



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 25 July 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.

Table of Contents

1.	Australian National Anthem	1
2.	Acknowledgement of Country	1
3.	Apologies.....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations.....	1
6.	Deputations	1
7.	Mayoral Minutes	1
8.	Planning and Environmental Health Division Reports	2
8.1	DA 2019/206 - Variation to 88b Instrument - 79 Plateau Drive	2
8.2	LEP Amendment - 246 to 250 Lismore Road, Wollongbar	6
8.3	LEP Amendment - Farm Gate Retail Activity on Rural Land	15
8.4	Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site	24
8.5	Planning Proposal - Residential Flat Development	33
8.6	Community Events and Markets on Public Land	44
8.7	Land Classification - Cnr Stoneyhurst Drive / Sunray Crescent	50
8.8	Electronic Gaming Machines	53
8.9	Development Applications - Works in Progress - July 2019	61
9.	Corporate and Community Division Reports	72
9.1	Use of Council Seal	72
9.2	Investment Summary - June 2019	74
9.3	Donations - Community and Sporting Groups - 2019/20	79
9.4	Donation - Rates and Charges - 2019/20	88
9.5	Policy (New) - Farmland Rating	92
9.6	Policy (Review) - Child Protection	96
9.7	Lennox Rise - Adjoining Owners' Deed of Agreement	99
9.8	Leasing Update - Shop 11 Wigmore Arcade Complex, Ballina	103
9.9	Plant Expansion - Funding	104
9.10	Capital Expenditure - 30 June 2019 Review	107
9.11	Delivery Program and Operational Plan - 30 June 2019 Review	112
10.	Civil Services Division Reports	116
10.1	Lake Ainsworth - Surf School Parking	116
10.2	Community Property - Lease Renewals	120
10.3	Tender - Installation of Pavers Ballina CBD Stage 4	124
10.4	Tender - Fire Equipment Inspection, Testing, Maintenance and Reporting	128
11.	Notices of Motion.....	131
11.1	Notice of Motion - Wollongbar Strategic Plan 2019 - 2039	131
12.	Advisory Committee Minutes	133
13.	Reports from Councillors on Attendance on Council's behalf.....	134
13.1	Mayoral Meetings	134

14.	Confidential Session	135
14.1	Leasing Update - Shop 11 Wigmore Arcade Complex, Ballina	135

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1. Australian National Anthem
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 7. Mayoral Minutes
-

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 27 June 2019 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 June 2019.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2019/206 - Variation to 88b Instrument - 79 Plateau Drive

8. Planning and Environmental Health Division Reports

8.1 DA 2019/206 - Variation to 88b Instrument - 79 Plateau Drive

Applicant	Dixon Homes
Property	79 Plateau Drive Wollongbar
Proposal	Dual Occupancy Development
Effect of Planning Instrument	The land is zoned R3 Medium Density Residential Zone under the provisions of the Ballina LEP 2012.
Locality Plan	The subject land is depicted on the locality plan in Figure 1 below.

Introduction

Council granted development consent DA 2010/453 for the staged subdivision of land creating 83 residential lots, public reserves, road reserves and associated infrastructure and lot works.

A number of easements, covenants and restrictions on use were required pursuant to development consent conditions 7.22-7.25 inclusive.

Council has received a development application (DA 2019/206) in respect of Lot 10 DP 1230198, 79 Plateau Drive Wollongbar, as depicted in the location plan below:

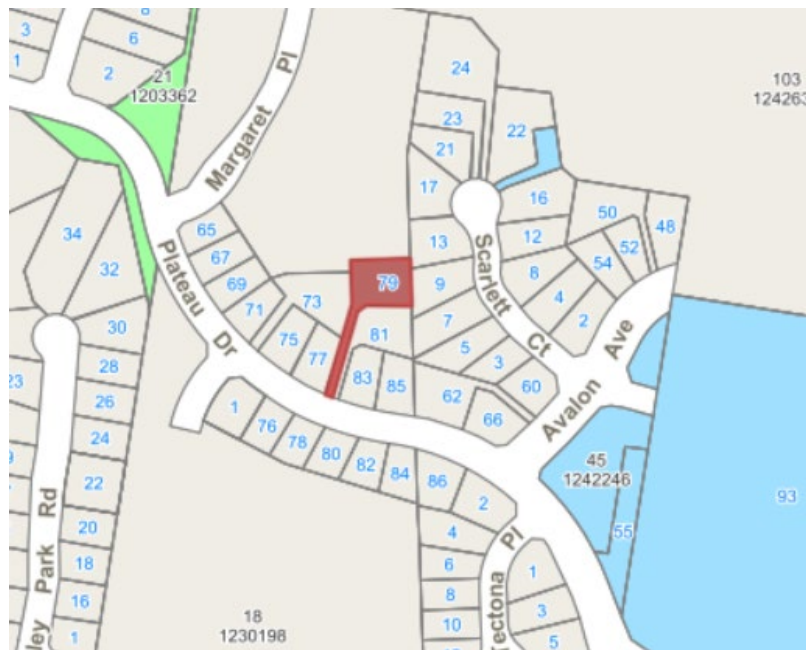


Figure 1: Location Plan - 79 Plateau Drive Wollongbar

8.1 DA 2019/206 - Variation to 88b Instrument - 79 Plateau Drive

DA 2019/206 seeks consent for the construction of a single story attached Dual Occupancy development including earth works and retaining walls.

The Lot has an 88b Restriction on Use of the land. This restriction permits only one dwelling to be constructed on the Lot.

The land is zoned R3 Medium Residential under the Ballina Local Environmental Plan 2012. Dual Occupancy (attached) is a permissible land use in this zone.

The zone map extract below indicates the extent of the R3 zoned land (shown dark pink) in this locality.

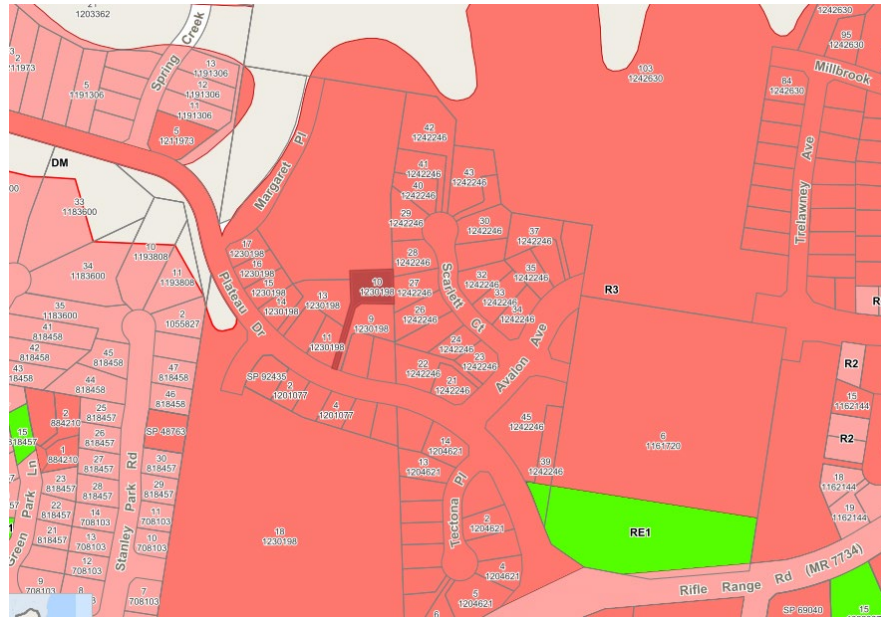


Figure 2: Land Use Zones Plateau Drive Locality (subject land shown shaded)

The proposed Dual Occupancy development complies with Council's planning controls and has been assessed by staff to be suitable for approval with conditions having regard for the particular circumstances, subject to the resolution of the variation to the 88b instrument that is applicable to the land.

This report seeks Council's direction on the proposed variation to the section 88B instrument restriction to allow the development to be determined under delegated authority by staff.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was publicly notified in accordance with the Level 1 – Targeted Notification requirements of the Ballina Shire Development Control Plan 2012.

One submission was received in objection regarding a proposed retaining wall which was to be located on the eastern boundary.

The objector did not want to be liable for any future repair or replacement of such a wall located on the boundary.

To address this (if the application is approved) the development consent would be conditioned so that the retaining wall is to be a minimum of 500mm from this boundary so the retaining wall does not form part of the dividing fence. Responsibility for maintenance of the wall would then lie entirely with the owner of the property on which the wall is located.

Applicable Planning Instruments

Ballina Shire Council Local Environmental Plan 2012.

Ballina Shire Council Development Control Plan 2012.

Report

The land is a battle-axe lot with an area of 1,186m² and is zoned R3 Medium Density Residential under the Ballina Local Environmental Plan 2012 (BLEP). Dual occupancies are permissible in this land use zone.

The proposed attached Dual Occupancy development will contain three bedrooms in each dwelling with combined living/kitchen/dining areas having a Gross Floor Area of 216m² in size (108m² each dwelling). The building complies with the BLEP development standards for floor space ratio and overall building height.

It also generally complies with the provisions of the Ballina Shire Development Control Plan 2012 (DCP).

The subject property is burdened by restrictive covenants imposed on the subdivision under Section 88B of the *Conveyancing Act* 1919, including some imposed or required to be imposed, by Council where Council is the beneficiary. The 88B instrument is included as Attachment 1.

The construction of more than one dwelling as proposed would be in breach of Clause 3(d) of the Restriction on Use, thirdly referred to in the section 88B instrument. The relevant restriction referred to in the 88B instrument is as below:

Not more than one main building intended to be used for a residence shall be permitted to be erected on each lot in the subdivision other than Lot 1 in accordance with the consent of Ballina Shire Council.

Clause 1.9A of the BLEP permits restrictive covenants to be suspended (set aside) in certain circumstances to enable the development to occur in accordance with the more relevant or recent planning provisions. However Clause 1.9A (2)(a) does not apply to the extent necessary to suspend the covenant where the covenant has been imposed by the Council, or if the Council required it to be imposed.

8.1 DA 2019/206 - Variation to 88b Instrument - 79 Plateau Drive

Council staff sought legal advice regarding the circumstances of imposing the restriction and the process of dealing with an application that is proposing to be in contradiction to it.

The legal advice concluded that in the subject circumstances Council consent to vary the 88B instrument is necessary to provide for a development consent to be effective.

A draft Deed of Variation has been prepared by the owners' solicitor to vary the subject restriction. Council is required to execute the Deed to enable the variation.

Consideration should be given to the effect the Restriction on Use has on future proposals for Dual Occupancies and Secondary Dwellings on other R3 zoned land in this subdivision.

This may be addressed by way of a report for the use of the Common Seal to vary the restriction on use for all lots, at a later date, following a more detailed assessment of any ramifications of adopting a broad approach to the release of the restriction.

Options

1. Council resolves to consent to a variation to the 88b restriction by way of a Deed of Variation regarding the Restriction on Use to enable the applicant to construct an attached Dual Occupancy development on Lot 10 in DP 1230198.

Under this approach, staff would proceed to complete the assessment and determination of the development application for an attached dual occupancy development under delegated authority.

2. Council does not support the variation to the Section 88B instrument and Deed of Variation regarding the Restriction on Use.

This approach would maintain the current restriction enabling only one dwelling to be constructed on the land.

The proposed location of an attached Dual Occupancy development located in an R3 Medium Density zone is considered to be a suitable form of development on this lot. Therefore, option one is recommended.

RECOMMENDATIONS

1. That Council consents to the variation to the 88B instrument to alter the Terms of Restriction thirdly listed as 3(d) referred to in the 88B to allow an attached Dual Occupancy to be constructed on Lot 10 in DP 1230198 (subject to the granting of development consent).
2. The General Manager is authorised to execute the Deed of Variation and any other associated documents inclusive of the application of the Common Seal.

Attachment(s)

1. 88B Instrument - DP 1230198

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

Delivery Program Strategic Planning

Objective To seek Council's direction on an LEP amendment request relating to the Wollongbar Service Station site, corner Lismore and Rifle Range Roads.

Background

Council has received a request to prepare a planning proposal to amend the Ballina Local Environmental Plan 2012. Newton Denny Chapelle (NDC) have submitted the request on behalf of the owners of Lot 2 DP 527953, 246 - 250 Lismore Road, Wollongbar (the site).

The LEP amendment request seeks Council's support to amend the LEP to enable a service station and one retail premises, not exceeding a gross floor area (GFA) of 100m², to be permissible on the site with development consent by way of amendment to Schedule 1 (Additional Permitted Uses). The purpose of the proposed change is to enable redevelopment of the site.

Attachment 1 contains a copy of the planning proposal request.

Erected on part of the site is the existing Wollongbar service station building. A shed and former commercial building are located elsewhere on the site.

The site is identified by red outline in the site location diagram below.

Site Location Diagram



8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

The site is zoned R2 Low Density Residential (R2) under the provisions of *Ballina Local Environmental Plan 2012* (LEP). Service stations are prohibited within the R2 zone.

The LEP contains the following definition of service station:

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

General merchandise, is not defined in the LEP, but is referenced in the definition of neighbourhood shop as including *foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area.*

A service station was originally approved on part of the site in 1965 but appears not to have been built. In 1979 a further development consent was granted for a garage and showroom which was then the subject of a building application in 1980. Other approvals of relevance on the site included a shop and residence (1975), car sales (1980), conversion of part of the general store (1980), building exhibition centre and erection of a barn (1987), shop for the sale of landscaping/gardening merchandise (1994) and a motor showroom (2009).

The service station relies on existing use rights under the provisions of the Environmental Planning and Assessment Act 1979. The service station related existing use rights have previously been determined, based on legal advice, to only apply to part of the site.

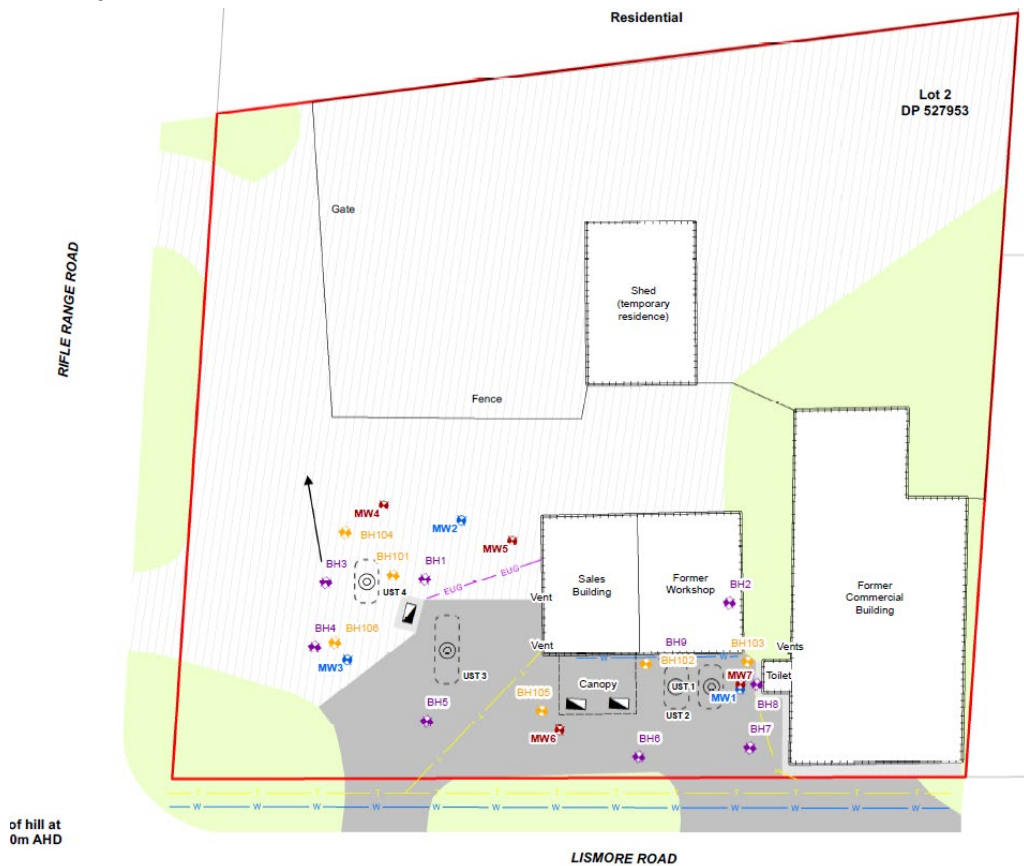
In July 2017 a development application (DA 2017/370) was lodged for the redevelopment of Lot 2 for the purpose of a new service station and a 66 place child care centre. That application was subsequently withdrawn in July 2018 following the applicant accepting legal advice (obtained by Council) that the service station component of the development extended outside of the area subject to existing use rights.

The proponent advised in July 2019 that:

“the originally proposed childcare centre is not planned for the site. In this respect, the landowner has removed any reference to a childcare centre on the site and will not be seeking any approval for such land use in the future.”

The site plan below, extracted from the GHD Environmental Site Assessment (June 2017) submitted with the previous 2017 DA and planning proposal submission, shows the location of current site improvements.

Site Improvements Location Plan



In 2018 the proponent made a submission in response to the exhibited Wollongbar strategic planning documents. The submission sought an LEP amendment, which would permit neighbourhood commercial purposes on the site. Specifically the outcome sought was for the LEP to be amended to permit neighbourhood commercial activity in association with a future re-development of the existing service station.

Council at its Ordinary meeting held on 27 June 2019, when adopting the Wollongbar Strategic Plan 2019 – 2039, also resolved as follows:

That a report be prepared for Council’s further consideration relating to the LEP amendment request lodged in respect to Lot 2 DP 527953, No. 246 - 250 Lismore Road Wollongbar, to permit a service station on this site.

The above recommendation is also reflected in Action 8 of the adopted Wollongbar strategic plan.

The purpose of this report is to consider the key issues relating to the request and seek the Council’s direction regarding options for progressing the matter.

Key Issues

- Existing Use Rights
- Service Station Development
- Appropriate Location for Service Station and Retail Development

Information

The site is considered to be a 'Gateway site' at the entrance to the Wollongbar urban area from Lismore Road. As such it may warrant special consideration so as to ensure that its redevelopment results in a modern well designed development that makes a positive contribution to the Wollongbar village environment.

In the above context it may be appropriate that the planning proposal incorporate provision for both a service station and limited commercial development. The provision of one *retail premises* not exceeding a GFA of 100m² may be a reasonable outcome.

The LEP defines retail premises as:

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) *(Repealed)*
- (b) *cellar door premises,*
- (c) *food and drink premises,*
- (d) *garden centres,*
- (e) *hardware and building supplies,*
- (f) *kiosks,*
- (g) *landscaping material supplies,*
- (h) *markets,*
- (i) *plant nurseries,*
- (j) *roadside stalls,*
- (k) *rural supplies,*
- (l) *shops,*
- (la) *specialised retail premises,*
- (m) *timber yards,*
- (n) *vehicle sales or hire premises,*

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

The property owner is proposing a development similar to the Lennox Head "The Station – Grocer" located in Byron Street.

The branding of service stations as "The Station – Grocer" has also occurred at Shell service stations located at Suffolk Park, Goonellabah, Wollongbar, West Ballina, and the BP service station at Hastings Point.

A photo of the interior of one of these service stations appears below.

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

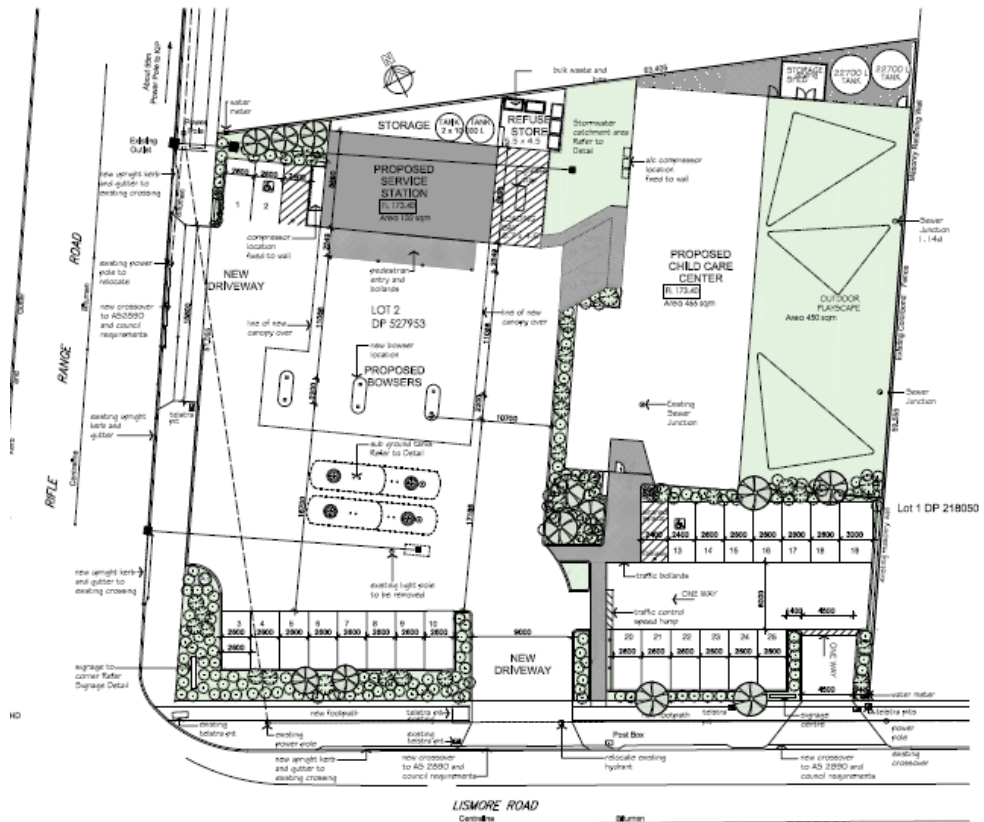
Photo extracted from The Station Grocer website July 2019



In the case of the Lennox Head development, this was originally approved in 1988 (DA1988/239) as a service station and two retail premises. The approved floor area of each of the retail premises being 123.6m² and 84.5m² respectively.

The area of the Wollongbar site (3,427m²) is larger than required for the service station proposal as submitted in the 2017 DA. This then resulted in the land owner also proposing a 66 place child care centre on the residue part of the site. The diagram below is an extract from the 2017 DA. It shows the manner in which the site was proposed to be developed at that time. The child care centre is now no longer proposed as previously referenced in this report.

Site Plan Extract DA 2017/370



8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

The planning merit associated with combining a service station and child care centre is considered questionable especially if other options are available. There are however, other examples of such uses being able to co-exist without apparent conflict (East Ballina neighbourhood centre).

Permitting limited retail floor space on the site is considered to result in a development more compatible with the service station use than the previously proposed child care centre.

Limiting the retail floor space to 100m² GFA may also assist in reducing likely adverse impact from the proposed development on the existing Wollongbar commercial centre in Simpson Road. The retail premises component may also be able to be justified based on the development history of the site which at times has included various commercial type uses.

There are at least two methods through which a service station and retail premises may be permitted on the site. The first involves incorporating these uses as 'additional permitted uses' for the site within Schedule 1 of the LEP. This method retains the sites R2 zoning.

The second method involves rezoning the site as B1 Neighbourhood Business.

Given that a B1 zone would enable more commercial floor space on the site than proposed, and may then result in adverse economic impacts on the existing Wollongbar commercial centre, this option is not supported.

In the longer term, once the existing Wollongbar commercial centre has been substantially developed, a B1 zone for the site could be further considered.

Council could also determine that it will not support the preparation of a planning proposal for this site. This could be done on the basis that it seeks to consolidate commercial and retail development only within the existing Wollongbar commercial centre.

It is unlikely that the above action will result in the closure of the existing service station and the site being developed for residential purposes. One reason for this relates to the contaminated land status of the site. The other reason relates to the existing use rights available over part of the site and the range of permitted uses (non-residential) within the R2 zone.

Land contamination issues affecting the site

The LEP amendment application was supported by an Environmental Site Assessment (ESA) prepared by GHD. This site investigation was previously submitted with the 2017 development application which proposed the redevelopment of the service station site with a new service station and child care centre.

The ESA incorporated results from a number of boreholes and monitoring wells located near the existing service station development.

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

The ESA found that soil and groundwater samples tested were contaminated with chemicals associated with the service station use. The conclusion reached in the ESA was that the contaminant concentrations did not pose an unacceptable risk to human health for the current use of the site (commercial/industrial) or for those residential properties located nearby. Based on the data gained during this assessment, the ESA found that the site is suitable for ongoing use as a service station site.

Although not forming a part of the LEP amendment application, the 2017 DA was also supported by a detailed site investigation (DSI) and remedial action plan (RAP) prepared by ENV Solutions and dated January 2018.

The DSI and RAP were found by Council's Environmental Health staff to have been generally prepared in accordance with the requirements of the guidelines prepared or approved by the NSW EPA to satisfy SEPP 55.

The DSI demonstrates that some remediation of soil would be required to make the site suitable for the proposed use.

Site remediation requirements will be addressed as part of any subsequent development application process. At this stage of the process sufficient information has been submitted by the proponent to indicate that, whilst the site is contaminated, it is suitable for the proposed use (service station and shop).

Conclusion

Having regard to the contents of this report, and the referencing of the site within the Wollongbar Strategic Plan 2019 – 2039, it is considered appropriate that a planning proposal be prepared. The planning proposal would seek to permit a service station and one retail premises with a floor area not exceeding 100m² GFA upon the site as an additional permitted use.

Once the planning proposal has been prepared it is proposed to seek a Gateway determination from the Department of Planning and Environment (DPE) to allow the proposal to proceed to public exhibition. Council would then be invited to reconsider the merits of the planning proposal and its finalisation once exhibited.

Sustainability Considerations

- **Environment**

The preparation of a planning proposal to enable additional uses on the site is not anticipated to have any significant adverse environmental implications. The redevelopment of the site also provides an opportunity to undertake site remediation work to rectify previous contamination caused by the existing service station use.

- **Social**

The preparation of a planning proposal to enable additional uses on the site is not anticipated to have any significant implications for the community's wellbeing, beyond providing services and facilities beneficial to the community.

- **Economic**

The preparation of a planning proposal to enable additional uses on the site may have beneficial economic implications for the Wollongbar community associated with job creation.

Legal / Resource / Financial Implications

The preparation of a planning proposal to provide for additional uses on the site can be accommodated within existing resources. Costs associated with the preparation and processing of the planning proposal will be met by the proponent in line with Council's adopted fees and charges.

It is also considered appropriate that delegation of plan making powers be sought from the Department of Planning and Environment (DPE) with respect to this matter.

The legal effect of the LEP amendment would be to enable the lodgment of a development application for the specified land uses enabled.

Consultation

No community or agency consultation has occurred to date with respect to this matter.

This matter will be subject to the usual community and agency consultation requirements associated with planning proposals and would be subject to the terms of any Gateway determination issued by the Department of Planning, Environment and Industry DPEI. A minimum public consultation period of 28 days is proposed.

