



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 22 January 2015 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 Bodhi Scott-Jones.

2. Acknowledgement of Country

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

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 18 December 2014 were distributed with the business paper.

A copy of the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Monday 22 December 2014 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 18 December 2014.

That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Monday 22 December 2014.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head

8. Development and Environmental Health Group Reports

8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head

Applicant	Sake Development (on behalf of DM & RD Dossor)
Property	Lot 42 DP 1168665, Amber Drive, Lennox Head
Proposal	To undertake a 16 Lot residential subdivision and public land dedication ("Wavehill Estate")
Effect of Planning Instrument	The land is zoned part R2 Low Density Residential under the provisions of the Ballina LEP 2012 and part zones 1(d) Rural (Urban Investigation), 2(a) Living Area, 7(d) Environmental Protection (Scenic Escarpment) and 7(l) Environmental Protection (Habitat) under the BLEP 1987
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

The proposal involves a Torrens Title subdivision of an existing 11.2 hectare allotment involving the creation of a 16 lot residential subdivision (inclusive of one residue allotment) and the extension of Amber Drive to the south.

The site has a semi-elevated easterly aspect with some limited coastal and ocean views overlooking rural and environmentally sensitive lands. Parts of the land are steep and slope from west to east.

The majority of the site is cleared grazing land, however there are substantial stands of State Environmental Planning Policy No. 26 Littoral Rainforest within the southern portion of the site and other areas of regrowth rainforest in the north-eastern and western sectors. Substantial clusters of Hairy Joint Grass on the upper western slopes of the site were also identified at the rezoning stage and prevented this portion of the site being zoned residential. Only minor clearing works are proposed.

Vehicle access is currently available to the site from the southern end of Amber Drive and the eastern end of Castle Drive. A pedestrian pathway is located on the north-western boundary. This links to the adjoining residential estate known as "Coastal Grove" which was developed by the same owners. Amber Drive is proposed to be extended to the south via a cul-de-sac to provide access to the proposed allotments and a pedestrian/cycleway connection is proposed to link the proposed lots to 'Coastal Grove' to the north.

The proposal also involves the provision of a stormwater detention basin, rehabilitation of riparian corridors and dedication of land to Council for public open space and infrastructure.

8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head

Part of this site has been identified in various Council and State Government Strategies as being a potential urban growth area. It was rezoned as part of the Ballina Local Environmental Plan review in 2008/2009 to part low density residential.

It is primarily this R2 Low Density residential zone that forms part of 15 of the proposed allotments ranging in size from 1,210m² to 3,955m² (configured east to west) with the residue allotment (proposed Lot 13) being 7.8 hectares and orientated north to south over a number of different zones due to the deferral of environmental zones at this time.

This residue allotment was previously identified as proposed Lot 14, but is now proposed Lot 13, due to a reduction in the number of allotments during the assessment process.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The proposal was placed on public exhibition and six letters of objection were received. A copy of each submission is included as attachments to this report.

The following issues of concern were raised within the submissions.

- Inconsistency with rezoning process – residue allotment
- Non-compliance with minimum 1,200m² lot areas in R2 low density zoning and narrow frontages causes this to be an overdevelopment
- Ecological concerns, primarily the placement of a future dwelling on the residue allotment within SEPP 26 Littoral Rainforest buffer
- Potential open space corridor
- Dogs and cats should be prohibited to protect the Swamp Wallaby and other native fauna
- Need to ensure existing driveway accesses at the current cul-de-sac are suitably reinstated
- Stormwater drainage issues (including detention basin)
- Extension of lots and infrastructure into lands zoned non-urban (environmental) is circumventing Council's planning process
- No pathways between adjacent subdivisions
- Increased traffic movements and noise
- Visual impact on coastal escarpment

These matters will be considered throughout the report, however the applicant has also provided responses to the key issues raised in the submissions (copy attached).

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Report

Only those matters directly relevant to objections and matters of significance will be specifically addressed in this report.

During assessment Council Officers identified that additional integrated approval requirements from the NSW Office of Water were required under Section 91 of the EP&A Act due to works proposed within the first order stream that runs west to east across the site (i.e. piping).

Officers from NSW Office of Water have advised that a controlled activity approval under the Water Management Act 2000 is required; however this can be deferred to post approval. Notwithstanding this, it was noted that the proposed development is consistent with guidelines for urban development, i.e. first order streams are to be piped or diverted and that NSW Office of Water would not object to the proposal.

The applicant has requested that this integrated approval process be deferred as a condition of consent. No objection is raised to this.

It should also be noted that although the Office of Environment and Heritage (OEH) have been involved throughout the assessment process, including attending on-site meetings, OEH do not have a concurrence or integrated approval role.

For further comments in relation to OEH's responses of 22 August 2014 and 12 December 2014 refer to the Rehabilitation Section of this report.

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 the BLEP 1987 which relates to a minimum 40 ha lot size. In this instance, concurrence was required from the Department of Planning and Environment (DoPE) to the requested variation. The DoPE granted concurrence on 20 August 2014 to the SEPP 1 for the following reasons:

1. *“...Variation of the development standard does not raise any issues of State or regional planning significance since Lot 42 is already significantly less than the minimum lot size, and part of the lot is already identified for future residential development in the Far North Coast Regional Strategy.*
2. *There is no public benefit in maintaining the development standard in this instance as to do so would prevent the orderly development of existing residential zoned land...”*

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

State Environmental Planning Policy No. 26 – Littoral Rainforest

The site contains a small area of SEPP No. 26 Littoral Rainforest core (No. 37) and buffer to the south in the area currently zoned 7(d) Environmental Protection – Habitat.

The proposal does not relate to any works within the core; however some works (i.e. identification of a future building envelope on Lot 13 and associated private driveway access) are identified in the 100 metre buffer area. There is no removal of native vegetation required for these future works.

Future rehabilitation works are also proposed within the buffer, however, if approved, these will accord with the identified building envelope and driveway access.

Specific amelioration measures to address any indirect impacts will need to be outlined and considered as part of a future development application for the dwelling house on Proposed Lot 13. As outlined by DoPE, the concurrence of the Secretary will also be required for these future works associated with a dwelling house.

State Environmental Planning Policy No. 55 – Remediation of Land

The Phase 1 Environmental Site Assessment prepared by Coffey Geotechnics dated 8 April 2008 has been prepared generally in accordance with the requirements of the NSW EPA – Guidelines for Consultants Reporting on Contaminated Sites.

The consultant undertook a Stage 1 investigation in line with the requirements of the Managing Land Contamination Planning Guidelines (DUAP and EPA, 1998). A site history has been prepared and soil sampling undertaken. The results of the soil analysis were compared with the relevant “Health-based Soil Investigation Levels” for residential land use.

The limited site history did not identify that current or previous land uses were likely to have caused contamination of the site. To confirm the site history twenty-one surface (0-200mm) soil samples were collected in a grid pattern for analysis.

The soil samples were analysed for the following contaminants of concern; pesticides (OPs and OCs), metals, BTEX, PAH and Total Petroleum Hydrocarbons. The results demonstrated that none of the targeted pollutants exceeded the Human Based Investigation Levels (HBIL) in the collected soil samples.

Council requested additional information in relation to this report when submitted with the rezoning application. The additional information was provided on 9 January 2009.

The application assessment has accepted the Phase 1 Report which concludes that based on the site history and the findings of the soil assessment, the site is considered suitable for the proposed development (residential) without further investigation of contamination.

Provisions of the Ballina Local Environmental Plan 2012 & Ballina Local Environmental Plan 1987

Under the provisions of both Local Environmental Plans, the proposed development is for "subdivision of land" and associated works. The proposal will not alter the land use and is considered permissible under both plans.

The majority of the proposal relates to land within the R2 Low Density Residential zoning under the BLEP 2012 and which is centrally located, north of the central creekline and south of Amber Drive.

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 proposed development is considered to have had adequate regard for, and is generally consistent with, the objectives of this zone subject to matters raised in this report.

Under the BLEP 1987 the site is also zoned:

2(a) Living Area – in the northern portion of the site immediately adjacent to Seamist Place.

The objectives of the 2(a) zone are:

A The primary objectives are:

- (a) to regulate the subdivision and use of land to permit housing and ancillary development where the scale, type and traffic generating characteristics of the ancillary development are compatible with the character and amenity of the surrounding residential area,*
- (b) to permit development which is considered by the council to be an essential land use within the urban living area, but not including a shop (other than a general store), and*
- (c) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for varying housing densities as well as other associated urban and tourist facilities.*

B The secondary objective is to allow a variety of housing types and designs and to encourage greater visual amenity by requiring site landscaping.

C The exception to these objectives is development of land within this zone for public works and services, outside the parameters specified in the primary objectives.

Although zoned urban, this portion of the site is not suitable for further subdivision and is proposed to form part of the rehabilitation area.

1(d) Rural (Urban Investigation) – this area comprises a small triangle south of Seamist Place near the existing cattle yard and along parts of the western boundary.

A The primary objectives are:

- (a) to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes,
- (b) to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes, and
- (c) to ensure that the release of land for urban purposes, by rezoning, shall not take place unless:
 - (i) urban structure planning has been completed by the council,
 - (ii) the council reviews urban suitability investigations for individual planning units, and detailed land use allocations for each planning unit have been determined by the council,
 - (iii) sufficient demand exists for the release of urban land, and
 - (iv) appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.

B The secondary objective is to regulate the subdivision and use of land to permit development for agriculture and a range of other purposes complementary to the prime objectives, particularly tourist facilities, recreation establishments and recreation facilities, subject to these developments:

- (a) maintaining the semi-rural character of the locality,
 - (b) by their nature being compatible with the possible urban development, particularly residential uses, of the land in the locality, in the future, and
 - (c) not creating unreasonable and uneconomic demands, or both, for the provision or extension of public amenities or services.
- C The exception to these objectives are development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives.

7(d) Environmental Protection (Scenic/Escarpment) – this area is arc shaped and extends along the eastern boundary.

A The primary objectives are:

- (a) to protect and enhance those areas of particular scenic value to the Shire of Ballina, and
- (b) to minimise soil erosion from escarpment areas and prevent development in geologically hazardous areas.

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

C The exception to these objectives is development of public works and services, outside the parameters specified in the primary and secondary objectives, but only in cases of demonstrated and overriding public need and subject to the visual impact being minimised as much as is reasonably practical.

Parts of the “regular” proposed residential allotments, the extension to Amber Drive, and the detention basin and other public infrastructure are within the 1(d) and 7(d) zones. Subdivision and these associated works are permissible with consent within these zones and the application is considered satisfactory in these respects based on the DoPE concurrence.

The residue Proposed Lot 13 is contained wholly within the 1(d) and 7(d) zones. For further comments on the suitability of a future dwelling house and associated infrastructure refer to the Ecological/Rehabilitation Section of this report.

7(l) Environmental Protection (Habitat) – this zone covers the far southern and northern ends of the site and generally comprises the SEPP 26 Littoral Rainforest or rainforest vegetation.

- 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.*

These areas of the site are proposed to remain unchanged other than additional rehabilitation. This is considered to be consistent with the objectives of the zone.

Minimum Lot Sizes and Configuration

Clause 4.1 – Minimum subdivision lot size of the BLEP 2012 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.*

8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head

Each proposed lot containing R2 zoned land is fully compliant with the minimum size shown on the Lot Size Map (being 1200m²). It is noted that these minimum subdivision lot size standards refer to "lot size" and not minimum area of zoned land within a lot.

Clause 4.2C of the BLEP 2012 provides exceptions to minimum subdivision lot sizes for split zones where they support urban development in planned urban growth areas. Clause 4.2C only applies to each lot (an original lot) that contains land in a residential zone **and** land in Zone RU1 or RU2, or both. The site does not technically have an RU1 or RU2 zoning due to the deferred matters and therefore clause 4.2C cannot be relied upon.

In relation to the deferred matters (i.e. the environmental and rural zones), a 40 hectare minimum subdivision standard applies under the BLEP 1987.

As previously stated, the DoPE via letter of 20 August 2014 has issued concurrence to vary this standard within the 1(d), 7(d) and 7(l) zones contained in clause 11(2).

A number of public submissions have highlighted that the proposed allotments, although greater than the 1200m² minimum, are reliant upon lands not zoned residential to achieve this minimum land area.

Council also raised this issue with the applicant and requested a breakdown of lands zoned R2 Low Density Residential in each of the proposed allotments (including identification of suitable building envelopes of 10 metres x 15 metres located entirely within the R2 zone).

The applicant has provided the following breakdown of each allotment (note Lots 1 to 3 are not included as they are entirely within lands zoned R2 and are greater than 1200m² in area) and the attached site plan indicates the proposed building envelopes of each allotment.

Table 1 Lot Sizes and Zonings

Lot	Zone 1(d) Area m ²	Zone R2 Area m ²	Zone 2(a) Area m ²	Zone 7(d) Area m ²	Zone 7(l) Area m ²	Total Area m ²
4	70	1150	-	-	-	1,220
5	480	1080	-	-	-	1,560
6	700	855	-	-	-	1,555
7	775	950	-	10	-	1,735
8	790	990	-	80	-	1,860
9	1050	1105	-	115	-	2,270
10	1000	1020	-	115	-	2,125
11	1055	1005	-	65	-	2,125
12	2770	1050	-	135	-	3,955
13	10435	-	5620	29475	25275	70,805
14	120	760	-	940	-	1,820
15	190	670	-	420	-	1,280
16	340	1120	30	445	-	1,935

Note: Areas are indicative only and should be qualified by a certified quantity surveyor.

From the third column of the Table, Council will note that the R2 zoned areas of land vary for each proposed allotment from 670m² to 1,150m² in area.

Having regard for the slope of the proposed allotments, it is important that each allotment has adequate road frontages. The proposed frontages range from 14.1 metres to 53.3 metres.

Table 3.1 of Chapter 3 - Urban Subdivision of Council's DCP outlines that a minimum frontage of 12 metres is required.

Council should note that the proposed allotment configuration generally accords with that outlined throughout the rezoning process in 2008/2009.

Residue Allotment (Previously Lot 14 now Lot 13)

If the proposal is approved in its current configuration the residue proposed Lot 13 will have a dwelling entitlement.

Proposed Lot 13 is a residue allotment of 7.8 hectares. During the assessment, Council raised particular interest in the proposed building envelope and private driveway access to Lot 13 as it was proposed close to environmentally sensitive lands and within SEPP 26 Littoral Rainforest buffer areas.

Public submissions called for the placement of a future dwelling north of the littoral rainforest stand that runs east to west immediately south of the proposed cul-de-sac or for the consolidation of these residue lands with the southern-most residential allotment, being proposed Lot 12.

The applicant has attempted to rely upon precedents for dwellings to be located within 100 metres of SEPP 26 Littoral Rainforest by citing examples at Castle Drive and Kellie Anne Crescent. These cannot be relied upon as the lands in these cases were zoned residential prior to the gazettal of SEPP 26 in 1988.

As stated previously the subject site was rezoned in 2008/2009.

Notwithstanding this, Council Officers have considered the future placement of a dwelling house, the driveway access and associated infrastructure of the proposed building envelope on Lot 13 and are satisfied that the nominated building envelope is reasonable having regard for the required rehabilitation works over a substantial portion of the allotment and asset protection zones for bush fire.

Any future application for a dwelling house at this location will require the concurrence of the Secretary of the DoPE and possibly an integrated development approval from Office of Water for driveway works across the drainage "watercourse".

After required rehabilitation works (refer rehabilitation section of this report) there will be limited opportunity for any other suitable building envelopes on the residue Lot 13 having regard for constraints and environmental sensitivities.

Potential Land use Conflict

A 50 metre buffer is required in the NSW Agriculture's Living and Working in Rural Areas Handbook (not in Council's DCP) between residential uses and cattle grazing. Proposed Lots 12, 14, 15 and 16 adjoin proposed Lot 13 (i.e. the residue) which currently is used for cattle grazing. It is not clear if this use will continue and the applicant has not addressed the potential for land use conflict or the requirement for buffers to cattle grazing if it is to continue on this lot.

Despite this, it appears all lots are able to achieve a suitable buffer between the dwelling envelopes and adjoining rural lands and Council will note from the rehabilitation section of this report that the majority of Proposed Lot 13 is required to be rehabilitated and is therefore unlikely to be suitable for cattle grazing or for other agricultural practise.

The public submission raising potential noise impacts is not considered substantiated and standard conditions will be applied to construction works (if approved).

Amber Drive Intersection and Extension

Council's Civil Services Group advises the following:

The development proposes to connect to the existing road network via an extension off Amber Drive and would therefore increase the level of traffic within Amber Drive and North Creek Road. The traffic management plan includes a Signalised and Un-signalised Intersection Design & Research Aid (SIDRA) analysis of the intersection indicating that it would operate at a level of service A if the development proceeds.

The intersection of Amber Drive and North Creek Road is currently constructed as a T intersection but does not provide sufficient pavement width in North Creek Road to be classified as a Basic Right Turn (BAR) type intersection (refer to Austroads Guide to Traffic Engineering Practice – Part 5 Intersections at Grade, page 34).

The traffic study in the application did not include a warrant assessment as per section 4.8 of Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections. The traffic study included information from a survey undertaken at the site.

North Creek Road currently has a 20 metre wide road reserve at the intersection which is sufficient width to cater for a Rural Channelised T-junction Short Lane Type (CHR(S)) intersection, however given the alignment of the existing road pavement and the private driveway adjacent to the intersection on the western side of North Creek Road it has been determined that a BAR Type intersection would be preferable as this would see the bulk of the northbound through traffic along North Creek Road drive adjacent to the centreline, and not adjacent to the kerb. The private driveway at that location is steep, and this would keep the through traffic away from the driveway improving the safety for the users of the driveway.

8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head

The applicant will therefore need to upgrade the intersection of North Creek Road and Amber Drive to a BAR type intersection.

Amber Drive is currently constructed as an existing cul-de-sac with an 11m wide sealed carriageway approximately 830 metres in length. There are currently six short cul-de-sacs extending off Amber Drive. Under contemporary design standards Council would not approve a greenfield residential development that has only one vehicle access road extending as an 830 metre long cul-de-sac.

Contemporary road design seeks to achieve a more permeable road network where residents are provided with at least two options in regards to vehicle access to and egress from their property.

During the rezoning assessment it was determined that there are no viable opportunities to provide an alternate road connection to the proposed development. The only possible option would be to connect Amber Drive to Castle Drive through the development however this cannot be achieved given that the grade would be well in excess of the maximum grade specified in the Northern Rivers Local Government Design Manuals.

Another constraint associated with providing this link would be the increase in traffic within Castle Drive. Castle Drive was only designed as a local access road on the assumption that it would carry low levels of traffic (less than 100 vehicles per day). It has a 6 metre wide sealed carriageway and is not designed to a suitable standard to carry the additional traffic that would result if it were linked to Amber Drive. In contrast Amber Drive provides an 11 metre wide sealed carriageway which is designed to carry up to 3,000 vehicles per day.

Whilst the extension of Amber Drive is not ideal (being a long cul-de-sac), it does provide the site with a viable connection to the external road network given that it is constructed to the standard of a collector road (11 metre wide carriageway in a 20 metre wide road reserve).

The extension off the end of Amber Drive by approximately 300 metres is proposed to be a new 7 metre wide sealed pavement in a 15 metre wide road reserve. The proposal meets the minimum width requirements of the NRLG Design Manuals and is therefore acceptable. It should also be noted that the NSW Rural Fire Service has now provided general terms of approval (including cul-de-sac radius and length) via letter of 11 December 2014 (copy attached) due to the cul-de-sac bulb being increased to 12 metres to satisfy Planning for Bush fire Protection 2006.

Submissions from adjoining landowners were also concerned about the reinstatement of driveways currently located in the existing cul-de-sac. If approved, the existing cul-de-sac in Amber Drive shall be reinstated to upright kerb and gutter in accordance with the applicant's revised civil drawings and the Northern Rivers Local Government Development Design and Construction Manuals (as current at the time of construction works commencing). This shall include the modification of any existing private driveways within this area.

Full details will be required to be submitted to and approved by Council prior to the issue of the Construction Certificate.

Pedestrian and Cyclist Requirements

The alignment of the proposed shared path through the estate was modified during the assessment of the application in consultation with Council's Open Spaces and Reserves Section. The revised design includes a 2.5 metre wide shared path connecting the development to the existing Coastal Grove estate to the north.

The alignment of the proposed path has been relocated to be closer to the rear of Proposed Lots 15 to 17 within a proposed 5 metre wide public corridor (i.e. to reduce amount of public land dedication and to reduce maintenance). The path then runs upslope of the proposed bioretention basin and connects to the end of the proposed extension to Amber Drive.

In addition to that proposed by the applicant, Council requested that another public open space corridor be included within the development extending from the end of Amber Drive (once extended under this application) running adjacent to the southern boundary of proposed Lot 12 connecting to the existing public reserve adjacent to Castle Drive.

This would provide the opportunity for a pedestrian connection between the proposed development and the Castle Drive estate.

This is considered advantageous and would provide the missing link for a looped pathway system in this locality. If approved, any consent should include the provision of a footpath within this corridor that can generally follow the alignment of Council's recently constructed recycled water main line.

Bus Servicing

The Northern Rivers Local Government Construction Manuals require that greenfield developments provide bus stops every 400 metres. Given the proposed development is situated within a long cul-de-sac; bus services will not extend down Amber Drive to service the development.

The closest existing bus stop to the proposed development would be the existing stop within North Creek Road. This stop is located approximately 1100 metres from the proposed development.

Whilst this is not a desirable outcome there is no feasible option to provide a bus stop within the proposed development given the constraints of the site.

Geotechnical/Slope Stability

The proposed application included a geotechnical assessment by Coffey Geosciences. The report stated that there are areas of geotechnical instability along the western boundaries of proposed lots 1 to 12. The report makes a number of recommendations including:

- (a) nominating proposed building envelopes that have lower risk of instability.
- (b) nominating rehabilitation works to stabilise the areas at risk of instability.

If approved conditions of consent shall require these works to be undertaken during the construction of the subdivision in addition to placing covenants on the proposed lots as per the recommendations in the Coffey report.

Stormwater Management

Council's Civil Services advise the following:

An initial stormwater plan was provided (report by TGM dated June 2014) which proposed to include 436m² bioretention and a detention storage of 123.6m³. These were considered to be low volumes for stormwater design despite the proposed development being a significantly lower density than typical contemporary urban development.

The applicant was therefore requested to provide additional detailed information to confirm that these volumes were sufficient. A Stormwater Management Plan based on software modelling was submitted from WGM (Previously TGM) dated 4 November 2014. This report suggested that 110m² bioretention and a detention storage of 55m³ be provided. This report did not, however, include a copy of the assumptions used in the modelling process.

Given the low volumes further details were requested to confirm the parameters used in the modelling. A further revised report was provided by WGM dated 21 November 2014 which proposed 350m² of bioretention with a detention storage of 175m³.

It was noted during the final review of the Stormwater Management Plan by WGM that it included provision of 10KL rainwater tanks within each lot. Council Officers considered the 10KL tanks to be an excessive impost on the future residents of the estate as there is sufficient public open space to enable the end of line bioretention basin to be increased to accommodate for this reduction in rainwater tank size if necessary.

If approved the applicant shall be required to submit a Stormwater Management Plan prior to the issue of Construction Certificate for the subdivision that includes a maximum allowance of 5KL rainwater tanks for each lot.

Public submissions also raised concerns, particularly in relation to proposed Lot 1 and the filling of an existing open channel drain. This would have resulted in no overland flow path to convey stormwater through the site. Given the significant volume of runoff the drain conveys when the piped systems capacity is exceeded, an open channel drain is required along the northern boundary of proposed Lot 1.

The applicant submitted a revised design that included this overland path and this is considered acceptable also having regard for concerns raised by adjoining owners.

Public Open Space Dedication/Community Facilities

The proposal originally included a large public open space reserve dedication of approximately 4.38 hectares. Council's Manager Open Spaces and Resource Recovery expressed concern over the proposed dedication as a large portion of this area included land that would provide no significant public benefit to Council or the local community.

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The area would have become an ongoing maintenance burden to the Council requiring significant expenditure for maintenance. It was therefore requested that the applicant include a large portion of this land within one of the private lots within the development (i.e. the residue).

The applicant submitted a revised design with the proposed public reserve lot significantly reduced in size (approximately 1 hectare) and which generally only includes the stormwater detention basin and pathway systems. This proposal is now considered acceptable.

Visual Impact

Having regard for the significant rehabilitation works required on the residue allotment and the retention of existing vegetation along the elevated western boundary, well above the rooflines of any future dwelling houses, it is considered that the visual impact will be minimal when viewed from the east (i.e. the Coast Road). Any impact from more elevated public headlands or the like will not be any greater than those dwellings currently within Coastal Grove, Survey Street, Castle Drive or the more elevated sections of Amber Drive.

Dog and Cat Prohibition

There are a number of existing residential estates within this locality without the prohibition of animals. In any event, the prohibition has been difficult to enforce in other estates and is staff resource intensive.

Consequently, although surrounding residents may have viewed swamp wallabies in this locality, the prohibition of dogs and/or cats is considered neither practical nor warranted for this estate.

Ecological

Threatened Species Impacts

The key environmental attribute on the subject land is considered to be SEPP 26 Littoral Rainforest No. 37 which occurs in the southern portion of the land. Aside from being listed as SEPP 26, the subject vegetation is listed as an Endangered Ecological Community (EEC) under both the Threatened Species Conservation Act 1995 (the TSC Act) and Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act).

Other patches of littoral rainforest occur at three locations throughout the subject property.

The littoral rainforest is also known habitat of the critically endangered Coastal Fontainea (*Fontainea oraria*). The species is known to occur within northern fringes of SEPP 26 No 37 and Council's Amber Drive Reserve which is located some 800 metres to the north. Coastal Fontainea is only known to occur at Lennox Head and is considered to be one of the rarest trees in Australia.

The entire natural population consists of ten adults and 45 seedlings and juveniles. Consequently, the long-term protection of the species and its habitat arising from this development is considered imperative.

The site also supports an extensive area of Hairy Joint Grass (*Arthraxon hispidus*) which is listed as threatened species pursuant to both the TSC Act and the EPBC Act. The applicant has confirmed the development will result in the direct loss of 9,560m² of known Hairy Joint Grass (*Arthraxon hispidus*) habitat.

The development will also remove 450m² of littoral rainforest. Littoral rainforest is listed as EEC under the TSC Act and the EPBC Act. The development will also indirectly impact on a further 2,000m² of littoral rainforest EEC through its inclusion into a number of urban allotments (i.e. along western boundary).

The impacts of the development on the abovementioned threatened species and species of conservation significance are discussed in the following sections.

Hairy Joint Grass

The applicant has confirmed the development will remove 9,560m² or 16.5% of the local population of Hairy joint Grass (HJG). In determining the extent of the “local population” the applicant has included all areas of HJG which are known to occur on surrounding properties. In the circumstances, this approach which is based on the species ecology is considered acceptable.

The applicant’s estimate of the species distribution is based on the ecological records obtained during the rezoning process, rather than the recent survey work in which the applicant failed to identify the species’ occurrence. The species’ absence given its distribution and abundance is closely related to seepage areas and areas of elevated groundwater is attributed to the below average rainfall the area has experienced over the last 12-15 months.

Council and OEH both consider the site represents known threatened species habitat and therefore requires assessment in accordance with Section 79C of the EP&A Act.

The level of impact is such that it borders on the need for the applicant to prepare a Species Impact Statement (SIS). Consequently, the impact of the development is only deemed acceptable if the loss of the HJG habitat is offset by substantial rehabilitation works. This approach is consistent with Chapter 2 of Council’s DCP which requires developments to maintain or improve biodiversity values.

Written advice received from OEH also supports this approach to impact offsetting.

If the development proceeds, it is not considered viable to reduce the level of impact to the species given that the retention of HJG within residential allotments is considered unviable and unrealistic.

The preparation of a specific HJG management plan to undertake annual weed eradication and slashing works as a means of managing the species is not supported given this approach has proved unsuccessful in the nearby Coastal Grove Estate and is not considered a long-term sustainable approach to managing the species.

Coastal Fontainea (Fontainea oraria)

In 2011 OEH (then DECCW) produced a Management Plan for the Coastal Fontainea (MPCF). The MPCF addresses a range of issues including, identifying threatening processes, proposed management actions to protect existing Coastal Fontainea populations and the species habitat.

Relevant to this application are the adverse impacts of habitat fragmentation and isolation, weed infestations, ocean and wind shear.

The MPCF prioritises threats according to the following criteria:

“Class I threat is a process capable of causing sudden, substantial, and possibly irreversible loss of individuals or habitat.

Class II threat is a process capable of causing gradual, substantial and possibly irreversible loss of individuals or habitat; which may be reversible, however, mitigation may be technically difficult or expensive to achieve.”

