



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 28 May 2020 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.

**Due to COVID-19 social distancing measures,
we urge you to access this meeting via our Live Streaming link
*ballina.nsw.gov.au/agendas-and-minutes***

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.

**Deputations and Public Question Time
must now be made by audio-visual or by written correspondence
due to COVID-19 restrictions.
Please contact the General Manager's Office for further details.**

Recording and Livestreaming of Council Meetings

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- Attendance at the meeting is taken as consent by a person to their image and/or voice being webcast.
- All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.
- Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.
- This meeting must not be recorded by others without the prior written consent of the Council in accordance with Council's Code of Meeting Practice.

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1. Australian National Anthem

The National Anthem will be performed by Councillors and Staff.

2. Acknowledgement of Country

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 April 2020 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 April 2020.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2019/123 - 74 Ballina Street, Lennox Head

8. Planning and Environmental Health Division Reports

8.1 DA 2019/123 - 74 Ballina Street, Lennox Head

Applicant	Newton Denny Chapelle (on behalf of Bluehat Properties Pty Ltd)
Property	74 Ballina Street Lennox Head Lot 24 Section 2 DP 11687
Proposal	Mixed use development comprising the erection and Strata Title subdivision of 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 demolition of all structures on-site.
Effect of Planning Instrument	The land is zoned B2 Local Centre under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan in Attachment 1.

Introduction

A development application has been received from Newton Denny Chapelle for a mixed use development comprising of the following components.

- the demolition of all existing structures
- construction of a three storey mixed use building which includes food and drink premises, retail shops (ground and second floors), business premises (second floor) and shop top housing comprising of two residential dwellings (third floor)
- on-site car parking for 11 spaces (inclusive of a loading bay) accessed from Park Lane
- A pedestrian walkway linking Ballina Street and Park Lane
- Strata Title subdivision to create nine lots (including the common property lot)

The development has been designed to incorporate the existing Post Office and associated functions.

The estimated cost of the development is \$2,633,714.

The Statement of Environmental Effects describes the proposal as follows:

“The proposed development represents not only functional improvements to the operation of the Lennox Village commercial precinct, it also provides for the creation of a pleasing and creative aesthetic that will add feature and appeal to the streetscape of both Ballina Street and Park Lane.”

This porous built form aims to prioritise the pedestrian experience, and create better connection in the town centre. This is achieved through the integrated laneway, which connects Williams Reserve to the Lennox Head foreshore. Externalised, covered in draping landscape, and punctuated with triple-storey voids, this laneway will be a truly public space, open 24-7 and activated by the ground floor restaurant tenancy.

Due to the mixed-use composition of the building, a varying range of tenancy types and scales are provided, acting to further the diversity in the town centre. In response to this, the building has been broken down, with outdoor garden pockets distributed throughout each floor. This allows for maximised natural lighting, as well as creating a building that breathes, negating the reliance on air-conditioning. In essence, the building acts to make the most of the local subtropical climate. A generous 25% of the site area is designated to gardens for native flora and fauna.

The bulk and scale of the building from Ballina Street has intentionally been designed to sit respectfully within the context of the surround buildings. The brick façade ties in with the other brick commercial buildings on the street, whilst the bulk and scale matches the existing. The third storey is set well back from the street boundary, so as to be barely visible from the street.

For these reasons, 74 Ballina Street will act to make a positive contribution to the town centre of Lennox Head.”

The redevelopment of the site not only incorporates the existing post office and associated facilities but provides a visual/physical link to the Lennox commercial village precinct.

The ground floor of the development will be embellished with retail premises 01 (66m²), retail premises 02 (50m²) and retail premises 03 (50m²). A pedestrian walkway is located on the northern side of the development and will provide a pedestrian linkage through the site between Ballina Street and Park Lane.

Parts of the pedestrian link are designed to cater for alfresco seating, however the width of the access preserves a minimum 1.2m width where structures define the pedestrian pathway corridor. The ground floor incorporates an access lift.

The first floor incorporates two office premises totaling 85m² and includes the second level of the food and drink premises (104m²). Amenities servicing the development are provided on this floor and accessed from the public circulation area which connects to the access stairs and lift.

The third floor comprises two residential dwellings with a total gross floor area of 255m².

Vehicular/service access to the development is via Park Lane. Waste servicing of the site will be carried out by Richmond Waste services and all loading and unloading will be carried out on site (without any interference with traffic movements in Park Lane). Floor plans and elevation drawings are contained in Attachment 2.

8.1 DA 2019/123 - 74 Ballina Street, Lennox Head

Mixed use developments of this nature are designed with a functional purpose being paramount to achieve a desirable outcome. The building incorporates extensive façade variations that ensures aesthetic interest that complements the character of Ballina Street.

The building, with the exception of the first-floor deck is stepped back from the street line to allow the free flow of pedestrians through the development past the main facade of the Post Office and restaurant.

Importantly, the recessed setback ensures the third storey is not visually prominent from Ballina Street.

In determining this application, there are two key issues for Council's careful consideration.

The first is car parking and the submission of a Voluntary Planning Agreement (VPA) and the second is building height.

The development generates a need for the provision of 23.8 car parking spaces.

Council Requirement		Proposed Gross Floor Areas	Required Number of Parking Spaces
Use	Rate		
Retail\Food & Drink Premises\ Office	1 space per 25m ² gross floor area	470 m ²	18.8
Residential dwellings	2 spaces per dwelling + 1 visitor	2 dwellings	5.0
		Total required	23.8

The current application proposes to provide 11 car parking spaces on the site (including the loading bay). Council resolved at its ordinary meeting held on February 2019, to close the current Lennox Head Car Parking Contribution Plan and offer the remaining 11.37 spaces to this development site (as a contribution payment under the Lennox Head Car Parking Contribution Plan).

The current proposal therefore has a parking deficit of 1.43 spaces.

The Applicant proposes that a VPA be entered into with Council to address the remaining deficit of 1.43 spaces.

The proposed development is inconsistent with Clause 4.3 – Height of Buildings of the Ballina LEP 2012. The maximum height of a building on the Height of Buildings Map is prescribed as 9 metres.

The proposed height of the development is 9.7m. The building element exceeding the building height is the lift shaft which comprises a 700mm lift overrun.

The purpose of this report is to seek Council's determination of the application. The recommendation of staff is to approve the proposed development with conditions.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The subject development application was placed on public exhibition from 18 March to 4 April 2019. At the close of the exhibition period 34 submissions had been received. Of these, 17 submissions were in support of the proposal and 17 were against the proposal. All submissions are contained in Attachments 5 and 6.

The key matters raised in the submissions can be summarised as follows:

Objections

- Non Compliance with the 9 metre building height limit; (Refer to Height of Buildings within the Ballina Local Environmental Plan 2012 section in this report)
- Overdevelopment of the site; (Refer to Floor Space Ratio within the Ballina Local Environmental Plan 2012 section and the Chapter 6c – Commercial Development in Lennox Head section in this report)
- Insufficient car parking provided on site; (Refer to Car Parking assessment within the Ballina Shire DCP 2012 Chapter 2, 4 and 6c sections of this report)
- This type of development will set a precedent in Lennox Head; (Refer to Chapter 6c – Commercial Development Lennox Head assessment of this report)
- Minimal landscaping provided; (Refer to Chapter 4 Residential and Tourist Development section of this report)
- Not in keeping with the character of Lennox Head; (Refer to Chapter 6c – Commercial Development in Lennox Head section of this report)
- Three storey development sets a undesirable precedent. (Refer to Chapter 6c – Commercial Development in Lennox Head section of this report)

Support

- New development of this nature is good for Lennox Head
- Good building design
- The redevelopment of the old post office site will add vibrancy and additional office space to the town
- The first floor dinning overlooking the park and the beach will be a major attraction for tourist and residents
- The additional carparks in town will be a benefit to Lennox Village
- The building will add to the passive security of residents at night
- Pedestrian access through to the park is a major benefit of the development
- Offers additional business office space

8.1 DA 2019/123 - 74 Ballina Street, Lennox Head

- The new restaurant will be a great addition to the Lennox Village
- Development of this nature will offer additional business opportunities for Lennox
- This development will continue to attract sensible investment and renewal of the town center
- This development will offer additional surveillance at night in the commercial centre of Lennox and
- The exceedance in the height limit will not be visible from the street and will be so minor that it will have no impact on the visual amenity and no consequence to light in the street.

Applicable Planning Instruments

Ballina Shire LEP 2012

Ballina Shire DCP 2012

State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy 55 – Remediation of Land

Report

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

Coastal Management SEPP

Division 3 - Coastal Environment Area

The subject land has been historically used for residential/commercial use.

Given the development's separation from the ocean, and the controlled capture and treatment of stormwater from the land, the development is unlikely to significantly impact upon:

- The integrity and resilience of the biophysical, hydrological and ecological environment.
- The coastal environmental values and natural coastal processes.
- Any marine vegetation, native vegetation and fauna and their habitats as there will be no vegetation removal as a result of the proposed development.
- Known relics or items of Aboriginal cultural significance have been identified on the subject land.

Division 4 – Coastal Use Area

The development site is mapped within the Coastal use area. Given the significant separation from the coastal foreshores or headlands, it is unlikely that the development will have an adverse impact on:

- Existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- Overshadowing, wind funnelling and the loss of views from public places to foreshores,

- The visual amenity and scenic qualities of the coast, including coastal headlands,
- Aboriginal cultural heritage, practices and places,
- Cultural and built environmental heritage.

SEPP 55 – Remediation of Land

The objective of SEPP 55 is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 7 provides that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if so whether the land is suitable in its current state or subject to remediation for the intended land use.

Council's Environmental Health Section have raised no objection to the proposed development subject to compliance with a number of conditions of consent. Further to this, the development is considered to be acceptable in relation to Clause 14(1)(b)(ii)(iii) and Clause 14(c).

With regard to the above, the application complies with Clause 15 of the SEPP and is consistent with the aims of this SEPP.

Ballina Local Environmental Plan 2012

Clause 4.2.3 Zone Objectives

The site is zoned B2 Local Centre under the Ballina LEP 2012.

The objectives of this zone are as follows;

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in, and visit the local areas.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To maintain a distinct retail hierarchy as identified in Council's strategic planning framework.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To ensure a safe and accessible built environment.*
- *To encourage development that recognises natural, cultural and built heritage.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

For the purposes of the Ballina LEP 2012, the development is defined as a mixed use development containing commercial (food and drink premises, retail and office) premises and including shop top housing (residential accommodation). The definitions of the individual proposed uses are as follows:

mixed use development means a building or place comprising 2 or more different land uses.

commercial premises means any of the following:

- (a) *business premises,*
- (b) *office premises,*
- (c) *retail premises.*

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

business premises means a building or place at or on which:

- (a) *an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- (b) *a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.*

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) *a restaurant or cafe,*
- (b) *take away food and drink premises,*
- (c) *a pub,*
- (d) *a small bar.*

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

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

residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) *attached dwellings,*
- (b) *boarding houses,*
- (c) *dual occupancies,*
- (d) *dwelling houses,*
- (e) *group homes,*
- (f) *hostels,*
- (g) *multi dwelling housing,*
- (h) *residential flat buildings,*
- (i) *rural workers' dwellings,*
- (j) *secondary dwellings,*
- (k) *semi-detached dwellings,*
- (l) *seniors housing,*

(m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

In accordance with the above definitions, the proposed commercial, food and drink premises and shop top housing are permissible with consent.

The proposed development will improve access to business, entertainment and housing needs for the Lennox Head community and the broader locality.

The proponent has indicated that the provision of new commercial premises will provide stimulus for new business activity with associated employment growth opportunities, along with residential housing, will promote greater activity within the Lennox village centre and promote/strengthen the community function of the village.

The proposed built form is compatible and responds well to adjoining mixed use development to the immediate north of the site, and accordingly any perceived land use conflicts are addressed through the building design and management of the tenancies.

The applicant has submitted a noise impact assessment for the development which concludes that through the adoption of the report's recommendations and management measures the development is suitable for the subject land.

The proposed use of the site for commercial, shop top housing and a food and drink premises is considered consistent with the objectives of the zone for the following reasons:

- The proposal will offer opportunities for a range of additional retail and business development in an accessible area in the Lennox Village, therefore creating employment opportunities and serving the needs of residents and visitors to the local area;
- The proposal will stimulate the Village by providing accommodation within walking distance to commercial services; and
- Commercial uses are consistent with the vision for this part of Lennox Head; and
- It is considered that adverse land use conflicts are unlikely to occur between the site and the adjoining properties due to the design of the building and the development conditions that are proposed (should the application be approved).

Clause 4.3 - Height of Buildings

A maximum building height of 9 metres applies to the site. The proposed building has an overall height of 9.7 m AHD. The only point of non-compliance is the lift shaft which has a 700mm overrun.

The extent of variation is up to 700mm (which equates to a variation of approximately 6%). This structure is located approximately in the centre of the roof area and occupies approximately 0.4m² of roof area. The structure is not visible when viewing the building from the Ballina Street or Park Lane frontages.

The proponent has carried out a survey of buildings in the near vicinity of the subject site which has revealed that there are a number of buildings that exceed the 9 metre height limit (further details provided by the applicant are set out below).

The applicant has lodged a variation to the standard (Attachment 4) on the following grounds:

- The primary element exceeding the building height is the lift shaft which comprises a 700mm lift overrun. The balance of the building satisfies the building height, and it is considered that the minor variation to the height limit has no material impact upon the built form when viewed from the public domain;
- It should also be mentioned that the lift shaft is in the centre of the roof and has no greater impact than a roof top air-conditioning unit which could be established on the roof under the Code SEPP as exempt development.

Based on the above it is recommended that the variation to the development standard be supported (refer also to commentary under Clause 4.6 Exemptions to Development Standard).

Clause 4.4 – Floor Space Ratio

The Floor Space Ratio Map for the site prescribes a 0.8:1 ratio. The proposed floor area for the development is 647m².

With a site area of 809.5m this equates to a total Floor Space Ratio of 0.8:1 which is compliant with the LEP requirements.

Clause 4.6 – Exemptions to Development Standards

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The development application was accompanied by a written request that addresses the above and other relevant matters.

The applicant's written request for and justification for the departure from the development standard is **attached** to this report and is summarised as follows:

- *The primary element exceeding the building height is the lift shaft which comprises between 600-700mm overrun. The balance of the building satisfies the building height and has no material impact upon the built form when viewed from the public domain and therefore maintains the underlying objective of the 9.0m height of building development standard;*

- *The proposed building height will not present any impacts relating to views or overshadowing of an adverse nature on adjoining development and will maintain the desired future character of the Lennox Head Village Centre as the building is otherwise compliant with the building height preferred for the Village Centre;*
- *A survey of building heights in Lennox Head has identified a number of buildings which are constructed over 9m and based on RL's will be in fact higher than the proposed development. In this respect, the development is designed to RL15.080, whilst the Lennox Head Community Centre roof is RL15.3, whilst 92 Ballina Street is constructed to RL16.50 for the roof vents and RL14.70 to the roof ridge. Immediately adjoining the development site, the northern building (Lot 22 Sec 2 DP 11687) contains a roof height of RL 13.88m and vent height of RL14.12. As evidenced from the surveyed heights, the proposal is not deemed to be antipathetic to the character of Lennox Head nor imposing upon the streetscape given the recessed nature of the upper floors.*

It should also be mentioned that the horizontal footprint of the lift shaft on the roof is approximately 4m² and located near the centre of the roof.

Clause 5.5 - Development within the Coastal Zone

The site is not located within the identified coastal hazard area, nor will the proposed development directly impact coastal hazard processes.

The proposed development fronting Ballina Street is not directly visible from the foreshore.

The development will not impede land based right of access of the public to or along the coastal foreshore.

Clause 7.1 - Acid Sulfate soils

The site is not included on the Acid Sulfate Soil Planning Maps. Therefore it is unlikely that acid sulfate soils will be intercepted during construction.

Clause 7.7 - Essential services

All the essential infrastructure services are currently connected or can be provided to the site.

Ballina Shire DCP 2012

The Ballina Shire DCP 2012 is applicable to the site, particularly Chapter 2 General and Environmental Considerations, Chapter 4 Residential and Tourist Development, Chapter 6 Commercial Development and Chapter 6c Commercial Development - Lennox Head.

For the purposes of this report only those provisions of direct relevance to the assessment are specifically commented upon. As the provisions of Chapter 6c prevail over other chapters, the report has particular regard for the relevant provisions of Chapter 6c.

Chapter 6c provides guidelines for all future developments within the Lennox Head Village Centre including preferred land uses, design requirements and other provisions. It also divides the Village Centre into land use precincts with precinct specific requirements applicable. The subject site is within Precinct A Village Centre.

Chapter 2 – General and Environmental Considerations

Section 3.4 – Potentially Contaminated Land

Preliminary investigations of the site which has revealed that the subject lot was created in 1922 as part of the “Lennox Head Estate”.

- Prior to the to construction of the subdivision, the subject land comprised sand dunes and associated vegetation;
- The existing dwelling was erected on the land prior to the construction of the Post Office in 1970;
- The subject land has no record of being used for any other purposes as stated above.

Council’s Public and Environmental Health Section has recommended conditions be imposed on the consent relating to potential contamination resulting from the demolition of the buildings on the site during the re-development of the land.

Section 3.7 - Waste Management

The proponent has submitted a Site Waste Minimisation and Management Plan that has been supported by Council subject to the imposition of relevant conditions of consent relating to suitable waste storage and collection from the site.

Section 3.9 - Stormwater Management

A stormwater plan has been provided which plan proposes two points of discharge, one being in Park Lane and, one in Ballina Street. Due to the lack of piped infrastructure in Park Lane, the proposed attenuation tank at the back of the site has been designed for the 100 year storm event. Overflow from this device will be directed to the kerb and gutter in Park Lane. Stormwater from the Ballina Street side of the development will be discharged to the existing kerb inlet pit at the front of the site.

The proposed stormwater management devices will be a 20m³ Infiltration Pit for the Park Lane catchment, and, 10m³ Attenuation Tank for the Ballina Street catchment. The proposed infiltration pits provide sufficient attenuation for the site to ensure post development flows do not exceed the pre-development flows.

The proposed stormwater management and treatments achieve the stormwater quality and attenuation objectives for the site.

Council’s Civil Services Division has assessed the proposed stormwater management regime for the development and raised no objections subject to the compliance with numerous conditions of consent.

Section 3.10 - Sediment Control

A Sediment Control Plan will be required to be submitted prior to the issue of the Construction Certificate. This will be addressed via the imposition of a condition of consent.

Section 3.11 - Provision of Services

The subject development will maintain existing connections to reticulated urban infrastructure.

Section 3.15 - Crime Prevention Through Environmental Design (CPTED)

The proponent has submitted a CPTED assessment that has due regard the general principals applying to CPTED guidelines. Technical staff support the assessment as provided and the implementation of the recommendations will be required via the imposition of conditions of consent.

Section 3.16 - Public Art

In accordance with Council's Development Control Plan 2 Chapter 3.16, the proponent proposes to place public art as a feature of the development and has submitted a proposal for the construction of a wall mounted glass fronted display cabinet that will become a "living art wall" for local artists to exhibit their works publicly. An indicative illustration of the installation is provided below.

The living art wall will be located at the Ballina Street entrance to the pedestrian walkway connecting Ballina Street and Park Lane.

The living art wall will be mounted to the steel columns positioned on the northern boundary. The reinforced steel/aluminium framed glass would be fixed to the wall. The backing board of the cabinet will slide out from behind the glass and art would be mounted directly to the backing board. The intent of the living art wall will be established at the cost of the developer and the remaining value will be in the displayed art works that will be to the value of \$15,000.

The proponent states that such a commitment will meet the planning objectives and development controls of Section 3.16 of the Ballina Shire DCP. The proponent also intends to place a by-law in the strata plan that will address the planning objectives, design criteria and on-going maintenance.



Section 3.19 - Car Parking and Access

The proponent has submitted revised calculations and modified drawings (dated 07 April 2020) that are consistent with the dimension and manoeuvring requirements in Council's DCP.

Based on this information, the floor areas within the development are as per the calculations shown below.

The car parking requirements for the development are therefore as follows:

Council Requirement		Proposed Gross Floor Areas	Required Number of Parking Spaces
Use	Rate		
Retail\Food & Drink Premises\ Office	1 space per 25m ² gross floor area	470 m ²	18.8
Residential dwellings	2 spaces per dwelling + 1 visitor	2 dwellings	5.0
		Total required	23.8

The application proposes to provide 11 car parking spaces on the site. Council resolved at its ordinary meeting held on February 2019 to close the current contribution plan and offer the remaining 11.37 spaces to this development site. (as a contribution payment under the Lennox Head Car Parking Contribution Plan).

The current proposal therefore has a parking deficit of 1.43 spaces. The applicant proposes that a VPA be entered into with Council to address the remaining deficit of 1.43 spaces.

In this regard the applicant proposes a VPA that provides for the payment of a monetary contribution in lieu of the 1.43 spaces deficit in the provision of car parking spaces for the development. The contribution under the VPA is being offered to assist in the study of car parking and infrastructure related needs within the Lennox Head Village Centre.

This agreement was placed on public exhibition for a period of 28 days from the 12 February to 10 March 2020. At the close of exhibition one submission had been received in support of the development and the proposed Voluntary Planning Agreement. The submission stated that the monetary contribution could be used to fund a parking study in Lennox Head.

A copy of the VPA (signed by the proponent) is contained in Attachment 3. A condition of consent is proposed to reinforce the requirements relating to the monetary contribution set out in the VPA.

It is recommended that Council agrees to the VPA in the event that the development application is otherwise deemed suitable for approval.

Due to the close proximity of the development to the public parking that is constructed within Park Lane and the Fire Brigade site it is considered that there is a strong nexus with the payment for parking spaces under the Contributions Plan and the proposed development.

The proposed development also provides an onsite loading bay capable of servicing a small rigid vehicle that will adequately service the needs of the development. In relation to waste management on the site, the proponent has provided a swept path analysis for a waste vehicle that enables the collection of 1,500 litre skip bins for the commercial tenancies on the site.

Council's Civil Services Division is satisfied that the waste collection vehicle can collect the waste from the site without impacting upon traffic movements within Park Lane.

Section 3.20 - Vibration

The proponent has stated that construction methods will be applied so as to ensure that vibration impacts will not affect the structural integrity of surrounding buildings.

Chapter 4 - Residential & Tourist Development

The following table summarises the proposal's compliance with Chapter 4.

Element	DCP Requirement	Comment
A. Building Height	As per BLEP 2012 Max. 9m as measured from ground level (existing) to top of building.	Variation Sought The proposed built form has a maximum building height of 9.7m. A variation to the building height (700mm) is proposed and is addressed in detail within the compliance with Ballina LEP 2012 Section of this report.

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B. Floor Space Ratios	0.8:1	Complies The Ballina LEP prescribes a maximum floor space ratio for the land at 0.8:1, which equates in this instance to 647.6m ² . The proposed development will result in a floor space ratio of 0.8:1 through a total gross floor area of 647m ² .
E. Building Lines	Building line setback to Ballina Street – no setback applies to the subject land.	N/A
F. Development Fronting Laneways	Building line setback to Park Lane – no setback applies to the subject land.	N/A
G. Landscaping and Open Space	<p>Controls – Private Open Space for Multi Dwelling Housing and Residential Flat Buildings</p> <p>I. Where dwellings and entries are located entirely above ground floor, Council may consent to the provision of private open space by way of a balcony. To be considered as private open space, balconies must contain a minimum area of 25m² and a minimum width of 2.5m;</p> <p>II. Private open space must be directly accessible from a living area; and</p> <p>III. Where practicable, private open space is to be located to the north or east of the dwelling and is required to have appropriate orientation and provisions to allow for winter sun and summer shade.</p> <p>IV. Minimum Landscaped Area – 1 x 81m² apartment & 1 x 86m² = 160m²</p>	<p>Complies</p> <p>Private Open Space Each unit contains private open space exceeding 25m² by way of a balcony accessed from the living room of the residential apartment.</p> <p>The balconies of the units will have solar access from the north and east.</p> <p>Landscaped Area The proposal provides a total landscaped area of 205m².</p>
H. Vehicular Access and Parking	<p>Car parking to be provided in accordance with the following: 2 spaces per apartment + shop/commercial/refreshment room requirement. Council's Civil Services Section have provided the following calculations in relation to the provision of on-site car parking for the development.</p> <p>Total Commercial GFA 470m² The car parking requirements for the development are therefore as follows:</p>	<p>The application proposes to provide 11 car parking spaces on the site. Council resolved at its Ordinary Meeting held on February 2019 to close the current contribution plan and offer the</p>

Council Requirement		Proposed Gross Floor Areas	Required Number of Parking Spaces
Use	Rate		
Retail\Food & Drink Premises\ Office	1 space per 25m ² gross floor area	470 m ²	18.8
Residential dwellings	2 spaces per dwelling + 1 visitor	2 dwellings	5.0
		Total required	23.8

remaining 11.37 spaces to this development site. (as a contribution payment under the Lennox Head Car Parking Contribution Plan). The current proposal therefore has a parking deficit of 1.43 spaces. The applicant proposes that a Voluntary Planning Agreement be entered into with Council to address the remaining deficit of 1.43 spaces.

<p>I. Overlooking and Privacy</p>	<p>Controls</p> <p>i. A window must have a privacy screen if:</p> <ul style="list-style-type: none"> • it is a window in a habitable room, other than a bedroom, and; • the wall in which the window is located has a setback of less than 3 metres from a side or rear boundary, and the window has a sill height of less than 1.5 metres. <p>ii. A balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:</p> <ul style="list-style-type: none"> • has a setback of less than 3 metres from a side or rear boundary, and has a floor area of more than 3 square metres. <p>iii. For a residential accommodation and tourist and visitor accommodation involving multiple dwellings on the same site, direct views between habitable rooms, other than bedrooms, shall be screened where:</p> <ul style="list-style-type: none"> • Ground and first floor windows are within a 9 metre radius from any part of the window of an adjacent dwelling on the same site, and • Other floor windows are within a 12 metre radius of an adjacent dwelling on the same site, and • Direct views from habitable rooms, excluding bedrooms, of dwellings into the principal area of private open space of other dwellings on the same site shall be screened or obscured where they are within a 12 metre radius. 	<p>Complies.</p> <p>The proposed upper level windows are all setback greater than 3m from the side property boundaries.</p> <p>The shop-top nature of the development results in the balconies extending to the side boundary in part. Accordingly, privacy screens may be applied in this instance.</p> <p>The proposed development has been designed to ensure that there is no direct view from any habitable rooms to any adjoining dwellings on the same site.</p>
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<p>J. Solar Access</p>	<p>Living areas and private open space is to be located to the north and east.</p> <p>The windows of living areas of dwellings and private open space facing north, north east or north west must receive at least three hours of direct sunlight between 9.00am and 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice);</p> <p>Building must not overshadow windows to living areas & private open space of adjacent dwelling to the south between 9am and 3pm. Where these areas already overshadowed, new building must not result in “unreasonable reduction” of sunlight.</p> <p>New buildings must not result in overshadowing of beaches or adjoining public foreshore open space before 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice) or 6.30pm (Australian Eastern Daylight Saving Time) on 21 December (Summer Solstice).</p>	<p>Complies. Where possible main indoor and outdoor window areas face north and east.</p> <p>The living areas windows for both residential apartments gain solar access through windows located with a northern, north-eastern or north-western orientation.</p> <p>The property to the south of the site is an existing commercial development with no associated residential occupation or private open space. Accordingly, shadowing cast to the south will be primarily over the at grade car park area.</p> <p>Park Lane is located west of the project and as such no adverse overshadowing will occur which results in an unreasonable reduction in sunlight for the public domain.</p> <p>No overshadowing to the foreshore located east of the development site will occur.</p>
<p>L. Roof Pitch</p>	<p>Roof pitch to be minimum of 5°.</p>	<p>Variation Sought In order to provide the nominated ceiling heights and to achieve compliance with the prescribed building height (excluding the lift</p>

		shaft), the roof has a 3° pitch to minimise the non-compliance with the building height limitations. The proposed variation to the roof pitch is supported as the roof pitch is concealed by the building's parapet.
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Chapter 6 – Commercial Development

Chapter 6 contains the general planning controls for commercial development in the Shire. The following controls referenced below are relevant and are not covered in the other chapter of the DCP.

Element F - Awnings

Objectives

- a. Provide pedestrian amenity and weather protection;
- b. Provide a consistent building element within the streetscape;
- c. Promote safety and encourage the use of streets by pedestrians at all times of day and night;
- d. Encourage the use of outdoor spaces for active purposes in association with ground floor uses.

The proposed development provides awnings for pedestrian amenity and weather protection along the Ballina Street frontage and along the northern side of the building for access to Park Lane and sporting fields. The awning structure is a consistent building element within the streetscape and provides a safe environment for pedestrians at all times of the day or night.

The awning is approximately 2.0 metres in width and the Ballina Street awning is set back 1.0m from the kerb. The awning along the northern side of the building is constrained in width by the adjoining building wall.

Element J – Waste Storage Facilities

Objectives

- a. Ensure the efficient storage and collection of waste and the quality design of waste storage facilities. The proposed waste storage provisions for the development is compliant for the following reasons:
 - the proposed waste storage facilities are located at the rear of the building and are undercover and screened from the street and park;
 - is located behind the building line and accessed from Park Lane
 - easily accessible;
 - can be adequately serviced by waste collection vehicles, having regard for safety and ease of manoeuvring;
 - has water and drainage facilities for cleaning and maintenance, where necessary;
 - does not immediately adjoin habitable rooms or outdoor seating/recreation areas; and

- shall be appropriately screened and oriented when located adjacent to sensitive adjoining land uses.

Element K – Pedestrian Entries and Access Objectives

- a. Provide access to development for pedestrians, strollers, scooters, wheelchairs and bicycles; and
- b. Encourage walking and cycling.

Controls

- a. Development is to comply with Australian Standard 1428 – Design for Access and Mobility; and
- b. Secure and convenient parking and storage areas for bicycles are to be provided close to the entrance of the development.

These provisions have been catered for in the design and will be appropriately conditioned.

Part 4 Mixed use developments

Planning objectives

The planning objectives of this Part are to:

- a. Encourage well designed mixed use developments that integrate commercial and residential land uses;
- b. Manage the bulk, scale and traffic generation of mixed use developments;
- c. Ensure that mixed use developments are designed having adequate regard for the amenity of occupants and surrounding development;
- d. Encourage buildings which respond to the shire's sub-tropical climate; and
- e. Provide general development controls that are consistent with and complementary to precinct specific controls.

The proposed mixed used development complies with the above objectives as it is a well-designed development that integrates commercial and residential uses and responds to the precinct specific controls.

Element – Building Design

The development is compatible with the applicable objectives and controls set out in relation to the building design element for the following reasons:

- The proposed building design maintains a reasonable level of residential amenity and is compatible with the surrounding land uses;
- The building design is flexible to cater for a number of current and future uses that may eventuate over time.
- The development has been designed to locate waste storage/collection areas and any other noise and odour generating aspects of buildings away from residential areas.
- Vehicular circulation areas are appropriately designed to allow for separation between the commercial service requirements, such as loading areas, and residential access;
- Secure entries are to be provided to all entrances to private areas, including car parks and internal courtyards;
- Car parking required for the residential component of a development, including any required visitor car parking, has been provided for on-site;

- Acoustic separation is to be provided wherever possible between loud commercial uses, such as cafes and restaurants, and residential uses; and
- Mechanical plant is located on the roof and is visually and acoustically isolated from residential uses.

Chapter 6c – Commercial Development Lennox Head

Chapter 6c primarily applies to the core commercial area within the Lennox Head Village and establishes key planning provisions for future development in the Lennox Head Village Centre.

Planning Objectives

In accordance with the provisions of Part 2 of Chapter 6c, the underlying planning objectives are to:

- Provide a high quality built environment which is complementary to the location and seaside village atmosphere of the Lennox Head Village Centre;*
- Encourage the consolidation and development of an intermediate range of retail, commercial, community and residential activities of a district scale;*
- Improve pedestrian linkages both within the village centre and to adjacent residential and open space areas;*
- Minimise the impact of buildings on the streetscape and promote an active street experience for pedestrians;*
- Provide opportunities for alfresco dining on private land within the village centre;*
- Provide adequate, integrated, safe and accessible car parking within the Lennox Head village centre to accommodate existing and proposed development;*
- Improve the amenity of the Lennox Head Village Centre through preserving and retaining existing mature native vegetation and Norfolk Island Pines wherever possible;*
- Support landscape design that incorporates the planting of landscape species indigenous to the Lennox Head area;*
- Provide for the staged implementation of a Landscape Masterplan for public land within the village centre;*
- Encourage development that is consistent with the preferred land uses identified in each village centre precinct; and*
- To provide opportunity for usable paved and landscaped pedestrian and dining environments on private land within the Village Centre.*

The following comments are provided in relation to these underlying objectives:

- The proposed development will result in the delivery of a quality built environment which is complementary to the location and seaside village atmosphere of the Lennox Head Village Centre;
- The proposed commercial development adheres to the desired land uses for this precinct within the Lennox Head commercial core;
- Through the inclusion of the access-way, Park Lane and Ballina Street will be linked for pedestrian use;
- The proposed design and the manner in which the built form articulates to Ballina Street will result in a building which promotes an active street experience for pedestrians;
- The proposal adheres to the objective of providing opportunities for alfresco dining on private land within the village centre;

- f The proposal is not compliant with the prescribed level of on-site parking supply, hence a variation to the parking supply is proposed and sought to be addressed through the payment of Section 94 Contributions under Council's Parking Contributions Plan. The parking provided on-site is however integrated, safe and accessible to accommodate for the proposed development;
- g.& h. The nature of the proposal is such that landscaping is provided, whilst the removal of landscape vegetation is exempt under Council's DCP and therefore not deemed to be of significance;
- i The proposal does not prejudice the staged implementation of a Landscape Masterplan for public land within the village centre;
- j The development adheres with the preferred land uses identified in Precinct A as it will result in the construction of a multi-use building that will complement the location and the Lennox Head seaside village environment; and
- k The proposal satisfies Council's objective to provide usable paved pedestrian and dining environments.

Desired Future Character

In Part 3 of Chapter 6c, the desired future character statement for this locality is outlined as follows:

The Lennox Head Community has indicated a clear preference for the seaside village atmosphere experienced in the Village Centre to continue into the future. Factors contributing to this character can be summarised as follows:

- *Low scale buildings;*
- *The environmental heritage and qualities of the area;*
- *Small, independently operated shops;*
- *Pedestrian friendly scale;*
- *Proximity and access to the beach;*
- *The sense of community;*
- *Connectivity between open spaces and the commercial area; and*
- *People living within, and in close proximity to the Village Centre.*

The proposed development meets the desired future character of Lennox Head.

The scale of the proposed development is similar in height to a number of buildings fronting Ballina Street. It is noted that the proposed development is three stories, however when comparing the overall height of buildings along Ballina Street, the actual height of the proposed development is consistent with other buildings that front Ballina Street.

The proposed building complies with the maximum height limit of 9 metres (with the exception of the lift motor room which is located approximately in the centre of the roof area which exceeds the height limit by 700mm).

This minor intrusion into the height limit is not visible when looking at the building in the context of the Ballina Street streetscape, as the lift motor overrun is positioned within the centre of the roofed area and when viewed from the street the minor intrusion into the height limit is not visible.

Development Controls – All Precincts

Part 4 of Chapter 6c sets out the following development controls for commercial development in all precincts in Lennox Head.

Building Design

The building design objectives are:

- a. *Provide a high quality built environment which is complementary to the location and seaside village atmosphere of the Village Centre;*
- b. *Provide for low scale development compatible with the existing built form; and*
- c. *Ensure that the Lennox Head Village Centre is accessible to all persons, including those with disabilities and the aged.*

Controls – Design

- a. Developments will be required to provide articulated and active frontages. Expanses of blank walls or dark obscured glass are not appropriate.
- b. Skillion and/or peaked roofs are preferred within the Village Centre.
- c. The ground level of developments and associated landscaping is to be at generally the same finished level as the footpath system immediately adjacent to the site. Elevated ground or podium levels are not permitted.

Controls – Colours and Materials

- a. Use of composite construction materials (such as a combination of masonry, glass, timber and powder coated iron) is encouraged.
- b. Brickwork is to be predominately rendered and painted. Generally not more than 20% of the building surface is to be face brick.
- c. Colour schemes should be drawn from colours found in the natural environment of Lennox Head, such as:
 - pandanus – grey-green;
 - tea tree lake
 - red-brown;
 - red rock – red;
 - black rock – black, grey;
 - sand – wet, dry;
 - water - steel blue (rather than blue-green);
 - spinifex – tan, buff, grey-green;
 - banksia - yellow, grey-green, brown;
 - littoral rainforest – deep green; and
 - coastal cypress pines – grey-green, black.

Comment:

The proposed development meets the relevant objectives and development controls as it provides a high quality building which is complementary to the location and seaside village atmosphere of the Village centre that is compatible with the existing built form and ensures that the Lennox Village Centre is accessible to all persons, including those with disabilities and the aged.

The pedestrian link from Ballina Street to Park Lane is a major benefit resulting from this proposed development.

The proposed building, whilst it may not be considered to be low scale, is consistent with the building forms on its northern boundary and a number of buildings to the south of the site.

The proposed development is accessible to all persons, including those with disabilities and the aged as it provides ground level access to the retail spaces and restaurant (via the lift) and an accessible public access way to open space/recreation areas in Park Lane and Ballina Street.

The proponent has indicated that the project design provides articulated and active frontages to Ballina Street, whilst also ensuring no expanses of blank walls or dark obscured glass are incorporated into the design.

The design includes a roof pitch of 3⁰ is to ensure the building height is achieved for the roof form. It should be noted that the proponent has requested a variation to the overall height limit of the building due to the minor intrusion of the lift motor room.

The proposed roof form is not considered to be inconsistent with the character of the locality and would not result in an adverse design outcome to both street frontages.

The ground floor level comprises non-residential land uses, the design provides for the active and accessible street frontage through the pavement level being commensurate with the existing pedestrian pathway network.

The proposal also adheres with the prescribed active street frontage criteria through a minimum 50% clear glazing for the office and restaurant tenancies.

The ground level of development is designed commensurate to the finished level of the footpath system in Ballina Street.

Use of composite construction materials (such as a combination of brick, masonry, glass, timber and powder coated iron) is adopted into the design.

Whilst the final colour scheme has not been determined, natural earth tone colours will form the basis of the colour palate. This will be addressed via conditions of consent.

Landscaping

Objectives

- a. Encourage the provision of landscaping as an integral component of development proposals within the Village Centre;
- b. Encourage the retention of existing mature native vegetation and Norfolk Island Pines; and
- c. Encourage the planting of landscape species indigenous to the local area.

Controls

- a. Pavement design, treatment and colour are to be compatible with the Lennox Head Village Landscape Masterplan (see Appendix A).
- b. Existing mature Tuckeroo, Coastal Banksia, Coastal Cypress, Pandanus and Norfolk Island Pine trees, particularly when visible from the street or lane, shall be retained wherever possible.
- c. The species list is to comprise native vegetation which is tolerant to exposure to salt conditions and is consistent with the Ballina Shire Urban Garden Guide.

Comment:

The proposed pavement design, treatment and colour are deemed to be compatible with the Lennox Head Village Landscape Masterplan.

A detailed landscaped plan ensures 25% of the site area is provided as landscape absorbent area.

Vehicle Access

Objectives

- a. Provide for a safe, pedestrian friendly environment in Ballina Street; and
- b. Ensure that access to the off-street parking does not unreasonably impact on the provision of parking within the public street system.

Controls – Vehicular Access and Parking

- a. Any intensification of vehicular driveway access to and from Ballina Street is discouraged. As such, any redevelopment of allotments located on the eastern side of Ballina Street shall obtain vehicular access from either Rayner Lane or Rutherford Street. Any redevelopment of allotments located on the western side of Ballina Street shall obtain vehicular access from Park Lane.
- b. A maximum of one vehicular access point is to be provided to each property so as to increase opportunities for parking within the street system. Driveway locations should be located so as to maximise on street parking opportunities.
- c. In relation to the provision of car parking, the provisions of Chapter 2 apply to Precincts B and C and to any land uses not specifically identified in the parking schedules provided in relation to Precincts A and D.
- d. Designs which facilitate the long term integration of car parking between allotments are encouraged.

Controls – Parking Credits

- a. Car parking credit granted for existing shops, restaurants, commercial offices on a site shall be calculated at the rate of 1 space per 25m² GFA;
- b. Car parking credits are only available for new development upon the land parcel associated with an approved current use. Car parking credits are not transferable to other development sites; and
- c. Where a development has previously paid for the construction of car parking in the public street system, new development of that same site will be entitled to car parking credits equivalent to the number of spaces which were previously paid for.

Controls - Loading / Unloading

- a. New developments shall be required to provide loading bays located wholly within the subject site. Such loading bays are not to be accessed from Ballina Street.
- b. Loading bays and turning areas should have dimensions designed in accordance with the size of vehicles that will service the site. iii. No loading / unloading / deliveries is permitted on or from Ballina Street during the hours of 9.00am to 5.00pm.

Comment:

No vehicular access is planned from Ballina Street.

As such, all access will be achieved from Park Lane, via the single access point for the passenger vehicles.

The application proposes to include an access driveway off Park Lane. Sight distances at this access point are sufficient given the speed and urban locality. The proposed driveway width is acceptable.

The design includes landscape and fencing splays adjacent to the driveway to avoid conflict between vehicles and pedestrians at the driveway.

There is provision for a small rigid service and delivery vehicle to enter the site in a forward direction, safely manoeuvre and unload on site and leave the site in a forward direction.

A loading bay capable of servicing a small rigid vehicle is provided wholly within the subject site and accessed from Park Lane. Vehicles are able to manoeuvre within the confines of the subject land and thus enter and exit in a forward direction.

Part 5 Development Controls – Precinct A

To achieve the desired future character, the Village Centre has been divided into a number of precincts. The subject site is within Precinct A which is the core business area within the village centre.

Preferred Land Uses

Preferred land uses within this Precinct are retail premises, business premises, restaurants or cafes and community facilities to service the needs of the Lennox Head community.

Residential accommodation and tourist and visitor accommodation are also encouraged within the Precinct, particularly above the ground floor.

The proposal adheres to the preferred land uses through the provision of business, retail premises, restaurants, or cafes and residential accommodation (shop-top housing).

The development controls contained within Part 5.3 of Chapter 6c specific to Precinct A are as follows:

Building Design

The building facade fronting Ballina Street is articulated at intervals of approximately 5 metres horizontally as there are three retail/commercial premises proposed. As these premises are located at ground level ensuring they present an active glass street frontage.

Building Setback

The building line to Ballina Street is set at 1.0 metre with an average of 2.0m across the frontage. The proposed development complies with the 1.0m building line. Inclusive of the pedestrian link, the setback for the built form averages 1.5m.

To address the variation, the proponent contends that the incorporation of bi-fold or sliding doors to open up the ground floor tenancies helps remove the physical alignment greater than would otherwise be applicable through a single entry door.

The building is setback approximately 8.6m from Park Lane, thereby satisfying the prescribed setback of 6m.

Pedestrian Access

A pedestrian link to Park Lane from Ballina Road is provided on the northern side of the subject property adjacent to the proposed commercial addition.

This pedestrian path is a minimum of 1.2m wide. This creates a pedestrian link that complies with the requirements of Council's DCP.

There are existing public footpaths along the full length of the site's frontages to Park Lane and Ballina Street. No further footpath works are required.

Parking

Council's Engineers have assessed the application and indicate that the development is deficient in the provision of on-site car parking.

Council Requirement		Proposed Gross Floor Areas	Required Number of Parking Spaces
Use	Rate		
Retail\Food & Drink Premises\ Office	1 space per 25m ² gross floor area	470 m ²	18.8
Residential dwellings	2 spaces per dwelling + 1 visitor	2 dwellings	5.0
		Total required	23.8

The proposed development requires the provision of 23.8 spaces. The current application proposes the provision of 11 car parking spaces on the site.

Council, at its ordinary meeting of 28 February 2019 resolved to close the Lennox Head Car Parking Contribution Plan and offer the remaining 11.37 spaces to this development.

This payment of a car parking contribution actually represents the provision of 11.37 spaces in Park Lane that were constructed under the Lennox Head Car Parking Contribution Plan.

The current proposal before Council for consideration has a parking deficit of 1.43 spaces. In this regard the applicant proposes to enter into a VPA with Council to enable the payment of a monetary contribution to assist funding of a parking and infrastructure related study for Lennox Head in lieu of the 1.43 spaces deficit in the provision of car parking spaces for the development.

The application also includes one disabled space on site. This complies with the requirements of Table D3.5 of the BCA "Car parking spaces for people with disabilities" and is therefore acceptable.

In relation to the provision of accessible parking being available for the development, it is noted that accessible parking for the development is 75% for retail/restaurant and 25% for office GFA. Accordingly, based on the GFA proposed, accessible parking for 11.6 spaces would normally be required. A total of 11 car parking spaces are provided on-site. The proponent has proposed that two spaces will be sign posted and designated for the residential units.

Provisions for service deliveries and waste disposal

The waste management and servicing of the site is considered to be a critical issue as it has the potential to impact upon traffic movements along Park Lane. The site is to be serviced by a small rigid vehicle in relation to general deliveries and pick-ups. In this regard the proponents have provided a servicing bay off Park Lane located entirely on the development site. In relation to waste collection, normal household bin storage areas to cater for the residential component of the development are provided on site.

In relation the commercial site uses, the proponent has proposed the use of 1,500 litre skip bins for these tenancies.

Council's Civil Services Division has provided comments that the proponent has provided a satisfactory building design that can adequately cater for commercial waste collection via small rigid truck that will not interfere with traffic movements along Park Lane.

Conclusion

The proposed redevelopment of the Old Post Office Site in the main street of Lennox Head is sympathetic with the surrounding buildings in relation to height and land use density. The design of the building incorporates a number of key features that complement the Ballina Street streetscape and will benefit the members of the community.

The development complies with the relevant local planning standards and provisions, with the exception of the height of building standard and the shortfall in the provision of on-site car parking spaces (1.43 spaces).

With regard to the shortfall in onsite car parking provision, the applicant has entered into a Voluntary Planning Agreement with Council to pay a contribution for the deficit. The money received will assist funding of a study of car parking and infrastructure related needs within the Lennox Head Village Centre.

With regard to the minor exceedance in the height limit of 700mm to enable the lift overrun to be placed on the roof of the building, it is considered acceptable as it will not be visible from the street or the park due to its location within the roof line.

The main objection raised in relation to the development as proposed, is the exceedance in the statutory height limit of 9.0 metres. The exceedance in the height limit should be considered in the context of the building as a whole and its relationship with the streetscape. In this regard the minor non-compliance with the height limit is supported. The height of the lift overrun is similar to the height of a rooftop air-conditioning motor unit that could be placed on a roof as exempt development.

The proposed development of the site offers a design that will enhance the Lennox Village commercial precinct. The proposed re-development of the old post office/commercial premise and residence provides a building that is functional and complements the existing village character by providing a pedestrian linkage through to the open spaces off Park Lane whilst providing an aesthetic modern building that adds architectural interest to the Ballina Street facade.

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Shire Development Control Plan 2012, relevant SEPPs and submissions made in response to the exhibition of the application.

Having regard for the outcomes of the assessment, it is recommended that the application for development consent 2019/123 be determined by way of approval.

Council has the following options:

Option 1 – Grant consent to the application

If Council is satisfied with the proposed development for the reasons outlined in the report, including the variation to the 9.0m height of building standard and the provision of on-site car parking, including the provisions of the VPA, then Council can grant consent to the development application. If this option is favoured, then it is recommended that Council also enters into the VPA. This is the recommended approach.

Option 2 – Refuse the application

Council could resolve to determine that application by way of refusal. This option could be taken if Council considers that the design of the proposed building is not in keeping with the character of Lennox Head Village Centre, the variation to the prescribed height of building standard is unreasonable and unnecessary and/or the address of the shortfall in car parking provision via the VPA is unsatisfactory.

Option 3 – Defer determination of application

Council could defer determination of the application to obtain additional information. This option is not recommended as sufficient information has been submitted to undertake a competent assessment of the application.

RECOMMENDATIONS

1. That approval be granted to vary the 9.0m height of building standard by 700mm in accordance with cl. 4,6 of the Ballina LEP 2012.
2. That Development Application 2019/123 for a mixed use development comprising the erection and Strata Title subdivision of 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 demolition of all structures on-site on Lot 24 DP Sec 2 DP 11687 No.74 Ballina Street Lennox Head be **APPROVED**, subject to standard planning, engineering and building related conditions and specific conditions as noted in this report.
3. That Council authorises the General Manager to complete the execution of the voluntary planning agreement accompanying DA 2019/123 including the application of the Common Seal.

Attachment(s)

1. Locality Plan
2. Floor Plans and Elevation Drawings
3. Voluntary Planning Agreement (VPA)
4. Variation to Development Standards Application
5. Submissions
6. Confidential Submissions

8.2 DA 2020/23 - Wollongbar District Park

8.2 DA 2020/23 - Wollongbar District Park

Applicant	Newton Denny Chapelle (on behalf of Ballina Shire Council).
Property	Lot 6 DP 1161720 and Lots 39 & 45 DP 1242246, being No. 93 Rifle Range Road and No. 55 Avalon Avenue, Wollongbar (approved Lot 32 to be created via DA 2018/753).
Proposal	To establish the Wollongbar District Park including a Skate Park.
Effect of Planning Instrument	The land is zoned part RE1 Public Recreation and part R3 Medium Density Residential under the provisions of the Ballina LEP 2012. The site of the District Park is contained within the RE1 zone.
Locality Plan	The subject land is depicted on the locality plan in Attachment 1.

Introduction

Council is in receipt of Development Application DA 2020/23 for the establishment of the Wollongbar District Park, involving the construction of public amenities and facilities and the construction of a skate park within approved Lot 32 (as approved via DA 2018/753) at Lot 6 DP 1161720 and Lots 39 & 45 DP 1242246, being No. 93 Rifle Range Road and No. 55 Avalon Avenue, Wollongbar.

The purpose of this report is to seek Council's determination of the subject application.

In this case, Council is both the proponent and the determining authority. It is important to recognise these roles when considering development applications in this type of circumstance. These different positions are reinforced by Council's structure, in that the assessment of such applications is undertaken separate to the preparation of development proposals.

The determination of the application is a matter for Council in its capacity as a planning authority. This is different to Council's role in determining outcomes associated with the provision of infrastructure and facilities and associated funding decisions. Council has previously considered the design of the park in its capacity as land manager and the provider of the district park facility (see report to Council's June 2019 Ordinary meeting).

In the event that the Council determines the application by way of approval, it is then a separate matter for Council to determine its approach to construction.

Conversely, if the Council determines the application by way of refusal, the current proposal cannot proceed to construction, as the requisite planning approval will not be in place.

8.2 DA 2020/23 - Wollongbar District Park

A number of public submissions have been received in relation to the proposal.

To assist Council in its determination of this application, this report provides details of the proposal, an assessment of the key relevant matters of the proposal under Section 4.15 of the Environmental Planning and Assessment Act (EP & A Act) 1979 and the issues raised in the public exhibition of the application.

The full Section 4.15 report, which provides an assessment of all required matters under the EP & A Act 1979, is contained in Attachment 3.

Background

The subject land has been identified for future District Park uses for the Wollongbar locality for at least 17 years. Prior to this time, the land was used as a “drive in movie theatre”, which closed in the mid 1980s and the site has remained vacant since its closure.

The subject land was rezoned from 1(d) - Rural (Urban Investigation) Zone to 6(a) – Open Space Zone via Amendment No. 38 to the Ballina Local Environmental Plan 1987, which was gazetted on 8 November 2002. As part of Council’s consideration of the rezoning, it was identified that detailed controls for the provision of the public open space, community facilities, varying housing densities and the like would be applied through the Shire’s urban development control plan.

Several years after the rezoning of the Wollongbar Urban Expansion Area, a development control plan was developed for the rezoned area, and was included as Chapter 15 within the Ballina Shire Combined DCP 2006. The subject land was identified as a mixed use site, having an area of 6.8ha and was envisaged to contain residential uses, netball courts, car parking, a District Park and community precinct. The following plans are extracts from the former Chapter 15.

