



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 24 October 2019 commencing at 9.00 am.**

Business

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Planning and Environmental Health Division Reports
9. Corporate and Community Division Reports
10. Civil Services Division Reports
11. Notices of Motion
12. Advisory Committee Minutes
13. Reports from Councillors on Attendance on Council's behalf
14. Confidential Session

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

- Deputations by members of the public may be made at Council meetings on matters included in the business paper.
- Deputations are limited to one speaker in the affirmative and one speaker in opposition.
- Deputations, per person, will be limited to a maximum of two items on the agenda.
- Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting.
- Deputations are given five minutes to address Council.
- Deputations on the same matter will be listed together with the opposition first and the speaker in affirmative second.
- Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.
- To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
 - Tenderers during a public tender or request for quotation
 - Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
 - Consultants who are engaged by Council on the matter the subject of the deputation.

Public Question Time – This Session Does Not Form Part of the Ordinary Meeting

- A public question time has been set aside during the Ordinary meetings of the Council. The Ordinary meeting will be adjourned from 12.45 pm for Public Question Time. If the meeting does not extend to 12.45 pm Public Question Time will be held after the meeting closes.
- The period for the public question time is set at a maximum of 15 minutes.
- Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.
- Questions may be on any topic, not restricted to matters on the Ordinary meeting agenda.
- The Chairperson will manage the questions from the gallery to give each person with a question, a "turn".
- People with multiple questions will be able to ask just one question before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, multiple questions can be invited and considered.
- Recording of the questions will not be verbatim and will not form part of the minutes of the Ordinary meeting.
- The standard rules of behaviour in the Chamber will apply.
- Questions may be asked from the position in the public gallery.

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

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1. Australian National Anthem
 2. Acknowledgement of Country
 3. Apologies
 4. Confirmation of Minutes
 5. Declarations of Interest & Reportable Political Donations
 6. Deputations
 7. Mayoral Minutes
-

1. Australian National Anthem

The National Anthem will be performed by Councillors and staff.

2. Acknowledgement of Country

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 September 2019 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 September 2019.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

8. Planning and Environmental Health Division Reports

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

Applicant	Alstonville Agricultural Society Inc
Property	Lot 2 DP 1031929, 22-40 Commercial Road Alstonville
Proposal	To undertake site levelling, erection of retaining walls and security fencing and demolition works
Effect of Planning Instrument	The land is zoned RE2 – Private Recreation under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached (Attachment 1) and Figure 1.

Introduction

DA 2019/301 relates to the Alstonville Showground. The subject land is shown in Attachment 1 (cadastral plan) and Figure 1 (aerial photo).

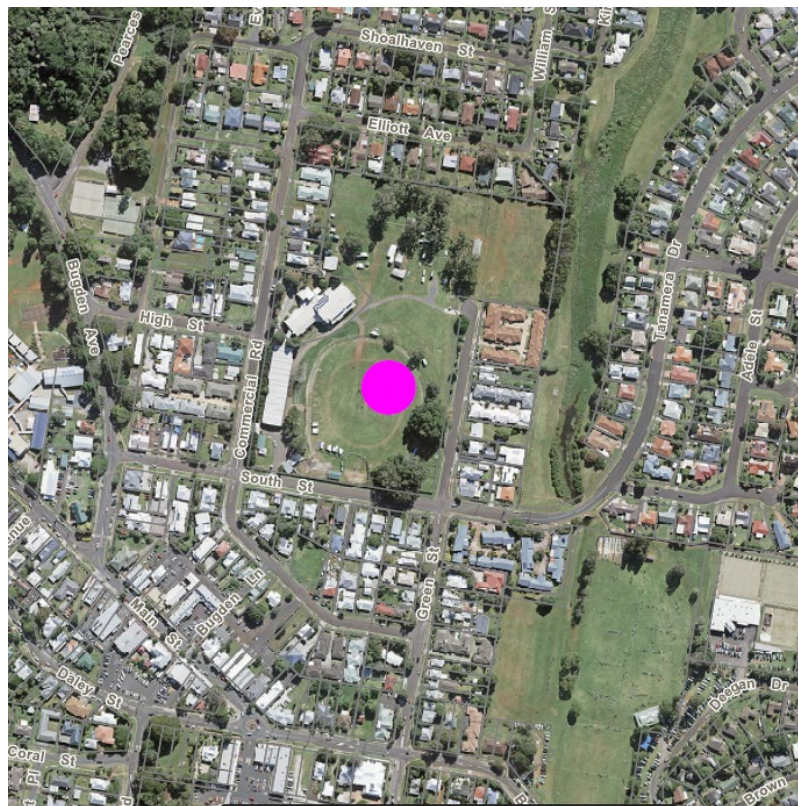


Figure 1: Alstonville Showground - Aerial photo (site shown marked by purple dot)

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

Development consent is sought via DA 2019/301 for the following works at the Alstonville Showground, as shown in Attachment 2:

- Earthworks to level the north-eastern portion of the site at the end of Green Street, and construction of associated retaining walls.
- Erection of a chain mesh fence to enclose the north-eastern paddock. The fence has a maximum height of 2.2 metres from finished ground level and has a minimum setback from all the site boundaries of 4 metres. Barbed wire will be use on the top portion of the northern, eastern and western fences.
- Demolition of the existing sheds located within the development footprint.

The application was amended following close of the initial exhibition period.

The application is being reported to Council for determination in accordance with Council's resolution of 26 June 2019.

DA 2019/303 also relating to the Alstonville Showground is the subject of a separate report elsewhere in this business agenda.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition from 5 June 2019 to 20 June 2019. Following the exhibition of the application four public submissions were received in objection (refer to Attachment 3). The main concerns raised in the submissions related to the location and design of the proposed security fencing.

Having regard for the concerns raised in the public submissions and those of Council staff, the applicant amended the application prior to its determination.

The key amendments to the proposal included the following:

- Increase the fence setback from the northern and southern boundaries (immediately adjoining residential properties) from zero to four metres
- Deleting barbed-wire from the southern fence
- Including demolition of sheds (previously included in DA 2019/302 – now withdrawn)
- Reduce the extent of cut and fill in earthworks

The amended application was re-exhibited from 26 August 2019 to 10 September 2019 and one submission was received (refer Attachment 3). The key matters raised in this objection in relation to the amended proposal are summarised and addressed as follows:

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

1. *The proposed two-metre-high barbed wire fence would make the recreation and residential areas, in my view, look like a prison or industrial park.*
2. *The proposed chain-link and barbed wire fencing is not in line with Alstonville's unique heritage and village character.*
3. *The proposed chain-link and barbed wire fence is too high, unnecessary and there are feasible more aesthetically pleasing alternatives that would address the applicant's security concerns.*

Comment: The proposed fencing is consistent with that used elsewhere on the showground site and is of a style and height which is not unexpected for a land use of this nature. The fence location has been amended to provide a setback to residential properties of four metres and the barbed wire component has been deleted from the southern fence. The fence is located well away from any listed heritage item and is not considered to have unreasonable impact on the character of the immediate area. Given that the proposed fence is over 300 metres in length, the proposed style of fencing is considered to be a relatively cost effective way to enclose this area.

4. *It is unclear from the development application if the proposed fence meets the applicant's bio-security concerns at the Showground.*

Comment: This is a matter for the Alstonville Agricultural Society to determine and is not for Council to consider. The objector's request for Council to defer approval of the development until it has developed a 'Bio-Security Policy' and an 'independent Bio-security Study' is unreasonable and outside the role of Council in assessing this application.

5. *The proposed barbed wire fence may have a negative impact on property values.*

Comment: The proposed fence (as amended) is not expected to have a negative impact on property values in the immediate area. The submitter has not provided any information to support this claim.

6. *The proposed barbed wire fencing may represent a significant safety risk to children, birdlife and wildlife in Alstonville and, as such, may breach the Council's duty of care in this regard.*

Comment: The proposed fence will enclose a cleared area of the showground. The property is located within the township of Alstonville and surrounded by residential land uses. The site is not identified as being within a wildlife corridor, natural areas habitat or near core koala habitat. The proposed fencing is not expected to be a high risk to birdlife or wildlife in the area.

The barbed wire portions of the proposed fence are located above 1.8 metres from ground level, and not expected to present a significant risk to patrons of the showground or the general public.

7. *The proposed two metre chain-link and barbed wire fence appears to be a disproportionate response to crime related security concerns raised by the applicant as the rate of crime in Alstonville is very low according to the NSW Bureau of Crime Statistics and Research.*

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

Comment: The applicant has advised that the fence is proposed to be erected to contain horses, cattle and other beasts on the site, for bio-security reasons (ie lockdown the showground in the event of a disease outbreak such equine influenza and the Hendra virus), and restrict unauthorised access from the public. The applicant's rationale for the proposed fencing is reasonable given the use of the site. The proposed fencing is consistent with established fencing on the showground. The increased setback of the proposed fencing is an acceptable response to the public submissions.

8. *A large number of large trucks are operating from the showground and creating a lot of traffic and noise in Green Street, and various forms of piping and other industrial good are being stored in public sight.*

Comment: This use of the site does not form part of the current application and is not directly relevant to the merit assessment of the proposed development. However, the showground has not been approved for the operation of a depot and this issue has been forwarded to Council's Compliance Section for further investigation.

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. 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.

State Environmental Planning Policy No. 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.

The development application was supported by the submission of a SEPP 55 stage 1 preliminary site investigation. The assessment has generally been undertaken in accordance with Council's Management of Contaminated Land Policy, SEPP 55 and guidelines made and approved by the NSW EPA including the National Environment Protection (Assessment of Site Contamination) Measure 1999 (amended 2013).

The Preliminary Contaminated Land Assessment established the historical land uses occurring on the site, including reviewing available records, historical photos and undertaking seeking information from the Alstonville Show Society, Council staff and NSW DPI. Alstonville dip site is located on the subject site and the proposed works are within 50 meters of the dip site. Fifty-four soil samples were collected across the site.

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

The results of analysis were compared to the Health Investigation Level Column C public open space such as parks, playgrounds, playing fiends (eg ovals), secondary schools and footpaths. All the results complied with the specified criteria and no visible asbestos was observed. Accordingly, no objection is raised to the proposed development in relation to land contamination, subject to certain conditions.

Ballina LEP 2012

Zoning (Clause 2.3)

The subject site is zoned RE2 – Private Recreation under the Ballina LEP 2012. The current use of the site as a showground is defined under the Ballina LEP 2012 as a recreation facility (major). The proposed development is associated with the operation the site as a recreation facility (major) and is therefore permissible within the RE2 zone.

Zone Objectives (Clause 2.3)

The objectives of the RE2 – Private Recreation zone are:

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To enable development that is compatible with the recreational nature and environmental character of the land.
- To encourage development that achieves the efficient use of resources such as energy and water.

The proposed works will facilitate the continued operation of the Alstonville showground which provides a range of recreational and social events for the wider community. The proposed works will not detract from the character of the showground or surrounding area. The development is consistent with the objectives of the RE2 – Private Recreation zone.

Heritage Conservation (Clause 5.10)

The subject site contains heritage item I10 - Alstonville Show Ground Memorial Gates. However, Clause 5.10 is not applicable to this application as the proposal does not involve the erection of a building on the land.

Earthworks – Clause 7.2

Clause 7.2(3) of the Ballina LEP 2012 states that before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

The proposed development is not likely to unreasonably impact on drainage patterns or soil stability.

- (b) *the effect of the development on the likely future use or redevelopment of the land,*

The proposed works will not prevent or unreasonably affect the future use of the land.

- (c) *the quality of the fill or the soil to be excavated, or both,*

Soil is not proposed to be imported/exported. See commentary on SEPP 55 in relation to potential contamination.

- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*

Provided the conditions of consent relating to construction noise, dust suppression and erosion and sediment control measures are adhered to, the proposed works will not unreasonably impact on the amenity of neighbouring properties.

- (e) *the source of any fill material and the destination of any excavated material,*

This development does not require the importing of fill material to the site or the exporting of extractive material from the site.

- (f) *the likelihood of disturbing relics,*

A search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken on 2 September 2019. No Aboriginal sites or declared Aboriginal places were identified on or near the subject site. The proposed development is unlikely to disturb any Aboriginal relics.

- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

The site is not within close proximity to environmentally sensitive areas.

The proposed site is located within a mapped drinking water catchment. Refer below in relation to this consideration.

- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Suitable conditions have been recommended to mitigate impacts from the proposed earthworks on the neighbouring residents and surrounding environment in relation to construction noise, erosion and nuisance from dust.

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

Drinking Water Catchments (Clause 7.4)

The subject site is land identified as within a 'Drinking Water Catchment'. Before determining a development application for development on land to which this clause applies, Council must consider the following:

- a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following:
 - (i) the distance between the development and any waterway that feeds into the drinking water storage,
 - (ii) the on-site use, storage and disposal of any chemicals on the land,
 - (iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,

Comment: The mapped drinking water catchment relates to the Lumley Park water bore which is located approximately 500 metres from the proposed works. The fill pad is not being extended past the existing batters on the east and west sides fronting residential properties. There is an existing minimum four metre grassed buffer area between the batter and the boundary that will be maintained and directs stormwater from the batter catchment to the reserve on the eastern boundary.

The use of the subject area is not proposed to change. Ongoing treatment, storage or disposal of chemicals or waste is not proposed, and no additional impervious areas are to be created. Accordingly, the development is unlikely to have any adverse impact on the quality and quantity of water entering the drinking water storage.

- b) the cumulative impacts of development on water quality and quantity in the catchment,

Comment: For the reasons discussed above, the proposed development is not expected to result in cumulative impacts on water quality and quantity in the catchment.

- c) any appropriate measures proposed to avoid the impacts of the development,

Comment: Standard conditions have been recommended to ensure erosion and sediment control measures are implemented so as to avoid impacts during the earthworks stage.

- d) any comments that have been provided in relation to the development by the relevant water supply authority or local or county council exercising water supply functions under Division 2 of Part 3 of Chapter 6 of the Local Government Act 1993,

Comment: Rous County Council is the water supply authority for the Lumley Park water bore. However, given the nature of the proposal and the distance away from the bore, this development has not been referred to Rous County Council for comment.

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

- e) whether or not the development would be more suitably carried out on an alternative site.

Comment: The proposed development is suitable for the site and cannot occur on an alternative site.

Development consent must not be granted to development on land to which this clause applies unless Council is satisfied that the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows.

Comment: No additional impervious areas are proposed under the current application and water runoff will be directed to the east. Standard erosion and sediment control measures will be implemented during the earthworks phase and until ground cover has been established. Accordingly the development will not result in any significant impact on water quality or flows.

Ballina DCP 2012

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

Clause 3.12 - Heritage

The subject site contains heritage item I10 - Alstonville Show Ground Memorial Gates. The proposed works and structures are well removed from the heritage item (approximately 200 metres) and will not adversely impact on the character or identified heritage values of this item. Therefore, a Statement of Heritage Impact is not necessary in this instance.

Conclusion

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 and submission made in response to the exhibition of the amended proposal.

The proposed works will facilitate the continued use of the site for the purpose of a showground.

Having regard for the outcomes of the assessment undertaken, it is recommended that the application be determined by way of approval, subject to standard planning, building and environmental health conditions.

8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground

RECOMMENDATION

That Development Application 2019/301 to undertake site levelling, erection of retaining walls and security fencing and demolition works at Lot 2 DP 1031929, 22-40 Commercial Road Alstonville be **APPROVED** subject to standard planning, building and environmental health conditions.

Attachment(s)

1. Locality Plan
2. Proposed Plans
3. Public Submissions

8.2 DA 2019/303 - Tiered Seating, Viewing Platform and Awnings - Alstonville Showground

8.2 DA 2019/303 - Tiered Seating, Viewing Platform and Awnings - Alstonville Showground

Applicant	Alstonville Agricultural Society Inc
Property	Lot 2 DP 1031929, 22-40 Commercial Road Alstonville
Proposal	Proposed new roofed tiered seating and viewing platform extension adjacent to the rodeo arena area and new awnings to existing amenities building
Effect of Planning Instrument	The land is zoned RE2 – Private Recreation under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached (Attachment 1) and in Figure 1.

Introduction

DA 2019/303 relates to the Alstonville Showground. The subject land is shown in Attachment 1 (cadastral plan) and Figure 1 (aerial photo).

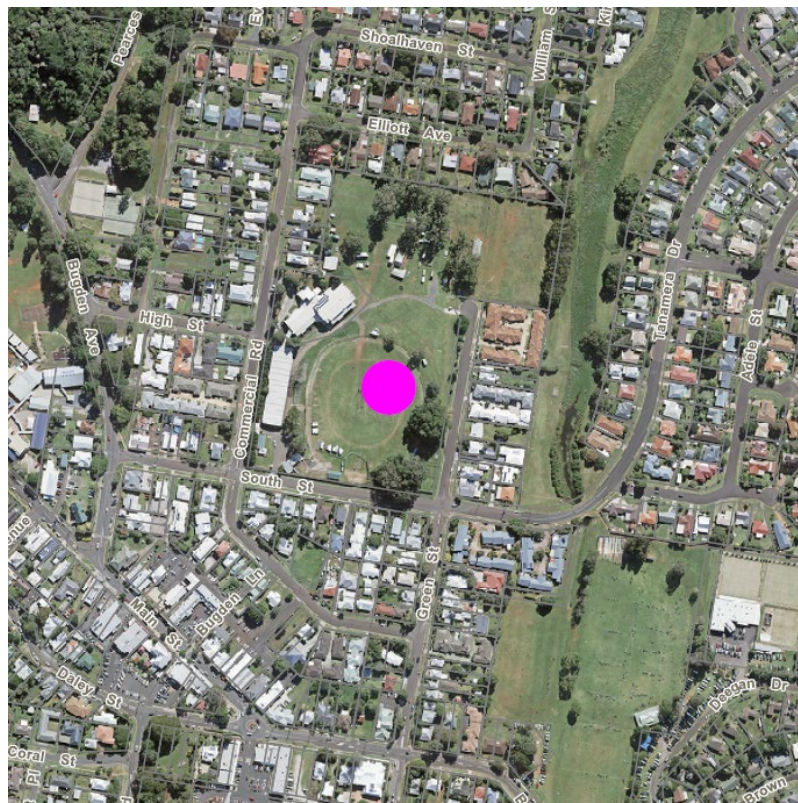


Figure 1: Alstonville Showground - Aerial photo (site shown marked by purple dot)

Development consent is sought via DA 2019/303 for the following works at the Alstonville Showground, as shown in Attachment 2:

8.2 DA 2019/303 - Tiered Seating, Viewing Platform and Awnings - Alstonville Showground

- new roofed tiered seating (comprising one three tier and one five tier structure) and viewing platform extension adjacent to the rodeo arena area
- new awnings to existing amenities building

The application is being reported to Council for determination in accordance with Council's resolution of 26 June 2019.

DA 2019/301 also relating to the Alstonville Showground is the subject of a separate report elsewhere in this business agenda.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition from 5 June 2019 to 20 June 2019. No public submissions were received.

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. 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.

Ballina LEP 2012

Zoning (Clause 2.3)

The subject site is zoned RE2 – Private Recreation under the Ballina LEP 2012. The current use of the site as a showground is defined under the Ballina LEP 2012 as a recreation facility (major).

Recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

The proposed development is associated with the operation of the site as a recreation facility (major) and is permissible within the RE2 zone.

Zone Objectives (Clause 2.3)

The objectives of the RE2 zone are:

- To enable land to be used for private open space or recreational purposes.

8.2 DA 2019/303 - Tiered Seating, Viewing Platform and Awnings - Alstonville Showground

- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To enable development that is compatible with the recreational nature and environmental character of the land.
- To encourage development that achieves the efficient use of resources such as energy and water.

The proposed works will facilitate the continued operation of the Alstonville showground which provides a range of recreational and social events for the wider community, including rodeo events. The proposed works, which provide enhanced amenity for attendees at rodeo events, will not detract from the character of the showground or surrounding area. The development is consistent with the objectives of the RE2 – Private Recreation zone.

Heritage Conservation (Clause 5.10)

Development consent is required for erection of a building on land on which a heritage item is located. The subject site contains heritage item I10 - Alstonville Show Ground Memorial Gates. The proposed awnings are attached to an existing building which is approximately 40 metres from the memorial gates. These works are considered to be relatively minor and will not adversely impact on the heritage significance or values of this item.

The proposed tiered seating and viewing platform associated with rodeo events are located approximately 60 metres from the memorial gates. Given the nature of the proposed structures and distance from the heritage item, they will not adversely impact on the heritage significance or values of this item.

Drinking Water Catchments (Clause 7.4)

The subject site is land identified as within a 'Drinking Water Catchment'. Before determining a development application for development on land to which this clause applies, Council must consider the following:

- a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following:
 - (i) the distance between the development and any waterway that feeds into the drinking water storage,
 - (ii) the on-site use, storage and disposal of any chemicals on the land,
 - (iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,

Comment: The mapped drinking water catchment relates to the Lumley Park water bore which is located approximately 450 metres from the proposed works. The use of the subject area will not change as a consequence of the proposed development, nor will the ongoing treatment, storage or disposal of chemicals or waste. Accordingly, the

8.2 DA 2019/303 - Tiered Seating, Viewing Platform and Awnings - Alstonville Showground

development is unlikely to have any adverse impact on the quality and quantity of water entering the drinking water storage.

- b) the cumulative impacts of development on water quality and quantity in the catchment,

Comment: For the reasons discussed above, the proposed development is not expected to result in cumulative impacts on water quality and quantity in the catchment.

- c) any appropriate measures proposed to avoid the impacts of the development,

Comment: Standard conditions have been recommended to ensure erosion and sediment control measures are implemented so as to avoid impacts during the construction phase.

- d) any comments that have been provided in relation to the development by the relevant water supply authority or local or county council exercising water supply functions under Division 2 of Part 3 of Chapter 6 of the Local Government Act 1993,

Comment: Rous County Council is the water supply authority for the Lumley Park water bore. However, given the minor nature of the proposal and the distance from the bore, this development has not been referred to Rous County Council for comment.

- e) whether or not the development would be more suitably carried out on an alternative site.

Comment: The proposed development is relatively minor and suitable for the site. It cannot reasonably occur at an alternative site.

Development consent must not be granted to development on land to which this clause applies unless Council is satisfied that the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows.

Comment: The proposed development is relatively minor and covers only a very small portion of the site. Standard erosion and sediment control measures will be implemented during the construction phase. Accordingly the development will not result in any significant impact on water quality or flows.

Ballina DCP

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

8.2 DA 2019/303 - Tiered Seating, Viewing Platform and Awnings - Alstonville Showground

Potential Visual and Amenity Impacts

The proposed viewing and seating structures have the following characteristics.

Structure	Setback to Southern Boundary	Height of Structure (approximate)
Three tiered seating	Nil	3.7m
Five tiered seating	11.6m	4.7m
Viewing platform	1m	3.8m

Given the height and position of the proposed structures they will be visible from South Street and neighbouring residents on the opposite side of the street. However, the structures are relatively minor and are only expected to be used infrequently. The proposal will not have unreasonable impact on the character of the area or amenity of neighbouring residents.

Conclusion

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, and the Ballina Shire Development Control Plan 2012.

Having regard for the outcomes of the assessment undertaken, it is recommended that the application be determined by way of approval, subject to standard planning, building and environmental health conditions.

RECOMMENDATION

That Development Application 2019/303 for proposed new roofed tiered seating and viewing platform extension adjacent to the rodeo arena area and new awnings to existing amenities building at Lot 2 DP 1031929, 22-40 Commercial Road Alstonville be **APPROVED** subject to standard planning, building and environmental health conditions.

Attachment(s)

1. Locality Plan
2. Proposed Plans

8.3 **DA 2018/321 - Palm Lakes**

Delivery Program Development Services

Objective To provide Council with an overview of the outcomes of the Land and Environment proceedings relating to DA 2018/321.

Background

DA 2018/321 relates to a proposed expansion of the Palm Lakes development located on North Creek Road in Ballina.

The original proposal under the DA was for an additional 156 dwellings.

As Council progressed with the assessment of the application, a significant number of issues were identified. The concerns identified through the assessment process related to a variety of matters including compliance with State planning policy, mosquito management, bushfire hazard, site hydrology and stormwater management, geotechnical conditions, ecology, flooding and traffic.

The applicant ultimately elected appeal to the Land and Environment Court to have the application determined. This occurred by way of the applicant lodging an appeal to the Court on the basis of a deemed refusal of the development application.

Council has received the Land and Environment Court judgement. The outcome of the appeal is that development consent has been granted for 75 serviced self care dwellings along with associated infrastructure and site works. The approved development is a modified version of the original proposal.

This report provides an overview of the Court decision with an associated confidential report providing further information about Council's legal position with respect to the Land and Environment Court judgement.

Key Issues

- Court decision to approve DA 2018/321 and associated rationale

Information

DA 2018/321 involved a variety of complex and interconnecting technical issues. The judgement systematically addresses each of the key issues that were contested during the hearing, with Commissioner Dickson finding in favour of the applicant and granting approval to the development subject to conditions of consent.

Council's legal representatives have reviewed the Land and Environment Court judgement relating to DA 2018/321. Council's legal representatives

have suggested that Council may wish to consider appealing the decision of the Court.

Advice from Council's legal representatives is the subject of a confidential report located elsewhere in this agenda.

Sustainability Considerations

- **Environment**

DA 2018/321 involved a variety of environmental, social and economic matters that were considered as part of the assessment process and Land and Environment Court proceedings.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

Legal implications associated with this matter are the subject of a confidential report. This was an extremely expensive case for Council with costs to date in excess of \$500,000 excluding staff time.

Consultation

Council's legal representatives have been consulted in relation to the Court judgement.

Options

The purpose of this report is to provide an open Council overview of the associated confidential report. The recommendation is for Council to note this report.

RECOMMENDATION

That Council notes the contents of this report in respect to the Land and Environment Court judgement relating to DA 2018/321.

Attachment(s)

Nil

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

Applicant	Ballina Shire Council
Property	Hutley Drive and Byron Bay Road Reserves Lot 2 DP 620838 and Lot 31 DP 787876, 9 Byron Bay Road and Ocean Breeze Reserve, Lennox Head
Proposal	Construction of the Hutley Drive Northern Extension
Effect of Planning Instrument	While development consent is not required for the proposed activity, approval is sought under Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act)
Locality Plan	The subject land is depicted on the locality plan in Attachment 1.

Introduction

Planit Consulting Pty Ltd, a local town and environmental planning consultancy, has undertaken this report and assessment of the proposed Hutley Drive Northern Extension project.

Council's technical officers, in the fields of engineering, ecology and environmental health, undertook their respective assessments of the project. These assessments, together with comments from the Roads and Maritime Services formed an integral component of Planit Consulting's overall assessment and recommendation for determination as detailed in this report.

Planit Consulting were engaged by Council to provide an additional level of rigour and transparency in the assessment of the project whilst having the matter reported in a timely manner.

The northern extension of Hutley Drive, connecting to Byron Bay Road, has been a key component of Ballina Shire Council's strategic road network planning since it was first identified under Council's Ballina Road Contribution Plan in 2002.

This extension has been earmarked to provide extra road capacity, ultimately forming part of a new western arterial road linking Lennox Head and Ballina. This route will assist with anticipated increased traffic loads associated with the release of new urban estates such as Reservoir Hill, Henderson Farm and Epiq. Strategic road network assessments have identified this northern extension being required by 2016.

A former Part 5 Application to extend Hutley Drive from Silkwood Drive to the existing roundabout at the Byron Bay Road / North Creek Road intersection was prepared and approved by Council's technical officers under delegation in February 2014 (Ref No. 2016/14).

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

The former approved roadway extension followed an existing Council owned road reserve, though it was determined at the detailed design stage that an acceptable intersection outcome with the existing Byron Bay Road / North Creek Road intersection could not be achieved. Alternative options have been examined, including a preferred extension of Hutley Drive to the east along the existing road reserve then making a left turn through No. 9 Byron Bay Road (Lot 2 DP 620838) and linking with Byron Bay Road approximately 130m north of the existing Byron Bay Road / North Creek Road intersection.

No. 9 Byron Bay Road has been purchased by Council allowing detailed consideration, site analysis and consultation regarding this preferred route to occur. The culmination of this work is a new Part 5 Application (the subject of this report), which assesses the potential impacts associated with this alternative route. The extent of potential impacts considered under this new application relate to works that either differ or have changed from the former planned and approved roadway extension (refer to plan titled Limit of Works in Attachment 2).

The purpose of the Part 5 assessment system is to ensure public authorities fully consider environmental issues before they undertake or approve activities that do not require development consent.

In considering this application Council must review matters affecting or likely to affect the environment by reason of the activity.

A determination of Council is being sought as to whether the environmental impacts of the proposed activity have been appropriately considered and can be adequately mitigated. This would negate the requirement for further environmental impact assessment. The application is presented to Council for determination due to public interest in the proposed activity.

Details of Proposal Activity

Approval is sought under Part 5 of the EP&A Act to undertake the northern extension of Hutley Drive in Lennox Head. Refer to the proposed plans in Attachment 2. The works / activity will include:

- Site preparation including grading, vegetation removal and soil remediation
- 200m extension of the Hutley Drive road to connect with Byron Bay Road
- New two-lane roundabout at the intersection of Hutley Drive and Byron Bay Road
- Widening of Byron Bay Road between the new roundabout and the existing roundabout to provide two lanes each way separated by a centre median
- New 2.5m wide concrete shared paths that will link with the existing shared path network
- Stormwater services including a new detention basin within the Ocean Breeze Reserve
- New (1.8m to 2.3m high) sound barrier wall to mitigate noise on residence located north west of the new road
- Regulatory road signage
- Line marking and safety barriers and lighting.

The works are expected to be completed within the 2019/2020 financial year.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

Council has undertaken extensive notification of the proposed roadway extension throughout 2018 and 2019. This has included Council issued factsheets, media releases, targeted consultation with adjoining landowners and public exhibition from 14 March 2019 to 4 April 2019 (21 days).

Through the targeted consultation and exhibition period of the application, two separate submissions were made by each adjoining landowner (total of three adjoining owners), one submission was made by an interested Lennox Head resident and a technical report, funded by the adjoining landowners and prepared by Greg Alderson & Associates, was received. That is, a total of seven submissions plus one technical report were made regarding the proposal. These submissions are included as Attachment 4 (Public Submissions).

The issues raised in the submissions, include:

- Road safety – including road layout, spacing of intersections, pedestrian and cycle opportunity
- Residential amenity – including noise, lighting, visual and landscape treatment
- Future land uses and ownership of the residue land - particularly regarding the residue land west of the proposed roadway extension
- Land valuation and property access

These matters are discussed in detail through this assessment report.

Report

Clause 94 and 111 of State Environmental Planning Policy (Infrastructure) 2007 permit development of a road, road infrastructure facilities and stormwater management systems to be carried out without the need for consent (ie. A Development Application under Part 4 of the EP&A Act) when undertaken on any land by or on behalf of a public authority. Whilst consent is not required, an assessment of the proposed activity is required to be undertaken under Part 5 of the EP&A Act.

For the purpose of attaining the objects of the EP&A Act, a determining authority in its consideration of an activity is required to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

Clause 228 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) identifies specific factors that must be taken into account concerning the impact of an activity on the environment.

An extract from the EP&A Regulation is contained in Attachment 6.

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

In this regard, the application has been accompanied by a comprehensive Review of Environmental Factors (REF) (and accompanying documents) which has been prepared by GeoLINK on behalf of Council.

The REF, contained in Attachment 3, addresses the legislative requirements and matters for consideration which are of relevance to the proposal.

This Council agenda report along with a peer review of the REF and associated documentation has been completed by an independent town and environmental planning consultant, as outlined at the beginning of this report.

The following key environmental considerations are elaborated upon for Council's information and consideration.

Infrastructure Design & Safety (Road and Stormwater)

The proposed infrastructure layout has been informed by a number of detailed design exercises, including traffic modelling, intersection analysis, risk analysis, swept path modelling, stormwater drainage system design and analysis (DRAINS), site capability and constraint analysis and targeted consultation.

Attachment 5 provides an overview of the proposed infrastructure layout, as an outcome of these design exercises.

A Road Safety Design Audit has been prepared to confirm appropriate safety measures have been incorporated into the new roadway design, including pedestrian and cycle pathways, crossings, vehicle sight lines, entry path radiuses and distances.

While the audit has scored a small number of design matters with a high risk rating, the audit primarily identified low to medium risks and includes amelioration measures to reduce any potential high risks.

