



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 19 December 2019 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. Planning and Environmental Health Division Reports
9. Corporate and Community Division Reports
10. Civil Services Division Reports
11. Notices of Motion
12. Advisory Committee Minutes
13. Reports from Councillors on Attendance on Council's behalf
14. Confidential Session

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

- Deputations by members of the public may be made at Council meetings on matters included in the business paper.
- Deputations are limited to one speaker in the affirmative and one speaker in opposition.
- Deputations, per person, will be limited to a maximum of two items on the agenda.
- 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 affirmative second.
- 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.
- 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.
- 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 – This Session Does Not Form Part of the Ordinary Meeting

- A public question time has been set aside during the Ordinary meetings of the Council. The Ordinary meeting will be adjourned from 12.45 pm for Public Question Time. If the meeting does not extend to 12.45 pm Public Question Time will be held after the meeting closes.
- 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 Ordinary meeting agenda.
- 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 question before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, multiple questions can be invited and considered.
- Recording of the questions will not be verbatim and will not form part of the minutes of the Ordinary meeting.
- The standard rules of behaviour in the Chamber will apply.
- Questions may be asked from the position in the public gallery.

The non-confidential parts of Council's meetings are broadcast live to the web and are recorded for future reference. Recordings are made available on Council's website. In accordance with our Code of Meeting Practice, the recording or taking of photos by other people during the meeting is not permitted unless permission has been granted from the meeting.

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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 28 November 2019 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 November 2019.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2019/30 - 43 Tuckombil Lane, Tuckombil

8. Planning and Environmental Health Division Reports

8.1 DA 2019/30 - 43 Tuckombil Lane, Tuckombil

Applicant	Newton Denny Chapelle
Property	Lot 1 DP 786850, No. 43 Tuckombil Lane, Tuckombil
Proposal	<ol style="list-style-type: none">1. Temporary Use of Land for Five Years as a Function Centre for the Purpose of Hosting Wedding Ceremonies. It is proposed to host a maximum of 20 ceremonies in any 12 month period catering for a maximum of 120 people.2. Staged Development of Eight Holiday Cabins and Associated Amenities, Infrastructure and Earthworks for landscaping purposes in association with the existing dwelling house.
Effect of Planning Instrument	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached (Attachment 1 and Figure 1)

Introduction

Council is in receipt of Development Application 2019/30 for the temporary use of land (via Clause 2.8 of the Ballina Local Environmental Plan (BLEP) 2012) as a function centre for the purposes of hosting wedding ceremonies on Lot 1 DP 786850, No. 43 Tuckombil Lane, Tuckombil. The application also involves the staged development of eight holiday cabins, extensions to an existing shed to be utilised as a communal area, infrastructure and earthworks for landscaping purposes in association with the existing dwelling house.

The location of the land is shown in Attachment 1 and Figure 1.



Figure 1: Site Locality Plan – 43 Tuckombil Lane (aerial photo with subject land shaded red)

The purpose of this report is to seek Council's determination of the subject application, with particular consideration to the use of Clause 2.8 – Temporary Use of Land to enable a prohibited land use (Function Centre) to operate within the RU1 zone. A number of submissions raising concerns or objections have been received.

Details of Proposal (As amended)

Following exhibition of the original proposal, the application was amended.

The modified application includes:

1. The wedding ceremony location re-sited south of the existing dwelling house providing a buffer of approximately 80m to the northern boundary and a setback of approximately 123m to the closest dwelling house to the north. Earthworks are to be undertaken at the proposed site.
2. Inclusion of a landscape buffer 30m wide from the northern boundary.
3. Parking for the tourist and visitor accommodation communal area has been relocated south of the communal building to provide screening from the closest dwelling house to the north.

Staging of the development is proposed as follows:

- Stage 1 – Earthworks for landscaping purposes within the curtilage of the existing dwelling house
- Stage 2 – Function Centre (Wedding Ceremonies)
- Stage 3 – Tourist and Visitor Accommodation x three cabins and Communal Area
- Stage 4 – Tourist and Visitor Accommodation x five cabins.

The separate components of the proposal are detailed below.

Function Centre (Wedding Ceremonies)

The application seeks consent for the Temporary Use of the property as a Function Centre (Wedding Ceremonies) which has been lodged pursuant to Clause 2.8 of the BLEP 2012. The applicant seeks approval to operate the Function Centre for a five year period (i.e. a five year limited consent).

Following a site inspection undertaken by Council Officers, submissions received, and subsequent request for further information, the applicant submitted an amended application which modified the location for the wedding ceremonies to the south of the existing dwelling house, modified the location of parking areas and included a 30m landscape buffer to the northern boundary. Relocation negates the need for an acoustic fence along the northern boundary, however, earthworks are proposed at this amended location.

8.1 DA 2019/30 - 43 Tuckombil Lane, Tuckombil

The details of the operation of the proposed function centre (wedding ceremonies) are as follows:

- a maximum of 20 ceremonies in any 12 month period
- wedding ceremonies will range in size from 20 persons to 120 persons, with an average size estimated at 80 persons
- wedding guests will be on site for two to three hours only, between the hours of 12 noon and 5.30pm
- there are three phases in which activities will occur on site during the day of the ceremony:
 - A. Morning – Set Up:
 - wedding planner attends the site.
 - hair and makeup attend site (if the bride is staying in approved tourist and visitor accommodation).
 - portaloos delivered to site.
 - furniture (seats, trestle tables etc.) and decorations associated with the wedding ceremony set up in chosen location. Trestle tables set up for post ceremony drinks and canapé service. Furniture and decorations (other than flowers) remain the property of the proponent and do not require delivery to the site.
 - flowers arrive and set up.
 - musician/s arrive and set up.
 - B. Afternoon – Wedding Ceremony:
 - proponent is present on site at all times.
 - caterer (for post ceremony drink and canapé service) arrives at the site and sets up.
 - celebrant arrives at the site.
 - guests arrive at the site via mini-bus. A limited number of private vehicles may accommodate elderly and families with very young children.
 - guests gather at ceremony location and acoustic music may be played.
 - wedding ceremony occurs – the celebrant may have a microphone, acoustic music may be played, music for the bride walking down the aisle may be played on an iPad or similar.
 - wedding guests served canapés and a drink whilst photos taken of bridal party – acoustic music may be played and background singing (amplified) may occur.
 - wedding guests depart for reception venue by mini bus not later than 5.30pm.
 - bridal party depart for reception venue.
 - celebrant departs the site.
 - musician/s departs the site.
 - Caterer departs the site.
 - C. Late Afternoon – Pack Up:
 - all items associated with the ceremony packed up.
 - portaloos removed from the site.
 - wedding planner departs the site.
 - all pack up completed not later than 6pm.

8.1 DA 2019/30 - 43 Tuckombil Lane, Tuckombil

- drinks and canapés may be provided to guests in the location of the wedding ceremony site, whilst photos are taken of the bridal party.
- all activities associated with the set up and pack up of the ceremony will occur on the day of the event.
- no wedding receptions will occur on the site (Note: receptions are to be hosted at suitably approved venues external to the land).
- the communal area will not be utilised for any wedding preparation.
- the existing dwelling house will not provide any function in association with the wedding ceremonies (i.e. no wedding participant, guest or service provider will access the dwelling under normal operating conditions).

The applicant has stated that the proposed Function Centre (Wedding Ceremonies) will be operated in accordance with an Operational Management Plan (OMP). Key elements of the OMP include:

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

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

Tourist and Visitor Accommodation

The application seeks consent for the development of tourist and visitor accommodation comprising eight two bedroom holiday cabins. The cabins are proposed to be located south of the existing dwelling house and are clustered on the southern elevated knoll. Stage 2 of the proposal comprises three cabins and associated civil works (driveway and carpark). Stage 3 comprises the remaining five cabins.

Each cabin contains two bedrooms (one in mezzanine), living area, kitchen and bathroom. The cabins comprise a two storey built form with a gross floor area of 75m². Cabin A is designed to comply with AS1428-1 (Design for access and mobility-General requirements for access).

Communal Area

The application seeks consent for the extension of the existing farm shed to provide a communal area for the use of guests of the tourist and visitor accommodation.

The communal area will be provided for guests to meet and comprises a kitchen area, open area, deck, disabled toilet, wash up room and a storage loft. The storage loft is to be used for the storage of furniture, tables, chairs etc. to be used for wedding ceremonies.

The communal area is not proposed to be used by any third party use (i.e. wedding preparation) and is not to be used for wedding ceremonies. The proponent intends to offer “paddock to plate” talks and demonstrations to guests staying in the tourist and visitor accommodation where demand exists. These talks/demonstrations are not intended to be a standalone commercial venture and guests will not be required to pay extra for attending these demonstrations.

The applicant has confirmed that consent is not sought for an “educational facility”, and the use of the communal area will be ancillary to the tourist and visitor accommodation.

Earthworks

Earthworks are proposed within the curtilage of the existing dwelling house and in the location of the proposed wedding ceremonies. The area forms part of a grassed garden area adjacent to the dwelling and is located within the internal fencing which delineates the agricultural land from that of the dwelling curtilage. The proponent has had long term plans to undertake landscaping works in this location associated with enhancing the amenity and presentation of the dwelling house.

The applicant submits that the proposed earthworks are not reliant on the Temporary Use Clause 2.8 of the BLEP, but rather Clause 7.2 Earthworks. The extent of earthworks to be undertaken is illustrated in Attachment 2.

Description of the Subject Site

The subject land is located approximately 450m to the east of the Tuckombil Lane/Teven Road intersection in the Tuckombil locality and approximately 4km north east of Alstonville.

The subject property has a total area of 17.61ha and is currently utilised for grazing of cattle.

The property contains a three bedroom brick and tile dwelling house, swimming pool, two farm sheds, gazebo and timber deck, all of which are located in the north western elevated corner of the subject land.

A bitupave driveway extends from the front entrance gate to the existing dwelling house with a turnaround loop and landscaping at the front of the residence.

The surrounding locality is characterised by properties that are either utilised for horticultural and/or grazing purposes (ranging in area from 8ha to 35ha) and smaller rural residential properties (ranging in area from 2,000m² to 8,100m²).

Adjoining properties to the north and west as well as properties to the south across Tuckombil Lane are utilised for horticulture (macadamias or pecans).

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The original application was placed on public exhibition from 13 February 2019 to 28 February 2019. A total of 14 submissions (including one confidential submission) from 14 different surrounding land owners raising concerns and/or objecting to the proposal were received during this period.

An amended application was received from the applicant and submitters were notified of the amendment on 25 June 2019. The exhibition period closed on 23 July 2019. A total of 15 submissions raising concerns and/or objecting were received during this period.

While some submissions indicated that some aspects of the application had been adequately addressed in the amended application, the majority of submissions indicated that issues previously identified had not been adequately addressed and were still of concern. Overall, the submissions received following notification of the amended application identified increased traffic and noise and the intersection as areas of concern.

No submissions in support of the application were received.

A copy of all submissions are provided in Attachments 3, 4 and 5.

A summary of the issues raised are provided below.

1. Holding of Functions On-site / Management Issues

- Function Centre (Wedding Ceremonies) and holding of Wedding Receptions on-site
- Distance of manager's residence to cabins
- Control of guests' behaviour at wedding ceremony
- Control of guests' behaviour on return to cabins
- Guests trespassing
- Control of number of events held.

COMMENT: Several submissions object to the holding of wedding receptions on-site, however the application does not propose this. The applicant has provided the following response to the issues raised regarding the holding of wedding receptions on-site and management issues:

"This application does not propose or involve any wedding receptions (being the celebratory event following the formal wedding ceremony). Rather, the application seeks consent solely for the hosting of the wedding service/ceremony, with guests being transported to a function venue such as Harvest or Ballina RSL. Consistent with approvals issued by Council for wedding ceremony venues, the following key operational details will be contained within an operational management plan for the wedding service.

- *Guests arrive at site via mini-bus. A limited number of private vehicles may accommodate elderly and families with very young children.*
- *Guests gather at chosen ceremony venue;*
- *Wedding ceremony occurs;*
 - *Celebrant may have microphone*
 - *Acoustic music may be played*
 - *Music for bride walking down the aisle may be played on 'IPad' or similar.*
- *Wedding guests adjourn for canapés and a drink whilst photos taken of bridal party;*
 - *Acoustic music may be played*
 - *Background singing (amplified) may occur.*
- *Wedding guests depart for reception venue by mini bus not later than 5.30pm.*

There will be no functions held on the site. In this regard, given the nature of the ceremony as outlined above, there will be no amplified bands, speeches or intoxicated guests. Noise will be limited to music for the bride walking down the aisle and whilst wedding photos are taken which may be played on 'IPad' or similar. The proposed noise source has been assessed and found to be compliant. In this regard, the noise modelling shows compliance with the 35dB(A) limit at the neighbouring receiver without the need for any permanent acoustic treatments (eg installation of a boundary fence).

The guests attending the wedding ceremony will be dropped off by bus adjacent to the ceremony area. Guests, upon witnessing the ceremony and at the completion of the wedding photos, will be transported to the wedding reception venue. No wedding receptions (being the celebratory 'party' after a wedding) will be held at the subject land. Furthermore, the proponents will be present for all wedding services and will provide oversight with respect to guest behaviour.

Importantly, with the exception of the canapés and champagne after the ceremony, there will be no extended service of alcohol which may contribute to anti-social behaviour. In addition, there will be no evening or night time activities on the land in association with the ceremony.

Based on suitable management of the wedding ceremony combined with the operational management plan applied to the property, no trespassing is expected to occur during any wedding ceremony. Importantly, it is evident many of the submissions have been based on the false assumption that wedding receptions will be held on the site. This is clearly not the case."

In relation to management issues, the tourist and visitor accommodation cabins require an on-site manager and an Operational Management Plan (OMP) and any consent issued would be conditioned as such. The existing dwelling house has been nominated as the manager's residence for the purpose of the tourist and visitor accommodation.

Wedding ceremonies will also be operated in accordance with an approved OMP and clients (typically the bride and groom) will be required to sign contracts linked to compliance with the OMP. The application also states that the proponent/manager will be on-site during any wedding ceremony. It is considered that the issues raised in submissions, while legitimate concerns of the community, can be managed appropriately to mitigate adverse impacts.

Refer to BLEP section of the report for further discussion in relation to these issues.

2. Services – water, wastewater and electricity

- Impact of development on water supply, electricity supply and wastewater
- Impact on nearby water course and downstream water users.

COMMENT: The applicant has provided the following response to the issues raised regarding water and sewer infrastructure and electricity supply:

“The proposed development will be able to cater for water and sewer infrastructure as demonstrated within the SEE. In this respect, the proposed tourist cabins will be managed through the construction of an on-site wastewater management system as outlined within the Greg Alderson Associates provided within Attachment 4 of the SEE.

Each function will be required to provide ‘portaloos’ at the rate of 1 per 20 persons person in attendance at the function (including staff). These facilities will be provided in the location illustrated on GDS Sheet 2. This arrangement is a reasonable economic and environmental solution to the collection and treatment of wastewater from short term events such as wedding ceremonies. This approach has been accepted by Council for other similar facilities in the Shire.

All potable water will be provided through harvesting of roofwater and collection within storage tanks located adjacent to the tourist cabins. Water will therefore be available if required.”

The proposed wastewater management plan was amended to relocate wastewater subsurface irrigation areas providing a buffer of 100m to the creek. No further issues were identified by Council’s technical officers.

With regard to the impact on electricity services the applicant has provided the following response:

“As part of the development process, the proponent will be required to coordinate an electricity service for the tourist and visitor accommodation cabins. Accordingly, any upgrade deemed necessary by the electricity provider will be at the cost of the proponent.”

Refer to the DCP section of the report for further discussion in relation to these issues.

3. Traffic Impact / Tuckombil Lane / Sight Distance

- Increased traffic
- Insufficient car parking on-site
- Traffic assessment undertaken for too short a period of time
- Signage proposed in traffic assessment letter recognises safety issues
- Tuckombil Lane/Teven Road intersection too dangerous
- Tuckombil Lane too narrow, single lane, steep drop off sides and unlit
- Speed limit of 80km/hr not adhered to
- Tuckombil Lane unsuitable for mini-buses
- Pedestrian safety of walkers in Tuckombil Lane compromised
- Increased damage and maintenance requirements for Tuckombil Lane
- Inadequate sight distance at entry to property

COMMENT: The applicant has provided the following response to the issues raised regarding traffic, road standard and sight distance:

“An assessment has been completed by Greg Alderson Associates as attached to this letter (Attachment 4). The assessment has reviewed the existing capacity of Tuckombil Lane and the available sight distance for the driveway entrance to the subject property.

The assessment by Greg Alderson Associates addresses the available sight distance in accordance with AS2890.1. The existing driveway access enjoys the following sight distance to the east and west as follows:

- *Sight distance to East: >160m*
- *Sight distance to West: 75m (approximately 128m available with vegetation clearing)*

The classified counter data indicates the actual 85%ile speed of vehicles approaching the site access from the east as 65.5 km/hr, which would result in a sight distance requirement of approximately 74.4m (extrapolated from Figure 3.2 of Aldersons advice).

The 85%ile speed is considered representative of vehicles driving to conditions based on classified counter data obtained through traffic monitoring of Tuckombil Road by Greg Alderson Associates. The measured sight distance to the west of approximately 75m complies with the sight distance requirement based on the actual 85%ile approach speed.

Tuckombil Lane is in good condition for a single lane rural road and would provide sufficient capacity for the proposal, however, lacks unsealed graveled shoulders normally provided for passing of vehicles. Wedding events will increase traffic flows for a concentrated period of time increasing the likelihood of having to pass a vehicle on Tuckombil Lane.

To account for additional traffic flows above general operation during a wedding services event, Aldersons recommended that event traffic warning signage is placed along Tuckombil Lane to increase driver awareness of the changed conditions.

Additionally, Aldersons have noted Council made the following statement with regard to the capacity of Tuckombil Lane to cater for the proposed tourist accommodation development as part of the Pre-DA Lodgement Meeting 4th July 2017:

“Tuckombil Lane has a bitumen seal of generally 3.5 metres. The road surface and width is sufficient for the proposed development.”

Based on the assessment, the proposed development does not generate any unreasonable or uneconomic demands for the provision of improved roads or public infrastructure.”

Council’s Engineer disagreed with the assessment undertaken in relation to sight distance and the applicant submitted an alternative location for the property driveway access pursuant to Clause 55 of the Environmental Planning and Assessment Regulation.

Following submission of this amendment, Council’s Engineer provided the following comments in relation to sight distance:

Council undertook an access driveway sight distance analysis of the development site. The sight distance was determined to be approximately 65m to the west and in excess of 160 to the east.

Tuckombil Lane is not sign posted and therefore the speed environment is 100km/hr by default. The site distance for a commercial driveway in a 100km/hr speed environment is 160m in accordance with Australian Standard AS2890.1

The site distance requirement was the subject of a request for information and it was highlighted to the applicant that vegetation was a significant inhibitor of site distance.

In response Newton Denny Chapelle have provided an alternate location for the driveway access. Council completed a sight distance analysis with NDC and agreed that the proposed location complies with the required sight distances given the appropriate vegetation removal.

The trees that would require removal are juvenile Tuckeroos and not on the significant tree register. Removing these trees is in accordance with Council’s Urban Vegetation on Public Land Policy, for the purpose of increasing sight distance.

A significant amount of submissions related to the Tuckombil Lane/Teven Road intersection being dangerous and Council’s Engineer has provided the following comments:

The existing external road network of Tuckombil Lane is a bitumen seal, generally 3.5m wide. The surface and width is sufficient to service the proposed development.

The intersection of Tuckombil Lane with Teven Road is the subject of a number of submissions. The submissions anecdotally suggest the intersection is dangerous due to the number of traffic incidents.

Whilst police crash data does not reflect a significant crash history at the intersection, Council is aware of a number of recent incidents involving errant vehicles. Generally the incidents are associated with the bend rather than the intersection i.e. vehicles have not been negotiating the bend rather than turning movements associated with the intersection. The intersection has a sheltered right hand turning lane and sufficient sight distance in either direction. The intersection is sufficient to service the proposed development.

Council has recently done resurfacing works to improve the bend and removed informal access to Tuckombil Lane via the construction of a roadside swale.

Refer to DCP section of the report for further discussion in relation to Traffic Impact / Tuckombil Lane / Sight Distance

4. Land Use Permissibility

- Function centres not permissible in zone
- Holiday cabins not permissible in zone
- Information and education facilities not permissible in zone

Function centres are not permissible within the RU1 Zone, however the application is reliant on Clause 2.8 of the BLEP to attain an approval for the Temporary Use of the Land to operate a Function Centre (Wedding Ceremonies).

Tourist and Visitor Accommodation is permissible with consent in the RU1 Zone.

Information and Education Facilities are permissible with consent in the RU1 Zone, however the application does not seek consent for an Information and Education Facilities. Consent is sought for the communal area, which is ancillary to the tourist and visitor accommodation.

5. Zone Objectives

- Development not in accordance with zone objectives.
- Loss of valuable agricultural resource.

COMMENT: The applicant has provided the following response to the issues raised regarding zone objectives:

“The proposal is considered to be consistent with the zone objectives for the RU1 Primary Production Zone as demonstrated below:

The location of the proposed cabins retains the farming operations on the site, both current and planned planting of avocados and lavender by virtue of their proposed location. The cabins will be located on an area of the site not currently used for farming purposes, and therefore the proposal will not fragment or alienate any resource lands on or surrounding the site with respect to existing and ongoing farming operations.