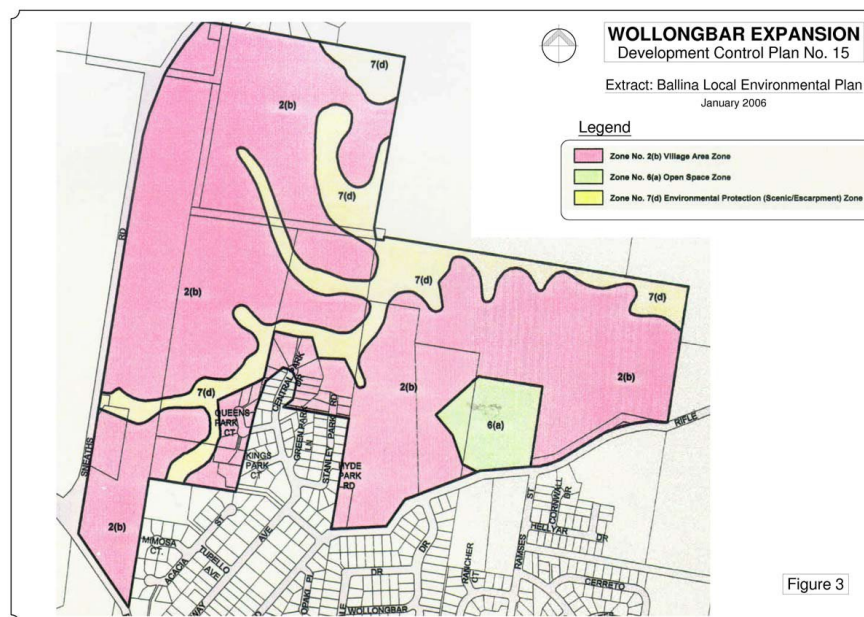
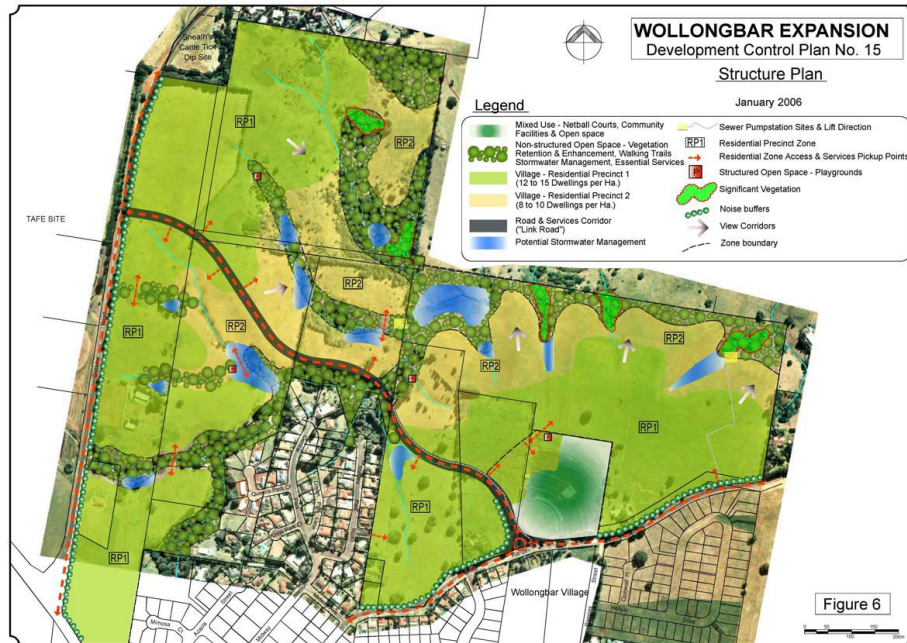


Figure 3



The concept plan for the mixed use site, as provided above (note a larger copy of this plan is provided as Attachment 7 to this report), includes (at item 24) a skate zone.

It is noted that as part of the submissions received to the rezoning of the Wollongbar Urban Expansion Area, the community had requested a commitment to the provision of a skate park on the land.

Since the initial rezoning and preparation of the former Chapter 15 for the Wollongbar Urban Expansion Area, there has been a transformation of the "Mixed Use Site", which has been facilitated through rezonings, DCP amendments and updates to the Ballina Shire Open Space and Community Facilities Contribution Plan (Contribution Plan).

8.2 DA 2020/23 - Wollongbar District Park

In addition, Council's Planning and Environmental Health Division approved DA 2018/753 on 6 September 2019.

This development involves the creation of a 31 residential lots, one public reserve lot (Lot 32), extension to an existing drainage reserve and associated infrastructure works, earthworks, site clean-up and vegetation management works.

The rezonings, DCP amendments, updates to the contribution plan and development application processes have all been subject to public exhibition and community consultation.

Subject Site

The subject land is located on the north-eastern corner of the Plateau Drive and Rifle Range Road roundabout, as shown in the locality plan provided below.

The land is currently formally described as Lot 6 DP 1161720 and Lots 39 & 45 DP 1242246, being No. 93 Rifle Range Road and No. 55 Avalon Avenue, Wollongbar.

The land is highly disturbed and generally consists of weeds and old pavement, which remains from the former Drive-in.

Parts of the land have historically been used as an informal depot and site office associated with civil contractors working in the locality.

Lot 32 (as approved via DA 2018/753), is the land that is subject to the current application for the establishment of the Wollongbar District Park and skate park.

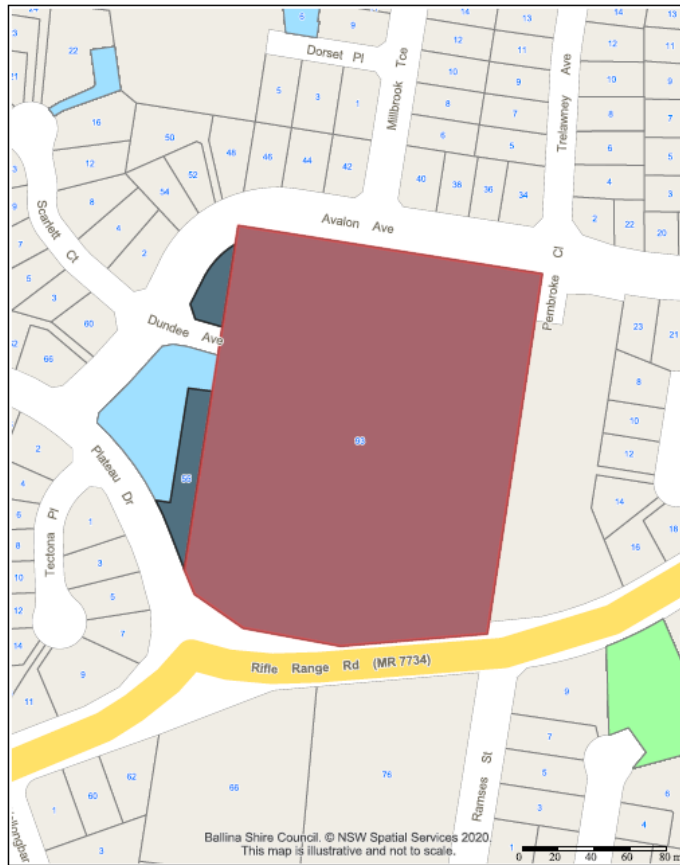
Lot 32 has been approved to have an area of 9983m², is zoned RE1 Public Recreation under the BLEP 2012 and forms the "District Park" as identified within the Contributions Plan.

As part of DA 2018/753, the land has been approved to be "cleaned up", which includes the removal of existing pavements, the footings of the former Drive In screen, existing vegetation and excess soil.

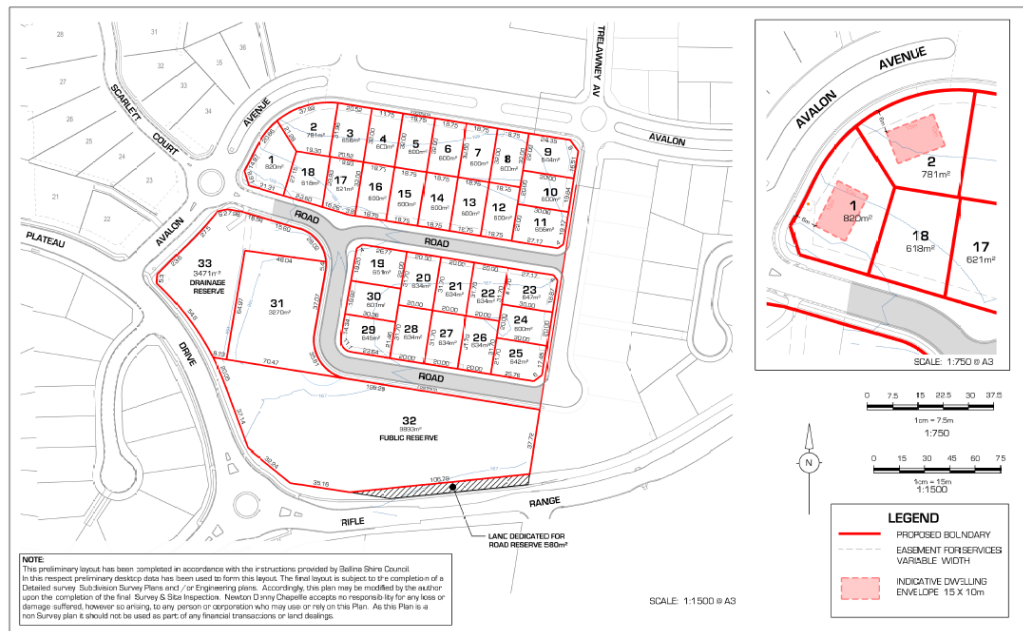
The site will be remediated such that will be suitable for use for public recreation purposes and levelled to a suitable grade for its future development.

A locality plan and the relevant plans from DA 2018/753 and the Contributions Plan are provided as follows.

8.2 DA 2020/23 - Wollongbar District Park



Locality Plan



Approved Plan – DA 2018/753

REV DATE AMENDMENT
1/1/2018
SOURCE PLAN: 1/1/18
P:\1801\181753\181753_eap\31_paving\planning_plan1\181753_pln1.dwg 14/08/2018 ballina shire council.dwg - jbr

BALLINA SHIRE COUNCIL
Environmental Planning Assessment Act 1979
Development Consent No: 2018/753
Determination date: 06/09/2019

Newton Denny Chapelle
Surveyors (Professional Engineers)
Email: office@newdenny.com.au
LAWSON ST, CARRINGTON NSW 2330
PHONE: 02 6552 6200
M: 02 6552 6269

PLAN 3 - PROPOSED SUBDIVISION
CLIENT: BALLINA SHIRE COUNCIL
LOCATION: LOT 31 OF 181753
6, LOT 30&45 OF 181753
RIFE RANGE ROAD, WOLLONGBAR NSW
DATE: 18/10/18 REF: 14/192
SCALE: AS ABOVE DRAWN: 18/10/18



Plan 4 from Open Space and Community Facilities Contribution Plan 2016

As can be seen from the plans above, the approved public reserve Lot (Lot 32), now comprises a smaller parcel of land than that first envisaged for recreational uses, as part of future planning for the Wollongbar Urban Expansion Area.

More active recreation uses have been planned and developed at the Wollongbar Sporting Fields (off Elvery Lane), in consideration of the large area of land required for active uses (such as rugby union, cricket, AFL, tennis and netball).

In the planning for the District Park (and as identified in the contributions plan), the subject site has been deemed suitable for more minor active uses, along with passive recreation uses.

Surrounding landuses to the subject land include:

- To the north – Future Road 5, approved residential allotments, possible childcare centre site and drainage reserve (approved as part of DA 2018/753);
- To the south – Rifle Range Road, existing residential dwellings, a market garden and church;
- To the east – approved residential lots (Avalon Estate); and
- To the west – Plateau Drive and existing residential lots and dwellings.

Description of Proposal

The proposal involves the establishment of the Wollongbar District Park, which includes a wide range of active and passive recreation opportunities for the Wollongbar community.

These recreational uses include:

8.2 DA 2020/23 - Wollongbar District Park

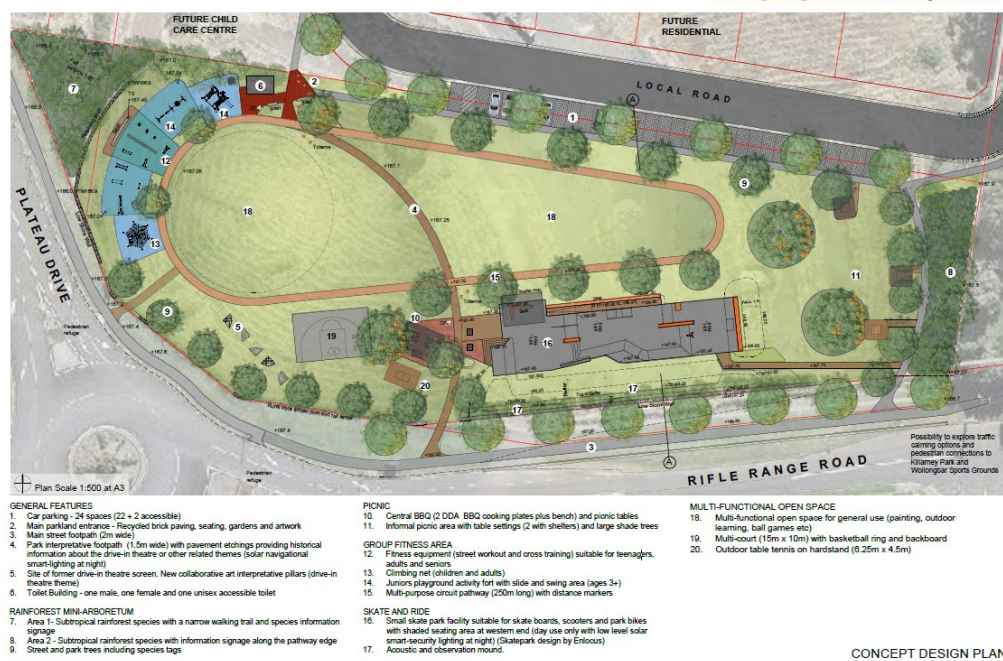
- Junior play equipment, including swings, play structure (covered by shade sail structure) and climbing net;
- Skate park;
- Fitness equipment;
- Multi court with a basketball hoop;
- Outdoor table tennis stand; and
- Multi-purpose pathway (250m) with distance markers.

In addition, plans lodged with the application depict a number of other pathways (including pathways through vegetation and an interpretative pathway), public toilets, mini-arboretum (i.e. areas of subtropical rainforest plantings) and general landscaping including fencing, mounding (acoustic and observatory) and trees.

A range of covered and uncovered picnic tables and seating areas are to be provided throughout the site, and a covered BBQ area is to be provided centrally between the multi court and skate park.

The plans lodged with the proposal reference the provision of artwork within the proposed park. This includes artwork to be provided at the formal entry to the park (northern side, adjacent to the new local road) and new collaborative art interpretative pillars (with a drive-in theatre theme). 24 car parking spaces (including two accessible spaces) are to be provided along Proposed Road 5 to the north of the site.

A full set of the development plans are provided at Attachment 2, with a smaller version of the concept layout plan provided below.



Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition in accordance with Council's local advertising policy. Council received 10 submissions in relation to the proposal.

A range of concerns have been raised in the submissions, which primarily relate to the establishment of a skate park at the site, the associated noise, safety/security/crime risks, the design of the District Park and traffic and roads.

The key matters raised within the submissions are summarised and addressed in the Matters for Consideration section of this report.

The submissions received are provided in Attachment 4, with confidential submissions provided under separate cover (Attachments 5 and 6).

Report

The proposed development has been assessed under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979.

The assessment has identified the following key issues in relation to this development application, which are elaborated upon for the consideration of the elected members of Council.

This report should be read in conjunction with the attached Section 4.15 assessment report (Attachment 3).

Section 4.15(1)(a)(i) provisions of any environmental planning instrument

SEPP 55 – Remediation of Land SEPP Infrastructure 2007	No issues are raised in relation to any applicable SEPP. Refer to Attachment 3 for further comment and assessment.
Ballina Local Environmental Plan 2012	The proposal generally complies with the aims and objectives of the BLEP 2012. Refer Attachment 3 for further comment and assessment of the relevant controls (Clauses 1.2, 1.4, 2.2, 2.3, 4.3, 5.10, 7.2 and 7.7).

Section 4.15(1)(a)(ii) the provisions of any proposed instrument

Draft State Environmental Planning Policy - Remediation of Land. Draft Amendment to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.	No issues raised in regard to any Draft SEPP.
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Draft State Environmental Planning Policy (Short Term Rental Accommodation)	
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Section 4.15(1)(a)(iii) provisions of any development control plan

Ballina Shire Development Control Plan 2012	
<p>Chapter 2 – General and Environmental Considerations</p> <ul style="list-style-type: none"> • 3.4 – Potentially Contaminated Land • 3.5 – Landslip/ Geotechnical Hazard • 3.7 – Waste Management • 3.9 – Stormwater Management • 3.10 – Sediment and Erosion Control • 3.11 – Provision of Services • 3.12 – Heritage • 3.15 – Crime Prevention Through Environmental Design • 3.16 – Public Art • 3.19 – Car Parking and Access 	<p>The proposed development is consistent with the planning objectives and controls of this Chapter.</p> <p>In relation to Section 3.15 – Crime Prevention of Chapter 2 of the Ballina Shire DCP 2012, refer to the likely impacts section within Attachment 3 and as discussed below in this report.</p> <p>Attachment 3 provides an assessment of the sections of Chapter 2 that are relevant to this application.</p>
<p>Chapter 3 – Urban Subdivision</p> <ul style="list-style-type: none"> • Section 5.3 – Wollongbar Urban Expansion Area, Wollongbar 	<p>The proposal does not involve the subdivision of land and therefore the provisions of Chapter 3 are not strictly applicable. However, the proposal involves the embellishment of land zoned RE1 – Public Recreation. In this regard, the relevant elements of Section 5.3 have been assessed in Attachment 3 in relation to the proposal.</p> <p>The overarching objectives of Section 5.3 have been considered in relation to the proposal and there is a satisfactory level of compliance with the relevant controls of Section 5.3. It is not considered that there are any issues that would specifically preclude the development from being granted consent.</p> <p>Refer to Attachment 3 for an assessment of the controls that are relevant to this application.</p>

4.15 (1) (a) (iiia) – any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Comment: None Applicable.

4.15 (1) (a) (iv) – any matters prescribed by the regulations

Comment: No issues raised. Refer to Attachment 3 for further comment.

4.15 (1) (b) – the likely impacts of that development

Comment: Refer to Attachment 3 for assessment in relation to the likely impacts of the development.

The issues of Noise and Safety, Security and Crime Prevention are discussed in more detail below, being critical issues for Council in its consideration and determination of the subject application.

Noise

A Noise Impact Assessment (NIA) has been prepared by Tim Fitzroy & Associates dated 16 January 2020, as part of the supporting information to the development application.

The NIA states that its purpose is to:

- Establish existing background noise levels across the subject site;
- Examine the likely impacts from the use of the proposed skate park on sensitive receptors; and
- Report on noise levels and provide recommendations to ensure that the noise impacts from the use of the skate park on sensitive receptors will comply as far as practicable with the intent of the NSW EPA Noise Guidelines.

The NIA states that the primary noise sources for the skate park include raised voices, wheels rolling on concrete and metal-on-metal clanging and scraping during various manoeuvres.

All other components of the proposal (passive recreation uses etc.) are not expected to be noise generating activities during operation and use.

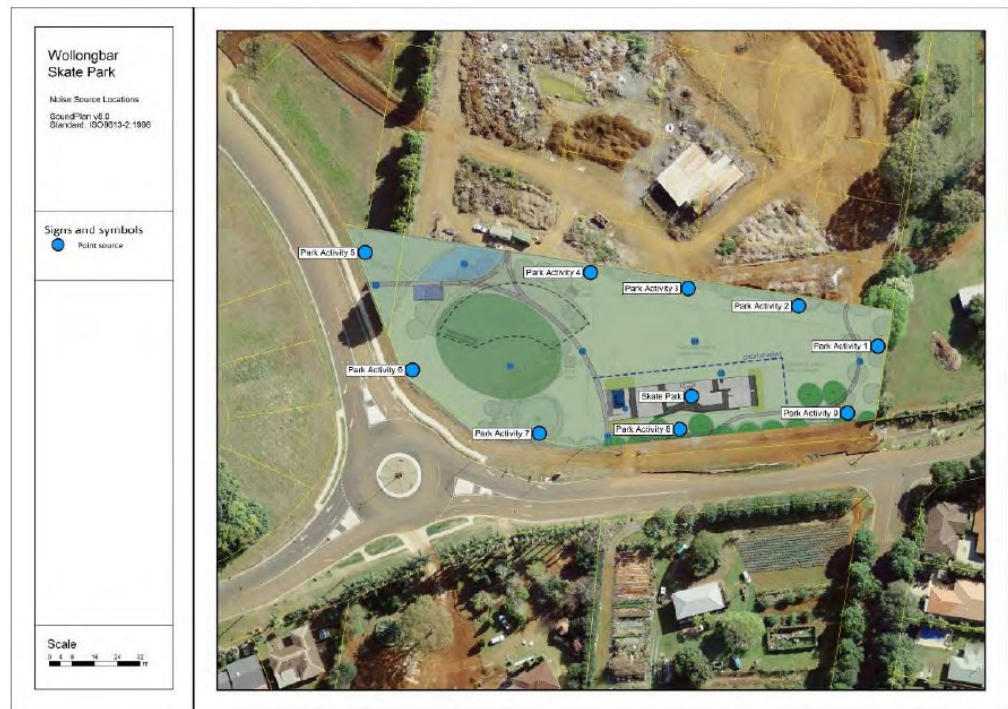
Notwithstanding this, the NIA does some information, for comparison purposes, for general noise from the remainder of the proposed park, which include activities such as basketball, cycling, jogging, and voices.

These sources are spread around the proposed park.

A plan of all noise sources, as included in the NIA is provided as follows (Plate 3.1).

8.2 DA 2020/23 - Wollongbar District Park

Plate 3.1 Location of noise sources



Source: Noise Impact Assessment, Tim Fitzroy & Associates, 16/01/2020

The NIA has been reviewed by Council's Public and Environmental Health Section. In the review of the NIA, it was found that the assessment generally complies with the requirements of the Noise Policy for Industry (NSW EPA, 2017).

It is acknowledged that the Noise Policy for Industry does not actually apply to the proposed development, given that this policy only applies to commercial and industrial development.

However, staff consider that the Noise Policy for Industry does provide a good framework to assess potential impacts and develop suitable mitigation measures.

The NIA has demonstrated that long term on site noise measurements have been collected and used to determine suitable rating background levels. This data has then been used to determine the project specific noise criteria for each of the day, evening and night periods.

Noise modelling has then been used to predict the noise levels from the use of the park and skate park at nearby sensitive receivers, which are shown on Plate 3.2 - sensitive receiver location.

The noise levels are shown within Table 3.5 – predicted noise levels and assessment, Plate 3.3 – noise levels for skate park activity and Plate 3.4 – noise levels for other park uses (as extracted from the NIA and reproduced below).

Predicted noise levels have included screening from existing structures (any buildings within the locale), proposed structures (includes consideration of the proposed skate ramp) and topography (survey data has been supplied by Ballina Shire Council).

8.2 DA 2020/23 - Wollongbar District Park

The modelling has been based on the installation of the acoustic and observation mounding along the Rifle Range Road frontage as shown on the concept design plans (maximum RL of 168.25m).

Plate 3.2 Location of sensitive receptors



Source: Noise Impact Assessment, Tim Fitzroy & Associates, 16/01/2020

Table 3.5 Predicted noise levels without mitigation. Levels are in dB(A) Leq, free-field.

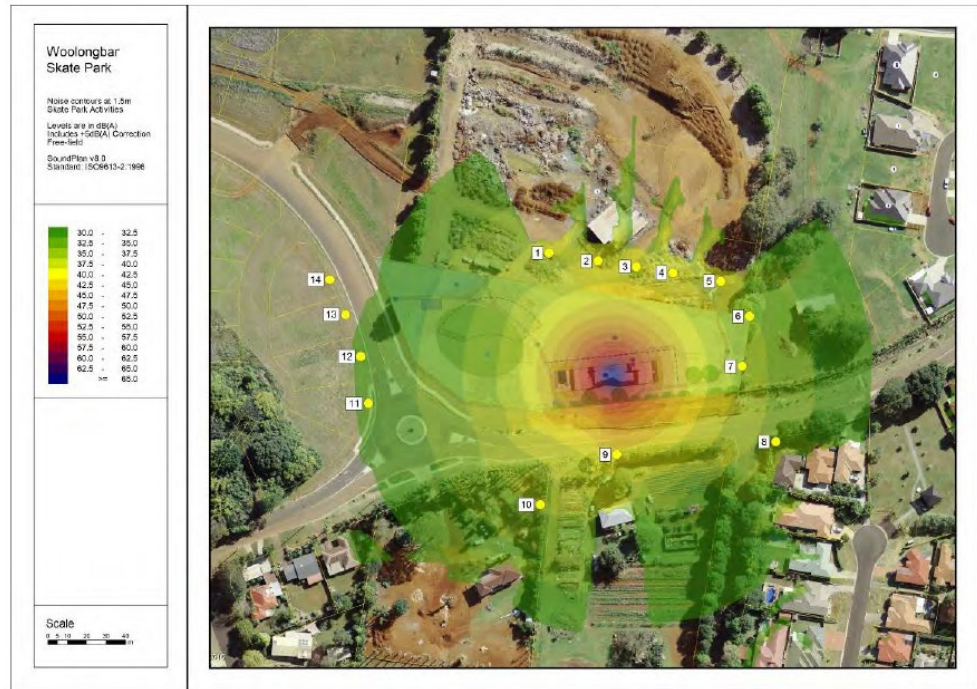
Receiver	Skate Park Noise Level dB(A) Leq *	Park Activity Noise Level dB(A) Leq	Day Criteria	Evening Criteria	Night Criteria	Assessment
1	36	33	41	40	38	Pass
2	40	32	41	40	38	+2
3	40	32	41	40	38	+2
4	40	33	41	40	38	+2
5	38	32	41	40	38	Pass
6	30	21	41	40	38	Pass
7	30	21	41	40	38	Pass
8	33	25	41	40	38	Pass
9	40	28	41	40	38	+2
10	35	23	41	40	38	Pass
11	31	26	41	40	38	Pass
12	31	28	41	40	38	Pass
13	30	28	41	40	38	Pass
14	29	27	41	40	38	Pass

* Includes +5dB(A) correction for impulsiveness and tonality.

Source: Noise Impact Assessment, Tim Fitzroy & Associates, 16/01/2020

8.2 DA 2020/23 - Wollongbar District Park

Plate 3.3 Noise contours at 1.5m above ground, skate park activity. Levels are in dB(A), free-field. Includes +5dB(A) correction for impulsiveness and tonality.



Source: Noise Impact Assessment, Tim Fitzroy & Associates, 16/01/2020

Plate 3.4 Noise contours at 1.5m above ground, park activity. Levels are in dB(A), free-field.



Source: Noise Impact Assessment, Tim Fitzroy & Associates, 16/01/2020

8.2 DA 2020/23 - Wollongbar District Park

Based on the modelling undertaken, it was determined that the project specific noise criteria can be complied with at all identified receivers during the day (7am to 6pm) and evening (6pm to 10pm) periods. The night (10pm to 7am) period, however, is exceeded at four receivers by 2 dB(A) (as shown in Table 3.5 above).

It is noted that the sensitive receptor locations are all shown to be at the property boundary and not at the actual dwelling.

The NIA does state that the sensitive receptor points have been placed on the property boundary closest to the noise source, or 30m from the dwelling in the direction of the noise source (whichever is the closer).

In the instance of sensitive receptor locations 2, 3 and 4, locations are set on the property boundaries of future Lots 28, 27 and 26, which have been approved as part of DA 2018/753.

The minimum distances between the outer extremities of the skate park and the approved property boundaries is calculated at 44m (and in consideration of future dwelling houses, the minimum distance can be calculated at 50m).

In the instance of sensitive receptor location 9, the location is shown to be on the northern property boundary, calculated at a distance of 32m from the outer extremities of the skate park.

The dwelling house is estimated to be a further 25m south from the location shown on Plate 3.2 and therefore there will be a total distance of 57m between the existing dwelling house and the outer extremities of the skate park.

It must be noted that the NIA has modelled the skate park as a centrally located point source to account for movement around the whole skate park.

In this regard, the distances between the source and receptor would be even greater when taken from the central location used in NIA.

The NIA also provided plans and assessment in relation to the installation of additional acoustic mounds/screens on the northern and southern sides of the skate park.

The NIA states that the height of the additional acoustic screening would be required to be at least RL 169.5m, which is an extra 1.25m on top of the acoustic/observation mounds as currently shown on the concept design plans.

In contemplating whether the additional acoustic mounds or screens should be installed, there are cost, safety/security and maintenance considerations for Council as the consent authority and Council as the owner/operator of the District Park.

It is considered that the purpose of these acoustic mounds or screens should then be examined to determine what would actually be achieved from their installation.

The NIA includes predicted noise levels for the additional acoustic screening, as shown in Table 3.6 (reproduced below).

Table 3.6 Predicted noise levels including additional screening from noise mound. Levels are in dB(A), free-field. Includes +5dB(A) correction for impulsiveness and tonality

Receiver	Skate Park Noise Level dB(A) Leq *	Day Criteria	Evening Criteria	Night Criteria	Assessment
1	34	41	40	38	Pass
2	35	41	40	38	Pass
3	38	41	40	38	Pass
4	37	41	40	38	Pass
5	37	41	40	38	Pass
6	30	41	40	38	Pass
7	29	41	40	38	Pass
8	33	41	40	38	Pass
9	38	41	40	38	Pass
10	33	41	40	38	Pass
11	31	41	40	38	Pass
12	30	41	40	38	Pass
13	29	41	40	38	Pass
14	25	41	40	38	Pass

Source: Noise Impact Assessment, Tim Fitzroy & Associates, 16/01/2020

The table shows that a 2 to 3 dB(A) reduction is achieved for sensitive receptors 3, 4, 5 and 9, with the additional mounds/screens, therefore concluding that compliance can be achieved at all receivers during all of the time periods (day, evening and night).

The NIA acknowledges that the sensitivity of people to noise level changes varies from person to person.

However, generally, a change of up to 3 dB(A) in the level of a sound is difficult for most people to detect, whilst a 3 dB(A) to 5 dB(A) change corresponds to a small but noticeable change in loudness. A 10 dB(A) change corresponds to an approximate doubling or halving in loudness.

On the basis of this information, if most people cannot detect a change of up to 3 dB(A), it is questioned as to whether the installation of additional acoustic mounding/screens is warranted. Further to this are considerations of usage of the skate park during the exceedance period (i.e. during the night – 10pm to 7am).

The application provides (and the NIA also states) that skate park illumination will be limited to low level security lighting. In this regard, it will be very difficult to see the ramp to skate after dark. Additionally, the applicant states that regulatory signage is to be installed to limit the hours of use.

In view of this, it is considered that the likelihood of the skate park being utilised in the night period is low.

Issues raised in submissions indicate that skaters may provide their own lighting to enable use in the night period, meaning that skate park noise will be generated and the impacts of this noise will then be experienced by the four sensitive receptors.

In its determination of this application, Council needs to consider the likelihood of this situation occurring and the potential compliance issues for Council staff and also the local Police.

The erection of the additional acoustic mounding/screening to achieve the compliant night time period for the skate park, is considered to present additional crime prevention and safety issues for the locality and the local Police.

The additional 1.25m high acoustic mounding/screening will result in reduced surveillance of the skate park from public spaces, being Rifle Range Road and the new Road 5 (from the north).

In this regard, there is the added potential for anti-social behaviour (given the reduced passive surveillance) to occur within the skate park.

Council's Public and Environmental Health Section has agreed with the conclusions of the NIA, principally that the likelihood that a dimly lit skate park being utilised in the night period is low, and balanced against the competing design and amenity interests, the requirement to install additional acoustic screening to achieve full night time compliance, is deemed to be excessive.

Crime Prevention through Environmental Design

Crime Prevention through Environmental Design (CPTED) principles seek to ensure that buildings and spaces are designed and constructed in a manner which minimises future risks of crime and undesirable behaviour.

There are four principles that need to be considered in the assessment of development applications to minimise the opportunity for crime. These are as follows:

- surveillance
- access control
- territorial reinforcement and
- space management.

The applicant for DA 2020/23 has stated that CPTED principles have formed a key element of the design of the Wollongbar District Park.

The design approach with reference to these principles as provided by the applicant is outlined below.

Natural Surveillance

- Existing or future residential buildings overlook the park on two sides.
- Public footpath and street network extend around three sides of the site.
- The park can be clearly seen from adjoining streets.
- Clear sightlines will be available between public and private places and across the site.
- Landscaping throughout the park provides a high quality aesthetic and maintains sight lines across the park or into adjoining areas.
- Trees are selected and will be pruned to provide trunks clear of bushy growth.

- The acoustic mound near the skate park provided separation from this activity and the road. The heights of the mound allows views from the footpath across the top of the mound and into the parkland.
- Clear views into the skate park are possible from most of the parkland.
- Multiple uses occur in the park, contributing to it remaining active throughout the day and early evening.
- The exercise area has been located clear of surrounding proposed environmental education areas to maintain good visibility around it.
- Fencing is proposed along the Plateau Drive frontage and is a rural style timber post and rail fence which is open, allowing views through and across the site.

Lighting

- Streets around the site will have street lighting.
- Main path linking Rifle Range Road to Proposed Road 5 will be lit at night.
- Low level lighting will be provided to the skate park at night (not bright enough to safely skate).
- Lighting will be provided to the toilet block.

Access Control and Territorial Reinforcement

- The parkland contains clearly defined entry and exit points, which will be clearly visible from the street and from within the parkland.
- The space will be attractive and provide shaded areas to encourage use and gathering around nodes (e.g. skate, play equipment, exercise, picnic)
- The design includes a diversity of features to encourage active use across a range of interest groups (e.g. environmental education, art interpretative connections to the former drive in theatre, individual exercise, group or organised exercise, passive recreation). This will optimise use of the park by the community.
- Car parking is integrated into the public street network and readily visible to persons both internal and external to the site.

Space Management

- The toilets will be locked at night.
- Signage will clearly identify that the skate park is not available for use after hours. This will be reinforced by limited, low level lighting in this part of the site.
- Public areas are clearly separate from private areas.
- The parkland and associated public infrastructure (seats, artwork, BBQ's etc) will be maintained and in good working order to portray a high quality aesthetic.

The Crime Prevention Officer of the Richmond Police District NSW has carried out an assessment of the proposal. A summary of comments received in relation to CPTED and the proposal are provided below.

“CPTED is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. It reduces opportunities for crime by using design and place management principles that reduce the likelihood of essential crime ingredients from intersecting in time and space.

Predatory offenders often make cost-benefit assessments of potential victims and locations before committing crime. CPTED aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits.

This is achieved by creating environmental and social conditions that:

- Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);*
- Maximise the effort required to commit crime (increasing the time, energy and resources required to commit crime);*
- Minimise the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards) and*
- Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisation of inappropriate behaviour).*

It is understood that the development application for the establishment of the Wollongbar District Park, will incorporate a skate park, junior play equipment, fitness equipment, multi court with basketball hoop, and a 250m multi-purpose pathway.

Natural Surveillance

Natural surveillance is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design; landscaping and lighting. Natural surveillance is a by-product of well-planned, well-designed and well-used space.

Technical/mechanical surveillance is achieved through mechanical/electronic measures such as CCTV, help points and mirrored building panels. Technical/mechanical surveillance is commonly used as a 'patch' to supervise isolated, higher risk locations.

Formal (or Organised) surveillance is achieved through the tactical positioning of guardians. An example would be the use of on-site security at higher risk locations.

The CPTED assessment prepared by Newton Denny Chapelle adequately addresses the natural surveillance opportunities in their design. Clear sightlines have been established through landscaping, defined spaces and public pathways around the park. There are no further issues to consider in relation to natural surveillance.

Lighting

There is a proven correlation between poor lighting, fear of crime, the avoidance of public places and crime opportunity. Good lighting can assist in increasing the usage of an area. There is no information with the plans, which were reviewed to indicate the lighting proposals for the development.

The implementation of lighting overnight will increase surveillance opportunities in the nominated areas along the street, surrounding path, toilet block lighting and skate park. This concept has been adequately addressed with no further consideration to be made.

Territorial Re-enforcement

Criminals rarely commit crime in areas where the risk of detection and challenge are high. People who have guardianship or ownership of areas are more likely to provide effective supervision and to intervene in crime than passing strangers. Effective guardians are often ordinary people who are spatially 'connected' to a place and feel an association with, or responsibility for it.

Territorial Re-enforcement uses actual and symbolic boundary markers, spatial legibility and environmental cues to 'connect' people with space, to encourage communal responsibility for public areas and facilities, and to communicate to people where they should/should not be and what activities are appropriate.

The design of the Wollongbar Park encourages optimal use of the different spaces in the park. The car parking area is integrated into the public street network and the park has clearly defined areas including play equipment and shaded picnic areas which will encourage the community to use the spaces throughout the park. There is no further consideration to be made in this regard.

Environmental Maintenance

All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

Ballina Shire Council will be responsible for the maintenance of the park and there are nil issues that require addressing at this time.

Space/Activity Management

Space/Activity management strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

The toilet blocks will be locked overnight. Adequate signage will exist to identify park rules, uses and operating hours of the skate park. The infrastructure is expected to be well maintained. There are no further considerations to made regarding Space/Activity management.

Access Control

Access control treatments restrict, channel and encourage people and vehicles into, out of and around the development. Wayfinding, desire-lines and formal/informal routes are important crime prevention considerations.

Access control is used to increase the time and effort required to commit crime and to increase the risk to criminals.

Natural access control includes the tactical use of landforms and waterways features, design measures including building configuration, formal and informal pathways, landscaping, fencing and gardens.

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Technical/Mechanical access control includes the employment of security hardware and formal (or organised) access control includes on-site guardians, such as employed security officers.

The design of the Wollongbar Park clearly outlines the uses of the park and pathways channel people around the park to the different spaces. Public and private areas are separate, and the car parking area is clearly defined.

This is an open concept park that is easily accessible and visible from the surrounding streets/properties. Anti-social behaviour or damage to property would be easily detected and addressed.

In summary, Police have reviewed the CPTED assessment prepared by Newton Denny Chapelle, as well as the Noise Impact Assessment prepared by Tim Fitzroy and Associates, and are satisfied that all CPTED principles have been adequately addressed.”

It can be concluded from the comments provided by Crime Prevention Officer of the Richmond Police District NSW that the proposed concept design for the Wollongbar District Park is acceptable from a safety, security and crime prevention perspective.

In consideration of the issues raised in the noise section of this report, being the installation of additional acoustic mounding/screening, it is considered that a reduced visibility and surveillance of the park, from public spaces (i.e. Rifle Range Road and Road 05) would present an obvious issue for local Police and a conflict with CPTED principles.

There would be reduced natural surveillance and sightlines and therefore a diminished ability to “detect anti-social behaviour and/or damage to property”. As stated previously, the option to pursue the installation of any further acoustic mounding/screening to address any noise impacts for the potential night time use of the skate park needs to be clearly balanced against the resulting safety and security impacts of that measure.

4.15 (1) (c) – The suitability of the site for the development

Comment: The subject site is considered to be suitable for the proposed development. Refer to Attachment 3 for further assessment of the suitability of the site for the development.

4.15 (1) (d) Any submission made in accordance with this Act or the Regulations?

Is advertising required because the development is designated or “advertised” development?	No
Is advertising required in accordance with established Council policy and practice?	Yes
If YES, how many submissions were received?	10

Public Submissions:	
Issues Raised:	Response:
<i>Park Features and Design</i>	

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<p>The current development of the site is removing a significant amount of soil. Some of this material should be reused on site (gardens and lawn and also for construction of acoustic/visual mounds).</p>	<p>The current works are part of a separate development consent (DA 2018/753) that requires site remediation prior to creation of the park lot (Lot 32). The applicant has advised that efficiencies between the two projects (and whether any materials can be reused on site) will be investigated in the future, if consent is granted for the District Park.</p>
<p>Sufficient electrical supply and connections should be installed in the Park for a range of uses – adaptive spaces and seasonal activities.</p>	<p>As mentioned in the assessment contained in Attachment 3 to this report, suitable electricity supply will be provided to Lot 32 (the public reserve lot in DA 2018/753). It is considered that this will be sufficient for the intended park use.</p> <p>It is acknowledged that there has been public consultation previously undertaken in relation to the desired elements and uses for the park. This is a matter for Council in their role of the development of the Park to consider and not a planning matter in Council's determination of the proposal.</p>
<p>An alternative to the new Arboretum (at a cost of \$13,000) is the upgrade of an existing track in a public reserve in Dalmacia Drive which contains an original remnant of The Big Scrub.</p>	<p>The applicant has noted this suggestion.</p> <p>This is a matter for Council in its development role for the Park rather than it being a planning matter in Council's determination of the proposal.</p>
<p>There should be more consultation with the community before the Park Plan is finalised - scope for a small-scale facility (pop-up kiosk/coffee shop/activity area or other).</p>	<p>The applicant has not advised that further public consultation will be undertaken at this stage in relation to regarding the desired elements and uses for the park.</p> <p>This is a matter for Council in their role of the development of the Park to consider and not a planning matter in Council's determination of the proposal.</p>
<p>The cost of the art interpretative pillars, art tiles/tokens etc. is excessive. There are other less expensive ways to commemorate past uses of the site, which take up less open space. Funds could be used to provide a second barbecue (one barbecue with two plates is included), or an additional piece of exercise or play equipment.</p>	<p>The applicant has advised that the costs are indicative only. The interpretive artwork is intended as a concept to encourage community engagement with the park and to be developed through consultation with the community and local artists, creating a connection to the history of the site and community. Artwork can be interactive and become informal play elements depending on the design.</p> <p>It is acknowledged that there will be further community consultation in relation to future art works on the site and conditions are to be applied to any consent granted requiring consultation with the public art advisory committee</p> <p>Public consultation was undertaken regarding the desired elements and uses for the park. The design has been developed to balance all of the feedback received with council service levels and requirements and incorporates the appropriate design standards for each element.</p>

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	<p>This is a matter for Council in their role of the development of the Park to consider and not a planning matter in Council's determination of the proposal.</p>
<p>Costs of removal vs retention of existing drive-in concrete footings.</p>	<p>The old footings for the drive-in conflict with other design requirements for the park and may present a potential hazard. These footings have been conditioned to be removed as part of DA 2018/753.</p>
<p>A longer running/walking track should be provided (design changes can be made to enable a longer track to be achieved).</p> <p>The width of the running track should be at least wide enough two people/wheelchair, wheelie walker, pram etc.</p> <p>There could be narrower pathways for children to explore one of the rainforest areas.</p>	<p>The applicant has advised that public consultation was undertaken regarding the desired elements and uses for the park.</p> <p>The design has been developed to balance all of the feedback received with council service levels and requirements and incorporates the appropriate design standards for each element.</p> <p>The track has been designed to be suitable for the space available in the park with the other design elements.</p>
<p>All amenities should be DDA compliant - including picnic shelters, picnic tables, and BBQ areas and toilets (with suitable consultation with the disabled persons).</p>	<p>The applicant has advised that the design of the park has been developed to balance all of the feedback received through public consultation, with Council service levels and requirements and incorporates the appropriate design standards for each element.</p> <p>The park will include spaces, furniture and facilities for inclusive and accessible use compliant with the Australian Standards.</p>
<p>Unisex toilets are inappropriate in a park setting and there should be one female, one male and one accessible toilet (the budget indicates two x unisex and one accessible toilet).</p>	<p>The applicant has advised that separate male and female toilets are preferred over unisex facilities and that facilities will be installed to suit current Council directions and service levels.</p>
<p>Additional park benches should be located around the park for supervision and rest, with opportunities for their design and construction by the Men's Shed, TAFE or High School Design and Woodwork students.</p>	<p>The applicant has advised that community engagement will be considered in further development of this project.</p> <p>This is a matter for Council in its development role for the Park rather than it being a planning matter in Council's determination of the proposal.</p>

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Suggested changes to gardens (new sensory and flower garden, new community vegetable garden and new small labyrinth).	<p>The applicant has advised that community engagement will be considered in further development of this project.</p> <p>This is a matter for Council in its development role for the Park rather than it being a planning matter in Council's determination of the proposal.</p>
Request for the Wollongbar Park to contain basketball hoop	The concept design plan indicates that a multi court (15m x 10m) with basketball ring and backboard are to be provided as part of the proposal.
There are no park boundary measurements shown on any of the drawings, and none indicating the width and length of the skate area itself.	<p>The plans provided as part of the development application comprise a concept design, of appropriate scale for a proposal of this type. Indicative dimensions can be measured using the drawing scale.</p> <p>A detailed design of the facilities will be required to be provided at Construction Certificate stage.</p>
The design for the skate park is larger than was previously advised to residents.	The applicant has advised that all previous designs for the skate park have been preliminary designs only. The basic design of the skate park is the same size, but is now connected with paths, seating and shade to integrate into the District Park design and make it accessible to the widest range of user groups.
<i>Safety, Security and Crime Prevention</i>	
Good lighting is required for late afternoon use for safety reasons.	<p>The applicant has advised that appropriate levels of lighting will be provided to achieve outcomes consistent with the principals for crime prevention through environmental design.</p> <p>The Statement of Environmental Effects lodged with the application details that lighting will be provided around the toilet block and the central north/south pathway (identified as '4' on the design plans – interpretative footpath) will be lit at night. Low level solar smart-security lighting has been stated to be provided at night for the skate park.</p> <p>Street lighting is to be provided as part of DA 2018/753, as conditioned as part of that consent.</p>
Conflicts for after- hours use - the installation of low level lighting will not allow for skating at night, with signs to be erected prohibiting after hours use. This will result in skating after hours with dim lighting, use of personal lighting or lighting from the surrounds.	<p>As discussed within this report, there will not be sufficient lighting to utilise the skate park after dark and signage will be erected prohibiting its use during that time.</p> <p>It is considered that the likelihood of the skate park being utilised in the night period is low. However, consideration needs to be given to potential compliance issues for Council staff and the local Police should this occur.</p>
Security concerns for residents and efforts should	The applicant has advised in the SEE that consultation has been sought from the Crime

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<p>be made to establish a team of interested parents, older students, local police and the skate shop enthusiasts who would help supervise, provide positive role models, to take pride in and responsibility for the maintenance and protection of the District Park.</p>	<p>Prevention Officer of the Richmond Police District NSW. The design is intended to encourage community engagement in the space and creation of community mindedness as raised in this issue.</p>
<p>Teenagers have unacceptable behaviour associated with skate parks (drug use and foul language).</p>	<p>This is a generalisation and would not be the case for all persons using the skate park. People of all ages can utilise the skate park and it is assumed that parents will supervise younger users.</p> <p>The proposed design has incorporated appropriate CPTED measures, so as to ensure that clear sightlines and surveillance can be provided around the proposed skate park.</p>
<p>Potential for skate park to have adverse impacts on the amenity of the local area (and developing Avalon Estate) as a consequence of noise, anti-social behaviour, security and vandalism.</p>	<p>A CPTED assessment and NIA have been prepared for the proposal and lodged with the application.</p> <p>As discussed in this report, appropriate assessments have been made in relation to these issues by Council staff and the Crime Prevention Officer of the Richmond Police District NSW.</p>
<p>The erection of a sign will not deter those who will want to use the park at night. Will there be security surveillance, particularly on Friday and Saturday nights (when most of the vandalism and anti-social behaviour occurs in the village)?</p>	<p>The applicant has advised that the service level will be the same as surrounding parks and reserves.</p> <p>Additionally, it is noted that the proposed acoustic mounding for the skate park will enable clear sightlines to the skate park for passing vehicles, adjoining properties and any Police patrol.</p>
<p>Skate parks will generate graffiti - residents fences will be tagged and disfigured and who will pay the costs for removal of graffiti?</p>	<p>As stated in this report, the Crime Prevention Officer has stated that the proposal has addressed the natural surveillance opportunities in their design. Clear sightlines have been established through landscaping, defined spaces and public pathways around the park. It is considered that design feature this will reduce opportunities for graffiti within the Park.</p> <p>It is unknown as to whether graffiti will occur on resident's fences. However, it is noted that any private property boundary fencing that is in proximity to the District Park that would be accessible to any skaters, would be located adjoining to the public street system and therefore be visible during the evening/night by passing vehicles. Additionally, there is street lighting provided along Rifle Range Road. The visibility and lighting should be deterrents to this action.</p>

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<p>The main demographic for skate parks is 14-18 year old boys and there will be no supervision of accidents, bullying and after hours use. Will skating be permitted after dark? Is lighting proposed? Will CCTV cameras be installed?</p>	<p>As detailed in this report, night time use of the skate park is to be prohibited and signs are to be erected on the District Park with this advice. Low level solar smart-security lighting has been stated to be provided at night for the skate park for security purposes.</p> <p>The applicant has not proposed to install CCTV cameras and it is noted that their installation as not been recommended or required by the Crime Prevention Officer.</p>
<p>There are negatives with the installation of skate parks –</p> <ul style="list-style-type: none"> • Crime • Young and inexperienced riders can be placed in danger. • Injury. • Crowds. 	<p>The proposal has been assessed and supported by the Crime Prevention Officer of the Richmond Police District NSW.</p> <p>The applicant has advised that regulatory signage and warnings will be put in place, as with other skate parks, in accordance with the appropriate signage standards.</p>
<p>The proposed skate park is twice the size of the Lennox Head skate park and claims of no anti-social behaviour for that skate park are false.</p>	<p>The submitted application makes no claims of relative size to other skate parks or the occurrence of antisocial behaviour at them.</p>
<p>A police report states there should be no visual obstructions to the line of sight, if a skate park is built at Plateau Drive, yet design plans show a raised mound to help mitigate excessive sound levels.</p>	<p>The acoustic mounds have been designed with consideration for both the noise mitigation requirements and maintenance of sight lines into the site.</p> <p>The applicant has advised that the Crime Prevention Officer of the Richmond Police District NSW was consulted with respect to the design and their comments were included within the development application.</p>
<p><i>Noise</i></p>	
<p>Impacts of noise from skateboards and skateboarders</p>	<p>A Noise Impact Assessment (NIA) has been prepared for the proposal and lodged with the application. The NIA has considered the following noise sources in relation to the proposed skate park: raised voices, wheels rolling on concrete and metal-on-metal clanging and scraping during various manoeuvres.</p> <p>The NIA also made additional predictions for general noise for the remainder of the park to represent basketball, cycling, jogging and voices spread across the park area. These noise sources were all included in the noise modelling and predicted noise levels.</p>
<p>The proposed sound mounds are inadequate for near neighbours.</p>	<p>The assessment provided in the NIA, and as discussed within this report, has shown that proper consideration has been given to the most impacted existing and future surrounding properties.</p>