This includes installing pedestrian holding rails and vehicle guard rails (where required). It would seem appropriate to review the findings of this audit against any final detailed construction plans before undertaking works.

Byron Bay Road is a classified (Regional) road (MR545), and while Council is the roads authority for this roadway, concurrence from Roads and Maritime is required prior to Council's approval of the proposed works.

Roads and Maritime has reviewed the proposal and issued concurrence, subject to conditions. The roadway design plans have been updated to accommodate Roads and Maritime's recommended changes.

The additional conditions from Roads and Maritime relate to ensuring the final construction plans and works are compliant with relevant guidelines, Australian Standards and that necessary approvals are obtained before displaying or changing regulatory road signage.

These conditions have been included as recommendations for approving the proposed activity and will need to be adhered to in any future works.

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

The proposal involves the construction of a 275m³ stormwater basin to assist with the management of stormwater flows associated with the new roadway and local area.

The basin will be accommodated within the Ocean Breeze Reserve, which is currently being considered through a master plan design exercise. The basin's shallow depth (400mm) and gentle battered slopes negate any requirement for safety fencing and / or detrimental change to the visual landscape.

Future landscaping in and around this basin would be considered by Council's Open Space and Reserves team as part of the future embellishment of this reserve area.

Ecological Considerations

The proposal was supported by an Ecological Assessment Report (EAR) which was reviewed by Council's Environmental Scientists within the Planning and Environmental Health Division.

The assessments indicate up to approximately 0.33 hectares of vegetation being lost through construction works, though this is a mixture of native vegetation, landscape plantings and exotic species.

Native species located within the potential impact area, include two Rough-shelled Queensland nut trees (*Macadamia tetraphylla*) and various Tuckeroo, Guioa, Swamp Mahogany, Broad Leaved Paperbark, Coastal Banksia, Foambark, Bangalow Palm, Willow Bottlebrush, Weeping Bottlebrush, Blackwood Wattle, Macaranga and Tea Tree species.

The development requires the removal of two Rough-shelled Bush Nut (*Macadamia tetraphylla*) trees. The Rough-shelled Bush Nut is listed as vulnerable under the Biodiversity Conservation Act 2016 and Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

In this case, it has been concluded the works could result in a significant impact to the "*local population*" of Rough-shelled Bush Nut trees if not assessed and appropriately managed in accordance with the requirements of the Biodiversity Conservation Act 2016.

Accordingly, a Biodiversity Development Assessment Report (BDAR) has been prepared to satisfy the requirements of the Biodiversity Conservation Act 2016.

The BDAR was submitted by GeoLINK on 16 October 2019 and has been reviewed by Council's Environmental Scientists.

It has been determined that subject to a range of mitigation measures being implemented including appropriate offsets that the proposed road can be recommended for approval on ecological grounds. That is, the proposed offsets would ensure potential significant impacts are suitably mitigated.

A Norfolk Pine tree will be required to be removed. This tree is not on the Significant Tree Register.

A detailed ecological assessment is contained in Attachment 8.

Acoustic Impacts

The Part 5 application is supported by a Road Traffic Noise Impact Assessment, prepared by a consulting acoustic engineer. This report considers the potential impacts of the proposed development in line with the relevant State noise policy and guidelines.

The report confirms that without any treatment, noise intrusion at number No. 9 Ocean Breeze Drive, as a result of the new road, would not comply with relevant noise criteria.

The report notes that minor exceedances of this noise criteria would be experienced at No. 7 Ocean Breeze Drive. Finally, the report indicates that there would not be noise exceedances at No. 5 Ocean Breeze Drive.

The report modelled four different treatment scenarios in this regard, including:

1. No acoustic barrier
2. Construction of 1.8m high barrier
3. Construction of a 2.3m high barrier
4. Construction of a 2m high barrier and utilising a road surface of either open graded asphalt or stone mastic asphalt

The report found that Options 3 and 4 achieve full compliance with the noise criteria, but also flexibility to alternate between Options 2, 3 and 4 (if necessary) to achieve noise criteria compliance.

Matters raised in the public submissions and the Greg Alderson & Associates technical report related to the data used to determine likely noise impacts and identifying alternative noise attention methods, such as extending the acoustic barrier up to Byron Bay Road.

Additional requests were also made including upgrading private properties such as new / improved fencing, installation of air-conditioning and window glazing.

Following the targeted consultation and public exhibition of the proposal, it was determined that an acoustic barrier (rendered besser block wall) varying in height from 1.8m to 3m would be provided along the north western boundary of the proposed roadway extension where it fronts private residences and Council owned land.

A low noise wearing road surface (stone mastic asphalt) has also been nominated to be used. This achieves some of the requests made under the public submissions and Greg Alderson & Associates report.

A copy of the revised Design Drawings, updated traffic data and confirmation of speed zone changes, as well as a copy of the public submissions and acoustic report from Greg Alderson & Associates were all reviewed by the assessing acoustic engineering consultant.

An updated report has been issued which confirms the current proposed measures achieve noise criteria and thus, ensure no detrimental noise impacts at nearby private residences.

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

Council's Environmental Health Officer is satisfied with the responses, together with an ameliorative measure that the final construction design plans should be referred back to Council's Environmental Health Unit for final consideration.

The application has not assessed potential noise impacts on the Council owned site / dwelling at No. 9 Byron Bay Road. Council's Environmental Health Officer has indicated that the dwelling should not be occupied once the road is operational unless an acoustic assessment has been undertaken to confirm this is reasonable.

This matter is discussed further through this report.

Land Contamination

A Preliminary Contaminated Site Investigation was undertaken and identified levels of potential lead contamination in the location of some proposed works that exceed Health Investigation Levels for residential and, in part, commercial land uses.

While the proposal relates to a roadway, a site remediation plan has been developed to remove and dispose of the material and therefore eliminate any future health risk or management requirements.

Council's Environmental Health Officer is satisfied that the proposed remediation is suitable; with an ameliorative measure requiring that validation, monitoring and completion reports be submitted to Council following remediation.

Visual Impact and Privacy Loss

The proposed works will change the visual landscape and experience in the local area.

Despite the inclusion of a new round about / intersection, the works represent a minor portion of the overall visual catchment area along Byron Bay Road. The development, as proposed, would not have any significant adverse impact or loss of user / visual experience at key viewing locations and for those travelling along roadway corridors in the area.

Landscape planting and hydro mulched batter areas will be provided along the frontage of the proposed rendered and painted besser block acoustic barrier to break up and soften its visual appearance when viewed from Hutley Drive and Byron Bay Drive.

The final landscape strategy will be confirmed with Council's Open Space and Reserves team. This sound wall may also present opportunity for future public art.

The loss of visual amenity and privacy associated with the revised alignment of the roadway being closer to the residential properties of No. 5, 7 and 9 Ocean Breeze Drive were key issues raised in the submissions. The inclusion of the sound barrier wall for the length of the proposed Hutley Drive assists to alleviate these concerns.

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

The noise wall varies between 2.7m to 3m along the southern boundary of No. 9 Ocean Breeze Drive. The wall will not generate any detrimental overshadowing to this property or any other nearby residential land, considering its location along the southern property boundary.

While the loss of vegetation along the frontage of No. 9 Ocean Breeze Drive was considered and approved under the former Part 5 Application, opportunities for reinstatement / replanting of vegetation could be negotiated with the landowners of No. 9 Ocean Breeze Drive as part of the final landscape strategy being undertaken by Council's Open Space and Reserves team.

Street lighting is proposed and LUX contour mapping has been provided to confirm compliance with the relevant Australian Standards. This will ensure a safe environment for vehicles, pedestrians and cyclists utilising the new roadway extension.

While some light spill will occur into adjoining residential land, this only occurs where these lots sit close to an existing road reserve.

It is also noted that lighting along this portion of the roadway was approved under the former Part 5 approval, and is not a key consideration for the current application.

Safety

A lockable gate is proposed along the proposed sound wall to provide access for Council staff and any other public authority. This will assist with ongoing maintenance and ensure a level of access control is maintained for safety requirements, whilst preventing private access.

Property Values

The development of land is a component of the NSW planning system and it is acknowledged that it can have an impact on land values.

Compensation for private landowners is not appropriate where a council approves development in accordance with established planning policy and procedure.

The extension of Hutley Drive has long been earmarked under Council's strategic infrastructure planning (since 2002) and the technical detail submitted under the REF and associated reports indicates that there will not be any detrimental impacts on nearby residential land.

The requests under the public submissions to introduce compensation for landowners who do not agree with a development decision constitutes a significant departure from the current planning process and is beyond the scope of this application.

No. 9 Byron Bay Road, Lennox Head

No. 9 Byron Bay Road, Lennox Head was acquired by Council in March 2018 to facilitate the proposed roadway extension.

8.4 Part 5 Application - Construction of Hutley Drive Northern Extension

This site currently comprises a dwelling, which is rented on a month to month basis.

The land is subject to a rezoning proposal, given the site no longer has an agricultural / rural purpose and to allow potential future land use planning, lease or landownership negotiations to commence.

Council is currently investigating opportunities to accommodate a new community preschool and a Rural Fire Service building in the eastern portion of No. 9 Byron Bay Road.

Demolition or reuse of the existing structure could be considered and approved through a separate planning pathway.

Similarly, potential future land uses and ownership of the western residue portion of No. 9 Byron Bay Road is not a consideration for this Part 5 Application.

The potential impacts from the proposed roadway over this eastern portion of No. 9 Byron Bay Road have not been addressed in detail under the REF and supporting technical reports.

Council's Environmental Health Officer has indicated that either occupation of the dwelling should cease prior to the use becoming operational or that further noise testing is undertaken to confirm its liveability.

A deferred commencement condition for any construction works, or possible staging of the works, should be considered to ensure residential uses cease at this property or that additional testing is undertaken to confirm suitability.

Conclusion

The Part 5 application for the proposed activity is accompanied by a detailed REF (and subsequent additional information) which addresses the relevant legislation and the matters affecting or likely to affect the environment.

The REF concludes that, subject to the implementation of appropriate ameliorative/measures, the activity (as amended) will not significantly affect the environment and an Environmental Impact Statement is not required.

The REF and associated reports were prepared by qualified and experienced experts, and Council can reasonably rely upon this information in making a decision.

Council's technical assessment teams as well as the Roads and Maritime have recommended the implementation of mitigation measures in addition to the proposed ameliorative/measures outlined in the REF.

Having regard for the information submitted and comments provided, the application is recommended for approval based on the mitigation measures identified in the REF and additional mitigation measures outlined in this report along with other more standard engineering, planning and environmental mitigation measures appropriate for this type of project.

RECOMMENDATION

That Part 5 application 22.2019/1 for the Construction of the Hutley Drive Northern Extension at Hutley Drive and Byron Bay road reserves, Lot 2 DP 620838 and Lot 31 DP 787876, 9 Byron Bay Road and Ocean Breeze Reserve, Lennox Head be **APPROVED** subject to planning, engineering and environmental ameliorative measures.

Attachment(s)

1. Locality Plan
2. Engineering Plans
3. Review of Environmental Factors (Under separate cover)
4. Public Submissions
5. Design Report
6. Section 228 of the Environmental Planning and Assessment Regulation
7. Review of Environmental Factors - Checklist / Peer Review
8. Detailed Ecological Assessment (Under separate cover)

8.5 Alstonville Dual Occupancy Planning Proposal

8.5 Alstonville Dual Occupancy Planning Proposal

Delivery Program Strategic Planning

Objective To provide Council with further background information relating to the enabling of dual occupancy within Alstonville as identified in the Alstonville Strategic Plan 2017 - 2037.

Background

Council at its Ordinary meeting on 26 September 2019 considered a report addressing the exhibited Alstonville attached dual occupancy planning proposal and associated draft DCP amendments. Council having considered the report resolved to note it.

This report provides Council with additional information upon which to further consider the subject planning proposal.

Prior to considering the September 2019 report Council has previously considered the Alstonville strategic planning process, and the associated strategic planning documents and strategies, a number of times as summarized below:

- April 2016 – Report to Council: Initiation of Alstonville and Wollongbar strategic plan processes. Resolution to proceed.
- March 2017 – Councillor briefing - Draft Alstonville Planning and Environmental Study and Draft Alstonville Strategic Plan.
- March 2017 – Report to Council: Draft Alstonville Planning and Environmental Study and Draft Alstonville Strategic Plan. Resolution to proceed to public exhibition.
- July 2017 – Report to Council: Finalisation of Alstonville Strategic Plan. Resolution to defer to a Councillor briefing.
- September 2017 – Councillor briefing – Draft Alstonville Strategic Plan (various issues).
- October 2017 – Report to Council: Finalisation of Alstonville Strategic Plan. Resolution to defer.
- December 2017 – Report to Council: Finalisation of Alstonville Strategic Plan.

Key Issues

- Finalisation of Alstonville Attached Dual Occupancy Planning Proposal
- Implementation of the Alstonville Strategic Plan 2017 – 2037
- Draft DCP amendments

8.5 Alstonville Dual Occupancy Planning Proposal

Information

Statutory Requirements – Planning Proposal Discontinuance

An exhibited planning proposal is a statutory document which must be considered under the provisions of section 4.15 of the Environmental Planning and Assessment Act, 1979, (EP&A Act) when determining development applications. It is also a matter that must be referenced within section 10.7 Planning Certificates.

The Gateway determination relating to this planning proposal authorised Council as the local plan-making authority to make the proposed LEP amendment. The plan making authority cannot discontinue a planning proposal unless it has obtained a determination from the Minister that the matter not proceed (s3.35(4) EP&A Act).

Demographic Characteristics

Table 1 provides a comparison of selected census data from 2011 and 2016 related to Alstonville and Ballina Shire. The data provides Council with context to one of the key drivers for the subject planning proposal, i.e. limited housing choice and an ageing population.

Table 1 - Selected Demographic Characteristics

Characteristic	Alstonville 2011	Alstonville 2016	Ballina Shire and (2016)
Population	2,318	2,534	
Age 55 and over %	41.1%	44.5%	36.4% (40.4%)
Median Age	48	50	45 (48)
Separate Houses	76.1%	78.7%	71.1 (69.2%)
Medium Density	20.6%	20.4%	25.6% (27.2%)
Dwellings 3 or more bedrooms	76.5%	75.2%	73.9% (73%)

In the five years to 2016, Alstonville's population has continued to age. Alstonville has the second oldest median age of any of the Shire's population centres. Only Ballina has a higher median age (55). Ballina also has the highest percentage of dwellings (48.3%) in the medium density category.

The amount of medium density housing units and the number of dwellings with less than three bedrooms has shown no significant change in Alstonville in the 5 years to 2016.

One of the consequences for older residents living in Alstonville, who wish to downsize to smaller dwellings, is that this type of housing is in short supply and existing supply is generally older in nature.

Alstonville in 2019 has very little capacity to provide housing more suited to its aging population.

It is this issue that was identified when consultation was undertaken with the Alstonville community during the preparation of the Alstonville Planning and Environmental Study.

8.5 Alstonville Dual Occupancy Planning Proposal

It was also this issue that was sought to be addressed by a number of village consolidation strategies (dual occupancy, more R3 zoned land and increased R3 zone area density), contained within the Alstonville Strategic Plan adopted by Council in December 2017.

Regional and Local Planning Framework Context for Planning Proposal

The Far North Coast Regional Strategy (FNCRS) (2006 to 2016) aimed to achieve a more appropriate mix for future housing that reflected the region's changing housing needs (i.e. 60% single dwellings and 40% multi-unit dwellings).

Under this strategy Council was required to prepare a Local Growth Management Strategy (LGMS). The LGMS was required to detail how the dwelling type target, and the associated new dwelling target of 8,400 dwellings by 2031, would be achieved.

The FNCRS was replaced in 2016 by the North Coast Regional Plan 2036. The NCRP 2036 contains a Direction (No 36) to increase housing diversity and choice.

The NCRP 2036 also contains an Action to encourage housing diversity by delivering 40% of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400m² by 2036.

Local growth management strategies are required to respond to the communities changing housing needs.

The Local Strategic Planning Statement, which Council is required to have adopted by 1 July 2020, requires a local response to relevant Directions and Actions contained within the NCRP 2036.

The Ballina Shire Growth Management Strategy 2012 (BSGMS) contains a Strategic Action for Alstonville relating to the investigation of the potential for infill development. Whilst the BSGMS is currently being reviewed it will still require a response to relevant housing related Directions and Actions contained within the NCRP 2036.

All of the place based strategic plans adopted by Council (Wardell 2015, Ballina Major Regional Centre 2015, Alstonville 2017 and Wollongbar 2019) contain dual occupancy infill development strategies.

Community Support for Dual Occupancy Strategy

The community survey undertaken during 2017 as part of the exhibition of the Alstonville strategic planning documents canvassed the degree of support for dual occupancy development within the R2 zone.

The results indicated that 71% of respondents were somewhat to very supportive of permitting dual occupancy development throughout the R2 zone.

This degree of support was maintained (72%) for permitting dual occupancy development on 900m² or larger R2 zoned lots.

8.5 Alstonville Dual Occupancy Planning Proposal

The exhibited planning proposal identified 414 R2 zoned lots with a minimum area of 900m² and a slope of 20% or less that may be suitable for attached dual occupancy development.

This was a reduction from the approximately 500 sites previously identified in the 2017 Alstonville Planning and Environmental Study. The reduction resulting from the additional slope constraint consideration.

The community consultation for the attached dual occupancy planning proposal included individual letters being forwarded to 1,247 property owners.

This resulted in 30 submissions of which 20 raised various concerns or objections.

One interpretation that may be placed on the relatively low number of objections is that there is a degree of community acceptance for the proposal.

Estimated impact of attached dual occupancy planning proposal in terms of additional dwellings and people

The planning proposal identifies 414 lots within the R2 Low density zone that meet the 900m² minimum lot size and 20% or less slope criteria.

This is an estimate only as the identification of properties impacted by the slope constraint is not precise at this stage of the process.

In terms of extra potential dwelling yield from this proposal, the 2017 Alstonville Planning and Environmental Study estimated that 50% of the properties identified as being suitable may be developed.

This estimate recognises that many properties will never be developed as the owners will retain them for single dwelling purposes.

Applying the above 50% estimate would result in potentially 200 additional dwellings created over time. This would provide housing for approximately 460 people.

Only some of the potential additional dwellings are anticipated to be built over the next 20-year period, as a consequence of the overall good quality of Alstonville's current housing stock.

A low estimate of 60 additional dwellings to 2036 was contained within the Alstonville Planning and Environmental Study.

Experience has shown it is often "mum and dad" developers who redevelop their existing properties for attached dual occupancy purposes, at a time best suited to their lifestyle requirements.

The attached dual occupancy strategy should ideally be viewed as part of a broader range of infill village consolidation strategies. Such as the proposed additional R3 zone and increased density for some R3 zoned areas, which together are designed to increase housing choice for those residents already in the community who are keen to downsize within their local village.

Sustainability Considerations

- **Environment**

The proposal to permit attached dual occupancy infill residential housing within part of an existing residential area is consistent with the existing urban planning policy for the Alstonville area (Alstonville Strategic Plan).

It is also consistent with the strategic action relating to the investigation of the potential for infill development intensification contained within the Ballina Shire Growth Management Strategy and with the North Coast Regional Plan Direction relating to increasing housing diversity and choice.

Infill development is generally considered to have a lesser impact on the natural environment relative to greenfield development.

- **Social**

The proposal is likely to have positive social impacts resulting from the provision of greater housing choice. However, it is acknowledged that infill development can result in some conflict relating to amenity.

- **Economic**

The proposal has the potential to result in a number of positive economic impacts associated with construction.

Legal / Resource / Financial Implications

Completion of the planning proposal and the associated draft DCP amendments can be managed within existing staff resources. This matter is included in the current Strategic Planning work program.

The finalisation of the proposed LEP amendment is to be undertaken under delegation provided to Council by the Department of Planning Industry and Environment.

Alternatively, should Council resolve to discontinue the planning proposal then it must request the Minister for Planning and Public Spaces to determine that the matter not proceed (s3.35(4) EP&A Act). It is important to note that the Minister may proceed to complete the amendment if discontinuing the planning proposal is not agreed.

Consultation

The planning proposal and associated draft amendments to Ballina Shire DCP Chapters 2, 3 and 4 were publically exhibited from 22 May 2019 until 21 June 2019.

Consultation occurred with the NSW Rural Fire Service (RFS) and then subsequently with the Department of Planning, Industry and Environment.

The community engagement strategy associated with the public exhibition included:

8.5 Alstonville Dual Occupancy Planning Proposal

- Letters to 411 property owners of land which was initially assessed as meeting the 900m² minimum lot size and maximum 20% slope gradient criteria.
- Letters to 583 property owners who adjoined the above land.
- Letters to 110 property owners who whilst meeting the 900m² minimum lot size criteria had their land assessed as not meeting the 20% maximum slope criteria.
- Letters to 143 property owners who adjoined the above land that was assessed as not meeting the maximum slope criteria.
- Advertisement within the Ballina Shire Advocate on 22 May 2019.
- Display of documentation on Council's web site and at the community access points.

In response, 30 submissions were received. The submissions consisted of six supporting the proposal, 20 objecting (2 from 1 person) to the proposal, two requests for information and two public authority consultation responses.

Full details of the submissions received were contained within the report to Council's Ordinary meeting on 26 September 2019.

A late additional submission by Mr T Prendergast, addressed to the General Manager and forwarded directly via email to Councillors, is contained within Attachment 1 to this report.

The issues put forward by Mr Prendergast have been the subject of review by Council in formulating the planning framework for Alstonville over time.

With respect to the submission in Attachment 1, some of the issues raised relate to the broader issue of the strategic planning strategy for Alstonville in respect to which Mr T Prendergast, or his representatives, have already made a number of submissions and deputations to Council.

No changes to the exhibited planning proposal or DCP amendments are recommended as a result of this latest submission from Mr T Prendergast.

In summary, the land is not considered suitable for rezoning to enable urban development from a planning perspective based on the adopted strategic planning framework for Alstonville and the particular site characteristics that are applicable to the land.

Attachment 2 contains staff comments in respect to the matters raised by Mr T Prendergast in his submission dated 24 September 2019.

Attachment 3 to this report contains an extract from the reports considered by Council in July and October 2017, which addresses the submission made in respect to the Prendergast properties at that time.

Options

The options available to Council in respect to this planning proposal and associated DCP amendments include the following:

8.5 Alstonville Dual Occupancy Planning Proposal

1. Authorise the General Manager to finalise the amendment of Ballina LEP 2012 as detailed in the exhibited Planning Proposal BSCPP18/002 – Attached Dual Occupancy – Alstonville, contained within Attachment 1 to Item 8.3 of the Ordinary Council meeting on 26 September 2019, together with relevant DCP amendments as exhibited and proposed.

This remains the preferred recommendation of staff. This option would be advanced via the same recommendations made to Council's 26 September 2019 Ordinary Meeting as follows:

1. *That Council authorises the General Manager to finalise and implement Planning Proposal BSCPP18/002 – Attached Dual Occupancy Alstonville under delegated authority as detailed in Attachment 1.*
2. *That Council adopts the draft amendments to Ballina Shire DCP 2012 Chapters 2, 3 and 4, as publically exhibited and inclusive of the additional changes highlighted in red as detailed in Attachment 2.*
3. *That Council provide public notice of the adoption of the amendments to Ballina Shire Development Control Plan 2012 referenced in point two above, with the amendment to take effect from the date of finalisation of the respective LEP amendments for the Alstonville and Wardell dual occupancy planning proposals.*
4. *That Council publically exhibit the further DCP controls relating to attached dual occupancy development (as detailed in Attachment 3) in accordance with the terms of the Environmental Planning and Assessment Act 1979 and the associated Regulation.*
5. *That Council receive a further report on the draft amendments the subject of point 4 above after the public exhibition period.*
6. *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 and associated DCP amendments.*

Adoption of this option will result in the LEP amendment being finalised as exhibited. It will also result in attached dual occupancy development being permitted within the Alstonville R2 zone on lots having a minimum area of 900m².

A proposed DCP control will further restrict development to sites having a maximum slope gradient of 20%.

Adoption of this option would also result in the draft exhibited DCP provisions being adopted. They would then become effective upon the finalisation of the respective dual occupancy LEP amendments for Alstonville and Wardell.

This would also incorporate the additional amendment relating to the minimum 12 metre lot width requirement for dual occupancy sites which is recommended as a result of the consideration of submissions.

8.5 Alstonville Dual Occupancy Planning Proposal

Finally, this option would result in the additional DCP provisions contained within Attachment 3, to Item 8.3 of the Ordinary Council meeting on 26 September 2019, being publically exhibited so as to provide greater guidance where existing dwellings are proposed to be retained, and to reinforce the unsuitability of some battle-axe shaped lots for attached dual occupancy development when retaining existing dwellings.

2. Finalise the planning proposal together with the draft amendments to the DCP as exhibited without making any further changes to the DCP.

This option is not recommended as it will not address the potential unsuitability of some cul-de-sac lots to support attached dual occupancy development.

This approach also does not address the previously highlighted issues related to the potential unsuitability of battle-axe lots, nor will it provide guidance as to Council's requirements where existing dwellings are proposed to be retained.

3. Discontinue the planning proposal and draft DCP amendments and take no further action to finalise the attached dual occupancy planning proposal for Alstonville.

This option is not the preferred recommendation of staff having regard to the history associated with the development of this planning proposal and its compliance with the strategic planning framework for Alstonville.

It is also not preferred based on the nature and number of submissions received which do not support the proposal.

The implementation of this option also requires Council to seek a determination from the Minister that the matter not proceed.

4. Request additional information and defer consideration of the planning proposal pending a briefing or an additional report addressing any areas of concern.

This option is available to Council should it require additional information relating to the planning proposal or DCP amendments.

The difficulty in respect to the recommendation for this report is that at the September 2019 Ordinary meeting, the preferred staff recommendation, being option one was lost, with Council resolving to note the contents of the report.

As Council has previously not supported option one and Council needs to make a determination on the planning proposal, this means the recommendation needs to be to discontinue as per option three.

The recommendation reflects this position of the elected Council.

If Council supports further consideration of the lateral urban expansion of Alstonville having regard for the submission made by Mr Prendergast, the final resolution needs to make reference to receiving a further report in respect to the matters raised in Attachment 1.

RECOMMENDATIONS

1. That Council does not endorse the implementation of Planning Proposal BSCPP 18/002 Attached Dual Occupancy Alstonville.
2. That Council requests that the Minister for Planning and Public Spaces discontinues Planning Proposal BSCPP 18/002 Attached Dual Occupancy Alstonville.

Attachment(s)

1. Submission from Mr T Prendergast 24/9/2019
2. Staff comments related to submission from Mr T Prendergast
3. Comments re 1336 Teven Road and 5 Banjo Place contained in 2017 Alstonville Strategic Plan Council reports and buffer diagram

8.6 Land Classification - Lot 126 DP 1255390, 6 Dorset Place, Wollongbar

8.6 Land Classification - Lot 126 DP 1255390, 6 Dorset Place, 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 126 DP 1255390 (Lot 126) entered into Council's ownership on 1 August 2019 upon the registration of the plan of residential subdivision located within the Avalon Estate in Wollongbar.

The plan of subdivision designates Lot 126 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 126 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 126 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.

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 Avalon 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 126 has an area of 2,366m² and is zoned R3 Medium Density Residential under the provisions of Ballina Local Environmental Plan 2012.

As Lot 126 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 1 August 2019 upon the registration of Deposited Plan 1255390 and the three month classification "window" expires on 1 November 2019.

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 21 August 2019 in accordance with section 34 of the Act. Submissions were invited until 18 September 2019. 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 126 in DP 1255390 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 directly result in 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 18 September 2019. No submissions in response to the notification were received.

Options

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.

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. Classification as operational land allows for Council's relatively unfettered ongoing management and maintenance of the land for stormwater infrastructure purposes.

RECOMMENDATION

That Council classifies the land identified as Lot 126 DP 1255390, being land having frontage to Dorset Place in Wollongbar, as operational land under the provisions of the Local Government Act 1993 and that this classification takes effect immediately.

Attachment(s)

Nil

8.7 Land Classification - Lots 2 and 3 DP 506103, 60 Crane Street, Ballina

8.7 Land Classification - Lots 2 and 3 DP 506103, 60 Crane Street, Ballina

Delivery Program Strategic Planning

Objective To determine the classification of recently acquired land under the provisions of the Local Government Act 1993.

Background

The subject land is described as Lots 2 and 3 DP 506103 (Lots 2 and 3), 60 Crane Street, Ballina. Situated on the land is the former Ballina Fire Station which is currently being utilised as a multi-disciplinary art space known as 'Ignite Studios'.

Lots 2 and 3 have a combined area of 1106.5m² and are zoned B3 Commercial Core under the provisions of Ballina Local Environmental Plan 2012.

Lots 2 and 3 entered into Council's ownership on 8 August 2019 upon the registration of the certificates of Title.

The subject land is located as outlined by red edge on the locality plan below.

Figure 1: Locality Plan



The purpose of this report is to determine the classification of Lots 2 & 3 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.

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

At its Ordinary meeting held on 13 December 2018, Council resolved to endorse the recommendation made at the Commercial Services Committee Meeting of 4 December 2018 that the former Ballina Fire Station be retained within gallery facilities operating as 'Ignite Studios'. It is recommended that Lots 2 and 3 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 8 August 2019 upon the registration of the certificates of title for Lots 2 and 3 and the three month classification "window" expires on 8 November 2019.

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 21 August 2019 in accordance with section 34 of the Act. Submissions were invited until 18 September 2019. 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 as part of the operation of the Northern Rivers Community Gallery, operating as 'Ignite Studios'.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

The classification of Lots 2 and 3 in DP 506103 as operational land is a legal mechanism under the LG Act that provides Council with flexibility in the management and maintenance of the land as part of the operation of the Northern Rivers Community Gallery.

The proposed classification will not directly result in adverse resource or financial implications but will enable the efficient management and maintenance of the land for its intended 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 18 September 2019. No submissions in response to the notification were received.

Options

1. Council may resolve to classify the land 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 as the land has been specifically acquired for a use compatible with an operational classification. Classification as operational land allows for Council's relatively unfettered ongoing management and maintenance of the land for its intended purpose in the long term.

2. Council may resolve to classify the land 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 continued use of the land as part of the operation of the Northern Rivers Community Gallery, classifying the land as community land is not recommended.

RECOMMENDATION

That Council classifies the land identified as Lots 2 and 3 DP 506103, being land located at 60 Crane Street Ballina, as operational land under the provisions of the Local Government Act 1993 and that this classification takes effect immediately.

Attachment(s)

Nil

8.8 LEP Amendments and Planning Proposals - Status

8.8 LEP Amendments and Planning Proposals - Status

Delivery Program Strategic Planning

Objective To report on the status of Local Environmental Plan amendment requests and planning proposals that are currently under consideration.

Background

Council has an ongoing program of processing requests to amend the Ballina Local Environmental Plans 1987 and 2012 (LEPs) and associated planning proposals. This report provides an update of matters currently pending.

Key Issues

- Status of rezoning and LEP amendment requests.

Information

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council. The term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan/s.

Requests are typically referred to as planning proposals once Council has agreed to progress the initial LEP amendment request and has prepared the required planning proposal documentation for Gateway determination by the NSW Department of Planning, Industry and Environment (DPIE).