Options

The following options are presented for Council's consideration:

Option 1 – Council could resolve to prepare a planning proposal to permit a service station and one retail premises with a GFA not exceeding 100m² on the site.

This option would involve the preparation of a planning proposal for referral to the Department of Planning, Industry and Environment for Gateway determination.

This option is recommended on the basis that these uses are broadly complementary and are not considered to result in significant adverse impacts on the existing Wollongbar commercial centre.

Council also needs to determine whether to exercise its delegated plan making functions for this LEP amendment. In this instance it is recommended that Council seeks agreement from the DPIE to exercise the plan making delegation.

Option 2 – Council could resolve to prepare a planning proposal to permit only a service station on the site without any reference to the retail premises.

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

This approach is not recommended for the reasons outlined in this report.

Option 3 - Council could resolve to decline the planning proposal request.

At this stage this option is not recommended.

Adoption of this option would not prevent a new service station being built on part of the site having regard to the existing use rights enjoyed by the existing service station.

However, it could also result in a different development being proposed that does not adequately service the Wollongbar community and that does not fully realise the potential offered by this 'gateway site'.

Option 4 – Defer the planning proposal application for additional information.

Should Council require additional information, or should it wish to explore other alternatives, then the application could be deferred for a further report or a briefing.

RECOMMENDATIONS

1. That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include a service station and one retail premises with a gross floor area not exceeding 100m² as land uses permitted with development consent in relation to Lot 2 DP 527953, 246 – 250 Lismore Road, Wollongbar.
2. That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.
3. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. Attachment 1 - Planning Proposal Request - 246-250 Lismore Road Wollongbar

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

Delivery Program Strategic Planning

Objective To present the Council with options regarding providing for retail in association with rural industry.

Background

Council's Economic Development Strategy (2018) includes the following action (Action C6):

Facilitate low scale commercial activities in rural areas such as roadside stalls and rural food tourist activities through changes to the land use planning regime.

The above action seeks to support the growth of a regional food brand and responds to interest from rural landholders, particularly those engaged in value-adding around food/agricultural products grown on the land, in terms of boosting brand recognition and diversifying on-farm income.

In addition, the Alstonville Strategic Plan includes the following strategic action:

Develop policies that promote a vibrant and productive rural hinterland. Encourage primary production including the development of related income streams such as road side stalls, farmers markets, farm trails, farm stay accommodation and similar rural tourism activities.

In determining the level of commercial activity that is appropriate in rural areas in response to the above actions, consideration has been given to the following:

- Identifying the range and scale of activity that complements rather than competes with on-farm primary production to avoid the potential for additional commercial uses to "crowd-out" the productive use of agricultural land.
- Seek to ensure that commercial activities do not conflict with other legitimate rural activities.
- Ensure that appropriate levels of infrastructure are provided or available so as to minimise the impact of on-farm retail activities on other users of that infrastructure or on Council asset maintenance.

A range of commercial activities are currently permissible in the Shire's rural zones.

Those uses that relate broadly to "tourism" include those outlined in the following table.

Relevant definitions are provided in the body of this report.

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

Table 1: Permissibility of tourism related uses in Ballina Shire’s rural zones

Tourism-related land uses	RU1 Primary Production zone	RU2 Rural Landscape zone
Camping grounds	x	✓
Caravan parks	x	✓
Cellar door premises*	✓	✓
Environmental facilities	✓	✓
Function centres	x	✓
Information and education facilities	✓	✓
Markets	✓	✓
Kiosks	x	✓
Recreation facilities (major)	x	✓
Recreation facilities (outdoor)	x	✓
Restaurants or cafes	x	✓
Roadside stalls	✓	✓
Tourist and visitor accommodation**	✓	✓

*Cellar door premises, while permissible in both the RU1 and RU2 zones, is a standard instrument definition that applies only with respect to retail sales in association with wine-making.

**Some forms of tourist and visitor accommodation (including backpacker’s accommodation, hotel and motel accommodation and serviced apartments) are prohibited in the rural zones.

A form of tourist activity that is increasing in popularity (for visitors and rural landholders alike) that is not addressed by the above land uses is that of farm and food tourism.

This involves visiting working farms and on-farm production facilities, including also the tasting and retail sale of goods produced on the farm.

In the case of food-related value adding, the retail sale of goods produced on a site presents potential tourist and brand marketing opportunities for rural producers, as well as provide opportunities to diversify on-farm income.

At a collective level, such activities also have the potential to enhance ‘tourist drive’ experiences and thus contribute to broader tourism and economic development outcomes for the Shire and the region.

Currently, the sale of fresh produce and “handcrafted goods” produced on farm is enabled through provisions relating to roadside stalls (including recently introduced provision for small-scale roadside stalls as exempt development).

The definition for roadside stalls, however, limit the location of such retail activity to ‘a place or temporary structure’.

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

Consequently, the roadside stall provisions do not adequately cater to the form of “farm gate retail” activity that enables visitors to stop and leave their vehicle to view, sample and purchase farm products.

Further, the roadside stall provisions do not adequately cater to the range or scale of on-farm value adding occurring in the region.

Examples of products produced within agricultural produce industries in the region include (but are not limited to):

- Coffee roasting
- Macadamia processing
- Tea packaging and processing
- Fermented products and preserves
- Confectionary manufacturing and
- Gin distilling, beer brewing and the like.

Certain uses, such as those listed above, may be more amenable to incorporating a ‘farm gate retail’ offering as a part of their production facility compared with other facilities that fall within the rural industry definition (as outlined in the body of this report).

Notwithstanding, the potential for other value-added agricultural produce industries (and/or rural industries more generally) that might also seek retail opportunities cannot be discounted.

As a consequence of the above, the provision for farm gate retail uses will need to give due consideration to limiting the scale and intensity of such uses in order to minimise the potential for adverse impacts to arise in association with such uses, particularly in terms of impacting agricultural production, infrastructure delivery and rural amenity.

This report seeks to advance the above actions through presenting options for allowing limited retail activities in rural areas in association with rural industry.

Key Issues

- Economic development
- Rural activity and industry
- Ongoing agricultural production and rural amenity
- Infrastructure delivery

Information

Currently ‘rural industries’ are permissible in the RU1 and RU2 zones of the Ballina LEP 2012.

Rural industry is defined as follows:

rural industry means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

- (a) *agricultural produce industries,*

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

- (b) *livestock processing industries,*
- (c) *composting facilities and works (including the production of mushroom substrate),*
- (d) *sawmill or log processing works,*
- (e) *stock and sale yards,*
- (f) *the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.*

The definition of 'agricultural produce industry' is as follows:

agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

The definition of rural industry does not provide for the sale of goods manufactured from the site on which the rural industry is located.

Such retail opportunities can be provided, however, in association with industry or rural industry uses where 'industrial retail outlet' is a permissible land use within the zone. Currently, industrial retail outlets are only permissible within the IN1 Industry zone of the Ballina LEP 2012. The use is defined as follows:

industrial retail outlet means a building or place that:

- (a) *is used in conjunction with an industry (other than an artisan food and drink industry) or rural industry, and*
- (b) *is situated on the land on which the industry or rural industry is located, and*
- (c) *is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located,*

but does not include a warehouse or distribution centre.

In addition, the Department of Planning and Environment has recently introduced a new definition into the Standard Instrument LEP of 'artisan food and drink industry' and which is a mandatory permissible land use in the IN1 Industry zone.

The use is defined as follows:

artisan food and drink industry means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following:

- (a) *a retail area for the sale of the products,*
- (b) *a restaurant or cafe,*
- (c) *facilities for holding tastings, tours or workshops.*

Whilst nominally the 'artisan food and drink industry' definition provides opportunities for a range of additional tourist activities in association with food and drink manufacture, enabling the use in the RU1 Primary Production zone may be problematic as it would enable restaurants/cafés within the RU1 zone where such use is currently not permissible.

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

Further, by providing for the holding of 'workshops' the use may facilitate function centre type activities which may not be appropriate in the RU1 zone.

In terms of other related on-farm tourist activities (such as farm tours and facilities for tastings) on rural land, such uses may be considered ancillary if undertaken in association with an approved industrial retail outlet.

It is recommended, however, that in association with any changes the Council may support with respect to the main subject of this report, that Council introduce development control provisions relating to such ancillary activities to provide clarity regarding the intensity and scale of such uses.

Controlling the scale and intensity of farm gate retail

In order to control the scale and intensity of retail activity undertaken via this approach, if the approach is supported, it is recommended that two further adjustments be made to the LEP, as set out below.

Clause 5.4 sets out specific numeric development controls in relation to particular land uses. With respect to industrial retail premises the current floor space controls apply (relating currently only to the IN1 zone).

5.4 Controls relating to miscellaneous permissible uses

(4) Industrial retail outlets

If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:

- (a) 25% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or*
 - (b) 400 square metres,*
- whichever is the lesser.*

It is suggested that the above floor area controls would be excessive if applied to industrial retail outlets in rural zones.

Consequently, it is recommended that should the above approach be supported, that Council introduce a local development standard provision in the BLEP 2012 that would apply tighter floor space limitations on industrial retail outlets in rural zones.

It is recommended these development standards have the following effect (detailed legal drafting to be undertaken by the Parliamentary Counsel):

(#) Industrial retail outlets in rural zones

If development for the purposes of an industrial retail outlet is permitted under this Plan on land zoned RU1 or RU2, the retail floor area must not exceed:

- (a) 10% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or*
 - (b) 100 square metres,*
- whichever is the lesser.*

If Council supports this approach staff would give further consideration to the appropriate floor space controls in consultation with industry as part of the public exhibition of the planning proposal.

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

Clause 7.9 of the Ballina LEP 2012 applies to rural and nature based tourism development within the RU1 and RU2 zones. The clause is provided as Attachment 1 to this report.

The clause seeks to enable rural and nature based tourism development in Ballina Shire that is generally low impact and of a small scale. In this regard, the clause requires that:

- (3) *Development consent must not be granted to tourism development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *there is, or will be, adequate vehicular access to and from a road, other than a classified road, taking into account the scale of the development proposed, and*
 - (b) *the development is small scale and low impact, and*
 - (c) *the development is complementary to the rural or environmental attributes of the land and its surrounds, and*
 - (d) *the development will not have a significant adverse impact on agricultural production, amenity or significant features of the natural environment.*

If Council supports the listing of 'industrial retail outlet' as permissible in the RU1 and RU2 zones, it is recommended that the use also be inserted into clause 7.9(6) in order to make such development subject to the development standards relating to small-scale low-impact rural development.

The above approach would allow the retail sale of goods manufactured on the site, including products made from inputs not grown on the property.

The goods sold would, however, be limited to those manufactured on the land.

Other uses that producers/landholders might wish to have in association with such tourist activity (other than ancillary activities such as tastings and tours), such as cafes and restaurants are not enabled by the above approach beyond what is otherwise separately defined and permissible in the respective zone (refer to Table 1).

In summary, the proposed change would enable a modest retail area associated with industry or rural industry for the sale of products manufactured on the land and ancillary land uses such as tastings and tours).

The LEP amendment has been designed to enable the intended outcome within the confines of the Standard LEP Instrument and particularly its definitions.

Land subject to the Ballina LEP 1987

The above approach only addresses land zoned under the terms of the *Ballina Local Environmental Plan 2012*.

As previously indicated to Council, amendment of the Ballina LEP 1987 to cover deferred matter areas is likely to be difficult and may result in a variety of unrelated matters presenting.

The structure of the 1987 LEP and its definitions are also different meaning that any change to the 1987 plan would have need to be specifically tailored.

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

Under the recommendation below, provision for retail activities on land subject to the 1987 LEP would remain unchanged. Where land under the 1987 LEP is ultimately included into the 2012 plan, the provision of the 2012 plan would take effect.

Sustainability Considerations

- **Environment**

No significant environmental impacts are anticipated in association with the land use planning amendments outlined in this report. Impacts associated with individual land use proposals would be considered through the development assessment process.

- **Social**

The provision of on-farm tourism in the manner outlined in this report may contribute to the “food culture” of the Shire. The potential for adverse social impacts (particularly traffic) should be mitigated by the relatively modest scale of uses provided for by the land use planning amendments outlined in this report.

- **Economic**

The provision of on-farm tourism in the manner outlined in this report may contribute to the economic development of the Shire.

Legal / Resource / Financial Implications

The land use planning amendments outlined in this report would enable the lodgment of development applications for farm based retail activity in association with rural industry. Such applications would be assessed and determined in the usual way.

No major legal, resource or financial implications are anticipated in association with the land use planning amendments outlined in this report.

Consultation

Subject to the Council’s endorsement of the approach outlined in this report, a draft planning proposal and draft development control plan amendments package would be prepared.

Following Council endorsement of this package and the receipt of affirmative Gateway determination, this material would be placed on public exhibition to seek community and stakeholder feedback.

Options

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

1. Council could resolve to prepare a planning proposal to amend the Ballina LEP 2012 to facilitate farm gate retail activities as outlined in the body of this report.

This option would involve the following:

8.3 LEP Amendment - Farm Gate Retail Activity on Rural Land

- Council preparing a planning proposal to amend the *Ballina Local Environmental Plan 2012* to achieve the following:
 - Enable 'industrial retail outlet' as permissible with development consent on land within the RU1 Primary Production zone and RU2 Rural Landscape zone;
 - Include 'industrial retail outlet' as a land use subject to clause 7.9;
 - Include floor space area controls to apply to industrial retail outlets located on rural land through a special clause consistent with the following:
 - (#) **Industrial retail outlets in rural zones**
 - If development for the purposes of an industrial retail outlet is permitted under this Plan on land zoned RU1 or RU2, the retail floor area must not exceed:*
 - (a) *10% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or*
 - (b) *100 square metres,*

It is recommended that Council proceeds to lodge the planning proposal with the Department of Planning, Industry and Environment (DPIE) for Gateway determination and then proceed to public exhibition. Council would receive further reporting on the planning proposal following public exhibition.

Council also needs to determine whether to exercise its delegated plan making functions for this LEP amendment. Given the general nature of the amendment in relation to rural land across the Shire, it is recommended that Council seeks agreement from the DPIE to exercise the plan making delegation in this instance.

Under this approach, complimentary amendments to the Ballina Shire Development Control Plan 2012, including provisions to clarify the scope of activities considered to be ancillary to agriculture, would be prepared.

The DCP amendments would be the subject of separate reporting to Council for review and endorsement prior to public exhibition.

It is proposed that the DCP amendment would be reported to Council following the Gateway determination of the planning proposal so any matters arising from that process can be incorporated into the DCP provisions.

This option is recommended on the basis of the potential economic and social benefits associated with providing for limited retail activity in rural areas, where such activity is associated with rural based value-adding.

2. Council could resolve to note this report.

This option would involve staff taking no further action on this matter. This option is not recommended on the basis of the potential positive outcomes associated with option one.

3. Council could resolve to receive a briefing on the subject of this report.

This option is not recommended. However it is presented should the Council wish to receive further information regarding the subject of this report before making a decision on progress of the matter.

There will be further opportunities for Council to consider this matter prior to the finalisation of any changes to the LEP and DCP.

RECOMMENDATIONS

1. That Council prepare a planning proposal to introduce provisions into the Ballina Local Environmental Plan 2012 to enable 'industrial retail outlet' as permissible with development consent on land within the RU1 Primary Production zone and RU2 Rural Landscape zone.
2. That the planning proposal include 'industrial retail outlet' as a land use subject to clause 7.9 of the Ballina Local Environmental Plan 2012.
3. That the planning proposal introduce floor space area controls to apply to industrial retail outlets located on rural land consistent with the parameters outlined in this report.
4. That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.
5. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
6. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
7. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.
8. That Council prepare complimentary amendments to the Ballina Shire Development Control Plan 2012 and include provisions to clarify the scope of activities considered to be ancillary to agriculture.
9. That the draft amendments to the Ballina Shire Development Control Plan 2012 be reported to Council for further consideration prior to proceeding with the public exhibition of the amendments.

Attachment(s)

1. Ballina Local Environmental Plan 2012 Clause 7.9 Rural and nature-based tourism development

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

Delivery Program Strategic Planning

Objective To present the outcomes of the public exhibition of Planning Proposal BSCPP 17/009 and to seek Council's direction with respect to the finalisation of this proposed LEP amendment.

Background

This report relates to Lots 1 and 2 DP 620838 consisting of the Telstra exchange site and No. 9 Byron Bay Road, Lennox Head, as shown outlined in red in Diagram 1 below.

Lot 1 has an area of 2,023m² and Lot 2 has an additional area of 9,735m². The total area of the subject site is 1.1758 hectares. It is proposed to apply an R2 Low Density Residential zone to both Lots 1 and 2 and to apply a minimum lot size requirement of 600m².

Lot 2 contains an existing dwelling house and Lot 1 is the site of existing Telstra infrastructure.

Diagram 1 – Site Location Plan



Council at the Ordinary meeting held on 27 July 2017 considered a request, lodged on behalf of the former landowner of Lot 2, to rezone Lot 2 from rural to residential.

Council included Lot 1 (Telstra Site) in the planning proposal and resolved as follows:

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

- 1. That Council endorses the preparation of a planning proposal to facilitate the rezoning of Lot 2 DP 620838, No. 9 Byron Bay Road, Lennox Head, to an R2 Low Density Residential zone with a minimum lot size requirement of 600m².*
- 2. That Council endorses the incorporation of Lot 1 DP 620838 (Telstra Site) within the planning proposal and the application of either an R2 Low Density Residential zone with a minimum lot size requirement of 600m² or an SP2 Infrastructure zone to the land.*
- 3. That Telstra be advised of Council's decision and be given a maximum period of eight weeks in which to respond indicating a preferred zoning, and/or preference to be included within the proposal, failing which the planning proposal be amended prior to exhibition to exclude the Telstra site.*
- 4. That the planning proposal, once prepared, be forwarded to the Department of Planning and Environment for a Gateway determination.*
- 5. That subject to a Gateway determination, allowing the proposal to proceed to community consultation, the planning proposal be placed on public exhibition.*
- 6. That Council give further consideration to the proposal following the conclusion of the public exhibition period.*

A Gateway determination was issued on 16 October 2017 allowing the planning proposal to proceed subject to conditions.

On 19 March 2019 an altered Gateway determination was issued which extended the time frame for completing the LEP amendment until 16 October 2019.

Delays with regard to processing the planning proposal have occurred due to a number of factors as outlined below:

- Change in ownership of Lot 2. Council acquired Lot 2 in March 2018 for the primary purpose of facilitating the planned northern extension of Hutley Drive to Byron Bay Road. Council is also proposing that part of Lot 2 be used to accommodate a new community preschool and a Rural Fire Service building.
- Finalisation of detailed road designs for the Hutley Drive northern extension.
- Negotiations with the Lennox Head Preschool Inc. and the NSW Rural Fire Service regarding the design and siting of the proposed buildings. Plans of the proposed buildings were not available at the time of writing this report.
- Discussions with Telstra regarding the incorporation of Lot 1 within the proposal and negotiation with respect to a cost sharing arrangement.
- Preparation of additional supporting documentation for the planning proposal.

The purpose of this report is to invite Council's consideration of submissions received from the community and agencies during the recent public exhibition process and to seek direction regarding the finalisation of the planning proposal.

A copy of the planning proposal as exhibited is provided as Attachment 1 to this report.

Key Issues

- Consideration of the outcomes of the public exhibition process
- Finalisation of the LEP amendment

Information

The Gateway determination issued by the (then) Department of Planning and Environment on 16 October 2017 required consultation with the Ballina-Byron Gateway Airport, Civil Aviation Safety Authority (CASA), Office of Environment and Heritage (OEH) and the Department of Primary Industries (DPI) Agriculture.

The Gateway determination also required completion of a preliminary contaminated site investigation carried out in accordance with the contaminated land planning guidelines, and a detailed ecological assessment of the sites flora and fauna characteristics.

In addition to the above, the agreement of the Department's Secretary was required in respect to compliance with section 9.1 (formerly section 117) Direction 3.5 Development Near Licensed Aerodromes. The Secretary's agreement was obtained on 18 December 2017.

Supporting technical reporting and documentation commissioned by Council was publicly exhibited with the planning proposal. No significant issues have been identified which would prevent the proposed LEP amendment from being finalised. Further discussion relating to the submitted technical information is provided below.

Land Contamination

In accordance with the requirements of the Gateway determination a Preliminary Contaminated Site Investigation report was prepared by Ardill Payne & Partners dated December 2018 (Attachment 3).

The report identified three composite samples, located on Lot 2, that exceed the residential lead level threshold. Fibrous cement chips comprising chrysotile asbestos were also located on Lot 2.

The results of the preliminary reporting indicate that a Stage 2 detailed contaminated site investigation will be required to identify the extent of contamination present on the site and the subsequent remediation and validation processes to be implemented.

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

The site cannot currently be considered suitable for residential land uses however lead and asbestos are common soil contaminants associated with dwelling houses and remediation techniques are common and well understood. If the detailed assessment and remediation does not occur prior to rezoning then it will be required as part of the assessment of any future development proposals for the site.

Care should be taken during any demolition of the existing dwelling to ensure further contamination of the land does not occur.

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

Council's engineers have advised that two of the sample sites containing elevated lead concentrations will be remediated as part of the road works associated with the construction of Hutley Drive.

It is proposed that the hotspots will be capped and the site will be managed in accordance with an environmental management plan. Council's Environmental Health Officer is satisfied with this method.

Other areas containing lead and asbestos, located in the vicinity of the existing dwelling house on Lot 2, will be required to be remediated as part of the demolition works associated with the removal of the existing dwelling house.

It is considered appropriate that further investigation will be undertaken as part of the assessment of a future development application for the demolition of the existing dwelling on the site.

This will ensure the site is made suitable prior to the consideration of any future development application relating to preschool and rural fire service use of Lot 2.

Ecological Assessments

In respect of the rezoning proposal, Biodiversity Assessments & Solutions Pty Ltd have prepared an Ecological Assessment report for the subject site dated 4 January 2019 (Attachment 2).

The report identifies the presence of a Threatened Ecological Community (TEC), being Littoral Rainforest, located in the western portion of Lot 1 (Telstra site) and along the southern boundary of Lot 2.

The report also identifies two individuals of the threatened flora species, Rough-shelled Bush Nut (*Macadamia tetraphylla*), located in the vicinity of the residential dwelling.

A copy of a site plan provided by Biodiversity Assessments & Solutions Pty Ltd showing the vegetation communities and threatened species on the site, with littoral rainforest denoted in yellow outline, is provided in Attachment 8.

The report prepared by Biodiversity Assessments & Solutions outlines that the rezoning proposal does not constitute an activity that will exceed the thresholds of the Biodiversity Offsets Scheme (BOS) in accordance with the requirements of the *Biodiversity Conservation Act 2016* (BC Act) and *Biodiversity Conservation Regulation 2017*.

Further assessment under the BC Act, including a Test of Significance, would be required for any future development application to assess the potential impacts on significant vegetation.

A review of the Ecological Assessment report prepared by Blackwood Ecological Services (Attachment 6) in respect of the Part 5 application for the Hutley Drive northern road extension indicates that no threatened flora species or TECs were recorded on the site and that vegetation to be removed includes 'planted Macadamia nut' originating as garden plantings associated with the residential dwelling.

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

Verbal advice has since been received from the author of the report stating that the macadamia was initially misidentified in the reporting and confirming that it is the threatened species type, *Macadamia tetraphylla*.

The (former) Office of Environment and Heritage (OEH) has reviewed the ecological assessment report submitted in respect of the rezoning proposal. The OEH recommends that an offset be provided in accordance with the Biodiversity Assessment Method for areas of high environmental value in the planning area.

An offset area would not be required if a subsequent development application or activity assessment triggers the Biodiversity Offset Scheme.

To avoid further delay in finalising the planning proposal and having regard for the technical assessment associated with the planning proposal, it is recommended that any offsetting required be addressed at the development assessment stage for any future development.

The majority of littoral rainforest is located on Lot 1, being the Telstra site (see Attachment 8). To satisfy the OEH requirements, Council could seek to exclude the Telstra site from the planning proposal.

This would require an amended Gateway determination to be obtained from the Department of Planning and Environment, which would further delay finalisation of the rezoning proposal and the subsequent plans for redevelopment of Lot 2 (preschool and rural fire service infrastructure).

The northern extension of Hutley Drive will require the removal of vegetation from the site including littoral rainforest and the two *Macadamia tetraphylla*.

In respect to the removal of littoral rainforest from the southern boundary, the proponent is relying on an approval from the previous Part 5 assessment for the extension of Hutley Drive.

The removal of other vegetation, including the *Macadamia tetraphylla* and the required compensatory offsetting, is expected to be addressed under the Part 5 assessment.

In relation to the proposed preschool and rural fire service building, the proposed location of these buildings on Lot 2 has not been finalised and will be the subject of a separate application process (Council is yet to make final decisions about the location of, and timing for, this infrastructure should its provision proceed).

It will be necessary to establish the amount and method of compensatory planting required to offset the impacts of the proposed development.

Such details would be required to be submitted with the future development application for these buildings.

Stormwater Management

Ardill Payne & Partners have provided a preliminary stormwater management plan for the proposal (Attachment 4).

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

The plan allocates a lawful point of discharge for the proposed future development on the land and demonstrates at a conceptual level that stormwater can be adequately treated on site, subject to further consideration of the Hutley Drive road extension.

This is considered sufficient for the planning proposal stage.

Aboriginal Cultural Heritage Assessment

An Aboriginal Cultural Heritage Assessment has been prepared in respect of the planning proposal (Attachment 5).

The report informs that a site inspection was undertaken with a member of the Jali Local Aboriginal Land Council and concludes there were no items of historic heritage found on the site.

The report was referred to the Office of Environment and Heritage for comment.

No issues were raised with respect to Aboriginal or historic heritage.

Telstra Site (Lot 1)

Council resolved to incorporate the Telstra site (Lot 1) within the planning proposal on the basis that the application of an R2 zone to this site would provide for consistency in zoning and may also provide some advantages in terms of the ability to incorporate land that may be surplus to Telstra requirements within the future subdivision of Lot 2.

Charter Keck Cramer (Charter), on behalf of Telstra, confirmed the incorporation of Lot 1 within the proposal and the application of an R2 Low Density Residential zone for this property. As a result all site investigations and technical reports have been prepared incorporating Lots 1 and 2.

Charter have also confirmed Telstra's agreement to a cost sharing arrangement between Telstra and Council for the completion of the planning proposal based on the respective area of each holding, resulting in Council's contribution being 80% and Telstra 20%. Should Council resolve to retain Lot 1 in the rezoning proposal then Telstra will be invoiced accordingly.

Sustainability Considerations

- **Environment**

The subject land has various attributes which are considered to have environmental value. Biodiversity matters have been assessed in detail in expert ecological reports. Such reports formed a part of the exhibition material in respect of the planning proposal and the Part V application for the Hutley Drive northern extension.

Further assessment of the amount and method of compensatory planting required to offset the impacts of the proposed development will be required to be considered as part of the respective planning approval process for the Hutley Drive northern extension and the proposed childcare centre and fire brigade building on Lot 2.

