



Notice of Ordinary Meeting

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 24 January 2019 commencing at 9.00 am.**

Business

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

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

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

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

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

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

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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1. Australian National Anthem
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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 13 December 2018 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 13 December 2018.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2018/421 - 20 Dress Circle Drive Lennox Head

8. Development and Environmental Health Group Reports

8.1 DA 2018/421 - 20 Dress Circle Drive Lennox Head

Applicant	Ardill Payne & Partners
Property	Lot:115 DP: 29654, 20 Dress Circle Drive LENNOX HEAD
Proposal	Demolition of existing dwelling and construction of a new two storey strata title dual occupancy (attached) including carport forward of the building line.
Effect of Planning Instrument	The land is zoned R3 Medium Density Zone under the provisions of the Ballina Local Environmental Plan 2012 (BLEP).
Locality Plan	The subject land is depicted in Figure 1.

Introduction

The applicant seeks consent for a two storey strata title dual occupancy (attached) as defined in the Ballina LEP 2012 including a carport forward of the building line. The land the subject of the proposed development is shown in Figure 1.



Figure 1: Site locality plan (aerial photography) – 20 Dress Circle Drive Lennox Head marked by yellow dot

Proposed Unit 1 on the ground floor will contain three bedrooms with a combined living/kitchen area. Parking for Unit 1 is proposed via a double carport forward of the building line.

Unit 2 will contain three bedrooms, study and combined living/kitchen area. A lift is also proposed for Unit 2. Parking for Unit 2 is to be contained in a double garage.

Plans for the proposed development are contained in Attachment 1.

An internal Development Assessment Panel (DAP) report was prepared and a site inspection held on 29 October 2018. The panel concluded that the development in its current form would not be supported and that the applicant would be given an opportunity to amend the design to comply with the Floor Space Ratio (FSR) and parking requirements of the DCP.

The applicant was then notified of the outcome of the DAP meeting and was invited to amend the design. The applicant subsequently made the decision not to amend the application further.

At its November 2018 Ordinary meeting (Minute No. 221118/11) Council resolved to call DA 2018/421 in for determination.

This report outlines key details associated with the proposed development and invites the Council's determination of the application in line with the November resolution.

In addition to the content of this report, information relating to the assessment of this application is contained in the assessment report completed by staff (Attachment 2).

Reportable Political Donations

The applicant has not disclosed any reportable political donations.

Public Exhibition

Due to possible impacts on adjoining properties and the proposed carport being forward of the building line, the application was publicly notified in accordance with the Level 1 – Targeted Notification process set out in Chapter 1 of the Ballina Shire Development Control Plan 2012.

Closing date for submissions was 7 August 2018. Four submissions in objection were received.

The application was then amended and re-notified with two submissions in objection being received.

The submissions received are contained in Attachments 3 and 4.

Applicable Planning Instruments

The land is zoned R3 Medium Density Residential under the provisions of the Ballina Local Environmental Plan 2012 (BLEP) and is subject to assessment against the objectives and controls of the Ballina Shire Development Control Plan 2012 (DCP).

Report

The subject site has a land area of 547m². The construction of an attached Dual Occupancy development is permissible on this site.

The development has a number of non-compliances with BLEP and DCP. The issues listed below itemise the non-compliances and reflect the basis of the submissions Council received during the exhibition period.

- Exceedance of Floor Space Ratio
- Building envelope encroachments
- Carport forward of the building line
- Overlooking and privacy.

The likely adverse impacts of the proposal include loss of amenity for adjoining properties due to the bulk and scale of the proposed building and overshadowing.

Floor Space Ratio

The applicant has provided a table within the submitted plans specifying the Gross Floor Area (GFA) as 289m² as indicated below.

SITE CALCULATIONS			
Site Area	547.00m ²	FSR	0.528 :1. (0.5 :1 Allowed)
Building Footprint	270.00m ²		(289.00m ²) (273.5m ² Allowed)
Site Coverage	49%		
GFA - Unit 1	127.00m ²	POS - Unit 1	87.00m ² (40m ² Required)
GFA - Unit 2	162.00m ²	POS - Unit 2	44.00m ² (40m ² Required)
Total GFA	289.00m ²		

Using the stated GFA of 289m² and the site area of 547m², this results in an FSR of 0.53:1.

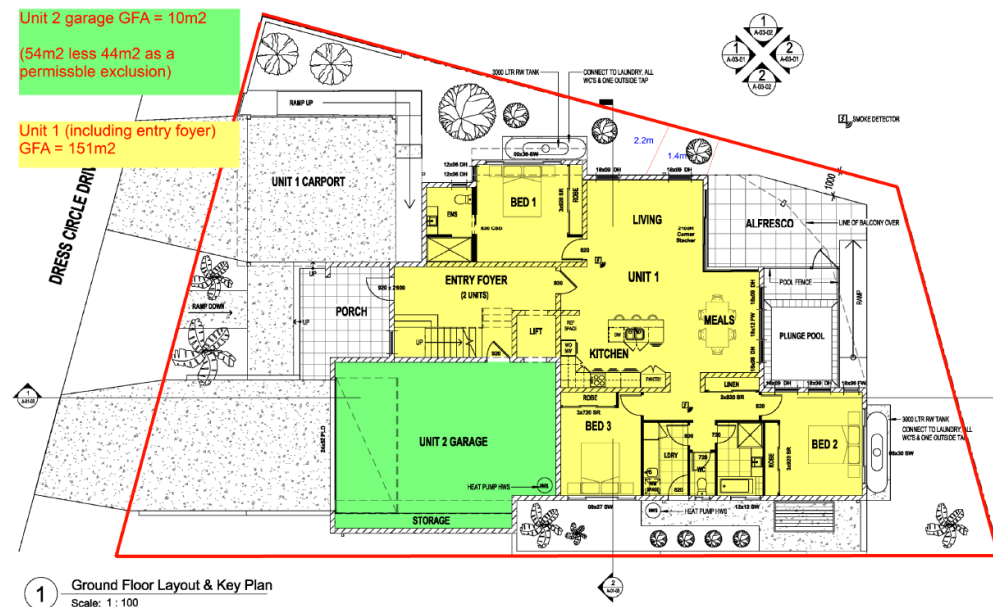
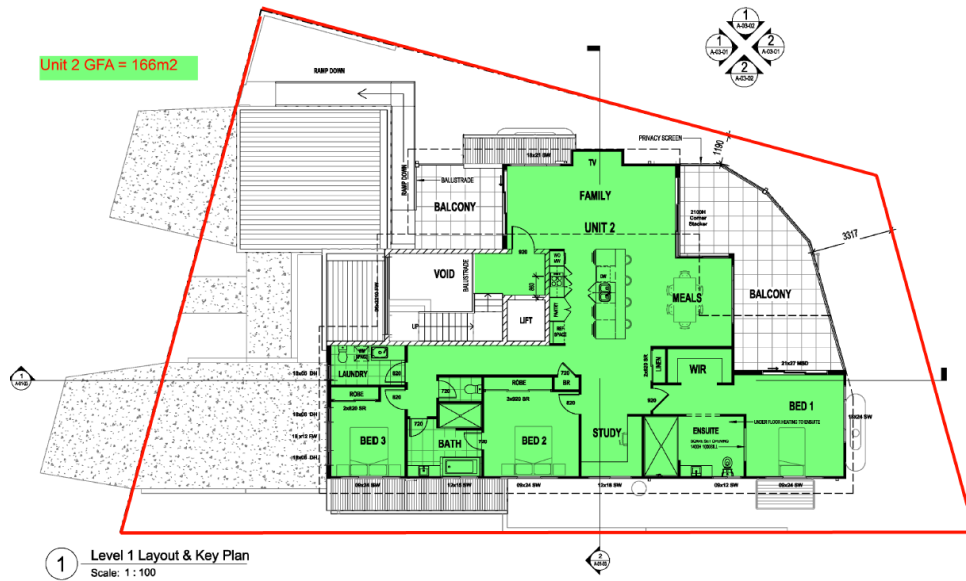
The applicant has not provided any details regarding how this GFA has been calculated.

Council's assessment staff have calculated the GFA in accordance with the definition of GFA within the Ballina Local Environmental Plan 2012.

This permits voids, stairs and lifts to be excluded from one level as well as up to 44m² for required parking.

Due to the limited dimensions included on the submitted plans, this has been done by scaling with reference to the site area.

The following plans indicate the areas included in the GFA calculation.



Total GFA as measured in this way is $166+10+151 = 327\text{m}^2$.

The resultant floor space ratio is 0.59:1 (rounded down). This is 18% greater than the 0.5:1 development standard prescribed by the BLEP and the DCP controls.

The BLEP and DCP objectives of the FSR provisions are to:

- ensure that buildings are compatible with the bulk, scale and character of the locality
- minimise adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape qualities of the locality.

An application to vary the FSR development standard has been submitted.

8.1 DA 2018/421 - 20 Dress Circle Drive Lennox Head

The applicant's justification as to why the variation should be supported is as follows:

- i. The proposed FSR variation is a result of Unit 2 being designed so that it is fully accessible pursuant to AS 1428.1;
- ii. The proposed building is consistent with the bulk, scale, height, external appearance and built form of other recently approved buildings in the locality;
- iii. The nature of the departure would not be perceptible to any person in the local landscape or streetscape;
- iv. The proposed development is consistent with the objectives of the R3 zone;
- v. The increase in the FSR will not have any adverse impacts on the existing or future amenity of adjoining properties or the scenic and landscape quality of the locality; and
- vi. The proposed new building has significant architectural merit and interest and will replace an older, dated and relatively unattractive building.

Although desirable for the owner, compliance with the accessibility standard of Australian Standard AS 1428.1 is not mandatory for Class 1 buildings.

Determining whether compliance with the FSR development standard is unreasonable or unnecessary in this particular circumstance can be guided by five considerations arising from the Land and Environment Court (as summarised in *Wehbe v Pittwater Council 2007*).

These considerations in relation to the variation sought under DA 2018/421 to the floor space ratio development standard under the Ballina LEP 2012 are addressed below.

1. The FSR development standard has not been abandoned or destroyed by Council's actions in granting consents in this locality in the past. Although the locality contains many two storey developments, dual occupancies and buildings that have building envelope encroachments, these are generally not where developments have been carried out on vacant parcels of land and where the FSR has been exceeded.

The adjoining property at 22 Dress Circle Drive is such an example where building envelope encroachments have been approved. However it is a single dwelling that, including all parking, is completely behind the building line and has an FSR of only 0.27:1.

2. The underlying objective or purpose of the FSR standard is to limit building density, and in conjunction with the building envelope and building line controls, limit bulk and scale and adverse impacts on adjoining properties.

This is relevant to the development and therefore compliance should be achieved where it is practical to do so. As this will be a vacant lot following the demolition of the existing dwelling, there are no site constraints to prevent compliance being achieved.

3. The underlying objective of the purpose of the FSR provisions will not be defeated or thwarted if compliance is required and therefore requiring compliance with the FSR is a reasonable expectation.

It is understandable that the owner desires a large dwelling to accommodate their accessibility and carer needs. However the floor area could most likely be reduced through skilful design adjustments to create a more compliant design.

4. As the existing building is to be demolished, requiring compliance with the FSR development standard is not unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property; and
5. The objectives of the FSR development standard are not achieved by the non-compliant design. If permitted it will likely result in over development on the subject lot and the cumulative effect of such developments has an adverse effect on the planned density of the overall locality.

Having regard for the above, the requested variation to the Floor Space Ratio standard applicable to the subject land is not considered to be reasonable or necessary.

Carport Forward of the Building Line

The DCP provisions require dual occupancy developments to have two car spaces per dwelling and at least one space per dwelling is to be covered.

These required car parking spaces are not to be located forward of the building line unless it can be demonstrated that such car parking will be suitably screened along the street frontage.

The applicant is proposing a double carport forward of the building line for Unit 1. Carports can be located forward of the building subject to meeting the following controls:

- no other suitable location is available behind the building line.
- the carport is located a minimum of 900mm from the side boundary.
- the frontage facing the street remains open and is not fitted with a door or enclosing device of any kind.
- the carport roof does not significantly impact on the streetscape.
- the carport roof is not trafficable.
- the carport does not exceed 33% of the width of the allotment frontage or 6m (whichever is lesser).
- any side and/or rear enclosure or screening is to include minimum 50% visual permeability.

The applicant's justification as to why the carport is necessary forward of the building line is that there is no other space on the site for parking for Unit 1.

As the site will be a vacant allotment following the demolition of the existing dwelling the new development should be designed to comply with DCP controls.

That is there will be no existing structures on the land post demolition of the existing dwelling, and there are no special site characteristics, that prevent the provision of car parking compliant with Council's DCP provisions on the site.

Having regard for the above, the proposed carport forward of the building line is not supported.

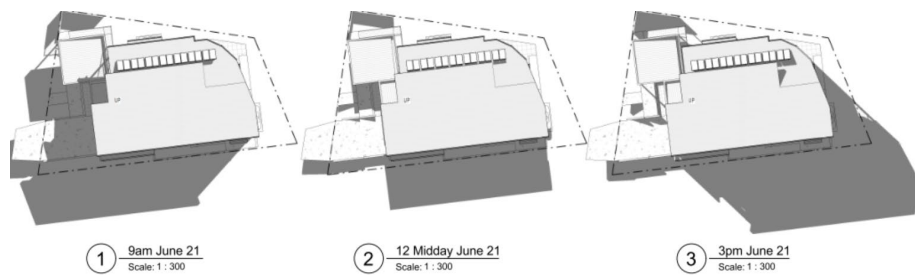
Building Envelope Encroachment

The objectives of this control are to ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views.

The proposed dwelling encroaches outside the applicable building envelope on three elevations. The building height plane encroachments are shown in the plans contained in Attachment 1.

There are building envelope variations to the eastern, northern and southern elevations. The variation to the north is of concern due to its bulk, scale and lack of articulation.

The applicant has submitted the following shadow diagram for the development showing the degree of additional overshadowing cast by the proposed development on the southern elevation. These indicate that the proposed development will result in considerable overshadowing affecting the property to the south.



The southern elevation overshadows the adjoining property between 9 am and 3pm on the winter solace. The living areas of the adjoining dwelling at 22 Dress Circle Drive are on the upper level and setback approximately 3m from the boundary. The proposed dwelling is to be setback 2.2m from this common boundary.

Despite the reasonable separation distance between the buildings, as there is no articulation on the southern elevation of the proposed building, the blank non-articulated wall will result in overshadowing of the dwelling on the adjoining property.

The variations to the eastern and northern elevations, although not creating shadowing issues, results in excessive bulk and scale of the development when viewed from adjoining properties on those sides.

The proposal does not comply with the objectives of this clause in that it will significantly overshadow living areas and the private open space of the adjacent dwelling to the south. In this instance, there is an unreasonable reduction of existing direct sunlight to an adjoining dwelling.

Options

1. Refuse the application as submitted on the basis the proposal is over development for the site as assessed against the BLEP and DCP development standards, objectives and controls and will adversely impact other properties.

The recommendation is for the refusal of the application.

2. Approve the application as submitted with the departures to the BLEP and DCP being justified variations, subject the application of suitable conditions of consent.

If the Council is of the view that the development should be approved, it is suggested that the Council's resolution incorporates the following:

- That Council approves the variation to the floor space ratio development standard proposed in relation to DA 2018/421.
- That DA 2018/421 for the demolition of existing dwelling and construction of a new two storey strata title dual occupancy (attached) including carport forward of the building line be approved with the application of conditions typical for this type of development.

Conclusion

Section 4.15 of the *Environmental Planning and Assessment Act 1979*, sets out the heads of consideration in determining a development application. In determining this application, the following matters from Section 4.15 are of relevance.

- The provisions of any environmental planning instrument and any proposed instrument and the provisions of the DCP.

The proposal does not satisfy the numeric development standard or objectives for Floor Space Ratio set out in Clause 4.4 of the BLEP.

In addition the proposal does not comply with the controls or satisfy the objectives for Building Envelopes, Building Lines and Vehicular Access and Parking under the DCP.

- The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

With the non-compliance listed above the site is not suitable for the proposed structure. The proposed dual occupancy development will have an unreasonable adverse impact on the amenity of the surrounding neighbouring properties.

8.1 DA 2018/421 - 20 Dress Circle Drive Lennox Head

This over development will result in unreasonable impacts on other properties in the locality by way of overshadowing and excessive bulk and scale.

If the development were to be reduced in size to comply with the FSR and building lines, it is likely that the building envelope encroachments, overall bulk and scale, streetscape impacts, privacy issues and overall impact on the adjoining properties would be greatly reduced.

- The suitability of the site for the development.

The site is located in a R3 Medium Density Zone which allows for dual occupancy development. However the combination of an FSR that is 18% over the prescribed development standard, building envelope encroachments in relation to three elevations and part of the development being forward of the building will result in over development of the site.

- Any submissions made in accordance with the Act or the regulations,

The assessment of this application considered the issues raised in the submissions submitted and have been considered in the assessment of the application.

