



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 November 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 Councillors and staff.

2. Acknowledgement of Country

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 October 2018 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 October 2018.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 Ballina Sands Quarry - Annual Extraction Limits

8. Development and Environmental Health Group Reports

8.1 Ballina Sands Quarry - Annual Extraction Limits

Delivery Program Development Services

Objective To provide information about the extraction of material from the Ballina Sands Quarry, Newrybar Swamp Road, Kinvara.

Background

Sand extraction activity associated with the Ballina Sands Quarry, located at 91 Newrybar Swamp Road Kinvara, was originally reported to the November 2017 Ordinary Council meeting. At that meeting, Council resolved as follows:

1. *That Council acknowledges community concerns that the Ballina Sands Quarry may have been extracting limits beyond its development consent conditions.*
2. *That Council receives a report on what actions are available to address any over extraction that may have taken place.*
3. *That Council officers inspect the site and report back to Council as a matter of urgency on the amount of material that is being stockpiled on site and any potential environmental issues that this could have on the surrounding area and North Creek.*

A copy of the November 2017 report is contained in Attachment 1.

This report and the associated confidential report later in this agenda seek to address point two of the resolution.

With respect to point three of the resolution, an inspection of the Ballina Sands Quarry was conducted on Friday 8 December 2017.

It was confirmed that there were a number of stockpiles within the subject premises. However, the majority of these stockpiles were as a result of the stripping of overburden and topsoil. This material is being stored within the site in accordance with the approved Plan of Management and the approved Vegetation Management Plan as part of development consent DA 2013/162.

The Overview of Quarrying Operations within the approved Plan of Management provides for the stripping of stockpiles for use in minor site filling and earthen acoustic and visual mounds.

These stockpiles of topsoil contain decayed vegetation matter and other properties which provide for self-seeding vegetation coverage, which assists in preventing windborne pollution from the site.

There have been recent works within the quarrying area of operations, which have exposed some of the previously vegetated topsoil stockpiles.

8.1 Ballina Sands Quarry - Annual Extraction Limits

These works have been undertaken by the quarry operator to provide for extended earthen acoustic and visual mounds to cover the upcoming quarrying extensions into the western most area of the quarry.

The topsoil stockpiles are highly visible, but it is anticipated that vegetation growth will occur in the short term which will reduce this impact. The stockpiles are currently being monitored by Council staff and the quarry operators for the potential for windborne pollution.

Extracted sands from the quarrying pits are generally much lighter in colour and stockpiles of this material appear to be kept at a lower level to the surrounding acoustic and visual mounds.

Council staff have also inspected the stormwater disposal ponds, which were approved as part of the quarry consent.

These pits are located at the northern end of the quarrying area and discharge into the cane drain, which subsequently discharges into North Creek.

At the time of the inspection and after a major rain event, there was approximately 1.2 metres of head space between the current water level and the discharge point within the disposal ponds.

Under the provisions of the EPA Licence, the quarry operators are permitted to discharge from the site when the rain threshold is reached. Condition L1.2 of the EPA Licence states:

L1.2 Rainfall runoff from all disturbed areas of the premises arising from up to 82.5 mm (up to 5 day event duration) must, prior to discharge from the premises, be captured and treated to the standard set out in condition L2 below.

A review of the available records indicates that the quarry has not discharged any water from the disposal ponds into the surrounding waterways. This is due to the methodology employed in the extraction of sands as part of quarrying operations, which allows for water to be pumped between the disposal ponds and the quarrying areas, to minimise runoff from the quarry site.

The quarry is surrounded by earthen bunding as outlined in the approved Plan of Management to assist in the prevention of pollution runoff from the site. This bunding has a minimum height of 1 metre above the quarry operating level, and at the lower points of the quarrying operation level, extends to over two metres in height.

The majority of these bunds are vegetated in line with the approved Plan of Management and Vegetation Management Plan.

Council staff did identify some minor non-compliances with the storage of fuels and fluids in contravention of condition 20 of the development consent.

The existing fuel storage tank provided within the subject quarry is in accordance with the requirements of condition 20 and the Australian Standard 1940-2004 "The storage and handling of flammable and combustible liquids".

8.1 Ballina Sands Quarry - Annual Extraction Limits

This fuel system is designed to contain any failure or rupturing of the fuel tank itself. There is no Council identified concern with this fuel storage.

The remaining associated fuels and liquids were placed within a shipping container. Some, but not all of these fluids are being stored within a bunded area within the shipping container.

The potential for a spill of these fuels and oils to flow into the adjoining disposal ponds is minimal however it would result in contamination of the surrounding soils.

Therefore, staff have required that this potential issue be addressed as a matter of urgency, given that the quarry is an EPA Licensed Quarry and condition O4.10 of the EPA Licence states:

O4.10 All liquid chemicals, fuels and oils must be stored in tanks or containers inside suitable bund(s). Bunds are to be designed, constructed and maintained in accordance with AS1940-2004 Storage and Handling of Flammable and Combustible Liquids.

On 14 December 2017, Council formally wrote to the quarry operators seeking a written response to the allegations of over-extraction within the Quarry.

On 19 March 2014, the Joint Regional Planning Panel issued approval number 2013NTH007 for development application DA 2013/162 for the proposed development of an "Extraction Industry (Sand Quarry) within the subject premises.

Included within this approval were Conditions 40, 43 and 44 which state:

40 Extraction rate

The annual rate of extraction shall not exceed 80,000 cubic metres. Details of the actual extraction rates are to be submitted to Council on a quarterly basis (3 monthly). Prior formal development consent is to be obtained from Council for any proposed extraction in excess of this amount. (Emphasis Added)

43 Contributions

A contribution shall be paid for any material exported from the site in accordance with the Ballina Shire Heavy Haulage Contributions Plan current at the time of payment. The payments are to be paid on a quarterly basis within one month of the end of the quarter. The quarters shall comprise 1 January – 31 March, 1 April – 30 June, 1 July – 30 September, 1 October – 31 December unless otherwise notified by Council. NOTE: at the time of consent this requires a payment of 0.345c per tonne of material hauled from the site. The levy is to be increased annually in accordance with the Consumer Price Index for Sydney.

44 Remittance form

A "remittance form" as issued by Council shall be submitted to Council for each quarter either accompanying the required payment or as a "nil" return. The information required includes the applicable quarter, quantities of material, tonnage rate, contribution payment and the like and be certified by a company officer. (Emphasis Added)

Based on the figures outlined in the November 2017 Ordinary Council meeting report, Council was of the view that Ballina Sands Pty Ltd may have exceeded the annual extraction limits as outlined in condition 40 of development consent DA 2013/162.

8.1 Ballina Sands Quarry - Annual Extraction Limits

The following table provides for the figures as provided to Ballina Sands Pty Ltd in Council's letter of 14 December 2017:

Period	1 April 2015 to 31 March 2016 (Operating Year One)	1 January 2016 to 31 December 2016 (Calendar Year One)	1 July 2015 to 30 June 2016 (Financial Year One)	1 April 2016 to 31 March 2017 (Operating Year Two)	1 July 2016 to 30 June 2017 (Financial Year Two)	1 January 2017 to 31 December 2017 (Calendar Year Two)*
Tonnage to Cubic Metres Extracted (1.3)	88,337.53 cubic metres	174,704.8 cubic metres	121,278.08 cubic metres	210,195.22 cubic metres	156,840.85 cubic metres	103,528.62 cubic metres *
Breach	Yes	Yes	Yes	Yes	Yes	Yes *
Tonnage to Cubic Metres Extracted (1.4)	82,028.64 tonnes cubic metres	162,225.89 cubic metres	112,618.15 cubic metres	195,181.28 cubic metres	145,637.93 cubic metres	96,133.72 cubic metres *
Breach	Yes	Yes	Yes	Yes	Yes	Yes *
Tonnage to Cubic Metres Extracted (1.9)	60,442.15 cubic metres	118,683.59 cubic metres	82,981.79 cubic metres	143,817.78 cubic metres	107,312.16 cubic metres	70,835.37 cubic metres *
Breach	No	Yes	Yes	Yes	Yes	No *

* Figures only include up to and including quarter 3, 2017. October to December 2017 figures not included.

Council also sought a written response to the returns as provided by Ballina Sands Pty Ltd, which only indicated the "tonnage extracted", but do not report on the "details of the actual extraction rates to be submitted to Council on a quarterly basis".

Council requested that the written response was provided by Thursday 25 January 2018.

On 2 January 2018, Council received written representations from Michelle McCartney, Solicitor of McCartney Young Lawyers, in which an extension was requested until "the end of February 2018" to provide a written response and that:

"Our client concedes that it has not supplied and has never been asked for the quarterly extraction reports by condition 40 of the consent".

In various pieces of correspondence Council has been provided with differing density multipliers for the sand being extracted.

8.1 Ballina Sands Quarry - Annual Extraction Limits

These figures include:

- 1.5 tonnes per cubic metre (page 30 of the EIS accompanying the original development application);
- 1.9 tonnes per cubic metre (engineering assessment dated 18 April 2017);
- 2.25 tonnes per cubic metre (verbal representations to Council at the November 2017 Ordinary Council Meeting); and
- 2.12 tonnes per cubic metre (attachment to McCartney Young Lawyers letter dated 18 December 2017).

Following the receipt of a written response from McCartney Young Lawyers, an inspection of the Ballina Sands Quarry was undertaken in April 2018 by Council staff and officers of the Compliance Team, NSW Department of Planning and Environment.

At the April 2018 inspection, no pollution matters were identified that required immediate action.

However, following the inspection further assessment of matters associated with the extraction of sand from the site have been undertaken.

Details of Council's investigations and associated legal advice that has been sought are further discussed in the confidential report.

Key Issues

- Volume of sand extraction and compliance

Information

An overview of the circumstances associated with this matter is set out in the Background Section of this report.

A separate confidential report is provided later in this agenda in relation to the outcomes of the investigation into this matter and options to address the findings of the investigation.

Sustainability Considerations

- **Environment**

Adherence to the applicable conditions of development consent regarding sand extraction volumes seeks to ensure that the development is commensurate with the intended scope of the development and the associated impact mitigation measures that are to be undertaken. This relates to environmental, social and economic considerations.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

CH Law has provided legal advice and staff have been acting in accordance with this advice. Legal implications associated with this matter are the subject of the separate confidential report.

Consultation

Information in this report has been provided in open Council as the information is a matter of public record.

Council staff have undertaken investigations in relation to the extraction of sand from the quarry and sought legal advice in relation to this matter.

Options

The primary purpose of this report is to provide an open Council overview of the basis for the confidential report. The recommendation is for the noting of the report on this basis.

RECOMMENDATION

That Council notes the contents of this report, which provides an introduction to the confidential report addressing sand extraction and compliance with the conditions of consent for DA 2013/162 from the Ballina Sands Quarry located at Newrybar Swamp Road Kinvara.

Attachment(s)

1. Ballina Sands Quarry - Report to November 2017 Ordinary Council meeting

8.2 Policy (New) - Waste Management for Multi-Unit Developments

8.2 Policy (New) - Waste Management for Multi-Unit Developments

Delivery Program Environmental and Public Health

Objective To outline how the new Waste Management for Multi-Unit Development Policy applies to all multi-unit developments including strata and non-strata developments and identify changes made to the Policy as a result of submissions.

Background

Council considered the new Draft Waste Management for Multi-Unit Developments Policy at the 23 August 2018 Council meeting. At the meeting Council resolved to:

- 1. Adopt the Waste Management for Multi-Unit Developments Policy, as attached to the report.*
- 2. That Council place this policy on exhibition for public comment, with any significant submissions received to be resubmitted back to Council. If no significant submissions are received then no further action is required.*
- 3. That Council receive a further report on the option of including non-strata properties in the policy.*

In accordance with Council's resolution, the draft policy was placed on public exhibition on September 2018 with the closing date of 3 October 2018. Three submissions were received from people involved in waste management (Attachment 1) and based on those submissions some minor amendments were proposed to the policy to clarify particular items.

The modifications are designed to make it clear the policy applies to all multi-unit developments, both strata and non-strata developments.

This report provides an overview of the recommended changes and seeks direction on the adoption of the policy for implementation.

Key Issues

- Application of policy to strata and non-strata developments
- Minor changes to policy

Information

The draft policy document was exhibited for a period of 28 days to allow for public comment. The draft policy was also sent to relevant Council staff and external organisations such as town planning consultancies and waste management contractors.

Three submissions were received.

8.2 Policy (New) - Waste Management for Multi-Unit Developments

One submission included the NSW Environment Protection Authority Draft Better Practice Waste Management Guide for Residential Developments dated 2018 included in Attachment 2.

The submissions suggested that the policy might be improved in respect to:

- Suitability of design elements for waste collection vehicles.
- Adequacy of interim waste storage inside the premise to promote waste separation. Ensuring adequate space for the interim storage of waste inside the premise is provided to promote waste segregation.
- Design of waste storage areas to support changes in waste volumes and methods of collection.
- Highlighting specialised bin moving equipment may be required if the distance bins need to be transported is excessive.
- Separating waste storage areas in mixed use developments to avoid overloading of bins, waste contamination, unhygienic conditions and disputes over payment.
- The need to provide waste education to encourage waste separation and minimisation.
- Identifying the need for developments to consider ongoing waste management requirements such as cleaning and maintaining waste storage areas.

Minor amendments were made to address the matters raised. A copy of the amended draft with changes highlighted in yellow is contained in Attachment 3.

The policy applies to the management of solid waste from all multi-unit developments, including strata and non-strata developments. Waste management provisions for strata developments may differ to non-strata developments which is why they are specifically mentioned in the policy.

These differences typically relate to sharing of bins stored in communal areas, caretakers maintaining waste storage areas and moving bins to collection points. In response to Council's resolution regarding application of the policy to non-strata properties, the objective of the policy has been amended to make clear it applies to both strata and non-strata developments. Importantly, the original intent of the policy was for it to apply in strata and non-strata multi-unit situations.

Sustainability Considerations

- **Environment**
The policy seeks to minimise air, water and noise pollution associated with waste storage and collection.
- **Social**
The policy seeks to promote commitment and responsibility in relation to the management of waste from all multi-unit developments including strata and non-strata properties.

8.2 Policy (New) - Waste Management for Multi-Unit Developments

- **Economic**

The policy seeks to reduce waste management related customer requests and Council operational waste management issues.

Legal / Resource / Financial Implications

The amended policy will further assist Council employees, developers, consultants and contractors by providing clear and concise information in relation to servicing and designing waste management facilities for multi-unit developments.

The amended policy will improve the assessment of proposals and information provided at the development application stage with the aim of having fewer operational waste management issues post development.

Consultation

The draft policy was placed on public exhibition with the closing date of 3 October 2018.

Internal consultation has taken with various Council sections responsible for waste management. Amendments have been made to the policy in response to comments made by Council staff.

Options

1. Council may endorse the amended policy as contained in Attachment 3 (or amend the policy as considered appropriate and place it on public exhibition).

If the policy is further amended to change its intent or scope, it is recommended that it be placed on exhibition again.

Adoption of the policy as amended (Attachment 3) is recommended.

2. Council may resolve to not adopt the amended policy. This option is not recommended due to the current limited availability of information that identifies Council's requirements for the management of waste from multi-unit developments and the benefits of implementing such a policy.

RECOMMENDATION

That Council adopts the amended Waste Management for Multi-Unit Developments Policy, as per Attachment 3, to this report.

Attachment(s)

1. Submissions
2. NSW EPA - Draft Better Practice Waste Management Guide for Residential Developments (Under separate cover)
3. Policy (Review) - Amended in Response to Submissions

8.3 Development Applications - Works in Progress - November 2018

8.3 Development Applications - Works in Progress - November 2018

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/223	5/5/2017	Ardill Payne & Partners	Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head	Determination Pending
2017/600	30/10/2017	Newton Denny Chapelle	Expansion of an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	Amended application Awaiting additional information To be reported to Council
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 103 residential lots and seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage – 20 North Creek Road, Lennox Head	Awaiting additional information
2018/74	13/2/2018	Ardill Payne & Partners	Demolition of Existing Residential Flat Building and Erection and Strata Title Subdivision of a Six Storey Residential Flat Building Containing 14 dwellings, associated car parking and works. The proposed building has a height of 18.4m with the lift over run at a height of 19.3m which is above the building height allowance of 18m under the Ballina Local Environmental Plan 2012 – 8 Grant Street, Ballina	Awaiting additional information

8.3 Development Applications - Works in Progress - November 2018

2018/405	12/7/2018	Town Planning Studio Pty Ltd	Two Lot Torrens Title Subdivision – 425 Ross Lane, Lennox Head	Determination pending
2018/417	16/7/2018	BUPA Aged Care Australia	Alteration and Additions to Existing Residential Aged Care Facility – 148 North Creek Road, Ballina	Determination pending
2018/424	18/7/2018	Ardill Payne & Partners	Erection and Strata Title Subdivision of a Part Two Storey Multi Dwelling Housing Development Comprising Three Dwellings – 75 Burns Point Ferry Road, West Ballina	Being assessed
2018/431	19/7/2018	Northern Rivers Land Solutions	Two lot subdivision to create one x 648m ² allotment for the purposes of a private temporary road and one x 34 hectare residue lot – 505 North Creek Road, Skennars Head	Being assessed
2018/432	26/7/2018	Ardill Payne & Partners	Two Lot Subdivision by way of a Boundary Adjustment to create one 1080m ² and one 776m ² allotments and construction of a shed on Proposed Lot 1 - 2 Old Pacific Highway, Newrybar	Being assessed
2018/437	23/7/2018	P Lloyd	Alterations to Child Care Centre (Seeds Early Learning Centre) - 58-62 Westland Drive, West Ballina	Awaiting additional information
2018/439	24/7/2018	Vision Town Planning	Staged development comprising alterations and additions to an existing attached dual occupancy development, erection of a detached garage, demolition of existing outbuildings and two lot subdivision to create one x 600 and one 607sqm allotments and associated works – 20 Newport Street, East Ballina	Determination pending
2018/447	25/7/2018	D Trainor	Staged Erection and Strata Title Subdivision of a part Two Storey Multi Dwelling Housing Development comprising Four Detached Dwellings, Demolition of Existing Dwelling and Consolidation of Lot Boundaries - 58 Cherry Street, Ballina	Being assessed

8.3 Development Applications - Works in Progress - November 2018

2018/454	27/7/2018	Ardill Payne & Partners	Alterations and Additions to Existing Industrial Tenancy including use of a mezzanine floor - 3/7 Piper Drive, Ballina	Awaiting additional information
2018/467	10/8/2018	Wakefield Planning	Change of Use from Boarding House to Boarding House and Community Facility (dog support and activity centre) and associated works - 64 Treelands Crescent, Ballina	Awaiting additional information
2018/477	9/8/2018	Northern Rivers Land Solutions	Erection of a Temporary Sales Office and Associated Vehicular Access and Car Parking – Lot 6 The Coast Road, Skennars Head	Being assessed
2018/482	10/8/2018	P & G Smith	To establish a home business comprising a cooking class conducted within an existing holiday cabin – 841 Fernleigh Road, Brooklet	Being assessed
2018/519	29/8/2018	Ardill Payne & Partners	Demolition of Existing Dwelling House and Associated Buildings and Two Lot Torrens Title Subdivision to create one 617m ² and one 790m ² Allotments and Associated Works - 100 North Creek Road, Lennox Head	Being assessed
2018/546	10/9/2018	Impact Accom Pty Ltd	Alterations and additions to establish a studio apartment for purposes of alternate accommodation for the manager – 20-21 Pacific Parade, Lennox Head	Awaiting additional information
2018/550	14/9/2018	Newton Denny Chapelle	Proposed child care centre and associated works and two lot Strata Title subdivision to create one 4300sqm (Child care centre) lot and one 5970sqm (vacant) lot – 27 Kalinga Street, West Ballina	Awaiting additional information
2018/554	13/9/2018	Ardill Payne & Partners	Change of Use to Establish a Depot – Removalist Business and Associated Signage – 6 Waverley Place, West Ballina	Being assessed

8.3 Development Applications - Works in Progress - November 2018

2018/559	14/9/2018	Chris Abbott Surveying	Two lot boundary adjustment subdivision to create one x 53.1ha and one x 1.2ha allotments – 331 Hermans Lane, Pimlico	Referred to Government departments
2018/566	17/9/2018	Town Planning Studio Pty Ltd	To construct a building (20m x 12m) to establish a recreation facility (Indoor) for the purposes of a dance studio and associated works including on-site carparking – 1 Summerhill Crescent, Cumbalum	Being assessed
2018/576	28/9/2018	M Kamphorst - Ingen Consulting P/L	To establish a landscape supplies and truck depot business on a temporary basis in conjunction with the industrial development consented to under DA 2017/165 – 14 Kays Lane, Alstonville	Awaiting additional information
2018/580	21/9/2018	Newton Denny Chapelle	Boundary adjustment subdivision to create one x 5114 sqm and one x 833 sqm allotments - 260 North Creek Road & 17 McLeans Street, Skennars Head	Being assessed
2018/581	21/9/2018	GeoLINK	Intersection Upgrade at Camp Drewe Road entrance and upgrade of internal access – 164 Camp Drewe Road, Lennox Head	Referred to Government departments
2018/586	24/9/2018	Andy Piper	Vegetation Management Works comprising the removal of one tree – 5 Hindmarsh Street, East Ballina	Awaiting additional information
2018/594	25/9/2018	Jethro Lampe	Vegetation Management Works comprising the removal of one tree and the pruning of three trees – 51 Seawell Crescent, Lennox Head	Determination pending
2018/597	26/9/2018	Ardill Payne & Partners	Establishment and operation of a water supply system including the construction of shed and associated works – Lot 15 Ellis Road, Rous	On exhibition – (extended until 16 Nov) Councillor briefing to be held – date to be advised To be reported to Council

8.3 Development Applications - Works in Progress - November 2018

2018/602	4/10/2018	R & J Harris Consulting P/L	Proposed earthworks involving the temporary storage of fill material surplus to the construction of the Pacific Highway Upgrade – 540 Pimlico Road, Pimlico	Awaiting additional information
2018/603	5/10/2018	Balanced Systems Planning Consultants	Alterations and Additions to Existing Conference Centre and Associated Buildings and Works - 70 Shelly Beach Road, East Ballina	Being assessed
2018/608	5/10/2018	Blake Sign Co.	Proposed Pylon Sign - 72-74 Kalinga Street, West Ballina	Being assessed
2018/616	9/10/2018	Northern Rivers Land Solutions	To undertake bulk earthworks associated with the subdivision consented to under DA 2016/184 – 658 Tamarind Drive, 33 Mitchell Close, 52 Albert Sheathers Lane & 88 Sandy Flat Road, Cumbalum	On exhibition Awaiting additional information
2018/619	10/10/2018	Newton Denny Chapelle	Strata title Subdivision of an Attached Dual Occupancy – 26 Lakeside Way, Lennox Head	Being assessed
2018/620	11/10/2018	P Witchard	Vegetation management works comprising the removal of three trees – 38 Summerhill Crescent, Cumbalum	Determination pending
2018/621	11/10/2018	AGS Commercial Pty Ltd	Alteration and additions to an existing industrial building – 5 Connell Street, Alstonville	Being assessed
2018/625	15/10/2018	G V Muldoon	Vegetation management works comprising the removal of one tree – 1/26 Lakefield Avenue, Lennox Head	Being assessed
2018/626	15/10/2018	M Bonner	Vegetation management works comprising the removal of three trees – 35 Main Street, Alstonville	Being assessed

8.3 Development Applications - Works in Progress - November 2018

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/1/16	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
2016/524	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	Being assessed
2016/746	23/12/16	Ringtank Pty Ltd	Erection of three dwelling houses, 10 site caravan park, equine facilities including stables, veterinary facility, quarantine stalls, horse float and equipment shelters and two equestrian exercise lawns, private outdoor recreation facilities including go-kart track, shooting range, associated buildings, roadworks, earthworks including dam and landscaping - Carrs Lane, Empire Vale Road, Reedy Creek Road- Keith Hall/Empire Vale	Awaiting additional information

8.3 Development Applications - Works in Progress - November 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	Being assessed
2018/321	13/6/2018	PalmLake Works Pty Ltd	Staged erection of an extension to an existing Seniors Housing Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising of 156 self-care dwellings, recreation facilities and associated car parking, infrastructure works, site filling and associated works – 120 North Creek Road, Ballina	Subject to Land and Environment Court appeal

Major Development (Determined by Minister)

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

RECOMMENDATION

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

Attachment(s)

Nil

9.1 Short-term Holiday Letting - State Government Regulation

9. Strategic and Community Facilities Group Reports

9.1 Short-term Holiday Letting - State Government Regulation

Delivery Program Strategic Planning

Objective To seek direction from Council regarding the State Government's introduction of new regulatory arrangements relating to short-term holiday letting.

Background

The purpose of this report is to inform the Council regarding the NSW Government's foreshadowed introduction of regulations with respect to short-term holiday letting (also referred to, for the purpose of the policy, as 'short term rental accommodation').

The rise in popularity of online "home-sharing" platforms such as Airbnb and HomeAway (formerly Stayz) has led to calls from sectors of the community for greater regulation of the industry to reduce the impact of such activity on residential amenity and housing affordability.

Uncertainty in determining when 'home sharing' on a casual basis (such as when the usual resident is away temporarily) becomes so frequent (on an ongoing and regular basis) such that it reasonably falls within the definition of commercial 'tourist and visitor accommodation' (for the purposes of the LEP) has meant that regulation and compliance of this activity has been a challenge for local government.

In response to this situation, the State Government has sought to provide clarity to the regulatory framework associated with online home sharing services. The Department of Planning and Environment has released a policy document titled '*Explanation of Intended Effect: Short-term Rental Accommodation Planning Framework*' dated October/November 2018. The foreshadowed planning amendments follow a Government options paper released in 2017.

The Government's response relies upon a combination of making home sharing (within certain bounds) 'exempt development' for the purpose of the *Environmental Planning and Assessment Act 1979*, combined with industry self-regulation and oversight by the NSW Department of Fair Trading.

The Department of Planning and Environment has invited regional local councils to nominate the period for which short term rental accommodation (STRA) is to be allowed as exempt development, within the range of 180 days to 365 days in each calendar year.

In order to operate beyond the nominated exempt number of days, STRA would require development consent for individual properties.

The Department had given only 6 weeks from the release of the policy document (to 16 November 2018) for councils to nominate an exempt period. Staff, therefore, sought an extension to this deadline to enable the Council to consider the matter.

The Department granted Council an extension until the end of November, subject to Council making a draft submission prior to conclusion of the exhibition period. Consequently, staff made a preliminary submission, a copy of which is provided as Attachment 2, on the basis of the recommendations contained in this report.

The purpose of this report is to inform the Council regarding the substantive issues associated with the proposed regulatory regime and invite the Council to consider setting an exempt period for STRA.

Key Issues

- Short term holiday rental accommodation
- Regulation and compliance
- Economic development
- Affordable housing

Information

The commercial rental of residential properties for short term holiday accommodation would ordinarily fall within the definition of 'tourist and visitor accommodation' (and associated sub-categories of such use) under the terms of the standard instrument Local Environmental Plan.

The key issue for local government in relation to this activity has been the determination of when such activity occurs on such a regular and ongoing basis, as a commercial enterprise, such that it becomes a form of development requiring consent, rather than as a one-off short term arrangement when the usual residents of a property are temporarily absent.

In some instances, the rapid rise in popularity of these platforms has overwhelmed the capacity of local governments' compliance resources.

In terms of this, Council's compliance staff advise that Council has received approximately 60 written complaints so far this year, with a similar number of telephone inquiries that did not lead to written complaints.

In terms of the occurrence of STRA within Ballina Shire, the following summary data is provided with respect to the platform Airbnb (data last available May 2018).

9.1 Short-term Holiday Letting - State Government Regulation

Measure	Ballina Shire (May 2018)
Total Listings	495
Entire homes/apartments	407
Entire homes/apartments recently (within previous 6 months) and frequently (> 60 nights) booked.	129
Average occupancy rate (entire homes/apartments recently and frequently booked)	43.7%

The NSW Government policy document titled 'Explanation of Intended Effect: Short-term Rental Accommodation Planning Framework' dated October/November 2018 is provided as Attachment 1 to this report.

In summary, the proposed planning amendments will:

- Introduce a single definition for STRA;
- Introduce exempt and complying development pathways that enable STRA as:
 - Exempt development for up to 365 days per year, when the host is present.
 - Exempt development, when not on bushfire prone land and when the host is not present, for:
 - No more than 180 days per year in Greater Sydney
 - Up to 365 days per year outside of Greater Sydney. Councils outside Greater Sydney will be able to decrease the 365 day threshold to no lower than 180 days per year.
- Complying development, when on bushfire prone land under BAL29 rating and the host is not present for:
 - No more than 180 days per year in Greater Sydney
 - Up to 365 days per year outside of Greater Sydney. Councils outside Greater Sydney will be able to decrease the 365 day threshold to no lower than 180 days per year; and
- Introduce minimum fire safety and evacuation requirements for premises used for STRA.