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

- **Social**

The proposal has a number of positive social and economic impacts associated with construction and infrastructure, including the extension of Hutley Drive and potential for construction of community preschool and rural fire service infrastructure.

- **Economic**

As above.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications for Council associated with the proposed LEP amendment. The further processing of the amendment can be accommodated within the work program of the Strategic Planning Section.

Council has been granted delegation to exercise the functions of the Minister for Planning with respect to the finalisation of this planning proposal. This delegation was granted prior to Council becoming the landowner of Lot 2.

With respect to the finalisation of the matter, it is now considered appropriate that Council declines the use of delegation to complete the plan and instead requests that the NSW Department of Planning and Environment finalise the plan to reinforce transparency in the decision making process.

Consultation

The planning proposal was publically notified from 6 February until 22 February 2019. Notification included an advertisement in the Ballina Shire Advocate, letters sent to eleven nearby property owners and documents made available for viewing on Council's web site as well as community access points.

A copy of the exhibited planning proposal is contained in Attachment 1.

In response to the public exhibition of the planning proposal, two submissions were received from landowners adjoining the subject site.

The issues raised in the submissions express concerns relating to the construction of the Hutley Drive road extension and are not directly related to the rezoning of the land.

Council's engineers have had discussions with affected landowners and the issues raised, including any mitigation measures to address these issues, are expected to be considered separately under the Part 5 activity application for the Hutley Drive north extension.

Consultation has occurred with the NSW Department of Primary Industry – Agriculture, the Ballina-Byron Gateway Airport, Air Services Australia and the Civil Aviation Safety Authority as required by the Gateway determination.

No objections were raised to the proposal.

Responses received have been incorporated into the planning proposal documentation prior to public exhibition.

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

Consultation with the NSW Office of Environment and Heritage (OEH) occurred in February 2019 in conjunction with the public exhibition of the planning proposal.

No issues were raised with respect to Aboriginal and historic heritage however the OEH identified particular matters for consideration in relation to biodiversity. Refer to discussion under the 'Information' section of this report.

Copies of all submissions received in response to the Government agency consultation and the public exhibition of the planning proposal are contained within Attachment 7.

Options

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

Option 1: Finalise the Planning Proposal

This is the recommended option.

Finalisation of the planning proposal would involve updating the planning proposal documentation (as contained in Attachment 1) to reflect the outcomes of the public exhibition process, Government agency consultation, Council decisions and standard LEP map sheets.

The exhibition and consultation processes have not identified any issues that suggest the planning proposal does not have sufficient merit to be finalised. Further investigations regarding land contamination is a matter for consideration via a future development application for the demolition of the existing house on the land and/or the erection of new buildings on the land.

Matters concerning ecological issues will be considered in the Part 5 application for the Hutley Drive northern extension and any future development application for the new buildings on Lot.

Option 2: Discontinue the Planning Proposal

The option to discontinue the planning proposal is open to the Council.

This option is not recommended on the basis that the planning proposal is considered to warrant support for the reasons cited above.

The rezoning of the land as proposed is required prior to the consideration of a future development application for the proposed preschool and rural fire service building (should Council pursue the location of this infrastructure on the land).

If the planning proposal was to be discontinued, this may result in the loss of grant funding obtained by the Lennox Head Preschool Inc. for the construction of the new preschool.

Option 3: Defer the Planning Proposal

Council may resolve to defer the finalisation of the planning proposal should it consider there are unresolved issues or if further information is required.

8.4 Planning Proposal - 9 Byron Bay Road and Telstra Exchange Site

Given the nature of the planning proposal and the results of the consultation and public exhibition process, this option is not recommended.

In addition, as outlined, any delay in the further processing of the rezoning application may result in the loss of grant funding obtained by the Lennox Head Preschool Inc. for the construction of the preschool.

RECOMMENDATIONS

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to rezone Lots 1 and 2 DP 620838, No. 9 Byron Bay Road, Lennox Head, by applying an R2 Low Density Residential zone to the land and a minimum lot size for subdivision of 600m² as detailed in Planning Proposal BSCPP 17/009.
2. That Council advises the NSW Department of Planning, Industry and Environment that it does not wish to exercise its delegation to finalise the planning proposal and requests that the Department completes the LEP amendment process.

Attachment(s)

1. Planning Proposal (Exhibition Version) (Under separate cover)
2. Ecological Assessment - Planning Proposal (Biodiversity Assessments & Solutions) (Under separate cover)
3. Preliminary Contaminated Site Investigation report (Under separate cover)
4. Preliminary Stormwater Management Plan (Under separate cover)
5. Aboriginal Cultural Heritage Assessment (Under separate cover)
6. Ecological Assessment - Part 5 Application (Blackwood Ecological Services) (Under separate cover)
7. Public Submissions and Government Agency Responses
8. Site Vegetation on Lots 1 & 2

8.5 Planning Proposal - Residential Flat Development

8.5 Planning Proposal - Residential Flat Development

Delivery Program Strategic Planning

Objective To present the outcomes of the public exhibition of BSCPP 18/001 which proposes permitting residential flat buildings in certain areas of the B3 Commercial Core zone and seek direction on the finalisation of the LEP amendment.

Background

This report presents the outcomes of the public exhibition of a planning proposal that seeks to broaden the range of dwelling types that are permitted to be erected on certain sites within the B3 zone located in the Ballina CBD. These sites will be required to maintain at least two active frontages.

The primary purpose of the amendment is to increase the development options available for the provision of residential accommodation within the CBD. At present residential development is limited to shop top housing.

This change seeks to advance Ballina Major Regional Centre Strategy (BMRCS) actions F1.1 *Encourage increased residential development in the Ballina CBD* and F1.2 *Ensure suitable and adequate housing opportunities are available to cater to the diverse needs of our community*. This action seeks to support increased activity in the CBD and greater housing choice. Importantly though, the planning proposal seeks to ensure that commercial development outcomes at street level are maintained and support an active commercial area.

The relevant sections from the BMRCS are shown below.

F. HOUSING				
Objective F1 - To ensure that the future housing stock is appropriate, accessible and affordable.				
F1.1	Encourage increased residential development in the Ballina CBD.	More active CBD. Greater housing choice.	<ul style="list-style-type: none"> - Considering policy incentives to encourage more housing in the CBD. - Considering opportunities to provide more flexibility in the design of new CBD developments that incorporate residential components, such as redefining "shop-top housing" in the LEP to allow housing that is not directly or entirely above the commercial part of the development. - Facilitating a range of residential development options to cater to young people and the elderly in the CBD. - Considering ways to manage potential land use conflict with CBD living and night life activities. - Liaising with key CBD landholders to encourage them to consider opportunities for the redevelopment of their sites. 	Plan Facilitate / Advocate

8.5 Planning Proposal - Residential Flat Development

F1.2	Ensure suitable and adequate housing opportunities are available to cater to the diverse needs of our community.	More active CBD. Greater housing choice.	<ul style="list-style-type: none"> - Facilitating higher density dwelling opportunities (but not "high rise"), through appropriate land use zoning and/or amended development controls, in targeted locations, adjacent to open space but away from direct water frontage, including: <ul style="list-style-type: none"> o Within the CBD, including redefined 'shop-top housing'; o Adjacent to Kingsford Smith Park, in the vicinity of Owen Street; o In the vicinity of the Trawler Harbour in West Ballina; and o In the vicinity of Treelands Crescent. - Identifying appropriate sites for additional seniors living developments, including multi-storey seniors housing in the CBD, and facilitating their development through precinct specific development controls and other measures. - Encouraging the construction of secondary dwellings ("granny flats") within existing low density residential areas. - Revisiting the viability and capacity for permitting increased opportunities for dual occupancy development in Ballina in five years' time. 	Plan Facilitate / Advocate
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At the Ordinary meeting held on 27 September 2018, Council resolved as follows:

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

A Gateway determination was issued on 6 November 2018 which allowed the planning proposal to proceed to public exhibition.

The planning proposal was placed on public exhibition from 10 April until 17 May 2019.

Thirteen public submissions were received during the public exhibition of the planning proposal.

The planning proposal was not referred to government agencies as none were nominated in the terms of the Gateway determination.

The purpose of this report is to inform Council of the submissions received from the community during the public exhibition and seek Council's direction regarding the finalisation of the planning proposal.

Key Issues

- Additional residential uses on certain sites in the B3 zone
- Impacts of tall buildings on sailing on the Richmond River
- Captain Cook Park and the active frontage concept
- Traffic and parking from additional residential development
- Percentage of inactive uses in an active frontage

Information

Amendment of planning proposal prior to public exhibition

The Gateway determination issued by the Department of Planning and Environment on 6 November 2018 required the planning proposal to be amended prior to agency or community consultation.

The amendment was required to clarify:

“that the relevant land parcels shown within the identified ‘sites’ on the Additional Permitted Use Map and Active Frontages Map are intended to be part of a potential building envelope for possible future redevelopment containing residential flat buildings, rather than as individual redevelopment sites for that land use.”

The planning proposal was subsequently amended prior to exhibition to indicate that:

Building envelopes for future residential flat building development proposals are required to be determined in accordance with the requirements of State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development and the associated Apartment Design Guide as well as relevant controls contained within the Ballina Shire Development Control Plan. In some cases individual lots may be able to be developed and in other cases several lots may be required to be consolidated to achieve compliance with applicable design controls.

These minor modifications were made to the planning proposal prior to public exhibition.

A copy of the planning proposal as publically exhibited is contained within Attachment 1 to this report.

Proposed Changes to the Planning Proposal

Staff recently attended a Planning Institute of Australia (PIA) seminar on planning for active streets.

Information obtained from the seminar suggests that non-active uses (such as lobbies and entrances, fire service access, vehicle access and parking), which are required on the ground floor to allow the normal function of the building, should not be allowed to dominate that frontage.

8.5 Planning Proposal - Residential Flat Development

One way to achieve this is to amend the proposed planning control to limit such non-active uses to not more than 50% of the frontage. This would improve the proposed clause.

This change is not considered to be of a type that warrants re-exhibition of the planning proposal.

To give effect to the limitation outlined above, an amendment to proposed Ballina LEP 2012 clause 7.11(4) to incorporate the 50% limit on non-active uses within the activation area is proposed as follows (marked bold):

“7.11 Active frontages

(4) Despite subclause (3), an active frontage is not required for any part of a building that is used for any of the following:

(a) entrances and lobbies (including as part of mixed use development),

(b) access for fire services,

(c) vehicular access and parking.

These uses are not to occupy more than 50% of the frontage.”

DCP Guidance on Active Frontages

The PIA seminar also provided some planning detail suitable for inclusion in a DCP.

Ballina Shire DCP 2012 Chapter 6a (Commercial Development in Ballina Town Centre) currently provides some guidance on active street frontages and this could be expanded to assist and guide applicants on what Council is trying to achieve.

Matters that are considered to be of benefit if included as DCP controls consist of the following:

1. Ideal activation frontage lengths typically range from 3 to 6 metres
2. The relatively small frontages of many River Street properties would assist activation and should where possible be retained
3. Maintaining a human scale through awning heights approximately 3.6 - 4 metres assists activation
4. Physical noise barriers (e.g. sound deadening materials) are required where residential accommodation is built above or near to activated uses
5. Uniformity of signage also assists activation.

It is proposed to incorporate the above matters into Ballina Shire DCP 2012 Chapter 6a (Commercial Development in Ballina Town Centre) as part of the next scheduled general DCP amendment process.

Sustainability Considerations

- **Environment**

The proposal is not likely to have significant environmental impacts beyond those already associated with the existing development controls that apply to the land.

8.5 Planning Proposal - Residential Flat Development

- **Social**

Increased residential development in the Ballina CBD is considered to assist in revitalising the locality and provide increased housing choice.

- **Economic**

Potential economic benefits should flow from redevelopment of under utilised sites. CBD shops (e.g supermarket, cafes, restaurants and pubs) should benefit from more residents within walking distance.

Legal / Resource / Financial Implications

The processing of the planning proposal has been undertaken in accordance with the requirements of the Environmental Planning and Assessment Act and Regulation.

Processing of the planning proposal can be accommodated within existing Council resources.

Council has been granted delegation, subject to conditions, to exercise the functions of the Minister for Planning under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* in respect to this planning proposal.

This will enable the processes required to complete the LEP to be undertaken by Council's delegate.

Consultation

The planning proposal was placed on public exhibition for a period of 37 days from 10 April until 17 May 2019.

The public exhibition process included letters being sent to 176 affected property owners and 131 adjoining owners, a notice in the Ballina Shire Advocate newspaper and information being displayed on Council's web site as well as at the public access points.

The Gateway determination did not require consultation with any Government agencies.

Thirteen submissions were received during the public exhibition period.


Copies of all submissions received are contained within Attachment 2 to this report. Five submissions were generally supportive of the planning proposal, four objected to it and four raised queries about it or offered comments.

A summary of the matters raised, along with the staff response are provided in the following table.

8.5 Planning Proposal - Residential Flat Development

Issue raised in submissions	Staff response
<p>Object to the planning proposal because it will result in more tall buildings on the waterfront which leads to wind impacts that in turn cause problems for sailing craft. These buildings are also considered ugly and detract from the Richmond River foreshore. Suggest that lower building heights would be better.</p>	<p>The planning proposal identifies two locations in Ballina CBD that have Richmond River frontage.</p> <p>The first location is along Fawcett Street, between Cherry Street and Fawcett Lane. This site is already occupied by residential flat buildings to six storeys, except for one two-storey building. Therefore, it is possible that a tall building could be erected on at least one of these sites.</p> <p>The second location is along River Street, between Kerr and Grant Streets. One of these sites has an approval for a tall building that is currently under construction. The remaining sites could be developed for buildings having heights up to 18 metres in accordance with current LEP height controls.</p> <p>Available CBD riverside sites are considered to be prime land which have been underdeveloped for a long period. The decision to permit tall buildings was made some time ago and is not part of this planning proposal. This planning proposal does not seek to amend the current height standard (18 metres) contained within Council's planning instrument.</p> <p>The concern about tall buildings having an impact on wind direction is a valid point and this is an issue that should be considered in the design and assessment phase of any new buildings. The visual impact of new buildings and setbacks from the river are also matters that can be addressed in the design and assessment phase based on applicable controls.</p> <p>The potential for impacts on wind and recreational sailing is a valid concern. The inclusion of residential flat buildings as an additional use is not a matter that in itself will alter the design or height of future buildings.</p> <p>The height, bulk and scale of any development will be assessed on merit having regard to applicable controls irrespective of whether the development is for shop top housing (already permitted) or residential flat buildings (proposed to be permitted).</p> <p>Recommendation: No change.</p>

8.5 Planning Proposal - Residential Flat Development

Issue raised in submissions	Staff response
<p>The Ballina Hotel buildings at 253 River Street, Ballina (Lot 4 Section 4 DP 758047 outlined in red in aerial photo extract below) should be identified in the mapping for additional permitted uses and active street frontages.</p> 	<p>The Ballina Hotel buildings are located approximately 'mid-block' on River Street (north side), between Grant and Kerr Streets. The site is not heritage listed but contains older buildings.</p> <p>This planning proposal is focused on River Street as a key commercial corridor, but specifically identified:</p> <ul style="list-style-type: none"> • Corner sites to promote redevelopment • Sites with older building stock • Lot clusters near corners that are awkward in shape or small in size • Sites along the Richmond River • Sites with a park boundary. <p>It may be that it is appropriate to extend the controls at a later date to 'mid-block' sites. At this initial stage it is considered more prudent to adopt a "wait and see" approach, before extending it to other areas. In this way the views of the community and development community may be able to be better gauged.</p> <p>Recommendation: No change.</p>
<p>Concern about traffic congestion in Fawcett, River and Cherry Streets being exacerbated by residential flat buildings and how parking will work on redevelopment sites.</p>	<p>If the changes to planning controls result in more residential flat buildings in the CBD, there will be more traffic. However, there are ways of dealing with more traffic such as traffic signals replacing roundabouts and changes to traffic flows or street parking. The current delays experienced in CBD streets are within reasonable levels of service for a CBD area.</p> <p>More residents in the CBD will result in changes, but the positive benefits are expected to outweigh the negatives.</p> <p>Parking is an issue for all substantial developments. Council is conscious that it is a limiting factor on some sites. However, there is an expectation that on-site parking will comply with Council's DCP.</p> <p>Recommendation: No change.</p>

8.5 Planning Proposal - Residential Flat Development

Issue raised in submissions	Staff response
<p>Captain Cook Park is nominated as having an active frontage for the lots that currently relate to River Street. An access way to the rear of these shops and the CWA Hall is not a public road and should be removed, giving this park land back to the community.</p>	<p>Ballina Shire Council in conjunction with Crown Lands prepared and adopted the Ballina Foreshore Master Plan (BFMP) in 2008.</p> <p>The BFMP made a number of recommendations about Captain Cook Park (Crown land with Council as the appointed Crown Land Manager). These included investigating additional commercial premises (e.g. cafes, food outlets) to increase passive surveillance, and formalising the current informal access to the rear of the shops.</p> <p>Creating an active frontage at what is currently the rear of the shops is one way of achieving the first of these recommendations. It is considered that this would improve the current situation.</p> <p>Eliminating the access would be opposite to the second recommendation and result in these shops not being able to collect waste or deliver goods other than via River Street. It would also stop vehicles accessing the CWA Hall in the park.</p> <p>Notwithstanding the above, the decision on road access into Captain Cook Park is separate to this planning proposal. That is, the planning proposal seeks to require active frontages as part of commercial development that fronts Captain Cook Park, with or without a roadway present. The aim of the change to the planning controls is to encourage orientation of front of house uses onto Captain Cook Park should the sites be redeveloped for commercial and residential flat building purposes.</p> <p>The special provision relating to active frontages has also been drafted so that it does not specifically reference road frontage. The location of required active frontages will be governed by a map.</p> <p>The Ballina Town Centre Structure Plan contained within Ballina Shire DCP 2012 Chapter 6a (Commercial Development in Ballina Town Centre) currently identifies the rear of the shops adjacent to Captain Cook Park as suitable for activation. It also identifies the informal vehicle access way as a 'desired laneway'. These aspects of the DCP are supported.</p> <p>Recommendation: No change.</p>
<p>More retailing in the CBD will create pressure on existing businesses.</p>	<p>This planning proposal will not alter the location of any zones and does not alter the current permissibility of businesses in the B3 zone in the CBD.</p> <p>Recommendation: No change.</p>

8.5 Planning Proposal - Residential Flat Development

Issue raised in submissions	Staff response
<p>Question how climate change will fit in with putting more people into the low-lying CBD area.</p>	<p>The CBD is located upon flood prone land and is impacted by the effects of sea level rise and flooding.</p> <p>Development within the CBD is subject to the controls contained within Ballina Shire DCP 2012 – Chapter 2b Floodplain Management. This DCP chapter adopts a risk-based approach to development within the floodplain. Of particular relevance is the incorporation of sea level rise criteria (40cm by 2050 and 90cm by 2100 above 1990 mean sea level) and increased rainfall intensities within modelling parameters used to determine minimum required floor levels.</p> <p>The DCP controls aim to ensure that proposed development is sufficiently robust to deal with sea level rise and flooding impacts, based on current standards, over the life of the development. This includes floor levels and structural soundness considerations.</p> <p>Recommendation: No change.</p>
<p>Why include sites that have modern buildings on them already?</p>	<p>It is agreed that sites with modern buildings are less likely to be redeveloped. However, some larger sites have only been partly developed and are included for completeness.</p> <p>In other cases, the site has been nominated in recognition of past approvals for residential flat buildings that were permitted but without active frontages. Any redevelopment would require the active frontage to be implemented.</p> <p>Further, the LEP is expected to operate for a substantial period of time so it is expected that any change resulting from the amendment will take time to occur and will likely be gradual. By way of comparison, the 1987 LEP (in it's entirety) operated for 25 years.</p> <p>Recommendation: No change.</p>
<p>Question what will occur if a development spans both an active frontage and an area not so nominated.</p>	<p>If a large development is proposed across multiple lots then consideration will need to be given at the DA stage to achieving the best outcome for the whole development.</p> <p>The critical issue is that whilst the planning proposal seeks to facilitate more residential development in the CBD, it also seeks to maintain street 'life' by not permitting residential uses at street level where activation is required. If residential uses were to be also permitted in these areas, then the need for privacy in residences, may result in the "vibrancy" associated with commercial or retail uses being lost.</p> <p>Areas that are not nominated for residential flat buildings can still have shop top housing but this can only occur above retail premises or business premises located on the ground floor.</p> <p>Recommendation: No change.</p>

In considering the submissions, a key point to note is that the outcome of the planning proposal will be to permit residential development at ground floor and in association with a broader range of land uses subject to meeting the active frontage requirements.

8.5 Planning Proposal - Residential Flat Development

The difference from the current provisions is that the current LEP only permits residential development in form of shop top housing above retail or business premises.

Overall, the change provides more flexibility in building design, composition and use to encourage residential development outcomes in particular circumstances.

No other controls such as those relating to height or land use permissibility are proposed. Building form and envelope controls under the DCP remain the same (noting that changes to the DCP to reinforce active frontage and amenity outcomes are foreshadowed above).

Options

The following options are presented for Council's consideration:

1. Council may resolve to proceed to finalise the planning proposal with the minor amendment to proposed clause 7.11(4) as outlined in this report.

This option would involve further updating the planning proposal to include the change to clause 7.11(4), public exhibition details, agency consultation information, details of Council decisions and standard LEP map sheets.

As Council has delegation to finalise the planning proposal, staff would then proceed to liaise with Parliamentary Counsel and the Department of Planning and Environment to give the planning proposal legal effect through amendment to Ballina Local Environmental Plan 2012.

This option is recommended.

2. Council may resolve to discontinue the planning proposal.

This option is not recommended on the basis that the planning proposal is considered to warrant support for the reasons cited above.

3. Council may amend the planning proposal in response to concerns raised in the submissions received during the public exhibition period.

This option is not recommended for the reasons outlined in the report.

4. Council may also defer consideration of the planning proposal pending a briefing or an additional report addressing any areas of concern.

RECOMMENDATION

1. That Council amend Planning Proposal BSCPP18/001 – Residential Flat Buildings and Active Frontages in the B3 Zone by incorporating the changes to clause 7.11(4) detailed in this report as well as additional details including consultation results and mapping.
2. That Council authorises the General Manager to proceed to finalise and implement the amended Planning Proposal BSCPP18/001 – Residential Flat Buildings and Active Frontages in the B3 Zone under delegated authority.
3. That DCP provisions be prepared for Ballina DCP 2012 Chapter 6a (Commercial Development in Ballina Town Centre) in relation to active street frontages for consideration as part of the next scheduled general update to the Ballina Development Control Plan 2012.

Attachment(s)

1. Planning Proposal BSCPP18/001 (Exhibition)
2. Submissions

8.6 Community Events and Markets on Public Land

8.6 Community Events and Markets on Public Land

Delivery Program Strategic Planning

Objective To present options to Council regarding the provision for markets on public land.

Background

This report outlines issues of regulatory inconsistency between local and State planning policy that may necessitate amendment to Council's policy arrangements for 'special events' on public land.

Special events are defined as follows for the purpose of the Ballina LEP 2012:

special event means a function or event open to the public or a section of the public and includes a ceremony, concert, cultural celebration, dance, exhibition, fair, festival, fete, gathering, market, open air theatre, parade, sporting event or street parade.

Special events on public land are identified as 'exempt development' for the purposes of the BLEP 2012 (Schedule 2) where such events meet the following criteria:

Special events on land vested in, controlled or managed by the Council (including public roads and reserves)

- (1) *Must not include the erection of a permanent structure on the land.*
- (2) *Must not include the clearing or disturbance of native vegetation.*
- (3) *Maximum period—52 days (whether or not consecutive days) in any period of 12 months.*

The requirements for Council's approval of special events, as owner/manager of the land, are outlined in Council's Special Events Policy (E05) and Markets on Public Land Policy (M01). These policies address, in general terms, the application and approval process, information requirements, tenure/licensing, insurance and risk management and dispute resolution.

Under the local planning framework established by Council community events on public land do not, in general terms, require development approval where undertaken within Council's policy requirements. These events are, however, subject to an internal assessment process undertaken by staff in accordance with Council's policies (referred to above) with the activity typically regulated by way of a licence for the use of public land.

In the administration of the policy an issue has been identified relating to the approval of temporary structures erected in association with such events (including markets).

The purpose of this report is to outline the nature of the issue and invite Council's consideration of options to determine the future regulatory approach to community events.

Key Issues

- Community events
- Temporary structures
- Regulatory approval

Information

Special events and markets (a form of special event) often involve the erection of temporary structures such as tents or marquees. In the case of markets, the erection of temporary structures forms part of the definition of a market, as per the following (Standard Instrument definition in the BLEP 2012):

market means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

During the implementation of the above arrangements for special events, an issue has been identified relating to a conflict with State Government Codes applying to the erection of temporary structures such as tents and marquees.

In summary, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* sets a number of development standards applying to the erection of tents and marquees in association with 'community events' (including markets).

In order to be exempt from development consent, the following criteria must be met:

"(a) for all tents, marquees and booths being used at the same time – the development must not have a total floor area exceeding 300m²"

Further, Clause 1.9(1) of the Exempt and Development Codes SEPP has the effect of switching off planning controls in local environmental plans, where the same form of development is addressed in both planning instruments.

As a consequence of the above, notwithstanding Council's local exempt and complying development provisions, where events involve the erection of temporary structures (such as tents and marquees) with a total combined floor area greater than 300m², development consent is required.

This issue only arises in relation to larger community events and markets involving more than approximately 30 stalls (assuming one standard 3m x 3m market 'tent' per stall).

The Shire's existing community events, including the Prawn Festival and Ballina Country Music Festival are (currently) below this threshold, meaning a development application has not been required.

8.6 Community Events and Markets on Public Land

Similarly, smaller markets such as the Ballina Farmers Market operating at Commemoration Park (at its current scale) are not affected. Should these events and markets grow beyond this threshold, a development application would be required.

Any relocation of existing larger scale markets such as the Lennox Head Community Market and Ballina's Canal Street Markets would likely require development approval to proceed at their current scale. Any new markets of a similar scale would also require development consent.

The additional requirements associated with having to obtain development consent, of the kind typically required in accordance with the *Environmental Planning and Assessment Act 1979*, compared with internal assessment and licensing requirements may pose a disincentive or barrier to some proposals.

Such additional requirements include:

- The need to have a town planning report prepared (costing in the order of \$2,500)
- The need for a traffic assessment and/or parking survey to be prepared (costing in the order of an additional \$2,500)
- Additional time to complete the statutory planning assessment required under the development assessment process.
- The payment of development application fees (estimated \$550).

Although development consent imposes a greater burden on the establishment of such events (in terms of additional cost and complexity), it is not unreasonable that larger scale activities be subject to a greater level of assessment.

The development assessment process also provides opportunities for community input, noting that certain special events and use of public land has the potential to impact on other users of public land and affect nearby residential amenity.