- The public interest.

The proposed increase to the FSR of an additional 18% is not in the public interest as it may erode Council's planned development density for the locality and the FSR development standard in general

In addition, the development is not considered to be in the public interest, given the variations sought to the BLEP 2012 and the DCP 2012 provisions that have been adopted by Council to regulate development on behalf of the community in general.

RECOMMENDATIONS

That DA 2018/421 for the demolition of existing dwelling and construction of a new two storey strata title dual occupancy (attached) including carport forward of the building line be **REFUSED** for the following reasons.

1. The proposed development does not comply with the Floor Space Ratio provisions of the Ballina Local Environmental Plan 2012.
2. The proposed development does not comply with the building envelope development controls or meet the building envelope planning objectives of the Ballina Shire Development Control Plan 2012.
3. The proposed development does not comply with the vehicular access and parking development controls or meet the vehicular access and parking planning objectives of the Ballina Shire Development Control Plan 2012.
4. The proposed development will have an unreasonable and unnecessary adverse impact on the amenity of other properties in the locality.
5. The proposed development is not in the public interest.

Attachment(s)

1. DA 2018/421 - Amended Assessment Plan Set - 20 Dress Circle Drive Lennox Head
2. DA 2018/421 - Assessment Form 4.15 - 20 Dress Circle Drive Lennox Head
3. DA 2018/421 - Public Submissions - 20 Dress Circle Drive Lennox Head
4. DA 2018/421 - Confidential Submission - 20 Dress Circle Drive Lennox Head

8.2 DA 2017/364 - 29 Bullinah Crescent, East Ballina

8.2 DA 2017/364 - 29 Bullinah Crescent, East Ballina

Applicant	Mr M W & Mrs P J Van Den Hoek
Property	Lot 1 DP 1229585 29 Bullinah Crescent, East Ballina
Proposal	Modification to consent for a Dwelling, Secondary Dwelling and Swimming Pool, including a variation to Restrictive Covenant
Effect of Planning Instrument	The land is zoned R3 Medium Density under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted in Figures 1 and 2

Introduction

Development Consent was granted on 27 July 2017 for a dwelling, secondary dwelling and swimming pool on the subject lot. The location of the land is shown in Figures 1 and 2.

The dwelling and secondary dwelling have been constructed and an Occupation Certificate has been issued dated 1 March 2018. The swimming pool construction has not yet commenced.



Figure 1: Site locality plan (cadastre) – 29 Bullinah Crescent marked by yellow dot



Figure 2: Site locality plan (aerial photography) – 29 Bullinah Crescent marked by yellow dot

Under section 4.55 of the *Environmental Planning and Assessment Act*, the applicant is seeking consent to alter the location of the proposed pool. The proposed new pool location is partially outside of the area identified on the Deposited Plan (DP1229585) as “Building Envelope”, which restricts any structure to be located wholly within the designated envelope.

The extent of the building envelope is shown in the plan contained in Attachment 1.

In order for Council staff to approve the modification application, a variation to the item 1 of the section 88B instrument is necessary in order to permit the construction of a portion of the pool outside of the envelope.

This report seeks Council’s direction on the proposed variation to the section 88B instrument relating to a restrictive covenant burdening the subject land and benefitting Ballina Shire Council.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

The subject lot is located within the North Angels Beach residential estate in East Ballina.

8.2 DA 2017/364 - 29 Bullinah Crescent, East Ballina

The lot has an area of 3,256m², and contains an approved dwelling and secondary dwelling upon it. The applicant also has development consent to construct a concrete swimming pool. The applicant is seeking to modify this approval to reconfigure and relocate the swimming pool. Plans of the proposed pool location are included in Attachment 1.

The subject property is burdened by covenant restrictions as imposed on the subdivision under Section 88B of the *Conveyancing Act* 1919, including those imposed by Council, where Council is the beneficiary (Attachment 2).

The relevant restriction (item 1) referred to in the 88B instrument states that:

No structure shall be erected on the Lot burdened other than in the building envelope marked "BE" for that Lot.

Under the terms of the 88B instrument, Council is the authority empowered to release, vary or modify the subject restriction above.

The completed dwelling and secondary dwelling are located within the building envelope as marked as 'BE' on the Deposited Plan.

The proposed new location for the swimming pool will be partially outside of the boundaries of the nominated building envelope.

The building envelope restriction was placed on the property in order to protect the clusters of existing native trees that are on the site (as shown in Figure 3).



Figure 3: 29 Bullinah Crescent - Vegetation

The applicant does not propose any tree removal nor is there an intention to approve tree removal or tree/root pruning as part of this modification application.

Council's Environmental Scientist and Development Services planning staff have inspected the site in consultation with the landowner and considered impacts associated with the proposed new location of the pool and associated structures on the vegetation.

On the basis of the assessment it has been concluded that the location of the pool structure will not place any undue risk on the vegetation, providing the minimum setback as depicted on the modified plans are achieved regarding the location of the pool shell relative to the vegetation.

A draft Deed of Variation has been prepared by the owners' solicitor to vary the subject restriction on title (Attachment 3).

Options

1. Council gives consent to the execution of the Deed of Variation regarding the Restriction on Use to enable the applicant to construct a swimming pool partly outside the approved building envelope.
2. Council does not support the variation to the Section 88B instrument and Deed of Variation regarding the Restriction on Use.

Conclusion

The location of the proposed pool is considered to be acceptable in relation to environment and planning matters. As such option one, to consent to the variation to the 88B instrument is the recommended course of action.

In order to approve the modification application, it is necessary for the Deed of Variation of the Restrictive Covenant to be executed by Council. Hence the recommendation incorporates steps to enable the execution of the relevant documentation.

RECOMMENDATIONS

1. That Council consents to the variation to the 88B instrument as proposed within the Draft Deed of Variation prepared by Hosie and Partners Solicitors dated 29 November 2018.
2. The General Manager is authorised to execute the Deed of Variation inclusive of the application of the common seal where required.

Attachment(s)

1. Plan of Proposed Location of Pool
2. Section 88B Instrument
3. Draft Deed of Variation

8.3 Policy (New) - Private Swimming Pool Barrier Fencing

8.3 Policy (New) - Private Swimming Pool Barrier Fencing

Delivery Program Development Services

Objective To provide an overview of a proposed policy to support Council's private swimming pool barrier fencing inspection program and seek direction on the public exhibition and adoption of the policy.

Background

Council administers a compliance program in relation to private swimming pool barrier inspections as well as the assessment and determination of development applications for the installation of swimming pools.

Compliant swimming pool barriers are the central aspect of Council's private swimming pool barrier compliance program. The certification of swimming pool barrier fencing confirms the ongoing performance and maintenance of approved and installed swimming pool barrier fences.

Separately, Council's Building Services Section assesses and determines applications for the installation of swimming pools within Ballina Shire, which all require the installation of a compliant swimming pool barrier fence.

Council undertakes assessments and inspections in relation to private swimming pool barrier fencing under the terms of the *Swimming Pools Act 1992* and associated Regulations.

On 1 September 2018, the NSW Government gazetted a new Regulation for swimming pools, which included the addition of new fees that Council can charge as well as increasing some current fees listed within Council's Fees and Charges.

The purpose of this report is to outline a new policy to guide Council's approach to the management of private swimming pool barrier fencing and to outline proposed changes to Council's fees and charges having regard for recent legislative changes.

Key Issues

- Principles underpinning Council's inspection program
- Area of activity and associated fees
- Impact on property owners

Information

Policy Context and Content

In recent years Council has applied additional resources to the inspection of private swimming pool barrier fencing. This includes the execution of mandatory swimming pool inspections to ensure compliance with legislative requirements.

The more proactive approach from Council is resulting in improved levels of swimming pool compliance, as well as identifying additional mandatory swimming pools which were not previously the subject of Council's mandatory inspection program.

There are a number of aspects associated with the delivery of the swimming pool barrier inspection program.

The draft policy contained in Attachment 1 is designed to support the delivery of the program in a manner which achieves legislative requirements, consistency and overall safety and compliance objectives.

Specifically, the policy addresses matters associated with certificates of compliance to support the inspection program undertaken and guide Council's development assessment and construction certificate processes.

The objectives of this policy are to:

- a) Identify Council's approach to meeting its legal obligations under the Swimming Pools Act and the associated Regulation; and
- b) Provide operating and decision making parameters to support the implementation of swimming pool barrier requirements under relevant legislation.

The policy is based on the balancing of key issues including compliance with legislation, interpretation of provisions and practicality. Fundamentally, the policy is founded on principles that seek to achieve optimal safety outcomes, which typically results in the policy focusing on the achievement of compliance. That is, the policy is based on minimal risk tolerance.

The policy addresses nine key areas as follows:

1. Issue of Occupation Certificates for approved swimming pools
2. Swimming barrier inspection and issuing of Certificates of Compliance
3. Public awareness of the requirements of the Swimming Pools Act that relate to pool safety
4. Swimming pool registrations and associated Council management systems
5. Assessment of compliance with the prescriptive provisions of the Australian Standards relating to pool barriers;
6. Applications for, and assessment of, exemptions from swimming pool barrier requirements
7. Management of investigations and complaints regarding swimming pool barriers

8.3 Policy (New) - Private Swimming Pool Barrier Fencing

8. Enforcement action in relation to swimming pool barrier non-compliances
9. Reporting.

Council's program is designed to cause landowners to meet the relevant obligations particularly given the serious nature of the protection of young children in and around private swimming pools.

In this regard, at times there are circumstances where use of Council's available enforcement powers (such as use of orders and fines) is necessary.

There are also circumstances where there is disagreement about the interpretation of standards and requirements.

The policy is designed to provide clarity to support Council in meeting its responsibilities under the applicable legislation on the basis that safety is the overriding factor of importance.

Fee and Charges

The gazettal of the *Swimming Pools Regulation 2018* provides for additional fees and amendments to existing statutory fees that Council can charge for inspections of private swimming pool barriers in line with Council's inspection program.

The *Swimming Pools Regulation 2018* now provides for two separate charges for Compliance Certificate applications.

Until the recent change, local councils have only been able to charge for a maximum of two inspections, being the initial inspection and one subsequent follow up inspection.

The new Regulation permits a local Council to charge a statutory fee for each inspection that Council is required to undertake to ensure Compliance.

The *Swimming Pools Regulation 2018* also recognises that there are occasions where:

- (a) a private certifier has issued a Certificate of Non-Compliance for a private swimming pool, and forwarded that non-compliance certificate onto Council to follow up and enforce; or
- (b) where a property is sold with a Certificate of Non-Compliance and where the new owner subsequently requests a Compliance Certificate inspection. The new owner is not able to rely on a previous inspection and pay the lesser fee.

Under the new Regulation Council is also able to charge a fee of up to \$250 for applications for an exemption from full compliance with the applicable standards.

It is recommended that Council applies this maximum charge (Council currently charges \$70 for an exemption application).

It is proposed that these amended and additional inspection fees be incorporated into Council's fees and charges for 2018/19 (i.e. immediate implementation, subject to public notice).

8.3 Policy (New) - Private Swimming Pool Barrier Fencing

The only new fee available to Council to charge that is not proposed for adoption is a \$10 fee for registration of a pool with Council. This fee is not recommended for adoption on the basis that the fee is relatively small, the non-charging of a fee provides an incentive for the registration of pools and the cost to Council to follow up on non-payment is likely to exceed the financial benefit derived from the fee.

These new and amended fees and charges are summarised in the table below.

Development Services Fees				
Fee Name	Pricing Policy	2018/19	Amended / New Fee / No change	Reason
Initial Inspection <i>(Compliance Certificate Application)</i>	D	\$150	Amended	Additional Wording (<i>in Italics</i>) to be included in Fees and Charges Clause 19(a) of the Regulation
Second Inspection <i>(Compliance Certificate Application)</i>	D	\$100	New Fee	Clause 19(b) of the Regulation
Additional Inspection <i>(Compliance Certificate Application)</i>	D	\$100	Amended	Additional Wording (<i>in Italics</i>) to be included in Fees and Charges Clause 19(b) of the Regulation
Initial Inspection <i>(New Owner)</i>	D	\$150	New Fee	Clause 19(a) of the Regulation
Second Inspection <i>(New Owner)</i>	D	\$100	New Fee	Clause 19(b) of the Regulation
Additional Inspection <i>(New Owner)</i>	D	\$100	New Fee	Clause 19(b) of the Regulation

Building Services Fees				
Fee Name	Pricing Policy	2018/19	Amended / New Fee / No change	Reason
Pool fencing exemption application fee	D	\$250	Amended	Clause 13 of the Regulation. Increases fee from \$70 to \$250.

Sustainability Considerations

- **Environment**

Not Applicable

- **Social**

The policy seeks to support the achievement of compliant private swimming pool barrier fencing with the aim being to achieve sound safety outcomes in relation to swimming pools in the shire.

8.3 Policy (New) - Private Swimming Pool Barrier Fencing

- **Economic**

There is a cost to landowners in bringing private swimming pool barriers up to applicable swimming pool standards (where relevant standards are not already met) and in ongoing maintenance. However, these requirements are supported by legislation and the cost is warranted relative to the prevention of a drowning. The relevant costs and process requirements applicable to pool owners is part of the responsibility of owning a property containing a pool.

Legal / Resource / Financial Implications

The policy has been prepared having regard for legislative obligations associated with private swimming pool barrier fencing under the *Swimming Pools Act 1992* (and the new associated Regulation) and Council's available resources.

It is expected that the implementation of the policy based on the Council's current adopted swimming pool inspection program can be carried out within the resources currently allocated to Council's Compliance program. This may require review where legislative changes occur or further information about the extent of mandatory pool inspections in the shire becomes available.

Consultation

The policy largely reflects current processes within Council and on that basis it is recommended that Council adopt the policy as presented. However the document will also be exhibited for public comment. If any submissions affecting the content of the policy are received they can be reported back to Council. If there are no submissions received the policy will be implemented without any further report to Council.

Options

Council may adopt, amend or not adopt the proposed policy.

The recommended option is adoption as the policy will provide improved transparency and clarity to the community and Council staff in respect to Council's management of private swimming pool barrier fencing.

Further, the recommended option also includes the amendment to existing fees and the addition of new fees within Council's Adopted Fees and Charges to reflect the amendments within the *Swimming Pools Regulation 2018*. Section 610F of the Local Government Act requires a minimum 28 days public notice before implementing new fees.

RECOMMENDATIONS

1. That Council adopts the Private Swimming Pool Barrier Fencing Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. That public notice of the fees, as outlined in this report, be provided in accordance with Section 610F of the *Local Government Act* and be included in Council's fees and charges document for 2018/19 onwards.

Attachment(s)

1. Policy (New) - Private Swimming Pool Barrier Fencing Policy

8.4 Compliance Work Plan - Half Yearly Update

8.4 Compliance Work Plan - Half Yearly Update

Delivery Program Development Services

Objective To provide an update on the progress of the Compliance Work Plan for 2018/19.

Background

At the June 2018 Ordinary meeting, Council adopted a Compliance Work Plan for the 2018/19 financial year.

This report provides a half yearly update on the implementation of the plan.

Key Issues

- Level of compliance
- Results achieved

Information

Adopted Program Overview

A summary of the key program elements is as follows.

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

Program to audit all 2010 Major Development consents and commence the audit of 2011 and 2012 Major Development consents this financial year.

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

Program to audit all 2010 and 2011 Identified Development consents and commence the audit of 2012 Identified Development consents this financial year.

3. *Caravan Park Inspections, Auditing and Licensing*

Continue implementation of the Caravan Park Approval to Operate Program with the aim being to ensure that the caravan parks in the Shire operate in accordance with legislative provisions and provide a safe environment for park residents.

4. *Swimming Pool Barrier Inspections and the Issuing of Compliance Certification*

Continue implementation of the Private Swimming Pool Barrier Inspection and Compliance Program to ensure that private swimming pools meet, wherever practicable, the legislative requirements to minimise the risk of drowning in a private swimming pool.

8.4 Compliance Work Plan - Half Yearly Update

5. *Essential Services (Fire Safety) Auditing in relation to Fire Safety Certification.*

Continue implementation of the Essential Services (Fire Safety) certification and inspections in line with legislative requirements.

Essential services are defined as the fire and life safety systems installed or constructed in buildings for the safety of occupants in the event of a fire or emergency.

Program Progress

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

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

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

The 2006, 2007, 2008 and 2009 financial year audits have been completed.

The audit for 2010 has been completed and all consents have been substantially complied with.

The status of the 2010 and 2011 major development consent audit program is as follows.

Item	2010	2011
Number of Major Developments	83	56
Number inspected for compliance	83	32
Number compliant	74	24
Ongoing inspections	0	3
Consents not commenced	0	0
Lapsed consents	9	5
Number yet to be inspected	0	23

Auditing of the 47 major developments for the 2012 financial year consents will commence in the fourth quarter of this current work plan.

