



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 22 March 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.

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1. Australian National Anthem
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1. Australian National Anthem

The National Anthem will be performed by Ballina Public School.

2. Acknowledgement of Country

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

3. Apologies

An apology has been received from Cr Sharon Cadwallader.

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 February 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 February 2018.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7.1 Mayoral Minute - Ballina Country Music Festival

7. Mayoral Minutes

7.1 Mayoral Minute - Ballina Country Music Festival

Councillor David Wright

I move

That Council supports the annual payment of \$30,000 from Council's Festivals and Events funding program, to the Ballina Country Music Festival, for the three year period from 2018/19, 2019/20 and 2020/21.

Councillor Comment

Council resolved at the November 2017 Ordinary meeting to provide a \$20,000 contribution from the Festival and Events funding program to the Ballina Country Music Festival for the 2018/19 financial year.

Councillors met with Carol Stacy on Wednesday 14 March 2018 where she presented a case that the festival could not continue without increased Council funds.

RECOMMENDATION

That Council supports the annual payment of \$30,000 from Council's Festivals and Events funding program, to the Ballina Country Music Festival, for the three year period from 2018/19, 2019/20 and 2020/21.

Attachment(s)

Nil

8.1 DA 2017/557 - Place of Assembly and Tourist Facility

8. Development and Environmental Health Group Reports

8.1 DA 2017/557 - Place of Assembly and Tourist Facility

Applicant	Byron Highlander Estate Pty Ltd
Property	Lot 1 DP 204760, North Teven Road, TEVEN
Proposal	Establishment of a Place of Assembly (Function Centre and Refreshment Room) and Change of Use of an Approved Dwelling House to a Tourist Facility (Accommodation)
Effect of Planning Instrument	The land is zoned 1 (b) – Rural (Secondary Agricultural Land) under the provisions of the Ballina LEP 1987
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of Development Application 2017/557 for the establishment of a place of assembly (function centre and refreshment room) and a change of use of an approved dwelling house to a tourist facility (accommodation) at Lot 1 DP 204760, North Teven Road, Teven.

The purpose of this report is to seek Council's determination of the subject application, in accordance with the resolution 231117/12 at Council's Ordinary Meeting held on 23 November 2017, "*That DA 2017/557 be called in and dealt with by Council*".

Details of Proposal

The proposed development involves two inter-related components, being:

- the erection of a purpose built building for use as a place of assembly (function centre and refreshment room); and
- the change of use of the approved dwelling house (DA 2016/601) to a tourist facility (accommodation).

The proposed place of assembly building is to contain a main function hall with kitchen and toilets. There is to be a deck constructed on the southern side of the building, with a segregated area for function photography. The building is also to contain a storage area for tables and chairs.

The place of assembly building is to have an area of approximately 300m² and is to be single storey construction (5.7m in height). Construction materials are to comprise of timber framed walls, with insulated render board cladding in a grey colour. The roof is to be constructed from colourbond in iron stone. Large acoustic glass sliding doors and fixed glass windows are to be installed on the southern elevation of the building. Extensive cross ventilation louvre windows have been shown to be installed on the northern and eastern elevations.

The storage area (for tables and chairs) attached to the place of assembly building is proposed to be constructed of a corrugated steel cladding in a natural steel finish, with some louvre windows provided on the western and southern elevations.

A total of 34 car parking spaces are to be formally provided, with a grassed overflow parking area shown along the internal driveway (in close proximity to the car park), which can accommodate at least an additional 11 spaces. The applicant has advised that the dominant form of transport for guests to the development will be small 33 seater buses, to be arranged by the on-site manager or event co-ordinator.

The plans provided with the development application illustrates that landscaping works are to occur around the perimeter of the new building to complement its use and provide an appropriate backdrop for events/functions.

The proposed place of assembly is to be erected adjacent to the site of the approved dwelling house.

Two new advertising signs are to be erected on the site, one at the entry to the property and the other internally within the site, along the access driveway. Both signs are to be 2.4m in height and 1.2m in width. A 600mm x 600mm panel displaying "Bathhouse Aqueous, Receptions and Functions" is to be attached to the signage structures.

The change of use of the dwelling house to a tourist facility involves minimal changes to the approved design of the dwelling house. It is noted that four bedrooms are contained within the approved dwelling house, of which three are located on the first floor and one is located on the ground floors. Works are proposed to the bedroom on the ground floor of the building to provide an accessible bedroom and bathroom. Further works are proposed on the ground floor in order to provide a one bedroom manager's residence, with a small kitchenette and bathroom (as opposed to the approved rumpus room and bathroom).

A total of five car parking spaces, comprising three regular sized car parking spaces, one designated accessible parking space and a dual use accessible parking space/unloading area. The car parking area for the tourist facility is to be accessed via the same internal access driveway to the place of assembly building.

In relation to the operation of the proposal, the applicant has advised:

- The accommodation to be offered in the approved dwelling house will be for persons attending functions within the place of assembly building. The two buildings, therefore, will be pre-booked as a package deal.

8.1 DA 2017/557 - Place of Assembly and Tourist Facility

- The refreshment room will only be available for catered events and there is to be no permanent chef or staff associated with the development.
- There is no proposal to operate the refreshment room other than for functions (i.e. it will not operate as a restaurant or café).
- All staff will be provided by an events co-ordinator.
- The place of assembly and tourist facility will be available for bookings for a maximum of 26 times per year, with up to 100 persons attending functions/events. The applicant has further clarified that the venue is to cater for 100 guests plus staff.
- The place of assembly is to be used for functions between the hours of 7am and 11.30pm, with the set up for functions and deliveries limited to daytime hours of 7am to 6pm, where possible.
- In the instance of weddings, ceremonies are to be held on the deck and adjacent grass area, with all dining and entertainment to occur inside the building.
- The function venue operation is to be managed by an on-site manager.
- The transport of attendees will be a mixture of private motor vehicles and small buses, with the majority of guests being transported by small buses.

Refer to Attachment 2 for plans of the proposal. Attachment 3 contains a copy of the approved plans for the dwelling house via DA 2016/601.

Description of the Subject Site

The subject property is located on the eastern side of North Teven Road, on the southern eastern side of the intersection between North Teven Road and Beacon Road.

The property has an area of 29.06ha and is currently utilised for agricultural purposes (macadamia plantation).

There are two existing agricultural sheds located in the western portion of the property, adjacent to the northern property boundary.

An existing internal driveway runs from North Teven Road through the property to the existing sheds and then extends along the northern boundary, to the eastern portion of the site.

A dwelling house has been approved on the property and is to be sited in the south eastern corner of the site. Other than the removal of macadamia trees in this area and some internal driveway works, no other works have commenced (and Council has not issued nor been provided with a CC for the erection of the dwelling house).

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 10 submissions have been received in relation to the proposal. A copy of all submissions received are provided in Attachment 4.

A summary of the issues raised is provided below.

1. Traffic and car parking – Increase in traffic, Teven Road is too narrow and not line-marked, inadequate car parking spaces provided for development.

Comment: Refer to the Ballina Shire DCP 2012 section of this report for discussion.

In relation to the concerns raised regarding the use of Google Maps and discrepancies with directions to properties in the area, Council is unable to regulate the directions provided via these programs to its users. If Council is mindful to consent to the proposal, an operational management plan would be required to be prepared by the applicant prior to occupation of the development.

This plan would be required include the provision of directional details to all guests to the development site. This is best placed to be prepared and provided by the applicant/on-site manager, as being the most familiar with the road network and development site, compared with persons who book the place of assembly for a function. In addition, with the majority of guests to arrive by buses driven by a driver familiar with the locality, it is expected that this issue will be further minimised.

2. Noise – noise impacts on surrounding properties from increased traffic and the operation of the venue (functions) and tourist facility (accommodation). Noise report is not agreed with in relation to adopted background noise for the locality and noise impacts of the development.

Comment: Refer to the noise assessment section of this report for discussion.

3. Assessments undertaken with respect to Contamination, On-Site Wastewater Management, Landuse Conflicts and Noise are inadequate.

Comment: All reports have been reviewed and considered by Council's Technical Officers in their assessment of the application. Refer to the SEPP 55, Ballina Shire DCP 2012 and Noise sections of this report for discussion.

4. Proximity to existing Quarry and conflicts

Comment: Refer to the SEPP Mining, Petroleum Production and Extractive Industries 2007 section of this report for discussion.

5. Light spill from vehicles leaving the development site.

Comment: Two submissions received in relation to the proposal have raised light spill from vehicles leaving the development site as an issue.

8.1 DA 2017/557 - Place of Assembly and Tourist Facility

It is noted that there are three dwelling houses that are located on the western side of North Teven Road, being No.'s 287, 293 and 297 North Teven Road. The dwelling houses at No.'s 293 and 297 North Teven Road are the least affected of the three dwellings, as No. 297 North Teven Road is located approximately 70m from the driveway at the development site and may only be impacted when vehicles turn left and the dwelling at No. 293 North Teven Road is setback at least 90 metres from the road pavement with extensive vegetation between the pavement and the dwelling house.

The dwelling at No. 287 North Teven Road has its driveway offset by approximately 5 metres from the driveway of the development site and may be impacted by vehicles standing at the driveway entrance waiting to turn into North Teven Road and particularly as vehicles turn right.

The dwelling house at No. 287 North Teven Road is located approximately 25 metres from the pavement of Teven Road, has a driveway entrance in the north eastern corner of the allotment. It is noted that there is some landscaping provided along the front boundary, within the 25 metres (pavement to dwelling). However, this vegetation is probably not dense enough to completely prevent light intrusion into the dwelling house from the adjacent driveway from the development site.

In addition, there would appear to be limited opportunity for additional plantings to be provided along its eastern boundary to add to the existing landscaped screening for this dwelling (due to its driveway location and location of the dwelling on the land). The only area that could be further planted out would be directly in front of the dwelling house, to shield the dwelling from view.

The applicant's town planning consultant has provided the following statement in response to this particular issue raised in the submissions.

"The house is not located directly opposite the driveway. As the macadamia trees along the driveway mature, the driveway will be fully encircled, cutting any light spill".

It is noted that relatively immature macadamia trees are located along the internal driveway to the proposed development and also along its western boundary facing North Teven Road. The addition of any further landscaping along the front boundary of the development site would need to be carefully placed to ensure that no issues are created with sight distances, for vehicles leaving the site.

It is also noted that the applicant may not be receptive to providing additional plantings if it has the potential to impact on the existing macadamia trees (and their maintenance) in this area. Notwithstanding these issues, it is considered that there may be an opportunity to provide further planting along the front boundary of the development site, however a detailed landscaping plan would be required to be provided, with verification from an Engineer that the landscaping would not create a sight distance issue.

Whilst the light intrusion from a dwelling house or the proposed tourist facility would be a reasonable tolerance for the occupants of the dwelling house at No. 287 North Teven Road, the addition of light intrusion from vehicles (cars and buses) for a maximum of 26 events per year held at the proposed place of assembly may not be. It must also be noted that not every function held on the development site may conclude in the evening and so the number of evenings of impact may be less than 26. These are matters for Council's consideration in the determination of this development application.

In relation to light spill from the proposed place of assembly building and surrounding car parking area and tourist facility, Council's Public and Environmental Health Section have reviewed this issue and advised that conditions can be imposed requiring compliance with AS 4282:1997 "Control of the Obtrusive Effects of Outdoor Lighting".

In relation to light spill from within the building, the nearest dwelling house to the site of the proposed place of assembly is 220 metres. However, it is acknowledged that internal light generated from the building may be visible from the south and east of the development site.

Any landscaping to be provided along these elevations of the building (as discussed later in this report) could assist in reducing the visibility of the building (and therefore the visibility of the internal lighting). It must also be noted that the building is only proposed to be utilised for 26 functions per year, some of which will not be held during the evening and for those evening events, some will be held during day light savings time.

6. Dust impacts on for surrounding properties

Comment: In relation to dust generation from vehicles entering and leaving the property, it is noted that the driveway at the entrance to the property is sealed. In this regard, it is not expected that excessive or unreasonable dust will be generated adjacent to North Teven Road.

The internal driveway from the existing sheds on development site to the location of the approved dwelling house is not sealed and is currently of a gravel/all-weather construction. It is noted that there is a row of vegetation along the northern boundary of the development site that should assist in protecting surrounding properties (and dwelling houses) from dust generated from the existing all-weather driveway.

Notwithstanding this, Council's Civil Services Group have advised that a condition can be imposed requiring that the internal driveway be constructed of an all-weather dust free construction, with these works to be completed prior to occupation of the place of assembly. It is noted that the imposition of this condition does not only relate to the minimisation of dust issues (given there are dwelling houses located within 80 metres of the internal driveway), but is also required due to the type of development that has been proposed.

7. Impact on livestock

Comment: Several submissions received in relation to the proposal have cited concerns with the proposed place of assembly and its operational impacts on livestock on nearby properties from the noise of functions and vehicles leaving at night and noise.

It is acknowledged that there will be changes to the locality as a result of the operation of the proposed development, in that it currently operates as a working farm and that for a maximum of 26 events per year, there will be an increase in activity on the land. The additional use of the internal driveway and the activities to be carried out in the eastern section of the subject site may have an impact on any livestock that graze to the north and east of the subject land.

It is expected that the majority of events/functions will occur in the evening, when livestock are not actively grazing close the boundaries of the development site. In this regard, it is not expected that the activities occurring on the 26 occasions over a 12 month period will have an unreasonable or detrimental impact livestock.

Refer to the noise section of this report for further discussion.

8. Visual impacts of proposal and impacts on privacy

Comment: In relation to visual impacts of the proposal, refer to the Ballina Shire DCP 2012 section of this report. In relation to impacts on privacy, refer to the BLEP 1987 section of this report.

9. Operation of the development – more functions to be held than proposed, use of pyrotechnics etc.

Comment: The applicant has requested that 26 functions be held over the course of a 12 month period, with no restrictions or limitations as to the frequency of use of the place of assembly at any one time period. For instance, this could involve the applicant taking bookings for six weddings in a two week period. Whether this is appropriate, in context with the rural locality, is a specific consideration for Council and is discussed further in the BLEP 1987 section of this report.

In relation to the number of functions to be held over the 12 month period, the applicant has not suggested that any more than 26 are to be held and Council would seek to impose a condition on the consent requiring that 26 events be the maximum to be held over the 12 month period, which would commence at issue of the Occupation Certificate for the development. If there is any non-compliance with this requirement, Council does have regulatory functions available to investigate and take appropriate compliance action.

In addition, if Council is mindful to grant development consent to the proposal, a condition would be imposed requiring the submission of an operational management plan. This plan would need to address function numbers amongst a range of other operational matters and would need to be complied with during operation of the development.

In relation to the use of pyrotechnics, the application has not proposed these activities to occur as part of the development. A condition is able to be imposed in order to restrict the use pyrotechnics on the land as part of the proposal.

10. Impacts on rural character and amenity due to operation of the place of assembly

Comment: Refer to the BLEP 1987 section of this report for discussion.

11. The location of the proposed development will impact on/restricting the location of a future dwelling house on the property to the east of the subject site.

Comment: In relation to the concerns raised in the submission, the provisions of Chapter 2 of Council's DCP 2012, in relation to land use conflict, nominate a 150m distance buffer to be provided between existing intensive plant agriculture (macadamia plantation) and a dwelling house. As macadamia trees are planted close to the eastern boundary of the subject land, any future dwelling on the adjoining property would need to be a minimum of 150m away (unless the application can be supported by a land use conflict risk assessment which demonstrates why the dwelling can be built closer, with mitigation measures included).

The property to the east contains an existing dwelling house (approximately 570m from its western boundary). If it was proposed to construct an additional dwelling house on the land (as a detached dual occupancy dwelling), this would need to be sited in the RU1 Primary Production zone (under the BLEP 2012). The RU1 zone is, for the most part, located away from the common property boundary.

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 1987 & EP&A Model Provisions 1980

Under the provisions of the Ballina Local Environmental Plan (BLEP) 1987 and the EP&A Model Provisions 1980, the proposal is best defined as follows:

"Place of Assembly" means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such as whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

"Refreshment Room" means a restaurant, café, tea room, eating house or the like.

“Tourist Facility” means *an establishment providing for holiday accommodation or recreation and may include a bed and breakfast establishment, boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities.*

The subject land is located within the 1(b) Rural (Secondary Agricultural Land) zone under the provisions of the BLEP 1987. It is noted that Place of Assembly, Refreshment Room and Tourist Facility are all permissible with the prior development consent of Council within the 1(b) zone.

The objectives of the 1(b) zone are:

- A. *The primary objective is to regulate the subdivision and use of land within this zone:*
 - (a) *to encourage the productive use of the land and enable development ancillary to agricultural land uses, particularly dwelling-houses, rural workers’ dwellings and rural industries, and*
 - (b) *to permit a range of uses which are compatible with the rural character of the land, particularly tourist oriented developments and recreation establishments and recreation facilities, and*
 - (c) *(Repealed)*

- B. *The secondary objectives are to ensure that development within the zone:*
 - (a) *maintains the rural character of the locality, and*
 - (b) *does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.*

- C. *The exceptions to these objectives are:*
 - (a) *development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives, subject to the impact on agricultural resources being minimised, where practical,*
 - (b) *development of land for extractive resource purposes, and*
 - (c) *development of an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.*

The property is able to (and will continue to) be utilised for agricultural purposes (macadamia plantation) over the majority of its area. The proposed tourist accommodation and place of assembly/event uses are to be co-located, close to the eastern and southern boundaries of the development site.

Objective A (b) allows land to be utilised for a range of uses which are compatible with the rural character of the land, particularly tourist oriented developments and recreation establishments and recreation facilities. Objective B (a) also refers to proposals “maintaining the rural character of the land”.

8.1 DA 2017/557 - Place of Assembly and Tourist Facility

For the most part, the property will continue to appear and operate as a typical agricultural property within the locality and during this time, it is expected that the rural character of the locality will not be impacted upon. The proposed use of the place of assembly building is considered to be relatively infrequent over the course of a 12 month period. However, the 26 events/functions do have the potential to impact on the rural character due to noise, additional traffic etc. associated with the non-rural type landuse being conducted on the property.

The changes to the rural character of the land and surrounding locality will be the presence of a large new building in the landscape and the hosting of events and functions from the building. A range of issues have been raised in the submissions received in relation to the development, including impacts on privacy, the level of noise generated by the functions, guest behaviour, additional traffic, etc. at which all of these issues have the potential to impact on the rural character of the locality and adjoining properties.

In relation to privacy impacts, the proposed place of assembly building is a minimum of 220 metres to the closest existing dwelling house. The location chosen for the dwelling house (as approved via DA 2016/601), which is to be converted into a tourist facility and the place of assembly has given consideration to maximising distances from surrounding land uses (including the existing Boral Quarry) and all surrounding existing dwelling houses.

However, there would appear the opportunity to provide further landscaped screening around the proposed structure to prevent views from the new building into adjoining properties, given its location on top of a ridgeline. This would be most relevant in relation to the eastern and southern boundaries of the site, where there is at least 16 metres from the deck to the adjoining property boundary.

The plans show the area adjacent to the southern boundary to be landscaped with some small scale retaining walls and batter planting extending through to the boundary. There is the ability to impose a consent condition requiring detailed plans of this area to demonstrate that privacy impacts can be minimised. This requirement can also be imposed on the eastern boundary, with all planting to be undertaken on the subject property.

In relation to guest behaviour, this can be a difficult aspect to manage in relation to the operation of events/functions. It is acknowledged that with the progression of functions and events, there is the potential for intoxication levels to increase, with the background noise of the locality decreasing.

The applicant has advised that an on site manager will be present for all events/functions hosted. It is considered that this will assist in managing this issue. In addition, the details of the operation of the proposed place of assembly should be contained within an operational management plan, that is to also address staffing, security, restriction on use of outdoor areas after 10pm (all guests to be inside by this time). The requirement for this plan to be prepared and approved by Council can be imposed as a condition of consent.

It is also considered that these types of measures would ensure that guests are not traversing unauthorised areas of the subject property or trespassing neighbouring properties

8.1 DA 2017/557 - Place of Assembly and Tourist Facility

For discussion in relation to noise impacts and traffic, refer to the noise section and Ballina Shire DCP 2012 section of this report.

The proposed development is aimed at a specific client wanting a “rural wedding experience” and therefore the agricultural setting of the property will largely be maintained. It is not considered that there will be any unreasonable demands are placed on public services or amenities as a result of the proposed development.

Clause 17 Building Height

The proposed place of assembly building is to have a height of 5.7 metres, being compliant with the maximum 6.4 metre height limit.

Clause 28 Tourist Accommodation

The proposal involves the change of use of the approved dwelling house to a tourist facility, containing four bedrooms. The approved rumpus room area on the ground floor of the dwelling house is to be converted into a manager's residence for the tourist facility.

The proposal does not comprise any of the uses specifically mentioned within Clause 28, being caravan/camping parks, hotels/motels or holiday cabins. Despite this, under the provisions of this clause, the subject site could contain 3 holiday cabins per ha, 25 caravan/camping sites per ha or 10 motel/hotel units per ha. The subject land has an area of 29ha and is only proposing four rooms to be utilised for tourist accommodation and this is to occur only in conjunction with the events to be held in the place of assembly.

The applicant has stated that all the rooms will be rented to related people rather than as individual rooms. Given the area of the land and the number of rooms proposed to be utilised for accommodation purposes, the proposal complies with the development standards within this clause.

Clause 37 Controls for Advertisements

The provisions of Clause 37 state:

(1) Objectives

This clause aims to ensure that advertisements:

- (a) convey the advertiser's messages and images while complementing and conforming to both the building on which they are displayed and the character of the surrounding locality, and*
- (b) do not adversely affect the area in which they are located in terms of appearance, size, illumination, overshadowing or in any other way, and*
- (c) do not lead to visual clutter through the proliferation of signs, and*
- (d) are compatible with the desired amenity and visual character of an area, and*
- (e) provide effective communication in suitable locations, and*
- (f) are of high quality design and finish.*

(2) Directional signs

Despite any other provision of this plan, the erection or display of a directional sign by the Council or another public authority does not require development consent.

(3) Matters for assessment relating to advertisements

When determining a development application for consent to carry out development for the purposes of an advertisement, the Council must take into consideration the following:

- (a) the size and number of advertisements both proposed and existing,*
- (b) the relationship of the advertisement to the scale, character and architecture of the premises where the sign is to be sited,*
- (c) the impact of the advertisement on the streetscape and heritage value (if any) of the area,*
- (d) the colour, graphics and standard of presentation of the advertisement,*
- (e) the impact of the advertisement on traffic safety in the area, and on residential amenity, where relevant.*
- (f) (Repealed)*

There are two signs proposed to be erected as part of the development, one at the driveway entrance to the property and a second internally located along the driveway.

The dimensions of the signs are shown to be 2.4m (height) x 1.2m (width), with an advertising panel of 600mm x 600mm. No illumination of signage has been proposed.

The content of the signage is proposed to be:

“Bathhouse
Aqueous
Receptions and Functions”

A colour scheme has not been provided for the signage, however this can be imposed as a condition of consent.

No concerns are raised in relation to the signage to be erected within the development site, given it will only be visible to guests and staff attending the site.

In relation to the sign to be located at the driveway entrance along North Teven Road, it is considered that the proposed signage is modest in size, scale and design and will be generally unobtrusive in the rural landscape. A condition is able to be imposed requiring the signage location to not obstruct sightlines etc. for vehicles travelling along North Teven Road and for vehicles entering and exiting the subject site.

EP&A Model Provisions 1980 – Clause 5(2)

The provisions of Clause 5(2) requires council to consider increased vehicular traffic on any road with respect to the adequacy of vehicular exits and entrances to a development site, the provision of car parking on the development site and the provision of loading/unloading areas on the development site.

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Council's Civil Services Group have made an assessment of these aspects of the proposal and advise that the vehicular access/exit point on Teven Road is in excess of the minimum required, being a six metre width. This minimum six metre width is based on the road category (North Teven Road is a rural minor road) and the proposed number of car parking spaces to be provided on the development site. All internal driveways and parking are to be provided in accordance with the requirements of AS2890.1.

As the development has buses as the main form of transport for function guests, there is ample space available for buses to turn around and exit the development, without conflict with patrons and the external road system.

