



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 26 April 2018 commencing at 9.00 am.**

Business

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

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

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

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

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

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

Public Question Time – Guidelines

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

Table of Contents

1.	Australian National Anthem	1
2.	Acknowledgement of Country	1
3.	Apologies.....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations.....	1
6.	Deputations	1
7.	Mayoral Minutes	1
8.	Development and Environmental Health Group Reports.....	2
8.1	DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar	2
8.2	Failure to Comply with Order to Clean Up - Sale of Property	25
8.3	Development Applications – Variation to Development Standards	30
8.4	Development Applications - Works in Progress - April 2018	31
9.	Strategic and Community Facilities Group Reports.....	40
9.1	Land Classification - Lot 2 DP 620838, 9 Byron Bay Road	40
9.2	Land Classification - Lots 1 to 4 DP 1222030, Rifle Range Road	43
9.3	Policy (Review) - Commercial Use of Footpaths	46
9.4	Community Halls - Demand	49
10.	General Manager's Group Reports	53
10.1	Investment Summary - March 2018	53
10.2	Policy (Review) - Related Party Disclosures Policy	58
10.3	Arts Northern Rivers - Election of Alternate Delegate	60
10.4	Delivery Program and Operational Plan - 31 March 2018 Review	62
10.5	Capital Expenditure Program - 31 March 2018 Review	67
11.	Civil Services Group Reports.....	74
11.1	Killen Falls - Toilet Sewage Management Evaluation	74
11.2	B-Double Access - 3 Paperbark Close, West Ballina	79
11.3	Tender - Surf School Licences	82
11.4	Tender - Consulting Services for Wollongbar Residential Estate	86
11.5	Tender - Expansion of Airport Terminal Building	90
12.	Public Question Time.....	94
13.	Notices of Motion.....	95
13.1	Rescission Motion - DA 2017/679 - 77 Teven Road, Alstonville	95
13.2	Notice of Motion - Councillor Expenses	96
13.3	Notice of Motion - Amendment to Ballina LEP - Function/Event Venues	97
13.4	Notice of Motion - Community Engagement Transparency Policy	99
13.5	Notice of Motion - Festivals and Events Taskforce	100
14.	Advisory Committee Minutes	101
14.1	Finance Committee Minutes - 17 April 2018	101

15.	Reports from Councillors on Attendance on Council's behalf	110
15.1	Mayoral Meetings	110
16.	Confidential Session	111
16.1	Swimming Pool Redevelopment - Contract	111

DISCLAIMER ©NSW Spatial Services 2017. Although all care is taken in the preparation of plans within Council's business paper (both agendas and attachments), Ballina Shire Council accepts no responsibility for any misprints, error, omissions or inaccuracies. The information contained within each plan is for pictorial representation only and not to scale. Accurate measurements should be undertaken by survey.

1. Australian National Anthem
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 7. Mayoral Minutes
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1. Australian National Anthem

The National Anthem will be performed by Sing Australia.

2. Acknowledgement of Country

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

3. Apologies

4. Confirmation of Minutes

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

RECOMMENDATION

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

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

8. Development and Environmental Health Group Reports

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

Applicant	Newton Denny Chapelle (on behalf of Mr G and Mrs P Rooke)
Property	Lot 5 DP 606566, No. 1 Johnston Road, Newrybar
Proposal	To Undertake the Temporary Use of Land as a Function Centre for the Purpose of Hosting Wedding Ceremonies for a period of five years
Effect of Planning Instrument	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan in Attachment 1

Introduction

Council is in receipt of Development Application 2017/662 for the temporary use of land as a Function Centre for the purposes of hosting wedding ceremonies (via Clause 2.8 of the Ballina Local Environmental Plan (BLEP) 2012) for a period of five years at Lot 5 DP 606566, No. 1 Johnston Road, Newrybar.

Plans showing the layout of the facility are contained in Attachment 2.

The property is the subject of an existing three year approval for the Temporary Use of Land as a Function Centre for the Purpose of Hosting Wedding Ceremonies (DA 2015/712).

The current application seeks to extend the period for the operation of the land use.

The purpose of this report is to seek Council's determination of the subject application in accordance with the resolution from Council's Ordinary Meeting held on 14 December 2017 [Minute No. 141217/10], "*That DA 2017/662 and DA 2017/679 be called in and dealt with in by Council*".

Details of Proposal

The application for the Temporary Use of the property as a Function Centre (Wedding Ceremonies) has been lodged pursuant to Clause 2.8 (Temporary Use of Land) of the BLEP 2012.

The applicant is seeking approval to operate for a five year period (i.e. a five year limited consent).

The main details for the operation of the proposed Function Centre (for wedding ceremonies) are consistent with an existing approval for a Function Centre on the land (DA 2015/712). Key aspects of the proposal are as follows:

- A maximum of 38 functions (wedding ceremonies) in any 12 month period.
- Wedding ceremonies will range in size from 20 persons to 120 persons, with an average size estimated at 80 persons.
- Wedding guests are to be on site for two to three hours only, between the hours of 12 noon and 5.30 pm.
- There are three phases in which activities will occur on site:

A. Morning – Set Up:

- Wedding planner attends the site
- Hair and makeup attend site (if the bride is staying in the approved tourist and visitor accommodation)
- Portaloos delivered to the site
- Furniture (seats, trestle tables etc.) and decorations associated with ceremony set up in the chosen location. Trestle tables set up for the post ceremony drinks and canapé service. Note: all furniture and decorations (excluding flowers) are the property of Newrybar Downs and do not require delivery to the site
- Flowers arrive and set up
- Musician/s arrive and set up.

B. Afternoon – Wedding Ceremony:

- Newrybar Downs' representative arrives on site
- Caterer (for post-ceremony drink and canapé service) arrives at the site and set up
- Celebrant arrives at the site
- Guests arrive at the site via mini-bus. A limited number of private vehicles may accommodate elderly and families with very young children
- Guests gather at the chosen ceremony venue and acoustic music may be played
- Wedding ceremony occurs – the Celebrant may have a microphone, acoustic music may be played, music for bride walking down the aisle may be played on an iPad or similar
- Wedding guests adjourn to the pool area for canapés and a drink whilst photos taken of the bridal party – acoustic music may be played and background singing (amplified) may occur
- Wedding guests depart for the reception venue by mini bus no later than 5.30 pm
- Bridal party depart for the reception venue
- Celebrant departs the site
- Musician/s departs the site
- Caterer departs the site
- Newrybar Downs' representative departs the site.

- C. Late Afternoon – Pack Up:
- All items associated with the Ceremony packed up
 - Portaloos removed from the site
 - Wedding planner departs the site
 - All pack up completed by not later than 7pm.
- Two locations have been proposed for the wedding ceremonies (Area A – at the macadamia tree located on the grassed fairway to the west of the existing dwelling house and Area B – on the grassed area between the circular driveway and the cluster of trees).
- Drinks and canapés service may be provided after the wedding ceremony around the existing swimming pool (Area C).
- All activities associated with the set up and pack up of the ceremony will occur on the day of the event.
- No wedding receptions will occur on the site (Note: Receptions are to be hosted at approved venues external to the land).
- The existing dwelling house will be off-limits during the ceremony/function to all persons, other than those staying in the approved tourist and visitor accommodation (e.g. bridal party).

The applicant has stated that the proposed Function Centre (Wedding Ceremonies) will be operated in accordance with an Operational Management Plan (OMP). The OMP is based on that which has guided the operation of the existing development approved via DA 2015/712. Key elements of the OMP include:

- Requiring the engagement of an agreed wedding or function planner to oversee the event and ensure compliance with the OMP.
- Requiring a representative of Newrybar Downs to be on site throughout the event. Contact details for this representative will be provided to neighbouring property owners.
- Requiring all guests to arrive by mini bus.
- Limitations on function times and noise generation in accordance with the terms and conditions of the development consent.
- A Bushfire Evacuation Plan for the premises.

Future clients (typically the bride and groom) will be required to sign contracts linked to compliance with the OMP.

Description of the Subject Site

The subject land is located at the corner of Brooklet Road and Johnston Road, Newrybar, approximately 700 metres from the village of Newrybar.

The property has a total area of 3.87ha and is currently utilised for rural residential purposes.

The property contains a large five bedroom single storey dwelling house with attached double garage, in-ground swimming pool and associated pool house, a large level pad surfaced with astro turf (used previously as a 'bowling green') and a small shed in the south eastern corner.

The property also includes extensive domestic landscaping around the dwelling house.

The surrounding locality is characterised by properties that are either utilised for horticultural and/or grazing purposes (ranging in area from 8ha to 73ha) or smaller rural residential properties (ranging in area from 8,000m² to 4ha).

Background

Development Application 2015/300

On 22 October 2015, Council received a report to the October Ordinary Meeting in relation to Development Application 2015/300 for the conversion of an approved dual occupancy development to a dwelling house, the use of the dwelling house for Tourist and Visitor Accommodation and the Temporary Use of Land as a Function Centre (via Clause 2.8 of the Ballina Local Environmental Plan 2012) for the subject site.

As part of DA 2015/300, the proposed Temporary Use of Land as a Function Centre was to provide both for wedding ceremonies and receptions. The proposal was to cater for a maximum of 13 functions in any 12 month period, with not more than two functions in any four week period (with each function comprising four days of activity – set up, event and pack up).

Functions proposed on the site were to primarily comprise weddings, however there was potential for 'corporate events' to occur on the property. Each wedding/function was to have up to 150 people (guests) in attendance.

DA 2015/300 was determined at the October 2015 Ordinary Meeting, by way of a partial consent, with consent granted for the conversion of the approved dual occupancy development to a dwelling house and the use of the dwelling house for Tourist and Visitor Accommodation, subject to a range of conditions (as was referenced in the report and also standard building, planning, environmental and engineering conditions).

The temporary use of land for a Function Centre was refused.

Development Application 2015/712

On 24 March 2016, Council received a report in relation to Development Application 2015/712 for the Temporary Use of Land as a Function Centre for the Purpose of Hosting Wedding Ceremonies (via Clause 2.8 of the Ballina Local Environmental Plan 2012) for the subject site.

DA 2015/712 was determined by way of approval for a period of three years, subject to a range of consent conditions (as was referenced in the report and also standard building, planning, environmental and engineering conditions).

In accordance with the conditions of consent, a Noise Management Plan and Operational Management Plan for the Temporary Use of Land as a Function Centre for the Purpose of Hosting Wedding Ceremonies were prepared and submitted to Council prior to the commencement of use (as provided in May 2016). Both plans were accepted by staff as compliant with the conditions of consent imposed on DA 2015/712.

The conditions of consent specifically required the following:

14. A Noise Management Plan (NMP) shall be submitted to and approved by Council prior to the operation of the approved use. The NMP shall detail, but not be limited to, the following:
 - Identify noise limits/restrictions at various locations within the property,
 - Notification processes for sensitive receivers of upcoming functions,
 - Identify monitoring locations and practices for compliance assessment,
 - Identify processes for dealing with non-compliances,
 - Identify roles and responsibilities for actions within the NMP, and
 - Complaints handling practices.

15. An Operational Management Plan (OMP) shall be submitted to and approved by Council prior to the operation of the approved use. The OMP shall be based on the information provided in the Statement of Environmental Effects, prepared by Newton Denny Chapelle, Ref. 15/453, dated December 2015, and recommendations of the Noise Impact Assessment prepared by Tim Fitzroy and Associates, dated 19 December 2015 and specify the following:
 - Compliance with the conditions of development consent 2015/712;
 - The engagement of an agreed wedding or function planner to oversee the event and ensure compliance with the OMP;
 - Requirement for a representative of Newrybar Downs to be on site throughout the event. Contact details for this representative will be provided to neighbouring property owners;
 - Requirement for 14 days notice to be provided to all properties noted as a “sensitive receptor” in the Noise Impact Assessment, dated 19 December 2015, prepared by Tim Fitzroy and Associates, prior to a wedding ceremony being held at the subject site. Details to be included in the notice are the date of the ceremony, hours of the ceremony, number of guests and the function number in that 12 month period (i.e. Function 1 of 38);
 - Requirement for all guests to arrive by mini bus (with provision to be made for up to five private vehicles for guests who are elderly and/or families with small children) with parking prohibited on the adjoining public roads; and
 - Limitations on function times and noise generation in accordance with the terms and conditions of development consent 2015/712.
 - A requirement for all future clients (bride and groom) to sign contracts linked to compliance with the OMP.
 - Complaint handling procedures, including the recording of all complaints received and the response to those complaints. The record of complaints to be made available to Council on request.

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

- A copy of the approved Operational Management Plan and the Noise Management Plan is to be provided to all properties identified as “sensitive receptors”.

A further condition was imposed on DA 2015/712 (condition 18), which required that the acoustic consultant provide a report and certification demonstrating that the development complies with the acoustic recommendations identified in the Noise Impact Assessment Report prepared by Tim Fitzroy & Associates, dated 19 December 2015, or as amended, within three months of the first wedding ceremony held at the subject property.

The report and certification was required to include an assessment of two functions detailing acoustic performance and compliance with conditions of consent, and an assessment of the Noise Management Plan and recommendation for any amendments.

A report was submitted by the applicant to address condition 18 (on 6 December 2016), with three acoustic assessments completed for wedding ceremonies held on the site. The information within the report indicated that attempts were made to undertake acoustic assessments to satisfy the condition, however on each attempt, prevailing unsuitable weather conditions (wind and/or light rain) occurred during the assessment period.

It was concluded by the applicant’s acoustic consultant that it would be unlikely that a wedding ceremony would coincide with a still afternoon, particularly during the summer months.

In addition, it was stated that subject to compliance with the Noise Impact Assessment for the Wedding Ceremony Venue (dated 19 December 2015) and the Revised Final Noise Management Plan (dated 16 July 2016) that future wedding ceremonies at the subject site would have minimal impacts on neighbouring residents.

These conclusions were accepted by Council staff and condition 18 was considered to have been satisfied.

Current operations of Wedding Ceremony Venue (as a Temporary use of land)

The applicant (Newton Denny Chappelle on behalf of the landowner) has provided the following operational details since the commencement of operation of the Wedding Ceremony Venue at the development site.

- A total of 10 ceremonies have been hosted on site since DA 2015/712 took effect.
- Ceremonies have ranged between 30 and 100 guests, with an average size of approximately 75 guests.
- The applicant has been advised that each event has been conducted in accordance with the framework contained within the Operation Management Plan approved for the premises.
- The following table provides dates and guest numbers for each of the 10 events hosted between commencement of operations and the time of lodgement of DA 2017/662.

Date	Number of Guests
3 September 2016	96
15 October 2016	30
12 November 2016	95
27 February 2017	100
4 March 2017	80
11 March 2017	52
18 March 2017	88
25 March 2017	100
30 March 2017	45
21 October 2017	63

The applicant has also provided the following advice in relation to the premises:

- The applicant is not aware of any complaints received by Council relating to events conducted in association with the approved Temporary Wedding Ceremony Venue. However, it is understood that Council has received one anonymous complaint concerning the operation of the premises.

This complaint was received in relation to noise allegedly emanating from the premises late on the evening of 1 April 2017. Our clients advise that the Newrybar Downs was vacant on the evening in question and that the noise did not emanate from the premises. It is further understood that a private party was held on 1 April 2017 at a nearby property fronting Brooklet Road – and this party is the expected source of the noise.

- The recent helicopters attending the site attracted a number of telephone complaints from neighbours. We note that this occurred as part of a private event and was unrelated to the temporary use for wedding ceremonies.

In relation to the noise complaint received on 1 April 2017, Council's records indicate that at 11.14pm, an anonymous telephone complaint was received by Council's after hours phone service. It was stated that "there is a party on site, with a really loud PA system, loud music, cheering over the music and that noise is supposed to stop at 5pm."

Council staff reviewed social media and the Newrybar Downs website at the time to confirm whether a function had been held on site. In addition, enquiries were also made of the applicant. No information was found or provided to suggest that a function was held on the site.

In addition, as the complainant was anonymous, Council was unable to gain further information. In view of this, no action was taken in relation to the complaint.

On 21 August 2017, a planned tourism initiative involving both the Ballina and Byron Shires (as organised by the Business Events Bureau) was held. This initiative involved a 30 person strong familiarisation group for event companies and press from Sydney and Melbourne.

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

All delegates were to arrive by helicopter being operated by Roto Wing Helicopters and transferred from destinations in northern NSW to Newrybar Downs. Delegates were then to be transferred to Harvest for a lunch function to show case parts of the Ballina Shire. A total of five helicopter landings were proposed.

Council was advised that the Business Events Bureau was created as a joint venture between Byron/Ballina Airport, Byron at Byron Resort & Spa, Elements of Byron, Flash Camp and Byron Shire Council with contributed funds matched by Destination NSW. The purpose of the Bureau is to support the growing interest in Byron and Ballina as a conference and incentive destination, and to attract delegate conferences.

The helicopter landings were not to be associated with any of the existing approved developments on the Newrybar Downs site (i.e. the tourist and visitor accommodation and the Function Centre – wedding ceremonies). Written advice was provided to the applicant allowing for the five helicopter landings to occur on a one off basis. It was iterated that any future intended uses of the property of this kind will obtain the prior consent of Council.

In addition, it was required that at least seven days prior notification be provided to the surrounding property owners of the proposed helicopter landings (including the number of movements, times of the day etc.), so that those properties which may be affected can make arrangements if necessary, due to the potential impacts of the helicopter movements.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition in accordance with Council's local advertising policy. A total of four submissions have been received in relation to the proposal. The submissions received are provided in Attachment 3.

A summary of the issues raised are provided below.

1. Noise

Comment: Refer to the BLEP 2012 section of this report for discussion.

2. Temporary Use of Land

Comment: Refer to the BLEP 2012 section of this report for discussion.

3. Traffic

Comment: Refer to the Ballina DCP section of this report for discussion

4. Increase in persons visiting rural locality

Comment: The application proposes to continue the current operations of up to 38 ceremonies per year with up to 120 people in attendance. These numbers represent the maximum number of people and events.

As discussed above and as provided by the applicant, not all events are hosted with the maximum of 120 persons in attendance.

To date the events hosted have ranged between 30 and 100 guests, with an average size of approximately 75 guests.

The wedding guests are only on site for two to three hours only, between the hours of 12 noon and 5.30 pm.

There will be the bridal party (guests of the tourist and visitor accommodation on site), Newrybar Downs representative, wedding planner, caterer/s, musician/s, celebrant and photographer that will be on site outside of these times.

Based on the information within the DA documentation, this would be expected to generate six additional vehicles to be on-site during this time.

It is understood that the issue raised in the submissions to the proposed development relates to impacts on the rural locality. Refer to the BLEP 2012 section of this report for further discussion.

5. The timing of the lodgement of the subject application and the lead time for future bookings of 18 months is not needed.

Comment: The applicant has provided the following response to this issue:

“Our clients confirm that the vast majority of wedding bookings are made at least 18 months prior to the event. Whilst occasionally bookings are made with relatively short notice (2 -3 months) this is rare and should not be regarded as the norm. Given that the current approval (DA 2015/712) expires in March 2019, it is necessary for the current application to be lodged and determined by Council to enable future bookings to be made”.

Report

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Section 4.15 (previously known as Section 79C) of the Environmental Planning and Assessment Act 1979.

The following matters are considered relevant in Council’s consideration and determination of the development application.

Ballina Local Environmental Plan

Under the provisions of the Ballina Local Environmental Plan (BLEP) 2012, the proposal is best defined as follows:

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

The subject land is zoned RU1 Primary Production under the provisions of the BLEP 2012. It is noted Function Centres are prohibited development within the RU1 Zone.

Clause 2.8 – Temporary Use of Land

- (1) *The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*
- (3) *Development consent must not be granted unless the consent authority is satisfied that:*
 - (a) *the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
 - (b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
 - (c) *the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
 - (d) *at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*
- (4) *Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.*
- (5) *Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).*

The proposed development has been lodged via the provisions of Clause 2.8 – Temporary Use of Land.