Based on the above, the proposal maintains the natural resource base and is not considered to adversely impact the existing farming operations either on the subject site.

To assist in maintaining the rural character of the land and protect the scenic landscape and quality:

- *The cabins have been designed in a manner to accommodate the topography of the land to minimize the volume of earthworks required to be undertaken;*
- *No vegetation removal is required for the footprint of the cabins;*
- *To preserve the rural character and visual site lines into the property from the east, the extent of APZs proposed will enable the retention of vegetation adjacent to the eastern property boundary for privacy purposes. Where the APZ extends to the property boundary to the east of Cabin H, landscape buffer planting will be established;*
- *The accommodation cabins retain a good level of visual screening from surrounding rural properties and road network due to topography and existing mature vegetation;*
- *The accommodation cabins are not considered to be a visual blight on the rural landscape and will be aesthetically well maintained structures; and*
- *The LUCRA identifies the operation of the tourist accommodation will not generate any land use conflicts.*

The application for the temporary function centre is being lodged pursuant to Clause 2.8 of BLEP2012. Clause 2.8(2) enables such development is to be approved 'despite any other provisions of' the LEP. It is a clause that enables development to occur in certain circumstances - that is, it is a clause the purpose for which is to permit any development subject to satisfactory assessment.

Clause 2.8 does not require the consent authority to consider the objectives of the (underlying) zone. Rather, Clause 2.8 sets out, in its own terms, the matters which arise for consideration for a development application lodged pursuant to this clause. Further discussion regarding Clause 2.8 is provided below.

That said, the documentation provided within the SEE and within this letter demonstrate that the proposal will not adversely impact on primary production or the environmental values of the locality. As such, the proposed development is not deemed to be antipathetic to the zone objectives."

6. Temporary Use

- Not considered temporary use due to frequency of events
- Inability for all activities (i.e. setup/pack up to be undertaken on day of event)
- Frequency of events
- Misunderstanding of the meaning of "temporary use" and what part of the development is a "temporary use"
- Temporary use will compromise rural activities on adjoining land as suggested by 'not spraying during wedding ceremonies'.

COMMENT: The applicant has provided the following response to the issues raised regarding temporary use:

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“The proposed rural tourist cabins are not proposed under the temporary use provisions of the Ballina LEP. In this respect, the function venue (wedding services) is the only element proposed under the provisions of Clause 2.8 of the Ballina LEP.

An assessment of the Temporary Use under the provisions of Chapter 8 is provided within the below table.

Planning Provisions	Development Response
Planning Objectives	
<p>a) <i>Minimise environmental and social impacts of any temporary use of land;</i> b) <i>Ensure that temporary uses of land are conducted in a manner that is safe and minimises public risk;</i> c) <i>Ensure that temporary uses of land are compatible with local amenity and character; and</i> d) <i>Ensure that temporary uses do not create adverse cumulative impacts on adjoining properties</i></p>	<p>a) <i>The proposal has been subject to a LUCRA assessment which has identified the proposal may operate without adversely impacting the current environment and use of the land.</i> b) <i>Wedding ceremonies are a structured, low impact activity which are not expected to generate particular safety risks either within or external to the site.</i> c) <i>The location and nature of the wedding services are such that the temporary use will not:</i></p> <ul style="list-style-type: none"> • <i>generate noise above the applicable noise criteria (refer GAA noise assessment); or</i> • <i>impact on the visual amenity of the locality. In this regard, the land use is to be sited in an area which is not visible to adjoining dwellings.</i> <p><i>The location of the facility also offers a separation distance so as to not impact the current and future agricultural use of adjoining lands and preserves the available agricultural use of the property.</i> d) <i>No cumulative impacts are envisaged to result due to the temporary, occasional and short-term land use. In this regard we particularly note that:</i></p> <ul style="list-style-type: none"> • <i>the road condition is capable of accommodating the traffic generated by the development; and</i> • <i>the wedding ceremonies will be conducted under an operational management plan to ensure the proper use of the land - with noise levels below the prescribed background noise level of 35DbA.</i>
Development Controls	
<p><i>Development must comply with the relevant requirements documented in Council’s Special Events Policy;</i></p>	<p><i>A review of Council’s web site indicates that Council does not currently have a Special Events Policy. The associated ‘Events on Public Land Policy’ is not applicable in this instance (as the proposal is not occurring on public land). Reference should be made to the assessment against Cause 2.8 of the Ballina LEP.</i></p>

8.1 DA 2019/30 - 43 Tuckombil Lane, Tuckombil

<i>Development must be consistent with the character of surrounding development, particularly in relation to the height, bulk and scale or be an infrequent use for a short duration such that any inconsistency with character has minimal environmental, social and/or cumulative impacts;</i>	<i>The proposed development does not require any physical structures to be developed to accommodate the temporary use upon the subject land. Accordingly, any equipment (such as portaloos) will only be on-site for 20 days per year, being such a short duration that there is no adverse impact upon the environment, social or cumulative impacts.</i>
<i>Development must not create ongoing cumulative impacts on adjoining properties having particular regard for noise, amenity, odour, lighting, hydrology and traffic considerations in relation to the size and frequency of a temporary use of land;</i>	<i>The amended site location provides greater response to potential land use conflict impacts. In this respect, the venue will not be visible from the closest sensitive receiver and compliance with background noise levels are achieved. In addition, a buffer is afforded to the adjoining agricultural land uses and the road network is capable of catering for the traffic generated by the wedding service.</i>
<i>Site coverage of buildings must not exceed 60% of the total site area;</i>	<i>The proposal occupies less than 1% of the site area.</i>
<i>Car parking must comply with standards for comparable land uses where specified in the DCP or based on relevant guidelines published by the NSW Roads and Maritime Services. Car parking must be sufficient to meet demand generated by staff and visitors;</i>	<i>The proposal provides for all guests to be transported to the wedding ceremony by bus. Notwithstanding this point the following spaces will be available on site:</i> <ul style="list-style-type: none"> <i>• 6 spaces to accommodate the various persons employed on the site during the course of a typical event; and</i> <i>• 5 overflow spaces for function attendees who do not arrive by bus. (i.e. elderly or families with very young infants).</i>
<i>Development must actively address the primary street frontage.</i>	<i>Access to the wedding ceremony area is achieved from Tuckombil Lane which has been assessed by Greg Alderson Associates as being suitable to cater for the proposed development.</i>

Refer to the BLEP section of the report for further discussion in relation to these issues.

7. Noise

- Noise impacts on surrounding properties from increased traffic, operation of the function centre (wedding ceremonies), tourist and visitor accommodation cabins and communal area
- Noise impacts from amplified music, noise from wedding guests and intoxicated guests
- Noise from tourist and visitor accommodation cabin guests

COMMENT: The applicant has provided the following response to the issues raised regarding noise:

“With regard to noise considerations, noise emissions to the north are shielded by the existing dwelling and shed, with the benefit of additional distance attenuation from source to receiver with regards to 17 Tuckombil Lane. Noise modelling shows compliance with the 35dB(A) limit at the neighbouring receiver without the installation of a boundary fence.

The updated noise assessment based on the relocation of the wedding ceremony site and associated car parking, concludes an overall improvement to the predicted noise impacts is shown, resulting in compliance with the noise limiting criteria. Accordingly, the noise fence previously recommended along the northern boundary as a future potential management measure is no longer warranted.

The proposed development is not expected to adversely impact on any adjoining land or the existing noise amenity of the neighbourhood.

Notwithstanding compliance with the 35dB(A) limit at the neighbouring receiver, the proposal still incorporates the recommendation for the wedding service to implement a noise management plan encompassing best practice noise measures along with the specific recommendations as outlined in the originally lodged SEE. This noise management plan should be a working document and updated as required following continued monitoring by the proponent.

The revised acoustic and LUCRA commentary associated with the revised wedding ceremony location is attached to this letter for Council’s review. We note that the LUCRA confirms that the proposed development will be able to co-exist within the rural landscape without adversely impacting on rural pursuits.”

In relation to noise associated with the tourist and visitor accommodation and communal area, the noise consultant provided the following comments in the NIA submitted with the SEE:

“Noise emissions from use of the Tourist Cabins are not expected to pose an adverse impact on the amenity of neighbouring receivers. The closest neighbours to the cabin sites are approximately 280m to the north and 370m to the east. Applying a conservative sound power level of 80 dB(A) for patrons at the cabin site, the resulting noise emission at neighbouring residents would be below 20 dB(A), which is below that of typical rural background noise. Onsite vehicle noise relating to cabins is expected to be similar to, or less than that modelled for Wedding Services. Whilst cabin noise emissions are not expected to be intrusive, it is recommended that onsite management ensures that appropriated patron behaviour is maintained.

As the proposed educational facility is to be used by tourist cabin patrons, on-site related vehicle noise is expected to be negligible. It is understood that the educational facility would not include air-conditioning, and the kitchen facilities will be similar to that of a domestic scale. As such, potential noise emissions from mechanical plant, such as condenser units and kitchen exhaust fans are not likely to produce intrusive noise emissions at neighbouring receivers.”

It is noted that the initial SEE and NIA incorrectly refer to the communal area as an educational facility. The applicant has since clarified in the amended application that the communal area is ancillary to the tourist and visitor accommodation and not to be utilised by any third party.

Refer to the DCP section of this report for further discussion in relation to the issue of noise.

8. Environmental Impacts

- Disturbance to wildlife (birds, koalas, remnant Big Scrub rainforest) from noise and direct human interference.

COMMENT: The issues raised by the community can be appropriately managed to mitigate any potential impacts to wildlife.

9. Overdevelopment of the Site

- Reduction in privacy
- Use of and number of guests utilising communal area
- Unacceptable high density, not considered small scale

COMMENT: The applicant has provided the following response to the issues raised regarding reduction in privacy:

“In response to the submissions addressing privacy concerns for the adjoining northern residence, the amended proposal provides for the siting of the wedding ceremony location to the south of the proponents dwelling house and some 9m lower in surface level than the northern boundary. Accordingly, the wedding ceremony area is effectively screened by the dwelling and change in topography.

Furthermore, by relocating the wedding ceremony area, no guests, wedding ceremony attendants, car parking or amenities will be located north of the proponents dwelling, thereby screening the entire development to the northern residence.”

The approach taken in the amended application which has relocated the site of the wedding ceremonies, the car park and the position of the portaloos and provided for additional landscaping in the north western corner of the property will diminish the likelihood of potential privacy issues for the residents of No. 17 Tuckombil Lane (i.e. the closest neighbour).

In relation to the communal area, it is proposed as a use ancillary to the tourist and visitor accommodation and as such will only be utilised by guests of the cabins. The application states that the cabins provide accommodation for not more than 24 guests, and while the facility may not operate at full capacity at all times, Council must consider the potential for 24 guests to meet at any one time in the communal area. This has been the basis of the technical assessment.

COMMENT: The applicant has provided the following response to the issues raised regarding overdevelopment of the site:

“Reference is made to Chapter 7 of the Ballina DCP and specifically the note the following commentary addressing small scale.

Small scale tourist and visitor accommodation is development that is predominantly residential in character and scale and that does not consist of larger commercial activities such as boarding houses, backpackers accommodation or hotel or motel accommodation.

Applicants must demonstrate that the proposed facility is compatible with the site and locality. In this regard, potential issues and impacts relating to at least the following are to be addressed: agricultural value, scenic amenity, ecological values, bushfire hazard, site access, waste management and land use conflict (including, but not limited to, lighting and noise). These matters should be considered with respect to accommodation form, density and configuration.

Council's controls in relation to tourist and visitor accommodation seek to enable such development on properties where the capacity of productive agricultural land is not compromised and the environmental characteristics of the land and its surrounds are not adversely impacted. Accommodation is intended as short term tourist accommodation (that is, it is not to be used for permanent occupation) that complements and provides access to the shire's agricultural and natural feature.

In response to the Council note and having specific regard to the development proposed, the proposed development provides for eight (8) clustered cabins providing short term accommodation to paying guests and adheres specifically to Table 7.1 which nominates the siting standard for 7 or more rural cabins. The following comments are also made in support of the development being ‘small-scale’.

- The proposal is of a scale which enables it to be managed by the residents of the land;*
- The proposal is small scale tourist and visitor accommodation is development is residential in character and scale and does not consist of larger commercial activities such as boarding houses, backpackers accommodation or hotel or motel accommodation. This position alone dictates the development is considered to be small scale pursuant to Chapter 7.*
- The accommodation involves a cluster of 8 cabins providing for not more than 24 paying guests. Each cabin is of a size which satisfies the gross floor area requirements stipulated under the Ballina DCP;*
- The accommodation will be located approximately 380m from the nearest dwelling and is separated from that dwelling by established vegetation, thereby permitting the continued rural character to be preserved;*
- The proposal is supported by a LUCRA which identifies the ability of the tourist cabins to be sited upon the land without impacting the continued agricultural use of adjoining lands;*
- The proposal is serviced by the existing single vehicular access driveway from Tuckombil Lane;*
- No vegetation clearing is required to entertain the cabins upon the subject land;*

- *The cabins are sited below the top of the ridge which traverses through the property. This design successfully ensures the built form does not dominate the scenic amenity of the immediate locality; and*
- *The proposal preserves the ability of the landowner to continue with existing and planned agricultural use of the land.”*

The tourist and visitor accommodation component has been assessed as being small scale and fully compliant with the provisions of Chapter 7 of the DCP.

Refer to the DCP section of the report for further discussion.

10. Agricultural Land

- Reduction in viable agricultural land
- Reduction in property values

COMMENT: The applicant has provided the following response to the issues raised regarding incompatibility with rural area:

“The temporary land use is not deemed to be incompatible with the rural character. The fact the use does not require any permanent structures, utilises an existing open area and preserves the rural use of the property ensures the use is compatible with the rural area.

Furthermore, the use is temporary with a maximum of 20 weddings per annum. Accordingly, as outlined within Council’s Chapter 8, the infrequent use for a short duration ensures any perceived inconsistency with the rural character has no environmental, social and/or cumulative impacts as is the case in this instance.

The proposed tourist and visitor accommodation is fully compliant with the tourist accommodation design provisions of the Ballina Development Control Plan and as such is deemed to be designed in a manner which ensures the built form, scale and location preserves the rural character. The development also preserves the ability to utilise the balance of the property for rural pursuits, inclusive of low scale grazing and the planting of avocados or lavender as planned by the proponent.

With respect to traffic generated by the development, Council has acknowledged within the pre-lodgement meeting that Tuckombil Road is suitable for the proposed accommodation aspect of the development. A detailed assessment of the road design standard has also been completed by Greg Alderson Associates inclusive of the wedding ceremony land use. The report has found the road is of a suitable design standard to cater for the development as proposed.

Accordingly, we submit the proposed land uses are compatible with the rural character of the locality and will not adversely impact the environmental and visual character of the immediate and surrounding area.”

11. Amenity

- Amenity adversely impacted by noise, increased traffic, scale of development, commercial use in rural area, reduction in privacy,
- Tranquility and rural ambience impacted
- Development not in keeping with rural community.

12. Aesthetics

- Visual impact of communal area and cabins.

COMMENT: With respect to items 11 and 12, several submissions provided comment on the amenity and aesthetics of the proposed development. While the applicant did not separately address these issues, various comments provided in the responses given to Council address the amenity and aesthetics of the proposed development.

It is expected that the proposed development will not have an adverse impact in relation to amenity or visual impact.

Refer to the BLEP section of the report for further discussion.

13. Land Use Conflict

- Agricultural activities impacted on adjoining properties
- Inadequate fencing between adjoining property may lead to trespass
- Reduced productivity and higher costs for adjoining macadamia orchard
- Cabins do not meet required setbacks in DCP (300m)
- Alienation and fragmentation of rural resource

COMMENT: The applicant has provided the following response to the issues raised regarding land use conflict:

“The development application has been accompanied by a detailed Land Use Conflict Risk Assessment (LUCRA) in accordance with the Department of Primary Industries Handbook ‘Land Use Conflict Risk Assessment (LUCRA) Guide’. The LUCRA has provided an appraisal of the potential for conflict between the proposed development and the existing adjoining horticultural land uses, having regard to the use and management of the lands. The LUCRA, which was reviewed through the pre-lodgement process by Council, has confirmed that the nominated setbacks, combined with specific plantings, provide an effective buffer for the tourist cabins so as to preserve the ongoing horticultural use and negating potential land use conflicts.”

Refer to the BLEP section of the report for further discussion.

14. Consultation

- Lack of consultation
- Removal of signage

A submission was received which indicated that no consultation was undertaken by the proponent/owners with adjoining neighbours prior to the submission of the application. There is no legal obligation for such consultation to be undertaken.

The submission indicated that signage installed by Council, advertising the application, was removed. Signage was installed as per Council's policy requirements, however it is acknowledged that signage may not always remain in place.

Notwithstanding this, when an application is required to be placed on public exhibition, letters of notification are sent to adjoining owners, an advertisement is placed in the local newspaper in addition to a sign being placed at the front entrance of the subject property. These measures were applied in the case of this proposed development.

15. Building Height

- Cabins exceed maximum height of 8.5m.

COMMENT: The applicant has provided the following response to the issues raised in relation to building height:

"Pursuant to Clause 4.3 – Height of Buildings of the Ballina LEP, the proposal involves a maximum building height of 7.2m for the holiday cabins, which is fully compliant with the building height limitations prescribed at 8.5m."

16. Chapter 4 of the DCP

- Development is not tourist and visitor accommodation

COMMENT: The applicant has provided the following response to the issues raised:

"An objection raises the fact the development is not tourist and visitor accommodation and to illustrate this, outlines Chapter 4 – Residential and Tourist Development does not apply to the subject development and specifically to the RU1 zone. We concur with this view as the relevant provisions for tourist and visitor accommodation in rural areas is contained within Chapter 7 of the Ballina DCP for which the proposal fully complies with the design standards."

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979. The following matters are considered relevant in Council's consideration and determination of the development application.

Ballina Local Environmental Plan 2012

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

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

“Tourist and Visitor Accommodation” means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers’ accommodation,*
 - (b) bed and breakfast accommodation,*
 - (c) farm stay accommodation,*
 - (d) hotel or motel accommodation,*
 - (e) serviced apartments,*
- but does not include:*
- (f) camping grounds, or*
 - (g) caravan parks, or*
 - (h) eco-tourist facilities.*

“Earthworks” means excavation or filling.

The subject land is zoned RU1 Primary Production under the provisions of the BLEP 2012. Function Centres are prohibited development within the RU1 Zone. Tourist and Visitor Accommodation is permitted with consent within the RU1 Zone. Earthworks are permitted with consent in the RU1 Zone.

The Function Centre (Wedding Ceremonies) component of the proposed development is being sought via the provisions of Clause 2.8 – Temporary Use of Land.

Clause 2.8 – Temporary Use of Land

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

- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

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

“The proposed temporary use of the land as a function centre will not result in any detrimental economic, social, amenity or environmental impacts on the land. In this regard, the proposal involves hosting wedding ceremonies in the existing cleared grounds on the site adjacent to the dwelling house. All activities associated with hosting the ceremonies are temporary and low impact and do not require any permanent infrastructure to be developed in order to host the wedding ceremony.

At the conclusion of each event, the site and the grounds will revert to their character as was existing immediately preceding the event. In this regard, the planned horticultural pursuits and planned tourist and visitor accommodation would continue to operate unimpeded by the wedding ceremony services.

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

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

Subclause (2) provides that despite any other provision of the BLEP 2012 (even provisions which prohibit certain developments), Council has the ability to grant development consent for development on land in any zone for a temporary use. The subclause then goes on to state that this temporary use must be for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.

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

Of relevance in considering the provision of this subclause, is whether the proposal can be considered a temporary use. Council has previously considered this issue in relation to DA 2015/300 and DA 2015/712 for the Newrybar Downs Function Centre. It is acknowledged that the Function Centre component of this application is modelled on the Newrybar Downs application, however despite this Council must consider this proposal on its own merits. This is an established view cited in the Land and Environment Court.

This application seeks consent to operate for a five year period, with the Function Centre operating for up to 20 days in any 12 month period. The application proposes that all activities associated with the Function Centre (Wedding Ceremonies) will be set up and packed up on the day of the event.

It is considered that all activities involved (as outlined previously in this report) in the set up and pack up, are achievable within the hours proposed by the applicant.

It is acknowledged that the use of the property for wedding ceremonies is reliant on bookings made. If the proposal as lodged is granted development consent the Function Centre component of the application will be for a period of five years.

Case law regarding the definition of 'temporary use of land' has been considered in *Lowe v Sutherland Council* (2005). The case considered an application to use the grounds of a local school for a market every 2nd and 4th Sunday of each month. The use of the site was only permissible as a temporary use of land under Clause 9 of the Sutherland LEP 2000. This Clause 9 allowed for a similar temporary use of land as in Clause 2.8(2) of the BLEP 2012 but providing for a maximum period of 28 days, whether or not consecutive days, in any period of 12 months.

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

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

In *Marshall Rural Pty Ltd v Hawkesbury City Council and Ors* (2015), the Court found that a consent to a temporary use is not necessarily limited to a period of 12 months, but can be for any nominated limiting period or be open-ended.

Further case law, *Allman Associates Pty Ltd v Wingecarribee Shire Council* (2016), was an application for the use of an existing barn for wedding receptions. In this case Council had imposed a temporal condition limiting the consent for a period of 12 months only. The applicant sought the deletion of this condition. Commissioner Susan O'Neill upheld the appeal and the consent condition was amended to allow the *"temporary use of the barn for wedding receptions for a period of 36 months only from the date of the granting of this consent and the maximum frequency for the use of the barn for wedding receptions per annum is 60 days."*

If the Council is concerned that allowing a temporary use on an ongoing basis over a period of a number of years would lend a sense of permanency to the use, it may consider granting consent for a trial period, and requiring a further application to be made after the temporary use had some time to function, thus giving Council the opportunity to re-assess the impacts of the temporary use.

