



## 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 **Wednesday 24 April 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. Planning and Environmental Health Division Reports
9. Corporate and Community Division Reports
10. Civil Services Division Reports
11. Notices of Motion
12. Advisory Committee Minutes
13. Reports from Councillors on Attendance on Council's behalf
14. 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**

- 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.
- 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.
- 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.
- 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 – This Session Does Not Form Part of the Ordinary Meeting**

- A public question time has been set aside during the Ordinary meetings of the Council. The Ordinary meeting will be adjourned from 12.45 pm for Public Question Time. If the meeting does not extend to 12.45 pm Public Question Time will be held after the meeting closes.
- 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 Ordinary meeting agenda.
- 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 question before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, multiple questions can be invited and considered.
- Recording of the questions will not be verbatim and will not form part of the minutes of the Ordinary meeting.
- The standard rules of behaviour in the Chamber will apply.
- Questions may be asked from the position in the public gallery.

**The non-confidential parts of Council's meetings are broadcast live to the web and are recorded for future reference. Recordings are made available on Council's website. In accordance with our Code of Meeting Practice, the recording or taking of photos by other people during the meeting is not permitted unless permission has been granted from the meeting.**

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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**

An apology has been received from Cr Jeff Johnson.

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 March 2019 were distributed with the business paper.

A copy of the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Monday 15 April 2019 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 March 2019.

That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Monday 15 April 2019.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## **8.1 DA 2018/603 & DA 2018/781 - 70 Shelly Beach Road, East Ballina**

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### **8. Planning and Environmental Health Division Reports**

#### **8.1 DA 2018/603 & DA 2018/781 - 70 Shelly Beach Road, East Ballina**

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|                                      |   |
|--------------------------------------|---|
| <b>Applicant</b>                     | The Beach (Operations) Pty Ltd  |
| <b>Property</b>                      | Lot 1 DP 781525<br>70 Shelly Beach Road, East Ballina   |
| <b>Proposal</b>                      | Alterations and additions to conference centre and associated buildings.                                      |
| <b>Effect of Planning Instrument</b> | The land is zoned 7(f) Environmental Protection (Coastal Lands) under the provisions of the Ballina LEP 1987. |
| <b>Locality Plan</b>                 | The subject land is depicted on the locality plan contained in Attachment 1.                                  |

#### **Introduction**

Council consent is sought via two separate Development Applications, being DA 2018/603 and DA 2018/781, for alterations and additions to a Conference Centre and Associated Buildings at 70 Shelly Beach Road, East Ballina.

These applications are being reported to Council for determination due to the number of public submissions received and issues that arise from the applications. Both applications are being reported concurrently due to their interrelated issues and history.

Council is obliged to assess and determine the subject applications on the individual planning merits of each proposal and cannot have regard for other matters for which consent is not being sought.

#### **Description of Subject Site**

The subject property is Lot 1 DP 781525 and is known as 70 Shelly Beach Road, East Ballina. The site has a total area of 8,170m<sup>2</sup> and is accessed from Shelly Beach Road via a driveway over Crown Land (Lot 523 DP 729429) (refer to Attachment 1 - Locality Plan)

#### **Site History**

Council records show that the subject site has the benefit of numerous development approvals dating back to 1971. The following approvals are of particular relevance to the assessment of the current applications:

- Development Application 1971/31 was approved on 11 March 1971 for an extension to the Gunundi Anglican 'Camp Conference Centre'. At the time of approval of this application the Shire of Tintenbar Interim Development Order was in force.
- The dormitory accommodation was approved on 12 February 1975 under BA 9/1975.
- The caretaker's dwelling was originally approved on 7 October 1977 under DA 1977/353 and extended in 1986 under BA 1985/302.

The Conference Centre is currently limited to a maximum of 265 people and the dormitory building limited to a maximum of 62 people. The dormitory accommodation is ancillary to the conference centre use and therefore only conference attendees can use the dormitory accommodation, i.e. the dormitory accommodation cannot be utilised independently.

DA 2018/216 for 'Demolition of existing conference centre and construction of new conference centre, alterations and additions to dormitory accommodation, removal of carport and shed associated with caretaker's dwelling, minor changes to kitchen and amenities buildings and associated onsite works, to be undertaken in two stages' was lodged with Council on 20 April 2018 and subsequently withdrawn by the applicant on 22 June 2018.

### **Legal Proceedings**

In November 2018 Council commenced Class 4 legal proceedings in the NSW Land and Environment Court against the land owner in relation to works which were undertaken on the subject site without development consent.

In response to the commencement of those proceedings and concerns raised by Council about the lawfulness of the building works carried out on the property, the owner has:

- Refrained from using the Conference Centre building, disabled toilet and Dormitory building;
- Lodged (21 February 2019) a Building Information Certificate under Division 6.7 of the Environmental Planning and Assessment Act 1979 for those works commenced. This request for a Building Information Certificate is being considered by Council staff separately to the current development applications.
- Lodged two Development Applications, being DA 2018/603 and DA 2018/781 (the subject applications)

This site history and details on the subsequent Class 4 proceedings are provided to Council as background information only and should not influence the merit assessment of the current applications.

### **Details of Proposal**

The subject applications seek development consent for alterations and additions to the existing development. The proposed works are shown on the proposed plans (refer to Attachments 2 and 3) and comprise the following:

Development Application DA 2018/603

Conference Centre:

- Reconstruct northern window of conference centre. Demolish existing window / door units and awning roof over. New window system to replace existing
- Reinstate high level wall on eastern elevation with new glazing incorporated

Toilet Block:

- Fit out new fixtures and fittings in disabled toilet
- New flooring in disabled bathroom

Kitchen:

- Reposition existing grease traps as per s. 68 Application. New floor surface internally to accommodate new plumbing works as per s. 68 Application
- Demolish section of wall to accommodate new door to the west of kitchen
- New partition wall with opening in kitchen / bar
- Fit out kitchen and bar with existing and new equipment

Caretaker's Dwelling:

- Section of existing shed designated as laundry space. Existing plumbing connections utilised

Site Works:

- New 20,000L bush firefighting water tank and storz outlet
- Revised on-site car parking layout
- Acoustic wall

Development Application 2018/781

Conference Centre:

- Three new shade sails covering north terrace
- New internal lining

Dormitory:

- One new shade sail covering existing deck footprint
- Existing ramp leading to deck is resurfaced in decking boards
- Install new balustrades and handrails to ramp / stairs

Neither application seeks to change the use of the site, increase the gross floor area of any buildings or alter the parameters of the approved operations or attendee numbers. The maximum capacity will remain at 265 persons for the conference centre and 62 persons for the dormitory, as confirmed by way of condition in development consent 2011/470.

Both applications have been amended prior to reporting to Council. Essentially these amendments deleted all references to works previously undertaken on-site without development consent (and which are subject to the submitted Building Information Certificate). This has occurred because



Council is not empowered to grant retrospective development consent in relation to these items.

### **Reportable Political Donations**

- Nil

### **Public Exhibition**

DA 2018/608 was placed on public exhibition from 31 October 2018 to 19 November 2018. Following the exhibition of the application a total of 16 submissions were received, comprising one submission in support and 15 submissions in objection (refer to Attachments 7 to 9).

DA 2018/781 was placed on public exhibition from 16 January 2019 to 20 February 2019. Following the exhibition of the application a total of 30 submissions were received, comprising 10 submissions in support and 20 submissions in objection (refer to Attachments 4 to 6).

The general grounds for support of the application typically relate to the expected economic benefits the development and use of the site will likely bring to the local economy.

The relevant matters raised in the objections in relation to both proposals are summarised and addressed below. It should be noted that both applications were amended, following close of the respective exhibition periods but prior to these matters being reported to Council, to remove reference to previously undertaken works. Therefore, numerous issues raised in the submissions are no longer of relevance to the assessments of these applications.

*1. Impacts resulting from increased traffic and inadequate car parking on-site. The proposed car parking does not satisfy Council controls*

Comment: Neither Development Application seeks to increase the capacity of the Conference Centre and therefore they do not generate a need for additional car parking on-site.

The Construction Certificate for DA 2011/470 (issued 11 August 2017) approved a total of 51 car parking spaces on-site (comprising 14 permanent spaces of compacted gravel and 36 casual parking spaces, and one disabled space). The provision of additional on-site casual parking (determined under the Construction Certificate for DA 2011/470) was aimed at minimising demand on parking in the local street system.

DA 2018/603 seeks a reconfiguration of the approved car parking layout, resulting in the provision of 19 permanent spaces of compacted gravel, 31 turfed casual parking spaces, and one sealed disabled space (51 spaces in total) on-site.

The reconfiguration of the car parking layout will not result in unreasonable traffic impacts. The revised car parking arrangements under DA 2018/603 have been assessed by Council's Civil Services Division and are deemed satisfactory and in accordance with the relevant standards. As a result of this change, a Traffic Management Plan (TMP) will be required to be prepared and implemented in relation to DA 2018/603. The TMP will

incorporate strategies to manage on-site parking and traffic movements and minimise impacts on the surrounding residential road network.

DA 2018/781 does not seek to change the car parking layout.

*2. Parking should be confined to the site*

Comment: Fifty-one on-site car parking spaces will be made available to patrons and staff of the Conference Centre and will be managed in accordance with the approved TMP. Notwithstanding this, some patrons may elect to rely on on-street parking. Provided these vehicles are legally parked, there is no action Council can take.

*3. Car parking should not be permitted in close proximity to the embankment adjacent to the Coast Road*

Comment: The north-western parking area has been amended to increase the setback to the Coast Road embankment, and is considered acceptable.

*4. On-site car parking and removal of vegetation will increase noise from the site. The applicant should be required to replant vegetation which has been removed from the western boundary.*

Comment: Although there may be a perception that vegetation between the source of noise and receiver reduces noise levels, this is only a perception. For vegetation to actually play any part in reducing noise it must be very dense and the width must be expansive, which is not the case in this instance. The car parking areas have been approved as part of a previous development application DA 2011/470. DA 2018/781 does not propose to significantly intensify the use of these areas, therefore it will not result in additional noise impacts.

Notwithstanding this, the applicant has proposed to plant additional landscape vegetation along the western boundary under DA 2018/603.

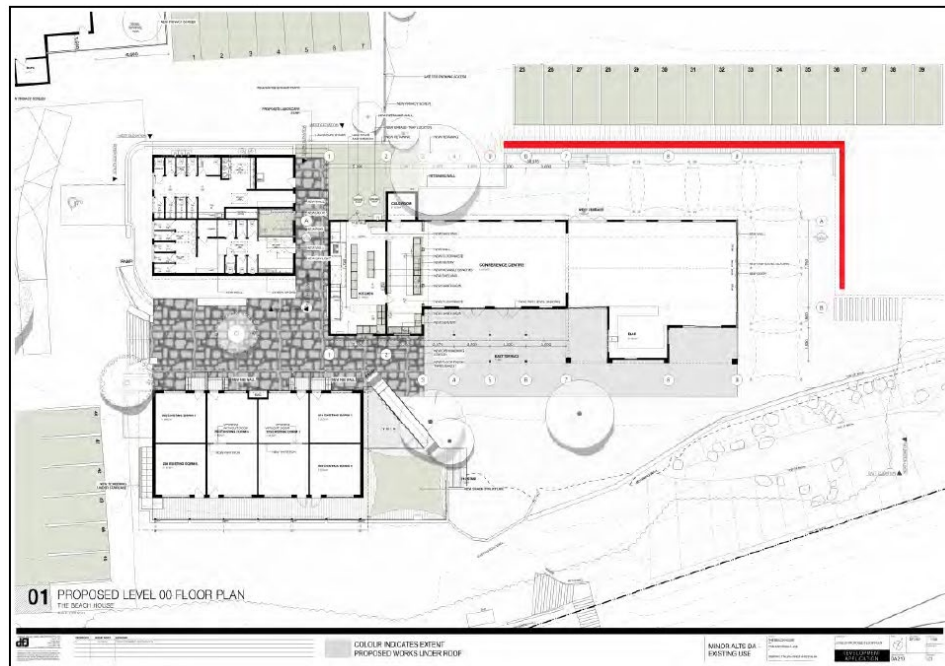
*5. Traffic Management Plan and Noise Impact Plans should be provided prior to determination of the applications.*

Comment: It is reasonable to require the TMP and Noise Management Plan (NMP) to be prepared and submitted prior to the issue of a Construction Certificate for DA 2017/603, rather than delay assessment of the application.

*6. Doorway openings on west will cause noise impact*

Comment: The Noise Impact Assessment (NIA) has outlined that the construction of a 2.4m high acoustic barrier on the northern and western side of the conference centre (as follows) will minimise noise impacts on sensitive receivers and ensure compliance with the required noise levels during the day and evenings. A condition of consent has been recommended which requires the construction of the acoustic barrier as outlined in the NIA.

Figure 1 – Location of the recommended 2.4 metre high acoustic barrier (shown in red)



7. *Noise impacts and neighbouring residents and surrounding fauna*

Comment: The NIA has concluded that the conference centre is capable of achieving the required noise levels to mitigate noise impacts on sensitive receivers with the inclusion of an acoustic barrier during the day (0700-1800) and evening (1800-2200) period with a slight exceedance during the night (2200-0700). Although a change in noise level of 1dB is undetectable and a change by 3dB is barely perceivable, ceasing amplified music by 2200 and the implementation of a NMP has been recommended. These recommendations have been included as conditions of consent in relation to DA 2018/603. The operators have also outlined:

- noise limiting equipment will be used to limit the level of amplified music and sound
- no sub-woofers will be used
- patrons and musicians will be briefed on the noise/sound level restrictions
- onsite manager and event coordinator will be on-site to perform regular sound level readings
- guests will be accompanied on arrival and departure
- there will be a designated contact number for persons wishing to make a complaint.

Such information will form part of the NMP.

Given the above information, and on the basis that both applications relate to building works and do not seek to intensify the existing use, approval of these applications are unlikely to result in additional noise impacts on neighbouring residents or surrounding fauna.

8. *The NIA does not consider the impact of patrons and vehicle movements in the car park near the western boundary*

Comments: The car parking areas have been approved as part of a previous development application DA 2011/470. The current applications do not propose to intensify the use of these areas.

9. *The NIA does not consider the requirements imposed by the office of liquor and gaming in respect of licensed premises.*

Comment: The NIA has considered liquor licensing requirements of DA 2018/603. Any additional requirements imposed on the owner/operator by the NSW Office of Liquor and Gaming via a liquor licence will need to be adhered to.

10. *No sound attenuation wall is proposed adjacent to the Conference Centre and along the western boundary.*

Comment: An acoustic barrier has been proposed for a portion of the northern and western wall of the conference centre, as recommended in the revised NIA.

11. *Neighbours should be notified of upcoming conferences. Noise management procedures should include contact details for complaints*

Comment: The NIA and recommended consent conditions for DA 2018/603 require the implementation of a NMP. The NMP must include procedures for notifying nearby residents of forthcoming conferences that are likely to produce noise impacts including the provision of a 24-hour contact point for neighbouring residents.

12. *Various Concerns with Modelling associated with NIA*

Comment: Bass noise falls within the low frequency range and is generally considered to range from 10Hz to 250Hz on the frequency spectrum (NSW EPA Noise Guide for Local Government, 2013). These low frequency noise levels in the relevant octave band 31.5Hz -8kHz were considered in Table 3.6 of the Noise Impact Assessment without the acoustic barrier then again in Table 3.8 with the acoustic barrier.

In relation to constant, monotonous and penetrating noise from amplified music the NIA has outlined the project specific noise levels can be achieved for the day and evening periods with the inclusion of an acoustic barrier. It also recommended amplified entertainment cease after 10pm and a NMP be implemented. These recommendations have been reflected in conditions, if consent is granted.

Noise monitoring and modelling should be avoided when it is raining or the average wind speed exceeds five metres per second. Noise generated by wind and rain can raise the environmental noise levels and affect the results for both background and source noise levels.

The noise level on the outdoor terrace identified as 103 dB(A) in Table 3.1 is sound power level (SWL) while the 86 dB(A) is sound pressure level. A formula is used to make this conversion. The levels need to be converted to sound pressure to determine the noise levels at various receivers. Sound power levels do not change with distance, orientation or environmental conditions, it is a fundamental physical property of a source. The sound pressure level produced by the source is variable and depends upon many external factors, such as distance, barriers and orientation of receiver. For example sound power could be compared to the wattage of a light bulb and sound pressure to the brightness of the light as observed by the receiver. The brightness will change depending on how close the observer is or if the observer stands behind a barrier. However a 60 watt light bulb always remains a 60 watt light bulb, its power does not vary (Environmental Health Australia Noise Management Course Notes, 2004).

Council's Environmental Health Officer has reviewed the NIA and is satisfied with the methodology.

*13. The proponent has disregard for development approval process.*

Comment: The Council is required to assess and consider the current applications on the merits of each proposal. The separate legal proceedings underway in relation to the works previously undertaken on the site are not to be considered in the assessment of these applications.

*14. The proposed intensification of use is unacceptable (the applicant has failed to show what the historic intensity of the use was). The use will result in an increase in intensity from what the site has previously been used for.*

Comment: The applications relate to works only which do not constitute any intensification of the existing use.

*15. Aboriginal Cultural Heritage Impacts including those relating to social and spiritual impacts (anthropological values) and inadequate consultation in preparation of the submitted Aboriginal Cultural Heritage Impact Report. The land is part of a gazetted Aboriginal Place. An Aboriginal Heritage Impact Permit under the NPW Act 1974 is required. A cultural heritage plan of management should be required as a condition of consent. A Plan of Management should be required. Appropriate signage should be provided.*

Comment: DA 2018/603 was accompanied by an Aboriginal Cultural Heritage Impact Report prepared by Everick Heritage Consultants. The author of the Cultural Assessment consulted with the Jali Local Aboriginal Land Council as part of their assessment. This report concludes that "the proposed development will not likely impact on Aboriginal objects of moderate to high conservation value.

Although the Project Area is located within a landform identified by the Due Diligence Code of Practice as having the potential to contain Aboriginal objects, it has been disturbed in a manner which constitutes 'disturbance' within the meaning of the Due Diligence Code."

Both applications have been amended to reduce the scope of works to which they relate. Given the extent of the proposed works (as amended) and that those works are generally contained to previously disturbed areas of the site or within the existing buildings, the proposed developments are considered unlikely to have impact on the cultural heritage values of the site and its surrounds.

As a consequence, further consultation is not warranted, and an Aboriginal heritage impact permit or plan of management is not required. Despite this, the owner proposes the following:

*Placement of appropriate signage on-site at any point where guests can enter the nearby Council Reserves and adjoining walkways, that might support Council's existing signage and interpretation of the Aboriginal Place in the broader network of Council reserves. Guidelines for access to and from the subject site via means of Council Reserves will be provided to guests to ensure all guests are notified and behave in due respect of the land, ecosystems and Aboriginal cultural heritage values.*

Furthermore, it is also relevant to note that DA 2018/266, which included the demolition of the existing conference centre and construction of a new conference centre building on the subject site was notified to Jali Local Aboriginal Land Council, and local Aboriginal Families. No submissions were received in relation to that development.

*16. Any consent should be limited to a 12 month period.*

Comment: Both applications seek development consent for certain works relating to an existing use but does not propose to change the use of the site. Council cannot prevent the continuance of an existing use under the EP&A Act.

*17. Further details on the critical issues of the development should be requested by Council*

Comment: Council has sufficient information to undertake a comprehensive assessment of both applications.

*18. Covered outside terrace on the western and northern side of the building will double the seating capacity.*

Comment: The maximum capacity of the conference centre is set at 265 people and the application does not seek to increase this figure. This will be reinforced as a condition of consent on both applications.

*19. The Owner intends to operate a site for weddings and corporate functions which is not consistent with a conference centre or DA 1971/31.*

Comment: Council is required to assess and determine both applications accordingly to the information formally submitted to it with those applications. Both applications clearly relate to proposed building works and do not seek to change the use of the land. The site may only be used as a conference centre pursuant to development consent 1971/31 granted on 9 March 1971. That is for use only as a place where people gather to receive or obtain information or instructions from a presentation or presentations. A condition to this effect has been recommended for both applications.

