



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 27 September 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
 2. Acknowledgement of Country
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 5. Declarations of Interest & Reportable Political Donations
 6. Deputations
 7. Mayoral Minutes
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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 23 August 2018 were distributed with the business paper.

A copy of the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Saturday 1 September 2018 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 August 2018.

That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Saturday 1 September 2018.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7.1 Mayoral Minute - Ballina Memorial Swimming Pool - Shade Structure

7. Mayoral Minutes

7.1 Mayoral Minute - Ballina Memorial Swimming Pool - Shade Structure

Councillor

David Wright

I move

That Council reallocate funding of \$120,000 from the Landfill and Resource Management Reserve for 2018/19, that was previously allocated to the Ballina Indoor Sports Centre, to the installation of shade structures at the Ballina Memorial Swimming Pool.

Mayoral Comments

Council has been successful in securing \$3.5m from the NSW State Government to help fund the Ballina Indoor Sports Centre. This is a great outcome and testament to the excellent work undertaken by staff in applying for that funding through a range of grant programs.

The General Manager has already reminded me that this does not mean we have \$3.5m available for other projects as we still need to ensure that the Sports Centre is completed in full, once tenders are finalised.

Council also has essential projects such as the new SES building, and the Lennox Head Rural Fire Shed, which are not funded in our Long Term Financial Plan.

I acknowledge this however it is also important that Council, as a first priority, appropriately completes existing projects. The redeveloped swimming pools have proven to be very popular and one essential item identified is the need for improved shading on the eastern section of the main administration building of the Ballina Memorial Swimming Pool.

There is a large concrete area in this location and with summer approaching the lack of shade in that location will prove to be problematic in operating the kiosk and administration centre for a number of reasons, including overheating and impacting negatively on the condition of food and goods held in that location.

The provision of a reasonable sheltered area will help to reduce the impact of the sun, and excessive winds, along with providing an assembly area for groups such as schools using the facility.

Council staff and the contractors have sourced three quotations for this work with the lowest quotation from Vector Shade Structures, as attached to this Mayoral minute.

Staff Comments

The approval of the \$3.5m in grant funding from the State Government assists Council greatly, in firstly delivering the Ballina Indoor Sports Centre and

7.1 Mayoral Minute - Ballina Memorial Swimming Pool - Shade Structure

secondly in reallocating funds allocated to this project, to other high priority projects.

It is intended to report on a review of our community infrastructure projects once the construction tender for the Ballina Sports Centre has been awarded and the final budget is confirmed.

This matter is discussed in further detail in the open and confidential tender reports for the Sports Centre located elsewhere in this agenda.

When Council does review the funding for the Sports Centre, with the \$3.5m in grant funding now confirmed, options for any surplus funds will include:

- Ensuring any existing projects are completed in full (the Mayoral Minute does somewhat reflect this for the Ballina swimming pool).
- Ensuring we have contingency funds available for projects in the 2018/19 Long Term Financial Plan. Projects that have funding risks include the Skennars Head Sports Fields expansion (sports fields construction regularly tends to result in the need for more works and funding), Lake Ainsworth South-Eastern Precinct (the available budget has been reduced by approximately \$100,000 due to extra planning studies etc), and the Coastal Shared Path and Coastal Walk (both of which are large projects and will be subject to the calling of tenders).
- Reimbursement of the Landfill and Resource Management (LRM) Reserve – Council essentially drained this reserve to fund the Sports Centre and with so many variables in play in respect to waste management it is essential that the reserve retain a reasonable minimum balance.
- Funding other essential projects that are currently not financed in the Long Term Financial Plan (LTFP). For example, Council has a statutory responsibility to finance the replacement of the SES Administration Centre, and the replacement of the Lennox Head Rural Fire Shed, both of which have no funding allocated in the LTFP. The cost of these two projects is likely to be around \$2.5m and they need to be delivered within the next couple of years.

In summary Council needs to ensure we maintain fiscal responsibility and focus on core and essential infrastructure projects for the community, therefore any major decisions on funding allocations need to be subject to a comprehensive report to Council.

The Mayoral Minute does not significantly change these sentiments, although Councillors should ensure that any ad hoc reallocations are minimised.

RECOMMENDATION

That Council reallocate funding of \$120,000 from the Landfill and Resource Management Reserve for 2018/19, that was previously allocated to the Ballina Indoor Sports Centre, to the installation of shade structures at the Ballina Memorial Swimming Pool.

Attachment(s)

1. Shade Shelter Quotation

8.1 DA 2016/510.2 - Review of Determination

8. Development and Environmental Health Group Reports

8.1 DA 2016/510.2 - Review of Determination

Applicant	Julie and Don Priest
Property	Lot 43 DP 11687 No. 3 Rayner Lane Lennox Head
Proposal	Request for Review of Determination - modifications to dwelling design
Effect of Planning Instrument	The land is zoned R3 Medium Density Residential under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan in Attachment 1. The site is also depicted in Figure 1.

Introduction

At the Ordinary Council meeting held on 23 August 2018 the Council determined by way of refusal an application for modifications to a dwelling design submitted under Section 4.55 of the *Environmental Planning and Assessment Act (EPAA) 1979*.

The land the subject of the application is 3 Rayner Lane Lennox Head as shown in Attachment 1 and Figure 1.

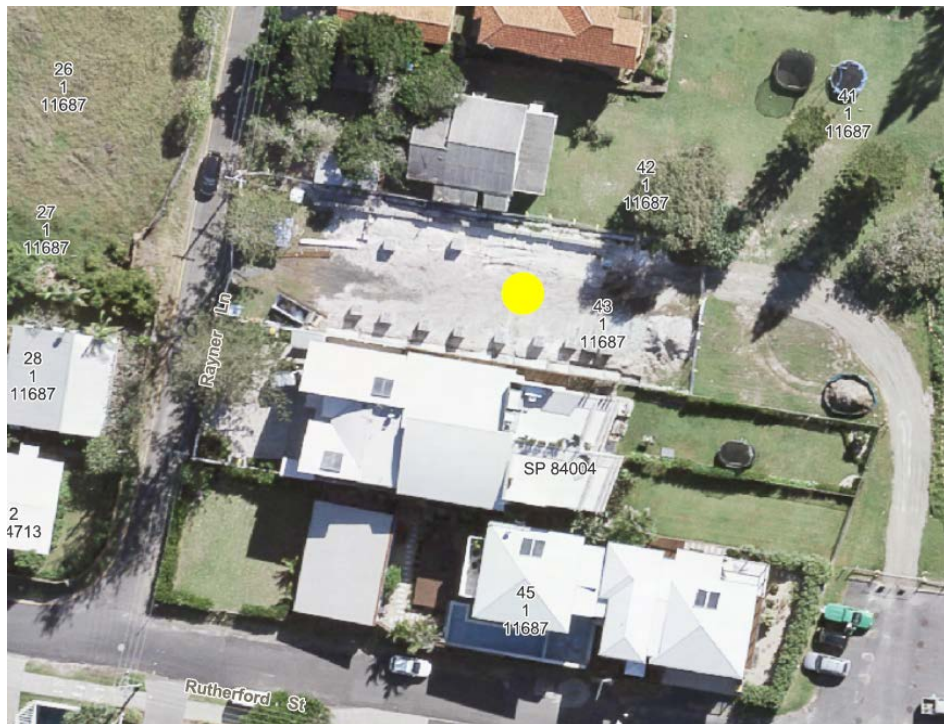


Figure 1: Site locality plan (aerial photography) – 3 Rayner Lane marked by yellow dot

A copy of the report to the 23 August meeting, which provides further detail on the proposed development and modifications sought, is included in Attachment 2.

8.1 DA 2016/510.2 - Review of Determination

The proposed modifications to the dwelling subject to the refusal determination involved the following:

- 1400mm unroofed cantilevered deck and associated balustrade extension eastward of the ground floor north/eastern pool deck resulting in a maximum 857mm projection into the foreshore building line setback;
- Relocation of the ground floor deck stairs from the eastern elevation to the southern elevation of the deck;
- The finished floor levels of the ground and first floor decks off the rumpus and dining room areas are to be raised approximately 70mm to match the floor levels of those internal rooms.

At the 23 August 2018 Ordinary meeting, Council resolved as follows:

That the Section 4.55 application made in relation to DA 2016/510.2 under the Environmental Planning and Assessment Act 1979 for amendments to the plans for a dwelling and pool, involving the raising of the ground/first floor deck levels, an increase in width of the ground floor north/eastern deck by 1400mm and the relocation of the approved stairs to the ground floor south/eastern deck from the eastern to the southern elevation be REFUSED as the encroachment of the deck extension into the foreshore building line is contrary to the objectives of DCP 2012, having an adverse impact on the amenity of the locality and the stair relocation having an unreasonable impact on the amenity of adjoining residents.

The owners of the property have now requested a review of this refusal determination as contained in Attachment 3.

The submission details the reasons the owners are seeking the modifications including their justification for the deck encroachment into the foreshore building line and the need to relocate the stairs.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The objectors who made submissions to the modification application have been notified in writing of the request for review being submitted to Council for determination. No responses have been received at the time of preparing this report.

Report

The owners have made the request for the review of the refusal under Division 8.2, Sections 8.2 and 8.3 of the *Environmental Planning and Assessment Act 1979*.

Section 8.3 also enables an applicant to amend the proposal as part of the review process, providing Council is satisfied the amended development is essentially the same development.

8.1 DA 2016/510.2 - Review of Determination

In this particular instance, the applicant is requesting a review of the 23 August 2018 refusal of the modification application. The request is for Council to change its refusal decision to approval of the modifications as submitted. As part of the review process, the applicant has presented a second option for Council to consider as part of the review in the event the Council is of a mind to not alter the original refusal decision relating to the original cope of works relating to the deck, stairs and finished floor levels.

The applicant has indicated a preparedness to amend the building plans further by relocating the proposed deck encroachment behind the building line.

The other proposed modifications as originally proposed are intended to remain, being the relocation of the stairs and raising of floor levels.

An amended plan showing the deck located behind the foreshore building line that accompanied the applicant's request for review is depicted below in Figure 2.

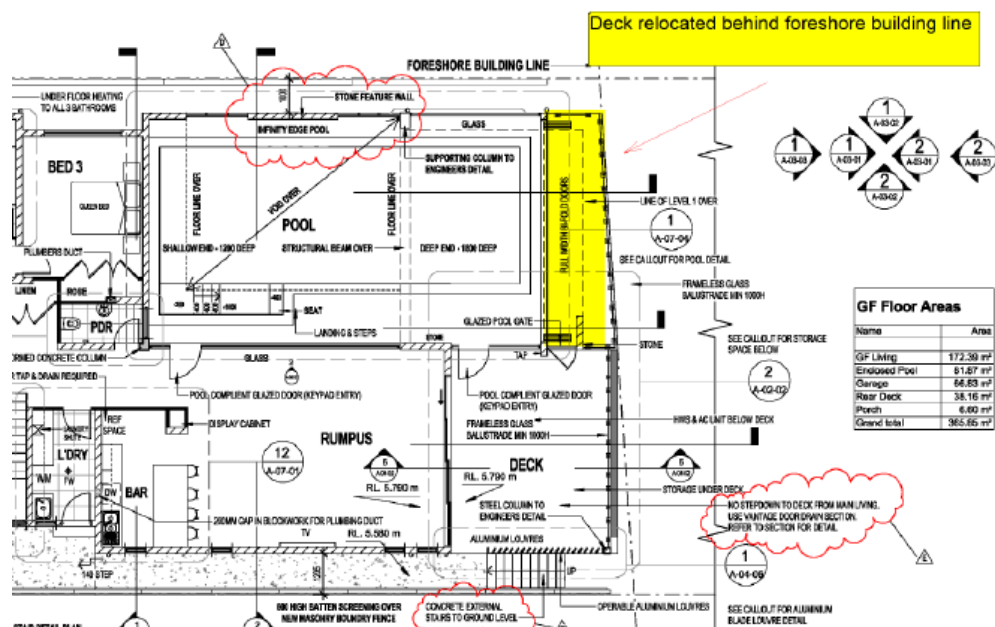


Figure 2: Amended plans depicting relocation of deck behind foreshore building line

Options

The following options are available to Council:

1. Uphold Council's refusal of the original modification application as determined at 23 August 2018 Ordinary Council meeting for the reasons stated.
2. Change Council's determination of refusal at 23 August Ordinary Council meeting to a determination of approval of the modification application as submitted and reported to the August meeting.
3. Determine the review of determination by way of approval of the latest amended plans as depicted above (Figure 1), with the deck foreshore building line encroachment being removed and the deck located fully

behind the foreshore building line. Should Council adopt this option, the following additional condition will be placed on the consent:

A privacy screen, measuring 2000mm length x 800mm depth is to be provided on top of the existing southern boundary blockwork wall adjacent the doorway opening, stair landing and stairs off the ground floor south/eastern deck.

This condition would be applied to improve the privacy outcome associated with the relocated stairs for the adjoining property to the south

4. Refuse all options submitted by the applicant and uphold Council's refusal determination at Ordinary Council meeting dated 23 August 2018.

The request for the review of Council's refusal determination at meeting dated 23 August 2018 is referred to Council for consideration and determination.

Summary

Staff remain of the view that the originally proposed modifications to the dwelling house would not result in a significant adverse impact on the general amenity of the area or adjoining residents. Therefore the preferred recommendation remains as per the report to 23 August 2018 Ordinary meeting.

However, it is recognised that these modifications included an encroachment into the applicable foreshore building line. Having regard for the concern raised in relation to the foreshore building line encroachment, and the alternative approach regarding the deck proposed (see Figure 2), for the purposes of this report, it is recommended that the Council changes its original determination of refusal as set out in Option 3.

In this regard, it is recommended that the Council approves the modifications sought in line with the further modified plan (figure 2) which results in the deck alterations being located wholly behind the foreshore building line.

In addition to the changes to the eastern ground floor deck area, approval of the modifications as recommended includes:

- Relocation of the ground floor deck stairs from the eastern elevation to the southern elevation of the deck; and
- The finished floor levels of the ground and first floor decks off the rumpus and dining room areas are to be raised approximately 70mm to match the floor levels of those internal rooms.

RECOMMENDATIONS

1. That following its review of determination, Council **APPROVES** the Section 4.55 application made in relation to DA 2016/510 under the *Environmental Planning and Assessment Act 1979* for amendments to the plans for a dwelling and pool, involving the raising of the ground/first floor deck levels, an increase in width of the ground floor north/eastern deck (as shown in the plans associated with Figure 2) and the relocation of the approved stairs to the ground floor south/eastern deck from the eastern to the southern elevation.
2. The following condition is to be included within the approval:
 - A privacy screen, measuring 2000mm width x 800mm depth is to be provided on top of the existing southern boundary blockwork wall adjacent the doorway opening, stair landing and stairs off the ground floor south/eastern deck.

Attachment(s)

1. Location Plan
2. 23 August Ordinary meeting - Report
3. Review of Determination - Request

8.2 Legal Proceedings - 404 Old Byron Bay Road, Newrybar

8.2 Legal Proceedings - 404 Old Byron Bay Road, Newrybar

Delivery Program Development Services

Objective To seek Council's direction regarding the commencement of legal proceedings for unauthorised development works within a 7(d1) Environmental Protection (Scenic Escarpment) Zone and with respect to a pollution event arising from those works.

Background

On 7 December 2016, a Council officer attended a property at 404 Old Byron Bay Road, Newrybar in relation to a complaint regarding the construction of a road within the subject premises.

A conversation with the landowner indicated that works were being undertaken to maintain an existing road within the subject premises. No further follow up action was taken at this time.

On 18 October 2017, Council received development application DA 2017/584 for the construction of a dwelling house within the subject premises.

This application was subsequently withdrawn on 14 December 2017.

As a result of the withdrawal of DA 2017/584 and a number of complaints, Compliance officers subsequently inspected the subject premises on 6 February 2018.

Council officers observed works within the subject premises that required investigation. These works included:

- 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 creek/waterbody
- the removal and poisoning of vegetation
- a pollution incident, whereby soil had been deposited into a creek/waterbody as a result of the above works and
- the installation of drainage works.

A check of Council records did not locate any approvals for any of these abovementioned works.

The land within the subject premises upon which these works were carried out is zoned 7(d1) *Environmental Protection (Newrybar Scenic/Escarpment) Zone* under the provisions of the *Ballina Local Environmental Plan 1987* ("BLEP 1987").

Clause 23 of the BLEP 1987 provides that:

23 Development within Zone No 1 (d), 7 (c), 7 (d), 7 (d1), 7 (f), 7 (i) or 7 (l)

A person shall not, on land within Zone No 1 (d), 7 (c), 7 (d), 7 (d1), 7 (f), 7 (i) or 7 (l): (Emphasis Added)

(a) notwithstanding clause 8 of the Environmental Planning and Assessment Model Provisions 1980, cut down, top, lop or otherwise destroy a tree (other than a tree planted for commercial or landscaping purposes), or (Emphasis Added)

(b) clear, fill or otherwise alter the surface level of land, (Emphasis Added)
without the consent of the council. (Emphasis Added)

With respect to the pollution incident, a “*pollution incident*” for the purposes of the *Protection of the Environment Operations Act 1997* (NSW) is defined as:

“Pollution incident” means an incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.

Environmentally unsatisfactory manner is defined in Section 95 of the *Protection of the Environment Operations Act 1997* (NSW) as:

95 Meaning of environmentally unsatisfactory manner

For the purposes of this Part an activity is carried on in an environmentally unsatisfactory manner if:

- (a) it is carried on in contravention of, or in a manner that is likely to lead to a contravention of, this Act, the regulations or a condition attached to an environment protection licence (including a condition of a surrender of a licence) or an exemption given under this Act or the regulations, or*
- (b) it causes, or is likely to cause, a pollution incident, or*
- (c) it is not carried on by such practicable means as may be necessary to prevent, control or minimise pollution, the emission of any noise or the generation of waste, or*
- (d) it is not carried on in accordance with good environmental practice.*

As a result of this inspection, Council issued a direction to take preventative action to the landowner of the subject premises.

The notice required the landowner to take the following preventative action:

- 1. Install sufficient erosion and sedimentation control measures within the vicinity of the creek/waterbody near the unauthorised road crossing to prevent the transportation of sediment laden water into the waterbody. Any erosion and sedimentation control measures should be installed in accordance with the provisions of the “Managing Urban Stormwater – Soils and Construction Guide, Volume 1 dated March 2004, www.environment.nsw.gov.au/resources/water/BlueBookVol1.pdf.*
- 2. Install sufficient erosion and sedimentation control measures within the culverts adjacent to the unauthorised road works within the subject premises to minimise scouring of the culvert and to prevent the transportation of sediment laden waters downstream towards the waterbody within the subject premises. Any*

8.2 Legal Proceedings - 404 Old Byron Bay Road, Newrybar

erosion and sedimentation control measures should be installed in accordance with the provisions of the "Managing Urban Stormwater – Soils and Construction Guide, Volume 1 dated March 2004, www.environment.nsw.gov.au/resources/water/BlueBookVol1.pdf.

3. *Remove the existing hay bales being utilised for erosion protection measures and replace them with new hay bales wrapped in geotextile fabric to prevent degradation of the bales and the transporting of additional materials into the existing waterbody within the subject premises.*

A subsequent inspection revealed that the landowner undertook the required works to comply with Council's Prevention Notice.

Council also issued written correspondence to the landowner seeking an explanation in relation to the following:

1. The reasons for the construction of a road, the installation of road culverts and pipework and the removal and poisoning of vegetation works and the reasons why a development application was not lodged with Council prior to the undertaking of the works; or in the alternative,
2. Documentary evidence to legitimise the construction of a road, the installation of road culverts and pipework and the removal and poisoning of vegetation works, demonstrating how the aforementioned works have been constructed and/or carried out lawfully with the requisite consents and approvals, and
3. What steps would now be taken to address unauthorised works.

Council received a detailed response to these matters and was advised that a development application would be lodged for the construction of a dwelling using the road the subject of the works as access.

Based on the information available Council has the option of undertaking legal action and this report seeks Council direction in respect to any action.

Key Issues

- Compliance with planning instrument provisions
- Unauthorised works within environmental protection zone
- Pollution incident
- Approach to legal action

Information

Development Application DA 2018/381 was subsequently lodged with Council and is currently under assessment. It is intended that this DA will be reported to Council in due course.

When a development application is before Council for assessment and determination, it is generally accepted that no legal action is contemplated for any unauthorised actions which may be legitimised and/or otherwise remediated by the subsequent favourable determination of that development application.

8.2 Legal Proceedings - 404 Old Byron Bay Road, Newrybar

This is due to the requirements of the *Environmental Planning and Assessment Act 1979* (NSW), which states, in part, at Section 9.46:

124 Orders of the Court

- (3) *Where a breach of this Act would not have been committed but for the failure to obtain a consent under Part 4, the Court, upon application being made by the defendant, may:*
- (a) *adjourn the proceedings to enable a development application to be made under Part 4 to obtain that consent.*

Council's adopted *Enforcement Policy* states at Clause 3.5:

3.5 Would consent have been given if it had been sought?

In the absence of aggravating circumstances, Council should be less inclined to proceed with legal action if the unlawful activity could be carried out lawfully if consent had been sought. In these circumstances, Council might consider deferring action to allow the owner time to lodge an application for assessment.

