



## 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 27 November 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
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**1. Australian National Anthem**

The National Anthem will be performed by Cabbage Tree Island Public School.

**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**

An apology has been received from Cr Keith Johnson.

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 October 2014 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 October 2014.

**5. Declarations of Interest and Reportable Political Donations**

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

**8. Development and Environmental Health Group Reports**

**8.1 DA 2010/1061 - Section 96 - 27 Ross Street, Ballina**

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<b>Applicant</b>	Mr. Gerard O'Neill (on behalf of GM and AJ O'Neill)
<b>Property</b>	Lot 1 DP 367035, No. 27 Ross Street, Ballina
<b>Proposal</b>	To seek modification to DA 2010/1061 (staged erection of a Residential Flat Development containing four x three bedroom two storey units) – changes to balconies for Units 3 and 4 involving replacement of privacy screen and balustrading with a one metre high glass balustrade and deletion of timber privacy screens.
<b>Effect of Planning Instrument</b>	The land is zoned R3 Medium Density Residential under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached – Attachment 1.

**Introduction**

Council is in receipt of an application to modify development consent 2010/1061 (as lodged by the applicant on 22 September 2014) via Section 96 (1A) of the Environmental Planning and Assessment Act 1979 in the following manner:

- Proposed deletion of the 2.7m long paneled concrete blockwork screens of ascending heights (to a maximum of 1.8m) and one metre high timber/wire balustrades of the balconies for Units 3 and 4;
- Proposed installation of one metre high glass balustrading along the perimeter of the balconies for Units 3 and 4; and
- Proposed deletion of north-eastern and south-eastern timber privacy screens of the balconies for Units 3 and 4. Refer to Attachment 2 for the plans lodged with the modification.

The purpose of this report is to seek the determination of the Section 96 Application to Modify Development Consent 2010/1061.

**Background**

On 28 April 2011, Council received a report to the April 2011 Ordinary Meeting in relation to the determination of DA 2010/1061, proposed at No. 27 Ross Street, Ballina, which involved the staged erection of a residential flat building containing four dwelling units:

Stage One – To undertake the Erection and Subsequent Strata Title Subdivision of Two x Three Bedroom Two Storey Attached Units – Units 3 and 4.

Stage Two – To Undertake the Demolition of the Existing Dwelling House and the Subsequent Erection and Strata Title Subdivision of Two x Three Bedroom Two Storey Attached Units – Units 1 and 2.

DA 2010/1061 was determined at the meeting, *by way of the grant of consent, subject to the normal conditions for such a development in this locality*. A copy of the development consent, approved plans and report are provided via Attachments 3, 4 and 5.

The report to the April 2011 Ordinary Meeting states that the public exhibition of DA 2010/1061 generated 13 submissions from surrounding residents/landowners. Of the grounds of objection listed in the report, two are related to the subject Section 96 Application being privacy and noise impacts.

The report (on page 36) states the following in relation to these issues:

Privacy

*Due to the height and orientation of the proposed development, objections have raised privacy concerns with the design of the dwellings and the location of living areas within the proposed dwellings, particularly Units 3 & 4 whose balconies overlook Fripp Lane. Privacy concerns were originally raised with the applicant following the submission of the application as Council was concerned that inadequate screening was proposed for the balconies of Units 3 & 4. Following a request for additional information, revised plans were received from the applicant, showing additional screening on the sides of the balconies. The configuration of the double-hung windows in the living room reduces opportunity for overlooking onto adjoining properties.*

*The balconies of Units 3 & 4 are accessed from the main living area of the units, and directly overlook Fripp Lane. All balconies comply with the required building line setbacks, as detailed above.*

*Properties in Fripp Lane are unlikely to be adversely impacted in regards to privacy. The configuration of properties within the lane is such that living areas are not visible due to distance, landscaping and structures such as garages fronting the lane.*

Number of Occupants in Dwellings

*One submission raised concerns regarding the potential number of occupants in the dwellings and the impact it may have on the surrounding amenity in regards to noise. The proposed development contains 4 x 3 bedroom dwellings. Council does not impose restrictions on the number of persons occupying a dwelling, nor can council speculate on the number of persons who may occupy each dwelling.*

*In regards to noise from the dwelling, it is expected that appropriate domestic noise will be contained within the dwellings. Living areas on the ground floor of the dwellings are located approximately 5m from the adjoining boundaries. Dining and Living areas located on the first floor of the dwellings are also located approximately 4m from the adjoining boundary. The balconies of all units comply with the building setbacks, being a minimum of 4m from the adjoining boundaries.*

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Notification**

The Section 96 Application to Modify Development Consent 2010/1061 was notified to all adjoining property owners/residents and all persons who made a submission to the original development application. The notification period for the Section 96 Application was from 25 September to 10 October 2014. A total of five submissions were received, raising concerns with and objecting to the proposed changes to the balconies for Units 3 and 4. A copy of the submissions are provided as Attachment 6.

The following issues of concern were raised within the submissions:

1. No valid reason to delete the sound and privacy screens at this late stage in construction of Units 3 and 4.

#### *Comment*

The owner/builder of the approved development has sought to delete the concrete blockwork screens and wire balustrading from the balcony areas of Units 3 and 4, with a proposed replacement of one metre high glass balustrading. The slatted timber privacy screens which were to be erected on the north-eastern and north-western corners of the balconies to Units 3 and 4 have also been nominated for removal. Refer to Attachment 7 for a response from the owner/builder in relation to the submissions received.

In summary, it would appear that the owner/builder believes that the screens do not achieve noise reduction or increased privacy for surrounding properties to his development. The owner/builder also considers that the provision of glass balustrading will make for a more contemporary finish to the approved Units.

2. The deletion of the screens will result in noise generated from the living area within Units 3 and 4 impacting upon properties surrounding the subject site and vice versa.

#### *Comment*

Refer to the noise section of this report for discussion.



3. The deletion of the screens will result in overlooking impacts from the balconies of Units 3 and 4 upon surrounding properties.

*Comment*

Refer to the privacy section of this report for discussion.

4. The heights and size of the overall development is intrusive and anything that can be done to ameliorate its impact should be done.

*Comment*

The height and size of the Units were considered as part of the assessment of the original application and as stated in the report to the April 2011 Ordinary Meeting "the proposed development is consistent with the applicable provisions of the BLEP 1987 and the DCP. Despite the objections received, it should reasonably be expected that such a development in the M1 area that complies with Council's DCP provisions would be approved". Refer to the noise and privacy sections of this report for further discussion.

## **Report**

The proposed development has been assessed in accordance with the provisions of Section 96 of the Environmental Planning and Assessment Act 1979. The following matters are of particular relevance in Council's determination of the Application.

### Noise

The submissions received during the notification period for the subject Section 96 Application have raised concerns with noise (from the living areas adjoining the balconies and from the balconies themselves of Units 3 and 4) impacting upon surrounding residential properties. One submission has also commented that contractors working on the development site have confirmed that noise from the existing residential properties on the eastern side of Fripp Lane can be heard from within the new Units.

The plans approved as part of the development depict multi stack sliding glass doors off the first floor living and dining areas of Units 3 and 4. Both sliding glass doors are openable to the balconies, with panels of fixed glass on the northern and southern ends of each doorway. In this regard, a section of the fixed glass (1.9m) is positioned directly behind the approved concrete blockwork screens, with part of the opening (approximately 0.8m wide) behind the approved screens.

The provision of a stepped concrete blockwork screen (ranging in height from 1.45m to 1.8m) across half the length (2.7m) of the balcony will provide minimal noise reduction from living and dining areas of Units 3 and 4, given the openable section of the sliding glass doors is not entirely behind the screen (approximately 0.7m of the opening is not behind the screen). Noise generated from within the Units will be heard external to the site if the doors are open.

Council's Public and Environmental Health Section have reviewed the proposed modification and have commented that unless the concrete blockwork screen was constructed at full height and length and wrapped around the balcony, the design as approved as part of the original development application will achieve a minimal noise reduction, and only in the circumstance where a person is standing directly behind the screen. The use of the balconies of Units 3 and 4 is not limited to those areas behind the concrete blockwork screens. It must also be stressed that the noise generated will be residential noise, not construction noise that is currently being experienced whilst the Units are being built.

The owner/builder has provided comment that the approved timber/wire balustrading will not provide any noise reduction and that the replacement with glass balustrading may provide some attenuation below the one metre balustrade height.

It must also be noted that the report to the Council in relation to the determination of the original development application did not make reference to the provision of the concrete blockwork screens for the purpose of noise attenuation. It was concluded that "*appropriate domestic noise will be contained within the dwellings*" due to the setbacks provided from the Units (including balconies) to the property boundaries (minimum of four metres). It is noted that the approved plans for the development depict the first floor balconies as being a minimum of 5.4m from the Fripp Lane property boundary.

In view of the above, it is considered that the approved concrete blockwork screens are unlikely to provide any real noise attenuation for properties surrounding the subject site from the living areas and balconies of Units 3 and 4.

#### Privacy

Concerns have been raised within the submissions received during the notification period for the subject Section 96 Application in relation to privacy impacts upon surrounding properties. The report to the Council in relation to the determination of the original development application discussed privacy issues in relation to the balconies for Units 3 and 4 and surrounding properties (refer to the background section of this report).

The properties immediately surrounding the subject site consist primarily of single storey residential buildings (refer to Attachment 8 for an aerial view of the locality) and in relation to Units 3 and 4:

- The property to the south (three unit development) has a unit oriented to Fripp Lane with a private open space area to the north, facing the subject site.
- The property to the north (duplex/dual occupancy development) has a dwelling at the rear oriented to Fripp Lane. The area of land immediately adjoining the subject site does not appear to be actively utilised as a private open space area (it is a narrow grassed area), with the patio for the dwelling being on the northern side of the lot.
- The properties on the eastern side of Fripp Lane in close proximity to the development site:

- To the north east – comprises of a single storey (duplex/dual occupancy development) with the dwelling at the rear oriented to Fripp Lane.
- To the immediate east – comprises of a single storey dwelling house facing Norton Street, with the backyard and open space for the residence located in the rear half of the allotment (including a garage fronting Fripp Lane). There is landscaping within the rear section of the allotment, and along the Fripp Lane boundary which does partly conceal views from the balconies of Units 3 and 4 into the rear yard and to the dwelling house.
- To the south east – comprises of a single storey dwelling house facing Norton Street, with the backyard and open space for the residence located in the rear half of the allotment. A garage fronts Fripp Lane, which includes an attic room facing north and part of its use may be for residential purposes. This allotment also contains generous landscaping within the rear section of the property, which does partly conceal views from the balconies of Units 3 and 4 into the rear yard, however the rear verandah and outdoor entertaining area can be seen from the balconies.

Now that Units 3 and 4 have been constructed and are nearing completion, the impacts upon privacy for surrounding properties can be more accurately determined. Whilst the setbacks for the Units and their balconies comply with the provisions of the previous DCP (Ballina Shire Combined DCP – at the time of the assessment of the original development application) and the Ballina DCP 2012 (which is the current applicable plan), there are overlooking opportunities from the first floor balconies directly into private open space areas surrounding the subject site and at a distance (15 to 25m) into living spaces of properties on the eastern side of Fripp Lane. This is primarily due to the fact that the approved Units are of a two storey construction on a rear lane, with the majority of nearby dwellings being of single storey construction.

It is also important to note that the privacy and overlooking issues are somewhat a result of the design of the development. In this regard, had the living, kitchen and dining areas for Units 3 and 4 been located on the ground floor, with private open space adjoining, the two storey units would have had less of an amenity impact. This is because overlooking from living areas is more objectionable than overlooking from a bedroom, where people tend to spend less waking time

The deletion of the concrete blockwork screens and the eastern timber screens and the proposed replacement with one metre high glass balustrading on the balconies will mean that the future occupants of Units 3 and 4 will have a more direct view into neighbouring properties (as described above). It can also be argued that the replacement with glass balustrading will result in a reduction in privacy for the Units themselves, given there will be no actual screening provided into the balcony areas or into the living spaces of the Units. The activities carried out on those balcony areas will be in full view of Fripp Lane and surrounding properties.

It is acknowledged that overlooking opportunities (and resultant impacts on privacy for neighbouring properties) will still occur from areas of the balconies of Units 3 and 4 where the concrete blockwork and timber screens are not to be provided (i.e. where the timber and wire balustrading has been approved). From the approved plans, approximately 30% of the total perimeter of each balcony will be open and unscreened. The removal of the eastern most timber screens and concrete blockwork screens will result in approximately 73% of the total perimeter of each balcony being open and unscreened (with only the western timber screens remaining on the northern elevation of the balcony for Unit 3 and the southern elevation of the balcony for Unit 4).

### **Conclusion**

As discussed within this report, the approved concrete blockwork screens are unlikely to provide any real noise attenuation for properties surrounding the subject site from the living areas and balconies of Units 3 and 4. This is due to their design being not at full height and length and wrapped around the balcony. It is noted that the provision of the screens was not for the purpose of noise attenuation.

The screening provided as part of the balconies for Units 3 and 4 will provide a reduction in privacy and overlooking impacts for both surrounding residential properties and the Units themselves. In this regard, their deletion is not supported by Council's planning staff. In terms of the arguments made by the owner/builder regarding the aesthetics and functionality of the approved concrete blockwork screens, Council's town planning staff would not raise an objection to a change in materials for aesthetic, structural (i.e. reduced weight) or functional reasons, as long as the material provides some attenuation to privacy impacts. This could involve the provision of some opaque glass balustrading and also fixed angled louvres, which would still provide privacy (both ways), be of a reduced cost, more aesthetically pleasing and allow for sunlight, breezes and the like into the living areas of the Units.

It is considered that there are three options available to Council in relation to the subject application:

#### **Option One**

That Council refuse the submitted Section 96 (1A) Application, and the concrete blockwork and timber screens and the timber and wire balustrade remain as currently shown on the approved plans, for the reasons outlined in this report.

#### **Option Two**

That Council approve the submitted Section 96 (1A) Application, and allow for the deletion of the concrete blockwork and timber screens (eastern only) and the timber and wire balustrade as currently shown on the approved plans and replacement with one metre high glass balustrading.

**Option Three**

That Council defer the determination of this Section 96 (1A) Application to enable the owner/builder to amend the proposed materials for the privacy screens and balustrading as detailed within this report, with a further opportunity for review by the submitters and that delegation be granted to the General Manager to determine the application.

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

**RECOMMENDATION**

That Council defer the determination of the subject application (Amendment No. 1) to Development Consent 2010/1061 under Section 96 (1A) of the Environmental Planning and Assessment Act 1979 to enable the owner/builder to amend the proposed materials for the privacy screens and balustrading as detailed within this report, with a further opportunity for review by the submitters and that delegation be granted to the General Manager to determine the application.

**Attachment(s)**

1. S96 to DA 2010/1061 - Locality Plan
2. S96 to DA 2010/1061 - Proposed plans
3. DA 2010/1061 - Development consent
4. DA 2010/1061 - Approved plans (2 and 4)
5. DA 2010/1061 - Minute and Report to Council
6. S96 to DA 2010/1061 - submissions
7. S96 to DA 2010/1061 - submission from owner/builder
8. S96 to DA 2010/1061 - aerial view of locality

## 8.2 DA 2014/31 - Residential Subdivision - Henderson Farm

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### 8.2 DA 2014/31 - Residential Subdivision - Henderson Farm

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<b>Applicant</b>	Newton Denny Chapelle
<b>Property</b>	Lot 1 DP 829277, Lot 2 DP 1070446 & Lot 1 DP 1070446 No.78 Hutley Drive, Lennox Head
<b>Proposal</b>	Staged development application pursuant to S.83B of the Environmental Planning and Assessment Act 1979 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 approval for nine residential lots and one public reserve lot referred to by the proponent as 'The Outlook'.
<b>Effect of Planning Instrument</b>	The land is zoned R3 – Medium Density Residential, R2 – Low Density Residential and RE1 – Public Recreation under the provisions of the Ballina LEP 2012. Part of the Lot is a deferred matter and zoned 7(l) – Environmental Protection (Habitat) and 7(a) – Environmental Protection (Wetlands) under the provisions of the Ballina LEP 1987.
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

#### Introduction

DA 2014/31 was lodged 5 February 2014 for a staged development application 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 approval for nine residential lots and one public reserve lot at 78 Hutley Drive, Lennox Head

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

- Legal access to the development
- Stormwater disposal
- Ecology and setbacks from significant vegetation
- Consistency between the ERP and VPA
- Earthworks

#### Proposal

The application seeks deferred commencement consent for a staged Development Application pursuant to Section 83B of the Environmental Planning and Assessment Act 1979. The proposal involves two Stages as follows:

- Stage 1 of the proposal involves 159 residential lots, dedication of open space (four reserves), three residue lots, civil works, tree removal and establishment of an easement over adjoining Ballina Shire Council land for stormwater management purposes. Part of a road will also be provided on the Council land. A deferred consent is sought pending the construction of road access through the adjoining Pacific Pines Estate.
- Stage 2 of the project involves the creation of nine residential lots and one public reserve. Concept approval is sought for the subdivision of this land as part of the current application, however a separate Construction Certificate will be required prior to construction of Stage 2 pursuant to Section 83B(3)(a) of the Act.

The proposed subdivision plan forms an attachment to this report. The plan provides details in relation to staging and what land is to be dedicated to Council.

### **Background**

The land subject to this application forms part of what is referred to locally as “the Henderson Farm”. The site has been identified in various Council and State Government Strategies as being a potential urban growth area, including:

- Ballina Local Environmental Plan 1987
- Ballina Urban Land Release Strategy 2000
- Lennox Head Community Aspirations Strategic Plan 2002
- Lennox Head Structure Plan 2004
- Far North Coast Regional Strategy 2006; and
- Ballina Shire Growth Management Strategy 2012.

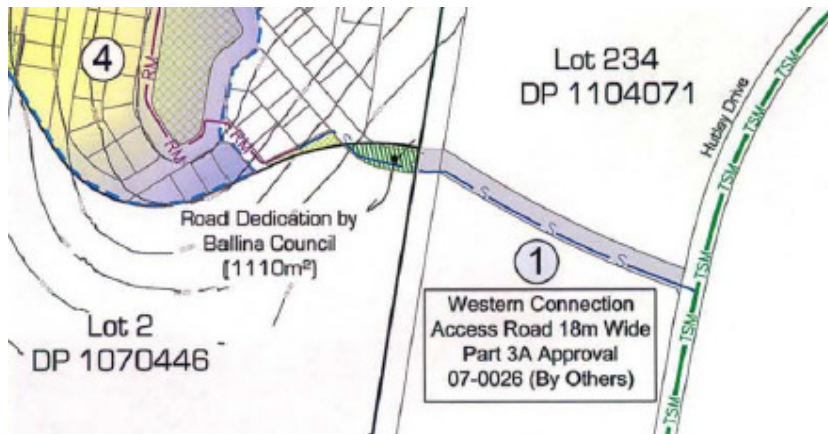
The site was subject to detailed planning consideration via Amendment No. 103 to the Ballina Local Environmental Plan 1987 (BLEP 1987). The rezoning process included detailed consideration of both the environmental characteristics of the site and the strategic planning framework applicable to the area.

As the rezoning process was taking place during the finalisation of the new Shire-wide LEP, regard was had through the rezoning process to the zoning framework within both BLEP 1987 and the draft Shire-wide LEP (which was adopted as BLEP 2012). The rezoning process concluded that the land was suited to a combination of residential, open space, rural and environmental protection zones pursuant to both BLEP 1987 and the draft Shire-wide LEP. The land was rezoned to reflect this framework in BLEP 1987 in August 2012.

Pacific Pines Estate is located immediately to the east of “The Outlook”. The approved subdivision for Pacific Pines Estate includes a road (referred to as the “western connection”) which will provide a road linkage from “The Outlook” to the external road network.

### Deferred Commencement Consent

The application seeks a deferred commencement approval under Section 80(3) of the EPA Act pending provision of vehicular access from the Pacific Pines Estate (which borders Henderson Farm on its eastern boundary).



Whilst there is a certain amount of reliance on the developer/owner of the Pacific Pines Estate to facilitate access to the development, Council staff are satisfied that this aspect can form a deferred commencement condition pursuant to Section 95 of the Environmental Planning and Assessment Regulations 2000. The applicant has provided the following justification to demonstrate that this matter can be conditioned as a deferred commencement condition:

Certainty of the access road:

*"The environmental impact of each of the road construction works and the infrastructure provision works for the Pacific Pines Estate are all detailed in and regulated by the modified Project Approval. Similarly, the proposed new roads within Lot 234 (within the Pacific Pines Estate) have been designed to accommodate all projected motor vehicle and pedestrian traffic for both development within Lot 234 and for the areas adjacent to that lot that will secure road access through it. The modified Project Approval does not require any further traffic studies to be undertaken. Specifically, the road network within Lot 234 has been designed to accommodate traffic that will be generated by the subdivision and development of "The Outlook". The road network to be constructed within Lot 234 will link up adjoining areas and will become part of the established road infrastructure for the entire locality in a manner consistent with the Project Approval and the associated technical assessments completed by the Department of Planning & Infrastructure. As a result, there is no uncertainty concerning the location or construction of the new roads that will provide access to "The Outlook"."*

Access Approval:

*"The western connection has been approved via the Project Approval for the first stage of the Pacific Pines development (07\_0026). The road had initially been approved as part of sub-stage 1C within the Project Approval. Modification No. 2 to the Project Application (07\_0026) consolidated Stage 1B and 1C thus bringing forward timing for the construction of the western connection. On 13 March 2013, the authorised delegate of the Minister*



*approved both the modification of the concept plan (concept plan modification) and the modification of the project approval (modified project approval).*

*Through the issuing of the amended Concept Plan by the Department of Planning & Infrastructure, the layout of the road network within the approved Pacific Pines subdivision is fixed by the modified project approval. Further, that approval imposes detailed conditions concerning road construction and infrastructure provision works that will be undertaken when the extension of Hutley Drive and the western link road are both constructed."*

Timing for construction:

*"In respect to the timing for the construction and dedication of the western connection together with the extension of Hutley Drive, the road had initially been approved as part of substage 1C within the Project Approval. Modification No. 2 to the Project Application (07\_0026) consolidated Stage 1B and 1C thus bringing forward timing for the construction of the western connection. Subdivision – The Outlook, Lennox Head Page 51 The project approval requires the proponent to construct Hutley Drive within the site boundaries and the western link for the playing fields as part of Stage 1B. As such, these road upgrades will be constructed in time for future residents of Stage 1B within the Pacific Pines Estate which is the next Stage to be released with the Stage 1A commenced by the proponent of the Pacific Pines Estate. It is our view that there is every reason to believe that the extension to Hutley Drive and the western connection will each be dedicated and constructed, given the terms and requirements of the modified project approval issued for the Pacific Pines project."*

Development risk:

*"Should the proponent of the Pacific Pines Estate abandon its proposed subdivision development, resulting in Hutley Drive not being extended and the western connection never being dedicated and constructed, then that circumstance will simply result in the lapsing of any deferred commencement consent secured for the current Development Application. This application is seeking a deferred commencement determination and as such, identifies acceptance of the development risk which will be fully borne by the proponent and places no external responsibility for the completion of Hutley Drive or the Western extension on any third party."*

In addition to the above, the application has been supported by a 'legal opinion' which confirms through case law that the access can be made a deferred matter, as this is what the application seeks consent for.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

The application was placed on public exhibition from 20 February to 6 March 2014. A total of four submissions were received, all of which were in objection to the proposed development. A copy of each submission is included in the attachments to this report.

The following issues of concern were raised within the submissions.

1. *Stormwater – The applicants have indicated in their Stormwater Management Plan that they intend to direct stormwater from the north eastern section of their subdivision towards the boundary of our property (neighbouring property to the west). I am very concerned as to the possible ramifications of stormwater and the pollutants associated with residential housing and motor vehicles etc being directed onto our property where there is no real drainage to speak of.*

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

2. *We expect Ballina Council to be consistent with vegetation setbacks that were imposed on our land when we submitted our DA. The Australian Standard guidelines were used to justify limiting our subdivision from five Lots to three Lots, setbacks of between 14-20 metres were imposed.*

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

3. *Site access – The proposed subdivision relies on an as yet unconstructed road for access, and the applicant has requested a 'deferred commencement' approval in this regard. Based on our experience with the NSW Planning System, we question whether this is appropriate?*

Comment: This issue is outlined earlier in this report and discussed in more detail in the Ballina Local Environmental Plan 2012 section.

4. *Capacity of surrounding road network – The application has not been supported by a detailed traffic report. Detailed assessment was required and undertaken for the Pacific Pines approval, and the assessment noted the limitations of the existing road network, particularly in relation to Hutley Drive and its connection to North Creek Road. The assessment undertaken by Cardno Eppell Olsen concluded that, while on strict numbers the Pacific Pines traffic generation would be within the capacity of the road system, for efficiency and safety reasons, the full development should be restricted. Condition B7A restricts the Pacific Pines development of residential Lots, such that no construction certificate may be issued for stages beyond stage 5 until such time as Hutley Drive is extended north to connect to North Creek Road. This would suggest that the existing Pacific Pines approval accounts for all 'spare capacity' that exists within the local road network. On that basis, we do not believe that it is appropriate for Council to issue further approvals until the required road upgrades are in place.*

Comment: There has been a detailed traffic assessment performed for the Henderson Farm development titled "The Cardno Eppel Olsen Henderson Farm Development Traffic Impact Assessment February 2012". The report assumes the same traffic distribution as the "The Cardno Eppel Olsen Pacific Pines Estate traffic and transportation Statement Nov 2011" report, and amendments, of 75% south and 25% north. However the Henderson Farm report assumes that 75% of the southbound traffic will use The Coast Road/North Creek Road roundabout to travel south via the Coast Road instead of using Montwood Drive.

Under the Minister's approval for the Pacific Pines development, it was for Council to assess and approve the submitted Traffic Management Plan. The Pacific Pines report and amendments acknowledges that Montwood Drive will become environmentally overloaded due to the Pacific Pines development by approximately 571 vehicles per day (vpd), or 12%, until the ultimate upgrades of Hutley Drive are completed.

Therefore no "spare capacity" will exist after the Pacific Pines development is completed.

This was reported to Council at the September and October 2014 Ballina Council Ordinary Meetings. Council chose to approve the Pacific Pines traffic management report and accept the interim environmental exceedence on Montwood Drive given the environmental, social and economic benefits attributable to development in the Lennox South Precinct.

The Henderson Farm traffic study indicates that approximately 320 vpd will travel south via either Montwood Drive or Henderson Lane. Utilizing the same traffic split as the Pacific Pines report approximately 240 vpd, attributable to the Henderson Farm development, will utilize Montwood Drive.

Therefore Montwood Drive will be in excess of its environmental capacity by approximately 18% with both the Pacific Pines and Henderson Farm development combined.

It is important to note that "Environmental" capacity is a theoretical capacity above which the amenity of the neighbourhood and adjoining residents will 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.

5. *We note from documentation submitted with the application that Hairy Joint Grass was not found anywhere within the area proposed for development. We have learned a great deal about this species during the Pacific Pines assessment and are surprised that it does not occur along the western boundary of the development site (Pacific Pines).*

Comment: Council has assessed the ecology report and have undertaken site inspections of the property, the locations of Hairy Joint Grass were surveyed during the rezoning of the Lot and are confined to the northern portions of the property and have not been discovered along the eastern boundary of the subject site.

### **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.

*"To support the rezoning application Coffey prepared a preliminary site investigation report dated June 2007 (ref: GEOTALST01315AB-AB). Although deficiencies were noted in this report it was acknowledged by Council that the conclusion of this report was accurate in the assessment that the risk of contamination at the site is low. However, the Coffey report recommends that some localised detailed assessment be undertaken prior to residential use commencing. In particular further assessment was recommended around existing structures such as dwellings, sheds, yards etc.*

*Reference should be made to the Coffey Report and a suitably qualified consultant engaged to undertake the further detailed assessment of contamination in line with its recommendations. This information should be provided prior to the issue of the construction certificate for civil works and any remediation, if required, shall be completed and validated prior to issue of the subdivision certificate. These requirements will be conditioned as Council is satisfied that if any contamination is identified it is likely to be localised and will be able to be remediated.*

*Apply conditions to require further sampling in accordance with Coffey report, and RAP and Validation if required."*

#### **State Environmental Planning Policy No. 1 – Development Standards**

The application seeks to vary a development standard pursuant to the provisions of State Environmental Planning Policy No.1 – Development Standards (SEPP 1). The development standard requested to be varied is clause 11 of BLEP 1987 which relates to minimum lot size. In this instance, concurrence was required from the Department of Planning and Infrastructure (DOPI) to the requested variation. The DOPI granted concurrence 6 March 2014 to the SEPP 1 and provided the following advice:

*“Following consideration of the application, concurrence has been granted to vary the 40ha development standard contained in clause 11 of the Ballina Local Environmental Plan 1987 (BLEP) to permit the creation of 3 undersized allotments for the purpose of public reserves.*

*Concurrence was granted in this instance for the following reasons:*

- 1. Proposed Lot 14 excises a parcel of 7(l) Environmental Protection (Habitat) Zone, as a whole, from the surrounding residentially zoned land, enabling this residential land to be developed for its intended purpose.*
- 2. Proposed Lot 37 is to be dedicated to Council as a park for active living, as required to adequately service the extended residential area. The excision of this lot will not impede the rehabilitation of surrounding land, nor impact on the viability of the wildlife corridor. This is in keeping with objective (c) of the 7(l) Environmental Protection (Habitat) Zone.*
- 3. Proposed Lot 167 is the residue of Lot 2 DP 1070446 following proposed dedication of a road. Clause 11 (6) of the BLEP provides that clause 11 is not to prohibit or restrict the opening of a public road.*

*Council should consider imposing a condition requiring dedication of the subject lots to prevent dwelling houses being constructed on these lots in the future.”*

The applicant's SEPP 1 objection has been assessed and it is considered that it is unnecessary to comply with the development standard in the circumstances of the case.

### **Ballina Local Environmental Plan 2012**

Under the provisions of the Ballina Local Environmental Plan (BLEP) 2012, the proposed development is for 'subdivision' of land and associated works, the proposal will not alter the land use and therefore is considered permissible.

The objectives of the R2 zone are:

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

The objectives of the R3 zone are:

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*

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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To encourage housing and infrastructure that supports the ageing population.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*
- *The above stated zone objectives have been considered during the assessment of this application. It is concluded that the proposal is compliant with the zone objectives.*

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 zones.

### 4.1 Minimum subdivision lot size

Clause 4.1 – Minimum subdivision lot size states:

- (1) *The objectives of this clause are as follows:*
  - (a) *to ensure that subdivision is compatible with the character of the locality,*
  - (b) *to ensure that in the case of urban areas:*
    - (i) *the subdivision pattern reflects and reinforces the current or planned subdivision pattern of the locality, and*
    - (ii) *lot configurations are suitable to enable development that is consistent with relevant development controls,*
  - (c) *to ensure that in the case of rural areas:*
    - (i) *the subdivision pattern reflects and reinforces the agricultural, resource and environmental values of the land, and*
    - (ii) *the subdivision pattern minimises land use conflict.*
- (2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*

- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land*

The application as submitted to Council is fully compliant with the minimum size shown on the Lot Size Map.

Clause 5.10 Heritage Conservation

Clause 5.10 – Heritage Conservation states:

- (4) *Effect of proposed development on heritage significance*

*The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

- (5) *Heritage assessment*

*The consent authority may, before granting consent to any development:*

- (a) *on land on which a heritage item is located, or*  
(b) *on land that is within a heritage conservation area, or*  
(c) *on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

- (6) *Heritage conservation management plans*

*The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.*

- (7) *Archaeological sites*

*The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):*

- (a) *notify the Heritage Council of its intention to grant consent, and*  
(b) *take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

- (10) **Conservation incentives**

*The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:*

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- (a) *the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) *the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) *the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) *the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) *the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The subject site contains a number of heritage items as listed in BLEP 2012 and include the following:

- Item 167 – Dry Stone Walls (walls known as “wall a” and “wall b” on former Henderson Farm) located on Lots 1 & 2 DP 1070446;

Comment: The Davies Heritage Consultant report advises that the subject walls were constructed in the late 1800's to early 1900's by Edward Henderson, with possible help from Indian labourers. The walls mark the location of the original property boundaries in this location.

**Wall A** has a length of approximately 306m and runs in a north/south direction in the central portion of Lot 1 DP 1070446. The wall adjoins the western littoral rainforest community and extends to the southern property boundary with Lot 2 DP 1070446. The subject wall is proposed to be contained within the boundaries of Lots 38 – 42, 45, 46 and 61 – 64.

Two openings are proposed in the wall for access and drainage purposes. Minimal tree removal will occur to facilitate these openings. The submission of a Conservation Management Plan (CMP) is required prior to the commencement of works. The CMP must outline how the wall is going to be repaired and requirements for ongoing maintenance. This wall must be repaired in accordance with the CMP prior to the issue of a subdivision certificate.

**Wall B** is located along part of the north east boundary of Lot 1 DP 1070446 and has a length of 235m. This wall is proposed to be retained on its current alignment & will form part of the rear boundary fencing to proposed Lots 158–164.

- Item 165 – Fig Tree (planted by Ted Henderson in 1947 on former Henderson Farm) located on Lot 1 DP 1070446; and

Comment: This fig tree is to be retained within proposed Lot 166 which is the 40.96ha residue lot. No works are proposed within the nominated Tree Protection Zone (TPZ) of this tree. Accordingly, no adverse impacts are expected.

- Item 166 – Norfolk Island Pines located on Lot 1 DP 1070446;



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Comment: These trees are located within the portion of the site zoned RE1 Public Recreation. This area is to be embellished for the purpose of a public park, with the Norfolk Island Pines retained as key landscape features. Accordingly, no adverse impacts are expected.

Additionally, the Lot contains the following Archaeological site:

- Item A4 – Historic “Henderson Farm” items/features (including historic tree plantings – bunya pines, circle of stones, half circle of stones, well site, location of farm buildings and ruts) located on Lot 2 DP 1070446

The VPA which accompanied the rezoning process committed the developer to undertake appropriate archival recording of the items prior to the issue of a Construction Certificate.

Comment: Lot 2 DP 1070446 is included within the development application as it is proposed to provide a drainage easement along the western boundary of the allotment and dedicate a small portion (approximately 1,110m<sup>2</sup>) of the property for road access purposes. Both the proposed easement and road dedication are located clear of the listed archaeological site and no adverse impacts are expected.

### 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 are available to the proposal apart from ‘suitable vehicle access’, the application is seeking deferred commencement approval in this regard. The application has been supported by a legal opinion which was obtained by the applicant. This opinion discusses case law with the following case considered to be of relevance.

### **Hillpalm Pty Ltd v Tweed Shire Council & Anor [2002] NSWLEC 17**

This case is directly relevant to the current application under assessment as it is a Judicial Review of a deferred commencement approval with deferred access to the development:

*“In the present case it is again necessary to consider what development was sought by development application. It was, as previously noted, an application for the subdivision of lot 1. It expressly sought a deferred commencement consent. Construction of the access road was not part of the application. The references in the accompanying reports to the construction of the access road*

*seem to show what was intended to be done upon the further application for these works. As noted above, the conditions of the consent which relate to the standard or method of construction of the access road clearly indicate that an application for a construction certificate is required. Since the development application itself was not for the construction of the access road, it cannot be said that a fundamental or critical aspect of the application was deferred for later consideration. If the access via right of way question is not resolved, then the consent will simply lapse. The council was, in any event, aware of the location of the access, its width and the type of construction proposed. It gave consideration, by the conditions to which I have referred, to the type and method of construction which it would require. Thus, even though the development application did not extend to the access road, the council nevertheless gave consideration to the question of access and imposed conditions relating thereto. It cannot be said, therefore, that a fundamental or critical aspect of the development was not considered. In my opinion this deferred commencement condition does not, when taken with the conditions to which I have referred, infringe the principles upon which Mr Officer relies."*

Taking into consideration the above case law and the discussion at the start of this report, the proposed deferred commencement condition in relation to access is considered to adequately address Clause 7.7 of BLEP 2012.

#### **Ballina Local Environmental Plan 1987**

Under the provisions of the Ballina Local Environmental Plan (BLEP) 1987, the proposed development is for 'subdivision' of land and associated works, the proposal will not alter the land use and therefore is considered permissible.

The objectives of the 7(a) – Environmental Protection (Wetlands) Zone are:

- (a) to protect and conserve significant wetlands, and*
- (b) to prohibit development which could destroy or damage a wetland ecosystem.*
- B The exception to these objectives is development of public works and services, outside the parameters specified in the primary objectives, only in cases of demonstrated and overriding public need and subject to the impact on wetland ecosystem being minimised as much as is reasonably practical*

The objectives of the 7(l) – Environmental Protection (Habitat) Zone are:

- A The primary objective is to protect areas of particular habitat significance.*
- B The secondary objective is to enable development of a similar nature to that intended as being the primary and secondary objectives of Zone No 1 (b), except for development which would conflict with the primary objective of this zone.*
- C The exception to these objectives is development of public works and services, outside the parameters of the primary and secondary objectives, but only in cases of demonstrated and overriding public need and subject to the impact on the habitat area being minimised as much as is reasonably practical*

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

11 Subdivision of land within Zone No 1(a1), 1(a2), 1(b), 1(d), 1(e), 7(a), 7(c), 7(d), 7(d1), 7(f), 7(i) and 7(l)

Clause 11 states:

- (1) *The council shall not consent to the subdivision of:*
  - (a) *land within Zone No 1 (a1), 1 (a2), 1 (d), 1 (e), 7 (a), 7 (c), 7 (d1), 7 (f), 7 (i) or 7 (l)—except in accordance with this clause, or*
  - (b) *land within Zone No 1 (b) or 7 (d)—except in accordance with this clause or clause 13.*
- (2) *Except as provided by subclause (3), the council may consent to the subdivision of land referred to in subclause (1) only where the area of each allotment to be created by the subdivision is not less than:*
  - (a) *in the case of land within Zone No 1 (a1) or 7 (i)—20 hectares, and*
  - (b) *in the case of land within Zone No 1 (a2), 1 (b), 1 (d), 1 (e), 7 (a), 7 (c), 7 (d), 7 (d1), 7 (f) or 7 (l)—40 hectares.*
- (3) *The council may consent to the subdivision of land referred to in subclause (2) (a) where the area of each allotment to be created by the subdivision is not less than 13 hectares.*
- (4) *In deciding whether to grant consent under subclause (3) the council shall consider:*
  - (a) *the area and quality of land and its potential agricultural productivity,*
  - (b) *the likely effects, both economic and otherwise, that the proposed subdivision will have on agricultural industries in the area and the resources employed by or in connection with those industries,*
  - (c) *the likely effects, both economic and otherwise, that the proposed subdivision will have on the use and development of other land and resources in the area,*
  - (d) *whether there are any reasonable alternatives to the proposed subdivision in the circumstances,*
  - (e) *the effect of the existence of, or potential to erect, a dwelling,*
  - (f) *the cumulative effect of similar proposals if consent is granted, and*
  - (g) *the likelihood of the proposed allotments remaining available for agricultural use.*
  - (h) *the adequacy of the water supply to the proposed allotments.*
- (5) *Where land within Zone No 1 (a1), 1 (a2), 1 (b), 1 (d), 1 (e), 7 (a), 7 (c), 7 (d), 7 (d1), 7 (f), 7 (i) or 7 (l):*
  - (a) *is lawfully used for a purpose other than a dwelling-house, bed and breakfast establishment or agriculture, or*
  - (b) *may lawfully be used for a purpose other than a dwelling-house, bed and breakfast establishment or agriculture by reason of a development consent granted in respect of that use, the council may consent to the excision of that land for that purpose.*
- (6) *Nothing in this clause shall prohibit or restrict a subdivision for any of the following purposes:*
  - (a) *the opening or widening of a public road,*
  - (b) *minor adjustments to common property boundaries, but only if the council is satisfied that any such adjustment will not lead to:*
    - (i) *the creation of any additional allotments or additional dwelling entitlements or both, and*

- (ii) a substantial change to the land area contained in each allotment or a substantial change to the configuration of each allotment, and*
- (iii) an increase in the size of an allotment that would provide in the future for the creation of additional allotments or additional dwelling entitlements, and*
- (iv) an outcome contrary to the terms of any development consent granted in respect of any of the land concerned, and*
- (v) an increase in the likelihood of potential for land use conflict,*
- (c) enlarging the area of any existing allotment without reducing the area of any existing allotment, and*
- (d) rectifying any encroachment upon an existing allotment.*

The proposal fails to comply with the above clause as the proposed lots are under the 40ha minimum. A SEPP 1 objection has been lodged which is discussed. The proposed variation to this development standard is considered to warrant Council's support.

### **Ballina Shire Development Control Plan 2012**

#### Chapter 2 – General and Environmental Considerations

##### *Clause 3.1 – Land Use Conflict*

As part of the application, the applicant has submitted a Land Use Conflict Risk Assessment (Report prepared by Newton Denny Chappelle, dated January 2014).

This report has been reviewed by Council's Development and Environmental Health Group. The following assessment has been received in relation to the provisions of clause 3.1:

*"The property adjoining the western boundary of the subject property is currently used for low intensity cattle grazing. The proposed subdivision involves the creation of residential lots within 50 metres of this, therefore a LUCRA has been prepared by Newton Denny Chappelle dated January 2014 and has been submitted with the application.*

*The LUCRA identifies the risk of land use conflict occurring between the residential uses and the low intensity cattle grazing as being low. This is due to the consequences of any conflict being negligible (very minor impact) and the probability being likely and or unlikely resulting in a low risk on the probability matrix.*

*Therefore it has been proposed to reduce the buffer to 30 metres. I have no objection to this proposal in this situation due to the topography and low risk. All proposed residential lots are outside the 30 metres buffer proposed except for 5 lots i.e. lots 109, 110, 111, 145 and 146. The applicant has proposed to achieve the 30 metre buffer by imposing a section 88b instrument nominating building envelopes on these lots. I am concerned about the overly restrictive nature of this and would like to consider other measures to maximise the buffer while not being so restrictive to future developers of these lots. However this buffer is also provided to satisfy the recommendations in the Entomological reports."*

*Clause 3.4 – Potentially Contaminated Land*

As stated in the SEPP 55 section of this report:

*“However, the Coffey report recommends that some localised detailed assessment be undertaken prior to residential use commencing. In particular further assessment was recommended around existing structures such as dwellings, sheds, yards etc.”*

*Clause 3.6 – Mosquito Management*

The site is identified as Coastal plains and low lands on the Mosquito Management Map. An entomologist was engaged during the rezoning stage to assess the mosquito risk at the site. Two reports were prepared; 'Mosquito Impact Assessment' 8 October 2003 and 'Henderson Farm Lennox Head Mosquito Buffer Study' January 2006 both prepared by Mosquito Consulting Services Pty Ltd.

The reports identified that the mosquito risk should be managed by providing a 25/30 metre buffer between the Melaleuca forest to the north (and other remnant forest) and residential lots and maximising the buffer distances to the Ballina Nature Reserve through the provision of public open spaces to the south.

The reports also suggests that during the DA stage the following matters should be considered in relation to mosquito risk; storm water management, urban greening design to minimise harbourage in areas of high human visitation, and the appropriate use of insect screening to individual dwellings. The entomologist's report satisfies the requirements of DCP Chapter 2 Section 3.6 Mosquito Management.

The subdivision plans show the 30 metres buffer being provided between residential lots and the forest to the north, the Ballina Nature Reserve to the south and the poorly drained land to the west (this buffer also provides the 30 m buffer required in the LUCRA to the cattle grazing on the lot to the west).

*Clause 3.9 – Stormwater Management*

As part of the application, the applicant has submitted a report to address stormwater management (Report prepared by Newton Denny Chapelle, dated 17 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:

*“An easement across Council land to the south of the development was negotiated for the treatment and disposal of stormwater to North Creek however not all stormwater from the site can be directed to this easement. Land sloping to the east will continue to shed stormwater onto the neighbouring property (Barrett's land). An easement on Barrett's property that drains stormwater along the common boundary to North Creek would have been the ideal solution, however negotiation with Barrett's did not eventuate. Therefore the applicant proposed a no net increase in flows post development as per the DCP and also a no net increase in volume post development onto Barrett's land. The applicant provided a plan depicting a piped arrangement*

*that diverts flows that used to flow towards Barrett's land and directs it towards the negotiated easement to the south. The applicant was asked to provide clear calculations that demonstrated a no net increase in volume.*

*The applicant then provided stormwater modelling demonstrating that the 5 year and beyond ARI events resulted in a no net increase in volume due to the piped network. The majority of the stormwater volumes created by development is generated by regular rainfall events less than the 5 year ARI event. Therefore the methodology provided by the applicant is incorrect and a revised assessment requested that works on an average annual water balance method.*

*The revised water balance was provided via MUSIC modelling which verified that the piped network reduced volume from the proposed development onto Barrett's land. During conversation with Andrew Barrett he has stated that a reduction in volume is his preference over trying to mimic the existing volume. Therefore the revised stormwater management plan is acceptable.*

*The stormwater attenuation and treatment train includes the following:*

*5000L onsite attenuation tank and soakage pit, litter baskets in KIP's, Gross pollutant Trap, attenuation basin, vegetated swale and biofilter and level spreader discharging to the neighbouring property. Stormwater directed to the easement to the South will pass through a Bioretention Swale and into a stormwater channel that runs approximately 80m before discharging into North Creek."*

#### *Clause 3.12 – Heritage*

An assessment has been provided within the Ballina Local Environmental Plan 2012 section of this report. It concludes that the proposed subdivision is satisfactory in relation to heritage impacts subject to appropriate conditions of consent relating to the provision of a CMP and archival recording.

#### *Clause 3.19 – Car Parking and Access*

As part of the application, the applicant has submitted documentation to address traffic (Engineering Services Report prepared by Newton Denny Chapelle, dated January 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 proposed access to Henderson Farm is via a link road to the future Hutley Drive across the future Pacific Pines Stage 1b. The application seeks a deferred commencement condition dependant on access provision across stage 1B of the Pacific Pines development. If this development precedes stage 1b of the Pacific Pines Estate then road dedications and road construction to connect to the existing network will be required.*

*There are three relevant documents addressing traffic generation and trip distribution.*

- *The Cardno Eppel Olsen Lennox Head Paramic Model 2007*

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- *The Cardno Eppel Olsen Pacific Pines Estate traffic and transportation Statement Nov 2011*
- *The Cardno Eppel Olsen Henderson Farm Development Traffic Impact Assessment February 2012.*

*The strategic Paramic modelling of the area has identified the Ultimate upgrades of Hutley Drive to the North and South are required to adequately service Henderson Farm and the neighbouring Pacific Pines development. Pacific Pines 1B has DA approval and is conditioned to construct part of Hutley Drive North. The Elevations development is similarly conditioned to construct Hutley Drive South. Council has a current development application under assessment that makes the connection between the two.*

*Council also has an approved Part V assessment for the Hutley Drive North extension that provides a left in left out connection from Hutley Drive onto North Creek road prior to The Coast Road North/Creek Road roundabout. Future development of Reservoir Hill will ultimately redistribute traffic to a roundabout south of The Coast Road/North Creek Road roundabout that will allow traffic to turn left and right onto North Creek Road. The strategic modelling suggests these ultimate upgrades will provide suitable levels of service on the road networks connecting the Lennox Head South precinct.*

*However the Council Hutley Drive connection development application has not received final approval and the Hutley Drive North connection will only proceed given sufficient budget allocation. Therefore there will be interim impacts on the traffic networks that may require management and consideration.*

*Prior to the Hutley Drive South upgrades the Pacific Pines traffic report suggest that 75% of southbound traffic will utilise Montwood Drive. The report identifies that Montwood drive will be environmentally overloaded by the Pacific Pines estate by around 12%. The Henderson Farm development will approximately distribute 300 vehicle movements per day down Montwood Drive adding to the environmental exceedance. The Pacific Pines traffic report was submitted to Council which also identified Henderson Farm as contributing to the exceedance.*

*The Henderson Farm Traffic assessment suggests that 75% of southbound traffic may be distributed north to the North Creek Road/Coast Road roundabout before heading south instead of using Montwood Drive. The Pacific Pines report has been reviewed a number of times and is probably the more reliable report. However the Henderson Farm report proposes some minor amendments to the North Creek Road/Coast Road roundabout line marking to create an additional turning lane on the North Creek Road approach that will alleviate some of the possible congestion. This proposal will be included as a condition of consent*

*Footpaths are proposed on all internal roads with a footpath on either side of the main collector road one in the development.*

*The main collector road one is proposed to have a 9m carriageway width based on an expected traffic generation of 1620 vpd a 9m carriageway is adequate to service the development.*

*The remainder of the internal road networks have a 7m carriageway and are adequate to service the remainder of the development.”*

Chapter 3 – Urban Subdivision

Clause 3.2 – Major Subdivision Requirements

**A. Element – Master Plan preparation**

*Planning Objectives*

- a. Achieve high quality and best practice of subdivision development;*
- b. Ensure Council’s strategic planning objectives are achieved for subdivision developments;*
- c. Ensure subdivision outcomes are responsive to contemporary planning and design practice; and*
- d. Ensure subdivision outcomes are responsive to the physical and environmental attributes of land.*

Pre-lodgment meetings were held between the applicant and Council and a Master Plan was not considered necessary in this instance. The information submitted at the pre-lodgment stage of the process was considered sufficient for the proposal to be considered conceptually at the consultation and pre-lodgment stage of the process.

**B. Element – Consultation and Pre-Lodgment Process**

*Planning Objectives*

- a. Provide a process for the early identification of key issues relating to a particular site locality and subdivision proposal;*
- b. Provide the opportunity for proponents to obtain integrated and considered advice to assist in the preparation of concept plans and development application material; and*
- c. Reduce potential delays in the development application assessment process resulting from issues being identified post development application lodgement.*

As stated above, pre-lodgment meetings were held between the applicant and Council. These meetings facilitated the proposal to move to the development application stage of the process.