The MPCF identifies habitat fragmentation as a Class II threat which “continues to be exacerbated by increasing nearby development and associated activities”. Wind shear of SEPP 26 is considered to be a Class I threat given the Fontainea population is growing in close proximity to the existing edge of the rainforest. Additional enhancement plantings along the northern boundary of SEPP 26 No.37 are considered a priority.

In relation to the development within the 100 metre SEPP 26 buffer the MPCF states;

*“Within the 100 m buffer of the SEPP 26 remnants in Lennox Head, development and activities that would **not** compromise the conservation of the Coastal Fontainea would be limited to:*

- those that do not adversely impact on the core, including provision of hygiene precautions*
- low impact and environmentally sensitive developments or activities*
- those where all components of the development or activity are situated as far from the core as possible and located downslope of the core*
- developments and activities that include rehabilitation of the core habitat and as much of the buffer as possible*
- those that incorporate long-term conservation and management of Coastal Fontainea and its habitat into the development or activity.”*

One of the key objectives of the MPCF is the habitat expansion to repair the fragmentation and increased edge effects, where opportunities are presented.

In relation to the subject development application, Council’s Environmental Scientist considers that the dwelling entitlement associated with Proposed Lot 13 is inconsistent with the objectives of the MPCF.

The opportunity for achieving the outcomes contained in the MPCF is discussed later in this assessment.

Littoral Rainforest

As previously mentioned the development will indirectly impact on 2,000m² of littoral rainforest EEC given the vegetation is to be incorporated into numerous dwelling allotments. The subject rainforest EEC also includes two species of threatened flora namely, Arrow-headed Vine (*Tinospora tinosporoides*) and Rough-shelled Bush Nut (*Macadamia tetraphylla*).

While the applicant has proposed to undertake a five year restoration program of this area, the ecological benefits of rehabilitating the subject vegetation is questionable, given the vegetation community is already subjected to a range of adverse impacts arising from the adjacent urban occupation. These impacts include, vegetation removal, rubbish dumping, inappropriate plantings etc.

These impacts will increase as a result of the current development application as residents may wish to erect boundary fencing etc. Consequently, the long-term viability of the subject community is highly questionable. Due to these expected impacts and the current level of weed invasion, the loss of this vegetation is required to be offset.

A far superior environmental outcome is to consolidate revegetation strategies that will create viable corridor links that are consistent with the Lennox Head Structure Plan and the MPCF. To ensure the ongoing persistence of the abovementioned threatened plants a condition of consent is recommended to require the applicant to conduct a propagation program for the Arrow-headed Vine and Rough-shelled Bush Nut (*Macadamia tetraphylla*) with the resultant propagation material incorporated into the approved revegetation program.

Environmental Issues Associated with Proposed Lot 13

The most ecologically significant vegetation community on and/or immediately adjoining Proposed Lot 13 is the Fontainea habitat of SEPP 26 No. 37. The current development application proposes to establish a building envelope approximately 70 metres north of core SEPP 26 vegetation.

The current application does not identify any restoration works and/or limit human occupation in this section of Proposed Lot 13 and, as such, the adverse impacts of human occupation have the potential to occur within 20 metres of core SEPP 26 Littoral Rainforest. As can be seen from Figure 1 (attached to this report) inclusive of required mosquito and bushfire buffers, approximately 3,320m² of the SEPP 26 buffer zone will be sterilised from rehabilitation.

Due to the environmental significance of this part of the land both the Local Environmental Study (LES) and the drafting of the BLEP 2012 have recommended this portion of the land to be zoned E2 – Environmental Conservation.

The LES did not support a dwelling being established in this portion of the land and recommended the following criteria for identifying the location of a future dwelling on the subject land:

“i) The dwelling shall be located on that part of the land zoned E2 Environmental Conservation.

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ii) Access to the dwelling shall be provided from Amber Drive or an extension of Amber Drive.

iii) The dwelling shall be connected to reticulated water, sewer, power and telephone services.

iv) The dwelling shall be erected on land above the design flood level.

v) The dwelling shall not be sited within 100m of a Littoral Rainforest area.”

Council's Environmental Scientist considers that the establishment of a dwelling envelope as proposed by the applicant should not be supported for the following reasons:

- It is inconsistent with the recommendations of the LES.
- It will create a permanent long-term barrier to fauna movements.
- Increase the issue for domestic dog and cat disturbance predation within SEPP 26 No. 37.
- Increases the potential for inappropriate planting to be undertaken once a dwelling is established on Proposed Lot 13.
- Limits the amount of revegetation works adjacent to known Fontaina habitat.
- Limits the amount of plantings works that can be undertaken to protect SEPP 26 No.37.

In justifying the establishment of a dwelling within the 100 metre SEPP 26 buffer area the applicant concludes that it is consistent with other subdivisions in the locality. However, the subdivisions relied on by the applicant pre-date the SEPP26 legislation and have been zoned residential since the mid 1980s.

Recent development rezoning/applications such as the Henderson Farm have required all residential allotments to be located outside of the 100m SEPP 26 buffer. The majority of the SEPP 26 buffer zone was also required to be rehabilitated.

OEH have confirmed in writing they do not support the dwelling entitlement of Proposed Lot 13 being located with the SEPP 26 100 metre buffer area and suggest that the dwelling entitlement should be consolidated outside of the buffer zone.

An examination of the attached mapping (Figure 1) confirms that if the applicant had applied the planning constraints established by the LES it is possible to establish a dwelling (refer yellow hatching on Figure 1) outside of the 100 metre SEPP 26 buffer zone.

The preferred dwelling location (Refer Figure 1) limits the ecological footprint of the development whilst allowing the majority of offset restoration works to be undertaken.

While this approach will require a minor reduction in the amount of land to be dedicated to Council this land is not required by Council's Civil Services and as such is readily achievable.

One of the other ecological issues associated with Proposed Lot 13 is the isolation of approximately 0.78 hectares of land adjoining Castle Drive.

Given its isolation from the residential portion of Proposed Lot 13 it is expected this area will fall into decline and become weed infested and as such posing a significant threat to the adjacent SEPP 26 rainforest and Fontaina habitat. The subject land is located within NPWS Key Habitat and Corridors Mapping and consequently this area should be included into the overall rehabilitation plan.

The previously mentioned weed issues can be overcome by the applicant dedicating a small section of Proposed Lot 13 to Council (Figure 1) to enable the proposed public pathway system to be directly connected to Castle Drive. Revegetation works adjacent to existing dwellings will be modified to allow for the provision of suitable bushfire and mosquito buffers which will be maintained by Council. This approach has been canvassed with and is supported by Civil Services.

10/50 Vegetation Clearing Code of Practice for New South Wales

The recently released NSW Rural Fire Service "10/50 Vegetation Clearing Code of Practice for New South Wales (the 10/50 Code)" allows for vegetation to be cleared up to 50 metres away from an approved dwelling. Once dwellings are established on Proposed Lots 12 and 13 the landowners will be permitted to remove existing littoral rainforest and vegetation established as part of a rehabilitation program, without requiring any formal approval if the vegetation has a trunk circumference of less than 30cm.

To overcome this issue the applicant intends to secure these significant habitats by entering into a conservation agreement pursuant to Division 12 of Part 4 of the National Parks and Wildlife Act (1979). However, OEH staff assessing the current development application confirmed the proposed areas are not likely to satisfy the criteria to allow the areas to be protected by a conservation agreement as proposed by the applicant.

Given this issue is fundamental to the long-term protection of the subject vegetation communities it is proposed to apply a condition of consent to address this matter prior to works commencing at the site.

Location and Extent of Rehabilitation works

A review of the historical documentation relating to the site notes there were a number of commitments and requirements to restoring high conservation value habitats.

The LHSP was approved on 9 December 2004. Various environmental principles contained within the LHSP relate to the vegetation communities which occur on the site. These include:

- *The identification of high conservation value habitats to be retained and protected into the future. These essentially comprise all larger areas of native vegetation within the study area;*
- *The identification of future wildlife corridors linking high conservation value habitats.*

These will be provided and enhanced on a staged basis; and

Environment Principles

The maintenance of biodiversity, water and air quality, and soil resources are key requirements in achieving sustainability. As such, the protection and, where necessary, enhancement of these natural resources is the underlying environment principle. This will be achieved by way of the following:

- Ensuring that future urban development does not impact negatively on environmental qualities of the area;*
- Protecting and enhancing high conservation habitats by providing appropriate buffers between such areas and urban development and providing corridors linking these ecosystems;*
- Maintaining and enhancing habitat for native fauna and flora – particularly that which is designated endangered, vulnerable or rare, or is otherwise protected;*
- Maintaining ground, water and air quality;*
- Maintaining low ambient noise levels;*
- Retaining existing native vegetation both within and around existing and proposed urban areas and encouraging the provision of native vegetation in new plantings;*
- Managing new development in a manner which ensures that it does not significantly increase stormwater runoff or lead to contamination of groundwater;*
- Recognising that land may have attributes which limit or preclude its suitability for a range of land uses. These constraints include acid sulfate soils, bushfire hazard, flooding, proximity to land or waterways having significant environmental values, slope stability, soil suitability and susceptibility to airport noise or other such impacts; and*
- Recognising that information about natural resources is not static. Significant new or improved information may result in the need to review plans and policies.*

Area O

Under the LHSP the site was identified as Area O. In regards to Area O the LHSP states:

“The southern most boundary of Area O comprises a “finger” of littoral rainforest which links to a substantial area of littoral rainforest further to the south. Both of these areas have been identified in the report prepared by Council’s consultant, ERM, to be of high ecological value, as has a low lying wetland located to the east of the site.

The following planning factors will require particular attention as part of the possible rezoning of this area:

- Detailed geotechnical assessment;*
- Compliance with the ERM recommendations concerning subdivision design and built form, as documented in Section 4.4.3;*
- Development of revegetated corridor linkages between high conservation habitats in the area;*
- Storm water management to minimise impacts down stream; and*
- Vehicular access to be via an extension of Amber Drive. No vehicular access is to be obtained to the Coast Road.*

The following commitments were made by the applicant via their ecological consultant as part of the rezoning application.

- *The proponents have provided a detailed landscaping proposal that includes extensive bush regeneration and rehabilitation of the Littoral Rainforest. This includes a substantial improvement to landscape corridor linkages across the site. This contribution will substantially improve conservation outcomes on the property and in adjacent areas.*
- *Priority and targeting of these efforts will commence with the area of SEPP 26 Littoral Rainforest (including adjacent buffers) and extend into other areas through time. Discussions with Ballina Shire Council have already been undertaken in that regard.*

While these issues were never finalised it is noted that the applicant had previously committed to rehabilitating an area totalling approximately 3.9 hectares. The rehabilitation contained within the current development application of 2.1 hectares falls well below the commitments made during the rezoning process. This outcome is not considered acceptable.

Offset Calculations

To offset the impacts of the development the applicant has confirmed they intend to rehabilitate 2.87 hectares of threatened species habitat. The applicant contends this reflects a compensation rate of 3:1. However, this estimate is not considered accurate as the calculations do not include accounting for the indirect impacts on the littoral rainforest to be contained within Proposed Lots 6 to 12. Furthermore, the offset calculations also include approximately 0.7 hectares of SEPP 26 rainforest which is currently being rehabilitated in response to previous illegal clearing works.

Consequently, this area needs to be excluded from the applicant's offset calculations.

Based on the above it is considered the development will impact on 1.2 hectares of known threatened species habitat. As a result, the offset ratio is approximately 1.8:1 which is well below the applicant's own estimation and well below the offset ratios referenced in Chapter 2 (Section 3.3.3) of Council's DCP which directly applies to the subject land.

Depending on the ecological significance of vegetation to be impacted, Chapter 2 of the DCP requires a minimum compensatory planting ratio of 3:1. A 3:1 offset ratio is usually applied to native vegetation communities that are not listed under the TSC Act (1995). Where threatened species are impacted Council applies an offset ratio of 10:1. The land is also identified in Council's DCP as an Important Natural Area and Habitat and Significant Vegetation. Due to the above values an elevated offset ratio is required.

In dealing with a similar matter Council recently approved an offset ratio 5:1 for the Henderson Farm development. Chapter 2 of the DCP also promotes the use of the state Government's Biobanking Scheme to identify offset ratios. OEH staff advise that offset ratios are usually in the range of 5-6:1.

Given the significance of the vegetation to be impacted it is determined an offset ratio in the order of 5:1 is required. At this offset ratio, the applicant would be required to rehabilitate approximately six hectares of threatened species habitat.

However, the extent and location of this required rehabilitation is detailed in Figure 1 and depends on the final location of the dwelling envelope on Proposed Lot 13 but will be more in the order of approximately 5.1 hectares given the area of land available within the development site.

Site Rehabilitation/Mosquito Management

A 25 metre buffer has been recommended between residences and potential mosquito harbourage i.e. east of the proposed lots and south of Proposed Lot 13.

The proposed revegetation plans will impact on the potential location of the mosquito buffer and, if approved, the relevant information relating to the buffer will need to be placed on the Section 88B instrument to ensure it is provided and maintained into the future.

The mosquito buffer will need to be endorsed by an entomologist to ensure it is appropriate given the revegetation plans for the site and this will be suitably conditioned.

The mosquito consultant engaged by the applicant also has a number of requirements relating to the design of the stormwater system. These will also be conditioned should the application be approved.

Conclusions

Throughout the assessment of the proposal, the applicant has satisfactorily responded to Council's requests for clarification on a number of matters and has revised submitted plans accordingly.

Although parts of the site have environmental sensitivities, part of the site is identified for future urban development in the Far North Coast Regional Strategy.

The applicant through the rezoning and development application process has suitably identified that the R2 Low Density zoned lands and some of the surrounding environmentally and rural zoned lands can be developed for residential purposes.

The site, however, is only suitable for low density subdivision in its north-western corner.

Although Council's Environmental Scientist considers that the proposed dwelling envelope on the residue Proposed Lot 13 should be relocated further to the north, Council's Development and Environmental Health Group is satisfied with the proposed dwelling envelope between the required rehabilitation corridor and the SEPP 26 Littoral Rainforest, as it still maintains a fair degree of separation.

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On balance, as a significant amount of rehabilitation is required on a large residue allotment remaining in private ownership (land not required to be publically dedicated), it is considered a reasonable compromise that Proposed Lot 13 should be value added via the proposed dwelling envelope, which will afford a high level of residential amenity for its future occupants.

The creation of this lot will have a dwelling entitlement and even if this portion of the site is rezoned to E2 the entitlement will remain. The placement of a future dwelling house and associated infrastructure within the SEPP 26 buffer will, however, be subject to further merit assessment and concurrence from DoPE.

Relevant government agencies have also supported this conclusion and therefore the subdivision can be supported subject to conditions, and particularly the rehabilitation on the residue allotment over a minimum five year period.

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 as submitted subject to conditions of consent as attached to this report.

Option Two

That Council approves the development subject to the revised dwelling envelope as recommended by Council's Environmental Scientist on the residue Proposed Lot 13.

Option Three

That Council refuses the development application on the basis of environmental issues.

Option One is recommended as the matters identified in the report can be addressed via suitable consent conditions to minimise environmental impacts.

RECOMMENDATION

That DA 2014/349 to undertake a 16 Lot residential subdivision and a public reserve lot and associated works at Lot 49 DP 1168665, Amber Drive, Lennox Head be **APPROVED** subject to the imposition of the attached recommended conditions.

Attachment(s)

1. Locality Plan
2. Detailed Plans
3. Public Submissions
4. Government Agency Submissions
5. Applicant's Response to Public Submissions
6. Figure 1 - Location of Required Threatened Species Rehabilitation & Corridor Works - Wavehill Estate
7. Draft Conditions

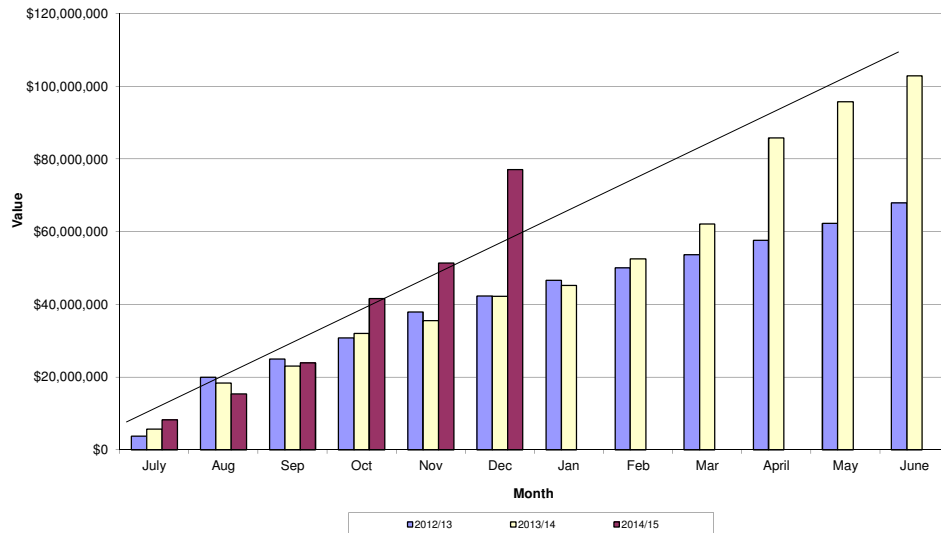
8.2 Development Consent Statistics - December 2014

8.2 Development Consent Statistics - December 2014

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

Number of Applications	Value of Work
35 Other Building Related	\$ 1,137,000
12 Dwelling/Duplexes/Residential Flat Buildings	\$ 10,326,000
7 General Developments	\$ 14,275,000
Total Value	\$ 25,738,000

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



RECOMMENDATIONS

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

Attachment(s)

Nil

8.3 Development Applications - Works in Progress - January 2015

8.3 Development Applications - Works in Progress - January 2015

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.

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	Being Assessed
2012/291	23/07/2012	Newton Denny Chapelle	To undertake a staged 47 Lot Community Title residential subdivision with lots ranging in size from 303m ² to 773m ² , associated road, earth and infrastructure servicing works, creation of a public road and one 6.4 hectare Torrens Title residue lot - 565-589 River Street, West Ballina	Being Assessed
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 and associated	Determination Pending

8.3 Development Applications - Works in Progress - January 2015

			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
2014/307	27/06/2014	Ardill Payne & Partners	Two lot boundary adjustment subdivision and erection of a dual occupancy on one of the modified lots - 608 Ellis Road, Rous	Awaiting Additional Information
2014/328	7/07/2014	K Tantarri	To undertake the continued use of the premises as a place of public	Awaiting Additional Information

8.3 Development Applications - Works in Progress - January 2015

			worship and erection of new awning – 12 De Havilland Crescent, 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
2014/387	8/08/2014	Visionstream Pty Ltd	To Erect a Telecommunications Facility Comprising a 45m High Lattice Tower and Ancillary Equipment – 11 Dees Lane, Lynwood	Awaiting Additional Information
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	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	Being Assessed
2014/525	15/10/2014	Ardill Payne & Partners	Additions to a Rural Industry and Offensive	Awaiting Additional Information

8.3 Development Applications - Works in Progress - January 2015

			and Hazardous Industry Comprising Metal Fabrication and Abrasive Blasting - 21 Cumbalum Road, Cumbalum	
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
2014/564	31/10/2014	P Sternberg	To use an existing building for tourist and visitor accommodation - 10 Martins Lane, Knockrow	On Exhibition
2014/585	12/11/2014	Northern Rivers Surveying Pty Ltd	Two Lot Rural Subdivision to create 1 x 1.2ha Lot (Lot 1 – Residue Lot) and 1 x 49ha Lot (Lot 2 – Primary Production Lot) via SEPP (Rural Lands) 2008 - Friday Hut Road, Brooklet	Referred to Government Departments
2014/586	12/11/2014	Northern Rivers Surveying Pty Ltd	Two Lot Rural Subdivision to create 1 x 1.2ha Lot (Lot 1 – Residue Lot) and 1 x 36.71ha Lot (Lot 2 – Primary Production Lot) via SEPP (Rural Lands) 2008 - Jorgensens	Referred to Government Departments

8.3 Development Applications - Works in Progress - January 2015

			Lane, Brooklet	
2014/609	21/11/2014	Planners North	To undertake a mixed use development comprising the erection and strata title subdivision of a two storey commercial premises fronting Ballina Street and four, three storey, shop top housing units at the rear of the site adjacent to Rayner Lane and associated works including vehicle access off Rayner Lane and a central ground level car parking area - 45-49 Ballina Street, Lennox Head	Awaiting Additional Information
2014/611	25/11/2014	Telstra	Erection of a Telecommunications Facility comprising a 20 metre high monopole and triangular headframe with antennas (overall height of 21.6 metres) and the removal of an existing 12 metre timber pole and 13 metre concrete pole and associated works - 1A Suvla Street, East Ballina	Being Assessed
2014/614	26/11/2014	Aldi Stores C/- Planit Consulting	Alterations and Additions to Existing Aldi Store - 2-6 North Creek	Determination Pending

8.3 Development Applications - Works in Progress - January 2015

			Road, Ballina	
2014/640	08/12/2014	Nasmyth Pty Ltd	To undertake the erection of a storage premises - 1 Stinson Street, Ballina	Being Assessed
2014/656	17/12/2014	Ardill Payne & Partners	Erection of Shade Sails over Existing Car Parking Spaces in the Eastern Car Parking Area of the Ballina Fair Shopping Centre - 84 Kerr Street, Ballina (Ballina Fair)	Being Assessed
2015/3	06/01/2015	CivilTech Consulting Engineers	To undertake a boundary adjustment subdivision and consolidation of three allotments to create one x 36.4 ha and one x 30.8ha allotments - 1190 & 1192 Eltham Road, Alstonvale	Referred to Government Departments
2015/4	06/01/2015	Ballina Shire Council	Conversion of the MV Florrie to an interpretive information board structure and interactive exhibit, involving the partial demolition of the existing structure – 2-10 Regatta Ave, Ballina	On Exhibition

8.3 Development Applications - Works in Progress - January 2015

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
2014/615	27/11/2014	Ardill Payne & Partners	To undertake the expansion of an existing extractive industry (quarry) - Old Bagotville Road, Bagotville	On Exhibition

Major Development (Determined by Minister)

Major Project No./DA No.	Date Rec'd	Applicant	Proposal	Status
SSD-6422	8/12/2014	Holcim (Australia) Pty Ltd	Expansion of Existing Quarry involving the extraction and processing of up to 500,000 tonnes per annum of hard rock for 30 years and recycling and processing up to 10,000 tonnes per annum of concrete - Stokers Lane, Teven	On Exhibition

8.3 Development Applications - Works in Progress - January 2015

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for January 2015.

Attachment(s)

Nil

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

Delivery Program Strategic Planning

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to redefine the area of land subject to additional permitted use provisions in relation to a highway service centre on land adjacent to the Bruxner Highway and Pacific Highway at West Ballina.

Background

Council received an LEP amendment request in December 2014 to adjust the boundaries of the Additional Permitted Use Map as it relates to RMS owned land at West Ballina. The Additional Permitted Use Map within the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) identifies that a highway service centre is a permitted use on the land with development consent.

The LEP enables the highway service centre use on both sides of the Teven Pacific Highway interchange consistent with Ministerial Direction 5.4 - Commercial and Retail Development along the Pacific Highway, North Coast. The additional permitted uses provision of the LEP has been used so that the locations having potential for a highway service centre use can be specifically identified (i.e. such centres are not permitted broadly across the shire).

The proponent and landowner is NSW Roads and Maritime Services. The LEP amendment request is contained in Attachment One.

The land the subject of this LEP amendment request is shown in the site plan contained in Attachment Two.

This report provides an overview of the LEP amendment request and seeks the Council's authorisation for the preparation of a planning proposal to progress the amendment.

Key Issues

- Refinement and rationalisation of site subject to additional permitted use provisions following completion of Pacific Highway road works.

Information

Site and Proposal Information

This LEP amendment request relates to a section of the Pacific Highway road reserve adjacent to the Teven Road interchange at West Ballina. This land adjoins RMS owned land which has been identified for development as a highway service centre. The potential for development of a highway service centre adjacent to the Teven Road interchange is reflected in Ministerial planning direction 5.4 under the *Environmental Planning and Assessment Act* and in the Ballina LEP 2012.

The RMS land currently identified for highway service centre purposes is known as lot 15 DP 1013485 and part Lots 13 and 14 DP 1013485. It has an approximate area of 36.26 ha. The approximate area of the land the subject of this LEP amendment request is 4,034m².

The subject site, which includes a section of the Pacific Highway road reserve as well as the RMS owned land currently subject to the additional permitted use provisions, is zoned RU2 Rural Landscape under the provisions of the Ballina LEP 2012. This zone does not permit highway service centres, but the use is permitted as an additional permitted use on the land as a consequence of clause 2.5 and Schedule 1 of the Ballina LEP 2012.

At the time of preparation of the Ballina LEP 2012 the extent of the land affected by the additional permitted use provisions was based on the lot boundaries of lots created in 2000 with some additional regard to zone boundaries under the provisions of Ballina LEP 1987. Following the completion of the Pacific Highway works, in 2012, the RMS was then in a position to more closely consider both the amount of land required for a potential highway service centre development as well as the suitability of such land for this purpose.

Following the lodgement of the LEP amendment request the RMS were requested to give consideration to land that may no longer be required for highway service centre purposes with particular regard to the northern most section which extends into wetland areas. The RMS are currently examining this issue and it is anticipated that a plan will be submitted which will result in an overall reduction of the land required to be designated for highway service centre purposes. Adjustment of the area the subject of the additional permitted use mapping in this regard will be incorporated into any planning proposal that may subsequently be prepared.

Attachment Three contains a map which shows the location of the land affected by the highway service centre additional use provisions at West Ballina. This includes land on the eastern side of the Pacific Highway which is not owned by the RMS.

Attachment Four contains a map which shows how the highway service centre additional use map is proposed to be altered, at this stage, in response to the current submission from the RMS.

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

Strategic Planning Framework

The LEP amendment request is consistent with the applicable strategic planning framework as indicated below:

Far North Coast Regional Strategy 2006 (FNCRS)

The FNCRS supports the location of a highway service centre at Ballina beside the Pacific Highway. This was reinforced in November 2009 when the Minister issued direction 5.4 *Commercial and Retail Development along the Pacific Highway North Coast* under section 117(2) of the *Environmental Planning and Assessment Act 1979*. This direction enables certain highway service centres to be permitted, including at the Teven Road interchange at Ballina, providing that the RMS is satisfied it can be safely and efficiently integrated into the highway interchange. Relevantly no specific lots or site area was nominated in the direction.

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The *(BSGMS)* is a local growth management strategy required to be prepared by the FNCRS. The BSGMS does not specifically reference highway service centres at the Teven Road interchange. It does however indicate, in the Locality Vision and Character Statement for West Ballina, that due to this location being a highly visible entrance point to Ballina it would function as a future prominent 'gateway site'.

Ballina LEP 2012

Ballina LEP 2012 incorporates as an *additional permitted use*, highway services centres, within land otherwise zoned as RU2 Rural Landscape as indicated in the map at Attachment Three.

Site Assessment Requirements

The proponent has not assessed site constraints within the submitted LEP amendment request. It is, however, considered that as the land has been significantly disturbed and filled as part of recently completed road and ancillary works there are presently no specific matters identified that require detailed investigation. This is reinforced by the fact that the area nominated for inclusion within the additional permitted use provisions represents approximately an additional 1% of the RMS land already subject to these provisions.

As has been previously indicated, the RMS is currently giving consideration to reducing the overall area of its land subject to the additional use provisions. If this occurs then it is also considered that no additional site specific assessments are required to support such a proposal. A reduction in the area subject to the additional use provisions is not envisaged to give rise to any negative environmental consequences and may in fact have net environmental benefits if the northern wetland section is excluded from the potential development area.

Sustainability Considerations

- **Environment**
There are no specific environmental consequences arising from this LEP amendment request as currently submitted.
- **Social**
Not Applicable
- **Economic**
The redefinition of the land area subject to additional permitted use provisions for a highway service centre, and within the ownership of the RMS, may have beneficial economic outcomes. This is based on the assumption that it will more quickly facilitate the development of the site through improving its viability as suggested in the RMS submission.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. Subject to the Council's decision, the next step in the process would be to prepare a planning proposal suitable for submission to the Department of Planning and Environment (DP&E) for Gateway determination.

Following a favourable Gateway determination the applicant would be requested to submit any additional information which may be specified by the DP&E prior to the proposal progressing to the consultation phase.

Council's adopted fees and charges associated with LEP amendments would be applied to the further processing of the request.

Consultation

There has been no consultation undertaken to date with either the community or government agencies in relation to this LEP amendment request as the matter is in the initial phases.

Should the matter proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community. Community engagement would then occur as specified in the Gateway determination.