By way of comparison, the Newrybar Downs consent was granted for a three year period with 38 ceremonies in any 12 month period via DA 2015/712, and has since been granted consent to operate for a five year period with 38 ceremonies in any 12 month period via DA 2017/662.

The applicant has requested that a five year approval be granted by Council with respect to the Temporary Use – Function Centre to commence from the date of the first wedding ceremony to allow the site to be prepared and confirm bookings for the wedding services. Whilst the applicant and owners requests are acknowledged, Council will need to carefully consider the overall proposal in context with what a five year approval will mean. A five year approval will enable a maximum of 100 wedding ceremonies to occur over this time. Council may also choose to grant consent for a shorter time period, should that be considered appropriate.

Additionally, Council must also ensure that the temporary use complies with the other requirements of Clause 2.8(3).

In addressing subclause (3):

- (a) the proposed Temporary Use – Function Centre (Wedding Ceremonies) does not appear to prejudice the subsequent carrying out of development on the subject property in accordance with the BLEP 2012 and any other applicable environmental planning instrument (EPI). The subject land is 17.61 hectares and small scale cattle grazing is currently the only agricultural pursuit undertaken, which would not be economically viable in its own right.

The proposed temporary use of the land is not considered such that permissible development (including tourist and visitor accommodation) could not be carried out on the subject land, particularly considering that all equipment/furnishings etc associated with the Function Centre use are proposed to be installed and removed on the day of the event and are confined to an area which is not currently used in any agricultural pursuit.

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

In terms of adjoining land, the subject property is surrounded by both rural residential type allotments (in the vicinity of Teven Road/Tuckombil Lane intersection) and larger lots used for grazing and/or horticultural pursuits (macadamia/pecans).

Three dwelling houses were taken into account in the Noise Assessment Report as sensitive receivers. The dwelling house at No. 17 Tuckombil Lane is approximately 25m from the northern boundary of the subject land and approximately 120m from the site of the wedding ceremonies. The dwelling house at No. 979 Teven Road is also partially visible from the wedding ceremonies site, however is located approximately 450m to the east. The dwelling house at No. 89 Tuckombil Lane is located approximately 440m to the south-east, however is not visible due to the topography of the land.

Given its proximity to the subject land, the dwelling house at No. 17 Tuckombil Lane would be the most likely impacted. However, the amended location for the wedding ceremonies is considered such that there will be no visual impact.

The new location is screened by the existing dwelling house, existing landscaping and general topography of the site. It is also proposed to provide more landscaping in the north-western section of the subject land to provide a larger buffer and to screen the ceremony site from public view.

The amended application also repositioned the car parks and portaloos to the south of the existing farm shed so that any visual impact is extinguished. It is noted that portaloos and decorations etc. will only be on the site for the day of the ceremony, as outlined previously in this report. The applicant has indicated that pack up and removal of all associated equipment from the site will be completed by no later than 6pm on the day of the event.

The potential impacts on adjoining land and the amenity of the neighbourhood result primarily from the hosting of the actual function (i.e. wedding ceremony). A range of issues have been raised in the submissions received as part of the notification period, and re-notification of the amended application.

Submissions focus on the following issues:

- Traffic and parking
- Noise
- Unsuitability of Tuckombil Lane for buses and increased traffic
- Noise from guests, ceremony including music
- Management difficulties regarding wedding guest behaviour
- Land use conflict.

These issues are intrinsic to the consideration of whether the proposal can meet the requirements of subclause 3(b).

The proposal provides for a wedding ceremony to be hosted on the site for between two to three hours between the hours of 12 noon and 5.30pm. The ceremony is to be wholly located within the levelled area. It is proposed to play acoustic music while guests are gathering and during the ceremony. Music from an ipad or similar may be played as the bride arrives. Caterers will serve drinks and canapés (within the levelled area) while photos are taken. Some amplified background singing is also proposed.

All set up and pack up activities are to occur on the day of the wedding ceremony, with all pack up to be completed not later than 6pm. During the morning of the ceremony wedding planner, hair/makeup and musicians will arrive and flowers and portaloos will be delivered to the site. Furniture and decorations, which will remain in the ownership of the proponent, will be set up during the morning. In the afternoon, the caterer and celebrant arrives. Guests arrive, predominantly by bus with some, elderly, disabled and families with young children, by car. These activities are all considered low noise generating activities.

It is proposed that ceremonies would range in size from 20 to 120 persons, with an average size of approximately 80 persons.

Potential impacts from noise generated from the use of the land as a Function Centre (Wedding Ceremonies) has been raised by objectors to the development. Concerns are held in relation to noise from increased traffic, operation of the function centre (wedding ceremonies) amplified music, noise from 120 guests, noise from intoxicated guests and the amplification of the celebrant's voice.

A Noise Impact Assessment (NIA) was prepared by Greg Alderson & Associates and submitted with the SEE. An amendment to this report, dated 3 June 2019 was submitted which addressed the amended location for the wedding ceremonies. The amended report undertook noise modelling for the relocated wedding ceremonies site and noise emissions arising from such, as well as on-site vehicle noise associated with the wedding services.

The background noise level was determined by undertaking noise monitoring at the subject site during the period 25 September 2018 to 10 October 2018. Median background noise levels were recorded as 32.3 dB(A) Day, 27.75 dB(A) Evening and 21.85 dB(A) Night which has been determined generally in accordance with the requirements of the Industrial Noise Policy. The project noise trigger level used to model the predicted noise sources and their levels is $Leq, 15min \leq 35dB(A)$.

The initial NIA submitted nominated three sensitive receivers being

- 17 Tuckombil Lane (Receiver 1)
- 979 Teven Road (Receiver 2)
- 89 Tuckombil Lane (Receiver 3).

The amended report concluded that the predicted noise levels from wedding services at the closest sensitive receiver at the façade of the neighbour (17 Tuckombil Lane) to be 20 dB(A), compared to the original prediction of 35 dB(A) for the initial location. Vehicle noise was modelled on a vehicle flow rate of 4 veh/15 minutes, including 5 x 20 seater mini buses and 5 private vehicles. On-site vehicle noise at the façade of the neighbour (17 Tuckombil Lane) resulted in noise emissions of 30 to 32 dB(A), also decreased from the original prediction.

The Acoustic Consultant advises that:

Continual and on-going management of noise emissions is to be undertaken as required to ensure that noise emission levels from the proposed development have minimum impact upon the neighbouring receivers. Above all, the Project Specific Noise Level of 35 dB(A) Leq 15-minute, should not be exceeded at neighbouring receivers by development related noise emissions.

The Acoustic Consultant recommends that a noise management plan which encompasses best practice noise measures are implemented. Measures are to include:

- Property management to ensure appropriate patron behaviour
- Encourage patrons to be respectful of noise sensitive neighbours when arriving and leaving the site
- Signage to be provided stating that due to the sensitive location that noise levels are to be kept to a minimum to respect the natural environment and the neighbours of the site

- Any live music managed at a noise level suitable for 'background' music. Ensure no amplification of live music at proposed wedding ceremonies
- Where speakers are used for celebrant and MC, if possible, they should be mounted in a 45° downward direction, and facing away from sensitive receivers where practical
- Where speakers are used for celebrant and MC, it is recommended to perform a sound check with the absence of patrons to ensure the dB limits are met
- It is recommended that the use of PA systems are limited to MC and celebrant.

Council's Environmental Health Officer reviewed the Noise Impact Assessment and concluded that:

"Based on the modelling and amended site plans the wedding ceremonies were found to be compliant at the nearest dwelling (17 Tuckombil Lane) with some reasonable and feasible management measures. Therefore the acoustic assessment concludes that the proposed development is not expected to adversely impact on any adjoining land or the existing noise amenity of the neighbourhood."

(c) in order to satisfy (c), the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.

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

In relation to natural hazards, the subject property is located within a bushfire prone area and the development application was referred to the NSW Rural Fire Service for a Bush Fire Safety Authority (under Section 4.47 of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997), via letter dated 12 February 2019. The amended application was referred to NSW Rural Fire Service on 25 June 2019. On 31 July 2019, Council received a response from the NSW Rural Fire Service, including the issue of a Bush Fire Safety Authority (refer to Attachment 6).

It is not considered that the risk of bushfire will be increased as a result of the Temporary Use given appropriate management of the site is enforced.

(d) in order to satisfy (d), at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

The application demonstrates that pack up activities can be concluded by 6pm on the day of the wedding ceremony. At the end of the temporary use period the property will revert to its previous state, i.e. approved rural dwelling house and approved tourist and visitor accommodation.

In relation to 3(c) and 3(d) Council must also consider whether the earthworks, which are the subject of this application are considered works for the purpose of the temporary use or can be considered as landscaping ordinarily ancillary to the existing dwelling house.

In relation to the proposed earthworks, the applicant provides that:

- *The proposed earthworks are not reliant on the temporary use Clause 2.8 under the BLEP, rather Clause 7.2 of the BLEP;*
- *The earthworks form part of the planned landscape works for the Griffani dwelling curtilage area;*
- *The earthworks will not impact the current and future use of the land in respect to the potential agricultural use of the land;*
- *The works are located within the open space (i.e. non-agricultural land area) as defined by the existing fence alignment;*
- *There is no retaining walls or sealed surfaces proposed. The area is to be turfed as is currently the case.*
- *The earthworks cover an area of approximately 750m² which represents 0.4% of the total site area.*
- *The area will, post the temporary use, be utilised by the residents for open space with no modification to the land area required.*
- *The revised location for the wedding services was established in response to community submissions. Our clients had always intended to landscape this area as part of their broader landscape plans. In this respect, a separate DA for earthworks could be lodged and given the minor scale would expect approval subject to suitable conditions.*
- *Whilst the earthworks form part of the landscape plans for the Griffani's, Clause 2.8 does not prohibit works based on the ability to demonstrate the works will not prejudice the continued or future use of the land under the Ballina LEP, adversely impact on environmental attributes or features of the land and result in detrimental economic, environmental, social, amenity or environmental impacts. In this case, we submit the minor nature of the earthworks satisfy the provisions of Clause 2.8.*

COMMENT: Council must consider that the earthworks to be undertaken are of a minor nature, i.e. 750m² in total area of which only a small portion involves earthworks over 600mm. Earthworks which do not involve cut/fill of more than 600mm below or above ground level may be undertaken as exempt development under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. As such, the majority of the earthworks could be undertaken as exempt development.

Furthermore, should the applicant submit a development application for the required earthworks, it would most certainly achieve consent and is permissible development in its own right.

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

Ballina Shire Development Control Plan 2012

Chapter 2 – General and Environmental Considerations

Clause 3.1 – Land Use Conflict

Clause 3.1 does not specify a buffer distance to be achieved from a Function Centre. The minimum buffer distance for rural tourist facilities (tourist and visitor accommodation) are not met and the SEE was supported by a Land Use Conflict Risk Assessment (LUCRA). Additional information was also submitted in relation to the LUCRA and the relocated wedding ceremony site, car park and portaloo site following the site inspection and request for further information.

In relation to land use conflict and the proposed Function Centre (Wedding Ceremony) use of the property, Council's Environmental Health Officer has provided the following comments:

As the minimum land use buffers are not met the proposal was supported by the submission of a Land Use conflict Risk Assessment prepared by Greg Alderson & Associates and dated December 2018. The additional information provided by the applicant included amendments to minimise the potential land use conflict.

The proposal was also amended to increase the distance between the wedding ceremony location and the nearest sensitive receiver and to also be shielded by the existing dwelling house. The proposal also now includes a thirty metre vegetated buffer to assist in reducing the potential impacts of spray drift on the wedding ceremony location. It will also provide a visual screen to reduce potential conflict. The location of the car park, portable toilets and waste storage areas have also been amended to reduce the risk of land use conflict occurring and the potential impacts on the neighbouring residence.

In relation to the tourist and visitor accommodation cabins, no land use conflicts were identified in the LUCRA as cabins "were generally protected from the macadamia orchard to the south due to the distance, topography and existing vegetation along the road reserve. It is therefore considered that a planted buffer is not required, however, it is anticipated that some landscaping will be provided around the cabins which will be presented on the landscaping plan and will need to comply with asset protection zone requirements regarding bushfire protection.

Clause 3.8 – On-site Sewage Management Systems

Clause 3.8 provides that all development not connected to Council's reticulated sewerage system must comply with the Ballina Shire Council On-Site Sewage and Wastewater Strategy.

Concerns were raised by the community in relation to disposal of wastewater.

The Function Centre (Wedding Ceremonies) are reliant on the provision of portaloos at the rate of 1 per 20 persons in attendance at the event (including staff). The application was supported by an Onsite Wastewater Management Assessment and further information was requested and assessed. Two aerated wastewater treatment systems each capable of treating 2000L/day and a 5000L pump well will be installed for the eight cabins.

Subsurface irrigation beds have been relocated with a 100m buffer to the creek and 40m buffer to the gully. Wastewater from the communal area will be treated via a 3000L septic tank, 550L grease trap, a concrete subsurface flow wetland and evapotranspiration/absorption beds. Council's technical officers support the amended plans.

Clause 3.19 – Car Parking and Access

Car Parking

In relation to the operation of the proposed Function Centre (Wedding Ceremony) use, the applicant has stated that the bridal party will usually, but not always, be staying in the proposed tourist and visitor accommodation cabins and will arrive via motor vehicle.

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

The applicant has indicated that a total of 11 car parking spaces are required to be provided on site during the course of a typical larger ceremony, as follows:

- six spaces to accommodate the various persons employed on the site during the course of a typical event; and
- five overflow spaces for function attendees who do not arrive by bus (i.e. elderly, disabled or families with very young children).

The amended application relocates the proposed car parking areas to the south of the existing farm shed and proposed communal area. Car parking areas will be of compacted gravel and grassed surfaces. Refer to Attachment 2.

Eight car parking spaces, included one accessible space, will be provided for the proposed tourist and visitor accommodation cabins to the west of the existing driveway in the vicinity of the cabins. Refer to Attachment 2.

Concerns were raised by the community in relation to the provision of on-site car parks, however Council's Engineers agree that the application is compliant and no further issues are raised.

8.1 DA 2019/30 - 43 Tuckombil Lane, Tuckombil

Access

An amended location for the driveway entrance to the property was submitted pursuant to Clause 55 of the Environmental Planning and Assessment Regulation when Council's Engineer identified an issue with sight distance from the existing driveway. The proposed Function Centre (Wedding Ceremony) is to utilise the relocated driveway entrance and bitumen sealed driveway. Mini-buses delivering wedding guests to the site will be able to utilise the turning bay adjacent to the existing dwelling house. A bitumen sealed passing bay will be provided on the driveway and a 3.8m sealed one-way loop driveway will be constructed to service the proposed tourist and visitor accommodation cabins.

Concerns were raised in submissions in relation to the sight distance, however Council Engineers agree that the proposed relocated position is compliant with the required sight distances with the provision that some roadside vegetation (juvenile Tuckeroo trees) are removed in accordance with Council's Urban Vegetation on Public Land Policy, for the purpose of increasing sight distance.

Traffic Generation

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

Description	Vehicles	On-Site During Function	Trips
Portaloo Delivery	1	-	2
Catering (Drinks and Canapé Service)	2	1	4
Wedding Planner	1	1	2
Proponent Representative	1	1	2
Hair and Makeup	1	-	2
Florist	1	-	2
Celebrant	1	1	2
Photographer	1	1	2
Musician/s	1	1	2
Overflow Wedding Guest Parking*	5	5	10
Buses**	5	-	10
Portaloo Pick-up	1	-	2
Total	29	11	42
* 10 guests in up to 5 cars			
** Assuming 94 guests arriving by a nominal 20 seater bus (120 – 26 = 94). 26 not arriving by minibus comprising 10 arriving by private vehicle and 16 guests staying in cabins.			

Traffic generation for the largest wedding (120 guests) is 42 trips per ceremony. If the maximum number of ceremonies (i.e. 20) are to be held per year, this equates to 42 additional trips for every 2.6 weeks.

8.1 DA 2019/30 - 43 Tuckombil Lane, Tuckombil

The applicant has advised that the anticipated peak day demand for the wedding ceremonies would be based upon the function maximising its parking use at 11 vehicle spaces (11 x 2 trips = 22 trips) and some 20 trips by the mini-bus, meaning a peak day of nominally 32 trips.

In a worst case scenario, where $\frac{1}{2}$ of these trips arrive over an hourly period, this equates to 16 trips per hour. The Traffic Assessment report submitted by the applicant states that the 7-day average daily traffic (ADT) in two locations in Tuckombil Lane are:

- Location A (to the east of Teven Road intersection) 81.8 vpd
- Location B (to the east of property driveway) 62.2 vpd.

Wedding ceremonies are to held on weekends and the average daily traffic flows for weekends is:

- Location A (to the east of Teven Road intersection) 70.5 vpd
- Location B (to the east of property driveway) 55.0 vpd.

The applicant has provided information that demonstrates that Tuckombil Lane has sufficient capacity to cope with the proposed Function Centre (Wedding Ceremony) use and the tourist and visitor accommodation use as proposed within the application.

Council Engineers agree that Tuckombil Lane has the capacity to accommodate the proposed development.

Conclusion

There are two main issues that need to be considered in relation to the current proposal for the Function Centre (Wedding Ceremonies) component of this application as submitted and its ability to comply with Clause 2.8 of the BLEP 2012.

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

The proposed Function Centre (Wedding Ceremonies) use could be considered as temporary, whilst acknowledging that there is an ongoing intermittent use (20 events to be held each year) of the land for a specified time period. Each event will involve all activities occurring on the same day (including set up, the wedding ceremony and pack up). Over the five year period, as requested by the applicant/owners, this enables a total of 100 separate events.

Council must consider whether the earthworks, which are the subject of this application are considered works for the purpose of the temporary use or can be considered as landscaping ancillary to the existing dwelling house, notwithstanding that a large part of these works could be considered exempt development or achieve consent via a separate development application.

While it may be considered that a time frame of five years may lend a sense of permanency to the use, the applicant has requested that the five year period commence from the date of the first wedding ceremony to allow the site to be prepared and to confirm bookings for the wedding services.

Apart from the earthworks, there are no real construction works required for the proposed function centre (wedding ceremonies) and whilst the applicants/owners have requested this "lead time", Council may consider that a shorter time frame would still provide adequate time for bookings, marketing and the required wedding planning.

In order for the proposal to be considered a temporary use in accordance with the intent and objectives of Clause 2.8 of the BLEP 2012 (incorporating a definable end point), the grant of an approval for a three year period is recommended in the circumstances of the proposed development.

Council may also consider it preferable to limit the operational life of the consent to three years (as opposed to the proposed five years) in the circumstances of a use that, other than for Clause 2.8 of the BLEP 2012, is prohibited. This would enable a review of the performance of the development two years sooner than proposed.

2. Impacts on adjoining properties and amenity of the locality

As discussed previously in this report, Council staff have reviewed the proposal with respect to amenity impacts including noise and traffic, which have been identified by the submitters as part of the public exhibition of the proposal and also comprehensively addressed by the applicant in the SEE and amended application.

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

Whilst these activities are not typical of this rural location, they are not considered overly intrusive, compared to the other "rural" noises that may occur at the same time from surrounding properties (i.e. machinery noise etc.). It must also be noted that wedding guests will only be on site for two to three hours, between the hours of 12 noon and 5.30 pm.

The NIA has demonstrated that noise generated by the proposed Function Centre (Wedding Ceremonies) may be at times 'audible', but will not exceed the required Median Background Noise levels of 32.3 dB(A) Day, 27.75 dB(A) Evening and 21.85 dB(A) Night. Noise modelling undertaken in relation to the amended application concluded that noise emissions from wedding services at the nearest sensitive receiver (17 Tuckombil Lane) are predicted to be 20 dB(A), well with the 35dB(A) compliance level.

Noise modelling of on-site vehicle noise associated with wedding services is predicted to be 30 to 32 dB(A) at the nearest sensitive receiver. The applicant and their Acoustic Consultant have proposed a range of operational measures to ensure compliance with the identified noise limits and Council's technical officers consider that applying conditions to any consent granted will ensure compliance with the identified limits.

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

Option One

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

Option Two

That Council approve all aspects of the development application other than the Temporary Use i.e. Function Centre (Wedding Ceremonies). Council has the ability to issue a partial development consent under Section 4.16(4) of the Environmental Planning and Assessment Act 1979. Section 4.16(4) states:

(4) Total or partial consent

A development consent may be granted—

- (a) for the development for which the consent is sought, or*
- (b) for that development, except for a specified part or aspect of that development, or*
- (c) for a specified part or aspect of that development.*

In effect, Council could approve the earthworks, tourist and visitor accommodation and communal area and exclude the proposed temporary use – function centre, in consideration of the matters raised in this report.

Option Three

That Council approve the development application as proposed for the requested five year period, subject to applicable conditions of consent for this type of development and conditions addressing particular matters outlined in this report.

This would include a number of additional noise specific conditions for the function centre use including the submission and approval of a Noise Management Plan, restricted hours for noise generation associated with set up and pack up activities, and the requirement for noise caused by the use to comply with the Project Specific Noise Criteria (PSNC) of 35 dB(A) as per the recommendations of the Acoustic Consultant.