- 20. It needs to be demonstrated how the number of guests using the venue will be limited.*

Comment: If the subject applications are approved, the maximum capacity will be reinforced through a condition of consent.

- 21. The operator will add marquee facilities which will have additional impacts.*

Comment: The operator may be able to erect a tent or marquee on the site provided they satisfy the requirements of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. However, consent is not being sought for the erection of such structures.

- 22. The proposed use is incompatible with the surrounding residential area and 7(f) Environmental Protection (Coastal Lands) zone on the site.*

Comment: The existing use is not proposed to be changed or intensified. The proposed works are considered to be generally consistent with the objectives of the zone. Refer to the detail assessment further in this report on zone objectives.

- 23. Council should get legal advice on existing use matter.*

Comment: Council has sought legal advice on this matter and this has informed the assessment of the current applications.

- 24. At the time DA 1971/31 was lodged the general use of the site was as a youth camp and not a function centre. The use of the building is for a classroom or lecture hall for young people. The remainder of the site is an Educational Establishment.*

Comment: DA 1971/31 contains documentation indicating that at that time "the present use of the land or building" was the "Gunundi Anglican Camp Conference Centre". The same document also indicated that the application related to an "Extension of existing use". The approved plans do not reference any other use on the site.

Legal advice sought by Council on this matter confirms that the property benefits from an existing use, being a conference centre.

*25. The 'conference centre' use only applies to the conference centre building.*

Comment: In this instance, the existing use rights relating to the subject property is defined by the consent (DA 1971/31). Accordingly the nature and extent of the existing use rights should be construed by reference to the terms of the consent and fact and context at the time of grant of consent.

Based on the approval history of the site, it would be unreasonable to suggest that the conference centre use does not extend beyond the physical walls of the building. For example, the toilets associated with the conference centre are located in a different building, car parking for the conference centre is provided elsewhere on site and the dormitory building itself was approved (via BA 9/75) in association with the conference centre.

*26. The proposal will result in an over development of the site.*

Comment: The cumulative extent of works proposed under both applications do not amount to an over development of the site.

*27. Impact on visual amenity.*

Comment: The combination of works proposed under the subject applications will not have unreasonable impacts on the character or scenic qualities of the site.

*28. The building and roof is white and is therefore not sympathetic to the character of the surrounding environment.*

Comment: The painting of the building is considered to comprise exempt development and does not require the consent of Council.

*29. Erosion and sediment control*

Comment: Potential erosion and sediment impacts resulting from the proposed works can be addressed by way of condition.

*30. Stormwater from the site is causing erosion to the east of Crown land and impacting the adjacent Coastal Pathway. DPI does not support stormwater draining on to Crown Reserve.*

Comment: The works proposed under these applications do not result in any significant increase in impervious area. It is not anticipated that the developments will result in a measurable change to peak discharge, volume or concentration. However, stormwater controls should be provided for the reconfigured parking areas.

The existing development currently discharges to the road reserve to the east via two PVC pipes. This drainage arrangement appears have been ongoing for some time. The receiving area is well stabilised with plantings and no erosion was present during a site inspection.



31. *The applicant is attempting to gain approval for works already completed and vegetation clearing already undertaken. A favourable decision for the applicant will set a precedent for other landholders to follow.*

Comment: Both applications have been amended to delete works previously undertaken on-site. These works are subject of the Class 4 legal proceedings and the submitted Building Information Certificate application.

Both applications have been assessed based on the individual merits of each proposal and with regard to the unique circumstances of the subject site. Approval of each application will not set a precedent for other landholders to follow.

32. *Bushfire Concerns*

Comment: The subject property is mapped as being bushfire prone land. Bushfire Safety Authorities have been issued for each application by the NSW Rural Fire Services, and will form part of any consent.

33. *The development does not satisfy the provisions outlined in clause 41(2) of the EP&A Regs*

Comments: Neither application seeks to change the use of the site. The provisions in Clause 41 (2) of the EP&A Regs relate to commercial and industrial uses and are therefore not relevant to the subject applications.

34. *Ecological impacts. Additional native vegetation should be required to be planted as a condition of consent.*

Comment: The subject applications do not comprise any vegetation removal and will not have unreasonable impacts on the surrounding natural environment. The applicant has proposed some additional plantings along the western boundary.

### **Existing Use Provisions**

The subject applications rely on existing use rights pursuant to Division 4.11 of the Environmental Planning and Assessment Act 1979 (EP&A Act). The applicant's claim of existing use rights upon gazettal of the Ballina LEP 1987, being 27 February 1987 ('the relevant date'), has been supported by advice from the applicant's legal representative. Council has also sought legal advice in relation to this matter, and this advice has guided the assessment of both applications.

The main matters for consideration in the assessment of these applications in relation to existing use under the Act and Regulations are as follows:

Is the use an existing use under the EP&A Act?

Existing use means:

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land:*
  - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
  - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

As stated previously in this report, numerous approvals have been issued in the past in relation the operation of a conference centre and associated dormitory on the site. A conference centre is not a defined land use under the Ballina LEP 1987 and is therefore a prohibited land use within the 7(f) Environmental Protection (Coastal Lands) Zone.

The site is considered to have the benefit of existing use rights for the operation of a conference centre and associated dormitory and caretakers accommodation, which is supported through the recent development approval history. On this basis, Council can consider the current applications despite the land use being prohibited within the 7(f) Environmental Protection (Coastal Lands) Zone.

Whether the existing use has been abandoned due to it ceasing to be used for that purpose for a continuous period of 12 months

An existing use right could be lost in situations where the use is abandoned or unlawfully changed from one use to another. The use is presumed to have been abandoned in circumstances where the use has ceased for a period of 12 months or longer. However, consideration of abandonment of an existing use is not just restricted to the continuous physical use but also an intention by the owner or operator to continue a use (have it not been circumstances beyond their control).

The applicant has provided the following information in support that the existing use has been continuous.

- The property has been consistently and continuously used by the Anglican Church as a conference centre.
- The property was purchased by private individuals (Loosemore and McGarry) in early 2011, who continued to use the property for conferences and associated events and uses (marketed as “The Dunes” – very well known in the region), until the property was sold to The Beach (East Coast) Pty Ltd in late 2017.

- The property has been used by the current owner for events falling within the existing use, including family reunions, religious gatherings and meetings of professional and business groups. The most recent use of the property for a conference-related corporate gathering was conducted in the week commencing 11 June 2018.
- Council's letter of 14 October 2016 clearly recognises the existence and scope of the existing use rights attaching to the property.
- The development history of the property shows development – additions, alterations etc – that complement and are consistent with the existing and continuing conference centre use.

Based on this information and various other documents on Council's record (liquor license documentation, pre-DA lodgement meeting notes, correspondence, and the like), Council staff are satisfied that the existing use is continuous and has not been abandoned.

Relevant Provision of The Environmental Planning & Assessment Regulations 2000 (EP&A Regs)

The Environmental Planning & Assessment Regulations 2000 (EP&A Regs) contain provisions with respect to existing use. The following provisions are of relevance to the assessment of the current application.

*Clause 41 – Certain Development Allowed*

*(1) An existing use may, subject to this Division:*

- (a) be enlarged, expanded or intensified, or*
- (b) be altered or extended, or*
- (c) be rebuilt, or*
- (d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act*

These applications seek consent to alter and extend buildings and works used for an existing use. Therefore, under the provisions of the EP&A Regs, Council may consider the works proposed under the both applications.

*Clause 43 - Development consent required for alteration or extension of buildings and works*

- (1) Development consent is required for any alteration or extension of a building or work used for an existing use.*
- (2) The alteration or extension:*
  - (a) must be for the existing use of the building or work and for no other use, and*
  - (b) must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.*

Comment: The subject applications relate to alterations and extension of building and works. The subject land, being Lot 1 DP 781525, is considered to be a single cohesive planning unit and therefore the existing use applies to the entire property. Accordingly, the proposed works relate to the land on which the existing use rights apply.

### **Matters for Consideration**

The proposed development has been assessed under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal has been assessed as being generally compliant with the BLEP 1987, Council's DCP 2012 and the remaining matters listed within Section 4.15 of the Act.

It should be noted that under the EP&A Act any Environmental Planning Instrument that derogates from the existing use provisions have no force or effect whilst existing use remains.

### **Ballina LEP 1987**

#### Zoning

The subject site is zoned 7(f) Environmental Protection (Coastal Lands) under the Ballina LEP 1987.

As stated previously, a conference centre is not a permissible land use within the 7(f) zone under the Ballina LEP 1987. However, the subject site benefits from an 'existing use' as defined under the Environmental Planning and Assessment Act 1979.

#### Zone Objectives

The objectives of the 7(f) Environmental Protection (Coastal Lands) zone are as follows:

*A The primary objectives are:*

- (a) to protect environmentally sensitive coastal lands, and*
- (b) to prevent development which would adversely affect or be adversely affected, in both the short and long term, by the coastal processes.*

*B The secondary objectives is to enable the development of public works and recreation amenities where such development does not have significant detrimental effect on the habitat, landscape or scenic quality of the locality.*

*C The exceptions to these objectives are:*

- (a) to permit the development of public works, outside the parameters outlined in the primary and secondary objectives, only in cases of demonstrated and overriding public need and subject to the impact on the coastal lands being minimised, as much as is reasonably practical, and*
- (b) development of surf life saving, environmental education facilities and like facilities.*

The proposed developments will not have unreasonable impacts on environmentally sensitive coast lands and will not adversely affect or be adversely affected by coastal processes. The proposals are consistent with the objectives of the zone.

Development within Zone No 7 (f)

Clause 32 states the following:

*The council must not consent to the carrying out of development within Zone No 7 (f) for any purpose unless it has taken into consideration:*

*(a) whether any environmental issues are involved in, or raised by, the proposed development, and*

*(b) if so, whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment, and*

*(c) whether the development complies with the objectives of Zone No 7 (f) as set out in the Table to clause 9.*

Subject to compliance with the recommended conditions, the proposed developments will not have unreasonable impacts on the environment and are consistent with the objectives of the 7(f) zone.

**Coastal Management SEPP**

The subject land is situated within the Coastal Use Area and Coastal Environment Area and subject to the provisions of SEPP (Coastal Management) 2018.

The development site is not affected by the Wetlands or Littoral Rainforest Area. At the time of assessment no Coastal Vulnerability Area Map was adopted under the SEPP and no coastal vulnerability area has been identified.

Division 3 – Coastal Environment

Clause 13(1) states:

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
  - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Given location and nature of the proposed works, the subject applications are unlikely to cause an adverse impact on any of the matters referred to in Clause 13.

Division 4 - Coastal Use Area

Clause 14(1) states:

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
  - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
    - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - (iv) *Aboriginal cultural heritage, practices and places,*
    - (v) *cultural and built environment heritage, and*
  - (b) *is satisfied that:*
    - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
    - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
    - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Given the location and nature of the proposed works, the subject applications are unlikely to cause an adverse impact on any of the matters referred to in Clause 14.

Division 5 – General

The proposed works are unlikely to cause increased risk of coastal hazards on the subject land or other land.

The subject applications are generally consistent with the underlying objectives of the Coastal Management SEPP.

## **Ballina Development Control Plan 2012**

The proposed developments have been assessed against the Ballina DCP 2012 and are considered to be generally consistent with the relevant and provisions.

### **Traffic and Car Parking**

#### *External Roads and Traffic*

The proposed development will not result in an increase in floor area or capacity in terms of the number of patrons for either the conference area or dormitory building. It is not anticipated the development will produce any additional trips to the road network.

#### *Provisions for Service and Delivery Vehicles*

There is provision for service and delivery vehicles to enter the site in a forward direction, safely manoeuvre and unload on site and leave the site in a forward direction.

#### *Parking Numbers*

The Construction Certificate for DA 2011/470 (issued 11 August 2017) approved a total of 51 car parking spaces on-site (comprising 14 permanent spaces of compacted gravel and 36 casual parking spaces, and one disabled space). DA 2018/603 seeks a reconfiguration of the approved car parking layout to provide 19 permanent spaces of compacted gravel, 31 turfed casual parking spaces, and one sealed disabled space (51 spaces in total).

The proposed (and approved) number of parking spaces is significantly less than that which would be required under Council's Development Control Plan for a new development. However, given that the subject development application will not result in an increase in the number of patrons or Gross Floor Area, neither development generates a need for additional spaces. Notwithstanding this, and given that a large portion of the spaces will not be delineated, it is considered appropriate to impose a condition requiring a Parking Management Plan to be developed and implemented for conferences at centre.

The car parking layout for DA 2017/603 has been assessed by Council's Civil Services Division and is considered acceptable. The plan shows a total of 51 spaces, and contains two stacked parking spaces. These packed parking spaces are considered acceptable on the basis that these spaces will be restricted to use by staff and that a dedicated parking attendant will be onsite at all times during functions.

DA 2018/781 does not seek to change the car parking layout.

### **Noise Mitigation**

DA 2018/603 involves building works to the conference centre which could affect noise levels emanating from the building and therefore potentially resulting in impacts on adjoining residents. This application was accompanied by a NIA which demonstrates the development is capable of meeting the project specific noise level.

Council's Environmental Health Officer has reviewed this report and supports the application, subject to conditions requiring the construction of the acoustic wall and provision of a noise management plan prior to issue of an occupation certificate for the development.

### **Cumulative Impacts**

The cumulative impacts of works proposed under both development applications is considered to be acceptable.

### **Conclusion**

The two subject applications seek consent from Council to alter and extend buildings and works used for an existing use, being a conference centre.

Council is required to assess and determine the subject applications on the individual planning merits of each proposal, and cannot have regard for other matters which fall outside the scope of proposed works (eg the works previously undertaken on the property without council consent, the current legal proceedings, or the perceived intended use of the site).

The proposed developments have been assessed and consideration has been given to all the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 1987, the Ballina Shire Development Control Plan 2012, the existing use provisions contain in the EPA&A Act and Regs, and relevant submissions made in response to the exhibition of both development applications.

Having regard for the outcomes of the assessment undertaken, it is recommended that both applications be determined by way of approval, subject to recommended conditions contained in Attachments 10 and 11.

Alternatively, Council may resolve to determine one or both applications by way of refusal. If this is the preferred option for Council, then reasons for refusal will need to be identified as part of its resolution. This is not recommended.

The owner has now complied with the relevant undertakings associated with Council's legal proceeding in the Land and Environment Court. It is also recommended that, subject to confirmation from Council's legal advisor, Council resolves to withdraw from the current appeal.



**RECOMMENDATIONS**

1. That Development Application 2018/603 'Alterations and additions to conference centre, associated dormitory accommodation and caretaker's dwelling, and reconfiguration of car parking layout' on Lot 1 DP 781525 No. 70 Shelly Beach Road, East Ballina be APPROVED subject to the attached conditions.
2. That Development Application 2018/781 'Alterations and additions to conference centre, and associated dormitory deck, on Lot 1 DP 781525 No. 70 Shelly Beach Road, East Ballina be APPROVED subject to the attached conditions.
3. That, subject to confirmation from Council's solicitor, Council formally withdraws from the current Class 4 proceedings in the NSW Land and Environment Court (ref: 2018/00331477).

**Attachment(s)**

1. Locality Plan
2. Proposed Plans DA 2018/603
3. Proposed Plans DA 2018/781
4. DA 2018/781 - Public Submissions
5. DA 2018/781 - Confidential Submissions (Under separate cover)
6. DA 2018/781 - Submissions not published on DA's on Line (Under separate cover)
7. DA 2019/603 - Public Submissions
8. DA 2018/603 - Confidential Submissions (Under separate cover)
9. DA 2018/603 - Submissions not published on DA's on Line (Under separate cover)
10. Draft Conditions of Consent - DA 2018/603
11. Draft Conditions of Consent - DA 2018/781

## **8.2 LEP Amendment Request - Reservoir Hill Site - North Creek Road**

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### **8.2 LEP Amendment Request - Reservoir Hill Site - North Creek Road**

**Delivery Program** Strategic Planning

**Objective** To seek direction from Council in respect to a planning proposal to amend the Ballina Local Environmental Plan 2012 to make zone boundary adjustments to better reflect a proposed subdivision design and to permit subdivision for drainage purposes.

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#### **Background**

Council has received a request to amend the Ballina Local Environmental Plan (LEP) 2012. The proponent (Urbis Pty Ltd) has submitted a zoning amendment request on behalf of the owner of Lot 1 DP 517111 (Lot 1), 20 North Creek Road, Lennox Head. The owner of the land is Ballina Island Developments Pty Ltd.

The land (Lot 1) is commonly referred to as the Reservoir Hill site.

Attachment 1 to this report is the proponent's zoning amendment request.

The proposed amendment involves the rationalisation of existing LEP boundaries to facilitate the efficient use of land and provide consistency with a proposed subdivision layout plan (DA 2018/51). The proposed subdivision layout plan is provided in Attachment 2.

The subdivision concept plan submitted in 2016 as part of the then LEP amendment process included a planned road corridor for the realignment of North Creek Road and the extension of Hutley Drive. The then road design concepts influenced the manner in which the land was rezoned in December 2016 (Ballina LEP 2012 Amendment No 27).

The realignment of North Creek Road and Hutley Drive through the site is no longer required by Council. Consequently the original indicative subdivision layout plan upon which the 2016 LEP amendment was based is now obsolete.

A revised subdivision plan has been prepared and submitted with DA 2018/51 which also identifies the requirement for minor rationalisation of existing zone boundaries.

This report provides an overview of the relatively minor LEP amendments sought by the proponent as well as additional amendments considered to be warranted following more detailed assessment of the proposal.

#### **Key Issues**

- Processing of LEP amendment request
- Provision of land for residential development
- Mechanism to permit subdivision for drainage purposes

### Information

A planning proposal has been prepared for Council's consideration (Attachment 3).

If endorsed, the planning proposal will be forwarded to the Department of Planning and Environment for a Gateway determination.

In summary the planning proposal seeks to make a number of minor zone boundary changes as well as facilitating the subdivision of rural land for drainage purposes into a lot below the 40ha minimum lot size.

### *Proposed Zone Boundary Changes*

The planning proposal, as it relates to Lot 1 and adjoining sections of road, provides for an amendment to the Ballina LEP 2012 to make minor zone boundary changes to the RU1, R2 and R3 zone boundaries.

This is to ensure consistency with the subdivision layout proposed under DA 2018/51 (Attachment 2).

It is also proposed to amend the minimum lot size map consistent with the proposed zone boundary realignment.

The proponent is seeking relatively minor zone boundary adjustments as shown in the plan provided in Attachment 4, comprising the following:

- Realignment of the existing irregular shaped RU1 Primary Production zone boundary, located on the southern side of the RU1 boundary; and
- Realignment of various R3 Medium Density Residential zone boundaries to incorporate additional R2 Low Density Residential zoned land.

The proponent is also seeking to rezone proposed Lots 6, 7 and 16, located in the north eastern corner of the site, from R2 to R3 which is inconsistent with the subdivision layout proposed under DA 2018/51 (Attachment 2).

The majority of proposed Lot 16 is already zoned R3.