**C. Element – Vision, Concept and Master Plan Content**

*Planning Objectives*

- a. Recognise and respond to innovative urban design outcomes that are responsive to the characteristics of areas proposed for subdivision.*
- b. Provide guidance in relation to the form and content of initial subdivision visions and concepts presented to Council at the Subdivision Panel Consultation; and*



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*c. Outline the issues to be considered in the preparation of the master plan.*

The application as submitted provided a vision statement, site analysis, concept plans and options analysis at the pre-lodgment stage of the process. The following provides an assessment against Table 3.2 which is contained within Chapter 3 – Urban Subdivision of DCP 2012:

<p>Access</p>	<ul style="list-style-type: none"> <li>- Maximum 400 metres walk from dwellings to neighbourhood recreation park or equivalent.</li> <li>- Clear, direct walk or cycle access from subdivision to neighbourhood centre.</li> <li>- 90% of all dwellings are within 400 metres of an existing or planned public transport stop.</li> </ul>	<p>Stage 1 of the project involves 159 residential allotments and all but 4 of the proposed lots are located within 400m of a public park. The 4 lots in question are lots 161 – 164 which are located at the northern edge of the development. This arrangement is considered reasonable for the following reasons,</p> <ul style="list-style-type: none"> <li>- The non-compliant allotments represent only 2.5% of the overall subdivision yield.</li> <li>- The four allotments in question are relatively large (ranging from 1,289m<sup>2</sup>–1,345m<sup>2</sup>), providing recreation opportunities on site.</li> <li>- The proposed Pacific Pines Neighbourhood Centre will be readily accessible by residents of The Outlook.</li> <li>- Proposed Road 1 will be the bus route through the subdivision. All dwellings, other than Lots 161–164 will be located within 400m of this road.</li> </ul>
<p>Dwelling density</p>	<ul style="list-style-type: none"> <li>- Suburban neighbourhood – average net residential density of at least 15 dwellings per hectare (unless prevented by topography or other constraints).</li> <li>- Higher density residential development is located in and around neighbourhood centres, along connector streets and within 400</li> </ul>	<p>The area of the proposed subdivision (including lots, roads and reserves 37, 121, 165 &amp; 210) is approximately 24.24ha, within which 168 residential lots are proposed. This equates to 6.9 dwellings per hectare. Assuming 25% of the allotments are developed for the purpose of dual occupancy (as enabled by the LEP) a density of 8.66 dwelling per hectare will be achieved. Given the topographic and environmental constraints of the site, together with the LEP subdivision standards, this is considered to be the optimum development outcome on the site.</p> <p>The subdivision density has been developed compliant with the subdivision standards applicable within the LEP.</p>

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	metres of transit nodes.	
Land use	<ul style="list-style-type: none"> <li>- Neighbourhood centres serve a catchment of several neighbourhoods and should be located on major connector or arterial roads for exposure and access.</li> <li>- Land intensive uses such as district and major parks should be located at the periphery of neighbourhoods.</li> </ul>	<p>The proposed Pacific Pines Neighbourhood Centre will service the day to day commercial needs of residents of The Outlook.</p> <p>Not applicable to current application. Neighbourhood parks to service local community are located within the subdivision.</p>
Street network	<ul style="list-style-type: none"> <li>- Grid pattern or modified grid responsive to site characteristics.</li> <li>- Where slope allows, orientation within 15 degrees of north-south or east-west.</li> <li>- Connector and main streets of centres are orientated to landmarks.</li> <li>- To minimise cut and fill, streets follow ridges, gullies, and/or are perpendicular to slope.</li> </ul>	<p>Subdivision design provides a modified grid pattern which responds to the site characteristics.</p> <p>Majority of streets provided in an east-west and north-south orientation.</p> <p>Road 1 (being the core access and Circulation route) is located such that key open space areas and vegetation landmarks are readily visible.</p> <p>Given the topographic characteristics, the subdivision proposes modification to the land form at subdivision stage to facilitate the construction of future dwellings on the land.</p>
Streets	<p>The street network includes:</p> <ul style="list-style-type: none"> <li>- neighbourhood streets within neighbourhoods;</li> <li>- neighbourhood connector streets (approx. 800 metre grid) linking neighbourhoods;</li> <li>- major connector streets linking groups of neighbourhoods;</li> <li>- neighbourhood main streets in centres; and</li> <li>- rear lanes.</li> </ul>	<p>The street network provides for a legible hierarchy of neighbourhood streets and connector road.</p>
Block sizes	<ul style="list-style-type: none"> <li>- Length 100-200 metres.</li> <li>- Mid-block providing a pedestrian link</li> </ul>	<p>Street block lengths range from 120m to 180m and have typical depths between 40m– 60m. Whilst no mid-block pedestrian linkages are provided</p>

	<p>when blocks are over 130 metres.</p> <ul style="list-style-type: none"> <li>- Depth 40-80 metres.</li> </ul>	<p>for street blocks longer than 130m, pedestrian connectivity is achieved to key attractions and circulation routes.</p>
<p>Urban neighbourhood lot layout</p>	<ul style="list-style-type: none"> <li>- Lots intended for mixed use or multiple residential uses take up entire street block or are located on highly accessible block ends, corner lots and lots with dual road frontage.</li> <li>- One lot type is not to dominate a street block.</li> </ul>	<p>No specific multi-dwelling housing sites provided within estate. However within the R3 zone a wide range of residential land uses are permitted subject to compliance with key design criteria.</p> <p>A variety of lot shapes are provided within the subdivision. The R3 zoning enables a range of housing types within the subdivision subject to compliance with DCP design requirements.</p>

**Likely Impacts – Environmental Issues**

An assessment review has been undertaken by Council’s Environmental Scientist which raises some concerns with the proposal. These concerns are outlined below with comments provided in response to the issues raised:

***Relocation of Road 3***

*To afford better protection of the Littoral Rainforest EEC growing along the eastern boundary of proposed Lots 156,157,162-169 the applicant relocated Road 3 to the west by a distance of up to 20m. As a consequence, Road 3 is almost entirely located within land zoned 7(l). The road substantially encroaches (approx. 7303m2) into the 20m buffer zone which was required to be replanted. It is considered the ecological value of the Littoral Rainforest Remnant growing on proposed Lot 172 is far superior to the quality of the Littoral Rainforest growing along the eastern boundary of proposed Lots 163-169. The current proposal will also require removal of littoral rainforest EEC to allow for access to be provided to proposed Lots 167-169.*

*In summary the relocation of Road 3 into environmental protection zoned land to service proposed Lots 153-169 is not supported for the following reasons;*

- it prevents buffer planting from occurring along sections of the eastern edge of the EEC.*
- it maintains, and in certain areas increases, edge effects*
- it requires the direct removal of EEC vegetation;*
- the cut and fill batter for Road 3 as depicted in drawing number DWGCIV18 will also impact on the subject EEC*
- further impacts are expected with the erection of boundary fencing, water mains and stormwater infrastructure.*
- it is inconsistent with the rezoning documentation and VPA and the gazetted LEP maps.*

Comment: It is acknowledged that most of proposed road 3 is located within the 7(l) zone, however this land is already cleared and does not currently consist of vegetation. Additionally, the road is located within an area which was proposed to form a 'Mosquito Buffer' and as such, is not proposed to be re-vegetated. Appropriate conditions of consent can be imposed to prevent the removal of any significant vegetation and the need for the proposed batters can be eliminated through the use of structural retaining walls.

**Area excluded from requiring rehabilitation**

*Council's letter to the applicant dated 4 March 2014 enquired why the western portion of Lot 172 was excluded from the revegetation proposal. In response to the enquiry the applicant concludes;*

*"The western portion part of the site is not required for inclusion in the rehabilitation area as the rehabilitation corridor is approximately 180m in width which is adequate for corridor function and viability."*

*This conclusion is factually incorrect given the width of the proposed revegetation corridor of the area in question is approximately 150m.*

*Aside from the above statement the applicant's ecological consultant provides no scientific basis to support his statement. In an ecological sense, it is generally accepted that the wider the corridor the better. It is also noted NPWS includes the subject property as part of its regional corridor system. The corridor on the subject property has a minimum width of 500m.*

Comment: A condition requiring the rehabilitation of the western portion of Lot 172 is supported on planning grounds and can be imposed as part of any consent granted to the proposal. To ensure that adequate area is available for rehabilitation, it is recommended that Proposed Lot 172 be consolidated into an adjoining parcel of land via a condition of consent. This will ensure that an adequate building envelope will be provided for the Lot that is not in direct conflict with the rehabilitation commitments.

**Open Space**

*Whilst it is acknowledged at a pre-lodgement site inspection Council's Open Spaces Section gave their support for the creation of the public open space (proposed Lot 37), it is important to understand at the time the officers had no knowledge of the historical agreements that were reached during the rezoning process as to the revegetation of all environmental protection zoned land.*

*The establishment of a public open reserve adjacent to the Littoral Rainforest restoration area (proposed Lot 172) will lead to ongoing adverse impacts. Expected impacts include, human and domestic dog encroachments, unapproved track creation, plant collecting, fauna disturbance etc. The subject vegetation will also be subjected to the ongoing edge effects as previously described. These impacts have not been assessed by the applicant and as such require further attention.*

*Consequently, a non-buffered rainforest to the proposed open space reserve (proposed Lot 37) represents an inferior ecological outcome which is not supported.*

*If the public open space reserve is to remain in its current location, the Environmental Rehabilitation Plan (ERP) will be required to resolve these long-term conflict issues*

Comment: It is acknowledged that the area proposed as a public park being proposed Lot 37, is located within an area that was previously identified for rehabilitation. What must be considered is the public benefit created by the park and whether this is more important than the proposed rehabilitation works in this particular location. From a planning perspective, the proposed park in the form of a children's playground and ancillary open space will be more benefit to the public than the area being rehabilitated. Considering the above, the proposed children's playground referred to as proposed Lot 37 is supported in its current layout.

**Stormwater Infrastructure**

*According to the Stormwater Management Plan (SWP), stormwater swales and cut off drains are to be installed along the western boundary of proposed Lot 172. It is estimated that the swale, inclusive of a maintenance access track will have a width of approximately 10m. As a consequence Littoral Rainforest EEC will be required to be removed to allow for the installation of this infrastructure.*

*The applicants also propose to relocate part of the existing water mains into proposed Lot 172, thus further reducing the total area available for revegetation. The total area of encroachments is expected to be approximately 4,000m<sup>2</sup>.*

*Along the eastern boundary of proposed Lot 172 stormwater is to be diverted into the adjacent Littoral Rainforest. Stormwater discharge is expected to have a range of impacts including erosion, changes to hydrology and the introduction of weeds.*

*These impacts were not identified and/or assessed by the applicant's ecologist. It is considered these impacts will affect the long-term viability of the Littoral Rainforest. A condition of consent is to be incorporated into the ERP requiring this matter to be addressed.*

Comment: It is agreed that the above concerns can be addressed via appropriate conditions of consent.

**SEPP 26 Littoral Rainforest Public Reserve (proposed Lot 169)**

*Part A (Schedule 1) of the Planning Agreement requires the landowner to undertake "Rainforest reforestation of land within 80m of the mapped SEPP 26 Littoral Rainforest"*

*In relation to proposed Lot 172, a range of infrastructure is proposed to be located within the required 80m buffer.*

*Encroachments include;*

- existing 2(a) zoned land*
- cuts associated with road construction.*
- terraced retaining walls (refer to landscape plans)*
- Asset Protection Zones (refer to landscape plans)*
- a series cut off drains (refer to the Stormwater Management Plan)*

*This infrastructure will encroach into the required revegetation area between some six to 25 metres. The level of impact into this zone remains somewhat unclear due to the conflicting nature of the plans which have been submitted.*

*It would be also expected given the height of the retaining walls (two to three metres) and stability issues rainforest plants will be required planted well away from the top edge of the retaining wall.*

*All of the above encroachments undermine the integrity of the 80m SEPP 26 revegetation area to the point where the applicant will not comply with the requirements of the Voluntary Planning Agreement (VPA).*

Comment: The 80m proposed at the rezoning stage of the process was an estimation of what could be achieved, however the need for retaining walls and public infrastructure in this location results in the 80m re-vegetation area not being a viable outcome. Schedule 1, Part A of the VPA references the objectives of the ERP and one of the objectives is to undertake 'rainforest reforestation of land within 80m of mapped SEPP 26 area. Part B of Schedule 1 then provides the 'requirements' for the ERP, these requirements do not reference the need for 80m of reforestation as this is purely an 'objective' of the ERP and not a 'requirement'. Overall, parts of the re-vegetation area are in excess of the 80m requirement and parts are less, however the amount re-vegetation to this Lot is considered to comply with the objectives of Schedule 1, Part A of the VPA.

Considering the above, the application as proposed is considered to still be consistent with this aspect of the VPA.

#### ***Littoral Rainforest located within Urban Allotments***

*As previous mentioned Littoral Rainforest EEC is proposed to be incorporated into a number of urban allotments. It is acknowledged the applicant has recently excised the Littoral Rainforest previously incorporated into proposed Lots 156,157 and 162 and included this vegetation into the public rainforest reserve (proposed Lot 169). This outcome is considered to be a significant environmental improvement in terms of biodiversity. However, in relation to the remaining proposed Lots (38-42, 45, 46, 61-64 and 163-169), building separation from the subject vegetation remains a problem. To address this issue, Council's letter to the applicant on 4 March 2014 stated;*

*"Littoral rainforest trees along the western boundary are to be retained and therefore require appropriate setbacks for building envelopes, in accordance with of Australian Standard 4970-2009 (Protection of trees on development sites) and Australian Standard 2870-1996 (Residential slabs and footings – construction, Annexure B). Accordingly, please reconsider the lot layout and locations of building envelopes, for instance on Lots 158, 161-164. It would be beneficial if these allotments, proposed building envelopes and the road were pegged out by a surveyor to enable a more competent assessment. "*

*Council received a response from the applicant on 24 April 2014. However, the subject assessment is considered deficient as it does not have any regard Australian Standard 2870-1996 (Residential slabs and footings – construction, Annexure B).*

*Previous development applications in the locality have required a minimum separation distances of 13.5m to 20m from Littoral Rainforest EEC. Consistent with those development applications, all building envelopes are to have a minimum separation distance of 15m. The buffer distance should be measured from the trunk of the subject trees.*

*The recently released NSW Rural Fire Service “10/50 Vegetation Clearing Code of Practice for New South Wales (the 10/50 Code)” allows for ongoing clearing works to be conducted as part of the occupation of an approved dwelling. Under the legislation trees growing within 10 metres of an approved residence can be removed without Council’s Consent. Also the 10/50 Code, enables shrubs and ground covers to be cleared up to 50m away from an established dwelling. However, given the majority of the vegetation within the subject lots are considered to be a tree, as defined in the 10/50 Code the clearing of shrubs and groundcovers it not considered to be relevant in this instance.*

*It is concluded that to provide adequate buffering, a 12m no building zone is to be applied to those affected Lots. The buffer zone is to be measured from the vegetation’s current drip-line. It is considered the subject buffer zone will achieve compliance the Australian Standards and 10/50 Bushfire Code.*

*As a consequence, it remains unknown whether dwelling’s will be able to established on the lots as is currently proposed. It is considered a Condition of Consent needs to be applied to establish a suitable dwelling envelope on those affected lots whilst complying with the required building exclusion zone.*

Comment: This aspect was considered at the rezoning stage of the process and Council resolved to rezone the land referred to above to R3 – Medium Density Residential (Lots 38-42, 45, 46, and 61-64) and R2 – Low Density Residential (Lots 163-168). Further, the 10/50 rule enables people to remove trees and vegetation as stated above, however this is not an obligation on land owners and in many cases will not eventuate.

In respect to all of the above mentioned Lots adjoining Littoral Rainforest, it is considered that suitable building envelopes can be established on each Lot and still comply with AS 2870 – 2011 Residential Slabs and Footings and AS 4970 - 2009 Protection of trees on development sites. Appropriate conditions of consent have been recommended which require a no-build zone to be established on the above mentioned Lots prior to the issue of a Subdivision Certificate.

***Stormwater Discharge into SEPP 14 Wetland No. 88***

*The development proposes to direct stormwater into SEPP 14 Wetland No. 88. The proposed stormwater system will redirect, and increase the volume and frequency of stormwater entering the SEPP 14 wetland.*

*The applicant has revised the stormwater infrastructure to reduce the velocity of stormwater being discharged into the wetland. The revised velocity rates supplied by the applicant if correct are not expected to cause an adverse ecological impact to the receiving waters. However, if incorrect the velocity of stormwater has the potential to erode the adjacent banks located within the SEPP 14 wetland.*

*Consequently, it is expected the existing drainage channel which is located within the SEPP 14 wetland will require ongoing management. The ongoing management of this land, which is not owned by either Council and/or the applicant, needs to be addressed. To prevent long-term adverse impacts from occurring, the applicant needs to develop a long-term maintenance program for the ongoing allowance of stormwater into North Creek.*

*It is recommended that the applicant be requested to establish a monitoring program of stormwater discharge to demonstrate the computer derived calculations are correct and that environmental decline of the downstream wetland system does not occur.*

Comment: The issues raised above are agreed with and can be addressed via a condition of consent.

***Environmental Restoration Plan (ERP)***

*In accordance with Section 9 of the VPA, Council cannot grant Consent to the development without firstly approving the ERP. While the applicant has submitted an ERP it is considered deficient as it does not;*

- Identify how all lands subjected to rehabilitation will be protected in perpetuity*
- Clearly include all areas that are required to be rehabilitated*
- Address how HJG will be protected in perpetuity for the reasons described previously*
- Provide any meaningful criteria on which Council can judge the success of the completed works.*

*Given the requirements of the VPA, a Deferred Commencement Condition of Consent is required to be applied to the development. This subject condition of consent will address the deficiencies which require amendment.*

Comment: The issues raised above are agreed with and can be addressed via a condition of consent.

***Fire Access Track***

*It remains unknown what impact the construction of the fire trail will have on the adjacent vegetation communities. The current development application does not identify the practicalities of road construction to the north of proposed Lot 169. Figure 5 of the Traffic and Access Assessment Report identified that the subject land is too steep for vehicle access.*

*The conditions imposed as part of the NSW Rural Fire Service Bush Fire Safety Authority require the fire break to be constructed to comply with Section 4.1.3 (3) of the Planning for Bushfire Guidelines.*

*According to Section 4.1.3 (3), fire trail construction is limited to "a maximum grade of 15 degrees if sealed, and not more than 10 degrees, if unsealed."*

*Based my site inspections the existing contours exceed a 15 degree slope.*

*This area is considered ecologically important as it contains Littoral Rainforest, Hairy Joint Grass habitat, while the wetland habitat is considered to be representative of a Freshwater Wetland EEC.*



*Figure 6 of the Flora and Fauna Report (FFR) depicts the extent of HJG throughout the adjoining Lots 1 and 99. The applicant's mapping of HJG is inconsistent with Landmark Ecological Services Pty Ltd mapping of the species on the same property. The current FFR fails to explain these differences and, as such, this issue requires attention. The submitted FFR, inclusive of the submitted Section 5A assessment, fails to confirm the area of HJG to be removed to facilitate construction of the firebreak.*

*It is recommended that a specific condition of consent be applied requiring the applicant to demonstrate how the engineering design will comply with Section 4.1.3 (3) of the Planning for Bushfire Guidelines for the fire trail, whilst having a minimal impact on the environment. Engineering diagrams should include, all cut and fill requirements. The fire access track is also to be positioned so that it has minimal impact on HJG habitat. These requirements will be included into the Condition of Consent.*

Comment: The issues raised above are agreed with and can be addressed via a condition of consent.

### **Hairy Joint Grass**

*Submissions received by the public queried the occurrence of the vulnerably listed HJG on the development site. It would appear the applicant's ecological consultant failed to undertake any HJG surveys on the land zoned for urban occupation.*

*Based on the species habitat and based on the fact the species is known to occur on similar residential zoned land on the adjacent Pacific Pines Estate, it is considered the species does have the potential to occur on those unsurveyed portions of the development site. Furthermore, the species has also been recorded on the elevated ridges at Cumbalum and, in doing so, has confirmed that the species is not limited to occupying the lower spring dominated slopes, which were the areas targeted by the applicant during the rezoning process.*

*Consequently, to satisfy the statutory requirements of the TSC Act (1995) adequate surveys for the species are required. However, it is considered the unsurveyed portions of the property only represent marginal habitat for the species and, as such if detected, the species abundance is not likely to result in a significant impact.*

*It is considered a suitable condition of consent is required to ensure the applicant undertake suitable survey work prior to construction. Any habitat of the species detected during those surveys would require the applicant to increase their existing rehabilitation (offset) package.*

*There is one significant matter in relation to the long-term protection of HJG on the development site that remains outstanding. The VPA requires that the applicant ensure the ongoing survival of HJG growing within land zoned 7(a). To ensure the species long-term viability, the applicant's ecologist recommends removing cattle.*

*While this approach would be normally supported, the results from the nearby HJG rehabilitation program at the Coastal Grove Estate, using the same approach, has resulted in HJG population displaying a significant decline to the point it is now almost unviable. While this is a significant concern, the VPA requires Council to approve the ERP prior to granting Consent to any development on the land. Consequently, a Deferred Commencement Condition of Consent needs to be applied requiring the applicant to extensively and critically address this issue. If the species long-term viability cannot be satisfactorily addressed the development may have impact such that a Species Impact Statement (SIS) is required.*

Comment: Specific survey work in relation to HJG was undertaken during the rezoning of the land and Council resolved to rezone certain land to R3 – Medium Density Residential and R2 – Low Density Residential. Parts of the land were deferred from rezoning (north of the proposal adjacent to the Coast Road) as the land was discovered to contain HJG.

From a planning perspective, it is clear that this matter was considered during the rezoning of the land. It is considered unreasonable to require that the application revisit this aspect of the proposal by undertaking more survey work.

#### **Location of Mosquito Buffers**

*The concept rezoning documents nominated the establishment of a combined 50m wide bushfire and mosquito buffer along the northern boundary of proposed Lot 172. The area of the proposed buffer was estimated to occupy an area of 1.6ha.*

*The buffer zone was to be located on land containing significant vegetation communities. It contains three (3) EECs, extensive areas of known HJG habitat and it represents the only known occurrence of the White lace Flower on the development site.*

*The creation of the concept buffer zone would require the removal of the above-mentioned threatened species. These impacts were never identified and/or addressed during the rezoning process. To the contrary, the ecological report concluded, inclusive of the submitted Section 5A assessment, the subject threatened species would be protected through enhancement planting. Further complicating this matter, the VPA requires these habitats to be protected in perpetuity.*

*Had the current development application proposed to utilise the buffer zone identified in the rezoning application, it is likely that the development would have resulted in having a significant impact and hence the development application would have been recommended for refusal if it was not accompanied by a Species Impact Statement (SIS).*

*Whilst it is welcomed the applicant is not pursuing the rezoning buffer, to achieve the required 25m wide mosquito buffer the current development application partly proposes to use proposed Lot 172. To allow for this to occur, a small area of existing Littoral Rainforest adjacent to proposed Lots 114-116 will require removal.*

*Cleared buffer zones ranging from 4-10m are also required to be established and maintained around the periphery of proposed Lot 172.*

Comment: The application as proposed is an improvement in relation the balance required between mosquito buffers, rehabilitation works and ecology impacts. The rezoning of the land was approved with a 50m wide Asset Protection Zone (APZ) and mosquito buffer within EEC vegetation, whereas the application as submitted proposes to rehabilitate the EEC vegetation and locate the buffer outside of this area. Whilst it is acknowledged that most of the mosquito buffer is located in 7(l) zoned land, this is considered to be a better ecological outcome than what was proposed and approved as part of the rezoning of the land.

### **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 Local Environmental Plan 1987 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:

- Legal access to the development
- Stormwater disposal
- Ecology and setbacks from significant vegetation
- Earthworks

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 by way of a Deferred Commencement Consent subject to conditions of consent as attached to this report.

### **Option Two**

That Council refuses the development application on the basis of traffic, access, storm water and environmental issues.

Option One is recommended on balance, as the matters identified in the report are being, or can be, addressed as the development proceeds.

**RECOMMENDATION**

That DA 2014/31 to undertake a staged development application pursuant to S.83B of the Environmental Planning and Assessment Act 1979 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 approval for nine residential lots and one public reserve lot at Lot 1 DP 1070446, No. 78 Hutley Drive, Lennox Head be **APPROVED** by way of a Deferred Commencement Consent subject to the imposition of the attached recommended conditions.

**Attachment(s)**

1. Locality Plan
2. Subdivision Plan
3. Submissions
4. Draft Conditions

### **8.3 DA 2014/383 - Lot 2 Teven Road, Alstonville**

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### **8.3 DA 2014/383 - Lot 2 Teven Road, Alstonville**

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<b>Applicant</b>	Stephen Fletcher & Associates
<b>Property</b>	Lot 2 DP 800081 Teven Road, Alstonville
<b>Proposal</b>	The construction of a new dwelling as depicted in plans prepared by Lismore Design and Drafting sheets 1-8 dated 24 May 2012
<b>Effect of Planning Instrument</b>	The land is zoned 7(i) Environmental Protection (Urban Buffer) zone under the provisions of the Ballina LEP 1987.
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

#### **Introduction**

Council is in receipt of a Development Application for the construction of a single storey brick and Colorbond dwelling on a 5.6 hectare parcel of land on the outskirts of Alstonville. The land is located between Tuckombil Quarry and existing residential housing to the west. The property is currently vacant, was recently used in a limited way for grazing, and slopes gradually eastward towards Teven Road. The dwelling is proposed on the south-west corner of the land adjacent to the formed pathway that links Teven Road to Whipps Avenue.

No subdivision is proposed and the lot has the benefit of a dwelling entitlement.

The application is on the same parcel of land that was the subject of a previous Development Application (DA 2012/377) for a dwelling to be located on the north-west corner of the land. The previous application was refused at the Ordinary Council meeting of 27 February 2014 for the following reasons:

1. The proposed dwelling site is in close proximity to existing quarry operations, contrary to the applicable planning control buffer distances and the proposal is in conflict with the likely future operations of the existing extractive industry.
2. There is an alternative dwelling site location on the land that is further from the existing and likely future operations of the quarry and the development is not in the public interest.

#### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

**Public Exhibition**

The current application was notified to the adjoining property owners as per the previous application. The notification process resulted in one objection being received (copy attached).

The notification of the previous application (DA 2012/377) resulted in two individual objections from the one person and one petition with 12 signatures being received.

**Applicable Planning Instruments**

**Ballina Local Environmental Plan 2012 (LEP) - Deferred Matter**

The land is a Deferred Matter (D.M.) under the provisions of the Ballina LEP 2012. This excludes the land from any provisions within the BLEP 2012 and subsequently makes the BLEP 1987 the applicable local planning instrument.

**Ballina Local Environmental Plan 1987 (LEP) – 7(i) Environmental Protection (Urban Buffer) Zone**

The objectives of this zone are:

*(a) The primary objective is to create a rural buffer in the locality of Alstonville and Wollongbar and to prevent development of an urban character within any part of the zone which is likely to be seen by existing or likely future residents of the villages of Alstonville and Wollongbar or from a major road in the locality.*

*(b) The secondary objective is to enable development as permitted by the primary and secondary objectives of the Zone No 1 (a1), except for development which would conflict with the primary objective of this zone.*

*(c) The exception to these objectives is development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives.*

The primary objectives of the Zone No 1 (a1) are:

*(a) to regulate the subdivision and use of land within the zone to ensure that:*  
*(i) land actually used for purposeful agricultural production, particularly horticulture, or*  
*(ii) land having the potential for purposeful agricultural production, particularly for horticulture,*  
*is developed in a manner to optimise its production potential, and*

*(b) to enable development which is ancillary to the agricultural use of land within the zone (particularly dwelling-houses, rural workers' dwellings and rural industries) where such facilities do not significantly reduce the production potential of the subject land or other land in the locality.*

### **8.3 DA 2014/383 - Lot 2 Teven Road, Alstonville**

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The secondary objectives of the Zone No 1 (a1) are:

*to ensure that development within the zone:*

*(a) maintains the rural character of the locality, and*

*(b) does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.*

*The exceptions to these objectives are:*

*(a) development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives, subject to the impact on agricultural resources being minimised, where practical, and*

*(b) development of land for extractive resources extraction.*

Comment: The proposal of one dwelling house on a 5.6 hectare allotment set well back from both road frontages will not result in the development transforming the character of the site and it is considered that the proposal meets the primary objective for Zone 7(i).

The proposed development will not adversely affect any existing or proposed agricultural use of the land and therefore the development for the purposes of a dwelling house is in this case consistent with the primary objectives of the Zone 1 (a1).

The development will maintain the current largely open character of the land. All services are available to the property without any additional extensions required to be made by public authorities other than those of a private nature. The development is not for extractive resource extraction. Therefore, the proposal is considered to meet the secondary objectives of the Zone 1 (a1).

As the primary and secondary objectives of Zone 1(a1) have been satisfied, compliance with the secondary objective for Zone 7(i) has also been achieved.

#### **North Coast Regional Environmental Plan (REP)**

The land is on the interface of urban and rural lands.

The objective of the REP for urban housing is:

*to promote the provision of a range of adequate, affordable and suitable housing to meet the needs of the region's population*

Comment: It is considered that the proposal meets this objective.

The objective of the REP in relation to rural housing is:

*to ensure that any opportunities for rural housing in an area are available only as part of a planned strategy for rural living areas.*

Comment: It is considered that the erection of the dwelling will not adversely affect the unlikely future use of the land for commercial farming purposes as intensive agriculture is unlikely to be permitted in close proximity to the existing urban developments and the size of the land limits the viability for many forms of less intensive commercial farming. The land use planning zone permits a dwelling on this site. Therefore it is considered that the proposal meets the planning principles relating to this objective.

### **Report**

The applicant has cited discussions with the Mayor and Council staff following the previous refusal of an application in relation to ascertaining a point from which a 400m buffer distance from the quarry may be determined. Correspondence to the applicant dated 15 April 2014 confirms the acceptance of a 400m buffer distance as depicted in the submitted plans.

Dwelling houses are a permissible use on 7(i) zoned land under Clause 9 of the BLEP 1987

The Ballina Shire Development Control Plan 2012 (DCP 2012) is not applicable to this land as it only applies to land contained within the BLEP 2012. However, BLEP 2012 provides some insight into Council's current assessment of development on land within the BLEP1987 environmental zones.

In order to determine an equivalent zone for comparison to the BLEP 2012 reference is made to the *NSW Housing Code Equivalent Zones* document published by the Department of Planning dated 5 August 2009. This document was produced in conjunction with Council input.

The Department of Planning has determined that for the purposes of applying the State Environmental Planning Policy (Exempt and Complying Development) 2008 (Codes SEPP) the land is to have an equivalent zone of RU2 (Rural Landscape) under the standard instrument LEP.

Therefore, it is not considered appropriate to make any comparisons with the assessment criteria for urban land.

Comparisons are made against the applicable 2012 DCP controls for *Chapter 2 – General & Environmental Considerations* and *Chapter 7 – Rural Living and Activity*.

### **Chapter 2- General and Environmental Considerations**

#### **Land Use Conflict**

A Land Use Conflict Risk Assessment (LUCRA) and Noise Impact Assessment have been provided by the applicant.

The application has been referred to the NSW Environment Protection Authority (EPA) due to the licensing of the nearby quarry in Teven Road.

The EPA has commented on this development in a letter received on the 10 September 2014. Within this correspondence they have identified the potential land use conflicts of further residential development within the 1000m preferred land use conflict buffer zone.



The EPA further advises that it will be limited in its ability to impose more burdensome conditions on the quarry and that the Council may be ignoring the guidelines within Chapter 2 of the 2012 DCP.

As noted previously, the DCP 2012 does not apply to this land and is used for guidance only.

The EPA has identified the residential development to be within 225 metres of the boundary of the quarry site. Council staff have previously agreed that the distance from the quarry could be assessed as being taken from a point within the quarry site itself. The applicant has submitted plans indicating the proposed dwelling is to be located 400m from the agreed point within the quarry site.

Despite the differences in where the separation distances are to be measured from, the land use conflict issues are the same.

The EPA return advice emphasises the potential of conflict between the dwelling and the nearby quarry in relation to dust, noise and odours. It is considered that these issues are valid and should be addressed to minimise any potential land use conflict issues that may affect the amenity of the dwelling and have the potential to adversely affect the operations of the quarry.

The EPA advises that the asphalt plant operator has recently implemented further feasible practises so as to enhance the management of asphalt odours. The EPA further advises that it continues to receive complaints from residents in near proximity to the development. Council has received notification from the EPA in relation to the number and nature of the complaints other the last 12 months. A total of 7 complaints were received as follows:

- 1 from odour
- 2 from dust
- 3 from noise, and
- 1 from blast

The EPA further recommends that if the proposal is approved, Council should consider requiring treatments to, as a minimum, enhance noise mitigation for the occupants. Other provisions such as screening between the residence and quarry are also recommended to be considered in the design of the development.

The Noise Impact Assessment states that measurements were conducted at the proposed south west building site to determine the amount of noise from the asphalt plant operations on the proposed new dwelling. The report observes that during previous noise monitoring in the daytime, it was difficult to determine an accurate measurement of the contribution of noise from the asphalt plant and quarry operations on the proposed dwelling site due to contributing noise from Teven Road and neighbourhood noise such as mowers, whipper snippers and leaf blowers.

The asphalt plant noise monitoring was conducted at night time to isolate the noise level of the asphalt plant from the quarry operations and to measure the asphalt plant in quieter conditions.

The quarry was measured during the day when the asphalt plant was not operating. Several noise studies in this location were also referred to.

Noise monitoring was conducted over a two week period with calibrated noise monitoring equipment near the proposed building site to determine background noise levels.

The rating background level was determined to be 33 dbA for the daytime period and 30 dbA for the evening and night time periods after evaluation of ancillary contributory noise levels were taken into account. The Project Specific Noise Goal (PSNG) was determined to be 38 dbA for the day time period and 35dbA for the evening. The noise level of the asphalt plant at the proposed building site was found to be 35 dbA which complies with the evening and daytime PSNG.

Within the summary and conclusion of the report it included the following:

*Noise levels from the asphalt plant and quarry may increase at the proposed building site due to changes of operations at the asphalt plant and quarry. The report states these increases would also affect the existing residential dwellings 25-30 metres to the west of the proposed building site.*

The report states that additional quarry related traffic noise on Teven Road is not considered to have any significant noise impact on the proposed residential dwelling.

It is also stated that blast over-pressure and ground vibration levels are predicted to be below the allowed limits at the proposed residential dwelling and that the noise levels from the nearby Tuckombil quarry and asphalt operations at the proposed residential dwelling will comply with the NSW Industrial Policy. The report concludes that the proposed dwelling location and design is appropriate and will provide for compliance with the prescribed noise levels.

Regarding the quarry operation, Lismore City Council applied to Ballina Shire Council on the 27/7/12 for a Section 96 approval to modify the consent conditions in the Development Consent. The application was to modify the blast methodology at Tuckombil Quarry. The application to modify was in response to non-compliance with blasting parameters in 2010 and 2011 and the resulting community complaints.

Lismore City Council as the quarry operators engaged Orica Mining Services to conduct a peer review of the original Blastronics report and recommended changes to the blast methodologies. The Orica review of four Blast Summary Records indicated that the previous blast contractor was not following the design parameter recommendations or monitoring locations set out in the original DA conditions. The review also concluded that the impact to nearby neighbours would have been much greater than would have been resultant from the original design parameters and locations.

Orica conducted a test blast to determine the design parameters for drilling, charge weight and delayed firing sequences that would enable future blasts at the quarry to comply with the original blast parameters. The new blast methodology has been adopted by the quarry operators and two blasts have been conducted since. The results indicate compliance at the monitoring locations near the proposed dwelling site. As part of the updated Tuckombil Quarry Environmental Management Plan, two permanent monitors have been installed near residential receivers. Two local community liaison representatives will be provided with copies of the Pre-Blast Design Parameters and the Post-Blast Monitoring Results.

Having regard to the new Orica blast method with delayed electronic firing sequences, continual review and appraisal at each blast, two monitoring locations and the nomination of community representatives, the report concludes that these methodologies should assist the quarry operators to comply with the blast noise limits at residential receivers.

On 12 November 2014 Council received from the EPA a copy of the Licence Variation issued to Lismore City Council. This notice (attached) contains conditions requiring the quarry operator (licensee) to enter into a private written agreement for any affected dwelling if airblast overpressure levels, or ground vibration peak particle velocities, are to exceed the limits specified in the Licence.

This is considered to adequately address the issue of possible future increases to noise levels from the quarry in relation to these activities and places the onus on the licensee to obtain such written agreements with any affected dwellings prior to the specified limits being exceeded.

#### **Possible Mitigation Measures**

The EPA has recommended that Council consider screening between the residence and the quarry.

The controls within DCP 2012 indicate that should a biological buffer be required as screening it should have a minimum width of 30m and incorporate a variety of native tree and scrub species, including species that produce long, thin and rough foliage.

If a buffer is to be required, to be effective it is recommended that the buffer would need to extend the full length of the property boundary at Teven Road (291 metres) and include the parameters as outlined above or a suitable equivalent.

It should be noted that a Biological Buffer already exists around the perimeter of the quarry site itself.

In relation to the EPA's advice for "at residence treatments", the location of the building on the site is practically almost as far removed from the quarry operations as possible while maintaining appropriate setbacks for a rural zoned property.

The orientation of the building provides partial shielding to the windows of the internal living areas and the covered outdoor living area. The bedrooms are located in the rear of the building and could be considered as being well shielded from the direction of the quarry.

Additional noise mitigation measures such as noise barriers and or acoustic windows and doors have not been proposed by the applicant.

It is considered that physical noise barriers would not be acceptable in this location as it would detract from the aesthetics of the property and not be in keeping with the open rural character of the locality

No measures have been proposed to mitigate the impacts of dust or odours. Should additional acoustic measures be required such measures could include acoustic glazing to all windows and glazed doors on the eastern and northern elevations. As the provision of acoustic windows and doors is only effective when they are closed, the installation of air conditioning would also be required to ensure effective mitigation of intrusive noise through windows and doors during warm periods when the windows and doors would normally be open.

The inclusion of air conditioning to the internal living areas would also assist in the mitigation of dust and odours and provide an opportunity for the residents to reside comfortably indoors with the windows and doors closed during periods of excessive dust and/or odours.

#### **Potentially Contaminated Land**

As the land has been previously used for agricultural purposes a Preliminary Site Investigation is required on an envelope of 2,000 square metres in accordance with Council's policy to establish whether any contamination exists or is likely to exist.

The above site investigation has not been provided with the submitted documentation. It was advised to the applicant during the assessment of the previous application that this could be conditioned with any approval, to be provided prior to the issue of a Construction Certificate. It is considered that it would be unreasonable to require the investigation to be done prior to determination of this application given that the previous application was refused.

#### **Provision of Services**

Electricity is available at the boundary to the property. The applicant has not indicated if an underground or overhead service is to be installed. Due to the less intrusive nature of underground services to the rural outlook of the adjoining residential properties, a condition requiring an underground service could be applied should consent be granted.

Standard conditions will be applied to any consent that may be granted for a Section 68 application (connection to sewer) and payment of the applicable fees prior to issue of a Construction Certificate. Standard conditions would also be applied for the applicant to verify that adequate connection can be made to the sewer connection point prior to issue of a Construction Certificate

Standard conditions of consent will be applied to any consent, if granted, to address mosquito management, waste management, stormwater management and sediment and erosion control.

## Chapter 7 – Rural Living and Activity

### Design Principles for Dwellings

The dwelling is proposed to be of brick exterior walls with a Colorbond roof. This is consistent with the character of other dwellings in the locality.

Water and energy consumption is proposed to comply with the energy efficiency requirements of BASIX.

Other than for one 22,500 litre above ground water tank, no ancillary structures are proposed.

It is considered that the proposal meets the controls for design principles for rural dwellings.

### Building Lines and Setbacks

The proposed dwelling is to be setback approximately 155m from Teven Road, 60m from the closest side boundary to the south and 10m from the rear boundary adjoining the residential land to the west.

The proposal therefore complies with the controls for a minimum 20m setback to a sealed road (Teven Road) and 10m to the side and rear boundaries.

### Roads, Vehicular Access and Parking

Standard conditions will be applied to the consent if it is granted for details to be provided prior to issue of a Construction Certificate to confirm the driveway will be of dust free construction.

### Submissions Received

The previous application for a dwelling on this land received two individual objections and one petition with 12 signatures.

Only one submission objecting to this application has been received. The objection is from the owner of 97 Tanamera Drive, Alstonville.

The objector states the objection is on behalf of the residents of Tanamera Drive and Whipps Avenue. This has not been supported by any documentation.

The matters raised by the objector are:

1. A statement advising of the location of the dwelling within the 1000m buffer surrounding the Quarry in Teven Road
2. A statement advising of the refusal of a previous application on the site
3. Concern that approval may set a precedent for further development within the buffer in the future; and
4. Seeking refusal on the grounds that it does not comply with current *Buffer Zoning Council Conditions*.

It is considered that items one and two above have no direct impact on the objector's property.

As noted previously, Chapter 2 of the 2012 DCP is not applicable to this land as it is excluded from the 2012 LEP and has only been referenced in this report for guidance.

It is obvious that the 1000m buffer Zone has been introduced after the establishment of the residential subdivisions in Tanamera Drive, Whipps Avenue, and Panorama Drive. These Estates are well within 1,000m of the quarry.

Both the objector and the applicant have also raised the issue of the possibility of further residential development within the buffer zone.

The objector is concerned that approval of this application will set a precedent to allow further residential development within the buffer zone.

The objector has not indicated how further residential development on this lot will have a detrimental effect on his property. It is presumed they believe that the development will create an urban character and therefore contravene the objective of the 7(i) zone.

It is to be noted that under Clause 14 of the 1987 BLEP, a Dual Occupancy is permissible on the subject 7(i) zoned land. Any application for a Dual Occupancy would be subject to a Development Application and assessed on its merits with similar issues to be addressed as for this application.

In support of the proposal, the applicant has raised the issue of the permissibility of Dual Occupancies and Secondary Dwellings within the 1,000m buffer zone. Dual Occupancies are permissible on the R3 zoned land within the 1,000m buffer and are exempt from the requirement to provide a LUCRA as stated in Section E of Part 3.1 of Chapter 2 of the DCP 2012. Therefore a merit based assessment would not consider the proximity to the quarry.

It is also permissible for a Secondary Dwelling to be erected on the R2 and R3 zoned lots that are within the 1,000m buffer zone. As indicated in the attached plan, it is estimated that there are in excess of 700 such lots within 1000m of the south west corner of the quarry.

Subject to compliance with the applicable criteria, it is possible for Secondary Dwellings to be able to be approved as Complying Development by either Council or Accredited Private Certifiers on many of these lots without any consideration of the buffer zone. An application for a Secondary Dwelling made under the Affordable Housing State Environmental Planning Policy (SEPP) cannot be refused if it meets the criteria contained within the SEPP.

Given the above, it would seem unreasonable not to allow a single dwelling on the subject lot purely on the basis that it may increase the number of dwellings within 1,000m of the quarry.

The issues of land use conflict associated with a dwelling located within the buffer and compliance with buffer distances has been discussed previously in this report.

### **Conclusions**

The proposal to construct a single dwelling on the subject land is permissible within the land use zone and the lot has a dwelling entitlement.

The proposal will not have any adverse effects on the adjoining residential lands and is consistent with the objectives of the REP and BLEP 1987 for 7(i) zoned land.

Although the proposed dwelling is within the 1,000m of the Teven Road quarry, this fact alone is not sufficient grounds for refusal provided adequate measures can be implemented to minimise the identified potential land use conflicts.

The assessment of this application is to be based on the merits of this particular case and in this regard the main issues are those of noise, dust and odour impacts on the dwelling from the quarry operations.

The dwelling is proposed to be located in the portion of the lot that is the furthest away from the quarry and therefore cannot be in any better physical location. At present only limited measures are proposed for the mitigation of noise including the location and orientation of the building. As recommended in the submitted noise assessment, these measures appear to be satisfactory to minimise noise impacts to meet the required standards.

However, as alluded to by the EPA, additional measures can be incorporated into the design of the dwelling to further minimise any potential impacts from noise, dust and odour.

Due to the size of any biological buffer that would be needed to be effective it is considered that this option is not appropriate as the additional financial cost of the buffer would be disproportionate to the scale of the proposed single dwelling development.

Although physical noise barriers at the dwelling may provide some benefit in terms of noise reduction, they would provide little or no benefit in terms of mitigating dust and odour. To be effective in mitigating noise it is likely the size of such a barrier would be objectionable to the occupants of the adjoining residential land.

Acoustic protection of the windows and doors would provide additional noise mitigation to the dwelling and reduce the possibility of noise complaints from any future occupants of the building. As acoustic windows and doors are only effective when they are closed, air-conditioning would also need to be provided to ensure the comfort of the occupants during warmer periods. The installation of air conditioning to the dwelling would also assist in reducing the impacts of dust and odour to the occupants.

Alternatively, in warmer periods, air conditioning without acoustic protection of the windows and doors would also provide additional noise control in addition to that offered by the proposed siting of the building alone.

It is considered that the proposed dwelling is in the optimal location in relation to the quarry operations.

### **8.3 DA 2014/383 - Lot 2 Teven Road, Alstonville**

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Refusal of this application could lead to a conclusion that would likely prevent any future residential development in any form from being constructed on the lot and effectively sterilise it to the type of development that it has been zoned to accommodate. This is considered to be in contradiction to the Environmental Planning Instruments that apply to the land and in particular the BLEP 1987 and the REP.

The applicant has provided test reports that indicate the noise limits likely to be received at the dwelling site are within the prescribed limits to allow a residential building. Additional measures may also be imposed to further improve the issues related to noise, dust and odours from the quarry.

Therefore, the dwelling appears to be suitable in this location and the proposal is supported with the provision of additional measures to further mitigate noise, dust and odour.

The options available are:

1. Refuse the application as submitted
2. Approve the application with standard conditions applying and no additional specific conditions being applied regarding noise dust and odour emissions
3. Approve the application with standard conditions and additional specific conditions being applied to the consent including those related to noise, dust and odour emissions.

For the reasons outlined in the report option three is the preferred approach.



**RECOMMENDATIONS**

That DA 2014/383 for the construction of a dwelling on rural zoned land at Lot 2, Teven Road, Alstonville, be **APPROVED** with standard conditions as deemed appropriate by the General Manager, along with special conditions as described below:

- a) An all-weather, dust free, vehicular access driveway is to be provided to the dwelling that extends from the sealed edge of the public road to the carparking spaces on the site. The access shall not exceed a grade of 25% and is to be sealed for any section that exceeds 12% gradient. Details are to be included in the plans to be issued with the Construction Certificate.
- b) Electricity and telecommunications connection to the dwelling is to be via underground services from the respective local authority connection point to the dwelling.
- c) All external timber doors are to be solid core doors with a minimum thickness of 40mm thick and be fitted with acoustic seals. Details are to be included in the plans to be issued with the Construction Certificate.
- d) Glazing to all bedroom windows is to be laminated glass with a minimum thickness of 6mm and be fitted with acoustic seals. Details are to be included in the plans to be issued with the Construction Certificate.
- e) All internal living areas are to be provided with reverse cycle air conditioning. Details are to be included in the plans to be issued with the Construction Certificate. The inclusion of the air conditioning system is to be in accordance with the energy efficiency provisions of BASIX.

**Attachment(s)**

- 1. Locality Plan
- 2. Submission - H Atkinson
- 3. Properties within 1,000m of south west corner of quarry
- 4. EPA Licence Variation

#### **8.4 DA 2014/416 - 998 River Drive, Keith Hall**

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#### **8.4 DA 2014/416 - 998 River Drive, Keith Hall**

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<b>Applicant</b>	M T Burt
<b>Property</b>	Lot 2 DP 588004, No. 998 River Drive, Keith Hall
<b>Proposal</b>	Construction of a rural farmshed on flood prone land
<b>Effect of Planning Instrument</b>	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

#### **Introduction**

Council is in receipt of a Development Application to construct a 9.2m x 9.0m farmshed on the above 1.02Ha rural property. An approved dwelling and swimming pool exists on the land.

Under Council's Development Control Plan (DCP) 2012, the property is affected by flooding, therefore the construction of the shed requires development consent from Council, with minimum fill and floor height levels applying. In relation to flooding, the Council levels are set to Australian Height datum (AHD).

The applicant is seeking approval to construct the shed at existing ground level of 1.8m AHD with a slab/floor level of 1.9m AHD, being 600mm below the required minimum fill levels of 2.4m AHD and floor level of 2.5m AHD under the DCP.

#### **Reportable Political Donations**

- Nil

#### **Public Exhibition**

In accordance with Council's notification policy there was no need to notify adjoining or nearby property owners of the proposed development.

#### **Applicable Planning Instruments**

The property is zoned RU1 Primary Production under the Ballina Local Environmental Plan (BLEP) 2012 with the proposed farmshed permissible with consent.

The objectives of Zone RU 1 are as follows:

- a. *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base,*

- b. To encourage diversity in primary industry enterprises and systems appropriate for the area,*
- c. To minimise the fragmentation and alienation of resource lands,*
- d. To minimise conflict between land uses within this zone and land uses within adjoining zones,*
- e. To maintain the rural, cultural and landscape character of the locality,*
- f. To enable development that is compatible with the rural and environmental nature of the land,*
- g. To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

The proposed development satisfies the above objectives.

As the proposed shed is being located on a flood plain, the application is required to be assessed in consideration of the requirements of Chapter 2b – Floodplain Management under DCP 2012, including Flood Planning Maps 2a & 2b.

The planning objectives of Chapter 2b of the DCP are to:

- a. Provide a holistic approach to managing development on the floodplain;*
- b. Minimise the impact of flooding on individual owners and occupiers of land;*
- c. Encourage the development and use of land in a manner compatible with the likely flood hazard;*
- d. Maintain the function of flood mitigation measures;*
- e. Minimise the extent to which emergency vehicles and public infrastructure need to be relied upon in terms of evacuation or other flood responses; and*
- f. To consider the future projected impacts of sea level rise on the floodplain.*

In general terms, the proposed development meets the above objectives, however not to the extent that would be achieved by raising the floor level to the minimum required height.

### **Report**

The proposed development is for the construction of a metal framed and clad 9.2m x 9.0m farmshed, having an overall height of 5.25m.

To satisfy the requirements of Chapter 2b of the DCP, the shed is required to be constructed upon a soil fill pad of minimum height 2.4m AHD with a slab floor level 100mm above this level being 2.5m AHD. The applicant is seeking approval to construct the building at the existing ground level which is 1.8m AHD, resulting in a finished slab height of 1.9m AHD, being 600mm below the minimum requirements.

The applicant has provided the following reasons for seeking the exemption:

- *This is a non-habitable farmshed with no plumbing, housing tractors and related equipment and a workshop. The owners and Council have no incremental risk exposure should the variation be approved;*
- *The building is exclusively constructed of either galvanised or Colorbond steel fixed to a concrete pad, a building well capable of withstanding a flood impact of a 1 in 50 year frequency (engineer's report available if required);*
- *Building access will be compromised and the proposed height requirement will introduce safety issues for accessing the elevated structure from the existing ground level;*
- *All electrical outlets will be placed a minimum of 150cm above the minimum specified floor level;*
- *All small equipment will be stored in racking above the minimum height;*
- *The plan provides for a small loft area for storage 200cm above the minimum floor height;*
- *Construction on the existing hardstand without extensive fill will provide a superior foundation;*
- *The proposed farmshed meets all applicable ABCB standards;*
- *The development will not impede potential flood waters or increase any flood risk factors;*
- *Given the requirement for fill to extend well beyond the structure footprint this will alienate some land from planned horticultural activity and impact on water bird breeding habitat;*
- *It will cost significantly more to erect the building; and*
- *There will be a loss of amenity and a negative visual impact from having this building significantly higher than surrounding buildings.*

The application has been referred to Council's Civil Services Group for consideration with the following comments provided:

- *Council commenced computer aided flood modelling of the lower Richmond catchment in the late 1990's to comply with the NSW State Government's Flood Prone Land Policy.*

- *Since 1997 a minimum fill and floor level for rural farm sheds of 1:50 year ARI flood height has been consistently applied.*
- *There is no reason to change the application of the existing long standing policy.*

*(Note: A Climate change component was added in 2010 which now forms Council Policy. This makes the flood policy planning level at this property 2.4m AHD, and previously without climate change 2.0m AHD.*

As stated above, the applicant is seeking a 600mm concession to the minimum floor height requirement. Although the applicant has advised they are prepared to implement certain measures to safeguard against the damage of flood inundation, it is considered compliance with the minimum floor level is not onerous and can be readily achieved. It is further considered that on a merit basis, the request for the variation cannot be justified. Issues of equity also need to be considered in that the Council has consistently applied the fill and floor levels to new buildings.

In accordance with the National Construction Code Building Code of Australia (BCA), the shed is classified as a non-habitable class 10(a) building. Any approved Development Consent will also be conditioned to require the building to be constructed in accordance with the BCA, including certification on the structural adequacy of the building to withstand velocity flows from flood water, prior to the issue of a Construction Certificate.

### **Conclusion**

The requirement for the filling of land and construction of new buildings to minimum floor levels has been a long standing policy of the Council. The building can be readily constructed at the required levels and there appears no justification in granting any concessions to the requirements. Council also needs to be consistent in its approach to these requests due to issues of equity.

There are instances in the Shire where some rural areas require significant filling to meet the requirements of Council, often in the vicinity of 1,500-1,800mm of fill material. These heights do question the viability of the development of the land, particularly for non-habitable structures or where extensive filling is required to accommodate a dwelling.

Should Council choose to vary its requirements, it should be done at policy level and not randomly at Development Application level.

Council's Civil Services Group has recommended the long standing policy, implemented in 1997, not be varied in this instance.

The following **options** are available to Council:

1. Approve Development Application No. 2014/416 as submitted, subject to conditions being applied that will ensure the building is capable of withstanding the flood velocity flows, and requiring all electrical outlets and storage areas to be constructed a minimum of 300mm above the required minimum flood height of 2.5m AHD. This option is not recommended for the reasons outlined in this report.

2. Refuse Development Application No 2014/416 on the grounds the proposal does not satisfy the provisions of the Ballina Shire Council DCP 2012, Chapter 2b in respect to construction on flood prone land.
3. Defer determination of the application and advise the applicant that the Council does not support any proposal to vary the Flood Plain Management policy in this case for the reasons outlined in this report, and afford him the opportunity to submit amended plans proposing compliance with the requirements of Chapter 2b of DCP 2012. Should amended plans not be received within a reasonable time that the application then be refused without further notice.

Option three is the preferred approach as it provides the applicant an opportunity to amend the application.

### **RECOMMENDATIONS**

1. That Council defer the determination of the subject application (DA2014/416) and the applicant be advised that Council does not support any proposal to vary the Flood Plain Management policy in this instance for the reasons that the site can be reasonably filled to meet the DCP standards and the policy has been consistently applied for a substantial time.
2. The applicant is offered the opportunity to submit amended plans proposing compliance with the requirements of Chapter 2b of DCP 2012., however if amended plans are not proposed within 21 days, the General Manager is authorised to refuse the application for the reasons outlined in point one above.