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<p>Impacts from noise and constancy of noise will be significant during weekends and school holidays.</p> <p>The current proposed location of the skate park is too close to existing and future houses and therefore requires a much higher degree of barrier/buffering to minimise noise and to maximise security to dwellings. The barrier/buffering would likely have to be of a type that would potentially contradict and/or compromise the CPTED principle of maximising passive surveillance opportunities.</p>	<p>NIA modelled full compliance for all time periods for all properties, other than four receivers where the night period noise level is modelled to be exceeded by 2dB(A). Three of these receivers are within the same subdivision as the community park and purchasers will be aware of the existing plans.</p> <p>The installation of higher acoustic mounding/screening will result in reduced surveillance to the skate park from the surrounding public spaces and streets.</p> <p>The reduction of the 2 and 3 dB(A) in noise levels, at which a change of up to 3 dB(A) in the level of a sound is difficult for most people to detect, is not considered to warrant the installation of additional acoustic mounding/screening. This assessment is made in relation to the night period (10pm to 7am), at which there will not be sufficient lighting to utilise the skate park and signage will be erected prohibiting its use during that time.</p> <p>Therefore, a higher degree of barrier/buffering is not justified based on the submitted NIA.</p>
<p>Is there a plan to provide a 'sound deadening' surface in the skate park.</p>	<p>The applicant has advised that a concrete park has been chosen over other noisier materials, as recommended by the skate park designers that completed the work with noise mitigation and CPTED principles in mind.</p> <p>It is noted that concrete construction has been utilised at the existing Ballina and Lennox skate parks. Council's Public and Environmental Health Section advise that concrete is a very dense material and has good acoustic deadening properties. In addition, it is noted that the submitted NIA for the subject application has used noise levels from the use of Lennox and Ballina skate parks to model the potential noise and impacts of the proposed skate park.</p>
<p>The skate park location within the District Park should change to be further west –adjacent to the Plateau Drive/Rifle Range Road roundabout due to noise issues.</p>	<p>A noise impact assessment has been completed by a qualified professional in accordance with best practice and the entire park design has been considered against crime prevention through environmental design principals to identify the optimum location of the skate park and noise mitigation measures.</p> <p>If the location of the skate park were to be relocated within the site, further acoustic modelling would be required to assess the potential impacts. It is considered that the acoustic assessment that has been undertaken does not warrant relocation of the skate park within the site.</p>
<p>Further acoustic testing should be undertaken once the skate park is operational</p>	<p>The applicant's acoustic consultant has advised that the model has been verified and is accurate and the noise source is understood and accurate. Given the</p>

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<p>to ensure that the findings of the acoustic assessment are correct.</p>	<p>nature of the noise source, being not continuous, and the way in which noise is measured (Leq which is a weighted 15 minute average for compliance), there will not be exceedances.</p> <p>In this regard, the loud noises that do occur, occur briefly and not continuously, so do not change the 15 minute average.</p> <p>As the District Park is owned and operated by Council, any complaints or issues would be dealt with in accordance with Council's policies and the legislative requirements, as is the case for all other facilities owned and operated by Council.</p> <p>There are considered to be limited opportunities for further restrict any acoustic issues that do occur, through construction of barriers or additional mounding, given these measures would create safety and security issues and conflict with CPTED principles.</p>
<p><i>Interface with adjoining property</i></p>	
<p>Appropriate security barrier/screening needs to be erected along full eastern boundary of the park site (to the east of this planting) – comprising a lapped and capped timber paling fence (as per Rifle Range Road treatment in front of Avalon Estate)</p>	<p>The constructed fence along the Rifle Range Road treatment in front of the Avalon Estate relates to a historic assessment and need for acoustic treatment for the noise impacts of Rifle Range Road as part of DA 2007/876 (Avalon Estate subdivision). This has not related to security or visual screening.</p> <p>Since the time of approval of the Avalon Estate in December 2008, noise assessments have been made in relation to other subdivisions along Rifle Range Road and due to noise policy changes, there has not been the requirement for the installation of acoustic screening or barriers (fences and mounds) to address road traffic noise impacts from Rifle Range Road.</p> <p>It is noted that the concept design plans for the District Park do include a tract of sub-tropical rainforest plantings (i.e. mini arboretum) along the eastern property boundary. As discussed in the assessment provided in Attachment 3, there is a requirement for detailed plans of the plantings and any boundary fencing to be provided as part of conditions of any consent granted. It is considered that Council, in its role as the developer of the District Park should liaise with the adjoining developer/property owner as to the construction of any fencing.</p> <p>In addition to the comments above, the NIA modelled sensitive receptor locations 6 and 7 on the eastern boundary were found to be below the noise criteria for all time periods. Therefore, there is no justification for an acoustic barrier in this location.</p>
<p>Concerns are raised with the area of dense vegetation</p>	<p>The issue raised is acknowledged and as mentioned in the Section 4.15 assessment within Attachment 3.</p>

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<p>planting referenced as subtropical rainforest with information signage along the pathway edge (assumed to buffer district park and skate park from existing and future houses to the east) - has the potential to reduce passive surveillance opportunities of the skate park when viewed from the east.</p>	<p>Conditions are to be imposed in relation to the design of the mini-arboretum to ensure that the future growth of the vegetation would not impact on the adjoining approved residential allotment. A detailed plan of the planting, including details of proposed property boundary fencing can be required as a condition of any consent granted.</p> <p>No issues have been raised as part of the CPTED assessment or from the Crime Prevention Officer in relation to requiring surveillance from the approved residential allotment to be constructed as part of the Avalon Estate. There is satisfactory surveillance from the north, north east and south east from the public street system (existing and approved).</p> <p>Furthermore, it is expected that any future property owner will want to construct boundary fencing with the District Park, to delineate their boundary and provide privacy to their dwelling and yard.</p>
<p><i>Traffic and Roads</i></p>	
<p>There is already a constant flow of traffic along Rifle Range Road and the skate park will be another burden to residents.</p>	<p>Council's Developments Engineer has commented that Rifle Range Road is a collector road with a corresponding width of 11m. Whilst it may be a well-used road, there is no evidence to suggest it is nearing capacity or has a reduced level of service or excessive queueing. The district park and associated skate park are designed to be a benefit to the Wollongbar area and provide recreational activities to a range of demographics.</p>
<p>What strategies are proposed to prevent cars being parked along Rifle Range Road? Concerns raised as to the skate area being placed closer to that side of the park and this is a dangerous area, with high volumes of fast moving traffic.</p>	<p>Traffic management measures will be put in place during construction works, which may restrict some parking during works. Formalised on site car parking has been shown to be provided along the southern side of the new Road 05.</p> <p>DA 2018/753 has provided for some road widening works to occur along Rifle Range Road. Rather than preventing vehicles from parking along the District Park frontage with Rifle Range Road, it is to be widened to provide a safe parking environment. The Civil Construction Certificate Application for DA 2018/753 includes the widening of Rifle Range Road, connecting the kerb and gutter at the roundabout on Plateau Drive to the adjoining Avalon development to the east.</p> <p>From centre line to edge of kerb there will be a minimum width of 6.5m, allowing for a 3.5m traffic lane and a 3.0m parking lane. There will be a tapered median adjoining the merge lane of the roundabout, to protect parked vehicles.</p> <p>Rifle Range Road is signposted as 60km/hr with no recent crash data to support concerns it is a dangerous road environment.</p>

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<p>Council's engineers should investigate installing some safety measures to prevent cars driving on the wrong side of the Plateau Drive/Rifle Range Road roundabout, particularly when heading west to east on Rifle Range Road.</p>	<p>Council's Developments Engineers have completed an assessment of the roundabout and have not raised any concerns regarding the roundabout design inadvertently encouraging vehicles to cross into oncoming traffic.</p> <p>Any vehicles that are travelling on the wrong side of the road, through the roundabout, would have done so intentionally, contrary to the road rules.</p>
<p>The traffic has increased along Rifle Range Road in the last 18 months, which is a safety concern for skaters.</p>	<p>Council's Developments Engineer has advised that whilst traffic may have increased along Rifle Range Road due to the development of the Wollongbar Urban Expansion Area, it is a collector road capable of servicing the increased traffic demand. The road network in and around the Wollongbar Urban Expansion Area was assessed during the rezoning stage of the area and intersection upgrades and link roads constructed as a consequence.</p> <p>A skate park is to be provided to give riders a safe recreational environment away from traffic. There is a shared path network serving the site, to provide safe pedestrian and cyclist access to the District Park.</p>
<p>Potential for danger for children – current practices of skating down Plateau Drive, narrowly being missed by cars, which will be worse if a skate park is built on the subject site, attracting more children to the area.</p>	<p>The district park boundary and skate park are clearly delineated from the road reserve in the design.</p> <p>The applicant has advised that safe skating will be encouraged within the park, and safe pedestrian use of the external connecting path network when travelling to and from the park.</p>
<p><i>Financial impacts on residents</i></p>	
<p>Costs have already been borne by residents of the area (expensive house blocks, dwelling construction and rates) for a peaceful existence.</p>	<p>The cost of land and dwellings etc. is not a planning matter for consideration in the determination of this application.</p> <p>As has been previously mentioned in this report, a NIA has been carried out in relation to the proposal and conclusions reached that the development is acceptable as proposed.</p>
<p>No advice was ever provided that a skate park would be constructed in the area and residents would not have purchased in the area had it been known.</p>	<p>The applicant has advised that a skate park in the proposed location has been in discussion as a Council and public agenda item since 2014. The draft plan for the District Park including a skate park was exhibited to the public for feedback from 24 April to 21 May 2019.</p> <p>As previously mentioned in this report, the initial planning for the 'mixed use site' (as shown in Attachment 7) did include the provision of a skate zone (and this would have been in response to the submissions received to the rezoning of the Wollongbar Urban Expansion Area, which requested a commitment to the provision of a skate park on the land).</p>

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<i>Location of proposed skate park</i>	
<p>The skate park should be erected at the Wollongbar Sporting Fields and not in a residential area.</p>	<p>A proposal for a skate park at the Wollongbar Sporting Fields has been previously considered by Council, via DA 2017/554.</p> <p>This application was determined by Council by way of refusal at its Ordinary Meeting on 23 August 2018.</p>
<p>The skate area is to be erected close to residential homes, and every other site that has been investigated (which had a house within 150m) has been rejected with this as one of the reasons not to build it on a particular site. Why is the same consideration not given to the residents of this locality?</p>	<p>All potential sites for a skate park for the locality have been evaluated using the same criteria and reported to Council.</p> <p>Alternative locations have been investigated and a decision to include a skate park as part of a District Park in this location was decided by resolution of the elected Council.</p> <p>As previously mentioned, DA 2017/554 was determined by Council by way of refusal at its Ordinary Meeting on 23 August 2018. This application was for a skate park at the Wollongbar Sporting Fields.</p> <p>The assessments included in that report were based on a different proposal in a different locality and concluded that the use of the skate park was not capable of meeting the project specific noise levels for the evening and night periods for the closest dwelling house. Additionally, the exceedance was 4.5 dB(A), which, as previously stated in this report, corresponds to a small but noticeable change in loudness.</p> <p>In the case of the proposed skate park within the District Park, the exceedance is 2 dB(A) for the night period only.</p> <p>It must also be noted that the reasons for the Council's refusal of DA 2017/554 were not related to noise.</p>
<p>The location of the skate park is too close to current and future residential homes in Wollongbar. There is nowhere else that skate parks been built so close to residents.</p>	<p>As stated within this report, the distances from the outer extremities of the skate park to the identified closest receptors on the northern side of the District Park are 44m to property boundary of approved Lots 28, 27 and 26, and in consideration of future dwelling houses, the minimum distance can be calculated at 50m. In addition, these receptors are within the same subdivision as the District Park and purchasers will be aware of the existing plans.</p> <p>The sensitive receptor location on the southern side of Rifle Range Road is calculated at a distance of 32m from the outer extremities of the skate park, with the existing dwelling house, a further 25m south (total distance of 57m).</p> <p>In the instance of the Lennox Head skate park, the information provided in the noise assessment</p>

8.2 DA 2020/23 - Wollongbar District Park

	provided for DA 2008/447, the closest residential dwellings to the skate park were at 52 metres (dwelling) and 66 metres (residential flats).
Skate parks are usually located in industrial areas or parks away from residential areas.	<p>It is noted that skate parks are sited in a variety of locations. It is expected that any proposed skate park will be subject to public consultation in terms of design and location, in both the planning and approval stages. Any proposal would also be required to be supported by appropriate technical reports.</p> <p>This has been the case with the two existing skate parks in the Ballina Shire. In the instance of the Ballina skate park, its location is well removed from residential areas. The Lennox Head skate park is co-located with the Lennox Head Community Centre, adjacent to commercial and residential development.</p>
<p>Many other councils have successfully integrated skate parks into sport field areas, well away from residential homes. Examples in Pottsville, Brunswick Heads, Miami, Currumbin, Nerang, Mudgeeraba.</p> <p>The skate park should be provided in a sporting area, away from residential areas.</p>	<p>The applicant has advised that the success and faults associated with many different skate parks in the surrounding regions were reviewed in both the design of the park and evaluation of suitable sites.</p> <p>Alternative locations were evaluated and a decision to include a skate park as part of a district park in this location was decided by resolution of the elected Council.</p> <p>As stated elsewhere in this report, Council has previously considered a development application for a skate park at the Wollongbar Sporting Fields. This application was recommended for refusal by Council staff for in relation to inadequate pedestrian infrastructure, unreasonable noise impacts and unreasonable crime, safety and security risks for the site and surrounding locality.</p> <p>The application was determined by the elected Council by way of refusal also due to inadequate pedestrian infrastructure.</p>

4.15(1) (e) The Public Interest

Comment: The discussion provided above in relation to noise and safety, security and crime prevention and in response to the issues raised in the public submission, is considered to satisfactorily address the public interest and the proposal. Refer to Attachment 3 – Section 4.15 Assessment for further comment.

Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Development Control Plan 2012 and the submissions made in response to the exhibition of the proposal.

8.2 DA 2020/23 - Wollongbar District Park

Ten submissions have been received in relation to the proposed development, citing issues, which primarily relate to the establishment of a skate park at the site, the associated noise, safety/security/crime risks, the design of the District Park and traffic and roads.

The matters raised within the submissions received in relation to the proposal have been adequately addressed with this assessment and the section 4.15 assessment report contained in Attachment 3.

In relation to the main concerns raised in relation to the proposed skate park, the assessment provided in the Noise Impact Assessment (NIA), and as discussed within this report, has shown that proper consideration has been given to the most impacted existing and future surrounding properties. The NIA modelled full compliance for all time periods for all properties, other than four receivers where the night period noise level is modelled to be exceeded by 2dB(A).

It is considered that there are sufficient measures proposed to prevent night time use of the skate park (being the erection of prohibition signage and low level lighting). The installation of higher acoustic mounding/screening to achieve a 2 dB(A) reduction for the four properties, is not considered warranted, given that a change of up to 3 dB(A) in the level of a sound is difficult for most people to detect.

The proposed concept design and submitted Crime Prevention Through Environmental Design assessment prepared by the application has been supported by the Crime Prevention Officer of the Richmond Police District NSW that the proposed concept design for the Wollongbar District Park.

As indicated in this report, in consideration of the issues raised in relation to noise and the proposed skate park, the installation of additional acoustic mounding/screening, would result in reduced visibility and surveillance of the park, from public spaces (i.e. Rifle Range Road and Road 05). This would present an obvious issue for local Police and a conflict with CPTED principles.

In this regard, the decision to pursue the installation of any further acoustic mounding/screening to address any noise impacts for the potential night time use of the skate park needs to be clearly balanced against the resulting safety and security impacts of that measure.

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

Options

Option 1 - Approve the Application

That Council approve the development application for the establishment of the Wollongbar District Park, involving the construction of public amenities and facilities and the construction of a skate park within approved Lot 32 (as approved via DA 2018/753), subject to the standard planning, building, environmental health and engineering conditions, and conditions as stated within this report and the Section 4.15 Assessment within Attachment 3, subject to Council being satisfied that the likely impacts of the proposal are acceptable for the locality.

Approval is recommended for the reasons outlined in this report.

Option 2 – Refuse the Application

That Council refuse the development application. This option could be taken if Council considers that the proposal will have an unreasonable impact on the locality, particularly in terms of noise and safety, security and crime prevention.

This option is not recommended.

Option 3 – Defer Determination of the Application

Council could defer its decision on the application to obtain further information. This is not recommended on the basis that the technical assessment has concluded that sufficient information is available to enable determination of the application.

RECOMMENDATION

That Development Application 2020/23 for the establishment of the Wollongbar District Park, involving the construction of public amenities and facilities and the construction of a skate park within approved Lot 32 (as approved via DA 2018/753) at Lot 6 DP 1161720 and Lots 39 & 45 DP 1242246, being No. 93 Rifle Range Road and No. 55 Avalon Avenue, Wollongbar be **APPROVED** subject to application of conditions referred to within this report and standard planning, building, environmental health and engineering conditions.

Attachment(s)

1. Locality Plan - Wollongbar District Park including the Skate Park
2. Development Plans
3. Section 4.15 Assessment Report
4. Submissions
5. Confidential Submissions (Under separate cover)
6. Previous Plan for Mixed Use Site - extract from former Chapter 15 of Ballina Shire Combined DCP 2006

8.3 DA 2019/702 - 81 Teven Road, Alstonville

Applicant	Ardill Payne & Partners (on behalf of Marlon and Wendy Crowther)
Property	81 Teven Road, Alstonville Lot 4 DP 879770
Proposal	Torrens Title subdivision to create four residential allotments ranging in size from 1,023m ² to 2,367m ² and installation of associated public infrastructure.
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached in Attachment 1.

Introduction

The proposal involves a four lot Torrens Title Subdivision of land zoned for residential purposes. Council called up this application for determination at the Ordinary meeting held 19 December 2019.

As shown in Figure 1 (and Attachment 9), the subject land is in relatively close proximity to the boundary of the Gap Road Quarry (approximately 180 metres), the boundary of the Boral Asphalt Plant (approximately 270 metres) and the boundary of the Ron Southon Blasting Operation (approximately 530 metres).

All three land uses have existing valid approvals and have been operating for a substantial period of time in this locality (over 100 years in the case of the quarry and 40 years in the case of the asphalt plant).

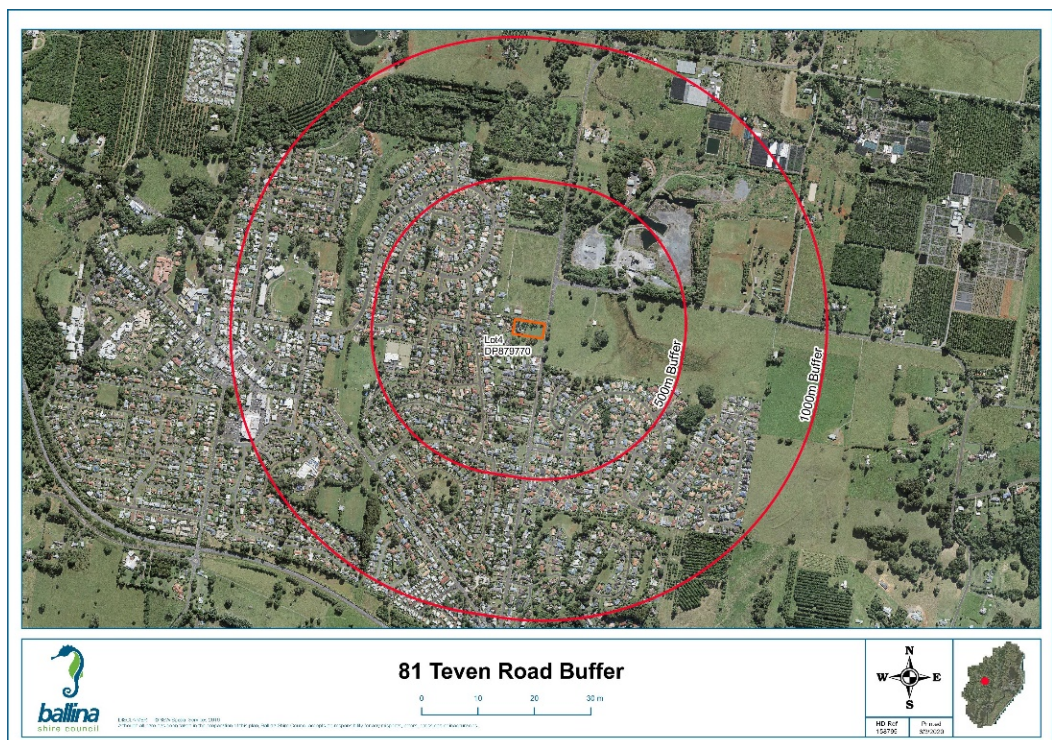


Figure 1: Subject land and buffer to industries

8.3 DA 2019/702 - 81 Teven Road, Alstonville

The subject land is zoned R2 Low Density Residential under the Ballina Local Environmental Plan 2012 and has been zoned residential since the early 1980s.

The land was identified in the Alstonville Planning and Environmental Study as a residentially zoned lot in Alstonville with the potential to subdivide. The land is effectively the last R2 zoned land able to be subdivided and developed for three or more housing lots in this part of Alstonville.

Details of the Proposal

The proposal seeks to create four residential allotments comprising three vacant allotments and one allotment containing the existing dwelling house and swimming pool, and the installation/extension of public infrastructure to service the development. The proposed subdivision comprises:

Proposed Lot	Area	Access
Lot 1	1,023m ²	Directly from Teven Road
Lot 2	1,023m ²	Directly from Teven Road
Lot 3	1,127m ²	Reciprocal Right of Carriageway from Teven Road
Lot 4 (existing dwelling)	2,367m ²	

A copy of the proposed plan of subdivision is provided as Attachment 2.

Two Restrictions on Use exist over the subject land being:

- Restriction on Use (E) on the eastern two-thirds of the subject land which restricts any dwelling house from being erected.
- Restriction on Use (F and G) along the eastern front boundary which restricts vehicular access to/from Teven Road.

The Restriction on Use (E) was placed over the property to restrict the placement of a dwelling due to the proximity of the quarry.

It is not clear from investigations why Restrictions on Use (F) and (G) were placed on the property, however it may have been to restrict further driveways in proximity to the Gap Road intersection, which at that time may have had a higher speed limit. The speed limit is now 60 kph.

Council has the ability to modify, release or vary these Restrictions. The applicant is formally requesting this to facilitate the proposed subdivision.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The development application was placed on public exhibition from 27 November 2019 until 13 December 2019. Three submissions were received, including one in support. Copies of submissions are provided in Attachments 3 and 4.

Due to the proximity of the proposed development to the existing quarry, asphalt plant and blasting operator, the application was also referred to the NSW Environment Protection Authority (EPA) as the quarry and asphalt plant are regulated and/or licensed by the EPA.

The EPA provided a response dated 4 December 2019, and this is included as Attachment 5.

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

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

Comment: The proposed subdivision is located within approximately 180 metres of the Gap Road Quarry, 270 metres of the Boral Asphalt Plant and 530 metres of the Ron Southon Blasting Operation.

Table 2.1 of Chapter 2 of the Ballina Development Control Plan (DCP) 2012 sets out the recommended buffer distances for extractive or mining industries. The recommended buffer distances are 500m for non-blasting and 1,000m when blasting is involved. Blasting is approved to be conducted at the Gap Road Quarry and a 1,000m buffer is recommended.

Similarly, the recommended buffer distances for hot mix asphalt/bitumen batch plants (i.e. Boral Asphalt) is 500m for new technology plants and 1000m for older technology plants.

Boral has confirmed in its submission that it utilises older technology and a 1,000m buffer is recommended.

Boral Asphalt, in their submission, raised the issue that the proposed subdivision is within the buffer and has the potential to result in increased land use conflict, which may threaten the longevity of these approved and regionally significant industries.

Boral Asphalt also raises the issue of odour, dust and noise impacting on future residents of the subdivision.

Another submission, from a local resident also raises the issue of odour, dust and noise from the asphalt plant and requests that Boral's approval for 24-hour operations be rescinded.

A Land Use Conflict Risk Assessment (LUCRA) prepared by Tim Fitzroy & Associates dated 24 October 2019 was submitted with the application. See Attachment 6.

The LUCRA concluded that the site is suitable for a proposed residential subdivision, subject to the following recommendation:

“Noise Mitigation:

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

A number of factors have led to this conclusion including:

- *distance attenuation of some 425 metres from the limit of quarry excavation to the proposed residential subdivision;*
- *distance attenuation of some 350 metres from the closest point of the Alstonville Asphalt Plant to the proposed residential subdivision;*
- *no direct line of sight between the quarry and asphalt plant and the proposed development;*
- *the ongoing implementation of the Environmental Management Plan for the Tuckombil Quarry,*
- *Boral’s commitment to implement the recommendations of the Odour Impact Assessment of the Alstonville Asphalt Plant (Air Environment 2017)*
- *the evidence of air quality, noise and vibration monitoring, and*
- *the results of modelling on the effects of the asphalt plant on air quality.*

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

Further updates were provided to the LUCRA by Tim Fitzroy & Associates dated 4 February 2020, (see Attachment 7) in response to submissions from EPA and Boral Asphalt and the following conclusion was provided:

“Both submissions reaffirm that the proposed residential development is within Council’s Buffer to Extractive Industries and to Hot mix asphalt/bitumen batch plan. Principal concerns relate to potential land use conflicts as a result of approved activities at Tuckombil Quarry and Alstonville Asphalt Plant. The key concerns relate to noise, blasting and air quality. Reference is made to complaints regarding the operation of the Asphalt Plant. In addition, there are concerns from Boral with regard to any restrictions on the current and future use of the Tuckombil Quarry resource under clause 13 of the State Environmental Planning Policy (SEPP) (Mining, Petroleum Production and Extractive Industries (2007). It is noted that this matter has not been raised by Ballina Shire Council, the owner of the quarry, as TFA understand that the quarry has not been operational since 2016 and that BSC is considering the future of the quarry.

The LUCRA acknowledges the potential land use conflicts between the existing Asphalt plant and quarry to future residents of No 81 Teven Road Alstonville. Clearly noise and air quality are the pre-eminent issues at play.

Based on the data at hand it appears that the land use conflict risk with respect to noise generating activities between the existing asphalt plant and quarrying operations (should they recommence in the future) and future dwellings in the proposed subdivision to be low.

Nevertheless, adopting the precautionary principle, it is recommended that future dwellings in Lots 1 to 3 (inclusive) be constructed of standard construction with acoustic seals to windows facing the quarry/asphalt plant and the provision of air conditioning in habitable rooms to allow residents with the opportunity to be closed windows to maintain internal acoustic amenity when required."

The report recommends a Restriction As-To-User in accordance with Section 88b of the Conveyancing Act 1919 be placed on the titles of Lots 1-3 to that effect.

Council's Environmental Health Section has considered the LUCRA and additional information submitted and provided the following comments:

The LUCRA assessed potential conflicts between the asphalt plant and quarry and the proposed subdivision. The need for compliance with relevant conditions of consent and Environmental Protection Licence (EPL) conditions was also discussed.

Although the quarry is not currently operating, conditions of the EPL and DA 1995/276 are still applicable if operations were to recommence unless an application was made to modify such conditions.

The same is applicable for the asphalt plant under DA 1995/127 along with the NSW Environment Protection Authority (EPA) requirements.

Although an EPL is no longer required the EPA are still the appropriate regulatory authority under the Environment Protection Operations Act 1997.

As outlined in the response from the EPA dated 4 December 2019 (CM 19/96351) compliance with these conditions does not necessarily mean all conflicts will be eliminated. If all reasonable and feasible measures have been implemented by the quarry or asphalt plant the EPA may take no further action.

The DA conditions and licence conditions were finalised at the time applications were made. Although licence conditions can be modified, if it is demonstrated all reasonable and feasible measures have been carried out modifications will not occur.

The EPA often outline in their submissions to Council that approving uses with sensitive receivers close to industrial uses, especially within nominated buffer zones will likely cause conflicts between the two uses.

Doing so makes it very difficult for industry operators, the EPA and sensitive receivers to live and work together.

It is agreed that preventing land use conflicts at the planning stage is the principal mechanism that should be used instead of trying to manage the conflicts once the use or activity is approved.

8.3 DA 2019/702 - 81 Teven Road, Alstonville

The provided LUCRA and Revised Response to Submissions prepared by Tim Fitzroy and Associates dated 4 February 2020 assesses potential land use conflicts and concludes all will be at an acceptable level.

However, the precautionary principle has been applied to noise and Mr. Fitzroy has recommended acoustic seals on windows facing the asphalt plant/quarry and the need for air conditioning in habitable rooms, as shown in the below extract.

In April 2018 Council issued approval for DA 2017/679 for the adjoining lot to the south (77 Teven Road) to be subdivided into 10 residential lots. This consent included a similar condition to that recommended by Tim Fitzroy and Associates.

On 3 December 2014 approval was granted via DA 2014/383 for a single dwelling at Lot 2 DP 800081 Teven Road, Alstonville (directly to the north of the subject land). Although concerns were raised by the EPA for both DA 2014/383 and DA 2017/679 regarding potential land use conflicts, consent was granted which included conditions to minimise potential noise from the quarry and asphalt plant.

The site is also identified as containing large lots for residential subdivision in the Alstonville Planning and Environmental Study 06/2017.

Given the similarities with both the abovementioned applications and their subsequent approvals it would be very difficult to recommend refusal for the subject application.

4. Request to rescind Boral Asphalt's approval to operate 24 hours

Comment: The Boral Asphalt Plant is permitted to operate on a limited basis over a 24-hour work period (60 nights per annum and for emergency works). It is not in Council's power to rescind that permission as part of this application.

5. Request for single storey dwelling houses only for proposed subdivision

Comment: One submission requests that the subdivision has a restriction imposed which only allows single storey dwellings. A similar restriction was placed on the subdivision approved immediately to the south of the subject site (DA 2017/679).

It is considered reasonable to impose a similar requirement on this development for consistency and this approach is also beneficial in relation to potential noise impact mitigation.

Applicable Planning Instruments

The proposed development application has been assessed under the matters for consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979 (Attachment 8).

The assessment has identified the following key issues which are elaborated upon for Council's consideration.

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

The proposed development is situated within 180 metres of the boundary of Lot 22 DP 1243105 on which the Tuckombil Quarry is located. The proposed development is situated within 270m of Lot 21 DP 1243105 on which the Boral Asphalt Plant is located.

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

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

The application included a preliminary contaminated site investigation (Section 4.5 of the Statement of Environmental Effects) undertaken by Ardill Payne & Partners which concluded that the subject site is suitable for the proposed development.

Council’s Environmental Health Officer is also satisfied that the site is suitable for the proposed use with minimal risk to human health or the environment.

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

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

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

- (a) consider:
 - (i) the existing uses and approved uses of land in the vicinity of the development, and

- (ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and
 - (iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and
- (b) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a)(i) and (ii), and
- (c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii).

Issues of relevance to this application are discussed below:

Tuckombil Quarry (Lot 22 DP 1243105)

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

While the quarry is not currently operating, DA 1995/276 remains valid.

The approved use has no time limit imposed as a condition of consent (it is however limited by total volume extraction of 1.3 million tonnes). Council's Civil Services Division, as the land owner, was notified of this application and no submission was received.

A modification application and amendment to the Environmental Management Plan approved by Council on 13 August 2013 updated the blasting methodologies utilised at the quarry to ensure that blasting undertaken is in accordance with contemporary practices and minimise impacts on residential receivers. It was noted in the assessment of that amendment (DA 1995/276) *"that the existing extractive industry result in non-compliances with the buffer distances stated in Chapter 2 of the Ballina Shire DCP 2012 (which nominates 1000 metres where blasting occurs). This does not change as a result of the modification, however the modification attempts to change the blasting methodology used on the site to ensure they are completed in accordance with relevant standards and contemporary practices to minimize impacts on residents within the encroaching area.*

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

Located within the quarry site are two separately leased areas. One of these areas is utilised by Boral Asphalt for the purposes of operating an asphalt batching plant (DA 1995/127).

The approved use has no time limit imposed as a condition of consent.

The second area is leased to Ron Southon for the purpose of storage and maintenance of drilling plant and equipment and the storage of hazardous materials utilised in blasting.

Approval was granted under DA 1998/252 on 28 August 1998. The approved use has no time limit imposed as a condition of consent.

Boral Asphalt Plant (Lot 21 DP 1243105)

This plant has been in existence since the late 1970s. In 1995, Designated Development Application 1995/127 approved the removal of the previous asphalt batching plant and replacement with a new higher capacity plant with various operating restrictions/conditions.

Since the early 2000s there have been various live trial periods and modifications approved by both Council and the NSW EPA (as the appropriate regulatory authority) to enable the asphalt plant to operate on a limited basis over a 24 hour work period (60 nights per annum and for emergency works).

Council considered a Section 96 modification application for the plan at an Extraordinary Meeting on 10 August 2016.

Objections to the Section 96 modification application identified odour generated by the plant as an issue and the consent was conditioned to mitigate this issue.

Noise from additional day-time truck movements to and from the asphalt plant were assessed as part of the Section 96 application and it was found unlikely that noise impacts of additional movements would be substantial.

Carcinogen concerns associated with emissions from the asphalt plant were discussed and considered as a separate matter by Council.

Ron Southon Pty Ltd (Lot 3 DP 1130300)

Ron Southon Pty Ltd has approval (DA 1998/252) for use of the site as a depot for the storage and maintenance of drilling plant and equipment and the storage of hazardous materials.

Approval exists for 24 tonnes of Ammonium Nitrate (AN) and two tonnes of blasting explosive to be stored on the site.

A Section 96 application was lodged in 2005 to increase the amount of materials stored, however the application was withdrawn.

The proposed subdivision and future dwelling houses will be located between 530m – 640m from Ron Southon's operations.

It is noted that dwelling houses on land zoned residential in the immediate vicinity are located closer to this industrial use including a dwelling in Teven Road immediately to the north of the proposal (approximately 585m), dwelling houses in Kris Place (approximately 420m – 480m) and dwelling houses in Tanamera Drive between Kris Place and Whipps Avenue (approximately 440m – 600m).

It is acknowledged that no specific buffer applies to this particular land use and therefore the need for a LUCRA is not triggered.

However, the LUCRA addresses the operational aspects of this industry and concludes that no significant land use conflicts are envisaged.

Ballina LEP 2012

Clause 2.3 – Zone Objectives and Permissibility

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

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

The proposed subdivision is considered to have had regard for and is generally consistent with the objectives of the R2 zone.

The subdivision of land is permissible in the R2 zone with consent.

Clause 4.1 – Minimum Subdivision Lot Size

Clause 4.1 provides that the size of any lot resulting from the subdivision of any land is not to be less than the minimum size shown on the Lot Size Map.

The subject lot has a minimum lot size of 600m².

The proposed lots range in size from 1023m²-2367m² and therefore the application complies.

Schedule 1 – Additional Permitted Uses

Clause 8 - Use of certain land at Alstonville

Clause 8 provides that development for the purpose of attached dual occupancies are permitted on R2 zoned land of at least 900m².

All the proposed lots are greater than 900m² and as such may be developed for the purpose of attached dual occupancies with the consent of Council.

While this application is for a four lot subdivision only, it effectively could be developed for seven additional dwelling houses.

Ballina Development Control Plan 2012

Council's assessment staff have undertaken an assessment of the application against the relevant provision of the Ballina DCP 2012.

The following areas are of particular relevance for Council's consideration.

Chapter 2 – General and Environmental Considerations

3.1 Land Use Conflict

The planning objectives of Section 3.1 state that all development in zones RU1, RU2, E2 and E3 and land adjoining these zones must:

- a. *Minimise conflicts between land uses (including from residential / urban expansions towards rural lands);*
- b. *Provide for lawful agricultural and associated rural industry uses that take precedence over other land uses in rural zones; and*
- c. *Protect significant environmental and natural resources.*

Council recently adopted Amendment No. 12 to the DCP on 26 September 2019 which amended Section 3.1.3 of this Chapter to include the following:

Development Controls

A Minimum Buffers and Land Use Conflict Risk Assessment (LUCRA) – Specified Land Uses

- i. *Proposed development must meet the minimum buffer distances set out in Table 2.1 for specified land uses except:*
 - *Where the requirements of subsection C – Variation to Buffers can be met to Council's satisfaction; or*
 - *Where the proposed development meets one of the exclusion criteria contained in subsection E – Exclusions to LUCRA*
- ii. *New or encroaching development is required to provide the specified land use buffer/s as shown in Figure 1.*
- iii. *Minimum buffer distances for hot mix asphalt / bitumen batch plant as specified in Table 2.1 are to be calculated from the property boundary (not from the location of the activity) as shown in Figure 1, unless it can be demonstrated that an area within the property is not capable of being used as part of the activity. This approach may also be utilized for other development specified in Table 2.1 depending on site-specific circumstances.*

An extract of Table 2.1 is provided below along with a diagram from the DCP showing how separation distances are to be measured for hot mix asphalt/bitumen batch plants.

Land Use	Urban residential areas	Dwelling house, Dual occupancy or Rural workers dwelling	Rural tourist facilities
Extractive industry or mining ¹	500m 1,000m	500m 1,000m	500m 1,000m
Hot mix asphalt/bitumen batch plant (New technology) ²	500m	500m	500m

¹Extractive Industry or Mining – The larger minimum distance is required when blasting is involved.

²New technology – refers to asphalt / bitumen batch plants that provide a method of direct truck deliver and have gas reclaim systems to ensure odour emission rates are significantly lower than older plants.

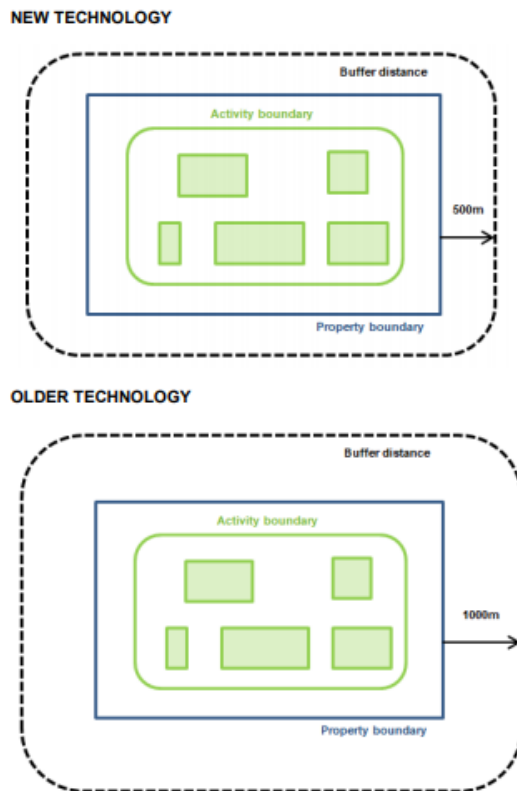


Figure 2: Calculation of buffer distances from hot mix asphalt / bitumen batch plants

Due to the proposed development being in close proximity to the Tuckombil Quarry and Boral Asphalt Plant, a Land Use Conflict Risk Assessment was provided with the application.

Further information was requested and submitted following initial assessment by Council officers.

The proposed development does not comply with the buffer distance required (i.e. 1000m) as indicated in Attachment 9 (and Figure 1).

A Request for Variation to a Development Control was lodged with the application.

The LUCRA acknowledges potential land use conflicts (including noise and air quality) between the existing industries and the future residents of the proposed subdivision.

While the LUCRA identifies the potential risk as low, the report in adopting the precautionary principle, recommends that a Section 88b Restriction As-To-User be placed on the titles of Lots 1-3 such that future dwelling houses require acoustic seals to windows (facing the quarry/asphalt plant) and the provision of air conditioning in habitable rooms to ensure that the internal acoustic amenity of the dwelling house is maintained.

The condition recommended is:

“A Restriction As-To-User in accordance with Section 88b of the Conveyancing Act 1919, is to be placed on the title of Lots 1 to 3 inclusive stating that any proposed dwelling located on Lots 1 to 3 inclusive must be constructed so as to achieve the internal noise levels for bedrooms (LAeq) of 35 dBA during night periods (10pm to 7am) and 40 dBA for other habitable rooms as specified in AS/NZ 2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors.”

Council’s Environmental Health Officer has provided the following comments in relation to Noise and Odour:

Noise

“Conditions will be recommended for dwellings to be constructed to reduce potential noise impacts from quarry/asphalt plant as outlined in the LUCRA section.”

Odour

“There is the potential for residents of future dwellings of the proposed lots to experience odour from the Asphalt Plant. EPA have received numerous odour complaints from the operations of this plant. EPA are in the process of investigating these complaints. Again because of the previously approved dwellings/residential subdivision close to this development site it is difficult to recommended refusing this proposal.”

3.9 Stormwater Management

The objectives state that *“runoff from the site and upstream catchments, to a lawful point of discharge, in a manner that minimizes flood damage and risk to people and property.”*

A Stormwater Management Plan prepared by Ardill Payne & Partners dated October provides for interallotment drainage and on-site detention in proposed Lots 1 and 2.

The stormwater system discharges to Council’s street network with the increase of total volume of runoff being to a discharge point provided onto Lot 218 DP 837177, a property located to the east of Teven Road.

The property owner has provided a letter of authority permitting discharge onto the land.

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Council's Development Engineers are satisfied with the stormwater management proposed for the subdivision.

3.19 Car Parking and Access

Council's Development Engineer provided the following comments:

"Lot 1 will be accessed directly off Teven Road whilst Lots 2 and 3 will utilise a battle-axe arrangement over Lots 3 and 4 with associated Rights of Carriageway. Lot 4 will utilise an existing Right of Carriageway over the neighbouring property.

Sight distances at proposed access locations are adequate to service the development.

There is a restriction on use over the parent lot preventing further driveway accesses of Teven Rd. There is no historical documentation readily available that explains why the restriction was put in place.

However, it is assumed that the restriction was to limit the number of access driveways off the collector road (Teven Road).

Subsequent to the placement of the restriction, there have been a number of subdivisions along Teven Road and an increase in driveway crossovers. Teven Road now functions more akin to a residential street than a rural collector road in the location.

If the restriction were to remain in place, the subdivision in the proposed configuration could not proceed.

There is no benefit to the traffic network in the restriction remaining in place.

It is recommended that Council release the 'Restrictions on Use' numbered 5 and 6 in the Section 88B created with DP 826348 to allow vehicular access to Teven Road as shown on lot 3 DP 826348 and to allow dwellings to be erected on the land designated within Lot 3 DP 826348.

Following further discussion with Council's Infrastructure Planning Manager it was agreed that driveways for each lot is reasonable for the following reasons:

- Three additional lots are being created with frontage to Teven Road (Lot 4 has existing frontage)
- Reciprocal Rights of Carriageway for Lots 2 and 4 mean access for Lots 3 and 4 is combined
- Speed limit 60 km/hour
- Teven Road has kerb and guttering.

However, a new restriction is to be placed on the consent to limit the number of new driveways for Lots 1 and 2 to a single access each.

Should these lots be developed for dual occupancies, they must be serviced by a single driveway.

Chapter 3 – Urban Subdivision

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

The subdivision generally complies with the objectives of section 3.1 however one objective of this Chapter is to *“Manage the interface between the urban and non-urban uses to minimise land use conflicts.”*

Given the proximity to the industrial land uses this objective is relevant and is considered in other sections of this report.

Minor subdivision control elements are considered as follows:

Item	Comments
Modification of Landform	
Applications to be accompanied by geotechnical report.	Subject land is relatively flat. No geotechnical issues identified.
Lots with slopes >15% to be nominated at subdivision stage.	No lots with a slope >15%.
Lots with slopes >20% to nominate 10 x 15m building envelope	No lots with a slope >20%.
Earthworks	No bulk earthworks in excess of 1100mm height/depth required.
Lots designed such that vehicular access has maximum gradient of 1:6	Driveway grades comply.
Road Layout	
Details	No new roads proposed
Solar Access	
Street and lot layout to be designed to optimize solar access to dwellings including: <ul style="list-style-type: none"> • Streets to run generally north-south and east-west pattern • Lots should generally be regular (rectangular) in shape • Lots to be generally orientated to provide long axis that maximises potential solar access • Highest densities to be on land that is north facing close to shops, gently sloping • Lowest densities to be on land that is south facing, remote from shops, more steeply sloping. 	<p>The lots are rectangular in shape.</p> <p>Lots are orientated such that future dwellings would have sufficient solar access.</p>
Engineering Design and Construction Requirements	
Development must meet the requirements of the Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual.	The proposed subdivision satisfies these requirements.

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Item	Comments
Services and Infrastructure	
Subdivisions to be fully serviced with water, sewer, roads, drainage, underground electricity and communications services.	All required public infrastructure services are available and will be installed to service each lot.
Where lots have frontage only to a lane, adequate infrastructure servicing, including formalised vehicular access, waste collection and postal services must be available.	No lots have lane frontage.
All service infrastructure to be designed and constructed in accordance with the Northern Rivers Local Government Design and Development Manual.	All service infrastructure has been designed and will be constructed in accordance with the Northern Rivers Local Government Design and Development Manual and the Construction Manual.
Service infrastructure internal to the development site shall be provided by the developer at no cost to Council.	Service infrastructure internal to the development will be provided by the developer.
Dual reticulation water supply for non-potable water to be provided.	This will be managed by way of condition of the consent.
A restriction as to user to be included on the title of all lots requiring all dwellings and buildings with plumbing to make provision for non-potable water service plumbing.	This will be managed by way of condition of the consent.
Sewerage mains and pump stations to be constructed to convey sewage from the site to Council's reticulation network.	The subject land is connected to and serviced by a reticulated sewerage system. The proposed new lots will be connected to the reticulated system. No new pump stations required.
Development is to provide connecting infrastructure to Council's drinking water distribution network.	The subject land is connected to and serviced by a reticulated water supply system. All new lots will be connected to Council's reticulated water supply system.
Minimum Lot Size and Shape	
Subdivision to meet minimum lots sizes and specification in Table 3.1	<p>Each of the proposed lots has:</p> <ul style="list-style-type: none"> • An area of >450m² - the minimum lot size is 1,023m² • The lots have a minimum effective width of 21m which exceeds the 12m width • There are no irregular shaped lots • Each lot has sufficient dimensions and area to provide 10 x 15m building envelopes • <20% gradient.
Battle-axe lots	
Minimum width of an access corridor for battle-axe lots is 4m with a minimum carriageway of 3m	Proposed Lots 3 and 4 are battle-axe lots with a minimum handle width of 2m. The proposal does not comply and a request to vary this development control has been lodged. The variation requested is

8.3 DA 2019/702 - 81 Teven Road, Alstonville

Item	Comments
	a 33% departure from the control (i.e. the width of the access corridor is 4m instead of the required 6m).
No more than two Torrens Title battle-axe lots are to be served by an access corridor	Only proposed Lots 3 and 4 are battle-axe lots which are serviced by an access corridor.
Maximum length of access corridor for a battle-axe lot is 50m with passing bays provided in accordance with Australian Standards	The length of the access corridor (handle) to Proposed Lot 4 is 64m long. The proposal does not comply and a request to vary this development control has been lodged with the application. The variation requested is therefore a 28% departure from the control (i.e. 14 metres longer than allowable length of 50m).
Battle-axe lots to be designed so that vehicle can enter and leave in a forward direction.	The battle-axe lots (proposed Lots 3 and 4) are of sufficient size (1,127m ² and 2,367m ² respectively) and shaped such that vehicles will be able to enter and leave in a forward direction. The existing access arrangement for the existing house on proposed Lot 4 will not change.
<p>Request for Variation to a Development Control – Battle-axe lots</p> <p>The applicant provides the following justification for the variation:</p> <p><i>“Lawful/formal access exists to the house on Proposed Lot 4 via an existing bitumen and concrete driveway within an existing ROC over both Lot 1 DP 826348 and Lot 3 DP 879770. The access to this house/proposed Lot 4 will not change as a consequence of the proposed subdivision. A battle-axe handle has been provided to Proposed lot 4 solely for the purpose of providing Proposed Lot 4 with formal road frontage and so that it is not a “land locked” lot.</i></p> <p><i>It is proposed to create a reciprocal ROC over the 2 x 2m wide battle-axe handles to Proposed Lots 3 and 4 to provide vehicular access to any future dwelling on Proposed Lot 3, with the resultant ROC and access thus being 4m wide, providing an effective and compliant 4m wide access corridor. This 4m wide ROC will only serve 1 lot (being Proposed Lot 3). Access to Proposed Lots 1 and 2 will be via Teven Road and access to Proposed Lot 4 will be via the existing ROC over both Lot 1 DP 826348 and Lot 3 DP 879770.</i></p> <p><i>The length of the access hand to/for Proposed Lot 4 is therefore inconsequential on the basis that the house on Proposed Lot 4 will not be relying on the new access hand for site access.</i></p> <p>The applicant met with Council’s Engineer to discuss the design of the proposed subdivision prior to the lodgment of the development application. Council’s Development Engineer is supportive of the access arrangements and design. Compliance with these development controls is considered unreasonable and unnecessary in these circumstances. The variation is supported.</p>	

Options

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

Option 1 - Deferral

That Council defer the development application to a future meeting in order to obtain additional information.

Option 2 – Refuse Release of the Restriction on Use

That Council refuse to release the Restrictions on Use (E), (F) and (G) over the subject land. This effectively will not allow the subdivision to proceed in its current configuration.

Option 3 – Refusal of the Development Application

That Council refuse the development application on the grounds that the proposal will have unreasonable impacts on the amenity of the future residents of the subdivision in terms of noise, dust and odour from the Tuckombil Quarry and the Boral Asphalt Plant.

Option 4 – Approval of the Development Application with Conditions

That Council release the Restriction on Use (E), (F) and (G) and approve the development application subject to conditions of consent.

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

Option 4 is the recommended approach for the reasons outlined in this report, being:

- The land is zoned for residential purposes and has been since 1987
- The proposed lots comply with the minimum lot size prescribed under the BLEP 2012
- There are existing dwelling houses closer to the quarry, the Boral Asphalt Plant and Ron Southon's operation than the future houses on the subject lots
- Land immediately to the south of the subject land has recently been approved for subdivision by Council.

RECOMMENDATIONS

1. That Development Application 2019/702 for a Torrens Title subdivision to create four residential allotments and installation/extension of public infrastructure service at Lot 4 DP 879770, 81 Teven Road, Alstonville be **APPROVED** subject to the application of standard planning, building and engineering conditions and specific conditions identified within this report.
2. That Council release the Restrictions on Use (E), (F) and (G) over the subject land.

Attachment(s)

1. Locality Plan
2. Proposed Plan of Subdivision
3. Submissions
4. Confidential Submission
5. NSW Environment Protection Authority Response
6. Land Use Conflict Risk Assessment (LUCRA)
7. Revised Response to Submissions and Updated LUCRA
8. DA 2019/702 - 4.15 Assessment Form
9. Buffer Distance

8.4 DA 2017/509 - Lennox Head Public School Modification

8.4 DA 2017/509 - Lennox Head Public School Modification

Applicant	David Wheeler (Department of Education)
Property	Lot 1 DP 435547 and Lot 1 DP 603799 25 Byron Street, Lennox Head
Proposal	To amend development consent 2017/509 by modifying the approved design of the Lennox Head Public School alterations and additions including: <ul style="list-style-type: none">• An increase in building height to 9.7m• An increase in roof extents• New stairs, walkways and ramps• New or amended covered walkways• New edge treatment to accommodate level changes• New or amended landscaping and service updates
Effect of Planning Instrument	The land is zoned R3 Medium Density Residential under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan contained in Attachment 1 and Figure 1.

Introduction

The subject site comprises Lot 1 DP 603799 and Lot 1 DP 435547, 25 Byron Street, Lennox Head. The land accommodates the Lennox Head Public School.

The land is relatively flat and has a total area of 2.57 hectares. The site is bound by Byron Street to the north, residential properties to the north-east, south and west, and community facilities/public reserve to the south-east, as depicted below in Figure 1.



Figure 1 – Aerial Photograph of Subject Site (shown in red)

8.4 DA 2017/509 - Lennox Head Public School Modification

On 11 April 2018 Development Application 2017/509, for alterations and additions to the Lennox Head Public School, was determined by the Northern Regional Planning Panel, by way of approval.

The development (as approved) comprises the following works, all of which are confined to Lot 1 DP 435547 (i.e. the northern portion of the site):

- Construction of a new two-storey administration building
- Construction of a two-storey 'homebase block'
- Construction of canteen and Covered Outdoor Learning Area (COLA)
- Relocation of the basketball court
- Refurbishment of the computer room
- Demolition of building A, building B, building H, covered walkway and shade structure
- Removal of seven demountable classrooms (since removed) and canteen demountable building
- The provision of associated servicing and landscaping.

Critical to the assessment of the development application was the variation to the maximum height of building development standard of 8.5m by up to 540mm, as well as the potential harm the development would have on identified Aboriginal objects on the site.

The current application seeks to amend the approved development under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 in the following manner, and as depicted in the proposed plans (Attachment 2):

- An increase in building height of approximately 600mm to 9.7m
- An increase in roof extents
- New stairs, walkways and ramps
- New or amended covered walkways
- New edge treatment to accommodate level changes
- New or amended landscaping and service updates

The subject amendment results in non-compliance with the maximum 8.5m height development standard outlined in Clause 4.3 of the Ballina LEP 2012 of up to 1.2m or 14% (inclusive of the Northern Regional Planning Panel's approved height variation of 540mm).