It should be recognised that Council has previously approved a highway service centre on the eastern side of the Teven interchange. Those with an interest in this proposal may be interested in providing feedback to Council on the requested LEP amendment.

Options

1. Proceed to prepare a planning proposal for the redefinition of the RMS land subject to additional permitted use provisions, at the Teven interchange at West Ballina, to permit a highway service centre.

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

This approach would authorise the preparation of a planning proposal for Gateway determination. Consistent with Council's normal approach to LEP amendment requests, the proposal would be reported to the Council for further consideration prior to its submission to the Gateway panel.

This is the recommended approach.

As an alternative, Council could authorise the planning proposal to be prepared and lodged for Gateway determination without further reporting of the matter to Council. This approach could be taken if the Council is of the view that the matter is relatively minor in scale and does not warrant further consideration by Council before its submission for Gateway determination and subsequent public exhibition. The advantage of this approach is that it saves time and reporting but it is a departure from the typical processing approach historically employed by Council.

If the Council is included to enable progress of the planning proposal to Gateway determination without further reporting, it is recommended that the following be incorporated into Council's resolution:

1. That the Council endorse the preparation of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the RMS owned land at the Teven interchange at West Ballina that is subject to additional use provisions for a highway service centre generally in accordance with the request made by Roads and Maritime Services.
 2. That the Council authorise the submission of the planning proposal to the Department of Planning and Environment for review and Gateway determination.
 3. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
 4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.
2. Defer or amend the planning proposal.

This approach would involve seeking further information which could be through additional material from the proponent or a Councillor briefing.

This approach is not recommended given:

- The proposed redefinition of the area subject to the additional permitted use provisions is consistent with the applicable strategic planning framework.
 - What is proposed can be considered to be a minor adjustment arising from the availability of improved information now that the Pacific Highway construction works in the area have been completed. In this context, the proposal is considered to be minor in terms of its overall impact.
3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to Option 2, this approach is not recommended.

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

RECOMMENDATIONS

1. That Council endorses the preparation of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the Roads and Maritime Services owned land at the Teven interchange at West Ballina that is subject to additional use provisions for a highway service centre generally in accordance with the request made by Roads and Maritime Services.
2. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.

Attachment(s)

1. Attachment One - LEP Amendment Request
2. Attachment Two - Site Plan
3. Attachment Three - Existing Additional Permitted Use Map
4. Attachment Four - Proposed Additional Permitted Use Map

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

Delivery Program Strategic Planning

Objective To advise Council of the outcome of the pre-Gateway review by the Department of Planning and Environment into the planning proposal which primarily relates to the application of an R2 Low Density Zone over part of Lot1 DP 1165957 known as 44 - 52 Blue Seas Parade, Lennox Head.

Background

The Council, at its Ordinary Meeting held on 22 May 2014, considered a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) relating to land at Blue Seas Parade Lennox Head. The request was made by Mr G Farley, the property owner and proponent. The request sought an amendment to the Ballina LEP 2012 to rezone part of Lot 1 DP 1165957 (Lot 1) from RU1 Primary Production to an R2 Low Density Residential zone.

The land the subject of the request is part of the property referred to locally as the "Newton Farm", which includes part of the prominent escarpment located immediately west of Lennox Point.

In relation to this matter the Council resolved as follows [Minute No.220514/12]:

1. *That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.*
2. *That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.*
3. *That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.*
4. *For the purpose of further investigation the planning proposal shall include a minimum lot size of 600 m².*

The planning proposal was subsequently prepared and considered by the Council at its Ordinary Meeting held on 24 July 2014. In relation to this matter the Council changed its position on progressing the rezoning and resolved as follows [Minute No.240714/1]:

1. *That Council discontinue processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957 and take no further action with respect to the rezoning of the land under the current amendment request, for the following reasons:*
2. *That the Council does not support the application of a zoning to Lot 1 DP 1165957 that enables further residential development to occur on the land beyond what is enabled under the current rural land use zoning.*
3. *That Council take steps at the next revision of the Ballina Shire Growth Management Strategy to remove all land contained within Lot 1 DP 1165957 from identification as a potential urban growth area from local planning policy.*

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

A request for a pre-Gateway review was submitted to the Department of Planning and Environment on 19 August 2014 by Paul Snellgrove, Ardill Payne and Partners, on behalf of the proponent Mr George Farley. The review was undertaken by the Joint Regional Planning Panel, with the JRPP recommending in November 2014 that the matter should proceed to Gateway determination.

The Department of Planning and Environment (DP&E) has advised Council, by letter dated 8 December 2014, that the planning proposal should proceed to the Gateway determination stage. Council has also been requested to advise whether it would like to be the Relevant Planning Authority (RPA) and submit a planning proposal for Gateway determination. A copy of the Department's letter forms Attachment One to this report.

This report seeks direction from Council in relation to Council assuming the Relevant Planning Authority role for the further processing of the LEP amendment.

Key Issues

- Consideration of the implications associated with accepting the role of RPA.
- Processing of LEP amendment request and submission of a planning proposal for Gateway determination.

Information

The DP&E's letter dated 8 December 2014 requested advice within a 28 day period as to whether Council would like to be the RPA for this proposal. This period has now been extended so as to enable the Council to consider this matter at its Ordinary Meeting on 22 January 2015. The letter from the DP&E granting the extension of time forms Attachment Two to this report.

In the event that Council declines the role of RPA, and does not proceed to prepare a planning proposal for Gateway determination, then it is likely that the DP&E or JRPP will be appointed as the RPA.

To support the Council in progressing the matter should the role of RPA be accepted, a planning proposal has been prepared for consideration in relation to its submission for Gateway determination.

Council will recall that a planning proposal was previously prepared and accompanied the report to Council's Ordinary Meeting on 24 July 2014. This planning proposal has now been amended to make provision for a minimum lot size standard of 1200m² and to incorporate the more recent history relating to this proposal. The planning proposal forms Attachment Three to this report.

It is considered that a minimum lot size for subdivision of the land of 1200m² is appropriate for this site given the need for a buffer to the adjoining primary industry activity (Cattle grazing), and the impact of the existing electricity easement and rights of carriageway. Such a lot size standard may also assist in addressing scenic amenity, site access and other site constraints.

The planning proposal provides for the following amendments to Ballina LEP 2012:

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

- The rezoning of that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area (SUGA) from RU1 Primary Production to R2 Low Density Residential.
- Application of a 1,200m² minimum lot size to Lot 1 and a 600m² minimum lot size (consistent with land to the west and north) for the adjoining road reserve.
- Deletion of the SUGA affectation from a portion of Blue Seas Parade which adjoins Lot 1, and
- Deletion of the SUGA affectation from a triangular section of land (approximate area of 900m²) located on the adjoining Lot 2 DP 1165957 (Lot 2).

The DP&E in its assessment report related to the planning proposal has indicated that the subject land is identified in the Ballina Shire Growth Management Strategy as being within a future release area and in the far North Coast Regional Strategy as within the 'Town and Village Growth Boundary'. It is also indicated that the proposal is justified as it is consistent with local and state strategies and all SEPPs. In respect to identified inconsistencies with s117 Directives it is stated that these can be justified as of minor significance. This is consistent with the assessment undertaken by Council staff.

The JRPP's Recommendation Report states that the panel agrees with the Assessment conducted by the Department and the Ballina Shire Council Staff for the planning proposal, which has strategic and site specific merit in regard to the Ballina Shire Growth Management Strategy.

At this stage of the process a number of site specific studies and assessments have been identified as being required. These are listed below and should be required to be prepared post Gateway determination and prior to public exhibition of the proposal:

- Contaminated Land Assessment and Remediation Action Plan,
- Coastal Zone Impacts and Visual Amenity Impacts assessment,
- Bushfire Threat Assessment Report,
- Geotechnical Assessment (Landslip),
- Due Diligence Aboriginal Heritage Assessment,
- Services and Stormwater Management Report,
- Land Use Conflict Risk Assessment,
- Flora and Fauna Assessment,
- Access Arrangements and Electrical Easement Impact / Relocation Investigation.

Having regard to the history of this site, if Council agrees to be the RPA for this proposal, it is proposed that an independent third party be engaged by Council to review the proponent's technical reports and prepare an environmental assessment and planning report. The report would draw on the information provided by the proponent and Council staff to establish a recommended approach to the LEP amendment. The third party assessment would be undertaken at the proponent's cost in accordance with Council's endorsed fees and charges. The assessment and report would also form part of the material placed on public exhibition.

Sustainability Considerations

- **Environment**
The subject land contains various attributes of environmental value. These matters can be assessed in detail prior to public exhibition if the planning proposal proceeds further.
- **Social**
There are a variety of social issues to consider in relation to the proposal, including implications for scenic and amenity values. These matters can be assessed in detail prior to public exhibition if the planning proposal proceeds further.
- **Economic**
The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure. These matters can be further considered prior to public exhibition.

Legal / Resource / Financial Implications

There are no specific adverse legal implications associated with Council accepting or declining the RPA role or with the proposed LEP amendment at this time.

If Council agrees to accept the RPA role then the proponent will be required to meet the various processing costs, including the independent environmental assessment costs, in accordance with the Council's adopted schedule of fees and charges, as well as providing the necessary additional technical information, following Gateway determination.

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

Consultation with various Government agencies will be required post Gateway and following the submission of technical reports. Under a Council processing arrangement, the agencies proposed to be consulted at this stage include:

- NSW Rural Fire Services
- Civil Aviation Safety Authority
- Air Services Australia
- Ballina Byron Gateway Airport
- Essential Energy and
- Department of Primary Industries

Council will recall that preliminary consultation has already been undertaken with the owners of the adjoining property located at 54 Blue Seas Parade Lennox Head. This was in respect to the proposed deletion of the SUGA affectation from this property. A submission was received which objected to the rezoning proposal principally related to perceived land use conflicts. The submission did, however, indicate that the removal of the SUGA affectation from this property was supported should the rezoning proceed. It is noted that

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

Mr Peter Small, one of the subject adjoining owners, addressed Council in support of his objection at Council's Ordinary Meeting on 24 July 2014.

Options

1. Agree to accept the role of Relevant Planning Authority (RPA) and endorse the attached planning proposal for submission to the DP&E for Gateway determination.

The position of Council's planning staff remains unchanged from that conveyed in the reporting to Council in May and July 2014. That is, that the proposed LEP amendment is suitable for progression to Gateway determination and public exhibition. This option is consistent with the previous staff position.

If this option is preferred and Council is appointed the RPA to progress the matter, it is recommended that the planning proposal be based on application of a 1,200m² minimum lot size for subdivision over the potential development area to be clear about the potential subdivision potential of the land (as set out in the planning proposal contained in Attachment Three).

Under this approach, Council will be required to administer the third party review, technical assessment and public exhibition of the planning proposal. It should be noted that there is potential for significant objection to the proposal which Council would need to address as part of the public exhibition and reporting processes for the amendment.

Notwithstanding the progression of the planning proposal to public exhibition, Council will have a further opportunity to consider the proposal after the public exhibition process and prior to the proposal being finalised. It is open to Council to decline to progress the rezoning following the public exhibition period, although the final decision on the zoning will ultimately rest with the Minister for Planning.

If Council does not seek to progress the matter as the RPA, Council will not be able to direct and undertake the technical assessment and exhibition processes consistent with its approach to managing planning proposals. Essentially, Council will become a stakeholder in the process with the potential to make submissions to the appointed RPA.

For the reasons indicated in relation to option two below, this approach is not recommended. However, if Council wishes to accept the RPA role, it is recommended that the following resolution be applied:

1. That Council advise the Department of Planning and Environment that it is prepared to accept the role of Relevant Planning Authority for the planning proposal relating to 44 – 52 Blue Seas Parade, Lennox Head.
2. That Council authorises the submission of a planning proposal which provides for the application of an R2 Low Density Residential Zone to that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area (SUGA) within Ballina LEP 2012 and the immediately adjoining road reserve to the Department of Planning and Environment for review and Gateway determination.

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

3. That the planning proposal also provide for the removal of the SUGA affectation from Lots 1 and 2 DP 1165957 and the application of a minimum lot size of at least 1200m² to the proposed R2 zoned area and 600m² adjoining road reserve.
 4. That the Department of Planning and Environment be advised that at this stage of the process it is the Council's intention to exercise its delegated plan making functions.
 5. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal and potential environmental, social and economic implications.
 6. That upon the requested information being submitted by the proponent, Council initiate a third party review including preparation of an environmental assessment and planning report relating to this planning proposal.
 7. That the owners of Lot 2 DP 1165957, No. 54 Blue Seas Parade be advised of the Council's decision.
 8. That the General Manager be authorised to exhibit the planning proposal for community comment following the completion of the third party review, with a further report being presented to the Council following the conclusion of the public exhibition period.
2. Decline the RPA role and advise the DP&E accordingly.

Given that the JRPP and DP&E have determined that this planning proposal has sufficient merit to proceed to Gateway determination rejection of the RPA role will effectively result in Council losing control of this rezoning process.

Information provided by the DP&E indicates that a rejection of the RPA role by Council will most likely see this role transferred to either the JRPP or the DP&E. Council's role would then be limited to making submissions during the public exhibition and consultation processes.

Such action will therefore result in Council having, at best, very limited opportunities to influence the process and ensure that any identified issues are resolved in a manner consistent with Council's policies and procedures.

Notwithstanding the above, this approach is consistent with the Council's July 2014 decision on this matter. Given this, it may be difficult for Council to explain an acceptance of the RPA role in that there has been no additional technical information provided to Council that changes the present circumstances of the proposal.

It is the JRPP's review and DP&E's subsequent request that has given rise to the request for Council to reconsider its approach to this proposal.

Option two is the recommended approach in order to be consistent with the Council's last formal position on the proposal in the absence of new technical information.

This option allows to Council make submissions to the process to ensure the community is strongly represented as part of the assessment.

Delegation of Plan Making Functions

If Council accepts the RPA role, Council's Gateway submission to the DP&E is also required to address whether the Council is proposing 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.

Although there are resourcing implications for Council (more staff time in processing), it is recommended that the Council provide an indication at this stage that it is proposing to exercise its delegation in this instance. Under this approach, the Council would make its final decision on whether to exercise its delegations at the time of deciding on the finalisation of the amendment post public exhibition. This approach is embodied in the alternate resolution set out under option one.

RECOMMENDATIONS

1. That Council affirms its July 2014 decision to discontinue processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957, 44 - 52 Blue Seas Parade, Lennox Head.
2. That Council advise the Department of Planning and Environment that it declines the role of Relevant Planning Authority for the planning proposal relating to 44 - 52 Blue Seas Parade, Lennox Head.

Attachment(s)

1. Attachment One - Letter from DP&E re outcome of pre-Gateway review
2. Attachment Two - Letter from DP&E re extension of time request
3. Attachment Three - Planning Proposal

9.3 Comprehensive Koala Plan of Management

9.3 Comprehensive Koala Plan of Management

Delivery Program Strategic Planning

Objective To outline the draft Ballina Shire Comprehensive Koala Plan of Management and seek direction on the public exhibition of the Plan.

Background

Background

In July 2012, Council resolved to endorse the preparation of a Comprehensive Koala Plan of Management (CKPOM) for Ballina Shire based on funding provided by the NSW Office of Environment and Heritage (OEH) [Minute No. 260712/8].

The preparation of the CKPOM has involved two phases, with the first being preparation of a habitat study and the second being preparation of a plan of management.

In December 2013, Council adopted the *Koala Habitat and Population Assessment: Ballina Shire Council LGA* (the koala habitat study) and its recommendations [Minute No. 191213/7]. The study was prepared by Biolink Ecological Consultants.

The study recognised an 'Important Population' of koalas occurring in the southern part of the Ballina Shire. An overview of the recommendations of the study and how the CKPOM has addressed them is provided in Table One within this report. The study was prepared to underpin a CKPOM for the shire.

During 2014, Council undertook a process of preparing the draft CKPOM in conjunction with a project reference group comprised of key stakeholder groups. The draft CKPOM has been prepared by Council in association with Biolink Ecological Consultants. Biolink has also prepared preferred koala habitat mapping to support the draft Plan.

This report presents the draft CKPOM (provided under separate cover) for the consideration of Council and seeks direction with respect to placing the plan on public exhibition.

It is important to recognise that the Office of Environment and Heritage has provided financial assistance to complete both the koala habitat study and develop the draft CKPOM.

Key Issues

- Establishment of a framework for the management of the Ballina Shire koala population
- Regulatory and voluntary measures relating to koala habitat
- Public exhibition and community feedback opportunity

Information

Draft CKPOM

In purely regulatory terms the purpose of the CKPOM is to increase the effectiveness of the legal framework in place to protect koala habitat (and therefore koalas) for the future.

It does this by considering koala habitat at a landscape scale, and providing an upfront set of criteria for development assessment in locations in which there are likely to be koalas living. Importantly, the regulatory provisions of the CKPOM do not apply to development that does not require development consent (although the draft Plan is designed to apply to development that otherwise requires approval under Part 5 of the *Environmental Planning and Assessment Act*).

The CKPOM is also designed to identify actions that Council will take outside the development assessment process to support the retention of a self-sustaining koala population in Ballina Shire in the long term. The plan is based on a core vision and a series of aims and objectives, as outlined below.

Vision

This plan is working toward the vision of a self-sustaining long-term koala population in Ballina Shire.

Aims

This vision is intended to be articulated by way of the following aims:

- To retain and consolidate areas of core koala habitat and create or enhance koala habitat linkages.*
- To support the community in protecting and enhancing Ballina Shire's koala population.*
- To enhance community awareness of the extent and importance of the koala population in Ballina Shire.*
- To support the koala population more broadly within the Northern Rivers.*

Objectives

- Minimise the potential for adverse impact within current and future areas of core koala habitat.*
- Create, manage and/or restore koala habitat linkages and corridors to re-establish a complex and biodiverse landscape.*
- Facilitate the mutually productive co-existence of people and koalas by working with landholder communities.*
- Provide a transparent and consistent assessment pathway and criteria for the processing of development applications, as well as present guidelines for: koala habitat assessment; food tree and koala habitat retention; compensation for the loss of food trees and koala habitat.*
- Promote koalas as an asset for Ballina Shire's economic development and tourism.*

9.3 Comprehensive Koala Plan of Management

- *Demonstrate resources for the effective implementation and monitoring of the CKPOM.*
- *Improve community knowledge, understanding and awareness of the local koala population and koala habitat.*
- *Ensure that koalas, koala habitat and koala movement patterns are integrated considerations in infrastructure planning.*

The plan applies to an area known as the Koala Planning Area (KPA). This area has been defined based on the outcomes of the koala habitat study and focusses on key areas in which koalas are presently found.

The KPA does not cover the entire local government area.

The planning framework in the plan is based on habitat mapping prepared by Biolink Ecological Consultants and three Koala Management Precincts (KMPs) within the Ballina Koala Planning Area. These precincts are:

- Southern KMP – Wardell, Meerschaum Vale, Bagotville, Blackwall Range, Lynwood, Uralba.
- Plateau KMP – adjoins the Southern KMP, and includes the Alstonville Plateau.
- East Ballina KMP – encompassing native vegetation in the East Ballina area.

The Southern KMP is based on the area that encompasses the important koala population (a population of national significance) for the purposes of the Federal Government's *Environment Protection and Biodiversity Conservation Act*. This koala population in this area is defined under the koala habitat study as an important population because it is a key source population for breeding and/or dispersal and it is likely to be an ancestral source population necessary for maintaining genetic diversity.

The draft CKPOM seeks to limit clearing of koala habitat in this area to a defined set of circumstances. That is, the Plan establishes firm regulatory measures in this area to minimise the clearing of koala habitat. Some types of clearing are not permitted.

The Plateau KMP generally encompasses agricultural areas and remnant vegetation adjoining the Southern KMA and on and adjoining the Alstonville Plateau. This KMP incorporates eucalypt windbreaks and recognises both the presence of koalas in the area as well as the agricultural pursuits that occur on the land. The draft CKPOM requires consideration of koala habitat in these areas when seeking to undertake development and allows for clearing in certain circumstances.

The draft CKPOM does not seek to stop landholders removing windbreaks although it does propose initiatives to work with landholders to look at ways to retain and provide windbreak vegetation to the benefit of koalas.

The East Ballina KMP relates to vegetated land at East Ballina which contains a small population of koalas. The viability of this population is unknown. As such, the draft CKPOM focusses on monitoring and minimising threats to koalas in this area.

9.3 Comprehensive Koala Plan of Management

The precinct areas are illustrated in the draft CKPOM.

In addition to the regulatory provisions of the Plan, there is also a series of management actions identified.

Some of these actions seek to support and implement the regulatory provisions of the Plan whilst a number of others relate to voluntary or planned actions designed to achieve the vision, aims and objectives of the Plan.

These actions relate to several areas including implementation and monitoring, habitat conservation, restoration and management, communication and education, road and traffic management, dog management, koala health and welfare, bushfire management, tourism and economic development.

These actions are set out in Part 4 of the draft Plan (distributed to Councillors under separate cover).

Further to the above, the following elements of the draft Plan are noteworthy:

- Some types of minor development are not subject to the provisions of the Plan. These exceptions include new dwellings and alterations and additions where the development envelope does not include preferred koala habitat.
- The Plan makes provision to enable the removal of noxious weeds including in circumstances where such weeds are within an area of preferred koala habitat.
- The Plan makes provision for offsets to be provided where clearing of koala habitat is proposed and ultimately approved. Higher offset requirements are proposed in the Southern KMP, where larger trees are to be removed and where plantings are proposed off site.
- The Plan establishes a consistent approach for the method of assessment when examining potential impacts on koalas.
- In addition to considering clearing of vegetation, the Plan includes provisions to consider and address fencing, swimming pools, domestic dogs and roads in relation to impacts on koalas associated with development.
- The Plan identifies areas of core koala habitat which has the effect of establishing limitations on clearing activity and specifically limits private native forestry clearing in areas so defined.

Koala Habitat Study Recommendations

Eight recommendations were made by Biolink as part of the koala habitat study.

The CKPOM is intended to address a number of these recommendations.

Table One outlines how the CKPOM relates to the recommendations.

9.3 Comprehensive Koala Plan of Management

Table One - Recommendations of the Koala Habitat Study for Ballina Shire

Recommendation	Action Taken by Council
All areas of Preferred Koala Habitat be regarded as core koala habitat for the purposes of SEPP 44 and the Native Vegetation Act 2003.	Development of CKPOM has further refined mapping and parameters for defining core koala habitat and implications for development proposals.
Identification of the Southern KMP area as containing an important population for the purposes of the EPBC Act Significant Impact Guidelines.	Draft CKPOM is based on the recognition and management of the area containing the important koala population.
Preparation of a map detailing the areas of Preferred Koala Habitat as part of preparation of CKPOM.	Biolink Ecological Consultants has prepared preferred koala habitat mapping to support the CKPOM.
Council to collaborate with RMS to pursue the need for rigorous evaluation for ameliorative options for koalas along future highway upgrades within the Ballina KPA.	RMS has been a participant in Council's PRG for the habitat study and CKPOM projects. Further liaison with the RMS is anticipated in relation to the draft CKPOM and the Pacific Highway Upgrade works.
Develop and install measures that will work effectively to minimise road-strike at known koala blackspots.	Included as a management action in the draft CKPOM.
Design and adopt development control measures to implement 'best-practice' koala-friendly planning measures.	Development control measures included in the draft CKPOM.
Consider ways to work with landholders to establish a long-term management strategy for windbreaks and barrier plantings.	Addressed in management actions contained in draft CKPOM.
'Minimum data set' assessment standards for development proposals.	Assessment standards incorporated into draft CKPOM.

Overall, the draft CKPOM advances a number of the recommendations contained in the koala habitat study.

Sustainability Considerations

- **Environment**
The draft CKPOM has been prepared with a view to achieving a sustainable free ranging koala population in the shire in the long term having regard for economic, social and environmental factors.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

The draft Plan has been prepared based on the requirements of State Environmental Planning Policy No.44 and associated guidelines.

9.3 Comprehensive Koala Plan of Management

There are no significant legal or financial implications associated with the public exhibition of the draft Plan. However, should the Plan progress to implementation, funding is required to complete a number of the identified actions. It is anticipated that potential funding sources will be canvassed in further detail as part of reporting on the public exhibition of the draft Plan, in association with any refinement or adjustment to the proposed Plan actions.

The CKPOM once adopted can be used as a basis to seek grant funding. The potential for grant funding associated with koala management is illustrated by Council's successful grant application under the Federal Government's 20 million trees program (the subject of a separate report located elsewhere in this business agenda).

Council is able to undertake the public exhibition of the draft CKPOM and associated reporting within the existing work program and available resources.

Consultation

The draft CKPOM has been prepared in consultation with Council's Koala Project Reference Group (PRG). The PRG specifically considered the Koala Management Precincts, the vision, aims and objectives of the plan and several key issues including ecological, rural land and development related matters.

The representation on the PRG included State Government agencies (a full list of participants is contained in the draft CKPOM). The PRG process has been a particularly positive aspect of the Plan's development with participants providing significant contributions to the discussion and examination of issues and Plan content.

Council also held a targeted rural industry workshop, to which representatives from peak rural production organisations were invited to talk about the development of the CKPOM, and review areas of particular concern. The workshop was attended by only a few industry representatives but the discussions held provided excellent feedback for consideration in the development of the draft Plan.

In addition to the above, a Councillor briefing was held in December 2014 to discuss the approach to the draft CKPOM and key aspects of the Plan.

This recommendation of this report is to now progress the draft CKPOM to public exhibition and seek broad community feedback. The outcomes of the exhibition process can be used to assist Council in further refining the Plan prior to its submission to the Department of Planning and Environment for endorsement.

If Council endorses the draft CKPOM for exhibition, Council is also required to consult specifically with the Office of Environment and Heritage to seek feedback on the draft Plan.

Options

Council may elect to place the draft CKPOM on public exhibition (with or without amendments), defer consideration of the matter or cease further consideration of the CKPOM.

9.3 Comprehensive Koala Plan of Management

As outlined above, the draft KPOM has been prepared in response to the outcomes of the koala habitat study for the shire. Significantly, the study identified a nationally significant koala population in the southern part of the shire. The draft CKPOM has also been developed with input from State Government agencies and stakeholder groups through the PRG process. Given this, it is recommended that the draft CKPOM be publicly exhibited for a period of four weeks (subject to any required minor formatting, typographic and presentation adjustments).

Alternatively, Council could defer the matter to seek further information. This could be via further reporting or a Councillor briefing. This approach is not recommended given the process undertaken to date to develop the draft CKPOM, including a Councillor briefing in December 2014. It is suggested that any concerns arising could be considered in greater detail in association with the public exhibition process and the associated reporting to follow.

Aside from the above, Council could discontinue further consideration of the CKPOM. For the reasons outlined above (including the significance of the local koala population) and noting that the preparation of the CKPOM has been externally funded in full by, and agreed with, the Office of Environment and Heritage, this approach is not recommended.

RECOMMENDATIONS

1. That Council notes the information contained within this report in relation to the progress of the Ballina Shire Comprehensive Koala Plan of Management.
2. That Council endorses the draft Ballina Shire Comprehensive Koala Plan of Management (as attached to this report) for public exhibition for a minimum period of four weeks.
3. That Council forward a copy of the draft Ballina Shire Comprehensive Koala Plan of Management to relevant NSW Government agencies to seek feedback during the public exhibition period.

Attachment(s)

1. Draft Ballina Shire Comprehensive Koala Plan of Management (Under separate cover)

9.4 Grant Funding - 20 Million Trees Program - Old Bagotville Road

9.4 Grant Funding - 20 Million Trees Program - Old Bagotville Road

Delivery Program Strategic Planning

Objective To outline Council's successful grant funding application under the Federal Government's 20 Million Trees Program.

Background

Council recently applied for funding under the first round of the Federal Government's 20 Million Trees Program. The program has the objective of delivering the planting of 20 million trees across Australia by 2020 to re-establish green corridors and urban forests.

Council's funding application sought \$85,000 exclusive of GST to undertake rehabilitation works over three years, on Council owned land at Bagotville, that support the koala population and other biodiversity values in the locality. The project has a total value of \$100,000, with Council providing \$15,000 funded from its environmental programs budget. Council sought the grant under round one of the program in which up to \$100,000 was available per project.

The subject site (Lot 5 DP 843369) is located on Old Bagotville Road and has a total area of 50.53 hectares. The location of the land is shown in Figure 1. Council recently reclassified the site from community land to operational land to provide for flexibility in relation to the potential acquisition of all or part of the site by Roads and Maritime Services in connection with the Pacific Highway upgrade.



Figure 1 – Site Location

9.4 Grant Funding - 20 Million Trees Program - Old Bagotville Road

Council has been advised that it has been successful in its application for funding. Council has been offered one of 57 grants totaling \$4.5 million in value. Interestingly, Council's project was one of five projects specifically mentioned in the Federal Minister for the Environment's media release on the grants published in December 2014.