Council initiated development applications

Due to the social benefits associated with community events, Council may wish to consider taking on the responsibility for the preparation of development applications for key event sites in order to minimise the regulatory burden imposed on community events (above the exempt threshold) where they occur on public land under the management and control of Council.

In the first instance it is suggested that Council's effort be focused on market activities and similar events (although not to the exclusion of other activities where they can be reasonably incorporated into an application). Key sites in this regard include Missingham Park, Pop Denison Park, Kingsford Smith Park, Williams Reserve and Geoff Watt Oval.

Over time, Council could also consider extending its program of seeking overarching approvals for expected events to cover activities such as concerts and other forms of periodic performances and entertainment that may occur in Ballina Shire.

8.6 Community Events and Markets on Public Land

It is acknowledged that these measures would impose costs on Council in terms of development assessment resources and obtaining specialist town planning and traffic analysis advice (for markets the costs is estimated in the order of \$5,550 in each case) for each 'event site'.

However, this approach is efficient in terms of minimising the overall cost to the community, and in particular would avoid the need for multiple studies and development applications on an event by event basis for similar activities that vary only in minor terms, such as the days or hours of operation or regularity (for example).

Further, undertaking a single integrated development consent (and traffic assessment) for each site would enable the consideration of cumulative impacts and determine the maximum level of usage (for community events) appropriate for each site, such that adverse environmental impacts and impacts on the amenity on other users of the reserves and residents of neighboring areas may be minimised.

In terms of funding for the provision of town planning advice and traffic analysis, it is anticipated that one event site assessment could be funded per year from within the existing economic development budget.

Under this approach, proposals for events outside of these key event sites could be considered on merit. In such cases it is recommended that the proponents of such events be responsible for preparing the related development assessment documentation.

Update of Council requirements/policy

In terms of policy arrangements, it is recommended that Council's Ballina Shire Markets Guidelines be updated to reflect the threshold issues outlined, so that market organisers are aware of the circumstances where a development application is required.

Council's Markets on Public Land Policy (M01) was adopted on 28 July 2016 with a four year review period. It is recommended that the policy be updated in the 2019/20 financial year to clarify the development assessment requirements where temporary structures are involved. This would mean the policy is reviewed in advance of its next scheduled review being in July 2020.

Council's Special Events Policy is sufficiently broad and does not require amendment at this time.

Sustainability Considerations

- **Environment**

The consideration of potential environmental impacts, in a broad sense, associated with larger-scale community events will occur in the context of the development assessment process.

- **Social**

Providing for community events on public land supports community wellbeing through encouraging social interaction.

8.6 Community Events and Markets on Public Land

- **Economic**

Community events typically include elements of commercial activity that support economic diversity.

Legal / Resource / Financial Implications

The update of Council's markets guideline can be accommodated within existing resources. The effect of these changes is to clarify the regulatory requirements associated with markets that apply regardless of the wording of Council's policy documentation.

It is anticipated that the preparation of one development application (including traffic assessment) per year can be accommodated within existing resources. This work would be managed by Council's Strategic Planning Section utilising funding from the existing economic development budget or possibly other funding sources identified by the General Manager.

Consultation

No consultation with the community has been undertaken to date in relation to the matters identified in this report.

Should Council proceed to amend the Markets on Public Land Policy, the revised policy will be the subject of a public exhibition period.

Where development applications are prepared, these applications may be the subject of advertising to seek community feedback depending on the nature and scale of the proposed development. This will be determined in line with Council's adopted policy for the notification of development applications on a case by case basis.

Options

1. That Council seek development consent for community events (including markets) on key event sites located on public land under the control and management of Council and updates the Markets on Public Land Policy to address the matters raised in this report.

This option would involve the preparation, by Council, of one development application per year for key event sites. It is suggested that initially Council resolves to carry out this program for a period of three years.

It is recommended that the first application be for market and community event activities at Pop Denison Park to reflect the opportunities arising from the redevelopment of the park into a regional open space facility.

It is recommended that the priority for future years be determined in years two and three based on a review of need and prevailing circumstances.

Under this option, Council's Market on Public Land Policy (M01) would also be updated during the 2019/20 financial year.

8.6 Community Events and Markets on Public Land

This option is recommended on the basis that community events provide positive outcomes associated with social interaction and community cohesion. Requiring all community event applicants (of larger scale proposals) to submit individual planning reports and traffic assessments may discourage proposals which may have provided benefits to the community.

Further, it appears inefficient to require proponents to prepare multiple individual applications and traffic assessments where the details and impacts of the public events occurring on the same site are generally consistent.

2. That Council's Markets on Public Land Guidelines be updated in accordance with the information contained in this report.

This option would involve updating Council's Markets on Public Land Policy. Under this option, proponents of community events above the exempt development threshold would be required to submit a development applications on an individual basis.

This option is not recommended on the basis of the reasoning set out with respect to option one.

3. That Council take no further action.

This option is not recommended on the basis that at the very least Council's Market Guidelines document should be updated to clarify the requirements associated with the erection of temporary structures in association with larger scale community events (including markets).

RECOMMENDATIONS

1. That Council seek a single integrated development consent for markets and community events for three key event sites on a one per year basis for three years.
2. That the first development application be for market and community event activity at Pop Denison Park, with applications to be prepared in years two and three to be determined based on need and circumstances.
3. That Council's Market Guidelines be updated in accordance with the information contained in this report during the 2019/20 financial year.

Attachment(s)

Nil

8.7 Land Classification - Cnr Stoneyhurst Drive / Sunray Crescent

8.7 Land Classification - Cnr Stoneyhurst Drive / Sunray Crescent

Delivery Program Strategic Planning

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

Background

The subject land is described as Lot 1 DP 1252778 (Lot 1).

The land is located on the north-eastern corner of Stoneyhurst Drive and Sunray Crescent, Lennox Head.

Lot 1 has an area of 1,473m² and is zoned R3 Medium Density Residential under the provisions of Ballina LEP 2012.

A condition of development consent DA2016/741 requires that the landowner enter into a Deed of Agreement relating to the transfer of Lot 1 to the Council, at no cost, for the purpose of a future reservoir site.

The Deed of Agreement, dated 19 January 2019, requires that Lot 1 be transferred to the Council within 90 days of the registration of the Plan of Subdivision creating Lot 1.

The Plan of Subdivision was registered on 3 May 2019.

Lot 1 forms a part of the Epiq estate subdivision being developed by Clarence Property and is shown by the red outline in Figure 1.

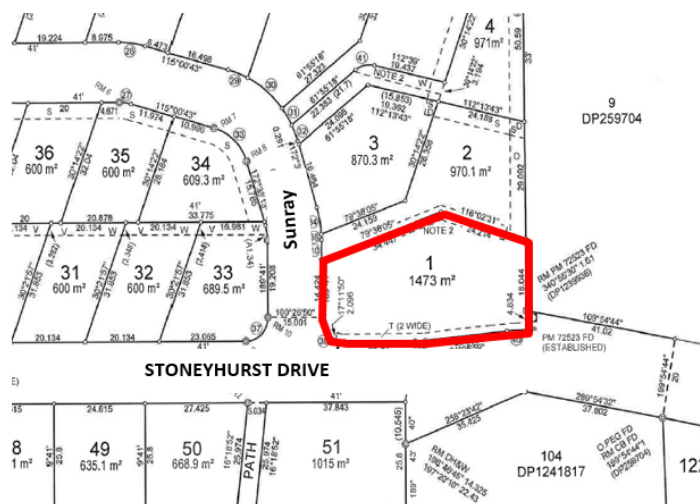


Figure 1 - Site Location Plan Lot 1

The purpose of this report is to invite Council to determine the appropriate classification of Lot 1 under the terms of the *Local Government Act 1993* (LG Act) once Lot 1 has transferred into Council's ownership (noting the notice of transfer has been executed by Council).

Part 2 of Chapter 6 of the LG Act regulates the management of public land.

8.7 Land Classification - Cnr Stoneyhurst Drive / Sunray Crescent

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

Key Issues

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

Information

Given the R3 Medium Density zoning applicable to Lot 1, its proposed use for water supply purposes as a reservoir site, and its pending transfer into Council’s ownership, the application of an operational classification is appropriate. An operational classification provides Council with greater flexibility regarding the future use of the land.

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

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

A public notice of the proposal to classify the subject land as operational land was provided in the Ballina Shire Advocate on 22 May 2019, in accordance with section 34 of the Act, with submissions invited until 24 June 2019.

The notification period in this case commenced prior to the land being transferred to Council’s ownership.

It is now necessary for the Council to confirm whether or not the land is to be classified as operational land under the terms of the LG Act once it is transferred into Council’s ownership.

Sustainability Considerations

- **Environment**
The proposed operational classification of Lot 1 is not expected to result in any negative environmental, social or economic outcomes. An operational land classification will provide Council with the maximum flexibility with respect to the future use of Lot 1 for water supply purposes.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

The classification of Lot 1 as operational land is a legal mechanism under the LG Act that enables Council to utilise the land for operational purposes. The proposed classification will not result in adverse resource or financial implications.

Consultation

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act* 1993. Public submissions were invited, with the closing date being 24 June 2019. No submissions in response to the notification were received.

Options

1. The Council may resolve to classify Lot 1 as operational land.

Under this option, the proposed classification of Lot 1 as operational land would take effect immediately upon the land being transferred into Council's ownership. This is the recommended option as it provides Council with the greatest flexibility with respect to the future use and development of this land.

2. The Council may resolve to classify Lot 1 as community land.

Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given that the land has been transferred to Council to facilitate its use for operational purposes, classifying the land as community land is not recommended.

The classification of Lot 1 as operational land as per option one is the recommended approach.

RECOMMENDATION

That Council classify the land identified as Lot 1 DP 1252778, located on the north-eastern corner of Stoneyhurst Drive and Sunray Crescent, Lennox Head, as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect upon the land being transferred into Council's ownership.

Attachment(s)

Nil

8.8 Electronic Gaming Machines

8.8 Electronic Gaming Machines

Delivery Program Strategic Planning

Objective To provide information on measures that councils are applying that seek to reduce the social impacts of poker machines and how these measures could be applied in Ballina Shire.

Background

At the January 2019 Ordinary meeting, Council resolved to receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government area and how these measures could be applied in the Ballina Shire. This report has been prepared in response to the Council's resolution.

In NSW Electronic Gaming Machines (EGMs) are controlled by the State Government through the NSW Gaming Machines Act 2001 (the Act). Liquor and Gaming NSW administers the NSW legislation.

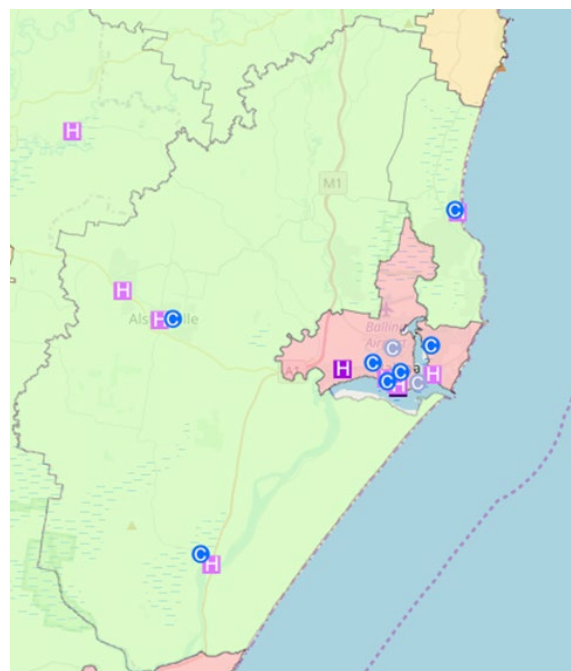
The Act contains a State wide cap of 99,000 electronic gaming machines and it also sets conditions that dictate the number of EGMs that can be located in an area at a licensed hotel or local club. There are also regulations associated with the transfer of EGM licenses from one venue to another.

Liquor and Gaming NSW sets caps on the number of EGMs that can be located in an LGA. All clubs and hotels in NSW are subject to an individual threshold on how many gaming machines they are permitted to operate. This is known as their Gaming Machine Threshold (GMT), against which they can purchase or lease Gaming Machine Entitlements (GME) from other venues.

Local Government Areas (LGAs) are categorised into bands (1-3) determined by gaming machine density, gaming machine expenditure and Socio Economic Indexes for Areas (SEIFA).

Band 3 areas are those areas that have high gaming machine density, high gaming machine expenditure and low SEIFA ratings.

The map right, sourced from Liquor and Gaming NSW, shows Ballina LGA has band 3 areas (pink colour) and band 1 areas (green colour).



8.8 Electronic Gaming Machines

Any application to increase the numbers of EGMs are assessed by Liquor and Gaming NSW.

This involves a process by which the applicant prepares a Local Impact Assessment (LIA). Assessments are categorised into Class 1 LIA or Class 2 LIA. Councils must be informed in writing that an application to increase the number of EGMs has been lodged. Councils may choose to comment on individual applications.

The aim of the LIA is to identify relevant gaming, social data and issues of concern in the local community so that Liquor and Gaming NSW can determine how additional gaming machines might benefit or impact a local community.

Limitations of Local Government to Influence

The capacity of local government to influence the number of, or impose restrictions on, EGMs in an LGA is restricted due to the conditions set out in the Act.

Section 209 of the Act states that;

A consent authority (e.g. Council) cannot:

(a) as a condition of any development consent under that Act, prohibit or otherwise regulate or restrict the installation, keeping or operation of approved gaming machines in a hotel or on the premises of a club or any other premises, or

(b) refuse to grant any such development consent to a hotel or club for any reason that relates to the installation, keeping or operation of approved gaming machines in a hotel or on the premises of a club.

This means that a council cannot include restrictions limiting or prohibiting EGMs in its planning instruments.

ClubGRANTS scheme

A component of the Act includes provision for local communities to receive some financial benefit from EGMs located in the LGA. The benefit comes in the form of the ClubGRANTS scheme. This program ensures that registered clubs in NSW contribute to support local community activities, sporting groups and health and community infrastructure across the state.

Under the Act, a tax rebate is made available to registered clubs of up to 1.85% of a club's gaming machine profits over \$1 million during a tax year, to be used for local projects.

A further 0.4% of a club's gaming machine profits over \$1 million is paid into the central ClubGRANTS Fund to be used for large scale projects or services associated with sport, health or community infrastructure across the State.

Hotels are not included as part of this scheme.

In the Ballina LGA the Ballina RSL Club and the Cherry Street Bowling Club reach the threshold to contribute to the ClubGRANTS Scheme.

8.8 Electronic Gaming Machines

There are three categories in the ClubGRANTS scheme and two of the categories ensure that a part of the net profit remains in the local area rather than NSW State Revenue.

- Category 1 - at least 0.75% of rebate may be achieved through expenditure on specific community welfare and social services, community development, community health services and employment assistance activities by community organisations in the local area.
- Category 2 - no more than 0.85% of rebate on expenditure on other community support outside the local community, including support services related to the 'core businesses of the club such as professional sport or maintenance of sporting facilities.
- Category 3 - a levy of 0.4% of profits to fund infrastructure projects across the State. While the legislative priority for this category includes areas of disadvantage and multicultural populations it also has a priority for rural and regional area.

Locally the ClubGRANTS (category 1 &2) scheme is managed by the local ClubGRANTS committee. Ballina Shire Council provides the secretariat and Council's General Manager is a member and Chair of the committee.

Numerous local community based organisations have benefited by receiving grants via the ClubGRANTS scheme.

In 2014 Ballina Shire Council was successful in securing a \$200,000 grant for the Lennox Head Cultural and Community Centre via the category 3 ClubGRANTS scheme.

Key Issues

- Council's capacity to influence
- Limitations on direct influence
- Impact of alternative indirect actions to reduce social impact of EGMs

Information

In NSW only Fairfield City Council and Northern Beaches Council currently have EGM policies. Given the restrictions set out in the Act the strategies and actions found in the respective policies are centred on advocacy and supporting programs aimed at reducing harm of EGMs.

Examples of actions include:

- Lobby the State Government to reduce the number of EGMs
- Lobby LGNSW to undertake research in harm minimisation strategies aimed at reducing gaming addiction
- Provide information on the harms of gambling on Council Website and
- Investigate options to establish restrictions on advertising of gambling on Council owned sites.

The following table outlines possible additional actions that Council may take in addressing issues associated with EGM.

8.8 Electronic Gaming Machines

Possible Action	Matters for Consideration
Council not seek funding from the ClubGRANTS scheme.	Council has previously received \$200,000 in funding from the ClubGRANTS scheme for the Lennox Head Cultural and Community Centre. This approach may impact on Council's capacity to deliver future projects that are reliant on grant funding.
Council no longer sponsors events which are held on premises where EGMs are located.	Council currently sponsors the annual Senior's concert and International Women's Day event. Both are held at the Ballina RSL club. Removing the sponsorship may put the events at risk of not continuing.
Direct Council staff not to attend meetings or work related functions at venues where EGMs are located.	Third parties use venues such as the Ballina RSL club to host regular meetings, forums and expos. Prohibiting staff from attending sessions may limit opportunities for professional development and Council's engagement in relation to issues of relevance to the local community.
Council will not conduct meetings/forums/workshops or the like at venues that have EGM's.	Council staff have on occasions conducted meeting/workshops at venues that have EGMs. Should this be implemented alternative venues will have to be identified. Historically, it has not always been possible to identify suitable venues that do not have EGMs.
Council determines that it will no longer provide donations or sponsorship to groups who operate EGMs.	The Cherry Streets Sports Club has previously received funding from Council to conduct the annual country music festival. This could significantly impact the viability of some events through funding or limitations on the availability of other suitable venues.
Include provision in leases or licenses that prohibit or limit the siting of EGMs in Council owned buildings.	Tenancy agreements would need to be renegotiated. This would apply to Club Lennox. This approach may have an adverse impact on the finances of tenants.
Ban or restrict advertising promoting EGMs or venues that have EGM in or on Council owned assets.	This may impact a number of community sporting groups that occupy council owned buildings from accepting advertising revenue from venues that operate EGMs. Groups that occupy Council owned facilities may seek additional support from Council to make up sponsorship shortfalls.

The possible actions listed above will very likely impact adversely on current Council programs and may well have negative implications for local community groups and organisations.

These possible actions will all need to be examined in detail to identify the impact on Council (and other groups) of implementing the actions should any be pursued further by Council.

Having regard to the above, and that regulation of gaming machines is fundamentally a State Government responsibility, implementation of a Council policy relating to EGMs is not recommended.

8.8 Electronic Gaming Machines

Number of EGMs in Ballina Shire

Liquor and Gaming NSW released data in May 2019 indicating that in the Ballina LGA there are 564 EGMs in operation. Of these 410 are located in clubs and 154 are located in hotels. The following table shows the number of EGMs located in clubs in the Ballina LGA and state ranking in terms of revenue. This data has been sourced from Liquor and Gaming NSW (see <https://www.liquorandgaming.nsw.gov.au/resources/gaming-machine-data>).

Club	Number of Machines as at 3 December 2018	State Ranking in terms of Revenue raised as at 3 December 2018
Ballina RSL Club Limited	231	79
Ballina Bowling & Recreation Club Ltd	80	204
Ballina RSL Bowling Club	27	614
Lennox Head Community Sports & Recreation Club	26	619
Alstonville Plateau Bowls and Sports Club Ltd	20	647
Ballina Golf & Sports Club	22	591
Wardell Sporting Recreation Club Limited Club Limited	4	1,013

Total profit from EGMs located in clubs for the Ballina LGA during the period 1 June 2018 to 30 November 2018 is shown in the following table.

Local Government Area	Net Profit	Tax	EGM numbers as at 3 December 2018	Premises Count
Ballina	\$9,183,656.60	\$1,574,888.07	410	7

Based on the above, on average each EGM in local clubs made a profit of \$22,399 over the period of 6 months.

Turning to hotels, the next table shows the number of EGMs located in hotels in the Ballina LGA and state ranking in terms of revenue.

Hotel	Number of Machines as at 7 January 2019	State Ranking in terms of revenue raised
Westower Tavern	30	312
Wollongbar Tavern	21	499
Federal Hotel	19	647
The Lennox Point Hotel	17	563
Slipway Inn	15	701
Henry Rous Tavern	15	825
Shaws Bay Hotel	14	815
Australian Hotel	12	829
Wardell On The River Hotel	11	967

8.8 Electronic Gaming Machines

Total profit from EGMs located in hotels for the Ballina LGA during the period 1 July 2018 to 31 December 2018 is shown in the following table.

Local Government Area	Net Profit	Tax	Electronic Gaming Machine numbers as at 7 2019	Premises Count
Ballina	\$4,614,909.17	\$1,266,395.76	154	9

On average each machine made a profit of \$29,966.94 over the period of 6 months.

A review of Council records indicates that in the last 15 years Council has received a total of two notifications that a request has been made to increase the number of EGMs in a Hotel or Club.

The data from Liquor and Gaming NSW indicates that all the venues in Ballina Shire with EGM licenses are operating at their allocated cap in terms of numbers of EGM.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
Addiction to EGMs can have a significant long term impact on an individual's ability to participate fully in community life.
- **Economic**
Implementing an EGM policy may have an economic impact on Council and possibly local community based organisations. The possible effect or otherwise are difficult to quantify without conducting a detailed analysis of possible measures.

Legal / Resource / Financial Implications

The NSW Gaming Machines Act 2001 (Act) provides the legislative framework for the management of EGMs in the State.

Council has no significant role in determining the number of EGMs in an LGA.

Consultation

Council staff have spoken directly with the officers responsible for the EGM harm minimisation polices at Fairfield City Council and Northern Beaches Council.

Each Council provided advice and copies of their relevant polices. In addition, Council staff have also made contact with Local Government NSW seeking information in relation to measures other councils in NSW have taken.

Council staff have also spoken with the NSW Campaigner from the Alliance for Gambling Reform.

This group provided information on resolutions other councils in NSW have moved aimed at reducing the number of EGMs operating in the LGAs.

Options

Option 1: Prepare an EGM Policy

The associated harms with gaming addiction have been well documented and have been found to be extremely damaging to individuals, families and communities. Having acknowledged the harms associated with EGMs the question remains what role, if any, should Council play in the management of EGMs.

If an EGM policy is to be developed it is likely that a number of Council policies will need to be amended to ensure consistency across policy documents. Decisions will also need to be made about the type of actions Council would seek to implement.

Given the Act places restrictions on Council's ability to influence the number, location and operation of the EGMs, and the State Government's responsibility with respect to gaming machines, a local harm minimisation policy may have little influence on the proliferation of EGMs. On this basis, this option is not recommended.

Option 2: Lobby the State Government to Increase Inspection and Compliance Efforts in Relation to EGMs in the Ballina LGA.

This option is centred on engaging with the State Government to encourage the responsible State agency (Liquor and Gaming NSW) to increase its efforts in monitoring and compliance activities with the aim of minimising the harm resulting from EGMs in Ballina Shire. This could be initiated by writing to the relevant Minister and local members of parliament.

It is suggested that any action taken by Council in this regard could also extend consideration to the Northern Rivers and the State more generally. With this in mind Council could submit a motion to the 2019 Local Government NSW Annual Conference to be held in October this year. This may also serve to raise the profile of the issue.

A suggested motion is as follows:

That LGNSW lobbies the NSW State Government to have Liquor and Gaming NSW undertake increased monitoring and compliance activity in relation to electronic gaming machines and for the outcomes of this increased activity to be reported on to inform local government of the action taken.

In considering a motion for the LGNSW conference, it is important to be cautious about a motion that might implicate further action from local government in the absence of a consideration of resource implications. The above motion is phrased to ask for action from the relevant State agency.

The above approach is recommended as it is commensurate with the responsibilities of local government and State government in relation to gaming machines.

8.8 Electronic Gaming Machines

Option 3: That Council take no further action

Under this option, Council would essentially note this report, with no further action to be taken by staff.

RECOMMENDATIONS

1. That Council writes to the Minister for Liquor and Gaming and local members of parliament to request that Liquor and Gaming NSW increase its efforts in electronic gaming machine monitoring and compliance activities with the aim of minimising the harm resulting from such machines in Ballina Shire.
2. That Council submit a motion to the 2019 Local Government NSW Conference consistent with the following:
That LGNSW lobbies the NSW State Government to have Liquor and Gaming NSW undertake increased monitoring and compliance activity in relation to electronic gaming machines and for the outcomes of this increased activity to be reported on to inform local government of the action taken.