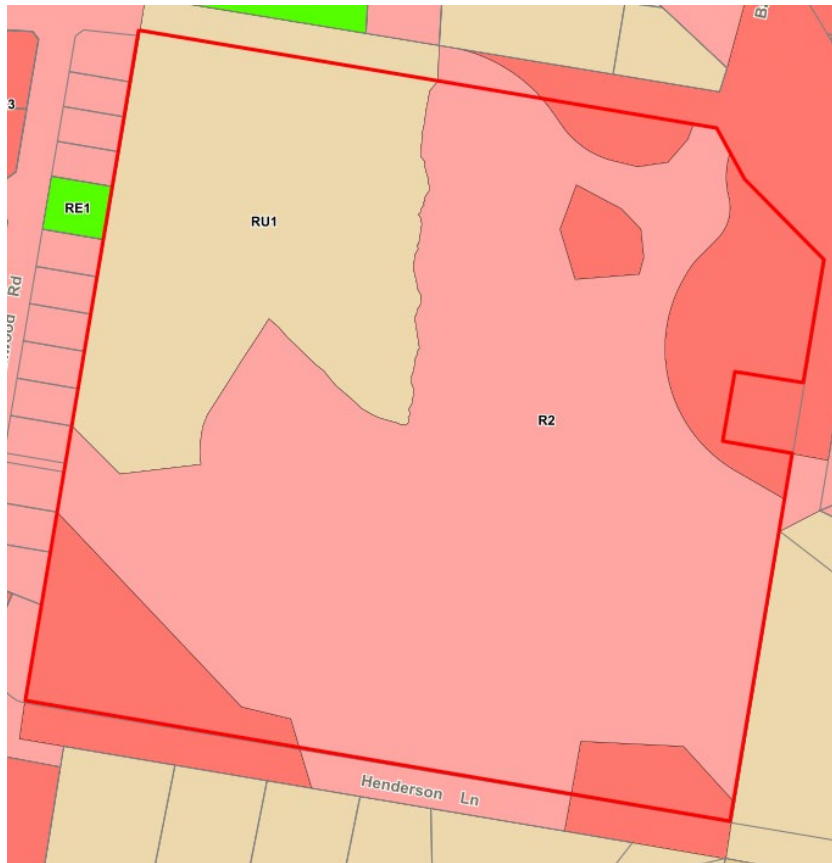
In addition, having regard to the extent of R3 land that is proposed to be rezoned to R2, the rezoning of the three lots as proposed appears a reasonable request.

In addition to the minor amendments sought by the proponent additional amendments to zone boundaries are considered to be warranted.

These amendments, whilst more significant than what has been proposed by the proponent, are also essentially "housekeeping" in nature and serve to ensure consistency with the subdivision now proposed and zone boundaries.

The map extracts in Figures 1 to 3 below indicate the mapping outcomes proposed by this planning proposal.

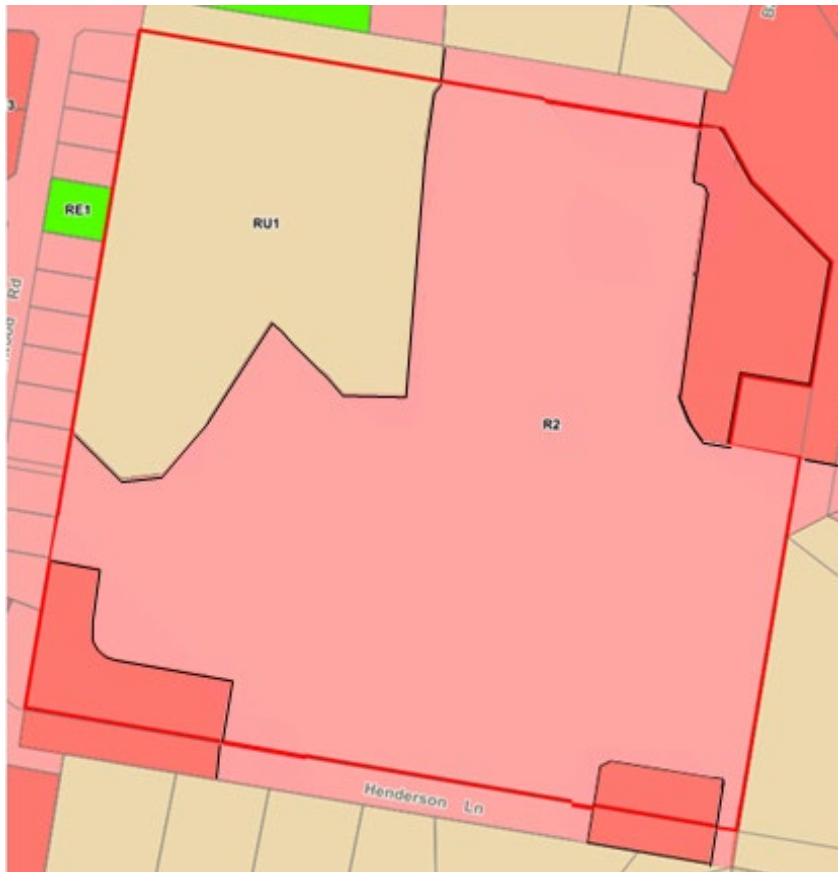
**8.2 LEP Amendment Request - Reservoir Hill Site - North Creek Road**



**Figure 1: Existing Land Zoning Map Extract**



**Figure 2: Proposed Land Zoning Map Extract showing changes**



**Figure 3: Proposed Land Zoning Map Extract**

### *Proposed Subdivision Provisions Relating to Drainage Works*

Stormwater drainage works are proposed to be located within the RU1 zoned portion of Lot 1. Once drainage works have been satisfactorily completed it is proposed that the land occupied by such works be dedicated to Council for drainage purposes.

The dedication of land for stormwater drainage purposes involves a land subdivision and is consistent with the approach taken by Council in other release areas.

Typically the stormwater infrastructure is located on residential zoned land and subdivision is not impeded as a consequence of minimum lot size requirements.

In the subject case the minimum lot size for the RU1 zone is 40ha and presents a significant constraint to land subdivision which requires an LEP amendment for resolution.

Another significant constraint is that the drainage infrastructure basins are proposed to be located within an area identified as containing a Freshwater Wetland Endangered Ecological Community (EEC) as well as Hairy-joint grass (HJG). HJG is listed as vulnerable plant species under both Federal and State legislation.

## 8.2 LEP Amendment Request - Reservoir Hill Site - North Creek Road

The issue of avoidance and/or the mitigation of ecological impacts associated with proposed drainage works is subject to separate merit consideration as part of the DA (DA 2018/51) process.

It was initially proposed to apply a SP2 Infrastructure zone, which is not subject to minimum lot size restrictions, to that part of Lot 1 required for drainage purposes.

Whilst feasible the difficulty with this approach relates to the ecological significance, location and extent of the land area required and assessed to be suitable for drainage works, which can only be confirmed as part of the DA process (DA 2018/51).

An alternative, and more favoured, option is to permit land subdivision for the purpose of drainage works within all of the RU1 and RU2 rural zones utilising the mechanism of a special clause within Ballina LEP 2012.

The special clause mechanism could then be utilised on other sites in the future, subject to merit assessment, where drainage works located on rural zoned land are proposed to be transferred to the Council.

The special clause will be drafted post-Gateway determination and upon advice sought from the Parliamentary Counsel's Office.

In the event that the special local clause option is not able to be implemented an alternative to limit the permissibility of land subdivision for drainage purposes to only that part of the site zoned RU1 is also included within the planning proposal.

There are a number of options available to address this issue none of which are considered to impact the land zoning applied to the land.

### Proposed Zone Change Land Area Estimates

Lot 1 has an area of 15.17 ha.

The approximate land area proposed for rezoning is shown in Table 1 below.

**Table 1: Approximate land areas proposed for rezoning**

| Zone Change  | Proponent                 | Council                    | Total   |
|--------------|---------------------------|----------------------------|---|
| RU1 to R2    | 599m <sup>2</sup>         | 405m <sup>2</sup>          | 1,004m <sup>2</sup>                             |
| R2 to R3     | 2,001m <sup>2</sup>       | -                          | 2,001m <sup>2</sup>                             |
| R3 to R2     | -                         | 12,296m <sup>2</sup>       | 12,296m <sup>2</sup>                            |
| <b>Total</b> | <b>2,600m<sup>2</sup></b> | <b>12,701m<sup>2</sup></b> | <b>15,301m<sup>2</sup></b><br><b>(1.5301ha)</b> |

The attached planning proposal documents the degree to which the proposal complies with the strategic planning framework for the locality.

Consideration has been given to the planning proposal's consistency with the North Coast Regional Plan, Ballina Shire Council Community Strategic Plan, Lennox Head Structure Plan, the Ballina LEP 2012, applicable State Environmental Planning Policies and the Minister's Section 9.1 Directions.

## 8.2 LEP Amendment Request - Reservoir Hill Site - North Creek Road

It has been concluded that the planning proposal is generally consistent with the framework provided by each of these documents.

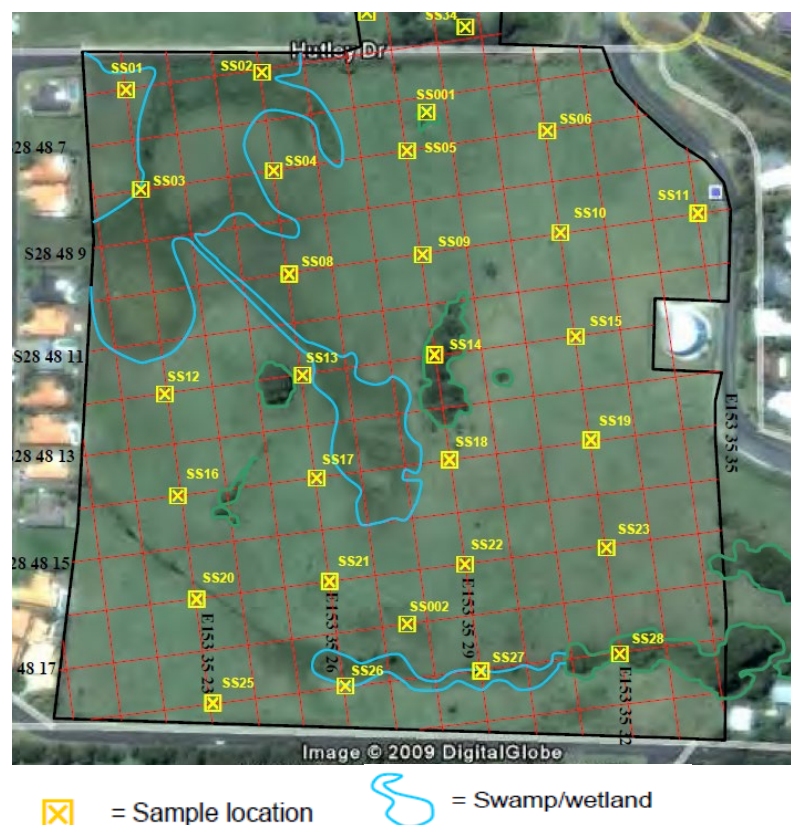
Following a Court of Appeal decision (*Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd* [2018] NSWCA 304) it is required that planning authorities must give specific consideration to whether the land included within a planning proposal is contaminated land under the provisions of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55).

The issue of whether Lot 1 is contaminated land has been previously considered as part of the process associated with the 2016 amendment of Ballina LEP 2012.

In this respect the whole of Lot 1 was the subject of a Phase 1 Site Contamination Assessment (SCA) undertaken by Coffey Geotechnics in 2013. The SCA identified no areas of environmental concern and concluded that further assessment is not required for this site.

The conclusions were based on a review of site history as well as analysis of soil samples.

The diagram below is an extract from the 2013 Coffey report which shows the locations upon Lot 1 which were subject to soil sampling.



It is considered that land contamination issues have been previously assessed as required by SEPP 55 and the associated Land Contamination Guidelines and no further land contamination assessments are required to support the current planning proposal.

## **8.2 LEP Amendment Request - Reservoir Hill Site - North Creek Road**

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At this stage it is not proposed to require any specific additional studies or assessments to support the planning proposal.

The 2013 Coffey Site Contamination Report is provided in Attachment 5 and the Ecological Assessment (March 2019) submitted as part of DA 2018/51 is provided in Attachment 6.

The Gateway determination may specify further investigations and information that the Department of Planning and Environment requires.

Such information will then be required to be submitted to Council by the proponent for incorporation within the planning proposal prior to the public consultation.

### **Sustainability Considerations**

- **Environment**

The proposal is considered to have positive environmental, social and economic effects.

The proposal will facilitate the creation of additional residential zoned allotments and a more functional and efficient subdivision layout.

This will provide for increased social and economic outcomes through the provision of increased housing supply and improved accessibility whilst minimising impacts to RU1 zoned land.

- **Social**

As above.

- **Economic**

As above.

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

There are no specific legal or financial implications associated with this proposed LEP amendment at this time. The matters arising from this report can be attended to within existing resources.

In the event that Council wishes to advance this proposal, the proponent will be required to meet various processing costs in accordance with the Council's adopted schedule of fees and charges, as well as providing any additional technical information, following Gateway determination.

Progression of this matter can be accommodated within the Planning and Environmental Health Division.

### **Consultation**

Should the matter proceed, an affirmative Gateway determination will specify government agencies consultation requirements and the minimum community consultation period.

At this stage no specific public agency consultation is proposed.



Community consultation is proposed over a 14 day period.

### Options

The following options are presented for Council's consideration.

1. Council may resolve to endorse the planning proposal for submission to the Department of Planning and Environment for Gateway determination.

This is the preferred and recommended option.

The proposal seeks minor amendments to zone boundaries, endorsed under a previous planning proposal BSCPP 14/002, to facilitate the efficient design and layout in accordance with the revised subdivision layout plan submitted with DA 2018/51.

In addition the planning proposal seeks to insert provisions within Ballina LEP 2012 which would permit subdivision for drainage purposes generally within the RU1 and RU2 rural zones or alternatively specifically within the RU1 zone located within Lot 1.

2. Council may resolve to amend the planning proposal prior to its submission to the Department of Planning and Environment for Gateway determination.

Should Council wish to limit the proposal to permit subdivision for drainage purposes so that it only applies to the RU1 zoned portion of Lot 1 then it may do so.

It is however considered that attempting to broaden this aspect of the planning proposal to incorporate all RU1 and RU2 zoned land has merit and may overcome the need to consider this issue again in the future for other release area sites.

Council could under this option also resolve to make additional zone boundary changes as they apply to Lot 1.

In this respect the changes detailed in this report are considered to be all minor in terms of their impact and have been agreed with the proponent.

3. Council may resolve to reject the planning proposal and maintain existing zone boundaries.

This option is not recommended as the zone boundaries as they currently exist reflected a road design proposal which is now no longer being pursued.

Maintaining zone boundaries as previously determined will not prevent the subdivision of this land for residential purposes but will lead to the creation of many part zoned lots (part R2 and R3) which is considered to be undesirable.

## **8.2 LEP Amendment Request - Reservoir Hill Site - North Creek Road**

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This option will not resolve a number of minor zoning anomalies which would normally be the subject of a housekeeping LEP amendment following subdivision.

In addition to the above the subdivision of RU1 land for drainage purposes would not be able to be approved if this planning proposal was not supported.

Alternatives to land subdivision such as easement and other restrictions on title are available but these alternatives are not favoured given the nature and size of the drainage infrastructure proposed.

4. Council may resolve to defer consideration of this matter for a further report or a briefing.

Should the Council require additional information then it is appropriate that this report be deferred for an additional report or a briefing.

### **RECOMMENDATIONS**

1. That Council endorses the planning proposal (BSCPP 18/004), as per Attachment 3 to this report.
2. That the planning proposal be forwarded to the Department of Planning and Environment for a Gateway determination.
3. That the Department of Planning and Environment be advised that Council seeks to exercise the functions of the local plan-making authority under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

### **Attachment(s)**

1. Proponent's LEP Amendment Request (Under separate cover)
2. Proposed Subdivision Layout Plan (DA 2018/51)
3. BSCPP 18/004 - Planning Proposal (V1 Initiation/Gateway)
4. BSCPP 18/004 - Proponent's revised zoning map
5. 2013 Coffey Site Contamination Report (Under separate cover)
6. Revised Ecological Assessment March 2019 (Under separate cover)

### 8.3 Development Control Plan 2012 - Amendment

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#### 8.3 Development Control Plan 2012 - Amendment

**Delivery Program** Strategic Planning

**Objective** To advise Council in relation to a periodic review of the Ballina Shire Development Control Plan 2012 and to seek direction in relation to the public exhibition of proposed amendments.

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#### **Background**

At the December 2012 Ordinary meeting Council resolved to adopt the Ballina Shire Development Control Plan 2012 (DCP). The DCP commenced operation in conjunction with the *Ballina Local Environmental Plan 2012* (LEP) on 4 February 2013.

Since the initial adoption of the DCP a number of amendments have been endorsed by Council including seven general amendments resulting from periodic review processes. The most recent changes occurred through Amendment No. 11 which was adopted by the Council at the October 2017 Ordinary meeting.

Review of the DCP is an iterative process undertaken periodically as resources permit, and identified issues are researched and addressed through this review process. This ensures that the DCP is able to remain a contemporary and evolving document which is responsive to development issues and changing Council policy.

Proposed amendments addressed within this report include:

- Inclusion of a provision within Part 3.1 of Chapter 2 – General and Environmental Considerations which specifies minimum buffer distances for hotmix asphalt / bitumen batch plants as well as the inclusion of diagrams which detail the manner in which buffer distances should be calculated
- Removal of references to the use of the contributions plan for the Lennox Head Village Centre contained within Part 3.19 of Chapter 2 – General and Environmental Considerations and Chapter 6c – Commercial Development Lennox Head
- Inclusion of a provision within Part 3 of Chapter 2 – General and Environmental Considerations which provides development controls for boat ramps, pontoons and jetties
- Adjustments within Chapter 2a – Vegetation Management to reference changes to biodiversity legislation and provisions and
- Adjustments within Chapter 4 – Residential & Tourist Development relating to car parking controls.

This report also addresses the following resolution from the August 2017 Ordinary meeting:

*That Council develop a policy in relation to private skateboarding facilities in R2 and R3 zones.*

### 8.3 Development Control Plan 2012 - Amendment

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The following provides an outline of recommended amendments to the DCP and seeks direction on the progress of the amendments to public exhibition.

#### Key Issues

- Review of applicable development controls/guidelines.
- Public exhibition of Draft Amendment No. 12 to the Ballina Shire Development Control Plan 2012.

#### Information

Details of proposed amendments suggested for inclusion in Draft Amendment No. 12 are contained within Attachment 1 to this report.

Key proposed amendments are discussed further below.

#### Chapter 2 – General and Environmental Considerations – Part 3.1 Land Use Conflict

Council resolved at the October 2018 Ordinary meeting held that at the next scheduled housekeeping amendment of Ballina DCP 2012, amendments to *DCP Chapter 2 – General and Environmental Considerations* minimum buffer distances for bitumen and hotmix plants, as well as diagrams which detail the manner in which buffer distances should be calculated, be incorporated for exhibition purposes. Part 3.1 of Chapter 2 has been amended accordingly, and is provided at Attachment 2, with suggested changes highlighted in yellow.

A Councillor briefing was held on 20 September 2018 at which time a discussion paper titled *Extractive and associated industries in Ballina Shire* was presented. This report reviewed the policy framework applicable to extractive and associated industries in Ballina Shire and provided information relating to buffer and separation distance controls applied to these industries in other Northern Rivers councils and in other States.

The review found that there are no guideline documents to assist the assessment of extractive industry development applications. The accepted practice in Ballina Shire is that buffer distances are measured from the site of the actual land use which requires the buffer to the site of the existing or proposed sensitive land use. The policy review concluded that the insertion of diagrams into the DCP would assist to provide clarity in relation to this issue.

The policy review also concluded that minimum buffer distances for hotmix / bitumen plants be incorporated into the DCP based on the provisions nominated by the Environment Protection Authority (EPA) in South Australia (SA). The SA requirements specify separate buffers based on new technology (500 metre buffer) and old technology plants (1,000 metre buffer).

The amendments to Part 3.1 as proposed will provide guidance and clarity for developers, consultants and the community regarding the application and assessment of buffer distances for specified land uses, including new provisions for hotmix asphalt / bitumen batch plants.

## **8.3 Development Control Plan 2012 - Amendment**

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### Chapter 2 – General and Environmental Considerations – Clause 3.19.3 E. Car Parking Requirements and Chapter 6c – Commercial Development Lennox Head

At the February 2019 Ordinary meeting Council resolved to amend the Ballina Shire Car Parking Contribution Plan to close the Car Parking Contributions Plan for the Lennox Head Village Centre. Council also resolved to amend the DCP to remove reference to the use of the Contributions Plan for car parking in the Lennox Head Village Centre.

It is proposed to amend Table 2.3 – General Car Parking Requirements within Part 3.19 of Chapter 2 and parts of Chapter 6c – Commercial Development Lennox Head as outlined in the Schedule of Amendments contained in Attachment 1.

