



Notice of Ordinary Meeting

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 23 October 2014 commencing at 9.00 am.**

Business

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Development and Environmental Health Group Reports
9. Strategic and Community Facilities Group Reports
10. General Manager's Group Reports
11. Civil Services Group Reports
12. Public Question Time
13. Notices of Motion
14. Advisory Committee Minutes
15. Reports from Councillors on Attendance on Council's behalf
16. Questions Without Notice
17. Confidential Session

Paul Hickey
General Manager

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

Deputations to Council – Guidelines

Deputations by members of the public may be made at Council meetings on matters included in the business paper. Deputations are limited to one speaker in the affirmative and one speaker in opposition. Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting. Deputations are given five minutes to address Council.

Any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.

The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.

Public Question Time – Guidelines

A public question time has been set aside during the Ordinary Meetings of the Council. Public Question Time is held at 12.45 pm but may be held earlier if the meeting does not extend to 12.45 pm.

The period for the public question time is set at a maximum of 15 minutes.

Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.

Questions may be on any topic, not restricted to matters on the agenda for the subject meeting.

The Chairperson will manage the questions from the gallery to give each person with a question, a "turn". People with multiple questions will be able to ask just one before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, the multiple questions can then be invited and considered.

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

Questions may be asked from the position in the public gallery.

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1. Australian National Anthem

The National Anthem will be performed by St Joseph's School, Alstonville.

2. Acknowledgement of Country

In opening the meeting the Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

I would like to respectfully acknowledge past and present Bundjalung peoples who are the traditional custodians of the land on which this meeting takes place.

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 September 2014 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 September 2014.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7.1 Mayoral Minute - Celebrating 150 Years of Alstonville

7. Mayoral Minutes

7.1 Mayoral Minute - Celebrating 150 Years of Alstonville

Councillor David Wright

Council has been approached by the Combined Lions and Apex Clubs of Alstonville and the Historical Society of Alstonville who are planning the celebrations for the 150th Anniversary of Alstonville, seeking sponsorship of events to the value of \$4,000 (incl GST)

Major celebrations will be held on 11, 12 and 13 September 2015, with other events running from 29 August to 13 September 2015.

A copy of the request is attached.

Councillor Recommendation

That Council confirms a commitment of \$4,000 (incl GST) to assist with the staging of the 150th Anniversary of Alstonville celebrations in 2015.

Staff Comment

If Council approved this the funding would be quarantined from within Council's 2015/16 Community Donations Program.

RECOMMENDATION

That Council confirms a commitment of \$4,000 (incl GST) to assist with the staging of the 150th Anniversary of Alstonville celebrations in 2015.

Attachment(s)

1. Request for Sponsorship

8.1 DA 2014/333 - Crawford Park Pre-School

8. Development and Environmental Health Group Reports

8.1 DA 2014/333 - Crawford Park Pre-School

Applicant	Alstonville Community Preschool
Property	Lot 161 DP247578 Crawford Park, Alstonville
Proposal	To undertake the erection of a community facility for use as a Preschool and associated works including access road and car parking
Effect of Planning Instrument	The land is zoned RE1 – Public Recreation under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

DA 2014/333 was lodged 9 July 2014 for the erection of a Community Facility for use as a preschool upon a recently subdivided leasehold Lot (DA2014/227) which is 2,132m² in area within Crawford Park, Alstonville.

The application is being reported to Council for determination. The key issues arising from the assessment and public exhibition of the application are:

- Parking
- Traffic
- Stormwater and flooding
- Loss of open space

Proposal

The application seeks consent for the erection of a Community Facility comprising a single storey building of approximately 6.3m in height and a floor area of approximately 339.9m².

The Alstonville Community Preschool Incorporated proposes to utilise the building as a preschool from Monday to Friday between the hours of 8am and 4pm during school term times (approximately 200 days a year).

The preschool usage is proposed to accommodate a maximum of 40 children per day. The existing preschool operation provides the option for families to have their child/children attend 1, 2 or 3 days a week. Past attendance records have indicated that a maximum of 80 children per week have been attending.

The proposed preschool will have a maximum of eight staff members at any one time.

8.1 DA 2014/333 - Crawford Park Pre-School

Access is proposed to be obtained via Freeborn Place with the existing access road to be upgraded and sealed leading to 10 (including one disabled) formalised car parking spaces.

Ancillary to the proposed preschool is the erection of a 1.8m high perimeter fence and the erection of two signs. One sign is proposed to be affixed to the entry gate (2.35m x 0.9m) and one free standing pylon sign located on the eastern side of Freeborn Place (1.5m high with a display area of 1.2m x 0.9m).

Subject Site

The subject site is commonly known as 'Crawford Park' and is located approximately 300m to the south east of the Alstonville Shopping Centre and directly south of the Alstonville Pool and adjoining the squash courts.

The section of the park that is subject to this application is relatively flat and void of any significant vegetation. It has been informally used as overflow car parking for people accessing the sports fields on the eastern portion of the park.

Background

On 23 August 2012, Council gave public notice that it had prepared a draft amendment to the Ballina Shire Principal Generic Plan of Management for Community Land. The amendment comprised re-categorisation of approximately 4000m² of land on the northern edge of Crawford Park from "park and sportsground" to "General Community Use". The aim of this amendment was to enable the establishment and leasing of the Alstonville Community Preschool on the subject site.

The Generic Plan of Management was amended and adopted by Council on 20 December 2012 to include formalised car parking and a preschool as future permitted uses.

Land Number	40013 – CRAWFORD PARK
Property Address	Alston Avenue, Alstonville
Property Description	Part Lot 161 DP 247578
Categorisation	General Community Use (See map in Section 7)
Improvements	Vacant land
History	N/A
Condition:	Reasonable
Land/Buildings/Improvements	
Current Existing Uses:	Informal car parking area for sporting events,
Land/Buildings/Improvements	drainage infrastructure
Current Permitted Uses	As per current existing uses
Future Permitted Uses	Use of identified area for future community activities . Construction of formalised car parking area for preschool and general public use.
Scale/Intensity	
Future Permitted Uses	Community preschool to occupy approximately 2132m ² adjacent to swimming pool and squash courts properties.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition from 17 July to 31 July 2014. A total of 39 submissions were received, all of which were in objection to the proposed development. A copy of each submission is included in Attachment 3.

The following issues of concern were raised within the submissions.

1. Parking and traffic - no parking assessment, inadequate number of parking spaces, disruption to existing sports facility, impacts on pool and soccer parking, major safety issues with an increase in traffic and pedestrian conflict

Comment: This issue has been addressed in the Ballina Development Control Plan 2012 section of this report.

2. Potential increase in flooding for surrounding properties and the application proposes to construct a structure in the floodway

Comment: This issue has been addressed in the Ballina Development Control Plan 2012 section of this report.

3. Loss of green space area for passive recreation

Comment: It is acknowledged that the proposal will result in the loss of some green space, however the proposal is consistent with the Generic Plan of Management for Community Land. Additionally, there is considered to be an adequate supply of open space in the surrounding locality for the use of passive recreation.

4. Decrease in property values for nearby residents

Comment: There is no evidence to suggest that property values will be adversely impacted on as a result of the proposal.

5. Pre-school or day care centre? A day care centre will impact even further on local residents due to the extended hours.

Comment: The application is for use of a community building as a preschool, with proposed hours of 8am to 4pm during school terms.

6. Due process, has every household fronting the open space been notified? Is a two week period adequate time to prepare a response?

Comment: The application has been notified in accordance with Ballina Development Control Plan 2012.

7. Why does the pre-school not buy the Amaze'n'Place site? This would be a cheaper option

Comment: This would be a commercial decision for the Preschool and is not a consideration in the assessment of this development application.

8. Possible impact on surrounding rain forest trees

Comment: The application does not seek to remove any trees as a result of the proposed construction works.

9. Will the access road be clearly defined?

Comment: It is proposed that the access road be clearly defined and sealed.

10. Proposal is inappropriate use of parkland

Comment: The proposal is consistent with the Generic Plan of Management for Community Land.

11. Council's 2012 re-categorisation of the site was effectively a spot rezoning and Council's subdivision earlier this year was to define that rezone. Council has acted as the proponent for this matter from the beginning, using the so called proponent for this DA as the proxy for its own reasons. For this reason those Councillors driving the matter forward would appear to be in conflict in seeming to deal with this development application in the manner prescribed.

Comment: The above statement/accusations are not a consideration for the assessment of the subject development application. The application, being a proposed community building for use as a preschool and associated infrastructure, has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979.

12. Council could refer the proposal to the joint regional planning panel (JRPP) for determination

Comment: The proposal falls within the delegations of Council. Council could write to the JRPP and seek their approval to consider the matter, however as this is a matter typically determined by Council it is likely that the JRPP approval would not be forthcoming.

13. The original sales brochure (1970's), which purchasers should have been able to rely on when making their purchase decision, does not refer to the preschool.

Comment: As densities and populations increase, there becomes more demand for community facilities and open space and Council has to regularly balance this demand. Amendment No.7 to the Generic Plan of Management for Community Land was placed on public exhibition from 23 August to 8 October 2012. In response to the public exhibition, Council received fifty-one written submissions including a petition containing twenty three names.

The Local Government Act 1993 (LG Act) requires a public hearing to be held as part of the community consultation process for the draft amendment to the Generic Plan of Management for Community Land and the outcomes from that process also form part of this report. The LG Act also requires that an independent presiding officer be appointed to conduct the hearing and submit a report to Council regarding the hearing. Ms Clarissa Huegill of Clarissa Huegill & Associates was appointed as the presiding officer for the hearing, in

accordance with the provisions of the LG Act and with Council's adopted procedure for Community Consultation – Public Hearings.

This outcome of the public hearing was considered at the Ordinary Council Meeting of 20 December 2012 where it was voted to adopt the proposed amendment.

14. Noise impacts on surrounding residents

Comment: A Noise Impact Assessment has been undertaken by Tim Fitzroy & Associates (Dated 30 June 2014) and was submitted with the development application.

The report assesses both the potential impacts from the proposed preschool on the surrounding premises and the potential for the existing land uses to impact on the pre-school. The NSW Industrial Noise Policy has been used to undertake an assessment of the existing noise environment to assess a rating background level and determine and project specific noise criteria.

The assessment concludes that the preschool can operate without adversely impacting on the surrounding properties (including nearby residential properties). However, it is identified that the noise generated by the Alstonville Swim Centre may impact on the normal operation of the preschool particularly during high noise events such as swimming carnivals. If this is not addressed, the result may be an impact on the normal operations of the swimming pool through complaints made by the preschool and regulation may be necessary to restrict their existing use and operation. To address these concerns, the acoustic consultant has proposed the windows facing the Alstonville Swim centre be 6.38mm thick and provided with acoustic seals. This will ensure the classroom can achieve the require noise levels for children's learning.

Conditions of consent are recommended to require certification of the required/proposed acoustic treatment.

15. It is understood that the amount of open space held by Council has dropped by 20% over the past 10 years?

Comment: At the end of 2004 Council had 701.9 hectares of public open space, since then an additional 100.1 hectares has been added. This results in a 14% increase in the amount of public open space that Council owns and manages.

16. Does Council realise that the proposed childcare centre is to be within 300m of the Telstra Tower? What about the health impacts on the children

Comment: There is no evidence to suggest that the Telstra Tower will create any health impacts on surrounding properties.

17. Can a speed hump be provided adjacent to the egress driveway to slow drivers down?

Comment: The provision of a speed hump may assist with the reduction of vehicle speed, however, there are inherent issues of increased noise for the adjacent residents.

18. Disruption to sports facility in regards to compromising the expansion of the pool.

Comment: The area that is proposed to be occupied by the preschool is unlikely to impact on any future expansion of the pool.

19. Impacts on the use of the sports ground during construction works.

Comment: If approved, the site will be fenced in accordance with State Legislation, construction times will be in accordance with conditions of consent. As with any construction works, there will always be a level of impact on nearby uses and/or properties, however these will be temporary.

The submissions were also referred to the applicant for comment. The response from the applicant to the submissions has been included as Attachment 4 to this report.

Report

The proposed development has been assessed under the heads of consideration in Section 79 (C) of the Environmental Planning and Assessment Act 1979. The following matters are of particular relevance in Council's determination of the Application.

Applicable Planning Instruments

State Environmental Planning Policy No. 55 – Remediation of Land

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

Council's Public and Environmental Health Section have provided the following comments in relation to SEPP 55 and the proposed development.

"The consultant undertook a stage 1 investigation in line with the requirements of the Managing Land Contamination Planning Guidelines (DUAP and EPA, 1998). A site history was researched and soil sampling undertaken. The results of the soil analysis were compared with Column A of the Table 5 'Health-based Soil Investigation Levels (Commonwealth of Australia 2001) for "Residential with gardens and accessible soil (home grown produce contributing less than 10% fruit and vegetable intake: no poultry) including children's daycare centres, pre-schools and primary schools, or town houses or villas".

Eight surface (0-75mm) soil samples were collected and the 8 soils samples were composited into 2 samples for analysis. This number of samples is adequate for the property size assessed (i.e. 2132 m²) and complies with the requirements of 'Contaminated Sites: Sampling Design Guidelines' (NSW EPA 1995).

The soil samples were analysed for the following contaminants of concern; residual metals and chemical and organo-chlorines. The results demonstrated that none of the targeted pollutants exceeded the Human Based Investigation Levels (HBIL) in the collected soil samples. Chromium and manganese were recorded at levels higher than the relevant HILs however these are naturally occurring in our area and the levels detected are within background limits.

Therefore the report correctly concludes that based on these finding the site is considered suitable for the proposed use without further investigation of contamination.”

Ballina Local Environmental Plan 2012

Under the provisions of the Ballina Local Environmental Plan (BLEP) 2012, the proposed development is defined as:

“community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and*
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,*

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.”

The subject land is zoned RE1 Public Recreation. Community Facilities are permitted with development consent in the RE1 zone.

The objectives of the RE1 zone are:

- To enable land to be used for public open space or recreational purposes.*
- To provide a range of recreational settings and activities and compatible land uses.*
- To protect and enhance the natural environment for recreational purposes.*
- To provide for a diversity of development that meets the social and cultural needs of the community.*
- To provide for public access to open space and natural recreation areas.*
- To protect and conserve landscapes in environmentally sensitive areas, particularly in foreshore and visually prominent locations.*
- To provide for development that is consistent with any applicable plan of management.*
- To encourage development that achieves the efficient use of resources such as energy and water*

The proposed development is considered to have had adequate regard for, and is generally consistent with, the objectives of the zone.

Clause 4.3 (Height of Buildings)

Clause 4.3 – Height of Buildings states:

(1) The objectives of this clause are as follows:

- (a) to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,*

- (b) to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,*
- (c) to protect significant views from public places.*

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Height of Buildings Map in relation to the subject property provides for a maximum height of 8.5m. The application proposes a maximum building height of 6.3m.

Clause 7.7 (Essential Services)

Clause 7.7(2) – Essential Services states:

(2) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access,*
- (f) telecommunication services*

All essential services stated above are available for the proposed development.

Ballina Shire Development Control Plan 2012

Chapter 2 – General and Environmental Considerations

Clause 3.4 – Potentially Contaminated Land

As stated in the SEPP 55 section of this report:

“The report correctly concludes that based on these findings the site is considered suitable for the proposed use without further investigation of contamination.”

Clause 3.9 – Stormwater Management

As part of the application, the applicant has submitted a report to address stormwater management (Stormwater Investigation Report prepared by Peter Lucena and Associates, dated 30 June 2014).

This report has been reviewed by Council’s Civil Services Group. The following assessment has been received in relation to the provisions of clause 3.9 and the concerns raised in the submissions to the proposal:

“The proposed development is located on the edge of an existing stormwater overland flow path. The flow path picks up drainage from approximately 25ha of urban land to the west of the proposed development.”

Three stormwater pipes converge upstream of the proposed lot and traverse Crawford park, past the proposed development to the east.

There is an existing earth mound that is located on the northern side of the main stormwater channel. Its purpose is unclear but may have been intended as a berm that gives small scale protection to an informal car parking area servicing the sports field or may be spoil removed from the main channel. DRAINS and HECRAS modelling have been performed to ascertain the predicted flood levels for the 10 and 100 year ARI events.

Three scenarios have been modelled.

- *The existing situation*
- *Removing the earthen mound*
- *Removing the earthen mound and constructing the toe of the preschool wall slightly within the 1 in 100 year flow path.*

Results indicate that if the earthen mound is removed and the wall of the preschool is constructed on the edge of the lot, just within the 1 in 100 year flow path, the resulting flood level is below the existing level. Flood modelling that did not remove the earthen mound and included the building was not provided therefore the earthworks proposed within the stormwater channel are required to keep 1 in 100 year flood levels below existing conditions.

The 1 in 100 year flood level with the preschool constructed and earthworks completed is 137.57 AHD. Council's current flood policy requires a minimum free board of 500mm, therefore the minimum floor height required for the preschool is 138.1m AHD.

Modelling results indicate that earthworks proposed as part of the development application actually reduce stormwater flood levels and therefore surrounding properties will not be subjected to any increased risk of stormwater inundation."

Clause 3.19 – Car Parking and Access

As part of the application, the applicant has submitted documentation to address traffic and car parking (Proposed New Preschool – Traffic Report prepared by Peter Lucena and Associates, dated 26 June 2014).

This report has been reviewed by Council's Civil Services Group. The following assessment has been received in relation to the provisions of clause 3.19 and the concerns raised in the submissions to the proposal:

"The access driveway to the proposed development is off Freeborn Place, which intersects with Alston Avenue. Freeborn Place already services the Alstonville Swimming Pool and weekend sporting events at Crawford Park. The increase in weekday traffic attributable to the development would be minor compared to traffic generated by the sports fields on the weekend.

The existing external road network is constructed to a suitable standard to service the proposed development.

8.1 DA 2014/333 - Crawford Park Pre-School

Due to the minor increase in weekday traffic attributable to the development, there is not considered to be any unreasonable pedestrian safety impacts created by the proposed use.

In terms of parking numbers, the following requirements apply:

Council Requirement		Maximum number of students per day	Required Number of Parking Spaces
Use	Rate		
Preschool	1 space per 4 students	40	10
		Total required	10

The DCP also describes the requirement for a drop off/pickup area, however preschool children are not capable of being “dropped off”. Parents must escort their children to the facility and sign them in. Therefore, car parks are required as opposed to a drop off pick up zone. Besides the formal car parking for the facility there is also ample informal car parking provide by the re-grading of the site. 10 car parks including one disabled car space is considered adequate to service the site as well as the number of informal car parks available.

There is concern from the Alstonville Football Club that the area taken up by the proposed preschool will reduce the number of car parks available to patrons utilising the football fields. The Alstonville Football Club has stated that they need up to 200 spaces each weekend when home games are hosted at Crawford Park.

Parking for other sporting facilities in the shire, for example, the Wollongbar Sports Fields development has provided car parks based on the rate of 30 parks per winter sports field (i.e. soccer field). This would equate to 60 car parks in the instance of Crawford Park.

The preschool is proposing 10 formal spaces in accordance with Council DCP car parking requirements for a preschool with 40 students. The alignment of the proposed access road allows up to 30 cars to park on the southern side of the proposed access road and 10 spaces on the northern edge. All formal spaces are in accordance with Australian Standard AS 2890. Refer to Attachment 2 – Development Plans.

The application is also providing hardstand access to existing informal car parking areas on the southern side of the storm water drain, making it easier to access these areas during soggy conditions.

There are a further 30 car parks available on Freeborn Place at the Alstonville Pool and 30 car parks on Alston Avenue, assuming winter weekend afternoon sports do not clash with the summer opening times of the pool. There is also and a large street network that is capable of taking overflow car parking.”

Conclusion

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, Ballina Shire Generic Plan of Management and the Ballina Shire Development Control Plan 2012 and submissions made in response to the exhibition and notification of the proposed development.

The key issues for consideration in the determination of this development application are:

- Loss of public open space
- Loss of informal parking
- Stormwater and flooding management and
- Impacts on residential amenity

The loss of the open space is consistent with the amended Ballina Shire Principal Generic Plan of Management for Community Land adopted by Council 20 December 2012 and is relatively minor in the context of the remaining open space land in Crawford Park, which will still be available for passive recreation.

There will be a loss of informal car parking however, the land/park is not currently designated for car parking purposes and Council's Civil Services Group have assessed the capacity of the surrounding street system as being adequate in terms of the provision of on-street car parking.

Issues surrounding stormwater and flooding have been assessed in detail in the above report where it is concluded that the earthworks proposed as part of the development application will reduce stormwater levels and therefore surrounding properties will not be subjected to any increased risk of stormwater inundation. The proposed hours of operation of the preschool and the acoustic report confirms the use is unlikely to adversely impact on the amenity of nearby residential properties. Having regard for the outcomes of the assessment undertaken, Council has the following options with regard to determining the subject application:

Option One

That Council approves the development application subject to conditions of consent as attached to this report.

Option Two

That Council refuses the development application on the basis that the issues raised in the submissions in relation to loss of open space, parking, traffic, storm water, flooding and residential amenity cannot be adequately addressed.

Option Three

That Council defers determination of the proposal to investigate alternate locations/site for the proposal. For example Council's relatively recently appointed Community Lands Officer and Manager – Open Spaces have reviewed all the various options and as a fresh pair of eyes their preferred site would have been the Council owned land in Coral Street, Alstonville, which has had very limited use as netball courts. This is a very flat parcel of land, which would significantly reduce development costs, albeit that there would most likely still be strong objections from neighbours for Council turning open space into a community facility. Similarly they are supportive of Parkview Circle as another option or even part of the Alstonville High School site. These sites have all been previously considered by Council and not supported to date.

Option one is the recommended approach for the reasons outlined in this report. Option three may take some time to investigate and would leave the matter unresolved for some time, an outcome not suitable for all involved. Should Council wish to investigate alternate locations it can do so as a separate process.

RECOMMENDATION

That DA 2014/333 to undertake the erection of a community facility for use as a Preschool and associated works including access road and car parking at Lot 161 DP 247578, No. 21 Alston Ave, Alstonville (Crawford Park) be **APPROVED** subject to the imposition of the attached recommended conditions.

Attachment(s)

1. Locality Plan
2. Development Plans
3. Submissions
4. Applicant's response to submissions
5. Draft Conditions

8.2 DA 2011/470 - Dunes on Shelly Beach, East Ballina - Section 96

8.2 DA 2011/470 - Dunes on Shelly Beach, East Ballina - Section 96

Applicant	Planners North (on behalf of Loosemore & McGarry)
Property	Lot 1 DP 781525, No. 70 Shelly Beach Road, East Ballina (formerly known as "Gunundi")
Proposal	To modify the description of the development and deletion of the monetary contributions applied to the consent notice relating to DA 2011/470
Effect of Planning Instrument	The land is zoned 7(f) – Environmental Protection (Coastal Lands) under the provisions of the Ballina LEP 1987
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

DA 2011/470 was approved under delegated authority on 21 June 2012 to formalise existing works and undertake additions in association with an existing conference centre and dormitory buildings/uses comprising the following:

- An open elevated deck area immediately north and attached to the dormitory building (with associated ramp).
- A volleyball court and children's playground immediately east and southeast of the dormitory building.
- Roof awning extensions attached to the north and east of the conference centre building.
- Bollard strip/line north of the existing caretaker's dwelling.
- Retaining walls (rock) north of the dormitory building.
- Infill of subfloor areas of the dormitory building for habitation.
- The removal of an internal wall and provision of a bar facility and cool room within the conference centre building.

This modification application seeks to:

- "Correct" the Section 94 contributions plan for roads and the Section 64 charges for water. As outlined in the following report, Section 94 contributions for roads are now not attributable to the development.
- Confirm the 265 person capacity (not 275) of the premises.

This is sought to be achieved by altering the abovementioned description of the development in the following way:

(a) "To formalise existing works and undertake additions in association with an existing 265 person conference centre comprising the following:

- An open elevated deck area immediately north and attached to the dormitory building (with associated ramp).

8.2 DA 2011/470 - Dunes on Shelly Beach, East Ballina - Section 96

- A volleyball court and children's playground immediately east and southeast of the dormitory building.
 - Roof awning extensions attached to the north and east of the conference centre building.
 - Bollard strip/line north of the existing caretaker's dwelling.
 - Retaining walls (rock) north of the dormitory building.
 - The removal of an internal wall and provision of a bar facility and cool room within the conference centre building.
- (b) By deleting Condition 2.5 and Schedule 1 (this condition and schedule relate to the monetary contributions).
- (c) Amending Condition 1.2 which currently states the conference centre building may cater for a maximum of 275 people at any time. This is to be reduced to 265 people at any time.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Applicable Planning Instruments

The applicant has submitted the modification under Section 96(1) of the Environmental Planning and Assessment Act 1979 to correct a perceived miscalculation of monetary contributions as the applicant is attempting to rely upon existing "credits" from previously issued consents.

Report

Most relevant to this modification application is the infill/use of part of the subfloor storage area of the dormitory building for accommodation authorised by DA 2011/470. The current owners have improved the western portion of the ground subfloor storage area by the inclusion of two kitchenette facilities, a full dividing partition wall and other improvements to make it useable as two separate accommodation areas. Prior to DA 2011/470, Council had not granted consent to this area of the building for accommodation or use in association with the dormitory building to either the current or previous owners of the site.

Under DA 2011/470 the applicant requested an additional 10 persons (total 275) within the conference facility building and 22 beds (from 40 to 62 beds) within the dormitory building.

As part of the conditions of approval for DA 2011/470, Council applied Section 94 roads and Section 64 water and sewer monetary contributions due to the additional accommodation area/bedding within the dormitory building and as at June 2012 i.e. the time of approval, this required the payment of \$80,155.29 (now \$86,992.36 including CPI).

The Building Code of Australia was used to establish the 'credited' number of persons who could occupy the conference facility based on the available floor areas. This equated to 265 persons.

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The conference centre use and on-site dormitory accommodation are intrinsically linked in that only conference attendees can use the dormitory accommodation. The monetary contribution assessment gave some credits towards the dual use of attendees only being able to use the accommodation; however, the monetary contributions were applicable due to the additional accommodation within the dormitory building and not to the conference centre.

As the applicant continued to utilise the western portion of the ground subfloor storage area for accommodation post the issue of consent and without the payment of these required contributions, the applicant was issued a Notice of Proposed Order on 13 March 2014.

Council has not proceeded with a further Order based on the current modification application the subject of this report.

The modification application seeks to reduce the number of persons attending the conference centre from 275 to 265 on the premise that all contributions will not be applicable. As outlined later in this report, the reduction in attendees of the conference centre does not reduce the monetary contributions attributable to the additional beds within the dormitory building.

The applicant's clients contend that there has been no increase in beds at the premises since they purchased it from the Anglican Church in December 2010 (i.e. 62 beds) based on an audit by Don Osborne and Associates in July 2007.

This document has been reviewed but given little weight by Council assessment staff as it did not form part of any historical approved documentation on Council's files and was produced on behalf of the previous owner of the site. This will be outlined further in the following report.

The site has an extensive approval history (not including DA 2011/470 the subject of this report) as outlined in the following Table:

Reference	Date	Details
DA 1971/31	9 March 1971	Conference centre
Building Permit 24/1971	16 March 1971	Conference centre
Building Permit 9/1975	12 February 1975	Dormitory accommodation
DA 1977/353	1 December 1977	Caretaker's dwelling
Building Permit 211/1977	17 October 1977	Caretaker's dwelling
Building Permit 302/1985	27 August 1985	Additions to caretaker's dwelling
Building Permit 117/1997	29 August 1996	Alterations and additions to amenities block
Building Permit 344/1998	24 November 1997	Deck additions
DA 1998/41	23 October 1997	To conduct an education establishment for a period not exceeding five (5) years (consent now lapsed)
Building Permit 397/1998	9 January 1998	Demountable classrooms (now removed)

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DA 2001/452	2 March 2001	Additions to hall
DA 2008/55	25 October 2007	Construction of alternate access (refused)
DA 2010/1056	20 December 2011	To undertake the demolition of an existing caretaker's dwelling and the subsequent replacement of a single storey caretaker's dwelling, internal driveway access and compensation replacement vegetation plantings in association with an existing Conference Centre
DA 2012/144	18 May 2012	To undertake the demolition of security gates, shipping container and carport
DA 2012/517	14 March 2013	To undertake the erection of a Storage Shed Outbuilding (with associated workers amenities) to be used directly in association with the existing Conference Centre/ Dormitory Facility and additions to an existing Caretaker's Dwelling (new verandah).

The applicant, as part of the modification application, is relying upon three documents to substantiate a reduction in the monetary contributions from \$86,992.36 to nil, these being:

1. Approved plans attached to BA 9/1975 (dated 1973) which indicate 48 beds within the Dormitory Building;
2. A Statement of Environmental Effects attached to DA 1998/41 which described the Dormitory Building as four x four beds and four x 12 beds (i.e. containing 64 beds); and
3. A schematic development site plan attached to DA 1998/41 which indicates the Dormitory Building as a 36 bedroom (first floor) and 16 bedroom and lecture hall (ground floor), i.e. containing 52 beds and a lecture hall.

Copies of these documents are attached to this report. The applicant now contends that these documents are suggestive of a use that has been flexible/variable over time and that they purchased the property in good faith from the Anglican Church based on 62 beds being in place in the dormitory building.

Council's assessment staff have reviewed these three documents and the Don Osborne and Associates Masterplan prepared for the previous owners (copy attached in applicant's client submission) and all development application/building application files relating to the site and have advised the applicant the following:

In relation to Document No. 1

The plans dated 1973 show 48 beds (not 28 beds outlined in your email). These plans relate to BA 9/1975 and are directly in relation to the dormitory accommodation building. The 48 beds comprise 20 x double bunk beds on the upper level of the building (i.e. 40 beds comprising 10 beds in four rooms) and four x two single beds on the ground floor (i.e. 8 beds). This gives a total of 48 approved beds.

NB: To clarify the 48 beds, each bed on the first floor plan is a bunk bed as per the numbering on the beds.

Further comment.

The plans approved by BA 9/1975 clearly indicate that the western portion of the dormitory building was approved as uninhabitable subfloor area not suitable for accommodation. Even if the previous owners constructed or improved this subfloor area for habitation at some point between 1973 and 2010 (i.e. use as a lecture hall or similar), it was never formally approved by Council and cannot be relied upon by subsequent owners. It is also evident from site inspections by Council staff post 2010, i.e. under current ownership, that further improvements have been made to this area to allow accommodation within this subfloor area. These improvements involve the provision of two separate kitchenette facilities and were subsequently authorised by DA 2011/470.

In relation to Document No. 2

The SEE describing the dormitories accommodation as four x four bed and four x 12 bed is in relation to DA 1998/41 for a temporary educational establishment (Anglican primary school). This consent was only valid for a period of five years. This application in no way related to the dormitory building and/or use as it permitted and only related to the temporary use and placement of two transportable classroom buildings in the north-western portion of the development footprint (i.e. completely physically removed and not reliant on the dormitory accommodation in any way). It is therefore considered that this reference in the SEE cannot be relied upon for the number of approved beds in the dormitory building, particularly as files between 1975 and 1998 do not clarify how the number of beds increased from 48 to 64.

Further comment.

The consent was for a temporary period, for an unrelated use to the dormitory accommodation and has subsequently lapsed and can no longer be relied upon in any way. Notwithstanding this, an unsubstantiated and unrelated comment in a Statement of Environmental Effects cannot be relied upon as authorising a use ongoing.

Additionally, the bed numbers utilised by the applicant at the time appear to be a miscalculation/interpretation of the 1973 floor plans for the dormitory building (i.e. Document No. 1). The upper floor plan clearly indicates each bed as a bunk bed (i.e. by numbering each bed layout as 1-2, 3-4 etc.), with 10 beds in four rooms and not 12 beds in four rooms. The lower floor plan bedding configuration does not have this numbering notation meaning that each is a single bed configuration, probably for teachers and/or parents of the students/children accommodated above (i.e. four x two beds and not four x four beds).

In relation to Document No. 3

The development plan you have kindly provided also relates to and was attached to DA 1998/41 for the temporary educational establishment. Consequently, similar to Point No. 2 it is considered this plan cannot be relied upon for the number of approved beds in the dormitory building.

Further comment.

In addition to previous comments, a simple notation on a site plan for a building unrelated to the development directly sought as part of that application cannot be relied upon as authorising a use ongoing.

Council staff also provided the following advice:

Further, the Don Osborne Masterplan dated July 2007 that you provided as part of the supporting documentation for the current S96 modification could not be located on any of Council's files. It is considered that this was prepared for the Anglican Church in the preparation sale of the site (i.e. to provide a SWOT Strengths, Weaknesses, Opportunities, Threats analysis of the site) and therefore cannot be relied upon for the approved number of beds in the dormitory building.

Further comment.

The applicant's contention that this document provides "...a clear 3rd party check of the actual situation as was operated for decades by the Anglican Church..." is, with respect, not accepted. This document was prepared on behalf of the Anglican Church and focuses on how the use of the site could be improved. A due diligence search, prior to purchasing the site, of Council's records would have demonstrated a discrepancy between this document, the vendors advertising material and actual approved uses and capacities of the site.

Consequently, based on the information provided to date and a search of Council's records, it is considered that a maximum of 48 beds have been approved in the dormitory building.

The contribution amounts calculated for DA 2011/470 were based on increasing the number of beds from 40 to 62 (i.e. an additional 22 beds). As it is now accepted that BA 9/1975 approved 48 beds contribution amounts will be recalculated based on a credit of 48 beds (i.e. an additional 14 beds rather than an additional 22 beds) and a reduced contribution amount will be applicable.

Further comment.

During the assessment of this modification application, Council assessment staff have confirmed that a reduced monetary contribution would be applicable. The applicant's clients have not accepted this reduction and seek a reduction to nil. This is not supported by either the Development and Environmental Health Group (DEHG) or the Civil Services Group.

Advice from the Civil Services Group

The investigation of existing approvals for the site has been undertaken by DEHG. It has now been established that the site has existing approval for 48 beds. Therefore, an additional 14 beds require assessment to formalise the 62 existing beds on-site.

The 14 additional beds have never been approved and DA 2011/470 is seeking approval for use in conjunction with the conference facility. These 14 additional beds attract contributions and charges, but will receive a credit from joint use by conference attendees (i.e. demand created by 14 new beds minus the demand created by 14 conference attendees).

Section 94 contributions and Section 64 charges are applied to new developments in Ballina Shire (the 'Shire'). In general terms, the following is the rationale behind the need for contributions and charges.

Section 94 roads contributions are currently applied in accordance with the Ballina Shire Roads Contributions Plan 2010. The rationale for the plan is that anticipated future development in the Shire will add traffic to the road network and impact on the performance of the network. Council is required to undertake roads and traffic upgrades in response to the demands generated by new development to ensure the overall level of service of the network is maintained. Council will therefore require contributions from developments that generate additional vehicle trips to assist in meeting this additional cost burden. The development impact is measured by the increased traffic generation and is referred to as the increase in the number of vehicle 'trips'. To obtain correlation between different development types, the number of trips is then related to number of trips for an average household to result in equivalent residential allotments or ERA's.

Section 64 water and sewer charges are currently applied in accordance with the Development Servicing Plans for the Shire. The rationale for the plans is that anticipated future development will increase demand on the existing treatment plants and reticulation networks. Council is required to provide headworks and reticulation upgrades for water and sewer to ensure the overall level of service is maintained. Council will therefore impose charges, on development that increases demand on the network, to assist with this additional infrastructure cost burden. The development impact is measured by the increased water and sewer demand and is related to the demand that an average household would generate to result in equivalent tenements or ET's.

This development assessment is undertaken whereby there is no increase in the number of conference attendees (capped at the approved 265) and there are 14 new beds at the facility (being an increase from the approved 48 beds to the existing 62 beds).

Roads (s94)

14 new beds at hostel trip rate of 2 trips per bed = 28 new trips.

14 existing conference attendees at 2 trips per attendee = 28 existing trips.

8.2 DA 2011/470 - Dunes on Shelly Beach, East Ballina - Section 96

As the beds can only be used by conference attendees, therefore the trips generated by the proposed use and existing use are equal. Therefore, no s94 roads contribution would apply.

Sewer & Water (s64)

Sewer & water charges will apply whereby the new accommodation use is levied and then the existing conference use is credited. Council also collects s64 charges on behalf of Rous Water, the regional water authority. The ET rates are published by the Water Directorate – Section 64 Determinations of Equivalent Tenement Guidelines.