The purpose of this report is to outline the proposed project funded by the grant and to seek Council's confirmation in relation to the delivery of the project given the subject land is public land that has previously been considered for other land uses. Part or all of the land may be considered for acquisition by the Roads and Maritime Service in relation to the Pacific Highway Upgrade.

Key Issues

- Acceptance of grant funding
- Implementation of habitat restoration project
- Proposed site

Information

A substantial portion of Lot 5 contains vegetation which is considered to have high conservation value. The coastal health vegetation communities within Lot 5 are also considered to provide habitat for a range of fauna species listed as vulnerable under the NSW Threatened Species Conservation Act 1995. These species include the Wallum Froglet, Wallum Sedge Frog, Long-nosed Potoroo and various bat and bird species (including ground parrots). The land incorporates preferred koala habitat and is located within the area identified in the koala habitat study for the shire as containing an important koala population for the purposes of the *Environment Protection and Biodiversity Conservation Act*.

Lot 5 adjoins, along its eastern boundary, the Ngunya Jargoan Indigenous Protection Area (NJIPA). This area is managed by the Jali Local Aboriginal Land Council in recognition of the significant cultural and natural value of this land. As a consequence of past mining Lot 5 now contains a significant source of fresh water which enhances its value as a wild life habitat area.

Given the biodiversity values of the land and the location of the land in relation to the shire's koala population, Council proposed a habitat restoration project (Future Connections for Ballina's Koalas) on the land for grant funding under round of the Federal Government's 20 million trees program. As outlined above, Council has been advised that it has been successful in this application, with an amount of \$85,000 granted.

Key elements of the proposed projects include:

- The main objective of the project is to increase habitat and habitat connectivity for koalas in the Bagotville and Meerschaum Vale areas of the Ballina Shire.
- The project involves the planting of an estimated 8,000 trees with associated understorey species over three years.

9.4 Grant Funding - 20 Million Trees Program - Old Bagotville Road

- A trial of an alternative windbreak species and koala feed tree for use on the Alstonville Plateau using approximately 500 trees will be also be undertaken.
- The project is based on providing and improving connections between existing ecosystems present on the site.
- This type of project is consistent with the draft Ballina Shire Comprehensive Koala Plan of Management (the subject of a report elsewhere in this business agenda).
- There is flexibility in the area in which plantings would be undertaken – that is, further work is required to refine the location and type of plantings (areas where Pacific Highway upgrade construction is planned can be avoided).
- The project presents an opportunity to work collaboratively with Roads and Maritime Services on koala management and habitat provision in the shire.
- The enhancement of native vegetation on the site will also provide a broader biodiversity benefit, including provision of habitat for other significant species known to occur in the area.

In considering the grant funding, a key issue for the Council to consider is whether an alternate land use for the site is preferred and the implications associated with the potential acquisition of part or all of the site for the Pacific Highway upgrade.

The land is presently partly zoned 1(b) Rural (Secondary Agricultural Land) and part 7(l) Environmental Protection (Habitat) under the Ballina LEP 1987, with a portion of the land zoned RU2 Rural Landscape under the Ballina LEP 2012.. The area of the subject land identified for the restoration project is the subject of a proposed Environmental Conservation zone (as endorsed by Council in completing its Standard Instrument LEP in 2012). The application of this zone is on hold pending the outcome of the State Government's E zone review. The zoning of the land is shown in Figures 2 and 3.

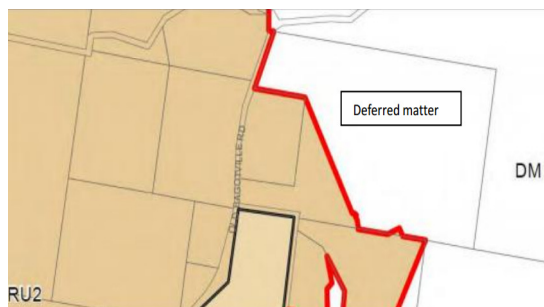


Figure 2 – Land Zoned RU2 (shaded) on Lot 5

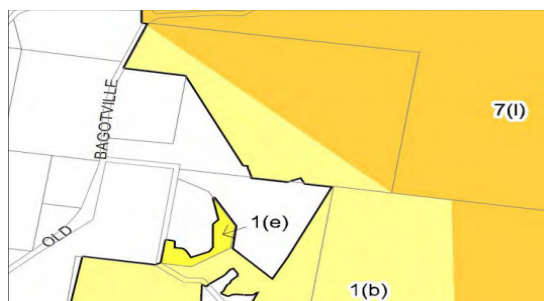


Figure 3 – Land Zoned 1(b) and 7(l) on Lot 5

9.4 Grant Funding - 20 Million Trees Program - Old Bagotville Road

Given the current and proposed zoning, a limited range of land uses is envisaged for the land. With respect to the acquisition of the land by Roads and Maritime Services, the restoration project would be undertaken outside the known area of interest for land acquisition as shown in Figure 4.

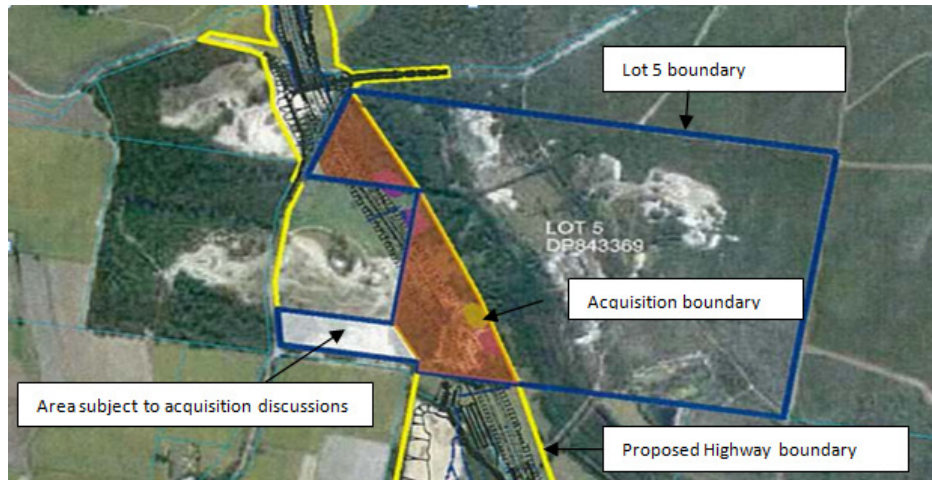


Figure 4 – Potential Area of Lot 5 Land Acquisition for Highway Upgrade

Further, the zoning and restoration project does not necessarily preclude acquisition of the entire site by the Roads and Maritime Services (in the case that this is the preference of Council or the RMS). In such a circumstance, it is suggested that Council would work with the State Government to enable the tree planting program to continue and to be preserved on the land. This approach may also be beneficial to Roads and Maritime Services in relation to their koala management and other biodiversity related obligations. Presently though, it is unknown as to the extent of land acquisition Roads and Maritime Services will ultimately realise.

Sustainability Considerations

- **Environment**
The Future Connections for Ballina's Koalas project seeks to improve the quality and extent of koala habitat on Lot 5. The project will also provide a broader biodiversity benefit.
- **Social**
The enhancement of koala habitat in the shire is part of supporting a sustainable koala population for the benefit of current and future generations.
- **Economic**
The area of proposed restoration is on land that Council may seek to have acquired by the RMS and this land has previously been considered for other land uses. This needs to be weighed up in relation to the environmental benefits of the restoration project.

Legal / Resource / Financial Implications

There are no specific legal implications associated with the delivery of the project known at this time.

The project is grant funded with a contribution from Council that can be funded from an existing program budget without adversely impacting the existing work program. Both Council staff and external contractors would likely be involved in the delivery of the project.

If the restoration project proceeds, it would reinforce the use of the site for conservation purposes. This needs to be considered in light of potential for other land uses and RMS acquisition of land. Notably though, the subject land has been identified by Council for environmental protection purposes under the LEP renewal program and there are significant biodiversity values known on the site and its surrounds.

Consultation

If the restoration project proceeds, it is anticipated that consultation will be undertaken with the Local Aboriginal Land Council and Roads and Maritime Services.

Options

Council has the options of proceeding to implement the planned Future Connections for Ballina's Koala project, deferring this matter to seek further information or declining the grant funding and implementation of the project.

Notwithstanding the previous concepts for alternate uses on the land, it is suggested that the ecological benefits arising from the project are valuable. Further, negotiations with Roads and Maritime Services in relation to land acquisition can continue in light of the restoration project (and the project may be beneficial to the RMS). On this basis, it is recommended that the Council endorse the implementation of the project as funded under the 20 million trees grant program.

If Council declines to proceed with the project on Lot 5, it is unlikely that Council will have an opportunity to undertake an externally funded habitat restoration project of this type in such a bio diverse area of the shire in the short term (given that such funding is limited). Council also has very few other sites in its ownership (and none in the Bagotville locality) that could provide for the extent of ecological benefit associated with the proposed project.

RECOMMENDATION

That based on the contents of this report Council endorses the implementation of the Future Connections for Ballina's Koalas project under the Federal Government's 20 Million Trees Program.

Attachment(s)

Nil

9.5 Ballina Shire Active Ageing Plan

9.5 Ballina Shire Active Ageing Plan

Delivery Program Strategic Planning

Objective To outline the draft Ballina Shire Active Ageing Plan and seek endorsement for its public exhibition.

Background

This report provides an outline of the process undertaken to develop the Active Ageing Plan for Ballina Shire and seeks endorsement from Council for the public exhibition of the draft Ballina Shire Active Ageing Plan (the Plan). A copy of the draft Plan has been provided to the Council under separate cover.

The Plan has been prepared in response to Council's August 2012 resolution relating to the preparation of an ageing plan for the shire [Minute No. 230812/18] and in line with action 3.3.1a – Implement ageing strategy for the shire in Council's 2014/15 Delivery Program and Operational Plan. The Plan has been delayed in its preparation in order to enable alignment with the State Government's North Coast Ageing Plan which was completed in mid 2014.

The ageing of our population should be seen as a positive social trend, one that indicates people are living longer, healthier lives. There is recognition that the Ballina Shire is a desirable place for older people to live, as demonstrated in the demographic Census data. The challenge for our community is to ensure that the current and future needs of our older residents are considered and planned for.

An Active Ageing Plan can assist in matching identified needs with current community assets and developing a long term goals that set out opportunities to improve existing community facilities as well as ensuring that any future community assets are accessible to older people.

The preparation of the Plan has included a stakeholder consultation process. A draft Plan has now been prepared for further community feedback via public exhibition. This report seeks Council's direction on the progression of the draft Plan to public exhibition.

Key Issues

- Promoting activity to enhance older people's opportunities to participate in community life
- Addressing the needs of older residents with infrastructure and facilities
- Public exhibition of the draft Active Ageing Plan.

Information

Council entered into a partnership with the Council On The Ageing (COTA) to undertake community consultation for the preparation of the Plan. A community forum was held that brought together older people, community organisations, service providers and representatives from State Government departments.

9.5 Ballina Shire Active Ageing Plan

The forum sought to identify and address a range of factors that impact on the lives of Ballina Shires' older residents. Issues raised included social isolation, housing choice and affordability, infrastructure, community facilities, public transport, community information and employment.

The responses from the forum participants were used to inform the preparation of the draft Active Ageing Plan. This Plan is the Shire's first Ageing Plan. It emphasises the need to ensure that our local infrastructure and community facilities are designed, constructed and maintained to ensure age appropriate access.

The Plan has, at its core, a set of key directions which aim to increase the wellbeing of our older residents. The Plan identifies actions that can assist Council and the broader community in ensuring that we all respond to the ageing of our population. The actions set out in the Active Ageing Plan are intended to promote community involvement of our older residents.

Council's overarching Community Strategic Plan (CSP), *Our Community: Our Future 2013- 2023* identifies four key planning directions including; Connected Community, Prosperous Economy, Healthy Environment and Engaged Leadership. The Active Ageing Plan sets out actions that contribute to the implementation of these key directions.

The Plan provides an explanation of each key direction and highlights issues raised through the consultation process. The proposed actions that have been identified suggest ways that Council and the community can work towards addressing the key directions identified in the Plan.

Sustainability Considerations

- **Environment**

Many older residents volunteer their time to work on various environmental activities throughout the Ballina Shire. The Plan includes actions that aim to support this type of activity.

- **Social**

The Active Ageing Plan is intended to align with Council's CSP. The CSP identifies 'connected community' as one of its four key directions. Improving opportunities for older residents to participate in community life is one way to achieve this, and other broader community planning goals. Social benefits also include:

- A sense of belonging;
- Improved opportunities for older people to participate in community life;
- Volunteering opportunities; and
- Improved quality of life.

Social benefits also arise via the creation and promotion of opportunities for older people to volunteer.

- **Economic**

Our older residents contribute greatly to the shire's economy. The plan seeks to increase participation in, and access to, a range of activities and in so doing encourage increased local opportunities and employment for older residents.

Legal / Resource / Financial Implications

As this Plan is a strategic level document for the purposes of planning for the ageing of our population, there are no legal implications associated with its endorsement for exhibition purposes. However, resourcing will need to be considered before a number of projects or activities suggested in the plan can be actioned.

Key opportunities or projects identified in the strategy, once nominated for action, will be integrated into Council's Delivery Programs and Operational Plans over time. Funding and resource provision in relation to these activities would therefore be considered in the context of the broader budgetary process.

Consultation

Council entered into a partnership with the Council On The Ageing, (COTA) for the development of this plan. COTA also provided Council with relevant reports and guidelines that promote the development of places for active ageing.

Representatives from COTA also supported the Plan's preparation by facilitating a community ageing forum which was attended by older people, local community organisations, aged service providers and representatives from State Government departments. Evaluations collated at the completion of the forum indicated that 95% of participants were either happy or very happy with the forum.

An internal Council working group has been operating. The working group has considered the findings of the community ageing forum and identified actions that aim to address the issues arising from the forum.

Options

1. Council may decide not to endorse the draft plan for public exhibition and cease the project. Given the extent of engagement undertaken to date, the strategic nature of the document and the opportunities it may afford in managing the shire's ageing population, this option is not recommended.
2. Council may elect to finalise the draft plan without going to public exhibition. This option is not recommended, as further community feedback on the draft plan before implementation is desirable.
3. Council may endorse the attached draft Active Ageing Plan for public exhibition, with or without amendment (subject to final formatting and typographic adjustments). This option is recommended as it provides an opportunity for further stakeholder and community feedback and enables the project to advance towards completion.

9.5 Ballina Shire Active Ageing Plan

A period of four weeks is recommended for exhibition of the Plan.

RECOMMENDATIONS

1. That Council endorses the attached draft Ballina Shire Active Ageing Plan for public exhibition.
2. That Council receive a further report on the Plan in the event that submissions are received. If no submissions are received then no further reporting is required and the Plan is adopted.

Attachment(s)

1. Draft Ballina Shire Active Ageing Plan (Under separate cover)

9.6 Policy (Review) - Donations Community Halls Capital Works Assistance

9.6 Policy (Review) - Donations Community Halls Capital Works Assistance

Delivery Program Community Facilities and Services

Objective To review the Donations Community Halls Capital Works Assistance Policy

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Donations Community Halls Capital Works Assistance Policy.

Council first adopted this policy on 24 January 2008 with amendments on 22 September 2011 and 26 July 2012. The reason this matter is now being reported is that the Council, at its Ordinary Meeting held on 24 July 2014 requested that a further review be undertaken.

Council staff has met with representatives from the various hall committees to discuss the current policy and have prepared a revised policy taking into account feedback received from the community groups. The suggested changes to the existing policy are canvassed in this report.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.
- The allocation of funds to support the continued operation of community halls.

Information

Each year in the lead up to the budget adoption, the Council invites applications for funding support from the hall committees which manage the shire's various public halls. Offers for funding are made within the allocated budget and recipients are required to have matching funds available for the nominated work. The review of this policy identified a major change which is to remove the requirement for groups to match donations on a dollar for dollar basis and replace it with the following:

Donated funds can be matched on a dollar for dollar basis or matched with in kind contributions, by the organisation which owns or is licensed to manage the hall.

The current clause benefits those halls that are able to generate an annual income which exceeds their annual operating expenses such as insurance and minor maintenance repairs.

The proposed policy change will allow those halls which typically generate just enough income to meet their annual expenses to apply for capital assistance.

9.6 Policy (Review) - Donations Community Halls Capital Works Assistance

The proposed change will assist those halls with limited financial resources to undertake works which under the current policy, would be difficult to fund.

A further recommended change is to the objective of the policy. The stated objective of the policy is to provide financial assistance to Council owned or controlled halls. In undertaking the review, it is proposed to change the objective to read:

The objective of the policy is to provide clear policy guidelines for the provision of financial assistance to Council owned or controlled halls, public halls on crown land and public halls on private land managed by incorporated bodies.

This change reflects current practice in recent years. It also recognises the important role all halls play in the life of communities, so all potential beneficiaries of funding are noted in the policy.

A final proposed change to the policy is the direction of unallocated funds to the hall maintenance budget at the end of the application process. This change is consistent with the intent of the policy (being to facilitate hall improvements) and will:

- Provide flexibility with the use of this funding for positive hall improvement outcomes.
- Allow the very limited budget for hall maintenance to be incrementally 'topped up' from time to time.

The formatting of the policy has been altered and additional changes have been marked in yellow. Otherwise the policy is still considered to be contemporary and reflects current legislation and therefore no further changes are recommended. A copy of the amended policy is contained in Attachment One.

Sustainability Considerations

- **Environment**
Not Applicable.
- **Social**
The various community halls play a significant role in the life of our local communities.
- **Economic**
Ongoing upkeep and improvements to halls improve the economic life of the facilities.

Legal / Resource / Financial Implications

Council typically allocates an amount, in the annual Operational Plan, for the purpose of providing assistance to be distributed within the parameters of this policy.

Aside from the changes identified above in relation to unallocated funds, there are no significant legal, resource or financial implications associated with the draft policy.

9.6 Policy (Review) - Donations Community Halls Capital Works Assistance

Consultation

During the review of the policy, all halls listed in the current policy were subject to site visits and discussions were held with representatives from the groups who manage each hall.

The exception was the Wardell Memorial Hall as at the time of the policy review there were no formal tenure arrangements in place to manage the hall.

The groups were asked to comment on the current policy and, specifically, on the current requirement for donations to be matched on a dollar for dollar basis.

There was a consensus amongst all groups that the clause which requires donations to be matched on a dollar for dollar basis should be removed and replaced with an option to match donations on a dollar for dollar basis or with in kind contributions.

As the proposed major change to the policy has been discussed with and supported by the various groups 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. It is suggested that there is not a need for any further report if there is no public comment.

Options

Council may accept or amend the proposed changes to the policy. On the basis that the changes provide for enhanced flexibility in delivery of hall improvement works or are housekeeping amendments, it is recommended that the policy be adopted as presented.

It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopts the amended Community Halls Capital Works Assistance Policy, as attached to this report.
2. That Council places this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then the policy will be considered to be adopted by Council.

Attachment(s)

1. Revised Donations Community Halls Capital Works Assistance Policy

9.7 Ballina Area Locality Naming

9.7 Ballina Area Locality Naming

Delivery Program Governance and Finance

Objective To invite the Council's review of the locality boundaries for Ballina.

Background

At its Ordinary Meeting held on 28 March 2013 the Council resolved (Minute No. 280313/11) to receive a further report on the preferred name for the Southern Cross Drive Industrial Estate locality, with particular reference to its surrounding residential areas. This area is presently located primarily within the Ballina locality in a formal sense and is sometimes also informally referred to as North Ballina.

Following internal consultation and consideration, a number of options in relation to locality naming for this area have been identified. The purpose of this report is to outline those options and to invite the Council to determine whether it wishes to proceed further with a proposal to review and adjust the existing locality boundaries for this part of the shire.

The existing locality boundaries in Ballina Shire were formalised in conjunction with the Geographical Names Board (GNB) in September 1996 and there have been no changes since that time. The assignment of locality boundaries forms part of the process for the assignment of property addressing to enable delivery of essential and emergency services. Locality boundaries identify the bounds of assigned geographic place names and do not directly relate to electoral boundaries or census collector districts.

The locality boundaries referenced in this report relate to the northern part of the currently assigned locality of Ballina which includes such areas as the Southern Cross Industrial Estate, Ballina Byron Gateway Airport, the North Lakes and Ferngrove residential precincts, the Palm Lake Resort and the Ballina Nature Reserve.

A map showing the current gazetted locality boundaries for this area is included in Attachment One.

Key Issues

- Advantages and disadvantages of amending locality boundaries.
- Process for implementing proposed amendment.
- Community consultation.

Information

As part of reviewing the naming for the northern part of the Ballina locality, this report considers the advantages and disadvantages of assigning a new name to this area. It also considers options for adjusting the current locality boundaries in the northern parts of the current gazetted locality of Ballina.

9.7 Ballina Area Locality Naming

The subject area contains a high concentration of business and industrial premises as well as established residential areas (including the North Lakes and Ferngrove residential estates), an aged care facility and public utilities.

Also located in this area are the Ballina Byron Gateway Airport, the Ballina Racecourse and Council's Works Depot, Waste Management Centre and Wastewater Treatment Plant. Because of this, consideration should be given to the impacts a locality name change may have, as the official address of these facilities would change from "Ballina" to whatever alternative name may be assigned.

A change to the locality name could create substantial disruption for business operators and the Council through the need to adjust address information and associated marketing material (e.g. signage and advertising). Residential properties would also be affected by the need for residents and owners to adjust contact details. There is also the issue of reaching agreement as to the new name to be applied. In addition to the above, there does not appear to be an overriding need to change the locality name nor a significant level of concern expressed to Council by stakeholders in relation to existing locality naming.

Further, with the identification of Ballina as a developing major regional centre and Council's active engagement around this through the preparation of the Ballina Major Regional Centre Strategy, it may be more advantageous for private businesses and the key public facilities in the Southern Cross Industrial Area to retain their identity as "Ballina". The incorporation of major employment lands within the Ballina locality is also likely to be economically and socially advantageous in the longer term.

Any change in locality name/s will require extensive regulatory and administrative processes including community consultation. A change in locality naming can be expected impact on business and industry owners, property owners and public authorities as a result of a formal change to property addresses in the area. Attachments Two and Three are fact sheets prepared by the GNB that outline the processes and criteria applicable to proposals to apply new names or change existing geographical place names.

If Council decides to progress the new locality name, Council could nominate a name for the new location and present that for community feedback. Alternatively, Council could invite ideas from the community, utilising the GNB's Guidelines for the determination of place names as criteria against which to evaluate proposals. This would be the preferred approach if Council wishes to proceed.

Once Council has indicated its preference (and citing reasons why) the GNB administers a process of community consultation as a verification exercise before a final decision is made.

Although locality re-naming within Ballina Shire has not occurred recently, Council has had some recent experience with changes to road names associated with the Ballina and Alstonville Bypass projects.

Council is also currently considering a new name for the Cumbalum Precinct B area.

Residential Areas

The Council resolution of 28 March 2013 emphasises “*particular reference to the residential areas*”. These residential areas are identified on the map contained in Attachment Four and include:

- Ferngrove residential estate
- Northlakes residential estate
- River Oaks residential estate
- Palm Lake Resort (formerly Aspen LV Plus/Sovereign Gardens)
- BUPA Aged Care Facility
- Ballina Gardens caravan park and manufactured home estate
- Pacific Palms Village manufactured home estate
- Southern Cross Village manufactured home estate
- Racecourse Road residential precinct
- 40 residential properties on North Creek Road and Corks Lane

As shown in Attachment Four, the residential areas in the locality are scattered and do not form a discrete area in their own right. A proposal to apply a new locality name only to these residential areas (excluding the industrial and non-residential areas) is not likely to comply with the GNB place naming guidelines and as such would be unlikely to be supported by the GNB.

Providing a locality name either separately or collectively just to the residential areas could have the effect of creating isolated and ambiguous place names that have reduced public utility and are difficult to administer, given their small geographic and population sizes. For these reasons, this approach is not recommended.

New Locality Name

If, after consideration of the above, a new name for the entire northern area of Ballina is determined to be appropriate, the recommended line of division is to follow the geographic boundary formed by the North Creek Canal from Fishery Creek to North Creek. This would allow that part of the current Ballina locality north of the canal to be renamed. The area would include all residential, industrial, rural and other areas north and west of the canal. A possible option, which is currently occasionally and informally used to identify the area, would be “North Ballina”. Another option is the consideration of a new locality name. A possible area for the new locality name based on a simple break up of the Ballina locality into two parts is shown on the map contained in Attachment Five.

The application of any new locality name to this area would need to be considered in accordance with the GNB Guidelines (Attachments Two and Three). If a new locality name is to be proposed, Council would need to establish how it would choose a preferred name and how consultation with the community would be undertaken.

Once Council has chosen a preferred name, it must then be submitted by application to the GNB for assessment, public notification, final approval and gazettal by the GNB.

9.7 Ballina Area Locality Naming

The GNB Guidelines discourage the application of place names that use the “*cardinal points of the compass as a prefix or suffix to an existing name*” but may allow the approval of “*well established names which carry such a prefix or suffix*”.

While there may be some merit to formalising the name “North Ballina” over the subject area, consideration should be given to the net benefit to the community overall. To proceed with the change will result in regulatory and administrative processes and a commitment of Council (public resources) as well as burden on business/industry owners, property owners, residents and public authorities to effect the change.

Adjustments to Existing Locality Boundaries

The investigation of existing locality boundaries for this report has revealed several areas for possible locality boundary adjustments that could be undertaken in conjunction with the above. These potential adjustments could more correctly delineate specific land uses and land holdings. The locations of these adjustments (additional to the potential locality boundary shown in Attachment Five) are summarised below and are shown on the map included in Attachment Six.

The adjustments identified below are not recommended unless undertaken as part of a broader renaming process for the subject locality.

Ballina Byron Gateway Airport and Ballina Waste Management Centre

Parts of the land occupied by the Ballina Byron Gateway Airport and the Ballina Waste Management Facility are currently located within the locality boundaries of Cumbalum. As detailed on the map in Attachment Six, the boundary between Ballina and Cumbalum could be adjusted to ensure the entire airport and waste management centre sites are fully within the Ballina locality.

Flathead Lane

Flathead Lane was created and formally named by Roads and Maritime Services as part of the Ballina Bypass project. It now forms the primary access road for the Koellner Steel facility (located in Cumbalum) and also provides access to several undeveloped rural properties under the ownership of RMS. This area is currently within the locality boundaries of West Ballina but has no direct connection with the predominant urban area of this locality. The locality boundaries could be adjusted to transfer the entire Flathead Lane area from West Ballina to Cumbalum as detailed on the map in Attachment Six.

Ballina Wastewater Treatment Plant

The current locality boundary between Ballina and West Ballina follows Fishery Creek and divides Fishery Creek Road between these two localities.

The Ballina Wastewater Treatment Plant and several rural residential properties on Fishery Creek Road have a direct connection to West Ballina but remain formally within the Ballina locality.

9.7 Ballina Area Locality Naming

The entire length of Fishery Creek Road, including the Ballina Wastewater Treatment Plant, could be transferred into the West Ballina locality based on its physical connections to this area. The possible area for transfer is detailed on the map contained in Attachment Six.

Ballina Nature Reserve

It has also been identified that parts of the Ballina Nature Reserve are located within different localities. A map of the nature reserve showing the current locality boundaries is included in Attachment Seven.

If it is decided to proceed with a proposal for adjustments or amendments to existing locality names and/or boundaries, this proposal could also include changes to the locality boundaries in the vicinity of the Ballina Nature Reserve this is considered appropriate.

As detailed on the map in Attachment Seven, the Ballina Nature Reserve covers a large area of land in what is an isolated and relatively inaccessible part of the shire. While the nature reserve is split amongst several adjoining locality areas, the nature reserve is not managed as a space open to or accessible by the public with the land not reliant on having official property addresses.

Because of this, no measurable benefits are anticipated from adjusting the locality boundaries in this area and there are no current or expected future issues with the nature reserve being located over several different locality areas. For these reasons, adjustments to the existing locality boundaries as they affect the Ballina Nature Reserve are not recommended.

If it is determined appropriate to adjust the locality boundaries affecting the Ballina Nature Reserve, an option could be to change the existing boundaries to ensure the nature reserve is located fully within the Ballina locality (or whatever locality name is ultimately chosen for the northern area of the Ballina locality).

Sustainability Considerations

- **Environment**
Not applicable. The issues discussed in this report relate to the placement of boundaries for administrative purposes.
- **Social**
There is likely to be disruption caused to business, landowners, residents and Council operations arising from a change to the locality name.
- **Economic**
While adjustments and/or amendments to the locality name are considered to be economically sustainable in the longer term, changes to existing localities will likely result in short term impacts on business, landowners, residents and Council operations.