In relation to the objective of this clause, the applicant has stated:

“The proposed continuation of the temporary use of the land as a Function Centre will not result in any detrimental economic, social, amenity or environmental impacts on the land. In this regard, the proposal involves hosting wedding ceremonies in the existing landscaped grounds on the site.

All activities associated with hosting the ceremonies are temporary and low impact. At the conclusion of each event, the site and the grounds will revert to their character as was existing immediately preceding the event.

Effluent disposal will be via the provision of portaloos and accordingly no environmental impacts are expected on site associated with this aspect of the proposal.”

The statements made by the applicant are generally agreed with. In terms of the subject property, it is expected that the proposed Function Centre (wedding ceremonies) use, as proposed within the application, will not compromise its future development or have detrimental economic, social, amenity or environmental effect on such.

Subclause (2) provides that despite any other provision of the BLEP 2012 (even provisions which prohibit certain developments), Council has the ability to grant development consent for development on land in any zone for a temporary use.

The subclause then goes on to state that this temporary use must be for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.

In this regard, as Function Centres are not permissible (i.e. are prohibited) within the RU1 zone, this clause enables Council to grant development consent to the proposed temporary use of the subject land, subject to the remaining provisions of the clause being satisfied.

Of relevance in considering the provision of this subclause, is whether the proposal can be considered a temporary use. These issues were canvassed in the reports to Council regarding DA 2015/300 and DA 2015/712 in October 2015 and March 2016 respectively.

Despite the lodgement of the previous applications and past/previous unauthorised wedding ceremony and reception functions, Council must consider the new proposal on its own merits. This is an established view cited in the Land and Environment Court.

Whilst the current proposal may also appear to be an ongoing intermittent (or permanent/part-time) use of the property over a five year period, all activities associated with the proposal will be set up and packed up on the day of the event, rather than stretched out over several days.

In terms of the activities involved with the set up and pack up for each wedding ceremony (as outlined previously in this report), it is considered that the nomination of a single day per event is achievable, within the hours proposed by the applicant. It is acknowledged that the use of the property for wedding ceremonies is dependent on bookings made and demand for properties of this nature for such events.

If the proposal as lodged is granted development consent, it will be an ongoing use of the property for five years.

An important consideration for the Council is whether "temporary use" under Clause 2.8 covers ongoing intermittent uses, or does the use of the word "temporary" anticipate that the use will be on a once off basis.

This consideration was made in relation to DA 2015/712.

The case law regarding the definition or meaning of 'temporary use of land' has previously rested largely with *Lowe v Sutherland Council (2005)*. This case considered an application to use the grounds of a local school for a market every 2nd and 4th Sunday of each month.

The use of the site was only permissible as a temporary use of land under Clause 9 of the Sutherland LEP 2000.

This Clause 9 allowed for a similar temporary use of land as in Clause 2.8 (2) of the BLEP 2012 but providing for a maximum period of 28 days, whether or not consecutive days, in any period of 12 months.

A question that the Court considered in that case was whether, in light of the words "in any period of 12 months" it was permissible for the Council to grant consent to the development as the development was intended to continue for more than one year. Senior Commissioner Roseth found that:

"temporary use means a maximum of 28 days in any one year and not just during the year following the consent. If I were wrong, the recipients would have to re-apply every year and the Council would need to re-assess and re-issue consents for all temporary uses every year."

There have been two recent cases in the Land and Environment Court regarding the temporary use of land, one of which is *Marshall Rural Pty Ltd v Hawkesbury City Council (2015)*. This case was determined a few months after the determination of DA 2015/712 by Council. This case similarly featured a temporary use of land – Function Centre usage of a property within a rural zone, as function centres were listed as prohibited development within the applicable rural zone.

The case involved the use of two buildings as function centres (Polo Barn and Sunnybrook Barn) and proceedings were commenced under the provisions of Section 123 of the EP&A Act 1979 (i.e. third party appeal by objectors to the development), challenging the validity of the consents issued by Hawkesbury City Council.

It is important to note that the Court's determination of Ground 1 in the case, being the term of development consents as specified in Clause 2.8 (2) of the standard instrument, is that a temporary use of land is not limited to a specified 12 month period. This is consistent with the ruling of Senior Commissioner Roseth.

(Note – Ground 2 of the case, which relates to Clause 2.8 (3) is discussed below).

The applicant has requested that a five year approval be granted by Council with respect to the Temporary Use – Function Centre (Wedding Ceremonies). Under DA 2015/712. However, Council considered it appropriate (as recommended by Council staff) to limit the operational life of the consent to three years (as opposed to the proposed five years) in the circumstances of a use that, other than for Clause 2.8 of the BLEP 2012, is prohibited.

This was to enable a review of the performance of the development two years sooner than proposed.

In considering the operational life of a future consent, it is considered important to consider the past performance of the use (as has been detailed previously in this report) and also the requirements under Clause 2.8(3) of the BLEP 2012. The past performance of the approved and operational development has been previously discussed in this report.

In addressing subclause (3):

- (a) The proposed Temporary Use – Function Centre (Wedding Ceremonies) does not appear to prejudice the subsequent carrying out of development on the subject property in accordance with the BLEP 2012 and any other applicable environmental planning instrument (EPI). The subject property has been previously utilised for rural residential land uses, with its area being such that it does not appear large enough for viable agricultural production (area of 3.87ha)

Given all equipment/furnishings associated with the Function Centre (wedding ceremonies) use are proposed to be removed at the conclusion of the day, there does not appear to be any restriction on the ability to develop the north-western areas of the property (which is the only area of the property with any potential for another use) for any other use permissible in the RU1 zone or other Environmental Planning Instrument.

- (b) In order to satisfy (b), the proposed Temporary Use – Function Centre (Wedding Ceremonies) must demonstrate that it does not adversely impact upon any adjoining land or the amenity of the neighbourhood.

In terms of adjoining land, the subject property is surrounded by both rural residential type allotments and agricultural properties used for grazing and/or horticultural pursuits.

In terms of the actual appearance and physical positioning of the wedding ceremonies and placement of portaloos, furniture and decorations on the subject property during its use as a Function Centre (wedding ceremonies), it is considered that there are no significant impacts likely to be experienced by adjoining properties.

For the most part, domestic landscaping will screen the ceremonies from public view. It is noted that these items (portaloos, furniture and decorations) will only be on the site for the day of the ceremony, as outlined previously in this report. The applicant has indicated that all packing up of function related items will be complete (including removal of portaloos) by 7 pm at the latest.

Further to the discussion above in relation to *Marshall Rural Pty Ltd v Hawkesbury City Council (2015)*, Ground 2 of this case related to the proper consideration given in the Council's assessment of the mandatory requirements under Clause 2.8 (3), and in this case (b) of the BLEP 2012.

This subclause states that development consent must not be granted unless the consent authority is satisfied that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood.

Hon. Justice Moore found that Hawkesbury City Council failed to apply the proper level of consideration under Clause 2.8(3) (b). The Court determined that Hawkesbury City Council assessed the amenity impact on the basis of whether the amenity impact was 'acceptable or unacceptable' with reference to technical standards, similar to a normal assessment of a permissible land use (i.e. not one that is otherwise prohibited).

The Court considered the test to be higher and is posed in absolute terms i.e. 'will not adversely impact'.

In view of this case law, and the provisions of Clause 2.8(3), Council must be satisfied that the proposed temporary use of land for wedding ceremonies will not result in adverse impacts. In this regard, the following assessment is made:

- The potential impacts of the submitted proposal on adjoining land and the amenity of the neighbourhood may result primarily from the hosting of the actual function. The issues that have been raised in the submissions received in relation to the proposal relate primarily to noise and the resulting impact on the rural character of the locality and amenity of adjoining properties.

These issues are fundamental to the consideration of whether the proposal can meet the requirements of subclause (b).

- The proposal, as lodged, provides for a wedding ceremony to be hosted on the site for between two to three hours, between the hours of 12 noon and 5.30 pm. As provided for in the description of the development, the ceremony (with a microphone and acoustic music/iPad music) will be hosted at two possible locations on the property, with drinks and canapés around the pool area of the dwelling house.

All set up and pack up activities are to occur on the day of the wedding ceremony, with all pack up completed no later than 7pm.

It is noted that during the morning hair/makeup activities, delivery of a portaloos, flowers, musician/s arriving and furniture set up will occur, all of which are considered to be low noise generating activities.

The proposal also provides for a maximum of 120 persons, with an average expected size of 80 persons.

- In relation to noise generation and the proposed Function Centre (wedding ceremonies), which is the primary amenity concern, noise sources will include vehicle movements, crowd noise, acoustic music, amplification of the celebrant's voice, amplified music (for the bridal walk up the aisle) and set up and pack up activities.

The applicant has commented that the lack of complaints from neighbouring properties in connection to the events conducted to date as part of DA 2015/712 is evidence that the facility is operating in a manner which is not having a detrimental impact on the locality.

The Noise Impact Assessment (NIA) that was prepared by Tim Fitzroy & Associates, dated 19 December 2015, for DA 2015/712 assessed the potential impacts of the proposed development and was included as an attachment to the Statement of Environmental Effects for DA 2017/662.

The acoustic report identified Project Specific Noise Criteria (PSNC) of 42 dBA Day, 37 dBA Evening and 37 dBA Night, which was determined generally in accordance with the requirements of the Industrial Noise Policy.

The NIA for DA 2015/712 modelled scenarios for both Ceremony Locations A and B and also the post ceremony drinks and canapés location around the existing swimming pool (Location C). All scenarios included 120 patrons and 1 musician at the relevant location.

Patron noise was incorporated into the noise model as 120 sources made up with 50% 'relaxed voice', 40% 'normal voice' and 10% 'raised voice' distributed evenly. In addition, a noise model scenario was constructed to consider noise emissions from a delivery truck (for portaloos delivery) travelling along the driveway.

The NIA also identified that there were 18 potentially sensitive receptors surrounding the venue (modelled on Ceremony Location B), with the closest dwelling located to the south of the existing dwelling house on the subject property.

The NIA nominated the receptor location for each of the sensitive receptors as being 30m away from the respective dwelling, in the direction of the noise source, or at the boundary, if this is less than 30m. In the instance of the closest receptor, the distance was identified as 95m from Ceremony Location B.

The NIA concluded that noise levels from each ceremony location, the post ceremony drinks and canapés location and from vehicle movements are predicted to be within the Intrusiveness Criteria of 42dB(A) Leq at all sensitive receptors under all weather conditions, provided that the noise level at the respective location does not exceed the following noise limits:

Location	Noise Limit as measured 3m from source (dB(A))
Ceremony Location A	75
Ceremony Location B	81
Drinks and Canapés Location C	80

Each location was modelled separately, given ceremonies would not be held at more than one location simultaneously.

The Acoustic Consultant stated that the implementation of a Noise Management Plan for venue operations would ensure adequate measures, roles and responsibilities are in place to achieve the Project Specific Noise Criteria (PSNC).

The Noise Management Plan was to detail the methods that will be implemented for the whole project to minimise operational noise.

Information should include:

- Identification of nearby residences and other sensitive landuses;
- Assessment of expected noise impacts;
- Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts;
- Clear and defined acceptable rules of behaviour for patrons;
- Adherence to responsible service of alcohol regulations;
- Strategies to promptly deal with and address noise complaints;
- Details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment);
- Procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts; and
- Reference to relevant consent conditions.

As previously mentioned in this report, the Noise Management Plan and Operational Management Plan for DA 2015/712 was assessed by Council staff prior to operation of the development and was considered compliant with the above and the associated conditions of consent.

The applicant has also provided the following additional information to assist in the assessment of the proposal with regard to Clause 2.8(3)(b):

- “The application before Council demonstrates that the wedding ceremony venue is a low key, professionally managed facility which represents a suitable, non intrusive addition to the Newrybar locality.

- We note that with the original application for the wedding ceremony venue (DA 2015/712) Council officers interpreted Clause 2.8(3) in a very stringent fashion. Following this assessment, however, Council officers concluded that the 'impacts' were acceptable and within the scope of the assessment framework provided by Clause 2.8(3).
- The current application relies on the same technical reports and Operational Management Plans as the earlier approval. The premises have now been operating for approximately 16 months, without complaint from neighbours or Council. This would reasonably indicate that the business is satisfactorily co-existing with the rural locality.
- It is submitted that the management measures in place to oversee day time wedding ceremonies on the land are such that any occasional low level noise is a satisfactory and non-offensive addition to the range of a noises routinely occurring in the rural landscape.
- As such, impacts (if any) are considered minor and not 'adverse' in nature.

Similarly, an occasional and very minor increase in traffic on a road with a design capacity to accommodate the vehicle movements is considered by this firm to be a reasonable outcome and not an 'adverse' impact.

- In addition we would like to bring to Council's attention another relevant Land and Environment Court decision, namely *Allman Associates Pty Ltd v Wingecarribee Shire Council [2016] NSWLEC 1126*. This case involved an appeal against consent conditions imposed by Wingecarribee Council on a temporary use consent under Clause 2.8 of a Standard Instrument LEP.

In this case, the Commissioner, in amending the consent for the temporary use, was satisfied that the temporary use would not adversely impact on any adjoining land or the amenity of neighbourhood, as it did not add to the frequency or scale of weddings approved under the previous consent, nor allow larger numbers of guests than could already be on site.

Therefore, the Commissioner saw no cumulative impact arising from the amended consent. This case provides some direct comparisons to the current application be for Council. In particular, we note that no intensification of guest number or frequency is proposed relative to the previous approval issues via DA 2015/712."

Council's Public and Environmental Health Section has reviewed the information provided by the applicant in relation to the subject application and also the previous DA 2015/712.

The conclusions reached in relation to Subclause 2.8 (3) (b) are such that no adverse impact in relation to noise is considered to occur as a result of the operation of the proposed development.

The conditions that have been applied to DA 2015/712 with regard to operation of the temporary use of land in accordance with the approved Noise Management Plan and Operational Management Plan are considered to appropriately manage the development.

As no complaints have been received or information provided to Council to suggest that adverse impacts have occurred or been experienced as part of the operation of the development approved via DA 2015/712, it is considered that the continued operation of the Function Centre – wedding ceremonies, as proposed via DA 2017/662, would be the same.

The majority of requirements within both plans, as conditioned within the consent were proposed by the applicant as part of the operation of the development.

In this regard, it is considered that the application of both conditions (requiring compliance with the Noise Management Plan and Operational Management Plan) on a new consent would be sufficient to ensure that there would be no adverse impact endured by the rural locality and surrounding properties.

In relation to the increase in traffic that may occur on site as part of the 38 events held over 12 month period, refer to the DCP section of this report for detailed comment.

However, in summary, Council's Civil Services Group consider that if the maximum number of ceremonies (i.e. 38) are to be held per year, then the 42 additional trips, for three out of the four Saturdays (or Sundays) of each month, is not significant in terms of the existing traffic volumes and available capacity of Johnston Road and Brooklet Road and would not have an adverse impact on the rural locality or surrounding properties.

- (c) In relation to the location of structures (portaloos, tables and chairs), these structures will be able to be removed at the conclusion of each event. It is not considered that the structures themselves will adversely impact on the environmental attributes of the land.

No physical works are required to facilitate the use of the land as proposed – Function Centre (Wedding Ceremonies). In relation to the use of the property for Wedding Ceremonies, people attending or involved with the ceremony will for the most part, be confined to the southern areas of the property (shown as Locations A, B and C in Attachment 2).

There may be instances where the western section of the property is traversed (e.g. for photographs etc.), however these areas would be accessed by foot and would have limited disturbance. Therefore, the proposed use will not have an adverse impact on the environmental attributes or features of the land.

In relation to natural hazards, the subject property is located within a bushfire prone area and the development application was referred to the NSW Rural Fire Service for a Bush Fire Safety Authority (under Section 91A of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997), via letter dated 5 December 2017.

On 22 February 2018, Council received a response from the NSW Rural Fire Service, including the issue of a Bush Fire Safety Authority.

- (d) At the end of each of the proposed functions, the subject property will be restored to the condition in which it was prior to the commencement of the Function Centre use (pack up activities to conclude by 7 pm at the latest, on the day of the wedding ceremony), with the property to be utilised for rural residential and approved tourist and visitor accommodation purposes at all other times.

Subclauses (4) and (5) are not applicable.

Ballina Shire Development Control Plan 2012

Chapter 2 – General and Environmental Considerations

Clause 3.1 – Land Use Conflict

Clause 3.1 does not specify a buffer distance to be achieved from a Function Centre.

The existing dwelling house is located approximately 140m from existing macadamia plantations. The macadamia tree ceremony location (Location A in Attachment 2) is located approximately 60m from horticultural production on an adjoining property. Ceremony Location B has a similar offset to nearby land uses as the existing dwelling house.

In relation to land use conflict and the proposed Function Centre (Wedding Ceremony) use of the property, Council's Environmental Health Officer has reached the same conclusions to that provided for DA 2015/712. The Land Use Conflict Risk Assessment (LUCRA) that has been prepared by the applicant has considered the impact of the adjoining intensive plant industry on the Function Centre – Wedding Ceremonies and the impact of the proposal on the surrounding rural residential dwellings. The proposal is to hold wedding ceremonies (no receptions) between 12.00 noon and 5.30 pm.

The ceremonies will be attended by up to 120 people as a temporary use of the land. This use is unlikely to create any significant land use conflict with the surrounding agricultural land or rural dwelling houses.

Clause 3.19 – Car Parking and Access

Car Parking

In relation to the operation of the proposed Function Centre (Wedding Ceremony) use, the applicant has stated that the bridal party will usually be, but not always, staying in the existing dwelling (approved as Tourist and

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

Visitor Accommodation via DA 2015/300). In this regard, they will arrive at the site via motor vehicle.

Guests will primarily be transported to and from the site via mini-bus, although a small number of private vehicles are proposed to be permitted on site for those guests for whom the mini bus is not a suitable form of transport (such as the elderly or families with very young children).

The applicant has indicated that a total of 14 car parking spaces are required to be provided on site during the course of a typical larger ceremony, as follows:

- Six spaces to accommodate the various persons employed on the site during the course of a typical event.
- Five overflow spaces for function attendees who do not arrive by bus (i.e. elderly or families with very young infants).
- Three spaces for house guests, as it is assumed in most instances that the dwelling will be occupied by persons attending the function.

The applicant has stated that the required car parking spaces will be accommodated on the existing paved and gravel surfaces on the site. Refer to Attachment 2.

Access and Traffic Generation

The proposed Function Centre (Wedding Ceremony) is to utilise the revised driveway entrance (as approved via DA 2015/300). Mini-buses delivering function guests to the site will be able to turn around utilising the turning bay to be created for the Rural Fire Service Trucks (which was a requirement of DA 2015/300 for the Tourist and Visitor Accommodation).

The applicant has advised that traffic generation for the largest wedding ceremony proposed on the site (maximum of 120 guests) is 42 trips per wedding ceremony. Refer to table below:

Description	Vehicles	On-Site During Function	Trips
Portaloo Delivery	1	-	2
Catering (Drinks and Canapés Service)	2	1	4
Wedding Planner	1	1	2
Newrybar Downs' Representative	1	1	2
Hair and Makeup	1	-	2
Florist	1	-	2
Celebrant	1	1	2
Photographer	1	1	2
Musician/s	1	1	2
Overflow Wedding Guest Parking*	5	5	10
House Guests**	3	3	-
Buses***	5	-	10
Portaloo Pick Up	1	-	2
Total	24	14	42
* 10 guests in up to 5 cars			
** These vehicles are associated with the approved Tourist and Visitor Accommodation and are not included within the trip generation for the Temporary			

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

Function Centre

*** Assuming 100 guests arriving by nominal 20 seater bus (120 - 20 = 100). 20 not arriving by mini bus comprising 10 arriving by private vehicle and 10 guests staying in dwelling.
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If the maximum number of ceremonies (i.e. 38) are to be held per year, then it equates to 42 additional trips for three out of the four Saturdays (or Sundays) of each month.