### **Attachment(s)**

1. Locality plan
2. Site plan
3. Applicant's variation request
4. Response memo from Civil Services

## 8.5 Development Applications - Works in Progress - November 2014

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### 8.5 Development Applications - Works in Progress - November 2014

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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 <sup>2</sup> to 773m <sup>2</sup> , 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	On Exhibition (Amended Proposal)

**8.5 Development Applications - Works in Progress - November 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			and associated earthworks, access driveway, services, tree removal and car parking. The development is to be undertaken in a staged manner. The Amended Proposal also includes the construction of a roundabout at the intersection of Teven Road, Ballina Road and the development site – 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
2014/286	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,	Awaiting Additional Information



**8.5 Development Applications - Works in Progress - November 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2014/307	27/06/2014	Ardill Payne & Partners	Cumalum 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 worship and erection of new awning – 12 De Havilland Crescent, Ballina	Awaiting Additional Information
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	Being Assessed
2014/360	22/07/2014	Newton Denny Chapelle	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	Determination Pending

**8.5 Development Applications - Works in Progress - November 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			the construction of junior classrooms – 62 Horizon Drive, West Ballina	
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 45m High Lattice Tower and Ancillary Equipment – 11 Dees Lane, Lynwood	Referred to Government Departments
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	Referred to Government Departments
2014/448	08/09/2014	R Pidcock	Erection of a Building	Determination Pending

**8.5 Development Applications - Works in Progress - November 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			Containing Two Industrial Units - 11 Cessna Crescent, Ballina	
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	Determination Pending
2014/508	08/10/2014	Richard Lutze & Associates	Erection of Storage Shed and additional Knight Statue (fronting the new Pacific Highway) associated with an ancillary to an existing Tourist Facility (The Macadamia Castle) - 1697-1699 Pacific Highway, Knockrow	Awaiting Additional Information
2014/512	08/10/2014	Northern Rivers Dirty Wheels Mountain Bike Club Inc	To establish a mountain bike facility and associated works – Lot 12 DP 814359, Bruxner Highway, Alstonville	Being Assessed
2014/515	10/10/2014	Ardill Payne & Partners	Two Lot Rural Subdivision by way of a Boundary Adjustment to Create 1 x 40ha allotment and 1 x 3.7ha allotment - Pacific Highway & 2018 Pacific Highway,	Awaiting Additional Information

**8.5 Development Applications - Works in Progress - November 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2014/518	13/10/2014	Newton Denny Chapelle	Newrybar Change of Use to a Recreation Facility (Indoor) - 24 Hour Gymnasium - 5/90-92 Ballina Street, Lennox Head	Being Assessed
2014/525	15/10/2014	Ardill Payne & Partners	Additions to a Rural Industry and Offensive and Hazardous Industry Comprising Metal Fabrication and Abrasive Blasting - 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2014/530	20/10/2014	James Lovell & Associates P/L	Erection of business identification signage associated with Boating Camping Fishing (BCF) retail outlet – 86 Tamar Street, Ballina	Determination Pending
2014/543	23/10/2014	A Rich	Vegetation Management Works Comprising the Removal of 22 Trees - 543 The Coast Road, Lennox Head	Being Assessed
2014/550	27/10/2014	SG Fitzpatrick	To Erect a Holiday Cabin - 188 Old Byron Bay Road, Newrybar	Awaiting Additional Information
2014/553	27/10/2014	M Mittag	Strata Title Subdivision of Building - 12 Shelly Beach Road, East Ballina	Awaiting Additional Information
2014/557	29/10/2014	Mr A J Felsch	Strata Title Subdivision of	Referred to Government

## 8.5 Development Applications - Works in Progress - November 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			an Existing Dual Occupancy - 43 Bayview Drive, East Ballina	Departments
2014/564	31/10/2014	P Sternberg	To use an existing building for tourist and visitor accommodation - 10 Martins Lane, Knockrow	Awaiting Additional Information
2014/577	6/11/2014	Peter Turner & Associates	Alterations and Additions to an Existing Industrial Building - 4/5 Southern Cross Drive, Ballina	Being Assessed

### 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 November 2014.

**Attachment(s)**

Nil

## 8.6 Development Consent Statistics - October 2014

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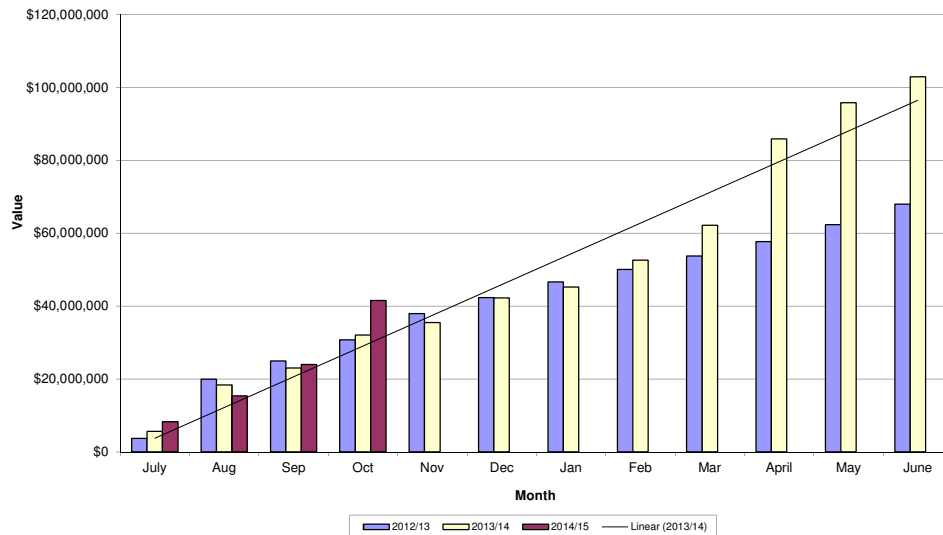
### 8.6 Development Consent Statistics - October 2014

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During the period of 1 October 2014 to 31 October 2014 the Development and Environmental Health Group issued Development Consent comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
30 Other Building Related	\$ 1,374,500
27 Dwelling/Duplexes/Residential Flat Buildings	\$ 16,241,000
6 General Developments	\$ 10,000
<b>Total Value</b>	<b>\$ 17,625,500</b>

The following chart details the cumulative consent figures for 2014/15 as compared to 2012/13 and 2013/14. A trend line has also been provided for 2014/15 to assist in the comparison.



### RECOMMENDATION

That Council notes the contents of the report on development consent statistics for 1 October 2014 to 31 October 2014.

### Attachment(s)

Nil

## **9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions**

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### **9. Strategic and Community Facilities Group Reports**

#### **9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions**

**Delivery Program** Strategic Planning

**Objective** To present for the Council's consideration a draft development control plan and draft developer contributions plan relating to Cumbalum Precinct A. Further, to invite the Council to consider authorising the draft documents for public exhibition.

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#### **Background**

Council has been working for some time now to establish a Section 94 developer contributions plan and site-specific development control plan provisions for the Cumbalum Precinct A area. This work is being undertaken following the NSW Minister for Planning's decision in May this year to rezone the land comprising Precinct A for urban development.

The preparation of the s.94 and DCP material has been the subject of substantial discussion between Council and the development proponents, with these discussions recently culminating in a Councillor site inspection and associated briefing in October.

Fundamentally, the material has not yet progressed to public exhibition because of points of difference between Council and the proponents concerning the content of the draft plans. Many of these differences have now been resolved and the attached draft plans have been prepared to reflect this. However, it is likely that the proponent will not agree with the approach proposed in relation to the district open space and bushland park and suggested Tamarind Drive works, as discussed below in the report. The reasons for the approach proposed in relation to these issues and other key matters are outlined in the report.

Although points of difference remain, staff recommend the progression of the draft s.94 plan and DCP provisions to public exhibition on the basis of the rationale provided in the report.

The Council and the State Government have each previously identified the Cumbalum Urban Release Area (CURA) as an important location for the accommodation of a large proportion of Ballina Shire's projected resident population. Council and key landowners within the CURA have diligently applied financial and other resources over many years as part of a commitment toward delivering sustainable and affordable urban development opportunities, whilst also recognizing and protecting, as far as practicable, the environmental features of this locality.



## 9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions

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Precinct A of the CURA was the subject of a rezoning (planning proposal) process that concluded in May 2014, involving the rezoning of a large proportion of the subject land to enable future residential development. In the finalisation of the rezoning, the Environmental & Sustainability Committee of the Council considered a report at its meeting held on 7 August 2013. The recommendations of the Committee were endorsed by the Council at its Ordinary Meeting held on 22 August 2013 [Minute No. 220813/32]. Therefore the Council has resolved as follows in relation to the matter:

1. *That the Council endorses the Cumbalum Precinct A Planning Proposal.*
2. *That, subject to the landholders agreeing to a deed of agreement (or similar mechanism) identifying that development applications will not be lodged until a development control plan and developer contributions plans are in place or six months has elapsed after the land is rezoned (i.e. following Minister's approval), Council refer the Precinct A Planning Proposal to the Department of Planning and Infrastructure to be finalised.*
3. *That Council amend the relevant developer contributions plans to provide for collection of contributions towards Precinct A playing fields and community facilities, including consideration of provision for access and parking.*
4. *That Council commence the preparation of a development control plan for Cumbalum Precinct A that addresses those matters set out in clause 6.3 of the Ballina Local Environmental Plan 2012.*
5. *That Council advise the proponents that further consideration of land identified as being noise affected and unsuitable for residential zoning is subject to the lodgement of a separate planning proposal.*
6. *That Council advise the proponents that matters relating to small lot rural residential development will be considered separately by the Council, in due course.*
7. *That Council as part of the preparation of the Section 94 plan review the apportionment of the Ross Lane and Cumbalum interchange costs between CURA A and CURA B.*

In accordance with the above resolution, the relevant landholders within Precinct A provided a signed Deed of Agreement to the Council which obligated them to not lodge a development application for the land until 6 months after the making of the amending Local Environmental Plan (the rezoning).

A draft development control plan (sub-chapter) and draft developer contributions plan were prepared by staff in response to the resolution. These draft plans were presented to the Council through its Environmental & Sustainability Committee at its meeting held on 21 August 2014. In considering this matter, the Council subsequently resolved as follows [Minute No. 280814/33]

*That Council confirms the Minutes of the Environmental & Sustainability Committee meeting held 21 August 2014 and that Council accept the proposal from Planners North to defer this matter for a further briefing with the proponents, subject to the extension period being extended to a period of four months.*

The Precinct A landholders provided an extension to the Deed of Agreement for a further four months (now lapsing in Feb 2015), as required by the Council's resolution.

## **9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions**

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Planners North (on behalf of the proponents) provided a further proposal for the content of Council's draft plans (centered on the s.94 plan) for consideration, which was reviewed by Council staff. Council staff also met with Planners North representatives on two separate occasions to discuss the proposal. A Councillor briefing and site visit were held on 14 October 2014, with the involvement of the development proponents.

In summary, the approach presented by the proponents involved the following:

- The dedication of land for works delivered through the s.94 plan, separate to the s.94 plan. That is to say, the proponents are suggesting that they would offer to gift to Council the land required for works/infrastructure through a future development application process, rather than having it included in the s.94 plan;
- The inclusion of a 'Bushland Park' as a component of the planned district park infrastructure;
- Removal of the planned direct north-south road that would link Precinct A with Precinct B;
- The inclusion of a Precinct B bypass road. The proponents proposed to offer to dedicate land for this bypass, however funds toward its construction were not identified;
- The inclusion of the extension of Ballina Heights Drive to Sandy Flat Road in the s.94 plan (part funded - \$1.5 million unfunded);
- The inclusion of intersection upgrade works to the Tamarind Drive roundabout in the s.94 plan, for the purposes of improving intersection safety;
- Reduced extent of site preparation works to the district park/s; and
- Reduced assumed population yield.

The proponents' proposal also included an offer to 'bring forward' a number of playing courts and suggested these be located on land within the Ballina Heights Estate recreation area. Such an arrangement can already be accommodated within the context of the s.94 plan, with the developer receiving a 'credit' for those works against the plan, if considered acceptable by the Council. Consequently, a detailed response to this aspect of the proponents' proposal is not provided as part of this report.

A detailed assessment of the Precinct A proponents' proposal, undertaken by Council staff, is provided in Attachment 1 to this report.

### **Key Issues**

- Infrastructure Delivery & Funding
- Development Control
- Open Space
- Road Network

### Information

The fundamental elements of the developers' proposal, to amend the draft s.94 plan and DCP for Precinct A, include the following:

1. Removal of north-south link road with Precinct B;
2. Provision of an upgrade for Sandy Flat Road, funded through the s.94 plan;
3. The inclusion of upgrade works to the Tamarind Drive intersection with Ballina Heights Drive, funded through the s.94 plan; and
4. Provision of a 'Bushland Park' as partial satisfaction of district open space needs for Precinct A.

Council staff has reviewed the proponents' proposal and provide the following comments, with particular reference to the above.

The locations of the key elements discussed are illustrated on the plan provided in Attachment 2.

#### *Provision of North-South Link Road*

The provision of a future link road between Precinct A and Precinct B has been a fundamental element of Council's planning for the Cumbalum Urban Release Area. Planning issues associated with the north-south link road were considered in detail in the Council report, relating to the Precinct A Planning Proposal, presented to the Environmental & Sustainability Committee meeting held on 7 August 2013. The retention of a future practical north-south link road is considered to be of critical importance to the future planning for the locality and the convenience of incoming residents.

The proponents had sought to replace the direct north-south link road with a Precinct B bypass road to encourage south-bound traffic from Precinct B to travel via Sandy Flat Road and be diverted to Tamarind Drive, rather than through Precinct A. However, beyond the proposed dedication of a road corridor, no funding mechanism was identified by the Precinct A proponents for the bypass road. The estimated cost for the construction of the bypass road is in the order of \$5.3 million (as estimated by Ardill Payne and Partners in correspondence to Council dated July 2013).

The proponents had also sought to deliver, as an alternative item in the s.94 plan, the extension of Ballina Heights Drive from the centre of Precinct A to Sandy Flat Road. It is noted however that less than 50% of the cost of this alternative s.94 item could be funded via the plan (due to the current contributions cap), resulting in a shortfall of \$1.6M in the projected cost of construction. Council has previously considered this internal road to be the responsibility of the developer to construct, on a staged basis in association with future subdivision works.

Having regard for the above, it is recommended that provision for the north-south link road be retained, and that no provision be made for the Precinct B bypass road or extension of Ballina Heights Drive, in the context of the Precinct A s.94 plan.

## 9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions

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One of the reasons the proponents have given for their preference to remove the direct north-south road link is the impact of high traffic volumes on the spine road through Precinct A. More specifically, substantial through traffic could impact in relation to road design and the need for noise barriers (ie roads and associated infrastructure may need to be larger or have greater capacity, and therefore will be more costly to build and maintain). To address this issue, as an alternative to removing the north-south link, a future design solution could be applied to give priority to Sandy Flat Road for through traffic.

Following discussions with the proponents, and the Councillor Workshop, it is understood that the developers are now willing to accept that the need for a Precinct B bypass may be obviated by careful design of future alignment and intersection arrangements for Sandy Flat Road, Ballina Heights Drive and north-south link road. Consequently, provisions relating to road design, with the intent of discouraging through traffic from Precinct B to Precinct A and vice versa, have been included in the draft development controls for Precinct A.

### *Upgrade of Sandy Flat Road*

Sandy Flat Road, between the future intersection with Ballina Heights Drive and Tamarind Drive (approximately length of 1.3km) will form a key component of the future access to/from both Precinct A and Precinct B, albeit that it is not expected to be required for several years, dependent upon the rate of development.

It has been previously noted that the future upgrade of Sandy Flat Road could reasonably be made a condition of development consent in association with the future development of Precinct A. Notwithstanding, Council acknowledges the potential difficulties associated with the delivery of this road upgrade, due to the staging of the development and mixed land ownership.

It is noted however that including the likely cost of the upgrade (expected to be several million dollars) into the Precinct A s.94 plan would exceed the capacity of the Precinct A s.94 plan due to the current State Government cap on development contributions. As a consequence, staff recommend the consideration of including the upgrade of Sandy Flat Road into the shire-wide s.94 roads plan, a review of which is currently underway by Council's Civil Services Group.

### *Tamarind Drive Intersection*

The developers have proposed the inclusion of works to the Tamarind Drive intersection with Ballina Heights Drive, into the Precinct A s.94 plan, for the purpose of improving the safety and function of the intersection. With respect to safety, the Civil Services Group is yet to assess whether the proposed safety upgrade works will be required.

It is noted that s.94 of the *Environmental Planning & Assessment Act 1979* allows the collection of contributions where it can be reasonably anticipated that the development will give rise to additional demands on public infrastructure or amenities. It is questionable as to the extent to which Section 94 contributions can be used to rectify safety or design issues that potentially already exist. It is possible though to levy contributions (in full or on a proportional basis) where infrastructure capacity needs to be augmented, to accommodate additional demand created by development.

## 9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions

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It is noted that should the intersection require upgrading as a consequence of the additional demand generated by the future development of Ballina Heights and/or Precinct A, then it is possible that these works could be made a condition of development consent.

In any case, the identification of other priority infrastructure in the Precinct A s.94 plan and the imposition, by the State Government, of the cap on the maximum contribution amount that can be collected (\$30,000 per dwelling) means there is insufficient capacity to include additional items in the Precinct A s.94 plan unless other works are removed or values (such as the contingency) are reduced.

Having regard for the above, it is recommended that the additional works proposed by the proponents to the Tamarind Drive intersection not be included in the Precinct A s.94 plan.

### *District Parks*

Council's open space standards require the provision of approximately 10,000m<sup>2</sup> of district open space/parks as a part of the development of Precinct A. Further, the standards require the provision of one community hall, comprising an area of 250m<sup>2</sup>, with an auditorium of approximately 170m<sup>2</sup>, occupying a site of 1,000m<sup>2</sup>.

The urban design analysis undertaken to support the preparation of the DCP recommended taking advantage of the elevated part of the site, adjacent to the water reservoir, as a central district park, benefitting from long range views to the east and the west.

Notwithstanding the above, the developers propose to provide for district parks through the s.94 plan as per the following:

- 1 central district park comprising a 6,000m<sup>2</sup> site, which is also proposed to include the community hall; and
- 1 'Bushland Park' comprising 16,500m<sup>2</sup> site.

The proposed bushland park, although large in area, does not comprise much practical, usable open space commensurate with the types of areas that function as district parks in Ballina Shire (e.g. Pop Denison Park). In this regard, 42% (6,930m<sup>2</sup>) of the proposed park has a slope over 30 per cent, 54% (8,910m<sup>2</sup>) of the site has a slope between 20 and 30 per cent and only 4% (660m<sup>2</sup>) of the proposed park area has a slope of less than 20 per cent. As a consequence, it is recommended that the proposed "Bushland Park" not comprise a component of district open space, for the purpose of the Precinct A contributions plan or development control plan.

The preferred approach to the provision of district parks for Precinct A is as per the following:

- 1 central district park comprising a minimum of 10,000m<sup>2</sup>; and
- 1 community hall occupying a (separate) minimum site of 1,000m<sup>2</sup>.

## 9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions

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It is suggested that the above provides a balanced and reasonable approach to the allocation of publicly accessible district park facilities within Precinct A, and provides clarity with respect to Council's expectations associated with the future delivery of that infrastructure. Under this approach the developer is not precluded from offering the bushland area as public open space additional to that planned for under the s.94 plan and development control plan for Precinct A. However, if such an offer was made, Council would be urged to evaluate that very carefully, as the future maintenance burden for the community could be substantial.

The Precinct A DCP requires the direct provision of local parks in association with the subdivision of the land, in a manner such that all residential areas are located within a 400m radius of a local (or district) park, which has been adopted as a reasonable and convenient walking distance.

### *Development Contributions Summary*

Council is forced to prioritise the infrastructure to be included in its s.94 plan for Precinct A, due to the State Government development contributions cap. Consequently, the determination of which infrastructure items are to be included in the contributions plan has been considered on the following basis:

- The strategic importance of the infrastructure to the development of the release area as a whole, including the benefits and convenience to be delivered to incoming residents; and
- Whether land ownership arrangements mean no single developer can reasonably be made to provide the infrastructure directly.

Having regard for the above, a draft contributions plan has been prepared on the basis of the recommendations contained in this report, provided as Attachment 3.

The existing contribution (s.94) rate for development within Precinct A is \$16,299 per dwelling, under existing plans (relating to roads and regional open space & community facilities). The additional contributions which would be made payable, under the draft Precinct A Contributions Plan (Attachment 2) is \$13,062 per dwelling, giving a total contribution rate for development in Precinct A of \$29,361 per dwelling (being below the \$30,000 development contributions cap). It is acknowledged, however, that due to the indexation of contribution rates, it is anticipated that the \$30,000 per lot development contribution cap is likely to be reached following the first annual review (and indexation) of Council's fees and charges schedule.

It should also be borne in mind that this amount collected under the s.94 plans is not the total of contributions and charges payable by developers, with these also including s.64 charges for water and sewerage, as well as charges payable to Rous Water. These other combined amounts are not required to "fit" under the Government-imposed cap.

### *Draft Development Control Plan Provisions (DCP Amendment No.4)*

The introduction of locality-specific development guidelines for Precinct A comprise the following:

## 9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions

- The inclusion of precinct-specific subdivision controls provided in Part 5 of Chapter 3 - Urban Subdivision. This material includes a number of maps, relating to structure, staging, mobility, landscaping and open space matters. The draft written provisions and site specific mapping, for inclusion as Section 5.6, are provided as Attachment 4 to this report (under separate cover).
- The inclusion of precinct references and general map amendments as outlined in the following table. The proposed general map amendments are provided as Attachment 4 to this report.

The precinct-specific subdivision provisions address key issues including subdivision layout and composition, infrastructure provision, open space and community facilities, child care facilities, landscaping and environmental attributes.

The draft development control plan provisions constitute Amendment No.4 to the Ballina Shire Development Control Plan 2012.

**Table 1: Amendments to the general provisions of the Ballina Shire DCP 2012 (Amendment No.4)**

DCP Part / Section	Proposed Amendment
<i>Map Amendments:</i>	
Special Area Controls Map - Subdivision	Identifies land to which precinct-specific controls apply. Triggers the need to consider proposed section 5.6 of the DCP (see Attachment 4 to this report).
Natural Areas & Habitat Map	Identifies land proposed (in the Precinct A Planning Proposal) to be zoned E2 and E3 within the precinct (with a 50m buffer). Identification on this map triggers the need for compliance with Section 3.3 of the DCP relating to the protection and enhancement of ecologically significant areas.  Note: The E zones were deferred from the LEP amendment due to the State Government's E zone review. However, this amendment to the DCP, and the associated application of environmental provisions to parts of the release area, can be undertaken regardless of the E zone review.

The draft development control provisions that are the subject of this report focus on subdivision matters. The need for further site specific built-form development guidelines may emerge over time as further consideration is given to the desired built form.

## **9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions**

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Under the proposed approach, the relevant existing provisions of the Ballina DCP 2012 for construction of dwelling houses and other residential structures will apply (that is, special controls for housing separate to those already in place are not recommended at this time). Should the need for further site-specific built form controls (or design guidelines) emerge, these will be the subject of further deliberation by the Council, involving further amendment to the DCP. These would be considered in consultation with future developers of the land.

As indicated above, the DCP provisions have been amended since Council's previous consideration of the matter to incorporate a single district park space, to add an additional local park (given the removal of the bushland park) and make provision for measures to discourage through traffic from Precinct B. There have also been a number of other minor amendments made to the draft DCP as it has been refined.

### *Deed of Agreement Restriction on DA Lodgement*

As mentioned earlier in this report, during the finalisation of the Cumbalum Precinct A Planning Proposal, Council negotiated a deed of agreement with the Precinct A proponents that obliged the landholders to not lodge a development application prior to the adoption of a s.94 plan or until six months had elapsed from the commencement of the rezoning. Further, as outlined above, the Precinct A landholders have provided an extension to the Deed of Agreement for a further four months as required by the Council's previous resolution relating to this matter.

The purpose of the deed of agreement was to provide Council with sufficient opportunity to prepare, publicly exhibit and adopt a s94 plan and development control plan prior to the lodgement of development applications for subdivision works within Precinct A.

Consequently, the timeframe for the conclusion of the DCP and s.94 plan preparation process is for adoption to occur prior to 23 March 2015. In order for this timeframe to be met, including the public exhibition of the documentation, unnecessary delays in the consideration of this matter should be avoided.

The potential consequence of not completing the s.94 plan by 23 March 2015, is that Council would not be able to collect the required contributions commensurate with the planned facilities if a development application for subdivision is lodged (until the plan is in place).

### **Sustainability Considerations**

- **Environment**

The draft development guidelines include requirements that environmental protection matters be considered in relation to the determination of development applications for the subdivision of the land.



## 9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions

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- **Social**

The draft development guidelines include provisions relating to ensuring that the social infrastructure needs of future residents (including playing fields, open space and community facilities) are provided in association with the development of the land.

- **Economic**

The facilitation of additional residential development land will support the economic development of Ballina Shire, directly through employment associated with subdivision works and house construction; and indirectly through the provision of housing, which will add to aggregate demand within the local and regional economy.

### **Legal / Resource / Financial Implications**

The public exhibition and reporting of the draft development controls and the s.94 plan can be accommodated within existing resources.

Council is required to exhibit the draft DCP and Contributions Plan for a minimum period of 28 days, in accordance with the terms of the *Environmental Planning and Assessment Act 1979* and associated regulation.

There are financial implications from the s.94 contributions plan, with Council having the responsibility to deliver any works included in the plan.

### **Consultation**

Due to the approaching Christmas period, this report proposes that the draft development controls and the draft s.94 plan that are the subject of this report be publicly exhibited for a minimum of 6 weeks, in accordance with the requirements of *the Environmental Planning and Assessment Act 1979*. The draft DCP provisions have been prepared in consultation with the development proponents in the precinct.

### **Options**

1. That Council endorses the Cumbalum Urban Release Area (CURA) Precinct A draft s.94 developer contribution plan and draft DCP provisions, the subject of this report, for public exhibition purposes.

Should the Council support this option, the draft s.94 plan and DCP provisions will be publicly exhibited. The DCP amendments will constitute Amendment No.4 to the Ballina Shire DCP 2012.

Following public exhibition, the matter will be reported back to the elected Council for further deliberation.

Due to the history and planning context relating to this matter and the timeframe associated with the deed of agreement (referenced above), this option is recommended.

2. That Council hold a workshop to further discuss the matters outlined in this report.

## **9.1 Cumbalum Precinct A - Contributions Plan and DCP Provisions**

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The development of Cumbalum Precinct A has been the subject of detailed and lengthy deliberations by the Council, to date. Further, the timeframe relating to the deed of agreement restricting the lodgement of a development application is limited. Council also held a workshop on this matter, at the proponents' request, on 7 July 2014. Further, Councillors attended a site visit with the proponents on 14 October 2014. Consequently, an additional workshop in advance of the commencement of exhibition of the draft DCP amendments is not recommended.

Alternatively, Councillors may wish to convene a further workshop during or immediately following the exhibition period.

3. Cease further work on the s.94 plan and DCP provisions.

Given that Cumbalum Precinct A is zoned to enable urban development, it is prudent to ensure that suitable local planning provisions to guide development and character outcomes are in place. Further, it is also considered prudent to ensure that appropriate arrangements for the levying of development contributions associated with the delivery of infrastructure are in place, prior to Council receiving development applications for the subdivision of the land. Therefore, this option is not recommended.

### **RECOMMENDATIONS**

1. That the draft s.94 developer contributions plan for CURA Precinct A, as attached, be placed on public exhibition, in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.
2. That the draft development control plan amendment for "Cumbalum Views" (DCP Amendment No.4), as attached, be placed on public exhibition, in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.
3. That Council receive a further report addressing the exhibition and submissions received following the conclusion of the public exhibition period.
4. That Council consider the inclusion of an upgrade of Sandy Flat Road in the review of the Shire Wide Section 94 Roads Contribution Plan.

### **Attachment(s)**

1. Assessment of Proponents' Alternative Approaches
2. CURA Precinct A s94 Plan and DCP - Location of Key Items
3. CURA Precinct A Section 94 Plan (draft) (Under separate cover)
4. CURA Precinct A DCP Provisions (draft)

## 9.2 Planning Proposal - Rifle Range Road and Plateau Drive

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### 9.2 Planning Proposal - Rifle Range Road and Plateau Drive

**Delivery Program** Strategic Planning

**Objective** To present options for Council with respect to the progression of planning proposal 14/006. This proposal involves the realignment of the RE1 Public Recreation and R3 Medium Density Residential Zone boundaries, and zoning of land for road widening purposes, under the terms of the Ballina Local Environmental Plan 2012. The proposal applies to land described as Lots 5 and 6 DP 1161720, Rifle Range Road Wollongbar.

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#### **Background**

Council has acquired 13.85 hectares of land at Wollongbar which is currently being developed to provide major sporting fields and associated recreational facilities. The purchase and development of this land has provided an opportunity to reconsider the quantum of land provided on Lots 5 and 6 DP 1161720 (Lots 5 and 6) corner of Rifle Range Road and Plateau Drive, Wollongbar, zoned for public recreation purposes.

A planning proposal was prepared which provided for the reconfiguration of the boundaries of the RE1 Public Recreation and R3 Medium Density Residential zones as they affect Lots 5 and 6. The area of public recreation zoned land is proposed to be reduced from 1.81 hectares to approximately 1 hectare. An area of road widening affecting Lot 6 is also proposed to be rezoned from RE1 Public Recreation to R2 Low Density Residential, so as to correct a potential zoning anomaly.

The planning proposal also incorporates changes to the Lot Size Map to ensure consistency with adjoining similarly zoned lots.

The feasibility of locating a skate park within the reconfigured public recreation zoned land has also been investigated in association with this planning proposal. A skate park located within the public recreation zoned land contained within Lots 5 and 6 was initially proposed in 2008.

The Council considered the subject planning proposal at its Ordinary Meeting held on 26 June 2014, resolving [Minute 260614/23] as follows:

1. *That the Council submit the planning proposal (Attachment Two) addressing the following changes to the Ballina Local Environmental Plan 2012 to the Department of Planning and Environment for review and Gateway determination:*
  - *Reconfiguration of the boundaries of the RE1 – Public Recreation and R3 – Medium Density Residential zones, as they affect Lots 5 and 6 DP 1161720, Rifle Range Road and Plateau Drive, Wollongbar, and*
  - *Rezoning of the road widening affecting Lot 6 DP 1161720 to R2 Low Density Residential.*

## **9.2 Planning Proposal - Rifle Range Road and Plateau Drive**

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2. *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.*
3. *That the feasibility of siting a skate park within the proposed public recreation land within Lots 5 and 6 be further investigated, as well as in the Wollongbar sporting fields, through a requirement for the preparation of a preliminary design concept plan and an acoustic impact evaluation, if necessary.*
4. *That following completion of the skate park feasibility investigation as part of the planning proposal, and prior to public exhibition of the planning proposal, a Councillor briefing be held.*
5. *That a further report be presented to the Council in relation to the planning proposal following mandatory community consultation.*

The NSW Department of Planning and Environment (DoP&E) issued Gateway determination on 9 July 2014. The Gateway determination specified a minimum 14 day public exhibition period and required that the LEP be completed within a 6 month timeframe. Consultation with public authorities was not required.

A Councillor briefing was held on 10 September 2014 to consider the feasibility of a skate park forming part of future recreation facilities proposed on the RE1 zoned land within Lots 5 and 6. The briefing also considered the findings of a Noise Impact Assessment into the skate park concept. The outcome of the briefing was the retention of the skate park concept on the site for the purposes of the public exhibition of the planning proposal.

The planning proposal was exhibited for more than the mandatory period from 24 September 2014 until 24 October 2014. Documents that formed a part of the exhibition material included the Noise Impact Assessment Report. In total, six submissions have been received. One submission raised objection to the proposed reduction in public recreation zoned land whereas the remaining five submissions raised various objections and concerns relating to the skate park proposal.

The purpose of this report is to provide Council with options for progressing the subject planning proposal. This report does not specifically further consider the merits or otherwise of a skate park being located within the proposed RE1 zoned land as the progress of the planning proposal is not dependent on a decision about the skate park at this time.

### **Key Issues**

- Consistency of zoning with strategic planning intent and open space needs.
- Relevance of skate park to planning proposal.

### Information

Lots 5 and 6 were originally purchased by Council between 1995 and 1996 for investment purposes. As such the land is classified as *operational land* under the provisions of the *Local Government Act 1993*.

The decision to zone part of lots 5 and 6 for open space purposes under the 2012 LEP was based on the understanding that Council would be compensated for the foregone development opportunity associated with such zoning.

The Ballina Shire Contributions Plan 2008 (BSCP 2008) provided the mechanism for Council to recover the costs associated with designating and zoning its own land for open space purposes.

The BSCP 2008 made provision for 6.5 hectares of land to be designated for open space purposes at Wollongbar, whereas 13.85 hectares has already been acquired. Consequently, it has been determined that the quantum of open space land within Lots 5 and 6 should be reduced from 1.81 hectares to approximately 1 hectare and the area of residential zoned land increased.

The planning proposal, which forms Attachment One to this report, contains full details of all relevant Council decisions related to this matter and associated documents. Also contained within the planning proposal are the proposed Land Zoning and Lot Size Maps. It should be noted that land intended to be used for the purposes of stormwater management and a proposed child care centre site have been zoned R3 Medium Density Residential so as to provide greater flexibility in terms of the use of the land. If, after detailed design and construction occurs (assuming the current planning proposal is approved and relevant development consents are granted), there is a need to further adjust zoned areas, that can be accommodated relatively easily.

### Sustainability Considerations

- **Environment**

The land is considered to be of overall low environmental significance, being the site of the former Wollongbar Drive-in Theatre and adjoining farm land.

- **Social**

The designation of land for an expansion of the adjacent housing estates, a child care centre and for public recreation will likely have net positive social benefits. These components are all consistent with the Council's strategic vision for this part of the Wollongbar township.

- **Economic**

The zoning of additional land for housing and a child care centre is likely to have a positive economic impact through opportunity for housing on the land. Economic impact associated with the reduced open space area on the site and its future use has not been quantified. However, there is substantial open space and recreation infrastructure provided for at the new Wollongbar playing fields site.

**Legal / Resource / Financial Implications**

There are no significant resourcing or financial implications associated with the proposed amendment. The processing of the amendment can be accommodated within the work program of the Strategic and Community Facilities Group.

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act*.

**Consultation**

The planning proposal was exhibited for community comment for a period of 31 days from 24 September 2014 to 24 October 2014. The exhibition process consisted of an advertisement within the Ballina Advocate on 24 September 2014, individual letters being forwarded to 81 property owners who own properties within an approximate 300 metres radius from the subject site, display information at Council’s Customer Service Centre, Alstonville and Ballina Libraries, and the uploading of all relevant documents into Council’s web site.

In addition the above instructions were issued by Council’s Commercial Services Section to CH Law, who are acting for Council in the sale of nearby lots, to advise all parties that had entered into contracts to purchase land of the details of the planning proposal.

In response to the above six written submissions were received, copies of which are contained within Attachment Two.

The table below provides a summary of issues raised in each submission:

Person / Organisation	Address	Comments Rezoning	Comments Skate Facility
Wollongbar Christian Church	66 Rifle Range Road, Wollongbar	No comments provided.	<p>Indicate that site most unsuitable for a skate park due to:</p> <ul style="list-style-type: none"> <li>- Alongside dangerous main road and round-about.</li> <li>- Site very small and cornered by residences, what allowance for car parking.</li> <li>- Site does not meet 80m minimum recommended by G Alderson &amp; Assoc. Light and noise will be a problem.</li> <li>- Sunken park option will create glare problems from glass panels as well as potential glass vandalism problems.</li> <li>- How would recommended 7:00pm park closure be policed?</li> <li>- General potential increase in vandalism concerns.</li> </ul> <p>Suggest keeping all sporting facilities in the one area.</p>

## 9.2 Planning Proposal - Rifle Range Road and Plateau Drive

Person / Organisation	Address	Comments Rezoning	Comments Skate Facility
J & H Nunn	62 Rifle Range Road, Wollongbar	<ul style="list-style-type: none"> <li>- Recognise that reduction and re-orientation of land is reasonable given sporting facilities currently being constructed at Wollongbar.</li> <li>- Maintenance of previously proposed facilities on small open space area not reasonable.</li> <li>- Object to proposed changes due to skate park being attached to this proposal.</li> </ul>	<p>State that Council's intent to maintain skate park proposal causes consternation and the following grounds for objection:</p> <ul style="list-style-type: none"> <li>- Council advisers have concluded that site is not suitable for a skate park. Various quotes from report by Greg Alderson and Associates, and Newton Denny Chapelle submission to Council provided.</li> <li>- Consider Council is trying to avoid unwanted community engagement costs and possible obstructive community input by suggesting this inappropriate site.</li> </ul>
T & M Perkins	3 Wollongbar Drive, Wollongbar	Do not object to reduction of the size of open space given proximity of the district sporting fields.	Submit that site is not appropriate for a skate park. Trust that Council will support the development of an attractive and inviting district park for children and families to enjoy.
Wollongbar Progress Association (R Birch)		Advise that proposal was discussed at October Association meeting. Advise that reduction in open space area is reasonable given sporting facilities currently being constructed.	<p>Consider that the open space should be family oriented space for the following reasons:</p> <ul style="list-style-type: none"> <li>- Family oriented recreation space discussed with Council since late 1990's.</li> <li>- Space needed for families to play given smaller back yards and larger houses.</li> <li>- Proposed open space will be only passive open space in the Village. Envisage area having shade trees, picnic tables, and barbecues, play equipment, exercise equipment, trike/scooter pathways.</li> <li>- Suggest that some of the allocation of space be made for a dog leash free area.</li> </ul>

## 9.2 Planning Proposal - Rifle Range Road and Plateau Drive

Person / Organisation	Address	Comments Rezoning	Comments Skate Facility
J & J Day	68 Rifle Range Road	No comments provided.	<p>Strong objection to skate park raised on the following grounds:</p> <ul style="list-style-type: none"> <li>- Noise impacts particularly on upstairs bedrooms.</li> <li>- Road lighting will provide enough light for the skate park to be used at night.</li> <li>- Disturbed by comment in report to Council on 27/3/2014 where it was indicated that construction of a skate park at this location prior to houses may reduce opposition.</li> <li>- Land could be sold for housing and funds used to build skate park at sporting field site.</li> <li>- Dangerous round-about how will children get across road?</li> <li>- Inadequate information provided regarding other facilities proposed for park.</li> <li>- Suggest a dog leash free area be provided.</li> </ul>
P E Latta		<p>Disagrees with changes to RE1 zoned land. States that when land owners purchased properties it was on basis of original plans.</p> <p>In favour of the larger recreation zoned land, would also like to see an increase in sporting zoned land.</p>	No comments provided.

There has been one specific objection to the planning proposal which identifies the reduction of RE1 zoned being of concern. In respect to this issue it is noted that the Ballina Shire Contributions Plan 2008 made provision for a total of 4.5 hectares of land to be acquired for playing fields and courts, and an additional 2 hectares of land for a district park, to service the needs of the estimated 2500 person population of the Wollongbar Urban Expansion Area (WUEA).

To date Council has acquired 13.85 hectares of land in Wollongbar for playing fields, courts and associated recreational facilities and is now proposing to make provision for an additional 1 hectare of land specifically for district park purposes. In other words Council's existing and proposed land acquisitions and allocations for open space far exceed the level originally anticipated to be provided during the planning phase of the WUEA.

The objections relating to a skate park being located within the proposed RE1 zoned land have been noted. These matters, however, do not specifically relate to the subject planning proposal. The planning proposal can progress to conclusion without a decision on the skate park being sited on the land. The primary concern for the planning proposal in relation to the skate park has been whether the site is able to accommodate such a facility. This has been resolved as it has been shown that a modest-sized skate park could be provided in the reconfigured open space area and, through the



## **9.2 Planning Proposal - Rifle Range Road and Plateau Drive**

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workshop/briefing which was held on 10 September, the majority of Councillors have indicated a preference for the proposed facility on this site.

Council, at this stage of the process, has not yet developed a landscape masterplan for the proposed RE1 zoned land, nor has it specifically resolved that a skate park will be constructed within this area. It is noted that when a landscape masterplan is prepared in due course by Council's Open Spaces and Reserves Section this will likely be the subject of a separate community consultation process, the results of which will then be made available for the Council's consideration. The issue of whether a skate park will form a part of the recreation facilities located within the proposed RE1 zoned land, and any specific associated design issues, will then be required to be considered formally by the Council.

### **Options**

1. That Council refer the planning proposal to the Department of Planning and Environment, as exhibited, for finalisation.
2. That Council amend the planning proposal prior to referral to the Department of Planning and Environment.
3. That Council defer or discontinue the planning proposal.

Option 1 is the preferred option. There have not been any substantive matters raised during the public exhibition process to warrant a review or deferral of the planning proposal and proposed zone boundaries. The issues of concern that have been raised mostly relate to the suitability of the proposed RE1 zoned land to accommodate a skate park. At this stage of the process no decision has been made by the Council that a skate park will be located within the RE1 zoned land. It has, however, been established that it may be feasible to locate a skate park within this land subject to more detailed design work being undertaken. That is, the concept of locating a skate park on the revised area of open space remains feasible once the rezoning is completed.

Option 2 is not recommended as any significant amendments would trigger a need for a fresh Gateway determination and the subsequent re-exhibition of the planning proposal. Minor amendments to zone boundaries could be made. However, no such adjustments arise from the consideration of submissions.

Option 3 is also not recommended. One of the consequences of adopting this option is that the shape of the current open space zone over the land is such that it will not relate well to the currently proposed development layout on Council's land or the layout within the adjoining Avalon estate. This would result in the existing RE1 zoned land being split into three separate sections and consequently being unable to be developed in a unified manner.

**RECOMMENDATIONS**

1. That Council endorses the reconfiguration of the RE1 and R3 zone boundaries, amend the minimum lot size map and rezone land designated for road widening from RE1 to R2 with respect to Lots 5 and 6 DP 1161720 and the adjoining road as indicated in the planning proposal (BSCPP 14/006).
2. That the necessary documentation be forwarded to the Department of Planning and Environment to enable the Minister to finalise the planning proposal (BSCPP 14/006).
3. That Council further consider the appropriateness of locating a skate park facility within the reconfigured RE1 zone during the preparation of a landscape masterplan for the proposed reserve.

**Attachment(s)**

1. Attachment One - Planning Proposal
2. Attachment Two - Public Submissions

### **9.3 Planning Proposal - North Creek Foreshore (Camden Lane), Ballina**

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### **9.3 Planning Proposal - North Creek Foreshore (Camden Lane), Ballina**

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 14/007 to amend the Ballina Local Environmental Plan 2012 relating to land on the North Creek foreshore adjacent to Camden Lane, Ballina. Further, to seek direction from the Council concerning the finalisation of the LEP amendment.

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#### **Background**

At its Ordinary Meeting held on 26 June 2014, the Council considered a proposal to amend the provisions of the *Ballina Local Environmental Plan 2012* (BLEP 2012) to enable coastal protection works on four allotments adjacent to the North Creek foreshore. The subject lots are identified as No. 2 Skinner Street, Nos. 3 and 5 Camden Lane and No. 1 Camden Street, Ballina. The particulars of the proposal are detailed in the planning proposal document contained in Attachment One.

In consideration of the proposal, it was resolved (Minute No. 260614/11):

- 1. That the Council submit a planning proposal to amend Schedule 1 of the Ballina Local Environmental Plan 2012 and insert 'coastal protection works' as an additional permitted use (with consent) for Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380 and Lot 33 DP 872966 (Camden Street, Camden Lane and Skinner Street, Ballina) to the Department of Planning and Environment for review and Gateway determination.*
- 2. 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.*
- 3. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.*

Following the above resolution, a request for Gateway determination was submitted to the Department of Planning and Environment. An affirmative Gateway determination was issued on 24 July 2014, a copy of which is provided in Appendix Two of the attached planning proposal. The planning proposal was subsequently publicly exhibited in accordance with the Council's resolution.

The purpose of this report is to outline the outcomes of the agency engagement and public exhibition and to seek direction with respect to the progression of the planning proposal.

### Key Issues

- Application of provisions in the BLEP 2012 to enable coastal protection works on the subject land.
- Consideration of the outcomes of the agency engagement and public exhibition of the proposal.

### Information

The planning proposal seeks to amend the BLEP 2012 to enable coastal protection works on the subject sites as an additional permitted use (but only with prior development consent). Currently, the respective allotments are partially affected by the W1 Natural Waterway zone which prohibits coastal protection works. The owners of the subject land have expressed a desire to have an ability to undertake coastal protection works on those parts of the allotments affected by the W1 zone.

Councillors may recall that initially, the proposal submitted by the landowners was to have the W1 zoned parts of the allotments rezoned to bring those areas in line with the residential zone which applies over the other parts of the land. If that were done, coastal protection works would then be a permissible use (but still requiring consent) under the LEP. Following its deliberations however, the Council preferred the option of inserting an enabling clause in the LEP, rather than the rezoning, as this would preserve the integrity of the Natural Waterway zone and its purpose under the LEP.

In its current form, the proposal will add coastal protection works as an additional permitted use on the subject lots. It will not affect the function of the objectives of the W1 Natural Waterway zone within the wider context of the BLEP 2012. Furthermore, the addition of coastal protection works as an additional permitted use does not affect any other existing land use permissibility or limitations affecting the subject land.

The outcomes of this planning proposal will result in the ability of the owners of the subject lots to seek development consent for coastal protection works on their land. The proposal does not involve any changes to existing planning provisions affecting the site and retains the existing zoning configuration on the land.

Under the LEP amendment, proposals for coastal protection works would require development consent and as such, would be subject to an appropriate level of assessment and stakeholder engagement at the development application stage.

### Sustainability Considerations

- **Environment**

This proposal enables coastal protection works as development permissible with consent in the W1 Natural Waterway zone only for the subject lots. If the landowners choose to proceed with seeking development consent for these works, it will be subject to the standard environmental considerations and assessment required for works of this nature.

The enabling of coastal protection works as development permissible with consent on the subject sites is considered appropriate in the circumstances. It will allow the landowners to provide a level of physical protection within the boundaries of their properties against the potential effects of coastal processes.

- **Social**

The enabling of coastal protection works within the subject sites is not expected to result in significant negative social impacts. Any future works enabled will be subject to development assessment and consent requirements and will be contained within the property boundaries of the subject sites.

- **Economic**

The enabling of coastal protection works within the subject sites will not result in any significant public economic benefits. It will enable the landowners to consider appropriate means to protect their built assets from the potential effects of coastal erosion processes within the boundaries of the subject sites.

#### **Legal / Resource / Financial Implications**

There are no significant resourcing or financial implications associated with the proposed amendment. The finalisation of the amendment can be accommodated within the work program of the Strategic and Community Facilities Group, with the processing costs of the planning proposal being borne by the respective property owners, who will be the beneficiaries of the LEP amendment.

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act 1979*.

#### **Consultation**

The planning proposal was publicly exhibited from 24 September 2014 to 15 October 2014 in accordance with the Gateway determination (a minimum of 14 days). No submissions were received.

In addition, the Gateway determination required the proposal to be referred to the NSW Office of Environment and Heritage (OEH) for comment. This agency issued a response to Council's letter of consultation. A copy of the response dated 17 October 2014 is included in the attached planning proposal.

The OEH response recommends that an Aboriginal cultural heritage assessment report is prepared relating to the four allotments, in support of the planning proposal. This recommendation is based on the principle that any planning proposal is to include the assessment and consideration of tangible and intangible Aboriginal cultural heritage values and how the proposal may impact on these.

### **9.3 Planning Proposal - North Creek Foreshore (Camden Lane), Ballina**

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The proposed amendment to the BLEP 2012 does not seek to alter the existing zoning provisions affecting the land. The proposal seeks to enable coastal protection works as an additional permitted use on the subject land. As with any permitted land uses, a proposal to undertake the use or works associated with a use will require an application for development consent and a competent assessment of the environmental effects of the proposal. This assessment will require the consideration of any likely impacts of the proposal on Aboriginal cultural heritage items or values.

Further to the above, in May 2012 one of the proponents obtained an assessment of the subject land by a geotechnical engineering firm which indicates that the shoreward sections have formed since the 1950s by processes of natural accretion. Based on this, the likelihood of the subject land having Aboriginal cultural heritage significance at or immediately below the surface is significantly reduced.

In the circumstances, it is not known if or when the landowners might proceed to seek development consent for coastal protection works on the subject land. Nor is the scope and specific location of these works known.

On the basis of the above, the development application process provides an appropriate framework within which to assess potential impacts on Aboriginal cultural heritage and other environmental considerations, having regard for the nature and scale of any proposed coastal protection works.

While the principle of obtaining an Aboriginal cultural heritage assessment at the planning proposal stage is generally supported, given the particular circumstances relating to this proposal, it is recommended that the Council allow the proposal to amend the BLEP 2012 to proceed without the need for a detailed Aboriginal cultural heritage assessment at the LEP amendment stage.

#### **Options**

##### **1. Finalise the Planning Proposal**

The finalising of the planning proposal as drafted and as exhibited will result in the amendment of the BLEP 2012 to enable coastal protection works on the subject lots as an additional permitted use (subject to development consent being obtained).

This is the recommended option.

Under the Department of Planning and Environment's Gateway determination provisions, Council has been delegated the authority to finalise this planning proposal. In this instance, it is recommended that Council exercise this delegation to complete the LEP amendment.

##### **2. Discontinue the Planning Proposal**

The option to discontinue the proposal is also open to the Council. This option is not recommended as it does not address the prohibition of coastal protection works that currently apply to the W1 zoned sections of the subject land.

### **9.3 Planning Proposal - North Creek Foreshore (Camden Lane), Ballina**

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#### **3. Defer the Planning Proposal**

The Council may wish to defer the finalisation of the planning proposal pending further investigations or discussions. Councillors will recall that an opportunity has already been afforded to the landowners to discuss key issues in a workshop format, including an inspection of the site.

Given that the key technical issues associated with potential coastal protection works on the land are matters appropriately addressed through a development application, this approach is not recommended.

#### **RECOMMENDATIONS**

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to add coastal protection works as an additional permitted use (subject to development consent) on Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380 and Lot 33 DP 872966 (1 Camden Street, 3 & 5 Camden Lane and 2 Skinner Street, Ballina) as documented within Planning Proposal BSCPP 14/007.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/007 directly in liaison with Parliamentary Counsel.

#### **Attachment(s)**

1. Planning Proposal - BSCPP 14/007 - North Creek Foreshore, Ballina

## **9.4 Planning Proposal - Special Events (Exempt Development)**

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### **9.4 Planning Proposal - Special Events (Exempt Development)**

**Delivery Program** Strategic Planning

**Objective** To present options for the Council with respect to the progression of planning proposal BSCPP 12/006 related to designating special events on public land as exempt development under the Ballina Local Environmental Plan 2012.

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#### **Background**

Council reviewed its *Special Events Policy* in 2012 following changes to *State Environmental Planning Policy (Temporary Structures)* and the (then) proposed new Local Environmental Plan (LEP) for Ballina Shire. In reviewing the *Special Events Policy*, which is now known as the *Events on Public Land Policy*, the opportunity was also taken to review the exempt development provisions applicable to special events.

Prior to the coming into effect of Ballina LEP 2012 special events were listed as exempt development in the Ballina Shire Combined Development Control Plan – Chapter 7 Exempt and Complying Development. This was in accordance with the then applicable legislative provisions contained within Ballina LEP 1987.

The coming into effect of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP), and LEPs created after this time, resulted in exempt and complying development being either listed within the SEPP or within a schedule in a Standard Instrument LEP.

State Government policy around the use of the exempt development schedule varied during the preparation of Ballina Shire's new LEP. Ultimately, the Ballina LEP 2012 did not list special events as exempt development, raising the potential for a range of special events that were previously designated as exempt development to be subject to development application and consent requirements.

A planning proposal was prepared in 2012 which proposed to designate special events such as street parades, processions or marches, fun runs, cycling races, festivals, cultural celebrations, sporting events, open air theatre, concerts, dances and the like on public land as exempt development within Schedule 2 of Ballina LEP 2012. The planning proposal also sought to clarify the exempt development temporary signage provisions applicable to certain events.

The purpose of the planning proposal was to streamline the requirements and approval process for special events on public land. Specifically the identification of special events on public land as exempt development seeks to remove duplication associated with Council's consideration of such events as a land manager and/or land owner and through the development application process. Importantly, the approval process under the *Events on Public Land Policy* requires that similar considerations be addressed as would be required



## 9.4 Planning Proposal - Special Events (Exempt Development)

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under a DA. Council is also able to place conditions on the use of land for special events under the events approval process.

The Council will note that this amendment does not change the requirement for development consent to be obtained by proponents who wish to conduct a special event or festival on private land or on public land which Council does not own or manage.

The Council considered the proposed exempt development approach at its Ordinary Meeting held on 28 June 2012, resolving [Minute 280612/27] as follows:

- 1. That Council endorse the new Events on Public Land Policy (which is a revision of the Special Events Policy), as attached to this report and place this policy on exhibition for public comment. If no submissions are received this decision will be taken to be Council's adoption of the new policy.*
- 2. That a review of the special events identified in the Event Guidelines be undertaken to determine their suitability for identification as exempt development in accordance with the provisions of the Environmental Planning & Assessment Act 1979.*
- 3. That on the basis of the above review, Council proceed with the preparation of a planning proposal to amend Schedule 2 of the Ballina LEP 2011 to include special events as exempt development.*
- 4. That Council proceeds to submit the planning proposal to the NSW Department of Planning & Infrastructure for gateway determination.*

Significantly, this planning proposal was prepared in advance of the Ballina LEP 2012 commencing operation (i.e., whilst it was under assessment by the Department of Planning and Environment) with the aim of making the change to the LEP soon after its implementation. Unfortunately, the prompt introduction of the amendment has not been possible.

The (then) NSW Department of Planning and Infrastructure (DoP&I) initially issued Gateway determination on 15 December 2012. This Gateway determination required Council's consultation with the NSW Rural Fire Services (RFS) and the Department of Primary Industries – Crown Lands Division. The RFS subsequently objected to the planning proposal and requested that it be amended to either exclude events on bushfire prone land or require the inclusion of bush fire risk controls within the Events on Public Land policy.

Bushfire protection guidelines and emergency evacuation management procedures were developed during 2013 and incorporated within the Event Guidelines. The RFS was requested to provide comment in respect to these procedures in December 2013. The response, which was received in April 2014, raised no concerns subject to Council's procedure for assessing bush fire impact being implemented.

Amendments to the State Government's Codes State Environmental Planning Policy in February 2014, relating to temporary structures and advertising signage, also impacted on the planning proposal as it was initially drafted. The advertising signage exempt development provisions proposed in 2012 were found to no longer be required as a consequence of provisions contained within the amended Codes SEPP.