Legal / Resource / Financial Implications

Locality names and boundaries are regulated by NSW Government legislation, policy and procedures administered by the Geographical Names Board in association with Land & Property Information.

Council can make requests to the GNB for alterations or additions to official place names, including locality boundaries, and plays a concurrence role in the assignment of new names or the adjustment to existing names or boundaries.

Final approval for any new or changed place names or locality boundaries is the responsibility of the GNB and is undertaken in accordance with their guidelines.

In relation to locality names and their boundaries, Council bears the responsibility for assigning official addressing for all properties in accordance with adopted Australian standards. These official addresses are used by numerous bodies both public and private to enable service delivery and street identification.

Implementing changes to locality names and/or boundaries will require a commitment of public financial resources and staff time. The process to change locality names and boundaries will require Council to undertake the necessary regulatory and administrative processes and a commitment of public resources to submit a proposal to the GNB for final approval. As also detailed in this report, any proposal submitted to the GNB is approved at its discretion subject to compliance with the specified place naming guidelines.

Based on the above, any decision to proceed with changes to locality names and/or boundaries should be balanced on the overall public benefit and if the desired outcomes represent the best use of Council's (public) financial resources and staff time.

Consultation

Some internal consultation has been undertaken between Councillors and staff. If the Council resolves to proceed with any or all of the various proposals relating to locality names and boundaries discussed in this report, community consultation will be required prior to submission of the final proposal to the GNB for approval.

Options

There are a number of options open to the Council as detailed in this report. These options are summarised below.

1. Take no action

An option open to the Council is to take no action in relation to the current locality name and boundaries of Ballina. This will mean that the current locality boundaries of Ballina will remain unchanged. The locality of Ballina will continue to include Ballina Island as well as those areas north of the canal such as the Southern Cross Industrial Estate, various identified residential areas, and the majority of the Ballina Nature Reserve.

As detailed in this report, the proposal to change the locality name and boundaries for the northern area of the Ballina locality will require the commitment of public resources for what could be considered minimal net benefit. If the change is successful, it will also change the formal address assigned to all properties in the subject area. This is considered to be significant given the concentration of business, industrial and residential properties in the area. For these reasons, this is the recommended option.

2. Apply a new locality name

The option is open to the Council to seek the application of a new locality name to the area currently within the boundaries of the Ballina locality north of the North Creek Canal. This area is currently informally identified as "North Ballina" and includes the Southern Cross Industrial Estate, various residential precincts identified in this report, the Ballina Byron Gateway Airport and a number of other institutions and organisations.

If the Council is inclined to proceed with this approach, it is recommended that community consultation be undertaken in relation to formally naming the identified area as North Ballina.

3. Adjust the existing locality boundary for Ballina

As detailed in this report, several locations have been identified where refinements to the existing locality boundary could be considered. These sites include parts of the Ballina Byron Gateway Airport, the Ballina Waste Centre, the Ballina Waste Water Treatment Plant and the area around the recently constructed Flathead Lane. Consideration has also been given to adjusting the locality boundaries in the vicinity of the Ballina Nature Reserve.

If the Council resolves to proceed with the proposed change to the locality name in Option 2 above, it is also recommended that the identified locality boundary adjustments are included with the proposal.

This option is not recommended in isolation of broader locality name changes due to the limited material benefits compared to resource costs.

RECOMMENDATIONS

1. That Council notes the information contained in this report in relation to the locality naming and boundaries in the Ballina area.
2. That based on the contents of this report Council resolves to take no further action in relation to amending and/or changing the locality boundaries for Ballina at this time due to the likely costs and limited benefits to be gained from such an undertaking.

Attachment(s)

1. Current Gazetted Localities - Ballina Area Map
2. GNB Fact Sheet - Guidelines for the determination of place names
3. GNB Fact Sheet - Determining suburbs and localities in NSW
4. Residential Areas Map
5. Potential Area for New Locality Name
6. Possible Locality Boundary Adjustments
7. Locality Boundaries - Ballina Nature Reserve

10.1 Investment Summary - December 2014

10. General Manager's Group Reports

10.1 Investment Summary - December 2014

Delivery Program Governance and Finance

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

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a council must provide a monthly report (setting out all money Council has invested), to be presented at the ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of December 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 December 2014 was \$63,762,000. This represents a decrease from November of \$1,001,000. Council's investments as at 31 December are at an average (weighted) rate of 3.56%, which is 0.80% above the 90 Day Bank Bill Index of 2.76%. The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 December 2014 was \$3,347,762.

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 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
Total		100%

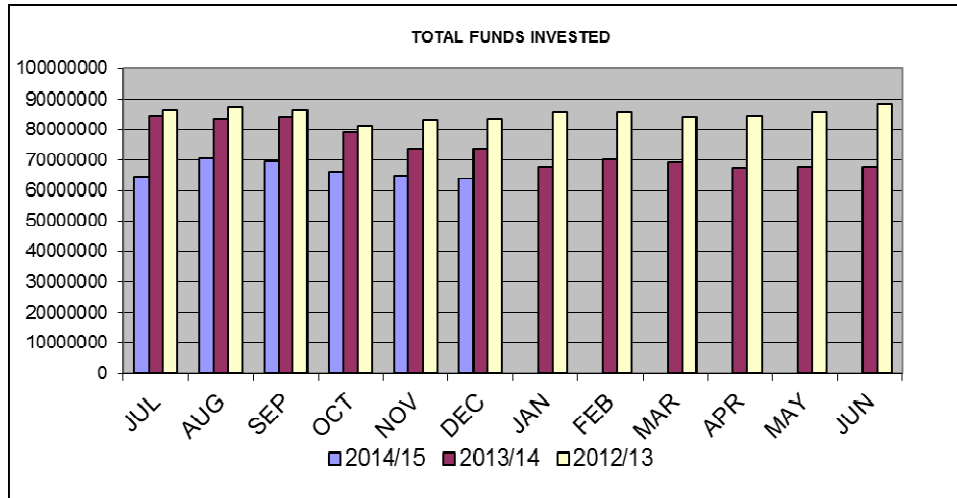
* Based on reserves held as at 30 June 2014

10.1 Investment Summary - December 2014

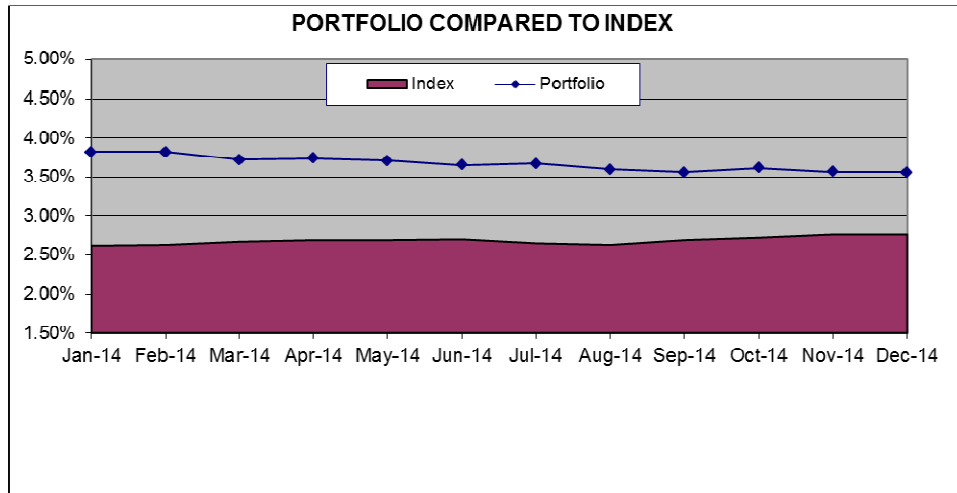
A. Summary of Investments by Institution

Funds Invested With	ADI Rating	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments						
Goldman Sachs	AA-	1,000	1,000	0	1.6%	
National Australia Bank	AA-	1,788	1,788	0	2.8%	
National Wealth M'ment Holdings	A	2,000	2,000	0	3.1%	8%
Rated Institutions						
AMP Bank	A+	6,000	6,000	20%	9.4%	
Bank of Queensland	BBB+	3,000	3,000	10%	4.7%	
Bank of Western Aust	AA-	8,000	8,000	20%	12.5%	
Bendigo & Adelaide Bank	A-	0	2,000	10%	3.1%	
Commonwealth Bank of Australia	AA-	3,975	3,974	20%	6.2%	
Defence Bank Ltd	BBB+	1,000	1,000	10%	1.6%	
Greater Building Society	BBB	2,000	2,000	10%	3.1%	
ING Bank Ltd	A-	4,000	4,000	10%	6.3%	
Members Equity Bank	BBB+	4,000	4,000	10%	6.3%	
National Australia Bank	AA-	8,000	8,000	20%	12.5%	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10%	3.1%	
Rural Bank Ltd	A-	1,000	0	10%	0.0%	
Suncorp-Metway Bank	A+	10,000	10,000	20%	15.7%	
Westpac Banking Corporation	AA-	7,000	5,000	20%	7.8%	92%
Unrated ADI's		0	0	\$1m	0.0%	0%
Total		64,763	63,762		100%	

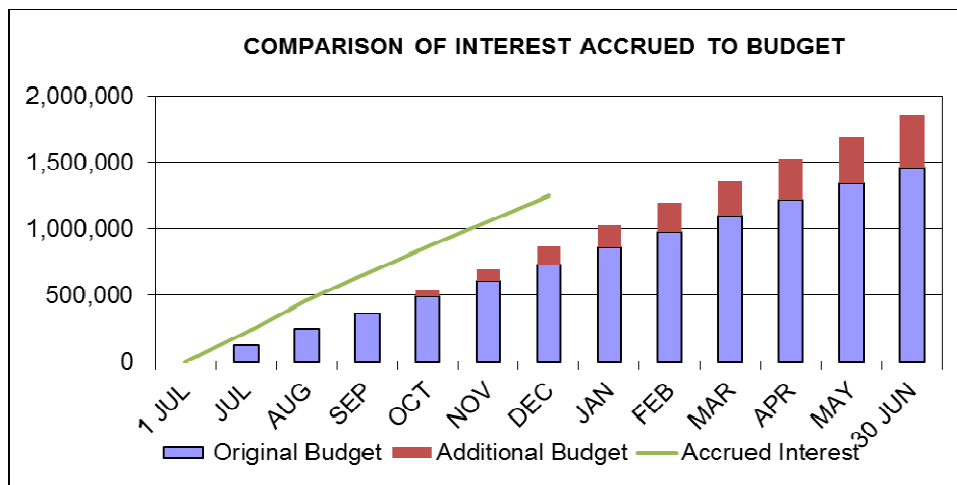
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - December 2014

E. Investments held as at 31 December 2014 (\$,000)

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
at call	Commonwealth Bank Of Australia	CDA	2.45%	at call	1,981	1,981
20/09/04	National Australia Bank (ASX Listed)	FRN	4.03%	Perpetual	1,788	1,407
12/04/06	Goldman Sachs	FRN	3.23%	12/04/16	1,000	998
16/06/06	National Wealth M'tment Holdings	FRN	3.37%	16/06/26	2,000	1,952
24/01/12	ING Bank Ltd	FRTD	4.69%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.40%	06/02/17	1,000	1,027
25/01/13	Commonwealth Bank Of Australia	TD	4.25%	25/01/18	1,993	2,077
05/06/13	National Australia Bank	FRTD	3.90%	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.17%	07/06/16	2,000	2,007
24/01/14	AMP Bank	TD	3.80%	23/01/15	2,000	2,000
25/02/14	Westpac Bank	FRN	3.67%	25/02/19	2,000	2,019
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	AMP Bank	TD	3.50%	02/02/15	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
04/09/14	Suncorp-Metway Bank	TD	3.45%	03/03/15	2,000	2,000
22/09/14	Members Equity Bank	TD	3.55%	22/03/15	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
03/11/14	Newcastle Permanent Bld Society	TD	3.35%	02/02/15	2,000	2,000
03/11/14	National Australia Bank	TD	3.58%	04/05/15	2,000	2,000
03/11/14	Bank of Queensland	TD	3.50%	04/05/15	1,000	1,000
05/11/14	BankWest	TD	3.45%	04/05/15	2,000	2,000
06/11/14	BankWest	TD	3.45%	05/05/15	2,000	2,000
10/11/14	BankWest	TD	3.45%	11/05/15	2,000	2,000
10/11/14	Westpac Bank	TD	3.35%	11/05/15	2,000	2,000
10/11/14	Members Equity Bank	TD	3.55%	10/04/15	1,000	1,000
13/11/14	National Australia Bank	TD	3.57%	25/05/15	1,000	1,000
13/11/14	ING Bank Ltd	TD	3.52%	13/05/15	1,000	1,000
17/11/14	Members Equity Bank	TD	3.50%	18/05/15	2,000	2,000
17/11/14	Defence Bank	TD	3.50%	15/06/15	1,000	1,000
20/11/14	Bank of Queensland	TD	3.55%	19/05/15	1,000	1,000
20/11/14	Bank of Queensland	TD	3.55%	02/06/15	1,000	1,000
24/11/14	Suncorp-Metway Bank	TD	3.60%	25/05/15	1,000	1,000
24/11/14	Suncorp-Metway Bank	TD	3.60%	01/06/15	1,000	1,000
22/12/14	Bendigo & Adelaide Bank	TD	3.40%	22/06/15	2,000	2,000
Totals					63,762	63,468
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

RECOMMENDATION

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

Attachment(s)

1. TCorp Local Government Economic Commentary for December 2014

10.2 Donations - Council Fees

10.2 Donations - Council Fees

Delivery Program Governance and Finance

Objective To invite Council to consider a request for financial assistance to pay Planning and Development Fees.

Background

Council's annual budget includes funding for donations to community groups relating to Council fees for capital works and major fund raising events. This funding is supported by Council Policy Ref. No. D04 – Assistance with Council Fees for Community Groups.

The following request complies with the policy.

A copy of the request is attached.

Key Issues

- Community benefit
- Funding available

Information

The Rainbow Children's Centre Inc. (DA 2014/5044)

The Rainbow Children's Centre Inc has requested a refund of fees relating to DA 2014/5044 (\$1,875.75). A copy of the request is attached.

The actual fees paid are as follows:

Description	Amount (\$)
Plumbing & Drainage Inspection Fee	460.00
Complying Development (Alterations & Additions)	328.75
Wastewater Plan Admin Fee (Sewer/Septic)	60.00
Complying Development – Inspection Fee	640.00
Section 68) Plumbing Application Fee (Sewer)	160.00
Long Service Levy	227.00
Total	1,875.75

In respect to waiving or refunding fees typically Council only waives internal fees and not external charges such as advertising or State Government levies.

The only external fee in this application is the long service levy, therefore if Council wishes to support this request one option would be to donate \$1,648.75, being the total paid less the long service levy \$227.

Sustainability Considerations

- **Environment**
Not Applicable

10.2 Donations - Council Fees

- **Social**
Donations can provide significant community benefits.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The current status of the donations budgets for 2014/15 is as follows:

Items	Budget	Allocated	Balance
Donations (General)	50,000	39,676	10,324
Donations (Public Halls)	41,000	39,802	1,198
Donations (Planning Fees)	2,000	2,439	(439)
Net Amount Available			11,083

Consultation

No particular consultation has been undertaken in respect to this matter

Options

The options are to approve or decline the request. The recommendation is to approve this request as it is consistent with Council policy, excluding the long service levy.

RECOMMENDATION

That Council approves the refund of fees for DA 2014/5044, excluding the Long Service Levy paid to an external party, resulting in a total refund of \$1,648.75

Attachment(s)

1. Letter - The Rainbow Children's Centre Inc.

10.3 Water Consumption - 262-268 Lismore Road Wollongbar

10.3 Water Consumption - 262-268 Lismore Road Wollongbar

Delivery Program Governance and Finance

Objective To provide Council with information as requested regarding water consumption following a ratepayer request for financial assistance against higher charges due to a water leak event.

Background

In November / December 2014, the owners of 262-268 Lismore Road Wollongbar corresponded to Councillors seeking financial assistance after receiving a large water consumption bill caused as a result of a water leak event at their property. Their request focussed on the perceived inequity of our increased water consumption charge per kiloliter, once water consumption exceeds 350 kilolitres per annum. The 2014/15 charge increases from \$2.02 to \$3.04 per kilolitre after 350 kilolitres.

The cost per kilolitre for bulk water supply that Council pays Rous Water is approximately \$1.60.

Council requested a report regarding this matter at the December 2014 Ordinary meeting. This report satisfies that request.

Key Issues

- Council policy
- Fairness, equity and precedents

Information

All property owners are responsible to pay for water that passes through the meter.

Extensive water saving education material has been provided to consumers for many years. The primary cause of high accounts is water leaks and information about how to check for water leaks is printed on the reverse side of our water billing notice.

Council staff review high water consumptions following receipt of meter reading data each quarter. As a courtesy, we contact consumers who have used over 100% more water than normal, to alert them of higher than usual water consumption and to provide them with information on leak detection.

There are approximately 13,600 water billing assessments within Ballina Shire. Depending on seasonality, Council staff will contact between 100 and 200 property owners each quarter.

In the case in question, water consumption for the billing quarter (6 June 2014 to 12 September 2014) was 870 kilolitres, with the owner's bill being \$2,287.80.

10.3 Water Consumption - 262-268 Lismore Road Wollongbar

There was also a higher than normal water consumption of 136 kilolitres for the previous billing period (11 March to 6 June 2014).

Normal water consumption for this property averages just above 70 kilolitres per quarter (generating a bill of around \$145.00).

Council staff contacted the owners regarding their high water consumption for the June to September 2014 period however, they had already realised there was a water leak and had fixed it prior to staff telephoning. The owners were not contacted in regard to their March to June 2014 consumption as it was not more than 100% of the prior quarter consumption.

The owners have now entered into a periodical payment arrangement with Council to provide for the water consumption charges over a seven month period with first payment made 30 December 2014. They are unable to effect full payment due to their current financial position. This means they will also be paying approximately \$65 in interest charges (8.5% p.a. in 2014/15) over the term of the repayment period.

The subject water leak has increased water consumption past the 350 kilolitres step one rate threshold for the 2014/15 rating year, with 520 of the 870 kilolitres consumed during the June to September 2014 billing quarter charged at the step two rate. All future 2014/15 water consumption will attract charges at the higher step two rate.

The following table provides water consumption charges under the present charging structure and compares this if the consumption was charged at the current step one rate. It also provides a comparison to an estimated shire wide single rate per kilolitre (i.e. if the inclining step rate was abolished).

**Table – 2014/15 Water Consumption Charges Comparisons
262-268 Lismore Road Wollongbar**

Period ending	Total Consumption (KL)	Current Structure – Step Rate over 350 KL (\$2.02/\$3.04)	Charges at 2014/15 Step one rate only (\$2.02/KL)	Charges at estimated shire wide single rate** (\$2.29/KL)
September 2014	870	2,287	1,757	1,992
December 2014	68	206	137	155
March 2015 *	75	228	151	171
June 2015 *	70	212	141	160
Total	1,083	2,933	2,186	2,478
Difference (\$)			(747)	(455)
Difference (%)			(25%)	(16%)

* The March 2015 and June 2015 quarters have been estimated using historical consumptions.

** The 2014/15 single shire wide rate per kilolitre was estimated based on 2013/14 total water consumption charges income and total water consumed (kilolitres), and also allowed for an annual price increase.

The shire wide single rate has been included, largely for information purposes, as it is a proposal that is being pushed largely by finance and rating staff due to perceived inequities with the two step structure.

10.3 Water Consumption - 262-268 Lismore Road Wollongbar

This is not a concept totally supported by all sections of Council and it is hoped that a report on this issue will be submitted to one of the forthcoming Finance Committee meetings, as it is a matter that staff would like to see Councillors review.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Council needs to be mindful of the social impacts of our fees and charges.
- **Economic**
If financial assistance is provided, the lost revenue would be negligible in comparison to total revenue.

Legal / Resource / Financial Implications

There are limited direct financial implications, dependent on the final decision of Council. Council does however need to be mindful of the ramifications (i.e. precedents) of any decisions.

Consultation

There has been significant on-going consultation with the owners.

Options

The options revolve around providing assistance or not.

In considering assistance it is important to acknowledge the earlier comments in this report where it was mentioned that Council staff contact around 100 to 200 owners per quarter in respect to possible concerns over excess consumption. A percentage of these high consumptions could have experienced similar circumstances to the subject property.

Many property owners enquire with staff regarding the possibility of financial relief for water leak events and are advised that current policy does not provide for any such assistance. Councillors would not be aware of the majority of these requests. Furthermore, some property owners experience water leaks of varying degrees and circumstances and may not seek financial assistance at all.

10.3 Water Consumption - 262-268 Lismore Road Wollongbar

If Council does wish to provide support to these owners then this should only be conducted through some sort of agreed policy position. For example if the preference is to charge the excess only at step one, which is a reasonable position, then a policy should be formulated to cover all situations such as this. Council followed a similar process in initially creating the Concealed Water Leaks Policy, however that was then formally rescinded in May 2014 due to concerns over cost.

Council staff do have a difficult job managing these types of issues every day and therefore Councillors, who are not regularly exposed to these issues, need to be careful not to change policy due to one-off incidents. However in stating this Council staff recognise that the two step tariff can be unreasonable for someone who has incurred a leak.

The recommendation that follows is to note the actions currently being taken as that represents the current policy position of Council.

If Council does wish to provide support then one alternate recommendation could be as follows:

- 1. That Council authorises the General Manager to provide financial relief to the owners of 262-268 Lismore Road, Wollongbar, in respect to their excess water account, by only charging the excess water at the step one rate. This decision reflects the current financial situation of the owners and also some concerns over the two step charging structure being applied in the case of unforeseen water loss.*
- 2. That Council receive a report that outlines a Policy for the charging of the step one tariff only in the case of unforeseen water leaks.*

RECOMMENDATION

That Council notes the contents of this report in respect to excess water consumption at 262-268 Lismore Road, Wollongbar and accepts that the procedures being implemented reflect Council's charging structure.

Attachment(s)

Nil

10.4 Local Government Election 2016

10.4 Local Government Election 2016

Delivery Program Governance and Finance

Objective To authorise the NSW Electoral Commission to administer the 2016 Local Government Election.

Background

Section 296 of the Local Government Act requires councils wishing to contract the NSW Electoral Commission to administer the September 2016 Local Government Election to pass a resolution to that effect, at least 18 months before the next ordinary election.

This section arose when the NSW State Government passed the Local Government (Amendment) Elections Act 2011, which meant that Section 296 of the Local Government Act allows council elections to be administered by the general manager of the council concerned. Prior to this amendment the NSW Electoral Commission managed the elections for councils.

Section 296 now means that councils have the option of:

- a) contracting the NSW Electoral Commission – being the NSW State Government
- b) contracting another service provider
- c) running the election themselves.

The need for this section originated in 2011 when the NSW Electoral Commission advised councils they would be charging the full cost of conducting elections, which subsequently resulted in a significant increase in election costs. In order to appease councils the State Government then allowed councils to conduct their own elections, or contract another service provider.

The report that follows seeks Council's determination in respect to how the 2016 election will be managed to ensure we comply with the 18 month notice period.

Key Issues

- Limited providers
- Cost

Information

There are limited alternate service providers for election services, with the only other known provider being the Australian Election Company (AEC) which has largely managed elections in Queensland.

For the 2012 election LGNSW arranged for AEC to provide a presentation / briefing to councils in 2011. NOROC also took the opportunity for the AEC to provide a presentation to the Northern Rivers councils on 23 September 2011.

10.4 Local Government Election 2016

At that time there were concerns about the ability of AEC to deliver a local election, as they had not had any experience in conducting a complete election for a NSW local government authority in many years and their work had been focused on more specific industry based elections.

Richmond Valley Council subsequently obtained a quote from AEC for their election and that quote was approximately \$170,000 to \$190,000. The NSW Electoral Commission estimate for Richmond Valley was \$115,000 to \$130,000 and Richmond Valley then resolved to proceed with the NSW Electoral Commission.

The NSW State Government actually conducted an Inquiry into the conduct of the 2012 elections, primarily due to this issue of cost. The report on that Inquiry and the State Government's response are available at the following link:

<http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/3310CB62E97A9793CA257CA8000DF143>

Some interesting extracts from that report include:

Fourteen councils that resolved to conduct their own elections did so under a range of different administrative arrangements. Ten councils outsourced the running of the election in its entirety, including the ballot count, to the Australian Election Company. A further three councils used the services of the Australian Election Company to varying degrees, including Botany Bay and Sutherland which purchased manuals and other resources, but otherwise conducted their elections in-house. Lane Cove similarly used some services from the Australian Election Company but otherwise managed its own count. Only one council, Gunnedah, conducted its election wholly in-house.

Another council, Narrabri, had initially resolved to conduct its own election but subsequently faced considerable difficulties in making the necessary arrangements to ensure a successful election. As a result, Narrabri was forced to make alternative arrangements by engaging the services of the Electoral Commission fairly late in the electoral cycle.

One further council, Cessnock, also sought to change their arrangements by switching from an outsourced election to one conducted by the Electoral Commission, but was unable to do so due to legislative limitations and lateness. (pages 12-13)

The report also examines the cost for the Council conducted elections with pages 20 to 21 stating as follows:

While many of the councils that opted for Commission-run elections also reported that the actual cost was lower than the initial estimates, the figure approximating or approaching 15% still represents a significant saving. However, it should also be noted that the savings were not uniform across all 14 councils. While Sutherland Shire Council and Lane Cove Council reported a potential saving of 31% and 27% respectively, Kempsey Council reported that its final costs were 11% over the estimate, while Cessnock Council's costs were 15% over the estimate.

10.4 Local Government Election 2016

Ballina Shire Council's actual cost from the NSW Electoral Commission was 6% less than the original estimate provided by the NSW Electoral Commission (i.e. \$213,700 as compared to an estimate of \$227,800 – these figures are GST inclusive).

In respect to final costs for the council conducted elections the Hills Shire Council made the following point in the State Government report (page 17):

A number of councils will complain that the Electoral Commission charges were too high and that they were able to run elections at a lower cost. I challenge these councils to justify that they have fully costed all activities. Further, if these councils have the facilities, staff and resources to conduct the elections, then I would also question whether or not in some situations that these councils are over resourced in the first place.

These sentiments are somewhat shared by Council staff in that conducting an election is a huge undertaking and there is no way Ballina Shire Council could undertake an election without their being a significant detrimental impact on existing operations.

Council actually made a submission to this State Government Inquiry with one of our key issues being the requirement for a declaration of disclosure to be accompanied by a certificate of an auditor was problematic, particularly for candidates in regional areas; i.e.

Ballina Shire Council told the Committee that in their area, it is very difficult to find an appropriate auditor. They stated that:

... the requirement for an audit certificate to be completed by a registered company auditor is unreasonable and arduous, particularly in regional areas due to the expense involved, the low financial threshold and the difficulty in identifying a service provider. For example in Ballina Shire we only have one registered company auditor (page 35).

The Inquiry report ultimately provided a total of 14 recommendations in to the management of elections and a copy of the State Government's response to the recommendations is included, for information purposes, as an attachment to this report. A number of these deal with electoral matters not necessarily related to the contents of this report, however the attachment does provide an overview of the State Government's perspective on the matters raised in the Inquiry.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Elections are an essential component of the democratic process.
- **Economic**
The Local Government Election is a significant cost to Council every four years.

Legal / Resource / Financial Implications

The 2012 election had a total cost of \$199,800 (ex GST) which includes the NSW Electoral Commission invoice of \$194,300 (ex GST).

Council's Long Term Financial Plan has an estimated cost of \$230,000 (ex GST) for the 2016 election with funds being transferred to a reserve each year to help offset the cost of the election.

Consultation

Discussions have been held with the NOROC councils to determine their position on this issue.

Council has shared a returning officer with Byron Shire for the last two elections resulting in savings in direct costs to both councils.

Options

What comes through in the research for this matter is that the decision to undertake your own election, or even outsource the election to another service provider, comes with a number of risks in respect to access to information from the NSW Electoral Commission, the need for qualified staff etc.

From discussions with the NOROC councils they all appear to be heading towards appointing the NSW Electoral Commission, (Byron, Lismore, Richmond Valley and Tweed have resolved to appoint the Commission) and overall there appears to be little to gain from researching other providers or undertaking our own election. Therefore the recommendation is to appoint the NSW Electoral Commission.

The Office of Local Government (OLG) has drafted model resolutions to appoint the Commission to ensure resolutions conform with the legislative framework, with the OLG also stating that there is no need to add any additional wording because the resolutions may either become ineffective, or unworkable.

The standard wording has been included in the recommendation that follows.