Attachment(s)

Nil

8.9 Development Applications - Works in Progress - July 2019

8.9 Development Applications - Works in Progress - July 2019

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/223	5/5/2017	Ardill Payne & Partners	Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head	Awaiting additional information
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 103 residential lots and seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage – 20 North Creek Road, Lennox Head	Awaiting additional information
2018/74	13/2/2018	Ardill Payne & Partners	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
2018/432	26/7/2018	Ardill Payne & Partners	Two Lot Subdivision by way of a Boundary Adjustment to create one 1080m ² and one 776m ² allotments and construction of a shed on Proposed Lot 1 - 2 Old Pacific Highway, Newrybar	Awaiting additional information

8.9 Development Applications - Works in Progress - July 2019

2018/454	27/7/2018	Ardill Payne & Partners	Alterations and Additions to Existing Industrial Tenancy including use of a mezzanine floor - 3/7 Piper Drive, Ballina	Determination pending
2018/482	10/8/2018	P & G Smith	To establish a home business comprising a cooking class conducted within an existing holiday cabin – 841 Fernleigh Road, Brooklet	Determination pending
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
2018/597	26/9/2018	Ardill Payne & Partners	Establishment and operation of a water supply system including the construction of shed and associated works – Lot 15 Ellis Road, Rous	Referred to Government Departments & Awaiting additional information Councillor briefing to be held – date to be advised To be reported to Council for determination as per Council's resolution 251018/7 – 25 October 2018
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

8.9 Development Applications - Works in Progress - July 2019

2018/730	29/11/2018	Surf Life Saving Far North Coast	Operation of a kiosk from the ground floor of the Shelly Beach Surf Life Saving Club building, and associated building works – 11 Shelly Beach Road	Awaiting additional information
2018/741	5/12/2018	Ardill Payne & Partners	Stage 2 of a Seniors Housing Development (Alstonville BaptistCare/Maranoa) comprising 15 self-contained dwellings, tree removal, car parking, infrastructure and associated works - 15-19 The Avenue, Alstonville	Awaiting additional information
2018/746	5/12/2018	Ardill Payne & Partners	Alterations and Additions to the Ballina Central Shopping Centre, comprising the addition of two pad sites, new outdoor dining space, new commercial floor space and alterations to the car parking area, including a new car parking shade structure – 44 Bangalow Road, Ballina	Awaiting additional information
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	Being assessed
2018/753	7/12/2018	Newton Denny Chapelle	Staged Torrens Title Subdivision comprising 31 x residential lots, 1 x open space lot, extension to an existing drainage reserve and associated infrastructure works, earthworks and vegetation management works - Avalon Avenue, 55 Avalon Avenue, 93 Rifle Range Road, Wollongbar	Determination pending
2019/9	24/12/2018	Ardill Payne & partners	Construction of Ballina community Men's Shed – 36 Racecourse Road, Ballina	Awaiting additional information

8.9 Development Applications - Works in Progress - July 2019

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
2019/30	24/1/2019	Newton Denny Chapelle	Staged development involving the temporary use of the 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. The proposal also involves staged development of eight holiday cabins and associated amenities and infrastructure – 43 Tuckombil Lane, Tuckombil	On exhibition To be reported to Council for determination as per Council's resolution 240419/9 – April 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	Awaiting additional information

8.9 Development Applications - Works in Progress - July 2019

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	Awaiting additional information
2019/137	7/3/2019	P A Lowndes	Alterations/Additions to an existing Recreation Establishment - 1305 Eltham Road, Alstonvale	Awaiting additional information
2019/144	8/3/2019	Newton Denny Chapelle	To undertake renovation, refurbishments and upgrades to Summerland House Farm comprising upgrades to the visitor facilities and amenities and upgrades and expansion of the existing macadamia de-husking facility – 253 Wardell Road, Lynwood	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
2019/162	15/3/2019	Northern Rivers Land Solutions	Change of Use to Establish a Vehicle Repair Station – 24 Barlows Road, West Ballina	Awaiting additional information
2019/168	18/3/2019	Vision Town Planning	Change of Use to Establish a Recreation Facility (Indoor) Gym – 4/1 Stinson Street, 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	Awaiting additional information
2019/176	21/3/2019	Northern Rivers Land Solutions	Change of Use to Recreation Facility (Indoor) – Martial Arts Studio – 11 Russellton Drive, Alstonville	Being assessed

8.9 Development Applications - Works in Progress - July 2019

2019/187	28/3/19	TJ Chilcott	Demolition of an existing house and erection and Strata Title subdivision of a multi dwelling housing development comprising three x two bedroom dwellings and associated vegetation management works – 54 Commercial Road, Alstonville	Being assessed
2019/223	11/4/19	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 & awaiting additional information
2019/224	11/4/19	Betula Pty Ltd	Two lot Torrens Title Subdivision to create one x 45 hectare and one x 53 hectare allotments – Newrybar Swamp Road, Lennox Head	Being assessed
2019/233	15/4/19	Planners North	To establish trial fill embankments and installation of settlement monitoring plates– 550-578 River Street, West Ballina	Awaiting additional information
2019/269	30/4/19	Newton Denny Chapelle	Erection of Sports Amenity and Clubhouse Facilities at the Wollongbar Sports Fields – 80 Elvery Lane, Alstonville	Determination pending

8.9 Development Applications - Works in Progress - July 2019

2019/283	7/5/19	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	Being assessed
2019/301	10/5/19	Alstonville Agricultural Society Inc	To undertake site levelling and erection of security fencing - 22-40 Commercial Road, Alstonville	Awaiting additional information To be reported to Council for determination as per Council resolution 270619/19 - 1 July 2019
2019/302	10/5/19	Alstonville Agricultural Society Inc	Erection of machinery shed and relocation of existing storage shed - 22-40 Commercial Road, Alstonville	Being assessed To be reported to Council for determination as per Council resolution 270619/19 - 1 July 2019
2019/303	10/5/19	Alstonville Agricultural Society Inc	Proposed new roofed tiered seating and viewing platform extension adjacent to the rodeo arena area and new awnings to existing amenities building - 22-40 Commercial Road, Alstonville	Being assessed To be reported to Council for determination as per Council resolution 270619/19 - 1 July 2019
2019/309	17/5/19	Ardill Payne & Partners	Establishment of a multi dwelling housing development comprising the construction of two attached dwellings on a vacant Strata Lot and subsequent Strata Subdivision of the attached dwellings - 175B Tamar Street, Ballina	On exhibition
2019/316	20/5/19	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

8.9 Development Applications - Works in Progress - July 2019

2019/321	22/5/19	Ardill Payne & Partners	To undertake the construction of a new Clubhouse (Recreation Facility) at the existing Teven Golf Course - 1684 Eltham Road, Teven	On exhibition Awaiting additional information
2019/343	29/5/19	Ardill Payne & Partners	Erection of an Industrial Building for General Industrial Purposes - 54 North Creek Road, Ballina	Being assessed
2019/351	31/5/19	Ardill Payne & Partners	To undertake site filing - 29-31 Smith Drive, West Ballina	Referred to Government Department
2019/352	31/5/19	CS Luhrs	Vegetation management works comprising the pruning of one fig tree - 178 Fox Street, Ballina	Being assessed
2019/370	6/6/19	Newton Denny Chapelle	Construction of a bridge across Duck Creek - 163 & 253 Wardell Road, Lynwood	Referred to Government Department
2019/373	7/7/19	R & J Harris Consulting P/L	Erection of a Business Identification Sign - 540 Pimlico Road, Pimlico	On exhibition
2019/376	11/6/19	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	On exhibition
2019/382	11/16/2019	Ardill Payne & Partners	Two lot subdivision to create one 1321sqm and one 951sqm allotment (below the 1200sqm min lot size development standard) and demolition of existing garage and associated works - 5-9 Sapphire Court, Lennox Head	On exhibition
2019/388	14/06/2019	Civil Concepts Pty Ltd	Erection of a multi dwelling housing development comprising three two storey dwellings and associated works - 62 Avalon Avenue, Wollongbar	On exhibition
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 - Tamarin Drive & Ballina Heights Drive, Cumbalum	On exhibition

8.9 Development Applications - Works in Progress - July 2019

2019/407	20/06/2019	Byron Bay Tree Services	Vegetation management works – 300 Old Byron Bay Road, Newrybar	Being assessed
2019/425	27/06/2019	Northern Rivers Land Solutions	Erection of Temporary Advertising Signage associated with Sales Office – 505 North Creek Road, Skennars Head	Being assessed
2019/429	28/06/2019	Hudsons Circus Pty Ltd	To hold a Circus on Crown Land from 21 October 2019 to 4 November 2019 with associated temporary structures and advertising signage – 500-505 River Street, Ballina	Being assessed
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	Being assessed

8.9 Development Applications - Works in Progress - July 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 Appeal. Council is not a participant in the Appeal.
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	Being assessed
2017/600	30/10/2017	Newton Denny Chapelle	Expansion of an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	Being assessed

8.9 Development Applications - Works in Progress - July 2019

2018/321	13/6/2018	PalmLake Works Pty Ltd	Staged erection of an extension to an existing Seniors Housing Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising of 156 self-care dwellings, recreation facilities and associated car parking, infrastructure works, site filling and associated works – 120 North Creek Road, Ballina	Subject to Land and Environment Court Appeal – Hearing Dates 15-22 July 2019
2018/756	11/12/2018	Newton Denny Chapelle	Construction of a Multi-Purpose Hall at Emmanuel Anglican College, comprising two indoor sports courts, associated gymnasium and amenities, a stage and retractable seating. The proposed building is to front River Street, is to have a maximum height of 12.6 metres and is to be used during and outside school hours, 7 days a week. The development also involves an increase in student numbers, earthworks, infrastructure works, car parking and vegetation management works – 62 Horizon Drive, West Ballina	To be reported to Northern Regional Planning Panel (NRPP) on Thursday 25 July 2019

Major Development (Determined by Minister)

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

RECOMMENDATION

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

Attachment(s)

Nil

9.1 Use of Council Seal

9. Corporate and Community Division Reports

9.1 Use of Council Seal

RECOMMENDATION

1. That Council affix the Common Seal to the following documents.

US 19/05	<p>Ballina Shire Council Lease to R Mamone for Lot 4 DP 1195515, 18 Fawcett Street, Ballina for a period of five years with a five year option.</p> <p>Explanation - R Mamone has been in occupation of the premises since 2014. The current lease expired on 22 April 2019 with Mr Mamone agreeing to enter into a new lease with Council at the asking rent for a further term of five years with a five year option. The rental will be CPI reviewed until exercise of the five year option, which will be subject to a market rent review.</p>
US 19/06	<p>Deed Of Agreement – Local Court Criminal Proceedings of Ballina Shire Council ats Ballina Sands Pty Ltd</p> <p>Explanation – Deed to establish an agreement on the Plea of Sentence, the Imposition of a Conditional Release Order, the payment of the Costs Order, to define the meaning of the word “Annual” in annual extraction for conditions 3 and 40 of development consent DA 2013/162 and to define the Nominated Bulking Factor for conditions 3 and 40 of development consent DA 2013/162 to finalise the legal proceedings for the over-extraction of annual limits within the Ballina Sands Quarry, Newrybar Swamp Road, Lennox Head</p>

2. That Council as Crown Land Manager, affix the Common Seal to the following documents.

Doc No.	Crown Reserve No.	Occupant (Lessee)	Renewed Tenure
1	R57670 LUMLEY PARK	Alstonville Tennis Club Inc	12 month short-term Licence under s2.20 of the <i>CLM Act</i> at statutory minimum rental
2	R83963 SAUNDERS OVAL	Ballina Community Gardens	12 month short-term Licence under s2.20 of the <i>CLM Act</i> at statutory minimum rental
3	R82927 WILLIAMS RESERVE	Lennox Head Combined Sports Association	12 month short-term Licence under s2.20 of the <i>CLM Act</i> at statutory minimum rental

9.1 Use of Council Seal

4	R82164 KINGSFORD RESERVE	SMITH	Ballina Seagulls Rugby League Football Club	12 month short- term Licence under s2.20 of the <i>CLM Act</i> at statutory minimum rental
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Explanation

The *Crown Land Management Act 2016 (CLM Act)* has provided a new regime for the management of Crown land. From 1 July 2019, Reserve Trusts managed by Council will cease to exist, and all assets, liabilities, tenures and contracts of Reserve Trusts automatically transfer to Council as a Crown Land Manager. All current leases and licences granted by the Reserve Trust continue under the CLM Act for the remainder of the term. Council will no longer hold separate Reserve Trust Meetings and all decisions will be made in Ordinary meetings. When making decisions about crown reserves, Council must comply with the requirements of the *CLM Act*, the *Local Government Act 1993* and Commonwealth and NSW Native Title legislation.

Council is not able to issue longer tenure at present due to the transitional arrangements associated with the *CLM Act*. After satisfying legislative requirements, such as the required compliant plans of management, Council will be in a position to grant three year tenures in accordance with Council's Community Property Leasing and Licencing Policy.

The proposed short-term licences outlined comply with applicable provisions of the *Native Title Act 1993 (Cth)* being a valid future act under s24JA. As the proposed act (a short-term licence) does not involve the construction or establishment of a public work there is no notification requirement.

Attachment(s)

Nil

9.2 Investment Summary - June 2019

9.2 Investment Summary - June 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 report (setting out all money Council has invested), to be presented at the Ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of June 2019.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investment Policy. The balance of investments as at 30 June was \$86,538,000. There was an increase of \$6,000,000 from May. Council's investments, as at 30 June, are at an average (weighted) rate of 2.67%, which is 1.37% above the 90 Day Bank Bill Index of 1.30%.

The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 June 2019, was \$3,299,857. This balance is lower than the balance of \$8,670,659 as at 31 May 2019.

The combined movement of investments and bank balances was an increase of \$629,198.

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

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

* Reflects reserves held as at 30 June 2018.

9.2 Investment Summary - June 2019

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating *	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.2%	2%
Rated Institutions							
AMP Bank	Yes	A	6,500	8,500	20%	9.8%	
Auswide Bank	No	BBB	1,000	4,000	10%	4.6%	
Bank of China	Yes	A	12,000	12,000	20%	13.9%	
Bank of Queensland	Yes	BBB+	4,000	7,000	10%	8.1%	
BankWest	Yes	AA-	10,000	5,000	20%	5.8%	
Bendigo & Adelaide Bank	No	BBB+	3,000	5,000	10%	5.8%	
Beyond Bank	No	BBB	2,000	2,000	10%	2.3%	
Commonwealth Bank of Australia	Yes	AA-	5,000	5,000	20%	5.8%	
Credit Union Australia	No	BBB	4,100	4,100	10%	4.7%	
Defence Bank Ltd	No	BBB	3,500	3,500	10%	4.0%	
Greater Bank Limited	No	BBB	2,000	2,000	10%	2.3%	
Heritage Bank	No	BBB+	2,000	0	10%	0.0%	
ME Bank	No	BBB	5,750	5,750	10%	6.6%	
My State Bank Ltd	No	BBB+	4,500	4,500	10%	5.2%	
National Australia Bank Newcastle Permanent Bld Society	Yes	AA-	0	3,000	20%	3.5%	
Teachers Mutual Bank Limited	No	BBB	1,700	1,700	10%	2.0%	
Westpac Banking Corporation	Yes	AA-	7,000	7,000	20%	8.1%	98%
Total			80,538	86,538	100%		
Credit Rating Summary as per the Investment Policy				Maximum Allowed	Value	Value	%
				%	Value	Previous	Current
A- or Higher				100%	86,538	41,500	40,500
BBB and BBB+				60%	51,923	39,038	46,038
Total						80,538	86,538
						100%	100%

B. Summary of Investments Fossil Fuel Aligned

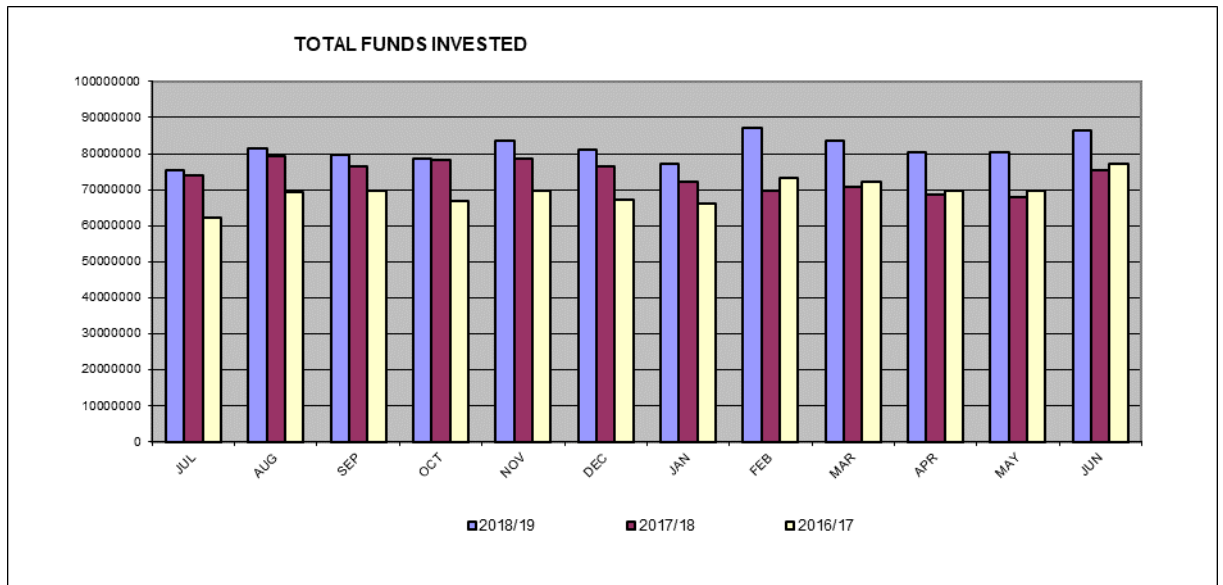
	Previous Month	Current Month
Fossil Fuel Aligned	47,288 59%	49,288 57%
Non-Fossil Fuel Aligned	33,250 41%	37,250 43%
Not Classified	0 0%	0 0%
Total	80,538 100%	86,538 100%

Classification based on advice from 'Market Forces'.

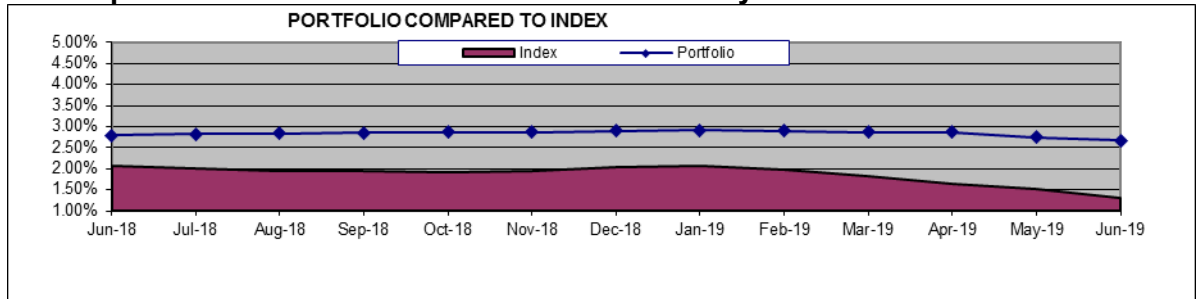
9.2 Investment Summary - June 2019

Of the six new investments totaling \$14m, in the month of June, three, totaling \$6m, were with non-fossil fuel aligned institutions. The ability to take on such investments depends on the rates on offer on any day, as well as abiding with Council's parameters, which require no more than 60% of total investments to be in the BBB and BBB+ category. Generally speaking, the non-fossil fuel aligned investments sit within that category. As shown in Table A, Council has 53% of total investments in the BBB and BBB+ category.

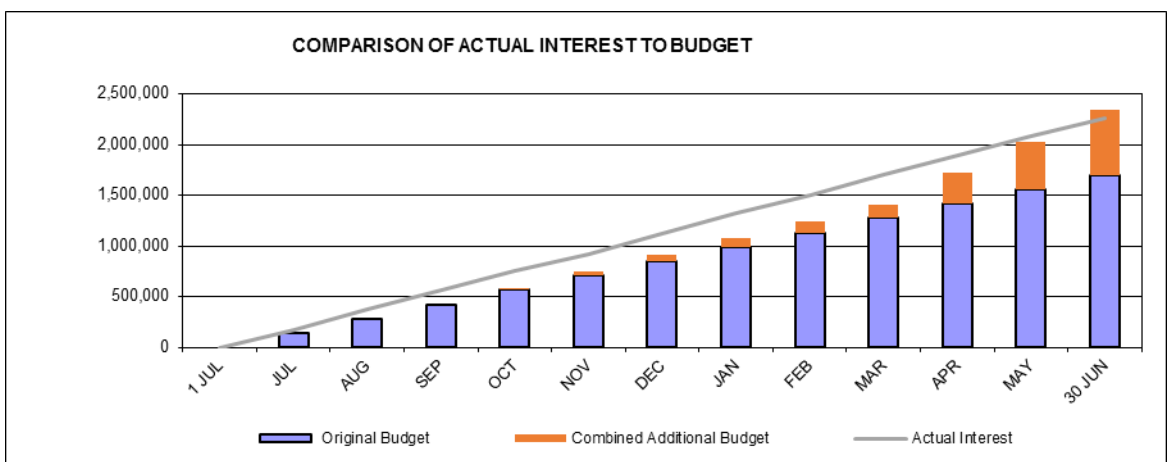
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



9.2 Investment Summary - June 2019

F. Investments held as at 30 June 2019

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.58%	Perpetual	1,788	1,611
17/06/16	Commonwealth Bank of Australia	FRC	2.35%	17/06/21	1,000	1,000
30/06/16	Commonwealth Bank of Australia	FRC	2.81%	30/06/21	1,000	1,000
26/07/16	Commonwealth Bank of Australia	FRC	2.61%	26/07/21	1,000	1,000
30/08/16	Greater Bank Limited	FRN	2.89%	30/08/19	1,000	1,001
24/02/17	Greater Bank Limited	FRN	2.89%	24/02/20	1,000	1,001
29/06/17	Teachers Mutual Bank Limited	FRN	2.63%	29/06/20	1,000	1,006
03/08/17	Westpac Banking Corporation	FRC	2.60%	03/08/22	2,000	2,000
18/08/17	Westpac Banking Corporation	FRC	2.60%	18/08/22	1,000	1,000
09/11/17	ME Bank	FRN	2.89%	09/11/20	750	754
06/02/18	Newcastle Permanent Bld Society	FRN	2.95%	06/02/23	700	707
02/07/18	Teachers Mutual Bank Limited	FRN	3.14%	02/07/21	700	704
16/08/18	AMP Bank	TD	2.85%	16/08/19	1,000	1,000
28/08/18	Defence Bank Ltd	TD	2.85%	27/08/19	1,000	1,000
06/09/18	Newcastle Permanent Bld Society	FRN	2.95%	06/02/23	1,000	1,009
07/09/18	ME Bank	TD	2.75%	07/09/19	1,000	1,000
10/09/18	AMP Bank	FRN	2.45%	10/09/21	1,500	1,500
02/10/18	Bank of China	TD	2.86%	01/10/19	2,000	2,000
15/10/18	Bank of China	TD	2.83%	10/10/19	2,000	2,000
18/10/18	AMP Bank	TD	2.83%	17/10/19	1,000	1,000
02/11/18	My State Bank Ltd	TD	2.85%	01/11/19	2,500	2,500
06/11/18	Bank of China	TD	2.86%	06/11/19	1,500	1,500
08/11/18	Defence Bank Ltd	TD	2.85%	07/11/19	1,500	1,500
22/11/18	Defence Bank Ltd	TD	2.85%	22/11/19	1,000	1,000
27/11/18	Bank of China	TD	2.87%	26/11/19	2,000	2,000
29/11/18	Bank of China	TD	2.88%	29/11/19	3,000	3,000
03/12/18	Credit Union Australia	TD	2.86%	03/12/19	3,500	3,500
24/12/18	Bank of China	TD	2.87%	23/12/19	1,500	1,500
11/01/19	Commonwealth Bank of Australia	FRN	2.83%	11/01/24	1,000	1,014
15/01/19	My State Bank Ltd	TD	2.86%	15/01/20	1,000	1,000
05/02/19	Bendigo & Adelaide Bank	TD	2.80%	06/08/19	3,000	3,000
08/02/19	Westpac Banking Corporation	FRC	2.69%	08/02/24	2,000	2,000
12/02/19	Beyond Bank	TD	2.81%	11/02/20	2,000	2,000
19/02/19	AMP Bank	TD	2.85%	01/11/19	2,000	2,000
21/02/19	Newcastle Permanent Bld Society	FRC	2.61%	22/02/21	2,000	2,000
22/02/19	Newcastle Permanent Bld Society	FRC	2.55%	22/02/21	1,000	1,000
06/03/19	ME Bank	TD	2.21%	07/05/19	3,000	3,000
06/03/19	Credit Union Australia	FRN	2.64%	06/09/21	600	605
11/03/19	AMP Bank	TD	2.80%	11/09/19	1,000	1,000
13/03/19	Auswide Bank	TD	2.85%	17/09/19	1,000	1,000
26/03/19	BankWest	TD	2.00%	04/07/19	2,000	2,000
26/03/19	BankWest	TD	2.00%	04/07/19	1,000	1,000
26/03/19	Commonwealth Bank of Australia	TD	2.38%	04/07/19	1,000	1,000
26/03/19	My State Bank Ltd	TD	2.70%	26/09/19	1,000	1,000
24/04/19	Bank of Queensland	TD	2.29%	04/07/19	4,000	4,000
30/04/19	Westpac Banking Corporation	FRC	2.49%	26/07/21	1,000	1,000
30/04/19	Westpac Banking Corporation	FRC	2.49%	26/07/21	1,000	1,000
17/05/19	AMP Bank	TD	2.60%	13/11/19	2,000	2,000
13/06/19	BankWest	TD	1.95%	16/07/19	2,000	2,000
19/06/19	Auswide Bank	TD	2.20%	17/12/19	3,000	3,000
24/06/19	Bank of Queensland	TD	2.10%	23/10/19	3,000	3,000
24/06/19	Bendigo & Adelaide Bank	TD	1.95%	21/11/19	2,000	2,000
24/06/19	ME Bank	TD	2.00%	29/11/19	1,000	1,000
28/06/19	National Australia Bank	TD	2.00%	07/01/20	3,000	3,000
	Totals				86,538	86,412
	CDA = Cash Deposit Account	FRN = Floating Rate Note				
	FRTD = Floating Rate Term Deposit	TD = Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

9.3 Donations - Community and Sporting Groups - 2019/20

9.3 Donations - Community and Sporting Groups - 2019/20

Delivery Program Communications

Objective To allocate the community donations and sporting groups for 2019/20.

Background

Council has two policies where submissions are called for each year, from the community, for funding assistance being:

- Donations - Financial Assistance
- Donations – Sporting Groups – Capital Works Assistance

The 2019/20 Operational Plan includes the following allocations for these programs:

- Donations - Financial Assistance - \$83,000
- Donations - Sporting Groups – \$30,000

In accordance with a resolution from the June 2019 Ordinary meeting, a number of Councillors met on 2 July 2019 to identify a preferred allocation of the available funds, based on submissions received during the preparation of the 2019/20 Operational Plan.

The purpose of this report is to consider the recommendations from that meeting and confirm the allocation of the donations for 2019/20.

Key Issues

- Fair and equitable allocation of Council monies

Information

Details of the submissions received for donations were distributed to all Councillor iPads for the July meeting.

The submissions are lengthy and have not been reproduced within this business paper.

A complete copy of all the submissions will be available at the Council meeting, or if a hard copy is required prior to the meeting, please contact the General Manager's office.

Donations - Financial Assistance

Table one provides a summary of the various submissions for general donations and the final column is the Councillor recommendations for approval.

