consent being granted for the future proposed residential subdivision.

Planning Proposal Amendments

Amendments to the planning proposal which resulted from Council’s consideration of the report to its Ordinary Meeting on 24 May 2018 consist of the following:

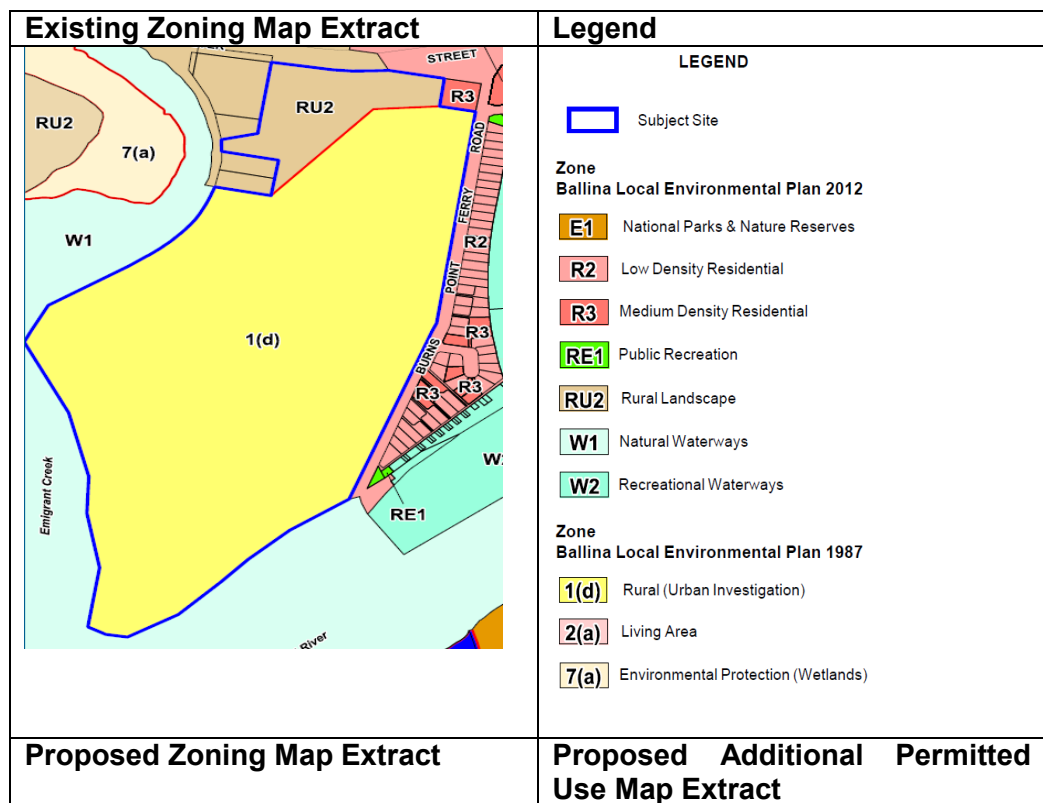
- Limiting the location of the proposed additional permitted use of a restaurant or café, incorporating information and education facilities and a dwelling (interpretive centre) to a specific portion of the area proposed to be zoned RU2. That is adjoining the south-western extremity of the proposed R2 zone near Emigrant Creek. This change also required an amendment to be made to the Additional Permitted Use (APU) Map previously exhibited so as to define the extent of the proposed APU site.
- Increasing the site area allocated to the proposed interpretive centre site from 1,300m² to 3,300m² so as to enable the site to contain bushfire and mosquito buffers likely to be associated with this use.

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

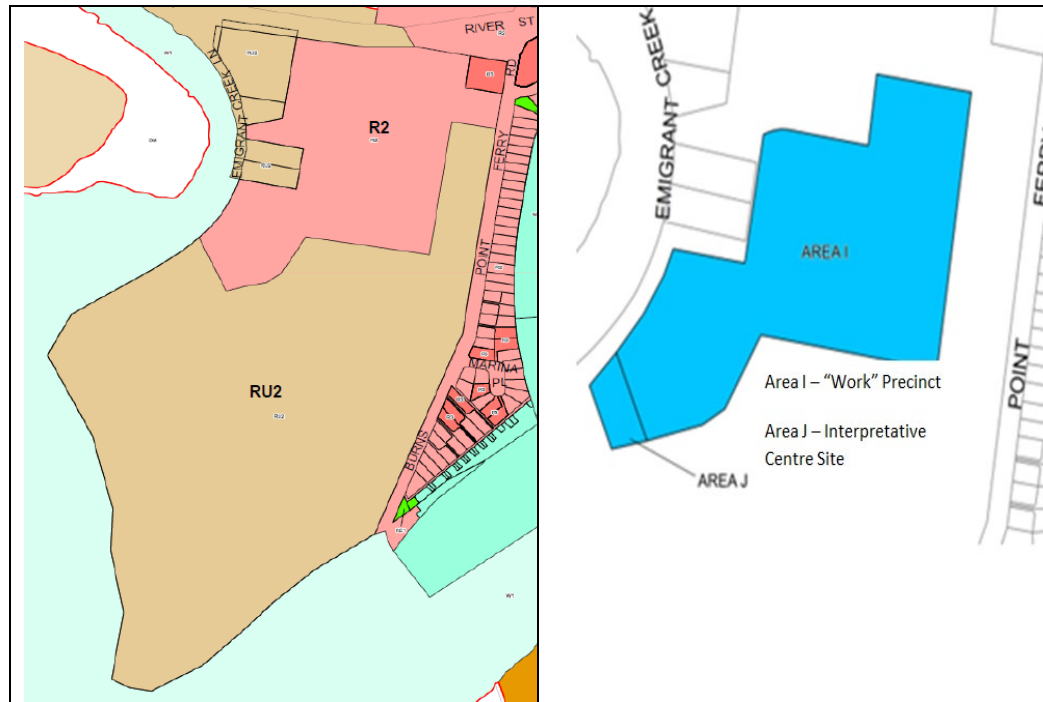
- Restricting the area permitted for live - work development to only part of the area proposed to be zoned R2 as opposed to the previous proposal which sought to permit live - work development in all areas proposed to be zoned R2.
- Altering the live - work concept from one which would have permitted light industry, or business premises, other than funeral home, or office premises in conjunction with residential premises; to a concept based on permitting home businesses with a floor area of up to 120m².

The above Council endorsed changes to the planning proposal, previously exhibited in 2016, triggered a requirement for an altered Gateway determination. The extent of the area proposed to be zoned R2 Low Density Residential zone has not changed from the proposal exhibited in 2016.

The diagram below shows the manner in which the land is currently zoned and the proposed zoning, as well as the area which was proposed to be subject of the additional use provisions.



9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road



Voluntary Planning Agreement

Attachment 6 to this report is the planning agreement executed by Ballina Shire Council on 13 June 2017 in accordance with the resolution of the Council dated 25 May 2017 [Minute No 250517/7].

At this stage the planning agreement has not been registered on the title of Lot 4. Proof of registration will be required to be submitted prior to the proposed LEP amendment being finalised.

The planning agreement requires that prior to the lodgement of a development application for purposes permitted by the proposed LEP amendment (other than a DA for the construction of a trial fill embankment with settlement monitoring plates) that comprehensive and detailed geotechnical investigations be carried out.

These investigations are to accurately assess the required depth of fill for preloading including the construction of a trial fill embankment with settlement monitoring plates.

The planning agreement also requires that prior to the grant of development consent (other than for the subdivision of the land to create an allotment for a Biobanking Site or other activities in pursuit of the registration of a Biobanking Agreement) the RU2 zoned portion of the site shall be the subject of a Biobanking Agreement.

The Biobanking Agreement will provide for the establishment of a Biobanking Site, be registered on title and remain in perpetuity.

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Land Constraint - Filling and Flooding

Ballina Shire Development Control Plan 2012 Chapter 2b Floodplain Management contains the requirements for the minimum fill level applicable to development. Lot 4 is located within an area where the Flood Planning Level / Minimum Fill Level for residential development is determined based on projected climate change conditions applicable in a 1 in 100 year flood in 2100.

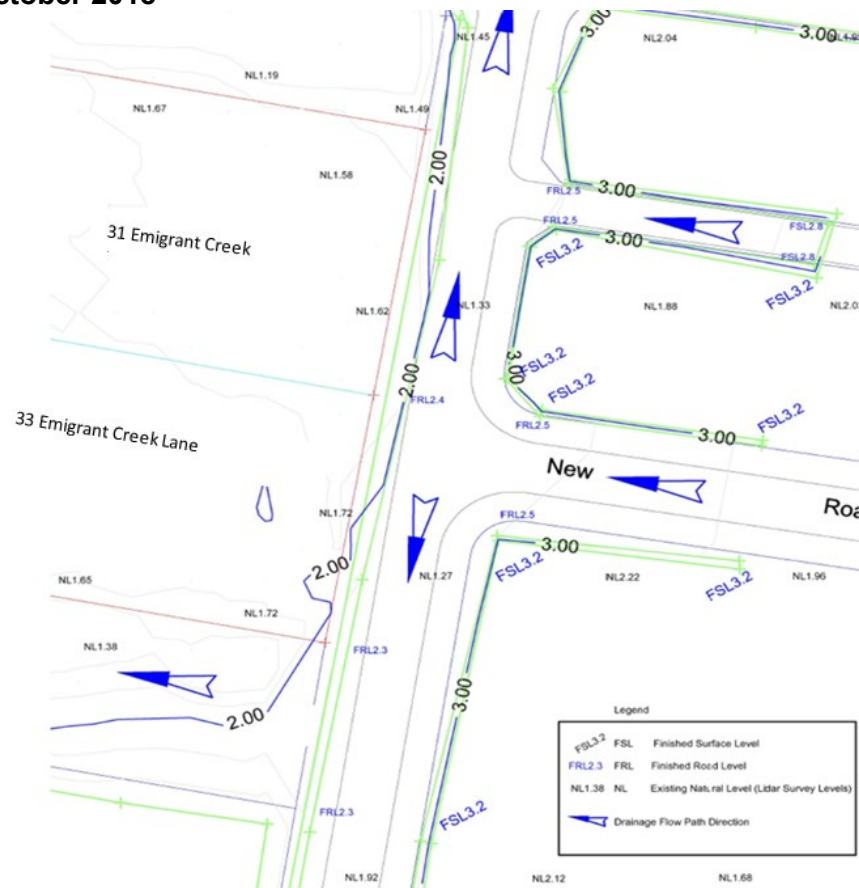
The majority of the proposed R2 zoned portion of the site is currently subject to a minimum fill level of RL 2.7m AHD for residential development. The floor level of dwellings is required to be 500mm above this level. The minimum fill level of the south - eastern most section of the site for residential development is RL 2.8m AHD.

In terms of the amount of fill required on the site, this varies depending on existing site levels which vary across that part of the site proposed to be developed from approximately 0.5m AHD to 2m AHD.

For example Lidar level information has been submitted near the rear boundaries of 31 – 33 Emigrant Creek Lane (Lots 5 and 6 DP 537419). It shows that the rear of these properties have levels in the range of 1.62 to 1.72m.

The proposed road at rear has a level in the range of RL 2.3 to 2.4m.

Diagram 3 – Extract from Proponent’s Concept Filling Plan supplied October 2018



Sustainability Considerations

- **Environment**

The subject land has environmental and ecological values. Biodiversity matters have been previously comprehensively assessed in a number of ecological reports, some of which formed a part of the planning proposal when it was originally exhibited for public comment during June – July 2016 and again in August 2018.

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

Importantly, an area of approximately 40ha will be required, under the provisions of an executed planning agreement, to be designated as a Biobanking Site. The agreement is required to be registered on the title for that part of the land, and remain in perpetuity under provisions contained within Division 2 of Part 7A of the previous Threatened Species Conservation Act 1975 and associated Regulation 2008.

The Biobanking Agreement, which establishes the Biobanking Site, must be in place prior to the grant of development consent for purposes permitted by the proposed LEP amendment other than a subdivision to create a Biobanking Site.

- **Social**

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

- **Economic**

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

Legal / Resource / Financial Implications

To date, the proponent has met costs associated with the processing of this planning proposal, including the preparation of the draft DCP, the VPA, and the independent assessment and review processes.

Costs associated with finalisation of the planning proposal and DCP amendments, 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 and DCP amendments can be accommodated within existing resources.

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

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 and draft DCP provisions were exhibited for community feedback from 8 August until 7 September 2018.

During this period an advertisement was placed in the Ballina Shire Advocate, letters were forwarded to approximately 400 nearby property owners and persons who previously made submissions, and documents were made available for viewing on Council's web site as well as community access points.

Government agencies that previously provided advice and the Jali LALC were also consulted during this process.

The following Government agencies were consulted in accordance with the terms of the Gateway determination:

- NSW Roads and Maritime Services (RMS)
- NSW Office of Environment and Heritage (OEH)
- Department of Primary Industries – Fisheries and Aquaculture
- Department of Primary Industries – Agriculture
- Natural Resources Access Regulator (Previously DPI Water)

In response to the public exhibition and consultation process four submissions (two on behalf of the same land owners) by way of objection and six Government agency submissions were received (includes two submissions from the OEH). Details relating to the submissions appear in the Table below.


The submissions received and the comments provided below have been peer reviewed by Council's consultant, GeoLINK.

Submission Details	Comment
Submission 1 and 2 1. Background Somerville Laundry Lomax Solicitors have lodged two submissions (dated 7 and 21 September 2018) on behalf of Mr F Bienenke and Mr G Suffolk owners of Lots 5 and 6, DP 537419, Emigrant Creek Lane, West Ballina. The submissions raise the following grounds of objection:	Background The location of Lots 5 and 6 DP 537419 (Lots 5 and 6) are shown outlined in red on the map extracts below. Location Diagram – Lots 5 and 6 outlined in red

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
<p>2. Public Exhibition Period</p> <p>1. Object to the short period of public exhibition this proposal has had in the past and to date. Health and travel issues have impacted on ability to make submissions including previously in 2016. Requests longer exhibition period in the future.</p> <p>3. Amenity, Enjoyment and Value of Property</p> <p>Properties were purchased due to peaceful, quiet and serene environment, spacious rural aspects and limited neighbours. Location and zoning of properties was significant when properties purchased. Believe that amenity and enjoyment of property will be destroyed along with value due to proposal and DCP amendment.</p> <p>4. Flood Risk</p> <p>Flood risk assessments previously undertaken are considered to be out of date and not representative of the current circumstances. Since the 2008 Flood Assessment and 2014 letter amendments have been made to the planning proposal including filling height of 2.7metres which is higher than originally assessed. The Ballina By-pass has also been completed.</p> <p>The proposal is claimed to heighten flood risk and stormwater runoff will be generated, concentrated and diverted onto their properties. Currently their properties are higher than the rural land. The 2.7m fill height will mean their properties will be lower and have stormwater funnelled towards their properties.</p> <p>Concerns that stormwater drains will not be able to cope particularly with high tide and flooding.</p> <p>Proposed development should not be allowed to adversely affect adjoining properties.</p>	 <p>2018 Aerial Photo Extract – Lots 5 and 6 outlined in red</p>  <p>Lots 5 and 6 each have an area of 4,047m² (1 acre) and a depth exceeding 150 metres and a frontage exceeding 60 metres to Emigrant Creek Lane. Each lot has erected upon it a dwelling house and a variety of outbuildings.</p> <p>Lots 5 and 6 are zoned RU2 Rural Landscape zone under the provisions of Ballina LEP 2012.</p> <p>Lots 5 and 6 (and the caravan park site to the north) were designated as Proposed <i>Future Urban Release Areas</i> or as <i>Investigation Areas - Urban Land</i>, respectively, within the 2006 Far North Coast Regional Strategy and the 2017 North Coast Regional Plan 2036.</p> <p>The Ballina Shire Growth Management Strategy, and the associated Strategic Urban Growth Areas (SUGA) as defined in Ballina LEP 2012, do not designate Lots 5 and 6 as SUGA areas. They are designated as areas adjoining a SUGA. The map extract below shows lots 5 and 6 outlined in red and coloured dark green on an extract from the Ballina LEP 2012 SUGA map.</p>