The Government's proposal also includes changes to the *Strata Schemes Management Act* to 'allow owners corporations to adopt a by-law, with a 75 per cent majority, preventing short-term letting in their block if the host does not live in the unit they are letting out'.

The new regulatory arrangements seek to manage potential neighbourhood amenity impacts by allowing STRA where the owner resides on the property and where the owner is not resident on the property, via a mandatory industry Code of Conduct, with oversight and registration of accommodation providers to be undertaken by the NSW Department of Finance, Services and Innovation (includes NSW Fair Trading).

9.1 Short-term Holiday Letting - State Government Regulation

Council is informed that the code of conduct, and associated regulations, will include provisions for a "two-strikes and you're out" policy relating to hosts and guests who commit serious breaches of the code within a 2 year period, associated with neighbourhood amenity impacts. Two such breaches would result in a ban of offenders from using online home sharing platforms for a period of five years.

The NSW Fair Trading website includes the following information regarding this process:

- *A strike will include any behaviour which unreasonably interferes with a neighbour's quiet and peaceful enjoyment of their home.*
- *The Code will establish a complaints system, which will be available to neighbours of short-term holiday letting premises, strata committees and owners corporations.*
- *Complaints will be assessed by independent and impartial adjudicators, approved by the Commissioner for Fair Trading. Adjudicators will be required to make decisions on evidence and after giving both complainants and respondents a chance to put forward their case.*
- *Strikes will be recorded on an online register to ensure that guests and/or hosts cannot 'platform shop'. Platforms and property agents will have to check the register before taking on new customers. Failure to do so may result in significant penalties of up to \$1.1million for corporations and \$220,000 for individuals.*
- *NSW Fair Trading will have powers to police online platforms and letting agents. The Code, its enforcement, the compliance system and the register will be funded by industry.*

The new arrangements are proposed to come into effect in 2019 and will be subject to a review after 12 months.

Whilst acknowledging the above, some important details are currently lacking, such as:

- Whether NSW Fair Trading will be adequately resourced to actively manage the new regulatory regime.
- How and by whom a breach in the period of days a property can be rented (if less than 365 days) is to be monitored and enforced.
- The evidentiary support required and procedure to establish a breach of the industry Code of Conduct, that is required for operators to be delisted.
- The extent to which the new regulatory regime will rely or impact upon local councils' compliance and legal resources.

The Government has set a maximum of 180 days for which STRA within the local government areas within the Greater Sydney area are exempt from requiring development consent (where the owner of the property is not resident).

For regional local government areas, the default period will be 365 days unless councils choose to nominate an alternative period (but which cannot be less than 180 days).

9.1 Short-term Holiday Letting - State Government Regulation

Leaving the period at 365 days would effectively make all STRA exempt from requiring development consent.

Where landowners have their properties rented out for more than the nominated maximum number of days for which STRA is considered exempt development, a development consent for 'tourist and visitor accommodation' would be required to continue to make the property available for STRA.

On the basis of the above, uncertainty regarding the monitoring and compliance of future impacts associated with STRA, this report recommends that Council take a conservative position and request the Department of Planning and Environment to set the maximum of 180 days for STRA to be allowed as exempt development in Ballina Shire.

As noted, the Government will not allow local councils to establish an exempt development period of less than 180 days. It is acknowledged, however, that this approach may require the application of Council's compliance resources should STRA properties exceed the 180 day threshold and continue to operate without consent.

The average occupancy rate for entire homes that are recently and regularly booked (as STRA) in Ballina Shire through Airbnb is currently 43.7%; in other words less than 180 days (on average). Consequently, the extent to which nominating a period of less than 365 days may have on restricting the activity in any practical sense, may be limited and will depend largely on the level of regulatory oversight provided by NSW Fair Trading.

Other Concerns with STRA

The proposed reforms seek to address neighbourhood amenity concerns associated with 'party houses', but do not address the potential impacts of STRA on rental housing affordability in high demand holiday destinations.

It is notable that, according to industry data, it would appear that Byron Shire has the highest incidence of STRA as a proportion of total dwellings in Australia. Whilst not entirely attributable to the rise of home sharing services, the high incidence of STRA is likely contributing to the poor rental housing affordability current in that local government area.

Whilst ever such accommodation remains a small proportion of the rental housing stock, such impacts should be relatively modest. The more popular STRA becomes however, the greater the potential for adverse impacts to occur associated with 'crowding out' local residents from the local rental housing market.

This is an aspect of STRA that Council should seek to monitor going forward.

The increasing popularity of STRA may have adverse impacts on traditional tourist accommodation providers, particularly hotels and motels.

As with rental affordability, such impacts may be relatively modest where STRA forms only a small proportion of the visitor accommodation market, but may become more significant in due course. Consequently, staff will seek to monitor the impacts of STRA over time.

These additional potential adverse impacts (and for these to grow over time) provide further justification for the establishment of a maximum period of 180 days for STRA to be allowed as exempt development in Ballina Shire.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The increasing popularity of online home sharing services has the potential to impact negatively on social cohesion through the 'crowding out' of residents from the local rental housing market.
- **Economic**
Online home sharing services has the potential to impact negatively on traditional tourist and visitor accommodation providers. On the other hand, those staying in short term rental accommodation will potentially contribute to the local visitor economy.

Legal / Resource / Financial Implications

The new regulatory regime for STRA may have implications on Council's compliance and legal resources, however the degree of such is difficult to estimate at this time.

STRA complaints have the potential to significantly impact delivery of existing Compliance work program tasks.

In particular, it is difficult to determine whether Council's existing Compliance resources will be sufficient to address complaints to Council arising as a result of the 180 day limitation based on the information available at present.

Therefore, Council's position on the 180 day threshold may need to be reviewed in future as more information about regulatory mechanisms and enforcement responsibilities becomes available.

Council may need to establish clear parameters by way of policy to set a position on when Council might apply resources to address STRA related issues and the type and extent of information necessary to support Council's address of a complaint.

Consultation

The Government has consulted the community and business in the development of its policy position.

Options

The Council has the following options available to it regarding this matter:

9.1 Short-term Holiday Letting - State Government Regulation

1. It could nominate a maximum period for which STRA would be allowed as exempt development, where the owner is not resident on the property, of less than 365 days but no less than 180 days.

This option is recommended for the reasons set out in the body of this report, particularly the lack of clarity and certainty regarding the effectiveness of proposed regulatory measures associated with the associated planning reforms.

A maximum period of 180 days is recommended in this regard, although the Council could set another period (not less than 180) if inclined to do so.

This option would involve endorsing the draft submission made by staff to the Department of Planning and Environment dated 13 November 2018 (Attachment 2) with respect to this matter and communicating this to the NSW Government.

2. In the alternative, the Council could resolve to not set a maximum period and receive and note the contents of this report. The effect of this would be that STRA would be enabled as exempt development within residential properties within Ballina Shire without any time limitations, as this is the default position provided by the State Government.

This option is not recommended on the basis of the reasons set out above. However, if the Council is of the view that potential negative impacts associated with STRA are outweighed by the improved flexibility of the new regulatory regime, the Council may adopt this option.

RECOMMENDATIONS

1. That Council endorses the staff draft submission made to the NSW Department of Planning and Environment dated 13 November 2018 with respect to planning reforms relating to Short Term Rental Accommodation.
2. That Council requests the NSW Department of Planning and Environment to set the maximum period for which Short Term Rental Accommodation can be undertaken as exempt development in Ballina Shire at 180 days per year.

Attachment(s)

1. Short Term Rental Accommodation - Explanation of Intended Effect (NSW Government Policy Paper)
2. Draft Submission - Short Term Rental Accommodation Reforms

9.2 Lease Proposal - 32 Swift Street, Ballina

9.2 Lease Proposal - 32 Swift Street, Ballina

Delivery Program Community Facilities

Objective To confirm the new tenant for No. 32 Swift Street, Ballina, previously referred to as the B Space.

Background

The B Space site comprises part of Lot 12 and Lots 13 and 14 DP 1714 known as No. 32 Swift Street Ballina. This property forms part of Wigmore Park. The site occupied by the Ballina B-Space (Ballina Youth Activity Centre) is shown in Diagram 1.

Diagram 1 – Site Location



The B Space facility was originally proposed by the Ballina Youth Service in 1995, and involved the relocation of a dwelling formerly owned by the Anglican Church (St Mary's Church Rectory), to the current site. It was then converted following the granting of development consent by Council. The consent (DA1995/311) permitted the use of the dwelling for the purposes of a Community Building / Youth Activity Centre.

Condition 2 of the consent specified that the building is to be utilised and managed as a program-based activity centre and not as an informal drop-in centre.

9.2 Lease Proposal - 32 Swift Street, Ballina

Wigmore Park is zoned RE1 Public Recreation under the provisions of the Ballina Local Environmental Plan 2012. The land comprising Wigmore Park is owned by Council. For the purpose of the Local Government Act 1993, the land is classified as community land and categorized for general community use.

Improvements located on Wigmore Park include The Ballina Players Theatre and the Wigmore Hall, as well as the B-Space facility. Each of these facilities is operated or managed by different entities under tenure provided by Council. The adopted Principal Generic Plan of Management for Community Land recognises these respective uses.

The B Space facility was the subject of a three year lease to FSG Australia which commenced on 1 July 2016. The terms of the lease included a peppercorn rental of \$1 per annum and responsibility to pay 100% of outgoings (the outgoings charges were subsequently donated by the Council).

Outgoings included all rates and service/consumption charges levied by Council.

FSG Australia went into voluntary administration on 30 June 2018 and on 17 July 2018 the Administrators relinquished their rights to the 32 Swift Street property.

On 3 August 2018, a local community service organization, Social Futures, commenced a 13 week temporary hire period for the B-Space facility for the purpose of conducting youth programs from this site. The hire period was entered into on the understanding that Council would undertake an Expression of Interest (EoI) process for the longer term lease of the premises, ideally for the purpose of delivering youth related programs in accordance with the Development Consent which has been previously issued.

The youth services that had operated out of the facility, under the auspice of FSG, were funded by the NSW Department of Family and Community Services. These services have continued to operate under the new auspice of Social Futures, a not for profit group that delivers a range of youth and other services across the region. Council was able to facilitate the retention of these services by agreeing to the temporary occupation of the property.

An expression of interest commenced on 15 August 2018 and concluded on 7 September 2018. Prospective tenants were asked to address the following assessment criteria:

- Be a not for profit community based organization
- Have an open membership (Constitution or Articles of Association must state that membership is open to the general public) or provide services to the community
- Demonstrate an ability to meet the financial obligations of a lease and
- Demonstrate a return to the community, either by financial return or community benefit.

Prospective tenants were also advised that if they intended to occupy the facility, and deliver services other than youth related, the proposed tenant will be responsible for seeking approval for the alternative use of the property through the development application process.

Key Issues

- Transparency and equity in the allocation of Council’s properties.

Information

Expressions of interest were received from the following organisations:

- Biala Support Services Inc.
- Social Futures

Copies of the respective Eols are included as Attachments 1 and 2 to this report.

Evaluation of Biala Support Services Inc Eol Submission

Biala Support Services Inc. is a National Disability Insurance Scheme (NDIS) registered disability service provider and special school that has been operating in the Ballina Shire since 1969. It offers a range of services including accommodation, respite support to children and adults with a disability and recreational and community based programs.

Biala is proposing to use the facility to conduct weekend day time programs for children aged 10 to 16 years that will work to build life and social skills. It is also proposed that their day program would be provided from the premises between 9am and 3pm, Monday to Friday. In addition, they would look to commence a social skills program for young people with a disability aged 18 to 24 years in January 2019.

The following table is a summary of the responses from Biala Support Services Inc. addressing the key assessment criteria.

Table 1 - Biala Support Services Inc. Evaluation

Criteria (weighting)	Comment
Be a not for profit community based organisation (25%)	Not clearly identified in the EOI. Search of the Department of Fair-Trading website confirms the NFP status of Biala Support Services Inc.
Have an open membership (Constitution or Articles of Association must state that membership is open to the general public) or provide services to the community (25%)	<u>Membership</u> Membership status not addressed in EOI. <u>Services to the community</u> Biala Support Services Inc. is a NDIS registered disability service provider and special school that has been operating in the Ballina Shire since 1969. The organisation provides accommodation, respite support to children and adults with a disability, recreational and community based programs. Biala also operates a day program and provides support and skills development for people with a disability.

9.2 Lease Proposal - 32 Swift Street, Ballina

Demonstrate an ability to meet the financial obligations of a lease (25%)	Eol makes no mention of its ability or willingness to meet any financial obligation associated with the lease.
Demonstrate a return to the community, either by financial return or community benefit (25%)	Has delivered a range of services to young people with disabilities over many years. It is proposing to run a day program from the facility, 9am to 3pm Monday to Friday. In addition, looking to establish a weekend day time program for children aged 10 to 16 years that will work to build life and social skills and proposing to commence a social skills program for young people with a disability aged 18 to 24 years in January 2019.

As evidenced by the responses, there is a lack of detail which makes it difficult to determine that all the criteria have been met in relation to Biala's proposal.

Evaluation of Social Futures Eol Submission

Social Futures is a community based non-profit organisation based in Northern NSW and has been operating for over 40 years.

Its work encompasses youth and family services, homelessness and housing support (including for people with disability), community sector support, professional development and advocacy.

Social Futures is proposing to operate the B Space as a youth hub, which will deliver a range of youth specific activities and individually tailored services. Proposed programs include, but are not limited to, The Clubhouse, Reconnect, Getting It Together, Head Space, Connecting Home and Links to Learning. Specific details of the programs are detailed in Table 2.

In addition, Social Futures is proposing to establish a steering committee comprising representatives from local youth service providers, Police, Ballina Coast High School, youth representation, a local resident (neighbour) and Council.

This committee would meet bi-monthly with aims to provide reports on activities, develop ideas for service delivery and youth engagement, distribution of meeting minutes and to provide community feedback to Council.

Table 2 – Social Futures Evaluation

Criteria (weighting)	Social Futures
Be a not for profit community based organisation (25%)	Clearly indicates that it is a community based organisation and incorporated entity (number supplied).
Have an open membership (Constitution or Articles of Association must state that membership is open to the general public) or Provide services to the community (25%)	<p><u>Membership</u> Clearly articulates membership is open to all residents of the Northern Rivers. Copy of constitution available on request.</p> <p><u>Services to the community</u> Currently delivering range of youth specific programs in the region including the following:</p> <ul style="list-style-type: none"> • The Clubhouse provides young people aged 12-17 years access to high end technology and creative media. • Reconnect assists young people aged 12-18 years who are at risk of homelessness, to stabilise their current living situation and improve engagement with their families; • Getting It Together supports young people aged 12-25 years find opportunities for positive change in relation to their drug and alcohol use, building self-esteem and improving life skills. • Headspace provides early intervention mental health services to young people aged 12-25 years and promotes young peoples' well-being. • Connecting Home Youth assists young people aged 16 years plus who are at risk of or currently homeless via case management support. • Links to Learning Program aims to re-engage young people aged 11-18 years in their learning by providing opportunities for success and increasing life skills through team building, nonviolent communication and conflict resolution. • Family Referral Service provides support to children, young people and parents around the challenges and demands of everyday family life through information, case coordination and linkages to local services. • Connecting You provides case management support and family

9.2 Lease Proposal - 32 Swift Street, Ballina

	<p>intervention strategies for young people aged 12-15 years who are at risk of disengagement from their families.</p> <ul style="list-style-type: none"> • Ability Links works with people with a disability, their families and carers, to assist them with daily living skills.. <p>It advises it is a coordinated community crisis response service that supports the health and wellbeing of families, friends and associates bereaved by suicide.</p>
<p>Demonstrate an ability to meet the financial obligations of a lease (25%)</p>	<p>Social Futures' capacity to meet the financial obligations of a lease is demonstrated through existing stock of leased assets. Social Futures currently manages 23 property lease agreements across NSW. These leases are financed through the delivery of 35 programs (funded by NSW and Commonwealth Governments).</p>
<p>Demonstrate a return to the community, either by financial return or community benefit (25%)</p>	<p><u>Financial return</u> Eol indicates that they will cover costs:</p> <ul style="list-style-type: none"> • Relating to rates and services. • Of minor maintenance. • Pay electricity and all consumables. • Ensure that the facility is well maintained. <p><u>Community Benefit</u> EOI indicates that there will be improved access to a range of youth services, delivered either directly by Social Futures or its partners. During the temporary occupation of the space, Social Futures has established a steering committee made up of key stakeholders. Propose to invite representation from the local Police, Ballina Coast High School, youth representation, a local resident (neighbour) and Ballina Shire Council. Social futures will report to the group outlining current activities, further collaborations and opportunities, and information regarding local youth attendance and progression. This report will be provided to Council.</p>

Social Futures has also supplied supporting documentation from Ballina Coast High School and the NSW Department of Family and Community Services.

During the time Social Futures has temporarily occupied the B Space facility it has also established MoUs with two local youth organisations (The Family Centre and Red Inc) and both of these organisations have agreed to and have commenced delivering services to young people.

Sustainability Considerations

- **Environment**

No adverse environmental impacts are anticipated as a consequence of the use of B Space facility for the delivery of a range of youth programs.

- **Social**

Maintaining the operation of a youth-specific space in Ballina is seen as essential in ensuring that our vulnerable and at risk young people have access to a range of services that aim to meet their complex needs.

Council's Community Strategic Plan (CSP) specific outcomes that are being facilitated include:

- a) assisting disadvantaged groups within our community;
- b) providing equitable access to a range of community services and facilities and
- c) providing young people with a range of leisure activities, along with opportunities for personal development.

The occupation and active use of No. 32 Swift Street, as a youth space for structured programs, will contribute towards the achievement of these outcomes.

- **Economic**

No adverse economic impacts are anticipated as a consequence of the use of the B Space facility for the delivery of a range of youth programs.

Legal / Resource / Financial Implications

The subject land is classified as community land under the provisions of the Local Government Act 1993 (LGA) and is categorized for general community use.

In accordance with section 46 of the LGA, Council must only authorise occupation of community land by the way of tenure agreements which are consistent with provisions contained within the applicable plan of management for the land.

Council's Principal Generic Plan of Management for Community Land (PGPMCL) is the applicable plan of management. A lease of the land for the conduct of youth related programs is considered to be consistent with the provisions contained within the PGPMCL.

Sections 47 and 47A of the Local Government Act require Council to publicly notify and exhibit proposed tenure arrangements for community land.

Rental Assessment

Council's Community Property Leasing and Licensing Policy divides eligible lessees and licensees into three different groups. Group A is the commercial category, Group B applies to community groups and clubs, and Group C applies to Not for Profit Community Groups. Each group is assessed differently in terms of applicable lease fees.

The use of the B Space facility by Social Futures is a Group B use, being a use of premises by a non-government organization which receives Government funding.

A three year maximum lease term is applicable to Group B tenants under the terms of Council's Community Property Leasing and Licensing Policy.

Council's Community Property Leasing and Licensing Policy states that:

Market rental is assessed for all public land tenancies and are included in the tenure agreement. Market rent may be rebated to a lesser amount in consideration of the not for profit status of the organization.

a. A rental at less than market rate will apply in the following manner:

- i. On Council-owned land, peppercorn rental will apply. Peppercorn rental is set each year in Councils fees and Charges;*

It is noted that the previous leases for use of the B Space premises by the Ballina and District Community Services Association (which commenced in July 2012 for a 4 year term), and FSG (which commenced in July 2016 for a 3 year term) were subject to a peppercorn rental of \$1 per annum.

Biala Support Services Inc. makes no mention in its EOI as to what, if any, contribution it is willing to make. The application from Biala remains silent in regard to their willingness and capacity to pay any rental or fees set by Council.

Social Futures has indicated its willingness to cover the following costs and take on the responsibility for:

- Rates and services
- Minor building maintenance
- Electricity and all consumables
- General property maintenance.

Council's community lease and licenses agreements typically include a requirement that the lessee will be responsible for all outgoings such as rates, services and consumption chargers.

Social Futures indication that they are willing and able to cover these costs and acknowledge these will be obligations to be contained within the lease.

Consultation

9.2 Lease Proposal - 32 Swift Street, Ballina

An expression of interest process has been conducted.

Options

1. Council determines the EOI responses and select the respondent considered to have the greatest capacity to deliver youth related services from the B Space premises.

In this case, Social Futures is the recommended provider of youth services based on the evaluation contained in this report. In respect to rent, the previous peppercorn rental fee is considered reasonable.

2. Council could determine that Biala Support Services Inc. be offered the lease of the B Space premises. Whilst acknowledging the critical role this organization plays in servicing the needs of those within our community with disabilities, and their families and carers, this option is not recommended for the reasons contained in the information section of this report.

Regrettably, the organization was unable to provide certain details which prevented an adequate assessment of its proposal.

3. It is open to Council to defer its determination of this matter if it feels that additional information is required. In doing so, it should instruct staff in terms of the nature and extent of the additional information it requires.

RECOMMENDATIONS

1. That as an outcome of the recent Expression of Interest process, Council offer Social Futures a three year lease of property at No 32 Swift Street Ballina for the purpose of delivering youth related services, as authorised by Development Consent No 1995/311 dated 5 July 1995.
2. The lease is to be prepared on the basis of a peppercorn rental, with the lessee required to pay general property rates, service and consumption charges and to attend to the routine maintenance of the property.
3. That the proposed lease to Social Futures be publically notified in accordance with the requirements of section 47A of the Local Government Act 1993.
4. That should no written objections be received during the notification period, the General Manager be authorised to affix the Seal of the Council to documents relating to the new lease and any other documents required to allow tenure to be granted in accordance with terms of the Local Government Act 1993 and associated Regulation.

Attachment(s)

1. Biala Support Services Inc EOI for 32 Swift Street Ballina
2. Social Futures EOI for 32 Swift Street Ballina.

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following document.

US 18/07	<p>'Deed of Easement' for rights of drainage over land being Lot 45 DP 123949 at Elevation Development, Lennox Head. The deed is between the Elevation Developer (or subsequent land owners) and Council.</p> <p>Explanation The land, Lot 45 DP 123949, is currently under construction for the final stages of the Elevation Development. In lieu of creating easements by section 88B over the proposed residue land (lot 710), it is requested a deed be entered into formalising drainage rights over the land. Upon completion of the subdivision stage, the deed will cease and easements will be created upon registration of the new subdivision plan. The proposal is considered acceptable for Council to allow the deed to be executed.</p>
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Attachment(s)

Nil

10.2 Investment Summary - October 2018

10.2 Investment Summary - October 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 October 2018.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investment Policy. The balance of investments as at 31 October was \$78,538,000. This represents a decrease of \$1 million from September. Council's investments, as at 31 October, are at an average (weighted) rate of 2.876%, which is 0.942% above the 90 Day Bank Bill Index of 1.93%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 October 2018, was \$4,462,119. This balance is lower than the balance of \$4,987,034 as at 30 September 2018. The combined movement of investments and bank balances was a decrease of \$1,524,915. This overall decrease is attributable to general creditor payments and loan repayments in October.

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

Reserve Name	Restriction	% Portfolio*
Wastewater Fund (incl developer contributions)	External	10.8%
Water Fund (incl developer contributions)	External	21.8%
Section 94 Developer Contributions	External	11.2%
Bonds and Deposits	External	2.7%
Other External Restrictions	External	5.1%
Carry Forward Works	Internal	3.5%
Bypass Maintenance Funding	Internal	4.6%
Landfill and Resource Management	Internal	2.1%
Employee Leave Entitlements	Internal	3.7%
Quarries	Internal	1.0%
Property Reserves	Internal	5.9%
Plant and Vehicle Replacement	Internal	1.4%
Road Works	Internal	6.8%
Swimming Pools Capital	Internal	0.2%
Indoor Sports Centre	Internal	3.7%
Miscellaneous Internal Reserves	Internal	7.1%
Financial Assistance Grant in Advance	Internal	2.8%
Unrestricted		5.6%
Total		100%

* Reflects reserves held as at 30 June 2018.

A. Summary of Investments by Institution

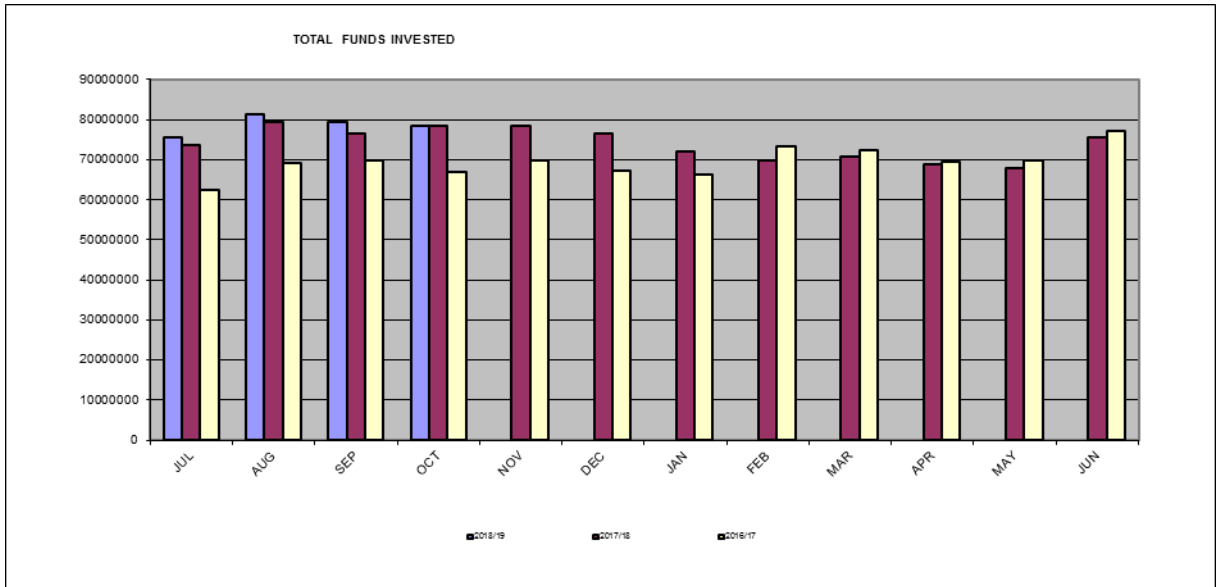
Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.3%	2%
Rated Institutions							
AMP Bank	Yes	A	11,500	11,500	20%	14.6%	
Auswide Bank	No	BBB	1,500	1,500	10%	1.9%	
Bank of China	Yes	A	2,000	4,000	20%	5.1%	
Bank of Queensland	Yes	BBB+	2,000	2,000	10%	2.5%	
BankWest	Yes	AA-	8,000	8,000	20%	10.2%	
Commonwealth Bank of Australia	Yes	AA-	5,000	5,000	20%	6.4%	
Credit Union Australia	No	BBB	3,600	3,600	10%	4.6%	
Defence Bank Ltd	No	BBB	5,500	5,500	10%	7.0%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.5%	
Heritage Bank	No	BBB+	2,000	2,000	10%	2.5%	
ING Bank Ltd	Yes	A	4,000	4,000	20%	5.1%	
ME Bank	No	BBB	3,750	2,750	10%	3.5%	
My State Bank Ltd	No	BBB+	5,000	5,000	10%	6.4%	
Newcastle Permanent Bld Society	No	BBB	1,700	1,700	10%	2.2%	
Rural Bank Ltd	No	BBB+	4,000	4,000	10%	5.1%	
Suncorp-Metway Bank	No	A+	3,500	3,500	20%	4.5%	
Teachers Mutual Bank Limited	No	BBB	1,700	1,700	10%	2.2%	
Westpac Banking Corporation	Yes	AA-	11,000	9,000	20%	11.5%	98%
Total			79,538	78,538		100%	
Credit Rating Summary as per the Investment Policy							
	Maximum Allowed		Value	Value	%	%	
	%	Value	Previous	Current	Previous	Current	
A- or Higher	100%	78,538	45,000	45,000	57%	57%	
BBB	60%	47,123	34,538	33,538	43%	43%	
Total			79,538	78,538	100%	100%	

B. Summary of Investments Fossil Fuel Aligned

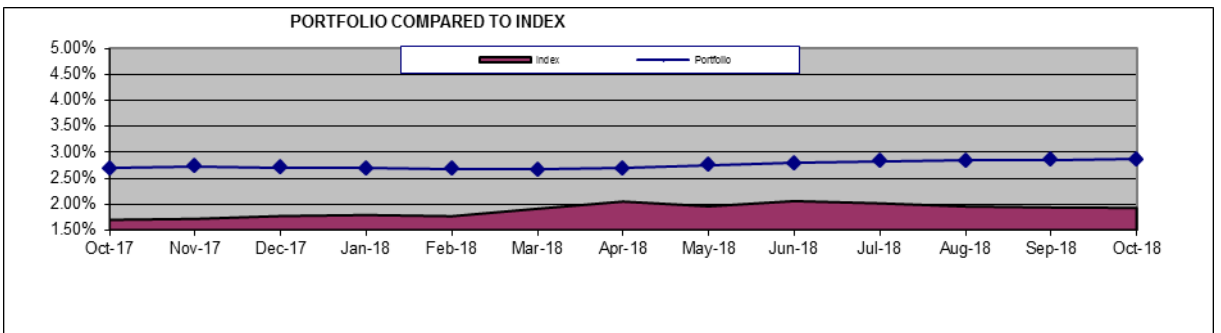
	Previous Month	Current Month
Fossil Fuel Aligned	45,288 57%	45,288 58%
Non-Fossil Fuel Aligned	34,250 43%	33,250 42%
Not Classified	0 0%	0 0%
Total	79,538 100%	78,538 100%

Classification based on advice from 'Market Forces' and 'Bank Track'.