Sewer

14 new beds at hostel rate = 14 x 0.23 = 3.22 equivalent tenements (ET)

14 existing attendees at conference rates = 14 x 0.048 = 0.672 ET

Net sewer = 3.22 (new) – 0.672 (existing) = 2.548 ET

Water

14 new beds at hostel rate = 14 x 0.15 = 2.10 equivalent tenements (ET)

14 existing attendees at conference rates = 14 x 0.03 = 0.42 ET

Net sewer = 2.10 (new) – 0.42 (existing) = 1.68 ET

Contribution	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
East Ballina Sewerage (DSP Area B)	equivalent tenement	\$7,260.00	2.5480	\$18,498.48
East Ballina Water (DSP Area B)	equivalent tenement	\$3,351.00	1.6800	\$5,629.68
Rous Water 2009	equivalent tenement	\$8,628.00	1.6800	\$14,495.04
TOTAL				\$38,623.20

Conclusion

During the assessment of this modification application, the applicable monetary contribution has been substantially reduced from \$86,992.36 (which includes CPI) to \$38,623.20 based on further approved beds being attributable to “credits” (i.e. from 40 to 48 beds).

Even if the current owners bought the property in “good faith” this cannot be relied upon if the approved use(s) and/or capacities were not being complied with at the time of purchase. Generally prospective purchasers, particularly on a substantial site like this with various improvements, carry out thorough due diligence prior to purchasing. Council cannot ensure that this is conducted.

Additionally, Council does not have the resources to audit every site within the Shire to ensure all terms and conditions of consents are being adhered to at all times.

It is clear from Council’s records that the previous and current owners only had/have approval for 48 beds within the dormitory building.

If the current owners wish to increase this to 62 beds as approved by DA 2011/470, they need to pay monetary contributions of \$38,623.20 (as adjusted in this report) based on Council’s adopted contribution plans and similar to other developments.

If Council sought to reduce the monetary contributions to nil based on previous ownership and use, it would set a precedent for other development and encourage unauthorised use/work.

Option One

That Council reaffirms the dormitory building has “credits” for a maximum of 48 beds to be provided at any time. The applicant is invited to further revise the modification application to DA 2011/470 to maintain a maximum of 62 beds (including the western subfloor area) subject to the reduced payment of monetary contributions under DA 2011/470 to \$38,623.20 as outlined in this report.

If the modification application is subsequently revised in this manner, the application will be determined under Delegated Authority. Should the modification application not be subsequently revised in this manner, the application can also be determined under delegated authority. This is the recommended option.

Upon determination, the applicant will be advised that the outstanding monetary contributions will need to be paid within a reasonable time period, say 5 January 2015, otherwise an Order will be issued. (5 January is the first day the Council will be open).

Option Two

That the modification application to DA 2011/470 be approved based on a maximum of 62 beds within the dormitory building (including the western subfloor area as improved) and without payment of monetary contributions (i.e. deletion of Condition No. 2.5 and Schedule 1).

For the reasons outlined in this report, this option is not supported.

Option Three

That the modification application to DA 2011/470 be refused and the original consent and monetary contributions of \$80,155.29 (currently \$86,992.36 inclusive of CPI) remain unchanged.

This is not recommended as it has been demonstrated that 48 beds were approved under BA 9/1975 and that a reduced monetary contribution of \$38,623.20 is justified.

RECOMMENDATIONS

1. That Council reaffirms the dormitory building has “credits” for a maximum of 48 beds to be provided at any time.
2. The applicant is invited to further revise the modification application to DA 2011/470 to maintain a maximum of 62 beds (including the western subfloor area) subject to the payment of monetary contributions totaling \$38,623.20.
3. If the modification application is subsequently revised in this manner, the application will be determined under Delegated Authority. Should the modification application not be subsequently revised in this manner, the application will also be determined under delegated authority.
4. Upon determination, the applicant will be advised that the outstanding monetary contributions will need to be paid by 5 January 2015, otherwise an Order will be issued.

Attachment(s)

1. Locality Plan
2. Approved Plans of Dormitory Building BA 9/1975
3. Statement of Environmental Effects for lapsed DA 1998/41
4. Site Plan for lapsed DA 1998/41
5. Applicant's Client's submission including Don Osborne & Associates Masterplan

8.3 DA 2013/381 - Reside Living - 274 River Street, Ballina - Section 96

8.3 DA 2013/381 - Reside Living - 274 River Street, Ballina - Section 96

Applicant	Planners North (on behalf of Reside @Ballina Pty Ltd)
Property	Lot 1 DP 499510 and Lot 10 DP 244352 No. 274 River Street, Ballina
Proposal	To seek modification to DA 2013/381 (Multi Level Mixed Commercial and Residential Building – Shop Top Housing) – Deletion of conditions 27 and 98 and modification to conditions 31, 37, 53, 54, 84 and 125.
Effect of Planning Instrument	The land is zoned B3 Commercial Core under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of an application to modify development consent 2013/381 (as lodged by the applicant on 23 July 2014) via Section 96 (1A) of the Environmental Planning and Assessment Act 1979 in the following manner:

- To delete Conditions 27 (design for a retaining wall and revetment structure along the Richmond River frontage) and 98 (provision of a residential apartment for an on-site manager).
- To amend Conditions 31 (provision of car parking spaces for the development – stacked parking for commercial tenancies and contributions for car parking spaces not provided on-site), 37 and 84 (filling of the allotment), 53 and 54 (payment of contributions – timing), and 125 (land dedication – first option for purchase).

The purpose of this report is to seek the determination of the Section 96 Application to Modify Development Consent 2013/381.

Background

On 24 April 2014, Council received a report to the April 2014 Ordinary Meeting in relation to the determination of DA 2013/381, proposed at No. 274 River Street, Ballina, which involved:

- Demolition of the Existing Sundowner Motel and Restaurant
- Erection and Strata Title Subdivision of a Multi-Level Mixed Commercial and Residential Building (Shop Top Housing) with an Overall Height of 23.6m Australian Height Datum (AHD), comprising:
 - Six Commercial Tenancies (Business and Retail Premises) at Ground Level facing River Street and the Richmond River,
 - A Restaurant at Ground Level facing the Richmond River,
 - 34 Residential Apartments (Dwellings) located on Levels Two to Six,

- Two Levels of Car Parking and Site Access from Kerr Street;
- The Dedication of Land for Foreshore Public Access, involving the Construction of a Public Walkway; and
- Vegetation Management Works involving the Removal of One Norfolk Island Pine Tree.

DA 2013/381 was determined at the meeting, by way of the grant of consent, subject to the non-standard conditions attached to the report and a number of standard building, planning, environmental and engineering conditions. A copy of the report is provided via Attachment 2.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

The following discussion (including the applicant's justification for the proposed changes and a response from Council staff) is provided in relation to the proposed modifications to DA 2013/381.

Deletion of Condition 27

The current wording of Condition 27 is as follows:

27. Prior to the issue of a Construction Certificate, the applicant is required to submit to Council, a design from a certified practising Engineer for a retaining wall\revetment structure along the sites Richmond River frontage that meets the following minimum requirements:
- (i) the retaining wall\revetment structure must provide a minimum anticipated service life of 50 years.
 - (ii) the retaining wall\revetment structure must extend up to a minimum height of RL 2.1m AHD.
 - (iii) the retaining wall\revetment structure must adequately support the proposed adjoining building and site filling.
 - (iv) The retaining wall\revetment structure must be able to withstand the hydraulic flood forces associated with a probable maximum flood event.

The applicant has provided the following points of justification in relation to the deletion of Condition 27:

- *“The proposed development does not provide for the construction of a retaining wall/ revetment structure or the extension of the existing wall along the Richmond River frontage of the site. Condition 26 of the consent requires the Proponent to demonstrate that the development will ensure the maintenance of the stability of the riverfront during and after construction. As indicated in the drawings submitted with the development application the proposal provides for a public walkway along the river frontage. However, no addition or alteration to the existing revetment structure is proposed.*

- *Prior to the dedication of the land to Council the Proponent will undertake the construction of a walkway for public access in accordance with Condition No. 44 which requires the proposed boardwalk to be constructed in concrete. It is considered unreasonable in the circumstances to require the proponent to extend the existing retaining wall/ revetment structure to a minimum height of RL 2.1m AHD.*

Further, the requirements of Condition 27 are overly onerous in terms of requiring certification that the retaining wall/ revetment structure must be able to withstand the hydraulic forces associated with a probable maximum flood event. Council's flood study indicates that a probable maximum flood level of RL 3.4m applies to this area which will result in significant inundation of the wall and Ballina Island as a whole. It is considered that no engineer would be willing to certify that the existing wall could withstand a probable maximum flood in these circumstances.

- *Whilst the Proponent is prepared to undertake work to ensure that the proposed development does not impact on the stability of the existing riverbank, the provisions of Condition 27 are unreasonable in the circumstances and it is therefore requested that this condition be deleted."*

Council's Civil Services Group has provided the following comments in relation to the proposed deletion of Condition 27:

The proposed deletion of this condition is not supported for the following reasons:

- This condition was applied to ensure compliance with the floodplain management requirements of Chapter 2b of the Ballina Shire DCP 2012, with the required fill height of RL 2.1m AHD imposed to provide an acceptable level of flood immunity to the development.
- The area of land adjacent to the wall is proposed to be dedicated to Council as public land and is directly supported by the retaining structure along the Richmond River. Given that the retaining wall will be dedicated as a public asset, it is considered reasonable that the wall/structure be structurally sound and meet the minimum service requirements specified in the condition, being points (i), (ii) and (iii).

In relation to point (iv) of the condition, a modification would be supported by Council staff to require the wall to be able to withstand the hydraulic flood forces associated with a 1 in 100 year flood event.

Deletion of Condition 98

The current wording of Condition 98 is as follows:

98. Prior to the issue of the Occupation Certificate, provision shall have been made within the residential component of the development for an on-site manager. Details are required to be submitted to Council as to which residential apartment is to be designated as the on-site manager's residence.

The applicant has provided the following point of justification in relation to the deletion of Condition 98:

"The proposed development does not require or make provision for a permanent onsite manager residing on the premises. As indicated on the ground floor plan DA01, an office and reception area is provided on site. Given the scale and type of the development it is concluded that this is adequate for the development and that no permanent manager's accommodation is required."

Further information was requested from the applicant in relation to the proposed deletion of Condition 98, given:

- The Statement of Environmental Effects (SEE) submitted with the development application identified that the residential component of the building will include a full time on-site manager. This also has ramifications in relation to the Site Waste Minimisation and Management Plan (as submitted within the Technical Reports for the DA), which specified that an on-site manager will maintain the operation of the waste management and this involves the wheeling of bins to the kerb on Kerr Street for collection. The Environmental Noise Impact Report (as submitted within the Technical Reports for the DA) also identified that waste collection and deliveries to the site are to be restricted between 7am and 6pm (as reiterated in condition 149 within the consent). This would typically require an on-site manager to be present to organise such activities for the development.
- As part of the assessment of the development application, a letter was sent to the applicant on 24 October 2013 requesting that the applicant identify whether one of the proposed units will be designated as a manager's residence. The applicant's response letter dated 5 November 2014 advised that it was the Proponent's intention to have on-site management but at that time the apartment to be occupied by the manager has not been decided. In view of this information, Condition 98 was applied to the consent.

It was requested that the applicant provide details in relation to the responsibilities for waste management and deliveries activities for the residential component of the development and the management of complaints (for example, in relation to noise and other commercial/residential issues) after business hours, given that it is proposed that the on-site manager not be at the premises full time.

The applicant provided a response to the information request and provided the following additional points in support of the deletion of Condition 98:

- *“Given the relatively small number of units proposed in the development, a live in on-site manager is not considered necessary in order to effectively manage the site. In terms of waste management, the site manager will be available and on-site during those times necessary to reasonably carry out responsibilities associated with tasks such as ensuring bins are placed for kerb collection.*
- *Similarly, the management of delivery vehicles will be undertaken via agreed and organised delivery times. That is, all contractors and service providers will be advised of the timeframes available in relation to site deliveries. This approach is not unusual and is adopted by many larger developments than that proposed.*
- *In relation to complaints, the contact details of an after-hours site manager will be provided at the site office should any issues in relation to noise or other complaints arise outside the site-manager’s core hours.*
- *It is noted that the site manager’s hours are likely to extend beyond general business hours and that provision will be made for somebody to be on call at all times should an urgent matter arise.”*

In view of the applicant’s response above, a modification to Condition 98, rather than the deletion of the condition, would be supported by Council staff that requires the submission of a management plan with respect to the on site manager, which details their responsibilities and availability on site, with reference to complaint management, both during and after business hours.

Amendment to Condition 31

The current wording of Condition 31 is as follows:

31. The development shall provide a minimum of 107 car parking spaces. Stacked parking for the commercial components of the development are not permitted, therefore spaces 22 to 25 inclusive, as shown on the plans prepared by Leith Architects, Job No: 2238, Sheet No: DA01, Issue: C, Dated 10/03/14 are not approved. The development shall therefore be required to provide car parking as follows:
- 35 approved spaces shall be provided on the ground floor as shown on the plans prepared by Leith Architects, Job No: 2238, Sheet No: DA01, Issue: C, Dated 10/03/14. These spaces shall be allocated to the commercial tenancies of the development as common property.
 - 66 approved spaces shall be provided on Level Two as shown on the plans prepared by Leith Architects, Job No: 2238, Sheet No: DA03, Issue: B, Dated 11/02/14. These spaces shall be allocated to the residential apartments of the development.

- 10 off site spaces (being six spaces as generated by the proposed development and four spaces for the provision of the Medium Rigid Vehicle loading bay design in Kerr Street) shall be provided via the payment of Section 94 Developer Contributions to Council, in accordance with the Ballina CBD Car Parking Contribution Plan, adopted 25 November 2004.

Note: Should at the Construction Certificate stage, any of the above on-site spaces not comply with Australian Standard AS/NZS 2890.1: 2004, including the column location spacing requirements, these spaces shall need to be provided via the payment of Section 94 Developer Contributions to Council, in accordance with the Ballina CBD Car Parking Contribution Plan. These Contributions are required to be paid prior to the issue of the Construction Certificate.

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

Details of the required car parking spaces are to be included in the design plans and submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate for the development.

The proposed modified wording of Condition 31 is as follows:

31. *The development shall provide a minimum of 107 car parking spaces. A maximum of four (4) stacked parking spaces for the commercial components of the development are ~~not permitted therefore spaces 22 to 25 inclusive~~, as shown on the plans prepared by Leith Architects, Job No: 2238, Sheet No: DA01, Issue: C, Dated 10/03/14. ~~are not approved.~~ The development shall therefore be required to provide car parking as follows:*
- *~~35~~ 39 approved spaces shall be provided on the ground floor as shown on the plans prepared by Leith Architects, Job No: 2238, Sheet No: DA01, Issue: C, Dated 10/03/14. These spaces shall be allocated to the commercial tenancies of the development as common property, with the exception of the RV parking spaces.*
 - *66 approved spaces shall be provided on Level Two as shown on the plans prepared by Leith Architects, Job No: 2238, Sheet No: DA03, Issue: B, Dated 11/02/14. These spaces shall be allocated to the residential apartments of the development.*
 - *On street car parking and loading is to be provided in accordance with the plan prepared by Newton Denny Chapelle SK1 Rev B dated July 2014 and titled Kerr Street Proposed Vehicle Parking and Civil Works.*
 - *~~10~~ 2 off site spaces (being ~~six two~~ spaces as generated by the proposed commercial development and four spaces for the provision of the Medium Rigid Vehicle loading bay design in Kerr Street) shall be provided via the payment of Section 94 Developer Contributions to Council, in accordance with the Ballina CBD Car Parking Contribution Plan, adopted 25 November 2004.*

Note: Should at the Construction Certificate stage, any of the above on-site spaces not comply with Australian Standard AS/NZS 2890.1: 2004, including the column location spacing requirements, these spaces shall need to be provided via the payment of Section 94 Developer Contributions to Council, in accordance with the Ballina CBD Car Parking Contribution Plan. These Contributions are required to be paid prior to the issue of the Construction Certificate /and prior to the issue of a Subdivision Certificate, as provided by this Consent.

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

Details of the required car parking spaces are to be included in the design plans and submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate for the development.

The applicant has provided the following points of justification in relation to the proposed changes to Condition 31:

- *“Stacked Parking*
 - *The proposed four stacked spaces represent less than 4% of the total parking demand. The context for this site is that the proposal is incorporated within a basement enclosure which provides greater physical limitations upon parking layouts (i.e. separation clearances to walls, ramps, columns) as compared to ground level/open air configurations. To efficiently maximise space, the use of stacked parking is logical proposal.*
 - *Stack parking is not an unusual arrangement and is currently permitted for residential development.*
 - *To ensure an appropriate level of management, control can be assigned to the stack spaces, with each set of stacked spaces shall be linked to a specific strata title commercial user, thereby enabling employee/staff from a single entity to use the spaces in an effective and co-ordinated manner.*
 - *The location of the tandem spaces does not impede nor restrict the performance of neighbouring spaces nor will it be inconvenient to other users.*
 - *Section 3.19.3 of Chapter 2 of the Ballina Shire DCP 2012 permits stacked parking for commercial premises where a parking attendant is on-site and the development will have an on-site manager on the premises when the commercial premises are open.*

- *Contributions:*
 - *The amendment to enable the provision of four stacked car parking spaces reduces the contributions generated by the commercial development to two spaces.*

- *In relation to the additional four spaces levied by Council for the provision of the medium rigid vehicle loading bay design in Kerr Street, it is submitted that it is unreasonable and not consistent with the provisions of Council's Section 94 Contributions Plan for car parking spaces to be levied in these circumstances. That is, the Car Parking Contributions Plan specifically provides for the levying of car parking spaces not provided onsite. It enables contributions to be paid for the construction of car parking spaces within nominated locations and the amount of the levy includes land acquisition costs and the construction of a car park. The levying of a rate of some \$25,000.00 for four spaces associated with the provision of on-street loading is neither reasonable nor appropriate in the subject circumstances.*
- *The proposed on-street car parking and loading arrangements will result in no net loss of spaces. The existing on-street car parking provided totals 14 spaces and the proposed on-street layout provides for 14 car parking spaces, not including the loading area. This is illustrated in the plan prepared by Newton Denny Chapelle provided at **Appendix B SK1 Rev B** dated July 2014 titled *Kerr Street Proposed Vehicle Parking and Civil Works (Existing Parking Shown Blue)*. Refer to Attachment No. 3 – *Kerr Street Proposed Vehicle Parking and Civil Works*."*

Council's Civil Services Group has provided the following comments in relation to the proposed changes to Condition 31:

The proposed amendments to this condition are not supported for the following reasons:

– Stacked Parking

Council does not accept or approve the provision of stacked parking spaces in commercial developments. The reference to a parking attendant in Chapter 2 of the Ballina Shire DCP 2012 relates to a situation where there is a single tenancy commercial development, where a full time dedicated parking attendant is on site at all times (for example, a motel development) to manage the car parking arrangements for one business. The approved development contains a number of tenancies and therefore it is considered that the stacked car parking proposal would be unworkable.

In reality, it is highly likely that employees of the ground floor commercial tenancies will not stack park their vehicles due to the inconvenience of this arrangement. Alternatively, they will elect to park their vehicles within other spaces within the development (generally being the first to arrive on site). This will then make those regular car parking spaces unavailable for visitors and customers to the commercial tenancies.

– Contributions

The applicant has suggested that it is unreasonable to require the payment of contributions for the four on-street car parking spaces lost due to the provision of the on-street loading zone/bay for medium rigid vehicles. It has also been stated that the levy rate of \$25,000 is inappropriate as it includes both the cost of land acquisition and construction of the spaces.

In addition, the applicant has also stated that there will be no net loss in on-street parking spaces, based on the plan prepared by Newton Denny Chapelle (refer to Attachment No. 3).

These statements are considered incorrect for the following reasons:

1. The ultimate car parking yield available to Council within the existing Kerr Street carriageway is 18 on-street car parking spaces. In this regard, Council does have the opportunity to modify the line marking arrangements within Kerr Street and create a minimum of 18 on-street car parking spaces.
2. The approval of the mixed commercial/residential development via DA 2013/381 and a two storey motel development on the western side of Kerr Street via DA 2013/48 will increase the demand for on-street parking in this area. Given the limited on-street car parking capacity in the adjoining streets (River Street is a no parking zone along the northern boundary of the subject property and there is limited parking available within Camoola Avenue), Council would have undertaken these modification works in the future to utilize the ultimate parking yield available within the street system.
3. The construction of a medium rigid vehicle loading zone within the road reserve (to service the approved development) will require an area of road shoulder that could otherwise be used to provide four on-street car parking spaces. This, therefore, reduces the net amount of on-street car parking spaces available in the Ballina CBD area by four spaces.
4. In order to compensate for the loss of on-street parking capacity within the Ballina CBD, Council proposes to provide these four spaces through the Ballina CBD Car Parking Contribution Plan. Through this process, Council incurs both land acquisition costs and construction costs, making the requirement to pay the full levy under Condition 31 both justified and reasonable.

Conditions 37 and 84

The current wording of Condition 37 is as follows:

37. The whole of the allotment shall be filled to a minimum level of RL 2.1m AHD except for the landscaped area adjacent to the existing Norfolk Pine in the north-western corner of the site and the landscaped area immediately surrounding the Pandanus tree in the south-eastern corner of the site. Masonry retaining walls shall be constructed, and wholly contained, within side and rear boundaries such that no stormwater is discharged from the site onto the adjoining properties. In addition, the adjoining properties shall be drained at the common boundary with the site via a concrete dish drain such that no water ponds on any neighbouring properties due to filling of the site. The stormwater drainage shall be discharged to Council's drainage system. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

The proposed modified wording of Condition 37 is as follows:

37. *The ~~whole of the allotment~~ building curtilage shall be filled to a minimum level of RL 2.1m AHD and transition to existing boundary levels except for the ground level parking, landscaped area adjacent to the existing Norfolk pine in the north-western corner of the site and the landscaped area immediately surrounding the Pandanus tree in the south-eastern corner of the site. Masonry retaining walls shall be constructed, and wholly contained, within side and rear boundaries such that no stormwater is discharged from the site onto the adjoining properties. In addition, the adjoining properties shall be drained at the common boundary with the site via a concrete dish drain such that no water ponds on any neighbouring properties due to filling of the site. The stormwater drainage shall be discharged to Council's drainage system. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.*

The applicant has provided the following points of justification in relation to the proposed changes to Condition 37:

"The amendment is clarifying that the development shall provide functional transitions to existing ground levels at boundaries and that the necessity to fill the 'whole of the allotment' is an over simplification of the submitted proposal. The drainage outcomes being sought by this condition remain unchanged."

The current wording of Condition 84 is as follows:

84. The whole of the allotment shall be filled to a minimum level of RL 2.1m AHD other than the landscaped area adjacent to the existing Norfolk pine in the north-western corner of the site and the landscaped area immediately surrounding the Pandanus tree in the south-eastern corner of the site. The minimum floor level of the building shall be RL 2.6m AHD, other than ground floor car park area. A Surveyor's Certificate verifying compliance with these levels must be submitted to the Principal Certifying Authority.

The proposed modified wording of Condition 84 is as follows:

84. *The ~~whole of the allotment~~ building curtilage shall be filled to a minimum level of RL 2.1m AHD and transition to existing boundary levels other than the ground level car park, landscaped area adjacent to the existing Norfolk pine in the north-western corner of the site and the landscaped area immediately surrounding the Pandanus tree in the south-eastern corner of the site. The minimum floor level of the building shall be RL 2.6m AHD, other than ground floor car park area. A Surveyor's Certificate verifying compliance with these levels must be submitted to the Principal Certifying Authority.*

The applicant has provided the following points of justification in relation to the proposed changes to Condition 84:

"The proposed amendment reflects the amendment proposed to Condition 37 in relation to the clarification that the development shall provide for filling associated with the building. However, the development will provide functional transitions to existing ground levels and boundaries."

Council's Civil Services Group has provided the following comments in relation to the proposed changes to Conditions 37 and 84:

The proposed amendments to Conditions 37 and 84 are not supported for the following reasons:

- These conditions were applied to ensure compliance with the floodplain management requirements of Chapter 2b of the Ballina Shire DCP 2012. The required minimum fill height for the subject property under this plan is RL 2.1m AHD.
- The building footprint of the development consumes the majority of the subject site, with only a small area in the north-west corner of the site and a strip of land along the southern frontage (adjoining the Richmond River), being the only frontages where the building is not constructed to the boundary.
- The fill height of RL 2.1m AHD is necessary along the southern frontage of the site to provide an acceptable level of flood immunity for the development and the public footpath along the Richmond River frontage.

However, the request to include "ground level parking" in the wording of both Conditions 37 and 84 is worthy of support, given it clarifies that this area is exempt from the minimum fill requirement for RL 2.1m AHD. The proposed floor level of RL 2.0m AHD is considered acceptable for a ground floor car park.

Conditions 53 and 54

The current wording of Condition 53 is as follows:

53. Prior to issue of a Construction Certificate where building work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979 :

Contribution Plan/Development Servicing Plan	Adopted
Ballina Shire Contributions Plan 2008	23 October 2008
Ballina Shire Roads Contribution Plan 2010	25 February 2010
Ballina CBD Car Parking Contribution Plan	25 November 2004
Lennox Head Village Centre Car Parking Contribution Plan	12 February 2004
Ballina Shire Heavy Haulage Contribution Plan	27 October 2011

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 (**attached**).

The proposed modified wording of Condition 53 is as follows:

53. *Prior to the issue of a Construction Certificate/Subdivision Certificate as provided by Condition 53(a) where building work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979:*

Contribution Plan/Development Servicing Plan	Adopted
<i>Ballina Shire Contributions Plan 2008</i>	<i>23 October 2008</i>
<i>Ballina Shire Roads Contribution Plan 2010</i>	<i>25 February 2010</i>
<i>Ballina CBD Car Parking Contribution Plan</i>	<i>25 November 2004</i>
<i>Lennox Head Village Centre Car Parking Contribution Plan</i>	<i>12 February 2004</i>
<i>Ballina Shire Heavy Haulage Contribution Plan</i>	<i>27 October 2011</i>

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

*The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 (**attached**).*

- (a) The payment of contributions in stages is permitted as follows:*
- (i) 50% of the total prior to the release of the Construction Certificate; and*
 - (ii) 50% of the total prior to the release of the Subdivision Certificate.*

The applicant has provided the following points of justification in relation to the proposed changes to Condition 53:

"The proponent requests the ability to pay Section 94 Contributions in 2 stages to enable the development to be undertaken in a more economic manner given the scale and nature of the development. It is therefore requested that Council permit the payment of 50% of the contribution prior to the release of the Construction Certificate with the remaining 50% to be paid to Council prior to the release of the Subdivision Certificate.

It is noted that in addition to the above proposed amendments to Condition No. 53, an amendment to Schedule 1 accompanying that condition is also requested to ensure that the credits applied to the site recognise the existing 2 allotments. A review of the calculations for site credits provided by Council indicates that the site has not been credited with the 2 ET relating to the 2 existing allotments. Recognition of the credit for the 2 allotments will require an adjustment to the Schedule relating to Condition 53."

The current wording of Condition 54 is as follows:

54. Prior to issue of a Construction Certificate where building work is proposed, payment to Council of non-refundable monetary charges shall be made towards the provision of bulk water supply, water reticulation and sewer infrastructure which are required as a result of the development in accordance with the charges set by Ballina Shire Council and Rous Water as water supply authorities under the Water Management Act 2002. The amount payable will be the assessed additional equivalent tenements generated by the development multiplied by the charge applicable at the time of payment.

Certificates of Compliance pursuant to Section 306 of the Water Management Act 2002 shall be deemed to have been issued where the required charges have been paid and all construction works required by the water supply authority for the development have been completed.

The charges are currently guided by the following development servicing plans:

Water Authority	Supply	Contribution Plan/Development Servicing Plan	Adopted
Ballina Council	Shire	Ballina Shire Council Water Supply Infrastructure Development Servicing Plans	27 May 2004
Ballina Council	Shire	Ballina Shire Council Sewerage Infrastructure Development Servicing Plans	27 May 2004
Rous Water		Rous Water Development Servicing Plan	April 2009

The Development Servicing Plans provide for the indexing of charges and are also subject to amendment and replacement. The charges payable are the charges set by the water supply authorities at the time payment is made. Copies of the Development Servicing Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

It should be noted that Ballina Shire Council acts a Rous Water's agent in the collection of Rous Water Bulk Water Supply Charge for developments that are connected to the Ballina Shire water supply.

The charges applicable at the time this consent is issued are included in Schedule 1 (**attached**).

The proposed modified wording of Condition 54 is as follows:

54. *Prior to issue of a Construction Certificate/Subdivision Certificate as provided by Condition 54(a) where building work is proposed, payment to Council of non-refundable monetary charges shall be made towards the provision of bulk water supply, water reticulation and sewer infrastructure which are required as a result of the development in accordance with the charges set by Ballina Shire Council and Rous Water as water supply authorities under the Water Management Act 2002. The amount payable*

will be the assessed additional equivalent tenements generated by the development multiplied by the charge applicable at the time of payment.

Certificates of Compliance pursuant to Section 306 of the Water Management Act 2002 shall be deemed to have been issued where the required charges have been paid and all construction works required by the water supply authority for the development have been completed.

The charges are currently guided by the following development servicing plans:

Water Authority	Supply	Contribution Plan/Development Servicing Plan	Adopted
<i>Ballina Council</i>	<i>Shire</i>	<i>Ballina Shire Council Water Supply Infrastructure Development Servicing Plans</i>	<i>27 May 2004</i>
<i>Ballina Council</i>	<i>Shire</i>	<i>Ballina Shire Council Sewerage Infrastructure Development Servicing Plans</i>	<i>27 May 2004</i>
<i>Rous Water</i>		<i>Rous Water Development Servicing Plan</i>	<i>April 2009</i>

The Development Servicing Plans provide for the indexing of charges and are also subject to amendment and replacement. The charges payable are the charges set by the water supply authorities at the time payment is made. Copies of the Development Servicing Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

It should be noted that Ballina Shire Council acts a Rous Water's agent in the collection of Rous Water Bulk Water Supply Charge for developments that are connected to the Ballina Shire water supply.

*The charges applicable at the time this consent is issued are included in Schedule 1 (**attached**).*

- (a) The payment of contributions in stages is permitted as follows:*
 - (i) 50% of the total prior to the release of the Construction Certificate; and*
 - (ii) 50% of the total prior to the release of the Subdivision Certificate.*

The applicant has provided the following points of justification in relation to the proposed changes to Condition 54:

"It is requested that Council enable payment of water and sewer charges in a staged manner to enable the development to be undertaken in a more cost efficient manner. In this regard the above amendment provides for the payment of 50% of the water and sewer levy prior to the issue of Construction Certificate, with the remaining 50% to be paid to Council prior to release of the Subdivision Certificate.

As noted above in relation to Condition No. 53 it is requested that Council review the calculations for site credits which indicate that the site has not been credited with the 2 ET relating to the 2 existing allotments. Recognition of the credit for the 2 allotments will require an adjustment to the Schedule relating to Condition 54."

The following comments are provided in relation to the proposed changes to Conditions 53 and 54:

The concept of staging the contribution payments for a development of this scale is generally supported. In this regard, Council staff are prepared to accept the payment of contributions as follows:

- (a) 50% of the total prior to the issue of the Construction Certificate; and
- (b) 50% of the total prior to the issue of the Occupation Certificate (including Interim Occupation Certificate) or any Subdivision Certificate (whichever Certificate is release first) for any tenancy within the development.

In relation to the applicant's request to apply a two ET (equivalent tenement) credit for the two existing allotments, the application of a one ET per allotment only applies to vacant lots. Where a site already contains an existing approved development, the one ET per allotment is acknowledged but it is including in the credit applied to the site. In the calculations for the contributions for the approved Reside Living development, the site was given credit for the existing motel, restaurant and managers residence (which includes the two ET credit). In this regard, no changes to Schedule 1 (contributions table) are necessary.

Condition 125

The current wording of Condition 125 is as follows:

125. The 541m² area of land to be dedicated to Council is to be dedicated for the purpose of a public access way and is to be "operational land" for the purpose of the Local Government Act 1993. Note: The words in the dedication notice in the final plan need to be consistent with the purpose for which it is required to be dedicated.

The applicant shall pay the costs of the necessary public notices to declare the land as "operational land" pursuant to the Local Government Act 1993 prior to the issue of the Final Plan of Subdivision (i.e. Sections 31 and 34). Note: These costs are only required to be paid where the land is required to service the approved development.

The proposed modified wording of Condition 125 is as follows

125. The 541m² area of land to be dedicated to Council is to be dedicated for the purpose of a public access way and is to be "operational land" for the purpose of the Local Government Act 1993. Note: The words in the dedication notice in the final plan need to be consistent with the purpose for which it is required to be dedicated.

The applicant shall pay the costs of the necessary public notices to declare the land as "operational land" pursuant to the Local Government Act 1993 prior to the issue of the Final Plan of Subdivision (i.e. Sections 31 and 34). Note: These costs are only required to be paid where the land is required to service the approved development.

Concurrent with the dedication of the land the proponent and Council shall enter into a Deed of Agreement to provide for the first option for the purchase of the land to be provided to the owners of the development in the event that Council, sometime in the future, decides to dispose of this operational land parcel.

The applicant has provided the following point of justification in relation to the proposed changes to Condition 125:

"Whilst we understand Council's preference is for the land to be operational rather than community land, as Council is aware, this enables Council to subsequently dispose of the land. In the event that Council determines that the land will not be used for the purpose of a public access way and determines to seek to sell the land, it is submitted that the owners of the subject site should be given the first option to purchase the land given its relationship with the proposed development and the significant benefit provided by the development in terms of dedicating the land in the first instance. This proposal is identical to the situation that applies to a roadway. Where a road is proposed to be closed and sold the immediate property is given first option to purchase."

The following comments are provided in relation to the proposed changes to Condition 125:

The proposed modification to this condition is not supported as it is considered that there is no real benefit to Council by entering into a Deed of Agreement in relation to the possible future disposal of the 541m² area of land. However, in the event that Council chose to dispose of this land in the future, it would not be unlike the closure and sale of a road, in that the first option to purchase would be granted to the adjoining property.

Conclusion

The proposed amendments to Development Consent 2013/381, as has been submitted as part of the Section 96 (1A) application, are not supported by Council staff. However, it is considered that there is merit in amending Conditions 27 and 98 (rather than a deletion of these conditions) and amending conditions 37, 53, 54 and 84 (in a manner that differs to what has been proposed in the application).

Under the provisions of the Environmental Planning and Assessment Act 1979 and Regulations 2000, Council is unable to modify a consent notice, other than in the manner which has been requested by the applicant. In this regard, there is no ability for Council to change/amend the subject conditions, or impose additional conditions, unless it has been proposed (or agreed to) by the applicant.

The comments provided within this report regarding the proposed deletion of Conditions 27 and 98 and proposed amendment to Conditions 31, 37, 53, 54, 87 and 125 have been provided to the applicant for their response. At the time of preparation of this report, Council has not received instructions from the applicant indicating acceptance/agreement to the changes recommended by Council staff. In this regard there are two options available to Council in relation to the subject application:

Option One

That Council refuse the submitted Section 96 (1A) Application, and that Conditions 27, 31, 37, 53, 54, 84, 98 and 125 remain as currently stated within Development Consent 2013/381, for the reasons outlined in this report.

Option Two

That Council defer the determination of this Section 96 (1A) Application to enable negotiations to occur with the applicant regarding the suggested changes to the subject conditions (as referred to within this report), with delegations granted to the General Manager to determine the application.

For the reasons outlined in this report, Option Two is the recommended approach.

RECOMMENDATION

That Council defer the determination of the subject application (Amendment No. 1) to Development Consent 2013/381 under Section 96 (1A) of the Environmental Planning and Assessment Act 1979 to enable negotiations to occur between Council and the applicant in relation to Conditions 27, 37, 53, 54, 84 and 98 and that delegation be granted to the General Manager to determine the application at the conclusion of those negotiations.