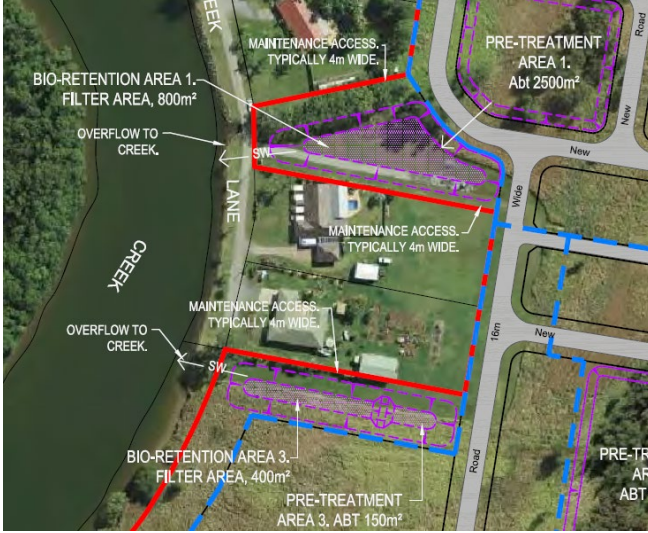
9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
<p>5. Land Locked</p> <p>Concerned that the planned development will land lock lots 5 and 6. Claim that these properties will be surrounded by properties and structures at greater heights and create a sense of being surrounded.</p> <p>6. Zoning, Proposed Live – Work Concept, Traffic and Location of Café Restaurant</p> <p>Proposal is inconsistent with the Ballina Shire Growth Management Strategy.</p> <p>Oppose the proposed live – work concept permitting home business with floor area up to 120m². Likely to have significant traffic impacts on Burns Point Ferry Road and River Street.</p> <p>No evidence related to live – work development as to how positive or otherwise the outcomes of these have been elsewhere, effects on surrounding neighbours and environment, how they relate to the current proposal.</p> <p>Question why live – work adjacent to three residential properties whilst the single dwelling component is located adjacent to the caravan park. Land use conflict concerns.</p> <p>Oppose the café/ restaurant proposal due loss of amenity concerns. Object to increase in size of this proposal.</p> <p>Object to the traffic impacts of the proposal; unreasonable increase in traffic in River Street and Burns Point Ferry Road roundabout, more difficult to turn out of Emigrant Creek Lane into River Street and further traffic build up into and out of Ballina.</p> <p>7. Environment and Contamination Concerns</p> <p>Biobanking claimed to benefit other areas away from the immediate area of the proposal.</p>	 <p>The light green area in the above map is the SUGA area as it affects the proposed rezoning site under the provisions of Ballina LEP 2012. It is noted that the planning proposal extends beyond the SUGA designated area. This is due to historical factors relating to the length of time that the site has been subject to rezoning proposals and the fact that State based strategies cover a broader area for investigation as to the land's urban suitability. Extension of the planning proposal beyond the SUGA designated area is however consistent with the Rural 1(d) Urban Investigation zone applicable to the residue of the site under the provisions of Ballina LEP 1987.</p> <p>Council has since 2014 endorsed rezoning proposals that exceeded the SUGA limits on this site due to factors related to potential delivery of environmental outcomes for the balance of the site (proposed Biobanking site), the proposal's consistency with State based strategies as well as consistency with part of the sites zoning under the provisions of Ballina LEP 1987.</p> <p>2. Public Exhibition Period</p> <p>The planning proposal and draft DCP provisions were publically exhibited from 8 August until 7 September 2018. Letters to approximately 400 property owners were dated 1 August 2018 and posted prior to the exhibition period. Messrs Bienke and Suffolk were both provided with an additional 14 day period, until 21 September 2018, in which to make their submissions in response to their request for additional time.</p> <p>The exhibition period exceeded the minimum 28 day period nominated in the Gateway determination and required for the public exhibition of a draft development control plans.</p> <p>Previously in 2016 the planning proposal and draft voluntary planning agreement were exhibited from 8 June 2016 until 8 July 2016.</p> <p>Whilst it was the case that both exhibition periods exceeded the statutory minimum 28 day period it is also noted that when a request for an extension of time was received, from the owners of Lots 5 and 6, an additional 2 week period in which to make submissions was afforded to them.</p> <p>3. Amenity, Enjoyment and Value of Property</p> <p>Development of the land adjoining lots 5 and 6 for urban</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
<p>Concerned that a bio-banking statement will be allowed to be completed after the proposal is finalised. Find this objectionable as it would not be able to be tested and considered by all stakeholders prior to consent.</p> <p>Proposal does not adequately consider increased stormwater and increased concentrations of contaminants from increased density, infrastructure and commercial activity.</p> <p>Contamination report has not adequately considered the area proposed for the commercial café and restaurant.</p> <p>Potential erosion of Emigrant Creek embankment due to increased drainage effects and further boating activity does not appear to have been considered.</p> <p>8. Further Issues</p> <p>Concerned that in a flood there is a real risk of being marooned on their properties with no exit point. The planning proposal is considered to materially affect the 1:100 year flood assessment undertaken when their properties were developed.</p> <p>Additional Issues Contained in Submission Dated 7 September 2018</p> <p>9. Environmental Concerns Differences in professional opinions relating to the Freshwater Wetland EEC and Grass Owl habitat, as well as offsetting ability through bio-banking should be definitely addressed by a further ecological study beyond the peer review and gap analysis.</p> <p>10. Flooding and Stormwater Concerns Proposed bio-retention areas adjacent to their properties will be totally inadequate to cater for additional water and stormwater flows. Road at the back of their properties will result in over flow onto their</p>	<p>purposes will change the current easterly rural outlook enjoyed by the property owners to an urban outlook. Land to the north and south of lots 5 and 6 is proposed to be utilised for drainage purposes.</p> <p>Property value impacts are unable to be quantified at this time and are not normally a planning consideration. To some degree values are already impacted by the flood prone nature of lots 5 and 6, the floor levels of the existing dwelling houses, and whether as a consequence of the proposed rezoning (if supported by the Council) there is any increased likelihood of these lots also being considered for urban zoning purposes at some future time.</p> <p>4. Flooding Risk Council's flood consultants BMT have reviewed their 2014 flooding impact advice for the rezoning site. The November 2018 advice, contained within Attachment Seven to this report, states that:</p> <ul style="list-style-type: none"> - The Flood Impact Assessment for the Ballina Waterways Development was completed by BMT in May 2008. - A letter update to this assessment was completed in 2014 to assess a revised layout. - Since these assessments various developments have occurred in the floodplain. - As such, it is appropriate to review the impacts in this area in the latest version of Council's Integrated Flood Model. - The integrated model shows cumulative flood impacts less than 10 mm (negligible) across the properties adjacent to the Ballina Waterways development site in a 100 year ARI event. - The low impacts are due to the 100 year ARI flood level generally being less than 0.5m above the existing ridge line across the site. - Flow velocities across the site are low and the total flow across the site is minimal in existing conditions. - There is a reduction in flood storage due to the development, although this forms a negligible volume in comparison of the overall storage of the Richmond River floodplain. - The currently proposed development was discussed in the 2014 letter. - It has a smaller footprint than that assessed in 2008, meaning the development will have a smaller impact on flood storage than previously assumed. <p>Currently the 2100, 1 in 100 year flood level is estimated to be RL 2.7m AHD over the majority of the proposed R2 zoned area. This level also corresponds with the proposed minimum fill level applicable to new residential lots. The finished surface level of proposed residential land at the rear of the Emigrant Lane properties is indicated to be RL 3.2m.</p> <p>Land located towards the north of Lot 5 and south of Lot 6 has been designated for drainage purposes within concept designs prepared to support the planning proposal. An extract from the May 2016 concept plan is reproduced in the diagram below:</p>


9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
<p>properties.</p> <p>11. Noise Pollution</p> <p>Significant increase in noise will result above current rural level. Boat noise will increase as a result of increased use of Emigrant Creek boat ramp.</p>	 <p>It is considered that it would be reasonable for the draft DCP amendments to incorporate a provision that ensures that access is available from Lots 5 and 6 (as well as Lot 3 3 DP 529094 No 21 Emigrant Creek Lane which immediately adjoins the caravan park) to the proposed road at the rear of these lots. This issue has been discussed with the proponent's planner who concurs that such a provision would be supported. Therefore the proposed subdivision work at the rear of lots 5 and 6 will result in a situation where the occupiers of such lots have access to higher ground in time of flood as well as at other times. This issue is addressed in the recommendations to this report.</p> <p>5. Land Locked</p> <p>The site subject to the proposed DCP has been identified for future development for over 20 years. The site's landform is required to be filled to meet floodplain planning requirements. It is considered that the development of the subject site has been anticipated for some time.</p> <p>6. Zoning, Proposed Live – Work Concept, Traffic and Location of Café Restaurant</p> <p><i>Live – work development concept concerns</i></p> <p>The live – work concept proposed in the 2016 planning proposal was based on light industrial, business premises and office premises being permitted in association with a dwelling house on the same land and subject to size limitations.</p> <p>Following further evaluation of the live work concept, as part of the draft DCP preparation process, the proponent agreed to amend the concept to delete light industrial land uses and base live work on the home business definition as contained within Ballina LEP 2012. That is subject to an increase in the permitted floor area from the 50m² currently applicable to home businesses to a maximum floor area which ranged from 90m² to 120m² depending on the size of the proposed residential lot.</p> <p>Home businesses are permitted with development consent throughout the R2 and R3 zones under the provisions of Ballina LEP 2012 with a maximum size limit of 50m². The definition of a home business is as follows:</p> <p><i>home business means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not</i></p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
	<p><i>involve:</i></p> <p><i>(a) the employment of more than 2 persons other than those residents, or</i></p> <p><i>(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or</i></p> <p><i>(c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or</i></p> <p><i>(d) the exhibition of any signage (other than a business identification sign), or</i></p> <p><i>(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.</i></p> <p>Home businesses are different to home industries with the later relating to industrial activities. Home businesses typically could include businesses such as accountants, building designers, town planners, hair dressers, artists etc. Home business uses are considered to have a low likelihood of generating adverse amenity impacts.</p> <p>The increase in floor area (above the 50m² applicable in existing R2 and R3 zones) is considered acceptable given that the proposed residential subdivision will be required to be purposely designed to accommodate such uses. Issues such as additional car parking within the street network are addressed in the draft DCP provisions (minimum 1 space per two lots).</p> <p><i>Location of Live Work Precinct - Land use conflict concerns.</i></p> <p>The proposed residential intensity plan submitted by the proponent shows that the proposed R2 zoned portions of Lot 4 are divided into two precincts. Precinct 1 outlined in blue on the map extract below is proposed to have a single dwelling focus whereas the area to the south will have a live work focus. The division of the site into two separate development precincts was a matter determined by the proponent.</p> <p>The provisions of the draft DCP and the associated statutory controls proposed to be contained within Ballina LEP 2012 relating to floor area limitations are designed to limit adverse amenity impacts between proposed live work development and adjoining development.</p> <p>Extract from Proponent's Residential Intensity Plan</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
	 <p data-bbox="751 790 1289 846"><i>Amenity and size increase concerns related to the proposed café/ restaurant</i></p> <p data-bbox="751 882 1402 1155">The interpretive centre proposal has now been agreed to be deleted from the planning proposal by the proponent. The reason for its deletion relates to the fact that it has been found to be incompatible with the requirements applicable to establishing a Biobanking Site. In discussion with the proponent's consultant it has been advised that the interpretive centre proposal may be pursued at some future time on a site to be located within the proposed R2 zone. This would then be the subject of a separate planning proposal.</p> <p data-bbox="751 1182 1402 1373">The Interpretive Centre site was proposed to be located approximately 150 metres to the south of Lot 6. It was proposed to function in ways similar to interpretive centres at other locations such as Port Macquarie, Bellingen and Dorrigo. The Dorrigo Rainforest Centre is located within the Dorrigo National Park and contains a café / restaurant as well as interpretative and educational facilities.</p> <p data-bbox="751 1400 1402 1541">It was not envisaged that the proposed facility, with an estimated floor area of approximately 200m² and designed to showcase the proposed coastal wetlands biodiversity site, would likely give rise to adverse amenity impacts for Lots 5 and 6.</p> <p data-bbox="751 1568 1402 1868">The interpretive centre site size was increased from 1,300m² in the 2014 and 2016 planning proposals, to 3,300m² in the current proposal. This size increase resulted from Council requirements which stipulated that all buffers (bushfire and mosquito) associated with the then proposed facility be contained within the area designated for this use and not within the adjoining biobanking site. Should the interpretive centre be proposed to be sited within the R2 zone at some future time then the size of the site could be expected to be reduced if there is no associated need for buffers.</p>


9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
	<p>7. Environment and Contamination Concerns</p> <p>Biobanking</p> <p><i>Biobanking</i> A planning agreement has been entered into between the owners of the proposed rezoning site and the Council on 13 June 2017.</p> <p>The planning agreement will become operative from the date on which the LEP is amended, generally as provided by the planning proposal. In relation to biobanking the agreement requires that prior to the granting of development consent apart from a subdivision to establish the biobanking site. The whole of the land proposed to be zoned RU2 Rural Landscape zone will be subject to a Biobanking Agreement which will establish a Biobanking Site.</p> <p>The Biobanking Site, once established, may be used to offset biodiversity impacts arising from the development of the proposed R2 zoned area and / or impacts arising from the development of other sites. In either scenario approximately 40ha of the subject site will remain as a Biobanking Site in perpetuity as a consequence of the planning agreement already entered into.</p> <p>It is considered both reasonable and proper that at the rezoning stage a legal mechanism be devised (planning agreement) which requires a Biobanking Agreement to be entered into and a Biobanking Site to be established before the granting of development consent.</p> <p><i>Land Contamination</i> A Contaminated Site Investigation Report for the rezoning site was prepared in 2005 by EAS Systems. This report was considered by GeoLINK in their 2016 Stage 1 Peer Review and Gap Analysis Report of documentation used to support the planning proposal at that time.</p> <p>GeoLINK found that the EAS Systems report contained sufficient information to assess the impacts of land contamination, and no additional information was required to progress the Planning Proposal. These statements were made partly to reflect the fact that the site was considered unlikely to have undergone any contamination activities during the period since 2005 apart from any illegal dumping of waste.</p> <p>The draft DCP amendments proposed to Chapter 3 - Urban Subdivision, of Ballina Shire DCP 2012, require that a detailed contamination assessment be submitted as part of the residential subdivision / and Interpretative Centre development proposals.</p> <p>It was previously the case (In the 2014 and 2016 Planning Proposals) that the Interpretative Centre (café / restaurant and dwelling) were proposed to be located at the southern end of the site near the Burns Point Ferry. This part of the site had not been specifically assessed in terms of the 2005 Contaminated Site Investigation report as it was in an area designated for open space at that time.</p> <p>The Interpretative Centre site was subsequently relocated to the south – western end of the currently proposed residential development in an area previously designated for residential development in 2005, prior to now being</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
	<p>proposed to be deleted from the proposal.</p> <p>Having regard for land contamination investigations already undertaken, and more detailed investigations required to be undertaken as part of the DA process following rezoning, no further land contamination assessment work is considered to be required at this stage of the process.</p> <p><i>Erosion of Emigrant Creek Bank</i> The development site, following rezoning, is separated from Emigrant Creek by a proposed Linear Park. The development process will consider in detail the design of stormwater structures that may impact bank stability.</p> <p>8. Further Issues</p> <p>Flood isolation In terms of the potential for Lots 5 and 6 to be “marooned” with no exit point, it is considered that should the land at the rear be developed then it may potentially provide access to higher ground which currently is not available to the occupants of such lots. Information currently available indicates that the proposed road at the rear is to have a level of RL 2.3 as compared to levels at the rear of Lots 5 and 6 which range from RL 1.62 to RL 1.72. The draft DCP requires a maximum grade batter of 1 in 6 to be provided within the proposed development site as a transition between the filled area and existing adjoining lots.</p> <p>Additional Issues Contained in Submission Dated 7 September 2018</p> <p>9. Environmental Concerns - Differences in professional opinions This issue has previously been considered in great detail by the Council in the report to Council’s Ordinary Meeting on 25 May 2017. Since 2005 there have been 8 ecological investigations undertaken in respect to Lot 4 plus additional investigations undertaken by Council’s Environmental Scientist and the OEH. Council commissioned two of these investigations (Blackwood 2014 and GeoLINK 2016). The main ecological issues where there are differences in professional opinions may be summarised as:</p> <ul style="list-style-type: none"> • The occurrence, distribution, extent and quality of Freshwater Wetland EEC; • Impacts to Grass Owl habitat; and • The extent to which the above issues may be offset through Biobanking on the site. <p>GeoLINK, who undertook the peer review of technical studies on Council’s behalf prior to the 2016 public exhibition of the planning proposal, and the assessment of the proposal post exhibition, concluded that the northern part of the site is generally suitable for urban development as proposed, subject to appropriate biobanking offsets or compensatory habitat being established, notwithstanding any issues related to differences of professional opinion.</p> <p>It is considered that there is no need for any further ecological evaluation relating to the amended planning proposal.</p> <p>10. Flooding and Stormwater concerns Refer discussions under point 4 above.</p> <p>11. Noise Increase Concern It is not known if noise levels within the vicinity of the</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
	<p>objector's properties will increase as a consequence of future urban development of the adjoining land. Whilst it could be assumed that this would be the case, it may also be the case that the proposed development may act as a partial buffer to road noise from River Street reaching the subject properties. In any case, if noise levels were to increase, then it is considered that it would be no different than what would be expected to be the case with any site that is transitioning from adjoining a rural environment to an urban environment.</p>
<p>Submission 3</p> <p>Mr G Faulks – West Ballina objects to the proposed live work component of the development on the following grounds:</p> <ol style="list-style-type: none"> 1. Potential for conflicts and loss of amenity, photo below illustrates concern; 2. Considers that home offices are OK until expansion of the business results in staff being engaged and clients start to create parking problems; 3. Businesses should be restricted to the right zones; 4. Proposed Residential Intensity Plan shows laneways which are certain to add to congestion; 5. Housing estates with below standard width roads create problems for waste collection, removalists etc; 6. Floor areas of home businesses up to 120m² is not desirable or reasonable, no mention within proposal to require off street car parking; 7. Submitted a photo (below) of what is alleged to be a home business 	<p>Land use conflict There are various provisions within the draft DCP that will seek to restrict land use conflict.</p> <p>2. Expansion of businesses and car parking The draft DCP has provisions relating to restriction of business expansion and intensity. The draft DCP amendments require an additional space per two lots within the road reserve above the requirements specified in DCP Chapter 2. The car parking requirements specified for a home business are contained within Ballina Shire DCP 2012 Chapter 2 - General and Environmental Considerations. Home businesses are required to provide a minimum of 2 spaces for the dwelling (one covered), plus 1 space for visitors and 1 space per 2 non-resident employees. If no non-resident employees are proposed, then a minimum of 3 spaces would be required. The proposed car parking requirements are considered to meet the car parking needs of the home businesses proposed to be permitted on part of Lot 4 by the planning proposal.</p> <p>3. Businesses should be restricted to the right zones. There are various examples where mixed-use development work. The draft DCP contains provisions to reduce conflict between residential and commercial land uses.</p> <p>4. Laneways will create congestion Draft amendments to DCP Chapter 3 – Urban Subdivision require the design and hierarchy of internal roads to be in accordance with the requirements set out in the <i>Northern Rivers Local Government Development and Design Manual</i>. These standards are also applicable to other residential release projects within Ballina Shire. It is therefore considered that the proposed road system will be adequate. In addition to this, any future development application will be required to demonstrate the internal roadwork network can function to an acceptable level.</p> <p>5. Road with and conflict with waste removal and larger vehicles Any future development application will be required to demonstrate the internal roadwork network can cater for larger vehicles. The DCP also requires that a waste management plan will be required at development application stage to demonstrate how waste will be managed.</p> <p>6. Floor areas for home businesses too high It is not considered that the specified maximum floor area is too high. The draft DCP contains provisions to reduce conflict between residential and commercial land uses.</p> <p>7. Submitted a photo (below) of what is alleged to be a home business It is considered that the submitted photo has no relevance to home businesses for the reasons previously discussed.</p>
<p>Submission 4</p> <p>Tracy Burke, Ballina Waterfront Village & Tourist</p>	<p>1. Stormwater runoff and drainage Ballina Shire Development Control Plan 2012 – <i>Chapter 2 – General and Environmental Considerations</i> contains the stormwater requirements that will be applied to any</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
<p>Park, raises the following concerns about impacts on the existing properties adjacent to the subject site including:</p> <ol style="list-style-type: none"> 1. Stormwater runoff and drainage; 2. Flooding; 3. Road access via River Street and impact on mobility scooter using residents of the caravan park. 	<p>proposed residential subdivision following rezoning.</p> <p>Council's standard stormwater requirements contain provisions relating to Stormwater Conveyance and Discharge, Water Sensitive Design including reductions in pollutant loads required for stormwater prior to discharge into natural systems, Stormwater Runoff Management, Lifecycle requirements including maintenance, and applicable Standards. It is considered that Council has adequate standards and requirements against which to assess any subdivision development application following rezoning.</p> <p>2. Flooding</p> <p>Council's flood consultants BMT have reviewed their 2014 flooding impact advice for the rezoning site. The advice states that:</p> <ul style="list-style-type: none"> - the Flood Impact Assessment for the Ballina Waterways Development was completed by BMT in May 2008. - A letter update to this assessment was completed in 2014 to assess a revised layout. - Since these assessments various developments have occurred in the floodplain. - As such, it is appropriate to review the impacts in this area in the latest version of Council's Integrated flood model. - The integrated model shows cumulative flood impacts less than 10 mm (negligible) across the properties adjacent to the Ballina Waterways development site in a 100 year ARI event. - The low impacts are due to the 100 year ARI flood level generally being less than 0.5m above the existing ridge line across the site. - Flow velocities across the site are low and the total flow across the site is minimal in existing conditions. - There is a reduction in flood storage due to the development, although this forms a negligible volume in comparison of the overall storage of the Richmond River floodplain. - The currently proposed development was discussed in the 2014 letter. - It has a smaller footprint than that assessed in 2008, meaning the development will have a smaller impact on flood storage than previously assumed. <p>3. Traffic Issues</p> <p>A Traffic Report prepared in support of the 2016 planning proposal and based on the then proposed 250 dwellings plus 250 work studios and the café / dwelling (Interpretive Centre) development. The report concluded that in the AM peak hour the development was likely to generate 274 vehicle trips.</p> <p>The reduction in area designated for live – work purposes (assume 90 less live work studios) is estimated to result in a reduction in peak hour vehicle trips in the order of 60 vehicles.</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
	<p>Previous traffic modelling was based on a temporary access point to Burns Point Ferry Road pending the completion of a new round about onto River Street to service the proposed subdivision. Council's engineering requirements resulted in a permanent road link now being proposed to Burns Point Ferry Road and a left in left out road access onto River Street.</p> <p>Therefore, in terms of scooter and other users of the shared pathway, that runs parallel to Lot 4 along River Street, they will be confronted with additional traffic as a consequence of the proposed development. This situation is considered to be no different than is the case that confronts numerous shared path users within Ballina Shire as a consequence of additional traffic being generated by more recent development.</p>
<p>Submission 5</p> <p>DPI Agriculture</p> <p>Raise no objection to the proposal.</p>	<p>Noted</p>
<p>Submission 6 and 7</p> <p>Office of Environment and Heritage</p> <p>The OEH recommends that Council:</p> <p>1. Considers reducing the rezoning area to limit the biodiversity impacts associated with subsequent development to be enabled by the planning proposal.</p> <p>2. Ensure that the proposed rezoning area is suitable and able to contain all impacts associated with future development scenarios.</p> <p>3. The OEH have also provided supplementary advice to their initial submission which raises concern relating to the location of the interpretive centre within the Biobanking Site and agreeing that the extent of the proposed R2 zone has not changed between the 2016 and 2018 exhibited planning proposals.</p>	<p>1. Considers reducing the rezoning area to limit the biodiversity impacts associated with subsequent development to be enabled by the planning proposal.</p> <p>Since the time of the last submission by OEH, the footprint of the development has been reduced significantly. This reduction has occurred as a result of the deletion from the residual lot of easements for drainage, mosquito management and bushfire asset protection. These buffers are now contained within the land proposed to be zoned for urban development.</p> <p>2. Ensure that the proposed rezoning area is suitable and able to contain all impacts associated with future development scenarios.</p> <p>The draft DCP provisions will require any future development application to demonstrate that the proposed development of the site can be designed to mitigate all environmental impacts to an acceptable level.</p> <p>3. The OEH have also provided supplementary advice to their initial submission which raises concern relating to the location of the interpretive centre within the Biobanking Site and agreeing that the extent of the proposed R2 zone has not changed between the 2016 and 2018 exhibited planning proposals.</p> <p>The land owners have requested that the interpretive centre component be removed from the Planning Proposal. This matter has been addressed in recommendations to this report.</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
<p>Submission 8 DPI – Fisheries Fisheries has provided information relating to its Policies and Guidelines on issues such as buffer requirements, stormwater management, water quality and impacts on Priority Aquaculture Oyster Leases.</p>	<p>The information provided by DPI Fisheries is in the main not specific to this planning proposal but more generic in nature. The comments made will be useful when more detailed plans are developed by the proponent to support future development proposals. It is noted that the proponent has already prepared detailed reports in support of the planning proposal which address issues such as stormwater management include water quality issues.</p> <p>In respect to the recommended buffers it is noted that the 100 metre buffer from a Coastal Wetland referenced in the Coastal Management SEPP impacts the proposed R2 zone. In this respect this will trigger additional assessment requirements applicable to the DA stage following rezoning.</p> <p>Fisheries comments regarding stormwater quality criteria applicable to Priority Oyster Aquaculture Areas have been noted and discussed with the proponent's planning consultant. It has been agreed that a reference to Fisheries stormwater quality criteria would be appropriate for inclusion within the draft DCP. This matter has been addressed in recommendations to this report.</p>
<p>Submission 9 Roads and Maritime Services The following comments are provided to assist Council:</p> <ol style="list-style-type: none"> 1. The proposed future access to Burns Point Ferry Road is supported, however the timing for construction of this connection has not been identified; 2. The proposed interim measures include a left in left out arrangement for the connection to River Street. No concept design has been provided to enable consideration of the safe operation of this facility. Consideration of Austroads Guidelines and Australian standards should be demonstrated. 3. Consideration should be given to connectivity for active transport nodes including public and school bus facilities and pedestrian and cycleway links. 4. The subject land will require remedial filling work. Access for vehicles associated with this component of the proposal has not been nominated and should be considered. 	<p>Comments</p> <p>Draft DCP amendments to Chapter 3 – Urban Subdivision requires that a street and pedestrian/cycleway network be provided which integrates the subdivision with public open spaces and the mixed-use development within Precinct 2 and the shared pathway located in River Street.</p> <p>Draft DCP amendments to Chapter 3 – Urban Subdivision also require that the street network design is to incorporate designated bus routes and bus stop locations to service a walkability catchment of 400 metres. Bus stops are to be provided with “hail and ride” J poles and constructed bus shelters.</p> <p>Access timing and design issues will be required to be considered in greater detail at the development application stage once the rezoning process has been finalised. This will include access for heavy vehicles and associated haulage routes proposed.</p> <p>Council’s engineers have recommended that the River Street access could be provided as a left in/left out configuration as either an interim or permanent arrangement. At this stage it is envisaged that it will be provided as a permanent arrangement as required by Draft DCP Chapter 3 - Urban Subdivision, section 5.8.4. Depending on the nature of future development proposed on land located opposite Lot 4, a roundabout may again be proposed at some future time.</p>
<p>Submission 10 Natural Resources Access Regulator (NRAR) NRAR has reviewed the Burns</p>	<p>1. Need for Controlled Activity Approval Noted. Any required approval would need to be obtained as part of the future development of the site.</p> <p>2. Compliance with NRAR’s Guidelines for Controlled Activities</p>