9.3 Donations - Community and Sporting Groups - 2019/20

Table One: Donations – Financial Assistance Program – Submissions

Ref	Applicant	Project / Activity	Amount Requested (\$)	Amount Approved (\$)
1	Ballina Junior Chamber of Commerce	Cost of building mobile 'book exchanges' and a 'boomerang bag' bay in River Street, Ballina	890	300
2	Women's Resource Centre	Venue hire at the Kentwell Community Centre to hold meetings	832	0
3	The Big Scrub Orchestra/Northern Rivers Community Gateway	Costs associated with providing learning, recording and performing for young, disadvantaged people at Ballina Public School	15,000	0
4	Lifeball *	Venue hire for members of Lifeball to carry out their activities	3,000	1,000
5	Autism Spectrum Australia (Aspect)	Purchase of an interactive whiteboard for St Joseph's Primary School, Alstonville	5,888	0
6	Ballina and District Local History Group	Operating costs required to incorporate and operate a new community group	500	500
7	Lennox Arts Board Inc.	Venue hire at the Lennox Community Centre to hold cultural events during 2019/20	3,600	3,600
8	Rotary Club of Ballina-on-Richmond Inc.	Costs for traffic control/plan required to hold White Ribbon Day Walk	4,000	500
9	Oceanic Research Institute Limited	Insurances and purchase of a computer	3,663	0
10	Northern River Dirty Wheels Mountain Bike Club	Purchase of two traffic counters and tools to assist with maintenance of the Mountain Bike Park	5,000	0
11	Ballina Salt & Light Inc. T/A Ballina Community Men's Shed *	Seeking waiver of developer charges for DA 2019/9	14,736	Subject to a separate report
12	Riding for the Disabled Association	Costs associated with sending the coaching team to a compulsory training workshop	3,500	3,000
13	Ballina Schools Historical Society	Costs associated with mounting student honour boards from the old Ballina High School and spotlights in the museum	942	500
14	Tweed Byron & Ballina Community Transport Inc.	Costs associated with relocating to the FSG premises	7,500	0
15	St Vincent De Paul Society	Purchase of commercial grade washers and dryers for 64 Treelands Crescent (formerly Harmony House)	13,176	0
16	Sing Australia Ballina *	Venue hire at the Northlakes Community Centre to hold meetings	3,760	2,000
17	Women in Super Mother's Day Classic - Ballina	Purchase of new banners	1,600	1,000
18	Ballina & District Orchid Society	Venue hire costs to hold competitions	600	600
19	Ballina & District Ministers Associations	Costs associated with holding the Riverside Carols event	5,000	5,000
20	Ballina Coastcare Inc.	Costs for land care maintenance and registering a new trailer	317	317
21	TS Lismore Australian Navy Cadets (rates)	2019/20 rates and charges, 26 Endeavour Close, Ballina (estimate)	8,933	0
22	Ballina Bridge Club Incorporated	Costs associated with hosting the Mahjong Festival in 2020	2,000	500
23	Ballina Hospital Auxiliary	Venue hire at the Ballina Jockey Club for the annual craft show	2,500	1,200
24	Rainbow Region Dragon Boat Club	Costs to run a Level 1 Official course	400	400
25	Lennox Longboarders Club	Replace shade tents	1,756	900
26	Ballina Lions Club Inc.	Costs associated with running the 2019 Annual Fun Run Walk	1,000	1,000

9.3 Donations - Community and Sporting Groups - 2019/20

Ref	Applicant	Project / Activity	Amount Requested (\$)	Amount Approved (\$)
27	Air Force Association Ballina Branch Inc.	Cost to provide shade for members of the public attending the Battle for Australia and Battle of Britain service	790	790
28	Ballina Jet Boat Surf Rescue Inc.	Consumables and maintenance items for rescue vehicles	3,000	3,000
29	Ballina Jet Boat Surf Rescue Inc.	Insurances and renewals for rescue vehicles	6,000	6,000
30	Tintenbar School of Arts Inc.	Reimbursement for works carried out on the road leading up to the Tintenbar Hall	7,172	0
31	Ballina Country Music Club Inc.	Costs associated with holding fundraising events to raise funds for Ballina SES	3,000	2,000
32	Ballina Shire Concert Band Inc.	Purchase of two new wall mounted air conditioners for the band practice room	2,000	2,000
33	Bundjalung Connections	Costs associated with women's team participation in the NSW Aboriginal Knock Out Carnival in October 2019	not stated	0
34	Ballina Al-Anon Family Group	Venue hire at the Richmond Room for meetings	780	780
35	Ballina Breast Cancer Support	Venue hire at the Kentwell Community Centre for meetings	360	360
36	Grow Inc.	Venue hire for meetings	2,080	0
37	Our Kids	Labour costs to provide temporary fencing for the Kids Day out event in 2020 as required by Council	1,000	1,000
38	Lennox Head Residents Association Inc. Boomerang Bags	Venue hire for the group to make environmental friendly bags	528	330
39	Lennox Head Residents Association Inc. Coast Care Committee	Costs associated with carrying out land care	1,950	1,950
40	Lennox Head Residents Association Inc. venue hire	Venue hire for monthly meetings	264	264
41	Lennox Head Combined Sports Carols Committee	Costs associated with holding the Christmas Carols in the Park at Lennox Head	7,000	5,000
42	Veterans Advocacy Centre Inc.	Purchase of a more cost effective telecommunication system	6,880	2,500
43	Little Dragons Integrated Community Group (Ms Suzanne Whiteman)	Subsidise costs associated with holding community events	990	0
44	Lennox Head Landcare	Purchase of a gazebo for protection during community plantings	750	750
45	Lions Club of Lennox Head	Costs associated with fundraising for various charities	1,839	1,000
46	Alstonville Baptist Church	Costs associated with holding the Christmas on the Plateau event	7,000	5,000
47	Lennox Community Gardens Inc.	Contribution towards the community garden's water charges	800	0
48	Sprung Integrated Dance Theatre Inc.	Costs associated with the 2019 audit against the National Disability Insurance Scheme Practice Standards	2,000	2,000
49	Alstonville Plateau Historical Society Inc. (rates)	2019/20 rates and charges for Crawford House (estimate)	4,475	4,475
50	Lennox Head Residents Association Inc. Heritage Committee	Venue hire at the Lennox Community Centre to hold meetings	447	447
51	Westpac Life Saver Rescue Helicopter *	Costs associated with running the Lennox Head Community Markets	5,000	1,200
52	Wollongbar Community Preschool Inc.*	Cost of constructing and installing an outdoor shed to store equipment	1,700	1,000

9.3 Donations - Community and Sporting Groups - 2019/20

Ref	Applicant	Project / Activity	Amount Requested (\$)	Amount Approved (\$)
53	Cabbage Tree Island RLFC	Accommodation and travel costs for teams selected for the Knock Out Carnival	Not stated	2,000
54	Rous Mill & District Memorial Hall Inc.	Costs towards painting interior fixtures at the Hall	1,500	1,000
55	Meerschaum Vale Hall Committee	Costs towards restoring timber floor and stage in the Hall	5,000	1,000
56	Alstonville Maguires Creek Landcare	Costs associated with land care maintenance	1,000	1,000
57	Wardell Sporting Recreation Club Ltd (Wardell Grounds Trust)*	Purchase zero turn Ferris 72in cut mower for maintaining the grounds at the Club	21,000	0
58	Tibouchina RSL Day Club	Venue hire at the ALEC and other ongoing costs	20,000	2,500
59	Rous Public School	Costs associated with holding the annual bonfire for the community	2,400	0
60	Ballina RSL Sub Branch	Costs associated with centenary celebrations	2,260	2,000
61	Ballina Charity Quilters	Costs associated with venue hire Northlakes Hall	1,560	1,560
	TOTAL			75,223

Additional information on a number of the requests is as follows.

(4) Lifeball – subject to Lifeball relocating from the Lennox Head Community Centre to the Ballina Indoor Sports Centre.

(11) Ballina Community Men’s Shed – subject to a separate report to Council pending development consent.

(16) Sing Australia – extend invitation to Sing Australia to sing at the monthly Council meetings.

(51) Westpac Life Saver Helicopter – for the purpose of waste disposal fees.

(52) Wollongbar Community Preschool – subject to relevant planning approvals.

(27) Wardell Sporting and Recreation Club – can apply in 2020 as mower donated to them in 2016 has a five year life.

Two late community donation applications were received as follows:

1. Ballina Lighthouse RSL Day Care Club (received 4 July 2019).

The donation request is for assistance with venue hire for the weekly Richmond Room booking and is the difference between 2018/19 fees and 2019/20 venue fees. The donation will amount to \$1,920 for the year.

2. Northlakes Sewing Group (received 3 July 2019)

The donation request is for assistance with venue hire for the monthly Northlakes Hall booking and is the difference between 2018/19 fees and 19/20 venue fees. The donation will amount to \$715 for the year.

9.3 Donations - Community and Sporting Groups - 2019/20

Both of these donations were recommended for approval at the Councillor meeting. Copies of the applications are included as attachments to this report.

Donations – Sporting Groups – Capital Works Assistance

Table Two outlines applications received for the community sporting groups capital works assistance program.

Table Two: Submissions – Sporting Groups - Capital Works Assistance

Ref	Applicant	Project / Activity	Amount Requested (\$)	Amount Approved (\$)
1	Ballina Hockey Club Inc.	Supply and installation of roof-top ventilators on the clubhouse roof above the canteen and storerooms	1,410	1,410
2	Rous Mill Recreation Reserve	Costs towards renovating the existing tennis shed on Rous Cemetery Road	25,000	0
3	Fripp Oval Sports Club Inc.	Purchase of a 6kw solar system for the Club	3,000	3,000
4	Ballina Rugby Union Club	Assistance towards costs of works associated with development consent DA 2018/153	10,000	10,000
5	Alstonville Tennis Club	Costs to replace two courts at the Alstonville Tennis Club with synthetic grass	30,000	0
6	Ballina Netball Association Inc.	Purchase of aluminium seating for the Netball Association	10,000	0
7	Alstonville Junior Cricket Club	Costs for various repairs and installations needed by the Club	7,500	7,500
	TOTAL		86,910	21,910

(6) Ballina Netball Association – this request is for additional seating and this will be reviewed as part of the Kingsford Smith Masterplan

(7) Alstonville Junior Cricket – subject to securing third party grant funds

Sustainability Considerations

- **Environment**
If approved some of the donations support community groups that provide environmental works.
- **Social**
Donations provide financial support for local community groups
- **Economic**
The injection of financial support into community groups contributes to the local economy

Legal / Resource / Financial Implications

Council has allocated \$83,000 for the Community Donations - Financial Assistance Program, and \$30,000 for the Capital Works Community Sporting Groups.

Consultation

9.3 Donations - Community and Sporting Groups - 2019/20

Council advertised for donation submissions during the exhibition of the 2019/20 Operational Plan.

Options

The options are to either support or amend the recommendations from the meeting.

The recommendation that follows is to support the recommendations as this process has worked effectively for a number of years. Any remaining funds will be retained for other matters that may arise during the financial year.

RECOMMENDATIONS

1. That Council approves the following Donations – Financial Assistance Program for 2019/20.

Ref	Applicant	Project / Activity	Amount Approved (\$)
1	Ballina Junior Chamber of Commerce	Cost of building mobile 'book exchanges' and a 'boomerang bag' bay in River Street, Ballina	300
2	Women's Resource Centre	Venue hire at the Kentwell Community Centre to hold meetings	0
3	The Big Scrub Orchestra/Northern Rivers Community Gateway	Costs associated with providing learning, recording and performing for young, disadvantaged people at Ballina Public School	0
4	Lifeball *	Venue hire for members of Lifeball to carry out their activities	1,000
5	Autism Spectrum Australia (Aspect)	Purchase of an interactive whiteboard for St Joseph's Primary School, Alstonville	0
6	Ballina and District Local History Group	Operating costs required to incorporate and operate a new community group	500
7	Lennox Arts Board Inc.	Venue hire at the Lennox Community Centre to hold cultural events during 2019/20	3,600
8	Rotary Club of Ballina-on-Richmond Inc.	Costs for traffic control/plan required to hold White Ribbon Day Walk	500
9	Oceanic Research Institute Limited	Insurances and purchase of a computer	0
10	Northern River Dirty Wheels Mountain Bike Club	Purchase of two traffic counters and tools to assist with maintenance of the Mountain Bike Park	0
11	Ballina Salt & Light Inc. T/A Ballina Community Men's Shed *	Seeking waiver of developer charges for DA 2019/9	Separate report
12	Riding for the Disabled Association	Costs associated with sending the coaching team to a compulsory training workshop	3,000
13	Ballina Schools Historical Society	Costs associated with mounting student honour boards from the old Ballina High School and spotlights in the museum	500
14	Tweed Byron & Ballina Community Transport Inc.	Costs associated with relocating to the FSG premises	0
15	St Vincent De Paul Society	Purchase of commercial grade washers and dryers for 64 Treelands Crescent (formerly Harmony House)	0
16	Sing Australia Ballina *	Venue hire at the Northlakes Community Centre to hold meetings	2,000

9.3 Donations - Community and Sporting Groups - 2019/20

17	Women in Super Mother's Day Classic - Ballina	Purchase of new banners	1,000
18	Ballina & District Orchid Society	Venue hire costs to hold competitions	600
19	Ballina & District Ministers Associations	Costs associated with holding the Riverside Carols event	5,000
20	Ballina Coastcare Inc.	Costs for land care maintenance and registering a new trailer	317
21	TS Lismore Australian Navy Cadets (rates)	2019/20 rates and charges, 26 Endeavour Close, Ballina (estimate)	0
22	Ballina Bridge Club Incorporated	Costs associated with hosting the Mahjong Festival in 2020	500
23	Ballina Hospital Auxiliary	Venue hire at the Ballina Jockey Club for the annual craft show	1,200
24	Rainbow Region Dragon Boat Club	Costs to run a Level 1 Official course	400
25	Lennox Longboarders Club	Replace shade tents	900
26	Ballina Lions Club Inc.	Costs associated with running the 2019 Annual Fun Run Walk	1,000
27	Air Force Association Ballina Branch Inc.	Cost to provide shade for members of the public attending the Battle for Australia and Battle of Britain service	790
28	Ballina Jet Boat Surf Rescue Inc.	Consumables and maintenance items for rescue vehicles	3,000
29	Ballina Jet Boat Surf Rescue Inc.	Insurances and renewals for rescue vehicles	6,000
30	Tintenbar School of Arts Inc.	Reimbursement for works carried out on the road leading up to the Tintenbar Hall	0
31	Ballina Country Music Club Inc.	Costs associated with holding fundraising events to raise funds for Ballina SES	2,000
32	Ballina Shire Concert Band Inc.	Purchase of two new wall mounted air conditioners for the band practice room	2,000
33	Bundjalung Connections	Costs associated with women's team participation in the NSW Aboriginal Knock Out Carnival in October 2019	0
34	Ballina Al-Anon Family Group	Venue hire at the Richmond Room for meetings	780
35	Ballina Breast Cancer Support	Venue hire at the Kentwell Community Centre for meetings	360
36	Grow Inc.	Venue hire for meetings	0
37	Our Kids	Labour costs to provide temporary fencing for the Kids Day out event in 2020 as required by Council	1,000
38	Lennox Head Residents Association Inc. Boomerang Bags	Venue hire for the group to make environmental friendly bags	330
39	Lennox Head Residents Association Inc. Coast Care Committee	Costs associated with carrying out land care	1,950
40	Lennox Head Residents Association Inc. venue hire	Venue hire for monthly meetings	264
41	Lennox Head Combined Sports Carols Committee	Costs associated with holding the Christmas Carols in the Park at Lennox Head	5,000
42	Veterans Advocacy Centre Inc.	Purchase of a more cost effective telecommunication system	2,500
43	Little Dragons Integrated Community Group (Ms Suzanne Whiteman)	Subsidise costs associated with holding community events	0
44	Lennox Head Landcare	Purchase of a gazebo for protection during community plantings	750
45	Lions Club of Lennox Head	Costs associated with fundraising for various charities	1,000
46	Alstonville Baptist Church	Costs associated with holding the Christmas on the Plateau event	5,000
47	Lennox Community	Contribution towards the community	0

9.3 Donations - Community and Sporting Groups - 2019/20

	Gardens Inc.	garden's water charges	
48	Sprung Integrated Dance Theatre Inc.	Costs associated with the 2019 audit against the National Disability Insurance Scheme Practice Standards	2,000
49	Alstonville Plateau Historical Society Inc. (rates)	2019/20 rates and charges for Crawford House (estimate)	4,475
50	Lennox Head Residents Association Inc. Heritage Committee	Venue hire at the Lennox Community Centre to hold meetings	447
51	Westpac Life Saver Rescue Helicopter *	Costs associated with running the Lennox Head Community Markets	1,200
52	Wollongbar Community Preschool Inc.*	Cost of constructing and installing an outdoor shed to store equipment	1,000
53	Cabbage Tree Island RLFC	Accommodation and travel costs for teams selected for the Knock Out Carnival	2,000
54	Rous Mill & District Memorial Hall Inc.	Costs towards painting interior fixtures at the Hall	1,000
55	Meerschaum Vale Hall Committee	Costs towards restoring timber floor and stage in the Hall	1,000
56	Alstonville Maguires Creek Landcare	Costs associated with land care maintenance	1,000
57	Wardell Sporting Recreation Club Ltd (Wardell Grounds Trust)*	Purchase zero turn Ferris 72in cut mower for maintaining the grounds at the Club	0
58	Tibouchina RSL Day Club	Venue hire at the ALEC and other ongoing costs	2,500
59	Rous Public School	Costs associated with holding the annual bonfire for the community	0
60	Ballina RSL Sub Branch	Costs associated with centenary celebrations	2,000
61	Ballina Charity Quilters	Costs associated with venue hire Northlakes Hall	1,560
	TOTAL		75,223

2. That Council approves the two late applications for the 2019/20 Community Donations, bringing the total allocation to \$77,858.

- Ballina Lighthouse RSL Day Care Club – \$1,920
- Northlakes Sewing Group – \$715

3. That Council approves the following Donations – Community Sporting Groups Capital Assistance Program for 2019/20.

Ref	Applicant	Project / Activity	Amount Approved (\$)
1	Ballina Hockey Club Inc.	Supply and installation of roof-top ventilators on the clubhouse roof above the canteen and storerooms	1,410
2	Rous Mill Recreation Reserve	Costs towards renovating the existing tennis shed on Rous Cemetery Road	0
3	Fripp Oval Sports Club Inc.	Purchase of a 6kw solar system for the Club	3,000
4	Ballina Rugby Union Club	Assistance towards costs of works associated with development consent DA 2018/153	10,000
5	Alstonville Tennis Club	Costs to replace two courts at the Alstonville Tennis Club with synthetic grass	0
6	Ballina Netball Association Inc.	Purchase of aluminium seating for the Netball Association	0

9.3 Donations - Community and Sporting Groups - 2019/20

7	Alstonville Junior Cricket Club	Costs for various repairs and installations needed by the Club	7,500
	TOTAL		21,910

Attachment(s)

1. Ballina RSL Lighthouse Day Club financial assistance application
2. Northlakes Sewing Group financial assistance application

9.4 Donation - Rates and Charges - 2019/20

9.4 Donation - Rates and Charges - 2019/20

Delivery Program Financial Services

Objective To obtain Council approval to donate the 2019/20 rates and charges in accordance with the Donations - Rates and Charges policy.

Background

Council's Donations – Rates and Charges policy was developed to provide guidelines for the management of rates and charges donations to community based service organisations.

The policy, identifies the various categories of organisations that provide a community based service, which are located on Council or Crown Land controlled by Council, (there are some exceptions) and the level of assistance provided each year in respect to the Council's rates and charges.

This policy has undergone numerous reviews over the years to ensure that it reflects the sentiment of each Council.

Even though a policy has been adopted Council resolves annually to confirm the donation of the various rates and charges in accordance with Section 356 of the Local Government Act 1993 (LGA).

Key Issues

- Annual donation of rates and charges

Information

The following table provides details of specific fixed rates and charges to be donated for the 2019/20 rating year based on the policy.

All amounts have been rounded to the nearest dollar.

Table One – Donations – 2019/20 Rates and Annual Charges

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm-water	On Site Septic	Waste	Total (\$)
Category A - 100% of all rates and charges donated								
415027	Ballina Lighthouse SLSC	0	318	755	0	0	0	1,073
120347	Lennox SLSC	0	816	2,420	0	0	0	3,236
295613	Surf Life Saving FNC Branch Inc.	0	636	755	0	0	0	1,391
173390	Ballina CWA	0	204	755	0	0	366	1,325
Category B - 100% of all fixed rates and charges donated (excludes measurable user pays charges)								
145397	Biala School	0	204	755	0	0	0	959
145363	Fox St Preschool	0	204	755	0	0	0	959
172661	Ballina Playgroup	0	204	755	0	0	0	959

9.4 Donation - Rates and Charges - 2019/20

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm-water	On Site Septic	Waste	Total (\$)
172679	River Street Childrens Centre	0	204	755	0	0	0	959
213734	Lennox Preschool	0	204	755	0	0	0	959
418960	Wollongbar Preschool	0	204	755	0	0	0	959
151966	Rainbow Children's Centre	5,651	204	755	100	0	0	6,710
417590	Alstonville Community Preschool	0	204	755	75	0	0	1,034
115643	Alstonville Ag Society	4,639	840	2,997	300	0	0	8,776
235231	Meerschaum Vale Hall	1,177	204	0	0	61	0	1,442
254780	McLeans Ridges Hall	2,207	0	0	0	61	0	2,268
417338	Newrybar Hall	1,867	0	0	0	61	0	1,928
250663	Pearces Creek Hall	1,612	0	0	0	61	0	1,673
234170	Rous Mill Hall	1,944	0	0	0	61	0	2,005
230045	Tintenbar School of Arts Trustees	1,756	0	0	0	61	0	1,817
232013	Wardell Hall	4,571	204	755	50	0	0	5,580
186115	Wigmore Hall	0	204	755	0	0	0	959
264036	Alstonville RSL Sub Branch Hall	1,893	204	755	25	0	0	2,877
422684	Wollongbar Community Hall	0	204	755	50	0	0	1,009
213726	Lennox Scouts	0	204	755	0	0	0	959
253556	Alstonville Scouts	0	0	0	0	61	0	61
294243	Ballina Scouts	0	204	755	0	0	0	959
334289	Ballina Jetboat Surf Rescue	790	204	0	25	0	0	1,019
423070	Marine Rescue NSW	0	318	1,121	0	0	0	1,439
TOTALS (Category A, B)		28,107	6,396	19,373	625	427	366	55,294

The next table provides **estimates** of the water consumption based charges that are to be donated on a quarterly basis during 2019/20, in addition to the fixed annual charges provided in the previous table. Actual amounts donated are determined by future quarterly water meter readings.

Table Two – Donations – 2019/20 Estimated Volumetric Based Charges

Assessment Number	Organisation	Estimated Water Consumption Bill (\$)	Estimated Wastewater Usage Bill (\$)	Estimated Total Bills (\$)
415027	Ballina Lighthouse & Lismore SLSC	975	510	1,485
120347	Lennox/Alstonville SLSC	1,100	900	2,000
295613	Surf Life Saving FNC Branch Inc.	2,290	635	2,925
173390	CWA of NSW (Ballina)	95	95	190
TOTALS (Estimated)		4,460	2,140	6,600

9.4 Donation - Rates and Charges - 2019/20

The next table provides a comparison between the 2018/19 and 2019/20 rates and charges donations.

Table Three – Donations – Comparison between 2019/20 and 2018/19

Rate or Charge Description	Proposed 2019/20 Donations	Actual 2018/19 Donations	Difference (\$)	Difference (%)
Ordinary Rates	28,107	26,558	1,549	5.8
Water Access Charges	6,396	6,396	0	0.0
Water Consumption Charges	4,460	4,624	-164	-3.5
Wastewater Access Charges	19,373	20,693	-1,320	-6.4
Wastewater Usage Charges	2,140	2,289	-149	-6.5
Waste or Recycling Charges	366	712	-346	-48.5
On Site Sewage Management Fees	427	420	7	1.6
Stormwater Management Charges	625	625	0	0.0
TOTALS	61,894	62,317	-423	-0.7

The proposed 2019/20 donations are lower than the actual 2018/19 charges for the following reasons:

- Jumbunna Preschool and Marine Rescue Centre waste and consumption charges are no longer included, as reported in the July 2018 report to Council;
- Back log sewer for Seabird Rescue and Jehovah Witness finalised in 2018/19 as reported in the August 2018 report to Council.

Sustainability Considerations

- **Environment**
Not Applicable.
- **Social**
Financial support to community based organisations enables them to deliver services for the benefit of the local community.
- **Economic**
Financial support to community organisations, allows them to spend more money on providing their specific service to the local community.

Legal / Resource / Financial Implications

The donations are funded in the 2019/20 Operational Plan.

The budgets for water and wastewater may be exceeded as the year unfolds, depending on the level of water consumption at the surf clubs.

Consultation

The Council Policy and annual Operational Plan are exhibited prior to adoption.

9.4 Donation - Rates and Charges - 2019/20

Options

The options are to approve, or not approve, the rates and charges donations for each of the assessments detailed within this report.

The donations as listed are consistent with Council policy.

RECOMMENDATION

That Council approves the donation of the 2019/20 rates and charges, as detailed within Tables One and Two of this report, which includes future estimated water consumption and wastewater usage charges, pursuant to Section 356 of the NSW Local Government Act 1993.

Attachment(s)

Nil

9.5 Policy (New) - Farmland Rating

9.5 Policy (New) - Farmland Rating

Delivery Program Financial Services

Objective To adopt a Farmland Rating Policy.

Background

A new Policy Farmland Rating was considered at the April 2019 Finance Committee meeting with a resolution to exhibit the draft policy for public comment.

No submissions have been received.

One item that was raised at the April 2019 Finance Committee meeting was in relation to the application of a Minimum Gross Margin.

The purpose of this report is to provide further clarification on how a minimum gross margin would be applied if included within the policy.

A copy of the policy as exhibited, inclusive of a minor amendment, is included as an attachment to this report.

Key Issues

- Clear guidelines and transparency
- Threshold determination

Information

Extracts of the Local Government Act (LGA) and guidelines from the Office of Local Government relevant in the context of this discussion are reproduced below.

Legislation

For land to be categorised as farmland it must satisfy the criteria of Section 515 of the Local Government Act (LGA), as follows:

*(1) Land is to be categorised as **farmland** if it is a parcel of rateable land which:*

(a) has a significant and substantial commercial purpose or character, and

(b) is engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made).

Definitions per guidance provided by the Office of Local Government

Significant and substantial commercial purpose or character

9.5 Policy (New) - Farmland Rating

In order to determine whether the farming has a significant and substantial commercial purpose or character, it is legitimate for council to enquire whether the particular activity or activities carried on are “too slight” or “too minor” to be reasonably regarded as having the requisite degree of commercial purpose or character.

In the case of farming activities producing very small returns, it may be difficult to designate those activities as a business having a significant and substantial commercial purpose or character.

Engaged in for the purpose of profit

The question of whether a profit is made could be considered immaterial to the question of whether the farming is “engaged in for the purpose of profit on a continuous or repetitive basis”. However it is still reasonable for Council to enquire, more or less objectively, as to whether there is evidence to support a conclusion that the activities will be economically viable in the future.

In other words, the farming carried on must have some element of financial viability.

Application of a Minimum Gross Margin

The rationale behind applying a minimum gross margin in the policy is that it attempts to address the LGA requirements of having a “significant and substantial commercial purpose or character” and “engaged in for the purpose of profit”.

A threshold of \$24,000 was proposed in the report to the April 2019 Finance Committee after consideration of thresholds used by other councils, and by benchmarking the ABS Average Weekly Earnings and current Aged Pension.

The application of this threshold was discussed by Councillors at the April 2019 Finance Committee.

This report aims to clarify the manner in which such a threshold would be applied by staff.

It is proposed that to qualify as meeting this criteria, an assessment need only meet the minimum gross margin in one of the previous four years. This then provides a reasonable period of time for the farmer to produce a viable crop / stock etc.

Furthermore, it is recognised that there could be a number of reasons why a property may not meet this threshold based on the historical results, but may be able to evidence future economic viability. It is proposed that the applicant may apply for special consideration based on the property’s expected future viability.

An example that can impact on future impact is unforeseen weather events. The hail storms in recent years have had a detrimental impact on the profitability of a number of macadamia farms in this Shire. Review of historical profitability alone would deem that these properties would not meet the proposed minimum gross margin criteria.

