



## Notice of Ordinary Meeting

an Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 23 March 2017 commencing at 9.00 am.**

### Business

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

Paul Hickey  
**General Manager**

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

## **Deputations to Council – Guidelines**

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. 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.

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.

## **Public Question Time – Guidelines**

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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**1. Australian National Anthem**

The National Anthem will be performed by Teven-Tintenbar Primary School.

**2. Acknowledgement of Country**

In opening the meeting the Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

I would like to respectfully acknowledge past and present Bundjalung peoples who are the traditional custodians of the land on which this meeting takes place.

**3. Apologies**

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 February 2017 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 February 2017.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## **8.1 DA 2016/744 - 64 Allens Parade, Lennox Head**

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

#### **8.1 DA 2016/744 - 64 Allens Parade, Lennox Head**

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<b>Applicant</b>	Ardill Payne & Partners
<b>Property</b>	<b>Lot 61, DP 29654, 64 Allens Parade, Lennox Head</b>
<b>Proposal</b>	Two storey dwelling and basement parking, a swimming pool and removal of 2 Cook Island Pine trees
<b>Effect of Planning Instrument</b>	The land is zoned R3 Medium Density Residential under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

#### **Introduction**

Council is in receipt of a Development Application for a dwelling comprising two residential storeys above ground with basement carparking and associated vehicular access. The proposal also includes a swimming pool and removal of two Cook Island Pine trees.

The proposed development is located on a vacant beachfront battle-axe allotment within the Lennox Head village area that is accessed from Allens Parade.

The proposal was originally lodged with several aspects of it located forward (on the eastern side) of the foreshore building line. Amendments to the design have since been made to bring all structures back to be within the foreshore building line.

#### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

#### **Public Exhibition**

The proposed development was notified in accordance with the Level 1 – Targeted Notification process as outlined in Chapter 1 of Ballina Shire Development Control Plan 2012 (DCP).

The 14 day notification period was to end on 21 January 2017. However this was extended until 30 January 2017 due to the Christmas/New Year holiday period.

15 submissions have been received in objection to the development.

Multiple submissions have been received from some properties with many submissions raising similar concerns.

The properties from which submissions have been received are identified on the locality map.

The most common concerns raised in the submissions relate to:

- Bulk and scale
- Construction of a basement in close proximity to other buildings and the foreshore
- Excavation and driveway construction over a sewer main
- Overshadowing
- Loss of views
- Privacy
- Loss of coastal breeze
- Interruption to surface water flows
- Removal of Cook Island Pine trees and Pandanus trees
- Noise from a/c units, pumps etc.

Amendments have been made to the design during the assessment process. All those that lodged submissions were advised on 27 February that amended plans and documents that are suitable for public access would be posted on DA's Online as they are received and that should the design be altered sufficiently to warrant, the application would be re-notified.

Plans showing compliance with the foreshore building line and other documents including the tree assessment and engineering design to clarify the location of the sewer line have since been posted online.

As the amendments that have been made relate mainly to the relocation, reduction in size, or deletion of some elements of the design, re-notification was not deemed necessary.

Some additional submissions from the original objectors have been received as a result of the amendments and additional information being posted on-line.

Sufficient information is now considered to have been provided by the applicant for Council to determine the application without causing undue delay to the assessment process.

### **Applicable Planning Instruments**

The relevant planning instruments and plans are as follows:

- State Environmental Planning Policy No.71 Coastal Protection (SEPP 71)
- NSW Coastal Policy 1997
- Draft Coastal Management State Environmental Planning Policy 2016
- Ballina Local Environmental Plan (BLEP) 2012
- Ballina Shire Council Development Control Plan 2012

**Report**

Consideration of the matters raised in the submissions can be addressed by reference to the applicable sections of the abovementioned planning instruments and plans.

*State Environmental Planning Policy No.71 Coastal Protection (SEPP 71)*

The site is mapped as being within a sensitive coastal location and the provisions of SEPP No. 71 apply

Public access to the foreshore for many people has historically been by way unauthorised access over this vacant parcel of private land. The proposed development will prevent this in the future. Legal public access is available to the beach and foreshore via the public access at the end of Dress Circle Drive nearby.

There are no adverse impacts on public access or the amenity of the coastal foreshore. The development will be setback from the foreshore and compliance with the foreshore building line is now achieved. The proposed building will be somewhat screened from view from the public walkway by the adjoining buildings and vegetation and will not be highly visible until pedestrians are in close proximity to it in a similar manner to other two storey developments in this locality.

The scenic qualities of the locality may be impacted by the removal of the two large pine trees. These trees are visible from many residential properties to the west of the subject site. Despite this, the trees are located on private land zoned for residential development and preventing the removal of the trees would substantially reduce the developable area of the site. Further details relating to the removal of these trees are contained later in this report.

There will be no unreasonable impact on fish or marine vegetation, wildlife corridors, coastal processes, cultural places, water quality of coastal waterbodies or areas of heritage, archaeological, or historic significance over and above that which is normal for a single residential development in this locality.

Council's environmental scientist has advised that there are no osprey nests in the trees and no threatened species will be adversely affected.

Stormwater will be discharged to the ocean frontage in a similar manner to all other residential developments in the locality as no reticulated stormwater system is available.

*NSW Coastal Policy 1997*

This Policy is largely directed at all councils regarding their strategic planning to ensure that local environmental plans are aligned with the objectives of the Coastal Policy and permitted development is appropriate within the coastal zone.

The Policy's main focus is the conservation of biological diversity and ecological integrity in the coastal zone.

## 8.1 DA 2016/744 - 64 Allens Parade, Lennox Head

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The proposed development, being infill development within an existing urban area does not present any negative impacts on the coastal foreshore area.

The natural environment & processes, aesthetic qualities, cultural heritage, use of resources, sustainable human settlement and public access will not be unduly or unreasonably impacted.

### *Draft Coastal Management State Environmental Planning Policy 2016*

This Policy, although currently in draft form, is required to be considered by Council and is intended to integrate all existing NSW Government SEPPs regarding coastal management.

It is intended to consolidate and improve current coastal-related SEPPs. It will replace SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) and aim to ensure that future coastal development is appropriate and sensitive to our coastal environment, and that we maintain public access to beaches and foreshore areas

The proposal is not in conflict with Draft Coastal Management Policy as it meets the objectives of the current SEPP 71 and NSW Coastal Policy.

### *Ballina Local Environmental Plan 2012*

#### *4.3 Height of Buildings*

Building height (or height of building) means the vertical distance from ground level (existing) to the highest point of the building

The LEP provisions state the height of a building in this location is not to exceed the maximum allowable height of 8.5m as indicated in the Height of Buildings Map.

Existing ground level as shown on the submitted plans is approximately 4.4m AHD. The roof level is proposed at 11.25m AHD.

Therefore the proposed overall building height is approximately 6.85m above the existing ground level and well below the permitted maximum.

#### *4.4 Floor space ratio*

Site area is 702m<sup>2</sup>.

Ground floor area is stated at 168m<sup>2</sup>.

First floor area is stated at 142m<sup>2</sup>.

Basement floor area is stated at 191m<sup>2</sup>.

The BLEP definition of Gross Floor Area (GFA) excludes areas for carparking to meet the requirements of the consent authority (including access to that carparking). The LEP also excludes areas used for basement storage.

Section H of the DCP requires two carparks to meet the requirements for a dwelling.

Therefore the entire basement area is excluded from the GFA as these two parking spaces are required, and access to them and the basement storage is excluded from the GFA definition.

This results in a GFA of 310m<sup>2</sup> and Floor Space Ratio of 0.44:1 (310/702 = 44%).

This is less than the 49.8% calculated by the applicant and well below the BLEP permitted maximum of 50%.

The above assessments were for the original lodged design and the proposed floor areas have since been reduced by amendments to cater for other compliance matters.

*Ballina Shire Development Control Plan 2012  
Chapter 2 – General and Environmental Considerations*

*3.2 Ridgelines and Scenic Areas*

The land is not identified on the Ridgelines and Scenic Areas Map

*3.3 Natural Areas and Habitat*

The land is not identified on the Natural Areas and Habitat Map and Wildlife Corridors Map

*3.5 Land Slip/Geotechnical Hazard*

*Objectives*

- a. Ensure that development in any area of potential landslip or highly reactive soils has proper regard to factors affecting land stability*
- b. Ensure development on steep or unstable land is compatible with the nature of the hazard and with the environmental characteristics of the site and surrounding land; and*
- c. Ensure that development is designed to minimise risks associated with geotechnical hazards.*

The Council has not adopted a policy to restrict development of the subject land because of the likelihood of land slip for this allotment.

The site is not considered to be steep or unstable land. Additional measures in relation to coastal hazards are discussed later in this report. Notwithstanding, geotechnical investigations should be considered here due to the possible presence of large rocks and the proposed deep excavation in close proximity to the boundaries with other existing residential buildings.

Large rocks are believed to be present on the site from the former sea wall that was previously located across the middle of this lot and the adjoining lots. When the reclamation works were carried out on this land, the former sea wall is believed to have been retained and covered.

The applicant has provided a geotechnical assessment that indicates the presence of rock in some locations and a possible soil profile.

### *3.7 Waste Management*

#### *Objectives*

- a. Ensure that waste is disposed of in accordance with relevant legislation and Council's collection and disposal services; and*
- b. Ensure that waste management practices are based on minimising waste and maximising reuse and recycling of materials.*

A waste management plan has been provided to satisfy the requirements for the development application stage. If consent is given, management of construction waste will be required to be addressed by a construction waste plan being submitted prior to issue of a Construction Certificate.

### *3.9 Stormwater Management*

Although this part of the DCP does not apply to single dwellings, there are specific issues with surface water drainage with this site that need to be considered to ensure adjoining properties are not adversely affected.

One of the objectives of Part 3.9 is to:

*Convey runoff from the site and upstream catchments, to a lawful point of discharge, in a manner that minimises flood damage and risk to people and property.*

This site is largely a collection basin for surface water flowing from the residential properties to west and south west between the subject site and the Allens Parade/Dress Circle Drive streets.

An existing surface water inlet pit is located in the access handle of the adjoining property to the north that collects surface water run-off from this basin.

Collection of surface water within the property should be able to be achieved with an appropriate design by a suitably qualified person. The main issue of concern for Council is the proposed wall of the driveway and screening to the southern boundary. This wall was to be constructed on the boundary line and effectively would divert water along the boundary line between the adjoining properties. This is not permitted.

The Building Code of Australia (BCA) is the adopted standard to be applied by the Construction Certificate process. In relation to surface water, the performance requirement of the BCA states:

*Surface water, resulting from a storm having an average recurrence interval of 20 years and which is collected or concentrated by a building or sitework, must be disposed of in a way that avoids the likelihood of damage or nuisance to any other property.*

The design has been amended to now provide a dish drain along this boundary and the proposed driveway has been relocated northward to provide a driveway width that complies with AS 2890 and the DCP provisions.

### *3.14 Coastal Hazards*

#### *Objectives*

- a. Ensure that development does not significantly compromise longer-term coastal hazard management strategies;*
- b. Ensure that the type, scale and/or location of new developments reflect the level of risk posed by coastal hazards;*
- c. Minimise the potential for damage to existing and proposed developments posed by coastal hazards; and*
- d. Minimise amenity, social, economic and environmental impacts associated with coastal hazards and their management.*

The development is identified within Area A of the Coastal Hazard Protection Map.

This requires building foundations on all beachfront allotments to comprise piling supporting a suspended floor with a minimum clearance of 0.3 metres between existing ground level and the underside of the floor system, and be designed to support the building for the condition of removal of soil to RL 2.0 metres AHD including any lateral loadings imposed by a soil mass failure to this level.

The basement area does not comply with the 0.3m clearance to ground level. However, in consistency with other approvals issued in this locality (e.g. DA 2010/754 for 56 Allens Parade), the DCP provisions are considered to be satisfied even if the floor level is not 0.3m clear of ground level provided that the floor level is at 5.25m AHD and the building is supported on piles as required.

Piling as referred to above is considered by the DCP to be sufficient to fully support the proposed building provided it is designed and certified by a suitably qualified structural engineer. A condition would be included to require this if consent is granted.

The applicant has stated that the pool will be constructed on piles in a similar manner to that of the dwelling.

It is unlikely that piling (or at least deep piling) will be required as the basement floor level is to be located at 2.25m AHD. However, temporary sheet piling may be necessary during the construction stage.

Work to the revetment wall will be required as part of the stormwater discharge works, if consent is granted a condition would be applied to require the property owner to maintain and repair any damage to the revetment wall in

accordance with the Lennox Beach Protection Works Design/ Plan and under the supervision of a suitably qualified engineer.

No fences or screening is proposed eastward of the foreshore building line and none are permissible other than open style fences of not more than 1.0m in height.

An outdoor shower forward of the building line with hot and cold water is included on the hydraulic details that have been submitted. Council's plumbing officers require connection to the sewer system where hot water is provided to an outdoor shower. Furthermore, where a waste is connected to the sewer it is to be roofed to prevent the ingress of rainwater into the sewer system. Therefore the proposed outdoor shower is not permissible in this location.

The swimming pool is proposed to be located on the foreshore building line, and no barrier fencing has been included on the submitted plans. In order to achieve a compliant pool barrier it may be necessary to further reduce the size of the pool or relocate it further behind the building line. This could be addressed by an appropriate condition if consent is granted.

### *3.18 Protection of Foreshore and Public Open Space Areas*

#### *Objectives*

- a. Enhance the visual quality of the coastal environment; and*
- b. Ensure development complements the landscape character and public use and enjoyment of adjoining foreshore areas, parks, bushland reserves and other public open spaces.*

This part of the DCP applies as the land has a frontage to Seven Mile Beach.

Public access to public open space and foreshore areas will not be unreasonably impacted. Although the public access through the vacant development lot has been available for many years, this has not been a legal path of travel over private land and is not grounds for refusal of the application.

The proposed building is located to provide an outlook to public open space and foreshore areas.

Due to the location of the development site above the level of the public beachfront walkway, and the screening vegetation on the eastern boundary of the adjoining lot to the south, the development will not be a an overly prominent feature when viewed from the walkway.

The impact on coastal views from other residential lots will be assessed later in this report.

The development site is west of the foreshore and therefore the building will not result in beaches or adjacent open space being overshadowed before 3.00pm at the winter solstice or 6.30pm at summer solstice

To ensure beach areas are not subject to light spill that has the potential to adversely impact on native fauna, if consent is granted, a condition could be imposed for external lighting not to be directed towards the beach.

The large glass areas of the eastern elevation of the proposed building will provide opportunities for casual surveillance of the public open space as desired by the DCP.

Landscape screening to the east of the development is not considered necessary and may unnecessarily detract from views from adjoining properties.

### *3.19 Car Parking and Access*

#### *Objectives*

- a. Provide sufficient on-site car parking to adequately service the needs of the occupants, users, visitors, employees and service and delivery vehicles of a development;*
- b. Ensure compliance with relevant standards and that provision is made for the safe and efficient circulation of vehicles entering, exiting and manoeuvring within the site;*
- c. Maintain vehicular and pedestrian safety through design standards for the access to car parking areas;*
- d. Integrate the location and design of car parking with the design of the site and building without compromising street character, landscape or pedestrian amenity and safety;*
- e. Ensure access to off-street car parking does not unreasonably impact on the provision of parking within the public street system; and*
- f. Provide adequate loading areas for commercial developments.*

Two covered spaces are provided in the proposed basement. Access to and from these has been addressed with a driveway design that has been assessed by Council's Civil Services Section and has been designed to meet the applicable sections of AS 2890

Although not required for a dwelling, the maneuvering areas permit vehicles to enter and leave the site in a forward direction. This is desirable given the site is a battle-axe lot as it will improve visibility for vehicles exiting the development at the kerb crossover point.

The location of the basement parking is sufficiently removed from the street frontage for it to not be a prominent feature.

Some submissions have raised concerns about the location of the driveway over the sewer main that crosses the access handle of the lot. An amended long section of the driveway with the inclusion of the sewer line location has been provided by an engineer that indicates the driveway will have appropriate clearance to Council's infrastructure. If consent is granted,

protection of the sewer line will also be included on the dilapidation report requirements.

Some services such as electricity and water services are located where they restrict access to the lot from the street. If consent is granted, a condition could be included to require the relocation of any services within the road reserve to be at the developer's expense.

### *3.20 Vibration*

#### *Planning Objectives*

- a. Ensure that construction methods proposed for new development adequately provide the structural protection of adjoining and surrounding properties;*
- b. Ensure that appropriate consideration is given to the impacts of construction methods for development on structural integrity of the surrounding built environment.*

Driven piling is not permitted in this location and in such close proximity to other developments.

Construction related issues to deal with the presence of rock are matters to be addressed at Construction Certificate application stage of the development process and should not prevent approval of a Development Application.

Should consent be granted, conditions will be applied to address the protection of adjoining properties from construction related activities including requirements to provide dilapidation reports and piling restrictions.

The applicant is aware of the possibility of large rocks being present and is aware that saw cutting of rocks may be necessary in lieu of pneumatic hammers

### *Chapter 2a- Vegetation Management*

#### *3.1.2 Development Consent Requirements applying to Urban Zones*

*Development consent is required for vegetation management works on land located within an urban zone when the vegetation management works will affect:*

- a) Any tree (either native or non-native) with a height of 6 metres or greater;*
- b) Any tree of the species *Pandanus tectorius* (Screw Pine) with a height of 3 metres or greater and located in the localities of East Ballina, Lennox Head or Skennars Head;*
- c) Any vegetation located on land identified as Significant Urban Bushland on the Significant Urban Bushland Map; and*
- d) Any tree with a height of 3 metres or greater located on land containing an Item of Environmental Heritage as specified in Schedule 5 of the Ballina Local Environmental Plan 2012.*

This chapter specifies the types of works that are subject to development consent in urban zones. It also identifies circumstances where exemptions to

the requirement for development consent apply. The provisions of this chapter are effectively an extension of the BLEP 2012.

The proposal includes the removal of two Cook Island Pines from the site. Development consent is required for the removal of the two pine trees as they have a height of more than 6 metres.

A Tree Impact Assessment Report has been provided by the applicant and is attached.

The report identifies that the northern-most tree has extensive compression cracks which represents a major failure and it is recommended to be removed as, in combination with the considerable lean of the tree, it results in a substantially elevated risk of tree failure.

As both trees have grown and developed together as a unit, the report also indicates that removal of the northern tree will result in a likely increase in exposure of the structural root system of the southern tree and that its removal is justified.

The report also advises that the proponent is willing to provide a compensatory planting of four advanced stock Cook Island Pines to be planted in public reserves of Council's choosing.

The applicant has acknowledged that the two pine trees do contribute to the aesthetic qualities of the locality as a component of the skyline. However, they contest that the contribution is not significant enough to preclude their removal and claims that the small developable area of the site justifies their removal.

The pine trees are not considered to have any significant cultural and/or heritage significance.

Should Council refuse to grant consent for the removal of the trees, consideration should be given to any potential litigation issues if the trees cause future damage to an adjoining property or that of the owners of the site on which they are located.

Submissions have been received stating that the trees are utilised by water dragons, sea eagles, kites and osprey.

Council's environmental scientist has also assessed the trees and advised they are not providing habitat for any endangered or threatened animal or bird species

In addition to this the site contains two Pandanus Palms. These are located on or near to the boundary with the adjoining property to the west (No 62 Allens Parade). The applicant has advised that the owner of the development site and the owner of Lot 60 Allens Parade are currently in negotiations instigated by the owner of Lot 60 to construct a dividing boundary fence between the properties along this boundary. This would require the substantial pruning or removal of these Pandanus trees if it proceeds.

Although the construction of a fence up to 1.8m high is permissible in this location as Exempt Development under State Environmental Planning Policy (Exempt and Complying Development) 2008, the vegetation management

works to the Pandanus trees would require the prior consent of the Council under a separate application.

*Ballina Shire Development Control Plan 2012  
Chapter 4- Residential & Tourist Development  
3.1.3 A - Building Height*

*Objectives*

- a. Ensure that the height of buildings (building height) is compatible with the bulk, scale and character of the locality;*
- b. Minimise adverse impacts on existing or future amenity of adjoining properties and scenic or landscape quality of the locality; and*
- c. Protect significant views from public places.*

This part of the DCP refers to buildings with 3 levels or greater being designed to minimise overshadowing and to protect the privacy of occupants of adjoining buildings. In this regard, it is considered that the reference to 3 storeys relates to above ground storeys only as below ground storeys have no impact on overshadowing and privacy to adjoining properties.

Two of the main measures of bulk and scale are building height and FSR. As noted above, the proposal complies with the LEP controls for both of these elements.

Other matters relevant to the impact on adjoining properties include overshadowing and the protection of the privacy of occupants of adjoining buildings. These will be addressed later in this report under the DCP provisions for Building Envelopes and Privacy.

Impacts on the scenic landscape views from public places has been discussed earlier under SEPP 71.

*3.1.3 C - Building Envelopes*

*Objectives*

- i. Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views;*
- ii. Ensure that the occupants of residential accommodation have the opportunity to enjoy the optimum use of winter sunlight;*
- i. Enhance opportunities for solar access to both the development site and adjoining properties;*
- ii. Achieve varied and interesting streetscapes, good orientation of residential developments with regard to sun, shade, wind and neighbouring development, and effective use of allotments to create usable private open space and courtyards;*

- iii. Ensure that buildings are compatible with the bulk, scale and character of the locality; and*
- iv. Minimise adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape quality of the locality*

This clause provides for buildings to be contained within a building envelope measured below a plane over the land at 45 degrees from a point 1.8m above the side and rear boundaries. The 1.8m in height is generally measured from the existing ground level.

However, where, as in this case a required minimum fill level applies to the land, the building envelope can be measured from the required minimum fill level.

This same principle has historically been applied to development in Lennox Head where a minimum floor level is required (e.g. DA 2015/51 at 3 Rayner Lane). In instances such as this, the building envelope may be calculated from the required minimum floor level in lieu of ground level.

This part of the DCP also refers to a third storey only being permissible in the form of a loft within residential development. As with building height, it is considered that the reference to a third storey relates to above ground storeys only as below ground storeys have no impact on the building envelope.

The proposed design includes some contraventions to the building envelope on south, west, and north elevations. The applicant has described these as “minor” and “reasonable” and provided comments in relation to the bulk and scale of recent approvals in the locality and the need to comply with the minimum floor level as justification.

As allowing the building envelope to be calculated from the minimum floor level is already a concession, this should not be considered as further grounds for a variation.

The design generally complies with the objectives for building envelopes by setting back the upper floor levels further from the boundaries than the lower floors and by providing a low roof profile and articulation in the external walls.

However, some areas of the design incorporate wide eave overhangs of approximately 1.2m. The DCP provisions make a concession for eaves of up to 0.7m. These contraventions are lower than the 6.4m limit above the base line of the building envelope (i.e. minimum floor level concession) specified by the DCP.

Shadow diagrams have been provided by the applicant to assist in assessing any shadowing impacts on adjoining properties.

The extent of these contraventions and likely effects are generally as listed below:

*North elevation – approx. 1.6m building envelope contravention for full length of the wall.*

## 8.1 DA 2016/744 - 64 Allens Parade, Lennox Head

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This will not cause any shadowing to the dwelling on the adjoining lot to the north (Lot 63 Allens Parade) or the lot to the north-west (SP 29654 Allens Parade).

*West elevation – 0.5m to 1.9m contravention for some parts.*

The most affected parts of the property to the west (Lot 60 Allens Parade) would be the ancillary building located on the north-east corner of the lot and the elevated rumpus room to the eastern end of the dwelling.

This ancillary building has been referred to by the owner as “Bungalow” and has also been referred to in submissions as a “granny flat” and a “surf shack”.

After being used for temporary residential use, in 1983 Council wrote to the owner of this property advising that this detached building be reverted to a non-residential use. In 1984 the site plan that accompanied a development application for a swimming pool on the property referred to this building as an “existing shed”.

This building is currently advertised on-line as a self-contained 1 bedroom 1 bathroom bungalow for short term holiday accommodation. As this use is not approved, consideration of overshadowing to it or view loss from it should be ignored as its permissible use is that of a non-habitable building.

Although the solar access controls under Element J of the DCP do not apply to single dwellings such as the one proposed, these controls can be used as a guide to what is considered an acceptable level of solar access.

Element J specifies at least three hours of direct sunlight to the windows of living areas that face north, north-east or north-west for existing adjacent dwellings and their areas of private open space should be maintained between 9.00am and 3.00pm on 21 June .