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

Submission Details	Comment
<p>Point Ferry Road Planning proposal (August 2018), draft indicative layout plan, development control plan and relevant technical studies and provides the following comments:</p> <p>1. Need for Controlled Activity Approval 2. Compliance with NRAR's Guidelines for Controlled Activities 3. Watercourses traverse the site and these should be retained. 4. Protection of riparian corridors and Vegetated Riparian Zone (VRZ) should be maintained. 5. Impacts on Groundwater Dependent Ecosystems (GDEs) should be addressed as part of the precinct planning. 6. APZs should be located wholly within the urban development land rather than within the riparian corridors. 7. Impacts of the proposed future development on surface and groundwater, watercourses on or adjacent to the site and water quality should be considered.</p>	<p>Noted. This would need to be addressed as part of any future Development Application and controlled activity approval.</p> <p>3. Watercourses traversing the site should be retained. All water courses will be maintained and enhanced within the Biobanking Site established as a consequence of the Biobanking Agreement. It is unlikely that watercourses within Precincts 1 and 2 would be retained due to the need to fill the site for to ensure flood immunity. The loss of these sections of watercourses would be offset by the creation of the Biobanking Site. The approval of the NRAR would be required at the DA stage should any water courses not be proposed to be retained.</p> <p>4. Protection of riparian corridors and Vegetated Riparian Zone (VRZ) should be maintained. There are specific provisions in draft DCP 3 that require riparian corridors within the site to be established in accordance with NRAR Guidelines (Office of Water) for Riparian Corridors on Waterfront Land. The proponent is also required to consult with NRAR to ensure rehabilitation requirements for riparian corridors are considered as part of the subdivision design process and prior to the submission of the development application.</p> <p>5.Impacts on Groundwater Dependent Ecosystems (GDEs) should be addressed as part of the precinct planning Chapter 3 of the draft DCP contains various provisions that require the design and development of the precinct to consider and implement measures that protect and enhance ground water, surface water quality and hydrology.</p> <p>6. APZs should be located wholly within the urban development land rather than within the riparian corridors. Chapter 3 of the draft DCP requires that <i>APZs for all live/work and residential development shall be located within</i> <i>Precinct 1. Any required APZ for the mixed-use development within Precinct 2 must be contained within the area nominated for this use on the Burns Point Ferry Road Area Structure Plan The APZs must be determined in accordance with the NSW RFS publication Planning for Bush Fire Protection. The APZs must have regard to any required future revegetation within Precinct 2.</i></p> <p>7. Impacts of the proposed future development on surface and groundwater, watercourses on or adjacent to the site and water quality should be considered. Appropriate stormwater management will need to be considered and implemented in the design, assessment and development of the precinct. Chapter 3 of the draft DCP requires various measures to be undertaken to minimise impacts on downstream environments such as riparian areas, groundwater and adjoining land. The controls in the draft DCP will ensure that:</p> <ul style="list-style-type: none"> • Stormwater treatment measures would be consistent with Water Sensitive Urban Design objectives • Measures are in place to ensure the protection of the receiving water source quality • Stormwater runoff is appropriately treated at its source and/ or diverted through a stormwater treatment process prior to discharge from the site.

The proposed future development of Lot 4 has also been the subject of previous consultation processes associated with the rezoning of the land and the preparation of a draft Voluntary Planning Agreement (2016).

At that time two public submissions (one objection) and eight organization / Government Agency submissions were received.

The recommendations to this report incorporate the deletion of the interpretative centre site from the planning proposal.

Should Council adopt this recommendation then it will be necessary for Council to seek an altered Gateway determination from the Department of Planning and Environment (DPE) prior to the finalisation of the planning proposal. Discussions with relevant officers of the DPE have indicated that the altered Gateway would be issued without a need to further publically exhibit the planning proposal.

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, including associated draft DCP amendments, and subject to the amendment discussed in this report (deletion of the interpretive centre site) and subject to an altered Gateway determination being obtained prior to finalisation of the planning proposal.

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.

This option will also require Council to formally resolve to delete the interpretive centre proposed additional use provisions from the planning proposal on the basis of its inconsistency with the proposed Biobanking Site and seeking an altered Gateway determination to reflect this change.

This option also involves making amendments to the exhibited draft DCP chapters to delete references to the interpretive centre, incorporate DPI Fisheries water quality and buffer requirements, as well as other minor changes as detailed in the Recommendations to this report.

This option is recommended on the basis that the planning proposal, as exhibited, and proposed to be amended with respect to the deletion of the interpretive centre facility has undergone significant assessment and evaluation over a period of many years.

9.1 Planning Proposal and DCP Amendments - Burns Point Ferry Road

It has now reached the point where it is considered that part of the site may be reasonably developed for future residential purposes without significantly compromising the environmental values associated that part of the land proposed to be developed, or giving rise to any other significant adverse impacts on adjoining property owners.

2. Council may resolve to discontinue the planning proposal and associated draft DCP amendments.

This option is not recommended. This planning proposal has been the subject of numerous technical assessments and evaluation over a considerable period of time.

There are currently considered to be no matters that either have not been resolved or are not considered to be capable of resolution as part of the subdivision development application process.

In addition the creation of a Biobanking Site over an area of approximately 40ha and the progressive restoration of this area is considered to give rise to long term environmental benefits.

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 and associated draft DCP amendments in response to concerns raised in the submissions received during the public exhibition period.

Council may resolve to further amend the planning proposal and associated draft DCP amendments beyond the amendment discussed in Option 1.

This option could involve making reductions to the maximum permitted floor area for the 'work' component, or deleting the 'work' component of the development, or any other amendment considered appropriate by the Council.

Whilst this option is available, it is not recommended on the basis that the planning proposal as exhibited, together with draft DCP amendments, and subject to the further proposed amendments as detailed in the Recommendations to this report, is not considered to give rise to significant adverse environmental or other impacts.

4. Council may defer consideration of the planning proposal and draft DCP amendments for additional information.

Should Council consider that there are still issues that require further information or clarification then the planning proposal and associated draft DCP amendments may be deferred for an updated report or a Councillor briefing.

RECOMMENDATIONS

1. That Council endorses the amendment of Ballina LEP 2012 as detailed in the exhibited Planning Proposal BSCPP14/008 – Burns Point Ferry Road subject to the deletion of the proposed additional permitted use area for the interpretive centre site.
2. That Council seek an altered Gateway determination from the Department of Planning and Environment relating to the deletion of the additional permitted use area for the interpretive centre site prior to finalisation of the planning proposal.
3. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP14/008 – Burns Point Ferry Road, as amended by Recommendation 1 and subject to Recommendation 2 above, under delegated authority once the executed planning agreement is registered on the title of Lot 4 DP 537419.
4. That Council adopts draft amendments to Ballina Shire DCP 2012 Chapters 3 and 4 as exhibited for public comment inclusive of the following changes:
 - Chapter 3 - Incorporation of a provision within *Section 5.8.4 Development Controls, Access and Road Network (Precinct 1)* which requires access to be provided to Lot 3 DP 529094 and each of Lots 5 and 6 DP 537419 from the proposed public roads at the rear of these lots. Access to include gutter and footpath crossings the location of which shall be negotiated with the subject property owners.
 - Chapter 3 - Incorporation of minimum stormwater quality requirements as specified for Priority Oyster Aquaculture Areas by the Department of Primary Industries Fisheries.
 - Chapter 3 – Change the reference to Office of Water as it relates to Guidelines for Riparian Corridors on Waterfront Land to the Natural Resources Access Regulator.
 - Chapters 3 and 4 - The incorporation of buffers to Emigrant Creek in accordance with DPI Fisheries requirements and the amendment of the DCP Structure Plan and related plans to incorporate such buffers.
 - Chapters 3 and 4 - Deletion of references and provisions relating to the Interpretive Centre where they occur within these chapters.
5. That Council provides public notice of the adoption of amendments to Ballina Shire Development Control Plan 2012 with the amendment to take effect from the date of finalisation of the LEP amendment.
6. That upon the planning proposal being finalised, Council seek an amendment to the North Coast Regional Plan 2036 so as to remove the site's Investigation Area – Urban Land designation, and amend the Ballina Shire Growth Management Strategy to reflect the extent of the planned urban area.
7. That Council gives further consideration to replacing the proposed RU2 Rural Landscape Zone with an environmental protection zone as part of its future deferred matters integration program.

Attachment(s)

1. Exhibited Planning Proposal (Under separate cover)
2. Draft DCP Chapter Three Amendments
3. Draft DCP Chapter 4 Amendments
4. Submissions to Public Exhibition
5. Chronology
6. Planning Agreement
7. BMT Flood Impact Advice November 2018

9.2 Planning Proposal and DCP Amendments - Dual Occupancy Alstonville

9.2 Planning Proposal and DCP Amendments - Dual Occupancy Alstonville

Delivery Program Strategic Planning

Objective To invite Council to initiate a planning proposal and associated draft Development Control Plan amendments to enable attached dual occupancy residential development under the Ballina Local Environmental Plan 2012 on various properties in Alstonville and seek direction on the submission of a planning proposal for Gateway determination.

Background

Council, at its Ordinary Meeting held on 14 December 2017 resolved to adopt the Alstonville Strategic Plan 2017 - 2037 and the Alstonville Planning and Environmental Study [Minute No. 141217/3].

The recommendations and strategic actions identified in the strategic plan reflect the community's vision for the future development of Alstonville township to 2037.

The provision of new housing opportunities that promote affordability and provide choice for people to meet changing life needs is one of five locality objectives contained within the Alstonville Strategic Plan.

One method for achieving this objective is identified in Strategic Action No. 8 which provides for Council to initiate a planning proposal to permit dual occupancy development on land within the R2 Low Density Residential zone upon allotments having an area of 900m² or more.

The rationale for the above action is that dual occupancy development (two dwellings attached or detached on a single allotment of land) is a lower impact form of denser housing which may assist with providing greater housing choice within Alstonville.

Having previously endorsed this concept in its adoption of the Strategy, the purpose of this report is to seek the Council's authorisation to initiate a planning proposal to enable attached dual occupancy residential development to occur on certain lots within the R2 Low Density Residential zone.

A draft planning proposal has been prepared for the consideration of the Council and is provided in Attachment 1.

Associated draft Development Control Plan (DCP) amendments have also been prepared and are contained within Attachment 2.

Key Issues

- Implementing Alstonville Strategic Plan 2037
- Housing choice initiative
- Consistency with strategic planning intent

Information

This planning proposal relates to lots within the Alstonville urban area which contain a minimum site area of 900m² and which are zoned R2 Low Density Residential under the provisions of the Ballina Local Environmental Plan 2012 (LEP).

It is also proposed to further limit attached dual occupancy development to those lots that are not affected by slope constraints of 20% or greater.

This control is proposed to be contained within Ballina DCP 2012 as opposed to the LEP.

The DCP amendment is preferred because the determination of which lots are likely to be impacted by slope constraints is not precise.