### Chapter 2 – General and Environmental Considerations – Clause 3.23 Boat Ramps, Pontoons and Jetties

It is proposed to insert a new clause 3.23 into Chapter 2 of the DCP to provide controls and guidance for development involving waterway structures, including boat ramps, pontoons, jetties and retaining walls. A copy of the new clause is provided at Attachment 3.

The new clause will provide more clarity and certainty for developers, consultants and the community regarding the assessment of waterway structures and aims to ensure the management and use of waterfront land is appropriately regulated.

### Chapter 2a – Vegetation Management

Amendments have been made to Chapter 2a to remove reference to repealed legislation (the *Native Vegetation Act* 2003 and the *Threatened Species Conservation Act* 1997) and to reference the new biodiversity legislation and provisions which commenced on 25 August 2017. A copy of the amended Chapter 2a is provided at Attachment 4, with changes highlighted in yellow.

### Chapter 4 – Residential & Tourist Development – Clause 3.1.3 Element H – Vehicular Access and Parking

It is proposed to amend the controls contained in Element H – Vehicular Access and Parking by removing the requirement for screening of stacked parking permitted forward of the building line.

Minor adjustments to the objectives of the clause and to the controls for garages and carports are also proposed to improve the function of the clause.

In circumstances where stacked parking is permitted forward of the building line, the requirement for the car parking to be suitably screened along the street frontage is proposed to be deleted.

The definition of what is considered 'suitable screening' is subjective and there are no controls available to determine what constitutes effective screening of parking areas.

### 8.3 Development Control Plan 2012 - Amendment

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The effectiveness of providing landscaping as a screen is limited and cannot be adequately enforced.

Screening in the form of fencing and gates has potential negative impacts on the streetscape amenity which is an objective of the clause, and also poses a conflict in new subdivisions where developer restrictions do not permit front fences.

The deletion of the requirement for screening removes this conflict.

The proposed amendments to the objectives are warranted as these objectives are required to be considered in Chapter 2 – General and Environmental Considerations, Part 3.19 Car Parking and Access.

The minor adjustments to the controls for garages and carports provides clarification of the differing controls relating to these structures and also specifies the criteria for provision of car parking provided forward of the building line.

#### Chapter 4 – Residential & Tourist Development – Part 3.1.2 Planning Objectives and Chapter 8 – Other Uses – Part 4 Provisions for Other Development in Residential, Business and Industrial Zones

At the August 2017 Ordinary meeting Council considered a development application (DA 2017/312) that sought approval for the use of a private skateboard ramp facility located forward of the building line at 2-12 Greenwood Place, Lennox Head. Council resolved that DA 2017/312 be refused for the following reasons:

1. *Approval of the application is contrary to the objectives contained within the R2 Low Density Residential zone objectives of the Ballina Local Environmental Plan (BLEP) 2012 and Chapters 4 and 8 of the Ballina Shire Council Development Control Plan (DCP) 2012.*
2. *Approval of the proposal will have significant impacts on the amenity of adjoining and nearby residents.*
3. *The skateboard ramp facility would likely give rise to “offensive noise” as defined under the Protection of the Environment Operations (POEO) Act 1997.*
4. *Approval of the application would not be in the public interest.*

Council also resolved at the August 2017 Ordinary meeting to develop a policy in relation to private skateboarding facilities in R2 and R3 zones.

In lieu of a policy, it is proposed to insert a note within Part 3.1.2 of Chapter 4 – Residential and Tourist Development and Part 4 of Chapter 8 – Other Uses to provide guidance for the consideration of potential impacts of development involving private recreational facilities such as skate board ramps.

Private recreational facilities are likely to generate noise and privacy concerns and may have an adverse impact on the amenity of adjoining properties and the surrounding area.

As a result, a development application that seeks approval for such a facility will be assessed individually on its merit having regard for the provisions contained within Chapters 4 and 8 of the DCP.

### Sustainability Considerations

- **Environment**

The DCP establishes local planning policy in relation to a variety of environmental, social and economic considerations. Specifically, it establishes direction for development outcomes within the shire. As such, the DCP provides an opportunity for Council to address a wide range of sustainability considerations in relation to development.

The implementation of the draft amendments to the DCP will improve the application of these sustainability considerations.

- **Social**

As above.

- **Economic**

As above.

### Legal / Resource / Financial Implications

The preparation of Draft Amendment No. 12 to the Ballina Shire Development Control Plan 2012 will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and its associated Regulation. The amendment can be completed within existing available staff and financial resources.

### Consultation

A number of the proposed amendments have resulted from direct feedback from both internal and external sources following the commencement and operation of the DCP, whilst others are as a result of an adopted resolution of Council.

If the public exhibition of Draft Amendment No. 12 to the DCP is endorsed by Council, a public exhibition over a period of at least 28 days duration will be undertaken in accordance with the requirements of the EP&A Act and associated Regulation.

### Options

1. Endorse Draft Amendment No. 12 to the Ballina Shire Development Control Plan 2012 for public exhibition.

This approach would involve the public exhibition of the draft amendments to the DCP, either generally as presented in this report to the Council or with any amendment(s) as specified by the Council.

Following public exhibition of the amendments to the DCP, a report on submissions received would be presented to the Council to provide a further opportunity for Council to consider the amendments prior to their finalisation and adoption.

### **8.3 Development Control Plan 2012 - Amendment**

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This approach is recommended as it will enable further consideration of the proposed amendments that seek to improve the function, interpretation and operation of the DCP.

2. Cease preparation of Draft Amendment No. 12 to the Ballina Shire Development Control Plan 2012.

It is open to Council to cease further progress on Draft Amendment No. 12 to the DCP. This option is not recommended as there are substantial advantages in proceeding with the amendments to ensure the optimal function and operation of the DCP in relation to development outcomes for the shire. Some of the amendments also seek to implement Council resolutions in relation to DCP based policy.

3. Defer the endorsement of Draft Amendment No. 12 to the Ballina Shire Development Control Plan 2012 and hold a Councillor briefing.

This approach is not recommended prior to the public exhibition of Draft Amendment No. 12.

If a Councillor briefing is desirable, it is suggested that this be scheduled during, or at the conclusion of, the public exhibition period.

#### **RECOMMENDATIONS**

1. That Council proceed to undertake the public exhibition of Draft Amendment No. 12 to the Ballina Shire Development Control Plan 2012 (as contained in Attachment 1), in accordance with the terms of the *Environmental Planning and Assessment Act 1979* and the associated Regulation.
2. That a further report be submitted to Council following the public exhibition of Draft Amendment No. 12 to the Ballina Shire Development Control Plan 2012.

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

1. BSDCP 2012 Draft Amendment No 12 - Schedule of General Amendments
2. BSDCP 2012 Draft Chapter 2 Part 3.1 - Buffers to Hot Mix Asphalt Plants
3. BSDCP 2012 Draft Chapter 2 Part 3.23 - Boat Ramps Pontoons and Jetties
4. BSDCP 2012 Draft Chapter 2a - Vegetation Management



#### 8.4 Development Applications - Works in Progress - April 2019

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#### 8.4 Development Applications - Works in Progress - April 2019

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

Note that dwelling house and dual occupancy applications are not included in this report.

| DA No.   | Date Rec'd | Applicant                          | Proposal  | Status                          |
|----------|------------|------------------------------------|---|---------------------------------|
| 2017/223 | 5/5/2017   | Ardill Payne & Partners            | Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head  | Awaiting additional information |
| 2018/51  | 2/2/2018   | Ballina Island Development Pty Ltd | Subdivision of land to create 103 residential lots and seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage – 20 North Creek Road, Lennox Head   | Being assessed                  |
| 2018/74  | 13/2/2018  | Ardill Payne & Partners            | Amended Proposal: Demolition of Existing Residential Flat Building and Erection and Strata Title Subdivision of a Six Storey Residential Flat Building Containing 12 (originally 14) dwellings, associated car parking and works. The proposed building has a height of 18.6m (originally 18.3) 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 | Amended proposal on exhibition  |
| 2018/432 | 26/7/2018  | Ardill Payne & Partners            | Two Lot Subdivision by way of a Boundary Adjustment to create one 1080m <sup>2</sup> and one 776m <sup>2</sup> allotments and construction of a shed on Proposed Lot 1 - 2 Old Pacific Highway, Newrybar  | Being assessed                  |

## 8.4 Development Applications - Works in Progress - April 2019

|          |           |                                |  |  |
|----------|-----------|--------------------------------|--|--|
| 2018/437 | 23/7/2018 | St Francis Xavier Parish       | Alterations to Child Care Centre (Seeds Early Learning Centre) - 58-62 Westland Drive, West Ballina  | Being assessed   |
| 2018/447 | 25/7/2018 | Vision Town Planning           | 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  |
| 2018/482 | 10/8/2018 | P & G Smith                    | To establish a home business comprising a cooking class conducted within an existing holiday cabin – 841 Fernleigh Road, Brooklet  | Awaiting additional information  |
| 2018/554 | 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  |
| 2018/597 | 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<br><br>Councillor briefing to be held – date to be advised<br><br>To be reported to Council |
| 2018/616 | 9/10/2018 | Northern Rivers Land Solutions | To undertake bulk earthworks associated with the subdivision consented to under DA 2016/184 – 658 Tamarind Drive, 33 Mitchell Close, 52 Albert Sheathers Lane & 88 Sandy Flat Road, Cumbalum   | Awaiting additional information  |

## 8.4 Development Applications - Works in Progress - April 2019

|          |            |                                  |   |   |
|----------|------------|----------------------------------|---|---|
| 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                               |
| 2018/702 | 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   | 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 (re: owner's consent matters) |
| 2018/735 | 30/11/2018 | Anthony De Ridder                | Alterations and Additions to Industrial Development – 38-44 Piper Drive, Ballina  | Awaiting additional information                               |
| 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   | Awaiting additional information                               |
| 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 | Awaiting additional information                               |

## 8.4 Development Applications - Works in Progress - April 2019

|          |            |                                 |   |                                 |
|----------|------------|---------------------------------|---|---------------------------------|
| 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 | Awaiting additional information |
| 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                     | Awaiting additional information |
| 2019/1   | 3/01/2019  | 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   | Determination pending           |
| 2019/9   | 24/12/2018 | Ardill Payne & partners         | Construction of Ballina community Men's Shed – 36 Racecourse Road, Ballina  | Awaiting additional information |
| 2019/21  | 21/1/2019  | Ardill Payne & Partners         | Establishment of a detached dual occupancy involving the relocation of a dwelling and tourist and visitor accommodation comprising the change of use of an existing studio to a holiday cabin and the erection of a new holiday cabin and associated works – 208 Fernleigh Road, Tintenbar              | Awaiting additional information |

#### 8.4 Development Applications - Works in Progress - April 2019

|          |           |                             |   |                                 |
|----------|-----------|-----------------------------|---|---------------------------------|
| 2019/30  | 24/1/2019 | Newton Denny Chapelle       | Staged development involving the temporary use of the land for five years as a function centre for the purpose of hosting wedding ceremonies. It is proposed to host a maximum of 20 ceremonies in any 12 month period catering for a maximum of 120 people. The proposal also involves staged development of eight holiday cabins and associated amenities and infrastructure – 43 Tuckombil Lane, Tuckombil | Awaiting additional information |
| 2019/40  | 31/1/2019 | Platinum Planning Solutions | Alterations and additions to existing commercial tenancy - 155 River Street, Ballina  | Being assessed                  |
| 2019/67  | 8/2/2019  | Ardill Payne & Parnters     | Three lot Torrens Title subdivision comprising one 784sqm and two x 619sqm allotments, demolition of existing dwelling house and shed and installation of associated infrastructure service – 17 Bath Street, Wardell   | Being assessed                  |
| 2019/109 | 25/2/2019 | Ardill Payne & Partners     | Boundary Adjustment Subdivision – 189 Uralba Road, Uralba   | Being assessed                  |

## 8.4 Development Applications - Works in Progress - April 2019

|          |           |                         |   |                                 |
|----------|-----------|-------------------------|---|---------------------------------|
| 2019/123 | 28/2/2019 | Newton Denny Chapelle   | Demolition of all structures on-site and erection and Strata Title subdivision of a mixed use development comprising a three storey 9.7m high building (above the 9.0m height of buildings development standard) including food and drink premises and retail premises at ground and second floors, business premises at second floor and shop top housing consisting of two residential dwellings on the third floor, on-site car parking, vegetation removal and associated works. A pedestrian walkway linking Ballina Street and Park Lane is proposed - 74 Ballina Street, Lennox Head | Awaiting additional information |
| 2019/133 | 4/3/2019  | Ardill Payne & Partners | Subdivision to create eight residential Torrens Title lots varying in size from 690sqm to 1200sqm and one residue 2.72 hectare allotment and associated works – 44-52 Blue Seas Parade, Lennox Head   | On exhibition                   |
| 2019/137 | 7/3/2019  | P A Lowndes             | Alterations/Additions to an existing Recreation Establishment - 1305 Eltham Road, Alstonvale  | On exhibition                   |
| 2019/144 | 8/3/2019  | Newton Denny Chapelle   | To undertake renovation, refurbishments and upgrades to Summerland House Farm comprising upgrades to the visitor facilities and amenities and upgrades and expansion of the existing macadamia de-husking facility – 253 Wardell Road, Lynwood  | Awaiting additional information |

## 8.4 Development Applications - Works in Progress - April 2019

|          |           |                                |   |                                 |
|----------|-----------|--------------------------------|---|---------------------------------|
| 2019/145 | 8/3/2019  | Ardill Payne & Partners        | Construction of an Industrial Development to be Used for a Depot and For General and Light Industrial Purposes, Filling of Land and Associated Works – 29-31 Smith Drive, West Ballina  | Awaiting additional information |
| 2019/162 | 15/3/2019 | Northern Rivers Land Solutions | Change of Use to Establish a Vehicle Repair Station – 24 Barlows Road, West Ballina   | Awaiting additional information |
| 2019/168 | 18/3/2019 | Vision Town Planning           | Change of Use to Establish a Recreation Facility (Indoor) Gym – 4/1 Stinson Street, Ballina   | Awaiting additional information |
| 2019/170 | 19/3/2019 | MP & MJ Veronesi               | Two Lot Boundary Adjustment Subdivision to create one x 78ha and one x 5ha allotments – 987 & 937 Wardell Road, Meerschaum Vale   | Awaiting additional information |
| 2019/176 | 21/3/2019 | Northern Rivers Land Solutions | Change of Use to Recreation Facility (Indoor) – Martial Arts Studio – 11 Russellton Drive, Alstonville  | Being assessed                  |
| 2019/187 | 28/3/19   | TJ Chilcott                    | Demolition of an existing house and erection and Strata Title subdivision of a multi dwelling housing development comprising three two bedroom dwellings and associated vegetation management works – 54 Commercial Road, Alstonville | On exhibition                   |
| 2019/194 | 1/4/19    | Newton Denny Chapelle          | Construction of driveway – Teven Road, West Ballina   | Being assessed                  |
| 2019/197 | 2/4/19    | BC Offley                      | Vegetation management works comprising the removal of one tree – 8 Yeates Court, Wollongbar   | Being assessed                  |
| 2019/202 | 3/4/19    | PF Worth                       | Vegetation management works comprising the removal of one tree – 20 Willie Wagtail Place, Alstonville   | Being assessed                  |

## 8.4 Development Applications - Works in Progress - April 2019

### Regional Development (Determined by Northern Regional Planning Panel)

| DA No.   | Date Rec'd | Applicant                     | Proposal  | Status                             |
|----------|------------|-------------------------------|---|------------------------------------|
| 2016/2   | 4/1/2016   | 21st Century Builders Pty Ltd | Amended Proposal:<br>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                  | Awaiting additional information    |
| 2016/524 | 16/9/2016  | Planners North                | Amended Proposal:<br>Seniors Living Development pursuant to SEPP (Housing for Seniors and People with a Disability) 2004 comprising amended layout, 170 (previously 211) serviced, self-care housing (previously 210) with associated clubhouse, recreation facilities, roads and associated infrastructure and environmental management and protection works – 67 Skennars Head Road, Skennars Head  | Awaiting additional information    |
| 2016/746 | 23/12/2016 | 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 | Awaiting additional information    |
| 2017/600 | 30/10/2017 | Newton Denny Chapelle         | Expansion of an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville   | Referred to Government Departments |



## 8.4 Development Applications - Works in Progress - April 2019

|          |            |                        |  |  |
|----------|------------|------------------------|--|--|
| 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 |
| 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 | Being assessed                               |

### Major Development (Determined by Minister)

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

### RECOMMENDATION

That Council notes the contents of this report on the status of outstanding development applications for April 2019.

### Attachment(s)

Nil

## 9.1 Investment Summary - March 2019

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### 9. Corporate and Community Division Reports

#### 9.1 Investment Summary - March 2019

**Delivery Program** Financial Services

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

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#### **Background**

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of March 2019.

#### **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 March was \$83,538,000. This represents a decrease of \$3.5 million from February. Council's investments, as at 31 March, are at an average (weighted) rate of 2.87%, which is 1.04% above the 90 Day Bank Bill Index of 1.83%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 March 2019, was \$3,773,588. This balance is lower than the balance of \$4,776,991 as at 28 February 2019. The combined movement of investments and bank balances was a decrease of \$4,503,403. This overall decrease is attributable to \$1.5 million in loan repayments, and large creditor payments including capital projects at the Airport \$0.5 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%         |
| <b>Total</b>                                   |             | <b>100%</b>  |

\* Reflects reserves held as at 30 June 2018.