The applicant has advised that the anticipated peak day demand would be based on the function maximising its parking use at 14 vehicles (14 x 2 trips = 28 trips) and some 10 trips by the mini bus, meaning a peak day of nominally 38 trips.

In a worst case scenario, where ½ of these trips arrive over an hourly period, this equates to 19 trips per hour. The existing Brooklet Road is known to have in the order of 650 vehicles per day and using the peak hour rate of 15%, this equates to a nominal 100 vehicles per hour peak.

The applicant has provided information that demonstrates the existing Johnston Road/Brooklet Road intersection has sufficient capacity to cope with the proposed Function Centre (Wedding Ceremony) use as proposed within the application.

Council's Civil Services Group has agreed with the conclusions of the information provided in the Statement of Environmental Effects and have commented that the increase in volume of traffic on local roads of 42 trips per function is not significant in terms of the existing traffic volumes and available capacity of Johnston Road and Brooklet Road.

Conclusions

As with DA 2015/712, there are two main issues that need to be considered in relation to the current proposal as submitted and its ability to comply with Clause 2.8 of the BLEP 2012.

1. Does the proposal meet the requirements of Clause 2.8 with respect to a use that is temporary?

The current proposal is considered as temporary, whilst acknowledging that there is an ongoing intermittent use (38 events to be held each year) of the land for a specified time period. Each event will involve all activities occurring on the same day (including set up, the wedding ceremony and pack up).

Over the five year period, as requested by the applicant/owners, this enables a total of 190 separate events.

This interpretation, that a temporary use of land is not limited to a specified 12 month period, has been tested in the Land and Environment Court, as referenced within this report. In this regard, it is considered that the proposal has the benefit of this interpretation and may be considered as temporary.

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

The applicant has previously obtained a three year consent for the existing Function Centre (Wedding Ceremony) use. The issue of a five year consent from April 2018 onwards would result in an additional four years on top of DA 2015/712, which is set to expire in March 2019.

It is considered that the incorporation of a definable end point, being a five year period, is accepted in the circumstances of the proposed development. It is considered also, that the review of the performance of the development has sufficiently concluded that the Function Centre (wedding ceremonies) is operating as was anticipated and assessed under DA 2015/712.

2. Impacts on adjoining properties and amenity of the locality

Council staff have reviewed the proposal with respect to both noise and traffic impacts (as have been identified by the submitters as part of the public exhibition of the proposal and also comprehensively addressed by the applicant in the SEE), as the primary character and amenity concerns for this locality.

These issues have also been reviewed in context with the existing operation of the Function Centre (Wedding Ceremony) use.

The noise generating activities, as identified by the applicant and their Acoustic Consultant, consist primarily of vehicle movements, crowd noise, (during the ceremony and post drinks/canapés service), acoustic music, amplified celebrants voice, amplified music (bridal walk down the aisle) and set up and pack up activities.

Whilst these activities are not typical of this rural location, there are not considered to be intrusive, compared to the other "rural" noises that may occur at the same time from surrounding properties (i.e. machinery noise etc.).

Importantly wedding guests will only be on site for two to three hours only, between the hours of 12 noon and 5.30 pm.

The NIA as provided for DA 2015/712, but as referenced as applicable for the current development application, has demonstrated that noise generated by the proposal may be, at times, 'audible', but will not exceed the required Project Specific Noise Criteria (PSNC) of 42 dBA (day), 37 dBA (evening) and 37 dBA (night).

The applicant and their Acoustic Consultant have proposed a range of operational measures to ensure compliance with the identified noise limits of:

Location	Noise Limit as measured 3m from source (dB(A))
Ceremony Location A	75
Ceremony Location B	81
Drinks and Canapés Location C	80

8.1 DA 2017/662 - Temporary Land Use (Function Centre) - Newrybar

Council's technical officers consider that the application of the same conditions as applied to DA 2015/712 to the new consent (for DA 2017/662) will ensure compliance with the identified limits.

There has not been any information to suggest that there has been non-compliance with these identified noise limits to date or that there has been a non-compliance with the Noise Management Plan or Operational Management Plan approved for the existing operations.

In terms of traffic, Council's Civil Services Group has agreed with the applicant's analysis of the traffic impacts of the proposal in this rural locality.

It is acknowledged that the proposal will result in an additional 42 trips per function, however this has not been cited as excessive or that will have an adverse impact upon the existing local road network.

Having regard for the outcomes of the assessment undertaken, Council has the following options with regard to determining the subject application:

Option One

That Council approve the development application for the requested five year period, subject to the same conditions of consent as DA 2015/712.

Should Council choose to proceed with this option, it must be satisfied that the proposal operating for a five year period is considered a temporary use (as per Clause 2.8 of the BLEP 2012) and one that will not have an adverse impact upon any adjoining land or the amenity of the neighbourhood.

Proposed conditions of consent are contained in Attachment 4.

Option Two

That Council refuse the development application. This option could be taken up if the Council is not satisfied that the proposed development satisfactorily addresses relevant environmental planning considerations, in particular Clause 2.8 of the BLEP 2012.

Option One is the recommended for the reasons outlined in this report

RECOMMENDATION

That DA 2017/662 for the Temporary Use of Land as a Function Centre for the Purpose of Hosting Wedding Ceremonies at Lot 5 DP 606566, No. 1 Johnston Road, Newrybar, be granted **consent for a period of five years**, subject to the conditions contained in Attachment 4 (inclusive of the requirements of the NSW Rural Fire Service).

Attachment(s)

1. Locality Plan
2. Plans of Proposed Development
3. Submissions
4. Proposed Conditions of Consent

8.2 Failure to Comply with Order to Clean Up - Sale of Property

8.2 Failure to Comply with Order to Clean Up - Sale of Property

Delivery Program Development Services

Objective To provide Council with an update on clean up action on land located on North Teven Road and seek direction on the sale of the property for unpaid rates.

Background

Following the receipt of a number of complaints from local residents, staff undertook an inspection of a property at the intersection of Teven and North Teven Roads, Teven. The subject premises are identified as Lot 224 DP 755741, and Lot 129 DP 755741, North Teven Road Teven.

The inspection identified that there was a large amount of waste materials, including motor vehicles, fuel drums, caravans, building materials and the like within the subject premises. A search of Council records could not locate any formal approvals for the subject premises to operate as a “*waste facility*” or “*storage premises*”. The subject premises are adjacent to Maguires Creek and there is a potential for waste materials to cause a pollution incident.

On 2 September 2015, Council wrote to the registered landowner, Mr Rattan Singh, advising that the current land use was prohibited within the *RU1 Primary Production Zone* and seeking a response to the current use of the land by 18 September 2015. No response was received to this written request.

On 15 October 2015, staff conducted a further inspection at the subject premises and observed that the stored materials had not been removed from the subject premises. Council subsequently issued a Notice of Proposed Order, requiring that the landowner remove and lawfully dispose of all materials that are currently stored within the subject premises by 13 November 2015. No response was received to this written Notice of Proposed Order.

On 16 November 2015, staff conducted a further inspection at the subject premises and observed that the stored materials had not been removed from the subject premises in compliance with the Notice of Proposed Order as served on the landowner. Council subsequently issued the formal Order, requiring that the landowner remove and lawfully dispose of all materials that are currently stored within the subject premises.

On 19 November 2015, Council received correspondence from Newbold Law on behalf of the Estate of the landowner.

Council was advised that the landowner, Mr Rattan Singh, had passed away “many years ago” and that Newbold Law were in the process of lodging an application with the Supreme Court of New South Wales, seeking an Order to transfer the property from the name of the landowner to the name of the Estate.

8.2 Failure to Comply with Order to Clean Up - Sale of Property

Newbold Law also requested a period of time to enable the application to be heard by the Court and an undertaking was provided to Council that all outstanding Orders would be complied with and any outstanding Council fees and rates would be paid. Council agreed to this extension.

On 26 March 2016 and 20 April 2016 and 5 September 2016, Council wrote to Newbold Law seeking further advice as to the progress of these application proceedings. Unfortunately these Council letters and subsequent telephone calls to Newbold Law have not been acknowledged or responded to.

On 18 November 2016, Council sought advice from CH Law in relation to this matter and, since that time, Council has acted in accordance with this ongoing advice.

Based on that advice it is now proposed to sell the property to allow this matter to be finalised.

Key Issues

- Unauthorised use of land as a “waste facility” or “storage premises” and both land uses are prohibited land uses within the RU1 Primary Production Zone
- Accumulation of waste materials adjacent to Maguires Creek and the potential for the pollution of Maguires Creek
- Visible accumulation of waste adjacent to arterial road network;
- Non-Compliance with Council Order
- Unpaid Rates

Information

It is apparent that the subject premises have a convoluted legal history, with the property being in the ownership of the landowner, who is deceased but who held the land in his capacity as executor of a deceased estate being the estate of the late Thakar Singh, who died in 1959.

The beneficiary of the deceased estate is also deceased as is the next successive executor of the deceased estate. In addition, various caveats supporting legal claims were placed on the property by family members. None of these claims were progressed to finalisation.

The current executors are not beneficiaries of the estate of the Late Thakar Singh and have no financial or indeed any other interest in the land.

Overdue Rates

The rates for the subject premises have not been paid since 2010.

The current registered landowner also owns separate properties at Lot 21, DP 728269, North Creek Road, Teven and Lot 153, DP 755741, North Teven Road, Teven.

These properties are in a similar situation with caveats and overdue rates currently owed to Council.

8.2 Failure to Comply with Order to Clean Up - Sale of Property

The status on the overdue rates as at 29 January 2018 is:

Overdue Rates and charges and Interest to 1 st instalment due 31/08/2017	\$8,994.83
Plus Debtors balance for compliance costs	\$1,500.00
Total outstanding:	\$10,494.83

Additionally, interest is accruing daily on the overdue rates and charges amount of \$8,994.83 at the rate of 7.5% per annum. Since late 2016, Council's solicitor has undertaken a number of legal steps to have the various caveats removed and to identify the lawful executors to attend to the Estate of the late Thakar Singh. She has also made a formal demand of the executors to attend to payment of the outstanding rates and to carry out the steps required by the Order dated 19 November 2015. These legal steps have now been completed and Council is now able to take action to enforce the Order dated 19 November 2015.

Sustainability Considerations

- **Environment**
The unauthorised storage of waste materials adjacent to Maguires Creek poses an ongoing potential pollution incident
- **Social**
Not Applicable
- **Economic**
The sale of properties for unpaid rates has an impact on landowners.

Legal / Resource / Financial Implications

Legal proceedings are generally costly and to minimise costs and to achieve an acceptable outcome, there are a number of options available.

Consultation

Staff have sought the advice of CH Law from Council's Legal Panel and is acting in accordance with this advice.

This report has been made in open Council as all the information within it is a matter of public record. If the Council needs to debate any matters having potential legal privilege, it may be necessary to resolve to move into confidential session.

Options

Council has an option under Section 713, *Local Government Act 1993 (NSW)* to sell land for the failure to pay rates.

One of the requirements under this Section is that the rates remain unpaid for at least five years.

8.2 Failure to Comply with Order to Clean Up - Sale of Property

Up to 2010, rates and charges were being paid by a member of the Singh family, who then advised Rates staff that as the issue of ownership of the property had become uncertain within the family, it was no longer in the best interests of the person who had been paying the rates to continue paying the rates on behalf of the estate.

From this time the payments of rates ceased and rates and charges began to accrue as overdue amounts.

Legal action to recover overdue amounts for rates and charges was put on hold, as it was not clear who was the owner of the land and it seemed there was little chance of a successful claim for payment.

Subsequently, Rates and Charges Notices have been continued to be issued quarterly care of Newbold Law solicitors, however no payments have been received, nor any advice as to whom the beneficiary of the estate was or whether the dispute had been settled was received.

The overdue rates balances were reviewed regularly, but without a nominated executor of the estate to deal with, the decision was made to continue to hold off on debt recovery action with the hope that the dispute regarding the estate would be resolved.

As rates and charges are now five years overdue, the option of sale of land for unpaid rates under Section 713 of the Local Government Act 1993 becomes available as a possible method to resolve the matter.

To begin this process, Council would need to commence debt recovery action against the estate, by proceeding against the executor in line with the legal advice currently provided.

Council could also undertake actions in accordance with our Compliance Policy, however due to the uncertainty in respect to ownership, and no formal interest in retaining the properties from the parties in contact with Council, the preference is to proceed to sell the property for overdue rates.

The sale of the subject premises and the adjoining parcels for overdue rates would be the most cost-effective avenue to give effect to the Order as served.

It would allow the overdue rates and other associated costs to Council to be recouped together with the current legal costs to date.

RECOMMENDATION

That Council authorises the General Manager to undertake the sale of the subject land at:

- (a) Lot 224, DP 755741, North Teven Road Teven; and
- (b) Lot 129, DP 755741, North Teven Road Teven; and
- (c) Lot 21, DP 728269, North Teven Road, Teven; and
- (d) Lot 153, DP 755741, North Teven Road, Teven

for unpaid rates and to give effect to Council's Order dated 19 November 2015.

8.2 Failure to Comply with Order to Clean Up - Sale of Property

Attachment(s)

1. Valuation Report - Houghlahan's Creek Road, Teven
2. Valuation Report - North Teven Road, Teven

8.3 Development Applications – Variation to Development Standards

8.3 Development Applications – Variation to Development Standards

In accordance with the Department of Planning's Circular PS08-014, the following information is provided with regards to development applications where a variation to development standards (via the BLEP 1987 or BLEP 2012) has been approved.

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

RECOMMENDATION

That Council notes that there have been NIL applications approved under delegation for variations to development standards less than 10% for March 2018.

Attachment(s)

Nil

8.4 Development Applications - Works in Progress - April 2018

8.4 Development Applications - Works in Progress - April 2018

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/223	5/5/2017	Ardill Payne & Partners	Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head	Being assessed
2017/232	12/5/2017	GM Project Development & Management	Three Lot Strata Title Subdivision – 6 George Street, Tintenbar	Awaiting additional information
2017/370	07/07/2017	Newton Denny Chapelle	Service Station and Childcare Centre – 246-250 Lismore Road, Wollongbar	Being assessed To be reported to Council
2017/430	04/08/2017	Victor Holmes Town Planning	Change of use to light industry, truck depot and storage facility, with associated business identification sign – 38B Smith Drive, West Ballina	Awaiting additional information
2017/434	07/08/2017	PalmLake Works Pty Ltd	Seniors Housing Development (Extension to Palm Lake Resort) Comprising 18 Self Contained Dwellings, Infrastructure and Associated Works - 16 & 120 Corks Lane & North Creek Road, Ballina	Being assessed
2017/554	6/10/2017	Ballina Shire Council	Construction of a skate park – Elvery Lane, Alstonville	Referred to Government Departments
2017/565	11/10/2017	Newton Denny Chapelle	Stage 5 - 88 Lot Residential Subdivision comprising 81 Torrens Title Lots and Seven Community Title Lots, Civil Infrastructure Servicing and Associated Earthworks (stage five of Epiq Estate) - Lot 54 Hutley Drive, Lennox Head	Being assessed

8.4 Development Applications - Works in Progress - April 2018

2017/600	30/10/2017	Newton Denny Chapelle	Expansion to an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	On Exhibition To be reported to Council
2017/613	3/11/2017	Newton Denny Chapelle	Alterations and additions to the existing Emmanuel Anglican College including construction of additional classrooms, car parking, roof over existing court and associated infrastructure and landscaping works – 62 Horizon Drive, West Ballina	Determination Pending
2017/643	16/11/2017	Newton Denny Chapelle	Demolition and/or relocation of existing structures and erection and Strata Title subdivision of seven x two storey and two single storey self-care seniors living units pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability), site filling and associated works – 78 Moon Street, Ballina	Being assessed
2017/645	16/11/2017	Ardill Payne & Partners	Amended Boundary adjustment subdivision of two rural lots to create two modified rural lots – 60 & 62 Saltwater Creek Road, Wardell	Being assessed
2017/652	20/11/2017	Stephen Fletcher & Associates Pty Ltd	Two lot subdivision to create 1 x 8315sqm and 1 x 2725 sqm lots and associated works – 543 The Coast Road, Lennox Head	Awaiting additional information
2017/712	14/12/2017	Malcolm Scott Consultant Town Planner	Alterations and additions to existing Tourist Facility (Gaia Retreat) comprising new office space, new yoga room and re-location of an approved cabin site - 933 Fernleigh Road, Brooklet	Determination Pending

8.4 Development Applications - Works in Progress - April 2018

2017/718	19/12/2017	Newton Denny Chapelle	To establish and Strata Title Subdivide a multi-dwelling housing development involving the erection of two attached two storey dwellings in addition to the existing dwelling house, demolition of existing garage, vegetation management works and other associated works - 71 Stewart Street, Lennox Head	Awaiting additional information
2018/35	29/1/2018	Ardill Payne & Partners	To Construct a two storey multi dwelling housing development comprising three dwellings with a maximum height of 8.94 metres which is above the maximum height of 8.5 metres as outlined in the Ballina Local Environmental Plan 2012, and the associated strata subdivision and other works – 65 Blue Seas Parade, Lennox Head	Referred to Government Departments
2018/38	30/1/2018	K Kernaghan	Change of Use – Dwelling House to Recreation Facility (Dance Studio) – 11 Byron Street, Lennox Head	Determination Pending
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 103 residential lots and seven super lots, construction or roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage – 20 North Creek Road, Lennox Head	Awaiting additional information
2018/52	2/2/2018	David Butcher	Strata Title subdivision of an existing dual occupancy – 26 Lakefield Avenue, Lennox Head	Awaiting additional information

8.4 Development Applications - Works in Progress - April 2018

2018/53	2/2/2018	Ardill Payne & Partners	Alterations and Additions to the Ballina Byron Gateway Airport and Avis Offices – 210 Southern Cross Drive, Ballina	Determination Pending
2018/74	13/2/2018	Ardill Payne & Partners	Demolition of Existing Residential Flat Building and Erection and Strata Title Subdivision of a Six Storey Residential Flat Building Containing 14 dwellings, associated car parking and works. The proposed building has a height of 18.4m with the lift over run at a height of 19.3m which is above the building height allowance of 18m under the Ballina Local Environmental Plan 2012 – 8 Grant Street, Ballina	Awaiting additional information
2018/78	14/2/2018	S F Clarke	Vegetation management works involving the removal of three trees – 17 Hill Street, East Ballina	Awaiting additional information
2018/79	14/2/2018	Ardill Payne & Partners	Establishment of a tourist and visitor accommodation development comprising three holiday cabins and associated works – 101 Broken Head Road, Newrybar	Being assessed
2018/82	15/2/2018	Newton Denny Chapelle	To establish an agricultural produce industry and erection of a two storey shed with associated office and the carrying out of civil works including car park, manoeuvring and delivery area – 61 Eden Valley Drive	Awaiting additional information

8.4 Development Applications - Works in Progress - April 2018

2018/96	22/2/2018	Malcolm Scott Consultant Town Planner	Alterations and additions to the Ballina Public School including modifications and additions to Block A, erection of a covered outdoor learning area, covered set down and pick up area with vehicular access to Martin Street and removal of one camphor laurel tree – 30-52 Crane Street, Ballina	Being assessed
2018/99	26/2/2018	M Pampel	Change of use from office to medical centre – naturopathic practice – 144 River Street, Ballina	Being assessed
2018/100	26/2/2018	E S Hill-Lewis	Tourist and Visitor Accommodation comprising one holiday cabin and erection of farm shed, relocation of water tanks and horse stables and associated works – 378 Fernleigh Road, Fernleigh	Referred to Government Departments
2018/117	2/3/2018	C R Kremser	Vegetation management works comprising the removal of seven trees - 37 Alston Avenue, Alstonville	Awaiting additional information
2018/119	5/3/2018	A Nowell	Vegetation management works comprising the removal of seven trees – 9 Jameson Avenue, East Ballina	Awaiting additional information
2018/141	15/3/2018	Northern Rivers Land Solutions	Torrens Subdivision – 14 Chilcott Circuit, Cumbalum	Awaiting additional information
2018/144	16/3/2018	Newton Denny Chapelle	Change of Use of Units 1, 2 and 3 from Light Industrial to a Recreational Facility (Tenancy 1 – Personal Training and Fitness classes, Tenancy 2 – Martial Arts classes) – 3 Sheather Street, Ballina	Awaiting additional information