The consent would also require the submission and approval of an Operational Management Plan for the approved land use.

Option Four

That Council approve the development application for a three year period, subject to applicable conditions of consent for this type of development and conditions addressing particular matters outlined in this report.

This would include a number of additional noise specific conditions for the function centre use including the submission and approval of a Noise Management Plan, restricted hours for noise generation associated with set up and pack up activities, and the requirement for noise caused by the use to comply with the Project Specific Noise Criteria (PSNC) of 35 dB(A) as per the recommendations of the Acoustic Consultant.

The consent would also require the submission and approval of an Operational Management Plan for the approved land use.

As previously identified in this report, a period of three years is considered to be an appropriate time frame in the context of the proposed development.

Draft conditions of consent relating to this option are contained in Attachment 6.

Option Four is the recommended approach for the reasons outlined in this report.

RECOMMENDATION

That DA 2019/30 for the Temporary Use of Land as a Function Centre for the Purpose of Hosting Wedding Ceremonies and the Staged Development of Eight Holiday Cabins and Associated Amenities, Infrastructure and Earthworks for Landscaping Purposes in association with the existing dwelling house at Lot 1 DP 786850, No. 43 Tuckombil Lane, Tuckombil be APPROVED subject to the imposition of conditions as contained in Attachment 6 to this report.

Attachment(s)

1. Locality Plan
2. Plans of Development
3. Public Submissions - First Exhibition
4. Confidential Submission (Under separate cover)
5. Public Submissions - Second Exhibition
6. Draft Conditions of Consent

8.2 Local Strategic Planning Statement (Draft)

8.2 Local Strategic Planning Statement (Draft)

Delivery Program Strategic Planning

Objective To outline the draft Local Strategic Planning Statement for Ballina Shire and seek endorsement to place on public exhibition.

Background

Amendments to the Environmental Planning and Assessment Act (s3.9) made in March 2018 require each NSW council to prepare a local strategic planning statement (LSPS).

Each LSPS must include the following details:

- The basis of strategic planning in the area having regard to economic, social, and environmental matters
- The planning priorities for the area. These need to be consistent with the strategic plan applying to the area (North Coast Regional Plan 2036) and the applicable community strategic plan (*our community our future* Community Strategic Plan 2017 – 2027).
- The actions required to achieve the planning priorities and
- The monitoring and reporting associated with the implementation of the actions.

Additional requirements of the Department of Planning, Industry and Environment (DPIE) require the LSPS to:

- Set a 20 year vision for land use in the local area, detail the special character and values that are proposed to be preserved and explain how change will be managed in the future
- Implement actions in the North Coast Regional Plan and council's priorities as detailed in the Community Strategic Plan and
- Identify where further detailed strategic planning is needed.

Regional councils are required to have their LSPS in place by 1 July 2020.

Action HE3.1j of Council's Delivery Program and Operational plan lists the preparation of a Local Strategic Planning Statement as an item for completion in the 2020/21 period.

Staff are working to the 1 July 2020 timeframe and in order to meet this propose to publicly exhibit the draft LSPS in late January 2020.

Key Issues

- Planning Priorities and Actions
- Community Consultation

8.2 Local Strategic Planning Statement (Draft)

Information

The LSPS is a document primarily designed to ensure that State based planning directions such as those contained in regional and district plans are implemented at the local council level.

The relationship between the LSPS and other key corporate documents and land use planning documents is shown in Figure 1 and on page 10 of the draft LSPS.

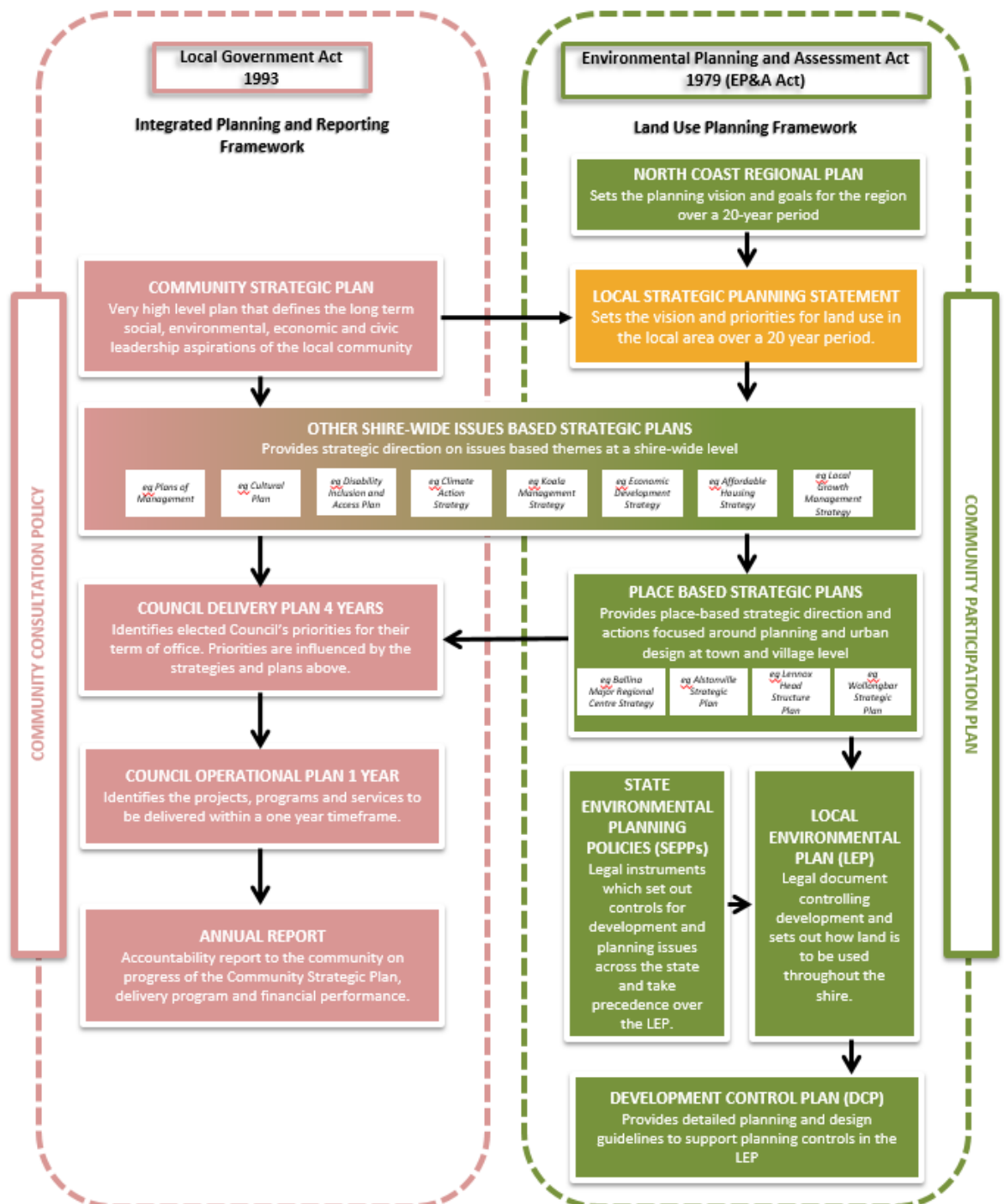


Figure 1: LSPS Relationship with Ballina Shire Corporate and Land Use Planning Documents

8.2 Local Strategic Planning Statement (Draft)

Council has undertaken extensive strategic planning over the past 20 year period.

Consequently, Council has been able to demonstrate substantial compliance with planning directions contained in the North Coast Regional Plan 2036 during the 'health check' phase of the LSPS preparation process.

The draft LSPS incorporates 14 Planning Priorities and 50 Actions.

These build on the strategic planning actions already contained within Council's Community Strategic Plan 2017 – 2027 (CSP), and the Delivery Program and Operational Plan 2019 – 2023 (DPOP).

Actions already adopted by Council for implementation through the mechanism of the CSP and DPOP have generally not been duplicated as actions within the LSPS.

The draft LSPS does however, incorporate references to the Operational Plan activities that Council either has completed, or has committed to implementing.

This was done to provide a more holistic view, and to reinforce the fact that significant work has already been done, or is already programmed to be undertaken, outside of the LSPS framework.

The key thing to recognise here is that the LSPS is not an exhaustive list of what Council has done or plans to do under the current delivery program and operational plan in relation shire wide strategic planning.

Rather, it contains additional actions to those already in place and reinforcement of certain planned actions in order to meet the LSPS requirements arising from reforms to the EP&A Act.

The draft LSPS is contained within Attachment 1 to this report. Some graphics are still in the course of preparation. Additional text content, relating to the demand for employment space in the shire, is also proposed to be incorporated. This will occur after the draft Ballina Shire Commercial Centres and Employment Study has been finalised by consultants HillPDA.

The timeframes set by the DPIE for the preparation of the draft LSPS, its exhibition, and subsequent endorsement are challenging.

This is particularly so as the Northern Rivers councils have not been provided with any financial assistance or other resources to prepare their LSPSs.

Significant funding was made available to some Sydney based councils to complete their LSPSs.

In the case of some other regional councils the DPIE has also provide the staff resources to prepare their LSPS documents.

Staff undertook LSPS preparation training in May 2019.

8.2 Local Strategic Planning Statement (Draft)

A 'health check' document was then prepared in June 2019 which aligned Council's Community Strategic Plan and Operational Plan activities with the North Coast Regional Plan 2036 Directions.

Feedback was then obtained from the DPIE in July and October 2019, which assisted in the preparation of draft versions of the LSPS.

The timeframe set by the DPIE is also such that specific community engagement has not been able to be undertaken prior to the draft LSPS being prepared. This would have been desirable as it would have provided contemporary community input and assisted in shaping the planning priorities which the draft LSPS contains.

Instead engagement previously undertaken in respect to the preparation of placed based strategic plans, and the rural settlement character statements, has been reviewed and considered in preparing the draft LSPS.

Community consultation is proposed to be undertaken following the draft LSPS being endorsed by Council for public exhibition. Council will have a further opportunity to review the draft LSPS, and the planning priorities and actions it contains, after its exhibition and prior to it being adopted.

The draft LSPS presented in this report will be significantly reviewed as part of the Community Strategic Plan review process in 2021. Therefore, there will be a chance to refine and incorporate issues subsequently identified through the CSP review process in this next iteration of the LSPS.

The planning priorities and a summary of the rationale applied to their inclusion within the draft LSPS are detailed in the table below. In a sense these priorities and actions should be considered as an interim policy position pending the finalisation of the community consultation phase of this project.

Planning Priority	Rationale
Planning Priority 1 Review community infrastructure needs within the Shire's towns, villages and rural localities and incorporate requirements within the Open Space and Community Facilities Developer Contribution Plan.	Benchmark standards for community infrastructure in Ballina Shire are based on work undertaken in the period 2004 to 2008. A comprehensive review of standards, as well as an analysis of whether existing infrastructure meets community needs is proposed by this planning priority and the associated actions.
Planning Priority 2 Encourage urban design which increases chances for social interaction and connectedness	Society is changing as consequence of changes to the way we work and shop. More people are working from home, and buying goods on line. People will need more places in which to socialize and exchange ideas. This then impacts on the way we design our commercial centres, parks and buildings.
Planning Priority 3 Stimulate economic activity, and provide improved access to local services and facilities, by reviewing planning controls around major Shire infrastructure such as Ballina Hospital, Ballina Byron Gateway Airport, and education facilities.	In the period to 2040 it is estimated that some 5,000 new jobs will be created in the shire. Many of these jobs will be associated with health care, schools and other special purpose uses. To ensure that the predicted job growth occurs it is proposed to review planning controls that apply around key community infrastructure through a precinct planning process.

8.2 Local Strategic Planning Statement (Draft)

Planning Priority	Rationale
<p>Planning Priority 4</p> <p>Encourage activities within the rural hinterland that stimulates economic activity by value adding to farm based production and that promote rural tourism.</p>	<p>This planning priority proposes actions that assists to protect the shire's rural hinterland from inappropriate development to maximise the economic potential of these areas.</p> <p>Actions proposed include the preparation of a land use strategy for agricultural land.</p>
<p>Planning Priority 5</p> <p>Maintain a supply of suitably located employment (industrial) land close to population centres at Alstonville – Wollongbar, and Ballina – Lennox Head to foster local employment opportunities and to reduce journey to work travel distances.</p>	<p>Actions associated with this planning priority include the evaluation of land adjoining the Russellton Industrial Estate, and in Ross Lane Lennox Head (Land designated in the North Coast Regional Plan), for industrial suitability.</p> <p>Providing opportunities for local jobs also assists to reducing the dependency on the car as method to journey to work.</p>
<p>Planning Priority 6</p> <p>Incorporate housing choice options, including infill development options, when preparing place based strategic plans.</p>	<p>This planning priority aims to encourage greater housing choice through the incorporation of a range of housing choice facilitation options within place based strategic plans.</p> <p>Options such as permitting dual occupancy development upon certain R2 zone land, increasing the amount land zoned for R3 Medium Density, and reviewing densities within existing R3 zoned areas are proposed to be considered.</p>
<p>Planning Priority 7</p> <p>Engage with the Northern Rivers Joint Organisation (NRJO) to develop an environmentally sustainable Northern Rivers regional approach to the release of land for housing and industry as well as the location of key industries.</p>	<p>This priority recognises that some issues impacting Ballina Shire also affect the broader region. These issues once identified would benefit from the development of regional strategy responses.</p> <p>Negotiating a regional approach may also avoid duplication of resources and may assist to preserve our unique North Coast environment.</p>
<p>Planning Priority 8</p> <p>Protect the shire's historic heritage.</p>	<p>Referencing the NSW Heritage Manual and the Australia ICOMOS Charter for Places of Cultural Significance ensures that Ballina Shire DCP 2012 contains contemporary best practice standards for the assessment and future managements of identified heritage items.</p>
<p>Planning Priority 9</p> <p>Ensure that new development is of a high standard in accordance with best practice guidelines applicable to Northern and Regional NSW.</p>	<p>This planning priority seeks to ensure that the character of the Shire's towns and villages is maintained as growth occurs in the period to 2040.</p> <p>Actions associated with this planning priority include the incorporation of references to the North Coast Urban Design Guidelines within Ballina Shire DCP 2012.</p> <p>It is also proposed to audit some recently completed development and recently adopted place based strategic plans against the Guidelines. This may result in some improvement opportunities being identified for future incorporation into the DCP or strategic plans.</p>

8.2 Local Strategic Planning Statement (Draft)

Planning Priority	Rationale
<p>Planning Priority 10</p> <p>Maximise opportunities associated with growth in South Eastern Queensland and the increased connectivity provided by the upgraded Pacific Motorway and digital technology.</p>	<p>Over the next 20-year period the population of South East Queensland (SEQ) is expected to increase by approximately 1.9 million people to 5.4 million people. SEQ commences approximately 1 hour by car from Ballina Shire. It provides a large potential market place for our industries and residents.</p> <p>Given the economic development potential associated with fostering closer economic ties between Ballina Shire and SEQ it is considered important that potential opportunities be monitored and explored by Shire.</p>
<p>Planning Priority 11</p> <p>Protect and enhance productive agricultural lands through the development of a Ballina Shire Agricultural Land Use Strategy.</p>	<p>The Agricultural, Forestry and Fishing sector of Ballina Shire employed 942 people in 2017/18.</p> <p>In terms of value added to the economy (gross revenue less cost of inputs into production) this sector is one of the three strongest growing sectors in the local economy. It has experienced growth of 68% (\$32.7m) since 2002/03.</p> <p>The preparation of an Agricultural Land Use Strategy is proposed which will examine how agriculture may best be supported from a land use planning perspective.</p>
<p>Planning Priority 12</p> <p>Ensure that the biodiversity values of the Shire are identified and where required protection strategies are implemented.</p>	<p>The Far North Coast of NSW is one of the most biodiversity rich regions in Australia.</p> <p>The region is under significant threat from the impacts of climate change and associated natural hazards such as bush fire risk, drought and flooding, along with the impacts of continued vegetation clearing.</p> <p>To enable council to adequately consider the value of our ecosystems and the threats faced from impacts such as climate change it is proposed to prepare a biodiversity strategy and policy. It is also proposed to comprehensively map areas of significant biodiversity value. Mapping will enable decisions to be made as to how these areas may be best managed and or preserved.</p>
<p>Planning Priority 13</p> <p>Focus development to areas of least biodiversity sensitivity and least exposure to natural hazards such as flooding and bush fire risk.</p>	<p>This planning priority proposes actions aimed at reviewing the location of Strategic Urban Growth Areas still contained in Ballina LEP 2012.</p> <p>Areas designated as Strategic Urban Growth Areas (SUGA) within Ballina LEP 2012 were based on strategic planning undertaken in the early 2000s. Since that time significant additional and more detailed information has become available relating to the lands biodiversity value and its susceptibility to natural hazards.</p> <p>In the above context it may be appropriate that the remaining SUGA areas be reviewed based on current information.</p>

8.2 Local Strategic Planning Statement (Draft)

Planning Priority	Rationale
Planning Priority 14 Ballina Shire Council to provide leadership in mitigating and adapting to climate change.	Climate related impacts are already being observed in our community, economy and environment. These include threats from natural hazards such as bushfire, heatwaves, coastal erosion and inundation, drought, flooding and storms with high winds. Actions proposed to support this priority include the preparation of climate change risk assessments, implementation of carbon emission reduction strategies, preparation of an renewable energy action plan, and the review of the DCP and LEP to incorporate climate risk response requirements.

Sustainability Considerations

- **Environment**

The draft LSPS contains 4 planning themes and 14 planning priorities, each with supporting actions, aimed at addressing some of the environmental land use planning challenges over the next 20 year period. The LSPS process will assist to provide positive environmental land use planning outcomes through maintaining an ongoing focus on environmental issues.

- **Social**

The draft LSPS provides a further mechanism through which the shire vision – ‘The Ballina Shire is safe, with a connected community, a healthy environment and a thriving economy’ may be realised from a land use planning perspective. To that extent this document is considered to give rise to social benefits once the planning priorities and associated actions are implemented.

- **Economic**

There are considered to be positive economic consequences arising from the implementation of the land use planning strategies as proposed by the planning priorities contained within the draft LSPS document.

Legal / Resource / Financial Implications

Council must prepare and make a LSPS and review it at least every seven years under the provisions of s3.9 of the Environmental Planning and Assessment Act 1979. The LSPS must be complete by 1 July 2020 in accordance with directions issued by the NSW Department of Planning Industry and Environment.

The draft LSPS has been prepared using existing resources. The finalisation of processes leading to the adoption of the LSPS can also be undertaken based on existing resources.

The majority of actions proposed in the draft LSPS are also able to be implemented within existing resources over the 20 year timeframe of the strategy. Some specific actions such as those related to the preparation of an agricultural land use strategy will require funds to be allocated through the delivery program and operating plan process.

8.2 Local Strategic Planning Statement (Draft)

Financial considerations will be the subject of further reporting to Council post public exhibition of the draft LSPS.

Consultation

Community engagement previously undertaken in respect to a range of strategic planning projects has been reviewed and used to inform the preparation of planning priorities contained within the draft LSPS. Once Council endorses the draft LSPS for public exhibition, additional community engagement will be undertaken.

Options

The options available to Council include the following:

1. Endorse the draft LSPS to progress to the community engagement / public exhibition phase of the process.

Adoption of this option also enables Council at this stage to add additional planning priorities or action as it sees fit. Should this occur then these will be added to the draft document prior to its exhibition.

Once the draft LSPS has been endorsed for exhibition, additional refinement of the graphics, layout and some content matters will occur.

Adjustments will be undertaken to ensure that the final document presents as a professional contemporary document and is up to date in terms of Council policy initiatives and DPIE requirements.

Under this approach, the draft LSPS would progress to public exhibition.

This is the recommended course of action.

2. Council could resolve to delay public exhibition of the draft LSPS and request an extension of time to undertake additional research or community consultation in respect to aspects of the draft LSPS.

It is considered unlikely that the Department will agree to delay the 1 July 2020 implementation date.

It is noted here that the draft LSPS has been prepared as an interim document to be significantly reviewed as part of the Community Strategic Plan (CSP) review process in 2021. From this perspective, work will be ongoing in terms of refining the next version of the LSPS, and incorporating issues subsequently identified as planning priorities.

3. Council could resolve to defer consideration of the draft LSPS document and request a briefing in order to allow further consideration of the documents contents.

The implications of deferring the draft LSPS is that it constrains the time available for community consultation and preparation of the final document. Therefore a briefing prior to public exhibition of the draft LSPS is not recommended.

8.2 Local Strategic Planning Statement (Draft)

However, it is suggested that a Councillor briefing be held towards the end of or following the public exhibition of the draft LSPS. Based on the likely timing of exhibition, such a briefing would likely occur in March or April 2020.

RECOMMENDATIONS

1. That Council endorses the draft LSPS as contained in Attachment 1 for public exhibition.
2. That a Councillor briefing on the draft LSPS be held towards the end of or following the public exhibition of the draft document.
3. That Council receive a further report on the draft LSPS following completion of the public exhibition period.

Attachment(s)

1. Draft Local Strategic Planning Statement

8.3 Development Applications - Works in Progress - December 2019

8.3 Development Applications - Works in Progress - December 2019

The following schedule sets out the status of current development applications that have not yet been determined.

Further information relating to each application listed is available via Council's DAs online portal (accessible via www.ballina.nsw.gov.au).