Therefore, should a property be erroneously excluded from the proposed LEP amendment provisions due to a perceived slope constraint, it will be significantly more cumbersome and time consuming to incorporate such lots within the LEP at a later stage.

The identification of slope constrained lots within the DCP (as distinct from the LEP) does not result in the above concerns.

This is because the DCP provisions do not prohibit development on such lots in a statutory sense but are a matter for consideration during the assessment of development proposals.

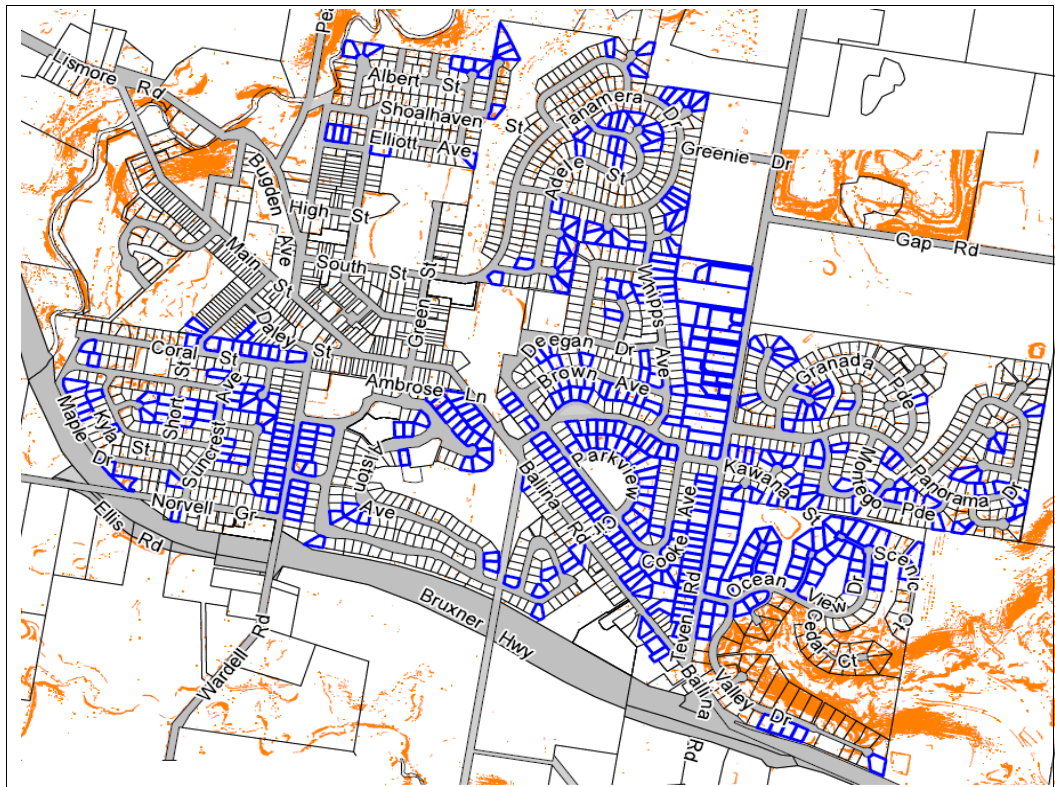
Therefore, should detailed survey information submitted as part of the DA process confirm a lot's suitability for attached dual occupancy development (in the context of slope) the DCP provision may be relaxed.

The lots identified as meeting the 900m² minimum lot size criterion, and which are not slope constrained (by a preliminary non-survey assessment) are shown in the diagram below.

In total, there have been 414 such lots identified.

This simply serves to illustrate for the Council and the community the potential scope of change if all the dual occupancy "entitlements" were taken up over time.

Diagram One – Lots identified as being impacted by the planning proposal (outlined in blue)



Strategic Planning Context

The planning proposal contained in Attachment One has been prepared as a result of an adopted action within the Alstonville Strategic Plan 2017 - 2037. Strategic Action No. 8 within the Plan provides for Council to 'initiate a planning proposal to permit dual occupancy development within the R2 Low Density Residential zone upon lots having an area of 900m² or more'.

The Alstonville Planning and Environmental Study (the precursor to the Plan) initially identified approximately 529 R2 zoned properties containing an area of 900m² or more as being potentially suitable for dual occupancy development.

Adoption of a slope control within the DCP, and by inferring that all lots currently identified as slope constrained are deemed to be unsuitable, reduces the lots potentially activated by this planning proposal to approximately 414.

The Ballina Shire Growth Management Strategy 2012 identified a number of strategic actions for Alstonville, which included the investigation of the potential for infill development intensification as distinct from "greenfield" lateral expansion of the township.

The proposed planning proposal is considered to be consistent with the strategic direction provided by the Council-adopted Growth Management Strategy.

9.2 Planning Proposal and DCP Amendments - Dual Occupancy Alstonville

The North Coast Regional Plan 2036, which provides the regional framework for the consideration of policy development and the overall vision for the future, encourages housing diversity by specifying that 40 per cent of new housing is to be delivered in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400m² by 2036.

The adoption of the new policy approach, as outlined in the planning proposal contained in Attachment 1, is considered to be consistent with the strategic objectives of the Alstonville Strategic Plan, Council's Growth Management Strategy and the North Coast Regional Plan.

Ballina LEP 2012 and Ballina Shire Development Control Plan 2012

It is proposed to amend the Ballina LEP 2012 to enable attached dual occupancy development to be carried out in Alstonville on lots within the R2 Low Density Residential zone which meet the 900m² minimum lot size criteria.

Dual occupancy development is currently only permissible on land within the R3 Medium Density Residential zone.

The planning proposal has been prepared on the basis that it will permit "attached" dual occupancy development only. This was done so as to reduce the potential for dwellings to be erected in rear yard areas.

This approach has been taken in response to some resident concerns already expressed and which relate to the perceived amenity impacts associated with second dwellings approved in rear yard settings.

It is, however, open to the Council to change the planning proposal so as to remove this proposed restriction and seek to permit both attached and detached dual occupancy development.

In order to introduce a restriction on dual occupancy development for those sites identified as being subject to a slope constraint of 20% or greater it is proposed to incorporate relevant controls within Ballina Shire DCP 2012.

If the approach outlined in this report ie; LEP controls related to 900m² minimum lot size and limitation of dual occupancy to attached designs, is supported by the Council as the preferred approach then draft DCP controls will be publicly exhibited concurrently with the planning proposal.

Attachment 2 to this report contains the recommended draft DCP controls relating to consideration of the slope constraint issue, as well as associated administrative amendments which clarify applicable minimum lots sizes and the zones and locations to which these controls apply.

Proposed amendments are highlighted in yellow within the attachment.

As discussed in the report dealing with the Wardell Attached Dual Occupancy Planning Proposal (elsewhere in this Business Agenda) it is also proposed to provide clarification within Ballina Shire DCP Chapter 3 Urban Subdivision and Chapter 4 – Residential and Tourist Development that existing attached dual occupancy controls relating to minimum lot size and frontage (450m² and 12 metres) will also apply to lots within the R2 zone affected by the Wardell planning proposal.

Council is invited to endorse the attached planning proposal for referral to NSW Department of Planning and Environment for Gateway determination. Following the Gateway determination, the planning proposal and associated draft DCP amendments will be placed on public exhibition.

Following public exhibition the planning proposal will then be reported back to the Council for further consideration and/or finalisation endorsement.

Sustainability Considerations

- **Environment**

The proposal to permit attached dual occupancy infill residential housing within part of an existing residential area is consistent with existing urban planning policy for the Alstonville area.

The proposal is not likely to have any significant implications from an environmental perspective.

- **Social**

The proposal is likely to have positive social impacts resulting from the provision of greater housing choice and, hopefully, affordability.

- **Economic**

The proposal has the potential to result in a number of positive economic impacts associated with construction.

Legal / Resource / Financial Implications

Initiating a planning proposal to permit attached dual occupancy development on certain land in Alstonville within the R2 Low Density Residential zone under the provisions of the Ballina LEP 2012, and associated draft DCP amendments, can be managed within existing staff resources. This matter is included in the current Strategic and Community Facilities Group work program.

It is also proposed to seek delegation from the Department of Planning and Environment to enable the processing of the proposed LEP amendment to finalization.

Consultation

Following referral to the NSW Department of Planning and Environment the planning proposal, if allowed to advance, will be placed on public exhibition in accordance with the Gateway determination.

The period of public exhibition proposed is not less than 28 days.

The proposed draft DCP amendments will be publically notified with the planning proposal.

Options

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

9.2 Planning Proposal and DCP Amendments - Dual Occupancy Alstonville

1. Council may resolve to submit the Alstonville Attached Dual Occupancy Planning Proposal to the NSW Department of Planning and Environment for Gateway determination.

This is the preferred option as it will enable the planning proposal to progress to the next step in the LEP amendment process which is to enable a review 'in principle' by the NSW Department of Planning and Environment and Gateway determination.

Following consideration of the proposal by the Department, and subject to a favourable Gateway outcome, draft DCP amendments are proposed to be exhibited concurrently with the planning proposal. Following public exhibition the planning proposal and draft DCP amendments will then be reported back to the Council for further consideration.

2. Council may resolve to defer consideration of the planning proposal and associated DCP amendments.

It is open to the Council to request additional information should there be matters that require additional investigation or clarification. This could then be referred back to the Council in a subsequent report or take the form of a Councillor briefing.

This option is not recommended, as the matter has been discussed at some length during previous Councillor briefings associated with the preparation of the draft Alstonville Strategic Plan, and has been canvassed in the reporting relating to that matter.

In that context, the planning proposal is implementing the strategic directive previously provided by the Council.

3. Council may resolve to decline to initiate the planning proposal and draft DCP amendment or alternatively, to amend the proposal prior to seeking a Gateway determination.

Under this option the Council could either decline to support the planning proposal and draft DCP amendment or require further amendments prior to the planning proposal being submitted for a Gateway determination.

For example, should Council consider it is more appropriate to permit both attached and detached dual occupancy development then it could resolve to amend the planning proposal to achieve this outcome.

Under this option it is also possible for Council to decline to support the planning proposal and DCP amendment and take no further action.

This action is not supported as the preparation of a planning proposal for dual occupancy development within the R2 zone at Alstonville is part of Council's adopted Strategic Plan for Alstonville township to 2037.

RECOMMENDATIONS

1. That Council endorses the Alstonville Dual Occupancy Planning Proposal, as contained in Attachment 1 to this report, for submission to the Department of Planning and Environment for a Gateway determination.
2. That Council resolves to prepare a draft amendment to Ballina Shire Development Control Plan 2012 to introduce slope controls, as well as other associated amendments, relating to the development of land for dual occupancy purposes, as detailed in Attachment 2 to this report.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal and associated draft DCP amendments be undertaken, including public exhibition.
4. That the Department of Planning and Environment be advised that Council is seeking to exercise its delegated plan making functions for this LEP amendment.
5. That the planning proposal and associated draft DCP amendments be reported to the Council for further consideration following the completion of the public exhibition process.

Attachment(s)

1. BSCPP 18/002 - Draft Planning Proposal - Attached Dual Occupancy Development, Alstonville
2. Proposed Draft DCP Amendments

9.3 Planning Proposal - Attached Dual Occupancy, Wardell

9.3 Planning Proposal - Attached Dual Occupancy, Wardell

Delivery Program Strategic Planning

Objective To invite the Council to initiate a planning proposal to permit attached dual occupancy development upon certain land in Wardell.

Background

Council, at its Ordinary Meeting held on 28 January 2016 resolved to adopt the Wardell Strategic Plan 2015-2035 [Minute No. 280116/10]. The recommendations and strategic actions identified in the strategic plan reflect the Wardell community's vision for the future development of their township to 2035.

A copy of the Wardell Strategic Plan 2035 (WSP 2035) is contained within Attachment 1 to this report.

Ensuring that future development is staged, progressive and affordable is one of five locality objectives contained within the WSP 2035.

Strategic Action No. 23 provides for Council to consider the desirability, and an appropriate mechanism, for permitting attached dual occupancy development on land within the R2 Low Density Residential zone under the Ballina Local Environmental Plan 2012, and that is not identified as being flood prone.

This action aims to provide opportunities for small scale residential development within the existing township.

The purpose of this report is to seek the Council's authorisation to initiate a planning proposal to enable attached dual occupancy residential development to be considered, with development consent, on allotments of land that meet these criteria.

A draft planning proposal has been prepared for the Council's consideration and is contained within Attachment 2 to this report.

Key Issues

- Implementing Wardell Strategic Plan 2035
- Urban consolidation
- Residential development potential and housing affordability

Information

Subject Land

Staff has assessed that this planning proposal would apply to approximately 78 allotments which are zoned R2 Low Density Residential and which have been identified as not being affected by the 2100 1:100 year ARI flood level.

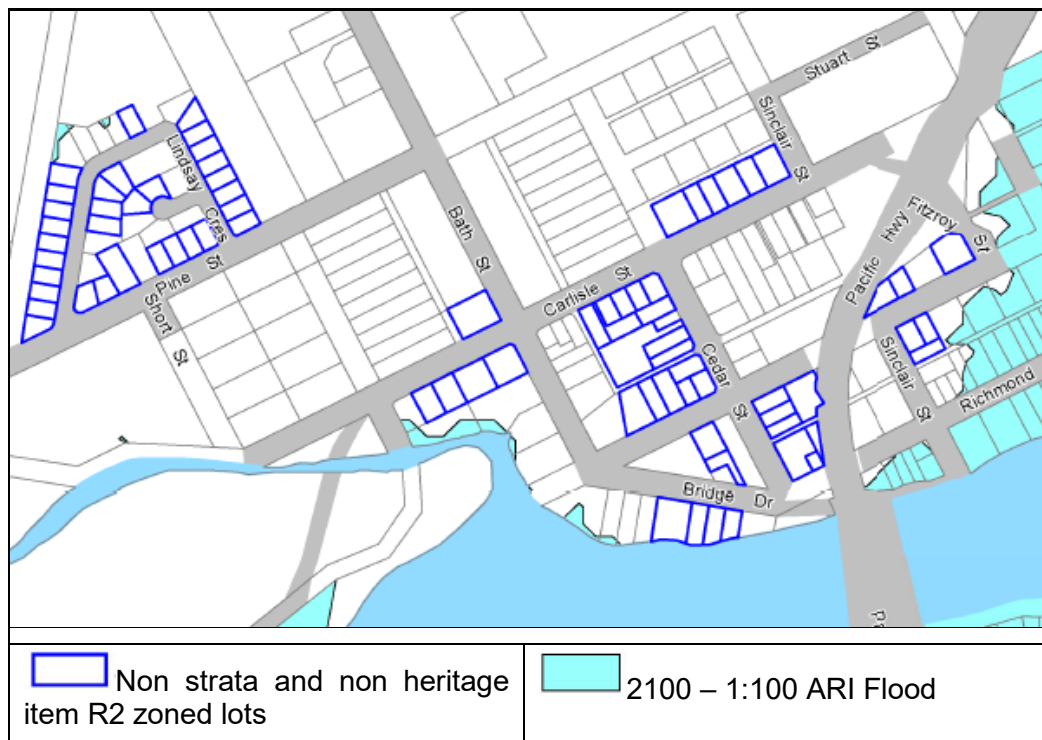
9.3 Planning Proposal - Attached Dual Occupancy, Wardell

These lots are outlined in blue on the map contained within Diagram One as follows

Lots that have already been developed for dual occupancy or multi-unit housing purposes under Council's prior planning instrument (Ballina LEP 1987 zone 2(b) Village), as well as lots containing heritage items have not been shown on the map.

Such lots will, however, also be incorporated within the proposed LEP amendment if zoned R2 and not impacted by the flooding constraint.

Diagram One – Location of Non Strata / Non Heritage Lots Affected by Planning Proposal



Strategic Planning Context

The planning proposal contained in Attachment 2 has been prepared as a result of an adopted action within the Wardell Strategic Plan 2015-2035.

Strategic Action No. 23 within the Plan provides for Council to '*consider the desirability, and an appropriate mechanism, for permitting attached dual occupancy development within the R2 zoned, non-flood prone areas of Wardell Village.*'

The Flood Planning Standard adopted to acknowledge a general suitability for attached dual occupancy development is land not subject to the 2100 1:100 year ARI flood level.

The locality objectives for Wardell, as outlined in the Ballina Shire Growth Management Strategy 2012, support the maintenance of the heritage and low-scale character of the township, and the facilitation of further development opportunities consistent with the desired future character of the township, as identified in the strategic plan.

The North Coast Regional Plan 2036, which provides the regional framework for the consideration of policy development and the overall vision for the future, encourages housing diversity by specifying that 40 per cent of new housing is to be delivered in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400m² in area by 2036.

Providing for future development as outlined in the planning proposal contained in Attachment 2 is consistent with the strategic objectives of the Wardell Strategic Plan, Council's Growth Management Strategy and the North Coast Regional Plan 2036.

Ballina LEP 2012 and Development Control Plan 2012

The R2 Low Density Residential zone located in Wardell does not currently permit dual occupancy development.

The manner in which an LEP amendment is required to be drafted so as to permit, with consent, attached dual occupancy development on land within that part of the R2 zone not affected by the 2100 1:100 year ARI flood level will be a matter for the NSW Parliamentary Counsel to consider following the exhibition of the planning proposal.

There are a number of options available to secure the desired outcome.

These include the insertion of a new local clause in Council's LEP, an additional permitted use or a planning overlay applying to specific dual occupancy lots.

Unlike the Alstonville Attached Dual Occupancy Planning Proposal (reported elsewhere in this Business Agenda) which seeks to limit attached dual occupancy development to lots 900m² in area or larger, and incorporates DCP controls to restrict development on slope affected sites, no such provisions are proposed for Wardell.

This is because there was broader community acceptance in Wardell, during the community consultation phases associated with the draft planning and environmental study and strategic plan, for broader application of attached dual occupancy permissibility.

There are also fewer significant slope constraints within Wardell township.

Ballina DCP 2012 - Chapter 4 Residential and Tourist Development (DCP Chapter 4) contains provisions related to dual occupancy development, including a minimum lot size of 450m² for attached dual occupancy development, which will apply to Wardell following the LEP amendment being finalised.

9.3 Planning Proposal - Attached Dual Occupancy, Wardell

DCP Chapter 4 is proposed to be amended to clarify that the existing provisions for attached dual occupancy development (450m² minimum lot size and 12 metre minimum frontage) will also apply to the R2 zone at Wardell.