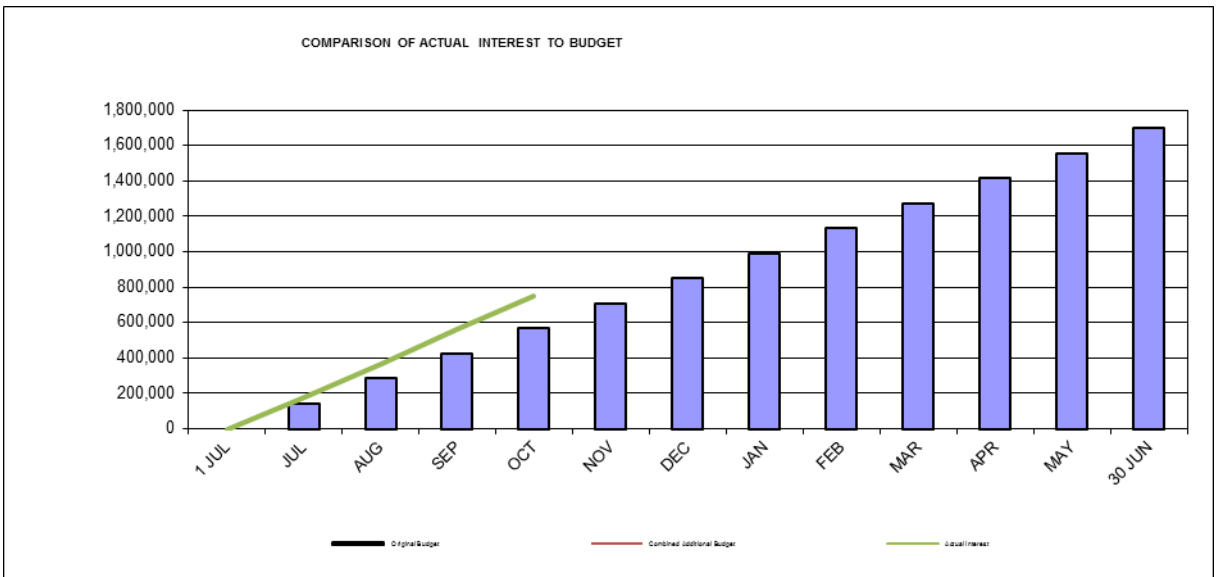
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



Interest earned for the quarter ended 30 September is trending higher than the original forecasts, for which a revision will be proposed as part of the September budget quarterly review (reported to November Ordinary meeting).

10.2 Investment Summary - October 2018

F. Investments held as at 31 October 2018

PURCH DATE	ISSUER	TYPE	RATE	NEXT MATURITY	PURCH VALUE \$'000	FAIR VALUE \$'000
03/08/17	Westpac Banking Corporation	FRN	3.02%	05/11/18	2,000	2,000
07/08/18	Newcastle Permanent Bld Society	FRN	3.37%	06/11/18	700	700
06/09/18	Newcastle Permanent Bld Society	FRN	3.37%	06/11/18	1,000	1,000
09/11/17	Defence Bank Ltd	TD	2.75%	08/11/18	1,500	1,500
09/11/17	ME Bank	FRN	3.21%	09/11/18	750	751
16/08/17	ING Bank Ltd	TD	2.68%	15/11/18	2,000	2,000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.20%	15/11/18	1,788	1,516
18/08/17	Westpac Banking Corporation	FRN	3.01%	15/11/18	1,000	1,000
15/08/18	ING Bank Ltd	TD	2.68%	20/11/18	1,000	1,000
17/08/18	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
24/05/18	Greater Bank Limited	FRN	3.40%	24/11/18	1,000	1,002
25/05/18	Westpac Banking Corporation	FRN	2.89%	26/11/18	2,000	2,004
30/08/16	Greater Bank Limited	FRN	3.50%	30/11/18	1,000	1,003
31/08/18	Suncorp-Metway Bank	TD	2.65%	03/12/18	3,500	3,500
04/12/17	Defence Bank Ltd	TD	2.75%	04/12/18	1,000	1,000
06/09/18	Credit Union Australia	FRN	3.20%	06/12/18	600	601
10/09/18	AMP Bank	FRN	3.07%	10/12/18	1,500	1,501
09/03/18	Westpac Banking Corporation	TD	2.65%	10/12/18	2,000	2,000
11/12/17	Credit Union Australia	TD	2.60%	11/12/18	2,000	2,000
17/06/16	Commonwealth Bank of Australia	FRN	2.97%	17/12/18	1,000	1,000
04/06/18	ME Bank	TD	2.77%	18/12/18	1,000	1,000
30/06/16	Commonwealth Bank of Australia	FRN	2.98%	30/12/18	1,000	1,000
29/06/17	Teachers Mutual Bank Limited	FRN	3.36%	31/12/18	1,000	1,005
27/04/18	Rural Bank Ltd	TD	2.80%	09/01/19	2,000	2,000
06/06/18	My State Bank Ltd	TD	2.83%	15/01/19	1,000	1,000
30/04/18	Rural Bank Ltd	TD	2.80%	22/01/19	1,000	1,000
26/10/18	Commonwealth Bank of Australia	FRN	2.97%	26/01/19	1,000	1,000
29/01/18	Commonwealth Bank of Australia	TD	2.66%	29/01/19	2,000	2,000
30/07/18	Westpac Banking Corporation	FRN	2.85%	30/01/19	1,000	1,000
31/07/18	Westpac Banking Corporation	FRN	2.89%	31/01/19	1,000	1,000
27/07/18	Bank of Queensland	TD	2.80%	01/02/19	2,000	2,000
02/07/18	Teachers Mutual Bank Limited	FRN	3.31%	02/01/19	700	701
03/04/18	Credit Union Australia	TD	2.72%	05/02/19	1,000	1,000
01/05/18	Rural Bank Ltd	TD	2.80%	12/02/19	1,000	1,000
03/05/18	My State Bank Ltd	TD	2.80%	19/02/19	1,000	1,000
17/05/18	AMP Bank	TD	2.83%	19/02/19	2,000	2,000
22/05/18	AMP Bank	TD	2.80%	26/02/19	1,000	1,000
29/05/18	AMP Bank	TD	2.83%	05/03/19	3,000	3,000
01/06/18	AMP Bank	TD	2.90%	11/03/19	1,000	1,000
05/06/18	My State Bank Ltd	TD	2.83%	13/03/19	3,000	3,000
06/06/18	AMP Bank	TD	2.83%	19/03/19	1,000	1,000
19/06/18	Auswide Bank	TD	2.88%	26/03/19	1,500	1,500
10/07/18	Defence Bank Ltd	TD	2.90%	09/04/19	1,000	1,000
07/08/18	BankWest	TD	2.80%	14/05/19	4,000	4,000
14/08/18	BankWest	TD	2.81%	21/05/19	4,000	4,000
27/06/18	Heritage Bank	TD	3.05%	24/06/19	2,000	2,000
16/08/18	AMP Bank	TD	2.85%	16/08/19	1,000	1,000
28/08/18	Defence Bank Ltd	TD	2.85%	27/08/19	1,000	1,000
07/09/18	ME Bank	TD	2.75%	05/09/19	1,000	1,000
02/10/18	Bank of China	TD	2.86%	01/10/19	2,000	2,000
15/10/18	Bank of China	TD	2.83%	10/10/19	2,000	2,000
18/10/18	AMP Bank	TD	2.83%	17/10/19	1,000	1,000
Totals					78,538	78,284
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 October 2018.

Attachment(s)

Nil

10.3 Flat Rock Tent Park Fees and Charges - 2019/20

10.3 Flat Rock Tent Park Fees and Charges - 2019/20

Delivery Program Commercial Services

Objective To seek Council's concurrence to exhibit the draft fees and charges for the Council operated tent park for the period 1 February 2019 to 31 January 2020

Background

The NSW Local Government Act requires councils to formally advertise and adopt their fees and charges prior to implementation. The majority of Council's fees are set each June as part of the annual Operational Plan however Flat Rock Tent Park's fees are set for the twelve months from 1 February each year.

With Flat Rock Tent Park it is important that our regular guests are informed well in advance as to the fees for their next holiday and also to enable the fees and charges to be included in holiday and camping publications.

This report has been prepared to obtain Council approval to advertise next year's tent park fees and charges. The period the fees are applicable for is 1 February 2019 to 31 January 2020.

Key Issues

- Variation in fees
- Conditions attached to the fees

Information

A copy of the proposed fees, charges and cancellation policy is included as an **attachment** to this report.

The proposed fees have been formulated taking into account factors such as park facilities and standards, feedback from Park Managers and guests, as well as industry comparisons with similar parks on the NSW Far North Coast and the latest Consumer Price Index (CPI).

In summary the changes are set out as such:

Current Fees	Off Peak	Shoulder	Peak
Unpowered site (based on 2 people)	\$35.00	\$42.00	\$47.00
Adult (extra)	\$16.00	\$16.00	\$16.00
Child (4-16 years incl)	\$9.00	\$9.00	\$9.00

Proposed Fees	Off Peak	Shoulder	Peak
Unpowered site (based on 2 people)	\$36.00	\$42.00	\$48.00
Adult (extra)	\$16.00	\$16.00	\$16.00
Child (4-16 years incl)	\$9.00	\$9.00	\$9.00

Minimal changes are recommended based on current market conditions.

Legal / Resource / Financial Implications

Council is legally required to exhibit and adopt its fees.

In respect to income figures in recent years the following is a summary of the revenue collected by the end of each quarter as per Council's financial records.

The figures are accumulated for each quarter as the year progresses.

Year	30 September	31 December	31 March	30 June
2018/19	111,789	N/A	N/A	N/A
2017/18	108,000	225,369	335,000	417,870
2016/17	81,000	222,000	341,000	413,800
2015/16	106,900	248,200	338,000	421,500
2014/15	82,700	235,700	331,400	432,400

This year is trending positively, although as Flat Rock is a park with limited facilities, occupancy is heavily dependent on external factors such as weather and marine activity.

The September quarter figures can also vary dependent on weather and the timing of NSW and QLD school holidays.

Consultation

The draft fees and charges are to be exhibited for public comment.

Options

The options are to either adopt the recommendation to advertise the proposed fees as presented or amend the fees.

The preferred option is to exhibit the fees and charges, as any changes are consistent with industry trends and competitors. The fees will be re-submitted to Council for adoption following the exhibition period.

RECOMMENDATION

That Council authorises the exhibition of the draft Flat Rock Tent Park fees and charges for 1 February 2019 to 31 January 2020, as attached to this report, for public comment.

Attachment(s)

1. Flat Rock Tent Park - Draft Fees and Charges 2019/20

10.4 Hardship Relief - Application

10.4 Hardship Relief - Application

Delivery Program Communications

Objective To provide an overview of a personal hardship application.

Background

A request has been received for relief of waste removal fees brought about by a house fire. This request is considered justifiable in reporting to Council and further information on the person who has incurred the debt is disclosed in a confidential report later in this agenda.

Key Issues

- Fair and equitable allocation of Council funds

Information

As this application relates to personal hardship of a ratepayer / resident Council is able to discuss the matter in a confidential session. The details of the application are outlined in the confidential report later in this agenda.

Legal / Resource / Financial Implications

Council's donation budgets are largely expended for 2018/19.

Consultation

No consultation has taken place in relation to this matter, other than with the applicant.

Options

This report is for noting only, with the options provided in the confidential report.

RECOMMENDATION

That Council notes the contents of this report in respect to the overview of the hardship application.

Attachment(s)

Nil

10.5 Policy (Review) - Donations - Rates and Charges

10.5 Policy (Review) - Donations - Rates and Charges

Delivery Program Financial Services

Objective To review the Donations - Rates and Charges Policy and provide guidelines for the management of recurring donations by Council for rates and charges.

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Donations – Rates and Charges policy.

The Donations – Rates and Charges Policy has been in place for many years. The objective of the policy is to identify the various community based groups, typically located on Council owned or controlled land, who receive a recurrent donation, of their rates and charges from Council.

In 2010 the policy was subject to an extensive review as, over time, various organisations had been added to the eligible list of groups, based on ad hoc decisions.

The policy now lists the two main categories of group, being Category A who are donated all their rates and charges each year, as they have no control over those charges, and Category B, where Council donates the annual or access charges, and the group is then responsible for their usage charges as they have some ability to manage those charges.

Not all the groups listed are on Council owned or controlled land as Council has specifically resolved to include those additional organisations in the policy.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.
- Equity and suitability for donation

Information

The last review of this policy was approved at the August 2018 Ordinary meeting, where following the completion of all sewer charge donations for backlog sewer properties, Category C for backlog sewer donations was removed from the policy.

10.5 Policy (Review) - Donations - Rates and Charges

This current review of this policy identified the following changes:

- A large number of changes to the wording in the policy to explain how the policy operates. Based on these changes a copy of the updated policy is included as Attachment 1 and the existing policy as Attachment 2, for comparative purposes.
- Marine Rescue NSW is moved from category A to category B. In 2013 Council added this organisation to category A, as at that time the old tower was not separately metered or charged for water and wastewater services.

Following the completion of the new tower building, Marine Rescue NSW is moved to category B as this building is now separately metered, and all consumption charges measured are for usage by Marine Rescue NSW within the new tower.

There is no public access and use of the building and the lease states the lessee is responsible for all rates and charges.

A move to category B would also bring Marine Rescue NSW in line with the donation to Ballina Jetboat Surf Rescue, which is currently in category B. This sub-heading is now referred to as Emergency Services.

Based on current consumption and charges this would result in Marine Rescue NSW being responsible for water consumption (estimated at \$60 per annum), wastewater usage (estimated at \$60 per annum) and non-domestic waste bin (\$356), for a total of approximately \$476 per annum.

It is recommended that Council write to Marine Rescue NSW advising of this amendment, if Council resolves to exhibit and adopt the policy as presented.

- A recent review of the water metering at the Sugartown Pre-School, operated by the Roman Catholic Church at Wardell, identified that separate rating and billing of water and wastewater charges is not in place for the pre-school.

Currently a single water meter serves a number of buildings owned by the Roman Catholic Church, including two dwellings, a hall, a church and the pre-school. Until separate metering is installed, it is recommended that the pre-school is removed from the donations list as the current donation is actually supporting the other activities on the property.

- Deletion of the Lennox Head Hall (has been superseded by the Lennox Head Community Centre) and the Alstonville Playgroup (no longer operating in the Alstonville Hall).
- Inclusion of the Alstonville Pre-school following completion of that facility.

Council also provides funding support for rates and charges to many other community groups not listed in the policy.

For example the cash community donations program provides a wide a range of donations to community groups each year, based on an application process and approval by Council.

There are many other groups, such as sporting clubs, where Council will pay the rates and some charges as there are not separate rateable assessments, or adequately metered water connections, to levy those organisations. This expenditure is contained within various Council operating budgets; i.e. sporting fields etc.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Council's financial support for community organisations allows them to spend more money on providing their specific service to the local community.
- **Economic**
Donations are required to be funded in full from each year's Operational Plan budget.

Legal / Resource / Financial Implications

Even if an organisation is included in this policy, an itemised report is still provided to Council annually to seek approval to make the donations for each financial year. This is in accordance with Section 356 of the Local Government Act 1993 (LGA).

Consultation

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.

It is also recommended Council write to Marine Rescue NSW advising of the change.

Options

Council may accept or amend the proposed changes to the policy. It is recommended that the policy be adopted as presented. It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopts the amended Donations – Rates and Charges Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. That Council write to Marine Rescue NSW advising of their change from Category A to Category B.

Attachment(s)

1. Policy (Review) - Donations - Rates and Charges
2. Policy (Existing) - Donations - Rates and Charges

10.6 Policy (Review) - Assistance with Council Fees for Community Groups

10.6 Policy (Review) - Assistance with Council Fees for Community Groups

Delivery Program Communications

Objective To report the outcomes of the public exhibition of the draft Donations - Assistance with Council Fees for Community Groups and seek direction in relation to the policy's adoption and implementation.

Background

Council considered the review of the Donations - Assistance with Council Fees for Community Groups Policy at its September 2018 Ordinary meeting. At that meeting, the Council resolved to place the reviewed policy on public exhibition for community feedback and receive a further report following the exhibition period in the event that submissions were received.

In accordance with the Council's resolution, the draft policy was placed on public exhibition on 10 October to 7 November 2018. One submission was received (Attachments 1 and 2), and a copy of the policy as exhibited is included as Attachment 3.

Key Issues

- Issues raised in submissions

Information

The reviewed policy document was exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of advertisement in the local newspaper. Copies of the document were made available at Council's Community Access Points. The policy was also exhibited through Council's new electronic newsletter Community Connect eNews, with a link to an online feedback form.

One submission received has suggested Council increase the maximum reimbursement amount from \$2,000 to at least \$4,000 per event or remove the cap altogether. The submission was directly in relation to payment of Development Application Fees that amounts to approximately \$2,800.

The policy excludes larger Council charges such as developer contributions, as typically they can amount to thousands, if not tens of thousands of dollars.

Historically, the process for handling developer contributions for community groups is through a separate report, where Council has the option of waiving developer contributions for community groups, as allowed in the various Developer Contribution Plans.

This policy is a guide only and Council does have the option of providing a higher donation than the maximum listed in the policy, as any donation is subject to a specific resolution by Council.

10.6 Policy (Review) - Assistance with Council Fees for Community Groups

The maximum figure has not been increased for a number of years and there is some merit in increasing that figure.

The various fees for development applications have also increased substantially during the last ten years, therefore a change to, say \$3,000, is recommended.

Council does not receive a large number of requests for this type of donation each year and any donation provided will still be subject to budget considerations.

Having no cap is not recommended as it is too open ended and could lead to unrealistic expectations for the assistance Council may provide.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
Council recognizes that community groups provide significant social benefits to the Ballina Shire.
- **Economic**
Assistance with fees supports community groups in their operations, and there is a cost to Council associated with this support.

Legal / Resource / Financial Implications

There are no immediate financial resource implications relating to this submission as any application is treated on its merits. There may be future implications if Council was consistently providing donations of \$3,000 although that seems unlikely. The 2018/19 budget is \$2,400 with nil expended to date. Actual expenditure for this budget item in recent years is 2017/18 - nil, 2016/17 - nil, 2015/16 – \$1,255 and 2014/15 - \$5,055.

Consultation

The reviewed policy was placed on public exhibition with the closing date of 7 November 2018. Outcomes of the exhibition process are discussed above.

Options

Council can adopt the policy as exhibited or amend. The recommendation is to adopt the policy as exhibited, subject to an increase in the maximum contribution of \$3,000.

RECOMMENDATION

That Council adopts the Assistance with Council Fees for Community Groups Policy, as exhibited, subject to an increase in the maximum contribution figure from \$2,000 to \$3,000.

Attachment(s)

1. Submission - Email from Mr Graham Steele
2. Submission - Mr Graham Steele - DA Receipt
3. Policy (Review) - Donations Assistance with Fees for Community Groups

10.7 Legal Matters - Update

10.7 Legal Matters - Update

Delivery Program Communications

Objective To provide an update on any legal matters involving Council.

Background

The purpose of this report is to provide an update on current or recent legal matters involving Council.

Key Issues

- Type and cost of litigation

Information

This report provides an opportunity to examine legal matters in which the Council is, or has been, involved, with reference to the current or most recent financial year.

The report has been provided in open Council to ensure the information is available to the public.

Details of the current legal case(s) are as follows:

Solicitor for Council	Parties	Description	Cost Estimate	Expenses to Date
Norton Rose Fulbright Australia	Glen Wright and LLCP Pty. Ltd. v Ballina Shire Council	Local Government and miscellaneous appeals and applications - Land and Environment Court - Class 2 Appeal Proceedings	180,000	168,000
Comment Council and LLCP Pty Ltd reached agreement in principle on the matter, with the Applicant withdrawing their appeal proceedings which were set down for early February 2018. This section 34 agreement was reached early February 2018 and amended Orders were made and endorsed by the Land and Environment Court. In forming the agreement, the applicant has proposed to scale down the operations at the Park, substantially reducing the number of sites. As part of the agreement, the applicant is required to carry out certain works in the near future regarding the On-site Sewage Management and water supply systems, in addition to the lodgment of a new Approval To Operate the Park for the reduction in site numbers. LLCP Pty Ltd has completed the works required by the Orders and a Section 82 Exemption has been received from the Department Of Planning and Environment to allow two sites not to be connected to the parks On-Site Sewage Management System for a period of 12 months. An Approval to Operate has been issued. The approval provides for the abovementioned two sites to operate for 12 months only and the remainder of the sites for five years. The legal proceedings and associated actions to address the agreement reached have now concluded.				
Allens Linklaters	Planners North v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2016/184	1,000,000	1,142,000

10.7 Legal Matters - Update

Comment				
<p>The applicant appealed the deemed refusal of DA 2016/184 (Cumbalum views Estate) for an urban subdivision of the Cumbalum Urban Release Area – Precinct A (CURA A) originally comprising a total of 642 residential allotments, four future development lots, eight residual rural lots, 18 open space lots, road construction, earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works.</p> <p>The matter has been through a Section 34 Conciliation Conference, which was terminated by Commissioner Chilcott on 31 August 2017. The appeal was also scheduled for a one week formal hearing before Commissioner Brown commencing Monday 12 February 2018. The applicant sought leave of the Court to formally amend the application on three occasions. These ongoing changes to the proposed subdivision from that originally proposed have been in response to Council's planning and environmental outcomes for this locality and following joint expert reporting. A hearing before Commissioner Brown on the conditions in dispute was held on 15 May 2018.</p> <p>A decision on the matter was handed down on 22 June 2018 with the development application approved with conditions. The approved development (now 457 residential lots) is different from that originally proposed reflecting the address of a variety of issues that were raised by Council as concerns both pre the Court action and during the Court proceedings. Allens Linklaters are currently addressing the matter of the recovery of costs in line with Council's June 2018 resolution in this regard.</p>				
CH Law	Byron Highlander Estate v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge refusal of development application 2017/557	30,000	2,800
Comment				
<p>The applicant appealed Council's decision to refuse DA 2017/557 for a function centre, restaurant and tourist facility at North Teven Road, Teven. The matter was considered at a Section 34 Conciliation Conference on 30 October 2018. Council is currently awaiting the decision of the Court.</p>				
CH Law	Babson Holdings Pty Ltd and Traypax Pty Ltd v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge refusal of development application 2017/7	50,000	800
Comment				
<p>The applicant appealed Council's decision to refuse DA 2017/7 for a service station with convenience store at River Street, West Ballina. The matter was set for its first telephone directions hearing on 28 May 2018 but was discontinued by the applicant on 21 May 2018. This matter has concluded.</p>				
CH Law	Palm Lake Works Pty Ltd v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2018/321	Awaiting information	0
Comment				
<p>DA 2018/321 comprises the staged erection of an extension to an existing Seniors Housing Development (Palm Lake Resort) under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising of 156 self-care dwellings, recreation facilities and associated car parking, infrastructure works, site filling and associated works at Lot 2 DP 1155600, 120 North Creek Road Ballina. The application has a CIV of \$37.8 million and therefore is deemed to be regionally significant development. As such, the Northern Joint Regional Planning Panel was identified as the determining authority. Although this is a JRPP matter, Council is required to attend to the appeal. The application was lodged on 13 June 2018. Council has sought additional information in relation to the application through various items of correspondence.</p> <p>On 24 October 2018, the applicant lodged Class 1 proceedings in the Land and Environment Court for a deemed refusal of development application 2018/321. The proceedings were lodged on the basis of not requiring that Council prepare its facts and contentions as to the case, as the applicant would be preparing amended plans for the development. Council has received legal advice and Counsel has been briefed as to the Class 1 proceedings.</p> <p>On 9 November 2018, the applicant filed a notice of motion containing an amended proposal and a request for expeditious proceedings in relation to this matter. Included in the motion is requirement for Council to prepare its facts and contentions by 4 December 2018, the applicant will prepare a response to the facts and contentions by 21 December 2018. The applicant has requested an online Court request on 31 January 2019 for directions in relation to expert evidence. Expert evidence is likely to be required.</p>				

10.7 Legal Matters - Update

CH Law	Ballina Shire Council v Joanne White	Ballina Local Court - Class 5 Prosecution Proceedings	15,000	0
<p>Comment</p> <p>Council is alleging that the landowner has undertaken works without the prior development consent of Ballina Shire Council where such development consent was required contrary to Section 4.2 of the <i>Environmental Planning and Assessment Act 16979</i> (NSW). These works consist of:</p> <ul style="list-style-type: none"> • the construction of an internal road • the importation of fill materials • the installation of a culvert into a natural waterway/waterbody • the installation of drainage culverts along the road • the subsequent apparent failure of these roadworks whereby it appears that these works are failing with materials flowing into a natural waterway/waterbody • the removal and poisoning of vegetation; • a pollution incident, whereby soil has been deposited into a natural waterway/waterbody as a result of the above works and • the installation of drainage works. <p>Council resolved to commence proceedings in the Local Court jurisdiction in relation to this. The matter is currently with Council's solicitors for the preparation of a Court Attendance Notice to be served on the landowner.</p>				
CH Law	Ballina Shire Council v The Beach (East Coast Australia) Pty Ltd	Land and Environment Court - Class 4 Civil Enforcement Proceedings	35,000	12,000
<p>Comment</p> <p>Council staff have been investigating building activity and works at 70 Shelly Beach Road East Ballina (Lot 1 DP 781525) since August 2018. This property is commonly known as The Beach House (formerly Gunundi and Dunes). In summary, substantial works including building works and land forming have been undertaken at the site. The key issue in relation to this matter is whether necessary approvals have been obtained for various aspects of the works. The landowner has largely relied on exempt development provisions under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as the basis for the work undertaken.</p> <p>Council has initiated Class 4 proceedings in the Land and Environment Court seeking various declarations and injunctions relating to works undertaken and use of the property. The matter is set down for hearing on 27 November 2018.</p>				
CH Law	Michael Young v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2017/321	15,000	0
<p>Comment</p> <p>DA 2017/231 involves a proposal for a Dual Occupancy at Lot 2 DP 815590, Willowbank Drive Alstonvale. More specifically, the matter relates to a Section 4.55 modification application for amendments to an issued development consent for an attached dual occupancy. The modifications include the deletion of an approved linked walkway between two buildings and the removal of a condition of consent requiring the payment of Section 94 contributions. Council requested that the modification application be withdrawn and a fresh Development Application be submitted for the proposed building modifications and change of use to a detached dual occupancy.</p> <p>The applicant has exercised their rights under Clause 113 of the Regulation where the application is deemed refused if not determined within 40 days. The applicant has made an application for appeal to the Land and Environment Court regarding a condition of consent imposed requiring the payment of Section 94 contributions in addition to the argument against Council's request for the need to lodge a new Development Application for the modifications, rather than a Section 4.55 modification application.</p> <p>Preliminary discussions have been held with our solicitor and statements of evidence have been prepared by Council's own expert staff. The matter is listed for a Section 34AA Conciliation and Hearing on 10 and 11 January 2019.</p>				

10.7 Legal Matters - Update

Legal / Resource / Financial Implications

This section provides an update on legal costs for recent years and for the current year to date.

Description	2016/17	2017/18	2018/19
Seabreeze Caravan Park	25,000	104,500	0
Byron Highlander Est – DA 2017/557 (Function Centre)	0	2,800	0
Planners North – DA 2016/184 (CURA A)	273,000	832,100	25,900
Skennars Head Advice – DA 2017/244	0	1,100	6,600
Complex Field – DA 2015/377 (51 Blue Seas Parade)	0	300	0
Quays Drive Advice – DA 2016/690	0	9,800	0
Tara Downs Advice – DA 2017/223	0	0	2,200
Quarry Advice – Newrybar Swamp Road	0	4,000	3,200
Parrington Advice – DA 2016/140 – 47 Ellis Road	0	4,800	0
Advice – Gibbs	0	0	6,000
Lake Ainsworth	8,000	0	0
Retail Fuel – DA 2016/25	5,000	0	0
North Creek – Wall	6,000	0	0
Riveroaks / Ferngrove Consent	6,000	0	0
Illegal Clearing	9,000	0	0
Miscellaneous	21,000	7,800	9,800
Total Expenditure	353,000	967,200	53,700
Expenditure Budgets	167,500	1,005,000	220,000
Legal Budget – Surplus / (Overdrawn)	(185,500)	37,800	166,300

Legal expenditure can vary significantly from year to year as shown in the following table and unfortunately 2016/17 and 2017/18 were substantial expenditures, as compared to previous years, largely due to the CURA A matter.