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
13/005	Southern Cross Industrial Estate Expansion, Ballina (Stage 6)	Proposal by Ballina Shire Council for the rezoning of land northward of the existing Southern Cross Industrial Estate from its current rural zoning to enable a mixture of industrial and employment-type land uses. Amended planning proposal for Stage 1 (5 lots) of the Southern Cross expansion area in preparation.	30/10/2019
14/008	Burns Point Ferry Road, West Ballina (Ballina Waterways) Complete	Proposal for the rezoning of land located adjacent to Burns Point Ferry Road and River Street in West Ballina to enable a mixture of employment and residential land uses. The amendment was completed via Amendment No. 40 to the Ballina LEP 2012 on 28 June 2019.	Complete

8.8 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
17/001	Stage 1 Deferred Matters Integration Program (Stage 3)	<p>Proposal to integrate land identified as a “deferred matter” into the Ballina LEP 2012 through the application of appropriate zones and planning controls. Relates primarily to water catchment areas in the Shire.</p> <p>A request to discontinue the planning proposal was submitted to the Department of Planning, Industry & Environment (DPIE) on 26 June 2017, in accordance with the Council’s decision.</p> <p>On 17 July 2017 the DPIE advised it is considering possible options to facilitate the implementation of the E Zone review and will advise of a decision on the discontinuation request once the preferred option for implementation has been determined.</p> <p>At the time of writing this report, no further correspondence has been received from the Department.</p> <p>This matter will not be reported on in future planning proposal status updates unless further correspondence is received from DPIE.</p>	14/12/2017
17/009	Byron Bay Road (No.9) and the adjoining Telstra exchange site, Lennox Head (Stage 7)	<p>Proposal to amend the LEP 2012 to rezone land from RU1 Primary Production to R2 Low Density Residential, and to apply a minimum lot size of 600m².</p> <p>On 25 July 2019 Council resolved to endorse the proposed amendments to the Ballina LEP 2012 and to advise the Department of Planning, Industry & Environment (DPIE) that it does not wish to exercise its delegation to finalise the planning proposal.</p> <p>The DPIE has granted a request for an extension of time to complete the LEP amendment. The timeframe for completion of the LEP is 16 January 2020.</p> <p>NSW Parliamentary Counsel has provided a final opinion advising that the amendment may be legally made. The matter is currently with DPIE for finalisation.</p>	16/01/2020
17/012	Compton Drive (No. 23), East Ballina (Stage 4)	<p>Proposal to amend the LEP to rezone part of the land and all or part of the adjacent Council-owned land from Deferred Matter to R2 Low Density Residential, and to apply a minimum lot size of 600m².</p> <p>A Gateway determination was issued on 6 June 2018 requiring the LEP amendment to be completed within 18 months. A request for an altered Gateway determination (extension of time) has been submitted to the Department.</p> <p>Technical assessment of material submitted by the proponent is underway.</p>	06/12/2019
18/001	Residential Flat Buildings and Active Frontages in part of the B3 Zone – Ballina Town Centre (Complete)	<p>Proposal to amend the LEP to permit Residential Flat Buildings on certain sites within the B3 zone and require sites to maintain active frontages.</p> <p>The amendment was completed via Amendment No.42 to the Ballina LEP 2012 on 11 October 2019.</p>	Complete

8.8 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
18/002	Attached Dual Occupancy Lots, Alstonville (Stage 5)	<p>Proposal to amend the LEP to permit attached dual occupancy development, with consent, on certain R2 zoned lots in Alstonville having a minimum area of 900m² and a slope of less than 20%.</p> <p>On 26 September 2019 Council considered a report on this planning proposal. Council noted the report and a further report is presented elsewhere in this business agenda.</p>	06/03/2020
18/003	Attached Dual Occupancy Lots, Wardell (Stage 5)	<p>Proposal to amend the LEP to permit attached dual occupancy development, with consent, within the non-flood prone areas of Wardell Village located in the R2 zone.</p> <p>Public exhibition of the planning proposal has now concluded. The NSW Rural Fire Service (RFS) have not supported the planning proposal as a significant number of lots are mapped as designated bushfire prone land, limiting the number of lots that are suitable for dual occupancy development.</p> <p>A Bushfire Hazard Assessment Report has been prepared to address the issues raised by the NSW RFS. Currently awaiting further comments from the RFS before the matter can be reported to Council.</p>	06/03/2020
18/004	Reservoir Hill Site, 20 North Creek Road, Lennox Head (Stage 5)	<p>Proposal to amend the LEP to make minor zone boundary adjustments to reflect an amended subdivision design and to permit subdivision for drainage purposes.</p> <p>Gateway determination received 12 August 2019.</p> <p>The planning proposal has been on public exhibition with the exhibition closing on 18 October 2019.</p>	12/05/2020
18/005	Function Centres in Rural Areas (Stage 2)	<p>Proposal to amend the LEP to permit function centres on land within the RU2 zone.</p> <p>At its meeting held in October 2018, Council resolved to prepare a planning proposal and to refer the planning proposal back to Council for endorsement prior to seeking a Gateway determination.</p> <p>Currently awaiting the outcome of the Byron Shire Council's planning proposal for function centres in rural areas before finalising planning proposal documentation.</p>	#
19/001	26 Boeing Avenue, Ballina (Stage 3)	<p>Proposal to amend the LEP to provide for a broader range of uses as permissible with consent on the site through Schedule 1 (Additional Permitted Uses). The site comprises the Harvey Norman Homemaker Centre complex and is zoned B5 Business Development zone.</p> <p>Gateway determination received 24 September 2019. Documentation currently being prepared by staff to progress the matter to public exhibition.</p>	24/06/2020

8.8 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
19/002	Lennox Rise, Lennox Head (Stage 1)	Proposal to amend the LEP minimum lot size standard applying to parts of the site zoned R3 Medium Density zone from 600m ² (currently) to 450m ² (proposed). On 27 June 2019 Council resolved to prepare a planning proposal subject to the proponent providing further information regarding measures to protect a heritage listed rock wall located on the site. Awaiting information from the proponent.	#
19/003	246-250 Lismore Road, Wollongbar (Stage 3)	Proposal to amend the LEP to permit with development consent a service station and 1 retail premises with a gross floor area (GFA) not exceeding 100m ² on the land. Gateway determination received 2 October 2019. Documentation currently being prepared by staff to progress the matter to public exhibition.	02/07/2020
19/004	Farm Gate Retail Activity on Rural Land (Stage 3)	Proposal to amend the LEP to permit industrial retail outlets as permissible with development consent on land within the RU1 and RU2 zones. Gateway determination received 2 October 2019. Documentation currently being prepared by staff to progress the matter to public exhibition.	02/07/2020

LEP Amendment Request/Planning Proposal Processing Stages

1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council.
2. Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council).
3. Gateway Determination - DPIE determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination).
4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation.
5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment.
- 5a. Public Hearing - Public Hearing held, where required.
6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal.
7. Finalisation - DPIE finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Public Spaces may finalise, alter or terminate the amendment.

Denotes proposal number and due date subject to Gateway determination.

The completion due date is a date for completion determined by the Department of Planning, Industry and Environment.

Sustainability Considerations

- **Environment**
Environmental, social and economic considerations form part of the Council's assessment of all planning proposals and LEP amendments.
- **Social**
As above
- **Economic**
As above

8.8 LEP Amendments and Planning Proposals - Status

Legal / Resource / Financial Implications

The work program is being undertaken within existing resources or on a fee for service basis for specific proposals.

Consultation

Community consultation (including Government agency referrals) is, has been, or will be undertaken in relation to individual planning proposals.

Options

The status of the LEP amendments outlined is provided for information only. All matters are being processed in accordance with decisions of Council.

RECOMMENDATION

That Council notes the contents of this report on current LEP amendments and planning proposals.

Attachment(s)

Nil

8.9 Lennox Head Community Markets

8.9 Lennox Head Community Markets

Delivery Program Strategic Planning

Objective To advise Council regarding changes to the management of the Lennox Head Community Markets and seek direction on future operation of the market.

Background

The Lennox Head Community Markets has been operating at its current location within Williams Reserve adjacent to the Lennox Head Community Centre since 2016.

Prior to this time, the market was located at Lake Ainsworth. The market was relocated to Williams Reserve due to flooding within the lake that was occurring at the time.

When the matter of the location of the market was last considered, in November 2016, Council resolved as follows:

1. *That Council notes the contents of this report regarding the operation and location of the Lennox Head Markets.*
2. *That the Lennox Head Community Markets be returned to Lake Ainsworth upon the completion of the works on the Lake Ainsworth precinct.*

A copy of the November 2016 report is provided as Attachment 1.

The current manager of the market, Westpac Life Saver Rescue Helicopter (WLSRH) has advised Council that the service has recently undertaken a review of the operational risk management policy and exposures with respect to their operations and activities, including their fund raising ventures such the management of markets. A copy of the letter received from WLSRH is provided as Attachment 2.

As a result of this review WLSRH has determined that the service can no longer continue the ongoing management of the Lennox Head Community Market due to unacceptable risk exposures associated with the event. Consequently, the service advises that the November 2019 market event will be the final market operating under the auspices of the WLSRH.

Further information regarding the reasons for WLSRH withdrawal and options regarding the ongoing operation of the Lennox Head Community Market is set out in the body of this report.

Key Issues

- Community markets
- Economic development
- Environmental impacts

8.9 Lennox Head Community Markets

Information

Withdrawal of Westpac Life Saver Rescue Helicopter as Market Manager

The WLSRH has advised that it will be withdrawing from the management of the Lennox Head Community Market after November 2019.

In meeting with the WLSRH representative, it is understood that the rationale for this decision relates primarily to issues with the current market site at Williams Reserve. In particular concerns associated with the strong southerly winds experienced at the site, causing market stall tents and temporary structures to be blown about thereby presenting risks to public safety and infrastructure were identified.

In addition, staff were advised that the following site limitations undermine the viability of the market as a fund raising activity:

- Issues with access to power supply and public amenities add costs to the operation of the market
- Site constraints associated with the location of the market within part of Williams Reserve such as exposure to the elements (wind and lack of shade) mean the current site does not enjoy the level of amenity enjoyed by other north coast markets.

In the 2019/20 allocation of funds under the Community Donations program Council did not provide the same level of financial support to the Lennox Head Markets as had been the case in previous years (\$1,200 was granted of the \$5,000 requested).

Notwithstanding, staff are advised that whilst this further reduced the financial viability of the market, the underlying risk issues regarding the current market site were the key reason for the discontinuation.

Mr Mike Stack who manages the market on behalf of the WLSRH has advised that he is willing to continue to run the market at Williams Reserve over the summer period. This matter is further discussed below.

Return to the Lake Ainsworth Precinct

The current market site at Williams Reserve appears to have limitations with respect to the viability of the market and public safety.

Council's resolution of November 2016 confirmed that the Lennox Head Community Market would return to Lake Ainsworth following the completion of the Lake Ainsworth precinct improvement works.

The resolution does not specify the particular location at Lake Ainsworth that is preferred although the eastern Lake foreshore is the part of the Lake Ainsworth precinct most likely to be able to accommodate a market footprint.

The precinct improvement works are due for completion in December 2019. More specifically, shared path and roundabout works are due for completion mid November and landscaping, furniture, barbecue shelters and wheelchair access ramps are due for completion in December.

8.9 Lennox Head Community Markets

Having regard for the improvement works and other projects underway in relation to Lake Ainsworth, the following matters should be considered with respect to the return of the Lennox Head Community Markets to the Lake Ainsworth precinct:

- High visitation to the precinct is expected over the summer period due to hot weather and the improved amenity and facilities available. This is likely to put significant pressure on groundcovers (turf) as they become established. Staff recommend the condition of the turf be monitored over the summer period with further consideration of the relocation of the market to the lake precinct be deferred until groundcovers are well-established and the impact of baseline foot traffic (of lake visitors) has been assessed.
- Positioning of market stalls will need to consider casual recreational users of the lake precinct.
- A market will attract additional vehicles and increase demand for parking on top of other recreational visitors to the lake precinct. Consequently, the impact of additional parking demand in the locality will need to be monitored. The parking demand will not be dissimilar to the levels of demand previous to 2016 when the Lennox Head Community Markets were held at Lake Ainsworth.

Car parking in the Lake Ainsworth area is under review in accordance with Council's 26 September 2019 resolution to receive a report on options to ensure that the overflow cars from the caravan park are not parked in the public car parking spaces or the surrounding residential streets. The outcome of this review may further inform the Council about the suitability of the market use at Lake Ainsworth.

- Parking and maneuvering of vehicles on grassed areas (by stallholders) should be avoided due to the potential for damage to the surface.
- The frequency of events will need to be monitored to ensure the grassed surface remains in an acceptable and manageable condition.
- Power supply to the precinct is sufficient only to accommodate barbecue picnic facilities. An electricity upgrade is required to accommodate additional electricity users such as refrigeration or entertainment that might be provided in association with public events (estimated \$37,400). Notwithstanding, not all market sites enjoy mains power supply and a condition of any public event on the site could simply be that all stallholders be self-sufficient with respect to power.
- The Lake Ainsworth Coastal Management Program is in preparation. As this program will ultimately provide direction on the overall management of the Lake Ainsworth area, it may be prudent to consider feedback arising from the exhibition of the draft program and the associated assessment of issues arising before proceeding with the return of the markets to Lake Ainsworth.

The Lake Ainsworth precinct is Crown Land for which Council is Crown Land Manager. The use of the land for community events such as markets would be consistent with the purpose of the Reserve (being public recreation).

8.9 Lennox Head Community Markets

As noted in the report presented to Council at its Ordinary Meeting held on 25 July 2019 regarding community events and markets on public land, a development application for a market would be required if the number of market stalls exceeds (approximately) 30 stalls (tents/marquees).

Given the matters outlined, should the market be returned to the Lake Ainsworth precinct, it is recommended that this be undertaken in a staged manner such that the number of stalls is initially limited to below that where a development application would be required.

That way, the market could be trialed under the terms of Council's markets policy as exempt development, while any site issues are monitored and where possible resolved.

Following an initial trial period, expansion could be considered further through the development assessment process, depending on assessment of the initial trial.

This would, however, mean that fewer than the current number of stalls could be accommodated during the initial trial period at the Lake Ainsworth location (30 stalls) compared with the current location at Williams Reserve (50-60 stalls). It is understood that when the markets were previously at the lake precinct, there were approximately 120 market stalls.

Other factors that should be considered include the address of Native Title, integration of any proposed market use at Lake Ainsworth into a plan of management to comply with the requirements of the Crown Land Management Act (this being different to the Coastal Management Program for Lake Ainsworth) and the process for appointment of a market operator (for example an expression of interest).

Having regard to the above, should Council in principle support the return of the Lennox Head Community Market to the Lake Ainsworth precinct, the following approach is recommended:

- That Council receive a report once the summer period has concluded and the public exhibition of the Lake Ainsworth Coastal Management Program has occurred regarding the relocation of the Lennox Head Community Market to the Lake Ainsworth Precinct, including an assessment of the condition of the Lake Ainsworth improvement works following the summer period and the outcomes of the Coastal Management Program process.

Ultimately the form of any market at Lake Ainsworth will be subject to the details provided in future reporting (if the above approach is endorsed). However, should a market proceed at Lake Ainsworth, the current suggestion is that the activity is based on the following:

- That the market be limited initially to no more than 30 stalls (or no more than 300m² of tents or marquees).
- That the market license be issued for a trial period of 12 months initially, with an option (for Council) to renew following Council's review of the trial.
- Subject to the outcomes of the trial, a development application could be prepared to allow an increased number of stalls (more than 30 stalls).

Other Market Options

It is noted that previous considerations of community markets has reflected a desire, particularly by CBD businesses, that markets be located such as to advantage general business activity in the respective localities.

Notwithstanding, ultimately the markets themselves need to be viable in order to persist in whichever location. The following site characteristics are considered desirable from the perspective of market viability:

- Area sufficient to accommodate market stalls (including stallholder parking) and pedestrian circulation.
- Surface can accommodate heavy foot traffic and vehicle movements without becoming degraded.
- Adequate visitor parking (preferably on site)
- Toilet facilities available on or within close proximity
- Quality amenity (shade, protected from strong winds)
- Power available (preferable but not essential).

It is evident that there are no such sites in proximity to the Lennox Head village centre that currently have all (or the majority) of these desirable characteristics.

Further to the above, the Lennox Village Vision project is expected to cause traffic and parking disruption during establishment phase, potentially further complicating conditions for markets within the village centre during that time. However, opportunities for markets may be able to be considered both during the main street renewal project and/or, more broadly, during the review of the Lennox Head Strategic Plan scheduled for review during FY2020-21.

As a consequence of the above, it is recommended that the consideration of longer-term options for markets within the Lennox Head village centre be deferred until the conclusion of the Lennox Head village centre works and/or during the review of the Lennox Head Strategic Plan.

Interim Arrangements

There will be a gap of several months from the withdrawal of WLSRH from the Williams Reserve market before the condition of the lake precinct post summer and the Coastal Management Program exhibition outcomes can be reviewed.

To provide for continuity of the market operation in Lennox Head, it is recommended that Council provides for the continuation of the Lennox Head Community Market at Williams Reserve during this interim period.

This could be achieved by offering a short term licence to operate the market to the WLSRH site manager Mr Mike Stack provided appropriate insurance and associated documentation can be provided.

Whilst not an ideal situation in terms of procedures for the use of public land, this approach would provide greater certainty for stallholders who rely on the

8.9 Lennox Head Community Markets

markets for income and would enable the markets to continue over the holiday period for the enjoyment of the community.

A licence for the operation of the market under the above arrangement is recommended for a period of six months to enable the recommended reporting to be undertaken. This approach is recommended.

Sustainability Considerations

- **Environment**
This report addresses issues of environmental impact associated with the provision of markets.
- **Social**
Community markets contribute to the social wellbeing of local communities.
- **Economic**
Community markets support small local business.

Legal / Resource / Financial Implications

The staging outlined in the body of this report provides for the most efficient application of Council resources in addressing this matter.

Consultation

No specific community engagement in relation to this matter has been undertaken to date. If Council would like to obtain community feedback, an engagement program could be undertaken and the information obtained reported to Council.

In the absence of a budget allocation for such a program, an approach that invites feedback through submissions would be undertaken as this level of engagement can be met within the existing Strategic Planning budget.

Options

The following options are presented for Council's consideration.

1. Council could receive a report at the end of the summer period and following the exhibition of the Lake Ainsworth Coastal Management Program regarding the relocation of the Lennox Head Community Market to the Lake Ainsworth Precinct, including an assessment of the condition of the Lake Ainsworth improvement works following the summer period and the outcomes of the Coastal Management Program exhibition.

This option could also include inviting the current market site manager, Mr Mike Stack, to enter into a short term licence to continue the Lennox Head Community Market at the Williams Reserve site for a period of 6 months to enable the above reporting to be undertaken.

This option is recommended.

8.9 Lennox Head Community Markets

2. Council could resolve to return the Lennox Head Community Market to the Lake Ainsworth Precinct.

This would involve the preparation of relevant planning documentation, address of Crown Land management issues and inviting proposals for the management of a monthly market at the Lake Ainsworth precinct.

This option is not recommended due to the potential impacts (short and long term) on the condition of the Lake Ainsworth improvement works and conflicts with general community use of the area during the busy summer period. Further, this approach may result in inconsistencies with other processes that are underway but not yet concluded (e.g. Coastal Management Program and dog management around Lake Ainsworth).

3. Council could take no further action in relation to the return of the markets to Lake Ainsworth.

This option would require Council to resolve to cease further consideration of Lake Ainsworth as the location for the Lennox Head markets.

This approach is not recommended as there is further information that can be gathered and reported to Council in the near term to inform this decision before a conclusion is reached.

If this approach is favoured by Council a decision is also required in relation to the issue of a licence for the ongoing operation of the existing Lennox Head Market at Williams Reserve. If no new licence is issued this would result in the November 2019 Lennox Community Market being the last market held at Williams Reserve.

RECOMMENDATIONS

1. That Council receive a report once the summer period has concluded and the public exhibition of the Lake Ainsworth Coastal Management Program has occurred regarding the relocation of the Lennox Head Community Market to the Lake Ainsworth Precinct. The report is to include an assessment of the condition of the Lake Ainsworth improvement works following the summer period and the outcomes of the Coastal Management Program process.
2. That Council invite the current market site manager, Mr Mike Stack, to enter into a short term licence to continue the Lennox Head Community Market at the Williams Reserve site for a period of six months. This is to provide for continuity of the operation of the market whilst market location, planning and land management matters and market management arrangements are further considered by Council.

Attachment(s)

1. Council Report relating to Lennox Head Community Markets November 2016
2. Letter received from Westpac Life Saver Rescue Helicopter regarding management of Lennox Head Community Market

8.10 Coastal Management Program - Lake Ainsworth Lennox Head

8.10 Coastal Management Program - Lake Ainsworth Lennox Head

Delivery Program Environmental and Public Health

Objective To provide Council with an outline of the status of the Lake Ainsworth Coastal Management Program (CMP) and seek direction on the public exhibition of the draft CMP.

Background

Council resolved at the March 2017 Ordinary meeting to fund the preparation of a Coastal Management Program (CMP) for Lake Ainsworth. Council received a grant from the NSW Environment, Energy and Science (EES) – Coast and Estuaries, formally Office of Environment and Heritage (OEH) under the 2016/2017 Coastal and Estuary Grants Program to prepare the CMP. This grant required matching funding which was sourced from the Healthy Waterways Program.

This CMP is one of the first in NSW to receive funding in accordance with the new Coastal Management Manual. The Manual provides technical information and guidance to assist councils in addressing the requirements of the Coastal Management Act 2016 and a risk management process to follow when preparing CMPs.

Council engaged Hydrosphere Consulting through a competitive tendering process to prepare the CMP. The draft CMP is now available for review following completion of stages one, two and three.

This report seeks Council approval to exhibit the draft CMP for public comment. A copy of the draft CMP is included as Attachment 1.

Key Issues

- Actions identified in the draft CMP
- Costs associated with implementing the CMP

Information

The Lake Ainsworth CMP will replace the existing Lake Ainsworth Management Plan (Geolink, 2002) some of which had already been implemented.

The current project commenced in 2017 and was broken into five stages and aims to provide the long-term management strategy and actions for Lake Ainsworth.

Stage 1 - preparation of a scoping study which collates the existing information and determines what further information/data may be needed.

Stage 2 - detailed investigations to gather the required information/data.

8.10 Coastal Management Program - Lake Ainsworth Lennox Head

Stage 3 - threat consequence and risk assessment, the evaluation and development of management options and actions.

Stage 4 - finalisation of program with exhibition, certification and adoption of the CMP.

Stage 5 - implementation of the CMP.

There is significant community interest in relation to the management of Lake Ainsworth, especially in relation to water quality, blue green algae blooms, bank erosion and stabilisation, site access, availability of public recreational areas and the protection of flora and fauna.

The CMP has been developed with considerable engagement with stakeholders and the community. The outcomes of the engagement undertaken have been drawn on to identify the key concerns and management vision for the Lake. Using this information and the available scientific information a set of actions have been developed and are recommended for implementation.

Section 4 of the CMP, Attachment 2, details the recommended management actions, which address a range of issues including; water quality, sediment management, bank erosion, catchment management, flooding, flora and fauna, community uses, education, management and governance and monitoring.

As a consequence of these actions and the level of works associated a Business Plan is outlined in Section 5 (contained in Attachment 3) which anticipates the costs of implementing the recommended actions over 10 years.

The CMP has been prepared in accordance with the requirements of the Coastal Management Manual (OEH 2018) and following public exhibition may be submitted to the NSW Coastal Council who will make recommendations to the Minister for certification.

Sustainability Considerations

- **Environment**

The draft CMP takes into account the key environmental factors in the catchment including; water quality, sediment management, bank erosion, catchment management, flooding, flora and fauna, community uses, education, management and governance and monitoring and acknowledges the constraints that exist.

- **Social**

Lake Ainsworth is a popular recreation area of significance to many locals and visitors. The draft CMP recognises the aesthetic, recreational and environment values of Lake Ainsworth together with the shire's growth and development.

- **Economic**

Given the popularity of Lake Ainsworth as a tourist attraction as well as being a valuable active and passive recreation resource together with its value aesthetically and environmentally, its preservation for both

recreation and environmental values is important to businesses that rely on tourism.

Legal / Resource / Financial Implications

Lake Ainsworth is subject to a complex arrangement of land management with Ballina Shire Council, Department of Primary Industries – Crown Lands, NSW Office of Sport, NSW Crown Holiday Parks Land Managers, Lennox Head Surf Life Saving Club and Jali Local Aboriginal Land Council all playing an important role in land ownership, control and or management.

This complexity requires a coordinated response to implement the recommended actions, with relevant agencies noted against each action.

The cost to fully implement the CMP has been broken down over the ten years of the CMP, with a total cost of \$2,198,000 forecast.

Potential funding sources have also been identified for each action, with a significant contribution of the total cost likely to be required to be contributed by Council, as often grants including those likely to support actions under a CMP are from programs that require matching funding.

It is recommended that, at the time of adoption of the final CMP, the report to Council outlines options as to how the actions in the plan could be funded, either through Council resources or external funding sources.

This information can then be incorporated into Council's Long Term Financial Plan.

Consultation

Extensive community engagement was undertaken during the preparation of the draft CMP including establishing a steering committee, developing a project webpage, media and advertising, a stall at the Lennox Market, targeted stakeholder consultation, a community drop in session, a Councillor workshop and a community survey.

Engagement will continue during the public exhibition period and submissions received will be given consideration prior to finalising the CMP.

During the exhibition period another community information session will be conducted by Hydroshpere Consulting and Council staff.

To assist Councillors in the consideration of the CMP, a Councillor briefing is recommended during or at the conclusion of the public exhibition period (as set out in the recommendations).

Once exhibited, the finalised CMP will be reported to Council for formal adoption prior to submission to the appropriate NSW Government Minister for endorsement and certification.

Options

1. Exhibit the draft CMP as contained in Attachment 1.

8.10 Coastal Management Program - Lake Ainsworth Lennox Head

Under this approach, the CMP as contained in Attachment 1 (subject to minor formatting and typographic adjustments) would be placed on public exhibition in accordance with legislative requirements. At the completion of the exhibition period and analysis of submissions, a further report would be presented to Council with respect to the adoption of a final CMP.

Once the CMP has Council's endorsement it would be submitted to the Minister for certification.

This is the recommended approach.

2. Exhibit the draft CMP as amended by Council.

Under this approach, the CMP would be amended as directed by Council and then placed on public exhibition in accordance with legislative requirements. At the completion of the exhibition period and analysis of submissions, a further report would be presented to Council with respect to the adoption of a final CMP.

Once the CMP has Council's endorsement it would be submitted to the Minister for certification.

This option is not recommended on the basis that the draft CMP has been formulated based on technical assessment of the Lake and its surrounds and the consideration of submissions and feedback received to date.

It is open to Council to amend the CMP following the public exhibition period, so there is a further opportunity for Council to consider plan content based on the outcomes of the public exhibition period.

RECOMMENDATIONS

1. That Council endorses the draft Coastal Management Program for Lake Ainsworth (as contained in Attachment 1) for public exhibition.
2. That Council receives a briefing on the draft Coastal Management Program for Lake Ainsworth during or as soon as practical following the public exhibition of the draft plan.
3. The report back to Council on the outcomes of the public exhibition is to include options for funding the actions identified in the Coastal Management Program, to allow that information to be incorporated into Council's Long Term Financial Plan.

Attachment(s)

1. Lake Ainsworth Coastal Management Program (CMP) - Draft (Under separate cover)
2. Lake Ainsworth CMP (Draft) - Section 4 Management Actions
3. Lake Ainsworth Draft CMP (Draft) - Section 5 Business Plan - Budget Forecast

8.11 Lake Ainsworth and Seven Mile Beach - Dog Management

8.11 Lake Ainsworth and Seven Mile Beach - Dog Management

Delivery Program Environmental and Public Health

Objective To review the dog access and restrictions at Lake Ainsworth and Seven Mile Beach

Background

Council last reviewed the Companion Animals Management Plan at the Ordinary meeting held 23 November 2017. Part of the resolution at that meeting was as follows:

'That Council defer further consideration of the dog access options adjacent to the Lake Ainsworth precinct until such time a decision is made in respect to the infrastructure works planned for this locality'.

This report examines dog access and management in the Lake Ainsworth area and the adjacent beach foreshore area now that the new eastern foreshore and reserve improvements works at the Lake are nearing completion.

Key Issues

- Dog access and restrictions
- Compliance and regulatory action
- Operational use of the kiosk at the Surf Life Saving Club

Information

Council is experiencing an increasing number of people wishing to own companion animals and particularly dogs. Council needs to ensure that under the Companion Animals Management Plan there are management actions to support responsible pet ownership with a balance between dog prohibited, on leash and off leash dog exercise areas.

The off leash dog exercise area at Seven Mile beach Lennox Head is currently the most popular area for people to socialise and exercise their dogs in the Shire.

A study undertaken by a student at Southern Cross University in relation to pet ownership and the associated physiological impacts identified the benefits of this precinct for dogs and their owners.

The analysis revealed people tend to frequent this area on a regular, if not a daily basis and often will drive up to 45 minutes a day to enjoy the experience.

With the increasing popularity of this area and the improvements to the eastern foreshore and recreational reserve there is the risk of increased conflict between different users of the area, which may impact upon the recreational amenity of those engaging the area.

8.11 Lake Ainsworth and Seven Mile Beach - Dog Management

Holistic consideration needs to be given to enabling dog access, with supporting mechanisms to ensure the continued enjoyment of all that utilise the space for a variety of reasons.

The current dog access and restrictions in the Lake Ainsworth and Seven Mile Beach precinct are outlined on the map below.

Figure 1 – Current Dog Access Arrangements Lake Ainsworth and Surrounds



Under the draft Lake Ainsworth Coastal Management Program (the subject of a separate report elsewhere in this agenda), dog access is raised within Section 2.5 and Action 21: Manage dog access, which reads;

8.11 Lake Ainsworth and Seven Mile Beach - Dog Management

'Concerns have been raised regarding dogs being allowed 'off-leash' along lake foreshores and to swim in the Lake despite a no-dog zone being in place for these areas. Key concerns raised were related to dog urine and faeces being left behind which may contribute to water quality decline and microbiological risk to human health as well as impacts of dogs on native wildlife (e.g. disturbance, injury etc).'

Action 21: Manage dog access

Desired Outcome	Reduction in the number of dogs in the lake and foreshore areas, reducing the inputs of urine and faeces to the lake and reduced impacts on native wildlife at the lake.
Priority ranking	Medium (23)
DESCRIPTION OF TASKS:	
<ol style="list-style-type: none"> 1. Review current dog access arrangements at the lake as documented in the <i>BSC Companion Animal Management Plan</i> (BSC, 2017) and consideration of the following: <ol style="list-style-type: none"> a. Continue to provide dog access north of the Lennox Head SLSC to Seven Mile Beach. b. Consider removal of the on leash area along the eastern side of the lake, making all lake foreshore areas and immediate surrounds 'dog free'. Access to Seven Mile Beach will be maintained at SLSC track only. 2. Depending on outcomes of review, provide additional signage and education as required. 3. Continue Ranger presence and enforcement in the area. 4. Encourage dog walkers who drive to Seven Mile Beach to access the off-leash area of beach via the horse track at the end of Camp Drewe Road (north of 4wd track) where parking is plentiful. Achieved through Action 22: Education campaign. 5. Continue to provide dog poo bag dispensers and waste bins at suitable access points to the off-leash area at Seven Mile Beach and other locations. 	
Lead Organisation	BSC
Support Organisation	EES – Coast and Estuaries
Total Cost Estimate (10 yr)	\$10,000 (staff time and allowance of \$10,000 for signage and bins/bags)
Potential Funding Sources	BSC, NSW Coastal and Estuary Grants Program
Timing	Short-Medium term (DP1 2020-2022 and DP2 2023-2026) and ongoing (DP1-DP3 2020-2029)
Location	Lake foreshores Zone 1, Zone 2, Zone 3, CMA 3 – Coastal Environment Area, CMA 4 – Coastal Use Area
Performance Targets	<ul style="list-style-type: none"> • Review of <i>BSC Companion Animal Management Plan</i> (BSC, 2017) completed by June 2021.

Representations have also been received regarding the lack of compliance of people with the control of their dogs in front of the surf club which is a dog prohibited area. The area is not well defined, which creates complexity when undertaking further compliance action.

This location was deemed a dog prohibited zone in 2012 and at the time it helped achieve the surf club's preferred outcome of a dog prohibited zone to minimize conflict between members and nippers and dogs.

Through the popularity of the kiosk, with owners/patrons and their dogs together with the presence of tables, chairs rugs and blankets in the reserve there has been an increasing disregard for dog compliance in the area.

This results in a conflict between users and Council's Rangers need a clearer framework to support the ongoing management of the area from a compliance perspective.

Education and enforcement procedures need to be combined to enable a balanced outcome.

8.11 Lake Ainsworth and Seven Mile Beach - Dog Management

As part of this review of dog management the use and operation of the kiosk at the surf club should also be considered. Continued use of the reserve may support a defined dog on leash area designated for kiosk patrons and the rest of the reserve be dog prohibited, other than the defined access.

Historically Lake Ainsworth and the immediate foreshore and reserves are dog prohibited and have been for many years. Council Ranger's routinely patrol the area, in addition to continued educational material to assist in reinforcing these restrictions.

The rangers are currently observing a marked increase in non-compliance with these restrictions, especially during the summer months.