Attachment(s)

1. Section 96 Locality Plan
2. Report to April 2014 Council Meeting
3. Section 96 Kerr Street Parking Plans

8.4 DA 2010/892 - Highway Service Centre - Section 96 Amendment No. 12

8.4 DA 2010/892 - Highway Service Centre - Section 96 Amendment No. 12

Applicant	Planners North (on behalf of Ballina HSC Pty Ltd)
Property	Lot 11 DP 1011575, No. 565-589 River Street, Ballina
Proposal	To seek modification to DA 2010/962 (Highway Service Centre) – amendment to Condition 5.22
Effect of Planning Instrument	The land is zoned part RU2 Rural Landscape under the provisions of the Ballina LEP 2012 and part 2(a) – Living Area under the provisions of the Ballina LEP 1987
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council at its Ordinary Meeting held on 23 June 2011, resolved to grant deferred commencement conditional consent to the Construction of a Highway Service Centre comprising Service Station, associated Fast Food Restaurants, Auto Repair Centre, associated Vehicular Accesses (including a roundabout intersection on the Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Landscaping, Earthworks and Advertising Structures upon Lot 11 DP 1011575, Pacific Highway (now known as No. 565-589 River Street, West Ballina) and a Two Lot Subdivision (Lot 1 – Highway Service Centre and Lot 2 – Agricultural Residue).

Council has considered a number of amendments to the consent, the most recent being proposed Modification No. 11 that was reported to the meeting of 26 June 2014. This modification requested that Council consider an amendment to Condition 5.22 – Developer Contributions (North and West Ballina Roads Contribution as outlined in Schedule 1) to have regard to the “material public benefit” provided by Ballina HSC Pty Ltd in relation to the provision of two additional flood relief culverts (four in total) with respect to local flooding. The proposed modification would have had the effect of reducing the Roads Contribution levy from \$623,169.00 to \$5,718.26 in recognition of the Proponents cost of \$623,450.74 for the provision of additional culverts.

It was resolved by Council at the June 2014 Ordinary Meeting that proposed Modification No. 11 to DA 2010/962 be refused for the following reasons:

1. The requirement for the additional two culverts has been imposed as a condition of consent and the cost of the culverts should not be deducted from the Ballina Shire Roads Contribution Plan 2010 in accordance with Clause 2.10 of the Plan:
 - a) As the works do not relate to the works schedule in the plan; and
 - b) Council remains of the opinion that four culverts is required to mitigate the direct impacts of DA 2010/962

2. The circumstances of the application are considered by Council not to be in the public interest.

This report seeks a determination from Council in relation to an application lodged via Section 96 (1A) of the Environmental Planning and Assessment Act 1979 (Amendment No. 12) to amend Condition 5.22 – Developer Contributions, by providing an addendum to Condition 5.22 to allow the finalisation of the calculation of contributions pursuant to the North and West Ballina Roads Contribution and the Roads Administration Plan 2010 in recognition of a range of works associated with the provision of the two additional culverts. This proposal is outlined in further detail in the following section of this report.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

The applicant has provided the following additional details in relation to the proposed modification to Condition 5.22:

The initial application (proposed Amendment No. 11) to Council did not plainly articulate the elements for which a Material Public Benefit was sought as distinct from the work required to implement the required two culverts. The subject application has been based upon a clearer explanation of the situation in terms of the items for which a Material Public Benefit adjustment is sought.

The key construction elements associated with the provision of culverts under River Street and the elements for which recognition of a Material Public Benefit is sought are outlined below:

1. Establish 40 metre wide floodway easement through property; (no Material Public Benefit sought)
2. Site establishment; (no Material Public Benefit sought)
3. Construction of side road for traffic to go around the culvert construction work; (no Material Public Benefit sought)
4. Implementation of traffic management control; (no Material Public Benefit sought)
5. Implementation of soil and water management control; (no Material Public Benefit sought)
6. Clearing and grubbing; (no Material Public Benefit sought)
7. Geo-technical and Control survey; (no Material Public Benefit sought)
8. Stormwater control; (no Material Public Benefit sought)

9. Remove existing highway formation; (no Material Public Benefit sought)
10. Treatment of soil for acid sulfate (*Material Public Benefit sought only with respect to the two additional culverts*)
11. Pile culvert foundation & construct culvert slab; (*Material Public Benefit sought only with respect to the two additional culverts*)
12. Supply and install culverts; (*Material Public Benefit sought only with respect to the two additional culverts*)
13. Supply and install head walls; (*Material Public Benefit sought only with respect to the two additional culverts*)
14. Filling and compaction over culverts; (no Material Public Benefit sought)
15. Sealing of roadway over culverts; (no Material Public Benefit sought)
16. Removal of side road; (no Material Public Benefit sought)
17. Re-establish main thoroughfare; (no Material Public Benefit sought)
18. Establish Vegetation and Landscaping (no Material Public Benefit sought)
19. Design and project management; and (*Material Public Benefit sought only with respect to the two additional culverts*)
20. Goods and Services Tax. (*Material Public Benefit sought only with respect to the two additional culverts*).

The applicant is seeking Council's support for Amendment No. 12, which would provide an addendum to Condition 5.22 to allow the finalisation of the calculation of contributions pursuant to the North and West Ballina Roads Contribution and the Roads Administration Plan 2010 in recognition of work for:

- Treatment of soil for acid sulfate for two culverts only;
- Culvert foundation/piling and culvert slab construction works for two culverts only;
- Supply and install two culverts only;
- Supply and install headwalls for two culverts only;
- Design and project management fees for two additional culverts only; and
- Goods and Services Tax relating only to the supply and installation of two additional culverts.

The applicant has proposed that the cost of this work would be certified by an independent quantity surveyor.

In addition, the applicant has advised that the proposed amendment to Condition 5.22 will provide for the equitable provision of additional culverts to serve as flood relief for the greater Ballina community and maintain the environmental objectives of Council and the proponent in relation to the subject development.

Council's Civil Services Group have assessed the proposed modification and provided the following comments.

The "West Ballina Flood Relief Optimisation Study" prepared by specialist consultants BMT-WMB was tabled at the Council Ordinary Meeting of 27 February 2014 and provided advice that two culverts would sufficiently mitigate the impact of the development on the floodplain. In the opinion of Council, four culverts are preferred to two culverts as this provides the maximum flood mitigation and provides some buffer to the risks associated with the limitations of the model.

The applicant's position is that two culverts suitably mitigate the impacts of their development and therefore any additional culverts provide a material public benefit.

It is acknowledged that proposed Amendment No. 11 was previously reported to Council's Ordinary Meeting on 26 June 2014, whereby Council determined the application by way of refusal. This modification requested that Council consider an amendment to Condition 5.22 – Developer Contributions (North and West Ballina Roads Contribution as outlined in Schedule 1) to have regard to the "material public benefit" provided by Ballina HSC Pty Ltd in relation to the provision of two additional flood relief culverts (four in total) with respect to local flooding. The proposed modification would have had the effect of reducing the Roads Contribution levy from \$623,169.00 to \$5,718.26 in recognition of the proponent's cost of \$623,450.74 for the provision of additional culverts.

This assessment addresses the culverts under River Street only. It is noted that the construction of the culverts under River Street may need to be replicated on the internal access road, with their construction at full cost to the Proponent.

The applicant's submission for proposed Amendment No. 12 includes a list of "the key construction elements associated with the provision of culverts under River Street for which recognition of a material public benefit is sought." Although the list of 20 items is not comprehensive, it does generally identify the key elements of the construction process and specifically identifies six items for *which 'material public benefit is sought only with respect to the two additional culverts.'* The submission also proposes that the cost of the work be certified by an independent quantity surveyor.

If this development proceeds, there are significant construction costs in undertaking the works and management of the site including, for example, traffic, storm water, geotechnical, filling, road pavement works and environmental constraints whether two or four culverts are constructed. The only items for which material public benefit is sought are those items directly attributable to the additional two culverts and listed as such in the submission.

Should Council consider there is some material public benefit attached to the two additional culverts and decides to have them installed in conjunction with the other road & drainage works, there is a benefit to Council. This is because only construction and material costs for the two culverts are identified as being funded by Council and the inherent site construction costs associated with the development are being met by the developer.

The actual cost of the works has not been fully determined and this needs to be understood to ensure Council understands its financial commitment to the project should it consider this to be a suitable outcome. It is noted that the applicant has detailed that the cost of this work would be certified by an independent quantity surveyor. One option to manage Council's liability would be to limit the material public benefit to the applicable section 94 roads contributions.

As mentioned in the report for proposed Amendment No. 11 (Refer to Attachment 2), the Roads Contribution Plan 2010 has not identified this specific development would occur and did not include the proposed works in the works schedule attached to the plan. The plan did not envisage it would receive contributions from this development and, in general terms, had not factored in receiving funds for or spending funds on these works at this time. So, it can be argued that, the delivery of this infrastructure is in advance of and at a future cost to the plan.

In view of the above, it is considered that proposed Amendment No. 12, can be supported, subject to the applicant and Council reaching agreement on the following points:

- The works schedule as outlined earlier in this report
- The timing of the independent quantity surveyor assessment - For example that may be confirmed closer to the works being undertaken
- The quantity surveyor to be selected by Council.
- It would also seem appropriate to limit Council's exposure to a maximum credit equivalent to the applicable section 94 roads contributions.

All of this information would represent the costs attributable to the additional two culverts.

Conclusion

Based on the advice provided by Council's Civil Services Group, the Section 96 (1A) application – proposed Amendment No. 12 to amend Condition 5.22 should be supported, subject to the applicant and Council reaching agreement on the process to confirm the costs attributable to the additional two culverts.

It is recognized that there is some material public benefit attached to the two additional culverts and their installation in conjunction with the other road & drainage works, provides a benefit to Council. As discussed above, this is because only construction and material costs for the two culverts are identified as being funded by Council and the inherent site construction costs associated with the development are being met by the developer.

RECOMMENDATION

That delegation be granted to the General Manager to determine the subject application (Amendment No. 12) under Section 96 (1A) of the Environmental Planning and Assessment Act 1979 to amend Condition 5.22 in relation to the recognition of a Material Public Benefit provided by the two additional culverts, subject to the applicant and Council reaching agreement on the process to determine the costs attributable for the additional two culverts, with Council supporting the methodology outlined in this report.

Attachment(s)

1. Section 96 Amendment No. 12 - Locality Plan

8.5 Companion Animals Management Plan - Review

8.5 Companion Animals Management Plan - Review

Delivery Program Environmental and Public Health

Objective To undertake a review of Council's Companion Animals Management Plan.

Background

The purpose of this report is to review the Companion Animals Management Plan. Council first adopted this Plan in 23 September 2010 and was last reviewed on 23 August 2012.

Key Issues

- Contents of the Plan

Information

This review of the Plan identified only minor changes and a layout style change has been undertaken to make the Plan more user friendly and easier to identify the Action Plans. Otherwise the Plan is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended plan is attached to the report.

The Plan is consistent with the Council's Community Strategic Plan and complies with the obligations placed on Council by the NSW Companion Animals Act "the Act". The Plan also provides the opportunity for Council to establish a balance between encouragement and support for the social benefits of dog and cat ownership, whilst at the same time indicating a strong commitment to protecting public amenity, safety and the environment. Actions taken over the last two years have been considered as part of this review and incorporated into each of the 12 Action Plans. Council has invested substantial time and resources into the Ranger team in recent years and the level of education and enforcement has advanced in this area. Additionally, statistical breakdowns on actions taken by the Ranger team over the last financial year being 2013/14 in relation to dog and cat matters are outlined as follows:

Customer Requests (CRMs) received and attended to

CRMs	Total
Dog Attacks	97
Barking Dogs	106
Dogs Roaming/Straying	296
Dog and Cat Collection	297
Dog Defecation	11
Nuisance Cats	27

8.5 Companion Animals Management Plan - Review

The number of orders and notices issued under the Act

Notices & Orders Actioned	Total
Nuisance Dog Orders	20
Restricted Dogs	2
Dangerous Dogs	1
Formal Warning Notice i.e. dog attack	45
Court Matters	3

Animal Shelter collection data

Summary of Pound Data	Cats	Dogs	Total
Seized & Transferred to Council's Facility	42	198	240
Surrendered by Owners	10	48	58
Released to Owners	8	122	130
Released for rehoming	20	53	73
Euthanised	14	44	58
Sold	0	0	0
Died at Council's Facility	1	0	1
Stolen or Escaped from Council's Facility	1	0	1

Penalty Infringement Notice (PIN) Offences issued under the Act

Offence Description	PINS Issued	PIN Value
Leave Animal Unattended in a Public Place	2	\$660
Owner/In charge of dog that rushes at or attacks a person or animal	15	\$8,250
Furnish false name and address	1	\$275
Fail to prevent dog from escaping	14	\$308
In charge of dog in a prohibited place	1	\$330
Own/in charge of dog uncontrolled in a public place	45	\$9,900
Own dog in a prohibited place	12	\$3,960
Sell unidentified companion animal	1	\$165
Not comply with requirement to register companion animal	262	\$69,080

8.5 Companion Animals Management Plan - Review

Cat not wearing identification	1	\$110
Fail to comply with Nuisance Dog Order	1	\$275
Not remove dog faeces	2	\$550
Total Value		\$ 96,635

The Minister for the Office of Local Government has requested local councils conduct audits of the NSW Companion Animals Register for dogs and cats not registered.

Council has recently commenced an audit process of the NSW Register for the Shire and started with the most recent years being 2014, 2013, 2012 and 2011, resulting in over 1,500 letters being sent to residents requesting that they register their pets.

Council has received a positive response with the majority of people paying their registrations following the mail outs.

Those that have not paid their registration may be issued with a \$275 penalty infringement notice for not complying with the requirement to register their pet.

Please refer to the monthly break down of money received each month by Council for cat and dog registrations.

As you can see following the commencement of the audit the money received since February 2014 has increased substantially therefore confirming an increase in registrations of cats and dogs in the Shire.

Monthly Registration	\$ Value
July 2013	\$2,695
August 2013	\$2,880
September 2013	\$2,575
October 2013	\$1,750
November 2013	\$2,425
December 2013	\$2,210
January 2014	\$3,065
February 2014	\$4,016
March 2014	\$12,884
April 2014	\$7,960
May 2014	\$7,153
June 2014	\$4,474
July 2014	\$6,130
Total Income 2013/2014	\$60,217

8.5 Companion Animals Management Plan - Review

For the 2012/13 financial year Council received a total of \$25,000 for registrations.

Council will now be actively following up on dogs and cats not registered and it is anticipated that an audit of data back to 2008 will be undertaken during the next 12 months. This will increase the accuracy of information held by Council and provide additional revenue.

This process ensures Council has current information on the number of dogs and cats in the Shire and also ensures animals that are roaming and or have been lost can be returned to their owners as quickly as possible making it more efficient for the Rangers and most importantly less traumatic for the pet and their owner.

Concerns have been raised regarding the number of dogs permitted by their owners to be off leash along the coastal walkways/cycleways in Ballina and Lennox Head. In particular, safety issues along the section adjacent to The Spit off leash dog exercise area. Dogs must be on leash and under effective control of a competent person along all public walkways. Given the increased risks to cyclists and other pedestrians of unleashed dogs it is considered appropriate to provide educational stenciling indicating a dog with a leash along prominent walkways.

A trial of this education and regulatory control is recommended along the walkway from the Marine Museum to the end of North Wall, Ballina. The stencil is approximately a metre square and will be painted every couple of hundred metres. There are a number of other Shires using this form of education for example Gold Coast, Tweed and Newcastle.

Sustainability Considerations

- **Environment**

The Plan assists with the protection of the natural and built environment through the introduction of clear guidelines for the management of dogs and cats.

- **Social**

Dog and cat ownership brings both great benefits and significant adverse impacts for people living in the community. Irresponsible owners of dogs and cats can be the cause of many neighbourhood disputes. Dog attacks cause serious injury to people and other animals and have occasioned death.

Dogs and cats provide great support and companionship to owners and help with loneliness and assist in the rehabilitation of people, particularly the elderly.

- **Economic**

Majority of actions are funded within existing budgets and resources.

Legal / Resource / Financial Implications

The revision of the Plan corrects inaccuracies in the previous Plan arising from legislative changes and updates the Council's responses to the management of dogs and cats.

The cost to Council in their management responsibilities of dogs and cats is substantial and there is a need to balance the allocation of resources to meet the requirements of the Act and the demands of the local community.

Consultation

The Plan has been revised in consultation with the NSW Office of Local Government and in response to community concerns.

Options

Council may accept or amend the proposed changes to the Plan. The changes included are largely legislative, or of a housekeeping nature, and therefore it is recommended that the Plan be adopted as attached.

It is also recommended that the Plan be exhibited for public comment and if no submissions are received from the exhibition process, then no further actions are required.

RECOMMENDATIONS

1. That Council adopts the amended Companion Animals Management Plan Policy, as attached to this report.
2. That Council supports the stenciling along popular cycle and walkways with an on-leash dog message.
3. That Council place this Plan on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Companion Animals Management Plan (Under separate cover)

8.6 Development Applications - Works in Progress - October 2014

8.6 Development Applications - Works in Progress - October 2014

The following schedule sets out current development applications that have not yet been dealt with for the reasons cited:

Please note that duplex and dual occupancy applications are not included in this report.

DA No.	Date Rec'd	Applicant	Proposal	Status
2011/515	30/11/2011	Newton Denny Chapelle	Staged development - 5 x lot subdivision for future cluster housing development and construction of public road - No. 565-589 River Street, West Ballina	Awaiting additional information
2012/291	23/07/2012	Newton Denny Chapelle	To undertake a staged 47 Lot Community Title residential subdivision with lots ranging in size from 303m ² to 773m ² , associated road, earth and infrastructure servicing works, creation of a public road and one 6.4 hectare Torrens Title residue lot - 565-589 River Street, West Ballina	Awaiting additional information
2013/446	15/11/2013	Newton Denny Chapelle	To undertake a boundary adjustment subdivision, demolition of existing dwelling house, erection of residential accommodation comprising 20 multi dwelling housing units	Awaiting Additional Information

8.6 Development Applications - Works in Progress - October 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			and associated earthworks, access driveway, services, tree removal and car parking. The development is to be undertaken in a staged manner – 209 Ballina Road, Alstonville	
2014/19	24/01/2014	Visionstream Pty Ltd	To erect a telecommunications (fixed wireless broadband) facility comprising a 30 metre high monopole tower with antennas, compound area, equipment and associated works – 55 Beacon Rd, Teven	Awaiting Additional Information
2014/31	5/02/2014	Newton Denny Chapelle	Staged development application pursuant to S.83B for a residential subdivision comprising two stages, with stage one including 159 residential lots, five public reserve lots, tree removal, civil infrastructure works and associated easements and stage two consisting of concept	Being Assessed

8.6 Development Applications - Works in Progress - October 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			approval for nine residential lots and one public reserve lot - 78 Hutley Drive & Henderson Lane, Lennox Head	
2014/229	21/05/2014	Tony Hart	Subdivision by way of minor boundary adjustment to create 1 x 41ha and 1 x 50.7ha allotments and the erection of a dwelling house on each proposed allotment - Friday Hut Road & Jorgensens Lane, Brooklet	Determination Pending
2014/286	20/06/2014	Ardill Payne & Partners	Proposed subdivision comprising eight residential lots and two residue lots and associated works including vegetation management works - 33 Mitchell Close & Unara Parkway, Cumbalum	Being Assessed
2014/307	27/06/2014	Ardill Payne & Partners	Two lot boundary adjustment subdivision and erection of a dual occupancy on one of the modified lots - 608 Ellis Road, Rous	Awaiting Additional Information
2014/328	7/07/2014	K Tantarri	To undertake the continued use of the premises as a place of public	Awaiting Additional Information

8.6 Development Applications - Works in Progress - October 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			worship and erection of new awning – 12 De Havilland Crescent, Ballina	
2014/333	9/07/2014	Alstonville Community Preschool	To undertake the erection of a community facility for use as a child care centre (Alstonville Community Preschool) and associated works including access road and car parking – 21 Alston Avenue, Alstonville	Determination Pending (Reported to October Council Meeting)
2014/345	14/07/2014	Geolink	Erection of Sports Amenity and Clubhouse Facilities Associated with the Use of the Wollongbar Sporting Fields – Rifle Range Road, Alstonville	Determination Pending
2014/349	14/07/2014	D M Dossor	Residential subdivision comprising 17 allotments and one open space allotment and associated civil and environmental works – Amber Drive, Lennox Head	Awaiting Additional Information
2014/354	17/07/2014	Far North Coast Laundry Services Pty Ltd	Change of Use to Commercial Laundry and Erection of Mezzanine Level within the Building – 2/188-202 Southern Cross	Determination Pending

8.6 Development Applications - Works in Progress - October 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
2014/360	22/07/2014	Newton Denny Chapelle	Drive, Ballina To undertake a staged development involving the establishment of a master plan for the long term development of the Emmanuel Anglican College Campus with Stage 1 comprising the expansion of the central administration building and Stage 1A being the construction of junior classrooms – 62 Horizon Drive, West Ballina	Awaiting Additional Information
2014/370	30/07/2014	M L Thompson	Change of Use to a Food and Drink Premises – 8/216-234 River Street, Ballina	Determination Pending
2014/377	1/08/2014	Newton Denny Chapelle	Erection of a strata title subdivision of a multi dwelling housing development comprising 25 two storey dwelling units above basement car parking and associated works - 6 Burns Point Ferry Road, West Ballina	Being Assessed
2014/387	8/08/2014	Visionstream Pty Ltd	To Erect a Telecommunications Facility Comprising a	Referred to Government Departments

8.6 Development Applications - Works in Progress - October 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			45m High Lattice Tower and Ancillary Equipment – 11 Dees Lane, Lynwood	
2014/393	14/08/2014	RAW Fast	To undertake the change of use of an industrial building utilised for the Retail of Bulky Goods to a Recreational Facility (Indoor) - Health Studio - 16 Southern Cross Drive, Ballina	Awaiting Additional Information
2014/411	20/08/2014	Kawaihae Outrigger Canoe Club	Establishment of a Compound Area for the Kawaihae Outrigger Canoe Club, involving the erection of a 1.8m high chain-wire security fence, a single storey colorbond shed and ancillary storage areas - 5 Cawarra Street, Ballina	Being Assessed
2014/441	3/09/2014	Chris Abbott Surveying	Two Lot Rural Subdivision to create 1 x 1.05 hectare Lot 1 x 20.3 hectare Lot (Lot 2 - Primary Production Lot) via State Environment Planning Policy (Rural Lands) 2008 – 50 Weis Lane, Rous	Awaiting Additional Information
2014/448	08/09/2014	R Pidcock	Erection of a Building Containing Two Industrial Units - 11 Cessna	Awaiting Additional Information

8.6 Development Applications - Works in Progress - October 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			Crescent, Ballina	
2014/470	19/09/2014	Ballina Shire Council	To undertake Vegetation Management works comprising the removal of one Mango Tree - 60 Crane Street, Ballina	Determination Pending (Awaiting confirmation of landowner)
2014/487	26/09/2014	Atlas Awnings	Erection of first floor awning and deck (attached Unit 3) forward of the building line to Lems Lane - 3/62 Stewart Street, Lennox Head	On Exhibition
2014/498	30/09/2014	Newton Denny Chapelle	To undertake a change of use from and Indoor Sporting Facility to a Vehicle Repair Station and Vehicle Sales Premises - 26 & 28 Barlows Rd, Ballina	On Exhibition and Awaiting Additional Information
2014/500	01/10/2014	Land and Housing Corporation	Vegetation Management Works - comprising the removal of two Blue Gum Trees	Being Assessed
2014/504	03/10/2014	W Thomas	Vegetation Management Works comprising the removal of one Mango Tree - 123 Tamar Street, Ballina	Being Assessed

8.6 Development Applications - Works in Progress - October 2014

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2012/334	17/08/2012	Ballina Shire Council	The construction of Hutley Drive connection to the Pacific Pines Estate via a round-about, connection to Elevation Estate & vegetation clearance in SEPP 14 affected area – North Creek Road, Lennox Head	Referred to Government Departments
2013/286	5/08/2013	Ballina Shire Council	Establishment and Operation of a Biochar and Waste-to-Energy Facility - 167 Southern Cross Drive, Ballina	Referred to Government Departments

Major Development (Determined by Minister)

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

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for October 2014.

Attachment(s)

Nil

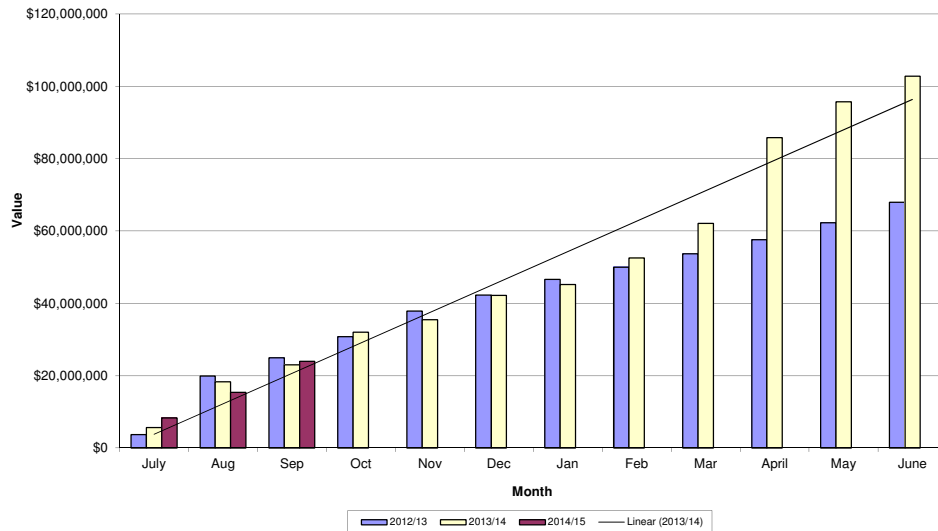
8.7 Development Consent Statistics - August 2014

8.7 Development Consent Statistics - August 2014

During the period of 1 September 2014 to 30 September 2014 the Development and Environmental Health Group issued Development Consent comprising of:

Number of Applications	Value of Work
35 Other Building Related	\$ 1,745,600
23 Dwelling/Duplexes/Residential Flat Buildings	\$ 6,842,000
3 General Developments	\$ 0
Total Value	\$ 8,587,600

The following chart details the cumulative consent figures for 2013/14 as compared to 2012/13 and 2011/12. A trend line has also been provided for 2013/14 to assist in the comparison.



RECOMMENDATION

That Council notes the contents of the report on development consent statistics for 1 September 2014 to 30 September 2014.

Attachment(s)

Nil

9.1 Pacific Pines Development Lennox Head

9. Strategic and Community Facilities Group Reports

9.1 Pacific Pines Development Lennox Head

Delivery Program Strategic Planning

Objective To provide additional information to the Council concerning traffic management matters pertaining to the Pacific Pines Estate development in Lennox Head.

Background

The Council considered a report on the progress of the Pacific Pines Estate development at its September 2014 Ordinary Meeting. The reporting included discussion concerning traffic management matters associated with the environmental capacity of Montwood Drive. With respect to Montwood Drive, the report sought the Council's endorsement of the Traffic and Transportation Statement for the remaining stages of the Pacific Pines Estate as part of the construction certificate assessment process for Stage 1B of the project.

In response to the matters raised in the September report, the Council resolved as follows (Minute No. 250914/8):

1. *That Council notes the contents of this report providing an update on the Pacific Pines development in relation to the conservation zone area, the playing fields, the western access road, financial contributions and the status of the various approval processes and the proponent.*
2. *With respect to traffic management, Council notes the exceedance of the environmental capacity of Montwood Drive and requires further investigations or management measures to be considered before proceeding further.*
3. *That Council receive a report on the funding and delivery of Hutley Drive, both north and south, along with information on mitigating the impacts on Montwood Drive.*

This report responds to item two of the Council's resolution and seeks direction with respect to the progress of the assessment for the construction certificate for Stage 1B of the Pacific Pines Estate development.

Key Issues

- Processing of the construction certificate for Stage 1B of the Pacific Pines development
- Traffic management planning

Information

Traffic Management – Montwood Drive

The September 2014 report to the Council regarding the Pacific Pines development outlined key traffic management considerations pertaining to the development. Specifically, the report advised that Council is required, under the conditions of consent issued by the NSW Department of Planning and Environment, to approve a traffic management plan for the development prior to the issue of a construction certificate for Stage 1B.

Council's Civil Services Group has advised that the traffic management plan (Traffic and Transportation Statement for Pacific Pines prepared by Cardno Eppell Olsen November 2011 and July 2014) has been assessed and is considered to be satisfactory from a technical perspective.

However, as outlined in the previous report, it is evident from the traffic management plan that the environmental capacity of Montwood Drive will likely be exceeded following the development of Stages 1A and 1B and beyond of this estate. This exceedance would continue to a level of about 12% above the nominated 3,500 vehicle per day environmental capacity for Montwood Drive under the ultimate Pacific Pines development scenario (i.e. construction of all six stages – some 560 dwellings and assuming the construction of the Hutley Drive north left in/left out upgrade).

Environmental capacity is a theoretical capacity above which the amenity of the neighbourhood and adjoining residents may be progressively adversely impacted. For Montwood Drive, being a minor residential collector road, 3,500 vehicles per day (vpd) is the notional limit environmental capacity. Environmental capacity is different from the functional or physical capacity of a road. In the case of Montwood Drive, the physical traffic-carrying capacity is substantially higher than the nominated environmental capacity.

The projected exceedance of the environmental capacity on Montwood Drive is on the basis that the southern extension to Hutley Drive is not constructed. The traffic modelling indicates that construction of these sections of Hutley Drive would eliminate the exceedance such that traffic volumes on Montwood Drive would be below 3,500 vehicles per day (considering the Pacific Pines development).

Council's Civil Services Group advised in the September 2014 report that the projected exceedance of the environmental capacity for Montwood Drive is unlikely to have a significant long term adverse impact on residents. Essentially, any impact is expected to be temporary given the planned construction of Hutley Drive south, the physical capacity of Montwood Drive is adequate to accommodate the projected traffic volumes and increased traffic volumes will occur incrementally (current projections suggest it will be around ten years before the final stage of Pacific Pines is completed after Stage 1A commences).

Essentially, there is expected to be minor impact on Montwood Drive in the short term, with there being a substantial time period available to resolve the provision of the Hutley Drive extensions and thus alleviate and avoid long term exceedance of environmental capacity on Montwood Drive.

9.1 Pacific Pines Development Lennox Head

Council's Civil Services Group has examined potential mitigation options available to manage the projected traffic volumes on Montwood Drive in the absence of the Hutley Drive extensions. The Civil Services Group has not identified any viable management measures to reduce the exceedance of environmental capacity on Montwood Drive in the absence of the Hutley Drive south connection or the construction of an entirely new road in the network.

On this basis, continued focus on the delivery of Hutley Drive appears to be the most logical and prudent course of action in relation to long term traffic management for the Pacific Pines Estate.

Road Infrastructure Planning in the Pacific Pines Locality

With respect to the above, staff are currently reviewing the Ballina Shire roads s94 contributions plan and actively planning for the Hutley Drive road works. The status of these matters is briefly outlined below.

Section 94 Roads Plan

The Ballina Shire Roads Contribution Plan 2010 was adopted by the Council on 25 February 2010 and became effective on 8 March 2010. The 2010 plan was made in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and authorises imposition of conditions of consent requiring payment of monetary contributions to Council for developments that consume capacity on existing strategic road infrastructure or require additional strategic road infrastructure. The 2010 plan was based on modelling predictions by consultants Cardno, Eppell Olsen in 2007 and 2009, of future traffic volumes on the Ballina Shire road network in the year 2026.

Since the 2010 contributions plan was adopted, the Alstonville and Ballina Bypasses have opened, the cost of road infrastructure has dramatically risen and population growth predictions for Ballina Shire have substantially decreased. These changes have rendered a review of the road contributions plan necessary to align it with current population, road network and road cost expectations.

The first part of the review requires using revised population predictions to update modelling of future traffic volumes and road network upgrade needs for the year 2036. This process has commenced and is expected to be completed in December 2014. The revised traffic predictions and network upgrade requirements will be used to draft an updated development road contributions plan. The new draft contributions plan will then be required to undergo a statutory public exhibition and submissions process before final adoption by the Council. It is expected this process will be completed in the first half of 2015.

Hutley Drive Planning

Council is presently planning for the extensions of Hutley Drive to the north and south.

9.1 Pacific Pines Development Lennox Head

The proposed northern extension of Hutley Drive presently involves an interim arrangement that provides for a left in/left out connection with North Creek Road immediately south of the roundabout on The Coast Road. This arrangement has received planning approval and delivery is subject to funding.

A longer term configuration for the northern extension is also under consideration as part of the current planning proposal for the rezoning of the "Reservoir Hill" site at Lennox Head.

Integration of the northern extension of Hutley Drive into the development of this land potentially provides opportunities for an improved and longer term extension to Hutley Drive between the Lennox Meadows Estate and The Coast Road roundabout.

The southern extension of Hutley Drive involves two components. One part of this extension, to connect the Lennox Meadows Estate with the proposed Pacific Pines Estate playing fields, is to be provided as part of Stage 1B of the Pacific Pines development. The second part of the extension (being from the proposed Pacific Pines Estate playing fields southward routing around the western edge of the Elevation Estate and connecting to Skennars Head Road) has not yet received planning approval.

An application seeking planning approval has been lodged by Council's Civil Services Group and it is subject to assessment and determination by the Northern Joint Regional Planning Panel.

The assessment of the application is advancing. The Civil Services Group (acting as the proponent on behalf of the Council) has prepared additional material in response to requests for further information and clarification in support of the application. This information is intended to enable Council's Development and Environmental Health Group to proceed to finalise its assessment and reporting (on behalf of the JRPP), and allow the NSW Office of Environment and Heritage to complete its assessment of ecological considerations, as the proposed project requires concurrence from that authority.

The construction of Hutley Drive south is included as planned works under Council's current shire-wide s94 development contributions roads plan. The s94 plan identifies Hutley Drive south as one of the initial items for construction over the period 2010 to 2015, indicating that the project is planned to occur in the short term (where funding is available). However due to slower growth rates the construction works have been pushed out to 2018/19 in Council's Long Term Financial Plan, with the works funded through significant borrowings. The actual timing of this work will be dependent on the rate of Section 94 contributions collected. The current review of the roads plan may also result in this timing being amended again.

9.1 Pacific Pines Development Lennox Head

Summary

The core of the environmental capacity issue for Montwood Drive can be summarised as follows:

- It is projected that the environmental capacity of Montwood Drive will be exceeded by about 12% at the completion of the remaining development of Pacific Pines Estate (i.e. 6 stages). This assumes the completion of the construction of the Hutley Drive north left in/left out road upgrade and that the southern extension is not built.
- Council staff is presently considering a construction certificate application for Stage 1B of the Pacific Pines development. In the short term the initial stages of the development (stages 1A and 1B) are expected to result in an exceedance of the environmental capacity of Montwood Drive by about 5.5% unmitigated.
- Based on the available traffic modelling, the impact on the environmental capacity of Montwood Drive will be alleviated (such that the environmental capacity is no longer exceeded) by the construction of Hutley Drive south. Thus, there is a suitable mitigation solution available.
- Traffic impacts on Montwood Drive are expected to be incremental, and are subject to the staged development of the remainder of the estate. This means there is a significant period of time available for Council to provide for the Hutley Drive extension before the ultimate development scenario for Pacific Pines is reached (currently estimated at around 10 years following commencement of Stage 1A).
- Council can further consider traffic impacts in association with expected future development applications for stages 2, 3, 4, 5 and 6 of Pacific Pines.
- Council cannot issue a construction certificate for Stage 1B until the traffic management plan, including recognition of the above described environmental capacity issue is endorsed. If a construction certificate is not issued for Stage 1B, the development cannot practically proceed under the current Ministerial approval as release of Stage 1A residential lots is reliant on infrastructure proposed under Stage 1B. Stage 1B infrastructure includes a partial extension to Hutley Drive and the completion and delivery of the Pacific Pines Estate playing fields.

On balance, and particularly given that the projected minor exceedance of the environmental capacity of Montwood Drive won't be immediate and can be mitigated by the provision of the Hutley Drive extensions, it is recommended that the Council endorse the approval of the traffic management plan by staff for the purposes of enabling the development to proceed in relation to traffic management matters. Under this approach, Council's planning for the Hutley Drive extensions and the review of the s94 plan will then have specific regard for the traffic management issues associated with Montwood Drive.

Sustainability Considerations

- **Environment**

The projected exceedance of the environmental capacity of Montwood Drive as a result of future stages of the Pacific Pines Estate development may impact on the amenity of residents in the locality. However, this impact is expected to be incremental over a number of years and would ultimately be mitigated by the construction of the extension of Hutley Drive south.

- **Social**

As above.