The shadow diagrams indicate the rumpus room windows and north facing open spaces of dwelling to 62 Allens Parade will receive no shadowing from the proposed develop after midday on the winter solstice.

*South East elevation – 0.5 to 1.0 contravention for some parts.*

The northern living areas of Lot 59 Dress Circle Drive will be predominantly shadowed in the afternoon at the winter solstice by the existing dwelling at Lot 60 Allens Parade.

Lot 59 Dress Circle Drive will likely receive some shadowing to the lower parts of the walls of the living area up until midday. This is unlikely to affect the windows of this area as it is elevated above ground level.

Lot 61 Dress Circle Drive, being the ocean front allotment, has its main living areas and open space located on the eastern (seaward) side of the building. Although a small portion of the northern side of this building will be overshadowed for less than 3 continuous hours, this part of the building has no windows.

## 8.1 DA 2016/744 - 64 Allens Parade, Lennox Head

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*North East elevation - no issues with this ocean frontage.*

The building envelope objective of the DCP is also to ensure buildings do not unreasonably obstruct views.

The 4 step approach as described in the planning principle from *Tenacity Consulting vs Warringah Council* will be used to assess this issue.

### Step 1 – Assess the views

The predominant views in this locality are obviously the very sought after ocean views to the east and north-east.

### Step 2 – Consider where the views are obtained from

Currently the dwellings at Lot 63 Allens Parade and Lot 58 Dress Circle Drive that front the ocean have ocean views that will not be affected by this proposal. It would be unreasonable to assume that any other views across the development site from these ocean front properties should be maintained.

The dwellings at SP 32648 Allens Parade and Lot 59 Dress Circle Drive are located directly behind the two abovementioned properties. Direct ocean views from these properties are obstructed by the two abovementioned existing buildings and the remaining views are predominantly across the development site.

The dwelling at Lot 60 Allens Parade is located directly behind the development site and will be most affected by the proposal.

The dwellings at Lot 52 – 59 Dress Circle Drive and SP 50195 - 6 Pinnacle Row are both located some distance from, and at a higher elevation to, the proposed building.

### Step 3 - Consider the extent of the impact

#### Lot 63 Allens Parade and Lot 58 Dress Circle Drive

The impact of the proposed development on Lot 63 and Lot 58 will only be minor as a result of the most easterly parts of building and structure.

#### SP 32648 Allens Parade and Lot 59 Dress Circle Drive

Any form of development on the subject site will have a detrimental impact on both SP 32648 and Lot 59 Dress Circle Drive as they only have a small view corridor that looks diagonally across the development site.

The objection from Lot 59 contests that their recently approved design for alterations and additions would have had an entirely different aspect should they have known a proposal such as is proposed, with variations to the DCP, would be considered by Council. However, it is noted that the recently approved development at Lot 59 also contains variations to the northern building envelope, presumably in order to improve their aspect and obtain more direct ocean views.

Partial ocean views between the proposed building and the building at Lot 58 Dress Circle drive will remain.

**Lot 60 Allens Parade**

The views from Lot 60 will be the most affected and will be virtually obliterated by the proposed development. However, any form of development, and particularly any two storey dwelling, would have a similar effect even if full compliance with the building envelope controls were achieved.

**59 Dress Circle Drive and 6 Pinnacle Row**

The existing building at Lot 59 Dress Circle Drive has roof height of 11.41m AHD with alterations and additions to this building currently under construction. This building is directly in line of site between the objector at 59 Dress Circle Drive and the proposed building. The proposed building has a roof height of 11.25m AHD. The adjacent building at Lot 58 Dress Circle Drive has a roof height of 12.90m AHD. As the proposed building is lower than these adjacent buildings, any view loss from 59 Dress Circle Drive is not unreasonable

6 Pinnacle Row is located well above the roof level of the proposed building and will not be adversely affected by way of view loss.

**Step 4 - Assess the reasonableness of the proposal**

**Lot 63 Allens Parade and Lot 58 Dress Circle Drive**

As the design has been amended, there will now be no structures forward of the foreshore building line and therefore any impact on these properties will be negligible.

**SP 62648 Allens Parade and Lot 59 Dress Circle Drive**

It is unreasonable to believe that views across the development site should be protected by restricting development on the subject site.

**Lot 60 Allens Parade**

Views from the unapproved use of the ancillary building should not be considered as it should be assessed as an outbuilding whereby views from it would not be required to be protected.

The construction of the dwelling at Lot 60 is such that it does not have expansive decks or balconies facing the east or located towards the sides of the lot that would permit a partial view around a building on the development site. The decks and balconies are small and located such that they are directly behind the middle of the proposed building. Any encroachment of the building envelope will be at a height above and to the side of any the views from this property and as such the encroachments will not unreasonably impact on it.

**59 Dress Circle Drive and 6 Pinnacle Row**

The dwellings at these properties will not be unreasonably affected by the proposal. The submissions suggest the building is excessively high. The building is well below the permitted maximum height and is also lower than adjacent buildings.

*3.1.3 E - Building Lines*

There is no street frontage building line on this battle-axe lot. However, there is a foreshore building line which is discussed under the Special Area controls for Lennox Coastal Hazard Protection below and has been complied with.

*3.1.3 G - Landscaping and Open Space*

*Objectives*

- a. Ensure residential accommodation and tourist and visitor accommodation are provided with private open space which is usable and meets the needs of occupants;*
- b. Maximise the liveability and amenity of residential accommodation and tourist and visitor accommodation;*
- c. Ensure that landscaped areas are an integral component of residential and tourist oriented development proposals;*
- d. Preserve and retain existing mature native vegetation wherever practicable; and*
- e. Support landscape design that incorporates the planning of landscape species indigenous to the part of the shire in which they are being planted*

Sufficient impervious space remains on the site for landscaping. This is largely due to the inclusion of basement carparking that frees up land area at ground level for use as private open space in lieu of hardstand parking. Sufficient private open space is provided in form of the proposed balconies and terraces.

*3.1.3 H - Vehicular Access and Parking*

In addition to the above comments under Chapter 2, this Part of the DCP has additional provisions for basement parking.

- i. Basement car parking must not extend more than 1m above ground level (finished) where it faces a public street or public space or 1.5m above ground level (finished) to the side and the rear of the lot where it does not face a public street or public space;*
- ii. Ramps entering off a street or lane must start behind the boundary. Ramps cannot be located on public land; and*
- iii. The walls of basement car parking that protrude above ground level (existing) are to be located within the building's footprint. Basement car parking is not to extend outside the external line of terraces, balconies and porches.*

The basement car parking complies in that it does not extend more than 1m above finished ground level where it faces the street and it does not extend more than 1.5m above finished ground level elsewhere on the site.

The ramp entering off the street starts behind the street frontage boundary and is not located on public land.

The transition across the public land will be similar to other driveways in the locality.

The walls of the basement that protrude above ground level are sufficiently located within the building footprint that includes the terraces and decks.

A condition will be included to exclude the northern basement storage area from the design as this portion of the basement is proposed to extend forward of the foreshore building line.

### 3.1.3 I - Overlooking and Privacy

#### *Objectives*

- a. *Ensure buildings do not unduly affect existing or future development on adjoining properties by impinging on privacy or obstructing views; and*
- b. *Provide visual privacy for internal and external spaces;*

The controls in this part of the DCP for dwellings are:

- i. *A window must have a privacy screen if:*
  - *it is a window in a habitable room, other than a bedroom, and*
  - *the wall in which the window is located has a setback of less than 3 metres from a side or rear boundary, and*
  - *the window has a sill height of less than 1.5 metres.*
- ii. *A balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:*
  - *has a setback of less than 3 metres from a side or rear boundary, and*
  - *has a floor area of more than 3 square metres.*

The windows in the north and west elevations (both ground floor and first floor) are located in stairwells, the laundry, a first floor void, ensuites and robes and bedrooms.

On the south elevation the first floor windows are high set windows with sill heights in excess of 1.5m above floor level and located in the master ensuite. The lower floor windows, although located in a habitable room, have a sill height in excess of 1.5m above floor level.

Therefore the rooms in all of these elevations are compliant with the DCP controls.

There are no issues with the windows and balconies that face Seven Mile Beach.

The first floor terrace is located approximately 6m from both side boundaries.

The ground floor outdoor area on the south side adjacent to the pool area has a privacy wall proposed on the southern side.

The north side of the ground floor terrace does not appear to have any privacy screening and is located approximately 2.5m from the side boundary. However, this boundary adjoins two access way handles that provide beach access from the 60 and 62 Allens Parade. The combined width of the access ways is 3 metres. Therefore it considered that privacy screening is not required in order to afford privacy to the residential areas of 58 Allens Parade on the other side of the access ways.

*3.1.3 P. Earthworks & Slope Sensitive Design Controls*

The controls of this part of the DCP are predominantly for the control of earthworks on sloping sites and to limit the issues associated with a fill area being located on a common boundary directly above an excavation on an adjoining lot.

Therefore this part is not appropriate for assessment of the proposed excavation for the purposes of a basement and vehicular access.

*4.5 Special area controls – Lennox Coastal Hazard Protection Objectives*

- a. Minimise adverse impacts and hazard risks associated with coastal processes on dwellings and ancillary uses*

Minimum floor levels and foreshore building line provisions are contained in Table 4.13.

The proposal complies with the minimum habitable floor level of 5.25m AHD.

The foreshore building line provision in Table 4.13 is 10.3m for the entire foreshore frontage.

The submitted plans as amended comply with this other than a portion of the basement carparking that can be conditioned to not be provided if consent is granted.

The swimming pool may need to be relocated or reduced in size further in order for the barrier to comply with the building line. It can be conditioned for all structures including pool barriers to be located behind the building line if consent is granted.

**Other Issues**

Some submissions have raised concerns regarding noise from air conditioning plant, pumps and other equipment.

The BASIX certificate also indicates no ducting is to be provided for heating and no air-conditioning is proposed. The Codes SEPP includes criteria for air conditioning units to be installed as Exempt Development. Should the owners desire to install air conditioning that does not meet these criteria, a separate application or amendment application will need to be lodged for consideration.

Rainwater tanks are proposed to be located in the basement. Tanks being located in the basement is preferable to externally located tanks for both aesthetic and noise reasons.

Noise matters are regulated by the Protection of the Environment Operations Act as they are with all other properties. If approval is granted, consideration could be given to require a noise assessment of all plant and equipment to be provided prior to issue of a Construction Certificate. This is not considered to be necessary.

The BASIX Certificate submitted indicates the pool is to be shaded. No shading is proposed and no shading will be permitted forward of the building line. An amended BASIX Certificate indicating an unshaded pool will need to be submitted to the PCA prior to issue of a Construction certificate.

There is no evidence to suggest that the proposed development will unreasonably or adversely affect coastal breezes to any other allotments.

### **Options**

The following options are available to Council:

Option 1: REFUSE the application for a two storey dwelling and basement parking, a swimming pool and removal of 2 Cook Island Pine trees due to:

1. Non-compliance with Council's Development Control Plan 2012 - Chapter 4, Clause 3.1.3 C. Element- Building Envelopes, where the departures are considered to have an unreasonable impact on the adjoining properties, including issues of overshadowing and view loss.
2. The removal of two Cook Island Pine trees will have an unreasonable adverse impact on the amenity of residents in the locality.
3. The construction of a basement of the size and location as proposed is not suitable development for this site as it may cause damage to adjoining properties as a result of the removal of the former sea wall.

Option 2: APPROVE the application for a two storey dwelling and basement parking, a swimming pool and removal of 2 Cook Island Pine trees subject to the plans being modified to have the basement carpark comply with the foreshore building line and the following specific conditions in addition to general conditions that are to be applied to the consent:

1. A dilapidation report detailing the current condition of the adjoining buildings and sewer infrastructure shall be prepared by a suitably qualified person. The report shall be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

A second dilapidation report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any damage has occurred to the adjoining buildings or sewer infrastructure. The report shall also be submitted to the satisfaction of the Principal Certifying Authority and should be compared with the earlier report to ascertain any change has occurred.

The developer shall be responsible for the rectification of any damage caused as a result of the works associated with this development.

2. A Construction Waste Plan in accordance with Section 3.7 of the Ballina Shire Development Control Plan 2012 is to be submitted to and approved by the PCA prior to issue of a Construction Certificate.
3. The basement is to be designed to accommodate the possibility of foundation soil removal to a depth of 2.0 metres Australian Height Datum (AHD). Where not supported by the basement structure, the structural design of the dwelling and pool is to incorporate a suspended design supported off piles, taking into account the possibility of foundation soil removal to a depth of 2.0 metres Australian Height Datum (AHD).

The piling and structural design is to take into account any potential forces attributed to wave action. Structural engineering details are to be submitted to the Principal Certifying Authority (PCA) detailing this requirement prior to the issue of a Construction Certificate.

4. On completion of any piling, written structural engineer's certification from the consultant engineer is to be submitted to the PCA and Council, verifying the placement of any piles and adequacy of the required bearing capacity, prior to works proceeding beyond that stage.

Note: driven piling methods are not permitted due to problems with site vibration and the potential for damage to adjoining properties.

5. The habitable ground floor of the building is to be constructed to have a minimum habitable floor level of 5.25 metres AHD. Written certification from a registered surveyor is to be submitted to the Principal Certifying Authority (PCA) and Council on completion of the formwork for the ground floor slab (prior to concrete pour), prior to works proceeding further.
6. All structures including pool barriers are to be located behind the foreshore building line.
7. External lighting is not to be directed towards the beach.
8. The proposed outdoor shower is not permissible forward of the building line unless supplied with cold water only, as it has no waste connection to the sewer and it is unroofed.
9. The relocation of any services within the road reserve is to be at the developer's expense.
10. Prior to issue of an Occupation Certificate, four advanced stock Cook Island Pine trees are to be planted at the developer's expense on Council owned land as selected by Council.

### **Conclusions**

The proposal for a two storey dwelling including a basement carparking and a swimming pool is permissible on this site and complies with the relevant State planning legislation for environmental public land protection.

## **8.1 DA 2016/744 - 64 Allens Parade, Lennox Head**

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Submissions of objection have been received from five properties that adjoin the lot and two that are relatively remote from the lot.

The proposal complies with the LEP prescribed development standards in relation to building height and floor space ratio.

The building, pool and all structures comply with the foreshore building line.

Despite the proposed building contravening the building envelope controls in some areas, the design has taken into account the objectives of the DCP and attempted to preserve solar access and views by stepping walls in from the boundaries as they get higher above ground level and utilising a flat roof design.

Any impacts on views and solar access to adjoining properties by virtue of the extent of the building envelope variations are not unreasonable for a two storey development on this site.

The building complies with the privacy provisions of the DCP.

The building is proposed to be constructed in accordance with the DCP provisions for minimum floor level and piling in order to cater for the predicted future coastal erosion.

The issues raised by the occupants of the adjoining properties in relation to surface water flows have been satisfactorily addressed for determination of a development application with further matters to be addressed in more detail during the Construction Certificate stage.

Construction related aspects of the basement are also matters that the applicant has not fully detailed in the application to date as they believe these are matters that can and should be addressed at Construction Certificate stage.

These matters can be dealt with by appropriate conditions that require details to be provided to, and approved by, the PCA prior to issue of a Construction Certificate, or alternatively, the determination of the application could be withheld until such time as the applicant provides sufficient details to confirm no adjoining properties will be unreasonably or unduly adversely affected.

The proposed removal of the two Cook Island Pine trees is an issue that is likely to cause some concern for residents in the locality should they be removed. However, from the tree assessment provided, it appears that one of these must be removed to protect life and property with the possibility that the other may be compromised by the removal of the first.

The trees are located on private property and have no significant cultural or heritage value and compensatory planting of four advanced stock trees has been proposed by the applicant.

## RECOMMENDATION

That Development Application 2016/744 to construct a two storey dwelling and basement parking, a swimming pool and removal of 2 Cook Island Pine trees at Lot 61 in DP 29654, being No. 64 Allens Parade, Lennox Head be APPROVED subject to the following conditions being applied to the consent:

1. A dilapidation report detailing the current condition of the adjoining buildings and sewer infrastructure shall be prepared by a suitably qualified person. The report shall be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

A second dilapidation report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any damage has occurred to the adjoining buildings or sewer infrastructure. The report shall also be submitted to the satisfaction of the Principal Certifying Authority and should be compared with the earlier report to ascertain any change has occurred.

The developer shall be responsible for the rectification of any damage caused as a result of the works associated with this development.

2. A Construction Waste Plan in accordance with Section 3.7 of the Ballina Shire Development Control Plan 2012 is to be submitted to and approved by the PCA prior to issue of a Construction Certificate.
3. The basement is to be designed to accommodate the possibility of foundation soil removal to a depth of 2.0 metres Australian Height Datum (AHD). Where not supported by the basement structure, the structural design of the dwelling and pool is to incorporate a suspended design supported off piles, taking into account the possibility of foundation soil removal to a depth of 2.0 metres Australian Height Datum (AHD).

The piling and structural design is to take into account any potential forces attributed to wave action. Structural engineering details are to be submitted to the Principal Certifying Authority (PCA) detailing this requirement prior to the issue of a Construction Certificate.

4. On completion of any piling, written structural engineer's certification from the consultant engineer is to be submitted to the PCA and Council, verifying the placement of any piles and adequacy of the required bearing capacity, prior to works proceeding beyond that stage.

Note: driven piling methods are not permitted due to problems with site vibration and the potential for damage to adjoining properties.

5. The habitable ground floor of the building is to be constructed to have a minimum habitable floor level of 5.25 metres AHD. Written certification from a registered surveyor is to be submitted to the Principal Certifying Authority (PCA) and Council on completion of the formwork for the ground floor slab (prior to concrete pour), prior to

works proceeding further.

6. All structures including pool barriers are to be located behind the foreshore building line.
7. External lighting is not to be directed towards the beach.
8. The proposed outdoor shower is not permissible forward of the building line unless supplied with cold water only as, it has no waste connection to the sewer and it is unroofed.
9. The relocation of any services with the road reserve is to be at the developer's expense.
10. Prior to issue of an Occupation Certificate, four advanced stock Cook Island Pine trees are to be planted at the developer's expense on Council owned land as selected by Council.

**Attachment(s)**

1. Locality Plan
2. Submission and Request for Extension of Time to Submit More Detailed Submission - Paul Robertson
3. Request for Extension of time to Submit a Submission - Susan Walter
4. Submission - Objection - G H Wegg
5. Submission - Objection - Robyn Hargrave
6. Request for further details from Susan Walter
7. Submission - Objection - Mark Lea
8. Submission - Objection - Judy Browne
9. Submission - Garry Hargrave
10. Submission - Tim Medhurst
11. Submission - Objection - Michele Robertson
12. Submission - Objection - Runglawan Robertson
13. Submission - Objection - Lennox Robertson
14. Additional submission from G Hargrave re Cross Sections, Driveway and stormwater details
15. Additional Submission - Objection - Wegg
16. Submission - Susan Walter
17. Submission - James Walter
18. Submission - Objection - Jennifer Wicks
19. Submission Objection and Request to Extend Exhibition Period - Ken Muldoon
20. Submission - Paul Robertson
21. Submission - Paul Robertson
22. Amended driveway long section with clearance to sewer
23. Tree Impact Assessment Report 64 Allens Parade by Arbor Ecological
24. Driveway and hydraulic details
25. Site geotechnical report
26. Cross Sections, Driveway & Stormwater Plans for Public Access
27. Shadow diagrams received 22 January 2017
28. Plans as originally lodged (web version) includes superseded site plan
29. Final version of architectural plans (redacted for public access)

## 8.2 Development Applications – Variation to Development Standards

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### 8.2 Development Applications – Variation to Development Standards

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The following schedule sets out development applications approved under delegation since the last Council meeting which have involved variations to development standards (via the BLEP 1987 or BLEP 2012):

DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for variation
2016/561	8/2/2017	Coral Homes	Proposed two storey dwelling – Lot 11 DP 239776, No. 2 Aurora Place, Lennox Head	R3 – Medium Density Residential – BLEP 2012	CI 4.4 Floor space ratio standard is 0.5:1 Approved Variation - 0.51:1	The proposal will not unreasonably or unduly impact on any adjoining property and is not inconsistent with variations previously approved

### RECOMMENDATION

That Council notes the contents of this report on the development applications approved under delegation for variations to development standards less than 10% for February 2017.

### Attachment(s)

Nil

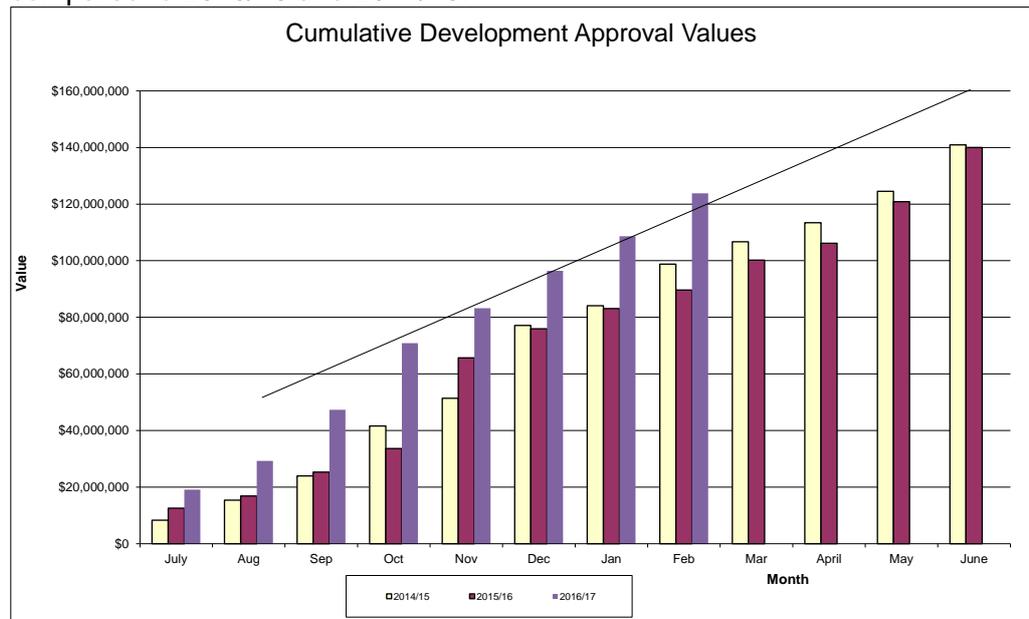
**8.3 Development Consent and Infrastructure Approvals - February 2017**

**8.3 Development Consent and Infrastructure Approvals - February 2017**

During the period of 1 February 2017 to 28 February 2017 the Development and Environmental Health Group issued Development Consents comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
36 Other including Changes of Use	\$ 2,027,474
14 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 9,310,638
2 General Developments including Subdivisions	\$ 1,300,000
<b>Total Value</b>	<b>\$ 12,638,112</b>

The following chart details the cumulative consent figures for 2016/17 as compared to 2015/16 and 2014/15.



### **8.3 Development Consent and Infrastructure Approvals - February 2017**

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During the period of 1 February 2017 to 28 February 2017 the Development and Environmental Health Group issued Public Infrastructure / Civil Construction Works Approvals comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
3 Public Infrastructure / Civil Construction	\$ 2,537,095
<ul style="list-style-type: none"><li>• Skennars Head Round-a-bout (\$1,997,095)</li><li>• Installation of Recycled Water Trunk Main – Lennox Head (\$500,000)</li><li>• Re-alignment of existing sewer rising main – Shelly Beach (\$40,000)</li></ul>	
<b>Total Value</b>	<b>\$ 2,537,095</b>

#### **RECOMMENDATION**

That Council notes the contents of the report on development consent and public infrastructure approvals for 1 February 2017 to 28 February 2017.

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

Nil

#### 8.4 Development Applications - Works in Progress - 23 March 2017

#### 8.4 Development Applications - Works in Progress - 23 March 2017

The following schedule sets out current development applications that have not yet been dealt with for the reasons cited:

Please note that duplex and dual occupancy applications are not included in this report.

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2016/148	1/4/2016	Planners North	Amended Proposal - Mixed Use Development Comprising the Erection of a Two Storey Business Premises and Three x Two Storey Serviced Apartments - Tourist and Visitor Accommodation and Associated Works – 61 Ballina Street, Lennox Head	Awaiting Additional Information
2016/219	03/05/2016	Ardill Payne & Partners	Amended Proposal – Establishment of a Strata Titled Dual Occupancy (Detached) Development – 175 Tamar Street, Ballina	Being Assessed
2016/274	20/05/2016	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create 1 x 1.45ha and 1 x 47ha allotments and the establishment of a rural worker's dwelling upon the larger Proposed Lot 11 – 61 & 145 Brooklet Road, Newrybar	Being assessed.
2016/375	8/7/2016	Ardill Payne & Partners	Establishment of a Multi Dwelling Housing Development Comprising the Erection of Two x Two Storey Detached Dwellings, Retention of and Alterations and Additions to the Existing Dwelling House, Demolition of Existing Garage, Vegetation Removal and Associated	Awaiting additional information.