The OLG has also provided the following advice in respect to these resolutions:

- 1) *Where Council intends to engage the NSWEC to conduct the Council's September 2016 ordinary election, the model resolution for the all elections contract should be used*
- 2) *The all elections contract covers the ordinary election, any poll or referendum that might be held with the ordinary election, and any subsequent by-election poll or referendum that may occur during the term of the contract (4 years).*
- 3) *Any time after the 2016 ordinary election, either Council or the NSWEC can terminate an all elections contract by giving four weeks written notice to the other party.*
- 4) *If the all elections contract isn't terminated beforehand, it automatically expires 18 months prior to the 2020 ordinary elections i.e. March 2019.*

Other Matters - Constitutional Referendums and Polls

Constitutional referendums are binding and can be held on matters such as the popularly elected Mayor, changes in the number of wards, removal of wards or reductions in the number of councillors. It is considered that Ballina Council's current governance structure (popularly elected mayor, three wards) works reasonably well and no change is recommended.

A constitutional referendum was actually conducted at the September 2008 election where the following question was asked:

Currently, Ballina Shire Council has ten Councillors (three from each of three wards, plus the Mayor).

Do you favour the reduction of Councillors to seven (two from each of three wards, plus the Mayor)?

The votes recorded are set out below:-

Yes	10,401
No	11,811

The referendum was not passed.

Recent changes in legislation now allow councils to apply for a reduction in Councillors without the need for a formal referendum. However as the 2008 referendum was not supported there is no intention to reconsider this issue again.

In respect to polls the outcomes are not binding and it is a matter for each Council to determine whether they wish to poll the community on any particular issue.

RECOMMENDATIONS

The Ballina Shire Council ("the Council") resolves:

1. pursuant to s.296(2) and (3) of the *Local Government Act 1993* (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
3. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

Attachment(s)

1. State Government Response to Inquiry

10.5 Crown Land Acquisition - Compton Drive Realignment

10.5 Crown Land Acquisition - Compton Drive Realignment

Delivery Program Commercial Services

Objective To obtain the precise wording in the resolution for the compulsory acquisition of Crown Land for Lots 2 & 5 DP 1197191 Compton Drive East Ballina for road realignment.

Background

Council staff are continuing to progress the compulsory acquisition of Crown Land needed for the road realignment for Compton Drive East Ballina, being Lots 2 and 5 DP 1197191. Even though Council has previously resolved to acquire this land, the Office of Local Government has requested that more precise wording is required other than that previously used in the February 2012 Commercial Services Meeting.

This land acquisition is required for the realignment of Compton Drive for the Ballina Surf Club.

Key Issues

- Precise wording for Council resolution for compulsory acquisition process.

Information

Council recommended at the Commercial Services Meeting of 20 February 2012 (adopted February 2012 Ordinary meeting) to proceed with the acquisition of Part of Lots 529, 531 and 533 in DP 729676 (now known as Lots 2 and 5 DP 1197191) in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) and Local Government Act (NSW).

The resolution from the meeting did not ask for the Minister or Governor's consent for the acquisition as set down by the compulsory acquisition process adopted by the Office of Local Government. This report is to satisfy this request.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The acquisition was necessary for the construction of the new surf club.
- **Economic**
Not Applicable

10.5 Crown Land Acquisition - Compton Drive Realignment

Legal / Resource / Financial Implications

Council has an allowance of \$40,000 for this acquisition in the Ballina Surf Club budget with a valuation to be determined by the State Government.

Consultation

Council has been consulting with Crown Lands and Office of Local Government regarding the compulsory acquisition process.

Options

Council must comply with the State Government requirements therefore there is no other option but to endorse the recommended wording.

RECOMMENDATIONS

1. That Council authorises acquisition by compulsory process of the land required for the road realignment for Compton Drive East Ballina as previously resolved by resolution 280213/30, being Lots 2 and 5 DP 1197191.
2. That Council authorises the General Manager to make an application to the Minister for Local Government and/or the Governor for the compulsory acquisition of land for the road realignment for Compton Drive, East Ballina being Lots 2 and 5 DP 1197191.
3. That Council authorises the Council seal to be attached to any documents relating to this acquisition.

Attachment(s)

Nil

10.6 Delivery Program and Operational Plan Review - 31 December 2014

10.6 Delivery Program and Operational Plan Review - 31 December 2014

Delivery Program Governance and Finance

Objective To provide the quarterly review of Council's Delivery Program and Operational Plan.

Background

Under the Integrated Planning and Reporting requirements Section 404 (5) of the Local Government Act states as follows:

Delivery Program

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

Even though Council is only required to receive six monthly progress reports the preferred practice has been to receive more timely quarterly reports. This report represents the second review of the 2014/15 - 2017/18 Delivery Program and the 2014/15 Operational Plan, with the information contained in the report based on work undertaken up to 31 December 2014.

The review information is included as a separate attachment to this report and the attachment provides an overview of all the programs included in the Delivery Program and Operational Plan, with comments provided by the relevant group and section manager.

For reference purposes copies of the current Delivery Program and Operational Plan are available on Council's web site and also accessible by Councillors on their ipads.

Key Issues

- Compare actual results against the adopted goals and priorities

Information

The Delivery Program and Operational Plan are the two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The attachment to this report provides a comprehensive overview of the actions being progressed, with the information also being linked to Council's Community Strategic Plan (CSP) Objectives.

The attachment has two main sections being:

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

10.6 Delivery Program and Operational Plan Review - 31 December 2014

In respect to the Operational Plan there are a total of 100 major actions listed in the Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	GM	DEH	Civil	SCF	Total
Green	29	7	29	27	92
Amber	1	0	3	2	6
Red	1	1	0	0	2
Total	31	8	32	29	100

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	94	88	91	93	92
Amber	3	0	9	7	6
Red	3	12	0	0	2
Total	100	100	100	100	100

Many of the actions are progressing, with items not tracking as planned, or other items of interest, including:

- Co-ordinate Gardens Volunteer Program (page three) – This program is continuing however with limited volunteers and there are some concerns that the staff time being applied to assist the volunteers is not justifying the community benefit derived from the program. Nevertheless staff are still trying to increase the number of volunteers involved.
- Development and implementation of Aboriginal Reconciliation Program (page four) – Resources have not yet been allocated to this project by the Strategic and Community Facilities Group, albeit that it is hoped a preliminary draft plan can be completed this financial year.
- Implement Adopted Sports Fields Management Plan (page six) – The new Manager for this section is questioning the value of this project against other priorities and unless funds are provided for this to be completed by external contract it is unlikely to be finished this financial year.
- Participate in Roads and Maritime Services Location Marker Program for Ballina (page eight) – This project is being co-ordinated by RMS and delays continue to occur with commencement of the works. The works are now planned for May 2015 although there are concerns the RMS may not meet this deadline.
- Progress availability of land at the Russellton Industrial Estate (page 11) – As reported to the November 2014 Commercial Services Committee there are a number of issues in trying to have land released at this Estate. Negotiations are now progressing with the adjoining land owners in an attempt to obtain agreement on a financial viable solution.

10.6 Delivery Program and Operational Plan Review - 31 December 2014

- Complete review of Lake Ainsworth Management Plan and implement actions arising (page 14) – Council will not be in a position to complete a review of this Management Plan this year as the focus is currently on the south eastern precinct works and the review of the Shaws Bay Management Plan has been the other primary focus. Ideally the Lake Ainsworth Management should be reviewed perhaps in 2015/16 once the agreed south eastern works are completed
- Progress Biochar program (page 16) – On-going investigations are now questioning the viability of this project and a detailed report will be submitted to the February 2015 Finance Committee meeting.
- Develop and enhance geographic information systems (page 21) – With Council resolving to defer the appointment of a new GIS position in the 2014/15 budget (based on a recommendation from staff) minimal improvement works are being undertaken in this area. It is proposed to revisit this decision at the February 2015 Finance Committee to allow the resources to be increased, subject to savings in other areas of Council's operations.

In respect to the Service Delivery Targets there are a total of 93 targets identified and the following two tables provide an overview of how Council is performing against those targets, again on a number and percentage basis.

Service Delivery Targets Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	16	18	18	18	70
Amber	5	1	10	2	18
Red	0	1	3	1	5
Total Tasks	21	20	31	21	93

Service Delivery Targets Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	76	90	58	86	75
Amber	24	5	32	10	20
Red	0	5	10	4	5
Percentage Total	100	100	100	100	100

In respect to these services the majority meet the agreed target with the variances of note being:

- Asset Management – Percentage of DA referrals completed within 21 days – 60% (Page 24 - Target > 90%). This is a significant improvement on the previous quarter (20%) and processes and procedures are continuing to be reviewed to seek further improvements.
- Commercial Services (Airport) – Increase in Operating Revenue and Operating Surplus Percentage (Page 25) – Revenue is trending below budget and with expenses such as rates and insurance incurred at the start of the year, the net operating result is currently trending below the preferred ratio. There is a time lag with some revenues so the target income may still be reached.

10.6 Delivery Program and Operational Plan Review - 31 December 2014

- Commercial Services (Property) – Vacancy rate (page 25) – This rate will stay below the target until the Wigmore refurbishment is completed and Council is then in a position to confirm new tenancies.
- Water and Wastewater – Various (pages 33 and 34) – There are a number of variations for this program however generally they relate to targets being set at unrealistic levels (i.e. zero non-compliances) or programs that are being advanced, although not at the rate originally hoped for.

In reviewing these targets it is important to recognise that some of the benchmarks are preferred outcomes and at times the targets may not be able to be achieved due to circumstances beyond the control of Council.

Sustainability Considerations

- **Environment**
There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

The Delivery Program and Operational Plan identify the allocation of Council's resources and finances.

Consultation

The purpose of this report is to provide the community with information on how Council is performing or performed in respect to the Delivery Program and Operational Plan.

Options

The report is largely for information purposes, although Council is able to amend the Delivery Program targets and projects as required. Ideally any changes should be minimised as the original document was subject to a formal consultation process.

RECOMMENDATION

That Council notes the contents of the 31 December 2014 review of the 2014/15 Delivery Program and Operational Plan.

Attachment(s)

Nil

10.7 Capital Expenditure Review - 31 December 2014

10.7 Capital Expenditure Review - 31 December 2014

Delivery Program Governance and Finance

Objective To provide a quarterly status report on the implementation of Council's capital works program.

Background

Council has a major capital works program included in the annual Operational Plan and due to the scale and magnitude of the program it is important that updates are provided on a regular basis.

The current practice is to provide a comprehensive quarterly status report with this report providing details on key milestone dates, along with a comparison between budget and actual expenditure.

This report is for the six month period to 31 December 2014.

Key Issues

- Status of works

Information

To assist in understanding the delivery timeframes for the capital works the attachments to this report provide information on the following items:

- Original Budget - represents the budget as per Council's adopted Operational Plan
- Carry Forward - represents budgets carried forward from the previous financial year that were approved by Council at the August 2014 Ordinary meeting
- Approved Variations - Variations previously approved by Council resolution either through a Quarterly Budget Review or a separate report on a particular project.
- New Variations – Represents further recommended changes based on the latest available information for the project.
- Latest Estimate - Sum of the original budget plus budget changes
- Expended to Date - Expenditure to date of report
- % Expended - Percentage of budget expended to date
- Milestone Dates - Represents target dates for completion of the major milestones.
- Status - Allows additional comments to be provided.

The attachments are split into the main functional sections within Council undertaking the works: i.e. Open Spaces, Waste, Operations Support, Commercial Services, Water and Wastewater and Engineering Works.

10.7 Capital Expenditure Review - 31 December 2014

Points of interest in respect to the attachments are as follows.

Open Spaces (attachment one)

The major works for this year relate to:

Porter Park – Council has now signed off on the landscape plan with the works to commence in 2015.

Killen Falls – At the June 2014 Ordinary meeting Council received a report on risk management options for the Killen, Dalwood and Tosha Falls. One of the resolutions arising from that report was as follows:

That for Killen Falls, in respect to the risk management options, Council authorises the General Manager to.....:

- b) allocate any surplus monies from the Statewide Risk Management bonus for 2014/15 to improved risk management infrastructure at this location.*

There is now a total of \$70,000 available from insurance bonuses for risk related matters and works planned for this location include construction of the viewing structure to minimise the risk of falling, with the balance of the funds to be expended on improvements to the access path. This represents a variation to the existing budget as per the following table.

Table One – Revised Cash Flow and Budget for Killen Falls

Item	Current 2014/15 Budget	Revised 2014/15 Budget
Income		
Statewide Mutual Bonus Refund	34,000	80,000
Statecover Workers Compensation Refund (1)	45,000	69,000
Sub Total	79,000	149,000
Expenditure		
Killen Falls – Risk Measures	0	70,000

- (1) The Statecover Workers Compensation refund is actually higher than this adjustment, however this is the variation allocated to Killen Falls. The balance of the adjustment will be included in the December Quarterly Financial Review reported to the February 2015 Ordinary meeting.

Play Equipment (various) – Following a relatively recent Councillor briefing the equipment for Jabiru Park has been ordered and should be installed in January / February 2015.

For the balance of the works the priorities will be reported to Council at the February 2015 Ordinary meeting to ensure there is formal Councillor endorsement of the works program.

10.7 Capital Expenditure Review - 31 December 2014

Wollongbar Sports Fields – The tender for the engineering and landscape construction works for this project was not accepted by Council at the November 2014 Ordinary meeting due to the tenders being over budget. As part of that resolution staff were authorised to negotiate with the lowest tenderer. These negotiations are getting close to budget and a report will be presented to the 11 February 2015 Finance Committee meeting to confirm a revised works program.

Subject to formal agreement the works should commence late February / early March and with a construction period of less than 30 weeks a large part of the works should be completed this financial year.

In addition to this the tender for the construction of the clubhouse buildings is expected to be called in February 2015.

Even though some works may carry over to 2015/16 the budget has not been adjusted due to uncertainty over the exact timing of the works and the final budget figures.

Waste Management (attachment one)

Biochar is the major project with a feasibility assessment still on-going, although the latest information appears to indicate the project may not be feasible.

A comprehensive report will be submitted to the February Finance Committee meeting.

Attachment one also includes two wastewater projects that relate to open spaces and the reuse of recycled water.

Operations Support (attachment two)

Ballina Surf Club – The construction of Building B is progressing with a planning application to be lodged in the near future. Subject to planning consent and the calling of tenders, the works are scheduled to be undertaken during the autumn / winter period.

Lennox Head Surf Club / Lake Ainsworth Precinct – At the December 2014 Ordinary meeting Council confirmed its preferred design / layout for this precinct. Council staff are in the process of co-ordinating meetings with Crown Lands, Sport and Recreation and North Coast Holiday Parks in respect to the implementation of the preferred design.

As the Council's adopted position is inconsistent with the submission received from Crown Lands, and as Crown Lands approval is required for some of the works on the crown reserve component of this precinct, there will most likely be a need for a further report to Council to confirm how the proposed works can or will progress.

That report will also seek clarification from Council as to how the available funding should be allocated, as the total works program is thought to be in excess of the available budget.

10.7 Capital Expenditure Review - 31 December 2014

Pleasingly Council has been advised that we have been successful in obtaining funding, from the State Government Public Reserves Management Fund (PRMF), of \$150,000 (GST inclusive) following an application completed by staff in September 2014. The actual grant application was to *“undertake significant infrastructure improvements to the southern and south eastern precincts of Lake Ainsworth - these works include stormwater and drainage, playground equipment, road works and revegetation and landscaping”*. Therefore this funding can be allocated to a wide range of works in the improvement program.

With a number of the proposed works needing planning consent the attachment recommends a reduction in the available funding by \$973,600 for 2014/15 with the available funds then transferred to 2015/16.

This still leaves \$350,000 for works this financial year, which is considered to be a more realistic budget for 2014/15, along with \$1.11m for 2015/16.

The summary of this movement in income and its impact on the budget is as per the following table.

Table Two – Revised Cash Flow and Budget for Lake Ainsworth Works

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Transfer from Land Sale Reserve	1,323,600	213,600	0	1,110,000
Grant – PRMF (GST exclusive)	0	136,400	0	0
Sub Total	1,323,600	350,000	0	1,110,000
Expenditure				
Lake Ainsworth Precinct	1,323,600	350,000	0	1,110,000

If works progress at a quicker rate in 2014/15 then estimated in the table, the funding from 2015/16 can be brought forward.

Marine Rescue Tower – The current Council budget, as originally adopted in June 2014, for this project for 2014/15 is \$1,975,500, with \$925,500 sourced from Council reserves and another \$1,050,000 from grant contributions (i.e. \$300,000 from State and \$750,000 Federal).

Council has previously expended \$54,000 in 2013/14 in obtaining planning consent for the building.

With a planning consent in place and the detailed documentation almost to a level that will allow Council to call tenders for the project, the key elements remaining are the State and Federal Government grants.

Council applied for \$550,000 (GST inclusive) from the PRMF for this project in September 2014 and we have now received written correspondence that the State Government has approved a grant of \$350,000 plus a \$200,000 low interest loan from the PRMF. These figures are GST inclusive.

10.7 Capital Expenditure Review - 31 December 2014

In addition to this Council has applied for \$1m (GST exclusive) from the Federal Government's National Stronger Region Funds for this project, with the outcomes from that process likely to be known around April 2015.

If Council is successful with the Federal Government application we will then be in a position to call tenders for the works. Assuming a three month tender period, actual construction works would then start around August 2015.

This being the case the majority of the budget should be removed from 2014/15 and transferred to 2015/16 as per the following table.

Table Three – Revised Cash Flow and Budget for Marine Rescue Tower

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Council Reserves	925,500	100,000	0	825,500
Grant – National Stronger Regions (GST exclusive)	750,000	0	0	1,000,000
Grant – PRMF (GST exclusive)	300,000	0	0	318,200
Sub Total	1,975,500	100,000	0	2,143,700
Expenditure				
Marine Rescue Tower	1,975,500	100,000	0	2,143,700

This provides an overall budget of \$2,243,700 for the project, which is in excess of the \$2.03m, which was the total estimate provided to Council for the project at the December 2013 Facilities Committee meeting, as per the following summary.

Description	Amount (\$)
Design and Project Management	117,490
Construction of new building	1,311,709
Refurbishment of public toilets	133,245
Demolition of existing tower	33,000
Construction of car park	164,344
Environmental Items	9,680
Contingency 15%	265,420
Total	2,034,888

This estimate has not been updated since December 2013 and the \$2,243,700 provides a more than reasonable allowance for construction cost increases since that date.

At this stage the PRMF loan fund monies have not been included, as ideally Council will not need to take out loans for this project.

The Federal Government grant is now the key driver for the commencement of works and a further report on this project can be submitted to Council once the outcomes of that grant application are known.

The loan funds are offered at an interest rate of 3.5% for a term of seven years, which equates to repayments of \$32,700 per annum. Even though the interest rate is low it is preferable for Council not to take on further debt, without having a revenue stream to fund the repayments.

10.7 Capital Expenditure Review - 31 December 2014

Council must make a decision on whether we take up this loan within two months of the correspondence from the State Government, which was received on 15 January 2015.

A further report will be presented to Council to confirm our position on this matter prior to the due date.

Crawford House / Energy Efficient Lighting / Public Amenities – There are some internal transfers recommended between projects in the attachment to assist in delivering the complete scope of works for each of these projects as per the following table.

Table Four – Internal Transfers Between Projects – Operations Support

Item	Current 2014/15 Budget	Revised 2014/15 Budget
Crawford House	36,000	25,400
Admin Centre Lighting	29,000	41,800
Public Amenities Lighting	20,000	7,200
Shelly Beach Amenities	50,000	60,600
Total	135,000	135,000

Ballina Sports / Leisure Centre – This project remains on hold due to uncertainties over the preferred site. This being the case the recommendation is to transfer \$250,000 from the project to 2015/16 as per the next table.

Table Five – Revised Cash Flow and Budget for Sports / Leisure Centre

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Council Reserves	283,000	33,000	0	250,000
Expenditure				
Sports / Leisure Centre	283,000	33,000	0	250,000

With estimates for this project ranging from \$6m to \$16m Council ideally needs to develop a preliminary funding plan. There are limited options available with Council needing a significant State or Federal Government grant to even consider delivering the works.

The preference may continue to be to just have the funding for the design and approval process (i.e. \$283,000), however at some point we need to consider the overall scope and cost of this project, along with the estimated future running costs.

Ballina Library – The scope of works for this project has been confirmed and works are likely to proceed in the near future.

Commercial Services (attachment three)

Airport - The capital works for the airport are all complete or advancing, with the contract for the car park accepted at the October 2014 Ordinary meeting.

10.7 Capital Expenditure Review - 31 December 2014

Wigmore - The Wigmore Arcade refurbishment contract is now due to be completed in February.

Water and Wastewater (attachments four and five)

Water – The Smith Drive Main Renewal has a significant budget reduction, as outlined in the tender report later in this agenda.

In addition to this the major variations are the transfer of funds to 2015/16 for the East Ballina and Basalt Court projects, as per the following table:

Table Six – Revised Cash Flow and Budget for Water Capital Expenditure

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Reserves - Section 64 & Refurb	2,255,600	872,600	0	900,000
Expenditure				
Water Pipeline Rehabilitation	4,300	18,300	N/A	N/A
Main Renewals – Smith Drive	1,147,000	650,000	0	0
Pumping Station – Basalt Court	182,300	62,300	0	120,000
Pumping Station – East Ballina	382,000	62,000	0	320,000
Trunk Mains – East Ballina	540,000	80,000	0	460,000
Total	2,255,600	872,600	0	900,000

The Smith Drive saving is a major improvement to the original estimate and represents significant savings for the Water Program.

Wastewater - The changes relate to the deferral of large amounts of expenditure to 2015/16 for the Reverse Osmosis Plant (\$1.8m deferred) and Pump Upgrades for Byron Street, Lennox Head (\$600,000).

This transfer represents movements in cash flows as per the following table.

Table Seven – Revised Cash Flow and Budget for Wastewater Capital Expenditure

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Reserves - Section 64 & Refurb	3,600,000	1,200,000	0	2,400,000
Expenditure				
Reverse Osmosis Plant	2,000,000	200,000	0	1,800,000
Pump Station – Byron Street	1,600,000	1,000,000	0	600,000
Total	3,600,000	1,200,000	0	2,400,000

One other item of relevance to this program is the Dual Reticulation contract, which is represented by a number of residual budgets in the Water and Wastewater Capital program.

Council originally awarded a contract to MMA Civil Contractors to construct the reservoirs, pump stations, pipelines and associated infrastructure for the distribution of recycled water. The original contract price was a lump sum of \$11,053,113 (inclusive of GST) and the works are now complete.

10.7 Capital Expenditure Review - 31 December 2014

As expected for a contract of this size and type of work, a number of variations have been approved in response to required changes in the scope of the work.

In particular a variation was approved in relation to wetland under boring works. The specification, in accordance with the original environmental approval called for the under boring, however once boring commenced ground conditions were not able to support the operation and approval was granted for open trenching.

This resulted in a variation, which was a net saving to the project, however there is a difference of \$98,965.83 in the assessment of the costs by Council and the contractor for this variation.

To resolve this dispute, the contractor was requested on several occasions to provide further information in support of their claim. Furthermore, Council offered to share the costs for an independent cost assessor to review the claim however this offer was rejected by the contractor.

The contract also provided processes for dispute resolution however these were not triggered by the contractor following the formal advice of Council's assessment of the claim.

On 19 December 2014 advice was received that the contractor had made a claim under the payment provisions of the Building and Construction Industry Security of Payment Act 1999 for the above amount.

The Council had 10 days to respond to a claim under these provisions and the claim is assessed as approved, if no response is provided in that time frame. Council submitted a response by the due date. It is likely the contractor will refer this response to adjudication and should that occur Council has five days to respond to the adjudication notice.

The reason contractors are known to use this approach, rather than the contract terms for mediation, is because it is possible a Principal will not understand the requirement to respond to the notice within 10 days (lodgement at times like a holiday season can see administrative issues arise) and the contractor is able to prepare comprehensive submissions for adjudication prior to commencing the process.

To assist in the preparation of our response to this claim, Keystone Lawyers were engaged. This firm is not a panel firm of the Council, however they were selected for their availability between Christmas and New Year, the rates were comparable to the panel rates, and they have regular experience advising NSW Public Works in relation to claims made under this Act.

In addition to explaining our assessment of the claim, our response also notes our position that the claim is invalid for a number of reasons pursuant to certain contract clauses and provisions under the relevant Act.

Further updates will be reported to Council as this matter progresses and any expenditure incurred should be able to be accommodated within the residual dual reticulation budgets within the Water and Wastewater Capital Expenditure programs.

Engineering Works (attachment six)

Drainage

The works are programmed primarily for 2015 with funding to be reallocated from existing stormwater projects to the Skennars Head Road and Coast Road related drainage works once the Manager returns from leave.

For the Quays dredging project, the negotiations with the tenderer for these works are progressing well and it is anticipated that works will commence February 2015.

Urban and Rural Roads

Tamarind Drive (North of Cumbalum) – Surplus funds remaining from this project, which are funded by the RMS handover monies, are to be transferred back to the reserve (\$132,900)

Ballina Heights Drive – This road is now opened however there is a contract dispute with the contractor (Gary Deane Constructions - GDC).

Changes in design and other factors led to many claim variations during the contract period. The majority of these have been resolved to the satisfaction of Council and the contractor, however a few remain outstanding. The value of the outstanding claims does vary based on continuing exchanges of correspondence however the contractor's position is currently in excess of \$400,000.

Staff have arranged for NSW Public Works to provide an overview of our assessment to ensure its fairness and this review supports the Council determination. The contractor has provided a number of items of information in support of their claim and these have been reviewed and responses provided in accordance with the contract conditions.

While every effort is being made to avoid expensive dispute resolution processes, staff are monitoring the costs of the protracted claim and review process that has been occurring to date.

Based on our advice, that in the absence of new information, our current position is final, the contractor has indicated that they intend to proceed to formal dispute resolution, however at the time of writing this report no such process has been formally initiated.

In respect to the overall budget for Ballina Heights Drive, the latest advice from the independent project manager, Mr Craig Zerk (as required by the BBRC funding), is that the following expenditures remain outstanding:

Item	Amount (\$)
Landscaping still to be claimed under the GDC contract	43,000
Compensatory planting and batter planting	200,000
Estimate of additional project fees for Craig Zerk	19,000
Sub Total	262,000

There also remains the possibility that an additional acoustic fence may be required to meet the planning consent conditions. The estimated cost of that fencing, based on GDC contract rates with a 10% contingency, is \$238,000.

10.7 Capital Expenditure Review - 31 December 2014

The background to this acoustic fence, as previously reported to Council, is that the development consent for the Ballina Heights Drive project requires the construction of a noise attenuation fence adjacent to the land that will form Stage 8a of the Ballina Heights Estate.

The location of this stage can generally be described as fronting the eastern side of Ballina Heights Drive immediately to the north of the intersection of Ballina Heights Drive and Power Drive.

The developers and staff have identified that it may be possible that sufficient noise reduction measures are already in place, meaning the fence may no longer be required.

A noise report is being prepared to formally review this proposal and, if the report is favourable, it is proposed to seek an amendment to the development consent removing the requirement to construct the fence.

However if the additional acoustic fence is required the total expenditure remaining is \$500,000 (\$262,000 plus \$238,000) excluding the claim from GDC.

In addition to this Mr Zerk has advised that the capital contributions (i.e. income) to the project from the developer and Essential Energy (for works undertaken on their behalf) will now total \$360,000. The existing Council budget is based on capital contributions of \$388,000, as per previous advice, resulting in a \$28,000 shortfall.

At this point in time the preference is to adjust the total budget to ensure there is sufficient funding for the \$262,000, being the agreed works still outstanding, along with reducing the capital contribution by \$28,000 to reflect the latest estimate of \$360,000.

Both the acoustic wall (\$238,000) and GDC dispute figures remain uncertain and if expenditure is incurred, or needs to be incurred for those items, the Engineering Works section will recommend the transfer of funds from other projects.

The current Council budget, as per attachment six, has approximately \$200,000 unexpended, which means that with the \$262,000 in agreed works and \$28,000 in reduced capital contribution, we need a net funding adjustment of \$90,000 (\$62,000 extra expenditure plus \$28,000 lost income) or say \$100,000 to provide for any other incidentals (i.e. legal costs for GDC dispute).

There is currently approximately \$290,000 in an Engineering Works Reserve relating to Section 94 monies that have been collected for works previously undertaken by Council (i.e. works done in advance of the Section 94 Plan contributions collected that are now treated as Council revenue) and \$100,000 of these monies could be transferred from that reserve to assist with this shortfall.