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	Awaiting additional information
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 118 residential lots and five 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	Amended Proposal: Demolition of Existing Residential Flat Building and Erection and Strata Title Subdivision of a six storey Residential Flat Building containing 12 (originally 14) dwellings, associated car parking and works. The proposed building has a height of 18.6m (originally 18.3) 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
2018/554	13/9/2018	Ardill Payne & Partners	Change of Use to Establish a Depot – Removalist Business and Associated Signage – 6 Waverley Place, West Ballina	Awaiting additional information

8.3 Development Applications - Works in Progress - December 2019

2018/616	9/10/2018	Northern Rivers Land Solutions	To undertake bulk earthworks associated with the subdivision consented to under DA 2016/184 – 658 Tamarind Drive, 33 Mitchell Close, 52 Albert Sheathers Lane & 88 Sandy Flat Road, Cumbalum (Banyan Hill)	Subject to Land & Environment Court Appeal – hearing dates 31 January 2020 & 10-12 February 2020
2018/631	17/10/2018	GM Project Management	Proposed two lot subdivision to create one x 574sqm and one x 708sqm allotments and partial demolition and reconstruction of existing dwelling house – 7 Evelyn Villa Drive, Alstonville	Being assessed
2018/746	5/12/2018	Ardill Payne & Partners	Alterations and Additions to the Ballina Central Shopping Centre, comprising the addition of one pad site, new commercial floor space and alterations to the car parking area – 44 Bangalow Road, Ballina	Being assessed
2018/747	6/12/2018	Ardill Payne & Partners	Staged Torrens Title Subdivision and Boundary Adjustment to create 18 x residential lots, 1 x residual lot, 1 x drainage reserve, associated infrastructure works, earthworks and revegetation/rehabilitation works (Avalon Estate Stages 6a and 6b) - Rifle Range Road & 22 Scarlett Court, Wollongbar	Awaiting additional information
2019/21	21/1/2019	Ardill Payne & Partners	Establishment of a detached dual occupancy involving the relocation of a dwelling and tourist and visitor accommodation comprising the change of use of an existing studio to a holiday cabin and the erection of a new holiday cabin and associated works – 208 Fernleigh Road, Tintenbar	Awaiting additional information

8.3 Development Applications - Works in Progress - December 2019

2019/123	28/2/2019	Newton Denny Chapelle	Demolition of all structures on-site and erection and Strata Title subdivision of a mixed use development comprising a three storey 9.7m high building (above the 9.0m height of buildings development standard) including food and drink premises and retail premises at ground and second floors, business premises at second floor and shop top housing consisting of two residential dwellings on the third floor, on-site car parking, vegetation removal and associated works. A pedestrian walkway linking Ballina Street and Park Lane is proposed - 74 Ballina Street, Lennox Head	Being Assessed To be reported to Council for determination (Resolution 281119/15)
2019/133	4/3/2019	Ardill Payne & Partners	Subdivision to create eight residential Torrens Title lots varying in size from 690sqm to 1200sqm and one residue 2.72 hectare allotment and associated works – 44-52 Blue Seas Parade, Lennox Head	Being assessed
2019/145	8/3/2019	Ardill Payne & Partners	Construction of an Industrial Development to be Used for a Depot and For General and Light Industrial Purposes, Filling of Land and Associated Works – 29-31 Smith Drive, West Ballina	Awaiting additional information
2019/170	19/3/2019	MP & MJ Veronesi	Two Lot Boundary Adjustment Subdivision to create one x 78ha and one x 5ha allotments – 987 & 937 Wardell Road, Meerschaum Vale	Being assessed

8.3 Development Applications - Works in Progress - December 2019

2019/223	11/4/2019	Tim Fitzroy & Associates	Expansion of the existing solid waste transfer station with a processing capacity of up to 28,000 tonnes per annum. The proposed expansion will allow for sorting of construction/demolition waste, general mixed waste, recycling, paper/cardboard, green waste, steel, timber, waste oil and community recycling centre for household chemicals. The transfer station is proposed to operate 6.00am to 6.00pm Monday to Friday and 7.00am to 4.00pm Saturdays and Sundays and the waste transfer (haulage) operations to occur 24 hours Monday to Sunday.– 2 Northcott Crescent, Alstonville	Referred to Government Department To be reported to Council for determination (Resolution 241019/18)
2019/283	7/5/2019	Newton Denny Chapelle	Change of use from a high technology industry to general industry involving the assembly, manufacture and fitting of prosthetic limbs and alterations to the building - 2/188-202 Southern Cross Drive, Ballina	Awaiting additional information
2019/316	20/5/2019	RJ Westblade	Establishment of a multi dwelling housing development comprising the staged construction and Strata Title Subdivision of two detached dwellings - 20 Canal Road, Ballina	Awaiting additional information
2019/376	11/6/2019	Newton Denny Chapelle	Erection of five greenhouses to be used for the propagation of potted plants, expansion of farm dam, and associated earthworks and other civil works – 348 Rous Road, Rous Mill	Awaiting Additional Information
2019/402	19/06/2019	Northern Rivers Land Solutions	Subdivision of Two Existing Lots to Create Two Modified Lots being one 18.45 ha and one 49.9ha allotments – Tamarind Drive & Ballina Heights Drive, Cumbalum	Being assessed

8.3 Development Applications - Works in Progress - December 2019

2019/438	03/07/2019	Ardill Payne & Partners	To undertake the Torrens Title Subdivision of 4 x existing vacant lots to create 10 x vacant residential lots – 25-39 Fitzroy Street, Wardell	Referred to Government Department Awaiting additional information
2019/465	18/7/2019	Newton Denny Chapelle	To establish a warehouse or distribution centre for the storage of road base material pending its sale – Teven Road, West Ballina	Awaiting additional information
2019/487	29/7/2019	Ardill Payne & Partners	Erection of five pole signs associated with the Ballina RSL – 1 Grant Street, Ballina	Being assessed
2019/498	2/8/2019	Ardill Payne & partners	Alterations and additions to an existing dwelling in attached dual occupancy and use as a transitional group home – 2 Jamie Place, Ballina	Being assessed
2019/499	2/8/2019	Planners North	Implementation of erosion and slope stabilisation measures, bushland regeneration works, ongoing geotechnical monitoring and use of existing structures for residential purposes – 35 Pine Avenue, East Ballina	Being assessed
2019/505	6/8/2019	Newton Denny Chapelle	Construction of Multi Dwelling Housing development comprising three detached single-storey dwellings and associated earthworks, driveways and landscaping, and Strata Title Subdivision – 12 Cowrie Street, Lennox Head	Awaiting additional information
2019/519	15/8/2019	Newton Denny Chapelle	To establish a depot and storage premises and to undertake earthworks and retaining of the site – 23 Northcott Crescent, Alstonville	Being assessed To be reported to Council for determination (Resolution 241019/18)
2019/520	15/8/2019	Newton Denny Chapelle	Two lot Torrens Title subdivision to create one x 902m ² and one 831m ² allotments and associated works – 25 Sandbreak Crescent, Lennox Head	Determination Pending

8.3 Development Applications - Works in Progress - December 2019

2019/535	21/8/2019	Ardill Payne & Partners	To undertake a development in four stages comprising: Stage 1 - Three Lot Torrens Title Subdivision (Proposed Lots 1 and 2 – area of 801m ² and Proposed Lot 3 – area of 1,090m ²), Stage 2 - Erection of a Two Storey Dwelling on Proposed Lots 1, 2 and 3 Stage 3 - Strata Subdivision of Proposed Lots 1, 2 and 3 Stage 4 – Erection of a New Dwelling on each Vacant Strata Lot to create a Detached Dual Occupancy – 26-30 Fitzroy Street, Wardell	Awaiting additional information
2019/539	23/8/2019	Newton Denny Chapelle	Alterations and additions to an existing commercial building – 34 Cherry Street, Ballina	Being assessed
2019/562	2/9/2019	Newton Denny Chapelle	Change of Use from dwelling house to a specialist medical centre comprising one consulting room, including demolition of existing garage, alterations to existing building, carparking, drainage works and vegetation management works – 42 Ballina Street, Lennox Head	Awaiting additional information
2019/598	18/9/2019	Newton Denny Chapelle	Erection of a sports amenities and community centre – Hutley Drive, Lennox Head	Being assessed
2019/605	19/9/2019	The Ballina Players Inc.	Alterations to The Ballina Players Theatre – 24 Swift Street, Ballina	Being assessed
2019/617	25/9/2019	Jamie Hoile	Vegetation management works comprising the removal of one tree – 2 Sunrise Crescent, Lennox Head	Being assessed
2019/624	26/9/2019	Simo Holdings Trust	Proposed Strata Title Subdivision of Existing Dual Occupancy – 29 Perkins Close, Cumbalum	Referred to Government Departments

8.3 Development Applications - Works in Progress - December 2019

2019/628	27/9/2019	Newton Denny Chapelle	Temporary use of the commercial kitchen and outdoor seating area at the Wollongbar Christian Church for the purposes of a café - 66 Rifle Range Road, Wollongbar	Being assessed
2019/638	2/10/2019	Newton Denny Chapelle	Erection of a new building for the purposes of a café with indoor and outdoor dining for 120 people and associated earthworks, retaining walls, infrastructure servicing and landscaping – 1 Shelly Beach Road, East Ballina	Being assessed
2019/639	3/10/2019	Petal Niemack	Vegetation management works comprising the removal of two trees – 110 Ballina Road, Alstonville	Being assessed
2019/641	3/10/2019	Discovery Parks Pty Ltd c/ Masterplan Pty Ltd SA	Upgrade to existing Park including six new relocatable cabins, removal of eight existing cabins and re-configuration of 10 existing park sites – 25-43 Fenwick Drive, Ballina	Being assessed
2019/642	3/10/2019	Newton Denny Chapelle	Change of Use of part of the premises from office premises to medical centre – 1/317 River Street, Ballina	Determination pending
2019/643	4/10/2019	DJ Hauenstein	Vegetation management works comprising the removal of 13 trees – 67 Northumberland Drive, East Ballina	Being assessed
2019/665	19/10/2019	CVSG Media & Signage Pty Ltd	Installation of new signage – 86 Tamar Street, Ballina	Being assessed
2019/666	16/10/2019	GHD Pty Ltd on behalf of Ballina Shire Council	Upgrades to the Marom Creek Water Treatment Plant – 65 Weis Lane, Rous	On exhibition
2019/667	16/10/2019	Northern Rivers Land Solutions	Temporary Storage Premises, Truck Depot and Landscape Material Supplies – 14 Kays Lane, Alstonville	Being assessed

8.3 Development Applications - Works in Progress - December 2019

2019/669	17/10/2019	Victor Holmes Town Planning	Two lot Torrens Title Subdivision to create one x 600m ² allotment and one x 539m ² allotment (below the 600m ² minimum lot size development standard of the Ballina LEP 2012), demolition of gazebo, carport and swimming pool, site filling and drainage, infrastructure servicing, vegetation management works and associated works – 23 Skinner Street, Ballina	Awaiting additional information
2019/672	17/10/2019	Ardill Payne & Partners	Change of use of two of the existing industrial units (units 1c and 2b) to warehousing and unit 2c to gymnasium – 40 De-Havilland Crescent, Ballina	Awaiting additional information
2019/691	28/10/2019	Planners North	Multi Dwelling Housing Development comprising the erection and Strata Title subdivision of 10 two storey dwellings – Lot 6 DP 1225206 (approved Lot 345 in DA 2017/244) The Coast Road, Skennars Head	On exhibition Awaiting additional information
2019/694	28/10/2019	Planners North	Tourist and Visitor Accommodation comprising eight holiday cabins, communal recreation building and an information education facility for the purposes of a cooking school - 841 Fernleigh Road Brooklet	On exhibition
2019/696	29/10/2019	Luke Shay	Strata Title subdivision of an existing dual occupancy – 7 Farrelly Avenue, Cumbalum	Awaiting additional information
2019/697	29/10/2019	Luke Shay	Strata Title subdivision of an existing dual occupancy – 9 Farrelly Avenue, Cumbalum	Awaiting additional information
2019/702	31/10/2019	Ardill Payne & Partners	Residential subdivision to create four lots ranging in size from 1,023sqm to 2,367sqm and associated infrastructure servicing - 81 Teven Road, Alstonville	On exhibition

8.3 Development Applications - Works in Progress - December 2019

2019/703	31/10/2019	Simon Gava	Strata Title subdivision of an existing dual occupancy – 36 Fox Valley Way, Lennox Head	Being assessed
2019/704	1/11/2019	Michael Lacey	Strata Title subdivision of an existing dual occupancy – 27 Highfield Terrace, Cumbalum	Being assessed
2019/711	4/11/2019	Bernice Hajjar	Vegetation management works comprising the removal of one tree - 2/81 Tamar Street, Ballina	Being assessed
2019/714	6/11/2019	Brett Adlington	Vegetation management works comprising the removal of one tree – 53 Waterford Parade, Skennars Head	Determination pending
2019/716	7/11/2019	Ardill Payne & Partners	Erection of business identification signage – 11 Martin Street, Ballina	Awaiting additional information
2019/717	6/11/2019	Ardill Payne & Partners	Construction of a slip lane to Tamarind Drive including consequential modifications to the northern car parking area – 84 Kerr Street, Ballina	On exhibition
2019/726	14/11/2019	Richard Lee	Vegetation management works comprising the removal of seven trees – 29 Jameson Avenue, East Ballina	Determination pending
2019/729	15/11/2019	Ardill Payne & Partners	Erection of self-storage unit complex – 74 De-Havilland Crescent, Ballina	Being assessed
2019/732	15/11/2019	Elders Real Estate	Vegetation management works comprising the removal of four trees – 13 Angus Kennedy Close, Lennox Head	Being assessed

8.3 Development Applications - Works in Progress - December 2019

Regional Development (Determined by Northern Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/1/2016	21st Century Builders Pty Ltd	Amended Proposal: To undertake the first stage of the urban subdivision of the new Cumbalum Urban Release Area – Precinct B comprising a total of 166 allotments and including road construction and intersection works at Ross Lane, extensive earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - 246 Ross Lane, 47 Dufficys Lane & Ross Lane, Kinvara	Awaiting additional information
2016/524	16/9/2016	Planners North	Amended Proposal: Seniors Living Development pursuant to SEPP (Housing for Seniors and People with a Disability) 2004 comprising amended layout, 147 (previously 211) serviced, self-care housing with associated clubhouse, recreation facilities, roads and associated infrastructure and environmental management and protection works – 67 Skennars Head Road, Skennars Head	Subject to Land and Environment Court proceedings. Council is not a participant in the proceedings.
2016/746	23/12/2016	Ringtank Pty Ltd	Erection of three dwelling houses, 10 site caravan park, equine facilities including stables, veterinary facility, quarantine stalls, horse float and equipment shelters and two equestrian exercise lawns, private outdoor recreation facilities including go-kart track, shooting range, associated buildings, roadworks, earthworks including dam and landscaping - Carrs Lane, Empire Vale Road, Reedy Creek Road- Keith Hall/Empire Vale	Awaiting additional information

8.3 Development Applications - Works in Progress - December 2019

2018/321	13/6/2018	Palm Lake Works Pty Ltd	Staged erection of an extension to an existing Seniors Housing Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising of 156 self-care dwellings, recreation facilities and associated car parking, infrastructure works, site filling and associated works – 120 North Creek Road, Ballina	Subject to Land and Environment Court Appeal - s56A of the Land and Environment Court Act 1979 – Appeal on decision made. Listed for hearing on 17 April 2020
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Major Development (Determined by Minister)

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

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for December 2019.

Attachment(s)

Nil

9.1 Use of Council Seal

9. Corporate and Community Division Reports

9.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US 19/12	<p>Ballina Shire Council Lease to Viva Energy Australia Pty Ltd for Lot 6 DP 1043261 Southern Cross Drive Ballina commencing 1 July 2018 and terminating 30 June 2023.</p> <p>Plan of Subdivision and Administration Sheet for Lot 6 DP 1043261 Southern Cross Drive Ballina</p> <p>Explanation: Viva Energy Australia ("Shell") lease land at Ballina Byron Gateway Airport to house plant and equipment to refuel aircraft.</p> <p>Viva have exercised their option to renew the lease.</p> <p>A revised plan of subdivision was also required to account for minor building encroachments by Viva, hence the need for a new deposited plan.</p>
US 19/13	<p>Licence Agreement for part of 4 in DP1130300 (486 Gap Road Alstonville) between Council and Mental Health Support Group Incorporated, for a three year period at a nominal licence fee.</p> <p>Explanation: Mental Health Support Group Incorporated (MHSG) has obtained grant funding to construct a new shed on Council operational land at 486 Gap Road, Alstonville.</p> <p>The new shed will replace an existing older shed that was previously used by another community group. MHSG will demolish the older shed and construct the new shed at MHSG's cost.</p> <p>MHSG intend to store furniture and other donated items in the shed, before distributing the items to people associated with the charity.</p> <p>MHSG has applied for a building development approval for the shed, which is currently being determined.</p> <p>If the building development approval is issued, MHSG wish to commence construction of the shed as soon as possible, and a licence will need to be in place prior to MHSG's contractors accessing the land to commence construction.</p>

9.1 Use of Council Seal

US 19/14	<p>Licence Agreement for part of 4 in DP1130300 (486 Gap Road Alstonville) between Council and Alstonville Croquet Club Incorporated, for a three year period at a nominal licence fee.</p> <p>Explanation: Alstonville Croquet Club Incorporated (ACC) wishes to construct a new shed on Council operational land at 486 Gap Road, Alstonville, next to the ACC's existing croquet lawns.</p> <p>The new shed will be used by the Club as a small clubhouse and for storage of croquet equipment.</p> <p>ACC has applied for a building development approval for the shed which is currently being determined.</p> <p>If the building development approval is issued, ACC wish to commence construction of the shed as soon as possible, and a licence will need to be in place prior to ACC's contractors accessing the land to commence construction.</p>
US 19/15	<p>Council, as Crown Land Manager for the Captain Cook Park and RSL Memorial Park (R71612) - 12 month short-term Licence to the Country Women's Association of New South Wales Incorporated for Lot 8 Section 5A in DP 758047 (River Street, Ballina), at a statutory minimum rental, commencing 1 January 2020 to 31 December 2020.</p> <p>Explanation: The NSW State Government has provided a 12 month transition period for councils managing Crown reserves under the Crown Land Management Act 2016, which commenced 1 July 2018.</p> <p>Under the new framework, Council as Crown Land Manager can issue a short-term licence under s2.20 of the Act for a maximum period of 12 months.</p> <p>This approach is proposed as Council is not able to issue a lease at present due to the transitional arrangements associated with the Crown Land Management Act.</p>

Attachment(s)

Nil

9.2 Investment Summary - November 2019

9.2 Investment Summary - November 2019

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 investments report setting out all money Council has invested. The report is 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 November 2019.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are in accordance with Council's Investment Policy, and the Local Government Act and Regulations.

The total balance of investments as at 30 November was \$87,038,300. This was an increase of \$1 million from October. Council's investments, as at 30 November, are at an average (weighted) interest rate of 2.11%, which is 1.20% above the 90 Day Bank Bill Index of 0.91%. The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 November 2019, was \$7,903,456. This balance is significantly higher than the balance of \$1,848,135 as at 31 October 2019.

The combined movement of investments and bank balances was an increase of \$7,055,321. The overall increase is attributable to rates received, and anticipated large creditor payments and loan repayments.

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 (incl developer contributions)	External	12.46%
Water (incl developer contributions)	External	24.54%
Section 7.11 Developer Contributions	External	14.94%
Bonds and Deposits	External	3.37%
Other External Restrictions	External	5.13%
Carry Forward Works	Internal	5.03%
Bypass Maintenance	Internal	4.32%
Landfill and Resource Management	Internal	0.08%
Employee Leave Entitlements	Internal	3.72%
Quarries	Internal	1.02%
Property Reserves	Internal	6.76%
Plant and Vehicle Replacement	Internal	1.55%
Road Works	Internal	4.76%
Indoor Sports Centre	Internal	1.79%
Miscellaneous Internal Reserves	Internal	2.50%
Financial Assistance Grant in Advance	Internal	2.78%
Unrestricted		5.25%
Total		100%

* Reflects reserves held as at 30 June 2019.

9.2 Investment Summary - November 2019

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	Rating S&P	Rating Moody	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments								
National Australia Bank	Yes	BBB	-	1,788	1,788	0	2.1%	2%
Rated Institutions								
AMP Bank	Yes	BBB+	A2	9,500	5,500	10%	6.3%	
Australian Unity bank	n/a	BBB+	-	-	3,000	10%	3.4%	
Auswide Bank	No	BBB	Baa2	3,000	3,000	10%	3.4%	
Bank of China	Yes	A	A1	8,000	4,500	20%	5.2%	
Bank of Communications	Yes	A-	A2	1,000	1,000	20%	1.1%	
Bank of Queensland	Yes	BBB+	A3	3,000	3,000	10%	3.4%	
BankVic	No	BBB+	Baa1	3,000	3,000	10%	3.4%	
Bendigo & Adelaide Bank	No	BBB+	A3	2,000	-	10%	0.0%	
Beyond Bank	No	BBB	-	2,000	2,000	10%	2.3%	
Commonwealth Bank of Aust	Yes	AA-	Aa3	4,000	4,000	20%	4.6%	
Credit Union Australia	No	BBB	Baa1	4,100	4,100	10%	4.7%	
Defence Bank Ltd	No	BBB	-	3,500	2,500	10%	2.9%	
Greater Bank Limited	No	BBB	-	1,000	1,000	10%	1.1%	
ME Bank	No	BBB	Baa1	4,750	5,750	10%	6.6%	
Macquarie Bank Limited	Yes	A	A2	8,500	12,500	20%	14.4%	
My State Bank Ltd	No	BBB+	Baa1	3,500	7,000	10%	8.0%	
National Australia Bank	Yes	AA-	Aa3	10,000	10,000	20%	11.5%	
Newcastle Perm. Bld Society	No	BBB	A3	4,700	4,700	10%	5.4%	
Teachers Mutual Bank Limited	No	BBB	Baa1	1,700	1,700	10%	2.0%	
Westpac Banking Corporation	Yes	AA-	Aa3	7,000	7,000	20%	8.0%	98%
Total				86,038	87,038	100%		
Credit Rating Summary as per the Investment Policy								
		Maximum Allowed			Value	Value	%	%
		%		Value	Previous	Current	Previous	Current
A- or Higher		100%		87,038	38,500	39,000	45%	45%
BBB		60%		52,223	47,538	48,038	55%	55%
Total					86,038	87,038	100%	100%

In accordance with Council's Investment Policy (clause 12.2), Council's credit risk investment parameters are based on credit rating bands as published by the credit rating agencies Standard & Poors (S&Ps), Moodys and Fitch. Each credit agency has different methodology for rating financial institutions and their ratings are not always directly comparable.