#### 8.4 Development Applications - Works in Progress - 23 March 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			Works and Staged Strata Title Subdivision – 43 Pacific Parade, Lennox Head	
2016/378	12/7/2016	Newton Denny Chapelle	Proposed Ballina Racecourse Redevelopment Comprising Upgrade to Race Tracks and Training Tracks, Bulk Earthworks, Stormwater Management Works, Installation of Irrigation System, Vegetation Removal, Environmental Offsets and Boundary Adjustment - Ascot Road and 36 Racecourse Road, Ballina	Referred to Government Departments
2016/389	19/07/2016	McDonald's Australia Pty Ltd	Erection of a McDonald's Restaurant and Associated Signage on the Approved Highway Service Centre Site – 565-589 River Street, West Ballina	Being Assessed
2016/426	04/08/2016	Ballina Shire Council c/- CivilTech Consulting Engineers	Extension of Skennars Head Playing Fields – Skennars Head, Lennox Head	Being Assessed
2016/506	8/9/2016	Newton Denny Chapelle	To increase student numbers on a permanent basis from 100 to 235 at the existing educational establishment – 37 Converys Lane, Wollongbar	Being Assessed – To be reported to Council for determination (as per Council's resolution)
2016/569	10/10/2016	Stephen Phibbs	Strata subdivision of existing dual occupancy - 7 Crane Street, Ballina	Awaiting Additional Information
2016/604	21/10/16	Ardill Payne & Partners	Alterations and Additions to Ballina Toyota – 2 Sunset Avenue, West	Awaiting Additional Information

#### 8.4 Development Applications - Works in Progress - 23 March 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			Ballina	
2016/617	26/10/16	Stephen Fletcher and Associates Pty Ltd	Excavation and Drainage Works – Uralba Road, Uralba	Being Assessed
2016/655	15/11/16	Ardill Payne & Partners	Amended Proposal - Establishment of Two Holiday Cabins – 56 Tooheys Mill Road, Pearces Creek	Awaiting additional information
2016/662	17/11/16	Ardill Payne & Partners	Demolition/removal of Existing Dwelling House and Two Lot Subdivision to Create 1 x 643sqm and 1 x 652sqm allotments – 46 Sandstone Crescent, Lennox Head	Being Assessed
2016/690	29/11/16	Ardill Payne & Partners	To undertake a residential subdivision to create 38 residential lots, including construction of roads and installation of public infrastructure services – Quays Drive, West Ballina	Awaiting Additional Information
2016/691	29/11/16	Ardill Payne & Partners	Construction of a new PAD site building of Ballina Fair Shopping Centre and subsequent modifications to part of the car parking area – 84 Kerr Street, Ballina	Awaiting Additional Information
2016/700	21/12/16	Ardill Payne & Partners	To Undertake Alterations and Additions to existing Building for the purpose of an Industrial Training Facility – 47 Southern Cross Drive, Ballina	Being assessed
2016/704	5/12/2016	Ardill Payne & Partners	Staged Seniors Housing Development Comprising the Re-Development of Alstonville Maranoa pursuant to S.83B of the EP&A Act with consent also sought for Stage 1 comprising 12 self-contained dwellings, tree	Awaiting Additional Information

#### 8.4 Development Applications - Works in Progress - 23 March 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
			removal, new driveway and associated works - 9-19 The Avenue, Alstonville	
2016/731	15/12/2016	Ardill Payne & Partners	Two Lot subdivision to create 1 x 1705 and 1 x 1182 m <sup>2</sup> lots – 45 Greenfield Road, Lennox Head	Determination Pending
2016/739	20/12/2016	Newton Denny Chapelle	Conversion of Existing Shed for Tourist and Visitor Accommodation – 48 Glenross Drive, Kinvarra	Being Assessed
2016/741	20/12/2016	Newton Denny Chapelle	Subdivision of Land Comprising 121 Residential Allotments – Hutley Drive, Lennox Head (EPIQ)	Awaiting Additional Information
2016/745	21/12/2016	Ardill Payne & Partners	Subdivision by way of boundary adjustment of five existing lots to create 5 new lots – 520 & 462 Newrybar Swamp Road, Broken Head	Referred to Government Departments
2016/754	23/12/2016	Ballina Shire Council	Alterations to the existing building and use as a commercial premises - 60 Crane Street, Ballina	Being Assessed
2016/756	23/12/2016	Planners North	Erection of Two x 25 Metre High Entry Pylon Signs, Ballina Highway Service Centre, West Ballina – 565-589 River Street, West Ballina	Awaiting Additional Information
2016/757	23/12/2016	FSG Australia	Change of Use of Dwelling House and Shed to Community Facility – 111 Tamar Street, Ballina	Awaiting Additional Information
2017/7	4/1/2017	RPS Group	Construction of a service station with convenience store, car parking, signage and associated works – 413-423 River Street, Ballina	Awaiting Additional Information
2017/	18/1/2017	Vision Town	Alterations to Health	Being

#### 8.4 Development Applications - Works in Progress - 23 March 2017

DA No.	Date Rec'd	Applicant	Proposal	Status
27		Planning	Services Facility - 64 Cherry Street, Ballina	Assessed
2017/40	31/01/2017	WJ Townend – Town Planning Pty Ltd	Change of Use from Light Industrial to Take-Away Food and Drink Premises – 6 Endeavour Close, Ballina	Being Assessed
2017/57	08/02/2017	Ardill Payne & Partners	Erection of 7 x pole/pylon advertising signs (Lennox Head Service Station) – 44-48 Byron Street, Lennox Head	Being Assessed
2017/66	13/02/2017	Lightwaves @bangalow	Staged alterations and additions to enable a change of use from a dwelling house to a medical centre – 13 Commercial Road, Alstonville	Being Assessed
2017/67	13/02/2017	Signcraft	To erect one fascia sign and one, seven metre high pylon sign – 478 River Street, Ballina	Being Assessed
2017/72	15/02/2017	Robert Kain	To change the use of an existing dwelling house to tourist and visitor accommodation and to convert an existing shed into a dwelling house with an ancillary amenities building – 245 Friday Hut Road, Tintenbar	On Exhibition
2017/80	17/02/2017	Charles Halloran	Vegetation Management Works comprising the removal of one tree – 16 Fenwick Drive, East Ballina	Determination Pending

## 8.4 Development Applications - Works in Progress - 23 March 2017

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/01/16	21st Century Builders Pty Ltd	To undertake the first stage of the urban subdivision of the new Cumbalum Urban Release Area – Precinct B comprising a total of 191 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, Tintenbar	Awaiting Additional Information
2016/184	15/4/16	Planners North	To undertake urban subdivision of the new Cumbalum Urban Release Area – Precinct A comprising a total of 633 residential allotments, road construction, earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - Sandy Flat Road, 88 Sandy Flat Road, 52 Albert Sheather Lane, Tamarind Drive and 658 Tamarind Drive, Cumbalum	Awaiting Additional Information  Subject to Class 1 Appeal in the NSW Land & Environment Court

#### 8.4 Development Applications - Works in Progress - 23 March 2017

2016/524	16/9/16	Planners North	Seniors Living Development pursuant to SEPP (Housing for Seniors and People with a Disability)2004 comprising 211 serviced, self-care housing with associated clubhouse, recreation facilities, roads and associated infrastructure and environmental management and protection works – 67 Skennars Head Road, Skennars Head	Awaiting Additional Information
2016/660	17/11/16	BP Australia Pty Ltd	Erection of a Highway Service Centre and Associated Uses, Advertising Signage Including Two x 25 m High Structures, Land Filling, Vehicular Access of Pacific and Bruxner Highways, Car Parking and Associated Works - Pacific Highway, West Ballina	Awaiting Additional Information
2016/746	23/12/16	Ringtank Pty Ltd	Erection of dwelling houses, rural worker's dwelling, tourist and visitor accommodation, 10 site caravan park, polo training field and equestrian exercise area, equine building including stables, veterinary facility, quarantine stalls and horse float and equipment shelters, private helipad and hanger, outdoor recreation facilities including go-kart track, shooting range, motocross track, associated buildings, roadworks, earthworks including dams and landscaping - Carrs Lane, Empire Vale Road, Reedy Creek Road- Keith Hall/Empire Vale	Awaiting Additional Information

#### 8.4 Development Applications - Works in Progress - 23 March 2017

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##### Major Development (Determined by Minister)

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

##### RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for March 2017.

##### Attachment(s)

Nil

## **9.1 Alstonville Planning and Environmental Study and Strategic Plan**

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### **9. Strategic and Community Facilities Group Reports**

#### **9.1 Alstonville Planning and Environmental Study and Strategic Plan**

**Delivery Program** Strategic Planning

**Objective** To outline the progress of the Alstonville Strategic Plan project and seek direction from the Council concerning further community engagement through a public exhibition process.

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#### **Background**

The Council, at its Ordinary Meeting held on 28 April 2016 resolved to proceed with the preparation of a place-based strategic planning process for the urban areas of Alstonville and Wollongbar [Minute No 280416/12].

Council's decision was in response to Action HE3.1.2b of the Delivery Program and Operation Plan 2015/16 (now Action HE3.1.2c of the 2016/17 plan). This action relates to ensuring that planning instruments reflect current and future needs. In this context, the review of the planning framework for Alstonville and Wollongbar was proposed to be undertaken through a planning and environmental study process, inclusive of a community engagement program.

The adopted 2012 Ballina Shire Growth Management Strategy identified a number of strategic actions for Alstonville and Wollongbar. These strategic actions as they relate to Alstonville have been examined through the environmental study process (note that a separate planning process will be undertaken for Wollongbar, with community engagement commencing this financial year).

The strategic actions under the Growth Management Strategy for Alstonville are:

- Identify opportunities for additional seniors' living facilities.
- Investigate the potential for infill development intensification.
- Review planning controls for the village centre following construction of the Bruxner Highway bypass.
- Preserve the integrity of the village footprint.
- Maintain the urban buffer / inter-urban break between Wollongbar and Alstonville.
- Revisit the Third Plateau Village concept.
- Manage and/or promote Aboriginal, European and other non-Aboriginal cultural heritage values in accordance with relevant stakeholders.

Prior to commencing work on the draft Alstonville Planning and Environmental Study (APES) a public consultation program was initiated. This program consisted of the following elements during June and July 2016:

## **9.1 Alstonville Planning and Environmental Study and Strategic Plan**

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- 3000 letters posted to all land owners within Alstonville township and adjacent rural areas;
- Pop-up street stall established for three mornings on the corner of Daley and Main Street;
- Meetings held with Chamber of Commerce and Alstonville and District Football Club. Invitations extended to other organisations to discuss planning, such as Alstonville High School;
- Press release prepared which resulted in interviews on ABC radio and NBN News during July 2016; and
- On line survey and web background content established.

Submissions received in respect to the pre-study community engagement assisted to establish the direction of the draft APES and the various issues that it has examined.

The draft APES was distributed to Councillors prior to the Councillor briefing on the project held on 7 March 2017. This draft is also attached to this report under separate cover.

The draft Alstonville Strategic Plan 2017 – 2037 has been prepared based on ideas currently contained within the draft APES. The draft strategic plan is contained within Attachment One.

The purpose of this report is to provide an overview of the draft study and plan preparation process and seek direction on the public exhibition of the documentation.

### **Key Issues**

- Strategic planning for Alstonville.
- Community engagement.

### **Information**

#### Overview

The philosophy adopted when preparing the APES was to examine a range of factors impacting on the Alstonville township, examine relevant data and then draw conclusions based on the data provided. The draft APES was also used as a means of proposing a variety of change ideas, some of which were derived from comments made by community members during the pre-study consultation.

The draft APES and accompanying draft Alstonville Strategic Plan 2017 – 2037, when finalised and adopted by the Council following public exhibition, are proposed to form the basis for Alstonville township strategic planning decision making in the 20 year period to 2037. Regular review of the strategic plan will also be required to ensure that it remains contemporary and adequately addresses issues as they arise.

A draft community vision for the future of Alstonville township has been developed using comments made by community members in response to the public engagement initiatives undertaken to date.

## 9.1 Alstonville Planning and Environmental Study and Strategic Plan

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The draft vision consists of the following elements:

- Ensuring that the township's character, sense of community and quiet lifestyle is maintained;
- Providing new housing opportunities that are affordable and provide choice for people to meet changing life needs;
- Enhancing connectivity through the provision of walking paths, cycle ways and a town square;
- Fostering employment opportunities; and
- Maintaining and enhancing our natural environment.

The community's vision for Alstonville village is proposed to be achieved through the mechanism of the strategic plan and the strategic actions that it contains.

### Significant Findings and Conclusions

More significant findings and conclusions drawn from data contained within the draft APES include the following:

- Without planning policy intervention Alstonville is likely to have a population increase potential of approximately 775 people above the 2016 estimated level of 5844 people. Capacity currently exists to accommodate approximately 356 additional dwellings. Through the provision of this additional housing Alstonville has capacity to increase its population to approximately 6,600 people. In the 20 year period to 2037 the Alstonville population has been estimated to increase to approximately 6160 – 6315 people.
- In October 2016 only 24 vacant R2 zoned residential lots existed in Alstonville with an estimated potential for an additional 10 lots to be subdivided under existing planning controls.
- The R3 zoned areas within the township have capacity to provide for approximately 274 new dwellings. Having regard to current property acquisition and building costs, the economic viability of developing new medium density housing products in the short term, in accordance with current density controls, is questionable. Existing detached housing within the township currently has a median sale price well below what it is likely to cost to develop medium density housing products close to the commercial centre.
- A number of options exist to create greater housing choice within the township over the life of the strategic plan. These options include increasing the density applicable to R3 zoned areas, rezoning additional areas in close proximity to the commercial centre to permit medium density residential development, increasing the areas in which dual occupancy development is permitted, and increasing the permitted building height in the commercial centre from 9 to 10 metres so as to better facilitate shop top housing.
- A small expansion (approximately 2 ha) of the area south of the existing Adventist seniors' living development on Pearces Creek Road is canvassed. If ultimately enabled, it may assist in integrating the Adventist facility with the remainder of the Alstonville township. It is estimated that in the vicinity of 20 dwellings, providing self-care

housing facilities for approximately 30 people, could be realised on this land.

- It was estimated that if all of the housing choice initiatives examined in the study were implemented then Alstonville could accommodate approximately 1865 additional people as opposed to the 775 additional people under existing controls. This would then result in Alstonville having a maximum population potential of approximately 7700 people.
- The existing Gap Road - Tuckombil Quarry and associated buffer areas were examined for their suitability to provide additional residential accommodation opportunities. Privately owned areas to the west and south of the quarry site have the capacity to accommodate in the vicinity of 550 dwellings. It is considered too early to designate this area as a potential growth location due to current quarry operations and expansion plans.
- Connectivity of residential areas with the commercial centre and community facilities was an issue identified as requiring action through increased foot and shared pathways over the next 20 year period.
- Provision of a town square within Main Street and the commercial centre was examined. Whilst potentially feasible, it was considered to be unlikely to be realised within the next 20 year period due to funding limitations and the largely private ownership of the land. Nevertheless, it remains an aspirational goal through the draft vision statement for Alstonville.
- Employment potential was identified through marketing the Main Street commercial area and facilitating the continued evolution of this area into a restaurant, café and arts and craft hub. The fostering of rural hinterland tourist destination activities, including farm stay accommodation, was also suggested as a means to provide economic depth and income producing potential for this area.
- The future potential of the hinterland was explored having regard to potential international demand for agricultural products and the potential competitive advantage afforded by proximity to the Ballina Byron Gateway Airport for local producers.
- Alstonville residents were found to have typically good employment opportunities with the 2011 unemployment rate (3.8%) significantly below the then shire rate (6.3%). In excess of 90% of Alstonville's employed residents had jobs within a half hour travel time of their homes.

The draft Alstonville Strategic Plan 2017 – 2037 contains a total of 23 strategic actions aligned with the five locality objectives derived from the vision statement contained within the draft APES. The basic premise of the plan in relation to urban development is to maintain the inter-urban break between Alstonville and Wollongbar whilst enabling infill development within the existing urban footprint of Alstonville.

It is intended that actions will be prioritised by a high, medium and low designation having regard for feedback received from the public exhibition of the draft plan. It is envisaged that actions with a high priority will be considered for implementation within a maximum 5 year period, medium priorities within 10 years and low priorities beyond that time or as resources permit. Not all actions are the responsibility of Council to implement, with

## 9.1 Alstonville Planning and Environmental Study and Strategic Plan

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various stakeholders being suggested. In cases where Council is not directly responsible for delivering an action an advisory or advocacy capacity could be assumed.

It is recommended that the next step in the Alstonville strategic planning process is to place the draft APES and strategic plan on exhibition for community comment subject to incorporation of any amendments or suggestions that the Council may have.

Following the Councillor briefing on 7 March 2017 arrangements have been made for the exhibition launch to take place at the Alstonville Plateau Bowls & Sports Club commencing at 6:30 pm on Monday 3 April 2017.

If the study and plan are endorsed for exhibition, staff will proceed with the launch and formally commence the public exhibition phase on Wednesday 5 April 2017, continuing until Friday 12 May 2017.

Following the exhibition process the Council would then again have the opportunity of considering both documents together with community feedback prior to their adoption.

Separately, work is also presently underway on background research associated with the draft Wollongbar Strategic Plan. In this respect community consultation initiatives will be commenced in the coming months and may overlap with the Alstonville process. It is presently anticipated that a draft study and plan will be compiled for Wollongbar by about late 2017.

### **Sustainability Considerations**

- **Environment**

The strategic direction outlined in the draft strategic plan is one based on providing for increased housing choice and limited population growth predominantly within the existing urban areas of Alstonville township.

Such a strategy results in the preservation of surrounding farmland and the inter-urban buffer between Alstonville and Wollongbar apart from one small exception which relates to the Adventist Care site. It is envisaged that the consolidation housing choice strategy will result in net environmental benefits compared to a greenfield residential release strategy.

- **Social**

Significant social benefits are envisaged to result from strategies that result in increased housing choice opportunities and the greater connectivity resulting from a township serviced by more foot and shared pathways.

- **Economic**

Local economic activity is anticipated to be stimulated by strategies that result in more residential building opportunities, potential for increased tourist visits, and policies which actively encourage hinterland based activity.

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

It is proposed that the Alstonville strategic planning process now progresses to the public exhibition of the draft APES and strategic plan documentation.

This phase of the project does not give rise to any significant legal, resource or financial implications for Council.

### **Consultation**

It is proposed to place the draft Alstonville strategic planning documents on public exhibition from 5 April 2017 until 12 May 2017. During this period persons who previously made submissions and key stakeholders will also be provided with written advice of the exhibition. Advertisements will be placed in the Advocate newspaper prior to the exhibition commencing and a press release will be issued.

An electronic survey has been prepared and will be used to canvass the level of support for the various ideas discussed within the draft APES and in particular the housing choice initiatives.

Letters are also proposed to be forwarded to property owners of land identified as having potential for rezoning to R3 Medium Density Residential and key Government departments. Letters will also be forwarded to organisations identified as being primarily responsible for the delivery of key actions contained within the draft strategic plan.

It is proposed to launch the public exhibition of the APES and strategic plan at the Alstonville Plateau Bowls & Sports Club on 3 April 2017. At this stage of the process additional public meetings are not proposed to be scheduled. However, depending on how the exhibition proceeds and the level of community interest, arrangements for community-based meetings could be made prior to the matter being reported back to the Council.

A mass mail out to property owners (3000) as previously undertaken is not proposed due to the relatively low response rate previously generated and the associated costs.

### **Options**

Options available to the Council to progress this matter include the following:

1. Endorse the exhibition of the draft APES and strategic plan for Alstonville in accordance with the consultation strategy outlined in this report and subject to any additional amendments nominated by the Council.

This is the preferred option as it will enable the documents to be reviewed by the community and comments received to be considered by the Council.

2. Conduct further targeted community engagement prior to a broader exhibition process. For example, a steering committee could be formed from persons who previously made submissions in response to the pre-study consultation and any other interested persons.

## **9.1 Alstonville Planning and Environmental Study and Strategic Plan**

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A committee or other targeted stakeholders could be asked to review the documents and if judged satisfactory endorse them for public exhibition. This approach is not recommended as it could potentially further significantly delay the release of subject documents and opportunity is available for all interested parties to engage with the draft study and plan through the recommended exhibition process.

3. The Council could determine not to further progress work in respect to strategic planning for Alstonville.

This approach, whilst not recommended, could be taken as a consequence of the information contained within the draft APES and if the Council is of the view that its preferred position in respect to Alstonville township is a no growth scenario. Adopting this option would also be problematic for the Council as there is now a community expectation that strategic planning documents would be available for comment in the early part of 2017.

4. The Council could defer the matter and seek additional information.

This option is not recommended on the basis that a Councillor briefing was held on the project in early March and extensive research and community engagement underpins the draft exhibition documentation.

### **RECOMMENDATIONS**

1. That Council endorses the public exhibition of the draft Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan 2017 – 2037.
2. That Council give further consideration to the draft Alstonville Planning and Environmental Study and draft Alstonville Strategic Plan following public exhibition.

### **Attachment(s)**

1. Draft Alstonville Strategic Plan 2017 - 2037
2. Draft Alstonville Planning and Environmental Study (Under separate cover)

## 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

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### 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

**Delivery Program** Strategic Planning

**Objective** To invite the Council's consideration of the merits of permitting detached dual occupancy and/or secondary dwelling development within rural areas of Ballina Shire.

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#### Background

The Council, at its meeting held on 24 March 2016, when considering the extension of the urban secondary dwelling developer contribution policy, resolved in part to receive a report concerning secondary dwellings on land in rural zones [Minute No. 240316/16].

This report gives consideration to a policy approach that would permit secondary dwellings and/or detached dual occupancies on land within rural zones under the provisions of Ballina LEP 2012.

#### Key Issues

- Primary purpose and planning principles applying to rural land
- Rural land fragmentation and land use conflict.
- Housing choice in rural areas

#### Information

##### *Legislative Framework Ballina LEP 2012*

Ballina LEP 2012 (LEP) contains two rural zones. The RU2 Rural Landscape zone (RU2) and the RU1 Primary Production zone (RU1). Development characterized as secondary dwellings and detached dual occupancies are prohibited within the RU1 and RU2 zones, whereas an attached dual occupancy is permissible with development consent. This approach (being to enable only attached dual occupancy development on rural land) also applies to deferred areas under the LEP and has been applied in Ballina Shire since the introduction of the Ballina LEP in February 1987.

In considering second dwellings on rural land, there are several terms used to describe such development. The legal definitions of the relevant land uses (or dwelling types) are set out below.

The LEP defines a secondary dwelling as:

**secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

## 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

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Clause 5.4 of the LEP restricts the size of secondary dwellings to 60 square metres (excluding garages) or 50% of the total floor area of the principal dwelling, whichever is the greater.

The LEP defines a dual occupancy (detached) as:

**dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

The LEP permits, with development consent, attached dual occupancy dwellings within the RU1 and RU2 zones. Such dwellings may range in form from a typical granny flat arrangement to two substantial dwellings. Whilst it is the case that secondary dwellings are not specifically permitted, there is sufficient flexibility within the LEP to be able to consider such small dwellings, if attached to the principal dwelling, as an attached dual occupancy.

*Ballina Shire Development Control Plan 2012 – Chapter 7 Rural Living and Activity (DCP)* specifies that a dual occupancy on rural land must comply with the following criteria:

- The second **dwelling** must be within 10 metres of the first **dwelling** and is to be attached to the first/ original **dwelling**. Attachment may be achieved by way of a covered walkway, deck or the like;
- The second **dwelling** must be on the same legal title as the first **dwelling**;
- The second **dwelling** must have the same road access as the first **dwelling**; and
- The second **dwelling** must be located so that it minimises conflict with adjoining land uses.

It is possible to Strata Title subdivide attached dual occupancy dwellings. Each strata lot, excluding common property, must however conform to the minimum lot size shown on the lot size map (generally 40 hectares). Torrens Title subdivision of land in rural areas is subject to conformity with the minimum lot size for subdivision, which is typically 40 hectares.