10.7 Capital Expenditure Review - 31 December 2014

Council has previously approved significant savings in the Ballina Heights Drive budget (possibly in excess of \$1m) and this has resulted in some funding which was originally allocated to Ballina Heights Drive being reallocated to other projects (for example \$328,800 has been transferred to Wollongbar Sport Fields to assist with that project)

Ultimately it does not matter whether it is Engineering Works funding or Open Spaces funding as Council is obligated to fully complete the works.

Section 94 Reseals – Council hold monies in Section 94 for heavy vehicle haulage related works and the Engineering Works section wish to expend the monies identified (\$278,000) on heavy patching / resealing and similar works for the following locations:

- Ross Lane - \$15,700
- Gap Road - \$123,800
- River Drive, South Ballina - \$34,700
- North Teven Road - \$103,800

These projects align with the quarries from where the monies have been collected.

Maguires Bridge – Tenders are to still to be called for this project and the majority of the expenditure (\$675,200) is recommended for deferral to 2015/16.

Ancillary Transport Services - Shared Paths and Footpaths

Cycleways – Coastal Shared and Recreational Paths - The Coastal Shared Path and Coast Recreational Path projects continue to progress in accordance with the adopted program.

The construction of Stages 1 and 2 of Shared Path West are now complete. Stage 1 refers to the work along the Coast Road and Stage 2 is the section adjacent to Skennars Head Road.

The third stage of Shared Path West, which will traverse North Creek Road, is programmed to commence in March 2015. The detail design for this section is being prepared by Council staff and the design is expected to be completed by the end of January 2015. It will be necessary to review the scope of works that can be achieved for the available funds once the detail design information is available for cost assessment. The Aboriginal Cultural Heritage Assessment for Stage 3 was completed in December 2014.

Council has provided notification to the RMS that we may seek additional funding for Stage 3 if the detailed budget is higher than the current estimate and at this point in time the RMS has indicated some willingness to share that cost.

For the Coastal Recreational Path preconstruction activities continue to progress for the section from Angels Beach to Sharpes Beach.

10.7 Capital Expenditure Review - 31 December 2014

As this stage is located in the East Ballina Aboriginal Place, one of the major tasks is to prepare an application for an Aboriginal Heritage Impact Permit. The preparation of this application follows a prescribed procedure that includes specific consultation requirements and the preparation of an Aboriginal Archaeological Impact Assessment Report and Aboriginal Cultural Heritage Assessment.

This process is now well advanced with the required reports prepared and provided to the Registered Aboriginal Parties for a period of 28 days for comment. Having considered any comments received, the next step in this process is to submit the application to the Office of Environment and Heritage.

Preparation of a new application under Part 5 of the Environmental Planning & Assessment Act is also well advanced in response to Council's resolution to amend the route in the location adjacent to the Flat Rock Tent Park.

The documentation is forecast to be submitted in February 2015 for assessment.

It is expected that the assessment process will include a public exhibition period and it is therefore uncertain as to when a determination of the application can be expected.

The detail design for the entire works is being completed concurrently with the preparation of this review of environmental factors and this work is expected to be completed in February or March.

It is proposed to call tenders at that point in time to enable an assessment of whether it is preferred to complete all or part of the work by contract or by using Council's resources or a combination of both.

The current program is for the tender assessment to be completed for the April / May Council meeting to enable construction to commence in May / June.

Based on this timeline the recommendation is to transfer \$1m of the allocated funding for this project to 2015/16 as those funds will not be expended this financial year, as per attachment six.

Council has also been advised that we have been successful in obtaining funding from the PRMF, of \$200,000 (GST inclusive) following an application completed by staff in September 2014.

As concerns remain over the adequacy of the \$1.227m currently available for this project it is recommended that the total funding for the project be increased by \$181,800 (GST exclusive figure for \$200,000) with those funds allocated in the 2015/16 year, which is when the majority of the works will take place.

Council had previously been successful in obtaining \$100,000 from the PRMF in 2013/14 for this project therefore we now have approximately \$300,000 from the State Government assisting these works.

Footpaths and Cycleways – A reallocation of \$60,000 is identified in this section for urgent works relating to Kingsford Smith Drive.

10.7 Capital Expenditure Review - 31 December 2014

Grant applications have been lodged for all the footpath projects listed and it is hoped that Council may be successful in receiving 50% of the cost of the works, thereby allowing our own funds to be reallocated to extra works.

Based on the various comments for this section of the report a summary of the recommended cash movements for the Engineering Works section is as follows.

Table Eight – Revised Cash Flow and Budget for Engineering Works Capital

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income Adjustments				
Conts - Ballina Heights Drive	388,000	360,000	0	0
Reserve – Sec 94 Pre Monies	0	100,000	0	0
RMS Handover Reserve	132,900	0	0	0
Section 94 Monies Haulage	0	278,000	0	0
Bridges – Grants and Reserves	775,200	100,000	0	675,200
Coastal Path – Reserves / Revs	1,227,600	227,600	0	1,000,000
Coastal Path – Grant PRMF	0	0	0	181,800
Total	2,523,700	1,065,600	0	1,857,000
Expenditure Adjustments				
Ballina Heights Drive	432,800	504,800	0	0
Tamarind Drive (North)	132,900	0	0	0
Section 94 Reseals – Various	0	278,000	0	0
Maguires Bridge	775,200	100,000	0	675,200
Coastal Recreational Path	1,227,600	227,600	0	1,181,800
Kingsford Smith Drive Path	0	60,000	0	0
Ballina Street, Lennox Hd Path	90,000	30,000	0	0
Total	2,658,500	1,200,400	0	1,857,000

Sustainability Considerations

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

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information. Consultation has been undertaken with staff managing the various projects.

Options

As per the following table there is once again an extremely high level of capital expenditure forecast for 2014/15.

Table Nine - Capital Works Summary – 31 December 2014 (\$'000)

Section	Budget (%)	Expended (%)	Percentage
Open Spaces	5,701,400	120,800	2
Waste	857,600	68,000	8
Operations Support	4,183,600	1,187,600	28
Commercial Services	4,696,000	2,732,300	58
Water	3,565,500	810,800	23
Wastewater	7,803,400	1,781,400	23
Engineering Works	12,308,600	5,472,400	44
Total	39,116,100	12,173,300	31

A number of large contracts are in the process of commencing, which should result in a rapid increase in expenditure during the next six months.

There are a number of budget adjustments listed in this report and the recommendations that follow seek Council approval for those adjustments.

RECOMMENDATIONS

1. That Council notes the contents of the 31 December 2014 Quarterly Review of the Capital Works Program.
2. That Council approves the transfer of funding as per the tables identified in this report, and copied below, and as outlined as outlined in the “New Variations” column, as per the attachments to this report.

Table One – Revised Cash Flow and Budget for Killen Falls

Item	Current 2014/15 Budget	Revised 2014/15 Budget
Income		
Statewide Mutual Bonus Refund	34,000	80,000
Statecover Workers Compensation Refund (1)	45,000	69,000
Sub Total	79,000	149,000
Expenditure		
Killen Falls – Risk Measures	0	70,000

Table Two – Revised Cash Flow and Budget for Lake Ainsworth Works

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Transfer from Ross Street Land Sale Reserve	1,323,600	213,600	0	1,110,000
Grant – PRMF (GST exclusive)	0	136,400	0	0
Sub Total	1,323,600	350,000	0	1,110,000
Expenditure				
Lake Ainsworth Surf Club / Lake Ainsworth Precinct	1,323,600	350,000	0	1,110,000

10.7 Capital Expenditure Review - 31 December 2014

Table Three – Revised Cash Flow and Budget for Marine Rescue Tower

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Council Reserves	925,500	100,000	0	825,500
Grant – National Stronger Regions (GST exclusive)	750,000	0	0	1,000,000
Grant – PRMF (GST exclusive)	300,000	0	0	318,200
Sub Total	1,975,500	100,000	0	2,143,700
Expenditure				
Marine Rescue Tower	1,975,500	100,000	0	2,143,700

Table Four – Internal Transfers Between Projects – Operations Support

Item	Current 2014/15 Budget	Revised 2014/15 Budget
Crawford House	36,000	25,400
Admin Centre Lighting	29,000	41,800
Public Amenities Lighting	20,000	7,200
Shelly Beach Amenities	50,000	60,600
Total	135,000	135,000

Table Five – Revised Cash Flow and Budget for Sports / Leisure Centre

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Council Reserves	283,000	33,000	0	250,000
Expenditure				
Sports / Leisure Centre	283,000	33,000	0	250,000

Table Six – Revised Cash Flow and Budget for Water Capital Expenditure

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Reserves - Section 64 & Refurb	2,255,600	872,600	0	900,000
Expenditure				
Water Pipeline Rehabilitation	4,300	18,300	N/A	N/A
Main Renewals – Smith Drive	1,147,000	650,000	0	0
Pumping Station – Basalt Court	182,300	62,300	0	120,000
Pumping Station – East Ballina	382,000	62,000	0	320,000
Trunk Mains – East Ballina	540,000	80,000	0	460,000
Total	2,255,600	872,600	0	900,000

10.7 Capital Expenditure Review - 31 December 2014

Table Seven – Revised Cash Flow and Budget for Wastewater Capital Expenditure

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income				
Reserves - Section 64 & Refurb	3,600,000	1,200,000	0	2,400,000
Expenditure				
Reverse Osmosis Plant	2,000,000	200,000	0	1,800,000
Pump Station – Byron Street	1,600,000	1,000,000	0	600,000
Total	3,600,000	1,200,000	0	2,400,000

Table Eight – Revised Cash Flow and Budget for Engineering Works Capital

Item	Current 2014/15 Budget	Revised 2014/15 Budget	Current 2015/16 Budget	Revised 2015/16 Budget
Income Adjustments				
Conts - Ballina Heights Drive	388,000	360,000	0	0
Reserve – Sec 94 Pre Monies	0	100,000	0	0
RMS Handover Reserve	132,900	0	0	0
Section 94 Monies Haulage	0	278,000	0	0
Bridges – Grants and Reserves	775,200	100,000	0	675,200
Coastal Path – Reserves / Revs	1,227,600	227,600	0	1,000,000
Coastal Path – Grant PRMF	0	0	0	181,800
Total	2,523,700	1,065,600	0	1,857,000
Expenditure Adjustments				
Ballina Heights Drive	432,800	504,800		
Tamarind Drive (North)	132,900	0	0	0
Section 94 Reseals – Various	0	278,000	0	0
Maguires Bridge	775,200	100,000	0	675,200
Coastal Recreational Path	1,227,600	227,600	0	1,181,800
Kingsford Smith Drive Path	0	60,000	0	0
Ballina Street, Lennox Hd Path	90,000	30,000	0	0
Total	2,658,500	1,200,400	0	1,857,000

Attachment(s)

1. Capital Expenditure - General Fund - Open Spaces and Waste (one page - A3 attachment)
2. Capital Expenditure - General Fund - Operations Support (one page - A3 attachment)
3. Capital Expenditure - General Fund - Commercial Services Unit (one page - A3 attachment)
4. Capital Expenditure - Water Operations (one page - A3 attachment)
5. Capital Expenditure - Wastewater Operations (one page - A3 attachment)
6. Capital Expenditure - General Fund - Engineering Works (two pages - A3 attachment)

11.1 Assistance - Removal of Camphor Laurel Trees

11. Civil Services Group Reports

11.1 Assistance - Removal of Camphor Laurel Trees

Delivery Program Engineering Works

Objective For Council to determine a request for a contribution to the cost of works to remove vegetation.

Background

Council has received a request to contribute to the costs associated with the removal of vegetation from a roadside. The request has been made by Mr and Mrs Paxton, 49 Uralba Road.

Mr and Mrs Paxton propose to construct a new fence on the boundary of their property and Council's road reserve.

The road reserve at this location is populated with Camphor Laurel Trees and Mr and Mrs Paxton are concerned that this vegetation will result in damage to the new fence and that the possibility of injury from falling tree limbs is a risk for those residing and visiting the property.

Mr and Mrs Paxton advise the property is used to conduct a local business and as a result there is pedestrian use of their land by visitors immediately adjacent to the property boundary.

While it is acknowledged that Camphor Laurel trees are a noxious weed and this population is growing on Council's road reserve, to date staff have declined the request for Council to undertake the work or make a contribution to the costs.

The reasons for this position include the following;

- The vegetation has been inspected and the assessment of our technical officers is that there are no immediate risks to road users that require a response from Council as the road authority.
- The Council does not have a program to remove or control Camphor Laurel trees. The Council pays a contribution to the Far North Coast Weeds County Council to manage weeds in the Shire and they are the appropriate authority to determine the priority for the allocation of resources for weed management. Having regard to the limited availability of funds, typically the priority areas for weed programs are where there is high conservation value or high risk.

The scale of the Camphor Laurel problem makes it difficult to justify the allocation of public money to relatively small, local projects which have limited public benefit outcomes.

11.1 Assistance - Removal of Camphor Laurel Trees

- The Council receives many requests of this type and it can be inequitable to support one request and decline others without a method of assessing priority.
- In the event that specific tree branches or trees present a level of risk to the neighbouring property, Council will attend to such tasks as required. The requirement to remove all of the vegetation at this point in time is generated by the desire of the property owner to construct a new fence.
- Mr and Mrs Paxton are not prevented from achieving their objectives as staff have provided Council's consent for the trees to be removed.

It is the position of Mr and Mrs Paxton that this is an unfair response.

In summary, Mr and Mrs Paxton are of the view that;

- Council should be allocating more resources to the management of noxious weeds instead of funding other priorities.
- Council is not meeting its obligations under the *Noxious Weeds Act*, 1993.
- Council is not being a reasonable neighbour.
- The ongoing development of their business should be supported by Council and that community benefits will follow from this.

Staff, including the General Manager and Group Manager Civil Services, have met with and corresponded with Mr and Mrs Paxton on this matter on several occasions and as the matter remains unresolved it has now been agreed that this report will be presented to Council for its determination of the request.

Key Issues

- To determine the merit of a specific request for a contribution towards the removal of a noxious weed.

Information

At a meeting with the General Manager and Group Manager Civil Services held 24 December 2014, Mr and Mrs Paxton clarified that the scope of works was potentially a cost of \$5,000 and that a contribution of \$2,000 from Council would be reasonable. Prior to this meeting, the understanding of staff was that the scope of works was more substantial than this amount.

Following this last meeting the email below was sent to Mr and Mrs Paxton. At the time of writing this report Council had not received a reply. A further email has been sent to Mr and Mrs Paxton confirming the preparation of this report and any further response from them will be circulated to Councillors.

Dear Ian and Joanna,

Thank you for meeting with Paul Hickey and myself this morning.

11.1 Assistance - Removal of Camphor Laurel Trees

I am writing to confirm that we will prepare a report to enable your request to be considered and determined by the elected Council. We propose to include this report in the agenda for the meeting scheduled for 22 January 2014.

As discussed, to assist us to prepare the report, we would appreciate you sending some advice confirming the proposed scope of works, the contribution amount you are seeking from Council and any further merit points that might distinguish your request in regards to the setting of the priorities for the allocation of Council's resources.

*Regards
John Truman*

Copies of the previous correspondence from 2014 between Council and Mr and Mrs Paxton are provided as attachments to this report. Similar correspondence was exchanged in 2013.

Sustainability Considerations

- **Environment**
The removal of Camphor Laurel trees is considered an important environmental issue, however the small area and location of the proposed works, relative to the Shire wide coverage of the weed means the proposal provides limited public benefits and therefore, from a conservation perspective, other sites have a higher priority.
- **Social**
Supporting the request will improve the amenity of the adjoining property.
- **Economic**
Mr and Mrs Paxton report that the work will enable the construction of a new fence and this will facilitate the continued development of their business interests on the land which will in turn results in economic development and opportunities for services for the community.

Legal / Resource / Financial Implications

While Mr and Mrs Paxton claim Council is in breach of its statutory obligations, that is not a position shared by staff. Camphor Laurel is a Class 4 noxious weed under the NSW *Noxious Weeds Act 1993*. This means the control requirements are that *'the growth of the plant must be managed in a manner that reduces its numbers spread and incidence and continuously inhibits its reproduction and the plant must not be sold propagated or knowingly distributed'*. Therefore, it is not a requirement that Council remove Camphor Laurel and, regardless, it is clear that the Council does not have the resources to remove all Camphor Laurel and accordingly our resources need to be prioritised in a proper manner.

In regards to public liability risks, as noted above, the site has been inspected and in the opinion of Council's technical officers, no immediate actions are required at this point in time.

11.1 Assistance - Removal of Camphor Laurel Trees

Should Council support the request, the rural road maintenance allocation would be an appropriate funding source. This budget would be able to support the requested amount of \$2,000, however the question to be analysed in the consideration of this report is the merits of this case versus the priority for other works and the equity to other residents by the response.

Consultation

A number of discussions and exchange of letters have been undertaken with Mr and Mrs Paxton.

Mr and Mrs Paxton advise they have consulted with Far North Coast Weeds who have also declined the request.

Options

The options for Council in regard to this matter are as follows.

1. Support the request for a contribution of \$2,000 (or another amount).
2. Decline the request to make a contribution to the works.

To support principles of equity and to ensure a consistent approach is provided to all residents, it has been the position of staff that the Council does not allocate resources for the removal of Camphor Laurel trees in road reserves except in the circumstances where the vegetation represents and immediate risk to people and property.

It is however open for the elected Council, in its assessment, that there is a community benefit by having the trees removed and with the Paxton's making a financial contribution to the works, there is a positive community outcome. For instance Mr and Mrs Paxton are firmly of the opinion that the removal of these trees represents the removal of the last major infestation of Camphor Laurel in this location. If Council is supportive of this approach then the revised recommendation could be as follows:

1. *That in regards to the request from Mr and Mrs Paxton of 49 Uralba Road for Council to contribute to the costs of removing vegetation from the Council's road reserve adjacent to their property Council approves a contribution of \$2,000 (Ex GST) to the works, to be funded from the rural road maintenance allocation.*
2. *The reason for this support is due to Mr and Mrs Paxton providing a significant financial contribution to these works, particularly seeing the works are on Council land.*

RECOMMENDATIONS

1. That in regards to the request from Mr and Mrs Paxton of 49 Uralba Road for Council to contribute to the costs of removing vegetation from the Council's road reserve adjacent to their property; Council declines the request to make a contribution as it is not equitable to support an individual request where there is a wide demand by other residents for this type of assistance.
2. Council does however confirm its approval, subject to the conditions set out in Council's letter dated 29 September 2014 (copy attached to this report), for the vegetation to be removed by the applicants.

Attachment(s)

1. Request for Removal of Camphor Laurel Trees 49 Forest Road Uralba
2. Request for Review of Decision - Road Side Maintenance - Forest Road Uralba
3. Council's Response to Request for Review of Decision - Road Side Maintenance - 49 Forest Road Uralba
4. Response to Council's Letter
5. Council's response

11.2 Road Safety Strategy (2014/15 - 2023/24)

11.2 Road Safety Strategy (2014/15 - 2023/24)

Delivery Program Asset Management

Objective To present the draft Road Safety Strategy (2014/15-2023/23) to Council for adoption.

Background

This Road Safety Strategy (2014/15-2023/24), which follows on from the previous Road Safety Strategic Plan (2007/08-2012/13) presents Council's commitment to reducing road trauma over the next 10 years. The strategy was prepared by Council's Road Safety Officer.

At the Council's Ordinary Meeting held on the 23 October 2014, it was resolved "*That Council endorses the draft Road Safety Strategy (2014/15-2023/24) for public exhibition*".

Following this resolution the draft document was placed on public exhibition over four weeks. One submission was received in response to the exhibition and this submission is discussed below.

Over the past 10 years, 47 people were killed and 1,500 people were injured on roads in the Ballina Shire. The cost of road trauma has an enormous effect on our community that is both, a financial burden, as well as a personal burden to those who suffer injuries and to the families, friends and communities who are deeply impacted by road trauma. Road crashes are a financial and personal burden that we, as a community, should not accept.

This Road Safety Strategy (2014/15-2023/24) sets direction for change for the Ballina Shire – to create a cultural shift and deliver a renewed focus in road safety within Council and the community.

Key Issues

- Increasing demand for travel, population growth, increased freight movements, potential for congestion and an aging population
- Community collaboration to ensure joint ownership, responsibility for and engagement in road safety
- Achieving a whole of organisation understanding and commitment to applying Safe System principles
- Matching community safety needs and expectations with road and transport assets and/or resources.

Information

Strategy Summary

In order to achieve further road safety improvements over the next 10 years, it is important to understand the current nature and extent of road trauma in the Ballina Shire. A detailed analysis of fatal and injury crash data was undertaken using crash data obtained from the Roads and Maritime Services. This Road Safety Strategy was developed after a thorough investigation into road crash data, alongside stakeholder and community consultation, as well as a review of existing local, regional and state planning documents.

The Road Safety Strategy (2014/15-2023/24) aligns with federal, state and regional road safety strategies and initiatives to improve road safety and reduce road trauma.

The Road Safety Strategy makes the following commitments to improving road safety in our shire:

- Achieving a whole of organisation understanding and commitment to applying Safe System principles.
- Investing in, planning, developing and implementing evidence based road safety initiatives to reduce road trauma.
- Raising the profile of road safety.
- Facilitating the involvement of local businesses, government agencies and community groups in road safety initiatives.
- Improving the coordination of local government road safety initiatives with regional, state, and national road safety initiatives.
- Engaging community and encouraging ownership of the key road safety issues.
- Reviewing and evaluating the effectiveness of road safety initiatives.

The Local Government Road Safety Program (LGRSP) will continue to be a primary avenue for delivering Council's commitment to road safety. The LGRSP is a partnership program between local councils, Transport for NSW and the Roads and Maritime Services to reduce the likelihood of deaths and injuries from road trauma in local communities.

Over the next 10 years, Council aims to better target road safety interventions by concentrating efforts on tackling the main contributors to road trauma (speed, alcohol and fatigue) and protecting the people most at risk (motorcyclists, cyclists, pedestrians, young road users and older road users). This strategy focuses on delivering road safety initiatives where the greatest potential improvement can be achieved.

Contained within the strategy is Council's vision for road safety, capturing the community's desire to create a safer road transport system for the future, which accommodates and respects the needs of all road users. And for the first time there is a committed to achieving local road safety targets; benchmarks that align with state and national targets for reducing road trauma on our local road network. Achieving the vision and targets will require strong political will, funding commitment and concerted, sustained efforts across a range of sectors, within our own organisation and the community.

11.2 Road Safety Strategy (2014/15 - 2023/24)

The strategy highlights the importance of continuing to strengthen partnerships within our own organisation, with government agencies, non-government agencies, businesses, other stakeholders and within the local community to achieve further road safety gains.

A copy of the draft strategy is available on Council's website. Printed copies can be made available to any Councillors upon request.

Public Exhibition Outcomes

The public exhibition period for the draft Road Safety Strategy occurred over four weeks from 5 November through to 3 December 2014. During this time key stakeholders including the Ballina Liquor Accord, the Ballina Transport Working Group, the Access Reference Group, the Local Traffic Committee, NSW Police and Transport for NSW were advised that the strategy was placed on public exhibition. A community notice was also placed in the Ballina Advocate advising the community that the strategy was placed on public exhibition. Details of the extent of community engagement during the preparation of the draft strategy, and during its public exhibition, are included under the consultation section of this report.

During the public exhibition, one submission from a resident was received. A copy of the submission is attached to this report. The following information is a summary of the points in raised in the submission and the staff response.

The submission supported the overall objectives contained in the Road Safety Strategy, however the submission expressed the view that the Strategy was difficult to read and contained repetitious motherhood statements with little or no substance or analysis. The submission also makes the following inquiries and comments;

- How will issues of elderly pedestrian safety be addressed
- Council should be more proactive in identifying issues and planning for road safety, particularly elderly pedestrians
- Council cannot rely entirely on traffic accident data to develop the strategy.
- Specific recommendations for road improvements included:
 - The request for a left turn merge lane from the Teven Road exit and the Pacific Highway on ramp in the direction of Ballina CBD.
 - The request for infrastructure improvements for pedestrians on Bangalow Road fronting the Ballina Hospital and the Kentwell Community Centre.

Response to the Submission

- The strategy was specifically drafted in plain English style text and the presentation style reflects contemporary practice for these types of documents. Based on the positive feedback from Councillors and others at the time of presenting the draft on its format and content, it would seem that most readers have found the presentation to be appropriate for this purpose.

11.2 Road Safety Strategy (2014/15 - 2023/24)

- The draft Road Safety Strategy was developed after a thorough investigation into road crash data, alongside stakeholder and community consultation, as well as the review of existing local, state and regional planning documents.
- Community and stakeholder consultation were central to the development of the strategy to identify and address key road safety issues for the shire. To specifically address issues of pedestrian safety the Pedestrian Access Mobility Plan (PAMP) was developed and adopted by Council in November 2010. In preparing the 2010 PAMP, in excess of 200 community suggestions were assessed and a Priority Program of Works for the period 2011/12 to 2019/20 was determined using these assessments. In December 2013 Council reviewed the Priority Program of Works. This program provides road and path improvements that consider the needs of pedestrians, including elderly pedestrians and people with disabilities.
- To advocate improved road safety outcomes for all road users Council's Road Safety Officer is represented on numerous working groups, as an executive on the Ballina Liquor Accord, the Access Reference Group, the Ballina Transport Working Group and the Local Traffic Committee (in collaboration with the RMS, NSW Police, other Council staff, the local member and community representatives) and presents regularly to older residents on driver, pedestrian and motorised scooter safety.
- In the draft Road Safety Strategy, Council identified two key priorities to improve the safety of older road users. In the Safer Roads section (page 32) PRIORITY SRR3 Improve the safety of vulnerable road users and in the Safer Road Users section (page 66) PRIORITY SRU3 Improve the safety of older road users. The relevant key actions were listed in the email response.
- The Strategy follows a systems approach to meet the strategic objectives. This means that the strategy does not include a proposed works program. Rather the systems approach encourages Councillors, road managers, planners, developers, designers and others to integrate road safety outcomes within broader programs and projects. Therefore this report does not attempt to address the specific infrastructure issues raised in respect of the Teven Road exit and the Pacific Highway and the pedestrian facilities in Bangalow Road fronting the Ballina Hospital and the Kentwell Community Centre. These points have however been forwarded to the technical officers who manage the road programs for Council.

Sustainability Considerations

- **Environment**
Specific measures to improve road safety can impact environmental performance. Improving roads and roadsides (including improvements to pathways), speed management and the use of safer vehicles can improve mobility, efficiency, reduce congestion, improve energy consumption and reduce greenhouse gas emissions.

11.2 Road Safety Strategy (2014/15 - 2023/24)

- **Social**

The social benefits of an efficient and safer road transport system for all road users may include: increased opportunities to safely engage in community life and improved access to social, employment, education and retail opportunities. Road safety initiatives can also be considered as a means to support a more sustainable and active lifestyle through the provision of a well-connected path network.

- **Economic**

The Road Safety Strategy recognises the significant contribution that a safer road transport system makes to the shire's economy. Creating a safer, more efficient and more sustainable transport system allows governments to direct road and transport investment and road safety interventions to areas of highest demand. A safer road transport system provides access to health, employment and education.

The economic benefits of road safety programs are also a product of reductions in accidents and costs per accident saved. Crash costs include human costs (loss of life, injury costs, quality of life etc.), vehicle costs (towing and repairing costs etc.) and general costs (property damage, hospitalisation costs, insurance, police costs etc.).

Legal / Resource / Financial Implications

The Road Safety Strategy is a strategic document for the purposes of improving road safety planning in the shire, there are no legal implications associated with its endorsement for exhibition purposes.

However, resourcing will need to be considered before the potential road safety initiatives suggested in the strategy can be actioned. The action plan provides indicators about how the potential road safety initiatives listed for each of priorities are, or may be, resourced.

Key opportunities or projects identified in the strategy, once nominated for action, will be integrated into Council's delivery programs and operational plans over time. Funding and resource provision in relation to these activities would therefore be considered in the context of the broader budgetary process.

Consultation

The community engagement phase of the draft Road Safety Strategy commenced in September 2013. Consultation activities undertaken included the following:

- An internal working group – Ballina Shire Council staff from Civil Services (Infrastructure Planning and Engineering Works), Strategic Planning (as required), Operations Support (as required) and Development and Environmental Health (as required).
- Completion of a community survey.
- Completion of an online survey (advertised through email networks, Community Connect, the local media and also distributed in hard copy to select locations).

11.2 Road Safety Strategy (2014/15 - 2023/24)

- Presented to numerous committees, working groups and reference groups. The Road Safety Officer attends the Local Traffic Committee, the Ballina Transport Working Group, the Access Reference Group, Sustain Transport Working Group, the Ballina Liquor Accord and the RRISK Committee (Reduce Risk Increase Student Knowledge), all of which had the opportunity to prepare a submission.

