A Council meeting will be held on Tuesday 21 May 2019 in the Council Chambers located Corner Tozer and Elbow Streets, West Kempsey commencing at 9:00 am
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1 OPENING PRAYER

“Dear Lord, help us in our deliberations today so that our decisions will be for the greater good for the whole of Kempsey Shire - Amen”.

2 ACKNOWLEDGEMENT OF THE TRADITIONAL ABORIGINAL LANDOWNERS

“Council acknowledges that this meeting is being held on the traditional lands of the Dunghutti People”.

3 APOLOGIES

That the apology submitted by Councillors for non-attendance at the meeting be accepted and leave of absence granted.

4 DECLARATIONS OF INTEREST

That Councillors’ declared interests be noted.

5 ASSESSMENT OF ITEMS LISTED FOR CONFIDENTIAL CONSIDERATION

That the confidential reports be considered in the confidential section of the meeting.

6 CONFIRMATION OF MINUTES

That the minutes of the ordinary meeting of Kempsey Shire Council dated 16 April 2019 be confirmed.

Attachments
1. draft-minutes-2019-04-16 [6.1.1]

7 CITIZENSHIP CEREMONIES

8 PUBLIC FORUM AND PRESENTATIONS

8.1 PUBLIC FORUM

8.2 PRESENTATIONS

Nil
9 CONSIDERATION OF MOTIONS FOR SUPPLEMENTARY REPORTS AND MOTIONS FOR CHANGES TO THE ORDER OF BUSINESS

That the Agenda Order of Business is adopted.

10 CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM MATTERS

That the reports relating to the items dealt with in Public Forum be brought forward and dealt with immediately.

11 CONSIDERATION OF REPORTS RELATING TO A CONSENSUS MOTION

The following items will be enacted by one motion unless a Councillor or citizen of Kempsey Shire Council requests the item be considered separately.

RECOMMENDED:

That the recommendations contained in the following items be adopted:

- Item 13.8 Mayoral and Councillor Fees for 2019/2020
- Item 13.9 Statement of Cash and Investments
- Item 13.10 Roses Bridge, Nulla Nulla Creek Road
- Item 20.1 Legal Matters
- Item 20.2 Audit and Risk Committee Meeting Minutes – 17 April 2019
- Item 20.3 Tender for the Provision of Linemarking Services
- Item 20.4 Tender for the Provision of Insurance Brokerage and Risk Management Services
12 MAYORAL MINUTES

Officer Liz Campbell, Mayor
File No F12/1789
Attachments Nil

PURPOSE

Each year, the NSW Government collects payments from councils and insurers to fund emergency services agencies in NSW, with councils required to pay 11.7 per cent of the budget required by NSW Emergency Services. These charges are embedded in council rates and insurance premiums.

RECOMMENDATION

1. That Council notes:
   
a. That last December, the NSW Government enacted laws to provide better workers compensation coverage for firefighters who are diagnosed with one of twelve specific work-related cancers

b. That in many areas of NSW, fire services are made up of elected and staff members of local government, and that local governments strongly support this expanded workers compensation scheme

c. That as a result of these changes, the State Government has decided to implement the new scheme by charging local governments an increased Emergency Services Levy, without consultation

d. That the expected increase in costs to local governments will be $19M in the first year alone, and that there is little or no time to enshrine this charge in Council’s 2019/2020 budgets

e. That Local Government NSW has long advocated for the Emergency Services Levy to be significantly modified to ensure it is transparent, equitable and accountable.

2. That this Council supports Local Government NSW’s calls for:

   a. the NSW Government to cover the initial additional $19M increase to local governments for the first year and

   b. the NSW Government to work with NSW local governments to redesign the funding mechanism for the scheme to ensure fairness into the future.
3. Requests that the General Manager liaise with Local Government NSW to provide information on:
   
   a. The impact on council budgets; and
   
   b. Council advocacy actions undertaken.

4. Requests that the Mayor:
   
   a. write to the NSW Premier and NSW Interim Opposition Leader, NSW Minister for Customer Services, NSW Minister for Emergency Services, Minister for Local Government and Shadow Minister for Local Government, and local state member/s to:
      
      i. call upon the NSW Government to fund the 12 months of this extra cost rather than requiring councils to find the funds at short notice when budgets have already been allocated
      
      ii. explain how this sudden increase will impact council services / the local community.
      
      iii. highlight that councils were not warned of the increased cost until May 2019, despite the new laws being passed in November 2018
      
      iv. explain that the poor planning and implementation of the increase is inconsistent with the Government’s commitment to work in partnership with the sector
      
      vi. ask the Government to work with local governments to redesign the implementation of the scheme to ensure it is fairer for councils and communities into the future.
   
   b. Copy the above letter to Local Government NSW.

BACKGROUND

From 1 July 2019 the NSW Government plans to collect an additional $160 million (in 2019/20) from NSW councils, communities and those paying insurance premiums to provide better workers’ compensation coverage for volunteer and career firefighters who are diagnosed with one of 12 specific work-related cancers.

Councils were sent bills with a letter from Revenue NSW in May 2019, saying NSW council contributions will increase by $19 million in 2019/20. The letter also foreshadowed increases in the following year, but not the amount.

Kempsey Shire Council received an invoice from Revenue NSW for $516,378.62 for its emergency
services levy contribution. This is $91,245.90 more than last year’s levy (a 21.5%) increase. This will mean council will need to find additional funds and/or cut planned initiatives or services.

Council supports career and volunteer firefighters in NSW – as it does all emergency services workers and volunteers. Indeed, many NSW council staff and councillors are volunteers. We also support the Bill passed in November 2018 to address what was a workers’ compensation shortfall.

However, the sector was at no point advised that it would be required to cover the cost via significant increases to the emergency services levy, or what this cost would be.

Proportional to council revenue, the extra $91,245.90 Kempsey Shire Council is being asked to pay is a large amount and the impact of this unplanned cost will certainly be felt by the community.

Local Government NSW is calling upon the NSW Government to fund the first 12 months of this extra cost and work with local governments to ensure the implementation of the funding mechanism is fairer into the future.
13 STAFF REPORTS

13.1 BOATING ACCESS OPTIONS TO OCEAN, SOUTH WEST ROCKS
Officer Robert Fish, Director Operations & Planning

File No F19/1881

Attachments
1. Submission on Boating in Back Creek [13.1.1]
2. Stakeholder Workshop - Workshop Discussion Points - Back Creek Boating Improvements [13.1.2]
3. Plan of Land at Back Creek Boat Ramp Site [13.1.3]

PURPOSE
This report provides advice on navigation and planned boat ramp works at Back Creek, South West Rocks, following a stakeholder workshop undertaken in March 2019. The report also provides consideration of boating needs holistically for the South West Rocks area.

RECOMMENDATION
1. That Council acknowledge the outcomes of the Back Creek Boating Access Stakeholder Workshop which occurred in March 2019.

2. That Council note the complexity of the matter given the dynamic coastal and estuary system which Back Creek forms part of, as well as the distribution of responsibilities amongst State Government agencies and Council.

3. That Council write to the Minister for Transport and Roads requesting that they consider coordinating and allocating funding to an investigation of boating access options to the ocean in the South West Rocks area.

4. That Council continue updating the Macleay River Coastal Zone Management Plan, which will provide consideration of the Back Creek estuary, in line with coastal management reforms for the purposes of pursuing certification of the plan.

5. That Council request the Department of Industry – Lands and Water appoint Council as the Crown Land Manager, under section 3.3 of the Crown Land Management Act 2016, to manage Part Public Recreation Reserve 89625 being Lot 316 in DP 754396 at Gordon Young Drive, South West Rocks.

BACKGROUND
Within the South West Rocks area, access for boats is available to the ocean via the Macleay River (Mattys Flat and Jerseyville), Trial Bay (Laggers Point) and Back Creek. Each of these options have challenges in terms of access to the ocean. The Macleay River bar is hazardous and can be impassable pending conditions. Laggers Point has issues with conflicting uses with the neighbouring caravan park and the ramp is subject to siltation. Back Creek has a well-protected entrance bar, however, is only suited to smaller boats due to navigable depth.

Both Back Creek and Mattys Flat are Council boat ramps. Laggers Point is within National Park and is not a Council asset.
Past Studies Related to Back Creek Navigation

A number of studies into coastal processes and entrance and channel management related to Back Creek have occurred over many years. Including a brief background related to the content on Back Creek navigation, these include the following studies:

South West Rocks Fishing Port Investigation (1978) – SLAM

Investigation commissioned by NSW Public Works. Key conclusions included:

- Scheme to divert flow from the Macleay River into Back Creek would be too costly and adversely affect the river and creek.
- Widening of the culvert near the head of the creek under the road to the Macleay River entrance breakwall in order to improve flow through the structure was found not to be warranted.
- Entrance works such as a training wall require detailed hydraulic investigation, noting that entrance works may provide for a more stable sea entrance, but unlikely to improve bar depths at the time.
- Boat harbour within Back Creek would be feasible (a masterplan for its development was included)

Siltation Investigation of the South West Rocks (Back Creek) Fishing Port (1990) – University of NSW

The report identified that NSW Public Works undertook port facility upgrades in Back Creek in 1981/82, which included minor improvements to the entrance by lowering the rock bed to a level of -2.0m AHD. Key challenges in natural improvement to entrance navigation due to the small tidal prism in the estuary and bed rock levels were noted. In addition, only very minor improvements in tidal flow were considered possible by removing flow constrictions imposed by the road crossing culvert at the head of the creek and providing tide gates between the creek and the Macleay River. The report made the following recommendations:

- The most cost-effective method of improving present conditions is by maintenance dredging, possibly in combination with extension of the eastern training wall.
- Siltation rates in the entrance require monitoring over an extended period.
- A western training wall does not provide a long-term solution to navigation as it would only provide a minor reduction in sediment supply and thus the rate of siltation within the estuary, with reforming of the sandbar at the entrance anticipated.

Back Creek Sustainability Assessment Report (2007) - iCAM

This report was completed on the back of the Northern Rivers Catchment Management Authority funded project looking at ensuring sustainable development in coastal lake catchments in northern NSW, with the primary focus of the report being water quality rather than navigation. The report, acknowledging the complexity of interacting processes with the creek, considered scenarios and various combinations of actions related to entrance management, channel management and the road culvert capacity at the head of the creek. The report identified the following predicted outcomes:

- Developing a channel (boat ramp to training walls) or increased dredging at the entrance (bar) could be expected to lead to declining water quality in the creek due to increases in nitrogen, phosphorus and suspended sediment concentrations and also reduce sea grass.
• Channel navigation is reduced when the entrance dredging rate is increased in combination with channel dredging.
• Little impact on channel navigation is expected if entrance management ceases.
• Entrance navigation ability increases when the entrance dredging rate increases, while entrance navigation ability reduces when entrance management ceases.
• Actions to dredge a channel or increase the rate of drag line dredging in the entrance are seen to largely cancel each other out.

**Macleay River Estuary Coastal Zone Management Plan (2012) - GeoLINK**

The plan identifies the importance of maintaining navigation ability within Back Creek and also recognises Back Creek as a safer bar alternative to the Macleay River. The plan includes the following strategy/actions and apportions responsibility to the relevant agency:

• Upgrading works for the boat ramp and associated facilities at Back Creek to improve boating amenity.
• Prepare an entrance management protocol (related to dredging) and seek approval (via environmental assessment) for maintenance dredging
• Audit existing bar crossing signage.

The plan was never certified by the Minister and is currently being reviewed and updated in line with new coastal management reforms.

**Kempsey Coastal Processes and Hazard Definition Study (2013) – BMT WBM**

Study reviewed the entire Macleay Coastline. Of note to the South West Rocks area, the report noted that Trial Bay is one of the few accreting beaches in NSW. The report also provided commentary on the impact of break walls on sand transport and build up.

**Kempsey Coastal Zone Management Plan (2016) – BMT WBM**

The NSW Coastal Panel in review of the plan noted the existing dredging arrangements at Back Creek are not informed by requirements for navigation and water quality considerations. An action was recommended to be included in the plan to review the current arrangements with Department of Primary Industry - Lands and Office of Environment & Heritage, with a view to improving the outcomes possible from dredging operations. Management Action 19 in the KCZMP is in response to this and is as follows:

‘Facilitate discussion with Lands and stakeholders to review current management arrangements and existing maintenance dredging activities for Back Creek’

**Back Creek Boating Access Improvements Investigation (2017) – Royal Haskoning**

Commissioned by Road & Maritime Services (RMS), the report presented development options for the Back Creek precinct via a masterplan. Council was involved in the investigation and publicly exhibited the resulting report and masterplan. Key items noted within the report included:

• Depth at mean low water springs tidal level is 0.6m upstream of pedestrian bridge and 0.9m at entrance
• Typical use of Back Creek is by smaller vessels
• The shallow bar and entrance shoals are navigation hazards.
• Consultation in undertaking the study did not indicate the current navigation situation as a significant issue given the smaller vessels that typically use Back Creek to access the ocean.
Options for navigation improvement briefly presented within the report are as follows (including constraints related to each option), however there is no mention of these in the Boating Improvement Concept Options section of the report:

- Increasing the rate of drag lining (limits that a drag line dredge can operate in)
- Regular maintenance dredging (expensive and ongoing commitment required, environmental investigations required, high probability of acid sulphate soils and rate of infilling)
- Construction/extension of entrance training structures (expensive and would require an ongoing commitment to maintenance dredging)
- Permanent sand bypassing system (cost prohibitive)

The report includes some emphasis on the option of cruise ship tenders utilising the port, although it is noted that other alternatives are currently being considered in this regard.

**Back Creek Precinct Planned Works**

Council has funding in place to undertake three projects within the Back Creek precinct. These include:

- Back Creek Boat Ramp Upgrade (Gordon Young Drive)
- Back Creek Foreshore Improvements (Buchanan Drive)
- Back Creek Footbridge Replacement

Work to upgrade the Back Creek Boat Ramp includes carpark reconstruction, new amenities and boating amenity improvements. This includes grant funding of $500,000 under the RMS Boating Now program, with a Council contribution of $320,000. Design work is well progressed on most elements of the project. There is some concern as to whether this funding is well spent given ability to navigate Back Creek is dependent on tides. Further there is an active land claim that exists over a portion of the boat ramp and carpark site. Further information on this is included in the Key Considerations section of this report.