8.4 Development Applications - Works in Progress - April 2018

2018/157	20/3/2018	RLA Building Design	Change of Use of a General Industrial Premises (Brewery) to a Computer Repair and Maintenance Workshop and Ancillary Office (Tenancy 1) and Cabinetry making business (Tenancy 2) – 57 Northcott Crescent, Alstonville	Being assessed
2018/195	11/4/2018	A Johnson	Vegetation management works involving the removal of three trees- 22 Libby Lane, Lennox Head	Awaiting additional information

8.4 Development Applications - Works in Progress - April 2018

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/01/16	21st Century Builders Pty Ltd	Amended Proposal: To undertake the first stage of the urban subdivision of the new Cumbalum Urban Release Area – Precinct B comprising a total of 166 allotments and including road construction and intersection works at Ross Lane, extensive earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - 246 Ross Lane, 47 Dufficys Lane & Ross Lane, Kinvara	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	Subject to Class 1 Appeal in the NSW Land & Environment Court Hearing commenced 12 February 2018 Notification due to the Court on agreed & disputed conditions on 30 April 2018
2016/524	16/9/16	Planners North	Amended Proposal: Seniors Living Development pursuant to SEPP (Housing for Seniors and People with a Disability) 2004 comprising amended layout, 170 (previously 211) serviced, self-care housing (previously 210) with associated clubhouse, recreation facilities, roads and associated infrastructure and environmental management and protection works – 67 Skennars Head Road, Skennars Head	Awaiting additional information

8.4 Development Applications - Works in Progress - April 2018

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	Briefing to be held with Councillors On Exhibition Referred to Government Departments
2017/129	17/3/2017	CivilTech Consulting Engineers	Construction of a two lane road linking North Creek Road to the Ballina Byron Gateway Airport including three roundabouts at the intersections with North Creek Road, Boeing Avenue and the connection into the airport. The proposal also includes extensions to Boeing Avenue and the realignment of Corks Lane, site filling, vegetation removal and associated works. – Lot 5 DP 123781 Corks Lane, Ballina	Awaiting additional information

8.4 Development Applications - Works in Progress - April 2018

2017/244	17/5/2017	Intrapac Skennars Head Pty Ltd	Amended Proposal: To undertake the first stage of a residential subdivision comprising 218 residential lots, five public reserve lots, eight super lots for future subdivision, five utility lots and one residue lot. The proposed subdivision, to be carried out in stages, will involve the construction of a new access to The Coast Road incorporating the Sharpes Beach Car Park Access junction with a roundabout and facilitating connection into Headlands Drive. The subdivision also proposes extensive earthworks across the site, utilities augmentation, stormwater management and drainage, vegetation removal and associated works – Lot 6 DP 1225206 (formally Lot 265 DP 1212348) The Coast Road, Skennars Head	Referred to Government Departments
2017/447	17/8/2017	Newton Denny Chapelle	Erection of a Neighbourhood Shopping Centre, involving a Supermarket (Woolworths) and Specialty Shops, Associated Car Parking and Other Infrastructure Servicing, Earthworks, Signage and Landscaping within the EPIQ Estate at Lennox Head – Hutley Drive, Lennox Head	JRPP – Determination Deferred
2017/670	23/11/2017	Planners North	Extractive Industry and Concept Approval for future recreational and tourism use – Newrybar Swamp Road, Lennox Head	Being assessed

Major Development (Determined by Minister)

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

RECOMMENDATION

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

Attachment(s)

Nil

9.1 Land Classification - Lot 2 DP 620838, 9 Byron Bay Road Lennox Head

9. Strategic and Community Facilities Group Reports

9.1 Land Classification - Lot 2 DP 620838, 9 Byron Bay Road Lennox Head

Delivery Program Strategic Planning

Objective To determine the classification of land recently acquired by Council under the provisions of the Local Government Act 1993

Background

Lot 2 in DP 620838 (Lot 2) is known as 9 Byron Bay Road, Lennox Head. The lot has its major frontage to Byron Bay Road and its rear frontage to the unmade section of Hutley Drive.

Lot 2 was acquired by Council for road and subdivision purposes. Settlement occurred on 8 March 2018 and the land entered into Council's ownership at that time.

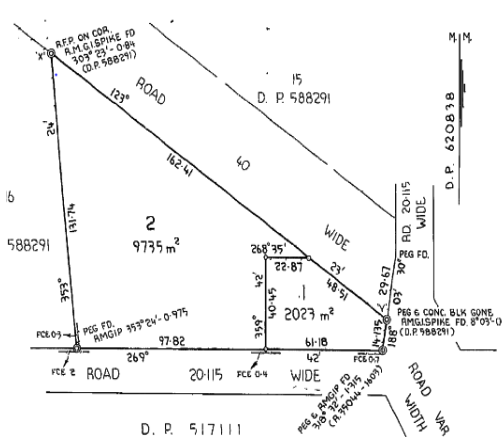
Lot 2 has an area of 9,735m² and is zoned RU1 Primary Production under the provisions of Ballina LEP 2012.

The subject lot is shown on the aerial photo extract below outlined in red.

Extract from Aerial Photo



Extract from Deposited Plan



The Council at its Ordinary Meeting on 27 July 2017 resolved to endorse the preparation of a planning proposal to rezone Lot 2 to an R2 Low Density Residential zone with a 600m² minimum lot size requirement.

Council's resolution also incorporated the adjoining Lot 1 owned by Telstra, which was designed for an R2 or an SP2 Infrastructure zone.

9.1 Land Classification - Lot 2 DP 620838, 9 Byron Bay Road Lennox Head

A Gateway determination allowing the planning proposal to proceed to exhibition was issued on 16 October 2017 subject to a number of studies being prepared (Contaminated Site Assessment and Ecology) and consultation with various Statutory Authorities. The planning proposal is currently in the technical assessment phase.

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

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

Key Issues

- Classification of the land under the terms of the LG Act
- Nature and use of the land

Information

Lot 2 has been acquired by Council to facilitate the construction of Hutley Drive and its connection with Byron Bay Road. Land not required for road purposes will become available for subdivision, subject to rezoning, or for other Council purposes.

As Lot 2 has been acquired for operational purposes it is recommended that it be classified as operational land in accordance with the provisions of the LG Act.

Section 31 of the LG Act provides that before a council acquires land, or within three months after it acquires land, it may resolve that the land be classified as community land or operational land. If the land has not been classified within the three month period then it is taken to have been classified as community land.

Settlement for the purchase of Lot 2 occurred on 8 March 2018. The three month classification “window” expires on 8 June 2018.

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

A public notice of the proposal to classify the subject land as operational land was provided in the Ballina Shire Advocate on 14 March 2018, in accordance with section 34 of the Act, with submissions invited until 16 April 2018.

No submissions were received in response to the notification.

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

Sustainability Considerations

- **Environment**

The classification of Lot 2 as operational land is not expected to result in any negative environmental, social or economic outcomes. An operational land classification is consistent with the existing and proposed use of the land.

- **Social**

As above

- **Economic**

As above

Legal / Resource / Financial Implications

The classification of Lot 2 as operational land is a legal mechanism under the LG Act that provides Council with flexibility in the use of the land for road construction, subdivision and other purposes. The proposed classification will not directly result in adverse resource or financial implications but will enable the efficient use of the land for its intended purpose.

Consultation

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act* 1993. Public submissions were invited, with the closing date being 16 April 2018. No submissions were received.

Options

1. The Council may resolve to classify the lot as operational land. Under this option, the proposed classification of the lot as operational land would take effect immediately upon the resolution of the Council. The classification of the land as operational land is the recommended approach as the land has been specifically purchased for uses compatible with an operational classification.
2. The Council may resolve to classify the lot as community land. Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given the intended use of the land for road construction and subdivision, classifying the land as community land is not recommended.

RECOMMENDATION

That Council classify the land identified as Lot 2 DP 620838, 9 Byron Bay Road, Lennox Head as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect immediately.

Attachment(s)

Nil

9.2 Land Classification - Lots 1 to 4 DP 1222030, Rifle Range Road Alstonville

9.2 Land Classification - Lots 1 to 4 DP 1222030, Rifle Range Road Alstonville

Delivery Program Strategic Planning

Objective To determine the classification of land recently acquired by Council under the provisions of the Local Government Act 1993

Background

The land comprising Lots 1 to 4 DP 1222030 (Lots 1 – 4) was formerly part of the Rifle Range Road road reserve (approximately 700m east of Wollongbar).

Following the realignment of Rifle Range Road the subject land was closed as a public road. The title to Lots 1 to 4, which have a combined area of 4,325.7m², has been vested in Ballina Shire Council under the provisions of the Roads Act 1993 following the publication of a notice in the NSW Government Gazette on 23 February 2018. The Gazette notice indicates that the land is vested in Council as operational land.

The area occupied by the subject lots are shown by the red outline on the aerial photo extract below.

Extract from Aerial Photo - Lots 1 to 4 DP 1222030



Lots 1 to 4 are located on the northern side of Rifle Range Road approximately 180 metres to the west of Avocado Lane and approximately opposite No. 202 Rifle Range Road, Alstonville.

The purpose of this report is to determine the classification of Lot 1 to 4 under the terms of the Local Government Act 1993 (LG Act). Part 2 of Chapter 6 of the LG Act regulates the management of public land.

9.2 Land Classification - Lots 1 to 4 DP 1222030, Rifle Range Road Alstonville

Specifically, sections 26 and 27 of the LG Act require public land to be classified as either “community” or “operational” land in accordance with its intended use. The vesting of the land in Council’s ownership as operational land under the provisions of the Roads Act 1993 is not considered to overcome the requirements contained within the LG Act to classify the subject land once it comes into Council’s ownership.

Key Issues

- Classification of the land under the terms of the LG Act
- Nature and use of the land

Information

The subject lots are closed public road, being land no longer required for road purposes, following the realignment of Rifle Range Road.

As lots 1 to 4 have already been vested in Council’s ownership as operational land under the provisions of the Roads Act 1993 it now remains for Council to also resolve to classify the land as operational land in accordance with the provisions of the LG Act.

An operational land classification provides for flexibility in Council’s management of this land, including consideration of the sale of the land.

Section 31 of the LG Act provides that before a council acquires land, or within three months after it acquires land, it may resolve that the land be classified as community land or operational land. If the land has not been classified within the three month period then it is taken to have been classified as community land.

Council acquired the land on 23 February 2018 when the land was vested in council via a notice in the NSW Government Gazette. The three month classification “window” expires on 23 May 2018.

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

A public notice of the proposal to classify the subject land as operational land was provided in the Ballina Shire Advocate on 21 March 2018, in accordance with section 34 of the Act, with submissions invited until 23 April 2018. At the time of preparing this report no submissions had been received in response to the notification. Should a submission be received prior to Council’s meeting on 26 April 2018 this will be tabled at the meeting by the General Manager.

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

Sustainability Considerations

- **Environment**

The classification of the subject lots as operational land is not expected to result in any negative environmental, social or economic outcomes. An operational land classification will facilitate the sale of the land.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The classification of Lots 1 to 4 as operational land is a legal mechanism under the LG Act that enables Council to sell the land, which is now no longer required for road purposes. The proposed classification will not result in adverse resource or financial implications but will enable Council to dispose of land surplus to road requirements.

Consultation

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act* 1993. Public submissions were invited, with the closing date being 23 April 2018. No submissions were received at the time of preparation of this report.

Options

1. The Council may resolve to classify the lots as operational land. The classification of the land as operational land is the recommended approach as the land has been specifically vested in Council as operational land under the provisions of the LG Act. Further, this approach provides for flexibility in Council's future management of the land and/or potential sale of the land.
2. The Council may resolve to classify the lots as community land. Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given that the land is surplus to Council requirements and that it may ultimately be proposed for sale, classifying the land as community land is not recommended.

RECOMMENDATION

That Council classify the land identified as Lots 1 to 4 DP 1222030, Rifle Range Road, Alstonville as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect immediately.

Attachment(s)

Nil

9.3 Policy (Review) - Commercial Use of Footpaths

9.3 Policy (Review) - Commercial Use of Footpaths

Delivery Program Strategic Planning

Objective To review Council's existing policy for the Commercial Use of Footpaths.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Commercial Use of Footpaths Policy.

Council first adopted this policy in August 2010 and it was subsequently amended in June 2013.

The policy has been delayed in its four yearly review pending outcomes from a NSW Government initiative relating to the centralisation of commercial use of footpath licensing services. The idea is that businesses would be able to lodge applications with Service NSW and these would then be passed on the Council for assessment.

The above program is yet to be implemented and there is no clear timeframe for its introduction (assuming it proceeds). Given this, staff have proceeded with the policy review. In the event that the Service NSW program proceeds and Council participates, it is suggested that the policy should be reviewed to align it with the program (this may be before the scheduled four yearly review once the revised policy is adopted).

Key Issues

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

Information

This review of this policy identified only minor changes as follows:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc (this primarily involves formatting changes to the policy).
- Removal of the requirement for approved operators to provide evidence of public liability insurance prior to the commencement of footpath trading and annually thereafter. This has been replaced with a requirement for the operator to maintain a suitable level of public liability insurance for the entire period of trading and to provide a copy of the relevant certificate of currency to Council on request.
- Introduction of a minimum annual fee for commercial use of footpath approvals (see discussion below relating to minimum fees and transfer fees)

9.3 Policy (Review) - Commercial Use of Footpaths

- Minor text changes to update terminology, reflect changes in internal Council procedures and make minor adjustments to improve the flow and meaning of the text.

The text changes have been marked in yellow in the revised version of the policy contained in Attachment 1.

With respect to fees associated with the commercial use of footpaths, the following changes are proposed to the existing framework, that applies a charge based on the area of the approved use:

- It is proposed that Council introduce a minimum fee for commercial use of footpath activities in the amount of \$100 (exclusive of GST).

At present there are 51 commercial use of footpath activities that are approved by Council. The exclusive GST fees applicable to these activities range between \$26.40 and \$915.20 (with eleven of the approvals being subject to a fee less than \$100). A minimum fee of \$100 is proposed to support cost recovery associated with the administration of the approvals.

It is expected that the introduction of the minimum fee will generate in the order of \$500 per annum in additional income.

- It is proposed that Council introduce a transfer fee for the transfer of approvals between business owners in the amount of \$55 (exclusive of GST).

The policy allows for the transfer of commercial use of footpaths approvals where a business is sold. The proposed \$55 fee is to support cost recovery associated with the administration of a transfer.

No application fee is currently charged for commercial use of footpaths applications. The introduction of an application fee is not recommended at this time having regard for the current area based fee structure. This provides an incentive for the start-up of commercial use of footpath activities which in turn supports activity and vibrancy in public spaces.

Sustainability Considerations

- **Environment**

The policy has been prepared to enable economic activity in footpath areas having regard for safety, social outcomes, community benefits and environmental considerations.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

There are no notable legal or resource impacts associated with the proposed amendments to the policy. The policy is currently administered within the existing resources of the Community Property portfolio within the Strategic Planning Section.

9.3 Policy (Review) - Commercial Use of Footpaths

If Council proceeds to introduce the recommended adjustments to the fees associated with the policy, this will assist in cost recovery associated with the service provided by Council. It is expected that the new fees will generate in the order of \$500 per annum in additional income to Council.

Consultation

It is proposed that the draft policy be publicly exhibited for a period of six weeks to invite community and stakeholder feedback. The proposed changes to fees would be exhibited concurrently for incorporation into Council's fees and charges for 2018/19.

Where no submissions are received, it is recommended that the policy be adopted. A further report on the policy will be presented to the Council if submissions are received.

Options

Council may accept or amend the proposed changes to the policy and the associated fees. As the changes do not significantly alter the operation or intent of the policy it is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council endorses the Commercial Use of Footpaths Policy, as attached to this report, for public exhibition.
2. That Council approves the public notice of the new fees associated with the policy in accordance with Section 610F of the *Local Government Act* and inclusion of the fees in Council's Fees and Charges document.
3. If no submissions are received in response to the public exhibition, Council adopts the Commercial Use of Footpaths Policy, as exhibited, and where submissions are received, that Council receive a further report on the policy and the outcomes of the public exhibition process.

Attachment(s)

1. Policy (Review) - Commercial Use of Footpaths

9.4 Community Halls - Demand

9.4 Community Halls - Demand

Delivery Program Community Facilities

Objective To identify usage rates of Council owned and other community halls located within Ballina Shire.

Background

Council at the 7 November 2017 Facilities Committee meeting, and subsequently at the November 2017 Ordinary meeting resolved, in part, as follows:

That Council receives a report on the overall demand for community halls across the shire.

This report provides an overview of current usage patterns for Council owned halls as well as other community halls located in the shire.

Key Issues

- Usage of community halls
- Under-utilized community assets

Information

There are a total of 11 community halls located within the Ballina Shire. The ownership of the halls is varied with six owned by Council, three owned by incorporated bodies and two owned by the crown.

The majority of the halls are over 50 years old and their configurations may impact on the type of activities being offered.

Given the age of the facilities it is also likely that many of the halls have access issues which impede their capacity to attract certain groups. The demand for space varies across the halls with some being very well utilized whilst others struggle to attract hirers.

The six halls that are Council owned are:

- Newrybar Hall
- Northlakes Community Centre
- Pimlico Hall
- Wardell and District War Memorial Hall
- Wigmore (Senior Citizens) Hall.
- Wollongbar Hall

These halls are either managed on behalf of Council by community groups or directly by Council's Community Facilities Section.

The following table provides usage patterns for the halls owned by Council.

9.4 Community Halls - Demand

Hall	Hall usage	Comments
Newrybar Hall	The current regular weekly usage is approximately 18 to 20 hours per week. There are also scheduled Pop up events, weddings and other private events booked in throughout the year.	Hall is well utilised with limited capacity to increase activities should there be an interest.
Northlakes Community Centre	The current regular weekly usage is approximately 30 hours per week spread over six days.	The hall is very well utilised and as such there is limited capacity to increase usage of the hall.
Pimlico Hall	There are no regular weekly activities at the hall .There is one regular monthly booking and the occasional evening meeting throughout the year.	The usage of the hall is low and there is capacity to meet any new demand.
Wardell Hall	The hall has one regular booking of three hours per week. There is also the occasional evening meeting throughout the year along with a handful of private bookings.	The usage for the hall is low and there is capacity to meet any new demand.
Wigmore Hall	This building has three separate spaces made up of two halls and one room. Senior Citizens Hall: This hall is utilised six days per week for approximately 30 hours per week. Girl Guides Hall has two regular activities per week Ballina Shire Concert Band room is not made available to hire as the room is permanently set up with the bands instruments, music stands and seating.	The Seniors hall has limited capacity to accommodate additional bookings The usage for the hall is low and there is capacity to meet any new demand. The Band room is not made available for hire.
Wollongbar Hall	The hall has a number of regular bookings per week and is used for approximately 15 hours per week.	There is capacity to meet any new demand.

There are five additional community halls that are not controlled or owned by Council. These are:

- McLeans Ridges Hall (Incorporated Body)
- Meerschaum Vale Hall (Crown land administered by a Reserve Trust Board consisting of local residents)
- Pearces Creek Hall (Incorporated Body)
- Rous Mill Hall (Incorporated Body)
- Tintenbar School of Arts (Crown under School of Arts)

9.4 Community Halls - Demand

Usage details are as follows.