9.5 Policy (New) - Farmland Rating

Such application, without review of the property's future viability, would not be consistent or in the spirit of the legislation and guidance.

In assessing a number of macadamia properties, consideration was given by staff to the number of trees currently on the property, the age of the trees, any plans for replanting of new trees, average potential yield per tree and price per kg (sourced from industry information).

This analysis allowed for a number of properties to meet the minimum gross margin criteria, albeit the recent profit and loss details provided did not.

This approach is consistent with the guidelines, that:

“even if a property is not currently profitable, what is important is whether the farming is “engaged in for the purpose of profit on a continuous or repetitive basis”.

That is, consideration needs to be given as to whether there is evidence to support a conclusion that the activities will be economically viable in the future.”

The policy attached to this report has the following additional paragraphs:

Application of Minimum Gross Margin Criteria

An assessment will be deemed to meet this criteria if it meets the minimum gross margin criteria in any one of the previous four years.

Alternatively, if the above criteria is not met, an applicant may make application for special consideration based on the property's expected future viability.

For example, if a property was recently replanted with tube stock, it would not be expected to generate profit for a number of years. An analysis of the number of trees, expected yield per tree, forecast sales and expenditure, together with supporting evidence, may allow a determination that the assessment meets the criteria.

The onus is on the applicant to provide sufficient appropriate evidence to allow for a determination to be made by Council staff.

It is noted that plans to plant stock alone are not sufficient. It would be necessary for the applicant to have either planted the stock or be able to show evidence of tube stock ordered.

All applications made under the special consideration provision will also be subject to a secondary review process by the Manager Financial Services.

The initial drafted policy criterion of \$24,000 was a recommendation only.

It is the view of staff that the use of a threshold does attempt to address the LGA requirements to meet the definition of farmland.

The determination of a threshold may be considered somewhat arbitrary. For this reason, it would be wise to set a conservatively low level.

9.5 Policy (New) - Farmland Rating

Having taken into consideration comments made by Councillors at the April 2019 Finance Committee, staff propose that a threshold be retained, but propose consideration be given to setting at a lower level, such as \$20,000.

Council may well wish to consider a lower threshold or may prefer not to include this criteria at all.

The draft policy attached to this report also includes an amendment to the Minimum Gross Margin, revised from \$24,000 to \$20,000.

Legal / Resource / Financial Implications

A policy which provides clear guidance to staff and transparency and clarity to ratepayers may lessen the possibility of ratepayers appealing Council's determination and taking a matter to the Land and Environmental Court.

Consultation

Staff from other councils were consulted in preparing the draft policy. The policy has been placed on public exhibition, with no submissions received.

No further exhibition or consultation is proposed.

Options

In respect to options Council may endorse or amend the attached proposed policy, which includes the additional clarification on Application of the Minimum Gross Margin and sets the Minimum Gross Margin as \$20,000.

Amendments may be to revise or remove the "Minimum Gross Margin" criteria.

The preference would be not to remove the minimum gross margin entirely as this then provides for no direction to staff in assessing whether a farmland property is viable.

The draft policy reasonably outlines the criteria for farmland property categorisation and it is recommended that this amended policy be adopted.

It is not proposed that Council re-exhibit the document for public comment, however Councillors may opt to do so.

RECOMMENDATION

That Council adopts the exhibited Farmland Rating Policy, as amended, as per Attachment 1 to this report.

Attachment(s)

1. Policy (New) - Farmland Rating
2. Rating Category Application – Farmland (example)

9.6 Policy (Review) - Child Protection

9.6 Policy (Review) - Child Protection

Delivery Program Human Resources and Risk Management

Objective To review the Child Protection Policy.

Background

Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Child Protection policy.

Council first adopted this policy in November 2001, with amendments made and adopted in July 2006 and May 2015.

In addition to this Council resolved at the 22 November 2018 Ordinary meeting as follows:

1. *That Council amend our Child Protection Policy to include the following sentence:*

'The Council reserves the right to restrict the use of Council services and resources by customers on grounds of child protection where the Council believes that provision of the service would pose a potential for child abuse.'

2. *That Council supports the General Manager in amending our Statement of Business Ethics in accordance with the attachment to reinforce that Council acts fairly and without bias but subject to the public interest in respect to access by customers to our services and resources.*
3. *That in line with the above changes, the General Manager is authorised to amend our existing hiring agreements and related documentation for the use of our community facilities, to ensure that adequate child safety measures are in place, such as the requirement for working with children checks (WWCC).*
4. *That Council representatives, both staff and elected representatives, make reasonable investigations into the status of function organisers prior to attending a function on behalf of Council.*

Point one was included in the existing policy.

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:

9.6 Policy (Review) - Child Protection

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.
- Amendments to the provisions for what constitutes a prohibited person under the policy in line with legislative changes.
- Minor amendments to the wording determining what constitutes a Registered Agency under the Act.
- The inclusion of the Child Protection Legislation Amendment Act 2014 and the Child Protection (Working with Children) Amendment Regulation 2014 as related documentation for Council's Child Protection Policy.
- The responsibilities for Employees and the General Manager have been amended to comply with legislative changes. Any individual engaged in a role requiring direct access to children must be compliant with the requirements of the Act and ensure they are in possession of a current Working with Children Check prior to 31 March 2015. The principal officer and each member of the governing body must comply with Division 2, the mandatory requirements of the Act by 31 March 2015.
- Minor change to wording under the requirements for mandatory reporting, so that if a person believes on reasonable grounds that a child or young person is in need of protection due to being at risk of being physically or sexually abused or ill-treated they must report this to Department of Family and Community Services (FACS).
- Ensuring that any individual engaged by Council to provide services to children are in possession of a current Working with Children Check.
- Minor change to update the title of Council's policy for making a protected disclosure to "Internal Reporting Policy".
- Minor change to update the correct name for Department of Family and Community Services (FACS).
- Minor change to the definition of what constitutes child related employment which clarifies that "child related work" is where contact with children is a usual part of the work and not just incidental.
- Updating the title of Council's nominated Child Protection Officer to "Manager People and Culture".
- Clarifying that the Office of the Children's Guardian is the government body which regulates the requirement for a Working with Children Check.
- Clarifying that the responsibility for completing a Working with Children Check (WWCC) lies with individuals who require a WWCC and Council as an employer is required to undertake the verification process.

The changes have been marked in yellow.

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

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**
This policy aims to ensure the protection of children who are at potential risk of physical or sexual abuse or ill treatment and advise procedures for ensuring Council are compliant with legislative requirements pertaining to current Working with Children checks and investigating and reporting allegations/convictions of child abuse against people employed or engaged by Council that arise in the course of the work of Council.

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Child protection strategies are a legal requirement for Council.

Consultation

As the changes are only minor it is recommended that Council adopt the policy as presented. The document is to be exhibited for public comment with any submissions reported back to Council.

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.

If no submissions are received from the exhibition process, the policy can be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopts the amended Child Protection 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. Child Protection Policy (Review)

9.7 Lennox Rise - Adjoining Owners' Deed of Agreement

9.7 Lennox Rise - Adjoining Owners' Deed of Agreement

Delivery Program Commercial Services

Objective To seek Council's agreement to enter into a new adjoining owners' deed of agreement with the owners and developers of Lennox Rise.

Background

A report to the Commercial Services Committee meeting held on 14 June 2016 sought Council's concurrence to enter into an adjoining owners' deed of agreement ("DOA") with Lennox Developments Pty Ltd, owners and developers of a proposed residential estate known as "The Outlook".

The Outlook was previously known as the Henderson Farm and was purchased from Council by Lennox Developments in 2002. Attachment 1 to this report is an earlier subdivision footprint that provides context to the location of the land, which is west of the EPIQ Estate.

The main points in the proposed DOA are summarized as follows:

- Dedication of Council land for an access roadway
- The sharing of construction costs for an access road from Hutley Drive to Council's and Lennox Development's respective land holdings and
- An easement to drain stormwater over Council's land.

The resolutions arising from that meeting were as follows:

1. *The General Manager is authorised to finalise negotiations with the Lennox Developments Pty Ltd and Clarence Property, execute deed of agreements, execute all easements, plans of subdivision etc. and all other relevant documentation required to satisfy the deed of agreements between Council and Lennox Developments Pty Ltd and Clarence Property based on the contents of this report.*
2. *The Council seal is authorised to be attached to the documents, as required, in point one.*

In late 2018 Lennox Developments negotiated a sale of their property (The Outlook) to Lennox Rise Pty Ltd and requested the DOA be amended to pass on the rights and obligations contained in the DOA to Lennox Rise Pty Ltd.

A Use of Council Seal report (US 19/01) agreeing to these proposed amendments was adopted at the 24 January 2019 Council meeting.

Lennox Rise has recently revised the layout of their proposed subdivision and are seeking to lodge an application modify the current development consent (DA 2014/31).

This will require Council's agreement as landowner to a number of issues that form the subject of this report.

9.7 Lennox Rise - Adjoining Owners' Deed of Agreement

Key Issues

- Landowner's consent to lodgment of application to amend DA 2014/31
- Variation to size and location of Council land to be dedicated as an access road for Lennox Rise
- Boundary adjustments to deal with irregular shaped lots
- Council access to roads on common boundary.

Information

Lennox Rise has prepared and lodged an amendment to DA 2014/31 and require Council's consent as landowner for the application to proceed.

The reason being that the proposed access road to their development passes over Council's land.

An indicative staging plan is in Attachment 2.

The current DOA provides for 1,110m² of Council land to be dedicated as road reserve.

The revised lot layout proposed by Lennox Rise changes the configuration of the land to be dedicated and increases the area of land to 1,595m².

An entry road alignment plan detailing the area of land proposed to be dedicated is detailed in Attachment 3.

It is also proposed to include in the amended DOA a provision to undertake boundary adjustments between Council and Lennox Rise where due to the location of a common boundary line both parties may be left with irregular shaped portions of land that cannot be developed and sold off as serviced residential lots.

An indicative plan detailing a proposed boundary adjustment is in Attachment 4.

To overcome such a situation both parties would agree to the appointment of an independent valuer who would determine the value of a portion to be transferred from one party to another.

The DOA between Council and the developers of Avalon Estate in Wollongbar had a similar provision that worked to the satisfaction of both parties.

Lennox Rise has also agreed to grant Council, as landowner, access to any road constructed along, or adjacent to, a common boundary between the respective land holdings.

Council's solicitor recommends a new DOA be entered into with Lennox Rise Pty Ltd and thereby removing Lennox Developments Pty Ltd from all documentation to alleviate any possible confusion in the future.

All other terms and conditions of the existing DOA would be captured in the new DOA.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
Council's residual land holding in this location is held for future development or sale to generate funds for community infrastructure.

Legal / Resource / Financial Implications

Council's solicitor recommends a new DOA be entered into with Lennox Rise Pty Ltd that captures the amendments proposed in this report along with all other terms and conditions contained in the current DOA.

Consultation

Negotiations have been conducted with Lennox Rise Pty Ltd.

Options

1. Council agrees to enter into a new adjoining land owners' agreement with Lennox Rise Pty Ltd, as generally outlined in this report, including granting of an easement or dedication of land for a drainage channel, dedication of land for a road reserve and granting of land owner's consent to lodge an application to modify DA 2014/31. The new deed of agreement will also capture all other terms and conditions contained in the existing deed of agreement.

It is recommended this option be adopted as the terms and conditions negotiated work for the mutual benefit of both Council as landowner and Lennox Rise Pty. Ltd.

2. Council does not to enter into a new adjoining landowners' agreement with Lennox Rise Pty Ltd, as generally outlined in this report.

This option is not recommended as the terms and conditions negotiated for the new deed of agreement work for the mutual benefit of both Council as land owner and Lennox Rise Pty. Ltd.

RECOMMENDATIONS

1. The General Manager is authorised to finalise negotiations with the Lennox Rise Pty Ltd and execute deeds of agreements, execute all easements, plans of subdivision etc. and all other relevant documentation required to satisfy the deed of agreements between Council and Lennox Rise Pty Ltd based on the contents of this report.
2. The General Manager is authorised to grant landowner's consent to lodge an application to modify DA 2014/31.
3. The Council seal is authorised to be attached to the documents, as required, in point one.

Attachment(s)

1. Subdivision Footprint
2. Indicative Staging Plan
3. Entry Road Plan - Land to be dedicated
4. Indicative Boundary Adjustment Plan

9.8 Leasing Update - Shop 11 Wigmore Arcade Complex, Ballina

9.8 Leasing Update - Shop 11 Wigmore Arcade Complex, Ballina

Delivery Program Commercial Services

Objective The purpose of this report is to provide background information to a confidential report included in this meeting agenda regarding a leasing update for Shop 11 Wigmore Arcade Complex.

Background

Council resolved at the 24 January 2018 Ordinary meeting to agree to the assignment of a lease for Shop 11 in the Wigmore Arcade Complex. The tenant has now requested a rent review.

Key Issues

- Leasing update

Information

The assigned lease took effect on 1 April 2019. The current lease term expires on 4 June 2020 with two option periods of 5 + 5 years. The lessee has requested a rent review. A confidential report provides details of this request.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The Wigmore Arcade is a major contributor to the local economy.

Legal / Resource / Financial Implications

Council has an executed lease for Shop 11 Wigmore Arcade Ballina.

Consultation

Consultation has been undertaken with the lessee.

Options

This report is for noting only.

RECOMMENDATION

That Council notes the contents of this report in respect to the leasing update for Shop 11 at the Wigmore Arcade Complex.

Attachment(s) Nil

9.9 Plant Expansion - Funding

9.9 Plant Expansion - Funding

Delivery Program Financial Services

Objective To obtain Council approval to loan fund an expansion in the Council's plant fleet.

Background

Council operates a significant fleet of plant and equipment in delivering services to the community. The operation of this fleet is funded by internal hire rates charged against the job (i.e. charged to roads, open spaces etc).

The surplus on the hire charges (once operating expenses are deducted from the internal hire charges) finances the purchase of the replacement equipment as and when required.

In addition to the Council owned plant and equipment, additional items are regularly hired where Council does not have its own equipment. These items may be hired with an operator or without an operator, in which case Council staff operate the equipment.

Following the completion of the 2018/19 financial year a review of equipment hired in recent years has identified opportunities for Council to purchase its own equipment to avoid the cost of hiring.

This report examines those opportunities.

Key Issues

- Justification for need
- Hire versus purchase
- Funding purchase costs

Information

Currently Council owns one multi-tyred roller and generally hires one single drum roller and two three-point rollers from a private company. The hire rate is a flat rate for each calendar month, there is no minimum hire period and the hire rate includes regular registration, insurance, maintenance and breakdown servicing. The hire rate excludes; operator, fuel and oil top ups.

The rollers are being used continuously for the unsealed roads maintenance team and on a job-by-job basis for construction projects.

The hire rate paid for this equipment for the last three years is \$246,000 (2018/19), \$183,000 (2017/18) and \$180,000 (2016/17) with the demand for the equipment continuing to grow internally.

The smooth drum roller costs approximately \$4,700 per month and each three point rollers costs approximately \$4,000. At times there are up to four three point rollers hired.

9.9 Plant Expansion - Funding

There has been little movement in the external hire rate for the smooth drum roller in recent years although the hire rate for the three point rollers has almost doubled since 2012.

The estimated purchase cost of a new smooth drum roller is approximately \$160,000 and a three point roller is estimated at \$170,000.

Council's plant fund does not have sufficient cash to finance an expansion of the fleet.

This means loan funding is needed initially to purchase this magnitude of equipment.

Based on an eight year, typical, useful plant life, with the loan repayment paid in full, the annual loan repayments for the acquisition of these items would be approximately \$74,000 based on an interest rate of 3.5%.

Item	Capital Cost	Annual Loan Repayment
Drum Roller	160,000	24,000
Three Point Roller (1)	170,000	25,000
Three Point Roller (2)	170,000	25,000
Total	500,000	74,000

If an allowance of 10% of the capital cost is added for registration, insurance and maintenance expenses (i.e. \$50,000) the total annual cost is \$124,000, or approximately \$41,000 per item, which is still below current hire costs and Council has the benefit of owning the equipment.

These figures exclude operator, fuel and oil costs, as they are already incurred by Council.

On a monthly basis, these figures equate to approximately \$3,400 per item of equipment.

This represents a reasonable saving compared to the \$4,000 and \$4,700 currently paid, with Council having the extra benefit of owning the machinery and having greater control over its use.

Another benefit is that Council has existing staff positions who would operate the machinery and there is no need to recruit additional staff, although over time there may be that opportunity if operating costs are reduced.

Sustainability Considerations

- **Environment**
Modern equipment tends to have less environmental impacts.
- **Social**
Not Applicable
- **Economic**
There are financial and operational benefits to Council in owning our own machinery, rather than paying an external party a hire charge.

Legal / Resource / Financial Implications

Loan funding is needed to finance the proposed acquisitions with the assumption being that this will be a more favourable financial outcome to Council in the short and long term. Council has significant borrowings planned for 2019/20 however our debt ratio is still well within reasonable benchmarks.

Consultation

Council's field staff have been consulted in preparing this report with the staff identifying the opportunity for Council to save dollars and use our own monies more efficiently.

Options

The options are to proceed with this proposal or continue to hire, or purchase only one or two of the items identified.

The preference is to provide authorization to proceed with all three items with staff able to progressively implement the acquisitions during the year. There does appear to be an opportunity for Council to make operational savings and improve the value we are generating from our own funds.

If for any reason there are changes to any of the assumptions or demand it will be possible to delay the second or third purchases during the year. The resolution provides some flexibility in respect to this.

RECOMMENDATIONS

1. That Council authorises the inclusion of the acquisition of a smooth drum roller and two three point rollers in the 2019/20 Plant Replacement Program.
2. The funding for these items is to be sourced from a maximum \$500,000 loan and the balance, if needed, from monies held in the Plant Reserve.
3. That Council authorises the Council seal to be attached to the loan documentation in point two.

Attachment(s)

Nil

9.10 Capital Expenditure - 30 June 2019 Review

9.10 Capital Expenditure - 30 June 2019 Review

Delivery Program Communications

Objective To provide an overview of the infrastructure delivered through the capital expenditure program for 2018/19.

Background

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

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

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

This is the final report for 2018/19 and outlines work undertaken to 30 June 2019.

Key Issues

- Status of works
- Overall delivery of the capital works program

Information

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

- Total Project Value – As projects can be delivered over a number of financial years, this column identifies the total project value which may include expenditure from previous financial years or estimated expenditure for future years.
- Original 2018/19 Estimate - Represents the original 2018/19 estimate as per Council's adopted Operational Plan for 2018/19.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2018 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- Latest 2018/19 Estimate - Sum of the original estimate plus variations.
- Expended This Year - Expenditure to 30 June 2019 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 30 June 2019 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones.
- Status - Allows additional comments to be provided.

9.10 Capital Expenditure - 30 June 2019 Review

The attachments are split into the main sections undertaking the works: i.e. Open Spaces, Resource Recovery, Environmental and Public Health, Community Facilities, Operations Support, Commercial Services, Water and Wastewater and Engineering Works.

Points of interest are as follows.

Open Spaces (attachment one)

Playground Equipment – Various – There has been some delays with the installation of this equipment in certain locations as the work now requires development consent. Community consultation is still to be completed for specific projects as well. All playground projects should be finalised in the second half of calendar year 2019.

Wollongbar Sports Fields – With Council receiving grant funds of \$400,000 for this project, the drainage works have been completed, with a tender to be called for the irrigation. Funding of \$0.7m is allocated in 2019/20.

Skennars Head Sports Fields Expansion – The contractor has commenced works with the project well advanced. The expenditure is ahead of schedule with \$2.0m in funding allocated in 2019/20.

Lighting – Williams Reserve and Saunders Oval – Council approved a contractor at the April 2019 Ordinary meeting with the installation to take place during the second half of calendar year 2019.

Environmental and Public Health (attachment one)

Shaws Bay Coastal Management Plan – Balance of expenditure will focus on amenity improvements such as shelters, seating and shade trees and will form part of the Pop Denison Master Plan works in 2019/20 (\$850,000 allocated).

Healthy Waterways – Land Acquisition – Settlement of this acquisition will occur during 2019/20.

Community Facilities (attachment two)

Lennox Head Community Centre (LHCC) and ALEC – Refurbishment works for both facilities is scheduled for 2019/20.

Ballina Indoor Sports Centre – This project is well advanced. The expenditure is ahead of schedule with \$1.5m in funding allocated in 2019/20.

Swimming Pools – Improvements to the Ballina Pool completed during June and minor works are now taking place at Alstonville while the pool is closed during July.

Operations Support (attachment two)

Public Amenities - Killen Falls – This project is now completed.

Plant and Fleet – Large number of vehicles ordered with payment to occur during 2019/20.

Commercial Services (attachment three)

Airport – The terminal project is close to completion and the works to date have been well received.

Property Development – Boeing Avenue – Council has appointed a contractor for the filling and earthworks with that work now underway.

Water and Wastewater (attachments four and five)

Large number of projects completed with expenditure totalling close to \$5m.

Council also approved two large tenders at the April 2019 Ordinary meeting for the Angels Beach Drive Sewer Rising Main Relining and Under-boring Recycled Water Main, with those contracts progressing.

Engineering Works (attachment six)

Stormwater

Program completed with the Burns Point Road tidal gates proving to be effective.

Urban and Rural Roads

\$9.4m worth of projects completed which represents a significant reconstruction program.

Ancillary Transport Services - Shared Paths and Footpaths

Coastal Shared Path Project - The Coastal Shared Path project comprises the completion of a shared path, east of The Coast Road, between the Skennars Head Road roundabout and Pat Morton car park. This is a 1.9km stretch of path, which will consist mostly of a 2.5m wide asphalt path, plus two sections of boardwalk, with the boardwalk being approximately 0.4km.

Council has approved a contract to Bennett & Skewes Landscape and Earthworks, and following the recent rain period, the contractor has commenced survey and site establishment. Works will commence mid-July in the area north of the Skennars Head Road roundabout. This will provide access to the boardwalk sections near the roundabout and across the drainage channel further north. The contractor's original timeline for the project showed completion by end of October 2019.

Coastal Walk Project - The Coastal Walk project comprises the upgrade of the existing informal walking path across the headlands between Sharpes Beach and Pat Morton Lookout. This is a 3.1km stretch of informal walking path, which will be upgraded to improve the walking experience, with different path upgrades for different sections as required.

The different path upgrades that will be used comprise a boardwalk structure (at Boulders Beach), viewing platforms, gravel path sections, mulch and sand surfacing, stone and rock steps in steeper sections and some asphalt sections at existing parking areas.

9.10 Capital Expenditure - 30 June 2019 Review

Where possible lengths of the existing walking path will be left as-is, being the mown grass path.

The design has been completed for the structures, and the different path upgrade sections have been investigated and documented along the length of the path. A tender is now being prepared for construction.

The tender should be advertised during August 2019 and will allow for staged upgrading and Council resourcing of the gravel path construction, if required.

Consultation will also need to be recommenced with respect to Aboriginal Cultural Heritage matters with respect to the final design described and also for the installation of proposed interpretive signage.

Footpaths and Shared Paths – Majority of program completed.

Summary

As per the following table, Council has delivered over \$35m of new or renewed infrastructure to the community during 2018/19. Considering our annual operating budget is approximately \$100m this is an excellent result.

Capital Works Summary – 30 June 2019 (\$'000)

Section	Budget (\$)	Cash Expenditure (\$)	Percentage Expended
Open Spaces	2,065,600	1,196,000	58%
Waste	100,500	100,800	100%
DEHG	305,000	136,900	45%
Operations Support	8,713,200	9,096,200	104%
Community Facilities	2,894,800	1,004,900	35%
Commercial Services	11,197,800	7,351,800	66%
Information Services	131,500	118,800	90%
Water	1,933,100	1,120,200	58%
Wastewater	4,271,200	3,813,100	89%
Engineering Works	13,698,400	11,605,900	85%
Total	45,311,100	35,544,600	78%

The cash expended figure is 78%. This does not recognise the large number of contracts committed to by Council and underway. These include

- \$6.7m contract with CD Excavations for earthworks at Airport Boulevard and Boeing Avenue with minimal expended to date
- \$1.1m contract with Bennett & Skewes for the coastal shared path with minimal expended to date
- Approximately \$6m still to be paid for the well advanced contracts for the Airport Terminal Expansion, Ballina Indoor Sports Centre and Skennars Head Sports Fields
- \$1m for sports field lighting for Williams Reserve, Saunders Oval and Hutley Drive
- \$0.6m for Angels Beach Drive Sewer Rising Main Relining and Under-boring Recycled Water Main contracts with significant expenditure still to be incurred.

There is a significant amount of preparatory works in awarding major contracts and once these are included the total value of works to be delivered is close to \$50m.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information.

Options

This report is for noting to provide an update on the capital works program for 2018/19. Incomplete projects will be rolled forward to 2019/20 as part of the Budgets Carried Forward report that is scheduled for the August 2019 Ordinary meeting.

RECOMMENDATION

That Council notes the contents of this report in respect to the delivery of the capital expenditure program for 2018/19.

Attachment(s)

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

9.11 Delivery Program and Operational Plan - 30 June 2019 Review

9.11 Delivery Program and Operational Plan - 30 June 2019 Review

Delivery Program Communications

Objective To review the results in respect to the implementation of the 2018/19 to 2021/22 Delivery Program and 2018/19 Operational Plan.

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

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice is to receive more timely quarterly reports. This report represents the fourth and final review of the 2018/19 to 2021/22 Delivery Program and the 2018/19 Operational Plan, with the information contained in the report based on work undertaken up to 30 June 2019 representing the complete 2018/19 financial year.

The review is included as a separate attachment to this report. The attachment provides an overview of all the programs included in the Delivery Program and Operational Plan, with comments provided by the Director and / or Section Manager.

Copies of the current Delivery Program and Operational Plan are available on Council's website and are also accessible by Councillors on their iPads.

Key Issues

- Compare actual results against the adopted goals and priorities

Information

The Delivery Program and Operational Plan are the two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year.

The attachment to this report provides a comprehensive overview of the actions being progressed, with the information also being linked to Council's Community Strategic Plan (CSP) objectives. The attachment has two main sections being:

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

9.11 Delivery Program and Operational Plan - 30 June 2019 Review

All items are marked with a green (on track for this financial year) amber (behind schedule or below target) or red (not progressing as planned or off track) traffic light.