Whilst a clause 4.6 variation is not required to approve this amendment (and therefore Council is not required to assume the concurrence of the Secretary of Planning and Environment), the application is being reported to Council due to the overall proposed height of the building and for transparency in decision making in relation to Clause 4.3 of the Ballina LEP 2012.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition from 22 May 2019 to 6 June 2019. Following the exhibition of the application one public submission was received in objection (Attachment 3).

The key matters raised in the objection to the proposed amendment relate to the increase in height of the Homebase building and are summarised and addressed as follows:

1. *Increased overshadowing and reduction in solar access to neighbouring property.*

Comment: The proposed amendment results in an increase to the height of the Homebase building by approximately 600mm, which will increase the extent of overshadowing on neighbouring properties to the west during the early morning period.

The application was accompanied by shadow diagrams which demonstrate the extent of additional impact between the approved and amended development (Refer to Attachment 4).

Figure 2 provides a comparison between the approved and amended development at 9.00am during the winter solstice (being 21 June).



Figure 2 - Shadow Diagram Comparison

As can be seen in Figure 2 and Attachment 4, the proposed increase in height will result in a minor increase in overshadowing on neighbouring properties to the west for a relatively short period in the early morning.

Accordingly, the proposed amendments are considered to be acceptable in relation to overshadowing concerns.

2. *Restricting prevailing north-east sea breeze.*

Comment: The location of the Homebase building is not proposed to change with the approved five metre side setback to the west being maintained. The increase in height of this approved building by approximately 600mm is expected to have a negligible impact on the prevailing winds.

3. Reduction of privacy into neighbouring outdoor patio living areas.

Comment: Upper level windows on the western and southern facades of the Homebase building are generally angled away from neighbouring properties and are shielded by angled solid blade walls to reduce overlooking.

A condition was imposed on the original consent (and will remain if the subject modification is approved) requiring obscure glass, or similar, to be provided on the western windows of the upper level of the Homebase building to a height of 1.5m.

As a result, the proposed modification to the development is not expected to impact upon the level of privacy for neighbouring residents.

Statutory Matters

The application has been lodged under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979. Therefore the following matters are required to be considered in the assessment of the application.

Section 4.55(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment: For the reasons discussed throughout this report, the proposed modification is of minimal environmental impact.

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

Comment: Based on a qualitative and quantitative assessment of the proposed modifications, the development as proposed to be modified is substantially the same development as that originally approved.

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

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

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

Comment: The application was placed on public exhibition in accordance with the requirements of the Ballina DCP 2012.

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

Comment: One public submission was received from an adjoining resident. Consideration has been made to the matters raised in this public submission (refer to previous commentary in this report).

4.55(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Comment: The proposed application has been assessed under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979 (refer to assessment report – Attachment 5). The proposed amendment has been assessed as being generally compliant with the BLEP 2012 (with the exception of the height of the Homebase building), Council's DCP 2012 and relevant State Environmental Planning Policies.

The maximum height control for the subject site, as shown on The Height of Buildings Map, is 8.5 metres under the Ballina LEP 2012. In considering the original development application, the Northern Regional Planning Panel approved a variation to this development standard under Clause 4.6 of the Ballina LEP 2012 of up to 540mm (9.04m in total) in relation to the Homebase building.

The subject application seeks consent to increase the height of the development resulting in the Homebase building having a height of 9.7m. This constitutes a 1.2 metres (or 14%) variation to the height of buildings standard.

Despite not achieving strict compliance with the standard, the proposed height of the Homebase building is acceptable for the following reasons:

- The principal reason for the increase in height from the approved development is based on the results of the Aboriginal Cultural Heritage Assessment (ACHA) that was undertaken during and following the approval of the development application, and a need to mitigate impact to sub-surface Aboriginal archaeology by reducing ground disturbance. This will be achieved by raising of proposed ground levels via importation of suitable fill and boardwalk style access paths, which results in an increase to the height of buildings.
- The building features a low pitch skillion roof which still achieves compliance at its western extent, and minimises impacts on neighbouring properties.
- The development will not have unreasonable impacts on the neighbouring residents in terms of overshadowing, loss of privacy, loss of views, or restricting prevailing winds.
- There are no adverse impacts of the proposal on the school, streetscape or amenity of the area.
- The NSW Department of Education require higher than normal ceiling heights within classrooms, which raise the height of the structures.

8.4 DA 2017/509 - Lennox Head Public School Modification

- If the development was undertaken as complying development under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, it would have a maximum height of 12 metres (given the five metre setback to the neighbouring residential properties).

The original application was determined by the Northern Regional Planning Panel. The Panel gave the following reasons for the decision.

The reasons for the decision of the Panel to approve the Clause 4.6 variation were:

- *The Panel has considered the Applicant's request to vary the development standards contained in the Ballina Local Environmental Plan 2012 Clause 4.3 relating to height of buildings. The Panel notes the standard height limit applying to the site is 8.5 metres and the maximum overall height of the proposal is 9.04 metres over approximately 320m² of the roof area.*
- *The Panel is satisfied that the request has adequately addressed the matters to be demonstrated and the Panel considers compliance with the standard would be unreasonable and unnecessary in the circumstances of this case are:*
 - *The buildings will not significantly overshadow residential development;*
 - *There are no adverse impacts of the proposal on the school, streetscape or amenity of the area;*
 - *The height increase will reduce the hard stand footprint of the building on the site; and*
 - *The extent of the variation is approximately 14 metres from the western boundary and will not have unreasonable impacts.*

Further reasons for the decision of the Panel to grant approval were:

- *SEPP 55 - Remediation of Land: Based on all the information available Council concluded there is no indication that the land might be contaminated;*
- *SEPP (Educational Establishments and Childcare Facilities): The application was accompanied by a detailed design statement which adequately addresses the design principles set out in Schedule 4;*
- *SEPP 71- Coastal protection: The proposed development is an upgrade to the existing school and is considered suitable for the subject site and surrounding environment and is consistent with the aims of the SEPP;*
- *The development will not result in an increase in student or staff numbers;*

- *An Aboriginal Archaeological Due Diligence Assessment confirmed the presence of Aboriginal objects on the site and will be potentially harmed by the proposed works. The Applicant will be required to obtain an Aboriginal Heritage Impact Permit from the Office of Environment and Heritage (OEH) under the National Parks and Wildlife Act 1974 prior to the commencement of works;*
- *The loss of privacy for neighbouring residents to the west has been mitigated by upper level windows on the western and southern facades being generally angled away from neighbouring properties and are shielded by angled solid blade walls. Obscure glass, or similar, will also be provided on the western windows to a height of 1,5m;*
- *The proposed development will not unreasonably overshadow the neighbouring properties to the west, with each property maintaining a minimum of four hours sunlight to dwellings and rear courtyards.*

The amended development remains generally consistent with the reasons given by the Northern Regional Planning Panel in approving the original application, despite the increase in height of buildings.

The principal reason for the proposed modification is a result of the Heritage Impact Permit process that was commenced under the original application.

Details of Amendments

The modification application requires amendment to the following:

- Condition 1 – Approved Plans: To reflect the revised plan set.
- Condition 5 - Privacy: To reference the new finished floor level.
- Condition 8 – Protection of Sewer Main: To clarify requirements to comply with Council Policy B06 – Building over Council assets.

Details of each amendment are set out in Attachment 5.

Under Division 4.6 Crown Development of the Environmental Planning and Assessment Act 1979, Council was required to seek approval of the applicant to impose the amended conditions. On 22 April 2020 the applicant accepted these amended conditions.

Public Interest

The proposed upgrade to the Lennox Head Public School will provide a significant benefit to the community in terms of the provision of quality educational facilities and economic benefits during the construction phase of the development.

The development, as amended, will achieve the orderly and economic development of the site, will have acceptable environmental impacts, and will preserve the culture heritage significance of the site.

Accordingly, the development, as modified, is in the public interest.

Conclusion

The subject application has been lodged by the Crown and seeks consent to modify development application 2017/509 relating to alterations and additions to the Lennox Head Public School.

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 4.15 and 4.55 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Shire Development Control Plan 2012, relevant SEPPs and submission made in response to the exhibition of the application.

Having regard for the outcomes of the assessment, it is recommended that the application for the modification of development consent 2017/509 be determined by way of approval, in the manner described in Attachment 6.

Council has the following options with regard to determining the subject application:

Option 1 – Grant consent to the application

It is recommended that Council grant consent to the modification application, subject to details of amendment 1 set out in Attachment 6.

Option 2 – Refuse the application

Council could resolve to determine that application by way of refusal.

This option is not recommended given that the assessment has concluded that the development is substantially the same development to which development consent was originally issued by the Northern Regional Planning Panel, and the impacts resulting from the increase in the height of the Homebase building in non-compliance with the maximum allowable height limit stipulated in the Ballina LEP are justified and considered acceptable in this instance.

The application has been lodged by the Crown. Therefore, if Council resolves to determine the application by way of refusal, it must first seek the approval of the Minister before refusing the application.

Option 3 – Defer determination of application

Council could defer determination of the application to obtain additional information or hold a Councillor briefing of the matter. This option is not recommended on the basis that sufficient information has been submitted for Council to undertake an accurate assessment of the application.

RECOMMENDATION

That the modification application to Development Application 2017/509 for 'Alterations and Additions to Lennox Head Public School at Lot 1 DP 603799 and Lot 1 DP 435547, 25 Byron Street, Lennox Head be **APPROVED** in the manner set out in Attachment 6.

Attachment(s)

1. Locality Plan
2. Proposed Plans
3. Submission
4. Shadow Diagrams
5. Section 4.15 Assessment
6. Details for Amendment

8.5 DA 2019/223 - Northcott Crescent, Alstonville - Waste Transfer Station

8.5 DA 2019/223 - Northcott Crescent, Alstonville - Waste Transfer Station

Applicant	Tim Fitzroy & Associates
Property	Lot 890 DP 845412, 2-4 Northcott Crescent ALSTONVILLE
Proposal	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 and timber. 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 a day Monday to Sunday.
Effect of Planning Instrument	The land is zoned IN1 under the provisions of the Ballina LEP.
Locality Plan	The subject land is depicted on the locality plan contained in Attachment 1 and Figure 1.

Introduction

The subject land is Lot 890 DP 845412 and is known as 2-4 Northcott Crescent, Alstonville. The site is located within the Russellton Industrial Estate and shown in Attachment 1 (cadastral plan) and Figure 1 (aerial photo).



Figure 1: Subject Site - Aerial Photo (site shown by yellow dot)

8.5 DA 2019/223 - Northcott Crescent, Alstonville - Waste Transfer Station

A Councillor briefing was held on 7 November 2019 in relation to this application.

The application is being reported to Council for determination in accordance with Council's resolution of 24 October 2019.

Site History

The site was previously used as a concrete batching plant.

On 9 January 2017 Council issued Development Consent to DA 2016/532 for the establishment of a waste transfer station at the subject site. The approved facility was restricted to the storage and sorting of non-putrescible construction/demolition waste of no more than 5,000 tonnes per year.

Details of Proposal

Development consent is sought via DA 2019/223 to expand the existing waste transfer station on the subject land.

The waste transfer station will continue to focus on construction/demolition waste, in addition to accepting general mixed waste, recycling, paper/cardboard, green waste, steel and timber, to a processing capacity of up to 28,000 tonnes per annum.

The application also comprises the following works at the subject site, as shown on the proposed plans in Attachment 2.

1. The removal of existing landscaping along the north eastern boundary;
2. Demolition of the northern timber fence and part concrete driveway to allow for the installation of sawtooth drop walls in the north eastern corner of the site;
3. The demolition of an existing tank and retaining walls;
4. The demolition of an existing metal shed;
5. The demolition of an existing water tank and concrete slab;
6. The demolition of the existing concrete driveway in south eastern corner;
7. Existing concrete walls on the south east are to be relocated to allow for the installation of a concrete driveway along the eastern boundary;
8. The construction of sawtooth retaining walls (drop walls) in the north eastern corner of the site;
9. The construction of a roof over the drop walls in the north eastern corner of the site; and
10. The installation of landscaping along north eastern boundary.

It is anticipated that up to 100 tonnes of concrete type product and 50 tonnes of steel would be stored onsite at any given time.

The waste transfer station will continue to consolidate construction and demolition waste from multiple sources into higher-volume transfer vehicles for more economical transport to recycling/reuse and disposal sites.

8.5 DA 2019/223 - Northcott Crescent, Alstonville - Waste Transfer Station

The proposed expansion of the transfer station will allow for sorting of construction and demolition waste, general mixed waste, recycling, paper/cardboard, green waste, steel, and timber.

Originally, consent was also sought for the collection of waste oil and household chemicals. However, this component of application was not supported by the EPA and therefore will not form part of any approval (should consent be granted).

New Infrastructure

It is proposed to install a:

- 1,400mm sawtooth retaining walls (drop walls) in the north eastern corner of the site;
- A roof over the drop walls in north eastern corner of the site;
- Landscaping along north eastern boundary;
- A 10kL tank for roof water re-use. 7kL capacity will be assigned for dust suppression and hand watering reuse. The balance 3kL capacity is allocated for detention control;
- A gross pollutant trap (Ecosol RFS4200) for initial treatment of driveway and stormwater runoff. Stormwater will then be directed into another 10kL tank for re-use.

Staffing and Operations

- An additional staff member will be required bringing the total number of staff to four to operate the transfer station from:
 - 6.00am to 6.00pm Monday to Friday; and
 - 7:00am to 4:00pm Saturdays and Sundays.
- Waste transfer (haulage) operations will occur
 - 24 hours Monday to Sunday.

Up to 45 semi-trailer and Heavy Rigid trucks will move to and from the site during the hours of 6.00pm – 6.00am each week (after hours). It is anticipated that this will equate to two movements per hour on average.

The applicant has confirmed that the reason for this arrangement is to avoid traffic when entering the dispatch points within metropolitan areas.

The existing facility is regulated by Council under the Protection of the Environment Operations Act 1997 (POEO Act). However, due to the proposed increase in processing capacity at the facility (being more than 6,000 tonnes per annum) the expanded facility will, if approved, will be licensed and regulated by the NSW EPA under POEO Act.

It is for this reason the application is classified as Nominated Integrated Development under the Environmental Planning and Assessment Act 1979.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was first placed on public exhibition from 22 May 2019 to 6 June 2019. Following this exhibition period two public submissions were received in objection. The application was exhibited for a second time from 25 March to 22 April 2020.

One further submission was received in objection to the application.

A response to this submission prepared by the applicant is contained in Attachment 7.

The key matters raised in these objections (refer to Attachment 3) are summarised and addressed as follows:

- 1. Dumping of Heavy Loads – The adjacent building shakes with current load activity when containers are dropped. We are extremely concerned about the long-term consequences to the dilapidation of the building. We note that expansion plans will include a proposed facility even closer to our building. Due to the proximity of our business, we would like to request the applicant to undertake a current dilapidation report as well as monitor vibration in order to determine the current condition of our building at 6 Northcott Crescent should there be further impact in the future, should the waste facility continue in the current location.*

Comment: The facility manager has advised that no containers are 'dropped' at the site. Containers are transported and placed onsite via hook lift trucks. The expansion will require no more operational machinery on site than currently used.

Given the expansion proposed caters predominantly for general public use, such as self-sort out of trailers and utilities straight into skips, the vibration impact of this activity on concrete pavement would be minimal.

The development proposal does not include substantial earthworks or construction works that would justify a dilapidation report or ground vibration assessment.

- 2. Noise Impacts.*

Comment: The application was supported with the submission of a Noise Impact Assessment prepared by Tim Fitzroy & Associates dated 21 October 2019 (V3). The Noise Impact Assessment addressed the potential acoustic impacts of the proposed development on a number of premises, including No. 6 Northcott Crescent, Alstonville.

The assessment concluded that the development is able to comply with the relevant industrial noise criteria (70 dB(A)) at the identified property.

The general terms of approval issued by the NSW EPA have applied a number of conditions based on the submitted Noise Impact Assessment, which represent the most stringent noise limits available under the Noise Policy for Industry.

3. Smell - Particularly in the warmer months.

Comment: The only putrescible waste to be accepted at the site is garden waste and the SEE identified a number of measures to reduce any odour impacts. These include storing putrescible waste in sealed containers and removing this waste from site on a daily basis.

Conditions have been recommended to require compliance with these measures and also to prevent odour nuisance being generated.

The NSW EPA General Terms of Approval (GTA) have also address odour management.

4. Litter - Wind has blown waste remnants across adjoining properties.

Comment: A condition of consent has been proposed to ensure that measures are implemented on-site to prevent wind-blown litter and the site is maintained litter free.

5. Damage to vehicle tyres - We have recently suffered several punctures to tyres of our vans and staff vehicles.

Comment: It difficult to confirm whether these events are a direct result of the operations of the waste transfer station, and therefore this itself does not warrant refusal of the application, or application of particular conditions.

6. Dust & Air Pollution - An increase has been noticed in offices and factories, staff welfare is affected.

Comment: The Statement of Environmental Effects has identified measures to minimise dust including wetting down surfaces and fitting sprinklers.

Application of these measures have been recognised through conditions of consent and the NSW EPAs GTA.

7. Vermin - Rats have increased – risking damage to our stock fabrics and timber slats.

8. Insects - Office staff have noticed the increase in flies and midge bites.

Comment: A condition has been applied which requires the implementation and maintenance of an adequate pest control program across the site.

9. The consequence of the proposed expansion will only increase the impact of this list of considerable risks/hazards. We strongly urge council to consider an alternative site for this waste facility expansion. The proposed site is surrounded by adjoining businesses and is far from ideal.

Comment: The proposed development involves and expansion of an existing and approved waste transfer station. Council cannot require the operator to relocate the business to an alternative site. The business has been appropriately located within an industrial zone.

Potential impacts resulting from the proposed expansion can be minimised and suitably addressed through conditions of consent and licensing requirements.

10. The small block, old technologies available, lack of appropriate air filtering devices and a tin shed open on all sides to the environment makes it a likely offensive and hazardous industry when the types of heavy waste, rubbish and building materials proposing to be sorted are taken into consideration. Given the large volumes of waste which need to be transported dumped sorted and transported again.

Comment: A waste transfer station currently operates from the site and the proposed expansion of the existing operations can be accommodated on the subject site. The owners have covered and partially enclosed the main transport and sorting area and also proposed to cover the new waste drop-off area.

Based on the information contained in the application, it is unreasonable to require the entire facility to be enclosed.

The use does not constitute either a hazardous or offensive industry, as defined in SEPP 33 - Hazardous and Offensive Development.

11. Traffic and Parking

- *The development will result in traffic congestion and parking pressures.*
- *Majority of staff, park their vehicles on the streets increasing safety risks at all factories.*
- *Vehicle traffic – Several Orion Blinds staff have had near misses with trucks pulling out onto the road in front of them.*
- *Pedestrian traffic – Staff regularly walk between the Orion Blinds buildings at No. 6 and No. 37-39 Northcott Crescent. The increased traffic from the proposed development will impact pedestrian safety.*
- *It is difficult to understand how many daily or weekly traffic movements are anticipated, as there are a number of statements in the DA documents that appear conflicting.*

Comment: The existing external road network of the Russellton Industrial Estate is constructed to a suitable standard to service the proposed development.

The traffic report submitted with the application demonstrates that the previous use, being a concrete batching plant, was a significantly larger trip generator than the expanded waste transfer facility.

Therefore, it is clear that there has been a load reduction on the local traffic network.

All vehicles can enter and exit the site in a forward direction and site distances at proposed access points are suitable to service the proposed development.

The floor area of the office and amenities building is not changing therefore the existing car parking arrangement is adequate.

The expansion of the waste transfer station is not expected to increase car parking demand on or in the vicinity of the site.

12. This expansion would be setting a precedent within the Industrial Estates within the Ballina Shire, in that no business has an existing DA Approval to operate heavy machinery in this Zoning/Industrial Estate, as I understand it to this point.

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Comment: Each application is assessed on the individual merits of the proposal. Approval of this application will not set a precedent for other developments.

The proposed land use is appropriately located within the IN1 Industrial zone and the applicant has advised that the proposed expansion of the operations does not require any additional operational machinery.

13. The extended hours of operation applied for is proof of the low budget proposal.

Comment: The application seeks to permit waste transfer haulage operations occurring outside of normal business hours, to avoid higher traffic volumes when entering the dispatch points within metropolitan areas.

The waste transfer station is not considered to be a low budget operation.

14. The measures given are not adequate to ensure the safety of surrounding food grade businesses from contamination.

Comment: Suitable conditions have been recommended to ensure the business conforms to current environmental standards. The business will also be required to operate in accordance with the terms of their EPA licence.

In addition, other businesses (such as food processing businesses) need to ensure they are appropriately located in an industrial estate and incorporate suitable measures of their own to mitigate reasonable impacts from the various forms of permissible industrial land uses expected in the IN1 General Industrial zone.

15. The industry should be fully enclosed and filtered.

Comment: All waste areas are roofed to exclude rainwater. The business is focused on construction and demolition and self-haul household waste (not putrescible waste), particulate matter (dust) is suppressed where applicable and the waste steams involved are not odorous.

It is unreasonable to require the entire waste transfer station to be enclosed and filtered.

16. The measures given to identify and contain Asbestos sightings brings no assurance of safety. Presently Ballina Community Recycling Centre is receiving multiple Asbestos sightings weekly. Lismore Community Recycling Centre has been receiving multiple Asbestos sightings daily, and has recently closed its door to Asbestos receivables.

Comment: The operator has not applied for an asbestos licence. Appropriate training and measures will be put in place to manage any unexpected waste products, including asbestos. It is proposed that this be reinforced through conditions of consent.

17. This less expensive proposal for dealing with heavy waste and rubbish within the Shire and our zoning is not tolerable and may cause further problems for the future generation with air quality and put close neighbours and residents at an unacceptable risk to air borne hazardous materials such as Asbestos.

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Comment: The subject and surrounding land is zone IN1 General Industrial under the Ballina LEP 2012. The existing development is permissible within this zone.

Adequate safety measures will be imposed through conditions of consent and the required EPA licence issued under the Protection of the Environment Operations Act 1997 to ensure the business operates within acceptable standards.

It should be noted that approval has not been issued by the EPA for the collection and storage of waste oil or any other material classified as liquid waste, or household chemicals.

Accordingly, this component of the proposed activities will not form part of the approval (should consent be granted for the facility).

18. The application should be referred to a State level Authority such as the Northern Regional Planners Board for determination.

Comment: The EP&A Act and associated instruments identify the relevant consent authority for development. In this case, Council is the consent authority for this application.

The application is not required to be referred to the Northern Regional Planning Panel for determination.

The matters for consideration in the assessment and determination of the application are the same for both the Council and the Panel.

19. Impact on water quality and nearby waterway.

Comment: A Stormwater Management Plan was prepared and submitted with the application, as required by the Ballina DCP 2012, and was deemed acceptable by Council's Development Engineer.

The proposed stormwater control measures are appropriate to manage potential water pollution risks associated with runoff that has not come into contact with waste.

General Terms of Approval (issued by the EPA) are appropriate to manage potential residual water pollution risks — requiring all waste processing and storage to occur undercover and leachate to be disposed of at an appropriately licensed facility, and also prohibiting the collection of waste oil and household chemicals at the facility.

Both Council and the EPA considers that potential water quality risks can be appropriately managed on-site.

20. Cumulative Impacts

Comment: Given the proposed conditions of consent and General Terms of Approval, the proposed development is not expected to result in unreasonable cumulative impacts.

21. The application should be lodged as Designated Development and be accompanied by an Environmental Impact Statement.

Comment: Having considered the potential impacts of the proposal in accordance with Schedule 3 Clause 32 of the Environmental Planning and Assessment Regulation 2000, it is considered that the development does not constitute 'designated development'. Refer to commentary below.

Procedural Requirements for Potential Designated Development

Schedule 3 Clause 32 of the Environmental Planning and Assessment Regulation 2000 specifies the designated development triggers for waste management facilities as follows:

- 1) *Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and:*
 - a) *that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste:*
 - i) *that includes any substance classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
 - ii) *that comprises more than 100,000 tonnes of "clean fill" (such as soil, sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding, or*
 - iii) *that comprises more than 1,000 tonnes per year of sludge or effluent, or*
 - iv) *that comprises more than 200 tonnes per year of other waste material, or*
 - b) *that sort, consolidate or temporarily store waste at transfer stations or materials recycling facilities for transfer to another site for final disposal, permanent storage, reprocessing, recycling, use or reuse and:*
 - i) *that handle substances classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
 - ii) *that have an intended handling capacity of more than 10,000 tonnes per year of waste containing food or livestock, agricultural or food processing industries waste or similar substances, or*
 - iii) *that have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material, or*
 - c) *that purify, recover, reprocess or process more than 5,000 tonnes per year of solid or liquid organic materials, or*
 - d) **that are located:**
 - i) *in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area, or*
 - ii) *in an area of high watertable, highly permeable soils, acid sulphate, sodic or saline soils, or*
 - iii) *within a drinking water catchment, or*
 - iv) *within a catchment of an estuary where the entrance to the sea is intermittently open, or*
 - v) *on a floodplain, or*

vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic (emphasis added)

Comment: The subject site is located approximately 450 metres from the residential zoned land of Wollongbar to the north and therefore requires the consideration of Clause 32(1)(d)(vi) of Schedule 3 of the Regulations.

Having regard for the topography and local meteorological conditions and given the proposed controls relating to the operation of the facility, the total development (existing development and proposed expansion) is unlikely to significantly affect the amenity of the residential neighbourhood by reason of noise, visual impacts, air pollution, vermin or traffic and therefore the proposed development does not constitute 'designated development'.

Furthermore, the NSW EPA has issued General Terms of Approval, which supports this conclusion.

Matters for Consideration

The proposed development has been assessed under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979 (refer to assessment report – Attachment 4). The proposal has been assessed as being generally compliant with the BLEP 2012, Council's DCP 2012 and relevant State Environmental Planning Policies.

The assessment has identified the following key issues which are elaborated upon for Council's information and consideration.

Applicable Planning Instruments

SEPP 55 – Remediation of Land

The objective of SEPP 55 is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any aspect of the environment.

Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) provides that contamination and remediation are to be considered in the determination of development applications.

Prior to the establishment of the Russellton Industrial Estate the area was used for agricultural activities including beef and dairy grazing.

The site was developed, owned and operated by Boral as a concrete batching plant from 1996 to 2013. Development Consent No. 1995/312 for the construction of a concrete batching plant was approved on 31 August 1996.

As part of due diligence assessment prepared prior to purchase of the subject site by Richmond Waste an environmental assessment was conducted which forms a Preliminary Site Investigation under SEPP 55. The due diligence report was submitted with DA 2016/532 for Council's consideration.

The proposed expansion of the waste transfer station is not expected to increase the contamination risk to human health or the environment and therefore no further investigation of site contamination is required to accompany the development proposal.

Ballina LEP 2012

Zoning (Clause 2.3)

The subject site is zoned IN1 – General Industrial under the Ballina LEP 2012. The current land use is defined as a **Waste or resource transfer station** which means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

A waste or resource transfer station is a permissible land use within the IN1 Industrial zone.

Zone Objectives (Clause 2.3)

The objectives of the IN1 – General Industrial zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable non-industrial uses that are compatible with the industrial nature of the locality.
- To provide for the efficient use of industrial land.
- To encourage development that achieves the efficient use of resources such as energy and water.
- To ensure that development does not expose adjoining uses to hazard risks.

The proposed development has regard for and is consistent with the objectives of the zone.

Height of Buildings (Clause 4.3)

The maximum height shown for the land on the Height of Building Map is 10 metres. The proposed buildings/structures do not exceed the maximum.

Essential Services (Clause 7.7)

The site is located within the Russellton Industrial Estate and essential infrastructure services necessary for the development are available.

Ballina DCP 2012

The proposed development is generally consistent with the relevant requirements of the Ballina DCP 2012. Suitable conditions of consent have been proposed to address specific provisions contained in Chapter 2 – General and Environmental Considerations of the plan, where required.

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This report should be read in conjunction with the attached Section 4.15 assessment report (Attachment 4).

Chapter 5 – Industrial Development of the Ballina DCP 2012 is of particular relevance to the application and has therefore been discussed in detail below.

Chapter 5 – Industrial Development

Part 2 Chapter Planning Objectives

The proposal generally complies with the overarching objectives of this chapter.

Part 3 General Development Controls

3.1 General controls applying to all industrial development

The objectives of this section are as follows:

- a) Encourage and promote appropriate forms of industrial development in suitable locations within the shire;
- b) Ensure that the range of uses permitted in the shire's industrial areas are compatible with each other and with land uses permitted in adjoining zones;
- c) Achieve quality visual presentation in industrial areas through high standards of building design and landscaping; and
- d) Ensure adequate access, parking and vehicular circulation is provided on industrial sites.

Comment: The proposed development involves the expansion of a waste transfer station which is appropriately located with the Russellton Industrial Estate.

The development will not have unreasonable impacts on the streetscape and is compatible with the existing and desired land uses within the estate, subject to compliance with the recommended conditions of consent and licence requirements. The design accommodates adequate access, parking and vehicular circulation on-site. The development achieves the objective of Chapter 5 of the Ballina DCP 2012.

Development Control	Comments/Is consistency with these provisions achieved?
A. Element – Building Design Requirements	
Site Layout – Control	
i. Industrial buildings and all ancillary development on a lot must have a building line or setback from the boundary with a primary road and parallel road of at least 6.0m; and ii. Variations to the front building line or setback will be considered where an alternate building line or setback can be established on the basis of the average existing building lines or setbacks of the nearest 2 industrial buildings having a boundary with the same primary road.	The subject site is a corner block which is bound by Northcott Crescent on three sides. The proposed open structure over the waste drop-off area has a setback to the boundary of approximately three metres (at the closest point). However, the primary road frontage to the property is considered to be to the south, where the office building is located, and the site does not front a 'parallel road'. No additional buildings or structures are proposed forward of the building line to the primary street frontage. Compliance achieved.
Building Appearance – Control	

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Development Control	Comments/Is consistency with these provisions achieved?
<p>i. Exterior walls of buildings, including any outbuildings, shall comprise materials with a low reflective index and must not be constructed using uncoated/untreated metal sheeting, fibrocement or like materials;</p> <p>ii. The full length of any exterior wall facing a road frontage, including any adjoining exterior wall for a minimum length of five metres, must be of masonry or texture coated blue board construction and painted where of plain concrete finish;</p> <p>iii. Buildings shall have a roof pitch no greater than 3.5 degrees unless roofing materials have a low reflective index;</p> <p>iv. The scale and selection of building forms, materials and elements must relate to the perceived use, such as expressing office components differently to warehouse or factory components of a development;</p> <p>v. The architectural form and character of a building must not include large unbroken expanses of wall or roof facing a street frontage; and</p> <p>vi. Roof forms shall be designed to minimise visual intrusions and to prevent any roof top equipment from being visible from the street. Where this cannot be achieved, roof top equipment shall be screened by materials of the same nature as the building's basic materials.</p>	<p>Not applicable. The proposed structures are open and do not include exterior walls.</p> <p>Not applicable.</p> <p>The proposed roof has a pitch of five degrees. A condition is proposed to ensure roofing material has a low reflective index.</p> <p>The small scale simple building form and materials of proposed structures is considered appropriate for the intended use.</p> <p>Not applicable.</p> <p>The simple roof form is considered acceptable.</p>
Signage – Controls	
Not applicable – No signage proposed.	
B. Element – Landscaping and Screening	
<p>i. A landscape plan is to be submitted with a development application and will form part of the development consent. The landscape plan shall be fully implemented prior to occupancy;</p> <p>ii. A landscaped area with a minimum depth of 3.0m is to be provided along all frontages of the site. Unless otherwise utilised for access ways, forward of the front building line or setback should be landscaped for the full depth of the</p>	<p>Some existing vegetation is required to be removed to accommodate the proposed waste drop-off area. A landscape plan was not submitted with the application but will be required prior to the issue of a construction certificate.</p> <p>A three metre wide vegetated landscape strip will be maintained/provided around the three street facing sides of the site as a visual screen.</p>

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Development Control	Comments/Is consistency with these provisions achieved?
<p>frontage. This may include pedestrian pathways;</p> <p>iii. Plantings used in landscaped areas are to be in scale with the buildings proposed and shall consist of native and endemic species;</p> <p>iv. A tall tree species must be planted for every 10 metres of street frontage, supplemented by massed groups of native shrubs and ground covers. Species should be selected for their relatively fast growth and low maintenance characteristics. Tree species should be capable of achieving a canopy spread of 50% over the landscaped areas of the site within five years of occupation;</p> <p>v. Landscaped areas should be separated from car parks and driveways by appropriate barriers such as low timber railings or constructed kerbs;</p> <p>vi. Garbage and storage areas must be screened from the street frontage and located on-site, behind the building line or setback and are not to occupy driveways, turning circles, car parking or landscaped areas;</p> <p>vii. External storage areas are to be screened from view of public places by means of fencing and/or landscaping, and are not to be located within the front building line or setback area; and</p> <p>viii. All security fencing is to be located behind the front building line or setback in order to present landscaping to its best advantage. Where particular circumstances warrant a variation to this requirement, applications will be considered on a merit basis.</p>	<p>Addressed by way of condition.</p> <p>Addressed by way of condition.</p> <p>Addressed by way of condition.</p> <p>Acceptable.</p> <p>The development (including storage areas) will be adequately screened from view from the street.</p> <p>The existing security fence is to be retained.</p>
C. Element – Car Parking and Access	
<p>i. Car parking and manoeuvring areas must not encroach into the front landscaped area except for the purposes of disabled access.</p> <p>ii. Parking bays, manoeuvring areas, service areas, loading bays, queuing areas, set down/pickup areas, and driveways are to be designed in accordance with the dimensions specified in Australian Standard 2890;</p>	<p>Complies.</p> <p>Complies.</p>

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Development Control	Comments/Is consistency with these provisions achieved?
<p>iii. Internal access ways are to permit entry and exit of the site by customers and visitors while a vehicle is being loaded or unloaded;</p> <p>iv. Car park areas shall be sited to allow for safe and convenient pedestrian access to buildings;</p> <p>v. Development within an area of 2,000m² or greater must provide for the separation of service and delivery vehicle access from car parking areas to ensure safe and unimpeded pedestrian access from car parking areas to the building's main entrance; and</p> <p>vi. Planting must be used to highlight pedestrian and vehicular access points and easements. Car parks should be landscaped to complement the surrounding areas and provide shade for parked cars.</p>	<p>Complies.</p> <p>Complies.</p> <p>Acceptable. The use of the site is different to that of a standard industrial development. Three separate access points are provided to the site and traffic movement can be managed to ensure safe operation.</p> <p>Complies.</p>
Car Parking – Control	
<p>i. On site car parking is to be provided in accordance with the rates indicated in Chapter 2 – General and Environmental Consideration unless otherwise specified in Table 5.1.</p>	<p>The floor area of the office and amenities building is not changing, therefore the existing car parking arrangement is adequate.</p>
Service Vehicle Access – Control	
<p>i. Premises are to be designed to accommodate access and parking by service vehicles in accordance with Table 5.2.</p>	<p>There is provision for service and delivery vehicles to enter the site in a forward direction, safely manoeuvre and unload on-site and leave the site in a forward direction.</p>
D. Element – Environmental Management	
E. Element – Sustainable Industrial Development	
<p>i. Building forms shall be designed for adaptability through the provision of flexible spaces and regular building form designed to accommodate future conversion or dividing for alternate uses;</p> <p>ii. A building and its openings are to be configured to maximise passive solar energy and minimise energy use in artificial lighting. This may include the use of skylights to capture natural light through the roof;</p> <p>iii. A building and its openings are to be orientated to utilise prevailing winds to enhance the opportunity for cross ventilation;</p>	<p>Subject to compliance with the conditions of consent and licence requirements, the proposed development is not expected to emit or discharge contaminants which would have an unreasonable environmental harm or nuisance.</p> <p>Not applicable.</p> <p>Not applicable.</p>

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Development Control	Comments/Is consistency with these provisions achieved?
iv. The use of energy efficient appliances and equipment are encouraged to minimise energy usage and greenhouse gas generation; and v. Safe and convenient bicycle parking is to be provided on site.	Not applicable. The site can accommodate parking for bicycles, if required in the future.
Part 4 – 4.1 Russellton Industrial Estate	
4.1.2 Development Controls applying to Russellton Industrial Estate precinct	
i. For all allotments in the Russellton Industrial Estate: - Excavation (cut) as part of any earthworks for buildings or associated works must not extend more than 3.0 metres below the ground level (existing); - Fill as part of any earthworks for buildings or associated works must not extend more than 2.0 metres above ground level (existing); - Retaining walls visible from the street are a maximum height of 3.0 metres; ii. No access to any lots is permitted from Norman Jones Lane; iii. Allotments adjoining rural zoned land are to comply with the following provisions: - external on-site activity areas are to be located to maximise distances away from macadamia farms and other adjoining agricultural activities; and - buildings are to be designed and orientated so that minimal openings face towards adjoining agricultural land.	Cut, fill and retaining will not exceed these limits. Not applicable. Not applicable.

The proposed development meets the objectives and generally complies with the relevant development controls for this development type.

Comments from Government Agencies

NSW Environment Protection Authority (EPA)

The application is classified as Nominated Integrated Development as it also requires approval from the EPA under Section 48 of the Protection of the Environment Operations Act 1997.

On 20 December 2019 the EPA advised it is in a position to issue a licence for the proposal and provided General Terms of Approval (GTAs). These GTAs are included as Attachment 5 and will be incorporated into the consent, if the application is approved.

The EPA approval specifically excludes the receiving and processing of the following waste streams on the site (as original proposed by the applicant):

- Waste oil or any other material that would be classified as liquid waste
- Household chemicals

NSW Roads and Maritime Services (RMS)

The application was referred to the RMS in accordance with Clause 104 of the State Environmental Planning Policy Infrastructure 2007 (ISEPP).

In correspondence dated 28 May 2019, the RMS provided the following matters for consideration.

- The Consent Authority should be satisfied that the impact of through and turning traffic has been adequately addressed. Please refer to Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings and Australian Standard 2890.1 – Off Street Car Parking.

Comment: The existing external road network of the industrial estate is constructed to a suitable standard to service the proposed development, and site distances at proposed access points are suitable.

- Service vehicles should enter and leave the site in a forward manner. The design should cater for the turning paths of the largest vehicle requiring access to the site. Please refer to Australian Standard 2890.2 – Off Street Commercial Vehicle Facilities.

Comment: There is provision for all vehicles to enter the site in a forward direction, safely manoeuvre and unload on site and leave the site in a forward direction.

- Consideration should be given to connectivity for public transport facilities and active transport modes such as walking and cycling.

Comment: The proposed development will not unreasonably impact on the connectivity of public transport facilities or active transport modes.

Conclusion

The subject application seeks consent to expand the existing waste transfer station at 2-4 Northcott Crescent, Alstonville.

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Shire Development Control Plan 2012, relevant SEPPs and submissions made in response to the exhibition of the application.

Having regard for the outcomes of the assessment, it is recommended that the application be determined by way of approval, subject to the conditions (Attachment 6), and the General Terms of Approval issued by the EPA (Attachment 5).

Council has the following options with regard to determining the subject application:

Option 1 – Grant consent to the application

It is recommended that Council grant consent to the application (excluding the receiving or processing of the following waste streams on classified as liquid waste or household chemicals), subject to the conditions set out in Attachment 6.

Option 2 – Refuse the application

Council could determine that application by way of refusal. This option is not recommended given that the assessment has concluded that the application meets the applicable planning requirements and conditions can be imposed in this instance to suitably address potential impacts associated with the development.

Option 3 – Defer determination of application

Council could defer determination of the application to obtain additional information or hold a further Councillor briefing of the matter. This option is not recommended on the basis that sufficient information has been submitted to undertake an accurate assessment of the application and Councillors have previously been briefed on the application.

RECOMMENDATION

That Development Application 2019/223 for the expansion of the existing solid waste transfer station with a processing capacity of up to 28,000 tonnes per annum at Lot 890 DP 845412, 2-4 Northcott Crescent Alstonville be **APPROVED** subject to conditions contained in Attachment 6, and the General Terms of Approval issued by the EPA.

Attachment(s)

1. Locality Plan
2. Proposed Plans
3. Public Submissions
4. Section 4.15 Assessment
5. EPA General Terms of Approval
6. Draft Conditions of Consent
7. Applicant Response to April 2020 Objection

8.6 DA 2018/432 - 10 Old Pacific Highway Newrybar - Determination Review

8.6 DA 2018/432 - 10 Old Pacific Highway Newrybar - Determination Review

Applicant	Ardill Payne & Partners
Property	Lot 1 DP 574688, Lot 2 DP 776207, 2 Old Pacific Highway, 10 Old Pacific Highway NEWRYBAR
Proposal	Division 8.2 Review of Determination of Development Application 2018/432 (Two lot subdivision by way of boundary adjustment to create 1 x 1,080sqm and one 776sqm allotments and construction of a shed on Proposed Lot 1)
Effect of Planning Instrument	The land is zoned 7 (c) Environmental Protection (Water Catchment) Zone under the provisions of the Ballina LEP 1987
Locality Plan	The subject land is depicted on the locality plan in Attachments 1 and 4.

Introduction

Council is in receipt of a request under Division 8.2 of the *Environmental Planning and Assessment Act* (EP&A Act) 1979 for a review of the determination of Development Application 2018/432.

On 12 November 2019, Council staff determined Development Application 2018/432, by way of refusal for a *Two lot subdivision by way of boundary adjustment to create 1 x 1,080sqm and one 776sqm allotments and construction of a shed on Proposed Lot 1*, at Lot 1 DP 574688, Lot 2 DP 776207, 2 Old Pacific Highway, 10 Old Pacific Highway, Newrybar.

The reasons for the refusal included in the Notice of Determination are as follows:

1. The proposal has not demonstrated that the SEPP 1 objection is well founded and that further non-compliance with the development standard contained in Clause 11 (2) (b) of Ballina Local Environmental Plan 1987 in relation to the reduction in land area to Proposed Lot 2 is reasonable or necessary in this instance.
2. The proposal does not satisfy the primary objective of the 7 (c) (Water Catchment) zone of the Ballina Local Environmental Plan 1987 with regard to development which would adversely affect the quality of the urban water supply in relation to Proposed Lot 2.
3. The lot size and configuration of Proposed Lot 2 is insufficient to accommodate a compliant on-site sewage disposal system (with appropriate buffers and required reserve trench) therefore the proposal is not in the interests of the public due to the potential public health impacts resulting from the development.

4. The proposal does not satisfy the matters of consideration outlined within Clause 24A of the Ballina Local Environmental Plan 1987. Specifically, the reduction in land area to Proposed Lot 2 will result in potential adverse impacts on the water quality within the catchment, and the applicant has not demonstrated that adequate and compliant safeguards can be accommodated within the reduced lot to protect water quality concerns.
5. The proposal does not achieve the planning objectives or comply with the development controls outlined in Chapter 2 of the Ballina Development Control Plan 2012 – Element 3.8 – On-site Sewage Management Systems and Element 3.13 – Drinking Water Catchments in relation to ensuring that the on-site sewage management system on Proposed Lot 2 can be maintained to prevent a public health risk and does not adversely impact on the water quality within drinking water catchments.
6. The proposal does not achieve the planning objectives or comply with the development controls outlined in Chapter 7 of the Ballina Development Control Plan 2012 – Element 3.2 – Rural Subdivision in relation to ensuring that the subdivision of land does not adversely impact on the environment.
7. The proposal does not achieve the planning objectives or comply with the development controls outlined in Chapter 7 of the Ballina Development Control Plan 2012 – Element 3.7 – Building Lines and Setbacks in relation to the non-compliance with the minimum setback requirements for a structure from the front and side boundary.

The purpose of this report is to seek Council's determination of the review of determination of DA 2018/432.

To assist Council in its determination of this matter, this report also provides the background for the original application and includes an assessment of the information lodged by the Applicant as part of the request for a review of determination of DA 2018/432.

The Applicant has not amended the proposal as part of their request for a review of determination.

In this regard, there is no need to prepare an additional Section 4.15 assessment report for the review, as the original report included an assessment of all required matters under the EP&A Act 1979.

The original Section 4.15 assessment report is contained in Attachment 2.

The Notice of Determination dated 12 November 2019 is provided in Attachment 3.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The request for a Division 8.2 Review of Determination was placed on public exhibition from 25 March 2020 to 16 April 2020.

Five submissions were received and all submissions provided support to the proposal.

Four submissions stated that their support was on the basis that the proposal facilitates the storage of a boat, which is currently parked within the road reserve, within a shed within Proposed Lot 1.

In relation to the parking of the boat within the road reserve, it is acknowledged that there is a lack of kerbside parking within the Newrybar Village.

This is as a result of the existence of a number of small lots within the locality, all of which are benefited by numerous vehicle crossovers and the presence of a popular restaurant within the village.

Currently, there is a double crossover (width of 9.8m) and a single driveway crossover (width of 4m) which service existing Lot 1 DP 575688. The addition of a third driveway crossover of 3m in width, will result in a combined 16.8m of vehicle crossovers.

This is unusual and excessive for a property that has the characteristics of a single residential allotment and would not be in the public interest as it further reduces the availability for kerbside parking, within an already constrained locality.

In addressing this issue (which was raised by Council staff as part of the original application), the applicant revised the proposal in order to reconstruct (i.e. widen) the existing driveway fronting Proposed Lot 2 and therefore, no new driveway would be required for Proposed Lot 1 (to service the proposed shed).

However, it is acknowledged that there would need to be a right of carriageway over Proposed Lot 2 to the benefit of Proposed Lot 1, in order to provide vehicular access to the proposed shed.

Although this is not a desirable outcome, this may be an acceptable outcome in relation to this issue, on the basis that a condition be applied to any consent granted that prohibits the construction of any additional driveway crossovers fronting Proposed Lot 1 to service the proposed shed.

However, the imposition of the above condition along with the right of carriageway design solution from the applicant does not resolve all issues of concern associated with the proposal. There would still need to be widening of the existing vehicle crossover, which would further reduce availability of kerbside parking in the locality.

It is a matter for consideration for the Council as to whether support for the proposal should be provided, given the basis of the proposed boundary adjustment is to enable the storage of a large fishing boat on Proposed Lot 1. However, as discussed within this report, the resulting effects of the proposal will compromise the ongoing maintenance of the OSSM system on Lot 2 DP 776207.

Background

Original Proposal

The original proposal sought consent for a boundary adjustment subdivision of two lots to create one x 1,080m² allotment (Proposed Lot 1) and one x 776m² allotment (Proposed Lot 2) and the erection of a shed (boat storage) on Proposed Lot 1.

Shed

The proposal included the erection of an additional shed, with dimensions of 8m (W) x 11.5m (L) x 5.378m (H), on Proposed Lot 1. The proposed shed was in addition to an existing triple bay garage with associated storage area and a single car port on the land (i.e. Proposed Lot 1). The use of the shed was to be for boat storage, and the proponent provided advice that the existing triple bay garage was not high enough to accommodate a large fishing boat.

Boundary Adjustment

The subject land is zoned 7(c) Environmental Protection (Water Catchment) under the Ballina Local Environmental Plan (BLEP) 1987. The proposed boundary adjustment was to result in two modified allotments, each being significantly less than the 40 hectare minimum lot size for the 7(c) zone, as stipulated in Clause 11 of the BLEP 1987.

The existing and proposed lot areas and their variation from the minimum lot size development standard (40ha) are shown in the following table:

Lot	Existing Area	Existing Variation (%)	Proposed Area	Proposed Variation (%)	Variation between existing and proposed (%)
1	815m ²	99.79%	1,080m ²	99.73%	32.5% increase
2	1,015m ²	99.74%	776m ²	99.8%	23.5% decrease

The proposed boundary adjustment will result in a reduction to the width of the rear portion of Proposed Lot 2, to an overall width of 14.79m, which is a reduction of approximately 8m.

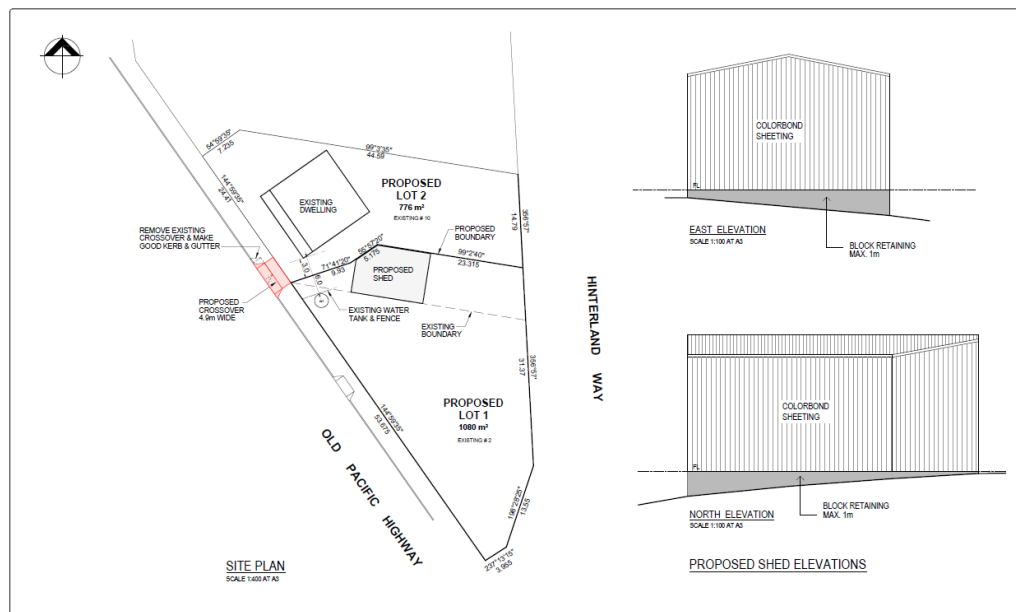


Figure 1: Site Plan and Proposed Shed

Assessment

During the assessment of the original application, which resulted in refusal, it was identified that the reduction of the area of Proposed Lot 2, including the reduction in the width of the rear portion of the property, would restrict the ongoing operation and maintenance of the existing On-site Sewage Management (OSSM) system (including appropriate buffers and required reserve trench).

An OSSM system report addressing the proposal, was not included with the original development application, as is required for any proposal involving a subdivision boundary adjustment on non-sewered areas, pursuant to Council's OSSM Management Strategy 2017.

During the assessment process of the application, Council issued requests for additional information on 21 August 2018 and 28 September 2018, for the applicant to provide Council with an On-site Sewage Management (OSSM) Report, prepared in accordance with Council's Strategy, to support the proposed boundary adjustment subdivision.

Despite these requests, the applicant did not provide Council with an OSSM report.

The report was considered necessary for Council to adequately assess the suitability of the proposal, given that it was identified that the recently installed OSSM system on Lot 2 DP 776297 was not installed to the approved OSSM design and was modified to accommodate the proposed new boundary at the expense of the ongoing ability to maintain the system and install a reserve trench, as required.

Refer to *Explanation of Proposal* within Attachment 2 for further comment on the history of Lot 2 DP 776297.

During the assessment of the original application, the applicant did submit a revised OSSM design (not an OSSM report as was requested) on 2 August 2019, nearly 12 months after the initial request for an OSSM report.

The amended design, however, did not adequately address Council's concerns, was not designed in accordance with Council's OSSM Guidelines 2017, did not meet any setback requirements of the Rous Water Onsite Wastewater Guidelines.

In view of this, the revised design was not supported.

Council staff consequently refused the application on 12 November 2019.

Assessment of Review of Determination

Under the provisions of Division 8.2 of the EP&A Act 1979, an applicant may request a consent authority to review its determination or decision.

In requesting a review, the applicant may amend the proposal which was the subject of the original application.

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The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

As part of the documentation lodged with the request for a review of determination, the applicant has not amended the proposal with regard to the proposed boundary adjustment (lot size and configuration).