Hall	Hall usage	Comments
McLeans Ridges Hall	Unknown	Numerous attempts have been made to contact the hall committee however we have been unable to make contact
Meerschaum Vale Hall	The hall has regular monthly bookings along with private hires for weddings, birthday celebrations, dances and community information workshops. There are also annual fundraising events which take place 3 or 4 times per year.	The hall is being used on a regular basis. There may be some potential to accommodate additional bookings.
Pearces Creek Hall	The hall has no regular weekly/monthly bookings. They have 1 annual 3 month block booking. There is also the occasional wedding booking.	There is capacity to meet any new demand.
Rous Mill Hall	The hall has a number of regular weekly and monthly bookings. There are also typically 2 private books per month for wakes and birthdays, 4-5 weddings per year wedding. In addition there are 3 music concerts per year, annual ball, market day and hall meet and greet.	The hall is well utilized there may be limited capacity to meet any new bookings. .
Tintenbar School of Arts	The hall is very well utilised with activities taking place 6 days per week along with wedding bookings, workshops, private functions, music performances and the like	The Hall is currently having to turn away potential bookings

The usage rate for the halls varies from very low to having to turn away potential hirers. On balance it would appear that the demand for hall space is being met with some assets under utilised.

Discussion with Council's Community Facilities staff would suggest that what is lacking in the shire is suitable meeting room space.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Community Halls provide opportunities for residents to participate in various activities.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

This reports highlights usage rates of the various community halls. Council has previously considered a report that highlighted the financial resources required to ensure that Council's public halls meet their regulatory and safety requirements for the community.

The completion of those works is to be partially funded through the future sale of the West End Hall.

The proposed works may increase the capacity of Council owned halls to cater to a greater variety of potential users.

Consultation

All hall management groups were contacted in the preparation of this report. The hall usage information provided along with the group's representatives comments were used to compile the data in this report.

Options

The purpose of this report was to identify overall demand for community halls across the shire.

From an operational point of view, Council has no role to play with the management of the non-council owned halls.

With respect to the usage rates of the Council owned halls the data provided has demonstrated that a number of Council owned halls are operating well and utilized by a range of user groups. However the Pimlico and Wardell halls would appear to be under-utilized.

This is one of many areas where Council staff will be examining options to improve utilisation levels, or alternatively Council may need to determine other uses for the facilities, or potentially disposal.

RECOMMENDATION

That Council notes the contents of this report in respect to the overall demand for community halls across the Shire.

Attachment(s)

Nil

10.1 Investment Summary - March 2018

10. General Manager's Group Reports

10.1 Investment Summary - March 2018

Delivery Program Financial Services

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

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of March 2018.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investment Policy. The balance of investments as at 31 March was \$70,738,000. This represents an increase of \$1m from February. Council's investments, as at 31 March, are at an average (weighted) rate of 2.67%, which is 0.76% above the 90 Day Bank Bill Index of 1.91%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 March 2018, was \$2,918,220. This balance is lower than the balance of \$8,713,863 as at 28 February 2018. The combined movement of investments and bank balances was a decrease of \$4,795,643. This overall decrease is attributable to higher than normal cash holding at the end of February for payments for infrastructure, creditors and loans payments due early in March.

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

Reserve Name	Restriction	% Portfolio*
Wastewater Fund (incl developer contributions)	External	13.8%
Water Fund (incl developer contributions)	External	19.9%
Section 94 Developer Contributions	External	8.0%
Bonds and Deposits	External	3.2%
Other External Restrictions	External	4.8%
Carry Forward Works	Internal	3.6%
Bypass Maintenance Funding	Internal	5.0%
Landfill and Resource Management	Internal	3.8%
Employee Leave Entitlements	Internal	3.7%
Quarries	Internal	1.3%
Property Reserves	Internal	5.5%
Plant and Vehicle Replacement	Internal	1.1%
Road Works	Internal	3.3%
Swimming Pools Capital	Internal	6.5%
Indoor Sports Centre	Internal	1.7%
Miscellaneous Internal Reserves	Internal	5.3%
Financial Assistance Grant in Advance	Internal	2.5%
Unrestricted		7.0%
Total		100%

* Updated to reflect reserves held as at 30 June 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
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.5%	3%
Rated Institutions							
AMP Bank	Yes	A	5,000	5,000	20%	7.1%	
Auswide Bank	No	BBB	1,000	1,000	10%	1.4%	
Bank of China	Yes	A	0	2,000	10%	2.8%	
Bank of Queensland	Yes	BBB+	4,000	4,000	10%	5.7%	
BankWest	Yes	AA-	4,000	3,000	20%	4.2%	
Bendigo & Adelaide Bank	No	BBB+	3,000	3,000	10%	4.2%	
Commonwealth Bank of Australia	Yes	AA-	8,000	8,000	20%	11.3%	
Credit Union Australia	No	BBB	2,000	2,000	10%	2.8%	
Defence Bank Ltd	No	BBB	5,500	5,500	10%	7.8%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.8%	
ING Bank Ltd	Yes	A	5,000	5,000	20%	7.1%	
ME Bank	No	BBB	4,750	4,750	10%	6.7%	
My State Bank Ltd	No	BBB+	5,000	5,000	10%	7.1%	
National Australia Bank	Yes	AA-	7,000	6,000	10%	8.5%	
Newcastle Permanent Bld Society	No	BBB	700	700	10%	1.0%	
Suncorp-Metway Bank	No	A+	3,000	2,000	20%	2.8%	
Teachers Mutual Bank Limited	No	BBB	1,000	1,000	10%	1.4%	
Westpac Banking Corporation	Yes	AA-	7,000	9,000	10%	12.7%	97%
Unrated ADI's					\$1m	0.0%	0%
Total			69,738	70,738		100%	

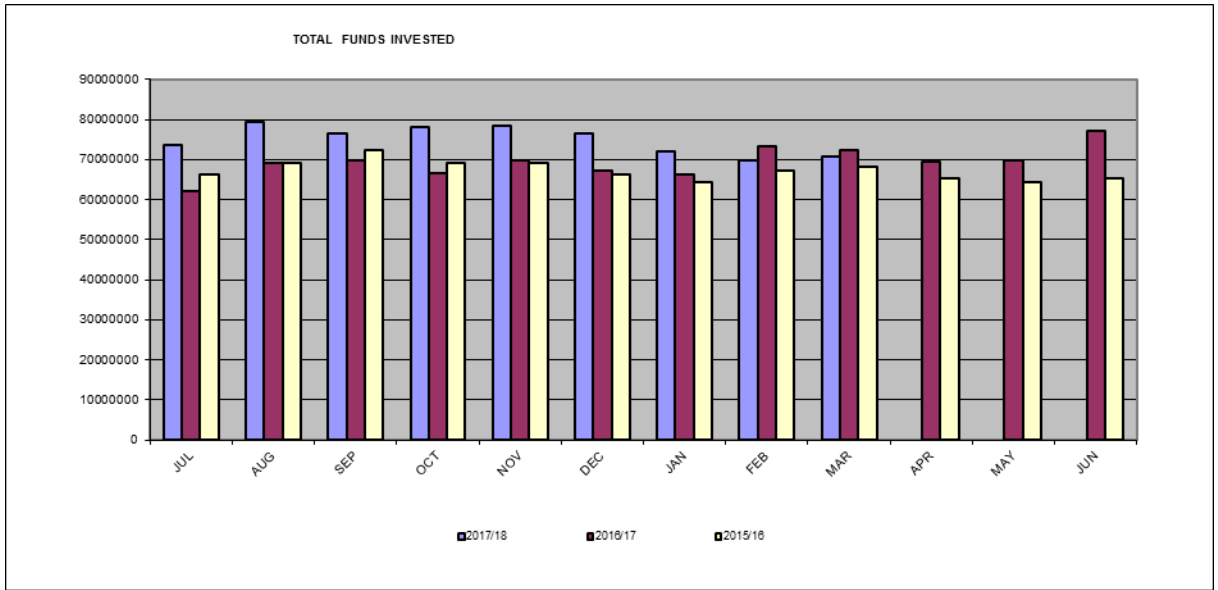
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	41,788 60%	43,788 62%
Non-Fossil Fuel Aligned	27,950 40%	26,950 38%
Not Classified	0 0%	0 0%
Total	69,738 100%	70,738 100%

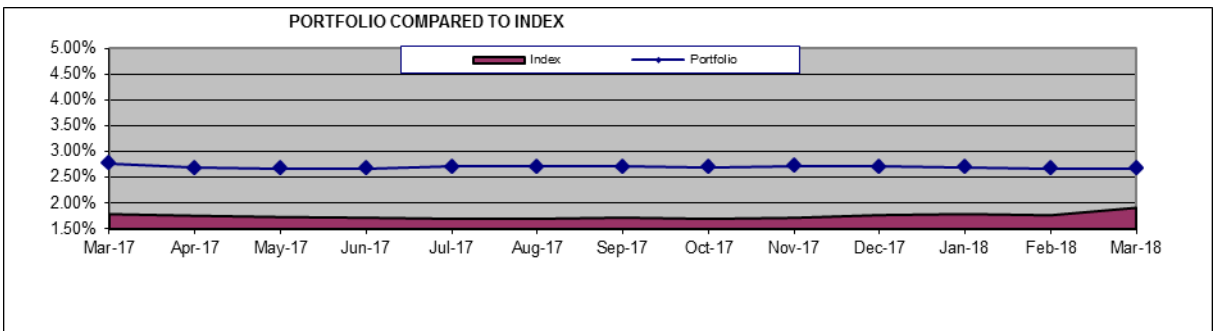
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

- Fossil Fuel Aligned: Noted by Market Forces and Bank Track 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.

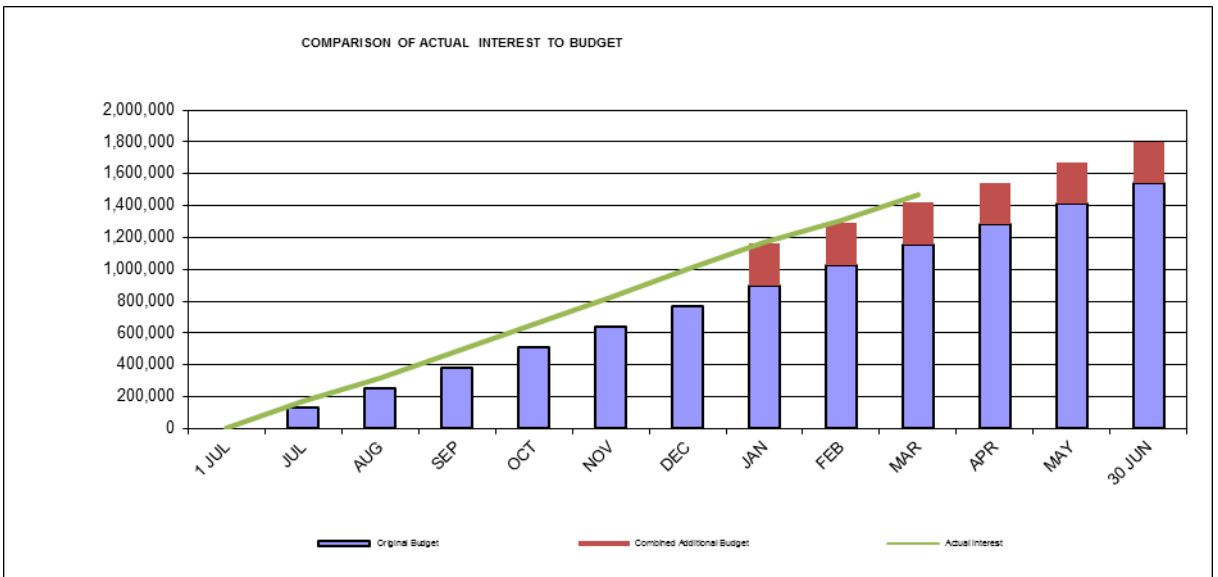
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - March 2018

F. Investments held as at 31 March 2018

PURCH DATE	ISSUER	TYPE	RATE	NEXT MATURITY	PURCH VALUE \$'000	FAIR VALUE \$'000
29/06/17	AMP Bank	TD	2.60%	04/04/18	2,000	2,000
09/10/17	Westpac Banking Corporation	TD	2.57%	09/04/18	2,000	2,000
05/09/17	My State Bank Ltd	TD	2.60%	11/04/18	1,000	1,000
04/10/17	National Australia Bank	TD	2.57%	18/04/18	2,000	2,000
19/02/18	Suncorp-Metway Bank	TD	2.35%	24/04/18	2,000	2,000
26/07/16	Commonwealth Bank of Australia	FRN	2.83%	29/04/18	1,000	1,000
26/02/18	BankWest	TD	2.30%	01/05/18	3,000	3,000
03/08/17	Westpac Banking Corporation	FRN	2.82%	03/05/18	2,000	2,000
06/02/18	Newcastle Permanent Bld Society	FRN	3.18%	06/05/18	700	698
09/11/17	ME Bank	FRN	3.01%	09/05/18	750	750
15/02/18	National Australia Bank (ASX Listed)	FRN	3.01%	15/05/18	1,788	1,408
16/08/17	ME Bank	TD	2.60%	16/05/18	1,000	1,000
18/08/17	Westpac Banking Corporation	FRN	2.81%	18/05/18	1,000	1,000
21/11/17	Defence Bank Ltd	TD	2.60%	22/05/18	1,000	1,000
23/01/18	Commonwealth Bank of Australia	TD	2.41%	23/05/18	1,000	1,000
28/02/18	Greater Bank Limited	FRN	3.32%	24/05/18	1,000	1,003
25/02/14	Westpac Banking Corporation	FRN	2.72%	25/05/18	2,000	2,010
24/11/17	Greater Bank Limited	FRN	3.23%	25/05/18	1,000	1,000
30/11/17	My State Bank Ltd	TD	2.63%	29/05/18	3,000	3,000
27/11/17	ME Bank	TD	2.61%	05/06/18	1,000	1,000
07/12/17	My State Bank Ltd	TD	2.60%	06/06/18	1,000	1,000
09/03/18	Westpac Banking Corporation	TD	2.65%	12/06/18	2,000	2,000
17/06/16	Commonwealth Bank of Australia	FRN	3.01%	17/06/18	1,000	1,000
12/09/17	AMP Bank	TD	2.60%	13/06/18	1,000	1,000
29/11/17	Auswide Bank	TD	2.65%	19/06/18	1,000	1,000
01/12/17	Bank of Queensland	TD	2.63%	26/06/18	2,000	2,000
29/06/17	Teachers Mutual Bank Limited	FRN	3.35%	29/06/18	1,000	1,001
30/06/16	Commonwealth Bank of Australia	FRN	2.97%	30/06/18	1,000	1,000
05/09/17	Commonwealth Bank of Australia	TD	2.58%	05/07/18	2,000	2,000
06/09/17	National Australia Bank	TD	2.57%	11/07/18	2,000	2,000
12/01/18	ME Bank	TD	2.65%	17/07/18	1,000	1,000
07/02/18	Bank of Queensland	TD	2.60%	07/08/18	2,000	2,000
08/08/17	ING Bank Ltd	TD	2.61%	08/08/18	1,000	1,000
08/08/17	Bendigo & Adelaide Bank	TD	2.70%	14/08/18	2,000	2,000
16/08/17	AMP Bank	TD	2.65%	16/08/18	1,000	1,000
08/02/18	Defence Bank Ltd	TD	2.60%	28/08/18	1,000	1,000
09/08/17	Bendigo & Adelaide Bank	TD	2.70%	22/08/18	1,000	1,000
11/12/17	ME Bank	TD	2.62%	07/09/18	1,000	1,000
05/03/18	National Australia Bank	TD	2.57%	11/09/18	2,000	2,000
26/03/18	Bank of China	TD	2.74%	11/09/18	2,000	2,000
18/01/18	AMP Bank	TD	2.65%	18/10/18	1,000	1,000
09/11/17	Defence Bank Ltd	TD	2.75%	08/11/18	1,500	1,500
16/08/17	ING Bank Ltd	TD	2.68%	15/11/18	2,000	2,000
15/08/17	ING Bank Ltd	TD	2.68%	20/11/18	1,000	1,000
17/08/17	ING Bank Ltd	TD	2.70%	20/11/18	1,000	1,000
20/11/17	Defence Bank Ltd	TD	2.75%	22/11/18	1,000	1,000
04/12/17	Defence Bank Ltd	TD	2.75%	04/12/18	1,000	1,000
11/12/17	Credit Union Australia	TD	2.60%	11/12/18	2,000	2,000
29/01/18	Commonwealth Bank of Australia	TD	2.66%	29/01/19	2,000	2,000
Totals					70,738	70,370
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

10.2 Policy (Review) - Related Party Disclosures Policy

10.2 Policy (Review) - Related Party Disclosures Policy

Delivery Program Financial Services

Objective To review the Related Party Disclosures Policy.

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 Related Party Disclosures Policy.

Councils are required to have a Related Party Disclosures Policy to ensure that all relevant related party transactions are captured and disclosed in the annual general purpose financial statements.

The policy is also guided by the Australian Accounting Standard *AASB 124 Related Party Disclosures (AASB 124)* and the Office of Local Government Code of Accounting Practice and Financial Reporting, which defines the disclosures required.

Key Issues

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

Information

This policy was first adopted in May 2017 to allow Council to comply with mandatory reporting requirements that came into effect in the 2016/17 year.

The policy provides a framework to identify Key Management Personnel (KMP) and related parties, along with their relevant transactions with Council.

The policy is still contemporary and reflects current legislation and reporting requirements therefore no changes are recommended.

Sustainability Considerations

- **Environment**
Not applicable.
- **Social**
The purpose of the accounting legislation that supports this policy is to improve transparency in respect to an organisation's financial records.
- **Economic**
No impact.

Legal / Resource / Financial Implications

The policy looks to establish a framework for the collation and recording of “related party transactions” to allow Council to comply with mandatory reporting requirements.

Consultation

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the proposed changes to the policy. The changes included are largely housekeeping therefore it is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

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

Attachment(s)

1. Policy (Review) - Related Party Disclosures

10.3 Arts Northern Rivers - Election of Alternate Delegate

10.3 Arts Northern Rivers - Election of Alternate Delegate

Delivery Program Communications

Objective To elect an alternate delegate to Arts Northern Rivers.

Background

Council is represented by Councillors on a number of external committees and organisations. The purpose of this report is to elect an alternate delegate to Arts Northern Rivers.

Key Issues

- Nomination of an alternate delegate

Information

Council provides input into a number of other organisations and groups. The majority of that representation is on a voluntary basis.

At the beginning of this Council term, Council elected its representatives to various organisations and groups. Cr Phillip Meehan was elected as Council's delegate, with Cr Sharon Parry as the alternate delegate, to Arts Northern Rivers. In March 2017 Cr Meehan advised that he was no longer available to represent Council and a consensus basis was reached by email with the Councillors with Cr Parry replacing Cr Meehan. No alternate delegate was chosen.

Arts Northern Rivers has provided its selection criteria for Board positions. A copy is provided as an attachment to this report. The alternate delegate does not necessarily have to be a Councillor, it may be a staff member, or a person from the arts and cultural sector in Ballina Shire.

Sustainability Considerations

- **Environment**
Environmental, social and economic factors will all be considerations in representing councils on other bodies.
- **Social**
As above
- **Economic**
As above

10.3 Arts Northern Rivers - Election of Alternate Delegate

Legal / Resource / Financial Implications

If nominated as a delegate, or alternate delegate, Councillors are entitled to claim travelling expenses to attend formal meetings. These expenses are paid by Ballina Shire Council.

Consultation

Arts Northern Rivers has been consulted on this matter.

Options

To elect an alternate delegate, or not elect an alternate delegate, either from the Councillors, staff or the public.

RECOMMENDATION

That Council nominates its alternate delegate to Arts Northern Rivers.