This non-compliance includes owners allowing their dogs to swim in the Lake.

Discussions with Lake users has revealed it is often locals that are breaking the law. Where a dog is in a dog prohibited area the fine can be \$330 for each offence committed.

To better manage this practice and to support the Coastal Management Program actions it is proposed to prohibit dogs along the eastern reserve.

The Seven Mile beach off leash dog exercise area is in close proximity and the prohibition of dogs along the area should not unreasonably impact on people walking to the off leash area.

It is proposed to extend the off leash area on the beach further south by approximately 250m to where the current dog prohibited area commences. This area of beach is on leash, however allowing people to walk off leash from when they enter the beach provides more flexibility and in reality acknowledges what the majority of people currently practice (contrary to the signage many people tend to walk dogs off leash in this area).

The purpose of the off leash area is to socialise dogs and encourage good behavior and given that only a few serious incidents such as dog attacks have occurred in this area compared to the rest of the Shire, it suggests the extension of the off leash area to the south would not result in further incidents.

When the surf life saving flags during patrol times are located in the off leash area, this area would temporarily become a dog prohibited area for the duration of the patrol time. This is similar to how the Gold Coast City Council and Sunshine Coast councils manage their surf club patrol areas and dogs, this being an accepted common approach.

Additionally, to afford greater public safety in the precinct, it is recommended to adopt the following measures:

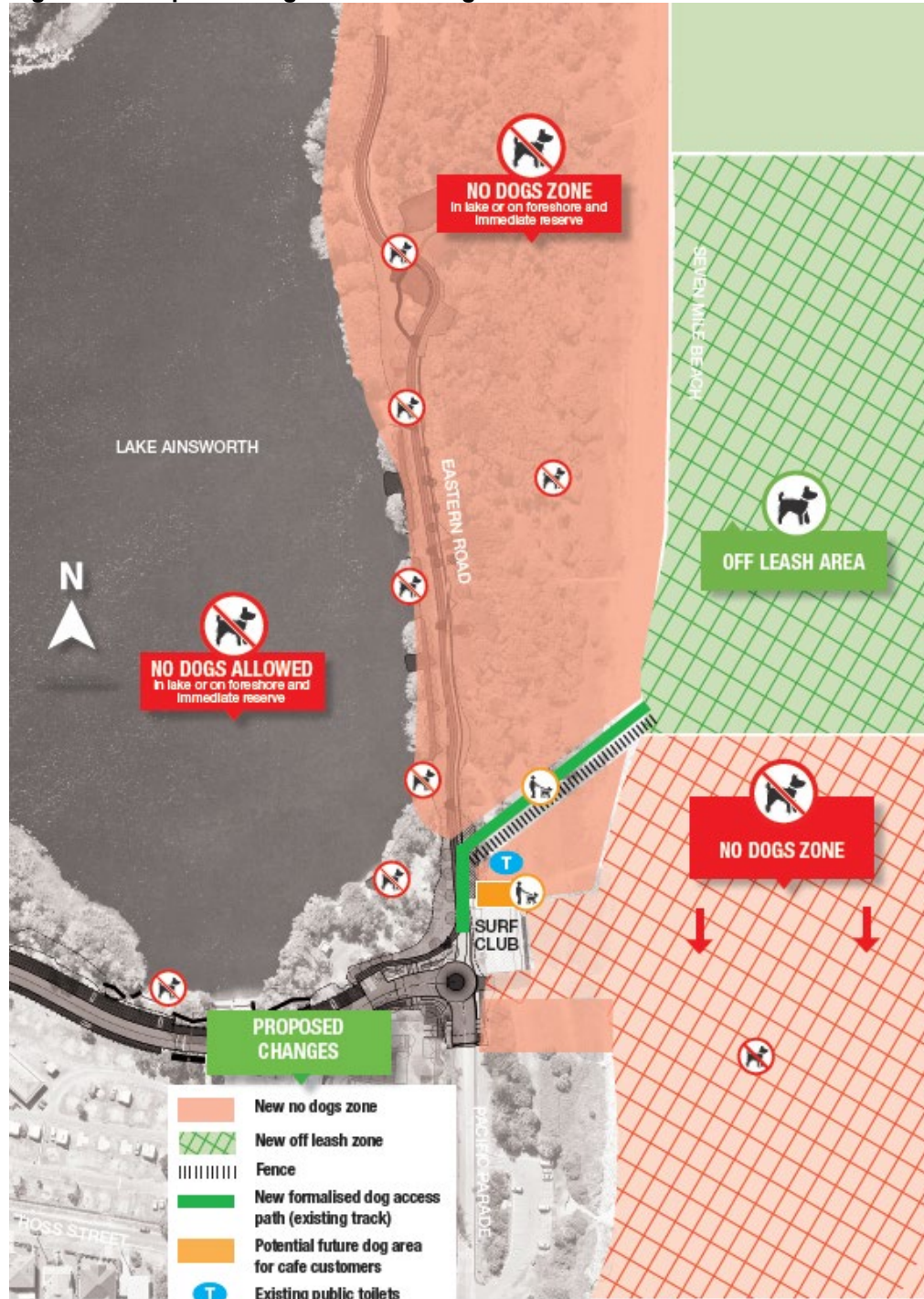
- Prohibit dogs (No Dogs) in the Lake and on the surrounding foreshore and reserves, including the newly refurbished eastern reserve
- Extend the off leash area south to the access pathway
- Install a fence and formalise the pathway to the off leash area along the existing track to the beach immediately north of the surf club building
- Prohibit dogs (No Dogs) the whole grass reserve immediately and adjacent the surf club building, other than the designated café/sitting zone

8.11 Lake Ainsworth and Seven Mile Beach - Dog Management

- Determine a defined area which permits dogs on leash to accompany patrons of the kiosk
- Install new regulatory signage in the Lake Ainsworth and Seven Mile Beach areas.

The proposed approach to dog access and dog prohibited areas is included in the map below.

Figure 2 – Proposed Dog Access Arrangements Lake Ainsworth and Surrounds



Sustainability Considerations

- **Environment**

Assist in the protection of the natural and built environments through the introduction of clear guidelines on the management of dogs in the Lake Ainsworth and Seven Mile Beach precinct. Support actions from the draft Lake Ainsworth Coastal Management Program.

- **Social**

Companion animal ownership achieves great benefits and conversely can have significant adverse impacts for people living in the community when not managed properly. Dogs provide support and companionship to owners and help with loneliness, anxiety and assist in the rehabilitation of people, particularly the elderly. Recreational areas which encourage socialisation of dogs can afford opportunity for people to enact and be more inclusive in the community they live.

- **Economic**

Not applicable.

Legal / Resource / Financial Implications

The proposed changes support the responsible management of dogs in the community and permits clearer directions of the rules/expectations of dog management to both the public and council staff.

The cost to Council in the management of dogs is substantial and there is a need to balance these resources to meet the requirements of the Companion Animals Act and the Council's Companion Animals Management Plan.

With respect to funding, it is proposed that a funding plan for the various works and infrastructure to provide for the arrangements set out in Figure 2 will be presented to Council as part of the next quarterly financial review (November meeting) if the recommended approach is endorsed.

Consultation

Consultation regarding this review and proposed changes has been undertaken with various internal sections of Council and in response to community concerns and requests.

The draft Lake Ainsworth Coastal Management Program has been through extensive community consultation, including a Councillor workshop. Feedback obtained through this process has been considered in the formulation of the contents of this report.

If the proposed changes to dog access and management in the Lake Ainsworth area are endorsed, it is recommended that Council provides information to the community about the changes, including provision of drop in sessions at Lake Ainsworth.

Options

1. The current dog access arrangements can remain in place and new signage be installed to improve communication as to rules in the area.

This option is not recommended as it is inconsistent with the recommendations and actions from the draft Lake Ainsworth Coastal Management Program and will require additional efforts to ensure compliance along the eastern Lake foreshore reserve.

Also, this approach does not resolve the conflict or provide clarity for dog users and other members of the public in relation to dog access and management arrangements in the reserve area at the front of the surf club and adjacent to the surf club kiosk.

2. Amend the dog management in the precinct as prescribed in the report and as illustrated in Figure 2.

This approach is recommended on the basis that it provides for improved definition and management of dog access areas in the Lake Ainsworth and surf club foreshore area.

This option could be trialed for 12 months to monitor compliance and the workability of the changes, but given the works need to be undertaken that involve significant costs such as signage, fencing and pathway this is not recommended.

3. Amend the dog management in the precinct as prescribed in the report and as illustrated in Figure 2 excluding the removal of the dog area from the eastern side of the Lake (eastern side of new pathway).

There are concerns that the removal of the dog area from the eastern side of the path (eastern side of the Lake) could be very unpopular, especially as Council is finalizing an excellent open space area that should be very inviting for people to have picnics / BBQs with their families and dogs (if applicable). Option two also stops people from walking their dogs along the eastern side of the Lake (along new path and on eastern side of the path) and then accessing the beach from the northern end of this open space area.

It is acknowledged that the Lake Ainsworth Coastal Management Program has identified this as a management issue however to remove this dog on-leash area with limited consultation could prove to be very unpopular, especially considering the history of the eastern road closure debate.

4. Defer this report to a Councillor briefing. If Council would like further information before determining the preferred approach to dog access and management in the Lake Ainsworth locality, a Councillor briefing could be held.

The recommendation that follows is to support option two as this provides the optimum outcomes from a dog and Lake management perspective, however options three and four are viable options, recognizing that the removal of the dog access to the entire eastern section of the Lake could prove to be unpopular to some dog owners.

RECOMMENDATIONS

1. That Council endorses the implementation of the dog access and management arrangements as set out in Figure 2.
2. That early morning, late afternoon and weekend community participation/information drop in sessions at Lake Ainsworth to educate the public on the new dog access practices and dog restrictions be undertaken.
3. That Council supports ongoing community education and compliance action regarding dog management in the Lake Ainsworth locality.

Attachment(s)

Nil

8.12 Development Applications – Variation to Development Standards

8.12 Development Applications – Variation to Development Standards

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

This report relates to the period July to September 2019.

DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for variation
2019/221	1/7/19	Ardill Payne & Partners	Two lot residential subdivision to create one x 1111m ² allotment (below 1200m ² min lot size standard) and one x 1389m ² allotment, part demolition of existing dwelling house and alterations and additions to the existing dwelling house– 30 Teven Road, Alstonville	R2 Low Density Res - BLEP 2012	Clause 4.1 Minimum subdivision lot size of Ballina Local Environmental Plan 2012	The variation was supported on the grounds that the variation (7.38%) is minor (i.e.10%) and permits the creation of an allotment which is compatible with and reflective of the locality.

RECOMMENDATION

That Council notes that there has been one approved under delegation for variations to development standards of 10% or less for the period July to September 2019.

Attachment(s)

Nil

8.13 Development Applications - Works in Progress - October 2019

8.13 Development Applications - Works in Progress - October 2019

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

Dwelling house and dual occupancy applications are not included in this report.

DA No.	Date Rec'd	Applicant	Proposal	Status
2017/223	5/5/2017	Ardill Payne & Partners	Two lot residential subdivision to create 1 x 1,157sqm and 1 x 1,145sqm allotments and associated works – 31 Tara Downs, Lennox Head	Awaiting additional information
2018/51	2/2/2018	Ballina Island Development Pty Ltd	Subdivision of land to create 103 residential lots and seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage – 20 North Creek Road, Lennox Head	Being assessed
2018/74	13/2/2018	Ardill Payne & Partners	Amended Proposal: Demolition of Existing Residential Flat Building and Erection and Strata Title Subdivision of a six storey Residential Flat Building containing 12 (originally 14) dwellings, associated car parking and works. The proposed building has a height of 18.6m (originally 18.3) with the lift over run at a height of 19.3m which is above the building height allowance of 18m under the Ballina Local Environmental Plan 2012 – 8 Grant Street, Ballina	Awaiting additional information
2018/432	26/7/2018	Ardill Payne & Partners	Two Lot Subdivision by way of a Boundary Adjustment to create one 1080m ² and one 776m ² allotments and construction of a shed on Proposed Lot 1 - 2 Old Pacific Highway, Newrybar	Determination pending

8.13 Development Applications - Works in Progress - October 2019

2018/482	10/8/2018	P & G Smith	To establish a home business comprising a cooking class conducted within an existing holiday cabin – 841 Fernleigh Road, Brooklet	Determination pending
2018/554	13/9/2018	Ardill Payne & Partners	Change of Use to Establish a Depot – Removalist Business and Associated Signage – 6 Waverley Place, West Ballina	Awaiting additional information
2018/597	26/9/2018	Ardill Payne & Partners	Establishment and operation of a water supply system including the construction of shed and associated works – Lot 15 Ellis Road, Rous	Referred to Government Departments & awaiting additional information Councillor briefing to be held – date to be advised To be reported to Council for determination as per Council's resolution 251018/7 – 25 October 2018
2018/616	9/10/2018	Northern Rivers Land Solutions	To undertake bulk earthworks associated with the subdivision consented to under DA 2016/184 – 658 Tamarind Drive, 33 Mitchell Close, 52 Albert Sheathers Lane & 88 Sandy Flat Road, Cumbalum (Banyan Hill)	Subject to Land & Environment Court Appeal – hearing dates 31 January 2020 & 10-12 February 2020
2018/631	17/10/2018	GM Project Management	Proposed two lot subdivision to create one x 574sqm and one x 708sqm allotments and partial demolition and reconstruction of existing dwelling house – 7 Evelyn Villa Drive, Alstonville	Being assessed
2018/730	29/11/2018	Surf Life Saving Far North Coast	Operation of a kiosk from the ground floor of the Shelly Beach Surf Life Saving Club building, and associated building works – 11 Shelly Beach Road	Being assessed

8.13 Development Applications - Works in Progress - October 2019

2018/746	5/12/2018	Ardill Payne & Partners	Alterations and Additions to the Ballina Central Shopping Centre, comprising the addition of two pad sites, new outdoor dining space, new commercial floor space and alterations to the car parking area, including a new car parking shade structure – 44 Bangalow Road, Ballina	Awaiting additional information
2018/747	6/12/2018	Ardill Payne & Partners	Staged Torrens Title Subdivision and Boundary Adjustment to create 18 x residential lots, 1 x residual lot, 1 x drainage reserve, associated infrastructure works, earthworks and revegetation/rehabilitation works (Avalon Estate Stages 6a and 6b) - Rifle Range Road & 22 Scarlett Court, Wollongbar	Awaiting additional information
2019/21	21/1/2019	Ardill Payne & Partners	Establishment of a detached dual occupancy involving the relocation of a dwelling and tourist and visitor accommodation comprising the change of use of an existing studio to a holiday cabin and the erection of a new holiday cabin and associated works – 208 Fernleigh Road, Tintenbar	Awaiting additional information
2019/30	24/1/2019	Newton Denny Chapelle	Staged development involving the temporary use of the land for five years as a function centre for the purpose of hosting wedding ceremonies. It is proposed to host a maximum of 20 ceremonies in any 12 month period catering for a maximum of 120 people. The proposal also involves staged development of eight holiday cabins and associated amenities and infrastructure – 43 Tuckombil Lane, Tuckombil	Being assessed To be reported to Council for determination as per Council's resolution 240419/9 – April 2019

8.13 Development Applications - Works in Progress - October 2019

2019/123	28/2/2019	Newton Denny Chapelle	Demolition of all structures on-site and erection and Strata Title subdivision of a mixed use development comprising a three storey 9.7m high building (above the 9.0m height of buildings development standard) including food and drink premises and retail premises at ground and second floors, business premises at second floor and shop top housing consisting of two residential dwellings on the third floor, on-site car parking, vegetation removal and associated works. A pedestrian walkway linking Ballina Street and Park Lane is proposed - 74 Ballina Street, Lennox Head	Being assessed
2019/133	4/3/2019	Ardill Payne & Partners	Subdivision to create eight residential Torrens Title lots varying in size from 690sqm to 1200sqm and one residue 2.72 hectare allotment and associated works – 44-52 Blue Seas Parade, Lennox Head	Being assessed
2019/137	7/3/2019	P A Lowndes	Alterations/Additions to an existing Recreation Establishment - 1305 Eltham Road, Alstonvale	Being assessed
2019/145	8/3/2019	Ardill Payne & Partners	Construction of an Industrial Development to be Used for a Depot and For General and Light Industrial Purposes, Filling of Land and Associated Works – 29-31 Smith Drive, West Ballina	Awaiting additional information
2019/170	19/3/2019	MP & MJ Veronesi	Two Lot Boundary Adjustment Subdivision to create one x 78ha and one x 5ha allotments – 987 & 937 Wardell Road, Meerschaum Vale	Being assessed

8.13 Development Applications - Works in Progress - October 2019

2019/223	11/4/19	Tim Fitzroy & Associates	Expansion of the existing solid waste transfer station with a processing capacity of up to 28,000 tonnes per annum. The proposed expansion will allow for sorting of construction/demolition waste, general mixed waste, recycling, paper/cardboard, green waste, steel, timber, waste oil and community recycling centre for household chemicals. The transfer station is proposed to operate 6.00am to 6.00pm Monday to Friday and 7.00am to 4.00pm Saturdays and Sundays and the waste transfer (haulage) operations to occur 24 hours Monday to Sunday.– 2 Northcott Crescent, Alstonville	Being assessed
2019/233	15/4/19	Planners North	To establish trial fill embankments and installation of settlement monitoring plates– 550-578 River Street, West Ballina	Awaiting additional information
2019/283	7/5/19	Newton Denny Chapelle	Change of use from a high technology industry to general industry involving the assembly, manufacture and fitting of prosthetic limbs and alterations to the building - 2/188-202 Southern Cross Drive, Ballina	Awaiting additional information
2019/309	17/5/19	Ardill Payne & Partners	Establishment of a multi dwelling housing development comprising the construction of two attached dwellings on a vacant Strata Lot and subsequent Strata Subdivision of the attached dwellings – 175B Tamar Street, Ballina	Awaiting additional information
2019/316	20/5/19	RJ Westblade	Establishment of a multi dwelling housing development comprising the staged construction and Strata Title Subdivision of two detached dwellings - 20 Canal Road, Ballina	Awaiting additional information

8.13 Development Applications - Works in Progress - October 2019

2019/343	29/5/19	Ardill Payne & Partners	Erection of an Industrial Building for General Industrial Purposes - 54 North Creek Road, Ballina	Being assessed
2019/370	6/6/19	Newton Denny Chapelle	Construction of a bridge across Duck Creek - 163 & 253 Wardell Road, Lynwood	Referred to Government Department
2019/376	11/6/19	Newton Denny Chapelle	Erection of five greenhouses to be used for the propagation of potted plants, expansion of farm dam, and associated earthworks and other civil works – 348 Rous Road, Rous Mill	Being assessed To be reported to Council for determination
2019/382	11/16/2019	Ardill Payne & Partners	Two lot subdivision to create one 1321sqm and one 951sqm allotment (below the 1200sqm min lot size development standard) and demolition of existing garage and associated works – 5-9 Sapphire Court, Lennox Head	Being assessed
2019/402	19/06/2019	Northern Rivers Land Solutions	Subdivision of Two Existing Lots to Create Two Modified Lots being one 18.45 ha and one 49.9ha allotments – Tamarind Drive & Ballina Heights Drive, Cumbalum	Being assessed
2019/438	03/07/2019	Ardill Payne & Partners	To undertake the Torrens Title Subdivision of 4 x existing vacant lots to create 10 x vacant residential lots – 25-39 Fitzroy Street, Wardell	Referred to Government Department Awaiting additional information
2019/452	12/07/2019	House With No Steps	Alterations and additions to rural workers dwelling and farm building and the use of that building and two approved dwellings for permanent group home accommodation, and associated works – 163 Wardell Road, Alstonville	Being assessed
2019/465	18/7/2019	Newton Denny Chapelle	To establish a warehouse or distribution centre for the storage of road base material pending its sale – Teven Road, West Ballina	Awaiting additional information

8.13 Development Applications - Works in Progress - October 2019

2019/487	29/7/2019	Ardill Payne & Partners	Erection of five pole signs associated with the Ballina RSL – 1 Grant Street, Ballina	Being assessed
2019/498	2/8/2019	Ardill Payne & partners	Alterations and additions to an existing dwelling in attached dual occupancy and use as a transitional group home – 2 Jamie Place, Ballina	Being assessed
2019/499	2/8/2019	Planners North	Implementation of erosion and slope stabilisation measures, bushland regeneration works, ongoing geotechnical monitoring and use of existing structures for residential purposes – 35 Pine Avenue, East Ballina	Being assessed
2019/505	6/8/2019	Newton Denny Chapelle	Construction of Multi Dwelling Housing development comprising three detached single-storey dwellings and associated earthworks, driveways and landscaping, and Strata Title Subdivision – 12 Cowrie Street, Lennox Head	Awaiting additional information
2019/519	15/8/2019	Newton Denny Chapelle	To establish a depot and storage premises and to undertake earthworks and retaining of the site – 23 Northcott Crescent, Alstonville	Awaiting additional information
2019/520	15/8/2019	Newton Denny Chapelle	Two lot Torrens Title subdivision to create one x 902m ² and one 831m ² allotments and associated works – 25 Sandbreak Crescent, Lennox Head	Being assessed
2019/531	20/8/2019	NSW Office of Sport c/- Creative Planning Solutions	Alterations and additions to a conference hall – 164 Camp Drewe Road, Lennox Head	Referred to Government Departments

8.13 Development Applications - Works in Progress - October 2019

2019/535	21/8/2019	Ardill Payne & Partners	To undertake a development in four stages comprising: Stage 1 - Three Lot Torrens Title Subdivision (Proposed Lots 1 and 2 – area of 801m ² and Proposed Lot 3 – area of 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	Referred to Government Departments Awaiting additional information
2019/539	23/8/2019	Newton Denny Chapelle	Alterations and additions to an existing commercial building – 34 Cherry Street, Ballina	Awaiting additional information
2019/553	30/8/19	Newton Denny Chapelle	Change of Use to Establish a Recreation Facility (Indoor) – Personal Training Facility - 5/19 Owens Crescent, Alstonville	Being assessed
2019/559	2/9/2019	Necelle Pty Ltd	To undertake alterations and additions comprising the removal of the existing wall wetting system and fire rating the boundary between 79-83 Main Street and 77 Main Street with a fire rated wall - 79-83 Main Street, Alstonville	Being assessed
2019/562	2/9/2019	Newton Denny Chapelle	Change of Use from dwelling house to a specialist medical centre comprising one consulting room, including demolition of existing garage, alterations to existing building, carparking, drainage works and vegetation management works – 42 Ballina Street, Lennox Head	Being assessed

8.13 Development Applications - Works in Progress - October 2019

2019/577	9/9/2019	Newton Denny Chapelle	Establishment of a Recreation facility (indoor) comprising a 24 hour gymnasium studio including internal building works at EPIQ Neighbourhood Shopping Centre – 5 Snapper Drive, Lennox Head	Awaiting additional information
2019/593	16/9/19	Newton Denny Chapelle	Alterations to the existing S-Block classrooms to create two art rooms and a central exhibition space – 62 Horizon Drive, West Ballina	Being assessed
2019/594	16/9/19	Newton Denny Chapelle	Alterations to the Gunundi Childcare classrooms to create four general purpose classrooms – 62 Horizon Drive, West Ballina	Being assessed
2019/598	18/9/19	Newton Denny Chapelle	Erection of a sports amenities and community centre – Hutley Drive, Lennox Head	On exhibition
2019/605	19/9/19	The Ballina Players Inc.	Alterations to The Ballina Players Theatre – 24 Swift Street, Ballina	Being assessed
2019/617	25/9/19	Jamie Hoile	Vegetation management works comprising the removal of one tree – 2 Sunrise Crescent, Lennox Head	Being assessed
2019/624	26/9/19	Simo Holdings Trust	Proposed Strata Title Subdivision of Existing Dual Occupancy – 29 Perkins Close, Cumbalum	Referred to Government Departments
2019/628	27/9/19	Newton Denny Chapelle	Temporary use of the commercial kitchen and outdoor seating area at the Wollongbar Christian Church for the purposes of a café - 66 Rifle Range Road, Wollongbar	On exhibition
2019/638	2/10/19	Newton Denny Chapelle	Erection of a new building for the purposes of a café with indoor and outdoor dining for 120 people and associated earthworks, retaining walls, infrastructure servicing and landscaping – 1 Shelly Beach Road, East Ballina	On exhibition
2019/639	3/10/19	Petal Niemack	Vegetation management works comprising the removal of two trees – 110 Ballina Road, Alstonville	Being assessed

8.13 Development Applications - Works in Progress - October 2019

2019/641	3/10/19	Discovery Parks Pty Ltd c/ Masterplan Pty Ltd SA	Upgrade to existing Park including six new relocatable cabins, removal of eight existing cabins and re-configuration of 10 existing park sites – 25-43 Fenwick Drive, Ballina	Being assessed
2019/642	3/10/19	Newton Denny Chapelle	Change of Use of part of the premises from office premises to medical centre – 1/317 River Street, Ballina	Being assessed
2019/643	4/10/19	DJ Hauenstein	Vegetation management works comprising the removal of 13 trees – 67 Northumberland Drive, East Ballina	Being assessed
2019/646	4/10/19	Lennox Head Tree Care PTY LTD ATF LHTC Trust	Vegetation management works comprising the removal of one tree – 232 North Creek Road, Lennox Head	Being assessed

8.13 Development Applications - Works in Progress - October 2019

Regional Development (Determined by Northern Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/2	4/1/2016	21st Century Builders Pty Ltd	Amended Proposal: To undertake the first stage of the urban subdivision of the new Cumbalum Urban Release Area – Precinct B comprising a total of 166 allotments and including road construction and intersection works at Ross Lane, extensive earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - 246 Ross Lane, 47 Dufficys Lane & Ross Lane, Kinvara	Awaiting additional information
2016/524	16/9/2016	Planners North	Amended Proposal: Seniors Living Development pursuant to SEPP (Housing for Seniors and People with a Disability) 2004 comprising amended layout, 147 (previously 211) serviced, self-care housing with associated clubhouse, recreation facilities, roads and associated infrastructure and environmental management and protection works – 67 Skennars Head Road, Skennars Head	Subject to Land and Environment Court Appeal. Council is not a participant in the Appeal.
2016/746	23/12/2016	Ringtank Pty Ltd	Erection of three dwelling houses, 10 site caravan park, equine facilities including stables, veterinary facility, quarantine stalls, horse float and equipment shelters and two equestrian exercise lawns, private outdoor recreation facilities including go-kart track, shooting range, associated buildings, roadworks, earthworks including dam and landscaping - Carrs Lane, Empire Vale Road, Reedy Creek Road- Keith Hall/Empire Vale	Referred to Government Departments
2017/600	30/10/2017	Newton Denny Chapelle	Expansion of an Existing Resource Recovery Facility - 19-21 Northcott Crescent, Alstonville	To be reported to NRPP for determination on either 20 or 21 November 2019

8.13 Development Applications - Works in Progress - October 2019

2018/321	13/6/2018	PalmLake Works Pty Ltd	Staged erection of an extension to an existing Seniors Housing Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising of 156 self-care dwellings, recreation facilities and associated car parking, infrastructure works, site filling and associated works – 120 North Creek Road, Ballina	Subject to Land and Environment Court Appeal – Hearing Dates 15-22 July 2019 & 19-20 August 2019 Appeal upheld
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Major Development (Determined by Minister)

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

RECOMMENDATION

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

Attachment(s)

Nil

9.1 Use of Council Seal

9. Corporate and Community Division Reports

9.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following document.

US 19/10	<p>Licence Agreement for Lot 1 DP 853747, 79 Johnstons Road, Alstonville between Council and Friends of The Koala (FOK), at a nominal licence fee for a five year period for the establishment of a koala feed tree harvest plantation.</p> <p>Explanation: An action of the Ballina Shire Koala Management Strategy is to support the growth of koala food tree leaf sources within the Ballina Shire for the care and rehabilitation of koalas. The master plan for the Alstonville Waste Water Treatment Plant site has identified a portion of land not required for operational purposes as suitable for this purpose. State Government funds have been sourced to establish a food tree plantation that after maturity can be used by local koala welfare groups to provide a food source for koalas in care. Appropriate leaf harvest trees are to be planted and established by contractors in the short term followed by ongoing maintenance and harvest activities to be carried out by FOK volunteers.</p> <p>The five year term is recommended as this recognises the growing time associated with the establishment of a feed tree program and that the intended use is particularly targeted to deliver a specific outcome under the Ballina Shire Koala Management Strategy.</p>
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Attachment(s)

Nil

9.2 Investment Summary - September 2019

9.2 Investment Summary - September 2019

Delivery Program Financial Services

Objective To provide details of Council's cash and investments portfolio breakup and performance.

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of September 2019.

Key Issues

- Compliance with Investment Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act and the Regulations.

As reported to the September 2019 Ordinary Council meeting, the investments breached Council's Investments Policy on 27 August 2019, when Standard and Poors lowered AMP's credit rating from A- to BBB+.

Clause 12.3 of the Investments Policy states that a maximum of 10% of the portfolio can be invested with one institution rated BBB and BBB+. The threshold is 20% for institutions rated A- or higher.

As at 30 September, Council had \$10.5 million invested with AMP, representing 11.5% of the total portfolio (reduced from \$11.5 million as at 31 August).

The AMP deposit renewals to bring the investments back into compliance are:

- \$1.0 million on 17/10/19
- \$2.0 million on 13/11/19

This will bring the portfolio back into compliance within a three month period, in accordance with Council's Investment Policy.

The total balance of investments as at 30 September was \$91,038,000. This was an increase of \$2.5m from August. Council's investments, as at 30 September, are at an average (weighted) rate of 2.32%, which is 1.36% above the 90 Day Bank Bill Index of 0.96%. The balance of the cheque account at the Commonwealth Bank, Ballina, as at 30 September 2019, was \$2,793,090. This balance is lower than the balance of \$7,820,011 as at 31 August 2019.

The combined movement of investments and bank balances was a decrease of \$2,526,921.

9.2 Investment Summary - September 2019

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

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

* Reflects reserves held as at 30 June 2019.