Year	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Expense	790,000	412,000	710,000	136,000	149,000	265,900	103,000	88,000
Income	161,000	0	353,000	8,000	19,000	34,000	5,000	20,000
Net	629,000	412,000	357,000	128,000	130,000	231,900	98,000	68,000

These expenditure figures exclude legal costs relating to lease documentation, property matters, contracts, contract disputes etc.

Contract Disputes

Contract disputes, can at times involve legal action, and the major on-going disputes in respect to contracts are as follows:

- Haslin Constructions – Ballina Wastewater Treatment Plant Design

Council has not awarded Completion of this contract as the works are not considered to be defect free. The Contractor disputes this position and the issues were referred to Expert Determination.

The Expert Determination report was decided in Council's favour. As the value of the works considered by the Expert is in excess of \$500,000 this determination is non-binding on the parties.

The contract has a limited term in which time a party may litigate on an issue reviewed by Expert Determination.

10.7 Legal Matters - Update

Since the completion of the Expert Determination process, Council officers have met regularly with the Contractor as Haslin works towards completing the defect rectification methodology and detailed design.

In the interests of resolving the issues without further legal action, in response to requests from the Contractor, Council has agreed to several extensions to the limited litigation term.

While Haslin has made some progress to address the defects, Council officers are concerned with the extent of this progress and the time taken so far.

Therefore Council has taken a further two actions to manage this situation.

Firstly, Council has arranged an independent contract management expert to facilitate a without prejudice workshop between the parties.

In preparation for the workshop, Council has set out our position in regards to what the Contractor needs to do to comply with the terms of the contract (as supported by the Expert Determination). The Contractor is preparing a response and it is expected that the workshop will take place within the month.

Secondly, Council has advised the Contractor, in writing, no consideration to review the extended term will be undertaken unless Council is satisfied substantial progress to rectify the defects have been achieved. The expiry of the current extension occurs in February 2019.

- Gary Deane Constructions – Ballina Heights Drive Construction

In 2015 Gary Deane Constructions wrote to Council with a letter purporting to be a dispute notice.

Council's response, issued 30 September 2015, denied any entitlement under the contract to make the claim.

The contractor has achieved final completion of the contract and this matter is considered to be closed.

- Cardno Pty. Ltd – Wollongbar Sports Fields Design

Council issued Cardno with a letter of demand in respect to rectification costs associated with defective design components.

Cardno has responded by denying the claim.

Council's advisors are reviewing the response.

- Ridgemill Pty. Ltd – Ballina Swimming Pool Electrical

Council issued Ridgemill with a letter of demand in respect to the additional costs to Council after Council relied on the advice of the designer in regards to the electrical infrastructure needs for both pool sites.

Council is yet to receive a satisfactory response and we will continue to review our position with Council's legal advisors

10.7 Legal Matters - Update

Consultation

This report is provided in open Council to ensure the community is informed on legal matters involving Council. If Council wishes to discuss any matters of detail for the matters listed it may be necessary to resolve into confidential session to ensure any legal advice is not provided in open session.

Options

This report is provided for information purposes.

RECOMMENDATION

That Council notes the contents of this legal report update.

Attachment(s)

Nil

10.8 Financial Statements - 2017/18

Delivery Program Financial Services

Objective Section 419 of the Local Government Act requires that the audited financial statements be formally presented to the public. The report that follows looks to satisfy this requirement.

Background

Council considered the annual financial statements for the financial year ended 30 June 2018 at the October 2018 Ordinary meeting. Council's auditor, Ms Karen Taylor, of the Audit Office of New South Wales also addressed Council at that meeting.

The audit opinion was that Council's accounting records had been kept in accordance with the requirements of the Local Government Act and Australian accounting standards. The records fairly presented the Council's financial position and the results of operations. The audit was unqualified. Council subsequently endorsed the reports.

In accordance with Section 418 of the Local Government Act the Council must then formally present the financial reports to the public. This public presentation must be advertised. The advertising process has now been completed and this report complies with that section of the Local Government Act.

Key Issues

- Compliance with the Local Government Act
- Content of the financial reports
- Submissions to the advertised reports

Information

In accordance with the Local Government Act and Council's resolution the reports were advertised for public comment. No submissions were received.

Councillors may wish to bring their copy of the annual financial reports, as distributed at the October meeting, in case there is any further discussion on the matter.

Sustainability Considerations

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

- **Economic**

The Financial Statements summarise the financial position of Council.

Legal / Resource / Financial Implications

The annual financial statements detail the financial position of Council.

Consultation

Notice of the reports was advertised in the local paper and on Council's website.

Options

Council may adopt the annual financial reports for presentation to the public or choose not to adopt the reports. The recommendation is to adopt the reports.

RECOMMENDATION

That Council adopts the annual financial reports and auditor's reports for the financial year ended 30 June 2018, as publicly exhibited.

Attachment(s)

Nil

10.9 Financial Review - 30 September 2018

Delivery Program Financial Services

Objective To provide a quarterly review of the 2018/19 financial year budget based on the known results to 30 September 2018.

Background

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. This report provides the review for the first quarter of the 2018/19 financial year.

Key Issues

- Variations to the budget and financial performance of Council

Information

The purpose of this report is to provide information on known budget variances as at 30 September 2018. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and Certification by the Responsible Accounting Officer are required. Commentary on the variations recommended is then provided after the tables.

A brief overview of the information provided in the report is as follows:

Section One - Operating Income and Expenditure - These tables provide the operating income and operating expenditure budgets for the Funds (General, Water and Wastewater).

Section Two - Capital Budget - These tables outline the capital expenditure budgets.

Section Three - Cash and Investment Statement - These tables provide details on the projected movements in the cash reserve balances.

Section Four - Key Performance Indicators - The ratios provide an indication of the financial health of the organisation.

Section Five - Contractors/Consultants/Legal Expenses - This information provides details of specific expenses incurred and contracts entered.

Section Six – Other Matters – This section of the report is for any other additional matters.

10.9 Financial Review - 30 September 2018

In this report, commentary on the Boating Now funding has been provided, as a follow up to a resolution from the October 2018 Ordinary meeting.

Section Seven - Certification - This is a Statement by the Responsible Accounting Officer as to whether the current year's estimated financial performance is or is not satisfactory.

Section 1 – Operating Income and Expenditure

General Fund – Operating Income and Expenses

This section deals with the General Fund operations. Tables for operating income and expenses follow, including recommended variations to budget.

Following the tables are comments in respect to proposed budget variations that are considered to be material.

Operating Income	Original Budget 2018/19 000's	Approved Carry forwards 000's	Budget after approved carry 000's	Other Approved Changes 000's	Current Budget 000's	Changes for Approval 000's	Revised Budget 000's	Actual to September 000's
Strategic and Community Facilities Group								
Strategic Planning	294	6	300	0	300	62	362	69
Community Facilities	764	0	764	0	764	(28)	736	296
Library Services	85	0	85	0	85	0	85	0
Swimming Pools	657	0	657	0	657	0	657	229
Tourism	150	0	150	0	150	0	150	21
Sub Total	1,950	6	1,956	0	1,956	34	1,990	615
Development and Environmental Health Group								
Development Services	672	0	672	0	672	0	672	164
Building Services	1,332	0	1,332	0	1,332	0	1,332	455
Environmental and Public Health	341	32	373	0	373	458	831	298
Public Order	262	0	262	0	262	20	282	68
Sub Total	2,607	32	2,639	0	2,639	478	3,117	985
Civil Services Group								
Engineering Management	307	0	307	0	307	0	307	111
Depot and Ancillary Building Management	0	0	0	0	0	0	0	0
Stormwater and Environmental Protection	512	10	522	0	522	92	614	383
Roads and Bridges	237	133	370	0	370	17	387	19
Ancillary Transport Services	773	117	890	0	890	5	895	193
Roads and Maritime Services	783	0	783	0	783	35	818	250
Open Spaces and Reserves	809	0	809	0	809	0	809	312
Fleet Mgmt and Workshop	232	0	232	0	232	0	232	1,058
Rural Fire Service	200	0	200	0	200	64	264	0
Quarries and Sandpit	66	0	66	0	66	0	66	30
Landfill and Resource Management	2,181	0	2,181	0	2,181	49	2,230	1,749
Domestic Waste Management	6,671	0	6,671	0	6,671	85	6,756	6,921
Sub Total	12,771	260	13,031	0	13,031	347	13,378	11,026
General Manager's Group								
Communications	15	0	15	0	15	0	15	4
Financial Services	230	0	230	0	230	0	230	0
Financial Services-General Purpose Revenues	27,700	0	27,700	0	27,700	204	27,904	23,307
Information Services	103	0	103	0	103	15	118	42
Human Resources and Risk Mgmt	161	0	161	0	161	0	161	0
Property Management	2,562	0	2,562	0	2,562	10	2,572	1,004
Ballina Byron Gateway Airport	6,632	0	6,632	0	6,632	0	6,632	1,662
Sub Total	37,403	0	37,403	0	37,403	229	37,632	26,019
Total Operating Income	54,731	298	55,029	0	55,029	1,088	56,117	38,645

General Fund – Operating Income and Expenses (cont'd)

	Original Budget 2018/19	Approved Carry forwards	Budget after approved carry forwards	Other Approved Changes	Current Budget	Changes for Approval	Revised Budget	Actual to September
Operating Expenses (excluding depreciation)								
Strategic and Community Facilities Group								
Strategic Planning	1,182	111	1,293	(2)	1,291	82	1,373	284
Community Facilities	1,811	56	1,867	0	1,867	13	1,880	524
Library Services	1,511	0	1,511	0	1,511	8	1,519	748
Swimming Pools	1,480	0	1,480	0	1,480	0	1,480	371
Tourism	603	0	603	0	603	1	604	113
Sub Total	6,587	167	6,754	(2)	6,752	103	6,855	2,040
Development and Environmental Health Group								
Development Services	1,736	0	1,736	0	1,736	62	1,798	439
Building Services	1,212	0	1,212	0	1,212	41	1,253	318
Environmental and Public Health	1,557	346	1,903	0	1,903	428	2,331	344
Public Order	580	0	580	0	580	0	580	150
Sub Total	5,085	346	5,431	0	5,431	531	5,962	1,251
Civil Services Group								
Engineering Management	2,744	0	2,744	0	2,744	11	2,755	676
Depot and Ancillary Building Management	1,854	0	1,854	0	1,854	(42)	1,812	579
Stormwater and Environmental Protection	904	28	932	60	992	24	1,016	236
Roads and Bridges	3,497	149	3,646	0	3,646	(91)	3,555	961
Ancillary Transport Services	1,699	199	1,898	41	1,939	57	1,996	402
Roads and Maritime Services	706	15	721	0	721	35	756	219
Open Spaces and Reserves	3,779	105	3,884	86	3,970	65	4,035	932
Fleet Mgmt and Workshop	(1,019)	0	(1,019)	0	(1,019)	20	(999)	1,067
Rural Fire Service	430	0	430	0	430	64	494	106
Quarries and Sandpit	45	0	45	0	45	0	45	10
Landfill and Resource Management	1,409	61	1,470	0	1,470	17	1,487	1,125
Domestic Waste Management	6,506	0	6,506	0	6,506	0	6,506	1,691
Sub Total	22,554	557	23,111	187	23,298	160	23,458	8,004
General Manager's Group								
Communications	2,347	25	2,372	5	2,377	7	2,384	618
Financial Services	(4,468)	0	(4,468)	0	(4,468)	0	(4,468)	(1,157)
Financial Services-General Purpose Revenues	0	0	0	0	0	0	0	0
Information Services	2,915	0	2,915	0	2,915	30	2,945	1,252
Human Resources and Risk Mgmt	736	52	788	0	788	116	904	289
Property Management	1,501	447	1,948	0	1,948	(1)	1,947	555
Ballina Byron Gateway Airport	4,572	0	4,572	100	4,672	0	4,672	1,038
Sub Total	7,603	524	8,127	105	8,232	152	8,384	2,595
Total Operating Expenses	41,829	1,594	43,423	290	43,713	946	44,659	13,890
Net Operating Result Before Depreciation	12,902	(1,296)	11,606	(290)	11,316	142	11,458	24,755
Depreciation Expense and Other Non Cash	13,885	0	13,885	0	13,885	0	13,885	3,471
Net Operating Result Continuing Operations	(983)	(1,296)	(2,279)	(290)	(2,569)	142	(2,427)	21,284

General Fund Working Capital Forecast

Item	Original Budget 2018/19	Approved carry forwards	Budget after approved carry forwards	Other Approved Changes	Current Budget	Changes for Approval	Revised Budget	Actual to September
Working Capital Surplus/(Deficit)	(199,900)	0	(199,900)	0	(199,900)	57,300	(142,600)	

Working capital is a measure of short term liquidity and as a rule Council aims to target a break even result for the General Fund.

Comments - General Fund

The **forecast operating result as at September** is a loss of \$2,427,000 which is a deterioration of \$1,444,000 from the original adopted budget forecast of a loss of \$983,000.

When Council approved the carry forward budget variations at the August 2018 Ordinary meeting the forecast operating loss had increased to \$2,279,000. Other changes subsequently approved by Council increased the forecast operating loss to \$2,569,000.

The changes proposed in this report improve the operating result by a net \$142,000, resulting in the current forecast deficit of \$2,427,000.

The estimated movement in **unrestricted working capital** has improved from an anticipated deficit of \$199,900 to an anticipated deficit of \$142,600.

Comments on the larger budget variations are contained in the report as follows. The adjustments shown in the tables are inclusive of all amendments and the comments do not account for minor budget changes.

General Fund - Operating Revenues

Strategic and Community Facilities Group

Strategic Planning

An increase of \$32,000 to budgeted income for internal income from the water and wastewater funds has been made, being contributions towards a Biodiversity Stewardship Pilot Project. This project is needed to provide offsets for Council's capital works based on relatively new legislation.

A budget adjustment of \$72,000 has been made to expenditure for this project, funded by the \$32,000 contribution noted above and a \$40,000 transfer from the Property Reserves.

An increase of \$30,000 to budgeted income for Crown Lands Plan of Management funding has been made based on the amount advised from the Department of Crown Lands.

An equivalent budget adjustment has been made to expenditure for the Crown Lands Plans of Management. It is anticipated that costs to complete the mandatory revision of plans of management will be well in excess of this amount, however a full assessment of such costs, and investigation into potential further grant funding, is still to occur.

Community Facilities

Overall, there is a proposed decrease of \$28,000 to the forecast income for Community Facilities.

The largest individual proposed adjustment is a reduction of \$50,000, to \$46,000, for the forecast lease rental income for the Kentwell Community Centre. This is due to one of the tenants going into liquidation.

Kentwell Casual room hire forecast has been increased by \$5,000 to \$58,000 based on trend to date.

Forecast income for the Lennox Head Cultural and Community Centre has been decreased by only \$1,000, to \$131,000. An increase in forecast casual room hire of \$20,000 has been offset by a reduction of \$16,000 in forecast vacation care income and a reduction of \$5,000 in kiosk sales.

Forecast income for Ballina Surf Life Saving Club casual room hire has been increased by \$8,000, to \$73,000 based on trend to date.

Forecast hall hire income for the Richmond Room has been increased by \$5,000, to \$23,000, based on income received.

Forecast income for Northlakes Hall has been increased by \$3,000, to \$7,000, based on income received, with this hall continuing to be being managed by Council staff.

Swimming Pools

Due to the preliminary results for the new swimming pools, no adjustments have been proposed to the swimming pool operating budgets at this time. It is proposed that adjustments will be made as part of the December quarterly budget review.

Overall income is trending well above budget however operating expenses are also trending higher than budget. Electricity remains an expenditure concern and there has been limited invoicing to date to confirm overall expenditure forecasts.

Once more reliable information is obtained a further report will be presented to Council.

Development and Environmental Health Group

Environmental and Public Health

Grant funding of \$260,000 has been confirmed for the Emigrant Creek Stabilisation and Vegetation, and \$78,300 confirmed for the Lake Ainsworth Management Plan Implementation, with corresponding expenditure budgets raised for these.

Grant funding and contributions, to the sum of \$110,000 for Richmond River Governance and Funding has been confirmed.

Of this amount, contributions of \$20,000 from Lismore City Council, \$15,000 from Rous County Council, \$10,000 from Richmond Valley Council and \$2,500 from Byron Shire Council have been received. Grant funding of \$62,500 is to be received.

These funds, together with a contribution of \$15,000 from Ballina Shire Council will be utilised to provide an expenditure budget of \$125,000 for this project.

Forecast income from OSSM Annual Management Fees has been increased by \$10,000, to \$158,000, based on actual income received with the identification of a number of additional systems in the field that had not previously been charged.

Public Order

Forecast parking fines have been increased by \$20,000, to a revised budget of \$150,000 based on trending to date.

Civil Services Group

Stormwater and Environmental Protection

Natural disaster funding of \$91,500 been transferred to this section from the Roads operating section.

Roads and Bridges

As per the above item, Natural disaster funding of \$91,500 has been transferred from the Roads section to the Stormwater and Environmental Protection section.

A review of forecast interest revenue has resulted in the allocation of interest budgets of \$70,000 and \$20,000, respectively, for the Alstonville and Ballina Bypass reserves.

These interest amounts are transferred to the respective reserve balances.

Income of \$19,000 from the RMS Supplementary Block Grant has been transferred from the RMS section to the Roads section, with that funding to be used for additional funding for the Ross Lane Straightening.

Ancillary Transport Services

Grant funding of \$5,000 from NSW Transport has been confirmed for the Country Passenger Transport scheme.

A corresponding expenditure budget has also been raised.

Roads and Maritime Services

Confirmation of funding amounts has a revision to the RMS regional roads and traffic facilities income budgets, increased \$35,000 to \$818,000.

A corresponding increase to expenditure budgets has been raised.

Rural Fire and Emergency Services

The budget for RFS Hazard Reduction grant has been increased by \$64,000, to \$146,200, based on confirmed advice.

A corresponding adjustment has been made to the grant hazard reduction expenditure budget.

Landfill and Resource Management (LRM)

Income from the State Government Waste Levy Grant has been increased by \$49,000 based on income received.

These funds are transferred to the restricted reserve and are used for projects approved by the State government.

Domestic Waste Management (DWM)

Forecast income from annual charges has been increased by \$70,000 to \$6,795,500, based on actual income received.

Forecast income from the State Government grant towards pension write offs has been increased by \$15,000, based on actual income received.

General Manager's Group

Financial Services - General Purpose

The Federal Assistance Grant has been increased by \$104,400, to \$4,475,400 based on confirmed advice.

Forecast interest on investments has been reviewed and increased by \$100,000.

Information Services

Internal income of \$15,000 has been raised, being internal contributions from the water and wastewater funds for an Accounts Payable Workflow to improve efficiencies.

Property Management

A review of forecast interest revenue has resulted in the allocation of interest budgets of \$10,000 for the Community Infrastructure Reserve.

Ballina Byron Gateway Airport

No adjustments have been proposed to the airport budgets as part of this report.

A detailed review of airport budgets is to be provided as part of a future Commercial Services Committee meeting.

General Fund - Operating Expenses

Strategic and Community Facilities Group

Strategic Planning

With the continuation of the vacancy of the position of Manager Strategic Planning, there have been savings within employee costs, with a decrease in budget of \$20,000 proposed.

Budgets of \$72,000 and \$30,000 have been raised, respectively, for the Biodiversity Stewardship Pilot Project and the Crown Lands Plans of Management.

Community Facilities

Overall, there is a proposed increase of \$13,000 to the forecast expenses for Community Facilities.

For the Lennox Head Cultural and Community Centre (LHCC), reductions in forecast expenses of \$15,000 and \$5,000 are proposed for Vacation Care Services and Auditorium Event Hire. The arrangement of these services is no longer performed by Council staff.

Increases in expenditure budgets of \$5,000 and \$4,000, respectively, are proposed for LHCC cleaning costs and insurance costs.

For the Altstonville Leisure and Entertainment Centre, increases in expenditure budgets of \$3,000 and \$2,000, respectively, are proposed for cleaning costs and insurance costs.

The budgets for Insurance costs for public halls and Ballina Surf Club have also been increased by \$3,000 and \$2,000, respectively.

Kentwell Community Centre maintenance costs are high in 2018/19 due to the hot water system upgrade costing \$5,000, so a budget increase of that amount is proposed to cover that expenditure.

The forecast expenditure budget for exhibitions has been increase by \$6,700, funded from the Gallery projects reserve.

Library Services

The budgets for cleaning contracts, insurance and security have been increased by \$4,000, \$2,500 and \$1,000, respectively.

Development and Environmental Health Group

Development Services

The salaries budget within the Development Services area has been increased by \$61,000. The main contributor is a temporary position extended for an additional six month period. This has been partially funded by a transfer, of \$37,000 from the DEHG reserve. This position is required based on current workloads.

Building Services

The salaries budget within the Building Services area has been increased by \$33,000. This increase is for a temporary position extended for an additional six month period, fully funded by a transfer from the DEHG reserve.

The budget for sundry office administration has been increased by \$8,000, for the cost of a mobile device application for offsite inspections. This has been funded by a transfer from the Information Services reserve.

Environmental and Public Health

A new budget of \$520,000 has been raised for the Emigrant Creek Stabilisation project, for which \$260,000 grant funding confirmed was noted earlier in this report. Council's contribution of \$260,000 has been transferred from the Healthy Waterways budget.

A new budget of \$125,000 has been raised for the Richmond River Governance and Funding project, for which contributions and grant funding amounting to \$110,000 has been received or confirmed. Council's contribution of \$15,000 is an additional transfer from the Healthy Waterways budget.

Additional budget of \$78,300 has been provided to the Lake Ainsworth Management Plan implementation based on additional grant funding confirmed.

The salaries budget has been reduced by \$20,000 due to savings from the vacancy of the OSSM (On Site Sewage Management) officer.

Civil Services Group

Engineering Management

The salaries budget for executive team salaries has been increased by \$11,000, following the filling of the Built Assets Engineer position.

Procurement and Building Management

The salaries budget for the administration centre and depot has been decreased by \$67,000, with the position of Administration Officer placed on hold for the rest of this year.

Additional budget of \$15,000 towards plant costs is proposed for the public toilets cleaning budget to allow a third vehicle to be utilised.

Stormwater and Environmental Protection

The budget for canal dredging has been increased by \$60,000 to \$70,000, bringing forward expenditure from 2019/20, funded in part from internal reserves.

A budget of \$36,000 was included in the original adopted budget for contribution to the Richmond River County Council CZMP drainage works. This budget has been transferred to the CZMP reserve until the preferred works are confirmed.

Roads and Bridges

An operating budget of \$91,500 for Cooks Lane, funded by Natural Disaster funding, has been transferred from Roads operating expenses to Stormwater capital expenses.

Ancillary Transport Services

It was resolved at the October 2018 Ordinary meeting,

1. *That Council accepts Essential Energy's offer for the bulk replacement of street lighting with LED fittings, in accordance with Option 2 as detailed in the above report.*
2. *The capital cost for point one of approximately \$765,000 is to be funded from an internal loan through a transfer from either Water and / or Wastewater Reserves, or the Employee Entitlements Reserve, with the General Manager authorized to make this funding determination based on advice from the Office of Local Government.*
3. *The Council also approves a variation to the Long Term Financial Plan to have the internal loan repaid within four years.*

As the funding source and the implementation timeframes are still being determined, the budget adjustments for these capital costs and variations to the Long Term Financial Plan have not yet been made.

A preliminary budget adjustment of \$38,000 has been proposed, being the current over spend of street lighting energy costs for quarter one, bringing the existing budget to \$593,000. It is anticipated that a full revision of street lighting budgets, to reflect the funding of the replacement program and revision of anticipated energy costs for the 2018/19 year will be made as part of the December quarterly budget review.

Budget of \$42,000 has already been approved in the September 2018 Ordinary meeting for the Lennox Head Village Centre Renewal.

Additional budget of \$12,500 is proposed to assist Council's application for Federal Government funding towards this project.

A new budget of \$5,000 has been raised for the Country Passenger Transport scheme based on grant funding confirmed.

Roads and Maritime Services

In relation to the revised regional roads funding, increased by \$35,000, the budget for Regional Roads MR695 operations has been increased.

Open Spaces and Reserves

The expenditure budget for the Fig Tree Management Program has been increased by \$65,000 to meet actual total expenditure of \$83,000. This reflects significant costs for security and contractors, particularly where the works had to be started and delayed due to site issues.

Fleet Management and Workshop

The expenditure budget for plant lease payments within the plant fund has been increased by \$20,000 to \$300,000, primarily due to the leasing of heavy plant equipment.

Rural Fire and Emergency Services

As noted previously, the budget for hazard fire reduction has been increased by \$64,000 based on confirmation of the grant money to be provided.

Landfill and Resource Management (LRM)

A budget of \$5,000 has been raised as a contribution from the LRM fund towards the Accounts Payable Workflow, with total required expenditure operating budget of \$30,000 in the Information Services section.

Additional budget of \$12,000 has been raised for the BWRF Waste Education officer, funded from the restricted reserve.

General Manager's Group

Communications

An annual budget of \$4,400 has been raised for the Audit Risk Improvement Committee Attendance, based on Council's resolution for payments to be made for attendance by the non-Councillor members.

The budget for Contributions for LGS Special Cases has been increased by \$2,000 to \$3,000 in the current year to cover expenditure approved by Council resolution, following a recent request from LGNSW.

Information Services

A total budget of \$30,000 has been raised for the Accounts Payable Workflow.

This is funded as \$15,000 from the water and wastewater funds, \$7,500 from the Information Services reserve and \$7,500 from the GM legal/audit/resources reserve.

Human Resources and Risk Management

The forecast for Workers Compensation premiums for the 2018/19 year have been revised up by \$115,000, to \$435,000.

This increase is due to the impact of an industrial deafness claim and is expected to negatively impact on premiums for a two year period.

This increase in budget for 2018/19 has been funded from the Insurance reserve.

Water Operations

This next section of the report deals with Council's Water operations.

The following table details the forecast operating result for the Fund.

The **forecast operating position** (inclusive of depreciation) **as at September** is a surplus of \$1,464,100, which is an improvement of \$284,100 from the original adopted budget surplus of \$1,180,000.

Water - Statement of Operating Income and Expenses (\$'000)

Item	Original Budget 2018/19	Approved carry forwards	Budget after		Current Budget	Changes for Approval	Revised Budget	Actual to September
			approved carry forwards	Other Approved Changes				
Operating Income	12,348	300	12,648	0	12,648	59	12,707	3,315
Operating Exps (excl. dep)	9,760	0	9,760	0	9,760	75	9,835	2,440
Net Operating Result Before Depreciation	2,588	300	2,888	0	2,888	(16)	2,872	875
Depreciation Expense	1,408	0	1,408	0	1,408	0	1,408	352
Net Operating Result from Continuing Operations	1,180	300	1,480	0	1,480	(16)	1,464	523

When Council approved the carry forward budget variations at the August 2018 Ordinary meeting the forecast operating surplus had increased to \$1,480,000.

The changes proposed in this report decrease the operating surplus by a net \$16,000, resulting in the current forecast surplus of \$1,464,100.

Review of quarter one income received for water consumption and for tapping fees indicates these income streams are trending very positively.

Due to the seasonality and uncertainty of future water usage patterns, it is considered conservative to wait until the December quarterly budget review to determine any required budget adjustments.

Forecast operating income has been increased by \$59,000, with increases of \$49,000 for annual water access charges and \$10,000 for pensioner rebates received, based on actual incomes received to date.

Forecast operating expenditure has been increased by \$75,000.

A new expenditure budget, of \$25,000 is proposed as a contribution to General Fund capital expenditure for new AV technology for the Chambers.

This is discussed in further detail within "Section Two - Capital Budget" later in this report, for the Information Services section of Council.

A new expenditure budget, of \$16,000 is proposed as a contribution to General Fund operating expenditure for the Strategic Biodiversity Pilot Project.

This was noted earlier in this report for the Strategic Planning section of Council and the work is considered essential to assist with the delivery of future Council projects, particularly engineering and property related works.

A new expenditure budget, of \$5,000 is proposed as a contribution to General Fund operating expenditure for the Accounts Payable workflow.

This was noted earlier in this report for the Information Services section of Council.

Other areas for adjustment include increases of \$25,000 for West Ballina Mains Maintenance and \$10,000 for Reservoirs Maintenance, and a reduction to salaries expenses of \$6,000.

Wastewater Operations

This next section of the report deals with Council's Wastewater operations.

The following table details the forecast operating result for the Fund.

Wastewater- Statement of Operating Income and Expenses (\$'000)

Item	Original Budget 2018/19	Approved carry forwards	Budget after approved carry forwards	Other Approved Changes	Current Budget	Changes for Approval	Revised Budget	Actual to September
Operating Income	18,709	0	18,709	0	18,709	300	19,009	15,154
Operating Exps (excl. dep)	12,985	300	13,285	0	13,285	255	13,540	3,178
Net Operating Result Before Depreciation	5,724	(300)	5,424	0	5,424	45	5,469	11,976
Depreciation/loan unwind Expense	3,985	0	3,985	0	3,985	0	3,985	996
Net Operating Result from Continuing Operations	1,739	(300)	1,439	0	1,439	45	1,484	10,980

The **forecast operating position** (inclusive of depreciation) **as at September** is a surplus of \$1,483,600, which is a deterioration of \$255,400 from the original adopted budget surplus of \$1,739,000.