Work to upgrade the foreshore includes new amenities, expansion of open space and picnic area creation. Funding is provided under the NSW Government’s Stronger Country Communities program. Amenities work is planned for late 2019, while open space and picnic area work is planned for early 2020.

Based on the condition of the footbridge over Back Creek, Council resolved at the February 2019 Ordinary Meeting of Council to replace the bridge. Obtaining necessary approvals and procurement of bridge components and specialist works is currently in progress. Work is anticipated to commence mid-2019.

**Back Creek Navigation Concerns**

In late 2018 approach was made from within the community, via Mr Steve Blundell, regarding concern with boating access at Back Creek due to water depths available within the channel between the Back Creek Boat Ramp and the creek entrance to the ocean. This was on the basis of seeking navigation improvement to provide a safe boating access option in the South West Rocks area and to realise the associated tourism benefits.

As part of this approach Back Creek was highlighted as being most suited as a solution to address the issue. A potential solution raised was to extend the training walls further into the ocean. This
solution was suggested as having the potential to improve flow and self-flushing of the entrance. A similar approach was made to other government agencies and local members of parliament.

A submission and petition (including 338 signatures) was provided to Council in December 2018 by Mr Blundell (see attached). Similar concerns have been raised on occasion with Council and other government agencies over the past 25 years at least, with no significant adjustment to management actions arising.

**Stakeholder Workshop**

As a result of funding in place for improvement of the boat ramp facility at Back Creek and potential safety concerns (liability) with entrance navigation and representations made, Council resolved the following at the December 2018 Ordinary Meeting of Council:

*That Council, with reference to improved boating access at Back Creek, South West Rocks, workshop, with other relevant stakeholders, the matter in early 2019 given the complexity of the issue.*

The Workshop was held on 12 March 2019. The Workshop was attended by specific stakeholders with particular experience and local interest in boating, along with Council staff, Councillors, Member for Oxley, Melinda Pavey, and relevant government agencies who have responsibilities related to navigation and estuary management.

The Workshop provided an opportunity for information transfer and opened a dialogue between government agencies and also with the community/stakeholders. The outcomes of the Workshop discussions were documented. A summary is attached.

At the Workshop it was apparent from boating users that provisions for boating at South West Rocks require improvement. Whilst there was a strong desire to have an action implemented quickly to address the situation, it was largely acknowledged that further assessment of options available in South West Rocks was required before pursuing any definitive action.

It is noted that the holding of the Workshop assists in satisfying Management Action 19 from the KCZMP, referred to in the above Past Studies Related to Back Creek Navigation section of this report.

**KEY CONSIDERATIONS**

**Key Community Concerns**

At the Workshop community members with interests in boating noted key concerns with the current navigation ability within Back Creek and the entrance. These concerns included:

- Safety of the Back Creek entrance, including use of the area by inexperienced boaters
- Only a short boating and/or fishing time to the ocean is available based on tides if using Laggers Point or Back Creek boat ramps
- Business reliance on tourism activity in the South West Rocks area (noting fishing/boating is a year round activity)
- Loss of tourism, fishing club visits and people moving to the area as a result of compromised boating access to the ocean (accommodation occupancy and economic impact)
- Tourism feedback and the reputation of the area for providing diverse tourism opportunities
- Reduced number of boats and fishing licences being issued in local area
- Future development and growth will only increase boating access pressures

**Boating Utilisation Data and Other Uses**
RMS statistics confirm there has been a downturn in boating, although in the South West Rocks area as of December 2018 there still remains 542 registered vessels (approx. 4,000 in the whole of the Macleay), 842 boat licence holders and 81 PWC licence holders. Incident data suggests boating incidents in the South West Rocks area are decreasing significantly, with potential contributing factors being education, the size of boats increasing and the number of boats in the area reducing.

Utilisation of the Back Creek waterway remains reasonable and is seasonal in nature. 1,115 vessels used the boat ramp at Back Creek in Easter 2016, indicating Back Creek remains an important waterway for the area. Typical use of Back Creek is by boats under 5m. With the exception of crab trapping there is no commercial fishing in Back Creek.

The Back Creek waterway is increasingly being used for passive recreational uses such as swimming, snorkelling, canoeing and stand up paddle boarding. Improvement of the boating option could increase conflict between boating and other waterway uses, noting that planned works in the Back Creek precinct (open space and picnic area) are likely to increase passive recreation uses.

**Current Management of Back Creek Navigation**

Historically the commercial fishing fleet dredged Back Creek due to the regular activity of larger vessels passing through the entrance (propeller action). Commercial fishing operators are no longer operating from Back Creek however.

Department of Industry – Crown Lands are responsible for submerged Crown land, which includes most coastal estuaries. The Back Creek entrance has been dredged via drag line dredge for a number of years under a licence administered by Crown Lands. The activity is limited by the range of the drag line, meaning there is sand build up at the dredges maximum range. The dredge has been out of operation for the early part of 2019 for maintenance, however is anticipated to return to operation during May. No current management actions are in place related to the channel between the boat ramp and the footbridge however.

Whilst hard to predict as there is no recent detailed modelling in place, without this dredging the entrance may close up given the relatively small catchment and sediment dynamics within Back Creek. This was observed to be occurring in early April 2019 following the dredge being out of operation for several months, although prevailing conditions over the summer period are likely to have been a contributing factor.

**NSW Maritime Infrastructure Plan 2019-2024**

The NSW Maritime Infrastructure Plan 2019-2024 identifies 14 key investment locations in the state where investment in enhancing state-owned and other maritime infrastructure will deliver the greatest overall benefits for recreational boating, the commercial fishing and aquaculture industry and tourism. The significance of these locations relates to a combination of their importance and potential for supporting growth in one or more boating user groups or industries, wider regional development, foreshore activation and community outcomes, as well as their role as key nodes in supporting connectivity of the coastal boating network in NSW.

South West Rocks is not identified as one of these key investment locations in the Plan. However, whilst not specifically identified, the Plan advises that maritime infrastructure outside of key investment locations will also continue to have funding opportunities available.

The existing Coastal Dredging Strategy will also be reviewed to ensure that future investment in dredging activities aligns with the Maritime Infrastructure Plan.
Development Options and Analysis

Arising from the Stakeholder Workshop Council now needs to consider options available to further progress the matter of navigation to the ocean in the South West Rocks area. Coastal and estuary processes are highly complex and dynamic systems, which require good understanding prior to consideration of any solutions.

To guide decision making processes Council needs to be cognisant of the following:

- Growth and tourism needs in South West Rocks
- Usage trends and future uses of the Back Creek area
- Potential for conflicting uses of the Back Creek estuary and the ability for these uses to be managed appropriately
- Relative priority of navigation for the South West Rocks area
- Duty of care related to safety of the public
- Estuary health and environmental impacts
- Alternatives available to Back Creek
- Funding availability, including potential for ongoing costs
- Roles and responsibilities of other government agencies

On review of this the following options are suggested for consideration:

1. **Continue current management arrangements**

Under this option no further investigations or actions would be pursued by Council, with existing entrance management arrangements (Crown Lands extraction licence) to remain in place. It is noted that whilst this licence currently remains in place, there is no guarantee this will continue to be the case in the medium to longer term as this is subject to Crown Lands continuing to pursue the activity and there being commercial interest in the operation.

To continue to pursue this arrangement it needs to be acknowledged that Back Creek has an entrance and channel that is not navigable at all times with boating users needing to work in with tides and conditions. It is noted that local boating users are aware of this, with options available to access the ocean requiring consideration to determine the appropriate timing and the best alternative available prior to planning a boating trip.

This option does not result in any further actions in response to identified actions in coastal and estuary management planning works undertaken previously (as outlined in the Past Studies Related to Back Creek Navigation section of this report).

This option has no current cost impact to Council.

2. **Undertake a South West Rocks boating access to the ocean options investigation and detailed development of priority option/s**

This option would involve investigation and assessment of options available to improve boating safety and navigation to the ocean in the South West Rocks area. This would include assessment of at least the three existing options available for boating access to the ocean, but may include other alternatives such as the establishment of a new facility. An example of this mentioned at the Stakeholder Workshop could by via a new parking area in the Trial Bay area with a tractor for getting boats into the water (it was suggested a pilot of such an arrangement could potentially be run).
Options available would require prioritisation and detailed development/investigation and modelling of determined priority options would follow. This would likely be best undertaken in a two-staged process. Undertaking this work would allow for better understanding of coastal and estuary processes and ensure any future investment is most appropriately directed.

To undertake this work investment of the order of $300,000 is likely to be required given the complexity of coastal and estuarine processes. To then obtain necessary approvals and implement determined priority action/s would likely require significant up-front investment, with ongoing maintenance needs (such as dredging).

While providing a best-case outcome in terms of boating needs and safety of users, these costs are likely to be beyond Council’s financial capacity. Funding opportunities may be available for both investigation and implementation, however typically funding on offer would require a 50% contribution by Council. As the intent of this option is to initially assess boating access, funding opportunities are expected to be limited to maritime streams only for initial investigations.

In progressing this option collaboration between relevant government agencies would be required. Other agencies may lead certain elements of the investigations, options assessment and detailed development of determined priority option/s pending the conditions of any funding that may become available. It is noted that if preferred option/s are identified within National Park area, Council does not control any development and infrastructure within these areas.

3. Undertake options assessment for boating needs at Back Creek only and detailed development of priority option/s

This option is similar to option 2, however purely with a focus on Back Creek as an option for boating access to the ocean. This would see assessment and prioritisation of options available to improve navigation, such as dredging or training walls for example. The most effective option would then have detailed development/investigation occur.

Undertaking this work would ensure any future investment in the Back Creek estuary is most appropriately directed, however does not allow due consideration of other alternatives that may be available in the South West Rocks area.

To undertake this work investment of the order of $250,000 is likely to be required. Per option 2 obtaining approvals and implementation of determined priority action/s would then likely require significant up-front investment and/or have ongoing maintenance needs (such as dredging).

The impact of any works in the estuary on the surrounding coastal environment and estuary health requires assessment.

In reviewing this option consideration of other passive recreation uses of the waterway is required. Per information provided in the Boating Utilisation Data and Other Uses section of this report these activities are increasing in the area. The degree of conflict between such uses and boating requires consideration.

Implementation of a preferred solution would provide a good outcome satisfying boating needs and reducing safety risks. However, these costs are likely to be beyond Council’s financial capacity. As per option 2, grant funding availability would typically be on the basis of 50% contribution by Council.

Similarly to option 2, collaboration between relevant government agencies would be required to progress this option.
Funding Opportunities

To consider options 2 and 3 outlined above initial funding is required firstly for investigation and modelling, and secondly for implementation (obtaining approvals and undertaking identified works) and maintenance. Given the costs associated with these actions significant external funding would be required should these options be pursued.

Grant funding opportunities where Council may be eligible to apply for further investigation or implementation of actions may include:

- Rescuing Our Waterways – Council may apply for funding of up to $1.5 million for dredging projects, with up to 50% funding available from the NSW Government. Dredging projects may include strategies, pre-dredge activities and maintenance dredging for navigation or access to public infrastructure.

- Coastal & Estuary Management Program - Funding assistance to help Councils to prepare and implement Coastal Management Programs. The program supports coastal and estuary planning projects and the implementation of works identified in certified coastal zone management plans or coastal management programs. Up to 50% funding is available for projects of less than $1 million, projects in excess of $1 million are subject to cost benefit analysis in determining a funding model.

- Growing Local Economies – A minimum 25% contribution is required by Council. The Fund is for infrastructure projects that support job creation and economic growth in regional NSW.

- NSW Boating Now – This is a boating infrastructure program to support the delivery of new and improved boating facilities through partnerships with local councils and other organisations. Funding for the Back Creek Boat Ramp works is via this program. The NSW Maritime Infrastructure Plan 2019-2024 provides reference to the program and future initiatives that may be eligible under it. New guidelines/conditions for the program are anticipated to be announced later in 2019.

Other schemes may become available, or one-off funding provided to the issue to Council or via a government agency pursuing the issue. It is noted that in all instances grant offers are subject to state-wide priorities and availability of funds. If Council were to take the lead on the matter, consideration would need to be given to funding Council’s component of any work to be undertaken. Any significant expenditure would be at the expense of other planned projects.

Back Creek Boat Ramp Planned Works

Tight timeframes are required to deliver this work as there has been a need to resolve a direction with an undetermined land claim over a portion of the land at the boat ramp site.

In light of the land claim and the recently implemented Crown Land Management Act (2016), to enable Council to proceed with the project advice was sought from Crown Lands. This advice indicated that Council needs to be appointed the Crown Land Manager on Lot 316 DP754396, which is not the subject of the land claim, and seek a licence over the remaining project area on Lot 7011 DP 1076160, which is subject to the land claim. Part of the recommendation to Council reflects this need. A plan is attached which identifies the relevant land.

Once aware of the land claim the NSW Aboriginal Land Council were approached to seek withdrawal of the subject claim or permit the proposed works. On consideration of the request and the resolved position of the Kempsey Local Aboriginal Land Council, the NSW Aboriginal Land Council advised that
whilst preferable for the claimed land to be resolved, it does not oppose the required Crown Licence and associated work on the condition that the tenure is no higher than a licence agreement and the licenced area is limited to the area identified for the works.

In the event the claimed land is ultimately determined to be claimable Crown lands, the land would be transferred to the Local Aboriginal Land Council and become an LALC asset. This means there is a risk that the licence Council currently requires would be terminated, and therefore lose control of the land that is the subject of the claim.

As utilisation of the Back Creek waterway remains at a reasonable level and to provide capacity in periods of high demand, it is recommended that Council proceed with planned works on the boat ramp. If Council wished to reconsider the works progressing based on the information above, elimination of the amenities from the project scope may be an option, or Council may seek an extension to the funding timeframe to enable determination of priority boating options in the South West Rocks area. Given the current Boating Now funding program ends in 2019, extension to the funding time period may not be possible.

It is noted that upgrading of the boat ramp area would be expected to increase pressure from within the community to upgrade navigation.

**Policy and Legislation**

A new coastal management framework has been established. The Coastal Management Act 2016 provides the framework and overarching objects for coastal management in New South Wales. The purpose of the Act is to manage the use and development of the coastal environment in an ecologically sustainable way, for the social, cultural and economic well-being of the people of New South Wales.