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
National Australia Bank	Yes	BBB	1,788	1,788	0	2.0%	2%
Rated Institutions							
AMP Bank	Yes	BBB+	11,500	10,500	10%	11.5%	
Auswide Bank	No	BBB	4,000	3,000	10%	3.3%	
Bank Australia	No	BBB	0	0	10%	0.0%	
Bank of China	Yes	A	12,000	12,000	20%	13.2%	
Bank of Queensland	Yes	BBB+	6,000	6,000	10%	6.6%	
BankVic	No	BBB+	0	3,000	10%	3.3%	
BankWest	Yes	AA-	3,000	0	20%	0.0%	
Bendigo & Adelaide Bank	No	BBB+	2,000	2,000	10%	2.2%	
Beyond Bank	No	BBB	2,000	2,000	10%	2.2%	
Big Sky Building Soc	N/A	BBB	0	0	10%	0.0%	
Commonwealth Bank of Australia	Yes	AA-	4,000	4,000	20%	4.4%	
Credit Union Australia	No	BBB	4,100	4,100	10%	4.5%	
Defence Bank Ltd	No	BBB	3,500	3,500	10%	3.8%	
Greater Bank Limited	No	BBB	1,000	1,000	10%	1.1%	
Heritage Bank	No	BBB+	0	0	10%	0.0%	
IMB Bank	No	BBB	0	0	10%	0.0%	
ING Bank Ltd	Yes	A	0	0	20%	0.0%	
ME Bank	No	BBB	5,750	4,750	10%	5.2%	
Macquarie Bank Limited	No	A	0	6,500	20%	7.1%	
My State Bank Ltd	No	BBB+	4,500	3,500	10%	3.8%	
National Australia Bank	Yes	AA-	10,000	10,000	20%	11.0%	
Newcastle Permanent Bld Society	No	BBB	4,700	4,700	10%	5.2%	
Rural Bank Ltd	No	BBB+	0	0	10%	0.0%	
Suncorp Limited	No	A+	0	0	20%	0.0%	
Teachers Mutual Bank Limited	No	BBB	1,700	1,700	10%	1.9%	
Westpac Banking Corporation	Yes	AA-	7,000	7,000	20%	7.7%	98%
Total			88,538	91,038		100%	

9.2 Investment Summary - September 2019

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value Previous	Value Current	% Previous	% Current
	%	Value				
A- or Higher	100%	91,038	47,500	50,000	54%	55%
BBB	60%	54,623	41,038	41,038	46%	45%
Total			88,538	91,038	100%	100%

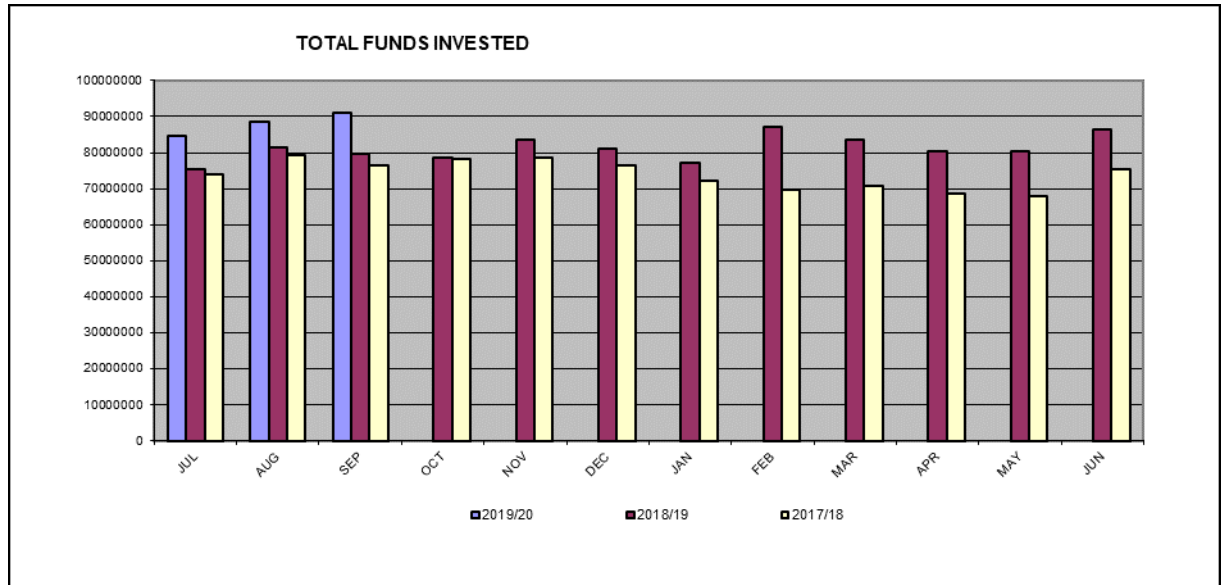
B. Summary of Investments Fossil Fuel Aligned

Classification based on advice from 'Market Forces'.

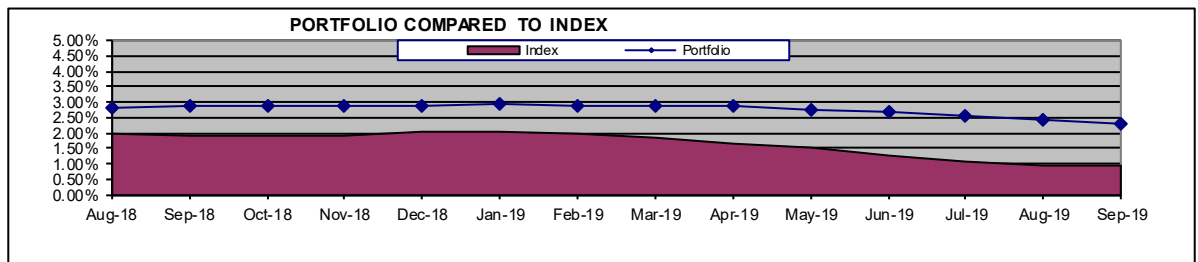
The four new investments totaling \$6.5m, in the month of September, were with non-fossil fuel aligned institutions.

As shown in Table A, Council has 45% of total investments in the BBB and BBB+ category.

C. Monthly Comparison of Total Funds Invested

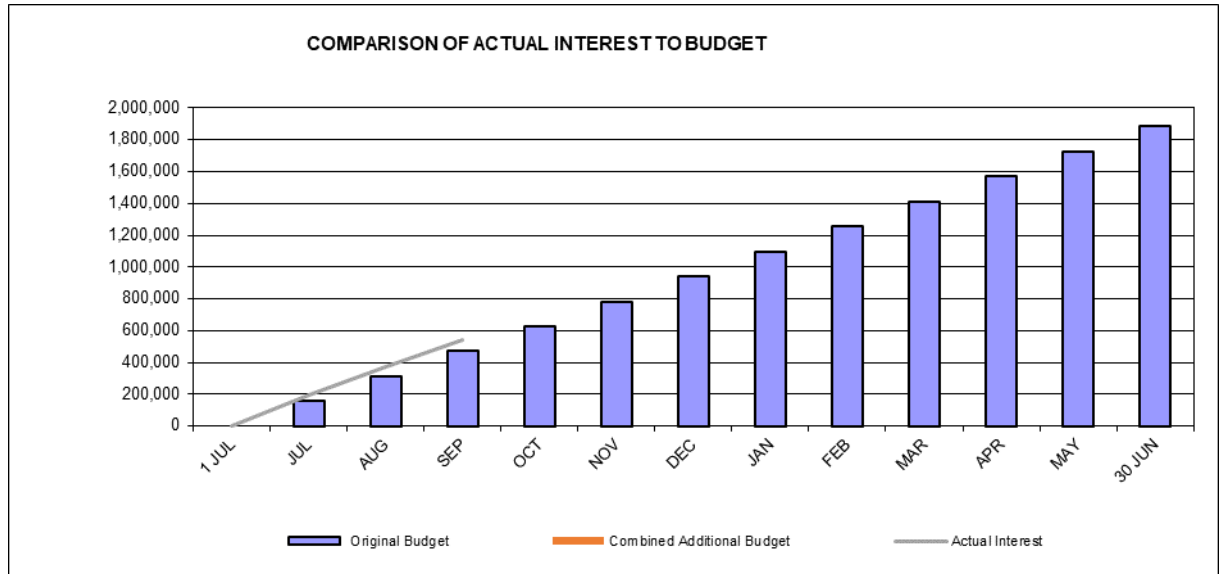


D. Comparison of Portfolio Investment Rate to 90 Day BBSW



9.2 Investment Summary - September 2019

E. Progressive Total of Interest Earned to Budget



F. Investments held as at 30 September 2019

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/2004	National Australia Bank (ASX Listed)	FRN	2.89%	Perpetual	1,788	1,650
17/06/2016	Commonwealth Bank of Australia	FRN	2.09%	17/06/21	1,000	1,000
30/06/2016	Commonwealth Bank of Australia	FRN	2.25%	30/06/21	1,000	1,000
26/07/2016	Commonwealth Bank of Australia	FRN	2.09%	26/07/21	1,000	1,000
24/02/2017	Greater Bank Limited	FRN	2.41%	24/02/20	1,000	1,000
29/06/2017	Teachers Mutual Bank Limited	FRN	2.63%	29/06/20	1,000	1,000
18/08/2017	Westpac Banking Corporation	FRN	2.02%	18/08/22	1,000	1,000
9/11/2017	ME Bank	FRN	2.22%	09/11/20	750	750
6/02/2018	Newcastle Permanent Bld Society	FRN	2.41%	26/07/21	700	700
30/04/2018	Westpac Banking Corporation	FRN	1.94%	31/07/23	1,000	1,000
2/07/2018	Teachers Mutual Bank Limited	FRN	2.55%	02/07/21	700	700
31/07/2018	Westpac Banking Corporation	FRN	1.94%	02/08/23	1,000	1,000
6/09/2018	Westpac Banking Corporation	FRN	2.04%	26/07/21	2,000	2,000
6/09/2018	Newcastle Permanent Bld Society	FRN	2.41%	26/07/21	1,000	1,000
6/09/2018	Credit Union Australia	FRN	2.25%	06/09/21	600	600
10/09/2018	AMP Bank	FRN	2.09%	10/09/21	1,500	1,500
2/10/2018	Bank of China	TD	2.86%	01/10/19	2,000	2,000
15/10/2018	Bank of China	TD	2.83%	10/10/19	2,000	2,000
18/10/2018	AMP Bank	TD	2.83%	17/10/19	1,000	1,000
2/11/2018	My State Bank Ltd	TD	2.85%	01/11/19	2,500	2,500
6/11/2018	Bank of China	TD	2.86%	06/11/19	1,500	1,500
8/11/2018	Defence Bank Ltd	TD	2.85%	07/11/19	1,500	1,500
22/11/2018	Defence Bank Ltd	TD	2.85%	22/11/19	1,000	1,000

9.2 Investment Summary - September 2019

F. Investments held as at 30 September 2019 (contd)

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
27/11/2018	Bank of China	TD	2.87%	26/11/19	2,000	2,000
29/11/2018	Bank of China	TD	2.88%	29/11/19	3,000	3,000
3/12/2018	Credit Union Australia	TD	2.86%	03/12/19	3,500	3,500
24/12/2018	Bank of China	TD	2.87%	23/12/19	1,500	1,500
11/01/2019	Commonwealth Bank	FRN	2.26%	11/01/24	1,000	1,000
15/01/2019	My State Bank Ltd	TD	2.86%	15/01/20	1,000	1,000
8/02/2019	Westpac Banking Corporation	FRN	2.02%	08/02/24	2,000	2,000
12/02/2019	Beyond Bank	TD	2.81%	11/02/20	2,000	2,000
19/02/2019	AMP Bank	TD	2.85%	19/11/19	2,000	2,000
21/02/2019	Newcastle Permanent Bld Soc	FRN	2.03%	22/02/21	2,000	2,000
22/02/2019	Newcastle Permanent Bld Soc	FRN	2.03%	22/02/21	1,000	1,000
17/05/2019	AMP Bank	TD	2.60%	13/11/19	2,000	2,000
19/06/2019	Auswide Bank	TD	2.20%	17/12/19	3,000	3,000
24/06/2019	Bank of Queensland	TD	2.10%	23/10/19	3,000	3,000
24/06/2019	Bendigo & Adelaide Bank	TD	1.95%	21/11/19	2,000	2,000
24/06/2019	ME Bank	TD	2.00%	29/11/19	1,000	1,000
28/06/2019	National Australia Bank	TD	2.00%	07/01/20	3,000	3,000
2/07/2019	BankVic	TD	2.10%	22/01/20	3,000	3,000
4/07/2019	National Australia Bank	TD	1.95%	08/10/19	3,000	3,000
16/07/2019	Bank of Queensland	TD	1.95%	21/01/20	2,000	2,000
25/07/2019	Bank of Queensland	TD	1.95%	28/01/20	1,000	1,000
31/07/2019	AMP Bank	FRN	2.09%	10/09/21	2,000	2,000
7/08/2019	National Australia Bank	TD	1.72%	04/08/20	4,000	4,000
16/08/2019	AMP Bank	TD	2.00%	17/08/20	1,000	1,000
19/08/2019	ME Bank	TD	1.75%	20/02/20	3,000	3,000
26/08/2019	AMP Bank	FRN	2.45%	19/09/21	1,000	1,000
27/08/2019	Defence Bank Ltd	TD	1.75%	27/08/19	1,000	1,000
4/09/2019	Macquarie Bank Limited	TD	1.75%	03/03/20	3,000	3,000
17/09/2019	Macquarie Bank Limited	TD	1.75%	17/03/20	1,000	1,000
20/09/2019	Macquarie Bank Limited	TD	1.75%	24/03/20	1,000	1,000
26/09/2019	Macquarie Bank Limited	TD	1.70%	28/04/20	1,500	1,500
Totals					91,038	90,900
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

9.3 Disclosure of Interest Returns

9.3 Disclosure of Interest Returns

Delivery Program Communications

Objective To comply with the provisions of the Code of Conduct relating to the tabling of disclosure of interest returns.

Background

Clause 4.21 of the Code of Conduct requires Councillors and designated persons to lodge with the General Manager a return in the form set out in schedule 2 of the code, disclosing the councillor's or designated person's interests as specified in schedule 1 of the code within three months after:

- (a) becoming a councillor or designated person, and
- (b) 30 June of each year, and
- (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).

Clause 4.25 then requires the General Manager to table those returns at the first available Council meeting following the completion of the three month period.

- 1) Clause 4.26 of the code also requires returns lodged with the General Manager under clause 4.21(c) (above) to be tabled at the next Council meeting after the return is lodged.

This report complies with the Clause 4.21 (b) for the period 1 July 2018 to 30 June 2019.

Key Issues

- Ensuring compliance with the Code of Conduct.

Information

Disclosure of interest returns are to be tabled by Councillors and designated persons. Clause 4.8 of the Code of Conduct defines designated persons as:

- (a) the general manager
- (b) other senior staff of the council for the purposes of section 332 of the LGA
- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise

9.3 Disclosure of Interest Returns

to a conflict between the person's duty as a member of staff or delegate and the person's private interest

- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

To manage the determination of designated positions an internal procedure has been adopted by staff to ensure that the following positions complete the returns.

- Senior management (General Manager, Directors and Senior Leadership Team).
- Staff with the delegation to determine development applications, approve construction certificates and approve re-zoning (planning proposal) applications.
- Staff authorised to order goods and services to the value of \$50,000 and over, as per Council's purchasing procedures
- Staff who have permanent or re-occurring secondary employment approvals that potentially conflict with their role at Council.

This internal procedure is currently under review as it results in a large number of staff completing the returns, with the preferred approach likely to remove the need for staff with the over \$50,000 procurement delegation and the secondary employment approvals from completing returns. Essentially there are other systems in place to manage those processes.

No committee members, other than Councillors, are required to complete the returns, as all Council's committees, other than those consisting entirely of Councillors, have no delegated authority.

The completed returns for 2018/19 and the register are tabled at the meeting for the information of the public.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The disclosure of interest returns improve transparency in the decision making process.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council must comply with the Local Government Act 1993.

9.3 Disclosure of Interest Returns

Consultation

This report is provided for the information of the public.

Options

The purpose of this report is for noting.

RECOMMENDATION

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2018 to 30 June 2019.

Attachment(s)

Nil

9.4 Code of Conduct - Reporting

9.4 Code of Conduct - Reporting

Delivery Program Information Services

Objective To comply with Council's Code of Conduct and directions from the Office of Local Government.

Background

The Office of Local Government's (OLG) Model Code of Conduct requires a report to be submitted annually on code of conduct complaints within three months of the end of August. This report satisfies these requirements.

Key Issues

- Number and nature of complaints

Information

The last report was for the 12 month period 1 September 2017 to 31 August 2018. This report is for the period 1 September 2018 to 31 August 2019.

Number of Code of Conduct Complaints	
Number of complaints <i>received</i> about councillors and GM	3
Number of complaints <i>finalised</i> in the period about councillors and GM	3
Overview of Code of Complaints	
Number of complaints <i>finalised</i> at the outset by alternative means by GM or Mayor	1
Number of complaints <i>referred</i> to a conduct reviewer	2
Number complaints <i>finalised at preliminary assessment</i> by a conduct reviewer	2
Number of complaints <i>investigated</i> by a conduct reviewer	0
Number of complaints <i>investigated</i> by a conduct review committee	0
Number of complaints referred to the ICAC, NSW Ombudsman, OLG or police	0
Complaint Assessment Statistics	
Number <i>determined</i> by the conduct reviewer at the preliminary assessment stage by;	
Taking no action (or to not proceed to an investigation)	3
Resolving the complaint by alternative and appropriate strategies	3
Referring matter back to GM or Mayor for resolution by alternative and appropriate strategies	0
Referring the matter to the ICAC, NSW Ombudsman, OLG or police	0
Proceeding to investigate the matter	0
Recommending that the complaints coordinator convene a conduct review committee to investigate the matter	0
Cost of Dealing with Code of Conduct Complaints	
Total cost of managing complaints about councillors and GM for the period	\$6,200
Invoiced from conduct reviewers	\$4,700
Approximate staff costs	\$1,500

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct exists to ensure there are appropriate standards of behaviour.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The Council's Code of Conduct is based on the Office of Local Government's Model Code of Conduct, and requires a report to be submitted annually on Code of Conduct complaints. This report satisfies that legal requirement.

Consultation

This report is provided for information.

Options

This report is for information purposes only.

RECOMMENDATION

That Council notes the contents of this report on Code of Conduct complaints for the period 1 September 2018 to 31 August 2019.

Attachment(s)

Nil

9.5 Donations - Australian Representation

9.5 Donations - Australian Representation

Delivery Program Communications

Objective To consider an application for funding under the 'Donations - Australian Representation' Policy.

Background

Council occasionally receives requests to financially support athletes who reside in the Ballina Shire if they are selected to represent Australia in their chosen field of sport. Council has a policy *Donations – Australian Representation* that provides guidance to these requests.

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

Key Issues

- Community benefit

Information

Australian Representation – Mr Ned Evans

Ned Evans is a resident in the Ballina Shire. He has been selected to compete in the Pan Pacific Jiu-Jitsu Kids IBJJF Championship 2019 to be held at the Melbourne Sports and Aquatics Centre on 26 October 2019.

The request and supporting documents are attached to this report.

Council has a policy, *Donations - Australian Representation* that states Council may provide a \$230 contribution for applicants representing Australia within Australia (this figure is indexed by CPI each year). The policy also states that selection of an entire team will only result in one donation.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Donations support community groups and individuals in the Ballina Shire.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

There is no specific budget allocation for the Australian Representation policy as the donation requests are typically ad hoc and the funds donated are relatively minor in comparison to Council's overall budget.

The Community Donations – Financial Assistance for Community Groups budget has funds unallocated and it is proposed to fund the donation from this budget.

Consultation

There has been no specific consultation in respect to this request.

Options

The options are to approve or decline the request.

The application complies with the Council policy and on that basis the recommendation is for approval.

RECOMMENDATION

That Council approves the request from Ms Melissa Evans on behalf of her son Ned Evans for a donation of \$230 towards the cost of Australian selection within Australia as per Council's Donations - Australian Representation Policy.

Attachment(s)

1. Request from Melissa Evans

9.6 Donations - Northern Rivers Branch Ulysess Children's Toy Run

9.6 Donations - Northern Rivers Branch Ulysess Children's Toy Run

Delivery Program Communications

Objective To consider a donation request from Northern Rivers Branch Ulysess Club received outside the nominated timeframe.

Background

Council approved a number of community donations at the July 2019 Ordinary Meeting for the 2019/20 financial year.

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

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

Key Issues

- Community benefit
- Funding available

Information

Northern Rivers Branch Ulysess Club

The Club has been successful in obtaining donations over the last five financial years. The donation is used for Traffic Control required for their 2019 Children's Toy Run. A copy of the request is attached.

The Club failed to submit their request for the 2019/20 financial year due to the organiser being ill. They are seeking a donation of \$850 and this is consistent with recent years for this organisation.

Sustainability Considerations

- **Environment**
N/A
- **Social**
The donation request will provide community benefits to the people of Ballina Shire.
- **Economic**
N/A

Legal / Resource / Financial Implications

It is proposed to fund this request from the Community Donations – Financial Assistance for Community Groups budget as there are still funds available for the current financial year.

Consultation

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

Options

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

RECOMMENDATION

That Council approves the donation of \$850 to the Northern Rivers Branch Ulysess Club, as per the attached request, funded from the Community Donations for Community Groups budget.

Attachment(s)

1. Request for Financial Assistance - Northern Rivers Ulysess Club

9.7 Northern Regional Planning Panel - Election of Alternate Delegate

9.7 Northern Regional Planning Panel - Election of Alternate Delegate

Delivery Program Communications

Objective To elect an additional alternate delegate to the Northern Regional Planning Panel.

Background

Regional Planning Panels (formerly known as Joint Regional Planning Panels JRPPs) were established by the NSW State Government on 1 July 2009. The role of the regional planning panels is summarised in the following extract from the NSW Government's Planning Panels website:

The Planning Panels

- *determine 'regionally significant' development applications (DAs) and certain other DAs and modification applications*
- *act as the Planning Proposal Authority (PPA) when directed*
- *undertake rezoning reviews*
- *provide advice on other planning and development matters when requested*
- *determine site compatibility certificates under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.*

Development applications

The Planning Panels determine the following types of development applications (DAs) and modification applications:

- *Regional development, as outlined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011*
- *development with a capital investment value (CIV)* over \$30 million*

Development with a CIV over \$5 million which is:*

- *council related*
- *lodged by or on behalf of the Crown (State of NSW)*
- *private infrastructure and community facilities*
- *eco-tourist facilities*

9.7 Northern Regional Planning Panel - Election of Alternate Delegate

- *extractive industries, waste facilities and marinas that are designated development,*
- *certain coastal subdivisions*
- *development with a CIV* between \$10 million and \$30 million which is referred to the Planning Panel by the applicant after 120 days.*

Developments which meet State Significant Development criteria are not determined by the Sydney and Regional Planning Panels.

Each Planning Panel consists of five members:

- *three members, including the Chair, appointed by the Minister (State members) and*
- *two members nominated by the relevant Council (Council members).*

Ballina Shire Council is a member of the Northern Joint Regional Planning Panel (which includes councils from Tweed to Port Macquarie and as far west as Moree Plains and Liverpool Plains). Council's representatives (elected by Council) on the Panel are:

- Cr David Wight, Mayor
- Cr Eoin Johnston, Deputy Mayor
- Cr Sharon Cadwallader, alternate delegate
- Vacant, alternate delegate

As Cr Eoin Johnston was elected as Deputy Mayor in September, he now replaces Cr Nathan Willis on the Panel and a new alternate delegate is required.

Alternate members act in the place of the regular members if required.

Following new legislation provisions relating to the Regional Planning Panels in 2018, the key changes in relation to the operation of the panels include:

- Property developers and real estate agents are no longer eligible to sit as either state-nominated or council-nominated panel members.
- The categories of regional significant development can now be found in schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011. The threshold for general development has changed – development that has a capital investment value (CIV) of more than \$30 million is now considered regionally significant development (the CIV was previously \$20 million).
- Under section 8.2 of the *Environmental Planning and Assessment Act* 1979, panel determinations are now subject to reviews of decisions made in relation to development applications. These reviews are to be undertaken by different panel members to those that made the original decision.

This means that Council should have sufficient alternate members appointed to enable this decision review function to be carried out. It is a matter for Council to decide whether it wishes to have more than two alternate delegates.

9.7 Northern Regional Planning Panel - Election of Alternate Delegate

- All public panel meetings are to be recorded and the recording made available on the Planning Panel website. Council's recording facilities in the Council Chambers are able to be used. This will necessitate the use of the Council Chamber for future Panel meetings so that recording can be carried out.

The panels have detailed operating procedures, along with a Code of Conduct.

Declarations of interest are an important consideration in that Code and as per Council's Code of Conduct there is an onus on panel members to declare any interests and manage that interest appropriately.

The purpose of this report is to appoint an alternate delegate to the Northern Regional Planning Panel.

Key Issues

- Council representation

Information

The local council is the body that determines the two council and any alternate representatives on the regional planning panel.

A number of methods for representation are used by councils including:

- Councillors only.
- Councillors and staff.
- Staff and technical experts.
- Entirely technical representatives.
- Joint arrangements where neighbouring councils sit on each other's panel.

Council is now required to determine whether to appoint a replacement extra alternate delegate to the Northern Regional Planning Panel to address the requirement for different delegates to consider proposals where a review of determination has been sought by an applicant.

- **Environment**
Applications before the regional planning panel must consider environmental, social and economic factors.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Ballina Shire Councillors on the Northern Regional Planning Panel are paid \$600 per meeting which is the figure included in Council's Councillor

9.7 Northern Regional Planning Panel - Election of Alternate Delegate

Expenses and Facilities Policy. Council determines this figure. Any staff representatives are not paid (above their normal remuneration).

Consultation

Council needs to appoint an alternate delegate to the Northern Regional Planning Panel.

Options

The primary purpose of this report is to seek an alternate representative on the Panel.

The options are to appoint:

- additional Councillor
- external technical expert
- adjoining council representation
- call for expressions of interest from members of the public.

Representation on this Panel is a matter for Councillors to determine on behalf of the community, however to provide some direction the recommendation has Councillors representing the community.

It is always difficult to select a representative(s) from the community and Councillors have the benefit of having been selected from the entire community through the electoral process (on a Ward basis).

The Panel is still able to proceed and determine matters without any Council representation, if for some reason all of Council's nominated representatives could not attend a meeting (due to conflicts of interest or being away).

RECOMMENDATION

That Council confirms its preference is for two alternative delegates to be nominated for the Northern Regional Planning Panel, with the currently vacant position to be determined by the Council.

Attachment(s)

Nil

9.8 Policy (Review) - Untaken Sick Leave

9.8 Policy (Review) - Untaken Sick Leave

Delivery Program Human Resources and Risk Management

Objective To review the Untaken Sick Leave Policy.

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Untaken Sick Leave Policy.

Council first adopted this policy in 1982. The policy was designed to reduce the level of sick leave taken by allowing staff with more than ten year's continuous Local Government Service to be paid 50% of their untaken sick leave entitlement on their resignation or retirement from Council.

In January 2002 Council resolved that the policy would no longer be applicable to employees engaged from 25 January 2002.

As there are still 57 employees who commenced prior to that date with Council the policy will remain in place until all of the pre 25 January 2002 employees depart Council.

Key Issues

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

Information

This policy is retrospective and does not apply to employees recruited since January 2002.

The policy itself sets out the original policy provisions which form part of the employment conditions for employees engaged by Council prior to 25 January 2002. These employees are entitled to be paid out 50% of their untaken sick leave upon resignation / retirement from Council.

It is important that sick leave entitlements are monitored on a regular basis as part of an overall analysis of leave trends. Workforce data from the most recent Local Government Performance Excellence Survey (2018) reveals the median sick leave days taken across NSW Councils as follows:

Item	FY 2015	FY 2016	FY 2017	FY 2018
Ballina Shire Council	5.6	5.1	6.6	6.8
Survey Benchmark Population (NSW LG)	6.1	6.3	6.4	6.0

There has been an unusually high number of employees with significant and long term health issues in financial years 2017 and 2018, explaining the increased use of sick leave in those periods and it is hoped this trend does not continue.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Sick leave is essential in assisting employees in time of ill health.
- **Economic**
There is a cost to Council associated with this policy however this is restricted to the remaining 57 employees employed under the provisions of this Policy. When the policy was last reviewed there were 71 employees.

Legal Implications

The NSW Local Government State Award provides for 15 days sick leave per annum with untaken sick leave able to be accumulated from year to year.

The provision for employees engaged prior to 25 January 2002 to be paid out 50% of their untaken sick leave is a contract of employment entitlement and Council has an industrial requirement to meet this obligation.

Consultation

Typically policies are recommended for exhibition, however as this relates entirely to industrial matters, exhibition is not supported.

Options

Council may adopt or amend the policy. If Council's preference is to adopt the policy no changes are recommended.

The other option available is to delete this policy from Council's policy register. This matter is more a historical industrial agreement and the preference is to remove it as a Council policy and treat the agreement as an operational matter.

Information on all employee's eligible for this sick leave arrangement is retained in Council's personnel records and the employee's rights are protected by industrial legislation.

A policy provides no additional level of support and the recommendation is to delete this policy from the Council policy register.

RECOMMENDATION

That Council notes the contents of this report and approves the deletion of the Untaken Sick Leave Policy from Council's Policy Register as employees who benefit from the policy are protected by historical industrial agreements and associated legislation.

Attachment(s)

1. Policy (Review) - Untaken Sick Leave

9.9 Annual Financial Statements - 2018/19

Delivery Program Financial Services

Objective To obtain Council approval to exhibit the 2018/19 Financial Reports for public comment and to sign the certified statements for both the General Purpose and Special Purpose Statements.

Background

Council must prepare financial statements for each financial year that are in accordance with:

- The Local Government Act 1993 (as amended) and Regulations
- The Australian Accounting Standards and professional pronouncements
- The Local Government Code of Accounting Practice and Financial Reporting
- NSW Government Policy Statement “*Application of National Competition Policy to Local Government*”
- Office of Local Government guidelines “*Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality*”

Once completed and audited Council must resolve to exhibit the statements for public comment. Council must then consider the statements again (typically at the November Ordinary meeting of Council), together with submissions, and formally resolve to adopt the statements.

This report seeks Council approval to exhibit the annual financial statements.

Key Issues

- Financial results
- Council must be satisfied that the statements present a true and fair picture of the Council's financial position as at 30 June 2019

Information

The Annual Financial Statements for the year ended 30 June 2019 have been completed and audited. A copy of the statements, together with the Auditor's Reports, are enclosed with this business paper. A copy of the statements is available for the public at the Customer Service Centre and Council's website.

The purpose of this report is to obtain Council's approval for the exhibition of the financial statements and to provide Council an opportunity to discuss the information contained within the documents.

Council must also provide approval for the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer to sign the statements confirming that, in the opinion of Council, the financial statements are fair and accurate. Copies of the two statements to be signed are attached to the end of this report.

Once the financial statements are approved the statements must be advertised for public comment. The statements must then be adopted at a meeting of Council not more than five weeks after the meeting where approval was provided to advertise.

Subject to Council approval to advertise at this meeting, the statements will be advertised and then presented, with any public comments received, to the meeting scheduled for Thursday 28 November 2019.

Mr Geoff Dwyer, of Thomas Noble and Russell, contract auditor for the Audit Office of New South Wales, will be present at this meeting at 11am and will be providing a presentation.

The documents enclosed with the business paper can be broken down into:

Attachment 1 – Statement by Councillors and Management

These statements are to be signed by the Mayor, a Councillor, General Manager and Responsible Accounting Officer. They are an extract from the draft General Purpose and Special Purpose Financial Statements.

Attachment 2 – Council’s End of Year Financial Analysis

This report, prepared by Council’s Manager Financial Services, provides an analysis of Council’s results for the 2018/19 financial year and the financial position as at 30 June 2019.

Attachment 3 – Draft Annual Financial Statements 2018/19

Part A – Auditor’s Report on the Conduct of the Audit

This is the draft (long form) audit report on the general purpose financial statements, noting an intention to issue an unmodified audit opinion.

Part B – General Purpose Financial Statements

These statements provide the consolidated operating result for 2018/19 and the consolidated financial position of Council as at 30 June 2019. The notes included with the statements provide details on income and expenditure, assets and liabilities. The notes also highlight the cash position of Council and identify which funds are externally restricted.

Part C – Special Purpose Financial Statements

These statements are prepared as a result of National Competition Policy and relate to those aspects of Council’s operations that are considered to be business activities.

Part D – Special Schedules

These schedules are prepared primarily for the Australian Bureau of Statistics and are used to gather information for comparative purposes.

The Auditor has issued an 'unqualified report', which means that they are of the opinion that the financial reports represent a fair and accurate assessment of Council's financial position.

Sustainability Considerations

- **Environment**
This report encompasses Council's finances in total and as such has implications for environmental, social and economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Council is legally obliged to adopt the financial statements.

Consultation

No specific community consultation has been taken in respect to this report however the intent is to advertise the Draft Statements for public comment.

Options

Council may approve to exhibit or not exhibit the documents. As Council's auditor has approved the statements it is recommended that Council authorise approval.

RECOMMENDATIONS

1. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, by the Mayor, the Deputy Mayor, the General Manager and the Responsible Accounting Officer.
2. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2019, as attached to this report, for public comment.

Attachment(s)

1. Statement by Councillors and Management - General Purpose and Statement by Councillors and Management - Special Purpose
2. End of Year Financial Analysis (Under separate cover)
3. Draft Annual Financial Statements 2018/19 (Under separate cover)

9.10 Capital Expenditure - 30 September 2019 Review

9.10 Capital Expenditure - 30 September 2019 Review

Delivery Program Communications

Objective To review the implementation of the 2019/20 capital expenditure program.

Background

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

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

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

This is the first report for 2019/20 and outlines work undertaken to 30 September 2019.

Key Issues

- Status of works
- Budget variations

Information

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

- Total Project Value – As projects can be delivered over a number of financial years, this column identifies the total project value. This may include expenditure from previous financial years or estimated expenditure for future years.
- Original 2019/20 Estimate - Represents the original 2019/20 estimate as per Council's adopted Operational Plan.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2019 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- Latest 2019/20 Estimate - Sum of the original estimate plus variations.
- Expended This Year - Expenditure to 30 September 2019 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 30 September 2019 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones.
- Status – Provides space for additional comments.

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

Points of interest are as follows.

Open Spaces (attachment one)

Wollongbar Skate Park and District Park – The planning application is still in the process of being prepared, with lodgement anticipated in the near future. Based on a three to four month planning assessment period, assuming a consent is granted, works are unlikely to take place until the second quarter of 2020.