It is also noted that a Council officer attended the subject premises in December 2016 in relation to this matter.

Under the provisions of Section 9.57 of the *Environmental Planning and Assessment Act 1979* (NSW), legal proceedings must be commenced within two years of the matter coming to the attention of the Council.

This means that legal action, if it is required, must commence before 7 December 2018.

To meet this timeline, any Council resolution recommending legal proceedings would need to be filed with Council's solicitor before 9 November 2018.

Given that DA 2018/381 is currently under assessment and a time frame for this matter to be determined is uncertain, this report seeks a Council decision on whether legal proceedings should be commenced prior to the determination of DA 2018/381.

Sustainability Considerations

- **Environment**
The commencement of proceedings would provide an avenue for the address of environmental and amenity issues associated with the works on the land.
- **Social**
The commencement of proceedings would provide a deterrent to other landowners within the Ballina Shire.
- **Economic**
The commencement of any proceedings would have an economic impact on the landowners as legal proceedings are costly.

Legal / Resource / Financial Implications

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

Council has sought the advice of CH Law and is acting in accordance with this advice.

Consultation

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

Options

Council has a number of options as to what form of action, if any, it wishes to take for the unauthorised works and pollution incident within the escarpment zone of the subject premises. The options are fully outlined in the *Council Enforcement Policy* (hereinafter referred to as the "Enforcement Policy").

In determining a suitable response to this matter Council will need to give consideration to the requirement for a general deterrent that the failure to comply with legislative requirements is not acceptable.

Should Council decide to take minimal action for the unauthorised works and pollution incident within the escarpment zone of the subject premises, it could create an undesirable situation that may result in similar non-compliances being undertaken.

In the interests of an even and fair approach, particularly for those who seek the necessary approvals before carrying out development, Council is aiming for high levels of compliance throughout the Shire.

Having regard for the considerations for legal action as outlined in Part 3 of the Enforcement Policy and the need for a clear deterrent to the general public, it is considered that further enforcement action is warranted.

Council currently has five options available in relation to the unauthorised works and pollution incident within the escarpment zone of the subject premises identified within the Enforcement Policy.

Council's options are:

1. Issue Formal Warnings
2. Issue Penalty Infringement Notices
3. Commence Local Court Criminal Prosecution Proceedings
4. Commence Land and Environment Court Criminal Prosecution Proceedings and
5. Commence legal proceedings in the Court of appropriate jurisdiction requiring requiring restoration works for the unauthorised works and pollution incident within the escarpment zone of the subject premises.

8.2 Legal Proceedings - 404 Old Byron Bay Road, Newrybar

In considering the legal approach, it is important to recognise that the action taken will be informed by the outcome of the development application (DA 2018/381) which is yet to be determined.

For instance, any Order requiring restoration works should be consistent with applicable conditions of consent in the event that the development proposal is granted consent.

Option One

Issue Formal Warnings - When viewed in isolation, the service of Formal Warnings is not considered to be a suitable and sufficient deterrent for the unauthorised works and pollution incident within the escarpment zone of the subject premises.

Option Two

Issue Penalty Infringement Notice – The current landowners have allegedly breached the provisions of Council's *Local Environmental Plan*. A penalty infringement notice is not considered to be a sufficient deterrent in this case given the difference between the value of the fine and the potential increase in land value as a result of the unauthorised works and pollution incident within the escarpment zone of the subject premises.

Options Three and Four

Options three and four relate to the commencement of criminal prosecution proceedings. The major difference between these two options is the Court jurisdiction.

The NSW Land and Environment Court is a division of the NSW Supreme Court (option four). In this jurisdiction, any criminal prosecution, if successful, would leave any party subject to a maximum penalty for an Individual of \$1,000,000.

On the other hand, the Local Court jurisdiction (option three) would be able to impose a maximum penalty of \$110,000.

In considering the approach to Court action, it is important to consider the capacity of any party to pay any penalty that may be imposed by the relevant Court. As stated, monetary penalties issued by the Land and Environment Court can be substantial.

Either of these two options would adequately address the penalty requirements and, upon successful completion of the proceedings, would support a position of deterrence for the unauthorised works and pollution incident within the escarpment zone of the subject premises.

In this case Local Court action is recommended as being commensurate with the level of the offences.

Option Five

This option provides an avenue to have an Order issued by the Court of appropriate jurisdiction requiring restoration works for the unauthorised works and pollution incident within the escarpment zone of the subject premises.

Under recent changes to the *Environmental Planning and Assessment Act 1979* (NSW), the Local Court has the jurisdiction to issue such an Order.

It is recommended that Council pursues this option in relation to requiring restoration works for the unauthorised works and pollution incident within the escarpment zone of the subject premises, should such works be necessary.

Use of Multiple Options

Council may utilise more than one of the above options to require compliance with Council's planning provisions and to prevent ongoing pollution matters within an environmental zone. The use of multiple options is also consistent with the Enforcement Policy.

In this particular instance, further action involving multiple options is considered to be appropriate in order to seek both a pecuniary penalty and remediation action to the unauthorised works and pollution incident within the escarpment zone of the subject premises, should such works be necessary depending on the determination of the development application.

Any decision in relation to this report should have regard for previous enforcement related resolutions involving legal action in terms of consistency. Recent Council decisions in this regard are summarised below.

In April 2012 Council considered a matter involving Verna Wall and Chambers Constructions Pty Ltd and in May 2013 considered the matters involving Jade and Fiona Rose, Karen Wiggins and TCDE Pty Ltd and in April 2015 considered the matter of Mr Brian Camidge. In these instances, Council, after due consideration, resolved to take legal action in the Local Court for the identified offences.

In the above cases, the Magistrate found all parties guilty of the offences and issued fines ranging from \$4,000 up to \$24,250 plus legal costs.

In respect to the matter involving Mr Camidge, the Local Court also endorsed an agreement for a positive covenant to be placed on Mr Camidge's land, requiring revegetation of that property.

The recommendation that follows outlines the preferred course of action which is considered to be a reasonable balance.

RECOMMENDATIONS

1. That with respect to the unauthorised works and pollution incident within the escarpment zone of the subject premises, Council endorses option three as outlined in this report regarding the commencement of criminal proceedings in the Local Court.

8.2 Legal Proceedings - 404 Old Byron Bay Road, Newrybar

2. That with respect to the unauthorised works and pollution incident within the escarpment zone of the subject premises, Council endorses option five as outlined in this report regarding the seeking of an Order for the remediation of the escarpment zone in the area where the unauthorised works and pollution incident occurred. Option five is to be actioned based on the outcomes associated with the determination of the development application (DA 2018/381).

Attachment(s)

Nil

8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions

8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions

Delivery Program Environmental and Public Health

Objective To provide an update on the implementation of the Healthy Waterways Program.

Background

Council has been engaged in various programs that seek to improve water quality and deliver other positive environmental outcomes in relation to the Richmond River and other associated waterways over many years. This has included long term engagement with Rous County Council (and the former Richmond River County Council) and involvement in various initiatives with the County Council as well as Lismore City Council and Richmond River County Council.

More recently, Council has led a series of more localised projects aimed at improving water quality and environmental outcomes in the Shire. Work in relation to local projects has increased in the last few years and Council has now developed a forward program for delivery of local water quality improvement initiatives supported by dedicated funding, known as the Healthy Waterways Program.

This report provides an update on the management plans and actions undertaken as part of the Healthy Waterways Program during 2017/18.

The report also outlines the planned future directions of the program that aim to improve waterway health in Ballina Shire and in the Richmond River Catchment more broadly.

Key Issues

- Delivery of projects and programs that provide for improved water quality and associated environmental outcomes in Ballina Shire
- Outcomes

Information

Background

The funding available for the waterways program in 2017/18 has been applied for the delivery of several projects across the Shire (see summaries as follows).

It is important to recognise that a key use of the available 2017/18 funds has been to leverage grant funding through the Office of Environment and Heritage Coasts and Estuaries Funding Scheme, which requires 50% matching funds from Council.

This approach has meant that some funds were not expended in 2017/18. In particular, approximately \$130,000 was set aside to support grant based initiatives that require matching Council funding.

8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions

There will be times when funds are held over within the Healthy Waterways budget, particularly when extra monies have been applied for grant schemes.

These grants allow Council to leverage off the Healthy Waterways budget by at least matching the funds available for a particular project.

Given this, it is important for Council to have an overarching forward plan for the delivery of the waterways program to enable monitoring of achievements and management of resourcing for specific projects relative to the availability of funding.

2017/18 Initiatives - Summary

Lake Ainsworth Coastal Management Program

Stage 1 of the Lake Ainsworth Coastal Management Program – the Scoping Study has been completed. Stage 2 - detailed studies and community engagement is now underway. Matching funding has been sought through the OEH Coasts and Estuaries Program.

North Creek Coastal Management Program

Stage 1 of the North Creek Coastal Management Program – the Scoping Study has now been received in draft form and is with Government Agencies for review.

A draft Water Quality Investigation Plan has been developed.

Once the extent of detailed studies and their likely cost are known, matching funding to undertake these studies will be sought through the OEH Coasts and Estuaries Program.

Maple Drive Alstonville

On-ground works consisting of extensive weed removal and reinstatement of riparian rainforest vegetation has occurred at Maple Drive, Alstonville.

Council has undertaken works that complement work being done by the Alstonville Maguires Creek Landcare Group which was funded jointly by Council and North Coast Local Land Services.

Of particular note, Council rebuilt stormwater infrastructure through the reserve in consultation with the Landcare group. Results of the works are illustrated in the following photos.

Photo 1 shows erosion as well as weeds around the eroded banks.

Photo 2 shows a stormwater pipe where flows are scouring out a hole in the creek bed.

8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions



Photo 1



Photo 2

Photo 3 shows the upstream headwall construction, with jute mesh laid underneath the rock protection following the works undertaken. Large rocks have been placed in the flow path to slow water and allow sediment (and therefore nutrients) to drop out.

Photo 4 shows the stabilised downstream stormwater pipe and flowpath.

Both photos 3 and 4 show vegetation plantings undertaken in association with the stormwater works.



Photo 3



Photo 4

Shaws Bay Coastal Zone Management Plan

The Shaws Bay Coastal Zone Management Plan was gazetted by the State Government in June 2016 and Council has been progressing the plan actions. The actions that required significant funding have mostly been completed with contributions from grant funding. Key actions advanced or completed to date include:

- Action 1: Control of East arm bank erosion and creation of sandy beach - completed in June 2018.
- Action 2: Dredging of Main Section of Shaws Bay – Dredging feasibility investigation completed and Part V Application approved by Council – Completed August 2018.
- Action 4: Enhanced safety and recreational amenity of Compton Drive foreshore – completed June 2018.
- Action 6: Development of Fenwick Drive foreshore area – completed June 2018.

The physical dredging works are currently not funded and have an estimated cost of \$550K. It is intended that Council will seek a grant for 50% funding from the Office of Environment and Heritage to undertake these critical works for the continuing health of Shaws Bay. This approach will require matching funding from Council.

Bulwinkel Park

Administrative work has supported the Bulwinkel Park Landcare Group in their work to remove large Camphor Laurel trees within the park and on Maguires Creek.

A Review of Environmental Factors was prepared under the Healthy Waterways Program for the Vegetation Management Plan and associated costs were met from the program budget.

Information and Training Sessions

Two information sessions have been held for locals to attend in relation to river health issues.

The first addressed the Ecohealth methodology and why the Richmond River scored a D+ under the Ecohealth assessment.

The second addressed riparian vegetation in the catchment and the importance of mangroves.

Certified professional development training was held for builders, landscapers and contractors on erosion and sediment control issues. This supported local builders in their licensing requirements as well as providing a forum for Council to outline expectations with regard to professionally managed building sites and effective erosion and sediment control.

Erosion and sediment control training was also provided to Council operational staff.

8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions

Field based training was identified by those staff as a desirable next step, and this is being developed with delivery anticipated during 2018/19.

Vegetation Mapping

Mapping showing locations of previous revegetation or bush regeneration works by Landcare groups and Council as well as those required as part of the development application process is being undertaken.

This will assist in identifying future priority riparian revegetation locations and provides a catalogue of restoration works undertaken across the Shire.

Riparian Vegetation Works – Emigrant Creek and North Creek (Prospect Lake)

Grants funds of almost \$360,000 have been received for riparian vegetation works in Emigrant Creek and North Creek (in the vicinity of Prospect Lake).

The North Creek works involve riparian restoration in the vicinity of Prospect Lake.

This work went through a planning phase in 2017/18 and on ground activity is scheduled to commence in the coming weeks.

The Emigrant Creek works are the subject of various approval processes, and detailed planning will begin once survey work is complete. Local residents have been notified of the grant and invited to discuss the works with Council officers. These works will restore riparian vegetation along Old Bangalow Road and Crosbys Lane at Tintenbar.

Love it or Lose it Media Campaign

Council engaged in continued advertising of the 'Love it or Lose it' animations and website to reinforce the waterway health and environmental messages that underpin the program.

The images below are example scenes from the animations.



8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions

Rous County Council Service Level Agreement

A review of the Service Level Agreement between Rous County Council and Ballina Shire Council was undertaken specifically with regard to floodplain activities. Not all suggestions were taken up by Rous County Council, but the updated agreement should provide a higher level of accountability with regard to funds being spent on these activities.

This document is of key importance as it defines the responsibilities of Rous County Council in relation to the management of the Richmond River and associated water management matters (such as floodplain management).

Tuckean Hydrological Study

Council has provided financial support to the Ozfish Unlimited Tuckean Hydrological Study project. This project, coordinated by Ozfish, is ongoing.

Richmond River Governance Project

Council has provided grant administration and financial support to an Office of Environment and Heritage coordinated Richmond River Governance and Funding Project (funding contributions have been provided by all catchment councils).

This project will examine governance structures and aims to provide long term overarching direction and decision making framework for the management of the Richmond River in relation to the entire catchment area.

Future Initiatives – 2018/19 Onwards

Table 1 identifies the key priorities (as per the shaded areas) for Council in delivery of the Healthy Waterways Program over the next four years.

Table 1 – Healthy Waterways Program Four Year Plan

Action	2018/19	2019/20	2020/21	2021/22
North Creek				
North Creek Coastal Management Program – Scoping Study due October 2018, Stage 2 then commences				
Chickiba Grant – Office of Environment and Heritage				
Environmental Trust Grant – Chickiba and North Creek				
Emigrant, Maguires and Houghlahans Creek				
Riparian Revegetation				
Emigrant Creek – OEH Grant (subject to Minister's approval) – 2.6km creekbank revegetation				
Maguires Creek – Stormwater upgrade and replanting				
Implementation Vegetation Management Plan – Teven Road Bridges				
Main Trunk of River – Boundary Creek to Mouth				
Review of drainage, floodgates and subsequent Drainage management (Rous County Council and NSW – DPI Fisheries)				
Riparian Revegetation Planning				
Mobbs Bay Drainage Study and Subsequent Works (Rous CC)				

8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions

Action	2018/19	2019/20	2020/21	2021/22
Tuckean Hydrological Study and TBL Outcomes Study (Ozfish and Rous CC)				
Lake Ainsworth CMP Process				
Stage 2 – Identify Risks, Vulnerabilities and Opportunities (Technical Studies)				
Project Management/Administration				
Education/Ongoing Engagement Activities				
Community Information Nights				
Stormwater and Rural Runoff Education				
Sediment and Erosion Program				
Shaws Bay CZMP Implementation				
Water Quality Monitoring				
Vegetation Mapping				

Sustainability Considerations

- **Environment**

The Healthy Waterways Program aims to enhance the condition of waterways and the surrounding environment in Ballina Shire. This will provide for positive habitat and biodiversity outcomes for both aquatic and terrestrial flora and fauna.

- **Social**

Environmental education activities such as the information nights and the 'Love it or Lose it' campaign are supporting a more informed community.

The program also provides for enhanced recreational and lifestyle outcomes in the Shire through the enhancement of local waterways and associated environments.

- **Economic**

Most grant schemes require matching funding. The Healthy Waterways Program and dedicated funding enables Council to leverage significant amounts of funding to supplement project funding. This in turns provides greater opportunities for the delivery of environmental and social benefits to the Shire community as well as visitors and commercial users of the Richmond River and North Creek estuaries.

Legal / Resource / Financial Implications

The special rate variation for the Healthy Waterways Program provides funds that can be directly applied to waterways projects. This underpins Council's ability to plan and deliver a long term program that seeks to provide enhanced water quality and environmental outcomes in relation to waterways in Ballina Shire.

Importantly, expenditure over time is expected to be somewhat uneven year to year as several components of the program are reliant on grant funding.

8.3 Healthy Waterways Program - 2017/18 Review and Planned Actions

Consultation

The Healthy Waterways Program is underpinned by a philosophy of community and stakeholder engagement. Opportunities for community and stakeholder engagement are considered in relation to each project within the program. The type and extent of engagement will vary depending on the nature of each project and the availability of resources.

Options

This report is provided for the information of the Council and the community as a summary of action to date, and planned activity, in the delivery of the Ballina Shire Healthy Waterways Program.

RECOMMENDATION

That Council notes the contents of this report on the delivery of the Ballina Shire Healthy Waterways Program.

Attachment(s)

Nil

8.4 Development Applications – Variation to Development Standards

8.4 Development Applications – Variation to Development Standards

In accordance with the Department of Planning's Circular PS18-003, the following information is provided regarding development applications where a variation to development standards (via the BLEP 1987 or BLEP 2012) has been approved.

DA No.	Date Approved	Applicant and Address	Proposal	EPI and Land Zoning	Development Standard and Approved Variation	Reason for Variation
2018/129	3/7/2018	B Mills & K Thompson – 25 Bayview Drive, East Ballina	Demolition of existing dwelling and construction of a new two storey dwelling and pool forward of the building line	R3 Medium Density Residential – BLEP 2012	Clause 4.4 – Floor Space Ratio – Dwelling FSR 0:5:1 Approved variation 0:54:1	The design is compatible with the bulk, scale and character of the locality, will not unreasonably impact on any adjoining property and building envelope controls have been satisfied.
2018/35	6/8/2018	Ardill Payne & Partners - 65 Blue Seas Parade, Lennox Head	To construct a Two Storey Dwelling House and Strata Title Subdivision to create a Detached Dual Occupancy	R3 Medium Density Residential – BLEP 2012	Clause 4.3 – Building Height Dwelling (Lot 2) has a maximum height of 8.94m (440mm higher) than the maximum allowable height of 8.5m	The variation is in response to the sloping nature of the land. The variation will not unreasonably impact on adjoining properties having regard for the objectives of clause 4.3.

RECOMMENDATION

That Council notes that there have been two applications approved under delegation for variations to development standards of 10% or less during July and August 2018.