In the community survey and online surveys residents were asked what road safety issues matter to them and what road safety improvements they would like to see. Over ninety responses to the road safety surveys were received. The responses were compiled and included under the four key outcomes of the strategy: Safer Roads and Roadsides (SRR), Safer Speeds (SS), Safer Vehicles (SV) and Safer Road Users (SRU).

- The draft Road Safety Strategy was placed on public exhibition for four weeks from 5 November to 3 December 2014.
- Key stakeholders and community members were advised that the strategy was on public exhibition. Advertisements were placed in the Ballina Advocate and on Council's website.

Options

1. That the Council does not adopt the Road Safety Strategy and ceases further action. Based on the community consultation to date, general community support for this strategy and Council's commitment to the Local Government Road Safety Program, this option is not recommended.
2. Council amends and endorses the draft Road Safety Strategy. Based on the one submission received and the response discussed above, this option is not recommended.
3. Council endorses the attached Road Safety Strategy as exhibited with no change.

It is also noted that in reviewing the draft document, Councillors identified some changes to the presentation and accuracy of some of the information in the appendices. These suggestions have been reviewed and various amendments made where possible.

RECOMMENDATION

1. That Council adopts the *Road Safety Strategy (2014/15 – 2023/24)* as exhibited.
2. That Council write and thank Mr Clay for his submission, with that response outlining the reasons for Council's adoption of the Strategy.

Attachment(s)

1. Submission - Road Safety Strategy - Alan Clay

11.3 Tender - Airport Lease Advisory Services (Scoping Study)

11.3 Tender - Airport Lease Advisory Services (Scoping Study)

Delivery Program Commercial Services

Objective To obtain Council approval to award a contract to appoint a consultant to undertake a Scoping Study to allow Council to determine the merits of granting a long-term lease over the Ballina Byron Gateway Airport

Background

This matter was considered at the December 2014 Ordinary meeting where it was deferred to a Councillor briefing. The briefing was held on 13 January 2015. The balance of this report is the December report repeated. It is important that Council make a decision at this meeting in respect to this tender to allow the tender process to be finalised.

At the July 2014 Ordinary meeting, Council adopted a recommendation from the July Commercial Services Committee Meeting to engage a consultant to advise Council on the various long term tenure options available and indicative financial returns for the lease of the Ballina Byron Gateway Airport.

A request for tender was advertised on 20 September 2014 for these works. At the close of the tender period on 30 October 2014, seven tenders were received.

This report details the outcome of the tender evaluation process.

Key Issues

- Engage suitably qualified and experienced consultant;
- Award the tender in accordance with the Local Government (General) Regulations 2005.

Information

Tender submissions were received from:

- Ernst & Young
- KPMG
- Pottinger Co Pty Limited
- The Ambidji Group Pty Ltd
- Price Waterhouse Coopers Au
- Strategic Energy Pty Ltd
- The Airport Group Pty Ltd

All tenders were initially assessed for conformity with the tender specification. From this assessment all tenders were deemed to be conforming.

The tender documentation defined three areas and their corresponding weightings, by which each tender would be assessed:

11.3 Tender - Airport Lease Advisory Services (Scoping Study)

- Total Price – Stage 1 and 2 (30%)
- Capability and Experience (40%)
- Project Plan (30%)

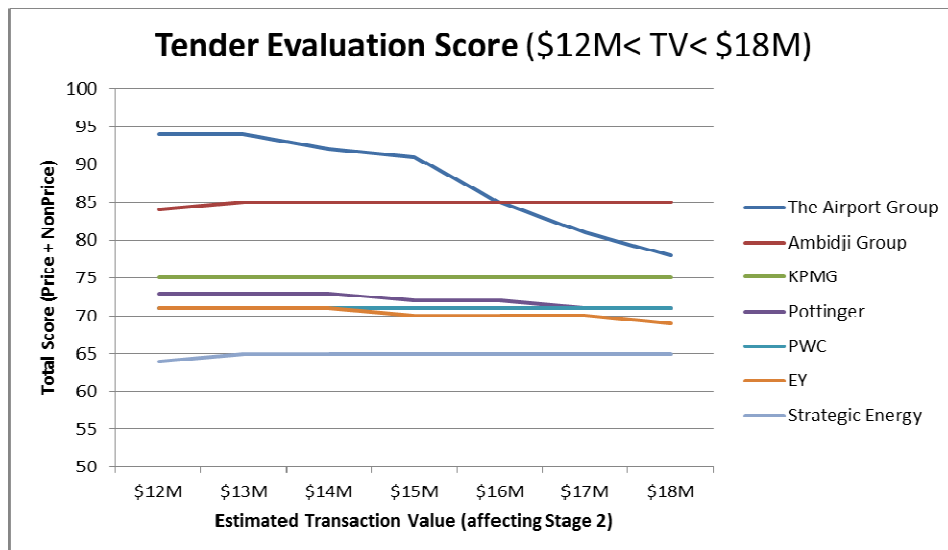
The tender documentation was developed to allow Council to be provided proposals for the three separate stages for the consultancy services:

- Stage 1 – Produce a Scoping Study that provides sufficient information for Council to assess the prospects for the long-term lease of the Airport and whether Council should or should not proceed with Stage 2
- Stage 2 – Advise and assist Council in establishing the leasing elements, calling tenders, review and award of the lease
- Stage 3 – Provision of supervisory and monitoring role over the Airport and the Lease on behalf of Council.

The tender and the proposed agreement with a consultant is structured so that Stages 2 and 3 are only to be undertaken should Council resolve to proceed with the lease of the Ballina Byron Gateway Airport based on the information provided in Stage 1. Council is not bound to proceed with Stage 2 following the completion of Stage 1.

A tender evaluation Panel, in accordance with Council's procedures, was established and the tenders were assessed against an approved tender evaluation plan.

All tenderers submitted a lump sum price for Stage 1 of the works, however pricing for Stage 2 differed based on a successful Transaction Value (TV) at financial close. For this reason a final score (including the fixed non-price score) was calculated for each tenderer on a scale of potential Transactional Values for the Airport. The scale for the Transaction Value was determined from averaging the estimates in the various submissions.



The two preferred suppliers from this evaluation are The Airport Group and Ambidji Group. The proposals for each stage from each of these tenderers are summarised below:

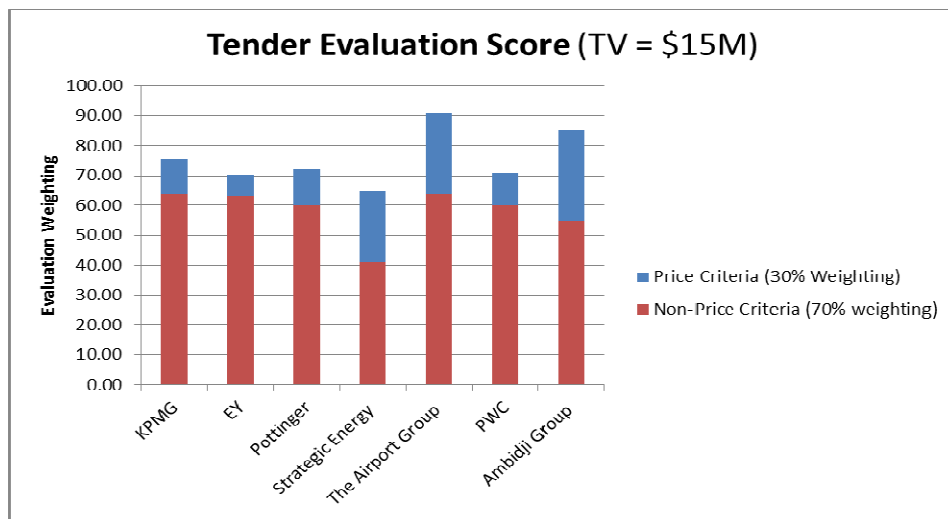
11.3 Tender - Airport Lease Advisory Services (Scoping Study)

	The Airport Group	Ambidji Group
Stage 1	\$110,000	\$229,950
Stage 2	2% of Transaction Value (+ 10% Performance Fee > \$15M)	\$136,090
Stage 3	TBC end of Stage 1	\$46,280 / year

Given the uncertainty of Council proceeding to Stages 2 and 3 until the Scoping Study has been completed (Stage 1), the Panel considered the potential risk of Council committing a large amount of funds to the Scoping Study and not proceeding into the later stages. For this reason, it was determined that the best value for money was for the lower of the lump sum value for Stage 1 (The Airport Group).

In comparing the price submissions for Stage 2, the Panel agreed that the pricing structures submitted based on the Transactional Value of the Airport Lease provided more incentive for the consultant to get the best value available. This would be in line with the interests of Council.

The following is the final evaluation scores of the six tender submissions, followed by the ranked order. Prices have been included for Stages 1 and 2 for each tenderer. The Stage 2 price is based on an assumed Transactional Value (TV) of \$15 million.



Ranking	Tenderer	Price (ex GST) (\$)
1	The Airport Group (Stage 2 - 2% plus negotiated bonus fee above an agreed transactional value)	Stage 1: 110,000 Stage 2: 300,000 Total: 410,000
2	Ambidji Group (Stage 2 – fixed fee payable)	Stage 1: 229,950 Stage 2: 136,090 Total: 366,040
3	KPMG (Stage 2 – 1.5% or \$750,000 whichever is the greater – Not paid if transaction does not proceed)	Stage 1: 237,500 Stage 2: 750,000 Total: 987,500
4	Pottinger (Stage 2 - fixed fee)	Stage 1: 373,000 Stage 2: 650,000 Total: 1,023,000
	PWC (Stage 2 – \$180,000 fixed fee)	Stage 1: 180,000

11.3 Tender - Airport Lease Advisory Services (Scoping Study)

5	payable plus 4% success fee with minimum payment of \$500,000)	Stage 2: 780,000 Total: 960,000
6	EY (Stage 2 - \$516,000 fixed fee payable plus \$690,000 if successful)	Stage 1: 350,000 Stage 2: 1,125,000 Total: 1,556,000
7	Strategic Energy Group (Stage 2 – fixed fee payable)	Stage 1: 189,000 Stage 2: 270,000 Total: 479,000

Based on the assessment criteria and reviewing various scenarios, The Airport Group ranked the highest in the evaluation. The Airport Group has completed a number of similar projects and proven themselves competent in undertaking the works required.

However it is important to understand that The Airport Group is seeking an additional bonus fee above an agreed transactional value, with that fee not defined in their tender documentation for Stage 2.

In discussions with representatives from The Airport Group one proposal mentioned was a 10% bonus fee above the \$15m transactional value identified in this report.

Under this scenario the Stage 2 fees payable to The Airport Group could potentially be:

Transaction Value	\$15M	\$18M	\$20M	\$25M	\$30M
2% Commission	300,000	300,000	300,000	300,000	300,000
10% Bonus	0	300,000	500,000	1,000,000	1,500,000
Total	300,000	600,000	800,000	1,300,000	1,800,000

Whether this level of transactional value is achievable appears unlikely however Council needs to ensure that we are prepared for any substantial variation in the final value.

Ambidgi ranks second when looking at transactional values around the \$15m mark, however their costs are payable even if the transaction does not proceed.

The third ranked tenderer, being KPMG is similar to The Airport Group in that they have a 1.5% percentage figure for Stage 2 however there is also a minimum fee of \$750,000 payable if the transaction proceeds, no matter the transaction value.

The actual 1.5% is largely irrelevant as the transactional value would need to be greater than \$50m for the 1.5% to outweigh the \$750,000 minimum fee.

Based on the Stage 2 transaction fee of \$750,000 plus their initial Stage 1 figure of \$237,500, KPMG would provide better value to Council than The Airport Group for any transaction value over approximately \$20.8m, due to the 10% bonus fee mentioned by The Airport Group.

The downside to the KPMG proposal is the \$237,500 estimate for Stage 1.

It is clear that The Airport Group has been able to use their knowledge of the operations of the Ballina- Byron Airport to minimise their stage one costs, with their proposal then creating a major incentive to achieve a higher transaction value.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The airport provides important services for community members and visitors of Ballina Shire and this project is aimed to ensure that this continues into the future.
- **Economic**
The airport is a significant contributor to economic development. The purpose of this project is to evaluate options to provide an ongoing economic return for Council and financial security in respect of our management of this asset.

Legal / Resource / Financial Implications

This report is provided to assist the Council meet its statutory requirements in regards to tendering and procurement.

Consultation

A public tender process was undertaken. Correspondence was received from Ms Margaret Howes in respect to this proposal with that correspondence attached to this report for information.

Options

Under the Local Government (General) Regulations 2005 Council must either accept the tender that “appears to be the most advantageous” or decline to accept any of the tenders.

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract for delivery of Stage 1 to the highest ranked tenderer, The Airport Group.

Option one is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005.

Option two is the preferred option.

In awarding Stage 1 to The Airport Group it also needs to be recorded that the fees for Stage 2 will need to be further negotiated, subject to Council resolving to proceed to Stage 2. The bonus fee sought by The Airport Group could have a major bearing on the final contract value and as Stage 1 progresses Council will be able to get a better handle on the more likely transactional value. If Council and The Airport Group are not able to reach agreement on this issue Stage 2 of the project may well need to be re-tendered, subject to Council agreeing to proceed to Stage 2.

11.3 Tender - Airport Lease Advisory Services (Scoping Study)

Finally Council also needs to be certain it wishes to commence Stage 1. The acceptance of this tender for Stage 1 will incur significant costs of \$110,000 (inc GST), with their being no guarantee that any outcomes will eventuate from the process.

The tender specification defined Stage 1, being the Scoping Study, as the following range of services:

- a. *The Scoping Study is the information audit and analysis, which requires a higher level review of items and issues relevant to determine asset value and feasibility, comprising, as a minimum, the following elements:*
 - *Analyse the viability and feasibility of leasing the Airport*
 - *Examine how the Airport is positioned in the infrastructure market*
 - *Develop a base case model for the Lease*
 - *Conduct workshops with Council as required*
 - *Identify suitable Lease payment structures to satisfy Council's objectives, both financial and social*
 - *Analyse aeronautical revenue and forecasting*
 - *Assess landside development opportunities within the Airport precinct*
 - *Assess adjoining land development opportunities, along with associated road and services infrastructure (review of existing work available at Council – any new work will be the subject of a separate engagement)*
 - *Assess environmental and planning issues (review of existing work available at Council – any new work will be the subject of a separate engagement)*
 - *Analyse airside infrastructure and life cycle analysis (review of existing work available at Council – any new work will be the subject of a separate engagement)*
 - *Analyse terminal capacity and adequacy and the quantum and timing of capital expenditure requirements*
 - *Review the investor/partner market demand*
 - *Consider key leasing issues including lease structure, tax, legal, corporate governance arrangements and the timeline in the event Council chooses to implement a Lease;*
 - *Produce a comprehensive list of all costs required to undertake Stage 2;*
 - *Recommend a preferred Council governance structure;*
 - *Make recommendations to Council in relation to proceeding or not proceeding with Stage 2. These recommendations must identify the Council owned assets and any infrastructure delivery that should form part of Stage 2*
- b. *By the end of Stage 1, the Scoping Study report covering all the necessary elements listed is to be produced for reporting to Council.*
- c. *The Scoping Study must take into account:*
 - *Council's existing plans for the Airport, future development requirements and growth opportunities;*
 - *Australian airport ownership and operational strategies;*
 - *Responsibilities and relationships of the Airport and with other government entities at different levels;*
 - *Airport operational matters, including:*
 - *Non-commercial functions and assets/liabilities that should be separated from the commercial business, including the structure and timing thereof*
 - *The commercial activities and functions, assets, rights and liabilities suitable to be leased;*
 - *All Council employee related issues;*

11.3 Tender - Airport Lease Advisory Services (Scoping Study)

- *Any business restructuring, such as business separation tasks and key contracts that may need to be settled, restructured, terminated or renewed; and*
- *Post-transaction arrangements for managing the Airport.*
- *The Lease execution process;*
- *The strategy, timing and marketing approach to potential investors;*
- *Opportunities to add value to the Airport;*
- *How the underlying value of the Airport may be influenced by:*
 - *Proposed risk allocation to Council as compared to risk allocation to the Lessee*
 - *Lease term options*
 - *Stakeholder management, including regulators, users, communities, service providers and customers*
 - *Ownership restrictions, if any*
 - *The inclusion and justification of other related assets*
 - *The current state of the financial markets, including capital markets; and*
 - *Passenger demand.*

In considering this tender for \$110,000 (ex GST) Council needs to be convinced that works justify the expenditure proposed.

If accepted, this funding will need to be financed from Council's Property Development Reserve as that is the only reserve with this level of funding readily available and unallocated. This allocation of monies will not impact immediately on any identified programs, besides meaning that there is \$100,000 less available for other property development projects such as the next stages of the Wollongbar Residential Estate and the Russellton Industrial Estate.

RECOMMENDATIONS

1. That Council accepts the tender from The Airport Group, Stage 1 to undertake a scoping study of the long term leasing options of the Ballina Byron Gateway Airport for the amount of \$110,000 (ex GST), with Council reserving the right to not proceed to Stage 2 of this contract, and retain the right to call for fresh tenders for Stage 2, subject to further negotiations with The Airport Group in respect to any bonus paid above an agreed transactional value for Stage 2.
2. That Council authorises the Council seal to be attached to the contract documents.
3. That Council authorises the funding of this tender from the Property Development Reserve.

Attachment(s)

1. Margaret Howes - Submission re leasing Ballina Airport - RFT778

11.4 Tender - Smith Drive to Uralba Water Main Replacement

11.4 Tender - Smith Drive to Uralba Water Main Replacement

Delivery Program Water and Wastewater

Objective To award tender for the construction of the Smith Drive to Uralba Water Main.

Background

The Smith Drive to Uralba Water Main, constructed circa 1936, is known to contribute significantly to water loss and potentially account for up to 16% of the total water loss in the Ballina Shire water network.

A condition assessment, carried out in May 2013, confirmed that the assets had deteriorated to a level where ongoing reliability of the supply to customers cannot be guaranteed at satisfactory levels. This finding is consistent with the age of the assets.

In early 2014 Council determined not to replace the rural section of pipeline west of Emigrant Creek due the substantial cost and low number of connected customers. This would have resulted in nine existing customers being disconnected from the town water supply. Following the decision, Council met with those customers to discuss their concerns, and considered several options, including requiring those customers to pay special rates to fund the line's replacement.

At the 24 July 2014 Ordinary meeting Council resolved to proceed with the Smith Drive to Uralba Water Main Replacement Project for the entire length of the existing pipeline, including the section of main servicing properties to the west of Emigrant Creek, without imposing special rates.

Since that time Council officers have completed design options and a detailed design, consulted with state government stakeholders, submitted the planning application, and called tenders for the construction. Tenders have now been received and assessed.

This report recommends Council accepts the preferred tender determined through the tendering process.

Key Issues

- Implementation of Council's Urban Water Management Strategy
- Reducing water loss and maintaining levels of service
- Award Contract in accordance with the Local Government (General) Regulations 2005.

11.4 Tender - Smith Drive to Uralba Water Main Replacement

Information

Project scope and budget

The scope of the project is to construct 4.5 km of water main and to remove the existing above ground pipeline. The scope includes finalising any design, survey, geotechnical and other investigations to facilitate the proposed pipeline route including all under bore works.

A condition assessment report from May 2013 estimated the project would cost approximately \$1M based on the assumption that the 150mm DICL pipeline would be replaced like-for-like.

Council refined the design in late 2014 to provide capital and maintenance cost savings to Council, and the refined budget estimate was reduced to \$790,000. The revised design is a below-ground poly ethylene pipeline. A significant portion of the savings have been realised in the western section of the pipe which serves nine properties. The savings were made by sizing the pipe to provide Council's levels of service for domestic water supply rather than for fire-fighting. This is considered to provide an appropriate balance between the interests of the residents connected to the main and the costs to broader customer of providing this service to a few customers. The underground nature of the design will also reduce ongoing maintenance costs. Tendering for construction has been based on this design.

Tendering for construction

The tendering process was carried out in accordance with the *Local Government (General) Regulation 2005*.

Tenders (RFT 1400987) for the Smith Dr Water Main Replacement were called on 18/11/2014 and closed at 9.30 am on 18/12/14. Tenders from eight 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 was based on the time schedule. Tenderers also had to meet mandatory criteria based on their experience and previous successful completion of similar projects.

The final evaluated scores of the tenders including non-price scores as determined by the Tender Evaluation Panel are shown in the following table.

Tenderer	Original Tender amount	Adjusted / Assessed Tender amount	Weighted price score	Total normalized non-price score	Total score	Rank
Milbant Constructions P/L	\$297,974.75	\$ 315,479.23	80	18	98	1
Bastow Civil Constructions P/L	\$518,012.00	\$ 503,922.00	68	10	76.1	2
Codmah P/L	\$792,257.47	\$ 792, 257.47	49.6	20	68.8	3
Murphy McCarthy & Associates P/L	\$794,119.50	\$ 794, 119.50	49.4	10	58.7	5
Ledonne Constructions	\$844,515.00	\$ 864,515.00	44.9	8	52.3	6

11.4 Tender - Smith Drive to Uralba Water Main Replacement

Tenderer	Original Tender amount	Adjusted / Assessed Tender amount	Weighted price score	Total normalized non-price score	Total score	Rank
Malin Excavations P/L	\$1,102,730.00	\$1,102,730.00	29.7	18	47.3	7
National Tapping Services P/L	\$1,214,193.00	\$1,214,193.00	22.6	8	30.2	8

A review of the Schedule of Prices from Milbant Constructions P/L, the highest ranked tenderer, identified inconsistencies with two of the activity values when compared to meterage rates provided in Schedule – Rates for Variations.

Correspondence issued to Milbant 8 January 2015 requested that they review their listed costs associated with these activities and confirm that correct values were provided. Return correspondence was received 12 January 2015 which revised their schedule of prices upwards slightly.

Milbant's adjusted Tender Amount is 60% below the pre-tender estimate. Because this is more than 10% below the pre-tender estimate, Milbant was asked to confirm in writing that it fully understands the nature and extent of the contract work and is satisfied the Tender Amount properly reflects all contractual obligations. Milbant confirmed that this was the case.

Reference checks confirmed that Milbant had performed adequately on projects where it had provided tender bids up to 30% lower than pre tender estimates. It is therefore considered that the Adjusted Tender Amount of Milbant is an excellent pricing outcome for Council and the risks associated with awarding a contract this far below the estimate, are, in the circumstances, reasonable.

Referee reports also indicated satisfactory past performance by Milbant on recent contracts, and included repeat work with a number of clients which indicated consistent levels of good performance. Referees suggested some higher levels of site supervision may be appropriate having regard to the pricing, however, the responses indicated confidence that the proposed works could be performed safely, without environmental damage and on time by Milbant.

If there is a need for Council to provide additional supervision during the contract, and this would be determined as the contract progresses, Council will still realize substantial savings.

There is concern that Milbant's tendered price is 60% less than the estimated budget, however all mandatory requirements have been satisfactorily met, and reference checks confirmed a strong and reliable history of successful project completions and repeat business.

Given the above, and based on the tender evaluation methodology, Milbant is identified as the preferred tenderer. The Recommended Tender Amount is \$315,479.23 including GST.

Sustainability Considerations

- **Environment**

The opportunities to prevent water supply losses are important in terms of reducing the demand on the natural environment to support urban population.

Potential environmental impacts from construction have been addressed in a Review of Environmental Factors and mitigation measures will be implemented.

- **Social**

This project will assist Council meet determined levels of service for water supply to residents in this locality.

- **Economic**

Renewing infrastructure in Pimlico and Uralba will significantly reduce water loss costs to Council. Replacing old infrastructure will improve reliability of supply to residents and businesses in the area and reduce disruptions.

Legal / Resource / Financial Implications

Council has an obligation under a number of strategic and policy documents to facilitate the renewal of water infrastructure, meet levels of service to customers, and reduce water losses from the system.

The tendered price is within the pre-tender budget, and Council's overall project budget is considered adequate to enable the entire project to proceed. Previous financial assessments rated Milbant as being in a satisfactory financial position to undertake this type of work. Given the modest size of the Smith Drive project, the relative size of previous Milbant projects, and Milbant's approximately 25 years in business, the risk of financial issues in this contract is considered small.

Consultation

There has been considerable consultation with residents along the pipeline over an extended period of time. The planning approvals process has required consultation with relevant state government bodies such as Roads and Maritime Services and Fisheries, and with Council's own planning section.

An open tender process in accordance with the Local Government Act 1993 has been completed.

Options

1. Award construction contract RFT 1400987 for the Smith Drive Water Main Replacement to Milbant Constructions P/L for the lump sum contract amount of \$315,479.23 inclusive of GST.
2. Reject the tender received and recall tenders. This is not recommended as a strong market response has already been established and a delay to the project will result in ongoing water loss and maintenance costs.

11.4 Tender - Smith Drive to Uralba Water Main Replacement

The recommendation is to accept the tender as it is within budget and the preferred tenderer has met all Council's tender assessment criteria.

RECOMMENDATIONS

1. That Council accepts the tender from Milbant Constructions P/L for the Smith Drive to Uralba Water Main Replacement in the lump sum contract amount of \$315,479.23 inclusive of GST.
2. That Council authorises the seal to be attached to the contract documents.

Attachment(s)

Nil

11.5 Policy (New) - Temporary Storage Containers on Community Land

11.5 Policy (New) - Temporary Storage Containers on Community Land

Delivery Program Open Spaces and Reserves

Objective To seek Council endorsement of a new Policy for Temporary Storage Containers on Community Land

Background

Shipping containers are currently being used by sporting and community groups as a cost effective way to store equipment on Council managed community land. There has been an increase in the number of containers used in recent years, often without approval from Council. While the containers are effective for clubs, the containers can also have an impact on the amenity, presentation and safety of our public spaces.

The proposed policy aims to recognise the benefits temporary storage containers provide to sporting and community groups and to provide a clear framework to both clubs and Council regarding how these units are to be managed.

Key Issues

- To establish a guiding policy for the approval and management of temporary storage containers on community land

Information

The attached policy provides guidance to community and sporting groups regarding the approval and management of temporary storage containers.

The key points in the policy is that it confirms containers require approval and it promotes that the use of storage containers should be temporary by limiting the time for an approved use to be a maximum of four years. Furthermore, it is proposed to limit clubs to one container per reserve area unless there are exceptional circumstances.

The purpose of this approach is to avoid any proliferation of the use of containers and to encourage clubs to use the approved time to budget and fund raise for the more preferred permanent structures such as sheds or club houses.

Sustainability Considerations

- **Environment**
By providing an approval process for the use of containers, Council is able to manage any potential environmental impacts from their use.

11.5 Policy (New) - Temporary Storage Containers on Community Land

- **Social**

Sporting and Community Groups form vital components of the community and the use of containers can be an effective support to their activities.

- **Economic**

The use of shipping containers is an opportunity for clubs to reduce their costs and thereby allow them to continue to provide cost effective community outcomes.

Legal / Resource / Financial Implications

Council has a requirement to formalise storage containers under licence agreements where the application results in the exclusive occupation of community land.

By adopting a policy which includes approval and risk management processes, Council is appropriately responding to public liability issues associated with the use of its land.

Consultation

It is recommended that Council place a draft of the policy on public exhibition. There has already been some liaison in the preparation of this policy.

Options

1. Council can elect to place the draft policy on public exhibition.
2. Council can amend the draft policy and place on public exhibition.
3. Council can elect to not adopt a policy.

The recommendation to this report is to place the draft policy on exhibition as it provides a formal framework around current practices. An information document will be forwarded to Council's database of sporting clubs as part of this exhibition process.

It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopts the Temporary Storage Containers on Community Land Policy, as attached to this report.
2. That Council places this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then the policy will be considered to be adopted by Council.

Attachment(s)

1. Draft Policy - Temporary Storage Containers on Community Land

12. Public Question Time

12. Public Question Time

13. Notices of Motion

13. Notices of Motion

Nil Items

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

15. Reports from Councillors on Attendance on Council's behalf

15.1 Mayoral Meetings

Councillor David Wright

Activities since the December 2014 Ordinary meeting:

<u>Date</u>	<u>Function</u>
22/12/14	Extraordinary Meeting
31/12/14	New Years Eve Celebrations
5/1/15	Ballina Junior Cricket Opening
7/1/15	Funeral – Jim Cross
8/1/15	Gallery Launch
5/1/15	Ballina Junior Cricket Finals
11/1/15	Lennox Head Markets
12/1/15	NSW Agriculture Teachers' Association Conference Opening
12/1/15	Meeting Elton Stone
13/1/15	Extraordinary Meeting
13/1/15	Tender – Airport Lease
22/1/15	Council Meeting
23/1/15	Meeting in Lismore with Rev Fred Nile
28/1/15	Briefing – Missingham Markets

RECOMMENDATION

That Council notes the contents of the report on Mayoral meetings.

Attachment(s)

Nil

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

17. Confidential Session

Nil Items