- **Economic**

There is a difficult balance to be struck between the projected exceedance of the environmental capacity of Montwood Drive and the potential impact on the amenity of residents, the likely short term and incremental nature of the changes in traffic volumes, the availability of mitigation through the extension of Hutley Drive and the economic and infrastructure benefits of enabling the remainder of the Pacific Pines Estate development to progress.

Legal / Resource / Financial Implications

There are no specific legal, resource or financial implications arising from the discussion within this report, although the Council is particularly urged to be mindful of the implications associated with the environmental capacity of Montwood Drive.

Consultation

Broad community consultation occurred regarding the proposed Pacific Pines Estate at the time the Department of Planning was assessing the concept plan and development applications under the prevailing legislation. Prior to that, there were various iterations of development plans for the new estate which were also exhibited for community and government agency feedback.

The likelihood of the remainder of the Pacific Pines Estate being undertaken on a staged basis was also “factored in” at the time the Council prepared and adopted the Lennox Head Community Aspirations Strategic Plan in 2002 and the Lennox head Structure Plan in 2004. Both of these documents were based on comprehensive community engagement.

It is expected that Council’s revised draft s94 road plan, including how the funding of Hutley Drive is addressed, will be publicly exhibited in 2015.

Options

As outlined in the Council’s September 2014 report, it is open to the Council to either support approval of the traffic management plan, noting the exceedance of the environmental capacity of Montwood Drive, or to reject the current management plan and require further investigations or management measures to be considered before proceeding further.

9.1 Pacific Pines Development Lennox Head

As outlined above, the content of the traffic management reporting has been assessed by Council's Civil Services Group and, overall, it is considered to be acceptable. The primary matter for consideration is the projected exceedance of the environmental capacity of Montwood Drive as the remaining staged development of Pacific Pines Estate occurs, in the absence of the Hutley Drive road link (north and south).

On balance, it is recommended that the projected environmental exceedance on Montwood Drive be recognised as relatively minor and reasonable in the circumstances.

In the event that the traffic management plan is not approved by the Council, parts of the Pacific Pines development may not be able to proceed until such time as Hutley Drive is extended. This could mean that significant public infrastructure, playing fields, housing and the commercial area associated with the development will not proceed.

The disadvantage of proceeding on the basis of the traffic management plan provided is that residents along Montwood Drive may experience or perceive adverse traffic-related amenity impacts until such time as Hutley Drive is extended.

RECOMMENDATION

That Council endorses the approval of the Traffic and Transportation Statement for the remaining stages of the Pacific Pines Estate development by staff for the purposes of meeting the Minister for Planning's condition of consent requiring preparation and Council approval of a traffic management plan prior to the release of a construction certificate for Stage 1B of the Pacific Pines Estate.

Attachment(s)

Nil

9.2 Ballina Local Environmental Plan 2012 - 12 Month Review

9.2 Ballina Local Environmental Plan 2012 - 12 Month Review

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the 12 month review of the operation of the Ballina Local Environmental Plan 2012 and seek direction with respect to the progress of a planning proposal to facilitate a number of identified 'housekeeping' amendments to the Plan.

Background

The *Ballina Local Environmental Plan 2012* (BLEP 2012) was formulated by Council in response to the NSW State Government's Standard Instrument Local Environmental Plan program. Council resolved to endorse its new comprehensive LEP in December 2011 and, following processing by the Department of Planning and Environment, the plan came into effect in February 2013.

Following 12 months of operation of the plan, the Strategic and Community Facilities Group has undertaken a general review of the plan to examine its overall operation and identify any areas where adjustments might be made to improve its function and content.

This commitment was made to the Council at the time the plan was introduced.

The review has been undertaken as it is considered to be good practice to routinely consider the operation of planning instruments, including specific examination of the initial period of plan implementation.

In general, it is apparent that the plan and its provisions are functioning well. There have been a number of transitional issues including matters associated with the standardising of land use definitions, interpretation of new provisions, changes in the location of provisions between the LEP and DCP and the deferral of environmental protection zones by the State Government. However, as a generalization, Council's operations and industry appear to have adjusted well to the implementation of the new plan.

The review has, however, identified 32 recommended amendments to the plan, details of which are further discussed in this report and are detailed in the planning proposal included in Attachment One.

As outlined below, these amendments are typically housekeeping in nature, with more significant amendments and rezonings subjects to stand alone amendment processes.

Key Issues

- The function and operation of the BLEP 2012.
- Minor adjustments to the content of the BLEP 2012.

Information

In addition to considering the overall operation of the BLEP 2012 since its introduction, the review of the BLEP 2012 has been undertaken having particular regard for:

- Ensuring consistency of zoning and associated planning provisions with actual land and/or desired land uses,
- Aligning of zone boundaries with cadastre wherever possible,
- Assessment and review of identified minor discrepancies, and
- General housekeeping to maximise the function of the plan.

Having regard for the above, the review has identified a total of 32 items that are recommended for adjustment as detailed in the table below. Further details in relation to the amendments, including changes associated with the primary amendment, are contained in the planning proposal in Attachment One.

Item	Location/ Matter	Details
1	Alstonville Showground	The showground site is currently zoned RE1 Public Recreation. It is proposed to change the zoning of the showground site to RE2 Private Recreation to better reflect the ownership of the land (i.e. Alstonville Agricultural Society Inc) and the associated private recreational land use aspects of the site.
2	Ballina High School	Part of the Ballina High School site is zoned RE1 Public Recreation (the former Clement Park component of the school playground). Because this site is the property of the Department of Education and the land is no longer fully publicly accessible, it is proposed to zone the entire school site as R3 Medium Density Residential. This is consistent with the direction in the Department of Planning's zoning guidelines which recommend zoning school sites consistent with surrounding land uses. This approach has been applied to all other school sites in the Shire.
3	Brunswick Street Reserve, Ballina	This small public reserve area near the corner of Brunswick Street and Canal Road is currently zoned R3 Medium Density Residential. It is proposed to zone this reserve as RE1 Public Recreation to reflect its use as a public reserve.

9.2 Ballina Local Environmental Plan 2012 - 12 Month Review

Item	Location/ Matter	Details
4	Coastal Grove Area, Lennox Head	It is proposed to apply the RE1 Public Recreation zone to the entire area of the public reserve now dedicated to Council as part of the Coastal Grove Development. Currently this reserve is zoned part RE1 Public Recreation and part R2 Low Density Residential.
5	Dalmacia Drive Bushland, Wollongbar	A small sliver of Council-owned land is within the R2 Low Density zone. It is proposed to realign the boundaries of the RE1 Public Recreation zone for this bushland reserve to include all land in Council's ownership.
6	Lake Ainsworth Caravan Park	The two Ross Street lots originally in Council's ownership were zoned R3 Medium Density Residential upon gazettal of the BLEP 2012. Since gazettal, these lots have been sold and absorbed into the Crown reserve occupied by the Lake Ainsworth Caravan Park. It is proposed to remove these lots from the R3 zone and apply the RE1 Public Recreation zone consistent with the rest of the caravan park site.
7	Latta Avenue Waterfront	A small strip of Crown land zoned RE1 Public Recreation exists along the water frontage of three Latta Avenue properties. The land is inaccessible to the public and does not function as public open space. It is therefore proposed to remove the RE1 zone and apply the R3 Medium Density Residential zone to the land.
8	Links Avenue Reserve, East Ballina	A small discrepancy has been identified with the zone boundary between the R2 Low Density Residential and RE1 Public Recreation zones on the edge of this reserve. It is proposed to adjust the boundary to ensure the entire reserve is within the RE1 Public Recreation zone.
9	Palisade Way Buffer, Lennox Head	A small section of public reserve in this buffer has been zoned R2 Low Density Residential. It is proposed to remove this zone and place the entire buffer/reserve within the RE1 Public Recreation zone.
10	Ballina Racecourse	It is proposed to change the zone of this site from RE1 Public Recreation to RE2 Private Recreation given the nature of the uses of the site. Adjustments to the surrounding road reserve are also proposed to apply an IN1 General Industrial zone consistent with the adjoining land zoning.
11	Jabiru Park, East Ballina	Consistent with the approach to other public reserves, it is proposed to zone this park RE1 Public Recreation (changing from the current R2 Low Density Residential zone).

9.2 Ballina Local Environmental Plan 2012 - 12 Month Review

Item	Location/ Matter	Details
12	Wollongbar Public School	The Wollongbar Public School site is currently zoned RE1 Public Recreation. It is proposed to change the zoning of the site to R2 Low Density Residential. The school site does not function as public open space. Applying the R2 Low Density Residential zone is consistent with the direction in the Department of Planning's zoning guidelines which recommend zoning school sites consistent with surrounding land uses. This approach has been applied to all other school sites in the Shire.
13	Spring Creek Place subdivision, Wollongbar	It is proposed to adjust the land zoning and minimum lot size provisions to better align with the recently gazetted cadastral boundaries in this subdivision. This is a housekeeping amendment and does not materially affect the application of the BLEP 2012 provisions to the land.
14	Schedule of heritage items	The schedule of heritage items has been reviewed and a number of adjustments to improve site descriptions have been identified. No items are proposed to be added or removed to the schedule.
15	Treelands Reserve, Ballina	It is proposed to align the zone boundaries with the cadastral boundaries in this locality.
16	Meldrum Park, Ballina	Anomalies with the zoning boundaries have been identified along the North Creek foreshore in the vicinity of Meldrum Park. It is proposed to align the zone boundaries with the cadastral boundaries in this locality.
17	30A & 30B Smiths Lane, Wollongbar	A discrepancy with the boundaries of the minimum lot size areas has been identified on these sites. It is proposed to realign the minimum lot size areas to match the cadastral and zoning boundaries on these sites.
18	19 Megan Crescent, Lennox Head	It is proposed to adjust the BLEP 2012 provisions to ensure the entire site is within the R3 Medium Density Residential zone with an 800m ² minimum lot size.
19	Ferngrove Estate, Ballina	It is proposed to adjust the zone boundaries to align with the cadastral boundaries in this locality. This is a housekeeping amendment and does not materially affect the application of the BLEP 2012 provisions to the land.
20	Tallow Wood Place Bushland, Lennox Head	It is proposed to apply the RE1 Public Recreation zone to this recently gazetted public reserve.
21	Alstonville Swimming Pool	This site is currently zoned R3 Medium Density Residential. It is proposed to change the zoning of this site to RE1 Public Recreation to better reflect its current and ongoing land use.

9.2 Ballina Local Environmental Plan 2012 - 12 Month Review

Item	Location/ Matter	Details
22	Pacific Highway, Tintenbar	The finalisation of the upgraded highway alignment has resulted in a discrepancy in the zone boundaries in this locality. It is proposed to make a small adjustment to the boundary between the RU1 Primary Production and RU2 Rural Landscape zones in this locality matching them to the alignment of the Pacific Highway.
23	Stewart Farm area, Skennars Head	Following the recent urban zoning of part of this site, it is now proposed to remove reference to this site and the immediately surrounding land as a strategic urban growth area from the Strategic Urban Growth Area map.
24	Dwelling entitlement reinstatement, East Wardell	Following a request from the landowner, it is proposed to identify the land at Lot 10 DP 654898, Pacific Highway, East Wardell on the dwelling opportunity reinstatement map. This is consistent with Council's criteria for the provision of dwelling entitlements where such entitlements were impacted by a previous amendment to the Ballina LEP 1987.
25	Kellie Ann Crescent area, Lennox Head	It is proposed to realign the zone boundaries to match recently gazetted cadastral boundaries in this locality. This is a housekeeping amendment and does not materially affect the application of the BLEP 2012 provisions to the land.
26	Old Ballina Council Chambers	It is proposed to adjust the details on the Heritage Map to reference the Old Council Chambers site only and not the adjoining Old Library Building.
27	Meadows Estate, Lennox Head	It is proposed to adjust the zone boundaries to align with recently adjusted cadastral boundaries in this locality. This is a housekeeping amendment and does not materially affect the application of the BLEP 2012 provisions to the land.
28	Warrawee Drive, Lennox Head	It is proposed to adjust the zone boundaries to align with the cadastral boundaries in this locality. This is a housekeeping amendment and does not materially affect the application of the BLEP 2012 provisions to the land.
29	Kingsford Smith Park and Serpentine Area, Ballina	It is proposed to rationalise the zone boundaries in this area to best reflect the uses of the surrounding land. The proposal involves the removal of the residential zoning over roads running through Kingsford Smith Park and The Serpentine area.

9.2 Ballina Local Environmental Plan 2012 - 12 Month Review

Item	Location/ Matter	Details
30	Drinking water catchments	Following a request from Rous Water, it is proposed to change the reference in clause 7.4 from “water supply authority” to “supplier of drinking water”. This is a technical amendment that will ensure entities such as Rous Water to be consulted in relation to development proposals in water catchment areas. This is consistent with the original intent of the provision.
31	Land use table – IN1 General Industrial zone	Following a review of the permissible land uses in the IN1 General Industrial zone, it is proposed to amend the table of permitted land uses to enable “agricultural produce industries” in the IN1 zone. This will enable industrial uses involving the handling, treating, processing or packing, for commercial purposes, of produce from agriculture which are currently prohibited in the zone.
32	Dwelling entitlement reinstatement, Wardell	Following a request from the landowner, it is proposed to identify the land at Lot 67 DP 755688, 1010 Pimlico Road, Wardell on the dwelling opportunity reinstatement map. This is consistent with Council’s criteria for the provision of dwelling entitlements where such entitlements were impacted by a previous amendment to the Ballina LEP 1987.

Sustainability Considerations

- **Environment**

The amendments proposed in this report are not expected to result in any direct or substantial social or economic impacts, or impacts on the Shire’s natural environment. The proposed changes will enable Council to more efficiently manage land use planning in the Shire through a functional and up-to-date local environmental plan.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

Having a functionally efficient and up-to-date local environmental plan is an essential component of Council’s obligations as a planning authority under the provisions of the *Environmental Planning and Assessment Act 1979*. The various changes proposed to the BLEP 2012 seek to ensure the plan is updated and functional and that it will continue serve as the primary regulatory planning instrument for Ballina Shire. Importantly, the majority of the suggested changes are intended to rectify anomalies which have been identified during the transition from the former 1987 plan.

The proposed changes are relatively minor and can be accommodated within the Strategic and Community Facilities Group's existing allocation of resources and current work program.

Consultation

If the Council resolves to endorse the recommended amendments and associated planning proposal, the matter will be referred to the Department of Planning and Environment for Gateway determination. Following a favourable determination from the Department, the planning proposal will be publicly exhibited in accordance with the requirements of the Gateway determination. The matter will be reported to the Council, including details of any community feedback, prior to its finalisation.

Options

1. Proceed with the planning proposal

The Council has the option to proceed with the planning proposal, as drafted, to undertake the amendments to the BLEP 2012 as detailed in this report.

In this approach, the Council would authorise the submission of the planning proposal contained in Attachment One to the Department of Planning and Environment for Gateway determination. Subject to a favourable Gateway determination, the proposal would be publicly exhibited and reported to the Council prior to finalisation. It should be noted that the Council may resolve to decline to proceed with any of the proposed changes at any time during the amendment process.

This first option is the recommended approach as it facilitates an update to the BLEP in line with the matters raised in the table above.

Where Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan making functions from the Department. Under these delegations, Council would perform some of the plan making functions that are otherwise completed by the Department. In the subject case, it is recommended that Council does not seek application of this delegation on the basis that some of the land the subject of the amendment is owned by Council.

2. Defer or amend the planning proposal

The Council may seek to defer consideration of the matter, seek additional information or adjust the planning proposal.

Such approaches are not recommended based on the following:

- As detailed in this report, a number of adjustments to improve the function and content of the BLEP 2012 have been identified in the review process.
- The recommended amendments are intended to ensure the BLEP 2012 contains provisions that are consistent with and achieve the Council's intended land use planning outcomes.

It is, however, suggested that if the Council resolves to progress the planning proposal, that a briefing session be held following the public exhibition of the proposal where submissions are received. This would enable the Council to consider public feedback on the proposed changes prior to proceeding to finalise the amendments in the planning proposal.

3. Cease further action

The Council has the option to cease further action in relation to this proposal. For the same reasons outlined in relation to option two, this approach is not recommended.

RECOMMENDATIONS

1. That Council endorses the proposed adjustments to the Ballina Local Environmental Plan 2012 arising from the 12 month review of the plan as outlined in the planning proposal contained in Attachment One.
2. That Council submit the planning proposal relating to the amendment of various provisions of the Ballina Local Environmental Plan 2012 (Attachment One) to the NSW Department of Planning & Environment for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning & Environment, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
4. That the matter be reported for further consideration by the Council following the mandatory public exhibition period.

Attachment(s)

1. Planning Proposal - BLEP 2012 General Amendments (2)

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

Delivery Program Strategic Planning

Objective To seek direction from the Council in relation to a planning proposal to recognise the intended residential development outcomes for currently undeveloped parts of the Ballina Heights Estate.

Background

The Council's approach to the type and density of residential development is primarily set out in the *Ballina Local Environmental Plan 2012* (BLEP 2012) and the Ballina Shire Development Control Plan 2012 (DCP). Under the BLEP 2012, the Council uses two zones to make a distinction between the types of residential development that is planned for and permitted.

The R2 Low Density Residential Zone covers the majority of residential areas and limits residential development to single dwellings and secondary dwellings only. The R3 Medium Density Residential Zone enables additional residential land uses such as dual occupancy, multi-dwelling housing and residential flat buildings.

The R3 zone is applied to specified areas of the Shire where Council seeks to enable a greater diversity of residential development types. The DCP then provides further guidance and direction on how development should occur, including design parameters. This includes the application of minimum lot sizes for various forms of development, such as dual occupancy (detached) having a minimum lot size of 600m² and multi-dwelling housing/residential flat buildings having a minimum lot size of 1000m².

Prior to the commencement of the BLEP 2012, Council's residential density controls were contained in the DCP, rather than in the planning instrument itself. During this time, development applications for major urban subdivisions would designate individual lots within each development for certain medium density land uses generally consistent with Council's former DCP provisions.

This approach is no longer possible under the Standard Instrument LEP (the BLEP 2012). As such, zones are now used as the basis to identify sites that have the potential for dual occupancy, multi-dwelling and apartment style housing. The principle employed under the BLEP 2012 when it was prepared was to provide for flexibility in the range of permissible residential land uses in residential areas, unless the landowner sought a particular land use pattern akin to the historic process applied under the former DCP (known colloquially as the 'salt and pepper' approach).

The various stages of the Ballina Heights Estate (the estate) at Cumbalum have been approved by Council in a number of subdivision development consents from 2003 to 2011. Each of these provided generally for a suite of residential lots primarily for low density residential development (single dwellings) with some lots specified as either dual occupancy or multiple dwelling lots.

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

While the majority of the estate has been subdivided and developed for residential development, there are several remaining stages yet to be released. Council has been approached by Ardill Payne and Partners, on behalf of the developers of the estate, with a request to adjust the zoning in these remaining areas to better reflect the intended land use outcomes and subdivision approvals applicable to the estate. The land subject to this planning proposal is shown in the documentation contained in Attachment One.

By way of context, it is not unexpected that zoning adjustments have been sought in the estate because it is a rapidly changing area that has developed during a transition period in the local planning framework. In anticipation of this, Council invited the views of the land owners during the preparation of the BLEP 2012. However, at that time, the landowners did not indicate their preferred zoning outcomes.

The purpose of this report is to present the Council with a planning proposal that seeks to amend the current residential zoning regime for the undeveloped parts of the estate to reflect the land use outcomes envisaged in the subdivision approvals already granted by Council (as requested by the landowners).

Key Issues

- Land use zoning and future residential development.
- Consistency of zoning with development intent.
- Residential density consistent with existing subdivision approvals.

Information

Ardill Payne & Partners, acting on behalf of the developers of the Ballina Heights Estate, have provided Council with details of their preferred land use outcomes for various undeveloped sections of the estate. The intended land use outcomes have become clearer recently as the developers of the estate have sought to progress the release for sale of further stages of Ballina Heights.

The information provided has been verified by Council staff and is generally consistent with the subdivision approvals previously granted by Council. The only exception to this is that the developer proposes to retain ten lots under the current R3 Medium Density Residential zone that are not currently approved as duplex lots (five are currently subject to a s96 modification to the development approval for Stage 8A to provide for designation of additional dual occupancy lots). This is generally consistent with the principle of providing for variation in housing types in the estate and the concept of providing an indication of intended development outcomes prior to sale of individual allotments.

No significant technical or amenity issues of concern have been identified in relation to this proposal (adjacent landholders will be notified of the proposed change and invited to provide feedback for further consideration by the Council).

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

At present, the undeveloped parts of the estate that are planned for residential occupation are zoned R3 Medium Density Residential. This zone was applied to provide flexibility in housing types on this land. Under the LEP amendment request it is proposed to apply the R2 Low Density Residential zone to the majority of the estate, with designated lots and areas set aside for medium density development (dual occupancies and multi-dwelling housing) under the R3 zone. This essentially means reducing the area of land that is zoned R3 Medium Density Residential.

In addition, it is proposed to adjust the existing zone boundaries in relation to the existing and future open space areas in the estate to correlate with recent land dedications and planned outcomes. It is proposed to apply the RE1 Public Recreation zone to these areas. Further, the proposal will also adjust the B2 zoning over the commercial area in the estate and modify other provisions in the BLEP 2012 as they apply to floor space ratio, height of buildings and minimum lot sizes to reflect the amended zoning regime. These associated changes are minor in scale.

A draft planning proposal has been prepared for the subject area which reflects the changes foreshadowed above. A copy of this draft planning proposal is provided in Attachment One. Should the Council resolve to support this proposal, staff will proceed to seek Gateway determination from the Department of Planning and Environment and conduct the requisite public exhibition of the proposal following receipt of a favourable Gateway determination. The proposal would then be reported to the Council for further consideration and endorsement following public exhibition.

The proposed adjustments to the BLEP 2012 are considered to be relatively minor and relate to land that has not yet been made available for residential housing. The land subject to the proposal is still in the ownership of the developers of the estate (i.e. the Trustees of the Roman Catholic Church and Vixsun Pty Ltd).

However, Council has been advised that (at the time of preparing this report) six recently registered residential lots in the estate are subject to a contract for sale. These contracts for sale have arisen prior to the availability of planning certificates that would indicate to purchasers that a proposed rezoning is being considered by the Council.

The proponent, on behalf of the developers, has advised verbally that the relevant parties to the contracts have been made aware of the rezoning proposal and have the expectation that the land will be subject to land uses as identified in the approved subdivision plans.

It appears that the sites have been marketed as predominantly for low density (single dwelling/detached) housing, with specific lots retained and identified for dual occupancy and medium density development. This approach is reflected in a covenant that has been applied to the land by the land owners under the provisions of the Conveyancing Act. Having regard for these circumstances, it is considered reasonable to proceed with the planning proposal on the basis of applying an R2 zone to these lots. As part of the LEP amendment process, it is suggested that these and any other parties contracted to buy land that is subject to the proposed LEP amendment be advised of the amendment prior to public exhibition of the plan.

Sustainability Considerations

- **Environment**

The proposed adjustments to the BLEP 2012 primarily affect existing residential zoned (but undeveloped) land and seek to apply density controls consistent with the land use outcomes envisaged in the various subdivision applications and respective consents granted for the land. In addition, minor adjustments to the existing public recreation and nominated business areas respectively in the BHE are also proposed. It is not expected that the changes will result in significant or negative environmental, social or economic outcomes.

- **Social**

See above.

- **Economic**

See above.

Legal / Resource / Financial Implications

The proposed adjustments to the provisions of the BLEP 2012 as they apply to areas within the Ballina Heights Estate are consistent with Council's legal obligations and responsibilities as a local planning authority. The workload to undertake the proposed amendments can be undertaken within existing resources.

Consultation

Should the Council support the proposed LEP amendments, the planning proposal will be referred to the Department of Planning and Environment for Gateway determination. If the Gateway determination enables the proposal to advance, it will be publicly exhibited in accordance with the terms and conditions of the determination.

Options

1. That the Council endorse the attached planning proposal to advance the proposed rezoning and submit the planning proposal to the Department of Planning and Environment for Gateway determination; or
2. That Council not commence the rezoning process.

Option one is the preferred course of action on the basis that it will address the issues outlined in this report and will progress the matter to the next step in the rezoning process. This step involves a review of the proposal by the Department of Planning and Environment and Gateway determination. It should be noted that the Gateway determination may or may not allow the rezoning to proceed.

It is recommended that Council proceed to submit the draft planning proposal to the Department of Planning and Environment for Gateway determination. This is primarily because the rezoning provides for consistency in the BLEP 2012 with previous decisions of Council in relation to the subdivision of the land.

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

It also reflects the landowners' intended land use outcomes, which are considered reasonable in the circumstances. That is, the proposed amendment does not create any significant inconsistencies for the area as set out in Council's principal planning documents.

If the Council proceeds to advance the planning proposal, it is recommended that the community engagement process includes notification of the proposed change to landowners as well as parties contracted to purchase lots that are subject to the amendment.

The primary disadvantage of the planning proposal not proceeding is the inconsistency that arises between the currently approved and anticipated use of the subject lots and the zoning under the LEP at present.

Where Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan-making functions from the Department. Under these delegations, Council would perform some of the functions that are otherwise completed by the Department. In the subject case, it is recommended that this delegation be sought in order to expedite the rezoning process.

RECOMMENDATIONS

1. That Council endorses the proposed adjustments to the R2 Low Density Residential, R3 Medium Density Residential, B2 Local Centre and RE1 Public Recreation zoning and related planning provisions in the *Ballina Local Environmental Plan 2012* as they apply to the Ballina Heights Estate at Cumbalum and in accordance with the attached planning proposal.
2. That Council authorises the submission of the planning proposal relating to the Ballina Heights Estate (as contained in Attachment One) to the Department of Planning and Environment for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That prior to the public exhibition of the planning proposal, that parties contracted to purchase lots the subject of the amendment are notified of the proposed changes.
5. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

1. Planning Proposal - Ballina Heights Estate

9.4 LEP Amendment Request and Planning Proposals - Status Report

9.4 LEP Amendment Request and Planning Proposals - Status Report

Delivery Program Strategic Planning

Objective To advise the Council of the status of the LEP amendment requests and planning proposals that are currently under consideration and outline the process for the completion of LEP amendments under delegation from the Minister for Planning.

Background

Council has an ongoing program of assessing and processing requests to amend the Ballina Local Environmental Plan (LEP) and associated planning proposals. This report provides an update on those matters for the information of Councillors and the community.

The report also outlines the approach for finalising LEP amendments where this process is delegated to the Council by the Minister for Planning based on the practical experience of staff in administering these amendments to the LEP.

Key Issues

- Status of the various rezoning and LEP amendment requests.
- Approach for processing amendments subject to delegation by the Minister for Planning.

Information

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council. With respect to terminology used in this report, the term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan. Requests are typically referred to as planning proposals once the Council has agreed to progress the LEP amendment request and prepared the required planning proposal documentation for Gateway determination by the Department of Planning and Environment.

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
12/006	Special Events (Exempt Development) (Stage 5)	Proposal for the inclusion of provisions in the LEP to enable special events to be carried out as exempt development in certain circumstances (i.e. no development consent required). Public exhibition commenced.	22/03/2015

9.4 LEP Amendment Request and Planning Proposals - Status Report

Item	Name and Status	Summary and Notes	Completion Due
13/005	Southern Cross Industrial Estate Expansion, Ballina. (Stage 4)	Proposal for the rezoning of land northward of the existing Southern Cross Industrial Estate to enable a mixture of business and industrial land uses. The proponent (Council) is currently preparing technical material for assessment.	30/07/2015
13/007	Bagotville Quarry – Land Reclassification. Complete	Proposal to reclassify the Council-owned Bagotville quarry as operational land for the purpose of the Local Government Act. The land was reclassified under Amendment No.17 to the Ballina LEP 2012 on 11 July 2014.	Complete
13/008	Reclassification – Council Owned Waterways. Complete	Proposal to reclassify the Banyanda Lake and Ballina Quays Canals as operational land for the purpose of the Local Government Act. The land was reclassified under Amendment No.16 to the Ballina LEP 2012 on 11 July 2014.	Complete
13/009	General Amendments 1. Complete	Amendment to reinforce Council's intent in relation to DCP and exempt development provisions, correct a minor mapping error and update flood mapping. The amendment was completed via Amendment No.14 to the Ballina LEP 2012 on 11 July 2014.	Complete
13/011	Ballina Heights Estate Stage 7a. Complete	Proposal for the rezoning of land to apply a low density residential zone to match the intended housing outcomes associated with an approved subdivision. The land was rezoned via Amendment No.15 to the Ballina LEP 2012 on 15 August 2014.	Complete
14/001	Teven Road, West Ballina. (Stage 4)	Proposal to enable the establishment of freight transport facilities adjacent to Teven Road on the western side of the Ballina Bypass. Gateway determination allowing LEP amendment to proceed to detailed technical assessment and exhibition received. Council is now awaiting submission of technical assessment material by the proponent.	05/02/2015
14/002	Reservoir Hill Site, Lennox Head. (Stage 4)	Proposal for the rezoning of land to apply a residential zone to the land known as the Reservoir Hill site in Lennox Head. Gateway determination allowing LEP amendment to proceed to detailed technical assessment and exhibition received. Third party assessment of the proposal is underway.	21/04/2015

9.4 LEP Amendment Request and Planning Proposals - Status Report

Item	Name and Status	Summary and Notes	Completion Due
14/003	Aspects Estate Dual Occupancy Lots, Lennox Head. Complete	Proposal to enable dual occupancy development on two lots to be consistent with the approved subdivision plan for the Aspects Estate. The amendment was completed via Amendment No.18 to the Ballina LEP 2012 on 26 September 2014.	Complete
14/004	Tara Downs (No 16), Lennox Head. (Stage 4)	Proposal for the rezoning of land immediately east of the existing Tara Downs Estate for residential purposes. Gateway determination allowing LEP amendment to proceed to detailed technical assessment and exhibition received. Council is now awaiting submission of technical assessment material by the proponent.	20/02/2015
14/006	Wollongbar Open Space. (Stage 5)	Proposal to change the distribution of open space and residential land use zones over Council-owned land in the Wollongbar Urban Expansion Area. Includes consideration of provision for a skate park on the land. Public exhibition commenced.	14/01/2015
14/007	Camden Lane, Ballina. (Stage 6)	Proposal to amend the LEP to enable coastal protection works as an additional permitted use on the land. Gateway determination enabling the matter to proceed to exhibition received. Public exhibition concluded and reporting on exhibition being compiled.	31/01/2015
14/008	Burns Point Ferry Road, West Ballina (Ballina Waterways). (Stage 4)	Proposal for the rezoning of land adjacent to Burns Point Ferry Road and River Street to enable a mixture of employment and residential land uses. The proposal includes implementation of a biobanking scheme over part of the land. Gateway determination enabling the matter to proceed to technical assessment and exhibition received. Council is now awaiting provision of technical information from the proponent before proceeding to commence a third party assessment process.	29/03/2016
#	Blue Seas Parade (No 44-52), Lennox Head. Discontinued*	Proposal for the rezoning of land at the eastern end of Blue Seas Parade for residential purposes. * The Council resolved to discontinue consideration of this proposal at its July 2014 Ordinary Meeting. The proponent has requested a review of Council's decision by the Department of Planning and Environment. Council is awaiting further advice from the Department.	Discontinued*

9.4 LEP Amendment Request and Planning Proposals - Status Report

Item	Name and Status	Summary and Notes	Completion Due
#	Bletchingly Street, Wollongbar. (Stage 2)	Proposal for the rezoning of land to apply a medium density residential zone to an existing low density zoned area at the eastern end of Bletchingly Street in Wollongbar. Additional information requested from the proponent not received. It is recommended that Council discontinue consideration of this proposal (see below).	#
#	Reclassification – Compton Drive, Ballina. (Stage 2).	Proposal to reclassify land opposite Shaws Bay on Compton Drive as operational land for the purpose of the Local Government Act. Pending action. Likely to be combined with another reclassification (see below) for resource efficiency, given the requirement for a public hearing as part of reclassification matters.	#
#	Ballina Heights General Amendments. (Stage 2)	Proposal to adjust the mix of R2 Low Density and R3 Medium Density residential zoning over undeveloped (but urban zoned) land at Ballina Heights. This item is the subject of a separate report elsewhere in this business agenda.	#
#	BLEP 2012 12 month review. (Stage 2)	Proposal to undertake primarily “housekeeping” amendments to the LEP following a review of the plan’s operation since its commencement in February 2013. This item is the subject of a separate report elsewhere in this business agenda.	#
#	Reclassifications, Various Locations (Stage 1)	Proposal to reclassify several land parcels in Ballina and Lennox Head from community land to operational land to reflect current land use/purpose. Planning proposal documentation under preparation.	#

LEP Amendment Request/Planning Proposal Processing Stages

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

Denotes proposal number and due date subject to Gateway determination.

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

Bletchingly Street Wollongbar

The Council considered a proposal to change the zone over Lot 1 DP1038613 Bletchingly Street Wollongbar from R2 Low Density Residential to R3 Medium Density Residential at its October 2013 Ordinary Meeting. In considering the matter, the Council resolved to proceed to prepare a planning proposal but subject to further examination of land use zoning options and land contamination [Minute No 241013/5]. The Council also expressed a preference for a mixture of R2 and R3 zoning (i.e. not a complete rezoning of the land to R3).

Council staff subsequently requested that the proponent provide additional information to address the matters identified in the Council's resolution. Unfortunately, the proponent has not provided any additional information and, to date, has not indicated an intention to provide any further material.

Given that it has been 12 months since the Council's resolution and the associated request for additional information, and no information has been forthcoming to allow the assessment and processing of the matter to proceed, it is recommended that Council discontinue further consideration of the current proposal.

Processing of LEP Amendments Under Delegation from the Minister for Planning

The Council was invited by the Department of Planning and Environment in 2012 to consider acceptance of delegations from the Minister for Planning for the processing of LEP amendments. The Council resolved at its November 2012 Ordinary Meeting to accept the delegations offered [Minute No. 221112/13]. This was on the understanding that the application of delegations would be determined for each LEP amendment where the Council elects to seek to exercise the delegated plan making functions.

Council has now managed a substantial number of LEP amendments through the delegated plan-making system. In practice, the Department of Planning and Environment tends to delegate the plan-making functions to Council as a matter of course unless Council raises specific objection to the use of the delegations (e.g. because Council is the land owner in relation to a proposal).

Council's operational practice is to accept such delegations but not necessarily exercise them. That is, Council does not need to confirm its exercise of the delegations until after a decision to proceed to finalise an LEP amendment.

Before this decision, the processing of an amendment is the same whether under delegation or not.

When completing an LEP by exercising the delegated functions, the process first requires a decision of the elected Council to proceed to finalise an LEP amendment.

Once this decision is made, staff complete the specific procedural steps to give effect to the Council's resolution. The final step in the process is an authorisation for the amendment to be made by the Minister and notified.

9.4 LEP Amendment Request and Planning Proposals - Status Report

The General Manager, along with the Group Manager Strategic and Community Facilities and the Manager Strategic Planning have internal delegations to authorise the making and notification of the amendment once its content is agreed with the Parliamentary Counsel's Office and the Department of Planning and Environment (where relevant).

The completion of the required steps by staff has been successfully undertaken on seven occasions over the last 15 months. These steps involve a series of procedural actions and direct liaison with the Parliamentary Counsel's Office to finalise amendment instruments in line with the Council's resolutions.

Having regard for our experience now in managing LEP amendments under delegation, the Council is invited to review the above and confirm the suitability or otherwise of the approach taken to implement the Council's decisions to finalise LEP amendments.

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

Consultation

This report is provided for the information of the community.

Options

The status of the LEP amendments outlined above is provided for noting only.

With respect to the Bletchingly Street, Wollongbar matter, the Council has the option of providing the proponent with more time to submit the requested information or to discontinue consideration of the current proposal.

It is recommended that the Council discontinue consideration of the current Bletchingly Street proposal because the proponent has not provided the requested information and it has now been 12 months since the information request was made. Further the proponent has not indicated an intent to provide the requested information. If the matter is discontinued, it is open to the proponent to lodge a new LEP amendment request in the future.

9.4 LEP Amendment Request and Planning Proposals - Status Report

With respect to the processing of LEP amendments where plan making functions have been delegated by the Minister for Planning, the Council is invited to affirm the suitability of the process currently employed by staff.