There will be a requirement for the provision of a designated turning area to be provided on the development site adjacent to the proposed building that does not conflict with the entrance of the building. This can be addressed through the imposition of consent conditions.

In relation to service and delivery vehicles, there is adequate provision for these vehicles to enter the site in a forward direction, safely manoeuvre, unload on site and leave the site in a forward direction.

EP&A Model Provisions - Clause 30

The provisions of Clause 30 specify that Council must not grant consent to the carrying out of development unless a water supply and disposal of sewage and drainage are available to the land and that satisfactory arrangements have been made for those facilities.

In relation to water supply for the development, drinking water for the tourist facility is to be sourced from rainwater, augmented with bore water. The place of assembly is proposed to have drinking water sourced from rainwater (the plans show a 33,000 litre rainwater tank provided below the viewing deck attached to the place of assembly building). This is considered acceptable.

In relation to the disposal of sewage for the development, a report was provided as part of the initial development application package that proposed a private septic pump out system to cater for the proposed place of assembly. This proposed system was not supported by Council staff as an appropriate method to deal with wastewater generated on site, for a development of this type. It was therefore requested that the proposal be amended to provide for on-site waste water disposal and that a report be provided which complies with Council's OSSM Strategy and AS 1547.

A further report was provided from Alternative Waste Water Solutions, Dated 27 November 2017, which demonstrates that an OSSM system can achieve Council and Australian Standards requirements. However, at this stage the OSSM report only allows for one function every seven to 10 days, which is at odds with the applicant's request not to be restricted in relation to the timing of functions.

The report is based on a 8,000L primary holding tank with twin macerating pumps, run timer and level alarms, an aerated secondary treatment system and land application area. In order to cater for “back to back” functions (i.e. more than two functions held over consecutive days, within a week etc.), a condition is to be imposed on the consent requiring the size of the primary holding tank be increased. This will be required prior to the issue of the Construction Certificate for the development.

In relation to the issue raised in one of the submissions regarding the positioning of effluent field of the OSSMs system, this system is located on the north western side of the proposed building. If there is a failing in the system, it is expected that any issues with wastewater will impact on the subject property, rather than adjacent land.

In relation to the proposed tourist facility, consent conditions are to be imposed to ensure the system approved for the dwelling house via DA 2016/601 can adequately cater for the change of use, with the conversion of the rumpus room in the approved dwelling house to the one bedroom manager’s residence.

In relation to drainage/stormwater, Council’s Civil Services Group advise that there is sufficient area on site for the disposal of stormwater. However, as the proposed development is located within 16 metres of the closest neighbouring property boundary, the applicant has proposed to direct all roof area to a flow control pit, which will provide attenuation to lower peak flows. A condition is to be imposed to the consent to ensure that neighbouring properties to not receive concentrated flows.

SEPP 55 Remediation of Land

Clause 7 of SEPP 55 states that a consent authority must not consent to the carrying out of any development on land unless:

- *it has considered whether the land is contaminated, and*
- *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Council’s Public and Environmental Health Section have considered the proposal and the supporting documentation and have made the following comments.

A Contaminated Land Assessment was prepared by Charlie Hewitt Engineering Design, Dated 13 September 2016, and this assessment was submitted with the development application for the approved dwelling house (DA 2016/601).

A site history was not able to be established; and therefore a detailed assessment was undertaken involving the collection and analysis of soil samples. Nine surface soil (0-75 mm) samples were collected from the nominal dwelling envelope and curtilage. An area of approximately 3,500m² was assessed in a grid pattern. The samples were then combined to make three composite samples by the lab.

The samples were then analysed for heavy metals and pesticides. The results of the analysis were compared to the HIL A levels for residential with garden/accessible soil. The results showed that all heavy metal results were below the HIL A level (with the exception of Manganese which is naturally elevated in local soils) and the pesticides were all below detection limits of analysis.

The report concluded that no indication of soil contamination has been identified and no further investigation or remediation action is recommended.

Council's Public and Environmental Health Section were satisfied with the assessment undertaken and the conclusions reached as part of DA 2016/601 for the erection of the dwelling house. In this regard, the nominated dwelling site was considered to be suitable for residential use.

In relation to DA 2017/557, no further assessment has been conducted in relation to the change of use from the dwelling house to a tourist facility or the building to be utilised as a place of assembly, which is located in close proximity to the dwelling site.

However, as the site has been found to be suitable for residential use via DA 2016/601, which is a more sensitive use that proposed as part of DA 2017/557, and given the time spent on site will be less than a residential use and there are associated differences in the exposure pathways (i.e. people attending the functions will not be undertaking outdoor residential type activities on site, such as gardening etc.), the previous assessment carried out in relation to DA 2016/601 can be considered suitable for the current proposal in relation to land contamination.

SEPP Mining, Petroleum Production and Extractive Industries 2007

Clause 13 requires that a consent authority must have consideration for the compatibility of a proposed development with a mining, petroleum production or extractive industry which is in its vicinity. Clause 13 states:

- (1) This clause applies to an application for consent for development on land that is, immediately before the application is determined:*
- (a) in the vicinity of an existing mine, petroleum production facility or extractive industry, or*
 - (b) identified on a map (being a map that is approved and signed by the Minister and copies of which are deposited in the head office of the Department and publicly available on the Department's website) as being the location of State or regionally significant resources of minerals, petroleum or extractive materials, or*

- (c) identified by an environmental planning instrument as being the location of significant resources of minerals, petroleum or extractive materials.*
- (2) Before determining an application to which this clause applies, the consent authority must:*
 - (a) consider:*
 - (i) the existing uses and approved uses of land in the vicinity of the development, and*
 - (ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*
 - (iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*
 - (b) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and*
 - (c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

The subject property is located nearby to an existing Quarry – Boral (Teven) Quarry. A submission has been received from the Boral Property Group in relation to the proposal. The issues raised in the submission are addressed in the assessment below, as prepared in conjunction with Council’s Public and Environmental Health Section.

The approved dwelling house location is within the 1,000 metre buffer to the blasting Boral Quarry located to the North West of the subject site. As part of DA 2016/601, a Land Use Conflict Risk Assessment (LUCRA) was prepared by Tim Fitzroy & Associates, Dated 7 October 2016.

The site of the dwelling house was located to maximise the available buffer between the quarry and the dwelling house. The dwelling house was identified within the report to be located approximately 890 metres from the quarry.

The LUCRA described in detail the approvals and operation of the quarry and the current monitoring that occurs in relation to noise, vibration and dust. The LUCRA also reviewed the approvals and operation of the quarry and considered the potential land use conflicts that may arise. The LUCRA identified that noise and vibration, and particulate matter ‘dust’ to be the main areas of potential conflict.

The report concluded that due to the regulation and management of the quarry and the buffer distance achieved along with the local terrain (the dwelling site is separated from the quarry site by a hill top), that the risks associated with the identified issues would be acceptable. These conclusions were accepted in relation to the dwelling house approved via DA 2016/601.

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It is noted that the information presented in the Boral submission indicates that a miscalculation of the distances between the quarry and the site of the dwelling house were included in the LUCRA report. Despite this miscalculation, the distance between the quarry and the site of the approved dwelling house has been maximised and the findings of the LUCRA report would still be accepted. It should also be noted that there are several dwellings located closer to the Boral quarry site than that as approved on the development site.

Furthermore, it is not considered that the approved dwelling house or proposed development can be viewed as “development by stealth”. The appropriate assessments were undertaken as part of DA 2016/601 for the erection of the approved dwelling house and were reviewed extensively by Council’s Technical staff.

There is no requirement in Council’s public exhibition policy (in Chapter 1 of Council’s DCP 2012) to refer development applications for dwelling houses to adjoining property owners. The 1,000 metre buffer referred to in the submission is the buffer distance identified in Chapter 2 of Council’s DCP 2012 measured from an extractive industry to a dwelling house. In the event that the 1,000 metre distance buffer cannot be achieved, a LUCRA is required to be prepared.

Council’s Public and Environmental Health Section have considered that the risks associated with the proposed place of assembly and tourist facility is very similar to those associated with the dwelling house. An inspection of the site has confirmed the conclusions of this report and the risk of the proposal creating an incompatibility with the operation of nearby quarry is therefore considered to be very unlikely.

As included in the recent modification to the approval for the quarry, the operating hours for the quarry are listed below (as specified in Condition 8 to DA 1995/292).

- Excavation, Loading and Transportation - 7:00 am to 5:00 pm Monday to Friday, 7:00 am to 3 pm Saturday
- Processing by Fixed and Mobile Crushing Plant - 7:00 am to 6:00 pm Monday to Friday
- Blasting - 9:00 am to 4:00 pm Monday to Friday
- Maintenance of Plant Outside the Workshop - 6:00 am to 6:00 pm Monday to Saturday
- Maintenance Operations Inside the Workshop - 6:00 am to 10:30 pm Monday to Friday, 6:00 am to 6:00 pm Monday to Saturday
- Domestic scale loading and transportation (where vehicles do not exceed 8 tonnes loaded capacity) - Additional time for this domestic scale operation may extend the loading and transportation hours until 5:00 pm on Saturdays.
- Extended Hours - On any particular occasion, the applicant can extend the hours of the quarry operation and the transportation of product to 6:00 pm Monday to Friday and can extend the hours for maintenance outside the workshop up to 10:30 pm Monday to Friday after notifying the Community Consultative Committee representative.

The use of the proposed tourist facility may occur during times of operation of the Boral quarry, however, this usage could be considered the same as or less sensitive than the dwelling house use approved via DA 2016/601, given the accommodation is only to be offered to persons attending functions within the place of assembly building (therefore as a package deal). In this regard, the occupation of the proposed tourist facility will be less than that of the approved dwelling house.

Furthermore, it is also commented that the operation of the proposed place of assembly and tourist facility is more likely to occur on a weekend or after business hours and therefore is less of a risk of conflict with the operations of the existing Boral Quarry than the approved dwelling house.

Ballina Shire Development Control Plan 2012

Chapter 2 – General and Environmental Considerations

Section 3.1- Land Use Conflict

The assessments made above in relation to SEPP Mining, Petroleum Production and Extractive Industries 2007 are applicable and reiterated in relation to Section 3.1 – Land Use Conflict of Chapter 2. These assessments are made in relation to the tourist facility and the place of assembly building.

Further assessment has not been provided for the new proposal except for the inclusion of an acoustic report which is likely to be the highest risk associated with the new proposal. Refer to the noise management section of this report for discussion.

Section 3.2 – Ridgelines and Scenic Areas

The proposed place of assembly building is considered to be generally compatible with the scenic qualities of the land and the immediate locality. It is noted that a range of dwelling styles (large and small) are located in the vicinity of the subject property, with a range of colour schemes. In this regard, there is a varied character on the existing ridge.

The proposed building does include an extensive amount of glazing on its southern elevation, with the remaining elevations including louvre windows and doors and rendered board cladding. In relation to the southern elevation, this elevation opens out onto the viewing deck and will be visible the properties to the south and potentially south east.

As can be seen on the plans for the proposed development, the existing macadamia trees on the land adjacent to the eastern property boundary are to be retained and landscaping works are to occur around the perimeter of the new building. The plans also show the area adjacent to the southern boundary to be landscaped with some small scale retaining walls and batter planting extending through to the boundary. As previously mentioned, consent conditions can be imposed requiring detailed landscaping plans be provided to ensure the proposal does not have a detrimental scenic impact.

The applicant has provided the following visual analysis of the proposed building and its potential scenic impact.

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The photos in Attachment 5 provide a visual analysis of the potential impact of the function centre building.

Plate No. 1 is a photo taken from development site. It shows likely areas from which the development site could be viewed. The blue arrow indicates the north bound motorway bridge over the Cumbalum interchange and the orange arrow indicates the top of the ridge at Ballina Heights Estate.

Plate No. 2 is a Sixviewer aerial image. It shows that the measured distance from the motorway bridge to the development site is about 1.4km. The Ballina Heights Estate ridgeline road is about 2.3km from the development site.

Plate No. 3 is a photo taken from the nearest public viewing point; the north bound motorway bridge over the Cumbalum interchange. The photo was taken with a Nikon D60 SLR with a 55mm focal length. A 55mm focal length is consistent with the view from a human eye. The development site is indicated by the blue arrow.

Given the distance from the motorway and surrounding vegetation the new building will not be readily apparent. The building will merge into the vegetation with just a fleeting glimpse possible from the motorway from vehicles traveling at 110km/hr.

Section 3.7 – Waste Management

A Site Waste Minimisation and Management Plan has been prepared by Planning Resolutions (Dated 28 September 2017) for both the operational and construction phase of the development. Council's Public and Environmental Health Section have assessed the plan and advise that it is satisfactory to address waste during construction and operation of the development.

Section 3.19 - Access and Parking

Refer to discussion below provided in Chapter 7 – Rural Living and Activity (Clause 3.8 – Roads, Vehicular Access and Parking)

Section 3.21 – Bushfire Management

The subject land is bushfire prone, and as the proposal comprises a "Special Fire Protection Purpose" under the provisions of 100B of the Rural Fires Act 1997, an integrated development approval is required from the NSW Rural Fire Service. A Bush Fire Safety Authority subject to conditions was issued by the NSW Rural Fire Service on 3 January 2018.

Chapter 7 – Rural Living and Activity

Clause 3.3 – Rural Tourist and Visitor Accommodation

The objectives of the clause state that:

- a. *Provide for the establishment and operation of diverse small scale tourist and visitor accommodation within rural and environmental protection zones within Ballina Shire;*

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- b. Ensure that facilities are designed and constructed so as to maintain rural character and amenity, productive agricultural use of land and environmental values;*
- c. Encourage visitor interaction with the rural and natural environment;*
- d. Ensure the provision of a satisfactory level of service to guests and that such premises meet acceptable access, community health and fire safety standards; and*
- e. Encourage environmental repair, restoration and management activities in conjunction with rural tourist development.*

It is considered that the proposal is generally consistent with the above objectives.

In relation to the development controls within section 3.3.3 of Clause 3.3,

- The proposed tourist facility is permissible in the 1(b) zone and the subject property enjoys a dwelling entitlement.
- The proposed tourist facility is small scale, being the use of four bedrooms within an approved dwelling house and is generally compatible with the characteristics of the site and the surrounding locality. The accommodation is not proposed to be sub-let and is only to be offered to persons attending functions within the place of assembly building (therefore as a package deal).

It is not considered that the proposed use of the approved dwelling house as a tourist facility will impact on nearby grazing land or other agricultural uses (horticulture) in the vicinity of the development site (approximately 300m to the north-east and south-east).

- The ground floor bedroom within the approved dwelling house is designated as an accessible bedroom, with accessible bathroom included and an accessible parking space provided adjacent to the building.
- The applicant has stated that the accommodation is to be offered to persons attending functions within the place of assembly building (therefore as a package deal). In this regard, conditions can be imposed in relation to the short term and temporary stay requirements of Chapter 7 of the DCP (guests must not be accommodated for more than 42 consecutive days with an interval of at least 14 days between occupancies, or for more than a total of 90 days in any 12 month period). It is noted that due to the nature of the applicant's proposal, the use of the tourist facility is likely to be less than this requirement.
- Works are proposed to be carried out to the ground floor of the approved dwelling house in order to provide a manager's residence. Whilst this residence comprises a one bedroom unit, with bathroom and kitchenette, and not a separate dwelling house, it is considered that the proposal will allow for the appropriate management of the tourist facility. This assessment is also made in context with the proposal to only offer the accommodation to persons attending functions within the place of assembly building, as a package deal.
- In relation to the configuration and design requirements for tourist and visitor accommodation facilities:

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- There is only one building on site to be used for this purpose and four bedrooms within the building are to be subject to this use. In this regard, the clustering requirements of Section 3.3.3 are not relevant.
- There is one access point from North Teven Road to the property, which will be utilised by the tourist facility.
- The provisions relating to an internal floor area of 75m² and a maximum of two bedrooms and one kitchenette per accommodation unit are more commonly applied to the erection of new accommodation. The proposal seeks to use the majority of an approved dwelling house and this control has been varied previously by Council staff in the assessment of development applications for tourist and visitor accommodation involving the use of a dwelling house.
- A two car garage and five external car parking spaces are to be provided for the tourist facility, which includes one accessible parking space and a dual use accessible space/unloading area.

Clause 3.8 – Roads, Vehicular Access and Parking

The proposal involves:

- The continued use of the existing access to the site (from North Teven Road) and constructed driveway. The driveway at the entrance to the property is sealed to the existing sheds on the development site, with the remaining section of the driveway being of a gravel/all weather construction.
- The provision of seven car parking spaces for the tourist facility, comprising a two car garage and five external parking spaces (one accessible space, one dual use accessible space/unloading area and three standard sized spaces). The external spaces are to be located adjacent to the accommodation and are to be sealed.
- The provision of an all weather/gravel car parking area containing 34 car parking spaces for the place of assembly building. A hard stand area is to be provided adjacent to the entrance of the building, upon which two accessible car parking spaces are to be provided. An area for overflow parking (which has a capacity to contain over 11 car parking spaces) has been identified adjacent to the access driveway in close proximity to the formal car parking area and building.
- The use of 33 seater small buses as the dominant form of transport for guests to the development, as to be arranged by the on-site manager or event co-ordinator.

Council's Civil Services Group have undertaken an assessment of the proposal with respect to roads, traffic and car parking and have provided the following comments.

North Teven Road is generally unlined, has a sealed width, which generally varies between seven and eight metres, with unsealed grassed shoulders. There is localised widening on some of the sharper corners, particularly north of the site of the Boral Quarry.

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North Teven Road would be classified as a rural minor road, based on Table T1.27 of the Northern Rivers Local Government Guidelines and would have a capacity of up to 1,000 vehicles per day.

Council's most recent traffic counts for North Teven Road are from the year 2008, with a recorded average daily traffic volume of up to 650 vehicles per day (vpd). The count was undertaken approximately 850m west of the Boral Quarry entrance.

In considering a 10 year design horizon, the anticipated daily traffic volume has been calculated using the 2008 traffic figures with an annual growth rate of 1%, compounded annually over a 20 year period. The anticipated traffic volume for North Teven Road in 2028 is approximately 785 vpd. A compound growth rate of 1% is considered typical of lower order rural roads within the area.

Additionally, it is noted that a traffic count undertaken in 2006 at No. 76 North Teven Road indicated an average traffic volume of approximately 300 vpd.

As the RTA's Guide to Traffic Generating Developments does not provide figures for "function centres" or developments of a similar nature, a merit assessment has been completed to determine the likely trips generated from the development. On event days, it is assumed that as a worst case scenario, the 100 guests that will attend that function will be arriving by car with two passengers per vehicle. This will generate 100 one-way vehicle trips, which is a conservative assumption given it has been proposed by the applicant that guests are to be primarily transported to functions via a bus service. In addition, it could be expected that there may be up to 10 service vehicles carrying out deliveries on the event day. This would generate a further 20 one-way vehicle trips.

In this regard, it can be determined that the development may (at worst case) produce 120 vehicles per event day. It is assumed that of the 120 trips, 60% (72vpd) will have an origin/destination to the north (Byron, Lismore, Lennox) and 40% (48vpd) will have an origin/destination to the south (Ballina).

Whilst the development may generate up to 120 vehicle trips per event day, because of the assumed directional split along North Teven Road, the development will only have an effective impact up to an additional 72vpd to North Teven Road. In 2028, this will result in a total traffic volume of approximately 857vpd and this is less than the identified capacity of the road of 1,000vpd.

Based on the anticipated traffic figures for 2036 as contained within the Ballina Shire Council 2014 Strategic Modelling Update Report for Council's Section 94 Contributions Plan (prepared by Cardno), it is not anticipated that the intersection on either Tintenbar Road or Teven Road will require additional works for a 10 year design horizon.

In view of the above assessment, it is concluded that the existing external road network is constructed to a suitable standard to service the proposed development.

In relation to sight distances at access points, AS2890.1 stipulates a minimum stopping sight distance of 105m for areas with a road speed frontage of 80km/hr. Adequate sight distance is available for both northbound and southbound traffic in relation to the development site.

Based on the road category and the proposed number of car parking spaces, the access entry width to the development site is required to be a minimum six metres. The existing entry width is already in excess of the required six metres. It will be required that all internal driveways and parking are to be provided in accordance with the requirements of AS2890.1.

Given that the development intends to have buses form an integral part of the operation of the proposed place of assembly, there should be ample space for buses to turn around and exit the development without unnecessary conflict with patrons. The turning templates submitted indicate that medium rigid vehicles (MRV) are required to reverse into the hardstand areas immediately in front of the pedestrian access to the proposed building. These turning manoeuvres also show that the MRV will overhang outside the extent of the carpark and this poses a risk of conflict with people arriving by car who are walking to the entrance. A condition is to be imposed on the consent requiring the provision of a designated turning area that is not in conflict with the entrance to the facility.

In relation to service and delivery vehicles, there is adequate provision for these vehicles to enter the site in a forward direction, safely manoeuvre, unload on site and leave the site in a forward direction.

In relation to car parking for the development, revised car parking plans provided by the applicant demonstrate that sufficient parking has been provided for the tourist facility and manager's residence. However, the applicant is proposing to provide the lesser number of 34 car parking spaces for the place of assembly. The parking rate within Council's DCP 2012 for a function centre is 1 space per 3 seats or 15 spaces per 100m² whichever is greater. As the building is to have a floor area of 300m², 45 spaces would be required to be provided on site.

It is considered reasonable to accept the provision of 34 car parking spaces as opposed the required 45 car parking spaces, given that the applicant has demonstrated that there is sufficient suitable space onsite for overflow parking (over 11 spaces), should it be required. Furthermore, the applicant has advised that site management would reinforce the ongoing use of buses to transport guests, with this being the preferred form of transportation for the development.

Noise

Council's Public and Environmental Health Section have carried out an assessment of the proposal in relation to noise and have provided the following comments:

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The application has been supported by the submission of an Environmental Noise Assessment Report, prepared by TTM, Dated September 2017. The Environmental Noise Assessment has been undertaken in accordance with the NSW Industrial Noise Policy 2000. Unattended noise monitoring was undertaken between 23/08/2017 and 2/9/2017 (i.e. 11 days) which complies with the long term method. The measured rating background level is shown in Table 1 (below).

Table 1: Measured Ambient Noise Levels

Time Period	Rating Background Level (RBL), L ₉₀ dB(A)	Existing Noise Levels, L _{eq} dB(A)
Daytime (7am – 6pm)	32	50
Evening (6pm – 10pm)	32	42
Night time (10pm – 12am)	30	36
Night time (10pm – 7am)	28	45

The rating background level is then used to establish the intrusive noise level which is then compared with the amenity noise level. The Project Specific Noise Level (PSNL) is calculated from the more stringent level of these two criteria. These levels are shown in Table 7 of the report.

Table 7: Project Specific Noise Criteria

Time Period	Intrusive Criteria	Amenity Criteria	Project Specific Criteria
Daytime (7am – 6pm)	37	50	37
Evening (6pm – 10pm)	37	45	37
Night time (10pm – 12am)	35	40	35
Night time (10pm – 7am)	33	40	33

For all time periods the PSNL is determined by the intrusive criteria which is typical for our area, which generally has lower background levels than the relevant amenity criteria.

The report considers (“models”) the expected noise from the proposed use on five nearby sensitive receivers (rural dwelling houses) which range from 220 metres to 580 metres away from the proposed place of assembly. These are the closest sensitive receivers and the report suggests that if compliance is achieved at these receivers then the more remote receivers will also comply with the PSNL.

The report has considered (modelled) noise from car door closures, vehicles including cars, buses and deliveries, crowd noise associated with 100 patrons and typical amplified music. The modelling undertaken has predicted that the proposed use will comply with the PSNL at all five identified sensitive receivers for all time periods.

The report has also considered typical plant, such as airconditioning units, and has predicted that due to the distance to the sensitive receivers any plant will likely comply without any acoustic treatments. However, the report recommends further assessment of plant and equipment prior to issue of a construction certificate, once plant has been selected.

The report has also considered the influence of weather including temperature inversions, in accordance with the requirements of the Industrial Noise Policy, using weather data from Ballina Airport, which is the closest available weather station. The report has determined that the development will still comply with the PSNL during temperature inversion conditions.