When Council approved the carry forward budget variations at the August 2018 Ordinary meeting the forecast operating surplus had decreased to \$1,439,000.

The changes proposed in this report increase the operating surplus by a net \$45,000, resulting in the current forecast surplus of \$1,483,600.

Forecast income from annual access charges has been increased by \$300,000, based on actual incomes received to date.

Total forecast operating expenditure has been increased by \$255,000.

The largest adjustments to expenditure were increases of \$100,000 for energy costs and \$70,000 for treatment operations, based on trending to date.

Other areas for adjustment include increases of \$25,000 for Camera and Jetting Mains Maintenance and \$20,000 for Recycled Water Mains Operations and a reduction to salaries expenses of \$6,000.

New expenditure budgets are proposed as contributions to general fund projects for AV technology in Chambers, Strategic Biodiversity Pilot Project and Accounts Payable workflow, of \$25,000, \$16,000 and \$5,000, respectively.

Section Two – Capital Budget

This next section of the report looks at capital expenditure and changes to the programs.

General Fund - Capital Budget - Source and Application of Funds (\$'000)

General Fund Capital Works	Original Budget 2018/19	Approved carry forwards	Budget after approved carry forwards	Other Approved Changes	Current Budget	Changes for Approval Sept	Revised Budget Sept	Actual to September
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
General Fund Capital Funding								
General revenue	6,822	(709)	6,113	(155)	5,958	141	6,099	
Reserves	21,828	5,544	27,372	(5,090)	22,282	187	22,469	
Loans	10,847	(1,000)	9,847	0	9,847	0	9,847	
Section 7.11 contributions	4,781	293	5,074	(4,300)	774	200	974	
Grants and contributions	13,203	1,562	14,765	(1,645)	13,120	215	13,335	
Total Funding	57,481	5,690	63,171	(11,190)	51,981	743	52,724	
General Fund Capital Expense								
Strategic and Community Facilities Group								
Community Facilities	8,194	302	8,496	1,008	9,504	283	9,787	206
Library	0	0	0	0	0	0	0	0
Swimming Pools	0	119	119	197	316	0	316	281
Northern Rivers Community Gallery	162	0	162	0	162	0	162	5
General Manager's Group								
Information Services	22	10	32	0	32	100	132	2
Human Resources & Risk Management	0	0	0	0	0	0	0	0
Property Development and Management	6,972	406	7,378	0	7,378	0	7,378	73
Flat Rock Tent Park	180	0	180	0	180	0	180	44
Ballina Byron Gateway Airport	7,850	345	8,195	(100)	8,095	0	8,095	1,295
Development & Environmental Health Group								
Environmental Health	265	0	265	0	265	(136)	129	8
Civil Services Group								
Depot & Ancillary Building Management	747	109	856	0	856	0	856	140
Stormwater	656	60	716	(60)	656	92	748	94
Roads and Bridges	23,132	2,394	25,526	(11,851)	13,675	203	13,878	2,387
Ancillary Transport Services	3,946	87	4,033	(1,016)	3,017	0	3,017	161
Water Transport and Wharves	230	27	257	(190)	67	0	67	7
Roads and Maritime Services	259	0	259	0	259	(19)	240	110
Open Spaces -Parks and Reserves	921	395	1,316	232	1,548	170	1,718	218
Open Spaces - Sporting Fields	2,325	155	2,480	564	3,044	50	3,094	65
Cemeteries	0	0	0	0	0	0	0	0
Fleet and Plant	1,320	1,190	2,510	0	2,510	0	2,510	(10)
Quarries and Sandpits	0	0	0	0	0	0	0	0
Waste Management	300	91	391	26	417	0	417	13
Total Capital Expense	57,481	5,690	63,171	(11,190)	51,981	743	52,724	5,099

General Fund

Strategic and Community Facilities Group

Community Facilities

The capital budget for Ballina Surf Club Building B has been increased by \$283,000, to \$620,000. This funding ensures that the building is completed along with all the associated car parking and landscaping improvements.

Of this increase in expenditure, \$115,000 is funded as additional contributions from the Ballina Surf Club. The balance has been funded as \$129,300 from the Ballina Surf Club reserve and \$19,500 from the Building Assets Renewal reserve and \$19,200 from revenue.

General Manager’s Group

Information Services

An increase of \$100,000 to the computer and equipment capital budgets is proposed, to allow for the purchase and installation of an AV technology upgrade for the Council Chambers.

The technology in the Council Chambers is approximately 14 years old and recently failed to record the Extraordinary Council meeting in September.

The upgrade is proposed due to the following reasons:

- The recording technology is unsupported and has failed in recent times
- The microphones fail to pick up and record some voices in the Chambers
- The quality of video is poor and does not meet community expectations
- The Chambers is non-compliant with regard to hearing accessibility (no hearing loop)
- A new draft Model Code of Meeting Practice has suggested live web casting as mandatory or preferred for councils, and our current technology does not support this requirement.

Council’s Information Services section undertook an expression of interest process in the previous financial year, knowing that the technology in the Chambers required an upgrade.

Council received two responses at that time, with the costs for audio visual technology ranging from \$160,000 to \$180,000, and at the time the decision was taken not to proceed due to the high cost.

Since that time, Council has implemented Skype for Business and the service providers have also provided a quote for this AV technology. This latest quote is \$110,500 + GST.

The full expenditure of \$110,000 is proposed to be funded as follows:

Proposed Funding Source	Amount (\$)	Comments
Existing computer and equipment capital budget	10,000	Of the existing capital budget for computer and equipment of \$31,500, it is proposed that \$10,000 of this budget be applied to the AV Audio Equipment purchase, with a further \$100,000 added to that budget as per below.
Contribution from Water Fund	25,000	This amount has been included as a proposed increase to the Water fund operating expenses in Section One of this report.
Contribution from Wastewater Fund	25,000	This amount has been included as a proposed increase to the Wastewater fund operating expenses in Section One of this report.
Transfer from Information Services Reserve	20,000	
Revenue funded	30,000	
Total	+110,000	

In support of this proposition, additional information prepared by the Manager Information Services is attached to this report.

A letter received from a ratepayer, Ms Marelle Lee, is also included as an attachment to this report.

Development and Environmental Health Group

Environmental Health

Budget of \$170,000 has been transferred from the Shaws Bay Management Plan capital budget to the Pop Denison Master Plan works in the Open Spaces section of Council. This is a more an internal reallocation of funding to reflect which section is undertaking the works.

There has been an increase to budget of \$34,000 for the Shaws Bay Management Plan, funded from reserve, to ensure that the new footpath connects to the access road.

Civil Services Group

Stormwater

Budgets have been increased by a total of \$91,500. The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Cooks Lane Culverts	+91,500	New budget of \$91,500, funded by Natural Disaster funding transferred from the roads section to the Stormwater section.
Marins Lane Culverts	+70,000	New budget of \$70,000 allocated from Alison Avenue Lennox Head .
Alison Avenue Lennox Head	-70,000	Reallocation of budget to Marins Lane Culverts. Revised budget \$15,000.
Total	+91,500	

Roads and Bridges

Budgets have been increased by a total of \$202,700. The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Ballina Heights Drive Revegetation and Landscaping	+5,000	New budget of \$5,000.
Howards Road Alignment	+8,700	New budget of \$8,700.
Fawcett Lane	+20,000	Increase to budget funded from reallocation of budget from Burnett St. Revised budget of \$6,000.
Burnett Street	-20,000	Reallocation of budget to Fawcett Lane. Revised budget of \$165,000.
Ross Lane Straightening	+19,000	Increase to budget funded from RMS supplementary block grant. Revised budget of \$32,700.
Northumberland Drive	+20,000	New budget of \$20,000 for design works, brought forward from 2019/20 planned expenditure, funded from road reserves.
River Street Four Lane Upgrade	+150,000	New budget of \$150,000 for survey costs and design works, brought forward from 2021/22 planned expenditure, funded from section 7.11 reserves.
Total	+202,700	

Ancillary Transport Services

Budgets, in total, have been kept the same. The changes are as follows:

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Description of Works	Adjustment (\$)	Comments
Crane – Corner Martin, Ballina	+5,000	Reallocation of budget from Kalinga St, West Ballina. Revised budget \$10,000.
Kalinga Street, West Ballina	-5,000	Reallocation of budget to Crane – Corner Martin. Revised budget of \$100,000.
Crane – Cherry to Moon, Ballina	+7,000	Reallocation of budget from Bentinck, Moon to Cherry, Ballina. Revised budget \$18,000.
Bentinck, Moon to Cherry	-7,000	Reallocation of budget to Crane – Cherry to Moon, Ballina. Revised budget of \$17,000.
Total	+0	

Roads and Maritime Services (RMS)

Budget of \$19,000 was transferred from this section to the roads section, for the Ross Lane Straightening.

Open Spaces- Parks and Reserves

As noted earlier, budget of \$170,000 has been transferred from the Shaws Bay Management Plan capital budget to the Pop Denison Master Plan works in the Open Spaces section of Council.

Open Spaces- Sporting Fields

A new budget has been created, \$50,000, for Quays Reserve Noise Attenuation works, funded by a capital contribution from a developer.

Water Fund

Water - Capital Budget - Source and Application of Funds (\$'000)

Water Supply Capital Works	Original	Approved	Budget after	Other	Current	Changes	Revised	Actual to
	Budget		approved			Approved		
	2018/19	carryforwards	carry	Changes	Budget	Sept	Budget	September
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Water Capital Funding								
Reserves	2,034	763	2,797	0	2,797	0	3,097	0
Section 64 contributions	1,260	0	1,260	0	1,260	0	1,260	0
Total Funding	3,294	763	4,057	0	4,057	0	4,357	
Water Capital Expense								
Main Renewal	706	0	706	(60)	646	0	646	0
Reservoirs	830	0	830	0	830	0	830	2
Pressure Management	0	0	0	0	0	0	0	0
Water pump and bores	680	0	680	0	680	0	680	6
Trunk mains	230	400	630	0	630	0	630	4
Treatment Plant	226	10	236	0	236	0	236	12
Plant	0	353	353	0	353	0	353	0
Connections	280	0	280	60	340	0	340	96
Other	342	300	642	0	642	0	642	2
Total Capital Expense	3,294	1,063	4,357	0	4,357	0	4,357	122

The water capital works program was reviewed for the October 2018 Ordinary meeting.

The only further adjustment to capital budgets proposed is a new budget of \$70,000 for the mains renewal for Ballina Island, funded from the existing mains renewal budget.

Wastewater Fund

Wastewater - Capital Budget - Source and Application of Funds (\$'000)

Wastewater Services Capital Works	Original Budget 2018/19 \$'000	Approved carryforwards \$'000	Budget after approved carry forwards \$'000	Other Approved Changes \$'000	Current Budget \$'000	Changes for Approval Sept \$'000	Revised Budget Sept \$'000	Actual to September \$'000
Wastewater Capital Funding								
Reserves	5492	(224)	5,268	(758)	4,510	10	4,520	0
Section 64 contributions	373	1,098	1,471	0	1,471	0	1,471	0
Total Funding	5,865	874	6,739	(758)	5,981	10	5,991	
Wastewater Capital Expense								
Pumping stations	1,148	298	1,446	0	1,446	0	1,446	337
Treatment Plants	1,116	611	1,727	20	1,747	0	1,747	471
Trunk Mains	1,548	0	1,548	(778)	770	0	770	485
Mains renewals	936	0	936	0	936	0	936	31
Plant	104	199	303	0	303	0	303	0
Reuse program	547	66	613	0	613	10	623	23
Other	466	(300)	166	0	166	0	166	1
Total Capital expense	5,865	874	6,739	(758)	5,981	10	5,991	1,348

The wastewater capital works program was reviewed for the October 2018 Ordinary meeting.

The only further adjustment to capital budgets proposed is an increase of \$10,000 to the budget for Recycle Water Smart Meters, funded from the wastewater reserve.

Section Three – Cash and Investment Statement

The next table shows details of the projected cash and investments.

10.9 Financial Review - 30 September 2018

	Original Budget 2018/19 \$'000	Approved Carry forwards \$'000	Budget after Approved Carry forwards \$'000	Other Approved Changes \$'000	Revised Budget \$'000	Changes for approval Sept \$'000	Revised Budget Sept \$'000
Unrestricted	4,544	0	4,544	0	4,544	0	4,544
Externally Restricted							
- Section 7.11	9,220	(309)	8,911	4,300	13,211	(2,150)	11,061
- Domestic Waste M'ment	2,638	0	2,638	0	2,638	85	2,723
- Restricted Waste Levy	544	(106)	438	0	438	37	475
- Section 64 Water	7,813	550	8,363	0	8,363	0	8,363
- Water	8,279	(1,848)	6,431	0	6,431	(16)	6,415
- Section 64 Wastewater	5,649	1,299	6,948	0	6,948	0	6,948
- Wastewater	68	615	683	758	1,441	35	1,476
Total Externally Restricted	34,211	201	34,412	5,058	39,470	(2,009)	37,461
Internally Restricted							
- Strategic Planning Studies and Proposals	525	(98)	427	(39)	388	0	388
- Sec 94 Plan Reviews	101	0	101	0	101	0	101
- Community Centre Halls	400	(370)	30	0	30	(10)	20
- Swimming Pools Capital	119	(119)	0	0	0	0	0
- Ballina Surf Club	120	0	120	0	120	(120)	0
- Ballina Indoor Sports Centre	(69)	69	0	0	0	0	0
- Library Special Projects	113	7	120	0	120	(7)	113
- Other Strategic and Community Facilities	185	15	200	0	200	(20)	180
- Employee Leave Entitlements	3,013	0	3,013	0	3,013	0	3,013
- Financial Assistance Grant	2,221	0	2,221	0	2,221	0	2,221
- Insurance Reserve	216	0	216	0	216	(115)	101
- Community Infrastructure Reserve	1,349	34	1,383	627	2,010	(30)	1,980
- Property Development Reserve	1,072	(486)	586	0	586	0	586
- Wigmore Arcade	296	0	296	0	296	0	296
- BBRC	325	(325)	0	0	0	0	0
- Flat Rock Tent Park	401	0	401	(31)	370	0	370
- Crown Properties Rental	141	0	141	0	141	0	141
- Council Elections	155	0	155	0	155	0	155
- Airport	471	(294)	177	0	177	0	177
- Other General Managers Group	331	(84)	247	0	247	(44)	203
- Shaws Bay/Lake Ainsworth Coastal Mgmt Plans	355	(305)	50	0	50	(34)	16
- Salaries and Legals	185	0	185	0	185	(70)	115
- Richmond River Coastal Mgmnt Plan	116	0	116	0	116	0	116
- Other DEHG Group	126	0	126	0	126	0	126
- Vegetation Grants	185	(105)	80	0	80	0	80
- Sportsfields	429	(114)	315	0	315	0	315
- Other Open Spaces	299	(214)	85	0	85	0	85
- Boat Ramps and Infrastructure	168	(8)	160	50	210	0	210
- Plant Renewal/Replacement	1,087	(1,191)	(104)	0	(104)	(20)	(124)
- Quarries	832	0	832	0	832	0	832
- Cemeteries	339	0	339	0	339	0	339
- Admin Centre and Depot	183	(183)	0	0	0	0	0
- Landfill and Resource Management	152	(97)	55	26	81	(5)	76
- Ancillary Footpaths	467	(169)	298	266	564	0	564
- Roadworks	2,528	(1,815)	713	3,167	3,880	(34)	3,846
- Bypass Funds	3,498	0	3,498	0	3,498	89	3,587
- Canal Dredging	190	0	190	0	190	(60)	130
- Stormwater capital	171	(30)	141	0	141	0	141
- Stormwater and Environ Mgmnt Plans	330	0	330	0	330	0	330
- Other Civil	248	(35)	213	0	213	0	213
Total Internally Restricted	23,373	(5,917)	17,456	4,066	21,522	(480)	21,042
Total Restricted	57,584	(5,716)	51,868	9,124	60,992	(2,489)	58,503
Total Cash and Investments	62,128	(5,716)	56,412	9,124	65,536	(2,489)	63,047

The unrestricted cash figure is not inclusive of transactions that would normally be included when calculating working capital; i.e. it is exclusive of movements in items such as debtors and creditors.

The available cash figure is taken from note six of the financial statements as at 30 June 2018.

Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for September 2018, funds invested amounted to \$79,538,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 30 September to the amount of \$4,987,034.
4. Actual year to date cash and investments amounted to \$84,525,034 as at 30 September 2018. This amount includes cash at bank of \$4,987,034 and funds invested of \$79,538,000 which has been reconciled to bank statements and investment reports.

Comment on Cash and Investment Position

The forecast reserves position has increased from the original adopted budget of \$57.6 million to \$58.5 million.

When Council approved the carry forward budget variations at the August 2018 Ordinary meeting the forecast reserves had decreased to \$51.9 million. Other changes subsequently approved by Council increased the forecast reserves to \$61.0 million.

The changes proposed in this report decrease the reserves by a net \$2.5 million, resulting in the current forecast reserves of \$58.5 million.

All changes to reserves made as part of this review have been noted earlier in this report within either 'Section One-Operating Income and Expenditure' or 'Section Two – Capital Budgets'.

The larger changes made as part of this review, of \$50,000 or more, are summarised below.

Section 7.11 (previously known as Section 94)

Net reserves have been decreased by \$2,150,000.

The forecast for roads contributions has been revised down by \$2,000,000.

The bringing forward of capital expenditure for the River Street Four Lane project's survey costs and design work reduced these reserves by a further \$150,000 in the current year.

Domestic Waste Management

There is an increase of \$85,000 to this reserve based on increases to the budgets for annual charges and the State Government grant of \$70,000 and \$15,000, respectively.

Ballina Surf Club Reserve

These reserves of \$120,000 have now been depleted, with the increase to the capital budget for Surf Club Building B.

Insurance Reserve

An amount of \$115,000 has been transferred from this reserve to fund the increase in workers compensation premiums.

Salaries and Legals Reserve

Transfer of \$70,000 from this reserve funds additional salaries budgets within both the Development Services section and the Building Services section.

Bypass Funds

Interest allocations of \$70,000 and \$20,000, respectively, for the Alstonville and Ballina Bypass reserves, have been transferred to reserve.

Canal Dredging

An increase to expenditure of \$60,000 has been funded from this reserve.

Section Four - Key Performance Indicators

This section of the report takes selected financial benchmarks and compares the 30 June 2017 and 2018 ratios with the forecast at September to 30 June 2019.

The performance indicators that have been selected have a short term focus, which suits the quarterly review, which focuses on the short term. Each ratio typically contains numerous variables and the forecast should be viewed as a good indication only.

Key Performance Indicators - Description

1. **Unrestricted Current Ratio** - Unrestricted current assets divided by unrestricted current liabilities.

Measured: as a ratio

Purpose: this ratio is used to measure Council's ability to meet short term liabilities with available short term assets.

Indicator type: Financial Position

Benchmark: >1.5:1 (NSW code of accounting practice)

2. **Operating Performance Ratio** – Total continuing operating revenue (excluding capital grants/contributions and fair value adjustments) less operating revenue (excluding capital items and profit or loss on sale) as a percentage of continuing operating revenue (less capital items and fair value adjustments).

Measured: as a ratio

Purpose: this percentage measures whether the Council is sustainable in terms of its operating result. Council should not be recording recurring operating deficits or funding operating results from capital revenue.

Indicator type: Financial Performance

Benchmark: = > 0: 1 (NSW code of accounting practice)

3. **Debt Service Cover Ratio** – Operating result (excluding fair value adjustments, capital grants/contributions, depreciation/amortisation, interest expense and profit or loss on sale) as a percentage of loan interest and capital payments

Measured: as a ratio

Purpose: The purpose of this percentage is a measure of whether Council has excessive debt servicing costs relative to the adjusted operating result.

Indicator type: Financial Position

Benchmark: >2:1 (NSW code of accounting practice)

Benchmark Indicators – General Fund

1. **Unrestricted Current Ratio – General Fund**

Benchmark: >1.5:1

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
4.71:1	4.62:1	2.67:1
Pass	Pass	Pass

Comment

The General Fund has comfortably met this benchmark for many years.

2. **Operating Performance Ratio – General Fund**

Benchmark: >0

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
11.39%	0.14%	-4.1%
Pass	Pass	Fail

Comment

This is a key ratio for “Fit for the Future” assessments and has historically been a difficult benchmark to achieve.

The ratio is affected by many variables. The strategy to improve this ratio is to continue to closely monitor, maintain and even reduce operating expenses and increase income.

3. Debt Service Cover Ratio – General Fund

Benchmark: > 2

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
4.97	3.81	2.82
Pass	Pass	Pass

Comment

This ratio is sourced from the operating result and loan repayments. Swimming pool loans impact on loan repayments from 2017/18 onwards. The strategy to continue to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by a combination of increasing income and decreasing expense.

Benchmark Indicators - Water

1. Unrestricted current ratio - Water

Benchmark: >1.5:1

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
132.47:1	117.72:1	26.74:1
Pass	Pass	Pass

Comments

The ratio meets the benchmark comfortably as the Fund has reasonable reserves and no debt.

2. Operating Performance Ratio - Water

Benchmark: > 0

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
10.03%	11.71%	11.52%
Pass	Pass	Pass

Comments

The Water Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years.

3. Debt Service Cover Ratio - Water

Benchmark: >2

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

Comments

The Fund has no external borrowings.

Benchmark Indicators - Wastewater

1. Unrestricted current ratio - Wastewater

Benchmark: >1.5:1

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
1.59:1	0.99:1	1.88:1
Pass	Fail	Pass

Comments

This ratio did not meet the benchmark for the 2017/18 year, however should remain around the benchmark moving forward.

2. Operating Performance Ratio - Wastewater

Benchmark: >0

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
-0.01%	5.89%	7.8%
Fail	Pass	Pass

Comments

The wastewater fund moved to a positive result in 2017/18 which means a pass in comparison to the benchmark and this is expected to continue.

3. Debt Service Cover Ratio - Wastewater

Benchmark: > 2

2016/17	2017/18	2018/19 Sept
Actual	Actual	Estimate
1.02	1.15	1.28
Fail	Fail	Fail

Comments

This ratio will fail the benchmark for many years due to the extremely high level of borrowings for the Fund. The forecast is that the ratio will gradually improve year on year as the operating surplus continues to grow.

Section Five – Contractors/Consultants/Legal Expenses

Contractors

New contracts entered into during the quarter that meet the definition are detailed in the table below.

Contractor Name	Purpose	Amount (Excl GST)	Award Date	Duration of Contract	Incl in Budget Yes/No
Bitupave Ltd	Provision for Sprayed Bituminous Surfacing	Schedule of Rates	1/8/18	11 months	Yes
Colas New South Wales Pty Ltd	Provision for Sprayed Bituminous Surfacing	Schedule of Rates	1/8/18	11 months	Yes
Fulton Hogan Australia Pty Ltd	Provision for Sprayed Bituminous Surfacing	Schedule of Rates	1/8/18	11 months	Yes
NSW Spray Seal Pty Ltd	Provision for Sprayed Bituminous Surfacing	Schedule of Rates	1/8/18	11 months	Yes
Bitupave Ltd	Provision for the Supply and Laying of Asphalt	Schedule of Rates	1/8/18	11 months	Yes
Fulton Hogan Australia Pty Ltd	Provision for the Supply and Laying of Asphalt	Schedule of Rates	1/8/18	11 months	Yes
RPA Asphalt Pty Ltd	Provision for the Supply and Laying of Asphalt	Schedule of Rates	1/8/18	11 months	Yes
CD Excavations	Provision for Industrial Subdivision, North Creek Road Ballina	\$927,256	27/9/18	6 months	Yes
Australian Lifeguard Service	Provision of Surf Life Saving Services	\$1,441,721	1/9/18	4 years	Yes
AT&L and Associates Pty Ltd	River Street Four Lane Upgrade Project	\$85,679	3/8/18	6 months	Yes

Consultants

Total expenditure to 30 September 2018 on consultants that meet the definition is detailed below.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Consultancies	\$186,000	Yes

Legal Expenses

The next table summarises the expense incurred to the end of September on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Legal Fees	\$57,000	Yes

The expenditure shown in the table above is for the period ended 30 September 2018.

Section Six – Other Matters

Engineering Works: Water Transport, Council Resolution 251018/22

At the Ordinary meeting held 25 October 2018, the Capital expenditure review for 30 September 2018 included the following resolution (251018/22):

“3. That Council receive a report on whether the water transport funding can be allocated to one project i.e. North Creek Boat Ramp.”

During last financial year a number of maritime infrastructure projects were completed under the Boating Now program. This program is funded by Transport for NSW and managed by Roads & Maritime Services.

The high priority projects that were completed comprise:

- New pontoon installation at Captain Cook Park, Ballina
- New pontoon installation and paths at Fishery Creek boat ramp, West Ballina
- New on-ramp pontoon installation Faulks Reserve, West Ballina
- New boat ramp and on-ramp pontoon at Keith Hall
- New pontoon installation at East Wardell

Two low priority projects, being the Brunswick Street boat ramp (Ballina) and the North Creek Road boat ramp (Lennox Head) have been completed to a draft concept design stage.

The budgets that remain in the 2018/2019 water transport capital expenditure program, and reported with the above resolution, are required to complete the documentation with the appointed consulting team.

The Boating Now grant program has expired, and RMS has allowed the documentation for these projects to be finalised under the current round of the Boating Now program. The reallocation of grant funds is not available however these projects will be well positioned for future funding rounds of the program due to completion of early design.

Section Seven - Certification

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 30 September 2018 indicates that Council's projected financial position at 30 June 2019 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The satisfactory position is based on the short term (twelve month) outlook.



Signed Linda Coulter, Responsible Accounting Officer

Sustainability Considerations

- **Environment**

This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.

- **Social**

As above

- **Economic**

As above

Legal / Resource / Financial Implications

This report informs Council of actual financial results to date in comparison to budget.

Consultation

This report has been prepared to inform the community of budget variations. Staff have been consulted in the preparation of this report.

Options

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

RECOMMENDATION

That Council notes the contents of the September 2018 Quarterly Budget Review and approves the changes identified within this report.

Attachment(s)

1. Manager Information Services - Council Chambers Audit Visual System Replacement
2. Letter - Marelle Lee

11.1 Festival and Event Sponsorship Program

11. Civil Services Group Reports

11.1 Festival and Event Sponsorship Program

Delivery Program Open Spaces and Reserves

Objective To allocate funding for the Festival and Events (Community and Commercial) Sponsorship Program for the 2019/2020 financial year.

Background

The Festival and Event (Community and Commercial) Sponsorship Program is now in its eighth year. The program was established in 2010 to provide funding to eligible community groups who co-ordinate events and festivals in the Ballina Shire.

The program is guided by two policies being Council's Festivals and Events (Community) Sponsorship Program and the Festivals and Events (Commercial) Sponsorship Program, copies of which are available on our website.

These policies were updated and amended in July 2017. At that time it was decided to develop the Commercial Sponsorship Policy to provide an opportunity for commercial groups to also be able to apply for funding under the existing program and recognize the economic and social development opportunities commercial operators may bring to our festival and event program.

Both policies provide that Council will invite submissions from the community for funding support, with an expression of interest process having recently been completed for the 2019/2020 funding program.

This report deals with the outcomes from that process.

Key Issues

- Equitable process for organisations seeking event support
- Compliance with Council policy

Information

The Festival and Event (Community and Commercial) Sponsorship Program application period opened for four weeks from the end of September to October 2018, with applications received from eleven organisations as follows:

11.1 Festival and Event Sponsorship Program

Name of organisation	Name of event	Request (\$)
The Rotary Club of Ballina-on-Richmond	Ballina Fine Wine and Food Fair 2019	15,000
Ballina Hospital Auxiliary	Annual Craft Show 2020	2,500
Ballina Country Music Club	SES Fundraiser 2020	1,000
Quota International Alstonville/Wollongbar	Craft & Garden Fair 2019	5,000
Alstonville Agricultural Society	New Year's Eve Family Festival 2019/2020	20,000
Lismore Symphony Orchestra	Proms by the Beach 2019	5,000
Le-Ba Boardriders	Skullcandy Oz Grom Open 2019	25,000
Lennox Head Chamber of Commerce	Love Lennox Festival 2020	20,000
Australian Skateboarding Federation	Fair Go Skatefest 2019	10,000
VanderAa Band	Southern Cross Ballina 2019	20,500
Cherry Street Sports Club	Ballina Country Music Fest 2019	35,000
Total		159,000

The budget allocation for the program in 2018/19 is \$120,000.

Policy Implications

The applications from the Ballina Hospital Auxiliary for the Annual Craft Show 2020, Ballina Country Music Club for the SES Fundraiser 2020 and the Lismore Symphony Orchestra for the Proms by the Beach do not meet the minimum threshold criteria for expenditure. The relevant clause from the policy is provided below:

To be eligible for support, the total cost of the festival or event must be estimated at over \$20,000, with a minimum of \$15,000 allocated towards cash expenses, excluding Council's contribution.

The purpose of this clause is to ensure the funding is applied to large scale events that can make a significant contribution to economic and social outcomes.