The applicant has, however, provided additional information, comprising an Effluent Management Report (EMR), prepared by Truewater Australia, dated February 2020, to support their request.

A review of the Truewater Australia EMR has been undertaken by Council staff. It is considered that the EMR has not adequately justified or raised any valid points that would warrant Council changing its position and decision on the original proposal.

In this regard, the original reasons for refusal remain applicable, as the existing evapotranspiration trench (ETA) bed was not installed in accordance with the original OSSM design and therefore is unapproved in the current design and the ETA bed was not installed in accordance with AS/NZS:1547, whereby the guidelines state that an ETA bed should be installed with the contours of the land.

Further to the above, the following detailed comments are provided in relation to the request for a review of determination of the original development and the Effluent Management Report.

- The existing system on existing Lot 2 was not installed in accordance with the approved OSSM design by Dave Abbott Plumbing and the Approval to Install issued by Council (30 January 2018).

Multiple site visits conducted by Council's OSSM Technical Officers has identified that the ETA bed has been manipulated to fit the proposed boundary line.

The proposal is seeking to reduce the width of the land within the rear portion of Proposed Lot 2 to only 14.79m wide. The 'Approval to Install' required a 15m trench and 15m reserve trench to be installed across the contours of the land. As a result, the installed system now runs down the contour of the land.

Had the OSSM system be installed as per the original OSSM design report (as approved by Council), the system would have encroached over the proposed boundary (into Proposed Lot 1).

Further to this, the proposal would not provide adequate buffer distances from the proposed side and rear boundaries.

- Figure 2 shows the ETA bed installed diagonally across the gradient. Therefore, it is considered that the information within the EMR has not correctly identified the actual location of the existing OSSM system in relation to the contours of the land.

With the system not installed with the contour of the land, surface rainwater will collect in the downslope part of the land application area and cause excessive saturation of the soil.

This reduces the ability of the land application area to hold effluent and increases the potential of effluent ponding at the surface of the soil and running off the site towards the drainage network.

This is considered a risk to the public health given the site is within the Emigrant Creek Water Catchment.



Figure 2 – Installation of OSSM

- The OSSM system that has been installed to service the dwelling on existing Lot 2 is designed for 4.5 Equivalent Person (EP), with two people currently residing at the dwelling. Should over four persons reside within the dwelling, there is an increased risk that the OSSM system will fail as a result of the installation error (as referred to in point A).

The proposal has not adequately demonstrated that there is land available, with appropriate buffers, to install the required reserve trench of 15m in length. The EMR has not provided accurate dimensions of the existing OSSM system and the reserve trench.

The diagram provided within the report (Figure 8 within the EMR report) is misleading as it shows the location of the existing system and reserve trench (both of which are to be 15m in length) to be within the proposed property boundary.

The rear property boundary is proposed to be 14.79m. Therefore, it is not possible to install the system, 15m in length across the contour of the land and make provision for a reserve trench 15m in length within the rear of the property which will have an overall length of 14.79m.

Should the proposal be approved in its current design, there will not be adequate land available that could be installed.

- The land is within the Emigrant Creek Catchment and Rous County Council is the water supply authority. In this regard, the installation and maintenance of all On-site Sewage Management systems are directed by the Rous Water guidelines.

The EMR does not correctly reference these guidelines.

Furthermore, Rous County Council have stated that no flexibility is afforded to rezoning and subdivision applications, as the buffer distances (setback) are treated as absolute minimums. The application does not meet these guidelines.

The original proposal was referred to Rous Water for comment. Council received comment from Rous Water (on 22 March 2019) to the effect that proposed boundary adjustment is not supported.

The request for review of determination was referred to Rous County Council for comment, however, at the time of preparation of this report, no response has been received.

- The EMR states that the location of the property is Low Risk. However, the Newrybar Village (location of subject site) has been identified by Rous County Council and Ballina Shire Council as High Risk to drinking water quality due to on-site wastewater generated on numerous small allotments.

A reduction in size to one of the allotments within the Newrybar Village will lead to a further export of nitrogen (and other contaminants) outside of the property boundaries.

Further, the unapproved alteration of the original OSSM design has led to a reduced setback distance to the intermittent road drain, east of the property boundary.

This ultimately leads to a higher chance of effluent entering this drain and compromising the drinking water quality, which is exacerbated by the ETA bed being installed against the contours of the land (and not in accordance with AS/NZS:1547).

It is noted that this intermittent road drain is not mentioned nor considered within the EMR.

To date, a nitrogen area calculation has not been provided to Council as detailed in Council's OSSM Strategy and Guidelines.

There have been no calculations, modelling or mapping, which states that the nitrogen can be captured on the subject property.

Due to the gradient of the land and position of the LAA, it is unlikely that the property will be able to store all nitrogen within the confines of the property boundary.

Therefore, should this application be approved in its current design, there will likely be an increased export of nitrogen and other contaminants over the property boundary.

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- The EMR has claimed that there is no evidence of a disturbed area where the LAA is situated. However, an inspection of the site by Council staff has identified that the LAA and adjacent areas have been significantly disturbed by the recent installation of a 600mm retaining wall to facilitate the future shed, as was proposed under the original application (and has been determined by way of refusal), which has resulted in significant cut and fill.

The LAA being situated on the disturbed land further exacerbates the issues mentioned above, as the ability of the soil to hold and treat effluent is compromised.

- With regard to Proposed Lot 1, adequate information regarding the number of bedrooms and location of a reserve area for future upgrades has not been provided.

As a result of the small lot size and overdevelopment of the site, there are concerns regarding the provision of a suitable reserve LAA.

Therefore, any land acquired through any proposed boundary adjustment should be used as a reserve LAA only, to ensure adequate management of on-site wastewater and protection of public and environmental health, and not for an additional structure on an already constrained and overdeveloped allotment.

With regard to the assessment above, it is considered that the proposal cannot demonstrate a neutral footprint and therefore, a change in Council's position and decision on the original proposal within DA 2018/432 is not in the public interest.

Conclusion

In reviewing the determination for refusal to DA 2018/432, including the relevant matters for consideration prescribed by Section 4.15 of the *Environmental Planning Assessment Act 1979*, the provisions of the *Ballina Local Environmental Plan 2012*, the *Ballina Development Control Plan 2012* and the public authority submission made in response to the referral to Rous County Council, it is considered that the applicant has not satisfactorily demonstrated that there are sufficient environmental planning grounds to support the proposal.

In this regard, it is recommended that the decision to refuse the application should be maintained.

The original reasons for refusal of DA 2018/432 remain applicable for this review of determination:

1. The proposal has not demonstrated that the SEPP 1 objection is well founded and that further non-compliance with the development standard contained in Clause 11(2)(b) of Ballina Local Environmental Plan 1987 in relation to the reduction in land area to Proposed Lot 2 is reasonable or necessary in this instance.

Comment: The proposal has not demonstrated that the SEPP 1 objection (as amended) is well founded.

2. The proposal does not satisfy the primary objective of the 7(c) (Water Catchment) zone of the Ballina Local Environmental Plan 1987 with regard to development which would adversely affect the quality of the urban water supply in relation to Proposed Lot 2.

Comment: The request for review of determination has not satisfactorily demonstrated that the proposal satisfies the primary objective of the 7(c) Water catchment Zone.

3. The lot size and configuration of Proposed Lot 2 is insufficient to accommodate a compliant on-site sewage disposal system (with appropriate buffers and required reserve trench) therefore the proposal is not in the interests of the public due to the potential public health impacts resulting from the development.

Comment: The proposal has not been amended under the request for review of determination and therefore the configuration of Proposed Lot 2 remains insufficient in lot size and configuration to support a compliant on-site sewage disposal system.

4. The proposal does not satisfy the matters of consideration outlined within Clause 24A of the Ballina Local Environmental Plan 1987. Specifically, the reduction in land area to Proposed Lot 2 will result in potential adverse impacts on the water quality within the catchment, and the applicant has not demonstrated that adequate and compliant safeguards can be accommodated within the reduced lot to protect water quality concerns.

Comment: The proposal has not been amended under the request for review of determination and as a result, Proposed Lot 2 is not adequate to provide safeguards to protect the water quality within the catchment.

5. The proposal does not achieve the planning objectives or comply with the development controls outlined in Chapter 2 of the Ballina Development Control Plan 2012 – Element 3.8 – On-site Sewage Management Systems and Element 3.13 – Drinking Water Catchments in relation to ensuring that the on-site sewage management system on Proposed Lot 2 can be maintained to prevent a public health risk and does not adversely impact on the water quality within drinking water catchments.

Comment: The proposal has not been amended under the request for review of determination and has not adequately demonstrated that the planning objectives or controls outlined in Chapter 2 of the BDCP 2012 – Element 3.8 have been achieved.

6. The proposal does not achieve the planning objectives or comply with the development controls outlined in Chapter 7 of the Ballina Development Control Plan 2012 – Element 3.2 – Rural Subdivision in relation to ensuring that the subdivision of land does not adversely impact on the environment.

Comment: The proposal has not been amended under the request for review of determination and has not adequately demonstrated that the planning objectives or controls outlined in Chapter 7 of the BDCP 2012 – Element 3.2 have been achieved.

7. The proposal does not achieve the planning objectives or comply with the development controls outlined in Chapter 7 of the Ballina Development Control Plan 2012 – Element 3.7 – Building Lines and Setbacks in relation to the non-compliance with the minimum setback requirements for a structure from the front and side boundary.

Comment: The proposal has not been amended under this Review of Determination under the request for review of determination and has not adequately demonstrated that the planning objectives or controls outlined in Chapter 7 of the BDCP 2012 – Element 3.7 have been achieved.

Options

Having regard for the outcomes of the Section 4.15 assessment undertaken within Attachment 2, and the assessment undertaken under within this report for the request for review of determination, Council has the following options are available to Council.

1. Refusal

That Council confirms the previous decision to refuse Development Application 2018/432 for a boundary adjustment subdivision and erection of a shed (boat storage), and maintain the original reasons for refusal.

This would be on the basis that the request for review of determination has not adequately demonstrated that there are sufficient environmental planning grounds to support the development application and re-affirms the reasons for refusal within Attachment 3.

2. Approval

That Council resolves to issue development consent to the application, subject to standard planning, civil and building conditions. Specific environmental health conditions may need to be applied in relation the ongoing maintenance of the OSSM system.

This option can be considered if Council is satisfied that:

- the development is suitable for the site,
- the departure from the minimum lot size is appropriate,
- the impacts on the public health can be reasonably mitigated through the ongoing management of the existing OSSM system; and
- the reduction to the already constrained site will allow for the proper maintenance of the OSSM system.

3. Deferral

Council could defer its decision to obtain further information.

This is not recommended on the basis that sufficient information is available to determine the application, particularly given the applicant has elected not to amend he original proposal in requesting a review of determination.

RECOMMENDATION

That Council maintains the **REFUSAL** of Development Application 2018/432 as determined by Council staff under Delegated Authority on 12 November 2019 on the basis of the original reasons for refusal per Attachment 3 to this report and the review application has not adequately demonstrated that there are sufficient environmental planning grounds to support the proposed development.

Attachment(s)

1. Locality Plan
2. Section 4.15 Assessment
3. Notice of Determination
4. Lot 1 DP 575688 Aerial Plan

8.7 Building Information Certificate - 135 Riverside Drive, West Ballina

8.7 Building Information Certificate - 135 Riverside Drive, West Ballina

Applicant	G L & J S Colefax
Property	135 Riverside Drive, West Ballina
Proposal	Retaining wall forward of the rear building line to the canal
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan below.



Figure 1 - Locality Plan - 135 Riverside Drive, West

Introduction

Consideration of the Certificate Request

In May 2019 Council received a complaint regarding a retaining wall that had been constructed in this canal frontage at the property. On investigation of the complaint, it was determined that the construction of the retaining wall was of a nature that required the prior consent of Council.

Council staff requested that the retaining wall be removed or relocated as the location of wall is not compliant with the applicable building line.

The owner has chosen not to remove or relocate the retaining wall and instead has lodged a Building Information Certificate application to legitimise the structure.

The matter was reported to Council at its Ordinary Meeting on 27 February 2020 because the retaining wall is further forward of the canal building line than staff would normally approve.

8.7 Building Information Certificate - 135 Riverside Drive, West Ballina

Further, removal of the retaining wall by enforcement of a Development Control Order may have more widespread consequences to the ongoing management structures within the Ballina Quays canals.

In considering the matter, Council resolved to defer its decision on the application and receive a Councillor briefing to obtain additional information.

A Councillor Briefing was held on 11 May 2020.

Further information about the background to the matter is located in the February 2020 report to Council.

Issue Analysis

To inform further consideration of the matter, staff have conducted an audit of retaining wall structures in the Quays canals and engaged consultant firm BMT to provide coastal engineering advice. Audit details and the BMT advice was provided to Councillors at the 11 May briefing.

With respect to the retaining walls in the canals, Council's current development control requires walls to be located 2m or less from the existing kerb. In auditing the location of current walls, the following was identified based on aerial photography analysis:

- There are 183 properties with frontage to the canals waterway.
- There are 24 walls built 2m or less from the existing kerb line.
- There are 36 walls built between 2m and 3m from the existing kerb line.
- There are 17 walls built in excess of 3m from the existing kerb line.

Staff have not identified if all of the identified walls have obtained the necessary approvals. However, walls identified as being over 3m from the kerb have been reviewed for approvals.

No approvals have been found for the walls more than 3m, other than for one property approved at 3m but now constructed further from the kerb than approved.

Some of the walls shown as more than 2m and less than 3m may actually be at 2m due to accuracy limitations in measuring from aerial photography.

Although the identification of the walls and the assessment of the distances from the kerb does not have a high degree of accuracy it is sufficient to provide an indication of the current situation.

With respect to the impact of walls in the canal system, Council engaged BMT to provide a review of the current Ballina Quays system relative to the issues associated with retaining walls and provide specialist advice.

A copy of this report is contained in Attachment 1.

The report identifies two types of coastal process that affect the canal system being "longshore sand transport" and "cross shore sand transport".

Longshore transport is typically occurring only along the Burns Point Ferry Road part of the Ballina Quays canals.

A consistent revetment line approach is considered to be most appropriate for this part of the canal system.

The report has not identified any adverse or excessive cross shore sand transport, and although there is a flattening of the canal profile, this is generally as expected with the canal depth at the middle being maintained and scarps occurring on the edges.

Cross shore transport is noted as typically occurring in the Dolphin Drive and Riverside Drive canal arms.

The report also suggests that where deeper revetments (retaining walls) are to be provided, more stringent engineering may be necessary to resist undermining and collapse of the revetment (retaining wall).

Amenity is also identified as a matter for consideration where walls protrude adjacent to a beach area.

Having regard for the above, Council's direction is now sought on the issue of the certificate.

Options

In relation to the Building Information Certificate Application for 135 Riverside Drive West Ballina, Council has the following options

Option 1 - Refuse the Building Information Certificate Application

Under this option, Council would refuse the application for the Building Information Certificate and proceed to serve a development control order on the owner of the land to remove the subject retaining wall and restore the canal profile to be consistent with its undeveloped profile.

Given the advice provided by BMT in relation to cross shore sand transport in the arm of the canal where the subject property is located, this approach is not recommended.

If the decision is to refuse the issue of a Building Information Certificate, it is recommended that Council proceeds with a review of the planning provisions for retaining walls in the canals having regard for the BMT advice.

This is addressed further as follows.

Option 2 - Issue the Building Information Certificate.

Under this option, Council would proceed to issue a certificate and this would conclude the matter for 135 Riverside Drive.

However, the issue of the certificate does not resolve the issues associated with the applicable planning provisions and canal management more broadly.

Having regard for the advice provided by BMT, it is recommended that the certificate be issued for 135 Riverside Drive.

8.7 Building Information Certificate - 135 Riverside Drive, West Ballina

If this is the approach adopted by Council, it is also recommended that Council proceed to undertake a review of the planning provisions applicable to walls in the canal system.

With respect to Council's planning provisions, Council has the following options.

Review the development controls for the location of retaining walls within canals.

If this approach is chosen, consideration will need to be given to setting a maximum distance that retaining walls would be permitted forward of the kerb line and application of additional engineering provisions to ensure suitable construction standards are achieved.

This may vary for the different arms of the canal system having regard for the BMT advice.

It is anticipated that any changes resulting from a review would be addressed through an amendment to the Ballina Shire Development Control Plan 2012.

This will likely occur as part of the next suite of general amendments to the plan for efficiency in process.

Depending on the alignment distance selected, extent of impact and safety considerations, enforcement action may be ultimately warranted in relation to some existing structures.

Maintain the existing controls for the location of retaining walls within canals.

Under this approach, Council would maintain its existing planning provisions (i.e. no changes to the development control plan) and further consideration would need to be given to enforcement action in relation to known retaining walls that do not have appropriate approvals in place.

Enforcement action would be considered having regard for extent of impact and safety considerations.

RECOMMENDATIONS

1. That the Building Information Certificate Application for a retaining wall along the Quays canal frontage at 135 Riverside Drive, West Ballina be APPROVED.
2. That Council undertake a review of the development controls for retaining walls along canal frontages under the Ballina Shire Development Control Plan 2012.

Attachment(s)

1. Ballina Quays - Report by Malcolm Andrews BMT - Assessment of Revetment Structures

8.8 Development Applications - Works in Progress - May 2020

8.8 Development Applications - Works in Progress - May 2020

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

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

Dwelling house and dual occupancy applications are not included in this report.

DA No.	Date Rec'd	Applicant	Proposal	Status
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 99 residential lots, five super lots subject to future development, constructions of roads, installation of essential services and infrastructure, excavation works including cut and fill and retaining walls, stormwater drainage infrastructure including detention basins and piping of creek, vegetation clearing, landscaping works and temporary signage – 20 North Creek Road Lennox Head	Referred to Government Departments
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	Being assessed
2018/554	13/9/2018	Ardill Payne & Partners	Change of Use to Establish a Depot – Removalist Business and Associated Signage – 6 Waverley Place, West Ballina	Awaiting additional information

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
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	Referred to Government departments
2019/145	8/3/2019	Ardill Payne & Partners	Construction of an Industrial Development to be Used for a Depot and For General and Light Industrial Purposes, Filling of Land and Associated Works – 29-31 Smith Drive, West Ballina	Awaiting additional information
2019/170	19/3/2019	MP & MJ Veronesi	Two Lot Boundary Adjustment Subdivision to create one x 78ha and one x 5ha allotments – 987 & 937 Wardell Road, Meerschaum Vale	Subject to Land and Environment Court appeal
2019/283	7/5/2019	Newton Denny Chapelle	Change of use from a high technology industry to general industry involving the assembly, manufacture and fitting of prosthetic limbs and alterations to the building - 2/188-202 Southern Cross Drive, Ballina	Being assessed
2019/316	20/5/2019	RJ Westblade	Establishment of a multi dwelling housing development comprising the staged construction and Strata Title Subdivision of two detached dwellings - 20 Canal Road, Ballina	Being assessed
2019/376	11/6/2019	Newton Denny Chapelle	Erection of five greenhouses to be used for the propagation of potted plants, expansion of farm dam, and associated earthworks and other civil works – 348 Rous Road, Rous Mill	Awaiting additional information
2019/438	03/07/2019	Ardill Payne & Partners	To undertake the Torrens Title Subdivision of 4 x existing vacant lots to create 9 x vacant residential lots – 25-39 Fitzroy Street, Wardell	Referred to Government department

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2019/499	2/8/2019	Planners North	Implementation of erosion and slope stabilisation measures, bushland regeneration works, ongoing geotechnical monitoring and use of existing structures for residential purposes – 35 Pine Avenue, East Ballina	Being assessed
2019/535	21/8/2019	Ardill Payne & Partners	To undertake a development in four stages comprising: Stage 1 - Three Lot Torrens Title Subdivision (Proposed Lots 1 and 2 – area of 801m ² and Proposed Lot 3 – area of 1090m ²). Stage 2 - Erection of a Two Storey Dwelling on Proposed Lots 1, 2 and 3. Stage 3 - Strata Subdivision of Proposed Lots 1, 2 and 3. Stage 4 – Erection of a New Dwelling on each Vacant Strata Lot to create a Detached Dual Occupancy. 26-30 Fitzroy Street, Wardell	Awaiting additional information
2019/666	16/10/2019	GHD Pty Ltd on behalf of Ballina Shire Council	Upgrades to the Marom Creek Water Treatment Plant – 65 Weis Lane, Rous	Awaiting additional information
2019/669	17/10/2019	Victor Holmes Town Planning	Two lot Torrens Title Subdivision to create one x 600m ² allotment and one x 539m ² allotment (below the 600m ² minimum lot size development standard of the Ballina LEP 2012), demolition of gazebo, carport and swimming pool, site filling and drainage, infrastructure servicing, vegetation management works and associated works – 23 Skinner Street, Ballina	Awaiting additional information

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2019/691	28/10/2019	Planners North	Multi Dwelling Housing Development comprising the erection and Strata Title subdivision of 10 two storey dwellings – Lot 6 DP 1225206 (approved Lot 345 in DA 2017/244) The Coast Road, Skennars Head	Awaiting additional information
2019/694	28/10/2019	Planners North	Tourist and Visitor Accommodation comprising eight holiday cabins, communal recreation building and an information education facility for the purposes of a cooking school - 841 Fernleigh Road Brooklet	Referred to Government department
2019/729	15/11/2019	Ardill Payne & Partners	Erection of self-storage unit complex – 74 De-Havilland Crescent, Ballina	Being assessed
2019/736	19/11/2019	D & S Greeney	Proposed Two Lot Torrens Title subdivision, erection of dwelling house and associated swimming pool, earthworks, vegetation removal, access driveway and change of use of existing dwelling to a secondary dwelling – 16 Tara Downs, Lennox Head	Being assessed
2019/743	22/1/2019	Ardill Payne & Partners	Refurbishment and expansion of the existing caravan park to provide a total of 87 long-term sites and one site for the manager residence/office. The proposal comprises demolition works, earthworks, removal of short-term and camping sites, removal of access from River Street and construction of new driveway access from Emigrant Lane, construction of new amenities and facilities, internal roadworks and car parking - 586 River Street & 21 Emigrant Creek Road, West Ballina	Being assessed

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2019/764	2/12/2019	Ardill Payne & Partners	Erection of a multi-dwelling housing development involving the construction of two x two storey attached dwellings at the rear of the existing dwelling, demolition of existing garage and Strata Title subdivision – 43 Pacific Parade, Lennox Head	Awaiting additional information
2019/765	2/12/2019	Viru Investment Holdings Pty Ltd	Intensification of existing intensive horticulture facility and establishment of associated agricultural processing facility to be carried out as a staged development including construction of additional greenhouse, alteration to existing greenhouse, construction of agricultural processing industry building, construction of farm dam, construction of car park , erection of security fencing and associated landscaping works – 167 Rous Road, Rous	Being assessed
2019/794	12/12/2019	Ardill Payne & Partners	Two lot subdivision by way of boundary adjustment to create one x 42.46ha and one x 1.47ha allotments – Palm Lake Resort, 120 North Creek Road, Ballina	Being assessed
2019/799	16/12/2019	P & E Hudson	To formalise and expand an agricultural produce industry (macadamia nut processing and value adding facility) and to carry out associated works – 18 Johnston Road, Newrybar	Being assessed
2020/5	7/1/2020	Newton Denny Chapelle	Subdivision of land by way of boundary adjustment and consolidation of three existing allotments to create one 45ha and one 3.5ha allotments – 39 Pearces Creek Road & 721 Houghlahans Creek Road, Pearces Creek	Determination pending

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/25	22/1/2020	Planners North	Multi Dwelling Housing Development comprising the Erection and Strata Title Subdivision of 15 Two Storey Dwellings – The Coast Road, Skennars Head	Awaiting additional information
2020/28	22/1/2020	PRG Architects	Alterations and additions to the Alstonville Medical Centre - 15 Bugden Avenue, Alstonville	Determination pending
2020/33	28/1/2020	Planners North	To undertake the use of an outdoor area adjacent to bowling green No. 2 for outdoor seating and dining during Club opening hours and including every Sunday during daylight saving hours between 4pm and 7pm with amplified music – 10 Stewart Street, Lennox Head	Awaiting additional information
2020/49	5/2/2020	A & M Anderson	Subdivision of two existing allotments to create three allotments comprising Proposed Lot 1 (36.5ha), Proposed Lot 2 being a split lot (45.3ha) and Proposed Lot 3 (40ha) – 38 Newrybar Swamp Road, Kinvara and 447 Ross Lane, Lennox Head	Awaiting additional information
2020/56	7/2/2020	Ballina Shire Council	Construction of a new sewer rising main extending 1465m from the intersection of North Creek Road and Skennars Head Road to an existing sewer pump station east of Castle Drive, Lennox Head. The proposed new pipeline will replace an existing dilapidated main – North Creek Road, Skennars Head Road & Castle Drive, Lennox Head	Awaiting additional information
2020/69	13/2/2020	Ardill Payne & Partners	Demolish an existing shed, change the use of an existing dwelling house and construct a new shed and associated facilities for the purposes of the Ballina community Men's shed, site filling and car parking – 44 Fishery Creek Road, Ballina	Being assessed

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/76	14/2/2020	Newton Denny Chapelle	Proposed filling of land to establish a building pad for future development purposes and associated works – 210 Southern Cross Drive & Corks Lane, Ballina	Awaiting additional information
2020/82	14/2/2020	Woolworths Food Group c/- Storey & Castle Planning	Erection of a covered drive-through pick-up grocery collection facility at Woolworths and associated works – 84 Kerr Street, Ballina	Awaiting additional information
2020/83	18/2/2020	Newton Denny Chapelle	Demolition of existing structures and the erection and Strata Title subdivision of a multi-dwelling housing development comprising nine single storey dwellings, earthworks, retaining, servicing and vegetation management works – 167 & 169 Tamar Street, Ballina	Awaiting additional information
2020/84	19/2/2020	Vision Town Planning	Consolidation and Boundary adjustment subdivision to create two x 2ha allotments and one x 27.9ha allotment – 46 Cemetery Road, Rous	Being assessed
2020/111	3/3/2020	MJS JiuJitsu Pty Ltd	Change of Use to Establish a Recreation Facility (Indoor) – 269 River Street, Ballina	Determination pending
2020/117	4/3/2020	Newton Denny Chapelle	Change of Use to Establish a Commercial Premises – 313 River Street, Ballina	Being assessed
2020/122	6/3/2020	Ardill Payne & Partners	Erection of an industrial building for the purposes of a marine manufacturing and equipment fit out operation and ancillary works – 45 Northcott Crescent, Alstonville	Being assessed
2020/153	13/3/2020	Planners North	Erection of a mixed use development comprising recreation facility (indoor) and information and education facility and associated works – 68 De-Havilland Crescent, Ballina	Being assessed

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/160	17/3/2020	Ardill Payne & Partners	Subdivision of two existing lots to create two proposed lots (Proposed Lot 3 – 6.79ha and Proposed Lot 4 – 2.1ha) and site filling of part of Proposed Lot 3 – 39-45 North Creek Road, Ballina	Awaiting additional information
2020/167	19/3/2020	Norrskan Ko	Continued operation and use of the existing tenancy as a Container Recycling Facility and the extension of operating hours to include 7.00am to 7.00pm on Sundays and public holidays – Unit 1a/40-43 De-Havilland Crescent, Ballina	Being assessed
2020/172	20/3/2020	Newton Denny Chapelle	Proposed drainage works inclusive of earthworks and construction of culvert under Riverbend Drive – 62 Horizon Drive, West Ballina	Awaiting additional information
2020/177	24/3/2020	Brett Anderson	Construction of New Driveway Access – Howards Lane, Tuckombil	Referred to Government departments
2020/192	27/3/2020	Planners North	Establishment of a proposed 300 site Manufactured Home Estate with associated manager's residence, club house, recreation facilities, roads, utility services, earthworks and other associated works. The application seeks a variation to Clause 4.3 Height of Buildings development standard under the Ballina Local Environmental Plan 2012. A Section 82 Objection under the Local Government Act 1993 has been submitted to enable the onsite construction of manufactured homes in variance to Clause 41 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 requiring construction offsite – 550-578 River Street, West Ballina	Awaiting additional information

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/193	9/4/2020	Newton Denny Chapelle	Two Lot Torrens Title subdivision to create one x 628sqm and one x 746sqm allotments and the carrying out of earthworks and erection of a single storey dwelling house on Proposed Lot 2 – 2 Spring Creek Place, Wollongbar	Being assessed
2020/194	30/3/2020	Ardill Payne & Partners	To undertake the construction of a car park and associated access driveway to service an existing seniors housing development – 148 & 120 North Creek Road, Ballina	Referred to Government departments
2020/199	1/4/2020	Newton Denny Chapelle	Alterations and Additions to an Existing Industrial Building and Associated Works – 6 Piper Drive, Ballina	Being assessed
2020/207	6/4/2020	Sarah Addicoat	Strata Title Subdivision of an Existing Dual Occupancy – 13 Trelawney Avenue, Wollongbar	Awaiting additional information
2020/221	14/4/2020	Newton Denny Chapelle	Strata Title Subdivision of an Existing Dual Occupancy – 9-11 Cummings Crescent, Cumbalum	Referred to Government departments
2020/222	14/4/2020	GJ Ahearn	Strata Title Subdivision of an Existing Dual Occupancy – 1 Hilander Street, Cumbalum	Referred to Government departments
2020/230	17/4/2020	Newton Denny Chapelle	Strata Title Subdivision of an Existing Dual Occupancy – 15 Cummings Crescent, Cumbalum	Being assessed
2020/233	17/4/2020	Magus PM C/- Creative Planning Solutions	Erection of a Permanent Group Home for People with a Disability – 9 Leach Crescent, West Ballina	On exhibition
2020/236	20/4/2020	Signmanager Pty Ltd	Erection of a Business Identification Sign - 103 River Street, Ballina	Being assessed
2020/242	23/4/2020	Planners North	Multi Dwelling Housing Development comprising the erection and Strata Title subdivision of 44 two storey dwellings and associated works - Lot 6 DP 1225206 The Coast Road, Skennars Head	On exhibition Referred to Government departments

8.8 Development Applications - Works in Progress - May 2020

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/244	23/4/2020	Northern Rivers Land Solutions	Three Lot Torrens Title Subdivision to create one x 800m ² , one x 860m ² and one x 1,084m ² allotments, filling and retaining works, vegetation removal, riverbank stabilisation works, infrastructure servicing and associated works – 23 Richmond Street, Wardell	On exhibition
2020/257	29/4/2020	Ardill Payne & Partners	To undertake the erection and subsequent Strata Title subdivision of an industrial building containing 11 light industrial units, take away food and drink premises, associated works and consolidation of three approved lots into one – 39-45 North Creek Road, Ballina	On exhibition
2020/259	29/4/2020	JC Lane	Vegetation management works comprising the removal of one tree – 25 Amber Drive, Lennox Head	Being assessed
2020/261	29/4/2020	Lennox Head Tree Care	Vegetation management works comprising the removal of one tree – 17 Hayman Street, West Ballina	Being assessed
2020/264	30/4/2020	Ardill Payne & Partners	To undertake demolition, alterations and additions to the existing Northern Rivers Seafood Building – 480 River Street, West Ballina	Being assessed
2020/269	4/5/2020	AJ Stafford	Change of use to Food and Drink Premises and advertising signage - 9 Moon Street, Ballina	Being assessed
2020/270	4/5/2020	R & J Harris Consulting Pty Ltd	Alterations and Additions to an existing waste management facility comprising the erection of a waste transfer shed used for the storage of excavation drilling mud and the transfer of recycled containers (Container Deposit Scheme Materials) and parking of vehicles – 540 Pimlico Road, Pimlico	On exhibition

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Regional Development (Determined by Northern Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/524	16/9/2016	Planners North	Seniors living development pursuant to SEPP (Housing for Seniors and People with a Disability) comprising amended layout, 147 (previously 211) self-care housing, clubhouse, recreation facilities, roads and infrastructure, environmental management and protection works – 67 Skennars Head Road.	NRPP approved Site Compatibility Certificate. Assessment of application reactivated
2016/746	23/12/2016	Ringtank Pty Ltd	Erection of three dwelling houses, 10 site caravan park, equine facilities, veterinary facility, quarantine stalls, horse float and equipment shelters, two equestrian exercise lawns, private recreation facilities including go-kart track, shooting range, buildings, roadworks, earthworks, dam and landscaping - Carrs Lane, Empire Vale Road, Reedy Creek Road-Keith Hall / Empire Vale	Awaiting additional information
2018/321	13/6/2018	Palm Lake Works Pty Ltd	Extension to Seniors Housing Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) comprising 156 self-care dwellings, recreation facilities and car parking, infrastructure, site filling and associated works – 120 North Creek Road.	Court found five errors of law and appeal upheld. Original decision set aside. Back to the Commissioner to be determined.

Major Development (Determined by Minister)

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

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for May 2020.

Attachment(s)

Nil

8.9 Ballina Shire Local Strategic Planning Statement

8.9 Ballina Shire Local Strategic Planning Statement

Delivery Program

Strategic Planning

Objective

To consider the outcomes of the public exhibition of the draft Ballina Shire Local Strategic Planning Statement (LSPS) and seek direction on the adoption of the LSPS.

Background

Council at its Ordinary meeting on 19 December 2019 resolved as follows:

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

The draft Local Strategic Planning Statement (LSPS) was exhibited from 22 January 2020 until 20 March 2020. During this period, presentations were given to each of the Ward committees at their meetings held between 10-16 March 2020.

A Councillor briefing scheduled for 20 March was cancelled as all Councillors had attended the respective ward committee meetings and received the LSPS presentation.

An additional briefing was offered to Councillors via the 6 April Councillor Bulletin. Following the bulletin it was determined that no further briefing was required.

The purpose of this report is to outline the outcomes of the public exhibition of the draft LSPS and obtain direction on the adoption of the LSPS by Council for implementation.

Key Issues

- Submission responses
- Amendments to draft LSPS based on feedback after exhibition

Information

The Local Strategic Planning Statement (LSPS) has been prepared in accordance with the requirements of section 3.9 of the Environmental Planning and Assessment Act 1979 (the EP&A Act).

In accordance with directions issued by the Department of Planning, Industry and Environment (DPIE), the LSPS is required to be adopted by Council by 1 July 2020 and must then also be published on the NSW planning portal.

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The LSPS has also been prepared in response to activity HE3.1j of the 2019 – 2023 Delivery Program and Operational Plan.

The LSPS once adopted will provide a level of consistency between key directions and actions within the North Coast Regional Plan 2036 (NCRP2036) and Ballina Shire's strategic planning priorities and actions.

The LSPS' planning priorities, strategic directions and actions provide the rationale for land use planning decision making in the 20 year period to 2040. Considered together, they also provide an overall land use planning vision for the Shire over this period.

The LSPS adopts the vision and themes of Council's Community Strategic Plan 2017 – 2027 (CSP). The planning priorities and actions contained in the LSPS build on the strategic planning actions already contained within the CSP and the 2019 – 2023 Delivery Program and Operational Plan (DPOP).

Amendments recommended to the exhibited draft LSPS include more clearly referencing the various land use planning commitments contained within the DPOP and their relationship to actions outlined in the LSPS.

These are currently referenced within Appendix 4 of the draft LSPS and have now been more clearly referenced within the body of the document as presented in Attachment 1.

The LSPS is informed by planning work found in Council's other plans, studies, and strategies such as Ballina Local Environmental Plan 2012 (LEP), Ballina Shire Development Control Plan 2012 (DCP), contribution plans and shire-wide and place based strategic plans.

The LSPS will be considered when these plans are reviewed and updated, to ensure consistency.

The draft LSPS sets ongoing, immediate (0 to 2 years), short (3 to 5 years), medium (5 to 10 years) and long term (10 years +) action timeframes in which to deliver strategic land use planning priorities.

Attachment 2 provides details of the planning priorities and actions contained within the draft LSPS.

The LSPS establishes a policy and strategy framework which attempts to balance the need to preserve the Shire's unique environmental and community qualities with the need to stimulate economic activity, provide for jobs and enable new housing opportunities in the period to 2040.

Draft LSPS Significant Findings and Conclusions

Residential Land Supply

By 2040, Ballina Shire's population is estimated to be 53,100, growing at an average annual rate of 0.9%.

To accommodate the overall increase in population, Ballina Shire will require 4,400 additional dwellings (based on 19,104 dwellings recorded in 2016).

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The draft LSPS indicates that there is sufficient zoned residential land (480ha) to yield in excess of 5,000 lots/ dwellings.

Therefore, the Shire has more residential zoned land identified than is required to meet the anticipated population increase to 2040.

This is a sound position as a basis for ensuring that land supply meets expected demand.

The increase in population and dwellings will be accommodated largely in existing zoned residential release areas located at Cumbalum, Kinvara, Lennox Head, Skennars Head, Ballina Heights, West Ballina and Wollongbar.

Initial planning for these areas commenced in the early 2000s.

Additional potential for in excess of 1,000 residential lots exists within strategic urban growth areas (potential urban land release areas) under the adopted Ballina Shire Local Growth Management Strategy.

These areas are also reflected in the Ballina Local Environmental Plan 2012 (known under the plan as SUGAs).

These potential growth areas require further investigation to determine their suitability for urban areas and ultimately rezoning to enable urban development.

A significant portion of the strategic urban growth areas are affected by land constraints.

Constraints such as high biodiversity value, flooding and bushfire risk have been considered in estimating potential lot yields.

Action 14.1 in the draft LSPS promotes a review of strategic urban growth area locations to ensure Council's planning strategy associated with these areas remains contemporary.

Although the Shire has a sufficient residential land supply identified at present, it is important to progressively examine options for new land supplies (considering the various advantages and disadvantages) so that there is a platform for residential development in the period beyond the current land supply capacity.

That is, the current land supply is a product of planning done in the 1990s and early 2000s meaning there can be long lead times in enabling urban release for residential purposes.

Reviewing land supply options and potential new urban release areas also allows successive councils to consider the balance between greenfield housing supply and infill development over time and relative to preferred outcomes in each community in the Shire.

This is guided by Council's place based strategic plans.

It is intended that residential land release options beyond 2040 will be considered further as part of the preparation of a housing strategy, being action 6.4 under the LSPS.

Industrial Land Supply

The draft LSPS contains estimates of additional industrial land, as well as retail and office floor space requirements in the period to 2040.

These estimates are based on modelling undertaken by consultants Hill PDA and are contained in the 2019 *Ballina Commercial Centres and Employment Lands Strategy*.

In respect to industrial land supply it is estimated that an additional 50ha of industrial land will be required in the period to 2040.

Some 37ha of existing vacant zoned industrial land was identified by Hill PDA.

Assuming all of the above identified industrial land is found to be suitable for development, this leaves a balance of 13ha of new land to be provided.

This will require the rezoning of land.

Potential industrial sites identified by Hill PDA and referenced within the draft LSPS totals 140.3ha. All of the identified sites are affected by land constraints.

The sites with the most potential for an industrial rezoning, as identified in the draft LSPS, are the Southern Cross Industrial Estate expansion proposal (32ha), the Russellton Industrial Estate expansion proposal (23.2ha), and an area at Lennox Head, south-east of the Sanctuary Village manufactured home park on Ross Lane (21ha).

Hill PDA has indicated in their report that they consider it healthy to plan for surplus zoned land to ensure adequate supply and price competition between sites.

Retail and Commercial Land Supply

There is a forecast demand for 48,500m² of additional retail space and an additional 37,000m² of office space to meet demand in the period to 2040.

Hill PDA did not make any recommendations for the release of additional land to meet demand for either retail or office floor space.

It is considered that suitable capacity currently exists within zoned business areas to meet demand for the additional floor space that may be required.

Climate Change

The draft LSPS references Council's declaration of a climate emergency in November 2019.

The LSPS addresses climate change considerations by including an action to review strategic urban growth areas based on the capability of land to meet environmentally sustainable growth principles and the Land Release Criteria contained in the North Coast Planning Guidelines 2019.

The LSPS also includes an action to review land use planning controls and policy to incorporate climate action related risk response requirements.

Promoting economic sustainability

The approach with respect to stimulating economic activity is intended to leverage employment opportunities associated with key Shire infrastructure such as the Ballina Byron Gateway Airport, Ballina Hospital, and educational facilities including Wollongbar TAFE and the new Ballina Coast High School.

This requires detailed precinct planning to be undertaken in the short to medium term.

Economic sustainability will also be facilitated by protecting the Shire's rural hinterland from inappropriate development so as to maximise the economic potential of these areas.

Sustainability Considerations

- **Environment**
Actions contained within the draft LSPS aim to ensure future development is environmentally sustainable.
- **Social**
The LSPS is likely to result in social benefits through actions such as the proposed review of community infrastructure needs, and its focus on good urban design particularly in respect to public domain areas.
- **Economic**
The LSPS details land use requirements to facilitate economic sustainability within the Shire in the period to 2040. Proposed actions such as reviewing planning controls around major Shire infrastructure and strategies aimed at maintaining a supply of well located industrial land seek to achieve substantial economic benefits.

Legal / Resource / Financial Implications

Section 3.9 of the EP&A Act requires councils to prepare a LSPS and review it at least once every 7 years.

The draft LSPS has been prepared and publicly exhibited utilising existing staff resources. The finalisation of the LSPS will also be accommodated using existing staff resources.

In accordance with Council's resolution of 19 December 2019, Council wrote to the DPIE in January requesting financial support for the implementation of the LSPS. This matter is currently being considered by DPIE.

Consultation

The draft LSPS was publicly exhibited from 22 January 2020 until 20 March 2020. Given the challenges posed by Covid-19, additional submissions were accepted until 27 March 2020.

The community engagement strategy for the draft LSPS exhibition included:

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- Media advertising including Ballina Shire Advocate notice every 2 weeks during exhibition period
- Interview of staff on Paradise FM, extensive community adverts on Paradise FM up until close of the exhibition period
- Facebook posts on the Council's corporate page
- Emails to Wardell and Wollongbar Progress associations, Lennox Head Residents Association and business chambers for Ballina, Lennox Head and Alstonville
- Emails to persons on contact lists for the Wardell, Wollongbar and Alstonville strategic plans providing advice on the exhibition period
- Exhibition at Community Information and Customer Service centres
- Briefing to Lennox Head Community Group
- Internal staff consultation and
- Ward committee briefings.

In response, Council received 24 submissions. This included ten from Government bodies, four from groups or organisations and ten individual submissions.

A summary of the main issues raised in submissions is contained in the table below together with staff comments. See Attachment 3 for a full summary of submissions and responses.

Summary of Issues	Comments
Recommend that the LSPS includes more information on the heritage values of Ballina Shire Council and how it is considered during planning. Further submissions recommended including information about how consultation would be facilitated with the local Aboriginal Community	The LSPS has been amended to include more information relating to heritage. Actions to review and refresh the Ballina Shire Cultural Plan (2014-2020), and develop an MOU with Jali Local Aboriginal Land Council have been added to the LSPS.
Recommendation that connectivity of walking and cycling paths is ensured around key places such as schools, the hospital, main streets and shopping areas to enable greater access for everyone in the Shire.	The LSPS has been amended to insert an action to prepare DCP design guidelines which encourage active travel infrastructure around trip generators such as schools, major retail hubs, hospitals and large developments.
Regarding the expansion of the Russellton Industrial Estate, submissions were received both in favour and against the proposed expansion.	The land known as the Russellton Expansion Area has been previously identified for further investigation into its suitability for Industrial land in the adopted Wollongbar Strategic Plan. It is noted that it has significant constraints but investigation into suitability for further industrial uses is proposed to remain as a Planning Priority within the LSPS. This provides an option to address the projected shortfall in industrial land supply in the shire in the period to 2040.

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Summary of Issues	Comments
<p>Suggestion that two identified planning priorities are better suited to different themes:</p> <ul style="list-style-type: none"> - Planning Priority 10 <i>Maximise opportunities associated with the growth of South Eastern Queensland and the increased connectivity provided by the upgraded Pacific Motorway and digital technology</i> from Engaged Leadership to Prosperous Economy - Planning Priority 14 <i>Ballina Shire Council to provide leadership in mitigating and adapting to climate change</i> from Healthy Environment to Engaged Leadership 	<p>Both suggestions have been supported:</p> <ol style="list-style-type: none"> 1. The existing Planning Priority 10 from has been moved from <i>Engaged Leadership</i> to <i>Prosperous Economy</i> 2. The existing Planning Priority 14 has been moved from <i>Healthy Environment</i> to <i>Engaged Leadership</i>
<p>In order to more thoroughly respond to the North Coast Regional Plan, the preparation of a Housing Strategy based on DPIE guidance was recommended.</p>	<p>As part of the Local Growth Management Strategy review, BSC is soon to commence preparation of a Housing Strategy. This has been added as an action under Planning Priority 6 and is in response to Action 23.3 of the NCRP 2036.</p>
<p>Indicates that the LSPS requires further detail on how the Directions of the North Coast Regional Plan will be achieved, and how planning actions from the LSPS relate to planning actions documented in the Delivery Plan and Community Strategic Plan.</p>	<p>Appendix 4 in the draft LSPS contains a detailed table of North Coast Regional Plan directions and Ballina Shire Strategic Planning Action Responses. The appendix will remain, and the information contained in it has been additionally presented for each Planning Theme in the body of the plan.</p>
<p>Suggestion to remove the title “the elephant in the room” when referencing climate change.</p>	<p>It is understood that managing the impacts of climate change will remain an enduring priority for Council in the years to 2040, particularly when considering Ballina Shire’s topographical challenges.</p> <p>It is considered to be important to leave the title “<i>The elephant in the room</i>” to make a clear statement that managing and mitigating predicted climate change impacts requires ongoing and firm commitment. The declaration of a Climate Emergency in 2019 by Council marks the beginning of responding to the changing ways land use decisions will need to be considered into the future.</p> <p>The text in this section has been reviewed and various adjustments to the language made to reflect predicted and expected climate change outcomes and Council’s current policy approach to climate change.</p>

Copies of submissions received are contained within Attachments 4 and 5.

Changes following staff comment

Planning and Environmental Health divisional staff were invited to comment on the LSPS throughout the drafting process.

This has resulted in two changes to the draft LSPS:

1. Provide additional opportunities for economic development within the Shire through the facilitation of co-working and business innovation facilities.

Discussion has been included to highlight the strategic importance of facilitating co-working and business innovation facilities at the Industrial Expansion precinct at the airport.

Hill PDA identified demand for an 'innovation hub' to support the region's growing food product manufacturing industry.

To support these business development opportunities, this work has also identified demand for co-working facilities.

Co-working is a form of office premises that is occupied on a temporary or casual basis configured with open-plan "hot-desks" board room/meeting rooms, internet access and printing and copying facilities.

Co-working facilities may also provide networking and workshop space for professional development activities.

There are no recommendations to release additional land to meet demand for either retail or office floor space in the period to 2040.

It is considered that capacity exists within zoned business areas to generate the additional floor space that is expected to be required.

The addition of this commentary has not generated any further actions within the LSPS.

2. Strengthen commitment to preserve and celebrate local character

The LSPS now reinforces that with the growth forecast in the period to 2040, there is a responsibility to ensure new development is guided so that it enhances the local character of the different towns and villages within our shire.

Planning Priority 10 has been amended so that it now reads: Ensure that new development enhances local character and is of a high standard in accordance with best practice guidelines applicable to Northern and Regional NSW.

The following actions have been included to deliver the Planning Priority:

- 10.5 Prepare LEP and DCP provisions to facilitate the development of high quality, well designed urban form that fits local character.
- 10.6 Include local character assessment within new and reviewed place based strategic plans.

Options

Option 1 - Council adopts the draft Local Strategic Planning Statement as contained in Attachment 1.

This approach involves adopting the LSPS contained in Attachment 1, which has been amended to reflect the outcomes of the public exhibition process in line with the changes set out in this report. This is the recommended option.

Adoption of this option will prompt the LSPS to be sent to the Department of Planning, Industry and Environment to invite the Department's endorsement. The LSPS will also be published on the NSW planning portal by the due date of 1 July 2020.

In adopting the LSPS, Council may make changes as considered appropriate.

In finalising the LSPS, final formatting will be undertaken for publication of the document.

Option 2 – Council defers further consideration of the Local Strategic Planning Statement pending a Councillor briefing.

This option is not recommended primarily as the LSPS has been prepared based on existing strategic plans, extensive engagement with DPIE and community engagement.

The timeframe for adoption in line with DPIE requirements is also a factor to consider.

Council is currently required to gain the DPIE's endorsement and publish the LSPS by 1 July 2020.

However, this option is open to Council should additional information or clarification be required.

RECOMMENDATIONS

1. That Council adopts the Ballina Shire Local Strategic Planning Statement (LSPS), as included as Attachment 1 to this report.
2. That Council thanks those who made submissions to the draft LSPS.
3. That Council forwards the adopted LSPS to the Department of Planning Industry and Environment to invite the Department's endorsement.

Attachment(s)

1. Draft Ballina Shire LSPS (Amended Post Exhibition)
2. LSPS Priorities and Actions
3. LSPS submission summary
4. LSPS submissions as received part 1
5. LSPS submissions as received part 2

8.10 Lennox Village Vision - Draft Concept Plan

Delivery Program

Strategic Planning

Objective

To present the Lennox Village Vision Draft Concept Plan for Council's endorsement and to examine options for the timing of construction works.

Background

A report was presented to Council at the 27 June 2019 Ordinary meeting providing an evaluation of the Lennox Village Vision (LVV) one-way traffic trial in addition to outlining suggested next steps, timing and funding needed for progressing the LVV project.