Council has previously appointed a firm to construct the skate park, which should allow that work to commence expediently, subject to consent, albeit contractual terms will need to be re-negotiated and the skate park works may be reliant on certain infrastructure provided as part of the District Park.

Ballina Skate Park – Urgent works were required on the Ballina Skate Park totalling approximately \$74,000 with \$27,000 in funding available. The works were essential to allow the Ballina Fair Go Skate Park competition to proceed. The \$47,000 additional funding is to be transferred from the Open Spaces operational budget, which is trending under budget for the current financial year.

Playground Equipment – Various – There continue to be delays with the installation of this equipment with certain works requiring development consent and on-going community consultation. Works are now unlikely until 2020.

Wollongbar Sports Fields – With Council receiving grant funds of \$400,000 for this project, the drainage works have been completed, with a tender to be called for the irrigation.

Skennars Head Sports Fields Expansion – The contractor has commenced works with the project well advanced. When Council accepted the tender for this project at the November 2018 Ordinary meeting, point four of the resolution stated as follows:

That Council notes the information in this report that based on the current tendered price and with the possibility of spoil disposal costs there is a current budget deficit of \$20,000. Council also notes there is currently no contingency allowance in the current budget, therefore any variations may need to be reported back to Council to secure additional funding.

In managing the contract Council has approved approximately \$200,000 in variations for works to date. These works relate to additional safety fencing, drain profiling, bio retention media, soil movement, adjustments to the retaining wall, delay costs and the installation of additional irrigation.

Some of these changes were the result of conditions within the construction certificate that were not available at the time of tendering.

9.10 Capital Expenditure - 30 September 2019 Review

The variation for the retaining wall was based on a revised design provided by the engineer certifying the structural design of the wall. The variation approved by Council is \$25,000 albeit the contractor is seeking \$170,000 and this item remains in dispute.

The delay costs were incurred while waiting for completed negotiations with a third party to receive excess fill.

Other changes have resulted from issues identified in respect to ground conditions unable to be assessed economically prior to awarding the contract, and some changes are the result of design faults or suggested amendments.

Additional costs were incurred for the irrigation following consultation with Council staff. This resulted in changes in scope, however these changes will provide benefits in terms of the maintenance and performance of the system going forward.

As the additional irrigation costs of \$85,500 provide recycled water to the fields, these works are funded from Wastewater reserves and are included in the Wastewater capital projects later in this report.

This leaves a remaining shortfall of \$114,500. The construction of sports fields are often difficult projects to ensure the standard of facility meets community expectations and often they are located in locations with poor soil and / or drainage.

The attachment recommends Council approve additional funding of \$150,000 to allow \$35,500 contingency on top of the \$114,500 committed to date. It is important that Council provides a realistic budget for this essential infrastructure project.

The recommended funding source for this is the Community Infrastructure Reserve (CIR). The report to the August 2019 Ordinary meeting on the "Budgets Carried Forward and Reserve Movements" highlighted the following result for the CIR for 2018/19;

The one major item of interest is the additional Section 7.11 recoupment funds of \$1m transferred to the Community Infrastructure Reserve. Council was able to recoup a record level of contributions to this Reserve for 2018/19 and the additional \$1m transferred to the Reserve will help Council bring forward the planned reconstruction of the Ballina SES building.

As per this comment the recoupments to the CIR for 2018/19 were well in excess of the historical recoupment figures, which are approximately \$450,000. This is the estimated recoupment figure to the reserve for 2019/20.

The actual result for 2018/19 was closer to \$2.8m, which was still well in excess of the then \$1.8m estimate, with this figure being revised from the original estimate of \$450,000, during the 2018/19 financial year.

The funds held in the CIR are fully allocated to key infrastructure projects such as the Wollongbar District Park (2019/20), Lennox Head Rural Fire Shed (2020/21), Alstonville Pool Amenities (2020/21), Lennox Head Village Renewal (2020/21 and 2021/22), Main Street Renewal Loan Repayments (on-going) and the Ballina SES building (2022/23 and 2023/24).

9.10 Capital Expenditure - 30 September 2019 Review

As per the August 2019 Ordinary meeting comment a preferred outcome is to bring forward the planned construction of the SES Building with that funding spread over the 2022/23 (\$1m) and 2023/24 (\$700,000) financial years (\$1.7m in total).

The extra \$1m recouped in 2018/19 for the CIR will potentially allow the 2023/24 figure of \$700,000 to be brought forward to 2022/23, when Council next reviews the forecast cash flows for the CIR.

This traditionally occurs as part of the Finance Committee meetings held to formulate the draft Delivery Program, Operational Plan and Long Term Financial Plan during March and April each year.

With Council having additional funds now available in the CIR for 2019/20 the recommendations to this report including additional funding of \$150,000 for the Skennars Head Sports Fields expansion project.

Importantly, with land development still rapidly occurring throughout the shire it is highly likely that the \$450,000 recoupment to the CIR estimated for 2019/20 will be exceeded, which may allow Council to bring the SES building forward to 2021/22.

Further updates on this will be provided later in the financial year.

Ballina Heights Sports Fields - The condition of these fields has deteriorated in recent years to such an extent that sports such as soccer have had to be occasionally relocated. There has also been on-going conflicts in use between Little Athletics and the Tintenbar / East Ballina Football (soccer) Club with both clubs currently located on the soccer fields.

In response to concerns from the clubs actions taken include:

- Engagement of a national expert in sports fields to examine options to improve these fields (and other Council fields). Pleasingly the report confirms that with the installation of drainage improvements the fields are of a good quality and suitable for various sports.
- Minor drainage works have been completed adjacent to the fields.
- Council has written to the RMS advising that we will remove the drainage that is currently blocked under Tamarind Drive, which in Council's opinion is causing the retention of water in the locality between Tamarind Drive and the sports fields. This discussion is on-going with the RMS.
- Reviewed options for redesign of the area to the south of the fields to allow Little Athletics to operate on an area that is not on top of the soccer fields.

The Little Athletics season operates from October to February and there is an opportunity for Council to install improved drainage on the fields during mid-February / early March to assist with ensuring that the soccer fields are fully operational by the start of the soccer season.

Works can also be undertaken to the area to the south of the fields from March onwards that will then ensure that Little Athletics has a fully operational site before the commencement of their 2020 season.

The funding required to undertake this work is \$150,000. The recommendation is to source this funding from the Community Infrastructure Reserve, which as per the earlier comments in this report has an opening balance far higher than anticipated due to a significant amount of developer contributions that were recouped during 2018/19.

A copy of the layout of the fields is included as the last attachment to this report.

The preference is to undertake these works as a priority to avoid the fields again being unsuitable for the 2020 season.

This work is also consistent with the Draft Sport and Recreation Facilities Plan as per a later report in this agenda. The Draft Plan identifies improved drainage or possibly a synthetic field as preferred works for these fields.

A synthetic field is expensive and the preference with that evaluation is to focus on the Crawford Oval fields due to their extremely high level of use and the large participation numbers in the Alstonville Soccer Club.

Finally Council has applied for \$145,000 in funding for this project through the NSW State Government's Strong Country Communities Fund – Round Three.

Outcomes of that program should be known this calendar year and Council has a reasonable chance of having the funding approved.

If that does occur the \$150,000 can be retained in the Community Infrastructure Reserve for other projects.

Importantly by Council approving the allocation of these funds at this meeting, the project planning can proceed to allow the works to be implemented early in 2020.

Resource Recovery (attachment one)

Public Place Recycling and Recycling Dome Load-out Area – Represents additional projects funded from the Landfill and Resource Management (LRM) reserve.

The public place recycling bins have been reviewed and new bins and improved locations identified.

Operations Support (attachment two)

Depot – The solar project is deferred to 2020/21 as it will be located on a roof that is being replaced this year.

Plant and Fleet – Once commitments are included expenditure is at 45% with a number of high priced vehicles ordered in the first quarter. The budget is reduced by \$100,200 to ensure the plant reserve is not significantly overdrawn.

Commercial Services (attachment three)

Airport – The terminal expansion is largely complete. Part funding for the car park and baggage area is being transferred to 2020/21 based on a more realistic delivery timeframe.

Shelly Beach – Café – Additional funding required to ensure site is suitably cleared and infrastructure is in place for the new lessee. This funding is sourced from the Property Development Reserve and the lessees have lodged their development application.

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

Wollongbar Urban Expansion Area – Stage 3 – With the consent only recently issued part of the funding is deferred to 2020/21 to reflect a more realistic timeframe for construction.

Community Facilities (attachment three)

Lennox Head Community Centre (LHCC) – Tender reported to October Council meeting.

ALEC – Scope of this project being reviewed and with a grant application submitted for additional works the scope may be expanded if the application is successful.

32 Swift Street – A fig tree fell on this building and as part of the works to repair the building it was deemed appropriate to replace the roof that was in poor condition. The funding is sourced from the operating expense budget for halls.

Ballina Indoor Sports Centre – Now operational.

Environmental and Public Health (attachment four)

Shaws Bay Coastal Management Plan – The design for the Shaws Bay dredging and foreshore improvements works are currently being finalised and due to commence February 2020.

An extension to the boardwalk shared pathway around the ecological zone and saltmarsh basin is now proposed to improve environmental outcomes and it is likely that a variation is required to the original grant for these additional works.

It is anticipated that support from the NSW State Government will be given to this variation and matching funding provided. Next quarter detailed costing will be available for these additional works and an increase to the Council contribution to the budget is anticipated of \$30,000 to \$50,000.

Healthy Waterways – Land Acquisition – Settlement finalised.

Water and Wastewater (attachments five and six)

Various projects underway with some projects recommended for deferral to 2020/21.

Engineering Works (attachment seven)

Stormwater

Minor budget variations with one project recommended for deferral.

Urban and Rural Roads

The large projects well advanced relate to Lake Ainsworth and River Street. Hutley Drive north is anticipated to commence shortly, subject to planning consent.

A large number of projects are recommended for deferral based on the current workload.

Ancillary Transport Services - Shared Paths and Footpaths

Coastal Shared Path Project – Project well advanced.

Coastal Shared Walk – There are still Aboriginal Cultural Heritage matters being resolved and it is likely that part of this project will roll into 2020/21.

Shared Paths and Footpaths - Routine inspections of footpaths and shared paths are undertaken in accordance with risk management practices to ensure public risk is minimized and the service performance of our existing path assets are maintained.

The maintenance program and operating budgets usually deal with the recurrent repairs needed to maintain short sections of the existing path network.

Recent inspections of older paths in Ballina and Alstonville have identified longer sections of path that require renewal, rather than intermittent and isolated repairs along the path.

The paths are close to the end of their useful life and require a higher level of maintenance and repair to manage the hazards.

The sections of path are:

- Main Street, Alstonville: South western side from The Avenue to Cawley Close
- Main Street, Alstonville: North eastern side from The Avenue to Perry Street
- Bugden Avenue, Alstonville: Eastern side from South Street to Pearces Creek Road
- Links Avenue, East Ballina: Eastern side from Fairway Village to Lee Street
- Camoola Avenue, Ballina: Southern side from Tweed Street to Kerr Street

9.10 Capital Expenditure - 30 September 2019 Review

- River Street, Ballina: Southern side from Grant Street to Highview development (corner River Street and Kerr Street)
- Regatta Reserve, Ballina: Shared path between Regatta Avenue and Las Balsas Plaza
- Kerr Street, Ballina: Eastern side from Fox Street to Holden Lane

The cost to replace the total length of 1.94km of path is approximately \$367,000 as per the following summary.

Location	Length (metres)	Estimate (\$)	Priority
Main Street (south western side)	170	28,000	High
Main Street (north western side)	220	54,000	High
Bugden Avenue	310	76,000	High
Links Avenue	170	45,000	High
Regatta Reserve	75	17,000	Medium
Kerr Street	625	75,000	Medium
Camoola Avenue	205	32,000	Low
River Street	165	40,000	Low
Total		367,000	

The operational budget for footpath maintenance cannot accommodate these renewals, even if the locations were delivered over many years.

If Council wishes to complete these identified renewals, in particular the locations with high priority, other projects in the 2019/20 Operational Plan will need to be deferred.

It is recommended that Council defer the Eyles Drive-John Sharpe Street, East Ballina project (\$110,000), and combine this funding with the Bugden Avenue (\$34,000) and Bike Plan Projects (\$59,000) funding to make \$203,000 available for the high priority path renewals.

This will allow delivery in 2019/20 of the four high priority renewal locations in Bugden Avenue, Main Street and Links Avenue.

Funding for the medium and low priority locations will be reviewed in the next Delivery Program.

In Council's adopted PAMP and Bike Plan, Main Street, Bugden Avenue, Regatta Reserve, River Street and Links Avenue are identified as shared paths.

Path renewal works undertaken on these roads will deliver on Bike Plan commitments.

The renewal projects are all located at sites that have high pedestrian activity and are associated with schools and business areas.

It is because of the high use and high profile that these projects are reported to Council.

It is not ideal to make a substantial change to the Operational Plan so recently after its adoption however it is preferred to undertake the renewals now, having regard to risk and use.

9.10 Capital Expenditure - 30 September 2019 Review

Summary

As per the following table, even with the deferrals identified in this report, there is \$67m in capital works scheduled for 2019/20 with \$7.8m expended on a cash basis to date.

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

Section	Budget (\$)	Cash Expenditure (\$)	Percentage Expended
Open Spaces	6,460,000	725,300	11%
Resource Recovery	2,600,000	0	0%
Operations Support	3,987,600	92,600	2%
Commercial Services	11,180,000	1,714,500	15%
Community Facilities	3,968,800	759,600	19%
Information Services	20,000	0	0%
Env and Public Health	908,100	76,600	8%
Water	5,668,300	236,800	4%
Wastewater	6,681,700	511,900	8%
Engineering Works	25,411,600	3,726,900	15%
Total	66,886,100	7,844,200	12%

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information.

Options

This report is for noting to provide an update on the capital works program for 2019/20 and to recommend known or likely budget variations. The recommendations reflect the information as per the attachments to this report.

RECOMMENDATIONS

1. That Council notes the contents of this status report on the Capital Expenditure Program for the 2019/20 financial year.
2. That Council approves the following 2019/20 budget amendments as outlined in the attachments to this report:

9.10 Capital Expenditure - 30 September 2019 Review

Item	Current Budget	Revised Budget	Variation	Comment
Open Spaces and Reserves				
Crown Reserve Improvements	27,000	74,000	47,000	Transfer from Open Spaces Operatons
Skennars Head Sports Fields	1,672,400	1,822,400	150,000	Transfer from Community Infrastructure Reserve
Ballina Heights Sports Fields	0	150,000	150,000	Transfer from Community Infrastructure Reserve
Waste Management				
Public Place Recycling	0	100,000	100,000	Funded from LRM Reserve
Recycling Dome Load Out Area	0	25,000	25,000	Funded from LRM Reserve
Operations Support				
Depot – Workshop Welders Bay	437,000	462,000	25,000	Transfer from Hardstand
Depot – Solar	120,000	0	(120,000)	Defer to 2020/21
Depot - Hardstand	25,000	0	(25,000)	Transfer to Welders Bay
Plant and Fleet	3,186,800	3,086,600	(100,200)	Reduce budget based on reserve balance
Commercial Services				
Airport – Car Park, Solar	1,500,000	250,000	(1,250,000)	Defer to 2020/21
Airport – Baggage Area	1,000,000	250,000	(750,000)	Defer to 2020/21
Shelly Beach Cafe	43,000	83,000	40,000	Transfer from Property Development Reserve
WUEA – Stage 3	5,151,500	500,000	(4,651,500)	Defer to 2020/21
Community Facilities				
32 Swift Street	0	28,000	28,000	Transfer from Halls Maintenance budget
Water				
Main Renewals – Alstonville Valve	120,000	60,000	(60,000)	Reduction in budget – transfer funds back to reserve
Reservoir – Demolish Gray's Lane	0	70,000	70,000	Essential work funded from reserves
Wastewater				
Lennox Treatment Plant – Membrane	300,000	0	(300,000)	Defer to 2020/21
Alstonville Treatment Plant – Master Plan	247,900	67,900	(180,000)	Defer to 2020/21
Skennars Head Sports Fields – Recycled	0	85,000	85,000	Funded from reserves
Lennox to Angels Beach Drive - Recycled	150,000	63,000	(87,000)	Saving – transfer to reserves
Engineering Works – Stormwater				
Henry Philp Avenue	50,000	0	(50,000)	Deferred to 2022/23
Rutherford Street	136,900	116,900	(20,000)	Offset for increase in Wardell Road
Wardell Road	0	20,000	20,000	Offset by decrease in Rutherford Street
Engineering Works – Roads and Bridges				
Swift Street	105,000	5,000	(100,000)	Defer to 2020/21
Northumberland Avenue, Ballina	492,300	22,300	(470,000)	Defer to 2020/21
Wardell Road segments 70 and 80	100,000	120,000	20,000	Transfer from Road Contingency Reserve

9.10 Capital Expenditure - 30 September 2019 Review

Fernleigh Road seg 10	0	35,000	35,000	Transfer from Road Contingency Reserve
Martin Street	125,000	165,000	40,000	Savings from Corks Lane
Pimlico Road	296,000	321,000	25,000	Savings from Corks Lane
Fawcett Street	80,000	5,000	(75,000)	Defer to 2020/21
Skinner Street	64,000	124,000	60,000	Savings from Corks Lane
Brunswick Street	84,000	4,000	(80,000)	Defer to 2020/21
Burnet Street	200,000	5,000	(195,000)	Defer to 2020/21
Barlows Road	167,000	7,000	(160,000)	Defer to 2020/21
Kays Lane segment	57,000	7,000	(50,000)	Defer to 2020/21
Corks Lane	250,000	125,000	(125,000)	Budget savings
South Ballina Beach Road	158,000	8,000	(150,000)	Defer to 2020/21
Engineering Works – Footpaths and Cycleways				
Coastal Walk	1,435,700	500,000	(935,700)	Defer to 2020/21
Pine Avenue, Short Street, East Ballina	22,800	0	(22,800)	Reallocate to Suvla Street
Roberston Street, Alstonville	33,000	0	(33,000)	Transfer to reserve
River Street - Keppel, Ballina	17,000	0	(17,000)	Defer – transfer to reserve
Suvla Street, Shelly Beach Road, Ballina	114,000	136,800	22,800	Funded from Pine Avenue
River Street, Ballina	14,000	0	(14,000)	Defer – transfer to reserve
Bugden Avenue, Alstonville	34,000	0	(34,000)	Transfer to new Bugden Avenue project
River Street, Ballina	19,000	0	(19,000)	Defer – transfer to reserve
Eyles Drive, John Sharpe, Links Ave, Ballina	110,000	0	(110,000)	Transfer to new Bugden Avenue and Main Street projects
Bike Plan Projects	59,000	0	(59,000)	Transfer to new Main Street and Links Ave projects
Barlows Road, Ballina	43,000	0	(43,000)	Defer – transfer to reserve
Bugden Avenue, Alstonville	0	76,000	76,000	Funded from existing project transfers above
Main Street, Alstonville	0	82,000	82,000	Funded from existing project transfers above
Links Avenue, East Ballina	0	45,000	45,000	Funded from existing project transfers above

Attachment(s)

1. Open Spaces and Resource Recovery
2. Operations Support
3. Commercial Services and Community Facilities
4. Information Services and Environmental and Public Health
5. Water Operations
6. Wastewater Operations
7. Engineering Works
8. Ballina Heights Sports Fields Layout

9.11 Delivery Program and Operational Plan - 30 September 2019 Review

9.11 Delivery Program and Operational Plan - 30 September 2019 Review

Delivery Program Communications

Objective To review the implementation of the 2019/20 to 2022/23 Delivery Program and Operational Plan.

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

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice is to receive more timely quarterly reports.

This report represents the first review of the 2019/20 to 2022/23 Delivery Program and the 2019/20 Operational Plan, with the information based on work undertaken up to 30 September 2019 representing the first quarter of the 2019/20 financial year.

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

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

Key Issues

- Compare results to date against the adopted goals and priorities

Information

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

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

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

9.11 Delivery Program and Operational Plan - 30 September 2019 Review

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

There are 117 major actions listed in the Operational Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number

Group / Status	C&C	Civil	PEH	Total
Green	33	33	40	106
Amber	1	6	4	11
Red	0	0	0	0
Total	34	39	44	117

Program Actions Overview - By Percentage

Group / Status	C&C	Civil	PEH	Total
Green	97	85	91	91
Amber	3	15	9	9
Red	0	0	0	0
Total	100	100	100	100

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

- Implement Development Compliance Work Program (page 2) – This section has a significant workload and in the not too distant future Council will need to allocate additional resources to this program.
- Deliver Ballina SES Headquarters and Lennox Head Rural Fire Shed (page 2) – The RFS shed proposal is progressing well although there are concerns that the preferred option of building a two storey SES building on the current site may not be achievable. This will be subject to further reports.
- Implement Playground Upgrade and Renewal Plan (page 5) – There continue to be delays in the installation of this equipment with works originally planned for 2018/19 and rolled into 2019/20, now scheduled for 2020.
- Ensure Ballina Indoor Sports Centre is well patronised (page 6) – The BISC is now operational with high levels of usage already.
- Implement Ballina Town Centre enhancement program (page 8) – The current River Street works are well advanced and on schedule for completion prior to the Christmas period.
- Implement Ballina – Byron Gateway Airport upgrades (page 9) – The terminal expansion is officially open.
- Provide an effective and efficient waste management operation (page 17) – Council's resource recovery team did an excellent job in managing increased waste as a result of the fire at the Lismore landfill.

9.11 Delivery Program and Operational Plan - 30 September 2019 Review

- Implement Alstonville and East Ballina Cemetery Master Plans (page 23) – New gardens at the East Ballina Cemetery have been well received.
- Pursue compliance with the Fit for the Future Program (page 26) – The Annual Financial Statements report for 2018/19 confirm Council is progressing well with compliance.

In respect to Service Delivery there are a total of 94 indicators identified in the Operational Plan and the following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

Service Indicators Overview - By Number of Activities

Group / Status	C&C	Civil	PEH	Total
Green	31	18	19	68
Amber	11	10	4	25
Red	1	0	0	1
Total Tasks	43	28	23	94

Service Delivery Indicators Overview - By Percentage

Group / Status	C&C	Civil	PEH	Total
Green	72	64	83	72
Amber	26	36	17	27
Red	2	0	0	1
Percentage Total	100	100	100	100

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

Items of note include:

- Capital Works indicators (various) – A number of sections are struggling to deliver the capital projects funded in the Operational Plan.

All efforts are being made across the organisation to support project delivery, however lead times for planning consents, procurement, resource levels etc mean that projects will often take longer to deliver than what would be ideally preferred.

- Community Facilities (pages 34 - 37) – Mixture of results with some facilities up in usage whereas other facilities are trending down. The Community Facilities Team, which is now fully staffed with the BISC operating, continue to examine options to improve usage in under-performing facilities.
- Engineering Works (page 39) - Minimise operating deficit for Burns Point Ferry (\$) – Ferry income is currently up 13% as compared to quarter one for 2018/19 which was a record year for income.

Season ticket sales are \$76,600 for 2019/20 as compared to \$66,000 for 2018/19 for the same quarter.

9.11 Delivery Program and Operational Plan - 30 September 2019 Review

- Building Services (pages 45 – 46) – Council’s market share remains lower than historical levels as do processing times. However overall income remains well above historical figures due to the high level of building activity currently taking place.

Sustainability Considerations

- **Environment**
There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

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

Consultation

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

Options

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

RECOMMENDATION

That Council notes the contents of this report on the quarterly review of the 2019/20 to 2022/23 Delivery Program and 2019/20 Operational Plan.

Attachment(s)

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

10.1 Ballina Sport and Recreation Facilities Plan

10. Civil Services Division Reports

10.1 Ballina Sport and Recreation Facilities Plan

Delivery Program Open Spaces and Reserves

Objective To obtain Council approval to exhibit the Draft Ballina Sport and Recreation Facilities Plan.

Background

Increasing demand on existing community sport and recreational facilities and requests for new facilities from many sporting and community groups has highlighted the need to develop a specific plan relating to sport and recreation facility provision for the current and future population of the shire as well as a method to prioritise capital works to deliver the most needed facilities.

Council last completed a Community Facilities and Open Space Needs Analysis in 2004 and an Open Space Strategy in 2008.

Council resolved to complete a Ballina Sport and Recreation Facilities Plan as part of the Delivery Program and Operation Plan 2018/19.

Ross Planning Pty Ltd was engaged to carry out consultation and development of the plan to address the sport and recreation facilities needs of the shire.

Key Issues

- Availability of facilities
- Facilities that are fit for purpose
- Inclusive facilities
- Availability of suitable land
- Facility management
- Service levels
- Tenure
- Funding

Information

The purpose of the Sport and Recreation Facilities Plan is to assess and document the current and future sport and active recreation needs of the Ballina Shire community to provide a consolidated plan to guide Council and the community in the future provision of sport and recreation facilities across the Shire.

The objectives of the Plan are to:

- understand sport and recreation participation and needs.
- establish a facility provision gap assessment for current and predicted future demand.

10.1 Ballina Sport and Recreation Facilities Plan

- establish Council's and the community's role in addressing demand and facility development.
- maximise efficiencies (through rationalisation, avoiding duplication and establishing key partnerships).
- detail preferred management arrangements.
- develop a detailed and realistic implementation plan that will guide Council (and the community) in the future provision of (and investment in fit-for-purpose sport, recreation and open space facilities).

The draft Ballina Sport and Recreation Facilities Plan has analysed existing facilities and usage against population data, state and national trends, reference to industry and government planning guidelines and the results of extensive community consultation to provide recommendations and criteria to guide the management and future provision of sport and recreation facilities.

Key findings from the review identified the following priorities:

- Upgrade of facilities to be inclusive (complying with disability access and providing female and child friendly facilities).
- Irrigation of field surfaces.
- Consolidation of under-utilised facilities.
- Master planning of highly used facilities to provide efficiencies.
- Improve facility management systems and procedures.
- Develop a transparent process for identifying and prioritising projects through objective criteria.

The draft plan provides details of the responses received through consultation from the community and various sport and recreation groups regarding the quality of existing facilities and desired improvements.

Analysis of this information has included review against the actual venue usage and available capacity, best practice facility management including review of adjoining local government areas and current industry trends and technology to provide recommendations for each facility.

To address community expectation regarding the quality and range of available facilities, changes in community demographics and the trend towards inclusive community facilities the plan proposes a model to assess and prioritise capital works proposals by set criteria.

The capital works prioritisation model is aimed at providing:

- A standardised, transparent and equitable assessment of the need and demand for facilities within the physical, legislative and funding constraints Council operates under.
- The ability to provide timely assessment and definitive responses to requests for facilities or funding application support.

The draft plan also provides key recommendations and proposes initial prioritised actions for each identified sport and facility along with facility development guides, service level recommendations and proposed funding policy.

The finalisation and adoption of a Ballina Sport and Recreation Facilities Plan will:

10.1 Ballina Sport and Recreation Facilities Plan

- Support proactive and equitable management of sport and recreation facilities across the Shire and contribute to positive health and wellbeing outcomes for current and future generations.
- Deliver improved recreation and sporting opportunities through targeted investment and coordination of Council and community effort.
- Identify the most efficient way for funds to be invested and provide support for grant applications to help make funding go further.
- Provide direction for forward budget and works program development.

Sustainability Considerations

- **Environment**

There are no direct environmental considerations in adopting the Ballina Sport and Recreation Facility plan. Implementation will require consideration of the potential environmental impacts of facility development.

- **Social**

Sport and recreation facilities that cater for the needs of the community can have very positive social effects. The comradery that forms within competitive and social clubs can have positive flow on effects to the general wellbeing of the wider community.

The plan aims to improve the quality and variety of facilities available, and provide a consistent evaluation process for the prioritisation and delivery of facilities. This should lead to equitable provision of facilities across the shire and improvement to community satisfaction and wellbeing.

Improvement of facilities to be more inclusive and improvements to the way facilities are managed will also provide greater community access to facilities, improve multi-use of venues and help reduce the work needed from volunteers in managing the clubs.

Improved facilities will also attract a wider variety of visitors for social and competitive events; improving social interaction and building interregional relationships.

Some of the recommendations made in the plan require change to existing community use of facilities and may be seen as onerous by community groups. Consideration will need to be made on the greater social benefits and sustainability of the required actions.

- **Economic**

Implementation of the plan's recommendations and actions may result in the requirement for additional resources and funding. The plan highlights the need for appropriate funding and possible funding models for the delivery of different assets.

Improved facilities and better management systems are also likely to help attract more visitors and larger events to the shire. Large sporting events and increased visitors will have economic benefits for the wider community.

Legal / Resource / Financial Implications

It is important for Council to manage its sporting facilities in accordance with relevant regulations, standards and codes to ensure that they are fit for purpose, safe and meet the needs of the community.

Having a consolidated document to guide the management and development of facilities will help to ensure that they are maintained in accordance with the required standards.

Council will need to balance the funding for priorities in the plan against other community priorities.

Consultation

A shire wide community engagement strategy was adopted for the development of the draft plan to ensure all interested people had multiple opportunities to comment during the development of the plan.

Engagement with the general community and user groups involved community workshops, community surveys, sport and recreation specific surveys and interviews with sport and recreation committee representatives.

Consultation was also undertaken independently by Ross Planning with representatives from various sections of Council to gain additional feedback and information on current procedures, issues and suggested improvements regarding the management of our sport and recreation facilities.

Consultation commenced on 2 February 2019 with Council staff and Ross Planning promoting involvement in the development of the plan, consultation and completion of surveys with the community and sporting groups at the Get Active Expo and Sports Sign on Day held at the Alstonville Leisure and Entertainment Centre.

Surveys were advertised through print media, social media, council website and direct communication with sport and recreation club committee members. The surveys were open to the public for a period of six weeks with a positive number of responses received over that period.

Two community workshops were also held by Ross Planning to enable direct interaction and gain insight into community sentiment and provide the ability for community members to workshop their ideas further.

Additional requests for information and completion of surveys from sport and recreation groups that had not yet responded were carried out over the review period.

All additional feedback and updates from the community and sport and recreation groups received during the review process and development of the plan were included and considered in the analysis and recommendations for the draft plan.

Public exhibition of the draft plan will allow the community and key user groups the opportunity to provide feedback on the recommendations and proposed actions from the plan.

10.1 Ballina Sport and Recreation Facilities Plan

Options

1. That Council endorse the draft Ballina Sport and Recreation Facilities Plan for the purposes of public exhibition.
2. That Council determine any amendments to the draft Ballina Sport and Recreation Facilities Plan prior to endorsement for the purposes of public exhibition.
3. That Council reject the draft Ballina Sport and Recreation Facilities Plan.

The recommendation to this report is to endorse the draft for the purposes of exhibition.

The plan summarises a list of the recommendations and provides an action plan for implementation. Further reporting following the exhibition will be an opportunity for Council to examine how the expectations generated by adopting this Sport and Recreation Facilities Plan, including the recommendations and actions within, are properly integrated into Council's Long Term Financial Plan and our next Delivery Program and Operational Plan.

RECOMMENDATIONS

1. That Council endorses the draft Ballina Sport and Recreation Facilities Plan for the purposes of public exhibition.
2. That a further report be presented to Council assessing any feedback from the exhibition and how recommendations and actions within the Plan are proposed to be integrated into Council's Long Term Financial Plan, and our next Delivery Program and Operational Plan.

Attachment(s)

1. Draft Sport and Recreation Facilities Plan (Under separate cover)

10.2 Ballina Shire Heavy Haulage Contributions Plan - Review

10.2 Ballina Shire Heavy Haulage Contributions Plan - Review

Delivery Program Asset Management

Objective To adopt an update of the Heavy Haulage Plan.

Background

Council adopted the current Ballina Shire Heavy Haulage Contributions Plan (the Plan) 2011 on 27 October 2011.

This Plan has been reviewed and Council resolved at the August 2019 Ordinary meeting to place a draft update of the Plan on public exhibition.

The draft Plan includes financial updates, revised design parameters and mapping of roads that may be impacted by heavy haulage. A copy of the draft Plan is included as Attachment 1.

The public exhibition of the Plan concluded on 3 October 2019. No submissions were received during the exhibition period.

Key Issues

- Reasonable contributions are levied and received to reduce the impact of heavy haulage vehicles on our roads
- Ensure the Plan complies with contemporary legislation.

