



## 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 26 March 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**

The National Anthem will be performed by Southern Cross K-12 School.

**2. Acknowledgement of Country**

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

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

**3. Apologies**

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 February 2015 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 February 2015.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

**8.1 DA 2014/609 - 45-49 Ballina Street, Lennox Head**

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

**8.1 DA 2014/609 - 45-49 Ballina Street, Lennox Head**

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<b>Applicant</b>	Mr C Watson C/- Planners North
<b>Property</b>	Lots 25-27 Section 1 DP 11687, No.'s 45-49 Ballina Street, Lennox Head
<b>Proposal</b>	Construction and strata title subdivision of a two storey mixed use development providing commercial/food and drink premises/offices (Building A fronting Ballina Street) and three storey shop top housing (Building B fronting Rayner Lane) with centralized open car park, landscaping and associated infrastructure
<b>Effect of Planning Instrument</b>	The land is zoned B2 Local Centre under the provisions of the Ballina LEP 2012
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

**Introduction**

A development application has been received from Planners North for a mixed use development comprising the consolidation of three existing allotments into one for the erection and strata title subdivision of commercial premises and shop top housing in two separate detached buildings with centrally located open car parking over three lots in Ballina Street, Lennox Head.

The estimated cost of the development is approximately \$4.4 million.

The Statement of Environmental Effects describes the proposal as follows:

*“The ground floor fronting Ballina Street is proposed as 3 tenancies to be used as commercial premises (for mainly food & drink premises; or retail premises or as office premises). At first floor level approval is sought for the 5 tenancies to be used interchangeably as business premises or office premises. At the rear of the development site 4 shop top housing units are proposed. The ground floor of each of the shop top housing units is sought to be used interchangeably for business premises or as office premises. The two floors above the ground floor of the shop top housing units are for residential occupancy by persons associated with the ground floor commercial activity.*

*Approval is also sought to Strata Title the development.”*

Building A is two storeys and proposes three separate commercial/food and drink premises on the ground floor and five office premises at first floor level. Building A is proposed to front Ballina Street and to have an active street frontage with pedestrians accessing the site from Ballina Street, featuring a walk through lobby/alfresco dining area to the central open car park.

## **8.1 DA 2014/609 - 45-49 Ballina Street, Lennox Head**

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Building B is three storeys and proposes four shop top housing premises (i.e. ground floor offices associated with the dwelling houses located on the two floors immediately above). With respect to the shop top housing dwellings/units, the design allows the ground floor offices to be separately tenanted to the associated level residences above although the application clearly indicates that such is not the intention of the applicants.

Because Building B fronts Rayner Lane the applicant contends that it has been designed to maintain a residential feel along the laneway.

Vehicular access/egress to the centralised open on-site car park between Buildings A and B is proposed via a single two lane driveway from Rayner Lane immediately south of Building B. Therefore all commercial and residential parking and traffic is proposed from Rayner Lane.

The subject lands involve Lots 25, 26 and 27, Section 1, DP 11687 Nos. 45-49 Ballina Street, Lennox Head (inclusive) and until recent demolition works conducted in late 2014 comprised the Lennox Thai Gardens Restaurant and Motel accommodation. The sites have extensive frontages to both Ballina Street and Rayner Lane at the rear. The combined area of the three lots is 3,285m<sup>2</sup>. See locality and site plan attached.

The immediate neighbouring development to the north, south and east comprises low density single or two storey residential dwelling houses, whilst to the west (across Ballina Street) single or two storey commercial developments exist.

Councillors may recall that a mixed use development comprising two storey 16 dual key mixed tourist/residential units and commercial development with basement car parking was approved on these sites via DA 2012/195 on 23 August 2012. The owner of the sites has advised that construction of DA 2012/195 (other than demolition of previously erected buildings) has not commenced due to it being financially unviable and unmarketable within Lennox Head.

Although the following report will outline that the development is consistent with the Ballina LEP 2012, it will be highlighted that the development is inconsistent with substantial elements of the Ballina Shire Development Control Plan 2012, namely Chapter 6c which relates to Commercial Development in Lennox Head (the DCP). Councillors can refer to the tabulated assessment of compliances/non-compliances with both plans at the end of this report.

The applicant is seeking departures from the DCP due to their assessment of the financial viability/urban economics of the preferred tourist accommodation land uses outlined for Precinct D in the Lennox Head Village area.

The issue of financial viability/urban economics is an important one from the applicants' perspective and has been assessed as being pivotal to the Council determining whether or not it accepts departures from the Shire's DCP.

The current proponents previously used a viability argument in their application for these sites under DA 2012/195 to justify a departure from the DCP and seek approval for the inclusion of permanent residential accommodation in that development (although restricted).

Councillors will note that it's not just proposed departures from the preferred land uses that are of assessment concern/focus. The proposal also raises concerns regarding the DCP in the following areas:

- The underlying objectives of the DCP.
- Desired future low scale seaside village character.
- Bulk and scale.