Also permitted with development consent on land within the RU1 and RU2 zones are studio-type uses, rural workers' dwellings and tourist and visitor accommodation. The latter includes farm stay accommodation.

A rural worker's dwelling is subject to specific criteria in the LEP and is defined as:

**Rural worker's dwelling** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

There is no definition of what constitutes a studio within the LEP. In a rural context a studio is viewed as buildings ancillary to a dwelling house which cannot be separately occupied and used as a dwelling.

As an indication of the extent of land that might be influenced by a policy change, there are some 4,588 rural lots located in Ballina Shire.

### *Adjoining Council Position – Lismore City Council*

Lismore City Council resolved to prepare a planning proposal to permit detached dual occupancies in rural areas at its Ordinary Meeting held on 12 March 2013. The objective behind this planning proposal was to increase rural

## 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

housing options, to provide support for farmers, and to allow older people to stay on the land and younger people to remain in the area.

The amendments to Lismore LEP 2012 were subsequently published on 25 October 2013. The amendments permitted dual occupancies (attached or detached) within the RU1 zone. The amendments also prohibited *rural workers' dwellings* within this zone. Previously, only attached dual occupancies were permitted with development consent.

The prohibition of *rural workers' dwellings* was designed to limit the impact of housing within the RU1 zone. Few rural workers' dwellings had been approved by Lismore City Council due to the nature of agricultural uses which did not necessitate farm workers living on the farm (in addition to the occupants of the principal residence). The Council also considered that *rural workers' dwellings* would become a redundant land use once detached dual occupancies were permitted.

The principal controls relating to detached dual occupancy development are contained within clause 4.2C of Lismore LEP 2012 which provides as follows:

### **4.2C Erection of dual occupancies (detached) in Zone RU1**

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide alternative accommodation for rural families and workers,*
  - (b) *to ensure development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land.*
- (2) *Development consent must not be granted to development for the purpose of a dual occupancy (detached) on land in Zone RU1 Primary Production unless the consent authority is satisfied that:*
  - (a) *the development will not impair the use of the land for agriculture or rural industries, and*
  - (b) *each dwelling will use the same vehicular access to and from a public road, and*
  - (c) *each dwelling will be situated within 100 metres of each other, and*
  - (d) *the land is physically suitable for the development, and*
  - (e) *the land is capable of accommodating the on-site disposal and management of sewage for the development, and*
  - (f) *the development will not have an adverse impact on the scenic amenity or character of the rural environment.*

In terms of the impact of these provisions, an examination of Lismore City Council's on line development consent register revealed that the following number of approvals had been granted:

Year	Number of Detached Dual Occupancies Approved in the RU1 Zone
2014	4
2015	9
2016	14

It is noted that in the first year of detached dual occupancies being permitted, 7 conversions of existing studios were approved.

The impact of the changed Lismore City Council policy was discussed with a Lismore Council Strategic Planner who advised he considered that there have

## **9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas**

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been no real negative consequences. In his view the community appears to be accepting of this housing form and the development planners appear to be satisfied with the administration of the new legislative provisions. Initial concerns relating to land fragmentation and increased usage of rural roads appear not to have been realised. A minor amendment is currently proposed to the objectives of clause 4.2C to further reinforce the primary production value of the RU1 zone.

Advice was also provided by the Lismore Council Strategic Planner that the 100 metre maximum separation distance between dwellings was an arbitrary figure selected to prevent excessive land fragmentation and impacts. This distance has been varied a number of times by Council using the variation provisions of the LEP (clause 4.6).

Lismore LEP 2012, following its amendment in October 2013, now permits both attached and detached dual occupancies on land within the RU1 zone. It does not permit this form of development within the RU2 zone. However, the extent of the RU2 zone is relatively limited. Secondary dwellings are not permitted within the RU1 and RU2 zones under the provisions of Lismore LEP 2012.

### *Adjoining Council Position – Byron Shire Council*

Byron Shire Council followed Lismore City Council's lead when on 10 July 2015 amendments to Byron LEP 2014 were published. The amendments were in similar terms to those contained within Lismore LEP 2012 except that they also permitted, with development consent, secondary dwellings and extended the permissibility provisions to both the RU1 and RU2 zones.

Information extracted from Byron Shire Council's on line DA register for the period 10 July 2015 to 31 December 2016 has found that 12 detached dual occupancy applications had been approved during that period. No specific search of secondary dwellings approved in Byron Shire's rural zones was undertaken. This was due to the very significant number of secondary dwellings being approved within this shire's urban areas and the difficulties associated with locating those in rural zones.

### *Advantages and Disadvantages Associated with Permitting Detached Dual Occupancy and Secondary Dwellings in Rural Zones*

The planning proposals submitted by both Lismore and Byron Councils for Gateway determination relied on the same table of advantages and disadvantages which is reproduced below, together (italics) with Ballina Shire Council staff comments.

## 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

Advantages	Disadvantages	Ballina Shire Strategic Staff Comments
<p><i>Additional dwellings can allow farmers and other approaching or at retirement age to remain on their farm / rural land but not within the same dwelling as a new farmer takes over. This creates opportunities for physical (workers), social and financial support, and can assist with succession planning.</i></p>	<p><i>Increase in dispersed rural settlement. This will occur gradually as long as subdivision of the second dwelling is not supported. Pressure for subdivision will occur if substantial dual occupancy dwellings are erected.</i></p>	<p>Council has initiated a planning proposal (111 Friday Hut Road) the objective of which is to free up land for primary production purposes by allowing the subdivision of the dwelling on a lot below the minimum lot size and preventing a dwelling house from being erected on the undersized residue lot.</p> <p>Pressure for subdivision of land in the longer term is a significant concern and may result in further fragmentation of rural and land use conflict.</p>
<p><i>Potential to legitimise unapproved dwellings and structures, and receive financial contributions from such buildings that may otherwise be occupied illegally.</i></p> <p><i>Section 94 contributions apply to detached dual occupancy (not secondary dwellings).</i></p>	<p><i>Potential increases in land use conflicts, which can impact adversely on existing farming operations. The potential for conflict can be mitigated to some extent by requiring the dwellings to have the same vehicular access from a public road and be within a prescribed radius of each other.</i></p>	<p>The waiver of development contributions for secondary dwellings in Byron Shire does not extend to the rural areas.</p> <p>In the case of Ballina Shire, secondary dwellings are not currently permitted within rural zones and hence the fee waiver issue does not currently arise.</p> <p>If detached dual occupancy development is permitted (with or without the inclusion of secondary dwellings) there is the potential to recoup s94 contributions which may not have been previously paid.</p> <p>The potential to legitimise suitable unauthorised development may free up enforcement resources and ultimately save costs and reduce angst amongst some residents. However, it is not necessarily the case that providing a pathway to conformity for unauthorised dwellings will result in substantial improvement in compliance or building standards without continued compliance action by Council.</p> <p>Land use conflict is considered to be a primary concern, particularly where primary production is seen as the desirable principal purpose for rural land in the shire.</p>
<p><i>Increasing the number of residents in rural areas can provide increased support for rural halls and schools.</i></p>	<p><i>Potential for fragmentation and alienation of land from farming. This can be minimised if locational criteria are used. The inability to subdivide the dwellings will also assist.</i></p>	<p>Noted.</p>

## 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

Advantages	Disadvantages	Ballina Shire Strategic Staff Comments
<i>Providing for an additional housing option on existing rural land may reduce the need to subdivide larger allotments for new rural residential estates.</i>	<i>As with any form of dispersed settlement, there is potential for increased vehicular traffic, especially if employment is not available within the immediate area. Not only will this increase the cumulative impact on rural roads but it raises the question about long term environmental sustainability, for example increased vehicle emissions. Section 94 contributions provide some financial response; however they cannot address the longer term maintenance aspects.</i>	Ballina Shire no longer permits rural residential subdivision within the rural area. It is agreed that longer term traffic issues may arise if this form of development becomes popular. The experience to date in the Byron and Lismore LGAs indicates a low take up rate for detached dual occupancy development in rural zones in terms of dwellings that progress to approval and construction. Council does not have any current information on the extent to which compliance is achieved in relation to unauthorised dwellings.
<i>Additional dwellings can provide farm income to subsidise the agricultural activity and provide additional rental housing to the market.</i>	<i>Impact on rural character. An increase in dispersed dwellings will impact on the rural landscape. This can be managed to some extent through the development assessment process but there will still be an impact over time.</i>	Impact on rural character is somewhat subjective and is considered can be managed through the existing development assessment process without further specific controls.

In addition to the disadvantages nominated by Lismore and Byron Councils, the following additional disadvantages appear to exist:

- Additional on-site sewerage systems will be required and will need to be regulated, and
- The conversion of some farm buildings may be costly and problematic due to non-compliances with the Building Code of Australia, land constraint and buffer concerns.

Notwithstanding the potential advantages outlined above, it is considered that there is presently insufficient evidence to underpin a change to long standing policy relating to second dwellings on rural land in Ballina Shire. Matters to consider in this regard include:

- A policy change of this nature should have regard for overarching land use principles and strategic intent. In the context of this issue, a fundamental consideration is the intended primary purpose(s) of rural land in the shire. Historic policy approaches and Council decisions associated with the introduction of the Ballina LEP 2012 identified agricultural and environmental outcomes (and associated economic activity) as the focal areas for rural land as opposed to housing choice. It is suggested that the overarching intent of Council in relation to rural land in the shire (if different from the current approach underpinning local planning policy) should be determined and clearly articulated before instigating a change relating to rural dwellings.
- It is not clear that there is an overriding public benefit associated with enabling detached second dwellings on rural land, albeit that there is likely to be private social and/or economic benefit for some landholders.
- There is presently no clear rationale established as the basis for a policy change. That is, there are differing reasons as to why second dwellings might be enabled on rural land, such as housing affordability, farm succession, improving compliance with planning provisions, providing

## 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

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housing choice or simply facilitating private landholder benefits. The rationale might direct the nature of any change (for example an affordability focus might mean only secondary dwellings as a more modest form of housing are enabled).

- Whilst anecdotally it is relatively common for Council to receive enquiries about second dwellings on rural land, there is no quantifiable evidence available at present to confirm the number of landholders who desire a change, how rural landholders might view potential impacts associated with housing development on neighbouring land and the extent to which the broader community has a view about second dwellings on rural land.
- There is limited evidence to demonstrate that a change in policy will result in intended outcomes. For example, Council is not able to directly control housing affordability outcomes (such as the rent set for a dwelling) and it may be that currently unauthorised dwellings cannot comply with building requirements even where it becomes possible to obtain development consent for a detached dwelling. That is, the uncertainty about achievement of potential advantages relative to the nature of the potential disadvantages creates doubt about the public benefit associated with a change to rural dwelling policy.
- The potential for increased rural land use conflict between residential occupants of land and farming activities is a significant concern, particularly in a context of an existing fragmented rural landscape.
- The potential for pressure to subdivide rural land in the longer term is a concern in that this may undermine primary production through further fragmentation of land holdings and increased land use conflict over time. This matter, as well as the broader land use conflict issue referenced above, relates back to the broader planning intention of Council for rural land use in Ballina Shire into the future.

It is also important to reinforce that second dwellings in the form of attached dual occupancy development and rural workers' dwellings are permitted in rural areas of the shire at present, subject to the grant of development consent.

However, if the Council is of the view that detached dual occupancy and/or secondary dwelling development on rural land has sufficient merit to consider a policy change further, it is suggested that Council first seeks additional information and clarifies its policy intentions for rural land and rationale for enabling detached second dwellings in all or part of the Shire's rural areas.

### **Sustainability Considerations**

- **Environment**  
There will likely be a series of potential environmental, social and economic benefits and impacts associated with additional dwellings in any form in rural areas. Such impacts and associated planning provisions would need to be considered as part of any policy adjustment.
- **Social**  
As above.

- **Economic**  
As above.

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

The extent to which there may be legal, resource or financial implications associated with this matter is dependent on the nature of Council's preferred approach.

Cessation of further consideration of the matter has no legal, resource or financial implications.

Undertaking further research or initiating a planning proposal to permit detached dual occupancy and/or secondary dwelling development on land within rural areas under the provisions of Ballina LEP 2012 is likely to require at least several months of documentation preparation. This can be managed within existing resources although this matter is not currently part of the Strategic and Community Facilities Group work program.

Financial implications arise where further community engagement is desired. As a guide, the 2014 Rural Settlement Character Statement project which involved four public meetings, letters to rural land owners, hall hire and consultant facilitator cost in the order of \$15,000.

A telephone based (or otherwise randomised) survey with suitable statistical validity has an estimated cost in the order of \$15,000 to \$20,000.

The cost of sending letters to all rural landowners and associated newspaper advertisement, without staff time, is estimated at approximately \$6,000.

It is relevant to note that if community consultation is undertaken prior to a planning proposal being prepared then additional community consultation would again be required as part of the planning proposal exhibition process.

### **Consultation**

No specific community consultation on this matter has been undertaken at this stage. As indicated above, if Council is inclined to further consider a policy change, it is recommended that community and stakeholder engagement is undertaken to inform and support decision making. This would include engagement with State Government agencies as well as the broader rural community.

Feedback relating to second rural dwellings (assumed detached dual occupancy) from some members of Ballina Shire's rural community has previously also been obtained as part of the 2014 Rural Settlement Character Statement project. This project included four public meetings which attracted a total of 167 rural residents. Reproduced below are extracts from the *Ballina Shire Rural Settlement Character Statements Part 2 Report* which are considered to be of some relevance:

Newrybar public meeting held on 14 May 2014 with 37 people in attendance:

## 9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas

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- *Rural workers' dwellings should not be allowed to be built if they are not authentic rural workers' dwellings. One has been approved in the locality and not built as approved on the DA and very close to neighbouring houses.*

Tintenbar and Fernleigh public meeting held on 12 May 2014 with 33 people in attendance:

- *Need more affordable housing to keep young people in the community;*
- *The State says there is a housing shortage. More housing on farming lots for families needed. Also want the ability to subdivide. Two separate houses should be allowed on one title. It is about families living together. There are many advantages to having family living on the same property so parents can "age in place". Many smaller properties that are not big enough for viable farming could be given a dwelling entitlement.*

Meerschaum Vale, Rous Mill, Rous public meeting held on 22 May 2014 with 60 people in attendance:

- *Like the lack of density in the area. But people have to live somewhere. It would be good to allow second dwellings on rural properties to allow more people to live around here without residential subdivision to occur. Families could stay at a lower cost. Some of the community was not so sure about this as they thought it would become too busy if everyone was allowed a second dwelling on their property.*
- *Ballina Council has a bad record of allowing residential subdivision on prime agricultural land. Community does not want to see this happen again. However it would be good to allow second dwellings on rural properties to allow more people to live around here without residential subdivision. Again not everyone agreed with this.*

South Ballina, Empire Vale, Keith Hall and Patches Beach public meeting held on 26 May 2014 with 37 people in attendance. No specific references to rural area second dwellings within the report comments.

The above comments reflect some of the divergent views within the community relating to rural area second dwellings.

### Options

Having regard for the reasoning outlined above, it is recommended that Council take no further action in relation to the alteration of the current planning relating to rural dwellings in the shire. Based on the information available, it is not clear that the current policy approach presents a mismatch with the current values and land use outcomes associated with the shire's rural areas. Further, there does not appear to be a compelling public benefit associated with enabling detached dual occupancy or secondary dwellings on rural land relative to the potential disadvantages.

If, however, the Council is of the view that the current policy approach warrants further consideration, it is recommended that the policy be considered based on community and stakeholder feedback and having regard for overarching strategic planning principles relating to rural land (similar to the way in which Council currently establishes strategic planning policy for its urban areas e.g. the Wardell and Alstonville strategic planning process).

It may also be prudent to consider the outcomes of Council's economic development strategy process (due later this year) as this strategy may provide direction around preferred outcomes for economic activity in rural

## **9.2 Policy (Review) - Detached Dwelling Development Within Rural Areas**

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areas (e.g. tourism and hospitality initiatives for example). Some of these outcomes may not be well aligned with further residential development on rural land. This again relates back to the principles underpinning rural land use related policy in the shire.

Therefore, if a policy review is to be progressed, it is recommended that Council undertakes a randomised survey process addressing land use principles and strategic intent for rural land, potential benefits and disadvantages associated with a policy shift and rationale for a change. An alternate resolution in this regard is set out below:

1. That Council further investigate a change to planning policy in relation to dwellings on rural land (specifically detached dual occupancy and secondary dwellings).
2. That this investigation includes:
  - a. a randomised survey of rural residents having regard for rural planning principles, the potential benefits and disadvantages of a policy change and associated rationale; and
  - b. a strategic process to review Council's preferred vision and planning principles for rural areas within Ballina Shire as the basis for policy decision making in these areas.
3. That Council receive a further report on the outcomes of the further investigations and community engagement.

If Council wishes to pursue the alternate resolution/approach set out above, it is estimated that this will incur costs in the order of \$25,000 to \$30,000. Given this, Council may also wish to consider an allocation of funds in the 2017/18 budget to facilitate this project.

Alternatively, the Council could initiate a planning proposal to change the policy approach to dwellings on rural land. This approach is not recommended as the planning intent behind a change and the associated clarity around purpose and achievement of intended outcomes has not yet been established, in staff's view. That is, there is not considered to be a clear consistent reason or justification for the change in terms of the public interest at present.

### **RECOMMENDATIONS**

1. That Council notes the contents of this report relating to current and potential options for additional second dwellings on land within rural parts of Ballina Shire.
2. That having regard for the contents of the report, Council takes no further action with respect to enabling detached dual occupancy development and/or secondary dwellings on rural land at this time.

### **Attachment(s)**

Nil

### 9.3 Dalwood Falls

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#### 9.3 Dalwood Falls

**Delivery Program** Strategic Planning

**Objective** To update Council in relation to current management strategies for Dalwood Falls and seek direction in relation to future options.

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#### **Background**

Council is the owner of land adjacent to three waterfalls in the shire, being Killen Falls, Tosha Falls and Dalwood Falls.

Killen and Tosha Falls are currently the subject of the preparation of draft management plans following Council resolutions on 23 June 2016 and 28 July 2016.

Dalwood Falls is not part of the current waterfall management plan process but has been the subject of other site specific considerations over time.

Following a death at Dalwood Falls in January 2014, staff convened a working group to assess risks at all three waterfalls and agreed on various actions to document and review Council's risk management strategies in relation to the falls.

In relation to Dalwood Falls, and in accordance with the resolution of the Council on 26 June 2014 to note the contents of that report and continue with the existing site management regime applicable at the time, staff have attempted to consult with various other government agencies, engaged with Council's insurer and conducted additional research into the property history.

One of the outcomes of the internal working group process and associated discussions with stakeholders has been consideration of the sale of the land.

This report is prepared to provide Council with an update in relation to current site management and risk mitigation activities and seek direction in relation to future options including sale of the land.

#### **Key Issues**

- Risk mitigation and associated costs
- Community use and value of waterfalls

#### **Information**

The four land parcels comprising Dalwood Falls are described in the following table.

The combined area of the four allotments is 2.4 hectares.

### 9.3 Dalwood Falls

Lot/DP	Address	Parcel No	Comments
5/246371	Gum Creek, Dalwood Road, Dalwood	14174	Acquired from Noel James Rippon on 19 December 1973 for \$1.00
1/580317	Gum Creek, Dalwood Road, Dalwood	14176	Acquired from Reginald Ernest Stone and Josephine Isabell Stone on 17 December 1975 for \$1,432.50
64/755720 (AC7060-75)	Gum Creek, Dalwood Road, Dalwood	14204	Acquired from Reginald Ernest Stone and Josephine Isabell Stone on 15 July 1975 for \$7,000.
146/755720 (AC7060-75)	Gum Creek, Dalwood Road, Dalwood	14175	

It appears that Council acquired the land adjacent to the falls as a way to secure access to a back-up water supply for the shire.

The site has not been used for this purpose for many years.

When the *Local Government Act* 1993 came into force, the land which had been acquired by Council was classified as operational land, presumably due to its prior use as an operational water supply area.

The pool at the base of the falls has been a popular swimming location for many years, and young people also jump from the top of the falls into the pool below.

There have been reports of serious injuries and two known deaths at the falls, the most recent in January 2014.

Council's risk management strategy includes regular inspections by our Rangers, installation of site access barriers and warning signage, repairs to damaged or vandalised property barriers and reporting.

The cost of attending to the above is met from a variety of existing program budgets.

Council's insurer has previously advised that consideration could be given to disposal of the site as a way to mitigate the risk to Council.

A property valuation was obtained in 2014 in relation to the four Council-owned land parcels. A copy of the valuation report is contained in attachment one to this report.

While the land value for the four parcels is relatively low, this is predominately due to the fact that no dwelling entitlement is applicable to any of the parcels under Council's planning instruments.

### Sustainability Considerations

- **Environment**

Approximately half of Lot 1 is zoned RU1 (Primary Production) with the balance of this allotment and each of the other allotments being zoned 'Deferred Matter' and accordingly the previous zone under Ballina LEP 1987 applies.

This area of the subject property is presently zoned 7c Environmental Protection - Water Catchment Zone under the Ballina LEP 1987.

The zoning of this land is being reviewed as part of the Ballina LEP 2012 Deferred Matters Integration Program, with a view to applying a suitable zone under the 2012 LEP.

None of the parcels benefit from a dwelling entitlement under the respective planning instruments.

- **Social**

Dalwood Falls is valued by the community as a swimming hole, particularly for young people, and is promoted extensively on social media and via travel advisory pages, through the local accommodation providers and other tourism networks.

This informal promotion occurs despite Council not advertising or promoting the site and having extensive hazard warning and regulatory signage in place. This signage does not appear to deter some visitors.

There appears to be an eco-tourism type market for waterfall visits, though no detailed research about this has been undertaken as part of this reporting.

However it appears that current tourism operators accessing the site do not have any commercial activity approval in place from Council.

Previous attempts undertaken by Council's Risk Department to warn and deter commercial operator(s) have been unsuccessful.

This is a matter that requires additional consideration, subject to Council's ultimate approach to the Dalwood Falls site.

- **Economic**

There are direct on-going costs to Council in managing this site. In addition to the Ranger inspections Council's Water and Wastewater staff also conduct inspections of the site once per month in winter and autumn, and twice per month in summer and spring and additional expenses are incurred in administration costs, maintenance, repairs and contractor expenses.

**Legal / Resource / Financial Implications**

Advice from Council's insurer is that Dalwood Falls presents a significant risk to people attending at the site, and if the site is retained in Council's ownership, the regular inspection and maintenance regime must continue, particularly given the serious injuries and deaths which have occurred at the site.

As the site is no longer required as a water supply, this essentially means that Council is spending significant funds to mitigate and maintain a site which does not provide a utility benefit to the wider community, although it could be argued there are likely broader social benefits associated with the waterfall and pool through its recreational use.

Council's insurers have previously advised that Council could seek to sell the land as a way of divesting itself of the risk. However, if this suggestion was accepted by the elected Council, without the land being benefited by a dwelling entitlement, it is anticipated that there will be a limited market of prospective purchasers.

**Consultation**

To date, minimal consultation with the broader community has occurred in relation to Dalwood Falls as Council has consciously not sought to encourage access or promote the site.

Consultation has occurred between relevant Council staff, Council's insurers and NSW Police.

Adjoining land owners were contacted prior to the finalisation of the report to the elected Council in June 2014 with an invitation to attend the Council meeting and make a deputation; however none of the adjoining owners attended.

In addition, Council staff has written to NSW National Parks and Wildlife Service, Rous Water and Jali Local Aboriginal Land Council inviting input into considerations for future uses of the site.

Jali LALC has quite recently responded, indicating the site is of significance to the Aboriginal community. The site is also listed as a place of Aboriginal cultural heritage significance on the Office of Environment and Heritage's Aboriginal Heritage Information Management System (AHIMS).

**Options**

There are essentially two options available to Council at present, being to continue the existing site management approach (to mitigate risks) or to make the properties available for sale and remove Council from the role of land owner and manager.

Given the advice from the Jali LALC regarding the Aboriginal cultural heritage significance of the land, it is suggested there may be merit in further engaging with the Land Council about the possible transfer of the land. Under this approach, it is recommended that:

### 9.3 Dalwood Falls

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1. The General Manager be authorised to engage in discussions with Jali Local Aboriginal Land Council with a view to the property being acquired by Jali LALC under terms and conditions to be negotiated
2. In the event Jali LALC is not in a position to receive the property, the General Manager be authorised to list the property for sale with a local real estate agent for a period of three months to determine if there are any potential purchasers
3. If no offers are received during that time, that Council proceed to prepare a formal management plan for the site (similar to the plans being prepared for Killen and Tosha Falls) as the basis for Council's ongoing management of the land.