Council resolved at the 27 June 2019 Ordinary meeting as follows:

1. *That Council proceeds with the implementation of the Lennox Village Vision project generally in line with the approach outlined in figures 4 and 6 within this report subject to the receipt of a report addressing funding options for those aspects of phases 2 and 3 of the project that do not currently have identified funding.*

A report was presented to Council's 22 August 2019 Ordinary meeting addressing this resolution with respect to funding options for phases 2 and 3 of the project. Figures 4 and 6 referred to in the resolution above are reproduced as follows:

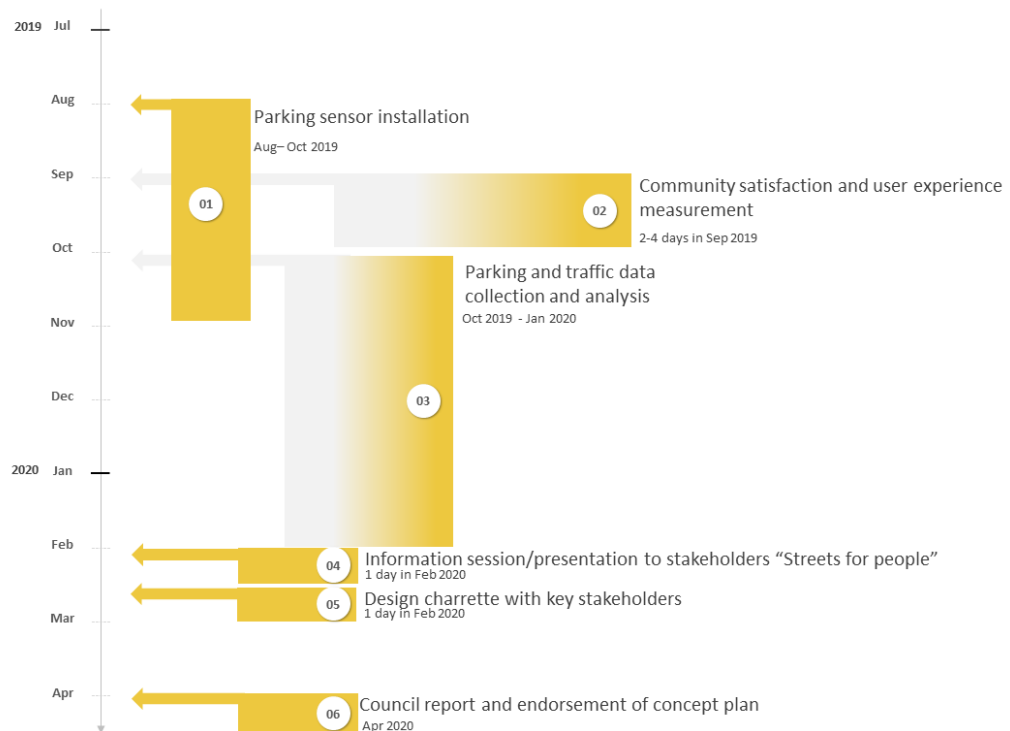


Figure 1. Indicative timeline - Lennox Village Vision remaining steps in Phase 2 (Master planning) (presented as Figure 4 in report to 27 June 2019 Council report)

8.10 Lennox Village Vision - Draft Concept Plan

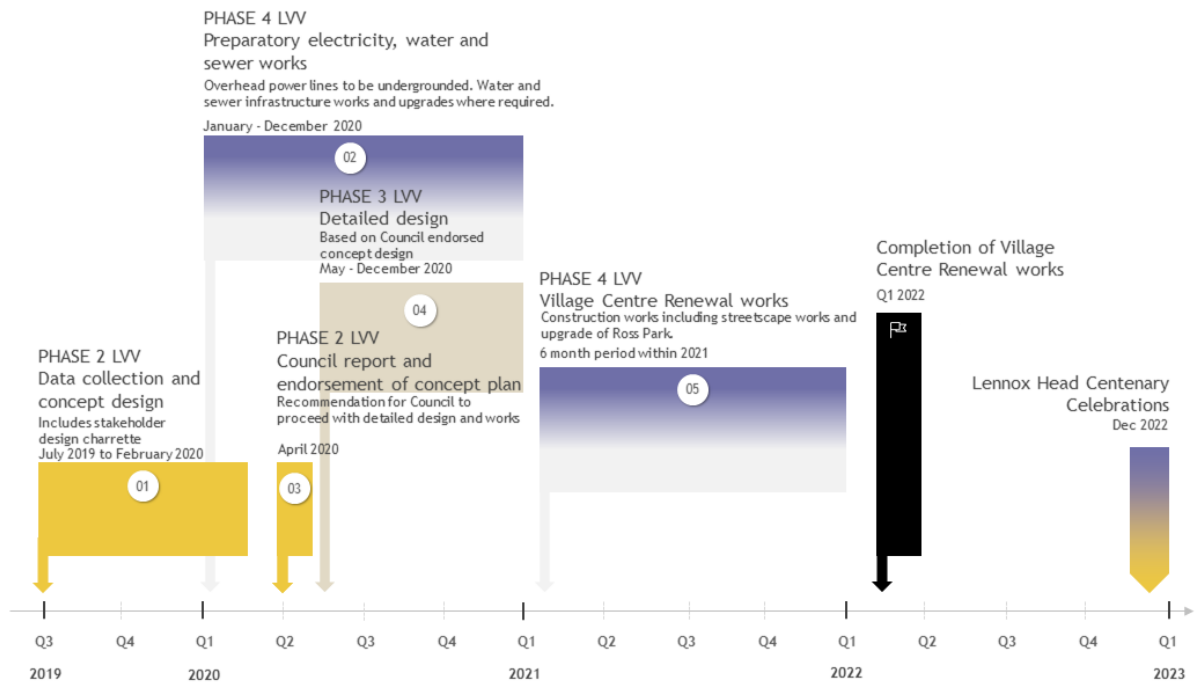


Figure 2. Indicative timeline – remaining phases in LVV process to completion of Lennox Head village centre renewal works (presented as Figure 6 in 27 June 2019 Council report)

The data collection and concept design stages of Phase 2 of the LVV process are now complete.

This report presents a summary of the data collected over this phase and an overview of the design charrette component which formed the ideas, concepts and priorities for the Lennox Village Vision Draft Concept Plan as presented in Attachment 1 to this report.

The purpose of this report is to seek direction on the progression of the project.

Key Issues

- Draft concept design
- Cost and funding
- Construction timeline

Information

Community Satisfaction and User Experience Measurement

Council engaged Place Score, a company that specialises in place metrics research, to undertake community satisfaction and user experience measurement of the Lennox Head village centre and main street (Ballina Street).

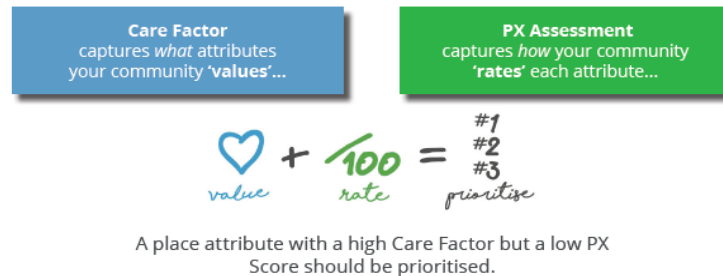
Place Score offers two data collection tools, Care Factor and Place Experience (PX) Assessments.

8.10 Lennox Village Vision - Draft Concept Plan

These two tools act like a 'place census' to capture what the community really values and measure the community's lived experience.

The analysis of both data sets help identify what is important, how a place is performing and what the focus of change should be. An attribute with a high Care Factor but a low PX Assessment should be a priority for investment.

HOW THE PLACE SCORE SYSTEM WORKS:



Place Score, Council staff and community volunteers collected face-to-face surveys between 28-29 September 2019. This data was used as the basis for a Village Centre Community Insights Report and Place Experience (PX) report for the main street and is presented in Attachment 2.

A link to the reports was also provided to Councillors in the 1 November 2019 Councillor Bulletin.

The insights provided by the Place Score assessments have been used to help guide the concept design for the village centre renewal.

Parking and Pedestrian Data Collection and Analysis

In order to better understand parking demand, capacity, and pedestrian crossing movements within the Lennox Head village centre, parking and pedestrian audits were undertaken throughout the village centre in December 2019 and January 2020.

Parking occupancy data was gathered between 8am and 5pm on the following days:

- Thursday 12 December 2019 (during school term)
- Thursday 9 January 2020 (during school holidays)
- Saturday 11 January 2020 (during school holidays)

A summary of the key findings of the parking audit is presented in Attachment 3.

Key points to highlight include:

- 489 publically accessible car parking space exist within a 250m radius from the centre of the village (shown as the Combined Central Region in Attachment 3).
- An additional 96 spaces exist within a 250m – 400m radius from the village centre (shown as the Northern and Southern Regions in Attachment 3).

8.10 Lennox Village Vision - Draft Concept Plan

- At no time during the parking audit did car parking in the Combined Central Region of the village centre reach optimal occupancy of 85%. Parking occupancy of 85% - 90% during peak periods represents the optimal balance between ease of finding a space and the efficient use of parking resources.
- There are a substantial number of cars in the Combined Central Region of the Lennox Head village centre that were parked for longer than six hours, suggesting the cars belong to employees of businesses or residents living in the central region of the village centre.

A pedestrian road crossing desire line survey was undertaken along Park Lane and Ballina Street on Thursday 5 December 2019 in order to gauge popular road crossing movement patterns by pedestrians. The results are presented in Attachment 4. The information provided by this audit has been considered in designing the concept for the LVV project.

Design Charrette

Over the weekend of 14-15 March 2020, community stakeholders and interest group representatives participated in a two-day design charrette process facilitated by expert place-maker and urban designer Kylie Legge from Place Score.

The purpose of the charrette was to take the findings from previous community engagement activities and progress them to spatial design outcomes that could be used to guide the preparation of a community driven concept design for the village centre, and subsequently construction of the village centre renewal works.

A total of 24 people participated in the charrette process including seven staff and 17 community members representing different interest groups and demographic age groups as follows:

Community Stakeholder Groups	Staff
Lennox Head Residents Association	Manager Strategic Planning
Lennox Head Chamber of Commerce	Landscape Architect
Lennox Head Landcare	Sustainability Planner
Lennox Arts Board	Design Engineer
Ballina Environment Society	Team Leader Visitor Services
Lennox Head Community Pre School	Coordinator Construction
Lennox Head Rural Fire Brigade	Open Space Development Officer
Lennox Head Heritage Committee	
Ballina Street business owners	
Ballina Street property owners	
Lennox Head residents from age groups - 18-34, 35-49, 50-64, 65+	

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Jali Local Aboriginal Land Council, Lennox Head Combined Sports Association and Lennox Head Public School were also invited to the design charrette. However, representatives were not available to attend.

The design weekend commenced with presentations by Steven Burgess of Complete Streets.

Steven is an engineer and urban strategist with 30+ years' experience in planning and designing resilient and liveable places.

His presentations looked at the long-term relationships between urban form, mobility and community vitality and opportunities to build happier and healthier towns through better street making.

Activities that were a part of the first day of the weekend charrette included setting the brief for the future, image play, which sought to provide design direction relating to the look and feel of the village and around-the-table design focused on five priority precincts over the study area.

This information was used to develop a common vision for the future of the village centre and a preliminary sketch concept design, which was further refined by the design charrette group on the second day of the charrette.

The Lennox Village Vision Design Charrette Outcomes Report is presented in Attachment 5 and gives an overview of the design activities and key outcomes from the charrette.

Draft Concept Design

The draft concept plan presented in Attachment 1 reflects the community vision and design principles that were derived through the community feedback received for this project since 1997 and refined through the community design charrette and concept design process.

A preliminary draft concept plan for the Lennox Village Vision project was provided to the community participants of the design charrette to disseminate and gain feedback from their respective networks.

The feedback received has been considered and changes to the preliminary draft plan have been made where reasonable, resulting in the current version of the draft concept plan in Attachment 1.

This feedback will be collated and reported to Council with any submissions received from the public exhibition process, which is yet to occur.

Design details such as materials and landscaping palette, locations of street furniture, smart parking technology, lighting etc will be included in the detailed engineering design plan, which will be prepared after public exhibition and adoption of the draft concept plan by Council.

Timeline Options

Two timeline options are presented below for implementation of the remaining phases of the LVV project.

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Timeline Option 1

The indicative timeline presented in the reports to the June and August 2019 Ordinary Council meetings placed construction work for the village centre renewal as commencing in 2021. The timeline shown in Figure 3 below follows this original indicative timeline and provides more details on key stages remaining for the process.

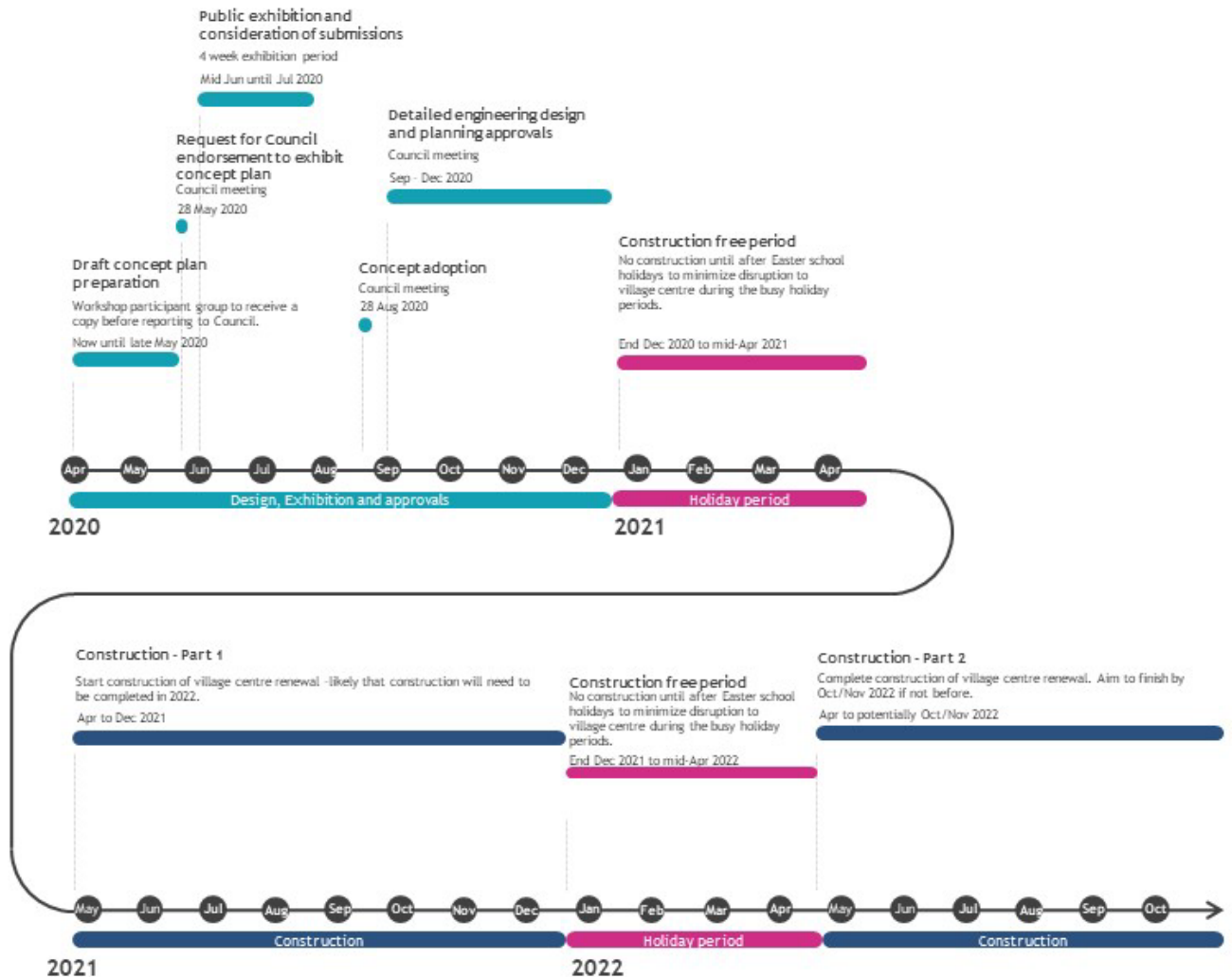


Figure 3. Timeline Option 1 - Construction begins after Easter 2021

This option enables completion of the LVV village renewal works before the Lennox Head Centenary in December 2022.

However, construction may cause further impacts to businesses after they have experienced the impacts of COVID-19 restrictions, which are assumed will be in place for a large part of 2020.

Timeline Option 2

The COVID-19 pandemic will continue to cause impacts to local businesses and economies, likely to be experienced for the next few years.

COVID-19 restrictions of some scale are likely to remain for the remainder of 2020, if not longer.

8.10 Lennox Village Vision - Draft Concept Plan

In light of the economic uncertainty and potential losses experienced by main street businesses, as a result of the pandemic, an alternative timeline option is presented below.

This timeline may allow the business community some time to recover from COVID-19 impacts before construction works commence for the project.

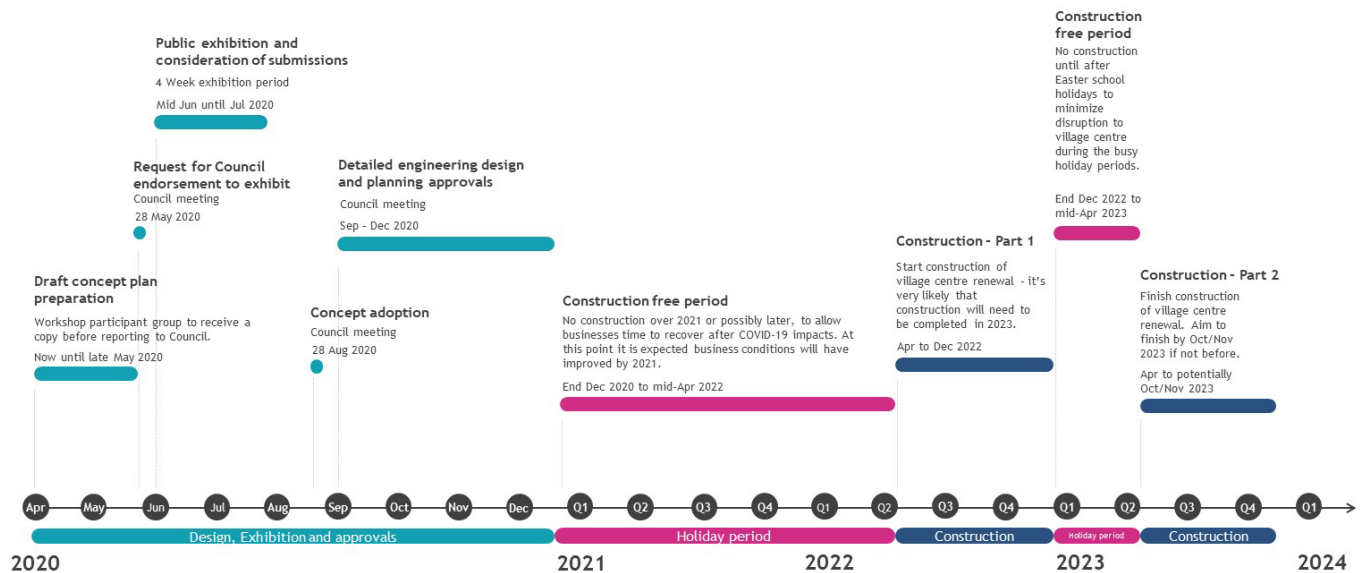


Figure 4. Timeline Option 2 - Construction begins after Easter 2022 or later

This option will result in the village centre renewal not being completed by the Lennox Head Centenary in December 2022.

However it allows a year (or longer) for businesses to recover from COVID-19 impacts.

This is based on the assumption business conditions improve by 2021.

Another disadvantage in adopting this timeline option is that the greater the time period between concept adoption and construction, the greater the risk that decisions are revisited (e.g. construction will not start in this term of Council and the next elected Council could alter decisions already made regarding the project). This could result in delay and uncertainty in the delivery of the project.

Under either of the options presented above, construction for the Ross Park component of the LVV design could commence earlier than April 2021.

This aspect of the project is the least disruptive component to businesses due to the minimal impact it will have to pedestrian and vehicle access to the village centre.

Staging the LVV construction so that Ross Park occurs first would also result in the completion of a central component to the LVV design, which would have a large positive impact on the village centre.

Should the opportunity arise to apply for any stimulus grant funding from the State or Federal Government, then the adopted timeline may need to be changed in order to satisfy funding eligibility criteria. If this eventuates, a modified timeline for project completion will be presented to Council.

Sustainability Considerations

- **Environment**

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

- **Social**

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

- **Economic**

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

Legal / Resource / Financial Implications

Detailed costing of the works presented in the concept design will be calculated in conjunction with the preparation of the detailed engineering design for the project.

However, an approximate costing and staging plan will be prepared and placed on public exhibition alongside the draft concept plan in order for the community to get a clear understanding of the likely costs and construction stages for the entire LVV design.

As a guide it is expected that completion of the full scope of works presented in the draft concept plan (Attachment 1) will cost in excess of the currently allocated budget of \$6m. Grant funds or additional Council funding will be needed to deliver the entire scope of the project.

Detailed engineering design, costings and a staging plan for construction can be completed with the current resources of the Civil Services and Planning and Environmental Health divisions.

Consultation

Council has undertaken significant community engagement throughout the LVV village centre renewal process to date including:

- Targeted community engagement and data collection undertaken in 2018 - including meetings with Lennox Head interest groups, online survey and traffic data collection.

8.10 Lennox Village Vision - Draft Concept Plan

- One way traffic trial in March - April 2019 – online survey to which 1057 community members responded, and where 21 submissions were received. This is detailed in the report presented to the June 2019 Ordinary Council meeting.
- Place Score community satisfaction and user experience measurement undertaken in September 2019 as detailed earlier in this report and in Attachment 2.
- Community-led design charrette held in March 2020 as detailed earlier in this report and in Attachment 5.
- Preliminary draft concept plan feedback in May 2020 from participants of design charrette as mentioned earlier in this report.
- Councillor Briefing held on 11 May 2020 to present the preliminary draft LVV draft concept plan and timeline options.

The LVV draft concept plan is to be publicly exhibited to gain wider feedback.

A high level costing and staging plan will be placed on public exhibition alongside the draft concept plan in order for the community to get a clear understanding of the likely costs and construction stages for the entire design. After public exhibition a summary of any feedback received, along with an amended draft concept plan (if required), will be reported back to Council.

Options

Option 1 – Endorse the LVV Draft Concept Plan for public exhibition and adopt Timeline Option 1 where street based construction will start after Easter 2021.

This is the recommended approach and would involve the public exhibition of the LVV Draft Concept Plan (as presented in Attachment 5 to this report) and an associated high level costing and staging plan.

Following public exhibition of the draft concept plan, a report on the feedback received and an amended draft concept plan based on feedback (if required) would be presented to the Council to consider the draft plan prior to its adoption.

Construction would commence after the Easter school holidays in April 2021 under this option. However, construction for the Ross Park component of the LVV design could potentially commence earlier than April 2021 as the works for this component are the least disruptive to businesses due to the minimal impact it will have to pedestrian and vehicle access to the village centre.

This is the preferred approach as it enables completion of the LVV renewal works in a shorter timeframe, which will result in the economic, social and environmental benefits of the renewal works being realised sooner than proposed for the other options presented below, and prior to the Lennox Head Centenary in December 2022.

Option 2 – Endorse the draft LVV concept plan for public exhibition and adopt Timeline Option 2 where street based construction will start after Easter 2022 or later.

The difference between this option and Option 1 is that village centre renewal construction works would not commence until after the Easter school holidays in 2022 (or later).

Similarly to Option 1, construction for the Ross Park and Lennox Park components of the LVV design could potentially commence earlier than April 2022 as these works are the least disruptive to businesses due to the minimal impact they will have to pedestrian and vehicle access to the village centre.

This approach may enable some time for businesses to recover from COVID-19 economic impacts, however, village centre renewal works would not be completed until 2023 or later, and after the Lennox Head Centenary has occurred. This option is not recommended due to the delay in the completion of the project and for the reasons mentioned in Option 1 above.

Option 3 – Defer consideration of the LVV draft concept plan in order to receive further information on this matter.

This option is not recommended as it further delays commencement of construction of the village centre renewal works. Council will have an opportunity to receive further information and again consider the draft concept plan once public exhibition is complete and the plan is reported back to Council.

RECOMMENDATIONS

1. That Council proceed with the implementation of the Lennox Village Vision (LVV) project following the timeline outlined in Figure 3 of this report, inclusive of the option of commencing construction works on the Ross Park component of the LVV design prior to April 2021.
2. That Council endorses the Lennox Village Vision Draft Concept Plan as contained in Attachment 1 for public exhibition.
3. That a Councillor briefing be held towards the end of or following the public exhibition of the draft concept plan.
4. That Council receive a further report on the LVV Draft Concept Plan following completion of the public exhibition period.

Attachment(s)

1. Lennox Village Vision Draft Concept Plan
2. Lennox Head Village Centre Community Insights and Place Experience (PX) Reports
3. Lennox Head Village Centre Parking Audit - Key Findings
4. Lennox Head Village Centre - Pedestrian Movement - Road Crossing Desire Lines Survey Results
5. Lennox Village Vision Design Charrette - Outcomes Report

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

Delivery Program

Strategic Planning

Objective

To invite the Council to consider seeking an amendment to the Gateway determination for BSCPP 13/005 to change the scope of the current LEP amendment proposal.

Background

The progress of the Southern Cross Industrial Estate expansion project has been impacted by design considerations associated with the delivery of Airport Boulevard, particularly as it relates to interactions with environmental offsets and drainage. With the approval of the Airport Boulevard project now in place and construction underway, further progress is being made with respect to the industrial estate expansion project investigations.

As Councillors are aware, Council has received funding support, through the Growing Local Economies (GLE) fund, to assist the delivery of an initial stage of the expansion area development to accommodate specialised land uses.

Whilst rezoning studies are being progressed for the expansion area, assessments associated with the drainage and flooding for the entire site will require an iterative design process which has the potential to push the rezoning-approval-development timeframe beyond the GLE funding agreement timeframe.

Notwithstanding, the part of the site on which the GLE funded stage is located is presently identified as relatively less constrained than the broader potential industrial expansion area. As a consequence, it is considered prudent to expedite the progress of that part of the site subject to the GLE grant by way of an amended planning proposal.

The purpose of this report is to seek Council's direction with respect to this matter.

Key Issues

- Economic development
- Industrial land availability
- LEP amendment site capability and suitability assessment and process

Information

A Gateway determination for the Southern Cross Industrial Estate Expansion Area Planning Proposal (BSCPP 13/005) was initially sought following Council's resolution of 27 June 2013.

A Gateway determination allowing the LEP amendment process to progress was issued by the (then) Department of Planning on 23 July 2013.

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

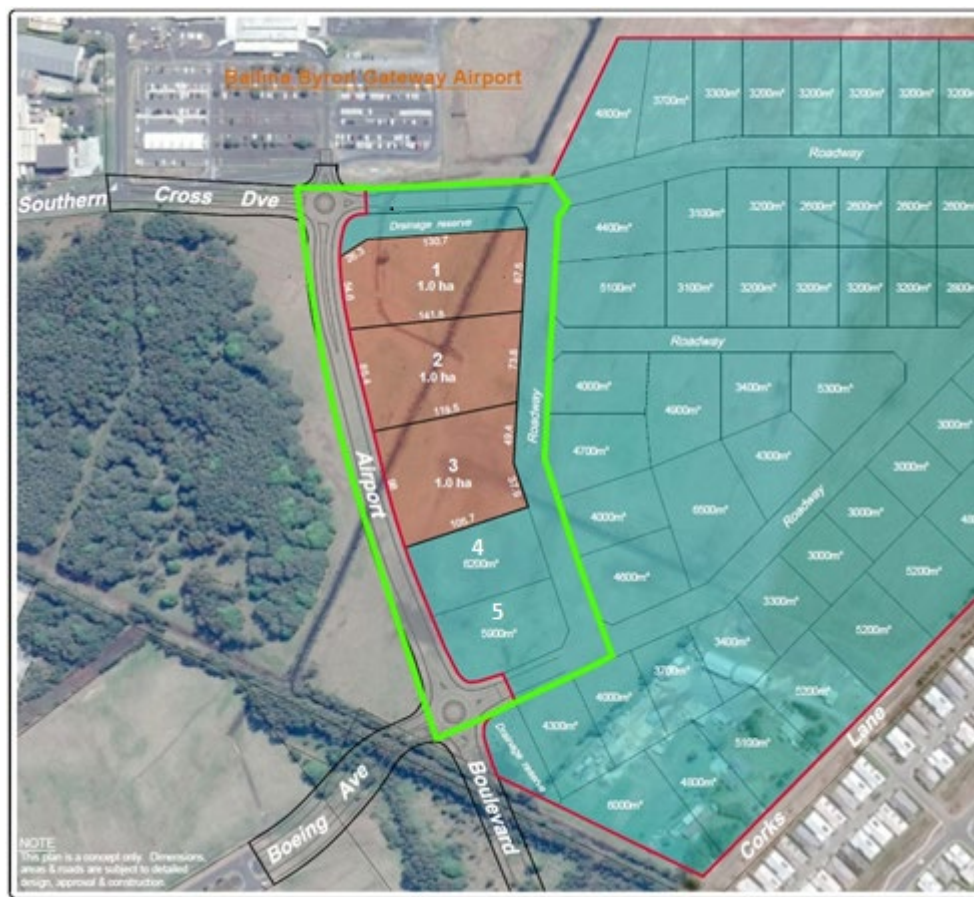
Various extensions to the current Gateway determination completion timeframe have been provided by the Department of Planning, Industry and Environment.

As noted above, delays to the progress of the planning proposal have related to the delivery of the Airport Boulevard with particular regard to overlapping and relating environmental assessments required as a part of the design and approval process.

The timeframe agreed with the NSW Government with respect to the Growing Local Economies Fund has a delivery timeframe for the developed lots relating to the agreement is February 2021.

As noted above, the drainage and flooding assessments required to progress the development of the entire expansion area site will require an iterative design process in order to achieve a floodway and drainage design that meets the required conveyance and treatment standards.

In order to meet the delivery timeframes required of the GLE grant, staff recommend seeking to focus the planning proposal and associated assessment on the first stage of the development, relating to the GLE grant. A map identifying this area, being bounded by the light green line is provided below.



Under this approach, Council would formally seek the Department's agreement to amend the current Gateway Determination to apply to the reduced study area (Stage One comprising lots 1-5).

Regional Staff in the Department of Planning, Industry and Environment have been consulted regarding this matter and support this approach. It is understood the Department's position reflects an eagerness to have the current planning proposal process concluded due the length of time that has elapsed since the original gateway determination in 2013.

A separate planning proposal would be sought for the remainder of the expansion area once the integrated flooding and drainage studies are more advanced.

Council is invited to consider endorsing the above approach.

Sustainability Considerations

- **Environment**
The planning proposal will address all relevant environmental matters associated with the development of the site.
- **Social**
The development of this site presents social benefits associated with employment and business development opportunities.
- **Economic**
This proposal seeks to provide additional employment lands to facilitate ongoing economic development opportunities in Ballina Shire.

Legal / Resource / Financial Implications

Amendment of the Gateway determination is the appropriate statutory process to enable the staged assessment of land use and development within the Southern Cross Precinct.

Consultation

The planning proposal, once amended and endorsed by the Council, will be subject to public exhibition in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Options

The following options are presented for Council's consideration in progressing this matter.

Option One – Amend the Gateway Determination

Council could resolve to seek an amendment to the Gateway Determination for planning proposal BSCPP 13/005 for the Southern Cross Estate expansion to focus on the subject area as outlined in the body of this report. Council could also resolve to receive a further planning proposal request for Council endorsement for the remainder of the Southern Cross Precinct once the required technical studies are completed.

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

This option is recommended on the basis that this approach would provide for the timely and efficient progress of the assessment associated with the first stage of the Southern Cross Industrial Estate expansion.

Option Two – Maintain the Current Approach

Council could maintain the current approach regarding the Southern Cross Industrial Estate expansion project.

This option is not recommended on the basis of the potential for the delays in the technical assessment of flooding and drainage matters (in particular) to slow the progress of the assessment of the proposed rezoning such that the timeframes associated with the Growing Local Economies Fund grant may not be able to be met (should the land ultimately be determined to be suitable for rezoning)

Option Three – Defer the Matter

Council could resolve to hold a briefing should further information be required with respect to this matter.

This option is not recommended, however it is available should the Council wish to receive further information.

RECOMMENDATIONS

1. That Council seek to amend the Gateway Determination for the Southern Cross Precinct Expansion planning proposal BSCPP 13/005 to apply to stage one (lots 1-5) as outlined in this report.
2. That a new planning proposal be presented to Council addressing the balance of the Southern Cross Precinct Expansion area once the required technical studies are complete.

Attachment(s)

Nil

8.12 Planning Proposal - Rural Industry Definition Change

8.12 Planning Proposal - Rural Industry Definition Change

Delivery Program

Strategic Planning

Objective

To present the outcomes of the public exhibition of Planning Proposal BSCPP 19/005 and to seek Council's direction with respect to the finalisation of the proposed LEP amendment

Background

Planning proposal BSCPP 19/005 seeks to substitute the definition of *rural industry* applicable to Ballina LEP 1987 with the definition of *rural industry* contained within the Standard Instrument – Principal Local Environmental Plan (and Ballina Local Environmental Plan 2012).

The preparation of this planning proposal followed from community objection to a development application (DA 2018/597) that proposed establishment and operation of a *water supply system* on the Alstonville Plateau, including transporting the water to a another site for bottling.

In response to the public exhibition of the development application over 1,000 community objections were received.

This prompted Council to debate a Notice of Motion at the Ordinary Council meeting on 22 November 2018.

The Notice of Motion expressed concern relating to the impact of potential ground water extraction on the aquifers located on the Alstonville Plateau and others within the shire.

Council resolved to receive a report on *options to amend the LEP to prohibit water extraction for the purposes of other than for agriculture or domestic uses*.

A report was presented to Council's 28 November 2019 Ordinary meeting, which considered the statutory framework related to water extraction for non-agricultural or domestic use within the shire's rural area and concluded that such use could be characterised as a *rural industry*, and as a result is permissible with consent under the provisions of the current Ballina LEP 1987.

The report recommended changing the definition of rural industry under the Ballina LEP 1987 to the definition contained within the Standard Instrument – Principal Local Environmental Plan (which is the definition contained in the Ballina LEP 2012).

Council at its Ordinary meeting held 28 November 2019 resolved as follows:

1. *That Council prepare a planning proposal which seeks to substitute the definition of rural industry contained within Ballina LEP 1987 with the Standard Instrument definition of rural industry.*
2. *That the planning proposal once prepared be forwarded to the Department of Planning Industry and Environment for a Gateway Determination.*

8.12 Planning Proposal - Rural Industry Definition Change

3. *That the Department of Planning Industry and Environment be advised that Council seeks to exercise the functions of the local plan-making authority under section 3.36(2) of the Environmental Planning and Assessment Act 1979 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 and after the release of the final report of the NSW Chief Scientist and Engineer into the Impacts of the Bottled Water Industry on Groundwater Resources in the Northern Rivers Region of NSW.*

This planning proposal has been prepared in relation to point one of the resolution and applies to the parts of Ballina Shire, to which Ballina LEP 1987 applies.

The definition of *rural industry* currently applicable to Ballina LEP 1987 provides as follows:

Rural industry means handling, treating, processing or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

The definition of *rural industry* contained within the Standard Instrument – Principal Local Environment Plan and Ballina LEP 2012 is as follows:

Rural industry means the handing, 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,*
- (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 latter definition (Standard Instrument) limits products to animal or plant agricultural products, thus excluding water as a primary product.

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.

Key Issues

- Content and relevance of policy
- Consideration of the outcomes of the public exhibition process
- Finalisation of the LEP amendment

Information

Planning Proposal Progress

An affirmative Gateway determination was issued by the Department of Planning, Industry and Environment on 14 January 2020 allowing the planning proposal to proceed subject to conditions.

The planning proposal was exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of advertisement in the local newspaper. Copies of the document were made available at Council's Community Access Points.

Seventy eight submissions were received, 62 of which were signatories to a petition.

The public submissions were overwhelmingly supportive and did not recommend any amendments be made to the Planning Proposal. Based on the submissions there has been no change to the policy as exhibited.

The Gateway determination required Council to consult with the Department of Planning, Industry and Environment – Water Group, NSW Rural Fire Service and the NSW Chief Scientist and Engineer. Submissions received did not state any objection to the planning policy as exhibited.

Chief Scientists Report (Final report: Independent review of the impacts of the bottled water industry on groundwater resources in the Northern Rivers region of NSW)

The review was released by the NSW Chief Scientist and Engineer in December 2019.

The review largely deals with issues including current water allocations, assumptions and uncertainty in Water Sharing Plans, the sustainability of Water Sharing Plans extraction limits, the use of data and the assessment and management of potential impacts of water extraction.

It made seven recommendations, particularly in order to improve the accuracy of recharge estimates and monitoring systems.

Within the Northern Rivers region, there are four groundwater sources included in the review including the Alstonville Basalt Plateau. Across the region, extracting for bottled water accounts for 0.008% of estimated total annual aquifer recharge.

The review surmised that the annual aquifer recharge is fully allocated for the Alstonville Basalt Plateau, with 82% reserved for the environment and the remainder that is available for licenses is fully allocated.

The review found that there are currently low levels of current ground water monitoring, partly due to the cost of available systems and lack of data available.

The review noted that open access to government and industry water data on extraction and monitoring presented in a standardised form would assist in the decision making around water planning and management.

8.12 Planning Proposal - Rural Industry Definition Change

The review also recommended that work was undertaken by state agencies and local government to clarify roles and responsibilities to streamline assessment and approval processes, to avoid duplication of effort, and to address any gaps within the assessment and approvals process.

Of relevance to the planning proposal, the review recognised ongoing community concern about water allocation and use, especially in regard to the impacts of climate change and long-term drought.

The final report did not specifically address the permissibility issue. It was noted in the submission received from the Chief Scientist and Engineer on the planning proposal that “*A determination about the bottled water industry was not within the Review Terms of Reference*”.

There is considered to be no conflict between this planning proposal and the recommendations made within the review.

Sustainability Considerations

- **Environment**

The adoption of the planning proposal, which further restricts the potential for water extraction not associated with uses otherwise permitted within Ballina’s rural hinterland, seeks to support regional water security in relation to local drinking water and agricultural water use.

- **Social**

Adoption of the planning proposal, which seeks to reduce the likelihood of water extraction development similar to that proposed under DA 2018/597), is compatible with agricultural values associated with the Alstonville Plateau.

- **Economic**

No substantive adverse economic consequences from adopting a strategy designed to prohibit the extraction of water for uses not otherwise permitted within rural zones, or other zones, have been identified.

Legal / Resource / Financial Implications

Completion of the planning proposal can be accommodated within existing resources. The finalisation of the proposed LEP amendment is proposed to be undertaken under delegation provided to Council by the Department of Planning, Industry and Environment.

Consultation

The planning proposal was placed on public exhibition from 22 January until 21 February 2020. Notification included an advertisement in the Ballina Shire Advocate and documents were made available for viewing on Council’s website as well as community access points.

8.12 Planning Proposal - Rural Industry Definition Change

Consultation required by the Gateway Determination was undertaken with The Department of Planning, Industry and Environment – Water Group (Natural Resources Access Regulator), NSW Rural Fire Service and NSW Chief Scientist and Engineer. No objections to the planning proposal were raised.

In response, 78 public submissions were received in support of the planning proposal with no objections. Attachment 2 contains copies of the submissions.

The following table provides a summary of the main issues raised within the submissions together with staff comments.

Table 1 – Summary of issues raised in submissions and staff comments

Author	Submission Summary	Response
NSW Chief Scientist and Engineer	No reference to the review appeared in the planning proposal. Requested that the final report be provided in full as part of advice to Council.	Noted. Councillors have previously been notified of the Chief Scientist and Engineer's report. A full copy of the report is available from the Office of the Chief Scientist and Engineer's website ¹ . No change to planning proposal.
NSW Rural Fire Service	No concerns or issues in relation to bush fire.	Noted. No change to planning proposal.
Natural Resources Access Regulator	No objections or further comments.	Noted. No change to planning proposal.
Multiple	States the planning proposal is totally supported on the following grounds: <ul style="list-style-type: none"> Alstonville Aquifer Water is a finite resource Any water extracted from the aquifer should be used in the location it is extracted, to support agricultural industry, stock and domestic consumption within the shire Overwhelming local support against water mining Protection of the environment 	Noted. No change to planning proposal.
Multiple	The submission supports the planning proposal particularly in regard to removing the potential for water harvesting for non-agricultural or domestic purposes.	Noted. No change to planning proposal.
CR & CS Quick	Indicates that the existing definition of rural industry was too broad and substitution with the Standard Instrument definition is supported. The definition of 'agriculture' under the BLEP 2012 is too broad and should be specific under listing of (a) agricultural produce industries, particularly in regard to wholesale plant nurseries and associated negative amenity impacts.	Noted. No change to planning proposal. No change to the definition of agriculture is proposed as this definition is not the subject of the planning proposal.

¹ <https://www.chiefscientist.nsw.gov.au/reports/independent-review-of-impacts-of-the-bottled-water-industry-on-groundwater-resources-in-the-northern-rivers-region-of-nsw>

Options

The following options are available to Council.

Option 1 – Council could resolve to finalise the planning proposal.

This is the recommended option.

The planning proposal has been prepared as a result of a resolution of the Council. Adoption of this option will result in the LEP amendment being finalised as exhibited. The exhibition and consultation processes have not identified any issues that suggest the planning proposal does not have sufficient merit to be finalised.

Council would proceed to complete the amendment under delegated authority granted to Council by the Department of Planning, Industry and Environment.

Option 2 – Council could resolve to amend the planning proposal.

Council may resolve to amend the planning proposal prior to finalisation.

This option is not recommended given the change advances the intended objective of Council and the high level of community support for the proposed change.

Amendments would also likely result in an altered Gateway determination being required and therefore an extension to the timeframe for completion of the planning proposal.

Option 3 – Council could resolve to discontinue the planning proposal.

This option would involve Council taking no further action with respect to the matter, other than advising submitters to the public exhibition and the Department of Planning, Industry and Environment of Council's decision.

Discontinuation is subject to the agreement of the Minister for Planning.

This option is not recommended.

RECOMMENDATIONS

1. That Council authorises the General Manager to finalise and implement Planning Proposal BSCPP 19/005 - Rural Industry Definition Change in relation to the Ballina Local Environmental Plan 1987 as detailed in Attachment 1, under delegated authority.
2. That those persons who made submissions be thanked for their contribution and provided with advice as to Council's decision with respect to this planning proposal.

Attachment(s)

1. BSCPP 19/005 - Planning Proposal (Exhibition)
2. BSCPP 19/005 - Submissions

8.13 Ballina Shire Development Control Plan 2012 - Draft Amendment No.13

Delivery Program

Strategic Planning

Objective

To advise Council in relation to a periodic review of the Ballina Shire Development Control Plan 2012 and to seek direction on the public exhibition of proposed amendments.

Background

At the December 2012 Ordinary meeting Council resolved to adopt the Ballina Shire Development Control Plan 2012 (DCP). The DCP commenced operation in conjunction with the Ballina Local Environmental Plan 2012 (LEP) on 4 February 2013.

Since adoption of the DCP a number of amendments have been endorsed by Council including eight general amendments resulting from periodic review processes.

The most recent suite of general changes occurred through Amendment No. 12, which was adopted at the September 2019 Ordinary meeting.

Review of the DCP is an iterative process undertaken periodically as resources permit. Matters arising with respect to the operation and interpretation of the DCP are researched and addressed through this review process. This ensures that the DCP is able to remain a contemporary and evolving document, which is responsive to development issues and changing Council policy.

Proposed amendments addressed within this report include:

- Adjustments within Chapter 2 – General and Environmental Considerations relating to sewage management, including details specific to the Fig Tree Hill Estate in Lennox Head
- Adjustments within Chapter 2 – General and Environmental Considerations relating to Public Art requirements
- Inclusion of provisions within Parts 3.1 and 3.2 of Chapter 3 – Urban Subdivision to clarify Council's policy position regarding provision of Asset Protection Zones
- Adjustments to controls within Chapter 4 – Residential & Tourist Development relating to secondary dwellings
- Inclusion of a provision within Chapter 4 – Residential & Tourist Development to address bulk and scale issues associated with the construction of sheds in residential areas
- Adjustments within Chapter 4 – Residential & Tourist Development to clarify controls relating to solar access; and
- Adjustments within Chapter 6a – Commercial Development Ballina Town Centre to incorporate activation requirements and to clarify accessible car parking provisions.

The following provides an outline of recommended amendments to the DCP and seeks direction on the progress of the amendments to public exhibition.

Key Issues

- Review of applicable development controls/guidelines
- Merits of the changes
- Public exhibition

Information

Details of proposed amendments suggested for inclusion in Draft Amendment No.13 are contained within Attachment 1.

Key proposed amendments are as follows.

Chapter 2 – General and Environmental Considerations – Part 3.11 Provision of Services (Sewage Management)

Adjustments proposed to the objectives of Part 3.11 and to the controls relating to sewage management to clarify that where rural residential allotments are connected to the reticulated sewer system, on-site sewage management systems cannot be used to meet sewage management requirements for new dwellings.

Where a reticulated sewer network is available to the site, but there is no additional capacity, the policy position is that the new dwelling should not be approved.

The changes are in response to an enquiry and subsequent development application relating to the construction of a second dwelling on a property located within the Fig Tree Hill Estate in Lennox Head. The proposal involved the use of an on-site sewer system as the reticulated sewer system within the estate does not have the capacity to accommodate new dwellings.

Historically, dual occupancy development within the Fig Tree Hill Estate has not been permitted due to inadequate sewerage capacity.

Despite dual occupancy developments being permissible in rural zones under the provisions of the Ballina LEP 2012, the current capacity of the reticulated sewer network prevents dual occupancy development as the requirement for suitable arrangements for connection to the sewer network to be in place cannot be met unless capacity is increased.

In addition to the change in the wording of the applicable provisions, a new note in the DCP is proposed to clarify the current capacity situation within the Fig Tree Hill Estate.

Chapter 2 – General and Environmental Considerations – Part 3.16 Public Art

Adjustments proposed to the provisions for public art to align DCP controls with the proposed changes to Council's Public Art Policy, which is presented in a separate report elsewhere in this business agenda.

The proposed amendments will provide guidance and clarity for developers, consultants and the community regarding the documentation required to be submitted at each stage of the development assessment process.

Chapter 3 – Urban Subdivision – Part 3.1 Minor Subdivision General Controls and Part 3.2 Major Subdivision Requirements

The review of the *Fire Asset Protection Zones – Private Use of Public Land Policy* was considered at the Ordinary meeting held in February 2020. At that meeting, Council resolved to adopt the amended policy and place it on exhibition for public comment. The policy review identified only minor changes were required, including updates to legislation and definitions.

It is proposed to incorporate Council's policy position into the DCP to reinforce the requirement that asset protection zones, where required for private development, must be located wholly within the boundary of the development site and not on public land.

Chapter 4 – Residential & Tourist Development – Part 3 General Controls (Secondary Dwellings)

Controls within Part 3 of Chapter 4 have been amended to provide clarity and consistency regarding the assessment of development applications for secondary dwellings.

The full suite of existing controls relating to residential accommodation do not apply to secondary dwellings, with guidance regarding development outcomes provided by State policy.

It is appropriate that all controls relating to residential buildings, such as building height, building envelopes, privacy etc, specifically apply to secondary dwellings. This has been reinforced in the address of various issues arising in relation to recent secondary dwelling applications.

The proposed changes including removal of the reference to secondary dwellings being assessed against the controls contained within Division 2, clause 23 (1)(c) to (g) of the Affordable Rental Housing SEPP will provide certainty as to which controls apply under the DCP. It will also eliminate inconsistency relating to building line controls.

Chapter 4 – Residential & Tourist Development (Sheds in Residential Areas)

In response to Court proceedings associated with DA 2018/189, provisions proposed for inclusion within Chapter 4 to address bulk and scale issues associated with the construction of sheds in residential areas.

On 1 August 2019 the NSW Land and Environment Court granted consent to development application DA 2018/189, which sought consent for the construction of a 72m² detached colorbond shed for storage of a motorhome and other vehicles at No. 4 Page Court, Lennox Head.

The building was well below the maximum permitted building height, but contravened the building envelope on the northern elevation.

It is proposed to insert a new control and explanatory note within Element C – Building Envelopes to require a minimum setback of 2 metres from the side and rear boundaries for sheds and similar detached outbuildings with a floor area greater than 50m². This will assist with minimising bulk and scale impacts on adjoining properties and will provide opportunity for landscape screening.

Minor adjustments are also proposed to the objectives and controls within Element H – Vehicular Access and Parking, including a new explanatory note.

Chapter 4 – Residential & Tourist Development – Element J – Solar Access

Adjustments proposed to the controls within Element J – Solar Access to clarify that the controls apply to all residential development, including single dwellings.

At its January 2020 Ordinary meeting, Council resolved, as part of the next general review of the DCP, to undertake a review of the provisions for residential development in the DCP having regard for the outcomes of the Land and Environment Court proceedings relating to DA 2017/707, 5 Rayner Lane, Lennox Head.

As part of the outcomes from the case it was identified that amendments to the solar access provisions in the DCP to confirm and reinforce their application to all types of residential development would be beneficial.

Chapter 6a – Commercial Development Ballina Town Centre

Activation Requirements

At its July 2019 Ordinary meeting, Council resolved to proceed to finalise and implement the amended planning proposal for residential flat buildings and active frontages in the B3 zone under delegated authority.

Ballina LEP 2012 Amendment No 42, published on 11 October 2019, permits with development consent residential flat buildings on certain nominated sites subject to the development maintaining an active frontage where indicated on the Active Frontages Map.

An active frontage results if the ground floor is used for a range of nominated uses, which encourage visual engagement or activity between the public/private interfaces.

Council also resolved at its July 2019 meeting to prepare DCP provisions for Chapter 6a in relation to active street frontages for consideration as part of the next scheduled general amendment to the Ballina DCP 2012. The proposed changes are in response to the resolution of the Council.

Accessible parking

It is also proposed to make adjustments within Part 5.1 Car Parking – Ballina Town Centre to clarify that on-site car parking for certain development is required to be freely accessible to the general public at all times. The proposed changes are in response to concerns raised that car parking spaces within the Ballina Town Centre, particularly in basements, are not accessible to customers. The proposed amendments to the DCP seek to clarify that such spaces are required to be available to the public.

The definition of accessible parking contained within Chapter 1 of the DCP is also proposed to be incorporated within this section and is reproduced below:

Accessible parking means parking spaces that are freely accessible to the general public for car parking purposes at all times and that are not restricted by boom gates, security screens or other devices that visually or physically restricts access.

Accessible parking is required to be provided for certain developments in accordance with the provisions contained within Table 6a.9 in Part 5.1. Prior to the changes proposed by this report, accessible parking was only required for business/office premises and retail premises.

The proposed amendments seek to include health consulting rooms, medical centres, residential flat buildings and other land uses where car parking is to be provided in accordance with the rates specified in Chapter 2.

Sustainability Considerations

- **Environment**

The DCP establishes local planning policy in relation to a variety of environmental, social and economic considerations. Specifically, it establishes direction for development outcomes within the shire. As such, the DCP provides an opportunity for Council to address a wide range of sustainability considerations in relation to development. The implementation of the draft amendments to the DCP will improve the application of these sustainability considerations.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The preparation of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012 will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and its associated Regulation. The amendment can be completed within existing available staff and financial resources.

Consultation

A number of the proposed amendments have resulted from direct feedback from both internal and external sources following the commencement and operation of the DCP, whilst others are as a result of an adopted resolution of the Council.

A public exhibition over a period of at least 28 days duration will be undertaken in accordance with the requirements of the EP&A Act and associated Regulation.

Options

Option 1 – Endorse Draft Amendment No. 13 to the Ballina Shire Development Control Plan 2012 for public exhibition.

This approach would involve the public exhibition of the draft amendments to the DCP, either generally as presented in this report to the Council or with any amendment(s) as specified by the Council.

Following public exhibition of the amendments to the DCP, a report on submissions received will be presented to Council to provide a further opportunity for consideration of the amendments prior to their finalisation and adoption.

This approach is recommended as it will enable further consideration of the proposed amendments that seek to improve the function, interpretation and operation of the DCP.

Option 2 – Cease preparation of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012.

It is open to Council to cease further progress on Draft Amendment No.13 to the DCP. This option is not recommended as there are substantial advantages in proceeding with the amendments to ensure the optimal function and operation of the DCP in relation to development outcomes for the shire. Some of the amendments also seek to implement Council resolutions in relation to DCP based policy.

Option 3 – Defer the endorsement of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012 and hold a Councillor briefing.

This approach is not recommended prior to the public exhibition of Draft Amendment No.13. If a Councillor briefing is desirable, it is suggested that this be scheduled during, or at the conclusion of, the public exhibition period.

RECOMMENDATIONS

1. That Council undertake the public exhibition of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012 (as contained in Attachments 1 and 2), in accordance with the terms of the *Environmental Planning and Assessment Act 1979* and the associated Regulation.
2. That a further report be submitted to Council following the public exhibition of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012.

Attachment(s)

1. BSDCP 2012 Draft Amendment No 13 - Schedule of General Amendments
2. Draft BSDCP 2012 Chapter 6a - Commercial Development Ballina Town Centre

8.14 Land Classification - Lot 84 DP 1262196, 6 Riberry Grove, Wollongbar

8.14 Land Classification - Lot 84 DP 1262196, 6 Riberry Grove, Wollongbar

Delivery Program

Strategic Planning

Objective

To determine the classification of recently acquired land under the provisions of the Local Government Act 1993.