The State Environmental Planning Policy (Coastal Management) 2018 (SEPP) identifies and maps the coastal zone according to definitions in the Act. The SEPP streamlines coastal development assessment requirements.

The SEPP identifies development controls for consent authorities to apply to each coastal management area to achieve the objectives of the Act. The SEPP establishes the approval pathway for coastal protection works. Within the SEPP mapping is available for:

- Coastal wetlands and littoral rainforest area
- Coastal environment area
- Coastal use area

Coastal wetland mapped areas exist upstream of the Back Creek pedestrian bridge, while downstream areas are incorporated in the proximity area to this mapping.

**Strategic Alignment**

No actions related to navigation are incorporated in Council’s Delivery Program or Operating Plan, and therefore have not been a specific focus of Council or had resourcing allocated.

As identified in the Past Studies Related to Back Creek Navigation section of this report, CZMP’s have identified specific management actions related to Back Creek which are associated with navigation.

**Impact on Financial Sustainability**
Council does not currently have funds or resources set aside for further investigations within the current or next Operating Plan (2019/20), nor within the Long Term Financial Plan. Further advice is provided in the above commentary on options related to the financial impact of considering undertaking further investigations.

In addition to a potential up front capital cost if new infrastructure is required, any solution to navigation within Back Creek is likely to have associated ongoing maintenance costs, such as regular maintenance dredging. Council has no funds set aside for such costs within its Long Term Financial Plan, and relevant agencies of the NSW Government do not have any plans beyond the extraction licence that currently exists for drag line dredging at the creek entrance.

**Stakeholder Engagement**

A Workshop was held in March 2019 with relevant stakeholders. The Workshop held enabled feedback to be received from agencies and community members with boating interests. Further discussion on this is provided in the Stakeholder Workshop section of this report.

**CONCLUSION**

The matter of boating access to the ocean at South West Rocks is complex given the dynamic coastal environment that exists, which impacts each of the existing boating options. The issue experienced in the area is not uncommon along the NSW coastline. Boating access to the ocean has inherent safety risks, however where feasible government may undertake actions to assist in mitigating increased risks that may exist at certain locations.

Whilst Back Creek has been presented as an option for improved boating in the South West Rocks area, it is considered prudent to not consider this location in isolation, with due consideration required of all alternatives that may be available. This is to ensure options available are well understood and any future investment is appropriately directed.

To pursue this, it is recommended Council write to the Minister for Transport and Roads requesting that they consider coordinating and allocating funding to an investigation of boating access options to the ocean in the South West Rocks area. This would provide awareness and inform future government and Council decision-making processes surrounding potential investment toward the issue.

In association with the above recommendation it is recommended that Council continue with proposed work at the boat ramp at Back Creek. To enable this work to continue Council needs to be appointed the Crown Land Manager, under section 3.3 of the Crown Land Management Act 2016, for a parcel of land in the boat ramp area. The recommendation reflects this requirement.
13.2 QUARTERLY BUDGET REVIEW

Officer          Wayne Douglass, Manager Finance
File No          F18/2009
Attachments
1. March 2019 Quarterly Budget Review Statements [13.2.1]
2. 2018-19 Key Performance Indicators - May 2019 [13.2.2]
3. Matters In Progress [13.2.3]
5. Project Completion Report [13.2.5]

PURPOSE
To report the results of the third Quarterly Budget Review for the period ending 31 March 2019.

RECOMMENDATION
1 That the Budget Review for the period ending 31 March 2019 is adopted and the variations contained therein are approved;

2 That the Key Performance Indicators report is noted;

3 That the updates to the Matters in Progress are noted;

4 That the Grants Status Summary is noted; and

5 That the Project Practical Completion Reports are noted.

BACKGROUND
This is the third Quarterly Budget review for the 2018-19 financial year.

KEY CONSIDERATIONS
The Budget Review has been prepared for the period ending 31 March 2019.

As noted in previous Quarterly Budget Reviews reported to Council over the past 12 months, substantial improvements are required to underlying financial processes to enable high quality and meaningful reporting to Council that allows effective analysis of financial performance and decision making.

The implementation of the new corporate business system is currently underway and is fundamental to moving towards improved financial management. Additionally, the Financial Sustainability Strategy and Financial Sustainability Strategy Roadmap that were adopted by Council at its April 2019 Council meeting outline a number of initiatives that, when implemented, will result in improved financial processes and longer-term financial sustainability.
**Income & Expense Budget Review Statements**

The consolidated net operating result has improved by $1.8M from the revised budget deficit of $1.7M to a surplus of $0.1M for the year. This is mainly due to increased Operating and Capital Grants income of $2.9M and lower materials expenditure of $0.5M.

**Rates and Annual Charges**

A $55k budget correction for Domestic Waste collection revenue is proposed as the current budget calculation is overstated.

**User Charges and Fees**

There is a proposed $108k decrease in Caravan Park revenue based on the latest forecasts provided by NRMA Parks and Resorts.

**Interest and Investment Revenue**

Interest and Investment revenue is proposed to be increased by a further $200k driven by higher cash investments on hand as a result of significantly lower capital expenditure. The budget had already been increased by $250k in December 2018.

**Other Revenue**

There are no material changes proposed to Other Revenue.

**Grants & Contributions – Operating**

The proposed increase in operating grant revenue of $0.9M relates to additional grant funding expected to be received this year as listed below

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase/(Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floodplain Management Revenue (mostly related to Voluntary House Raising in the Macleay Valley area)</td>
<td>$0.4M</td>
</tr>
<tr>
<td>Waste Levy rebate grant related to the 18/19 Better Waste &amp; Recyling grant to fund staff and vehicle to oversee remote communities hazard waste drop-off</td>
<td>$0.1M</td>
</tr>
<tr>
<td>Weeds Biosecurity for noxious weeds</td>
<td>$0.2M</td>
</tr>
<tr>
<td>Parks &amp; Gardens grants for the Gladstone Memorial Park playground and toilet block (this is a capital grant and will be reclassified as capital going forward)</td>
<td>$0.1M</td>
</tr>
</tbody>
</table>

**Grants Subsidies Contributions – Capital**

There are a range of proposed changes in capital grant revenue which sum to a net $2.1M increase overall. The changes primarily relate to additional grant revenue that is now expected to be received in the last quarter of this financial year, partly offset by some reductions in grant revenue related to projects that will now be delivered in the 19/20 financial year.
The main proposed changes relate to:

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase/(Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boat Ramps – Boating Now program</td>
<td>$0.6M</td>
</tr>
<tr>
<td>Sporting Grounds Capital Revenue for sports field lighting</td>
<td>$0.1M</td>
</tr>
<tr>
<td>Cycleways and Footpaths for the Horseshoe Bay master plan</td>
<td>$0.2M</td>
</tr>
<tr>
<td>Public toilets for Crescent Head CBD</td>
<td>$0.3M</td>
</tr>
<tr>
<td>Stuarts Point foreshore project to be completed in 19/20 financial year</td>
<td>($1.5M)</td>
</tr>
<tr>
<td>(the related expenditure had been reduced in December, hence won’t be</td>
<td></td>
</tr>
<tr>
<td>visible in the Capital Expenditure section of this March QBR)</td>
<td></td>
</tr>
<tr>
<td>Crescent Head amenities block</td>
<td>$0.3M</td>
</tr>
<tr>
<td>Community Safety &amp; Crime Prevention for fixed and mobile CCTV cameras</td>
<td>$0.2M</td>
</tr>
<tr>
<td>Stuarts Point Sewerage scheme to be received from Restart NSW Grant</td>
<td>$0.2M</td>
</tr>
</tbody>
</table>

**Employee benefits and on-costs**

An increase of $0.1M is proposed in the Human resources cost centre related to salary and wages not originally budgeted for.

**Borrowing Costs**

There are currently no changes proposed to forecast borrowing costs. Although proposed Capital expenditure is significantly lower than original budget, the borrowing costs are not impacted as non-grant funded capex is funded through investments during the year and new loans are only taken out at year end if required. Hence, there is generally no change to budgeted borrowing costs throughout the year.

**Materials & Contracts and Consultants**

A reduction of $0.5M is proposed for materials and contracts which principally relates to the following major items:

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crown Land Tourist Parks expenditure increases across a range of items including cabin maintenance</td>
<td>$0.2M</td>
</tr>
<tr>
<td>Strategic Planning and Asset Management expenditure reductions related to various underspent items this financial year</td>
<td>($0.7M)</td>
</tr>
<tr>
<td>Water expenditure reductions related to source water management</td>
<td>($0.2M)</td>
</tr>
</tbody>
</table>

**Depreciation and amortisation**

The $2.7M increase which was approved in December reflects an alignment to the 2017/18 actual depreciation expense which included material depreciation amounts not included in the original budget. For the March QBR the $2.7M has been split across General, Water and Sewer funds as the total depreciation expense increase in the December QBR had been recorded against the General Fund. The consolidated impact is zero.
Previously Council has reported a zero amount for actual depreciation. This is because Council’s asset system(s) prevents monthly processing of depreciation, which has currently been processed as part of end of financial year processing.

In this March QBR an estimate has been applied to the depreciation actuals as at 31 March 2019. This estimate helps provide a more realistic operating result as at 31 March 2019.

Legal Costs and Other Expenses

There are no material changes proposed for Legal Costs or Other Expenses in this quarter.

Capital Budget Review Statements

Further to the capital expenditure reductions of $22M approved in December 2018, a further $8.1M in reductions across a range of projects are proposed. The reductions are across all funds as follows: General Fund of $3.1M, Water Fund of $2.8M and Sewer Fund of $2.2M.

These reductions are as a result of the continued focus on the entire capital program by management to improve forecasting accuracy.

A summary of the material variations for the March quarter for each fund are detailed below. There are many proposed reductions as management believe there is not capacity to deliver these projects this year, hence they are to be deferred to next financial year or removed where works are no longer required. Understanding these carryovers now allows for a more measured budgeting approach and should reduce the tendency to overstate next year’s capital expenditure budget.

Where works are recommended for deferral (unless otherwise stated) this provides for the opportunity for appropriate design and investigation work to be undertaken, enabling better works planning, management of risk and preconstruction cost estimation.

General Fund

The net decrease in General Fund capital works represents $3.1M. Only material movements (greater than $0.1M) are listed in the tables below and consequently, may not necessarily sum to the total movement reported in the QBR Statements and the corresponding header lines below.

<table>
<thead>
<tr>
<th>Land &amp; Buildings $3.1M net reduction (new and renewal assets)</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tourist parks and associated Crown reserves works that are now to be completed in the 19/20 financial year</td>
<td>($2.1M)</td>
</tr>
<tr>
<td>Community Housing relating to the West Kempsey Community Hub</td>
<td>($0.5M)</td>
</tr>
<tr>
<td>Kempsey Mall Toilets Refurbishment (Clyde Street)</td>
<td>($0.3M)</td>
</tr>
<tr>
<td>Toilet Block Replacement Program</td>
<td>($0.3M)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Roads, Bridges, Footpaths $0.9M net reduction (Renewals only)</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
</table>

| The material proposed expenditure movements are as follows: | Increase / (Decrease) |
Clyde St Mall Carpark Renewal – deferred to 19/20 ($0.2M)
Middleton Street, South Kempsey (works no longer required, pending South Kempsey Plan review) ($0.4M)
Macleay Valley Way North - Concrete Pavement Repairs (works no longer required) ($0.3M)
Tozer Street - Rehabilitation ($0.2M)
Boyters Lane ($0.2M)
Belmore Street, Crescent Head (Pacific Street To 0.45Km Northward) $0.2M
Gowings Hill Road (Giblin Place to Mollies Way - 0.7Km) $0.3M

**Other Capex $1M net increase (new and renewals)**

The material movements relate to:

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crescent Head Pool Amenities block</td>
<td>$0.3M</td>
</tr>
<tr>
<td>Airport Apron Hardstand</td>
<td>$0.3M</td>
</tr>
<tr>
<td>Corporate Business System implementation</td>
<td>$0.4M</td>
</tr>
<tr>
<td>Pontoon, Amenities, Boat Trailer/Car Parking - Back Creek Off Gordon Young Drive</td>
<td>($0.4M)</td>
</tr>
<tr>
<td>Stuarts Point Boat Ramp and Associated Facilities Upgrade</td>
<td>($0.2M)</td>
</tr>
<tr>
<td>Flood Mitigation Capital Works Program (Environmental Levy Funded)</td>
<td>($0.3M)</td>
</tr>
<tr>
<td>Back Creek Footbridge South West Rocks</td>
<td>($0.4M)</td>
</tr>
<tr>
<td>Gladstone Memorial Park Precinct - Toilet Stronger Community Funds</td>
<td>$0.2M</td>
</tr>
</tbody>
</table>

Additional Other Capex movements relate to Sporting grounds for the following:

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>South West Rocks High Performance Centre</td>
<td>$0.2M</td>
</tr>
<tr>
<td>South West Rocks Floodlights</td>
<td>$0.3M</td>
</tr>
<tr>
<td>South Kempsey Floodlights</td>
<td>$0.4M</td>
</tr>
<tr>
<td>Verge St Floodlights</td>
<td>$0.6M</td>
</tr>
</tbody>
</table>

**Water Fund**

It is proposed to reduce Water Capital Expenditure by $2.8M. The following details the material variations proposed:

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crescent Head Bore Renewal</td>
<td>$0.2M</td>
</tr>
<tr>
<td>Crescent Head (balance Tank and Water Treatment plant)</td>
<td>-$0.5M</td>
</tr>
<tr>
<td>Groundwater Source Monitoring &amp; Augmentation</td>
<td>-$0.1M</td>
</tr>
<tr>
<td>Old Station Road to East Kempsey</td>
<td>-$0.3M</td>
</tr>
<tr>
<td>Reservoir Refurbishments</td>
<td>-$0.4M</td>
</tr>
<tr>
<td>Risk Based Assessment</td>
<td>-$0.1M</td>
</tr>
<tr>
<td>Sherwood Bore Renewals</td>
<td>-$0.2M</td>
</tr>
<tr>
<td>Stuart McIntyre Dam Pump/Valve Refurbishment</td>
<td>-$0.2M</td>
</tr>
<tr>
<td>Water Main Renewal Macleay Valley Way</td>
<td>$0.1M</td>
</tr>
</tbody>
</table>
Sewer Fund
It is proposed to reduce Sewer Capital Expenditure by $2.2M. The material variations include the following:

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Increase / Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mains Renewals</td>
<td>($0.8M)</td>
</tr>
<tr>
<td>Stage 1 New Central Kempsey Sewage Treatment Scheme - West Kempsey</td>
<td>($0.1M)</td>
</tr>
<tr>
<td>Surface Aeration to Pasveer Upgrade – South West Rocks</td>
<td>($0.2M)</td>
</tr>
<tr>
<td>Trunk Main Construction</td>
<td>($0.3M)</td>
</tr>
<tr>
<td>West Kempsey Infiltration</td>
<td>($0.4M)</td>
</tr>
</tbody>
</table>

Cash and Investments Budget Review Statements
Civicview does not have the capacity to adjust fund balances – this is currently a manual end of financial year process. Individual fund cash balances have therefore not been updated, hence only the consolidated actual figure as at 31 March of $52M is reported.