Alternatively, Council may take no further action with respect to the sale of the land and continue to actively administer the site relative to the principles of public land and risk management. If this approach is preferred, it is recommended that a plan be prepared to formalise the management framework.

The recommended approach is to seek further liaison with the Jali LALC in the first instance. If the Land Council does not wish to purchase the land, it is recommended that Council then progress to offering the land for sale and then ultimately, if the land is not sold, proceed to prepare a formal management plan for the site.

Where a management plan is to be prepared, a project budget will be required as this work cannot be completed within existing available budgets. It is estimated that a management plan for the site could be prepared within a budget of \$20,000, recognizing the potential extent of community engagement which may be required.

#### **RECOMMENDATIONS**

1. The General Manager is authorised to engage in discussions with Jali Local Aboriginal Land Council with a view to the Council-owned property in the immediate vicinity of Dalwood Falls being acquired by Jali LALC under terms and conditions to be negotiated.
2. In the event Jali LALC does not wish to purchase the property or discussions extend beyond a period of nine months, the General Manager be authorised to list the property for sale with a local real estate agent for a period of three months to determine if there are any potential purchasers.
3. If no offers are received for the purchase of the property, that Council proceed to prepare a formal management plan for the site (similar to the plans being prepared for Killen and Tosha Falls) as the basis for Council's ongoing management of the land.

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

1. Valuation Report - Dalwood Falls

**9.4 Ballina LEP 2012 Planning Proposal - Deferred Matters Stage 2**

**Delivery Program** Strategic Planning

**Objective** To seek the Council's direction with respect to the submission of a planning proposal for Gateway determination in relation to Stage 2 of the deferred matters integration program.

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**Background**

The Ballina Local Environmental Plan 2012 (BLEP 2012) currently includes areas known as deferred matters due to the State Government's decision in 2012 to not allow the LEP to include environmental protection zones. The State Government has now provided guidance to address those areas through the Northern Councils E Zone Review and Council can proceed to integrate them into its 2012 LEP.

The integration of deferred matters into the BLEP 2012 is being implemented by way of a staged approach which aims to complete the integration program over a two year period. An initial staged approach was adopted by the Council at its April 2016 Ordinary Meeting. However, in response to an offer of funding support from the NSW Department of Planning and Environment, Council resolved at its October 2016 Ordinary Meeting to accept the offer of funding and to adjust the staging of the integration program as outlined in the information section of that report [Minute No. 271016/10].

Stage 1 of the program commenced with the Council requesting a Gateway determination for its Stage 1 planning proposal in December 2016. A Gateway determination allowing the planning proposal to proceed to the stakeholder and community consultation phase was issued by the Department of Planning on 9 March 2017.

Stage 1 addresses zoning arrangements for certain land as well as insertion of land use tables in the LEP for the E2 Environmental Conservation and E3 Environmental Management zones and inclusion of a special provision requiring consideration of natural areas and habitat in relation to certain development applications. These matters do not need to be further addressed in subsequent stages of the integration program unless adjustments are required over time.

The planning proposal the subject of this report seeks to initiate Stage 2 of the integration program which is centred on the integration of land currently zoned 7(d) Environmental Protection (Scenic/Escarpment) and 7(d1) Environmental Protection (Newrybar Scenic/Escarpment) under the Ballina Local Environmental Plan 1987 (BLEP 1987). It also includes other contiguous areas that were identified for environmental zones under Council's adopted plan (prior to the State Government's decision to defer these areas from the BLEP 2012).

The land that is the subject of Stage 2 is located in nine separate areas of the shire as depicted in the land application map contained within the planning proposal (Attachment One). For ease of reference, the nine areas have been

coded from 2A to 2I. It should be noted however that land identified in Stage 2I is not classified as a deferred area but is included in Stage 2 to correct an anomaly with respect to heritage mapping only, as outlined in the information section of this report.

Importantly, the State Government's decision to defer areas from the LEP also affected other provisions within the instrument. Given this, each stage of the integration program will also address a variety of other consequential provisions and maps not directly related to environmental protection zones.

Land use zones under Stage 2, including environmental zones, are proposed having regard for legislative requirements, the NSW Department of Planning and Environment's Northern Councils E Zone Review Final Recommendations Report, the associated Section 117 Ministerial Direction and the Council's resolution of 27 October 2016.

The purpose of this report is to seek direction regarding the submission of a planning proposal requesting a Gateway determination in relation to Stage 2 of the deferred matters integration program.

In considering the above it is acknowledged that the Council has requested a briefing on the deferred matters program. This briefing has been scheduled for early April 2017. In the meantime though, this report recommends proceeding with Stage 2 in line with Council's October 2016 resolution on the integration program and in order to meet Council's timing commitments to the Department of Planning and Environment. Adherence to the agreed timing is important for ensuring that Council receives the funding support offered by the Department. If the Council wishes to alter its approach to the deferred matters program after the briefing in April, it is possible to revisit the Stage 2 planning proposal.

A copy of the Stage 2 planning proposal is provided in Attachment One.

### **Key Issues**

- Comprehensive local environmental plan for Ballina Shire.
- Environmental protection zoning under the BLEP 2012.
- Inclusion of various planning provisions not related to environmental protection zoning under the BLEP 2012.

### **Information**

The BLEP 1987 contains several land use zones that have been deferred from the BLEP 2012, seven of which are centred on environmental protection. The overarching intent of the deferred matters integration program is to incorporate all of the deferred areas into the one comprehensive LEP to simplify the planning process and recognise environmental values in the shire under the 2012 local environmental plan.

Although Council has recognised (albeit reluctantly) the outcomes of the State Government's E zone review, of particular concern to Council is that the NSW State Government's final recommendations do not permit Council to provide environmental zone-based protection to areas with aesthetic/non-ecological

## 9.4 Ballina LEP 2012 Planning Proposal - Deferred Matters Stage 2

values such as scenic/escarpment areas, water catchment areas, coastal lands and the Alstonville/Wollongbar urban buffer.

Notwithstanding significant concerns identified by Council and conveyed strongly to the Department, the Council has resolved to proceed to integrate the deferred matters in line with the approach shown in Table 1. Under the approach adopted, planning proposals for each stage will be initiated before the 30 June 2017. It is anticipated that each stage will conclude at the nominated time, however this will be dependent on other factors that may arise during the processing of each planning proposal.

**Table 1: Planned Staging for Integration of Deferred Areas into Ballina LEP 2012**

Stage	Start	Conclude
<p><b>1</b></p> <p><b>7(c)</b> Environmental Protection (Water Catchment)</p> <p>3,157 ha (23%)</p>	November 2016	November 2017
<p><b>2</b></p> <p><b>7(d)</b> Environmental Protection (Scenic/ Escarpment) and <b>7(d1)</b> Environmental protection (Newrybar Scenic/ Escarpment)</p> <p>1,356 ha (10%)</p>	February 2017	February 2018
<p><b>3</b></p> <p><b>7(a)</b> Environmental Protection (Wetlands) and <b>7(l)</b> Environmental Protection (Habitat)</p> <p>3,826 ha (28%)</p>	April 2017	July 2018
<p><b>4</b></p> <p><b>7(i)</b> Environmental Protection (Urban Buffer)</p> <p>613 ha (4.5%)</p>	May 2017	May 2018
<p><b>5</b></p> <p><b>7(f)</b> Environmental Protection (Coastal Lands)</p> <p>1,155 ha (8.5%)</p>	June 2017	June 2018
<p><b>Progressive</b></p> <p>Mixture of rural zones (areas proposed for 'new' E zones in Draft BLEP 2012)</p> <p>3,563 ha (26%)</p>	Integrate with other stages as appropriate.	Integrate with other stages as appropriate.

### *The Subject Land*

Stage 2 of the deferred matter integration program comprises land that is currently zoned 7(d) Environmental Protection (Scenic/Escarpment) and 7(d1) Environmental Protection (Newrybar Scenic/Escarpment) under the BLEP 1987. It also includes some areas of land contiguous to these areas that appear logical to address in this stage. The land the subject of this planning proposal is depicted in the maps in the planning proposal (Attachment One).

As noted previously, the land that is the subject of Stage 2 comprises nine separate areas of the shire which have been classified from 2A to 2I for ease of reference. The land identified in Stage 2I is not mapped as a deferred area however it is included in Stage 2 to correct an anomaly with respect to heritage mapping only, as discussed later in this report.

## 9.4 Ballina LEP 2012 Planning Proposal - Deferred Matters Stage 2

### *Zones Applicable to Land in Stage 2*

Environmental zones ('E zones') are designed to recognise and protect land of important environmental value. The planning proposal for Stage 1 introduced two environmental zones into the Ballina Local Environmental Plan 2012, being Environmental Conservation (E2) and Environmental Management (E3). Details of the zone tables and associated clauses introduced into the Ballina LEP 2012 can be found in the Stage 1 planning proposal.

Land use permissibility is narrower in the proposed E zones than was the case in 2012 (pre- E zone deferral) to reflect a significantly narrower application of the zones and the characteristics of the areas that Council may apply these zones to under the State Government's E zone criteria.

Land that is not subject to an E zone is proposed to be zoned rural, having regard to the agricultural characteristics of land, or residential as outlined in section 3 of the planning proposal.

### *Overview of Mapping Amendments in Stage 2*

An overview of the proposed changes being introduced to land contained in Stage 2 is provided in Table 2 below. Further details about the changes are contained in the Stage 2 planning proposal (Attachment One).

**Table 2: Proposed changes to map sets for Stage 2 – Areas 2A to 2I**

Map Set	Proposed Provision								
	2A	2B	2C	2D	2E	2F	2G	2H	2I
Land Use Zoning Map	RU & E	RU & E	E	RU & E	RU & E	RU & E	RU & E	R RE E	-
Lot Size Map	20ha 40ha	40ha	40ha	40ha	40ha	40ha	40ha	40ha & nil	-
Height of Buildings Map	8.5m								-
Acid Sulfate Soils Map	-	-	-	-	√	√	√	√	-
Flood Planning Map	-	-	-	-	√	√	-	-	-
Additional Permitted Uses Map	-	-	-	#	-	-	-	-	-
Heritage Map	-	-	-	-	-	-	-	&	&
Strategic Urban Growth Area Map	-	-	-	-	-	-	√	-	-
Building Height Allowance Map	-	-	-	-	-	√	-	-	-
Land Application Map	Inclusion of deferred land under the BLEP 2012								-

RU (rural zone), E (environmental protection zone), R (residential zone), RE (recreation zone)

- No change

√ Refer to maps in Appendix 4 of planning proposal

# Refer to map in Appendix 4 and Section 3.4 of planning proposal

& Refer to map in Appendix 4 and Section 3.5 of planning proposal

## 9.4 Ballina LEP 2012 Planning Proposal - Deferred Matters Stage 2

In considering the zoning, it is important to recognise the following:

- The proposed zoning, in line with the State Government's E zone review outcomes, results in a significant reduction in environmental protection zoned land in the scenic/escarpment area.
- Generally, those land parcels proposed for a rural zone will be subject to a greater range of permissible land uses compared to the current zones (7(d) Environmental Protection (Scenic/Escarpment) and 7(d1) Environmental Protection (Newrybar Scenic/Escarpment)).

### *Heritage Conservation*

Items and places of environmental heritage significance identified in the shire are addressed via Clause 5.10 of the BLEP 2012 and listed in Schedule 5. The properties listed in Table 3 below are listed for inclusion in Schedule 5.

It should be noted that the land identified in Stage 2I is not located in a deferred area however it has been included in this planning proposal to correct an anomaly with respect to heritage mapping. The land within Stage 2I is zoned under Ballina LEP 2012 and is included in Schedule 5 under Part 3 – Archaeological sites (Item number A3), however the land is also to be listed as Item number I55 in Part 1 – Heritage Items.

**Table 3: Items for inclusion in BLEP 2012 Schedule 5 Environmental Heritage**

Stage	Suburb	Item name	Address	Property description	Significance	Item no.
2H	East Ballina	Saw Mill site at Shaws Bay	Compton Drive	Lots 1-6 DP 1127820	Local	A2
2I	East Ballina	Historic Shaws Bay precinct	East Ballina	Lot 1 DP 604570, Lots 2-5 Sec 88 DP 758047, Lots 5 & 6 Sec 87 DP 758047, Lot 7015 DP 1064316, Lot 7022 DP 1050837	Local	I55

### *Additional Permitted Uses*

Schedule 1 of the BLEP 2012 (and associated Clause 2.5) refers to specific land parcels where additional permitted uses may be undertaken despite other provisions of the LEP. The listing of premises in this schedule provides clarity and definition around the uses permitted on certain land to avoid ambiguity.

The Summerland House with No Steps (Lot 2 DP 554804) located at 253 Wardell Road, Lynwood is listed in Schedule 1 of the BLEP 2012 and identified as 'Area B' on the Additional Permitted Uses (APU) map as follows:

*Development for the purposes of a function centre, garden centre, kiosk, plant nursery, respite day care centre, restaurant or cafe and warehouse and distribution centre is permitted with development consent.*

Parts of the northern portion of the site adjacent to Duck Creek are currently zoned 7(c) Environmental Protection (Water Catchment) Zone under Ballina

LEP 1987 and will be integrated into Ballina LEP 2012 during Stage 2. It is recommended that 'Area B' on the APU map be extended to incorporate the remaining portion of land relating to Lot 2 DP 554804.

### **Sustainability Considerations**

- **Environment**

Environmental protection zoning is a fundamental element of the land use planning system and is used as a tool to recognise environmental values and apply an associated planning framework to land. The approach to application of environmental protection zones involves balancing private and broader public interests and short and long term considerations associated with the use, value and protection of environmental attributes.

This planning proposal seeks to bring land in the shire under the terms of the BLEP 2012, inclusive of consideration of environmental values. The ultimate integration of all deferred matters into the one comprehensive LEP will result in overall positive social and economic benefits for the shire and will to some extent streamline the planning process.

- **Social**

As above.

- **Economic**

As above.

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

The work required to be undertaken in relation to this planning proposal can be funded through grant funds from the Department of Planning and Environment (in the amount of \$40,000 for the overall integration project) and available Council funds.

The completion of the integration program is impacting on Council's endorsed work program, although this is considered to be manageable at present.

To assist in the completion of the deferred matters integration program, Council has engaged an external consultant to provide ecological assessment and advice in relation to the identification of environmental protection zones in the shire.

The primary legal consideration is compliance in terms of the *Environmental Planning and Assessment Act 1979*, particularly including adherence to relevant Ministerial Directives made under section 117 of the Act, and the associated Regulation.

### **Consultation**

No community engagement has been undertaken by Council to date on Stage 2 in response to the State Government's reporting. However, extensive community engagement occurred in preparing the 2012 LEP and forming the originally proposed E zones.

## **9.4 Ballina LEP 2012 Planning Proposal - Deferred Matters Stage 2**

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Should the Council support the matter proceeding, the planning proposal will be forwarded to the NSW Department of Planning and Environment for Gateway determination. If the planning proposal receives affirmative Gateway determination, the Department will advise Council of the requirements for consultation with government agencies and the community.

Community engagement for Stage 2 will occur following receipt of the Gateway determination. Community engagement will include an opportunity for landholders with land subject to proposed environmental protection zoning to provide feedback to Council before the planning proposal progresses to formal public exhibition.

### **Options**

1. Proceed to submit the planning proposal to the Department of Planning and Environment for Gateway Determination;
2. Cease further consideration of the planning proposal; or
3. Defer consideration of the planning proposal.

Option one is the preferred course of action on the basis that the planning proposal accords with Council's adopted staged program to facilitate the preparation of a single consolidated LEP for the Ballina Shire local government area. This approach will progress the planning proposal to the next step in the rezoning process which is to enable a review by the NSW Department of Planning and Environment and Gateway determination to proceed.

As indicated above, it is noted that Councillors have requested a briefing on the E zones. This briefing, however, is scheduled for early April (post this report). Council has a very short timeframe to comply with the Department's requirements with respect to the submission of the remaining stages in order to meet the requirements of the Department's funding offer. In addition, Council has a resolution to proceed with the implementation of the integration program by 30 June 2017. On this basis it is recommended that Council progress the planning proposal for Stage 2.

If the Council resolves to proceed, it is recommended that Council does not accept delegation from the Department of Planning and Environment for the steps to finalise the LEP amendment (should it proceed to completion). This is on the basis of consistency, in that the Department elected not to delegate the relevant plan making function to Council in relation to Stage 1 of the Deferred Matters Integration Program.

The primary disadvantage of the planning proposal not proceeding or being deferred is that this will result in delays in the consolidation of deferred land into the BLEP 2012. Funding support from the Department of Planning may also be withdrawn.

**RECOMMENDATIONS**

1. That Council endorses, for Gateway determination, the application of land use zones and associated planning provisions in relation to the land identified within Stage 2 of the deferred matter integration program as contained in Attachment One.
2. That Council submits the planning proposal contained in Attachment One to the NSW Department of Planning and Environment for review and Gateway Determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken.
4. That Council receive a further report on Stage 2 of the deferred matters integration program following the completion of the public exhibition of the planning proposal.

**Attachment(s)**

1. Deferred Matters Integration Program Stage 2 - Planning Proposal (Under separate cover)

## 10.1 Use of Council Seal

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### 10. General Manager's Group Reports

#### 10.1 Use of Council Seal

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#### RECOMMENDATION

That Council affix the Common Seal to the following documents:

US 17/11	<p>Ballina Shire Council Lease to Brian Hall and Ian Ellis and Presime Pty Ltd for Lot 8 DP 1059312 at the Ballina Byron Gateway Airport for a period of three years.</p> <p>Explanation: Hall and Ellis purchased the hangar site in 2016. The annual lease fee is set at \$3,000 p.a. + GST with CPI reviews annually.</p>
US 17/12	<p>Forms to release part of easements within Lot 299 DP 1147087, 1 Hilander Street, Cumbalum, as follows:</p> <ol style="list-style-type: none"><li>1. Release of part of Easement to Drain Sewage 4 wide (E3 created by DP 1147087)</li><li>2. Release of part of Easement to Drain Water 4 wide (E4 created by DP 1147087)</li></ol> <p>Explanation: Lot 299 DP 1147087 has easements within the property to provide connections to the sewer and stormwater network. The sewer and stormwater connection points are located within Lot 299. When the easement was created, it was extended within Lot 299 to the boundary of Lot 298. The sewer and stormwater connection points are located within Lot 299 and no services were provided in the easement to service other lots. The common easements are for the benefit of Ballina Shire Council.</p> <p>The property owner of Lot 299 has requested Council agree to the release of the section of easement that does not contain any infrastructure to enable the construction of a second dwelling on the property.</p> <p>Council records confirm no infrastructure extends upstream beyond the sewer manhole and stormwater junction within Lot 299.</p> <p>The release of part of the easements is considered acceptable. The use of Council seal on the release forms is recommended.</p>

#### Attachment(s)

**10.1 Use of Council Seal**

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Nil

## 10.2 Investment Summary - February 2017

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### 10.2 Investment Summary - February 2017

**Delivery Program** Governance and Finance

**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 February 2017.

#### **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 Investments Policy. The balance of investments as at 28 February was \$73,286,000. This represents an increase of \$7,000,000 from January. Council's investments, as at 28 February, are at an average (weighted) rate of 2.81%, which is 1.04% above the 90 Day Bank Bill Index of 1.77%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 28 February 2017, was \$1,591,660. This balance is higher than the balance of \$977,699 as at 31 January 2017 due to rates payments received on the last day of the month.

It is anticipated that the balance of investments will be lower through the months of April to June 2017 (with anticipated capital expenditure including pool projects) and therefore the interest earned in the remaining months of this year will be lower than that achieved in recent months.

The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for the following purposes:

<b>Reserve Name</b>	<b>Restriction</b>	<b>% Portfolio*</b>
Wastewater Fund (incl developer contributions)	External	22.6
Water Fund (incl developer contributions)	External	16.0
Section 94 Developer Contributions	External	7.9
Bonds and Deposits	External	3.0
Other External Restrictions	External	7.5
Carry Forward Works	Internal	9.8
Sportsfields	Internal	5.8
Landfill and Resource Management	Internal	5.3
Employee Leave Entitlements	Internal	4.2
Rental Properties Refurbishment	Internal	2.3
Quarries	Internal	2.0
Property Development	Internal	1.7
Plant and Vehicle Replacement	Internal	1.5
Miscellaneous Internal Reserves	Internal	7.8
Unrestricted		2.6
<b>Total</b>		<b>100%</b>

\* Updated to reflect reserves held as at 30 June 2016

## 10.2 Investment Summary - February 2017

### 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	2.4%	<b>2%</b>
<b>Rated Institutions</b>							
AMP Bank	Yes	A+	5,000	5,000	20%	6.8%	
Bank of Queensland	No	A-	4,000	5,000	10%	6.8%	
Bank of Western Aust	Yes	AA-	0	8,000	20%	10.9%	
Bendigo & Adelaide Bank	No	A-	5,000	5,000	10%	6.8%	
Beyond Bank	No	BBB+	1,000	1,000	10%	1.4%	
Big Sky Building Soc	N/A	BBB	1,000	1,000	10%	1.4%	
Commonwealth Bank of Australia	Yes	AA-	4,998	9,998	20%	13.6%	
Defence Bank Ltd	No	BBB+	4,500	4,500	10%	6.1%	
Greater Building Society	No	BBB	1,000	2,000	10%	2.7%	
Credit Union Australia	No	BBB	0	2,000	10%	2.7%	
ING Bank Ltd	Yes	A-	4,000	4,000	10%	5.5%	
Members Equity Bank	No	BBB+	5,000	2,000	10%	2.7%	
National Australia Bank	Yes	AA-	7,000	6,000	20%	8.2%	
Newcastle Perm Bld Society	No	BBB+	3,000	1,000	10%	1.4%	
Rural Bank Ltd	No	A-	2,000	2,000	10%	2.7%	
Suncorp-Metway Bank	No	A+	10,000	6,000	20%	8.2%	
Westpac Banking Corporation	Yes	AA-	2,000	2,000	20%	2.7%	
My State Bank Ltd	No	BBB	5,000	5,000	10%	6.8%	<b>98%</b>
<b>Unrated ADI's</b>					\$1m	0.0%	<b>0%</b>
<b>Total</b>			<b>66,286</b>	<b>73,286</b>		<b>100%</b>	

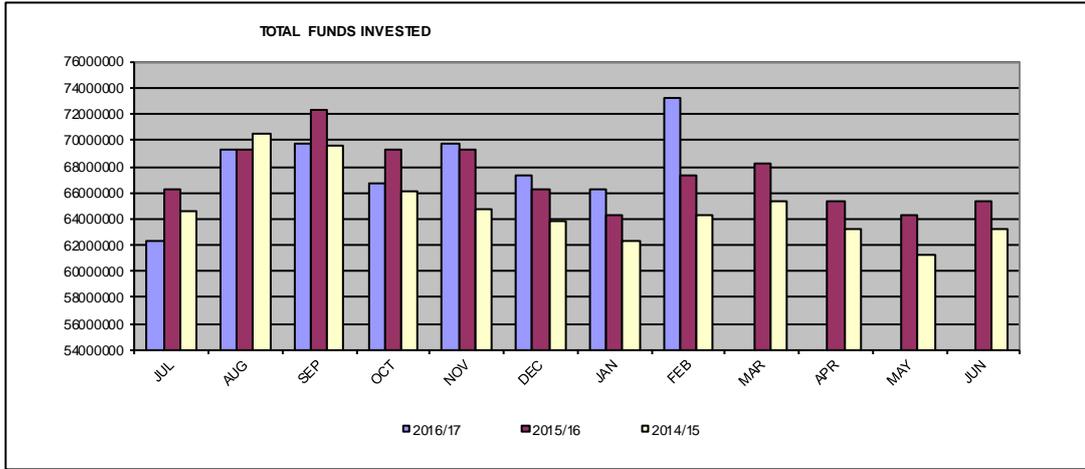
### B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
<b>Fossil Fuel Aligned</b>	24,786	36,786
	<b>37%</b>	<b>50%</b>
<b>Non-Fossil Fuel Aligned</b>	40,500	35,500
	<b>61%</b>	<b>49%</b>
<b>Not Classified</b>	1,000	1,000
	<b>2%</b>	<b>1%</b>
<b>Total</b>	<b>66,286</b>	<b>73,286</b>
	<b>100%</b>	<b>100%</b>

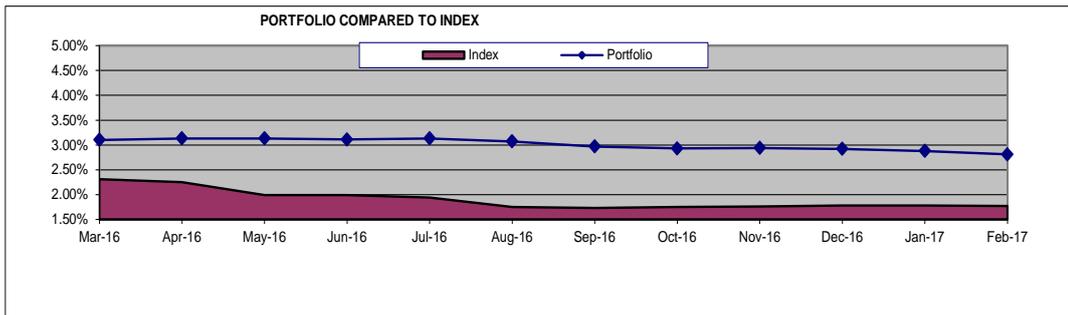
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

- Fossil Fuel Aligned: Noted by Market Forces as funding fossil fuels
- Non-Fossil Fuel Aligned: Noted by 'Market Forces' as having no record of funding fossil fuels and having provided a position statement.
- Not Classified: Not classified as information not available.