## 9.4 Planning Proposal - Special Events (Exempt Development)

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The Department of Planning and Environment, on 12 August 2014, issued a revised Gateway determination. The revised Gateway determination required the planning proposal to be finalised by 22 March 2015 and excluded the previously proposed signage provisions. The Minister's functions under section 59 of the Environmental Planning and Assessment Act were also delegated to Council so as to enable the plan making process to be finalised.

The revised planning proposal was again the subject of consultation with Crown Lands and the Rural Fire Service. Details of responses received are summarised in the Consultation section of this report and are contained within the planning proposal. The planning proposal is contained within Attachment One to this report. Appendices 3 and 4 of the planning proposal contain the responses from Crown lands and the RFS respectively.

The planning proposal was publically notified from 24 September 2014 until 24 October 2014 and no submissions were received.

The purpose of this report is to provide the Council with options for progressing the subject planning proposal and seek direction on the finalisation of the matter.

### Key Issues

- Incorporation of special events as exempt development on public land within Ballina LEP 2012.
- Streamlining of approval processes relating to special events.

### Information

The Ballina LEP 2012 is proposed to be amended by inserting the following definition of *Special event* within the Dictionary to the LEP:

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

Schedule 2 of the Ballina LEP, which contains the list of additional exempt development types permitted within Ballina Shire, is proposed to be amended by inserting special events as exempt development which complies with the criteria nominated below:

### **Special events**

- (1) *Must be on land vested in, owned or managed by Council.*
- (2) *Must not include the erection of permanent structures on the land.*
- (3) *Must not include clearing or disturbance of native vegetation.*
- (4) *Maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*

The term *land vested in* is used to extend the provisions to certain public roads which are vested in Council under the terms of the *Roads Act 1993*.

## 9.4 Planning Proposal - Special Events (Exempt Development)

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The proposed provisions also relate to Crown land where Council has been appointed Trust Manager. For example, in the case of the Ballina Coastal Reserve Trust, Council is the appointed manager and thus the exempt development provisions for special events as proposed would apply. Importantly though, for Crown Land, there are also other layers of planning provisions that can apply. The Coastal Reserve, for instance, is managed in accordance with provisions contained within the Ballina Coastal Reserve Plan of Management (POM). In this respect, whilst DA consent is proposed to no longer be required, the POM requires that temporary licences be issued for various activities including markets, shows and sporting events.

Overall, the proposed designation of special events as exempt development will remove the necessity to obtain development consent for the nominated events. It does not remove other approval requirements such as those contained within section 68 of the *Local Government Act*, the need to obtain approval under the provisions of Council's *Events on Public Land Policy* and the need to ensure policy and law associated with Crown land management is complied with.

A major benefit of designating special events as exempt development is that it removes one approval layer (i.e. the DA process) and thereby streamlines the applicable approval processes.

### Sustainability Considerations

- **Environment**  
There are no significant environmental implications raised by the proposed LEP amendment. Council's *Event Guidelines* require consideration of issues related to site suitability, traffic and parking and noise impacts amongst other matters.
- **Social**  
There are no significant social implications raised by the proposed LEP amendment. Community gatherings, such as those that result from festivals and other special events will however be easier to plan and organise in the absence of a need to obtain development consent. Therefore the LEP amendment is considered to have a net positive social impact.
- **Economic**  
The removal of regulatory provisions which currently require development consent to be obtained streamlines the approval process and reduces red tape. In so doing it has the potential to stimulate local economic activity.

### Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the proposed amendment. The processing of the amendment can be accommodated within the work program of the Strategic and Community Facilities Group.

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act*

## 9.4 Planning Proposal - Special Events (Exempt Development)

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### Consultation

The planning proposal was publically exhibited, in accordance with the Gateway determination from 24 September 2014 until 24 October 2014. In response to the public exhibition no submissions were received.

Consultation with the Rural Fire Service (RFS) and Crown Lands was undertaken as required by the Gateway determination. A summary of the matters raised in the most recent agency responses appears below:

#### Rural Fire Service

RFS, by letter dated 11 September 2014 advised that they had reviewed the draft Local Environmental Plan and associated documents and subsequently raise no concerns in relation to bush fire, on the basis that bush fire considerations are included in the application assessment process for public events under section 68 of the Local Government Act 1993.

#### *Comment:*

Council's *Event Guidelines* incorporate bush fire risk assessment requirements. The *Event Guidelines* were provided to the RFS as part of the package of consultation documents associated with this planning proposal.

#### Crown Lands

No objection to the revised planning proposal was raised by Crown Lands in an email dated 14 August 2014. Advice was also provided that in the case of events on Crown land, including a Crown Reserve Trust, it may be preferable for Council or the Trust to be proponent for approval of local events. If this is the case then land owner's consent from the Crown is not required.

#### *Comment:*

The advice from Crown Lands has been noted and does not impact on the finalisation of the subject planning proposal.

### Options

1. That Council proceed to finalise the LEP amendment in accordance with the exhibited planning proposal, or
2. That Council amend the planning proposal prior to submission to the NSW Department of Planning and Environment for finalisation, or
3. That Council defer or discontinue the planning proposal.

Option 1 is the recommended option. The planning proposal has been significantly amended since being initially prepared in 2012 in response to RFS concerns and legislative changes. It is now in a form where both the RFS and Crown Lands have raised no concerns (objections) with what is proposed. Additionally, no public submissions have been received which may be an indicator that there are no broader community concerns with what is proposed.

## **9.4 Planning Proposal - Special Events (Exempt Development)**

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Option 2 is not recommended. Given that the RFS and Crown Lands have not raised issues that would warrant the planning proposal being amended, and in the absence of any public submission, there appear to be no reason to amend the planning proposal at this time.

Option 3 is not recommended. The planning proposal has evolved over a period of two years and has involved consultation with the RFS and Crown Lands on a number of occasions. Specialist bushfire risk assessment advice was also commissioned so as to enable the preparation of bush fire risk assessment provisions within Council's *Event Guidelines*. Given the perceived public benefits associated with streamlined approval functions the discontinuation or deferral of this planning proposal is not recommended.

If Council proceeds with option one, it should be noted that the DoP&E has issued authority for the Council to exercise plan-making delegations in finalising the LEP amendment. This means Council staff would liaise directly with Parliamentary Counsel to finalise the drafting of the amendment for implementation if the delegation is accepted by Council.

Although there are some minor resourcing implications for Council (more staff time in processing), it is recommended that Council exercise its delegation in this instance. Directly liaising with Parliamentary Counsel in the drafting of the LEP will ensure, as far as possible, that Council's intended objectives are achieved and applicable time frames are minimised.

### **RECOMMENDATIONS**

1. That Council endorses the designation of special events on public land as exempt development within Schedule 2 of Ballina LEP 2012.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/003 directly in liaison with Parliamentary Counsel.

### **Attachment(s)**

1. BSCPP 12/006 Planning Proposal - Special Events as Exempt Development

## **9.5 Commercial Use of Road Reserve - West Ballina**

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### **9.5 Commercial Use of Road Reserve - West Ballina**

**Delivery Program** Community Facilities and Services

**Objective** To seek the Council's direction concerning the use of public land in West Ballina for commercial purposes, being the display and sale of motor vehicles.

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#### **Background**

For many years, respective motor dealers have operated from premises along either side of River Street (former Pacific Highway) in West Ballina. A number of these businesses, particularly those located on the southern side of River Street, have also utilized part of the road reserve fronting their respective business premises for the display of motor vehicles for sale. It is acknowledged that the extent of use of the road reserve by respective dealerships has fluctuated over the years, with some businesses more prone than others to doing so.

An examination of Council's records indicates that, whilst this practice of operating part of a business within the road reserve has been occurring for a long period of time, no regulatory authorization from Council has been issued, nor has any tenure for the use of the public land been granted to any of the dealerships.

During 1995 Council was conducting an augmentation program for the sewerage network in this part of West Ballina. This included the construction of an electrical switchboard room which is the small brick building located within the road reserve in front of Quayside Motors.

At the time of this work it is understood Council staff agreed to allow the (then) proprietor of the motor dealership to display his vehicles for sale within the road reserve as a means of compensation for the inconvenience and disturbance to his business arising from the construction works. There is no indication as to whether any time line was established for the agreement, and it is evident the practice of using the road reserve has continued since that time, with other adjoining motor dealerships following suit, albeit not to the same extent.

Quayside Motors has written to Council seeking approval to formalize the current use of the land within the road reserve for the display and sale of its motor vehicles. Apparently, this request may be attributed to recent licensing inspections of motor dealerships within Ballina, conducted by officials from the NSW Department of Fair Trading, who noted that Quayside Motors (and possibly other dealerships) was operating outside of its licensed area, and the area for which it has development consent.

Having regard for this background, this report invites the Council's direction concerning the formalization of the current use of the public land (road reserve) or alternatively, to instruct the General Manager to take steps to have the practice discontinued.

### Key Issues

- Transparency and equity in the use of public land

### Information

Councillors will be familiar with the practice of motor vehicles, displayed for the purpose of sale, being parked within the southern part of the River Street road reserve in West Ballina. This grassed area is generally perceived to be an extension of the motor dealerships which operate on the adjoining properties. The current practice is not approved by Council and it is understood the authority which regulates the motor vehicle sales industry (Department of Fair Trading) would not grant a licence for the use of the area in the absence of a development consent and a formal tenure arrangement between the motor dealer and the landowner – in this case, Council.

Given the enquiry which has now been received from Quayside Motors, it is timely for the Council to indicate, as the owner of the road reserve, whether it is comfortable with a continuation of the current practice. If the Council is not, steps would be initiated to ensure that, within a reasonable period, the vehicles are removed from the land and restricted to the authorized sales areas.

On the other hand, if the display arrangement is seen to be acceptable and can continue, formalization by way of a licence or lease is required, for the benefit of both the motor dealers and Council. Effectively, the arrangement would be similar to other businesses which operate under the Council's adopted Commercial Use of Footpaths Policy, including display of merchandise such as clothing, and also alfresco dining.

This same policy cannot be applied to the current circumstances because the area of the road reserve sought by the motor dealership exceeds the maximum area specified under the policy. Consequently, if the Council is prepared to allow the use to continue, it will be necessary for the respective dealerships to lodge a development application with Council and obtain consent. Having regard for the history, this requirement is unfortunate, but it cannot be avoided.

The Dealer Principal of Quayside Motors has indicated his desire to work with Council with a view to being able to continue to display vehicles for sale within the road reserve. The benefit of allowing the current use to continue is that the motor dealers would maintain the areas which they occupy (they have been doing this in the past in an acceptable manner) under the terms of the tenure agreement. Access to Council's services located within the road reserve (such as sewer) as well as those of other utility providers would be preserved, and pedestrians will continue to have unimpeded and safe access within the road reserve.

## 9.5 Commercial Use of Road Reserve - West Ballina

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There are two other matters which also warrant consideration and noting. Firstly, the Council might satisfy itself that the display of motor vehicles, and the associated signage and bunting, within this relatively wide road reserve is acceptable from a general and visual amenity perspective. From staff's point of view, it is not offensive, but suitable limitations and controls could be assessed and determined through the development application process.

Secondly, it has been confirmed that allowing the display of vehicles to continue will not interfere with Council's planned implementation of the Ballina landscaping and entry treatment statements. The conceptual scheme adopted by the Council for this locality does not rely on the use of the area that would be occupied by the vehicle displays. However, if the Council came to a view in the future that the broad road reserve should be used for a more substantial embellishment it could discontinue the lease or licence, with appropriate notice.

### **Sustainability Considerations**

- **Environment**  
The land in question does not have any substantial environmental attributes that will be compromised if the current use continues.
- **Social**  
Whilst granting a tenure for the motor dealerships to continue to use the public land would restrict community access within the licensed/leased area, the reality is the land does not lend itself to many other practical purposes. It will continue to be available if a Council chooses or needs to use it in the future for infrastructure-type projects, including road improvements, for example.
- **Economic**  
The respective motor dealers will derive an economic benefit through their use of the land. Council will receive modest income through rental under any lease or licence it chooses to enter into.

### **Legal / Resource / Financial Implications**

If the Council wishes to terminate the current unauthorized use of the road reserve this will be arranged, though one would anticipate resistance from the motor dealerships which presently enjoy the benefit.

If the Council wishes to allow the use to continue, the grant of development consent/s will be required, initiated by the respective proponents. Upon the grant of consent/s, leases or licences will be negotiated with the respective proprietors.

In terms of future rental, it is suggested that Council obtain a formal valuation of the land and that a commercial rental be charged, given the extent of benefit available to the respective businesses, based on the size of the area which is determined as being available.

### **Consultation**

Given the circumstances, community consultation has not occurred to date.



**Options**

The Council may determine to either instruct the relevant business/es to refrain from using the road reserve for the display and sale of motor vehicles or allow the use to continue. If it is proposed to allow the continued use, the Council is urged to formalize the arrangement by requiring the dealerships which choose to display and sell their vehicles within the road reserve to do so under the terms of a lease or licence, following the grant of development consent to operate.

Having regard for the matters contained in the above report, it is suggested that the most practical outcome is to formalize the arrangements if the dealership/s wish to maintain the current use of the land.

**RECOMMENDATIONS**

1. That Council notes the contents of this report concerning the use of the River Street road reserve in West Ballina by motor dealerships.
2. That Council provides in principle support, for the continuation of this use, for the time being, and subject to points three to five as follows.
3. That the respective motor dealerships be advised that they must seek development consent from Council if it is their desire to use part of the road reserve for the purposes of display and sales of motor vehicles associated with their business. The General Manager is authorized to endorse the lodgement of development applications on behalf of Council, as the owner of the land.
4. In the event that development consent for the use of the land is granted, the General Manager is authorized to enter into a lease or licence with the respective parties, for a period that is considered appropriate, for the use of the land for the purpose approved under the development consent.
5. That a rental under the lease be on a commercial basis, as determined through a formal valuation of the approved area, obtained by Council.
6. The General Manager is authorised to apply the Council Seal, if required, to any documents associated with the grant of tenure over the land.

**Attachment(s)**

Nil

## **9.6 Rural Settlement Character Statements - Public Exhibition**

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### **9.6 Rural Settlement Character Statements - Public Exhibition**

**Delivery Program** Strategic Planning

**Objective** To provide the Council with an overview of the public exhibition of the Rural Settlement Character Statements and seek direction on the finalisation of the project.

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#### **Background**

At its August 2014 Ordinary Meeting, the Council endorsed the public exhibition of draft character statements for Newrybar, Tintenbar, Fernleigh, Meerschaum Vale, Rous, Rous Mill, Patches Beach, Empire Vale/Keith Hall and South Ballina (Minute No. 280814/14). The preparation of the character statements is an action of the Ballina Shire Growth Management Strategy, which was adopted on 26 July 2012, and the project has been undertaken under Council's Delivery Program and Operational Plan for the 2013/14 year (PE2.3.1a Establish Character Statements for Rural Hamlets).

Four community meetings were held across the shire to provide opportunities for residents to attend a discussion specifically about their own locality and invitations to participate were sent to all landholders within each locality that was examined. Council's consultant, MikeSvikisPlanning, utilised the "Place Check" methodology to engage with community members to think about their locality, what they like about the area now, what they value and how it could be made safer and more pleasant.

In response to the Council's resolution, the draft rural settlement character statements prepared were placed on public exhibition for six weeks. The exhibition period concluded on 6 October 2014.

#### **Key Issues**

- Recognition of the characteristics of rural settlement areas in the shire within the local planning framework.
- Outcomes of the public exhibition of rural settlement character statements.

#### **Information**

The rural settlement character statements (contained in Appendix 1) consist of descriptive text that seeks to encompass the values and attributes that define each of the localities examined and a map that shows key physical features of each area. It is intended that these statements (once adopted), will be incorporated into local planning policy to formally reflect the particular character of the settlements. These statements can be used to inform Council's decision making in relation to these areas over time.

## **9.6 Rural Settlement Character Statements - Public Exhibition**

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Overall, the character statements provide for clear recognition of rural settlements within Council's local planning policy and are a valuable tool for Council to support the consideration of area-specific planning controls over time (although no such provisions are proposed at present).

In addition to the rural character statements, the project has also provided a beneficial opportunity for Council to engage directly with rural communities in the shire. Further, a variety of other feedback of relevance to Council's operations and the community has been obtained. It is intended that a number of these additional matters will be addressed further in a future edition of Community Connect, in accordance with the Council's August resolution, to provide further feedback to the community concerning the project.

### **Sustainability Considerations**

- **Environment**

The environment was typically seen as a major feature and drawcard for people living in rural localities. The importance of local environmental attributes is reflected directly in a number of the character statements.

- **Social**

The character statements provide an insight into the rural nature of the localities and the value that residents place on retention of this rural character.

- **Economic**

The productive nature of land was a theme throughout. For those localities where production is a consideration, the character statements emphasise the role and importance of agricultural production within the rural environment.

### **Legal / Resource / Financial Implications**

The Rural Settlement Character Statement project was undertaken in accordance with the Council's 2013/14 Delivery Program and Operational Plan and the Ballina Shire Growth Management Strategy. The project has been undertaken within the existing resources of the Strategic and Community Facilities Group and was funded from savings in the delivery of other programs.

### **Consultation**

No formal submissions were received in response to the public exhibition.

One phone call was received from a Newrybar meeting participant asking for further information on the background to the rural settlement character statements, and asking for information compiled by the project consultant arising from the Newrybar meeting. Information in response to this request was provided.

From a broader perspective, it is anticipated that the December edition of Community Connect will provide a 'reply' to issues identified within the meetings that fell outside the scope of the character statement project.

### **Options**

The primary options available to the Council in relation to the rural settlement character statements are as follows:

1. Endorse the statements as exhibited, or in accordance with modifications specified by the Council.
2. Defer consideration of the statements pending provision of further information or a Councillor briefing.
3. Discontinue further consideration of the statements (and therefore, not endorse them for integration into Council's planning framework and policy).

Given that the draft rural settlement character statements have been compiled based on a comprehensive engagement program with each of the communities involved, and no feedback was received during the public exhibition process in relation to the content or nature of the draft statements, it is recommended that Council proceed to endorse the document as exhibited.

This approach will provide for the integration of the character statements into Council's planning and policy framework, thereby providing direction and recognition in relation to the localities examined. This will also fulfill the intended outcome associated with the rural settlement character statement project as identified in the Ballina Shire Growth Management Strategy and the 2014/15 Delivery Program and Operational Plan.

Deferral or discontinuation of the project is not recommended on the basis of the community engagement undertaken, and that endorsed statements can provide a helpful a basis for future decision making in the localities the subject of the project.

### **RECOMMENDATION**

That Council endorses the rural settlement character statements, as exhibited, as per the contents of this report, for Newrybar, Tintenbar, Fernleigh, Meerschaum Vale, Rous, Rous Mill, Patches Beach, Empire Vale/Keith Hall and South Ballina for use in Council's local planning framework.

### **Attachment(s)**

1. Rural Settlement Character Statements - Final Report

## **9.7 Wardell Strategic Planning Framework - Review**

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### **9.7 Wardell Strategic Planning Framework - Review**

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the proposed approach to a review of the strategic planning framework applying to Wardell and to outline the range of issues proposed to be investigated through an environmental study process.

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#### **Background**

A review of the Ballina Shire Growth Management Strategy was considered by the Council at its Ordinary Meeting held on 25 September 2014. In respect to Wardell, a review of the applicable planning framework was identified as being programmed for 2015. This review encompasses activity PE 3.2.1d "Analyse options for the delivery of affordable housing in Wardell" in Council's endorsed 2014/15 Delivery Program and Operating Plan.

In the context of the Pacific Highway upgrade – Woolgoolga to Ballina being approved by the Minister for Planning and Environment on 24 June 2014, and that the Council's Wardell Strategic and Land Use Plan is now 10 years old, it is considered an opportune time to commence the review of the planning framework applicable to Wardell, through an environmental study process.

This report contains details of the key issues that are proposed to be considered in the Wardell Environmental Study (WES) and strategic plan review.

#### **Key Issues**

- Scope of the review of the strategic planning framework for Wardell.

#### **Information**

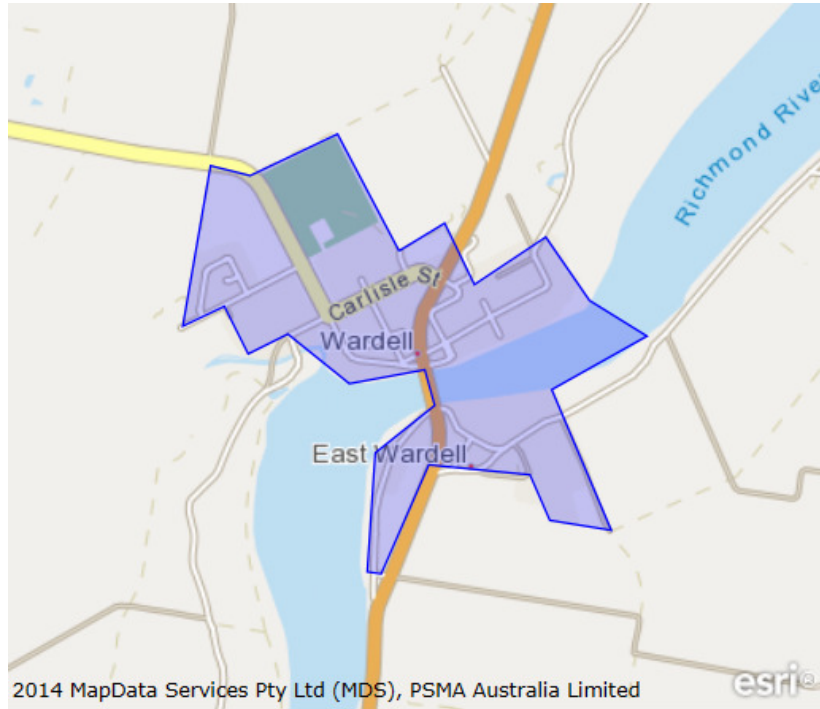
The undertaking of an environmental study is the first step in reviewing the appropriateness of the existing strategic planning framework and planning controls applicable to Wardell. The outcomes of an environmental study process will support a revision of the strategic plan for Wardell and may be used to inform a planning proposal, nominate fresh development guidelines through a DCP or initiate other more direct policy responses for the village.

*Proposed Geographical Limits for Environmental Study and Strategic Plan Review*

## 9.7 Wardell Strategic Planning Framework - Review

It is proposed that the project will review primarily planning and related issues associated with the Wardell locality as defined by the Australian Bureau of Statistics (ABS) for the purpose of the 2011 Census. This area is shown on the map below and is proposed to be referred to as Wardell Village. Wardell Village has an area of approximately 1.5 square kilometres. In 2011 Wardell Village contained 272 private dwellings which provided housing for 648 people.

**Figure 1: ABS 2011 Census Wardell Locality Boundaries Map**



In addition to the area highlighted in Figure 1, various areas designated as Strategic Urban Growth Areas, which in some cases are located outside the ABS locality boundaries, will also be incorporated within the study area.

### *Suggested Scope for Wardell Environmental Study and Strategic Plan Review*

The suggested scope of the Wardell Environmental Study (WES) includes, but is not limited to the following:

- To document the demographic characteristics of the Wardell Village and the nature of demographic change that has occurred in the period 2001 to 2011.
- To forecast likely demographic changes under existing planning instruments and guidelines.
- To document the extent to which the Wardell Village and nearby Strategic Urban Growth Areas are impacted by land constraints, such as flooding and bushfire risk, or that have other overriding attributes or values.
- To determine whether land constraints are significant barriers impacting on the capacity of the Wardell Village to expand.

## 9.7 Wardell Strategic Planning Framework - Review

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- To document the nature of the Wardell Village housing market and whether there are adequate opportunities available for village growth.
- To examine the economic environment of Wardell Village and the potential opportunities available for job creation within the village and surrounding district.
- To document the anticipated economic impacts on Wardell Village once Pacific Highway bypass works are implemented.
- To conceive a vision for the future of Wardell Village through a process of community engagement.
- To formulate policy recommendations to guide the development in the period 2015 to 2035 through a revised strategic plan for Wardell Village.

### Sustainability Considerations

- **Environment**  
Environmental issues of relevance to Wardell Village will be considered in detail in the proposed environmental study.
- **Social**  
Social issues of relevance to Wardell Village will be considered in detail in the proposed environmental study.
- **Economic**  
Economic conditions of relevance to Wardell Village will be considered in detail in the proposed environmental study.

### Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the proposed environmental study. The project can be accommodated within the work program of the Strategic and Community Facilities Group during 2015.

There is no specific program budget allocated to this project. The project (with a current estimated cost of \$10,000) will be funded through the existing budget of the Strategic and Community Facilities Group. In the event that additional funding is required beyond the allocated 2014/15 budget (for specialized community engagement services, for example), it is proposed that the funds would be drawn from the strategic planning reserve.

### Consultation

A community workshop is proposed to be held in Wardell as part of the review process. Interested local residents will be invited to discuss their vision and ideas for the development of Wardell in the period 2015 to 2035. Prior to the workshop being held, various background documents will be prepared to assist residents with their thoughts on the future of Wardell Village.

## **9.7 Wardell Strategic Planning Framework - Review**

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A survey of business owners, who have businesses located within the Wardell Village area, is also proposed to be conducted. The survey will seek information on the anticipated economic impacts (both positive and negative) arising from the proposed Pacific Highway relocation.

### **Options**

This overview of the Wardell environmental study and strategic plan review project is provided for the information of the Council. The opportunity is available for Councillors to nominate additional issues for investigation through the environmental study process and to otherwise direct the terms for the project where considered appropriate.

### **RECOMMENDATIONS**

1. That Council notes the contents of this report concerning the Wardell environmental study and strategic plan review project.
2. That Council endorses the suggested scope of the Wardell environmental study and strategic plan review project as outlined in this report.

### **Attachment(s)**

Nil



## **9.8 Land Transfer - NSW Department of Education and Communities**

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### **9.8 Land Transfer - NSW Department of Education and Communities**

**Delivery Program** Community Facilities and Services

**Objective** To invite the Council's consideration of a proposal to close a portion of a road and transfer it to the NSW Department of Education and Communities.

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#### **Background**

The NSW Department of Education and Communities (the Department) owns land in Ballina generally bounded by Swift Street, Martin Street, Bentinck Street and Cherry Street. The land comprises the campus of Ballina High School, including its associated playing fields which occupy the northern portion of the site. The playing fields were formerly Clement Park and McDonald Park but their ownership was transferred from Ballina Municipal Council to the Department during the 1960s.

The Burnet Street road reserve previously traversed the school site in an east/west direction, separating the school's main operating area from the playing fields. Burnet Street was closed and the ownership was transferred to the Department in 1978.

The exception to this was a narrow strip of road reserve, 1.83 metres wide, extending from Martin Street to Cherry Street, which remains as Council-owned land.

It appears that the narrow strip of land was retained by Council to facilitate legal public access between Martin Street and Cherry Street and to provide an access to Council services, being a treated wastewater pipeline and a sewer main. A concrete pathway has previously been constructed linking the two streets, however it straddles land owned by Council and the Department; ie it is not located wholly within the 1.83 metre wide strip.

A sketch illustrating the residue public road and its relationship to infrastructure is attached to this report, along with an aerial map.

In 2008, the Department erected a two metre high security fence around the entire perimeter of the school site. Whilst this was important infrastructure in the context of the school's risk management obligations, it had the effect of denying access to the public thoroughfare. Access to the playing field area for casual use is also no longer available. However, it is understood that access to the grounds for organized activities (eg Little Athletics) can be provided at the discretion of the school principal, subject to a use agreement and including insurance arrangements.

## **9.8 Land Transfer - NSW Department of Education and Communities**

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The main purpose of this report is to seek the Council's response to a request from the Department to compulsorily acquire the remaining strip of public road (the 1.83 metre wide strip) which traverses the school site. In a letter to Council dated 19 December 2011, the Minister for Education the Hon. Adrian Piccoli MP indicated the Department wishes to acquire the strip of land from Council "to provide a more sensible ownership arrangement and place the whole school site in the case, control and management of the Department".

During the period since the Minister's letter there have been attempts by Council to have the Department change the alignment of the perimeter fencing to allow community access to the playing fields in return for the road closure and transfer. However, the Department has not been willing to agree to that course of action.

### **Key Issues**

- Public land management
- Rationalisation of community assets

### **Information**

Whilst discussions between Council representatives and those from the school and the Department concerning the retained strip of public road have been intermittent over an extensive period, the Department has now indicated that it would like to have the matter resolved. The ability for members of the public to legally (if not practically because of the perimeter fence) traverse the school grounds conflicts with the school's other measures to provide a safe environment for its students and staff.

The proposal is to have the remaining strip of public road closed and its ownership transferred to the Department. Council's interest in having access to its underground services would be preserved through the registration of appropriate easements over the land owned by the Department.

The Department has indicated that it intends to acquire the land by way of compulsory acquisition, with compensation to the Council being based on a formal valuation of the land.

Council recently engaged the services of a registered commercial valuation firm to provide a report and form a view about the value of the land. Following its assessment, the firm has established a valuation figure, based on the land area, zoning and other factors, of \$33,650.

The Department has now advised that it is prepared to proceed with the road closure and transfer based on this valuation figure, with each party to meet its other associated costs including legal expenses, for example.

The compensation amount proposed for the loss of the land is considered to be fair in the circumstances. The loss of the thoroughfare between Martin and Cherry Streets will be seen by some as unfortunate and disappointing.

The reality is however this convenient community access was lost in practical terms when the Department made the decision to erect the perimeter fence.

There seems little utility in requesting the Department to preserve the thoroughfare by removing the current fence at either street end and returning it along both sides of the 1.83 metre wide corridor.

**Sustainability Considerations**

- **Environment**  
Not Applicable
  
- **Social**  
Whilst the general principle of alienating community access over public land warrants careful examination, the circumstances here are that there should be little inconvenience caused to local residents in real terms. On the other hand, the benefits to the Department and the school community are acknowledged in addressing the potential risks associated with “stranger danger”.
  
- **Economic**  
The fair market value of the land has been assessed as compensation to the Council (on behalf of the community) for the “loss” of the land.

**Legal / Resource / Financial Implications**

The relevant circumstances are set out in the above report. If the Council is agreeable, the closure of the narrow road residue and its transfer to the Department under just terms provisions will proceed, based on the valuation agreed to between the parties.

**Consultation**

The Council is being asked to consider this matter in the public interest. No community consultation has occurred regarding the proposed road closure and sale. If the Council decides to proceed with the closure, there is a mandatory period of public exhibition where community members may express a view regarding the proposal. If objections were received, these would be presented to Council for consideration at that time.

**Options**

The Council may either agree to proceed with the road closure and the transfer of the land to the Department based on the valuation received, or decline to do so. The recommendation is to proceed, for the reasons set out in the above report.

Alternatively, the Council may defer its consideration of the matter pending further information being provided, or further dialogue with the Department being held.

**RECOMMENDATIONS**

1. That Council approves the closure and transfer of ownership of the residue of the road, as detailed within this report, to the NSW Department of Education and Communities.
2. That the compensation payable to Council for the transfer of the land shall be an amount of \$33,650 as assessed by the independent firm Eighty8 Valuers dated 20 August 2014 (Job no. 1278PO. Further, that the parties are responsible for their respective associated costs in relation to the proposed closure and transfer.
3. The General Manager is authorised to affix the Council Seal in respect of any documentation associated with the proposed road closure and transfer.

**Attachment(s)**

1. Diagram of partial road closure between Martin and Cherry Streets.
2. Aerial map showing road proposed to be closed

## 10.1 Use of Council Seal

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### 10. General Manager's Group Reports

#### 10.1 Use of Council Seal

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#### RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US13/37	<p>Ballina Shire Council Lease to Airservices Australia (ASA) – Lot 30 DP 1198817, Ballina Byron Gateway Airport, for a Non-Directional Beacon (NDB) enclosed by a 2.4m high security fence, for a period of 5 years with two further options of 5 years at a rental of \$1.00 p.a. if required.</p> <p>Explanation: Council has been in negotiation with ASA to take ownership of and replace the existing NDB with an upgraded NDB, which is a navigational aid for aircraft, at a proposed site at Ballina Byron Gateway Airport. The NDB is a navigation aid that is used entirely for aircraft use. At the moment Council owns and operates the NDB, we maintain it, service it and it costs some \$6,000 to \$7,000 pa to do so. When ASA take up the lease, they will spend \$1m on upgrading works (on the new NDB), they will undertake all future maintenance and service work, and we will charge for grass maintenance etc. The inherent risk of maintaining a navigation aid for aircraft operation is an ASA responsibility. This is a major cost saving exercise not an income generating agreement.</p>
US13/38	<p>Transfer of closed road - Lots 16 &amp; 17 DP 1180023 - to adjoining land owners as a land swap for land dedicated as road.</p> <p>Explanation: This matter has been ongoing for many years with DA 2005/788 being approved on 10 August 2006 for a subdivision to create a public road and to undertake the road construction. The subdivision plan has been registered as DP 1180023 on 21/12/2012 and identified lots 16 and 17 to be sections of road to be closed. These sections of road have been gazetted as closed road and vested in Ballina Shire Council as operational land. Lots 16 and 17 are now to be transferred to the adjoining land owners as a land swap for the new road created:</p> <ul style="list-style-type: none"><li>• Lot 16 to the owners of Lot 15 DP 1180023 – Mr MA &amp; Mrs KM Parry, 1466 Eltham Road, Teven NSW 2478</li><li>• Lot 17 to the owners of Lot 14 DP 1180023 - Mr DJ &amp; Mrs JM Spencer, 1374 Eltham Road, Teven NSW 2477</li></ul> <p>The use of seal is required for the documents related to the land transfers.</p> <p>A copy of a locality map is attached.</p>

## 10.1 Use of Council Seal

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US13/39	<p>Ballina Shire Council Sublease to Ballina Lighthouse and Lismore Surf Lifesaving Club (BLLSLC) – Lot 1 in DP 1197191, No. 65 Lighthouse Parade, East Ballina from 19 June 2014 to 22 June 2033 at a rental of \$1 if required.</p> <p>Explanation: Ballina Shire Council has a Head Lease with the Ballina Coastal Reserve Trust for 20 years for the Ballina Surf Club facility. Council at its Ordinary Meeting of 27 June 2013 resolved to offer the Ballina Lighthouse and Lismore Surf Lifesaving Club a 20 year sub-licence. This decision was revisited at Council's Facilities Meeting of 19 June 2014 whereby it was proposed to offer the BLLSLC a sub-lease rather than a sub-licence. This was then resolved at the Ordinary Meeting of 26 June 2014.</p>
US13/40	<p>Ballina Shire Council lease to A Eames for Shop 149 River Street, Ballina for a term of two years with a two + one year option at a rental to be advised at the meeting.</p> <p>Explanation: This rental was negotiated after the Commercial Services Committee meeting on 18 November 2014 and the tenant proposes to take possession early December.</p>

### Attachment(s)

1. Locality Map - US13/38 - Parry and Spencer

## 10.2 Investment Summary - October 2014

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### 10.2 Investment Summary - October 2014

**Delivery Program** Governance and Finance

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

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#### 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 October 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 31 October 2014 was \$66,055,000. This represents a decrease from September of \$3,500,000. Council's investments as at 31 October are at an average (weighted) rate of 3.61%, which is 0.89% above the 90 Day Bank Bill Index of 2.72%. The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 October 2014 was \$1,910,194.

As noted in the September report to Council, the estimated interest earned for 2014/15 (as shown in Graph D) has now been adjusted as part of the quarterly review process. Total interest earnings are forecast to be approximately \$1.9 million.

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 \$66 million, is restricted by legislation (external) and Council (internal) uses for the following purposes:

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
<b>Total</b>		<b>100%</b>

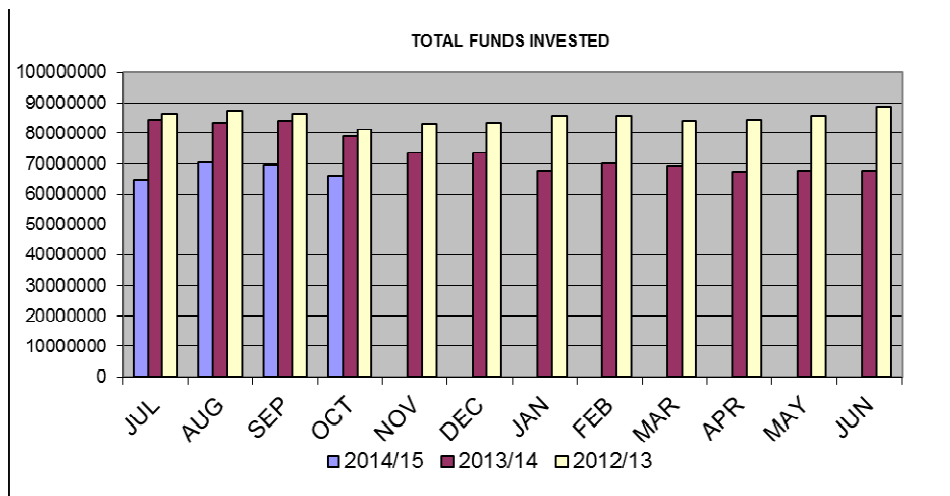
\* Based on reserves held as at 30 June 2014

## 10.2 Investment Summary - October 2014

### A. Summary of investments by institution

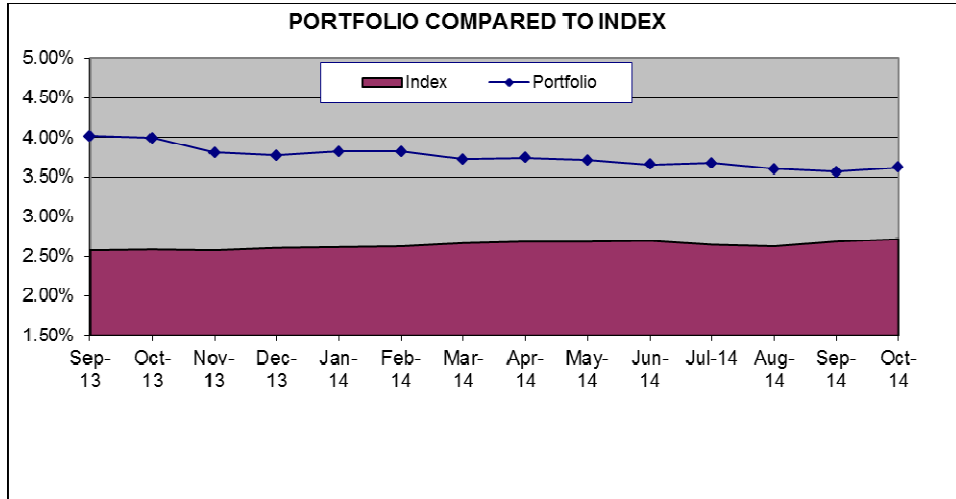
Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
<b>Grandfathered Investments</b>						
Goldman Sachs	AA-	1,000	1,000	0	1.5%	
National Australia Bank	AA-	1,788	1,788	0	2.7%	
National Wealth M'ment Holdings	A	2,000	2,000	0	3.0%	<b>7%</b>
<b>Rated Institutions</b>						
AMP Bank	A+	6,000	6,000	20%	9.1%	
Bank of Queensland	BBB+	4,000	4,000	10%	6.1%	
Bank of Western Aust	AA-	6,000	6,000	20%	9.1%	
Commonwealth Bank	AA-	5,767	3,267	20%	4.9%	
Defence Bank Ltd	BBB+	1,000	1,000	10%	1.5%	
Greater Building Society	BBB	2,000	2,000	10%	3.0%	
Heritage Bank	BBB+	4,000	3,000	10%	4.5%	
ING Bank Ltd	A-	3,000	3,000	10%	4.5%	
Members Equity Bank	BBB+	4,000	4,000	10%	6.1%	
National Australia Bank	AA-	9,000	9,000	20%	13.6%	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10%	3.0%	
Rural Bank Ltd	A-	1,000	1,000	10%	1.5%	
Suncorp-Metway Bank	A+	10,000	10,000	20%	15.1%	
Westpac Bank	AA-	7,000	7,000	20%	10.6%	<b>93%</b>
<b>Unrated ADI's</b>				\$1m	0.0%	
<b>Total</b>		<b>69,555</b>	<b>66,055</b>		<b>100%</b>	

### B. Monthly Comparison of Total Funds Invested

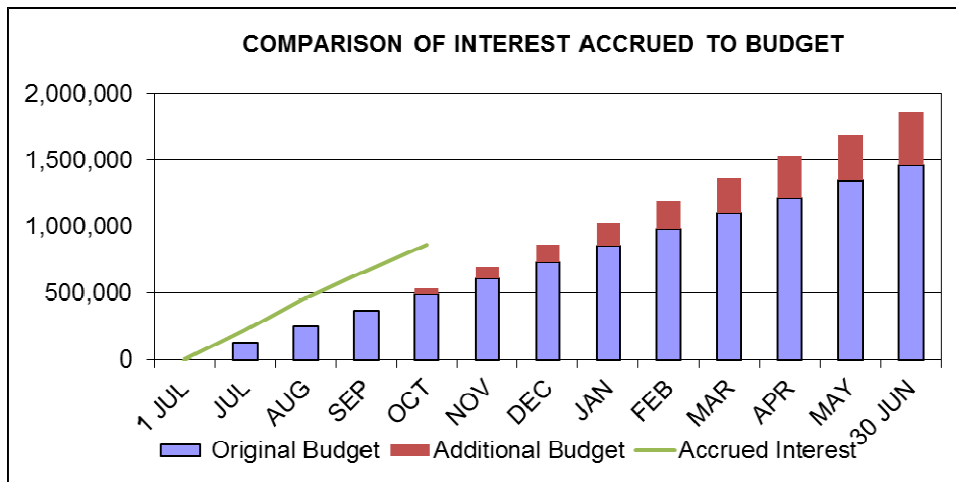




**C. Comparison of Portfolio Investment Rate to 90 Day BBSW**



**D. Progressive Total of Interest Accrued to Budget**



## 10.2 Investment Summary - October 2014

### E. Investments held as at 31 October 2014 (\$'000)

PURCH DATE	ISSUER	TYPE	RATE	MATURITY DATE	PURCH VALUE	FAIR VALUE
20/09/04	National Aust Bank (ASX Listed)	FRN	3.89%	Perpetual	1,788	1,420
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	1,274	1,274
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	1,029
25/01/13	Commonwealth Bank Of Australia	TD	4.25%	25/01/18	1,993	2,054
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	2,011
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	2,021
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
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
13/10/14	Suncorp-Metway Bank	TD	3.50%	13/04/15	3,000	3,000
14/10/14	National Australia Bank	TD	3.55%	14/04/15	2,000	2,000
29/10/14	BankWest	TD	3.40%	28/04/15	2,000	2,000
<b>Totals</b>					<b>66,055</b>	<b>65,751</b>
TD = Term Deposit			FRTD = Floating Rate Term Deposit			
CDA = Cash Deposit Account			FRN = Floating Rate Note			

### RECOMMENDATION

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

### Attachment(s)

1. Tcorp Local Government Economic Commentary - October 2014

## 10.3 Community Donations

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### 10.3 Community Donations

**Delivery Program** Governance and Finance

**Objective** To invite Council to consider an additional donation request.

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#### **Background**

Council approved a large number of donations at the July 2014 Ordinary Meeting for the 2014/15 financial year. Since that time additional requests have been received and generally applicants are advised to reapply next financial year to allow Council to assess all applications at the one time. However the donations policy does allow applications to be submitted to Council where there may be exceptional circumstances.

The following request is considered to be justifiable in reporting to Council for separate consideration. A copy of the request is attached.

#### **Key Issues**

- Community benefit
- Funding available

#### **Information**

##### ***NSW Spectacle Program (Tracey Parish)***

Tracey Parish is a licensed optical dispenser. Her business in Coraki is registered with Vision Australia to provide eligible patients in the northern NSW region access to the NSW Spectacles Program (letter of confirmation attached).

Ms Parish currently donates her time to provide this service at the Lismore Community Gateway and has been asked by Vision Australia to set up the service in Ballina so the Far North Coast would be fully covered by this scheme. In so doing she has asked if Council would provide a room at the Kentwell Community Centre one day a week for three hours.

Council staff have advised Ms Parish that the room hire is already subsidised for not for profit users. The cost of the donation requested is \$30 per week and up to \$1,560 per annum.

#### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Donations can provide community benefits to the Ballina Shire.

### 10.3 Community Donations

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- **Economic**  
Not Applicable

#### **Legal / Resource / Financial Implications**

The current status of the donations budgets for 2014/15 is as follows:

<b>Items</b>	<b>Budget</b>	<b>Allocated</b>	<b>Balance</b>
Donations (General)	50,000	39,103	10,324
Donations (Public Halls)	41,000	39,802	1,198
Donations (Planning Fees)	2,000	2,439	(439)
<b>Net Amount Available</b>			<b>10,763</b>

#### **Consultation**

The annual donation program is subject to formal public exhibition and Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process. There has been no specific consultation in respect of this request.

#### **Options**

The options are to approve or decline the request.

#### **RECOMMENDATION**

That Council approves / refuses the donation request from the NSW Spectacles Program (Tracey Parish).

#### **Attachment(s)**

1. Emails - Request for Financial Assistance - Tracey Parish
2. Letter from Vision Australia Confirming Registration of Provider

## **10.4 Community Satisfaction Survey**

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### **10.4 Community Satisfaction Survey**

**Delivery Program** Governance and Finance

**Objective** To provide a summary of the 2014 Community Satisfaction Survey Results

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#### **Background**

Since 2008 Council has had an external firm, being Micromex Pty. Ltd., undertake community satisfaction surveys to examine community attitudes and perceptions towards current and future services and facilities provided by Council. The two key objectives of this research are to:

- assess and establish the community's priorities and satisfaction in relation to Council activities, services and facilities
- identify the community's overall level of satisfaction with Council's performance

Micromex has now completed the 2014 survey and the purpose of this report is to provide an overview of the survey results. A copy of the Micromex report is included as an attachment to this report.

#### **Key Issues**

- Overall satisfaction levels
- Performance gaps

#### **Information**

The survey undertaken by Micromex is based on direct phone calls to a random sample of 500 residents. The respondents are selected by a computer based random selection process using the electronic White Pages. A sample size of 500 residents provides a maximum sampling error of plus or minus 4.4% at 95% confidence. The sample is also weighted by age to reflect the 2011 ABS census data.

The importance of this type of survey is that it is far more statistically representative of the entire community than the other types of consultation that Council undertakes. The majority of our remaining consultation relies heavily on submissions to Council and one of the weaknesses with that type of consultation is that it is often the most passionate, or most interested, or the people with the most vested interest who respond. This may, at times, not represent the views of the entire community, and one of the more challenging roles of being a councillor is to assess the community viewpoint on any issue.

Council is often criticised when it undertakes a consultation process and the final Council resolution is contradictory to the majority of submissions received. In these cases the reason for the contradictory resolution may be justified by Councillors in that they believe the submissions do not reflect the majority view of the community.

## 10.4 Community Satisfaction Survey

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A recent example of this was the Alstonville Pre-school development application where there were 31 objections to the application, however the majority of Councillors supported the application as it was seen to be in the broader community's interest.

Since Council commenced undertaking the Micromex surveys in 2008 more and more councils are now following similar processes. It would not surprise that at some point in time the NSW Office of Local Government requires all councils to obtain this type of feedback as part of the Integrated Planning and Reporting Framework.

Victorian councils already follow a similar process, as each year Local Government Victoria (LGV) coordinates a State-wide Local Government Community Satisfaction Survey for all Victorian councils.

With Ballina Shire Council having now undertaken surveys in 2008, 2012 and 2014 we are starting to build some history in respect to overall trends and performance. Brief comments on the contents of the 2014 survey, as attached, follow.

### *Satisfaction Levels*

The overall satisfaction ratings (page four of the attachment) for this survey are 94% satisfied and 6% dissatisfied with Council's performance. Our performance for this measurement, for the three surveys completed, is as follows.

<b>Satisfaction Level</b>	<b>2014</b>	<b>2012</b>	<b>2008</b>
Very Satisfied	8	6	6
Satisfied	55	54	66
Somewhat Satisfied	31	28	22
Not very satisfied	5	8	5
Not at all satisfied	1	4	1

How this level of satisfaction compares to other councils is then shown in the following table for the 2014 figures.

<b>NSW Scores</b>	<b>Metro</b>	<b>Regional</b>	<b>All of NSW</b>	<b>Ballina 2014</b>
Mean ratings	3.45	3.22	3.31	3.65

This is a good result on a comparative basis, however there is always room to further improve satisfaction levels. 6% dissatisfaction is relatively low, but it still represents approximately 1,900 adults based on an adult population of around 33,000 and an overall population of 41,000 for the Shire!

### *Most Valued Aspects and Council Goals (pages five and six)*

The most valued aspects of living in Ballina Shire were listed as community - lifestyle, people, friendliness (21%), natural environment (20%) and coastline (15%).

The survey then identifies the goals that Council should be trying to achieve for the next ten years, with ensuring that development meets the needs of population growth, being the number one priority at 22%, which is well above the other priorities identified as per the following table.

## 10.4 Community Satisfaction Survey

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Ten Year Priorities	(%)
Development meets the needs of population growth	22
Roads and Infrastructure maintained	11
Council services and facilities maintained	10
Environmental Sustainability	10
Preserving local waterways and facilities	9
Providing services to all residents	8
Efficient financial management	7
Promoting tourism and leisure facilities	4

### *Swimming Pools (pages seven and eight)*

The next part of the report examines the swimming pool proposals, with 83% of people being supportive of the upgrades, however this reduces to 60% when the special rate variation is tied to the upgrades.

It is interesting to note the difference in the median scores for this component of the survey based on gender, with pages seven and eight of the report providing the following information.

Item	Overall	Male	Female
Supportive of Pool Upgrade	3.79	3.56	4.01
Supportive of Rate Increase	2.96	2.78	3.13

In both examples there is a relatively strong gender bias from females supportive of the swimming pools.

Further information on the pools proposal is included in the special rate consultation report later in this agenda.

### *Comparison to LGA Benchmarks (pages nine and ten)*

This section then lists how Council's scores for the 39 standard council services surveyed compared to other local government authorities (LGAs). Page nine is interesting in that a number of services are well above the comparative benchmarks, with quality of town centres, cycleways and roads being three or four points above the benchmark. These are three areas where Council has invested a significant amount of funds in the last five years and it is pleasing to see this reflected in the survey results.

At the other end, the items below the benchmark are only one point below, excluding public toilets, which has a rating of 3.0 compared to the benchmark of 3.2. Council has recently adopted a public toilet upgrade program to improve the overall condition of our public toilets and hopefully this will be reflected in improved results over time. Swimming pools were also just under the comparative benchmark at 3.6 compared to 3.7.

### *Key Findings - Satisfaction and Importance Trends (pages 10 – 13)*

This section of the survey provides details on overall trends, using the relative rankings of items of importance to the community based on the 39 standard services surveyed, the level of satisfaction for each service and the performance gap between importance and satisfaction.

## 10.4 Community Satisfaction Survey

The table on page 12 of the report provides the overall ranking for the 39 services based on the performance gap, with page 13 identifying the top nine priorities as per the following table.

Ranking	Service/ Facility	Importance Mean	Satisfaction Mean	Performance Gap
1	Roads	4.65	3.10	1.55
2	Long term planning	4.47	3.12	1.34
3	Health of the Richmond River	4.56	3.25	1.31
4	Affordable housing	4.02	2.78	1.24
5	Management of development	4.18	3.01	1.17
6	Financial management	4.37	3.28	1.09
6	Public toilets	4.09	3.00	1.09
8	Crime prevention / law and order	4.51	3.44	1.06
9	Economic development	4.14	3.15	0.99

In respect to items of importance to the community the next table provides a comparison for all three surveys.

### Importance Mean and Rankings (Comparison for 2008, 2012, 2014)

Service/ Facility	2014 Score and Ranking		2012 Score and Ranking		2008 Score and Ranking	
	Score	Ranking	Score	Ranking	Score	Ranking
Roads	4.65	1	4.71	2	4.71	1
General garbage collection	4.64	2	4.60	3	4.66	3
Beaches and foreshores	4.57	3	4.51	5	4.53	6
Overall health of the Richmond River	4.56	4	4.54	4	Not surveyed	
Crime prevention and law and order	4.51	5	4.75	1	4.67	2
Recycling options	4.5	6	4.40	8	4.59	5
Coastline management	4.48	7	4.42	7	4.39	9
Long term planning	4.47	8	4.37	9	4.43	8
Ballina Byron Gateway Airport	4.45	9	4.29	12	4.30	10
Financial management	4.37	10	4.34	11	4.26	13
Parking	4.28	11	4.35	10	4.44	7
Support for volunteers	4.27	12	4.20	14	4.24	15
Water supply	4.27	13	4.45	6	4.60	4
Environmental / sustainability initiatives	4.24	14	4.24	13	4.27	11
Council's customer service	4.21	15	4.19	16	4.27	12
Disability access	4.20	16	4.15	21	4.04	23
Tourism management	4.19	17	4.19	16	4.10	21
Management of development	4.18	18	4.20	14	4.22	17
Vegetation management	4.18	19	4.19	16	4.23	16
Aged services	4.18	20	4.07	23	3.97	27
Drainage/flood management	4.17	21	4.19	16	4.24	14
Economic development	4.14	22	4.19	16	4.10	20
Public toilets	4.09	23	3.93	27	3.99	20
Town centre and public spaces	4.08	24	4.12	22	4.16	19
Affordable housing	4.02	25	3.97	25	4.06	22
Heritage conservation	4.01	26	4.05	24	4.03	24
Relationship with indigenous residents	3.99	27	3.75	31	3.82	30
Sewerage management	3.98	28	3.91	29	4.21	18
Participate in Council decision making	3.97	29	3.94	26	3.94	28
Cycleways and bicycle facilities	3.88	30	3.93	27	3.99	26
Festival and event management	3.78	31	3.70	32	3.80	31
Parks and sporting facilities	3.75	32	3.90	29	3.92	29
Libraries	3.67	33	3.61	33	3.78	32
Youth services	3.65	34	3.53	35	3.44	34
Swimming pools	3.54	35	3.56	34	3.53	33
Community Centres and Public Halls	3.47	36	3.40	36	3.38	35
Child care services	3.38	37	3.15	37	3.11	36
Boating facilities (Recreation/Profess)	3.28	38	3.08	38	Not surveyed	
Dog exercise areas	3.19	39	2.85	39	2.94	37

In reviewing these results items such as roads, garbage, beaches, the Richmond River and crime prevention all remain the highest items of importance to the community.