These concerns about departures from the adopted DCP have also been raised in the submissions made by a number of local Lennox Head residents.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

During the exhibition period 11 submissions of objection were received, predominately from residents of Rayner Lane. The issues raised in the submissions can be summarised as follows:

- Traffic increase/implications on Rayner Lane (which is narrow and one lane) and impact on pedestrian safety.
- Bulk, scale and setback of Building B fronting Rayner Lane is inappropriate and out of character with seaside "village" feel and will set a precedent for the area.
- Height and three storey Building B fronting Rayner Lane is excessive.
- Offices/shops should not be located fronting and having access to Rayner Lane.
- Noise/loss of amenity in Rayner Lane.
- Waste disposal issues in Rayner Lane.
- Inconsistent with the zoning and development control plan for Lennox Head.
- Loss of privacy (i.e. overlooking), views and sunlight due to Building B fronting Rayner Lane.
- Advertising signage was misleading.
- Proposed 1.8 metre timber fence along southern boundary should be masonry due to location of open car park and driveway access/egress at the boundary.

These matters will be considered throughout the following report. Copies of 10 of the 11 submissions are attached, with one being a confidential letter of objection not for publication at the request of the objector, that is provided under separate cover.

### **Report**

The proposed development has been assessed under the heads of consideration in Section 79(C) of the Environmental Planning and Assessment Act 1979, with the following being particularly relevant in Council's determination of the application.



An assessment of the development having regard for the relevant local planning provisions has found that although the application is generally compliant with the Shire Plan, including those provisions relating to building height, floor space ratio, and setbacks, it is not clearly consistent with the relevant DCP criteria such as bulk, scale and character and preferred land uses.

The general compliances with the provisions of the Shire Plan are tabulated at the end of this report and/or are outlined below.

### **Compliance with Ballina LEP 2012**

The site(s) are zoned B2 Local Centre under the Ballina LEP 2012.

The objectives of this zone are as follows;

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in, and visit the local areas.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To maintain a distinct retail hierarchy as identified in Council's strategic planning framework.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To ensure a safe and accessible built environment.*
- *To encourage development that recognises natural, cultural and built heritage.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

For the purposes of the Ballina LEP 2012, the development is defined as a mixed use development containing commercial (food and drink premises, retail and offices) premises and including shop top housing. The definitions of the individual proposed uses are as follows:

**mixed use development** means a building or place comprising 2 or more different land uses.

**commercial premises** means any of the following:

- (a) *business premises,*
- (b) *office premises,*
- (c) *retail premises.*

**a food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) *a restaurant or cafe,*
- (b) *take away food and drink premises,*
- (c) *a pub,*
- (d) *a small bar.*

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) **shop top housing**,

but does not include tourist and visitor accommodation or caravan parks.

**shop top housing** means "one or more dwellings located above ground floor retail premises or business premises."

In accordance with these definitions, the proposed commercial (i.e. Building A) and shop top housing components (i.e. Building B) of the development are permissible with consent.

Having regard to the proposed objectives of the zone, the use of the site(s) for commercial and shop top housing is considered generally consistent for the following reasons:

- The proposal will offer opportunities for a range of additional retail and business development in an accessible area in the Lennox Village, therefore creating employment opportunities and serving the needs of residents and visitors to the local area;
- The proposal will stimulate the Village by providing accommodation within walking distance to commercial services;
- Commercial uses are consistent with the vision for this part of Lennox Head; and
- It is considered that adverse land use conflicts are unlikely to occur between the site and adjoining properties due to satisfactory design, proposed construction standards, and conditions to be imposed (if approved). It should be noted, however, that the offices/shops associated with Building B fronting Rayner Lane may present some future issues. This will be discussed later in the report.

Whilst the residential land use component (i.e. shop top housing) of the development is generally consistent with the zoning provisions of the B2 Local Centre Zone, it will be outlined later in this report that these accommodation components are, however, inconsistent with the specific DCP provisions for Precinct D, (i.e. the dwellings associated with shop top housing are not intended to be utilised for short term tourist and visitor accommodation which is the preferred land use of the DCP).

Clause 4.3 Height of Buildings

A maximum building height of 9 metres applies to the site(s). Building A fronting Ballina Street is 8.1 metres, whilst Building B fronting Rayner Lane is 8.865 metres. Both buildings are compliant with the 9 metre Height of Buildings Map.

Clause 4.4 Floor space ratio

The Floor Space Ratio Map for these site(s) prescribes a 0.8:1 ratio. The floor space ratio of the development is approximately 0.65:1 and therefore complies.

Clause 5.5 Development within the coastal zone

The site(s) are not located within the identified coastal hazard area. Due to the existing dwellings on the eastern side of Rayner Lane, proposed Building B will be obscured from view from the coastal foreshore (however will still be visible due to its height through vistas between dwellings). The development will not impede land based right of access of the public to or along the coastal foreshore.

Clause 7.7 Essential services

All the essential infrastructure services are currently connected or can be suitably provided to the site(s).

The main issues arising from the identified areas of non-compliance and departures from the provisions relevant to the proposal are outlined below.

**Key Non-Conformities with Ballina Shire DCP 2012**

The Ballina Shire DCP 2012 is applicable to the site(s), particularly Chapter 2 General and Environmental Considerations, Chapter 4 Residential and Tourist Development and Chapter 6c Commercial Development - Lennox Head.