The report makes a number of recommendations to manage noise on site to achieve compliance with the PSNL and these management controls can be conditioned on any approval issued. However, the report also states that compliance with the PSNL and implementation of the management controls does not mean that the noise from the proposed use will be inaudible at the nearest sensitive receivers.

Therefore the likelihood of the proposed use to generate 'offensive noise' at these sensitive receivers also needs to be considered. The measured background noise level is very quiet, which is typical of rural localities. The measured background levels are shown in Table 1 and are 32_{L90}dB(A) daytime (7am-6pm), 32_{L90}dB(A) evening (6pm – 10pm), 28_{L90}dB(A) night time (10pm – 7am) and the acoustic consultant also provided a level of 30_{L90}dB(A) for the period 10pm to 12am).

The noise modelling predicts levels to be between 32_{L_{aeq}}dB(A) and 29_{L_{aeq}}dB(A) at the sensitive receivers, which even though predicted to comply with the PSNL, is likely to be audible and may trigger complaints. In this regard, additional measures have been discussed with the applicant who has agreed to the following;

- Cessation of functions by 11.30pm, music to be turned off at 11pm and all windows and doors within the proposed building to be closed from 10pm onwards.
- Windows and doors within the proposed building to be linked to the speaker system, such that when windows and doors are opened, the speaker system has an automatic reduction in sound. It is noted that this type of system has been installed in the recent extensions to the Lennox Hotel.
- Preparation of an operational management plan and a noise management plan, to be submitted to Council for approval prior to occupation of the development, which are to detail on site measures to be implemented and require all event bookings to comply with requirements, including having the on-site manager and/or function/event co-ordinator, to be present at all functions/events and responsible for compliance.

Appropriate conditions are able to be applied to any consent granted to control the acoustic impacts of the development and regulatory action will be possible to control any breaches of the approval issued.

It should be noted that the operational management plan is also able to include the proposed tourist facility. Given the submissions have raised concerns with celebrations from functions flowing through to the accommodation use on the property and noise from music as being a concern specifically, a noise limited sound system can be installed in the tourist facility and the use of this system by guests can be mandated in the Terms and Conditions of rental of the building. In addition, the Operational Management Plan can provide the specific requirement for nearby residents to be provided with contact details for the on-site manager in the event that disturbance occurs.

Conclusion

The proposal as lodged, comprises two components:

1. The erection of a purpose built building for use as a place of assembly (function centre and refreshment room), hosting a maximum of 26 events over a 12 month period.
2. The change of use of the approved dwelling house (DA 2016/601) to a tourist facility (accommodation) containing four bedrooms being offered for accommodation as part of a package deal with the place of assembly and a manager's residence.

Both aspects of the proposal are permissible with the prior development of Council in the 1 (b) – Rural (Secondary Agricultural Land) Zone and have been deemed to be consistent with the provisions of the BLEP 1987, Ballina Shire DCP 2012 and relevant state environmental planning policies.

A number of submissions have been received in relation to the proposal, which have been prepared by neighbouring property owners, raising concerns primarily with noise, traffic, operation of the place of assembly aspect of the development. It is acknowledged that the development site is located in a rural locality, and the proposed landuse is an unfamiliar one in this type of area. In this regard, there are different noise and traffic characteristics as compared to commercial and residential areas of the shire.

The assessments carried out by Council's Civil Services Group and Public and Environmental Health Section have considered the required guidelines, standard and environmental planning instruments and have also given detailed consideration to the issues raised in the submissions to the development. Their conclusions in relation to the matters addressed in this report are that the proposal is worthy of the grant of development consent, subject to the imposition of conditions.

In relation to traffic and road concerns, it has been determined that the development may (at worst case) produce 120 vehicles per event day. This does not take into account the applicant's proposal to use small buses as the preferred method of transport for guests travelling to functions. However, whilst the development may generate up to 120 vehicle trips per event day, because of the assumed directional split along North Teven Road, the development will only have an effective impact up to an additional 72vpd to North Teven Road. In 2028, this will result in a total traffic volume of approximately 857vpd and this is less than the identified capacity of the road of 1,000vpd.

In relation to noise, it is noted that the submitted acoustic assessment was undertaken in accordance with the NSW EPA Industrial Noise Policy and considered all the potential acoustic impacts from the proposed development. The assessment found that based on the modelling undertaken, the noise generated will be able to comply with the project specific noise levels (which is the current acoustic standards). This does not mean the noise will not be audible and the applicant has agreed to some additional controls and conditions to minimise any impacts on nearby sensitive receivers.

It should be noted that the “impact tests” applied to other function centre developments proposed in the Shire over recent years (for example, Newrybar Downs) have been subject to a different consent pathway, through the “Temporary Use of Land” clause in the BLEP 2012, given the landuse was prohibited in the relevant zoning (RU1 Primary Production).

In the instance of the temporary use of land clause, the “impact test” is a lot higher and more definitive. As the development proposed within DA 2017/557 is a permissible land use within the 1(b) zone and therefore has been foreshadowed as a use that can occur within the zone, and there is no reliance on a clause to allow a development that would ordinarily be prohibited, the “impact test” is lot different.

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 purpose built place of assembly building, hosting a maximum of 26 events over a 12 month period and the change of use of the approved dwelling house (DA 2016/601) to a tourist facility containing four bedrooms being offered for accommodation as part of a package deal with the place of assembly and a manager’s residence, subject to standard conditions of consent for this type of development, including those specifically outlined in this report, with particular regard to noise management, operation etc.

If Council is concerned with the number of functions being not restricted during a time period (i.e. the ability to host back to back functions, which is the preference of the applicant due to the seasonal nature of the wedding season), there would be the ability to impose a consent condition that could provide a trial period for the first six months of operation, whereby only two functions may be held in any four week period.

If at the end of that trial period, the operation of the development was proceeding in compliance with the operational and noise management plans and in accordance with the foreshadowed and assessed impacts determined by the applicant in their DA documentation and Council staff, then a modification application could be lodged with the Council for the consent condition to be removed, to enable the number of functions being not restricted during a time period.

In view of the range of matters discussed in this report, it is recommended that a condition of this nature is applied in the event the development application is approved.

Option Two

That Council refuse the development application. This option could be taken up if the Council is not satisfied that the proposed development will have an unreasonable impact on the surrounding properties and the rural locality. The concern with issuing a refusal of consent to the development application is that defending an appeal in relation to this would be difficult, in view of the permissibility of the development and its compliance with the required instruments considered the required guidelines, standards and environmental planning instruments

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

RECOMMENDATIONS

That DA 2017/557 for the the erection of a purpose built building for use as a place of assembly (function centre and refreshment room) and the change of use of the approved dwelling house (DA 2016/601) to a tourist facility (accommodation) at Lot 1 DP 204760, North Teven Road, Teven be **APPROVED**, subject to the imposition of standard development consent conditions (building, planning, environmental and engineering) for this type of development, the conditions outlined in the Bush Fire Safety Authority issued by the NSW Rural Fire Service and the non-standard conditions as provided under separate cover.

Attachment(s)

1. Locality Plan
2. Plans of Proposed Development
3. DA 2016/601 - approved plans
4. Public Submissions
5. Visual Analysis Photos
6. Non-standard conditions (Under separate cover)

8.2 DA 2017/679 - 77 Teven Road, Alstonville

Applicant	Ardill Payne and Partners (on behalf of Mt Moriah and Ahbood Pty Limited)
Property	77 Teven Road, Alstonville Lot 83 DP 239781
Proposal	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.
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan in Attachment 1.

Introduction

The proposal involves a 10 lot Torrens Title Subdivision of land zoned for residential purposes. The elected Council called up this application for its determination at its Ordinary meeting of 14 December 2017.

The subject land is in close proximity to the boundary of the Gap Road Quarry (approximately 230 metres) and the boundary of the Boral Asphalt Plant (approximately 320 metres) which has recently created a level of community interest in relation to traffic, noise, odour and dust impacts on residents in the locality.

This site is also in close proximity to Ron Southon Blasting Operation (approximately 580 metres). All three land uses have existing, valid approvals and have been operating for a substantial period of time in this locality (over 100 years in the case of the quarry and 40 years in the case of the Asphalt Plant).

There has also been substantial interest from the community relating to this proposal, and a number of submissions of objection have been received.

Details of the Proposal

The proposal seeks to create 10 residential allotments, construction of one public road (cul-de-sac), installation of public infrastructure services, demolition of an existing dwelling house and shed and vegetation management works involving the removal of one Lilly Pilly tree.

The proposed subdivision comprises residential lots with a range of lot sizes and shapes. The proposed residential lots have a minimum width of 18m and range in size from 801-915m² with each lot having a constructed/formed road frontage.

The proposed new road has a reserve width of 15m, a carriageway width of 6m, two x 4.5m wide verges and will be bitumen sealed with a combination of concrete edge restraint and layback kerb and gutter for its full length.

The road is proposed to connect with Teven Road by way of a conventional "T" intersection. A copy of the proposed plan of subdivision is Attachment 2.

Description of the Subject Site

The subject site is Lot 83 DP 239781 and is commonly known as No. 77 Teven Road, Alstonville. The existing lot has a total area of 1.123ha and is regular in shape. There is an existing approved dwelling house and shed on the site that are proposed to be demolished as part of this application.

The site is located within close proximity to the boundary of the Gap Road Quarry (approximately 230 metres), the boundary of the Boral Asphalt Plant (approximately 320 metres) and the boundary of Ron Southon blasting (approximately 580 metres).

The site has a frontage to Teven Road and is surrounded by low density single residential dwellings on large lot sizes to the north, south and small lots to the west.

The land on the opposite side of Teven Road, to the east of the subject site, is 22.5ha in area and zoned 7(i) Environmental Protection (Urban Buffer) under the *Ballina Local Environmental Plan 1987*.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil.

Public Exhibition

The development application was placed on public exhibition from 13 December 2017 until 31 January 2018 and submissions from a total of 23 submitters were received by Council with a number of issues raised in relation to the proposed development. Copies of submissions are contained in Attachment 3.

Due to the existing quarry, asphalt plant and blasting operator, the application was also referred to the NSW EPA as the quarry and asphalt plant are regulated and/or licensed by the EPA. The EPA provided a response dated 12 March 2018, and is included as Attachment 4.

The matters raised in the objections have been summarised below and comment provided on the matters raised.

1. *Subject site located within the Extractive Industry or Mining Buffer Zone.*
2. *Land use conflict and threat to continuation of extractive industries.*
3. *Noise, dust and odour.*

Comment: The proposed subdivision is located between 230 metres and 580 metres from existing industries and within the buffer guideline distance for extractive industry or mining industries as set out in Table 2.1 of Chapter 2 of the Ballina Development Control Plan (BDCP) 2012.

The buffer distance recommended for extractive or mining industry is 500m for non-blasting and 1000m when blasting is involved. Blasting is approved to be conducted at the Gap Road Quarry. The applicant was required to provide a Land Use Conflict Risk Assessment (LUCRA) as part of the development application. See the attached LUCRA dated 24 November 2017 (Attachment 5).

Council officers requested further information which was provided by the applicant on 14 February 2018 and included the attached addendum to the LUCRA dated 8 February 2017 (Attachment 6).

The LUCRA concluded that Lots 1 – 5 are potentially noise affected as a result of these industries.

Council's Environmental Health Officers have considered the LUCRA and additional information submitted and are satisfied that, if the application is approved, the consent can be conditioned to mitigate potential adverse impacts.

Both the Gap Road Quarry owners (Council) and Asphalt Plant owners (Boral) raised the issue that the proposed development is within the buffer and could potentially result in more land use conflict, which may threaten the continuation of these approved and regionally significant industries.

The LUCRA and additional information submitted assessed noise, dust and odour and potential adverse impacts as a result of the existing industries.

The applicant submitted various assessment reports as part of the LUCRA including reports used for the assessment of the Boral Asphalt Plant and a dwelling house approved on Lot 2 DP 800081 to the north of the subject land.

These issues are discussed in more detail later in the report.

4. *Dangerous carcinogens from the asphalt plant*

Comment: There have been no records of carcinogenic impacts resulting from the asphalt plant provided to Council by State health or environmental agencies. There is no requirement under NSW EPA licensing to provide readings to determine the carcinogenic impact of the asphalt plant.

5. *Overdevelopment*

Comment: The subject site is zoned R2 Low Density Residential under the Ballina LEP 2012 and has a minimum lot size of 600m². The subdivision creates 10 lots and one drainage reserve. The proposed lots range in size from 801m² - 915m² (average 833m²) which complies with the minimum lot size.

Historically, in this vicinity of Teven Road there has been a mixture of battle-axe and regular shaped allotments of mixed sizes.

A three lot subdivision immediately to the south of the subject land was approved on 12 August 2008 (under the BLEP 1987), resulting in lot sizes of 938.1m² and 600m² fronting Teven Road.

Lot sizes vary along Teven Road. Considering the existing residentially zoned lots north of Parkland Drive and on the western side of Teven Road the average lot size is 2209m².

6. *Additional traffic movements*

Comment: The proposed development will likely generate approximately 81-90 additional movements per day. Council's Development Engineer has assessed the new road and local roads and advised that *"The existing external road network of Teven Road is constructed to a suitable standard to service the proposed development."*

7. *Amenity and loss of green space*

Comment: Some misconception exists amongst the community in that the land is part of the "urban buffer" or "green belt" that surrounds Alstonville. The subject land is not zoned "urban buffer". Land immediately to the east, across Teven Road is zoned as 7(i) Environmental Protection (Urban Buffer) Zone under the BLEP 1987.

8. *Garbage collections, noise from garbage trucks and placement of garbage bins*

Comments: The proposed road will enable access for a service vehicle for garbage collection to the frontage of the 10 lots, and bins would be placed at the front of future dwellings along the new access road.

9. *Footpath*

Comment: Submissions addressed the lack of footpath in the vicinity of the proposed development. Council's Development Engineer provided the following comment: *"There is a fragmented 2m pedestrian network along the western side of Teven Road. The addition of a 2m shared path along the development's frontage would provide an opportunity for a future connection into the pedestrian network on Teven Road to Whipps Avenue."*

10. *Teven Road/Ballina Road Roundabout*

Comment: It was requested that the developer share in the cost of this roundabout. Should the application be approved the proposal will be subject to section 94 contributions for road works.

11. *Various issues*

Comment: One submission addressed the obstruction of views, reduced privacy, devaluation of property values and a request for uniform fencing.

With respect to views, privacy and fencing, these matters can be further considered in relation to individual dwellings on each lot.

With respect to property values, it is important to recognise that the land is presently zoned R2 Low Density Residential and development of the kind proposed is a permitted land use within the zone.

Applicable Planning Instruments

The proposed development application has been assessed under the matters for consideration in Section 79(c) of the Environmental Planning and Assessment Act 1979. The assessment has identified the following key issues which are elaborated upon for Council's consideration.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

The proposed development is situated within 220 metres of the boundary of Lot 2 DP 1130300 on which the Tuckombil Quarry is located. The proposed development is situated within 320m of Lot 1 DP 880416 on which the Boral Asphalt Plant is located.

These industries are “potentially hazardous industry” and “potentially offensive industry” under SEPP 33.

These existing land uses have been considered in the assessment of this application, however the proposed development does not constitute “potentially hazardous industry” or “potentially offensive industry” and therefore SEPP 33 is not directly applicable to this application.

State Environmental Planning Policy No. 55 – Remediation of Land

The objective of this policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 7 applies to the proposal to ensure that consent is not approved until assessment of the proposed land has been undertaken to identify if the site has been contaminated due to current and past land uses.

Preliminary contaminated site investigations were conducted by the applicant and it was concluded that the existing and historical uses of the subject land and surrounding properties are unlikely to have caused contamination and are not anticipated to impact on the future subdivision of the land.

Soil samples and testing can be undertaken to confirm that contamination of the site has not occurred as a result of paint residues or pesticides once the existing dwelling house is demolished. Should the application be approved, the consent will be conditioned to require such sampling and testing accordingly.

State Environmental Planning Policy – (Mining, Petroleum Production and Extractive Industries) 2007

Clause 13 – Compatibility of proposed development with mining, petroleum production or extractive industry of the Mining, Petroleum Production and Extractive Industries SEPP has been considered as part of the proposal.

Clause 13 applies to an application for consent for development on land that is in the vicinity of an existing mine, petroleum production facility or extractive industry. Before determining an application the consent authority must:

(a) consider:

- (i) the existing uses and approved uses of land in the vicinity of the development, and
- (ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and
- (iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and

(b) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and

(c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).

Issues of relevance to this application are discussed below:

Gap Road Quarry (Lot 2 DP 1130300):

An approved hard rock quarry and associated crushing plant exists on the site. The quarry was operated in more recent years by Lismore Council under lease from Council until the lease was terminated and quarrying activities ceased in August 2016.

The quarry remains operational under its current consent (DA 1995/276).

A modification application and amendment to the Environmental Management Plan approved by Council on 13 August 2013 updated the blasting methodologies utilised at the quarry to ensure that blasting undertaken is in accordance with contemporary practices and minimises impacts on residential receivers.

The approved use has no time limit imposed as a condition of consent (it is however limited by total volume extraction of 1.3 million tonnes). As advised in the submission made by the Manager - Support Operations, Civil Services Group, Council is currently preparing an Environmental Impact Statement for the proposed expansion of the quarry.

In the assessment of the S.96 amendment (DA 1995/276) it was “noted that the existing extractive industry results in non-compliances with the buffer distances stated in Chapter 2 of the Ballina Shire DCP 2012 (which nominates 1000 metres where blasting occurs). This does not change as a result of the modification, however the modification attempts to change the blasting methodology used on the site to ensure they are completed in accordance relevant standards and contemporary practices to minimise impacts on residents within the encroaching area.

Consequently, the modification is expected to improve the existing land use conflict issues with the quarry and improved communication with surrounding residents (through the amendments to the Environmental Management Plan).”

Located within the quarry site are two separately leased areas. One of these areas is utilised by Boral Asphalt for the purposes of operating an asphalt batching plant (DA 1995/127). The approved use has no time limit imposed as a condition of consent.

The second area is leased to Ron Southon for the purpose of storage and maintenance of drilling plant and equipment and the storage of hazardous materials utilised in blasting. Approval was granted under DA 1998/252 on 28 August 1998. The approved use has no time limit imposed as a condition of consent.

Boral Asphalt Plant (Lot 1 DP 880416):

This plant has been in existence since the late 1970s. In 1995, Designated Development Application 1995/127 approved the removal of the previous asphalt batching plant and replacement with a new higher capacity plant with various operating restrictions/conditions. Since the early 2000s there have been various live trial periods and modifications approved by both Council and the NSW EPA (as the appropriate regulatory authority) to enable the asphalt plant to operate on a limited basis over a 24 hour work period (60 nights per annum and for emergency works).

Council considered a S.96 modification application for the plant at an Extraordinary Meeting on 10 August 2016. Objections to the S.96 application identified odour generated by the plant as an issue and the consent was conditioned to mitigate this issue.

Noise from additional day-time truck movements to and from the asphalt plant were assessed as part of the S.96 application and it was found unlikely that noise impacts of additional movements would be substantial. Carcinogenic emissions from the asphalt plant were discussed and considered as a separate matter by Council.

Ron Southon Pty Ltd (Lot 3 DP 1130300)

Ron Southon Pty Ltd has approval (DA 1998/252) for use of the site as a depot for the storage and maintenance of drilling plant and equipment and the storage of hazardous materials. Approval exists for 24 tonnes of Ammonium Nitrate (AN) and 2 tonnes of blasting explosive to be stored on the site. A S.96 was lodged in 2015 to increase the amount of materials stored, however the application was withdrawn.

The proposed subdivision and future dwelling houses will be located between approximately 580m – 690m from Ron Southon's operations. It is noted that dwelling houses on land zoned residential in the immediate vicinity are located closer to this industrial use including a dwelling house in Teven Road immediately to the north of the proposal (approximately 585m), dwelling houses in Kris Place (approximately 420m – 480m) and dwelling houses in Tanamera Drive between Kris Place and Whipps Avenue (approximately 440m – 600m).

The LUCRA did not initially address Ron Southon's operations in detail with the following comments provided in Tim Fitzroy & Associates report dated 24 November 2017.

"The Ron Southon Blasting Contracting Office and Depot is located some 585m north of the proposed residential subdivision. No specific buffer applies to this use and therefore a LUCRA is not triggered. No significant land use conflicts are envisaged with respect to the location of the Ron Southon Blasting Contracting Office and Depot and the proposed residential subdivision at 77 Teven Road Alstonville."

Subsequently, Tim Fitzroy and Associates provided the following additional information by email dated 13 March 2018 that are further to the comments above.

"This view is based on:

- 1. The existing controls for the storage of magazines that store detonators and potentially packaged explosives under the Explosives Act 2003 and the Work, Health and Safety Act 2011. The storage of these items are strictly controlled and subject to annual inspection by Safe Work NSW. The annual inspection includes an assessment of all stored equipment. The regulator must consider the location of sensitive receivers. The regulator has clearly considered the dozens of existing residential receivers that lie closer than the proposed development to Ron Southon Depot when considering the annual licence review and is satisfied that the depot can operate safely in the current circumstances.*
- 2. The distance (conservative 585m) to the closest point of the proposed development site to the closest shed of Ron Southon Depot*
- 3. There is no direct line of site between the Ron Southon Depot and the proposed development site. The line of site is broken by earthen embankment, variation in topography and vegetation.*

It remains our view that the potential land use conflict between the Ron Southon Depot and the proposed development is negligible and therefore no specific mitigation measures on behalf of the proponent are required.

This view is supported by Dr John Heilig (Vibration Specialist) pers.com 13 March 2018."

Council's Environmental Health Officer concurs with this position.

Ballina LEP 2012

Clause 2.3 – Zone Objectives and Permissibility

The subject site is zoned R2 Low Density Residential zone. The zone objectives are as follows.

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

The subdivision of land, demolition of a building and vegetation management works is all permissible in the zone with consent.

Clause 4.1 – Minimum Subdivision Lot Size

Clause 4.1 provides that the size of any lot resulting from the subdivision of any land is not to be less than the minimum size shown on the Lot Size Map. The subject lot has a minimum lot size of 600m². The proposed lots range in size from 801m²-915m² and therefore the application complies.

Ballina Development Control Plan 2012

Council's assessment staff have undertaken an assessment of the application against the relevant provision of the Ballina DCP 2012. The following areas are of particular relevance for Council's consideration.

Chapter 2 – General and Environmental Considerations

3.1 Land Use Conflict

Due to the proposed development being in close proximity to the Tuckombil Quarry and Boral Asphalt Plant, a Land Use Conflict Risk Assessment was provided with the application. Further information was requested and submitted following initial assessment by Council officers.

The LUCRA conducted by Tim Fitzroy and Associated dated November 2017 concluded that the proposed site is suitable for a proposed residential subdivision, subject to the following recommendation:

“Noise Mitigation:

- *As a precautionary measure given the tonal impacts of asphalt plant operation resulting in a 6dB exceedance in the evening and night periods at noise monitoring location R1 on the northern perimeter of the Panorama Estate consideration should be given to the provision of acoustic treatment of windows and the provision of air conditioning in habitable rooms to allow windows to be closed in the night and evening for dwellings in the proposed subdivision.*

A number of factors have led to this conclusion including:

- *distance attenuation of some 445 metres from the limit of quarry excavation to the proposed residential subdivision;*

- *distance attenuation of some 350 metres from the closest point of the Alstonville Asphalt Plant to the proposed residential subdivision;*
- *no direct line of sight between the quarry and asphalt plant and the proposed development;*
- *the ongoing implementation of the Environmental Management Plan for the Tuckombil Quarry,*
- *Boral's commitment to implement the recommendations of the Odour Impact Assessment of the Alstonville Asphalt Plant (Air Environment 2017)*
- *the evidence of air quality, noise and vibration monitoring, and*
- *the results of modelling on the effects of the asphalt plant on air quality.*

The type, nature, location, times of operation and recent record of the Tuckombil Quarry and Alstonville Asphalt Plant, coupled with the site specific environmental assessments and monitoring results have led me to the view that any potential future land use conflicts between the existing quarry and asphalt plant and the future occupants of the proposed residential subdivision are acceptable."