There are 115 major actions listed in the Operational Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	C&C	Civil	PEH	Total
Green	36	34	35	105
Amber	2	6	1	9
Red	0	1	0	1
Total	38	41	36	115

Program Actions Overview - By Percentage

Group / Status	C&C	Civil	PEH	Total
Green	95	83	97	91
Amber	5	15	3	8
Red	0	2	0	1
Total	100	100	100	100

The majority of items are on track, or completed as planned, and items of particular interest in the attachment include:

- Pursue the expansion / replacement of SES premises and Lennox Head Rural Fire Shed (page 2) – During the year Council has confirmed replacement strategies for these two facilities with the planning work progressing. Funding still remains the highest priority for the SES premises.
- Implement Community Gallery Services at the Fire Station (Ignite Studios) (page 3) – This new facility is operating effectively as part of the Northern Rivers Community Gallery.
- Enhance sporting field facilities (page 5) – The expansion of the Skennars Head fields has commenced, drainage has been improved at Wollongbar and Council has an agreed strategy to deliver improved amenities and lighting as part of the new Hutley Drive fields.
- Deliver an indoor sports centre (page 5) – This construction contract is well advanced with the centre scheduled to be open during the last quarter of calendar year 2019.
- Participate in the Roads and Maritime Services Location Marker Program for Ballina (page 7) – This program now seems to be advancing with the State Government changing the overall signage, however they still intend to deliver location markers for bypassed towns.
- Progress Lennox Head Town Centre Village Renewal for completion by December 2021 (page 7) – Council now has an agreed strategy for the delivery of this project.

9.11 Delivery Program and Operational Plan - 30 June 2019 Review

- Implement Ballina – Byron Gateway Airport upgrades (page 8) – The terminal expansion is close to being finalised.
- Progress delivery of Hutley Drive - northern section (page 10) – The planning application is close to being finalised to allow construction to take place.
- Implement Shaws Bay Coastal Management Plan (page 12) – The works completed have been well utilised and Council was recently successful with a grant application to allow dredging to proceed during 2019/20.

In respect to Service Delivery there are a total of 93 indicators identified in the Operational Plan and the following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

Service Indicators Overview - By Number of Activities

Group / Status	C&C	Civil	PEH	Total
Green	30	23	19	72
Amber	6	6	3	15
Red	2	2	2	6
Total Tasks	38	31	24	93

Service Delivery Indicators Overview - By Percentage

Group / Status	C&C	Civil	PEH	Total
Green	79	75	79	78
Amber	16	19	13	16
Red	5	6	8	6
Percentage Total	100	100	100	100

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

Items of note include:

- Building Services (page 27) - Various – Council's market share of 59% has been trending lower than normal as there are a large number of project homes being approved by private certifiers. The high workload for the Section has also resulted in slower than normal processing times.
- Engineering Works (page 28) - Minimise operating deficit for Burns Point Ferry (\$) – Higher than normal revenues resulted in a far lower deficit than anticipated.
- Community Facilities (pages 38 to 40) – A number of the library indicators are continuing to trend lower, whereas some of our facilities are having reasonable growth in usage levels. The swimming pool attendance numbers were well in excess of forecast resulting in a significant improvement in the forecast deficit. The tourism revenue raised from co-operative marketing was also an excellent result.

Sustainability Considerations

- **Environment**

There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

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

Consultation

This report provides the community with information on how Council is performing in respect to the Delivery Program and Operational Plan.

Options

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

RECOMMENDATION

That Council notes the contents of this review of the implementation of the 2018/19 to 2021/22 Delivery Program and 2018/19 Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan - 30 June 2019 Review (Under separate cover)

10.1 Lake Ainsworth - Surf School Parking

10. Civil Services Division Reports

10.1 Lake Ainsworth - Surf School Parking

Delivery Program Engineering Works

Objective To consider options for Surf School Car Parking in the Lake Ainsworth precinct.

Background

Surf school operators have requested they be provided with dedicated parking in Lennox Head for their bus/trailer combinations. This request is in response to increasing parking demand, particular during school holidays, which can make it difficult to finding a suitable place to park and operate their business.

The request was for a site, located within the car park immediately south of the Lennox Head Surf Club, to be dedicated to the exclusive use of surf schools. Attachment 1 provides an aerial view of the location for this proposal. Council's Local Traffic Committee (LTC) approved the request and this decision was referred to Council to assess the impact on public amenity and whether it was preferred to allocate public car parking to commercial operators.

Council, at the April 2019 Ordinary meeting, declined to approve this proposal and requested staff investigate other options.

A number of different alternatives have been assessed and referred to the LTC. The outcome of this review is as follows.

Key Issues

- Car parking demand
- Residential amenity
- Supporting licensed commercial tourism operators

Information

Three additional locations have been investigated for the purpose of establishing a "P, Bus and Bus/Trailer Only" linear parking control.

These include:

Site	1	South of the Surf Club on Pacific Parade	(Attachment 2)
Site	2	Ross Street adjacent to Pacific Parade	(Attachment 3)
Site	3	South of the Carpark on Pacific Parade	(Attachment 4)

The LTC determined all of these proposals were satisfactory from a safety and traffic management perspective and it is open to Council to select a preferred site from these options.

10.1 Lake Ainsworth - Surf School Parking

A summary of advantages and disadvantages of the four sites are provided in Table One as follows.

Table One - Options Analysis

Option	Advantages	Disadvantages
1. South of Surf Club on Pacific Parade	<ul style="list-style-type: none">• Surf School students are in close proximity to public toilets and amenities	<ul style="list-style-type: none">• Loss of up to six unsealed parking spaces within close proximity of the Surf Club• Not supported by Council
2. Ross Street adjacent to Pacific Parade	<ul style="list-style-type: none">• Loss of only two unformalised parallel parking spaces	<ul style="list-style-type: none">• Potential inconvenience to pedestrians during loading and unloading of surfboards• Surf School students will be required to cross Pacific Parade carrying surfboards
3. South of car park on Pacific Parade	<ul style="list-style-type: none">• Surf school students are in close proximity to the Coastal Reserve	<ul style="list-style-type: none">• Loss of four unsealed / unformalised parking spaces
4. Car park south of the Surf Club and opposite Ross Street	<ul style="list-style-type: none">• Surf school students are in close proximity to the Coastal Reserve	<ul style="list-style-type: none">• Loss of two sealed, formalised parking spaces within the Coastal Reserve

It is possible to limit the time the parking restriction applies. For example, a limit of daylight/business hours (such as 7.00am to 5.00pm) would enable the parking spaces to be available for general use in the early morning or evening.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Surf schools provide a social service. Public parking is also important to provide access to recreational land. This report seeks for Council to determine the balance between public parking and direct assistance for the surf schools.
- **Economic**
Surf schools and tourism support economic development.

Legal / Resource / Financial Implications

A change to parking regulations requires concurrence from the LTC.

10.1 Lake Ainsworth - Surf School Parking

Pending the endorsement from Council, the LTC has resolved to support the provision of a dedicated parking area for bus/trailer combinations.

Consultation

This report has been prepared in response to a request from a surf school operator. Once Council's preference is determined, further consultation can be undertaken with the operator.

Options

The information in this report compares the options assessed for this review and the advantages and disadvantages of each. The options are as follows.

1. Maintain the Status Quo

Under this option, all of the public car parking is retained for public use and surf school operators will need to comply with the regulations that apply to all other visitors to this location.

2. Council approves dedicated surf school parking south of the Surf Club on Pacific Parade.

3. Council approves dedicated surf school parking on Ross Street adjacent to Pacific Parade.

4. Council approves dedicated surf school parking south of the car park on Pacific Parade.

5. Council approves dedicated surf school parking within the car park south of the Surf Club.

Council rejected this option at a previous meeting.

6. Council could endorse all (or two) of the options and delegate to staff to make the final decision in consultation with the surf school operators.

If Council wants to provide a dedicated commercial car park, option four is preferred as it has the least impact in terms of the number of car parks lost to the public. This site is also closest to the one originally requested by the surf school. This option also avoids the need for surf school customers to cross Pacific Parade from Ross Street.

The LTC has confirmed that Council can implement all of these options and the required regulatory controls can be established and it is open to Council to select any of the options.

If option four is supported a restricted time zone is also recommended based on the hours of 7.00am to 5.00pm. A recommendation along these lines is as follows:

1. *That Council approves a "P, Bus and Bus/Trailer Only" parking control to be installed on Pacific Parade immediately south of the car park which is south of the Surf Club.*

10.1 Lake Ainsworth - Surf School Parking

2. *That the parking control in point one be limited to operate from 7.00am to 5.00pm.*

In respect to a recommendation for this report Council has not traditionally provided dedicated commercial car spaces and typically if spaces are allocated to a commercial operator there would be a fee payable.

With Council having now closed the eastern access road to the Sport and Recreation Centre, public car spaces are at a premium, particularly in the holiday periods.

On this basis the recommendation is to note the contents of this report and not support the allocation of public car spaces to a business activity.

This may create some operational difficulties for the surf school operators in peak times however that is no different to private citizens who may need to carry their personal equipment a reasonable distance to access the beach, lake and other facilities in this location, particularly in the busy holiday periods.

If Council wants to provide dedicated car park spaces the wording for the implementation of option four is outlined earlier.

RECOMMENDATION

That Council notes the contents of this report on Surf School Parking and confirms that the preference is to maintain as many public car spaces as possible in the Lake Ainsworth locality due to the popularity of the location.

Attachment(s)

1. Original Proposal - Car park south of the Surf Club and opposite Ross
2. Site 1 - South of Surf Club on Pacific Parade
3. Site 2 - Ross Street adjacent to Pacific Parade
4. Site 3 - South of car park on Pacific Parade

10.2 Community Property - Lease Renewals

10.2 Community Property - Lease Renewals

Delivery Program Open Spaces and Reserves

Objective To seek direction in relation to tenure renewals for properties within Council's Community property portfolio.

The Background

The Community Property Leasing and Licensing Policy was adopted at the July 2016 Ordinary meeting.

This policy establishes Council's approach to the occupation of Council owned properties within its community property portfolio.

Several properties that are the subject of the policy are due for tenure renewals.

This report sets out the details of the properties and the proposed renewals in accordance with this policy.

Key Issues

- Tenure renewals
- Occupation and use of community assets

Information

The properties in Table One are recommended for tenure renewal in accordance with the Community Leasing and Licensing Policy. Each tenure is proposed on a peppercorn rental, which is currently set at \$1.

Table One Tenure Renewals – Community Property

Doc No.	Property	Occupant (Lessee)	Tenure
1	21 Alston Avenue, Alstonville	Alstonville & District Football Club (Crawford Park Clubhouse)	3 year
2	2 Deegan Drive, Alstonville	Alstonville & District Football Club and/or Alstonville Cricket (Geoff Watt Oval)	3 year
3	24 Swift Street, Ballina	Ballina Players Theatre (Theatre building and old public toilet)	3 year
4	26 Swift Street, Ballina	Ballina Senior Citizens (Part Wigmore Hall)	3 year
5	26 Swift Street, Ballina	Girl Guides NSW (Part Wigmore Hall)	3 year
6	26 Swift Street, Ballina	Ballina Shire Concert Band (Part Wigmore Hall)	3 year
7	96-98 Kalinga Street, West Ballina	Ballina Seahorses Rugby Union (Quays Reserve Clubhouse)	3 year
8	13-15 Old Pacific Highway, Newrybar	Newrybar Community Hall Inc (Newrybar Hall)	3 year
9	5 Cawarra Street, Ballina	Northern Rivers Outrigger Canoe Club Inc (Boating complex, Cawarra Park)	3 year

10.2 Community Property - Lease Renewals

Doc No.	Property	Occupant (Lessee)	Tenure
10	5 Cawarra Street, Ballina	Ballina Sharks Baseball (Clubhouse, Cawarra Park)	3 year
11	5 Hall Court, Wollongbar	Wollongbar Progress Association (Wollongbar Hall)	3 year
12	49 Richmond Street, Wardell	Wardell Progress Association (Wardell Hall)	3 year
13	80 Elvery Lane, Alstonville	Alstonville Tennis Club <i>(located on operational land and not subject to community property requirements of the Local Government Act) but is utilised by the community for not for profit activities.</i>	3 year
14	81-95 Southern Cross Drive, Ballina	Ballina Lions Club Inc (portion of storage shed at Council Depot) <i>The storage shed is located on operational land (not subject to community property requirements of the Local Government Act) but is utilised by the community for not for profit activities.</i>	3 year
15	81-95 Southern Cross Drive, Ballina	Ballina Rotary Club Inc (portion of storage shed at Council Depot) <i>The storage shed is located on operational land (not subject to community property requirements of the Local Government Act) but is utilised by the community for not for profit activities.</i>	3 year

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
There are significant social benefits provided to the community by many of occupants of Council community properties through the range of services they deliver. It is important to ensure that these groups are able to operate affordably and sustainably. It is also important that the use of community property is transparent and considered in the broader public interest.
- **Economic**
The waiving of commercial rental represents an economic loss to Council. However, that loss can be offset to some extent by the broader social, welfare and recreational benefits which are provided by community groups.

Legal / Resource / Financial Implications

In accordance with section 46 of the Local Government Act, Council must only authorise occupation of community land by way of tenure agreements which are consistent with specific provisions in a plan of management. Council's Principal Generic Plan of Management for Community Land provides for these respective uses.

Section 47 and 47A of the Local Government Act requires Council to publicly exhibit tenure renewals for community land. All tenures are recommended for a term of three years, in accordance with Council's Community Property Leasing and Licensing Policy.

There are no negative resource impacts or financial implications associated with the tenure renewal process, other than the foregone revenue opportunities discussed above. Any works required as part of the tenure renewal process will be managed for funding through existing budgets and work programs.

Consultation

Consultation is currently occurring with the occupants of these premises. Public notice will be given of the intention to renew leases in accordance with sections 47 and 47A of the Local Government Act. The matter will be reported back to the Council in the event that submissions are received.

Options

The options available are;

1. To grant tenure as per the list in Table One (or otherwise as varied by the Council).
2. To not grant tenure to all or some of the community groups the subject of this report or to defer all or some of the renewals to seek further information.

Given that the tenure arrangements recommended are consistent with Council's Community Property Leasing and Licensing Policy, the grant of the tenures provide for orderly and reasonable management of Council's community properties, and the renewals confirm arrangements for the groups involved for the forthcoming period, it is recommended that Council follows option one and authorises the various tenures as set out in Table One.

RECOMMENDATIONS

1. That Council, in accordance with the relevant provisions of the Local Government Act 1993 and associated Regulation, enters into the leases as outlined in Table One of this report.
2. The Council authorises the General Manager to affix the seal to the lease documents and any other documents required to facilitate the tenures proposed to be granted in point one above.
3. That prior to points one and two being actioned, Council undertake the statutory public notification relating to the proposed leases, with a further report to be presented in the event that objections are received.

Attachment(s)

Nil

10.3 Tender - Installation of Pavers Ballina CBD Stage 4

10.3 Tender - Installation of Pavers Ballina CBD Stage 4

Delivery Program Engineering Works

Objective To assess the tender for the Installation of Pavers for Ballina CBD Stage 4

Background

The beautification of the Ballina River Street Central Business District (CBD) precinct is a key action for the continual social and economic growth of the Ballina Shire.

The upgrade and beautification works includes widening of the footpaths on both sides of River Street, replacement of in-situ concrete footpath with coloured large format concrete terrazzo paving, enhanced vegetation planting, enhanced disabled parking, and greater social amenity for the visitors and occupants of the CBD precinct.

The upgrade and enhancement work for the River Street CBD from Martin Street to Moon Street has already been completed and Stage 4 of the Ballina CBD beautification work for River Street from Moon Street to Grant Street has commenced with completion expected in November 2019.

The majority of the upgrade and enhancement scope of work has been undertaken by the Council Engineering Works Team. The installation of the large format concrete unit paving is outside of the Council's current resource capabilities and specialist services were sought through a public tender process.

A public tender for the installation of the concrete large format unit paving was advertised on 25 May 2019.

The tender closed on 18 June 2019. The tender submissions received through the public tender process form the subject for this report.

Key Issues

- Tender Assessment
- Value for Money
- Regulatory Compliance

Information

Conforming tender submissions were received from two companies:

- Bland2Brilliant, and
- METtile Pty Ltd

Both tender submissions provided lump sums for the installation of the large format concrete pavers.

10.3 Tender - Installation of Pavers Ballina CBD Stage 4

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

The reason for the confidential advice is that it contains commercial information.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The town centre beautification program is an important contribution to the local economy.

Legal / Resource / Financial Implications

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

Consultation

Stakeholders, which included the property owners and tenants of River Street between Grant Street to Moon Street, have been engaged through the design process to ensure they have been informed of the program and scope of works.

A public forum event, with key stakeholders invited, was held on 13 May at the Ballina RSL where the program and scope of work was explained.

One to one discussions were held with key stakeholders, including the RSL Club and motel operators, and they were provided with the opportunity to define their specific requirements.

Options

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

The tenders submitted do not indicate a fair test of the market as the tender rates that have been submitted exceed the pre-tender estimate.

10.3 Tender - Installation of Pavers Ballina CBD Stage 4

In the circumstances, the recommendation to this report is to decline to accept any of the tenders and enter into negotiations with any persons.

Sections 178 (3) and (4) of the regulations (reproduced below) provides further direction in the circumstances where a Council declines to accept any tenders in accordance with section 178 (1)(b).

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

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

(4) If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:

- (a) the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
- (b) the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

RECOMMENDATIONS

1. That Council in accordance with the *Local Government (General) Regulation 2005 Section 178 (1)(b)*, declines to accept any tenders for the Installation of Pavers Ballina CBD Stage 4 for the following reasons;
 - The tendered rate exceeds the current budget and pre-tender estimate, and
 - The tendered submissions provide relatively poor social and community inclusion.
2. The Council, in accordance with the *Local Government (General) Regulation 2005 Section 178 (3)(e)* authorises the General Manager to enter into negotiations with any person (whether or not the person was a tenderer) with a view to enter into a contract up to the pre-tender estimate.

10.3 Tender - Installation of Pavers Ballina CBD Stage 4

3. That in accordance with the *Local Government (General) Regulation 2005 Section 178(4)(a)* the reason Council has declined to invite fresh tenders is;
 - Under the project program, it is necessary to expedite the award of a suitable paver installation contract
 - Direct negotiations increase the opportunity to gain better social and community inclusion
 - It is unlikely calling for fresh tenders will result in a different outcome
 - Research and inquiries indicate a price at or below the pre-tender estimate can be achieved.

4. That upon the conclusion of negotiations Council authorises the General Manager to execute and affix the Council seal to the relevant contract documents, subject to the contract price being at or below the pre tender estimate.

Attachment(s)

Nil

10.4 Tender - Fire Equipment Inspection, Testing, Maintenance and Reporting

10.4 Tender - Fire Equipment Inspection, Testing, Maintenance and Reporting

Delivery Program Support Operations

Objective To assess the tender for the provision of fire equipment inspection, testing, maintenance and mandatory reporting.

Background

On October 1 2017, changes to the Environmental Planning and Assessment (EP&A) Regulation 2000 were introduced to enhance the requirements relating to the fire safety in new and existing buildings. The changes to the EP&A Regulation include; (a) the requirement to have fire safety equipment assessed by competent fire safety practitioners, (b) additional requirements for the mandatory annual reporting (annual fire safety statement) of fire safety measures, and (c) standardised reporting of fire safety measures.

Ballina Shire Council currently has over 70 buildings and in excess of 150 fleet vehicles that require regular testing of the fire safety equipment. Council currently engages two contract organisations for testing various fire safety equipment with Council staff testing the electrical fire safety equipment.

More than 30 of the Council buildings with mandatory fire safety equipment are required to have the equipment tested in accordance with the Australian Standard and have annual fire safety statements submitted in the approved format.

The objective of this tender is to rationalise and standardise the inspection, testing, maintenance, and mandatory reporting of Council's fire safety equipment.

A public tender for the inspection, testing, maintenance, and mandatory reporting of fire safety equipment was advertised from 9 April 2019 until 7 May 2019.

Key Issues

- Tender Assessment
- Value for Money
- Regulatory Compliance

Information

The rationalisation and standardisation of the mandatory fire safety equipment testing provides better traceability than the current ad hoc system.

There are currently three different parties that carry out the testing functions which is to be incorporated into a single contract which will provide a single point of responsibility for all inspection, testing, maintenance and reporting functions.

10.4 Tender - Fire Equipment Inspection, Testing, Maintenance and Reporting

Tender submissions were received from three companies.

A submission received from Dynamic Fire Pty Ltd was deemed non-conforming in the initial assessment by the tender evaluation panel as the mandatory tender schedules had not been submitted.

Conforming tenders were received from:

- Douse Fire
- FCF Fire and Electrical NSW

The conforming submissions provided a schedule of rates for fire safety equipment test type in accordance with the tender schedule.

In order to evaluate the tenders equally and accurately, the costs provided by the bidders in the schedule of rates was used to prepare a comparative analysis for a range of Council facilities.

Information regarding the comparative analysis evaluation has been provided in a separate confidential memorandum to Councilors.

The reason for the confidential advice is that it contains commercial information.

Sustainability Considerations

- **Environment**
Compliance with the regulation reduces the risk of environmental harm in the event of a fire.
- **Social**
Compliance with the regulation reduces the risk of social harm to persons in the event of a fire.
- **Economic**
Good governance by Council through meeting its statutory obligations displays leadership and engenders community confidence in Council, which can contribute to the economy by ensuring Ballina Shire is an attractive place to invest or conduct a business.

Legal / Resource / Financial Implications

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

Douse Fire provided the lowest comparative tender price and scored highest on the weighted criteria.

The tender process represents the most efficient method of achieving compliance with the regulations.

10.4 Tender - Fire Equipment Inspection, Testing, Maintenance and Reporting

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.

The tenders submitted would indicate a fair test of the market and that a fair rate has been achieved and is in line with the pre-tender estimate.

RECOMMENDATIONS

1. That Council in accordance with the Local Government (General) Regulation 2005 Section 178 (1)(a), accept the tender from Douse Fire that, having regard to all the circumstances, appears to be the most advantageous.
2. That Council authorises the General Manager to execute and affix the Council seal to the relevant contract documents.

Attachment(s)

Nil

11. Notices of Motion

11.1 Notice of Motion - Wollongbar Strategic Plan 2019 - 2039

Councillor Cr Willis
Cr Williams
Cr Parry

We move

1. That Council receive a report on preferred options for the type and scale of community facility that is to be delivered by Council for Wollongbar, as required by Council's Open Spaces and Community Facilities Developer Contributions Plan.
2. This report is to examine factors such as the preferred mixture of uses for such a facility, preferred location, management structure and likely costs.
3. The information sourced from this report will provide clarification as to the community facility needs for Wollongbar, which can then be incorporated into the next review of the Open Spaces and Community Facilities Developer Contributions Plan. This review is scheduled for 2020/21.

Councillor Comments

Now that the planning application for the Wollongbar District Park is in preparation, it seems to us that now is the time for Council staff to liaise with Wollongbar residents about what kind of facility would best enhance their sense of community and wellbeing. This was a key finding from the community consultation for the concept of the District Park, along with being a key objective in the Wollongbar Strategic Plan, as adopted by Council in June 2019.

Community facilities have for many years been identified as needed in Wollongbar, as its residential capacity grows and there is already provision for a community facility in the existing, adopted Open Spaces and Community Facilities Developer Contributions Plan.

By taking account of the feedback from the community regarding the Wollongbar Strategic Plan, and refining our questions accordingly, it will be possible to identify in this financial year, the kind of community facility that is prioritised most highly by the community.

Currently the Open Spaces and Community Facilities Developer Contributions Plan has limited information on the type of community facility that is to be delivered for Wollongbar and there is no estimate in the plan for land acquisition costs. The only item in the plan is \$900,000 for construction costs based on 2016 construction figures, with the building to be delivered in the period 2021 to 2026.

This assessment will help clarify the preferred location for the community facilities building, along with providing contemporary construction costs, which can then be included in the 2020/21 review of the Contributions Plan.

Staff Comments

A similar motion was lost at the 27 June 2019 Ordinary meeting. This means that to consider this matter again within a three month period, a notice of motion must include three signatures.

This notice complies with the requirements of the Local Government Act. If the motion is again lost it cannot be re-considered for three months.

COUNCILLOR RECOMMENDATIONS

1. That Council receive a report on preferred options for the type and scale of community facility that is to be delivered by Council for Wollongbar, as required by Council's Open Spaces and Community Facilities Developer Contributions Plan.
2. This report is to examine factors such as the preferred mixture of uses for such a facility, preferred location, management structure and likely costs.
3. The information sourced from this report will provide clarification as to the community facility needs for Wollongbar, which can then be incorporated into the next review of the Open Spaces and Community Facilities Developer Contributions Plan. This review is scheduled for 2020/21.

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 June 2019 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
26/6/19	Meeting – Dan and Greg Webber
28/6/19	Meeting DPI – Drones for School Holidays
29/6/19	Tour of Drone Deployment
30/6/19	Meetings with Life Guards – Drone Information Downloading
1/7/19	Flavours of Lennox – Award Night – Lennox Surf Club
2/7/19	Donations Working Party
2/7/19	Alstonville/Wollongbar Chamber – North Coast Community College
2/7/19	SES – YETTIES Graduation
3/7/19	NAIDOC Celebration – Southern Cross School
3/7/19	Alstonville Rotary Changeover
4/7/19	Meeting – RSL Centenary Book, Gallery Launch
7/7/10	Commemoration Park Markets
7/7/19	Launch NAIDOC Art Exhibition – Lennox Head Community Centre
8/7/19	NAIDOC Walk
9/7/19	Church Group, 'A' Ward Committee
9/7/19	Lennox Head and East Ballina Lions Changeover
11/7/19	2019 Skullcandy OZ Grom – Set Up
11/7/19	Presentation – SCU Research – DPI and Ballina's Ocean Beaches
11/7/19	Meeting DPI Stakeholders – Ballina Surf Club
12/7/19	2019 Skullcandy OZ Grom
12/7/19	Meeting – Rod Kinnish – Evans Head Aviation Museum
12/7/19	Ignite Studios – Brain Flower, NAIDOC Workshops – Ignite Studios
13/7/19	2019 Skullcandy OZ Grom, 2019 Skullcandy OZ Grom - Sponsors
14/7/10	Commemoration Park Markets, Lennox Head Markets
14/7/19	2019 Skullcandy OZ Grom
15/7/19	Meeting Kevin Hogan – Airport Runway
15/7/19	2019 Skullcandy OZ Grom, 'B' Ward Committee
16/7/19	2019 Skullcandy OZ Grom, AGM Ballina Hospital Auxiliary
17/7/19	2019 Skullcandy OZ Grom - Presentations
19/7/19	Meeting – Lyn Walker, Vigil – St Mary's Ballina
20/7/19	Open Day – Animal Shelter
21/7/19	Commemoration Park Markets, Ballina Markets
24/7/19	Epiq Shopping Centre Sod Turning
25/7/19	Council Meeting
27/7/19	Byron Writers' Festival – Launch – Gallery
28/7/10	Commemoration Park Markets
29/7/19	On-Site Inspection of Ballina Indoor Sports Centre
30/7/19	Briefing – Intrapac – Banyan Hills, Proposed Ballina Film Studio
31/7/19	Planning Framework Training

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 Leasing Update - Shop 11 Wigmore Arcade Complex, Ballina

Refer to Item 9.8 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 Leasing Update - Shop 11 Wigmore Arcade Complex, Ballina

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information may prejudice those negotiations.