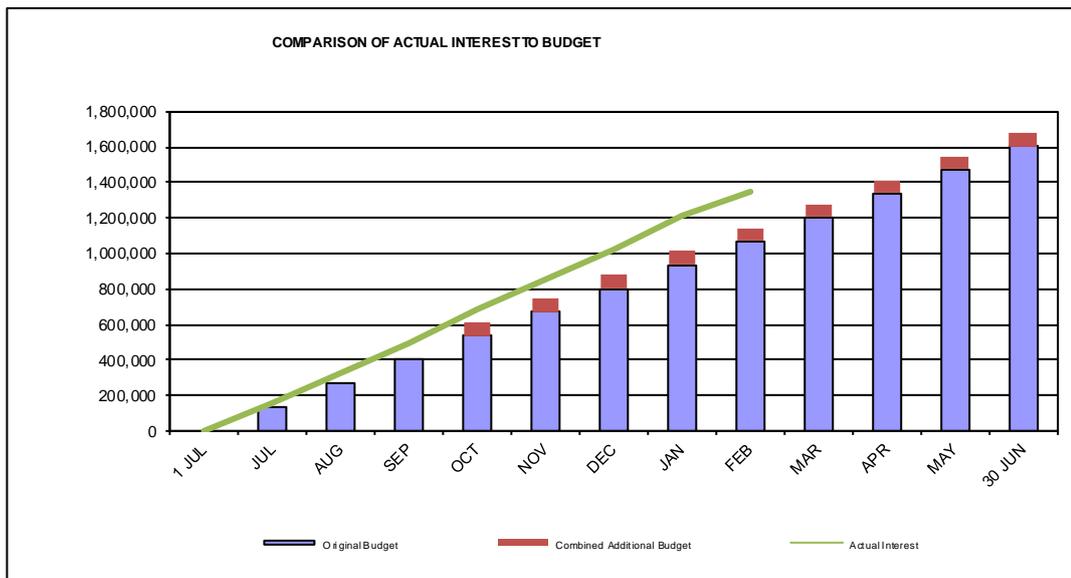
**C. Monthly Comparison of Total Funds Invested**



**D. Comparison of Portfolio Investment Rate to 90 Day BBSW**



**E. Progressive Total of Interest Earned to Budget**



## 10.2 Investment Summary - February 2017

### F. Investments held as at 28 February 2017

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.02%	Perpetual	1,788	1,302
25/01/13	Commonwealth Bank Of Australia	TD	2.67%	25/01/18	1,998	2,044
25/02/14	Westpac Bank	FRN	2.72%	25/02/19	2,000	2,012
31/05/16	AMP Bank	TD	3.00%	30/05/17	1,000	1,000
17/06/16	Commonwealth Bank Of Australia	FRTD	2.84%	17/06/21	1,000	1,000
28/06/16	Commonwealth Bank Of Australia	FRTD	2.86%	30/06/21	1,000	1,000
13/07/16	Bank of Queensland	TD	2.85%	10/04/17	1,000	1,000
26/07/16	Commonwealth Bank Of Australia	FRTD	2.82%	26/07/21	1,000	1,000
08/08/16	AMP Bank	TD	2.95%	08/03/17	2,000	2,000
12/08/16	AMP Bank	TD	2.95%	14/03/17	1,000	1,000
16/08/16	Bendigo & Adelaide Bank	TD	2.80%	16/08/17	2,000	2,000
17/08/16	Members Equity Bank	TD	2.70%	01/03/17	1,000	1,000
18/08/16	AMP Bank	TD	2.95%	22/03/17	1,000	1,000
23/08/16	Bendigo & Adelaide Bank	TD	2.75%	22/08/17	1,000	1,000
29/08/16	My State Bank	TD	2.71%	06/06/17	1,000	1,000
30/08/16	Greater Building Society	FRN	3.32%	30/08/19	1,000	1,003
26/09/16	Bank of Queensland	TD	2.70%	05/04/17	1,000	1,000
04/10/16	National Australia Bank	TD	2.77%	04/10/17	1,000	1,000
11/10/16	Suncorp-Metway Bank	TD	2.61%	18/04/17	2,000	2,000
12/10/16	National Australia Bank	TD	2.77%	12/09/17	2,000	2,000
01/11/16	Suncorp-Metway Bank	TD	2.70%	02/05/17	1,000	1,000
03/11/16	Suncorp-Metway Bank	TD	2.70%	09/05/17	1,000	1,000
03/11/16	Bendigo & Adelaide Bank	TD	2.70%	03/08/17	1,000	1,000
03/11/16	Members Equity Bank	TD	2.70%	03/05/17	1,000	1,000
07/11/16	National Australia Bank	TD	2.77%	06/09/17	1,000	1,000
09/11/16	Rural Bank Ltd	TD	2.70%	09/05/17	2,000	2,000
14/11/16	National Australia Bank	TD	2.77%	10/08/17	1,000	1,000
15/11/16	National Australia Bank	TD	2.82%	15/09/17	1,000	1,000
16/11/16	Bendigo & Adelaide Bank	TD	2.70%	09/08/17	1,000	1,000
22/11/16	My State Bank	TD	2.80%	04/07/17	1,000	1,000
23/11/16	Defence Bank	TD	2.80%	08/11/17	2,000	2,000
24/11/16	Bank of Queensland	TD	2.80%	01/06/17	1,000	1,000
28/11/16	My State Bank	TD	2.81%	05/09/17	1,000	1,000
29/11/16	My State Bank	TD	2.81%	24/08/17	1,000	1,000
30/11/16	Suncorp-Metway Bank	TD	2.81%	02/06/17	1,000	1,000
01/12/16	Suncorp-Metway Bank	TD	2.81%	19/06/17	1,000	1,000
01/12/16	Beyond Bank	TD	2.85%	13/06/17	1,000	1,000
02/12/16	Big Sky Building Soc	TD	2.85%	20/06/17	1,000	1,000
08/12/16	Defence Bank	TD	2.90%	15/06/17	1,000	1,000
09/12/16	Defence Bank	TD	2.90%	27/06/17	1,000	1,000
12/12/16	Defence Bank	TD	2.90%	05/07/17	500	500
23/12/16	My State Bank	TD	2.85%	12/07/17	1,000	1,000
11/01/17	Newcastle Permanent Bld Society	TD	2.80%	13/07/17	1,000	1,000
17/01/17	Bank of Queensland	TD	2.80%	19/07/17	1,000	1,000
24/01/17	ING Bank Ltd	TD	2.80%	01/08/17	1,000	1,000
30/01/17	ING Bank Ltd	TD	2.80%	08/08/17	1,000	1,000
02/02/17	ING Bank Ltd	TD	2.80%	17/08/17	1,000	1,000
06/02/17	ING Bank Ltd	TD	2.80%	15/08/17	1,000	1,000
15/02/17	BankWest	TD	2.50%	18/04/17	1,000	1,000
15/02/17	Bank of Queensland	TD	2.60%	15/06/17	1,000	1,000
16/02/17	BankWest	TD	2.50%	04/05/17	1,000	1,000
16/02/17	BankWest	TD	2.50%	11/05/17	1,000	1,000
17/02/17	BankWest	TD	2.50%	19/04/17	1,000	1,000
17/02/17	BankWest	TD	2.50%	20/07/17	1,000	1,000
17/02/17	BankWest	TD	2.50%	26/04/17	1,000	1,000
24/02/17	Greater Building Society	TD	3.22%	24/02/20	1,000	1,001
27/02/17	BankWest	TD	2.25%	04/04/17	2,000	2,000
28/02/17	Credit Union Australia	TD	2.65%	28/06/17	2,000	2,000
28/02/17	Commonwealth Bank Of Australia	Call	1.45%	02/03/17	5,000	5,000
<b>Totals</b>					<b>73,286</b>	<b>72,862</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 February 2017.

**Attachment(s)**

1. TCorp Local Government Economic Commentary February

## 10.3 Hardship Rate Relief Application

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### 10.3 Hardship Rate Relief Application

**Delivery Program** Financial Services

**Objective** To provide an overview of a personal hardship application.

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#### **Background**

In accordance with Section 564 of the Local Government Act and Council's Financial Assistance Policy (copy attached), aged pensioners and self-funded retirees that satisfy the eligibility criteria can make application to Council to defer part or all of their rates and charges against their estate.

If approved by the elected Council, applicants will continue to be charged interest at the reserve bank cash rate, which will be reviewed on 1 July each financial year. All outstanding rates and charges balances will be recovered upon finalisation of the estate.

On 27 February 2017, Council received a completed Hardship Rate Relief Application form requesting to defer rates and charges against his estate due to financial hardship.

The applicant has requested to defer payment for rates and charges as they are unable to meet Council's required level of payments (\$234 per fortnight) to keep pace with current rates and repay his rates debt over two years.

#### **Key Issues**

- Eligibility for deferral of rates and charges against the estate.

#### **Information**

The personal hardship of any resident or ratepayer is one of the criteria that allows a Council report to be considered on a confidential basis.

The various details relating to the applicant have been included in the confidential report later in this agenda.

#### **Sustainability Considerations**

- **Environment**

Not Applicable

- **Social**

Council must decide if the applicant is experiencing genuine economic hardship to warrant deferring rates and charges against the estate.

## **10.3 Hardship Rate Relief Application**

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- **Economic**

Council will not receive payment of rates and charges until the applicant sells or dies. Council would need to finance the shortfall in rate income from other sources until that time.

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

Any deferral of rates reduces the revenue collected by Council.

As a point of interest, the option of legal action to recover unpaid rates and charges is not available if a debt is more than 20 years overdue under Section 712 of the Local Government Act.

### **Consultation**

There has been on-going consultation between the applicant and Council.

### **Options**

This report is for noting as it provides an overview of the confidential report on the application for rate relief due to hardship.

### **RECOMMENDATION**

That Council notes the contents of this report on the hardship rate relief application, which is to be considered in confidential session.

### **Attachment(s)**

1. Policy - Financial Assistance Rates Annual Charges and Fee

## 11.1 Lake Ainsworth and Adjoining Local Area - Parking Issues

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### 11. Civil Services Group Reports

#### 11.1 Lake Ainsworth and Adjoining Local Area - Parking Issues

**Delivery Program**      Engineering Works

**Objective**              To respond to a Council resolution in respect to parking arrangements at Lake Ainsworth.

---

#### **Background**

At the 25 January 2017 Ordinary meeting, Council discussed investigating the introduction of a No Parking zone for the Lake Ainsworth precinct between 1.00am – 5.00am to ensure that the new parking spaces are not used by overnight campers or caravan park guests. Council referred the matter to the Local Traffic Committee. This report contains the Traffic Committee's response.

#### **Key Issues**

- Preservation of Council constructed car parking spaces
- Ensuring spaces are not consumed by overnight campervans and tourists

#### **Information**

At the 25 January 2017 Ordinary meeting, Council discussed investigating the introduction of a No Parking zone for the Lake Ainsworth precinct between 1.00am – 5.00am to ensure that the new parking spaces are not used by overnight campers or caravan park guests.

The following extract from the Notice of Motion to the Council meeting identifies the issue.

2. *That Council investigate introducing a no parking zone for the Lake Ainsworth precinct between 1am – 5am to ensure that the new parking spaces are not used by overnight campers or caravan park guests.*

#### *Councillor Comment*

*Point Two of the motion aims to free up the 80 – 110 parking spots that are currently being occupied by either overnight campervans or caravan park guest's cars. Council is spending over \$1 million on additional car parking spots around the lake and it's important that these parking spaces are available to the public during the peak holiday periods.*

#### *Staff Comment*

*In respect to the comments regarding car parking, it is preferred that an investigation of parking management for the precinct be referred to the Local Traffic Committee for determination, rather than a prescriptive time zone, as there may be other options available. Overflow parking is an issue for many*

## 11.1 Lake Ainsworth and Adjoining Local Area - Parking Issues

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*caravan parks at peak times and the use of time limits can help to manage parking, although this can often result in vehicles being relocated to other streets."*

Council resolved:

*"That this matter be referred to the Local Traffic Committee."*

The Committee understands that the areas of concern are public (Council managed) on-street and off-street car parking areas in the vicinity of the caravan park and include along Ross Street, near the surf club and proposed areas along the proposed reconstruction of the southern access road.

It is further understood that Council is/will be providing these parking areas for the general public to access the recreational areas of Lake Ainsworth, but Councillors are concerned that they will be used as overflow/second vehicle/boat trailer parking by occupants of the caravan park and by overnight street van campers.

A number of remedies have been suggested including No Parking 1am - 5am (similar to the scheme used in Byron Bay) or alternatively a 4 hour time limited parking for peak holiday periods only.

If these restrictions or similar are adopted the displaced vehicles may transfer to residential areas just beyond the restricted perimeter.

If to further remedy this issue, parking is restricted on say the south side of Ross Street, genuine residential occupants and their visitors would be unable to leave their vehicles parked overnight.

The Committee also understands the Caravan Park is reviewing its own masterplan and inclusion of overflow parking internally as part of this plan may lead to a partial remedy.

The restriction of parking between 1am and 5am to deter overnight campervans would be difficult to Police as this is not a regular period of operation for Council's Rangers.

The Committee also believes that the issue is only likely to be a significant problem during peak holiday periods and that until the proposed road works and parking facilities are completed it will not be possible to determine if the problem is sufficiently significant to warrant parking regulation.

If the Council was to proceed, it is recommended that the parking controls be in place for peak periods only as it would be unreasonable for motorists to comply with a restriction in periods where such compliance is clearly not necessary.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Limited parking can cause discontent amongst visitors

## **11.1 Lake Ainsworth and Adjoining Local Area - Parking Issues**

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- **Economic**

Tourism is a major economic driver for the Ballina Shire

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

Parking regulation requires the concurrence of the Local Traffic Committee.

### **Consultation**

Consultation has occurred with the Local Traffic Committee.

### **Options**

This report presents advice only from the Local Traffic Committee as requested by Council. Council is unable to implement parking regulation without the concurrence of the Committee. Therefore if Council elects to proceed it should advise the Committee of its preferred arrangements.

From the perspective of staff monitoring conducted over the peak holiday period, while extremely busy, on balance the existing system provided a reasonable level of service.

There is a concern that implementing a restriction at this location would result in the parking being transferred to residential streets.

With the new work proposed in this location and in light of these observations and concerns, the recommendation to this report is the Council take no further action at this point in time and a further review can be undertaken after the implementation of the proposed works program for Lake Ainsworth.

As per the above report, if the Council does prefer implementing some level of parking control at this site, it is recommended that this occur in peak periods only.

### **RECOMMENDATION**

That Council notes the advice of the Local Traffic Committee, that in regard to parking issues at Lake Ainsworth and adjacent local area, the Committee has agreed to monitor the parking situation until the project and improvement works are completed and will then reassess on completion of these works.

### **Attachment(s)**

Nil

## 11.2 Road Closing - Henderson Lane

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### 11.2 Road Closing - Henderson Lane

**Delivery Program**      Asset Management

**Objective**                      To determine Council's response to the proposed closing of part of the former Henderson Lane at Lennox Head.

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#### **Background**

This report is presented to Council to consider closing part of the former Henderson Lane at Lennox Head. Although this section of road is no longer used by vehicles, Henderson Lane is a Council public road and Council is the roads authority to manage the road.

The road reserve is 10.06m wide at this location and is no longer used by vehicles. The surrounding road and pedestrian network does not currently use this section of road as a designated public thoroughfare, although there may be future public uses for the land.

There are six properties adjoining this section of road and any road closing would only proceed if all adjoining land owners support the proposal to close and purchase the section of closed road adjacent to their property.

#### **Key Issues**

- Closing a section of public road
- Land would vest in Council upon road closure and would be disposed of to the adjoining land owners.

#### **Information**

Council has received a request from the property owners of 37 and 40-46 Kell Mather Drive to close an unused section of Henderson Lane (the "road"). This section of road abuts the rear of these properties and the diagram (attachment one) shows the location of the proposal.

This section of Henderson Lane was in use as a rural road prior to development of the 'Lennox Meadows' Estate. This road abuts the rear of some properties in Kell Mather Drive on the eastern side and the EPIQ Estate on the western side.

The Kell Mather Drive properties abutting the road have been recently developed with residential dwellings and these properties enjoy direct access to, and some use of, the adjoining road.

Some maintenance is also undertaken by these property owners to ensure the land does not become overgrown and/or infested with pests.

There is no vehicle access proposed to any of the properties adjoining this section of road.

## 11.2 Road Closing - Henderson Lane

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There is existing vegetation along the western side of the road and within the adjoining EPIQ Estate.

The development consent for the EPIQ development requires works within their property adjacent to this road reserve in accordance with their Littoral Rainforest Rehabilitation Plan. Although the developer is not required to undertake any rehabilitation works within the road reserve, unencumbered access to their site from the road reserve may be necessary to ensure the rehabilitation works are not hindered.

The developer is not opposed to the road closing after the completion and approval of their adjoining rehabilitation works, however is concerned a road closure at this time may hinder their works.

Council's Civil Services Group has assessed the current and potential uses of the road if retained as public road.

There are currently no proposed pedestrian links or infrastructure works to be undertaken within the road.

The road is currently not maintained to a standard for vehicle use and is overgrown in many parts.

The current road network servicing the adjoining Kell Mather Drive properties and the proposed lots in EPIQ Estate are not relying on this road for access.

The surrounding road networks will provide the access links for the adjoining properties. There is an existing sewer main within the road and an easement benefitting Council would need to be created over this sewer main if the road is closed.

Council's Strategic Planning Group has also provided advice which supports the retention of road reserves within urban growth areas. Although there may not be plans for future uses, it would be prudent to retain these road reserves to provide options which may be beneficial at a later date.

This broader public use may include access pathways, revegetation areas or environmental offsets that could offset some future maintenance burden on Council.

The closure of a section of road with numerous adjoining land owners relies upon support from all adjoining land owners who are prepared to purchase a section of closed road.

The two significant stages which require adjoining land owner support are the road closing application and, if approved, the sale of the closed road to adjoining land owners.

The sale process requires a financial commitment from the owners and the land must be transferred in a manner such that no isolated closed road parcels remain. The processing of the land transfers will require a coordinated approach as numerous financial and legal actions will be required due to the number of land owners involved.

## 11.2 Road Closing - Henderson Lane

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Council is the roads authority for this public road and any request to close a section of Council public road must first be endorsed by Council before lodging a road closing application with Department of Industry - Lands.

The road is Council public road and upon closing, the land would vest in Council.

The road closing application requires the proponent to provide all the necessary information and to meet all costs through this process. Should the road closing proceed, a Registered Valuer will be engaged to prepare a valuation report to be used as the basis of negotiations for the final sale price for the sections of closed road.

### **Sustainability Considerations**

- **Environment**

The road reserve has limited revegetation opportunities due to the proximity of the adjoining residential dwellings in Kell Mather Drive, however, the road is adjacent to the littoral rainforest revegetation area proposed on the EPIQ Estate. The road is currently maintained to various standards by some residents and, to a lesser extent, Council. The sale and consolidation of the land with adjoining land will remove the public commitment of resources to maintain this area and may result in enhancement of the land.

- **Social**

The road is public land and does provide public access. There is no formed walkway along this road and the future needs of this land within a growing urban area are not fully known. The benefits of retaining this land for future public use does provide the community with options should future needs be identified. Alternatively the road could be closed and consolidated with the adjoining private land and therefore would not be available for public use.

- **Economic**

The recommendations seek to support efficient land management principles. The options reflect the outcomes of retaining the land in public ownership and the inherent costs of maintenance or to close and sell the road and relieve the public cost burden.

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

All road closing fees and costs are met by the applicant. The application processing is undertaken by Council and Crown Lands and upon closure the road would vest in the Council. There are no financial implications for Council if the road closing process is the preferred option.

The retention of the road as public land will require a future commitment from Council.

There may be financial implications and liability for Council to maintain this area through a weed/tree management program and to clean up any illegal dumping.

## **11.2 Road Closing - Henderson Lane**

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At present, the land is partly maintained by the adjoining residents.

### **Consultation**

The road closing request has been lodged with Council as the roads authority for this section of road. The interested Kell Mather Drive residents have lodged a single request for the section of road to be closed.

The EPIQ development is not part of the request and has provided a response to the proposal as discussed previously in the report.

If Council supports the road closure, Council will undertake the necessary advertising and consultation as part of the road closing process prior to a road closing application being lodged with Crown Lands.

### **Options**

1. That Council supports the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 and 46 Kell Mather Drive at Lennox Head.

The advantage of this option is to ensure the Council does not have any future liability attached to this unnecessary section of road. It also allows for the adjoining land owners to proceed with the road closing application and, if approved, consolidate the closed road with their adjoining properties. This may well be the most efficient and best use of the land and therefore be a preferred outcome for the adjoining landowners and the community.

2. That Council opposes the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 and 46 Kell Mather Drive at Lennox Head.

The advantage with retaining this section of public road is it remains in public ownership and it can be used for future community access or public infrastructure. There are financial implications to provide ongoing maintenance for the land should Council wish to retain this section of road.

While option one is most likely to be the preferred way to manage this land in the long term, option two is recommended, at this point in time, having regard to the previously arranged access requirements for the Epiq development and the advice from Council's Strategic and Community Facilities Group discussed in the report.

### **RECOMMENDATION**

That Council declines the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37, 40, 42, 44 and 46 Kell Mather Drive at Lennox Head, for the reasons outlined in this report.

### **Attachment(s)**

1. Henderson Lane Aerial Diagram

### **11.3 Policy (Review) - Monuments and Memorials on Public Land**

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#### **11.3 Policy (Review) - Monuments and Memorials on Public Land**

**Delivery Program**      Open Spaces and Reserves

**Objective**                      To review the Monuments and Memorials On Public Land Policy

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Monuments and Memorials on Public Land policy.

Council first adopted the Monuments and Memorials on Public Land policy in 25 October 2007 and was renewed in 22 September 2011 and November 2015.

From the perspective of staff the policy has worked well with the exception for the opportunity and placement of seats with plaques. A change to the policy is suggested in the information section below.

#### **Key Issues**

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

#### **Information**

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

This change is due to the following reasons:

- The majority of seat with plaque requests desire placement along pathways in generally iconic locations with coastal and water views and high scenic amenity and significance. This is resulting in an impression of these walkways as a memorial walkway and this is not likely to be supported by all of the community. Whilst Council staff have received positive comments from family and friends of those being remembered, we have also received comments from the public about the number of seat placements in the natural coastal areas.
- The policy is difficult to implement as not all requests can be accommodated in the desired high profile coastal areas and this is a concern to residents making the request because they are aware of previous approvals. Unfortunately the understandable emotions associated with the requests mean the decisions to decline a request are not readily accepted on some occasions.

### 11.3 Policy (Review) - Monuments and Memorials on Public Land

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- The volume of seat placement requests has increased and is beyond Council's replacement program based on the typical life expectancy of furniture. Most coastal locations now have the desired number of seats. Council currently has eight applications for seats with plaques of which their high profile coastal locations cannot be appropriately provided for.
- This change will mean seats will be treated in a consistent policy manner to the remainder of the policy with regards to plinths and rocks with plaques.