This matter will be dealt with as part of the DCP Chapter 4 amendments associated with the Alstonville planning proposal which is reported separately to this meeting.

Council is invited to endorse the attached planning proposal for referral to NSW Department of Planning and Environment for Gateway determination.

Following the Gateway determination, the planning proposal is proposed to be placed on public exhibition in accordance with the Gateway requirements and then reported back to the Council for further consideration and/or endorsement.

Sustainability Considerations

- **Environment**

The proposal is not likely to have any significant implications from an environmental perspective as it is confined to existing zoned and largely already developed residential lots.

- **Social**

The proposal is considered to have overall positive social impacts resulting from the provision of additional housing.

- **Economic**

The proposal has the potential to result in a number of positive economic impacts associated with construction and occupation of additional dwellings.

Legal / Resource / Financial Implications

Initiating and processing a planning proposal to permit attached dual occupancy development in the circumstances outlined can be managed within existing resources.

This matter is included in the current Strategic and Community Facilities Group work program.

It is also proposed to seek delegation from the Department of Planning and Environment to enable the processing of the proposed LEP amendment to finalisation.

Consultation

It is envisaged that following referral to the NSW Department of Planning and Environment the planning proposal, if allowed to advance, will be placed on exhibition for community feedback in accordance with the Gateway determination. The period of public exhibition proposed is not less than 28 days.

Options

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

1. Council may resolve to proceed to submit the planning proposal to the NSW Department of Planning and Environment for Gateway determination.

This is the preferred and recommended option as it will enable the planning proposal to progress to the next step in the LEP amendment process which is to enable a review 'in principle' by the NSW Department of Planning and Environment. Taking this action is consistent with Council's adopted planning strategy for Wardell.

2. Council may resolve to defer consideration of the planning proposal.

It is open to Council to request additional information should there be matters that require additional investigation or clarification. This could then be referred back to the Council in a subsequent report or take the form of a Councillor briefing.

3. Council may resolve to decline to support the planning proposal and take no further action.

This option is not recommended at this stage of the process as the consideration of a mechanism for permitting attached dual occupancy development, within the R2 zoned, non-flood prone areas of Wardell is an adopted strategy of the Wardell Strategic Plan 2035.

RECOMMENDATIONS

1. That Council endorses the Wardell Attached Dual Occupancy Planning Proposal (BSCPP 18/003 – Attached Dual Occupancy Wardell), as contained in Attachment 2 to this report.
2. That Council submit this planning proposal to the NSW Department of Planning and Environment for Gateway determination.
3. That the Department of Planning and Environment be advised that Council is seeking 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 community consultation phase.

Attachment(s)

1. Wardell Strategic Plan 2035
2. BSCPP 18/003 - Draft Planning Proposal - Attached Dual Occupancy Wardell

9.4 Community Property - Lease Renewals

9.4 Community Property - Lease Renewals

Delivery Program Community Facilities

Objective To seek direction in relation to tenure renewals for properties within Council's Community property portfolio.

Background

The Community Property Leasing and Licensing Policy was adopted at the Council's July 2016 Ordinary meeting. This policy establishes Council's approach to occupation of Council owned properties within its community property portfolio. Several properties that are the subject of the policy are presently due for tenure renewals. This report sets out the details of the properties, and the proposed renewals, in accordance with this policy.

Key Issues

- Tenure renewals
- Occupation and use of community assets

Information

The properties in Table 1 are recommended for tenure renewal in accordance with Council's policy framework. The exception is the proposed use of part of Ocean Breeze Reserve in Lennox Head for the purpose of establishing a community garden. This will be the initial lease period for this occupation. Each of the tenures is proposed on a peppercorn rental.

Table 1: Tenure Renewals – Community Property

Property	Lessee	Term	Rental	Comments
Power Drive, Cumbalum (Part Lot 99 DP1196589)	Ballina Little Athletics Club Inc and Tintenbar East Ballina Football Club Inc (Clubhouse)	3 Years	\$1.00	An adjunct to the use of the sports fields
Skennars Head Rd, Skennars Head (Part Lot 12 DP 1004858)	Lennox Head Soccer Club Inc (Clubhouse and portion of Storage Facility)	3 Years	\$1.00	An adjunct to the use of the sports Fields
Ocean Breeze Reserve (portion of Lot 31 DP 787876)	Lennox Head Community Garden Inc (Community Garden)	1 Year	\$1.00	As provided for in Council's endorsed Ocean Breeze Reserve Masterplan. The shorter term of one year for the initial period of occupation is consistent with Council's policy
80 Elvery Lane (Part Lot 2 DP1168781)	Alstonville Tennis Club	3 Years	\$1.00	Club is located on operational land (not subject to community property requirements of the Local Government Act) but is utilised by the community for not for profit activities.
Gap Road, Alstonville (Part Lot 4 DP 1130300)	Alstonville Croquet Club	3 years	\$1.00	Club is also located on operational land but is utilised by the community for not for profit activities.
10 Wardell Road, Alstonville	The Alstonville Plateau Historical Society (Crawford House)	3 years	\$1.00	The property is also located on operational land but is utilised by the community for not for profit activities.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
There are significant social benefits provided to the community by many of the occupants of Council community properties through the range of services they deliver. It is important to ensure that these groups are able to operate affordably and sustainably. It is also important that the use of community property is transparent and considered in the broader public interest.
- **Economic**
The waiving of commercial rental represents an economic loss to Council. However, that loss can be offset to some extent by the broader social, welfare and recreational benefits which are provided by community groups.

Legal / Resource / Financial Implications

In accordance with section 46 of the Local Government Act, Council must only authorize occupation of community land by way of tenure agreements which are consistent with specific provisions in a plan of management. Council's Principal Generic Plan of Management for Community Land provides for these respective uses.

Section 47 and 47A of the Local Government Act requires Council to publicly exhibit tenure renewals for community land. With the exception of Ocean Breeze Reserve, all tenures are recommended for a term of three years, in accordance with Council's Community Property Leasing and Licensing Policy.

There are no negative resource impacts or financial implications associated with the tenure renewal process as these works are funded and accommodated in existing budgets and work programs.

Consultation

Consultation has occurred with the occupants of these properties. Public notice will be given of the intention to renew leases in accordance with sections 47 and 47A of the Local Government Act. The matter will be reported back to the Council in the event that submissions are received which raise substantive matters of concern.

Options

The options available are to grant tenure as recommended in Table 1 (or otherwise as varied by the Council), to not grant tenure to all or some of the community groups the subject of this report or to defer all or some of the renewals to seek further information.

9.4 Community Property - Lease Renewals

Given that the tenure arrangements recommended are consistent with Council's Community Property Leasing and Licensing Policy, the grant of the tenures provide for orderly and reasonable management of Council's community properties, and the renewals confirm arrangements for the groups involved for the forthcoming period, it is recommended that Council authorises the various tenures as set out in Table 1.

RECOMMENDATIONS

1. That Council agrees to enter into leases as set out in Table 1 within this report in accordance with the provisions of the Local Government Act 1993 and associated Regulation.
2. The Council authorises the General Manager to affix the seal to the lease documents and any other documents required to allow tenure to be granted in accordance with Table 1 and the terms of the Local Government Act and associated Regulation.
3. That prior to items one and two being actioned, statutory public notification relating to the proposed leases be undertaken, and that matters be reported back for further consideration by the Council in the event that objections of a substantive nature are received.

Attachment(s)

Nil

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 documents.

US 18/08	<p>'Deed of Agreement' for the transfer of land, being Lot 1 in Release 3 at EPIQ Estate, Lennox Head for a proposed reservoir site.</p> <p>The deed is between the Trust Company (Australia) Limited, C/- Clarence Property Corporation (or subsequent land owners) and Council.</p> <p>The land is Lot 1 in release 3 (part of the current lot 101 DP 1241817) and the site is currently under construction. The land is required for a reservoir site and is to be transferred to Council, at no cost to Council, as per DA 2016/741 condition 111 as follows:</p> <p><i>'Prior to issue of the subdivision certificate, the proponent shall enter into a deed of agreement with Council for Lot 1 to be transferred at no cost to Council, within 90 days of registration of the subdivision plan, for a future reservoir site.'</i></p> <p>The proposal is considered acceptable for Council to allow the deed to be executed.</p>
US18/09	<p>Transfer of Sublease and Licence from A Foukkare and T Burns to JDNI Pty Ltd for premises known as Ballina Gallery Café, for Part Lot 1 DP 1153927, being that part of the building and surrounds known as the "Old Council Chambers".</p> <p>Explanation: This represents the sale of the Gallery café business.</p>

Attachment(s)

Nil

10.2 Investment Summary - November 2018

10.2 Investment Summary - November 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 November 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 November was \$83,538,000. This represents an increase of \$5 million from October. Council's investments, as at 30 November, are at an average (weighted) rate of 2.88%, which is 0.94% above the 90 Day Bank Bill Index of 1.94%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 November 2018, was \$6,918,737. This balance is higher than the balance of \$4,462,119 as at 31 October 2018. The combined movement of investments and bank balances was an increase of \$7,456,618. This overall increase is attributable to pensioner rebate receivable of \$0.8 million, developer application payment of \$2 million, financial assistance grant of \$0.5 million, and rates received.

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 - November 2018

A. Summary of Investments by Institution

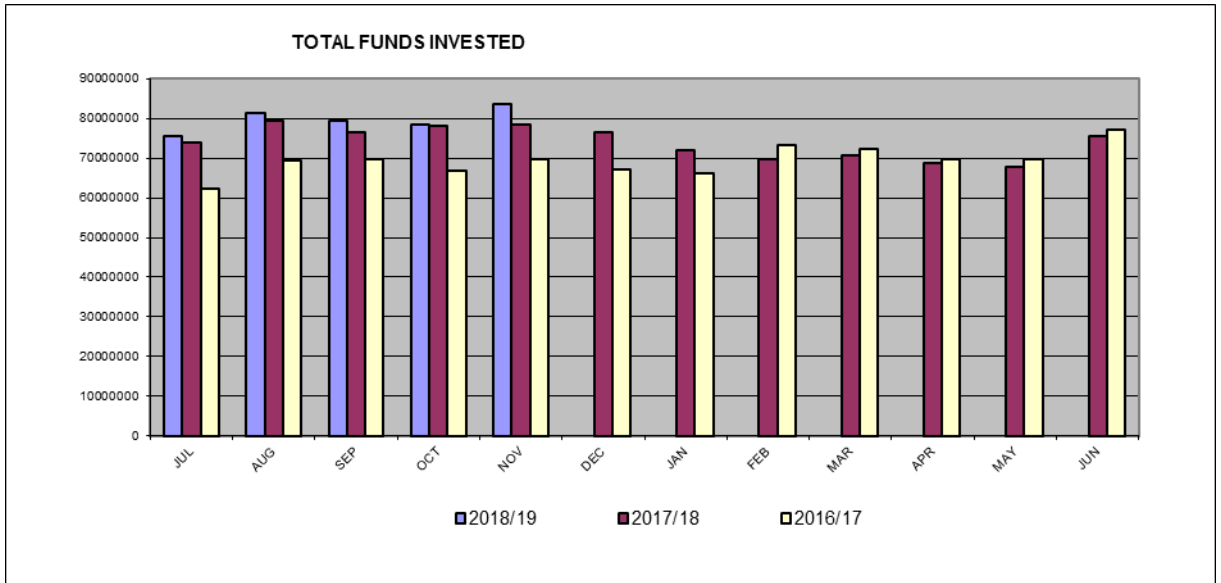
Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.1%	2%
Rated Institutions							
AMP Bank	Yes	A	11,500	11,500	20%	13.8%	
Auswide Bank	No	BBB	1,500	1,500	10%	1.8%	
Bank of China	Yes	A	4,000	10,500	20%	12.6%	
Bank of Queensland	Yes	BBB+	2,000	2,000	10%	2.4%	
BankWest	Yes	AA-	8,000	8,000	20%	9.6%	
Commonwealth Bank of Australia	Yes	AA-	5,000	5,000	20%	6.0%	
Credit Union Australia	No	BBB	3,600	3,600	10%	4.3%	
Defence Bank Ltd	No	BBB	5,500	5,500	10%	6.6%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.4%	
Heritage Bank	No	BBB+	2,000	2,000	10%	2.4%	
ING Bank Ltd	Yes	A	4,000	0	20%	0.0%	
ME Bank	No	BBB	2,750	2,750	10%	3.3%	
My State Bank Ltd	No	BBB+	5,000	7,500	10%	9.0%	
Newcastle Permanent Bld Society	No	BBB	1,700	1,700	10%	2.0%	
Rural Bank Ltd	No	BBB+	4,000	4,000	10%	4.8%	
Suncorp-Metway Bank	No	A+	3,500	3,500	20%	4.2%	
Teachers Mutual Bank Limited	No	BBB	1,700	1,700	10%	2.0%	
Westpac Banking Corporation	Yes	AA-	9,000	9,000	20%	10.8%	98%
Total			78,538	83,538		100%	
Credit Rating Summary as per the Investment Policy							
	Maximum Allowed		Value	Value	%	%	
	%	Value	Previous	Current	Previous	Current	
A- or Higher	100%	83,538	45,000	47,500	57%	57%	
BBB	60%	50,123	33,538	36,038	43%	43%	
Total			78,538	83,538	100%	100%	

B. Summary of Investments Fossil Fuel Aligned

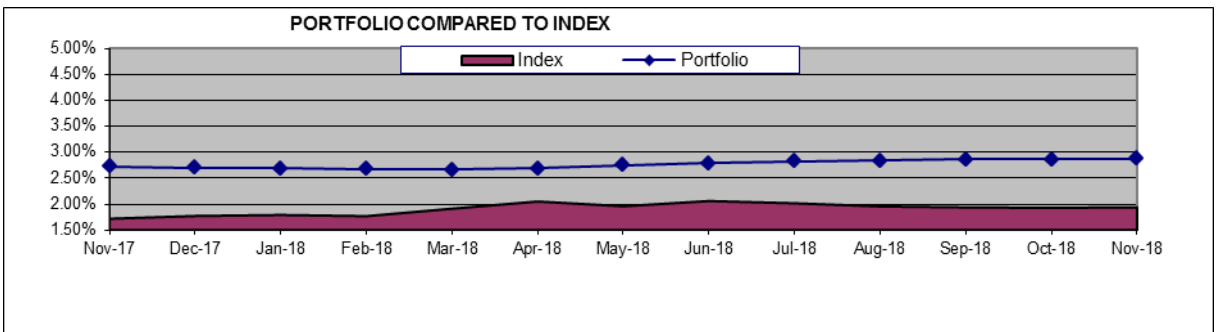
	Previous Month	Current Month
Fossil Fuel Aligned	45,288 58%	47,788 57%
Non-Fossil Fuel Aligned	33,250 42%	35,750 43%
Not Classified	0 0%	0 0%
Total	78,538 100%	83,538 100%

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

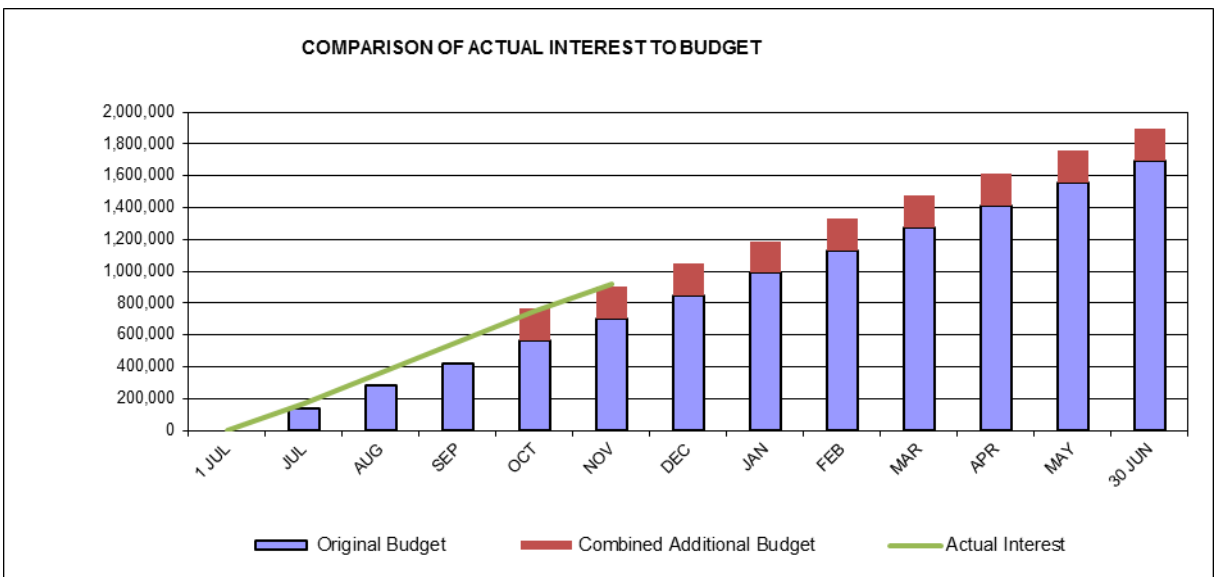
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - November 2018

F. Investments held as at 30 November 2018

PURCH DATE	ISSUER	TYPE	RATE	NEXT MATURITY	PURCH VALUE \$'000	FAIR VALUE \$'000
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	1,499
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
30/06/16	Commonwealth Bank of Australia	FRN	2.98%	30/12/18	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
26/10/18	Commonwealth Bank of Australia	FRN	2.97%	26/01/19	1,000	1,000
29/01/18	Commonwealth Bank of Australia	TD	2.66%	29/01/19	2,000	2,000
30/07/18	Westpac Banking Corporation	FRN	2.85%	30/01/19	1,000	1,000
31/07/18	Westpac Banking Corporation	FRN	2.89%	31/01/19	1,000	1,000
27/07/18	Bank of Queensland	TD	2.80%	01/02/19	2,000	2,000
02/07/18	Teachers Mutual Bank Limited	FRN	3.31%	02/01/19	700	700
03/08/17	Westpac Banking Corporation	FRN	3.02%	04/02/19	2,000	2,000
03/04/18	Credit Union Australia	TD	2.72%	05/02/19	1,000	1,000
06/11/18	Newcastle Permanent Bld Society	FRN	3.34%	06/02/19	1,000	1,000
06/11/18	Newcastle Permanent Bld Society	FRN	3.34%	06/02/19	700	697
09/11/17	ME Bank	FRN	3.19%	11/02/19	750	751
01/05/18	Rural Bank Ltd	TD	2.80%	12/02/19	1,000	1,000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.19%	15/02/19	1,788	1,500
19/11/18	Westpac Banking Corporation	FRN	2.99%	18/02/19	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
24/05/18	Greater Bank Limited	FRN	3.39%	25/02/19	1,000	1,001
25/02/14	Westpac Banking Corporation	FRN	2.88%	25/02/19	2,000	2,003
22/05/18	AMP Bank	TD	2.80%	26/02/19	1,000	1,000
30/08/16	Greater Bank Limited	FRN	3.50%	28/02/19	1,000	1,003
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
02/10/18	Bank of China	TD	2.86%	01/10/19	2,000	2,000
15/10/18	Bank of China	TD	2.83%	10/10/19	2,000	2,000
18/10/18	AMP Bank	TD	2.83%	17/10/19	1,000	1,000
02/11/18	My State Bank Ltd	TD	2.85%	01/11/19	2,500	2,500
06/11/18	Bank of China	TD	2.86%	06/11/19	1,500	1,500
08/11/18	Defence Bank Ltd	TD	2.85%	07/11/19	1,500	1,500
22/11/18	Defence Bank Ltd	TD	2.85%	22/11/19	1,000	1,000
27/11/18	Bank of China	TD	2.87%	26/11/19	2,000	2,000
29/11/18	Bank of China	TD	2.88%	29/11/19	3,000	3,000
Totals					83,538	83,260
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

10.3 Long Serving Employees - Recognition

10.3 Long Serving Employees - Recognition

Delivery Program Human Resources and Risk Management

Objective To formally recognise long serving Council employees.