## 9.1 Investment Summary - March 2019

### A. Summary of Investments by Institution

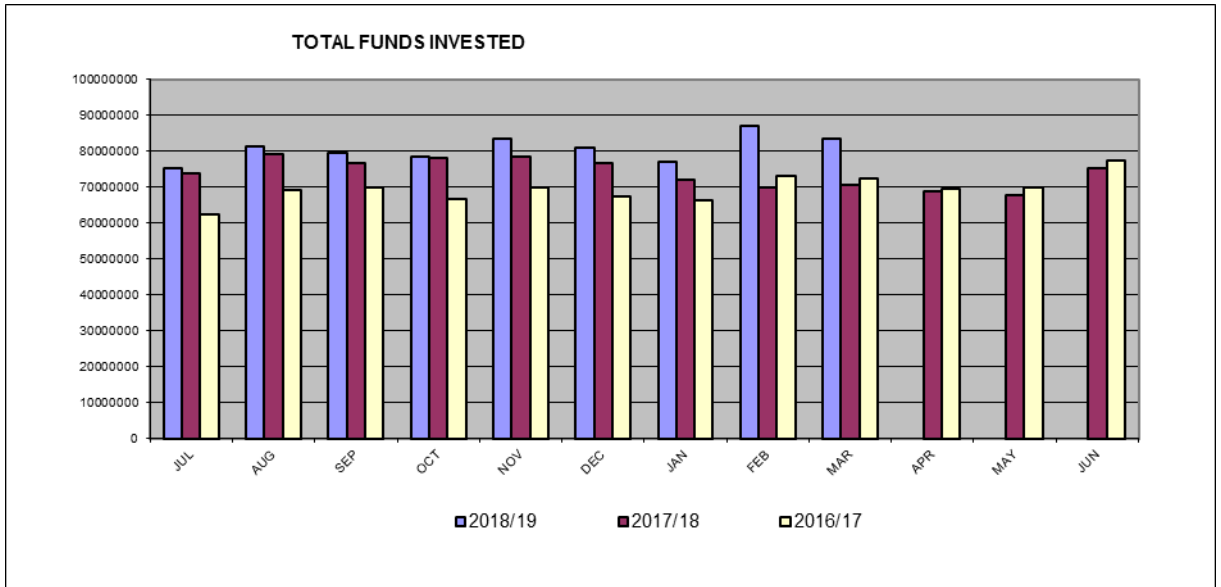
| Funds Invested With                                       | Fossil Fuel Aligned    | ADI Rating * | Previous Month \$'000 | Current Month \$'000 | Quota %         | % of Total     | Total      |
|---|------------------------|--------------|-----------------------|----------------------|-----------------|----------------|------------|
| <b>Grandfathered Investments</b>                          |                        |              |                       |                      |                 |                |            |
| National Australia Bank                                   | Yes                    | BBB          | 1,788                 | 1,788                | 0               | 2.1%           | <b>2%</b>  |
| <b>Rated Institutions</b>                                 |                        |              |                       |                      |                 |                |            |
| AMP Bank  | Yes                    | A-           | 10,500                | 6,500                | 20%             | 7.8%           |            |
| Auswide Bank  | No                     | BBB          | 1,500                 | 1,000                | 10%             | 1.2%           |            |
| Bank of China   | Yes                    | A            | 12,000                | 12,000               | 20%             | 14.4%          |            |
| BankWest  | Yes                    | AA-          | 12,000                | 12,000               | 20%             | 14.4%          |            |
| Bendigo & Adelaide Bank                                   | No                     | BBB+         | 3,000                 | 3,000                | 10%             | 3.6%           |            |
| Beyond Bank   | No                     | BBB          | 2,000                 | 2,000                | 10%             | 2.4%           |            |
| Commonwealth Bank of Australia                            | Yes                    | AA-          | 8,000                 | 9,000                | 20%             | 10.8%          |            |
| Credit Union Australia                                    | No                     | BBB          | 4,100                 | 4,100                | 10%             | 4.9%           |            |
| Defence Bank Ltd  | No                     | BBB          | 4,500                 | 4,500                | 10%             | 5.4%           |            |
| Greater Bank Limited                                      | No                     | BBB          | 2,000                 | 2,000                | 10%             | 2.4%           |            |
| Heritage Bank   | No                     | BBB+         | 2,000                 | 2,000                | 10%             | 2.4%           |            |
| ME Bank   | No                     | BBB          | 1,750                 | 5,750                | 10%             | 6.9%           |            |
| My State Bank Ltd   | No                     | BBB+         | 6,500                 | 4,500                | 10%             | 5.4%           |            |
| Newcastle Permanent Bld Society                           | No                     | BBB          | 4,700                 | 4,700                | 10%             | 5.6%           |            |
| Teachers Mutual Bank Limited                              | No                     | BBB          | 1,700                 | 1,700                | 10%             | 2.0%           |            |
| Westpac Banking Corporation                               | Yes                    | AA-          | 9,000                 | 7,000                | 20%             | 8.4%           | <b>98%</b> |
| <b>Total</b>  |                        |              | <b>87,038</b>         | <b>83,538</b>        |                 | <b>100%</b>    |            |
| <b>Credit Rating Summary as per the Investment Policy</b> |                        |              |                       |                      |                 |                |            |
|   | <b>Maximum Allowed</b> |              | <b>Value</b>          | <b>Value</b>         | <b>%</b>        | <b>%</b>       |            |
|   | <b>%</b>               | <b>Value</b> | <b>Previous</b>       | <b>Current</b>       | <b>Previous</b> | <b>Current</b> |            |
| A- or Higher  | 100%                   | 83,538       | 51,500                | 46,500               | 59%             | 56%            |            |
| BBB   | 60%                    | 50,123       | 35,538                | 37,038               | 41%             | 44%            |            |
| Total   |                        |              | 87,038                | 83,538               | 100%            | 100%           |            |

### B. Summary of Investments Fossil Fuel Aligned

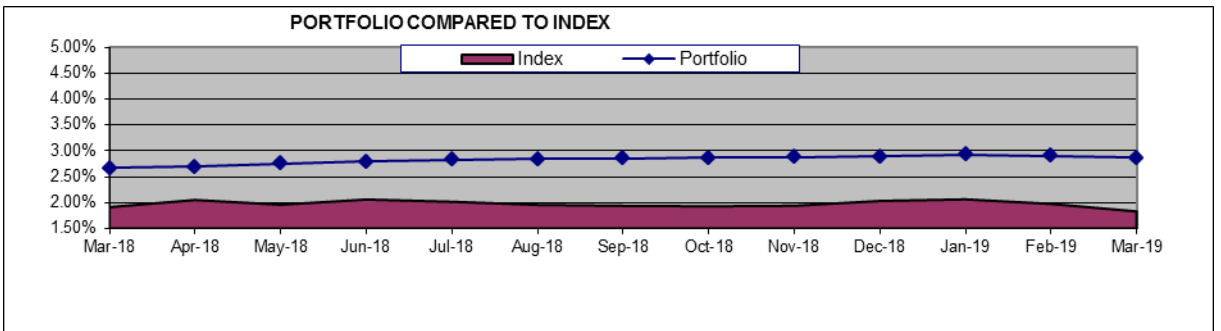
|                                | Previous Month        | Current Month         |
|--------------------------------|-----------------------|-----------------------|
| <b>Fossil Fuel Aligned</b>     | 53,288<br><b>61%</b>  | 48,288<br><b>58%</b>  |
| <b>Non-Fossil Fuel Aligned</b> | 33,750<br><b>39%</b>  | 35,250<br><b>42%</b>  |
| <b>Not Classified</b>          | 0<br><b>0%</b>        | 0<br><b>0%</b>        |
| <b>Total</b>                   | 87,038<br><b>100%</b> | 83,538<br><b>100%</b> |

Classification based on advice from 'Market Forces'.

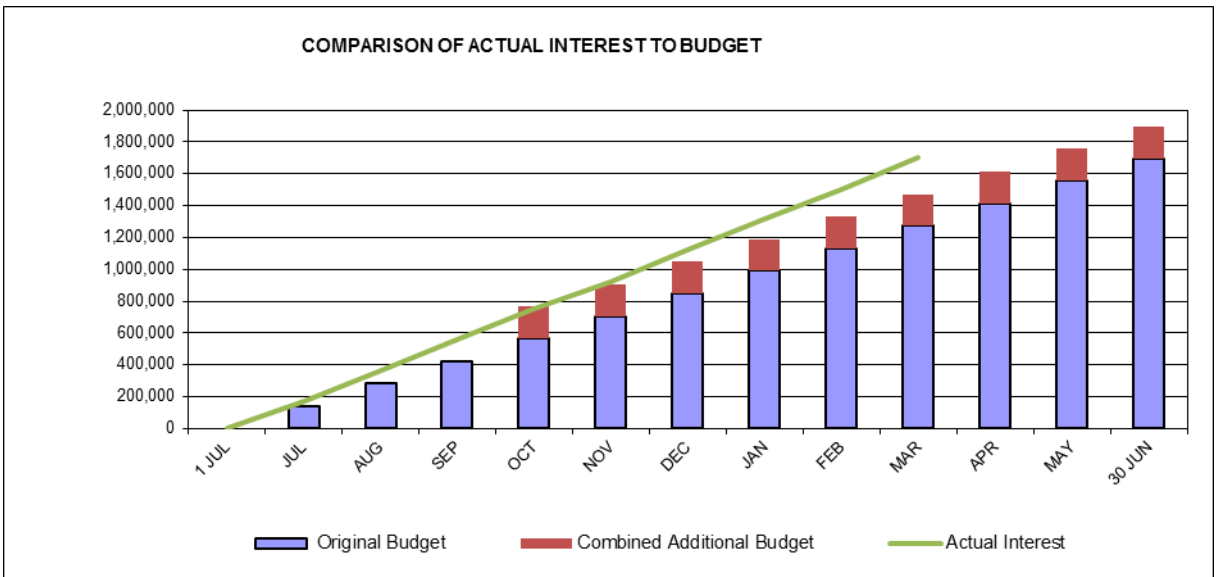
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



## 9.1 Investment Summary - March 2019

### F. Investments held as at 31 March 2019

| PURCH DATE                        | ISSUER                               | TYPE                     | RATE  | NEXT MATURITY | PURCH VALUE \$'000 | FAIR VALUE \$'000 |
|-----------------------------------|--------------------------------------|--------------------------|-------|---------------|--------------------|-------------------|
| 28/02/19                          | Commonwealth Bank of Australia       | TD                       | 2.25% | 01/04/19      | 4,000              | 4,000             |
| 02/07/18                          | Teachers Mutual Bank Limited         | FRN                      | 3.45% | 02/04/19      | 700                | 703               |
| 10/07/18                          | Defence Bank Ltd                     | TD                       | 2.90% | 09/04/19      | 1,000              | 1,000             |
| 11/01/19                          | Commonwealth Bank of Australia       | FRN                      | 3.19% | 11/04/19      | 1,000              | 1,011             |
| 26/02/19                          | BankWest                             | TD                       | 2.55% | 24/04/19      | 4,000              | 4,000             |
| 26/07/16                          | Commonwealth Bank of Australia       | FRN                      | 3.13% | 26/04/19      | 1,000              | 1,000             |
| 31/07/18                          | Westpac Banking Corporation          | FRN                      | 3.00% | 30/04/19      | 1,000              | 1,000             |
| 31/07/18                          | Westpac Banking Corporation          | FRN                      | 3.00% | 30/04/19      | 1,000              | 1,000             |
| 03/08/17                          | Westpac Banking Corporation          | FRN                      | 3.09% | 03/05/19      | 2,000              | 2,000             |
| 06/09/18                          | Newcastle Permanent Bld Society      | FRN                      | 3.42% | 06/05/19      | 1,000              | 1,001             |
| 06/02/18                          | Newcastle Permanent Bld Society      | FRN                      | 3.42% | 06/05/19      | 700                | 701               |
| 08/02/19                          | Westpac Banking Corporation          | FRN                      | 3.06% | 08/05/19      | 2,000              | 2,000             |
| 06/03/19                          | ME Bank                              | TD                       | 2.50% | 07/05/19      | 4,000              | 4,000             |
| 09/11/17                          | ME Bank                              | FRN                      | 3.24% | 09/05/19      | 750                | 753               |
| 07/08/18                          | BankWest                             | TD                       | 2.80% | 14/05/19      | 4,000              | 4,000             |
| 20/09/04                          | National Australia Bank (ASX Listed) | FRN                      | 3.19% | 15/05/19      | 1,788              | 1,601             |
| 18/08/17                          | Westpac Banking Corporation          | FRN                      | 2.99% | 20/05/19      | 1,000              | 1,000             |
| 21/02/19                          | Newcastle Permanent Bld Society      | FRN                      | 2.94% | 21/05/19      | 2,000              | 2,000             |
| 22/02/19                          | Newcastle Permanent Bld Society      | FRN                      | 2.94% | 22/05/19      | 1,000              | 1,000             |
| 14/08/18                          | BankWest                             | TD                       | 2.81% | 21/05/19      | 4,000              | 4,000             |
| 24/02/17                          | Greater Bank Limited                 | FRN                      | 3.34% | 24/05/19      | 1,000              | 1,001             |
| 30/08/16                          | Greater Bank Limited                 | FRN                      | 3.42% | 30/05/19      | 1,000              | 1,002             |
| 06/03/19                          | Credit Union Australia               | FRN                      | 3.13% | 06/06/19      | 600                | 603               |
| 26/03/19                          | Commonwealth Bank of Australia       | TD                       | 2.38% | 04/07/19      | 1,000              | 1,000             |
| 10/09/18                          | AMP Bank                             | FRN                      | 2.94% | 11/06/19      | 1,500              | 1,498             |
| 17/06/16                          | Commonwealth Bank of Australia       | FRN                      | 2.89% | 17/06/19      | 1,000              | 1,000             |
| 27/06/18                          | Heritage Bank                        | TD                       | 3.05% | 24/06/19      | 2,000              | 2,000             |
| 29/06/17                          | Teachers Mutual Bank Limited         | FRN                      | 3.19% | 28/06/19      | 1,000              | 1,005             |
| 30/06/16                          | Commonwealth Bank of Australia       | FRN                      | 2.81% | 30/06/19      | 1,000              | 1,000             |
| 05/02/19                          | Bendigo & Adelaide Bank              | TD                       | 2.80% | 06/08/19      | 3,000              | 3,000             |
| 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             |
| 11/03/19                          | AMP Bank                             | TD                       | 2.80% | 11/09/19      | 1,000              | 1,000             |
| 13/03/19                          | Auswide Bank                         | TD                       | 2.85% | 17/09/19      | 1,000              | 1,000             |
| 26/03/19                          | My State Bank Ltd                    | TD                       | 2.70% | 26/09/19      | 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             |
| 19/02/19                          | AMP Bank                             | TD                       | 2.85% | 19/11/19      | 2,000              | 2,000             |
| 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             |
| 15/01/19                          | My State Bank Ltd                    | TD                       | 2.86% | 15/01/20      | 1,000              | 1,000             |
| 12/02/19                          | Beyond Bank                          | TD                       | 2.81% | 11/02/20      | 2,000              | 2,000             |
| <b>Totals</b>                     |                                      |                          |       |               | <b>83,538</b>      | <b>83,379</b>     |
| CDA = Cash Deposit Account        |                                      | FRN = Floating Rate Note |       |               |                    |                   |
| FRTD = Floating Rate Term Deposit |                                      | TD = Term Deposit        |       |               |                    |                   |

**RECOMMENDATION**

That Council notes the record of banking and investments for March 2019.

**Attachment(s)**

Nil

## 9.2 Capital Expenditure - 31 March 2019 Review

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### 9.2 Capital Expenditure - 31 March 2019 Review

**Delivery Program** Financial Services

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

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#### **Background**

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

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 third report for 2018/19 and outlines work undertaken to 31 March 2019.

#### **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 projects can be delivered over a number of financial years, this column identifies the total project value which may include expenditure from previous financial years or estimated expenditure for 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 March 2019 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 31 March 2019 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones.
- Status - Allows additional comments to be provided.

## 9.2 Capital Expenditure - 31 March 2019 Review

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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)***

Playground Equipment – Ocean Breeze – The construction of Hutley Drive north means that this project will need to be deferred until the end of that work to ensure the final design and layout of the playground is compatible with the road network.

Pop Denison Master Plan – With Council receiving grant funds of \$252,000 for this project the scope of works has been expanded and tenders now need to be called. Funding is being deferred to 2019/20.

Wollongbar Sports Fields – With Council receiving grant funds of \$400,000 for this project, 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 2019/20.

Skennars Head Sports Fields Expansion – With Council having \$990,000 in grant funds confirmed the successful tenderer has been appointed by Council. Based on forecast cash flows \$2m has been transferred to 2019/20.

Lighting – Williams Reserve and Saunders Oval – As per the report later in this agenda titled Tender – Sports Field Lighting, the scope of works for these projects has significantly increased, as well as the budget.

Additional funding recommended is the \$26,000 transfer from the Open Spaces Crown Reserve monies (as per the Open Spaces and Reserves Section of the attachment), \$252,900 from an internal Open Spaces reserve, \$35,000 from the Ballina Touch Football Association and the balance of \$55,100 from operational savings. For further information refer to the Tender report.

### ***Waste Management (attachment one)***

Various – Replacement of the roof on the transfer station has been deferred to 2019/20 whereas the other adjustments largely represent savings with the funds transferred back to reserve.

### ***Environmental and Public Health (attachment one)***

Shaws Bay – Compton Drive and Eastern Arm – Balance of expenditure will focus on amenity improvements such as shelters, seating and shade trees.

### ***Community Facilities (attachment two)***

Lennox Head Community Centre (LHCC) – Refurbishment – Council has 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.



An amount of \$160,000 has been deferred to 2019/20 as the entire project will take place during that financial year.

ALEC – Improvements – Similar to the LHCC based on forecast cash flows \$81,000 has been deferred to 2019/20.

### ***Operations Support (attachment two)***

Killen Falls – Public Amenities – This project is now well advanced.

### ***Commercial Services (attachment three)***

Airport – Council approved variations to this works program at the March 2019 Finance Committee meeting. The terminal project remains the main focus for 2018/19 with works well advanced.

Property Development – Wollongbar Stage 3 – Council approved variations to the forecast cash flows for this project at the March 2019 Finance Committee meeting. It has now been necessary for Council to pay contributions for shared infrastructure which results in additional cash outlays for this financial year. The amended budget reflects those cash outlays.

### ***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.

The two tender reports included elsewhere in this agenda for Angels Beach Drive Sewer Rising Main Relining and Under-boring Recycled Water Main also require budget increases and funding allocated in 2019/20. For further information refer to the Tender reports.

### ***Engineering Works (attachment six)***

#### ***Stormwater***

Includes funding transfers based on actual and forecast expenditure with no net change to the overall budget.

#### ***Urban and Rural Roads***

Airport Boulevard, Lake Ainsworth Precinct, River Street Beautification – Based on forecast cash flows \$1m for each project is transferred to 2019/20.

#### ***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. The tender for the Coastal Shared Path is included later in this agenda which should allow construction works to commence this financial year.

## 9.2 Capital Expenditure - 31 March 2019 Review

Footpaths and Shared Paths - Includes funding transfers based on actual and forecast expenditure with no net change to the overall budget.

### Summary

As per the following table, even with the deferrals recommended in this report there is still an extremely high level of capital expenditure forecast for 2018/19 totalling approximately \$44m with 52% expended.

### Capital Works Summary – 31 March 2019 (\$'000)

| Section              | Budget (\$)       | Cash Expenditure (\$) | Percentage Expended |
|----------------------|-------------------|-----------------------|---------------------|
| Open Spaces          | 2,015,600         | 457,700               | 23                  |
| Waste                | 100,500           | 100,500               | 100                 |
| DEHG                 | 129,000           | 60,100                | 47                  |
| Operations Support   | 8,405,700         | 4,634,500             | 55                  |
| Community Facilities | 2,894,800         | 673,300               | 23                  |
| Commercial Services  | 11,113,100        | 5,478,900             | 49                  |
| Information Services | 131,500           | 117,600               | 89                  |
| Water                | 1,933,100         | 1,142,000             | 59                  |
| Wastewater           | 4,271,200         | 3,138,000             | 73                  |
| Engineering Works    | 13,488,400        | 7,466,100             | 55                  |
| <b>Total</b>         | <b>44,482,900</b> | <b>23,268,700</b>     | <b>52</b>           |

A number of the large projects are being undertaken through external contracts (Ballina Indoor Sports Centre, Skennars Head Sports Fields, Airport Terminal, Coastal Shared Path, Wastewater Mains etc) and the final expenditure for the year will be heavily dependent on how advanced those projects are at year end.