The S&Ps and Moodys credit ratings included in the above Summary of Investments by Institution were sourced from the credit rating agencies, with Standard & Poors providing a more comprehensive service. The ratings reflect an organisation's ability to meet its financial commitments and represent an assessment of risk.

B. Summary of Investments Fossil Fuel Aligned

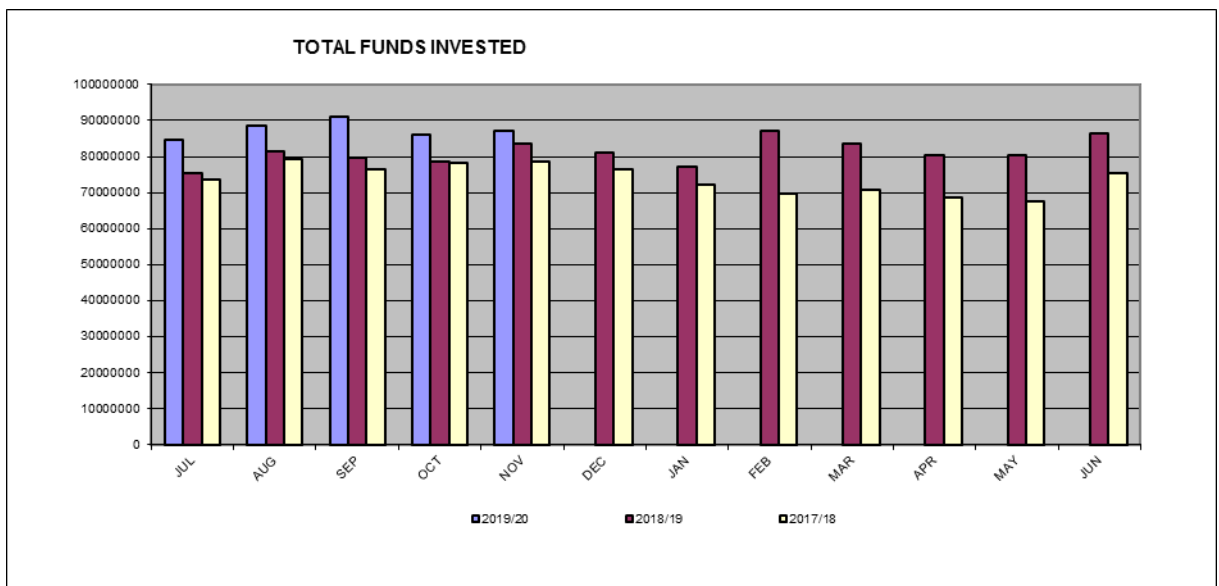
	Previous Month (\$'000)	Current Month (\$'000)
Fossil Fuel Aligned	52,788 61%	49,288 57%
Non-Fossil Fuel Aligned	33,250 39%	34,750 40%
Not Classified	- 0%	3,000 3%
Total	86,038 100%	87,038 100%

Classification based on advice from 'Market Forces'.

From the 10 renewed investments totaling \$19.5 million, in the month of November, \$7 million were with fossil aligned institutions and \$9.5 million were with non-fossil fuel aligned institutions. A formal published classification of Australian Unity's investments, totaling \$3 million, was not available as at the date of this report.

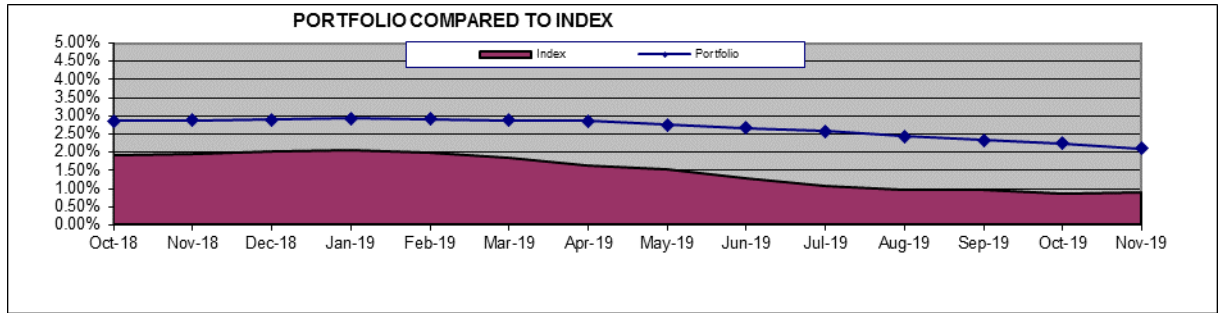
As per the previous Ordinary Council meeting, Council amended clause 13.1 of the Investments Policy in October 2019 to further encourage investment in non-fossil fuel aligned investments, by providing a 0.05% margin.

C. Monthly Comparison of Total Funds Invested

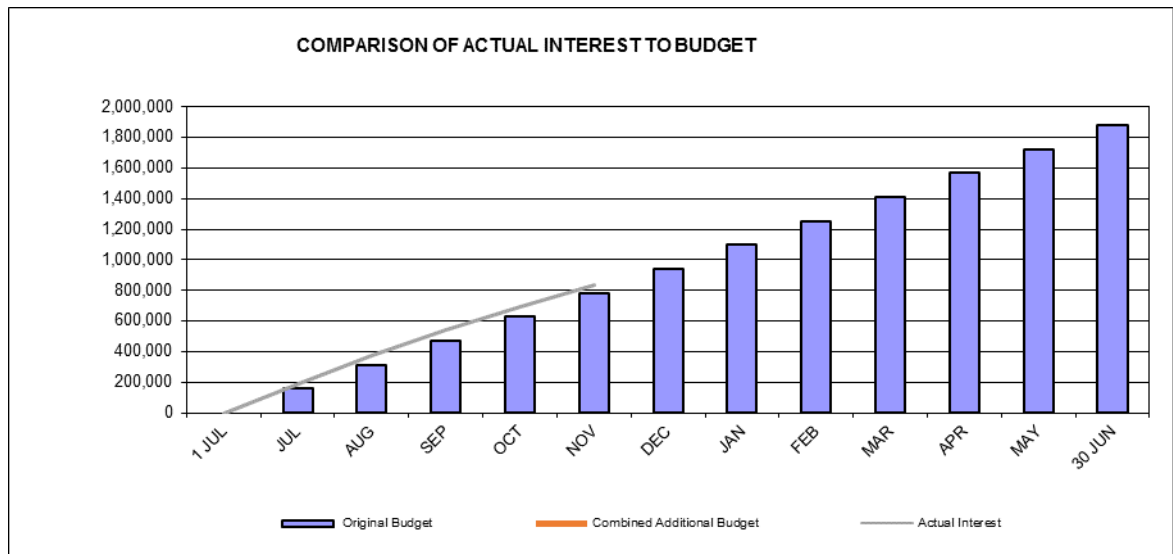


9.2 Investment Summary - November 2019

D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



F. Investments held as at 30 November 2019

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/2004	National Australia Bank (ASX Listed)	FRN	2.83%	Perpetual	1,788	1,636
17/06/2016	Commonwealth Bank of Australia	FRN	2.09%	17/06/21	1,000	1,000
30/06/2016	Commonwealth Bank of Australia	FRN	2.25%	30/06/21	1,000	1,000
26/07/2016	Commonwealth Bank of Australia	FRN	1.94%	26/07/21	1,000	1,000
24/02/2017	Greater Bank Limited	FRN	2.33%	24/02/20	1,000	1,000
29/06/2017	Teachers Mutual Bank Limited	FRN	2.63%	29/06/20	1,000	1,000
18/08/2017	Westpac Banking Corporation	FRN	1.95%	18/08/22	1,000	1,000
9/11/2017	ME Bank	FRN	2.18%	09/11/20	750	750
6/02/2018	Newcastle Permanent Bld Society	FRN	2.34%	26/07/21	700	700
30/07/2018	Westpac Banking Corporation	FRN	1.84%	31/07/23	1,000	1,000
31/07/2018	Westpac Banking Corporation	FRN	1.86%	02/08/23	1,000	1,000
6/09/2018	Credit Union Australia	FRN	2.25%	06/09/21	600	600
6/09/2018	Westpac Banking Corporation	FRN	1.98%	03/08/22	2,000	2,000
6/09/2018	Newcastle Permanent Bld Society	FRN	2.34%	26/07/21	1,000	1,000
10/09/2018	AMP Bank	FRN	2.09%	10/09/21	1,500	1,500
3/12/2018	Credit Union Australia	TD	2.86%	03/12/19	3,500	3,500
24/12/2018	Bank of China	TD	2.87%	23/12/19	1,500	1,500
11/01/2019	Commonwealth Bank of Australia	FRN	1.97%	11/01/24	1,000	1,000
15/01/2019	My State Bank Ltd	TD	2.86%	15/01/20	1,000	1,000

9.2 Investment Summary - November 2019

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
8/02/2019	Westpac Banking Corporation	FRN	1.98%	08/02/24	2,000	2,000
12/02/2019	Beyond Bank	TD	2.81%	11/02/20	2,000	2,000
21/02/2019	Newcastle Permanent Bld Society	FRN	1.94%	22/02/21	2,000	2,000
22/02/2019	Newcastle Permanent Bld Society	FRN	1.94%	22/02/21	1,000	1,000
19/06/2019	Auswide Bank	TD	2.20%	17/12/19	3,000	3,000
28/06/2019	National Australia Bank	TD	2.00%	07/01/20	3,000	3,000
2/07/2019	BankVic	TD	2.10%	22/01/20	3,000	3,000
16/07/2019	Bank of Queensland	TD	1.95%	21/01/20	2,000	2,000
25/07/2019	Bank of Queensland	TD	1.95%	28/01/20	1,000	1,000
31/07/2019	AMP Bank	FRN	2.09%	10/09/21	2,000	2,000
7/08/2019	National Australia Bank	TD	1.72%	04/08/20	4,000	4,000
16/08/2019	AMP Bank	TD	2.00%	17/08/20	1,000	1,000
19/08/2019	ME Bank	TD	1.75%	20/02/20	3,000	3,000
26/08/2019	AMP Bank	FRN	2.09%	19/09/21	1,000	1,000
27/08/2019	Defence Bank Ltd	TD	1.75%	27/08/20	1,000	1,000
4/09/2019	Macquarie Bank Limited	TD	1.75%	03/03/20	3,000	3,000
17/09/2019	Macquarie Bank Limited	TD	1.75%	17/03/20	1,000	1,000
20/09/2019	Macquarie Bank Limited	TD	1.75%	24/03/20	1,000	1,000
26/09/2019	Macquarie Bank Limited	TD	1.70%	28/04/20	1,500	1,500
1/10/2019	Macquarie Bank Limited	TD	1.65%	22/04/20	2,000	2,000
2/10/2019	Teachers Mutual Bank Limited	FRN	2.23%	02/07/21	700	700
16/10/2019	National Australia Bank	TD	1.60%	10/03/20	3,000	3,000
28/10/2019	Bank of Communications	FRN	1.78%	28/10/22	1,000	1,000
5/11/2019	My State Bank Ltd	TD	1.70%	04/02/20	2,000	2,000
6/11/2019	My State Bank Ltd	TD	1.70%	05/03/20	2,000	2,000
7/11/2019	Defence Bank Ltd	TD	1.65%	10/03/20	1,500	1,500
20/11/2019	Macquarie Bank Limited	TD	1.60%	20/05/20	2,000	2,000
26/11/2019	My State Bank Ltd	TD	1.70%	15/04/20	2,000	2,000
26/11/2019	ME Bank	TD	1.60%	17/08/20	2,000	2,000
28/11/2019	Macquarie Bank Limited	TD	1.60%	03/06/20	2,000	2,000
28/11/2019	Australian Unity Bank	TD	1.70%	25/11/20	2,000	2,000
28/11/2019	Australian Unity Bank	TD	1.70%	10/06/20	1,000	1,000
29/11/2019	Bank of China	TD	1.60%	24/06/20	3,000	3,000
Totals					87,038	86,886
CDA = Cash Deposit Account		FRN = Floating Rate Note				
		TD =				
		Term				
FRTD = Floating Rate Term Deposit		Deposit				

RECOMMENDATION

That Council notes the record of banking and investments for November 2019.

Attachment(s)

Nil

9.3 Long Serving Employees - Recognition

9.3 Long Serving Employees - Recognition

Delivery Program Human Resources and Risk Management

Objective To formally recognise long serving Council employees.

Background

Council has a practice of annually recognising employees who have completed either 10, 20, 30 and 35 years plus, of service by providing an annual presentation at the December Council meeting, along with joining the Councillors for morning tea.

Key Issues

- Acknowledgment of the service of employees

Information

At 10.30 am Council will recognise the service of the following employees:

40 years

John Mostyn

35 years

Anthony Halpin

30 years

Mark Stenning

20 years

Wayne Hampson
Ingrid Jensen
Shane Lyon
Maria Butler

10 years

John Gardner
Barry Bradford
Christopher Kinna
Serge Theakston
Bernadette Arundell
Stephen Kerry

The majority of the employees will be present at the meeting.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Long term employees make a significant contribution to the expertise, tradition and social fabric of the Council.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council has a recurrent budget for this program.

Consultation

This report is provided to publicly recognise long serving employees.

Options

This report recognises long servicing employees and the valuable contribution they have made to the Ballina Shire.

RECOMMENDATION

That Council acknowledges, congratulates and thanks the staff members outlined in this report on their service for Council and the community.

Attachment(s)

Nil

9.4 Airline Agreement - Update

9.4 Airline Agreement - Update

Delivery Program Commercial Services

Objective To provide an overview of the confidential report included in this agenda in respect to one airline agreement.

Background

A key performance criteria in one of the jet airline agreements has been reached and it essential that Council now review that agreement to determine how it wishes to move forward. As the agreement includes commercial information, in what is a very competitive market, a confidential report has been prepared and is included later in this agenda.

Key Issues

- Agreement terms and conditions and contractual options

Information

Council has agreements in place with Jetstar and Virgin in respect to the provision of jet aircraft landing fees and charges for the Ballina – Byron Gateway Airport. The agreements are subject to commercial negotiations and the confidential report later in this agenda provides an update on the terms and conditions of one of the agreements.

Legal / Resource / Financial Implications

Council and the airlines have legal responsibilities in respect to the agreements.

Consultation

Staff have been in discussions with the airline who is a party to the agreement as outlined in the confidential report.

Options

This report provides a preliminary overview of the confidential report. Detailed commercial and confidential information is contained in the confidential report included later in this agenda.

RECOMMENDATION

That Council notes the contents of this preliminary report on the airline agreements, with the confidential report included in this agenda detailing the commercial and confidential aspects of one agreement.

Attachment(s)

Nil

10.1 Policy (Review) - Busking

10. Civil Services Division Reports

10.1 Policy (Review) - Busking

Delivery Program Open Spaces and Reserves

Objective To review the busking 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 busking policy.

Council first adopted this policy in 2004 and the policy confirms Council's support of busking along with identifying the approved locations and associated license conditions.

Key Issues

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

Information

This review of this policy identified only format changes and no changes to the policy itself. The policy is still contemporary and reflects current legislation therefore no further changes are recommended.

A copy of the updated policy is attached to this report.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Busking activities contribute to the colour and life of the town centres and provides opportunities for public performances. The policy identifies suitable locations for different busking types and aims to minimise negative impacts of buskers operating in the Ballina Shire.
- **Economic**
The policy provides an equitable system of allocation of popular busking sites in town centres for buskers earning an income through their art form.

Legal / Resource / Financial Implications

Nil

Consultation

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

Options

Council may accept or amend the proposed changes to the policy. The changes included are largely house keeping and 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 Busking Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Busking

10.2 Policy (Review) - Pressure Sewer

10.2 Policy (Review) - Pressure Sewer

Delivery Program Water and Wastewater

Objective To review the Pressure Sewer 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 Pressure Sewer policy. Council first adopted this policy in January 2008 with subsequent revisions in November 2011 and February 2016. The policy provides a framework for the provision of pressure sewer systems.

Key Issues

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

Information

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

- Removal of the on property levy due to issues with administrating such a fund. No property has been able to be levied the charge to date. Construction of the on property works for new developments is to be managed through a positive covenant on the property title and an accredited installer register.
- Removal of items covered by other policies.
- Clarification of where Council will assume ownership and maintenance responsibilities for pressure sewer systems.
- Change to the layout of the policy to make it easier to navigate.
- The template for Council policies has changed 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, along with supporting documents.

Sustainability Considerations

- **Environment**
Pressure sewer systems can provide an alternative to conventional gravity systems in sensitive environments. This policy is designed to provide solutions that meet environmental standards but also assist with development. This policy is also designed to allow pressure sewer systems to be managed in a way that minimises the risk of environmental harm from sewer overflows or pipe breaks.

- **Social**
Pressure sewer systems provide an opportunity for certain residences and businesses to improve their level of management for wastewater.
- **Economic**
Improved sewer services are an opportunity for economic development, whilst reducing the costs involved compared with traditional gravity sewer solutions.

Legal / Resource / Financial Implications

The policy is resourced through current staff allocations.

Consultation

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

Options

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

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

RECOMMENDATIONS

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

Attachment(s)

1. Policy (Review) - Pressure Sewer
2. Pressure Sewer Property Owner / Property Occupier Manual
3. Pressure Sewer Agreement

10.3 Policy (Review) - Backlog Sewer Program

10.3 Policy (Review) - Backlog Sewer Program

Delivery Program Water and Wastewater

Objective To review the Backlog Sewer Program Policy with the aim of rescinding the policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements.

Council first adopted this policy in January 2008 with subsequent revisions in November 2011 and July 2015. A copy of the current policy is attached to this report.

Key Issues

- Council policy is no longer required as the program has been completed.

Information

Council originally adopted this policy in January 2008 as part of a program of providing backlog sewer systems.

This program involved the connection of unsewered properties, in environmentally sensitive areas, located on the fringe of Council's existing sewer area, to Council's sewer.

The connection was by pressure sewer systems with the property owners then required to pay the cost, or part of the cost, back to Council through future rate notices.

The planned works have all been completed and the majority of the debts repaid and on that basis the recommendation is to rescind (delete) this policy.

Also the pressure sewer components of the policy are covered by Council's Pressure Sewer Policy, as per the previous report in this agenda, therefore there is no longer a need for a separate Backlog Sewer Policy.

Sustainability Considerations

- **Environment**
The backlog sewer program resulted in excellent environmental outcomes by providing sewer to sensitive environmental areas.
- **Social**
Not Applicable
- **Economic**
Not Applicable

10.3 Policy (Review) - Backlog Sewer Program

Legal / Resource / Financial Implications

There are no legal or financial implications in rescinding this policy.

Consultation

The original program was subject to significant consultation.

Options

Council may accept or reject the proposed rescission of the policy. As the policy is no longer required it is recommended that the policy be rescinded.

RECOMMENDATION

That Council rescind the Backlog Sewer Program Policy, as attached to this report, as the program has been completed and the Council's Pressure Sewer Policy provides contemporary information in respect to the management and operation of pressure sewer systems.

Attachment(s)

1. Policy - Backlog Sewer
2. Backlog Sewer Agreement Precincts 1 to 6
3. Backlog Sewer Agreement Precinct 7 Greenfield Road

10.4 Tender - Legal Services Panel

10.4 Tender - Legal Services Panel

Delivery Program Support Operations

Objective To report the outcomes of the tender evaluation for legal services.

Background

Council requires a diverse range of legal services and the demand for these services can vary from time to time.

The preferred method for the procurement of these services has been to award contracts following a tender process to a preferred supply panel. This panel contains a mix of local and city based service providers and a mix of specialist experience and knowledge relevant to Council's needs.

The current panel period has expired and the purpose of this report is to advise the outcomes of a recent tender process inviting fresh tenders.

Key Issues

- Compliance with relevant legislation and regulations
- Engage suitably qualified and experienced legal providers to meet the needs of the Council in conducting its normal business activities
- Diversity and competition in the panel

Information

A public tender (RFT1191) was advertised for tender submissions to be received for the Provision of Legal Services. The tender specifications outlined the key areas in which Council may seek these services.

Submissions were to include hourly rates for key personnel and lump sums for some services, as well as details on knowledge and experience in the service areas.

The tender was advertised 23 July 2019 and closed 13 August 2019.