Attachment(s)

Nil

8.5 Development Applications - Works in Progress - September 2018

8.5 Development Applications - Works in Progress - September 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
2017/565	11/10/2017	Newton Denny Chapelle	Stage 5 - 88 Lot Residential Subdivision comprising 81 Torrens Title Lots and Seven Community Title Lots, Civil Infrastructure Servicing and Associated Earthworks (stage five of EPIQ Estate) - Lot 54 Hutley Drive, Lennox Head	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
2017/643	16/11/2017	Newton Denny Chapelle	Demolition and/or relocation of existing structures and erection and Strata Title subdivision of seven x two storey and two single storey self-care seniors living units pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability), site filling and associated works – 78 Moon Street, Ballina	Being assessed

8.5 Development Applications - Works in Progress - September 2018

2017/718	19/12/2017	Newton Denny Chapelle	To establish and Strata Title Subdivide a multi-dwelling housing development involving the erection of two attached two storey dwellings in addition to the existing dwelling house, demolition of existing garage, vegetation management works and other associated works - 71 Stewart Street, Lennox Head	Being assessed
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
2018/144	16/3/2018	Newton Denny Chapelle	Change of Use of Units 1, 2 and 3 from Light Industrial to a Recreational Facility (Tenancy 1 – Personal Training and Fitness classes, Tenancy 2 – Martial Arts classes) – 3 Sheather Street, Ballina	Determination pending
2018/347	18/6/2018	Ardill Payne & Partners	To fill an existing agricultural drain and install a new piped drainage solution – Carneys Lane, East Wardell	Awaiting additional information

8.5 Development Applications - Works in Progress - September 2018

2018/386	2/7/2018	John Wise	Installation of New Roofing and New Awning to Existing Commercial Premises and Heritage Item (Former Post Office Building) – 86 Main Street, Alstonville	Being assessed
2018/405	12/7/2018	Town Planning Studio Pty Ltd	Two Lot Torrens Title Subdivision – 425 Ross Lane, Lennox Head	Awaiting additional information
2018/411	13/7/2018	Newton Denny Chapelle	To undertake a change of use to establish an industry – 24 Kays Lane, Alstonville	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	Referred to Government Department
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	Referred to Government Departments
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	Awaiting additional information
2018/435	20/7/2018	Creative Planning Solutions	Alterations to the gymnasium at the Lake Ainsworth Sport and Recreation Centre - Part Lot 140 DP 755725 Pacific Parade, Lennox Head	Determination pending
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
2018/438	24/7/2018	A Dougherty	Staged Erection and Strata Title Subdivision of a Two Storey Multi Housing Unit Development and Associated Works - 33 Crane Street, Ballina	Being assessed

8.5 Development Applications - Works in Progress - September 2018

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	Being assessed
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
2018/452	27/7/2018	D Walsh	Boundary Adjustment Subdivision of existing Lots 3 & 4 DP 1220992 and the Subdivision of the reconfigured Lot 4 to create 1 x 2155m ² and 1 x 2646m ² allotments and associated works - 172 North Creek Road, Lennox Head	Being assessed
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	Determination pending
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
2018/470	8/8/2018	Walecorp Pty Ltd	Erection of a Commercial Building and Associated Works – 23 Commercial Road, Alstonville	Being assessed
2018/478	9/8/2018	Jennifer Spake	Vegetation management works comprising the removal of one tree – 2 Montego Parade, Alstonville	Awaiting additional information

8.5 Development Applications - Works in Progress - September 2018

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	On exhibition
2018/484	13/8/2018	K W Donnelly	Vegetation management works comprising the removal of two trees – 57 Teven Road, Alstonville	Determination pending
2018/489	15/8/2018	M Trevaskis	Vegetation management works comprising the removal of one tree – 65 Alston Avenue, Alstonville	Being assessed
2018/491	17/8/2018	T R Da Silva Mendes	Change of use to establish a gymnastics facility – 2/5 Russellton Drive, Alstonville	Being assessed
2018/499	21/8/2018	Northern Rivers Surveying P/L	Erection of Industrial Building and Awning for Existing Car Park – 9 Robb Street, Alstonville	On exhibition
2018/500	21/8/2018	P M Mandeville	Vegetation management works comprising the removal of four trees – 83A Teven Road, Alstonville	Determination Pending
2018/508	24/8/2018	P F Worth	Vegetation management works comprising the removal of two trees – 77 Teven Road, Alstonville	Determination pending
2018/510	24/8/2018	Northern Rivers Land Solutions	Temporary Sales Office and Associated Car parking ancillary to the Banyan Hill Residential Subdivision (DA 2016/184) - 33 Mitchell Close, Cumbalum	Being Assessed
2018/518	28/8/2018	Northern Rivers Land Solutions	Two Lot Torrens Title Subdivision to Create one 800m ² and one 1882 m ² allotments, site filling, vegetation management works and associated works - 23 Richmond Street, Wardell	On exhibition
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	On exhibition

8.5 Development Applications - Works in Progress - September 2018

Regional Development (Determined by Joint Regional Planning Panel)

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

8.5 Development Applications - Works in Progress - September 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	Awaiting additional information
2017/447	17/8/2017	Newton Denny Chapelle	Erection of a Neighbourhood Shopping Centre, involving a Supermarket (Woolworths) and Specialty Shops, Associated Car Parking and Other Infrastructure Servicing, Earthworks, Signage and Landscaping within the EPIQ Estate at Lennox Head – Hutley Drive, Lennox Head	JRPP – determination deferred Scheduled for reporting back to the JRPP on 17 or 18 October 2018
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	Awaiting additional information

8.5 Development Applications - Works in Progress - September 2018

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 September 2018.

Attachment(s)

Nil

9.1 Residential Development - B3 Commercial Core Zone

9. Strategic and Community Facilities Group Reports

9.1 Residential Development - B3 Commercial Core Zone

Delivery Program Strategic Planning

Objective To assess support for a planning proposal that seeks to broaden the range of dwelling types that are permitted to be erected in the Ballina Central Business District without undermining the primary purpose of the B3 Commercial Core zone.

Background

Council prepared the *Ballina Major Regional Centre Strategy* (BMRCS) in 2015/16 to guide growth in a way that promotes development opportunities, whilst at the same time preserving the things about Ballina that are important to our community. The focus for the strategy is the identification of key policy and planning related initiatives that can define and drive Ballina as a regional centre into the future.

In relation to housing, the BMRCS has two objectives that are addressed in this planning proposal. These are:

F1.1 To encourage increased residential development in Ballina CBD

F1.2 To ensure suitable and adequate housing opportunities are available to cater to the diverse needs of our community

A Discussion Paper, prepared on Council's behalf by Mike Svikis Planning, to canvas issues related to residential accommodation in business zones, is included as Attachment 1 to this report. It contains more detail on a range of matters relevant to this planning proposal.

Key Issues

- Increasing residential opportunity in Ballina CBD
- Maintaining commercial primacy in Ballina CBD

Information

The planning proposal (Attachment 2) seeks to broaden the range of dwelling types that are permitted to be erected on certain sites within the Ballina CBD without undermining the primary purpose of the B3 Commercial Core zone.

Currently, residential accommodation is restricted to "shop top" housing (dwelling(s) above retail or business premises). This planning proposal will allow dwelling(s) above a range of other uses typically found within a B3 zone. It will allow dwellings at ground level in some circumstances.

9.1 Residential Development - B3 Commercial Core Zone

The mechanism to achieve this is to permit Residential Flat Buildings (a building containing three or more dwellings) on certain sites within the B3 zone and require these sites to maintain at least two active frontages.

The planning proposal will achieve this by:

- adding an item to Schedule 1 of Ballina LEP 2012 to permit Residential Flat Buildings as a permitted use on certain B3 zoned land identified on a map and
- inserting a new clause that defines active frontage and references a map showing where Council would like to see it implemented and
- adding a new objective to the B3 zone that references active frontages.

This planning proposal is to apply only to certain land zoned B3 Commercial Core under Ballina Local Environmental Plan 2012 in Ballina CBD.

The land zoned B3 to which the planning proposal applies is outlined in red on Diagram 1 below:

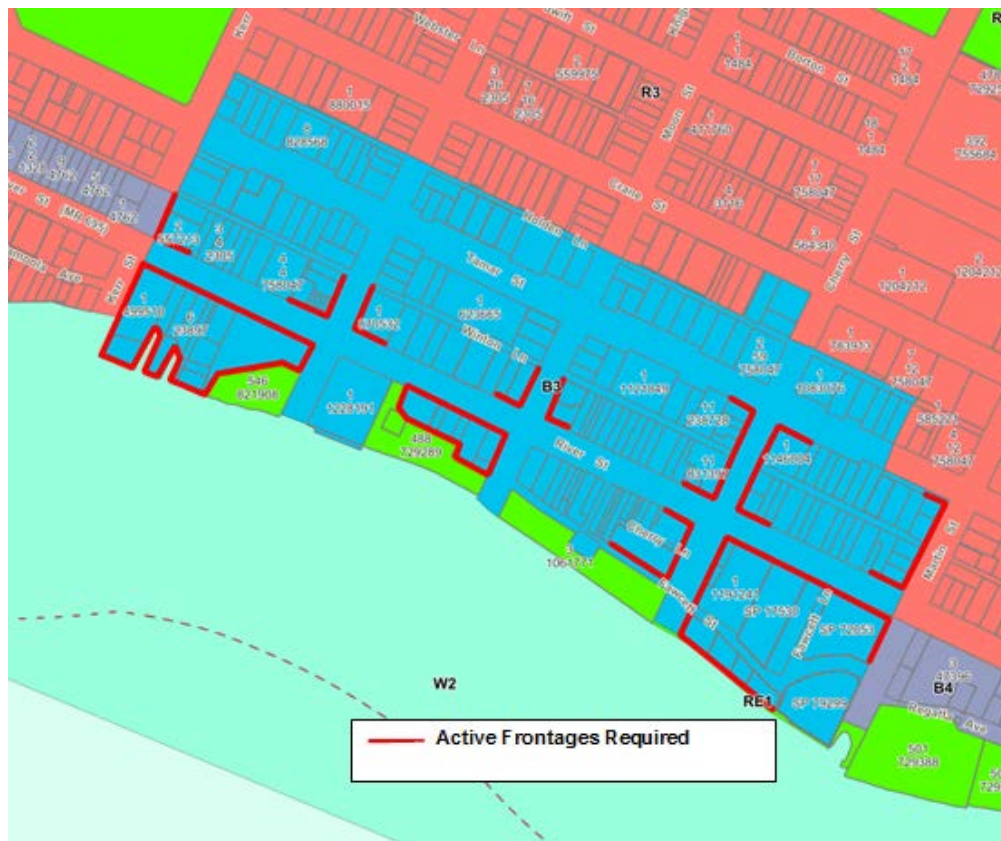
Diagram 1 – Sites (outlined in red) proposed to permit residential flat buildings as an additional permitted use within the B3 zone



The frontages required to be activated are shown by the red outline on the extract from the proposed activation map in Diagram as follows.

9.1 Residential Development - B3 Commercial Core Zone

Diagram 2 – Extract from proposed Active Frontage Map (activated frontages outlined in red line)



Why more residential development in the Ballina CBD?

Residential development is already permitted in the B3 zone in the form of shop top housing. However, take up rates for shop top housing have been low and very little new residential development has occurred.

Council records show that only one development (*Reside* in River Street) including residential accommodation has been approved in the B3 zone since Ballina LEP 2012 commenced in February 2013.

The objective of the planning proposal is to encourage increased residential development in the B3 zone in order to create a more active and vibrant Ballina CBD and to create greater housing choice.

Can we change the definition of Shop Top Housing to get more residential development?

The definition of shop top housing has been in the standard instrument since the outset, but it has changed over time. The current definition is:

“*shop top housing* means one or more dwellings located above ground floor retail premises or business premises.”

In 2014, a Land and Environment Court judgment (*Hrsto v Canterbury City Council*) found on the current definition that:

9.1 Residential Development - B3 Commercial Core Zone

...to qualify as 'shop top housing' the relevant part of the building must be truly "above" the relevant retail or commercial parts...in order to be characterised as "shop top housing" a dwelling must be: "in the same building as the ground floor retail premises or business premises and on a floor of that building that is at a level higher than the top most part of the ground floor retail premises or business premises."

However, a broad interpretation of the word "above" in the definition should be given which would suggest that the dwellings need only be at a floor level that is higher than the top of the ground floor retail or business premises. It does not need to be contained in an envelope on the higher floor level that would be intersected by a line drawn vertically from within the envelope of the ground floor retail or business premises.

Gadens Lawyers in 2014 made the following comments in relation to this court decision:

This clarification of the meaning of shop top housing is timely, but it will have a significant impact on some sites, particularly where there is simply insufficient market demand for a full floor of retail or commercial uses. Arguably requiring retail or commercial at the rear of the site will not serve any particular planning purpose because it will not activate the street. Moreover, where there is a lack of market demand, the ground floor may sit empty for quite some time. Interestingly, it may not actually reflect what some councils had in mind when making shop top housing permissible in some areas.

There has been some discussion about changing the definition of Shop Top Housing, but this can only come from the Department of Planning and Environment (DPE) and would then apply to all of New South Wales.

Discussion with DPE locally indicates it is not being considered. Council should assume it will not be changed in the foreseeable future.

What is an active frontage and why is it important?

Active frontage is a general planning term that refers to development that provides interest to the public and presents as a working or operational building. It is characterised by continuous business or retail land uses that open directly to the footpath and provide active, people-oriented frontages to a street, park or other public domain area (for example, a waterway). Expanses of blank walls or dark obscured glass are not appropriate.

It enhances public security and passive surveillance and improves the amenity to the public domain by encouraging pedestrian activity. It can also assist in supporting the economic viability of the centre where it applies.

An active frontage is provided generally at a similar level to the footpath, boardwalk or park and typically has a minimum 50% clear glazing. It typically consists of one or more of the following:

- i. a shop front,
- ii. commercial and residential lobbies,
- iii. a café or restaurant if accompanied by an entry from the street, or
- iv. a public building if accompanied by an entry from the street.

9.1 Residential Development - B3 Commercial Core Zone

How were the sites on the planning proposal map selected?

The NSW DPE issued the following advice on where an active street frontage clauses should apply:

“Activity areas are usually formed along streets or as a node around, for example, major transport infrastructure. For that reason it is recommended that this provision does not apply across any one zone, but only along the streets (or parts of a street or streets) and pedestrian links where a concentration of business and/or retail is encouraged. This clause must be justifiable and applied only where it will not constrain uses able to respond to changing economic drivers.”

The following criteria were used to select the sites in the B3 zone that are the subject of this planning proposal.

Sites that are included:

- Corner sites to promote redevelopment
- Cherry Street, Martin Street and River Street as key corridors
- Sites with older building stock
- Lot clusters near corners that are awkward in shape or small in size
- Sites along the Richmond River
- Sites with a park boundary

Sites that are excluded:

- Land north of Tamar Street including the northern side of Tamar Street
- Crown land sites
- LEP listed heritage sites
- Approved tourist facility sites

The total area of the B3 zone in Ballina LEP 2012 is approximately 31.1 hectares. The total amount of B3 land identified on mapping in this planning proposal is approximately 6.3 hectares. These areas correlate with the locations where residential flat buildings will be permitted with consent.

Why exclude approved tourism sites?

Ballina CBD includes sites that have been approved in the past for use as tourist and visitor accommodation. This includes the Ramada development where units are privately owned but managed by a property rental company for short term rental accommodation. Owners are not currently permitted to live in their units full time.

Development applications have been considered multiple times between 2005 and 2012 to permit residential occupation of units as an additional use. The applications have been refused by Council for a range of reasons. It has not been established that permanent occupation of these units is currently permitted under Ballina LEP 2012 (as shop top housing). However, if residential flat buildings are specifically permitted on sites developed for tourist and visitor accommodation then this would be a signal that permanent occupation of these buildings will be considered on merit.

9.1 Residential Development - B3 Commercial Core Zone

Council received a submission from a unit owner within the Ramada building on 5 August 2018 requesting that they be allowed to live in their unit full time.

They do not purport to represent other owners and the submission is only about their unit.

The argument is that the rental return from the unit is insufficient given its capital value as occupancy rates are low and overheads are high. This also makes it difficult to sell.

It is otherwise suitable for use as a self-contained dwelling and they consider that is the best use for it.

It is not possible to apply the planning control changes in this planning proposal to part of an existing building.

If the Ramada site (or any other tourist accommodation site) is included in the mapping to this planning proposal then all units may potentially be able to apply for residential use (assumes all will be found suitable and be able to incorporate kitchen facilities).

This has a number of implications that have been explored in previous applications, none of which have been approved.

Given past decisions by Council on this issue it is recommended that these sites be omitted from this planning proposal.

If they are included it will send a message that Council is prepared to consider applications for residential use of sites overtly approved in the past for use as tourist and visitor accommodation.

Sustainability Considerations

- **Environment**

There are considered to be no additional environmental impacts associated with what is proposed than is likely to be the case under currently permitted development scenarios.

- **Social**

Increased residential development in the Ballina CBD will assist in vitalizing the locality and provide increased housing choice.

- **Economic**

Potential economic benefits should flow from redevelopment of underutilized sites. CBD shops (eg supermarket) should benefit from more residents in walking distance.

Legal / Resource / Financial Implications

The processing of the planning proposal will be undertaken in accordance with the requirements of the Environmental Planning and Assessment Act and Regulation. Processing of the planning proposal can be accommodated within existing Council resources.

Consultation

If Council supports a planning proposal it will include a public exhibition phase that will provide an opportunity for stakeholders and the broader community to provide feedback on the proposed approach.

Stakeholders will include CBD property owners, business operators, the Ballina Chamber of Commerce and Industry and relevant government agencies.

A minimum consultation period of 28 days is proposed.

Options

The options available to the Council when considering changes to the current planning provisions so as to broaden the range of dwelling types that are permitted to be erected in the Ballina CBD (B3 zone) include the following:

1. Endorse the planning proposal (Attachment 2) which proposes to enable residential flat buildings in conjunction with active frontages on certain CBD sites specified on a map in Ballina Local Environmental Plan 2012.

This is the preferred option.

Endorsement of the planning proposal will result in a submission to the Department of Planning and Environment (DPE) for a Gateway determination to allow the proposal to proceed to public exhibition. Following Gateway determination the proposal would then be publically exhibited and then resubmitted back to the Council post exhibition for further consideration.

The submission to the DPE will also indicate that Council is seeking delegation of certain plan making functions to enable the further processing of the proposed LEP amendment.

2. Maintain existing arrangements which permit shop top housing as the only form of residential accommodation within the Ballina CBD – B3 zoned areas.

Adoption of this option would result in the status quo being maintained and no changes to Ballina LEP 2012 being made. Staff would then cease further work on this proposal.

This option is not recommended as it would continue to limit the potential for residential accommodation within the CBD and not provide the activation stimulus that might otherwise result.

3. Defer further action in relation to this matter pending further information.

Should Council consider that it requires further information in respect to any aspect of this proposal then the matter could be deferred for a briefing.

The option of a briefing is also available post exhibition and prior to the Council giving consideration to whether the planning proposal warrants finalisation.

RECOMMENDATIONS

1. That Council endorses the planning proposal, as per Attachment 2 to this report, which proposes to permit Residential Flat Buildings (a building containing 3 or more dwellings) on certain sites within the B3 zone and require these sites to maintain at least two active frontages;
2. That the planning proposal not include the Ramada site for the reasons outlined within this report.
3. That the planning proposal be forwarded to the Department of Planning and Environment for a Gateway determination.
4. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
5. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
6. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. Residential Accommodation in Business Zones - Discussion Paper
2. Draft Planning Proposal Residential Flat Buildings and Active Frontages in the B3 Zone

9.2 Planning Proposal - Verandah Lifestyle Estate, Wollongbar

9.2 Planning Proposal - Verandah Lifestyle Estate, Wollongbar

Delivery Program Strategic Planning

Objective To invite the Council's consideration of a planning proposal request to facilitate urban-style development on land located adjacent to Wollongbar township.

Background

Council has received a planning proposal request relating to land located adjacent to Wollongbar township. The land is described as Lot 10 DP 1059499 (Lot 10), located between the Bruxner Highway and Lismore Road as shown below (from the proponent's submission).



The subject property is zoned 7(i) Environmental Protection (Urban Buffer) Zone under the terms of the Ballina Local Environmental Plan 1987 (BLEP 1987). The planning proposal request seeks to amend this instrument to include 'Manufactured Home Estate' as a permissible use on the land, by way of a special, or enabling provision. The BLEP 1987 does not currently permit this type of use on land within the 7(i) zone.

The purpose of this report is to outline the proposal and seek the Council's direction with respect to the planning proposal request.

Key Issues

- Urban Development
- Strategic Planning
- Affordable Housing

Information

As outlined, Lot 10 is located adjacent to the urban area of Wollongbar and the Russellton Industrial Estate, between Lismore Road and the new Bruxner Highway.

Lot 10 has an area of 7.043ha, a depth of approximately 169.5 metres and a frontage to Lismore Road of approximately 453 metres.

The property is owned by Greenlife Properties Pty Ltd, having acquired the land on 30 September 2016.

The proponent has submitted a number of documents to support the planning proposal request:

- Planning Proposal – Verandah Lifestyle Estate, Wollongbar (covering document)
- Concept Overview (Powerpoint slides)
- Housing Needs Assessment Report
- Agricultural Assessment
- Traffic Impact Assessment
- Visual Impact Assessment
- Engineering Assessment
- Urban Growth Area Variation Principles
- Important Farmland Interim Variation Criteria
- Soil Samples

These documents have been distributed to Councillors under separate cover.

In addition, the proponents have submitted an Addendum addressing the draft Wollongbar Planning and Environmental Study (WPES) and draft Strategic Plan 2018 – 2038 that are currently on public exhibition.

The Addendum has also been distributed under separate cover.

The proponents are seeking to develop the land for over 55's housing in the form of a manufactured home estate.

They anticipate that the site will yield 125 homes and associated community facilities. The dwellings are indicated to consist of 2 to 3 bedrooms located within a gated community.

An extract of the submitted estate masterplan is reproduced as follows.



State Environmental Planning Policy No 36 – Manufactured Home Estates does not apply to the site but does provide a definition for manufactured home and manufactured home estate as follows:

manufactured home means a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:

- (a) that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and
- (b) that is not capable of being registered under the *Traffic Management Act 1909*, and includes any associated structures that form part of the dwelling.

manufactured home estate means land on which manufactured homes are, or are to be, erected.

Whilst the proponent's submission indicates that the proposed estate will provide over 55's housing it has not been proposed to apply the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* to the site.

The proponent did not discuss the lodgment of a planning proposal request with Council staff before doing so.

Staff would have discouraged the proponent from committing the substantial level of resources involved in having much of the above documentation prepared until such time as the elected Council had been provided with an opportunity to indicate whether it wished to support, in principle, this development concept.

The proponent has requested that 'manufactured home estate' be listed as an additional permitted use on the site, by having a special enabling provision inserted in the BLEP 1987.

The NSW Department of Planning & Environment has previously indicated a reluctance to entertain further amendments to the BLEP 1987.

9.2 Planning Proposal - Verandah Lifestyle Estate, Wollongbar

On this basis, if Council is inclined to indicate its support for the proposal, in principle, the Department may require that the land be brought within the terms of the *Ballina Local Environmental Plan 2012* to facilitate the proposed development outcome.

The first stage in assessing planning proposal requests involves the consideration of the strategic context of the proposal, having regard for the local and regional strategic planning framework.

Strategic Planning Context

The site is zoned 7(i) Environmental Protection (Urban Buffer) Zone under the terms of the *Ballina Local Environmental Plan 1987*.

Maintaining an 'urban buffer' to provide a distinct separation (sometimes referred to as a green belt) between the townships of Alstonville and Wollongbar has been a long standing policy position of the Council since the preparation of the first local environmental plan in the 1980s.