### 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   |
|---|----------------|----------------|-------------|---|
| <b>Open Spaces and Reserves</b>         |                |                |             |   |
| Crown Reserve Improvements              | 26,000         | 0              | (26,000)    | Transfer to sports field lighting projects  |
| Ocean Breeze Reserve Playground         | 90,000         | 0              | (90,000)    | Transfer to 2019/20   |
| Pop Denison                             | 556,100        | 156,100        | (400,000)   | Transfer to 2019/20 based on project timing   |
| Wollongbar Sports Fields                | 400,000        | 200,000        | (200,000)   | Transfer to 2019/20 based on project timing   |
| Williams Reserve Lighting               | 141,000        | 414,000        | 273,000     | Funded from \$26,000 Crown Reserve plus \$247,000 from internal open spaces reserve   |
| Saunders Oval Lighting                  | 140,000        | 236,000        | 96,000      | Funded from \$5,900 from internal open spaces reserve, \$35,000 contribution from Ballina Touch Ass and \$55,100 from operational savings for open spaces |
| <b>Waste Management</b>                 |                |                |             |   |
| Landfill Improvements                   | 100,000        | 3,800          | (96,200)    | Works cancelled – transfer back to reserve  |
| Landfill Levy Works                     | 200,000        | 0              | (200,000)   | Transfer to 2019/20   |
| Transfer Station - Improvements         | 91,100         | 70,300         | (20,800)    | Surplus – transfer back to reserve  |
| Transfer Station - Security Cameras     | 12,500         | 10,400         | (2,100)     | Surplus – transfer back to reserve  |
| Transfer Station - Signage              | 13,400         | 16,000         | 2,600       | Transfer from reserve based on expenditure  |
| <b>Community Facilities</b>             |                |                |             |   |
| LHCC – Refurbishment                    | 187,4000       | 27,400         | (160,000)   | Transfer to 2019/20   |
| ALEC - Improvements                     | 281,000        | 81,000         | (200,000)   | Transfer to 2019/20   |
| BISC Construction                       | 8,640,000      | 7,140,000      | (1,500,000) | Transfer to 2019/20 based on cash flows   |
| <b>Commercial Services – Property</b>   |                |                |             |   |
| WUEA – Stage 3                          | 168,700        | 800,000        | 631,300     | Based on forecast expenditure. Funded from property development reserves and loans  |
| <b>Water</b>                            |                |                |             |   |
| Main Renewals - Recurrent               | 646,000        | 446,000        | (200,000)   | Saving – transfer back to reserve   |
| Telemetry Ethernet                      | 473,100        | 373,100        | (100,000)   | Transfer to 2019/20   |
| Water Network Master Plan               | 150,0000       | 10,000         | (140,000)   | Transfer to 2019/20   |
| Pumping Station – Basalt Court Booster  | 330,000        | 0              | (330,000)   | Transfer to 2019/20   |
| Pumping Station – East Ballina Booster  | 350,000        | 15,000         | (335,000)   | Transfer to 2019/20   |
| Trunk Main – East Ballina Booster       | 400,000        | 50,000         | (350,000)   | Transfer to 2019/20   |
| Trunk Mains – Greenfield Connections    | 80,000         | 40,000         | (40,000)    | Saving – transfer back to reserve   |
| Treatment Plant – Marom Creek – Upgrade | 200,000        | 100,000        | 5,000       | Transfer to 2019/20   |
| <b>Wastewater</b>                       |                |                |             |   |
| Chickiba Rising Main Renewal            | 475,000        | 525,000        | 50,000      | Revised budget  |
| Main Renewals                           | 358,000        | 308,000        | (50,000)    | Transfer to Chickiba  |

## 9.2 Capital Expenditure - 31 March 2019 Review

|   |           |         |             |                          |
|---|-----------|---------|-------------|--------------------------|
| Pump Station - Skennars Hd/Tara                       | 400,000   | 50,000  | (350,000)   | Transfer to 2019/20      |
| Well Protection - Swift Street                        | 350,000   | 10,000  | (340,000)   | Transfer to 2019/20      |
| Pump Station - Swift Street                           | 192,000   | 182,000 | (10,000)    | Savings                  |
| Wardell - Scada                                       | 146,700   | 11,700  | (135,000)   | Savings                  |
| Ballina - Septic Receival                             | 90,000    | 0       | (90,000)    | Transfer to 2019/20      |
| Ballina - Contaminated Vac Ex Waste                   | 5,000     | 2,000   | (3,000)     | Savings                  |
| Alstonville - Scada                                   | 356,000   | 395,000 | 39,000      | Revised budget           |
| Alstonville - Master Plan                             | 290,000   | 70,000  | (220,000)   | Transfer to 2019/20      |
| Lennox - EAT Decanters                                | 100,000   | 0       | (100,000)   | Savings                  |
| Lennox - Membrane                                     | 300,000   | 0       | (300,000)   | Transfer to 2019/20      |
| Gravity Main Alstonville                              | 700,000   | 580,000 | (120,000)   | Savings                  |
| Plant Changeovers                                     | 302,500   | 237,500 | (65,000)    | Savings                  |
| Wastewater Master Plan                                | 150,000   | 15,000  | (135,000)   | Transfer to 2019/20      |
| Lennox - Recycled Water Quality                       | 120,000   | 0       | (120,000)   | Savings                  |
| Lennox Palms Estate - Reticulation Mains              | 197,000   | 249,000 | 52,000      | Revised budget           |
| Lennox to Angels Drive - Main                         | 300,000   | 650,000 | 350,000     | Revised budget           |
| Hydrant Installations                                 | 30,000    | 10,000  | (20,000)    | Savings                  |
| Recycled Water Bulk Service Connections               | 25,000    | 15,000  | (10,000)    | Savings                  |
| Alstonville Recycled                                  | 10,000    | 0       | (10,000)    | Savings                  |
| <b>Engineering Works – Stormwater</b>                 |           |         |             |                          |
| Moon Street (Tamar Street to Holden Lane)             | 80,000    | 15,000  | (65,000)    | Offset for increases     |
| Urban Stormwater Management Plan                      | 23,000    | 0       | (23,000)    | Offset for increases     |
| Kerr Street (Tamar St to Richmond River)              | 10,000    | 98,000  | 88,000      | Revised estimate         |
| Burns Point Ferry Road (Tidal Gates)                  | 24,600    | 59,600  | 35,000      | Revised estimate         |
| Tidal Gates   | 51,000    | 16,000  | (35,000)    | Offset for increases     |
| <b>Engineering Works – Roads and Bridges</b>          |           |         |             |                          |
| Airport Boulevard                                     | 1,446,900 | 446,900 | (1,000,000) | Defer to 2019/20         |
| Lake Ainsworth  | 1,783,000 | 783,000 | (1,000,000) | Defer to 2019/20         |
| River Street  | 1,700,000 | 700,000 | (1,000,000) | Defer to 2019/20         |
| <b>Engineering Works – Footpaths and Shared Paths</b> |           |         |             |                          |
| Chickiba Drive, Ballina                               | 23,500    | 0       | (23,500)    | Offset adjustments below |
| Alston Avenue, A'ville                                | 24,300    | 2,000   | (22,300)    | Offset adjustments below |
| Southern Cross Drive                                  | 64,000    | 74,600  | 10,600      | Revised estimate         |
| Crane Street (Martin)                                 | 10,000    | 11,300  | 1,300       | Revised estimate         |
| Kalinga Street,                                       | 100,000   | 107,100 | 7,100       | Revised estimate         |
| Cherry Street, Ballina                                | 86,000    | 90,500  | 4,000       | Revised estimate         |
| Crane Street, Ballina                                 | 18,000    | 25,600  | 7,600       | Revised estimate         |
| Links Avenue, Ballina                                 | 25,000    | 39,700  | 14,700      | Revised estimate         |

### 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

### **9.3 Delivery Program and Operational Plan - 31 March 2019 Review**

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#### **9.3 Delivery Program and Operational Plan - 31 March 2019 Review**

**Delivery Program**      Communications

**Objective**              To complete the third quarterly review of the implementation of the 2018/19 Delivery Program and Operational Plan.

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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 third 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 March 2019 (nine months) representing the first three quarters of the 2018/19 financial year.

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

### 9.3 Delivery Program and Operational Plan - 31 March 2019 Review

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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.

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 | C&C       | Civil     | PEH       | Total      |
|----------------|-----------|-----------|-----------|------------|
| Green          | 35        | 36        | 33        | 104        |
| Amber          | 3         | 5         | 3         | 11         |
| Red            | 0         | 0         | 0         | 0          |
| <b>Total</b>   | <b>38</b> | <b>41</b> | <b>36</b> | <b>115</b> |

#### Program Actions Overview - By Percentage

| Group / Status | C&C        | Civil      | PEH        | Total      |
|----------------|------------|------------|------------|------------|
| Green          | 92         | 88         | 92         | 90         |
| Amber          | 8          | 12         | 8          | 10         |
| Red            | 0          | 0          | 0          | 0          |
| <b>Total</b>   | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> |

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

- Support Aboriginal employment (number and percentage of Aboriginal Employees) (page 4) – Proactive engagement with local schools has seen the number of indigenous employees increase.
- Enhance sporting field facilities (page 5) – Work is about to commence on the expansion of the Skennars Head Sports Fields.
- Deliver an indoor sports centre (page 5) – This construction contract is well advanced with the centre scheduled to be open during the last quarter of calendar year 2019.
- Participate in and leverage opportunities to market the Ballina Coast and Hinterland (page 6) – A co-operative marketing commitment of over \$100,000 is an excellent result for Council's tourism publication.
- Participate in the Roads and Maritime Services Location Marker Program for Ballina (page 7) – This program now seems to be advancing with the State Government changing the overall signage, however they still intend to deliver location markers for bypassed towns.
- Progress Lennox Head Town Centre Village Renewal for completion by December 2021 (page 7) – This trial commenced during the quarter.
- Implement Ballina – Byron Gateway Airport upgrades (page 8) – The terminal expansion is well advanced and tracking well.
- Progress delivery of Hutley Drive - northern section (page 10) – The planning application was lodged during this quarter for the construction of this road extension.

### 9.3 Delivery Program and Operational Plan - 31 March 2019 Review

- Reduce the volume of unaccounted water (page 14) – The figure for this quarter is 15.9%. During the reporting quarter, a recurring data extraction and reporting error was identified that affected the last five reporting quarters. While the overall downward trend in percentage that has been reported previously is still in evidence, the actual percentage result of unaccounted water has been higher than reported over this time period.

The source of the error has now been identified, and controls have been put in place to prevent its recurrence.

These controls include a cross check between water consumption and billing data, as well as a cross check with data extracted from Council's SCADA system.

The option of incorporating metered standpipe reads, as well as the drinking water top up of recycled water into Authority is also being investigated.

This would reduce the number of information sources to be interrogated to report this result, and reduce the opportunities for error in the process.

Provision of more timely data for the bulk water filling points is also being sought from Rous County Council, to allow greater time for cross-checks.

In respect to the Service Delivery Indicators there are a total of 93 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     | C&C       | Civil     | PEH       | Total     |
|--------------------|-----------|-----------|-----------|-----------|
| Green              | 29        | 26        | 20        | 75        |
| Amber              | 7         | 5         | 3         | 15        |
| Red                | 2         | 0         | 1         | 3         |
| <b>Total Tasks</b> | <b>38</b> | <b>31</b> | <b>24</b> | <b>93</b> |

#### Service Delivery Indicators Overview - By Percentage

| Group / Status          | C&C        | Civil      | PEH        | Total      |
|-------------------------|------------|------------|------------|------------|
| Green                   | 76         | 84         | 83         | 81         |
| Amber                   | 18         | 16         | 13         | 16         |
| Red                     | 5          | 0          | 4          | 3          |
| <b>Percentage Total</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> |

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 23) - 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.

- Community Facilities (pages 25 and 26) – A number of the library indicators are continuing to trend lower, whereas some of our facilities are having significant growth in usage levels. The swimming pool attendance numbers are well in excess of forecast.

#### **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 March 2019 review of the implementation of the 2018/19 Delivery Program and Operational Plan.

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

1. Delivery Program and Operational Plan - 31 March 2019 Review (Under separate cover)



## **10.1 Lake Ainsworth - Bus / Trailer Parking**

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### **10. Civil Services Division Reports**

#### **10.1 Lake Ainsworth - Bus / Trailer Parking**

**Delivery Program**      Engineering Works

**Objective**              To seek Council's consideration of Bus / Trailer Parking in the Lake Ainsworth Precinct.

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#### **Background**

Car parking within Lennox Head is experiencing an ongoing increase in demand, particularly during school holiday times. To assist in the operation of their businesses, Surf School operators have requested provision of a dedicated parking area for bus/trailer combinations (as used by surf schools) in the car park immediately south of the Lennox Head Surf Club to help manage this issue.

The matter was referred to the Local Traffic Committee (LTC) on 13 February 2019. From a technical perspective, the LTC was able to support the request, however the determination of the merits of allocating public parking space to certain dedicated businesses is a matter for Council, not the LTC.

Notice was provided to Councillors of the LTC assessment and an invitation made to Councillors to request a report if they would like the assessment to be debated by Council.

Councillor Meehan has requested a report which is provided below.

#### **Key Issues**

- Public car parking amenity
- Residential amenity
- Support for licensed commercial operators

#### **Information**

Currently, the road east of Lake Ainsworth provides access for surf school vehicles to park informally north of the Lennox Head Surf Club. These areas will no longer be available for parking when the eastern road is closed.

A representative of Mojo Surf has advised of concerns for the future of surf school vehicle parking and has requested provision of a dedicated parking space for bus/trailer combinations (as used by surf schools) in the parking area immediately south of the Lennox Head Surf Club opposite Ross Street.

The proposed location of the parking space is illustrated in Attachment 1 to this report.

Attachment 2 is a photograph of a typical bus/trailer configuration used by the surf schools.

## 10.1 Lake Ainsworth - Bus / Trailer Parking

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The contention from Mojo Surf and several other surf school operators (licensed by Council to operate surf schools from the coastal reserve) is that they have difficulty locating roadside areas where they can park.

It is understood that the beach near the surf club is preferred due to the beach / sandbank/wave configuration, availability of amenities for customers and the adaptable configuration of the car parking area for long vehicle/trailer combinations.

Attachment 3 provides copies of submissions from Byron Bay Coaches, Soul Surf School, Mojo Surf and a local resident.

The resident submission expresses concerns about surf bus parking in the area and seeks Council to review the situation.

Mojo Surf is concerned in the absence of suitable parking in this area, surf schools are often compelled to park in front of residential property which can cause conflict with residents.

Other alternative areas for surf school operation have been discussed.

These include:

- North of the Lake Ainsworth Sports & Recreation Centre, off Camp Drewe Road
  - Sand bank/wave conditions considered unsafe most times
  - No amenities
- Sharpes Beach
  - Uncontrolled parking can result in bus/trailer being trapped and unable to exit area
- Flatrock
  - Bike path has inhibited bus/trailer being able to turn around
  - Area is not easily adaptable for bus/trailer parking or turning movements

Council's Planning and Environmental Health Division manages parking compliance and supports the provision of a parking area for long vehicles / trailers in the parking area south of the Lennox Head Surf Club due to the limited availability of suitable sites for these vehicles.

There is concern that if a dedicated "long vehicle" or "vehicle with trailer only" space is made available, that it will be used by caravan park residents for overflow car/boat trailer parking outside of the caravan park.

"Bus Parking Only" is therefore the preferred option.

NSW Road Rules define a "bus" as "a motor vehicle built mainly to carry people that seats over 12 adults including the driver".

Advice from the Soul Surf School is that all the operators have minimum 13 seat buses.

## 10.1 Lake Ainsworth - Bus / Trailer Parking

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It is proposed that a “P, Bus and Bus/Trailer Only” linear parking control be established in the parking area south of the Lennox Head Surf Club, taking up two existing car spaces, as designated in the attachment to this report.

This parking use restriction can also be time limited for daylight/business hours (e.g. 7AM – 5PM) which would enable the parking space to be available for general use in the early morning or evening.

### Sustainability Considerations

- **Environment**  
Not Applicable

- **Social**  
The provision of a designated bus parking/trailer area will result in some loss of amenity for people wishing to access the coastal reserve as two standard car parks will be sacrificed.

However, the proposal does represent an increase in amenity for adjacent residents who may feel frustrated with these commercial vehicles parking in front of their properties. Surf schools also provide social engagement opportunities for residents and visitors.

- **Economic**  
Inadequate parking availability will result in increased pressure on licensed surf schools which are a tourism industry operating in Ballina Shire.

### Legal / Resource / Financial Implications

A change to parking regulations requires concurrence from the LTC. Pending the endorsement from Council, the LTC has resolved to support the provision of a dedicated parking area for bus/trailer combinations.

### Consultation

No formal consultation has taken place. However, a number of submissions have been received from residents and commercial operators.

### Options

The options available are:

1. To leave the existing parking arrangements in place; or
2. To accept the proposal to provide a dedicated parking area for bus/trailer combinations, with the option of applying time restrictions, in the parking area south of the Lennox Head Surf Club.
3. To examine other options for parking a bus / trailer. For example it may be possible to allocate spaces further away from the existing parking.

The concern in respect to allocating public parking space in the Coastal Reserve to certain businesses is acknowledged.

## **10.1 Lake Ainsworth - Bus / Trailer Parking**

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The potential loss of parking is two spaces during business hours.

The recommendation to this report is option two (to proceed with the proposal) as on balance the loss of public parking reduces the risks associated with Surf Schools seeking to park in other areas, including adjacent to residential properties.

Option three could be followed up if Council does not support option two.

### **RECOMMENDATION**

That Council approves a “P, Bus and Bus/Trailer Only” linear parking control, with the option of time restrictions, to be implemented in the parking area south of the Lennox Head Surf Club, taking up two existing car spaces, at the eastern end of Ross Street as outlined in Attachment 1 to this report.

### **Attachment(s)**

1. Aerial Imagery - Proposed Bus / Trailer Parking Area
2. Photograph - Bus / Trailer Occupying Proposed Space
3. Submissions Received

## 10.2 Tender - Sports Field Lighting

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### 10.2 Tender - Sports Field Lighting

**Delivery Program** Open Spaces and Reserves

**Objective** To assess the tenders submitted for the provision of design, supply and installation of sports field lighting

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#### **Background**

Sports field lighting upgrades are key renewal projects identified to provide for the growing sporting needs of the community and identified as a strategic action in the Delivery Program.

The Saunders Oval lighting upgrade works are included in the capital works program for 2018/19 with supporting funding being provided by Ballina Touch Football Club and the NSW Office of Sport through the Local Sport Grant program.

Williams Reserve had been identified in the Delivery Program for inclusion in the 2020/21 capital works program however to match the award of grant funding from the Stronger Country Communities Fund and Public Reserve Management Fund, this project has now been added to the current capital works program.

The Hutley Drive sports fields in Lennox Head are listed for installation of sports field lighting in the Delivery Program for the 2019/20 financial year.

A public tender for the design, supply and installation for these sports field lighting projects was advertised from 8 January 2019. The tender requested priced options for both LED and metal halide lighting systems with 10 year warranty requirements and 10 year lifecycle costs to enable evaluation of the best value for money system.

The Hutley Drive sports field project was included in the tender as a separate milestone to be carried out in the upcoming financial year subject to adoption of the capital works budget.

The tender closed on 11 February 2019. The tender submissions received through the public tender process form the subject for this report.

#### **Key Issues**

- Tender assessment
- Value for money
- Regulatory Compliance

#### **Information**

Tender submissions were received from five companies. A submission received from Precision Lighting and Electrical Service Pty Ltd was deemed non-compliant in the initial assessment by the tender evaluation panel.

## 10.2 Tender - Sports Field Lighting

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Compliant tender submissions were received from:

- Coughran Electrical Services Pty Ltd
- Alan Kneale Electrical Pty Ltd
- JLE Electrical and
- REES Electrical Pty Ltd.

The compliant submissions provide lump sums for the three milestones within the tendered contract being for Saunders Oval, Williams Reserve and Hutley Drive.

Based on tender prices, the current projected budget for Hutley Drive Sports Fields will not be sufficient to complete the third milestone.

The tender values provided with the tenders will be used to develop the capital works budget for this project in future delivery programs.

In order to accurately evaluate the tenders for the works to be completed the prices tendered for milestone three have been excluded from the final tender evaluation.

The request for tender specified a 10 year warranty of the lighting systems.

The additional cost to extend standard warranty for some of the tendered systems was inconsistent and required further clarification from tenderers. The additional costs provided were added to the originally tendered lump sums for those products to enable proper evaluation of all tenders.

Only two of the four tenders provided both metal halide and LED lighting options with their submissions.

Industry feedback received during development of the tender documents also indicated many sports field lighting companies are either no longer producing metal halide lighting systems or have reduced their support for them.

The warranty periods and terms provided with the metal halide systems tendered are at reduced standards.

Evaluation of the tenders for both metal halide and LED has been completed to allow a direct comparison between the systems on both price and weighted criteria.

The price difference between metal halide and LED is not as large as it has been in the past. When the additional cost associated with extending the warranty of metal halide systems to be consistent with the level provided with the tendered LED systems, there is very little between the prices.

There is a preference for the installation of LED lighting systems in the upgrade of sporting facilities due to the reported reductions in power consumption, maintenance costs, environmental outcomes and the additional management options available. Historically, the significantly higher capital costs have prohibited the installation of LED lighting systems.

Based on the current price difference between the lighting options and analysis of the long term risks and benefits of each system, the installation of LED sports field lighting over metal halide is recommended.

Information regarding the pricing and budget implications of the evaluation has been provided in a separate confidential memorandum to Councilors. The reason for the confidential advice is it contains commercial information.

### **Sustainability Considerations**

- **Environment**

The design and planning for the works have been developed to manage impact on the environment. Tender submissions demonstrated suitable experience and systems to ensure best practice environmental management practices will be carried out during construction works. Compliance with Australian Standards for sports field lighting regarding maintained light levels and light spill must be achieved in construction and maintenance of the lighting systems.

Design documentation indicates LED lighting systems can provide a 60% reduction in greenhouse gas emissions.

- **Social**

Provision of the new facilities will enhance the sporting facilities within the Shire; increasing the usable space and safety for sports participants, spectators and general community.

- **Economic**

The additional lighting will improve the available playing areas for larger competition events to be held in the Shire, attracting visitors that will support local business development.