Council's annual community donations program is available as a potential opportunity for the funding of smaller events.

Country Music Festival

At Council's February 2018 meeting it was resolved that Council confirms its financial support, being an annual contribution of \$20,000 from Council's Festivals and Events Sponsorship Program to the Ballina Country Music Festival for the three year period from 2018/19, 2019/20 and 2020/21 subject to the organisers ensuring that there are free, family friendly games and events for children and subject to annual compliance with Council's conditions of funding.

At Council's March 2018 meeting it was resolved (220318/10) that Council supports the payment of \$35,000 to the Ballina Country Music Festival, with the additional funds sourced from the previous allocation to the Prawn Festival, for the first year (2018/2019) and that Council encourages both parties (Ballina Country Music Festival and Ballina Chamber of Commerce) to work together for a combined festival.

11.1 Festival and Event Sponsorship Program

Truckstop Sk8 – Fair Go

Council has a separate budget of \$4,000 for Fair Go event. It was resolved at the August 2017 meeting to award \$4,000 for the 2017 Fair Go Skateboarding event that was held as an element of the Ballina Prawn Festival.

A finance agreement was executed by the General Manager and that was followed by an appropriate acquittal process.

At the February 2018 meeting Council resolved that Council continue to grant \$4,000 funds to Truckstop Sk8, the successful applicant of the expression of interest process completed in 2017, to organise the Fair Go Skateboarding event for 2018 and 2019, subject to a finance agreement between Council and Truckstop Sk8. The 2018 event has been postponed to Saturday 15 December 2018 and it is expected the acquittal process will follow the event.

Truckstop Sk8 are currently in negotiations with the Australian Skateboarding Federation for next year's event and are seeking additional funding under this program to build the event and are proposing to hold a two day event in the future.

Previous Funding

The following table provides a summary of funding allocated by Council for the last four financial years for the applicants for 2019/20.

Name of Organisation	Name of Event	2015/16 Funded	2016/17 Funded	2017/18 Funded	2018/19 Funded	2019/20 Request
Rotary Club of Ballina-on-Richmond	Ballina Food and Wine Festival 2018	15,000	25,000	10,000	10,000	15,000
Ballina Hospital Auxiliary	Craft Show 2020	0	0	0	0	2,500
Ballina Country Music Club	SES Fundraiser 2020	0	0	0	**1,000	1,000
Quota International of Alstonville Wollongbar Inc	Quota Club of Alstonville Craft and Garden Fair 2019	0	5,000	5,000	5,000	5,000
Alstonville Agricultural Society	New Year's Eve Family Festival 2018/19	15,000	15,000	20,000	20,000	20,000
Lismore Symphony Orchestra	Proms By The Beach	0	0	0	0	5,000
Le Ba Boardriders	Skullcandy Oz Grom Open 2018	15,000	20,000	25,000	25,000	25,000
Lennox Head Chamber of Commerce	Love Lennox Festival 2019	**2,500	10,000	15,000	15,000	20,000
Australian Skateboarding Federation (Truckstop Sk8)	Fair Go Skatefest 2019	***4,000	***4,000	***4,000	***4,000	10,000
Cherry Street Sports Club	Ballina Country Music Fest	*25,000	*25,000	25,000	35,000	35,000
VanderAa Band	Southern Cross Ballina 2019	0	0	0	0	20,500

* Applicant for 2015 and 2016 was the Rotary Club of Ballina

** Funded under the Community Donations Program

*** Funded under the Fair Go Budget

11.1 Festival and Event Sponsorship Program

The reference to the Community Donations Program is important as Council has, at times, allocated funding for events through that program, which has an annual allocation of approximately \$60,000.

The Community Donations Program does not have any criteria regarding the overall expenditure for an event, or an organisation, and the applications from the Ballina Hospital Auxiliary, Ballina Country Music Club and Lismore Symphony Orchestra are better suited to that program.

Sustainability Considerations

- **Environment**
Events are managed to limit adverse environmental impacts.
- **Social**
Events provide social benefits to the broader community.
- **Economic**
Events make a positive contribution to the local economy.

Legal / Resource / Financial Implications

The Festival and Event (Community and Commercial) Sponsorship Programs are identified in Council's Delivery Program 2017/18 – 2019/20 and Long Term Financial Plan, with a \$120,000 budget forecast for 2019/20.

The process to approve the funding distribution is completed ahead of the standard timeline for the budget process as there is a need for festival and event organisers to be aware of their overall budget prior to commencing their planning and development phase and this can involve an extended period of time.

In addition to the direct cash allocations provided by Council, significant staff resources support the operations of events, with this expenditure absorbed within the staff salary budgets.

Consultation

The Festival and Event (Community and Commercial) Sponsorship Programs were open for four weeks from 26 September to 26 October 2018. The program was promoted through a number of channels including:

- Advertisement in the Ballina Shire Advocate
- Distributed media releases to outlets
- Letters to previous recipients
- Information on Council's website
- Emails to event organisers
- E-blast to event organisers through the Council database
- Social media posts on council's Facebook page

11.1 Festival and Event Sponsorship Program

Options

The Festival and Event (Community and Commercial) Sponsorship Programs for 2019/20 has a budget of \$120,000. The total amount requested from applicants is \$159,000 which exceeds the budgeted amount by \$39,000. Options on the appropriate distribution of funds have been considered at a Councillor briefing and presented below.

Option One

Allocate funds to applicants that have met the eligibility criteria, within the current budget allocation of \$120,000. One way to achieve this is to reduce each request by 20.26%.

Name of Organisation	Name of Event	Funding request (\$)	Option One (\$)
Rotary Club of Ballina on Richmond	Ballina Food and Wine Festival 2019	15,000	11,960.15
Quota International of Alstonville/Wollongbar	Quota Club of Alstonville Craft and Garden Fair 2019	5,000	3,986.72
Alstonville Agricultural Society Inc	New Year's Eve Family Event	20,000	15,946.86
Le Ba Boardriders	Skullcandy Oz Grom Open 2019	25,000	19,933.58
Lennox Head Chamber of Commerce	Love Lennox Festival 2019	20,000	15,946.86
Australian Skateboard Federation (Truckstop Sk8)	Fair Go Skatefest 2019	10,000	7,973.43
Cherry Street Sports Club	Ballina Country Music Fest 2019	35,000	27,907.01
VanderAa Band	Southern Cross Ballina 2019	20,500	16,345.53
TOTALS		150,500	120,000.14

The advantage of this option is that all events are reduced by the same amount.

The disadvantage is for a small event 20.26% may have a bigger impact on the event budget when compared to a larger event, and secondly, this distribution does not prioritise the relative benefits of different events to the community, or consider which events potentially need more support such as events still trying to be established and improve their financial viability.

Option Two

Allocate funds to applicants that have met the eligibility criteria based on amounts provided in previous years.

Name of Organisation	Name of Event	Funding request (\$)	Option Two (\$)
Rotary Club of Ballina on Richmond	Ballina Food and Wine Festival 2019	15,000	10,000
Ballina Hospital Auxiliary	Annual Craft Show 2020	2,500	0
Ballina Country Music Club	SES Fundraiser 2020	1,000	0
Quota International of Alstonville/Wollongbar	Quota Club of Alstonville Craft and Garden Fair 2019	5,000	5,000
Alstonville Agricultural Society Inc	New Year's Eve Family Event	20,000	20,000
Lismore Symphony Orchestra	Proms by the Beach	5,000	0
Le Ba Boardriders	Skullcandy Oz Grom Open 2019	25,000	25,000

11.1 Festival and Event Sponsorship Program

Name of Organisation	Name of Event	Funding request (\$)	Option Two (\$)
Lennox Head Chamber of Commerce	Love Lennox Festival 2019	25,000	15,000
Australian Skateboarding Federation (Truckstop Sk8)	Fair Go Skatefest 2019	10,000	0
Cherry Street Sports Club	Ballina Country Music Fest 2019	35,000	35,000
VanderAa Band	Southern Cross Ballina 2019	20,500	0
TOTALS		164,000	110,000

The advantage of this option is that it maintains the level of support Council has previously provided. It also provides a surplus of \$10,000 in this budget that could be applied to the Community Donations budget to cover those events not eligible under this Program.

The disadvantage is that it does not reassess the relative of priorities if Council was of the mind changes are needed.

Option Three

Allocate funds to applicants that have met the eligibility criteria, within the current budget allocation of \$120,000, based on amounts provided in previous years and reducing the funding for larger events that have a history of funding from Council.

The following table represents the consensus from the Councillor briefing held to discuss the applications. Under this model the new applicants do not receive any funding.

This is based on the recommendation that the Fair Go Skate Competition already receives other Council support that includes an existing budget of \$4,000.

The VanderAa Band (Southern Cross Ballina 2018) application includes payment for their band which makes them ineligible for funding for an amount of \$5,000 as it is similar to the payment of wages. Their budget also demonstrates that there is no other cash funding other than Council support for the sum of \$20,500.

Name of Organisation	Name of Event	Funding request (\$)	Option Three (\$)
Rotary Club of Ballina on Richmond	Ballina Food and Wine Festival 2019	15,000	10,000
Quota International of Alstonville/Wollongbar	Quota Club of Alstonville Craft and Garden Fair 2019	5,000	5,000
Alstonville Agricultural Society Inc	New Year's Eve Family Event	20,000	20,000
Le Ba Boardriders	Skullcandy Oz Grom Open 2019	25,000	25,000
Lennox Head Chamber of Commerce	Love Lennox Festival 2019	20,000	15,000
Cherry Street Sports Club	Ballina Country Music Fest 2019	35,000	35,000
TOTALS		120,000	110,000

Based on the information in this report, option three is recommended.

11.1 Festival and Event Sponsorship Program

In regards to the \$10,000 saving from the Festival and Event (Community and Commercial) Sponsorship Funding Program if option three is adopted by Council, the consensus from those present at the Councillor briefing was for these funds to be transferred to the Community Donations budget for 2019/20.

While this action is an option, it is not recommended at this point in time. It is preferred to retain the \$10,000 within the current allocation as this would then be a source of funds if Council receives further applications, particularly from commercial operators who may not be familiar with the annual submission process.

The recent Ballina Triathlon and the Australian Masters Hockey Championships are examples of events that requested assistance and the timing of their applications did not align with the process run by Council to call for applications now.

Furthermore, it is preferred to only consider the allocation of additional funds to the Community Donations budget within the quarterly review process so that Council has an opportunity to assess the projections and priorities for variations across the whole budget.

If the Council would prefer to follow the consensus of the briefing, the following is provided for a second point in the resolution.

That the residual \$10,000 from the Festival and Events Sponsorship Program be made available as additional funds for the 2019/20 Community Donations Program.

RECOMMENDATION

That Council grants the following funding allocations for the 2019/20 Festival and Events Sponsorship Program.

Name of Organisation	Name of Event	(\$)
Rotary Club of Ballina on Richmond	Ballina Food and Wine Festival 2019	10,000
Quota International of Alstonville/Wollongbar	Quota Club of Alstonville Craft and Garden Fair 2019	5,000
Alstonville Agricultural Society Inc	New Year's Eve Family Event	20,000
Le Ba Boardriders	Skullcandy Oz Grom Open 2019	25,000
Lennox Head Chamber of Commerce	Love Lennox Festival 2019	15,000
Cherry Street Sports Club	Ballina Country Music Fest 2019	35,000
TOTAL		110,000

Attachment(s)

Nil

11.2 Rock Fishing - Safety Act

11.2 Rock Fishing - Safety Act

Delivery Program Open Spaces and Reserves

Objective To determine Council's preferred position in respect to this new legislation.

Background

The NSW Government introduced the *Rock Fishing Safety Act 2016* (RFSA) on 1 December 2016. The reason for this legislation was to respond to an ongoing trend which showed, on average, eight rock fishers die in NSW every year.

The RFSA requires people rock fishing, or anyone assisting someone rock fishing, in high-risk locations to wear a lifejacket. The law commenced on 1 December 2016 with an 18 month trial in the Randwick local government area. From 1 June 2018, the RFSA imposes a \$100 fine for anyone rock fishing while not wearing an appropriate lifejacket in a declared high risk area.

For the purposes of the initial implementation, only the Randwick local government area was declared a high risk location within the meaning of the RFSA. However, following consideration of the outcomes of the trial, the other coastal councils have been invited to opt-in to the scheme.

The following information is provided to enable Council to determine its response to this invitation.

Key Issues

- Public safety

Information

Attached to this report is a copy of an information pack published by the NSW Department of Primary Industries (DPI) (attachment one).

The legislation permits the NSW Police Force to take the lead role in enforcing the lifejacket requirements, assisted, where resources allow, by DPI Fisheries, the National Parks and Wildlife Service (NPWS) and local Council officers.

Local councils have been invited to opt-in to the scheme. As per the DPI information pack, those councils who do opt-in will be provided with support from DPI, including a grant of up to \$30,000 from the NSW Government's Water Safety Fund. Expenditure of the grant can be flexible depending on the needs of Council and level of support from DPI. The grant could, for example, be put toward installing signage, training, and other rock fishing safety, education and awareness measures and other operational activities.

11.2 Rock Fishing - Safety Act

Under this program DPI, will work closely with councils in regards to planning, promoting and running workshops, providing material for online advertising and social media promotion, managing and evaluating any surveys and designing, printing and disseminating promotion material, including media releases, advertising and signage.

The RFSA currently stipulates that adults must wear a lifejacket that complies with at least Level 50S of Australian Standard AS 4758; children under 12 must wear a jacket that is at least level 100. Lifejackets and other buoyancy products approved under other national or international standards that are recognised by Roads and Maritime Services (RMS) will also comply with the Act.

The market has responded to the RFSA meaning there is now a wide range of lifejackets available that are specifically suitable for rock fishing and comply with the Act. DPI continues to liaise with manufacturers involved in this evolving market and part of the education and awareness campaigns associated with the implementation of the RFSA is to provide advisory material for anglers to assist them select the right life jacket for their needs and budget. The information pack illustrates some of the life jackets that are now available.

The DPI program is based on a balance between compliance and education. The NSW Police's Marine Area Command is the lead agency charged with managing compliance activities related to rock fishing safety. Other relevant agencies such as local Councils, DPI Fisheries and the National Parks & Wildlife Service are required under the Act to provide assistance to Police if and when resources are available. The fine penalties from notices under the RFSA are paid to the Recreational Fishing (Saltwater) Trust.

The RFSA applies to high risk rock fishing areas. The Act defines a high risk rock fishing location as a naturally occurring rock platform or other rock formation exposed to ocean swell within a declared area.

To further review the information provided to Council, a telephone inquiry was made to the DPI manager responsible for the program. This officer confirmed DPI have well developed media and education resources to support the implementation of the RFSA in a LGA. The officer also explained during the trial at Randwick, the level of compliance with the requirement to wear a life jacket steadily increased from nearly zero to around 90%. Only five fines have been issued, to repeat offenders, meaning the compliance has been achieved through the education program.

As Council has previously requested a letter be written to Crown Lands seeking support for the replacement of the stand known as Iron Peg at Boulder's Beach, the DPI Manager was asked about how these types of traditional facilities are managed by the new RFSA.

The response was during the consultation phase to develop the new legislation, some fishers requested the Government consider providing tether points as a safety initiative in lieu of life jackets.

11.2 Rock Fishing - Safety Act

A risk assessment determined tether points were not suitable as there are unacceptable risks where tether lines could drag other anglers into the ocean and there are risks of injury from fishers being tethered and unable to move away from a rock platform in a swell. Council has not received a reply from Crown Lands to our inquiry.

The DPI report positive interest from councils in respect of participating in this program.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The RFSA has been developed in response to public safety risks and the trend of the number of deaths associated with rock fishing.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

There are no significant legal, resource or financial implications associated with a decision to opt-in as a declared area. Council is not required to undertake any enforcement actions under the RFSA (unless it elects to do so). DPI are able to provide the resources necessary for the communication and education programs, and a \$30,000 grant is available for signage or other tasks to support the program.

Consultation

No community consultation has been undertaken in preparing this report.

Options

The options available to Council are:

1. Opt-In to the RFSA

Under this option the Ballina Shire Council LGA would become a declared area in accordance with the RFSA and compliance with the Act's provisions will be a requirement for rock anglers. The Council would be granted up to \$30,000 to implement the program and this would also be supported by DPI education and communication resources.

2. Decline the invitation to opt-in

The status quo would remain.

11.2 Rock Fishing - Safety Act

Option one is the recommended option. Council has historically expended significant efforts to maintain and improve beach and water safety. This has been done by providing infrastructure such as new Ballina Lighthouse Surf Club building, funding and managing a life guard service, and our ongoing key role in the development and implementation of the Shark Management Strategy. As well as protecting local residents and visitors, these activities support our volunteer and professional first responders to marine incidents.

In light of the trend of accidents and deaths, and having regard to the support available from the NSW Government, option one presents another opportunity to improve safety for those residents and visitors accessing our shorelines.

RECOMMENDATIONS

1. That Council accepts the invitation from the NSW Government for the Ballina Shire local government area to become a declared area under the *Rock Fishing Safety Act 2016*.
2. That Council authorises the General Manager to apply for the funding required to establish the declared area and to develop and implement a local education and communication program to support anglers in the transition to the new arrangements.

Attachment(s)

1. Rock Fishing Safety Act Information Pack

11.3 Temporary Toilet Trial - Keith Hall Boat Ramp

11.3 Temporary Toilet Trial - Keith Hall Boat Ramp

Delivery Program Open Spaces and Reserves

Objective To determine if a six month trial of a temporary toilet should be undertaken at the Keith Hall Boat Ramp

Background

A submission was received from the Ballina Peninsula Residents Association Inc. in response to the public exhibition of the Delivery Program and Operation Plan.

The submission requested support for public toilets to be installed at Keith Hall Reserve and South Ballina Beach.

The submission was considered in a report presented to the June 2018 meeting and in response Council resolved the following:

“That Council receives a report on the merits of a six month trial of a temporary toilet at the Keith Hall boat ramp.”

This report responds to the resolution.

Key Issues

- Budget expense and resourcing to provide the trial service
- Vandalism and risk of environmental pollution
- Ensuring adequate servicing of the facility
- Monitoring and measurable outcomes for the trial

Information

The proposed location for the toilet trial is a narrow parcel of Council owned community land located between River Drive and the Richmond River; zoned RU1 Primary Production.

A location map for the site is as follows.

11.3 Temporary Toilet Trial - Keith Hall Boat Ramp



Fig One: The subject site overlaid by the community land parcel Lot 1 DP958042 and Keith Hall Lane, formed road.

Inspection of the site highlighted that most of the community land will be unsuitable for location of a trial facility due to the location of other services (overhead cables and infrastructure) and uneven land in the middle of the site that is providing a drainage function for surrounding and adjoining land.

Preliminary planning investigation for facilities on the site indicate that public toilets should be permissible as development without consent under division 12 of the infrastructure SEPP.

This will still require as a minimum Part V and Section 68 applications.

Flood immunity would also need to be considered for any facilities in this location.

11.3 Temporary Toilet Trial - Keith Hall Boat Ramp

The following photos, taken 5 November 2018 show the site conditions.



Fig Two: New boat ramp with floating dock. Keith Hall Lane.



Fig Three: Area of community land facing north. A temporary portable toilet facility could potentially be located in the foreground area in this photo. Strong consideration for additional protection and security for the toilet would be needed to minimize potential vandalism or environmental damage.

11.3 Temporary Toilet Trial - Keith Hall Boat Ramp



Fig Four: Uneven drainage area.

Other sites may provide advantages when compared to this site and subject to community input.

In respect of costs, based on quotes from local providers of portable toilet facilities, the hire cost for a single portable toilet for a six month trial at the Keith Hall boat ramp site has been estimated to be \$2,700. This assumes a fortnightly pump out and service.

Additional costs to consider are possible vandalism and other damage to the facility, or any requirement to install and maintain additional protection measures to minimise this risk, additional servicing @ \$80.00 per service to maintain cleanliness to an acceptable standard (dependent on use), signage to indicate it is a trial public facility, and any additional resource requirements from internal staff for inspections, monitoring, consultation and data analysis.

It is difficult to determine whether a single portable toilet will meet the demand and whether the twice weekly service will be sufficient. Vandalism, misuse, and insufficient servicing of the portable toilets may also create management, pollution and service level difficulties for the trial. For this reason, if the trial is supported, it may be necessary to consider provision for additional budget to cover the potential requirement for a second facility with more frequent servicing.

11.3 Temporary Toilet Trial - Keith Hall Boat Ramp

Portable toilets do not generally have any signage that would indicate that they are for public use. Signage will need to be considered as an additional cost to the project to clearly identify that the toilet is for the public to use and not related to construction or service works at the site. Signage to provide contact details to notify of issues or the need to service should also be considered for any trial period to improve response times and minimise potential issues.

By providing toilets, albeit temporary, a service level expectation is being created, which may be difficult to reverse. Usage of the facility, changes to current social behaviour and impacts to visitation in the area will be difficult to measure in relation to the success of the trial over a six month period without any current base data.

The most accurate way to gather data on the success of the trial will be to set up video monitoring of the site over the trial period to determine the visitation of the trial facility and usage of the site. This will require the setup of onsite surveillance, appropriate notification and signage that surveillance is being carried out and regular monitoring and data analysis of the footage to determine the result. However there are concerns in respect of applying this type of surveillance to a facility such as this. Therefore, the only measure of success is likely to be the monitoring of feedback from residents.

Sustainability Considerations

- **Environment**

Environmental considerations in relation to portable toilets include the risk from vandalism or lack of adequate servicing resulting in contamination of the Council reserve and Richmond River. The potential impact to the visual amenity of the area and possible odour impacts to nearby residents also need to be considered.

Planning for public facilities at the Keith Hall boat ramp will need to consider environmental planning constraints on the site particularly with regard for flood immunity, water, wastewater and sewage management.

- **Social**

The trial facility will provide additional community amenities to address the concerns of residents and may improve some social behaviour that has been highlighted as a problem for the local community, particularly near the Empire Vale Public School 3km south west of the site, ferry 2km north of the site and South Ballina Beach access approximately 6km by road north east of the site.

However the trial facility may encourage more social activity and overnight parking and create additional problems for the residents in the area from antisocial behaviour.

- **Economic**

Not applicable.

Legal / Resource / Financial Implications

The cost of a trial if completed this financial year will need to be sourced from existing budgets and will require reallocation of other existing Council resources to implement, manage and monitor.

Hire costs of \$2,700 are noted however the report also notes there are other costs and risks meaning a budget of at least \$5,000 would be required.

The trial potentially can create the expectation that the level of service will continue in the area on a permanent basis and require ongoing funding and resourcing even if the results of the trial do not achieve the intended outcomes.

The cost benefit for a trial should be considered against the cost benefit of using the same funding to carry out a design and consultation process for permanent facilities at the site. As a design and consultation process would be one step closer to completing detailed plans and costings for delivery of permanent facilities in this location.

Council does need to be mindful that conducting a trial without any consideration for the future provision for either a permanent installation, or resources for ongoing temporary facilities, may result in community concerns in respect of our capacity to deliver.

Consultation

Consultation has been undertaken with key Council technical staff, to identify risks and options for the trial. A number of concerns have been raised based on the experience from similar trials regarding the potential for vandalism and additional servicing cost that a trial facility in this location may incur.

A formal community consultation process with the residents at this location has not been undertaken. Even in the case the provision of toilet facilities is considered important, residents may prefer for the service to be provided at another site in this general area.

If Council wishes to proceed with a trial, it is recommended this decision be subject to the completion of some consultation with the residents directly surrounding this location prior to commencement of the trial.

Options

1. Undertake a six month trial using a commercially available portable toilet with regular servicing at the Keith Hall boat ramp site.
2. Undertake further investigation and liaison with the community (including whether alternate sites are preferred) regarding the proposal to implement a six month trial for a portable toilet facility.
3. Undertake preliminary design investigations and community consultation to determine if construction of a permanent public toilet facility is feasible in this area.

11.3 Temporary Toilet Trial - Keith Hall Boat Ramp

4. Note this report and take no further action at this time.

As per the information in this report, a trial is unlikely to provide reliable data and is potentially confusing to the community in respect of Council's future intentions as these are unknown based on our current Long Term Financial Plan not containing a provision for a permanent facility, or ongoing temporary facilities.

The trial is relatively expensive, and there are risks associated with the costs of the trial from vandalism and service demands.

If the Council was to propose to construct a facility of this type in this area, it is considered site assessment, community consultation and other demand analysis can reasonably be undertaken to assess the merits of a facility without the need for a trial.

As there is no forward funding for a project of this type in our current plan, option four is recommended.

If the Council is inclined to further investigate the provision of a toilet facility at South Ballina, then option three is preferred when compared against the trial.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding implementing a trial of a toilet facility at the Keith Hall Boat Ramp.
2. That based on the contents of the report Council take no further action regarding this proposal at this point in time.

Attachment(s)

Nil

11.4 Tender - Skennars Head Playing Fields Extension

11.4 Tender - Skennars Head Playing Fields Extension

Delivery Program Open Spaces and Reserves

Objective To assess the tenders submitted for the construction of the Extension of Skennars Head Playing Fields.

Background

The Skennars Head Playing Fields expansion is a key project providing improvements to existing facilities with the construction of additional senior and junior playing fields with irrigation and lighting, additional car parking and a modified entrance. These works have been identified to provide for the growing sporting needs of the community and to improve the access and parking at the site.

Development application and Part V consents have been achieved for the project.

A public tender for this project was advertised without disclosing the project budget that closed on 30 October 2018. The tender submissions received through the public tender process form the subject for this report.

Key Issues

- Tender assessment
- Value for money
- Regulatory Compliance

Information

Tender submissions were received from three companies. A submission from O'Leary Civil Group was not received by the required closing time and has been deemed non-compliant.

Compliant tender submissions were received from:

- Allroads Pty Ltd; and
- Synergy Resource Pty Ltd

Both compliant submissions are currently considered under the budget allocated for the project, but have been assessed excluding the cost associated with a provisional rate for the removal of excess fill from the site.

This provisional item has been excluded from the initial tender evaluation due to the potential variation in the cost of removing the excess fill depending on the distance to a receiving site. It was the biggest cost variable in the two QS evaluations for the project. It was also identified by the project team for potential cost benefits using the fill for other Council capital work sites for mutual benefit or minimizing tender costs by identifying the nearest development sites seeking clean fill material.

11.4 Tender - Skennars Head Playing Fields Extension

Information regarding the pricing and budget implications has been provided in a separate confidential memorandum to Councillors.

The reason for the confidential advice is it contains commercial in confidence information and it is recommended Council undertake commercial negotiations with the preferred contractor to deliver the project outcomes within the allocated budget.

Sustainability Considerations

- **Environment**

The design and planning for the works have been developed to minimise impact on the environment. Tender submissions demonstrated suitable experience and systems to ensure best practice environmental management practices will be carried out during construction works.

- **Social**

Provision of the new facilities will enhance the sporting facilities within the shire. The new site entrance and additional parking will improve safety for sports participants, spectators and road users.

- **Economic**

The expansion of the facilities will enable larger events and competitions to be held in the shire, attracting visitors that will support local business development.

Legal / Resource / Financial Implications

Council has undertaken a public tender process in accordance with the Local Government (General) Regulations 2005.

The budget for the project, including a \$990,000 grant from the Stronger Country Community Fund is \$2,275,000.

A pre-tender quantity surveyor report for the project estimated the cost of completing the works at \$2,426,000. Project funds of \$2,332 have been committed to date.

The highest ranked tender has priced the work at \$2,214,059 (ex GST), which is \$60,000 below the budget (without any contingencies). Additional costs for spoil disposal have been estimated at \$80,000, however staff have identified a potential reuse option that could save these costs to this budget. If the reuse option is not achieved the budget is over by \$20,000, without any contingency.

Therefore the recommendation to this report is to accept the tender and authorise the General Manager to conduct further negotiations on contract price and spoil management.

Consultation

The scope of works has been determined through public consultation and development approval processes. A public tender process has been carried out. Key stakeholders will continue to be engaged for this project.

Options

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

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

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

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

Accordingly,

1. Council may award the contract to one of the tenderers making a submission for the construction works to complete the project.
2. Council may determine not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more service providers.

Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005. The tenders submitted would indicate a fair test of the market and that a fair rate has been achieved for most tender items. The evaluation panel has determined the preferred tenderer but has identified items that require further negotiation prior to awarding the contract.

The recommendation to this report is to accept the tender of the highest ranked tender from the tender assessment process and authorize the General Manager to conduct further negotiations on contract price and spoil management with the view to improving the budget outcomes for Council.

RECOMMENDATIONS

1. That Council accepts the tender from Synergy Resource Management Pty Ltd for the Skennars Head Sports Fields Extension construction contract.
2. The General Manager is authorised to undertake and complete negotiations with Synergy Resource Management in respect of the contract price, subject to the contract sum for the tendered works being equal or below the tendered amount of \$2,214,059.
3. That upon the conclusion of negotiations Council authorises the General Manager to affix the Council seal to the relevant contract documents and execute same.
4. That Council notes the information in this report that based on the current tendered price and with the possibility of spoil disposal costs there is a current budget deficit of \$20,000. Council also notes there is currently no contingency allowance in the current budget, therefore any variations may need to be reported back to Council to secure additional funding.