Actual year to date reserve figures have also not been updated as this is currently done at the end of the financial year and therefore the year to date figures represent the opening balances as at the beginning of the financial year (1 July 2018).

Projected cash reserves are proposed to increase by $11M from $44M to $55M for the quarter driven by increased cash movements in operating expenditure and lower than expected capital expenditure.

Key Performance Indicators
Operating Performance: The projected result of –8.2%, is below both the benchmark (> 0%) and the 2017-18 actual result of 3.2%. The projected result is 0.7% better than the original budget. The ratio has been positively impacted by the increases in operating grant income and reduced operating expenditure movements in the quarter.

Own Source Operating Revenue: Forecast result of 76.1% is above benchmark (> 60%) and is consistent with historical performance.

Debt Service Cover Ratio: Forecast result of 5.01% is well above benchmark (> 2x) in line with previous years.

Building and Infrastructure Renewals Ratio: The September 2018 QBR ratio was projected at 286% which is well above benchmark (>= 100%) and driven by unrealistic capital expenditure projections. In December $22M in capital reductions resulted in a more realistic projected Building and Infrastructure Renewals Ratio of 113%. With further proposed capital expenditure reductions in the March quarter the ratio is now at 76%.
**Infrastructure Backlog Ratio:** As previously reported, Councils asset management systems are currently under review and accurate data does not currently exist to allow accurate forecast results for this ratio. This ratio will continue to be reported annually as part of the annual financial statements.

**Asset Maintenance ratio:** The current forecast of 100% is in line with benchmark (>100%) as projected asset maintenance is forecast to be in line with required asset maintenance. Consistent with the commentary above in relation to the Infrastructure Backlog Ratio, Council is undertaking several improvements in relation to its Asset Management Systems and processes and this will drive improved reporting of this ratio.

**BACKGROUND**

At the March 2018 meeting it was agreed that the Matters in Progress and Project Practical Completion Reports would be reported to Council quarterly as part of the Quarterly Budget Review Statement.

At the June 2018 meeting it was resolved that KPIs would be reported to Council quarterly as part of the Quarterly Budget Review Statement.

At the October 2018 meeting it was resolved that a summary of current grants be reported to Council quarterly as part of the Quarterly Budget Review Statement.

All these items have been included as attachments to this report.

**CONCLUSION**

The proposed budget changes in the March QBR have a positive impact of $1.8M on the operating result from all operations. This is driven by a combination of higher income of $1.3M and lower expenditure of $0.5M. Proposed Capital expenditure reductions of $8.1M relate to further refinement in the process of understanding Council’s capacity to deliver Capital works in the 18/19 financial year.
13.3 INITIAL CATEGORISATION OF CROWN LAND MANAGED BY COUNCIL

**Officer**  
Brian Ross, Coordinator Commercial Property & Facilities

**File No**  
F18/2364

**Attachments**  
1. Crown Land - Categorisation [13.3.1]
2. Letter to Council - Initial Categorisation Reminder - 28.3.19 [13.3.2]

**PURPOSE**

A report to consider the initial categorisation of Crown land managed by Council following the commencement of the *Crown Lands Management Act 2016*.

**RECOMMENDATION**

That Council, pursuant to Section 3.23 of the *Crown Lands Management Act 2016*, give notice to the Minister administering the *Crown Lands Management Act 2016* of the initial categorisation of Crown Reserves in line with the details set out in Column G of the spreadsheet attached to this report.

**ISSUES**

The *Crown Lands Management Act 2016* (CLM Act) requires Councils in their capacity as Crown Land Managers to assign an initial category to all Crown land under their management and give notice to the Minister administering the *Crown Lands Management Act 2016* of the categories.

As the giving of a Notice to a Minister is not a function that can be delegated by Council under Section 377 of the Local Government Act 1993, this initial categorisation is one that needs to be considered by Council.

**BACKGROUND**

The *Crown Lands Management Act 2016* (CLM Act) came into effect on 1 July 2018. Whilst the CLM Act does not impose on Councils additional Crown lands to be managed, the CLM Act amends the way in which Councils manage Crown lands.

There are several administrative actions required in order to comply with the terms of the CLM Act arising from the altered management regime. Initially, Council Crown Land Managers must assign to all Crown land under their control, one or more categories of community land referred to in Section 36 of the *Local Government Act 1993* (LG Act) and give notice to the Minister administering the CLM Act of the selected categories. The Minister will then review the categories and either agree or disagree to them or require further information from Council.

The required categorisation of the Crown lands arises from the CLM Act authorising Councils to manage the Crown land as if it were public land under the LG Act. Section 25 of the LG Act stipulates that all public land must be classified. There are two classifications as set out at Section 26 of the LG Act; community and operational.

Classification as community land reflects the importance of the land to the community because of its use or special features. Generally, it is land intended for public access and use, or where other restrictions applying to the land create some obligation to maintain public access. This gives rise to
the restrictions in the LG Act, intended to preserve the qualities of the land. Community land cannot be sold, cannot be leased, licenced or any other estate granted over the land for more than 21 years and must have a plan of management prepared for it.

Operational land has no special restrictions other than those that may apply to any piece of land.

The default position of the CLM Act is that the Crown land shall be managed as community land with the category assigned being the category that most closely aligns with the purpose(s) for which the Crown land was reserved and preserves and facilitates the use of the land. The categories of community land prescribed at Section 36 of the LG Act are (in the order set out in the LG Act):

- Natural area
- Sportground
- Park
- Area of cultural significance
- General Community Use

Land assigned the category of Natural Area must be assigned a further sub-category of:

- Bushland
- Wetland
- Escarpment
- Watercourse
- Foreshore

With 212 Crown Reserve purposes in existence, The Department of Industry – Crown Lands has provided guidance for Councils in assigning a reserved purpose to a corresponding Section 36 LG Act community land classification category. Notwithstanding the default position of the legislation that Crown lands shall be managed as community land under the LG Act, there are instances whereby the core objectives for the management of community land cannot readily be met. In these instances, Council may apply to the Minister administering the CLM Act to have these lands classified as operational. For example, Crown lands reserved for the purpose of Rubbish Depot or Bush Fire Brigade Purposes or the Holiday Parks managed by ATPM and Ingenia, which are subject to residential tenancies. The attached spreadsheet provides details of the 82 Crown Reserves managed by Council.

Having regard to the principles of the management of these reserves set forth in the CLM Act and LG Act, Column G of the attached spreadsheet details the proposed initial land classification(s). Whilst it is suggested the majority of lands be assigned a community classification, it is considered that those reserves, or parts of the reserves so described, as highlighted yellow in the attached spreadsheet would be better managed as operational land. Whilst Council can make application for these Reserves, or parts of the Reserves, to be given an operational classification, ultimately it is the Minister administering the CLM Act that will determine the success, or otherwise of any such application. It should be noted that any land that is reclassified to operational cannot be sold by Council without prior Crown Lands approval, as the land still remains under the ownership of Crown Lands.

Following agreement on the land classifications, the next administrative step can commence – namely, the preparation of plans of management. Councils have until 30 June 2021 to develop plans of management. Whilst consultation with the community has not been required as part of the initial
land classification process, engagement with the community will be required as part of the plan of management process.

A further report may need to be provided to Council if the Minister administering the CLM Act requests further information on the initial land classification.
13.4 CODE OF MEETING PRACTICE

Officer Daniel Thoroughgood, Manager Governance and Information Services
File No F19/2541/05
Attachments 1. Procedure 5.1.4 - V 6 - Code of Meeting Practice - draft [13.4.1]
2. submissions-code-of-meeting-practice-redacted [13.4.2]

PURPOSE

The Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) was prescribed on 14 December 2018 and placed on public exhibition following Council’s resolution of 19 February 2019.

It is recommended that the draft Model Code of Meeting Practice, as attached, is adopted.

RECOMMENDATION

That the Draft Code of Meeting Practice as amended be adopted.

BACKGROUND

The Model Meeting Code comprises of mandatory and non-mandatory provisions. Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code no later than 12 months after the next ordinary council elections. Councils’ adopted codes of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions as long as they are not inconsistent with the mandatory provisions.

Until a council adopts a new code of meeting practice, its existing code of meeting practice will remain in force up until six months from the date on which the new Model Meeting Code was prescribed (14 December 2018 – 14 June 2019). If a council fails to adopt a new code of meeting practice within this period, any provisions of the council’s adopted meeting code that are inconsistent with the mandatory provisions of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that they are inconsistent with the mandatory provisions of the Model Meeting Code.

In addition, irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils (but not joint organisations) will be required to webcast meetings of the council and committees of which all members are councillors from 14 December 2019. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council’s website.

Key Changes to the Draft Code of Meeting Practice

- The establishment of council meeting dates by the code, rather than by resolution. This does not prevent council from resolving to alter their meeting dates at any time, however council meeting dates will no longer need to be adopted on an annual basis. The date, time and location of the meeting is unchanged.
• Changes the deadline to submit business to a council meeting to be consistent for both staff and councillors. All business to be brought before a council meeting must be submitted eight clear business days prior to the meeting.

• If the General Manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the General Manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

• Motions, including mayoral minutes, for the expenditure of funds on works and/or services other than those already provided for in the council’s current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion.

• Pre-meeting briefing sessions are now governed by the code.

• In recognition that the purpose of the formal council meeting is to consider and make decisions the public forum is removed from the council meeting and instead will occur on the evening prior, preceding the pre-meeting briefing session. The forum will still be open to the public and take substantially the same format. This provides councillors with the benefit of being able to consider the information provided at the forum.

• There are new provisions to cancel a meeting in the case of natural disaster.

• There are new provisions to mandate the webcasting of council meetings.

• There is a more streamlined order of business with most of the procedural matters we currently deal with at the commencement of a meeting removed; confirmation of minutes and items passed by exception (otherwise known as the consensus motion) will be the only resolutions taken prior to commencement of dealing with business.

• The model code now recognises dealing with business by exception, also known as a consensus motion and provides a mechanism for doing this.

• There are standing authorisation for chairpersons to expel persons from meetings without requiring a resolution of council.

• Rescission motions regarding a development consent must now be lodged within 1 business day.

• There are new provisions to recommit resolutions to correct an error.

• There are time limits placed upon council meetings.

KEY CONSIDERATIONS

Policy and Legislation

Councils are required to consult with their communities prior to adopting a code of meeting practice. This is achieved by public notice and exhibition of the draft code as required by s361 of the Local Government Act 1993; which reads:

361 Preparation, public notice and exhibition of draft code

(1) Before adopting a code of meeting practice, a council must prepare a draft code.

(2) The council must give public notice of the draft code after it is prepared.

(3) The period of public exhibition must not be less than 28 days.

(4) The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.
(5) The council must publicly exhibit the draft code in accordance with its notice.

The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors.

Council committees whose members include persons other than councillors may adopt their own rules for meetings, unless the council determines otherwise.

**Stakeholder Engagement**

The draft code of meeting practice attached has been developed in consultation with councillors and senior staff. It incorporates, to the extent possible, the feedback provided by councillors.

The draft code proposed adopts all of the optional provisions of the Model Meeting Code, as well as proposing a range of local provisions.

The community has been provided the opportunity to express their views on the Draft Code by placing the code on Public Exhibition. The code was exhibited for 49 days from 5 March to 23 April 2019 inclusive. During this time a single submission was received.

On Friday 22nd February 2019 councillors undertook an externally facilitated training session on recent changes to the Code of Conduct and Code of Meeting Practice. This session highlighted two potential issues with the draft code which have led to amendments during the exhibition period.

Additionally, further consideration of the logistics of conducting the public forum on Monday evening has resulted in varying the target publication date for the business paper and the closing date of public forum applications in order to provide sufficient time for members of the public to make applications.

These amendments are:

1. The Opening Prayer should be included in the Order of Business, not just the Supplemental Provisions
2. Clause 5.14 permits the cancellation of a meeting where the safety of the attendees is threatened by natural disaster; this clause should be reworded to exclude the requirement for the safety threat to be a natural disaster.
3. Clause 4.3 varied to close the public forum at 12.00 pm (midday) one (1) business day before the date on which the public forum is to be held.
4. Clause 23.15 varied to provide that presentations are to be provided by the same time as applications; this will be incorporated into the application process.

**Matters Raised During Public Exhibition**

The issue raised in the single submission is summarised below:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public forums should remain within the council meeting.</td>
<td>The movement of public forums to the evening prior to the meeting has the advantage of giving Councillors time to consider the information provided during a public forum presentation as well as to conduct further research and enquiry if the forum presentation raises new questions for the Councillors. It also</td>
</tr>
</tbody>
</table>
Other Matters

The draft code contains a range of local provisions which primarily exist to adapt the code to the manner in which this council conducts meetings; this for example includes the commencement of the meeting with a prayer, the discretion of the chair to determine breaks and the recording of the meeting by local media. New local provisions include:

- The provision that an ordinary meeting which conflicts with either the ALGA and LGNSW conference will be automatically moved to the 4th Tuesday unless resolved otherwise.
- Councillors, including the mayor, are to make all reasonable efforts to attend pre-meeting briefing sessions.
- Proposed amendments to draft minutes prior to confirmation must be submitted to the minute taker 10 business days prior to the meeting at which the minutes are to be confirmed.
- Motions of no confidence in the Mayor or Chairperson are to be deemed to be out of order and are not to be accepted.
- Wherever this code permits the General Manager to provide a report in relation to a matter the General Manager may instead elect to provide a comment on the item rather than a separate report at his discretion.
- Councils meetings will be livestreamed including audio and video and have archived recordings provided via a link on Council’s website.
- Council provides a standing authorisation to the minute taker(s) to audio record meetings for the purpose of producing accurate minutes.
- Public forums will be held at 4:30 pm at the Civic Centre, Corner of Elbow Street and Tozer Street, West Kempsey, the day prior to each ordinary meeting of Council.
- Public forums may be held prior to extraordinary, and committee meetings at the discretion of the General Manager. The date, time, place and deadline for applications will be fixed on a case-by-case basis at the General Manager’s discretion.
- Provisions to reduce duplication in the production of delegates reports.