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

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

8.4 Compliance Work Plan - Half Yearly Update

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

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

The 2006, 2007 and 2008 financial year audits have been completed, with all development consents now fully complied with.

The audits for 2009 and 2010 have now been completed and all consents have been substantially complied with, however there is an ongoing monitoring issue for:

- 2010 – One development requires a final occupation certificate, which is currently with Council's Building Section for determination.

The status of the 2009, 2010 and 2011 identified development consent audit program is as follows.

Item	2009	2010	2011
Number of Identified Developments	99	148	96
Number Inspected for Compliance	99	148	77
Number Compliant	99	146	74
Number of Ongoing Inspections	0	1	0
Number of Consents not commenced	0	0	0
Number of Consents lapsed	0	1	3
Number yet to be inspected	0	0	18

Auditing of the 112 identified developments for the 2012 financial year consents will commence in the fourth quarter of this current work plan.

3. Caravan Park Inspections, Auditing and Licensing

This program seeks to ensure that the caravan parks operate in accordance with legislative provisions and provide a safe environment for park residents.

In line with the current legislative requirements, Council is continuing with annual inspections of all existing caravan parks for ongoing compliance with their issued approvals to operate. It is expected that annual inspections will again occur between January and June 2019.

Under the initial annual inspections carried out in the 2017/18 financial year, there was a focus on safety and risk issues including smoke detectors, fire services and emergency evacuation plans to ensure the safety of patrons of each of the caravan parks.

The current status of caravan parks within the Ballina Shire is as follows:

- Eight parks were issued with "Approval to Operate" licenses in 2018
- Seven parks have licenses due to be renewed in 2019

8.4 Compliance Work Plan - Half Yearly Update

- Three parks have current licenses not due to lapse before 2020
- Five parks have been issued with Notices and Orders to address various matters arising.

The main issues identified within parks subject of the Notices and Orders include:

1. Park activities being expanded outside of property boundaries
2. Fire services and electrical services below the relevant Australian Standards and
3. Structural non-compliance for buildings in line with regulation requirements.

This is not an exhaustive list of the non-compliances, but as outlined earlier the initial focus has been on safety and risk issues.

4. *Swimming Pool Barrier Inspections and the Issuing of Compliance Certification*

This program seeks to ensure that private swimming pools meet, wherever practicable, the legislative requirements to minimise the risk of drowning in a private swimming pool.

Council's current program requires that all mandatory private swimming pools are inspected by Council for compliance every three years along with all private dwellings that are for rental or sale.

Ongoing investigations this financial year have identified an additional 25 mandatory pools in the Shire. This brings the total mandatory swimming pools identified to 127.

It is expected that ongoing audit activity will continue to identify additional pools to be added to the mandatory inspection program.

As reported to the November 2018 Ordinary Council meeting, short term holiday accommodation is becoming more prolific within New South Wales.

Where separate accommodation is provided, this will require such premises providing short term holiday accommodation with a swimming pool to be recorded as a mandatory swimming pool and be the subject of inspections.

The process to identify and record such inspections is not known at this time as the legislation has not been finalised.

An additional 574 premises have been added to Council's Swimming Pools Register, giving a current total of 1,468 properties listed. This number is not, however, a complete record of the properties in the Shire that should be contained within the Register.

It is anticipated that there are in excess of 4,200 private swimming pools within Ballina Shire, which are progressively being identified and entered into Council's Register. Council and the NSW State Government have engaged in a lengthy media campaign to advise landowners of the legal requirements to register their swimming pool on the State Swimming Pools Register.

8.4 Compliance Work Plan - Half Yearly Update

To this end, a further community advice has been included in the recent Community Connect in relation to private swimming pools.

Unfortunately though, many pool owners have not taken action to register their pool.

When private swimming pools are identified as not being on Council's Swimming Pools Register or on the NSW Swimming Pools Register, the Compliance Section issues Show Cause Notices to landowners providing a period of 21 days in which to register their swimming pool.

To date, during 2018/19, 250 Show Cause Notices have been issued to landowners who had not registered their private swimming pool.

As a follow up to Council's Show Cause Notices, 13 landowners have failed to register their swimming pools and have been issued with penalty notices.

It is anticipated that the number of penalty notices will increase in the foreseeable future.

Council has issued a number of non-compliance certificates following the initial inspection of private swimming pools.

In this regard, 28 non-compliance certificates have been issued during 2018/19. By way of context, during this period, 182 compliance certificates have been issued.

5. *Essential Services (Fire Safety) Auditing in relation to Fire Safety Certification.*

This program seeks to ensure that fire and life safety systems installed or constructed in buildings are provided in line with relevant legislative requirements.

An additional 38 premises have been added to Council's Essential Services Register, giving a current total of 562 properties listed.

This includes an additional three Council properties and four schools which were not previously on Council's Register.

This number is not, however, a complete record of the properties within the Shire that should be contained within the register. Work is continuing to identify properties for inclusion on the register.

Whilst the levels of compliance are improving, there are landowners who do not submit their Annual Fire Safety Statements by the due date. At this time, approximately 20 percent of landowners provide statements after the due date.

During the financial year, Council has issued 45 formal warnings to landowners for the failure to provide the required statement to Council by the due date.

The majority of these warnings have been issued where an incomplete statement has been received.

The two main areas of concern with incomplete Statements are:

- Fire safety measures omitted from the statement and
- Failure to sign the statement by either the landowner or a competent fire safety practitioner.

Council has issued warnings to landowners advising of the identified deficiencies and sought to have the completed statements resubmitted to Council.

Landowners who have failed to lodge the required Annual Fire Safety Statement by the due and where they have failed to contact Council with an explanation, have been issued with penalty notices.

During 2018/19, 17 penalty notices have been issued for overdue statements.

Court Proceedings

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

In relation to the Local Court, Council resolved at its September 2018 Ordinary meeting to commence proceedings against a landowner for unauthorised works in Newrybar. These proceedings are underway.

There have been 12 cases where penalty infringement notices were issued for non-compliance with essential services matters that were subsequently court elected by the landowners.

On each occasion, the landowners entered a plea of guilty before the Local Court and offered mitigating circumstances by way of explanation for the failure to provide the Annual Fire Safety Statement by the due date.

In each case, the landowner was found to be guilty and a monetary penalty was imposed.

Two additional matters were appealed and were heard in the Ballina Local Court. One of these matters is now concluded and the other is no longer the subject of Court action, although Fire Orders have been issued for the upgrade of fire measures.

With respect to the Land and Environment Court, Council resolved at its October 2018 Ordinary Meeting to instigate proceedings in relation to development on land at Shelly Beach Road East Ballina.

This matter is ongoing.

In November 2018, Council resolved at its Ordinary meeting to commence proceedings in relation to the operations of a quarry. This matter is being progressed in line with legal advice.

8.4 Compliance Work Plan - Half Yearly Update

Legal Notices

In addition to court matters, legal notices are issued for identified breaches and non-compliances.

These legal notices are typically the commencement of the process to remedy identified breaches and non-compliances.

A summary of the notices issued during 2018/19 is set out below:

- Issued 41 new formal notices for identified breaches and non-compliances
- Monitored and undertaken additional actions in relation to 58 formal notices that have not yet been resolved to Council's satisfaction and
- Finalised 49 formal notices where the matter has been resolved to Council's satisfaction.

These new and monitored formal Notices issued by Council do not include non-compliance certificates issued for swimming pools which have failed the initial inspection. It is only when these swimming pools fail a second inspection that the legislation permits the service of a formal Notice to address all non-compliances.

Liquor Licensing Issues

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

During the current financial year, six liquor licence applications have been considered. These applications relate to modifications to existing licences, or applications for new limited licences for sporting clubs within commercial premises.

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

8.4 Compliance Work Plan - Half Yearly Update

Consultation

This report has been provided for public information.

Options

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

The recommendation is to note the report as Council has previously endorsed the compliance work plan for 2018/19 with the actions identified reflecting the highest priorities for the broader community.

RECOMMENDATION

That Council notes the contents of this report on the status of the Compliance Work Plan for 2018/19.

Attachment(s)

Nil

8.5 Development Applications – Variation to Development Standards

8.5 Development Applications – Variation to Development Standards

In accordance with the Department of Planning's Circular PS18-003, the following information is provided with regards to development applications where a variation to development standards (via the BLEP 1987 or BLEP 2012) has been approved.

This report relates to the period October to December 2018.

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

RECOMMENDATION

That Council notes that there have been NO applications approved under delegation for variations to development standards of 10% or less for October to December 2018.

Attachment(s)

Nil

8.6 Development Applications - Works in Progress - December 2018

8.6 Development Applications - Works in Progress - December 2018

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/223	5/5/2017	Ardill Payne & Partners	Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head	Awaiting additional information
2017/600	30/10/2017	Newton Denny Chapelle	Expansion of an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	Additional information received 24/12/2018
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	Determination pending

8.6 Development Applications - Works in Progress - December 2018

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	Being assessed
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
2018/447	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
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

8.6 Development Applications - Works in Progress - December 2018

2018/546	10/9/2018	Impact Accom Pty Ltd	Alterations and additions to establish a studio apartment for purposes of alternate accommodation for the manager – 20-21 Pacific Parade, Lennox Head	Determination pending
2018/550	14/9/2018	Newton Denny Chapelle	Proposed child care centre and associated works and two lot Strata Title subdivision to create one 4300sqm (Child care centre) lot and one 5970sqm (vacant) lot – 27 Kalinga Street, West Ballina	Being assessed
2018/554	13/9/2018	Ardill Payne & Partners	Change of Use to Establish a Depot – Removalist Business and Associated Signage – 6 Waverley Place, West Ballina	Awaiting additional information
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	Determination pending
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
2018/597	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	Determination pending

8.6 Development Applications - Works in Progress - December 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	Referred to Government Departments
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
2018/674	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	Being assessed
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
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
2018/697	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	Being assessed

8.6 Development Applications - Works in Progress - December 2018

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
2018/722	27/11/2018	Stan Ruch	Alterations and additions to residential building (containing six residential unit) comprising the construction of two single garages and the conversion of existing garages associated with units 2 and 5 to habitable floor area - Units 2 & 5, 1 Rutherford Street, Lennox Head	Awaiting additional information
2018/730	29/11/2018	Surf Life Saving Far North Coast	Operation of a kiosk from the ground floor of the Shelly Beach Surf Life Saving Club building, and associated building works – 11 Shelly Beach Road	Awaiting additional information
2018/735	30/11/2018	Anthony De Ridder	Alterations and Additions to Industrial Development – 38-44 Piper Drive, Ballina	Awaiting additional information
2018/737	4/12/2018	Northern Rivers Animal Services	Additions to animal boarding or training establishment comprising the construction of a new building to accommodate a maximum of 18 cats, and associated signage – 61 Piper Drive, Ballina	Being assessed
2018/738	30/11/2018	Ben Rippon	Vegetation management works involving the removal of four trees and pruning of other trees – 55 Seaswell Crescent, Lennox Head	Being assessed
2018/741	5/12/2018	Ardill Payne & Partners	Stage 2 of a Seniors Housing Development (Alstonville BaptistCare/Maranoa) comprising 15 self-contained dwellings, tree removal, car parking, infrastructure and associated works - 15-19 The Avenue, Alstonville	On exhibition

8.6 Development Applications - Works in Progress - December 2018

2018/746	5/12/2018	Ardill Payne & Partners	Alterations and Additions to the Ballina Central Shopping Centre, comprising the addition of two pad sites, new outdoor dining space, new commercial floor space and alterations to the car parking area, including a new car parking shade structure – 44 Bangalow Road, Ballina	On exhibition
2018/747	6/12/2018	Ardill Payne & Partners	Staged Torrens Title Subdivision and Boundary Adjustment to create 18 x residential lots, 1 x residual lot, 1 x drainage reserve, associated infrastructure works, earthworks and revegetation/rehabilitation works (Avalon Estate Stages 6a and 6b) - Rifle Range Road & 22 Scarlett Court, Wollongbar	On exhibition
2018/753	7/12/2018	Newton Denny Chapelle	Staged Torrens Title Subdivision comprising 31 x residential lots, 1 x open space lot, extension to an existing drainage reserve and associated infrastructure works, earthworks and vegetation management works - Avalon Avenue, 55 Avalon Avenue, 93 Rifle Range Road, Wollongbar	On exhibition
2018/756	11/12/2018	Newton Denny Chapelle	Construction of a Multi-Purpose Hall at Emmanuel Anglican College, comprising two indoor sports courts, associated gymnasium and amenities, a stage and retractable seating. The proposed building is to front River Street, is to have a maximum height of 12.6 metres and is to be used during and outside school hours, 7 days a week. The development also involves an increase in student numbers, earthworks, infrastructure works, car parking and vegetation management works – 62 Horizon Drive, West Ballina	Awaiting additional information

8.6 Development Applications - Works in Progress - December 2018

2018/765	14/12/2018	K Frampton	Vegetation Management Works involving the Pruning of One Paperbark Tree – 39 Byron Street, Lennox Head	Being assessed
2018/766	14/12/2018	FN Potter	Vegetation Management Works Comprising the Pruning of Two Trees – 16 Henderson Place, Lennox Head	Determination pending
2018/772	18/12/2018	S Darzanos	To undertake a change of use from an auto wrecking business to a recreation facility (indoor) – Maury Thai training centre, and the associated erection of a business identification sign – 85 Kalinga Street, West Ballina	Awaiting additional information
2018/778	19/12/2018	GR Hayes	Vegetation management works involving the removal of one gum tree – 33 Karalauren Court, Lennox Head	Awaiting additional information
2018/780	20/12/2018	Newton Denny Chapelle	Alterations and Additions to an existing Macadamia Nut Processing Plant, involving the erection of eight new nut storage/drying silos, the erection of perimeter security fencing, construction of a new driveway and associated civil and infrastructure work and vegetation management works involving the removal of one teak tree – 1-3 Northcott Crescent, Alstonville	Awaiting additional information
2018/781	20/12/2018	Balanced Systems Planning Consultants	Alterations and additions to a conference centre, associated dormitory accommodation, associated amenities building, landscaping works, vegetation removal and temporary site office. The subject application has been lodged in addition to the works proposed in DA 2018/603 – 70 Shelly Beach Road, East Ballina	On exhibition
2018/783	20/12/2018	Balanced Systems Planning Consultants	Construction of a driveway and associated earthworks – North Teven Road, Teven	Awaiting additional information

8.6 Development Applications - Works in Progress - December 2018

2018/785	21/12/2018	LC Clarke (Lennox Head Community Sports & Recreation Club)	Alterations and additions to the Lennox Head Community Sports and Recreational Club involving the extension of an existing deck, construction of a new roof over the extended deck and a new shadeway between the existing bowling greens – 10 Stewart Street, Lennox Head	Being assessed
2018/787	24/12/2018	E Beattie (Almare Motel)	Vegetation management works involving the removal of one conifer tree – 339 River Street, Ballina	Awaiting additional information
2019/1	3/01/2019	N Samm (Byron Highlander Estate Pty Ltd)	Change of Use of an Approved Dwelling House to a Tourist Facility (Accommodation) in addition to its use in conjunction with the Place of Assembly (Function Centre and Refreshment Room) approved as part of DA 2017/557 – North Teven Road, Teven	On exhibition
2019/4	8/01/2019	M Bradford	Vegetation management works involving the removal of one mango tree – 20 Fox Street, Ballina	Being assessed

8.6 Development Applications - Works in Progress - December 2018

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/1/2016	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	16/9/2016	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	23/12/2016	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	Referred to Government Departments

8.6 Development Applications - Works in Progress - December 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	Determination deferred at JRPP meeting held 12.12.2018. Reasons for deferral being worked though by Council and Applicant.
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 January 2019.

Attachment(s)

Nil

9.1 Land Classification - Lot 227 DP 1246539, Teal Street, Ballina

9. Strategic and Community Facilities Group Reports

9.1 Land Classification - Lot 227 DP 1246539, Teal Street, Ballina

Delivery Program Strategic Planning

Objective To invite the Council to determine the classification of recently acquired land, under the provisions of the Local Government Act 1993.

Background

The subject land entered into Council's ownership on 15 November 2018 upon the registration of a plan of residential subdivision located within the Ferngrove Estate in Ballina.

The plan of subdivision designates Lot 227 as a Drainage Reserve, as the lot contains infrastructure designed and constructed as part of the drainage system servicing the allotments and the road system within the new estate.

Lot 227 DP 1246539 (Lot 227) is shown outlined by red edge in the locality plan below.



The purpose of this report is to determine the classification of Lot 227 under the terms of the *Local Government Act 1993* (LG Act). Part 2 of Chapter 6 of the LG Act regulates the management of public land.

9.1 Land Classification - Lot 227 DP 1246539, Teal Street, Ballina

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

Key Issues

- Classification of the land under the terms of the Local Government Act
- Nature and use of the land

Information

The subject lot has been dedicated to Council by the developers of the Ferngrove Estate for the purpose of a drainage reserve. The land contains stormwater management infrastructure provided as part of, and servicing, the residential development on the adjacent land.