This strategic intent was also previously promoted by the former Tintenbar Shire Council prior to its amalgamation with Ballina Municipal Council in December 1976.

Preservation of the urban buffer is reflected in the objectives of the 7(i) zone and relevant strategic planning documents including the Ballina Shire Growth Management Strategy and the locality-based strategic plans for Alstonville and Wollongbar (the latter currently being exhibited for community feedback).

The site is highly visually prominent from Lismore Road (the main local road linking Alstonville and Wollongbar) as well as from the Bruxner Highway (though to a lesser degree).

7(i) Zone Objectives

The objectives of the urban buffer zone are as follows:

- A. *The primary objective is to create a rural buffer in the locality of Alstonville and Wollongbar and to prevent development of an urban character within any part of the zone which is likely to be seen by existing or likely future residents of the villages of Alstonville and Wollongbar or from a major road in the locality.*
- B. *The secondary objective is to enable development as permitted by the primary and secondary objectives of Zone No 1 (a1), except for development which would conflict with the primary objective of this zone.*
- C. *The exception of these objectives is development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives.*

The proposal is inconsistent with the primary and secondary objectives of the zone.

Ballina Shire Growth Management Strategy

The Ballina Shire Growth Management Strategy (2012) outlines Council's strategy for accommodating projected population growth in the Shire to 2031.

9.2 Planning Proposal - Verandah Lifestyle Estate, Wollongbar

The growth management strategy identifies urban land supplies, including strategic investigation areas, sufficient to meet the projected population demand beyond 2031.

The localities identified in the Growth Management Strategy for accommodating residential demand include the Wollongbar Urban Expansion Area, the Cumbalum Urban Release Areas A and B and urban release areas in Lennox Head and Skennars Head.

Development in these new release areas will be complemented by additional “infill” housing in some established localities.

The growth management strategy reinforces the Council’s intent to maintain Alstonville and Wollongbar as discrete urban areas surrounded and separated by rural land.

The proposal is inconsistent with the intent of the Ballina Shire Growth Management Strategy with respect to maintaining an urban buffer (of rural land) between Alstonville and Wollongbar.

Locality Strategic Plans

The proponents initially made a submission to the exhibited draft Alstonville Strategic Plan during 2017. The submission sought to apply an R2 Low Density Residential zone to Lot 10 so as to enable it to be developed as a Manufactured Home Estate.

Council considered the proponent’s submission to the draft Alstonville Strategic Plan at its Ordinary meeting held on 27 July 2017.

The rezoning proposal was not supported due mainly to the site’s location within the urban buffer between Alstonville and Wollongbar and the land’s State Significant Farmland designation.

When Council adopted the Alstonville Strategic Plan at its Ordinary meeting held on 14 December 2017, there were no changes made to the strategic plan as a consequence of the proponent’s initial submission.

The draft Wollongbar Planning and Environmental Study (WPES) and draft Strategic Plan 2018 – 2038 are currently on public exhibition until 2 November 2018.

The subject land has received some further consideration within the WPES to determine whether it has future urban suitability potential.

In this respect the preliminary analysis undertaken largely discounted the site’s suitability for the following reasons:

- The land forms part of the urban buffer between Wollongbar and Alstonville
- State significant farmland
- Part of the allotment is impacted by bushfire prone land and landslip constraints

9.2 Planning Proposal - Verandah Lifestyle Estate, Wollongbar

- It is a relatively isolated site without strong connectivity with the existing Wollongbar urban area
- Part of the land is adversely impacted by drainage constraints and
- Noise impact from adjoining Bruxner Highway.

The proponent's Addendum (distributed under separate cover) seeks to respond to the above assessment of the site's suitability for urban development. Despite the proponent's contentions, the view of staff with respect to the above is unchanged.

Sites adjacent to Wollongbar, other than the subject land, have been identified by Council as having greater potential suitability for urban development, within the draft Wollongbar Planning and Environmental Study.

Further consideration of the alternative sites is contingent upon other land previously nominated and zoned for urban expansion not being taken up for development within a particular timeframe.

The local strategic planning framework therefore does not support, at this stage, the use of the site for urban purposes.

North Coast Regional Plan

The North Coast Regional Plan (2017) prepared by the NSW Department of Planning and Environment establishes the broader planning framework for future land development and environmental protection in the region.

In this respect, the subject site lies outside of the Urban Growth Areas of the Regional Plan and is not identified as an Investigation Area for the purposes of the plan.

The site is also located on land that is 'significant farmland' under the plan.

The proponents have submitted justifications for variation from the regional plan with reference to the 'Urban Growth Area Variation Principles' and 'Important Farmland Interim Variation Criteria' that the regional plan provides.

Contrary to the proponent's claims, staff are of the view that the proposal does not meet the variation guidelines in the Regional Plan, particularly with respect to the following:

- Consistency with the Council's local growth management strategy – the growth management strategy reinforces the significance of the urban buffer separating the plateau townships. In this respect, the proposal is inconsistent with the intent of the growth management strategy.
- Environment and heritage – the proposal would erode the visual separation of Alstonville and Wollongbar and undermine the character of the plateau townships' rural context.

On the basis of the above, the proposal is considered to be inconsistent with the intent and provisions of the North Coast Regional Plan, nor has a sound case been presented to warrant support for a variation to this instrument.

Environmental and Engineering Considerations

The review of the submitted technical documentation has not occurred to date due to the strategic planning context of the proposal.

Should the Council indicate that it wishes to support the planning proposal request, the proposal would be reviewed in detail with respect to the environmental assessment and engineering matters.

Demand for Over 55's Housing

The proposal seeks to accommodate demand in the locality for over 55's housing without invoking the various specific requirements of the Seniors Housing SEPP.

The matter of accommodating population growth, through seniors living development or conventional residential development, is addressed in Council's Ballina Shire Growth Management Strategy.

With respect to the adequacy of urban land supplies, Council's Growth Management Strategy identifies sufficient housing development opportunities to accommodate forecast demand beyond 2031. This includes choice in a variety of housing styles and densities.

Further, the Alstonville and Wollongbar strategic plans have identified other sites that are more suitable for potential urban development, having regard for the aspirations and values of the local community.

Sustainability Considerations

- **Environment**

Providing opportunities for urban development on the land would have direct and indirect impacts on the environment.

- **Social**

The proposal would potentially impact on the values associated with the separation of Alstonville and Wollongbar urban areas, which have been established and reinforced in numerous planning policies over a significant period of time.

The provision of over 55's housing on a relatively unconnected and gated site may give rise to various social concerns, even though it may meet a housing demand.

- **Economic**

Development of the land and occupation of the new dwellings would have positive economic impacts for the locality.

Legal / Resource / Financial Implications

Amendment of the local environmental plan to facilitate the subject proposal would enable the lodgment of development applications for additional uses on the land.

9.2 Planning Proposal - Verandah Lifestyle Estate, Wollongbar

The further processing of the planning proposal, if supported in principle, would be undertaken on a fee for service basis as provided for in Council's adopted fees and charges. This can be undertaken within existing allocated resources.

Consultation

No public consultation has occurred to date with respect to this proposal. Should Council wish to indicate its support for the proposal, the usual planning proposal consultation requirements would apply, subject to the terms of any supporting Gateway determination issued by the Department of Planning and Environment.

Options

The following options are presented for the Council's consideration.

Option 1

Council could resolve to proceed with the planning proposal to facilitate residential development on the land (for a manufactured home estate).

Under this option, staff would undertake a thorough assessment of the submitted technical documentation and after obtaining any necessary clarifications, a planning proposal would be drafted for endorsement by the elected Council prior to seeking Gateway determination from the Department.

This option is not recommended for the reasons discussed in the report. The development of the land for residential purposes would be contrary to the established local and regional strategic land use planning framework. Further, a substantial case has not been presented to warrant a departure from this framework.

Option 2

Council could resolve to decline the planning proposal request.

This option would involve writing to the proponent to convey the reasons why the Council has been unable to support the requested amendment to its local environmental plan.

This option is recommended on the basis that the proposal is inconsistent with the strategic planning framework for the shire as outlined in the body of this report.

RECOMMENDATION

That Council declines the planning proposal request relating to the Verandah Lifestyle Estate on lot 10 DP 1059499 Wollongbar on the basis that the residential use of the land would be inconsistent with the established local and regional strategic land use planning framework.

Attachment(s)

1. LEP Amendment Request - Planning Proposal - Concept Overview - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
2. LEP Amendment Request - Planning Proposal - Agricultural Land Review - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
3. LEP Amendment Request - Planning Proposal - Housing Needs Assessment - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
4. LEP Amendment Request - Planning Proposal - Traffic Review - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
5. LEP Amendment Request - Planning Proposal - Visual Impact Assessment - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
6. LEP Amendment Request - Planning Proposal - Engineering Review - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
7. LEP Amendment Request - Planning Proposal - Urban Growth Variation Criteria Assessment - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
8. LEP Amendment Request - Planning Proposal - Farmland Variation Criteria - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
9. LEP Amendment Request - Planning Proposal - Soil Samples - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)
10. Addendum to Planning Proposal Request - Verandah Lifestyle Estate (Under separate cover)
11. LEP Amendment Request - Planning Proposal - Lismore Road Wollongbar - Greenlife Properties Pty Ltd (Under separate cover)

9.3 Lennox Head Village Centre Renewal - Community Engagement

9.3 Lennox Head Village Centre Renewal - Community Engagement

Delivery Program Strategic Planning

Objective To provide an update on the findings from the community engagement Phase 1 of the Lennox Village Vision project and seek direction concerning the next stage of the Lennox Head Village Centre Renewal Project.

Background

In January 2018 a report to Council outlined a suggested staged process for the progression of a Lennox Head village centre renewal project.

The first phase of this process involved community engagement to establish a preferred design for the enhancement of the centre, and to guide future renewal works. It was resolved at that meeting as follows:

That Council endorses the commencement of Phase 1 of the Lennox Head Village Centre Renewal Project as outlined within [that] report.

The engagement was undertaken during May and June 2018, with the project being referred to as the Lennox Village Vision project (LVV).

This report provides the outcomes of Phase 1 of this project regarding the community engagement initiatives undertaken and seeks direction in relation to further design works and funding.

Key Issues

- Progress on the LVV project
- Community engagement outcomes
- Urban design and renewal, including streetscape and road configuration
- Commitment of resources

Information

There has been a number of site investigations regarding redevelopment concepts and upgrade works for public land in the main street and commercial centre of Lennox Head between 1996 and the present.

Most recently, Council endorsed a staged process for the Lennox Head village centre renewal process, the first phase of which was to undertake further community engagement through the project known as the Lennox Village Vision: The future of the Lennox Head Village Centre (LVV).

The LVV project can be seen as a “resetting” of the renewal program which draws on past work to set a foundation for future actions. The LVV (Phase 1) focused on collating previous site investigations, facilitating additional community engagement, collecting additional traffic data and estimating construction costs to assist in determining a preferred renewal design for the centre.

9.3 Lennox Head Village Centre Renewal - Community Engagement

The study area

A location map and study area for the LVV is shown in Figures 2a and 2b.



Figure 2a: Lennox Head Village Centre - Location Map

The overall study area has an area of approximately 12.7 hectares centred on the main street (Ballina Street) of the Lennox Head village centre.

The study area also incorporates land in the vicinity of Pacific Parade, Byron Street, Park Lane, Mackney Lane and Rayner Lane.

The LVV project is centred on the public domain (e.g. roads, footpaths, parks) but has given consideration to private landholdings, especially in relation to the enhancement of publically accessible areas.



Figure 2b: Lennox Head Village Centre - Plan Study Area

The village centre is bounded to the east by the beach foreshore and the Pacific Ocean, to the north and south by residential areas and to the west by Williams Reserve.

Ballina Street running to the south and Byron Street running to the west of the study area connect to the Coast Road, being the main arterial road connecting Lennox Head with Ballina and Byron Bay.

Community engagement process and priorities

A package of information was collated to assist with the LVV Phase 1 community consultation process.

This package (contained in Attachment 1) included:

- Background information
- Project purpose and scope
- Streetscape designs concepts with benefits and constraints for each
- Preliminary concepts

9.3 Lennox Head Village Centre Renewal - Community Engagement

A number of meetings were held initially with local peak community organisations to determine general areas of interest and concern in regard to future upgrade works for the centre.

This community feedback, together with the information package, formed the basis of an online community survey that was available for five weeks over May and June 2018.

A total of 502 survey responses and six written submissions were received during this period.

This data was reviewed independently by Dr Liz Baker who provided a summary report of the community feedback received (contained in Attachment 2).

Key findings of the report were:

- *Support for changes to Lennox Head village centre are grounded in a commitment to the look and feel of the village centre. The essential character and experience of the village centre is highly valued.*
- *There is a recognition that there are traffic and parking issues but a concern that addressing these issues should not take precedence over the needs of people and the community. It's people who use the village centre, not cars.*
- *There is no consensus about how traffic and parking issues should be addressed. There is solid support for the investigation of a one-way traffic flow, however, there is also strong feeling against this option and its impact on specific businesses and community activities.*
- *There is strong support for overall improvements to be made, especially in the areas of facilities, particularly toilets and seating; green spaces and greening generally; playgrounds; and pedestrian accessibility.*
- *Beautification or a 'freshen-up' of the village centre is welcomed on the understanding that any upgrades or changes are in keeping with the small, beach-side atmosphere and do not reflect a generic, off-the-shelf coastal stereotype.*
- *The shops and businesses and the access to goods, services and experiences they provide are valued by the people who use the village centre. The 'localness' of the shops and business is a positive feature. There is a desire for more and more diverse shops.*

The Lennox Head Chamber of Commerce (LHCC) also conducted its own survey, asking businesses "Would you like Council to explore a two way or one way traffic option"?

LHCC has provided its phone survey results of 75 businesses, covering what LHCC estimates to be 87% of all businesses and 98% of ground floor retail businesses in Lennox Head village centre.

These results indicated that 53% of businesses were supportive of a one way traffic option being explored, 24% were supportive of a two way option, 15% were not sure and 8% had no preference.

These responses are not too dissimilar to Council's broader community survey results, where 68% of respondents supported the investigation of a one way traffic flow option for the centre.

9.3 Lennox Head Village Centre Renewal - Community Engagement

A number of streetscape options were provided as part of the package of material available during Council's community engagement for LVV Phase One.

These were:

Design A - two way traffic flow with parallel parking (no additional car parks)
Design B – one way traffic flow with angle parking (30 additional car parks)
Design C – one way traffic flow with parallel parking (no additional car parks)

Whilst around 57% of survey respondents were familiar with these designs at the time they filled in the survey, there was not a majority preference for any of the designs, with Design A preferred by 21% of respondents, Design B by 42.4% and Design C by 10.4%, with 24% of respondents either having no preference or didn't know.

These responses suggest that although some members of the community are interested in a one way traffic option being explored for the centre, additional information regarding traffic and parking may be required to provide a more consolidated community view on the most suitable streetscape and traffic management option.

This presents a challenge for Council in that it is unlikely a clear community consensus view on the one way versus the two way street approach will be obtained.

This needs to be balanced with Council's views on the timing of the works, noting the current intention or desire by some community members is to have upgrading works completed by the end of calendar year 2021, in advance of Lennox Head centenary celebrations planned for the following year.

That is, further community consultation in the absence of more detailed work plans or on-ground works is unlikely to provide Council with any better basis for a decision on this matter.

Traffic data

A number of traffic counters were installed within the study area during March to May 2018.

These were installed at seven locations in the centre for a total of 24 days between Tuesday 20 March and Thursday 12 April to provide data on the current traffic movements per day within the centre.

This period was selected as it included:

- Typical non-holidays (weekdays and weekends)
- The Easter public holidays - Friday 31 March to Monday 2 April
- Queensland school holidays - Friday 31 March to Thursday 12 April

A traffic counter was also installed in Rayner Lane and full day counts were recorded from Friday 11 May to Sunday 27 May.

9.3 Lennox Head Village Centre Renewal - Community Engagement

In-house analysis of this data indicates the average total vehicles per day (VPD) at these locations, the peak and low dates, together with the peak vehicle per hour (VPH) reading for each location.

This data, providing the total average vehicles per day (VPD) for each location (both directions combined) is summarized below:

- Ballina Street south of Park Lane 8446 VPD
- Ballina Street north of Park Lane 6806 VPD
- Ballina Street south of Byron Street 6371 VPD
- Park Lane southern end 2713 VPD
- Park Lane northern end 3096 VPD
- Byron Street east of Park Lane 5064 VPD
- Pacific Parade north of Byron Street 4525 VPD
- Rayner Lane (one way) 390 VPD

Further traffic modelling using these counts would estimate the traffic movements and volumes for a one way and two way traffic flow system now and into the future based on any new layouts proposed.

Estimate of costings

Based on a level of community support for the investigation of a one way traffic option for the centre, an estimate of costs for both traffic flow options has been prepared.

These costs are based on community priorities and necessary upgrade works including traffic control, earthworks, pavement and footpath construction, kerb and gutter, drainage and pipework, services (lighting, underground power, Telstra adjustments, water main replacement) and landscaping.

Refurbishment of Ross Park and Lennox Park Reserve is also included in this estimate, with a provisional amount of \$1million for the combined refurbishment of these open space areas.

The preliminary construction cost estimate of implementing a one way traffic flow for the centre is \$6.6million, whereas a two way traffic flow is estimated at \$6.5million.

Although these costs are subject to detailed design and quotes from suppliers and service providers, the estimate of construction costs for each option does not vary significantly.

This is largely due to the work for both options involving a complete reconstruction of the road reserve from boundary to boundary,

Given the relatively small difference in the cost estimate for each of the traffic flow options, it is suggested that project cost, in itself, is not a significant influencing factor in determining to proceed with either a one way or two way road system for the centre.

Next Steps for the LVV

A staged process for the LVV was outlined in the January 2018 report to Council and is provided again in Figure 1.

9.3 Lennox Head Village Centre Renewal - Community Engagement

The staged process outlined in Figure 1 also suggests additional steps that could be undertaken by Council to implement a program of upgrade works based on the 2021 timeframe identified in our current Delivery Program and Operational Plan and Long Term Financial Plan (LTFP).



Figure 1: Lennox Village Vision Process Steps

If Council decides to progress this project, future steps would involve using the findings of Phase 1 to undertake phases 2, 3 and 4 of the process, as indicated in Figure 1.

This could involve all or a selection of the following steps: master planning; detailed traffic modelling; a trial period of a one way traffic flow option; detailed design work; engineering design and implementation works.

More information on each of these steps, and an estimate of their costs, is provided below.

Master plan

For the Wardell, Ballina and Alstonville centre upgrades, a masterplan was prepared.

Master planning for the Lennox Head village centre would examine in more detail a number of concept options based on the community and Council priorities identified in Phase 1.

The master plan would also include further site investigations, a rationale report and a number of concept options illustrating variations of traffic flow, parking configuration and pedestrian access, together with an estimate of costings for each option. This step would take about six months to complete including a public exhibition period, and will cost between \$40,000 and \$50,000 depending on the number of options to be explored.

Given the site investigations, concept designs undertaken for the village centre to date and the extensive community engagement conducted during LVV phase 1, a further master plan is likely to result in similar outcomes to the work already (and previously) done.

Given this, the preparation of a master plan is not recommended.

Trial period of a one way traffic flow option

9.3 Lennox Head Village Centre Renewal - Community Engagement

A trial period of a one way traffic flow option for the village centre would involve setting up a temporary one way road network for a trial period of at least three months, preferably incorporating a holiday period.

“Test driving” this option would allow Council and the community to gain a greater understanding of how one way traffic management operates in a very practical way.

This trial would be an opportunity to monitor the traffic use of the centre, obtain community feedback and allow for modifications and adjustments before spending several millions of dollars in the permanent implementation of a one way traffic flow arrangement.

The setup of a trial would be temporary in nature with one option utilizing sandbag blisters, removing existing line marking and creating new road markings to improvise a one way traffic flow configuration.

It is estimated this would cost around \$30,000 and some additional costs for maintenance and monitoring for the duration of the trial.

Such an arrangement is relatively inexpensive to remove if the one way traffic configuration proves unsuccessful.

A more substantial option for a trial would involve resealing the existing carriageway in Ballina Street to allow for new line marking, the construction of temporary concrete median blisters and the installation of traffic signage.

This option would cost around \$100,000 and require an additional \$25,000 to remove this temporary infrastructure if the project did not proceed after the trial.

Alternatively, if the project is endorsed, it may be practical to leave some of the infrastructure in place until permanent works are being undertaken.

A decision on the type of materials used for a trial period is largely based on amenity and cost.

A temporary concrete construction may be preferable aesthetically, relative to the sandbag option, but is more costly to install and remove.

It is also possible to upgrade the sandbag arrangement to a more substantial configuration using temporary concrete median blisters if a one way trial period is to be extended.

Given the cost difference in the different trial materials available it is suggested the lesser cost one way traffic trial option (the sandbag option) would be suitable for further assessment regarding the feasibility of this traffic configuration.

Irrespective of the materials chosen for a one way traffic trial, a trial period allows the opportunity for monitoring traffic movements and community sentiment in order to ascertain if a one way configuration is practical solution for the centre.

9.3 Lennox Head Village Centre Renewal - Community Engagement

It also enables businesses to monitor their trading to gauge impacts, although it would need to be recognised that the trial road works may not be the only reason for trading variations if changes were experienced.