Council's Environmental Health Officer has provided the following comments:

"The land use conflict risk assessment appears unclear in regard to existing noise levels and relies upon prior noise assessments and the effective implementation of controls at the Boral at the extractive site. An addendum to the applicant's information was subsequently received on 12 February 2018."

In response, Council's Environmental Health Officer provided the following comments:

Noise

"In response to a request for further information and discussion with Council officers, the applicant has provided an addendum to the Land Use Risk assessment (Tim Fitzroy & Associates, 24 November, 2017). The addendum included and referred to relevant noise assessments which had been undertaken by Audio Services (2014) which supported the construction of a dwelling on a neighbouring allotment (closer) and also a noise assessment which was undertaken by Muller Acoustic Consulting Pty Ltd on behalf of the Boral Batching Plant. The reports considered day, evening and night noise emissions from the quarry operations, asphalt plant and associated road traffic noise. In consideration of the noise reports and information provided within the Land Use Conflict Risk assessment provided by Tim Fitzroy and Associates, it is possible that under certain operations and environmental conditions, that some noise spillage from the batching operations may occur.

As such, the proponent has recommended that lots 1-5 be acoustically treated to limit the occurrence of intrusive noise. Therefore, to ensure that the occupation of the dwellings is not affected by intrusive noise incursions from the operations of the batching plant, it is appropriate to apply construction standards that will achieve the desired noise levels within the subsequent residences situated on lots 1-5."

Blasting

“Historically, blasting operations at the site were to be undertaken in compliance with recommendations of reports provided by Blastronics in 1995. It appears that between 1995 and 2013, blasting at the site did not always conform to the recommendations and procedures provided by Blastronics and this practice eventuated in elevated levels of vibration and airblast experienced by nearby residences. A modification was submitted and approved by Council on the 13 August, 2013 which sought and upheld the continued operation of the hard rock quarry. A Blasting report was submitted in August 2012 and a subsequent Seismic Assessment report was submitted in May 2013 by Orica Mining Services which identified and modelled the blasting operations at the site. Council considered the potential impact of blasting and applied a condition within the approval which required vibration and airblast explosive practices to be upgraded at the quarry to meet and comply with Australian Standards for human comfort limits. The current Environmental Management Plan for the operations further endorses the findings of the seismic and blasting reports by incorporating the findings into the Environmental Management Plan.”

This additional information has been considered by Council’s Environmental Health Officer and if the application is approved the following condition will be imposed on the consent:

“(1) A Restriction-As-To-User in accordance with Section 88b of the Conveyancing Act 1919, is to be placed on the title of Lots 1-5 inclusive, stating that any proposed dwelling located on lots 1-5 inclusive must be constructed so as to achieve the internal noise levels (LAeq) of 35 dBA for bedrooms during night periods (10 pm to 7 am) and 40 dBA for other habitable rooms at any time as specified in AS/NZ 2107:2000- Acoustics - Recommended design sound levels and reverberation times for building interiors. Reference should be made to the addendum to the Land Use Conflict Risk Assessment submitted by Tim Fitzroy and Associates Pty Ltd - dated 8 February 2018 which identifies that Lots 1-5 are potentially noise affected.

Certification from a suitably qualified and experienced person must be provided to the Principal Certifying Authority prior to the release of the Construction Certificate or Complying Development Certificate for any dwelling house on those lots certifying that the dwelling construction plans and specifications will achieve the required internal noise levels for bedrooms (LAeq) of 35 dBA during night periods (10 pm to 7 am) and 40 dBA for other habitable rooms as specified in AS/NZ 2107:2000-Acoustics- Recommended design sound levels and reverberation times for building interiors.

A copy of the section 88 instrument shall be provided to and approved by the Principal Certifying Authority (PCA) prior to the issue of the subdivision certificate.”

Odour

Council's Environmental Health Officer provided the following comments:

An odour impact assessment was provided within the addendum to the Land Use Conflict Risk Assessment (Tim Fitzroy & Associates 24 November 2017). The report was undertaken by Air Environment Consulting in June 2017 to investigate intermittent odour complaints from some residences in the immediate area. In response to the complaints, Boral implemented an air quality management system which included the application of an activated carbon filtration unit to treat odour emissions from the bitumen heating units and holding tanks.

The report was undertaken in accordance with the relevant Australian Standards AS4323.3 (2001) and AS 4323.4 (2009). An odour emission inventory was then compiled which was used in a CALPUFF odour dispersion modelling assessment which was conducted in accordance with the NSW Approved Methods and CALPUFF modelling Guidance. Importantly, the report determined that ground level odour emissions complied with the EPA odour impact assessment criterion at all sensitive receiver locations.

In further consideration, health impacts have been previously considered in association with the odour emissions from Boral Asphalt Plant. On the 26 August 2016, New South Wales Health responded to an enquiry from Council in regard to this matter. The response provided that fugitive emissions would most likely be in the form of odours and that *"odours are generally not of direct consequence....."* NSW Health further provided that given the distance from the plant, it is unlikely that residents' health would be impacted by fugitive emissions.

3.3 Natural Areas and Habitat

The eastern section of the subject site is mapped as being "50m Buffer – Natural Areas & Habitat". Land to the east of Teven Road is mapped as "Natural Areas & Habitat" and remains zoned as 7(i) Environmental Protection (Urban Buffer) Zone under the BLEP 1987.

The proposal involves the removal of one Lilly Pilly tree which requires consent. The tree is located in the proposed new road. One Golden Palm and one New Zealand Christmas Bush will also be removed but are considered exempt development as they are within 3m of the shed structure.

3.9 Stormwater Management

The objectives state that *"runoff from the site and upstream catchments, to a lawful point of discharge, in a manner that minimises flood damage and risk to people and property."* The increase of total volume of runoff will be discharged onto Lot 218 DP 837177, a property located on the eastern side of Teven Road.

After consultation with Council's Development Engineers an amended stormwater management plan was submitted.

Council’s Development Engineer provides the following comments:

“A stormwater plan has been provided which is considered to be generally acceptable (report by Ardill Payne and Partners Stormwater Management Plan Dated February 2018. This plan provides inter-allotment drainage and piped street network to a 150m³ bio-retention basin. The basin will restrict flows to below pre developed levels however there will be an increase in stormwater volume leaving the site. Note the basin discharges to Councils street network however the subsequent discharge point is an open field on the northern side of Teven Road which doesn’t have continuity to a 1st order stream. Therefore the development doesn’t technically have a legal point of discharge.

The property owners that receive the stormwater have provided letters of authority permitting the additional volume.”

Chapter 2a – Vegetation Management

The proposal involves the removal of one Lilly Pilly tree which requires consent. The tree is located in the proposed new road. One Golden Palm and one New Zealand Christmas Bush will also be removed but are considered exempt development as they are within 3m of the shed structure.

Chapter 3 – Urban Subdivision

The proposed subdivision comprises 10 lots and therefore Chapter 3 of the DCP is required to be taken into consideration.

The subdivision complies with the objectives of section 3.1.

Road Layout. Infrastructure Internal to Development Site	
<p>New roads to be designed to:</p> <ul style="list-style-type: none"> • Provide clear and legible hierarchy. • Provide network based on grid pattern where applicable. • Minimise the use of cul-de-sacs. • Facilitate the use of public transport. • Enable convenient pedestrian and cycle movement. • Provide legal and practical access to lots. 	<p>The proposed new road:</p> <ul style="list-style-type: none"> • Has a clear and legible hierarchy. • Is straight with a conventional T-intersection to Teven Road. • Is a short-length, straight cul-de-sac that will service only 10 houses. • Will not require public transport access due to its short length and proximity to Teven Road. • Will facilitate convenient pedestrian and cycle movement. • Will provide legal and practical access to all lots.
<p>Where land slopes at a grade of ≥ 6%, predominant road alignment to be perpendicular to the slope.</p>	<p>The proposed road will not have a slope at a grade of greater than 6%.</p>
<p>All new roads to be designed in accordance with the Northern Rivers Design Manual (NRDM).</p>	<p>The proposed road has been designed in accordance with the NRDM.</p>

Solar Access	
<p>Street and lot layout to be designed to optimize solar access to dwellings including:</p> <ul style="list-style-type: none"> • Streets to run generally north-south and east-west pattern. • Lots should generally be regular (rectangular) in shape. • Lots to be generally orientated to provide long axis that maximises potential solar access. • Highest densities to be on land that is north facing close to shops, gently sloping. • Lowest densities to be on land that is south facing, remote from shops, more steeply sloping. 	<p>The lots are generally rectangular in shape and have been shaped and sited so that there is reasonable solar access. The rear yards of the lots face due north.</p> <p>The proposed new road runs east-west and is largely dictated by the shape and orientation of the existing lot.</p>
Engineering Design and Construction Requirements	
<p>Development must meet the requirements of the Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual.</p>	<p>The proposal satisfies the requirements of the Northern Rivers Local Government Design and Development Manual.</p>
Services and Infrastructure	
<p>Subdivisions to be fully serviced with water, sewer, roads, drainage, underground electricity and communications services.</p>	<p>All required public infrastructure services are available and will be installed to service each lot.</p>
<p>Where lots have frontage only to a lane, adequate infrastructure servicing, including formalised vehicular access, waste collection and postal services must be available.</p>	<p>No lots have lane frontage.</p>
<p>All service infrastructure to be designed and constructed in accordance with the Northern Rivers Local Government Design and Development Manual.</p>	<p>All service infrastructure has been designed and will be constructed in accordance with the Northern Rivers Local Government Design and Development Manual and the Construction Manual.</p>
<p>Service infrastructure internal to the development site shall be provided by the developer at no cost to Council.</p>	<p>Service infrastructure internal to the development is will be provided by the developer.</p>
<p>Dual reticulation water supply for non-potable water to be provided.</p>	<p>This will be managed by way of condition on the consent.</p>
<p>A restriction as to user to be included on the title of all lots requiring all dwellings and buildings with plumbing to make provision for non-potable water service plumbing.</p>	<p>This will be managed by way of condition on the consent.</p>

Minimum Lot Size and Shape	
Subdivision to meet minimum lot sizes and specifications in Table 3.1.	<p>Each of the proposed lots has:</p> <ul style="list-style-type: none">• An area of >450m² and >550m² for corner lots – the minimum lot size proposed is 801m².• The regular shaped lots have a minimum effective width of 18m which exceeds the required 12m width.• Proposed Lots 7, 8, 9 and 10 are irregular shaped lots (at the head of the cul-de-sac) and have road frontages of 24m, 8.9m, 5m and 24m respectively.• Each lot contains a concept 12m x 15m rectangular building envelope which exceeds the required 10m x 15m building envelope required for irregular shaped lots.

Conclusion

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Shire Development Control Plan 2012 and submissions made in response to the exhibition and notification of the proposed development.

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 subject to conditions of consent. Should Council choose to proceed with this option, it must be satisfied that the proposal is generally consistent with the provisions of the relevant Environmental Planning Instruments (EPIs), Ballina Shire Development Control Plan 2012 and the likely impacts on neighbouring and future residents are considered reasonable in this instance.

Option Two

That Council refuse the development application on the grounds that the proposal will have unreasonable impacts on the amenity of the future residents of the subdivision 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.

Option one is the recommended approach for the reasons outlined in this report, being:

- The land is zoned for residential purposes and has been since 1987
- The proposed lots comply with the minimum lot size prescribed under the BLEP 2012

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- There are existing dwelling houses closer to the quarry, the Boral Asphalt Plant and Ron Southon's operation than the future houses on the subject lots.

RECOMMENDATION

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)

1. Locality Plan
2. Proposed subdivision plan
3. Submissions
4. EPA Response
5. DA 2017/679 LUCRA 24 November 2017
6. DA 2017/679 Amended LUCRA 8 February 2017 (Under separate cover)

8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road

8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road

Applicant	Quarry Solutions Pty Limited C/- Groundwork Plus (owners WO & MF McGeary)
Property	Lot 3 DP 619233, No. 323 Old Bagotville Road, Wardell
Proposal	To modify the existing consent to extend the 20 year “life” of the quarry by five years (from 20 to 25 years)
Effect of Planning Instrument	The land is zoned part RU2 – Rural Landscape and part 1(e) Rural (Extractive and Mineral Resources) under the provisions of the Ballina LEP 2012 and BLEP 1987 respectively
Locality Plan	The subject land is depicted on the locality plan in Attachment 1.

Introduction

This modification application seeks to extend the terms of the approval by five years (from 20 to 25 years) and set an end termination date or “life” of the consent for the quarry operations until 31 January 2023 or until cessation of the Pacific Highway upgrade (whichever is achieved first) for the supply of materials to the Pacific Highway (Woolgoolga to Ballina) upgrade only.

The approved annual peak production rate/extraction volumes, consented to reserves (which have not been reached/extracted), quarry footprint, site rehabilitation, total truck movements, monetary contributions or overall hours of operation and environmental management etc., are not proposed to be modified by the application (other than a driver code of conduct).

This modification application is being reported to Council for determination, with the key issues being:

- Whether the proposed modified development remains substantially the same development as required under Section 96 of the EP&A Act 1979.
- Whether the approval of the modification application will significantly increase the environmental impacts of the total development having regard to Section 79C of the EP&A Act and relevant regulations.
- Council is in receipt of 20 letters of objection.
- The applicant has nominated that the extension is only for the purposes of supplying material to the critical state significant infrastructure project (Pacific Highway upgrade).

This modification application does not directly relate to the “Monti’s, Jali, Gibson and McGeary” quarries (some of which are being operated by the Roads and Maritime Service for the Pacific Highway upgrade) also located in close proximity on Old Bagotville Road.

Background

The current Section 96(2) modification application was lodged in late October 2017 (i.e. three months prior to the expiry of the consent) to extend the life of the quarry by five years (from 20 years to 25 years) which is the subject of this report.

It is important to note that at the time of determination of the original quarry in 1996 it was not considered to constitute Designated Development.

The original quarry was approved by Council following applications in line with the provisions of *State Environmental Planning Policy No. 37 – Extractive Industries*. Deferred Commencement Consent was issued on 22 February 1996 for:

“The continued operation and expansion of an existing Extractive Industry – extraction of shale and chert with extraction rates of 50,000 tonnes per annum (total resource of 975,000 tonnes).”

On 23 August 1996 Council amended the Deferred Commencement Condition No. 7 by extending the completion/satisfaction of Deferred Commencement Conditions 1 to 6 from six months from the date of consent for a further 15 months until 23 November 1997.

The deferred commencement conditions related to the provision of a Plan of Management (PoM), Noise Impact Statement and road upgrades. These were satisfied and the quarry has been operating ever since.

Upon commencement of quarry operations, the consent also imposed General Condition No. 12 limiting the life of the quarry which states:

“This consent enables a total extraction of 975,000 tonnes or permits quarrying on the site for not more than twenty (20) years, whichever is achieved first. This approval is contingent upon satisfactory re-appraisal of the Plan of Management at the five (5) year period.”

Council’s records do not indicate that a re-appraisal of the PoM occurred within the five year stipulated timeframe. The PoM also suggested biannual review to ensure the environmental safeguards and measures were being implemented and were sufficient. Council’s records do not indicate this has been conducted/provided by the owners/operators.

Based on the lower than expected extraction rate/volume per annum and available resource, the total extraction from the quarry has not exceeded 975,000 tonnes and this means the number of years is only relevant to the “life” of the quarry in this case.

Condition No. 13 states:

“This consent shall lapse in accordance with the above, at which time extraction shall cease and the site restored in accordance with the detailed Plan of Management. Any extension during the final nine (9) months shall be for the purposes of facilitating site restoration.”

8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road

As will be outlined later in this report a two staged progressive site restoration/rehabilitation of the quarry back to farmland with habitat trees planted throughout was required in accordance with the PoM. This is not evident and has not occurred over a number of years as the entire approved quarry footprint remains in a disturbed state.

The applicant, however, contends that required extraction depths have not been achieved and therefore staged rehabilitation is not yet required. As will be outlined later in the report, this position is not accepted.

Despite the clear terms of Condition No. 13, the current modification is not seeking the five year extension for the purposes of facilitating site restoration, but rather for the following reasons:

- “(a) 477,102.7 tonnes of the approved 975,000 tonnes remains in situ; and
- (b) there is an urgent demand for the material from the Pacific Highway Upgrade Project; and
- (c) being adjacent to the project alignment haulage distance is reduced compared to alternative quarry sites which is beneficial to the project, the community and the environment.”

The applicant was requested to provide documentary evidence of the contract with the RMS for the supply of product, particularly as the RMS had not taken operational control of Eaton’s quarry for the Critical State Significant Pacific Highway upgrade similar to what occurred at the surrounding Jali and Gibson quarries. This was recently provided and is at Attachment 2.

There are no changes proposed to the approved hours of operation for the extraction, loading and transporting of quarry materials or other changes in operation to address contemporary environmental performance criteria for such matters as air quality and noise.

The quarry also has a current Environment Protection Licence No. 20794 permitting extraction of up to 50,000 tonnes per annum (Attachment 3) consistent with the original consent conditions. The applicant acknowledges that this will need to be modified to align with the extended consent period (if approved) as it currently expires in 2021. It should be noted that even if the five year extension is approved by Council, this will only allow extraction of up to 250,000 tonnes of the remaining 477,102.7 tonnes.

A previous Section 96(2) Modification Application (from a different quarry operator) was submitted in 2010 to increase the permissible maximum rate of extraction from 50,000 tonnes per annum to 150,000 per annum. This created a substantial amount of public interest and was later withdrawn by the applicant in mid 2012.

Council has previously confirmed that the commencement date for the quarry was January 1998 and based on this, extraction at the quarry expired on 31 January 2018. Council has recently written to the owners and the applicant advising that the consent has expired and all quarrying activities within the site are required to cease. Council also requested that site restoration in accordance with the approved PoM and Condition No. 13 be completed.

These matters will be discussed further in the report.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The modification application was placed on public exhibition between 23 November 2017 and 14 December 2017.

Council received 20 objections (Attachment 4).

Some of the objections also refer to the other quarries in the locality, which are not directly relevant to the determination of this modification application.

More generally the objections also relate to and can be summarised as follows:

- The Quarry location is adjacent to Jali Local Aboriginal Land Council Indigenous Protected Area and approval to extend the life of the quarry by 5 years will negatively impact on endangered species (long nose potoroo), threatened species (koala) and other wildlife owing to ongoing/increased heavy vehicle traffic, dust, vibration from blasting and noise (the road exclusion fencing and recent fire is already impacting).
- The RMS Highway Upgrade is scheduled to conclude 2020 and the proposed Quarry DA modification timeframe extends further than the projected completion of the Highway Upgrade project.
- Non-compliance with existing conditions of consent (including payment of monetary contributions) and no demonstration of intention to meet current obligations. Non-enforcement by Council will lead to further non-compliance if extended and now even more difficult to monitor due to RMS separately operating quarries in the locality.
- No progressive rehabilitation has been carried out in accordance with the Plan of Management. The existing conditions should be fulfilled prior to any extension, particularly in light of the timing of completion of the Pacific Highway upgrade and as trees take between 4 to 18 years to become Koala feed trees.
- Allowing the extension is allowing the RMS to avoid due process.
- Reduced amenity from the overall extended quarry operations from impacts such as noise, air quality/dust, vibration, operating hours.
- Further heavy vehicle traffic generation and reduced vehicular and pedestrian safety along Old Bagotville Road (gravel road) and Carlisle Street (residential area). RMS traffic estimates only included the Jali and Gibson quarries.
- Old Bagotville Road needs to be upgraded and sealed, however this could also lead to greater use, faster speeds and therefore higher incidents between Koalas and motorists. Quarry vehicles should not be permitted to utilise Old Bagotville Road to the south-west.
- Environmental conditions in 2017 are more stringent than those applied in 1996 and more is now known about koalas and potoroos.

These should now be relevant, particularly in relation to the Ballina Koala Plan of Management.

- Cumulative impact when considered with other quarries operated by the RMS and subcontractors in the locality (particularly heavy vehicle traffic and impact on wildlife). This requires the preparation of an EIS and referral as a controlled action under the EPBC Act due to clause 35 of the EP & A Regulation.
- The JRPP has previously refused an application in this locality due to the traffic impacts.
- Inconsistent with the RU2 zone objectives.
- The resource can be sourced from other quarries with less environmental sensitivities.
- Health impacts of silica dust.
- The extension is not in the public interest.

The applicant has provided a consolidated response to the submissions (Attachment 5). Council's Development and Environmental Health Group generally concurs with the responses provided by the applicant.

The responses provided by Government Agencies (NSW EPA and RMS) are contained in Attachment 6 and they generally raise no objection to the proposed modification application subject to certain considerations which will be outlined within this report.

The matters directly relating to the modification application sought are considered as part of this report.

Applicable Planning Instruments

Section 96(2) of the EP&A Act 1979 requires Council to consider:

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

Report

The consent imposed a time limit on the quarrying activities and these time limits have now been reached requiring quarrying to cease at the site. However, the consent still remains in existence and can be lawfully modified/extended if the matters outlined within the following report are considered acceptable.

Substantially the same development as first granted

Section 96(2) of the EP&A Act 1979 requires the consent authority to be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).

In assessing whether a consent as modified will be substantially the same development, a quantitative and qualitative comparison between the development permitted under the original consent and the development which would be permitted if that consent was modified in the manner sought needs to occur.

The documentation provided by the applicant provides comment on the quantitative and qualitative considerations of the consent to be modified as compared to the consent as originally granted.

The 1996 consent, if modified, will still be for an extractive industry, with the same footprint, extraction rate and environmental controls for an additional period of five additional years.

Notwithstanding this, as part of preliminary discussions Council Assessment Officers raised concern that a five year extension to the originally approved 20 year consent (i.e. increase by 25%) may not satisfy the “substantially the same development” test.

The applicant sought and has provided legal advice in this regard (Attachment 7) which outlines the following:

- (a) a “radical transformation” to the development consent will not be created as the only change is an extension of life,
- (b) the fundamental character and quality of the quarry will remain “essentially or materially” the same, including land use and form,
- (c) although a 20-year lifespan may be considered as a “critical element”, a significant amount of the approved resource remains in situ and therefore has not reached the extractive potential envisaged by the consent, and
- (d) having regard for a “before and after comparison” the modification is not materially different to that approved. The only change is quantitative – an extension of the life of the development.

Despite this advice being provided, concerns remain regarding the length of time sought in comparison to that originally granted or envisaged. On this basis the applicant has confirmed that a modified condition only permitting the extraction to occur until the completion of the Woolgoolga to Ballina project would be satisfactory.

According to the RMS website works are expected to be completed by 2020 and further recent verbal discussions with RMS/Pacific Complete Project Engineers have advised mid 2020 is the current completion timeframe. As the chert material from the quarry is utilised relatively early in the road construction process to allow for greater pavement flexibility, Pacific Complete Project Engineers have also advised that they would only need the chert material until the end of 2019.

Based on this and in order to satisfy the “substantially the same development” test, it is considered prudent to reduce the originally requested five year period to a maximum of two years and only for the supply of a material to the Pacific Highway project. This timing anomaly has also been noted by a number of public submissions received, however the applicant has clarified that the additional time is sought as:

“It is not unreasonable to anticipate that certain work will occur after that date. Potential works might, for example, include completion of maintenance access tracks or rectification of erosion and sediment control devices. On this basis and from an abundance of caution, an extension of time until 2023 is sought for extraction from the Eatons Quarry for delivery to the Pacific Highway Upgrade Project.”

However, subsequent to this written advice, recent verbal conversations with Mr Terry Woods, General Manager of Quarry Solutions has confirmed that the applicant would be accepting of a condition limiting the extraction extension until early 2020 rather than 2023.

Therefore, if Council is satisfied that the applicant has provided Council with sufficient information as is required pursuant to Section 96 of the Act it is plausible for Council to conclude that the development if modified (as proposed to be conditioned in relation to the reduced extension of time) will be substantially the same as the development as first granted, particularly as the approved annual peak extraction rate, consented to reserves, hours of operation etc. are not changing.