Lot 227 has an area of 1,520m² and is zoned R3 Medium Density Residential under the provisions of Ballina Local Environmental Plan 2012.

As Lot 227 has been created to contain stormwater management infrastructure and does not function as open space for public recreation it is recommended that it be classified as operational land in accordance with the provisions of the LG Act.

Section 31 of the LG Act provides that before a council acquires land, or within three months after it acquires land, it may resolve that the land be classified as either community land or operational land.

If the land has not been classified within the three month period then it is taken to have been classified as community land.

The subject land came into Council’s ownership on 15 November 2018 upon the registration of Deposited Plan 1246539 and therefore the three month classification “window” expires on 15 February 2019.

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

A public notice of the proposal to classify the subject land as operational land was displayed in the Ballina Shire Advocate on 28 November 2018 in accordance with section 34 of the Act. Submissions were invited until 8 January 2019.

No submissions were received in response to the notification.

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

Sustainability Considerations

- **Environment**

The classification of the subject lot as operational land is not expected to result in any negative environmental, social or economic outcomes. An operational classification is consistent with the current and proposed use of the land for stormwater management.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The classification of Lot 227 in DP 1246539 as operational land is a legal mechanism under the LG Act that provides Council with flexibility in the management and maintenance of the land for stormwater infrastructure.

The proposed classification will not directly result in adverse resource or financial implications but will enable the efficient management and maintenance of the land for its intended public utility purpose in the long term.

Consultation

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act 1993*. Public submissions were invited, with the closing date being 8 January 2019. No submissions in response to the notification were received.

Options

1. Council may resolve to classify the lot as operational land.

Under this option, the proposed classification of the lot as operational land would take effect immediately upon the resolution of the Council.

2. Council may resolve to classify the lot as community land.

Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given the intended use of the land is exclusively for stormwater management, classifying the land as community land would be inappropriate and is not recommended.

The classification of the land as operational land as per option one is the recommended approach as the land has been specifically acquired for a use compatible with an operational classification. Classification as operational land allows for Council's relatively unfettered ongoing management and maintenance of the land for stormwater infrastructure.

RECOMMENDATION

That Council classifies the land identified as Lot 227 DP 1246539, being land having frontage to Teal Street in Ballina, as operational land under the provisions of the *Local Government Act 1993* and that this classification takes effect immediately.

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 19/01	<p>Council Deed of Agreement assignment from Lennox Developments Pty Ltd to Lennox Rise Pty Ltd</p> <p>Explanation: Lennox Developments Pty Ltd has sold their property to Lennox Rise Pty Ltd and request an assignment of the Deed of Agreement with Ballina Shire Council. The Deed relates to cost sharing between the parties for an access road to Hutley Drive, and easements for drainage over Council's property.</p> <p>The property relates to the Henderson Farm sold by Council, with Council retaining part of that original property.</p>
	<p>Assignment of Lease from T Daley to N Alexeeff for premises known as Shop 11 Wigmore Arcade, Ballina.</p> <p>Explanation: This represents the transfer of the lease as T Daley no longer requires this premise.</p>

Attachment(s)

Nil

10.2 Investment Summary - December 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 December 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 31 December was \$81,038,000. This represents a decrease of \$2.5 million from November. Council's investments, as at 31 December, are at an average (weighted) rate of 2.90%, which is 0.86% above the 90 Day Bank Bill Index of 2.03%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 December 2018, was \$3,768,832. This balance is lower than the balance of \$6,918,737 as at 30 November 2018. The combined movement of investments and bank balances was a decrease of \$5,649,905. This overall decrease is attributable to loan payments in December totaling \$3.8 million and the remaining movement was general creditor payments including payments for capital works at the Airport of \$0.7 million and the Ballina Indoor Sports Centre \$0.9 million.

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 - December 2018

A. Summary of Investments by Institution

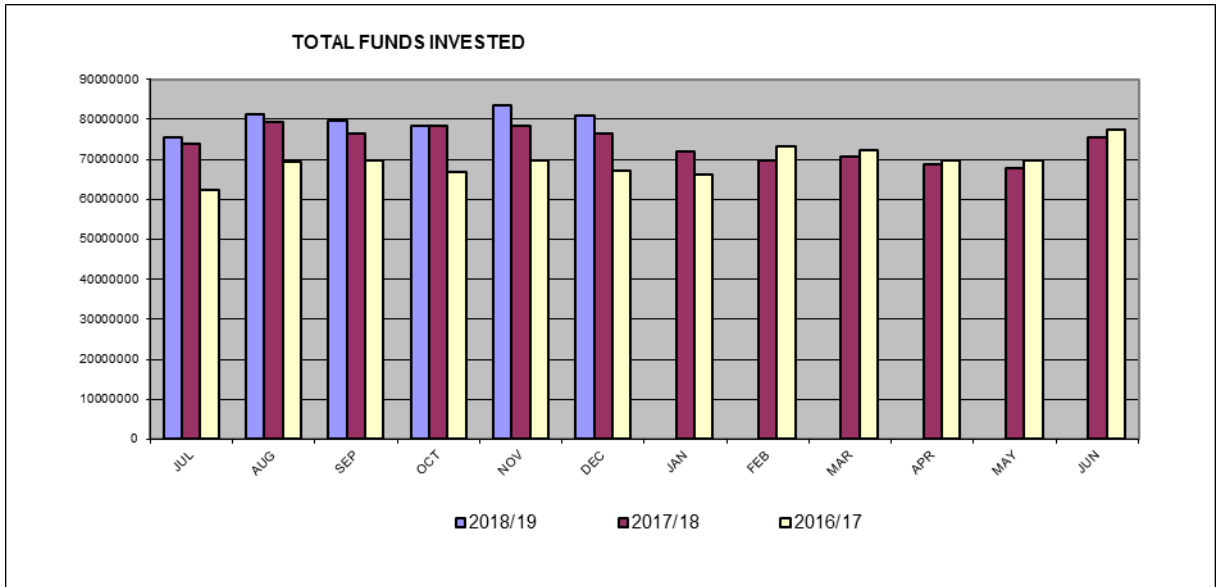
Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.2%	2%
Rated Institutions							
AMP Bank	Yes	A	11,500	11,500	20%	14.2%	
Auswide Bank	No	BBB	1,500	1,500	10%	1.9%	
Bank of China	Yes	A	10,500	12,000	20%	14.8%	
Bank of Queensland	Yes	BBB+	2,000	2,000	10%	2.5%	
BankWest	Yes	AA-	8,000	8,000	20%	9.9%	
Commonwealth Bank of Australia	Yes	AA-	5,000	5,000	20%	6.2%	
Credit Union Australia	No	BBB	3,600	5,100	10%	6.3%	
Defence Bank Ltd	No	BBB	5,500	4,500	10%	5.6%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.5%	
Heritage Bank	No	BBB+	2,000	2,000	10%	2.5%	
ME Bank	No	BBB	2,750	1,750	10%	2.2%	
My State Bank Ltd	No	BBB+	7,500	7,500	10%	9.3%	
Newcastle Permanent Bld Society	No	BBB	1,700	1,700	10%	2.1%	
Rural Bank Ltd	No	BBB+	4,000	4,000	10%	4.9%	
Suncorp Limited	No	A+	3,500	0	20%	0.0%	
Teachers Mutual Bank Limited	No	BBB	1,700	1,700	10%	2.1%	
Westpac Banking Corporation	Yes	AA-	9,000	9,000	20%	11.1%	98%
Total			83,538	81,038		100%	
Credit Rating Summary as per the Investment Policy							
	Maximum Allowed		Value	Value	%	%	
	%	Value	Previous	Current	Previous	Current	
A- or Higher	100%	81,038	47,500	45,500	57%	56%	
BBB	60%	48,623	36,038	35,538	43%	44%	
Total			83,538	81,038	100%	100%	

B. Summary of Investments Fossil Fuel Aligned

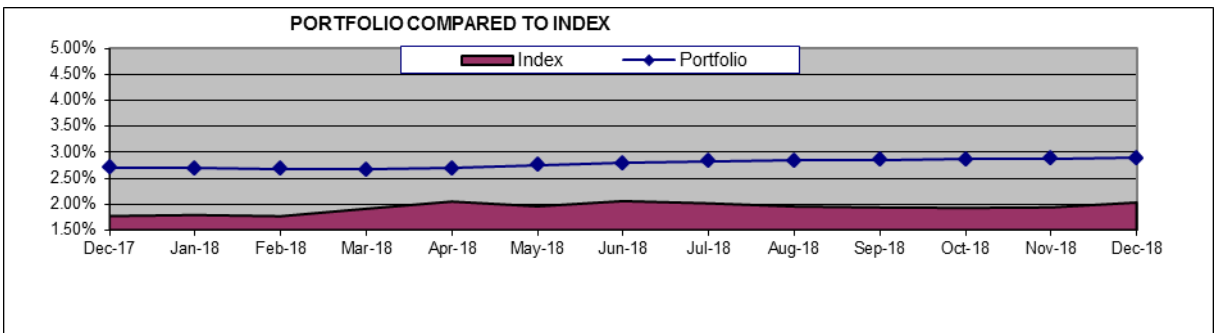
	Previous Month	Current Month
Fossil Fuel Aligned	47,788 57%	49,288 61%
Non-Fossil Fuel Aligned	35,750 43%	31,750 39%
Not Classified	0 0%	0 0%
Total	83,538 100%	81,038 100%

Classification based on advice from 'Market Forces'.

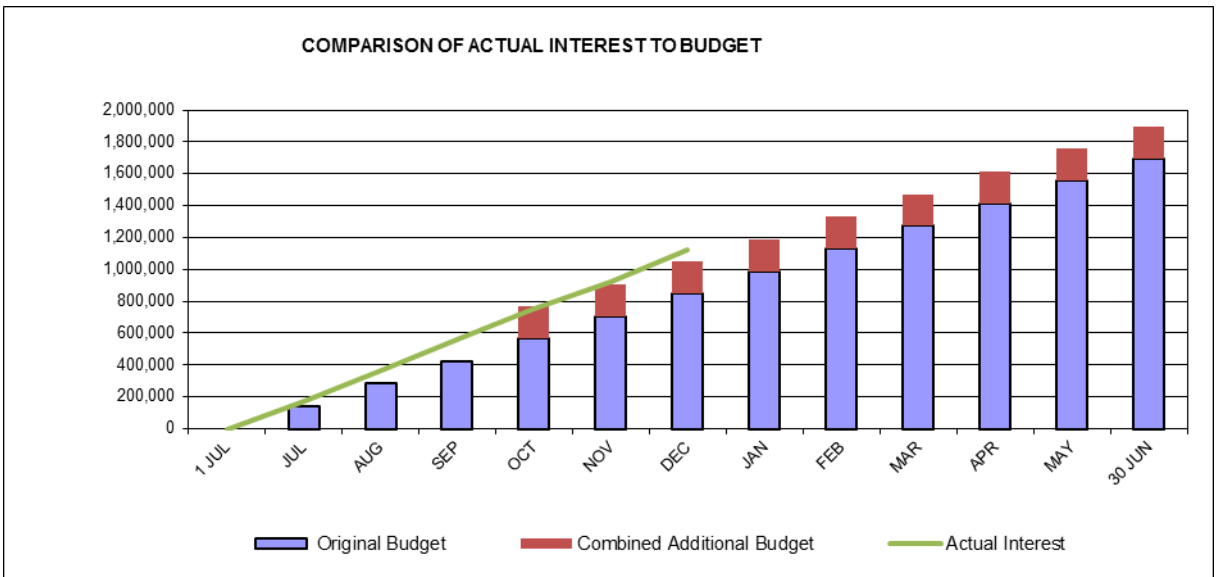
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - December 2018

F. Investments held as at 31 December 2018

PURCH DATE	ISSUER	TYPE	RATE	NEXT MATURITY	PURCH VALUE \$'000	FAIR VALUE \$'000
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	996
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	1,493
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	2,001
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	1,002
29/05/18	AMP Bank	TD	2.83%	05/03/19	3,000	3,000
06/12/18	Credit Union Australia	FRN	3.23%	06/03/19	600	601
01/06/18	AMP Bank	TD	2.90%	11/03/19	1,000	1,000
09/03/18	Westpac Banking Corporation	TD	2.65%	11/03/19	2,000	2,000
10/12/18	AMP Bank	FRN	3.07%	11/03/19	1,500	1,497
05/06/18	My State Bank Ltd	TD	2.83%	13/03/19	3,000	3,000
17/06/16	Commonwealth Bank of Australia	FRN	3.07%	17/03/19	1,000	1,000
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
29/06/17	Teachers Mutual Bank Limited	FRN	3.51%	29/03/19	1,000	1,004
30/06/16	Commonwealth Bank of Australia	FRN	3.13%	30/03/19	1,000	1,000
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
03/12/18	Credit Union Australia	TD	2.86%	03/12/19	3,500	3,500
24/12/18	Bank of China	TD	2.87%	23/12/19	1,500	1,500
Totals					81,038	80,743
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 December 2018.

Attachment(s)

Nil

10.3 Local Government Election 2020 and Associated Matters

10.3 Local Government Election 2020 and Associated Matters

Delivery Program Communications

Objective To confirm how the 2020 Local Government Election is to be managed and provide an update on other matters associated with the election.

Background

Section 296AA of the Local Government Act requires councils to make a decision on how their September 2020 ordinary elections are to be administered no later than 11 March 2019 (i.e. at least 18 months before the election). Each council must resolve either:

- to enter into an election arrangement with the NSW Electoral Commissioner (NSWEC) to administer the council's election or
- the council's election is to be administered by the general manager of the council.

If a council fails to resolve to engage the NSWEC to administer its elections by 11 March 2019, it will be required to administer its own elections

This section of the Local Government Act originated when the NSW State Government passed the Local Government (Amendment) Elections Act 2011, which meant that Section 296 of the Local Government Act then allowed council elections to be administered by the general manager of the council concerned.

Prior to this amendment the NSW Electoral Commission managed the elections for councils. Councils now have the option of:

- a) contracting the NSW Electoral Commission – being the NSW State Government or
- b) contracting another service provider under the supervision of the General Manager or
- c) running the election themselves.

In 2011 the NSW Electoral Commission advised councils they would be charging the full cost of conducting elections, which subsequently resulted in a significant increase in election costs. In order to try and appease councils the State Government then allowed councils to conduct their own elections, or contract another service provider.

The report that follows seeks Council's determination in respect to how the 2020 election will be managed.

Key Issues

- Limited providers
- Cost and risk

Information

The issue of the NSWEC managing the Local Government elections has some history in that prior to 2008 the NSWEC was managing the elections however they were not charging councils the full cost of the service.

For 2004 the cost to Ballina Shire Council for the election was \$85,300 and this increased to \$176,800 in 2008 when the full cost charging structure was put in place.

The high increases in costs incurred by councils in 2008 resulted in changes in legislation that allowed councils to co-ordinate their own elections or to use an alternative provider for 2012 onwards.

There are actually very limited service providers for election services, with the only other known provider being the Australian Election Company (AEC) which has largely managed elections in Queensland.

For the 2012 election LGNSW arranged for the AEC to provide a presentation / briefing to councils in 2011.

NOROC also took the opportunity for the AEC to provide a presentation to the Northern Rivers councils on 23 September 2011.

At that time there were concerns about the ability of AEC to deliver a local election, as they had not had any experience in conducting a complete election for a NSW local government authority in many years and their work had been focused on more specific industry based elections.

Richmond Valley Council subsequently obtained a quote from AEC for their election and that quote was approximately \$170,000 to \$190,000. The NSW Electoral Commission estimate for Richmond Valley was \$115,000 to \$130,000 and Richmond Valley then resolved to proceed with the NSW Electoral Commission.

The NSW Electoral Commission produces a report to the State Government on the conduct of each election and copies of the reports are available as per the following link:

<https://www.elections.nsw.gov.au/About-us/Reports/Election-reports>

The reports confirm that for recent elections the NSWEC conducted 46 out of 47 elections in 2017 (these elections were typically for amalgamated councils with Maitland being the only council that conducted its own election), 76 out of 81 elections in 2016 and 136 out of 150 in 2012.

Conducting an election is a huge undertaking and Council staff could not manage an election without there being a significant negative impact on the resources available for existing operations.

10.3 Local Government Election 2020 and Associated Matters

The indirect costs of coordinating an election would be substantial and would likely offset any savings in external costs. The increasing complexity of managing elections also makes it risky and impractical for Council staff to run an election when staff have no contemporary experience in providing such a service.

The Office of Local Government (OLG) has distributed a frequently asked questions' circular in respect to the 2020 election and a copy of that document is included as Attachment 1.

Constitutional Referendums and Polls

Council can hold a constitutional referendum and / or a poll as part of the election.

Constitutional referendums are binding and can be held on matters such as the popularly elected Mayor, changes in the number of wards, removal of wards or reductions in the number of councillors.

Ballina Shire Council's current governance structure (popularly elected mayor and three wards for a total of ten councillors) works reasonably well and no change is recommended.