Attachment(s)

Nil

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

Delivery Program Asset Management

Objective To determine the proposed closing of a section of public road, Henderson Lane, Lennox Head.

Background

Previous reports to Council to consider closing part of the former Henderson Lane (the ‘lane’) at Lennox Head have been presented at the meetings of 24 August 2017, 27 April 2017 and 23 March 2017. The resolutions supported the road closing with the latest as follows:

“That Council re-establishes its support in response to the request for a road closing application to proceed for part of the former Henderson Lane adjacent to 37,40,42,44 & 46 Kell Mather Drive at Lennox Head, subject to the execution of a ‘Deed of Agreement’, and any other documentation or property title registration processes, occurring between all relevant land owners prior to the road closing application being lodged by Council with Crown Lands.”

Adjoining landowners and public authorities were advised of the proposal in January 2018. One adjoining landowner, EPIQ Estate developer, objected to the road closing proposal. Subsequently, the ‘Deed of Agreement’ was unable to be finalised in the months following the Council meeting of 24 August 2017. The result was the road closing application was unable to be finalised and lodged with Crown Lands.

While the deed of agreement was not able to proceed, a number of residents remain interested in achieving the road closure. However, with new subdivision lots in EPIQ Estate adjoining the road proposed to be closed, there is now a group of new landowners with an interest in this proposal, and as per below legislative changes also now impact the process to reconsider the proposal.

Changes to the Roads Act 1993 (the “Act”) from 1 July 2018, amended the procedure for closing Council public roads. Previously, in order to close a Council public road, Council was required to make an application to the Minister for approval to close the road, whereas the new provisions under the Act permits Council to close Council owned public roads.

As the road closing was not completed prior to 1 July 2018, the proposed road closing was re-advertised to be in accordance with the new legislation required.

A location diagram is included as Attachment 1. The previous Council reports are included as Attachment 2. The submissions received form part of this report when considering the road closing proposal and are included as Attachment 3.

This report provides Council with a new opportunity to consider the proposal in light of the changes described above.

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

Key Issues

- Closing a section of Council public road
- If closed, the land will vest in Council and can be disposed of to the adjoining land owners.

Information

As discussed in previous Council reports, the Kell Mather Drive land owners abutting the section of road proposed to be closed have initiated this proposal. These property owners have been maintaining this road area as the road is unformed as a public road.

There are existing mature rainforest trees along the western side of the lane and within the adjoining land (Seaswell Crescent lots). It is the land adjoining the western side of the road that contains the rainforest regeneration area, as shown shaded green in the Diagram 1 below.



Diagram 1 – Subdivision Plan

The Seaswell Crescent properties on the western side of the lane are subject to a restriction on use relating to the regeneration area.

Diagram 2 shows the revegetation works have commenced on these properties.

When this matter was previously reported to Council, under their consent conditions, the developer was responsible for rehabilitation works and as such they were concerned about maintaining unimpeded, legal access to ensure they were able to meet their approval requirements.

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head



Diagram 2 - Littoral Rainforest Regeneration area Seaswell
Crescent properties
(Western side of former Henderson Lane)

There is no planned access pathway proposed along this section of Henderson Lane. Therefore the closing and disposal of the road will remove the land maintenance obligation for Council.

If Council closes the road, adjoining land owners are able to purchase the land adjacent to their property. The final configuration of how the land would be disposed of will depend upon which landowners wish to purchase a section of closed road adjoining their existing property.

The disposal of the closed road can only occur whereby all parts of the closed road area can be sold to adjoining land owners. The situation of an isolated section of land (e.g. closed road) remaining would not be acceptable.

There is an existing Council sewer main located within Henderson Lane.

If the road is closed, an 'easement for drainage of sewage' is required over the existing sewer main currently located in Henderson Lane. This easement would be created in conjunction with the plan prepared to identify the road to be closed.

Discussion of Submissions

The road closing proposal was advertised in the Ballina Shire Advocate on 26 September 2018 along with letters to adjoining landowners and notifiable authorities.

Summary of Submissions	
No objection to the proposal	14
Objection to the proposal	2
Total number of submissions	16

The 'no objection' (or support) submissions are from the adjacent landowners in Kell Mather Drive (who instigated the road closing proposal), one land owner from Seaswell Crescent and the notifiable authorities.

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

There are six properties in Seaswell Crescent (EPIQ Estate) which adjoin the western side of the road.

There were three submissions from this group of land owners which included two objections and one 'no objection' (this submission raised other general concerns).

Submissions supporting the road closing are discussed below:

1. *Maintenance of Existing Road Reserve*

The adjoining Kell Mather Drive property owners currently maintain the section of Henderson Lane road reserve from their boundary up to the trees along the western side of the road. The existing trees are located on both the lane and the adjoining land.



Diagram 3 - Looking west from former Henderson Lane at existing trees along the edge of the lane and the revegetation area on the adjoining land

2. *Future Consolidation of the Closed Road into Adjoining Property*

The closure of the road would provide land which can be consolidated with the adjacent Kell Mather Drive properties.

This would enhance these properties with increased area and also provide a better use for the lane.

3. *Littoral Rainforest Regeneration Area*

The regeneration area is located within the Seaswell Crescent properties in the EPIQ Estate. The regenerated area, as well as the existing trees, will form a significant buffer between the new homes and the lane. The intention of the regeneration area is to enhance the littoral rainforest remnant. The restriction on use of the land is to protect this regeneration area and to limit access or activities within the regeneration area. It is suggested that any access path constructed through the regeneration area is contrary to the intention of protecting and enhancing the area.

4. *Public Access Along the Lane*

The closing and disposal of the road would end public access rights along the lane. This would enable the area of lane maintained by the Kell Mather Drive residents to be suitably fenced and enhanced.

There are existing pathway and road networks that provide other suitable pedestrian routes in this locality.

Submissions objecting to or raising concerns about the road closing are discussed below:

1. *Pedestrian Access to Henderson Lane*

Henderson Lane is a public road along the rear of the Seaswell Crescent properties.

Public access to the lane from these properties would be lost if the road is closed and the land sold to adjoining land owners.

Access from Henderson Lane to the Seaswell Crescent properties can only be for pedestrian use due to the rainforest area (see item 2 below).

It is considered the use of Henderson Lane for access would be limited and possibly only utilised by a few landowners.

For example, any Seaswell Crescent properties with enclosed yards outside the regeneration area or with retaining walls in their properties may have limited ability to use the rear lane access.

2. *Littoral Rainforest Regeneration Area Adjoining the Lane*

Seaswell Crescent properties have road access to that street and the loss of a second (or rear) pedestrian access to their lots needs to be considered. There are existing limitations on access from Henderson Lane due to the existing vegetation and restriction on use of land relating to the regeneration area that affects the rear of these lots.

These properties on Seaswell Crescent are affected by a 10m wide restriction on use over the rear (or eastern) section of their land that fronts the road (area shaded green in Diagram 1).

This restriction on use is to ensure the remnant littoral rainforest and regeneration area is protected and maintained.

The terms of the restriction, amongst other things, states "*No building or structure inclusive of fencing is allowed to be constructed within the area of the subject restriction*".

As no side fencing is permitted through the area covered by the restriction, land owners in Seaswell Crescent would need to construct their rear fence on the western side of the restriction area should they wish to have an enclosed yard.

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

Should the lane be closed and sold to others, they could be liable for joint fencing costs along their rear boundary (the eastern side of the restriction area and their common boundary) should their adjoining rear neighbour insist.

This could be addressed by a condition of sale clause stating that each land owner who purchases a section of the closed road will be responsible for any required fencing, however awareness and maintaining this arrangement in the future (post the sale) are likely to be difficult.

The restriction on use does not specifically prevent pedestrian access within or through the designated regeneration area.

The regeneration area is not a physical barrier and access within the area is required to enable regeneration works. It does however prevent the construction of any structure, including a pathway or fencing within the area.

It is the EPIQ developer's obligation to ensure the regeneration area is enhanced and protected during regeneration works. When these regeneration works are completed there will be a significant vegetated buffer that restricts access through the area.

Sustainability Considerations

- **Environment**

The lane contains existing mature trees and is adjacent to the littoral rainforest regeneration area within the Seaswell Crescent properties. The lane has limited opportunities to be fully revegetated due to the proximity of the adjoining residential dwellings in Kell Mather Drive. The road is currently maintained by the adjoining Kell Mather Drive property owners and Council does not undertake any maintenance on this section of the lane.

The closing of the road and consolidation of the land with adjoining properties may result in the better management and enhancement of the land.

- **Social**

The road is public land and does provide public access. There is no formed walkway along this road and the future needs of this land within a growing urban area are not fully known.

The benefits of retaining this land for future public use does provide the community with options should future needs be identified.

If the road is closed and consolidated with the adjoining private land, it would no longer be available for public use.

- **Economic**

The sale and consolidation of the land with adjoining land will remove the public commitment of resources to maintain this area and may result in the enhancement of the land.

Legal / Resource / Financial Implications

All costs associated with the road closing, survey, legal and infrastructure relocations are to be met by the applicants. The application processing will be undertaken by Council. Upon closure of the road, the land would vest in Council along with any proceeds from the sale of the land.

The section of road proposed to be closed is not identified by Council for current or future road or pathway projects.

There are no financial implications for Council if the road is closed.

The retention of the road as public land will require a future commitment from Council. There may be financial implications and liability for Council to maintain this area through a weed and tree management program and to clean up any illegal dumping on the land.

At present, the land is maintained by the adjoining Kell Mather Drive residents.

Consultation

This road closing request has been lodged with Council as the roads authority for this public road. This matter has been advertised in the Ballina Shire Advocate and all adjoining land owners and notifiable authorities have been notified by mail.

Options

1. Close the section of public road at Henderson Lane, Lennox Head and consolidate this land into the properties on the eastern side of the lane.

This option is consistent with the previous resolutions of Council and enables the best method for the ongoing orderly management of the land. This option avoids the ongoing maintenance and management of this section of the former Henderson Lane is a cost liability for Council.

The key advantage of this option is it supports the preference of the majority of the current owners at this location.

2. Council declines to proceed with the closing of a section of public road at Henderson Lane, Lennox Head.

Two of the submissions were concerned with removing the public access. While these submission are in the minority, the Council should be very mindful a decision to close the road does remove this fundamental right of access which was available at the time these residents purchased their properties, and these purchases are recent.

If the road was not closed, the residents who currently enjoy the use of the land by practical effect, extensions of their own property, could continue to do so. Setting aside the benefits of control and ownership, the key difference in practice between options one and two is under option two the adjoining landowners are not able to fence the maintained area that currently exists beyond their property boundary.

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

In considering maintaining the public access, it is noted that Council's tolerance of the existing use of the land by the adjoining owners does mean the access does not appear public, and certainly some members of the public may not even feel comfortable walking along the access given the direct relationship the access has to the adjoining land through the way it is maintained and managed.

Closing the road (or removing impediments) would address this issue, however it can also be argued the existing balance is reasonable in the circumstances.

This option retains the status quo.

3. Close a portion of the section of public road at Henderson Lane, Lennox Head to enable consolidation of a portion into the properties on eastern side of the lane and the retention of the western portion as public access.

The lane is approximately 10 metres wide. It is an option to close a portion of the lane, say 5 metres, of the eastern side to enable this portion to be consolidated into the adjoining properties as per the application.

The advantage of this option is that it can potentially be considered as responding to the residents proposal as it allows the fencing and enclosure of an extension to their properties, albeit not the full amount of land that has been requested. Importantly, the western side would remain in public ownership and be able to be used for public access.

A disadvantage of this option is that with fencing of the eastern side, and the buffer on the western side, it is unlikely the public access portion would be maintained as it is now by the eastern side residents and this would result in additional costs to Council for maintenance.

At the time of writing this report, it is unknown as to whether this compromise position would enjoy the support of the applicants who may feel the reduced land area is not acceptable when balanced against the cost.

Arrangements have been made to provide a copy of this report to the residents at the same time it is published to Councillors. This will provide residents an opportunity to express a view about this option to Councillors or staff prior to, or at, the Council meeting.

4. That Council resolves to close the section of public road at Henderson Lane, Lennox Head and consolidate the land into properties on both sides of the lane.

As per option one, this option removes the public access and as per option three would provide only 5 metres of land for inclusion in the eastern side properties. This option would then also provide 5 metres of land for the western side properties.

The option is presented for equity as it is important to recognize the owners on the western side are entitled to present a similar interest to the land as those on the eastern side.

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

The only difference between the two sides, setting aside the eastern side has had a longer interest, is the existence of the vegetation buffer which tends to form a type of physical and visual barrier between the western side properties and the lane. While this barrier exists, it is possible to pass through the vegetation buffer and conveniently reach the public land. It is noted that one of the submissions against the proposal, from a western side owner, indicated that if the closure was to proceed, this owner may be interested in purchasing a portion of the closed lane. Therefore for the purposes of equity, this option should also be considered.

The key disadvantage of this option is it can only practically be implemented if all landowners agreed to the costs and the land transfer, and this is considered unlikely.

Option Two is the recommended option, unless there is positive support from the applicants for Option Three.

The reason for this recommendation is that it avoids the concerns associated with the removal of an existing public right to benefit private interests, albeit in this case it is arguable the public benefit is minimal and in reality contained to only a few residents. However, typically Council only considers disposal of land or closure of a road when there is clearly and absolutely no current or likely future public use of the lane.

This option does maintain the status quo, including Council's tolerance for the ongoing use of the lane as, in effect, extensions of the private adjoining land.

As option three might be considered by all residents as a reasonable compromise, to assist Council a draft resolution for this option is provided below.

(If Option Three is supported by the applicants following the publication of this report, Option Three would become the staff recommendation).

- 1. That Council resolves to close the section of public road at Henderson Lane, Lennox Head to enable consolidation of a portion into the properties on eastern side of the lane and the retention of the western portion as public access*
- 2. That Council authorises the Council seal and signatures to be attached to road closing notices, subdivision plans and associated documents to enable the road closing and the subsequent sale of the land. A condition of sale is that any fencing required for a purchased part of the closed road will be the sole responsibility of the purchaser of the land, or any subsequent land owner, whilst ever the littoral rainforest remnant remains.*

As option one represents the current position of Council, a draft resolution for this option is also provided below.

- 1. That Council resolves to close the section of public road at Henderson Lane, Lennox Head.*
- 2. That Council authorises the Council seal and signatures to be attached to road closing notices, subdivision plans and associated documents to enable the road closing and the subsequent sale of the land. A condition*

11.5 Road Closing - Public Road in Henderson Lane, Lennox Head

of sale is that any fencing required for a purchased part of the closed road will be the sole responsibility of the purchaser of the land, or any subsequent land owner, whilst ever the littoral rainforest remnant remains.

RECOMMENDATIONS

1. That Council refuse the application to close the section of public road at Henderson Lane, Lennox Head and note the reason for this decision is to maintain public access in the future.

Attachment(s)

1. Location Plan
2. Report from 24 August 2017 (including attachments) (Under separate cover)
3. Submissions

11.6 Road Closing - Public Road in Bartletts Lane, Meerschaum Vale

11.6 Road Closing - Public Road in Bartletts Lane, Meerschaum Vale

Delivery Program Asset Management

Objective To determine the proposed closing of a section of public road adjacent to 197 and 217 Bartletts Lane at Meerschaum Vale.

Background

At the Council meeting held 27 July 2017 a resolution was made to proceed with the road closing for a section of unconstructed Council public road adjacent to 197 and 217 Bartletts Lane, Meerschaum Vale. A location diagram is included as Attachment 1.

The proposal was advertised and adjoining landowners and public authorities were advised of the proposal in August 2017. All submissions supported the proposal.

Resulting from legislation changes to the Roads Act 1993 (the "Act") from 1 July 2018, the procedure for closing Council public roads changed. Previously, in order to close a Council public road, Council was required to make an application to the Minister for approval to close the road, whereas the new provisions under the Act permits Council to close Council owned public roads.

As the road closing was not completed prior to 1 July 2018, the proposed road closing was re-advertised to be in accordance with the new legislation.

A copy of the previous report to Council is provided as Attachment 2.

Key Issues

- Closing a section of unconstructed Council public road
- If closed, the land will vest in the Crown and can be disposed of to the adjoining land owners.

Information

The proposal was re-advertised in the Ballina Shire Advocate, adjoining landowners and notifiable authorities were advised of the proposal in September 2018. All of the submissions received supported the road closing proposal.

As per the Act, the public road is unconstructed and will vest in the Crown upon closing.

Sustainability Considerations

- **Environment**
The closing of the road and consolidation of the land with adjoining properties provides the opportunity to better manage the land.

11.6 Road Closing - Public Road in Bartletts Lane, Meerschaum Vale

- **Social**

The road is public land and does provide public access, but does not provide access to an area of public land or other roads. There is no formed construction on this section of road and the road is currently enclosed within existing land holdings. If the road is closed and consolidated with the adjoining private land, it would no longer be available for public use.

The benefit of retaining this land for future public use is minimal as no public need for the road is identified.

- **Economic**

The sale and consolidation of the land with adjoining land will remove public liability from Council and the commitment of resources to maintain this area.

Legal / Resource / Financial Implications

All costs associated with the road closing, survey, legal and infrastructure relocations are to be met by the applicants. The application processing will be undertaken by Council. Upon closure of the road, the land will vest in the Crown along with any proceeds from the sale of the land.

The section of road proposed to be closed is not identified by Council for future road or other projects.

There are no financial implications for Council if the road is closed.

The retention of the road as public land will require a future commitment from Council. There may be financial implications and liability for Council to maintain this area through a weed and tree management program and to clean up any illegal dumping on the land.

At present, the land is fenced into the adjoining properties and maintained by the adjoining property owners.

Consultation

This road closing request has been lodged with Council as the roads authority for this public road. This matter has been advertised in the Ballina Shire Advocate and all adjoining land owners and notifiable authorities have been notified by mail. There have been no objections to the road closing.

Options

1. That Council resolves to close the section of public road off Bartletts Lane at Meerschaum Vale.

The advantage of this option is it supports the previous resolution of Council and enables the ongoing orderly management of the land. If the road closing proceeds, the land would vest in the Crown, then valued, sold and consolidated with the adjoining properties.

11.6 Road Closing - Public Road in Bartletts Lane, Meerschaum Vale

2. That Council opposes the closing of a section of public road off Bartletts Lane at Meerschaum Vale.

There are minimal benefits associated with retaining this part of the public road. The ongoing maintenance and management of this section of unformed public road is a liability for Council.

The outcome of this option is that the land is retained as road under the care and control of Council. Any public access rights would remain.

RECOMMENDATIONS

1. That Council resolves, in accordance with the *Roads Act 1993* to close the section of public road adjacent to 197 and 217 Bartletts Lane at Meerschaum Vale, as outlined within this report.
2. That Council authorises the Council seal and signatures to be attached to road closing notices, subdivision plans and associated documents to enable the road closing to proceed.
3. That the closed road be consolidated with the adjoining land.

Attachment(s)

1. Location Diagram
2. Council Report - 27 July 2017

11.7 Road Closing - Public Road in Riverside Drive, West Ballina

11.7 Road Closing - Public Road in Riverside Drive, West Ballina

Delivery Program Asset Management

Objective To determine the proposed closing of a section of public road adjacent to 101 Riverside Drive, West Ballina.

Background

Following a report to the Council meeting held 25 January 2018, a resolution was made to proceed with the road closing for a section of Council public road adjacent to 101 Riverside Drive, West Ballina. A location diagram is included as Attachment 1.

Adjoining landowners and public authorities were advised of the proposal in May 2018. All submissions supported the proposal.

Resulting from legislation changes to the Roads Act 1993 (the "Act") from 1 July 2018, the procedure for closing Council public roads changed. Previously, in order to close a Council public road, Council was required to make an application to the Minister for approval to close the road, whereas the new provisions under the Act permits Council to close Council owned public roads.

As the road closing was not completed prior to 1 July 2018, the proposed road closing was re-advertised to be in accordance with the new legislation.

Key Issues

- Closing a section of Council public road
- If closed, the land will vest in Council and can be disposed of to the adjoining land owner.

Information

The proposal was re-advertised in the Ballina Shire Advocate and adjoining landowners and notifiable authorities were advised of the proposal in September 2018. All submissions received supported the road closing proposal. As per the Act, the public road will vest in the Council upon closing.

Council has an existing water main in this locality. If the road is closed, the water main will need to be relocated into existing road reserve at the expense of the applicant prior to any sale of the closed road.

Sustainability Considerations

- **Environment**
The closing of the road and consolidation of the land with adjoining property provides the opportunity for the adjoining landowner to better manage and enhance the land.

- **Social**

The road is public land and the section proposed to be closed forms part of a wide road verge area. If closed, the remaining road verge provides a suitable area for pedestrian use.

If the road is closed and consolidated with the adjoining private land, it would no longer be available for public use.

The benefit of retaining this land for future public use is minimal as no public need for this part of the road is identified.

- **Economic**

The sale and consolidation of the land with adjoining land will remove public liability from Council and the commitment of resources to maintain this area.

Legal / Resource / Financial Implications

All costs associated with the road closing, survey, legal and infrastructure relocations are to be met by the applicants. The application processing will be undertaken by Council. Upon closure of the road, the land would vest in Council along with any proceeds from the sale of the land.

The section of road proposed to be closed is not identified by Council for future road or other projects.

There are no financial implications for Council if the road is closed.

The retention of the road as public land will require a future commitment from Council. There may be financial implications and liability for Council to maintain this area through a weed and tree management program and to clean up any illegal dumping on the land.

At present, the land is not fenced into the adjoining properties and is maintained by the adjoining property owners.

Consultation

This road closing request has been lodged with Council as the roads authority for this public road. This matter has been advertised in the Ballina Shire Advocate and all adjoining land owners and notifiable authorities have been notified by mail. There have been no objections to the road closing.

Options

1. That Council resolves to close the section of public road adjacent to 101 Riverside Drive, West Ballina.

The advantage of this option is it supports the previous resolution of Council and enables the ongoing orderly management of the land. If the road closing proceeds, the land would vest in Council, valued, sold and consolidated with the adjoining property.

11.7 Road Closing - Public Road in Riverside Drive, West Ballina

2. That Council opposes the closing of a section of public road adjacent to 101 Riverside Drive, West Ballina.

There are minimal benefits associated with retaining this part of the public road. The ongoing maintenance and management of this section of unformed public road is a liability for Council.

The outcome of this option is that the land is retained as road under the care and control of Council. Any public access rights would remain.

RECOMMENDATIONS

1. That Council resolves to close the section of public road adjacent to 101 Riverside Drive, West Ballina, subject to all the costs associated with the road closing, survey, legal and infrastructure relocations are to be met by the applicants.
2. That Council authorises the Council seal and signatures to be attached to road closing notices, subdivision plans and associated documents to enable the road closing to proceed.
3. That the existing water main be relocated prior to the closed road being sold to the adjoining land owner.
4. That following the sale of the closed road, the closed road be consolidated with the adjoining land.

Attachment(s)

1. Location Diagram
2. Council Report - 25 January 2018

11.8 Policy (Review) - Backflow Prevention

11.8 Policy (Review) - Backflow Prevention

Delivery Program Water and Wastewater

Objective To review the Backflow Prevention policy.

Background

Council's Backflow Prevention Policy was first adopted in 2007 and subsequently reviewed in October 2014. The purpose of this policy is to outline Council's commitment to appropriate levels of backflow prevention, cross-connection prevention and protection of our water supply. It specifies Council's position where the Plumbing Code of Australia and AS/NZS 3500 provide scope for a local authority's requirements. It also defines Council and stakeholder responsibilities for backflow prevention.

Backflow prevention is required in water supply systems to avoid the flow of liquids in a direction contrary to the normal or intended direction of flow or the unintended flow of water from a potentially polluted source into a drinking or a recycled water supply.

To ensure it continues to reflect contemporary practices and legislative requirements, the policy has been reviewed. That review is the focus of this report.

Key Issues

- Whether the policy meets the requirements of Council and current legislation
- Drinking and recycled water supply system protection
- Legislative requirements

Information

While changes have been made to the policy, content and key elements of the existing policy remain the same. The policy content remains consistent with current legislation, AS/NZS 3500 and Plumbing Code of Australia. The policy has been reformatted and revised to present concise and relevant content.

This review of this policy identified changes as follows:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.
- Slight change to the name of the policy so it more accurately reflects the purpose (inclusion of additional word: Containment)
- Removal of duplication and information provided elsewhere within the policy to improve clarity.

11.8 Policy (Review) - Backflow Prevention

- Removal of definitions from the body of the policy and included within the definitions section to improve clarity.
- Inclusion of a responsibilities section which describes stakeholder and Council responsibilities for installation, commissioning, inspection and maintenance of backflow prevention devices. The intent of this change is to reformat information contained within the current policy to concisely communicate the requirement to submit a registration form and inspection/testing maintenance report.
- Removal of the reference to Council's *Water Meter Policy 2012* which states that it is Council's responsibility for the installation of containment protection for new water services which is priced into the application fee/estimate if required. This requirement is not included within Council's current *Water Meter Policy 2017*. Containment protection, unless built into Council supplied water meters for 20mm and 25mm for low hazard rated properties, is the responsibility of the property owner.
- Inclusion of a statement where the hazard rating is unknown for a commercial, industrial, rural or mixed development, the hazard rating will default to high requiring the installation of a device appropriate for that hazard rating. If the hazard rating varies due to multiple processes or multiple tenants, the highest rating must be applied. This ensures the highest level of protection of Council's water supply, while giving customers the ability to justify a lower hazard rating where appropriate.
- The information on rainwater tanks was reformatted. Information irrelevant to containment protection for rainwater tanks was removed.
- The information on standpipes was separated out into a new policy which is attached to this report. The intent of this change is to make information on the use of metered standpipes more accessible to the community. The objective of this to improve compliance and reduce the risks to Council of uncontrolled or illegal access to our water supply system.
- Additions to the metered standpipe policy of provision for Council to provide metered standpipes for short term hire. This provision will provide flexibility for community members who may need a standpipe in the short term, however do not need to buy their own standpipe and register it with Council for a full year. This availability will also reduce any perceived motivation for water theft from Council's mains.

The changes have been marked in yellow and proposed deletions are struck through.

The policy intent is considered to be contemporary and reflects current legislation therefore no further changes are recommended.

Copies of the new and amended policies are attached to the report.

Sustainability Considerations

- **Environment**
The effective management of the urban water supply reduces the risk of environmental impacts from this service.
- **Social**
The previous policy and the proposed changes will ensure the safety of water users.
- **Economic**
Effective management of the urban water supply supports economic development in the Shire.

Legal / Resource / Financial Implications

The proposed changes ensure Council continues to meet its legal obligations relating to backflow prevention. Council is responsible for the quality of water supplied to its customers. Water service connections are required to have backflow prevention devices in accordance with the Plumbing Code of Australia and AS/NZS 3500. Council also implements and maintains a water quality management system. The implementation of an appropriate Backflow Prevention Policy is an important element of such a management system.

There are different backflow prevention devices which can be installed depending on the hazard rating of the property. AS/NZS 3500 defines three degrees of hazard associated with cross-connection and backflow. Under this policy, all properties require a backflow prevention device. Properties identified as medium or high hazard require a testable backflow prevention device. This results in some costs to the property owner to ensure that a testable backflow prevention device is installed in accordance with AS/NZS 3500 and registered with Council. Testable backflow prevention devices require ongoing annual inspection and testing by a NSW licensed plumber.

It is a legal requirement for councils to implement, manage, and monitor backflow prevention measures to ensure the safety of users. An Authority based Backflow Prevention Register has been developed to register and record those properties with backflow prevention. The register is used to monitor property owners' compliance with annual inspection and testing requirements.

Provision for Council to provide metered standpipes for short term hire will provide flexibility for community members who may need a standpipe in the short term, however do not need to buy their own standpipe and register it with Council for a full year.

There will be a cost to the customer for hire and a bond fee in the case of damage to, or theft of standpipe.

It is proposed to commence hire of standpipes from 1 January 2019, with a bond of \$1,800 and a weekly hire rate of \$100.

11.8 Policy (Review) - Backflow Prevention

The relevant bulk water charge (drinking or recycled water) would apply to water extracted using the hydrant. This approach and the quantum of the fee is consistent with other councils in the region.

The implementation of the policy is supported by internal procedures to ensure compliance with regulatory and other requirements.

Consultation

In a policy direction sense, the proposed changes are minor and it is recommended that Council adopt the policies as presented, however the documents 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.

Section 610F of the *Local Government Act 1993* requires public notice of proposed fees for a minimum period of 28 days.

It is recommended that the proposed hire and bond fees for standpipes be exhibited concurrently with the new policy.

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. The changes included are largely housekeeping therefore it is recommended that the policies 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 Containment Backflow Prevention policy, as per attachment 1, to this report.
2. That Council adopts the new Metered Standpipes policy, as per attachment 2, to this report.
3. That Council place these policies 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.
4. That Council, in accordance with section 610F of the *Local Government Act 1993*, give public notice of the fees proposed in this report for standpipe bond (\$1,800) and hire (\$100 per week), concurrently with the policies on exhibition. If no submissions are received then the fees will be determined as adopted by Council for implementation on 1 January 2019.