Attachment(s)

1. Arts Northern Rivers - Selection Criteria for Board positions

10.4 Delivery Program and Operational Plan - 31 March 2018 Review

10.4 Delivery Program and Operational Plan - 31 March 2018 Review

Delivery Program Communications

Objective To provide the quarterly review of the 2017/18 Delivery Program and Operational Plan.

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

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice is to receive more timely quarterly reports. This report represents the third review of the 2017/18 - 2020/21 Delivery Program and the 2017/18 Operational Plan, with the information contained in the report based on work undertaken up to 31 March 2018 (nine months).

The review documentation is included as a separate attachment to this report and the attachment provides an overview of all the programs included in the Delivery Program and Operational Plan, with comments provided by the group and / or section manager. Copies of the current Delivery Program and Operational Plan are available on Council's website and also accessible by Councillors on their iPads.

Key Issues

- Compare actual results against the adopted goals and priorities
- Update on special rate variation

Information

The Delivery Program and Operational Plan are the two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The attachment to this report provides a comprehensive overview of the actions being progressed, with the information also being linked to Council's Community Strategic Plan (CSP) Objectives. The attachment has two main sections being:

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

10.4 Delivery Program and Operational Plan - 31 March 2018 Review

All items are marked with a green (on track for this financial year) amber (behind schedule or below target) or red (not progressing as planned or off track) traffic light. One item has been marked as black as Council resolved not to proceed with the project due to the funding being allocated elsewhere (Russellton Industrial Estate funding transferred to Airport Boulevard).

There are a total of 110 major tasks listed in the Operational Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	GM	DEH	Civil	SCF	Total
Green	24	9	38	32	103
Amber	1	0	2	3	6
Red	0	0	0	0	0
Black	1	0	0	0	1
Total	26	9	40	35	110

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	92	100	95	91	94
Amber	4	0	5	9	5
Red	0	0	0	0	0
Black	4	0	0	0	1
Total	100	100	100	100	100

Items of interest in the attachment include:

- Implement Community Gallery Services at the Fire Station site (page 4) – The fire station is now operational with studio spaces allocated and the new doors are very impressive.
- Enhance sporting field facilities (page 5) – The Wollongbar Sports Fields are now operational for tennis and netball.
- Deliver an indoor sports stadium (page 6) – The development application for this major project has now been approved.
- Implement Pop Denison Master Plan (page 6) – Works in this precinct are well advanced, particularly around Shaws Bay.
- Implement Regional Boating Strategy (page 8) – The majority of the pontoons planned for this year are now operational.
- Progress availability of land at the Southern Cross Industrial Estate (page 10) – The delivery of this land has been delayed due to Council's construction contractor becoming insolvent.
- Progress Ballina Heights Building Better Regional Cities Program (page 10) – All rebates for Ballina Heights and the Wollongbar Urban Expansion Program have been processed which is an excellent outcome in providing more affordable land in the Shire.

10.4 Delivery Program and Operational Plan - 31 March 2018 Review

- Prepare management plan(s) for Ocean Breeze Reserve, Killen Falls and Tosha Falls (page 17) – All three management plans have been adopted which, considering the various issues associated with each parcel of land, is an excellent outcome from a community consultation perspective.
- Pursue compliance with the Fit for the Future Program (page 21) – Council lodged the application for a special rate variation in February 2018 following an extensive consultation process.

In respect to the Service Delivery Indicators there are a total of 103 indicators identified in the Operational Plan and the following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

Service Indicators Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	19	20	27	14	80
Amber	1	3	9	9	22
Red	0	0	0	1	1
Total Tasks	20	23	36	24	103

Service Delivery Indicators Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	95	87	75	58	78
Amber	5	13	25	38	21
Red	0	0	0	4	1
Percentage Total	100	100	100	100	100

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

Items of note include:

- Building Services (page 25) - Percentage of construction Certificates issued by Council (% of total market) – 81% - Council's market share has improved from 73% recorded for the first quarter, 78% in the second quarter and now 81%. The lower than normal percentage relates to a large number of project homes being approved by private certifiers.
- Commercial Services (Airport) (page 26) – Income and passenger numbers continue to achieve record levels, with passenger numbers now over the 526,000 mark representing a 5.8% increase year on year.
- Community Facilities (pages 27 and 28) – A number of the library indicators are tracking below the benchmark figures and are generally trending below previous years. This may represent longer term trends for library services based on the more traditional models. Similarly the Visitor Centre Enquiries and website visits are also trending lower than previous years. This may indicate that people are changing how they obtain information, or the wider range of information sources now available.

10.4 Delivery Program and Operational Plan - 31 March 2018 Review

- Development Services (pages 29 and 30) – A couple of the indicators are currently below the benchmark, with a significant amount of development staff resources allocated to the CURA A court case.
- Engineering Works (page 31) – Minimise Burns Point Ferry deficit (<\$200,000) – The ferry slip cost far more than anticipated (cost approximately \$200,000 against a budget of \$138,000) with this year being the first time that Council has undertaken the slip every second year (i.e. the work was not carried out during 2016/17). This was in response to complaints that the work was being undertaken too regularly.
- Human Resources and Risk (page 33) – Support Aboriginal Employment – The number of Aboriginal employees has decreased primarily as we had eight trainees in the Elsa Dixon Program and there are now three. We are about to start the next round of funding applications for more Elsa Dixon places and Ballina Coast High has identified a number of very good potential students for the program for next year.

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

Consultation

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

Options

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

RECOMMENDATION

That Council notes the content of this report in respect to the 31 March 2018 review of the implementation of the 2017/18 Delivery Program and Operational Plan.

Attachment(s)

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

10.5 Capital Expenditure Program - 31 March 2018 Review

10.5 Capital Expenditure Program - 31 March 2018 Review

Delivery Program Communications

Objective To provide a quarterly status report on the Council's capital expenditure program for the 2017/18 financial year.

Background

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

The current practice is to provide a quarterly status report on all the major capital projects.

This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure.

This is the third report for the 2017/18 financial year and the information is based on expenditure incurred up to 31 March 2018.

Key Issues

- Status of works

Information

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

- Total Project Value – As certain projects occur over a number of financial years, this column identifies the total project value which may include expenditure from previous financial years or estimated expenditure in future years. Where a project is completed from start to finish in the current financial year the Total Project Value and the Latest 2017/18 Estimate figures will be the same.
- Original 2017/18 Estimate - Represents the original 2017/18 estimate as per Council's adopted Operational Plan for 2017/18.
- Carry Forwards - Includes budgets carried forward from the previous financial year approved by Council at the August 2017 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- New Variations – Variations recommended as part of this report.
- Latest 2017/18 Estimate - Sum of the original estimate plus variations.
- Expended This Year - Expenditure to 31 March 2018.
- % Expended - Percentage of budget expended to 31 March 2018.
- Milestone Dates - Target dates for the major milestones.
- Status - Allows additional comments to be provided.

10.5 Capital Expenditure Program - 31 March 2018 Review

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

Points of interest are as follows.

Open Spaces (attachment one)

Wollongbar Skate Park – The construction of the facility, subject to planning approval, is dependent on when planning consent is obtained.

Council has already appointed a contractor for the design and construction of this project, which means once the consent is issued the work should be rapidly progressed. As the planning assessment will now be reported, at the earliest, to the May Ordinary meeting, a large part of the budget is recommended to roll forward into 2018/19.

Pop Denison Master Plan – The expenditure for this year will vary from stage one of the master plan as there are benefits in undertaking works complementary to the current Shaw's Bay Coastal Management Plan works.

In order to maximise the benefits from the available funds it is planned to undertake further foreshore pathway, landscape and embellishment works.

Synergy Pty. Ltd. is already onsite carrying out the foreshore stabilisation and beach creation works to the eastern arm of Shaw's Bay. It is cost effective to engage Synergy to complete the path works to this section of the foreshore path, as a variation to the existing contract, as they already have the site established as a construction site with equipment and personnel to complete the works.

This is estimated to save \$15,000 to \$20,000 compared to going to market at a later date.

The path can be completed and landscaped, while it is a construction site instead of rectifying it under the current contract and then coming back at a later date to complete the path and having to rework the open space levels and surfaces.

This is estimated to create an additional cost saving of \$15,000.

Construction of the path and landscaping for this area now will provide completion to this part of the Shaw's Bay project reducing disruption to the community and presenting a final product rather than opening the site as an unfinished area only to close it again at a later date to complete the work.

Environmental and Public Health (attachment one)

Shaws Bay – Compton Drive and Eastern Arm – Similar to the previous item, work has commenced and the infrastructure completed to date has been very well utilised. An additional \$40,000, fully funded from Section 94 Open Space developer contributions, is recommended as a budget increase, to allow shade shelters to be installed, along with finishing off the ramps and paths.

Waste Management (attachment one)

Conveyor System and Shed – This project has now advanced to the stage where the works can proceed. Funding of \$150,000 is included funded 50% from the Landfill and Resource Management Reserve and 50% from the State Government Waste Levy.

Operations Support (attachment two)

Lennox Head Community Centre Cladding – This project has been rolled forward to 2018/19 as clarification is still needed on the optimum solution for the exterior works proposed. \$13,500 from the painting budget and \$3,500 from this budget has been transferred to the roofing budget to balance the works completed.

Ballina Surf Club – Building B – Construction work has finally commenced on this building and the project should be completed by 30 June.

Ballina Indoor Sports Centre – The development application has been approved by the Joint Regional Planning Panel. Tender documentation is being prepared for construction. \$700,000 of this year's budget has been rolled forward to 2018/19 as construction work will take place during that year.

Community Facilities (attachment two)

Community Centres / ALEC / Community Halls – Funds have been transferred within these items to allow essential works to be undertaken at ALEC now that the building is being managed by Council staff.

Ballina and Alstonville Swimming Pools – A comprehensive report on this project formed part of the 17 April 2018 Finance Committee meeting agenda.

Commercial Services (attachment three)

Terminal Expansion – Tender for construction submitted to the April Council meeting. Based on likely expenditure timeframes a transfer of \$1.9m to 2018/19 is recommended. An increase of \$60,000 to the miscellaneous works budget is also recommended based on confirmed expenditure for essential refurbishment works to the administration building. This is funded from reserves.

Flat Rock – There have been difficulties in procuring a contractor for the proposed boom gate works and this is now rolled forward to 2018/19.

10.5 Capital Expenditure Program - 31 March 2018 Review

Shelly Beach Café – Stormwater works are still to be completed for this project however they are dependent on what the planned redevelopment works are for the café. As the lessee is still uncertain on this the funds have been transferred back to reserve.

Skennars Head Easement – This expenditure relates to the creation and valuation of an easement for the residual land that Council sold that formed part of the land acquired for the Skennars Head Sports Fields expansion.

54 North Creek Road – Due to Civil Logic Pty. Ltd. going into liquidation funds have been rolled forward to 2018/19.

Wollongbar Urban Expansion Area – Council has pre-sold all 18 lots under construction and the budget adjustment reflects the final costs for the project. A report on Council's property developments and the related cash flows is scheduled to be submitted to the 1 May 2018 Commercial Services Committee meeting.

Water and Wastewater (attachments four and five)

There are number of adjustments particularly with respect to expenditure being carried forward to 2018/19. The project engineer position in this section has proven difficult to replace following a resignation and this is causing some delays in the delivery of the capital works program.

Engineering Works (attachment six)

Urban and Rural Roads

For Hutley Drive, funds will need to be sourced from Council's Property Development Reserve for the acquisition, with funding also sourced from the Section 94 Roads Contribution Plan, for other related expenditure.

The Section 94 Roads Plan will also be amended to reflect the new alignment and associated costs for the property acquisition.

Ancillary Transport Services - Shared Paths and Footpaths

Coastal Shared Path – Skennars Head to Pat Morton (and Coastal Walk) – Funding is now in place to complete these projects in full with the works planned for 2018/19. \$800,000 of the current budget for the Coastal Shared Path is being transferred to 2018/19.

Summary

As per the following table there is an extremely high level of capital expenditure forecast for 2017/18 totalling almost \$50m.

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

Section	Budget (\$)	Expended (\$)	Percentage (%)
Open Spaces	1,543,500	585,900	38
Waste	197,000	7,300	4
DEHG	856,000	328,200	38
Operations Support	3,792,500	1,381,700	36
Community Facilities	11,520,600	11,695,900	102
Commercial Services	4,356,200	3,256,100	75
Information Services	182,900	130,600	71
Water	3,276,100	2,023,200	62
Wastewater	8,003,400	4,443,300	56
Engineering Works	15,249,000	9,316,800	61
Total	48,977,200	33,169,000	68

The overall expenditure of 68% is a good result for the year to date recognising that these figures are based on actual expenditure, and once committed costs are included the total expended is close to 74%.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information.

Options

This report is primarily for noting although budget amendments are recommended in the attachments. Those amendments are outlined in the recommendations as follows.

RECOMMENDATIONS

1. That Council notes the contents of this status report on the Capital Expenditure Program for the 2017/18 financial year.
2. That Council approves the following budget amendments as outlined in the attachments to this report:

Item	Current Budget	Revised Budget	Variation	Comment
Open Spaces				
Wollongbar Skate Park	500,000	50,000	(350,000)	Transfer to 2018/19
Sharpes Beach Observation Tower	39,800	80,000	40,200	Increase from various funding sources approved at the March Ordinary meeting
Waste Management				
Conveyor System and Shed	0	150,000	150,000	Transfer from LRM reserve and Waste Levy Reserve (50% each)
Environment and Public Health				
Shaws Bay	816,000	856,000	40,000	Transfer from Section 94 Open Spaces
Operations Support				
Administration Centre	196,600	178,600	(18,000)	Saving transferred to Gallery expansion
LHCC – Roof	67,000	84,000	17,000	Actual cost – funded by savings in painting (\$13,500) and \$3,500 from cladding budget
LHCC – Cladding	102,000	0	(102,000)	Transfer \$98,500 to 2018/19 and \$3,500 to roof
LHCC – Painting	25,000	11,500	(13,500)	Transfer saving to roof
Ballina Indoor Sports	1,000,000	300,000	(700,000)	Transfer to 2018/19
Plant Purchases	2,064,100	1,964,100	(100,000)	Saving transferred back to reserve
Community Facilities				
Community Centres	23,000	6,000	(17,000)	Transfer savings to allow essential works to be undertaken at ALEC
ALEC	0	37,800	37,800	
Public Halls	20,800	0	(20,800)	
Gallery Expansion	36,300	54,300	18,000	Transfer from savings in Administration Centre
Commercial Services				
Airport – Miscellaneous	93,000	153,000	60,000	Transfer from Airport Reserve
Airport – Terminal	2,400,000	500,000	(1,900,000)	Transfer to 2018/19
Flat Rock	120,000	0	(120,000)	Transfer to 2018/19
Shelly Beach Café	47,000	3,900	(43,100)	Transfer to Property Development Reserve
Skennars Hd Easement	0	66,000	66,000	Transfer from Property Development Reserve
54 North Creek Road	1,781,000	831,000	(950,000)	Transfer to 2018/19
WUEA	1,913,000	2,163,000	250,000	Transfer from Property Development Reserve
Water				
Main Renewals	100,000	50,000	(50,000)	Saving
Reservoir – Grays Lane	50,000	10,000	(40,000)	Saving
Reservoirs – Access	200,000	70,000	(130,000)	Transfer to 2018/19
Telemetry Ethernet	283,100	10,100	(273,000)	Transfer to 2018/19
Basalt Court – Booster	181,500	51,500	(130,000)	Transfer to 2018/19
East Ballina – Booster	87,500	57,500	(30,000)	Transfer to 2018/19
PRV – Water Wheels	20,000	0	(20,000)	Transfer to 2018/19
Wastewater				
Emergency Storage Program	66,700	171,000	104,300	Transfer from reserve based on expenditure
Pumping Station - Ballina Airport	195,000	162,000	(33,000)	Transfer to 2018/19

10.5 Capital Expenditure Program - 31 March 2018 Review

Pumping Station – Control Upgrade	100,000	0	(100,000)	Saving
Ballina Treatment Plant – Portable Press	20,000	0	(20,000)	Transfer to 2018/19
Trunk Mains – Gravity Main – Alstonville	1,137,000	797,000	(340,000)	Transfer to 2018/19
Network Servers Pine Avenue	30,000	67,000	37,000	Transfer from reserve based on expenditure
Recycled Water - Communications	10,000	5,000	(5,000)	Saving
Recycled Water Hydrant – Standpipes	40,000	120,000	80,000	Transfer from reserve based on expenditure
Engineering Works – Stormwater				
Coogee Street	5,500	2,500	(3,000)	Transfer as per below
Grant Street	63,300	66,300	3000	Transfer as per above
Engineering Works – Urban and Rural Roads				
Grant Street	593,500	603,500	10,000	Transfer from Bagotville Road
Hutley Drive – North	50,600	2,550,600	2,500,000	Funded from Section 94 and Property Reserve
Hutley Drive – Middle	5,000	15,000	10,000	Funded from Section 94
Ballina Bypass	200,000	50,000	(150,000)	Transfer back to reserve
Simmons Street	116,000	16,000	(100,000)	Transfer to 2018/19
Bagotville Road	301,000	16,000	(285,000)	Transfer to 2018/19 and \$10,000 to Grant Street
T to E Reseals	120,000	130,000	10,000	Transfer from reserve
T to E Patching	150,000	50,000	(100,000)	Transfer back to reserve
Pimlico Road	181,000	205,000	24,000	Transfer from roads reserve
Fernleigh Road (Seg 10)	200,000	153,000	(47,000)	Transfer as per below
Fernleigh Road (Seg 70)	180,000	227,000	47,000	Transfer as per above
Ellis Road	100,000	140,000	40,000	Transfer from roads reserve
Engineering Works – Ancillary				
Coastal Shared Path	850,000	50,000	(800,000)	Transfer to 2018/19

Attachment(s)

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

11.1 Killen Falls - Toilet Sewage Management Evaluation

11. Civil Services Group Reports

11.1 Killen Falls - Toilet Sewage Management Evaluation

Delivery Program Open Spaces and Reserves

Objective To report on options and permissible design for the Killen Falls Toilet Sewage Management System and deviation from the Killen Falls Plan of Management 2017.

Background

In October 2017 Council resolved to adopt the Killen Falls Plan of Management to improve management of the popular public reserve at Killen Falls. The Plan of Management identifies the values, issues and management strategies and actions to provide public safety, amenity and environmental protection at the sensitive site.

The October 2017 resolution additionally resolved:

- *That Council's Long Term Financial Plan be amended to reflect the Financial Plan for implementation of this management plan, as per Table 8 of this report, subject to the public toilet not being constructed until Rous County Council contributes 50% of the cost, with the portable toilets to continue as currently during the November to February period inclusive.*
- *That further consideration be given to a composting toilet.*

Council's financial planning was for the toilet to be constructed in 2018/19 however Rous Water have approved a contribution of approximately \$60,000 towards construction of the toilet and agreed to forward fund the full amount in 2017/18, subject to 50% reimbursement in 2018/19.

The purpose of this report is to clarify the type of works to be undertaken this financial year.

Key Issues

- Compliant Sewage Management System at Killen Falls Public Reserve
- Deviation from the Killen Falls Plan of Management 2017

Information

The Killen Falls Public Reserve area, including the Killen Falls Drive Road Reserve, contains many constraints to obtaining the required approvals to construct a suitable toilet. The potential toilet site is in close proximity to Emigrant Creek, Emigrant Creek Dam, residential properties, a storm water retention basin and protected subtropical lowland rainforest.

11.1 Killen Falls - Toilet Sewage Management Evaluation

A small grassed area near the car park provides the logical location for a toilet block. It is however constrained by a storm water retention basin within the lower grassed area providing the necessary treatment of road and carpark runoff before entering the environment and creek below.

The toilet building would need to be located in the upper half of the grassed area free from the storm water retention basin.

It is envisaged that a single unisex building type similar to that used at Pat Morton car park Lennox Head be constructed with power, water and drinking fountain provided.