To enable the community to experience and evaluate modified traffic conditions, and for Council's engineering staff to assess performance, it is recommended that Council implement the trial one way project, with the lesser cost (or sandbag) option being preferred.

Irrespective of the option selected, a substantial communications strategy will need to be implemented leading into, and for the duration of the trial.

Traffic modelling

Detailed traffic modelling would be undertaken by traffic engineering consultants and based on the traffic data collected through Phase 1 of the LVV and the trial period.

This would involve SIDRA modelling to estimate the level of service at the intersections for a one way and two way traffic flow system and modelling any new layouts proposed.

It is estimated that this would cost around \$10,000 and take about one month to complete.

A more comprehensive microsimulation traffic model could be undertaken that provides information on a wider road network around Lennox Head, including parking and pedestrian movements, and provide advice that is compliant with Roads and Maritime Services requirements.

This process may cost approximately \$50,000 and would take up to three months to complete.

Council's engineering team is of a view that the more comprehensive traffic modelling is not necessary at this time but could be utilised at a later stage in the process if more traffic information is required.

Our engineers do however confirm that the more basic SIDRA modelling is preferred, and this is recommended.

Detailed design

This step would involve undertaking more detailed design work for the public space areas of the Lennox Head village centre based on the outcomes of the steps outlined above.

Detailed design includes the provision of a demolition plan, set out plan, surface materials and colours, pavement design, furniture plan, planting plan as well as section and plan views for the streetscape and open space precincts within the village.

This process would detail a streetscape design focusing on one of the traffic flow options, depending on the outcomes of the above steps.

9.3 Lennox Head Village Centre Renewal - Community Engagement

Detailed design work is estimated to take around three to six months and could cost approximately \$80,000.

Engineering design would be undertaken by Council's design engineers, using the landscape design to complete plans for underground services, stormwater, drainage, street lighting and the finished levels for streetscape pavement and kerbs.

This work would be expected to take around three months and occur concurrently with the detailed streetscape design.

Implementation works

Implementation works would be undertaken in stages, subject to the detail design stages but is likely to require between six and 18 months to complete, depending on what services may need to be relocated to accommodate the renewal works.

As mentioned, the preliminary estimated cost of these works is \$6.6m.

Sustainability Considerations

- **Environment**

There are a number of environmental and aesthetic benefits that could result from the implementation of the renewal of the Lennox Head village centre public domain. This could include parkland enhancements and provision of street trees.

- **Social**

Future village centre renewal can contribute to social connectivity and positive community outcomes through creation of meeting and recreational spaces and enhanced opportunities for informal interactions.

- **Economic**

Future village centre renewal works have the potential to stimulate enhanced economic activity in Lennox Head with respect to both local residents and visitors, although it must be acknowledged that during the future construction period, adjacent businesses are likely to be substantially impacted.

Legal / Resource / Financial Implications

The 2018/19 Operational Plan and Delivery Program identifies funds to the Lennox Head - Village Renewal works as follows:

2020/21	2021/22
\$4,200,000	\$1,300,000

A report on funding options for the various non-recurrent community infrastructure projects, including the LVV project, was submitted to Council's March 2018 Finance Committee meeting for the preparation of the 2018/19 Operational Plan.

9.3 **Lennox Head Village Centre Renewal - Community Engagement**

In summary, this report indicated that the Lennox Head Village Renewal works would be funded by December 2021 as follows:

- Loan - \$2m, being \$1m in 2020/21 and \$1m in 2021/22 – Repayments funded \$100,000 from the Community Infrastructure Reserve and \$80,000 from recurrent Roads Reconstruction budget
- Landfill and Resource Management (LRM) Dividends - \$2m, being \$1m in 2020/21 and \$1m in 2021/22
- Community Infrastructure Reserve - \$1.5m, being \$750,000 in 2019/20 and \$750,000 in 2020/21.

There are some risks with this funding model, particularly as to whether or not the LRM reserve will have sufficient funds to provide a dividend, based on the level of uncertainty with respect to the overall waste collection and recycling market.

The figures of \$5.5m were also based on costs estimated prior to the commencement of Phase 1 of the LVV project.

More detailed costings were assessed as part of Phase 1 of the LVV and have been outlined in this report.

The updated estimated costings prepared as part of Phase 1 of the LVV for implementation of upgrade works are around \$6.6m which includes \$1m for the upgrades of Ross Park and Lennox Reserve Park.

Funding for the upgrade of Ross Park of \$460,000 is listed as a separate item in the Operational Plan and Delivery Program for 2019/20.

\$117,000 has also been identified in the current Operational Plan and Delivery Program for upgrading the Lennox Main Beach amenities block in the 2021/22 financial year.

As improvements to open space areas, playgrounds and toilets are highlighted as a community priority in the LVV survey it is suggested that the funding for these items be brought forward to coincide with the completion date of December 2021 for the Lennox Head village centre upgrade.

Therefore, in the period 2019/20 - 2020/21, Council could have funding of \$6.1m in its budget for village centre upgrade works if the funds for Ross Park and the upgrade of the Main Beach amenities block are included in the allocation for the Lennox Head village renewal project.

Funding for the Lennox Foreshore Master Plan, of which the Lennox Reserve Park area is a part, has not yet been identified in Council's Long Term Financial Plan.

Given the funding shortfall of \$500,000 estimated for the Lennox Reserve Park refurbishment it is suggested that this is delayed until additional funds for the progression of the Lennox Foreshore Master Plan can be secured.

Progressing the LVV Project

9.3 Lennox Head Village Centre Renewal - Community Engagement

As outlined in this report, the outcomes of Phase 1 have provided a substantial amount of information regarding the community's priorities for the Lennox Head village centre, traffic counts, traffic flow design options and estimated costings for the implementation of upgrade works.

The additional steps involved in the next phases of the LVV project have been canvassed, together with preliminary estimates of the associated costs and timeframes for their completion.

These are summarised in the following table, along with an approximate costing, duration and timing.

Phase	Step	Cost	Duration	Timing
2	Trial period of a one way traffic flow option	\$30,000 - \$100,000	3 - 6 mths	Mar - Aug 2019
	SIDRA traffic modelling	\$10,000	3 mths	Sep – Oct 2019
3	Detailed streetscape design	\$80,000	3 - 6 mths	July to Dec 2020
	Engineering design			
4	Implementation works	\$6.6m	12 mths	Jan 2021 - Dec 2021

Although a budget has been identified for the implementation of the Lennox Village upgrade works, the current Delivery Program and Operational Plan does not allocate funds to progress phases 2 and 3 of the LVV project in the 2018/19 or 2019/20 financial years.

If Council wishes to continue progress on the LVV project, additional funds will need to be sourced to carry out the steps necessary to ensure the project is ready for implementation in 2020/21.

It is suggested that Council needs to undertake at least a one way traffic flow trial and SIDRA traffic modelling to provide confidence that the one way traffic flow option is suitable for the Lennox Head village centre before committing funds to further design work and on ground works.

It may be determined, for example, that based on the information gathered and community feedback provided during Phase 1, a low cost one way traffic flow trial and SIDRA traffic modelling is undertaken to coincide with next year's Easter holiday period.

Depending on the outcomes of the trial, the project would then progress to the detail design phase based on a one way or two way traffic configuration.

The project could then proceed based on the process outlined in Figure 1 and 2021 timeframe for completion identified in the current Delivery Program and Operational Plan.

Under this scenario, additional funds of between \$40,000 and \$110,000 (depending on the materials chosen for the trial) will need to be sourced for the 2018/19 and 2019/20 financial years if Council wishes to progress the project to the design stage (Phase 3).

Consultation

The community was invited and encouraged to have input into the LVV project via an online survey as well as being able to call or email the project team.

The survey was based on meetings with community stakeholders held between March and May 2018.

The community survey was promoted via:

- Council's website and media
- Emails to community groups and project contact group
- Letters to property owners within the study area
- Mailbox drops to businesses within the study area
- Advertisements and articles in local electronic and print media

The survey was available on line for five weeks (launched 22 May and closed 20 June) and hard copies were available on request. There were 502 respondents to the survey. In addition, six written submissions were received.

The findings are detailed in the Lennox Village Vision (LVV) Project – Community Survey Report (Attachment 1).

Whilst there are some areas where there is widespread agreement, there are others where there are quite disparate views.

Additional and supporting information concerning the project, preliminary streetscape designs and concepts was made available on Council's website and via a display at the Lennox Head Community Centre.

A booklet containing this information was hand delivered to many businesses and individuals (Attachment 2).

Options

1. Council may choose not to proceed with additional phases of the LVV Project.

This option is not recommended.

The Council's financial planning makes provision for upgrading works to occur.

The most recent community engagement indicates there is considerable (albeit not complete) support for the centre upgrade, though consensus has not been achieved with traffic management options.

The additional works suggested in this report will enable additional information to be gathered and assessed, with further input from the local business and broader community.

2. Council can defer decisions regarding the commencement of additional phases of the LVV Project.

9.3 Lennox Head Village Centre Renewal - Community Engagement

This option would involve deferring any further consultation or design work until funding for these costs are included in the Delivery Program or until the matter has been further discussed through a Councillor briefing.

Costs to cover implementation works associated with a Lennox Head village centre upgrade are identified in the LTFP.

To maintain momentum on this project and to ensure this work is completed within the timeframe previously adopted, a further deferral of work is not recommended.

3. Alternatively, Council can proceed with the LVV project as outlined in this report.

This is the recommended approach.

Under this approach, it is recommended Council implement the additional steps in relation to undertaking a basic trial of a one way traffic flow for the village centre and SIDRA traffic modelling.

Once a more detailed investigation of a one way traffic flow is complete, the Council can consider the outcomes of these steps in relation to further implementation works and funding.

From a financial perspective there are some concerns with the recommended approach in that:

- it may result in Council expending \$40,000 plus (up to \$140,000) of ratepayer funds that then result in the proposed works not proceeding
- The trial, no matter how good it is, will not fully reflect the ultimate outcomes being sought
- There is still a possible two year lead time between the trial and the works proceeding, if the trial is undertaken during 2018/19. Therefore the commencement and cessation of the trial, for a lengthy period of time, may result in some confusion amongst the community
- Council does not have any funds in the 2018/19 budget to undertake this trial, therefore monies will need to be reallocated from other projects or internal reserves, if it proceeds in 2018/19
- Council does not have the full magnitude of funds identified in the report allocated in the Long Term Financial Plan (LTFP) (i.e. \$6.6m).

The current budget for this project in the 2018/19 LTFP is \$3,100 with \$600 expended to date. Council has an internal reserve for this project of \$26,600 which can be applied to the trial.

Council also has an internal reserve for Strategic Planning Studies, with sufficient funds available, to allow a transfer that would provide a total budget of approximately \$42,000 for this project in 2018/19 (allows some contingency for works already undertaken).

9.3 Lennox Head Village Centre Renewal - Community Engagement

This can be summarised as follows:

Item	Amount (\$)
Existing Budget	3,100
Internal Reserve – Lennox Head Village Renewal	26,600
Internal Reserve – Strategic Planning Studies	12,300
Total Budget for 2018/19	42,000

If Council is going to proceed with the trial a further report is also needed on how the revised estimate of \$6.6m is to be funded in the LTFP.

The recommendations reflect these comments.

RECOMMENDATIONS

That Council endorses the commencement of Phase 2 of the *Lennox Village Vision: The Future of the Lennox Head Village Centre* project as follows:

1. Implement a trial one way traffic management arrangement in accordance with streetscape design concepts contained within the attached community engagement package, with other associated or consequential changes within the local road network
2. The one way temporary arrangement is to operate for a minimum period of three months, with the operational period to be determined by the General Manager so as to optimise the gathering of traffic data for further assessment;
3. The temporary one way traffic arrangement is to be based on the lesser cost option as described in this report
4. The General Manager is authorised to arrange for SIDRA traffic modelling to be undertaken to further inform the selection of future traffic management options within the centre
5. The information gathered from the trial one way traffic management arrangement and the modelling is to be reported back for the Council's further consideration.
6. The trial for 2018/19 is to be funded as follows:

Item	Amount (\$)
Existing Budget	3,100
Internal Reserve – Lennox Head Village Renewal	26,600
Internal Reserve – Strategic Planning Studies	12,300
Total Budget for 2018/19	42,000

7. Council is to receive a further report on how the latest estimated cost of \$6.6m can be funded in the Long Term Financial Plan.

Attachment(s)

1. Lennox Village Vision - Information Booklet (Under separate cover)
2. Lennox Village Vision - Community Survey Report

9.4 Lennox Head Community Preschool (New) - Site Options

9.4 Lennox Head Community Preschool (New) - Site Options

Delivery Program Community Facilities

Objective To consider site options for the construction of a new community preschool to service Lennox Head.

Background

On 26 May 2016 Council considered a report which advised of the Lennox Head Community Preschool Inc's desire to establish a second preschool to service the Lennox Head community.

The preschool has been operating within its current leased premises at 21 Mackney Lane, Lennox Head since approximately 1983. Demand for preschool placements has substantially exceeded the capacity of the facility, with a very significant waiting list currently in place.

In recent years the preschool has been unsuccessful in securing grant funding for an expansion of its service, despite this considerable unmet demand for placements. However, this changed very recently, when preschool representatives informed Council that the service has been successful in obtaining an offer for government funding in an amount of \$600,000 toward the construction of a new (second) facility in Lennox Head.

In response to the report in May 2016, Council resolved as follows:

1. *That Council provides, in principle, its support for the investigation of a site for the establishment of a new community preschool facility in the Lennox Head area.*
2. *That a further report concerning the outcome of these investigations be submitted for Council's consideration upon confirmation of the preschool securing grant funding sufficient to construct a new preschool.*

Given the earlier decision of Council, and the recent funding announcement, the following report provides information concerning a number of Council owned properties in the Lennox Head and Skennars Head districts which have been identified and assessed to determine their availability and suitability to accommodate a new preschool.

In considering the report, the Council's attention is drawn to the final few words of point two of its earlier decision, being the preschool securing grant funding sufficient to construct a new preschool.

As stated, the preschool has received a grant allocation of \$600,000 which would be insufficient to build a new facility.

The preschool has previously provided written advice that it requires no financial contribution from Council to fund a new facility, as it holds funds which, when supplemented by grant funding, (it anticipates) will be sufficient for the project.

9.4 Lennox Head Community Preschool (New) - Site Options

The only current request of the Council is to make available land of adequate size (and presumably in a satisfactory location) which would then be leased to the preschool when construction of the new facility is complete.

A commitment to a suitable site for the proposed development is a prerequisite to the preschool's ability to accept the current offer of funding.

Key Issues

- Need for additional preschool places to service the Lennox Head/Skennars Head community
- The extent to which Council's assets and resources should be committed to the provision of a new preschool.

Information

Although the explicit requirements of the preschool have not been notified, Council staff understand a site containing a minimum area of approximately 1500m² is desirable to deliver a two unit facility (40 places), inclusive of playground areas and carparking. Ideally, the selected site would be relatively level to minimize construction costs and to accommodate practical childrens' play areas.

It should also be conveniently located to promote accessibility.

Other things to consider are land zoning under the provisions of Council's planning instruments (which go to the permissibility of the development) and the land classification under the Local Government Act.

From a procedural point of view it is advantageous (but not essential) for the selected site to be classified as operational, rather than community land to facilitate both the development and the subsequent long term lease of the property.

With these things in mind, Council staff have compiled an inventory of Council owned properties within the Lennox Head and Skennars Head localities as a starting point for discussion.

The aim has been to undertake a very preliminary analysis of each of the sites, and their settings, to determine their basic suitability for a preschool.

No explicit selection criteria or weightings have been applied for the evaluation of the nominated sites.

The degree of difficulty for the establishment of a preschool on the listed properties varies significantly due to the physical attributes of the respective parcels, their zoning, classification or settings.

The other key issue, which can be difficult to gauge, is community or neighbourhood sentiment regarding a preschool, particularly where it is proposed within an established residential area.

None of the identified sites offer a reasonably straight forward outcome, and it is highly unlikely that a facility could be constructed in the short term, even if all necessary funds are immediately available.

9.4 Lennox Head Community Preschool (New) - Site Options

However, having undertaken a preliminary review of the various options identified by staff, it is suggested that four sites warrant consideration by the Council. Plans illustrating each of the four sites, and their immediate setting, are attached to this report.

Option 1 – Residue of Henderson Farm, Lennox Head

This land is located immediately west of the Epiq Lennox Estate playing fields, separated only by an unformed road which runs in a north/south direction.

The property is classified as operational land for the purpose of the Local Government Act.

Part of the property is zoned for residential purposes, whilst the remainder is zoned for environmental protection.

Depending on the selection of a particular site within the property, an amendment to Council's planning instrument may be required as a prerequisite to assessing a development application for a preschool.

A key advantage of this land is that, given approved and planned development in the locality, establishment of a preschool would be very accessible, and close to other supporting infrastructure, including sporting and commercial facilities.

Very significant barriers to this option are that access and utility services are not likely to be available in the short to medium term and, depending on the selected site, sloping land will lead to more significant construction costs for a new facility.

Council has not yet determined the future of the Henderson Farm residue; whether to seek to obtain development and construction approvals and bring the land to the market (as it has done in Wollongbar, for example) or sell the property.

Ideally, isolating an allotment for a preschool would only be done in the context of an overall development plan for the property.

Option 2 – Corner of Hutley Drive and Snapper Drive, Epiq Estate Lennox Head

This land is described as Lot 4 DP1239938 and contains an area of 1811m².

It is zoned B1 Neighbourhood Centre under Council's local environmental plan, with a preschool being permissible on land within this zone, subject to the grant of development consent.

For the purpose of the Local Government Act, the property is classified as operational land.

Lot 4 was granted to Council by Clarence Property as a condition of that company's overall approval for the Epiq Estate.

9.4 Lennox Head Community Preschool (New) - Site Options

Although zoned for business purposes, the land is heavily constrained by virtue of the location of a sewer rising main which traverses the eastern side of the allotment, contained within an eight metre wide easement.

The land on the southern and eastern sides of lot 4 comprises a public reserve owned by Council, within which there are substantial areas of ponds used for stormwater detention and treatment.

The Council might also note that lot 4 is located near a significant wetland (being on the western side of Hutley Drive, south of the playing fields).

Proximity to the wetland may give rise to concerns relating to mosquitos and biting midges in the context of a preschool's operations. Mitigation measures at design stage could substantially impact the cost of the proposed new facility on that site.

As with Option 1, lot 4 is well located to enable a preschool to benefit from the urban development which is planned to occur as part of the Epiq Estate, and will be immediately adjacent to sporting and commercial facilities.

Although the land appears to have adequate area on which to build and operate a preschool, the location of the easement does present a constraint in terms of designing a new facility.

A development might benefit from leasing an area of the adjoining public reserve on the southern side of lot 4 (or adjust the common boundary between the lots) to assist with carparking or open space needs, but this would need to be examined more closely if this option was to be pursued.

Option 3 – Property at No9 Byron Bay Road Lennox Head

Described as Lot 2 DP620838, this land contains an area of 9735m².

It is zoned RU1 Primary Production under Council's local environmental plan, under which a preschool is currently prohibited.

An amendment to this instrument (via a planning proposal) would be required prior to assessing a development application for a new facility here. Council has a planning proposal presently on foot in relation to this property.

If and when completed, this will have the effect of zoning the land (and the adjoining Telstra allotment) for residential purposes, with a preschool then being permissible with consent.

For the purpose of the Local Government Act, the land is classified as operational land.

Lot 2 was acquired only recently by Council to enable a new principal access road to be constructed to service the main residential growth areas within Lennox Head.

Documentation is currently being prepared to apply for regulatory approvals for the new road and intersection works. If approvals are granted, the works are programmed to occur during the 2019/20 financial year.

9.4 Lennox Head Community Preschool (New) - Site Options

The plan accompanying this report illustrates the design for the proposed new road and intersection, and the extent to which they will impact on lot 2.

The design suggests that the residual area on the western side of the new road will provide few opportunities for future development.

The area of the lot retained on the eastern side of the new road could be considered for urban development, subject to rezoning.

As both the land owner and the planning authority, Council is encouraged to start thinking about the preferred use of the eastern area following road construction, having regard for the site's central location and prominence.

Preliminary enquiries of Council's Commercial Services Section indicate the existing residence would not be easily adapted for preschool usage.

The area of the eastern residual lot will not be finally known until road construction works are completed, however an indicative area of approximately 3000m² could be retained.

Future vehicular access/egress, as well as traffic noise, would need to be carefully considered in the assessment of future usage.

However, in very general terms, it appears the eastern residue could be available for preschool usage in the future.

Option 4 – 'Spoonbill Reserve', Redford Drive Skennars Head

As illustrated in the accompanying plan, this land is located on the southern side of Redford Drive, opposite Xavier Catholic College.

Classified as community land for the purpose of the Local Government Act, the property was granted to Council by the developers of Headlands Estate.

The land is described as Lot 32 DP846639, contains an area of 1.97 hectares and is zoned RE1 Public Recreation under the terms of Council's local environmental plan.

Development for the purpose of a preschool is permissible on land zoned RE1, subject to the grant of consent.

The property is quite flat and relatively unconstrained.