RECOMMENDATIONS

1. That Council notes the contents of this report concerning the status and approach regarding the current LEP amendment requests and planning proposals that are being processed.
2. That Council discontinues further consideration of the Bletchingly Street, Wollongbar LEP amendment request on the basis that the proponent has not provided the required information to enable further processing of the proposal.
3. That the Council endorses the continuation of the approach outlined in this report for the processing of LEP amendment requests following a Council decision to proceed to finalise an amendment.

Attachment(s)

Nil

9.5 Plan of Management (Review) - Community Land

9.5 Plan of Management (Review) - Community Land

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of a review of Council's management provisions for community land.

Background

In accordance with Section 35 of the *Local Government Act 1993* (LG Act) Council is required to have a plan of management for all land in its ownership that is classified as community land.

Currently, community land that is not subject to a site specific plan of management is managed in accordance with the Principal Generic Plan of Management adopted by Council in 1995. This plan has had only minor revisions and adjustments to accommodate site specific changes since its adoption.

The Strategic and Community Facilities Group has undertaken a comprehensive review of the Principal Generic Plan of Management for community land to ensure that the provisions of the plan are applicable and relevant and that the document meets contemporary legislative requirements. The document has also been reviewed with the principle of clear and accessible information for the community in mind. Particular emphasis has also been placed on ensuring that the provisions applied to specific sites are up to date and accurate.

The review has been undertaken as part of the transfer of public land administrative functions to the Strategic and Community Facilities Group. The review of plans of management is also an action contained in Council's 2014/2015 Delivery Program and Operational Plan.

The purpose of this report is to advise the Council of the outcomes of the review and seek direction with respect to the implementation of an updated plan of management for community land.

Key Issues

- Compliance with the LG Act.
- Consistency with other policies of the Council.
- Documentation of provisions for the management of Council-owned public land.

Information

A plan of management is an essential tool for the prudent and efficient management of community land and is a requirement under section 36 of the LG Act. A plan of management is prepared in consultation with the community and enables Council to clarify how it intends to promote and facilitate use of the land based on its identified features and attributes, in accordance with the provisions of the Act.

A revised draft Plan of Management for Community Land (draft PoM) has been prepared following a review of the current management plan's provisions. A copy of the revised plan has been provided to Councillors under separate cover. The draft PoM identifies Council's obligations in relation to managing all community land in the Shire in accordance with the LG Act and seeks to streamline and update the existing management provisions.

The review of the plan has provided an opportunity to simplify and update the document and as such, it is recommended that the Council proceed to implement the revised plan (i.e. replace the currently adopted Principal Generic Plan of Management). This will involve public exhibition of the draft PoM and subsequent further reporting to the Council.

If the draft PoM is ultimately adopted by the Council it will apply to all land classified as community land in Ballina Shire, except where a site specific plan of management is in place.

Table 1 provides an overview of the proposed structure for the new document. The revised PoM is designed to focus on key information that relates to the management of Council-owned community land (as opposed to operational land or Crown land) and to provide clear information about this land to the community.

One of the primary components of the draft PoM is to specify which parcels of community land are subject to special management provisions. These provisions are contained in section 5 of the draft PoM. A special provision relates to a unique feature or attribute of community land and/or authorises a specific land use. The special provisions also enable the exclusive use of community land for a variety of purposes and enables Council to grant a lease or licence for the use of facilities located on community land. The special provisions allow Council to regulate the use of community land and identify specific uses and user groups that may wish to lease community facilities or be licenced to occupy and manage them.

Table 1 – Structure of Draft Plan of Management for Community Land

Section	Details
1. Preliminary	This section contains introductory and explanatory information to assist in the application and interpretation of the plan.
2. Legislative Framework	This section details the relevant legislative requirements as contained in the LG Act and EP&A Act that regulate and control the use of community land.

9.5 Plan of Management (Review) - Community Land

Section	Details
3. Land Register	This section briefly references Council's land register which provides current details of Council's land holdings and land managed by Council.
4. General Provisions	The general provisions detailed in this section of the plan apply to all areas of community land. The general provisions provide the primary land management principles for each category of community land (as detailed in Schedule 1).
5. Special Provisions	The special provisions detail management provisions applicable to specific community land sites that apply in addition to the general provisions. The special provisions provide, in accordance with the requirements of the LG Act, for the exclusive occupation and use of community land.
6. Performance and Assessment	This section contains the standard performance, achievement and assessment measures that will be applied by Council in the management of community land.
Schedule 1 – Land Register Extract	Schedule 1 details all the land parcels of community land to which this plan of management applies. It also details the relevant category applied to the land which is used to determine the general management provisions that apply.
Schedule 2 – Multi-category Land Maps	Schedule 2 contains a set of maps detailing several areas of community land containing more than one category. These maps are provided to assist in the identification of applicable land management provisions for these sites.

The special provisions in the draft PoM have been transferred from the current Principal Generic Plan of Management with a number of updates and corrections. Several special management provisions have been removed from the draft PoM for some sites where it has been identified that these provisions are redundant or are otherwise no longer relevant. For other sites, the provisions have been refined or altered to reflect the current and expected land uses on the site. This has led to a much simpler and current set of special conditions.

In order to give effect to the outcomes of the review and update of the plan of management, it is the recommendation of this report that the Council endorse the attached draft PoM for public exhibition in accordance with the LG Act requirements.

Ongoing Review

Management and planning for community land is constantly subject to the consideration of community values and changing circumstances, and changing in land holdings. Given this, it is suggested that Council seeks to formally review its plan of management for community land on an annual basis.

9.5 Plan of Management (Review) - Community Land

This approach will allow Council to efficiently address community land management issues collectively on a routine basis. It will provide a clear process for the addressing of community land issues and minimise the substantial expenditure of resources that occurs in response to ad hoc changes to community land management provisions. Under such an approach, Council always has the option of specific amendments where necessary.

Sustainability Considerations

- **Environment**

The draft PoM seeks to address the Council's statutory obligations in managing community land in accordance with the LG Act. Council owns a number of parcels of community land that contain areas of significant environmental values. These parcels are typically categorised under the LG Act management requirements and in the draft PoM as either bushland, wetland, escarpment, watercourse or foreshore.

- **Social**

The draft PoM covers various parcels of community land containing Council's parks, sporting facilities and other socially valued public reserves. The provisions of the draft PoM seek to meet the statutory requirements of the LG Act and address those sites categorised as park, sportsground or for general community use and applies management provisions to regulate the use of these facilities.

- **Economic**

The use of community land for commercial or economic benefit or by a specific group or entity is regulated in the LG Act. There are specific provisions relating to the leasing and licencing of facilities and uses on community land. The LG Act requires that an exclusive use of community land, such as a public hall or sporting facility, must be specified in a plan of management. As such, the draft PoM seeks to address these obligations and allows Council to transparently manage facilities on community land through various leasing and licencing arrangements.

Legal / Resource / Financial Implications

Council is required to have a plan of management in place for all parcels of community land under the provisions of the LG Act. The implementation of the draft PoM will ensure Council meets its legal obligations and provide an appropriate and compliant management approach in relation to the use of community land.

The review of the management provisions for community land, the drafting of the revised draft PoM and its subsequent public exhibition has, and can, be undertaken within existing resources and the work program of the Strategic and Community Facilities Group.

9.5 Plan of Management (Review) - Community Land

The revision of the management provisions for community land does not present significant financial implications. Revising and updating the management provisions allows Council to effectively manage and coordinate the use of community land for a variety of public interest and community benefit purposes, including the leasing and licencing of the land.

While the draft PoM is considered and exhibited, Council's existing generic plan of management will continue to apply to community land.

Consultation

Should the Council resolve to endorse the attached draft PoM, it will be placed on public exhibition in accordance with legislative requirements. Section 38 of the LG Act requires that a council must give public notice of a plan of management and that it must be placed on public exhibition for not less than 28 days. In conjunction with the public exhibition, a council must receive submissions for a period of not less than 42 days.

Given the above, it is proposed that the draft PoM be exhibited for a period of six weeks.

Options

1. Proceed to publicly exhibit the draft PoM

The Council may endorse the attached draft PoM for public exhibition for the reasons outlined in this report. Following the conclusion of the public exhibition process for at least six weeks, the draft PoM will be further reported to the Council in relation to final adoption with details of any submissions received in response to the public exhibition.

The primary advantage of this approach is that it will give effect to the outcomes of the review of the PoM which have sought to simplify and update the 1995 plan.

This is the recommended option.

2. Cease further consideration of the draft PoM

The Council may resolve not to endorse the draft PoM for public exhibition and retain the existing management provisions for community land contained in the Principal Generic Plan of Management. As outlined in this report, the existing plan has been in place for almost 20 years with minimal review and update. While the current plan provides a basic function of management, its structure and content is not considered to best meet the current needs of the community. For these reasons, this option is not recommended.

9.5 Plan of Management (Review) - Community Land

3. Defer the exhibition of the draft PoM

The Council may resolve to defer the endorsement of the draft PoM for public exhibition and seek further information. If the Council chooses to investigate further its options in relation to the management of community land, it is recommended that this be considered following the completion of the mandatory public exhibition of the draft PoM by way of a Councillor briefing. This will also allow issues arising through the exhibition process to be addressed and considered.

From staff's perspective, a briefing is not necessary, but certainly can be accommodated if this is the Council's wish. Alternatively, the matter can be discussed in the Councillor briefing that is presently being arranged to discuss more broadly the activities and functions of Council's Community Facilities Team and the administration of public land under Council's responsibility.

RECOMMENDATIONS

1. That Council endorses the draft Ballina Shire Plan of Management for Community Land 2014 for public exhibition in accordance with the requirements of the *Local Government Act 1993*.
2. That following the conclusion of the public exhibition process Council receive a further report detailing the outcomes of the public exhibition process.

Attachment(s)

1. DRAFT Ballina Shire Plan of Management for Community Land 2014 (Under separate cover)

9.6 Missingham Market Operation

9.6 Missingham Market Operation

Delivery Program Community Facilities and Services

Objective To outline options for the future operation of the Missingham Market for the consideration of the Council.

Background

The market located at the Missingham Car Park adjacent to Kingsford Smith Drive has been used to sell farm produce since the early 1980s when vendors, setting up roadside stalls around the Shire of Ballina, were directed to the site as a result of Council's new policy on roadside stalls. This market is generally known as the Missingham Market and has been the subject of a number of management considerations in recent years.

Several key matters relating to the operation of the market were considered by the Council in 2011. Following a report outlining site and land use approval options for the market, the Council resolved at its August 2011 Ordinary Meeting as follows [Minute No. 250811/7]:

That Council approves the lodgement of a development application, for a weekly Sunday farmers' market on Crown Land adjacent to Kingsford Smith Drive, with a Councillor workshop to be held prior to lodgement to review the various options available for the site and that at least one representative of the stallholders participate in this workshop.

As a result of the complexity of some of the issues associated with the market (e.g. land tenure, market extent, refurbishment of the site and historical circumstances), along with transfer of Council's market management functions internally, it has taken an extended period of time to action the above resolution.

In conjunction with the refurbishment of the Missingham Park Car Park, staff has engaged with the market operators and a Councillor Workshop was held on 28 May 2014 to discuss the issues and options available for the future of the Missingham Market. Issues discussed in relation to the market included site works, inconsistency with Council's Market Policy, the management of the market, insurance issues and occupation of Crown Land.

Following this workshop, Stage 1 of the redevelopment of the Missingham Park Car Park has been undertaken by Council's Civil Services Group. Funds are currently being sought through grant opportunities for the finalisation of Stage 2. That work involves landscaping as well as dune revegetation to improve the amenity of the site and assist in mitigating the ongoing issue of beach sand blowing onto the car park area.

The redevelopment of the car park has largely dealt with the site issues that were historically associated with the market location. These included poor surface condition, a lack of formalised car parking, potential conflicts between pedestrians and vehicles and the limited area to expand the market. Although the site issues have been addressed for the market, a number of outstanding issues in regard to land tenure and market management require the Council's consideration. Specifically, these issues are:

9.6 Missingham Market Operation

- Formalising land use and tenure for the market; and
- Formalising a market management arrangement.

This report provides further information to the Council regarding the operational options available for Missingham Market and seeks the Council's direction on the future management of the market.

Key Issues

- Economic development.
- Use of public land.
- Consistency with Council policy.

Information

The Missingham Market operates on Sunday mornings between 5 am and 12:30 pm on the Missingham Park Car Park (see Figure 1). The number of stalls at this site has varied over the years but more recently the Council limited the number to the current six stallholders until land tenure and market management arrangements have been resolved.



Figure 1 – Location of Missingham Farmers' Market, Missingham Park Car Park

Formalising Land Use and Land Tenure Arrangements

The land on which the markets are conducted is subject to the provisions of the *Ballina Local Environmental Plan 2012* (BLEP 2012). Under the BLEP 2012, the subject land is zoned RE1 Public Recreation. In the RE1 zone, markets are specified as development that is permissible, with consent. Consequently, under the current provisions, the use of the land for the purposes of markets requires development consent in accordance with the provisions of the BLEP and the *Environmental Planning and Assessment Act 1979*.

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Under these provisions, development consent would be sought through the submission and assessment of a development application. This approach is similar to the approach taken in obtaining necessary approvals for the Twilight Markets at Fawcett Park and the Alstonville Farmers' Markets, both of which were approved with the issuing of development consent.

Council, by way of its resolution above, has endorsed the lodgement of a development application, for a weekly Sunday farmers' market on Crown Land adjacent to Kingsford Smith Drive. This would involve preparation of an application following resolution of the various management and operational issues outlined below.

However, a development application may not be necessary in the near future as Council is presently seeking to categorise "Special Events" on public land as exempt development through an amendment to the Ballina Local Environment Plan 2012 (BLEP). This amendment, if finalised in line with the Council's intent, provides Council with another avenue for satisfying the requirements of the provisions of the BLEP and the *Environmental Planning and Assessment Act 1979*.

Entitled *Ballina Planning Proposal BSCPP 12/006 – Special Events*, this planning proposal is designed to enable Council to approve certain special events on public land, which by definition include markets, fetes and fairs, without the need for development consent under the provisions of the *Environmental Planning and Assessment Act 1979*. This planning proposal is on exhibition until 24 October 2014.

Subject to Council resolving to proceed with the finalisation of this planning proposal in due course, it is anticipated that the amendments proposed to Ballina LEP 2012 will be made by the Minister for Planning in early 2015. Once the amendments to BLEP 2012 are finalised, the Missingham Markets, classified as a special event under the amended planning proposal, will be classified as exempt development which then does not require development consent to be obtained.

Given the above, it is recommended that no further action should be taken in respect to the preparation and submission of a development application for the Missingham Markets until such time as the special events planning proposal is completed. This approach is also beneficial in that it provides time for staff to continue to liaise with stallholders regarding ongoing management arrangements and the drafting of a market licence agreement that reflects these arrangements.

In addition to addressing the requirements of the *Environmental Planning and Assessment Act 1979*, appropriate authorisation for the market to occupy Crown Land must also be obtained.

The market site is located on Crown Land which is managed by Council as the Ballina Kingsford Smith Reserve Trust. The land is reserved for the purpose of Public Recreation. The Council, as Reserve Trust Manager for the site, may authorise the occupation of the land by way of a lease, licence or temporary licence. As markets are an intermittent and low impact use of the site not requiring exclusive occupation, the Crown Lands Regulation allows a Temporary Licence to be issued by the Reserve Trust. This licence can be

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issued for a Crown rental for a period up to 12 months with an option to renew.

Staff is currently reviewing options for longer term arrangements with regard to licences for commercial activities and events (including markets) on Crown Land. In the meantime though, issue of such a licence formalises the market's tenure and provides recognition of the market and stallholders whilst also allowing a trial period for whatever market management arrangement is determined.

In summary, the key land tenure matters requiring resolution are conformance with planning requirements under the terms of the *Environmental Planning and Assessment Act* and authorization to occupy Crown Land.

Although the planning and Crown Land tenure matters can be addressed through the steps outlined above, further guidance as to the expansion of the market and a management arrangement for this market is also required from Council.

Formalising Market Management Arrangements

The key matters to be considered with respect to the operation of the Missingham Market are:

- Whether the size of the market should be expanded to include a greater number of stalls than the current six that attend the market.
- Whether to extend or diversify the range of produce currently able to be sold at the market in order to provide better long term viability of the market.
- To nominate a market manager to oversee the day-to-day operation of the market.
- Whether a site rental should be charged for the use of the public land.

These matters are addressed below within a context of seeking to transition the market operation to improved conformity with Council policy, improved efficiency in the application of Council resources to the oversight of the market and formalisation of the use of the land. It is suggested that the transition is best achieved over a 'trial' period of 12 months and working with the current operators.

Expansion of the Market

Stall numbers were previously restricted due to the potential conflict between pedestrians and traffic and drainage issues on the old car park area. Currently, six stallholders regularly attend the weekly market. Although Council staff regularly receive calls from the public inquiring about the opportunity to have a stall at the market, these enquiries have been deferred until site issues and market management arrangements are in place.

Now that the site and safety issues have been largely resolved, Council has the opportunity to consider revising the number of stalls that can be accommodated at the Missingham Market. Increasing the number of stalls will increase the opportunity for local producers to sell locally and perhaps increase the diversity of products available at the market for consumers.

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Currently, most stallholders have double sized stalls (approx. 8m x 8m) with vehicles and trailers parked beside these stalls. It is estimated that the improved site could accommodate around 20 - 30 stalls of 4m x 4m size depending on the inclusion of vehicles or trailers. Although the number of stalls would be influenced by demand it does provide some indication of the capacity of the improved market site.

Based on site capacity, stallholder enquiries and the experience of other farmers' markets in the shire, it seems reasonable that 10 to 15 stalls could be accommodated in the 12 month trial period, with a review of this number after the first year of operation. In considering this, it should be noted that new stalls are presently limited by the type of product Council has enabled to be sold from the site (see 2008 resolution below).

It should be noted that the current market stallholders have indicated that they prefer to maintain the market at its present size.

It is recommended that any future agreement for the operation of the market makes provision for additional stalls to participate in the market. It is suggested this be limited to a small increase in numbers for the first year.

Market Produce

The Council has previously considered the type of products sold at the market at its March 2008 Ordinary Meeting [Minute No. 240408/18]. At that meeting, the Council resolved:

That the Missingham Markets provide a venue for the sale of produce sourced from the Ballina Shire Local Government Area.

That stall holders at the Missingham Markets be permitted to sell the following produce:

- *fresh fruit and vegetables;*
- *dried or preserved fruit and vegetables;*
- *cut flowers;*
- *jams, pickles and other such condiments made locally from local produce;*
- *locally grown and roasted coffee;*
- *local honey;*
- *other products such as cheeses, wines, chocolates, oils, breads, cakes and the like that have been grown and or produced in the shire and are packaged and are not for immediate consumption; and*
- *other produce not already listed that meet the requirements of "locally produced in the shire".*

Given the experience of other local farmers' markets, Council may, in the future, consider expanding the range of products sold at the markets to include artisan products made by the stallholder and the sale of prepared food for immediate consumption to allow greater product diversity and long term market viability. It is suggested that a review of the products sold at the markets could be undertaken after a trial period to obtain feedback to determine if the range of products is satisfactory to meet the needs of the market consumers and the demand of local producers.

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Market Management

As outlined at the Councillor workshop on 28 May, the Missingham Market is currently made up of individual traders with no overall manager to oversee day-to-day administration of the market. Council staff presently performs overarching management functions for each stallholder. Council does not have a dedicated staff member for the management of private operations of this nature and the present arrangement is both inconsistent with approaches for other markets and is considered to be inefficient.

Market administration tasks in relation to the collection of stallholder quarterly fees, retaining copies of relevant insurances and the issuing of annual market licences to stallholders are currently the responsibility of Council and managed within existing staffing resources across several operational areas. Over the history of the market this role has also included determining appropriate market site layout and stall numbers as well as adjudicating on the type of produce that can be sold.

Formalisation and expansion of the market is expected to involve considerably more staff resources but provides an opportunity to streamline Council's involvement and enhance consistency with other market operations in the medium term.

In formalising the market management arrangement in a manner consistent with other markets in the shire and the region, responsibilities for the market operator would include:

- The preparation of a Market Code of Practice, that provides information about the market's location and operating hours, the roles and responsibility of the market operator and stallholders, the produce sold at the market, stallholder applications and other operating conditions relating to noise, safety and waste;
- Ensuring the market operator is incorporated to ensure access to the appropriate market management insurances;
- Active promotion and marketing of the market to consumers and stallholders;
- Facilitating a market layout and stall numbers that are suitable for the site as determined through the market licence;
- Maintaining criteria for products sold and a system for ensuring this is complied with by stallholders;
- Monitoring of market insurances and compliance with market licence conditions;
- Collection of stallholders' fees;
- Market day set up and pack down, including access to site and clean up;
- Closer day-to-day management including the attendance to potential public safety risks that might arise during the operation of the market.

9.6 Missingham Market Operation

The Council will be invited to consider whether this role should remain staff's responsibility or whether it is preferable that this management should transfer to an external market operator. Should the Council decide to retain management of the market internally, it is suggested this may contribute to a need to review the adequacy of current staff numbers involved in the administration of public land and facilities within the Shire.

Based on the amount of day-to-day management required to manage the market and the limited experience of Council staff in operating markets it would be preferable to source an external market manager for the ongoing operation of the Missingham Markets.

Two stallholders from the Missingham Market, Ms Joanne and Mr Arthur Smith, presented the views of the current market stallholders to Councillors at the workshop held in May of this year. During the meeting the stallholders provided a brief history of the market and the longevity of some of the stallholders at the location. The stallholders outlined the type of fresh produce that has been sold at the market and the importance of flexibility in the number of stalls to include stallholders selling seasonal produce. They also acknowledged the need for formalising the market management arrangement and the possibility of increasing the number of stalls at the market. Ms Smith also expressed a desire to manage the market herself. Ms Smith has attended the market for many years and has a good understanding of the site and customers.

The management of the market by an existing operator is not consistent with Council's adopted market policy (i.e. the policy is based on not for profit operators managing markets). However, given the historic circumstances associated with this market, it is considered reasonable to work with the current operators as a first principle. Ultimately, the recommendations of this report seek to streamline the management of the market and there is considered to be a good chance of doing this by working proactively with the current stallholder group.

Although there is merit to a long term stallholder taking up the management of the Missingham Market, the alternative is to seek an independent market manager. An independent manager could avoid any potential conflicts of interest in attracting more stallholders to the market, some of which may be in competition with the long term stallholders.

An independent market manager could be sought through an Expressions of Interest (EOI) process. Although this process has been undertaken twice in relation to this market previously, no EOIs were received. Reasons cited for this lack of interest have centred on the safety risks associated with the market site at the time and the limited space to expand the market that heeded the long term economic viability of the market management. Due to the difficulty in securing expressions of interest for the market previously and limited viability of the market presently, undertaking a new EOI process at this point is not recommended. It is recommended that this approach be explored further if negotiations with the current stallholders do not result in the resolution of the key management issues.

9.6 Missingham Market Operation

In the circumstances, it is considered reasonable that the Missingham Market stallholders be provided an opportunity to manage the market given their commitment to the market over the years and their expressed desire to take on this responsibility. This may be by way of a trial period for 12 months in line with their Crown Land Temporary Licence, during which time they would need to undertake the market manager responsibilities outlined in this report.

This trial period will allow the market manager/s to determine if they are suited to the role and Council to ascertain if the market is meeting its potential. Following this trial period, a review of the market would be undertaken by the market manager and Council staff, similar to the review following the trial period of the Ballina Twilight Market and Alstonville Farmers' Market, to determine if the management arrangement has been successful.

Should the stallholder manager not be meeting the expectations of Council, or choose to no longer be the operator of the market, Council will need to consider other market management options, perhaps through an EOI process.

Extent of Public Benefit

It remains that Council's current Market Policy sets out that market managers should be a not-for-profit group on publicly owned land. If a current stallholder takes on the role of a market manager as a private entity rather than a not for profit group it will be inconsistent with Council's adopted Market Policy. To encourage a community benefit outcome, it is recommended that any agreement enabling continued operation of the market makes provision for charity BBQs or the like as a fundraiser (in addition to the products enabled for sale under Council's 2008 resolution above).

The broadening of the market policy to reflect a greater diversity of market management options is currently being considered by staff and will be presented to the elected Council for consideration in due course. In the meantime, Council will need to consider if, on this occasion, it prefers to deviate from its adopted market policy, and if so how this market can continue to provide a public benefit, if the market is managed privately.

Currently stallholders at the Missingham Market pay \$315 per stall per quarter to Council. A change in the management arrangements for the market may warrant a change to these fees. It would be reasonable, as with other markets in the Shire, that the market manager sets the stall fees and that this could be calculated according to the space required by each stallholder. Fees collected by the manager would cover all operating costs associated with the market including market promotion, market insurance and an annual site rental fee for the use of public land. Although stall fees would be determined by the market manager, if fees were linked to the number and/or size of stalls, this arrangement may provide an incentive to increase the number of stallholders at the market and a reduction in the fees paid by some current stallholders.

This arrangement would therefore be similar to the Alstonville Farmers' Market, where a fee would be charged by Council for the use of public land. Given that Council is trying to formalise the market in this locality, the application of a commercial based site rental is not recommended. However, a nominal fee of \$10 per market, paid annually, may be appropriate for the licence period. On this basis, it is recommended that Council apply a site

9.6 Missingham Market Operation

rental fee for the occupation of public land by a private market operator of \$500 (excl GST) per annum for the duration of the licence agreement. This fee reflects consistency with the Alstonville Farmers' Market and a simplified administrative process for Council where a market manager is appointed.

It is recommended that Council also continue to require as part of any licence offered, that all site management, operational and marketing costs be met by the operator (e.g. electricity, waste management, advertising etc). This recommendation seeks to balance the opportunity to establish the market with costs borne by the community.

It is open to the Council to defer any rental associated with the Missingham Market site on the basis of the establishment costs incurred by the approved market operator, with this situation being reviewed following the expiry of the new market licence. In this case, there are limited known establishment costs associated with what is an ongoing market and as such, a waiving of fees is not recommended (noting operators are currently paying quarterly fees).

Sustainability Considerations

- **Environment**

The sale of local produce at markets has a number of additional benefits, in promoting the consumption of fresh fruit and vegetables, supporting local food security and reducing greenhouse gas emissions due to high 'food miles' (transportation).

- **Social**

The regional network of markets is a valued feature of our North Coast lifestyle and feature prominently in local tourism marketing. Farmers' markets support the availability of fresh produce to the local community and provide opportunities for social interaction.

- **Economic**

Markets also support local economic development by retaining income within the local economy and promoting local employment.

Legal / Resource / Financial Implications

The continued operation of the market, under the terms of the options presented in this report will require the preparation of licences and staff time. This work can be accommodated within existing resources.

Consultation

Consultation with stallholders has occurred over a number of meetings, with the most recent of these held in May 2014. The stallholders have delegated Ms Joanne Smith as the Council contact in matters relating to the market. Ms Smith was subsequently invited to the Councillor Workshop to represent the views of the Missingham Market stallholders. Consultation with Ms Smith as a first point of contact in relation to market issues is ongoing.

Options

1. Continue the market under current arrangements.

This option is not recommended due to the current lack of formal land tenure and management arrangements for the Missingham Markets as outlined in this report.

Fundamentally, there is presently an opportunity to streamline and formalise the market operation that has been difficult to achieve in the past. It is recommended below that Council pursue this opportunity firstly by working with the existing stallholders.

2. Formalise the land tenure and market management arrangement for the Missingham Market.

This option involves the issue of a licence agreement and the appointment of a market operator to facilitate ongoing operation of the market on the Missingham Park Car Park site. It is expected that by the time the management matters are addressed, the outcome of the current planning proposal for classification of 'special events' on public land as exempt development will be known. This may result in there being no need for a development application.

To formalise the management of the market, it is recommended that the Council take the following steps, for the reasons outlined in this report:

- Proceed to negotiate with the current Missingham Market stallholders regarding the operation and management of the market with a view to providing them with the opportunity to manage the market in the first instance.
- Seek to appoint a current stallholder/s as market operator under a licence agreement for a trial period of one year subject to confirmation of the operator being able to meet the requirements of a market manager as outlined in this report and under Council's market policy.
- Ensure the licence agreement includes provision for up to ten stalls to attend the market regularly during this trial period and specifies the range of produce to be sold at the markets (being in accordance with Council's 2008 resolution for the trial period).
- Ensure the licence agreement includes provision for charity fundraising opportunities in the form of BBQs or the like.
- Apply a fee of \$500 (exclusive of GST) per annum for the operation of the market on public land. This fee would replace the current quarterly fees being charged.
- Review the operation of the market at the conclusion of the 12 month licence arrangement.

The above approach provides for the terms of the operation of the market to be reviewed and evaluated after a one year trial period of operation.

9.6 Missingham Market Operation

In the event that a development application is required following the conclusion of the 'special events' planning proposal process, staff would proceed to action this requirement under the 2011 resolution referred to above.

In proceeding under this option, it is important to note that the appointment of a private market operator is inconsistent with Council's current market policy. However, in the subject circumstances, there are particular reasons to support such a variation. Formalisation of the operation of the market and the appointment of a current stallholder as operator is the recommended approach.

3. Seek further information prior to determining the preferred approach.

It is open to the Council to seek further information prior to determining the future operation of the market through a briefing or other means.

Due the consultation that has been undertaken to date, this approach is not recommended.

In the event that the key matters identified in this report cannot be resolved with the current market operator, staff will provide a further report to the Council or convene a Councillor briefing to seek direction.

RECOMMENDATIONS

1. That Council authorises the General Manager to negotiate with the current stallholders of the Missingham Market in the first instance regarding the management of the market consistent with the sentiments expressed in this report.
2. That if the negotiations conducted under point one are satisfactory for the parties involved, that Council (in its capacity as Reserve Trust Manager) appoints a current stallholder/s as the market manager for a 12 month trial period.
3. That a fee for the operation of the Missingham Market on the Missingham Park Car Park in the amount of \$500 (ex GST) per annum be applied upon the appointment of a market manager for the duration of the trial period.

Attachment(s)

Nil

9.7 Fair Go - Update

9.7 Fair Go - Update

Delivery Program Tourism

Objective To invite the Council's review of the management and sponsorship of the 2014 Fair Go Skateboarding Event.

Background

In June 2012 the Council resolved to enter into a three year sponsorship agreement with Skateboarding Australia for the management of Ballina's Fair Go Skateboarding Event. The resolution states:

That Council enter into a three year sponsorship agreement with Skateboarding Australia for the management of Ballina's Fair Go Skateboarding Event, with Council's commitment being a maximum of \$10,000 per annum and general in-kind support to prepare the skatepark for the annual competition.

The event has been successfully coordinated by Skateboarding Australia in both 2012 and 2013. This year however, Skateboarding Australia has advised Council that it is no longer in a position to run the 2014 Fair Go event.

Council has now been approached by Ownlife to take over the management of the event, requesting the same level of financial commitment and support from Council. This report seeks the Council's decision on the management of the 2014 Fair Go event, and the future ongoing management.

Key Issues

- Management of the 2014 Fair Go event
- Allocation of financial resources
- Future management of the event

Information

The annual Fair Go Skateboarding Event is a significant youth event in Ballina Shire that provides an opportunity for the general public to support young people. Fair Go promotes and connects the Ballina Shire youth with the industries of skateboarding at a professional and structured level.

The Council's decision to hand over the management of the Fair Go event in 2012 was due to Skateboarding Australia's vision to increase the overall awareness and participation opportunities for skateboarders in Australia through the delivery of regular, high quality and professionally managed events.

After two successfully coordinated events in 2012 and 2013 (with the financial support of Council as the major sponsor), Skateboarding Australia has advised that it is not in the position to run the Fair Go event in 2014. This is a result of recent changes that have taken place internally within Skateboard Australia regarding its event calendar, and the significant staffing and resource reduction that has come from this.

After receiving this advice, Council staff was approached by an organisation called Ownlife to take over the management of the event in its entirety. This organisation is also requesting to take over the \$10,000 sponsorship agreement with Council.

Ownlife is a recently formed entity, specialising in skateboarding events. Its purpose is "to create captivating experiences for youth through participation focused skateboarding workshops, competitions and demonstrations". The business owner of Ownlife, Mr Richard Flude, is a previous employee of Skateboarding Australia and has experience in running the Ballina Fair Go event.

Mr Flude has advised that, if approval is given to run the event, he plans to employ a Ballina Shire local and previous employee of Skateboarding Australia, Mr Dylan McNamara, to undertake the coordination of Fair Go.

Should Council support the Fair Go event, it will continue to form part of an all-year-round skateboarding engagement program, promoting and ensuring maximum opportunities for youth for the Ballina Shire.

Subject to supplying evidence of adequate insurance cover, staff is satisfied that Ownlife has the requisite skills and experience to effectively and efficiently deliver the Ballina event. The company's willingness to take control of the management will ensure that this year's event can still go ahead, should the Council continue to support the event as a major financial sponsor.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The event promotes and connects the Ballina Shire youth and others from further afield and provides a platform for youth to demonstrate their skateboarding talents.
- **Economic**
There is evidence from recent years that this event provides a modest boost to the Ballina economy, primarily through accommodation and food sales.

Legal / Resource / Financial Implications

If acceptable to the Council, the proposed agreement would see the establishment of a partnership between Council and Ownlife to conduct the event in 2014 only. The \$10,000 funding is allocated as part of the Tourism Section's budget.

A report to the elected Council will be prepared post event to determine the success of the event under the management of Ownlife and to review the ongoing management rights and future funding for this event.

Consultation

In terms of a timeline, Skateboarding Australia informed Council of its decision to withdraw from the coordination of the Ballina Fair Go event on 3 September 2014. Council was approached by Ownlife on 15 September 2014 to take over the event. The event is scheduled, and preferred, to take place in November 2014. To call for fresh expressions of interest for management would have been problematic, as this would have the effect of delaying the forthcoming event.

Broader community consultation concerning the competition is not considered necessary, as this is a recurrent event using parkland and infrastructure for the purpose for which it was designed.

Options

The Council may decide to either accept or reject the proposal from Ownlife to coordinate the 2014 Fair Go event. Acceptance is the preferred option for the reasons outlined in the report. As stated, the only requirement that is yet to be met to enable the event to proceed is for Ownlife to furnish particulars regarding its insurances.

RECOMMENDATIONS

1. That Council enters into a one year sponsorship agreement with Ownlife for the management and coordination of Ballina's 2014 Fair Go Skateboarding Event, subject to the company demonstrating adequate insurance cover.
2. That Council provides a \$10,000 cash sponsorship to Ownlife and general in-kind support to prepare the Ballina skatepark for the 2014 event from the funds allocated to this project in the Tourism Section's 2014/15 budget.
3. That a further report is prepared to the elected Council post event to determine ongoing management and future financial support for this event.

Attachment(s)

1. Request from Ownlife

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US13/35	<p>Lease to Ron Southon Drilling Pty Ltd for Folio Identifier 3/1130300 with a right of carriageway over Lot 2 DP 1130300 known as the Tuckombil Quarry for five years at market rent, plus a five year option.</p> <p>Explanation: There have been ongoing negotiations with the Lessee regarding terms and conditions of the Lease agreement. This negotiation is continuing with Lessee who is currently on a month to month holdover. The right of carriageway benefits Lot 3 (Ron Southon) and burdens Lot 2 (Tuckombil Quarry). This allows Ron Southon Drilling Pty Ltd road access to Gap Road through the Tuckombil Quarry lot as otherwise Lot 3 is landlocked.</p>
US13/36	<p>Roads Act approval - Alstonville Farmers Market - approval to occupy the car park in Alstonville for a three year period in accordance with Conditions of Development Consent 2014/437 and Council Resolution 250914/2 in relation to the continuation of the Alstonville Farmers Market.</p>

Attachment(s)

Nil

10.2 Investment Summary - September 2014

10.2 Investment Summary - September 2014

Delivery Program Governance and Finance

Objective To provide details of how Council's surplus funds are invested.

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a council must provide a monthly report (setting out all money Council has invested), to be presented at the ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of September 2014.

Key Issues

- Compliance with Investments Policy and the return on investments

Information

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

The balance of investments as at 30 September 2014 was \$69,555,000. This represents a decrease from August of \$979,000.

Council's investments as at 30 September are at an average (weighted) rate of 3.56%, which is 0.88% above the 90 Day Bank Bill Index of 2.68%.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 30 September 2014 was \$1,015,704.

The estimated interest earned for 2014/15 (as shown in Graph D) was prepared based on information gathered prior to the end of the 2013/14 financial year.

The cash on hand at the commencement of this financial year was greater than anticipated when the budgets were prepared. Adjustments will be made to the 2014/15 forecast as part of the quarterly review process.