The draft code includes provisions to provide guidance for the handling of petitions. These provisions are less prescriptive than those previously proposed as part of a procedure. They do, however, provide a pathway to bring a matter to the attention of Council other than the public forum.

Whilst the draft code does not specify what must occur after the petition has been noted it does not prevent the General Manager from causing a staff report on the matter to be submitted to a future meeting of Council, or a councillor from submitting a Notice of Motion on the matter, if the business
has not already been dealt with. It has generally been the experience that matters subject to a petition are already business before Council.

The conduct of the public forum on the Monday evening, rather than the Tuesday morning, has impacts on the application process. Public forum applications will close on the Friday, at midday, in order to provide sufficient time for applications to be evaluated and for staff to communicate decisions and arrangements to the applicants. This will necessitate an early publication date for the business paper, which has resulted in the target date for the publication of the business paper to be moved to Tuesday although the latest possible date for publication under the code remains midnight on the Friday prior to the meeting.

![Figure 1 - Code of Meeting Practice Milestones](image)

**CONCLUSION**

It is recommended that the draft Model Code of Meeting Practice, as attached, is adopted.
13.5 STUARDS POINT FORESHORE UPGRADE

Officer  
Robert Fish, Director Operations & Planning

File No  
F19/2359

Attachments  
1. Development Plan - Stuarts Point Foreshore Upgrade [13.5.1]
2. Public Submissions - Stuarts Point Foreshore Upgrade [13.5.2]

PURPOSE

To adopt the Development Plan (see attached) for the Stuarts Point foreshore upgrade having regard to feedback received during the public consultation period.

RECOMMENDATION

That the Development Plan for the Stuarts Point foreshore upgrade be adopted.

BACKGROUND

At the meeting of 19 March 2019, Council resolved that the Draft Development Plan for Stuarts Point foreshore upgrade be placed on public exhibition for a minimum of 28 days. The plan was placed on exhibition and comments invited from 26 March to 26 April 2019. Seven submissions were received and have been considered in formulating the final Development Plan recommended for adoption – see attached.

KEY CONSIDERATIONS

Strategic Alignment

This project aligns with the objectives of Council’s strategic and operational planning:

Community Strategic Plan 2017 - Plan for and provide infrastructure that encourages and allows for active lifestyles.

Delivery Program 2017-2021 - Refresh Stuarts Point Reserve infrastructure.

Operating Plan 2018-2019 - Develop detailed designs and schedule of works for upgrade to Stuarts Point Foreshore, including new playground and amenities.

Impact on Financial Sustainability

The project is jointly funded by the NSW Government Regional Growth – Environment and Tourism Fund and loan funds serviced by income from the adjoining Stuarts Point Holiday Park. The total budget is $3,357,700 (1:1). A further grant of $250,000 under the Boating Now program is also in place for boat ramp improvements.

Completion of the project will result in increased assets that will need to be maintained into the future. These include public amenities, picnic facilities, playground equipment, roads, pathways and wharf structures. The project also includes replacement of the Holiday Park residence/office and some Holiday Park facilities that are impacted by the public reserve upgrade works.

Community Engagement
The public exhibition of the Development Plan from 26 March to 26 April was promoted through:

- Creation of a dedicated engagement page on Council’s Your Say Macleay engagement website
- Inclusion in Council’s weekly print media notices
- Direct email to members of Your Say Macleay linking to the page
- Direct email to participants in previous Stuarts Point community catch-ups and attendees at the Community Information Session
- Posters and fact sheets distributed to businesses throughout Stuarts Point
- Direct email with a link to the engagement page through SPADCO to all members
- Posts linking to the engagement website on Council social media channels.

Analytics show that the message about the opportunity to have a say on the draft Development Plan reached a significant proportion of the community with:

- Reach of 1565 people from Facebook post reminding submissions closing soon
- 595 visits to the Stuarts Point Foreshore engagement webpage
- 238 downloads of the draft Development Plan from the webpage
- 38 downloads of the Fact Sheet from the webpage.

Submissions

Council received seven submissions (see attached).

The table below groups the points raised in the submissions by theme and Council’s response.

<table>
<thead>
<tr>
<th>Theme</th>
<th>Submission points</th>
<th>Council Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Playground and Shade</td>
<td>Question whether surrounding trees will provide enough shade over playground and request for shade structure.</td>
<td>Risks such as safety and vandalism are considered when considering shade structures. Council agree that this space is particularly exposed, and some structures will be provided to supplement natural shade from trees. Size and materials to be agreed in detailed design. Tables will be roofed.</td>
</tr>
<tr>
<td></td>
<td>Concerns over rate of melanoma in Australia.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Request shade over picnic tables.</td>
<td></td>
</tr>
<tr>
<td>Vegetation and trees</td>
<td>Need for weed removal and vegetation control around boat ramp and section to the north.</td>
<td>Vegetation control in this area, and along Reserve pathways, will be undertaken as part of the construction phase. Very limited tree removal is proposed as part of the works. Landscape plans will be considered in the detailed design and further investigation can be undertaken to source any historical planting references.</td>
</tr>
<tr>
<td></td>
<td>Request for detail on tree removal for works and belief that trees were planted and catalogued by the community.</td>
<td></td>
</tr>
<tr>
<td>Paths</td>
<td>Paths should be shared use and</td>
<td>All paths in the Reserve works will be wide</td>
</tr>
<tr>
<td><strong>Ordinary Council Meeting - 21 May 2019</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Accessible</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Path should be extended from fishing platform (northern end) to join Marine Parade</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and accessible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Path extension will be designed and costed within overall project.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Parking</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reserve car park near bridge, too big, best views (are) for cars.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Request to increase marked parking bays north of the Hall and Library</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detailed designs will be reviewed to retain total parking spaces but provide improved connection through reserve green space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outside the scope of the grant works, but will consider costs of creating additional parking spaces near the Hall and seek approval if funds available.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Boat Ramp</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requests for dredging at this site as shallow depth limits craft that can use the ramp.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>View that 15 spaces for trailers is too many.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Request to review layout of carpark at boat ramp.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Request upgrade to Fishermans Reach boat ramp in lieu.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The project includes investigation of the water depth with a view to minor dredging to facilitate slightly larger boats. This is subject to being able to obtain required environmental approvals however.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The boat ramp and carpark are separately funded by the “Boating Now” grant. The funding aims to provide facilities to increase waterways usage and is therefore not modelled on current use. If the car/boat trailer parking is more than required to serve boating needs, it can be used, or modified in the future, for additional recreational parking.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The proposed carpark layout has been explained to and is accepted by the commenter.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“Boating Now” funding can’t be transferred to another site. Some improvements were previously undertaken at Fishermans Reach boat ramp under the Boating Now program noting that the site is constrained for space. Funding of improvements will be considered in future programs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Signage</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Request interpretive and wayfinding signs be incorporated into the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funding includes signage and further investigation will be undertaken.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Wharf and Boardwalk</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Located in a space currently used for swimming.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Request access from wharf to beach/water</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The wharf/boardwalk is primarily over the waterway embankment and does not unduly impact the swimming area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Steps have been added to the plan to access the water from the wharf. Provision of a ramp will be investigated in the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multiuse Spaces and Reserve furnishings</td>
<td>Provide access to power, sewer and water through reserves to allow for temporary stall holders and markets. Include security cameras. Request comparison of green space in new plan verse current. Relocate the proposed performance stage to the tennis court area Seating and tables requested at northern end of path</td>
<td>Utilities in the reserve will be investigated in detailed design stage. Provision will be made for the ability to install cameras in future. Space will be reorganised and while some overall land may be lost to parking the space becomes more usable and safer as it isn’t bisected by the road. The performance stage was requested to be included by the local community and the location was agreed as shown on the draft plan. Relocating it as suggested would see the access road to the Holiday Park passing between the stage and the audience which is undesirable. Seating and a table can be located as requested.</td>
</tr>
<tr>
<td>Recycling Bins in the Reserve</td>
<td>Will recycling bins be available in the reserve?</td>
<td>Discussions are underway with Council’s waste contractor regarding pick-up for recycling and security of these bins.</td>
</tr>
<tr>
<td>Bike Racks</td>
<td>Confirming if racks are included in plans.</td>
<td>Bike racks can be added to the detailed design.</td>
</tr>
<tr>
<td>Public Toilets mural</td>
<td>Question what will become of the mural artwork from the current Holiday Park amenities.</td>
<td>The current amenities block in the Holiday Park will be demolished as part of the funded Reserve works. Consideration can be given to photographing the mural and reusing the image in the overall Holiday Park upgrade, as yet unfunded.</td>
</tr>
</tbody>
</table>

Below is a summary of the issues raised in submissions that are outside the scope of the Development Plan and funded upgrades to the Reserve, but may be addressed within other programs of work:

- Ongoing asset maintenance and service level planning in relation to the footbridge, cleaning and repair of the new facilities.
- Consideration of appropriate grants for inclusion of public art in the Reserve space.
- Investigation of land tenure and environmental issues along Stuarts Point to Grassy Head Walking Track to carry out repairs and improvements.
- Questions on riverbank erosion, installation of solar panels on Community Hall will be referred to Council’s environmental management officers for further grant consideration. Also, of relevance, in March 2019 Council resolved to conduct a workshop to inform development of a suite of papers addressing climate change and environmental sustainability.
- The detailed design of the Holiday Park layout could consider if a public access path is appropriate south from the footbridge.
• Widening Marine Parade north of Community Hall could be reviewed in preparation of future Operational Plans.

• Widening the footbridge or adding seating and steps to the water due to significant investment and requiring complex approvals.

Submission points that are outside the objectives of the Development Plan include:

• Relocation of the tennis courts.

• Dredging the river near the bridge and swimming area.

• Investigating the size of the stingray population.

**Ongoing Engagement**

While recommending adoption of the Development Plan as an overarching Plan for the Foreshore Reserve and Holiday Park, liaison with the community will continue as part of the detailed design stage for the works funded through current grants.

A preliminary search through the Office of Environment and Heritage, Aboriginal Heritage Information Management System has shown that no Aboriginal sites or places have been declared in the Development Plan area. Further engagement with relevant Aboriginal stakeholders will be undertaken as part of the design process for any works in the area.

Council is actively seeking grant funding to carry out significant upgrades to the Holiday Park as depicted in the Development Plan, which will allow for sustainable efficient operation of the Park as a key local business.

In order to continue discussion with the community and Holiday Park users regarding the specific layout of the Park a Stuarts Point Holiday Park website engagement page has been created, [https://yoursay.macleay.nsw.gov.au/stuarts-point-holiday-park](https://yoursay.macleay.nsw.gov.au/stuarts-point-holiday-park)

**CONCLUSION**

Adoption of the Development Plan will allow work to commence on this valuable community asset and contribute to the fulfilment of Council’s strategic and operational planning.

Consideration will need to be given to funding the ongoing maintenance of the new facilities.
13.6 STRATEGY FOR UPGRADING HIGH TRAFFIC VOLUME UNSEALED ROADS TO BITUMEN STANDARD

Officer Robert Fish, Director Operations & Planning
File No F19/1859
Attachments 1. Priority List for upgrading unsealed roads to bitumen [13.6.1]

PURPOSE
The purpose of this report is to provide an analysis of the relative merit of bitumen sealing unsealed local roads and to develop a strategy for the upgrading of high traffic volume unsealed roads to bitumen standard in the event funds become available.

RECOMMENDATION
1. That Council note the information regarding the whole-of-life costs of maintaining a bitumen sealed road compared to an unsealed gravel road, where traffic volumes are of the order of 150-250 vehicles per day, and the impact that a programme of upgrading gravel roads to bitumen will have on Council’s operating result and capital programs.
2. That Council continue to use any Council funds and recurring grants, such as Roads to Recovery, for capital improvements to target the rehabilitation of existing sealed roads and the gravel re-sheeting programme for unsealed roads ahead of the upgrading of unsealed roads to bitumen sealed standard.
3. That Council apply for funding to rehabilitate existing sealed roads when eligible grant programs become available, unless projects involving the bitumen sealing of a gravel road are likely to provide for a greater chance of success.
4. That Council with respect to point 3, application for the bitumen sealing of a gravel road will normally only be considered where more than 75% of the capital cost can be obtained from the grant and/or resident contributions.
5. That Council acknowledge that development contribution funds may be utilised to assist funding any contribution required by Council, provided the requirements of the relevant development contributions plan are satisfied.
6. That Council for the purposes of points 2 to 4, endorse the following priority list for the bitumen sealing of gravel roads (in order of priority):
   a. Piper Creek Road (End of seal to Wirrang Drive)
   b. Spooners Avenue (Chain O Ponds Road to Collombatti Road)
   c. Pipers Creek Road (Wirrang Drive to Ballengara Road)
   d. Collombatti Road (Swan Lane to Hughes Access)
   e. Smiths Creek Road (Crowther Drive to Crowther Drive)
f. First Lane (Gladstone Street to Smith Street)

7. That Council review the condition of the six roads in the priority list to determine whether any variation is required to future gravel re-sheeting plans in the 10 Year Works Program, acknowledging that these roads are higher use roads in Council’s network of unsealed local roads.

BACKGROUND

At the November 2017 Ordinary Meeting Council resolved (2017.370 Item 15.2 2017-11-21) the following:

“That Council considers a cost benefit analysis of constructing and sealing each of Council’s unsealed roads that have a traffic volume in excess of 150 vehicles per day as part of the 2018/2019 Operating Plan.”

In response to this resolution, the 2018/19 Operating Plan incorporated the following action:

“Investigate and develop strategy to seal unsealed roads – define kilometres of unsealed road that meet criteria for consideration of sealing. Kilometres and costs of increasing sealed road network identified and reported to Council by June 2019.”