Efficient lighting systems will also reduce electrical service and maintenance costs with savings of \$15,000 in power consumption identified over a 10 year period using LED lights instead of metal halide.

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

Council has undertaken a public tender process in accordance with the Local Government (General) Regulations 2005. The highest ranked tender has priced the work at \$649,415.00 (ex GST).

The original estimates for sportsfield lighting at Saunders Oval were based on the provision of a standard football field, typically consisting of a four pole system. The detailed design to achieve compliance with Australian Standards on three touch football fields identified a requirement for eight poles, which significantly increased the cost of the project at this location over an expanded field footprint.

## 10.2 Tender - Sports Field Lighting

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Williams Reserve lighting was identified as a capital project adopted by Council to be undertaken in 2020/21, with no funds allocated for works this financial year. Funding was obtained under Stronger Country Communities Round 1 for \$62,000 based on information provided by Lennox Head Rugby for the provision of an additional two poles to improve lighting, however there were concerns over the ability of the proposed system to achieve compliance and uniformity in addition to integrating with an existing ageing lighting system.

Council was successful in obtaining an additional \$79,000 under the 2018/19 Crown Reserve Improvement Fund, based on the opportunity to install an upgraded and expanded lighting system for the whole of Williams Reserve.

The current Council budget for Saunders Oval is \$140,000 and for Williams Reserve it is \$141,000 which includes the \$79,000 in State Government grant funds. Council also has \$26,000 available for capital works on Crown Reserves in the Open Spaces budget, with both these facilities being Crown Reserves. In addition to this the Ballina Touch Football Club has agreed to contribute \$35,000 to the Saunders Oval project.

This means Council has funding available of \$342,000.

Council maintains a sports field reserve which is available to fund capital expenditure on sports fields. The current balance of the reserve is \$252,900 with this reserve being built up through savings in operations and capital projects. It is recommended that these reserve funds be used to supplement the existing budget to complete the tendered works.

The remaining \$55,000 (approx.) shortfall will then be funded through savings in the open space operations budget for 2018/19.

### Consultation

The scope of works has been determined through consultation with representatives of local sporting clubs and sports field lighting professionals. A public tender process has been carried out.

Key stakeholders from sporting groups have been involved in the initial design scope and estimations for the project and will continue to be engaged in finalisation of project program so that works can be carried out around normal seasonal use of the facilities.

### Options

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulations 2005 which says the following;

- (1) *After considering the tenders submitted for a proposed contract, the council must either:*
  - (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
  - (b) *decline to accept any of the tenders.*



## 10.2 Tender - Sports Field Lighting

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The tenders submitted would indicate a fair test of the market and that a fair rate has been achieved, albeit these rates exceed the original estimate.

However this price exceeds the available budget and there is an opportunity to improve the contract regarding the milestones and lump sum price prior to awarding the contract.

In the circumstances, the recommendation to this report is to decline to accept any of the tenders and enter further negotiations with the preferred tenderer.

Sections 178 (3) and (4) of the regulations (reproduced below) provides further direction in the circumstances where a Council declines to accept any tenders in accordance with section 178 (1)(b).

*(3) 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,*
- (f) carry out the requirements of the proposed contract itself.*

*(4) If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:*

- (a) the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
- (b) the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

The required budget adjustments are reported to Council elsewhere in this business paper as part of the Capital Expenditure Review for 31 March 2019.

### RECOMMENDATIONS

1. That Council in accordance with the *Local Government (General) Regulation 2005 Section 178 (1)(b)*, declines to accept any tenders for the Sports Fields Lighting Project for the following reasons;
  - The tendered rate exceeds the current budget
  - There are advantages in adjusting certain terms in the specification.
2. The Council, in accordance with the *Local Government (General) Regulation 2005 Section 178 (3)(e)* authorises the General Manager to enter into negotiations with Alan Kneale Electrical Pty Ltd with a view to enter a contract up to or below a value of the tendered amount for milestones 1 and 2 of \$649,415.00.
3. That in accordance with the *Local Government (General) Regulation 2005 Section 178(4)(a)* the reason Council has declined to invite fresh tenders is because the tender process has established a competitive market and it is more efficient to negotiate with the highest ranked tender than call for new submissions.
4. That in accordance with the *Local Government (General) Regulation 2005 Section 178(4)(b)* the Council records it has determined to enter negotiations with Alan Kneale Electrical as they are the preferred tenderer following assessment against the mandatory and weighted evaluation criteria established for this tender, as per the confidential information provided to Councillors.
5. That upon the conclusion of negotiations Council authorises the General Manager to execute and affix the Council seal to the relevant contract documents.
6. That Council notes the budget adjustments required for this tender are included in the Capital Expenditure – 31 March 2019 Review report, elsewhere in this agenda.

### Attachment(s)

Nil

### **10.3 Tender - Under-Boring Recycled Water Main**

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#### **10.3 Tender - Under-Boring Recycled Water Main**

**Delivery Program**      Water and Wastewater

**Objective**              To seek acceptance for the award of the tender for RFT1160 – Angels Beach Drive Recycled Water Main Upgrade: Horizontal Directional Drilling.

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#### **Background**

This project is part of a larger project to replace a failing recycled water main, a length of 1,804m from Angels Beach Drive to North Creek Road. The project includes open trench construction, which is being performed by Council's water and wastewater construction crew, and a section of under-boring.

The majority of the pipeline construction is located along a route which can be constructed by means of open trench construction. However the initial section from Angels Beach Drive runs within an intertidal wetland zone where open trench construction methods are not practical.

It was identified that trenchless technologies such as under-boring with horizontal directional drilling should be employed to perform this section of the work.

This tender involves the under-boring and installation of a new DN315 Polyethylene pipeline to replace a pipeline which has had a number of failures in recent years and requires overly frequent maintenance.

Open tenders were called on 12 February 2019, stipulating a closing date/time of 2:00pm on 5 March 2019, through the Ballina Shire Council e-Tendering web site.

A mandatory tender briefing session was held on 19 February 2019, and was attended by seven prospective tenderers.

Further to this meeting additional geotechnical information for the under-bore route was performed and the information was provided to all tenderers. Due to the need for tenderers to assess the additional geotechnical information and incorporate this into their tender submissions, the closing date and time for the tender was extended to 2:00pm on 7 March 2019.

Although geotechnical information is now available at specific locations it is not possible to be confident of these conditions throughout the entire length of the under-boring operation.

This presents a high probability of exceeding the estimated tender value through tenderers pricing this risk and therefore a high contingency will need to be made available in the budget allocation. An effort to manage this risk was made through the use of a provisional item allowance for drilling through rock, if encountered. Best estimates have been developed to determine the contingency requirement for this provisional item.

## 10.3 Tender - Under-Boring Recycled Water Main

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### Key Issues

- Ensuring Council achieves value for money, mitigates risk and complies with relevant regulations.

### Information

Tenders were evaluated as summarised below.

The evaluation method included two stages, Stage One: Pass/Fail Evaluation of Mandatory Non-Price Criteria, and Stage Two - Evaluation of Total Price and the Contribution made to the Local Economy. The weighting towards the Social and Community contribution was 15%, and Price represented 85% of the total weighted criteria for Stage Two.

### Tenders Received

Five tenders were received from the following service providers:

- Field Directional Drilling
- Mid Coast & Under road boring Pty Ltd
- Codmah Pty Ltd
- Arura Constructions Pty Ltd
- Maxibor Australia Pty Ltd

### Tender Evaluation

The information submitted by the tenderers was evaluated against the specified mandatory non-price criteria by the Tender Assessment Panel in accordance with the approved Tender Evaluation Plan.

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

The mandatory criteria dealt with capability and experience, key personnel, skills and expertise, project understanding and methodology, insurances and WHS management.

The following tenderers adequately addressed the mandatory Pass/Fail Non-Price Criteria and were progressed to evaluation under Stage Two.

- Codmah Pty Ltd
- Arura Constructions Pty Ltd
- Maxibor Australia Pty Ltd

Total scores were obtained for each of the tenders by adding the normalised total non-price score and weighted price score.

The outcome of the tender assessment has been provided in a confidential memorandum to Councillors.

### Sustainability Considerations

- **Environment**

The environmental assessment and determination of the proposal has been undertaken in accordance with Part 5 of the Environmental Planning & Assessment Act 1979 (EP&A Act) and in accordance with Clause 228 of the Environmental Planning & Assessment Regulation 2000 (the Regulations).

The REF has been determined by Ballina Shire Council, who is both a public authority proponent (EP&A Act s.1.4) and the determining authority (EP&A Act s.5.1).

The project will be managed in accordance with this determination.

- **Social**

As this project traverses through native wetland and adjacent rural development within a registered roadway there is little social impact.

Neighbouring property owners have been notified of the project and have been satisfied with the current construction process.

- **Economic**

One of the objectives of this project is to replace aging infrastructure as part of an asset renewal program of the water and wastewater section of Council. The project mitigates the need for continuous maintenance on this failing asset which is essential for the delivery of recycled water.

### Legal / Resource / Financial Implications

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

The budget was initially developed on the expectation that the main could be constructed using open trench methods. During the Determination of the Review of Environmental effects, the under-boring of an additional area along the pipeline route was identified as a requirement.

This is a more expensive construction method, meaning that the original budget is no longer sufficient. In addition, through the delivery of the open trenching component of the project, it has become apparent that the original budget was underestimated.

The current budget is insufficient to accommodate this major under-boring work, necessary to complete the overall project.

It is recommended that an amount of \$500,000 (ex GST) be allocated to cover the works to be delivered by this tender.

This would bring the revised total budget to \$800,000.

### 10.3 Tender - Under-Boring Recycled Water Main

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The Capital Expenditure Review – 31 March 2019 report earlier in this agenda includes \$350,000 for 2018/19. Another \$150,000 is also needed for 2019/20.

#### Consultation

A public tender process was undertaken through Councils e-Tendering System.

#### 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.

This work is considered essential to maintain services and the required budget adjustments are reported to Council in the quarterly Capital Works Update provided elsewhere in the agenda.

**RECOMMENDATIONS**

1. That Council accepts the tender from Arura Constructions Pty Ltd for RFT1160 – Angels Beach Drive Recycled Water Main Upgrade: Horizontal Directional Drilling for the tendered amount of \$268,889.00 (ex GST and Contingencies).
2. That Council approves the allocation of an additional \$500,000 (ex GST and including Contingencies) to fund this total project. This funding includes \$350,000 in additional funding for 2018/19 as per the March 2019 quarterly capital expenditure review report elsewhere in this agenda, and \$150,000 to be included in the 2019/20 draft Delivery Program, funded from internal reserves.
3. Council authorises the Council seal to be applied to the contract documents.

**Attachment(s)**

Nil

## **10.4 Tender – Angels Beach Drive Sewer Rising Main Relining**

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### **10.4 Tender – Angels Beach Drive Sewer Rising Main Relining**

**Delivery Program** Water and Wastewater

**Objective** To seek acceptance for the award of the tender RFT1167 - Angels Beach Drive Sewer Rising Main Relining.

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#### **Background**

This project is part of a larger project to replace the sewer rising main, a distance of 1804m from Angels Beach Drive to North Creek Road. The sewer alignment runs parallel to the recycled water main alignment, a tender for which is also being reported to this meeting.

The existing sewer rising main has been subject to hydrogen sulfide attack and runs on an alignment where if it failed it would be extremely difficult to detect and repair, and presents a very high risk to Council of a potential contamination of the environment.

The majority of the pipeline construction is located along a route which can be constructed through open trench construction, and this work is to be completed by Council's internal construction crew.

The initial section of the main from Angels Beach Drive runs within an intertidal wetland zone where open trench methods are not practical.

It was identified that trenchless technology of relining should be applied to this section of the main, as the size of the main is appropriate for current and future demands, and the main project need is to ensure the main is structurally sound and not likely to fail.

This tender involves the renewal of 502m of the sewer rising main through pipe relining.

Open tenders were called on 16 February 2019, stipulating a closing date/time of 2:00pm on 14 March 2019, through the Ballina Shire Council e-Tendering website.

A mandatory tender briefing session was held on 26 February 2019, and was attended by three competing service providers.

#### **Key Issues**

- Ensuring Council achieves value for money, mitigates risk and complies with relevant regulations.

#### **Information**

From the three prospective tenderers who attended the mandatory site briefing session, only one tender was received from Interflow Pty Ltd.



## **10.4 Tender – Angels Beach Drive Sewer Rising Main Relining**

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The received tender was evaluated following the prescribed tender evaluation plan, Stage One: Pass/Fail Evaluation of Mandatory Non-Price Criteria, and Stage Two - Evaluation of Total Price and the Contribution made to the Local Economy.

### **Tender Evaluation**

The information submitted by the tenderer was evaluated against the specified mandatory non-price criteria by the Tender Assessment Panel.

The mandatory criteria dealt with capability and experience, key personnel, skills and expertise, project understanding and methodology, insurances and WHS management.

The tender received from Interflow Pty Ltd adequately addressed the mandatory Pass /Fail Non-Price Criteria and was progressed to evaluation under Stage Two.

As only one tender was received the tender automatically received the highest combined weighted and normalised score for the non-price and price criteria in Stage Two of the evaluation.

Because only one tender was received, the received tender price was compared to the pre-tender estimate in determining whether the tender represents value for money.

Prior to the tender process, the approved tender evaluation plan estimated a tender price of \$318,000 (excluding GST and including contingency) for this specialised scope of work.

At \$301,633.65, with an agreed exclusion (discussed below) valued at \$5,000, the assessed tender amount compares well with the tender estimate and is deemed acceptable for award.

### **Sustainability Considerations**

- **Environment**

The environmental assessment and determination of the proposal has been undertaken in accordance with Part 5 of the Environmental Planning & Assessment Act 1979 (EP&A Act) and in accordance with Clause 228 of the Environmental Planning & Assessment Regulation 2000 (the Regulations).

The REF has been determined by Ballina Shire Council, who is both a public authority proponent (EP&A Act s.1.4) and the determining authority (EP&A Act s.5.1).

The project will be managed in accordance with this determination.

- **Social**

As this project traverses through native wetland and adjacent rural development within a registered roadway there is little social impact.

Neighbouring property owners have been notified of the project and have been satisfied with the current construction process.

- **Economic**

One of the objectives of this project is to replace aging infrastructure as part of an asset renewal program of the water and wastewater section of Council. The project mitigates the risk of failure of this infrastructure due to its condition, where failure would incur high environmental remediation costs.

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

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

The 2018/19 budget allocation for this project is insufficient to accommodate these costs.

The budget was initially developed on the expectation that it could be constructed using open trench methods.

During the Determination of the Review of Environmental Effects, the requirement to use trenchless technologies for one section was identified.

This is a more expensive construction method, meaning that the original budget is no longer sufficient. In addition, through the delivery of the open trenching component of the project, it has become apparent that the original budget was underestimated.

Additional funding will need to be allocated for the implementation of this portion of the project, and this funding has been identified as part of the Capital Expenditure – 31 March 2019 Review report, included elsewhere in this agenda.

### **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;*

## **10.4 Tender – Angels Beach Drive Sewer Rising Main Relining**

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*(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 the received tender meets the tender requirements and due to this specialised work, revisiting the market would not guarantee the receipt of additional tenders.

Although only one tender was received through the open tender process, the tender evaluation process has determined that accepting the tender will achieve the project outcome, and represents appropriate value for money.

### **RECOMMENDATIONS**

1. That Council accepts the tender from Interflow Pty Ltd for RFT1167 – Angels Beach Drive Sewer Rising Main Relining for the tendered amount of \$ 301,633.65 (ex GST and Contingencies).
2. That Council approves the allocation of an additional \$350,000 (ex GST and including Contingencies) to fund this project. This funding includes an additional \$50,000 for 2018/19 as per the March 2019 quarterly capital expenditure review report elsewhere in this agenda, and \$300,000 to be included in the 2019/20 draft Delivery Program, funded from internal reserves.
3. Council authorises the Council seal to be applied to the contract documents.

### **Attachment(s)**

Nil

## 10.5 Tender - Construction of the Coastal Shared Path

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### 10.5 Tender - Construction of the Coastal Shared Path

**Delivery Program**      Engineering Works

**Objective**                      To assess the tenders submitted for the construction of the next stage of the Coastal Shared Path.

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#### **Background**

Open tenders were called for RFT1164 - Construction of Coastal Recreational Path - Shared Path East in February 2019.

This project will complete the Coastal Shared Path between Lennox Head and Ballina. The proposed works will provide the connection from the new Coast Road Roundabout at Skennars Head to Pat Morton Lookout, Lennox Head.

The works include two sections of board walk. The first section is approximately 270 metres long and the second section traverses 170 metres. The remainder of the path comprises two sections of asphalt paving, one being 530 metres long and the other section is 800 metres. Vegetation management and rehabilitation also form part of the works.

This report provides an assessment of the tender submissions.

#### **Key Issues**

- Comply with the *Local Government (General) Regulation 2005*
- Assess value for money

#### **Information**

At the close of the tender period on 26 March 2019, tenders were received from three companies.

- A.J Bennett & V Skewes Pty Ltd
- CivilCS Pty Ltd
- Envirostruct Services Pty Ltd

These tenders were assessed by a panel in accordance with the internal tendering procedure.

The tender evaluation plan established certain mandatory criteria including insurance arrangements and the need for Quality, WHS and Environmental Management systems. The evaluation also considered weighted price and non price criteria.

The non price criteria comprised Capability, Experience and Performance History, Methodology and Program, and Local and Community.

The details of the outcome of the assessment undertaken by the evaluation panel have been provided to Council by a separate confidential memorandum.

## 10.5 Tender - Construction of the Coastal Shared Path

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### Sustainability Considerations

- **Environment**  
The project has regulatory approval and will be constructed under an Environmental Management Plan.
- **Social**  
This project will support recreational walking and cycling and access to the Coastal Reserve which increases the social amenity of the Shire.
- **Economic**  
The Coastal Shared Path is a significant project and supports Council's objectives to promote the Shire as an attractive location to live or visit.

### Legal / Resource / Financial Implications

The purpose of this report is to ensure Council is compliant with relevant tendering statutory requirements.

The latest budget for this project comprises the following:

|  |                    |
|--|--------------------|
| Preconstruction costs 2017/18                | \$39,600           |
| Preconstruction costs 2018/19                | \$37,000           |
| RFT 1164                                     | \$1,100,000        |
| RFT 1164 Contingency                         | \$30,000           |
| Boardwalk supply                             | \$530,000          |
| Contract Management                          | \$15,000           |
| Ecological                                   | \$10,000           |
| Cultural Heritage                            | \$50,000           |
| Revegetation                                 | \$50,000           |
| Path Construction and Handrail at Roundabout | \$90,000           |
| Guardrail                                    | \$30,000           |
| Signs and Line Marking                       | \$10,000           |
| <b>Total</b>                                 | <b>\$1,991,600</b> |

The funding for this project comprises;

|  |                    |
|--|--------------------|
| Regional Jobs and Investment Package Grant | \$880,000          |
| Stronger Regional Communities Fund Grant   | \$880,000          |
| <b>Total</b>                               | <b>\$1,760,000</b> |

This means the budget has a current shortfall of \$231,600.

The recent Federal Budget included an announcement of an increase in funding to councils under the Roads to Recovery Program. This is a potential source of funds however staff are currently assessing the program rules to review whether shared projects have retained their eligibility.

## 10.5 Tender - Construction of the Coastal Shared Path

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Whilst there is some uncertainty about funding the budget shortfall at this point in time, as this project is a high profile project that has been in development for many years, it is preferred to continue to advance the project by awarding the tender that is the subject of this report.

If the Roads to Recovery funding suggestion is not available or preferred, it will be possible to review the Council's overall road program and make adjustments to accommodate the difference through savings on other projects or deferring other work.

### **Consultation**

The development of this project included substantial community consultation over many years. The assessment process for the regulatory approval included a public exhibition.

### **Options**

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulations 2005 which says the following;

*(1) After considering the tenders submitted for a proposed contract, the council must either:*

- (a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) decline to accept any of the tenders.*

As per the confidential memorandum, it is recommended Council accept the tender from A.J Bennett & V Skewes Pty Ltd for the amount of \$1,092,546 (ex GST).