In respect to the current state of the investment market the monthly commentary from the NSW Treasury (T-Corp) is included as an attachment to this report.

The majority of Council's investments portfolio, approximately \$70 million, is restricted by legislation (external) and Council (internal) uses for the following purposes:

10.2 Investment Summary - September 2014

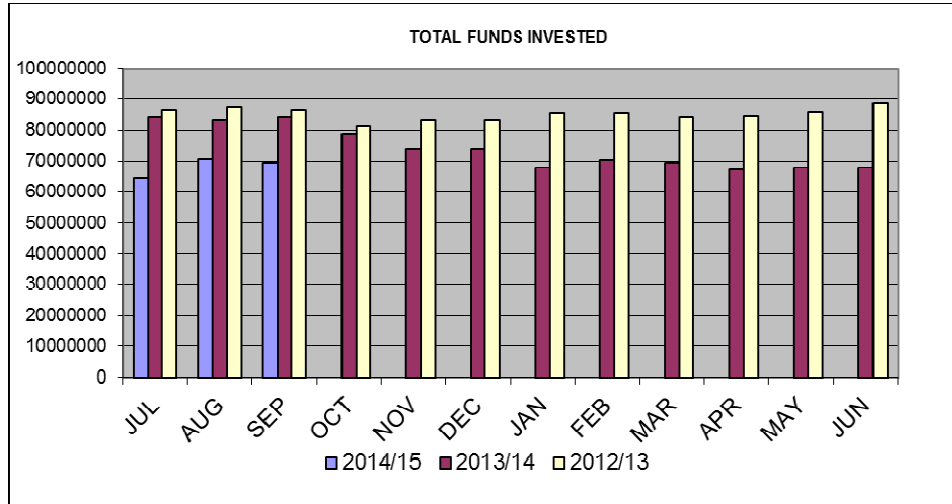
Reserve Name	Internal/External Restriction	% of Portfolio*
Water Fund (incl developer contributions)	External	15
Wastewater Fund (incl developer contributions)	External	26
Section 94 Developer Contributions	External	6
Bonds and Deposits	External	2
Other External Restrictions	External	12
Land Development	Internal	8
Employee Leave Entitlements	Internal	3
Carry Forward Works	Internal	11
Miscellaneous Internal Reserves	Internal	11
Unrestricted		6
Total		100%

* Based on reserves held as at 30 June 2014

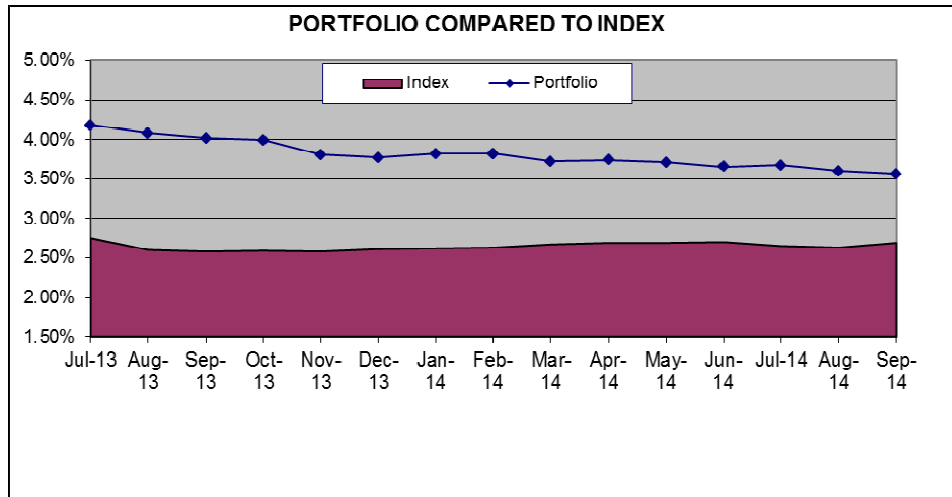
A. Summary of investments by institution

Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
Grandfathered Investments						
Goldman Sachs	AA-	1,000	1,000	0	1.4%	
National Australia Bank	AA-	1,788	1,788	0	2.6%	
National Wealth M'ment Holdings	A	2,000	2,000	0	2.9%	7%
Rated Institutions						
AMP Bank	A+	6,000	6,000	20%	8.6%	
Bank of Queensland	BBB+	4,000	4,000	10%	5.8%	
Bank of Western Aust	AA-	4,000	6,000	20%	8.6%	
Commonwealth Bank of Australia	AA-	8,746	5,767	20%	8.3%	
Defence Bank Ltd	BBB+	1,000	1,000	10%	1.4%	
Greater Building Society	BBB	2,000	2,000	10%	2.9%	
Heritage Bank	BBB+	4,000	4,000	10%	5.8%	
ING Bank Ltd	A-	3,000	3,000	10%	4.3%	
Members Equity Bank	BBB+	4,000	4,000	10%	5.8%	
National Australia Bank	AA-	9,000	9,000	20%	12.9%	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10%	2.9%	
Rural Bank Ltd	A-	1,000	1,000	10%	1.4%	
Suncorp-Metway Bank	A+	10,000	10,000	20%	14.4%	
Westpac Banking Corporation	AA-	7,000	7,000	20%	10.1%	93%
Unrated ADI's				\$1m	0.0%	
Total		70,534	69,555		100%	

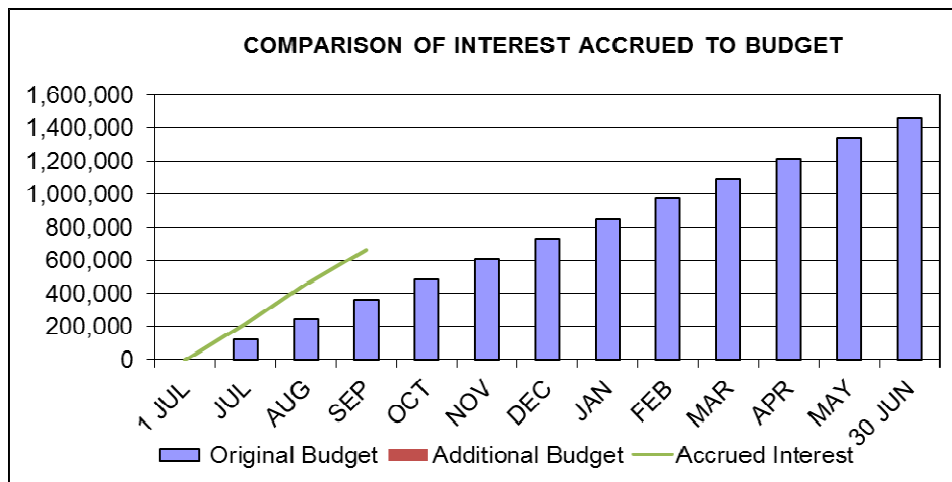
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Accrued to Budget



10.2 Investment Summary - September 2014

E. Investments held as at 30 September 2014

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Australia Bank (ASXlisted)	FRN	3.89%	Perpetual	1,788	1,427
12/04/06	Goldman Sachs	FRN	3.17%	12/04/16	1,000	998
16/06/06	National Wealth M'ment Holdings	FRN	3.27%	16/06/26	2,000	1,944
	at call Commonwealth Bank Of Australia	CDA	2.45%	at call	3,774	3,774
24/01/12	ING Bank Ltd	FRTD	4.59%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.29%	06/02/17	1,000	1,031
25/01/13	Commonwealth Bank Of Australia	TD	4.25%	25/01/18	1,993	2,048
07/05/13	Heritage Bank	TD	3.80%	05/11/14	3,000	3,000
05/06/13	National Australia Bank	FRTD	3.88%	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.08%	07/06/16	2,000	1,999
31/10/13	Heritage Bank	TD	3.80%	31/10/14	1,000	1,000
06/11/13	Bank of Queensland	TD	3.80%	06/05/14	1,000	1,000
25/11/13	Suncorp-Metway Bank	TD	3.65%	25/05/14	2,000	2,000
24/01/14	AMP Bank	TD	3.80%	23/01/15	2,000	2,000
25/02/14	Westpac Bank	FRN	3.58%	25/02/19	2,000	2,024
14/04/14	National Australia Bank	TD	3.70%	14/10/14	2,000	2,000
15/04/14	Suncorp-Metway Bank	TD	3.55%	13/10/14	3,000	3,000
30/04/14	National Australia Bank	TD	3.69%	03/11/14	2,000	2,000
13/05/14	National Australia Bank	TD	3.63%	13/11/14	1,000	1,000
14/05/14	Members Equity Bank	TD	3.75%	10/11/14	1,000	1,000
14/05/14	Westpac Bank	FRN	3.55%	10/11/14	2,000	2,000
19/05/14	Members Equity Bank	TD	3.75%	17/11/14	2,000	2,000
20/05/14	Defence Bank	TD	3.75%	17/11/14	1,000	1,000
22/05/14	Bank of Queensland	TD	3.70%	20/11/14	2,000	2,000
27/05/14	Bank of Queensland	TD	3.70%	26/11/14	1,000	1,000
27/05/14	National Australia Bank	TD	3.65%	24/11/14	1,000	1,000
13/06/14	Westpac Bank	TD	3.65%	10/12/14	2,000	2,000
23/06/14	Rural Bank Ltd	TD	3.65%	22/12/14	1,000	1,000
03/07/14	Suncorp-Metway Bank	TD	3.45%	05/01/15	3,000	3,000
31/07/14	AMP Bank	TD	3.50%	27/01/15	2,000	2,000
05/08/14	Newcastle Permanent Bld Society	TD	3.40%	05/11/14	2,000	2,000
05/08/14	AMP Bank	TD	3.50%	27/01/15	2,000	2,000
11/08/14	ING Bank Ltd	TD	3.45%	11/02/15	2,000	2,000
22/08/14	BankWest	TD	3.45%	29/10/14	2,000	2,000
26/08/14	National Australia Bank	TD	3.65%	26/02/15	1,000	1,000
02/09/14	BankWest	TD	3.45%	06/11/14	2,000	2,000
04/09/14	Suncorp-Metway Bank	TD	3.45%	03/03/15	2,000	2,000
04/09/14	BankWest	TD	3.45%	10/11/14	2,000	2,000
22/09/14	Members Equity Bank	TD	3.65%	22/09/15	1,000	1,000
Totals					69,555	69,245
TD = Term Deposit		FRTD = Floating Rate Term				
CDA = Cash Deposit Account		Deposit				
		FRN = Floating Rate Note				

RECOMMENDATION

That Council notes the record of banking and investments for September 2014.

Attachment(s)

1. Tcorp Local Government Economic Commentary - September 2014

10.3 Disclosure of Interest Returns

10.3 Disclosure of Interest Returns

Delivery Program Administration

Objective To comply with the provisions of the Local Government Act relating to the tabling of disclosure of interest returns.

Background

Section 449 (3) of the Local Government Act requires Councillors and designated persons to complete a pecuniary interests return within three months of the end of the financial year.

Section 450A (2) (b) then requires the General Manager to table those returns at the first available Council meeting following the completion of the three month period.

This report complies with the above sections of the Local Government Act for the period 1 July 2013 to 30 June 2014.

Key Issues

- Ensuring compliance with the Local Government Act.

Information

Returns are to be tabled by Councillors and designated persons. Section 441 of the Local Government Act defines designated persons as the General Manager, Senior Staff and other positions or members of committees that exercise functions that could give rise to a conflict of interest.

To manage the determination of designated positions an internal procedure has been adopted by staff to ensure that:

- all senior staff
- all staff involved in the determination of development applications
- all staff exercising delegations in respect to rezoning requests
- all staff with a purchasing authority above \$55,000 and
- all staff who have secondary employment approvals excluding those that relate to one off events that are for a relatively short term. Examples include elections, festivals etc.

complete the returns.

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

The completed returns and the register will be tabled at the meeting for the information of the public.

10.3 Disclosure of Interest Returns

Sustainability Considerations

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

Legal / Resource / Financial Implications

Council must comply with the Local Government Act.

Consultation

Provided for the information of the public.

Options

The purpose of this report is for noting the information presented.

RECOMMENDATION

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2013 to 30 June 2014.

Attachment(s)

Nil

10.4 National Stronger Regions Fund - Project Priority

10.4 National Stronger Regions Fund - Project Priority

Delivery Program Governance and Finance

Objective To confirm Council's preferred priority listing for applications under the Federal Government's National Stronger Regions Fund

Background

The Federal Government has recently announced the release of the guidelines and the initial application process for the new National Stronger Regions Fund (NSRF).

The advice from the Federal Government is that this program will invest \$1 billion over five years into community infrastructure projects that promote economic development and address disadvantage in Australia's regions and local communities.

Applications for round one opened on 1 October 2014 and close on 28 November 2014 and round two open on 1 May 2015 and close on 31 July 2015.

Grants will be between \$20,000 and \$10 million and funds must be matched in cash at least on a dollar for dollar basis. The guidelines are available at the following website: www.infrastructure.gov.au/nsrf

The purpose of this report is to confirm the priorities Council would like to submit for at least round one of this funding program.

Key Issues

- Grant criteria
- Council priorities
- Eligibility
- Council contribution to project

Information

The first attachment to this report is a copy of the guidelines for the NSRF. Section 5 of the guidelines outlines the four criterion for the projects; which are defined as:

1. The extent to which the project contributes to economic growth
2. The extent to which the project supports or addresses disadvantage in the region
3. The extent to which the project increases investment and builds partnerships in the region; and
4. The extent to which the project and proponent are viable and sustainable.

10.4 National Stronger Regions Fund - Project Priority

Under each criterion are a range of points that will be considered in assessing the eligibility of projects. A couple of key points in reviewing the criterion are:

- Criterion one has a strong focus on economic growth through improved supply chains, exports etc
- Criterion two looks at unemployment data, housing, rents etc
- Criterion four seeks to ensure all planning approvals are in place, or will be in place, within six months and whether the project will be able to commence within 12 months.

Page 21 of the guidelines also provides a number of examples of projects that could be eligible. An extract from that page is as follows.

Projects seeking funding from the NSRF could, for example:

- *improve or upgrade transport networks to support connectivity and freight movement, such as transport hubs, intermodal services, airports, or upgrades to wharves or cargo loading facilities which cannot be funded by the market;*
- *enhance the efficient movement of freight, support an industrial estate or strengthen supply chains;*
- *increase access to water and waste services, support improved water management or enhance irrigation services (routine upgrades and repairs will not be funded);*
- *extend or enhance services to regions, for example deliver gas pipelines to new industrial estates, upgrade water pipes to support irrigation and industrial growth, or more efficiently manage waste water;*
- *convention centres and community or performance centres which deliver economic benefits or support increases in tourism; or*
- *construct large flagship or signature multi-purpose sporting facilities which generate significant long term economic and social benefits and/or support leadership in local communities, for example a state-of-the-art facility which will act as the state hub and will host national, state and elite events on a regular and ongoing basis*
 - *upgrades to or the expansion of local sporting facilities or the construction of sporting facilities which are otherwise available in the state or territory are unlikely to be supported; or*
 - *facilities which support a single sport or which can be funded by state and national bodies are unlikely to be supported.*

Applicants should note that these are examples only and projects supporting these activities will not be given priority in the appraisal process

To assist in determining Council's preferred priority the next table is a brief summary of the major infrastructure projects either in Council's Long Term Financial Plan (LTFP) or under consideration as part of Council's on-going discussions in respect to the LTFP.

10.4 National Stronger Regions Fund - Project Priority

Description	Estimate (\$)	Comment
Ballina Coastguard Tower	\$2.2m	\$1m in Council funding available - \$500,000 grant application with State Government – Volunteers have raised over \$100,000 in funding – Planning approvals in place
Ballina Sports / Events Centre	\$7m to \$15m	Funding in LTFP only for design and approvals – Construction funding not in LTFP – Site not confirmed.
Coastal Shared Path	\$4m (works still to be completed)	This project is fully funded in Council's LTFP subject to land sales for the segment from Skennars Head Road to Pat Morton – All planning approvals in place
Hutley Drive	\$12m to \$18m	Included in Council's LTFP in 2018/19 - Financed from loans and Section 94 contributions.
Lake Ainsworth Improvements	\$2m	\$1.2m allocated for concept plans – currently subject to community consultation.
Lennox Head Surf Club	\$5m	Not funded and only preliminary concept plans to date - \$100,000 allocated for planning approvals – currently subject to community consultation.
Main Street - Ballina	\$3 to \$4m	Final stage from Grant to Moon Street – Looking to finance this from loans once the loan repayments for the completed works reduce. Currently not included in LTFP.
Main Street - Lennox	\$3m to \$6m	A push is growing for the redevelopment of this main street. Currently not funded.
Skennars Head Sports Fields	\$1.1m	In Council's LTFP in 2015/16, subject to land sales.
Swimming Pools	\$8m	Subject to current special rate proposal.
Southern Cross / Ballina Byron Gateway Airport Precinct – Concept submitted to NSW State Government as part of their “poles and wires” sell off.	\$5m to \$50m	Possible works include: <ul style="list-style-type: none"> • Terminal Expansion - \$6.95m • Airport Boulevard - \$5m • NBN - Unknown • North Creek Bridge - \$15m • Possible Sports and / or Events Centre - \$7m to \$15m • Cumbalum - South Facing Ramps - \$10m
Wardell Boardwalk	\$400,000	Council has part funding in reserve for this project.

It can be argued that virtually of all these projects could meet the criterion set by the Federal Government under the NSRF program and the decision that Council must now make is which project is in the best position to be successful with a grant application, particularly for round one.

Even though the \$1 billion allocated to this program seems like a significant amount, once it is spread across the entire country and for the entire five years of the program, the funding can be diluted very quickly. Therefore Council needs to make sure any application is credible.

The guidelines for this program highlight that there are currently two rounds proposed, with the Federal Government reserving the right to conduct further rounds, dependent on the outcomes from the first two.

As there are at least two rounds currently proposed Council is in a position to confirm a preferred option for round one and then defer to a later date, a decision for the preferred option for round two; albeit that there is not a lot of time until round two opens on 1 May 2015.

10.4 National Stronger Regions Fund - Project Priority

In looking at options for round one, the project considered to have the most realistic chance of being successful is the Ballina Coastguard Tower. The reasons for this are:

- Council has \$1m already allocated, although part of this money has been expended on the design and approval process
- Council has planning approval for the works
- The project is supported by the Federal Member for Richmond as per the second attachment to this report
- The project is supported by the State Member for Ballina and we are also seeking grant funding from the State Government as per the third attachment to this report
- The marine rescue volunteers have raised well over \$100,000 to help finance the works, particularly the fit out.
- The project is a good example of Council, the community and the State and Federal Governments working together to deliver a positive outcome
- It can be argued that the project has many on-going economic benefits due to the support the infrastructure provides to tourism and the fishing industry not only for Ballina Shire but for the entire region
- The project was rated the highest priority for the community infrastructure projects listed in the 2012 survey undertaken by Micromex Pty. Ltd. of 500 residents
- The project can be commenced well within the 12 months identified in the criterion.

As to the application for funding, the preferred figure would be \$700,000 (ex GST), as this would ensure the total project was completed. The latest budget for the entire project is \$2.2m, excluding fit-out, so if Council is successful the funding would be sourced from Council (\$1m), State Government (\$500,000) and Federal Government (\$700,000). The major uncertainty with this is the State Government funding and as per the third attachment Council continues to pressure various agencies of the State Government to obtain that funding.

Even if the current application, through the Crown Lands Public Reserve Management Fund, is unsuccessful there may still be opportunities to secure State funding, with an election due in March. At worst case, if no State funding became available, at least the magnitude of funding required is of such a level (i.e. \$500,000) that Council could defer other projects in the 2015/16 budget to then allow the Tower to proceed.

In respect to a second priority, for round two, it ultimately depends on the major focus of Council in respect to whether we should seek community infrastructure funding or possibly items that have a stronger economic benefit.

From the economic development side, some of the works identified in the Southern Cross / Ballina Bryon Gateway Airport, such as the new Airport Boulevard Road or the Terminal Expansion can have very positive economic impacts from a regional perspective. The terminal caters for travel right across the region and the Airport Boulevard would open up a significant amount of Council owned industrial land for development and sale. This entire precinct then reinforces this locality as a transport hub for the region.

10.4 National Stronger Regions Fund - Project Priority

Another major economic driver could be Hutley Drive. If Council was able to secure significant funding for this project it would reduce the funds required by Council to finance the works and our matching funding could be sourced from a combination of developer contributions and loan funds.

From the community infrastructure side, the Lennox Head Surf Club and the Ballina Sports and / or Events Centre are both projects where Council has no funding set aside for construction works, and the receipt of a significant grant would assist with project delivery.

The Lennox Head Surf Club is possibly more advanced as the preferred redevelopment site is adjacent to the existing surf club and subject to the current consultation process for the south eastern precinct of Lake Ainsworth, Council has \$100,000 immediately available to advance the planning approvals over the next six months.

The Ballina Sports Centre remains on hold due to uncertainty over the preferred location, with Council's latest resolved position being to wait for the outcomes of the State Government's Crown Lands White Paper, as that paper could possibly result in existing crown land, such as the Old Depot site, becoming more affordable for this facility.

As to the type of sports centre preferred, the latest resolved Council position is for a four court stadium, albeit that the consultants appointed by Council, being PDT Pty. Ltd. did identify in May 2012 that two or three court stadiums with retractable seating and associated facilities provided a far higher positive benefit to the community (i.e. they scored far higher on the overall building options matrix).

The estimated cost for the four court facility was around \$8m, whereas the two to three court / event facilities were estimated to cost around \$9 to \$15m dependent on the final inclusions.

The difficulty with both the Lennox Head Surf Club and the Ballina Sports Centre will be sourcing Council's matching funding and substantial land or asset sales will be needed to fund these projects, if a grant application was successful.

One more consideration that Council may wish to take into account is that the Ballina Shire falls into two Federal Seats, being Page and Richmond. If Council supported the Coastguard Tower as the preferred project, which is in the seat of Page, Council could also submit an application for a project in the seat of Richmond and try and seek support from Ms Justine Elliott. The guidelines do not appear to restrict applications to one only per applicant.

In looking at the seat of Richmond perhaps the one project that does stand out is the construction of Hutley Drive. This project would open up a significant amount of residential land, along with the commercial land that forms part of the proposed Pacific Pines development. It could be argued that it does meet the criteria of a transport hub mentioned in the examples provided from the guidelines, although those examples relate more to supply chains etc, which is probably more relevant for the Southern Cross / Ballina – Byron Gateway Airport Precinct.

Sustainability Considerations

- **Environment**
Environmental, social and economic outcomes will form a major part of the Federal Government's assessment of any application. There is a relatively strong focus on economic benefits.
- **Social**
As above
- **Economic**
Ideally Council would be in a position to have economic benefit reports completed for the merits of the various projects, however due to the limited timeframe for this round one funding, any such evaluations are not able to be completed.

Legal / Resource / Financial Implications

If any grant application is successful it will have financial implications as Council will need to confirm our funding for the project.

Consultation

Many of the projects listed in this report are a result of Council's on-going consultation with the community.

Options

In respect to round one the options are to submit either one or two applications for the preferred projects. Even though there may be some merit in pursuing two applications there are concerns that this could result in some uncertainty from the Federal Government as to the preferred project and on that basis the preference is to submit an application for \$700,000 for the Coastguard Tower. This project is well advanced, meets the criterion and once funding is confirmed the works can proceed.

Council could possibly apply for a larger amount as that would reduce the reliance on the State Government for funding support. For example with Council having approximately \$1m available we could also apply for \$1m. This is a realistic option and it is difficult to determine the preferred approach, as evidence of a significant contribution from Council (\$1m) and the State Government (\$0.5m) could assist in gaining support from the Federal Government (\$0.7m) for the project. At this stage the recommendation is for \$700,000 albeit that Council may wish to increase this figure.

In respect to round two the options are to confirm a priority as part of this report or for Council to receive a further report, perhaps to a committee meeting, where the entire financial position of Council can be considered to identify a preferred project.

10.4 National Stronger Regions Fund - Project Priority

The preference is for Council to receive a further report as that will allow more detailed examination of all the options available. Many of the various other worthy projects are not as well advanced as the Coastguard Tower therefore a more thorough evaluation of the projects may be needed to determine the preferred priority.

Councillors could potentially provide some preliminary direction as to their preferred priority for round two as that information could then assist in the evaluation process.

RECOMMENDATIONS

1. That Council confirms that it will submit an application for \$700,000 for the construction of the Ballina Coastguard Tower as part of the round one applications for the Federal Government's National Stronger Regions Fund.
2. That Council confirms that for the round two applications a further report(s) is needed, to a separate committee meeting, to evaluate the merits of the various projects under consideration.

Attachment(s)

1. Funding Guidelines
2. Letter from Kevin Hogan to Ballina Marine Rescue
3. Letter from Don Page re Marine Rescue Tower

10.5 Flat Rock Tent Park - Fees and Charges 2015/16

10.5 Flat Rock Tent Park - Fees and Charges 2015/16

Delivery Program Commercial Services

Objective To obtain approval to exhibit the draft fees and charges for the Council operated tent park for the period 1 February 2015 to 31 January 2016.

Background

The NSW Local Government Act requires councils to formally advertise and adopt their fees and charges prior to implementation. The majority of Council's fees are set each June as part of the annual Operational Plan.

With Flat Rock Tent Park it is important that our customers are informed well in advance as to the fees for their next holiday during the following year and also meet important industry media advertising publications.

This report has been prepared to obtain Council approval to advertise next year's Tent Park fees. The period the fees are applicable for is 1 February 2015 to 31 January 2016.

Key Issues

- Variations in fees
- Conditions attached to the fees

Information

A copy of the proposed fees is included as an attachment to this report. The attachment provides a comparison between the existing and the proposed fees.

The proposed fees have been formulated taking into account factors such as park facilities and standards, feedback from Park Managers and customers, industry comparisons and the latest Consumer Price Index (CPI).

In summary the changes have been:

- Increase the off peak amount from \$30 to \$31 per night.
- Increase the peak amount from \$38 to \$39 per night.
- Increase the deposit for peak period bookings.

Sustainability Considerations

- **Environment**
Council needs to operate the tent park in a sustainable manner, taking into account any environmental impacts.

10.5 Flat Rock Tent Park - Fees and Charges 2015/16

- **Social**

The tent park plays a major social role in that people holidaying in the tent park come from broad socio-demographic groups, this creates a large social interaction of people.

- **Economic**

The tent park provides economic benefits to both Council and the broader business community.

Legal / Resource / Financial Implications

Council is legally required to exhibit and adopt its fees.

Consultation

The draft fees and charges are to be exhibited for public comment.

Options

The options are to either adopt the recommendation to advertise the proposed fees as presented or amend the fees.

The preferred option is to exhibit the fees and charges, as any changes are consistent with industry trends and competitors.

RECOMMENDATION

That Council authorises the exhibition of the draft Flat Rock Tent Park fees and charges for 1 February 2015 to 31 January 2016, as attached to this report, for public comment.

Attachment(s)

1. Draft Fees and Charges 2015/16

10.6 Policy (Review)- Donations - In-Kind Assistance on Public Land

10.6 Policy (Review)- Donations - In-Kind Assistance on Public Land

Delivery Program Governance and Finance

Objective To review the Donations - In-Kind Assistance for Sporting & Cultural Events & Community Works on Public Land

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Donations – In-Kind Assistance for Sporting & Cultural Events & Community Works on Public Land policy.

Council first adopted this policy in 2005.

Key Issues

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

Information

The review of this policy has identified that the policy is not adding value to the organisation and the preference is to revoke the policy. Large parts of the policy now fall under the Festivals and Events Policy when Council allocates funds to events, and the balance is typically managed through applications under the Donations- Financial Assistance Policy.

Council does provide in-kind assistance for Anzac Day and Naidoc Week events, however these are covered in the tourism budget.

Sustainability Considerations

- **Environment**
The policies assist in supporting environmental outcomes.
- **Social**
The policies are aimed at supporting community groups which in turn assists in developing the social fabric of the community.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The policy currently operates within the existing Council budget.

10.6 Policy (Review)- Donations - In-Kind Assistance on Public Land

Consultation

No consultation is considered necessary as the recommendation is to revoke the existing Donations – In-Kind Assistance for Sporting & Cultural Events & Community Works on Public Land Policy.

Options

The Council may revoke this policy, noting that the Festivals and Events Policy and the Donations – Financial Assistance Policy are the policies currently used to deal with applications that may previously have been managed under the Donations – In-Kind Assistance for Sporting & Cultural Events & Community Works on Public Land policy.

Alternatively, the Council may determine that the existing policy be maintained, with or without amendments.

RECOMMENDATION

That Council rescinds the Donations – In-Kind Assistance for Sporting and Cultural Events and Community Works on Public Land Policy on the basis that the relevant information is covered in the Festivals and Events Policy and the Donations – Financial Assistance Policy.

Attachment(s)

1. Donations - In-Kind Assistance for Sporting and Cultural Events and Community Works on Public Land

10.7 Policy (Review) - Fundraising in the Central Business Districts

10.7 Policy (Review) - Fundraising in the Central Business Districts

Delivery Program Governance and Finance

Objective To review of the Fundraising for Community Groups in Central Business Districts Policy

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Fundraising for Community Groups in Central Business Districts Policy.

Council first adopted this policy in 2003.

Key Issues

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

Information

The administration of this policy can be quite sensitive with many different requests being received. The policy provides broad guidelines only and another alternative is to create a very prescriptive document. It is considered that to date the policy has been administered in an effective manner and therefore no major changes are proposed. Minor changes are proposed which are identified with additions marked in yellow and deletions marked with a strikethrough. A copy of the amended policy is attached to the report.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
This policy is aimed at assisting with fundraising for community groups that play an important role in the social fabric of the shire.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The policy looks to assist and regulate charities and community groups who wish to fund raise in the central business district of Ballina, Alstonville and Lennox Head. There are no particular financial implications however the administration of the policy does consume staff time.

10.7 Policy (Review) - Fundraising in the Central Business Districts

Consultation

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

Options

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

RECOMMENDATIONS

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

Attachment(s)

1. Policy (Review) - Fundraising for Community Groups in Central Business Districts

10.8 Legal Matters - Update

10.8 Legal Matters - Update

Delivery Program Governance

Objective To provide an update on legal matters involving Council.

Background

As a public authority Council is regularly involved in legal matters. This report provides an update on matters that have been subject to court action or may result in court action and represents the first report for the 2014/15 financial year.

Key Issues

- Type and cost of litigation

Information

This report provides an opportunity to examine legal matters in which the Council is, or has been, involved, with reference being to the current or previous financial year. The report has been provided in open Council to ensure the information is available to the public. Details of the current case(s) are as follows:

Solicitor for Council	Parties	Case Description	Original Cost Estimate	Costs Paid to Date
Blake Dawson	Oshlack v Ballina Shire Council & Ors	Land & Environment Court - ref. no. 2010/40570 - Challenge to approval of Marom Creek fluoridation plant - Rous Council and Lismore also joined in this case - Class Four – Matter also appealed	\$100,000	\$176,200
Comments Ballina Shire Council and Rous Water were successful in defending the appeal and both councils were awarded costs. Subsequently Council determined to accept a confidential settlement offer from Mr Oshlack. Agreement has recently been finalised in regards to the specific details of the settlement and execution is expected shortly.				
Clarissa Huegill	Newton, Denny, Chapelle v Ballina Shire Council	Land & Environment Court – ref. no. 13/10911 - Challenge to refusal of Section 96 application – Class One appeal	\$50,000	\$23,300
Comments The applicant challenged Council's refusal of a Section 96 application to amend DA 2011/105; i.e. Wiggins Scaffold Business. Council successfully defended this matter in Court.				
Allens, Arthur Robinson	Chris Lonergan v Ballina Shire Council	Land & Environment Court – ref. no. 14/10207 - Challenge to consent conditions – Class one appeal	\$80,000	\$55,000
Comments The applicant was challenging a number of conditions for DA consent 2011/506, particularly the Section 94 contributions, for the South Ballina Beach Caravan Park. Agreement was reached between the parties on amended conditions.				

10.8 Legal Matters - Update

Allens, Arthur Robinson	Planners North v Ballina Shire Council	Land & Environment Court – ref. no. 14/10669 - Challenge to refusal of development application – Class one appeal	\$50,000	\$0
Comments				
The applicant was challenging Council's refusal of DA 2013/473 regarding the construction of housing pads at South Ballina. Without prejudice discussions were held between the parties with agreement reached on a preferred set of consent conditions. The estimated costs are likely to be significantly reduced due to these discussions.				

Legal / Resource / Financial Implications

This next section of this report provides an update on the legal costs for 2014/15 along with a comparison to the previous two financial years.

Description	2012/13	2013/14	2014/15
Planning Legals			
Advice – Wiggins	2,000	23,300	0
Advice – Verna Wall	12,000	2,000	0
Advice – Alpine Nurseries	0	5,900	0
Advice – 84 Kerr St	11,000	0	0
Advice – South Ballina Caravan Park	7,000	9,700	45,500
Advice / Insurance – Misc	26,000	25,700	28,600
Sub Total	58,000	66,600	74,100
Property Legals			
Land Claim and Native Title	14,000	33,500	0
Lennox Head Community Centre	73,000	165,800	8,000
Sub Total	87,000	199,300	8,000
Water Legals			
Oshlack – Fluoride	4,000	0	0
Total Expenses	149,000	265,900	82,100
Expenses Recouped			
Miscellaneous	19,000	34,000	0
Total Income	19,000	34,000	0
Net Cost	130,000	231,900	82,100
Fund Summary – Net			
General Fund	126,000	231,900	82,100
Water Fund	4,000	0	0

In respect to the Lennox Head Community Centre the final settlement is still to be completed. There has been some uncertainty over GST however Council's solicitors are confident that no GST is applicable and on that basis the agreement and payment to Council should be finalised in the near future.

The total expenditure budget summary for 2014/15 to 30 September is as per the following table.

Item	Budget	Actual	Balance
Planning Legals	150,000	74,100	75,900
Lennox Head CC	0	8,000	(8,000)
Total General Fund	150,000	82,100	67,900
Water	0	0	0
Total Budget	150,000	82,100	67,900

10.8 Legal Matters - Update

Consultation

This report is provided in open Council to ensure the community is informed on legal matters involving Council.

Options

This report is provided for information purposes.

RECOMMENDATION

That Council notes the contents of this legal matters update.

Attachment(s)

Nil

10.9 Annual Financial Statements - 2013/14

10.9 Annual Financial Statements - 2013/14

Delivery Program Governance and Finance

Objective To obtain Council approval to exhibit the 2013/14 Financial Reports for public comment and to sign the certified statements for both the General Purpose and Special Purpose Statements.

Background

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

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

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

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

Key Issues

- Financial results
- Council must be satisfied that the statements present a true and fair picture of the Council's financial position as at 30 June 2014.

Information

The Annual Financial Statements for the year ended 30 June 2014 have been completed and audited. A copy of the statements, together with the Auditor's Reports, are enclosed with this business paper for all Councillors. A copy of the statements is available for the public at the Customer Service Centre and Council's website.

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

10.9 Annual Financial Statements - 2013/14

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

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

Subject to Council approval to advertise at this meeting, the statements will be advertised and then presented, with any public comments received, to the meeting scheduled for Thursday 27 November 2014.

Council's auditor, Mr Kevin Franey, of Thomas Noble and Russell, will be present at the October meeting to provide an overview of the audit report and to answer questions regarding the Annual Financial Statements. The presentation is scheduled for 11am.

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

Part A	Auditor's Reports
Part B	General Purpose Financial Statements
Part C	Special Purpose Financial Statements
Part D	Special Schedules

Brief explanations for each of these items are as follows:

Part A – Auditor's Reports

This includes the auditor's report on the general purpose financial reports and the special purpose financial reports. The auditors have listed the reports as drafts as the reports are considered draft until Council confirms its approval of the financial statements.

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

Part B – General Purpose Financial Statements

These statements provide the consolidated operating result for 2013/14 and the consolidated financial position of Council as at 30 June 2014. The notes included with the statements provide details on income and expenditure, assets and liabilities. The notes also highlight the cash position of Council and identify which funds are externally restricted.

Part C – Special Purpose Financial Statements

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

Part D – Special Schedules

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

Sustainability Considerations

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

Legal / Resource / Financial Implications

Council is legally obliged to adopt the financial statements.

Consultation

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

Options

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

RECOMMENDATIONS

1. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, by the Mayor, one Councillor, the General Manager and the Responsible Accounting Officer.
2. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2014, as attached to this report, for public comment.