As it appears that the Pacific Highway alignment will skirt along the eastern boundary of the quarry and therefore not sterilise the remaining resource, if the applicant requires further time for extraction it is also open and available for the applicant to lodge a new Designated Development Application and associated Environmental Impact Statement, for detailed assessment, under relevant statutory controls and standards applicable at the time of lodgement and assessment.

Designated Development

At the time of determination of the original proposal, the development did not constitute designated development under the definitions of Schedule 3 of the previous EP&A Regulation 1994 and the criteria/threshold limits contained within clause 20 of State Environmental Planning Policy No. 37 – Continued Mines and Extractive Industries at the time (now repealed).

Although this modification application does not relate to an approved designated development, clauses 35 and 36 of Schedule 3 Part 2 of the current EP&A Regulation 2000 (reproduced below), are prudent to consider for completeness.

Part 2 Are alterations or additions designated development?

35 Is there a significant increase in the environmental impacts of the total development?

Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

36 Factors to be taken into consideration

In forming its opinion as to whether or not development is designated development, a consent authority is to consider:

- (a) the impact of the existing development having regard to factors including:
 - (i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and
 - (ii) rehabilitation or restoration of any disturbed land, and
 - (iii) the number and nature of all past changes and their cumulative effects, and
- (b) the likely impact of the proposed alterations or additions having regard to factors including:
 - (i) the scale, character or nature of the proposal in relation to the development, and
 - (ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and
 - (iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and
 - (iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and

(c) any proposals:

- (i) to mitigate the environmental impacts and manage any residual risk, and
- (ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.

Having regard for clauses 35 and 36, the relevant matters are addressed below. It is important to note that an “extractive industry” remains permissible with consent within the RU2 Rural Landscape zone.

Environmental Management Performance/Rehabilitation

During the assessment of the original application in 1995/96 it appears that approximately one third (1.856 hectares) of the site had already been disturbed/worked as a result of previous quarry operations (noting the 1996 application was for the quarries continuation under the requirements of SEPP 37).

The rehabilitation plan approved as part of DA 1996/29 indicated the extent of the pre-existing quarry footprint, Stage 1 revegetation in the southern portion of the site at 30 trees per hectare and Stage 2 progressive rehabilitation across the entire quarry footprint at 10-15 trees per hectare (Attachment 8).

The subsequently approved POM (Attachment 9) required that “progressive rehabilitation shall continue throughout the life of the quarry.” As the applicant has confirmed that just over half of the approved resource has been extracted, Stage 1 of the rehabilitation requiring the provision of topsoil and tree establishment program consisting of suitable Koala and Glossy Black Cockatoo food trees in the southern portion of the site should be in place and well advanced.

Further, Condition No. 24 clearly states:

“Rehabilitation and restoration of the site shall commence immediately in accordance with the approved plans and documentation and intent of the Plan of Management so as to reduce the area exposed to erosional forces at any one time”.

A site inspection conducted on the 14 March 2018 indicated that no rehabilitation works had been commenced and that part of the southern Stage 1 revegetation area had been partially cleared for a basin without approval, (refer aerial photography at Attachment 10).

Consequently, if this modification application is approved, it is considered prudent to require the commencement of the progressive rehabilitation immediately at the time of recommencement of extraction and require its establishment in full prior to 30 April 2020 (i.e. three months after the extraction ceases).

An audit of the quarry was undertaken on 4 November 2008 by staff to assess compliance with the development consent conditions. Non-compliance issues were identified and conveyed to the quarry owners on 16 March 2009.

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A recent compliance inspection was also undertaken on 14 March 2018. At the time of the inspection no quarrying activities were taking place. Further, no quarry vehicles or site facilities were observed and it appeared that no recent quarrying activities had taken place which is consistent with Council's request to cease operations.

Although a full audit has not been completed it was evident that erosion and sedimentation control measures have not been provided or maintained.

There were also no observable revegetation works that have been undertaken in line with the POM.

A number of submissions have also raised non-compliance issues.

It is evident from these inspections that there have been areas of non-compliance with conditions and the approved Plan of Management over a period of almost 10 years. It is also evident that the progressive rehabilitation of the site has not occurred in accordance with the approved POM.

Despite this, it should be noted that prior non-compliances is not a relevant consideration to the "substantially the same development" test, and in the context of clauses 35 and 36 the original development, the subject of this modification application, was not designated development.

As the original approval was issued over 20 years ago it is critical to ensure that the environmental practices and controls are up to contemporary standards for noise, dust (including silica), vibration and blasting etc.

The subject quarry is a scheduled premise under the Protection of the Environment Operations Act and is therefore subject of an Environmental Protection Licence (EPL) – (refer Attachment 3). The current EPL has been reviewed and it applies contemporary standards for noise, vibration, air and water releases. The premise is regulated by the NSW EPA which is responsible for ensuring the extractive industry is operating in accordance with the EPL and complying with the standards applied.

The last annual return provided by the EPL holder to the NSW EPA was received 7 November 2017, with no non-compliances listed. The Pollution Incident Response Management Plan was last tested 24 May 2017 and the current EPL expires 29 September 2021.

The return advice from the NSW EPA (Attachment 6) has raised no objection on the basis that any concerns with the management of operations can be addressed through the Protection of the Environment Operations Act 1997 and EPL licence.

Consequently, as the environmental performance of the subject premise will be regulated by the NSW EPA in line with contemporary standards to minimise any impacts on the environment and/or nearby sensitive receivers, Staff is satisfied with a proposed extension of time from an amenity impact perspective.

Roads and Traffic/Cumulative Impact

The haulage route utilised from the quarry is east via Old Bagotville Road, then north along Back Channel Road which becomes Carlisle Street in Wardell Village. Carlisle Street then intersects with the existing Pacific Highway where a directional split to either north or south occurs. Given that the purpose of the modification application is to exclusively supply a section of the Pacific Highway Upgrade Project, it is anticipated that a portion of the material may potentially be delivered straight to the project via Old Bagotville Road.

The applicant has submitted a traffic impact assessment (TIA), which includes traffic counts for the Pacific Highway/Carlisle Street intersection and the Old Bagotville Road/Back Channel Road intersection. The survey was carried out on the 22 November 2017 from 6:30am to 9:30am and from 2:30pm to 6:00 pm.

The TIA predicts the development will generate an average of 20 one-way vehicle movements per day with an expected peak of five one-way vehicle movements per hour. During an absolute peak operational scenario, traffic movements may be expected to increase to 40 one-way vehicle movements per day and 10 one-way vehicle movements per peak hour. It is understood that the movements associated with the peak operational scenario are not sustainable over an extended period given a maximum annual extraction limit of 50,000 tonnes would apply.

Based on a predicted density of 1500 kg/m³ for loose/broken shale the annual extraction limit of 50,000 tonnes equates to a volume of approximately 33,333m³. If the extension of time is approved, the quarry will have approval to deliver 5.7 days per week 52 weeks per year. However, due to variations in weather, resource demand and onsite difficulties it is anticipated that extraction will not occur every day. It is assumed there may be a 10% reduction in the total number of days in which material can be extracted, this result in approximately 260 days of extraction each year.

Given the predicted 260 working days per year, then an average of 128m³ would be transported from the site each day. Assuming that the haul trucks will have a capacity of 20m³ then 6.4 truckloads or 12.8 one-way vehicle movements would be produced each day.

The applicant has stated that, "...We understand that the expected and peak 'hourly truck volumes' described by Traffic and Transport Plus of 40vpd and 10vph are the worst case scenario and not anticipated to occur daily or even weekly. They are anticipated to occur rarely, potentially once every few months".

The TIA has identified that Pacific Highway/Carlisle Street intersection will operate above capacity (DOS>1) for both the AM and PM peak hours. The TIA identified that a possible solution to solve the existing capacity constraint would be to signalise the intersection. However, the applicant argues that it would be unreasonable to require them to be responsible for the associated costs of such improvement works for the following reasons:

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- The intersection suffers from existing capacity issues and the development will have only a modest impact on its continued operation.
- A portion of the trips generated by the development will be directed to the adjacent Pacific Highway Project and will not impact upon the Pacific Highway/Carlisle Street intersection.
- After the completion of the adjacent highway upgrade project and the 'new' highway opens to traffic; there will be a significant reduction in the volume of traffic using the 'old' Pacific Highway and the existing intersection will be back within satisfactory operating parameters.
- The site will operate for a maximum duration of 5 years and not result in any long term traffic impacts.

Council has not received any complaints to date regarding the level of service of this intersection and Council is not aware of any capacity issues associated with this intersection. Given the scope and scale of the proposed development it would be considered unreasonable to require the applicant to undertake the identified upgrade works to the Carlisle Street/Pacific Highway intersection.

Furthermore, it is reasonable to expect that any capacity issues that are experienced by this intersection will be resolved once the 'new' Pacific Highway opens in 2020.

Aside from the intersection of the Pacific Highway and Carlisle Street no other capacity issues have been identified within the road network. However, there are ongoing concerns relating to the impact of heavy vehicles on residential amenity within Carlisle Street. Council has received a number of complaints to date relating to noise, vibration, dust and safety. The cumulative impact of the proposed quarry, along with other quarries and cane trucks also reliant upon this haulage route is of concern.

A number of heavy vehicle generating developments operate in the vicinity including Old Monti's, New Monti's, Jali and Gibson's quarries as well as various agricultural and sugar cane farms. In addition, it is considered that Pacific Complete and RMS construction traffic associated with the highway upgrade would also add significantly to the number of heavy vehicles generated.

Council has recently undertaken a week of traffic counts along Carlisle Street approximately 100 metres south of Bath Street commencing from Monday, 26 February 2018. The traffic counts identified that there were on average 811 vehicle movement per weekday of which 346 were heavy vehicle movements. Heavy vehicle movements accounted for approximately 42.7% of the total traffic on weekdays.

It is noted that a traffic count was also undertaken in Carlisle Street in 2010 as a response to concerns from residents reporting a large increase in heavy vehicle movements. The counts identified an average heavy vehicle movement rate of over 200 a day. Based on the recent traffic counts undertaken it is clear that the amenity of the area is under pressure from the number of heavy vehicles experienced.

8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road

The subject development application is anticipated to generate a total of 20 vehicle movements per day, 14 of which will be heavy vehicle movements. This corresponds to an increase of approximately 2.5% of total vehicle movements and an increase of approximately 4% of heavy vehicle movements based upon Council's traffic counts.

The traffic generation from the existing operational quarries and the continued potential traffic generation from the proposed quarry is a potential cumulative impact that needs to be considered, due to the reliance on the same haulage route that traverses through the Wardell Village.

Notwithstanding this, the following needs to be considered:

- The peak heavy traffic figures recorded are not expected to occur long term and it is anticipated that there will be a substantial drop in the number of heavy vehicle travelling through Carlisle Street once the Pacific Highway upgrade works have been completed in 2020.
- The subject development seeks consent to supply material exclusively to Pacific Complete and will cease operating after five years or after the cessation of the contract held by Quarry Solutions for delivery of quarry material to the Pacific Highway Upgrade – Woolgoolga to Balling Project, whichever is achieved first (although this is recommended to be reduced to two years until 31 January 2020).
- The proposed development will only generate a 4% increase in the number of heavy vehicle movements experienced in Wardell.

As a means of mitigating amenity concerns for the surrounding area, the applicant has indicated that they intend to implement a Driver Code of Conduct for Eaton Quarry should approval to operate be granted.

The Driver Code of Conduct will include requirements such as the voluntary adoption of a reduced speed limit of 40 kph along Carlisle Street within Wardell and will also include the following components:

- A Driver Induction Procedure.
- Compliance with the Driver's Code of Conduct will be enforced by a 'Two strikes and you're out' policy administered by the Quarry Manager and reviewed by the General Manager of Quarry Solutions.
- Installation of forward and driver facing cameras on haulage trucks managed by Quarry Solutions.
- Installation of GPS monitoring devices on haulage trucks managed by Quarry Solutions. Each GPS monitoring unit is installed on the truck. A GPS 'fob' or 'key' is assigned to an individual driver as per the Driver Induction Procedure. The driver logs on to the GPS monitoring unit on the truck prior to commencing each shift. The GPS monitoring unit tracks the vehicle location, speed, exceedance of speed limits and harsh vehicle movement and braking as well as mapping the location of any potential incident or infringement to assist in future investigations. In the event of an incident or infringement (e.g. exceedance of speed limit) alerts are sent immediately by email and 'phone app' to the Quarry Manager, Operations Manager, Transport Manager and General Manager. All alerts provide detailed information including, date, time, nature of the infringement, driver name, truck registration and type and the location of the event.

- The installation of GPS monitoring unit on all local school buses using the haulage route where permission is provided. Each GPS monitoring unit fitted to a school bus enables tracking and interaction with the GPS monitoring unit in each truck. The GPS monitoring system is configured to send an alert to a truck driver traveling in the same direction as a school bus when the truck comes within 500 metres of the school bus. The alert is in the form of a beep audible only to the truck driver and not the school bus driver. Being alerted of the nearby school bus the truck driver is to reduce speed and be alert and maintain a minimum 50 metre separation distance to the school bus. If the 50 metre separation distance is encroached an alert is generated and the infringement will be investigated. In the event that the school bus stops the truck is also to stop and not pass the school bus. If the truck does pass the school bus an alert is generated and the infringement will be investigated. The GPS tracking system is intelligent and also alerts a truck traveling in the opposite direction of a school bus when it is approaching the school bus, but the alert will not be triggered when the truck passes the school bus in the opposite direction.

It should also be noted that the proposed 40 kph speed reduction will also assist in reducing any potential vibration impact on residents/dwellings.

The modification application was referred to the Ballina Local Development Traffic Committee (LDTC) on the 14 February 2018 for comment, in particular in relation to the adequacy of the Pacific Highway/Carlisle Street intersection and local amenity concerns raised in a number of public submissions.

The LDTC recommended that if the application is approved conditions be placed on any amended consent with the effect of:

1. Prior to commencement of operations for the extended period, a Transport Management Plan must be submitted to and approved by Council.
2. The Transport Management Plan must provide a binding code of conduct for the operation of haulage vehicles carting material from the quarry to external locations and shall include:
 - Measures to ensure haulage vehicles are operated in a professional manner that minimises impacts on road users and adjoining properties and residents.
 - Provisions for the limiting the speed of haulage vehicles to 70 kph on Old Bagotville Road and 40 kph in the Wardell town area.
 - Covering of all loads.
 - Procedures to ensure vehicles exiting the site do not convey sediment, debris or other material onto the external road network.
 - Monitoring haulage vehicles through an In Vehicle Monitoring Systems (IVMS) to ensure professional driver standards are being met, or alternative monitoring arrangements satisfactory.

The proposed development was also referred to the RMS in accordance with Clause 16 of the SEPP (Mining, Petroleum and Extractive Industries) 2007.

The RMS response is provided at Attachment 6.

As these are considered to be positive measures to reduce amenity/safety concerns, additional conditions will be imposed if the modification application is approved.

For clarity, the public's suggestion that the Joint Regional Planning Panel refused a previous Development Application 2014/615 (expansion of Monti's Quarry) based on unacceptable traffic impact on residents within Carlisle Street is not entirely correct. Although this formed part of several reasons for refusal, this was on the basis of the applicant not adequately addressing the cumulative impact at peak capacity. The primary reason for refusal was the expansions impact on the critical state significant infrastructure project (Pacific Highway upgrade).

Impact of Wildlife

As outlined in the Roads and Traffic section of this report, there has been a substantial increase in heavy vehicle traffic from the locality along Old Bagotville Road, Back Channel Road and Carlisle Street since the commencement of the Pacific Highway Upgrade works.

Council's Civil Services Group have been in separate on-going discussions with the RMS (Pacific Complete) regarding the possible upgrade (sealing) of Old Bagotville Road due to the increased heavy vehicle traffic.

Such sealing would also negate some of the dust issues raised in relation to impact on Koala feed tree leaves and general disturbance to the local Koala population raised by a number of public submissions, however it could also have a negative impact due to Koala mortality on the road (i.e. motorists would generally travel at greater speeds on sealed roads and would not need to be concentrating as hard on the carriageway and subsequently any Koala's that may venture within the carriageway/exclusion fencing).

The minimal proportional increase in heavy traffic if the extension of time is approved when compared to the current RMS operations conducted under State legislation where Council has minimal input/authority is not considered to be significant in the circumstances.

Consequently, due to current RMS operations quantifying the direct impact on Koala's or any other wildlife is difficult for the purposes of this modification application.

Options

Based on the content of this report, the Council has the following three options:

Option One

To refuse the modification application on the basis of insufficient information to satisfactorily address relevant statutory considerations and the environmental impacts of the proposed modification. This is not the recommended option due to the content of this report.

Option Two

To approve the modification application for the requested five year extension until 2023 subject to the existing conditions imposed in 1996 with the inclusion of amended conditions relating to only supplying the Pacific Highway upgrade works and the Transport Management Plan incorporating the Driver Code of Conduct.

This is not the recommended option due to the lengthy amount of time sought and on the basis that it is not considered to be substantially the same development for the purpose of the EP&A Act.

Option Three

To approve the modification application subject to:

- (a) A maximum of two years (until 31 January 2020) and only for the supply of material to the Pacific Highway upgrade.
- (b) Amended/additional conditions relating to the commencement of the progressive rehabilitation immediately at the time of recommencement of extraction and review of its establishment in full prior to 30 April 2020 and the implementation of the Transport Management Plan incorporating the Driver Code of Conduct.

This is the recommended option.

Conclusion

As outlined in this report, modification application to DA 1996/29 the subject of this report, although for the same purpose (i.e. extension of life), has three distinctly different aspects to DA 1995/259 for Newrybar Swamp Road recently considered and refused by Council. This is due to the following:

- (a) The original application for DA 1996/29 was not considered to trigger designated development. This has significant assessment implications for the current modification application.
- (b) The applicant has agreed to conditions restricting the supply of material only to the State significant critical infrastructure project and only whilst the project is under construction.
- (c) The applicant has proposed additional mitigation measures for traffic impact/safety and provided a Traffic Impact Assessment that incorporates Transport Management and Driver Code of Conduct.

The approval of this current modification application (when limited for just under two years until January 2020 rather than the intended five years), is considered to be substantially the same development, reasonable having regard for 79C of the EP& A Act 1979 and in the interest of the wider public as it is solely for the supply of the critical state significant infrastructure specifically listed in Schedule 5 of the State Environmental Planning Policy (State and Regional Development) 2011.

Although the assessment of the modification application has found that the progressive rehabilitation has not been commenced on the site, the approval of the modification application will allow this aspect to be tightened via additional conditions. If this is commenced immediately at the extension period and plantings conducted in full at the end of the extension period there are no valid technical reasons as to why the quarry should not be permitted to extract for a further two year period within current extraction limitations.

The conditional approval of the modification application will provide operational certainty for the supply of chert for the Pacific Highway upgrade, albeit only for up to 100,000 tonnes (i.e. 50,000 tonnes per annum) and certainty for local residents in that the extraction is only permitted for an additional two year period (i.e. whilst impacts from the RMS construction operations would still be experienced if the modification application was refused).

RECOMMENDATION

That the modification application to DA 1996/29 for the Eaton's Quarry be **APPROVED** via the amendment to conditions as outlined within this report, namely:

1. A reduction in the requested extension of time for extraction from five years down to two years (until 31 January 2020 and maximum of 100,000 tonnes) and only for the provision of chert material for the Pacific Highway upgrade works.
2. The commencement of the progressive rehabilitation immediately at the time of recommencement of extraction and review of its establishment in full prior to 30 April 2020).
3. The implementation of the Transport Management Plan and Driver Code of Conduct.

Attachment(s)

1. Locality Plan - s96 Amendment - Eatons Quarry - Lot 3 DP 619233
2. Contract with RMS
3. EPA Issued Environmental Protection Licence
4. Submissions of Objection
5. Applicant's Response to Submissions
6. Government Agencies Responses
7. Applicant's Legal Advice
8. Rehabilitation Plan
9. Approved Plan of Management
10. Aerial Photograph

8.4 DA 2017/675 - 5 Rancher Court, Wollongbar

8.4 DA 2017/675 - 5 Rancher Court, Wollongbar

Applicant	Ardill Payne & Partners
Property	Lot 52 DP 786758 No. 5 Rancher Court, Wollongbar
Proposal	Strata Title Subdivision of an existing attached dual occupancy
Effect of Planning Instrument	The land is zoned R2 – Low Density Residential under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of a Development Application for a *Strata Title Subdivision* of an existing dual occupancy that was approved in 1989 under DA 1989/7.

The proposed Strata Title Subdivision will result in the two lots being less than the 600m² minimum lot size as required by Clause 4.1B (Minimum subdivision lot size for strata plan schemes in certain residential, rural and waterway zones) in the BLEP 2012.

The purpose of this report is to seek Council's determination of a requested variation to the development standard under Clause 4.1B, as the application proposes a variation of more than 10% to the development standard. The proposal seeks a variation of approximately 40%, as the proposed Strata Lot 1 will have an area of approximately 353m² and proposed Strata Lot 2 will have an area of approximately 362m².

The Council may assume the concurrence of the Director of the Department of Planning and Environment to carry out an assessment of the application under Clause 4.6 of the BLEP 2012 and grant approval to the variation sought, if considered reasonable. Should Council resolve to approve the proposed variation, the development application will be subsequently determined under delegation.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

The proposed development has been assessed under the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979 and it can generally be supported. The only matter to be determined by the Council in relation to this report is the requested variation to the minimum lot size development standard under Clause 4.1B of the BLEP 2012.

Clause 4.6 BLEP 2012

The mechanism that provides the ability to vary a development standard contained within the BLEP 2012 is an application via Clause 4.6 – Exceptions to development standards. The following assessment has been carried out with respect to Clause 4.6.

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
a) What is the development standard being varied?	<p>Clause 4.1B Minimum subdivision lot size for strata plan schemes in certain residential, rural and waterway zones.</p> <p>The minimum lot size standard in the R2 zone is 600m².</p> <p>The existing lot is 903.8m². The proposed Strata Lot 1 has an area of approx. 353m² and proposed Strata Lot 2 has an area of approx. 362m², representing departures of approx. 40% from the minimum lot size. Note the balance of the 903.8m² will be common property.</p>
b) What is the underlying objective of this development standard?	<p>The objective of this clause is to ensure that land to which this clause applies is not fragmented by inappropriate subdivisions.</p>
<p>c) In accordance with clause 4.6 of BLEP 2012, Council must be satisfied that:</p> <ul style="list-style-type: none"> • compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard • the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, 	<p>The applicant contends that strict compliance with the minimum 600m² standard is unreasonable and unnecessary given:</p> <ul style="list-style-type: none"> • the Strata subdivision relates to an existing developed residential lot that contains a lawfully constructed and occupied "residential flat building comprising two units" as approved under DA 1989/7. • Dual occupancies were able to be Strata Title subdivided under BLEP 1987 and the consent was not conditioned to preclude Strata subdivision. • The subdivision will not result in any changes to land use, built form, external appearance, footprint, height of existing development. • The subdivision will not impact on the amenity of adjoining properties (i.e. privacy or overshadowing). • The Strata lots are of sufficient size and shape to reasonably and practically contain the existing dwellings, garages and ancillary improvements/structures. • There are three residential developments in the immediate vicinity which have been Strata Title subdivided in a similar manner, being the adjoining lot in Rancher Court (SP 73669), a lot on the corner of Rancher Court and Rubiton Street (SP 75215) and a lot on the

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
	corner of Rubiton and Ramses Street (SP 38461).
d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?	<p>Zone R2 Low Density Residential</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To provide for development that is compatible with the character and amenity of the surrounding neighbourhood. To provide for development that meets the social and cultural needs of the community. To encourage development that achieves the efficient use of resources such as energy and water. <p>Clause 4.1B Minimum subdivision lot size for strata plan schemes in certain residential, rural and waterway zones.</p> <p>(1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by inappropriate subdivisions.</p> <p>The existing dual occupancy has been approved and lawfully constructed under DA 1989/7. There are existing Strata Title subdivisions in the immediate vicinity. The subdivision will not result in any changes to land use, built form, external appearance, footprint, height or the amenity of adjoining properties. The cumulative effect of future similar approvals is not likely to undermine the objectives of the development standard given the particular circumstances that apply in this case.</p>
e) The Five Part Test established by the NSW Land & Environment Court (Note: only one of these tests needs to be satisfied)	
<ul style="list-style-type: none"> Are the objectives of the standard achieved notwithstanding non-compliance with the development standard? Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary? Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable? Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the 	<p>The land will not be inappropriately fragmented by this Strata subdivision.</p> <p>The underlying objective of the development standard will not be comprised by this Strata subdivision.</p> <p>No</p> <p>No, compliance with the development standard in this instance is unnecessary and unreasonable as in the immediate vicinity there are 3 similar Strata Title subdivisions which have resulted in Strata lots of similar sizes.</p>

BLEP 2012 - Clause 4.6	
Assessment of requested variation	
<p>development standard unnecessary and unreasonable?</p> <ul style="list-style-type: none"> • Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)? 	<p>Compliance with the development standard is unreasonable as there is an existing dual occupancy which has been approved and lawfully constructed under DA 1989/7. The Strata Title subdivision will not result in any changes to land use, built form, external appearance, footprint, height or amenity of the neighbourhood.</p>

Options

Option One – That Council determines the proposed variation to the minimum lot size development standard is appropriate in the circumstances and approves the variation to the development standard being sought. This is the preferred option.