A constitutional referendum was conducted at the September 2008 election where the following question was asked:

Currently, Ballina Shire Council has ten Councillors (three from each of three wards, plus the Mayor).

Do you favour the reduction of Councillors to seven (two from each of three wards, plus the Mayor)?

The votes recorded are set out below:-

Yes	10,401
No	11,811

The referendum was not passed.

Recent changes in legislation now allow councils to apply for a reduction in Councillors without the need for a formal referendum, albeit that where a council has wards you cannot reduce the number of councillors to less than three without a referendum (section 224A(9)).

As the 2008 referendum was not supported there is no intention to reconsider this issue again.

In respect to polls the outcomes are not binding and it is a matter for each council to determine whether they wish to poll the community on any particular issue.

The difficulty with any poll is ensuring that all voters are adequately informed, from all perspectives, and to do this would require an extensive advertising process.

10.3 Local Government Election 2020 and Associated Matters

The NSWEC in a recent presentation to the Northern Rivers Joint Organisation advised that professional survey companies are a more appropriate measure of gauging community sentiment on topical issues due to the higher degree of accuracy. Extra costs are incurred if a poll or referendum is undertaken.

New Councillor Induction and Professional Development Requirements

The OLG has recently issued a circular (18-46) confirming that under section 232 of the Local Government Act, which states in part that a councillor is “*to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor*” councils must have induction and professional development programs for councillors to consist of three elements:

1. Pre-election candidate sessions
2. Induction program
3. Professional development programs

Councils will then be required to report information in their annual reports on the induction and ongoing professional development activities offered to the mayor and each councillor.

Circular 18-46 is included as Attachment 2 to this report.

Council generally complies already with these requirements although it does make mention of a specific program for the Mayor. The information must also be included in the Annual Report from next year.

Ward Boundaries

Section 211 (2) of the Local Government Act states that if the difference in the number of electors in one ward varies by more than 10 per cent as compared to another ward the council must as soon as practical alter the ward boundaries to ensure there is no more a 10 per cent difference.

Council staff reviewed this data in July 2018 and confirmed as follows:

Ward	Number
A	11,276
B	11,158
C	10,764
Total	33,198

The largest variation is between A and C Ward, with the difference being 512, which represents a 4.8% variation to the C Ward figure. Based on this no amendments are required.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Elections are an essential component of the democratic process.

- **Economic**

The Local Government Election is a significant cost to Council every four years.

Legal / Resource / Financial Implications

The 2012 election had a total cost of \$199,800 (ex GST) which includes the NSW Electoral Commission invoice of \$194,300 (ex GST). The 2016 election had a total cost of \$246,500 which includes the NSW Electoral Commission invoice of \$227,200 (ex GST). Other costs incurred including candidate briefings provided by LGNSW, along with media costs such as advertising, photos etc.

The Long Term Financial Plan has an estimated cost of \$260,000 for the 2020 Election.

Council sets aside a transfer to reserve each financial year of approximately \$40,000 to \$60,000 to ensure adequate funds are held in reserve every four years to finance the election cost, which in turn helps to minimize the impact of the election on the recurrent budget.

Consultation

Council has shared a returning officer with Byron Shire for the last two elections resulting in savings in direct costs to both councils. It is envisaged this will occur again.

Options

The decision to undertake your own election, or even outsource the election to another service provider, comes with a number of risks in respect to access to information from the NSWEC, the need for qualified staff etc.

Regionally all councils have appointed the NSWEC for recent elections and the recommendation is to again appoint the NSWEC.

The OLG has drafted model resolutions to appoint the NSWEC to ensure resolutions conform with the legislative framework, with the OLG also stating that there is no need to add any additional wording because the resolutions may either become ineffective, or unworkable. The recommendation that follows is the model resolution provided by the OLG and the NSWEC in respect to the conduct of the 2020 Local Government Election.

RECOMMENDATION

The Ballina Shire Council (“the Council”) resolves:

1. pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) (“the Act”) that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.

Attachment(s)

1. Office of Local Government - Frequently Asked Questions - 2020 Elections
2. Office of Local Government - New councillor induction and professional development requirements - Local Government (General) Regulation 2005

10.4 Councillor Expenses - Six Monthly Review

10.4 Councillor Expenses - Six Monthly Review

Delivery Program Communications

Objective To provide the six monthly report on Councillor Expenses.

Background

The Model Councillor Expenses and Facilities Policy includes a requirement for the reporting of expenditure by Councillors every six months, summarised by individual Councillor and as a total for all Councillors (Clause 15.2).

The information is to also be published on Council's website.

This report satisfies that requirement.

Key Issues

- Overview of expenditure

Information

This report is for the six month period from 1 July 2018 to 31 December 2018 with the expenditure incurred as per the Councillor Expenses and Facilities Policy as follows.

This expenditure excludes the Councillor and Mayor annual allowances.

Councillor Expenses and Facilities Expenditure (\$ incl GST)

Councillor	General Travel and Expenses	Corporate Training (1)	Prof Dev / Conference	I.T.	Home Office	Incidentals/ Northern Star etc	Mayor Vehicle (3)	JRPP	Totals
Cadwallader	1,077.79	500.00	1,422.50	514.99	123.22	354.79	0	0	3,993.28
Johnson	229.68	500.00	0	834.65	96.80	295.34	0	0	1,956.47
Johnston	620.40	500.00	1,313.30	224.44	146.00	216.39	0	0	3,020.44
McCarthy	0	1,203.00	1,746.59	548.49	0	318.70	0	0	3,816.78
Meehan	297.92	500.00	0	670.68	121.46	354.79	0	0	1,944.85
Parry	641.76	1,203.00	0	0.00	224.90	294.99	0	0	2,364.65
Smith	160.00	500.00	0	224.95	0	0	0	0	884.95
Williams	0	500.00	0	687.17	199.15	0	0	600.00	1,986.32
Willis	0	500.00	(2) 5,671.75	224.95	0.	0	0	0	6,396.70
Wright	(4) 528.69	500.00	0	329.09	0	335.83	6,000	0	7,693.61
Totals									34,058.05

- (1) Corporate training represents mandatory training organised by the General Manager for specific topics as identified in the Councillor Training and Development Policy
- (2) Includes an over expenditure of \$171.75 which was reimbursed to Council resulting in a net cost of \$5,500 which is consistent with the maximum annual allowance
- (3) Represents the six monthly internal plant charge for the provision of the mayoral vehicle
- (4) Represents expenses for the Surf Life Saving NSW Awards function in Sydney attended by Cr Eoin Johnston on behalf of the Mayor and Council

10.4 Councillor Expenses - Six Monthly Review

In addition to these expenses the Mayor has paid \$134.63 for the period 1 July 2018 to 31 December 2018 for private fuel.

The Expenses Policy places a \$3,300 annual limit (including GST) on general travel arrangements expenses, a \$5,500 annual limit (including GST) on professional development and conferences (excluding induction training), \$1,100 on Home Office Expenses (including GST) and Information Technology expenses of \$80 per month.

There is no cap on the Corporate Training provided subject to annual budget limits.

Legal / Resource / Financial Implications

Council has funding allocated in the Long Term Financial Plan for this expenditure.

Options

This report is for noting only.

RECOMMENDATION

That Council notes the contents of this update on the Councillor expenditure as per the Councillor Expenses and Facilities Policy.

Attachment(s)

Nil

10.5 155 River Street, Ballina - Lease Variation

10.5 155 River Street, Ballina - Lease Variation

Delivery Program Commercial Services

Objective To seek Council's concurrence to vary the lease agreement for 155 River Street Ballina to extend the retail tenancy area and the term of the current lease.

Background

Council currently has a lease with Specsavers Pty Ltd over 155 River Street, Ballina, a shop that forms part of the Wigmore Arcade Complex. Specsavers has been a long term tenant whose current lease expired on 31 December 2018. The tenant has exercised their option to renew the lease for a further term of five years from 1 January, 2019.

Key Issues

- Lease terms and conditions

Information

The tenant (Specsavers) has exercised their option for a further term of five years effective from 1 January 2019. They have also requested that the lease be amended to enable them to extend the existing shop into the storeroom.

These works would include fitout, air conditioning, lighting etc. at Specsavers' cost. To enable Specsavers to recover these costs, they have requested two additional lease options of five years each. This would provide the tenant with a total maximum term of fifteen years from 1 January 2019.

Development consent is required to enable Specsavers to undertake the proposed works and as such they have requested Council's consent, as landowner, to lodge a development application.

Specsavers has made this request as they have outgrown the current retail space and require additional testing rooms and storage. Due to the capital outlay that Specsavers would be undertaking they are also seeking to extend the overall term of the lease.

This request is considered fair and reasonable as the tenant has been in occupation of the premises for many years and has always complied with lease conditions and other directives without question. The fitout upgrades they have carried out previously have assisted in setting the standard for other shops in the Complex.

Negotiations have been finalised with the tenant regarding their proposal and are contained in a confidential report included in this agenda.

Legal / Resource / Financial Implications

The property is classified as operational land under the Local Government Act 1993 and as such Council may lease it for commercial purposes.

10.5 155 River Street, Ballina - Lease Variation

Consultation

Consultation has been undertaken with the tenant.

Options

This report is for information purposes only with a confidential report included in this meeting agenda providing options and recommendations.

RECOMMENDATION

That Council notes the contents of this report in respect to the variation request for the lease of 155 River Street, Ballina.

Attachment(s)

1. Specsavers Proposed Plan
2. Wigmore Arcade Leasing Plan

10.6 Policy (Review) - Financial Assistance (Hardship) Rates and Charges

10.6 Policy (Review) - Financial Assistance (Hardship) Rates and Charges

Delivery Program Financial Services

Objective To review the (existing) Financial Assistance (Hardship) Rates and Charges Policy.

Background

Council adopted a new Financial Assistance (Hardship) Rates and Charges Policy on 14 December 2017 to provide a consistent and equitable approach in determining applications for financial hardship assistance.

The new policy provided eligible ratepayers with the opportunity to apply for expanded rate relief options by means of the following:

1. Periodical payment arrangements
2. Writing off accrued interest
3. Deferral of the general rate following a revaluation
4. Other ratepayer assistance

The second option (writing off accrued interest) provided eligible ratepayers two further assistance options:

- An interest free period be granted if the full amount (including current rates and charges) was finalised within 12 months of the application
- A write off of 50% of the interest charges if the full amount (including current rates and charges) was finalized in full within 13 to 36 months from the date of approval.

Since the new policy was adopted, we have processed only one application for genuine Hardship Rate Relief whereby the ratepayer chose the option of paying rates and charges off over a maximum period of three years by direct debit, with a write-off of 50% of the interest charges to be applied upon successful completion of the arrangement.

This particular case brought to light some key issues with applying a write off of 50% of the interest charges, prompting this review.

Key Issues

- Customer (in hardship) receives no immediate financial benefit
- Not practical from an administrative perspective

Information

An outline of the proposed revisions to the Financial Assistance Policy is as follows.

Existing Financial Assistance (Hardship) Rates and Charges Policy

The existing policy provided two options for reduced interest charges by way of either an interest free period or a write off of 50% of the interest charges.

In practice, the latter option (option 2) to provide a write off of 50% of the interest charges is impractical from an administrative perspective due to the following:

- A manual reminder must be put in place for the end of the arrangement period (13 to 36 months ahead) to write off 50% of the interest charges, which is open to human error and could be lost, forgotten or staff could change.
- Upon expiry of the arrangement a manual calculation of interest charged for the 13 to 36 month period must be done and a journal processed for the write off of 50% of the interest charges.

In addition to the above administrative issues, the customer also receives no real immediate financial benefit, with interest charges still accruing daily.

This option for the write off of 50% of interest charges has been removed from the revised policy, as per Attachment 1, on the basis that this option is difficult to administer and does not provide any real immediate financial benefit to the ratepayer experiencing genuine financial hardship.

Revised Financial Assistance (Hardship) Policy Rates and Charges

The revised policy, as per Attachment 1, replaces the second option (that interest charges up to a maximum of 50% be written off) with just one option as follows:

- If eligible, Council may grant an interest free period if the full amount owing (including current rates and charges) is finalised by direct debit arrangement within 12 to 36 months of the application. The interest free period will apply from the date of approval.

Bearing in mind that for the customer to be eligible for this assistance they must still meet our strict criteria and provide details of all income and expenditure to prove they are in genuine financial hardship.

This revision to the existing policy will result in the following benefits:

- The ratepayer (in hardship) will see a real financial benefit as they are not being charged any additional interest for the duration of their arrangement period.
- Hardship arrangements will be much easier to administer as staff would simply be required to put an interest override on the assessment from the date of approval and remove the interest override upon expiry.

Sustainability Considerations

- **Environment**
Not applicable.

- **Social**
The revised Financial Assistance Policy provides a measure of financial support for ratepayers experiencing genuine hardship by allowing them an interest free period, saving them additional costs which may have contributed to further financial hardship.

- **Economic**
There may be some cost to Council in providing this assistance however that cost is offset by the benefit from a person(s) in genuine hardship.

Legal / Resource / Financial Implications

The revised policy will not result in any loss to Council by means of any write off of charges but will result in the potential for less revenue generated from interest charges. The extent of this loss will vary depending on the number of applications received and the overdue balance.

Consultation

It is recommended that Council adopt the policy as amended with the document also exhibited for public comment.

If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the proposed changes to the policy. The recommendation is to accept the proposed changes.

RECOMMENDATIONS

1. That Council adopts the revised Financial Assistance (Hardship) Rates and Charges 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. Financial Assistance (Hardship) Rates & Charges Policy (Revised)

10.7 Policy (Review) - Model Code of Conduct

10.7 Policy (Review) - Model Code of Conduct

Delivery Program Communications

Objective To adopt the Office of Local Government's new Model Code of Conduct.

Background

The Office of Local Government (OLG) has previously advised that they were providing an updated Model Code of Conduct and that document has now been released through OLG circular 18-44. A copy of that circular is included as Attachment 1, with the circular providing a section in respect to frequently asked questions.

Council has six months from the date of prescription (14 December 2018 to 14 June 2019) to adopt the Model Code. This report provides an overview of the Model Code and seeks Council's approval to adopt that Code.

Key Issues

- Changes to the Code

Information

The Model Code of Conduct is included as Attachment 2 to this report.

The Model Code is also supported by Model Procedures for the Administration of the Model Code of Conduct, with both documents located on the OLG's website as per the following link:

<https://www.olg.nsw.gov.au/strengthening-local-government/conduct-and-governance/model-code-of-conduct>

The Procedures document, which is 54 pages, has not been included as an attachment to save paper.

In respect to the Model Code, as per Attachment 2, key changes to the existing Code as identified by the OLG are:

- *it incorporates the pecuniary interest provisions previously contained in the Local Government Act 1993 and Regulation*
- *new standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records*
- *new rules governing the acceptance of gifts including mandatory reporting*
- *a new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them*
- *councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of a property developer.*

10.7 Policy (Review) - Model Code of Conduct

The updated document is largely self-explanatory with one point of interest being that they have now placed a \$50 value (including cumulative) on gifts and benefits; i.e.

- Part 6: Personal Benefit – Gifts or benefits that exceed \$50 in value must not be accepted (clause 6.9) and must be surrendered to the council if they cannot be refused or returned (clause 6.7).

From a staff perspective we will still encourage staff not to accept any gifts of value, excluding items such as pens, caps etc that are sometimes handed out at events, trade shows etc.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Model Code aims to ensure appropriate standards of behavior are in place in respect to Councillors, staff and delegates of Council.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council has a statutory responsibility to ensure that it adopts the Model Code of Conduct and Procedures, as a minimum standard, by 14 June 2019.

Consultation

The Office of Local Government consulted widely in preparing the Code. Training sessions will now be held with all Council staff in respect to the changes outlined in the Code.

Options

Council has the option of adopting the Model Code and Procedures or adopting it with more onerous measures included.

The recommendation is to adopt the Model Code as prepared by the Office of Local Government.

RECOMMENDATION

That Council adopts the Office of Local Government's Model Code of Conduct and Model Procedures, as per Attachment 2 to this report.

Attachment(s)

1. Office of Local Government - Model Code of Conduct (circular)
2. Office of Local Government - Model Code of Conduct (final)

10.8 Policy (Review) - Model Code of Meeting Practice

10.8 Policy (Review) - Model Code of Meeting Practice

Delivery Program Communications

Objective To commence the process to adopt the Office of Local Government's new Model Code of Meeting Practice.

Background

The Office of Local Government (OLG) has previously advised they were preparing an updated Model Code of Meeting Practice and that document has now been released through OLG circular 18-45.

A copy of that circular is included as Attachment 1, along with the frequently asked questions information sheet, as per Attachment 2.

Council has six months from the date of prescription (14 December 2018 to 14 June 2019) to adopt the Model Code. This report provides an overview of the Model Code and seeks Council's approval to commence the process to adopt the new document.