The changes have been marked in **yellow** for amended or additional items and shown as ~~red strikethrough~~ for items proposed to be deleted.

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

#### **Sustainability Considerations**

- **Environment**  
Ensure unnecessary and unauthorised disturbance within reserves.
- **Social**  
Regulation will assist in ensuring the value and amenity of public open spaces is preserved.
- **Economic**  
Ensure efficient and sustainable use of Council resources.

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

There are eight existing applications for seats with plaques desiring high profile coastal locations. One has recently been consented to by staff. There are no other specific legal, resource or financial implications associated with this report.

#### **Consultation**

The recommendation to this report is to place the revised policy on public exhibition.

#### **Options**

Council may accept or amend the proposed changes to the policy. The changes are commensurate to public perception, protecting public amenity and efficient use of public resources. It is recommended that the policy be placed on exhibition for public comment.

It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

**RECOMMENDATIONS**

1. That Council place the amended Monuments and Memorials on Public Land Policy, as attached to this report, on public exhibition.
2. If no responses are received to the public exhibition, the policy will be considered to be adopted by Council. Any responses received will be the subject of a further report to Council.

**Attachment(s)**

1. Policy (Review) - M02 Monuments and Memorials on Public Land

## **11.4 Byron Street Pump Station Replacement Contract - Variation**

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### **11.4 Byron Street Pump Station Replacement Contract - Variation**

**Delivery Program** Water and Wastewater

**Objective** To accept an amendment to the accepted tender for the construction of a replacement sewage pumping station at Byron Street.

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#### **Background**

Byron Street Sewage Pump Station (SPS) in Lennox Head has been identified as insufficient to cater for future growth and has inadequate capacity for current wet weather flows. A design solution has been developed to replace the SPS on the existing site.

An open call for tenders was made for the construction of the replacement SPS. Three tender submissions were received by the close of the tender period, and in July 2016 Council accepted a tender from Diona Pty Ltd for the construction of a replacement SPS for a lump sum price of \$1,534,000 (ex GST). Delays in the design and approval of electrical works have resulted in an amendment to the tender which requires Council acceptance.

#### **Key Issues**

- Achieve best value for money
- Renewal of aging asset

#### **Information**

Replacement of the SPS at Byron Street was due to commence in August 2016 following the relocation and upgrade of the power supply to the site. Council had engaged a design consultant and contractor to undertake these electrical works, as it is a requirement prior to any electrical works to submit the design to the supply authority for approval.

The design was submitted to Essential Energy in June 2016, however it did not gain immediate approval. The electrical design required substantial amendments and re-submission to Essential Energy, who granted approval on 21 December 2016.

The five month delay to the electrical works has subsequently delayed Council awarding Diona the contract for the SPS replacement.

Diona have advised that due to the delay and expiration of the tender validity period, a major subcontractor has made commitments to work elsewhere within Australia and can no longer provide services for the SPS replacement.

On 1 March 2016, Diona notified an amendment to their tender of \$272,258.77 (ex GST) to the lump sum price to cover the costs of a new subcontractor.

## 11.4 Byron Street Pump Station Replacement Contract - Variation

This amendment is 17.7% of the original lump sum price and would revise the overall tender sum to \$1,824,779.10 (ex GST).

Original Tendered Price	\$1,534,000.00
Amendment #1 – Protective coating (previously agreed)	\$17,748.86
<b>Amendment #2 – Delay costs</b>	<b>\$272,258.77</b>
<b>TOTAL</b>	<b>\$1,824,007.63</b>

Diona invited quotes from five new subcontractors, from which two submissions and one budget estimate were received. The lowest quoted subcontractor has been approached by Diona to undertake the project.

An option was considered to the delay the contract until the original major subcontractor was available with the previous price however this contractor has now withdrawn all interest in the project.

An evaluation of the amended price identified an increase in three key areas, being: dewatering; wet well construction; and gravity sewer construction.

An increase to these three items can all be attributed to an increase in contracted price between Diona and their new subcontractor.

The validity of the amendment is reasonable.

In comparison to the tendered prices provided from the open tender for the construction of the replacement SPS, the revised contract sum of \$1,824,007.63 would still be \$210,869.37 less than the nearest tendered price.

This indicates the contract with Diona would continue to provide best value for money.

The table below is a summary of the prices (ex GST) received from the open tender in June 2016 with the contractors names removed. These names were previously provided to Council at the time of the original assessment.

<b>Tenderer</b>	<b>Price (\$)</b>	<b>Price Ranking</b>
Diona (awarded)	1,534,000	1
Contractor 2	2,065,092	3
Contractor 3	2,034,877	2

### Sustainability Considerations

- **Environment**

The replacement of the SPS at Byron Street will be in accordance with all legislative requirements and development consent to manage potential impact to the environment.

- **Social**

Replacement of the SPS at Byron Street is critical for ensuring the continuing operation of the sewerage reticulation network in Lennox Head.

## 11.4 Byron Street Pump Station Replacement Contract - Variation

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- **Economic**  
Not Applicable

### Legal / Resource / Financial Implications

The current 2016/17 budget allocation for the Byron Street SPS Upgrade project comprises:

Replacement of SPS (contract value)	\$1,534,000
Power supply upgrade (awarded contract value)	\$161,420
Contract/project management (estimate)	\$60,000
Contingency (10%)	\$175,542
<b>TOTAL</b>	<b>\$1,930,962</b>

Including provisions for this amendment, the revised 2016/17 budget requirements for the project are now:

Replacement of SPS (varied contract value)	\$1,824,007
Power supply upgrade (varied contract value)	\$180,400
Contract/project management (estimate)	\$60,000
Contingency	\$138,813
<b>TOTAL</b>	<b>\$2,203,220</b>

There is a shortfall in the allocated 2016/17 budget for this project of approximately \$273,000. Due to the six month delay this additional cost will now be incurred in 2017/18.

The GM4101 Wollongbar Gravity Main Upgrade project has an allocated 2017/18 budget of \$1,169,000 from the Sewer Fund. It is recommended to cover the budget shortfall for the Byron SPS Upgrade project by deferring some works on the GM4101 Wollongbar Gravity Main until 2018/19. This partial deferral is not anticipated to cause any operational issues.

### 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;*

## **11.4 Byron Street Pump Station Replacement Contract - Variation**

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- (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.*

The recommendation is to accept the amended tender for the reasons outlined in the report.

### **RECOMMENDATIONS**

1. That Council accepts the amended tender from Diona Pty Ltd for the construction of a replacement Sewer Pump Station at Byron Street, Lennox Head for the amount of \$1,824,007.63 (ex GST).
2. In order to fund this change the 2016/17 to 2019/20 Delivery Program is to be adjusted by deferring \$273,000 of the 2017/18 budget for the Wollongbar Gravity Main Upgrade project to the 2018/19 financial year, with this \$273,000 re-allocated to the Byron Street Sewer Pump Station in 2017/18.
3. That Council authorises the Council seal to be attached to the contract documents.

### **Attachment(s)**

Nil

## 11.5 Tender - East Ballina Reservoir Refurbishment

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### 11.5 Tender - East Ballina Reservoir Refurbishment

**Delivery Program** Water and Wastewater

**Objective** To complete the tender assesment for the refurbishment of the East Ballina Reservoir.

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#### **Background**

The East Ballina Reservoir is one of two service reservoirs in East Ballina that are capable of supplying Drinking Water to customers in West Ballina, North Ballina, Ballina Island and East Ballina. The East Ballina Reservoir is located on Suvla Street, East Ballina.

Historically the East Ballina Reservoir and the Pine Avenue Reservoir (Pine Avenue is the larger one) operated in tandem, with both reservoirs filling and emptying together from the Rous Water supply network.

More recently (since the early 2000s) the East Ballina Reservoir has been out of service as the filling configuration to Pine Avenue Reservoir was changed and the two reservoirs could no longer operate together.

Council has always planned to bring the East Ballina Reservoir back into service by converting the filling arrangement of the reservoir as it is required to provide adequate storage volume to service the network in the future (planning projections show the additional volume would be required between 2020 and 2025).

Council also has no immediate capacity to supply water to customers in the Ballina area should the Pine Avenue Reservoir suffer a water quality or structural failure and the Pine Avenue Reservoir cannot be taken off-line for maintenance without significant disruptions to customers.

A parallel, and closely related project, is the construction of a boosted pump station to service high level customers around the Pine Avenue and East Ballina Reservoirs.

Due to the availability of land on site, the East Ballina reservoir site was chosen as the preferred location to site this pump station.

Approximately 400 residences in East Ballina currently experience periods of low water pressure that are outside Council's service levels.

Establishing a high-level zone in that area will also allow the storage volume of Pine Avenue to be cycled more fully and improve water quality in the area (staff currently manually dose chlorine into this reservoir to improve chlorine residuals in the network).

The pump station and associate pipework have been included in Council's Development Servicing Plan for Water since 2004.

## 11.5 Tender - East Ballina Reservoir Refurbishment

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In preparing for the pump station works and the modifications to the reservoir filling system a condition inspection showed that refurbishment works would be required before bringing it back into service.

An open call for tender was made for the refurbishment of the reservoir. During the tender period a compulsory pre-tender meeting was held at the East Ballina Reservoir site and was attended by eleven contractors.

Four tender submissions were received by the close of the tender period on 28 March 2017.

This report details the outcomes of the tender evaluation process.

### **Key Issues**

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

### **Information**

Tender submissions were received from:

- Doito Pty Ltd
- Engineering Applications Pty Ltd
- Geelong Abrasive Blasting Pty Ltd
- Rays Machinery Painting Pty Ltd

All tenders submissions were assessed to ensure conformance with the conditions of tender and mandatory assessment criteria.

Assessment of the mandatory criteria was split into two parts, being:

#### Part 1

- Demonstrated relevant project experience
- Provision of a detailed construction methodology, risk assessment and program
- Provision of three relevant project references.

#### Part 2

- Demonstrated relevant project experience for key project personnel
- Proven safety record
- Provision of a documented environmental and quality management system
- Evidence of all required insurance policies.

Doito and Geelong Abrasive Blasting failed to meet the mandatory assessment criteria in regard to construction methodology and project references and were deemed to be non-conforming.

Following assessment against the mandatory criteria, the conforming tenders were compared using the following weighted selection criteria:

- Total Price - 85%

## 11.5 Tender - East Ballina Reservoir Refurbishment

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- Local Understanding & Content - 15%

The price offered by Rays Machinery Painting is substantially less than the other conforming tenderer, and was similar to the estimate provided by the project management consultants (Planit Engineering) of \$642,793.

This suggests that Rays Machinery Painting's offered price represents value for money. The prices above are ex GST. Details of the tendered pricing are confidential and have been distributed to Council under separate cover.

### Sustainability Considerations

- **Environment**

The refurbishment of the East Ballina Reservoir will be in accordance with all legislative requirements and development consent to manage potential impacts to the environment.

- **Social**

Refurbishment of the East Ballina Reservoir is critical for ensuring the water pressure at East Ballina residences are within Council's agreed service levels.

- **Economic**

Not Applicable

### Legal / Resource / Financial Implications

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

The current 2016/17 budget allocation for the East Ballina and Basalt Court Boosted Pressure Zones project is made up as follows:

Reservoir refurbishment	\$250,000
Pump purchase	\$60,000
Booster pump station installations	\$700,000
Water reticulation upgrades	\$200,000
Contract/project management	\$80,000
Contingency	\$65,000
<b>TOTAL</b>	<b>\$1,355,000</b>

Including provisions for this tender, the revised 2016/17 budget requirements for the project are as follows:

Reservoir refurbishment (tender value)	\$647,721
Pump purchase (actual)	\$63,293
Booster pump station – civil and mechanical installations	\$490,000
Booster pump station – electrical installations	\$160,000
Water reticulation upgrades	\$160,000
Contract/project management	\$80,000
<b>TOTAL</b>	<b>\$1,601,014</b>

There is a shortfall in the allocated 2016/17 budget for this project of approximately \$246,000.

## 11.5 Tender - East Ballina Reservoir Refurbishment

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The East Ballina Reservoir refurbishment has shared scope with both the Reservoir Access and Integrity Upgrade project (allocated 2016/17 budget of \$500,000 from the Water Fund) and the Drinking Water Renewals project (allocated 2016/17 budget of \$350,000 from the Water Fund).

It is recommended to cover the budget shortfall for the East Ballina and Basalt Court Boosted Pressure Zones project that \$120,000 is transferred from the Reservoir Access and Integrity Upgrade project and the remaining \$126,000 be transferred from the Drinking Water Renewals project.

### Consultation

A public tender process was undertaken.

### Options

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

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

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

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

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

**RECOMMENDATIONS**

1. That Council accepts the tender from Rays Machinery Painting for the refurbishment of the East Ballina Reservoir for the tendered amount of \$647,721.70 (ex GST).
2. In order to fund this project the 2016/17 to 2019/20 Delivery Program be adjusted by transferring \$120,000 from the Reservoir Access and Integrity Upgrade Project and \$126,000 from the Drinking Water Renewals Project.
3. That Council authorises the Council seal to be attached to the contract documents.

**Attachment(s)**

Nil

## **11.6 Tender - Street Lights at Skennars Head and The Coast Road**

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### **11.6 Tender - Street Lights at Skennars Head and The Coast Road**

**Delivery Program**      Engineering Works

**Objective**                      To complete the tender assessment for the installation of street lights for the Skennars Head Road and The Coast Road roundabout.

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#### **Background**

Council has recently commenced construction of the roundabout at the intersection of Skennars Head Road and The Coast Road. The project is 100% funded by RMS under their 'safer roads' grant initiative.

Tenders were invited for RFT931 – Installation of Street Lights at the Skennars Head Road and The Coast Road Roundabout, Skennars Head.

This report provides details on the outcome of the tender evaluation process.

#### **Key Issues**

- Assessment of tenders in accordance with the Local Government (General) Regulations 2005.
- Achieve best value for money

#### **Information**

Tender submissions were received from the following contractors:

- NJ Constructions Pty Ltd
- Rob Ward Electrical Services Pty Ltd
- Stralis Energy Pty Ltd
- Northwest Power Pty Ltd

All tenders were initially assessed for conformity with the tender specification. From the assessment all tenders were deemed to be conforming.

The works include the supply and installation of street lights for the intersection upgrade to suit an approved design by Essential Energy. The delivery of works is scheduled for this financial year.

#### **Mandatory Criteria**

- Demonstrated capability to perform the works as specified
- Work Health and Safety System developed in accordance with AS4801-2001
- Demonstrated performance under quality assurance systems

#### **Weighted Criteria**

- Total Price - 85%
- Local & Community -15%

## **11.6 Tender - Street Lights at Skennars Head and The Coast Road**

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Four (4) tenders were received of which two contractors have undertaken similar installations for Council in recent years. The quality of the work produced recently has been to a satisfactory standard.

Three of the four contractors are locally based with one located in Coffs Harbour.

All four contractors indicated that they could complete the works within Councils project timeframes (this financial year) as required by the funding agreement with RMS.

A summary of the tender pricing and the tender evaluation is provided in a separate confidential report.

### **Sustainability Considerations**

- **Environment**  
All works shall be undertaken in accordance with the requirements of the Part V approval for this project.
- **Social**  
These works are required to satisfy contemporary Australian lighting design standards associated with the upgrade of this intersection and facilitate improvements of a known 'blackspot' in our road network and thereby will support the community's transport needs and improve the community's transport safety.
- **Economic**  
This tender is 100% RMS funded and will improve the safety of our transport infrastructure. These improvements to our infrastructure will enhance an essential asset for economic development.

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

This report aims to assist Council to meet its statutory and other legal obligations.

The works tendered are 100% funded by a RMS safer roads grant.

The staff estimates for the installation of lighting following the development of the concept design was \$200,000 and the price in the tender recommended to Council is \$193,160.

### **Consultation**

A public tender process was conducted.

### **Options**

Under the Local Government (General) Regulations 2005 Council must either accept the tender that "appears to be the most advantageous" or decline to accept any of the tenders.

## 11.6 Tender - Street Lights at Skennars Head and The Coast Road

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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, 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 contracts of the same kind as the proposed contract;*
- (d) 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 tenderer; and*
- (e) carry out the requirements of the proposed contract itself.*

Accordingly,

1. Council may award the contract to NJ constructions with a ranking of one (1) from the tender evaluation process ; or
2. Council may determine not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more contractors.

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

In accordance with the Tender evaluation plan and a combined weighting of price and non-price criteria NJ Constructions were ranked number one (1) and are therefore the preferred tenderer for a contract amount of \$193,160 (incl GST).

### **RECOMMENDATION**

That Council accepts the Tender of NJ Constructions Pty Ltd for \$193,160 (incl GST) for the installation of street lighting as part of the construction of the roundabout at the intersection of Skennars Head Road and The Coast Road.

### **Attachment(s)**

Nil

12. Public Question Time

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**12. Public Question Time**

### **13.1 Lake Ainsworth Plan of Management**

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### **13. Notices of Motion**

#### **13.1 Lake Ainsworth Plan of Management**

**Councillor** Cr Williams

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I move

That Council review and update the Lake Ainsworth Plan of Management (2002) and if required update the reference in the Crown Reserve Plan of Management to the new plan.

#### **Councillor Comment**

There are a number of potential responses regarding the legal advice received in relation Lake Ainsworth.

I think the option of reviewing and replacing the Lake Ainsworth Plan of Management (2002) and updating the reference in the Crown Reserve Plan of Management would provide a more robust legal framework, give the disaffected members of the community an opportunity to feel heard (more than 600 people attended the protest rally in February on the hottest day of the year) and in my view lessen the likelihood of future legal challenges. Most importantly, it would enable some of the heat of the current debate in the Lennox community to be more practically expressed.

I would expect the draft to be based on the 2002 Plan of Management updated with the current plans.

Councillors may wish to discuss this matter in a Confidential Session to enable full consideration of the legal issues involved.

#### **Staff Comment**

Following the receipt of correspondence from McCartney Young Lawyers, on behalf of Preserving Lake Ainsworth Inc, and to reduce the risk of significant legal costs being incurred, by both parties, Council has proceeded to obtain new approvals for the planned works, to address any matters where there may be debate over the impact of the works.

Quotations are currently being sought from planning consultants to prepare the relevant documentation to submit a development application under Part IV of the Environmental Planning and Assessment Act. The preference is to submit one development application for the eastern and southern works, as this provides an integrated approach.

Following discussions with Council's legal advisors and internally with staff, Part IV is the preferred planning pathway.

Once submitted the development application will be exhibited for public comment and the elected Council would consider all submissions in

## 13.1 Lake Ainsworth Plan of Management

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conjunction with the report from our planning staff on their assessment of the application.

The exhibition process allows all interested stakeholders to make a submission based on the supporting material provided with that development application.

One of the other options to obtain an updated planning approval is under Part V of the Environmental Planning and Assessment Act. To comply with Part V Council would need to ensure that the Lake Ainsworth Plan of Management (POM) (2002) reflects the latest road network designs.

From a staff perspective this has not been the preferred option as the POM contains a large number of other actions and to amend one small component could lead to confusion and uncertainty in the community over what Council is striving to achieve.

Council could also be criticised for not addressing other matters that form part of the existing POM. This may lead to more dis-harmony in the community as information would be lacking from the POM process.

Also any change to the Ballina Shire Coastal Reserve Plan of Management, which has been formally gazetted by the State Government, would require the involvement of the State Government. No change is required to that Plan, as the only inconsistency between the Coastal Reserve and the Lake Ainsworth POM is a reference in the Coastal Reserve POM to the Lake Ainsworth POM, where the road design is inconsistent with the current Council design. This means it is the Lake Ainsworth POM that needs to be amended.

The preference has always been to undertake a comprehensive review of the Lake Ainsworth POM, to create a statutory Coastal Zone Management Plan (CZMP), following completion of the eastern precinct works. Such a process may take approximately 12 months and the consultancy fees could range from \$30,000 to \$80,000. Council may be able to secure a 50% grant from the Office of Environment and Heritage for this project.

A CZMP is gazetted by the Minister and they have a far higher chance of securing grant funding for works in the plan as they are endorsed by the State Government.

A similar process was undertaken for Shaws Bay, with that CZMP endorsed in 2016.

A CZMP process is a more holistic process that would further evaluate options to improve the health of the Lake, along with the water quality and then provide an action plan for Council to work towards, typically over a ten year timeframe.

In summary this notice of motion is not supported as:

- a) based on discussions with our legal advisors and internally with staff, the preferred planning pathway is through a development application (Part IV)

### **13.1 Lake Ainsworth Plan of Management**

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- b) an interim review of the Lake Ainsworth POM would not have the supporting documentation that accompanies a Part IV development application
- c) the resultant POM, if adopted by Council, would be deficient in many other areas, due to it being well overdue for review
- d) the preference is to undertake a holistic review of the existing Lake Ainsworth POM and create a new CZMP, when funding permits.

#### **COUNCILLOR RECOMMENDATION**

That Council review and update the Lake Ainsworth Plan of Management (2002) and if required update the reference in the Crown Reserve Plan of Management to the new plan.

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

Nil

## 13.2 Lake Ainsworth Water Quality

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### 13.2 Lake Ainsworth Water Quality

**Councillor**

Cr Jeff Johnson

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I move that Council

1. Note the recently completed report 'Lake Ainsworth water quality snapshot'.
2. Note that the levels of phosphorous in the water have increased significantly since 1995 and are a major contributing factor of blue green algae outbreaks.
3. Begin the development of a Coastal Management Program (CMP) for Lake Ainsworth to better understand the water quality processes and to prioritise actions needed to ensure the long-term health of the Lake and it's use for public recreation (swimming).

#### **Councillor Comment**

Ballina Shire Council recently completed a report into the water quality in Lake Ainsworth. Please see the main findings in the Lake Ainsworth Water Quality Factsheet attachment. Some of the key findings include:

- nutrient sampling suggest the Lake has high levels of nutrients in comparison to national guidelines
- the results of *Enterococci* abundance suggest that Lake Ainsworth is usually suitable for recreational use, however, there may be a slight risk of bacterial contamination (particularly up to three days after significant rain)
- mean total phosphorous (TP) levels peak in the summer months which is typical of eutrophic systems
- high TP levels indicate that the natural occurrence of blue-green algal blooms are likely to continue in favourable weather conditions and will need to be monitored.

The higher levels of phosphorus in the lake increase the frequency and severity of algal blooms (blue green algae). It's of great concern that the levels of phosphorus have significantly increased since 1995. The causes of this are not yet known and clearly further investigations are needed.

Lennox Land care volunteers have been removing Water Hyacinth from the Lake which grows vigorously in the nutrient rich water. The Water Hyacinth does remove phosphorus and other nutrients from the water and its removal might be able to be coordinated in a way that increases its ability to remove additional phosphorus (nutrients). The key is to ensure that it is removed before it produces seed.

While there is a small group of dedicated volunteers removing this weed, Council shouldn't assume that this situation can continue indefinitely.

## **13.2 Lake Ainsworth Water Quality**

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Furthermore, this removal program is starting to get beyond the capacity of this group of volunteers.

It is also unknown how much phosphorus is being removed from the lake by this process and whether there is further potential in addressing the nutrient problem. Other options could include floating reed beds, etc.

It is also essential that Council determines where and why the levels of phosphorus have risen over the last 20 years or so. Some possible reasons include an increase in sunscreen use (which contains phosphorus), urine, or leaking sewage pipes. Identifying the cause is crucial to reducing the future impact that increasing nutrient levels will have on the long-term viability of this important natural area and its safe use for swimmers.

### **Staff Comment**

Council staff are supportive of any actions that can assist with a detailed investigation into the causes and possible solutions for the increased phosphorus levels as per the water quality report.

However the concern is that the preferred approach is to look at this issue holistically through the completion of a Coastal Zone Management Plan (CZMP) for Lake Ainsworth, which would undertake this detailed investigation, along with other relevant studies. The preparation of a CZMP is one of the recommendations from the water quality report mentioned in the notice of motion.

Mick Howland from Hydrosphere Pty Ltd., who co-ordinated the Shaws Bay CZMP and is a technical expert on these matters, advises that a minimum \$25,000 to \$35,000 would be needed for an updated CZMP for Lake Ainsworth, with limited technical investigations.

In order to obtain the best results and to carry out investigations into the phosphorus, at least another \$30,000 would be needed. This is a very preliminary estimate.

Mr Howland also expressed concerns that looking at the phosphorus alone may have little benefit.

In relation to investigating the phosphorus alone Council would be looking at technical investigations such as sediment sampling, ground water sampling, and additional water testing, which could cost tens of thousands, depending on the level of research needed to confirm the reasons for the increase in phosphorous levels.