There is no estimated total contract value for this tender, as the outcome of this evaluation is to have a panel of providers, which have provided an hourly rate and lump sums for some services. The General Manager provides regular reports to Council detailing the costs of legal services incurred by Council.

As per Council's internal procedure, an evaluation team was established to assess the tender submissions.

Information regarding the assessment was reported to the Executive Team for their final review as legal services are an important part of the overall governance framework for the whole of the organisation.

10.4 Tender - Legal Services Panel

Responses were evaluated against the following criteria.

Criterion	Weighting
Price / Rates • Comparison of tenders provided rates for the provision of services. Specifically looking at the hourly rates of the Principal / Partner rate and the lump fee for the provision of leases and licences.	35%
Capability / Experience • Score each submission in each of the service areas within the scope of works and within the Local Government area.	50%
Social & Community – • Applicant communicates their Social and Community presence to the North Coast of NSW (Schedule 5). This may include, but not be limited to: knowledge and experience in with local conditions, social impact on local economy, level of local and Australian content.	15%
Total (Non Price 65% Price 35%)	100%

A total of 20 responses were received from the following respondents.

	Respondent
1	Parker & Kissane Solicitors
2	Cooney Harvey Doney (CHD) Lawyers
3	Moray & Agnew
4	Collection House Limited
5	Wilshire Webb Staunton Beattie
6	Vincent Young
7	Maddocks
8	Allens
9	Bartier Perry
10	Coutts Solicitors And Conveyancers
11	Pikes & Verekers Lawyers
12	Hwl Ebsworth
13	Lindsay Taylor Lawyers
14	Mccabe Curwood
15	Shaw Reynolds Lawyers
16	Daniela Fazio Lawyers Pty Ltd
17	Hunt & Hunt
18	Sparke Helmore
19	Swaab
20	Marsdens Law Group

The mandatory criteria for tender submissions included:

- Minimum Insurance Requirements
 - ✓ Public Liability Insurance - \$20,000,000
 - ✓ Professional Indemnity Insurance - \$10,000,000
 - ✓ Workers Compensation Insurance

10.4 Tender - Legal Services Panel

- Demonstrated Capability and Experience in at least one service area specified in the scope of works (D7(iv)).

Almost half of the respondents did not meet the insurance cover requirements.

The evaluation panel determined not to rule out any respondents based on insurance limits, and proceeded with the evaluation.

In the event that any of the tenderers made it to the final recommended panel, the evaluation process can further assess the ability (and need) for the panellists to meet the minimum requirements.

Council requires a diverse range of legal services.

A non-exhaustive list of examples of the typical areas needing legal services include:

- Development and building services
- Construction and contract administration
- Property management
- Industrial relations
- Compliance and enforcement
- Local government and administrative law
- Heavy vehicle mass limit management
- Commercial law

The evaluation panel developed a documented matrix to assess the weighted criteria. It is difficult to complete a quantitative assessment for the capability and experience component of the evaluation due to the diversity of services that are needed by Council. For example, some legal firms specialise in only one or two areas of interest (with a high degree of capability and experience) where as others may have a broader range of services, but not all at the same level.

Similarly, it is difficult to compare price as the tender submissions provide hourly rates for different seniority of personnel. These hourly rates, without job context, are not an effective method to determine value for money for the perspective of creating the tender panel. These rates are considered when selecting a provider from the panel.

This means there is limited utility in ranking tenderers by total weighted score in a preferred order as we would typically in other tender evaluation processes. This is a further reason why the evaluation panel's assessment was referred to the Executive Team for final review.

Our usual practice is to provide Councillors with a confidential memorandum setting out a summary of the weighted scoring and pricing. However, in light of the above comments about this particular process, such a memorandum has not been prepared. If any Councillor would like to see a copy of the scoring and pricing information, they can contact the Director Civil Services.

Having regard to the outcomes of the weighted evaluation, specialists knowledge and skills, and corporate knowledge of Council's planning instruments and other policies, the following list of service providers are recommended for appointment to Council's new Legal Services Panel.

10.4 Tender - Legal Services Panel

- Parker and Kissane Solicitors
- Marsden's Law Group
- Maddocks
- Bartier Perry
- Sparke Helmore
- Allens
- Lindsay Taylor Lawyers

This panel has a local service (Parker and Kissane), a local government specialist (Lindsay Taylor Lawyers), specialist planning law with extensive local knowledge (Allens), and a range of providers with diverse capabilities with various rankings in expertise and experience across the different services.

Sustainability Considerations

- **Environment**
Legal cases often relate to environmental considerations.
- **Social**
Social impacts are a significant consideration in many legal matters.
- **Economic**
Legal costs have been significant in recent years.

Legal / Resource / Financial Implications

This report is provided to assist Council meet its statutory requirements in regards to tendering and procurement.

The provision of legal services is important to the day to day operations of Council. The panel of providers will allow Council to select a legal practitioner who represents best value for money at the time needed.

The Council has a legal services budget and some legal services are costed directly to program areas. The General Manager provides regular reporting to Council in respect of legal matters, including costs.

Consultation

A public tender process was conducted.

Options

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulations 2005 which says the following;

- (1) *After considering the tenders submitted for a proposed contract, the council must either:*
 - (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
 - (b) *decline to accept any of the tenders.*

10.4 Tender - Legal Services Panel

Based on the information in this report, a recommended list of legal firms has been assessed to form the Council's new legal services panel. Council may accept or amend this list, or as per the regulation, decline to accept any tenders.

RECOMMENDATIONS

1. That Council accepts the tenders for the provision of legal services for a five year period from:
 - Parker and Kissane Solicitors
 - Marsden's Law Group
 - Maddocks
 - Bartier Perry
 - Sparke Helmore
 - Allens
 - Lindsay Taylor Lawyers

2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

10.5 Tender - Skennars Head Sewer Pump Station Upgrade

10.5 Tender - Skennars Head Sewer Pump Station Upgrade

Delivery Program Water and Wastewater

Objective To report the outcomes of the tender evaluation for the Skennars Head Sewer Pump Station upgrade.

Background

The Skennars Head Sewer Pump Station is included in the 2019/20 capital works renewals program for upgrade due to its currently non-compliant emergency storage.

This project seeks to improve the existing sewer pump station by creating operating efficiencies, reducing odour and increasing the emergency storage capacity through the provision of underground tanks.

The scope of works tendered includes demolishing the existing above ground pump station building, refurbishing the wet well, and installing new submersible pumps, along with a switchboard and telemetry equipment.

Open tenders were called on 24 September 2019 with a closing date of on 15 October 2019.

A mandatory tender briefing session, attended by four service providers, was held on 1 October 2019.

This report provides the outcomes from the tender evaluation process.

Key Issues

- Compliance with relevant legislation and regulations
- Obtaining value for money in the procurement of these services
- Budget

Information

The tender evaluation method included two stages of evaluation, Stage 1: Pass/Fail Evaluation of Mandatory Non-Price Criteria, and Stage 2 - Evaluation of Total Price and the Contribution made to the Local Economy.

The weighting towards the Social and Community contribution was 15%, and Price represented 85% of the total weighted criteria for this second stage of the evaluation.

Tenders were received from:

- Eire Constructions Pty Ltd; and
- Ledonne Constructions Pty Ltd

All tender submissions were assessed to ensure conformance with the conditions of tender and mandatory assessment criteria, being:

10.5 Tender - Skennars Head Sewer Pump Station Upgrade

- Relevant Project Experience
- Methodology
- Preliminary Program of Works
- References
- Key Project Personnel
- Work Health & Safety
- Documented environmental, safety and quality management systems
- Insurances

Both tenders met the mandatory criteria, and were assessed using the following weighted selection criteria:

- Local based and understanding and/or use of local suppliers - 15%
- Total Price - 85%

Eire Contractors Pty Ltd (Eire) has been selected as the preferred tenderer.

Further information regarding the pricing and tender assessment has been provided to Councillors by separate confidential memorandum.

Sustainability Considerations

- **Environment**

The environmental assessment and determination of the proposal has been undertaken in accordance with Part 5 of the Environmental Planning & Assessment Act 1979 (EP&A Act) and in accordance with Clause 228 of the Environmental Planning & Assessment Regulation 2000 (the Regulations).

- **Social**

This infrastructure supports the reliability and capacity of Council's wastewater network. As this project is located a reasonable distance from neighbouring properties, with the exception of one residence, there is little social impact anticipated.

Neighbouring property owners are aware of the project and will be notified prior to the construction of the works. The intention is to award the project in January 2020 to avoid possible works over the Christmas period.

- **Economic**

The project will replace older infrastructure with more energy efficient assets, as well as increasing operational reliability through the construction of emergency storage.

Legal / Resource / Financial Implications

The recommended tender award value exceeds the pre-tender estimate. Upon analysis of the received tenders, it has become apparent that the pre-tender estimate did not appropriately consider the complexity of required bypass operations during the works, as well as the unknown structural condition of the wet well, which can only be assessed when the bypass operations are put in place.

The current budget for this project is \$350,000. It is recommended that an additional \$290,000 be allocated to cover the total scope of the construction works, which would bring the revised total budget to \$640,000.

Two projects scheduled for implementation later in the current financial year have been selected for deferral. These deferrals can be accommodated operationally. The projects identified for deferral are as follows (current budget in brackets):

- Pumping Stations – Renewals \$100,000 (\$338,000)
- Sewer Pump Station Wet Well Relining \$190,000 (\$549,200)

Consultation

A public tender process was undertaken.

Options

This process is established through the formal tender process, which is in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005. The options are to accept or not accept a tender; i.e.

1. Accept the tender that, having regard to all the circumstances, appears to be the most advantageous. It is recommended that Council accept the Eire tender for this project as the tender assessment indicates that a market has been established and the assessment by the tender evaluation process has determined the preferred tenderer.
2. Decline to accept any tenders and invite fresh applications from persons interested in tendering for the proposed contract. This is not recommended for the reasons outlined in this report.

RECOMMENDATIONS

1. That Council accepts the tender from Eire Constructions Pty Ltd for the Skennars Head Sewer Pump Station Upgrade for the tendered amount of \$ 437,710 (ex GST and Contingencies).
2. That Council approves the allocation of an additional \$290,000 to this project to be funded by the deferral of the following projects from the 2019/20 budget.
 - Pumping Stations – Renewals \$100,000 (currently \$338,000)
 - SPS Wet Well Relining \$190,000 (currently \$549,200)
3. That Council authorises the Council seal to be applied to the contract documents

Attachment(s)

Nil

Tender - Arboriculture Services

Delivery Program Open Spaces and Reserves

Objective To report on the outcomes of the tender evaluation for the provision of Arboriculture Services for a two year period.

Background

Council recently called tenders for the provision of Arboriculture Services for a two year period. The tender was advertised on the 17 August 2019 and closed on 10 September 2019.

Council has historically called tenders for these services to compile a database of approved panel of providers of these specialist services for a two year period. The provision of arboriculture services is essential in ensuring that Council is able to deliver its works and services.

Under this contract approved providers are given the opportunity of increasing their tendered rates after the initial twelve month period.

Key Issues

- Compliance with relevant legislation and regulations
- Obtaining value for money in the procurement of these services

Information

A total of 11 submissions were received prior to tender closing time for specialist services including but not limited to:

- Supervisor arborist
- Climber arborist
- Stump grinder
- Wood chipper/truck; and
- Elevated work platform

A tender evaluation panel reviewed tender submissions for compliance with the specification and a shortlist of six service providers was selected. The six providers are:

- Integral Tree Care
- Tallow Tree Services
- Dynasaw Tree Services
- Asplundh Tree Experts
- Swing Tree Service
- North Coast Tree Services

Prior to commencement of the contract, the selected tenderers will have to demonstrate that they have an appropriate work health and safety (WH&S) management system in place.

Tender - Arboriculture Services

Any contractor that has failed to meet legislative requirements in respect to their WH&S management system have been notified in writing with a request to amend the issue.

Should the issue not be amended, Council will be unable to utilise their services.

As Council requires arboriculture services, contractors will generally be contracted in rank order of assessment based on the tendered prices.

Whilst this process provides Council a list of preferred services providers, Council is not bound to hire from the database of approved providers and may invite separate quotations or tenders for specific works.

Sustainability Considerations

- **Environment**
It is stated in the tender specification that contractors are reminded of their responsibilities and obligations. The tender specification highlights the contractors' environmental responsibilities with respect to plant and equipment and also in respect to the operator.
- **Social**
The contract provides for the engagement of local contractors within the Shire.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The process ensures Council meets the requirements of the Local Government Act and Tendering Regulations, and obtains best value for money through a competitive process for arboriculture services. Each successful contractor will be presented with a "Letter of Engagement" highlighting the terms and conditions of the contract.

Consultation

A public tender process was undertaken.

Options

This process is established through the formal tender process, which is in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005.

The options available are to accept the rates offered or not to accept the rates.

The preference is to accept the rates as they provide a list of preferred providers and there is still the option available of calling tenders or quotations for larger projects.

RECOMMENDATIONS

1. That Council accepts the tendered unit rates for the Provision of Arboriculture Services, as outlined in this report, with those rates implemented on a “best advantage to Council” basis in accordance with the specification and other related tender documents.
2. That Council authorises the Council seal to be attached to any contract documents associated with this tender.

Attachment(s)

Nil

10.7 Tender - Traffic Control Services

10.7 Tender - Traffic Control Services

Delivery Program Support Operations

Objective To report the outcomes of the tender evaluation for Traffic Control Services for a two year period.

Background

Council recently called tenders for the provision of traffic control services for a two year period. The tender was advertised from the 17 August 2019 and closed on 10 September 2019.

Council has historically called tenders for these services to compile a database of approved panel of providers of these services for a two year period.

The provision of traffic control services is essential in ensuring that Council is able to deliver its works and services.

Under this contract approved providers are given the opportunity of increasing their tendered rates after the initial twelve month period.

Key Issues

- Compliance with relevant legislation and regulations
- Obtaining value for money in the procurement of these services

Information

A total of seven submissions were received.

A tender evaluation panel reviewed tender submissions for compliance with the specification and a shortlist of four service providers was selected. The preferred providers are:

- Traffic Control Services
- Spinifex Recruiting
- Altus Traffic
- Lack Group

Prior to commencement of the contract, the tenderers will have to demonstrate that they have an appropriate work health and safety (WH&S) management system in place.

Any contractor that has failed to meet legislative requirements in respect to their WH&S management system, have been notified in writing with a request to amend the issue.

Should the issue not be amended, Council will be unable to utilise their services.

10.7 Tender - Traffic Control Services

Whilst this process provides Council a list of preferred services providers, Council is not bound to hire from the database of approved providers and may invite separate quotations or tenders for specific works.

Staff are currently preparing a business case to review whether there are commercial or other advantages for developing in house resource capability for some of our traffic control service work.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The contract provides for the engagement of local contractors within the Shire.
- **Economic**
Council has been spending hundreds of thousands of dollars on this service in recent years which is one of the reasons why the evaluation of the internal resource option is being examined.

Even if Council does decide to employ additional resources there will still be a need for contract services.

Legal / Resource / Financial Implications

The process ensures Council meets the requirements of the Local Government Act and Tendering Regulations, and obtains best value for money through a competitive process for traffic control services.

Each successful contractor will be presented with a "Letter of Engagement" highlighting the terms and conditions of the contract.

Consultation

A public tender process was undertaken.

Options

This process is established through the formal tender process, which is in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005.

The options available are to accept the rates offered or not to accept the rates.

The preference is to accept the rates as they provide a list of preferred providers and there is still the option available of calling tenders or quotations for larger projects.

RECOMMENDATIONS

1. That Council accepts the tendered unit rates for the Provision for Traffic Control Services, as outlined in this report, with those rates implemented on a “best advantage to Council” basis in accordance with the specification and other related tender documents.
2. That Council authorises the Council seal to be attached to any contract documents associated with this tender.

Attachment(s)

Nil

10.8 Tender - Hire of Trucks and Plant

10.8 Tender - Hire of Trucks and Plant

Delivery Program Support Operations

Objective To report on the outcomes of the tender evaluation for the Hire of Trucks and Plant for a two year period.

Background

Council recently called tenders for the Hire of Trucks and Plant for a two year period (RFT 1168). The tender was advertised the 17 August 2019 and closed on 10 September 2019.

Council has historically called tenders for these services to compile a database of approved panel of providers for a two year period. The process of plant and truck hire is essential in ensuring that Council is able to deliver its works and services. Under this contract approved providers are given the opportunity of increasing their tendered rates after the initial twelve month period.

This tender process allows Council to hire trucks and plant, on an as required basis, dependent on the works and / or services being delivered at any point in time.

Key Issues

- Compliance with relevant legislation and regulations
- Obtaining value for money in the procurement of these services

Information

Council received 35 submissions for this tender for various items of plant available under a wet hire arrangement (operator and plant). Based on the preliminary evaluation 30 suppliers have been identified for inclusion in this contract with five submissions non-compliant. The 30 suppliers, in alphabetical order, are as follows:

Ballina Concrete Pumping, Ballina Pipeline Constructions, Bitrom / Southern Cross Sands & Soils, Compass Equipment Hire, Conlan Enterprises, DB & CA O'Neill, Earthworks Landscaping, Ezyquip Hire, Field Directional Drilling, Greenstar Earthmoving, Hazell Bros Plant Hire, Holcim Aust, HR & ME Wilson, Kinerson, Kyogle Earthworx, Mega Waste Industries North Coast Tree Services, North East Cranes, Peter Kurrle, Pipe Management Australia, RoDaw, Rough Range, S&L Sand and Gravel, Simple Plant Hire, Solo Resource Recovery, Summerland Environmental, Tallow Tree Services, The Control Group, Universal Cranes and WR & WR Assets.

10.8 Tender - Hire of Trucks and Plant

Prior to commencement of the contract, the tenderers have to demonstrate that they have an appropriate work health and safety (WH&S) management system in place. Any contractor that has failed to meet legislative requirements in respect to their WH&S management system, have been notified in writing with a request to amend the issue. Should the issue not be amended, Council will be unable to utilise their services.

As Council requires the services of plant and trucks, contractors will generally be contracted in rank order of assessment based on the tendered prices.

However price will not be the only factor used to determine the most suitable contractor or item of plant procured at any given time.

The engagement of contractors is based on an assessment of the contractor's ability to provide the services.

The main criteria used for the engagement of contractors will include but not be limited to:

- Price
- Age, condition, and capacity of the plant and operator
- Fitment of on-board weighing systems on haulage trucks
- The availability of certain plant attachments
- Proven reliability of the contractor and
- Experience and performance of the contractor.

Whilst this process provides Council a list of preferred services providers, Council is not bound to hire from the list of approved providers and may invite separate quotations or tenders for specific works.

Sustainability Considerations

- **Environment**
It is stated in the tender specification that contractors are reminded of their responsibilities and obligations. The tender specification highlights the contractors' environmental responsibilities with respect to plant and equipment and also in respect to the operator.
- **Social**
The contract provides for the engagement of local contractors within the Shire.
- **Economic**
The contract supports value for money through competitive tendering process

Legal / Resource / Financial Implications

The process ensures Council meets the requirements of the Local Government Act and Tendering Regulations and obtains best value for money through a competitive process for plant hire.

Each successful contractor will be presented with a "Letter of Engagement" highlighting the terms and conditions of the contract.

Consultation

A public tender process was undertaken.

Options

This process is established through the formal tender process, which is in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005.

The options available are to accept the rates offered or not to accept the rates.

The preference is to accept the rates as they provide a comprehensive list for providing services to Council and there is still the option available of calling tenders or quotations for larger one-off projects.

RECOMMENDATIONS

1. That Council accepts the tendered unit rates for the Hire of Trucks and Plant, as outlined in this report, with those rates implemented on a “best advantage to Council” basis in accordance with the specification and other related tender documents.
2. That Council authorises the Council seal to be attached to any contract documents associated with this tender.