METHODOLOGY

The following methodology was used to undertake an analysis in response to the resolution of Council and the Operating Plan action:

Step 1:- Identify the unsealed local roads with traffic volumes exceeding 150 vehicles per day.

Step 2:- Analyse the whole of life cost of maintaining each road in a bitumen sealed condition compared to its existing unsealed condition.

Step 3:- Develop a priority list for upgrading the roads to a bitumen sealed condition.

Step 4:- Consideration of relative priority and funding options for bitumen sealing unsealed roads versus rehabilitation of existing sealed roads.

STEP 1 TRAFFIC VOLUMES

With the exception of Point Plomer Road and Maria River Road, Council has six (6) unsealed local roads with recorded Average Daily Traffic (ADT) exceeding 150 vehicles per day (vpd).

These are as follows:

<table>
<thead>
<tr>
<th>ROAD</th>
<th>LOCATION</th>
<th>LENGTH</th>
<th>ADT</th>
<th>HEAVY VEHICLES*</th>
</tr>
</thead>
<tbody>
<tr>
<td>PIPERS CREEK RD</td>
<td>End of seal to Wirrang Rd</td>
<td>3.9 km</td>
<td>147-233</td>
<td>4-10%</td>
</tr>
<tr>
<td>COLLOMBATTI RD</td>
<td>Swan Ln to Hughes Access</td>
<td>3.5 km</td>
<td>178</td>
<td>7.9%</td>
</tr>
<tr>
<td>FIRST LN KEMPSEY</td>
<td>Gladstone St to Smith St</td>
<td>1.1 km</td>
<td>169</td>
<td>6.5%</td>
</tr>
<tr>
<td>SMITHS CREEK RD</td>
<td>Crowther Rd to Crowther Rd</td>
<td>2.6 km</td>
<td>164</td>
<td>10.3%</td>
</tr>
<tr>
<td>SPOONERS AVE</td>
<td>Chain o Ponds Rd to Collombatti Rd</td>
<td>5.3 km</td>
<td>160-174</td>
<td>7-12%</td>
</tr>
<tr>
<td>PIPERS CREEK RD</td>
<td>Wirrang Rd to Ballengara Rd</td>
<td>3.8 km</td>
<td>153</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

Note * - % heavy vehicles Class 3 and over
In view of a recent announcement by Melinda Pavey, Member for Oxley and Minister for Roads, Maritime and Freight (at the time of announcement), of state funding for the upgrade of Maria River Rd, this road was excluded from the analysis. Maria River Road has an ADT of 258 vpd based on the most recent count at the transition from bitumen seal to gravel road.

Point Plomer Road has also been excluded as Council resolved at the Ordinary Meeting in October 2018 to pursue sealing of the road. Detailed information on the specific circumstances relating to Point Plomer Road was included in the report to Council at that time.

The section of Armidale Road west of Bellbrook is currently a local road. Armidale Road provides an important link between the two centres of Armidale and Kempsey. The road is of significant importance to agriculture and its tourism use is increasing due to the natural beauty of the area the road traverses. Traffic volumes on this section are generally less than 150 vpd. Council has recently pursued funding to seal a 10km section from Bellbrook to Five Day Creek Road in association with a request to reclassify the road to a regional road. In view of a recent announcement that the NSW Government will reclassify the road as part of a state-wide review of road classifications and that it remains uncertain what this will mean for the road, this road was excluded from the analysis.

**STEP 2 WHOLE OF LIFE COST – BITUMEN SEALED VERSUS UNSEALED**

Kempsey Shire Council currently maintains 638km of sealed roads and 570km of unsealed local roads.

A sealed road generally costs on average $450,000 to $600,000 per km to construct in the first place. Once constructed other costs over the life cycle include: pavement rehabilitation after approximately 40 to 50 years at an average cost of $375,000 per km; bitumen resealing every 15 years at a cost of $42,000 per km; and annual maintenance (pothole patching etc) at approximately $3,000 per km.

A gravel local road costs less to construct in the first place but requires gravel re-sheeting at an average interval of less than 15 years (for roads of this traffic volume) costing approximately $50,000 per km. Annual maintenance (grading etc) costs approximately $3,500/km/year based on 2 grades per year.

The life cycle costs, excluding initial construction cost, of maintaining and rehabilitating a bitumen sealed road compared to an unsealed road are summarised as follows:

<table>
<thead>
<tr>
<th>Life Cycle Costs Analysis (cost per km per year)</th>
<th>Sealed Road</th>
<th>Gravel Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital (Rehabilitation) Costs</td>
<td>$10,220</td>
<td>$3,000</td>
</tr>
<tr>
<td>Operating Costs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Maintenance</td>
<td>$2,000*</td>
<td>$3,500</td>
</tr>
<tr>
<td>- Depreciation</td>
<td>$8,176</td>
<td>$4,320</td>
</tr>
<tr>
<td>Operating Costs Total</td>
<td>$10,176</td>
<td>$7,820</td>
</tr>
</tbody>
</table>

Note * - Council is currently spending approx. $2,000/km/year on sealed roads maintenance, but the desired rate is $3,000/km/year.

The life cycle cost analysis shows that ownership of a sealed road asset costs more than an unsealed road. For this reason, many NSW rural councils are reluctant to extend their network of bitumen roads.
sealed roads, particularly if they are having difficulty maintaining the roads they already have in their current status.

The considerable upfront construction cost ($450,000 - $600,000) of moving from an unsealed road to a bitumen sealed road is also of relevance. The annualised cost of this based on a 50-year life cycle is on average in excess of $10,000 per year.

**STEP 3 PRIORITY LIST DEVELOPMENT**

The six (6) unsealed road segments were assessed for benefits and costs of upgrading to bitumen standard, using a Roads & Maritime Services Rural Roads Project Assessment Rating Model which takes into account:

- Road usage (traffic volumes)
- School bus routes
- Road condition and geometry
- Road safety (accident records)
- Connectivity to the road network (missing links in sealed road network)
- Number of occupied properties on the route, and
- Benefit realised from capital cost investment

A summary of the results of the assessment is attached.

Based on the results of the assessment, the following table provides a recommended priority list of the six (6) unsealed local road segments which Council could consider for upgrade to bitumen seal standard when/if funds were to be made available:

**Priority List for upgrading unsealed roads to bitumen**

<table>
<thead>
<tr>
<th>Priority</th>
<th>Road Name</th>
<th>From</th>
<th>To</th>
<th>Length (km)</th>
<th>Approx cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pipers Creek Rd</td>
<td>End of seal</td>
<td>Wirrang Drive</td>
<td>3.9</td>
<td>$2,150,000</td>
</tr>
<tr>
<td>2</td>
<td>Spooners Ave</td>
<td>Chain o Ponds Rd</td>
<td>Collombatti Rd</td>
<td>5.3</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>3</td>
<td>Pipers Creek Rd</td>
<td>Wirrang Drive</td>
<td>Ballengara Rd</td>
<td>3.8</td>
<td>$1,900,000</td>
</tr>
<tr>
<td>4</td>
<td>Collombatti Rd</td>
<td>Swan Lane</td>
<td>Hughes Access</td>
<td>3.5</td>
<td>$1,750,000</td>
</tr>
<tr>
<td>5</td>
<td>Smiths Creek Rd</td>
<td>Crowther Dr</td>
<td>Crowther Dr</td>
<td>2.6</td>
<td>$1,235,000</td>
</tr>
<tr>
<td>6</td>
<td>First Lane</td>
<td>Gladstone St</td>
<td>Smith St</td>
<td>1.1</td>
<td>$550,000</td>
</tr>
</tbody>
</table>

**STEP 4 CONSIDERATION OF RELATIVE PRIORITY AND FUNDING OPTIONS**

Sealed Roads Condition Data
The condition of Council’s sealed roads was assessed by a consultant in 2018. This indicated that the sealed road network has 17km rated condition 4 or 5 (poor to end of life) and 128km was condition 3 (average). Roads with a condition rating of 3 would be expected to be progressively moving toward condition 4 or 5 over coming years unless intervention occurs during this period.

Council is currently in a deficit budget position, which indicates that Council does not currently have funds to renew assets at the rate that they are depreciating. As a result, additional lengths of road moving to condition ratings 4 or 5 is anticipated unless there is a change to Council’s financial position.

Factors to Consider

Keeping in mind that sealed roads cost more in asset ownership costs over their lifetime than unsealed roads, and considering Council’s current financial position, it is suggested that the priority for Council capital funds for road rehabilitation and upgrades should continue to focus on the existing status of Council’s road network, before upgrading roads from gravel to bitumen sealed.

Cost impact aside, of relevance in the decision-making process is the benefits that a sealed road provides over a gravel road. These benefits include amenity (dust etc), vehicle damage, travel time, safety, environmental impact and economic impact. Where grants are applied for these factors are typically a consideration in determining the cost benefit ratio.

Grant funding presents an opportunity for upgrading unsealed roads to bitumen standard. Often the grant depends on a significant Council contribution (of the order of 50%). Even if a road is upgraded to a sealed road status using grant funding, Council will face an additional ongoing cost impact as outlined above.

Other opportunities for funding of road upgrades come from development or resident contributions. However, development activity is unlikely to result in the upgrade of the six (6) road segments listed in this report for some time, if ever.

Council currently has Section 94 funds available totalling $663,247 in the Catchment 10 roads area, which could be allocated to road construction provided there is an established nexus between the area related to the collection of the contributions and the roads to be constructed or upgraded.

Councils have in the past upgraded roads to sealed standard with residents contributing a portion of the cost. It is suggested that this method of funding needs to recognise the increased ownership costs after the road is sealed.

STAKEHOLDER ENGAGEMENT

Council receives occasional requests from members in the community for the sealing of certain roads. A Council direction on the matter provides some certainty for response to such requests.

In order to better manage the funding and conditions of the road network, Council staff are working towards formulating affordable levels of service for road maintenance in terms of the frequency of grading, gravel re-sheeting and rehabilitation that can be undertaken within current levels of funding. This will aid not only the maintenance staff in planning works, but also provide the community with certainty about the expected level of maintenance that can occur.

CONCLUSION

Council has six (6) unsealed local road segments, excluding Maria River Road, Point Plomer Road and Armidale Road, with average traffic volumes exceeding 150 vpd.
Assuming that funds are available for both capital works and ongoing operational maintenance, a priority list for upgrading six (6) unsealed roads to bitumen standard has been developed for consideration when and if funds become available.

An analysis of whole-of-life costs shows that asset ownerships costs are higher for Council to own a bitumen sealed road than an unsealed gravel road over the assets lifetime. If Council were to seal unsealed roads this would take funds away from rehabilitation of existing sealed roads and gravel resheeting. As such Council needs to be certain that it can sustain the expenditures necessary to maintain its current network before embarking on a programme to upgrade unsealed roads to bitumen sealed standard.

It is therefore recommended that the priority for Council funds and any funding that becomes available should continue to target the rehabilitation and maintenance of the existing network of roads.

Funds for upgrading of unsealed roads to bitumen may come from grant funds, development or resident contributions. For the reasons outlined above it is suggested that Council should only consider the acceptance of such funding when the amount exceeds 75% of the capital cost of the upgrade. Where available accumulated developer contributions may be utilised to fund Council’s share of the capital cost provided that the requirements of the relevant developer contributions plan are satisfied.
13.7 REVIEW OF UNMAINTAINED COUNCIL ROADS

Officer                    Robert Fish, Director Operations & Planning
File No                    F19/1859
Attachments               1. Photos of Roses Road, Hickeys Creek Road and Stony Creek Lane [13.7.1]

This report considers the impact of the potential to provide maintenance on roads that are currently unmaintained and service at least three residential dwellings.

RECOMMENDATION

1. That Council acknowledge the current unmaintained status of Roses Road (part of), Hickeys Creek Road (part of) and Stony Creek Lane.

2. That Council note that commencing maintenance of these roads is a desirable outcome, however for this to occur road construction work must first occur.

3. That Council authorise the General Manager to write to property owners to determine their appetite to contribute to the required road upgrades, including outlining an option where a repayment scheme would be in place to assist with the upfront financial burden of making the contribution.

4. That Council receive the outcome of the response from property owners via a report to a future meeting of Council.

BACKGROUND

At the November 2017 Ordinary Meeting Council resolved (2017.399 Item 15.4 2017-11-21) the following:

“That Council be provided with a report that lists Council Roads that are currently unmaintained that service at least three residential dwellings. That the report details the following information for each road:

a. Length of road from a road maintained by Council to last residential dwelling.
b. Estimated annual cost to maintain the road.
c. Number of residential dwellings on unmaintained section of road.
d. Number of dwellings approved by Council in the past five years.

to be considered for resourcing as part of the 2018/19 Operating Plan.”

Arising from this resolution the 2018/19 Operating Plan include an action regarding unmaintained roads:

“Define volume of unsealed roads currently unmaintained – kilometres and costs of increasing road maintenance identified and reported to Council by 6 June 2019.”

KEY CONSIDERATIONS
The road network has been reviewed and only three (3) road sections have been identified that meet the criteria specified in the resolution:

<table>
<thead>
<tr>
<th>Road name</th>
<th>No of dwellings *</th>
<th>Length (km)</th>
<th>Initial cost **</th>
<th>Annual cost to maintain***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roses Road</td>
<td>3</td>
<td>1.1</td>
<td>$60,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Hickeys Ck Road</td>
<td>3</td>
<td>2.4</td>
<td>$150,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>Stony Ck Lane</td>
<td>8</td>
<td>3.25</td>
<td>$250,000</td>
<td>$4,000</td>
</tr>
</tbody>
</table>

Notes:  
* The number of dwellings listed above is the number of dwellings on the section of unmaintained road. Each of the three dwellings on Roses Road were approved by Council more than five years ago. Of the three dwellings on Hickeys Creek Road, two were approved by Council more than five years ago, and a development consent for one dwelling could not be located. Of the eight dwellings on Stony Creek Lane, five were approved more than five years ago, two were approved by Council within the last five years and a development consent for one could not be located. Those dwellings for which a development consent could not be located will be further investigated.  
** Initial cost is the estimated cost to upgrade these roads to Council standard including shaping, gravel re-sheeting and drainage work, before they can be maintained by routine grading.  
*** Annual cost to maintain the road is the estimated cost based on grading every two years. Grading annually would be double the costs indicated.