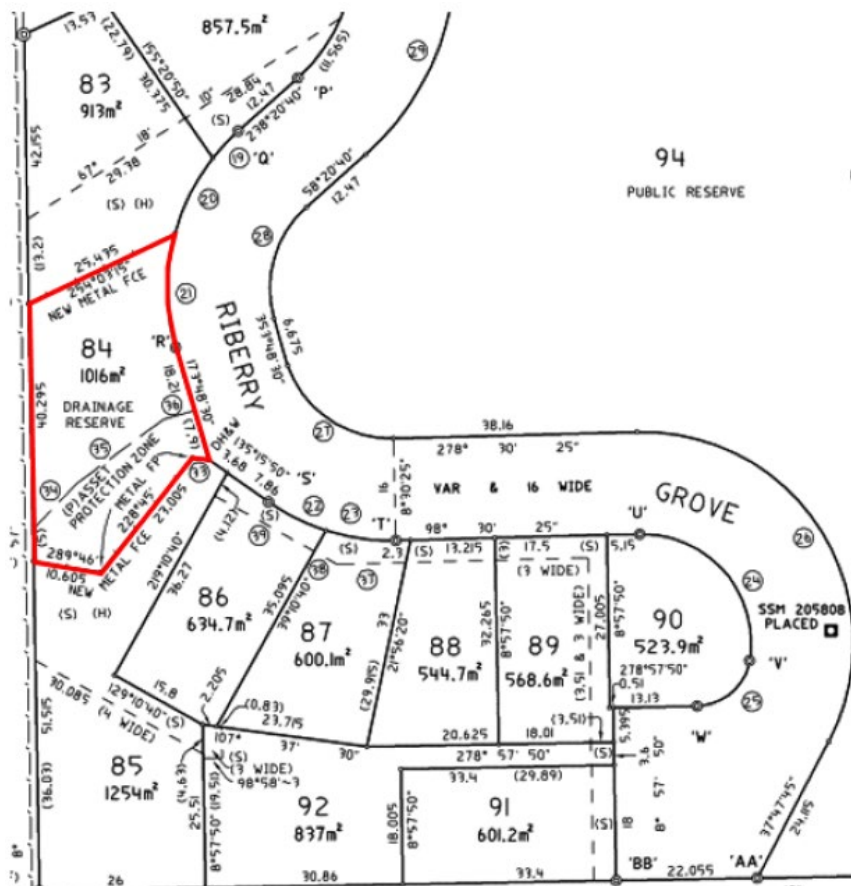
Background

Lot 84 DP 1262196 (Lot 84) entered into Council's ownership on 23 March 2020 upon the registration of the plan of residential subdivision located within the Wollongbar Park Estate.

The plan of subdivision designates Lot 84 as a Drainage Reserve as the lot contains infrastructure designed and constructed as part of the drainage system servicing the allotments and road system within this new subdivision.

Lot 84 is shown outlined by red edge in the locality plan below.

Figure 1: Locality Plan



The purpose of this report is to determine the classification of Lot 84 under the terms of the *Local Government Act 1993* (LG Act). Part 2 of Chapter 6 of the LG Act regulates the management of public land.

8.14 Land Classification - Lot 84 DP 1262196, 6 Riberry Grove, Wollongbar

Specifically, sections 26 and 27 of the LG Act require public land owned by Council 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 Local Government Act
- Nature and use of the land

Information

The subject lot has been dedicated to Council by the developer of the Wollongbar Park Estate subdivision for the purpose of a drainage reserve. The land contains stormwater management infrastructure provided as part of the residential development on the adjacent land.

Lot 84 has an area of 1,016m² and is zoned part R3 Medium Density Residential under the provisions of the Ballina Local Environmental Plan (LEP) 2012 and part 7(d) Environmental Protection (Scenic/Escarpment) under the provisions of the Ballina Local Environmental Plan 1987.

As Lot 84 has been created to contain stormwater management infrastructure and does not function as open space for public recreation, it is recommended that it be classified as operational land in accordance with the provisions of the LG Act.

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 either 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.

The subject land came into Council’s ownership on 23 March 2020 upon the registration of Deposited Plan 1262196 and the three month classification “window” expires on 23 June 2020.

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 displayed in the Ballina Shire Advocate on 8 April 2020 in accordance with section 34 of the Act. Submissions were invited until 6 May 2020.

No submissions were received in response to the notification.

Given that the land is now in Council’s ownership and the required public notification has been completed, it is necessary for Council to confirm whether the land is to be classified as operational land under the terms of the LG Act.

Sustainability Considerations

- **Environment**

The classification of the subject lot as operational land is not expected to result in any negative environmental, social or economic outcomes. An operational classification is consistent with the current and proposed use of the land for stormwater management.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The classification of Lot 84 in DP 1262196 as operational land is a legal mechanism under the LG Act that provides Council with flexibility in the management and maintenance of the land for stormwater infrastructure.

The proposed classification will not result in direct adverse resource or financial implications but will enable the efficient management and maintenance of the land for its intended public utility purpose in the long term.

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 6 May 2020. No submissions in response to the notification were received.

Options

Option 1 - Council may resolve to classify the lot as operational land.

Under this option, the proposed classification of the lot as operational land would take effect immediately upon the resolution of the Council.

This is the recommended approach.

Option 2 - Council may resolve to classify the lot 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 the intended use of the land is exclusively for stormwater management, classifying the land as community land is not recommended.

The classification of the land as operational land, as per option one, is the recommended approach as the land has been specifically acquired for a use compatible with an operational classification.

8.14 Land Classification - Lot 84 DP 1262196, 6 Riberry Grove, Wollongbar

Classification as operational land allows for Council's relatively unfettered ongoing management and maintenance of the land for stormwater infrastructure purposes.

Option 3 – Defer consideration of classification of the site.

Council may defer consideration of the classification of the lot in order to receive further information. This is not recommended given the three month classification "window" expires on 23 June 2020 and the next opportunity for Council to make a decision via an Ordinary meeting would be 25 June 2020.

Under this scenario, the subject lot would be classified as community land by default, which is not recommended for the reasons specified in option 2 above.

RECOMMENDATION

That Council classifies the land identified as Lot 84 DP 1262196, being land having frontage to Riberry Grove in Wollongbar, as operational land under the provisions of the Local Government Act 1993 and that this classification takes effect immediately.

Attachment(s)

Nil

8.15 Policy (Review) - Public Art

8.15 Policy (Review) - Public Art

Delivery Program

Strategic Planning

Objective

To review the Public Art Policy.

Background

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

A Public Art Policy was first adopted by Council in 2005. The most recent version of the policy was adopted in July 2016.

Key Issues

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

Information

This review of this policy has identified that the policy is generally operating effectively as a decision-making framework and is meeting operational needs.

Given this, only the following changes are recommended:

- Minor text changes to improve clarity and consistency with other related documents such as the Ballina Shire Development Control Plan (DCP) and Community Strategic Plan.
- Extending the development types that require public art to include recreation facilities (major and outdoor). This would include development such as theme parks, sports stadiums, showgrounds, racecourses, golf courses, outdoor swimming pools, equestrian centres and skate boarding facilities. These types of development have the potential to become key public locations, and as such have the capacity to reinforce the shire's cultural identity, community values or sense of place through the addition of public art.
- Increasing the minimum value of public art to reflect CPI increases since the last review of the policy.

This amount sets the benchmark for the value of art to be provided by a developer in meeting their public art obligations under the development control plan. A developer can meet their obligation by providing art on a development site or making a payment to Council for use in relation to public art projects on public land.

Importantly, the payment of funds to Council to meet a public art requirement by a developer is optional. That is, the policy allows Council to accept a monetary payment in lieu of a developer providing an artwork as part of a proposed development.

8.15 Policy (Review) - Public Art

- Encouraging proponents commissioning public art work to seek professional advice and services locally. The aim is to increase opportunities for local artists and art professionals.
- Adding information that links the Public Art Policy to the Public Art Chapter of the DCP. This highlights that more specific detail regarding the requirements for private development and public art is outlined in Chapter 2 of the DCP.

Information regarding changes proposed to the Public Art section of the DCP are contained under a separate item “Development Control Plan 2012 – Draft Amendment No. 13” located elsewhere in this agenda.

- Clarifying how public art funds provided to Council by proponents (in lieu of providing public art on a development site) will be used.

These funds are to be used for commissioning permanent public art in the shire as determined by the Ballina Shire Council Public Art Advisory Panel (PAAP).

This approach also allows for public art funds to be built up over time for acquiring substantial pieces of public art.

- Updating the policy’s history and definitions, and broadening of the policy scope to include the involvement of PAAP and art professionals.
- Updating and including relevant documents under the *Related Council Documentation* section of the policy.

The changes have been marked in yellow in the revised version of the policy contained in Attachment 1. Associated changes required to the DCP to provide consistency with the Public Art Policy are provided in a separate Council report “Development Control Plan 2012 – Draft Amendment No. 13” located elsewhere in this agenda.

Overall, the policy is considered to be contemporary and reflects current legislation.

Sustainability Considerations

- **Environment**
The provision of innovative items of public art in key locations which draw on the environmental values of the shire can assist in creating a greater awareness and appreciation of our natural and built environment.
- **Social**
The provision of innovative items of public art in key locations which identify and reinforce the shire’s cultural identity and community values can assist in creating a strong sense of place.
- **Economic**
Public art can support economic activity by providing additional opportunities to artists, designers, fabricators and local community groups/ organisations/ individuals to design, fabricate, install and utilise public art works. Over time, urban public art can be a catalyst for economic activity.

Legal / Resource / Financial Implications

Council's current annual allocation to the implementation of public art programs is \$11,000 per annum.

The policy does not alter the current approach to Council's budget allocation.

The proposed changes allow Council to more regularly adjust the developer payment amount in the event that a developer prefers to meet their public art requirements through a monetary payment to Council.

Consultation

The Revised Public Art Policy will be exhibited for community feedback. Under this approach, if any submissions addressing substantive changes to the policy are received they can be reported back to the Council. If not, no further reporting will be prepared and the revised policy will be implemented as presented in this report.

Options

Option 1 - Council may accept or amend the suggested changes to the policy.

The changes included will also require changes to the Ballina Shire Development Control Plan 2012, as such it is considered important that the draft policy be publically exhibited and submissions considered in revision of the policy.

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

Option 2 – Council may defer consideration and hold a briefing in order to receive further information on this matter.

This option is not recommended, however it is available should the Council wish to receive further information.

RECOMMENDATIONS

1. That Council adopts the amended Public Art Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received, addressing substantive changes to the policy, to be resubmitted back to Council. If no such submissions are received then further action is not required and the amended policy will be considered adopted.

Attachment(s)

1. Policy (Review) - Public Art

9.1 Use of Council Seal

9. Corporate and Community Division Reports

9.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US/10	<p>Ballina Shire Council Lease to Northcott Disability Services for 64 Crane Street Ballina for a term of three years with a three year option at current market rent + outgoings + GST.</p> <p>Explanation: Northcott Disability Services have leased 64 Crane Street Ballina since 2012.</p>
US/11	<p>Ballina Shire Council Agreement for Lease and Lease Documentation to Shelly Beach Café Ballina Pty Ltd for Lot 3 DP 1205999, Shelly Beach Road, East Ballina.</p> <p>Explanation: Council conducted an Expression of Interest to lease and develop the Site known as Shelly Beach Café at East Ballina. The successful proponents have now formed a company known as Shelly Beach Café Ballina Pty Ltd. The proponents are the sole directors of the company.</p>

Attachment(s)

Nil

9.2 Investment Summary - April 2020

9.2 Investment Summary - April 2020

Delivery Program

Financial Services

Objective

To provide details of Council's cash and investments portfolio breakup and performance.

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly investments report setting out Council's cash and investments. The report is to be presented at the Ordinary Council meeting, immediately following the end of the respective month. This report has been prepared for the month of April 2020.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

As at 30 April 2020, Council's investments are in accordance with Council's Investment Policy and the Local Government Act and Regulations, with the exception of the credit risk parameter breach, as explained below.

The total balance of investments as at 30 April 2020 was \$73,538,300, decreasing by \$11.5 million from 31 March 2020. Council's investments, as at 30 April, were invested at an average (weighted) interest rate of 1.737%, which was 1.576% above the April average 90 Day Bank Bill Index of 0.161%. The balance of the Commonwealth Bank business account as at 30 April 2020 was \$6,684,224 increasing by \$3,789,254 from 31 March 2020.

The total net movement of investments and bank balances from 31 March 2020 was a decrease of \$7,710,746. The month of April 2020 included an additional third payroll period and an additional fifth weekly creditor period. The creditor payments in April 2020 also included significant progress payments to Council's principal contractors.

Council's liquidity position continues to be subject to daily monitoring as part of the standard cash flow management processes that are operating to ensure there is adequate cash available to meet all cash flow requirements. As at the date of writing this report, Council's cash balance is \$9,891,859.

Breach of Investment Policy

At a portfolio level, Council's Investment Policy limits the investments held in BBB and BBB+ credit rated investments to a maximum of 60%, based on Standard & Poor's (S&P Global Ratings) long term credit ratings.

Due to the unavoidable change in the overall size of the total investment portfolio during the month, Council became in breach of the credit risk threshold on 22 April 2020.

9.2 Investment Summary - April 2020

As at 30 April 2020, 62% of Council's total investment portfolio is invested in financial institutions rated at or below BBB+ (2% higher than the policy threshold).

It is pointed out that clause 16 of the Investment Policy also states: *The objective will be to manage the portfolio back in accordance with the policy limits, within three months from the date the portfolio first exceeds the limit or threshold.*

Given that the portfolio is expected to continue to decline as investments mature, we will not have eliminated the breach within the desired three month period. To achieve this objective, we would need to re-invest in higher rated institutions. The breach position will be closely monitored during May with an update to Council included in the Investment Summary report for May 2020.

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

Reserve Name	Restriction	% Portfolio*
Wastewater (incl developer contributions)	External	12.46%
Water (incl developer contributions)	External	24.54%
Section 7.11 Developer Contributions	External	14.94%
Bonds and Deposits	External	3.37%
Other External Restrictions	External	5.13%
Carry Forward Works	Internal	5.03%
Bypass Maintenance	Internal	4.32%
Landfill and Resource Management	Internal	0.08%
Employee Leave Entitlements	Internal	3.72%
Quarries	Internal	1.02%
Property Reserves	Internal	6.76%
Plant and Vehicle Replacement	Internal	1.55%
Road Works	Internal	4.76%
Indoor Sports Centre	Internal	1.79%
Miscellaneous Internal Reserves	Internal	2.50%
Financial Assistance Grant in Advance	Internal	2.78%
Unrestricted		5.25%
Total		100.00%

* Reserves held as at 30 June 2019

9.2 Investment Summary - April 2020

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	Rating S&P	Rating Moody	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments								
National Australia Bank	Yes	BBB	-	1,788	1,788	0	2.4%	2%
Rated Institutions								
AMP Bank	Yes	BBB+	A2	7,500	7,500	10%	10.2%	
Australian Unity bank	n/a	BBB+	-	7,000	7,000	10%	9.5%	
Auswide Bank	No	BBB	Baa2	2,000	2,000	10%	2.7%	
Bank of China	Yes	A	A1	3,000	3,000	20%	4.1%	
Bank of Communications	Yes	A-	A2	1,000	1,000	20%	1.4%	
Bank of Queensland	Yes	BBB+	A3	3,000	3,000	10%	4.1%	
Commonwealth Bank of Australia	Yes	AA-	Aa3	4,000	4,000	20%	5.4%	
Credit Union Australia	No	BBB	Baa1	600	600	10%	0.8%	
Defence Bank Ltd	No	BBB	-	5,500	5,500	10%	7.5%	
ING Bank (Australia) Ltd	Yes	A	A3	1,000	1,000	20%	1.4%	
ME Bank	No	BBB	Baa1	6,750	6,750	10%	9.2%	
Macquarie Bank Limited	Yes	A+	A2	11,500	8,000	20%	10.9%	
My State Bank Ltd	No	BBB+	Baa1	7,000	5,000	10%	6.8%	
National Australia Bank	Yes	AA-	Aa3	10,000	4,000	20%	5.4%	
Newcastle Permanent Bld Society	No	BBB	A3	4,700	4,700	10%	6.4%	
Teachers Mutual Bank Limited	No	BBB	Baa1	1,700	1,700	10%	2.3%	
Westpac Banking Corporation	Yes	AA-	Aa3	7,000	7,000	20%	9.5%	98%
Total				85,038	73,538		100%	
Credit Rating Summary as per the Investment Policy								
	Maximum Allowed		Value	Value	%	%		
	%	Value	Previous	Current	Previous	Current		
A- or Higher	100%	73,538	37,500	28,000	44%	38%		
BBB	60%	44,123	47,538	45,538	56%	62%		
Total			85,038	73,538	100%	100%		

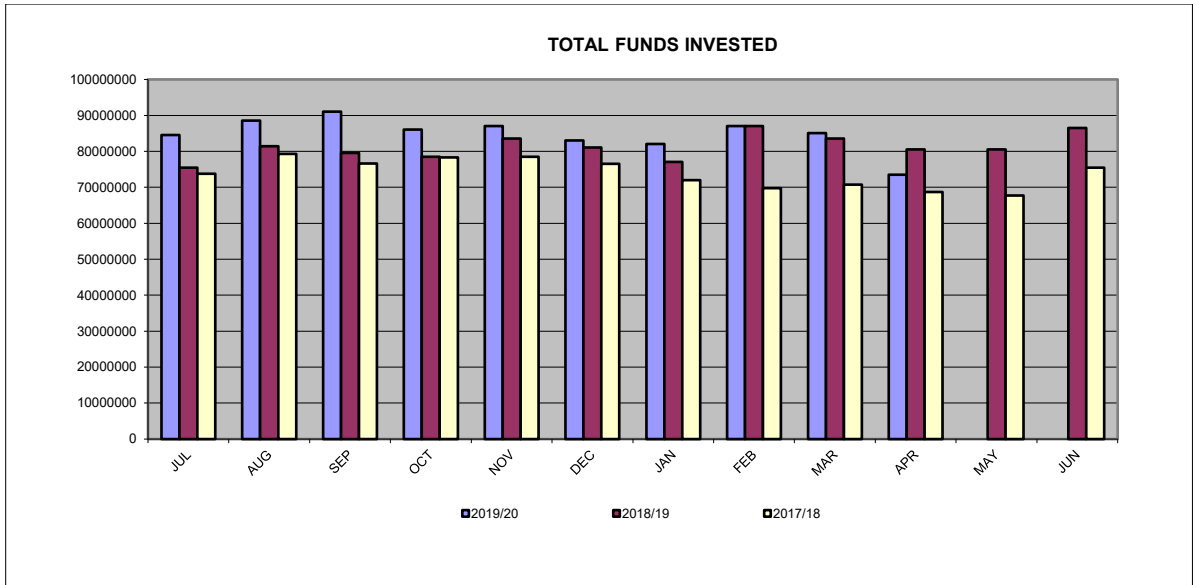
B. Summary of Investments Fossil Fuel Aligned

	Previous Month (\$'000)	Current Month (\$'000)
Fossil Fuel Aligned	49,788 59%	40,288 55%
Non-Fossil Fuel Aligned	28,250 33%	26,250 36%
Not Classified	7,000 8%	7,000 9%
Total	85,038 100%	73,538 100%

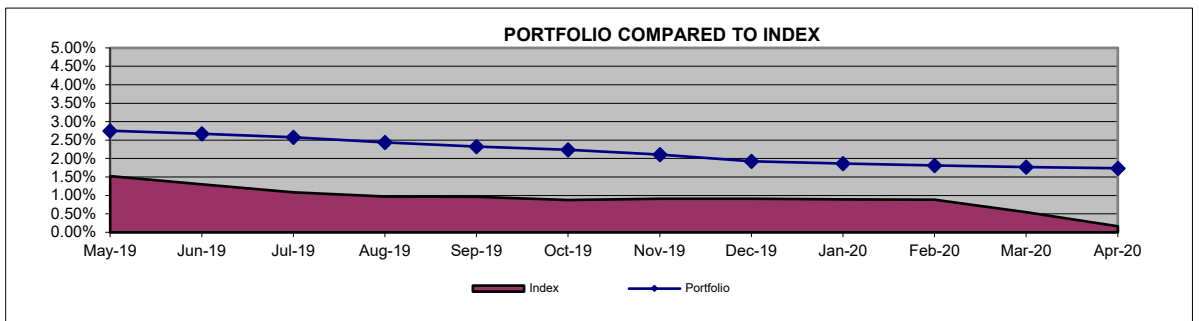
Classification based on advice from 'Market Forces'.

9.2 Investment Summary - April 2020

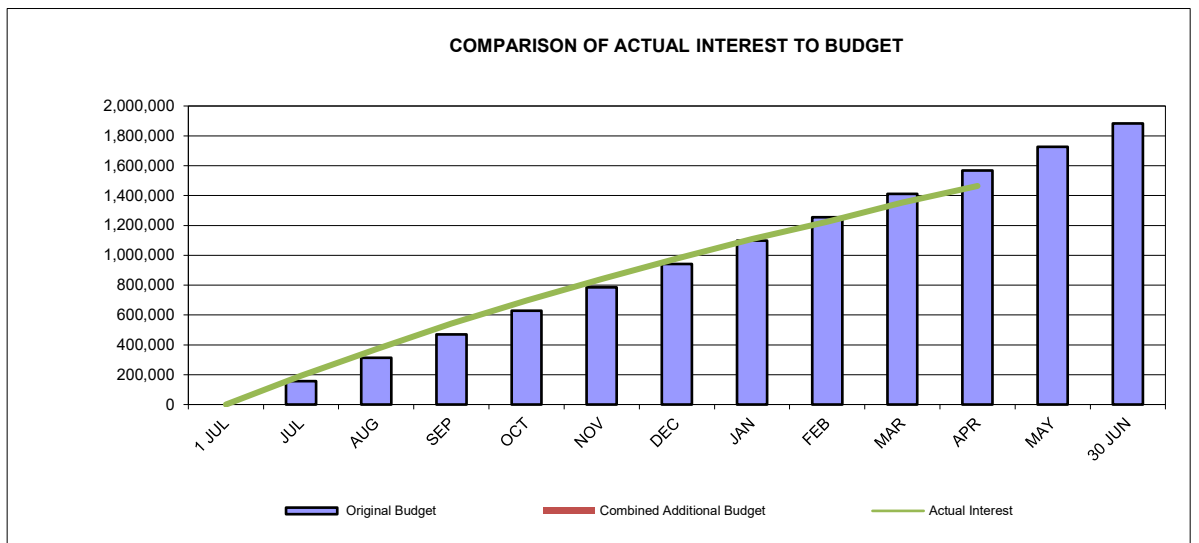
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



9.2 Investment Summary - April 2020

F. Investments held as at 30 April 2020

PURCH DATE	ISSUER	TYPE	RATE	MATURITY DATE	PURCH VAL \$'000	FAIR VAL \$'000
20/09/2004	National Australia Bank (ASX Listed)	FRN	2.85%	Perpetual	1,788	1,608
17/06/2016	Commonwealth Bank of Australia	FRN	1.62%	17/06/21	1,000	1,000
30/06/2016	Commonwealth Bank of Australia	TD	1.43%	30/06/21	1,000	1,000
26/07/2016	Commonwealth Bank of Australia	FRN	1.16%	26/07/21	1,000	1,000
29/06/2017	Teachers Mutual Bank Limited	FRN	1.81%	29/06/20	1,000	1,000
3/08/2017	Westpac Banking Corporation	FRN	1.91%	03/08/22	2,000	2,000
3/08/2017	Westpac Banking Corporation	FRN	1.95%	03/08/22	1,000	1,000
9/11/2017	ME Bank	FRN	2.16%	09/11/20	750	750
6/02/2018	Newcastle Permanent Bld Society	FRN	2.32%	06/02/23	700	700
2/07/2018	Teachers Mutual Bank Limited	FRN	1.67%	02/07/21	700	700
30/07/2018	Westpac Banking Corporation	FRN	1.03%	31/07/23	1,000	1,000
31/07/2018	Westpac Banking Corporation	FRN	1.03%	02/08/23	1,000	1,000
6/09/2018	Newcastle Permanent Bld Society	FRN	2.32%	06/02/23	1,000	1,000
6/09/2018	Credit Union Australia	FRN	1.80%	06/09/21	600	600
10/09/2018	AMP Bank	FRN	1.65%	10/09/21	1,500	1,500
11/01/2019	Commonwealth Bank of Australia	FRN	1.34%	11/01/24	1,000	1,000
8/02/2019	Westpac Banking Corporation	FRN	1.96%	08/02/24	2,000	2,000
21/02/2019	Newcastle Permanent Bld Society	FRN	1.94%	22/02/21	2,000	2,000
22/02/2019	Newcastle Permanent Bld Society	FRN	1.93%	22/02/21	1,000	1,000
1/08/2019	AMP Bank	FRN	1.65%	10/09/21	2,000	2,000
7/08/2019	National Australia Bank	TD	1.72%	04/08/20	4,000	4,000
16/08/2019	AMP Bank	TD	2.00%	17/08/20	1,000	1,000
26/08/2019	AMP Bank	FRN	1.65%	10/09/21	1,000	1,000
27/08/2019	Defence Bank Ltd	TD	1.75%	27/08/20	1,000	1,000
28/10/2019	Bank of Communications	FRN	1.00%	28/10/22	1,000	1,000
20/11/2019	Macquarie Bank Limited	TD	1.60%	20/05/20	2,000	2,000
26/11/2019	ME Bank	TD	1.60%	26/08/20	2,000	2,000
28/11/2019	Macquarie Bank Limited	TD	1.60%	03/06/20	2,000	2,000
28/11/2019	Australian Unity Bank	TD	1.70%	10/06/20	1,000	1,000
28/11/2019	Australian Unity Bank	TD	1.70%	25/11/20	2,000	2,000
29/11/2019	Bank of China	TD	1.60%	24/06/20	3,000	3,000
3/12/2019	Australian Unity Bank	TD	1.75%	05/05/20	2,000	2,000
17/12/2019	AMP Bank	TD	1.80%	10/06/20	2,000	2,000
28/01/2020	ING Bank (Australia) Ltd	TD	1.65%	21/01/21	1,000	1,000
30/01/2020	Australian Unity Bank	TD	1.65%	11/08/20	2,000	2,000
5/02/2020	My State Bank Ltd	TD	1.70%	11/08/20	2,000	2,000
11/02/2020	Auswide Bank	TD	1.65%	04/02/21	2,000	2,000
19/02/2020	Bank of Queensland	TD	1.60%	19/08/20	3,000	3,000
25/02/2020	ME Bank	TD	1.60%	16/09/20	1,000	1,000
26/02/2020	Defence Bank Ltd	TD	1.65%	23/02/21	1,000	1,000
27/02/2020	My State Bank Ltd	TD	1.65%	20/11/20	1,000	1,000
3/03/2020	Macquarie Bank Limited	TD	1.70%	21/07/20	3,000	3,000
3/03/2020	Defence Bank Ltd	TD	1.65%	02/03/21	1,000	1,000
5/03/2020	My State Bank Ltd	TD	1.65%	03/03/21	1,000	1,000
7/03/2020	Defence Bank Ltd	TD	1.60%	08/12/20	1,500	1,500
17/03/2020	My State Bank Ltd	TD	1.75%	16/12/20	1,000	1,000
17/03/2020	Macquarie Bank Limited	TD	1.60%	22/12/20	1,000	1,000
20/02/2020	ME Bank	TD	1.60%	22/09/20	3,000	3,000
24/03/2020	Defence Bank Ltd	TD	1.85%	23/03/21	1,000	1,000
Totals					73,538	73,358

9.2 Investment Summary - April 2020

KEY:	TD = Term Deposit FRN = Floating Rate Note
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RECOMMENDATION

That Council notes the record of banking and investments for April 2020.

Attachment(s)

Nil

9.3 Tender - Alstonville Aquatic Centre Amenities Upgrade

9.3 Tender - Alstonville Aquatic Centre Amenities Upgrade

Delivery Program

Community Facilities

Objective

To report the outcomes of the tender evaluation for the Alstonville Aquatic Centre amenities upgrade.

Background

The draft 2020/21 Operational Plan includes \$400,000 for the upgrade of the Alstonville Aquatic Centre amenities with these works having been planned for the past 12 months.

The scheduling of the works is based on the Aquatic Centre having to close during July and August 2020, with July being the normal closure for this Centre (aside from the COVID-19 forced closure).

The scope of works proposed includes:

- Extension to the disabled bathrooms to provide compliant and upgraded facilities
- Replace wall and floor tiles throughout the amenities building and public areas
- Install new plumbing and electrical fitting and fixtures
- Install new shower and toilet partitions
- Reconfiguration of rooms within the kiosk and office area
- Install outdoor showers and
- Provide security screens to external services area.

Tenders were called for the upgrade in April 2020. This report outlines the results of the tender process.

Key Issues

- Comply with the Local Government (General) Regulation 2005
- Obtain value for money

Information

Tenders were received from:

- AGS Commercial Pty Ltd
- Bennett Constructions (NSW) Pty Ltd
- Bishton Group
- Stinson Projects Pty Ltd t/a Blaze Projects
- Boulus Constructions Pty Ltd
- Greg Clark Building Pty Ltd
- Mavid Construction Pty Ltd
- Quadracon Building Pty Ltd

9.3 Tender - Alstonville Aquatic Centre Amenities Upgrade

The tender evaluation method included two stages of the evaluation, Stage 1 – Pass/Fail Evaluation of Mandatory Non-Priced Criteria and Stage 2 – Evaluation of Price, Capability and Relevant Experience and Local and Community.

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

- Conforming Tender
- Compliance with the contract terms and conditions
- Compliant Insurances
- Suitable Work Health and Safety Management System

All tender submissions met the mandatory assessment and were assessed using the following weighted assessment criteria:

- Total Price – 70%
- Capability and Relevant Experience – 15%
- Local and Community – 15%

Stinson Projects Pty Ltd t/a Blaze Projects has been selected as the preferred tenderer.

Details of the assessment and pricing options have been provided to Councillors by a separate confidential memorandum.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The proposed works to the Alstonville Aquatic Centre will improve the overall amenity of the centre.
- **Economic**
The improved amenity will make the facility more attractive for families and members of the public with accessibility needs.

Legal / Resource / Financial Implications

The purpose of this report is to ensure Council meets its statutory requirements in respect to tendering and procurement.

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) Regulation 2005, which requires that;

9.3 Tender - Alstonville Aquatic Centre Amenities Upgrade

(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.

Based on the tender evaluation, it is recommended that Council accept the tender from Stinson Projects Pty Ltd t/a Blaze Projects.

RECOMMENDATIONS

1. That Council accepts the tender from Stinson Projects Pty Ltd t/a Blaze Projects (ABN 44 605 224 673) for the refurbishment of the amenities at the Alstonville Aquatic Centre for the amount of \$402,592.39 (incl GST).
2. That Council authorises the Council seal to be applied to the contract documents.

Attachment(s)

1. Confidential Memo - Tender Evaluation (Under separate cover)

9.4 Legal Matters - Update

9.4 Legal Matters - Update

Delivery Program

Governance

Objective

To provide an update on litigation involving Council.

Background

This report provides an update on current or recent legal matters to ensure that Councillors and the community are informed on litigation involving Council.

Key Issues

- Type, outcomes and cost of litigation

Information

This report provides an opportunity to review contemporary legal cases involving Council. Details of the case(s) are as follows:

Council Solicitor	Parties	Description	Cost Estimate	Expenses to Date
Allens Linklaters	Planners North v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2016/184 (Intrapac Pty. Ltd)	1,200,000	1,232,000
Comment The applicant appealed the deemed refusal of DA 2016/184 (Cumbalum views Estate) for an urban subdivision of the Cumbalum Urban Release Area – Precinct A (CURA A). This application originally comprised 642 residential allotments, four future development lots, eight residual rural lots, 18 open space lots, road construction, earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works. A decision was handed down on 22 June 2018 with the application approved with conditions. The approved development (now 457 residential lots) is substantially different from that originally proposed reflecting a variety of issues raised by Council as concerns both pre and during the Court proceedings. Council was awarded certain costs and an application for costs has been filed in the Supreme Court. The outcome of this application should be known mid year.				
Parker and Kissane	Ballina Shire Council v The Beach	Land and Environment Court - Class 4 Civil Enforcement Proceedings	50,000	48,000
Comment At the April 2019 Ordinary meeting, Council resolved to grant consent to the two development applications lodged by The Beach. Subsequently, a building information certificate was also issued. Class 4 Proceedings were discontinued at the agreement of both parties. Council resolved to take certain actions at the February 2020 Ordinary meeting and penalty infringement notices have been issued.				

9.4 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Expenses to Date
Parker and Kissane	Palmlake Works Pty Ltd v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2018/321	750,000	747,000
<p>Comment</p> <p>DA 2018/321 comprises the staged erection of an extension to an existing Seniors Housing Development (Palm Lake Resort) under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising of 156 self-care dwellings, recreation facilities and associated car parking, infrastructure works, site filling and associated works at Lot 2 DP 1155600, 120 North Creek Road Ballina.</p> <p>On 24 October 2018, the applicant lodged Class 1 proceedings in the Land and Environment Court for a deemed refusal of development application 2018/321 (although this is a Northern Regional Planning Panel matter, Council is required to attend to the appeal).</p> <p>The proceedings were lodged based on not requiring Council to prepare its facts and contentions as to the case, as the applicant would be preparing amended plans for the development.</p> <p>On 9 November 2018, the applicant filed a notice of motion containing an amended proposal and a request for expeditious proceedings.</p> <p>Council prepared its Facts and Contentions by 17 December 2018. The applicant failed to provide its response to the facts and contentions by the nominated date of 15 February 2019.</p> <p>The applicant subsequently sought leave on 16 April 2019 to further amend the application. An order for the applicant to pay Council's costs thrown away as a result of the amendment was subsequently made.</p> <p>The matter was set down for Hearing from 15 to 22 July 2019 and the hearing was then extended to 19 and 20 August 2019. A decision on the matter was handed down on 4 October 2019 with the amended development application approved with conditions.</p> <p>Council then resolved to appeal the decision in the NSW Land and Environment Court.</p> <p>The appeal judgement was issued on 29 April 2020 and the Court found that Council established five (out of six) grounds of error on questions of law. The appeal was upheld.</p> <p>The original decision and orders of 4 October 2019 have been set aside. The proceedings are now remitted back to the original Commissioner to be determined having regard for the appeal judgement.</p>				

9.4 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Expenses to Date
Allens Linklaters	Northern Rivers Land Solutions v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge deemed refusal of three modification applications to development application 2016/184 and associated construction certificate application and deemed refusal of development application 2018/616 (Intrapac)	100,000	300,000
<p>Comment</p> <p>The applicant appealed the deemed refusal of three modification applications and an associated construction certificate application to DA 2016/184 for an urban subdivision of the Cumbalum Urban Release Area – Precinct A (CURA A) as approved by the Court. An appeal was also lodged against the deemed refusal of DA 2018/616 to undertake bulk earthworks across the site. The need to obtain separate approval for the bulk earthworks is a condition of the 2016/184 consent as ordered by the court.</p> <p>On 4 July 2019 the Court set the matter down for hearing on 31 January 2020 and 10-12 February 2020. The Court’s decision was handed down on 5 March 2020.</p> <p>Two of the modification applications were determined by Council in advance of the Court hearing.</p> <p>The outcome of the hearing was the approval of the bulk earthworks DA 2018/616 and the remaining modification to DA 2016/184 following the applicant’s further address of a number of issues raised by Council. The construction certificate was not determined by the Court. Following various changes to the construction certificate documentation to meet applicable conditions of consent, Council subsequently issued the construction certificate for works associated with stages 2 and 3 of the Banyan Hill development.</p>				
Parker and Kissane	Jeffrey Gibbs v Ballina Shire Council and North Coast Recycling Pty Ltd	Land and Environment Court - Class 1 Appeal Proceedings – Third Party Challenge to Consent Granted by the NRPP to development application 2017/600.	200,000	0
<p>Comment</p> <p>DA 2017/600 is a ‘designated development’ for the expansion of an existing resource recovery facility at Northcott Crescent in the Russellton Industrial estate. The application was granted consent by the Northern Regional Planning Panel in November 2019.</p> <p>An amended Class 1 Application was filed in the NSW Land and Environment Court on 11 February 2020. Council is the first respondent and North Coast Recycling Pty Ltd is the second respondent. The applicant filed their Statement of Facts and Contentions on 15 April 2020. The first and second respondent are to serve their joint Statement of Facts and Contentions in reply.</p> <p>No date has been set for a hearing.</p>				

9.4 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Expenses to Date
Lindsay Taylor Lawyers	Jason and Joanne White v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge Council's Refusal of development application 2018/381.	100,000	15,000
<p>Comment</p> <p>DA 2018/381 involves the decommissioning of an existing dwelling and construction of a new two-storey dwelling and swimming pool and the upgrading of an existing internal access way at 404 Old Byron Bay Road, Newrybar. Council refused the application at the December 2019 Ordinary meeting.</p> <p>The matter is set down for a Section 34AA conciliation conference and hearing on 14 and 15 September 2020.</p>				
Parker and Kissane	Veronesi v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2019/170.	100,000	0
<p>Comment</p> <p>A 2019/170 involves a proposal for a two lot boundary adjustment subdivision at 987 and 937 Wardell Road, Meerschaum Vale.</p> <p>In an attempt to have a number of outstanding issues satisfactorily resolved, the application has remained undetermined.</p> <p>The matter was set down for the first directions hearing on 3 March 2020. The matter was subsequently adjourned for several weeks to enable the applicant to submit a bushfire report to address one of council's outstanding issues.</p> <p>Council staff have now also been allowed access to the site to conduct a site inspection following receipt of the bushfire report.</p> <p>No date has yet been set for a hearing.</p>				
Lindsay Taylor Lawyers	Griffani and Griffani v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge Council's refusal of development application 2019/30.	100,000	5,000
<p>Comment</p> <p>DA 2019/30 involves the erection of eight holiday cabins and the temporary use of the land for the purposes of wedding ceremonies.</p> <p>Council determined the application by way of refusal at the December 2019 Ordinary meeting.</p> <p>A conciliation conference is set down for 11 November 2020.</p>				

9.4 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Expenses to Date
Lindsay Taylor Lawyers	Intrapac Skennars Head v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge to deemed refusal of modification application relating to developer contributions payable under conditions of consent for development application 2017/244.	250,000	10,000
Comment				
The applicant has lodged an appeal seeking a modification to the development consent that would have the effect of reducing the developer contributions payable by Intrapac in relation to the Aureus development.				
Council is preparing its Statement of Facts and Contentions.				
The matter is listed for hearing in Court on 10-12 November 2020.				

Legal / Resource / Financial Implications

This section provides an update on legal costs for recent years and for the year to date (mid-May 2020).

Table One – Legal Expenditure 2016/17 to 2019/20

Description	2016/17	2017/18	2018/19	2019/20
DA 2016/184, 2018/616 - CURA A - Planners North / Northern Rivers Land Solutions – Intrapac	273,000	832,100	78,400	337,000
DA 2017/244 - Skennars Head – Aureus – Intrapac	0	1,100	31,100	10,000
Ballina Sands – Newrybar Swamp Road	0	4,000	22,100	15,000
Northcott Crescent - Resource Management Facility	0	0	12,300	0
The Beach House	0	0	31,600	16,000
DA 2018/381 - 404 Old Byron Bay Road (White)	0	0	900	15,000
DA 2017/321 - Michael Young	0	0	22,600	0
DA 2017/707 - Ardill Payne – 5 Rayner Lane	0	0	9,300	37,000
DA 2018/321 - Palm Lake	0	0	256,600	490,000
DA 2018/189 - Page Court	0	0	0	6,000
DA 2019/30 - Griffani	0	0	0	5,000
DA 2018/597 – Water Extraction	0	0	6,400	0
DA 2017/557 - Byron Highlander (Function Centre)	0	2,800	9,500	0
Seabreeze Caravan Park	25,000	104,500	0	0
DA 2016/25 - Retail Fuel	5,000	0	0	0
North Creek – Wall	6,000	0	0	0
Riveroaks / Ferngrove Consent	6,000	0	0	0
Fire Safety Statements	0	0	9,200	6,000
Misc including insurance and planning agreements	38,000	22,700	13,100	39,000
Total Actual Expenditure	353,000	967,200	503,100	976,000
Legal Expenditure Budgets	167,500	1,005,000	290,000	922,000
Net Expenditure Result – Surplus / (Overdrawn)	(185,500)	37,800	(213,100)	(54,000)
Legal Actual Income from Costs Recovered / Fines	90,000	108,000	61,000	149,000
Legal Income Budget	75,000	85,000	70,000	70,000
Net Income Result – Surplus / (Shortfall)	15,500	23,000	(9,000)	79,000

9.4 Legal Matters - Update

Legal expenditure can vary significantly from year to year as shown in the following table, which combined with the above table provides a ten year summary of actual results. The last three years have been exceptionally high and this has continued for 2019/20.

Table Two – Legal Expenditure 2009/10 to 2015/16

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

These expenditure figures exclude legal costs relating to lease documentation, property matters and contracts, as well as staff time.

The major increase in costs is primarily due to Council's ongoing legal cases with Intrapac Pty. Ltd., with over \$1.5m in legal costs incurred in respect to their developments during the last four years, as well as the Palm Lake application, where \$746,000 has been expended to date.

The figures for these two matters exclude the significant amount of staff time consumed in managing these cases, which then has flow-on impacts in respect to the assessment times for all other development applications.

There has been a costs order awarded in Council's favour for the Intrapac CURA A matter and the recent Palm Lake appeal.

The dollar amount for these two outstanding payments is still to be confirmed by the cost assessors.

Intrapac was recently required to pay Council \$63,500 in costs in relation to the most recent Banyan Hill case (decision handed down on 5 March 2020), which has resulted in the legal income to date being well above budget as per Table One (i.e. \$149,000 actual compared to \$70,000 budget).

In respect to revised budgets for 2019/20, the Quarterly Financial Review report included later in this agenda includes a recommendation to increase the Development Services legal expenditure budget from \$850,000 to \$970,000, an increase of \$120,000, along with a reduction of \$5,000 to the Building Services legal budget from \$61,000 to \$55,000.

This means the total legal expenditure budget will now be \$1,036,000 (i.e. Development Services \$970,000, Building Services \$55,000, Public and Environmental Health \$11,000) with \$976,000 expended to date.

The Development Services legal income budget is also recommended to increase from \$70,000 to \$140,000.

Contract Disputes

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

- Haslin Constructions – Ballina Wastewater Treatment Plant Design

9.4 Legal Matters - Update

Council has not awarded completion of this contract as the works are not considered to be defect free. The Contractor disputes this position and the issues were referred to Expert Determination. The Expert Determination report was decided substantially in Council's favour.

As the value of the works considered by the Expert is in excess of \$500,000 this determination is non-binding on the parties.

This disputed is now being litigated in the Supreme Court. Council is the defendant in this matter.

Legal and related expenditure on this dispute to date is approximately \$617,000 as per the following summary.

Table Three – Haslin Dispute – Expenditure for 2016/17 to 2019/20

Description	2016/17	2017/18	2018/19	2019/20	Totals
Maddocks Lawyers	258,800	40,800	27,300	137,200	464,100
Council staff travel, meals etc	1,300	100	2,000	1,100	4,500
Field staff time at the plant	2,800	1,300	0	700	4,800
Expert Determination	27,500	57,100	12,200	0	96,800
Misc including works / testing at plant	9,200	18,300	5,500	13,500	46,500
Total	299,600	117,600	47,000	152,500	616,700

These figures exclude office based staff time, as that time is not directly charged to the dispute.

Consultation

This report is provided in open Council to ensure the community is informed on legal matters involving Council.

If Council wishes to discuss any matters of detail it may be necessary to resolve into confidential session to ensure any legal advice is not provided in open session.

Options

This report is provided for public information.

RECOMMENDATION

That Council notes the contents of this report on legal matters.

Attachment(s)

Nil

9.5 **Financial Review - 31 March 2020**

Delivery Program

Financial Services

Objective

To provide a quarterly review of the 2019/20 financial year budget based on the known results to 31 March 2020.

Background

In accordance with Clause 203 of the Local Government (General) Regulations, the Responsible Accounting Officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. This report provides the review for the third quarter of the 2019/20 financial year.

Key Issues

- Variations to the budget and financial performance of Council

Information

The purpose of this report is to provide information on known budget variance as at 31 March 2020. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and Certification by the Responsible Accounting Officer are required. Commentary on the variations is provided after the tables. A brief overview of the information provided in the report is as follows:

Section One – General Fund Long Term Financial Plan

This section provides an overview of the General Fund results, particularly due to the impact that COVID 19 restrictions have had on the short and medium outlook of the Fund.

Section Two - Operating Income and Expenditure 2019/20

These tables outline the 2019/20 operating income and operating expenditure budgets for the Funds (General, Water and Wastewater).

Section Three - Capital Budgets 2019/20

Outlines the 2019/20 capital expenditure budgets.

Section Four - Cash and Investment Statement

Provide details of the projected movements in the cash reserve balances.

Section Five - Key Performance Indicators

The ratios provide an indication of the financial health of the organisation.

Section Six - Contractors/Consultants/Legal Expenses

Details specific expenses incurred and contracts entered.

Section Seven – Certification

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

Section One – General Fund Long Term Financial Plan

The following tables provide an overview of how the General Fund long-term financial plan (LTFP) has changed since the last quarterly review at December 2019 and subsequent to the exhibition of the draft Delivery Program and Operational Plan for 2020/21.

LTFP Forecasts as at December 2019 (\$'000)

Year	2019/20	2020/21	2021/22	2022/23	2023/24
Operating Revs	70,272	70,823	72,438	74,171	76,137
Operating Exps	71,890	70,044	71,500	73,026	74,705
Result (Deficit)	(1,628)	780	939	1,146	1,432
WC Result	(190)	(103)	(355)	(504)	(535)
WC Balance	4,844	4,741	4,386	3,882	3,347

LTFP Forecasts as per draft 2020/21 Delivery Program (\$'000)

Year	2019/20	2020/21	2021/22	2022/23	2023/24
Operating Revs	68,564	64,945	70,980	74,770	76,810
Operating Exps	71,050	69,264	72,689	74,949	76,834
Result (Deficit)	(2,485)	(4,319)	(1,709)	(179)	(24)
WC Result	(640)	(732)	(477)	(418)	(304)
WC Balance	4,394	3,662	3,185	2,767	2,463

LTFP Revised Forecasts March 2020 Review (\$'000)

Year	2019/20	2020/21	2021/22	2022/23	2023/24
Operating Revs	68,795	64,986	70,889	74,682	76,720
Operating Exps	57,285	53,887	57,037	58,816	60,200
Result (Deficit)	(3,268)	(4,339)	(1,943)	(414)	(263)
WC Result	(981)	(826)	(792)	(741)	(634)
WC Balance	4,053	3,227	2,435	1,694	1,061

This March quarterly review forecasts a further deterioration of \$783,000, to the operating deficit for 2019/20. At the time of exhibiting the draft 2020/21 Delivery Program and Operational Plan the only changes made to the 2019/20 budgets related to the airport and property management sections of Council. This quarterly review adjusts the other sections of Council, with emphasis on the financial impacts of the COVID-19 restrictions.

The majority of the adjustments from this quarterly review do not have a flow on impact to the draft 2020/21 forecasts, as the negative impacts of the COVID-19 restrictions were largely taken into account for the 2020/21 budgets placed on exhibition.

In respect to 2020/21 and future years, adjustments have been made for the new pool management contract payments, with the tender now finalised, and the State Government's increase in the emergency services levy has been included from 2021/22 onwards (net increase of almost \$160,000 from 2019/20).

The future year forecasts for the operating result and working capital deficits are now at a level where it will be necessary to reduce operating expenditure (i.e. service levels) as working capital is forecast to be overdrawn during the ten-year life of the LTFP. Options for savings will be included in future reports, as part of the adoption of the 2020/21 Delivery Program and Operational Plan, at the June 2020 Ordinary meeting, and in future quarterly financial reviews.

Section Two – Operating Income and Expenditure Budgets 2019/20

General Fund – Operating Income and Expenses

This section deals with the General Fund operations. The **forecast operating result as at March** is a loss of \$3,268,000. This compares to a forecast loss of \$1,628,000 as at December and a revised forecast of \$2,485,000 as per the draft 2020/21 documents, representing a \$783,000 deterioration. The estimated movement in **unrestricted working capital** has also deteriorated, with a forecast deficit **as at March** now \$980,900. This compares to a forecast deficit of \$190,200 as at December and a deficit of \$640,200 as at time of exhibition.

The next two tables detail operating income and operating expenses including recommended variations to budget.

General Fund – Operating Income (\$'000)

Operating Income	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
Planning and Environmental Health Division							
Strategic Planning	170	181	0	181	0	181	49
Development Services	630	630	0	630	60	690	588
Building Services	1,570	1,900	0	1,900	(113)	1,787	1,465
Env and Public Health	483	669	0	669	(10)	659	399
Public Order	265	265	0	265	(24)	241	210
Sub Total	3,118	3,645	0	3,645	(87)	3,558	2,711
Civil Services Division							
Asset Management	313	315	0	315	0	315	234
Depot and Anc Building	0	0	0	0	0	0	0
Stormwater and Env Protect	485	488	0	488	2	490	439
Roads and Bridges	770	819	0	819	0	819	891
Ancillary Transport Services	761	1,513	0	1,513	1	1,514	604
RMS	783	783	0	783	0	783	964
Open Spaces	900	999	0	999	0	999	673
Fleet Mgmt and Workshop	238	238	0	238	0	238	170
Emergency Services	204	176	0	176	0	176	113
Quarries and Sandpit	67	67	0	67	0	67	65
Landfill and Resource Mgmt	2,102	2,337	0	2,337	89	2,426	2,039
Domestic Waste Mgmt	6,962	7,087	0	7,087	54	7,141	7,065
Sub Total	13,585	14,822	0	14,822	146	14,968	13,256
Corporate and Community Division							
Governance	28	28	0	28	0	28	30
Communications	15	13	0	13	100	113	10
Financial Services	257	242	0	242	(30)	212	105
General Purpose Revenues	29,770	31,007	0	31,007	290	31,297	28,203
Information Services	201	201	0	201	105	306	222
People and Culture	122	174	0	174	39	213	209
Property Management	2,615	2,623	(154)	2,469	(111)	2,359	2,239
Airport	7,174	7,044	(1,554)	5,490	0	5,490	4,979
Community Facilities	810	721	10	731	(188)	543	530
Library Services	81	166	0	166	0	166	166
Swimming Pools	1,069	1,069	0	1,069	(129)	940	945
Tourism	65	155	0	156	(15)	141	152
Sub Total	42,207	43,443	(1,698)	41,746	61	41,807	37,791
Total Operating Income	58,910	61,910	(1,698)	60,213	120	60,333	53,758

General Fund – Operating Expenses (\$'000)

Operating Expenses	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
Planning and Environmental Health Division							
Strategic Planning	1,239	1,535	0	1,535	200	1,735	950
Development Services	1,739	2,368	0	2,368	120	2,488	1,941
Building Services	1,290	1,363	0	1,363	(6)	1,357	1,046
Env and Public Health	1,631	2,380	0	2,380	20	2,400	1,058
Public Order	574	586	0	586	0	586	486
Sub Total	6,473	8,232	0	8,232	334	8,566	5,482
Civil Services Division							
Asset Management	2,606	2,692	0	2,692	0	2,692	2,119
Depot and Anc Building	1,938	1,918	0	1,918	(526)	1,392	1,151
Stormwater and Env Prot	1,008	1,031	0	1,031	(50)	981	672
Roads and Bridges	3,537	3,626	(23)	3,603	(33)	3,570	2,395
Ancillary Transport Services	1,983	2,743	0	2,743	42	2,785	2,144
Roads and Maritime	783	783	0	783	0	783	519
Open Spaces	4,260	4,547	0	4,547	540	5,087	3,373
Fleet Mgmt and Workshop	(1,129)	(1,337)	(4)	(1,341)	0	(1,341)	(1,013)
Emergency Services	540	489	0	489	0	489	346
Quarries and Sandpit	44	44	0	44	0	44	27
Landfill and Resource Mgmt	1,707	2,733	0	2,733	(84)	2,649	2,018
Domestic Waste Mgmt	6,606	6,663	0	6,663	80	6,743	4,794
Sub Total	23,883	25,932	(27)	25,905	(31)	25,874	18,545
Corporate and Community Division							
Governance	2,045	2,049	0	2,049	538	2,587	2,052
Communications	1,419	1,373	0	1,373	100	1,473	1,047
Financial Services	(4,974)	(4,999)	0	(4,999)	(13)	(5,012)	(3,702)
General Purpose Revenues	0	0	0	0	0	0	0
Information Services	3,109	3,386	0	3,386	91	3,477	3,105
People and Culture	156	261	0	261	33	294	638
Property Management	1,561	1,511	(66)	1,445	0	1,445	1,051
Airport	5,202	4,978	(757)	4,221	0	4,221	3,433
Community Facilities	1,920	2,029	10	2,039	(51)	1,988	1,504
Library Services	1,539	1,606	0	1,606	(12)	1,594	1,154
Swimming Pools	1,834	1,834	0	1,834	(78)	1,756	1,426
Tourism	524	566	0	566	(7)	559	343
Sub Total	14,335	14,594	(813)	13,781	600	14,381	12,050
Total Operating Expenses	44,691	48,758	(840)	47,918	903	48,821	36,076
Result Before Dep	14,219	13,152	(858)	12,295	(783)	11,511	17,681
Depreciation and Non Cash	14,779	14,779	0	14,779	0	14,779	11,084
Net Operating Result	(560)	(1,628)	(857)	(2,485)	(783)	(3,268)	6,597

General Fund Working Capital Forecast (\$'000)

Item	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
Working Capital (Deficit)	(186)	(190)	(450)	(640)	(341)	(981)	N/A

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

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

General Fund - Operating Revenues

Planning and Environmental Health Division

Development Services

The income for this section is generally on track for current forecasts for 2019/20, as it was trending above budget prior to the COVID 19 pandemic.