## 10.4 Community Satisfaction Survey

Once financial management is included this reinforces the long held mantra for councils, being roads, rates and rubbish.

The one major difference in the highest priorities for 2014 is water supply dropping to priority number 13, when it was listed as number six and four in the previous surveys.

Drought restrictions have not been in place in recent years and if such restrictions were to occur in the near future, this would most likely lift the importance of this service.

The priorities in this importance listing to reinforce the message that councils should always focus on the core services of infrastructure delivery (i.e. roads, waste etc) while at the same time appropriately managing development (i.e. coastline, river, beaches, long term planning).

The next table then examines the satisfaction mean for all three surveys.

**Satisfaction Mean and Rankings (Comparison for 2008, 2012, 2014)**

Service/ Facility	2014 Score and Ranking		2012 Score and Ranking		2008 Score and Ranking	
Libraries	4.23	1	4.22	1	4.10	4
Ballina Byron Gateway Airport	4.17	2	3.92	4	3.96	5
Water supply	4.11	3	4.13	2	4.15	3
General garbage collection	4.1	4	3.90	5	4.31	1
Beaches and foreshores	4.07	5	3.94	3	4.17	2
Recycling options	3.86	6	3.88	6	3.96	5
Sewerage management	3.83	7	3.83	7	3.70	9
Aged services	3.68	8	3.57	10	3.50	10
Town centre and public spaces	3.66	9	3.26	23	3.41	14
Parks and sporting facilities	3.66	9	3.48	14	3.50	10
Council's customer service	3.64	11	3.54	11	3.75	8
Community Centres and Public Halls	3.64	11	3.58	9	3.21	24
Support for volunteers	3.58	13	3.48	14	3.41	14
Swimming pools	3.57	14	3.53	13	3.86	7
Child care services	3.57	14	3.59	8	3.40	16
Festival and event management	3.55	16	3.19	27	3.27	21
Tourism management	3.53	17	3.33	18	3.43	13
Coastline management	3.51	18	3.40	16	3.48	12
Cycleways and bicycle facilities	3.51	18	3.30	19	3.30	17
Boating facilities (Recreation/Professl)	3.51	18	3.54	11	Not surveyed	
Disability access	3.47	21	3.38	17	3.28	20
Crime prevention and law and order	3.44	22	3.25	24	2.83	35
Vegetation management	3.39	23	3.30	19	3.25	23
Heritage conservation	3.39	23	3.28	22	3.29	19
Environmental / sustainability initiatives	3.35	25	3.29	21	3.20	25
Drainage/flood management	3.33	26	3.19	27	3.27	21
Parking	3.31	27	3.22	25	3.02	32
Financial management	3.28	28	3.09	30	3.30	17
Overall health of the Richmond River	3.25	29	3.05	31	Not surveyed	
Relationship with indigenous residents	3.22	30	3.17	29	3.12	28
Participate in Council decision making	3.21	31	2.97	33	3.16	26
Dog exercise areas	3.20	32	3.22	25	3.09	29
Economic development	3.15	33	2.92	36	3.16	26
Long term planning	3.12	34	3.02	32	3.06	30
Roads	3.10	35	2.70	38	2.84	34
Youth services	3.07	36	2.93	35	2.80	36
Management of development	3.01	37	2.82	37	3.05	31
Public toilets	3.00	38	2.94	34	2.94	33
Affordable housing	2.78	39	2.59	39	2.30	37

The highest satisfaction levels remain consistent for all three surveys, with the top six items not having changed, albeit the order may have shifted. The airport has steadily lifted its overall ranking.

## 10.4 Community Satisfaction Survey

In respect to the lower levels of satisfaction, items such as roads, public toilets, affordable housing and management of development are consistently at the lower end.

The survey then examines where the largest performance gaps are between the levels of importance and satisfaction. The purpose of the performance gap measurement is to provide Council with information on items that are considered to be of importance and then identify where the satisfaction levels may be low.

The logic being that if Council identifies items that are of high importance, that have lower satisfaction levels, then it may be necessary to identify strategies that could potentially improve those satisfaction levels.

### Performance Gap Ranking

Ranking 2012	Ranking 2014	Service/Facility	Importance Mean	Satisfaction Mean	Gap
1	1	Roads	4.65	3.10	1.55
6	2	Long term planning	4.47	3.12	1.34
3	3	Overall health of the Richmond River	4.56	3.25	1.31
4	4	Affordable housing	4.02	2.78	1.24
4	5	Management of development	4.18	3.01	1.17
8	6	Financial management	4.37	3.28	1.09
12	7	Public toilets	4.09	3.00	1.09
2	8	Crime prevention and law and order	4.51	3.44	1.06
7	9	Economic development	4.14	3.15	0.99
10	10	Coastline management	4.48	3.51	0.97
9	11	Parking	4.28	3.31	0.96
14	12	Environmental and sustainability initiatives	4.24	3.35	0.90
11	13	Drainage/flood management	4.17	3.33	0.85
15	14	Vegetation management	4.18	3.39	0.79
25	15	Relationship with indigenous residents	3.99	3.22	0.77
13	16	Participate in Council decision making	3.97	3.21	0.76
18	17	Disability access	4.20	3.47	0.73
20	18	Support for volunteers	4.27	3.58	0.69
16	19	Tourism management	4.19	3.53	0.66
27	20	Recycling options	4.50	3.86	0.64
18	21	Heritage conservation	4.01	3.39	0.62
22	22	Council's customer service	4.21	3.64	0.58
24	23	Youth services	3.65	3.07	0.57
21	24	General garbage collection	4.64	4.10	0.54
29	25	Aged services	4.18	3.68	0.50
26	26	Beaches and foreshores	4.57	4.07	0.50
16	27	Quality of town centre and public spaces	4.08	3.66	0.42
23	28	Cycleways and bicycle facilities	3.88	3.51	0.37
31	29	Ballina Byron Gateway Airport	4.45	4.17	0.28
28	30	Festival and event management	3.78	3.55	0.23
32	31	Water supply	4.27	4.11	0.16
33	32	Sewerage management	3.98	3.83	0.15
30	33	Parks and sporting facilities	3.75	3.66	0.10
36	34	Dog exercise areas	3.19	3.20	-0.01
34	35	Swimming pools	3.54	3.57	-0.03
35	36	Community Centres and Public Halls	3.47	3.64	-0.17
37	37	Child care services	3.38	3.57	-0.19
38	38	Boating facilities (Recreation/Professional)	3.28	3.51	-0.23
39	39	Libraries	3.67	4.23	-0.57

The feedback from Micromex is that roads, particularly for regional councils, almost always shows up as the highest performance gap. The 2014 performance gap for roads is, relatively speaking, a reasonable result, as the 2012 gap was 2.01 and comparisons to other councils, based on other Micromex surveys that were readily accessible on the web are as follows, along with their overall satisfaction percentage and mean scores.

## 10.4 Community Satisfaction Survey

### *Tamworth Regional Council -2014*

Service/Facility	Importance Mean	Satisfaction Mean	Gap	Overall Satisfied	Overall Mean
Maintaining local roads	4.77	2.71	2.06	91%	3.55

### *Maitland Council -2013*

Service/Facility	Importance Mean	Satisfaction Mean	Gap	Overall Satisfied	Overall Mean
Overall condition of road network	4.74	2.58	2.16	89%	3.44

### *Lake Macquarie - 2012*

Service/Facility	Importance Mean	Satisfaction Mean	Gap	Overall Satisfied	Overall Mean
Maintaining road surfaces	4.75	2.72	2.03	92%	3.72

### *Byron Shire - 2013*

Service/Facility	Importance Mean	Satisfaction Mean	Gap	Overall Satisfied	Overall Mean
Local Roads	4.64	1.77	2.87	72%	3.07

In having now completed three surveys Council can also see if there are any trends in the performance gap.

The following table provides that information.

Ranking 2014	Service/Facility	2014 Gap	2012 Gap	2008 Gap
1	Roads	1.55	2.01	1.87
2	Long term planning	1.34	1.35	1.37
3	Overall health of the Richmond River	1.31	1.49	Not surveyed
4	Affordable housing	1.24	1.38	1.76
5	Management of development	1.17	1.38	1.17
6	Financial management	1.09	1.25	0.96
7	Public toilets	1.09	0.99	1.05
8	Crime prevention and law and order	1.06	1.50	1.84
9	Economic development	0.99	1.27	0.94
10	Coastline management	0.97	1.02	0.91
11	Parking	0.96	1.13	1.42
12	Environmental and sustainability initiatives	0.90	0.95	1.07
13	Drainage/flood management	0.85	1.00	0.97
14	Vegetation management	0.79	0.89	0.98
15	Relationship with indigenous residents	0.77	0.58	0.70
16	Participate in Council decision making	0.76	0.97	0.78
17	Disability access	0.73	0.77	0.76
18	Support for volunteers	0.69	0.72	0.83
19	Tourism management	0.66	0.86	0.67
20	Recycling options	0.64	0.52	0.63
21	Heritage conservation	0.62	0.77	0.74
22	Council's customer service	0.58	0.65	0.52
23	Youth services	0.57	0.60	0.64
24	General garbage collection	0.54	0.70	0.35
25	Aged services	0.50	0.50	0.47
26	Beaches and foreshores	0.50	0.57	0.36
27	Quality of town centre and public spaces	0.42	0.86	0.75
28	Cycleways and bicycle facilities	0.37	0.63	0.69
29	Ballina Byron Gateway Airport	0.28	0.37	0.34
30	Festival and event management	0.23	0.51	0.53
31	Water supply	0.16	0.32	0.45
32	Sewerage management	0.15	0.08	0.51
33	Parks and sporting facilities	0.10	0.42	0.42
34	Dog exercise areas	-0.01	-0.37	-0.15
35	Swimming pools	-0.03	0.03	-0.33
36	Community Centres and Public Halls	-0.17	-0.18	-0.17
37	Child care services	-0.19	-0.44	-0.29
38	Boating facilities (Recreation/Professional)	-0.23	-0.46	Not surveyed
39	Libraries	-0.57	-0.61	-0.32

## 10.4 Community Satisfaction Survey

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Generally the performance gaps are narrowing, particularly from the 2012 survey or staying relatively similar.

The largest reduction is in Crime Prevention and Law and Order (1.84 in 2008 to 1.06 in 2014) and some credit must go to the NSW Police in their efforts in this regard as the latest trending in crime statistics is down across the Ballina Shire.

Crime prevention always shows up as a high priority in this Council survey and even though Council itself does not play a large role in crime prevention, the survey highlights that there is some expectation from the community that Council will assist.

Council does have strong liaison and communication channels with the Police and our activities such as removing graffiti promptly, providing good street lighting and having well maintained open space areas and town centres all help to provide a safer space for our community.

### **Sustainability Considerations**

- **Environment**  
The 39 services surveyed include environmental, social and economic considerations.
- **Social**  
As above
- **Economic**  
As above.

### **Legal / Resource / Financial Implications**

The survey results can help inform Council decision making in respect to resource allocation.

### **Consultation**

A sample of 500 residents was undertaken providing a maximum sampling error of plus or minus 4.4% at 95% confidence.

### **Options**

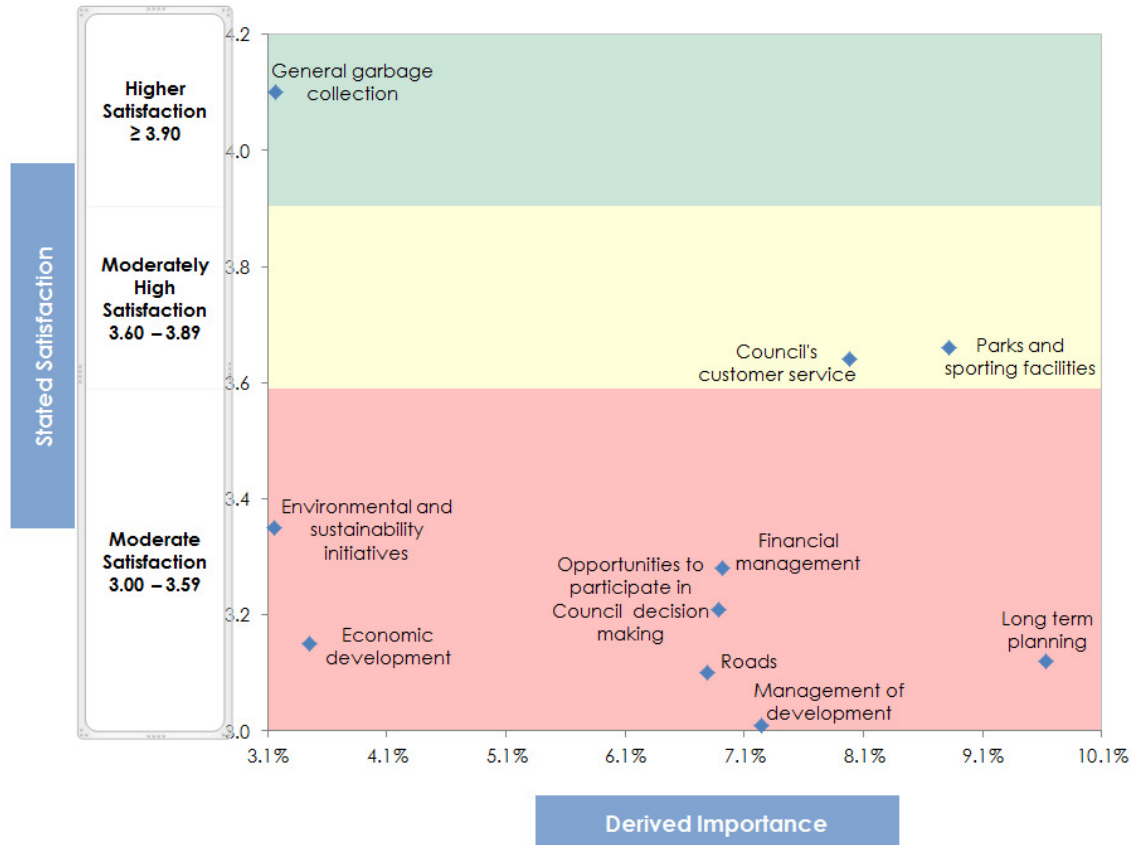
This report is for noting purposes only with the survey results just being one of the many items of information that can help inform Councillors in respect to the decision making process, particularly with respect to resource allocation (i.e. budget allocations).

The survey also helps guide how Council will communicate actions and decisions being taken and implemented, as pages 14 to 18 of the report outline services that make a major contribution to overall satisfaction levels.

## 10.4 Community Satisfaction Survey

The presentation to Councillors by Micromex on Monday 10 November highlighted how ten key services were driving more than 60% of the overall satisfaction with Council and strategies to improve those existing satisfaction levels will help to improve overall satisfaction.

A copy of the chart used in that presentation is as follows.



As advised by Micromex, all of these services are at moderate satisfaction levels, which is a good base to start from. Council is undertaking a number of actions for many of the services listed in this chart and part of the challenge is to improve our communication to the community and explain the steps / initiatives that are being taken, whilst also improving existing service levels where possible. Publications such as Community Connect are a major component of the communication process.

### RECOMMENDATION

That Council notes the contents of this report on the 2014 Micromex Community Satisfaction Survey.

### Attachment(s)

1. Micromex - Community Satisfaction Survey - 2014 - Final Report (Under separate cover)

## 10.5 Ward Boundaries

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### 10.5 Ward Boundaries

**Delivery Program** Governance and Finance

**Objective** To consider amendments to the ward boundaries (after public exhibition) to ensure compliance with the Local Government Act.

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#### **Background**

Council at the July Ordinary meeting resolved as follows:

*That Council endorses, for public exhibition purposes, the transfer of census collection districts 1071807 and 1071804 from B to C Ward, as the preferred approach to be applied in amending the existing ward boundaries to ensure that the number of electors in each ward is within the 10% tolerance required by Section 210(7) of the Local Government Act:*

Following the July Ordinary meeting, approval was given by the NSW Electoral Commission to the proposed changes as recommended by Council. A copy of their correspondence is attached. A copy of the map outlining the changes is also attached.

The consultation process was held during September and October with advertisements placed in the Ballina Shire Advocate, on Council's website and information was available at Council's community access points.

Letters were written to all property owners in CCDs 1071807 and 1071804 advising of the proposal.

Submissions closed on 17 November 2014 with one submission being received, a copy of which is attached to this report.

#### **Key Issues**

- Options for change
- Compliance with the Local Government Act

#### **Information**

As per the report to the July 2014 Ordinary meeting Section 211 of the Local Government Act states as follows:

- 1) *The council of an area divided into wards must keep the ward boundaries under review.*
- 2) *If:*
  - a) *during a council's term of office, the council becomes aware that the number of electors in one ward in its area differs by more than 10 per cent from the number of electors in any other ward in its area, and*
  - b) *that difference remains at the end of the first year of the following term of office of the council,*

## 10.5 Ward Boundaries

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*the council must, as soon as practicable, alter the ward boundaries in a manner that will result in each ward containing a number of electors that does not differ by more than 10 per cent from the number of electors in each other ward in the area.*

- 3) *Nothing in subsection (2) prevents a council that has become aware of the discrepancy referred to in subsection (2) (a) from altering its ward boundaries before the end of the first year of the following term of office of the council.*

The July report highlighted that there was a greater than 10% tolerance between B and C Ward as per the latest electoral figures; i.e.

A Ward – 10,293                      B Ward - 10,822                      C Ward - 9,545

The variance between the lowest (C Ward) and the highest (B Ward) is 1,277 electors, which represents a variation of 13% for C Ward.

To resolve this Council supported Census Collection Districts (CCDs) 1071807 (432 enrolments) and 1071804 (271 enrolments) being relocated from B Ward to C Ward; with the revised enrolments then as follows:

A Ward – 10,293                      B Ward - 10,119                      C Ward – 10,248

This then represented a variance of less than 2% and under this proposal all properties west of Friday Hut Road are to be located in C Ward.

Council has only received one submission in respect to this proposal and a copy of that submission and the follow up response are attached.

The points being made by Mr Davies are fair and reasonable in that it does not always make sense to have one side of the road in one ward and the other in another. Unfortunately this has to happen at any ward boundary as CCD boundaries are typically aligned with roads. Also there is little doubt that there are communities of interest between this locality and Newrybar / Knockrow, however the difficulty Council faces is that no matter where we locate Ward boundaries these types of issues will often arise.

For example, A and B Wards in East Ballina is split along Manly Street, Links Avenue, Lee Street and Anderson Avenue.

Despite being elected in Wards, Councillors represent the entire shire and any resident is entitled to ask any Councillor to take up any issue for them. Ideally Ward boundaries should be largely only for the voting process, with Councillors then representing the entire Shire.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Communities of interest do play a role in the voting process and Council needs to be mindful of this when examining Ward boundaries.
- **Economic**  
Not Applicable

**Legal / Resource / Financial Implications**

Council must comply with the Local Government Act.

**Consultation**

Any changes were advertised for public comment as per Section 201A of the Local Government Act and letters were written to all property owners in CCDs 1071807 and 1071804 advising of the proposal.

The NSW Electoral Commission also approved this proposal for exhibition purposes.

**Options**

The options are to approve the transfer of CCDs 1071807 and 1071804 from B to C Ward or to not approve and examine other alternatives.

Considering there has only been one objection to this proposal it is recommended that Council adopt this amendment, as no matter what other amendments are considered it is likely that the same issue of Ward boundary lines will arise. This current proposal reduces the current variance to 2% which should mean that no further changes are needed for at least another two electoral terms and overall it is a relatively minor adjustment to the Ward boundaries.

**RECOMMENDATION**

That based on the limited feedback from the exhibition process Council adopts the transfer of census collection districts 1071807 and 1071804 from B to C Ward for the purposes of future local government elections.

**Attachment(s)**

1. Approval from NSW Electoral Commission
2. Whole Shire Ward Map showing proposed changes
3. Submission Received and Council's response



## **10.6 Classification of Land - Lot 1 DP 1192961 Shelly Beach Road**

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### **10.6 Classification of Land - Lot 1 DP 1192961 Shelly Beach Road**

**Delivery Program** Commercial Services

**Objective** To determine the classification of a parcel of land recently acquired by Council, under the provisions of the Local Government Act 1993

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#### **Background**

Council recently compulsorily acquired a 129m<sup>2</sup> parcel of land from Crown Lands at East Ballina known as Lot 1 DP 1192961(see attached plan). This parcel of land adjoins the Shelly's on the Beach Café.

The purpose of this report is to determine the classification of the allotment under the terms of the Local Government Act 1993 ("Act"). Part 2 of Chapter 6 of the Act regulates the management of public land.

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

#### **Key Issues**

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

#### **Information**

As outlined above, the subject lot has been compulsorily acquired by Council due to negotiations with Crown Lands regarding tenure arrangements for Shelly's on the Beach Café at East Ballina.

As the lot has been acquired to consolidate with Council's adjoining operational land it is recommended that this parcel be classified as operational land in accordance with the provisions of the Act.

Section 34 of the Act requires public notice of a proposed resolution to classify land must be given and that a period of not less than 28 days to receive submissions must be provided. A public notice of the proposal to classify the subject land as operational land was conveyed in the Ballina Shire Advocate on 1 October 2014 in accordance with section 24 of the Act, with submissions invited until 29 October 2014. No submissions were received in response to the notification.

Given that the public notification period has now been completed, it is necessary for Council to confirm whether or not the land is to be classified as operational land under the terms of the Act.

**Sustainability Considerations**

- **Environment**  
Not applicable
- **Social**  
Not Applicable
- **Economic**  
Council purchased this land to ensure all monies from the rental of the subject property are returned to Council.

**Legal / Resource / Financial Implications**

The classification of Lot 1 DP 1192961 as operational land is a legal mechanism under the Act that provides Council with flexibility in the management and maintenance of the land. The proposed classification will not directly result in adverse resource or financial implications but will enable the efficient management and maintenance of the land for its intended purpose in the long term.

**Consultation**

Public notification of the proposal to classify the land as operational land has been made in accordance with the requirements of section 34 of the Local Government Act 1993. Public submissions were invited with the closing date being 28 October 2014. No submissions in response to the notification were received.

**Options**

1. The Council may resolve to classify the land as operational. This option is preferred as it enables Council to manage the land accordingly. Under this option the proposed classification as operational would take effect immediately upon the resolution of the Council.
2. The Council may resolve to classify the land as community land. This option is not recommended as it does not allow Council the flexibility in managing the land, particularly as the land is leased.

**RECOMMENDATION**

That Council classify the land identified as Lot 1 DP 1192961 as operational land under the provisions of the Local Government Act 1993 and that this classification takes effect immediately.

**Attachment(s)**

1. Locality Plan

## **10.7 Policy (Review) - Sponsorship To and By Council**

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### **10.7 Policy (Review) - Sponsorship To and By Council**

**Delivery Program** Governance and Finance

**Objective** To review the Corporate Sponsorship Policy.

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#### **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 Corporate Sponsorship policy. Council first adopted this policy in 2006 and it was last reviewed in September 2010.

#### **Key Issues**

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

#### **Information**

The current policy is included as the first attachment to this report. This policy was originally created in response to ICAC recommendations regarding the management of sponsorship by the public sector. The existing policy is focused largely on the private sector sponsoring Council organised events. This policy was more relevant when Council was conducting events such as Rivafest, which required significant corporate sponsorship.

Council's entire event funding model has now changed with Council providing sponsorship to signature events through its Festival and Events Support Program. This being the case the existing policy has been entirely rewritten to focus on sponsorship both to and by Council. A copy of the revised document is included as the second attachment to this report.

Largely the policy provides an overview of the steps taken in accepting and providing sponsorship, however the "General Principles" Section of the document does identify the types of company sponsorships that will not be accepted (i.e. tobacco etc). Overall the policy is relatively straightforward and it is designed to ensure that the ICAC principles relating to sponsorship are officially documented.

#### **Legal / Resource / Financial Implications**

There are no legal or financial implications in adopting the amended policy.

## **10.7 Policy (Review) - Sponsorship To and By Council**

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### **Consultation**

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. It is recommended that the policy be adopted as presented.

### **RECOMMENDATIONS**

1. That Council adopts the amended Sponsorship 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. Current Policy - Corporate Sponsorship
2. Policy (New) - Sponsorship

## 10.8 Ballina Cup 2015

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### 10.8 Ballina Cup 2015

**Delivery Program** Governance and Finance

**Objective** To determine the application Council wishes to make to the NSW State Government in respect to the application from the Ballina Jockey Club for a part day public holiday for the 2015 Ballina Cup.

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#### **Background**

Each year Council, following an approach by the Ballina Jockey Club, has traditionally applied to the NSW Treasury for a half-day public holiday and more recently in 2014 for a part day holiday between 12 noon and 6 pm, for the Ballina Cup. A copy of the latest correspondence from NSW Treasury outlining this process is included as an attachment to this report.

NSW Treasury has advised that the deadline for receipt of applications is flexible and given the timeframe to undertake a public consultation process, it was considered preferable to undertake that process prior to reporting the matter to Council.

The Ballina Jockey Club have requested that Council apply for a part day public holiday for Thursday 10 September 2015. A copy of their correspondence is attached. Further correspondence from the Club is also attached outlining the reasons they believe Council should support a part day holiday.

#### **Key Issues**

- Options available

#### **Information**

The 2015 Ballina Cup is scheduled for Thursday 10 September 2015. There are two main options available to Council in respect to this proposal.

#### **Local Part Day Public Holiday (half / quarter or other timeframe)**

- Banks required to close unless they hold a special approval to open
- Shops are free to open without restriction
- All employees are entitled to be absent from work
- Employees who work are entitled to penalty rates

#### **Local Half Day Event Day**

- Does not preclude banks or shops from opening
- Does not automatically mean employers are compelled to treat the day as a public holiday
- Entitlements to paid time off work or penalty rates will only apply where they have been agreed at the workplace, usually in the form of an enterprise agreement.

A quarter day public holiday was granted for 2014 between the hours of 12 noon and 6.00 pm.

### **Sustainability Considerations**

- **Environment**  
Not applicable
- **Social**  
The Ballina Cup is a major part of the social calendar for the Ballina Shire. There is also a social impact by schools having to close for the half day.
- **Economic**  
There are economics benefits gained from the staging of an event such as the Ballina Cup through promotional activities and increased visitors. There is also a significant cost to businesses in closing for the afternoon.

### **Legal / Resource / Financial Implications**

NSW Treasury invites councils to apply for approval to meet their legislative responsibilities. Council's response was due back by Friday 7 November 2014 to allow all the State wide holidays to be published by the Government. As stated earlier in this report, this deadline is flexible.

### **Consultation**

Council is required to consult with relevant stakeholders and various organisations such as schools, local banks, major employers and the Chambers of Commerce to make a decision in respect to the preferred option.

Correspondence has been forwarded to all the schools, pre-schools and child care centres in the Shire and the three Chambers of Commerce as part of this process. Advertisements were also placed in the Advocate and notices appeared on Council's website, with submissions closing on 12 November 2014. Twenty two submissions were received.

The submissions received are included as attachments to this report.

In summary those responses are:

- Six submissions in support of either a part day or half day public holiday or local event day.
- Fifteen submissions against any proposal for a part day or half day public holiday.
- One general submission.

For the Chambers of Commerce

Ballina – The balance of their correspondence tends to support the Jockey Club's application, however it then makes reference to a Local Holiday, which is different terminology to a local event day. Generally it is thought the Chamber supports the public holiday.

## **10.8 Ballina Cup 2015**

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Alstonville/Wollongbar – support a local event day on the Thursday. Do not support a local public holiday and did not support the event being held on a Friday.

Schools/Preschools/Child Care Centres are generally not supportive of any holiday which support, gambling, alcohol consumption and impacts on school times.

### **Options**

The options available to Council are to apply for a:

- Half day Public Holiday (12 noon to 12 midnight)
- Part day Public Holiday (12 noon to 6 pm)
- Part day Public Holiday (for any other period of time)
- Local Event Day

Or alternatively not apply at all.

As the most recent decision of Council is to support a part day public holiday the recommendation that follows is consistent with that decision.

It should be noted that even if Council makes an application for a public holiday, the State Government still needs to approve such an application.

### **RECOMMENDATION**

That Council confirms its support for the declaration of a quarter day public holiday between the hours of noon and 6 pm throughout the Ballina Shire for Thursday 10 September 2015 for the 2015 Ballina Cup, with the General Manager authorised to make an application to the NSW State Government for this holiday.

### **Attachment(s)**

1. Letter from NSW Treasury
2. Letter from Ballina Jockey Club
3. Further letter from Ballina Jockey Club
4. Submissions in support
5. Submissions in opposition
6. Submission - general

## 10.9 Financial Statements 2014

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### 10.9 Financial Statements 2014

**Delivery Program** Financial Management

**Objective** Section 419 of the Local Government Act requires that the audited financial statements be formally presented to the public. The report that follows looks to satisfy this requirement.

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#### **Background**

Council considered the annual financial statements for the financial year ended 30 June 2014 at the October Ordinary meeting. The principal auditor, Mr Kevin Franey of Thomas Noble and Russell, also addressed Council at that meeting.

The audit opinion was that Council's accounting records had been kept in accordance with the requirements of the Local Government Act and Australian accounting standards. The records fairly presented the Council's financial position and the results of operations. The audit was unqualified. Council subsequently endorsed the reports.

In accordance with Section 418 of the Local Government Act the Council must then formally present the financial reports to the public. This public presentation must be advertised. The advertising process has now been completed and this report complies with that section of the Local Government Act.

#### **Key Issues**

- Compliance with the Local Government Act
- Content of the financial reports
- Submissions to the advertised reports

#### **Information**

In accordance with the Local Government Act and Council's resolution the reports were advertised for public comment. No submissions were received.

Councillors may wish to bring their copy of the annual financial reports, as distributed at the October meeting, in case there is any further discussion on the matter.

Whilst reviewing the Statements one matter was identified that requires correction. Note 21 of the Statements shows the operating results on a Fund basis. Operating income is placed into different categories including operating grants/contributions and capital grants/contributions.

An amount of \$369,000 is shown in Note 21 as an operating contribution when in fact it is a capital contribution.

The next table below shows the figures before and after the adjustment.



**Note 21 – Results by Fund**

<b>Income from Continuing Operations</b>	<b>General Fund as exhibited \$'000</b>	<b>General Fund with adjustment \$'000</b>	<b>Water Fund as exhibited \$'000</b>	<b>Water Fund with adjustment \$'000</b>
Rates and annual charges	23,725	23,725	2,860	2,860
User charges and fees	9,435	9,435	7,264	7,264
Interest/Investment income	2,068	2,068	413	413
Other revenues	3,694	3,694	0	0
Grants/ Conts - operating	4,847	5,216	521	152
Grants/ Conts - capital	11,138	10,769	638	1,007
<b>Total income</b>	<b>54,907</b>	<b>54,907</b>	<b>11,696</b>	<b>11,696</b>

The adjustment affects both General and Water Funds. The correction actually relates to a Water Fund contribution however by virtue of the way this note is prepared the adjustment affects both Funds. The attachment to this report provides further supporting information to that presented to the October Ordinary meeting, with the aim of this attachment being to break the statements down into a more user friendly form.

**Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
The Financial Statements summarise the financial position of Council.

**Legal / Resource / Financial Implications**

The annual financial statements detail the financial position of Council.

**Consultation**

Notice of the reports was advertised in the local paper, on Council's website and at community access points.

**Options**

Council may adopt the annual financial reports for presentation to the public or choose not to adopt the reports. The recommendation is to adopt the reports.

**RECOMMENDATION**

That Council adopts the annual financial reports and auditor's reports for the financial year ended 30 June 2014, as publicly advertised, inclusive of the correction described in this report concerning the categorisation of a \$369,000 contribution from operating to capital income.

**Attachment(s)**

1. 2013/14 End of Year Financial Analysis

## 10.10 Financial Review - 30 September 2014

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### 10.10 Financial Review - 30 September 2014

**Delivery Program** Financial Management

**Objective** To provide a review of the 2014/15 financial year budget based on the known results to 30 September 2014.

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#### **Background**

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. The report that follows provides this review for the first quarter of 2014/15.

#### **Key Issues**

- Variations to the budget and financial performance of Council

#### **Information**

The purpose of this report is to provide information on known budget variances as at 30 September 2014. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG). To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and certification by the Responsible Accounting Officer are required. Commentary on the variations recommended is then provided after the tables. A brief overview of the information provided in the report is as follows:

**Section One - Operating Income and Expense** - These tables provide the operating revenues and expenses for the Funds (General, Water and Wastewater).

**Section Two - Capital Budget** - These tables outline the capital expenditure budgets.

**Section Three - Cash and Investment Statement** - These tables provide details on the projected movements in reserve balances.

**Section Four - Key Performance Indicators** - The ratios provide an indication of the financial health of the organisation.

**Section Five - Contractors/Consultants/Legal Expenses** - This information provides details of specific expenses incurred and contracts entered as required by the OLG.

**Certification** - This is a Statement by the Responsible Accounting Officer as to whether the current year's estimated financial performance is or is not satisfactory.

#### **General Fund**

## 10.10 Financial Review - 30 September 20144

This next section of the report deals with Council's General Fund operations. Tables for income and expense follow, including recommended variations to budget. Following the tables are comments in respect to proposed budget variations that are considered to be material.

### General Fund – Operating Revenues and Expenses

Operating Income	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
	000's	000's	000's	000's	000's	000's
<b>Strategic and Community Facilities Group</b>						
Strategic Planning	221		221	91	312	79
Community Services and Halls	371		371	0	371	194
Cultural and Community Services	109		109	5	114	48
Library Services	116		116	0	116	0
Swimming Pools	336		336	0	336	137
Tourism and Communications	45		45	0	45	25
<b>Sub Total</b>	<b>1,198</b>	<b>0</b>	<b>1,198</b>	<b>96</b>	<b>1,294</b>	<b>483</b>
<b>Development and Environmental Health Group</b>						
Development Services	359		359	0	359	116
Building Services	800		800	100	900	407
Environment and Public Health	235		235	0	235	218
Admin and Public Order	156		156	70	226	136
<b>Sub Total</b>	<b>1,550</b>	<b>0</b>	<b>1,550</b>	<b>170</b>	<b>1,720</b>	<b>877</b>
<b>Civil Services Group</b>						
Engineering Management	198		198	10	208	127
Procurement and Building Mgmt	0		0	0	0	0
Stormwater and Env Prot	282		282	0	282	291
Roads and Bridges	68		68	78	146	30
Ancillary Transport Services	713		713	0	713	291
Roads and Maritime Services	861		861	8	869	437
Open Space and Reserves	719		719	39	758	410
Fleet Mgmt and Workshop	4,132		4,132	0	4,132	1,442
Rural Fire Service	214		214	0	214	0
Quarries and Sandpit	360		360	0	360	108
Landfill and Resource Management	6,959		6,959	125	7,084	3,682
Domestic Waste Management	6,365		6,365	43	6,408	5,994
<b>Sub Total</b>	<b>20,871</b>	<b>0</b>	<b>20,871</b>	<b>303</b>	<b>21,174</b>	<b>12,812</b>
<b>General Manager's Group</b>						
Governance	0		0	0	0	0
Administrative Services	28		28	0	28	11
Financial Services	158		158	0	158	49
Financial Services-General Purpose	22,163		22,163	178	22,341	19,158
Information Services	11		11	0	11	2
Human Resources and Risk Mgmt	122		122	0	122	161
Property Management	3,011		3,011	0	3,011	1,152
Ballina Byron Airport	4,981		4,981	(70)	4,911	1,515
<b>Sub Total</b>	<b>30,474</b>	<b>0</b>	<b>30,474</b>	<b>108</b>	<b>30,582</b>	<b>22,048</b>
<b>Total Operating Income</b>	<b>54,093</b>	<b>0</b>	<b>54,093</b>	<b>677</b>	<b>54,770</b>	<b>36,220</b>

10.10 Financial Review - 30 September 2014

General Fund – Operating Income and Expenses (cont'd)

Operating Expenses (excluding depreciation)	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
<b>Strategic and Community Facilities Group</b>						
Strategic Planning	1,124	212	1,336	49	1,385	387
Community Services and Halls	759		759	0	759	303
Cultural and Community Services	778	9	787	6	793	342
Library Services	1,419	80	1,499	0	1,499	703
Swimming Pools	792		792	0	792	258
Tourism and Communications	776	27	803	(5)	798	255
<b>Sub Total</b>	<b>5,648</b>	<b>328</b>	<b>5,976</b>	<b>50</b>	<b>6,026</b>	<b>2,248</b>
<b>Development and Environmental Health Group</b>						
Development Services	1,213		1,213	0	1,213	430
Building Services	765		765	0	765	249
Environment and Public Health	779	14	793	(25)	768	201
Admin and Public Order	1,189		1,189	5	1,194	363
<b>Sub Total</b>	<b>3,946</b>	<b>14</b>	<b>3,960</b>	<b>(20)</b>	<b>3,940</b>	<b>1,243</b>
<b>Civil Services Group</b>						
Engineering Management	2,411		2,411	0	2,411	796
Procurement and Building Mgmt	1,842	18	1,860	(5)	1,855	771
Stormwater and Env Prot	762	305	1,067	20	1,087	286
Roads and Bridges	4,450	(20)	4,430	(20)	4,410	1,254
Ancillary Transport Services	1,691		1,691	102	1,793	543
Roads and Maritime Services	861	71	932	0	932	276
Open Space and Reserves	3,289	376	3,665	37	3,702	962
Fleet Mgmt and Workshop	3,020		3,020	0	3,020	1,017
Rural Fire Service	387	22	409	22	431	177
Quarries and Sandpit	165	345	510	20	530	40
Landfill and Resource Management	5,393		5,393	0	5,393	1,518
Domestic Waste Management	6,236		6,236	0	6,236	2,023
<b>Sub Total</b>	<b>30,507</b>	<b>1,117</b>	<b>31,624</b>	<b>176</b>	<b>31,800</b>	<b>9,663</b>
<b>General Manager's Group</b>						
Governance	1,039	2	1,041	0	1,041	412
Administrative Services	560		560	9	569	164
Financial Services	(3,777)		(3,777)	0	(3,777)	(1,602)
Information Services	1,559		1,559	10	1,569	924
Human Resources and Risk Mgmt	962		962	461	1,423	1,166
Property Management	3,747		3,747	0	3,747	860
Ballina Byron Airport	3,494		3,494	0	3,494	1,360
<b>Sub Total</b>	<b>7,584</b>	<b>2</b>	<b>7,586</b>	<b>480</b>	<b>8,066</b>	<b>3,284</b>
<b>Total Operating Expenses</b>	<b>47,685</b>	<b>1,461</b>	<b>49,146</b>	<b>686</b>	<b>49,832</b>	<b>16,438</b>
<b>Net Operating Result Before Depreciation</b>	<b>6,408</b>	<b>(1,461)</b>	<b>4,947</b>	<b>(9)</b>	<b>4,938</b>	<b>19,782</b>
Depreciation Expense	15,538		15,538		15,538	3,891
<b>Net Operating Result Continuing Operations</b>	<b>(9,130)</b>	<b>(1,461)</b>	<b>(10,591)</b>	<b>(9)</b>	<b>(10,600)</b>	<b>15,891</b>

**General Fund Working Capital Forecast**

<b>Item</b>	<b>Original Budget</b>	<b>Approved Changes</b>	<b>Revised Budget</b>	<b>Changes for Approval</b>	<b>September Budget</b>	<b>Actual to September</b>
Working Capital		(130)	(130)		(130)	

**Comments - General Fund**

The **forecast operating surplus** (before depreciation) has reduced from \$6.4 million to \$4.9 million. Inclusive of depreciation a loss of \$10.6 million is now forecast.

The primary reason for the reduction to the operating position is because numerous new items have been added to the budget financed from reserves. These amendments increase operating expenses and as the funding is sourced from reserves, the revenue component is not included in the operating result.

The majority of the new budgets introduced are items carried forward from the previous financial year, with Council approving those budget variations at the August 2014 Ordinary meeting.

Other major changes identified in this report include an increase to the employee leave entitlements budget of \$500,000 funded from a combination of increases to income, reductions to forecast expense and the use of reserves.

The additional budget is necessary following the retirement in the first quarter of the year of five long serving employees.

There is also a recurring theme of increases to forecast income budgets for interest on investments. This is due to reserve balances being higher at the commencement of this financial year than anticipated due to works and services being incomplete from the previous financial year.

The estimated **unrestricted working capital** has not changed from the original budget position. There have been numerous adjustments and where possible negative adjustments have been offset by positives.

Details of the larger budget variations are as follows. The adjustments shown in the tables are inclusive of all amendments and the comments do not account for minor budget changes.

**General Fund - Operating Revenues**

***Strategic and Community Facilities Group***

*Strategic Planning*

Grants/Contributions Income: The increase to forecast income relates to various minor grant for projects and contributions for planning approvals of \$24,000.

Section 94 Contribution Interest Income: Forecast income has been increased by \$67,000.

***Development and Environmental Health Group***

*Building Services*

Building Fees: Forecast income has been increased by \$100,000.

*Administration and Public Order*

Registrations and Parking Fines: Staff have been pursuing owners to register animals that have not been registered and forecast income has been increased by \$20,000.

***Civil Services Group***

*Roads and Bridges*

Grant Income: Grant income has been received in respect to previous year's flood damage expenses to \$12,000.

Interest on Investments: Budgets for interest earned on the Ballina and Alstonville Bypass reserves have been increased by a total of \$65,000. This revenue will be transferred to reserve.

*Open Spaces and Reserves*

Vegetation Management: New grant funds received of \$38,000 for a vegetation management project associated with coastal reserves.

*Landfill and Resource Management*

Levy Reimbursement: Given that Council is largely avoiding paying the State Government waste levy it was assumed that no income would be forthcoming.

However a payment of \$125,000 has been received relating to previous year's activities. This money has been transferred to an externally restricted reserve.

*Domestic Waste Management*

Operating Revenue: Adjustments are as follows:

- Increase to income from annual charges of \$24,000 due to growth in assessments and fine tuning of the original forecast
- There is a net saving to pensioner write offs and rebates of \$23,000. Most rebates are now completed and these adjustments look to match the budget with actual
- Plant hire income has been reduced by \$25,000 as it is trending slightly down on forecast
- Interest on investments has been increased by \$20,000.

***General Manager's Group***

*Financial Services*

Financial Assistance Grant: This grant is \$122,000 more than forecast, which is a welcome outcome. The Federal Government budget has this grant not being indexed for three years from 2014/15 onwards however the complexities of the calculation to distribute the grant funds across the entire country have worked in our favour this year.

Ordinary Rates: Forecasts have been increased following the actual levy by \$78,000.

Pension Rebate: Revenue forecast from the State Government in respect to pensioner rate write offs is \$18,000 more than anticipated.

When the original budget was prepared the Federal Government advised that they would not pay their 5% of the rebate and budgets were set based on this advice. Late in the day the State Government advised that they would pay an extra 5% in 2014/15 only, to cover the shortfall. This adjustment brings to account the extra revenue from the State.

Interest Income: Forecast interest income from funds invested has been reduced by \$20,000 following the latest assessment of reserves.

There has also been a \$20,000 decrease to estimated income from interest on overdue rates. As the total percentage of rates outstanding decreases, following extensive recovery action, there is an equivalent decrease in interest income.

*Property Management*

Wigmore Arcade: Forecast income has been reduced by \$70,000 following the latest estimates of tenancies.

The revised forecast takes into account rental relief provided whilst the Arcade is upgraded and assumes that additional shops will be rented (new tenancies) once the upgrade has been completed.

Interest on Investments: Forecast interest income transferred to the property reserves has been increased by \$65,000.

The net adjustment to property income is zero and this is because minor adjustments have been made to various other rental properties, which has increased income by \$5,000.

*Airport*

Operating Income: Forecast passenger income has been reduced by \$20,000 as one of the main carriers has not been reaching anticipated passengers numbers.

There has also been a reduction to forecast income from security by \$50,000, which is partly due to reduced passenger numbers and the allocation of income between 2013/14 and 2014/15.

**General Fund - Operating Expenses**

***Strategic and Community Facilities***

*Strategic Services*

Section 94 Roads Plan: The budget to review this plan has been increased by \$41,000 to \$61,000. When the budget was first allocated it was considered unlikely to be sufficient and recent quotes have proven this to be the case.

***Development and Environmental Health Services***

*Environment and Public Health Services*

Employee Costs: Due to the retirement of one staff member and delays in their replacement, savings in salary expense to \$25,000 will be used to offset increased leave expenses.

***Civil Services***

*Stormwater*

Budget Relocation: Adjustments are proposed between the Stormwater and Roads maintenance budgets such that the net Stormwater budget increases by \$20,000 and Roads decreases by \$20,000.

*Roads and Bridges*

*Ancillary Transport*

Regatta Avenue / Martin Street Master Plan: The budget of \$40,000 for this project was originally located in capital and it has been transferred to an operating expense.

Street Lighting: The budget for street lighting electricity has been increased by \$60,000 to \$462,000. The increase reflects current expenditure trends.

*Open Space and Reserves*

Coastal Reserves: As noted earlier a grant of \$38,000 has been received for the management of coastal reserves.

*Rural Fire Service*

Contribution to Bush Fire Fund: The annual contribution for the rural and urban brigades will be \$245,000 which is \$22,000 more than forecast. The contribution varies depending on previous year expenditure, amongst other things, so it is always difficult to predict prior to the commencement of the new financial year.

*Quarries and Sandpit*

Sandpit: Expense budget increased by \$20,000 to meet Environment Protection Authority licence costs



**General Manager's Group**

*Human Resources*

Employee Entitlements: As noted earlier, an increase to the budget of \$500,000 is necessary following the retirement of five long serving staff members. The payments relate to accrued leave owing to each individual in the form of annual, sick and long service leave. A varied approach has been taken to meeting this expense.

The aim has been to minimise the impact on the employee leave entitlements (ELE) reserve, as even though this reserve is in place to meet retirement costs, it is a balancing act to keep sufficient funds in the reserve, relative to the total liability. Hence positive budget movements such as additional income from Building Services Fees, the Financial Assistance Grant and Rates Income have been used to offset the expenditure increase.

Also where possible salary budgets have been reduced as typically there is a delay in replacing staff, which affords some budget tolerance.

Ultimately a transfer from the ELE reserve of \$192,000 has been necessary to balance the leave entitlements increase.

At the start of this financial year the leave liability was \$7.2 million and the cash reserve was approximately \$1.96 million, resulting in approximately 27% of the liability being funded. The adjustments proposed as part of this review will see the percentage of the liability fall by approximately 1%. A cash reserve from 20% to 30% is considered to be a reasonable balance, however as Council's workforce is steadily ageing we may need to look at increasing this percentage to around 35%.

Public Liability Insurance: The latest information in respect to the premium is that it will be \$556,000 or \$39,000 less than forecast.

**Water Operations**

This next section of the report deals with Council's water operations. There has been a minor adjustment to the forecast operating result but generally the outlook remains similar to the beginning of the year.

**Water - Statement of Operating Income and Expenses (\$'000)**

Item	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
Operating Income	10,259		10,259	0	10,259	4,566
Operating Exps (excl. dep)	9,469		9,469	15	9,484	3,738
<b>Net Operating Result Before Depreciation</b>	<b>790</b>	<b>0</b>	<b>790</b>	<b>(15)</b>	<b>775</b>	<b>828</b>
Depreciation Expense	1,900		1,900		1,900	475
<b>Net Operating Result from Continuing Operations</b>	<b>(1,110)</b>	<b>0</b>	<b>(1,110)</b>	<b>(15)</b>	<b>(1,125)</b>	<b>353</b>

## 10.10 Financial Review - 30 September 2014

The original total forecast for operating revenue has not changed although there have been various adjustments within the different revenue streams. Forecast income from access charges has been increased as have interest and tapping fees income.

The increases to forecast income total \$193,000 and they have been offset in full by decreases to forecast consumption income, which is trending below budget. It is usually the case that first and last quarter consumption is lower than the two middle quarters however a conservative approach has been taken at this early stage in the year.

The adjustment to consumption income is an important consideration in this report. As per the above paragraph the estimates for consumption have been revised on a conservative basis, and largely a straight line approach has been taken for consumption for the year.

An alternative approach could be based on actual trends for income consumption in recent years and then apply those trends to the first quarter consumption, to determine an estimated consumption for the entire year.

The estimate for 2014/15 can significantly vary using this type of modelling as shown in the following table.

Item	Income Estimate Options	Variance From Original Estimate
<b>Residential Consumption</b>		
Original 2014/15 Estimate	4,632,000	Nil
Revised Figure as per this report	4,504,000	(128,000)
Estimate using 2013/14 trending (one year)	4,961,000	329,000
Estimate using average of 2013/14 and 2012/13 trending (two years)	4,810,000	178,000
Estimate using average of 2013/14, 2012/13 and 2011/12 trending (three years)	4,764,000	132,000
Estimate using average of 2013/14, 2012/13, 2011/12 and 2010/11 trending (four years)	4,648,000	16,000
<b>Non-Residential Consumption</b>		
Original 2014/15 Estimate	1,650,000	Nil
Revised Figure as per this report	1,585,000	(65,000)
Estimate using 2013/14 trending (one year)	1,637,000	(13,000)
Estimate using average of 2013/14 and 2012/13 trending (two years)	1,620,000	(30,000)
Estimate using average of 2013/14, 2012/13 and 2011/12 trending (three years)	1,552,000	(98,000)
Estimate using average of 2013/14, 2012/13, 2011/12 and 2010/11 trending (four years)	1,521,000	(129,000)

The figures after the original and revised figures are alternatives that could be endorsed based on the actual consumption trends for one year only (last year – 2013/14), or the average consumption for the last two years, or the last three years, or as per the final figure, being the average consumption trend for the last four years.

It is currently recommended to have the estimated consumption decreased by a total of \$193,000 (\$128,000 plus \$65,000). However if Council amended the budget based entirely on just the actual 2013/14 consumption trend, the estimated income from consumption for 2014/15 would increase by \$316,000 (i.e. residential up by \$329,000 and non-residential down by \$13,000). The \$316,000 figure is \$509,000 higher than the recommended consumption estimate in this report.

This type of variation has significant impacts for our forward financial modelling, especially when we are considering increases in tariffs for 2015/16 onwards.

Water consumption is variable and wet weather conditions can result in significant reductions in consumption. Ultimately it is a matter for Councillors to determine what level of risk we want to include in our financial forecasts, and the purpose of this commentary has been to advise Councillors of the various options available.

If Councillors are concerned that the revised income forecasts for water are too conservative, then the recommendations for this report would need to be amended to reflect how the estimate would be recalculated. The options listed earlier are based on actual consumption trends for one, two, three or four years.

**Wastewater Operations**

This next section of the report deals with Council's Wastewater operations.

Both operating income and expense have been increased by the same amounts, resulting in no net change to the forecast, which is a deficit of \$2.4 million.

**Wastewater- Statement of Operating Income and Expenses (\$'000)**

Item	Original Budget	Approved Changes	Revised Budget	Changes for Approval	September Budget	Actual to September
Operating Income	14,907		14,907	167	15,074	12,490
Operating Exps (excl. dep)	14,054		14,054	167	14,221	4,499
<b>Net Operating Result Before Depreciation</b>	<b>853</b>	<b>0</b>	<b>853</b>	<b>0</b>	<b>853</b>	<b>7,991</b>
Depreciation Expense	3,249		3,249		3,249	812
<b>Net Operating Result from Continuing Operations</b>	<b>(2,396)</b>	<b>0</b>	<b>(2,396)</b>	<b>0</b>	<b>(2,396)</b>	<b>7,179</b>

Forecast revenues have been increased by \$167,000, which is in respect to interest on investments. As with other sections of the budget the reserve balance in Wastewater at the end of 2013/14 exceeded the forecast when the original estimates were put together.

The main changes to forecast expenses are:

- budget for Water Quality Data Management has increased by \$37,000 to match anticipated 2014/15 expenses
- additional \$10,000 has been added to the Drinking Water Management System budget to reflect current trends
- \$200,000 has been added to the Ballina Treatment plant operations budget taking it to \$752,000. Following post commissioning of the new plant, four membranes required cleaning. In a typical year only one membrane would be cleaned annually, so it is anticipated that in future years the expense will not be of the same magnitude. This is clearly a major increase in expenditure and is impacting heavily on the operating result for 2014/15
- budget of \$80,000 has been relocated from operating to capital expenditure in respect to the four treatment plants, to more accurately the correct accounting of this expenditure.