Key Issues

- Changes to the existing Code of Meeting Practice
- Impact on Council meeting procedures

Information

The OLG Model Code of Meeting Practice is included as Attachment 3 to this report.

In respect to Attachment 3, as per circular 18-45 the information in black font is mandatory, whereas the information listed in red is optional and councils are able to exclude the red font or adopt it in an amended form.

The blue font applies to Joint Organisations and is not relevant for Council.

For the items listed in red (optional) the following actions are recommended:

- Clause 3.1- Timing of ordinary council meetings - Council meets the fourth Thursday of every month, excluding December which is currently listed as the third Thursday, albeit that Council has resolved to change that date to the second Thursday in recent years. Therefore it is recommended that Council amend clause 3.1 to reflect the current practice; i.e.

Ordinary meetings of the council will be held on the fourth Thursday, each month, commencing at 9:00am with the exception of the December meeting which will be held on the third Thursday. Meetings will be held in the Council Chambers, Corner of Cherry and Tamar Streets, Ballina.

This results in the deletion of clause 3.2 from the Model Code. Council may wish to amend the December meeting to the second Thursday.

- Clause 3.10 – Giving notice of business for notices of motion – Currently Councillors are required to submit a notice of motion nine days prior to the Council meeting (i.e. Tuesday the week before the meeting). This period is reasonable and it is recommended that the nine days remain.
- Clauses 3.12 and 3.13 – Clarifies a report can be prepared on the notice of motion and that proposed expenditure must be matched with a funding source. A numbers of councils include this type of prescriptive wording to improve accountability however it is considered unnecessary and is recommended for deletion.
- Clauses 3.32 to 3.36 - Pre-meeting briefing sessions – Also considered overly prescriptive and these types of sessions can be arranged at any time if requested by Councillors.
- Clauses 4.1 to 4.23 - Public Forums – Again a very prescriptive process. Council has fine-tuned its deputation processes over the years and generally speaking it provides a reasonable balance for public access during meetings. It is therefore recommended that Council maintain the current process; i.e.

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, per person, will be limited to a maximum of two items on the agenda.

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 affirmative 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.*

When Council has had a major matter that might require multiple deputations, separate meetings have been convened to allow that to occur (i.e. Heritage Study being one example).

10.8 Policy (Review) - Model Code of Meeting Practice

- Clauses 5.14 and 5.15 – Quorum related matters – Unnecessary.
- Clauses 5.19 to 5.22 – Webcasting of Meetings - Clause 5.19 refers to webcasting and Council should be in a position to provide that service by the time the draft Code is adopted following the mandatory exhibition period. Therefore livestreaming is recommended for inclusion in this section.

Clause 5.22 also references the time the recording is to be maintained on the website.

Video recordings from January 2013 are currently on the Council website. It is recommended that Council include a minimum period of five years as the base figure for the Code albeit that there is no intention to remove any recordings from the web, although the existing recordings are fairly average quality.

The State Records Act 1998 only requires recordings to be retained until the minutes of a meeting have been confirmed.

- Clauses 7.1 to 7.4 - Modes of Address – Unnecessary.
- Clause 8.1 and 8.2 - Order of Business – Clause 8.2 would apply which would then list Council's current order of business; i.e.

- 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) Staff Reports
- 9) Public Question Time
- 10) Notices of Motion
- 11) Advisory Committee Minutes
- 12) Reports from Councillors on Attendance on Council's behalf
- 13) Confidential Session

The only change Council may wish to consider is the removal of public question time. It has been previously reported how this is not used as a broad community service, but rather it is typically the same people, who may have grievances with Council, asking the questions.

If Council wanted a broader public access time for the community on general Council matters another format should be considered (i.e. community forums etc).

- Clause 9.10 – Mayoral minutes – Clarifies that the source of funding must be provided for any recommended expenditure – Unnecessary.
- Clause 10.9 – Motions requiring the expenditure of funds – As per clause 9.10 and considered unnecessary.
- Clause 11.11 – Recording of voting – This reflects Council's current practice of recording all votes and it is recommended that this be included.

10.8 Policy (Review) - Model Code of Meeting Practice

- Clauses 13.1 to 13.7 - Dealing with items by exception (clauses 13.1 to 13.7) – Some councils use this process at the start of the meeting to help speed up the meeting. Considered unnecessary.
- Clauses 14.11, 14.13, 14.16 and 14.17 – Public representations regarding confidential items – These clauses clarify how this process is to be managed.

This again has not been a major issue for Council (very rarely occurs) and on that basis it is recommended that applications be permitted up to the commencement of the meeting (clause 14.11), with no more than two speakers permitted (clauses 14.13 and 14.16), and a maximum speaking time of five minutes (clause 14.17).

- Clauses 15.14 to 15.16 – Expulsion – This reflects the Local Government Act. It is recommended that Council include clause 15.15 as there are times when the chairperson has to state the possibility of expelling a person, to ensure the meeting can continue effectively.
- Clause 17.10 – Rescission motions for development applications – This has sometimes been an issue as to when staff should issue a consent following a meeting and it is recommended that Council include a period of four days, which would then allow the consent to be issued on the Tuesday following a Council meeting.
- Clauses 17.12 to 17.14 – Urgent rescission motions – This process has occasionally occurred and it is recommended that these clauses be included in Council's Code of Meeting Practice to confirm that it is allowed.
- Clauses 17.15 to 17.20 - Recommitting resolutions to correct an error – There have been times when a resolution has been recommitted when additional information may have been obtained during the meeting.

Staff are not aware of this being applied to correct an error and on balance these clauses are considered unnecessary.

- Clauses 18.1 to 18.5 – Time limits – As Council has day meetings this is considered unnecessary.
- Clause 20.24 – Recording of voting at committee meetings – This relates to the recording of all votes for councillor related committee meetings and it is recommended that this clause be included as it reflects the current practice.

One final point is that clause 10.22 states that five minutes is the maximum time allowed per speaker.

As this is mandatory the current four minutes will have to be extended to five when the new Code is adopted.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Meeting Practice helps to ensure appropriate standards and to clarify how matters are to be handled during Council meetings.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council has a statutory responsibility to ensure that it adopts the Model Code of Meeting Practice, as a minimum standard, by 14 June 2019.

One other legal point with respect to the Code of Meeting Practice is that Section 374 (e) of the Local Government Act states that a failure to comply with the Code of Meeting Practice does not invalidate a Council decision.

There may be times when Council doesn't 100% comply with the Code and importantly that does not invalidate a decision.

Consultation

Section 361 of the Local Government Act still requires councils to exhibit the draft Code for not less than 28 days inviting public submissions.

A total of 42 days must be allowed for submissions to be received.

The draft Code is then reported back to Council for adoption, with details of the submissions received.

Options

Council has the option of endorsing a draft Code of Meeting Practice for exhibition, as per the contents of this report or subject to further amendment, or deferring the matter to a briefing as the document is extensive.

The recommendation is to exhibit the draft Code based on the amendments to the Model Code as outlined in this report as they largely reflect Council's current practices, which work reasonably well.

Attachment 4 to this report is the amended Code based on the contents of this report.

To simplify the modification process all the references to the clauses in the Model Code template (as per Attachment 3) have been retained in Attachment 4, with the word omitted where the optional clauses have not been applied, or the replacement wording has been included where amendments are allowed.

10.8 Policy (Review) - Model Code of Meeting Practice

That information is retained in black (mandatory) red (optional) and blue (Joint Organisation) fonts to make it easier to review the document.

The deletion of optional clauses would result in significant re-numbering throughout the document and the preference is to retain the numbering consistent with the Model Code.

If Council endorses the document for exhibition, Attachment 4 will be re-formatted into Council's corporate template for public exhibition.

RECOMMENDATION

That Council approves the public exhibition of the draft Code of Meeting Practice, which is based on the mandatory provisions of the Office of Local Government's Model Code of Meeting Practice, inclusive of the optional amendments as per the contents of this report, and included as Attachment 4 to this report.

Attachment(s)

1. Office of Local Government - Circular 18-45
2. Office of Local Government - Model Code of Meeting Practice - Frequently Asked Questions
3. Office of Local Government - Model Code of Meeting Practice
4. Ballina Shire Council - Code of Meeting Practice (draft)

10.9 Delivery Program and Operational Plan - 31 December 2018 Review

Delivery Program Communications

Objective To complete the second quarterly review in respect to the implementation of the 2018/19 Delivery Program and Operational Plan.

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

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice is to receive more timely quarterly reports. This report represents the second review of the 2018/19 - 2021/22 Delivery Program and the 2018/19 Operational Plan, with the information contained in the report based on work undertaken up to 31 December 2018 (six months) representing the first two quarters of the 2018/19 financial year.

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

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

Key Issues

- Compare actual results against the adopted goals and priorities

Information

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

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

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

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

10.9 Delivery Program and Operational Plan - 31 December 2018 Review

There are a total of 115 major actions listed in the Operational Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	SACF	GM	Civil	DEHG	Total
Green	35	25	39	7	106
Amber	2	2	3	1	8
Red	0	1	0	0	1
Total	37	28	42	8	115

Program Actions Overview - By Percentage

Group / Status	SACF	GM	Civil	DEHG	Total
Green	95	89	93	88	92
Amber	5	7	7	12	7
Red	0	4	0	0	1
Total	100	100	100	100	100

The majority of items are on track, and items of interest in the attachment include:

- Pursue the expansion / replacement of SES premises and Lennox Head Rural Fire Shed (page 2) – It is pleasing to see that the Lennox Head Rural Fire Service is supportive of relocating to the Council property purchased on Byron Bay Road.
- Enhance sporting field facilities (page 6) – The tender for the expansion of the Skennars Head Sports Fields expansion has been approved and work is to commence shortly.
- Deliver an indoor sports stadium (page 6) – Council has appointed a contractor for the construction of this facility and work is well underway.
- Implement Ballina – Byron Gateway Airport upgrades (page 9) – The terminal expansion is well advanced and tracking well.
- Pursue sand dredging of North Creek to provide a valuable resource and economic / tourism benefits (page 10) – It is pleasing that the NSW Department of Industry has provided approval for Council to reallocate the \$230,700 in grant funds to the North Creek Coastal Management Plan project and expenditure incurred by Council to date helps to match that grant funding.
- Implement Shaws Bay Coastal Management Plan (page 13) – Further works have been completed in this location with the works proving to be very popular.

10.9 Delivery Program and Operational Plan - 31 December 2018 Review

- Reduce the volume of unaccounted water (page 15) – The figure for this quarter is 8% which is a reduction from the 10.3% reported last quarter. These are excellent results and even though there some concerns about the figure variability the overall trend continues to reduce as in previous years the figure was from 15% to 20%.

In respect to the Service Delivery Indicators there are a total of 94 indicators identified in the Operational Plan and the following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

Service Indicators Overview - By Number of Activities

Group / Status	SACF	GM	Civil	DEHG	Total
Green	14	18	28	19	79
Amber	6	2	3	4	15
Red	0	0	0	0	0
Total Tasks	20	20	31	23	94

Service Delivery Indicators Overview - By Percentage

Group / Status	SACF	GM	Civil	DEHG	Total
Green	70	90	90	83	84
Amber	30	10	10	17	16
Red	0	0	0	0	0
Percentage Total	100	100	100	100	100

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

Items of note include:

- Building Services (page 25) - Percentage of Construction Certificates issued by Council (% of total market) – 63% - Council's market share of 63% has been trending lower than normal as there are a large number of project homes being approved by private certifiers.
- Commercial Services (Airport) (page 26) – Passenger numbers continue to achieve record levels at in excess of 537,000 for the rolling year.
- Community Facilities - Libraries (pages 27 and 28) – A number of the library indicators are continuing to trend lower. Council has held a briefing on these figures and it will be necessary to review the indicators for 2019/20 onwards.
- Community Facilities – Swimming Pools (page 28) – Attendance numbers are well in excess of budget and a report on the overall performance of the redeveloped swimming pools is scheduled for the February 2019 Ordinary meeting.

Sustainability Considerations

- **Environment**

There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

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

Consultation

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

Options

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

RECOMMENDATION

That Council notes the content of this report in respect to the 31 December 2018 review of the implementation of the 2018/19 Delivery Program and Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan - 31 December 2018 Review (Under separate cover)

10.10 Capital Expenditure - 31 December 2018 Review

10.10 Capital Expenditure - 31 December 2018 Review

Delivery Program Communications

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

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

Current practice is to provide a quarterly status report on all the major capital projects. This status report provides details on key milestones, along with a comparison between budget and actual expenditure.

This is the second report for 2018/19 and outlines work undertaken to 31 December 2018.

Key Issues

- Status of works

Information

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

- Total Project Value – As certain projects can occur over a number of financial years, this column identifies the total project value which may include expenditure from previous financial years or estimated expenditure in future years.
- Original 2018/19 Estimate - Represents the original 2018/19 estimate as per Council's adopted Operational Plan for 2018/19.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2018 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- New Variations – Represents variations recommended as part of this report.
- Latest 2018/19 Estimate - Sum of the original estimate plus variations.
- Expended This Year - Expenditure to 31 December 2018 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 31 December 2018 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones.
- Status - Allows additional comments to be provided.

10.10 Capital Expenditure - 31 December 2018 Review

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

Points of interest are as follows.

Open Spaces (attachment one)

Wollongbar Skate Park – With the development application refused and Council still to receive a report on other site options to determine how it wishes to move forward, it is highly unlikely that the project will be constructed this financial year (i.e. any development application will take at least three months to assess). Therefore the attachment includes a recommendation to transfer \$450,000 to the 2019/20 financial year.

Playground Equipment – Various – Procurement is now advancing for a number of the projects following completion of the design phase.

The one significant change recommended is to transfer the funds proposed for Killarney Park (\$25,000) to the Ballina Skate Park to provide replacement shade structures, which have failed.

The preference for Killarney Park, which is close to the district park proposed on Plateau Drive, is to await the outcomes of the planning for the district park, as potentially the playground installations on that park would supersede the need to replace the Killarney Park equipment due to their close proximity.

Pop Denison Master Plan – With Council receiving grant funds of \$252,000 for this project the scope of works is being expanded, which has pushed back the planned works to the last quarter of 2018/19.

Wollongbar Sports Fields – With Council receiving grant funds of \$400,000 for this project during the year, some of the works (drainage) have been able to be commenced immediately, while the irrigation works will require a tender to be called, which means that work will be undertaken during the last quarter.

Skennars Head Sports Fields Expansion – With Council having \$990,000 in grant funds confirmed the successful tenderer has been appointed by Council following a tender process and works are expected to commence shortly.

Environmental and Public Health (attachment one)

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

Community Facilities (attachment two)

Lennox Head Community Centre (LHCC) – Refurbishment – Council has received confirmation that we have been successful with a \$1,833,502 grant application, based on a total project cost of \$2,168,800, for the provision of air-conditioning, roof refurbishment, solar panels and associated works.

The grant application was based on the funds being expended during the 2018/19 and 2019/20 financial years.

10.10 Capital Expenditure - 31 December 2018 Review

The application requires Council to provide funding of approximately \$335,300.

The attachment recommends the transfer of \$187,400 of Council monies from two 2018/19 existing budgets to a new line item titled LHCC – Refurbishment, with the balance of the total project expenditure (being \$1,981,400 consisting of \$1,833,502 grant and a further contribution of \$147,898 from Council) to be included in the 2019/20 capital expenditure program.

The adopted Delivery Program / Operational Plan has the following works scheduled for the Community Facilities Program for the four year period of the plan.

Description	2018/19 (\$)	2019/20 (\$)	2020/21 (\$)	2021/22 (\$)
Community Facilities	8,356,200	550,000	566,000	584,000
Community Centre Improvements	24,000	25,000	26,000	27,000
Ballina Indoor Sports Centre	7,700,000			
Lennox Comm Centre External Cladding / Repairs	82,300	45,000	50,000	200,000
Lennox Comm Centre Internal / External Painting	25,000	25,000	25,000	25,000
Ballina Surf Club External Painting Program	25,000	25,000	25,000	25,000
Ballina Surf Club Internal Painting and Floors	25,000	25,000	25,000	25,000
Kentwell Centre Internal / External Painting	12,000	12,000	12,000	12,000
Kentwell Centre AC Unit Replacements			72,000	
Ballina Lib / VIC / Rich External Repaint			80,000	
ALEC External / Internal Mods	281,000	169,000	236,000	
Shelly Beach Surf Club Exterior Finishing		40,000		
Wollongbar Hall Repairs / Repaint		43,000		
Newrybar Hall Repaint		43,000		
Community Gallery Repaint		15,000		
Community Gallery Lighting and Ignite Studios	161,900			
60 Crane Street External Repairs / Repaint		13,000		
Naval Museum Exterior Repaint / Toilets		50,000		
Animal Shelter Repaint		20,000		
Administration Centre External Repaint				80,000
71 Tamar Street External Repaint			15,000	
Halls Various Repairs / Repaint				190,000
Former Lib - 42 Cherry External Repairs/Repaint	20,000			

Currently there is \$70,000 to be expended on the LHCC in 2019/20 (\$45,000 and \$25,000) and these funds can be applied to Council's contribution to the grant.