The site is underneath the canopy of the rainforest providing for permanent moist conditions so the correct choice of materials that do not rot needs to be undertaken.

Additionally the remote location should guide Council to ensure a durable, easy to clean and vandal proof facility similar to Pat Morton.

Council has liaised with Rous Water technical staff and Council Wastewater technical staff regarding the suitability of sewage management system for the toilet at Killen Falls.

A professional wastewater consultant was engaged to provide an Onsite Sewage Management System Evaluation Report, including the identification of required size based on visitation numbers and investigate options including composting, pump out and Aerated Wastewater Treatment Systems (AWTS) toilets.

A copy of this report is included as Attachment 1.

The report advises that a composting toilet in this location is non-compliant in accordance with Australian Standard 1547:2012 Onsite Domestic Wastewater Management.

Due to the close proximity to Emigrant Creek, it would require numerous systems for the expected visitation numbers and in such public high volume settings, managing the increased liquid volumes becomes unachievable.

This is consistent with advice from the consultant that New South Wales National Parks and Wildlife Service have been converting many of their high volume public compost toilets to pump out and aerated wastewater treatment systems due to composting failures in the high volume public setting.

Further information is provided in the evaluation report.

The recommended AWTS toilet is designed to treat wastewater to a secondary standard which is higher than septic and composting toilets, which is beneficial for such environmentally sensitive areas.

Staff engaged the wastewater consultant Septic Solutions Australia to provide a further Onsite Sewage Management System Design Report to analyse whether this type of toilet can adequately be achieved in this sensitive environmental location.

11.1 Killen Falls - Toilet Sewage Management Evaluation

A copy of the design report is included as Attachment 2.

The AWTS toilet requires power and water supply which currently does not exist at the site but is able to be located to the toilet block site from nearby sources with additional costs involved.

The AWTS as part of its treatment process requires a 280 square metre drip irrigation field to be located on open cleared land and further than 100m from Emigrant Creek.

The Killen Falls Road Reserve outside of Lot 9 DP 635047 is the first available space for such final irrigation field treatment as the carpark area is too close to the creek and heavily shaded.

The treated wastewater from the AWTS toilet block would be pumped out of the buffer area for final treatment in the road reserve corridor.

The AWTS toilet requires an irrigation field which deviates from Figures 8 and 9 of the Killen Falls Plan of Management by requiring the irrigation field treatment be placed in the location of part of the planned overflow car parking area.

The proposed irrigation field road reserve location is the only practical wide enough area for such design treatments. This would result in a reduction of current overflow car parking, impacting on available car parking at Killen Falls during peak times.

The Killen Falls Plan of Management is included as Attachment 3.

A further certified irrigation design by a wastewater consultant, development application for toilet building construction and Section 68 for connection approvals will need to be provided prior to proceeding.

Once Council confirms the toilet system and location, comprehensive technical planning, assessment and costings can be pursued prior to construction.

Sustainability Considerations

- **Environment**
The provision of an Aerated Wastewater Treatment System with irrigation field provides the necessary protection to the sensitive rainforest and Emigrant Creek whilst providing a toilet to the public.
- **Social**
The provision of a toilet will improve public amenity at the popular tourist location.
- **Economic**
The costs will be shared between Rous Water and Council.

Legal / Resource / Financial Implications

The provision of an Aerated Wastewater Treatment System toilet will ensure compliance with Australian Standards and Council's Onsite Sewage Management System Guidelines and Strategies. Rous Water is contributing to half of the costs of providing a toilet at Killen Falls. The provision of power and water for the toilet may increase the amount of funding required, with these costs unknown until detailed design is finalised.

Consultation

Consultation has been undertaken with key Council technical staff, Rous Water technical staff and a professional wastewater consultant to identify options and design a compliant wastewater system.

Consultation with the residents on the location of the irrigation field has not been undertaken. If the Council wishes to proceed, as the irrigation field is a change to the recently adopted Plan of Management, Council may wish to consult again with the local community in respect of the information in this report.

Options

1. Due to the impact on the overflow car parking, Council determines not to proceed with the installation of a permanent toilet at Killen Falls and continues with the provision of a seasonal summer temporary toilet.
2. Council revisits the Plan of Management to investigate alternative overflow parking opportunities before the determination of the installation of a toilet at Killen Falls.
3. Council provides in principle support to the planning and construction of a public toilet at Killen Falls, installing an Aerated Wastewater Treatment System and Irrigation Field, subject to the General Manager advising local residents of Council's preference, with a report to be prepared for Council's determination if the community feedback includes any major concerns that cannot be dealt with during detail design.

Car parking and toilet facilities were both significant matters dealt with through the process to prepare and adopt the Plan of Management. It is unfortunate to consider amending key elements of the plan however this is necessary due to the technical assessment that has now been undertaken.

The recommended option is option three.

The installation of the toilet is a priority and based on the information in this report no other feasible location is apparent for the required irrigation area, albeit this does impact on overflow parking capacity. Therefore, further investigation or revisiting the management plan will delay the installation of the toilet and is unlikely to achieve a better outcome.

11.1 Killen Falls - Toilet Sewage Management Evaluation

Should the Council endorse the proposal to proceed, as only a short period of time has elapsed since the adoption of the Plan of Management the recommendation also proposes Council communicate and explain its intentions to local residents prior to proceeding.

RECOMMENDATIONS

1. That Council authorises the planning and construction of a public toilet at Killen Falls, installing an Aerated Wastewater Treatment System and Irrigation Field, subject to the General Manager advising local residents of Council's preference, with a report to be prepared for Council's determination if the community feedback includes any major concerns that cannot be dealt with during detail design.
2. That Council notes the approval in point one will result in changes to the overflow parking capacity at the site as proposed in the Killen Falls Plan of Management.

Attachment(s)

1. Killen Falls On-Site Sewage Management System Evaluation Report
2. Killen Falls On-Site Sewage Management System Design Report (Under separate cover)
3. Killen Falls Plan of Management 2017 (Under separate cover)

11.2 B-Double Access - 3 Paperbark Close, West Ballina

11.2 B-Double Access - 3 Paperbark Close, West Ballina

Delivery Program Asset Management

Objective To determine Council's response to the request for B-Double access to 3 Paperbark Close, West Ballina

Background

This report is presented to Council to consider a request for B-doubles to use Council roads (Teven Road and Paperbark Close) to access 3 Paperbark Close, West Ballina.

Council has previously endorsed a policy for B-Double and 4.6m High Vehicle Route Assessment for Regional and Local Roads (the "policy"). This policy prevents the consideration of B-Double access on local roads however this request is considered appropriate for approval in the circumstances and is therefore referred to Council for determination.

Key Issues

- B-Double access along a section of Council road
- Amenity and infrastructure impacts

Information

A site plan showing the proposed route and destination is provided in Attachment 1.

The site is currently serviced by semi-trailers and other truck combinations, but not B-Doubles greater than 19m in length.

The section of Teven Road (500m) and Paperbark Close (50m) are considered suitable for B-doubles to service this site. This proposal is being presented to Council as our policy restricts B-doubles to existing industrial areas. This site is not located within the nominated industrial areas, however it has suitable road infrastructure and is in close proximity to approved B-Double routes being the Pacific Highway and the Bruxner Highway.

Under the current arrangements, a B-Double would need to uncouple at a location on the approved route, and transport the trailers separately to the site. For such a short distance this is not considered necessary and creates additional truck movements.

With the recent Pacific Highway upgrades, this section of Teven Road has been upgraded with improved access to the Bruxner Highway. The West Ballina interchange is nearby and provides good access to the Pacific Highway.

This locality has received previous Council support for additional permitted uses for transport and warehousing services. One of the key benefits of this site is the proximity to both the Bruxner and Pacific Highways.

Sustainability Considerations

- **Environment**

The introduction of B-doubles has the intention of reducing the number of heavy vehicles required to move commodities as a result of increased payloads for each trip. The stringent vehicle mechanical specifications aim to reduce road wear for freight tasks and result in lower environmental impacts.

- **Social**

The use of B-doubles is commonplace and generally accepted by other road users. These vehicles are generally modern vehicles due to the strict safety and mechanical requirements. Drivers must also adhere to strict regulations and this provides a safety advantage to the community.

- **Economic**

The use of B-doubles enables costs reductions due to the increase in payload capacity when compared to standard articulated vehicle combinations.

Legal / Resource / Financial Implications

The nominated sections of Teven Road and Paperbark Close are Council public roads which are owned and maintained by Council. These roads are of a suitable standard for the proposed B-double servicing of this site. There are no anticipated implications for Council should B-double access be approved.

Consultation

In consultation with the property owner, Council staff inspected the local roads and site access as a B-double travelled the proposed route. There was no adverse traffic issues observed.

Options

1. That the Council supports the request for B-double access via Teven Road and Paperbark Close to 3 Paperbark Close, West Ballina.
2. That the Council opposes the request for B-double access via Teven Road and Paperbark Close to 3 Paperbark Close, West Ballina.

Option one is recommended. The site is in very close proximity to major highways and is serviced by suitable local infrastructure. Whilst this recommendation is not consistent with Council's policy, the individual circumstances of this application have been considered to warrant approval.

RECOMMENDATION

That Council approve the application for B-double access via Teven Road and Paperbark Close to 3 Paperbark Close, West Ballina.

Attachment(s)

1. Locality Plan

11.3 Tender - Surf School Licences

11.3 Tender - Surf School Licences

Delivery Program Open Spaces and Reserves

Objective To finalise the tender assessment for the issuing of Surf School Licences.

Background

The Commercial Activities on Public Land policy gives provision for the issuing of five surf school licences, six elite surf coaching licences and three stand up paddle boarding licences. At the January 2018 Ordinary meeting, Council resolved to determine the fee levels for the licences for the next three years and endorsed assessment criteria to be used to evaluate tenders.

Tenders were advertised in March and at the close of the tender period on 21 March 2018, six tenders were received for five surf school licences, four tenders were received for six elite surf coaching licences and two tenders were received for three stand up paddle boarding licences.

This report provides an overview of the tender assessment.

Key Issues

- Compliance with the Local Government (General) Regulation 2005
- Fair and transparent process

Information

The evaluation criteria and weightings were in accordance with the report to Council in January and were noted within the tender as:

Capability	25 %
Relevant Experience	25 %
Social & Community Benefit	25 %
Safety and WH&S Systems	25 %

Tenders were received as follows:

Surf School Licences

- Stoked Surf School
- Kool Katz Learn Tosurf
- Mojosurf
- Lets Go Surfing
- Craig S Hutchings
- Soul Surf School

11.3 Tender - Surf School Licences

Elite Surf Coaching

- Jenny Boggis Surf Coaching & Personal Training
- Ability Surf
- Mojosurf
- Rubber Soul Board Riding

Stand Up Paddle Boarding

- Mojosurf
- Lets Go Surfing

In accordance with the tender ranking provided as a separate confidential memorandum, it is proposed to award the following licences:

Surf School Licences

- Stoked Surf School
- Kool Katz Learn Tosurf
- Mojosurf
- Lets Go Surfing
- Soul Surf School

Elite Surf Coaching

- Jenny Boggis Surf Coaching & Personal Training
- Ability Surf
- Mojosurf
- Rubber Soul Board Riding

Stand Up Paddle Boarding

- Mojosurf
- Lets Go Surfing

The only licence application that has been excluded is from Craig S Hutchings for a surf school licence. As per the details in the separate memorandum, this submission is considered compliant however it was ranked lower than the other submissions with relevant experience and relative capability in particular contributing to the final score in the weighted criteria assessment.

Existing licences for surf schools, elite surf coaching and stand up paddle boarding are due to expire on 30 April 2018. It is proposed that all new licences will be issued from 1 May 2018 for a three year period.

Sustainability Considerations

- **Environment**
By managing the licences Council is taking steps to minimise any negative impacts on the environment and ensure an appropriate balance between public recreation and commercial business.

11.3 Tender - Surf School Licences

- **Social**

Surf School licences provide a social activity for participants however it is important to ensure an appropriate balance between economic and public benefit, and to preserve the amenity of the coastal areas.

- **Economic**

Council generates an income from the licences which offsets a small portion of the expenses associated with maintaining the Coastal Reserve.

Legal / Resource / Financial Implications

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

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(s) 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.*

Accordingly,

1. Council may award licences to the nominated companies.
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 service providers.

11.3 Tender - Surf School Licences

Option two is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005.

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 tenderers.

In respect to unallocated licences, it is recommended that approval be given to the General Manager to fill any vacant licence positions.

RECOMMENDATIONS

1. That Council award the following Surf School licences for a three year period commencing 1 May 2018;

Surf School Licences

- Stoked Surf School
- Kool Katz Learn Tosurf
- Mojosurf
- Lets Go Surfing
- Soul Surf School

Elite Surf Coaching

- Jenny Boggis Surf Coaching & Personal Training
- Ability Surf
- Mojosurf
- Rubber Soul Board Riding

Stand Up Paddle Boarding

- Mojosurf
- Lets Go Surfing

2. That delegated authority be given to the General Manager to approve future compliant submissions for the remaining vacant licences.

Attachment(s)

Nil

11.4 Tender - Consulting Services for Wollongbar Residential Estate

11.4 Tender - Consulting Services for Wollongbar Residential Estate

Delivery Program Commercial Services

Objective To finalise the tender for professional consulting services to seek approvals and manage development of the Wollongbar Residential Estate - Stage 3.

Background

Council's residential land holdings in the Wollongbar Urban Release Area comprise three stages:

- Stage 1 - 15 lots; completed with all lots sold and settle
- Stage 2 - 18 lots; completed with all lots sold and settlement of contracts due in May 2018
- Stage 3 - Undeveloped and forming the subject of this report.

Based on preliminary concept plans Stage 3 will yield 31 lots as follows:

- 30 standard residential lots with an average area of 622m²
- One larger lot, approximately 2,000m², proposed to be sold off to the private sector for development of a childcare facility.

To proceed with development of Stage 3 a development application and civil construction certificate need to be prepared and lodged for approval. The professional services required to prepare the applications to seek these approvals and manage the project form the subject of this report.

Key Issues

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

Information

Tenders were received from the following consultants:

- Newton Denny Chapelle
- Ardill Payne & Partners
- Planit
- Ingen
- MJM
- Cardno

The evaluation criteria and weightings were determined in accordance with Council's "Local Procurement Policy" and were noted within the tender as:

11.4 Tender - Consulting Services for Wollongbar Residential Estate

Mandatory Criteria

- Public Liability Insurance
- Workers' Compensation Insurance
- Professional Indemnity Insurance

Weighted Criteria

- Total Price 40%
- Experience and Past Performance 45%
- Local & Community 15%

Pricing information and tender ranking has been provided by separate memorandum to Councillors.

The tender from Newton Denny Chapelle is highest ranked when the non-priced and priced evaluation criteria are combined. Newton Denny Chapelle provided professional consulting services for Stages 1 and 2 of Wollongbar Residential Estate and performed exceedingly well in delivering successful projects to Council and liaising the adjoining owners (Avalon Estate).

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**
Not Applicable

- **Economic**
The development of Wollongbar Residential Estate Stage 3 will provide additional serviced residential lots on the Wollongbar Plateau and finalise development of Council's residential land holdings in this area.

Legal / Resource / Financial Implications

Council has undertaken a public tender process in accordance with the Local Government (General) Regulations 2005. As with Stages 1 and 2, Council staff will be involved managing the consultant selected and budget allocated to the project. For the purposes of this report an indicative feasibility assessment has been prepared for Stage 3 as follows:

Estimated gross sale proceeds		9,377,000
Less		
	GST	852,000
	Selling Expenses	328,000
		1,180,000
	Sub Total	8,197,000
Less		
	Estimated development costs incl. professional fees and contingency	3,993,000
	Council development contributions	1,320,000
	Sub Total	5,313,000
Estimated development profit		\$2,884,000

This initial assessment indicates the proposed project to be viable.

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.*

Accordingly:

1. Council may award the contract to Newton Denny Chapelle to provide professional consulting services for the development of Wollongbar Residential Estate Stage 3.
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 service providers.

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.

RECOMMENDATIONS

1. That Council authorises the General Manager to accept the tender from Newton Denny Chapelle to provide professional consulting services for the development of Wollongbar Residential Estate Stage 3, as per the information outlined in this report.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.5 Tender - Expansion of Airport Terminal Building

11.5 Tender - Expansion of Airport Terminal Building

Delivery Program Commercial Services

Objective To determine the tender for construction works to expand the Airport terminal building.

Background

Over the past eight years passenger numbers for the Ballina Byron Gateway Airport (“the Airport”) have grown from 272,000 in 2010 to 526,000 per annum as at 31 March 2018.

In recent years Airport staff identified the need to expand the size of the Airport terminal building due to the increasing passenger numbers and changes in security screening.

Concept plans for expansion of the terminal building and car park were prepared in anticipation of government funding being available for such a project. The estimated cost of these works was in the order of \$6.5 million.

In December 2016 a grant \$4.5 million was secured under the NSW State Government’s “Restart NSW Program”.

STEA were appointed project architect and lead consultant to prepare plans and documentation for the project.

At a meeting of the Finance Committee held on 16 March 2017, Council approved a development budget of \$6.9 million for the project to be funded by the Restart grant of \$4.5 million and a loan of \$2.4 million.

In July 2017 the JRPP granted development approval for the project and following on from this, STEA proceeded to prepare detailed designs and documentation for lodgment of a construction certificate application and calling of construction tenders.

In November 2017 RMCP Pty Ltd were appointed as project manager for the project.

In late 2017 and early 2018 a review of the car park component of the project was undertaken.

Following on from this review it was decided to remove the car park component from the proposed works to reduce the risk of cost overruns and until such time as the development application for Airport Boulevard was determined.

If approved, Airport Boulevard will link into the Airport car park with associated cost implications.

Tenders for construction were called on 6 March, 2018 and closed on 11 April, 2018. That tender forms this subject of this report.

11.5 Tender - Expansion of Airport Terminal Building

Key Issues

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

Information

Tenders were received from the following building contractors:

- Woollam Constructions
- Greg Clark Building
- Patterson Building Group
- Alder Constructions
- Boulus Constructions

The evaluation criteria and weightings were determined in accordance with Council's "Local Procurement Policy" and were noted within the tender as:

Mandatory Criteria

Management Systems

- Quality Assurance System developed in accordance with ISO 9000.
- Work Health and Safety System developed in accordance with ISO 4801.
- Environmental Management Plan developed in accordance with ISO 14001.

Appropriate Insurance Cover

- Public Liability Insurance - \$20 million cover
- Professional Indemnity Insurance - \$10 million cover
- Workers' Compensation Insurance
- Willingness to undertake Works Insurance Cover
- Workers Compensation

Weighted Criteria

- | | |
|-----------------------------------|-----|
| • Total Price | 40% |
| • Experience and Past Performance | 45% |
| • Local & Community | 15% |

Boulus Constructions was the only proponent that did not provide evidence of professional indemnity insurance cover and as such is deemed to be non-conforming.

Pricing information and ranking of tenders by weighted criteria has been provided by separate confidential memorandum to Councillors.

The tender from Woollam Constructions is highest ranked when the non-priced and priced evaluation criteria are combined.

Woollams have had extensive experience with airport terminal projects throughout Australia and provided a construction program eleven weeks shorter than the next preferred tender which reflects their experience with such projects.

11.5 Tender - Expansion of Airport Terminal Building

Sustainability Considerations

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

- **Economic**

The expansion of the terminal building will improve the operational efficiency of the Airport by allowing it to deal with a greater number of passengers and provide those passengers with an improved travel experience to the Far North Coast Region. The continued growth of the Airport has a positive effect on the Far North Coast economy.

Legal / Resource / Financial Implications

Council has undertaken a public tender process in accordance with the Local Government (General) Regulations 2005. As with other Council projects, Council staff will be involved liaising with the project manager and managing the allocated budget.