Importantly this company has demonstrated experience working with the recycled materials to be used in the construction of the boardwalks. This company previously successfully completed a similar project for Council being the Shared Path connecting Angels Beach to Sharpes Beach.

### **RECOMMENDATIONS**

1. That Council accepts the tender from A.J Bennett & V Skewes Pty Ltd for RFT1164 being the construction of the Coastal Shared Path, Skennars Head to Pat Morton Lookout in the amount of \$1,092,546 (ex GST).
2. That Council authorises the Council seal to be applied to the contract documents.
3. That Council receive a further report on total funding for this project once there is greater certainty in respect to the application of Roads to Recovery Program monies to the project.

**Attachment(s) - Nil**

## **10.6 Ballina Wastewater Treatment Plant Upgrade - Contract Dispute**

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### **10.6 Ballina Wastewater Treatment Plant Upgrade - Contract Dispute**

**Delivery Program** Water and Wastewater

**Objective** To provide an update to Council regarding a contract dispute.

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#### **Background**

As previously reported, and advised in a Councillor briefing, a number of issues in relation to the contract for the construction of the West Ballina Wastewater Treatment Plant are the subject of a dispute between the Contractor (Haslin) and Council.

As this matter involves potential litigation, information has been provided to Council in a separate confidential report. The aspects of this matter that can be reported publically are set out in the information below.

#### **Key Issues**

- Achieving defect free completion
- Contractor and Council liability

#### **Information**

In 2017, in accordance with the Contract, a number of issues were referred to Expert Determination by the Contractor and Council. The Expert released their determination on 9 October 2017, finding in favour of Council in five out of six issues, and making a 50/50 determination in relation to the final issue.

The 50/50 determination resulted from the Expert's recognition that the actions of both parties contributed to defects in the membranes of the treatment plant. This determination refers to an amount of \$582,583 for our portion of the membrane replacement; however the determination does not cover all the membranes that may require replacement, which creates some ambiguities in terms of liability for any additional membrane replacements.

This ambiguity will necessitate some level of commercial negotiation with Haslin to resolve.

Following receipt of the Expert Determination, Council issued Haslin with a letter pursuant to the contract, again requiring rectification of the identified Defects. Haslin indicated that they didn't accept the findings of the determination and would consider litigation, but also that they would rectify the defects. This position meant that Council was obliged to follow two avenues of project and contract management in parallel:

- contractual management of Haslin's rejection of the Expert Determination findings
- a series of operational meetings as well as facilitated negotiations in a bid to progress defect rectification and achieve contract completion

## **10.6 Ballina Wastewater Treatment Plant Upgrade - Contract Dispute**

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The findings of the Expert Determination were largely favourable to Council, so Council's position has always been to accept the findings of the determination. Because the determination was less favourable for the Contractor, Haslin's position has been that they do not accept the outcome of the determination.

Under Clause 75.6 of the Contract's general terms and conditions, either party has a right to litigate findings of the Expert Determination, provided the litigation commences within 56 days after receiving the determination.

In response to requests from Haslin, Council has granted extensions to the time available to commence litigation of the Expert Determination findings.

These extensions have been issued to allow the opportunity for the Contractor to attend to the defects and negotiate the commercial aspects of the dispute.

The final extension of time has now expired and Haslin have filed proceedings in the Supreme Court. However they have advised Council they do not intend to progress the litigation immediately.

Council's focus in this process remains on resolving the defects to deliver a wastewater treatment plant capable of supplying recycled water of a quality that can be supplied to our dual reticulation scheme. We are confident that the defects are repairable, and Haslin appear to be willing to perform the rectification works, though they also wish to negotiate a commercial arrangement for resolution.

### **Sustainability Considerations**

- **Environment**  
The upgrade to the Ballina Wastewater Treatment Plant provided significant environmental benefits.
- **Social**  
Not Applicable
- **Economic**  
This was a large financial contract for Council and further costs will be incurred in respect to this contract dispute.

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

The confidential report provides more information for Councillors in respect of the legal and financial implications of this matter.

#### **Consultation**

Not applicable.

#### **Options**

This report is for information. Once a formal commercial offer from Haslin has been received, Council will be in a position to further assess its options. Any reasonable commercial offer from the Contractor will be reported to Council.



**RECOMMENDATION**

That Council notes the contents of this report in respect to the Ballina Wastewater Treatment Plant Upgrade Contract Dispute.

**Attachment(s)**

Nil

11. Notices of Motion

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**11. Notices of Motion**

Nil Items

**12. Advisory Committee Minutes**

**12.1 Finance Committee Minutes - 10 April 2019**

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**Attendance**

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

Paul Hickey (General Manager), John Truman (Director Civil Services Division), Matthew Wood (Director Planning and Environmental Health Division ) and Sandra Bailey (Secretary) were in attendance.

**Other Staff in Attendance**

Kelly Brown, Manager Human and Resources and Risk, Craig Brown, Manager Community Facilities and Linda Coulter, Manager Financial Services)

There were six people in the gallery at this time.

**1. Apologies**

Apologies were received from Cr Ben Smith and Cr Jeff Johnson.

**RECOMMENDATION**

(Cr Keith Williams/Cr Nathan Willis)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

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

**2. Declarations of Interest**

- **Cr Stephen McCarthy** – declared an interest in Item 4.14 – Facility Management. (Nature of Interest: non significant, non pecuniary – he is a coach with Ballina Basketball who will be a potential hirer of the Ballina Indoor Sports Centre). He will be remaining in the meeting while the matter is discussed and voting on the matter.
- **Cr Phillip Meehan** – declared an interest in Item 4.9 – Community Infrastructure – Recurrent Capital Expenditure and in particular to the section on roads and bridges where Burnet Street is mentioned. (Nature of Interest: non significant, non pecuniary – he has relatives who live in the area). He will be remaining in the meeting while the matter is discussed and voting on the matter.

- **Paul Hickey, General Manager** – declared an interest in Item 4.11 – Community Infrastructure – Non-recurrent Capital Expenditure and in particular to where Intrapac is mentioned. (Nature of Interest: non significant, non pecuniary – he has a friend who does consultancy work for Intrapac). He will be remaining in the meeting while the matter is discussed and voting on the matter.
- **Cr David Wright** – later in the meeting declared an interest in Item 4.13 – Fees and Charges – 2019/20 and in particular the Ferry Fees and Charges and the submission received from Earthworks Landscaping. (Nature of Interest: non significant, non pecuniary – he has worked with the mother of the person who made the submission). He remained in the meeting while the meeting was discussed and voted on the matter.

**3. Deputations**

- **Anne Marchment** – spoke in opposition to Item 4.9 – Community Infrastructure – Recurrent Capital Expenditure, and in particular to Point 6 – Street Lighting (and in particular lighting for Deadmans Creek Road/Tamarind Drive intersection).
- **Anne Marchment** – spoke in opposition to Item 4.16 – Delivery Program and Operational Plan 2019/20 – Exhibition, and in particular to the mowing schedule for Summerhill Crescent/Deadmans Creek Road intersection.

**4. Committee Reports**

**4.9 Community Infrastructure - Recurrent Capital Expenditure**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Sharon Cadwallader)

1. That Council includes in the draft 2019/20 to 2022/23 Delivery Program and Operational Plan the recurrent capital expenditure priorities as outlined in this report with the street lighting program to be discussed separately.
2. That Council amend the draft road reconstruction program as follows:
  - Byron Street, Wardell - \$131,000 – transferred from 2021/22 to 2019/20
  - Kays Lane, Alstonville - Transfer \$131,000 from 2019/20 to 2020/21
  - Links Avenue, Ballina - \$141,000 – delete from 2020/21 as works completed
  - 2021/22 program to be amended accordingly.
3. That part of the exhibition process, Council identify opportunities to increase the public amenities budget.
4. That part of the exhibition process, Council examine options to extend the works in Burnet Street, Ballina.

FOR VOTE - All Councillors voted unanimously.

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

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Sharon Cadwallader)

1. That Council exhibit the current street lighting program as outlined in the report.
- 4.
2. That as part of the exhibition process, Council determine the design and costings and possible grant funding opportunities for 'normal' lighting at the intersection of Tamarind Drive and Deadmans Creek Road. This information is to be reported back to Council as part of the adoption of the Draft Delivery Program.
- 5.

FOR VOTE - All Councillors voted unanimously.

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

**4.16 Delivery Program and Operational Plan 2019/20 - Exhibition**

**RECOMMENDATION**

(Cr Keith Williams/Cr Nathan Willis)

1. That Council approves the exhibition of the draft Delivery Program and Operational Plan, and Asset Management Plan documents, as attached to this report, inclusive of any changes arising from this meeting.
6. 2. That Council amend the mowing schedule for the intersection of Deadmans Creek Road and Summerhill Crescent from 5-6 weeks in the growing season to 3-4 weeks in the growing season.

FOR VOTE - All Councillors voted unanimously.

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

**4.1 Alstonville Bowls and Sports Club Ltd - Charges Adjustment**

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Nathan Willis)

That based on the contents of this report Council approves an adjustment to the water and wastewater access charges levied on the Alstonville Bowls and Sports Club Ltd for the 2017/18 and 2018/19 financial years, from a 100mm water connection to a 32mm connection, as the 32mm connection reflects the actual needs of the Club based on Council's recent engineering assessment.

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

AGAINST VOTE - Cr Phillip Meehan

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

**4.2 West End Hall - Sale**

A **Motion** was moved by Cr Sharon Parry and seconded by Cr Nathan Willis

1. That Council confirms that it will allocate \$20,000 of the sale proceeds from the sale of West End Hall, to provide improvements to the shed at the Council Depot, for storage of goods by the Ballina Lions Club.
2. If agreement is unable to be reached with the Ballina Lions Club on the storage of their goods at the Council Depot, even with the expenditure of \$20,000, the General Manager is authorized to proceed with the sale of West End Hall, without Council providing another suitable storage location.

An **Amendment** was moved by Cr Sharon Cadwallader

That Council confirms that it will allocate \$40,000 of the sale proceeds from the sale of West End Hall, to provide improvements to the shed at the Council Depot, for storage of goods by the Ballina Lions Club.

The **Amendment LAPSED.**

The **Motion** was **CARRIED.**

FOR VOTE - All Councillors voted unanimously.

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

**RECOMMENDATION**

(Cr Sharon Parry/Cr Nathan Willis)

1. That Council confirms that it will allocate \$20,000 of the sale proceeds from the sale of West End Hall, to provide improvements to the shed at the Council Depot, for storage of goods by the Ballina Lions Club.
2. If agreement is unable to be reached with the Ballina Lions Club on the storage of their goods at the Council Depot, even with the expenditure of \$20,000, the General Manager is authorized to proceed with the sale of West End Hall, without Council providing another suitable storage location.

FOR VOTE - All Councillors voted unanimously.

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

**4.3 Marine Estate Management Strategy - Road Funding**

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Keith Williams)

That Council authorises the General Manager to accept the grant offer (Funding Deed) from North Coast Local Land Services for works under the Marine Estate Management Strategy initiative "Rural roads and track actions" for financial years 2018/19 and 2019/20 as outlined in this report.

FOR VOTE - All Councillors voted unanimously.

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

**4.4 Car Park - Upgrade Program**

**RECOMMENDATION**

(Cr Nathan Willis/Cr Sharon Cadwallader)

1. That Council notes the contents of this report in respect to the Car Park Upgrade Program.
2. That Council receive a further report outlining a ten year strategic plan of works and recommended funding strategy for consideration as part of the preparation of the 2020/21 Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.

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

**4.5 North East Weight of Loads Group (NEWLOG)**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council endorses the draft NEWLOG budget for 2019/20 as per the contents of this report.

FOR VOTE - All Councillors voted unanimously.

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

**4.6 Surf Life Saving Services - Flat Rock Beach**

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Nathan Willis)

That Council supports the continuation of a roving guard at Flat Rock for the 2019/20 season funded from the Flat Rock Tent Park reserve, with this expenditure and funding to be included in the draft 2019/20 Long Term Financial Plan.

FOR VOTE - All Councillors voted unanimously.

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

**4.7 Policy (New) - Farmland Rating**

**RECOMMENDATION**

(Cr Sharon Parry/Cr Sharon Cadwallader)

1. That Council adopts the draft Farmland Rating 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 it be reported back to Council as part of the adoption of the Delivery Program.

FOR VOTE - All Councillors voted unanimously.

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



**4.8 Rating Structure - 2019/20**

**RECOMMENDATION**

(Cr Keith Williams/Cr Nathan Willis)

1. That for the preparation of the draft 2019/20 Operational Plan Council approves a rating structure based on the 5.9% special rate variation as determined by the Independent Pricing and Regulatory Tribunal.
2. That for the draft 2019/20 Operational Plan, Council approves the inclusion of a base rating structure, which applies the following principles:
  - a) Marginally less than 50% of the rate income for the residential category of properties being generated from the base amount
  - b) Business, farmland and mining categories to have the same base amount as the residential base amount
  - c) A total of 19.85% income from the rate yield to be sourced from the business category properties
  - d) Farmland rate in the dollar is approximately 85% of the residential rate in the dollar
  - e) The mining category rate in the dollar to be set as the same rate as the business category (currently no mining category properties in the shire).
3. That Council notes the indicative figures for this rating structure for 2019/20, are as per Tables Six and Seven of this report.
4. That Council confirms that for 2020/21 onwards it wishes to examine further changes to the rating structure that may help to reduce the large differential currently being applied to the category of business properties as compared to residential properties.

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

AGAINST VOTE - Cr Phillip Meehan and Cr Sharon Cadwallader

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

**4.10 Property Reserves - Review**

**RECOMMENDATION**

(Cr Keith Williams/Cr Sharon Cadwallader)

1. That Council approves the inclusion of the forecast cash flows for the Property Development Reserve, as per Attachment 1 to this report, in the draft Long Term Financial Plan for 2019/20 to 2028/29.
2. That Council approves the inclusion of the forecast cash flows for the Property Development Loan Reserve, as per Table Two in this report, which summarises the loan funded property development activities, as per Attachments 2 and 3 to this report, in the draft Long Term Financial Plan for 2019/20 to 2028/29.
3. That Council approves the inclusion of the forecast cash flows for the Community Infrastructure Reserve, as per Attachment 4 to this report, in the draft Long Term Financial Plan for 2019/20 to 2028/29, subject to any changes identified in the report titled Non-recurrent Community Infrastructure Projects, as outlined later in this agenda.

FOR VOTE - All Councillors voted unanimously.

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

**4.11 Community Infrastructure - Non-recurrent Capital Expenditure**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council approves the allocation of the Community Infrastructure Reserve dividends to the projects outlined in Table Four of this report, for inclusion in the draft 2019/20 to 2022/23 Delivery Program and Operational Plan.
2. That Council authorises the General Manager, or delegate, to undertake negotiations with Intrapac Pty. Ltd. to develop a voluntary planning agreement that will allow the works identified in the Sharpes Beach Master Plan to be funded and delivered within the near future.

FOR VOTE - All Councillors voted unanimously.

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

**4.12 General Fund - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Nathan Willis/Cr Sharon Cadwallader)

That Council approves the exhibition of the draft Long Term Financial Plan, as attached to this report, including any amendments arising from this meeting.

FOR VOTE - All Councillors voted unanimously.

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

**4.13 Fees and Charges - 2019/20**

**RECOMMENDATION**

(Cr Nathan Willis/Cr Sharon Parry)

That Council approves the exhibition of the draft schedule of fees and charges for 2019/20 as attached, including any amendments resulting from this meeting to include an additional ferry season ticket category for Ballina Shire residents, for trucks over ten tonne with an exemption of any trailers or dogs with those trucks, for a trial for a period of 12 months, for a fee of \$1,500 per annum.

(Cr David Wright – at this point declared an interest in this item, particularly the Ferry Fees and Charges and the submission received from Earthworks Landscaping. (Nature of Interest: non significant, non pecuniary – he has worked with the mother of the person who made the submission). He remained in the meeting while the meeting was discussed and voted on the matter).

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

AGAINST VOTE - Cr Phillip Meehan

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

**4.14 Facility Management**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Keith Williams)

1. That Council authorises the General Manager to employ four permanent additional staff, during 2019/20, consistent with the draft Long Term Financial Plan, to manage the Alstonville Leisure and Entertainment Centre and the Ballina Indoor Sports Centre.
2. That Council approves the exhibition of the draft fees and charges for the Alstonville Leisure and Entertainment Centre and the Ballina Indoor Sports Centre, as per Tables Three and Four of this report, with the Ballina Indoor Sports Centre fees to be based on the higher column as per Table Four.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

AGAINST VOTE - Cr Stephen McCarthy

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

**4.15 Workforce Management Plan - 2019/20**

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Sharon Parry)

That Council approves the exhibition of the draft Workforce Plan as part of the exhibition of the draft 2019/20 Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.

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

**MEETING CLOSURE**

6.11 pm

**RECOMMENDATION**

That Council confirms the minutes of the Finance Committee meeting held 10 April 2019 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

## 13.1 Mayoral Meetings

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### 13. Reports from Councillors on Attendance on Council's behalf

#### 13.1 Mayoral Meetings

**Councillor** David Wright

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Activities I have attended, or propose to attend, as at the time of writing this report, since the March 2019 Ordinary meeting are as follows:

| <u>Date</u> | <u>Function</u>  |
|-------------|--|
| 24/3/19     | Commemoration Park Markets                                   |
| 31/3/19     | Lennox Head Markets  |
| 31/3/19     | Commemoration Park Markets                                   |
| 3/4/19      | Grand Opening – Guardian Ballina – Cr Cadwallader            |
| 4/4/19      | Opening – Parkinson's Disease Expo – Deputy Mayor            |
| 5/4/19      | Meeting with Jali  |
| 5/4/19      | Little Ripper – Ocean Live Signs                             |
| 7/4/19      | Commemoration Park Markets                                   |
| 8/4/19      | Church Group   |
| 8/4/19      | U3A – 25 <sup>th</sup> Anniversary – Welcome                 |
| 9/4/19      | Public Citizenship Ceremony, Public Art Advisory Committee   |
| 10/4/19     | Meeting – Sustainable Scooters                               |
| 10/4/19     | Local Traffic Committee                                      |
| 10/4/19     | Meeting – Bill Knoble – Intrapac, Finance Committee          |
| 11/4/19     | Briefing – Wollongbar Strategic Plan                         |
| 11/4/19     | Briefing – Biodiversity Site                                 |
| 14/4/19     | BR4R – Palm Sunday Rally                                     |
| 14/4/19     | Commemoration Park Markets                                   |
| 14/4/19     | Lennox Head Markets  |
| 15/4/19     | Meeting – Justine Elliott                                    |
| 15/4/19     | Extraordinary Meeting – Lennox Head - One Way Trial          |
| 17/4/19     | Meeting – Independent Candidate for Page                     |
| 17/4/19     | Loud in the Gallery  |
| 17/4/19     | Wardell and District Progress Association                    |
| 18/4/19     | Day Care Club Birthday – RSL, Loud in the Gallery            |
| 21/4/19     | Commemoration Park Markets                                   |
| 21/4/19     | Ballina Markets  |
| 23/4/19     | Meeting – Wayne Golledge and others - 20 North Creek Road    |
| 24/4/19     | Council Meeting  |
| 25/4/19     | ANZAC Day – Dawn Service – Alstonville – Deputy Mayor        |
| 25/4/19     | ANZAC Day – Dawn Service – Ballina                           |
| 25/4/19     | ANZAC Day – Main Service – Alstonville                       |
| 25/4/19     | ANZAC Day – Main Service – Ballina                           |
| 25/4/19     | ANZAC Day – Riverbend Service – Crs Cadwallader and McCarthy |
| 28/4/19     | Commemoration Park Markets                                   |

#### **RECOMMENDATION**

That Council notes the contents of the report on Mayoral meetings.

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

Nil

**14. 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:

14.1 Ballina Wastewater Treatment Plant Upgrade - Contract Update

Refer to Item 10.6 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.

**14.1 Ballina Wastewater Treatment Plant Upgrade - Contract Update**

**Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as this report provides advice concerning possible litigation.