With Council required to provide a further contribution of \$147,898 in 2019/20 (as outlined earlier) this means we will need to reallocate another \$77,898 (or \$78,000 in round dollars) from the other projects listed to the LHCC.

The recommendation would be to fund that \$78,000 through the reallocation of the following projects in 2019/20:

10.10 Capital Expenditure - 31 December 2018 Review

- Community Centre improvements - \$25,000 – Allocate these monies for 2019/20 to the LHCC
- Shelly Beach Surf Club - \$40,000 – Defer these works for at least one year as the existing lessees have already undertaken a significant amount of improvements to the building.

The actual need for these works will also need to be reassessed.

- Hall Repaints – Reduce by \$13,000 as the budgets of \$43,000 are generous.

This then ensures the required Council funding is available for 2018/19 and 2019/20.

The entire four year works program for the Community Facilities Program will still be reviewed by Council as part of the preparation of the 2019/20 Delivery Program, which will be for the four year period from 2019/20 to 2022/23.

ALEC – Improvements – It is recommended that Council defer \$200,000 of the \$281,000 budget to 2019/20, noting that Council has \$169,000 in 2019/20 for ALEC.

This building is similar to the LHCC in that a significant refurbishment is needed (possibly in the millions of dollars) and staff, in consultation with stakeholders, are examining options to improve the functionality and condition of the building.

Options for the building will be reported to Council in the near future.

Operations Support (attachment two)

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

Commercial Services (attachment three)

Airport - Car Park, Solar and Boom Gates – This project is recommended for deferral to 2019/20 as the impact of further works in the car park, while the terminal expansion is underway, will be unreasonable to manage.

An update on the long term plan for the airport is scheduled to be submitted to the Finance Committee meetings scheduled for 2019.

Property Development – Wollongbar Stage 3 – Based on consent timeframes the majority of the construction works will take place in 2019/20 resulting in the deferral of \$1.8m from 2018/19 to 2019/20.

Water and Wastewater (attachments four and five)

There are some recommended changes to the works programs reflecting cash flow timing differences or the outcomes of investigations where works have either been deemed unnecessary or Council is able to delay the implementation without impacting on the performance of the network.

Engineering Works (attachment six)

Stormwater

There is the recommended reallocation of funds from projects primarily to assist with funding a new project for Wardell Road, being culvert improvements. These works have been identified as a priority as part of the road reconstruction works currently being undertaken for Wardell Road.

Urban and Rural Roads

Hutley Drive (southern connection) – The developers of this location have completed another part of this section of Hutley Drive and the portion attributable to Council has to be reimbursed to the developers from Council's Section 7.11 (previously 94) developer contributions plan.

Airport Boulevard – The construction of this road is proving extremely difficult as the site characteristics and associated approval conditions require significant actions in respect to mitigating environmental factors.

The pre-construction activities are being progressed, albeit slowly, and these on-going delays create some risk in respect to Council retaining the \$3m Federal Government grant.

A further extension (following previous extension approvals) to the grant timing has been requested from the Federal Government, with no response to date.

Lake Ainsworth – The southern road and Camp Drewe Road works are well advanced.

In respect to the closure of the eastern road, the NSW Rural Fire Service requested the following actions to be undertaken prior to the road being closed:

- *Lake Ainsworth Sport and Recreation Complex has lodged an application to amend the access arrangements under S100B of the Rural Fires Act 1997, received approval and constructed the approved internal access road and Camp Drewe intersection works;*

This request was incorporated into the Council consent conditions as follows:

2. Construction works on Pacific Parade, including the closing of part Pacific Parade to vehicle traffic, shall not be commenced until:

a. either

- *The Lake Ainsworth Sport and Recreation Centre has undertaken upgrades works to the internal access road and Camp Drewe Road intersection in accordance with any requirements of the NSW Rural Fire Service, or*
- *Council has negotiated an alternative arrangement with the NSW Rural Fire Service in relation to the Agency's requirements for vehicular access to and within the Lake Ainsworth Sport and Recreation Centre, and*

10.10 Capital Expenditure - 31 December 2018 Review

b. Certification has been provided that the portion of Camp Drewe Road south of the western entrance to the Lake Ainsworth Sport and Recreation Centre meets the minimum public road requirements of section 4.1.3 (1) Public Roads of Planning for Bush Fire Protection 2006 (Note: any upgrade works, if required, do not form part of this approval).

The Sport and Recreation Centre has lodged the planning application for their works however it is still not approved and that approval may still be a number of weeks / months away.

This being the case the Group Manager – Civil Services is seeking options, such as amending the consent, to allow Council to commence the eastern road works in a timely manner.

Teven Road, Gibbon Street, Martin Street, Carrs Bridge – Deferral is recommended for these projects to 2019/20 based on the overall size of the works program.

Ancillary Transport Services - Shared Paths and Footpaths

Coastal Shared Path and Coastal Walk – These two projects have significant pre-construction approval requirements prior to construction and it is recommended that \$1m be deferred to 2019/20 for the Coastal Path.

The aim remains to commence physical construction works this financial year.

Summary

As per the following table there is an extremely high level of capital expenditure forecast for 2018/19 totalling approximately \$56m.

Capital Works Summary – 31 December 2018 (\$'000)

Section	Budget (\$)	Cash Expenditure (\$)	Percentage Expended
Open Spaces	4,362,600	432,800	10
Waste	417,000	89,100	21
DEHG	129,000	54,900	43
Operations Support	10,146,700	1,840,400	18
Community Facilities	2,894,800	272,500	9
Commercial Services	12,517,600	3,416,000	27
Information Services	131,500	3,700	3
Water	3,528,100	640,000	18
Wastewater	5,858,200	1,726,700	29
Engineering Works	16,288,800	5,614,300	34
Total	56,274,300	14,090,400	25

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

10.10 Capital Expenditure - 31 December 2018 Review

There have been a number of major contracts let (Ballina Indoor Sports Centre, Skennars Head Sports Fields, Airport Terminal) that represent large components of the works and procurement is well advanced for numerous other projects (playground equipment, sports field lighting, major plant purchases).

There has been approximately \$10m expended since the previous report to Council and similar magnitudes of expenditure will be required for the next two quarters to reach a reasonable level of expenditure as compared to budget for the year.

Many of the larger projects are complex in respect to the various environmental, cultural and drainage approvals and pre-construction conditions and the timing of delivery can be delayed if all the necessary approvals are not forthcoming.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information.

Options

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

That information is included in the following recommendations.

RECOMMENDATIONS

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

Item	Current Budget	Revised Budget	Variation	Comment
Open Spaces and Reserves				
Wollongbar Skate Park	465,000	15,000	(450,000)	Transfer to 2019/20 based on uncertainty over project
Killarney Park Playground Equipment	25,000	0	(25,000)	Transfer to Ballina Skate Park
Ballina Skate Park	0	25,000	25,000	Replace failed structures
Community Facilities				
Lennox Head Community Centre (LHCC) – Refurbishment	0	187,400	187,400	Create budget for new scope of project following confirmation of \$1.83m grant. Refer to recommendation three for 2019/20 funding.
LHCC – Roofing	81,100	0	(81,100)	Transfer to refurbishment
LHCC – Cladding	106,300	0	(106,300)	Transfer to refurbishment
ALEC - Improvements	281,000	81,000	(200,000)	Transfer to 2019/20
Operations Support				
Workshop Welders Bay	352,000	52,000	(300,000)	Transfer to 2019/20
OSR Storage Area	100,000	10,000	(90,000)	Transfer to 2019/20.
Commercial Services - Airport				
Airport – Miscellaneous Works	210,000	265,000	55,000	Transfer from airport reserve to finance essential works.
Car Park, Solar and Boom Gates	1,400,000	0	(1,400,000)	Transfer to 2019/20
Commercial Services – Property				
54 North Creek Road	1,371,600	1,441,600	70,000	Transfer from property development reserve to finance revised estimate
WUEA – Stage 2	75,000	15,000	(60,000)	Transfer to property development reserve based on final expenditure
WUEA – Stage 3	2,311,300	511,300	(1,800,000)	Transfer to 2019/20
Water				
Reservoirs – Ross Lane	500,000	0	(500,000)	Transfer to 2019/20
Reservoirs – Access Upgrades	330,000	5,000	(325,000)	Transfer to 2019/20
Pumping Station – Wollongbar Booster	0	40,000	40,000	Transfer from reserve
Trunk Main – Pressure Reduction Valves	150,000	0	(150,000)	Transfer to 2019/20
Treatment Plant – Marom Creek – Secure Yield	10,000	15,000	5,000	Transfer from reserve based on revised estimate
Water Meters – Conversion of New Meters	0	20,000	20,000	Transfer from reserve based on revised estimate
Water Meters – New Connections	219,000	300,000	81,000	Transfer from reserve based on revised estimate
Wastewater				
Main Renewals	411,000	358,000	(53,000)	Transfer to specific projects as per next two items
Main Renewal – Angels Beach Drive	0	23,000	23,000	Based on works completed
Main Renewal – Seamist	50,000	80,000	30,000	Based on forecast works

10.10 Capital Expenditure - 31 December 2018 Review

Pumping Station – North Ballina	106,000	0	(106,000)	Defer to 2019/20
Pumping Station – Chickiba	88,000	58,000	(30,000)	Saving - Transfer back to reserve
Pumping Station – Swift Street	210,000	192,000	(18,000)	Saving – transfer back to reserve
Pumping Station – Capacity Upgrades	259,000	300,000	41,000	Transfer from reserve based on revised forecast
Treatment Plant – Belt Press	20,000	0	(20,000)	Saving - Transfer back to reserve
Treatment Plant – Ballina	22,000	19,500	(2,500)	Offset for increase in Wardell
Treatment Plant – Lennox Head	22,000	18,000	(4,000)	Offset for increase in Alstonville
Treatment Plant – Alstonville	11,000	15,000	4,000	Increase based on latest forecast
Treatment Plant – Wardell	11,000	13,500	2,500	Increase based on latest forecast
Treatment Plant – Wardell Scada	11,700	146,700	135,000	Increase based on latest forecast
Treatment Plant – Alstonville Scada	439,600	356,000	(83,600)	Saving based on revised forecast
Treatment Plant – Lennox Master Plan	30,000	0	(30,000)	Defer to 2019/20
Trunk Main – Swift Street	60,000	0	(60,000)	Defer to 2019/20
Meters / Service Connections	41,000	80,000	39,000	Increase based on higher expenditure
Engineering Works – Stormwater				
Cooks Lane Culverts	91,500	106,500	15,000	Transfer from Tanamera Drive
Kerr Street	100,000	10,000	(90,000)	Transfer to Wardell Road
Wardell Road	0	90,000	90,000	Transfer from Kerr Street
Tanamera Drive	78,500	63,500	(15,000)	Transfer to Cooks Lane
Engineering Works – Roads and Bridges				
Hutley Drive – Southern Connection	0	85,000	85,000	Funded from developer contributions
Teven Road	180,000	0	(180,000)	Transfer \$82,000 to 2019/20 and \$28,000 to fund increase in Fawcett Lane and \$70,000 to fund increase in Cherry Street
Fawcett Lane, Ballina	94,100	122,100	28,000	Based on actual expenditure
Cherry Street (seg 220-230)	180,000	250,000	70,000	Based on actual expenditure
Gibbon Street (seg 20)	89,000	0	(89,000)	Transfer to 2019/20
Martin Street (seg 150)	125,000	0	(125,000)	Transfer to 2019/20
Carrs Bridge	493,000	43,000	(450,000)	Transfer to 2019/20
Engineering Works – Footpaths and Cycleways				
Coastal Path	1,731,000	731,000	(1,000,000)	Transfer to 2019/20

3. That in respect to the \$1,833,502 grant approved for the Lennox Head Community Centre (LHCC) refurbishment, Council reallocate the following projects included in the adopted 2019/20 Community Facilities Program to the LHCC, to ensure that the Council funds required for the grant are available for expenditure on the centre:

- Community Centre improvements - \$25,000
- Shelly Beach Surf Club - \$40,000
- Hall Repaints – Reduce by \$13,000

Attachment(s)

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

11.1 Tender - Supply of Hardware to Upgrade to Ethernet Radio

11. Civil Services Group Reports

11.1 Tender - Supply of Hardware to Upgrade to Ethernet Radio

Delivery Program Water and Wastewater

Objective To complete the Tender Assessment for the Supply of Telemetry Radio Hardware.

Background

This tender assessment relates to the supply of telemetry radio hardware for the purposes of upgrading the radio network to Ethernet radio.

Currently an analogue radio network is used to monitor Council's approximately 160 water and wastewater remote assets, such as sewer pump stations, water boosted pump stations and reservoirs.

The current network has been in operation since 2001 and requires replacement due to heavy network congestion and difficulty in sourcing replacement hardware.

In recognition of these issues a Radio Path Study and Options Investigation of the Telemetry Network was conducted to determine the best approach.

The report identified the continued requirement for a private radio network to maintain current levels of service and selected Ethernet Radio as the preferred technology, due to its higher data transfer speed (reduced congestion) and likely long term hardware availability.

This tender evaluation covers the supply of radio hardware only and is scoped to provide a fixed price over a network upgrade period of two years.

Four tender submissions were received by the close of the tender period on 13 November 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:

- Automation Group Pty Ltd
- Indratel Australia Pty Ltd
- R & D Technology Pty Ltd
- SAFEgroup Automation

11.1 Tender - Supply of Hardware to Upgrade to Ethernet Radio

Each tender was assessed against the mandatory criteria before progression through to Stage 2 of the evaluation. Those tenders that do not meet all requirements of the mandatory criteria were not considered. The mandatory criteria comprise the following:

Criteria	Requirement
General Requirements	<p>All equipment will operate without performance issue in a temperature range of -10°C to 60°C</p> <p>All equipment will operate continuously 24 hours per day for a period of 15 years with a reliability of 99.9% or greater;</p> <p>All hardware, system software and system firmware must be fully supported for 15 years by the manufacturer at time of award</p> <p>All equipment must be compatible with Council's Clear SCADA software</p> <p>All equipment must support a voltage range of 12V to 30V DC</p> <p>Must physically fit within the limitations of existing electrical cabinets (120 x 200 x 40 mm)</p>
Outstation Radio Equipment Requirements	<p>Licensed Radios must be suitable for operation within a 12.5kHz, 25Khz or 50kHz multipoint license in the 450-470 MHz range</p> <p>Installation will be compatible with existing switchboard configuration</p> <p>DIN rail mounting for radio shall conform to DIN41612/IEX60603-2</p> <p>Radios shall consist of rugged industrial components designed for water and wastewater infrastructure environments</p> <p>Support half duplex transmission mode</p> <p>A minimum of 10 kbps over the air data rates</p> <p>Allow for prompt and reliable over the air configuration changes</p> <p>Ethernet TCP/IP and Serial communication protocols</p> <p>Point to point functionality and/or Point to multipoint functionality</p> <p>Over the air encryption key changes to allow regular changing of keys without site visitation</p> <p>Password authentication to change configuration</p> <p>Radio will provide minimum diagnostics</p> <ul style="list-style-type: none"> o Transmission Power o RSSI o DC Voltage o Temperature o Frequency Error o Channel Utilisation o Bandwidth Utilisation o Last Fault Code" <p>Ethernet communication compatible (TCP/IP), and Serial communications compatible (RS232, RS485)</p> <p>Must be compatible with existing Kingfisher PC-1 and Compatible with kingfisher protocol</p>
Repeater Station Radio Equipment Requirements	<p>Support Full Duplex</p> <p>Full hot standby configuration (including power supply)</p>
Warranty	Required hardware warranty period is 3 years
Capability	Integration with existing infrastructure including communication protocol (Serial R232/R485/Ethernet)and physical installation
Compliance	Radio equipment quoted must comply with ACMA requirements and operate within specified license ranges
Security	Minimum 128 bit AES encryption
Collusive Tendering and Business Ethics	Completed statements
Insurances	The Tenderer has a minimum \$20m public liability insurance policy, for contractor and all nominated subcontractors. The Tenderer has a minimum of \$10m product liability insurance policy. The Tenderer has a minimum of \$10m professional indemnity insurance policy. The Tenderer has an appropriate motor vehicle and plant insurance policy

11.1 Tender - Supply of Hardware to Upgrade to Ethernet Radio

The following tenders failed to meet the mandatory requirements regarding professional indemnity insurance and were excluded from Stage 2:

- Indratel
- R & D Technology

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
<i>Commercial Benefit to Council</i>	60%	<i>Dollar value quotation for specified telemetry hardware.</i>
<i>Service Capability</i>	25%	<i>Experience working within the Water Industry and Local Government</i> <i>Capacity to support Council through any telemetry hardware issues or warrentee claims</i>
<i>Social and Community</i>	15%	<i>Knowledge & experience with local conditions.</i> <i>Social impact on local economy.</i>

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

Tender	Rank	Score
<i>SAFEgroup Automation</i>	1	83.15
<i>Automation Group Pty Ltd</i>	2	78.53
<i>Indratel Australia Pty Ltd</i>	3	-
<i>R & D Technology Pty Ltd</i>	3	-

Further information regarding this assessment has been forwarded to Councillors under separate cover.