A budget of \$6.9 million was allocated to this project at a Finance Committee meeting held on 16 March, 2017. A summary of the development budget to date is summarized as follows:

Funding Sources			
	Restart NSW	4,500,000	
	Council loan funds	<u>2,400,000</u>	
Total Project Budget			6,900,000
Less			
	Expenditure 2016/2017	574,416	
	Expenditure 2017/2018	<u>172,600</u>	
			<u>747,016</u>
Remaining Project Budget			<u><u>\$6,152,984</u></u>

This budget allocation is for both the terminal building expansion and the car park upgrade.

The price tendered by Woollam Constructions is within the amount budgeted for the terminal component of the 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.*

11.5 Tender - Expansion of Airport Terminal Building

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.*

Accordingly:

1. Council may award the contract to Woollam Constructions for construction works to expand the Ballina Byron Gateway Airport terminal building.
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 service providers.

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.

RECOMMENDATIONS

1. That Council authorises the General Manager to accept the tender from Woollam Constructions for construction works to expand the Ballina Byron Gateway Airport terminal building, as per the information outlined in this report.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Rescission Motion - DA 2017/679 - 77 Teven Road, Alstonville

13. Notices of Motion

13.1 Rescission Motion - DA 2017/679 - 77 Teven Road, Alstonville

Councillor Cr Jeff Johnson
Cr Willis
Cr Cadwallader

We move

That Resolution 220318/5, as follows, be rescinded:

*That Development Application 2017/679 for a Torrens title subdivision to create 10 residential allotments, construction of one road, installation of public infrastructure services, demolition of existing dwelling house and vegetation management works for the removal of one Lilly Pilly tree at Lot 83 DP 239781, 77 Teven Road, Alstonville be **APPROVED** subject to the application of standard planning, building and engineering conditions and specific conditions identified within this report.*

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

*That Development Application 2017/679 for a Torrens title subdivision to create 10 residential allotments, construction of one road, installation of public infrastructure services, demolition of existing dwelling house and vegetation management works for the removal of one Lilly Pilly tree at Lot 83 DP 239781, 77 Teven Road, Alstonville be **REFUSED** on the grounds that future residents of the subdivision will be subject to unreasonable amenity impacts in terms of noise, dust and odour from the Tuckombil Quarry and the Boral Asphalt Plant, and that the development does not technically have a legal point of discharge for stormwater.*

COUNCILLOR RECOMMENDATION

That Resolution 220318/5, as follows, be rescinded:

*That Development Application 2017/679 for a Torrens title subdivision to create 10 residential allotments, construction of one road, installation of public infrastructure services, demolition of existing dwelling house and vegetation management works for the removal of one Lilly Pilly tree at Lot 83 DP 239781, 77 Teven Road, Alstonville be **APPROVED** subject to the application of standard planning, building and engineering conditions and specific conditions identified within this report.*

Attachment(s)

Nil

13.2 Notice of Motion - Councillor Expenses

13.2 Notice of Motion - Councillor Expenses

Councillor Cr Meehan
 Cr Eoin Johnston
 Cr Wright

We move

That Council approves the late expense claims for Cr Jeff Johnson for the following periods and amount:

July – November 2017 - \$716.80

Staff Comment

A similar motion was lost at the 22 March 2018 Ordinary meeting. This means that to consider this matter again within a three month period, a notice of motion must include three signatures. This notice complies with the requirements of the Local Government Act. If the motion is again lost it cannot be re-considered for three months.

COUNCILLOR RECOMMENDATION

That Council approves the late expense claims for Cr Jeff Johnson for the following periods and amount:

July – November 2017 - \$716.80

Attachment(s)

Nil

13.3 Notice of Motion - Amendment to Ballina LEP - Function/Event Venues

13.3 Notice of Motion - Amendment to Ballina LEP - Function/Event Venues

Councillor Cr Meehan

I move

That Council proceed to prepare a planning proposal to amend both the 2012 and 1987 local environmental plans to prohibit function/event venues that cater for weddings and other similar events in both rural zoned and environmental protection zoned areas within Ballina Shire.

Councillor Comment

- At the March 2018 Ordinary Council Meeting, Council resolved (8-1) to refuse development of a place of assembly (function centre) on a North Teven Road property which is zoned 1(b) Rural (Secondary Agricultural Land) under the Ballina LEP 1987. It had been proposed that the development would largely be a wedding venue facility. In refusing the application it was stated, "Council is not satisfied that the proposed development will not have an unreasonable impact on the surrounding properties and the rural locality".
- The intention of this motion is to bring this position of council and the Ballina Shire LEPS into synchrony, as it is likely that into the future more development applications for such venues in rural zones will be submitted to Council.
- There are a number of zones under the LEPS where this type of use is already prohibited. The result of the motion would be to broaden this prohibition to cover all rural and environmental protection zones (particularly the RU2 Rural Landscape Zone under the Ballina LEP 2012 and the 1(b) Rural (Secondary Agricultural Land) zone under the 1987 LEP).
- A further intention of the motion is not to restrict rural tourist facilities, eco-tourism and the like that are of a small scale or uses such as environmental education facilities.
- The effect of the above motion would be to cause staff to prepare a full planning proposal which will document the desired objectives, technical issues and the suggested approach to achieving the outcomes sought. This document would then be reported to Council to confirm the approach and if endorsed, the material would then be provided to the Department of Planning and Environment for review. If the amendment is allowed to proceed by the Department, we would then progress to a public exhibition phase prior to reporting back to Council again on the outcomes of the exhibition and to seek direction on completing the amendment.

13.3 Notice of Motion - Amendment to Ballina LEP - Function/Event Venues

- If the proposal progresses to the public exhibition stage, staff recommends notifying affected landholders directly. Given the number of properties involved, this is expected to have a cost in the order of \$3,000 to \$4,000 inclusive of required advertising. This cost can be met from existing operating budgets within strategic planning.

COUNCILLOR RECOMMENDATION

That Council proceed to prepare a planning proposal to amend both the 2012 and 1987 local environmental plans to prohibit function/event venues that cater for weddings and other similar events in both rural zoned and environmental protection zoned areas within Ballina Shire.

Attachment(s)

Nil

13.4 Notice of Motion - Community Engagement Transparency Policy

13.4 Notice of Motion - Community Engagement Transparency Policy

Councillor Cr Smith

I move

That Council modify its community engagement policies so that any community group wishing to participate in any formal community stakeholder engagement, for example such as Workshops, Community Forums, Ward Committees etc must publicly provide a list of the current board/executive (with positions) and a copy of the community group's constitution.

This does not preclude groups of individuals from providing input, it simply sets an open standard that to participate in formal community consultation as a group (as opposed to an individual or group of individuals) that this basic level of transparency must be provided.

Councillor Comment

Council's current community engagement policies lack transparency in an important area creating a risk whereby individuals or special interests can manipulate the outcomes of Council.

Within Council's existing policies as an example, it's acceptable for a developer to create an anonymous "High Rise for Ballina" community group, have that group provide formal input into Council's policy development and have it accepted as community input without any transparency as to who the group actually represents and if the group has any level of transparency in its function.

This motion will mean that anyone or group of individuals who wish to engage with Council, not as individuals, but as a community stakeholder must provide a basic level of transparency to demonstrate the group's underlying foundation is a community group.

COUNCILLOR RECOMMENDATION

That Council modify its community engagement policies so that any community group wishing to participate in any formal community stakeholder engagement, for example such as Workshops, Community Forums, Ward Committees etc must publicly provide a list of the current board/executive (with positions) and a copy of the community group's constitution.

This does not preclude groups of individuals from providing input, it simply sets an open standard that to participate in formal community consultation as a group (as opposed to an individual or group of individuals) that this basic level of transparency must be provided.

Attachment(s) – Nil

13.5 Notice of Motion - Festivals and Events Taskforce

13.5 Notice of Motion - Festivals and Events Taskforce

Councillor

Cr Cadwallader

I move

That Council establish a Festivals and Events Taskforce, following an expression of interest process, to explore opportunities to support organisers in the community with funding and organisation of their events.

Councillor Comment

It was very disappointing to hear a business operator in the community say that Ballina was fast gaining a reputation of "Bring a Festival or Event to Ballina if you want it to die." Community events do take an enormous amount of commitment, energy, enthusiasm, volunteerism and support from Council. Rather than just accepting the difficulty and demise of festivals and events in the shire I believe council can be a conduit in bringing organisers together to share ideas, resources, knowledge and experience that will give festivals and events a far better chance of survival. It would be remiss of Council not to take a proactive approach. After all, we as a Council do have skin in the game because on behalf of the community, we do assist financially, to run these festivals and events.

COUNCILLOR RECOMMENDATION

That Council establish a Festivals and Events Taskforce, following an expression of interest process, to explore opportunities to support organisers in the community with funding and organisation of their events.

Attachment(s)

Nil

14.1 Finance Committee Minutes - 17 April 2018

14. Advisory Committee Minutes

14.1 Finance Committee Minutes - 17 April 2018

Attendance

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

Paul Hickey (General Manager), John Truman (Group Manager Civil Services), Matthew Wood (Group Manager Development and Environmental Health), Linda Coulter (Manager Financial Services), Cheyne Willebrands (Manager Open Spaces and Resource Recovery), Christine Pitman (Strategic Waste Officer), Craig Brown (Manager Community Facilities) and Sandra Bailey (Secretary) were in attendance.

There were no people in the gallery at this time.

1. Apologies

Apologies were received from Cr Sharon Parry and Cr Jeff Johnson.

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

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

2. Declarations of Interest

Nil

3. Deputations

Nil

4. Committee Reports

4.1 Policy (Review) - Donations - Financial Assistance

RECOMMENDATION

(Cr Phillip Meehan/Cr Ben Smith)

1. That Council adopts the amended Donations – Financial Assistance for Community Groups Policy, as attached to this report.
2. That Council places this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.
3. That Council approves the request for a donation of \$780 to the Alstonville Plateau Historical Society to refund their payment for repairs to Crawford House Museum to provide a donation
4. That Council confirms its support for the General Manager to waive the Council developer contribution fees of \$13,616.61 paid by Biala Support Services Inc for development consent 2017/258.
5. Council endorses this application for the following reasons:
 - a) The applicant is a not for profit organisation providing an important community service for the Ballina Shire; and
 - b) The consent relates to a capital infrastructure project that will deliver community based services.
6. That Council authorizes the General Manager to make application to Rous County Council for the waiver of their developer contribution charges (\$4,033.92) for development consent 2017/258 with the waiver of those charges a matter for Rous to determine.

FOR VOTE - All Councillors voted unanimously.

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

4.2 Policy (Review) - Investment Policy

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts the Investment Policy, as attached to this report, amending Credit Risk Parameters as per Table B of this report.
2. That in the event that the Ministerial Investment Order or the Investment Policy Guidelines be revised by the Office of Local Government, a further report be provided to Council within three months of that revision.
3. That Council place the policy on exhibition for public comment, with any submissions received to be resubmitted back to Council.

FOR VOTE - All Councillors voted unanimously.

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

4.3 Waste Operations - Long Term Financial Plan

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council endorses the revision of the fees and charges as per Table Two of this report, along with the inclusion of the revised LRM and DWM long term financial plans in the draft 2018/19 Delivery Program and Operational Plan for public exhibition.

FOR VOTE - All Councillors voted unanimously.

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

4.4 North East Weight of Loads Group (NEWLOG)

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council notes the contents of the NEWLOG Annual Report for 2016/17.
2. That Council endorses the draft NEWLOG budget for 2018/19.

FOR VOTE - All Councillors voted unanimously.

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

4.5 **Social and Community Plans**

RECOMMENDATION

(Cr Nathan Willis/Cr Sharon Cadwallader)

1. That Council notes the contents of this report in respect to the preparation of Social and Community Plans.
2. That Council's website is updated to include additional links to demographic and research data to improve the social and community information available, as outlined in this report.

FOR VOTE - All Councillors voted unanimously.

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

4.6 **Plant Replacement Program**

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That the draft 2018/19 Delivery and Operational Plan include a fleet procurement program as per the contents of this report.

FOR VOTE - All Councillors voted unanimously.

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

4.7 **Grant Opportunity - Regional Growth Fund**

A **Motion** was moved by Cr Sharon Cadwallader

That Council proceed with the initial application under the Regional Growth Fund for the western arterial road as the priority.

The **Motion LAPSED**.

RECOMMENDATION

(Cr Ben Smith/Cr Keith Williams)

1. That Council proceed with the initial application under the Regional Growth Fund for the Duplication of Entry Roads (North and West Ballina) Projects, including the Ballina Town Entry program.
2. That Council hold a Councillor briefing on the strategic traffic model and Section 94 Roads Contribution Plan.

FOR VOTE - All Councillors voted unanimously.

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

4.8 **Fees and Charges - 2018/19**

A **Motion** was moved by Cr Ben Smith and seconded by Cr Nathan Willis

That Council approves the exhibition of the draft schedule of fees and charges for 2018/19 as attached, including any amendments resulting from this meeting.

An **Amendment** was moved by Cr Sharon Cadwallader and seconded by Cr Stephen McCarthy

That Council approves the exhibition of the draft schedule of fees and charges for 2018/19 as attached, including:

- a ferry ticket book for heavy vehicles as a trial, at a discount of 20%.

The **Amendment** was **LOST**.

FOR VOTE - Cr Stephen McCarthy and Cr Sharon Cadwallader

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith

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

An **Amendment** was moved by Cr Nathan Willis and seconded by Cr Keith Williams

That Council approves the exhibition of the draft schedule of fees and charges for 2018/19 as attached, including:

- a ferry season ticket for heavy vehicles for a 12 month trial, based on an average of one return trip per week
- the pensioner concession based on 50% (from 30%) for the ferry fees for a 12 month trial.

The **Amendment** was **LOST**.

FOR VOTE - Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

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

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

FOR VOTE - All Councillors voted unanimously.

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

RECOMMENDATION

(Cr Ben Smith/Cr Nathan Willis)

That Council approves the exhibition of the draft schedule of fees and charges for 2018/19 as attached, including any amendments resulting from this meeting.

FOR VOTE - All Councillors voted unanimously.

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

Cr Eoin Johnston left the meeting at 05:40 pm.

4.9 Workforce Plan - 2018/19

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council approves the reallocation of the capital expenditure projects for stormwater, as outlined in this report, to fund a new permanent position of stormwater officer to achieve improved outcomes for Council's stormwater management program.
2. That Council approves the exhibition of the draft Workforce Plan as part of the exhibition of the draft 2018/19 Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.

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

4.10 Long Term Financial Plan - General Fund

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.

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

4.11 Delivery Program and Operational Plan - Exhibition

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council approves the exhibition of the draft Delivery Program and Operational Plan document, as attached to this report, inclusive of any changes arising from this meeting.

FOR VOTE - All Councillors voted unanimously.

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

4.12 Swimming Pools Redevelopment - Update

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council approves the revised 2017/18 budget for the swimming pools as per Tables One and Two of this report.
2. That Council approves the revised project redevelopment budgets for the swimming pools as per Tables Three and Four of this report.
3. That Council authorises the General Manager to obtain additional loan funding of up to a maximum of \$800,000 (if needed) to finance the extra costs for the redevelopment relating to the asbestos removal and power augmentation.
4. That Council approves the commencement of the 2018/19 swimming pool season based on an opening date of late July / 1 August, and a closing date of 31 May 2019. That Council notes that it is also planned to open to 7pm Monday to Friday to provide an improved level of service to the community.
5. That Council approves the inclusion of the swimming pool financial plan and draft fees and charges, as attached to this report, in the draft 2018/19 Delivery Program and Operational Plan for public exhibition.
6. That Council receive regular reports on the performance, both financial and otherwise, on the operation of the swimming pools during the 2018/19 to allow assessments to be made on the length of the season, the pricing and the operating hours.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Nathan Willis and Cr Keith Williams

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

5. Confidential Session

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

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

5.1 Swimming Pools Redevelopment - Contract Dispute (Confidential)

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it contains information that if released, could prejudice the outcome of any possible litigation.

FOR VOTE - All Councillors voted unanimously.

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

(The Council moved into Confidential Session at 6.00 pm).

Open Council

RECOMMENDATION

(Cr Nathan Willis/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.

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

(The Council moved into Open Council at 6.07 pm).

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

5.1 Swimming Pools Redevelopment - Contract Dispute (Confidential)

RECOMMENDATION

(Cr Ben Smith/Cr Phillip Meehan)

1. That Council notes the information regarding the contractual dispute with Woollams Constructions for the Swimming Pools Redevelopment Project and authorises the General Manager to deny the claim and confirm to Woollams, Council reserves all of its contractual rights in respect of this dispute.
2. That Council notes the legal advice in respect to the power augmentation associated with the Swimming Pools Redevelopment Project and authorises the General Manager to commence action as per that advice.

FOR VOTE - All Councillors voted unanimously.

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

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Ben Smith/Cr Nathan Willis)

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

FOR VOTE - All Councillors voted unanimously.

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

MEETING CLOSURE

6.08 pm

RECOMMENDATION

That Council confirms the minutes of the Finance Committee meeting held 17 April 2018 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

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

<u>Date</u>	<u>Function</u>
17/3/18	Meeting - 77 Teven Road DA, Meeting – Coolgardie Road Condition
18/3/18	Classic Motor Bikes - Alstonville
20/3/18	Meeting - Northern Light Candle Company, Net Trials, Boral Asphalt
24/3/18	A Fete to Remember – Wollongbar
26/3/18	Meeting – James Foster and Planning – Smith Drive
26/3/18	Meeting – Ballina Junior Rugby League, Lennox Head Vision
27/3/18	Meeting – Ralph Mamone – Shellys on the Beach
28/3/18	Healthy Waterways Seminar – Ballina Beach Resort
1/4/18	Commemoration Park Markets
4/4/18	NSW Regional Infrastructure Funding, Meeting – Tony Ellis – Access
5/4/18	Meeting – Tamara Smith and GM, Gallery Opening – 'LOUD'
6/4/18	U3A Ballina Byron Inc Seniors Expo
6/4/18	Meeting and Funding Announcement – Ben Franklin
6/4/18	Ballina Lighthouse Surf Club Thank You
7/4/18	Bullinah Health Service – Ten Years, Alstonville Orchid Society
8/4/18	Lennox Head Markets, Commemoration Park Markets
10/4/18	Alstonville/Wollongbar Chamber of Commerce – Summerland House
10/4/18	NSW Local Government Grants Commission, Citizenship Ceremony
11/4/18	JRPP - Lennox Head
12/4/18	Briefing – Stormwater Capital Expenditure and Priorities, Pontoons
13/4/18	Skulcandy Funding – Ben Franklin, RMS – Update Pacific Highway
15/4/18	Commemoration Park Markets, Ballina Markets
16/4/18	Ben Franklin – Williams Reserve Lights – Ballina Tennis
16/4/18	Meeting – Ice skating – Cherry Street Sports
17/4/18	Finance Committee
18/4/18	Local Traffic Committee, Meeting – Richmond River Rescue
18/4/18	Wardell Progress Association
20/4/18	Meeting - Terry Woods - Quarry
21/4/18	Alstonville Markets
22/4/18	Commemoration Park Markets
23/4/18	Anzac Service – RSL LifeCare
24/4/18	Official Opening – Wollongbar Sport Fields
25/4/18	Anzac Day Dawn Service – Ballina
25/4/18	Anzac Day Service – Alstonville, Ballina
26/4/18	Council Meeting, Reserve Trust Meeting
26/4/18	Shirley White – Presentation
29/4/18	Lennox Head Markets, Commemoration Park Markets
29/4/18	Ballina Country Music Fund Raising Day – Ballina RSL

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 Swimming Pool Redevelopment - Contract

Refer to Item 4.12 of Council's Finance Committee agenda for 17 April 2018, titled Swimming Pools Redevelopment – Update.

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 Swimming Pool Redevelopment - Contract

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business; and
- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the release of this information would place Council at a commercial disadvantage in respect to the negotiations taking place.