Key considerations associated with development of a preschool on the site would include minimizing disturbance to existing mature trees (assuming they are in sound health); attempting to minimize impacts to the amenity and enjoyment of adjacent residents; and traffic impacts during peak periods, particularly having regard for traffic levels and mix associated with nearby schools.

The other issue that would warrant consideration is to try and ensure buildings or other facilities provided as part of a preschool do not significantly diminish the values of the land or opportunities for any other improvements that might be planned in the future.

Sustainability Considerations

- **Environment**
The environmental characteristics of a site would need to be carefully considered in the context of preparing and assessing any development application for the construction and use of a preschool.
- **Social**
Early childhood services, including centre-based child care facilities may be considered as essential for community wellbeing.
- **Economic**
Council can decide if it is appropriate to allocate community-owned resources for the provision of children's services in the form of a preschool, and the extent to which support is provided.

Legal / Resource / Financial Implications

The current request is to assess whether Council has an area of publicly owned land that might be available and suitable for the erection and operation of a community based preschool.

The request has been triggered because the Lennox Head Community Preschool Inc has sought, and has been offered funding from the State Government toward the construction of a new facility to complement their existing service operating in Lennox Head.

In a previous letter to Council, the preschool advised that, should it be successful in securing funding support from the State Government, it would offer to Council the following:

"A significant community based asset to add to Council's Asset Register;

No expectation of monetary contribution from Council toward the construction of the centre due to the preschool having funds available in addition to the grant (if successful);

An expansion of critical preschool services to the community;

A community lease with similar terms and conditions to the existing lease."

It is also assumed that, should the Council agree to nominate a site for the proposed facility, all costs associated with obtaining planning and other regulatory approvals, and the preparation of lease documentation, would be borne by the preschool.

Consultation

To date, there has not been any Council-initiated community consultation undertaken in relation to this matter.

Options

Council may wish to either decline to nominate a parcel of land to potentially accommodate a new preschool or indicate that one of the options described in

9.4 Lennox Head Community Preschool (New) - Site Options

this report is available, subject to it being determined as suitable as an outcome of a development application assessment process.

Alternatively, Council could nominate another parcel for consideration.

None of the options examined appear to be straight forward from a land use planning perspective, nor could a project be delivered in the immediate to short term.

Unfortunately, there is a sense of some urgency prevailing because the funding provider has advised of the need for a site to be 'locked in', as it were, by 7 December.

If this is not achieved, the current grant offer would no longer be available.

It is also noted under the terms of the funding offer that construction work for the new facility must commence within 12 months of the preschool receiving a Grant Confirmation Letter.

Having regard for the above, and the preliminary evaluation of site options undertaken by staff, it is suggested that Option 4 – Spoonbill Reserve in Redford Drive, Skennars Head may be the most practical option if Council determines to accede to the preschool's request.

In relative terms this site appears to have few physical constraints, is accessible and well located to service the locality's existing population and the adjacent planned expansion areas.

A preschool (defined as a centre-based child care facility) is also allowable on this site, with prior development consent, under the terms of Council's local environmental plan.

It should also be acknowledged that establishment of a preschool on part of this site may attract objections from nearby neighbours who may feel their enjoyment or amenity will be diminished as a consequence of the existing community open space area being built upon.

Additional traffic generation in a location which is already very busy in peak periods during school terms may also be cited as a reason to oppose a preschool on this site.

If Council wished to support the preschool's request, but is reluctant to commit part of the Redford Drive site, it is suggested the land on the corner of Hutley Drive and Snapper Drive within the Epiq Estate may be the best practical alternative.

RECOMMENDATIONS

1. That Council notes the contents of this report which has examined site options in Lennox Head and Skennars Head for the potential establishment of a new community based preschool.
2. That based on the contents of this report Council agrees to offer the Lennox Head Community Preschool Inc a site for the establishment of a new preschool, being part of Allotment 32 DP846639, Redford Drive

9.4 Lennox Head Community Preschool (New) - Site Options

Skennars Head.

3. The General Manager is authorised to endorse the lodgement of a development application, prepared by or on behalf of the Lennox Head Community Preschool, for the establishment and operation of a preschool on the selected site, with extensive consultation to be undertaken with the adjoining property owners.

Attachment(s)

1. Option 1 - Residue Henderson Farm, Henderson Lane Lennox Head
2. Option 2 - Cnr Hutley Drive and Snapper Drive Lennox Head
3. Option 3 - 9 Byron Bay Road Lennox Head
4. Option 4 - Spoonbill Reserve, Redford Drive Skennars Head
5. Hutley Drive Northern Extension (3)

9.5 Policy (Draft) - Developer Contributions Investment Incentive

9.5 Policy (Draft) - Developer Contributions Investment Incentive

Delivery Program Strategic Planning

Objective To consider a draft investment incentives policy relating to developer contributions.

Background

At its Ordinary meeting held 28 July 2016 Council considered a Notice of Motion regarding developer contributions incentives for small business, resolving as follows:

- 1. That Council receive a report on options that could be considered to reduce, or waive, the developer contributions payable by smaller sized businesses when starting up or transferring their business location.*
- 2. The objective of the reduction, or waiver, would be designed to assist in encouraging the establishment of small businesses in our Shire and to assist those businesses to survive in the first few years of operation.*
- 3. The report is also to examine options where the reduction, or waiver, could be targeted at certain types of businesses that may assist in enhancing the overall commercial activity in our Shire.*

The consideration of this matter was incorporated into the preparation of Council's Economic Development Strategy (adopted 22 March 2018) and associated work program.

A draft policy addressing the matters outlined in the Council's July 2016 resolution regarding the matter has now been prepared and is the subject of this report.

The draft policy also incorporates Council's previous decisions regarding the discounting of developer contributions in association with secondary dwellings, including the recent amendment of that policy position with respect to detached secondary dwellings.

Key Issues

- Stimulation of economic development and employment opportunities
- Infrastructure delivery

Information

Developer contributions are payable to Council where a development consent (or a complying development certificate) is required to facilitate a change in use of a property or premises and that use is deemed to impose a higher level of demand on public infrastructure or works than the previous use, and is identified as such in a contributions plan adopted by the Council.

9.5 Policy (Draft) - Developer Contributions Investment Incentive

In the case of commercial development, these contributions typically relate to the following:

- Road network contributions
- Car parking contributions, where the business is located within certain zoned business areas (such as the Ballina central business district, for example) and parking cannot be provided on the site to which the development relates and
- Water and sewerage charges (including a Rous Water headworks charge).

Developer contributions and charges are imposed under the *Environmental Planning and Assessment Act 1979* (in the case of roads and car parking contributions) and the *Local Government Act 1993* and *Water Management Act 2000* (in the case of water and sewerage charges).

“Credits” for contributions previously paid accrue to the relevant landholding, even though those contributions are typically paid by tenants rather than landlords (where the property is leased).

The following table shows the typical costs per 100m² of Gross Floor Area (GFA) incurred involved in a range of small business changes of use.

From	To	Additional developer contributions per 100m ² GFA* (s7.13 of the EP&A Act 1979)	Additional developer charges for water & sewerage per 100m ² GFA (s64 of LG Act 1993)
Retail	Café	\$7,592	No change
Office	Gym	\$13,286	No change
Office	Health consulting room	\$15,183	\$17,068
Retail	Hairdresser/beauty salon	No change	\$23,017

*does not include contributions payable for car parking where additional parking cannot be provided on site.

Changes of use from an office to retail comprises exempt development under the terms of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, therefore no contributions are payable in those circumstances.

For the purpose of this report, car parking contributions, which are payable to Council where demand for additional parking cannot be met on the development site, have been excluded from any waivers at this time in order to ensure car parking provision remains adequate within the shire’s more prominent business areas and due to the substantial magnitude of those contributions.

Rous water charges are also not affected by the draft policy as Council has no authority over those charges.

A draft policy has been prepared (provided as Attachment 1 to this report) through an internal staff working group.

9.5 Policy (Draft) - Developer Contributions Investment Incentive

The key elements of the draft policy are as follows:

- **Small Business Incentive** – This item provides a 100% discount to small businesses ($\leq 200\text{m}^2$ in gross floor area) within established business premises undergoing a change of use which requires development consent.

The aim is to stimulate employment generating opportunities for small businesses and avoid the situation where a small business may not proceed due to the magnitude of the developer contributions.

200m² has been assessed as a reasonable cut-off for this policy as the Council resolution focusses on small businesses.

There is always the risk that a developer may try and structure their proposed development into smaller gross floor areas to seek this exemption and it is this type of issue that will need to be monitored to ensure that this type of policy does not result in distortion to the market, or excessive benefits being obtained.

- **Secondary Dwellings Incentive** – This item reflects and maintains the Council's adopted policy position with respect to the waiving of developer contributions relating to secondary dwellings, as a mechanism for promoting housing affordability within our shire.

The small business incentive has been developed on the basis of the following objectives:

- Targeted – The draft policy focusses on small business occupying commercial premises in business zones which currently incur contributions liabilities associated with seeking approval for minor changes in use;
- Affordable – the draft policy is not anticipated to impact significantly on Council's income. However, periodic review of the policy is proposed to monitor this.
- Equitable – the draft policy seeks, in part, to redress the inequity of small-scale commercial tenants being required to pay contributions towards infrastructure that benefit landlords and future tenants of affected properties.

It is noted, however, that the policy applies to all small businesses including owner occupiers of small strata units.

The policy has also been developed in such a manner that the waiver is administratively practical in terms of its implementation.

The incentives are targeted in such a way as to support small business investment and growth without significantly impacting on Council's financial resources or ability to augment infrastructure in a timely manner.

In order to monitor the impacts of the small business incentive, in terms of development outcomes and infrastructure delivery, it is proposed that the policy be reviewed annually for at least the first two years of implementation.

It is intended that subject to the Council's endorsement of the policy, a notation will be included in Council's current developer contribution plans as an administrative change to reference the policy.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The introduction of small business incentives seeks to support the social wellbeing through supporting local employment.
- **Economic**
The draft incentives policy seeks to support the key driver of local economic development, namely small business.

Legal / Resource / Financial Implications

It is anticipated that the provision of these incentives would not have a significant impact on Council's development contributions income. However, in order to monitor any such impact, it is proposed that the policy be reviewed annually for the first two years of implementation.

Consultation

Internal consultation has taken place between the Council Sections responsible for the matters associated with the draft policy. Comments have been incorporated into the draft policy.

Should the Council endorse the draft policy as attached, it is recommended that the policy be placed on exhibition for community feedback.

If any submissions are received that are considered to raise significant concerns the matter will be reported back to the Council for further consideration. If no significant concerns are received then the draft policy will be taken to have been adopted, and no further action is required.

Options

The following options are presented for the Council's consideration:

1. Council may endorse the draft policy as contained in Attachment 1 (or amend the draft policy as considered appropriate) and place it on public exhibition. Under this approach, the matter will be reported back to the Council should submissions be received which raise significant concerns. If no such submissions are received then the draft policy can be adopted and no further action is required.

This option is recommended on the basis of the following:

- The draft policy has been prepared with the objective of being targeted, affordable and equitable.
 - Public exhibition will provide an opportunity for feedback from the local community and businesses.
2. The Council could resolve to discontinue the preparation of an investment incentives policy for small business at this time.

9.5 Policy (Draft) - Developer Contributions Investment Incentive

The option is not recommended on the basis that it is anticipated the draft policy will have real and positive impacts on small businesses that involve a minor change of use and thus support the viability and vitality of the shire's businesses and generate jobs.

If Council is uncertain about progressing the draft policy to exhibition, a briefing can be held to discuss the content of the policy in more detail.

RECOMMENDATIONS

1. That Council endorses the draft Developer Contributions Investment Incentives Policy, as attached to this report, for the purpose of presenting it for community feedback.
2. That Council place this policy on exhibition for public comment, with any submissions received which raise issues of concern to be resubmitted to Council for its further consideration. If no such submissions are received then the policy is taken to be adopted and no further action is required.
3. For the purpose of monitoring implementation and effectiveness, the adopted policy be reviewed annually for a period of two years, with outcomes provided for the information of Council.

Attachment(s)

1. Policy (draft) - Developer Contributions Investment Incentive

10.1 Investment Summary - August 2018

10. General Manager's Group Reports

10.1 Investment Summary - August 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 August 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 August was \$81,438,000. This represents an increase of \$6m from July. Council's investments, as at 31 August, are at an average (weighted) rate of 2.84%, which is 0.88% above the 90 Day Bank Bill Index of 1.96%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 31 August 2018, was \$6,933,788. This balance is higher than the balance of \$3,711,937 as at 31 July 2018. The combined movement of investments and bank balances was an increase of \$9,221,851. This overall increase is attributable to rates payments in the month of August.

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%

10.1 Investment Summary - August 2018

* Reflects reserves held as at 30 June 2018.

A. Summary of Investments by Institution

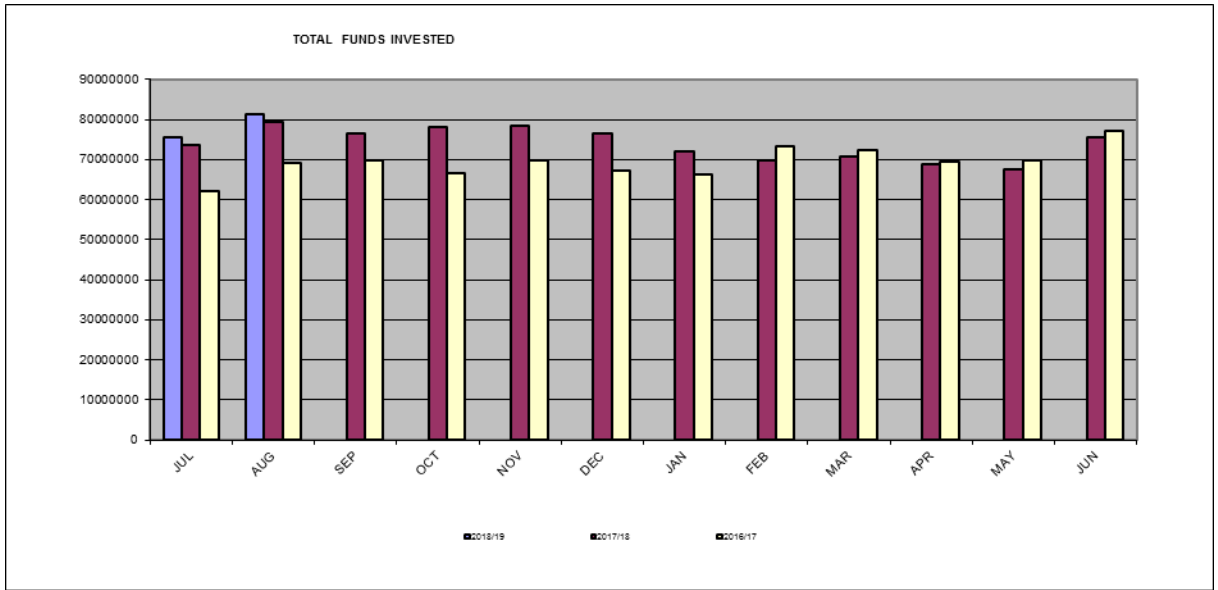
Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.2%	2%
Rated Institutions							
AMP Bank	Yes	A	10,000	10,000	20%	12.3%	
Auswide Bank	No	BBB	1,500	1,500	10%	1.8%	
Bank of China	Yes	A	2,000	2,000	20%	2.5%	
Bank of Queensland	Yes	BBB+	4,000	2,000	10%	2.5%	
BankWest	Yes	AA-	0	8,000	20%	9.8%	
Bendigo & Adelaide Bank	No	BBB+	3,000	0	10%	0.0%	
Commonwealth Bank of Australia	Yes	AA-	5,000	5,000	20%	6.1%	
Credit Union Australia	No	BBB	3,000	3,000	10%	3.7%	
Defence Bank Ltd	No	BBB	5,500	5,500	10%	6.8%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.5%	
Heritage Bank	No	BBB+	4,500	4,500	10%	5.5%	
ING Bank Ltd	Yes	A	5,000	4,000	20%	4.9%	
ME Bank	No	BBB	3,750	3,750	10%	4.6%	
My State Bank Ltd	No	BBB+	5,000	5,000	10%	6.1%	
National Australia Bank	Yes	AA-	2,000	2,000	20%	2.5%	
Newcastle Permanent Bld Society	No	BBB	700	700	10%	0.9%	
Rural Bank Ltd	No	BBB+	4,000	4,000	10%	4.9%	
Suncorp-Metway Bank	No	A+	0	4,000	20%	4.9%	
Teachers Mutual Bank Limited	No	BBB	1,700	1,700	10%	2.1%	
Westpac Banking Corporation	Yes	AA-	11,000	11,000	20%	13.5%	98%
Total			75,438	81,438		100%	
Credit Rating Summary as per the Investment Policy							
	Maximum Allowed		Value	Value	%	%	
	%	Value	Previous	Current	Previous	Current	
A- or Higher	100%	81,438	35,000	52,000	46%	64%	
BBB	60%	48,863	40,438	29,438	54%	36%	
Total			75,438	81,438	100%	100%	

B. Summary of Investments Fossil Fuel Aligned

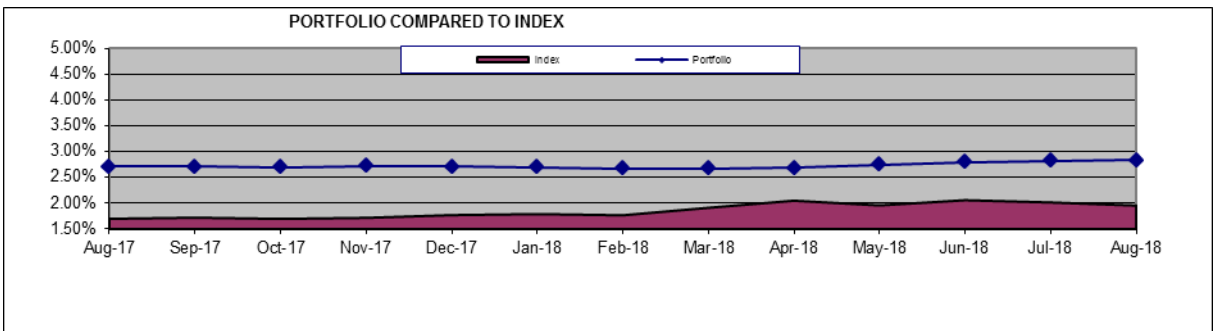
	Previous Month	Current Month
Fossil Fuel Aligned	40,788 54%	45,788 56%
Non-Fossil Fuel Aligned	34,650 46%	35,650 44%
Not Classified	0 0%	0 0%
Total	75,438 100%	81,438 100%

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

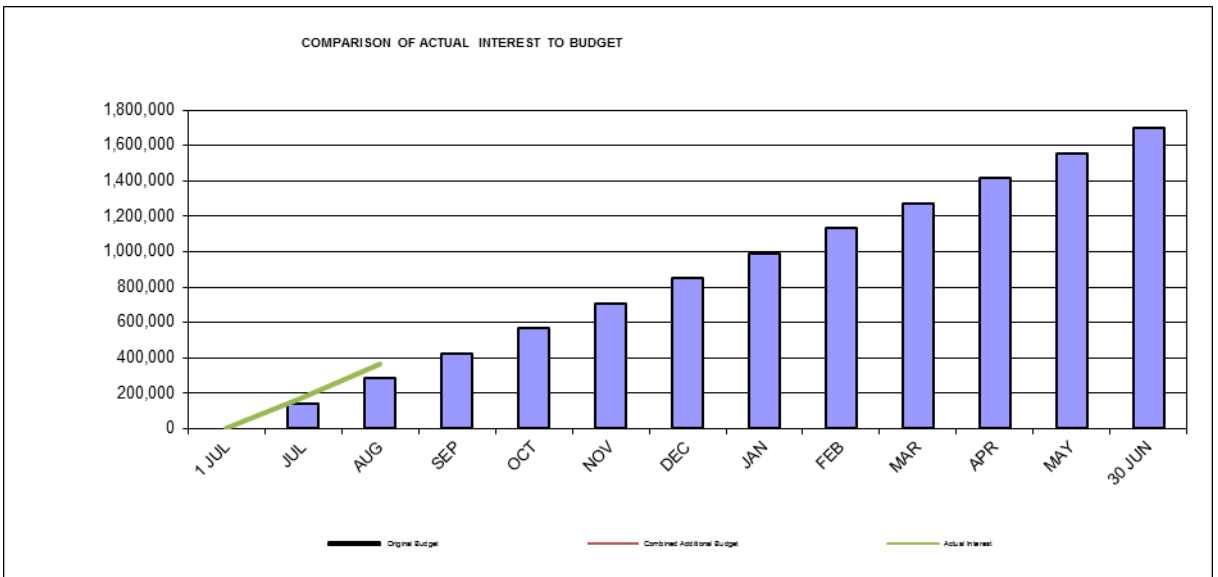
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - August 2018

F. Investments held as at 31 August 2018

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
11/12/17	ME Bank	TD	2.62%	07/09/18	1,000	1,000
05/03/18	National Australia Bank	TD	2.57%	11/09/18	2,000	2,000
26/03/18	Bank of China	TD	2.74%	02/10/18	2,000	2,000
17/06/16	Commonwealth Bank of Australia	FRN	3.11%	17/06/21	1,000	1,000
22/06/18	Heritage Bank	TD	2.80%	26/09/18	2,500	2,500
29/06/17	Teachers Mutual Bank Limited	FRN	3.45%	29/06/20	1,000	1,005
30/06/16	Commonwealth Bank of Australia	FRN	3.14%	30/06/21	1,000	1,000
02/07/18	Teachers Mutual Bank Limited	FRN	3.47%	02/07/21	700	702
09/04/18	ME Bank	TD	2.75%	09/10/18	1,000	1,000
09/03/18	Westpac Banking Corporation	TD	2.65%	11/03/19	2,000	2,000
09/10/17	Westpac Banking Corporation	TD	2.57%	09/10/18	2,000	2,000
18/01/18	AMP Bank	TD	2.65%	18/10/18	1,000	1,000
26/07/16	Commonwealth Bank of Australia	FRN	3.04%	26/07/21	1,000	1,000
30/07/18	Westpac Banking Corporation	FRN	2.89%	30/10/23	1,000	1,000
31/07/18	Westpac Banking Corporation	FRN	2.89%	02/08/23	1,000	1,000
03/08/17	Westpac Banking Corporation	FRN	3.02%	02/08/22	2,000	2,000
07/08/18	Newcastle Permanent Bld Society	FRN	3.37%	06/02/23	700	698
09/11/17	Defence Bank Ltd	TD	2.75%	08/11/18	1,500	1,500
09/11/17	ME Bank	FRN	3.21%	09/11/20	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%	Perpetual	1,788	1,563
18/08/17	Westpac Banking Corporation	FRN	3.01%	18/11/18	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%	24/02/20	1,000	1,001
25/05/18	Westpac Banking Corporation	FRN	2.89%	25/02/19	2,000	2,006
30/08/16	Greater Bank Limited	FRN	3.50%	30/08/19	1,000	1,003
31/08/18	Suncorp-Metway Bank	TD	2.65%	03/12/18	4,000	4,000
04/12/17	Defence Bank Ltd	TD	2.75%	04/12/18	1,000	1,000
11/12/17	Credit Union Australia	TD	2.60%	11/12/18	2,000	2,000
04/06/18	ME Bank	TD	2.77%	18/12/18	1,000	1,000
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
29/01/18	Commonwealth Bank of Australia	TD	2.66%	29/01/19	2,000	2,000
27/07/18	Bank of Queensland	TD	2.80%	01/02/19	2,000	2,000
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
13/06/18	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
Totals					81,438	81,229
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 August 2018.