Attachment(s)

1. Statement by Councillors and Management - General Purpose
2. Statement by Councillors and Management - Special Purpose
3. Annual financial Statements 2013/14 (Under separate cover)

10.10 Delivery Program Review - 30 September 2014

10.10 Delivery Program Review - 30 September 2014

Delivery Program Governance and Finance

Objective To provide the first review of the 2014/15 Delivery Program and Operational Plan.

Background

Under the Integrated Planning and Reporting requirements Section 404 (5) of the Local Government Act states as follows:

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice has been to receive more timely quarterly reports. This report represents the first review of the 2014/15 - 2017/18 Delivery Program and the 2014/15 Operational Plan, with the information contained in the report based on work undertaken up to 30 September 2014.

The review information is included as a separate attachment to this report and the attachment provides an overview of all the programs included in the Delivery Program and Operational Plan, with comments provided by the relevant group and section manager.

For reference purposes copies of the current Delivery Program and Operational Plan are available on Council's web site and also accessible by Councillors on their ipads.

Key Issues

- Compare actual results against the adopted goals and priorities

Information

The Delivery Program and Operational Plan are the two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The attachment to this report provides a comprehensive overview of the actions being progressed, with the information also being linked to Council's Community Strategic Plan (CSP) Objectives.

The attachment has two main sections being:

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

10.10 Delivery Program Review - 30 September 2014

In respect to the Operational Plan there are a total of 100 major actions listed in the Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	GM	DEH	Civil	SCF	Total
Green	29	7	31	27	94
Amber	2	1	1	2	6
Red	0	0	0	0	0
Total	31	8	32	29	100

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	94	88	97	93	94
Amber	6	13	3	7	6
Red	0	0	0	0	0
Total	100	100	100	100	100

Many of the actions are progressing, with items not tracking as planned including:

- Co-ordinate Gardens Volunteer Program (page three) – This program is continuing however with limited volunteers.
- Participate in Roads and Maritime Services Location Marker Program for Ballina (page eight) – This project is being co-ordinated by RMS and delays continue to occur with commencement of the works. The works are now planned for May 2015.
- Progress availability of land at the Russellton Industrial Estate (page 11) – There are a number of issues in trying to have land released at this Estate and a report will be submitted to Council in November to clarify the funding and planning issues.
- Complete review of Lake Ainsworth Management Plan and implement actions arising (page 15) – It is unlikely that a total review of this Management Plan will be completed in 2014/15, with Council focusing on the works plan for the south eastern precinct.

In respect to the Service Delivery Targets there are a total of 93 targets identified and the following two tables provide an overview of how Council is performing against those targets, again on a number and percentage basis.

Service Delivery Targets Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	16	17	19	21	73
Amber	4	2	9	0	15
Red	1	1	3	0	5
Total Tasks	21	20	31	21	93

Service Delivery Targets Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	76	85	61	100	78
Amber	19	10	29	0	16
Red	5	5	10	0	6
Percentage Total	100	100	100	100	100

In respect to these services the majority meet the agreed target with the variances of note being:

- Asset Management – Percentage of DA referrals completed within 21 days – 20% (Page 25 - Target > 70%). The Civil Services Group continue to fail to meet preferred standards for this service despite having recruited a very experienced staff member during the past 12 months. The Group Manager is now aiming to become more actively involved in the day to day management of this service in a further attempt to provide permanent service level improvements.
- Commercial Services (Airport) – Increase in Operating Revenue and Operating Surplus Percentage (Page 26) – Revenue is trending below budget and with expenses such as rates and insurance incurred at the start of the year, the net operating result is currently trending below the preferred ratio. If income does not eventuate as planned it will be important to also have matching reductions in expenses.
- Commercial Services (Property) – Vacancy rate (page 26) – This rate will stay below the target until the Wigmore refurbishment is completed and Council is then in a position to confirm new tenancies.
- Water and Wastewater – Various (pages 34 and 35) – There are a number of variations for this program however generally they relate to targets being set at unrealistic levels (i.e. zero non-compliances) or programs that are being advanced, although not at the rate originally hoped for.

In reviewing these targets it is also important to recognise that some of the benchmarks are preferred outcomes and at times the targets may not be able to be achieved due to circumstances beyond the control of Council.

Sustainability Considerations

- **Environment**
There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

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

Consultation

The purpose of this report is to provide the community with information on how Council is performing or performed in respect to the Delivery Program and Operational Plan.

Options

The report is largely for information purposes, although Council is able to amend the Delivery Program targets and projects as required. Ideally any changes should be minimized as the original document was subject to a formal consultation process.

RECOMMENDATION

That Council notes the contents of the 30 September review of the 2014/15 Delivery Program and Operational Plan.

Attachment(s)

1. 2014/15 Delivery Program - 30 September 2014 Results (Under separate cover)

10.11 Capital Expenditure Review - 30 September 2014

10.11 Capital Expenditure Review - 30 September 2014

Delivery Program Governance and Finance

Objective To provide a quarterly status report on the implementation of Council's capital works program.

Background

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

The current practice is to provide a comprehensive quarterly status report on all the major capital works included in the Operational Plan. This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure.

This report is for the three month period to 30 September for the 2014/15 financial year.

Key Issues

- Status of works

Information

To assist in understanding the delivery timeframes for the capital works the attachments to this report provide information on the following items:

- Original Budget - represents the budget as per Council's adopted Operational Plan
- Carry Forward - represents budgets carried forward from the previous financial year that were approved by Council at the August 2014 Ordinary meeting
- Approved Variations - Variations previously approved by Council resolution either through a Quarterly Budget Review or a separate report on a particular project.
- New Variations – Represents further recommended changes based on the latest available information for the project.
- Latest Estimate - Sum of the original budget plus budget changes
- Expended to Date - Expenditure to date of report
- % Expended - Percentage of budget expended to date
- Milestone Dates - Represents target dates for completion of the major milestones.
- Status - Allows additional comments to be provided.

The attachments are split into the main functional sections within Council undertaking the works: i.e. Open Spaces, Waste, Operations Support, Commercial Services, Water and Wastewater and Engineering Works.

Points of interest in respect to the attachments are as follows.

Open Spaces (attachment one)

The major works to be completed this year relate to:

Porter Park – Council has now signed off on the landscape plan with the works to commence in 2015.

Play Equipment (various) – Following the recent Councillor briefing the replacement program can now proceed. The equipment for Jabiru Park has been ordered.

Wollongbar Sports Fields – Due to the layout plan being amended a Section 96 amendment was required for the project. That application has now been approved and the tender for construction of the actual fields is expected to be exhibited shortly.

Waste Management (attachment one)

Biochar is the major project with the feasibility assessment still on-going.

Operations Support (attachment two)

Ballina Surf Club – The construction of Building B is progressing with a Section 96 application needed to amend the original consent. Subject to planning approval and the calling of tenders, the works are scheduled to be undertaken following the summer holidays. It is also recommended in the attachment that \$12,000 be reallocated from savings in the Pop Denison BBQ works to undertake the rock wall improvements that Council resolved for staff to investigate following an earlier report to Council on the surf club. Council resolved to undertake these works, however no funding was provided for the works.

Lennox Head Surf Club / Lake Ainsworth Precinct – The consultation for the expenditure of these funds has recently commenced and it is unlikely that the full amount of the funds will be expended in 2014/15. At this stage the budget has not been adjusted, albeit that an adjustment is likely as part of the December Quarter Budget Review.

Coastguard Tower – This project is subject to funding being secured. It is unlikely that even if funding was secured in the near future that the project would be completed this financial year, therefore as per the Lennox Head Surf Club, as part of the December Quarter Budget Review, it will be necessary to adjust this budget for 2014/15.

Ballina Sports / Leisure Centre – This project remains on hold due to uncertainties over the preferred site.

Ballina Library – The scope of works for this project is being reviewed due to the uncertainty over the funding from the Friends of the Library.

Commercial Services (attachment three)

Airport - The capital works for the airport are all advancing, with a report on the tender for the car park included elsewhere in this agenda.

Wigmore - The Wigmore Arcade refurbishment contract is also well advanced.

Shelly Beach Café – Land Purchase – This acquisition of land is virtually finalised, with payment to the Crown expected in October. The owner of the business now has no impediments to proceeding with the redevelopment of this site.

Water and Wastewater (attachments four and five)

Water – Council has accepted the tender for the Pressure Management Zones work and the specification for the Smith Drive replacement is close to being finalised to allow the tender for replacement to be advertised. Both of these projects are specifically targeted at reducing water loss throughout the network.

Wastewater - The treatment plant upgrade contracts for Ballina and Lennox Head are also close to being finalised with operational issues now being worked through as part of the commissioning phase in of the new plants. Major tenders for projects such as the Reverse Osmosis Plant and the Byron Street, Lennox Head Upgrade will be advertised during the next few months and expenditure will rapidly increase once these contracts are let.

Engineering Works (attachment six)

Drainage

All works are being programmed for late 2014 and the first six months of 2015.

Urban and Rural Roads

Canal Road / Links Avenue – Savings in Canal Road are recommended to be transferred to Links Avenue. There is still an over expenditure for Links Avenue after this adjustment and further reviews need to be undertaken by the Civil Services Group to confirm which project that over expenditure is to be funded from.

Martin Street / Tamar Street (Grant to Kerr) / Midgen Flat Road / Bridges – The explanation for these four budget adjustments, totalling a net reduction of \$493,000, is outlined in the Shared Paths section, as follows.

Ancillary Transport Services - Shared Paths and Footpaths

There has been a significant cost variation in respect to the shared path projects (Section 1 – North Angels Beach to Headlands Drive (SPW1) and Section 2 – Skennars Head Road to North Creek Road (SPW2)).

In summary the initial project budget for SPW1 and SPW2 of \$1.44m (\$1.14m RMS grant) is forecast to be \$1.8m an increase of \$360,000.

10.11 Capital Expenditure Review - 30 September 2014

The Civil Services Group has provided a number of comments as background information to explain this variation and those comments are included within the next section of this report.

The concept design investigation phase for these works was concluded in late 2012 for three route corridors comprising (refer to attachment seven):

- Coastal Recreational Path (east of Coast Road)
- Shared Path West (west of Coast Road via Skennars Head Road and North Creek Road)
- Shared Path East (east of Coast Road between Skennars Head and Pat Morton)

The concept design phase included the investigation of route options using contour mapping, aerial photography and field work. This provided sufficient early documentation to allow cultural heritage and environmental assessments to proceed.

Planning approval documentation comprising Reviews of Environmental Factors and Environmental Impact Statements was subsequently completed and lodged for all three routes in June 2013 based on concept design. The estimates for concept design were also provided in late 2012, being the following:

- Coastal Recreational Path (CRP) - \$2.7M
- Shared Path West (SPW) - \$2.2M
- Shared Path East (SPE) - \$1.7M

These estimates were based on typical length of path costs, and not subject to detail design investigation. The estimate provided for SPW is shown as attachment eight (the estimate of \$2.495m was reduced to \$2.2M due to earlier completion of path sections 410 – 920 and 3280 – 3500 as referenced in that attachment). The above estimates have been the basis for establishing budgets and for making grant applications with RMS.

RMS Grants

The completion of the concept design phase allowed Council to make early submissions for the RMS Cycleways forward years' program. Applications were made in January 2013 for SPW given RMS's feedback that the CRP was not eligible. The grant applications were as follows:

Stages	Total Cost (\$)	Grant Application (\$)
SPW Stage 1(SPW1)	600,000	300,000
SPW Stage 2 (SPW2)	840,000	420,000
SPW Stage 3 (SPW3)	790,000	395,000
Totals	2,230,000	1,115,000

Council received advice in late 2013 that the \$300,000 grant application for SPW1 was successful with Council then resolving to provide matching funding.

10.11 Capital Expenditure Review - 30 September 2014

A resubmission of the RMS Cycleways forward years' program was lodged in December 2013, with the CRP (Angels Beach to Sharpes Beach) again included as a high priority stage. However the RMS subsequently offered full grant funding of \$840,000 for SPW2 in late March 2014 with the funds to be expended, or largely expended in 2013/14. This offer of \$840,000 was also subject to RMS not providing future funding for the CRP and Council agreeing to this proposal. This was accepted by Council.

In the last few weeks Council has now also received advice that RMS has approved a grant of \$395,000 for SPW3 for 2014/15.

The detail design phase for all three routes continued during 2013. Consent was issued for SPW in December 2013 and this enabled preconstruction documentation to proceed. Detailed designs (Geolink) for SPW1 and SPW2 were finalised in early 2014, which also included an update of estimates.

The estimates comprised:

- SPW1 \$630,000
- SPW2 \$890,000

The detailed design phase also includes ongoing consultation with the Registered Aboriginal Parties, which forms part of the consent.

The detail design services (provided by GeoLINK) also changed during early 2014 due to staff changes at their office. Council has therefore taken over the detail design for SPW3, which is subject of the new RMS grant offer of \$395,000.

Finalization of detail design for SPE and CRP remain with GeoLINK and is nearing completion with structural details to be finalized shortly.

The delivery of the SPW project sections one and two has been undertaken with numerous activities occurring in parallel. The late advice of the RMS grant offer of \$840,000 in 2013/14, which was actually funds unexpended by other councils, meant early commencement without full completion of detail design and preconstruction phases as the funds were required to be largely expended in 2013/14.. It was therefore necessary to make early commitments towards these projects to support the grant funding.

The use of contractors for the project was investigated but under the circumstances not practicable due to the time constraints and finalization of designs. Furthermore, a significant portion of the work comprised materials (40%), and Council was actively seeking supply arrangements due to grant commitments.

The use of contractors is also subject to market conditions, and for example the design, supply and installation of the retaining wall along SPW1 failed to attract an adequate market response. Council is now proceeding with these works using our own staff.

Regarding the forecast costs for SPW1 and SPW2 these are provided in the tables as per attachment nine.

10.11 Capital Expenditure Review - 30 September 2014

The forecast estimate for SPW1 is now approximately \$640,000 with an original budget of \$600,000. Improvements were made to the design during the construction phase and these resulted in savings from the detail design proposal. For example, the path alignment has been relocated further west along sections, which has improved the amenity and safety of the path. This has introduced extra earthworks, but has also reduced approximately 200m of proposed retaining wall.

The most significant cost increase has occurred along SPW2 where the revised forecast is now approximately \$1,160,000, with an original budget of \$840,000. This represents a variation of \$320,000.

There has been significant additional work to match the new path to the existing Skennars Head Road along the south, and this has involved additional excavation and pavement work. The retaining wall and road widening along the north has also increased in width, and the foundation/footing designs have been amended adjacent to the wetland to accommodate the recent wet conditions.

Also the retaining wall road widening along the north has been widened to the full road boundary. Into the future this will allow for any required road widening to the south, and in the short term offers an additional metre of separation to the path (a 20% increase.)

The more substantial variations to this project are described as follows:

- Vegetation clearing \$35,000
- Drainage \$15,000
- Rock foundation \$40,000
- Retaining wall (including footing) \$65,000
- Earthworks \$60,000
- Pavements (including path) \$140,000
- Stockpile (\$25,000) saving

The proposal to finance this variation is as follows.

A saving is being forecast for a current road project, being Tamar Street reconstruction. This saving is forecast at \$240,000. The original scope of works for Tamar Street comprised reconstruction between Grant Street and Kerr Street. Further investigation of pavement options during detail design confirmed that the original pavement below the failed seal was adequate for an asphalt overlay. The reconstruction along Tamar Street was therefore confined to the shoulder/parking areas.

In addition to this, as per attachment six, Council has funding of \$100,000 available for the small bridge/causeway program. This can be delayed until 2015/16, which makes a further \$100,000 available.

Council has \$100,000 allocated each year in its Delivery Program for bridges, therefore there is on-going funding for this program.

In addition to this it is recommended that the budget for Midgen Flat Road is reduced by \$20,000.

10.11 Capital Expenditure Review - 30 September 2014

Overall this means the budget adjustment for the SPW is proposed as follows:

- Tamar Street (\$240,000)
- Bridges (other) (\$100,000)
- Midgen Flat Road (\$20,000)
- SPW \$360,000

Whilst dealing with road budget adjustments Council has received correspondence regarding the Federal Government's Roads to Recovery program with Council allocated funding of \$597,000 for 2014/15. A copy of that correspondence is attached (refer to attachment ten).

It is pleasing to see that the correspondence mentions that the 2015/16 funding for this program is to be increased to \$1,194,700. These monies are currently not allocated in our Long Term Financial Plan (LTFP) and the magnitude of funds will assist Council greatly with road works in 2015/16.

Attachment 11 provides a copy of Council's forward works program for roads as per our adopted Delivery Program (extract from page 35 of that Plan).

As per attachment 11, a budget of \$362,600 was originally estimated for the Roads to Recovery funding for 2014/15, with those funds allocated to match the RMS Repair program allocation for Maguires Bridge.

It is now recommended that the remaining amount of approximately \$234,800 be allocated as follows:

Wardell Road	\$130,000
Martin Street	\$104,800

As per attachment 11 Wardell Road was a staged project with \$180,000 allocated in 2016/17. This allocation will allow the existing 2014/15 works to be extended further and may negate the need for the allocation of \$180,000 in 2016/17.

The Martin Street project is a 2014/15 project which has been completed over budget and this allocation will avoid adjustment to other projects (refer to attachment six).

The next issue that Council now needs to consider is whether it wishes to accept the SPW3 grant of \$395,000 for the final stage of SPW. As outlined earlier, detail design is still proceeding for this stage. The concern is that the original estimate of \$790,000 is inadequate as the detail designs have not been completed, however the Civil Services Group are examining all design options to minimise the cost of this segment. A drive along North Creek Road for this section highlights that there are many areas where there is limited space for the shared path, so cost does remain a major concern.

Council considered the allocation of our matching funding to all the various cycleway grants at the 18 March 2014 Finance Committee meeting, as part of the preparation of the 2014/15 budget and LTFP. In respect to the need for matching funding for the \$395,000, that report highlighted that no matching funds were available in the draft 2014/15 budget, if this grant was successful.

10.11 Capital Expenditure Review - 30 September 2014

The recommendation for that report in respect to this matter was as follows:

That for the purposes of our financial planning Council confirms that funding for the Western Side of The Coast Road - Shared Path (North Creek Road - \$790,000) will be sourced in the 2014/15 budget, if any grant applications are successful, through the deferral of road capital works projects. The identification of these projects is to be confirmed following announcement of the grants for 2014/15.

That recommendation was adopted and Council now has to find the matching funding, and possibly more, if the estimate of \$790,000 is too low.

In looking at the Engineering Works Program, as per attachment six, the preferred reallocation of priorities is as follows:

Item	Amount (\$)
1. Defer balance of Midgen Flat Road	238,000
2. Transfer from the Civil Road Works Contingency Reserve	157,000

1. Midgen Flat Road was in the budget at \$258,000 with \$20,000 recommended earlier to be taken from this budget to fund SPW2.

It is now recommended that the balance of the project be deferred from 2014/15 to help fund SPW3.

Importantly, as per attachment 11, the Delivery Program still has \$205,000 for Midgen Flat in 2015/16. With Council bringing forward \$180,000 for Wardell Road a revised forward works program for both these roads can be summarised as follows:

Description	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)	2017/18 (\$)
Adopted Program as per Delivery Program				
Midgen Flat Road	258,000	205,000		
Wardell Road	190,000		180,000	
Revised Program				
Midgen Flat Road		205,000	180,000	
Wardell Road	320,000			

This means that a significant amount of works is completed on Wardell Road this financial year and substantial funds remain available for Midgen Flat Road over the next two years.

Also Council still has the Roads to Recovery monies to be allocated for 2015/16.

2. The Civil Road Works Contingency Reserve is a reserve of last resort to assist with managing the numerous Engineering Works Projects. If the transfer from the reserve of \$157,000 is supported the estimated closing reserve balance for 2014/15 will be approximately \$200,000, which is a relatively small reserve balance considering the magnitude of the Road Works Program.

The final point that needs to be made in respect to the shared path projects, is that as per attachment six, the Coastal Recreational Path (CRP) only has a remaining budget of \$1.227 million based on actual funds carried forward from previous years. The original estimate for this segment of the project (angels to Sharpes) was \$1.4m and significant funds have been expended on detail design, environmental and cultural reports and associated works in obtaining the planning consents to date, along with associated construction drawings.

Further funds are now being expended on a revision of the approved route near Flat Rock Tent Park, with the planning report for that amendment not likely to be reported to Council until April / May 2015.

This means there may well be further cost increases in this project as time advances, along with the reduction in the construction budget due to the expenditure incurred on the relevant planning documentation (i.e. a new Review of Environmental Factors) as Council seeks to obtain an amended planning consent.

No budget adjustment is recommended at this point in time, however it is highly likely an adjustment will be needed in 2015.

Overall in looking at these various adjustments for the shared path projects, one can take a positive or negative approach. The positive approach is that to date Council has received approval for \$1.535m in RMS grants to fund these works (i.e. \$300,000 for SPW1, \$840,000 for SPW2 and \$395,000 for SPW3) which is well in excess of the grants that Council has traditionally received for cycleways. Also it could be argued that if Council had originally applied for \$1,160,000 for SPW2 we may not have received the 100% (or \$840,000) funding from the RMS late in 2013/14.

The negative approach is that potentially there may have been opportunities to secure an even higher level of grant funds based on the now anticipated cost for these projects. Importantly, in respect to this last point, Council has written to the RMS seeking further grants based on the actual or predicted increases in costs and hopefully these approaches may assist in reducing the additional funding currently required by Council.

The SPW and CRP are both very high profile projects that the community has been seeking for many years and again on the more positive side the many years of planning is now finally coming to fruition.

Water Transport

Emigrant Creek Pontoon – As per attachment six, Council will receive \$43,500 in grant monies for this project to allow the total budget to be increased close to the final expenditure.

Sustainability Considerations

- **Environment**
Many of the works listed provide positive environmental outcomes

- **Social**
Certain items provide significant social benefits

- **Economic**
Improved infrastructure can benefit the local economy.

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information. Consultation has been undertaken with staff managing the various projects.

Options

As per the following table there is once again an extremely high level of capital expenditure forecast for 2014/15.

Capital Works Summary – 30 September 2014 (\$'000)

Section	Budget (%)	Expended (%)	Percentage
Open Spaces	5,631,400	56,500	1
Waste	857,600	44,500	5
Operations Support	6,313,700	288,100	5
Commercial Services	4,570,000	662,100	14
Water	4,868,500	334,100	7
Wastewater	10,042,400	434,900	4
Engineering Works	12,588,100	2,927,400	23
Total	44,871,700	4,747,600	11

To date expenditure is not progressing rapidly however a number of large contracts are in the process of being let, or specifications finalised to allow tenders to be called and those contracts should result in a rapid increase in expenditure during the next six months.

There are a number of budget adjustments listed in this report and the recommendations that follow seek Council approval for those adjustments.

RECOMMENDATIONS

1. That Council notes the contents of the 30 September 2014 Quarterly Review of the Capital Works Program.
2. That Council approves the transfer of funding for the following Operations Support projects, as outlined in the "New Variations" column, as per attachment two to this report.

Item	Current 2014/15 Budget	Revised 2014/15
Pop Denison BBQ	36,000	24,000
Ballina Surf Club – Rock Wall	0	12,000

3. That Council approves the transfer of funding for the following Engineering Works projects, as outlined in the "New Variations" column, as per attachment six to this report.

Item	Current 2014/15 Budget	Revised 2014/15	Net Impact for 2014/15 – Increase / (Saving)
Canal Road	52,400	0	(52,400)
Links Avenue	0	52,400	52,400
Martin Street	136,400	241,200	104,800
Wardell Road	190,000	320,000	130,000
Roads to Recovery Grant	(362,600)	(597,400)	(234,800)
Tamar Street (Grant / Kerr)	509,200	269,200	(240,000)
Midgen Flat Road (1)	258,000	238,000	(20,000)
Bridges (Various)	100,000	0	(100,000)
Shared Path West (Sec 1)	277,300	317,300	40,000
Shared Path West (Sec 2)	636,200	956,200	320,000
Shared Path West (Sec 3)	0	790,000	790,000
RMS Grant		(395,000)	(395,000)
Midgen Flat Road (1)	238,000	0	(238,000)
Transfer from Civil Reserve	0	(157,000)	(157,000)
Emigrant Creek Pontoon	25,300	68,800	43,500
Grant Funds	0	43,500	(43,500)
(1) Midgen Flat finances both the items listed resulting in a final balance of nil.			

4. That based on the revised budgets in point three, in respect to the forward road works program for the adopted Delivery Program, Council approves the following reallocation of projects. as detailed within this report:

Description	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
Adopted Program as per Delivery Program			
Midgen Flat Road	258,000	205,000	
Wardell Road	190,000		180,000

10.11 Capital Expenditure Review - 30 September 2014

Revised Program

Midgen Flat Road	205,000	180,000
Wardell Road	320,000	

Attachment(s)

1. Capital Expenditure - General Fund - Open Spaces and Waste (one page - A3 attachment)
2. Capital Expenditure - General Fund - Operations Support (one page - A3 attachment)
3. Capital Expenditure - General Fund - Commercial Services Unit (one page - A3 attachment)
4. Capital Expenditure - Water Operations (one page - A3 attachment)
5. Capital Expenditure - Wastewater Operations (one page - A3 attachment)
6. Capital Expenditure - General Fund - Engineering Works (two pages - A3 attachment)
7. Coastal Shared Paths - Preferred Routes
8. Geolink Estimate - Shared Path West (SPW)
9. Estimates - SPW1 and SPW2
10. Notification of Roads to Recovery Funding
11. Delivery Program - Adopted Roads Program

11.1 Development Servicing Plans for Water and Wastewater - Re-exhibition

11. Civil Services Group Reports

11.1 Development Servicing Plans for Water and Wastewater - Re-exhibition

Delivery Program Water and Wastewater

Objective To obtain Council approval to re-exhibit amended Development Servicing Plans for Water Supply and Wastewater Services (including Recycled Water)

Background

The Development Servicing Plans (DSPs) for Water and Wastewater allow Council to recover part of the infrastructure costs incurred in servicing new development or additions and changes to existing development for water and wastewater (sewer) services. Power to levy these charges comes from section 64 of the Local Government Act 1993 and sections 305 to 307 of the Water Management Act 2000 and applies to;

Water Management (General) Regulation 2011 Part 9 Division 9 "Miscellaneous" clause 224

- a) the erection, enlargement or extension of a building or the placing or relocating of a building on land,
- b) the subdivision of land,
- c) the change of use of land or of any building situated on the land;

within the water (or wastewater services) supply area.

On 27 June 2013 Council received a report about the draft DSPs. Council resolved to place the draft DSPs on public exhibition. The plans were placed on public exhibition and, having received submissions from one party (Ardill Payne and Partners), was subsequently reported to Council for adoption.

At Council's Ordinary meeting of 24 October 2013 Council resolved;

"To endorse the Development Servicing Plans for registration with NSW Office of Water, subject to the inclusion of certain amendments, along with a review and finalisation of the servicing strategy for the Cumbalum precinct..."

Since that time the DSPs have been reviewed and sent to NSW Office of Water (NOW) for registration. Following feedback from NOW and a further submission from Ardill Payne, it has been necessary to undertake a significant review of the draft plan. This report provides information on the outcomes of that process and the steps required to now complete this project.

Attachment one to this is report is a copy of the June 2013 report. The attachment provides further background in relation to DSPs generally and the methodology and works schedule developed for this update of Council's plans.

Key Issues

11.1 Development Servicing Plans for Water and Wastewater - Re-exhibition

- Equitable recovery of the costs of infrastructure provision
- Compliance with statutory arrangements and guidelines

Information

Following the Council resolution, the amendments and finalisation of the servicing strategy for the Cumbalum precinct were completed with little impact to the Developer Charges and the DSPs were issued to NSW Office of Water for registration on 5 May 2014.

A review of the DSPs by the NSW Office of Water highlighted some errors and omissions within the documentation and also recommended a different approach with regards to the Developer Charge calculation tables.

Rectification of the errors and reformatting of the DSPs was undertaken by Council's consultant at no cost to Council and this has now been completed. This has resulted in a significant change to the Developer Charges across multiple service areas and it is recommended that the corrected DSPs are re-exhibited to allow a further consultation phase on the DSPs.

A summary and rationale of the changes is presented in attachment two to this report. The attachment is in the form of a letter from our consultant and is a relatively complex technical document. The outcome of the review has seen changes made to the charges that will be applied to the various DSP service areas. These changes to the proposed charges are presented in table one below.

Having regard to the technical nature of the background information in the attachment, it is not further discussed here. Councillors are however encouraged to contact the Group Manager Civil Services if they require further explanation of the content of the letter, or alternatively a workshop can be arranged.

Table One – Changes to Capital Costs, Reduction Amounts and Developer Charges

Wastewater

Development Area	Total Capital Cost per ET (\$ per ET)			Developer Charge after Agglomeration and less Reduction Amount (\$ per ET)		
	Original	Amended	%	Original	Amended	%
*A - Wardell	15,476	17,727	15	7,348	6,575	-11
B – North/East/West Ballina, Ballina Island, Skennars Head, Lennox Head	10,491	7,538	-28	7,348	6,575	-11
C - WUEA	14,773	13,024	-12	12,633	9,199	-27
E – Alstonville, Wollongbar	5,645	7,471	32	4,726	6,575	39
F – CURA A, Ballina Heights	7,464	9,774	31	7,348	9,199	25
G – CURA B	6,941	8,853	28	4,726	6,575	39
Reduction Amount:	Former	\$2,140		Revised	\$1,351	
Agglomeration:	Former	C, (B+A+F), (E+G)		Revised	A, (C+F), (G+B+E)	
*Area A Subsidy:	Former	\$5,950		Revised	\$10,249	

Water

11.1 Development Servicing Plans for Water and Wastewater - Re-exhibition

Development Area	Total Capital Cost per ET (\$ per ET)			Developer Charge after Agglomeration and less Reduction Amount (\$ per ET)		
	Original	Amended	%	Original	Amended	%
A - Wardell	11,730	11,487	-2	11,641	11,102	-5
B – North/East/West Ballina, Ballina Island, Skennars Head, Lennox Head	2,815	3,337	19	2,375	2,882	21
C - WUEA	4,384	2,225	-49	4,294	1,840	-57
E – Alstonville, Wollongbar	2,605	3,177	22	2,375	2,882	21
F – CURA A, Ballina Heights	1,290	1,106	-14	1,200	561	-53
G – CURA B	894	849	-5	804	561	-30
Reduction Amount: Former \$90 Revised \$385 Agglomeration: Former C, (B+E), C, F, G Revised A, (B+E), C, (F+G)						

Table 2 – Comparison of Proposed Charges to Current Charges

The following table is a comparison of the proposed charges compared to the current charges as listed in Council's adopted Fees and Charges.

Wastewater

Development Area	2014/15 Charge (\$ per ET)	Proposed future Developer Charge (\$ per ET)
* A - Wardell	7,671	6,575
B – North/East/West Ballina, Ballina Island, Skennars Head, Lennox Head	7,671	6,575
C – WUEA	10,664	9,199
E – Alstonville, Wollongbar	4,813	6,575
F – CURA A, Ballina Heights	NA	9,199
G – CURA B	NA	6,575

Water

Development Area	2014/15 Charge (\$ per ET)	Proposed future Developer Charge (\$ per ET)
A - Wardell	3,541	11,102**
B – North/East/West Ballina, Ballina Island, Skennars Head, Lennox Head	3,541	2882
C - WUEA	2,570	1840
E – Alstonville, Wollongbar	1,829	2882
F – CURA A, Ballina Heights	NA	561
G – CURA B	NA	561

** This difference in this figure relates to Rous Water charges, this is discussed later.

11.1 Development Servicing Plans for Water and Wastewater - Re-exhibition

The Office of Water has provided advice of their concurrence to the revised draft plans.

Attachments three and four to this report present the revised plans.

Sustainability Considerations

- **Environment**

The Development Servicing Plan helps to protect the environment by ensuring appropriate infrastructure is in place to cater for development.

Expansion of the recycled water scheme is included in the DSPs and will decrease the quantity of discharge from Council's WWTPs and reduce the demand on the region's water sources are required to deal with growth.

- **Social**

The Developer Servicing Plan allows for the equitable collection of developer contributions where any new development is required to pay their fair share of the cost of supplying infrastructure to their development.

- **Economic**

The Developer Servicing Plan enables orderly and planned growth which provides economic development benefits. It is also important to consider the affordability of development and the Developer Charge provide a clear signal to Developers of the true cost of development in certain areas.

Legal / Resource / Financial Implications

When the DSPs are adopted Council will be compliant with requirements of the:

- *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater*, (Department of Land and Water Conservation, NSW, 2002). Note that NSW Office of Water's review required the DSPs to conform with the *draft 2012 Guidelines* which have not yet been approved by the Minister, but are expected to become the new DSP guidelines.
- *Best-Practice Management of Water Supply and Sewerage Guidelines* (Department of Water and Energy, 2007)
- *Water Management Act 2000* and the
- *Local Government Act 1993*

The DSPs aim to ensure Council has adequate funds to provide the infrastructure needed to accommodate expected population growth. These updated DSPs provide increased certainty to Council and the community that future infrastructure cost will continue to be adequately funded.

11.1 Development Servicing Plans for Water and Wastewater - Re-exhibition

The works proposed in the plans have been included in the Council's future capital works program and the long term financial plan incorporates the expected DSP revenues and expenses.

Consultation

The *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater* require that the following steps for the exhibition phase be undertaken;

- Be placed on public exhibition for a period of thirty working days
- Inform the Urban Development Institute of Australia, and the Housing Industry Association at least ten working days prior to the exhibition period
- Inform any developer who had applied for planning approval, or for a compliance certificate under section 305 of the Water Management Act 2000 in the previous six months at least 10 working days prior to the exhibition period

In addition to the above requirements Council will run an open information session for interested persons at least two weeks prior to the end of the exhibition period. Interested persons would need to register with Council for the information session and the date will be confirmed prior to the exhibition period being announced.

Options

Council may choose to apply a cross-subsidy of any amount in order to reduce the size of the Developer Charge, so long as the cross-subsidy is fully disclosed. This was discussed in detail in the 27 June 2013 Council Report.

At that time, Council decided to reduce the Developer Charge for Wardell's Wastewater Services to an amount equal to Ballina's Wastewater Services Developer Charge. These corrected DSPs maintain this cross-subsidy.

This means that the Wardell Developer Charge for Wastewater Services is reduced by \$9,801 per Equivalent Tenement at an impact of \$1.30 per year to the typical residential bill.

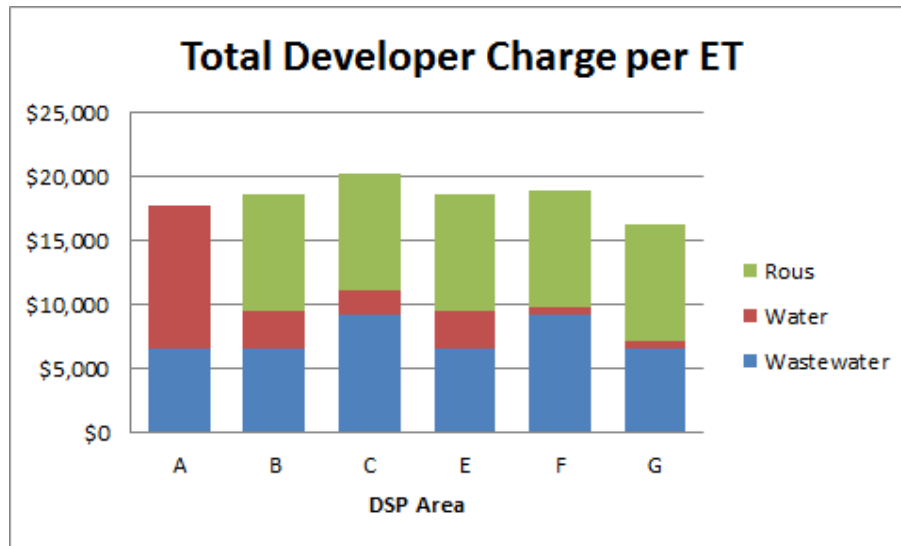
Council may also elect to levy less than the calculated developer charges. If so, the resulting cross-subsidy from the existing customers in the typical residential bill must be calculated and disclosed in the relevant DSP, in the utility's Annual Report, Annual Operational Plan and in communication materials for consultation with stakeholders.