Attachment(s)

Nil

11. Notices of Motion

11.1 Rescission Motion - DA 2018/381 - 404 Old Byron Bay Road, Newrybar

Councillor Cr Williams
Cr Parry
Cr Willis

We move

That Resolution 281119/4, as follows, be rescinded:

*That DA 2018/381 for the decommissioning of an existing dwelling and construction of a new two storey dwelling and swimming pool and the upgrading of an existing internal access way be **APPROVED** subject to the application of standard planning, engineering and environmental health conditions of consent for this type of development and other conditions as outlined in this report and inclusive of:*

- *a condition addressing rectification works to the culverts consistent with the following:*

Prior to the commencement of works (except vegetation planting, restoration and rehabilitation works) the applicant is to submit to Council for approval a Culvert Rectification Plan (CRP). The purpose of the CRP is to ensure the natural flow regimes of the creek which, traverses the approved internal driveway are restored to their predevelopment state. The CRP is to be prepared by a suitably qualified professional to address the following matters:

- o *methods for undertaking rectification works to the culverts without causing environmental harm to the creek and/or adjacent vegetation*
- o *identify by survey the natural base level of the creek bed and other environmental constraints*
- o *based on the results of the survey data include detailed design plans to ensure all low flow events from the creek can pass through the culverts unimpeded*
- o *the culvert design is to ensure that velocity of natural creek flows are not altered and the installation of the new culverts will not cause erosion and/or upstream ponding*
- o *environmental actions to be incorporated to ensure the culverts post rectification works will not cause environmental harm to the creek and/or adjacent vegetation*
- o *a reporting and the implementation monitoring program for the installation and post operation of the culverts*
- o *certification that the culverts meet relevant engineering standards and requirement of the Rural Fire Service by a suitably qualified engineer*

11.1 Rescission Motion - DA 2018/381 - 404 Old Byron Bay Road, Newrybar

- *the provision of monitoring reports to be submitted to Council's Planning and Environmental Health Division*
- *a condition requiring completion of required culvert rectification works prior to commencement of works on the new dwelling house.*
- *a condition requiring all services to the new dwelling to be located underground (as far as is practical).*
- *a condition requiring the submission of a construction management plan that includes the address of construction vehicle access to the new dwelling.*

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

*That DA 2018/381 for the decommissioning of an existing dwelling and construction of a new two storey dwelling and swimming pool and the upgrading of an existing internal access way be **REFUSED** on the basis that the application is inconsistent with the objectives of the 7d 1 Zone and the impacts of the development do not meet the requirements of the DCP.*

COUNCILLOR RECOMMENDATION

That Resolution 281119/4, as follows, be rescinded:

*That DA 2018/381 for the decommissioning of an existing dwelling and construction of a new two storey dwelling and swimming pool and the upgrading of an existing internal access way be **APPROVED** subject to the application of standard planning, engineering and environmental health conditions of consent for this type of development and other conditions as outlined in this report and inclusive of:*

- *a condition addressing rectification works to the culverts consistent with the following:*

Prior to the commencement of works (except vegetation planting, restoration and rehabilitation works) the applicant is to submit to Council for approval a Culvert Rectification Plan (CRP). The purpose of the CRP is to ensure the natural flow regimes of the creek which, traverses the approved internal driveway are restored to their predevelopment state. The CRP is to be prepared by a suitably qualified professional to address the following matters:

- *methods for undertaking rectification works to the culverts without causing environmental harm to the creek and/or adjacent vegetation*
- *identify by survey the natural base level of the creek bed and other environmental constraints*
- *based on the results of the survey data include detailed design plans to ensure all low flow events from the creek can pass through the culverts unimpeded*

11.1 Rescission Motion - DA 2018/381 - 404 Old Byron Bay Road, Newrybar

- *the culvert design is to ensure that velocity of natural creek flows are not altered and the installation of the new culverts will not cause erosion and/or upstream ponding*
- *environmental actions to be incorporated to ensure the culverts post rectification works will not cause environmental harm to the creek and/or adjacent vegetation*
- *a reporting and the implementation monitoring program for the installation and post operation of the culverts*
- *certification that the culverts meet relevant engineering standards and requirement of the Rural Fire Service by a suitably qualified engineer*
- *the provision of monitoring reports to be submitted to Council's Planning and Environmental Health Division*
- *a condition requiring completion of required culvert rectification works prior to commencement of works on the new dwelling house.*
- *a condition requiring all services to the new dwelling to be located underground (as far as is practical).*
- *a condition requiring the submission of a construction management plan that includes the address of construction vehicle access to the new dwelling.*

Attachment(s)

Nil

11.2 Rescission Motion - Western Arterial Bypass - Route Options

11.2 Rescission Motion - Western Arterial Bypass - Route Options

Councillor Cr McCarthy
Cr Cadwallader
Cr Jeff Johnson

We move

That Resolution 281119/9 as follows, be rescinded:

- 1. That Council notes the contents of this report regarding options for the timing, cost and funding of the Western Arterial Road.*
- 2. That Council defers further consideration of the Barlows Road route option as a short-to-medium term solution to traffic congestion on Ballina Island until such time as the benefits of the River Street and Tamarind Drive duplication projects can be realised following their completion.*
- 3. That Council discontinue further consideration of the RMS service road as a short-to-medium term solution to traffic congestion on Ballina Island.*

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

1. That Council notes the contents of this report regarding options for the timing, cost and funding of the Western Arterial Road.
2. That Council undertake further investigation into the Barlows Road route option to determine a more accurate timeframe and cost estimate. The cost of this work, estimated at \$35,000 is to be funded from the road contingency reserve.
3. That Council discontinue further consideration of the RMS service road as a short-to-medium term solution to traffic congestion on Ballina Island.

Staff Comments

This rescission motion provides an opportunity to review the financial liabilities for Council in respect to the delivery of the road improvement projects identified in the Ballina Shire Roads Contributions Plan.

The road improvements in that Plan are estimated to cost approximately \$163m in 2018/19 dollar values.

Major projects in the Plan that have been completed to date are Ballina Heights Drive, Tamar Street / Cherry Street roundabout, River Street / Cherry Street roundabout, River Street / Moon Street roundabout and the Cumbalum Interchange.

Hutley Drive (north) is currently underway which means by the end of the current financial year Council will have completed works totaling close to \$18m.

11.2 Rescission Motion - Western Arterial Bypass - Route Options

The relatively new roundabout at the intersection of Links Avenue and Angels Beach Drive was also previously included in the Roads Contribution Plan however Council was able to secure a grant for 100% of the cost of that project allowing it to be removed from the Plan.

The Council's adopted Delivery Program includes the following Roads Contribution Plan projects for the four-year period of the Program:

Description	2019/20	2020/21	2021/22	2022/23
Project				
Hutley Drive	4,430,200	0	0	0
Angels Beach Drive / Bangalow Road - 4 Lanes	50,000	1,500,000	0	0
River St – 4 Lanes – Preliminaries	100,000	100,000	154,000	0
River St – 4 Lanes – Fishery Creek Bridge	0	0	6,138,000	0
River St – 4 Lanes – Bridge to Bypass	0	0	11,006,000	0
River St – 4 Lanes – Bridge to Tweed St	0	0	4,314,000	0
Tamarind Dve – 4 Lanes – Preliminaries	200,000	100,000	100,000	0
Tamarind Dve – 4 Lanes – Canal Bridge	0	0	0	4,696,000
Tamarind Dve – 4 Lanes – Nth Ck Rd to Kerr St	0	0	0	8,395,000
Total	4,780,200	1,700,000	21,712,000	13,091,000
Assumed Funding Sources				
Section 7.11 Developer Contributions	4,780,200	1,700,000	7,526,000	6,904,000
Council Loan Funds	0	0	8,186,000	0
Council General Revenue	0	0	0	187,000
Grants	0	0	6,000,000	6,000,000
Total	4,780,200	1,700,000	21,712,000	13,091,000

The loan borrowings in 2021/22 result in annual repayments of \$736,000 from 2022/23 onwards based on a loan term of 15 years.

The loan repayments are funded by a reduction in the general revenue component of Council's road reconstruction program.

This means there is \$736,000 less in road construction works from 2022/23 onwards, than is currently the case.

The concern with this is that, over time, Council's asset condition may deteriorate and ideally loan funding should be reduced, where possible.

The Roads Contribution Plan also identifies the funding apportionment between Council and development, with the apportionments for the projects in the Delivery Program as follows:

- Hutley Drive – 100% development
- Angels Beach Drive / Bangalow Road - Four Lanes – 100% development
- River Street – Four Lanes – Fisheries Creek Bridge – 49.6% development
- River Street – Four Lanes – Fisheries Creek Bridge to Tweed Street – 49.6% development
- River Street – Four Lanes – Fisheries Creek Bridge to Teven Interchange – 73.9% development
- Tamarind Drive – Four Lanes – Canal Bridge – 98.6% development
- Tamarind Drive – Four Lane – North Creek Road to Kerr Street – 98.6% development

The 49.6% and 73.9% apportionment to development for River Street four laning and the Fishery Creek Bridge means that Council is responsible for funding the balance, which is approximately \$9.3m for these projects.

11.2 Rescission Motion - Western Arterial Bypass - Route Options

The Delivery Program also assumes Council will receive grant funding for these projects and the likelihood of this is relatively low as grants for works of this nature are very limited.

Another issue is that Council may not hold sufficient Developer Contributions when the projects are scheduled, to fund the developer contributions component.

As at 30 June 2019 Council held \$7.6m in Roads Contribution funds.

This means there are sufficient funds already available to complete the Hutley Drive and Angels Beach Drive / Bangalow Road works planned for 2019/20 and 2020/21, assuming there are no major budget variations.

The actual estimates in the Roads Contribution Plan is another concern as the works and estimates in the Plan are at a very high level.

The preliminary feedback on the more detailed conceptual plans for the River Street four laning project indicate that the total project value may be closer to \$30m, which is far higher than the \$21.7m in the Delivery Program.

The collection figures for Roads Contributions can also vary substantially, with figures for the last six years as follows:

Year	Collected (\$)
2018/19	5,309,800
2017/18	1,773,600
2016/17	1,072,200
2015/16	838,600
2014/15	2,272,700
2013/14	2,675,100

These figures include interest generated on the contributions held.

2018/19 was an unusually high year and the average income per annum is typically close to \$1.7m, although with 2018/19 included the average is closer to \$2.3m.

With Council currently holding \$7.6m in Roads Contribution funds the completion of the Hutley Drive and Angels Beach Drive / Bangalow Road works should see the majority of those funds expended, especially once preliminary expenditures for the River Street and Tamarind Drive four laning projects are also expended.

Therefore to ensure we have sufficient developer contribution funds held to finance the developer contribution component of the River Street four laning project, including Fishery Creek Bridge, we will need to collect anywhere from \$12m to \$14m in total contributions during 2019/20, 2020/21 and 2021/22. A further \$13m is then needed for Tamarind Drive four laning in 2022/23.

Based on historical trends this seems unlikely unless the 2018/19 level of income continues. For the 2019/20 financial year, to date, there is \$934,000 in contributions received, which is more in line with historical averages.

11.2 Rescission Motion - Western Arterial Bypass - Route Options

Collections are totally dependent on the release of subdivision plans for development.

With major developments such as Aureus and EPIQ in the process of constructing new stages, there is still a possibility the contributions collected for 2019/20, 2020/21 and 2021/22 will be well above the long term average, although this is entirely dependent on the developers and the overall demand for land.

The large variability in contributions collected is one of the reasons that projects such as the four laning of River Street and Tamarind Drive are more aligned with Council's financial planning, in that they can be completed in stages, dependent on the funding Council has available.

It is very likely that the River Street and Tamarind Drive four laning will be undertaken in stages over a few years, especially with the duplicate bridge works included, and the benefit of this is it does allow Council to spread the expenditure over two or more years.

The current figures in the Delivery Program are high level estimates only for financial planning purposes and as these projects are further advanced, more detailed staging plans will be prepared that can then be incorporated into our financial planning.

In looking at other Roads Contribution Plan projects included in Council's ten year Long Term Financial Plan, the projects included are consistent with the first two staging periods in the Roads Contributions Plan, which is based on three distinct time periods (i.e. 2011-19 to 2019-2028 and 2028-2036).

A copy of that works plan is attached.

In addition to the projects already included in the Delivery Program the timing in the Long Term Financial Plan for the other projects listed in the attachment, for periods 2011-19 and 2019-2028 is as follows, with reference numbers as per the attachment:

- 15 - Bangalow Road / Hogan Street – Left in / Left out – 2024/25 - \$0.9m
- 16 - Angels Beach Drive / Sheather St – Left in / Left out – 2024/25 - \$0.9m
- 18 – North Creek Road and Bridge – 2026/27 - \$27.7m
- 20 - Ross Lane Improvements – West – 2027/28 - \$6.9m
- 20 - Ross Lane Improvements – East – 2027/28 - \$15.5m
- 23 - Tamarind Drive to Southern Cross Drive – Right turn ban – 2025/26 - \$0.2m
- 27 – North Creek Road / Reservoir Road – Traffic Calming – 2025/26 – \$3.9m
- 35 – Sandy Flat Road – 2028/29 - \$4.6m
- 39 – North Creek Road – Tamarind Drive to Southern Cross Drive - Four laning – 2028/29 - \$2.2m
- 41 – Bangalow Road – additional lane east from Angels Beach Drive roundabout – 2028/29 - \$1.7m

Projects 15, 16 and 41 are being examined as part of the work that Council is currently undertaking for the four laning of Bangalow Road at the Angels Beach Drive roundabout.

11.2 Rescission Motion - Western Arterial Bypass - Route Options

For reference purposes the works currently in the Delivery Program are identified in the attachment as:

- 6 – River Street Fisheries Creek Bridge to Tweed Street – Four laning
- 7 – Tamarind Drive, North Creek Road to Kerr Street – Four laning
- 9 – River Street, Upgrade Fisheries Creek Bridge – Four lane
- 10 – Tamarind Drive, Duplication of North Creek Bridge – Four laning
- 11 – River Street, Fisheries Creek Bridge to Southern Interchange of Bypass – Four laning
- 30 – Angels Beach Drive / Bangalow Road Roundabout - Lanes Extensions (also examining project references 15, 16 and 41)
- 42 – Byron Bay Road / Hutley Drive Roundabout and connection to Hutley Drive

Reference numbers 28, 29, 31, 33 and 34 in the attachment have been completed, and the remaining projects, which relate to the period 2028-2036 are not included in Council's current 10 year Long Term Financial Plan.

The most topical project not included is the Western Arterial, referenced as project 1a, with a project cost of over \$32m.

This project is 100% funded by developer contributions, however the difficulty with the project is that it cannot be completed in stages.

Unless significant grant funds are obtained for the project, Council would have to borrow to undertake the works, with annual loan repayments likely to be above \$2m.

These repayments could be funded from future developer contributions although they would most likely absorb nearly all the contributions collected each year, allowing no other works to proceed.

This highlights another point in respect to developer contributions in that the State Government has not indexed the \$20,000 contribution cap on residential lots since it was introduced over ten years ago.

This means that councils continue to go financially backwards as the real value of that contribution decreases over time.

In respect to the contents of the rescission motion, from a financial planning perspective Council already has significant liabilities in respect to the projects planned for the next four years as per the Roads Contribution Plan.

The only financial merit in considering the Barlows Road option would be if it was accepted that this would further defer, or potentially replace the Western Arterial, as otherwise Council will end up with two roads in relative close proximity.

The very preliminary estimate in the previous report of \$3.5m for the Barlows Road project is substantially lower than the Western Arterial estimate based on a number of assumptions including:

11.2 Rescission Motion - Western Arterial Bypass - Route Options

- No intersection upgrades, guardrail or lighting included in the estimate
- Minimal land acquisition (from RMS only)
- No bridges required
- Consultants minimized as it uses an existing road reserve
- The road formation is contained within an existing road reserve
- No broad scale flooding impacts are anticipated

These are assumptions only and are subject to further analysis.

The \$3.5m estimate is based on constructing a road to the normal rural standard. A similar and recent construction project for comparative purposes is the western end of Skennars Head Road which is built to a rural standard, albeit it is largely in an urban environment.

If the Barlows Road project was able to be included in the Roads Contribution Plan, with an apportionment to development, the overall net cost to Council could also be reduced.

In conclusion Council should only approve the \$35,000 for further analysis if Barlows Road is considered to be a reasonable medium to long term replacement / deferral option for the Western Arterial.

COUNCILLOR RECOMMENDATIONS

That Resolution 281119/9 as follows, be rescinded:

1. *That Council notes the contents of this report regarding options for the timing, cost and funding of the Western Arterial Road.*
2. *That Council defers further consideration of the Barlows Road route option as a short-to-medium term solution to traffic congestion on Ballina Island until such time as the benefits of the River Street and Tamarind Drive duplication projects can be realised following their completion.*
3. *That Council discontinue further consideration of the RMS service road as a short-to-medium term solution to traffic congestion on Ballina Island.*

Attachment(s)

1. Ballina Shire Roads Contributions Plan - Proposed Works

11.3 Notice of Motion - Ballina Ocean Pool

11.3 Notice of Motion - Ballina Ocean Pool

Councillor Cr Meehan

I move

That Council, as part of the May 2020 Ordinary Meeting, receive an update report on the progress of the proposed Ballina Ocean Pool project. The report should include information on native title, engineering and design plans, budget and any other relevant matters.

Councillor Comment

During 2019, Council received two update reports about the proposed ocean pool. This was very helpful for Councillor understanding and consideration of relevant issues. With the Ocean Pool Committee not meeting formally and not having agendas and minutes available, it is vital to continue with six monthly updates. This will provide Council with a monitoring process, improved Councillor understanding and public transparency.

COUNCILLOR RECOMMENDATION

That Council, as part of the May 2020 Ordinary Meeting, receive an update report on the progress of the proposed Ballina Ocean Pool project. The report should include information on native title, engineering and design plans, budget and any other relevant matters.

Attachment(s)

Nil

11.4 Notice of Motion - Recycled Water Program Expansion

11.4 Notice of Motion - Recycled Water Program Expansion

Councillor

Cr Jeff Johnson

I move

1. That Council review the implementation of the Recycled Water Master Plan, and assesses the current level of recycled water use across the shire, with a view to increasing the reuse goal from 80% dry weather reuse to 100% dry weather reuse.
2. That Council receive a report on the cost/benefits of extending the recycled water program and infrastructure to include more sports fields, parks and gardens. This report is also to give consideration to increasing the provision of recycled water to rural areas, along with the likelihood of grant funding or public/private partnerships to reduce the costs to ratepayers.

Councillor Comments

I see this motion as the logical extension of the visionary recycled water program that Ballina Shire Council has implemented over the last eight years.

The changing weather and our increasing population is putting pressure on Ballina and our region's long term water security.

Increasing the use of recycled water is one way to ensure that our water supply can continue to provide in the medium to longer term.

There are also additional benefits including improvements to the quality of the surface of our sporting fields and potentially assisting water intensive industries to flourish in certain areas that can be connected to the recycled water network.

While I understand that during periods of high rainfall it is impossible to divert all of the treated effluent away from our creeks and waterways, if Council can create employment opportunities and improve our sports field and open spaces, while at the same time reducing the effluent going into our water ways then that would be a win-win.

As Ballina Shire Council is already leading the way when it comes to recycled or reuse of treated effluent, a well designed and costed expansion of this program should be eligible for grant funding due to the benefits that it would have to the environment, our long term water security and also as a pilot project that other Council areas could adopt.

Staff Comments

The work required to complete this notice of motion adequately is extensive.

11.4 Notice of Motion - Recycled Water Program Expansion

From a resource allocation perspective the preferred approach should be to include this scale of project in the annual Operational Plan to ensure that adequate staff resources are allocated and the various other priorities for the Water and Wastewater Section can be factored into the entire program.

Staff are supportive of reviewing the recycled water master plan, which this motion would entail, subject to it being in a structured manner with reasonable expectations on timing.

Part of reviewing that plan will involve consultation with the State Government regulatory authorities, along with Rous Water as the bulk water supplier for the region.

Ideally this should be a priority for the 2020/21 Operational Plan to ensure a more holistic approach.

COUNCILLOR RECOMMENDATIONS

1. That Council review the implementation of the Recycled Water Master Plan, and assesses the current level of recycled water use across the shire, with a view to increasing the reuse goal from 80% dry weather reuse to 100% dry weather reuse.
2. That Council receive a report on the cost/benefits of extending the recycled water program and infrastructure to include more sports fields, parks and gardens. This report is also to give consideration to increasing the provision of recycled water to rural areas, along with the likelihood of grant funding or public/private partnerships to reduce the costs to ratepayers.

Attachment(s)

Nil

12. Advisory Committee Minutes

12. Advisory Committee Minutes

Nil Items

13.1 Mayoral Meetings

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

13.1 Mayoral Meetings

Councillor David Wright

Activities I have attended, or propose to attend, as at the time of writing this report, since the November 2019 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
25/11/19	Meeting – Ian Peter
25/11/19	Meeting – Lyn Walker
27/11/19	Tourism Ambassadors – Christmas Get Together - Tourist Office
28/11/19	Facilities Committee, Commercial Services Committee
1/12/19	Commemoration Park Markets
1/12/19	Club Lennox – Sundays on the Green – Held inside due to weather
1/12/19	Lennox Head Carols - Postponed
2/12/19	Meeting – Tony Hart and Mick Sheather
3or4/12/19	Launch – Love Food Hate Waste – Council
3/12/19	Alstonville/Wollongbar Chamber Meeting - Plateau Sports
4/12/19	Meeting – Ballina Equestrian Club
4/12/19	Gallery Team Christmas Party, Public Art Advisory Panel
5/12/19	Meeting – David Chegwyn – Skullcandy
5/12/19	Australia Day Nominations Review, Light Up The Hall – Wardell
6/12/19	Meeting – Gregg Cave - Fernleigh Road
7/12/19	CWA Christmas – Captain Cook Park
8/12/19	Commemoration Park Markets
8/12/19	Lennox Head Markets
8/12/19	Ballina Shire Concert Band – Christmas Concert
8/12/19	Riverside Carols
9/12/19	Church Group
10/12/19	Paradise FM Message
11/12/19	2019 Emmanuel College Presentation Ceremony - Primary
11/12/19	2019 Emmanuel College Presentation Ceremony- Secondary
12/12/19	River Street Christmas Night
13/12/19	Opening of Grow NSW Head Office Unit 8 48 Tamar Street
13/12/19	Ballina Croquet – Christmas Function
13/12/19	Ballina Shire Council Staff Christmas Party –
13/12/19	Quota Christmas Tree Competition
13/12/19	Open - Christmas on the Plateau
15/12/19	Commemoration Park Markets
15/12/19	Ballina Markets
15/12/19	Club Lennox – Sundays on the Green
18/12/19	Local Traffic Committee
19/12/19	Council Meeting
22/12/19	Commemoration Park Markets
29/12/19	Commemoration Park Markets, Lennox Head Markets

RECOMMENDATION

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

Attachment(s) - Nil

14. 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:

14.1 Airline Agreement - Update

Refer to Item 9.4 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.

14.1 Airline Agreement - Update

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) (d) 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
- 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 it would prejudice Council's ability to negotiate commercial terms and conditions with the service provider and release commercial information to competitors of the service provider.