Background

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

Key Issues

- Acknowledgment of the service of employees

Information

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

35 years

Pat Writer
Bruce Mulholland

30 years

Robert Hunter
Helen Joblin
James McCulloch

10 years

Paul Tsikleas
Samantha Handley
Lyndon Butcher
Stephen Rendall
Daryl Holmes
Samone Puglisi
Christina Jensen
Simon Smith
Joseph Kearney
Nadelene Smith
Simon Kay
Grant Cooper
Helen Kay
Phillip Alley
Graham Jones

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

Sustainability Considerations

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

Legal / Resource / Financial Implications

Council has a recurrent budget for this program.

Consultation

This report is provided to publicly recognise long serving employees.

Options

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

RECOMMENDATION

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

Attachment(s)

Nil

10.4 Donations - Australian Representation

10.4 Donations - Australian Representation

Delivery Program Communications

Objective To consider two applications for funding under the 'Donations - Australian Representation' Policy.

Background

Council occasionally receives requests to financially support athletes who reside in the Ballina Shire if they are selected to represent Australia in their chosen field of sport. Council has a policy *Donations – Australian Representation* that provides guidance to these requests.

The following requests are considered justifiable in reporting to Council based on the reasons outlined in the report.

Key Issues

- Community benefit

Information

1. Australian Representation – Epic Cheer

Ms Stevie White, a Ballina Shire resident, has made a request for sponsorship on behalf of the Epic Cheer Team who have been selected to compete in the World Global Games in Hawaii in May 2019.

2. Australian Representation - Samantha Brophy

Jenifer Brophy has applied for financial assistance on behalf of her daughter Samantha Brophy who has recently been selected for the Australian National Women's U18 Ice Hockey Team to compete in Spain in January 2019.

The applications are attached to this report.

Council has a policy, *Donations - Australian Representation* that states Council may provide a \$459 contribution for applicants representing Australia overseas (this figure is indexed by CPI each year). The policy also states that selection of an entire team will only result in one donation.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Donations support community groups and individuals in the Ballina Shire.

10.4 Donations - Australian Representation

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

There is no specific budget allocation for Australian Representation policy as the donation requests are typically ad hoc and the funds donated are relatively minor in comparison to Council's overall budget.

At the July 2018 Ordinary meeting Council did over-allocate the available community donations budget, with that over-expenditure being funded from the under-expenditure in the Community Sporting Groups Capital Assistance program. The remaining funds in that capital assistance program were then approved for transfer to the sports field maintenance budget.

Consultation

There has been no specific consultation in respect to this request.

Options

The options are to approve or decline the request.

Both applications comply with the Council policy and on that basis the recommendation is for approval.

RECOMMENDATION

1. That Council approves the request from Ms Stevie White (Epic Cheer) for a donation of \$459 towards the cost of Australian selection as per Council's Donations - Australian Representation Policy.
2. That Council approves the request from Ms Jenifer Brophy for a donation of \$459 towards costs associated with her daughter's selection as per Council's Donations – Australian Representation Policy.

Attachment(s)

1. Ms Stevie White - Epic Cheer
2. Ms Jenifer Brophy - Ice Hockey

10.5 Managed Print Services Agreement - Extension

10.5 Managed Print Services Agreement - Extension

Delivery Program Information Services

Objective To ensure that Council is deriving best value from its information technology systems and to obtain Council approval to extend the existing managed print services agreement.

Background

Council currently has in place a Managed Print Services Agreement (MPSA) with Canon Australia Pty. Ltd. for the supply and maintenance of Multi-Function Devices (MFDs) used within the organization. This agreement is based on a State Government contract and there is now an opportunity to extend that agreement based on revised pricing, resulting in significant savings to Council.

The purpose of this report is to obtain Council endorsement for the extended agreement.

Key Issues

- Comply with *Local Government (General) Regulation 2005*
- Achieve best value for money

Information

Council currently has in place a MPSA with Canon Australia for supply and maintenance of MFDs used within the organization. This MPSA sees Council charged a flat fee for each page printed using MFDs under the MPSA and this fee includes the capital cost of the devices, as well as all maintenance and consumables associated with the same.

The only additional cost to Council is the actual paper used.

The current MPSA is managed by Colourworks Australia Pty Ltd (Colourworks) as an agent of Canon Australia, and all devices within the MPSA are supplied under NSW State Government Contract 2390, and maintained by Colourworks.

This MPSA has a further twenty-nine months to run and at that time Council has the option of renewing the MPSA for a further agreed term or alternatively, going to the market for a new MPSA.

The current MPSA encompasses some 53 MFDs of varying capacities across multiple sites, printing an average of 41,000 mono pages and 73,000 colour pages per month. Devices range from a small number of 'desktop' printers to high output semi-commercial printers and large format scanner/printers.

Costs associated with the current MPSA average \$23,000 per month.

10.5 Managed Print Services Agreement - Extension

Council has received a proposal from Colourworks Australia to take over the present MPSA from Canon Australia. This proposal effectively terminates the current MPSA and commences a new MPSA with Colourworks, with a new term of 48 months.

Council sought, and has received, concurrence from Canon Australia as to the validity of this proposal.

Whilst the proposed MPSA is some nineteen months longer than the current MPSA, the proposed agreement seeks to capitalize on the work done under the current MPSA to modernize Council's MFD fleet, and to provide further equipment upgrades and reduce the ongoing operational costs of same significantly.

This reduction in costs amounts to savings in the order of \$5,400 per month equating to approximately \$157,000 to be realized over the next 29 month period (remaining period of the current MPSA), and some \$260,000 over the full 48 month term.

These savings are based on current print volumes, however these volumes are set to gradually fall as Council moves more of its processes away from hardcopy to digital.

By way of example, if Council were to reduce print volumes by 20% in the first year, then maintain that volume for the remainder of the proposed MPSA term, the savings would increase to approximately \$300,000 for the full term, and would result in some 410,000 fewer pages being printed (assuming all printing is double sided).

Similarly, but more conservatively, if print volumes were reduced by 10% in the first year and a subsequent 10% in year two, then that level maintained for the duration of the proposed MPSA term, the savings would still approximate to \$290,000 for the full term, along with some 330,000 fewer pages printed.

Council has the option of not agreeing to the new MPSA and going to the market, however this would constitute a break in the current agreement, and as such would incur significant break costs in the order of \$520,000, in addition to ongoing monthly costs associated with any new agreement moving forward.

Sustainability Considerations

- **Environment**
Reduction in print volumes reduces the amount of paper used by Council.
- **Social**
Not Applicable
- **Economic**
Significant savings would be realized immediately, with potentially greater savings to be had as Council moves more towards digital recordkeeping.

Legal / Resource / Financial Implications

Compliance with the *Local Government (General) Regulation 2005* is required. The original MPSA with Canon Australia was put in place under NSW State Government Contract NSW2390, and Canon Australia has provided advice to Council endorsing Colourworks as an approved partner for the provision of Canon services and as such supports Colourworks as a provider under NSW2390.

NSW2390 has recently been extended to 29 November 2020 with options to extend twice more for 12 months.

There are no resourcing implications associated with this proposal, and the financial implications amount to substantial savings to be achieved during the term of the proposed MPSA as outlined above.

Consultation

There have been on-going discussions with the service providers and other councils.

Options

1. Maintain the status quo until the current MPSA agreement expires.
2. Enter into a new 48 month Colourworks MPSA and realise immediate savings based on present print volumes, with further savings to be targeted through print volume reduction strategies.
3. Go to the market immediately but in doing so incur significant mid-agreement break costs over and above ongoing costs associated with a new MPSA.

As this is a State Government contract there is no need to formally call tenders (as that has been done by the State Government) or for Council to accept the tender.

However from a transparency perspective it is important for Council to be aware of the value and proposed timeframe of this proposed contract agreement.

The recommendation that follows seeks Council endorsement of the proposal.

RECOMMENDATION

That Council authorises the General Manager to enter into a new 48 month contract for Managed Print Services with Colourworks Pty. Ltd. as per State Government Contract NSW2390, and as outlined within this report.

Attachment(s)

Nil

10.6 Policy (Review) - Corporate Sponsorship

10.6 Policy (Review) - Corporate Sponsorship

Delivery Program Communications

Objective To review the Corporate Sponsorship 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 Corporate Sponsorship Policy.

Council first adopted this policy in 2006.

The objective of the policy is to formalise the general principles that will be followed by Council when negotiating and implementing sponsorship agreements both to and by Council.

Key Issues

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

Information

This review of this policy identified minor grammatical changes only.

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**
Not Applicable
- **Economic**
Sponsorship can provide financial sustainability for events or functions.

Legal / Resource / Financial Implications

The policy looks to assist to provide direction to Council when negotiating or implementing a sponsorship agreement both to and by Council. There will be financial implications should Council enter into a sponsorship agreement.

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.

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 Corporate Sponsorship 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) - Corporate Sponsorship

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

Delivery Program Commercial Services

Objective To determine if Council wish to provide ongoing rental relief to Lennox Head Community Sports and Recreation Club Limited trading as Club Lennox

Background

Council is in receipt of a request from the Lennox Head Community Sports and Recreation Club Limited trading as Club Lennox ("the Club") for a review of the rent payable from 1 January 2019 for Lot 1 DP 11905, 10 Stewart Street Lennox Head.

A locality plan is included as Attachment 1 and the Club's letter is included as Attachment 2.

Council has previously granted a reduced rental payment plan for a five year term that is due to expire on 31 December 2018.

This purpose of this report is to determine if Council wishes to support a new reduced rental payment plan.

Key Issues

- Rental subsidy
- Equity and use of community land

Information

In 2013 Ramsgate RSL Memorial Club Ltd assigned the current lease to the Club as the business had ceased operating. The Club, which was formed by the community in response to the closure, owns the building improvements and lease the land from Council.

On assignment of the lease Council agreed to a reduced rental payment plan to assist the Club with its financial viability. The approved plan was for a five year period and was structured to increase rent incrementally each year.

In 2015 the Club requested a further review of their rental payment plan whereby the rental was reduced by 80.00%. The resolution arising from Council's November 2015 Ordinary meeting approving this reduction was as follows:

"That Council not agree to the Lennox Head Community Sports Club's request that the rental payable be reduced to 20% of the scheduled rent for the remaining term of the five year rental discount agreement expiring on 31 December 2018, as the 50% proposed from Year 3 onwards is already a significant reduction and is similar to the community service recognition provided by Council for other fees and charges for community groups."

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

The report and the recommendation from 17 November 2015 Commercial Services Committee meeting are attached as background information, with the recommendation being adopted at the November 2015 Ordinary meeting.

The Club is currently paying \$21,431.54 p.a. + GST equating to about 50.00% of the rent noted in the lease.

The Club has paid CPI increases on the discounted rental over the past five years. In addition to the discounted rental the Club also pays Council rates and charges which for the 2018 year equated to \$22,917.52.

The Club's rental payment plan is due to expire 31 December, 2018 at which time the Club will be required to pay 100.00% of the rental noted in the lease (after allowances for CPI movements).

The Club has requested rental relief in the order of 75.00%. This would reduce the rental noted in the lease from \$42,863 p.a. + GST down to \$10,715 p.a. + GST.

The Club has not specified how long this rental relief is to run for.

The Club has provided its latest annual report and a letter from the Club's auditors to support their request is also attached.

Under the terms of the lease, a market rent review is due on 1 January 2019.

The Club also lease a 607.8m² portion of King Street Lennox Head (see Attachment 7). This lease is due to expire 31 December 2019. The current rent payable for this area is \$3,194.00 p.a. + GST.

This lease was also subject to a reduced payment however that expired two years ago, since which time they have been paying the full amount.

The Club has not sought a discount on this rental however this could be an oversight on their part.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Club have advised they provide a social benefit to the community through various community activities.
- **Economic**
The Club have advised that they are registered as a Not for Profit Organisation.

Legal / Resource / Financial Implications

The subject site is classified as community land and as such Council needs to ensure that the community expectations in dealing with this land are met.

Consultation

The Club has provided information in support of their request for rental relief.

Options

The normal process for a lease renewal would be to obtain an independent valuation and negotiate based on that valuation.

The options available include:

1. Still proceed with the market valuation and negotiate an agreed rent based on that figure. The agreed figure could be any percentage of the valuation.
2. Council could save the expense of not obtaining a market valuation and just agree on a figure based on the current rental, or a percentage of the current rental.
3. The rental for the King Street portion of the land could also be subject to a discount as part of these negotiations.

From a probity and transparency perspective it is always beneficial to have an independent valuation to support market rentals, or subsidized rentals.

On that basis the preferred approach is:

- a) Agree to the Club's request to have the rental based on 25% of the updated market rental. Based on increases in rents in recent years in Lennox Head, the market value is expected to increase which means that even though the 25% may be less than the current rental, it may not be that much less once the new valuation is obtained.
- b) It is also recommended that the King Street portion of the lease be subject to the same discount, for 2019 onwards, as it is not logical to have only one lease subsidized.
- c) The agreed rental would still be subject to annual CPI increases, and Council would next review the figure when the leases expire in five years. The next renewal of the King Street lease should only be for four years to ensure the expiry date for both leases is the same.

The recommendation that follows supports this approach with the other options available to Council being to increase the rent from 25% to 50% or more.

RECOMMENDATIONS

1. That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited (“the Club”), with the rental for the Club to be 25% of that market valuation, for the next five year option period, subject to annual CPI increases.
2. The King Street road reserve lease for this site is also to be subject to the same process as point one, with the rent based on 25% of the market value.
3. The 25% rental figure has been endorsed due to the current financial situation of the Club as per the latest financial reports.
4. The Council seal is authorised to be attached to all associated documentation.

Attachment(s)

1. Locality Plan
2. Club Lennox - Rent Relief Request
3. Commercial Services meeting - 17 November 2015 - Report
4. Commercial Services meeting - 17 November 2015 - Minutes
5. Club Lennox - Annual Report 2018
6. Club Lennox - Auditor Letter 2018
7. King Street - Lease Plan

10.8 Class Action - Jardine Lloyd Thompson

10.8 Class Action - Jardine Lloyd Thompson

Delivery Program Human Resources and Risk Management

Objective To provide an overview of the class action being taken against Jardine Lloyd Thompson.

Background

Statewide Mutual was formed in 1993 due to NSW council's experiencing excessive insurance premiums and an inability to gain adequate insurance coverage protection. This is due to the unique and diverse range of functions performed by councils, including significant exposure to public liability claims.

From inception, the mission statement of Statewide Mutual is 'To apply innovative practices to the management of Local Government insurance to ensure the protection of Members through stable premiums, cost containment and spread of risk'.

Ballina Shire Council is a member of Statewide Mutual. The Mutual is overseen by a Board of Directors which includes representation from various senior management roles from councils.

As a member Council we rely on Statewide Mutual to source adequate insurance coverage and to ensure that adequate funds are in place in the Mutual to meet APRA requirements.

The insurance policies are sourced by Jardine Lloyd Thompson (JLT) and the insurance funds are held by the Mutual and owned by the member Councils.

All excess funds are returned back to the councils each year in the form of a bonus refund to enable councils to use these funds to undertake proactive risk management strategies.

In addition, Statewide Mutual provides members with access to a dedicated Regional Risk Manager, resource tools, guidance notes and continuing improvement pathways designed specifically for local government.

Council received correspondence from Quinn Emanuel Urquhart & Sullivan (QE) earlier this year advising that they were exploring an open class action against JLT on behalf of local councils across Australia.

QE were inviting councils to join this class action. The basis for this class action is allegations that councils have paid excessive premiums on their insurance.

The class action is against JLT and not Statewide Mutual.

Following receipt of this advice, Council made immediate contact with Statewide Mutual to gain an understanding of the basis for this class action.

10.8 Class Action - Jardine Lloyd Thompson

Based on the information provided by Statewide Mutual, it was determined that this matter would be closely monitored with no immediate response required by Council.

Statewide Mutual subsequently released an announcement, which is included as Attachment 1.

This announcement was distributed to all member councils in New South Wales with similar announcements made to member councils of the mutual schemes in other states.

In addition to this initial announcement, representatives from Statewide Mutual have continued to provide updates to councils wishing to understand the status of the class action process.

JLT responded to the allegation when interviewed by the Insurance News Magazine in response to the action by QE. These articles are included in Attachment 2.

The purpose of this report is to provide an update on this matter.

Key Issues

- Overview of class action

Information

The class action is against JLT and not Statewide Mutual, which Council is a member of.

Council relies on Statewide Mutual to appoint a Scheme Manager who can provide cost effective insurance solutions to meet the unique needs of local government. JLT is the only insurance broker to hold all three licenses required by APRA to administer Schemes and is the appointed Scheme Manager for Statewide Mutual.

Since receipt of notification by QE, Council's Manager Risk and Human Resources has been in discussion with Statewide Mutual and has been monitoring this case.