Attachment(s)

1. Policy (Review) - Containment Backflow Prevention
2. Policy (New) - Metered Standpipes

11.9 Policy (Review) - Urban Vegetation on Public Land

11.9 Policy (Review) - Urban Vegetation on Public Land

Delivery Program Open Spaces and Reserves

Objective To review the Urban Vegetation on Public Land Policy.

Background

The purpose of this report is to review the Urban Vegetation on Public Land policy. The report is in response to the following resolution of Council from 23 February 2017 whereby the Significant Tree register was proposed and allocated a budget to proceed.

“3. That Council undertake a review of the Urban Vegetation on Public Land Policy as part of this process.”

This report is also in response to the following resolution of Council from 25 January 2018. A Notice of Motion was presented to use best practice risk management, tree preservation and community consultation methods;

“That Council, as part of the review of the Urban Vegetation on Public Land Policy and the preparation of the significant tree register, engage a suitably qualified consultant, with academic and operational experience in the management of trees, to assist Council in developing a tree management framework that represents best practice”.

The Council first adopted this policy in August 2010 and it was reviewed in February 2015 and again on 29 September 2016. A copy of the existing policy is included as Attachment 1.

It was envisaged the Significant Tree Register and the Urban Vegetation Policy were separate, interrelated documents.

However in reviewing the policy, the benefits of an integrated approach were assessed and the revised policy presented to Council includes the arrangements for the Significant Tree Register.

The information in this report describes the proposed changes and the development of the updated Urban Vegetation Policy. The component in relation to the Significant Tree Register follows the directions of Council established in previous reporting and briefing sessions.

Key Issues

- Compliance with current legislation and best practice management.
- Risk management of trees on public land

Information

To assist with the review of this policy Council engaged Tree Wise Men Australia Pty Ltd, an Arboricultural consultancy providing expert advice to the private and public sectors across a broad range of Arboricultural areas.

This advice includes comprehensive analysis of amenity tree problems and Expert Witness testimony in Local, NSW and Supreme Courts. Their consulting team background is included as Attachment 2.

In addition the expert consultants also attended a site visit of Ballina Shire's urban streetscapes with Council staff to gain an in-depth understanding of local arboricultural issues.

The review has presented opportunities to update legislative changes and contemporary practices as well as provide relevant additions and further improvements on how the content of the policy is presented.

The policy has been edited and updated based on legislative requirements, recommendations from the consulting Arborists (Tree Wise Men), input from Council's insurer, Council staff and desktop reviews to ensure current best practice in urban vegetation management.

Whilst key elements of the existing policy have largely been retained, improvements to formatting, tree asset and risk management, liability, tree pruning and removal and consultation have been applied to the policy.

The main changes are outlined as follows.

Definitions

Links to industry qualifications, Australian Standards and guidelines are now included to ensure consistent and contemporary definitions. This includes multiple new definitions across the policy.

Tree Planting

The policy reflects a risk management approach as required by Council's insurer.

Examples of risk mitigation include root barriers and root vaults and improved road and pathway design.

Nursery tree stock specifications are now aligned to the current Australian Standard AS 2303-2015 Tree stock for landscape use.

This particularly applies to developers to ensure Council receives quality tree assets for the future.

Water sensitive urban design principles are now included in nature strip design and refurbishment advice. Trees and vegetation on nature strips play an important role in mitigating erosion by stormwater and improving water quality. Residents will be guided to use vegetation to manage erosion and keep waterways clean whilst maintaining porous surfaces.

11.9 Policy (Review) - Urban Vegetation on Public Land

Community involvement is expanded to include the “Benefit of Trees” community education program. This has been successfully applied by other councils to help positively promote trees.

Providing such beneficial messages to the community via Council’s website and correspondence will assist in the community acknowledgement for the benefits of trees.

The policy adds the “Sponsor a Tree” program for the community to sponsor trees and donate to the environment whilst receiving a certificate.

This is contemporary to existing community demand and rewarding to the community members involved.

Tree Asset Management

Reinforces Council’s insurer requirements to survey the quantity and quality of the tree resource into a Tree Inventory of which Council is responsible.

This would in turn establish Council’s level of risk and priority for tree management under this policy.

Significant Tree Register

The Significant Tree register provisions in this policy are new and will apply to public land only.

However the Significant Tree Register will also identify significant trees which are located on private land.

In-so-far as tree management works located on private urban land are concerned, including works to identified significant trees, these are subject to the provisions contained in Ballina Shire Development Control Plan 2012 – Chapter 2a Vegetation Management.

Such controls include requirements to obtain development consent for certain works. No further DCP controls are proposed for significant trees located upon privately owned urban land as current controls are considered adequate.

Potential significant trees located in rural areas have not been considered as Council is not the regulatory authority for these trees under the provisions of the State Environmental Planning Policy (Vegetation in Non-Rural Areas).

The relevant regulatory authority is Local Land Services under the provisions of the Local Land Services Act 2013.

The Significant Tree Register will be displayed on Council’s website. The notification requirements for pruning or removal of Significant Trees have been significantly increased to ensure the community is informed and has allowance to manage immediate life and property hazards.

The register will be updated regularly allowing for residential input.

11.9 Policy (Review) - Urban Vegetation on Public Land

Attachment 3 contains one of the completed data sheets included within the Significant Tree Register (STR). The STR currently consists of 233 data assessment sheets which together contain a reference to approximately 1,050 trees.

In terms of where these trees are located, a review of the data assessment sheets has found that approximately 80% of the potential Significant Trees are located on Council land (park or road reserve), 1% on other Government owned land and the remainder (approximately 200 trees) on private property.

Tree Works

The policy improves Council's risk management and tree works protocols through clearly identifying industry qualification, Australian Standards compliance and meeting Council's insurance requirements.

A large efficiency and resource improvement to the policy is requiring residents to apply for tree works on public land and provide actual evidence for the reason they are complaining about in order for Council to accurately prune or remove a public tree.

Evidence could include Arborists reports, surveys, engineering and storm water plans and DNA root identification.

This aligns with the Australian Standards for assessing trees and will remove many of the speculative and disguised "Non Acceptable" reason tree complaints that consume staff time whereby otherwise resources can be directed to priority tree risk situations.

This will help staff address exactly what the hazard or damage is when presented to Council and to then mitigate and compensate as required.

This is an efficient approach in a litigious environment and best practice for our level of resource as recommended by the consultancy "Tree Wise Men".

The Table 1 "Acceptable and Unacceptable Reasons for Removal and Pruning Trees on Public Land" has been expanded and updated.

Additionally the "Acceptable Reasons" have been split into two parts with Part A covering immediate life and property hazards and Part B covering lower risk situations. This is for the purpose of better managing notifications to the community.

High risk situations unlike low risk situations will not always be able to allow for community notifications if for example a tree starts to fall without notice and is dangerously hanging across a house or road.

Notifications of Tree Works

Notifications of tree pruning and removal works to the public have been expanded to address community concerns and opportunity for involvement.

With tree pruning and removal undertaken on an as needs basis restricted by the "Acceptable Reasons", notification levels have been established to balance operational capacity and community expectations.

Improvements have been made by both increasing the levels of community consultation and provide greater clarity around the notification procedures. Adopted significant trees would trigger an even greater notification requirement.

General operational pruning of trees will not require notifications as these are daily works ensuring mostly hazards and legal clearances for pedestrians and vehicles are legally complied with.

Additionally in some hazardous situations there may be no time to notify the public if life or property is of high risk.

Resident Funded Tree Works

Whilst this opportunity has existed and has been popular for the removal of weed trees, the requirements have been enhanced to ensure that only qualified and insured arborists with appropriate safety management systems are used.

Tree Root Management

Changes made to “Acceptable Reasons” for root pruning whereby un-engineered segmental paving is also the baseline excluded from root pruning until engineered structures are affected.

Risk Management

Current risk management provisions have been expanded to ensure best practice technical capacity is employed. This includes utilising suitably experienced and qualified Arborists using an industry professional tree risk assessment methodologies such as the “Tree Risk Assessment Qualification” (TRAQ) or the “Quantified Tree Risk Assessment” (QTAR).

These methodologies ensure arborists know the fundamentals of tree risk assessment by learning a standardised, systematic process for assessing tree risk and providing information to tree owners and risk managers for making informed decisions that will promote the safety of people and property and enhance tree benefits, health, and longevity.

The policy now also aligns with Council’s insurer tree risk management strategies through provisions for visual assessment followed by risk assessment and determination of the appropriate risk strategy.

These risk management strategies cover a broad range of tree maintenance areas and include but are not limited to root management, preventative tree maintenance, pathway modification, trip point monitoring and boring for services.

Additionally stormwater drainage and repairs often affecting tree roots has been aligned to the Australian standard for protecting trees on development sites ensuring tree health is maintained during stormwater works.

11.9 Policy (Review) - Urban Vegetation on Public Land

Urban Subdivision Vegetation Buffers

Vegetation buffer requirements have been established for Council owned land/public reserves and for land to be dedicated to Council as part of urban subdivision development.

This is to provide legal surety and reduce tree hazards, tree health impacts and maintenance costs being transferred to future generations.

The use of suitable buffers would ensure the urban bushland and residential interface are adequately planned for and protected.

A 40m fig tree buffer applies to all species of fig trees and includes the average 20m distance of trunk to dripline (full maturity canopy) and the remainder 20m as the actual buffer.

This is consistent with the Ballina DCP and suitable for mitigating the invasive root management issues often extending further into the urban environment.

With these improvements and additions, the policy is otherwise considered to be contemporary and reflects current legislation and industry best practice therefore no further changes are recommended.

A copy of the amended policy is included as Attachment 4.

Sustainability Considerations

- **Environment**

The best practice management of urban vegetation provides valuable environmental benefits that include: wildlife habitat, species diversity improvements, cooling of urban environments, release oxygen and trap airborne pollutants.

- **Social**

Enhancing the amenity of urban streetscapes and public reserves and plays a significant role in determining the urban character of towns.

- **Economic**

Better managed and protected urban vegetation reduces risk and liability whilst matching policy to available resources.

Legal / Resource / Financial Implications

Council has the responsibility to balance the protection of vegetation with the management of risk. This policy provides the framework for this risk management to occur having regard to the financial resources of Council.

The use of delegated authority to trained technical officers, making decisions in accordance with this policy, relevant standards and procedures is preferred for consistency and efficiency.

Notwithstanding this, it is recognised from time to time that community concerns will emerge that may require reporting to Council to determine the matter.

Consultation

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 or recommendations from industry professionals; 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 Urban Vegetation on Public Land Policy, inclusive of the Significant Tree Register, as per Attachment 4, 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 (Existing) - Urban Vegetation on Public Land
2. Tree Wise Men Consulting Team - Background
3. Field Assessment Sheet
4. Policy (Review) - Urban Vegetation on Public Land

11.10 Policy (Review) - Donations - Insurance for Environmental Volunteer Groups

11.10 Policy (Review) - Donations - Insurance for Environmental Volunteer Groups

Delivery Program Open Spaces and Reserves

Objective To review the Donations - Insurance for Environmental Volunteer Groups Policy

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 – Insurance for Environmental Volunteer Groups policy.

Council first adopted this policy in July 2005, and reviewed the policy in September 2010 and December 2014.

Key Issues

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

Information

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

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.

The changes have been marked in yellow.

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**
The policy assists community groups in their endeavours to achieve improved environmental outcomes.
- **Social**
Supporting community groups assists to promote social cohesion in the community.

11.10 Policy (Review) - Donations - Insurance for Environmental Volunteer Groups

- **Economic**

Work undertaken by volunteers assists the community to meet its objectives without economic impacts.

Legal / Resource / Financial Implications

The policy currently operates within the existing Council 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 house-keeping 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 – Insurance for Environmental Volunteer 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 - Insurance for Environmental Volunteer Groups

12. Public Question Time

12. Public Question Time

13.1 Rescission Motion - Planning Proposal - Skennars Head

13. Notices of Motion

13.1 Rescission Motion - Planning Proposal - Skennars Head

Councillor Cr Meehan
Cr Wright
Cr Johnston

We move

That Resolution 251018/5, as follows, be rescinded:

9.1 Planning Proposal - Skennars Head Expansion Area B1 and R3

251018/1 RESOLVED

(Cr Nathan Willis/Cr Keith Williams)

That the matter be deferred to a Councillor Briefing to give further consideration to a reduction in the neighbourhood commercial zone and commercial floor space ratio.

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

1. *That Council endorses the amendment of Ballina Local Environmental Plan 2012 as detailed in the exhibited Planning Proposal BSCPP17/010 – Skennars Head Expansion Area B1 and R3.*
2. *That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP17/010 – Skennars Head Expansion Area B1 and R3 under delegated authority subject to the following:*
 - *Confirmation of the agreement of the Secretary of the Department of Planning and Environment with respect to identified inconsistencies with s9.1 (s117) Ministerial Directions; and*
 - *Confirmation being received from Air Services Australia and the Civil Aviation Safety Authority that they raise no substantive objection to the planning proposal.*
3. *That persons who made submissions to this planning proposal be advised of the Council's decision.*

COUNCILLOR RECOMMENDATION

That Resolution 251018/5, as follows, be rescinded:

That the matter be deferred to a Councillor Briefing to give further consideration to a reduction in the neighbourhood commercial zone and commercial floor space ratio.

Attachment(s) - Nil

13.2 Notice of Motion - Use of Council Facilities

13.2 Notice of Motion - Use of Council Facilities

Councillor Cr Williams
Cr Willis

We move

1. That Council amend our Child Protection Policy to include the following sentence:
'The Council reserves the right to restrict the use of Council services and resources by customers on grounds of child protection where the Council believes that provision of the service would pose a potential for child abuse.'
2. That Council supports the General Manager in amending our Statement of Business Ethics, in accordance with the attachment to this notice of motion, to reinforce that Council acts fairly and without bias but subject to the public interest in respect to access by customers to our services and resources.
3. That based on these principles, Council authorises the General Manager to suspend access to the hiring of Council facilities for Universal Medicine based on the findings made in the defamation case as recently reported in the Northern Star.

Staff Comments

This notice of motion has been drafted in consultation with Lindsay Taylor Lawyers (LTL). Key points from the LTL advice are:

- There is no known rule under applicable anti-discrimination legislation that would prevent the Council from discriminating against a person in respect of access to or the use of Council facilities, services or resources on proper grounds such as, but not limited to, concerns for the welfare of children, particularly when the concerns are reasonably held by the Council based on reliable information in the public domain such as the court case reported in the Northern Star.
- The Council's Guiding Principles in s8A of the *Local Government Act 1993* ('**LG Act**') require the Council to act fairly, ethically and without bias in the interests of the local community. Similarly, the Council's Community Strategic Plan, is based on the social justice principles determined by the NSW Government relevantly in relation to access that – *'All people have fair access to services, resources and opportunities to meet their basic needs and improve their quality of life.'*
- The way in which these principles are applied is governed by what is in the interests of the local community in any particular case. The community interest is pre-eminent. It cannot be the case that these principles should be applied where the result of doing so would not be in the community interest, such as allowing a business operated by a person such as Mr Benhayon to have access to, and the use of, Council facilities in light of the findings made in the case reported in the Northern Star.
- It is neither unlawful discrimination nor contrary to the Guiding Principles in the LG Act or the social justice principles in the Community Strategic Plan for the Council to deny Universal Medicine and Mr Benhayon access to, and the use of, Council facilities in light of the findings made in the case reported in the Northern Star Article.
- In relation to the Child Protection Policy, it would be appropriate to propose the following amendment:
'The Council reserves the right to restrict the use of Council services and resources by customers on grounds of child protection where the Council believes that provision of the service would pose a potential for child abuse.'

13.2 Notice of Motion - Use of Council Facilities

In respect to the reference to the Statement of Business Ethics in the proposed motion, this is a document that has been formulated by staff to emphasise the standards which Council wishes to see applied by suppliers, contractors and consultants when engaging in business activities with Council.

The document is located on the tenders and procurement section of our website and is included in tender / quotation documents. LTL has provided recommended changes to that document so that it also provides guidelines for customers. The amended document is attached with the existing version available on the Council website.

It is proposed to replace the existing version with this updated version. This document is an operational document managed by Council staff therefore it is not necessary for Council to formally adopt the document.

A copy of one article relevant to this notice of motion, as published in the Northern Star, is also attached.

COUNCILLOR RECOMMENDATIONS

1. That Council amend our Child Protection Policy to include the following sentence:

'The Council reserves the right to restrict the use of Council services and resources by customers on grounds of child protection where the Council believes that provision of the service would pose a potential for child abuse.'

2. That Council supports the General Manager in amending our Statement of Business Ethics in accordance with the attachment to reinforce that Council acts fairly and without bias but subject to the public interest in respect to access by customers to our services and resources.
3. That based on these principles, Council authorises the General Manager to suspend access to the hiring of Council facilities for Universal Medicine based on the findings made in the defamation case as recently reported in the Northern Star.

Attachment(s)

1. Statement of Business Ethics (amended)
2. Northern Star Article - 19 October 2018

13.3 Notice of Motion - Local Environmental Plan Amendment - Water Extraction

13.3 Notice of Motion - Local Environmental Plan Amendment - Water Extraction

Councillor

Cr Jeff Johnson

I move

1. That Council receives a report on options to amend the LEP to prohibit water extraction for the purposes other than for agricultural or domestic uses.
2. That Council write to the relevant State Government Departments and the Minister for Primary Industries, Lands and Water, Mr Nail Blair and other relevant Ministers calling for a halt to any new water licences for non-agricultural purposes such as bottled water within the Ballina Shire. As part of this correspondence clarification is requested on whether existing licences can be transferred to third parties for non-agricultural uses.
3. That Council engage with Rous Water with regards to water supply security for the Ballina Shire and neighbouring councils.

Councillor Comments

The business of water extraction, or water transfer, appears to be growing in popularity, with Tweed Shire Council dealing with a number of complex applications in recent years.

It is important that Council is in a position to proactively manage any future applications we may receive, recognising we already have one application under assessment.

As licensing is predominantly a State Government issue it is important that current licensing arrangements reflect the community's expectations and are managed in an environmentally responsible way.

Council needs to ensure that we do all we can to protect our aquifers, particularly on the Alstonville Plateau and other underground water supplies.

The Ballina Shire and neighbouring areas are experiencing strong population growth and it is important that our aquifers and underground water resources are protected or managed in a way that doesn't impact on their long term viability.

Staff Comments

The notice of motion has been prepared in consultation with staff and can be implemented, if supported by Council.

This motion has no impact on the assessment of the current application before Council.

COUNCILLOR RECOMMENDATIONS

1. That Council receives a report on options to amend the LEP to prohibit water extraction for the purposes other than for agricultural or domestic uses.
2. That Council write to the relevant State Government Departments and the Minister for Primary Industries, Lands and Water, Mr Nail Blair and other relevant Ministers calling for a halt to any new water licences for non-agricultural purposes such as bottled water within the Ballina Shire. As part of this correspondence clarification is requested on whether existing licences can be transferred to third parties for non-agricultural uses.
3. That Council engage with Rous Water with regards to water supply security for the Ballina Shire and neighbouring Councils.

Attachment(s)

Nil

13.4 Notice of Motion - Save Our Recycling Campaign Launch

13.4 Notice of Motion - Save Our Recycling Campaign Launch

Councillor

Cr Cadwallader

I move

That Council support the LGNSW campaign to ensure that all political parties, as part of the 2019 State Government election, commit to 100% of the State Government waste levy being reinvested into waste management and recycling activities, which is a substantial increase from the current figure of 18%.

Councillor Comments

LGNSW is calling on all councils to support their campaign to ensure that 100% of the waste levy collected each year is re-invested back into waste management, recycling and resource recovery in NSW.

LGNSW advise that in 2016/17, the NSW Government collected \$726 million from local government, community, businesses and industry via the waste levy, but only committed to use \$72 million through its Waste Less Recycle More initiative – or 10% - on waste minimisation and recycling in 2017/18.

At a local government level, just 18% of the \$300 million collected from the local government sector each year is reinvested in recycling and waste management.

With waste management being such a major issue for all councils it is essential that this funding is returned to councils to allow the monies to be reinvested into new technologies and recycling opportunities, otherwise more and more waste will just end up in landfill.

COUNCILLOR RECOMMENDATION

That Council support the LGNSW campaign to ensure that all political parties, as part of the 2019 State Government election, commit to 100% of the State Government waste levy being reinvested into waste management and recycling activities, which is a substantial increase from the current figure of 18%.

Attachment(s)

Nil

13.5 Notice of Motion - Williams Reserve Plan of Management

13.5 Notice of Motion - Williams Reserve Plan of Management

Councillor

Cr Cadwallader

I move

That Council receive a report on the merits of amending the Williams Reserve Plan of Management to change the category of the precinct currently identified as a natural conservation area to a more generic category that provides improved community outcomes.

Councillor Comments

A number of Lennox Head residents have expressed concerns in respect to the area identified as a natural conservation area, as per the attached extract from the Williams Reserve Plan of Management.

From all reports the area is currently degraded, with items such as syringes being regularly found. It has also become a place for the homeless with tents being erected and Council being required to clean up the rubbish left behind at the site.

I believe there may well be some merit in changing the categorisation of this precinct to allow greater community use and a report would help Councillors to consider those options.

COUNCILLOR RECOMMENDATION

That Council receive a report on the merits of amending the Williams Reserve Plan of Management to change the category of the precinct currently identified as a natural conservation area to a more generic category that provides improved community outcomes.

Attachment(s)

1. Williams Reserve Plan of Management - Extract

13.6 Notice of Motion - Installation of a Shower at The Spit

13.6 Notice of Motion - Installation of a Shower at The Spit

Councillor

Cr Meehan

I move:

That Council install an outdoor shower in the park area adjacent to 'The Spit' car park swimming and dog walking beach, along Kingsford Smith Drive.

Councillor Comments

In response to requests from the public this motion is reasonable and easily completed. People and their pets will benefit.

'The Spit' area is hugely popular for dog walking and swimming. There is ample car parking and tap water in the vicinity of the 'Undercover Park' next to barbeques approximately 30m away.

This shower facility should be installed prior to the Christmas holiday period.

Staff Comments

Staff have previously provided the following response to a resident in respect to this request.

"A beach shower whilst opportunistically requested is not preferred at this location. The nature of the spit sand formation is temporary and mobile, the access off the spit can change and any shower should be located between the beach and infrastructure such as paths and reserves to allow free draining sand and water back to the beach (sand source). The suitable siting in this location is on a mobile rock wall that is unstable and unsuitable for such infrastructure. Locating the shower further inland as requested will create sand and water drainage issues in the low lying area requiring long term ongoing clean up maintenance. A shower would also add to drainage issues causing wet conditions for that precinct area of Missingham Park that is a popular special event location impacting the edges of such events. Showers cost up to \$10,000 to install and in this case a shower at this location was not planned in the improvements, budgeted for nor is suitable for the site."

COUNCILLOR RECOMMENDATION

That Council install an outdoor shower in the park area adjacent to 'The Spit' car park swimming and dog walking beach, along Kingsford Smith Drive.

Attachment(s)

Nil

13.7 Notice of Motion - Monuments and Memorials on Public Land Policy

13.7 Notice of Motion - Monuments and Memorials on Public Land Policy

Councillor

Cr Meehan

I move

That Council revisit the policy regarding donated memorial public furniture.

Councillor Comments

Ballina Shire would clearly benefit from the addition of more outdoor furniture in public areas such as Commemoration Park or Skennars Head beach car park (food trucks) in addition to many other sites. Our community benefits by allowing modest memorial statements, and the provision of infrastructure paid for by individuals and family. I envisage a Council plan of identified appropriate sites across the Shire for families to choose from. The current policy of this donation only being available to 'significant' people is restricting the provision of donated seats and disenfranchising the broad community from the opportunity.

Staff Comments

There has actually been an excess of people wanting to donate furniture in high profile areas and Council needs to balance how this is managed recognizing that over time, as the population grows, there will be more and more requests. Staff are receiving approximately one call a week asking for memorial chairs or memorial related installations and an open ended policy would result in preferred locations being quickly exhausted. The majority of current requests are declined.

Community concerns have also been raised about the sombre nature of increased memorials, when attempting to experience the positive scenic coastal environment, where such increased levels of memorials are more suited to cemeteries. As well consideration of Aboriginal cultural heritage at many coastal locations should be undertaken and respected. Memorial trees without plaques have been the preferred approach to balancing the environment, cultural heritage and social issues.

Council needs to determine whether in the long term it is appropriate for high profile locations to have a number of seats etc donated for specific families and how Council balances the priority for families, as well as promoting a memorial type approach to these popular locations. The preference remains on limiting this type of proposal due to concerns about an excess of furniture in the longer term and an inequity in allocation. The policy was reviewed by this Council in May 2017.

COUNCILLOR RECOMMENDATION

That Council revisit the policy regarding donated memorial public furniture.

Attachment(s) - Nil

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

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

<u>Date</u>	<u>Function</u>
22/10/18	Meeting Adam Mumford and Staff
23/10/18	Meeting - Ellis Road Water Plant
25/10/18	Gallery Opening
27/10/18	Diwali Celebration - Richmond Room
29/10/18	Meeting – John Gosper - Airport
29/10/18	Briefing – Plateau Skate Park
1/11/18	Meeting – DPI – Surf lifesaving
1/11/18	Vocational Service Awards – Rotary Club of Ballina
2/11/18	NRJO Meeting – Kyogle
2/11/18	Youth Frontiers Showcase – Surf Club
2/11/18	Newcastle Permanent – Cinema Under the Stars
2/11/18	Ballina Country Music Fest – Opening
3/11/18	Ballina Country Music Fest Acts around Town
3/11/18	Ballina Country Music Fest – Meet and Greet – Adam Brand
4/11/18	Ballina Country Music Fest – Cherry Street
4/11/18	Commemoration Park Markets
4/11/18	Tsunami Awareness for Ballina – SES – Marine Rescue
4/11/18	Richmond Landcare – 20 Grants in 20 Years – Bagot Park
5/11/18	Church Group
6/11/18	Workshops for staying Safe on the Roads - Surf Club
6/11/18	Ballina Coast High 2019 Targeted Sports Program Launch
7/11/18	Media re Shark Attack at Shelley Beach
7/11/18	Briefing – Festival and Event Sponsorship Program
8/11/18	Workshops for staying Safe on the Roads
8/11/18	Media re Shark Attack Shelley Beach
8/11/18	Meeting - DPI
8/11/18	Meeting – Tony Gilding
8/11/18	Interview – Alstonville students re Skatepark
8/11/18	‘C’ Ward Meeting
9/11/18	2018 Remembrance Day Ceremony – Florence Price Gardens – Cr Cadwallader
9/11/18	CSPC Meeting – Lismore
9/11/18	Novaskill Awards – Jockey Club
10/11/18	Drone Deployment

15.1 Mayoral Meetings

11/11/18	Commemoration Park Markets
11/11/18	Lennox Head Markets
11/11/18	Remembrance Day – Ballina
11/11/18	Remembrance Day – Alstonville - Cr Willis
11/11/18	Lennox Head Nippers
11/11/18	Ballina Pipe Band – Remembrance Day Recital
12/11/18	Meeting – Men’s Shed
12/11/18	Briefing – Skenners Head Development
13/11/18	Workshops for staying Safe on the Roads
13/11/18	‘A’ Ward Committee
13/11/18	Launch ‘Brazen Hussies – Birthday Book’
13/11/18	Alstonville/Wollongbar Chamber Meeting
14/11/18	Meeting – Planners and Tony Gilding
14/11/18	Corporate Training – Media
15/11/18	Briefing – Kentwell Community Centre Leasing Proposals
15/11/18	Briefing – Richmond Tweed Regional Library
16/11/18	Meeting - Marion Whitney
17/11/18	Freedom of Entry to Lismore City 326 Squadron
18/11/18	Commemoration Park Markets
18/11/18	Ballina Markets
18/11/18	Naval Association – Wreath Laying
19/11/18	Participation in PhD Research Project
19/11/18	‘B’ Ward Committee
20/11/18	Community Information Session – Lennox Surf Club
21/11/18	Opening – Parkinson’s Expo – Art Gallery
22/11/18	Council Meeting
22/11/18	2018 Excellence in Engagement Awards – Southern Cross Uni
24/11/18	Commemoration Park Markets
24/11/18	BR4R AGM – Presentation
29/11/18	Gallery Opening
30/11/18	Paul Button - Launch

RECOMMENDATION

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

Attachment(s)

Nil

16. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

16.1 Hardship Relief - Application (Confidential)

Refer to Item 10.4 of this agenda.

16.2 Ballina Sands Quarry - Annual Extraction Limits (Legal)

Refer to Item 8.1 of this agenda.

RECOMMENDATION

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

16.1 Hardship Relief - Application (Confidential)

Reason for Confidentiality

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

- b) the personal hardship of any resident or ratepayer

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the nature of the personal matter.

16.2 Ballina Sands Quarry - Annual Extraction Limits (Legal)

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it involves legal advice and associated reporting that pertains to the nature and content of legal proceedings that may be undertaken.