Option Two – That Council determines that the proposed variation to the minimum lot size is excessive in the circumstances and that the request should be refused. This option is not recommended.

Conclusion

The Strata Title subdivision of the approved dual occupancy is permissible with consent and is consistent with the objectives of the R2 zone. Dual occupancies were able to be Strata Titled under BLEP 1987 and the consent was not conditioned to preclude Strata subdivision.

The Strata Title subdivision will not result in any changes to the land use, built form, external appearance, footprint or height of the existing development. The proposed Strata Titled lots are of sufficient size and shape to contain the dwellings and required parking. There are also three residential developments within the immediate vicinity of the subject land which have been Strata Title subdivided in a similar manner.

Compliance with Clause 4.1B under the BLEP 2012 is considered unreasonable in this circumstance and the request to vary this standard is warranted for the strata title subdivision of the existing dual occupancy.

Consequently, the request to vary the minimum lot size standard in this instance is well founded. Should Council resolve to approve the application to vary this standard, the development application will be determined under delegated authority.

RECOMMENDATION

That the application to vary the Ballina Local Environmental Plan 2012 Development Standard Clause 4.1B – Minimum subdivision lot size for strata plan schemes in certain residential, rural and water way zones for DA 2017/675 for the Strata Title Subdivision of an existing dual occupancy be **APPROVED**, for the reasons outlined in this report.

Attachment(s)

1. Locality Plan
2. Proposed Subdivision Plan

8.5 Determination Review - Pontoon and Jetty, Mainsail Place

8.5 Determination Review - Pontoon and Jetty, Mainsail Place

Applicant	Mr N Hargreaves
Property	Lot 8 DP 879801, 15 Mainsail Place West Ballina and Lot 132 DP 775228, Council owned land in Ballina Quays.
Proposal	Request for a Section 8.2 Review of Determination of DA 2017/569 – To undertake works to upgrade an existing pontoon and jetty structure.
Effect of Planning Instrument	The private land at 15 Mainsail Place is zoned R2 Low Density Residential and the public land within the Quays canal is zoned W2 Recreational Waterways Zone under the provisions of the Ballina LEP.
Locality Plan	The subject land is depicted on the locality plan below.

Introduction

Council has received a request under Section 8.2 of the Environmental Planning and Assessment Act 1979 to review the determination of Development Application 2017/569.

DA 2017/569 is for upgrade works to an existing pontoon and jetty which involves the installation of a new pontoon and jetty structure. The upgrade works would result in a single pontoon accessed by two jetty structures. The land the subject of the development application is shown in Figure 1 (note that the application also relates to the Ballina Quays canal adjacent to Lot 8 DP 879801).



Figure 1: Subject Site - Lot 8 DP 879801 (shown shaded red)

8.5 Determination Review - Pontoon and Jetty, Mainsail Place

A key detail is that the proposal involves the installation of new piles within Lot 8 DP 879801 (the private land) to support the new and existing jetty structures.

On 15 January 2018 the application was determined by way of refusal. The reasons for the refusal were stated as follows:

1. The proposal does not comply with Council's Pontoons and Jetties Policy; and
2. The proposal is not in the public interest.

This report provides the review of the determination.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil.

Information

The proposed development is permissible within the R2 Low Density and W2 Recreational Waterways zones under the Ballina Local Environmental Plan 2012. The proposed jetty and pontoon structure is also consistent with the objectives of the applicable zones.

With respect to the Ballina Shire Development Control Plan 2012, the proposed jetty and pontoon is forward of the 11.5m canal building line set in the DCP. However, the proposed development is a suitable land use within the setback on the basis that it provides for access to the canal for a waterfront property.

It is not expected that the proposed development would have any adverse impact on ecological or amenity attributes associated with the locality.

The proposed jetty and pontoon is, however, inconsistent with Council's requirements for such structures as the development involves the installation of piles approximately 2.5m further into the canal than permitted under Council's specifications.

Council's requirements for jetties and pontoons in the canals (referred to as Council's Pontoons and Jetties Policy) are summarised as follows:

- Pontoon and jetty structures located within the Ballina Quays and Banyanda Estate areas are to be a maximum length of 18 metres as measured from the revetment wall/kerb line to the extreme pontoon edge.
- The first three metres of the pontoon structure is permitted to be a fixed structure with piles, while the remaining 15 metres must be floating from a demountable pivot point attached to the 3 metre fixed section of the pontoon.
- Bracing piles are permitted within the 3 metre zone as measured from the revetment wall outside edge, however, no additional piling is permitted beyond this zone.

8.5 Determination Review - Pontoon and Jetty, Mainsail Place

- Structural engineer designed bracing/piling details for the pontoon addressing any forces from wave and tidal action are required to be submitted with the Development Application.

These requirements were established in the 1990s to support Council's canal maintenance program. The policy is designed to ensure that the maintenance activities required within the canals are able to be reasonably undertaken unobstructed. That is, the requirements are in place to minimise difficulties in the delivery of Council's maintenance program over the longer term.

The development application was referred to Council's Civil Services Group for comment, particularly in relation to the departures from the above requirements.

The Civil Services Group advised that it was not supportive of the application due to the proposal being outside the Council's set design parameters for structures within the waterway.

In particular, the location of the eastern piles for the new jetty would be on an area where sand would likely be deposited. The concern with such structures is that their installation may ultimately impede Council's ability to effectively maintain the canals.

On review, the Civil Services Group has maintained its advice that the proposed development is inconsistent with Council's requirements for waterway structures on Council owned land.

It could be argued that the impact of the proposed structures will not result in unreasonable limitations on Council's maintenance program. However, the applicant has not provided sufficient information to demonstrate this, or the need for the design that is outside Council's requirements, either with the original development application or the request for a review of the determination.

No new information providing a suitable engineering justification or otherwise addressing the potential impacts of the proposed piles relative to Council's design requirements was submitted with the request to review the determination.

The applicant was provided with an opportunity to amend the design of the pontoon and jetty structure having regard for Council's policy requirements.

Further, it is the view of Council's Civil Services Group that a suitable pontoon and jetty structure could be achieved in the particular circumstances within the scope of Council's policy.

Having regard for the above, it is recommended that Council confirms the determination of the application by way of refusal for the reasons given in the original determination.

If Council is of the view that the design parameters that are applied should be reviewed, it is suggested that the Council includes an additional point in its resolution to require a review of the design requirements to be undertaken.

8.5 Determination Review - Pontoon and Jetty, Mainsail Place

Notwithstanding this, it is not recommended that Council makes a one off decision to enable structures in the waterway where inconsistent with the existing approach in the absence of a formal review, including consultation with specialists in marine engineering and canal maintenance.

If the policy is reviewed and ultimately amended, it would be open to the applicant to lodge a new development application.

Options

It is open to the Council to maintain the refusal of the development application, approve the application or defer consideration of the matter to seek additional information.

For the reasons outlined it is recommended that the Council maintains the original decision to refuse DA 2017/569.

RECOMMENDATION

That Council confirms the determination of DA 2017/569 (being proposed works to upgrade an existing jetty and pontoon) as **REFUSAL** for the reasons stated in the notice of determination dated 15 January 2018.

Attachment(s)

1. DA 2017/569 Request for review of determination

8.6 Development Applications – Variation to Development Standards

8.6 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 NO applications approved under delegation for variations to development standards less than 10% for February 2018.

Attachment(s)

Nil

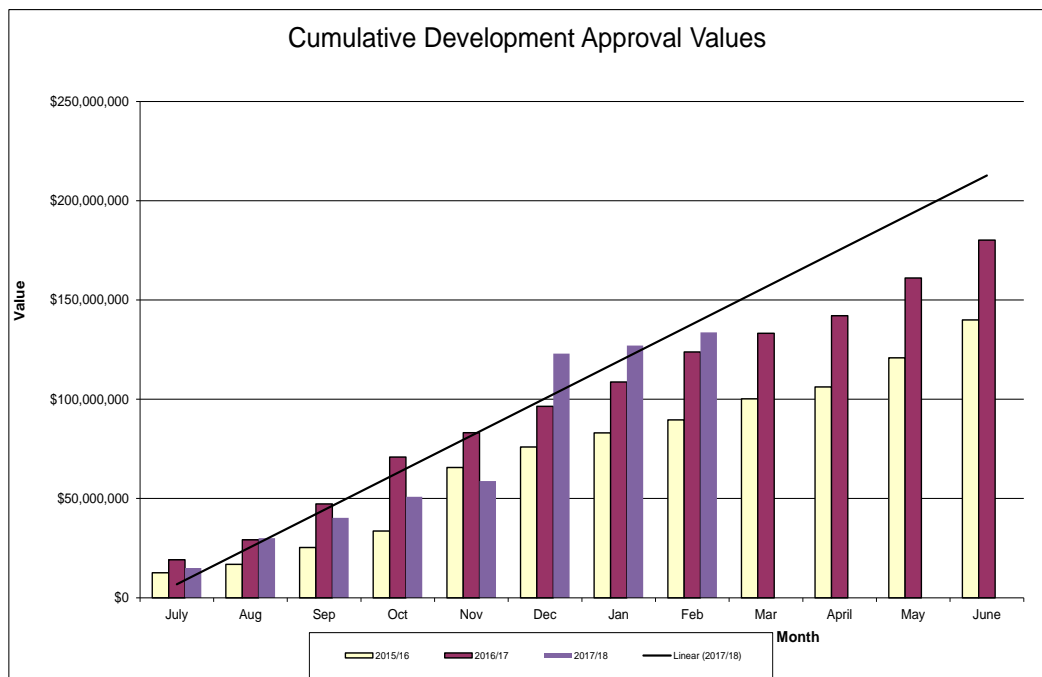
8.7 Development Consent and Infrastructure Approvals - February 2018

8.7 Development Consent and Infrastructure Approvals - February 2018

During the period of 1 February 2018 to 28 February 2018 the Development and Environmental Health Group issued Development Consents comprising:

Number of Applications	Value of Work
35 Other including Changes of Use	\$ 2,186,103
16 Dwellings/Dual Occupancies/Residential Flat Buildings/New Commercial and Industrial Buildings	\$ 4,457,852
3 General Developments including Subdivisions	\$ 50,000
Total Value	\$ 6,693,955

The following chart details the cumulative consent figures for 2017/18 as compared to 2016/17 and 2015/16.



During the period of 1 February 2018 to 28 February 2018 there were no approvals issued for Public Infrastructure / Civil Construction Works.

With respect to the development assessment processes, Council recently engaged Micromex Research Pty. Ltd. to seek customer feedback on the service provided by Council.

8.7 Development Consent and Infrastructure Approvals - February 2018

The purpose of this research was to identify customer satisfaction levels and areas where there may be potential to improve. Micromex was chosen as they have carried out Council's broader community satisfaction surveys for approximately 10 years and they have a database to benchmark results in comparison to other councils.

A copy of the full report and survey information is contained in Attachment 1.

In summary the research involved 301 telephone interviews with randomly selected persons or companies that lodged a development application with Council between January 2015 and November 2017. This sample provides "a maximum sampling error of plus or minus 5.7% at 95% confidence".

The Micromex report indicates that Council has delivered a high quality DA service for the period examined, with the data suggesting that Council is performing above average in comparison to other councils. The key findings of the survey are summarised as follows:

- 94% of applicants were at least somewhat satisfied with Council's overall performance.
- 51% of applicants were very satisfied with Council's overall performance.
- Council has an overall satisfaction rating of 4.26 (out of 5). Micromex indicates this is significantly better when compared to other council data Micromex has collected.
- When compared to other councils, 49% of those who lodged an application with Council stated their experience with Ballina Shire Council was better than previous experiences with other councils (noting 13% said Ballina Shire Council was worse).
- In relation to a series of agreement statements posed to survey respondents, most responses were above the scores in comparative data held by Micromex. Ratings associated with polite and courteous staff conduct achieved extremely high agreement levels.

These results have been pleasing for a high number of staff as many sections across Council are involved in the development assessment process and often feedback may only come from dis-satisfied customers.

Council assesses around 1,000 applications per annum and the results do highlight that many of our customers are satisfied and very satisfied with the service provided.

The survey also has improvement recommendations and this feedback is just one part of the on-going process of examining the entire development service process to identify efficiencies and areas where improved service levels can be provided to customers.

RECOMMENDATIONS

1. That Council notes the contents of the report on development consent and public infrastructure approvals for February 2018.
2. That Council notes the contents of the report regarding the findings of the Micromex Development Application Research.

Attachment(s)

1. Micromex Development Application Research - February 2018 (Under separate cover)

8.8 Development Applications - Works in Progress - March 2018

8.8 Development Applications - Works in Progress - March 2018

The following schedule sets out current development applications that have not yet been dealt with 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	Awaiting additional information
2017/554	6/10/2017	Ballina Shire Council	Construction of a skate park – Elvery Lane, Alstonville	Awaiting additional information
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

8.8 Development Applications - Works in Progress - March 2018

2017/600	30/10/2017	Newton Denny Chapelle	Expansion to an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	Awaiting additional information 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	Being assessed
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	Awaiting additional information
2017/645	16/11/2017	Ardill Payne & Partners	Boundary adjustment subdivision of three rural lots to create three 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
2017/662	21/11/2017	Newton Denny Chapelle	Proposed Temporary Use of Land for Five Years Consisting of a Function Centre for the Purpose of Hosting Up to 38 Wedding Ceremonies in any 12 Month Period – 1 Johnston Road, Newrybar	Being assessed To be reported to Council

8.8 Development Applications - Works in Progress - March 2018

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
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	Being assessed
2018/38	30/1/2018	K Kernaghan	Change of Use – Dwelling House to Recreation Facility (Dance Studio) – 11 Byron Street, Lennox Head	Awaiting additional information
2018/49	2/2/2018	ALDI Stores Pty Ltd C/- KDC Pty Ltd	Alterations and Additions to Existing Aldi Store involving the installation of high level windows and a digital poster box – 2-6 North Creek Road, Ballina	Being assessed

8.8 Development Applications - Works in Progress - March 2018

2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 103 residential lots and seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage – 20 North Creek Road, Lennox Head	Awaiting additional information
2018/52	2/2/2018	David Butcher	Strata Title subdivision of an existing dual occupancy – 26 Lakefield Avenue, Lennox Head	Awaiting additional information
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	Being assessed
2018/63	9/2/2018	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create one x 902sqm and one x 1756sqm allotments to accommodate re-positioned OSSMS and associated vegetation management works – 18-20 & 22 Old Pacific Highway, Newrybar	Being assessed
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	On exhibition and awaiting additional information

8.8 Development Applications - Works in Progress - March 2018

2018/78	14/2/2018	S F Clarke	Vegetation management works involving the removal of three tree – 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	On exhibition
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 Vallen Drive	Awaiting additional information
2018/89	19/2/2018	J Brady	Change of Use from Shop to Hair Dressing Salon – Shop 3/66 Ballina Street, Lennox Head	Being assessed
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	On exhibition
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	On exhibition

8.8 Development Applications - Works in Progress - March 2018

2018/114	1/3/2018	Department of Family & Community Services	Vegetation management works comprising the removal of one tree - 106 Cherry Street, Ballina	Being assessed
2018/117	2/3/2018	C R Kremser	Vegetation management works comprising the removal of seven trees - 37 Alston Avenue, Alstonville	Being assessed
2018/119	5/3/2018	A Nowell	Vegetation management works comprising the removal of seven trees – 9 Jameson Avenue, East Ballina	Being assessed
2018/123	7/3/2018	T A Gotterson	Construction of Shed, stables, private riding arena and upgrade of existing site access and associated earthworks - Lot 3 DP 589334 Old Byron Bay Road, Newrybar	Being assessed
2018/128	9/3/2018	W B Lester	Vegetation management works comprising the removal of eight trees – 1/34 Adele Street, Alstonville	Being assessed

8.8 Development Applications - Works in Progress - March 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	Being Assessed
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 before Commiss. Brown Commenced 12 February 2018 Further mention scheduled 22 March 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

8.8 Development Applications - Works in Progress - March 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 Awaiting additional information
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

8.8 Development Applications - Works in Progress - March 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 and awaiting additional information
2017/447	17/8/2017	Newton Denny Chapelle	Erection of a Neighbourhood Shopping Centre, involving a Supermarket (Woolworths) and Speciality Shops, Associated Car Parking and Other Infrastructure Servicing, Earthworks, Signage and Landscaping within the EPIQ Estate at Lennox Head – Hutley Drive, Lennox Head	Scheduled to be reported to JRPP on 10 April 2018
2017/509	13/9/2017	Conrad Gargett	Alterations and Additions to Lennox Head Public School including the demolition of a number of demountable buildings and construction of new classrooms and amenities including administration building, two storey homebase building (exceeding the 8.5 metre building height standard), canteen, covered outdoor learning area, basketball court, landscaping and associated works – 25 Byron Street, Lennox Head	Scheduled to be reported to JRPP on 10 April 2018

8.8 Development Applications - Works in Progress - March 2018

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
2018/36	30/1/2018	Ballina Shire Council	Construction of the Ballina Indoor Sports Centre comprising two courts and associated amenities, vehicular access from Cherry Street, provision of on-site carparking, vegetation removal and associated infrastructure works. The proposed building has a maximum building height of 11.18m, which is above the maximum building height of 8.5m established for the site under the Ballina Local Environmental Plan 2012 – 37-49 Swift Street, Ballina	Awaiting additional information

Major Development (Determined by Minister)

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

RECOMMENDATION

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

Attachment(s)

Nil

9.1 Economic Development Strategy

9. Strategic and Community Facilities Group Reports

9.1 Economic Development Strategy

Delivery Program Strategic Planning

Objective To seek direction on the adoption of the Ballina Shire Economic Development Strategy.

Background

Council considered a report regarding a draft Economic Development Strategy at its Ordinary meeting held on 26 October 2017. Council resolved as follows:

1. *That Council endorses the Draft Ballina Shire Economic Development Strategy, as attached to this report, for public exhibition.*
2. *The exhibition material is to include financial information based on Table Two of this report, with that summary to clearly outline which actions in the Strategy can be funded from Council's existing financial resources and which items are aspirational.*
3. *This is subject to the Investment Prospectus (C4) being brought forward to the current financial year with the General Manager being authorised to fund this from corporate budgets, if possible.*

With respect to the prospectus, work has commenced on this project.

The draft Economic Development Strategy was amended in accordance with the Council's resolution, incorporating further information regarding resourcing prior to being placed on public exhibition.

A copy of the exhibited draft strategy is provided as Attachment 1 to this report.

The draft strategy was publicly exhibited for a period of ten weeks from Wednesday 8 November 2017 to Friday 19 January 2018.

The purpose of this report is to outline the submissions received in response to the public exhibition of the draft strategy and invite Council to consider the adoption of the strategy.

Key Issues

- Economic development priorities for Council

Information

Four submissions were received in response to the public exhibition of the draft Economic Development Strategy. The submissions are provided as Attachment 2 to this report.

9.1 Economic Development Strategy

The matters raised in these submissions and the Council staff response are provided in the following table.

Submission	Issues	Staff response
Mr Tony Gilding (Owner & operator of the Macadamia Castle)	In relation to Action A9, which proposes improved wayfinding signage to the Ballina CBD, Mr Gilding asks that Council erect additional wayfinding signage to local rural tourist destinations at key entry points to the shire (at the airport and shire boundaries).	Existing key rural tourist facilities (including the Macadamia Castle) are well sign posted within their general vicinity in accordance with State Government TASAC (Tourist Attraction Signposting Assessment Committee) procedures and guidelines. No changes are recommended in response to this submission.
Mr Roy Flavel (submitted as online submission)	Raises concerns that the draft strategy does not include actions that seek to maintain and enhance the shire's environmental assets (a key economic strength identified in the strategy)	The strategy actions are arranged under four key economic development objectives. Measures that Council is taking to protect and improve the shire's natural environment are embedded in Council's Community Strategic Plan (CSP). That is, the economic development strategy has an economic focus but is to be implemented within the overarching context of Council's CSP which recognizes environmental attributes as key elements of the shire.
Mr Ken Clarke	The submission is supportive of the strategy (in general terms) but suggests that the actions do not adequately address concerns raised during stakeholder consultations with respect to perceived Council staff attitudes when dealing with business related development inquiries.	Since the completion of the draft Economic Development Strategy, Council has had an independent customer survey seeking feedback on development assessment processes undertaken. The results of this survey are outlined elsewhere in this business agenda. It is recommended that action A2 (and the associated text in the implementation and resources section) be altered to reflect a more general action to review processes and provide information having regard for business friendly outcomes.

9.1 Economic Development Strategy

Submission	Issues	Staff response
FSG	The submission is supportive (in general terms) of the direction of the strategy and outlines FSG programs and activities which are supportive of the objectives of the strategy.	Noted.

Regional Economic Development Strategy

The NSW Department of Premier and Cabinet are currently in the process of having economic development strategies prepared for economic regions of NSW.

The North Coast Economic Development Strategy is being prepared by consultancy firm Corview in consultation with industry with input from Council staff. In part, the purpose of the regional strategy is to assist in ensuring alignment of State Government financial grant programs with the long term strategic economic interests of the region.

Although broader in scope, the regional strategy appears to be in alignment with Council's draft local strategy.

It is anticipated that the draft Regional Economic Strategy will be available for formal review and public comment over the next few months.

Sustainability Considerations

- **Environment**
The economic development strategy seeks to facilitate economic opportunities in a manner sympathetic to the environmental values of the shire.
- **Social**
The strategy seeks to facilitate economic opportunities in a manner sympathetic to the social values of the shire.
- **Economic**
The strategy seeks to facilitate economic opportunities to the benefit of the broader community having regard for the social characteristics and environmental attributes of the shire.

Legal / Resource / Financial Implications

Resourcing associated with implementation of the strategy was addressed in detail in the report presented to the October 2017 Ordinary Meeting. The Council's direction was incorporated into the draft strategy prior to public exhibition.

The proposed approach to resourcing and funding the actions within the strategy are set out on pages 32 and 33 of the exhibited draft (Attachment 1).

It should be noted that aspirational actions are not identified for Council funding.

Consultation

The preparation of the draft strategy was informed by stakeholder engagement which included writing to all Ballina Shire registered businesses (6,548 letters sent), an online survey, a series of stakeholder workshops, media and an open invitation for public submissions. Feedback from the first phase of community engagement was incorporated into the drafting of the strategy.

The draft strategy was publicly exhibited for a period of ten weeks from Wednesday 8 November 2017 to Friday 19 January 2018. The submissions received in response to the public exhibition of the draft strategy are addressed in the body of this report. The submissions are provided in Attachment 2 to this report.

The local chambers of commerce have been engaged during each stage of the strategy's development.

Options

The following options are available to the Council with respect to this matter:

1. Council could resolve to discontinue the economic development strategy.

This option is not recommended on the basis that the preparation of the strategy has been informed by stakeholder engagement and analysis of Ballina Shire's economic opportunities. Adoption of a strategy is recommended to support economic development in the shire.

2. Council could resolve to defer the adoption of the strategy.

Under this approach Council may seek further information through provision of additional reporting or a briefing.