There may be Crown roads in the Shire where a similar situation exists. However, Council is not the road authority for such roads so no further consideration has been given to this scenario.

Road Description and Current Condition

Maintenance of these three roads is currently initiated by residents. On request, Council has provided a contribution of 50% of the costs incurred by residents to undertake maintenance up to approximately $5,000. This arrangement is only very occasionally taken advantage of.

A description of the location and condition of the roads is as follows:

1. ROSES ROAD – Roses Road is approximately 1.7km in length commencing at Collombatti Road. Council only maintains the first 0.6km. The remaining 1.1km is unformed and unmaintained. The 1.1km length will need reshaping and initial gravelling at an estimated cost of $60,000 to bring it up to a standard suitable for future routine grading.
2. HICKEYS CREEK ROAD – Hickey Creek Road has a total length of approximately 13 km but only the first 10.3 km is maintained by Council. The road terminates at the National Park boundary and it is understood that some occasional maintenance work has been undertaken by the National Parks and Wildlife Service on their length. Most of the unmaintained section is in poor condition with inadequate drainage, severe scouring and no gravel. A section of 2.4 km length from the end of current maintenance to the last house will need reshaping, drainage work and initial gravelling at an estimated cost of $150,000 to bring it up to a standard suitable for future routine grading.

3. STONY CREEK LANE – Stony Creek Lane has a full length of 3.25 km connecting to Willi Willi Road and all of it is unmaintained by Council. In the past, some maintenance work has been undertaken by residents and with financial assistance under natural disaster provisions Council undertook restoration works on one occasion. The road is in poor condition with ruts and scouring over most of its length. The road follows a creek line for much of its length and there are several unconstructed creek crossings. The first 1.3 km of the road, which services four dwellings, has some evidence of road construction having occurred. However, the remainder (1.95 km) is only a track, being suitable for 4WDs or vehicles with high ground clearance, and is unconstructed. To construct this 1.95 km to a point of being able to maintain the road requires significant work. It is estimated that initial construction, drainage work and gravelling costing approximately $250,000 would be required to bring the road up to a standard suitable for future routine grading.
Additional images of the three roads are provided in the attachment.

**Future Road Management Options & Analysis**

Council could consider the following options for the management of the three roads identified:

**Option 1 – Maintain the current status of the roads**
The three roads would continue to be unmaintained by Council, therefore requiring residents to initiate maintenance of the roads. Residents would continue to be able to seek reimbursement of 50% of the maintenance costs up to $5,000. Continuing to pursue this management arrangement minimises any cost burden to Council.

However, access for property owners along the roads would continue to be compromised, including access for emergency services. As the roads are public roads, Council may have some legal liability in the event the road is impassable. Should Council continue with the current arrangement, this liability needs to be acknowledged.

**Option 2 – Construct and maintain the roads**
Initial construction work to upgrade the roads to Council’s standard would need to be funded, which per information provided above, is estimated to cost approximately $460,000. Ongoing maintenance would then cost $8,000 per year based on biennial maintenance grading. Future provisions for gravel re-sheeting would be $13,500 per year (based on resheeting every 25 years).

This option would provide a road of commensurate standard to other gravel roads in Council’s road network. The initial cost is considered unaffordable; however, unless Council was to delay a significant portion of the annual gravel resheeting program or utilise a large portion of collected developer contributions for Catchment 10 Roads (which are eligible to be spent on “improvements to local rural roads” and “unsealed gravel roads”).

**Option 3 – Lower construction standard and maintain the roads**
Initial construction work to upgrade the selected lengths of the roads to a lower standard would need to be funded. This would be achieved by undertaking gravel patching and minor drainage improvements on lengths of the roads where minor construction work would enable a road capable
of being maintained to be formed. Council would then take on maintenance of the improved road lengths.

The full length of Roses Road could be upgraded using this strategy. Approximately 1km of Hickey's Creek Road and 1.3km of Stony Creek Lane could be upgraded using this strategy. The cost to make these improvements to the road would be approximately $100,000. The initial cost does not have funding identified at present, unless Council was to delay an equivalent portion of the annual gravel resheeting program over the next one to two years, or, utilise developer contributions per advice provided in option 2.

Ongoing maintenance would then cost approximately $4,500 per year based on biennial maintenance grading. Future provisions for gravel resheeting would be $7,000 per year (based on resheeting every 25 years).

The lengths of Stony Creek Lane and Hickey Creek Road not improved would continue to be the responsibility of the property owners to maintain a serviceable track, unless the property owners were to upgrade these lengths of road to a standard where Council could consider commencing routine maintenance.

If Council were to pursue this option, there may be expectations by property owners for further road improvement on the upgraded lengths as the work outlined is only the minimum to be able to commence routine maintenance. As the initial upgrade work is only limited, it would become difficult to maintain the lengths of the roads to a decent standard simply by routine grading every two years.

Property owners on the lengths not upgraded would also be expected to have concerns with this option.

With options 2 and 3, given the substantial benefit property owners would realise, Council could seek property owners to fund the initial construction cost. Alternatively, a contribution for a portion of the initial construction cost could be sought. The amount each property owner would contribute would be based on the length of road used to the property access (i.e. property owners near the start of the road would contribute less than those near the end of the road). Such an arrangement would provide a good outcome. However, affordability of a contribution may be a concern for some property owners. A loan repayment scheme could be devised to assist with the upfront cost burden.

Following initial construction work, for Council to take on the maintenance of these roads would lead to a minor reduction in levels of service provided across the unsealed road network. It is noted that with future sealing of Point Plomer Road, operational and capital budget savings are anticipated. A portion of these savings could be used to offset the maintenance costs for the three roads.

Policy and Legislation

Item 2 of Council’s Roads Policy adopted 19 September 2017 states “To maintain and upgrade roads and parts of roads within the Shire for which Council is the road authority in accordance with adopted budgets, improvement strategies and programs and the Community Infrastructure Asset Management Strategy/Plan.”

Impact on Financial Sustainability
Commentary is provided above on the impact on Council’s financial position for each of the options presented.

**Stakeholder Engagement**

Council is occasionally contacted by property owners seeking maintenance to be undertaken on the three roads referred to in this report. A response outlining that the roads are not maintained by Council is provided, and the option of a 50% contribution by Council to any maintenance arranged by the property owners is outlined.

Should Council consider seeking contribution to improvement of the three roads per options 2 and 3, residents will need to be approached to gauge their support for providing such a contribution.

**CONCLUSION**

Three roads met the criteria established by Council of being an unmaintained road with three or more dwellings along the road length. The total length of these roads is 6.75km. Dwellings along these roads have legal access, in that they front a public road; however, physical access is compromised significantly given the roads are largely unconstructed and maintenance does not regularly occur.

Options for Council to consider are outlined above. It is desirable that Council commence maintenance of the roads. The current arrangement is not viewed as a desirable long-term management arrangement. For Council to consider taking over maintenance of the roads, construction work is required to substantially improve the road standard. This may either be funded by Council, or by property owners if they agree (or both). An arrangement where property owners contribute is preferred and is recommended by this report. It is noted that for a property owner contribution arrangement to be fair, all property owners must contribute.
13.8 MAYORAL AND COUNCILLOR FEES FOR 2019/2020

Officer Daniel Thoroughgood, Manager – Information Management & Governance
File No F19/2261

PURPOSE

To set mayor and councillor fees for Kempsey Shire Council for 2019/2020 following the determination of the Local Government Remuneration Tribunal.

RECOMMENDATION

That the Kempsey Shire Council Mayor and Councillor fees payable for the 2019/2020 year be the maximum allowed for regional rural categorised councils as determined by the Local Government Remuneration Tribunal, being $44,250 for the Mayor and $20,280 for Councillors

ISSUES

The Local Government Remuneration Tribunal is required to report to the Minister for Local Government by 1 May each year as to its determination of categories and the maximum and minimum amounts of fees to be paid to mayors, councillors, and chairpersons and members of county councils.

BACKGROUND

The Local Government Remuneration Tribunal (the Tribunal) each year sets the range of fees for all councillors and mayors in NSW.

The Tribunal’s report Appendix 1 provides an update on local government reform, review of categories – including criteria for categories and allocation of council into categories and fees.

The report concludes that Kempsey Shire Council is listed as a regional rural council. The levels of fees for this category for 2019/2020 are:

<table>
<thead>
<tr>
<th>Mayor</th>
<th>Councillor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum</td>
<td>Maximum</td>
</tr>
<tr>
<td>$19,580</td>
<td>$44,250</td>
</tr>
<tr>
<td>Minimum</td>
<td>Maximum</td>
</tr>
<tr>
<td>$9,190</td>
<td>$20,280</td>
</tr>
</tbody>
</table>

The current 2018/2019 rates are:

<table>
<thead>
<tr>
<th>Mayor</th>
<th>Councillor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum</td>
<td>Maximum</td>
</tr>
<tr>
<td>$19,100</td>
<td>$43,170</td>
</tr>
<tr>
<td>Minimum</td>
<td>Maximum</td>
</tr>
<tr>
<td>$8,970</td>
<td>$19,790</td>
</tr>
</tbody>
</table>

It has been this Council’s past practice to adopt the maximum fee determined by the Tribunal.

The total mayoral and councillor fees payable if the maximum limit is adopted is $287,610 and this has been fully budgeted for in the 2019/2020 draft budget.
13.9 STATEMENT OF CASH AND INVESTMENTS

Officer  Wayne Douglass, Chief Financial Officer
File No   N/A
Attachments  1. April 2019 [13.9.1]
             2. Investment Performance Chart April 2019 [13.9.2]

PURPOSE

In accordance with the Local Government (General) Regulation 2005 (the Regulation), a report on investments is to be provided monthly to Council.

RECOMMENDATION

That the report be noted.

ISSUES

Council’s investments are in accordance with the Local Government Act (1993) and Council’s investment policy.

BACKGROUND

Clause 212 of the regulation states:
Local Government (General) Regulation 2005
Part 9 Division 5 Clause 212
212 Reports on council investments
   (1) The responsible accounting officer of a council:
       (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
           (i) if only one ordinary meeting of the council is held in a month, at that meeting, or
           (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
       (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council’s investment policies.
   (2) The report must be made up to the last day of the month immediately preceding the meeting.
       Note.
       Section 625 of the Act specifies the way in which a council may invest its surplus funds.

KEY CONSIDERATIONS

Impact on Financial Sustainability

Council’s investments are in accordance with the Local Government Act (1993) and Council’s investment policy.

Due to current system limitations the investment income budget is spread evenly across the financial year. Normally, cash holdings would reduce throughout the year as works are completed.
and hence the investment income should be higher at the beginning of the year and taper off towards the end. As a result, the year to date actual investment income is higher than the evenly spread budget.

Furthermore, the trend of higher levels of cash holdings resulting from lower capital expenditure year to date has continued, hence a further increase to the investment income budget of $200k is proposed in the March Quarterly Budget Review (QBR). This will revise the full year budget to $1.15M (the year to date investment income is $1M with two months of the year to go).

**CONCLUSION**

Council is holding higher levels of cash investments driven by lower Capital expenditure than originally budgeted. As a result, Council is earning more investment income. An increase to the budget of $200k is proposed in the March QBR.
13.10 ROSES BRIDGE, NULLA NULLA CREEK ROAD

Officer      Dale Smith, Manager Infrastructure Delivery
File No      F19/1757
Attachments  Nil

PURPOSE
To advise Council of the successful application for grant funding for the replacement of a timber bridge with a concrete structure at Roses Bridge, Nulla Nulla Creek Road, under the Australian Government Bridges Renewal Program – Round Four.

RECOMMENDATION
That Council accepts the offer of grant funding of $332,500 for the construction of Roses Bridge, Nulla Nulla Creek Road, under the Australian Government Bridges Renewal Program – Round Four.

BACKGROUND
Funding under the Australian Government Bridges Renewal Program – Round Four was applied for in March 2019 to construct a concrete bridge as a replacement for the existing timber bridge known as Roses Bridge on Nulla Nulla Creek Road. The funding is for 50% of the total project cost with the remaining 50% to be funded by Council.

To accept the funding, Council is required to enter into a funding deed with the Australian Government which outlines the requirements for Council to deliver the project. A funding agreement has been received and it is recommended that Council accept the funding through execution of the deed by the General Manager.

KEY CONSIDERATIONS
Under the funding agreement the project is required to commence prior to 30 June 2020 and be completed by 30 June 2022. To achieve the project timelines and meet Council’s 50% financial contribution it will be necessary to review and make minor adjustment to the bridge/road program identified in the 10 Year Works Program for the 2019/20 and 2020/21 financial years.

To enable commencement in 2019/20 a small financial allocation will be necessary to facilitate meeting this requirement. $500,000 is currently identified for this bridge in the 10 Year Works Program for 2020/21, which will be able to be reduced by approximately $167,500 in light of the receipt of this grant funding.

CONCLUSION
The offer of funding will assist Council in expediting improvement of the condition of bridge assets within the Shire. It is recommended that Council accept the funding offered for Roses Bridge, Nulla Nulla Creek Road, under the Australian Government Bridges Renewal Program – Round Four.
14 RESCISSION MOTIONS

Nil
15 NOTICES OF MOTION

15.1 REVIEW OF DOG OFF-LEASH AREAS
Officer          Bruce Morris, Councillor
File No          F19/1954
Attachments      1. Dog Friendly Provisions MVCHP [15.1.1]
                2. Offleash dog areas [15.1.2]

PURPOSE

A recent incident at Crescent Head beach has prompted a request from a community member to review Council’s current beach access for dogs, particularly during the busier school holiday periods. The attachment which is on Council website has many such restrictions although it would appear, that they are not being adequately communicated or enforced. I intend to move the following motion at the ordinary meeting of Council to be held Tuesday, 21 May 2019.

RECOMMENDATION

1. That Council review the beach access provisions for dogs at Council Beaches.
2. That Council engages with the community in relation to these restrictions.
3. That Council increases the enforcement action in relation to these restrictions during the school holiday periods.
4. That Council engages with the management contractor for the Macleay Valley Coast Holiday Parks to ensure enforcement of their Dog Friendly provisions and seek clarification on how they are implementing this policy. Council review and clarify with the contractor when dogs are permitted at the caravan park.