## 10.10 Financial Review - 30 September 2014

The increase to forecast expenses for the treatment plants is significant and potentially has implications for future modelling and pricing structures for the Fund. Costs will need to be monitored closely going forward.

### Capital Expenditure

This next section of the report looks at capital expenditure and examines proposed changes to the program. The majority of the increased funding from the Original to the September forecast relates to works carried forward from the previous year, as per the approved changes column. It is also the case that during the first quarter various reports have been considered by Council, including the Quarterly Capital Works Review (October meeting), whereby Council has approved changes to the capital program.

Therefore the majority of capital adjustments have already been approved by Council.

### General Fund - Capital Budget - Source and Application of Funds (\$'000)

General Fund Capital works	Original	Changes				Actual to
	Budget	Approved	Revised	for	September	
	2014/15	Changes	Budget	Approval	Budget	September
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>General Fund Capital Funding</b>						
General revenue	3,309	240	3,549	39	3,549	
Reserves	13,733	7,612	21,345	0	21,345	
Loans	725		725	0	725	
Section 94 contributions	670	278	948	0	948	
Grants and contributions	4,218	341	4,559	460	5,057	
<b>Total Funding</b>	<b>22,655</b>	<b>8,471</b>	<b>31,126</b>	<b>499</b>	<b>31,624</b>	<b>0</b>
<b>General Fund Capital Expense</b>						
<i>Strategic and Community Facilities Group</i>						
Cultural and Community Services	423	189	612	19	631	12
Swimming Pools	200	38	238	0	238	3
Northern Rivers Community Gallery	10	15	25	0	25	0
<i>General Manager's Group</i>						
Administration & Information Services	25	0	25	0	25	0
Property Management	2,150	1,415	3,565	0	3,565	1,053
Camping Ground	10	0	10	0	10	0
Ballina Airport	1,125	(130)	995	0	995	241
<i>Development &amp; Environ Health Group</i>						
	0	25	25	0	25	9
<i>Civil Services Group</i>						
Procurement & Building Management	4,175	457	4,632	150	4,782	174
Stormwater	231	322	553	(5)	548	12
Roads and Bridges	4,659	3,345	8,004	0	8,004	2,614
Ancillary Transport Services	2,208	1,645	3,853	335	4,188	1,488
Water Transport and Wharves	376	77	453	0	453	127
Open Space - Parks and Reserves	248	93	341	0	341	33
Open Space - Sporting Fields	5,122	168	5,290	0	5,290	77
Cemeteries	0	0	0	0	0	0
Public Amenities	80	0	80	0	80	2
Fleet and Plant	755	811	1,566	0	1,566	244
Rural Fire Service	0	0	0	0	0	0
Waste Management	858		858	0	858	60
<b>Total Capital expense</b>	<b>22,655</b>	<b>8,470</b>	<b>31,125</b>	<b>499</b>	<b>31,624</b>	<b>6,134</b>

**General Fund**

***Strategic and Community Facilities Group***

*Cultural and Community Services*

A new budget of \$19,000 is required to finalise the Lennox Head Cultural Centre legal costs. The funding is via the property reserves.

***Civil Services Group***

*Procurement and Building Management*

A new budget of \$150,000 has been raised for the construction of a shed at the main depot (depot number one). These works are funded from an insurance claim relating to a fire that destroyed a shed at depot number two, in the previous year. The new shed will be located at the main depot, as the objective is to minimise any on-going use of depot two and to have all facilities centralised in depot one.

*Ancillary Transport Services*

A new budget has been raised to \$138,000 to install cultural signage along the coastal cycleway. The expenditure is funded 50% from grant, 40% from reserves and the remainder by reducing existing budgets. This signage will complement the coastal shared path and also helps Council meet its consent conditions in respect to recognising Aboriginal Cultural Heritage.

A budget has also been raised for the balance of the Swift Street Bus interchange, which is a carry-over job that was commenced late last year, funded by grant income.

**Water - Capital Budget - Source and Application of Funds (\$'000)**

<b>Water Supply Capital Works</b>	<b>Original Budget 2014/15 \$'000</b>	<b>Approved Changes \$'000</b>	<b>Revised Budget \$'000</b>	<b>Changes for Approval \$'000</b>	<b>September Budget \$'000</b>	<b>Actual to September \$'000</b>
<b>Water Capital Funding</b>						
Reserves	902	716	1,618	80	1,698	
Section 64 contributions	3,477	(226)	3,251	0	3,251	
Grants & Contributions	0		0	0	0	
<b>Total Funding</b>	<b>4,379</b>	<b>490</b>	<b>4,869</b>	<b>80</b>	<b>4,949</b>	<b>0</b>
<b>Water Capital Expense</b>						
Water Storage	500	(45)	455	0	455	32
Water Pump & Bore Stations	731	62	793	0	793	3
Pressure Management	650	600	1,250	80	1,330	264
Trunk mains	1,595	(922)	673	0	673	2
Other	902	796	1,698	0	1,698	144
<b>Total Capital expense</b>	<b>4,378</b>	<b>491</b>	<b>4,869</b>	<b>80</b>	<b>4,949</b>	<b>445</b>

Budget adjustments proposed are to increase the budget for the 'Pressure and Demand Preliminary Design program' by \$60,000 and increase the budget for the Lumley's Lane pressure management zone by \$20,000.

**Wastewater - Capital Budget - Source and Application of Funds (\$'000)**

Wastewater Services Capital works	Original Budget 2014/15 \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	September Budget \$'000	Actual to September \$'000
<b>Wastewater Capital Funding</b>						
Reserves	5,885	2,654	8,539	241	8,780	
Section 64 contributions	1,150	273	1,423	0	1,423	
Loans			0	0	0	
<b>Total Funding</b>	<b>7,035</b>	<b>2,927</b>	<b>9,962</b>	<b>241</b>	<b>10,203</b>	<b>0</b>
<b>Wastewater Capital Expense</b>						
Consultancies	0	0	0	41	41	43
Treatment Plants	427	1,630	2,057	180	2,237	580
Recycled Irrigation	418	414	832	0	832	108
Pump Stations	3,116	80	3,196	0	3,196	56
Trunk Mains	557	618	1,175	0	1,175	184
Wastewater Mains Renewals	422	0	422	0	453	3
Plant	2,095	154	2,249	20	2,269	22
Other	0	0	0	0	0	0
<b>Total Capital expense</b>	<b>7,035</b>	<b>2,896</b>	<b>9,931</b>	<b>241</b>	<b>10,203</b>	<b>953</b>

*Consultancies*

A new budget has been raised to \$41,000 to cover expenditure already committed in respect to the Recycled Water System.

*Treatment Plants*

New budgets were raised for each of the treatment plants. The idea is to cost major expenditure items to the capital section of the budget that otherwise may be expended to maintenance.

Budgets totalling \$180,000 have been raised of which \$80,000 was sourced from existing maintenance budgets and \$100,000 is from reserve.

*Plant*

Additional budget of \$20,000 associated with the Telemetry program.

**Investments**

The next table shows details of the projected cash and investments.

## 10.10 Financial Review - 30 September 2014

	Original Budget 2014/15 \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval Sept \$'000	Revised Budget Sept \$'000
<b>Unrestricted</b>	<b>3,908</b>	<b>0</b>	<b>3,908</b>	<b>0</b>	<b>3,908</b>
<b>Externally Restricted</b>					
- Section 94	2,486	(118)	2,368	217	2,585
- Domestic Waste M'tment	1,052	160	1,212	20	1,232
- Unexpended Grants/loans			0	0	
- Other	65	26	91	11	102
- Section 64 Water	4,446	828	5,274	(80)	5,194
- Water	2,154	101	2,255	(35)	2,220
- Section 64 Sewer	2,017	788	2,805	0	2,805
- Sewer	3,912	433	4,345	(241)	4,104
<b>Total Externally Restricted</b>	<b>16,132</b>		<b>18,350</b>	<b>(108)</b>	<b>18,242</b>
<b>Internally Restricted</b>					
- Strategic and Community Service	196	119	315	(34)	281
- Employee Leave Entitlements	1,713	256	1,969	(192)	1,777
- Plant Replacement	505	(39)	466	0	466
- Quarries	1,055	(38)	1,017	0	1,017
- Property Reserves	872	1,165	2,037	(32)	2,005
- Properties Refurbishment	1,325	(223)	1,102	(40)	1,062
- Open Spaces and Reserves	239	3	242	0	242
- Landfill Management	1,950	313	2,263	125	2,388
- Civil Works	2,876	298	3,174	45	3,219
- Other	218	33	251	0	251
<b>Total Internally Restricted</b>	<b>10,949</b>	<b>1,887</b>	<b>12,836</b>	<b>(128)</b>	<b>12,708</b>
<b>Total Restricted</b>	<b>27,081</b>	<b>1,887</b>	<b>31,186</b>	<b>(236)</b>	<b>30,950</b>
<b>Total Cash and Investments</b>	<b>30,989</b>	<b>1,887</b>	<b>35,094</b>	<b>(236)</b>	<b>34,858</b>

The unrestricted cash figure is not inclusive of transactions that would normally be included when calculating working capital; i.e. it is exclusive of movements in items such as debtors and creditors. The available cash figure is taken from note six of the financial statements as at 30 June 2014. Council does not track movements in available cash on a quarterly basis.

### Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for September 2014, funds invested amounted to \$69,555,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 30 September 2014 to the amount of \$1,084,030.

## 10.10 Financial Review - 30 September 2014

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4. Actual year to date cash and investments amount to \$70,639,030 as at 30 September 2014. This amount includes cash at bank of \$1,080,030 and funds invested of \$68,555,000, which has been reconciled to bank statements and investment reports.

### Bank Reconciliation Summary as at 30 September 2014

<b>Balance as per Bank Statement</b>	<b>1,015,704</b>
Less Unpresented Cheques	57,114
Sub Total	958,590
Plus Outstanding not Credited	171,118
Sub Total	1,129,708
Less Amounts Deposited at end of month not in ledger	45,678
<b>Balance as per Ledger</b>	<b>1,084,030</b>

### Comment on Cash and Investment Position

The forecast reserves position has increased from \$31 million to \$35 million. As mentioned the original reserves estimate was prepared prior to the finalisation of end year actual results. Hence there have been changes between the estimated start position of the original estimates and the actual start position.

Details of the major changes for approval are summarised below.

#### *Section 94 Reserves*

There has been a net increase to the forecast reserve balance following increases to both forecast interest and capital contributions received.

#### *Domestic Waste Management (DWM)*

There is a net increase to the reserve forecast of \$20,000 following adjustments to forecast operating budgets.

#### *Other*

This increase to reserve relates to an increased rental income from crown properties.

#### *Water Reserves*

Net reserves are predicted to fall by \$115,000 which is primarily a result of increasing the capital expenditure program.

#### *Wastewater Reserves*

There is a net reduction to the forecast reserve balance of \$241,000 based on changes to the operating results and the capital expenditure program.

#### *Strategic and Community Facilities*

Funds have been taken out of reserve to contribute to the expenses associated with the cultural signage project on the coastal cycleway (\$34,000).



*Employee Leave Entitlements*

The adjustment to the reserve, decrease by \$192,000, is to finance retirement payments.

*Property Reserves*

The net movement to this reserve is negative \$32,000. The adjustments that make up this net movement are:

- Reduction to reserve \$20,000 regarding Lennox Head Cultural Centre legal expenses.
- Reduction to reserve \$30,000 to offset part of the reduction to rental income at Wigmore arcade.
- Increase to reserve of \$65,000 following adjustments to forecast income from funds invested.
- Increase to reserve of \$23,000 being a net increase to surplus income from 89 Tamar Street.
- Decrease to the reserve of \$70,000 regarding the airport reserve. The Airport has a negative reserve and the forecast negative increased during the quarter.

*Properties Refurbishment*

The reserve forecast reduced by \$40,000 to offset reduced rental income for Wigmore Arcade. This reserve classification has a small reserve dedicated entirely to the Wigmore Arcade.

The property reserves above refer to our major property reserves (i.e. Community Infrastructure Reserve and Property Development Reserve).

*Landfill Resource Management*

Forecast increase to the reserve relates to reimbursements received from the State Government waste levy.

*Civil Works*

Forecast interest income on the two bypass reserves was increased by \$65,000 and a contribution of \$20,000 was taken from the contingency reserve for the cultural signage project.

**Key Performance Indicators**

The next section of the report takes selected financial benchmarks and compares the 30 June 2013 and 2014 ratios with the forecast at September to 30 June 2015.

The performance indicators that have been selected have a short term focus, which suits the quarterly review which also focuses on the short term.

**Key Performance Indicators - Description**

1. **Unrestricted Current Ratio** - Unrestricted current assets divided by unrestricted current liabilities.

Measured: as a ratio

Purpose: this ratio is used to measure Council's ability to meet short term liabilities with available short term assets.

Indicator type: Financial Position

Benchmark: >1.5:1 (NSW code of accounting practice)

2. **Operating Performance Ratio** – Total continuing operating revenue (excluding capital grants/contributions and fair value adjustments) less operating revenue (excluding capital items and profit or loss on sale) as a percentage of continuing operating revenue (less capital items and fair value adjustments).

Measured: as a ratio

Purpose: this percentage measures whether the Council is sustainable in terms of its operating result. Council should not be recording recurring operating deficits or funding operating results from capital revenue.

Indicator type: Financial Performance

Benchmark: = greater than 0: 1 (NSW code of accounting practice)

3. **Debt Service Cover Ratio** – Operating result (excluding fair value adjustments, capital grants/contributions, depreciation/amortisation, interest expense and profit or loss on sale) as a percentage of loan interest and capital payments

Measured: as a ratio

Purpose: The purpose of this percentage is a measure of whether Council has excessive debt servicing costs relative to the adjusted operating result.

Indicator type: Financial Position

Benchmark: >2:1 (NSW code of accounting practice)

**Benchmark Indicators – General Fund**

1. **Unrestricted Current Ratio – General Fund**

Benchmark: >1.5:1

2012/13	2013/14	September
Actual	Actual	Estimate
2.61:1	1.97:1	1.16
Pass	Pass	Fail

**Comment**

The ratio is predicted to fall in 2014/15 as the current forecast is for reserves to decrease by approximately \$20 million from \$36.1 million to \$16.4 million. Assuming this decrease does occur the ratio will shift from a pass to fail during the year.

In 2012/13 Council took out borrowings to \$13 million that over stated this ratio and in 2014/15 the ratio is predicted to fall as current assets decline quite sharply. If the works program is not completed as forecast, the ratio will not decline to the extent forecast.

The ratio is falling beneath the benchmark following an expansive capital works program that has been taking place over the last few years. The program has looked to take advantage of low interest loans and applying accumulated reserves to community projects.

Corrective action includes the adoption of a strategy to minimise additional borrowings, whilst endeavouring to accumulate reserves and unrestricted working capital.

There needs to be a sound reason to accumulate reserves however it would be reasonable to increase reserves for items such as election expenses, building renewal, leave entitlements and plant replacement.

This ratio can also be distorted to some extent by the cash investments held as non-current assets, which are then excluded from this ratio calculation. As at 30 June 2014, Council held approximately \$9.2m as non-current cash investments and the transfer of these investments to current assets would help to improve this ratio.

This point is important in that the monthly investment's report earlier in this agenda identifies a number of Floating Rate Notes (FRNs) that are due to expire during the next few years. FRNs are no longer allowed as investments as per the Minister's Investment Guidelines.

As the FRN's fall due, the unrestricted current ratio can rapidly improve if the investments are reallocated to short term Term Deposits. To highlight this, in Council's updated LTFP, if the investments forecast to be held as non-current are reclassified as current, the 2014/15 forecast for this unrestricted ratio improves to 1.97.

The earlier investment's report identifies three FRN's that have a current value above their purchase value and Council could possibly sell these FRNs and reinvest the monies in Term Deposits, which would immediately improve the forecast unrestricted current ratio, as the Term Deposits could be classified as current assets.

However, the three FRNs have a current value above purchase value, as they are returning an above market interest rate to Council therefore it does not make sound financial sense to sell a high returning investment to improve a ratio.

## 10.10 Financial Review - 30 September 2014

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The LTFP is also forecasting an unrestricted current ratio of 1.44 in 2015/16, 1.61 in 2016/17 and 1.73 in 2017/18, so the trend is upwards, primarily due to the FRNs falling due.

Ratios are an indicator only and certainly Council does need to continue to manage its cash carefully, however we are in a position to meet this indicative benchmark if need be.

### 2. Operating Performance Ratio – General Fund

Benchmark: >0

2012/13	2013/14	September
Actual	Actual	Estimate
-0.04:1	-0.19:1	-0.19:1
Fail	Fail	Fail

#### Comment

The current forecast for the ratio to June 2015 is that it will remain quite similar to the 2013/14 result which is well below benchmark.

The ratio is affected by many variables and in comparing the 2012/13 financial year, the result for that year benefitted from a one off payment in respect to the two bypass handovers (approx \$7 million). This means that the 2013/14 result and the 2014/15 forecast are more reflective of the real position of the Fund. A strategy to improve this ratio is to continue to closely monitor, maintain and even reduce operating expenses and increase income.

Some options that could be considered in the strategy include:

- Increasing the Ordinary rate beyond the rate pegging limit. Based on comparative data from the OLG, Council has a comparatively low average ordinary rate.
- Assess current operations to confirm all services currently provided should continue and if so whether current practices can be improved.
- Identify opportunities for new income sources such as entrepreneurial activities, taking a dividend from Water and Wastewater funds and analysing the schedule of fees and charges for opportunities. In respect to the dividends it is permissible to take a non-compulsory dividend in the order of \$400,000 per fund.
- Fine tune asset management calculations to ensure that depreciation expense reflects the real cost of the deteriorating asset.
- The variability of depreciation figures is shown in the following table, which identifies the road infrastructure asset figures that were included in the 2013/14 Annual Financial Statements for the councils listed.

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Council	Road Length	Fair Value (FV)	Accum Deprec	Written Down Value	Deprec Expense	Deprec as a % of FV	FV per Km	Bulk Earthworks Value
Ballina	654	530,413	169,806	360,607	7,156	1.3%	811	1,545
Byron	592	317,122	113,351	203,771	5,889	1.9%	536	98,314
Lismore	1,220	452,162	136,691	315,471	7,497	1.7%	371	258,889
Richmond V	1,082	202,488	39,074	163,414	3,969	2.0%	187	71,372

To highlight the variability of these figures, Lismore has around twice Ballina's road length, yet their fair value, which is the estimated replacement value, is actually less than Ballina. Richmond Valley is similar in this regard.

The overall level of urban roads as compared to rural roads may account for some of this difference, but it still raises concerns with the figures.

Also Ballina has a very low figure for Bulk Earthworks, whereas all the other councils have large figures, especially Lismore with almost \$258m. Bulk earthworks are not depreciated as they are considered not to deteriorate (i.e. the earthworks remain when the road is rehabilitated).

If Ballina's Bulk Earthworks figure was substantially increased our depreciation expense could possibly reduce by around \$2m per annum.

These variances between councils reinforces the need for greater consistency in this information and with the asset figures being audited for the first time as part of the 2014/15 Annual Financial Statements, it will be interesting to see how these figures change over time.

Taking into account the uncertainty with the depreciation expense, there is a general feeling amongst staff that the General Fund result still needs to improve by around \$3m to \$4m to achieve a more financially sustainable position.

The next table provides the forecast results for the next few years, for the General Fund and as per that Table this ratio plateaus at minus 9%.

Item	2014/15	2015/16	2016/17	2017/18	2018/19
Operating Balance(\$'000)	(10,596)	(7,492)	(6,234)	(5,659)	(5,323)
Ratio	-19%	-13%	-11%	-9%	-9%

If depreciation does substantially reduce, possibly up to \$3m, the operating resulting will also improve, however work still needs to be done to bridge any gap.

### 3. Debt Service Cover Ratio – General Fund

Benchmark: > 2

2012/13	2013/14	September
Actual	Actual	Estimated
2.56	1.82	1.24
Pass	Fail	Fail

**Comment**

This ratio is now sourced, in part, from the operating result.

With Council having an operating deficit we are struggling to meet the benchmark with the recent trend being negative.

As mentioned in 2012/13 Council borrowed approximately \$13 million relating to the airport and other infrastructure improvements primarily through the Local Infrastructure Renewal Scheme (LIRS). This represented an approximate 70% increase in General Fund's debt and is the primary reason for the negative trend.

The strategy to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by a combination of increasing income and decreasing expense.

The trend moving forward is positive, as per the following table, with Council needing to be careful to ensure that any new borrowings are fully funded.

Item	2014/15	2015/16	2016/17	2017/18	2018/19
Ratio	1.24%	1.58%	1.81%	2.39%	2.47%

**Benchmark Indicators - Water**

**1. Unrestricted current ratio - Water**

Benchmark: >1.5:1

2012/13	2013/14	September
Actual	Actual	Estimated
30.67:1	42.34:1	32.3:1
Pass	Pass	Pass

**Comments**

The ratio meets the benchmark comfortably as the Fund has reasonable reserves and no debt.

**2. Operating Performance Ratio - Water**

Benchmark: > 0

2012/13	2013/14	September
Actual	Actual	Estimated
-0.12:1	-0.02:1	-0.11:1
Fail	Fail	Fail

**Comments**

The forecast is that the Fund will fail the benchmark in 2014/15 however this outcome is very dependent on income from water consumption. Also the trend moving forward is for a breakeven result within the next few years, as per the following table.

## 10.10 Financial Review - 30 September 20144

Item	2014/15	2015/16	2016/17	2017/18	2018/19
Ratio	-11%	-7%	-3%	0%	3%

### 3. Debt Service Cover Ratio - Water

Benchmark: >2

2012/13	2013/14	September
Actual	Actual	Estimated
100	100	100
Pass	Pass	Pass

#### Comments

The Fund has no external borrowings and none are anticipated this financial year.

### Benchmark Indicators - Wastewater

#### 1. Unrestricted current ratio - Wastewater

Benchmark: >1.5:1

2012/13	2013/14	September
Actual	Actual	Estimated
4.00:1	5.44	2.10
Pass	Pass	Pass

#### Comments

The ratio is forecast to meet the benchmark although it is predicted to fall in comparison to 2013/14. The reason for the decline is due to the use of cash reserves to fund the capital works program and to finance loan repayments.

#### 2. Operating Performance Ratio - Wastewater

Benchmark: >0

2012/13	2013/14	September
Actual	Actual	Estimated
-0.15:1	-0.18:1	-0.16:1
Fail	Fail	Fail

#### Comments

The ratio is forecast to fail the benchmark as the Fund struggles to come to terms with debt repayments. Going forward the strategy is to continue to increase annual charges by amounts in excess of CPI and carefully manage expenses. A breakeven result expected within the next few years, as per the following table, due to proposed increases in wastewater charges.

Item	2014/15	2015/16	2016/17	2017/18	2018/19
Ratio	-16%	-9%	3%	12%	16%

**3. Debt Service Cover Ratio - Wastewater**

Benchmark: > 2

2012/13	2013/14	September
Actual	Actual	Estimated
0.94	0.69	0.73
Fail	Fail	Fail

**Comments**

The forecast is for the ratio to fail the benchmark as the full extent of the loan liability takes effect. The loan was structured such that the capital portion of the loan repayment was delayed for a few years however this period has expired.

This ratio will fail the benchmark for many years although the forecast is that the ratio will gradually improve year on year.

**Contractors**

There were no new contracts entered into during the quarter that meet the definition.

**Consultants**

There were no consultant expenses identified that meet the definition.

**Legal Expenses**

The next table summarises the expense incurred to the end of September on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD	Included in Budget Y/N?
Legal Fees	\$79,800	Y

**Statement**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 30/9/2014 indicates that Council's projected financial position at 30 June 2014 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.



The satisfactory position is based on the short term (twelve month) outlook. Council is forecasting operating losses, inclusive of depreciation and exclusive of capital grants, on both a consolidated and fund basis for some years into the future. From a long term perspective Council needs to work towards an operating surplus.



Signed Peter Morgan, Responsible Accounting Officer

**Sustainability Considerations**

- **Environment**

This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.

- **Social**

As above

- **Economic**

As above

**Legal / Resource / Financial Implications**

This report informs Council of actual financial results to date in comparison to budget. Where legal ramifications are envisaged they are detailed within the information section of this report.

**Consultation**

This report has been prepared to inform the community of budget variations.

**Options**

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

**RECOMMENDATIONS**

1. That Council notes the contents of the September 2014 Quarterly Budget Review and approves the changes identified within this report.
2. That Council notes the conservative assumptions applied in the water consumption forecasts for 2014/15.

**Attachment(s)**

Nil

## **10.11 Special Rate Variation - Swimming Pool Upgrades - Consultation**

### **10.11 Special Rate Variation - Swimming Pool Upgrades - Consultation**

**Delivery Program** Governance and Finance

**Objective** To report on the outcomes from the consultation process for the proposed special rate variation to fund the swimming pool upgrades and to determine whether Council wishes to make a formal application to the NSW State Government.

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#### **Background**

At the Finance Committee meeting held 18 March 2014, Council resolved as follows (adopted at March 2014 Ordinary Meeting):

*That Council support a redevelopment of the Ballina and Alstonville pools as soon as practicable seeking Federal and State Government Grants, along with receiving a report on the use of special rate variations to assist in funding this work.*

At the Finance Committee meeting held 8 April 2014, Council then resolved as follows (adopted at April 2014 Ordinary Meeting):

- 1. That Council provides in principle support for a proposal to seek a special rate variation to finance the refurbishment and redevelopment of the Ballina and Alstonville swimming pools.*
- 2. That based on Council's current information the special variation would need to be a 5.5% increase in the rate pegging limit for 2015/16 and 2016/17, assuming a base rate pegging increase of 3% (i.e. 2.5% special variations).*
- 3. That Council include points one and two in the draft 2014/15 Delivery Program, Operational Plan and Long Term Financial Plan for exhibition purposes.*
- 4. That Council receive a further report on how these actions are to be implemented following the completion of the exhibition period for the draft 2014/15 Delivery Program and Operational Plan.*

At the July 2014 Ordinary meeting, Council then adopted an extensive consultation program for this proposal including use of the Council website, letters to all residents, Community Connect advertising, Micromex community satisfaction survey, on-line survey on the Council website, Ward Committees, public meetings at Ballina, Lennox Head and Alstonville and direct consultation with key interest groups such as the local swimming clubs.

The report that now follows provides an overview of the outcomes from that consultation process.

## **10.11 Special Rate Variation - Swimming Pool Upgrades - Consultation**

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### **Key Issues**

- Feedback from consultation process

### **Information**

The proposed special rate variation is a 2.5% increase for 2015/16 and 2016/17 on top of an estimated standard 3% increase in the rate pegging limit. The 3% standard increase is an estimate only and in recent years the actual rate pegging limit announced by the State Government has been 2.3% in 2014/15 and 2.7% in 2013/14.

The actual process of applying for a special rate variation requires Council to apply for the full amount of the required increase, which meant that the consultation process was based on a 5.5% increase in rate income for 2015/16 and 2016/17. This increase would be a permanent increase to Council's rate base.

In accordance with the July 2014 Council resolution a significant amount of consultation has taken place and a summary of the outcomes from that process is as follows.

### **Ward Meetings**

This item was considered by each of the Ward Committees, with A Ward noting the proposal, B Ward considered the proposal "prudent and appropriate" and C Ward only discussed the matter with the minutes not showing any agreed position.

### **Public Meetings**

Public meetings were held in Lennox Head on 7 October with 17 people in attendance, Alstonville on 8 October with 52 people in attendance and Ballina on 9 October with 51 in attendance.

The purpose of these meetings was not to take a vote on the proposal but to provide feedback and information to the people present. As a guide both the Alstonville and Lennox Head meetings tended to have a reasonable balance of people for and against the proposal, whereas the Ballina meeting was largely against. There were also a number of people present at the Ballina meeting who were of the opinion that Council should be pursuing a new four court indoor sports / basketball stadium and not the swimming pool improvements.

### **Written Submissions**

Council has received a total of 367 written submissions and a copy of the submissions is included as a separate attachment to this report. Overall there are 45 letters in support, 300 against, 12 that provide somewhat conditional support and 10 that were more a general commentary, with some of those receiving a response from Council as they were seeking further information. Excluding the 10 general commentary letters this results in an overall response rate of:

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Preference	Number	Percentage
No	300	84
Conditional	12	3
Yes	45	13

In respect to the “no” submissions the five main themes for the responses were as follows:

1. Council’s rates and charges are not affordable
2. Council should have been putting money away for these works
3. The pools should be user pays
4. It is unfair to charge all ratepayers for the one service
5. Council does not have a firm program of works in place

The conditional support letters provided some limited level of support for a lower rate increase and the yes letters are relatively self-explanatory. In respect to the reasons for people not supporting the proposal all of the comments are valid and commentary on the main reasons follows.

### 1. Rates and charges not affordable

Many people are concerned about the affordability of Council’s rates and charges. These concerns are also shared by Councillors and staff. The powerpoint presentation provided at the public meetings included three slides that focused on the proposed increase in rates and the affordability of Council’s rates and charges on a comparable basis. That information is outlined in the following three tables.

**Table One - Estimated Increase in Rates**

Item	2014/15	2015/16	2016/17	2017/18
<b>Estimated Rate Pegging</b>		<b>3%</b>	<b>3%</b>	<b>3%</b>
Average Residential Rate	859	885	911	938
Average Business Rate	2,869	2,955	3,044	3,135
Average Farmland Rate	1,314	1,353	1,394	1,436
<b>Additional Percentage</b>		<b>2.5%</b>	<b>2.5%</b>	<b>0%</b>
Average Residential Rate	859	906	956	985
Average Business Rate	2,869	3,027	3,193	3,289
Average Farmland Rate	1,314	1,386	1,463	1,507
<b>Average Extra Rates Each Year</b>				
Residential Extra	0	21	45	46
Business Extra	0	72	149	153
Farmland Extra	0	33	69	71

This information highlights the estimated average increase in rates for the three categories of rateable property. This is an average only and some people will pay more and some less.

**Table Two - Benchmarking – Total Rate Bill for 2014/15**

Residential Property	Ballina (\$)	Byron (\$)	Coffs (\$)	Lismore (\$)	Richmond Valley (\$)	Tweed (\$)
Ordinary Rate	859	1,077	1,006	1,134	785	1,277
Stormwater	25	25	25	25	25	25
Water Access Charge	194	155	143	203	127	148
Water Consumption (200kl)	416	464	526	598	388	490
Waste Water	807	1,126	803	772	896	732
Waste (DWM)	422	397	566	460	380	405
<b>Total</b>	<b>2,723</b>	<b>3,244</b>	<b>3,069</b>	<b>3,192</b>	<b>2,601</b>	<b>3,077</b>

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This table compares the total rates and charges bills for the councils listed, with Ballina Shire currently being the second lowest.

Also Richmond Valley has received State Government approval for a 12.5% rate increase for 2014/15 and 5.5% for the following four years. If we assume that our average rate only increases by 3% for the next four years, by 2018/19 Ballina Shire's average residential rate will be the lowest in the region (i.e. \$966 compared to Richmond Valley's \$972).

It is interesting to note in Table Two how high the residential rate is at Tweed Shire, as they have fully implemented a program of 8.3% average rate increases per annum, over a period of seven years starting in 2006/07.

The latest census figures have Tweed Shire with 16.9% of their population over 70, whilst Ballina Shire has 15.7%, and even though the percentage of people on a pension for both Shires was not readily available, it does raise the question as to how Tweed is managing the issue of affordability.

The challenge facing Ballina Shire has been our increases in water, waste and wastewater charges in recent years. As per Table Two those charges are now relatively similar to the other councils listed, however wastewater is still predicted to increase by significant percentages for the next few years. Therefore all efforts need to be made to reduce the level of increase each year for that charge, to assist with the overall affordability of Council's total rate bill.

Even though we try to differentiate between the rates and charges paid, generally speaking residents are only concerned about their total rates and charges bill, no matter the composition.

Table Three then outlines the difference in revenues from the ordinary rate based on the average rate yields. This table highlights the significant difference in rate income Ballina receives as compared to the councils listed.

**Table Three - Benchmarking – Total Rate Yield for 2014/15**

Residential Property	Ballina (\$)	Byron (\$)	Coffs (\$)	Lismore (\$)	Richmond Valley (\$)	Tweed (\$)
Residential	859	1,077	1,006	1,134	785	1,290
Business	2,869	2,668	3,585	4,588	2,219	3,087
Farmland	1,314	1,787	1,846	2,180	1,270	2,122
<b>Ballina – No. of Assessments</b>						
Residential	15,355					
Business	1,271					
Farmland	1,057					
<b>Total Rate Yield</b>	<b>18,225,000</b>	<b>21,817,000</b>	<b>21,955,000</b>	<b>25,548,000</b>	<b>16,217,000</b>	<b>25,974,000</b>
<b>Difference to Ballina</b>		<b>3,592,000</b>	<b>3,730,000</b>	<b>7,323,000</b>	<b>(2,008,000)</b>	<b>7,749,000</b>

### 2. Council should have been putting money away for these works

In respect to this point that sentiment is supported, however the reality is that Council is not in a strong enough financial position to set aside those reserves. There is also an argument that loan funding these works is a more appropriate financing methodology from an inter-generational perspective, in that it allows the generation who will be using the facilities to also be paying for the facilities.

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The works program proposed also represents an increase in service levels and therefore it is more appropriate for the generation using the facility to pay for that expanded service.

### 3. The pools should be user pays

The user pays proposal would also be ideal, however public swimming pools are a community service provided by many councils and the simple fact is that it is almost impossible to have outdoor 50 metre facilities breakeven on a financial basis. This is the reason the private sector does not provide these facilities.

The latest operating revenue and expense figures for both pools, as presented in the public meetings, are as follows.

**Table Four – Actual Cash Operating Results – 2011/12 to 2013/14**

Item	2011/12	2012/13	2013/14
<b>Operating Revenues</b>	<b>281,000</b>	<b>321,000</b>	<b>349,000</b>
<b>Less Operating Expenses</b>			
Contractor	369,000	395,000	398,000
Rates and Charges	72,000	114,000	152,000
Chemicals, Gas, Electricity	109,000	117,000	122,000
Maintenance	106,000	105,000	137,000
Other	7,000	24,000	9,000
<b>Total Operating Expenses</b>	<b>663,000</b>	<b>755,000</b>	<b>818,000</b>
<b>Net Cash Loss</b>	<b>(382,000)</b>	<b>(434,000)</b>	<b>(469,000)</b>
<b>Depreciation Expense</b>	<b>125,000</b>	<b>125,000</b>	<b>130,000</b>

The current fees as per our schedule of fees and charges are as follows.

Family	Amount (\$)
Family season ticket (4 persons)	330
Family season ticket cost per additional adult	90
Family season ticket cost per additional child	75
Family half season ticket	200
Family half season cost per additional adult	60
Family half season cost per additional child	50
<b>Adult</b>	
Adult season ticket	185
Adult half season ticket	120
Adult single entry	4
Adult 10 entry ticket	34
<b>Children</b>	
Child season ticket	155
Child half season ticket	100
Child single entry ticket	3
Child with school	2.50
Child 10 entry ticket	25
<b>Seniors</b>	
Seniors season ticket	165
Seniors half season ticket	105
Seniors ten entry ticket	28
<b>Spectator</b>	
Spectator single entry	2.50

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To recoup the operating losses, fees would need to be increased by at least 100%. This is not practical and would most likely result in an overall reduction in current revenue.

Ideally the aim of any redevelopment program will be to reduce operating expenses by minimising any wastage such as water losses, along with applying more energy efficient technology, whilst at the same time increasing revenues through increased usage.

### *4. It is unfair to charge all ratepayers*

There have been many comments stating that people should not be paying for a facility that they do not use, which again is a reasonable point. However, all ratepayers are already paying for the swimming pools as they are operating at a combined cash loss of over \$400,000 per annum, as per Table Four. This loss has also been increasing in recent years due to additional maintenance costs and water loss.

This consultation process has been interesting in that it could possibly be harder to justify a rate increase for the provision of one service only than it is to justify a higher percentage rate increase that provides a wider range of services. Where people see no direct benefit there is a strong resistance to paying extra, which again is a reasonable response.

In reality there can be an indirect benefit to ratepayers who do not use these pools, as without a rate increase, funding that is allocated to other Council services needs to be reallocated to any essential works for the swimming pools. This can then possibly impact negatively on other services that residents may be enjoying.

This point is highlighted by the indoor sports stadium / basketball lobby who have actively campaigned against this increase. Effectively by not applying for funding for the swimming pools, which are existing infrastructure items that need upgrading in the short to medium term, Council will have less funds available for other community infrastructure projects, such as sports / events facilities.

A number of the submissions that make reference to the indoor sports facility appear to be saying that Council should be applying for a rate increase for that facility. Unfortunately Council is not eligible to do that for 2015/16 as the adopted Delivery Program and Operational Plan do not propose a rate increase for that facility and the Council has not consulted the community in respect to such a rate increase.

It is also interesting to compare the overall level of community response to this rating proposal, as to the consultation undertaken in 2010 when Council was proposing four years of rate increases of around 7% per annum. That process, which also included writing to all ratepayers, resulted in 182 written submissions (95% against) and 323 on line survey responses (79% against).

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Overall there was a far lower level of response, for a much higher level of increases, and the lower response rate may well have been due to the fact that that proposal funded a wider range of works (roads, footpaths etc). However, even though there were fewer submissions, the percentage opposed was higher than the current process.

### *5. Council does not have a firm program of works / business plan*

Another valid point, albeit that Council has had staff and an external specialist identify a preliminary schedule of works. The timing of consultations for rate increase proposals also makes it difficult as the consultation process must be completed well before the works are planned.

Council has only had funding available to engage consultants to prepare a more detailed works and business plan for the pools in the current financial year and a separate report in this agenda relates to the tender process for those services.

The reality is that the \$4 million identified in 2015/16 and \$4.1m in 2016/17 for the pool improvements is a very preliminary estimate and if the proposal does proceed, a significant amount of work is still needed to determine the exact scope of works. If the final works program is higher than the forecast budget allocation, Council will need to finance that extra expenditure from other revenue sources, or savings in other expenditure programs.

### **On-Line Survey on Council Website**

A total of 1,750 responses were provided to the on-line survey. The second attachment to this report is a copy of the responses received from the survey provided in A3 format. The individual responses to the majority of the questions included in the survey are listed in tabular form as per that attachment.

Brief comments on the questions asked in the survey and the responses are as follows.

**Question 1** - *Do you feel you have a reasonable understanding of this proposal based on the information provided by Council, including the information sheet on Council's website [ballina.nsw.gov.au](http://ballina.nsw.gov.au)?*

Yes – 1,679 responses – 98%

No – 38 responses – 2%

This is an excellent result for any survey. Please note that the individual responses to this question are not included in the survey results attachment, primarily to save paper and space.

**Question 2** - *If you have any suggestions on how the information could be improved, please provide your comments below*

There were 254 respondents to this question with comments ranging from “The information is sufficient”, “Fact sheet provided was clear and concise”, to “Do not propose any increases in rates, they are high enough already and difficult to pay”.



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The responses to this question are not largely material to the survey but rather feedback on the actual survey format. The individual responses to this question have not been included in the attachment to save space as they are not considered material to the overall survey results, with any constructive comments received to be considered as part of any future surveys by Council.

### **Question 3 – Usual Place of Residence**

There were a total of 1,737 respondents to this question with the dissection as follows.

<b>Locality</b>	<b>Number</b>	<b>Percentage</b>
Ballina	733	42%
Alstonville	294	17%
Wollongbar	103	6%
Lennox Head	342	20%
Wardell	26	1%
Other (eg. rural)	239	14%

This represents a reasonable cross section of the entire shire.

### **Question 4 - Do you consider yourself a user (no matter how frequent) or potential user of the Ballina or Alstonville swimming pools?**

There were a total of 1,694 respondents to this question

Yes – 727 responses – 43%

No – 967 responses – 57%

### **Question 5 – Council is examining a number of improvements to the swimming pools. What type of improvements would you would like to see.**

This question asked respondents to rank their preferred priority for improvements to the swimming pools. There were 1,414 responses with the overall ranking for the items listed as follows:

<b>Item</b>	<b>Response Average</b>
Additional lanes to meet competition standards	2.2
Improve disabled access	3.0
Heating – Ballina Pool	2.5
Children’s Wet Play Areas	2.5
Dedicated training pools	2.2
Improved picnic and BBQ facilities	2.3
Covered spectator seating and shade	2.7
Enclosed facility for all weather access	2.2
Replacing fencing at Ballina to improve river views	2.2
Improved Amenities	2.5
Expanded kiosk and refreshment facilities	2.1
Other	1.8

The response average represents the manner in which the survey software weights all the ranked responses to the question. Improved disabled access was well in front of the other works, with spectator seating and shade also ranking highly.

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The ranking format of this question does not allow the results to be included in the attachment to this report.

**Question 6** – *If you wish to provide comments on your ideas for improvements to the swimming pools please provide your comments in the following text box.*

This question provided an opportunity for respondents to provide further comments on the works program with 469 responses received. Many of the responses were largely related to not providing any works or a rate increase, however there were some constructive comments relating to items such as new racing blocks and the need for indoor facilities.

A complete copy of the comments for this question is included in the attachment.

**Question 7** – *Are you supportive of Council's proposal to apply to the NSW State Government for a 2.5% increase above the estimated rate increase of 3% for 2015/16 and 2016/17 (5.5% each year)?*

There were 1,739 respondents to this question with the results as follows.

<b>Preference</b>	<b>Number</b>	<b>Percentage</b>
No	1,214	70
Conditional	189	11
Yes	336	19

The clear majority of respondents are against this proposal.

**Question 9** - *Can you please confirm whether you are a property or business owner who would be required to pay any increase in the Council rates?*

There were 1,736 respondents to this question with the results as follows.

<b>Preference</b>	<b>Number</b>	<b>Percentage</b>
Yes (Property or Business Owner)	1,457	84
No (Resident)	279	16

The majority of the respondents were ratepayers.

**Question 10** - *If you answered yes to question nine can you please clarify what type of property rates you are required to pay.*

There were 1,508 respondents to this question with the results as follows.

<b>Type</b>	<b>Number</b>	<b>Percentage</b>
Residential	1,301	86
Business	37	2
Farmland	61	4
Combination of Properties	107	8

It was surprising how few businesses responded, albeit that the combination of properties option could include a large number of businesses.

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**Question 11** - *Do you have any other feedback in respect to this consultation process?*

There were 624 responses to this question and the attachment provides copies of the various comments. Some of the comments are constructive and a number are also negative towards the proposal and to Council in general.

**Question 12** - *Your name and address (email or post) (this information is optional)*

It was not mandatory for respondents to provide their contact details, however people were encouraged to provide their contact details so Council could provide advice on the outcomes of this consultation process. A total of 611 legible contact details were then provided.

It was decided not to make this question mandatory, as by even making it mandatory people who did not wish to provide their name could quite easily have provided limited information.

As mentioned the second attachment to this report, being the A3 sheets, is a listing of the various responses received to the survey. The responses are listed firstly in order of the response to question seven, being support or otherwise for the special rate variation. The responses are then sub ranked firstly by whether they are ratepayers or not and then their usual place of residence.

Overall there has been a significant response to this on-line survey with 1,750 responses (albeit four did not actually provide any details) being a large response for any Council survey.

There are many permutations of the survey results that Council could evaluate, as per the following analyses.

### ***Survey results only for respondents who provided contact details***

<b>Preference</b>	<b>Number</b>	<b>Percentage</b>
No	393	64
Conditional	83	14
Yes	135	22

This provides a higher level of support than the entire survey and likely reflects that people supportive of the rate increase are more interested in knowing the outcomes of the process.

### ***Survey results only for respondents who stated they were ratepayers***

<b>Preference</b>	<b>Number</b>	<b>Percentage</b>
No	1,030	71
Conditional	149	10
Yes	274	19

These results are consistent with the overall results.

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### *Survey results only for respondents who stated they were not users of the swimming pools*

Preference	Number	Percentage
No	847	88
Conditional	65	7
Yes	53	5

People who are not users of the swimming pools are far less likely to support this proposal.

Overall the on-line survey responses are similar to the written responses and generally speaking the objections are based on the same principles (i.e. affordability etc).

It is important to acknowledge that on-line surveys, as is often stated, do not provide statistically valid results, but rather they provide an easy and efficient opportunity for people to provide feedback. The software used allows only one response per item of hardware, however people can provide responses multiple times by using multiple hardware items.

The pleasing outcome from this on-line survey is the overall level of response with 1,750 responses being an excellent result for any Council process.

### **Micromex Survey**

An earlier report in this agenda provided an overview of the Micromex Community Consultation Survey undertaken during September 2014. That survey involved a representative sample of 500 people across the Shire and Micromex advise that it has an accuracy rate of 95%, with a margin of error of 4%.

Council used the opportunity of the consultation survey to obtain some feedback on the swimming pool proposals and pages seven to eight of the Micromex report identified 83% of people being supportive of the upgrades, however this reduces to 60% when the special rate variation is tied to the upgrades.

Relevant extracts from that report are as follows.

#### **a) Overall Support Levels – With and without rate increase**

Support Levels	Supportive of Upgrade	Supportive with Rate Increase
Very Supportive	36	20
Supportive	32	21
Somewhat Supportive	15	19
Not very Supportive	9	15
Not at all Supportive	8	25

#### **b) Level of Support by Age and Location (excluding rate increase)**

Age	18 - 34	35 - 49	50 - 64	65 +	Male	Female	Overall
Mean ratings	3.97	3.83	3.79	3.65	3.56	4.01	3.79

Location	A'ville	Ballina	Lennox	Skennars	Wardell	W'bar	Other
Mean ratings	3.92	4.07	3.77	3.48	3.64	3.65	3.49

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### c) Level of Support by Age and Location (with rate increase)

Age	18 - 34	35 - 49	50 - 64	65 +	Male	Female	Overall
Mean ratings	3.20	2.92	2.82	3.01	2.78	3.13	2.96

Location	A'ville	Ballina	Lennox	Skennars	Wardell	W'bar	Other
Mean ratings	3.32	3.07	2.87	3.16	2.85	2.65	2.65

The tables highlight:

- Support levels drop significantly when the rate increase is included
- Younger people are generally more supportive of the proposal
- Females are more supportive
- Alstonville, Ballina and Skennars Head still have moderate levels of support (i.e. above 3.0) with the rate increase included.

### Sustainability Considerations

- **Environment**  
Any upgrades to the swimming pools would incorporate environmentally sustainable initiatives.
- **Social**  
Council needs to be mindful of any social impacts that may arise from the imposition of extra Council charges. The swimming pools do provide an important social benefit to the community.
- **Economic**  
Improved aquatic facilities can assist in promoting Ballina as a visitor or tourist destination.

### Legal / Resource / Financial Implications

If Council resolves to proceed with the application there will be limited resource implications in completing the application.

If Council does not resolve to proceed with the application, any essential upgrade works at the swimming pools will need to be funded from existing revenues. Works will need to be limited to essential maintenance unless Council looks to reduce service levels in other areas to free up monies.

### Consultation

A comprehensive consultation process has been undertaken including letters being sent to all ratepayers in the Shire, an on-line survey, information in the September issue of Community Connect and on Council's website, community access points and three public meetings. Councillors now have a large amount of consultation material available to make an informed decision.

### **Options**

The options available are to not proceed with an application to the NSW IPART, proceed, or proceed with an amended proposal for a lower increase. IPART has to be advised by 12 December 2014 as to whether councils are making an application for a special variation for 2015/16 with formal applications due 16 February 2015. Therefore Council needs to make a decision at this meeting as to whether or not the application is proceeding.

### ***Not Proceed***

In respect to the option not to proceed, based on the written submissions and the on-line survey there is clearly a large number of objections to the proposal. Even though the Micromex survey resulted in 60% support, this still leaves 40% of people opposed to the idea.

Ultimately if Council does not proceed there is still a need at some point in the not too distant future to undertake essential maintenance and improvement works at the swimming pools. The strategy to manage this would be to prepare a financing strategy as part of Council's Fit for the Future Program response.

The advice from the NSW State Government appears to be that councils might be able to seek increases, possibly up to 3% above the rate pegging limit, as part of that program, if the financing strategy is accepted by the State Government.

Council may well be able to apply a combination of revenue increases and expenditure savings in future years to finance these works.

It is acknowledged that Council has not yet received a report on the Fit for the Future Program, largely due to the fact that the Office of Local Government is still releasing information. The Fit for the Future website [www.fitforthefuture.nsw.gov.au](http://www.fitforthefuture.nsw.gov.au) does have some useful information on this entire program with a report to be submitted to Council in the near future.

In respect to timing, the Fit for the Future responses are not due until 30 June 2015, which means that any changes to rating structures will not be able to be implemented until 2016/17 at the earliest, assuming the entire program proceeds.

### ***Proceed***

Council has conducted a comprehensive consultation process and there is some support for the proposal, whilst there is also strong opposition, as well.

Councillors have the difficult task of making decisions in the best interests of the community and are therefore quite entitled to make a decision that may not be popular, but may be considered to be the "right" decision taking into account all the information available. Some of the facts that support such a decision are:

- a) Council's relatively low level of rate income
- b) the ever growing need for refurbishment of the pools due to the condition of the existing infrastructure

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- c) the increasing operating costs
- d) the potential operating efficiencies to be gained through pool upgrades and the use of modern technologies
- e) the push by the Office of Local Government for councils to concentrate on asset renewal
- f) the vision as to where Councillors wish to place the Ballina Shire in respect to aquatic facilities for the next 20 years
- g) the additional funds help to improve Council's overall financial position in respect to our operating result.

In respect to this last point the modelling in Council's LTFP identifies that the additional rate increase, even though it is fully allocated to financing interest and principal repayments, helps to slightly improve our overall operating result. This is due to the fact that the full amount of the extra income is included in the operating statement as revenue, whereas only the interest component of the loan repayments is included as an operating expense.

These are all reasonable positions to take but such a decision is by no means popular.

### ***Proceed with an amended application***

Council could resolve to proceed with a lower proposed increase based on the feedback received.

For example rather than assuming a 3% CPI increase for 2015/16 and 2016/17 Council could assume 2.5%, resulting in a revised application of 5% for both years. The 3% figure was selected based on verbal advice from IPART, however the reality has been that the rate pegging increase for the last two years has been 2.7% and 2.3%, or an average of 2.5%.

The current inflation rate is 2.3% and the Reserve Bank forecasts for 2015/16 and 2016/17, as per their latest Statement on Monetary Policy (November 2014) are as follows:

**Table Five - Reserve Bank CPI Forecasts (Year Ended %)**

Item	June 2014	Dec 2014	June 2015	Dec 2015	June 2016	Dec 2016
CPI Inflation	3.0	1.75	1.5 to 2.5	2.5 to 3.5	2.5 to 3.5	2.5 to 3.5
Underlying Inflation	2.75	2.25	2 to 3	2.25 to 3.25	2.25 to 3.25	2.25 to 3.25

These figures tend to confirm that 3% is a reasonable assumption for 2015/16 and 2016/17.

The other side to amending the percentage is the additional 2.5% Council calculated to finance the additional loan repayments. The Council's Long Term Financial Plan (LTFP) is based on \$4m in loan funding in 2015/16 for works at the Ballina pool and then \$4.1m in loan funding in 2016/17 for works at Alstonville.

These are very preliminary figures and are subject to much detailed examination if Council resolves to proceed with the works and is able to fund the works program. The actual consultation process was based on \$4m for 2015/16 and 2016/17, however the LTFP recognizes that there may be some indexation in the budget and therefore allows \$4.1m in 2016/17.

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The next table provides a range of options for rate increases based on differing interest rates, with an assumed loan term of 15 years, to finance the estimated loan repayments on the \$4m and \$4.1m expenditure budgets. The table assumes a rate pegging increase of 3% per annum.

**Table Six – Loan Interest Rate Variances Compared to Rate Pegging %**

Interest Rate	3%	4%	5%	6%	7%	8%
Repayment on \$4m (2015/16)	335	360	385	412	439	467
Estimated Rate Yield (\$'000) 2015/16	19,113	19,138	19,163	19,190	19,217	19,245
% Rate Increase to Finance Loan	1.84%	1.97%	2.11%	2.26%	2.41%	2.56%
Repayment on \$4.1m (2016/17)	343	369	395	422	450	479
Cumulative Repayment on \$8.1m	678	729	780	834	889	946
Estimated Rate Yield (\$'000) 2016/17	20,029	20,081	20,133	20,188	20,243	20,301
% Rate Increase to Finance Loan	1.79%	1.93%	2.06%	2.20%	2.34%	2.49%

As per these figures the interest rate can have a significant impact on the annual repayments and the required rate increase. Currently it is possible to obtain a fixed interest rate of around 5% for 15 years, although the forecasts are for rates to move upwards over the next two years.

Another factor in this is the Local Infrastructure Renewal Scheme (LIRS). If Council can obtain access to that funding for these works the actual interest rate could possibly be subsidised by around 3%, which is why the 3% rate has been included in Table Six.

Therefore depending on the risk appetite that Council wishes to adopt the actual special rate percentage could possibly be reduced.

For longer term forecasting purposes we normally look at around 7% for loan rates and based on the latest figures this represents an additional rate pegging increase of 2.41% in 2015/16 and 2.34% increase in 2016/17 (i.e. total of 5.41% and 5.34% once the 3% CPI is added).

If Council assumed a 6% interest rate the figures decrease to 5.26% and 5.20%.