Sustainability Considerations

- **Environment**
Removal of radio network congestion will allow for better data collection across Council's Water and Wastewater remote assets.
- **Social**
Better data collection will allow more timely identification and management of any operational issues that arise, supporting Council to continue to provide a high level of customer service to the community.

11.1 Tender - Supply of Hardware to Upgrade to Ethernet Radio

- **Economic**

Better data collection through increased network speed will allow for better remote diagnostics, including; reduced travel time due to “over the air” firmware upgrades and power usage.

Legal / Resource / Financial Implications

Both compliant tenders were within the pre-project estimate. The current approved budget in 2018/19 for the Ethernet Upgrade Project is \$473,100. This budget includes allowances for hardware purchase, as well as the hardware installation and commissioning.

Consultation

A public tender process was undertaken.

Options

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

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

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

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

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

RECOMMENDATIONS

1. That Council accepts the tender from SAFEgroup Automation for the provision of telemetry radio hardware over the next two 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 Rescission Motion - Lennox Head Community Sports Club - Rent

13. Notices of Motion

13.1 Rescission Motion - Lennox Head Community Sports Club - Rent

Councillor Cr Meehan
 Cr Johnston
 Cr Cadwallader

We move

That Resolution 131218/18, as follows, be rescinded:

Lennox Head Community Sports and Recreation Club - Rent Relief

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’), for the next five year option period.*
2. *That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:*
 - a) *50% of the independent market valuation, as per the arrangements for the existing lease rental OR*
 - b) *25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR*
 - c) *a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)*
3. *The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.*
4. *The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)*
5. *The Council seal is authorised to be attached to all associated documentation.*
6. *That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.*

13.1 Rescission Motion - Lennox Head Community Sports Club - Rent

In the event that the above rescission motion is carried, we intend to move the following alternative motion:

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.*

Staff Comment

Some of the uncertainty in respect to the discussion at the December 2018 Council meeting related to the sale of poker machines.

The information staff have been able to source to date on this topic is a response from Mr Charles Rivers, Senior Licensing Officer, NSW Liquor and Gaming Unit, Department of Industry who emailed the following advice:

We impose a cap on machines at a state wide level, then (potentially) at a Statistical Local Area level, then at a venue level – But this is a cap on maximums, not minimums.

Accordingly if a venue was to reduce its number of gaming machines – there is no reason to assume that these will remain in the same (or even broader local) area.

Perhaps the best way to describe things is that venues are free to sell to any buyer, however permission to become a buyer is dependant on the Statistical Local Area that the buyer is in (email dated 21 December 2018).

Further clarification on this was sought and Mr Rivers provided the following information in an email dated 15 January 2019.

In NSW rural hotels are restricted in how many gaming machine entitlements they may sell to metropolitan areas annually – however apart from this venues are free to sell entitlements to whoever wishes to by them.

We do restrict who may buy – but only in terms of overall numbers – If a venue is allowed an increase they may source that increase from anywhere in the state.

The main point from these responses is that it is not guaranteed that any poker machine entitlements sold will remain in the local area, although there is no certainty as to where they may end up.

COUNCILLOR RECOMMENDATIONS

That Resolution 131218/18, as follows, be rescinded:

Lennox Head Community Sports and Recreation Club - Rent Relief

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'), for the next five year option period.*
2. *That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:*
 - a) *50% of the independent market valuation, as per the arrangements for the existing lease rental OR*
 - b) *25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR*
 - c) *a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)*
3. *The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.*
4. *The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)*
5. *The Council seal is authorised to be attached to all associated documentation.*
6. *That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.*

Attachment(s)

Nil

13.2 Notice of Motion - Fuel Prices

13.2 Notice of Motion - Fuel Prices

Councillor Cr Meehan

I move

1. That Council make representation to the Australian Competition and Consumer Commission (ACCC) and the relevant Federal Government Minister to request an enquiry into petrol and fuel prices in Ballina Shire and the Northern Rivers of NSW.
2. That Council make representation to The Northern Rivers Joint Organisation, at its February meeting, seeking the support/participation of the Organisation in the call for an enquiry into petrol and fuel prices in the Northern Rivers of NSW.

Councillor Comment

Ballina Shire residents have been expressing their concern and dismay about the high cost of petrol and fuel compared to areas such as the Gold Coast and Brisbane, only one and two hours drive away.

On 3 January, while visiting suburban Brisbane I was staggered when I purchased unleaded 95 petrol for \$124.9c per litre. On returning to Ballina that evening, the same petrol from the same retail chain was \$159.7c per litre. A 35c per litre or 28% increased price. The price difference for a litre of unleaded 91 was similar, being \$112.9c in Brisbane and \$145.9c in Ballina.

On the Gold Coast unleaded 91 petrol was as low as \$109.9c per litre.

This is a price difference of \$21.00 on an average car fuel fill up of 60 litres.

These ongoing high petrol and fuel prices are having a real negative impact on many Ballina Shire residents, families and businesses.

The Australian Competition and Consumer Commission (ACCC) plays a role in monitoring regional fuel prices and competition.

The ACCC states that regional fuel prices may be higher for a number of reasons including transport costs. But a transport cost of 35c per litre to Ballina from Brisbane is not believable. To baffle the transport cost reason, on the same day, 3 January, the price difference for diesel fuel, between the same Brisbane and Ballina outlets was 8c per litre.

The ACCC also states that movements in retail petrol prices in regional locations are largely driven by changes in international refined petrol prices and the AUD–USD exchange rate, just as they are in the five largest cities.

Ballina Shire residents have observed that when the international refined petrol price rises there is generally an immediate increase in local fuel prices. The ACCC states that there should be a delay in a price rise until the current fuel in stock is shifted.

13.2 Notice of Motion - Fuel Prices

However when the international price drops there is generally a prolonged lag in local prices falling.

Ballina Shire residents have also observed that during the last decade petrol and fuel outlet ownership has become increasingly dominated by the large fuel companies and supermarket chains.

The ACCC is responsible for receiving enquiries and complaints from consumers about fuel prices and related matters. It pays particular attention to issues that may result in a substantial lessening of competition.

When the ACCC identifies a particular concern about petrol prices in a regional area it will:

- review recent price movements and the structure of the local market
- may seek information from local retailers to determine whether there is a need for further investigation.

If the ACCC believes any competition and consumer laws have been broken, it will investigate the issue further and may take action.

On behalf of Ballina Shire residents I urge Councillors to support Council requesting an ACCC enquiry into petrol and fuel prices in Ballina Shire and the Northern Rivers of NSW.

Note: There is no variation in the fuel excise between Australian States. It is imposed by the Federal Government and is \$0.412c per litre for petrol and diesel across Australia. There is no longer the situation where the Queensland Government subsidised the petrol price to make it lower than in Northern NSW.

COUNCILLOR RECOMMENDATIONS

1. That Council make representation to the Australian Competition and Consumer Commission (ACCC) and the relevant Federal Government Minister to request an enquiry into petrol and fuel prices in Ballina Shire and the Northern Rivers of NSW.
2. That Council make representation to The Northern Rivers Joint Organisation, at its February meeting, seeking the support/participation of the Organisation in the call for an enquiry into petrol and fuel prices in the Northern Rivers of NSW.

Attachment(s)

Nil

13.3 Notice of Motion - Access to Flat Rock Toilet Facilities

13.3 Notice of Motion - Access to Flat Rock Toilet Facilities

Councillor

Cr Meehan

I move:

That Council creates a clear track between the 'shared path' on the approach to the Flat Rock carpark from the south, and the public toilet facilities situated on the Flat Rock carpark road.

Councillor Comment

Most community members and visitors using the shared path, including children remain unaware that there are public toilets situated along the Flat Rock Road. Those facilities are approximately 20metres off the path, through some regrowth vegetation.

It would be a simple task to define a track that is sensitive to the environment and erect a small sign directing people to the recently refurbished Public Toilets.

Adults and children who are using the shared pathway should not have to use or be directed to use Flat Rock Road as a walkway to the toilet because in busy times the road is full of both parked and moving cars.

The track could have appropriate, environmentally sensitive, fencing to define it.

Staff Comment

The land on which the proposed pathway would be located is zoned 7(f) Environmental Protection (Coastal Lands) under the Ballina Local Environmental Plan 1987. The pathway would be located partially on Crown Land within the Ballina Coastal Reserve (under the management of Council as Reserve Trust Manager) and Council owned Operational Land.

The land is located within the area declared as the East Ballina Aboriginal Place under the *National Parks and Wildlife Act 1974*. The vegetation between the toilet block and existing coastal recreational path is regenerating littoral rainforest.

The planning pathway for the proposed pathway has two components given the land ownership. Based on the information contained in the Notice of Motion, it is likely that the proposed pathway will require a development application, at least for the portion of the pathway on the Council owned Operational Land.

A separate Part 5 application may be necessary for the part of the pathway located on Crown Land. In this instance though, the extent of planning documentation required is reliant on the ultimate scope of the works.

13.3 Notice of Motion - Access to Flat Rock Toilet Facilities

Key issues to consider in relation to the construction of a pathway to connect the existing coastal recreational pathway with the toilet block include:

- Native Title and Crown Land management obligations under the *Crown Lands Management Act 2016*,
- Requirements to consider cultural heritage relative to both the East Balina Aboriginal Place declaration and the terms of the *Environmental Planning and Assessment Act 1979*,
- Requirements to consider the impact on the vegetation relative to the terms of the *Environmental Planning and Assessment Act 1979* and the *Biodiversity Conservation Act 2016*.

The address of the above issues will likely require engagement with the Aboriginal community and State Government agencies and the consideration of compensatory habitat measures if impacts on the vegetation cannot be suitably avoided or mitigated.

As an alternative, it may be beneficial to investigate the potential for pathway connections to be provided from the Flat Rock Carpark and/or the Flat Rock Tent Park adjacent to the roadway as an alternative means of connecting the coastal recreational pathway with the toilet facilities.

In summary the notice of motion as presented will require a significant amount of staff resources to implement and the project should be considered holistically as part of the preparation of the annual Operational Plan, rather than raised partway through the financial year.

COUNCILLOR RECOMMENDATION

That Council creates a clear track between the 'shared path' on the approach to the Flat Rock carpark from the south, and the public toilet facilities situated on the Flat Rock carpark road.

Attachment(s)

Nil

13.4 Notice of Motion - Road Closing Application

13.4 Notice of Motion - Road Closing Application

Councillor

Cr Meehan

I move

That Council abandons its plan to close the section of unconstructed public road adjacent to 5 and 7 Cunningham Street and 13 and 21 Riverside Drive, West Ballina.

Councillor Comment

At the December 2017 Ordinary meeting, Council resolved to confirm its intention to close this paper road.

This position had earlier been established by Council in 2009.

Since December 2017 the new Crown Lands Management Act has come into place and the Crown has stated that it will not proceed with the road closure. It has also asked Council not to proceed with the closure until further advice is provided by the Crown.

Prior to the December 2017 meeting Council made no contact with the adjoining or nearby residents to seek their views or submissions. Hence, while the matter was in the business paper, no comments or input were received.

During 2018 some residents have liaised with both the Crown and Council about the possible closure. The residents are concerned about:

- Loss of access to the backyards of their properties
- Loss of open space to the nearby community
- Loss of play area for children
- Loss of outlook if building occurs

It must be recognised that if the road is closed the land will be vested back to the Crown. It is only the Crown who will be able to sell the land.

There will be no gain by Council or the local community.

There will though be a further loss of open space in West Ballina, similar if on a smaller scale, to when the Crown sold the 'Education Department' land in Quays drive for housing.

Maintaining the road reserve requires Council to mow it. This is a quick and low cost operation.

Maintaining the road reserve also means that this open space is preserved for the local community and West Ballina as a whole.

A copy of the report to the December 2017 Ordinary meeting is attached.

13.4 Notice of Motion - Road Closing Application

Staff Comment

The resolution from the December 2017 report was as follows:

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

FOR VOTE - All Councillors voted unanimously.

In response to this resolution, the process to close the road was initiated with Crown Lands.

However this was not completed before June 2018, meaning under the Crown Land Management Act reforms, the road closing process is now for Council to determine and this requires the process to be recommenced.

The point about consultation in the above comment is fair, and in light of the need to recommence the process, staff had proposed to prepare a further Council report. However it is noted that in response to Council's last decision, Crown Lands wrote to the neighbours and received submissions in opposition to the proposal.

A further report would invite Council to consider whether or not to proceed with a formal community consultation process. The fundamental case for and against the proposal remains as per the previous report (copy attached) and the Council needs to consider the balance between the immediate interests of the neighbours and the general public in respect of the most efficient and best management of public land.

Therefore the options available to Council are to support the Councillor recommendation or alternatively, Council could endorse a community consultation be undertaken and the matter be reported to back to Council for final determination.

COUNCILLOR RECOMMENDATION

That Council abandons its plan to close the section of unconstructed public road adjacent to 5 and 7 Cunningham Street and 13 and 21 Riverside Drive, West Ballina.

Attachment(s)

1. Report to December 2017 Ordinary meeting.

13.5 Notice of Motion - Surf Life Saving - Signage

13.5 Notice of Motion - Surf Life Saving - Signage

Councillor

Cr Johnston

I move

That Council undertake a review of the educational signage for our beaches to ensure that the signage reflects the latest standards particularly with respect to actively informing non-English speaking residents and visitors to our Shire of the dangers of swimming in unpatrolled beaches.

Councillor Comment

Yet another summer has produced a spate of drownings at unsafe and unpatrolled sites across Australia. As an active surf lifesaver, I have noted an increase in visitors to our beaches who come from countries that do not have a culture of aquatic awareness and do not have a thorough grasp of the English language. Feedback from staff is that this review would be undertaken in conjunction with Surf Life Saving Australia (and our local surf clubs) and with our beaches becoming increasingly popular it is essential that our signage is reflective of the latest standards.

Staff Comment

As per the Councillor comment this review can be undertaken in conjunction with the relevant organisations such as Surf Lifesaving Australia.

COUNCILLOR RECOMMENDATION

That Council undertake a review of the educational signage for our beaches to ensure that the signage reflects the latest standards particularly with respect to actively informing non-English speaking residents and visitors to our Shire of the dangers of swimming in unpatrolled beaches.

Attachment(s)

Nil

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

15. Reports from Councillors on Attendance on Council's behalf

15.1 Mayoral Meetings

Councillor David Wright

Activities I have attended, or propose to attend, as at the time of writing this report, since the December 2018 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
13/12/18	Awards Presentation - Jamie Holmes State/National Athletics
14/12/18	Planning – Australia Day
14/12/18	Meeting – Disability Access – Lighthouse Beach Surf Club
14/12/18	Steve Mills – Petanque Club Meeting
14/12/18	Announcement – Funding for Lennox Head Cultural Centre – Ben Franklin – Minister
14/12/18	Meeting Carol Stacey re Grant Application
15/12/18	Wollongbar Christmas Carols and Family Fun
18/12/18	Breakfast – Deputy Prime Minister and Ben Franklin
18/12/18	Christmas Message – Paradise FM
18/12/18	Meeting DPI and NSW SLS – Procedures
20/12/18	Inspection of Airport Expansion Works
3/1/19	Meeting – Michael Hogan – Water Extraction
5/1/19	Meeting – Barry Fitzhenry – Business Promotion
6/1/18	Commemoration Park Markets
7/1/19	Announcement – Fripp Oval Fence Funding – Ben Franklin
7/1/19	Drone Protocols and Repairs – NSW SLS
9/1/19	Meeting with NSW SLS - Shellys
10/1/19	Missingham Park Markets
11/1/19	Meeting – Kevin Loughrey – Keith Hall Lane
13/1/19	River Clean-Up Community Event – Missingham Park
13/1/19	Ballina Street Machines Show
13/1/19	Commemoration Park Markets
13/1/19	Lennox Head Markets
16/1/19	Australia Day Award Committee
17/1/19	Meeting – Lennox Smoke n Barrel – Kurt Bezjack
17/1/19	Gallery Opening
19/1/19	Open Day – Wardell Footgolf
21/1/19	Opening of Florrie Shed
21/1/19	Briefing – Office of the Chief Scientist – Water Extraction
21/1/19	Meeting – Alstonville Soccer Club – Michael Buckley
21/1/19	Meeting – Ben Franklin – Kingsford Smith Park
24/1/19	Council Meeting
24/1/19	Reserve Trust Meeting
26/1/19	Australia Day Celebrations
30/1/19	Get Active Expo Briefing with staff

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:

16.1 155 River Street, Ballina - Lease Variation - Details

Refer to Item 10.5 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.

16.1 155 River Street, Ballina - Lease Variation - Details

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.