A review of Council's own pricing situation is in line with the Statewide Mutual mission statement and does not appear to support the allegations made by QE.

Statewide Mutual continue to reassure councils that there are no facts to support the allegations and JLT are confident in their defense should the matter proceed.

The latest advice provided to Council on 11 October 2018 by Statewide Mutual is that at this stage there is still no class action with JLT not receiving any further correspondence in this matter.

10.8 Class Action - Jardine Lloyd Thompson

However Council has now received verbal advice that the class action is proceeding, with a brief summary provided in the confidential report later in this agenda.

Sustainability Considerations

- **Environment**

Not applicable

- **Social**

Not applicable.

- **Economic**

Insurance is a major cost for Council and it is essential that Council has the appropriate insurances in place considering the diverse nature of services provided to the community.

Legal / Resource / Financial Implications

Council has not obtained independent legal advice in this matter. There are no direct legal, resource or financial implications from this report.

Consultation

Council has been consulting with Statewide Mutual and other member councils.

Options

The purpose of this report is to provide an overview of the class action, with the confidential report later in this agenda providing an outline of options that may be available.

RECOMMENDATION

That Council notes the contents of this report in respect to the class action against Jardine Lloyd Thomson.

Attachment(s)

1. Statewide Mutual Chair - Announcement
2. News Article

10.9 Organisation Structure - Review

10.9 Organisation Structure - Review

Delivery Program Communications

Objective To review the organisation structure following the retirement of the Group Manager - Strategic and Community Facilities.

A key principle of the Local Government Act is that councillors are responsible for policy formulation with the General Manager responsible for employing staff to implement that policy.

Even though the General Manager employs the staff the elected council is responsible for determining the organisation structure.

This is outlined in section 332 of the Local Government Act (LGA), which states, in part, as follows:

332 Determination of structure

1) *A council must, after consulting the general manager, determine:*

- a) the senior staff positions within the organisation structure of the council,*
- b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,*
- c) the resources to be allocated towards the employment of staff.*

1A) The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.

1B) The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council.

2) *A council may not determine a position to be a senior staff position unless:*

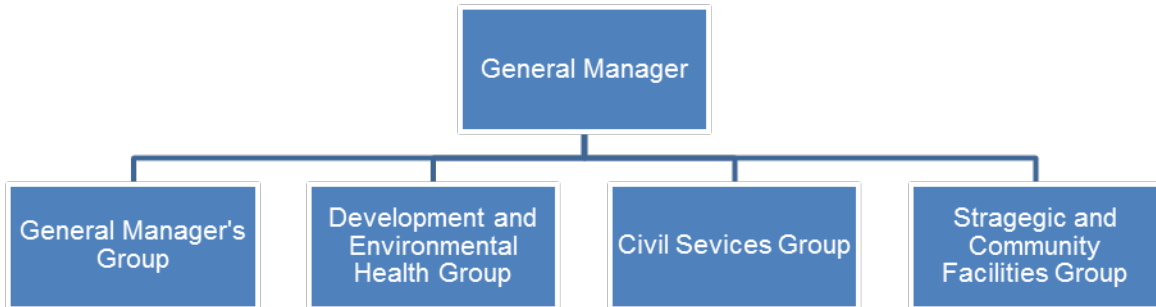
- a) the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and*
- b) the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the Statutory and Other Offices Remuneration Act 1975) payable with respect to senior executives whose positions are graded Band 1 under the Government Sector Employment Act 2013 .*

In addition to Section 332, Section 333 states as follows:

333 Re-determination of structure

The organisation structure may be re-determined by the council from time to time. The council must review, and may re-determine, the organisation structure within 12 months after any ordinary election of the Council.

The current Council reviewed the organisation structure in March 2017 and adopted the existing structure which is as follows:



The Group Manager – Strategic and Community Facilities has recently announced his retirement and his last day in the office will be in early 2019.

This creates an opportunity to assess whether there are opportunities to improve the existing structure and the purpose of this report is to provide an overview of the confidential report later in this agenda in respect to the structure.

The later report is confidential as it may involve discussing personnel matters, with those matters able to be discussed in confidential session as per Section 10A (2) of the Local Government Act.

Key Issues

- Effective organisation structure
- Options

Information

The primary objective of Sections 332 and 333 is to ensure that the organisation structure reflects the desires of the elected Council, along with the Council's Community Strategic Plan, Delivery Program and Operational Plan.

In discussing structure, this refers to the Groups (also often referred to as Divisions or Directorates) that form the structure along with the senior staff positions.

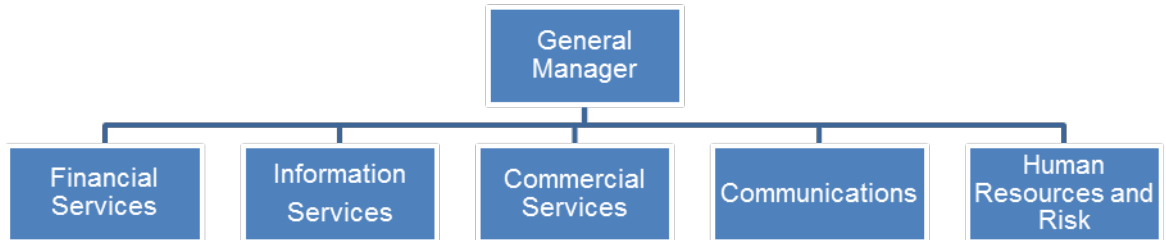
The primary functions of the existing groups with Council are as follows:

- General Manager's (GM) Group – This was historically the Corporate Services Group providing services such as finance, human resources, information technology etc.

10.9 Organisation Structure - Review

The Group also includes Council's major commercial functions such as property development and the airport. There are currently 67 employees with the Group.

The position of Group Manager – Corporate Services was not replaced with the employment of the current General Manager and the various line managers for the Group report directly to the General Manager, as per the following chart.



- Civil Services Group - The majority of the activities for this Group relate to engineering functions and field based services (roads, open spaces, fleet etc), along with water, wastewater and waste.

All the field based staff are located in this Group, which has approximately 219 employees (43 office based and 176 field based) with the following reporting structure.



- Strategic and Community Facilities Group (SACFG) – This Group has two distinct functions, being Strategic Planning, largely related to land use planning, and community facilities, which involves the management of all our major halls and facilities, along with tourism and the community gallery.

This Group has 19 employees with the following reporting structure.

10.9 Organisation Structure - Review



- Development and Environmental Health Group (DEHG) – This Group focuses on the assessment of applications, both building and development, along with environmental and public health activities, plus the management of Council's ranger services.

This Group has 40 employees with the following reporting structure.



Key principles underlying this structure can be summarised as:

- Ensuring there is a clear separation between Council's strategic land use planning (SACF) and the assessment of applications relating to that planning (DEHG). This helps to ensure transparency in our planning processes.
- Having all the field based staff in one group (Civil) to assist with consistency in management
- Consolidating Council's commercial functions in the one section (Commercial Services Unit) as part of the GM's Group
- Having the corporate functions in one distinct group (GM) to assist in ensuring equity in service delivery across the organisation.

There is always room for improvement in service delivery and communication and one of the complexities with councils is that due to the wide variety of services delivered, some of which can have conflicting priorities, it is essential that all sections of the organisation are communicating well with each other, as there is often cross over between sections.

The organisation structure itself only partly supports this and actions such as cross-sectional teams, regular meetings, strong communication networks etc help to assist with that interaction.

10.9 Organisation Structure - Review

Within the Group structure there are also occasional changes in task allocation, with one recent example being the transfer of Council's Festival and Events Program from SACFG to Civil Services. Also the media and communications staff have been transferred from SACFG to the GM's Group.

Similarly the Environmental and Public Health Section, within DEHG, has had a staff member transferred to that section to increase the resources allocated to our waterways program.

Section 332 of the Local Government Act makes mention of senior staff positions.

Senior staff has a specific meaning in the Local Government Act in that a defined senior staff member may be placed on a maximum five year performance contract, albeit that their total remuneration package must be above a pre-determined amount.

The contract is a standard template provided by the Office of Local Government.

The remuneration package amount is linked to the Senior Executive Service of the NSW State Government, as referenced in Section 332 (2) (b) of the LGA.

All other permanent staff, other than senior staff, in the Council are employed in accordance with the Local Government Award.

The major difference with staff on senior contracts is that the contracts can be terminated on expiry, without any redundancy being paid.

The three positions that are currently defined as senior staff are:

- General Manager
- Group Manager – Civil Services
- Group Manager – Development and Environmental Health.

The General Manager can only be appointed by the Council, whereas the Group Managers are appointed by the General Manager however the General Manager must consult with Councillors prior to the appointment or dismissal of a senior staff member.

The position of Group Manager – Strategic and Community Facilities has not been on a performance based contract as that Group and the position itself somewhat evolved from a much earlier restructure of the organisation and the total remuneration of the incumbent is under the senior staff remuneration threshold.

This Group is substantially smaller than the other Groups in Council, albeit that as Council's involvement in Community Facilities has grown (including relatively new services such as the Northern Rivers Community Gallery) the number of staff for the Group has also grown.

10.9 Organisation Structure - Review

The retirement of the incumbent creates an opportunity to place the replacement position on a senior staff contract, dependent on the nature of that position.

Legal / Resource /Financial Implications

Council is legally required to adopt the organisation structure. Therefore if any changes are proposed they will need to be adopted by Council.

Consultation

The Local Government Award identifies that where a decision has been made to implement a new structure that relevant unions and affected employees are to be notified.

Prior to implementing any changes involving staff transfers or changes in roles, all Award requirements will need to be satisfied.

The confidential report discusses options in respect to the organisation structure.

Options

This report is primarily for noting with the options outlined in the confidential report.

The one matter that this report can address is to publically recognise the service that Mr Steve Barnier has provided to Ballina Shire Council for in excess of 30 years.

The Ballina Shire has its strategic planning extremely well documented, particularly with respect to urban land releases, and the benefits of this should not be understated in that many communities on the north coast are grappling with residential rezonings and associated community angst.

Mr Barnier has an exceptional performance record with Council and it is recommended that Council confirm this as per the following recommendation.

RECOMMENDATION

1. That Council notes the contents of this report in respect to a possible review of the Organisation Structure.
2. That Council thanks Mr Steve Barnier on his exceptional performance with Ballina Shire Council for in excess of thirty years and we wish him and his family a long and healthy retirement from 2019 onwards.

Attachment(s)

Nil

11.1 Policy (Review) - Monuments on Public Land

11. Civil Services Group Reports

11.1 Policy (Review) - Monuments on Public Land

Delivery Program Open Spaces and Reserves

Objective To review the monuments on public land policy.

Background

This report responds to the resolution of Council made at the November 2018 meeting “to revisit the policy regarding donated memorial public furniture”.

A copy of the current policy, adopted May 2017, is provided as Attachment 1 to this report.

In reviewing the policy last year, Council considered two reports (March and May 2017), copies of which are provided as Attachments 2 and 3.

Key Issues

- Memorial recognition for families
- Reasonable balance between public spaces and private memorials

Information

The adoption of the May 2017 policy represented a significant change in policy direction for Council. The background for this change is described in the following extract from the March 2017 report.

Having observed the operation of this policy staff suggest Council change the policy, in respect of memorial seats, from “consideration of seats with a plaque in appropriate places” to “not permitted on public land unless the person, event or location is of historical significance and the memorial is approved by resolution of Council”.

This change is due to the following reasons:

- *The majority of seat with plaque requests desire placement along pathways in generally iconic locations with coastal and water views and high scenic amenity and significance. This is resulting in an impression of these walkways as a memorial walkway and this is not likely to be supported by all of the community. Whilst Council staff have received positive comments from family and friends of those being remembered, we have also received comments from the public about the number of seat placements in the natural coastal areas.*

- *The policy is difficult to implement as not all requests can be accommodated in the desired high profile coastal areas and this is a concern to residents making the request because they are aware of previous approvals. Unfortunately the understandable emotions associated with the requests mean the decisions to decline a request are not readily accepted on some occasions.*
- *The volume of seat placement requests has increased and is beyond Council's replacement program based on the typical life expectancy of furniture. Most coastal locations now have the desired number of seats. Council currently has eight applications for seats with plaques of which their high profile coastal locations cannot be appropriately provided for.*
- *This change will mean seats will be treated in a consistent policy manner to the remainder of the policy with regards to plinths and rocks with plaques.*

Council is able to install seats where needed within existing resource allocations. By Council installing seats without a memorial context means the problem of deciding which families are allocated the limited spaces is avoided.

The cost of a memorial seat may not be affordable for all members of our community, meaning there is also potentially an equity issue.

It is agreed there is interest in the community for memorials on public land and whilst there are a number of issues with seating, to respond to this interest, Council's Urban Vegetation Policy permits the planting of memorial trees on public land. This is a more sustainable approach as the size of the population increases.

At the briefing session held last year, an option to maintain the prohibition of memorial seats in high profile areas while providing opportunities at other locations was considered. This remains an option however the feedback from staff is traditionally there has not been any interest in the locations identified by Council as suitable for additional seating.

Sustainability Considerations

- **Environment**

To preserve the environmental and scenic amenity of the coastal reserves it is important the number of seats provided in the reserves is the number required to serve the public attending these sites, rather than the number of requests for memorial seats.

- **Social**

Memorial seating offers opportunities for families to acknowledge the loss of a family member. Properly placed and maintained seating improves the amenity of an area, however Council has capacity to install seating and is not reliant on memorial donations to meet this demand.

There are concerns the number of memorial seats can result in the presentation of the coastal reserve as a memorial location.

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The financial implications are dependent upon the direction taken by Council.

Consultation

The current policy was exhibited in June 2017.

No submissions were received in response to the exhibition.

Options

In the debate at the November 2018 Ordinary meeting, one example of seating options provided was New York Central Park.

Research on that memorial system indicates that you pay \$10,000 (\$US) (it began at \$5,000), and you are able to place a small plaque on a bench. The funds are applied to assist with maintenance. Some benches are sold out whereas others remain “unadopted”, being the term used. A link to that program is as follows.

<https://www.centralpark.com/visitor-info/adopt-a-bench/>

A search on the web of memorial programs in Australia identified that the Australian National Botanic Gardens have a similar system where donations are allowed to install a plaque on a bench. The cost being \$5,000 for a ten year donation and \$10,000 for a 25 year donation, with the plaque remaining on the bench for that timeframe. At the end of the period family members are contacted to determine whether they wish to pay for an extension. A link to that program is as follows.

<http://www.environment.gov.au/topics/national-parks/australian-national-botanic-gardens/supporting-gardens/memorial-seats>

In respect to local government, the City of Charles Sturt has a program where a bronze plaque is installed with costs ranging from \$770 to \$7,700, with the \$770 being for installation on an existing bench / seat and the \$7,700 for installation on a new picnic bench. A link to that program is as follows:

<http://www.charlessturt.sa.gov.au/MemorialRequests>

The resolution from the November 2018 Ordinary meeting provided no direction in respect to the preferred position of Council. The available options are:

1. Retain the current policy direction.

It is important the number of seats installed in the highly significant and popular coastal reserve is based on public need and aesthetics, and is not driven by personal requests for memorials, as eventually Council will have an excess of seats in these prime locations and the amenity will reflect a memorial, rather than the pristine beauty.

Without a system to manage the location and number of seats there will also be an inequity in terms of access for this private interest. Prior to the last review of the policy, the refusal of requests for adequately serviced areas was problematic as many applicants did not accept these decisions willingly as they understood their request was supported by the general direction of the policy.

Memorial trees are provided as an alternative by Council and the current policy simply means Council will need to meet the costs of the future demand for seating in the coastal reserve.

This cost is affordable within the existing resources of Council.

The current policy remains the recommended approach.

2. Amend the policy.

If Council prefers to amend the policy, a resolution clarifying the preferred direction is necessary as the difficulty with an open ended approach is that it is unclear what controls Council wishes to place on the number of memorials. A plaque system on Council approved benches would be the preferred option in high profile locations.

To provide adequate direction to staff in formulating an amended policy, a possible recommendation could be:

That Council amend the existing Monuments on Public Land policy to cater for the installation of memorial plaques on Council approved benches in pre-determined high profile locations, along with the option of installing a bench and / or a memorial plaque in less high profile locations.

This may well result in a policy similar to the City of Charles Sturt where plaques are only available in high profile locations, and payment for benches would be allowed in lower profile locations. The updated policy would need to be reported back to Council for approval as such as policy would have clearly a defined area where plaques are allowed in high profile locations.

RECOMMENDATION

That Council maintain the existing Monuments and Memorials on Public Land Policy as it ensures that there is reasonable balance in managing monuments on public land and the Urban Vegetation Policy also provides the opportunity for all members of the community to plant memorial trees

Attachment(s)

1. Monuments & Memorials on Public Land Policy
2. Report to March 2017 Council Meeting
3. Report to May 2017 Council Meeting

11.2 Tender - Provision of Laboratory Services

11.2 Tender - Provision of Laboratory Services

Delivery Program Asset Management

Objective To complete the tender assessment for the new provision of laboratory services.

Background

This tender assessment relates to the provision of laboratory testing services for the majority of Council's analytical testing requirements.

This contract is intended to replace the existing contract for the provision for laboratory testing services (RFT569) which has expired.

Similar to the previous contract, the objective is to establish a panel of two or three laboratory service providers to undertake the majority of Council's analytical testing requirements.

Samples submitted for laboratory testing will predominantly comprise: drinking and recycled water samples, wastewater samples, and environmental soil and water samples. Much of this testing is routine and required to demonstrate compliance with environmental protection licences and Commonwealth/State regulations, maintenance of drinking water standards, investigation of pollution incidents, and groundwater monitoring programs.

Historically analytical costs associated with these activities is a substantial cost to operating expenditure requiring an open call for tenders, with commercial benefit to Council a key consideration in evaluating prospective tenders.

Eight tender submissions were received by the close of the tender period on 18 September 2018.

This report details the outcomes of the tender evaluation process.