There is a decrease of \$10,000 to Development Application Fees, to a revised budget of \$150,000, as it is anticipated that DA income will decrease slightly in the remaining months of this financial year.

The budget for legal expenses recovered increases by \$70,000 to \$140,000, based on amounts recovered to date. This increase is more than offset by an increase in legal expenses.

Building Services

Income budgets for 2019/20 decrease by \$113,000, to \$1,787,000 (6% reduction). The decreases proposed are House Drainage Plan Fees (\$75,000), Plumbing and Drainage (\$20,000) and Construction Certificates (\$18,000).

Environmental and Public Health

The forecast for Food Registration and Annual Inspections decreases by \$10,000 to \$126,000. A number of market food stalls cancelled and other food premises closed. Further, a small number of food premises were reclassified from high to medium risk, which would also account for a decrease in income.

Public Order

The budget for parking fines income has decreased by \$19,000 to \$146,000, being the actual received as at the date of writing this report.

These activities have largely ceased given the COVID-19 circumstances and Council resolution to defer any parking activities until 30 June 2020.

Dog fines have decreased by \$5,000 to \$35,000, with these activities also expected to be lower for the remainder of this financial year.

Civil Services Division

Landfill and Resource Management

Income budgets increased by \$89,500 in total. Waste disposal fees (external customers) increased by \$75,000 to \$775,000, due to higher than anticipated waste volumes at the facility. Recycling revenues increase by a net \$7,000, to \$1,192,000.

As a conservative measure, these adjustments have not been carried forward to future years as the income increased due to neighbouring councils closing their waste centres

Budgeted income from annual charges increase by \$8,000, based on amounts received.

Domestic Waste Management

Income budgets increase by \$54,000 in total. Income from annual charges has increased by \$32,000 based on income levied. An income budget of \$22,000 raised for insurance monies received on a claim for one of the collection vehicles.

Corporate and Community Division

Communications

Created a budget of \$100,000 for the NSW State Government grant funding for Bushfire Communities Resilience and Economic Recovery.

The March 2020 Finance Committee meeting recommended the expenditure of these funds on recovery activities and works to support future resilience capacity for the Cabbage Tree Island community. An offsetting expenditure budget has been raised and the funds will be carried forward to 2020/21 if not expended in the current year.

Financial Services

The forecast income budget for legal cost recovery has reduced by \$30,000, to \$11,000. Due to the current economic conditions, debt recovery actions are on hold for the remainder of this financial year.

Financial Services - General Purpose

Further Federal Government grant monies of \$225,000 from the National Bushfire Recovery Agency fund was confirmed in January 2020. This brings the total to \$1,225,000 and these amounts have been received in full.

Council resolved at the March 2020 Finance Committee meeting (endorsed at the March 2020 Ordinary meeting) to expend these monies on the following activities:

Rural Fire Service (RFS) Facility Lennox Head	\$500,000
Asset Protection Zones (APZ)	\$225,000
Koala Management and Biodiversity Conservation Strategies	\$200,000
Indigenous Protected Area (IPA) Repairs	\$200,000
Richmond Room Enhancements	\$100,000

Following further consultation with the JALI Aboriginal Land Council, it is recommended that the \$100,000 for the Richmond Room be re-allocated to the Indigenous Protected Area (IPA).

The IPA incurred the majority of the bushfire damage in the Ballina Shire and JALI has submitted an inventory of repairs that totals in the hundreds of thousands of dollars.

The provision of shower facilities and other enhancements to the Richmond Room, originally identified for the \$100,000, to improve the facility as an emergency evacuation centre, are not as essential or urgent as the works needed for the IPA.

The IPA is the most bushfire impacted area in the Shire and with significant amounts of the APZ and Koala Management funds to also be expended in that location, it is reasonable for Council to maximise the funds allocated to the IPA. The recommendations to this report include the reallocation of this funding.

It is still intended to undertake improvements to the Richmond Room such as painting and minor works to improve the marketability of the facility for casual hiring.

In addition to this change, the budget for Rates revenue has increased by \$65,000, based on actual rates levied to date, bringing the total gross rates income to \$24.82m.

Information Services

Budget for internal contributions of \$70,000 from the Water, Wastewater and Waste sections of Council.

These contributions fund additional expenditure within the Information Services section, with increases to expenditure budgets of \$91,000 noted later in this report.

The budgeted income for Information Fee income has increased by \$35,000, to bring the combined GIPA and other information services income budget to \$155,000.

People and Culture

The income budget for maternity leave contributions has increased by \$23,000, to \$64,000, based on contributions received.

The income budget for long service leave contributions has increased by \$16,000, to \$48,000, based on contributions received.

Property Management

Forecast income for the Flat Rock Tent Park has decreased by \$110,000, to a revised total income of \$340,000, due to the COVID-19 closure.

This adjustment impacts on the amount transferred to reserve at the end of the financial year.

Community Facilities

Community facility incomes, excluding gallery, have been revised down by \$142,000.

The forecast income for the Ballina Indoor Sports Centre (BISC), has decreased by \$49,000 to a revised total income of \$48,000, being the actual hire income received as at the time of the COVID-19 closure.

The forecast income for the Ballina Surf Club has decreased by \$41,000 to \$109,000. This decrease includes the kiosk rent waiver and a reduction in casual room hire.

The forecast income for the Kentwell Community Centre has decreased by \$26,000 to \$129,000.

The forecast income for ALEC has decreased by \$12,000 to \$18,000.

9.5 Financial Review - 31 March 2020

The forecast income for the Lennox Head Cultural & Community Centre (LHCC) is revised down by only \$4,000, as it was close to the annual forecast at the time of closure.

The other downward revisions for community facilities were for the Richmond Room, Pimlico Hall and Northlakes Hall, decreased by \$4,700, \$2,900 and \$2,500 respectively.

Gallery income has been revised downwards by \$45,000.

The larger areas of adjustment are gallery bookings and exhibition income, reduced by \$14,000, Ignite bookings reduced by \$10,000, gallery commission on consignment sales reduced by \$9,000 and café rental income decreased by \$7,000.

Swimming pools

Swimming pools income budgets have been adjusted to agree to actual incomes received as at time of pool closures.

For the Ballina pool, this represents a revision of \$112,000 for entrance fees and \$3,000 for water slide rental income, with actual income received of \$578,000 and \$6,000 respectively.

For the Alstonville pool, this represents a revision of \$15,000 for entrance fees, with actual income received of \$355,000.

The above adjustments have been made on an assumption of pool closure for the rest of this financial year, however the current reopening in alignment with the recent Covid-19 restriction easing may alter this result.

As we are approaching the colder months any income received it is likely to be offset by increased operating expenses and there is not expected to be any material variation to the net working capital result.

Tourism

The forecast income for souvenir sales has decreased by \$13,000 to \$27,000, to equal the actual income received as at the time of closure.

General Fund - Operating Expenses

Planning and Environmental Health Division

Strategic Planning

A new budget of \$200,000 has been raised for the Koala Management and Biodiversity Conservation Strategies, funded from the National Bushfire Recovery Funding Reserve.

Development Services

Legal budgets have increased by a further \$120,000, to a revised budget of \$970,000. A separate report is included in this agenda for legal cases.

Building Services

The legal budget has decreased by \$6,000 to \$55,000, with no further costs likely to be incurred this financial year.

Environmental and Public Health

The operating budget for Shaws Bay Management Plan Environmental works increased by \$20,500, transferred from the capital works budget.

Civil Services Division

Depot and Ancillary Building Management

Procurement budgets, totalling \$538,000 transferred from this section to Governance to better reflect staff reporting lines.

The budget for the Administration Building maintenance increased by \$7,000 to \$63,000.

A new budget of \$5,000 raised for an internal fence at the Depot to improve storage security.

Stormwater

Budget of \$50,000 transferred from the stormwater beach and foreshore maintenance budget to the ferry annual slippage budgets to offset the overall cost.

Roads and Bridges

Budget of \$68,000 transferred from the gravel roads maintenance budgets to fund capital expenditure for Wellers Lane, Sandy Flat Road, Houghlahans Creek Road, Gap Road and Grays Lane.

Ancillary Transport Services

The budget for the ferry annual slippage increased by \$80,000, with \$50,000 transferred from stormwater budgets and \$30,000 transferred from the ferry general maintenance budget.

Open Spaces

New budgets raised in the current financial year for the Asset Protection Zones and the Indigenous Protected Area (IPA) repairs, of \$225,000 and \$300,000 respectively. The IPA figure includes the \$100,000 transferred from the Richmond Room.

These budgets are funded from the National Bushfire Recovery Funding Reserve.

A budget of \$14,100 has been raised for the Booyal Estate vegetation works.

These works are originally grant funded works, with these funds held in reserve until required.

Landfill and Resource Management

Expenditure budgets decreased by a net \$84,000.

Within the tables, the budget for waste disposal fees for Council jobs is included as a negative within expenditure budgets. This budget increased by \$100,000 to \$610,000 due to higher than anticipated waste volumes.

The budgets for kerbside collection costs of CBD and street bins reduced by \$50,000, to \$150,000, based on a review of costs to date and revised forecast for the year remaining.

The budget for kerbside collection costs of business bins increased by \$8,000, to \$75,000, based on revised forecasts.

Receival supervision budgets and sundry office administration budgets increased by \$25,000 and \$5,000 respectively, with higher expenditure due to higher than anticipated waste volumes received at the waste management facility.

Disposal expenditure budgets have increased by \$8,500, with increases in a number of budgets including transfer preparation/loading budgets offset in part by decreases in litter control and other miscellaneous disposal budgets.

Budgets for the bailing facility maintenance and operations increased by \$9,000, to \$42,000, based on revised forecasts.

A budget of \$10,000 raised as a contribution towards information services budget adjustments.

Domestic Waste Management

Expenditure budgets increased by a net \$80,000.

The budget for bin maintenance and repairs increased by \$35,000 to \$85,000. Increased expenditure incurred as a result of condition assessments completed for the bin sticker application program.

The promotions budget increased by \$11,000, with additional expenditure for the bin sticker and lift the lid programs.

The budget for the waste education officer increased by \$22,000, based on revised costs for this position.

The sundry office administration budget increased by \$12,000 due to additional expenditure to cover regional waste project administration.

Corporate and Community Division

Governance

Procurement budgets, totalling \$538,000 transferred from the Depot and Ancillary Building Management section as the staff now report to the Corporate and Community Division Director.

Communications

As per the income item, a budget of \$100,000 created for the Bushfire Communities Resilience and Economic Recovery grant funds.

Financial Services

The expenditure budget for debt recovery and legal expenses decreased by \$20,000, with limited debt recovery pursued for the remainder of this financial year.

Adjustments with an overall increase of \$6,500 made to the budgets for bank BPoint, Eftpos fees, and POST billpay fees.

Information Services

Expenditure budgets increased by \$91,000 in total.

The areas of increase are software support, mobile hardware and internet connections, for \$45,000, \$40,000 and \$6,000 respectively.

These increases are funded in part by contributions from the Water, Wastewater and Waste sections of Council.

People and Culture

Expenditure budgets increased by a net \$33,000.

The budget for employee entitlements has increased by \$89,000 to \$3,568,000, based on trending.

Overheads recouped (which is income) increased by \$50,000 to a revised budget of \$7,658,000, based on trend.

Due to the magnitude and variability of employee entitlements and overhead budgets, these are difficult budgets to forecast. The above adjustments represent movements of less than 3%.

The net budget for accident pay to employees has increased by \$9,000, to \$18,000, based on actual amounts paid out and claimed back.

The budget for Injured Workers Rehabilitation has increased by \$9,000, to \$29,000, based on actual costs incurred.

Savings, in part related to the COVID 19 impact, identified within the staff recruitment budget and the budget for medical examinations for new staff, of \$20,000 and \$5,000 respectively.

Savings also identified within the Work Health and Safety and Health Monitoring budgets, of \$5,000 each.

Community Facilities

Community facility expenses, excluding gallery, revised down by a net \$24,000.

9.5 Financial Review - 31 March 2020

Forecast expenses for the BISC decreased by \$38,000.

A budget of \$15,000 for insurance is not required for this financial year, as the insurance becomes separately payable to the insurers in the new financial year, following the building's completion.

Larger identified savings for the BISC for the remainder of this year include cleaning contracts and air conditioning maintenance, with budgets reduced by \$15,000 and \$6,000 respectively.

Forecast expenses for the LHCC decreased by a net \$13,000.

The largest saving was a decrease of \$23,000 to the cleaning contracts.

Other savings amounting to \$8,300 include savings for auditorium event hire expenses, office furniture and equipment maintenance, and other miscellaneous expenses.

An increase of \$14,000 for the air conditioning maintenance budget, due to repairs required, and an increase to electricity of \$3,000 based on actual costs.

Forecast expenses for ALEC decreased by \$10,000.

The savings for ALEC include electricity and office furniture and equipment maintenance budgets, reduced by \$5,300 and \$2,000 respectively.

Forecast expenses for the Richmond Room decreased by \$5,000, including cleaning contracts reduced by \$3,500.

Forecast expenses for the Ballina Surf Club increased by \$27,000.

The budget for maintenance increased by \$22,000 due to the lift failure.

The budget for security costs increased by \$17,000 due to high costs incurred for replacing AV equipment.

These increases are offset, partially, by savings of \$16,000 for cleaning contracts.

Forecast expenses for the Public Halls increased by \$15,000.

Additional expenses incurred bringing the Pimlico Hall up to a reasonable state, including painting, to lease to the Ballina and District Historical Society.

Gallery expenses revised downwards by a net \$27,000.

The larger decreases were cleaning contracts, stationary and sundry, and stock purchases, for \$6,000, \$4,600 and \$4,600, respectively.

Smaller savings were also identified for airport and gallery art purchases, electricity, fundraising expenses, and other miscellaneous expenses, with a combined saving of \$17,100.

The gallery savings were offset in part by an increase of \$5,500 to the maintenance budget.

Library Services

The budget for electricity reduced by \$12,000.

Swimming Pools

Swimming pools income decreased by \$78,000 in total.

For the Ballina pool, savings of \$14,000 identified for the lifesaving contractor expenditure, reducing the budget to actual expense at time of closure. Savings also identified from the pool maintenance budget.

For the Alstonville pool, savings of \$30,000 identified for the lifesaving contractor expenditure.

Other savings include maintenance, electricity and working expenses, of \$15,000, \$8,000 and \$4,000 respectively.

Tourism

The budget for stock cost of goods sold reduced by \$10,000, to \$16,000.

This decrease is in line with the decrease proposed for souvenir sales.

Water Operations

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

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

Water - Statement of Operating Income and Expenses

Item	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
Operating Income	12,951	13,525	0	13,525	100	13,625	8,760
Operating Expenses (excl. dep)	10,485	10,564	0	10,564	280	10,844	7,836
Operating Result Before Dep	2,466	2,961	0	2,961	(180)	2,781	924
Depreciation and Non-cash	1,500	1,500	0	1,500	0	1,500	1,125
Net Operating Result	966	1,461	0	1,461	(180)	1,281	(201)

The **forecast operating position** (inclusive of depreciation) **as at March** is a surplus of \$1,281,000, which is a deterioration of \$180,000 from the surplus as at December of \$1,461,000.

Pleasingly the forecast is still for an operating surplus.

Forecast operating income has increased by a net \$100,000.

The forecast for sales main bulk filling stations increased by \$200,000, based on actual sales.

The forecast for residential water consumption decreased by \$100,000.

This represents a partial turnaround from the extremely high consumption levels noted in the December quarter.

9.5 Financial Review - 31 March 2020

Forecast operating expenditure increased by \$280,000, with the major adjustment being an increase of \$250,000 to mains maintenance.

The increase to mains maintenance is to cover an increased spend this year, reflecting an increase in reactive works and a series of complicated repair projects completed.

Wastewater Operations

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

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

Wastewater- Statement of Operating Income and Expenses

Item	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
Operating Income	19,539	20,229	0	20,229	150	20,379	18,319
Operating Expenses (excl. dep)	13,833	13,451	0	13,451	180	13,631	10,385
Operating Result Before Dep	5,706	6,778	0	6,778	(30)	6,748	7,934
Depreciation and Non-cash	3,969	3,969	0	3,969	0	3,969	2,977
Net Operating Result	1,737	2,809	0	2,809	(30)	2,779	4,957

The **forecast operating position** (inclusive of depreciation) **as at December** is a surplus of \$2,779,000, which is a deterioration of \$30,000 from the surplus as at December of \$2,809,000.

The forecast is still for a significant surplus.

Forecast operating income has increased by \$150,000.

The forecast for residential access charges increased by \$100,000, based on actual amounts levied.

The forecast for non-residential user charges increased by \$50,000, based on based on trend.

Forecast operating expenditure increased by \$180,000.

Mains maintenance has been increased by \$250,000.

As noted in the Water Fund, this reflects an increase in reactive works and series of complicated repair projects completed.

Pumping station maintenance decreased by \$100,000.

This reduction reflects a lower level of reactive maintenance required this year than anticipated, which may be reaping the benefits of an increased focus on the pump renewal program in recent years.

Section Three – Capital Budgets 2019/20

This section of the report looks at capital expenditure.

General Fund - Capital Budget - Source and Application of Funds

Capital Funding / Expenditure	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
General Fund Funding							
General revenue	6,600	5,748	33	5,781	72	5,853	
Reserves	17,213	19,191	(4,010)	15,181	(449)	14,732	
Loans	15,520	10,069	(1,069)	9,000	0	9,000	
Section 7.11 contributions	5,101	5,320	0	5,320	119	5,439	
Grants and contributions	11,102	9,285	(3,000)	6,285	420	6,705	
Total Funding	55,536	49,613	(8,046)	41,567	162	41,729	
General Fund Expenditure							
Planning and Environmental Health Division							
Environment and Public Health	700	318	(150)	168	(20)	148	124
Public Order	40	40	0	40	0	40	11
Civil Services Division							
Asset Management	0	20	0	20	0	20	3
Depot and Anc Building Mgmt	920	881	(622)	259	0	259	31
Stormwater and Env Protection	765	851	(212)	639	0	639	249
Roads and Bridges	22,022	22,517	(3,279)	19,238	57	19,295	11,660
Ancillary Transport Services	3,529	2,566	42	2,608	(17)	2,591	1,332
Water Transport and Wharves	41	51	0	51	0	51	0
Roads and Maritime Services	185	185	0	185	0	185	122
Open Spaces – Parks/Reserves	2,494	732	(15)	717	0	717	213
Open Spaces – Sporting Fields	2,700	3,776	215	3,991	0	3,991	2,876
Fleet and Plant	1,246	3,145	(319)	2,826	0	2,826	744
Emergency Services	0	0	25	25	0	25	0
Waste Management	2,475	2,480	(255)	2,225	39	2,264	2,224
Corporate and Community Division							
Information Services	20	40	0	40	(4)	36	32
Property	10,364	5,486	(1,636)	3,850	0	3,850	3,490
Flat Rock Tent Park	100	229	0	229	0	229	117
Ballina-Byron Gateway Airport	3,600	2,995	(1,490)	1,505	0	1,505	1,060
Community Facilities	4,227	3,147	(350)	2,797	0	2,797	901
Swimming Pools	80	126	0	126	7	133	134
Community Gallery	28	28	0	28	0	28	12
Total Capital Expenditure	55,536	49,613	(8,046)	41,567	62	41,629	25,335

General Fund

Council reviewed the capital works program at the April 2020 Ordinary meeting.

Further adjustments to capital budgets are as follows.

Planning and Environmental Health Division*Environmental and Public Health*

Budget of \$20,500 transferred from the capital budget for Shaws Bay Management Plan Environmental works to the operating budget.

Civil Services Division*Roads and Bridges*

Budgets increased by a net total of \$57,500.

Budget of \$118,500 has been transferred from section 7.11 reserves, offset by \$94,000 transferred back to the Tintenbar to Ewingsdale Highway works reserve and a net \$33,000 transferred from operating budgets.

The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Hutley Drive	+118,500	Budget of \$118,500 for final invoice amount payable to developer for (s7.11 plan) works completed. Funded from s7.11.
T2E (Tintenbar to Ewingdale) Highway works	-94,000	Transfer back to T2E road reserves (where was originally funded from) for budgets not expected to be expended this year.
Whites Lane Seg 10	+75,000	New budget, \$75,000 funded from Marine Estate Management Strategy.
Sandy Flat Road	+95,000	New budget, \$70,000 funded from Marine Estate Management Strategy and \$25,000 funded from Gravel Roads operating budgets.
Ingrams Lane Seg 10	+60,000	New budget, \$60,000 funded from Marine Estate Management Strategy.
Wellers Lane	+33,000	New budget, \$25,000 funded from Marine Estate Management Strategy and \$8,000 funded from Gravel Roads operating budgets.
Marine Estate Management Strategy (unallocated)	-230,000	Allocation of funds for projects noted above. Revised (unallocated) budget of \$39,200.
Barlows Road Seg 20	-35,000	Transfer from capital budget to operating budgets. This budget amount was approved in the December Ordinary Meeting for Barlows Road investigation/feasibility studies. The amount has subsequently been identified to be operating (not capital) in nature, so has been transferred accordingly.
Gap Road Seg 20	+25,000	Increase to budget, funded from Gravel Roads operating budgets. Revised budget of \$80,000.
Houghlahans Creek Road Seg 120	+5,000	Increase to budget, funded from Gravel Roads operating budgets. Revised budget of \$95,000.
Grays Lane Seg 20	+5,000	Increase to budget, funded from Gravel Roads operating budgets. Revised budget of \$38,000.
Total	+57,500	

Ancillary Services

Budgets decreased by a total of \$17,100, representing a deferral of the remaining works to 2020/21.

The changes are as follows:

Description of Works	Adjustment (\$)	Comments
Main Street, Alstonville	-17,100	Deferral of unspent budget to 2020/21. Placed into Ancillary Reserve.
Total	-17,100	

Domestic Waste Management

Additional budget of \$38,500, to bring to a revised budget of \$2,208,500 to match actual expenditure for the five new vehicles purchased.

Corporate and Community Division

Information Services

Decrease of \$4,000 to capital budgets for expenditure not required.

These savings contribute, in part, to increases within the operating budgets.

Swimming Pools

There is a net increase of \$7,200 to capital budgets. These additional funds were required to complete pavement and drainage works.

Water Fund

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

Capital Funding / Expenditure	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
Water Fund Funding							
Reserves	4,364	2,849	(390)	2,459	0	2,459	
Section 64 contributions	855	1,270	(150)	1,120	0	1,120	
Total Funding	5,219	4,119	(540)	3,579	0	3,579	
Water Fund Expenditure							
Main Renewal	713	473	0	473	0	473	266
Reservoirs	475	548	(150)	398	0	398	0
Pressure Management	0	0	0	0	0	0	0
Water pump and bores	665	1,080	0	1,080	0	1,080	700
Trunk mains	540	425	0	425	0	425	360
Treatment Plant	1,857	527	(390)	137	0	137	126
Plant	0	0	0	0	0	0	0
Connections	490	490	0	490	0	490	351
Other	479	576	0	576	0	576	392
Total Capital Expenditure	5,219	4,119	(540)	3,579	0	3,579	2,195

Council reviewed the capital works at the April 2020 Ordinary meeting.

No further adjustments are proposed.

Wastewater Fund

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

Capital Funding / Expenditure	Original Budget	December Budget	Approved Changes	Current Budget	Changes	Revised Budget	Actual to March
Wastewater Fund Funding							
Reserves	4,077	3,155	(528)	2,627	0	2,627	
Section 64 contributions	2,761	2,691	(1,758)	933	0	933	
Total Funding	6,838	5,846	(2,286)	3,560	0	3,560	
Wastewater Fund Expenditure							
Pumping stations	1,708	1,431	(464)	967	0	967	481
Treatment Plants	2,280	2,141	(1,245)	896	0	896	147
Trunk Mains	95	0	0	0	0	0	0
Mains renewals	1,371	1,285	(340)	945	0	945	731
Service Connection	60	0	0	0	0	0	81
Plant	282	340	(97)	243	0	243	81
Reuse program	891	498	(140)	358	0	358	81
Other	151	151	0	151	0	151	89
Total Capital Expenditure	6,838	5,846	(2,286)	3,560	0	3,560	1,691

Council reviewed the capital works at the April 2020 Ordinary meeting.

No further adjustments are proposed.

Section Four – Cash and Investment Statement

The next table shows the projected (30 June 2020) externally and internally restricted reserves.

Forecast Restricted Reserves as at 30 June 2020 (\$'000)

Description	December Budget	Approved Changes	Current Budget	Changes	Revised Budget
Externally Restricted					
Section 7.11	10,813	0	10,813	(119)	10,695
Domestic Waste Management	1,575	0	1,575	(64)	1,510
Section 64 Water	9,721	150	9,871	0	9,871
Water	10,598	390	10,988	(180)	10,808
Section 64 Wastewater	6,148	1,758	7,906	0	7,906
Wastewater	2,878	528	3,406	(30)	3,376
Total Externally Restricted	41,733	2,826	44,559	(393)	44,166
Internally Restricted					
Employee Leave Entitlements	2,994	0	2,994	0	2,994
Financial Assistance Grant	2,339	0	2,339	0	2,339
Insurance Reserve	151	0	151	0	151
Community Infrastructure Reserve	3,133	(20)	3,113	(0)	3,113
Property Development Reserve	1,115	(586)	529	344	872
Wigmore Arcade	386	0	386	0	386
Flat Rock Tent Park	350	0	350	(111)	240
Crown Properties Rental	91	(13)	78	0	78
Council Elections	200	0	200	0	200
Airport	1,751	317	2,068	(0)	2,067
Community Centre Halls	52	0	52	0	52
Ballina Indoor Sports Centre	(78)	0	(78)	0	(78)
Library Special Projects	133	0	133	0	133
Other Corporate and Community	1,304	350	1,654	0	1,654
Strategic Planning	331	(25)	306	0	306
Sec 7.11 Plan Reviews	365	0	365	0	365
Shaws Bay / Lake A Mgmt Plans	239	150	389	0	389
Richmond River Mgmt Plan	98	0	98	0	98
Other Planning and Env Health	179	0	179	0	179
Vegetation Grants	49	0	49	(14)	35
Open Spaces	1,970	(110)	1,860	0	1,860
Boat Ramps and Infrastructure	135	0	135	0	135
Plant Renewal/Replacement	277	(164)	113	0	113
Quarries	830	0	830	0	830
Cemeteries	405	(79)	326	0	326
Bushfires Recovery	1,000	0	1,000	(500)	500
Admin Centre and Depot	120	622	742	0	742
Landfill and Resource Mgmt	(12)	255	243	174	417
Ancillary Footpaths	480	(19)	461	25	486
Roadworks	2,419	279	2,698	0	2,698
Bypass and W2B Highway Funds	3,464	0	3,464	514	3,979
Canal Dredging	144	0	144	0	144
Stormwater capital	153	212	365	0	365
Stormwater and Env Mgmt Plans	330	0	330	0	330
Other Civil	168	0	168	0	168
Total Internally Restricted	27,062	1,169	28,231	432	28,663
Total Restricted	68,795	3,995	72,790	39	72,829

Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for March 2020, funds invested amounted to \$85,038,300. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 March the amount of \$2,894,970.

4. Actual year to date cash and investments amounted to \$87,933,270 at 31 March 2020.

This amount includes cash at bank of \$2,894,970 and funds invested of \$85,038,300 which has been reconciled to bank statements and investment reports.

Comment on Cash and Investment Position

The changes in this report increase the reserves by a net \$39,000, resulting in the current forecast restricted reserves of \$72.829 million.

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

The larger changes made as part of this review, of \$20,000 or more, are summarised below.

Section 7.11

There is a net decrease of \$118,500 from section 7.11 reserves, as described in the Roads and Bridges capital budgets of this report.

Domestic Waste Management

There is a decrease of \$64,300 to this reserve representing a decrease from operating surplus of \$25,800 and an increase to capital budgets of \$38,500.

Water Reserves

Net reserves decreased by \$180,000 being the net of adjustments made to operating budgets within this report.

Wastewater Reserves

Net reserves decreased by \$30,000 being the net of adjustments made to operating budgets within this report.

Property Development Reserve

There is an increase of \$242,000 to this reserve from a review of sales (capital income) received for 54 North Creek Road, with revised budget of \$2,847,000 for the current year.

There is an increase of \$102,000 to this reserve based on amounts received for Russellton Industrial Estate, with revised capital income of \$327,000 in the current year.

Flat Rock Tent Park

There is a decrease of \$110,000 to this reserve, being the net of adjustments made to operating budgets within this report.

Bushfire Recovery Reserve

Further grant funding of \$225,000 received in the quarter, bringing the total received to \$1,225,000.

Budgets totalling \$775,000 raised in the current financial year for Koala Management and Biodiversity Conservation Strategies, Asset Protection Zones and the Indigenous Protected Area repairs.

A balance of \$500,000 remains in this reserve as funding towards the Rural Fire Service Facility in 2020/21, as per the allocations recommended at the March 2020 Finance Committee meeting.

Landfill and Resource Management (LRM)

There is an increase of \$174,000 to this reserve being an improvement in the operating result.

Ancillary Footpaths

There is an increase of \$25,000 to this reserve for the deferral of works to 2020/21.

Bypass Funds and W2B Haulage (Roads)

Capital income of \$420,400 received, representing a contribution towards local road damage resulting from haulage associated with the Pacific Complete Highway work.

This amount represents a negotiated amount following the completion of the Highway works. The amounts are placed into reserve as associated works will not commence until 2020/21.

An amount of \$94,000 has also transferred back to the T2E Bypass roads reserves.

Section Five - Key Performance Indicators

This section of the report takes selected financial benchmarks and compares the 30 June 2018 and 2019 ratios with the forecast at March to 30 June 2020.

The performance indicators have a short term focus, which suits the quarterly review, which focuses on the short term.

Each ratio typically contains numerous variables and the forecast should be viewed as a guide only.

Key Performance Indicators - Description

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

Measured: as a ratio

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

Indicator type: Financial Position

Benchmark: >1.5:1 (NSW Code of Accounting Practice)

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

Measured: as a ratio

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

Indicator type: Financial Performance

Benchmark: = > 0: 1 (NSW Code of Accounting Practice)

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

Measured: as a ratio

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

Indicator type: Financial Position

Benchmark: >2:1 (NSW Code of Accounting Practice)

Benchmark Indicators – General Fund

1. Unrestricted Current Ratio – General Fund

Benchmark: >1.5:1

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
4.60:1	3.11:1	2.78:1
Pass	Pass	Pass

Comment

The General Fund is expected to meet this benchmark, although it is noted that there has been a slight deterioration in this ratio since the last quarter.

2. Operating Performance Ratio – General Fund

Benchmark: >0

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
0.41%	3.11%	-3.93%
Pass	Pass	Fail

Comment

This is a key ratio for “Fit for the Future” assessments and has historically been a difficult benchmark to achieve. The ratio is affected by many variables. The strategy to improve this ratio is to continue to closely monitor, maintain and even reduce operating expenses and increase income.

The ratio is expected to be negative in 2019/20 and has deteriorated since the last quarter due to an increase in the forecast operating deficit.

3. Debt Service Cover Ratio – General Fund

Benchmark: > 2

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
3.86	4.03	3.06
Pass	Pass	Pass

Comment

The strategy to continue to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by a combination of increasing income and decreasing expense.

Benchmark Indicators - Water

1. Unrestricted current ratio - Water

Benchmark: >1.5:1

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
117.77:1	94.28:1	71.95:1
Pass	Pass	Pass

Comments

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

2. Operating Performance Ratio - Water

Benchmark: > 0

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
11.71%	15.47%	9.41%
Pass	Pass	Pass

Comments

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

3. Debt Service Cover Ratio - Water

Benchmark: >2

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

Comments

The Fund has no external borrowings.

Benchmark Indicators - Wastewater

1. Unrestricted current ratio - Wastewater

Benchmark: >1.5:1

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
0.99:1	0.89:1	0.91:1
Fail	Fail	Fail

Comments

This ratio is expected to improve and meet the benchmark in 2021/22 and is expected to remain around the benchmark moving forward.

2. Operating Performance Ratio - Wastewater

Benchmark: >0

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
5.89%	12.18%	13.64%
Pass	Pass	Pass

Comments

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

3. Debt Service Cover Ratio - Wastewater

Benchmark: > 2

2017/18	2018/19	2019/20 Mar
Actual	Actual	Estimate
1.14	1.30	1.45
Fail	Fail	Fail

Comments

This ratio will fail the benchmark for many years due to the extremely high level of borrowings.

The forecast is that the ratio will gradually improve year on year as the operating surplus continues to grow.

Section Six – Contractors/Consultants/Legal Expenses

Contractors

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

Contractor Name	Purpose	Amount (GST Incl)	Award Date	Duration of Contract	Incl in Budget Yes/No
Solo Resource Recovery	Kerbside Collection of FOGO	Schedule of Rates	27/02/20	28 months	Yes

Consultants

The Office of Local Government defines a consultant as:

“A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors”.

Total expenditure to 31 March 2020 on consultants that meet this definition is as follows.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Consultancies	\$181,800	Yes

Legal Expenses

The next table summarises the expense incurred to the end of March 2020 on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation.

This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Legal Fees	\$890,000	Yes (following adjustments)

Section Seven - Certification

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

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31 March 2020 indicates that Council's projected financial position at 30 June 2020 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

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



Signed Linda Coulter, Responsible Accounting Officer

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

Consultation

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

Options

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

RECOMMENDATIONS

1. That Council notes the contents of the March 2020 Quarterly Budget Review and approves the changes identified within this report.
2. That Council approves the reallocation of \$100,000 from the National Bushfire Recovery Agency fund from the Richmond Room to the Indigenous Protected Area (IPA) repairs based on feedback from the JALI Aboriginal Land Council and a recognition that the IPA represents the most impacted area of the Ballina Shire from the 2019 bushfires.

Attachment(s)

Nil

10.1 Community Property Licence - Lennox Community Gardens

10. Civil Services Division Reports

10.1 Community Property Licence - Lennox Community Gardens

Delivery Program

Open Spaces

Objective

To seek Council's direction on the grant of a licence for community property - Lennox Community Garden.

Background

At the Ordinary meeting held 27 February 2020, Council considered the new community licence to the operator of Lennox Community Gardens.

The licence is to Lennox Community Garden Inc for a term of three years.

At that meeting, Council resolved as follows:

- 1. That Council, in accordance with the relevant provisions of the Local Government Act 1993 and associated Regulation, including public notification, enters into the licence.*
- 2. Council authorises the General Manager to affix the seal to the licence documents and any other documents required to allow tenure to be granted.*
- 3. That prior to points one and two being actioned, statutory public notification relating to the proposed licence be undertaken, with a further report to be presented to Council in the event that an objection is received.*

In accordance with the Council's resolution, public notification was carried out.

One objection was received to the grant of the licence to Lennox Community Gardens.

In addition, one submission was received about two operational issues in relation to the Lennox Community Gardens.

This report provides details of the objection and the submission received and seeks Council's direction on whether to proceed with the licence.

Key Issues

- Merits of objection

Information

The one objection received to the grant of the licence raised a number of issues.

The core issues raised and staff responses are summarised as follows.

10.1 Community Property Licence - Lennox Community Gardens

Issue	Staff Response
<p>Use of the Ocean Breeze Reserve</p> <p>General objections to having a Community Garden in this location at all, limiting the space available for general public use, and lack of long term planning for the Ocean Breeze Reserve</p>	<p>Significant public consultation took place as part of the proposed Master Plan for the Ocean Breeze Reserve. The public consultation processes included, amongst other measures:</p> <ul style="list-style-type: none"> • the public exhibition of the various concept options for the Reserve • an online survey about then current usage of the Reserve and what the public wanted to see in the Reserve in the future and • face to face meetings with local residents. There was a consultation meeting with residents of Ocean Breeze Drive and other nearby streets. <p>After the public consultation process, Council considered the community feedback, and resolved to proceed with a Community Garden in the Ocean Breeze Reserve.</p> <p>Council has an adopted Community Garden Policy. The Policy resolves to offer Community Garden Licensees an initial one year licence, followed by a three year licence. Lennox Community Garden Inc has previously held a one year licence. It is now proposed that the Licensee be offered a three year licence, which is consistent with the Policy.</p> <p>In relation to the long term planning, the Master Plan for the Ocean Breeze Reserve is being implemented. The Master Plan includes the construction of a new playground area, which will be constructed after the Hutley Drive extension works are completed.</p>
<p>Information provided to Public</p> <p>Only limited details of the proposed licence were provided in the public notification material</p>	<p>The information included in the public notification of the proposed licence was consistent with what is required in the Local Government Act.</p>
<p>Use of Private Driveway off Ocean Breeze Drive</p> <p>No information provided on how access would be provided to the Community Garden, to ensure gardeners do not use the private access driveway off Ocean Breeze Drive</p>	<p>Gardeners are to use the general public access to Ocean Breeze Reserve off Ocean Breeze Drive, and once the Hutley Drive extension works are completed, may also access the reserve off Hutley Drive.</p> <p>There is a private driveway off Ocean Breeze Drive that is used by residents to access their homes. It has been raised that gardeners have accessed the Community Garden along the private driveway in the past. The Licensee has notified all members that the private driveway is not to be used. In addition, the Licensee paid for and provided to the residents a sign confirming the driveway is for use by residents only. On recent inspection, that sign is in place at the start of the private driveway. The President of the Licensee has indicated he is happy to be contacted directly if a member of the Community Garden is found to be using the private driveway.</p> <p>The Hutley Drive extension road works are currently under construction. Once completed, an access track to the Community Garden will be provided off Hutley Drive.</p>

10.1 Community Property Licence - Lennox Community Gardens

Issue	Staff Response
<p>Maintenance Obligations Specific requests for information on ongoing maintenance</p>	<p>The objection included specific requests for information in relation to what the Licensee's obligations will be in relation to maintaining the area, use of pesticides, weed control, species of plants to be planted etc.</p> <p>The proposed licence will incorporate a clause requiring the Licensee to maintain the lawns in the Licensed Area in a neat, clean and tidy condition, and take reasonable steps to control vermin, pests and weeds. The Licensee also needs to comply with the Community Gardens Policy. The Policy includes certain obligations in relation to how the gardens are to be kept/maintained.</p>
<p>Black Shed Installed Issues with the black shed installed by the Licensee within the Licensed Area, and the lack of consultation by the Licensee with residents about the installation of the black shed or its location within the Community Garden</p>	<p>In relation to the black shed placed within the licensed area (photos attached), the Licensee consulted with Council prior to installing the shed. The location of the shed was agreed upon with Council staff. The Licensee's approved Master Plan for the Community Garden included the installation of a shed.</p> <p>In relation to the position of the shed, the Licensee was concerned about graffiti, vandalism and theft if the shed were to be placed closer to Hutley Drive. The current location is considered close enough to the new access track to the Community Garden from Hutley Drive, so that materials can be transported by gardeners from the access track to the shed, without having to carry the materials further across the site. The Licensee has confirmed that a black shed was selected to be more discreet than traditional galvanised finishes. A fast-growing hedge was planted along the line of the private driveway, between the houses and the Community Garden. This is now a couple of meters tall in some places. The Licensee's intention is the hedge should block direct sight-lines from the majority of residents who live along the private driveway. The Licensee has offered to extend the hedge or plant a taller species, to provide better screening of the shed if Council requires.</p>

In addition to the above issues, the objection included a series of questions seeking additional information, such as what other buildings will be installed, what the licence fee payable is and who the committee members of the Licensee are. Those questions can be responded to, but are not objections to the grant of the licence.

The other submission received was not an objection to the grant of the licence. However, the other submission raised an objection to two aspects of the Lennox Community Garden:

1. the location of the black shed within the Licensed Area, requesting that it be moved, so that it is not in front of the houses and is instead behind the tree line; and
2. the use of the adjoining private driveway by gardeners accessing the Lennox Community Garden.

Staff comments on these two issues are included in the above table.

Sustainability Considerations

- **Environment**
Not Applicable.
- **Social**
There are significant social benefits provided to the community by the operation of a Community Garden, including physical, social and recreational benefits.
- **Economic**
As with many community properties, the waiving of commercial rent represents an economic loss to Council. However, that loss can be offset by the broader physical, social and recreational benefits which are provided by the operation of a Community Garden.

Legal / Resource / Financial Implications

In accordance with section 46 of the Local Government Act 1993, Council must only authorise occupation of community land by way of tenure agreements for a purpose consistent with the relevant plan of management. The proposed use is permitted for the particular property under Council's Plan of Management for Community Land 2015. The proposed licence is for a three year term, which is consistent with Council's Community Property Leasing and Licensing Policy and Council's Community Gardens Policy.

Consultation

Public notification of the proposed licence on community land was carried out in accordance with the Local Government Act. This included sending letters to adjoining residents, giving public notice on Council's website and exhibiting notice of the proposal on the land.

Options

1. That Council agrees to enter into the licence to Lennox Community Gardens Inc for the three year term, at a licence fee in accordance with the Community Property and Leasing Policy. This is the recommendation as the matters raised in the objections will be addressed as per the contents of this report.
2. That Council does not enter into the licence.

RECOMMENDATION

That Council agrees to enter into the licence to Lennox Community Gardens Inc for the three year term, at a licence fee in accordance with the Community Property and Leasing Policy, as per the contents of this report.

Attachment(s)

1. Photos Lennox Community Gardens
2. Submissions Lennox Community Gardens

10.2 Policy (Review) - 4WD Beach Access - Seven Mile Beach Lennox Head

10.2 Policy (Review) - 4WD Beach Access - Seven Mile Beach Lennox Head

Delivery Program

Open Spaces

Objective

To review the 4WD Beach Access - Seven Mile Beach Lennox Head Policy

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the 4WD Beach Access – Seven Mile Beach Lennox Head policy.

Council first adopted this policy in August 2010 and again in December 2014.

Council considered a Notice of Motion at the April 2020 Council meeting regarding 4WD beach access at Seven Mile Beach. The resolution in response to the Notice of Motion was as follows:

1. That as part of the review of the Plan of Management for the Coastal Reserve, Council examines ways to limit beach 4 wheel drive permits.
2. That Council also receives a report that investigates moving the vehicle access point further to the north to where the current horse access is.

The draft update of the policy is presented here to ensure a contemporary policy operates during the period required to respond to the above resolution.

Key Issues

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

Information

Council's role in the management of 4WD access on Seven Mile Beach arises as part of its broader management responsibilities for beaches and the Ballina Coastal Reserve area in the shire.

Whilst Seven Mile Beach is Crown Land, Council manages the land as Crown Land Manager on behalf of the State Government and ultimately, the people of NSW.

This role includes management of beach amenity, access arrangements, coastal hazards and environmental attributes as well as regulatory responsibilities in relation to enforcement of policy and laws governing use of beaches.

There are competing interests and values associated with Seven Mile Beach, most notably involving recreational use (including that by 4WD users), safety, amenity and environmental attributes.

10.2 Policy (Review) - 4WD Beach Access - Seven Mile Beach Lennox Head

There are also important considerations associated with the integrity of the dunal system where 4WD beach accesses penetrate the dune system.

This policy seeks to establish a framework that applies to 4WD users to manage the permitted 4WD beach access in a way that facilitates safe beach access and use as well as minimises impacts on key environmental attributes of the beach, dunes and surrounding area.

In light of the broader review proposed by the April 2020 resolution, the review of the current policy has been limited to addressing minor changes only.

The policy follows the Council's current policy position.

The changes suggested in the policy are only of a minor nature and can be summarised as:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.
- Updated information regarding the permit system, automated kiosk and EasyPark application and filming provisions
- Updates to the 4WD guidelines

The changes have been marked in yellow in the copy of the draft policy attached to this report.

These changes are recommended to enable the continued efficient management of this issue until the review of the Plan of Management is completed.

Sustainability Considerations

- **Environment**
The policy seeks to establish an administrative framework for beach access on Seven Mile Beach that balances recreational and environmental considerations as well as safety and special access.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

There are no specific legal or resource implications associated with the policy, with the policy consistent with the current Ballina Coastal Reserve Plan of Management. Council utilises funds generated from the 4WD permit system to undertake environmental works within the Coastal reserve, in addition to maintain and improving beach access. Council reviews the applicable fees and charges for the 4WD permit system annually.

Consultation

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment.

If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

In presenting this report it is acknowledged that there is a level of interest in reviewing the future direction for this policy.

In part, this level of interest has increased due to the experience of the temporary closure of the access in response to the COVID-19 circumstances.

It is preferred to manage further discussion on the future policy direction as in integrated process within the review of the plan of management.

It is recommended that Council adopt the draft policy attached to this report and place the policy on exhibition. It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopts the amended 4WD Beach Access – Seven Mile Beach Lennox Head Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Four Wheel Drive Beach Access - Seven Mile Beach (4WD Beach Permit)

10.3 Policy (Review) - Cemetery Management Policy

10.3 Policy (Review) - Cemetery Management Policy

Delivery Program

Open Spaces

Objective

To consider submissions received during the public exhibition period on the Cemetery Management Policy

Background

Council at the 26 March 2020 Ordinary meeting resolved to place on public exhibition the Cemetery Management Policy. The draft policy was placed on public exhibition with the closing date of 6 May 2020. One submission was received, a copy of which is attached to this report. This report provides an assessment of the submission.

Key Issues

- Content of policy
- Relevance of policy
- Address submissions

Information

The draft policy document was exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of advertisement in the local newspaper. Copies of the document were made available at Council's Community Access Points. A copy of the submission received is included as Attachment 1. The policy is included as Attachment 2.

In summary, Mr Wilson, is seeking permission under the policy to install a monument in the Wardell Cemetery prior to his passing.

The submission sets out the reasons why and this includes ensuring the establishment of the monument is undertaken according to his wishes and is not left for his family to manage. Mr Wilson has a reservation plot within the Wardell Cemetery.

The current policy does not permit the placement of monuments prior to a person becoming deceased. The basis for the current policy position is:

- Maintain the integrity of Council's cemetery register as a record of "deceased persons" and meet recording obligations.
- To assist in the control and management of the illegal placement of monuments and ashes placements
- Assist the ability to undertake interment or burials without encumbrance from pre-installed monuments
- Maintain monuments located within cemeteries for deceased persons.

10.3 Policy (Review) - Cemetery Management Policy

There are also the difficulties that could arise if a monument is installed and a person is ultimately interned at another location.

The current processes require for the executor to make an Application for the Placement of Ashes, Statutory Declaration to transfer Interment Rights and Monument Application subsequent to death.

Additionally, the request proposes additional plaques for deceased persons not recorded in the cemetery register, which would not normally be approved.

Sustainability Considerations

- **Environment**
Properly planned maintenance and policy assists in protecting the environment surrounding cemeteries.
- **Social**
Cemeteries are an essential community service.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Nil.

Consultation

The draft policy was placed on public exhibition with the closing date of 6 May 2020.

Options

In respect of the submission to amend the policy to enable monuments to be installed prior to a person's death, ideally it would be preferred to support the request to enable the desired outcomes to be achieved as this would ease the burden and concerns expressed by Mr Wilson.

However, the information in this report explains the issues that arise from the Council's perspective if monuments are installed prior to a person's death. It is also noted this is a very uncommon, or even unique, request.

Therefore, as the policy has been working well, the recommendation to this report is adopt the policy as exhibited.

The recommendation does however seek to recognise Mr Wilson's personal interest in this matter by suggesting to Mr Wilson to continue to discuss options with staff that will satisfy his concerns following Council's determination of its policy position.

One option that might be acceptable to Mr Wilson is for staff to assess the proposed monument proposal and confirm to Mr Wilson in writing whether, or not, it complies with the policy.

10.3 Policy (Review) - Cemetery Management Policy

This will provide Mr Wilson the benefit of the knowledge there will be no future impediment to the monument being installed, subject of course to his executor following his instructions.

The Council can also decide to amend the policy or determine not to adopt the policy.

RECOMMENDATIONS

1. That Council adopts the Cemetery Management Policy, as exhibited, as per Attachment 2 to this report.
2. That Council write to Mr Wilson expressing regret that Council is not able to amend the policy as requested and invite Mr Wilson to continue to discuss with staff policy compliant options that will suit his circumstances and preferences.

Attachment(s)

1. Submission
2. Policy (Review) - Cemetery Management

11.1 Notice of Motion - Wollongbar Sports Fields Drainage

11. Notices of Motion

11.1 Notice of Motion - Wollongbar Sports Fields Drainage

Councillor

Cr Smith

I move

That Council receive a report on the background and remediation options for the road drainage at the Wollongbar Sports Fields.

Councillor Comment

In 2018, Council officially opened the Wollongbar Sports Fields.

The Wollongbar Sports Fields project was a major project for Council at the time and had a number of issues initially upon opening. Since that time, the facilities usage has steadily increased, particularly in the current climate as the facility enables the use of tennis and large open fields ideal for socially distanced recreation.

However, one issue which has persisted since opening has been the drainage on both of the access roads (although primarily on the Pearces Creek Road entrance).

It's debatable whether or not the drainage was ever designed to meet the requirements of the environment the road is situated on.

The access roads and drainage look unsightly and is an embarrassing entry statement to a \$4.5+ million dollar facility.

The drainage functions poorly with rocks and mud piling up regularly after a typical rain event. Furthermore, the poor drainage is causing structural damage to the access roads, creating an increased burden on road maintenance.

The objective of this motion is to get some background on the issue, understand what's been done to date and what options Council has to remediate the issue.

Staff Comment

A response to this can be provided to the June 2020 Ordinary meeting as it is important that Council examines options for funding the rectification works as part of the adoption of the 2020/21 Delivery Program and Operational Plan.

COUNCILLOR RECOMMENDATION

That Council receive a report on the background and remediation options for the road drainage at the Wollongbar Sports Fields.

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 April 2020 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
20/4/20	Paradise FM – ANZAC DAY – Service Recording
23/4/20	Jetstar Return
25/4/20	ANZAC Day Wreath Laying
1/5/20	Meeting – Ben Franklin re Funding
3/5/20	Commemoration Park Markets
4/5/20	Community Safety Precinct Meeting
7/5/20	Meeting – Lennox Head Surf Club
8/5/20	Volunteer Weeks – Recording Message
8/5/20	Ballina Rugby Club - Grant – Ben Franklin
10/5/20	Commemoration Park Markets
11/5/20	Briefing – Ballina Quays Retaining Walls
11/5/20	Briefing – Lennox Head Vision Draft Concept Plan
12/5/20	'A' Ward Committee
12/5/20	Ballina Shire Council On-Line Public meeting – Delivery Program
14/5/20	'C' Ward Committee
14/5/20	Ballina Shire Council On-Line Public meeting – Delivery Program
17/5/20	Commemoration Park Markets
18/5/20	Community Safety Precinct Meeting - John/Paul
18/5/20	'B' Ward Committee
19/5/20	Briefing Wardell Bypass Town Signage
24/5/20	Commemoration Park Markets
28/5/20	Council Meeting
31/5/20	Commemoration Park Markets

RECOMMENDATION

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

Attachment(s)

Nil

14. Confidential Session

14. Confidential Session

Nil Items