Attachment(s)

Nil

10.2 Deputy Mayor - Election

10.2 Deputy Mayor - Election

Delivery Program Communications

Objective To determine whether Council wishes to appoint a Deputy Mayor and if so, how that position is to be elected.

Background

Section 231 of the Local Government Act states:

- (1) *The councillors may elect a person from among their number to be the deputy mayor.*
- (2) *The person may be elected for the mayoral term or a shorter term.*
- (3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

It is normal practice for Ballina Shire Council to elect the Deputy Mayor for one year although Section 231(2) allows the election to be for any period up to the entire term of Council.

Nominations for the office of Deputy Mayor are to be submitted in writing to the General Manager, signed by the nominee and at least one other Councillor, prior to this report being discussed at the Ordinary meeting.

Copies of the nomination forms are attached under separate cover.

The Deputy Mayor can be paid an allowance for such time as the Deputy Mayor acts in the office of the Mayor. The Office of Local Government has advised that such an allowance cannot be established on an annual basis and paid as an annual figure. Rather it must reflect actual time acting as the Mayor. This means the Deputy Mayor will only receive an allowance if the Mayor is on a period of extended leave and Council has resolved to pay an allowance.

Key Issues

- To determine whether Council wishes to appoint a Deputy Mayor
- If yes, Council must determine the method of voting

Information

An election must be held if more than one nomination is received. Council must determine whether the voting is to be by preferential ballot (if three or more candidates nominated), ordinary ballot (secret ballot) or open voting.

10.2 Deputy Mayor - Election

Section 251(5) of the Local Government (General) Regulation states as follows:

Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot. (Reg 251)

Note: Part 11 of this Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
It has been a long standing tradition that Council elects a Deputy Mayor.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

There is no legal obligation for Council to elect a Deputy Mayor.

Consultation

Not applicable.

Options

The options are to have, or not have, a Deputy Mayor and the method of voting. The recommendation reflects Council's traditional practices.

RECOMMENDATIONS

1. That Council elect a Deputy Mayor for the period to September 2019.
2. That the method of voting for the election of Deputy Mayor be by way of ordinary (secret) ballot.
3. That the number of votes at the ballot be revealed at the meeting and that the General Manager, following the meeting, destroy the ballot papers.

Attachment(s)

1. Deputy Mayor Nomination Form (Under separate cover)

10.3 Donations - Community

10.3 Donations - Community

Delivery Program Communications

Objective To consider a donation request from Westpac Life Saver Rescue Helicopter received outside the nominated timeframe.

Background

Council approved a number of community donations at the July 2018 Ordinary Meeting for the 2018/19 financial year.

Generally if applications are received outside of the standard advertising timeframe, applicants are advised to re-apply in the following financial year. This allows Council to assess all applications at the one time and to achieve a more equitable distribution of funding.

The following request is considered justifiable in reporting to Council for separate consideration based on the reasons outlined in the report.

Key Issues

- Community benefit
- Funding available

Information

Westpac Life Saver Rescue Helicopter

Westpac Life Saver Rescue Helicopter manages the Lennox Community Markets under licence and has been successful in obtaining donations over the last two financial years. The donation is typically used for hire of the Lennox Head Community Centre, waste collection and cleaning. A copy of the request is attached.

Westpac Life Saver Rescue Helicopter failed to submit their request for the 2018/19 financial year until August 2018, well outside the application period in May/June 2018. They are seeking a donation of \$5,000, and this would be consistent with recent years for this organisation.

Council has approved funding in 2016/17 and 2017/18 in relation to the Lennox Community Markets as outlined below.

Year	Approved
2017/18	\$5,000
2016/17	\$5,140

The annual cost to hold the market in its current location is approximately \$9,000, with the following breakdown:

- \$5,141 hire of Lennox Head Community Centre
- \$1,870 cleaning Lennox Head Community Centre
- \$1,800 waste collection.

Sustainability Considerations

- **Environment**
The subject of this donation request will provide environmental benefits to the community of Lennox Head through waste collection.
- **Social**
Westpac Life Saver Rescue Helicopter provides important rescue services to the community free of charge. The donation request will provide community benefits to the people of Ballina Shire.
- **Economic**
Any donation will represent income foregone by Council or an expense incurred by Council.

Legal / Resource / Financial Implications

The community donations budget for 2018/19 is exhausted. Should Council approve this donation request, it is proposed the funds come from the Community Donations Capital Works Sporting Groups budget. This budget has approximately \$11,000 remaining in 2018/19. These funds are earmarked for Open Spaces and Reserves maintenance should they remain unused.

In terms of land use, the Westpac Helicopter has a 12 month Crown Land Temporary Licence which will expire in March 2019. This licence is likely to be renewed for a further 12 months, subject to the matter being reported to the Reserve Trust meeting in March 2019.

Consultation

The annual donation program is subject to formal public exhibition and Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process.

Options

Council can approve the donation, not approve or approve a lesser amount. As this request has been approved in recent years the recommendation is for approval.

RECOMMENDATION

That Council approves the donation of \$5,000 to the Westpac Life Saver Rescue Helicopter, as per the attached request, funded from the Community Donations Capital Works Sporting Groups budget.

Attachment(s)

1. 2018/19 Community Donations Application - Westpac Life Saver Rescue Helicopter

10.4 Financial Assistance - Legal Costs

10.4 Financial Assistance - Legal Costs

Delivery Program Communications

Objective To seek Council's view on contributing to legal costs incurred by the City of Sydney, North Sydney Council and Bayside City Council.

Background

Local Government NSW (LGNSW) has requested Council voluntarily contribute to the legal costs of City of Sydney, North Sydney Council and Bayside City Council in respect to a matter relating to an appeal in the Land and Environment Court with regard to a rating categorization decision.

The judgement can be viewed via the Land and Environment Court's website – the citation is *Karimbla Properties v City of Sydney; Bayside City Council and North Sydney Council* [2017] NSWLEC 75.

A copy of the request from LGNSW is attached. The amount requested is \$3,353.60

Key Issues

- Implications of legal case
- Cost of Council's contribution

Information

As per the attachment from LGNSW, the Board has approved an application for legal assistance by the City of Sydney Council, Bayside City Council and North Sydney Council and is asking Council to make a voluntary contribution to assist in offsetting the costs of the case.

This request is a practice used in NSW where councils can assist each other for legal cases that may have State wide ramifications. The practice followed is that the Council incurring the legal costs writes to LGNSW asking for support from member councils.

LGNSW then assess whether the legal matter has State wide ramifications and if it is determined that it has, invoices are sent to all councils in NSW to recoup some of the costs incurred. It is then voluntary as to whether or not a member council agrees to pay the invoice (i.e. as a contribution to the other council's legal costs).

Ballina Shire Council has been the beneficiary of this system in 2010/11 when we were able to recoup approximately \$44,000 out of \$66,000 expended on a stockpiling of fill case at West Ballina.

In May 2016, Council approved a request from LGNSW towards legal costs for Bathurst Regional Council in the sum of \$1,076.62.

10.4 Financial Assistance - Legal Costs

In August 2016, Council approved a request for Cowra Shire Council's legal costs for the sum of \$587.03.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
There is a cost to Council arising from this report.

Legal / Resource / Financial Implications

Council has a \$1,000 budget for these expenses with no expenditure incurred for the year to date.

The actual case is of interest to Council in that our rating staff have to make determinations in respect to property categorisations for rating purposes. With Council having a high business differential as compared to residential and farmland properties that determination can have a significant financial impact, both positive and negative, on the property owner.

Consultation

LGNSW is consulting with all member councils.

Options

The options are to approve or not approve the payment or make a partial contribution. Council is under no obligation to provide this financial assistance.

As LGNSW has endorsed this request it is standard practice to approve the contribution. The magnitude of this request will result in a budget variation if the full amount is approved. That variation will result in a reduction in working capital.

RECOMMENDATION

That Council approves the request from LGNSW, as attached, for a contribution towards City of Sydney Council, North Sydney Council and Bayside City Council's legal costs of \$3,353.60

Attachment(s)

1. Request for Financial Assistance - Legal Costs - Appeal of Land & Environment Court rating categorisation decision

10.5 Policy (Review) - Donations - Australian Representation

10.5 Policy (Review) - Donations - Australian Representation

Delivery Program Communications

Objective To review the Donations - Australian Representation 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 – Australian Representation Policy.

This policy provides guidelines to assist Ballina Shire residents who represent Australia as an individual or member of a national team.

Key Issues

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

Information

This policy represents a long standing practice of Council where Australian representation may be recognized through a small contribution to costs associated with the representation.

The review of this policy identified changes as follows:

- It is proposed to detail the dollar value amounts per annum over the life of the policy. The rationale for this decision is so that the policy does not become outdated. The dollar increases are aligned with the forecast Consumer Price Index. It is assumed the policy is reviewed every four years.
- The template for Council policies has changed since this policy was last adopted and the new template includes information on definitions, policy history.

The changes have been marked in yellow. The proposed deletions are marked in red and struck through.

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**
Not Applicable

10.5 Policy (Review) - Donations - Australian Representation

- **Social**

By financially supporting local athletes who are selected to represent Australia enhances the social fabric of the Ballina Shire community.

- **Economic**

Local athletes who represent the Ballina Shire reflect positively on the community.

Legal / Resource / Financial Implications

The budget used to support this policy (Australian Representation) comes from the general Donations – Financial Assistance budget each year, which is approximately \$72,000. This budget is exhausted in 2018/19.

Council does not typically include a recurrent budget for this policy in the long term financial plan as requests are fairly sporadic.

Consultation

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

Options

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

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

RECOMMENDATIONS

1. That Council adopts the amended Donations – Australian Representation Policy, as attached to this report.
2. That Council places this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (review) - Donations - Australian Representation

10.6 Policy (Review) - Donations - Assistance with Council Fees

Delivery Program Communications

Objective To review the Donations - Assistance with Council Fees for Community 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 Assistance with Council Fees for Community Groups policy. Council first adopted this policy in 2005. The policy's objective is to provide guidelines to help community groups with the payment of Council fees.

Key Issues

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

Information

Council introduced this policy to provide some assistance with Council fees and charges, which, at times, can be quite burdensome for a community group.

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

The process for handling excessive contribution charges for 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 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**
Not Applicable

- **Social**
Council recognizes that community groups provide significant social benefits to the Ballina Shire.
- **Economic**
The reimbursed or waived fee relates to the delivery of a capital project for the community group which will have positive economic benefits to the Ballina Shire.

Legal / Resource / Financial Implications

Council has a budget item for the Donation of Council Fees which is approximately \$2,500 per annum.

Consultation

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

Options

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

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

RECOMMENDATIONS

1. That Council adopts the amended Donations – Assistance with Council Fees for Community Groups Policy, as attached to this report.
2. That Council places this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (review) - Donations - Assistance with Council Fees for Community Groups

11.1 Elizabeth Ann Brown Park - Name Change

11. Civil Services Group Reports

11.1 Elizabeth Ann Brown Park - Name Change

Delivery Program Open Spaces and Reserves

Objective To consider a proposal to change the name of Elizabeth Ann Brown Park.

Background

The Alstonville RSL Sub Branch has submitted a request for Council to support a proposal to re-name the Elizabeth Ann Brown Park in Alstonville to Elizabeth Ann Brown War Memorial Park. The submission includes a letter of support from the family of Elizabeth Ann Brown and justification for the change of name based on the historic use and significance of the park.

Key Issues

- Justification
- Geographical Names Board of NSW requirements

Information

The Alstonville Sub Branch has made a request to re-name Elizabeth Ann Brown Park to 'Elizabeth Ann Brown War Memorial Park' as this is considered by the Sub Branch to be in keeping with the sacred nature that the park is held as a place of remembrance by the community. A letter of support for the proposal from the family of Elizabeth Ann Brown has been submitted with the request.

When a local government authority submits a naming proposal to the Geographical Names Board of NSW it must be supported by a Council resolution and evidence that community feedback has been sought through exhibition of the proposal via appropriate media.

The proposed place name change for the park is not a significant departure from the existing name and is considered consistent with the general approach for the naming of reserves that contain monuments and places of remembrance.

The RSL has advised that the change of name will also assist applications for recognition and grant funding for park improvements and maintenance of the monuments and memorials.

The change also clearly identifies the significance of this park to visitors and tourists.

Sustainability Considerations

- **Environment**
Not Applicable

11.1 Elizabeth Ann Brown Park - Name Change

- **Social**

The proposal gives consideration to the social significance and usage of the park and is intended to strengthen the significance of this park for the community and visitors to the area.

- **Economic**

There is no economic impact regarding park signage at this time due to the nature of the name change and as the previous park sign was removed and not replaced some time ago.

Legal / Resource / Financial Implications

If the proposal is supported, compliance with the requirements of the NSW Geographical Names Board will be needed.

Consultation

Evidence of public consultation is required as part of the application requirements for a place name change to the Geographical Names board of NSW to show community support for the proposed change. Consultation will need to be undertaken if Council is inclined to support the proposed change.

Options

1. Council can support the proposal and submit an application to the Geographical Names Board of NSW for the proposed name change, subject to completing an appropriate community consultation.
2. Council can decide to maintain the existing place name of Elizabeth Ann Brown Park.

Option one is recommended as:

- the request maintains the historical naming reference for the park
- the memorial dedication is consistent with the longstanding status and use of the park
- the descendants of Elizabeth Anne Brown support the proposal
- the proposal is supported by the Alstonville RSL Sub Branch.

RECOMMENDATIONS

1. That Council confirms its support to change the name of 'Elizabeth Ann Brown Park' to 'Elizabeth Ann Brown War Memorial Park', subject to the proposal being placed on public exhibition.
2. If no submissions are received opposed to the proposal, Council authorises a submission be made to the NSW Geographical Names Board. If opposing submissions are received, the community feedback is to be reported back to Council.

11.1 Elizabeth Ann Brown Park - Name Change

Attachment(s)

1. Alstonville Sub Branch of the RSL - Correspondence
2. Correspondence from the Family of Elizabeth Ann Brown

11.2 Elizabeth Ann Brown Park - Concept and Management Plan

11.2 Elizabeth Ann Brown Park - Concept and Management Plan

Delivery Program Open Spaces and Reserves

Objective Undertake a review of the Elizabeth Ann Brown Park Concept and Management Plan

Background

In March 2009 Council adopted the 'Elizabeth Ann Brown Park Concept and Management Plan'. This plan was prepared after extensive consultation with stakeholders and then exhibited for more general consultation with the wider community.

In response to changing community preferences, following further consultation and design development, a revised Elizabeth Ann Brown Park Concept and Management Plan was adopted in January 2012. A copy of that plan is included as Attachment One.

Limited works have been undertaken as no funding has been allocated in Council's Long Term Financial Plan.

A request from the Returned and Services League of Australia (RSL) Alstonville Sub Branch to reactivate the plan in June 2016 resulted in the investigation of preliminary costs to complete the works.

It was difficult to accurately cost some of the works due to their unique nature and detailed plans, particularly regarding the monument, needed to be completed to enable reasonable estimates to be prepared.

The estimated costs for design and construction of a completely new monument were significantly greater than the budget figures proposed for the project.

Therefore further planning has been undertaken in consultation with representatives from the RSL Sub Branch and a new set of draft detailed plans for upgrade of the monument and park have now been developed.

The new plans are presented in the following report and included as Attachment 2.

Key Issues

- Nature of works

Information

The preference of the RSL Sub Branch is for the existing monument to be retained and refurbished instead of removing it and creating a new monument.

This will reduce the cost and time associated with creation of a new monument and maintains the history of the original memorial.

Refurbishment works to the monument are intended to include;

- repointing and repair of the existing brick structure
- restoration of the marble tablets
- installation of three new flag poles behind the monument
- installation of bollards to the front of the memorial and
- provision of a power outlet for memorial events held at the park.

An additional problem identified is damage that occasionally occurs to the plaques located around the memorial gardens in the park.

Due to their location low on the edging of the gardens they are prone to damage and being covered by vegetation and leaf litter.

The memorial gardens were to be removed as part of the original concept plan with the plaques to be relocated to a section of the proposed new monument.

Due to the decision to retain the existing monument, the RSL Sub Branch has proposed an additional monument be erected to better house the memorial garden plaques using the pieces of the previously replaced Ballina monument that are currently stored at the Council Depot.

Concurrence has been granted by the Ballina RSL Sub Branch and the original monument designer for this proposed re-use at Elizabeth Ann Brown Park.

The amended memorial upgrade plan has been developed to address the desired changes to the original concept design and management plan.

The aim of the amended design is to make the park more accessible and easier to maintain, as well as ensuring the project is affordable.

The main variations in the amended plan are:

- retaining and restoring the existing monument in favour of the design and construction of a new monument in its place. This reduces the time and cost to complete the upgrade works in the park.
- additional monument to house the memorial garden plaques made from the monument previously located at Ballina.
- additional path to improve access to park seating and formalise the design layout.
- deletion of two low stone walls opposite the monument, reducing construction costs and opening the park space under the existing mature trees.
- realignment of paths and gardens to retain existing grass trees and create a grand entry feature from the direction of Main Street.

The Alstonville RSL Sub Branch has been awarded grant funding from the Centenary of Armistice Grant Program to complete some upgrade works prior to Armistice Day 2018.

11.2 Elizabeth Ann Brown Park - Concept and Management Plan

Council staff are working with members of the RSL Sub Branch committee on completing the proposed works under the grant program.

Adoption of the amended plan will help support these works and increase the ability to apply for further funding to enable completion of the entire plan.

Sustainability Considerations

- **Environment**

The revised design for the upgrade works in the park has considered existing landscape features so that trees and other dominant plants are protected and featured in the design through minor modifications.

- **Social**

Development of the design and proposal for the name change have taken into consideration the social relevance and usage of the park and been guided by the intention to strengthen the significance of this park for the community into the future.

- **Economic**

The revision to the plan considered the high costs required to construct the previously adopted design and has used existing materials to reduce costs while providing more desirable outcomes

Legal / Resource / Financial Implications

The proposed amendments to the design of the park improve reuse of resources to minimise costs.

The collaboration with the RSL Sub Branch has aided in the use of funding available to the RSL to achieve the desired outcomes for all stakeholders.

Adoption of the amended plan will assist Council, the RSL and any other interested community groups to apply for suitable funding for completion of the works in the park.

The current estimate to complete the proposed works in the park is \$80,000. The funding awarded to the RSL Sub Branch for the restoration works is currently \$18,000.

Consultation

Extensive public consultation was undertaken during the development of the original concept plan and management plan in March 2009, with further consultation undertaken for the revised plan in 2012.

The new memorial upgrade plan has been developed in consultation with the Alstonville RSL Sub Branch and the original landscape architect in order to maintain consistency with the original consultation and design development process.

As the new design is largely consistent with the adopted concept design and management plan for the park, further community consultation is not recommended.