Given the engagement undertaken and the feedback received, this approach is not recommended.

3. Council could resolve to adopt the economic development strategy as exhibited or with amendments.

It is recommended that Council adopts the strategy with the following amendments:

- Alter action A2 (and the associated text in the implementation and resources section) to be a more general action to review processes and provide information having regard for business friendly outcomes.
- Amend action A11 to refer to consideration of various changes to developer contributions and charges policy to enable a variety of options to be examined.
- Remove text within the strategy relating to the public exhibition phase of the project.
- Adjust text within the strategy to remove references to the draft strategy and address typographic errors and formatting.

9.1 Economic Development Strategy

This approach is recommended on the basis that the preparation of the strategy has been informed by stakeholder engagement and analysis of Ballina Shire's economic opportunities.

If this approach is endorsed, staff will proceed to publish the strategy and schedule implementation of actions based on the timelines set out in the document.

RECOMMENDATION

That Council adopts the Ballina Shire Economic Development Strategy, as attached, inclusive of the amendments outlined in this report.

Attachment(s)

1. Draft Economic Development Strategy (Exhibition Version) (Under separate cover)
2. Draft Economic Development Strategy - Public Submissions

10.1 Investment Summary - February 2018

10. General Manager's Group Reports

10.1 Investment Summary - February 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 February 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 28 February was \$69,738,000. This represents a decrease of \$2,300,000 from January. Council's investments, as at 28 February, are at an average (weighted) rate of 2.68%, which is 0.91% above the 90 Day Bank Bill Index of 1.77%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 28 February 2018, was \$8,713,863. This balance is higher than the balance of \$1,586,983 as at 31 January 2018. The combined movement of investments and bank balances was an increase of \$4,826,880. This overall increase is attributable to the receipt of rates, with the third quarter instalment being due at the end of February. The increase in the cheque account balance is a result of 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	2.6%	3%
Rated Institutions							
AMP Bank	Yes	A	5,000	5,000	20%	7.2%	
Auswide Bank	No	BBB	1,000	1,000	10%	1.4%	
Bank Australia	No	BBB	3,000	0	10%	0.0%	
Bank of Queensland	Yes	BBB+	5,000	4,000	10%	5.7%	
BankWest	Yes	AA-	2,000	4,000	20%	5.7%	
Bendigo & Adelaide Bank	No	BBB+	3,000	3,000	10%	4.3%	
Commonwealth Bank of Australia	Yes	AA-	10,000	8,000	20%	11.5%	
Credit Union Australia	No	BBB	2,000	2,000	10%	2.9%	
Defence Bank Ltd	No	BBB	5,500	5,500	10%	7.9%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.9%	
ING Bank Ltd	Yes	A	5,000	5,000	20%	7.2%	
ME Bank	No	BBB	4,750	4,750	10%	6.8%	
My State Bank Ltd	No	BBB+	5,000	5,000	10%	7.2%	
National Australia Bank	Yes	AA-	7,000	7,000	20%	10.0%	
Newcastle Permanent Bld Society	No	BBB	0	700	10%	1.0%	
Suncorp-Metway Bank	No	A+	2,000	3,000	20%	4.3%	
Teachers Mutual Bank Limited	No	BBB	1,000	1,000	10%	1.4%	
Westpac Banking Corporation	Yes	AA-	7,000	7,000	20%	10.0%	97%
Unrated ADI's					\$1m	0.0%	0%
Total			72,038	69,738		100%	

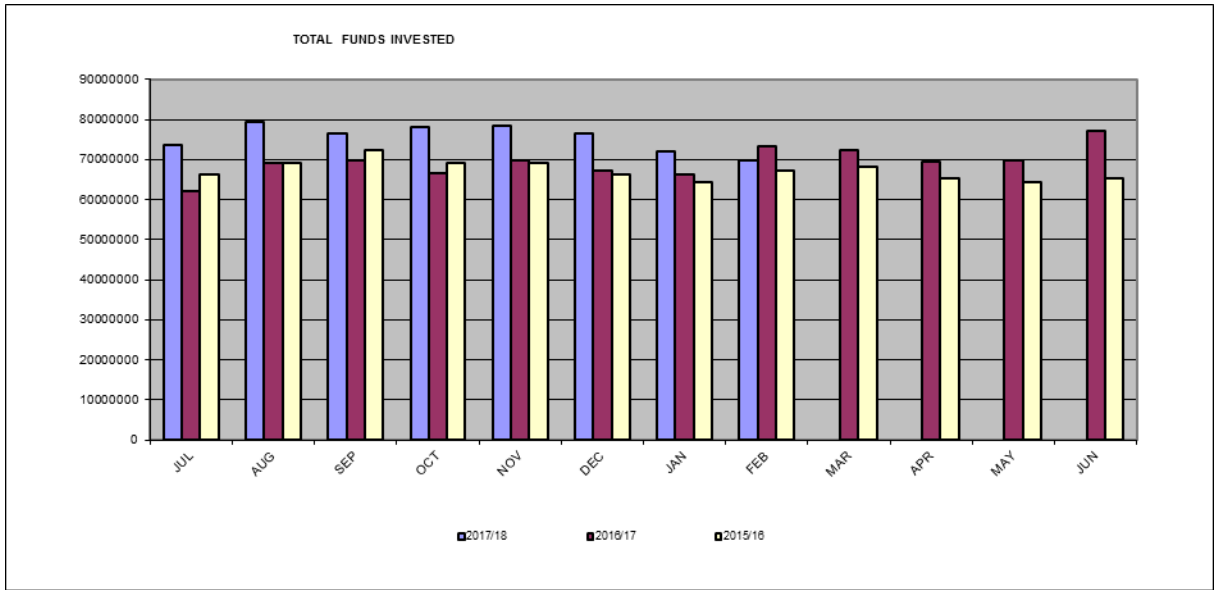
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	42,788 59%	41,788 60%
Non-Fossil Fuel Aligned	29,250 41%	27,950 40%
Not Classified	0 0%	0 0%
Total	72,038 100%	69,738 100%

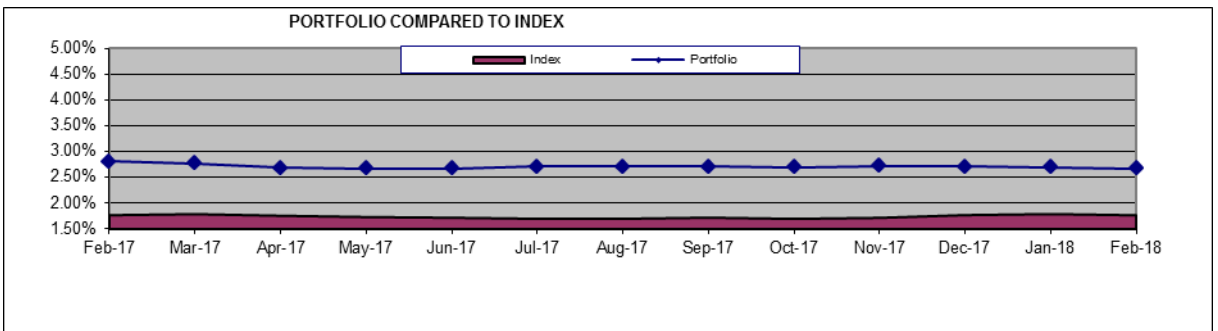
The determination of fossil fuel alignment is based on advice from 'Market Forces' as follows:

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

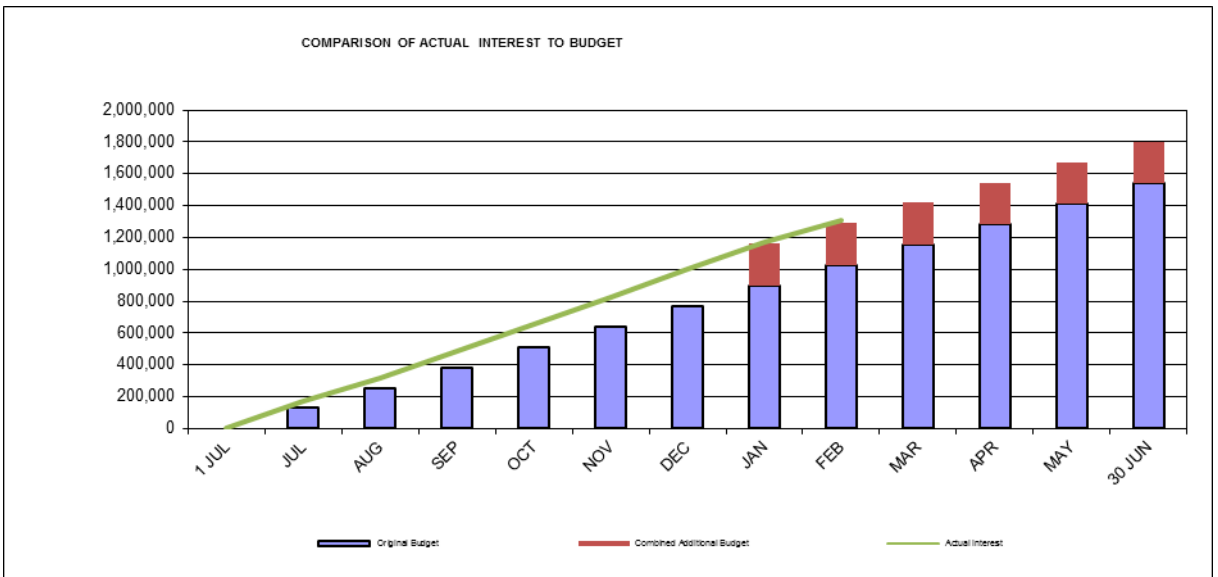
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - February 2018

F. Investments held as at 28 February 2018

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
09/01/18	Suncorp-Metway Bank	TD	2.25%	09/03/18	1,000	1,000
10/10/17	National Australia Bank	TD	2.54%	10/10/18	2,000	2,000
17/06/16	Commonwealth Bank of Australia	FRN	2.82%	17/06/21	1,000	1,000
19/10/17	National Australia Bank	TD	2.52%	21/03/18	1,000	1,000
29/06/17	Teachers Mutual Bank Limited	FRN	3.22%	29/06/20	1,000	1,002
21/12/17	BankWest	TD	2.50%	29/03/18	1,000	1,000
30/06/16	Commonwealth Bank of Australia	FRN	2.84%	30/06/21	1,000	1,000
29/06/17	AMP Bank	TD	2.60%	04/04/18	2,000	2,000
09/10/17	Westpac Banking Corporation	TD	2.57%	09/10/18	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%	26/07/21	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%	06/02/23	2,000	2,000
06/02/18	Newcastle Permanent Bld Society	FRN	3.18%	06/02/23	700	701
09/11/17	ME Bank	TD	3.01%	09/05/18	750	752
15/02/18	National Australia Bank (ASX Listed)	FRN	3.01%	Perpetual	1,788	1,394
16/08/17	ME Bank	TD	2.60%	16/05/18	1,000	1,000
18/08/17	Westpac Banking Corporation	FRN	2.81%	18/08/22	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%	22/05/18	1,000	1,000
28/02/18	Greater Bank Limited	FRN	3.32%	30/08/19	1,000	1,003
25/02/14	Westpac Banking Corporation	FRN	2.72%	25/02/19	2,000	2,012
24/11/17	Greater Bank Limited	FRN	3.23%	24/02/20	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
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
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
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					69,738	69,364
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

10.2 Policy - Councillor Expenses and Facilities - Adoption

10.2 Policy - Councillor Expenses and Facilities - Adoption

Delivery Program Communications

Objective To adopt the Councillor Expenses and Facilities Policy.

Background

At the January 2018 Ordinary meeting, Council considered a report on a review of the Councillor Training and Development Policy. Point three of the resolution from that meeting was as follows:

3. *That Council approves the exhibition of an amendment to the Councillor Expenses and Facilities Policy to recognise that desirable training, delivered locally through the involvement of Council, will not be included in the annual \$5,000 expenditure limit for Councillor training.*

This change in the Councillor Expenses and Facilities Policy required formal exhibition of at least 28 days, in accordance with Section 253 of the Local Government Act. This section also requires a Council to consider any submissions prior to adopting the policy. The purpose of this report is to adopt the policy following the exhibition period.

Key Issues

- Ensuring the policy is equitable, fair and transparent

Information

The changes from the January 2018 Ordinary meeting were included in the document as exhibited, with no submissions received. A copy of the exhibited document is included as Attachment 1.

Consultation

The policy was exhibited for public comment between 14 February and 14 March 2018.

Options

The options are to adopt the policy as exhibited or again review the policy. The recommendation is to adopt the policy.

RECOMMENDATION

That Council adopts the Councillor Expenses and Facilities Policy, as exhibited, as attached to this report.

Attachment(s)

1. Councillor Expenses and Facilities Policy as exhibited

11. Civil Services Group Reports

11.1 DA 2016/690 - Noise Attenuation Measures, Quays Reserve

Delivery Program Open Spaces and Reserves

Objective To determine the works to be completed with the \$50,000 development bond for noise attenuation.

Background

Council resolved at the meeting held 22 February 2018 (220218/13) the following:

- 1. That Council notes the contents of the report on the status of outstanding development applications for February 2018.*
- 2. That the conditions of consent for DA 2016/690 be reported to Council to clarify the works that the \$50,000 paid by the developer will be expended on in relation to noise attenuation.*
- 3. That DA 2017/600 be called in and dealt with by Council.*

This report is provided to address item two of the resolution.

Key Issues

- Funding allocation and environmental impacts

Information

As a result of a Section 34 conference the following condition was included in the consent for DA 2016/690 for a 36 lot residential subdivision, construction of road and associated works at Lot 71 DP 628164 Quays Drive West Ballina.

31A Prior to the issue of the Construction Certificate, the developer must lodge with Council a bond of \$50,000 for the purpose of securing the carrying out of noise attenuation measures and other works to the Ballina Rugby Union Clubhouse building and associated grounds on terms agreed between the Developer, Council and the Ballina Rugby Union Club. In the event such agreement is not reached within six (6) months from the date of payment of the bond, it shall be forfeited to Council for the purposes of carrying out such works as Council considers necessary for the purposes for which the bond was paid.

This condition required the payment of a \$50,000 bond for the purpose of carrying out noise attenuation works to the Rugby clubhouse building and associated grounds on terms agreed to by the Developer, Council and the Ballina Rugby Union Club.

11.1 DA 2016/690 - Noise Attenuation Measures, Quays Reserve

Negotiations between the relevant stakeholders were undertaken and as a result Council engaged Tim Fitzroy and Associates to determine what noise attenuation works to the clubhouse building would be required to reduce any noise generated within the clubhouse to an acceptable level at the boundary of the new residential subdivision.

Attachment 1 to this report is a copy of a letter from the Ballina Rugby Club (BRC) dated 11 October 2017. This letter includes the Club's preferred proposals to manage noise associated with the clubhouse activities.

The BRC proposed their lease agreement be amended to include the following conditions:

- No more than 15 liquor licenses shall be applied for from the Licensing Court in anyone calendar year, and no such license applied for shall extend beyond 11.00pm
- No live music shall be permitted to play in the leased premises
- Any musical or amplified devices used in the leased premises shall be controlled by a noise limited set to an agreed upper limit.

In their letter, the BRC also proposed works to construct an earth mound to be located parallel to the southern boundary of Quays Reserve.

Attachment 2 to this report is a copy of the Tim Fitzroy and Associates Report (TFA report). The purpose of the TFA report was to confirm:

- likely noise sources and noise levels from the clubhouse building at affected premises, prior to and after the adoption of the proposed attenuation measures
- required upgrade works to the clubhouse building, being a fully itemised list of works to be undertaken, including any required Air Conditioning (ducted or wall mounted split systems) to enable Council to obtain a builder's quotation for these works, for inclusion in the joint agreement.

The TFA report includes an assessment of the BRC preferences as per their attached letter. The initial noise impact assessment was deemed to not provide sufficient information on noise associated with the clubhouse building or suitable mitigation measures and hence further investigation and assessment was undertaken.

The final TFA report concluded the following:

Noise levels from functions at the clubhouse (with doors and windows open) are predicted to exceed the daytime and evening Project Specific Noise Criteria (PSNC) by up to 7dB(A) at some of the closest proposed dwellings. If compliance is required at all sensitive receptors, noise inside the clubhouse (with doors and windows open) should be limited to 75dB(A). Further exceedances of up to 9dB(A) are predicted at the closest proposed dwellings during night-time.

Should the BRC or any other tenant wish to hold events involving amplified music (at levels between 75dB (A) and 90dB (A) at source):

- window replacement and sealing around existing doors are to be installed as per mitigation measures listed below

11.1 DA 2016/690 - Noise Attenuation Measures, Quays Reserve

- doors and windows on the eastern side are to remain closed (except when patrons entering and leaving) and
- air conditioning is to be operational as per mitigation measures listed below.

Based on the recommendations the following prioritised mitigation measures, if installed within the Ballina Rugby Club (for events involving amplified music (at levels between 75dB (A) and 90dB (A) at source) should result in compliance with the PSNC at the nearest affected residence within approved 36 lot residential subdivision at Lot 71, DP628164, Quays Drive, West Ballina under DA 2016/690.

Window Replacement (Eastern side of Ballina Rugby Club)

Remove the six existing aluminium framed glass windows from the eastern side (main entrance) of the Ballina Rugby Clubhouse.

Replace the windows in existing openings, 1800W x 1500H with anodised 246 doors, 3 Track Res Inside Slider with 6.38 clear laminate glass including subhead, subsill and angle.

The doors/windows will have fixed glass on one side and sliding on the opposite side. They will have key locks and be keyed alike.

Door Seals for External Doors (Eastern Side of Ballina Rugby Club)

Supply and install weather seal to bottom of timber doors and felt strip around door jambs to reduce noise.

Air conditioning

Install 4 x 10.0kW High Wall Console Inverter Split Systems

Noise Management Plan

In order to ensure that the BRC operates with the least noise impact, a Noise Management Plan is to be prepared and implemented that addresses the operations associated with the function activities to minimise noise impacts on the nearest affected dwellings. The NMP should include:

- identification of nearby residences and other sensitive land uses
- an assessment of expected noise impacts
- a detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts
- strategies to promptly deal with and address noise complaints
- details of performance evaluating procedures (for example, sound checks on amplified music or public address systems)
- contact details for the manager for complaints and queries to be made, and responded to
- reference to all relevant consent conditions including hours of operation
- operational details about the use of any noise monitoring equipment to record sound pressure levels around the property and
- the name and qualifications of the person who prepared the Noise Management Plan.

The BRC preferences include installing a sound mound. Assessment of acoustic barriers such as mounds and fences at the southern boundary were modelled in an initial noise impact assessment report completed by TFA on 8 November 2017 in response to early discussion with the club.

The assessment modeling indicated that even at a height of 6m a mound or barrier is not going to provide effective noise attenuation and is not considered practical for this location.

As noted in the condition of consent, "In the event such agreement is not reached within six months from the date of payment of the bond, it shall be forfeited to Council for the purposes of carrying out such works as Council considers necessary for the purposes for which the bond was paid."

The Authority registration for payment of the \$50,000 bond is identified as 1 November 2017, making the date for forfeit of the bond 1 May 2018.

The BRC has provided their response to the TFA report. A copy of this response is provided in Attachment 3.

As per this attachment, it is the BRC's position that there has not been a noise problem associated with the past and existing use of the clubhouse.

It is agreed the TFA report was not commissioned in response to an existing issue associated with the management and operation of the clubhouse, rather this matter is before the Council as a consequence of the assessment process relating to DA 2016/690 and the potential for issues in the future arising from new dwellings being constructed at this location.

The submission from the BRC asks Council to agree to the proposals provided previously as discussed earlier in this report.

The response from the BRC questions the assessment methods used by TFA and the use of sound recordings taken at 5m from the building.

This type of assessment is a method used to exclude extraneous noise that may impact on the sound reading at the time of assessment. The measured sound level is then extrapolated back to the position of the affected or potentially affected resident using distance attenuation calculations.

This matter is reported to Council for determination as there is now a situation where the preference of a community group is inconsistent with the recommended actions from a noise expert.

Sustainability Considerations

- **Environment**

The impact of noise on surrounding receivers has been properly assessed as part of the investigations for this report. In determining an outcome consideration must be given to ongoing environmental impacts that noise may have on those in the surrounding environment both now and in the future.

By implementing the recommendations from the noise impact assessment the potential impacts of noise to surrounding residential areas will be minimized and managed in accordance with best practice and current standards.

- **Social**

The potential social impacts relating to this report have been considered in relation to both impacts of noise on surrounding residents as well as the social impacts regarding the current and potential future use of the site and facilities.

Implementing the recommendations will not only provide protection from noise impacts to the surrounding community, but also protect the ongoing use of the site. Implementing the recommended measures will mean that the site and facilities are not further constrained to avoid conflict but enhanced to allow greater use of the facilities improving the internal amenity and with it potentially greater social and community benefits.

- **Economic**

Currently the condition of consent and bond that has been lodged provides \$50,000.00 to carry out the recommended works. Well-constructed residential subdivisions and the proper use and maintenance of community assets such as club buildings all contribute to economic development. The challenge in this matter is to ensure the best overall balance is achieved.

Legal / Resource / Financial Implications

The building is a Council asset that is currently leased to the BRC. A new lease agreement is currently being finalised between both parties.

If the recommended noise attenuation measures are not applied to the clubhouse now and complaints arise from use of the facilities it will impact on Council resources required to respond to the complaints and potentially require mitigation works to be undertaken at Council's cost in the future.

Some of the options discussed with the BRC included placing conditions on use in the lease agreement restricting activities and requiring the preparation and implementation of a noise management plan.

The addition of specific clauses within the lease would not be in accordance with standard Council practice for management of our community leases and would be difficult to enforce compliance over time.

It is expected the \$50,000 will be sufficient to cover the recommended alterations to the building. However, as the building is owned by Council and leased to the club, if additional funds are required, it is reasonable for Council to be responsible for the additional costs.

Consultation

Prior to the noise impact assessment being completed Council consulted with the BRC and Developer to discuss what noise attenuation measures may be able to be implemented at the site to achieve the best outcome for both the club and community.

Various options were considered and those that were acceptable to each of the relevant parties were requested to be investigated by the noise impact assessment.

A copy of the Tim Fitzroy and Associates report has been provided to the BRC. A copy of the Club's response is provided as Attachment 3 to this report.

Options

1. Carrying out all the TFA report recommended noise mitigation works to the clubhouse building including the preparation and implementation of a noise management plan.
2. Carrying out some of the noise mitigation works to the clubhouse building including the preparation and implementation of a noise management plan.
3. Not carrying out any of the recommended works to the clubhouse building and placing conditions on use in the lease agreement restricting activities to those only generating noise that include background music including patron noise (75dB(A)) and requiring the preparation and implementation of a noise management plan.

On balance the preference is for option one.

Council has consulted with the BRC and has asked Tim Fitzroy and Associates to address all the matters raised in the most effective manner possible.

The TFA report reflects the technical expert's advice on the preferred approach to manage noise into the future.

This report has been completed by a suitably qualified consultant and has been reviewed by Council's Environmental Health Section with no changes recommended.

The purpose of the recommended conditions is to reduce the risk of issues occurring in the future and it is important to acknowledge that social and other club activities may change over time. However it is also recognized that the BRC believe this to be a poor expenditure of public monies, with their preference being for other works that could result in part of the \$50,000 being expended on improvements to the grounds.

RECOMMENDATIONS

1. That Council confirms that in relation to consent condition 31A of DA 2016/690, the preference is to expend the \$50,000 bond held by Council to implement the recommendations of the expert noise report prepared by Tim Fitzroy and Associates, with any surplus funds to be expended on other ground improvements.
2. That Council also authorises the General Manager to allocate Council funds to the project in point one, if it is the case that further funds are required to implement the Tim Fitzroy and Associates report, with the source of that funding to be confirmed in the next quarterly financial review report.

Attachment(s)

1. Ballina Rugby Club - 11 October 2017
2. Noise Impact Assessment - Ballina Rugby Clubhouse, Quays Drive West Ballina (Under separate cover)
3. Ballina Rugby Club - 12 March, 2018

11.2 Sharpes Beach Observation Tower - Funding

11.2 Sharpes Beach Observation Tower - Funding

Delivery Program Open Spaces and Reserves

Objective To determine a funding solution for the completion of the Sharpes Beach Observation Tower.