Information

The previous report set out an explanation of the changes incorporated into the draft Plan. No submissions were received in response to the public exhibition of the plan. Staff have not identified any further required changes to the Plan.

Sustainability Considerations

- **Environment**
Works completed under the plan are implemented in accordance with Council's environmental management practices. Well-maintained roads reduce the impact of the road network on the surrounding environment.
- **Social**
The plan enables contributions to be paid by development to assist with the upkeep of the local road network. This ensures the community has access to well-maintained roads and the community is liable for the full cost of repairs associated with the damage to local roads caused by heavy haulage vehicles.
- **Economic**
A well maintained road network encourages economic development.

Legal / Resource / Financial Implications

Section 7.11 (*Environmental Planning and Assessment Act 1979*) developer contribution plans (formerly section 94 plans) enable the cost of future road reconstruction, rehabilitation or maintenance caused by heavy haulage vehicles to be recouped from development through development consent conditions.

The Plan has been prepared in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, and Departmental Practice Notes.

Consultation

The Plan has been on public exhibition for the required 28 days and no submissions were received in response.

Options

Clause 31 of the *Environment and Planning Assessment Regulation 2000* sets out the options for Council and is reproduced below.

31 Approval of contributions plan by council

(1) *After considering any submissions about the draft contributions plan that have been duly made, the council –*

- (a) *may approve the plan in the form in which it was publicly exhibited,*
- (b) *may approve the plan with such alterations as the council thinks fit,*
- (c) *may decide not to proceed with the plan.*

(2) *The council must give public notice of its decision in a local newspaper within 28 days after the decision is made.*

(3) *Notice of a decision not to proceed with a contributions plan must include the council's reasons for the decision.*

(4) *A contributions plan comes into effect on the date that public notice of its approval is given in a local newspaper, or on a later date specified in the notice.*

The Plan has operated since its creation in 2011 and the update responds to the changes in practice and legislation that have occurred since the last review.

The Plan reasonably levies contributions on heavy haulage vehicles to mitigate the impacts on local roads from developments that generate ongoing haulage.

No submissions were received during the 28 day exhibition period.

The recommended option is for Council to adopt the plan as exhibited.

RECOMMENDATIONS

1. That Council, pursuant to Clause 31 (1) of the *Environmental Planning and Assessment Regulation 2000*, adopts the Ballina Shire Heavy Haulage Contributions Plan in the form in which it was publicly exhibited, as per Attachment 1 to this report.
2. That Council, pursuant to Clause 31 (2) of the *Environmental Planning and Assessment Regulation 2000* give public notice of the decision in point one above in a local newspaper within 28 days.

Attachment(s)

1. Heavy Haulage Contributions Plan (exhibited) (Under separate cover)

10.3 River Street Lane Duplication - Public Exhibition

10.3 River Street Lane Duplication - Public Exhibition

Delivery Program Engineering Works

Objective To approve the concept project design for public exhibition.

Background

Completing duplication of River Street traffic lanes between the Pacific Highway and Kerr Street is a major part of Council's adopted four year Delivery Program for arterial road works.

Consultants, working in conjunction with our technical officers, have produced concept design plans, which identify lane/intersection configurations, cross sections, scope and plan location of the works.

The lane duplication will have substantial benefits and also impacts on road users, pedestrians, adjacent properties, businesses, accesses and intersections.

It is proposed to publically exhibit the concept design plans and invite submissions from the public.

Following this process, the concept design can be amended before proceeding to staged detailed design and construction.

Key Issues

- Informing the public of concept design details, objectives and impacts
- Obtain feedback from the public that can assist fine tuning

Information

Traffic modelling funded by Council in 2014/15 identified the arterial roads leading into Ballina have insufficient capacity, without severe congestion, to convey predicted traffic volumes in 2036 and that some roads (River Street and parts of Tamarind Drive) were already at capacity in peak hours.

Two lane urban arterial roads have a steady flow capacity of around 18,000 vehicles per day (vpd) and duplicated four lane roads around 36,000 vpd.

The existing and predicted traffic volumes on River Street and Tamarind Drive are as follows:

10.3 River Street Lane Duplication - Public Exhibition

Road	Location	Traffic Volumes – vehicles per day (vpd)		
		2019 Measured	2036 Model Prediction	
			2036, no network improvements	2036 with North Creek Bridge connection and Western Arterial - Brampton Ave to North Creek Road
River Street	Fishery Creek Bridge	26,103	29,501	21,980
Tamarind Drive	Canal Bridge	23,335	28,140	30,430
Western Arterial	North of Brampton Avenue			14,411

Council's adopted 2019-2023 Delivery Program provides funding for a number of arterial road works to improve road capacity, reduce congestion and queueing on arterial roads feeding into Ballina Island.

These projects include:

Item	Proposed Expenditure			
	2019/20	2020/21	2021/22	2022/23
Bangalow Road/Angels Beach Drive Roundabout, duplication of lead in roads	50,000	1,500,000		
River Street Four Laning, Kerr Street to Highway incl duplicate Fishery Creek Bridge	100,000	100,000	21,612,000	
Tamarind Drive, Four Lane Kerr Street to North Creek Road, incl duplicate Canal bridge	200,000	100,000	100,000	13,091,000

Importantly the works in 2021/22 and 2022/23 assume a significant amount of grant funding and without that grant funding Council will not be in a position to proceed with the projects.

The River Street duplication is the largest of these projects and commenced in 2018 with engagement of consultants AT&L to prepare concept designs, concept level estimates, staging proposals and a schedule of required preconstruction investigations and reports.

River Street Lane Duplication Project

The River Street duplication project will provide River Street with sufficient carrying capacity to transit current and predicted 2036 traffic volumes into and out of Ballina.

A duplicated River Street will have sufficient and appropriate carrying capacity with both the current arterial network configuration and with the future network improved by construction of the North Creek Road bridge link (providing a second access to Lennox Head) and the Western Arterial link (between North Creek Road and Brampton Avenue).

10.3 River Street Lane Duplication - Public Exhibition

The concept design is the first part of the River Street lane duplication project.

It will be followed by:

- Staging determination - The project will be delivered in separate stages with these stages to be determined through a further Council report. The current planning is for four stages, not necessarily in order being:
 - West Ballina, Burns Point Ferry Drive to east of Brampton Avenue
 - Fishery Creek Bridge to Tweed Street
 - Fishery Creek Bridge and approaches
 - Smith Drive to Burns Point Ferry Drive
- Concept level estimates for each stage - budget and/or timing adjustments as required (to be the subject of a further Council report)
- Investigations and environmental studies for each stage
- Preparation and lodgement of planning applications for each stage
- Planning assessment and approvals for each stage
- Detailed design each stage
- Construction each stage

River Street Lane Duplication – Concept Design

The concept designs for River Street lane duplication are included as Attachment 1 to this report.

The concept design plans provide an overview of the project, but do not provide full construction details.

A detailed design phase will follow completion of the concept plans which will also provide an opportunity for improvements or amendments to the plans arising from public consultation and Council's consideration of submissions.

The main objective of the concept design has been to increase and optimise through traffic carrying capacity of River Street to accommodate present and future traffic volumes, whilst providing acceptable levels of access to adjacent properties and intersecting streets.

In this regard there are a number of intersections to be modified to facilitate through traffic free flow that limit access options from adjoining streets.

In summary the concept plans provide for:

Pacific Highway Roundabout to Burns Point Ferry Drive

- Four lane configuration to be continued east from Smith Drive.
- A central crowned cross section with raised median will be provided, accesses will be left in/left out only.
- A roundabout is provided in the design for the approved Highway Services Centre (DA 2016/92) and associated floodway culverts under River Street. If the services centre and roundabout proceed, construction would be financed by the developer. If the services centre does not proceed, the roundabout and culverts will not be constructed by Council as part of the lane duplication project.

10.3 River Street Lane Duplication - Public Exhibition

- A leg of the roundabout is provided for Emigrant Creek Lane.
- Existing flood overflow levels along the River Street formation are maintained.
- Provision is made for an auxiliary left turn lane into the Caravan Park and an adjusted Caravan Park entrance.
- Stormwater is to be piped, removing existing open drain along the Caravan Park frontage.
- Provision is made for left in/left out entrances north and south sides of River Street between the Caravan Park and Burns Point Ferry Road to allow for future development.
- No change is proposed to the existing River Street/Burns Point Ferry Drive/Riverbend Drive roundabout.

Burns Point Ferry Drive to Quays Drive

- Eastbound lanes are already duplicated, no further change proposed.
- Westbound lane to be duplicated.
- No change to existing central raised median.
- No change to existing River Street/Quays Drive/Bunnings roundabout.

Quays Drive to Barlows Road

- Eastbound and westbound lanes to be duplicated (involves deep pavement dig out and replacement), pavement of parking lanes to be strengthened.
- Central raised islands/median to be provided full length, eliminating right turns at Ronan Place.
- Ronan Place entrance to be reconfigured to facilitate heavy vehicle left in/left out turns.
- No change proposed to existing River Street/Barlows Road/Keppel Street roundabout.

Barlows Road to East of Brampton Avenue

This section will contain the future Western Arterial signalised intersection, opposite Brampton Avenue (connecting River Street to Tamarind Drive at North Creek Road). The intersection has been concept designed to ensure compatibility with the River Street lane duplication, but the intersection, pathways, retaining walls and other associated infrastructure will not be constructed until the Western Arterial is constructed at some future date.

The concept designs attached to this report provide for the full Western Arterial intersection and provide for:

- The configuration of the existing four lane concrete pavement, with raised centre median in River Street will be unchanged from Barlows Road to East of The Western Arterial intersection.
- A new pathway to be provided on north side of River Street from Barlows Road to connect with future pathway along Western Arterial Road.
- Retaining walls to be used on north side of formation to avoid/minimise encroachment into adjacent mangrove areas.
- A signalised intersection has been designed for the Western Arterial Road opposite Brampton Avenue. The intersection design is based on intersection (SIDRA) modelling using predicted 2036 traffic volumes. The

10.3 River Street Lane Duplication - Public Exhibition

intersection will require acquisition of 108 sqm of private property in the northwest corner. Timing for construction of the Western Arterial and this intersection is not determined at this time.

- Signalised pedestrian crossings of Western Arterial and River Street have been provided.
- Adequate right turn protected lane storage in southbound Western Arterial and westbound River Street is provided to cater for predicted 2036 traffic volumes.
- Brampton Ave modified to left out only to River Street. Boatharbour Road and Johnson Drive can still be used for a left in.

For the River Street lane duplication project (prior to construction of the Western Arterial), the following will be provided:

- The configuration of the existing four lane concrete pavement, with raised centre median in River Street will be unchanged from Barlows Road to east of Brampton Ave
- The existing Brampton Avenue seagull intersection will be unchanged, as will be the connection to Johnson Drive

Brampton Avenue to Fishery Creek Bridge

- Eastbound and westbound lanes to be duplicated and raised centre median provided.
- Westbound lanes diverge to south of existing road to align with approaches to new duplicate Fishery Creek Bridge.
- New pathway to be provided on south side of River Street, east from Brampton Avenue to Boatharbour Road. There will be a small reduction in Johnson Drive width to accommodate the River Street pathway.
- A pathway will extend from Boatharbour Road onto a new pathway alignment on the south side of duplicate Fishery Creek Bridge and approaches.
- Retaining walls to be used on north side of formation to avoid/minimise encroachment into adjacent mangrove areas.
- Left in/left out access only provided for Fishery Creek Road.
- Left in/left out access retained for Boatharbour Road.
- Westbound lanes west of duplicate bridge are elevated and retained by a retaining wall from Boatharbour Road to the bridge.
- The new, elevated westbound lane formation will partly encroach on the existing vehicle and boat/trailer parking area. The boat/trailer parking area will be reconfigured as part of future detailed design.

The pathway works between Brampton Avenue and Boatharbour Road will not be part of initial duplication works, but will be provided as part of the Western Arterial Project, intersection works. For the initial River Street lane duplication project, the existing pathway along Johnson Drive and River Street (south side) will remain as the primary east/west pedestrian path.

Duplicate Fishery Creek Bridge

- A duplicate Fishery Creek Bridge carrying two westbound lanes and a pathway is to be provided on the south of the existing bridge. The existing bridge will carry two eastbound lanes, the pathway on the south side of the existing bridge will be removed.

10.3 River Street Lane Duplication - Public Exhibition

- The duplicate bridge will have the same deck level and pier/span spacing as the existing bridge.
- The duplicate bridge pathway is on the south side which will connect to existing and new connecting pathways on the south side of River Street.

Fishery Creek Bridge to Tweed Street

- Duplicate eastbound and westbound lanes will be extended eastward from the duplicated bridges to merge with the existing duplicated lanes west of Tweed Street. There will be a continuous raised centre median with a breaks for Brunswick Street intersection only.
- Norlyn Avenue will no longer have left in/left out access to River Street due to the height and proximity of the duplicate bridge approaches and retaining wall. It will terminate with a turning head adjacent to River Street with provision for all existing property accesses. Norlyn Avenue can still be accessed via Latta Avenue and Henry Philp Avenue.
- Bagot Street Access will be unchanged with left out access only.
- Henry Philp Avenue will be left in/left out only.
- Brunswick Street intersection will be unchanged regarding access to River Street. It will be configured to enable future signalisation which can be pursued if future traffic volumes reach RMS warrants.
- The cross fall, beyond the centre concrete pavement, of a portion of River Street between Henry Philp Avenue to midway between Brunswick and Tweed Street, has excessive side slope for through traffic. Correction (reduction) of this cross fall will be required for parts of the outer duplicate lanes. This will require elevation of some sections of kerb and gutter which in turn will create sunken sections of verge/footpath. These sunken areas will be provided with a separate stormwater drainage system. Pedestrian access to properties will be maintained and no vehicular accesses will be adversely impacted by the elevated kerbs.

Public Exhibition

It is proposed to publically exhibit the concept design plans with explanatory notes summarising; the project, likely impacts, and advice on how to make submissions. At the end of the exhibition period the submissions will be compiled and a further report made to Council. This further report will:

- Analyse and respond to submissions.
- Recommend changes to the concept design arising from submissions.
- Advise on split, sequencing and timing of the project into separate stages for detailed design and construction and provide updated cost estimates for each stage.
- Recommend commencement of the next project phase of preconstruction investigations, planning applications and detailed design for the initial project construction stages.

Sustainability Considerations

- **Environment**

All stages of the project will be the subject of environmental assessment and approval requirements. The project will reduce vehicle travel times and congestion leading to reduction of fuel consumption and reduction in greenhouse gas emissions.

- **Social**

The project will significantly improve through traffic access from the Pacific/Bruxner Highways to Ballina Island by reducing congestion, queuing and travel times. This will improve amenity for the travelling public and Ballina residents. During construction there will be some access disruption and amenity loss to adjacent residents and business along the frontage of River Street. After completion of the project, some intersecting streets will have reduced access options to River Street through optimising through traffic free flow.

- **Economic**

The project will significantly improve through traffic access, delivery times for businesses and access for customers and suppliers. The improved access, reduced traffic congestion and delays will significantly benefit business along River Street and generally on Ballina Island. Reduced fuel consumption and lost time in traffic congestion will provide economic benefits to businesses and the general public.

Legal / Resource / Financial Implications

There is funding for the current planning however there are significant funding shortfalls, unless grants are achieved, for the construction phase.

Consultation

It is proposed to publically exhibit the concept plans for at least four weeks to enable impacted persons and businesses the opportunity to identify issues that are may be of concern in the concept plans and make submissions to Council. The public exhibition will take the form of:

- Concept design plans and explanatory notes will be provided for inspection/download on Council's website and static displays will be provided at libraries and the Council Chambers.
- Letters summarising the project, advising where more information can be obtained and how to make submissions will be provided to all residents, businesses and property owners along the impacted sections of River Street. Letters will also be provided to all residents and owners on Norlyn Avenue.
- A number of information sessions will be conducted at the Council offices to inform stakeholders and impacted persons and to answer questions on the overall project and its specific impacts on adjacent properties.

Options

Exhibition of the Ballina Street Lane Duplication Concept Plans is an important early preconstruction step in the implementation of this major project which is to be split into around four construction stages and programed to take four years to complete. This step needs to be completed and Council endorse the project concept design (as amended after consideration of submissions), before further preconstruction activities, planning applications and detailed designs can proceed.

10.3 River Street Lane Duplication - Public Exhibition

The following options are available:

1. Council endorse public exhibition of the Ballina Street Lane Duplication, concept design plans.
2. Council not endorse public exhibition of the Ballina Street Lane Duplication, concept design plans. This action would suspend further preconstruction activity and suspend further implementation of the project

Option one is recommended as it enables the lane duplication project to proceed to the next preconstruction phase. This option also enables the public to view the project and make submissions which Council can consider at a later meeting to determine any required concept design amendments.

RECOMMENDATIONS

1. That Council approves the public exhibition of the River Street Ballina Concept Design Plans as detailed in this report.
2. That submissions from the public be considered at a future meeting prior to Council considering adoption of the Concept Design and proceeding to the next preconstruction phases of the River Street Ballina Lane Duplication Project.

Attachment(s)

1. River Street Concept Design (Under separate cover)

10.4 Steam Spraying for Weed Control

10.4 Steam Spraying for Weed Control

Delivery Program Open Spaces and Reserves

Objective To investigate the suitability of steam spraying as a method of weed control.

Background

At the 27 June 2019 Ordinary meeting Council resolved as follows:

“That Council include in the 2019/20 Operational Plan an action to investigate the merits of implementing steam spraying for weed control, to then allow Council to determine whether this methodology is to be implemented on a permanent basis.”

This report addresses action HE3.3k in Council’s Delivery Program and Operational Plan for 2019/20, which is to: *“Investigate steam spraying for weed control to minimize environmental impacts”*.

This report considers the costs and benefits of steam weeding alongside Council’s existing weed control practices and draws on the experience of other Councils that have trialled or are currently using steam weeding.

Key Issues

- Benefits and limitations of steam weeding

Information

There is growing public interest in alternatives to the use of chemicals to control pests. Steam weeding is one such approach, relying on the use of steam and/or a combination of steam and hot water to eradicate weeds.

Steam weeding works by heating water under pressure to around 98-103°C then applying the water as steam to the surface leaves.

The heat and force break down the cell structure, killing the crown of the plant within a matter of hours or days.

Several local councils and Landcare organisations have trialled steam weeding and some continue to use it with the aim of reducing herbicide use, especially in high-use urban and other sensitive areas.

Others have since limited the use of steam weeding or stopped completely, mainly because steam weeding has proved significantly more costly and labour-intensive than pesticide spraying.

The findings of several of these organisations are discussed as follows.

10.4 Steam Spraying for Weed Control

Results generally show that while successful on annuals, steam weeding has little effect on the root systems of plants with rhizomes, bulbs or corms as the boiling water only penetrates to approximately five mm below the ground surface.

In most situations where the weed crown has died, repeated steam treatments on a regular basis are necessary to maintain weed-free pavements and roadsides.

Steam weeding has generally been investigated for use in urban environments, such as on footpaths, kerbs and playgrounds, where concerns about herbicide use are greater and off-target impacts are less likely.

Nonetheless thermal weed control in urban environments is still less effective and more expensive than pesticide use and generally does not work as a stand-alone approach in the longer term.

In natural areas steam weeding is not particularly viable because:

- It is non-selective and may also kill non-target species including adjacent native species.
- The very high temperatures can kill beneficial soil microbes including fungi and bacteria and the soil can become inoculated allowing bad pathogens to replace good microbes.
- Once treated, an area is left with rotting organic matter and moisture, which can promote seed germination in the soil increasing the number of weeds immediately following treatment, hence requiring additional applications.
- The equipment tends to be large and bulky making some natural areas inaccessible beyond the extent of the application hose.

Whilst steam weeding is a non-chemical form of weed control, it also uses large amounts of energy to create the steam and has environmental impacts in relation to greenhouse emissions.

It can pose a safety risk to the operator through burns or scalds from the use of the hot steam.

Byron Shire Council (population est. 34,574, ABS 2018), has been using steam weeding in town centres since 2017 to control weeds on footpaths and around most garden beds.

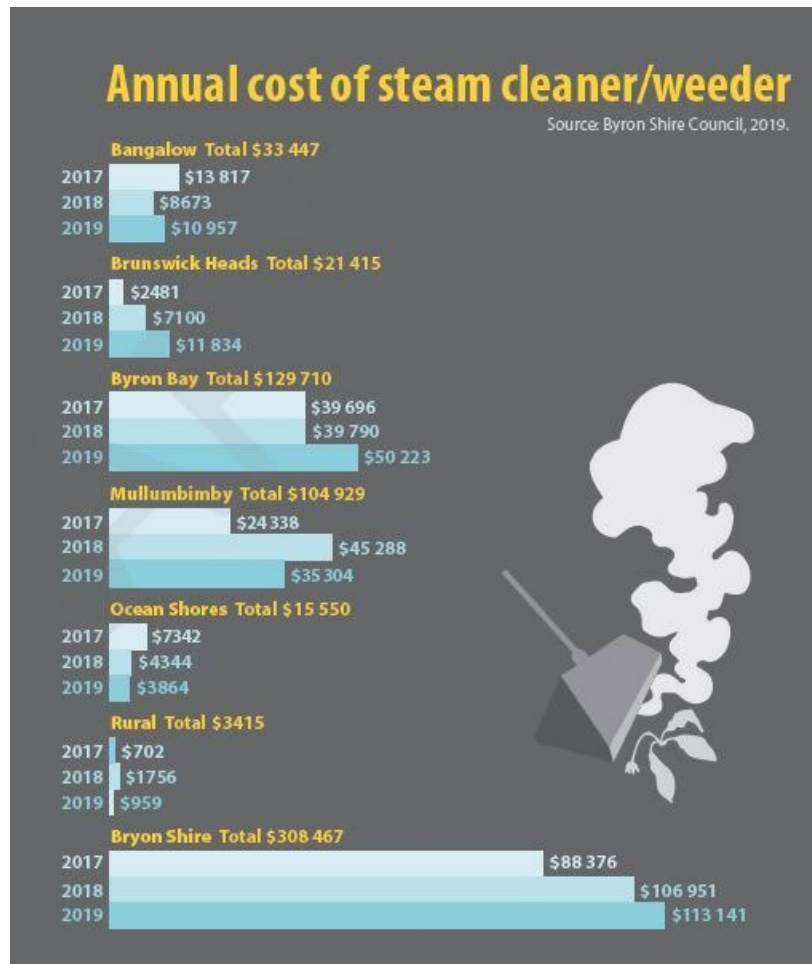
It is also used to steam clean playgrounds, picnic areas and park equipment in conjunction with mulching and hand weeding.

The following chart shows the annual cost of steam cleaning/weeding at Byron Shire Council.

The initial purchase cost of a truck-mounted steam weeder was \$23,668.

The increased operating cost for 2019 has been attributed to vehicle hire cost.

10.4 Steam Spraying for Weed Control



(Byron Shire Council Integrated Pest Management Strategy 2019–2029.
Byron Shire Council (2019))

Ballina Shire Council field staff attended a demonstration of Byron Shire Council's steam weeding equipment and made the following observations:

- Byron only steam weed high-profile areas
- Hazards to the public were identified that would need to be managed: use of a large truck in public spaces, trip hazards created by hoses and release of high-pressure steam
- Operation of the equipment involved a diesel burner to heat the water, a petrol engine to provide applicator pressure, and a truck for transporting equipment
- Byron Shire Council used a dedicated crew to complete all spray works for a relatively small area within the town. Two staff were used to operate the equipment
- Steam weeding equipment would incur significant equipment down-time if staff were required to perform other activities while at each location (i.e. whipper-snipping, push mowing, pruning, removing rubbish, etc.) as is current practice with Ballina Shire Council's Open Spaces and Reserves staff. A dedicated steam weeding crew would be required to maximize equipment use
- The process itself was extremely slow from start to finish: involving initial setup, starting up the machines, unravelling hoses, spraying (at around half the speed of chemical application), followed by packing up
- Large high-use areas such as sports fields are unable to be treated due to the need for broad-scale application

10.4 Steam Spraying for Weed Control

- It was evident that some areas required additional applications
- Issues associated with the noise of operations
- WHS issues that may present with operating long hoses in high profile/high traffic areas.

Tuckombil Landcare have also trialled a steam weeder at Teven Park, at an accessible rehabilitation site and at private macadamia farms.

They found it effective for annual weeds, but not for camphor laurel nor various weed seeds and other woody weeds which still required chemical treatment after steam weeding. They also found it a slow, cumbersome process and not economical for use on farms and rehabilitation sites.

Further afield, metropolitan Bayside City Council, Victoria (population est. 105,718, ABS 2018) spent over \$130,000 in 2017/18 on steam weeding control and has allocated over \$140,000 in 2018/19.

Hobart City Council, (population est. 53,684, ABS 2018), conducted a three-month trial between October and December 2018.

A total of 1.67 km of City streets were covered by the trial, with one side of each street treated with herbicide and the other with steam. It was reported that steam treatment required three applications, whereas herbicide spraying required only one.

Based on their trial, Hobart City Council estimated that if applied city-wide, the costs of each treatment method would be as follows:

	Herbicide	Steam
Per City-wide Application	\$28,500	\$190,000
Annual applications	4	Up to 9
Total Annual cost (ex GST)	\$114,000	\$1,710,000

(City of Hobart Parks and Recreation Committee Meeting
Agenda, Thursday, 9 May 2019)

The metropolitan City of Joondalup, WA (population est. 160,031, ABS 2018) has also trialled steam weeding amongst other weed control methods.

Their research and trials generally found thermal treatment to be less effective than chemical weed control. It also used large amounts of energy, required more repeat applications than pesticides, it was non-selective, and impractical in natural areas.

The City of Joondalup concluded that thermal weed control was the least effective and most expensive weed control method of those trialled. Application was expensive, it took longer and required more treatments therefore labour costs were higher.

A summary of advantages and disadvantages of thermal weed control, as discussed above, were summarised in the City of Joondalup Weed Management Plan, 2016:

10.4 Steam Spraying for Weed Control

Thermal Weed Control	
Advantages	Disadvantages
<ul style="list-style-type: none">• Does not involve the use of chemicals and may be appropriate in areas of chemical sensitivity.• Can be effective on annuals and some young perennials.	<ul style="list-style-type: none">• Is not suitable in natural areas.• Is more expensive, less effective and requires more repeat treatments.• Is non-selective and can harm adjacent plants.• The high temperatures can kill soil microbes and good bacteria.• May have some results in the short term but not in the long term.• Is carbon and energy intensive.• Equipment is large and bulky and is not suitable for accessing natural areas.

(City of Joondalup Weed Management Plan, 2016)

Ballina Shire Council's current weed management activities are split between the Open Spaces and Reserves section and the Engineering Works section. Open Spaces and Reserves cover most urban areas e.g. footpaths, parks, reserves etc.

Some areas in urban precincts are covered by the Engineering Works spray crew, routinely roadside verges and median islands. Very occasionally Engineering Works will spray footpaths or shared paths in urban areas.

The current budget allocated to Open Spaces and Reserves for bush reserve management and weed control is insufficient to sustain an effective weed management program and relies heavily on leveraging from volunteer groups and opportunistic grant funding.

To put this in context, a report to the 28 July 2016 Council meeting (attached) stated that Open Spaces and Reserves had a budget of \$21,000 per annum for bushland reserves management and weed control.

It was estimated at that time that, with grants and volunteer contributions taken into account, an additional budget of \$810,000 would be required in order to fully fund a shire-wide sustainable program of weed control and bushland reserve management.

This budget assessment does not account for the additional cost that would be incurred if a steam weeding program was adopted. More bushland reserves have come under Council management since the 2016 report.

Council's Engineering Works section has a \$20,000 budget specifically for roadside weed control. However, several other operational budgets are drawn upon to provide roadside vegetation spraying, both in urban and rural areas, and predominantly to maintain safe road conditions.

For workplace safety reasons, Engineering Works currently use a three-person spray crew comprising a pilot vehicle and a shadow vehicle. Crews remain in their vehicles while conducting spraying via a boom.

They operate daily during the growing season from September to June, with the workload reliant on good, still weather conditions.

During the off-season, July to August, crews operate less frequently, around 1-3 days per week.

10.4 Steam Spraying for Weed Control

The daily cost of operating a three-person spray crew and two vehicles is around \$1,245. Material costs are harder to estimate due to usage rates and days used. At a rough estimate it costs around \$220,000 per year for Engineering Works shire-wide weed spraying operations.

Also noted is Council's contribution of approximately \$110k per year to Rous County Council, primarily targeting biosecurity compliance on private land, but not for weed control on public land or high-profile pavements.

Council could choose to conduct its own trial should it wish to investigate further the inclusion of steam weeding within its suite of weed controls, bearing in mind that this is unlikely to deliver any new information regarding the efficacy of steam weeding (knowledge gained from other trials is already well documented).

A trial would however allow a local program to be costed, in which high-use urban and other sensitive areas are identified and prioritised based on likely budget limitations (factoring in labour, fuel and equipment maintenance costs).

Before embarking on any such trial, Council should first consider the financial ramifications, not only of a trial but also the ongoing annual cost of implementing a steam weeding program.

Based on the results of other trials, a steam weeding program could potentially be an order of magnitude more costly than Council's existing weed control program for any given area and is likely to be constrained by budget limitations.

If Council proceeds with a steam weeding trial, it is important that objectives are well defined and measurable so that costs and benefits can be evaluated against current practices (i.e. business as usual) and also that results can be compared with other new weed control techniques as they become available. Trials elsewhere have used a mix of approaches, not always to best effect in this regard.

Adopting a steam weeding program will have implications for Council's existing pesticide use policy which is due for review this year and hence provides a timely opportunity to consider whether a more wide-ranging pest management policy approach is warranted, taking into account alternative pest management techniques such as steam weeding and biological controls.

It is noted that Byron Shire Council has taken such an approach with its integrated pest management policy/strategy.

Council's policy on pesticide use was last reviewed and adopted in July 2015.

Pesticides have been Council's adopted method of pest control throughout Ballina Shire and have proved an effective and economical method of controlling pests.

Council uses various chemicals to control weeds, including glyphosate-based and non-glyphosate-based products. The Australian Pesticide and Veterinary Medicines Authority (APVMA) is the appropriate regulatory authority governing the use of pesticides. All pesticides used by Council are APVMA registered and are used in accordance with APVMA and manufacturer requirements as outlined in Safety Data Sheets and Council's Pesticide Use Policy.

10.4 Steam Spraying for Weed Control

The APVMA's risk-based scientific approach to regulation ensures that each agricultural chemical product is independently assessed by the APVMA prior to registration and supply.

The APVMA registration system is supported by a range of post market surveillance, compliance, audit verification and review activities that ensure products available in Australia continue to be used safely and effectively.

Recent media interest has raised concerns regarding the use of glyphosate, a chemical found in a widely-used range of weed-killers and the subject of a recent court case in the Alameda County (California) Superior Court where damages were awarded to a man who alleged that glyphosate-based weed-killers caused his cancer.

The APVMA has considered the evidence presented in the Californian case and found no grounds to take regulatory action in Australia regarding the continued use of glyphosate (AVPMA, 2018).

It is the AVPMA's position that all registered glyphosate products are safe provided they are used as per the label instructions provided by the manufacturer.

Council uses the online "ChemAlert" program to help manage its chemical use and for retrieval of current Safety Data Sheets for those chemicals it uses.

Council staff are mindful of the need to minimise pesticide use in high-use and sensitive public areas and to use biological controls wherever practical, e.g. Weevils on Salvinia at Lake Ainsworth. Staff preference is to select chemicals with the lowest hazard rating suited to the task.

Sustainability Considerations

- **Environment**
Steam weeding can be an effective weed control measure in some situations, contributing to a reduction in the use of pesticides and a reduced risk on human health and the environment.
- **Social**
The use of alternatives weed control techniques where practicable is a positive response to public interest in limiting pesticide use, especially in high-use and sensitive areas.
- **Economic**
Weed control in public spaces enhances their amenity and aesthetic value.

Legal / Resource / Financial Implications

Under the NSW Pesticides Act 1999 and NSW Pesticide Regulation 2017, Council has planning, regulatory, management, research and monitoring roles.

10.4 Steam Spraying for Weed Control

Council, together with Rous County Council, are responsible for local pest weed control in Ballina Shire. Council is also responsible, together with NSW Local Land Services, for local pest animal control in Ballina Shire.