Key Issues

- Comply with Local Government (General) Regulation 2005
- Compliance with human health and environmental regulatory requirements
- Achieve best value for money

Information

Tender Submissions were received from:

- Australian Laboratory Services Pty Ltd
- South Australian Water Corporation
(trading as Australian Water Quality Centre)
- Coffs Harbour City Council
(trading as Coffs Harbour Laboratory)
- NSW Department of Primary Industries

11.2 Tender - Provision of Laboratory Services

- Rous County Council
(trading as Richmond Water Laboratories)
- Environmental Analysis Laboratory (EAL), Southern Cross University
- Symbio Laboratories Pty Ltd
- Tweed Shire Council
(trading as Tweed Laboratory Centre)

Each tender was assessed against the mandatory criteria before progression to Stage 2 of the evaluation. The tenders that did not meet all requirements of the mandatory criteria were not considered.

The mandatory criteria are:

Criteria	Requirement
Methodology	Flexibility to optimise Council's regime to apply sample suite discounts. Inclusion of all fees and charges (especially certificates of analysis, data transfer and resample fees). Meeting required turnaround times (24 hours micro bacterial and 7 days chemical/physical testing). Integration with Council's Systems (Water Quality Database). Notification processes (electronic and telephone). Flexibility with courier services offered. Dispute management procedures. Out of business hours support: e.g. weekend and holiday coverage for incidents. Tenderer must have appropriate systems for sample security, handling and transport. Chain of Custody documentation must be used for all samples provided. Courier services available (including costings). Sampling analysis performed in accordance with recognised industry standards. Provision of interpretative services and advice. Certificates of analysis and chain of custody documentation must be in accordance with statutory requirements and admissible in a Court of Law. Results must be supplied in a hard copy and electronic MS Excel spreadsheet form, in a format suitable for Council. Results must be capable of electronic transfer via the tenderer's LIMS to Council's WQDB within 12 hours of result finalisation. All results must be reported within 2 working days of analysis. Results must be reported as requested on the COC forms (included aggregation of test results e.g. Total PAH). Immediate phone and email notification for required sample limits. Provision of Communications process/protocols. Including list of subcontracted works. Sample bottle information required by Council. Conformance with Schedule 3 Tender
Current and Previous Works	List of current relevant works and their respective contract values
Capability	Contractor is experienced and capable of conducting the project works safely and within the requirements of the Tender Specification
WHS/Quality Management Systems	Supplied and conform to relevant legislation and regulation requirements.
NATA accreditation	Supplied evidence of accreditation (including scope and limitations of accreditation).
Insurances	The Tenderer has a minimum \$20m public liability insurance policy, for contractor and all nominated subcontractors. The Tenderer has a minimum of \$10m professional indemnity insurance policy for the design component of the works. The Tenderer has a workers compensation insurance policy.

11.2 Tender - Provision of Laboratory Services

Criteria	Requirement
	The Tenderer has an appropriate motor vehicle and plant insurance policy

The following tenderers failed to meet the mandatory requirements regarding Methodology and were excluded from Stage 2:

Australian Water Quality Centre was found non-compliant due to concerns regarding the ability to meet sample turnaround time and inability to complete the bio-solids component of the tender.

NSW Department of Primary Industry was found non-compliant due to the long sample turnaround time and no NATA accreditation for E.coli sampling.

Richmond Water Laboratories was found non-compliant due to sample turnaround time and integration with Council's Water Quality Database.

Following the Stage 1 evaluation each compliant tender was evaluated against the weighted criteria and ranked against all other tenders.

The weighted criteria include the following:

Criteria	Weighting	Requirement
Commercial Benefit to Council	60%	Dollar value quotation for specified sampling programs, ensuring an ability to compare each proposal on the same terms. Schedule of rates for range of analytes and ancillary services (e.g. transport, training).
Service Capability	25%	Level of service – supplied details of the range and level of services offered. Experience – supplied details and references of proven experience in the provision of laboratory services.
Social and Community	15%	Knowledge & experience with local conditions. Social impact on local economy.

Based upon price the weighted criteria above, the compliant tenders were ranked in the following order:

Tender	Rank	Score
Australian Laboratory Services Pty Ltd	1	83.83
Environmental Analysis Laboratory	2	80.57
Tweed Laboratory Centre	3	77.84
Coffs Harbour Laboratory	4	68.98
Symbio Laboratory Pty Ltd	5	63.23

11.2 Tender - Provision of Laboratory Services

Further details of the assessment, including commercial information, have been provided to Councillors under separate cover as a confidential memorandum.

Sustainability Considerations

- **Environment**

These testing services assist Council to delivery our environmental management programs and meet our regulatory requirements in respect of environmental monitoring and reporting.

- **Social**

Some of the analytical testing program, such as potable water sampling, is undertaken to ensure the safety and wellbeing of our community.

- **Economic**

The analytic testing program is essential to support the performance and reputation of Council. This governance in turn encourages trust and confidence which assists economic development in the Shire.

Legal / Resource / Financial Implications

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

The Tender has been written to consider the resources impacts and it is expected to have little impact on current resourcing.

The current 2018/19 budget allocations for laboratory services will cover the estimated laboratory costs.

Consultation

A public tender process was undertaken.

Options

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

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

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

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*

11.2 Tender - Provision of Laboratory Services

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

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

It is proposed to accept the top three ranked tenders, as they will provide flexibility and expertise across Council's differing testing types: Drinking/Recycled Water Reticulation Sampling, Treatment Plant Sampling, Waste Management Centre Sampling and Environmental Health Compliance Programs.

This will also mean Council will have increased redundancy compared with the previous contract with laboratories based in Lismore, Tweed and Brisbane.

RECOMMENDATIONS

1. That Council accepts the tenders from Australian Laboratory Services Pty Ltd, Environmental Analysis Laboratory and Tweed Laboratory Centre for the formation of a panel for the provision of laboratory services to Council for the next five years.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Business Community Survey

13. Notices of Motion

13.1 Notice of Motion - Business Community Survey

Councillor

Cr Willis

I move

That as part of the preparation of the 2019/20 Delivery Program and Operational Plan, Council consider the inclusion of funding to undertake an independent survey of our business community to identify priorities that they would like to see considered and implemented by Council to improve the overall business environment.

Councillor Comments

Council has previously engaged Micromex Pty Ltd to undertake resident satisfaction surveys over many years. Micromex has also assisted Council with surveys for special rate variations and satisfaction levels in the development assessment area. It would be good to know what the cost of undertaking a survey of the business community would be, and what experience firms such as Micromex have in undertaking those surveys. Ideally such a survey would identify a few key areas that Council could concentrate on to improve the operating environment for our small businesses.

COUNCILLOR RECOMMENDATION

That as part of the preparation of the 2019/20 Delivery Program and Operational Plan, Council consider the inclusion of funding to undertake an independent survey of our business community to identify priorities that they would like to see considered and implemented by Council to improve the overall business environment.

Attachment(s)

Nil

13.2 Notice of Motion - Alstonville Aquatic Centre

13.2 Notice of Motion - Alstonville Aquatic Centre

Councillor

Cr Eoin Johnston

I move

1. That Council receive a report on the benefits and cost of the following works to improve the overall amenity of the Alstonville Aquatic Centre:
 - a) Removal of the large camphor tree at the southern end of the complex, which may require installation of a replacement shade structure as this tree provides shade benefits to the Alstonville Preschool.
 - b) Refurbishment or replacement of the existing amenities to ensure the facilities reflect contemporary standards, particularly in relation to disabled access within the change rooms.
2. The information from this report will allow Council to plan for the possible implementation of these works, either this financial year, or to be considered as part of the preparation of the 2019/20 Delivery Program and Operational Plan.

Councillor Comment

Both the redeveloped Ballina and Alstonville swimming pool complexes are being very well utilised by our community and as per our recent decision to provide funding for additional shade structures at Ballina, it is important that we address any matters that are impacting operationally on the performance of the pools.

The large camphor laurel tree, which is classified as a noxious weed, does provide shade for the preschool however it continues to have negative operational impacts on the pool in respect to staining, leaf drop and increased cleaning. A report could explore what options there are to compensate for the removal of the tree.

In respect to the amenities, Council has undertaken some minor improvements as part of the redevelopment, however they do not reflect the overall standard of the balance of the complex. An estimate of the cost of refurbishing those amenities to a similar standard as the Ballina facility, without the need for demolition, as well as ensuring they meet all contemporary disability access standards, would help with Council's financial planning, and may also assist with seeking grant funds for this work.

There are other works needed, such as the installation of roller doors at the northern end of the chemical delivery dock, and shade structures between the administration building and the 50 metre pool, and I anticipate the Council staff and pool contractor will also ask for these to be examined as part of the preparation of the 2019/20 budget. The two items listed in the notice of motion will require a reasonable level of research and consultation and it is important we have that information available as soon as possible.

COUNCILLOR RECOMMENDATIONS

1. That Council receive a report on the benefits and cost of the following works to improve the overall amenity of the Alstonville Aquatic Centre:
 - a) Removal of the large camphor tree at the southern end of the complex, which may require the installation of a replacement shade structure as this tree provides shade benefits to the Alstonville Preschool.
 - b) Refurbishment or replacement of the existing amenities to ensure the facilities reflect contemporary standards, particularly in relation to disabled access within the change rooms.
2. The information from this report will allow Council to plan for the possible implementation of these works, either this financial year, or to be considered as part of the preparation of the 2019/20 Delivery Program and Operational Plan.

Attachment(s)

Nil

14. Advisory Committee Minutes

14.1 Commercial Services Committee Minutes - 4 December 2018

Attendance

Crs David Wright (Mayor - in the chair), Phillip Meehan, Eoin Johnston, Stephen McCarthy, Nathan Willis, Keith Williams and Sharon Cadwallader.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Manager Commercial Services), Leanne Harding (Coordinator Property and Airport Administration) and Sandra Bailey (Secretary) were in attendance.

Clarissa Huegill, from CH Law was also in attendance

There was one staff member in the gallery at this time.

1. Apologies

Apologies were received from Cr Sharon Parry, Cr Ben Smith and Cr Jeff Johnson.

RECOMMENDATION

(Cr Keith Williams/Cr Sharon Cadwallader)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

2. Declarations of Interest

Nil

3. Deputations

Nil

4. Committee Reports

4.1 Community Gallery - Use of Former Ballina Fire Station

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council endorses the retention of the former Ballina Fire Station as part of the NRCG facilities to operate as 'Ignite Studios @ NRCG'.
2. That Council notes the situation relating to the land title of the former Ballina Fire Station and supports the General Manager to continue to take all steps necessary to have the NSW Government rectify the anomaly.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

4.2 Former Tintenbar Council Chambers - Sublease of Area 2

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report in regards to a new sub-lease for Tenancy Area 2, Former Tintenbar Council Chambers, 2 High Street, Alstonville.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

4.3 54 North Creek Road, Ballina - Sale Contract Amendment

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report regarding a sale contract amendment for 54 North Creek Road, Ballina.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land
RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council authorises the General Manager to undertake the relevant process for granting a long term commercial lease or licence to Telstra over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head. This would include undertaking community consultation for the proposed lease of community land under Section 47 of the *Local Government Act 1993*.
2. At the conclusion of the community consultation process the matter be reported back to Council.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

4.5 Ballina Byron Gateway Airport - Retail Lease Proposal
RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report in regards to a proposed new retail lease for the Ballina Byron Gateway Airport Terminal.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

4.6 Kentwell Community Centre, Ballina - Leasing Proposals
RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report on the leasing of the Kentwell Community Centre.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

4.7 Shellys on the Beach - Lease Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report in respect to an update on the Shellys on the Beach lease.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

5. Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

5.2 54 North Creek Road, Ballina - Sale Contract Amendment

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the open meeting discussion could prejudice Council's commercial negotiations.

5.3 North Creek Road Lennox Head - Proposal to Lease Community Land

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 due to the ongoing commercial negotiations and the release of any information that could prejudice those negotiations.

5.4 Ballina Byron Gateway Airport - Retail Lease Proposal

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 due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.5 Kentwell Community Centre - Leasing Proposals

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 due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.6 Shellys on the Beach - Leasing Update

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as commercial leasing matters and confidential legal advice are to be discussed.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

(The Council moved into Confidential Session at 4.17 pm).

Open Council

RECOMMENDATION

(Cr Nathan Willis/Cr Sharon Cadwallader)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

(The Council moved into Open Council at 4.59 pm).

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

5.6 Shellys on the Beach - Leasing Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That consistent with Council's legal advice, the General Manager is authorised to terminate registered lease number AF808187Y to Fishheads@Byron Pty Ltd over Lot 3 DP 1205999 in accordance with Section 36 (1)(c) of the NSW Retail Leases Act 1994, and to affix the Council seal to all relevant documentation.
2. Upon finalisation of termination of the lease with Fishheads@Byron Pty Ltd, the Council is to call for expression of interests from experienced operators to lease Lot 3 DP 1205999 and construct and operate a café.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

5.1 Former Tintenbar Council Chambers - Sublease of Area 2 - Details

RECOMMENDATION

(Cr Nathan Willis/Cr Keith Williams)

1. That Council adopts option one and grants a sublease to Charmonne Pty Ltd for Tenancy Area 2 in the former Tintenbar Council Chambers, 2 High Street, Alstonville based upon the terms and conditions outlined in this report.
2. That Council authorises the General Manger to finalise negotiations and execute all relevant sublease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben

Smith

5.2 54 North Creek Road, Ballina - Sale Contract Amendment

RECOMMENDATION

(Cr Keith Williams/Cr Nathan Willis)

1. That Council adopts option one and rescinds the sales contract for Lot 4 to RJ and JM Pidcock and reissues it in the names of Paul Richmond Pidcock and Liza Gai Pidcock on the same terms and conditions as outlined in this report.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

5.3 North Creek Road Lennox Head - Proposal to Lease Community Land

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council notes the contents of this report and confirms that the latest offer from Telstra is below Council's market value based on similar leases.
2. That Council authorises the General Manager to continue negotiations for an increased lease rental, with any agreement subject to Council approval, and the outcomes of the community land consultation process.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

5.4 Ballina Byron Gateway Airport - Retail Lease Proposal

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council accepts the leasing proposal negotiated with Lagadere Retail (Newslink Pty Ltd) for the new retail tenancy in the Ballina Byron Gateway Airport terminal, as detailed in this report.
2. The General Manager is authorised to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

5.5 Kentwell Community Centre - Leasing Proposals

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Phillip Meehan

1. That Council accepts the leasing proposal from The Family Centre.
2. That the proposed lease be publically notified in accordance with the requirements of Section 47 and/or 47A of the Community Land Provisions of the Local Government Act 1993.
3. That should no written objections be received during the notification period, the General Manager be authorized to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same in accordance with the terms of the Local Government Act 1993 and associated Regulation.
4. That Council receive a report on expanding the Kentwell Centre to facilitate more community groups.

The **Motion** was **LOST**.

FOR VOTE - Cr Phillip Meehan, Cr Stephen McCarthy and Cr Sharon Cadwallader

AGAINST VOTE - Cr David Wright, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

RECOMMENDATION

(Cr Nathan Willis/Cr Keith Williams)

1. That to maximise the range of services offered from the Kentwell Community Centre, Council accepts the leasing proposals from Tweed Byron Ballina Community Transport and CPL as outlined in this report.
2. That the proposed leases to Tweed Byron Ballina Community Transport and CPL be publically notified in accordance with the requirements of Section 47 and/or 47A of the Community Land Provisions of the Local Government Act 1993.
3. That should no written objections be received during the notification period, the General Manager be authorized to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same in accordance with the terms of the Local Government Act 1993 and associated Regulation.
4. That Council call for expressions of interest for the space to be vacated by Tweed Byron Ballina Community Transport once their new lease commences.

FOR VOTE - Cr David Wright, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr Phillip Meehan and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben

Smith

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Keith Williams/Cr Nathan Willis)

That the recommendations made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

MEETING CLOSURE

5.01 PM

RECOMMENDATIONS

That Council confirms the minutes of the Commercial Services Committee meeting held 4 December 2018 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

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 November 2018 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
26/11/18	Meeting – Keith Hall boat ramp – Illegal use of South Ballina Beach
26/11/18	Shark Management Strategy Stakeholder Meeting – Council
26/11/18	Meeting – Patrick Deegan – Labor candidate for Page
26/11/18	Shark Management Strategy Stakeholder Meeting – Evans Head
27/11/18	Meeting SLSNSW and DPI, Lions Fun Run – Funds Presentation
27/11/18	Briefing – Recycle Right Campaign
30/11/18	Meeting Japanese Ambassador to Australia
1/12/18	Alstonville Sport Club Markets, CPL 70 th Community Picnic
2/12/18	Drone Research Meeting - Shellys
2/12/18	Commemoration Park Markets, Lennox Head Carols
3/12/19	Church Group
3/12/18	Briefing – Mobile Food Vending Policy
3/12/18	NSW SES Awards Presentation Evening
4/12/18	Commercial Services Meeting
5/12/18	Wardell Light Up
6/12/18	Healthy Communities Summit – Ballina Beach Resort
6/12/18	SLS Branch Meeting
7/12/18	Joint Organisation Meeting, Ballina Chamber Christmas Party
8/12/18	Cabbage Tree Island 125 Year Celebration
9/12/18	Commemoration Park Markets
9/12/18	Lennox Head Markets
9/12/18	Ballina Shire Band – Christmas Concert
9/12/18	Carols in the Park – Ballina
11/12/18	Australia Day Committee
11/12/18	Alstonville/Wollongbar Chamber Party
12/12/18	Local Traffic Committee
12/12/18	Emmanuel Anglican College Presentations K - 6
12/12/18	Emmanuel Anglican College Presentations 7 - 11
12/12/18	Launch of Book – 'Ballina – Then and Now'
12/12/18	Northern RPP – Skennars Head
13/12/18	Council Meeting, Volunteer Christmas Party
14/12/18	Christmas in the Park – Alstonville
15/12/18	'Fair Go' Skate Competition
16/12/18	Commemoration Park Markets, Ballina Markets
16/12/18	Official 'Hand-Over' of RAAF P3C Orion A9-752
17/12/18	Aboriginal Transport Disadvantage
23/12/18	Commemoration Park Markets
30/12/18	Commemoration Park Markets, Lennox Head Markets
31/12/18	New Year's Eve Celebration - Alstonville

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 Class Action - Jardine Lloyd Thompson

Refer to Item 10.8 of this agenda.

16.2 Organisation Structure - Review (Staffing)

Refer to Item 10.9 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 Class Action - Jardine Lloyd Thompson

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest and the discussion of this advice in open Council may compromise Council's legal position.

16.2 Organisation Structure - Review (Staffing)

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:-

- a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the discussion of those matters in open Council would be unreasonable as the discussion may relate to staff performance and personnel related matters.