Background

At the Ordinary Council meeting held 28 September 2017 a report was presented on the funding shortfall in respect to the Sharpes Beach Observation Tower.

In summary Council has received grant funding for this project however the previous reporting identified the cost of the project was more than the value of the grant.

The resolution of Council from the above meeting is reproduced below.

- 1. That Council request further financial assistance from the NSW Government towards the cost to construct the proposed Sharpes Beach Observation Tower.*
- 2. That the response from the NSW Government in respect of point one above be reported to Council.*
- 3. That the General Manager undertake any relatively minor works necessary to ensure that the consent (DA 2012/32) remains valid.*

This report provides information on the actions carried out in accordance with this resolution

Key Issues

- Funding
- Public Safety
- Infrastructure needs

Information

A request for further financial assistance from the NSW Government towards the costs to construct the proposed Sharpes Beach Observation Tower was made to the State Government and parliamentarians and an additional application was made under the 2017/18 observation grants program.

Council has been notified that all of these requests have been unsuccessful.

The construction of the slab and footings for the Observation Tower has been undertaken to ensure that consent gained under DA 2012/32 remains valid.

Sustainability Considerations

- **Environment**

The location will use existing degraded carpark area and provide overall environmental benefit through improved drainage and stability measures.

The design and colour scheme of the tower have been chosen to minimize visual impacts to the community and scenic environmental amenity of the location.

- **Social**

The Observation Tower will provide improved community safety to the location and facilities for the surf lifesaving volunteers that provide a valuable community service. This is the first element of the upgrade plan for the site that will provide additional community benefits through ongoing upgrade of community facilities at the site.

- **Economic**

The design and materials for the Observation Tower have been chosen to minimise both the costs of construction and ongoing maintenance of the structure.

Legal / Resource / Financial Implications

Current funding has been acquired through the Observation Tower Grant Program from the Department of Primary Industries (DPI) to the value of \$39,783. The grant funding provided was required to be spent during 2017.

Although an extension of the timeframe for the funding has been granted, an inability to find additional funding to complete the project may lead to it being withdrawn. The amount already spent on the project of \$7,380 may also need to be repaid to the funding body.

It is estimated that approximately \$40,000 is required to complete the project to the standard specified. The project is not identified within the Long Term Financial Plan. The project is included in the adopted masterplan prepared for this location.

In reviewing the options available there are three internal reserves for the open spaces section that could be applied to this project. The details of those reserves are as follows:

Title	Amount (\$)	Purpose
Open Spaces sundries	2,000	Small reserve carried forward from previous financial years
Open Spaces capital	32,000	Savings in capital expenditure from previous financial years
Open Spaces operations	6,000	Annual savings in operational budgets

11.2 Sharpes Beach Observation Tower - Funding

Consultation

Public consultation and advertising was undertaken in accordance with the development application process. The concept design for the tower was modified through this process to the design specification currently being engineered for construction.

Additional consultation on the design and support for the installation of the observation tower has been provided by Australian Lifeguard Services.

Options

1. Confirm the funding source to allow completion of the Observation Tower in accordance with the development consent and DPI grant conditions for an amount of \$40,000. This is the recommended option.
2. Not proceed with the works and return the unexpended funds to the DPI. This option is not recommended as this is the only beach in the Shire that operates a patrolled swimming area, which does not have access to lifeguard observation and amenity facilities. The beach is becoming more popular and has a high visitation notwithstanding there is no club presence. An additional risk is that DPI may also request the return of the expended funds.

RECOMMENDATIONS

1. That Council approves the allocation of \$40,000 to complete the construction of the Sharpes Beach Observation Tower in accordance with DA 2012/32 funded from the following internal reserves:

Title	Amount (\$)
Open Spaces sundries	2,000
Open Spaces capital	32,000
Open Spaces operations	6,000

2. That Council notify the Department of Primary Industries of the timeframe for completion of the Observation Tower.

Attachment(s)

1. Notification of Unsuccessful Application to the Shark Observation Grants Program 2017/18

11.3 Policy (Review) - Donations - Waste Fees For Not For Profit Groups

11.3 Policy (Review) - Donations - Waste Fees For Not For Profit Groups

Delivery Program Waste Management

Objective To review the Council's Donations Policy - Waste Disposal Fees for Not For Profit Groups

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 Donations – Waste Disposal Fees for Not For Profit Groups Policy. Council first adopted this policy in 28 May 2009 and it was last reviewed in 2014.

Key Issues

- Whether the policy meets the requirements of Council

Information

The purpose of this policy is to confirm the donations to be provided to eligible not for profit groups in respect to the disposing of waste at the Council landfill. The policy applies to the community groups operating disposal stores for the sale of second hand and reusable items. Recommended changes to the policy have been marked in yellow.

This review of the policy resulted in an increase to the annual credit limit. The amended policy has increased the credit limit for each bona fide organisation from \$2,000 to \$2,500 with the removal of the yearly indexing of waste management fees. The recommendation to increase the credit limit is in response to increasing waste management costs over the last four years.

Waste management fees are affected not only by the consumer price index but are also modified to reflect the necessary processing, transportation and disposal fees for each waste stream.

It is impractical to annually index this credit limit as it will be dependent on the type of waste disposed at the waste management centre.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended.

A copy of the amended policy is attached to the report.

Sustainability Considerations

- **Environment**
Provision of waste disposal fee relief will assist these eligible organisations to continue to facilitate the reuse of items that would otherwise have been disposed as waste.

11.3 Policy (Review) - Donations - Waste Fees For Not For Profit Groups

- **Social**
Provision of financial assistance will assist eligible organisations to continue to provide an important community service.
- **Economic**
Eligible organisations provide low cost recycled goods to many in the community.

Legal / Resource / Financial Implications

Administration and implementation of the policy is undertaken within the resources allocated by the Council.

Utilisation rates in accordance with this policy over the last two financial years, suggest that the recommended increase in the annual credit limit can be managed within the current Resource Recovery budget.

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, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopts the amended Donations – Waste Disposal Fees for Not For Profit Groups 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) - Donations - Waste Disposal Fees for Not For Profit Groups

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Road Funding

13. Notices of Motion

13.1 Notice of Motion - Road Funding

Councillor

Cr Eoin Johnston

I move

That Council write to the Minister for Roads, Maritime and Freight supporting the approaches made by the Local Government Association of NSW (LGNSW) expressing the urgent need for improved and accessible funding for the upgrade of rural roads under the care and control of local councils.

Councillor Comment

It is clear that there will be no upgrades to rural roads in Ballina Shire under the existing Road Management Strategy as identified in a report on the Dust Sealing of Houghlahans Creek Road under section 4.9 of the recent Finance Committee Report.

It is acknowledged that Council has been the recipient of a number of grants in recent months for projects that will lead to an improved social amenity for ratepayers and visitors alike.

While those grants are appreciated, I have a concern that certain unsealed roads in rural areas of our Shire have an urgent need for attention over and above periodic maintenance and are being neglected in the hierarchy of grant allocation.

Grants do become available for black spot funding but, sadly, that avenue is only accessed after there has been a fatality at that particular site. Disaster relief funding, again, only becomes available after a "disaster" and the delays in that funding filtering through are on the record.

We represent an electorate which is in one of the most densely populated rural regions in Australia and we have the added impact of an average annual rainfall of 1,817 mm (71.6 inches). This fact alone, I suggest, would constitute exceptional circumstances and should be disclosed in all grant applications.

In the short term there will be no available funds in the coming years for road upgrades and I am encouraging Council to appeal to both the State and Federal Governments to embrace the submissions presented by LGNSW.

COUNCILLOR RECOMMENDATION

That Council write to the Minister for Roads, Maritime and Freight supporting the approaches made by the Local Government Association of NSW (LGNSW) expressing the urgent need for improved and accessible funding for the upgrade of rural roads under the care and control of local councils.

Attachment(s) – Nil

13.2 Notice of Motion - Vegetation Disposal - Voluntary Community Groups

13.2 Notice of Motion - Vegetation Disposal - Voluntary Community Groups

Councillor

Cr Eoin Johnston

I move

That Council consider supporting landcare groups and other community groups who assist council in vegetation management by either collecting their bulk green waste and litter or waiving their fees at the Waste Management Centre.

Councillor Comment

Voluntary community groups across the Shire work in a number of ways cleaning up and maintaining park surrounds, riverbanks, dunes and foreshores, amongst other things, on a regular basis with limited input from Council.

For example, some months ago the Bagot Park Landcare Group cut out a large section of lantana but they could not afford the tip fees at the time. It was placed under a large tarpaulin to reduce its size and they have since come to an agreement with another group to share the cost of hiring a mulcher.

Lantana is considered by the Department of Primary Industries to be one of the most debilitating invasive weeds and it infests more than four million hectares of land across Australia, mainly in areas east of the Great Dividing Range.

It is submitted that effective control of such noxious weeds is beyond the collective scope of all three tiers of government and any concerted effort by citizens to stem the problem should be applauded and assisted by Council.

Staff Comment

Council supports the Landcare and other Environmental Care Groups in many ways including grant application assistance, technical guidance, plants, mulch, fencing, water, chemical provision and training and first aid training.

Council has been careful to limit its exposure to unnecessary bulk weed waste removal costs by promoting State Government National Parks and Wildlife Service bush regeneration industry standard methodologies for the Landcare Groups to use onsite.

This ecological low impact, low cost and low resource use methodology is legislatively required when working around sensitive environmental areas such as the riparian zone at Bagot Park and most bushland areas in the Shire.

The methodology promotes low impact restoration works, turns weeds into beneficial mulch and doesn't generate large vegetation waste loads requiring intensive resources with trucks, machinery and tip fees.

13.2 Notice of Motion - Vegetation Disposal - Voluntary Community Groups

Staff are presently preparing a Ballina Island Vegetation Management Plan covering bushland and riparian areas on Ballina Island. This will assist the Bagot Park Landcare Group and other Environmental Groups working or proposing to work throughout the island. The document will identify suitable low impact low resource use vegetation management methodologies that should not require natural resources being diverted to the waste centre.

Also staff already remove litter from bushland edges when gathered by Landcare Groups under existing budget allocations.

If the notice of motion is supported staff will prepare a draft policy for reporting to Council with that document outlining the eligible groups and the assistance to be provided.

COUNCILLOR RECOMMENDATION

That Council consider supporting landcare groups and other community groups who assist council in vegetation management by either collecting their bulk green waste and litter or waiving their fees at the Waste Management Centre.

Attachment(s)

Nil

14. Advisory Committee Minutes

14.1 Finance Committee Minutes - 14 March 2018

Attendance

Crs David Wright (Mayor - in the chair), Phillip Meehan, Sharon Parry, Jeff Johnson, Eoin Johnston, Stephen McCarthy, Nathan Willis, Keith Williams 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), Paul Tsikleas (Manager Commercial Services) and Kylie Hardy (Airport Chief Operating Officer) and Sandra Bailey (Secretary) were in attendance.

There were no people in the gallery at this time.

1. Apologies

An apology was received from Cr Sharon Cadwallader.

RECOMMENDATION

(Cr Ben Smith/Cr Keith Williams)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

2. Declarations of Interest

- **Cr Phillip Meehan** – declared an interest in Item 4.10 – Community Infrastructure – Recurrent Projects and Funding which mentions the overpass at Angels Beach. (Nature of Interest: non significant, non pecuniary – he lives at Angels Beach). He will be remaining in the meeting while the matter is discussed and voting on the matter.
- **Cr Stephen McCarthy** – declared an interest in Item 4.8 – Property Reserves – Review and Item 4.11 – Community Infrastructure – Non-recurrent Projects and Funding. Both reports mention the indoor sports centre. (Nature of Interest: non significant, non pecuniary – he was previously a member of the Ballina Basketball Committee). He will be remaining in the meeting while the matters are discussed and voting on the matters.

3. Deputations

Nil

4. **Committee Reports**

4.1 **Water Pricing Structure - Two Step Consumption Charge Review**

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

1. That Council supports the removal of the two-step pricing structure for water consumption, by adopting a staged approach whereby the current 50% premium will be reduced to nil over a period of five years (i.e. 10% reduction each year – 40%, 30%, 20%, 10%).
2. That Council continue to monitor the balance of water income received from annual charges and consumption charges with the long term objective being to achieve 75% or more of the total income from these two sources from consumption charges, as per the State Government's best practice guidelines.
3. That Council endorses this pricing approach for the preparation of the water pricing for the exhibition of the 2018/19 Operational Plan.

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

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry and Cr Eoin Johnston

AGAINST VOTE - Cr Jeff Johnson, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

RECOMMENDATION

(Cr Keith Williams/Cr Ben Smith)

1. That the existing price structure for 2018/19 be retained.
2. That Council investigate the Brisbane City Council tariff model.
3. That Council continue to monitor the balance of water income received from annual charges and consumption charges with the long term objective being to achieve 75% or more of the total income from these two sources from consumption charges, as per the State Government's best practice guidelines.

FOR VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith

AGAINST VOTE - Cr David Wright

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.2 **Water Pricing Structure - Access Charge Review**

RECOMMENDATION

(Cr Ben Smith/Cr Phillip Meehan)

1. That for the purposes of exhibiting the draft 2018/19 Operational Plan Council approves an amendment to the water access charging structure from a water connection size based system to a standard charge based on tenements, for residential properties.
2. The draft 2018/19 water access charges are to remain the same as the 2017/18 charges, to recognise that Council will generate additional income if the change in point one is implemented. The draft 2018/19 Operational Plan is also to include a statement confirming that Council may index the 2017/18 access charges if the change in the charging structure outlined in point one is not implemented.
3. That Council write to all properties impacted by the proposed change in point one, as part of the exhibition of the draft 2018/19 Operational Plan, with all submissions received to be reported back to Council prior to Council adopting the 2018/19 Operational Plan.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.3 **Water Operations - Long Term Financial Plan**

RECOMMENDATION

(Cr Phillip Meehan/Cr Nathan Willis)

That Council endorses the access and consumption pricing charges, as per the following table, for exhibition in the draft 2018/19 Operational Plan, as well as the long term financial plan, as per the attachments to this report, for the water operations:

Charge Type	2017/18	2018/19	% Increase / (Decrease)
Water Access Charge - 20mm meter	204	204	0%
Water Consumption under 350kl	2.18	2.23	2.3%
Water Consumption over 350kl	3.27	3.35	2.3%
Vacant Land Charge	204	204	0%

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.4 **Wastewater Operations - Long Term Financial Plan**

RECOMMENDATION

(Cr Ben Smith/Cr Phillip Meehan)

That Council endorses the annual charges, as per the following table, for exhibition in the draft 2018/19 Operational Plan, as well as the long term financial plan, as per the attachments to this report, for the wastewater operations:

Charge Type	2017/18 \$	2018/19 \$	% Increase
Residential Availability Charge	953	975	2.3%
Vacant Land Charge	718	735	2.3%
Non Residential Usage Charge	2.41	2.47	2.3%
Non Residential Access Charge	Variable based on meter size		
Recycled Water	80% of potable water step 1		

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.5 **Waste Operations - Long Term Financial Plan**

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

That Council endorses the inclusion of the LRM and DWM long term financial plans and draft fees and charges, as attached to this report, in the draft 2018/19 Delivery Program and Operational Plan for public exhibition.

An **Amendment** was moved by Cr Jeff Johnson

That Council endorses the inclusion of the LRM and DWM long term financial plans and draft fees and charges, as attached to this report, in the draft 2018/19 Delivery Program and Operational Plan for public exhibition, with amendments to the draft fees and charges as follows:

- Additional recycling bin charge reduced to \$50
- Additional waste bin charge to be \$180

The **Amendment LAPSED.**

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

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

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

RECOMMENDATION

(Cr Ben Smith/Cr Nathan Willis)

That Council endorses the inclusion of the LRM and DWM long term financial plans and draft fees and charges, as attached to this report, in the draft 2018/19 Delivery Program and Operational Plan for public exhibition.

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

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.6 Rating Structure and Land Valuations - 2018/19

RECOMMENDATION

(Cr Phillip Meehan/Cr Ben Smith)

1. That for the draft 2018/19 Operational Plan, Council approves the inclusion of a base rating structure, modelled on the 2017/18 structure, which applies the following principles:
 - a) Marginally less than 50% of the rate income for the residential category of properties being generated from the base amount
 - b) Business, farmland and mining categories to have the same base amount as the residential base amount
 - c) A total of 20% income from the rate yield to be sourced from the business category properties
 - d) Farmland rate in the dollar is approximately 85% of the residential rate in the dollar
 - e) The mining category rate in the dollar to be set as the same rate as the business category (currently no mining category properties in the shire).
2. That Council notes the indicative figures for this rating structure for 2018/19, as per Tables Two and Three of this report.
3. That Council notes that the draft 2018/19 Operational Plan will also include a rating structure based on a 2.3% rate peg limit on the assumption that Council's proposed special rate variation may not be approved.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.7 **Ballina - Byron Gateway Airport - Long Term Financial Plan**

A **Motion** was moved by Cr Eoin Johnston and seconded by Cr Ben Smith

That Council approves the inclusion of the draft Long Term Financial Plan for the Ballina – Byron Gateway Airport, as attached to this report, in the draft 2018/19 to 2021/22 Delivery Program and Operational Plan, subject to the solar panel works being fully funded in 2019/20.

An **Amendment** was moved by Cr Phillip Meehan and seconded by Cr Sharon Parry

1. That Council approves the inclusion of the draft Long Term Financial Plan for the Ballina – Byron Gateway Airport, as attached to this report, in the draft 2018/19 to 2021/22 Delivery Program and Operational Plan, subject to the solar panel works being fully funded in 2019/20.
2. That the \$100,000 dividend be delayed until the completion of the solar panel works and the reserve is back to a positive balance.

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

FOR VOTE - Cr Phillip Meehan and Cr Sharon Parry

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

RECOMMENDATION

(Cr Eoin Johnston/Cr Ben Smith)

That Council approves the inclusion of the draft Long Term Financial Plan for the Ballina – Byron Gateway Airport, as attached to this report, in the draft 2018/19 to 2021/22 Delivery Program and Operational Plan, subject to the solar panel works being fully funded in 2019/20.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.8 **Property Reserves - Review**

RECOMMENDATION

(Cr Phillip Meehan/Cr Ben Smith)

1. That Council notes the contents of this update on the Property Reserves.
2. That Council receive a further report on options to finance high priority development projects such as the Wollongbar Urban Expansion Area - Stage Three and the release of additional industrial land at the Southern Cross Industrial Estate.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.9 **Dust Sealing Analysis**

A **Motion** was moved by Cr Phillip Meehan and seconded by Cr Ben Smith

1. That the General Manager prepare a revised draft of the Road Asset Management Plan for reporting back to Council based on Scenario 3 from the Road Pavement Network Analysis discussed in this report. This will include the addition of a dust sealing program as per the report.
2. That Council takes no further action in respect of the inclusion of the sealing of the whole or part of Houghlahans Creek Road in the draft 2018/19 Delivery Program and Operational Plan based on the contents of this report.

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

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Stephen McCarthy and Cr Ben Smith
AGAINST VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

RECOMMENDATION

(Cr Jeff Johnson/Cr Phillip Meehan)

That the General Manager prepare a revised draft of the Road Asset Management Plan for reporting back to Council based on Scenario 3 from the Road Pavement Network Analysis discussed in this report. This will include the addition of a dust sealing program as per the report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.10 Community Infrastructure - Recurrent Projects and Funding

A **Motion** was moved by Cr Ben Smith and seconded by Cr Jeff Johnson

That Council include in the draft 2018/19 Delivery Program and Operational Plan the recurrent capital expenditure priorities as outlined in this report.

An **Amendment** was moved by Cr Nathan Willis and seconded by Cr Phillip Meehan

1. That Council include in the draft 2018/19 Delivery Program and Operational Plan the recurrent capital expenditure priorities as outlined in this report.
2. That Council request the Local Traffic Committee to approve a reduction in the speed zone for The Coast Road at Angels Beach to 60 km per hour, due to the safety concerns arising from the pedestrian bridge.

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

FOR VOTE - Cr Phillip Meehan, Cr Jeff Johnson, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

RECOMMENDATION

(Cr Ben Smith/Cr Jeff Johnson)

That Council include in the draft 2018/19 Delivery Program and Operational Plan the recurrent capital expenditure priorities as outlined in this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

Cr Keith Williams left the meeting at 06:15 pm.

Cr Sharon Parry left the meeting at 06:16 pm.

4.11 Community Infrastructure - Non-recurrent Projects and Funding

A **Motion** was moved by Cr Ben Smith and seconded by Cr Phillip Meehan

That Council authorises the preparation of the draft 2018/19 Delivery Program, Operational Plan and Long Term Financial Plan based on the contents of this report, for reporting to the April 2018 Finance Committee meeting, prior to public exhibition.

An **Amendment** was moved by Cr Phillip Meehan

That Council authorises the preparation of the draft 2018/19 Delivery Program, Operational Plan and Long Term Financial Plan based on the contents of this report, for reporting to the April 2018 Finance Committee meeting, prior to public exhibition, with an amendment that Point 2(a), as follows be removed.

2. *Ballina Indoor Sports Centre (BISC) - \$3m shortfall – contingency funding for 2018/19 as follows:*

a) *Community Infrastructure Reserve - \$700,000*

The **Amendment LAPSED.**

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

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Ben Smith

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Keith Williams and Cr Sharon Cadwallader

RECOMMENDATION

(Cr Ben Smith/Cr Phillip Meehan)

That Council authorises the preparation of the draft 2018/19 Delivery Program, Operational Plan and Long Term Financial Plan based on the contents of this report, for reporting to the April 2018 Finance Committee meeting, prior to public exhibition.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Ben Smith

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Keith Williams and Cr Sharon Cadwallader

MEETING CLOSURE

6.19 pm

RECOMMENDATION

That Council confirms the minutes of the Finance Committee meeting held 14 March 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 February 2018 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
19/2/18	Bagotville Road – Gavin Monti and staff
20/2/18	Meeting – Ben Franklin – Oceanic Research Institute
20/2/18	Meeting – Ben Franklin – Grants – Waste Reforms
21/2/18	Wardell Progress Association
22/2/18	Meeting Ben Franklin and Senator Williams – Federal Funding for Coastal Path
23/2/18	CSPC Meeting – Lismore Police Station
2/3/18	Quiet Opening Tennis Courts – Wollongbar Sport Fields
2/3/18	Meeting Mary O'Brien - RSL Day Club
3/3/18	The Board Meeting – Lennox Head foreshore fundraiser
4/3/18	Commemoration Park Markets
6/3/18	Alstonville/Wollongbar Chamber Meeting
8/3/18	'C' Ward Committee
8/3/18	Gallery Opening
10/3/18	Quota High Tea – Summerland House
10/3/18	Regional Final of the Lions Youth of the Year
11/3/18	Lennox Head Markets (Washed out – only fruit stalls)
11/3/18	Commemoration Park Markets
13/3/18	Mature Age Expo – Opening
13/3/18	'A' Ward Committee
14/3/18	Meeting – Dragon Boat Club
14/3/18	Meeting with Carol Stacey – Country Music Festival
14/3/18	Finance Committee
15/3/18	Meeting - Coolgardie Road – Chris Beck
17/3/18	Relay for Life Wollongbar Fund Raiser
17/3/18	Alstonville Markets
18/3/18	Ballina Markets
18/3/18	Commemoration Park Markets
19/3/18	'B' Ward Committee
20/3/18	Northern Signage Focus Group – Broadwater Hall
22/3/18	Council Meeting
22/3/18	Reserve Trust Meeting
24/3/18	Daggy Shirt Walk – Ballina Lighthouse Surf Club
24/3/18	Scope Phantom Race Day - Ballina Jockey Club
25/3/18	Ballina Region for Refugees – Lennox Head
25/3/18	Commemoration Park Markets
25/3/18	Opening – Wardell Boardwalk
26/3/18	NOROC Workshop - Lismore
27/3/18	TAFE Awards – Ballina TAFE

RECOMMENDATION

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

Attachment(s) – Nil

16. Confidential Session

16. Confidential Session

Nil Items