The NSW Biosecurity Act 2015 governs the way weeds are managed as it:

- Embeds the principle of shared responsibility for biosecurity risks (including weeds) across government, community and industry.
- Applies equally to all land in the state, regardless of whether it is publically or privately owned.
- Is premised on the concept of risk, so that weed management investment and response is appropriate to the risk.
- Supports regional planning and management for weeds, as recommended by the Review of Weeds Management in NSW.

The Act introduces the legally enforceable concept of a General Biosecurity Duty, meaning that any person dealing with plant matter must take measures to prevent eliminate or minimise the biosecurity risk (as far as is reasonably practicable).

Council has obtained a quote from Weedtechnics for purchase of a trailer-mounted steam weeder, as follows:

• Steam unit, hose and gun lance	17,153
• Hose reel	4,876
• Trailer package	7,905
• Tank skid	3,370
• Training	1,990
• TOTAL	\$35,294

Hiring this equipment for six months would cost around the same.

Byron Shire Council have reported the cost of steam weeding/cleaning for 2019 to be \$113,141 (Byron Shire Council Integrated Pest Management Strategy 2019–2029, Byron Shire Council (2019). Initial equipment purchase is not included in this figure.

Open Spaces and Reserves currently estimate an annual spraying cost of \$95,000.

This does not include broad-acre sports field or bindii spraying.

It is estimated that the cost for Council would be approximately \$332,000 annually.

This figure has been extrapolated based on the Hobart City Council findings.

A twelve-month trial for Council could be achieved by utilising a two-person crew and vehicle at an estimated cost of \$197,000, in addition to equipment purchase and running costs.

Consultation

Consultation has included liaising with Byron Shire Council regarding their trials on steam weeding. Staff have been monitoring market opportunities and products, and supporting volunteer Landcare groups.

Options

1. Council could undertake a steam weeding trial in urban high-use and other sensitive public areas.

However, this is unlikely to deliver any new information regarding the efficacy of steam weeding (knowledge gained from other trials is already well documented). At best, it could provide for a more accurate and detailed analysis of the cost of steam weeding in comparison to existing weed management practices and would allow a program to be developed on a scale that reflected budget limitations.

Based on the results of other trials, a steam weeding program would be more costly than Council's existing weed control practices for any given area and is likely to be curtailed by budget limitations.

This option is not recommended for the above reasons.

2. Council could continue with its existing weed management practices until such time as more efficient and cost-effective non-chemical solutions are available.

Council continues to be guided by ChemAlert assessments and the APVMA as the appropriate regulatory authority and uses various chemicals to control weeds, including glyphosate-based and non-glyphosate-based products. All are APVMA registered and are used in accordance with APVMA and manufacturer requirements as outlined in Safety Data Sheets and Council's Pesticide Use Policy. It remains the AVPMA's position that all registered glyphosate products are safe provided they are used as per the label instructions provided by the manufacturer.

Council uses the online "ChemAlert" program to help manage its chemical use and for retrieval of current Safety Data Sheets for those chemicals that it uses. Staff select chemicals with the lowest hazard rating suited to the task.

Council staff are mindful of the need to minimise pesticide use in high-use and sensitive public areas and to use biological controls wherever practical, e.g. Weevils on Salvinia at Lake Ainsworth. Staff will continue to monitor regulatory and technological changes in the industry.

This option is recommended for the reasons outlined.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding steam weeding.
2. That Council continue the use of approved herbicides to control weeds within municipal areas of the Shire and elsewhere until more efficient and cost-effective non-chemical solutions are available.

Attachment(s)

1. Copy of Report July 2016 - Weed Control Funding

10.5 Tender - Lennox Head Community Centre Enhancements

10.5 Tender - Lennox Head Community Centre Enhancements

Delivery Program Community Facilities

Objective To provide the results of the tender process for the Lennox Head Cultural and Community Centre Enhancements.

Background

The Lennox Head Cultural and Community Centre (LHCCC) has been completed and in operation since 2011. The LHCCC includes a number of functional areas such as; public library, multi-purpose hall, child care centre, and CWA Hall.

The existing multi-purpose hall is currently designed as a naturally ventilated space and will require mechanical services and engineering design in order to make the internal spaces suitable for the installation of an air-conditioning system.

A public tender for design and construction services for the Lennox Head Cultural and Community Centre Enhancements was advertised from 30 July 2019. The tender requested lump sum prices for the scope of work which includes the following:

- Decommissioning and removal of the existing 40KW integrated solar PV roof system
- Rectification works to the roof, guttering and flashing
- Installation of new high capacity solar system
- Design, installation and commissioning of air-conditioning and enhanced ventilation for the Park Lane Theatre
- Replace Aluminum Composite Panel (ACP) façade with compliant cladding
- Replace cladding to the Park Lane Theatre buttresses and feature entry
- Replace Park Lane Theatre interior acoustic panels
- Replace Park Lane Theatre floor finishes
- Design and installation of LED lighting for Park Lane Theatre.

The tenderers were encouraged to provide alternative options that could provide better value for money for Council and reduce the project program.

The tender closed on 29 August 2019.

The tender submissions received through the public tender process form the subject for this report.

Key Issues

- Tender assessment
- Value for money
- Regulatory Compliance

10.5 Tender - Lennox Head Community Centre Enhancements

Information

Tender submissions were received from three companies:

- AGS Commercial Pty Ltd
- Bennett Construction (NSW) Pty Ltd
- Goldsmiths Building Services

The submission received from Goldsmith Building Services was deemed non-conforming in the initial assessment by the tender evaluation panel and a clarification was issued to the Contractor.

Further clarifications were issued to Bennett and AGS Commercial to ensure that the full scope of work was included in the relevant submissions.

Each of the bidders provided alternative options for the air-conditioning arrangement and external cladding and these options have been assessed.

Due to the number of alternatives and the cost implications of each alternative and based on the evaluation of the base conforming tender submission, AGS Commercial provide the best value.

Information regarding the base tender evaluation has been provided in a separate confidential memorandum to Councilors. The reason for the confidential advice is that it contains commercial information.

Sustainability Considerations

- **Environment**

The design for the works has been developed to manage impact on the environment. Tender submissions demonstrated suitable experience and systems to ensure best practice environmental management practices will be carried out during construction works. Compliance with Australian Standards for air-conditioning and ventilation must be achieved in construction and maintenance. The Development Approval provides the requirements for acoustic performance of the facility.

- **Social**

Provision of the new services will enhance the human comfort of the facilities within the Shire; increasing the usable space and safety for participants and the general community.

- **Economic**

The additional enhanced facilities will increase the availability of the performance space, attracting visitors that will support local business development.

Legal / Resource / Financial Implications

Council has undertaken a public tender process in accordance with the Local Government (General) Regulations 2005 and will adopt the NSW Procurement GC21 form of contract.

10.5 Tender - Lennox Head Community Centre Enhancements

In 2018 Council applied for and received NSW Regional Cultural Fund grant funding to assist with the provision of air-conditioning, along with other enhancements, of the Lennox Head Cultural and Community Centre Park Lane Theatre.

The grant funding provides \$1,833,502 and further funding of \$335,398 is provided by Council in the 2019/20 Operational Plan to achieve the expected project pre-tender estimate of \$2,168,900.

The lump sum tender price for the comparative assessment is \$2,198,296 which is marginally higher than the pre-tender estimate.

This means there are no contingency funds available for this project, however savings, in the order of \$350,000 are expected following the final review of the alternative scope options to be undertaken with the contractor.

To best manage risk, the contract pricing has been adjusted to provide a mix of lump sum and scheduled rate items.

The scheduled rate items are a significant component of the work and have been selected for this type of pricing as the full scope of work is uncertain until initial roof demolition works are undertaken.

This means the actual final contract price may vary from the comparative assessment price noted above, however this price conservatively uses worst case scenarios for the estimated quantities to be completed under the schedule of rate items.

Consultation

The scope of works has been determined through consultation with representatives from Council staff and NSW Create, as the grant fund managers, carried out a peer review of the technical specifications and provided their comments.

Key stakeholders have been involved in the preparation of the initial scope and estimates for the project and will continue to be engaged in the finalisation of project program so that works can be carried out around normal seasonal use of the facilities.

Options

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

(1) After considering the tenders submitted for a proposed contract, the council must either:

(a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or

(b) decline to accept any of the tenders.

The tenders submitted would indicate a fair test of the market and that a fair rate has been achieved.

10.5 Tender - Lennox Head Community Centre Enhancements

The offer from AGS Commercial is within reasonable limits of the available budget and there are opportunities to improve the contract milestones.

RECOMMENDATIONS

1. That Council in accordance with the *Local Government (General) Regulation 2005 Section 178 (1)(a)*, accepts the offer and awards contract RFT1194 Lennox Head Cultural and Community Centre Enhancements to AGS Commercial.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

10.6 Policy (Review) - Commercial Activities on Public Land

10.6 Policy (Review) - Commercial Activities on Public Land

Delivery Program Open Spaces and Reserves

Objective To review the Commercial Activities on Public Land Policy, Application Guidelines and Operating Requirements.

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Commercial Activities on Public Land policy. A copy of the existing Policy is included as Attachment 1.

Council first adopted this policy at the December 2007 Ordinary meeting. This report is also in response to a resolution from the January 2018 meeting that was provided as a Councillor Briefing in June 2019:

"That Council investigate options for licensing the hiring of watercraft".

This report additionally updates the Policy with the previous resolution about surf school tenders from the April 2018 Ordinary meeting:

"That delegated authority be given to the General Manager to approve future compliant submissions for the remaining vacant licences".

The Commercial Activities on Public Land Application Guidelines and Operating Requirements has also been reviewed as part of this policy review and is renamed as the Commercial Activities on Public Land Specifications.

The Specifications are related to the policy and provide industry specific specifications applicable for each commercial activity permissible under the Policy.

The updated Commercial Activities on Public Land Specifications is included as Attachment 3.

The information in this report describes the proposed changes and the development of the updated Commercial Activities on Public Land policy. It follows the directions of Council established in previous reporting and briefing sessions.

The updated Commercial Activities on Public Land policy is included as Attachment 2.

Key Issues

- Compliance with current legislation and industry best practice
- Commercial demand for activities
- Impact on public land and amenity

Information

To assist with the review of this policy, comprehensive analysis of existing commercial activities, industry standards and consultation, legal and insurer consultation, specifications, licence compliance, impacts upon public land and amenity, market demand, other local and state government policies and Council reports and briefings have been undertaken by Council staff.

The review has presented opportunities to update legislative changes and commercial activity practices as well as provide relevant additions and further improvements on how the content of the policy is presented and applied.

Whilst key elements of the existing policy have largely been retained, improvements to formatting, contemporary commercial activities, impact categories, specifications, additional exclusions and policy protections have been applied to the policy.

Contemporary Commercial Activities

Many listed activities within the current policy appear to be no longer viable and are to be removed from the policy due to either industry legislative changes restricting business activities and changing market demand.

- **Bike hire and guided bike tours** - originally placed into the policy upon market request however no business ever proceeded with obtaining a licence. Many private bike shop and accommodation houses provide bike hire opportunities removing the need for a commercial market option administered by Council.
- **Helicopter tours, sea plane rides and skydiving** - no market demand for such licences has been established as the Civil Aviation Safety Authority regulates against Skydiving in this area. These activities, if temporarily required, can be sufficiently managed under other policy and legislative areas including Council's Special Events policy and Crown Land licensing provisions.
- **Hot air ballooning** - originally placed into the policy upon market request and public reserve damage occurring, however no business ever proceeded with obtaining a licence. Current market practices and legislation allow businesses to operate by undertaking emergency landings anywhere removing the viability for the commercial market managed by Council licence.
- **Pony rides for private parties** - originally placed into the policy upon market request, however no business ever proceeded with obtaining a licence. Public pony and horse rides are covered via the Special Events policy.
- **Sailing schools and wind surfing schools** - originally placed into the policy upon market request, however no business has proceeded with obtaining a licence. The Richmond River Sailing and Rowing Club provides sufficient recreational learning opportunities and changing market demands for other water sports (kite surfing and stand up paddle boarding) have removed the viability for these commercial markets.

10.6 Policy (Review) - Commercial Activities on Public Land

To maintain contemporary commercial activities within the policy it is proposed to remove bike hire, guided bike tours, helicopter tours, sea plane rides, skydiving, hot air ballooning, pony ride for private parties, sailing schools and wind surfing schools from the policy.

Consideration of the hiring of water craft was presented to a Councillor briefing in June 2019. The briefing identified that commercial demand existed for the hiring of stand up paddle boards (SUPS) at Lake Ainsworth and Shaws Bay over and above all other watercraft activities and locations.

The land zoning of RE1 Public Recreation and 7(f) Environmental Protection and the current Ballina Coastal Reserve Plan of Management applicable to both Lake Ainsworth and Shaws Bay prohibits the hiring of watercraft at these locations.

Additionally, changing market demand, has identified new proposed activities to be included within the policy. This includes beekeeping and surfing for people with disabilities.

- **Beekeeping** - market demand and viability has increased recently with the NSW State Government responding through its licensing of such markets including on Crown lands and lands Council manages. Introducing the low impact beekeeping activity ensures Council retains a regulatory role for lands it manages and protects the conservation areas to which operators may access through and operate within. Primarily beekeeping occurs in the remote heath areas outside of Wardell and Lennox Head.
- **Disability surfing** - it is proposed to introduce “surfing for people with disabilities” as a new low impact activity. The briefing highlighted an existing elite surf coaching licensee utilising the disability therapy function of the activity and commercially constrained unfairly by the activities class capacity allowance.

Presently the elite surf coach activity allows a maximum seven client capacity with a two class limit per day equating to a total of fourteen possible students.

Undertaking specialist disability therapy surfing predominantly requires a one on one coach student ratio and sometimes two coaches per one student and sometimes a peer student.

The disability industry ability and demand for additional classes per day beyond the two class capacity exists as the current allowance equates to only having two to four students per day that is a commercial disadvantage to the fourteen student allowance for the elite surf coaching activity.

To address this fairly it is proposed to retain the elite surf coaching activity with group disability therapy capacity of seven clients that still has relevance for the range of disability therapies.

Additionally, it is proposed to add the “surfing for people with disabilities” activity as a separate low impact activity and as an annual licence not tendered like the elite surf coaching activity.

10.6 Policy (Review) - Commercial Activities on Public Land

It is intended to provide an unlimited licence capacity in the marketplace, two client capacity and unlimited class capacity to the surfing for people with disabilities activity.

Consultation with the industry assisted in identifying disability therapy in the surf as a positive specialist market, unlikely to becoming commercially saturated and limited by the industries own therapy abilities.

The elite surf coach activities were tendered alongside surf schools and stand up paddle boarding.

Of the elite surf coaching activity only two of the four licensees utilise the disability therapy function of the activity with the other two licensees operating as traditional elite surf coaches.

The policy allows a six licence capacity so there are two available licences and the elite surf coaching market is not at capacity.

The specifications for the new “surfing for people with disabilities” activity have been prepared to mitigate any impacts upon the existing tendered surf school, elite surf coaching and stand up paddle boarding commercial activities.

Impact Categories

It is proposed to update the impact categories assigned to individual activities.

The impact categories are assigned based off assessments of each activities impacts upon a range of amenity and environmental values, public safety and seasonality.

Through removing the only two unviable high impact category activities (sea plane rides and helicopter rides) the opportunity exists to readjust the impact categories.

Instead of four categories rated from very low to high impact, the removal of the upper impact category creates three impact categories that will now be rated low, medium and high impact and accordingly scaled to the current licence fee structure.

Specifications

The specifications list a number of requirements for the particular activity current as at the date of this Policy. These were reviewed alongside the policy with industry consultation, however, the Policy will now acknowledge the specifications list may not be exhaustive and will change over time as laws change.

It is for the Licensee to determine all qualifications, licences and permits the Licensee requires at any point in time, in order to lawfully operate the Licensee’s particular business.

This onus of responsibility is applied to the Licensee rather than just Council’s specifications.

Additional Exclusions

Additional exclusions for activities not requiring a commercial activity licence but requiring other approvals are proposed to align with current practice.

These exclusions usually only require notification to Council of activity calendar dates and insurance to gain Council approval.

This includes schools, universities, recreational sporting clubs, religious organisations and the Lake Ainsworth National Fitness Camp. These all have either their own educational or social authority or legislation and provide recreational or professional coaching as a part of their programs.

An example is the watercraft use on Lake Ainsworth by the fitness camp run by the state government.

Policy Protections

Following legal consultation and review, the strengthening of wording in a number of Policy areas will better protect and indemnify the Council and Crown.

This includes improving the Policy areas of tendering, applications, breaches, Licence usage, Licensee specification, legislative compliance and unlicensed activities.

Such changes are necessary to ensure Council is protected from litigation by Licensees.

With these improvements and additions, the policy is otherwise considered to be contemporary and reflects current legislation, market demand and industry best practice therefore no further changes are recommended.

Sustainability Considerations

- **Environment**
Appropriately regulated commercial activities can be managed and enhance the enjoyment of sensitive areas.
- **Social**
The balancing of commercial and private recreational use of public land is required to ensure appropriate use of public facilities and to avoid conflict.
- **Economic**
The provision of business opportunities that are appropriately managed may assist in the promotion of the recreation and tourism sector of the Shire's economy.

Legal / Resource / Financial Implications

There are limited financial or resource implications relating to this matter however there are legal requirements which are being addressed in the policy amendments and approval of commercial activities on public land.

Consultation

It is recommended that Council adopt the policy and specifications as presented, however the documents will also be exhibited for public comment.

If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the proposed changes to the policy and specifications and it is recommended that the policy be adopted as presented, subject to community consultation.

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

RECOMMENDATIONS

1. That Council adopts the amended Commercial Activities on Public Land Policy, as per Attachment 2 to this report.
2. That Council adopts the amended Commercial Activities on Public Land Specifications, as per Attachment 3 to this report.
3. That Council place the policy and specifications on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (existing) - Commercial Activities on Public Land
2. Policy (draft) - Commercial Activities on Public land
3. Specifications (draft) - Commercial Activities on Public Land (Under separate cover)

10.7 Policy (Review) - Mobile Vending on Public Land

10.7 Policy (Review) - Mobile Vending on Public Land

Delivery Program Open Spaces and Reserves

Objective To report on submissions received during exhibition of the draft Mobile Food Vending on Public Land Policy

Background

Council considered the draft Mobile Vending on Public Land Policy and Guidelines (Attachment 1) at the May 2019 Ordinary Meeting.

Council resolved to place the amended Mobile Vending on Public Land Policy and Guidelines on exhibition for public comment, and for the policy to be resubmitted to the Council if any submissions are received.

The existing Mobile Vending on Public Land Permit holders were advised of the exhibition of the amended policy and were invited to make comment.

The policy was further reviewed at Council's June 2019 Ordinary Meeting following a rescission motion. In response to this process, the public exhibition of the policy was extended until 14 August 2019.

During the exhibition, one submission was received.

This report provides detail of the submission received and seeks the Council's direction on the implementation of the policy.

Key Issues

- Content of policy
- Relevance of policy
- Address submissions

Information

The draft policy document was exhibited for a period of 64 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.

One submission was received and this submission was made by a permit holder operating at the Sharpes Beach.

A copy of the submission is provided as Attachment 2.

Two issues are raised in the submission as outlined in Table 1.

Table 1 – Issues

Issue	Staff response
<p>Suggestion that the policy would be improved by excluding or reducing the current 200m distance between existing trading takeaway food or drink premises and the fixed trading sites.</p>	<p>The 200m distance was previously determined by Council to be the appropriate clearance from trading premises.</p> <p>This is a subjective criteria and to date we have not received notice of concerns from businesses that the mobile vending sites are operating too close to established businesses.</p> <p>The policy also contains provisions that address cases where new takeaway food or drink premises are established after the adoption of the policy. In these cases Council will review the mobile food vending sites to ensure ongoing compliance with this policy requirement.</p>
<p>Expression of interest for fixed trading sites to be not restricted to a 12 month permit.</p>	<p>Council has resolved to not commence an expression of interest process for the fixed mobile food vending sites at the Sharpes beach car parking area while the area is subject to upgrade construction works.</p> <p>The policy currently states that expressions of interest for fixed trading sites may be prepared in respect to periods ranging from 3 months to 12 months.</p> <p>Council as Crown Land Manager for two of the fixed site locations can issue a short-term licence under s2.20 of the Act for a maximum period of 12 months under the Crown Land Management Act.</p>

Legal / Resource / Financial Implications

The second issue discussed in Table 1 notes a statutory requirement in respect of the maximum terms for licences on Crown Land.

Consultation

The draft policy was placed on public exhibition with the closing date of 14 August 2019.

Options

1. Council can adopt the policy as exhibited - This is the recommended option. Council has previously assessed a policy is important to manage mobile vending services in an orderly manner. The review of the submission has not highlighted a need to change the exhibited policy.

10.7 Policy (Review) - Mobile Vending on Public Land

2. Council can amend and adopt the policy as attached to this report - The submission proposes the reduction or removal of the minimum 200 metre trading distance between mobile and fixed sites. It is an option for Council to follow this suggestion, however as noted in the information section of this report, Council has previously determined this separation is important.

The submission also suggests longer terms for the licences. This is possible on operational land, but not on Crown Land. As the majority of the current sites are on Crown Land, it is preferred to have a consistent approach. While the current site location at Sharpes Beach is on a road reserve, this location may change in the future and the operation be approved for Crown Land. It is however an option for Council to consider a longer term for the current location.

3. Council can determine to not adopt the policy.

This is not recommended as a policy is helpful to manage these services.

RECOMMENDATION

That Council adopts the Mobile Vending On Public Land Policy, as exhibited, as per Attachment 1 to this report.

Attachment(s)

1. Policy (draft) - Mobile Vending on Public Land
2. Submission

10.8 Policy (Review) - Contributions for Dust Sealing of Roads

10.8 Policy (Review) - Contributions for Dust Sealing of Roads

Delivery Program Engineering Works

Objective To review the Contributions for Dust Sealing of Roads Policy

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Contributions for Dust Sealing of Roads Policy.

Council is responsible for an extensive road network and the management regime is determined by Council's Asset Management Policy and associated Asset Management planning framework that supports our approach to road management.

The Contributions for Dust Sealing of Roads Policy allows Council to accept voluntary monetary contributions from residents to allow the self-funding of dust sealing of unsealed (gravel) roads, subject to the rules and conditions contained within the policy.

Until a recent amendment to the Roads and Transport Asset Management Plan (RTAMP), Council's strategy and program did not include works to convert gravel surfaces to sealed surfaces. The objective of this policy was to provide an opportunity for community members to achieve sealing of local roads by voluntarily funding the cost of the works.

Council last reviewed this policy in October 2015.

Key Issues

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

Information

The Contributions for Dust Sealing of Roads Policy intent is contemporary and reflects current legislation and Council's resourcing constraints. However a change is recommended in response to recent policy directions.

In the last financial year Council completed a project to seal Martins Lane and Newrybar Swamp Road. This project was approved by Council under special circumstances.

The size of the volunteer resident contribution was significant and resulted in a request for a contribution from Council to the project, which is ordinarily not available under the policy.

Based on the size of the voluntary contribution and a cost and benefit review, Council agreed to the proposal to contribute to the project.

10.8 Policy (Review) - Contributions for Dust Sealing of Roads

One of the reasons Council agreed to the proposal was due to an updated assessment of the including the dust sealing of some roads in a program under the RTAMP, albeit the primary focus of the RTAMP remains the maintenance and renewal of existing asset surfaces.

Based on this change, it is recommended the policy be amended to provide for the reporting to Council of proposals that include significant voluntary contributions and a contribution from Council is viable and is consistent with the Dust Sealing Program in the RTAMP.

The suggested criteria is a minimum contribution of \$100,000 and a payback period of less than seven years, This criteria can be considered as a guide as these proposals are infrequent and generally have unique circumstances.

The proposals with smaller work scopes and are fully funded by residents will continue to be assessed and determined under the existing policy provisions and typically these are done under delegated authority.

The RTAMP details the information about road network infrastructure assets including actions required to provide an agreed level of service in the most cost effective manner. The RTAMP defines the services to be provided on the road network, how the services are provided and what funds are required to provide the services.

To improve the integration between the RTAMP and the policy, it is recommended the current policy be deleted from the policy register and the intent of the policy be formatted as a section to be included and appended in the RTAMP.

Attachment 2 to this report provides a copy of the proposed appendix. The appendix follows all of the previous policy provisions, with the addition of the exceptional circumstances option discussed above.

This approach is consistent with other recent work undertaken by Council to consolidate various policy and strategic approaches to road management into the RTAMP. For example, at the August 2018 Ordinary Meeting Council resolved to rescind the Road Maintenance and Renewal Policy and incorporate the content into the RTAMP.

Staff are also progressing a review of the Footpaths and Cycleways Inspection Policy and propose to make a similar recommendation in respect of integrating this policy into the RTAMP also.

This centralised approach ensures these strategies are integrated and information about how we manage our road network can be more easily found, and updated, as required.

Also, staff have commenced a process to prepare a customer friendly summary of the RTAMP for easy access and consumption from our website. Including the Dust Sealing Policy within the RTAMP will allow us to provide some information in this summary document.

A copy of the current policy is included as Attachment 1.

10.8 Policy (Review) - Contributions for Dust Sealing of Roads

As per other policy and strategy documents, the RTAMP is regularly reviewed and updated, with public exhibition.

This means if Council accepts the recommendation to this report, future reviews of our approach to dust sealing will be facilitated by updates to the RTAMP, and as noted above, the benefit of this is the policies are reviewed within an integrated context with an understanding of the strategies in place to manage the whole of the Shire's road network.

Sustainability Considerations

- **Environment**

A well-managed road network will minimise potential impacts on the environment.

- **Social**

The provision of a contemporary road resource will enhance the amenities of the area, improve safety and create connectivity between communities.

- **Economic**

A safe and reliable system of roads makes a positive contribution to sound economic growth throughout the shire and the wider region.

Legal / Resource / Financial Implications

The Contributions for Dust Sealing of Roads Policy complements the existing Asset Management Policy and focuses on aspects of the Best Practice Manual for Roads developed by Statewide, who are Council's insurers. Features of the manual include a systematic approach to risk management.

In terms of financial constraints, Council's ability to allocate funding streams in the annual budget will influence the governance and implementation of the RTAMP.

The policy intent is to provide a management framework to deal with the ongoing issue of Council receiving requests for increased service levels, which cannot be supported under current financial constraints or economic return in terms of whole of life cost analysis for the renewal and maintenance of our assets.

Consultation

The recommendation to this report is to delete the Contributions for Dust Sealing of Roads Policy from Council's policy register.

No public consultation is proposed regarding this decision as it represents a continuation of Council's current policy direction. The RTAMP is reviewed for public exhibition every four years.

If the Council is inclined to retain the policy, no substantive changes to the policy are required other than to incorporate the significant contributions process discussed.

10.8 Policy (Review) - Contributions for Dust Sealing of Roads

In that case, it would be recommended that Council endorse the policy again for public comment, albeit the policy would be updated to reflect the contemporary presentation of Council's policies.

If any submissions are received they can be reported to Council, however, a further report is not needed if there is no public comment.

Options

1. Delete the policy and include the attached draft appendix in the RTAMP.

As discussed in the report, there are benefits to integrating all of Council's road policy directions in one document. Option one is recommended for this reason and is consistent with previous decisions of Council. It also maintains the current policy direction of Council.

As option one does not alter the policy intent, further exhibition of the RTAMP is considered unnecessary, albeit it is noted the RTAMP, like other policies and strategies is periodically reviewed and exhibited.

2. Retain the existing policy.

If Council prefers option two, the standard process of publically advertising the policy is recommended.

No changes to the policy intent are recommended under either option, other than the inclusion of a direction to report to Council for assessment proposals that have a significant voluntary contribution from residents and the proposal is conditional on a contribution from Council.

RECOMMENDATIONS

1. That based on the contents of this report Council deletes the Contributions for Dust Sealing of Roads Policy from Council's policy register with the information to be transferred to the Roads and Transport Asset Management Plan.
2. That Council endorses the draft Appendix - Contributions for Dust Sealing of Roads, as per Attachment 2 to this report, for inclusion in the Roads and Transport Asset Management Plan.

Attachment(s)

1. Policy - Contributions for Dust Sealing
2. Appendix to RTAMP - Contributions for Dust Sealing of Roads

11.1 Notice of Motion - Lennox Head Car Parking

11. Notices of Motion

11.1 Notice of Motion - Lennox Head Car Parking

Councillor

Cr Cadwallader

This item was deferred from the September Ordinary meeting.

I move

That the Crown Land Management Review of Williams Reserve, as required by the Crown Lands Management Act, also examine whether there are options available to extend the car park at the western end of the Lennox Head Cultural and Community Centre and / or at the southern end of the Reserve, to provide additional car parking for the Lennox Head village, so long as it does not impact on the current use of the Reserve.

Councillor Comments

As Council is reviewing Williams Reserve as part of the Crown Lands Management Act it is an opportune time to examine whether there are options to provide additional car parking on the Reserve, so long as there are no negative impacts on existing uses.

Car parking is at a premium in the Lennox Head village and there may be an opportunity to create a few additional car parks, which can complement the extra car parks provided once the Lennox Head Rural Fire Service shed is relocated to 9 Byron Bay Road.

COUNCILLOR RECOMMENDATION

That the Crown Land Management Review of Williams Reserve, as required by the Crown Lands Management Act, also examine whether there are options available to extend the car park at the western end of the Lennox Head Cultural and Community Centre and / or at the southern end of the Reserve, to provide additional car parking for the Lennox Head village, so long as it does not impact on the current use of the Reserve.

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 September 2019 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
21/9/19	Meeting – Angus - Lifeguard re 2019/20 Season
26/9/19	Lennox Head Jam Session
27/9/19	Alstonville High – Year 12 Graduation
27/9/19	BISC 'Come and Try'
29/9/19	Lennox Head Community Consultation
1/10/19	Alstonville Wollongbar Chamber Meeting
1/10/19	Opening – Ballina Fair Southern Mall
1/10/19	Meeting – Australian Council of Social Services
2/10/19	Alstonville High – Agricultural Program
2/10/19	W2B Upgrade Information Session
3/10/19	Momentum Collective – Homeless Connect Day
3/10/19	NSW Volunteer of the Year Awards - Lismore Workers
3/10/19	Book Launch – Library
3/10/19	Five Loaves - Meeting
6/10/19	Commemoration Park Markets
8/10/19	Public Citizenship Ceremony
9/10/19	Local Traffic Committee
9/10/19	Briefing - River Street Duplication
10/10/19	Crowley Care Show Day
10/10/19	Ignite Studios – Holiday Workshops
11/10/19	Ignite Studios – Holiday Workshops
12/10/19	Ignite Studios - Weaving
13/10/19	Ballina RSL Sub Branch 100 Years – Wreath Laying
13/10/19	Commemoration Park Markets
13/10/19	Lennox Head Markets
13/10/19	Ignite Studios – Basket Weaving
14/10/19	Official Opening Airport Terminal Expansion Project
15/10/19	Meeting – Ballina Men's Shed
15/10/19	Meeting – Ballina CWA – Re Tenure
15/10/19	Briefing – Chinese Film Delegation
15/10/19	Stop5G Northern Rivers Presentation
16/10/19	Church Group
16/10/19	Meeting – 20 North Creek Road Project
16/10/19	Meeting – University of Technology – Research
16/10/19	Wardell Progress Association
19/10/19	Tintenbar Art Show
20/10/19	Commemoration Park Markets
20/10/19	Ballina Markets
20/10/19	Ballina Food and Wine Festival
22/10/19	Audit Risk and Improvement Committee
23/10/19	Youth Frontiers Showcase 2019 – Surf Club

13.1 Mayoral Meetings

24/10/19	Council Meeting
24/10/19	Momentum Collective Recognition Awards Ramada
24/10/19	Gallery Launch
25/10/19	Emmanuel College Lego League
26/10/19	Alstonville Show Opening
26/10/19	Launch – ‘Pimlico – Where’s That?’ RSL Boardwalk
27/10/19	Commemoration Park Markets
29/10/19	Briefing – Ballina Island and West Ballina Flood Mitigation
30/10/19	Southern Cross University 2019 Impact Awards

RECOMMENDATION

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

Attachment(s)

Nil

14. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

14.1 DA 2018/321 - Palm Lakes

Refer to Item 8.3 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

14.1 DA 2018/321 - Palm Lakes

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest and the legal advice provided is subject to legal privilege.