These percentages overall are still relatively close to the figures exhibited to the community, being 5.5%, but they do represent savings if Council proceeds.

The other option would be to reduce the budget for the works from approximately \$8m to a lesser figure. The works exhibited was as follows and various elements could be removed to reduce the budget.



## 10.11 Special Rate Variation - Swimming Pool Upgrades - Consultation

**Table Seven – Preliminary Works Program Per Complex**

Location	Description	Estimate (\$)
Existing 50 metre pools	Improved access	90,000
Existing 50 metre pools	Additional lanes	150,000
Existing 50 metre pools	Heating or improved heating	180,000
Existing 50 metre pools	Concourse improvements	110,000
Existing 50 metre pools	Coping and relining	900,000
Existing 50 metre pools	Seating and shade structures	120,000
Site	Improved fencing	100,000
Plant and Equipment	Replacement and upgrading	550,000
Toddlers Pool Areas	Children's wet play areas	250,000
Training Pool	Expansion of existing small pools	500,000
Training Pool	Heating	100,000
Training Pool	Plant and equipment	300,000
Training Pool	Concourse improvements	30,000
Training Pool	Coping and relining	150,000
Various	BBQ / Picnic facilities	80,000
Other	Amenities, kiosk and contingencies	390,000
<b>Total</b>		<b>4,000,000</b>

The difficulty with this is that the planning is in such an early stage, which means there are many uncertainties as to the exact works that will ultimately be needed, either as essential or optional; and final pricing may well vary substantially from the current indicative figures that Council has available.

Still an option is to reduce the overall budget to be funded by the rate increase and subsequently reduce the rate increase needed. Such a rate increase would fund a certain level of works and any works beyond that budget would then need to be sourced from existing revenues and savings in existing programs.

Also if Council was able to obtain a much lower interest rate than forecast, or even a LIRS loan, this would still possibly allow the full works program to be completed, as the repayments will be far less than the 7% interest rate estimate.

In respect to the final recommendation, this is a decision about service levels and whether or not Council wishes to apply for a special rate variation to improve the existing service levels at the swimming pools, whilst also undertaking essential major maintenance works.

The recommendations provide the options to proceed or not proceed, with Council also having the other alternative of proceeding for a lower percentage increase.

In respect to the recommendation to proceed, the figures proposed, based on the most up to date figures provided by Council's finance staff are 5.41% and 5.34% as per Table Six for a 7% forecast interest rate. This represents a small saving to the figures originally exhibited.

**RECOMMENDATIONS**

**Option A**

That based on the community consultation process completed, Council accepts there is a high level of objection to a special rate variation to finance upgrades to the Ballina and Alstonville swimming pools and therefore resolves not to proceed with the special rate variation application.

**OR**

**Option B**

1. That Council acknowledges the feedback from the community consultation process undertaken for the special rate variation application for upgrades to the Ballina and Alstonville swimming pools.
2. In acknowledging this consultation Council remains of the opinion that additional funds are needed to upgrade these pools for the following reasons:
  - a) the ever growing need for refurbishment of the pools due to the condition of the existing infrastructure
  - b) the increasing operating costs
  - c) the potential operating efficiencies to be gained through pool upgrades and the use of modern technologies
  - d) the push by the Office of Local Government for councils to concentrate on asset renewal
  - e) the Council's comparatively low rate base and
  - f) the additional funds help to improve Council's overall financial position in respect to our operating result.
3. That based on points one and two Council authorises the General Manager to submit an application to IPART for a special rate variation, however the application is to be varied from that proposed in the community consultation, with the amended percentages being 5.41% for 2015/16 and 5.34% for 2016/17, based on the latest available rating information as per Table Six.

**Attachment(s)**

1. Submissions (Under separate cover)
2. Results of Online Survey (Under separate cover)

## **11.1 DA 2010/962 - Sec 96 Amendment No.12 - Highway Service Centre**

### **11. Civil Services Group Reports**

#### **11.1 DA 2010/962 - Sec 96 Amendment No.12 - Highway Service Centre**

**Delivery Program**      Development Services

**Objective**              To determine Council's position in regards to the management of flood impacts associated with the Highway Service Centre development at River Street, West Ballina.

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#### **Background**

Council granted deferred commencement conditional consent to the construction of a Highway Service Centre at its Ordinary Meeting held on 23 June 2011. At the Ordinary Meeting held on 23 October 2014 Council considered a report in relation to an application to amend the consent to reduce the number of culverts required to mitigate the impacts of the development on the floodplain. The Council resolved to defer a determination of the amendment application to enable a Councillor workshop to be held to further review this matter.

The Councillor workshop was held on 5 November 2014. In response to the outcomes of that discussion, staff have sought clarifying advice from our consultant and this advice is discussed in the following report.

A copy of the report to the October 2014 Ordinary meeting is attached to this report for the information of Council.

#### **Key Issues**

- To determine an application to amend a development consent.
- Ensure the impacts of development are appropriately managed.

#### **Information**

Council received advice from our flood consultants BMT WBM for this development titled the "West Ballina Flood Optimisation Study" (the "study") in October 2013, which has been previously presented to Council. This report identified that a *"two cell arrangement provides sufficient flood mitigation to compensate for the complete site filling"*. The site is all of Lot 11 DP 1011575, which includes the Highway Service Centre development.

It was resolved by the Council at the 26 June 2014 Ordinary Meeting that four culverts were required to mitigate the impacts of the development. The applicant considers two of the culverts as beyond the requirements for this development and they propose that this be recognised by a credit arrangement in regards to their Section 94 Roads Contributions. The details of the proposal are set out in the previous report to Council.

## **11.1 DA 2010/962 - Sec 96 Amendment No.12 - Highway Service Centre**

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The key questions arising from the Councillor workshop were in regards to the predicted accuracy of the model and the impacts of floodgates on the performance efficiency of the culverts. Advice on these points was sought from BMT WBM.

The reply from BMT WBM confirms the following in relation to the modelling for the West Ballina Flood Relief Optimisation Study:

- The original 1997 and 2008 flood studies suggested a 40m wide culvert would provide some flood relief, whilst not being cost prohibitive.
- Subsequently, a 40m wide floodway reserve was adopted for the connectivity between the floodplain to the north and the culverts.
- The optimisation study has shown that with a 40m wide floodway, there would be minimal benefit using more than four of the originally proposed ten cells for the ultimate catchment development scenario.
- The flood modelling for the site (being Lot 11 DP 1011575 which includes the Ballina Highway Service Centre) showed that two cells would mitigate the impacts of the development, with a focus on not increasing flooding any further at Cumbalum.
- There has been no account for blockage of the culverts, which would ultimately reduce the performance. Consideration of blockage could provide reason for increasing the number of cells.
- Ultimately, floodgates will be required to prevent tidal intrusion onto the floodplain.
- The modelling undertaken does not have any redundancy (in terms of allowance for blockage, rounding up or down), so the requirement for mitigation of the impacts of filling the site is two cells of 1.2m high by 3.6m wide.
- The advice also confirmed that the model doesn't take into account the effects of floodgates as they are not considered to be material in the analysis.

When considering the public interest and the risks associated with the limitations of using model predictions, Council may accept the advice that two culverts are sufficient, or Council may consider that it is necessary to provide some redundancy in this design. This would mean more than two culverts would be required and these could be provided by the applicant, Council, or depending on timing, other approved developments which require site filling and are assessed as having a flood impact in the area.

This assessment addresses the culverts under River Street only. Any works on the internal access road are required in accordance with the recommendations of the study and would be at full cost to the applicant.

The works associated with any additional culverts are not part of Council's current works budget or Section 94 Roads Plan. This development has activated the need for the culverts and any expenditure by Council would need to be brought forward to match the timing of this development if the Council considers there is sufficient material public benefit attached to the construction of the culverts to justify a financial contribution by Council.

As per the previous report to Council, the applicant's proposal only seeks to allocate costs to Council that are directly attributable to the additional culverts cells.

### Sustainability Considerations

- **Environment**  
The culverts are included to minimize environmental impacts.
- **Social**  
Suitable mitigation is required to ensure no adverse flood impacts identified by the flood modeling are experienced by upstream properties.
- **Economic**  
Ensuring appropriate infrastructure decisions are made assists to reduce the costs of development and ensure future liabilities associated with the impact of growth are not transferred to Council. The appropriate balance between these factors will assist to promote economic development.

### Legal / Resource / Financial Implications

The previous report identified that the construction of two additional culverts would reduce the Road Contribution levy by approximately \$623,169. The exact amount is not known as the proposal describes an approach in regards to the apportionment of the costs. If the Council is prepared to accept that it is reasonable for the Council to meet the costs of the additional two culverts it is the opinion of staff that the proposed apportionment is appropriate in the circumstances.

The amount of income received each year under the Roads Contribution Plan is variable dependent on the rate of development. For the 2013/14 financial year Council received \$593,000 for Section 94 Roads Plan contributions, excluding interest and for 2012/13 the figure was \$903,000.

The actual income collection rate can vary substantially from year to year to dependent on the nature of development approved and activated.

Expenditure under the Section 94 Roads Plan for 2013/14 was primarily for Ballina Heights Drive, with \$1,139,200 in funding allocated to that project.

For 2014/15 the forecast movement for Section 94 Roads monies is as follows:

<b>Item</b>	<b>Amount (\$'000)</b>
Opening balance	2,675
Add: Estimated Collections	300
Add: Estimated Interest	69
Less: Expenditure	
Section 94 Component - River / Moon Street Roundabout	1,200
Section 94 Component - Tamar Street / Cherry Street Roundabout	520
BBRC Rebates	127
<b>Estimated Closing Balance</b>	<b>1,197</b>

## 11.1 DA 2010/962 - Sec 96 Amendment No.12 - Highway Service Centre

Council's Long Term Financial Plan (LTFP) then has the following future works included in our roads program in the medium term, based on the existing priorities in the Section 94 Roads Plan.

### Long Term Financial Plan – Forward Works Program for Section 94 Roads

Description	Estimate (\$)	2017/18 (\$)	2018/19 (\$)	2019/20 (\$)	2020//21 (\$)
Angels Beach Drive / Links Avenue Roundabout	1,200,000	1,200,000			
Hutley Drive	17,000,000		17,000,000		
Rocky Point Road / The Coast Round Roundabout	1,900,000		1,900,000		
Teven Road Climbing Lanes	4,472,000			4,472,000	
Tamarind Drive - Southern Cross Right Hand Turn Ban	182,000			182,000	
Angels Beach Drive Signalisation	4,482,000				4,482,000
Hogan Street Left In	823,000				823,000

The actual timing of the works in the LTFP is actually later than that originally envisaged in the adopted Section 94 Roads Plan, primarily as population growth has been far lower than originally anticipated in that Plan, which means the actual contribution collection rates have been less than predicted in the Plan. The existing Plan is currently being reviewed to identify the preferred timing for the provision of these works based on the latest population growth rates.

In respect to funding the forward works program, the Section 94 Plan is based on Council funding 30% of the cost and development (i.e. contributions) 70%.

For the LTFP, Council revenue (30%) and contributions collected (70%) are used to fund all of these works, excluding Hutley Drive which is funded by a combination of Council revenue, contributions collected and loan funds.

The amount of loan funds included in the Section 94 Plan for Hutley Drive is \$5.1m as this is estimated to be the shortfall in contributions collected by 2018/19 based on current collection rates. The loan repayments are then funded by future Section 94 contribution collections.

The actual timing of all these works in the LTFP is indicative only and Council has already flagged that Hutley Drive may be a higher priority, particularly with the Pacific Pines Estate having recently been sold to another developer and concerns being expressed over the capacity of Montwood Drive.

The figure for Hutley Drive in the LTFP is the 2018/19 estimated dollar value for construction of all of Hutley Drive and it may well be that this road is delivered in a number of stages.

Council will be holding discussions with the new owners of the Pacific Pines Estate about the timing of these works and one option that will be canvassed is for the developers to fully fund sections of Hutley Drive, with Council then providing credits for the developer's Section 94 Roads Contributions. This could help alleviate the need for Council to take out loan funding at a future date.

Councillors have sought clarification as to what impact the provision of any credit to the Highway Service Centre proponents for the culverts will have on the delivery of Council's Section 94 Road Plan works.

Clearly any credit, be it for one culvert (estimated at around \$310,000) or two culverts (estimated at around \$620,000), will take funds away from the road works identified in the Section 94 Plan.

The works identified in the Roads Plan are considered to be works of high importance as delays in the provision of those works will result in reduced service levels in the road network, as traffic volumes increase. Therefore Council should be mindful of providing credits for other works as the importance of the other works needs to be balanced against the Roads Contributions Plan.

If Council is required to make a financial contribution to the culverts, from a financial management perspective, the preference would most likely be to ask for three culverts only, with the third being offset against the Section 94 contributions. The estimated value of this credit of around \$310,000 is a substantial figure, however in the overall life of the Section 94 Roads Plan, it may not impact on the timing of any roadworks materially; i.e. the monies waived will be most likely collected from other developments within six to 18 months based on typical collection rates.

Ultimately it is a matter for Councillors to determine the preferred public material benefit of the additional culverts (three or four) and then balance that value against the Section 94 contributions offset by the delivery of that infrastructure.

Finally should Council resolve to seek additional culverts, but not contribute to the costs of these additional culverts there may be a risk that this decision is challenged and Council would incur legal expenses associated with an appeal. At an estimated value of over \$300,000 per culvert the proponent could well consider legal action justifiable, particularly based on the expert reports presented to Council.

### **Consultation**

The applicant has previously made submissions and deputations to Council in respect of this matter.

### **Options**

There are a range of options available to the Council including the following:

1. The applicant provides a four cell culvert as resolved by the Council at the 26 June 2014 Ordinary Meeting.

This option acknowledges the previous position of Council, which says the most appropriate risk profile for the community is to acknowledge there is minimal increase in peak flow rates for any arrangement of more than a four cell culvert design.

This option is not recommended having regard to the advice of Council's flood consultant that says two cells will mitigate the impacts of the development.

## **11.1 DA 2010/962 - Sec 96 Amendment No.12 - Highway Service Centre**

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It is however an option for the Council to determine that it is reasonable to require the developer to install the four culverts based on the Council's concerns that there is a level of uncertainty in modelling and risks of flood debris reducing the hydraulic efficiency of the culvert.

Alternatively, Council may require the four culverts and accept that there is material public benefit associated with these and accept the applicant's proposal.

2. The applicant is required to provide a three cell culvert.

Under this option Council is accepting a different risk profile in response to the modelling uncertainty and debris issue. As for option one, the Council could determine that the third culvert is required because of the development, or the Council can determine to make a contribution based on material public benefit.

3. The applicant provides a two cell culvert to mitigate the effects of their development.

The advantage of this option is that the Council does not have to make a financial contribution (that is, it will receive road contributions) and there is a lower risk of legal challenge. The disadvantage in this option is that it does not provide the additional level of protection that to date has been preferred by Council.

The provision of three cells would appear to be a balance between the advice of the consultant and the risk concerns of the Council. This option avoids the cost of the fourth cell to either party. Having regard to the risk concerns of Council, the recommendation to this report is for the application to be amended to require the three cells.

In regards to whether or not the Council should contribute funds to the construction of the third cell, it is recommended that Council does not contribute. The reason for this is that the cell is only required now in direct response to this development occurring, and that it is reasonable the cell is provided to ensure sufficient protection against the risks of modelling uncertainty and the potential for flood debris to block or reduce the capacity of the culvert system. Councillors need to make sure they are comfortable with this assumption as there is a risk of legal action being taken in respect to this third culvert.

In the event that Council believes it is more reasonable for the community (i.e. Council) to finance the third culvert the amended recommendation is provided below.

That delegation be granted to the General Manager to determine the subject application (Amendment No 12) to DA 2010/892 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 an additional culvert (i.e. three culverts), subject to the applicant and Council reaching agreement on the process to determine the costs attributable for the additional culvert, with Council supporting the methodology outlined in the report to the 23 October 2014 meeting of Council.



**RECOMMENDATIONS**

1. That delegation be granted to the General Manager to determine the subject application (Amendment No 12) to DA 2010/892 under Section 96 (1A) of the Environmental Planning and Assessment Act 1979 to amend Condition 5.22 to reduce the number of culverts required from four to three.
2. That Council records that it considers it is reasonable for the applicant to meet the full cost of the three culverts in point one for the following reasons.
  - The culvert system is not included in any strategic works program of the Council and the works are only necessary at this point in time to mitigate the impacts of this development.
  - The third culvert is required to ensure the public interest is protected from the risks associated with flood modelling uncertainty and the risks of reduced culvert capacity that can arise from accumulated flood debris.
3. If agreement cannot be reached with the applicant in respect to point one, the General Manager is authorised to refuse the subject application as the application is inconsistent with Council's preferred culvert configuration.

**Attachment(s)**

1. Copy of Report from 23 October 2014

## **11.2 Recycled Water Scheme - Kings Park Embellishment Project**

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### **11.2 Recycled Water Scheme - Kings Park Embellishment Project**

**Delivery Program** Water and Wastewater

**Objective** To obtain Council direction and funding for proposed embellishments to infrastructure improvements at Kings Court Reserve

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#### **Background**

Council resolved at its 24 July 2014 Ordinary Meeting to place on public exhibition the concept plan for Kings Court Reserve - Recycled Water Embellishment Project.

The recycled water reservoir at Kings Court Reserve forms part of the Lennox Head Recycled Water Scheme under Council's Recycled Water Masterplan for the supply of recycled water to urban open space and new subdivision areas.

During regulatory approval for the scheme in 2010 and in response to community concerns regarding the placement of a 3.4 megalitre reservoir at Kings Court Reserve, an alternative proposal was accepted to install a smaller header tank which could be incorporated into park embellishment infrastructure that would improve the amenity and encourage increased use of the park.

Since that time the header tank and infrastructure required for the recycled water component of the project has been completed, there has been further consultation with interested community groups, and a concept design for the park embellishments was prepared.

In accordance with Council's resolution, the concept plan was placed on public exhibition for a period of four weeks with the exhibition period ending 23 October 2014. Nine submissions were received and copies of the documents are attached. Extracts from the submissions, as well as a recommendation on how to proceed, are provided in this report.

#### **Key Issues**

- Community consultation
- Compliance with planning approvals
- Capital works and maintenance budgets

#### **Information**

The Council resolution from the July meeting is set out below.

1. *That Council approves, for public exhibition, the concept plan for the Kings Park Recycled Water Embellishment Project, as per attachment three to this report, excluding the water park.*
2. *That the property for this project be referred to as Kings Court Reserve.*

## **11.2 Recycled Water Scheme - Kings Park Embellishment Project**

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- 3. That Council approves an allocation of \$310,000 for this project, with this funding to be sourced from savings elsewhere in the wastewater program capital budget.*

A copy of the concept plan has been included attached as attachment one.

At the July meeting, Council also resolved the following in relation to this project.

*That Council receive a report on the water play park proposal being placed at Captain Cook Park, with the funding for the project (\$370,000) to be sourced from savings elsewhere in the wastewater program capital budget.*

Preparing the required report is currently programmed for 2015.

### Submissions

All submissions supported some form of embellishment at Kings Court Reserve to help blend the existing reservoir into the surrounding landscape. The majority of the submissions received were generally in favour of the proposed embellishments.

Of the nine submissions, eight expressed support for the provision of play equipment within the plan. As a summary, some of the main comments from the submissions are reproduced below.

- The concept plan agreed to by the local residents and the council included BBQs, toilets, rebound wall, seating, tables as well as the installation of playground equipment.*
- We would like to express our desire to see the embellishment of the structured completed in line with the original concept design agreement of 2009 which included the provision of playground equipment.*
- The idea is to engage the community with a community garden (school participation), a sitting area to view the beautiful views over Lennox and a safely fenced natural playground.*
- The local community had been promised play equipment and picnic facilities at Kings Court Reserve.*
- A well- equipped, children's play area should take priority, with ample shading.*
- Prefer to see \$60k for play equipment to keep Victor Place Playground and a cheaper one for Kings Court.*
- Provision for parking in the reserve deemed unnecessary as plenty of parking around reserve.*
- Concerned that family orientated items are being considered in vicinity of the "VERY busy road" that is, Nth Creek Road.*

## **11.2 Recycled Water Scheme - Kings Park Embellishment Project**

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- *Never seen any one picnicing or even children playing on this area. We ask who will want to have a BBQ on this reserve next to such an ugly construction.*
- *Vandalism has been a problem in this area with street signs being destroyed as well as letter boxes, as the yahoos make their way home. We feel that a BBQ on this area will only draw more vandalism*
- *Prefer play equipment over bbqs, arty signs and posts.*
- *Play equipment proposed appears inadequate as does seating.*

Based on the feedback received, the embellishments contained in the concept plan are recommended for adoption. The remainder of this report deals with the issue of whether or not to provide a playground.

### Playground

While there were not many submissions made in response to the exhibition, as nearly all of the submissions that were received requested a playground be included in the project.

It is estimated play equipment suitable for this site would cost approximately \$65,000. An example of the type of equipment that could be provided is included as attachment three.

The following information has previously been provided by Council in respect to the provision of playground equipment at this location.

*Council's Manager Open Spaces and Resource Recovery advises the following in regards to the cost of a playground and the scale and type of equipment recommended for this location.*

*A study of the existing playground provision, including an analysis of the surrounding playground catchment and the age groups that are serviced, has been undertaken for the surrounds of Kings Court Reserve. In line with the play space objectives and proposed supporting facilities, it is recommended that a unique climbing net and swing combination be installed at Kings Court Reserve, supporting the key design theme of water. The playground, supporting ages 2-10 years is estimated to cost approximately \$65,000.*

*Council is also advised that there is playground equipment located approximately 300 metres away at Victor Place. This equipment is showing signs of age and the existing swing is no longer serviceable.*

*Therefore the replacement of this equipment is to be considered as part of the current project to review the Playground Upgrade Program. As a new playground in Kings Court Reserve will adequately service the catchment and the existing swing are no longer serviceable, should it proceed, it is recommended that the equipment in Victor Place be removed at an appropriate time and not be replaced.*

Further to that advice, a workshop was conducted with Councillors to review our service levels in regards to playground equipment and to assess the risks associated with managing these assets.

## **11.2 Recycled Water Scheme - Kings Park Embellishment Project**

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The workshop was informed by the outcomes of an independent risk audit. One of the recommendations from this audit was that Council should consider a consolidation approach to playground upgrades. This strategy was recommended as it is a more cost effective approach and reduces risk. Furthermore, by identifying key locations for the investment of larger upgrades, this strategy enabled Council's funds to provide a broader appeal and improved play experience.

The audit confirmed that the removal of the current equipment at Victor Place be undertaken as soon as possible. Replacement at Victor Place is not recommended having regard to suitability of the site to support the contemporary approach to playground installation and management. A playground at Kings Court is considered consistent with the level of service proposed for the local catchment under the playground upgrade strategy.

The options section of this report further considers the question of whether or not to include a playground in this project.

### **Sustainability Considerations**

- **Environment**

The proposed embellishments will be designed in accordance with established codes of practice in NSW. Construction, operation and maintenance of the proposed embellishments are unlikely to have an unacceptable or unsustainable environmental impact. The recycled water education component will improve awareness of environmental benefits of Council's recycled water scheme.

- **Social**

Proposed embellishments are considered improvements to the open space as they will provide an opportunity to realise the full potential of the park and its views, and therefore increase the utilization of the park.

- **Economic**

The proposed embellishments have the potential to improve visitor attraction to Lennox Head and Ballina, and provide linkages with other infrastructure such as the proposed bike path along North Creek Rd.

### **Legal / Resource / Financial Implications**

Council approved an allocation of \$310,000 for this project (Council meeting 24 July 2014) with the funding to be sourced from the wastewater program capital budget. There is no funding allocation for any additional works in the wastewater capital budget.

The General Fund Playground Upgrade Program does have a budget that could be allocated to the additional works under certain conditions, however there may well be higher priority parks for that funding.

## **11.2 Recycled Water Scheme - Kings Park Embellishment Project**

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### **Consultation**

- Consultation has been undertaken over an extended period of time with community representatives from community groups (Kings Court Reserve Protection Group, Lennox Head Chamber of Commerce and Lennox Head Residents Association) during the concept design phase.
- Public Exhibition of concept plan and request for submissions.
- It is noted that this report refers to a recommendation to remove the play equipment at Victor Place and not replace it. No community consultation has occurred in respect of this decision.

### **Options**

The options for Council's consideration include:

- 1) Council approves the construction works for this project in accordance with the concept plan that excludes play equipment for the approved budget allocation of \$310,000. It is considered possible to include the seating, shade areas and rebound wall options raised in several submissions at no additional cost to the overall project.
- 2) Council approves the construction works for this project in accordance with the concept plan but with the addition of standard play equipment funded by the wastewater program capital budget. There is currently no funding allocation for these works in the wastewater capital budget.
- 3) Council completes the detail design, such that it will facilitate the installation of a playground as a further stage for this project, when funds can be made available.

Overall the number of submissions is considered small and it is therefore arguable that given this limited interest and the extra costs it would be reasonable for Council to maintain its position and not install a playground at Kings Court Reserve as part of the embellishment. However, it is also the case that the removal of the equipment at Victor Park, which is recommended independently of this report, justifies the inclusion of the playground as this will support the Kings Court Reserve project and generally maintains the same service level for playgrounds in the area.

As noted, the provision of a playground requires an additional \$65,000 to the current budget for this project. Based on the Victor Park removal, the Council could elect to source these funds from the playground improvement program, which is budgeted in the General Fund. Alternatively it is also appropriate for the recycled water project budget to be used as this project provided the infrastructure in the reserve which has led to the need for the embellishment.

The playground improvement program is not preferred at this point in time having regard to the amount of work identified in the audit that has a high priority.

Staff are also mindful that it is necessary to reduce costs within the wastewater budget as the current forecasts for charge increases in this Fund are significant when compared to inflation and wage progression.

## **11.2 Recycled Water Scheme - Kings Park Embellishment Project**

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The allocation of financial resources and the determination of community levels of service is ultimately a matter for the Council. On balance, option three is preferred for the following reasons;

- It is consistent with the current resolution of Council
- The design can allow for a playground to be constructed at a suitable time in the future, as determined by the Long Term Financial Plan.
- The apparent community interest or demand for the playground does not justify a high priority for the use of limited public funds.
- The Wastewater Long Term Financial Plan is scheduled to be reviewed in depth with Councillors through a series of workshops over the next few months.

If the Council is inclined to support Option Two, it is recommended that this be conditional upon the removal, without replacement of the playground equipment at Victor Park, with funding sourced from the Wastewater Fund.

### **RECOMMENDATIONS**

1. That Council adopts the concept plan for Kings Court Reserve Embellishment Project as exhibited.
2. That detail design for the implementation of the project in point one provide for the future provision of a playground within the Kings Court Reserve Embellishment Project.
3. That Council undertake further consideration to the option of allocating funds for a playground within the Kings Court Reserve Embellishment Project, as part of the forthcoming update of the Wastewater Long Term Financial Plan.
4. That Council endorses the decision to remove the play equipment at Victor Place in accordance with the findings of the recent Playground Equipment Audit.

### **Attachment(s)**

1. Concept Plan for Kings Court
2. Submissions
3. Picture - Playground Equipment

## **11.3 Fees - Amendments for Inspection of Engineering Works**

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### **11.3 Fees - Amendments for Inspection of Engineering Works**

**Delivery Program**      Asset Management

**Objective**                      To consider changes to the fees for the certification and inspection of engineering works.

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#### **Background**

The current fee structure has a combined fee for review of engineering plans and the later inspection for compliance of these works. It is proposed to split the fees to accommodate the requirements of developers who may prefer private certification of one of these components.

#### **Key Issues**

- Variations in fee structure
- Flexibility

#### **Information**

The certification fees for engineering works mostly apply to works required after the issue of a development consent for a subdivision. When the conditions of consent require construction of subdivision works (streets, stormwater drainage, water supply, sewerage etc) to service the proposed new allotments, these must generally be completed prior to the issue of a "Subdivision Certificate" (a document needed to register titles for newly created lots in the subdivision).

The process of certifying the subdivision works consists of two processes:

Firstly the proponent prepares plans and specifications of the subdivision works, submits these to Council (or a suitably qualified private certifier) and requests a "Construction Certificate".

The plans and specifications are reviewed by Council or the certifier for compliance with the DA conditions of consent and adopted standards. This process may involve further requests for information and amendments to plans. When the plans are deemed compliant a "Construction Certificate" is issued with stamped plans.

Secondly as subdivision works proceed, they are inspected by Council or a certifier to ensure they comply with the "Construction Certificate" stamped plans and specifications and other relevant development consent conditions. These inspections are necessary to provide evidence to Council, prior to issue of a "Subdivision Certificate" that the "work has been completed" as required by Section 109J (2)(a) of the Act.

The current fee structure for certification of engineering works associated with development contains three elements:



### 11.3 Fees - Amendments for Inspection of Engineering Works

- A "Civil Inspection Fee" for review of engineering plans and site inspections for compliance of these works
- Fee for "Construction Certificate Civil Works", for the issue of the formal certificate authorising the works. This certification is dependent on a satisfactory review of the plans as covered by part of the "Civil Inspection Fee" above.
- A separate "Section 138 Certificate - Civil Works" (Roads Act 1993) for the issue of the formal certificate authorising works in a road reserve. This certification can be dependent on a satisfactory review of the plans as covered by part of the "Civil Inspection Fee" above.

The current structure with a single fee for both review of plans and site inspections of works does not provide splitting of these functions between Council and a private certifier.

Table One below shows the existing fee structure and table two shows a revised fee structure that will accommodate splitting the plan review and works inspection part of the "Civil Inspection Fee" and combining the plan review part with the issue of the "Construction Certificate". The process for Section 138 fee is also rationalised. Table two also incorporates the same fees for Section 68 (local Government Act 1993) water supply and sewerage works.

<b>Table One - Existing Fee Structure</b>	
<b>Fee Name</b>	<b>2014/15 Fees</b>
<b>Civil Inspection Fee</b> - Review of engineering plans and site inspections (subdivisions, road widening and other civil works). The project value is determined using unit rates, as determined by Council for construction and related costs. The project value excludes GST	
Project value <\$200,000	3% (minimum \$210)
Project value \$200,001 <\$1M	2.5%
Project value >\$1M	2.0%
<b>Construction Certificate Civil Works</b>	
Project value <\$6,000	\$159
Project value \$6,000 <\$20,000	\$210
Project value \$20,000 <\$200,000	\$370
Project value \$200,000 <\$1M	\$740
Project value >\$1M	\$1,210
<b>Section 138 Certificate - Civil Works</b>	
Section 138 certificate - civil works	\$210

<b>Table Two - Proposed Fee Structure</b>	
<b>Fee Name</b>	<b>Revised Fees for 2014/15</b>
<b>Certification of Engineering Plans and Works</b>	
<b>Construction Certificate Civil Works or Section 138 Approval or Section 68 Approval</b> - Assessment of engineering plans and specifications (subdivisions, road widening and other civil works) and issue of certificate/approval. The project value is determined using unit rates, as determined by Council for construction and related costs. The project value excludes GST.	
Project value <\$200,000	\$159 plus 1%
Project value \$200,001 <\$1M	\$740 plus 0.85%
Project value >\$1M	\$1,210 plus 0.65%
<b>Civil Works Inspection Fee</b>	
Site inspections, compliance assessment of works approved by Construction Certificate or Section 138 Approval or Section 68 Approval .	
Project value <\$200,000	2%
Project value \$200,001 <\$1M	1.65%
Project value >\$1M	1.35%

## **11.3 Fees - Amendments for Inspection of Engineering Works**

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The fees proposed in table two are designed to be revenue neutral, compared to current fees. In general terms the current % fee for "Civil Inspection Fee" has been split one third/two thirds. One third has been allocated (plus the current fixed "Construction Certificate Civil Works" fee) to the proposed "Construction Certificate Civil Works or Section 138 Approval or Section 68 Approval" fee and the remaining two thirds has been allocated to the proposed "Civil Works Inspection Fee".

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
The proposed fee amendments are revenue neutral, and will facilitate developer choices for engaging private certifiers for permissible components of certification of development related works.

### **Legal / Resource / Financial Implications**

Section 610F of the Local Government allows councils to provide notice of 28 days prior to the implementation of a new service, if that service is being implemented after the adoption of the annual Operational Plan.

Therefore this fee will be implemented following that exhibition period.

### **Consultation**

The proposed fee structure has arisen from developer requests to have a more flexible fee structure for certification of development engineering works.

### **Options**

The options are to exhibit the proposed fee amendments or make no changes to the fees. The preference is to exhibit as this proposal addresses a shortcoming in Council's current fees.

### **RECOMMENDATION**

That Council approves the exhibition of the amendments to the adopted 2014/15 fees and charges for certification of Engineering works as detailed in Table Two of this report for a minimum period of 28 days, prior to implementation, in accordance with Section 610F of the Local government Act.

### **Attachment(s)**

Nil

## 11.4 Tuckombil and Stokers Quarries - Operational Status Report

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### 11.4 Tuckombil and Stokers Quarries - Operational Status Report

**Delivery Program** Operations Support

**Objective** To report on commercial leasing matters in relation to the Council owned quarries.

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#### Background

Council (BSC) owns and leases out the operation of the Tuckombil and Stokers Quarries. The operation of both quarries is managed by a single lease with Lismore City Council (LCC) for a 10 year period, ending 14 October 2018.

The lease directly relates to the approved Development Applications for each quarry and these specify the total extraction amounts. This is summarised below along with estimated extraction volumes to date. The data shows the quarries still have a large volume of material available for extraction under these consents.

Quarry Names	DA	Total Extraction Allowable	Estimated Extraction to Date
Tuckombil Quarry	DA1995/276	1.3 million tonnes	600,000 tonnes
Stokers Quarry	DA1995/274	330,000 m3	99,500 m3

This report has been prepared to provide an update on the current situation surrounding the quarry leases, particularly with respect to the agreement with LCC.

#### Key Issues

- Commercial leasing terms and conditions

#### Information

In August 2014, LCC issued a letter to Council notifying their termination of the lease. The notice period was three months. The termination was claimed on the basis that it was uneconomic to mine the remaining quarry product.

Council, having considered legal advice, responded to the letter by notifying LCC that their termination notice was invalid. The lease does not provide termination options based on the commercial elements of managing the quarries, and in any event, Council was not satisfied that any evidence supporting the commercial issues had been provided to us.

At this point in time, Council has not received a further response from LCC. Staff have however conducted a number of meetings with LCC officers.

From those meetings it is understood that LCC now propose to make a submission to Council to vary some of the terms in the lease on the basis that changes to certain market and other conditions since the lease was executed are the cause of financial hardship.

## **11.4 Tuckombil and Stokers Quarries - Operational Status Report**

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Staff have communicated to LCC that Council will consider any formal submission made in respect of a proposal to vary the terms of the lease, subject to such the submission dealing with the claimed unforeseen changes to operating conditions.

At particular issue is the management of overburden on the site. While it is fair to say that at this point in time staff have concerns about how the site has been managed by the lessee, the management of overburden under the current lease potentially has implications for the longer term future of the quarry. For this reason staff have indicated that Council will consider a submission from LCC and prepare a report to Councillors, if there is a reasonable basis to amending the current lease terms.

Certainly it is preferred for the current lease to remain in place until its scheduled expiry date of 14 October 2018, although negotiating some agreed variations to the lease terms may be appropriate in the circumstances.

### *The Future of the Quarries*

In July 2013, Council endorsed a recommendation to continue further extraction from both quarry sites. This decision was in response to the recommendations contained in the Tuckombil and Stokers Quarry Evaluation and Strategic Options Report, which investigated the remaining resource, looked at future potentials for the sites as quarries and uses for the end sites.

Council authorised a budget allocation of \$300,000 to prepare a Quarry Development Plan for both sites (including a drilling campaign). Efforts are underway for engaging an appropriately qualified contractor to undertake these works on behalf of Council. A Request for Tender is currently advertised, closing 25 November 2014. It is noted that this is the second invitation to price the works as staff were not satisfied that a previous market process provided a result that represented value for money.

Following the development of the Quarry Development Plan, an environmental assessment will commence for a new development application to be submitted. This intention is to receive approval for future works prior to commencing the process to seek a new market when the current quarry lease has expired.

### **Sustainability Considerations**

- **Environment**  
An environmental management framework is in place for the operation of the quarry and in particular Council and LCC are both required to meet certain statutory, regulatory and license requirements.
- **Social**  
As for environmental, to minimize the impacts of the quarry operations, Council and LCC are both required to meet certain statutory, regulatory and license requirements.
- **Economic**  
Locally sourced quarry product is considered essential for economic development.

## **11.4 Tuckombil and Stokers Quarries - Operational Status Report**

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### **Legal / Resource / Financial Implications**

Legal advice in respect of the termination conditions within the lease has been received and communicated to LCC. It is the opinion of Council's legal advisor that the notice to terminate the lease was invalid.

If the lease is lawfully terminated prior to its expected expiry, or it is agreed to vary terms, it is likely that Council's income from the quarry operations would be reduced. Until a market assessment is undertaken, it is uncertain as to whether or not reduced income would be the result in a new lease. It is noted that LCC were the highest bid in a competitive tender process to become the lessee in 2008.

Income from the quarry operations is very important to Council's recurrent operations as we are currently taking an annual dividend of \$210,000 from the quarry operations to finance \$110,000 in annual repayments for a Local Infrastructure Renewal Scheme Loan taken out by Council, along with \$100,000 as a straight dividend to the General Fund.

Actual income from the quarries has been \$304,000 in 2011/12, \$410,500 in 2012/13 and \$349,700 in 2013/14. To 31 October 2014 income is \$75,000 to date, albeit that at the same time last year the income was only marginally higher at \$83,500.

Even if LCC do not operate the quarries they still need to pay Council a monthly royalty of \$16,424 (EX GST), which increases annually with CPI during the term of the lease.

### **Consultation**

Staff continue to consult with LCC officers regarding this matter.

### **Options**

This report is for the information of Council based on enquiries from Councillors.

### **RECOMMENDATION**

That Council notes the contents of this report regarding the operating lease for the Tuckombil and Stokers Quarry.

### **Attachment(s)**

Nil

## **11.5 Policy (Review) - B Double & 4.6m High Vehicle Route Assessment**

### **11.5 Policy (Review) - B Double & 4.6m High Vehicle Route Assessment**

**Delivery Program** Asset Management

**Objective** To review the B-Double & 4.6m High Vehicle Route Assessment for Regional & Local Roads policy.

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#### **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 B-Double & 4.6m High Vehicle Route Assessment for Regional & Local Roads policy.

Council first adopted this policy in February 2003 and it was last reviewed in March 2014.

#### **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:

- Recently the National Heavy Vehicle Regulator (NHVR) was established as the regulator for all vehicles over 4.5 tonnes gross vehicle mass (GVM) and all fatigue-related heavy vehicles over 12 tonnes GVM. This change was to facilitate a consistent national approach to heavy vehicle regulation. Council is the road manager under the National Heavy Vehicle Law (NHVL), which officially commenced in NSW in February 2014, however there has been delays in the actual implementation of aspects of the law. As the road manager, local government is able to work directly with the NHVR to determine which vehicles operate on their roads and the conditions under which they operate.
- Under the NHVL the role of the road manager is that it cannot grant a mass or dimension authority (ie: issue a permit), but is responsible for deciding whether to consent to the use of restricted access vehicles on its roads.

By way of background, the policy position of Council has been that it will not consider applications for B Double route assessments outside of the roads listed in the policy. The roads listed in the policy are essentially related to access to the industrial estates. Similarly for vehicle height dispensations, the policy provides a list of roads, and in this case it is to support cane haulage.

## **11.5 Policy (Review) - B Double & 4.6m High Vehicle Route Assessment**

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Under the new arrangements, B Double configurations 19 metres or shorter are approved by the regulator to access all regional and local roads, unless a specific load limit applies. For route applications for vehicles longer than 19 metres, the NHVR now determines the route application. As the Council is consulted in the application process, it remains appropriate for Council to retain its previous policy position as this will continue to provide direction for staff and applicants in regards to our response to a request from the NHVR.

As these changes have implications to Council's policy a revised draft policy is attached for Council's consideration. Changes to the policy are highlighted in yellow. Other than the changes to reflect the new national arrangements, the policy is still considered to suit Council's needs.

### **Sustainability Considerations**

- **Environment**

The use of B-Doubles on appropriate routes reduces emissions and other environmental impacts associated with the freight task.

- **Social**

The use of B-Doubles on appropriate routes reduces the risk of road trauma given B-Double vehicles meet contemporary design standards and reduce the number of vehicles required for the freight task.

- **Economic**

The use of B-Doubles on appropriate routes contribute to efficiencies to the freight task. The request by the cane industry to use 4.6 metre high vehicles was aimed to assist the efficiency of that industry sector.

### **Legal / Resource / Financial Implications**

There are no resource and financial implications associated with the recommendation to this report.

National Heavy Vehicle legislation and RMS guidelines provide the assessment process to deal with B-Double routes. The Council policy is required to be compliant with these statutory arrangements.

### **Consultation**

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. It is recommended that the policy be adopted as presented.

**RECOMMENDATIONS**

1. That Council adopts the amended B-Double & 4.6m High Vehicle Route Assessment for Regional & Local Roads 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 - B-Double & 4.6m High Vehicle Route Assessment for Regional & Local Roads



## **11.6 Policy (Review) - Donations - Insurance for Environmental Groups**

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### **11.6 Policy (Review) - Donations - Insurance for Environmental Groups**

**Delivery Program** Governance and Finance

**Objective** To review the Donations - Insurance for Environmental Volunteer Groups Policy

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#### **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 – Insurance for Environmental Volunteer policy.

Council adopted the review of this policy in September 2010.

#### **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.
- The reference to the Department of Infrastructure, Planning and Natural Resources has been removed and replaced with relevant state government agency.

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.

#### **Sustainability Considerations**

- **Environment**  
The policy assists community groups in their endeavours to achieve improved environmental outcomes.
- **Social**  
Supporting community groups assists to promote social cohesion in the community.

## **11.6 Policy (Review) - Donations - Insurance for Environmental Groups**

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- **Economic**

Work undertaken by volunteers assists the community to meet its objectives without economic impacts.

### **Legal / Resource / Financial Implications**

The policy currently operates within the existing Council budget.

### **Consultation**

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. It is recommended that the policy be adopted as presented.

### **RECOMMENDATIONS**

1. That Council adopts the amended Donations – Insurance for Environmental Volunteer Groups 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 - Donations - Insurance for Environmental Volunteer Groups

## **11.7 Pavement of The Ridgeway, Cumbalum**

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### **11.7 Pavement of The Ridgeway, Cumbalum**

**Delivery Program**      Engineering Works

**Objective**              To seek Council's decision regarding the pavement finish and length for The Ridgeway reconstruction project.

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#### **Background**

The Ridgeway was built in November 2003 by the developers of the Ballina Heights Estate.

A section of pavement (approximately 330m in length) is programmed to be replaced as part of the 2014/15 roads capital works program. The section of pavement has a deteriorating asphalt surface and relatively poor sub base conditions. The works will remove and replace the top pavement layer with some improvements to subsoil drainage works proposed.

Previous advice to Council regarding our road rehabilitation program has identified that for economic efficiency it is generally the preferred option to reinstate the wearing surface with a bitumen (2 coat) seal and not Asphaltic Concrete (AC) which is the current wearing surface for some of the Shire's urban roads.

Some exceptions to this approach have in the past included:

- Roads located within the CBD
- Heavily trafficked intersections
- Car parks (subjected to 'screwing' action of vehicles) and
- Pavement shape correction which can only be achieved with AC overlay.

It is anticipated that due to the relative young age of the existing wearing surface that there may be an expectation from the community that Council would replace the wearing surface with a like for like AC surface and not a bitumen reseal. However, having regard to the cost difference between the two types of seals, the design choice is submitted to Council for determination.

The Council is also advised that it was the intention for these works to be completed in the 2014 calendar year, however the works have been deferred until now to enable a start following the opening of Ballina Heights Drive as this will assist to minimise disruption to the motorists in the area by providing an alternative traffic route. This approach will also improve the efficiencies of the work activities by reducing the amount of traffic affecting the works area. As the opening of Ballina Heights Drive has been delayed, the Ridgeway pavement works are now scheduled for the first quarter of 2015.

## 11.7 Pavement of The Ridgeway, Cumbalum

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### Key Issues

- Project Cost and Life Expectancy
- Amenity
- The need for consistency in the approach for the replacement of pavement wearing resurfaces across the Shire.

### Information

The current allocated construction budget for The Ridgeway is \$361,000.

The general cost comparison between a two coat bitumen seal is approximately \$8.50/m<sup>2</sup> and an AC surface is approximately \$25/m<sup>2</sup> (including a \$5/m<sup>2</sup> for a primerseal).

The life expectancy for a two coat seal is somewhere in the order of 12-15 years while an asphalt surface would normally provide somewhere in the vicinity of 20-25 years. Over the life cycle of the pavement the option to provide a bitumen seal as the wearing surface is cheaper than AC.

As previously advised to Council via bulletin items, in relation to the consideration of noise, asphalt surfaces are generally quieter than a two coat seal however research has identified that the difference is difficult to discern in respect of a change in amenity for residents, particularly for the lower range speed limits.

On some occasions the change in surface type applied by Council has generated inquiries or complaints. In response to this, a report titled *Road Surface Noise Levels Study* was commissioned by Council in November 2013 to provide some further data to assess the performance of our roads.

A copy of this report is provided as attachment one.

It is noted the report does not represent a scientific type study. The methodology simply selected a few road locations that could provide reasonable comparisons.

The report identifies changes of approximately 3 – 6 decibels, however for lower speed zones the changes are typically at the lower end of this range. The report describes these changes as noticeable.

While a direct road to road comparison can yield a noticeable result, it is important to note that most roads in the urban environment comprise a bitumen seal and these provide a noise service level that is accepted and considered a reasonable level of impact on local amenity.

Currently The Ridgeway is classified as an urban local road. It has been subject to reasonably high traffic movements in recent times, however as a result of the Ballina Heights Drive works traffic volumes are expected to decrease.

### Sustainability Considerations

- **Environment**  
The purpose of this report is to consider noise impacts.
- **Social**  
The purpose of this report is to consider the impacts on social amenity from a change in road surface.
- **Economic**  
The efficient management of Council's infrastructure assets is important to support economic development.

### Legal / Resource / Financial Implications

Current estimates for the works to incorporate a bitumen (2 coat) seal are approximately \$296,000 whilst the asphalt (AC) option has been estimated at \$365,000. A saving of \$69,000 is forecast if the preferred approach of a bitumen reseal is adopted. The available budget for this project is \$361,000.

### Consultation

No consultation has been conducted with Ballina Heights Estate residents in respect of this issue.

### Options

There are two options for consideration by Council;

1. The Ridgeway pavement renewal project is completed with a bitumen seal at an estimated cost of \$296,000.

The advantage of this option is that it represents an estimated budget saving of \$69,000, allowing those funds to be used on other road construction projects. Another advantage is that the use of this type of seal is consistent with the approach Council has been delivering for its reseal program and pavement rehabilitation program for several years. A bitumen seal is preferred on a whole of life cost basis and provides a level of service that is accepted within the community.

2. The Ridgeway pavement renewal project is completed with an asphaltic concrete seal at an estimated cost of \$365,000.

This option recognises that for this project the change in seal type is occurring after only a relatively short period of time and therefore they may be an increased expectation within the local community to retain the current surface type. The advantage of this option is that it provides a superior surface.

Ultimately the allocation of financial resources and the determination of levels of service is a matter for Council.

## **11.7 Pavement of The Ridgeway, Cumbalum**

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As Council is aware, there are many challenges to address in the management of our road infrastructure and in response to these demands it is essential that Council identify and maximise savings to the extent possible.

As two coat bitumen seals provide an acceptable level of service in the community and having regard to the available budget saving and maintaining a consistent approach in the delivery of Council services, on balance, the bitumen seal is preferred and therefore option one forms the recommendation to this report.

The second recommendation then endorses the current pavement strategy.

In respect to the second recommendation, another option that Council could consider is to receive a report, or a draft policy, that identified certain main feeder roads that possibly could be maintained to a higher standard through the use of AC.

The Micromex report, earlier in this agenda, highlights that roads are typically the service of highest importance to the community (ranked first in 2014 and 2008 and second in 2012). Therefore there may be some merit in maintaining roads that are regularly used by residents at an AC level, as this could potentially result in higher satisfaction levels with the community and improve the overall perception regarding the condition of Council's roads.

Road examples that could be maintained at the higher standard include:

- River Street – from Teven Interchange to the Town Centre – as the main southern route into Ballina
- Tamarind Drive – from the Tamarind Drive interchange to Cherry Street – again a main access to Ballina
- Angels Beach Drive – from North Angels to Ballina Central – main feeder route from the north into Ballina

These are examples only with the point being that roads that are regularly used, could provide higher satisfaction levels to the community, if maintained to a higher level, which in turn helps to install increased confidence in the Council and also local pride in the roads.

The Micromex report performance gap for roads decreased from 2.01 to 1.55 between the 2012 and 2014 surveys, which is an excellent result, particularly for a regional / rural council. In recent times Council has undertaken AC works on River Street and Tamarind Drive as part of the highway transfer, with these works funded by a one-off transfer of funding from the RMS. Angels Beach Drive has also had a recent AC overlay. These works may have contributed to this overall perception of improved roads or possibly it has just been the works that have been on-going throughout the Shire, as Council has increased its road funding significantly in recent years, largely due a program of special rate variation increases.

This is a more theoretical commentary about importance and perception and whether or not Council wishes to expend more monies on certain roads is ultimately a service level question for Councillors, as more monies expended on any one road, results in less funds for other road works. If Council wishes to further investigate this discussion then recommendation two could be amended to the following:

## **11.7 Pavement of The Ridgeway, Cumbalum**

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*That Council receive a further report on policy options to maintain identified feeder roads to a higher standard (i.e. AC) in recognition that this may result in higher satisfaction levels to the community regarding the condition of the road network.*

### **RECOMMENDATIONS**

1. That Council endorses a two coat seal as the road wearing surface for the The Ridgeway rehabilitation project on the basis that this change will provide significant financial savings to Council, is consistent with Council's current practice, and it is a surface type that is considered by the community at large as a surface that provides a reasonable level of service.
2. That Council endorses, for all future asset management considerations for projects of this type and for the reseal program, that staff follow the practice in point one above which prefers a bitumen seal in lieu of an asphaltic concrete (AC) seal, except for the exception cases as per the examples discussed in the above report.

### **Attachment(s)**

1. Road Noise Levels Study

## **11.8 Floodplain Risk Management Study and Plan**

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### **11.8 Floodplain Risk Management Study and Plan**

**Delivery Program**      Engineering Works

**Objective**              To obtain Council approval to exhibit for public comment the draft Floodplain Risk Management Plan and draft Floodplain Management Development Control Plan.

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#### **Background**

The NSW State Government has in place a Flood Prone Land Policy. The policy has an objective of reducing the impacts of flooding and reducing private and public losses resulting from floods.

The policy identifies that the primary responsibility for floodplain risk management rests with councils. A NSW State Government Manual, known as the "Floodplain Development Manual, the Management of Flood Liable Land" (April 2005) provides guidance to councils. The manual sets out the State Government's floodplain risk management process, and guides councils in the development and implementation of local floodplain risk management plans.

Furthermore, under Section 733 of the Local Government Act, an exemption from liability is generally offered to councils relating to the management of flood liable land where it has acted in good faith in accordance with the "relevant manual" most recently notified by the State Government.

Section Two of the manual shows a flowchart of the Floodplain Risk Management Process. A copy of the flowchart is provided as attachment one.

Council is now nearing completion with the process of finalising a Floodplain Risk Management Plan. A chronology of the work to date is summarised below.

- 2004: WBM Oceanics Australia (now BMT WBM Pty Ltd) was awarded tender T125 for consulting services for the Ballina Flood Study Update. This comprised the completion of a two dimensional (2D) flood model for the lower Richmond River at Ballina including aerial photography and river bathymetry.
- 2008: Completion of Ballina Flood Study Update (BFSU, 2008) and subsequent amendment to Combined DCP, Policy Statement No. 11 - Flood Levels.
- 2009: BMT WBM and Bewsher Consulting were awarded tender T451 for consulting services for the preparation of the Floodplain Risk Management Study and Plan. This also comprised the additional data collection of property floor level surveys which was undertaken in late 2009.



## 11.8 Floodplain Risk Management Study and Plan

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- 2010: The release of the NSW State Government's Sea Level Rise Policy in late 2009 confirmed the benchmarks for sea level rise (SLR) projections. An amendment to the Combined DCP, Policy Statement No. 11 - Flood Levels was made to account for revised fill heights for new developments (greenfield sites). The ongoing Floodplain Risk Management Study and Plan process was recommended to further assess Council's DCP with respect to infill development.
- 2012: Council confirms, that until local sea level rise benchmarks are determined, Council continue to apply the benchmarks established by the former NSW Government 2009 Sea Level Rise Policy in its plans and strategies.
- 2012: Public exhibition of the draft Floodplain Risk Management Study and draft Flood Risk Management Development Control Plan.

Following public exhibition, Council resolved to adopt the Floodplain Risk Management Study, and to finalise the preparation of the draft Floodplain Risk Management Plan. With respect to the draft Flood Risk Management Development Control Plan (DCP) it was noted that a further report be prepared following a review of comments received during the initial exhibition process.