In summary an integrated approach, through the CZMP, may take more time, however it will deliver a more holistic and co-ordinated approach to addressing the health of Lake Ainsworth.

**COUNCILLOR RECOMMENDATION**

That Council

1. Note the recently completed report 'Lake Ainsworth water quality snapshot'.
2. Note that the levels of phosphorous in the water have increased significantly since 1995 and are a major contributing factor of blue green algae outbreaks.
3. Begin the development of a Coastal Management Program (CMP) for Lake Ainsworth to better understand the water quality processes and to prioritise actions needed to ensure the long-term health of the Lake and it's use for public recreation (swimming).

**Attachment(s)**

1. Lake Ainsworth Water Quality Factsheet

### 13.3 Shade Structures for Children's Playgrounds

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### 13.3 Shade Structures for Children's Playgrounds

**Councillor**

Cr Jeff Johnson

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I move that Council:

1. Provide in principle support for the provision of shade structures for all children's playgrounds (equipment) within the Ballina Shire.
2. Provide an annual budget of \$50,000 to go towards retro-fitting shade structures to existing playgrounds.
3. Amend its Playground Upgrade Plan to require all new playground installations to include a shade structure.

#### **Councillor Comment**

Providing a shade structure over a children's playground not only protects small children from the sun, but it also reduces the temperature of the equipment reducing the likelihood of burns.

As a parent of a young child I have personally seen children being burnt from touching playground equipment that is exposed to the sun. It is not often possible to take children to these facilities in the early morning and as a consequence it is important for Council to ensure that all of our playgrounds have a shade structure.

In the circumstance that major developments and/or new subdivisions are required to provide a children's playground, Council should impose conditions that ensure these new playgrounds are installed with shade structures.

#### **Staff Comment**

Council has previously considered a notice of motion from Cr Johnson consistent with the above motion at the meeting held in January 2016. The motion was not supported by a majority of Councillors.

The motion was debated again at the February 2016 meeting and was again unsuccessful, however Council resolved the following at that time.

*That Council hold a briefing to review the existing policies on sun protection generally, with the aim being to devise policy statements that ensure robust shire wide actions are developed and applied in respect to sun protection.*

This briefing was held with representatives from the NSW Cancer Council present. The outcome from the briefing was to retain the playground upgrade plan without amendment and a partnership arrangement between the Cancer Council and Ballina Shire Council was established to enable ongoing collaboration and resource sharing in respect of our combined efforts to assist the community be protected from the impacts of the sun.

### **13.3 Shade Structures for Children's Playgrounds**

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The playground upgrade plan classifies each of Council's parks within a hierarchy based on the level of demand for the facility at each location. A level of service, that is the type of infrastructure to be supplied, is established for each level in the hierarchy.

This is important as playgrounds are expensive to install and have specific maintenance requirements.

With safety and public liability in mind, it is important Council only create a level of service that can be maintained for the funds available for this activity. The hierarchy represents the preferred expenditure level by Council at the local level, meaning the emphasis is to provide specialist equipment and infrastructure at the higher levels in the hierarchy.

This is consistent with professional advice from playground specialists that residents prefer some level of amenity in the local neighbourhood however then they prefer to travel to centralized places to access high quality or more expansive services and councils should centralize their capital investment accordingly.

Shade structures are incorporated into the level of service for these locations, Missingham Park being an example of this approach. For local parks, staff seek to identify the opportunities for trees to provide shade at the playgrounds as the trees are more aesthetic and require less maintenance.

If the Council is to support the motion, in addition to the funds suggested for the placement of the shade structures, an allowance should also be made in the budget for the ongoing maintenance of these facilities. Shade sails have a limited life, and can be damaged by vandalism. As the current playground maintenance budget is fully committed to the maintenance and renewal of existing play equipment assets, additional funds to the current program would be required to maintain the new shade structures.

#### **COUNCILLOR RECOMMENDATION**

That Council:

1. Provide in principle support for the provision of shade structures for all children's playgrounds (equipment) within the Ballina Shire.
2. Provide an annual budget of \$50,000 to go towards retro-fitting shade structures to existing playgrounds.
3. Amend its Playground Upgrade Plan to require all new playground installations to include a shade structure.

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

Nil

#### **13.4 Pioneer Memorial Cemetery, East Ballina**

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#### **13.4 Pioneer Memorial Cemetery, East Ballina**

**Councillor**

Cr Cadwallader

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That Council seek opportunities for grant funding, particularly heritage or tourism grants, to undertake restoration works to the headstones at the Pioneer Memorial Cemetery.

#### **Councillor Comment**

The Pioneer Cemetery is one of, if not the oldest cemeteries in the Shire and unfortunately many of the headstones, which in some cases are over 100 years old, are in a poor state of repair.

There is a real opportunity for Council to restore some of the history of the Shire with the cemetery and it would be interesting to see if we can identify any grants that may assist with a restoration project (photo attached).

#### **Staff Comment**

Council staff monitor the availability of grants and there are no specific grants readily available for a project of this nature. If there were, numerous councils would be competing for such a grant.

If the motion is supported, the monitoring of grants will continue, however Council needs to be realistic and accept that the probability of securing a grant for this project, which effectively relates to the restoration of private headstones, is limited.

If this project is a priority for Council it may eventually need to be funded from the Council's Cemetery Reserve.

#### **COUNCILLOR RECOMMENDATION**

That Council seek opportunities for grant funding, particularly heritage or tourism grants, to undertake restoration works to the headstones at the Pioneer Memorial Cemetery.

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

1. Photo of Headstone at Pioneer Memorial Cemetery

### **13.5 Funding for National Climate Change Adaptation Research Facility**

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### **13.5 Funding for National Climate Change Adaptation Research Facility**

**Councillor**

Cr Cadwallader

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That Council calls on the Minister for the Environment and Energy to extend funding for the National Climate Change Adaptation Research Facility (NCCARF) to enable it to continue to provide much-needed support and guidance to coastal councils in their efforts to respond to the projected impacts of climate change.

#### **Councillor Comment**

Delegates attending the 2016 ALGA National General Assembly held in Canberra in June 2016 unanimously ratified the following Resolution as being of national importance for local government:

#### **Resolution 40.1**

***Bega Valley Shire Council NSW, Eurobodalla Shire Council NSW and East Gippsland Shire Council VIC***

*That the National General Assembly call on the Australian Government to develop an Intergovernmental Agreement on the Coastal Zone in consultation with state, territory and local government as a means of defining the roles and responsibilities of each tier of government in relation to coastal zone management.*

The Resolution was subsequently considered by the ALGA Board when setting national local government policy. The Board expressed its support for the Resolution in a letter to the Minister for Environment and Energy, the Hon Josh Frydenberg MP, on the matter.

In the Minister's response to the President of ALGA he stated that:

*The Government provides national leadership on building resilience and managing climate risk by providing climate change science and adaptation information. The Government provides the leadership role by:*

- *Coordinating national adaptation efforts, such as the CoastAdapt which is a national scale tool that supports local decision making and action.*

*The Government is supporting development of CoastAdapt and other Climate Change Adaptation Research Facility initiatives through a commitment of \$9 million over three years from 2014-15.*

The response indicates that the Government is aware of the vital role that CoastAdapt and other NCCARF initiatives play in supporting coastal councils in their efforts to adapt to the projected impacts of climate change. The current allocation of Australian Government funding for NCCARF, however, is scheduled to conclude in July 2017.

**COUNCILLOR RECOMMENDATION**

That Council adopt the motion and write to the Minister in support of extending Australian Government funding for NCCARF so that the Facility can continue to provide much-needed support to coastal councils in their efforts to respond to the projected impacts of more frequent and severe extreme weather events and other climate impacts.

**Attachment(s)**

Nil

**14. Advisory Committee Minutes**

**14.1 Finance Committee Minutes - 16 March 2017**

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**Attendance**

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

Paul Hickey (General Manager), John Truman (Group Manager Civil Services), Rod Willis (Group Manager Development and Environmental Health), Steve Barnier (Group Manager Strategic and Community Facilities), Linda Coulter (Manager Financial Services) and Sarah Carden (Secretary) were in attendance.

There were two people in the gallery at this time.

**1. Apologies**

Nil.

**2. Declarations of Interest**

Cr Phillip Meehan – declared an interest in Item 4.2 – Large domestic water user, non-pecuniary, non-specific, member of the Ballina Jockey Club

**3. Deputations**

- **Monica Wilcox, Lennox Head Residents Association** – spoke in favour of Item 4.5 – Lennox Head Town Centre – Main Street Upgrade
  - i.
  - ii.

4. Committee Reports

4.5 Lennox Head Town Centre - Main Street Upgrade

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Ben Smith)

1. That Council notes the contents of this report in respect of the design options for the proposed Lennox Head CBD Upgrade Project.
2. That Council defer undertaking further design work or community consultation regarding this project until the project is included in a future Operation Plan and Delivery Program.
3. That Council receive a report on options to loan fund the works as part of this council term.
4. That Council receive a report on possible relocation of the playground at Ross Park.

An **Amendment** was moved by Cr Phillip Meehan

That Council fund the Lennox Head Town Centre – Main Street Upgrade from the waste dividends proposed for the Ballina Indoor Sports Centre.

The **Amendment LAPSED.**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council notes the contents of this report in respect of the design options for the proposed Lennox Head CBD Upgrade Project.
2. That Council defer undertaking further design work or community consultation regarding this project until the project is included in a future Operation Plan and Delivery Program.
3. That Council receive a report on options to loan fund the works as part of this council term.
4. That Council receive a report on possible relocation of the playground at Ross Park.

FOR VOTE - All Councillors voted unanimously.

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

Cr Eoin Johnston arrived at the meeting at 04:09 pm.

Cr Sharon Parry arrived at the meeting at 04:14 pm.

Cr Jeff Johnson arrived at the meeting at 04:17 pm.

**4.1 Ballina - Byron Gateway Airport - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council endorses the revised long term financial plan for the Ballina – Byron Gateway Airport, as attached to this report, for inclusion in the draft 2017/18 Delivery Program and Operational Plan.
2. That Council confirms an increase in the terminal expansion budget to \$6.9m based on a loan of \$2.5m and State Government grant funding of \$4.5m.
3. That Council receive a report on options for the implementation of solar power / panels as part of the future development plans for the airport.

FOR VOTE - All Councillors voted unanimously.

**4.2 Large Non-Domestic Recycled Water Users – Pricing**

**RECOMMENDATION**

(Cr Ben Smith/Cr Nathan Willis)

1. The Council endorses option two, as outlined in this report, as the preferred pricing structure for Recycled Water Supply to Large Non-Domestic Users.
2. That Council approves a staged implementation of this fee over four years, commencing in 2017/18 based on the following increments:

2017/18	25%
2018/19	50%
2019/20	75%
2020/21	100%

3. That the pricing structure and implementation strategy be included in the draft 2017/18 Fees and Charges document for public comment.
4. That Council write to large non-domestic recycled water customers to inform them of the public exhibition of the draft 2017/18 Fees and Charges.

FOR VOTE - All Councillors voted unanimously.

**4.3 Land Valuations and Rating Structure - 2017/18**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That for the draft 2017/18 Operational Plan, Council approves the inclusion of a base rating structure, modelled on the 2016/17 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 20% 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).
2. That Council notes the indicative figures for this rating structure for 2017/18, are as follows as per the contents of this report:

**Table Nine: Proposed 2017/18 Income per Category (Cat.) at 4.9%**

Rate Category	2016/17			2017/18		
	Income 5.34% increase	Cat % of yield	Ave Rate	Income 4.9% increase	Cat % of yield	Ave Rate
Residential	14,748,183	72.55	943	15,629,051	72.66	985
Business	4,065,676	20.00	3,160	4,301,992	20.00	3,298
Farmland	1,514,776	7.45	1,448	1,579,118	7.34	1,514
Mining	0	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>20,328,634</b>	<b>100.0</b>	<b>1,131</b>	<b>21,510,160</b>	<b>100.00</b>	<b>1,181</b>

**Table 12: Proposed 2017/18 Rating Structure**

Rating Category	2017/18 - 4.9% Increase	
	Base Amount	Rate in Dollar
Residential	491	0.1658284
Business	491	0.7558078
Farmland	491	0.1412750
Mining	491	0.7558078

3. That Council notes that the draft 2017/18 Operational Plan will also include a rating structure based on a 1.5% rate peg limit on the assumption that Council's proposed special rate variation may not be approved.

FOR VOTE - All Councillors voted unanimously.

#### **4.4 Plant Replacement Program**

##### **RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council endorses, for strategic planning purposes, the Plant Replacement Program, as attached to this report, along with the Financial

Plan.

2. That the draft 2017/18 Delivery and Operational Plan include a fleet procurement program in accordance with the Plant Replacement Program endorsed in point one above.

FOR VOTE - All Councillors voted unanimously.

#### **4.6 Houghlahans Creek Road - Upgrade Consideration**

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

1. That based on the contents of this report Council confirms it will not include the sealing of Houghlahans Creek Road in the draft 2017/18 – 2020/21 Delivery and Operational Plan.
2. The reasons for the decision in point one include:
  - The stewardship of Council's road assets means its programs are prioritised to the maintenance and renewal of existing road assets.
  - The costs are significant and would represent a major proportion of the available funding for roads across the whole Shire.
  - The Council has not adopted a prioritised works program for the sealing of rural roads and before Council could consider allocating funds to an individual road it is appropriate that Council consider the priority and costs for all possible candidate roads for such a program.
  - The Council has significant unfunded road priorities identified on the basis of risk and reported in its Road Asset Management Plan
  - The relative low traffic volumes mean it is not reasonable to upgrade this road relative to other priorities for Council's limited resources.
  - The unsealed road is maintained by Council under its annual program and this provides a reasonable level of service.

An **Amendment** was moved by Cr Jeff Johnson and Cr Eoin Johnston

That Council commit to undertake the sealing of segment 80 (including associated road and drainage works) at an estimated cost of \$140,000.

FOR VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith, and the casting vote of the Mayor.

The **Amendment** was **LOST**.

#### **RECOMMENDATION**

(Cr Phillip Meehan/Cr Sharon Cadwallader)

1. That based on the contents of this report Council confirms it will not include the sealing of Houghlahans Creek Road in the draft 2017/18 – 2020/21 Delivery and Operational Plan.
2. The reasons for the decision in point one include:
  - The stewardship of Council's road assets means its programs are prioritised to the maintenance and renewal of existing road assets.
  - The costs are significant and would represent a major proportion of the available funding for roads across the whole Shire.
  - The Council has not adopted a prioritised works program for the sealing of rural roads and before Council could consider allocating funds to an individual road it is appropriate that Council consider the priority and costs for all possible candidate roads for such a program.
  - The Council has significant unfunded road priorities identified on the basis of risk and reported in its Road Asset Management Plan
  - The relative low traffic volumes mean it is not reasonable to upgrade this road relative to other priorities for Council's limited resources.
  - The unsealed road is maintained by Council under its annual program and this provides a reasonable level of service.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Stephen McCarthy, Cr Nathan Willis and Cr Sharon Cadwallader

AGAINST VOTE - Cr Jeff Johnson, Cr Eoin Johnston, Cr Keith Williams and Cr Ben Smith

Cr Ben Smith left the meeting at 05:36 pm.

**4.7 Community Infrastructure - Recurrent Projects and Funding**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council include in the draft 2017/18 Delivery Program and Operational Plan the recurrent capital work priorities as outlined in this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

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

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this interim update on the Long Term Financial Plan for the General Fund.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**4.9 Public Reserve Management Fund - Applications**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council approves the following list of projects to be submitted as applications for the 2017/18 Public Reserve Management Fund, as detailed within this report.

**Council Projects**

Saunders Oval – Sports Field Lighting  
Coastal Walk  
Weed control – Williams Reserve

**Community Projects**

Fripp Oval Fencing  
Ballina Tennis Club Extension

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**4.10 Kerbside Bulky Waste Collection - Assessment**

A **Motion** was moved Cr Sharon Cadwallader and seconded by Cr Keith Williams

1. That based on the contents of this report Council resolves not to proceed with the introduction of either a bulky waste collection service or free landfill drop off system.
2. That Council records the reasons for its decision in point one above including:
  - The financial impact to Council is significant and would result in increased waste charges.
  - The proposal is inconsistent with Council's objectives for waste recovery and landfill diversion.
  - The proposal is inconsistent with the emerging regulatory regime for waste management.
  - Residents are able to access the landfill on a user pays system and local contractors and other service providers are able to assist residents with collection and haulage of bulky goods.
  - For the kerbside collection, there are significant risks associated with environmental pollution, scavenging, residential amenity and illegal dumping.
  - The programs require significant additional resources to establish and implement.

An **Amendment** was moved by Cr Phillip Meehan and seconded by Cr Jeff Johnson

1. That Council receive a report on option two, being the provision of one free tip voucher per residential property per year.

FOR VOTE - Cr Phillip Meehan and Cr Jeff Johnson

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

ABSENT. DID NOT VOTE - Cr Ben Smith

The **Amendment** was **LOST**

### **RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That based on the contents of this report Council resolves not to proceed with the introduction of either a bulky waste collection service or free landfill drop off system.
2. That Council records the reasons for its decision in point one above including:
  - The financial impact to Council is significant and would result in increased waste charges.
  - The proposal is inconsistent with Council's objectives for waste recovery and landfill diversion.
  - The proposal is inconsistent with the emerging regulatory regime for waste management.
  - Residents are able to access the landfill on a user pays system and local contractors and other service providers are able to assist residents with collection and haulage of bulky goods.
  - For the kerbside collection, there are significant risks associated with environmental pollution, scavenging, residential amenity and illegal dumping.
  - The programs require significant additional resources to establish and implement.

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 and Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Ben Smith

Cr Stephen McCarthy left the meeting at 06:28 pm.

4.11 **Waste Operations - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council endorses the inclusion of the LRM and DWM long term financial plans, as attached to this report, and the following waste charging structure, in the draft 2017/18 Delivery Program and Operational Plan for public exhibition:

**LRM Waste Charges**

Charge Type	2016/17 (\$)	2016/17 (\$)	% Change
Kerbside Non Domestic Mixed Waste (Annual)	342	348	1.8
Kerbside Non Domestic Recycling (Annual)	169	172	1.8
Kerbside Non Domestic Green Waste (Annual)	299	304	1.7
DWM Gate Fee Mixed Waste	261/tonne	266/tonne	1.9
Self-Haul Mixed Waste Under 300kg Over 300kg	225/tonne 261/tonne	230/tonne 266/tonne	2.2 1.9
DWM Gate Fee Recyclables	219/tonne	233/tonne	1.8
Self-Haul Recyclables	90/tonne	92/tonne	2.2
Self-Haul Brick & Concrete	90/tonne	170/tonne	88.9
Self-Haul Roof Tile Ceramics	90/tonne	170/tonne	88.9
Self-Haul Green Waste	71/tonne	72/tonne	1.4
Remaining Gate Fees	Various up to 5%	Various up to 5%	Up to 5%
Waste Operations Annual charge	73	0	Removed

**Domestic Waste Charges**

Charge Type	2016/17 (\$)	2016/17 (\$)	% Change
DWM - Rural (excludes green)	320	326	1.9
DWM – Urban (all three collections)	367	374	1.9
Additional Extra Mixed Waste Urban – Fortnight	110	112	1.8
Additional Mixed Waste Rural – Weekly	219	223	1.8
Additional Domestic Recycling	110	112	1.8
Additional Green Waste Collection - Urban Only	219	223	1.8
DWM – Vacant Land	40	40	-

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith



**4.12 Wastewater Operations - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That in respect to the Wastewater Operations Council endorses the annual charges, as per the following table, for exhibition in the draft 2017/18 Operational Plan, as well as the long term financial plan included, as per the attachments to this report.

<b>Charge Type</b>	<b>2016/17 \$</b>	<b>2017/18 \$</b>	<b>% Increase</b>
Residential availability charge	925	953	3.0
Residential availability charge vacant land	697	718	3.0
Non Residential Usage charge	2.34	2.41	3.0
Non Residential Access charge	Variable based on meter size		3.0
Recycled Water	80% of potable water step 1		

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith

**4.13 Community Strategic Plan 2017 - 2027 - Draft**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council approves the public exhibition of the draft Community Strategic Plan, as attached to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith

**4.14 Debtor Write-off**

**RECOMMENDATION**

(Cr Jeff Johnson/Cr Eoin Johnston)

That Council notes the contents of this report in respect to the details of the outstanding debt.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith

**5. Confidential Session**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Sharon Parry)

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

**5.1 Debtor Write-off - Debtor Details**

**Reason for Confidentiality**

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

- b) the personal hardship of any resident or ratepayer

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the nature of the personal matter.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith

(The Council moved into Confidential Session at 6.36).

**Open Council**

**RECOMMENDATION**

(Cr Jeff Johnson/Cr Eoin Johnston)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith

(The Council moved into Open Council at 6.39).

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

**5.1 Debtor Write-off - Debtor Details**

**RECOMMENDATION**

(Cr Jeff Johnson/Cr Nathan Willis)

That Council approves the request for write-off of the debt of \$7,732.74, as outlined in this report, on the basis that recovery of the debt is considered unlikely and pursuit of the debt would incur further costs to Council.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith

**Adoption of Recommendations from Confidential Session**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That the recommendations made whilst in Confidential Session, be adopted.  
FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Stephen McCarthy and Cr Ben Smith

**MEETING CLOSURE**

6.41 pm

**RECOMMENDATION**

That Council confirms the minutes of the Finance Committee meeting held 16 March 2017 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

## 15.1 Mayoral Meetings

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

#### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities since the February 2017 Ordinary meeting:

<u>Date</u>	<u>Function</u>
22/2/17	Meeting - Matt Wood – Luke Sansom
22/2/17	Meeting - Peter Thorpe – Memorial Seat
22/2/17	Meeting - Shark Shield
23/2/17	Richmond River Meeting
25/2/17	Meeting - Pacific Complete Meerschaum Vale
25/2/17	Lions Final
26/2/17	Commemoration Park Markets
1/3/17	Briefing - Pricing for Large Domestic Users
2/3/17	Launch - Ballina Access Point
2/3/17	Gallery Opening
3/3/17	Funeral - Aunty Bertha Kapeen
3/3/17	Seniors' Expo Ballina RSL
4/3/17	Picnic for the Parkland
4/3/17	Richmond Valley Wood Carvers - Alstonville
4/3/17	Missingham Markets
3/3/17	Ballina Pool Meeting
5/3/17	Commemoration Park Markets
7/3/17	Briefing - Second Dwellings in Rural Zones
7/3/17	Briefing - Alstonville Planning and Environmental Study
7/3/17	Alstonville/Wollongbar Chamber of Commerce Meeting
8/3/17	Briefing - Floodplain Risk Management
8/3/17	Seniors' Concert RSL
8/3/17	Combined Services Clubs of Ballina – Scholarship Awards
9/3/17	'C' Ward Committee
10/3/17	Tour - Ben Franklin MLC
10/3/17	Site Visit - Coastal Recreational Path
12/3/17	Lennox Head Markets
12/3/17	Alstonville Markets
12/3/17	Commemoration Park Markets
14/3/17	Church Group
14/3/17	Meeting - Ferry
14/4/27	'A' Ward Committee
15/3/17	Doco on Ballina
16/3/17	Finance Committee
18/3/17	Opening Northern Rivers Outrigger Club
18/3/17	Meeting Senator Peter Whish Wilson - Shark Committee
19/3/17	Parkinson's' Fundraiser – Lennox Head
19/3/17	Ballina Pool Farewell
19/3/17	Alstonville Pool Farewell
20/3/17	'B' Ward Committee
23/3/17	Council Meeting
23/3/17	Reserve Trust Meeting

## 15.1 Mayoral Meetings

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23/3/17	Meeting - FSG
24/3/17	Ballina Players – Blithe Spirit
25/3/17	Quota - High Tea
25/3/17	Ballina - Relay for Life – Seagulls
25/3/17	Ballina Junktion Celebration - Waste Centre
28/3/17	Briefing - Blackwater Research Project
29/3/17	Briefing - Burns Point Ferry Road Planning Proposal

### **RECOMMENDATION**

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

### **Attachment(s)**

Nil

**16. Confidential Session**

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

**16.1 Hardship Rate Relief Application - Confidential Details**

This report contains information relating to as the report contains personal information.

**RECOMMENDATION**

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

**16.1 Hardship Rate Relief Application - Confidential Details**

**Reason for Confidentiality**

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

- b) the personal hardship of any resident or ratepayer

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the report contains personal information.