11.2 Elizabeth Ann Brown Park - Concept and Management Plan

Options

1. Council can adopt the revised Elizabeth Ann Brown Park Memorial Upgrading Works Plan (2018).
2. Council can undertake public exhibition of the Elizabeth Ann Brown Park Memorial Upgrading Works Plan (2018).
3. Council can amend the Elizabeth Ann Brown Park Memorial Upgrading Works Plan (2018).

In light of the work undertaken by the RSL Sub Branch, the upcoming centenary and the revised plan being largely consistent with the previous plan, option one is recommended.

RECOMMENDATIONS

1. That Council adopts the amended Elizabeth Ann Brown Park – Memorial Upgrading Works Plan, as per Attachment 2 to this report.
2. That Council continue to work with the Alstonville RSL Sub Branch to implement the works outlined in the plan.

Attachment(s)

1. Elizabeth Ann Brown Park - Adopted Concept and Management Plan (2012)
2. Elizabeth Ann Brown Park - Amended Memorial Upgrading Works (2018)

11.3 Tender - Ballina Indoor Sports Centre

11.3 Tender - Ballina Indoor Sports Centre

Delivery Program Community Facilities

Objective To assess the tenders submitted for the construction of the Ballina Indoor Sports Centre.

Background

At the Council meeting held 26 July 2018, the following was resolved.

- 1. That Council approves the detailed design and scope of works for the Ballina Indoor Sports Centre prepared by PDT Architects and attached to this report.*
- 2. That Council approves a Tender Evaluation Plan to be prepared for this project based on a 100% price weighting (with the recommended tenderer determined on the non-price ranking if the two or three lowest price tenders involve a price difference of less than 0.5% when compared to the lowest contract sum).*

An expression of interest process previously conducted had resulted in a shortlist of three tenderers being invited to price the proposal. In response to the resolution tenders were issued on 1 August 2018 with a closing date of 5 September 2018.

The following information enables Council to assess the tenders.

Key Issues

- Tender assessment
- Value for money
- Regulatory Compliance

Information

Prior to the issue of the final tender documents, a meeting was convened with PDT Architects and the invited tenders to enable a process of document review.

This process assists to ensure the tenderers have a full understanding of the design and specification and feedback from tenderers about the documents was able to be considered.

Tender submissions were received from all three companies issued tender documents. Submissions were received from:

- T F Woollam & Sons Pty Ltd
- Alder Constructions Pty Ltd
- Bennett Constructions (NSW) Pty Ltd

The submissions received are currently above the budget allocated for the project.

11.3 Tender - Ballina Indoor Sports Centre

Information regarding the pricing, budget implications and options for Council are discussed in a separate confidential report.

The reason for confidential reporting is one of the options canvassed is to enter commercial negotiations with the contractors capable of undertaking this project.

Sustainability Considerations

- **Environment**
The design has been developed to reduce the impact on the environment.
- **Social**
The provision of the indoor sports centre will enhance the sporting facilities within the Shire.
- **Economic**
The building will attract visitors to the Shire and therefore support economic development.

Legal / Resource / Financial Implications

The confidential report provides comprehensive information in respect of the legal and financial options for Council.

Consultation

The scope of works has been determined following a public consultation process. Key stakeholders continue to be engaged for this project.

Options

This report is for information only.

RECOMMENDATION

That Council notes the contents of this report providing an overview of the tender assessment for the construction of the Ballina Indoor Sports Centre, with the confidential report later in this agenda outlining options for the project.

Attachment(s)

Nil

11.4 Tender - 54 North Creek Road, Ballina - Civil Construction Works

11.4 Tender - 54 North Creek Road, Ballina - Civil Construction Works

Delivery Program Commercial Services

Objective To select a contractor to complete civil construction works to create six serviced industrial lots at 54 North Creek Road Ballina.

Background

54 North Creek Road, Ballina is being developed to create six serviced industrial lots. A copy of the plan of proposed subdivision is **attached**.

At the Council meeting held 27 April, 2017 Council resolved to award a tender to Civil Logic Pty Ltd to undertake civil works to create the six serviced industrial lots. In December 2017, Civil Logic Pty Ltd vacated the site. On 12 March 2018, the company was placed in liquidation. Since that time Council staff have been working to get revised plans, documents and specifications completed to enable the calling of fresh tenders to complete the project.

In June 2018 tenders were called to undertake civil construction works to complete the project. This report provides an overview of the tenders received along with recommendations.

Key Issues

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

Information

In June 2018 tenders were called to undertake civil construction works to complete an industrial subdivision being undertaken at 54 North Creek Road, Ballina. Five tenders were received and have been and assessed by Council staff. The five tenders being:-

- CD Excavations
- All Roads
- Morgan Earthworks
- Synergy
- Valley Earthworks

The evaluation criteria and weightings were determined in accordance with Council's "Tenders and Quotations – Evaluation Criteria Policy" and were noted within the tender as:

Weighted Criteria

- | | |
|---------------------------------------|------|
| • Pricing Structure | 40 % |
| • Capability | 20 % |
| • Experience & Past Performance | 15 % |
| • Construction Management & Equipment | 10 % |
| • Social & Community | 15 % |

11.4 Tender - 54 North Creek Road, Ballina - Civil Construction Works

Pricing information has been provided by separate memorandum to Councillors. The tender from CD Excavations is highest ranked when the non-priced and priced evaluation criteria are combined.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
This project generates an economic return to Council and the community.

Legal / Resource / Financial Implications

Council has undertaken a public tender process in accordance with the Local Government (General) Regulations 2005. Council staff will manage the project and civil contractor.

An update report was presented at the Commercial Services Committee meeting held on 18 September, 2018. That report included a revised financial assessment of the project based upon the preferred tender's price as follows:-

Forecast Costs / Profit – September 2018

Estimated gross sale proceeds		\$2,698,000
Less selling costs		\$93,000
Sub Total		\$2,605,000
Less		
Actual costs incurred 2016/2017	\$84,323	
Actual costs incurred 2017/2018	\$609,376	
Actual costs incurred for the current financial year to 5 September 2018	\$10,260	
Sub Total	\$703,959	
Add estimated cost to complete project including 10.00% contingency	\$1,010,236	
	\$1,714,195	
Council developer contributions	\$352,000	
Sub Total		\$2,066,195
Revised forecast development profit		\$538,805

This assessment indicates the project to be viable to complete.

Consultation

A public tender process was undertaken.

Options

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

1. *Accept the tender that, having regard to all the circumstances, appears to be the most advantageous, or*

11.4 Tender - 54 North Creek Road, Ballina - Civil Construction Works

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 CD Excavations for civil construction works to complete the industrial land subdivision located at 54 North Creek Road Ballina.
2. Council may determine not to accept any of the tenders received and invite fresh tenders or alternatively enter into negotiations directly with one or more service providers.

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

Option two is not recommended as 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 representing good value to Council.

RECOMMENDATIONS

1. That Council awards the tender for the Civil Construction Works at 54 North Creek Road to CD Excavations, inclusive of filling the site, for a tender price of \$842,960.
2. That upon the conclusion of negotiations Council authorises the General Manager to affix the Council seal to the relevant contract documents and execute same.

Attachment(s)

1. 54 North Creek Road, Ballina - Proposed Lot Layout
2. Memo - RFT1139 - Tender Assessment Report - Civil Construction Works (Under separate cover) (Confidential)

12. Public Question Time

12. Public Question Time

13.1 Bruxner Highway - Alstonville Exit

13. Notices of Motion

13.1 Bruxner Highway - Alstonville Exit

Councillor

Cr Willis

I move

That Council approach the Federal and State Governments for urgent funding to install a roundabout (or suitable alternative) to address the serious traffic accidents that continue to occur at the eastern exit from Alstonville onto the Bruxner Highway.

Councillor Comments

Accidents, including fatalities, continue to occur at this intersection and it is essential that the State and Federal Governments work together to provide funding to construct a roundabout, or a suitable alternative if there is one, to significantly reduce the risk of future accidents.

Our community remains appreciative of the Federal and State Governments co-operating to fund the Alstonville and Wollongbar bypass, however the spate of accidents occurring in this location place a significant responsibility on those governments to address this safety issue.

COUNCILLOR RECOMMENDATION

That Council approach the Federal and State Governments for urgent funding to install a roundabout (or suitable alternative) to address the serious traffic accidents that continue to occur at the eastern exit from Alstonville onto the Bruxner Highway.

Attachment(s)

Nil

13.2 Alstonville/Wollongbar Skate Park Options

13.2 Alstonville/Wollongbar Skate Park Options

Councillor Cr Smith

I move

That Councillors receive a briefing on options for a plateau skate park site, including breakdowns of any site restrictions and approximate time to approval / construction as a priority with the objective of commencing construction this council term.

Councillor Comments

Council has previously knocked back a development application for a skate park at the Wollongbar Sports fields and subsequently been asked to consider an additional site.

More needs to be done, and done faster, the objective of this motion is to hold a briefing to put all options on the table and look at what can be delivered in the most expedient manner possible.

Staff Comments

Council staff will have met with NSW TAFE representatives in respect to the Wollongbar TAFE site between the preparation of this notice of motion and the Council Ordinary meeting, which will allow an update on that site at the meeting.

It is also intended to formally report back on the TAFE site at the October 2018 Ordinary meeting, with that report also reviewing other sites previously considered.

A briefing prior to the October Ordinary meeting can assist with the preparation of that report.

COUNCILLOR RECOMMENDATION

That Councillors receive a briefing on options for a plateau skate park site, including breakdowns of any site restrictions and approximate time to approval/construction as a priority with the objective of commencing construction this council term.

Attachment(s)

Nil

13.3 **Bulwinkel Park Upgrades**

13.3 **Bulwinkel Park Upgrades**

Councillor Cr Smith

I move

1. That Council write to Essential Energy requesting the Bulwinkel Park maintenance works be completed as a priority and ideally within their maintenance schedule.
2. That, if necessary Council fund the cost of the Essential Energy works required to remove the Camphor trees from Bulwinkel Park, with the \$6,643.47 sourced from the parks and reserves budget.

Councillor Comments

The Bulwinkel Landcare Group has been actively working on Bulwinkel Park for well over a decade making substantial improvements to the environment and amenity of the park.

The group has approximately \$13,000 to spend on the site to do improvement works but need to remove a camphor tree to progress these works.

In order to successfully remove the tree, works are required to be done by Essential Energy.

The purpose of this motion is for Council to formally request Essential Energy to complete these works, ideally within their existing program at no cost, failing this, Council is to fund the \$6,000 required to enable the full improvement works to proceed.

The overall net benefit to the community is well in excess of any potential cost, and further to this, enables Council to maximise the value of the volunteer works being put in to better our community's assets.

Staff Comments

The proposed works are consistent with the vegetation management plan for the park and can be supported, if this is the priority of Council for funding.

From past experience, there are concerns that a request by Council to Essential Energy will mean Essential Energy will decline not only Council's request but also the existing community organisation based request.

Essential Energy seem to be in a better position to support volunteer community projects rather than Council initiatives.

Subject to how the works are coordinated, with the other contractors required to complete the task, and weather conditions, there is a possibility the budget would need to be in the order of \$12,000. Council has already provided some assistance for this project by installing sediment fencing, safety fencing and reserve remediation.

COUNCILLOR RECOMMENDATIONS

1. That Council write to Essential Energy requesting the Bulwinkel Park maintenance works be completed as a priority and ideally within their maintenance schedule.
2. That, if necessary Council fund the cost of the Essential Energy works required to remove the Camphor trees from Bulwinkel Park, with the \$6,643.47 sourced from the parks and reserves budget.

Attachment(s)

Nil

14. Advisory Committee Minutes

14.1 Commercial Services Committee Minutes - 18 September 2018

Attendance

Crs David Wright (Mayor - in the chair), Phillip Meehan, Sharon Parry, Jeff Johnson, Stephen McCarthy, Keith Williams and Sharon Cadwallader.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Manager Commercial Services), Leanne Harding (Coordinator Property and Airport Administration) and Sarah Carden (Secretary) were in attendance.

There were three people in the gallery at this time.

1. Apologies

An apology was received from Cr Nathan Willis, Cr Eoin Johnston and Cr Ben Smith

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

2. Declarations of Interest

Steve Barnier, Strategic and Community Facilities Group Manager - declared an interest in Items 4.5 and 5.4 – 54 North Creek Road, Ballina – Industrial Land Subdivision (Nature of Interest: non-significant, non-pecuniary – a close friend is employed by a company with an interest in one of the allotments). He will be departing the meeting while the matter is discussed.

3. Deputations

Nil.

4. Committee Reports

4.1 Communications Tower - Russellton Industrial Estate - Licence

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council advise the NSW Telco Authority that a proposed commencing rent of \$6,000 p.a. + GST with a rent review of 3.0% for a term not exceeding 8 February 2022 and an additional term of 9 February 2022 to 8 February 2027 at the indexed rental and rent review of 3.0% annually is considered reasonable at Part Lot 2 DP 1169153 (31.5m2 site area).
2. If agreed, Council authorises the General Manager to sign the licence agreement and attach the Council seal.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

4.2 139 River Street, Ballina - Lease Variation

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

That Council notes the contents of this report in respect to the variation request for the lease of 139 River Street, Ballina.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

4.3 153 Kays Road, Wardell - Lease

RECOMMENDATION

(Cr Jeff Johnson/Cr Sharon Cadwallader)

That Council notes the contents of this report in respect to leasing 153 Kays Road, Wardell.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

4.4 Former Tintenbar Council Chambers - Sublease of Area 1

RECOMMENDATION

(Cr Phillip Meehan/Cr Jeff Johnson)

That Council notes the contents of this report on the proposal to sublease Area 1 of the former Tintenbar Council Chambers, 2 High Street, Alstonville.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

4.5 54 North Creek Road, Ballina - Industrial Land Subdivision - Update

RECOMMENDATION

(Cr Phillip Meehan/Cr Jeff Johnson)

That Council notes the contents of this report in respect to the update on the 54 North Creek Road, Industrial Land Subdivision.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

4.6 Wollongbar Residential Estate - Stage 3 - Roadworks

RECOMMENDATION

(Cr Phillip Meehan/Cr Jeff Johnson)

That in accordance with Section 55 (3) (i) of the Local Government Act, 1993, Council resolves not to invite tenders for the construction of roadworks for the Wollongbar Residential Estate - Stage 3 as detailed in this report, due to the following extenuating circumstances:

- a) The economies of scale and timing benefits of the joint infrastructure being delivered with another party, being the developers of the adjoining residential estate.
- b) That in respect of value for money, an independent assessment of the costs has been undertaken to ensure a satisfactory market result is achieved without the need to call tenders, as detailed in the confidential report later in this agenda.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

5. Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

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

5.1 139 River Street, Ballina - Lease Variation - Details

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.2 153 Kays Road, Wardell - Lease - Details

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.3 Former Tintenbar Council Chambers - Sublease of Area 1 - Details

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.4 54 North Creek Road, Ballina - Industrial Land Subdivision - Details

Reason for Confidentiality

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

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

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 matters relating to construction, tender, prices and sale contracts will be discussed and the release of this information could prejudice on-going negotiations.

5.5 Wollongbar Residential Estate - Stage 3 - Roadworks - Details

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

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

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 matters relating to construction, tender prices and sales contract will be discussed.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

(The Council moved into Confidential Session at 4.04 pm).

Steve Barnier left the meeting at 4.06 pm.

Open Council

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

(The Council moved into Open Council at 5.00 pm).

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

5.1 139 River Street, Ballina - Lease Variation - Details

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts option one as detailed within this report and accepts the variation to lease agreement terms and conditions negotiated with Messrs G Hickey and C Watson for an additional five year option at 139 River Street Ballina based on the terms and conditions outlined.
2. That Council authorises the General Manager to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

5.2 153 Kays Road, Wardell - Lease – Details

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts Option One and offers Mr R MacDonald a new lease over 15 Kays Road Wardell (Lots 2 and 3 DP 854149, and Lot 1 DP 865860) based upon the terms and conditions outlined in this report.
2. That Council authorises the General Manger to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

5.3 Former Tintenbar Council Chambers - Sublease of Area 1 - Details

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts option one as detailed within this report and offers Ms S Fleming a sublease over Area 1 of the former Tintenbar Council Chambers, 2 High Street, Alstonville based upon the terms and conditions outlined.
2. That Council authorises the General Manger to finalise negotiations and execute all relevant sublease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

5.4 54 North Creek Road, Ballina - Industrial Land Subdivision - Details

A **Motion** was moved by Cr Phillip Meehan and seconded by Cr Steve McCarthy)

1. That Council authorises the General Manager to finalise negotiations for the sale of lots 1, 2, 3 and 4 for the 54 North Creek Road, Industrial Land subdivision based on option four as detailed within this report.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.
3. That Council authorises the transfer (sale) of the proposed Lot 7 from the General Fund to the Sewer with the transfer price to be determined by an independent valuation, subject to the approval of the General Manager.

FOR VOTE - Cr David Wright and Cr Phillip Meehan

AGAINST VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Stephen McCarthy, Cr Keith Williams and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

The Motion was **LOST**

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Sharon Cadwallader

1. That Council amend all four contracts with a revised sunset date of no earlier than 30 June 2019.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.
3. That Council authorises the transfer (sale) of the proposed Lot 7 from the General Fund to the Sewer with the transfer price to be determined by an independent valuation, subject to the approval of the General Manager.

FOR VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Stephen McCarthy and Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

The Motion was **LOST**

RECOMMENDATION

(Cr Keith Williams/Cr Sharon Parry)

1. That Council advise all four buyers that the market has moved up and that Council has incurred significant additional costs and that if they wish to proceed with their respective purchases, the purchase price will be increased based upon CPI movements and a resultant sale rate of \$269/m² plus GST.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.
3. That Council authorises the transfer (sale) of the proposed Lot 7 from the General Fund to the Sewer with the transfer price to be determined by an independent valuation, subject to the approval of the General Manager.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Stephen McCarthy and Cr Keith Williams

AGAINST VOTE - Cr Phillip Meehan, Cr Jeff Johnson and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

5.5 Wollongbar Residential Estate - Stage 3 - Roadworks - Details

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Jeff Johnson)

1. That Council adopts options one and two as outlined in this report, along with the cost estimate of \$235,065 + GST for Council's share of the construction of Avalon Avenue as the cost estimate has been independently reviewed by Newton, Denny and Chapelle and is considered fair and reasonable in the current market, and authorises the General Manager to finalise negotiations including payment, execute all relevant documentation and affix the Council seal to same.
2. That Council notes that this expenditure, estimated at approximately \$451,000 plus GST, will be funded from short term loan borrowings that are financing the Wollongbar Residential Estate – Stage 3 works. The General Manager is authorised to obtain that loan funding and affix the Council seal to the same.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

MEETING CLOSURE

5.01 pm

RECOMMENDATIONS

That Council confirms the minutes of the Commercial Services Committee meeting held 18 September 2018 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

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

<u>Date</u>	<u>Function</u>
20/8/18	Meeting – Bob Hosie – 70 Shelly Beach Road
27/8/18	ETC – Ripper Academy Launch, Meeting – Lennox Head Preschool
27/8/18	Meeting – Minister – Ben Franklin – Lennox Head Preschool
28/8/18	Biala Special School – High School Opening
29/8/18	RMS Highway Signage – Broadwater
30/8/18	Meeting - Alstonville By Pass – Tamara Smith, Gallery Opening
1/9/18	Extraordinary Meeting - Lake Ainsworth Foreshore Improvements
2/9/18	Commemoration Park Markets
4/9/18	Alstonville/Wollongbar Chamber Meeting - Avid Insurance
5/9/18	Meeting with Minister for Roads – Alstonville Bypass
7/9/18	Meeting – Charles Mosse – Airport Land
9/9/18	Commemoration Park Markets, Lennox Head Markets
9/9/18	Airforce Commemoration Day – Battle of Britain / Battle for Australia
11/9/18	'A' Ward Committee
13/9/18	Announcement of Funding - Ben Franklin for BISC
13/9/18	Meeting DPI, 'C' Ward Committee
13/9/18	3SA's 'Moments that Matter' Recognition Awards
14/9/18	Town and Gown Art Show – Lennox Head
15/9/18	Skate Park Demonstration – Wollongbar
16/9/18	Commemoration Park Markets, Lennox Head Markets
16/9/18	25 th Celebration of Teven Memorial Park – Korea – SE Asia – Vietnam Veterans' Assoc.
17/9/18	Centre for Volunteering – NSW Volunteer of the Year Regional Awards
17/9/18	'B' Ward Committee
18/9/18	Welcome – NEWLOG Conference, Commercial Services Meeting
18/9/18	Briefing – Proposed Lennox Head Preschool, Canal Road Markets
19/9/18	Aboriginal Transport Meeting - Ballina Surf Club
19/9/18	Wollongbar Meeting – Planning
20/9/18	Meeting Evan Connick – re development
20/9/18	Briefing – Extractive Industries, Street Lighting LED Replacement
22/9/18	Wardell Fundraiser for Farmers
23/9/18	Commemoration Park Markets
25/9/18	SES Celebration Night
27/9/18	Council Meeting, Gallery Opening
28/9/18	Police Remembrance Day Service Lismore
28/9/18	BACCI Opening – Masonic Hall
30/9/18	Commemoration Park Markets, Lennox Head Markets

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 Tender - Ballina Indoor Sports Centre

As per item 11.3 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 Tender - Ballina Indoor Sports Centre

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the reporting reviews confidential budget and tender submission information.