A significant amount of time has elapsed since the previous round of exhibition of flooding information, and completion of the current stage, being the draft Floodplain Risk Management Plan and updated DCP. These delays have been the result of additional work undertaken to further develop the flood model, as discussed further below, and the development of improved mapping to support the presentation and use of the model outputs.

During this time, Council's consultants (BMT WBM Pty Ltd) have extended and updated the 2D flood model north of Ross Lane, to further include North Creek and "Newrybar swamp". Councillors may recall the exhibition of this modelling and study (by Richmond River County Council) in early 2014. This recent work has now been incorporated and updated into Council's current documentation and mapping.

The Ballina flood model and its ongoing development for the purposes of flood modelling and management across the floodplain is complex. Since inception of the project some time ago, the body of that flood model information has grown, and in particular has informed future potential development scenarios. A flow chart of the evolution of the Ballina Flood Model is shown as attachment two.

The body of this report will deal with the finalisation of the:

- draft Ballina Floodplain Risk Management Plan (BFRMP)
- draft Floodplain Management Development Control Plan (DCP)

The BFRMP is a summary style report which synthesises the recommendations of the adopted Ballina Floodplain Risk Management Study. The BFRMP provides a framework of recommended floodplain management measures, and an implementation priority is presented.

## 11.8 Floodplain Risk Management Study and Plan

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The DCP presents a revised version of the previously exhibited DCP, which includes input received during and following the previous exhibition process.

### **Key Issues**

- Completion of the draft Ballina Floodplain Risk Management Plan
- Completion of the draft Floodplain Management Development Control Plan
- Proposed public exhibition of the above documents.

### **Information**

#### *Draft Ballina Floodplain Risk Management Plan (BFRMP)*

The draft BFRMP presents a summary report of the recommendations from the adopted Ballina Floodplain Risk Management Study (BFRMS). The main floodplain management measures, which were studied in the BFRMS comprise:

- Property modification management measures which largely comprises a proposed draft DCP for floodplain management plus investigation of limited voluntary house raising
- Response and evacuation capability assessment and emergency management recognising the need for improved flood forecasting and community awareness
- Flood modification measures, being the ongoing assessment of floodways and waterway openings

The draft BFRMP lists specific measures under the three categories above and this is shown as a simple framework in Table 4.1 (attachment three).

Furthermore the BFRMP identifies an implementation priority schedule which is presented in section four of the report. This will assist with future engagement of other agencies in particular OEHL grant funding.

For completeness the draft BFRMP has also included and referred to other flood studies which are stand-alone, however, are now captured in the one plan. These being:

- Wardell and Cabbage Tree Island Floodplain Risk Management Study (Patterson Britton & Partners Pty Ltd, 2007).
- Newrybar Swamp Drainage and Flood Mitigation Study (BMT WBM Pty Ltd, 2014).

It is noteworthy that following completion of the BFRMS an OEHL grant has already been received for the investigation of a Gallans Road cycleway flood relief structure. (Recommendation F1, Table 4.1.)

Overall the draft BFRMP presents a synthesis of the outcomes of previous studies which is presented in simple manner for ongoing monitoring and review.

## 11.8 Floodplain Risk Management Study and Plan

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### Draft Ballina Floodplain Management Development Control Plan (DCP)

Following exhibition of the draft DCP during 2012 it was reported to Council that respondents to the draft DCP, being consulting firms, reported the proposed document was complex and difficult to interpret.

The Council resolution endorsed a further review of the DCP to incorporate comments in response to the exhibition.

A follow-up meeting with respondents was held in early 2013 and it was determined that some improvements to the document could be made. This primarily focused on reducing the number of flood maps, (flood planning level maps) and clarifying conditions. A follow-up review with internal staff was also undertaken.

As noted earlier in this report a significant delay with this project has been the update of the flood model and development of associated mapping.

Accordingly the draft DCP in its current form with new mapping has not had a full round of consultation with the previous respondents.

Only part of the draft DCP (without mapping) has been issued to the previous respondents for early feedback, however no responses have been received. It is therefore envisaged that the current exhibition process will re-engage with the previous respondents, and this will be reported following exhibition.

Aside from the technical aspects of the document (noted above), the strategy and intent behind the draft DCP is unchanged.

An extract from the August 2012 Council report is provided to restate the policy direction:

*Having regard to the information in the submissions, the framework and policy contained within the draft DCP is still considered to be the most appropriate direction for Council at this point in time. The policy as it applies to infill development is briefly summarised below.*

- *Proposes to continue to fill, adopting 2050 year 1:100 year ARI. This accommodates SLR of 0.4m by the year 2050, which exceeds 1:100 year ARI protection up to 2050, and allows for further climate change assessment into the future.*
- *The adoption of the 2050 year 1:100year ARI for minimum fill levels across Ballina island also provides property protection for SLR without flooding, and allows for positive drainage. The minimum fill heights across Ballina island for the draft DCP range from 2.1m AHD to 2.4m AHD and predictions for king tides at 2100 are 1.8m AHD (ie without flooding).*
- *Provides for reduced freeboard for commercial and industrial premises, rather than blanket 0.5m freeboard for all floor heights. This is relevant, in particular for the CBD and retail areas.*
- *Allow for consideration "performance measures" which may be considered if the prescribed and preferred protection measures are unable to be achieved.*

## 11.8 Floodplain Risk Management Study and Plan

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*Overall the outcomes of the draft DCP respond to the immediate requirements to consider Sea Level Rise and flooding for infill development with current climate change knowledge. As further information or knowledge grows with respect to climate change and flooding it is considered that responses through building adaption would be the next adaptive response, rather than continuation of incremental filling.*

*A further outcome of the draft DCP is the establishment of flood risk precincts where high and extreme flood risk areas are identified. Here certain developments are considered unsuitable and/or stringent requirements are exercised. It is noted that significant rural floodplain falls under the category. The draft DCP allows concessional development where existing farm improvements or building entitlements are permitted because of improved flood protection.*

Complete copies of the draft Ballina Floodplain Risk Management Plan and the draft Ballina Floodplain Management Development Control Plan are included as attachments four and five.

### **Sustainability Considerations**

- **Environment**  
The draft Plan reports on changes to the natural environment which impact on the built environment.
- **Social**  
The draft Plan identifies areas potentially subject to inundation due to flooding and climate change. This affects both existing residents and new development.
- **Economic**  
There are significant economic implications for those undertaking development within the provisions of the draft DCP. However, there is also the potential for significant economic implications for development subject to inundation where such provisions are not applied.

### **Legal / Resource / Financial Implications**

The process follows the guidelines outlined in the NSW State Governments Manual "Floodplain Development Manual, the Management of Flood Liable Land" (April 2005) and Council's policy regarding SLR projections (November 2012). Under Section 733 of the Local Government Act, an exemption from liability is generally offered to Council where it has acted in good faith in accordance with guidelines.

### **Consultation**

Throughout the duration of this project there have been a number of meetings and/or workshop forums where the progressive outcomes of the BFRMS have been discussed with Councillors.

At the same time, (following the Councillor meetings), a Community Reference Group (CRG) meeting has been convened.

## **11.8 Floodplain Risk Management Study and Plan**

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During the preparation of the BFRMP there has been no further specific consultation given the adoption of the BFRMS.

However, consultation has continued with respondents (consulting firms) regarding the previous exhibition of the draft DCP. Improvements to the current proposed DCP have been made and this exhibition will re-engage with the previous respondents.

### **Options**

The draft FRMP which is proposed for public exhibition is a summary document containing floodplain management measures previously reported to Council. There is no option proposed other than proceed with exhibition for public comment.

Regarding the draft DCP it is proposed to proceed to public exhibition for further comment and feedback. A decision regarding the DCP can be made following exhibition and reporting.

The policy intentions of the DCP and the FRMP were the subject of previous Council reporting and briefings and were confirmed by Council for public exhibition, the recommendation to this report includes the suggestion of a further briefing for Councillors as it is some time since this matter was last before the Council.

### **RECOMMENDATIONS**

1. That the draft Ballina Floodplain Risk Management Plan and Chapter 2b – Floodplain Management Development Control Plan be placed on public exhibition in accordance with the requirement of the Environment Planning and Assessment Act 1979.
2. That prior to the commencement of the public exhibition in point one above, a workshop is conducted to assist Councillors in their further familiarisation of the plans that are the subject of this report.

### **Attachment(s)**

1. Flowchart of the Floodplain Risk Management Process
2. Flowchart of the Evolution of the Balina Flood Model
3. Table 4.1 - Simple Framework
4. Ballina Floodplain Risk Management Plan - December 2013 (Under separate cover)
5. Ballina Floodplain Management Development Control Plan (Under separate cover)

## **11.9 Tender - Canal Dredging - Ballina Quays and Lake Banyanda**

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### **11.9 Tender - Canal Dredging - Ballina Quays and Lake Banyanda**

**Delivery Program**      Engineering Works

**Objective**              To determine the tender for the canal maintenance dredging of Ballina Quays and Lake Banyanda.

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#### **Background**

Tenders for Canal Maintenance Dredging – Ballina Quays and Lake Banyanda were advertised on 27 September 2014, and closed on 8 October 2014.

Only one tender was received and that was from Sandpiper Dredging Pty Ltd. The following report is an assessment of this outcome.

#### **Key Issues**

- Appropriate assessment of tenders for canal maintenance dredging of Ballina Quays and Lake Banyanda
- Budget
- Award Contract in accordance with the Local Government (General) Regulations 2005.

#### **Information**

At the Ordinary meeting of Council held on 22 September 1994, Council resolved to undertake canal dredging of Ballina Quays and review the condition of canals at least every five years.

Maintenance of Ballina Quays canals was last undertaken in stages between financial years 2005/06 and 2007/08 and Lake Banyanda around 2001/2.

In July/August 2013 hydrographic surveys of Ballina Quays and Lake Banyanda were undertaken to assess the need for dredging. These surveys enabled a comparison of the existing bed levels of the canals and the lake to the original designs.

The surveys, together with anecdotal evidence from local residents, confirmed the need for dredging and informed the scope of works in the specification for the tender.

Dredging will reinstate slumping of the shoreline, reduce the incidence of pontoons resting on the canal bed during low tides and reinstate eroded sections of the foreshore.

The design profile of Ballina Quays canals will not always provide “clearance” for moored vessels and pontoons. Background reports regarding previous investigations and analysis of the canal design can be obtained from the Group Manager Civil Services should any Council require further information.

As noted only one tender was received in response to Council’s advertising.

## **11.9 Tender - Canal Dredging - Ballina Quays and Lake Banyanda**

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The lump sum prices for the tender submitted are:

Ballina Quays	\$148,500 ex GST
Lake Banyanda	<u>\$ 33,000 ex GST</u>
Total	\$181,500 ex GST

Council has allocated \$16,500 in the 2014/15 budget toward the cost of this work. An additional \$113,000 is held in reserve for canal dredging, making a total of \$129,500. In addition to any contract amount, a further \$20,000 is required in the budget to cover some ancillary costs such as follow up hydrographic surveys.

### **Sustainability Considerations**

- **Environment**

The contract requires the contractor to establish and operate in accordance with an Operational Environmental Management Plan which addresses issues related to acid sulphate soils, water quality, noise and fuel/oil spills.

- **Social**

The work under this contract will maintain the amenity of the waterways for residents.

- **Economic**

This work will prevent the effects of erosion on infrastructure located on the foreshore.

### **Legal / Resource / Financial Implications**

Only \$129,500 is available for this project. As the tendered amount exceeds the available funds, the options section of this report discusses the alternatives available to Council.

### **Consultation**

An open tender process in accordance with the Local Government Act 1993 has been completed.

A number of requests for this work to be undertaken have been received from some residents of properties adjoining the canals and lake, in particular at dead-end sections of the canals.

### **Options**

The tender submitted by Sandpiper Dredging Pty Ltd has been assessed by comparing it with the cost of similar work undertaken in 2008. On that basis the tendered amount is approximately \$45,000 or 25% higher than expected and is therefore not considered to be value for money.

In accordance with Clause 178 of the Local Government (General) Regulations 2005, Council has six options available in the event that limited or no tenders are received.

## **11.9 Tender - Canal Dredging - Ballina Quays and Lake Banyanda**

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*A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*

- (a) postpone or cancel the proposal for the contract,*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
- (f) carry out the requirements of the proposed contract itself.*

With regard to each of these options:

- a) this option is not recommended as delaying the work will result in further build up material requiring to be dredged and continued erosion of the foreshore
- b) this option is a possibility, however it is unlikely that new tenders would be submitted. In excess of 20 potential contractors accessed the tender documents but only one tender was received. Previous tenders for this work have also resulted in a small market response.
- c) as for point b.
- d) as for point b.
- e) this option is preferred and, in the first instance, it is recommended that negotiations be undertaken with the contractor who submitted a tender. If these negotiations are unsuccessful, negotiations could be undertaken with other suitable contractors.
- f) this option is not feasible as Council does not have access to the equipment required to undertake dredging

Even if a lower tender price can be negotiated, it is likely to exceed the available budget of \$129,500. If that is the case, Council has the options of:

1. Providing additional funds from savings in other budgets
2. Undertaking work in 2014/15 to the limit of available funds and delaying a portion of the work until 2015/16, to enable Council to provide additional funds in the 2015/16 budget. Delaying work at Lake Banyanda would achieve a substantial amount of the savings required. If some of the work is delayed, there will be additional cost involved for the contractor to re-establish on site in 2015/16. Delaying work at Lake Banyanda is preferred to other locations as this area does not have the concerns associated with pontoons.

Based on the tender response and the available funds the preferred approach is to approve further negotiations and limit the works to Ballina Quays.

### **RECOMMENDATIONS**



## **11.9 Tender - Canal Dredging - Ballina Quays and Lake Banyanda**

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1. That, in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council resolves not to accept the tender for canal dredging due to the lack of competitive tenders and on the basis that the tender received was substantially in excess of the available budget.
2. That, in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council authorises the General Manager to enter into direct negotiations with Sandpiper Dredging Pty Ltd regarding the tender price.
3. Should negotiations with Sandpiper Dredging Pty Ltd fail to achieve a satisfactory tender price, Council authorises the General Manager to negotiate with other suitable contractors.
4. If the final negotiated tender price exceeds the available budget, a portion of the work is to be deferred and Council consider providing the funds required for any deferred work in the 2015/16 budget.
5. In respect of point three above, Council notes that the work recommended for deferral is the Banyanda Lake portion of this project.
6. That during the preparation of the 2015/16 Delivery Plan, Council consider an increase in the funds transferred to reserve each year for canal dredging to ensure sufficient financial resources are available for future projects.
7. That Council authorises the seal to be attached to any contract documents.

### **Attachment(s)**

Nil

## **11.10 Tender - Ballina Heights Boosted Pump Station**

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### **11.10 Tender - Ballina Heights Boosted Pump Station**

**Delivery Program** Water and Wastewater

**Objective** To determine the tender for the Ballina Heights Boosted Pump Station Project.

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#### **Background**

This project is an extension of the existing Recycled Water Distribution & Storage System Construction Project located in Ballina and Lennox Head.

Stage 1 of this project was completed in 2013 and included the construction of a recycled water main from the Ballina Wastewater Treatment Plant to Ballina Heights, where a Drinking Water and Recycled Water reservoir has been constructed, along with the Ballina Heights Boosted Pumping Station Building.

To defer capital costs, this pumping station was not fitted out with pumps during Stage 1, and some pipeline work was not completed. This has allowed installation of the pumps to be carried out as population growth in the boosted pressure zone progressed.

The State 2 works are scheduled for completion by February 2015 and involve the following:

1. Fit-out the pumping station with the appropriate booster pumps, jacking pumps and associated pipework, instrumentation and fittings
2. Provide the necessary electrical, control and telemetry equipment and resources to fully commission and operate the works
3. Finalise the design where necessary and provide all other services to complete the works

The pre-tender estimate for these works was \$346,500 (inclusive of GST).

Council has a capital works budget of \$496,320 inclusive of GST to complete the entire project (including the connecting pipeline).

#### **Key Issues**

- Implementation of Council's Urban Water Management Strategy
- Delivery of Section 64 development Servicing Plan infrastructure
- Budget
- Award Contract in accordance with the Local Government (General) Regulations 2005.

#### **Information**

The tendering process was carried out in accordance with the *Local Government (General) Regulation 2005*.

## 11.10 Tender - Ballina Heights Boosted Pump Station

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Tenders (RFT 1400672) for the Ballina Heights Boosted Pump Station were called on 12 September 2014 and closed on 7 October 2014. Tenders from five organisations were received.

Tenders were evaluated based on an 80% price and 20% non-price selection criteria in accordance with the Tender Evaluation Plan. Non-price selection criteria included the Tenderers experience and their tendered equipment compatibility with that utilised by Council.

The final evaluated scores of the tenders including non-price scores as determined by the Tender Evaluation Panel are shown in the following table.

<b>Tenderer</b>	<b>Original Tender amount</b>	<b>Weighted price score</b>	<b>Total normalized non-price score</b>	<b>Total score</b>	<b>Ranking</b>
Electrical Workshop Australia Pty Ltd	\$ 369,526.00	80	20	100	1
Ledonne Constructions Pty Ltd	\$ 421,718.90	73	18	91	2
Peter John Hodges	\$427,000.00	70.6	15.5	86.1	3
Innovin Pty Ltd	\$ 431,963.40	69.7	18.5	88.2	4
Eire Construction Pty Ltd	\$ 486,970.00	60.6	16.5	77.1	5

Based on the tender evaluation methodology, Electrical Workshop Australia Pty Ltd (TEW) is identified as the preferred tenderer. TEW's tender amount is within 10% of the pre-tender estimate and is considered to represent value for money.

In determining TEW as the preferred Tenderer, tender qualifications and departures were assessed, clarifications made and financial assessments undertaken. These processes yielded no substantive change to the tender and confirmed the determination of TEW as the preferred tenderer. The contract value is \$369,526.00 inclusive of GST.

### Sustainability Considerations

- **Environment**

The Ballina Heights Boosted Pump Station supports the distribution of recycled water into dual reticulation areas reducing the demand on the potable water supply and reducing the amount of marine discharge from Council's wastewater treatment plants.

- **Social**

This project will assist Council meet determined levels of service for water supply to residents in this locality.

- **Economic**

Implementation of Council's Developer Servicing Plan for water and wastewater infrastructure enables residential land releases to proceed and thereby support economic development.

## **11.10 Tender - Ballina Heights Boosted Pump Station**

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### **Legal / Resource / Financial Implications**

Council has an obligation to facilitate the construction of water infrastructure in accordance with Developer Servicing Plans. The tendered price is within 10% of the pre-tender budget, and Council's overall project budget is considered adequate to enable the entire project to proceed (including the connecting pipeline). A financial assessment rated TEW as being in satisfactory financial position to undertake this work.

### **Consultation**

An open tender process in accordance with the Local Government Act 1993 has been completed.

### **Options**

1. Award construction contract RFT 1400672 to Electrical Workshop Australia Pty Ltd for the lump sum contract amount of \$369,526.00 inclusive of GST.
2. Reject the tender received and recall tenders; thereby delaying the project.

The recommendation is to accept the tender as it is within budget the preferred tenderer has met all Council's tender assessment criteria.

### **RECOMMENDATIONS**

1. That Council accepts the tender from Electrical Workshop Australia Pty Ltd for the Ballina Heights Boosted Pump Station for the amount of \$369,526.00 inclusive of GST.
2. That Council authorises the seal to be attached to the contract documents.

### **Attachment(s)**

Nil

## 11.11 Tender - Wollongbar Sporting Fields and Supporting Infrastructure

### 11.11 Tender - Wollongbar Sporting Fields and Supporting Infrastructure

**Delivery Program** Open Spaces and Reserves

**Objective** To determine the tender assessment for the Wollongbar Sporting Fields and Supporting Infrastructure Project.

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#### **Background**

A request for tender was advertised on 18 October 2014 for the construction of the Wollongbar sporting fields and the associated infrastructure required to service these fields. At the close of the tender period on 11 November 2014, seven tenders were received.

This report details the outcome of the tender process.

#### **Key Issues**

- Engage suitably qualified and experienced contractor
- Assess value for money
- Budget matters
- Comply with Section 55 of the Local Government Act 1993 and Part 7 of the Local Government (General) Regulations 2005 with regards the acceptance of tenders.

#### **Information**

Tender submissions were received from:

Gary Deane Constructions	\$6,428,370 (ex GST)
Mainland Civil Pty Ltd	\$7,439,642 (ex GST)
Greg Santin Earthmoving	\$5,563,584 (ex GST)
Synergy Resource Management Pty Ltd	\$4,700,000 (ex GST)
Main Constructions Pty Ltd	\$6,288,988 (ex GST)
Moggill Constructions Pty Ltd	\$7,395,989 (ex GST)
Shamrock Civil Engineering Pty Ltd	\$7,337,007 (ex GST)

Council has received several reports with regards to the development of the Wollongbar sporting fields. At a Facilities Committee on the 19 November 2013, Council resolved to confirm the budget for the Wollongbar Sports Fields project at \$7,153,106 (ex GST).

<b>Description</b>	<b>Amount (\$)</b>
<i>Essential Works</i>	3,421,509
<i>Inclusions:</i>	
<i>"Important but Not Essential"</i>	285,796
<i>"Subject to Section 96"</i>	190,000
<i>Increased budget for clubhouse facilities</i>	200,000
<i>Provisional Sum Items</i>	99,375
<b>Sub Total</b>	<b>4,196,680</b>
<b>Items for Consideration</b>	
<i>Planting within site along road corridors &amp; buffer zones</i>	30,000
<i>Provision of AC to 4 Netball Courts</i>	100,000

## 11.11 Tender - Wollongbar Sporting Fields and Supporting Infrastructure

<b>Description</b>	<b>Amount (\$)</b>
<i>Lighting to 2 Netball Courts</i>	<i>50,000</i>
<b>Sub Total</b>	<b>4,376,680</b>
<i>Contingency – 15%</i>	<i>656,502</i>
<b>Total</b>	<b>5,033,182</b>
<b>Other costs already incurred or committed to-date</b>	<b>2,119,924</b>
<b>Total Estimated Project Cost</b>	<b>7,153,106</b>

A further report was provided to the Facilities Committee on 14 May 2014 detailing quantity surveyor costings for the rugby amenities and tennis clubhouse buildings. This report indicated a shortfall in the budget for these buildings of \$222,000. Council resolved to decrease the contingency allocation of \$656,502 in order to fund the increased cost of the buildings.

The construction of the clubhouse buildings does not form part of this proposed contract. The buildings are estimated to cost \$880,000, if this amount is reserved from the project budget of \$7,153,106 less costs incurred/committed \$2,119,924, the remaining budget for the sporting field works is \$4,153,182.

As indicated, the lowest tender for these works is from Synergy Resource Management Pty Ltd for \$4,700,000. This sum is \$546,818 in excess of the available budget, although it is noted that it would be reasonable to consider a reduction in the contingency sum once a contract is awarded.

A review of the tendered rates has been compared with the quantity surveyor's report from October 2013 and in general the tendered rates are higher in a majority of areas. This can partly be explained by inflation over the twelve months since the preparation of the quantity surveyor's report.

In completing the tender assessment, staff have identified some further potential options to generate savings and these will be referred to the project designer for their review.

An option available to Council is to not accept any tender and negotiate. Previously Council has had some success following this course of action for large contracts similar to this one.

The reason for this is that Council and the contractor can exchange information in regards to the risk sharing profile, the quality of the contractor's estimates, as well as review the specification and design from a builder's perspective.

This is the preferred response to this tender.

Staff have reviewed the capability of Synergy Resource Management Pty Ltd, as the lowest priced tender, and the company is deemed capable of undertaking the works.

### **Sustainability Considerations**

- **Environment**

The works will be constructed in accordance within an environmental management framework.

## **11.11 Tender - Wollongbar Sporting Fields and Supporting Infrastructure**

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- **Social**

This project will provide significant infrastructure to improve the social and sporting amenity for the Shire.

- **Economic**

This project will support further interest in this area as a desirable place to live and the sporting activity on the site will attract visitors on a regular basis.

### **Legal / Resource / Financial Implications**

This report is provided to assist the Council meet its statutory requirements in regards to tendering and procurement.

The lowest priced tender is in excess of the available budget for the project and the recommendation to this report suggests a direction for Council to follow to see if the budget issue can be addressed.

### **Consultation**

A public tender process was undertaken.

### **Options**

In accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council must either:

1. *Accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
2. *Decline to accept any of the tenders.*

*A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*

- (a) postpone or cancel the proposal for the contract;*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details;*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract;*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract;*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender; and*
- (f) carry out the requirements of the proposed contract itself.*

Option one is not recommended as all tenders are considerably in excess of the current budget for the project and currently additional funding sources are not available.

## **11.11 Tender - Wollongbar Sporting Fields and Supporting Infrastructure**

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Option 2 (a) to postpone the contract is not recommended as under the terms of the Building Better Regional Cities funding agreement, Council is required to complete the works by 30 June 2015.

Option 2 (b) is not recommended as it is unlikely that calling fresh tenders will not result in a reduction of the tendered rates and it is likely that the delay would impact on the timelines that require the works to be completed by 30 June 2015.

Option 2 (c) is not recommended for the reasons stated in Option 2 (b).

Option 2 (d) is not recommended for the reasons stated in Option 2 (b).

Option 2 (f) is not preferred as it would divert significant resources of the Council from other works to this project. It is preferred to consider this option further if the recommended option is unsuccessful.

As discussed in the report it is possible under Option 2 (e) that agreed changes in the design and a review of the allocation of risk between the contractor and Council may result in sufficient savings to enable the works to be completed within the current budget and timeframes.

### **RECOMMENDATIONS**

1. That, in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council resolves not to accept any tender for the construction of the Wollongbar sporting fields and the supporting infrastructure on the basis that all of the tenders are substantially in excess of the available budget.
2. That, in accordance with Part 7 Clause 178 of the Local Government (General) Regulations 2005, Council authorises the General Manager to enter into direct negotiations in with Synergy Resource Management Pty Ltd.
3. That the General Manager be authorised to execute a contract with Synergy Resource Management Pty Ltd, subject to the negotiations in point two above confirming the project is able to proceed in accordance with the current approved budget.
4. In the event that point three above is not able to be achieved, a further report is to be submitted to Council to review the options for this project.
5. That Council authorises the seal to be attached to any contract documents.

### **Attachment(s)**

Nil



## **11.12 Tender - Upgrade of Ballina and Alstonville Swimming Pools**

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### **11.12 Tender - Upgrade of Ballina and Alstonville Swimming Pools**

**Delivery Program** Community Facilities and Services

**Objective** To invite the Council's consideration of responses to an invitation for the provision of upgrading advisory services relating to the Ballina and Alstonville Swimming Pools.

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#### **Background**

The Council is currently contemplating a commitment of resources toward the modernisation and redevelopment of the Ballina and Alstonville swimming pool complexes. A comprehensive community engagement process is currently concluding, which was conducted to assess the community's response to a proposal to fund proposed works through a special rate variation. Matters associated with that process, and the outcomes of the engagement, will be separately reported for the Council's consideration.

To date, the Council has not made any decision to proceed with pool redevelopment proposals, nor has it made a decision concerning a preferred funding method. However, it was felt that it would be helpful to obtain expressions of interest from suitable consulting firms which are experienced in projects of this kind to ascertain what costs would be incurred in devising redevelopment concepts for the two facilities. Whilst taking this action could be seen as "putting the cart before the horse", so to speak (indeed, this view has recently been expressed in the local media), the intention was to provide additional information to assist the Council in coming to a view about the future of these important community facilities.

Council has allocated \$200,000 in the 2014/15 budget to allow this process to take place.

The following report conveys details about a tender process which has been undertaken as an initial phase toward the potential redevelopment of the two facilities.

#### **Key Issues**

- Provision of specialist consultancy services
- Redevelopment and modernisation of ageing community infrastructure
- Whether Council wishes to accept any tender at all depending on financing options for the upgrades of the swimming pools.

## **11.12 Tender - Upgrade of Ballina and Alstonville Swimming Pools**

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### **Information**

Council prepared tender documentation No. 781 for the provision of swimming pool upgrade advisory services from suitably qualified and experienced consultancy firms. The tender divides the proposed engagement into three stages of work. Stage one is to have the selected firm undertake an assessment of the two pool facilities in relation to their operating condition, undertake stakeholder engagement and prepare conceptual designs (preferably with options) for the upgrading of the facilities.

The tender document then provides that, subject to the outcomes of stage one, Council may agree to obtain relevant planning approvals and call tenders for construction works based on the agreed design plans (Stage Two).

The third stage of the tender provides that Council may call for contract administration services to supervise the approved stage two works. Both stages two and three are optional components of the tender to be determined at Council's discretion; Council is not compelled to proceed with them.

This staging approach was seen to provide maximum flexibility in that Council is able to commence the redevelopment investigations, "firm up", as it were, its preference for the type and scope of work at the two facilities following stakeholder engagement, but not be committed to the projects due to the uncertainty regarding funding. In this regard, the determination of any application the Council chooses to make in relation to a special rate variation would not be known until well into the 2015 calendar year.

The tender documentation provides three criteria for comparative evaluation purposes. One of these relates to price whilst the other two are non-price criteria, being capability and experience of the tenderer as well as an assessment of their project plan. The values of the criteria are thirty percent, forty percent and thirty percent respectively.

Upon the closure of the advertised period Council received eleven responses to the request for tender. The firms which responded are as follows:

Ridgemill  
NBRS & Partners  
SGL Consulting Group Australia Pty Ltd  
CO.OP Studio Pty Ltd  
CKDS Architecture Pty Ltd  
Terre Designs  
Warren Green Consulting  
Swimplex Aquatics Pty Ltd  
Tompkins MDA Architects  
Complete Urban Pty Ltd  
Dominic Finlay Jones Architects.

Of the above, Terre Designs and Warren Green Consulting have chosen only to provide a statement of their respective firms' capabilities but have declined to provide details of their specific fee proposals.

Swimplex Aquatics Pty Ltd has also declined to nominate a specific fee. This firm's response provides an overview of the other projects with which it has been associated, with the response to tender stating as follows:

## **11.12 Tender - Upgrade of Ballina and Alstonville Swimming Pools**

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*“Council will be aware of our aquatic services across Australia and input over the years on the redevelopment of Ballina and Alstonville Pools.*

*We have considered direct involvement in the above Request For Tender (RFT) but have concluded that a conflict of interest may exist should we end up tendering on the ultimate scope of works. As such, we formally decline to lodge an offer for the phase one works.*

*Alternatively, we shall provide advice and benefits of our experience to anyone we consider a worthy recipient.*

*We confirm we have indicated our support to two bidders:*

- 1. NBRS & Partners Architects and,*
- 2. CKDS Architecture Pty Ltd”*

Having regard for the above, no further consideration has been given to the respondents Terre Designs, Warren Green Consulting and Swimplex Aquatics Pty Ltd for the purposes of tender evaluation.

The remaining eight responses have been assessed by a Council staff Tender Evaluation Panel against the price and non-price criteria referred to above, and in accordance with the approved tender evaluation plan.

Each of the assessment criteria were further broken down as follows:

- a) Total Price (thirty percent)
  - Comparison of prices received
  - Comparison with internal benchmarks
- b) Capability and Experience (forty percent)
  - Demonstrated capability to perform the services
  - General performance history
  - Technical skills and resources
  - Demonstrated understanding of the brief
- c) Project Plan (thirty percent)
  - Compatibility of the plan to the brief
  - Ideas and innovation
  - Methodology

Tenders were ranked in respect of each criteria as follows:

- |     |  |
|-----|--|
| 10  | Excellent – Exceeds requirements in all ways, with very little or no risk  |
| 8-9 | Very good – meets requirements in all ways, exceeds it in some, little risk involved   |
| 6-7 | Good or above average – meets the requirement and is workable, acceptable risk   |
| 4-5 | Marginally adequate – nearly meets requirement, workable but may be deficient or limited in some areas, medium to high level of risk |

## 11.12 Tender - Upgrade of Ballina and Alstonville Swimming Pools

0-3 Fails to satisfy required standards – tender has either stated non-compliance, demonstrated non-compliance or there is insufficient information to assess.

The following table sets out the results of the assessment of responses conducted by the Tender Evaluation Panel.

### Assessment of Tenders for provision of Swimming Pool Upgrade Advisory Services

Tenderer	Price \$ (ex. GST)	Pricing (30%)	Capability/ Experience (40%)	Assessment of Project Plan (30%)	Rank
Ridgemill	29,700	30.00	35.00	25.25	1
NBRS & Partners	33,500	26.60	35.00	23.50	2
SGL Consulting	50,250	17.73	37.00	24.50	3
Tompkins MDA Architects	92,878	9.59	36.25	25.50	4
Complete Urban Pty Ltd	105,336	8.46	34.75	22.75	5
CO.OP Studio Pty Ltd	102,854	8.66	30.75	20.75	6
CKDS Architecture Pty Ltd	95,000	9.38	36.25	19.50	7
Dominic Finlay Jones Arch.	125,000	7.13	23.50	16.25	8

The principal focus of the tenders, quite understandably, has been responding to stage one of the RFT. It is not possible for the firms to provide any meaningful response regarding stages two and three until the scope of works and conceptual designs for the redevelopment of the two facilities are known.

Based on the tender evaluation process Ridgemill Pty Ltd has been assessed as the preferred firm for engagement for stage one of the project. This proposal has been determined as providing the best value solution for the Council for this initial stage of the project.

Ridgemill Pty. Ltd. was established in 1991 and are based in Brisbane. They are a specialist consulting company providing professional services in the management and control of development projects and general refurbishment works across a wide range of industries.

Ridgemill has an exceptional corporate track record, and extensive experience in the development and delivery of aquatic facility projects including the Kennedy Regiment Pool with Charters Towers Regional Council, Waterway Gardens Leisure Centre with Townsville City Council, Weipa Swimming Club Aquatic Facility for the Weipa Town Authority, Bundamba Aquatic Centre for Ipswich City Council, Bribie Island Aquatic Centre and Caboolture Regional Aquatic Leisure Centre for Caboolture Shire Council, South Burnet Aquatic Centre for Nanango Shire Council and Gould Adams Aquatic Centre with Logan City Council.

Ridgemill also have extensive experience in projects, managing large scale sporting facilities, such as the Perry Park redevelopment in Brisbane for the YMCA, who have provided a very positive reference for Ridgemill and have indicated that they are now their 'go to' company for all of their sports and aquatic centre developments in Queensland.

## **11.12 Tender - Upgrade of Ballina and Alstonville Swimming Pools**

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The YMCA Queensland project manager indicated that their ongoing use of Ridgemill was due to a number of exceptional delivery areas including comprehensive community and stakeholder consultation and use of their extensive knowledge of pools and sports centre development to ensure practical, low cost, high quality, design choices that minimise ongoing maintenance costs over the life of the asset.

### **Sustainability Considerations**

- **Environment**

An important element to be considered in redevelopment options for each of the facilities will be the inclusion of energy and water saving initiatives. Improving the environmental performance of community infrastructure is key to Council's operations, but obviously needs to be objectively balanced against the capital and operational costs associated with the respective facilities.

- **Social**

The operation of the Ballina and Alstonville swimming pools are key community recreation and public health services provided by the Council for the benefit of the shire community and our visitors. The existing infrastructure is ageing, and condition reports previously considered by the Council confirm a significant allocation of funds is required to ensure the pools meet contemporary standards and community expectations.

- **Economic**

One of the key outcomes required from the stage one consultancy engagement is the provision of a financial plan for each of the two facilities which identifies both the capital and operating cost estimates for a period of at least ten years. Assessing these order of magnitude costs will be contingent on the extent of redevelopment proposed. It is also noted that the "do nothing" scenario will also continue to impose a substantial operating cost in Council budgets, with a continuing decline in the condition of the pools and associated equipment.

### **Legal / Resource / Financial Implications**

This report is presented to assist Council in responding to the legislative framework and related guidelines concerning procurement of services.

The financial budget allocated by the Council for this initial phase of the pools project is sufficient to commit to the engagement of the preferred tenderer. The funding available is \$200,000.

The Tender Evaluation Panel noted in reviewing the proposals received that a number of the respondents have included the possible need for Council to furnish additional information to enable them to competently undertake the project. This information may include the provision of survey-accurate details of the two pool facilities and geotechnical assessment (more likely in respect of the Ballina pool). These items would impose additional costs to the project over and above the tendered amounts. If incurred, the additional costs can be accommodated within the budget allocated by the Council, though it is difficult to quantify them at this time.

### **Consultation**

An important component of stage one of this project is for the selected consultant to undertake stakeholder engagement to assist the Council in understanding the community's preferences concerning the redevelopment of the Ballina and Alstonville swimming pools.

### **Options**

The Council must either accept the tender that appears to be the most advantageous, or decline to accept any of the tenders.

It is considered that the stage one component of the project is very important for a number of reasons, and an engagement should be made. The benefits will include:

- receipt of a current condition assessment report concerning the pools and associated equipment
- an improved understanding of current trends in public swimming pool facilities and their operation
- an objective analysis of the constraints and opportunities of the existing sites
- a better understanding of what the Ballina and Alstonville communities want in terms of pools infrastructure
- reasonably reliable estimates of costs associated with various redevelopment options.

Having regard for these factors, the preferred option is to proceed to engage the consultancy services. Even if Council does not proceed with the special rate variation it is essential that we have an agreed program in place to improve the existing swimming pools and this contract can allow that work to take place.

### **RECOMMENDATIONS**

1. That Council accepts the tender from Ridgemill Pty Ltd for the provision of services for stage one of the Request for Tender No. 781 as the acceptance of this tender has been assessed as being the most advantageous to Council.
2. That Council authorises the seal to be attached to any contract documents.

### **Attachment(s)**

Nil

12. Public Question Time

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**12. Public Question Time**

### **13.1 Notice of Motion - Road Naming**

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## **13. Notices of Motion**

### **13.1 Notice of Motion - Road Naming**

**Councillor** Cr Cadwallader

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I move

That the unnamed lane between Shelly Beach Road and Pacific Terrace, Shelly Beach be named "Ian Byrne Lane".

#### **Councillor Comment**

Following an approach by a local resident, I wish to support the proposal to formally name the unnamed lane between Shelly Beach Road and Pacific Terrace, Shelly Beach as Ian Byrne Lane. As everyone would be aware Ian tragically died following the crash of his ultralight plane near Knockrow. Mr Byrne and his wife Fran have lived in Banksia Lane since the 1960's and he was a very active member in many community organisations. Ian was a teacher at Ballina High School for 32 years and Alstonville High School for several years before retiring. He instigated the Aviation Studies Course at Ballina High and with Howie Hughes he was the main builder of the Light Plane for the school. As well as this he was Lieutenant-Colonel of the 41<sup>st</sup> Battalion for over 30 years, a member and examiner of the Ballina Surf Life Saving Club encouraging girls to do the Bronze Medallion, Vice-President of the Ballina Aero Club, a founding member of the Evans Head Memorial Air Museum as well as a member of the Ballina Golf Club.

#### **Staff Comment**

This is the lane between Shelly Beach Road and Pacific Terrace (just south of 44 Shelly Beach Road) as per the site map attached. Council staff met with Mr & Mrs Slingsby (resident of Shelly Beach Road) and Mrs Fran Byrne in late July 2014 and they were requesting the lane be named, with two names suggested:

1. Southwell Lane – this name would be supported
2. Walsh Lane – as we have Walshs Lane already in the Shire, this name would not be supported due to the similarity in the names.

There is a concern with the Ian Bryne proposal that we have a Byrnes Lane in the Shire already. The use of Ian Byrne Lane is probably different enough to be considered acceptable, assuming any other relevant criteria are endorsed by the Geographic Names Board (GNB). If Council wishes to support the Ian Byrne proposal this information would then be forwarded to the GNB for their formal assessment.



## **13.1 Notice of Motion - Road Naming**

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### **COUNCILLOR RECOMMENDATION**

That the unnamed lane between Shelly Beach Road and Pacific Terrace, Shelly Beach be named "Ian Byrne Lane".

### **Attachment(s)**

1. Locality Plan

## **13.2 Notice of Motion - Martin Street Boatharbour**

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### **13.2 Notice of Motion - Martin Street Boatharbour**

**Councillor**

Cr Meehan

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I move

That Council contact Roads and Maritime Services, and State Member Mr Don Page requesting urgent remediation of the small Martin Street Boatharbour in Ballina town centre.

#### **Councillor Comment**

The Martin Street Boatharbour is RMS property and therefore the responsibility of the NSW State Government.

The current erosion problem at the bank is unacceptable and unsafe. Large chunks of earth and lawn are being lost, so much in fact that the concrete footpath is being undermined. This whole erosion issue needs to be urgently addressed as a public safety issue. In addition the whole vicinity is unkempt and disorderly.

The boatharbour is an asset belonging to the people of the State of NSW it is not being utilised or maintained as it should. The boatharbour is in the heart of our town and tourist accommodation area, the upkeep and development of this asset is vital to the area's amenity and use. It is very important to the public and both private and commercial business.

#### **Staff Comment**

Council staff have pursued this matter on a number of occasions without any success to date and any actions to have these works completed is supported.

It is noted for the information of Council that staff have been advised that the reason Crown Lands have not been supportive of funding these works is because a significant portion of the rehabilitation will occur on Council land. A plan showing the property boundaries is attached. In response to this the position of staff is that the erosion is caused by actions that are generated within the boatharbour being the Government's jurisdiction. As our attempts to date have been unsuccessful, an application was recently submitted to a Crown Lands program that requested a cost sharing arrangement as staff were advised any application would not be successful without a contribution from Council.

**COUNCILLOR RECOMMENDATION**

That Council contact Roads and Maritime Services, and State Member Mr Don Page requesting urgent remediation of the small Martin Street Boatharbour in Ballina town centre.

**Attachment(s)**

1. Photos
2. Plan showing property boundaries

### **13.3 Notice of Motion - Old Depot Site**

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### **13.3 Notice of Motion - Old Depot Site**

**Councillor**

Cr Johnson

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I move

That Council write to the State Local Member (Mr Don Page), Labor candidate (Mr Paul Spooner) and Greens candidate (Ms Tamara Smith) seeking endorsement that the State Government will transfer ownership of the land described as the Old Depot Site (i.e. Off Tamarind Drive, Ballina) to Council or alternatively provide Council with a long term lease (i.e. 20 years plus) at a peppercorn rental to allow Council to actively progress the provision of an indoor sports centre for Ballina.

#### **Councillor Comment**

Council has investigated a number of sites for the proposed sports centre, along with undertaking a soil contamination assessment at the depot site. The State Government has previously written to Council advising that if the sports centre is located on the depot site we will need to acquire it under the Just Terms Compensation Act at its assessed market value. A copy of that correspondence is attached. This has the potential to add hundreds of thousands of dollars in costs to this project and it also means that there remains significant uncertainty over the preferred location for the sports centre, as the proposed acquisition price is unknown. Council has made a submission to the State Government as part of the Crown Lands White Paper Review for this land to be transferred to Council's control and as the timeframe for that is also uncertain, Council should try and have this matter resolved prior to the State election. The depot site is a prime site on Ballina Island and the land is not being used to its potential due to this issue of ownership. A proactive approach by Council is needed to deliver a much needed facility for Ballina.

#### **Staff Comment**

The transfer of this site to Council would allow the design and approval process to commence for the proposed sports / events centre.

#### **COUNCILLOR RECOMMENDATION**

That Council write to the State Local Member (Mr Don Page), Labor candidate (Mr Paul Spooner) and Greens candidate (Ms Tamara Smith) seeking endorsement that the State Government will transfer ownership of the land described as the Old Depot Site (i.e. Off Tamarind Drive, Ballina) to Council or alternatively provide Council with a long term lease (i.e. 20 years plus) at a peppercorn rental to allow Council to actively progress the provision of an indoor sports centre for Ballina.

#### **Attachment(s)**

1. Response to Mayor - Old Depot Site Ballina - Don Page MP

## **14.1 Commercial Services Committee Minutes - 18 November 2014**

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### **14. Advisory Committee Minutes**

#### **14.1 Commercial Services Committee Minutes - 18 November 2014**

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##### **Attendance**

Crs David Wright (Mayor - in the chair), Jeff Johnson, Sharon Cadwallader, Susan Meehan, Paul Worth, Ben Smith and Robyn Hordern.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Rod Willis (Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Commercial Services Manager), Neil Weatherson (Airport Manager) and Sandra Bailey (Secretary) were in attendance.

There were 14 people in the gallery at this time.

#### **1. Apologies**

Apologies were received from Crs Keith Williams, Keith Johnson and Ken Johnston.

##### **RECOMMENDATION**

(Cr Ben Smith/Cr Robyn Hordern)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

#### **2. Declarations of Interest**

Nil

#### **3. Deputations**

- **Graham Eggins, Mens Shed** – spoke in relation to Item 4.3 – Southern Cross Industrial Estate – 54 North Creek Road, Ballina.

**4. Committee Reports**

**4.3 Southern Cross Industrial Estate - 54 North Creek Road, Ballina**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Robyn Hordern)

1. Council approves the allocation of up to \$20,000 from the Property Development Reserve to undertake investigations to determine the development potential and market value of 54 North Creek Road, Southern Cross Industrial Estate (Part Lot 98 DP 1194043).
2. Upon completion of these investigations the matter is to be reported back to Council to determine the merits of selling a portion of this land to the Men's Shed, along with consideration of any other long term options for this site.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

**4.1 Shuttle Bus Concession Desks - Airport**

**RECOMMENDATION**

(Cr Ben Smith/Cr Susan Meehan)

1. That Council resolves to accept the tender from Hawkins Investments for desk four, along with the negotiated outcomes with Xcede Airport Transfers for desk five and Byron Easy Bus for desk six, as detailed within this report.
2. The General Manager is authorised to finalise negotiations with all three tenderers based on point one.
3. The use of Council's Common Seal is approved to be affixed to the respective licence agreements.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

**4.2 Wollongbar Residential Estate - Stage 1 Update**

**RECOMMENDATION**

(Cr Paul Worth/Cr Sharon Cadwallader)

1. That Council notes the contents of this report providing an update on the status of the Wollongbar Residential Estate development.
2. That Council authorises Lot 5 to be placed on the market for sale, inclusive of the teak tree.
3. That Council endorses street names identified in this report for the naming of the road created as part of this development
4. That Council approves an allocation of \$96,000 from the Property Development Reserve to allow the finalization of the construction and development of Stage 1 of the Wollongbar Residential Estate.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

**4.4 Land Acquisition - Road Widening**

**RECOMMENDATION**

(Cr Ben Smith/Cr Robyn Hordern)

1. That Council approves the land acquisition of an area of approximately 1,250m<sup>2</sup> being portion of Part Lot 360 DP 1189176, Cumbalum for road widening, as identified within this report.
2. That Council approves a budget of up to \$25,000 for this acquisition with those funds to be sourced from the Roads Capital Expenditure budget.
3. That Council authorises the Council seal to be attached to any documents associated with the land acquisition.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Sharon Cadwallader, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith

AGAINST VOTE - Cr Susan Meehan

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

**4.5 Land Sale - Southern Cross Industrial Estate**

**RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council approves the sale of approximately 1,395m<sup>2</sup> of Southern Cross industrial land, as detailed within this report, with the sale price to be determined as per the separate report elsewhere in this agenda.
2. That Council authorises the Council seal to be attached to the contract for sale and subdivision documentation required as well as any other related documents.
3. That Council takes pro-active steps to maintain its land stock.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

**4.6 Wigmore Arcade Complex - Update Report & Lease Agreements**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of this report in regards to the progress of the Wigmore Arcade Complex refurbishment project.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston



**4.7 Russellton Industrial Estate - Update Report**

**RECOMMENDATION**

(Cr Paul Worth/Cr Robyn Hordern)

1. That Council notes the contents of this update report for the Russellton Industrial Estate.
2. That Council supports the following actions to progress the development of this Estate:
  - a) A revised staging plan to increase the viability of any development
  - b) Investigations into the possibility of selling the house on the Stoville property
  - c) Investigations into the possibility of completing boundary adjustments with Mr Fleming and Mr Flynn.
  - d) That funds of \$25,000 be allocated from the Property Development Reserve to cover the investigations referred to in a), b) and c).
3. That Council approves a further allocation of \$30,000 from the Property Development Reserve to offset the expenditure already incurred this financial year on the Russellton Industrial Estate, primarily relating to the payment of Council fees.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Susan Meehan, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

**5. Confidential Session**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

**5.1 Land Sale Price - Southern Cross Industrial Estate**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as Council is in the process of negotiating a sale for the property in question and without the ability to have these discussions in confidential session Council may not be in a position to maximise the return on the sale of this land to the community.

**5.2 Wigmore Arcade Complex - Update Report and Lease Agreements**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as Council is currently negotiating with the tenants and the discussion of this information in an open Council meeting may restrict Council's ability to maximise the return to the community.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

(The Council moved into Confidential Session at 5.33 pm).

**Open Council**

**RECOMMENDATION**

(Cr Ben Smith/Cr Susan Meehan)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

(The Council moved into Open Council at 5.43 pm).

## **14.1 Commercial Services Committee Minutes - 18 November 2014**

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The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

### **5.1 Land Sale Price - Southern Cross Industrial Estate**

#### **RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council approves the sale price negotiated for Part Lot 98 DP 1194043 Stinson Street, Ballina is as per option two of this report.
2. That Council authorises the Council seal to be attached to the contract for sale and subdivision documentation required as well as any other related documents.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

### **5.2 Wigmore Arcade Complex - Update Report and Lease Agreements**

#### **RECOMMENDATION**

(Cr Susan Meehan/Cr Sharon Cadwallader)

1. That Council notes the contents of this report on the Wigmore Arcade tenancies and endorses the agreements outlined within this report.
2. That Council allocate up to \$10,000 towards a pro-active marketing strategy for the Wigmore Arcade, funded from the Property Development Reserve.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

### **Adoption of Recommendations from Confidential Session**

#### **RECOMMENDATION**

(Cr Ben Smith/Cr Sharon Cadwallader)

That the recommendations made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams, Cr Keith Johnson and Cr Ken Johnston

#### **MEETING CLOSURE**

5.45 pm

**RECOMMENDATIONS**

That Council confirms the minutes of the Commercial Services Committee meeting held 18 November 2014 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

## 15.1 Mayoral Meetings

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### 15. Reports from Councillors on Attendance on Council's behalf

#### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities since the October 2014 Ordinary meeting:

<u>Date</u>	<u>Function</u>
27/10/14	Bio-Energy Conference
28/10/14	Briefing – Flat Rock Tent Park
28/10/14	Briefing – Missingham Markets
30/10/14	Meeting NSW Treasurer and Business Chamber - Lismore
31/11/14	Northern Star – Historical Society – Freeborn Park
31/10/14	Meeting - Graham Eggins – Men's Shed
1/11/14	Wollongbar – 'A Fair to Remember'
1/11/14	Creative Workshops – Richmond Room
1/11/14	Teven-Tintenbar Public School Fete
1/11/14	Relay For Life Opening
3/11/14	Wollongbar Public School Assembly – Presentation of Prizes
3/11/14	Opening Mens' Shed
5/11/14	Paradise FM – Australia Day Advertisement
5/11/14	Ballina Hospital Master Planning
5/11/14	Briefing Highway Service Centre
5/11/14	Briefing Waste Water Operations
6/11/14	Biochar Interview - Landline
6/11/14	Novaskill Awards – Cr Cadwallader
6/11/14	Gallery Launch – November Exhibition
7/11/14	NOROC
7/11/14	CSG – Department of the Environment
7/11/14	Prawn Festival Launch
9/11/14	Family Fun Day – Foster family support - ALEC
9/11/14	Lennox Head Markets
10/11/14	Meeting Police Minister at Tweed Heads
10/11/14	Micromex Survey Results
11/11/14	Meeting with Greg – Alstonville Pool
11/11/14	Remembrance Day –Alstonville
11/11/14	Remembrance Day – Ballina – Cr Hordern
11/11/14	Alstonville Centenary Committee
11/11/14	Alstonville Wollongbar Chamber of Commerce
11/11/14	A Ward Committee
13/11/14	Ballina Hospital Art for High Schools - Thankyou
13/11/14	Ballina Hospital Master Planning
13/11/14	Internal Audit Committee
13/11/14	C Ward Committee
14/11/14	'High Society' – Ballina Players
15/11/14	The Prawn Festival
17/11/14	GM Performance Review - RRCC
17/11/14	Richmond River County Council
17/11/14	Meeting with Cafe owner
17/11/14	B Ward Committee

## **15.1 Mayoral Meetings**

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18/11/14	Port Ballina Taskforce
18/11/14	Commercial Services Committee
19/11/14	Meeting re Uralba NBN Tower
19/11/14	Meeting Ballina Jockey Club
21/11/14	Sourdough Group Meeting – Macadamia castle
21/11/14	NSW Cancer Council – Relay For Life – Ballina Exhibition
22/11/14	Naval Association – Dinner Dance
23/11/14	Ballina White Ribbon Day Walk - Captain Cook Park
24/11/14	Meeting Don Page and RVAAG
25/11/14	JRPP – Blue Seas Parade
26/11/14	North Coast Community Housing Company – 30 Years Anniversary
27/11/14	Council Meeting
28/11/14	Refugee Fundraising – Lennox Head

### **RECOMMENDATION**

That Council notes the contents of this report on Mayoral meetings.

### **Attachment(s)**

Nil

16. Questions Without Notice

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**16. Questions Without Notice**

17. Confidential Session

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**17. Confidential Session**

Nil Items