It is also noted that the Developer Charge for Wardell Water Services is greater than for other Council Areas, however when the Rous Water Developer Charge is added in those other Areas, the overall difference is not significant. This is summarised in Table Three below. Previously Council had elected to apply a cross subsidy to this charge as well. As noted in table 2 above, removing this cross subsidy increases the charge from \$3,541 to \$11,102.

11.1 Development Servicing Plans for Water and Wastewater - Re-exhibition

Table Three – Comparison of Total Charges per Service Area

DSP Area	Waste water Charge (\$ per ET)	Water Charge (\$ per ET)	Rous Charge (\$ per ET)	Total Water Charge (\$ per ET)	Total Developer Charge (\$ per ET)
A - Wardell	6,575	11,102	n/a	11,102	17,677
B - North/East/West Ballina, Ballina Island, Skennars Head, Lennox Head	6,575	2,882	9,091	11,973	18,548
C - WUEA	9,199	1,840	9,091	10,931	20,130
E - Alstonville, Wollongbar	6,575	2,882	9,091	11,973	18,548
F - CURA A, Ballina Heights	9,199	561	9,091	9,652	18,851
G - CURA B	6,575	561	9,091	9,652	16,227



Should Council seek to review or apply other cross-subsidies it is recommended that a workshop be held to discuss their implementation and impacts.

RECOMMENDATIONS

1. That Council reconfirm its policy to apply a cross-subsidy to the Wardell Wastewater Services DSP to provide a Developer Charge equal to the Ballina Wastewater Services Developer Charge.
2. The Council approves the exhibition of the draft Development Servicing Plans for Water Supply and Wastewater Infrastructure (2014), as attached to this report, for public comment.
3. That, there being no comments of significant impact to the Plans or the Developer Charge due to the exhibition period, Council adopts the plans and submit them to the NSW Office of Water for registration. If any submissions of significance are received then a further report is to be presented to Council.

Attachment(s)

1. Copy June 2013 Report - Development Servicing Plans Water & Wastewater
2. Summary and Rationale of Changes
3. DSP Wastewater & Recycled Water Supply Infrastructure (Under separate cover)
4. DSP Water Supply Infrastructure (Under separate cover)

11.2 Administration Centre - Air-Conditioning Status

11.2 Administration Centre - Air-Conditioning Status

Delivery Program Asset Management

Objective To provide budget information in relation to the air conditioning of the Customer Service Centre.

Background

At the March 2014 Facilities Committee meeting Council resolved, in part, as follows:

That Council receive a report on the status of the air conditioning system at the Council Administration Centre.

As background to this the current Council Administration or Customer Service Centre (CSC) building was completed in September 1986. The building when first occupied was utilised very differently than it is today. For example, the area now occupied by the Development and Environmental Health Group was originally designed and built for separate private professional leased areas.

Over the years walls have come down in the main staffed areas throughout the building to create an open plan work environment. This has also meant that the air-conditioning (AC), mainly the ducting, vents and temperature control, have been altered, to try to accommodate for, and restore, some balance in the original design of the AC system.

The AC system is now also ageing and deteriorating. Over the years since the system's installation many parts have been replaced, however many of the main units are still in place today. The units for the ground floor are located in the ceiling above the car parks, two in the South-West wing and three in the North-East wing. The first floor units are on the roof, three on the South-West wing and three on the North-East wing.

The company that currently services the AC system was engaged to assess and report on the condition of all the AC units and the information forthcoming has been used in this report. Given the scale of an AC replacement program it was also deemed necessary to examine other elements of the building structure that form or relate closely to the AC system. Some of these elements include the roof top platforms that the roof mounted AC units sit on and also the roof itself. It is important that any work required on these other elements is considered at the same time as the AC replacement program due to accessibility, disruption and cost.

To meet Council's energy efficiency and sustainability targets another key factor is the efficiency gains possible in an AC upgrade program, given the huge advances in technology over the 28 years since the existing systems were designed.

Key Issues

- Condition of existing system
- Efficiencies and cost

11.2 Administration Centre - Air-Conditioning Status

Information

Age, condition and efficiency of the existing air-conditioning systems

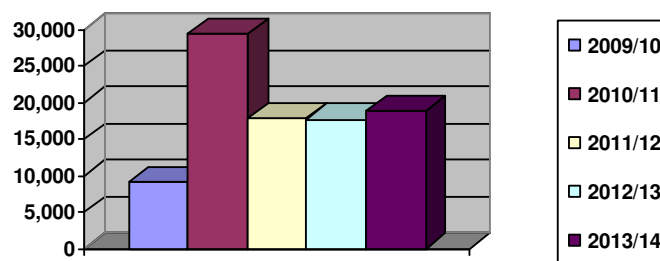
The assessment conducted by our service provider highlighted the following priorities for the CSC.

1. Severe corrosion of the coils, cabinets, dropper ducts and elevated running temperatures causing high inefficiency on all three of the South-West roof mounted AC units (AC-1, AC-2 & AC-3). These units are heavily exposed to the environment and are approximately 13 years old. The recommendation is to prioritise for immediate replacement.
2. Severe corrosion of the coils, cabinets and dropper ducts and inefficient running on all three of the North-East roof mounted AC units (AC-6, AC-7 & AC-8). These units are heavily exposed to the environment and are approximately 14 years old. The recommendation is to prioritise for replacement after the South-West roof mounts have been replaced.
3. The ground floor South-West wing AC units (AC-4 & AC-5) are approximately 28 years old and are in generally good condition. These units are not a priority to be replaced in comparison to the roof mounted systems however this could be reviewed down the track for energy efficiency and cost savings.
4. The ground floor North-East wing AC units (AC-9, AC-10 & AC-11) are approximately 28 years old and are in satisfactory condition. These units are not a priority to be replaced in comparison to the roof mounted systems however this could be reviewed down the track for energy efficiency and cost savings.

AC maintenance costs

In the details above it can be seen that the AC units that are exposed to the weather on the roof top of the CSC, will, and do, incur the majority of the ongoing reactive maintenance costs and they also require standard periodic preventative maintenance, as required by all the AC units at the building.

The reactive maintenance can be quite variable and often relates to weather conditions received during the summer period. Over recent years there has been replacement of major parts on the roof top AC units which was primarily related to corrosion. The large variation in the per annum maintenance costs for the AC units at the CSC can be seen in the graph below.



11.2 Administration Centre - Air-Conditioning Status

Timing of programed replacements

The replacement of the AC units 1, 2 and 3 are the first priority, however the condition of AC units 6, 7 and 8 are very similar. In terms of life expectancy a hot summer threatens some of these units. Timing of the replacement of these units is crucial to maintaining comfortable internal climate conditions for the staff.

Given the mild temperatures in autumn and early winter, any programmed replacement of these units should be allocated some time during this period. This would mean that the wing of the building upstairs being worked on would be without AC. The mild temperatures in autumn will allow the windows to be opened throughout those sections of the building to maintain comfortable air flow for the period that it would take to complete all work required.

This would enable the old units to be removed and other necessary work to be done to the roof platforms and the roof itself prior to the new units being craned into place on the roof. Given the replacement of these AC units is a high priority, estimates have been gathered to give Council an understanding of the financial requirements that would be necessary should we proceed with the first stages of a replacement program.

No pricing has been undertaken for the replacement of the ground floor AC units, which are still considered to be in good working order at this stage however it is important that an examination of options in this regard be undertaken due to the potential energy efficiency gains.

Estimate - AC Units Installations

Description	Price (\$)
First Floor SW AC 1,2 &3	163,012
First Floor NE AC 6,7 & 8	167,448
Total	330,460

Formal tenders would need to be called if Council proceeded with this work.

Condition of the roof top walkways and AC platforms

The roof top walkways and platforms that the AC units sit upon are generally in reasonable condition considering 28 year's exposure to the harsh salt air environment however they do need some work. Sections of the platforms will need replacement due to rust and the entire platforms need to be dismantled and sent away for hot dip galvanising to prevent further deterioration. Council staff have put together some budgetary estimates to carry out this work.

Estimate - Platforms

Description	Price (\$)
First Floor Roof SW	11,148
First Floor Roof NE	13,500

11.2 Administration Centre - Air-Conditioning Status

Condition of the roof

The CSC roof was poorly designed for the high sub-tropical rainfall environment that the building is situated. This has caused and continues to cause the high level of building maintenance costs.

Over the past 10 years a reasonable amount of money has been spent trying to prevent leaks on the aluminium roof. These leaks stem from design, box gutter sizing, pitch, sheet lapping, pin holes and much more.

The pinholes now forming in the aluminium sheeting are produced as a result of electrolysis, which is a corrosion caused from dissimilar metals, e.g. from the aluminium sheeting contacting the roofing screws and the galvanized purlins and sarking below the roof sheeting etc.

The design and the condition of the roof is poor and for that reason it is most important that consideration be given to re-sheeting the roof when the AC units and roof platforms are removed from it for their replacement. Economies of scale make this a priority due the disruption to the building and the cost of pulling all the new AC units off the roof at a later date for this purpose.

Estimates have been gathered for the roof replacement so that it can be considered with the AC replacement program, given the roof's current condition. Further problems also exist with the buildings box guttering system that will require an engineered design and further costing.

Estimate - Roof Remove and Replace Roof Sheeting

Description	Price (\$)
Re-sheet SW & NE Roof	165,000
Box guttering	20,000
Total	185,000

The estimated cost to complete all works as recommended in this report, replacing all roof mounted AC units, repairing and galvanising roof walkways and platforms and the replacement of roof sheeting on both wings of the building, has been calculated at \$540,108.00 with the supplied estimates.

Formal tenders would need to be called if Council proceeded with this work.

Sustainability Considerations

- **Environment**
The replacement of the ageing inefficient AC units will have a positive impact on energy reduction.
- **Social**
New AC units for the upstairs areas will provide staff with relief from the variation of temperatures and discomforts currently received from the existing system aiding productivity.
- **Economic**
New energy efficient AC units will reduce the overall energy consumption and maintenance costs of the Customer Service Centre.

11.2 Administration Centre - Air-Conditioning Status

Legal / Resource / Financial Implications

The current budget does not provide for any funds to complete this work. The budget originally had monies set aside to reserve to assist with future replacement of the air-conditioning however that money was then reallocated to the Shelly Beach Public Toilets.

The advice from the service provider is that due to increasing maintenance costs and risks of failure Council need to consider an allocation of funding in the current financial year to enable replacement in autumn 2015.

Consultation

Council utilised the services of a local air-conditioning engineering repair and installation company to assess the current condition of the AC systems.

Council utilised the services of a local company to provided condition reporting and a cost estimate for the replacement of the roof sheeting.

Council staff provide knowledge and pricing on other aspects of the report including the repairs and hot dip galvanizing of the roof top AC walkways and platforms.

Options

Given the current condition of the roof mounted AC units Council has the following options:

1. Council allocate funding to replace the South-West roof top AC units and repair and galvanise the walkway and platform, in autumn 2015.
2. Council allocate funding to replace the North-East roof top AC units and repair and galvanise the walkway and platform, in autumn 2016.
3. Council allocate funding to replace both the South-West roof top AC units and the North-East roof top AC units and repair and galvanise the walkways and platforms, in autumn 2015.
4. Council allocate funding to replace both the South-West roof top AC units and the North-East roof top AC units and repair and galvanise the walkways and platforms. Also when the old AC units and roof top platforms are removed have the roof re-sheeted prior to installing new AC units, in autumn 2015.

Option Estimates

Description	Price (\$)	Amount of Completion
Option 1	\$174,160	Partial AC Units SW Roof
Option 2	\$180,948	Partial AC Units NE Roof
Option 3	\$355,108	All Roof Top AC Units and Platform
Option 4	\$540,108	All Roof Top AC Units, Platform and Roof Re-Sheeting.

11.2 Administration Centre - Air-Conditioning Status

Council has no funding set aside for these works in the 2014/15 budget and based on the priorities identified in this report it may well be necessary to allocate funds this year to complete some of the more urgent works. This being the case the recommendation is for Council to receive a further report on this matter with that report then identifying the recommended financial plan, including funding sources, needed to finance the high priority works. That report can be submitted to Council early in 2015 to allow either some works to be completed in 2014/15, or alternatively a program of works to be incorporated into Council's long term financial plan for 2015/16 onwards.

Any financial plan will need to defer other funded works due to the magnitude of funding required to finance this replacement work.

RECOMMENDATIONS

1. That Council notes the contents of this report in respect to the current status of the air conditioning system at the Council Administration Centre.
2. That Council notes that no funds are currently available for the works identified in this report in the 2014/15 budget and that a further report be presented to Council outlining a recommended financial plan to finance the preferred program of works.

Attachment(s)

Nil

11.3 Ballina Shire Road Safety Strategy (2014/15 - 2023/24)

11.3 Ballina Shire Road Safety Strategy (2014/15 - 2023/24)

Delivery Program Asset Management

Objective To present the draft Road Safety Strategy (2014/15-2023/24) and seek endorsement for its public exhibition.

Background

This Road Safety Strategy (2014/15-2023/24), which follows on from the previous Road Safety Strategic Plan (2007/08-2012/13) presents Council's commitment to reducing road trauma over the next 10 years.

This report provides an outline of the process undertaken to develop the draft Road Safety Strategy (2014/15-2023/24) and seeks endorsement from Council for the public exhibition. A copy of the draft strategy has been provided under separate cover.

In order to achieve further road safety improvements over the next 10 years, it is important to understand the current nature and extent of road trauma in the Ballina Shire. A detailed analysis of fatal and injury crash data was undertaken using crash data obtained from the Roads and Maritime Services.

Most of the data was analysed for the five year period from January 2008 to December 2012. Some analysis has been undertaken over a 10 year period to demonstrate crash trends over a longer period and to allow more detailed patterns to emerge. The crash data analysis provides the opportunity to track our road safety performance over the past 10 years and provides an evidence base for the successive Road Safety Strategy. A comprehensive crash profile is presented as Appendix A of the strategy.

Over the past 10 years, 47 people were killed and 1,500 people were injured on roads in the Ballina Shire. The cost of road trauma has an enormous effect on our community that is both, a financial burden, as well as a personal burden to those who suffer injuries and to the families, friends and communities who are deeply impacted by road trauma. Road crashes are a financial and personal burden that we, as a community, should not accept.

This Road Safety Strategy (2014/15-2023/24) sets direction for change for the Ballina Shire – to create a cultural shift and deliver a renewed focus in road safety within Council and the community.

The Road Safety Strategy is embedded in Council's Integrated Planning and Reporting (IPR) framework. Council's overarching community plan *Our Community: Our Future Community Strategic Plan 2013- 2023* identifies the Road Safety Strategy as a means to achieving direction one: A Connected Community (CC) where: CC1 We feel safe; CC2 We feel connected; and CC3 There are services, facilities and transport.

The draft Road Safety Strategy (2014/15-2023/24) aligns with federal, state and regional road safety strategies and initiatives to improve road safety and reduce road trauma.

11.3 Ballina Shire Road Safety Strategy (2014/15 - 2023/24)

Over the next 10 years, Council aims to better target road safety interventions by concentrating efforts on tackling the main contributors to road trauma (speed, alcohol and fatigue) and protecting the people most at risk (motorcyclists, cyclists, pedestrians, young road users and older road users). This strategy focuses on delivering road safety initiatives where the greatest potential improvement can be achieved.

This strategy applies Safe System principles and focuses on delivering best practice interventions to reduce road trauma. The Safe System approach originated in Sweden and the Netherlands and was officially endorsed by the Australian Transport Council in 2003. This approach now guides road safety policy in all jurisdictions across Australia and internationally.

A Safe System approach acknowledges that humans will always make mistakes, that there will always be crashes; but death and serious injury should not be the price to pay for these mistakes. The Safe System approach argues that for as long as mistakes are likely, all road users need to be protected – and this protection is best provided by four cornerstones – safer roads and roadsides, safer speeds, safer vehicles and safer road users.

Recognition of this Road Safety Strategy in Council's corporate and strategic framework will ensure the Safe System principles are embedded in Council's land use planning and transport planning framework and infrastructure delivery programs.

Contained within the strategy is Council's vision for road safety, capturing the community's desire to create a safer road transport system for the future, which accommodates and respects the needs of all road users; including motorcyclist, cyclists and pedestrians. And for the first time there is a committed to achieving local road safety targets; benchmarks that align with national and state targets for reducing road trauma on our local road network. Achieving the vision and targets will require strong political will, funding commitment and concerted, sustained efforts across a range of sectors, within our own organisation and the community.

The strategy highlights the importance of continuing to strengthen partnerships within our own organisation, with government agencies, non-government agencies, businesses, other stakeholders and within the local community to achieve further road safety gains.

Key Issues

- Increasing demand for travel, population growth, increased freight movements, potential for congestion and an aging population.
- Community collaboration to ensure joint ownership, responsibility for and engagement in road safety.
- Achieving a whole of organisation understanding and commitment to applying Safe System principles.
- Matching community safety needs and expectations with road and transport assets and/or resources.
- Endorsement of the Road Safety Strategy (2014/15-2023/24).

Information

As a road authority, as a planning authority, an employee, fleet manager and as a community leader, Council is well placed to create a cultural shift and deliver a renewed focus in road safety. This Road Safety Strategy (2014/15-2023/24) is Council's commitment to road safety over the next 10 years.

While Council intends to play a key role in realising the vision and targets for improving road safety in the Ballina Shire, the notion that road safety is a shared responsibility is strongly supported. One of the first steps in developing this strategy was to engage the community. Community feedback was sought to determine what road safety issues matter most and to identify the community's priorities for improving road safety. The community and stakeholder feedback obtained was used to inform the commitments in the draft Road Safety Strategy.

The Road Safety Strategy makes the following commitments to improving road safety in our shire:

- Achieving a whole of organisation understanding and commitment to applying Safe System principles.
- Investing in, planning, developing and implementing evidence based road safety initiatives to reduce road trauma.
- Raising the profile of road safety.
- Facilitating the involvement of local businesses, government agencies and community groups in road safety initiatives.
- Improving the coordination of local government road safety initiatives with regional, state, and national road safety initiatives.
- Engaging community and encouraging ownership of the road safety issues.
- Reviewing and evaluating the effectiveness of road safety initiatives.

The Local Government Road Safety Program (LGRSP) will continue to be a primary avenue for delivering Council's commitment to road safety. The LGRSP is a partnership program between local councils, Transport for NSW and the Roads and Maritime Services to reduce the likelihood of deaths and injuries from road trauma in local communities.

Council has participated in the LGRSP for more than 10 years and during this time employed a Road Safety Officer in our Civil Services Group on a part-time basis. Through this program, Council will continue to champion the profile of road safety, leverage and maximise funding opportunities and work harder to develop a culture of road safety ownership with the elected members, Council employees, with key stakeholders and within the community.

This new strategy identifies four key outcomes which neatly aligns with the four cornerstones of the Safe System approach: Safer Roads and Roadsides (SRR), Safer Speeds (SS), Safer Vehicles (SV) and Safer Road Users (SRU). Under each of the outcomes is a series of priorities, which will enable Council to achieve its vision and meet the targets for reducing death and injury on local roads in the Ballina Shire. Under each priority the key actions are listed, identifying what road safety initiatives will be implemented. The key actions are deemed the most effective actions to achieve the targets, based on an

11.3 Ballina Shire Road Safety Strategy (2014/15 - 2023/24)

evidence based approach and input from key stakeholders and the community.

The new Road Safety Strategy (2014/15-2023/2024) adopts a longer term horizon than the previous Road Safety Strategic Plan (2007-20012), bringing road safety planning into line with Council's Community Strategic Planning framework. In this context, provision is made for a review of the Road Safety Action Plan (2014/15-2023/2024) (Appendix B of the draft strategy) every three years to ensure adequate monitoring and evaluation of road safety initiatives. The timing of the action plan review will be in accordance with the Local Government Road Safety Program. A further two action plans will be released over the life of the strategy.

Sustainability Considerations

- **Environment**

Specific measures to improve road safety can impact environmental performance. Improving roads and roadsides (including improvements to pathways), speed management and the use of safer vehicles can improve mobility, efficiency, reduce congestion, improve energy consumption and reduce greenhouse gas emissions.

- **Social**

The social benefits of an efficient and safer road transport system for all road users may include: increased opportunities to safely engage in community life and improved access to social, employment, education and retail opportunities. Road safety initiatives can also be considered as a means to support a more sustainable and active lifestyle through the provision of a well-connected path network.

- **Economic**

The Road Safety Strategy recognises the significant contribution that a safer road transport system makes to the shire's economy. Creating a safer, more efficient and more sustainable transport system allows governments to direct road and transport investment and road safety interventions to areas of highest demand. A safer road transport system provides access to health, employment and education.

The economic benefits of road safety programs are also a product of reductions in accidents and costs per accident saved. Crash costs include human costs (loss of life, injury costs, quality of life etc.), vehicle costs (towing and repairing costs etc.) and general costs (property damage, hospitalisation costs, insurance, police costs etc.).

Legal / Resource / Financial Implications

The Road Safety Strategy is a strategic document for the purposes of improving road safety planning in the shire, there are no legal implications associated with its endorsement for exhibition purposes.

11.3 Ballina Shire Road Safety Strategy (2014/15 - 2023/24)

However, resourcing will need to be considered before the potential road safety initiatives suggested in the strategy can be actioned. The action plan provides indicators about how the potential road safety initiatives listed for each of priorities are, or may be, resourced.

Key opportunities or projects identified in the strategy, once nominated for action, will be integrated into Council's delivery programs and operational plans over time. Funding and resource provision in relation to these activities would therefore be considered in the context of the broader budgetary process.

Consultation

The community engagement phase of the draft Road Safety Strategy commenced in September 2013. Consultation activities undertaken included the following:

- An internal working group – Ballina Shire Council staff from Civil Services (Infrastructure Planning and Engineering Works), Strategic Planning (as required), Operations Support (as required) and Development and Environmental Health (as required).
- Completion of a community survey.
- Completion of an online survey (advertised through email networks, Community Connect, the local media and also distributed in hard copy to select locations).
- Presented to numerous committees, working groups and reference groups. The Road Safety Officer attends the Local Traffic Committee, the Ballina Transport Working Group, the Access Reference Group, Sustain Transport Working Group, the Ballina Liquor Accord and the RRISK Committee (Reduce Risk Increase Student Knowledge), all of which had the opportunity to prepare a submission.

In the community survey and online surveys residents were asked what road safety issues matter to them and what road safety improvements they would you like to see. Over ninety responses to the road safety surveys were received. The responses were compiled and included under the four key outcomes of the strategy: Safer Roads and Roadsides (SRR), Safer Speeds (SS), Safer Vehicles (SV) and Safer Road Users (SRU).

If endorsed by the Council, the draft strategy will be placed on public exhibition. Respondents to the survey, the mentioned committees, reference groups and working groups will be re-engaged during the exhibition process to provide further opportunity for community and stakeholder comment.

Options

1. Council may decide not to endorse the draft strategy for public exhibition. Based on the community consultation to date, general community support for this strategy and Council's commitment to the Local Government Road Safety Program, this option is not recommended.
2. Council may elect to finalise the draft strategy without going to public exhibition. This option is not recommended, as further community feedback on the draft plan before implementation is highly desirable.

11.3 Ballina Shire Road Safety Strategy (2014/15 - 2023/24)

3. Council may elect to exhibit the draft strategy with changes. With respect to this option, further opportunities for changing the draft plan can be considered once submissions gathered through the public exhibition period have been reviewed and as such, this option is not recommended.
4. Council endorses the attached draft Road Safety Strategy for public exhibition. Based on the consultation activities conducted and the document drafting undertaken to date, this option is recommended as it presents Council's commitment to improving road safety in the Ballina Shire and provides a further opportunity for further stakeholder and community feedback.

RECOMMENDATION

That Council endorses the draft Road Safety Strategy (2014/15-2023/24) for public exhibition.

Attachment(s)

1. Draft Road Safety Strategy (2014/15 - 2023/24) (Under separate cover)
2. Appendix A - Crash Profile (Under separate cover)
3. Appendix B - Road Safety Action Plan (Under separate cover)

11.4 Tender - Construction of Car Park - Ballina Byron Airport.

11.4 Tender - Construction of Car Park - Ballina Byron Airport.

Delivery Program Commercial Services

Objective To obtain Council approval to award a contract for the construction of an additional car park and associated infrastructure at the Ballina Byron Gateway Airport.

Background

The capital works program for the airport includes the construction of a new car park to provide an additional 143 long term spaces, including the provision of shade/weather protection for up to 102 of these spaces.

A request for tender was advertised on 16 August 2014 for these works. A pre-tender meeting was held on 26 August 2014 with eight companies attending. At the close of the tender period on 11 September 2014, six tenders were received.

This report details the outcome of the tender evaluation process.

Key Issues

- Engage suitably qualified and experienced contractor;
- Award the tender in accordance with the Local Government (General) Regulations 2005.

Information

Tender submissions were received from:

- Allroads Pty Ltd
- Flintstone Group Pty Ltd
- Cambra Holdings (t/a Morgans)
- Downer EDI Works Pty Ltd
- Mainland Civil NSW Pty Ltd
- St Hilliers Property Pty Ltd

All tenders were initially assessed for conformity with the tender specification. From this assessment all tenders were deemed to be conforming. The tender documentation defined four areas, by which each tender would be assessed:

- Total Price - 40%
- Capability, Experience & Performance History – 30%
- Shade Structures – 15%
- Quality, Safety and Works Program – 15%

The tender documentation was developed to allow the Council to consider staging options for the shade structures that would be suitable for the available budget. Under these arrangements, the successful tenderer would be required to undertake the complete design of all the shade structures, however the installation provided for the entire works to be undertaken or separated into three stages.

11.4 Tender - Construction of Car Park - Ballina Byron Airport.

A tender evaluation panel in accordance with Council's procedures was established and the tenders were assessed against an approved tender evaluation plan.

The following is the final rankings of the six tender submissions.

Tenderer	Total Revised Price (GST Exclusive)	Ranking
Flintstone Group Pty Ltd	\$667,093	1
St Hilliers Property Pty Ltd	\$762,743	2
Allroads Pty Ltd	\$861,381	3
Cambra Holdings (t/a Morgans)	\$970,827	4
Downer EDI Works Pty Ltd	\$1,019,936	5
Mainland Civil NSW Pty Ltd	\$917,658	6

Based on the non-priced assessment criteria, Flintstone Group Pty Ltd, St Hilliers Property Pty Ltd and Allroads Pty Ltd were all ranked equal highest in the evaluation. Flintstone Group Pty Ltd has provided the lowest priced tender and therefore is the highest ranked tenderer in the final assessment.

The tendered prices above includes all car park construction costs, design of all shade structures and the supply and installation of only one shade structure - each additional shade structure has been costed at \$138,533 each.

Due to budget considerations it is proposed to only provide one shade structure, providing cover to 34 parking spaces. The budget arrangements are discussed further below.

The proposal from Flintstone Group Pty Ltd is considered the best value solution.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The airport is considered to be an important contributor to the economic development of the Region. The provision for long term secure parking will assist in meeting the growth in passenger numbers utilising the airport. Car parking is a major contributor to the airport revenue stream and it is estimated that the revenue from car parking will increase by approximately \$183,000 per annum with the construction of the new car park.

Legal / Resource / Financial Implications

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

11.4 Tender - Construction of Car Park - Ballina Byron Airport.

The Council's Long Term Financial Plan for the Ballina – Byron Gateway Airport provides an allowance of \$725,000 for this work. This report provides for only one shade structure to be constructed, which once a 10% contingency is included, is within the \$725,000.

Consultation

A public tender process was undertaken.

Options

Under the Local Government (General) Regulations 2005 Council must either accept the tender that “appears to be the most advantageous” or decline to accept any of the tenders.

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract to the highest ranked tenderer, Flintstone Group Pty Ltd.

Option one is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005.

Option two is recommended as the preferred option as the tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the highest ranked tender.

RECOMMENDATIONS

1. That Council accepts the tender from Flintstone Group Pty Ltd, for the construction of an additional car park, design and construction of shade sails and associated infrastructure at the Ballina Byron Gateway Airport for the amount of \$667,093 (ex GST).
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.5 Policy (Review) - Backflow Prevention

11.5 Policy (Review) - Backflow Prevention

Delivery Program Water and Wastewater

Objective To review the Backflow Prevention Policy.

Background

Council's Backflow Prevention Policy was first adopted in 2007. The purpose of this policy is to outline Council's commitment to appropriate levels of backflow prevention, cross-connection prevention and protection of our water supply. It specifies Council's position where the Plumbing Code of Australia, Plumbing and Drainage and AS/NZS 3500 provide scope for the local authority's requirements. It also defines Council and stakeholder responsibilities for backflow prevention.

Backflow prevention is required in water supply systems to avoid the flow of liquids in a direction contrary to the normal or intended direction of flow or the unintended flow of water from a potentially polluted source into a drinking or a recycled water supply.

To ensure it continues to reflect contemporary practices and legislative requirements, the policy has been reviewed. That review is the focus of this report.

Key Issues

- Drinking and recycled water supply system protection
- Legislative requirements

Information

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

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.
- Captures the recent addition of re-cycled water and the requirement to also protect this water supply along with the drinking water supply.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is attached to the report. Under this policy, properties identified with the need to have containment backflow prevention devices will be required to install the appropriate device. Device types are selected based on risk in accordance with the relevant plumbing standards and codes. This does result in some costs to property owner to ensure their containment requirements up to the relevant standards. Some devices will require ongoing annual certification by a NSW licensed plumber.

Sustainability Considerations

- **Environment**
The effective management of the urban water supply reduced the risk of environmental impacts from this service.
- **Social**
The previous policy and the proposed changes will ensure the safety of water users.
- **Economic**
Effective management of the urban water supply supports economic development in the Shire.

Legal / Resource / Financial Implications

It is a legal requirement for Councils to implement, manage, and monitor backflow prevention measures to ensure the safety of users. A new Authority based Backflow Prevention Register is required to be created to register and record those properties with backflow prevention. The register will be used to ensure that annual testing and certification requirements are complied with by property owners. The implementation of the policy is supported by internal procedures to ensure compliance with regulatory and other requirements.

Consultation

The recommendation to this report is to publically exhibit the draft policy.

Options

Council may accept or amend the proposed changes to the policies. The changes included are largely housekeeping therefore it is recommended that the policy be adopted as presented. It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

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

Attachment(s)

1. Backflow Prevention

11.6 Policy (Review) - Grazing of Stock on Road Reserves

11.6 Policy (Review) - Grazing of Stock on Road Reserves

Delivery Program Asset Management

Objective To review the Grazing of Stock on Road Reserves Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Grazing of Stock on Road Reserve policy.

Council first adopted this policy on 27 July 2006, and was subsequently reviewed on 26 August 2010.

The policy, to prohibit the grazing of stock on public roads, was developed due to previous roadside management issues and potential risks associated with grazing of stock on our local rural roads.

The policy was initially developed in consultation with the previous NSW Livestock and Pest Authority in accordance with the Rural Lands Protection Act.

The review of the policy has comprised the updating with NSW Government's changes in administration and legislation associated with the formation of the NSW Local Land Services organization.

Key Issues

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

Information

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

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.
- Updating with NSW Government's change in legislation and organization delivery.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and no further changes are recommended. A copy of the amended policy is attached to the report.

11.6 Policy (Review) - Grazing of Stock on Road Reserves

Sustainability Considerations

- **Environment**
The containment of stock within private landholdings avoids spread of cattle/stock waste.
- **Social**
The containment of stock within private landholdings avoids disruption to the public road system.
- **Economic**
The containment of stock within private landholding avoids risk of potential accident costs.

Legal / Resource / Financial Implications

The policy avoids potential liability claims due to accidents by not allowing stock on the public road system.

Consultation

The recommendation to this report is to publically exhibit the draft policy.

Options

Council may accept or amend the proposed changes to the policies. The changes included are largely housekeeping therefore it is recommended that the policy be adopted as presented. It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

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

Attachment(s)

1. Policy - Grazing of Stock on Road Reserves

12. Public Question Time

12. Public Question Time

13. Notices of Motion

13. Notices of Motion

Nil Items

14.1 Facilities Committee Minutes - 9 October 2014

14. Advisory Committee Minutes

14.1 Facilities Committee Minutes - 9 October 2014

Attendance

Cr Ben Smith – in the Chair), Jeff Johnson, Sharon Cadwallader, Keith Williams, Keith Johnson, Ken Johnston, Paul Worth, Robyn Hordern and David Wright.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Andrew Smith (Acting Development and Environmental Health Group Manager) and Steve Barnier (Strategic and Community Facilities Group Manager) were in attendance.

There were five people in the gallery at this time.

1. Apologies

An apology was received from Cr Susan Meehan.

RECOMMENDATION

(Cr Sharon Cadwallader/Cr David Wright)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Susan Meehan

2. Declarations of Interest

Nil

3. Deputations

- **Anne Marchment** – spoke in relation to Item 4.2 – Ballina Library.
- **Clem MacMahon** – spoke in relation to Item 4.1 – Ballina Naval and Maritime Museum – Timber Vessels.

4. Committee Reports

4.1 Ballina Naval and Maritime Museum - Timber Vessels

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Robyn Hordern)

Cadwallader / Hordern

1. That Council notes the contents of this report concerning management options for the *M V Florrie* and the proposed enclosure of the western and north-western sections of the Ballina Naval and Maritime Museum building.
2. That Council approves, in principle, the proposed building enclosure and the preferred management option for the vessel, being its dismantling and removal of its midsections and retention, restoration and display of the vessel's bow and stern sections, placement of interpretive material and the fabrication and display of scale models of the Florrie.
3. That the management executive of the Ballina Naval and Maritime Museum be acknowledged for its custodianship of Council's vessels, and its willingness to coordinate and undertake the management option outlined in item 2 above.
4. That the General Manager is authorised to review the Council's endorsed budgets with a view to committing \$10,000 toward the cost of the enclosure of the Museum building.
5. That the General Manager is authorised to endorse the lodgement of a development application to obtain consent for the works outlined in item 2 above. Further, that the fees associated with the lodgement of the development application be sourced from the Council's community donations budget.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Susan Meehan

4.2 Ballina Library

RECOMMENDATION

(Cr Robyn Hordern/Cr Sharon Cadwallader)

1. That Council notes the contents of this report outlining progress in relation to the proposed refurbishment of Ballina Library.
2. That Council confirms that a nominal rental is to be applied for the occupation of part of the Ballina Visitor Information Centre by the Ballina Friends of the Library, for an initial period of two years.
3. That Council ask Friends of the Library to confirm that any funds that have been raised are to be expended on the refurbishment of the Council libraries.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Susan Meehan

MEETING CLOSURE

4.35 pm

RECOMMENDATION

That Council confirms the minutes of the Facilities Committee meeting held 9 October 2014 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the September 2014 Ordinary meeting:

<u>Date</u>	<u>Function</u>
27/9/14	Alstonville markets
27/9/14	Fishing Competition at Fawcett park
29/9/14	Local Land Services Board of Chairs
30/9/14	Meeting Lynn Walker
30/9/14	Red Cross Zone Conference
1/10/14	Meeting with Anglican Church
1/10/14	Opening FSG and BDCSA Shopfront Premises
2/10/14	Ballina Coastal Country Music – Brothers 3- Bowling Club
2/10/14	Funeral – Wendylee Playford
2/10/14	Meeting RDA at the Ramada
2/10/14	Wharf Cafe Grand Opening
3/10/14	Ballina Coastal Country Music Festival - Concert
7/10/14	Special Rate Variation Meeting Lennox Head
8/10/14	Public Art Advisory Panel
8/10/14	Traffic Committee
8/10/14	Special Rate Variation Meeting Alstonville
9/10/14	Special Rate Variation Meeting Ballina
9/10/14	Facilities Committee
9/10/14	Aboriginal Community Committee
9/10/14	Gallery Opening
10/10/14	NOROC Extraordinary Meeting
11/10/14	Alstonville Markets
12/10/14	Lennox Head Markets
14/10/14	Alstonville/Wollongbar Chamber of Commerce
14/10/14	NEWLOG State Meeting Welcome
14/10/14	Public Citizenship Ceremony
14/10/14	Briefing Cumbalum Precinct A & B
14/10/14	Scope Club Achiever Awards
15/10/14	Visit by St Francis Xavier School
15/10/14	Wardell Progress Association
16/10/14	Meeting with Reside Owner
17/10/14	Hospital Planning Meeting
18/10/14	Annual Meeting TS Lismore Naval Cadets
22/10/14	NBN Newrybar
23/10/14	Council Meeting
24/10/14	Dept Premier & Cabinet Senior Management Meeting - Lismore
25/10/14	Alstonville Show Opening

RECOMMENDATION

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

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

17. Confidential Session

Nil Items