BACKGROUND

A local resident of Crescent Head was clawed by a dog whilst swimming at Crescent Head on 20 April 2019. It has been stated that the dog owner was a camper at the Crescent Head Holiday Park. Such incidents are unacceptable, Council needs to ensure that any Dog Friendly provisions and Dog access to beaches has the best balance between Safety for all community members acknowledging that many people consider that their pet pooch is a part of the family.

General Managers Comment
The behaviour of some dog owners has resulted in a number of incidents at local beaches over the recent past. Multiple targeted patrols were undertaken by Kempsey Shire Council Rangers over the 2019 Easter period to assess for compliance regarding dogs off leash and dogs on beaches. 3x penalty infringement notices were issued for non-compliance matters relating to dogs at Crescent Head during this period.

A review of all coastal signage, including dog signage has been discussed at length by leadership & management and is scheduled for mid-late 2019. Due to limited resources, the review has not commenced as at 15 May 2019. A high visibility education program including media releases and community consultation will occur as the review progresses and modifications are made.

It would appear as though the Macleay Valley Coast Holiday Park has not enforced their policy regarding dogs during high/premium periods at the Park and consultation with their managers will be necessary to reduce likelihood of similar occurrences.

Supporting this Notice of Motion will assist in raising the community awareness of the importance of dog owners to be responsible for their pets when in public places and also of the action Council is currently and planning to undertake.
15.2 CLIMATE EMERGENCY

Councillor Leo Hauville
File No F19/2376
Attachments 1. SMH articles - NO M 2 [15.2.1]
2. Bain Transcript - Climate Emergency Declaration - NO M 2 [15.2.2]

PURPOSE

I intend to move the following motion to declare a Climate Emergency at the ordinary meeting to be held Tuesday, 21st May, 2019.

RECOMMENDATION

That

1. Kempsey Shire Council declares that “we are in a state of climate emergency that requires urgent action by all levels of government, including by local councils” and that council:

   a. Notes the latest report of the Intergovernmental Panel on Climate Change (IPCC) “Global Warming of 1.5 degrees Celsius”;

   b. Notes the Federal Government’s latest emissions data showing we are increasing, not reducing our carbon emissions;

   c. Acknowledges that Kempsey Shire is, and is likely to be further affected by climate impacts, particularly sea level rise, bushfires, severe storms, drought and floods,

   d. Recognises we are in a state of emergency that requires urgent action by all levels of government, that human induced climate change represents one of the greatest threats to humanity, civilisation, and other species, and that it is still possible to prevent the most catastrophic outcomes if, and only if, societies take emergency action now.

   e. Work with other local Councils in a Climate Emergency workshop by the end of 2019 to examine how our community strategic plan, works program and planning documents can address the Climate emergency, and results in an outline of options available to council to operationalise this emergency declaration.

2. Calls upon the State and Federal Governments to:

   a. Declare a climate emergency, and

   b. To back this up with legislated programs to drive emergency action to reduce greenhouse gas emissions and meet the lower of the Paris Agreements at 1.5%

3. Writes to the Member for Cowper, Member for Oxley, the Parliamentary Secretary for Northern NSW, the NSW Environment Minister and the Federal Environment Minister, advising them of Council’s resolution and urges them to acknowledge a climate emergency and to act with urgency to address the crisis.

4. Council will, following the lead of Bellingen Shire Council, encourage neighbouring Local Government Areas to join Kempsey Shire Council in declaring a climate emergency and
developing their own Climate Emergency Plans and advocating to State and Federal Governments as per point (2).

BACKGROUND

Declaration of Climate emergency (a Declaration NOT a Climate Change Policy OR a workshop)

The term climate emergency recognises that the Earth has reached key climate tipping points and that incremental action, i.e. gradual reduction of emissions over several decades, is no longer a reasonable course of action if we want a future for ourselves and our children.

For a viable future the world needs to go to net negative emissions as soon as possible. This will require:

- zero emissions across all sectors as soon as possible
- drawing down excess greenhouse gases on an ‘industrial’ scale using various strategies
- whatever else it takes to create cooling fast.

This advocacy must be backed up by meaningful emergency action locally. This motion proposes to address this issue productively, responsibly, and transparently by holding a Climate Emergency workshop by the end of 2019 to examine how our community strategic plan, works program and planning documents can address the Climate emergency, and results in an outline of options available to council to operationalise this emergency declaration.
**Graphs from the Australian Bureau of Meteorology**

1. First graph shows the average temperatures increasing from the mid 1980s.
2. The second graph is the world temperatures increasing from the late 1970s.

**IPCC Report alarming**

The report answers the following questions:

What are the impacts on the world if the temperatures rise above 1.5°C?

Why is it necessary and even vital to maintain the global temperature increase below 1.5°C versus higher levels?

Can emissions be brought to zero by 2050 and still stay within the small remaining carbon budget for limiting global warming to 1.5°C?

IPCC report [https://www.ipcc.ch/sr15/](https://www.ipcc.ch/sr15/)

**CNN News Broadcast “UK Parliament declares 'climate emergency’” – a MUST WATCH!**


**World’s carbon emissions hit record high - and Australia is part of the problem**

Report on SBS 6th December 2018

“China and India were the worst polluters when it came to coal due to a growing middle class and the accompanying surge in demand for energy consumption. The United States is
trending down on its coal emissions based on the large-scale closure of coal-fired power plants.

A group of 19 countries - led by the US and the United Kingdom - were considered star performers in reducing their country emissions over the last decade to 2017.

The group accounts for 20 per cent of global emissions and includes: Aruba, Barbados, Czech Republic, Denmark, France, Greenland, Iceland, Ireland, Malta, the Netherlands, Romania, Slovakia, Slovenia, Sweden, Switzerland, Trinidad and Tobago, and Uzbekistan as well as the US and UK.

A UN report released last month came to the same conclusion, finding that Australia is unlikely to meet its Paris target based on its current trend – joining other countries such as Saudi Arabia, Argentina and the Republic of Korea.”


**United Kingdom uses no coal power for a week**

“For the first time since 1882, when the first coal-fired power plant started running in the UK, the country has gone coal-free for a full week, according to the National Grid’s Electricity System Operator (ESO). Britain is now on course to generate electricity with zero carbon by 2025, the operator said.

The milestone was reached as the country’s Environment Agency issued a stark warning about coastal communities under rising threat of floods due to climate change.”

https://fox59.com/2019/05/12/uk-goes-week-without-coal-power-for-first-time-in-137-years/

**Trends in our environment**

As Arthur Bain outlined in his Public Forum address to Council at the April meeting there are significant trends. “The Reserve Bank Deputy Governor Guy Debelle clarifies this issue: “We need to think in terms of trend rather than cycles in the weather. Droughts have generally been regarded (at least economically) as cyclical events that recur every so often. In contrast, climate change is a trend change. The impact of a trend is ongoing, whereas a cycle is temporary.”” (See Attachment for complete transcript)
Blue Mountains Council declares a Climate Emergency March 1st 2019

“The Blue Mountains is the third council in NSW to declare a climate emergency, behind Byron Bay and the Upper Hunter.

At Tuesday night’s council meeting the declaration put forward by Greens councillor Brent Hoare was passed...

The declaration recognises the planet is in a state of climate emergency that requires urgent action by all levels of government, including local councils.

“Declaring a climate emergency is borne of a recognition that Australia is doing nowhere near enough, fast enough,” Cr Hoare said.

“As the level of government closest to the people we need to show the leadership that has been lacking at the NSW state and federal levels."

He said Australia must act now.

“We will never solve the climate problem by driving down emissions without the support of all levels of government, but there is much that we can do at the local level. Declaring a climate emergency is the strongest statement we can make that climate action being taken at state and federal levels is completely inadequate,” Cr Hoare said.”
Leadership Provided by United Kingdom

“Populations covered by local governments that have declared a climate emergency: 52 million citizens in nine countries, with 26 million of these living in the United Kingdom.

At national level, the Welsh Government, the First Minister of Scotland, and the Irish government have made climate emergency declarations, and on 1 May 2019, the UK Labour Party got unanimous support for a non-binding motion in favour of a climate emergency declaration in the House of Commons, making Britain the first country in the world where a bipartisan parliament has declared a climate emergency.” 9th May 2019


64% of Australian people say there is a Climate Emergency

“Australians rate climate change as the top threat to the country’s "vital interests", the first time it has topped the list of concerns, according to Lowy Institute polls going back to 2006.

The polling, of 2130 adult respondents between March 12 and 25 by the Social Research Centre, found 64 per cent agreeing climate change was "a critical threat", up six percentage points from a year earlier.”


Drought risks increasing

“Humans have contributed to increased global risks of drought for more than a century, scientists say, in findings that also point to “severe” consequences ahead with climate change.

The research by US scientists, published in Nature journal today, comes as Bureau of Meteorology data showed the first four months of 2019 were the hottest on record for Australia as drought tightened its grip on the country’s south-east.” (Attachment SMH Articles)
16 DELEGATES REPORTS

Nil
17 COMMITTEE REPORTS

Nil
18 DELIVERY PROGRAM PERFORMANCE INDICATORS

Nil
19 COUNCILLOR QUESTIONS

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<td><strong>QFNM1</strong></td>
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<td>There is concern about the 6 tonne limit on the railway bridge at Spooners Avenue; is that being looked at? The concern was that cattle trucks and such might be overloaded during emergencies. Is that railway bridge sufficient for flood events??</td>
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<td><strong>RESPONSE:</strong></td>
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<td>Kempsey Shire Council is not responsible for the maintenance of this bridge asset, as it is the responsibility of the Australian Rail Track Corporation (ARTC). ARTC have imposed the vehicular load limit for this bridge and it is a matter for ARTC to amend the load limit. It is acknowledged that the load limit may be an issue during times of emergencies or during flood events, therefore KSC will communicate these concerns to ARTC requesting that consideration be given to increasing the vehicle load limit.</td>
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<td><strong>QFNM1</strong></td>
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<td>Where is Spooners Avenue on the road sealing program?</td>
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<td><strong>RESPONSE:</strong></td>
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<td>Refer to item in the May Council Business Paper.</td>
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<td>With reference to the answers to Questions on Notice (QFNM3 and QON6) in the April Agenda and the fact that no reports of any type have been presented by the Australian International Aviation College (AIAC) to Council, which is non-compliant with Sections 26 and 29 of the Agreement signed by Council and AIAC on 16th July 2018, were AIAC informed that they did not have to comply with these sections of the agreement, and if so, when?</td>
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<td><strong>RESPONSE:</strong></td>
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<td>Council did not specifically advise AIAC that they did not have to comply with Section 26 and 29 of the Agreement. Council did not see the need to enforce Sections 26 and 29 of the agreement given that Council has an objective third party system (Avdata) in place that applies equitably to all users of the airport for the monitoring, recording and billing of aircraft movements at Kempsey Airport.</td>
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<td><strong>QON2 19 February 2019</strong></td>
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<td>When will the Shire Community be informed of the cost over-runs and issues relating to the Airport fuelling facility?</td>
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<td><strong>RESPONSE:</strong></td>
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<td>The automated aviation fuel facility at the Kempsey Airport has a project cost of $591,525. The original concept project budget was $343,000 which was later revised to $479,359 in April 2017 after full detailed scoping of works and tender submissions were received. This equates to a project overrun of $112,166. A number of issues led to the project cost overruns. These were outlined to Councillors in a Confidential council report on 20 November 2018. The report was submitted on a confidential basis</td>
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as it involved commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (Local Government Act 1993, section 10A(2)(d)(i)).

Importantly, given the issues experienced with this project, Council has undertaken a full internal audit of how the project was planned and executed which has resulted in both organisational and project improvement practices being implemented in a number of key areas. The internal audit report was tabled at the January 2019 Audit & Risk Committee meeting and the findings, recommendations and agreed management actions endorsed by the Audit & Risk Committee.
20 CONFIDENTIAL ITEMS

MOTION FOR CONFIDENTIAL SESSION

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the Local Government Act 1993 in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:
(a) personnel matters concerning particular individuals (other than councillors)
(b) the personal hardship of any resident or ratepayer
(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
(d) commercial information of a confidential nature that would, if disclosed;
   (i) prejudice the commercial position of the person who supplied it,
   or
   (ii) confer a commercial advantage on a competitor of the Council,
   or
   (iii) reveal a trade secret
(e) information that would, if disclosed, prejudice the maintenance of law
(f) matters affecting the security of the Council, councillors, council staff or Council property
(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

Councillors are reminded of their statutory obligations in relation to the non-disclosure to any outside person of matters included in this section.

That Council form itself into the Confidential Session, and at this stage, the meeting be closed to the public to permit discussion of the confidential business items listed for the reasons as stated in the Agenda.
20.1 LEGAL MATTERS

Officer Daniel Thoroughgood, Manager Governance & Information Services
File No F18/1960

Section 10A(2)(g) – Legal Proceedings

This report is submitted on a confidential basis as it involves advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (Local Government Act 1993, section 10A(2)(g))

On balance, the public interest in preserving the confidentiality of the advice, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

20.2 AUDIT AND RISK COMMITTEE MEETING MINUTES - 17 APRIL 2019

Officer Matthew Bentley, Internal Auditor
File No F19/2510

Section 10A(2)(e) – Maintenance of Law

This report is submitted on a confidential basis as it involves information that would, if disclosed, prejudice the maintenance of law. (Local Government Act 1993, section 10A(2)(e))

On balance, the public interest in preserving the confidentiality of the information which relates to matters of law, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

20.3 TENDER FOR THE PROVISION OF LINEMARKING SERVICES

Officer Dale Smith, Manager Infrastructure Delivery
File No F19/1957

Section 10A(2)(g) – Legal Proceedings

This report is submitted on a confidential basis as it involves advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (Local Government Act 1993, section 10A(2)(g))

On balance, the public interest in preserving the confidentiality of the advice, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

20.4 TENDER FOR THE PROVISION OF INSURANCE BROKERAGE AND RISK MANAGEMENT SERVICES

Officer Daniel Thoroughgood, Manager Governance & Information Services
File No TQE19/9
Section 10A(2)(d)(i) – Commercial Position
This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (Local Government Act 1993, section 10A(2)(d)(i))
On balance, the public interest in preserving the confidentiality of the commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

21 CONCLUSION