For the purposes of this report only those provisions of direct relevance to the assessment or that otherwise have been raised by objectors will be specifically commented upon. As the provisions of Chapter 6c prevail over other chapters in this regard, the report will have particular regard for the relevant provisions of Chapter 6c.

Chapter 6c provides guidelines for all future developments within the Lennox Head Village Centre including preferred land uses, design requirements and other provisions. It also divides the Village Centre into land use precincts with precinct specific requirements applicable. The subject site is within Precinct D Commercial Accommodation.

As outlined previously there are three areas of concern/departures that Councillors should focus on, being inconsistencies with the:

- Underlying planning objectives.
- Preferred land uses of Precinct D.
- Desired future character (particularly excessive bulk and scale of Building B fronting Rayner Lane).

**Underlying Planning Objectives**

In accordance with the provisions of Chapter 6c, the planning objectives are to:

- a. *Provide a high quality built environment which is complementary to the location and seaside village atmosphere of the Lennox Head Village Centre;*
- b. *Encourage the consolidation and development of an intermediate range of retail, commercial, community and residential activities of a district scale;*
- c. *Improve pedestrian linkages both within the village centre and to adjacent residential and open space areas;*
- d. *Minimise the impact of buildings on the streetscape and promote an active street experience for pedestrians;*
- e. *Provide opportunities for alfresco dining on private land within the village centre;*
- f. *Provide adequate, integrated, safe and accessible car parking within the Lennox Head village centre to accommodate existing and proposed development;*
- g. *Improve the amenity of the Lennox Head Village Centre through preserving and retaining existing mature native vegetation and Norfolk Island Pines wherever possible;*
- h. *Support landscape design that incorporates the planting of landscape species indigenous to the Lennox Head area;*
- i. *Provide for the staged implementation of a Landscape Masterplan for public land within the village centre;*
- j. *Encourage development that is consistent with the preferred land uses identified in each village centre precinct; and*
- k. *To provide opportunity for usable paved and landscaped pedestrian and dining environments on private land within the Village Centre.*

Comment

The proposal, other than in relation to (j), above, for the entire development and in relation to items (a) and (d), above, for Building B meets the general planning objectives.

Having regard for planning objective (j) it is considered that the development is inconsistent with the preferred land uses of Precinct D which are principally for short term **tourist and visitor accommodation**. The development is primarily commercial in nature, with both the ground floor and first level of Building A containing commercial land uses and the ground floor of Building B also containing offices/shops. There are only four dwellings proposed and by virtue of the definition of shop top housing and the stated intention of the application, each can be utilised for permanent residential occupation. Therefore, whilst all component land uses are statutorily permissible under the zoning of the Shire Plan, the proposal has no component land use consistent with the DCP's preferred land uses for this precinct, (other than shop top housing if it were to be utilised for short term tourist accommodation only). In addition, the proposed commercial land uses would not be ancillary and incidental to any tourist and visitor accommodation on the site(s).

In relation to planning objectives (a) and (d), it is assessed that Building B fronting Rayner Lane (although the design was revised by the applicant in response to assessment enquiries) does not clearly complement the seaside village atmosphere due to its bulk and scale, height, and its design, having regard for the existing character of the immediate area, the design guides, and precinct preferred land uses detailed in the DCP. It is considered that due to its uninterrupted length and three level height, Building B may be imposing on the Rayner Lane streetscape. These concerns have been raised by a number of objectors who reside in Rayner Lane.

These concerns are not only significant in the assessment of this application but will also set the standard for future development of this precinct as this is the first major redevelopment site(s) proposed for assessment under the current DCP. The issues of land use compatibility and visual impact/character will be discussed further in the report.

**Preferred Land uses of Precinct D (Commercial Accommodation)**

The site(s) are located within Precinct D for Lennox Head, the background of which is as follows:

*Precinct D (Commercial Accommodation) currently contains a range of accommodation styles, including dwelling houses, residential flat buildings and tourist and visitor accommodation. The generally non-commercial nature of development, combined with a number of prominent mature trees located on private land, contribute to the low key landscape character of the Lennox Head Village Centre. From both pedestrian amenity and traffic management perspectives, it is considered desirable that there be no intensification of existing traffic access from Ballina Street within the Precinct, with the longer term goal being to relocate all vehicular access to either Rayner Lane or Rutherford Street. Given that this will result in an increase in traffic movements in Rayner Lane, which is essentially a residential area, it is considered appropriate to minimise the scale of the increased traffic flows in this area, so as to also manage impacts on nearby residential areas.*

**Comment**

It is clear that in relation to Precinct D the DCP calls for managing the impact on surrounding residents and particularly the residential area of Rayner Lane. One aspect to be considered is that the proposed development would contribute 340 traffic trips a day in Rayner Lane servicing a predominately commercial development (i.e. extra service vehicles and the like). The Council should note that although the previous uses were contributing 170 traffic trips a day (prior to recent demolition works), the previous development had no vehicular access from Rayner Lane. Consequently, there would be a significant increase in traffic trips along Rayner Lane.

In relation to preferred land uses, the DCP states:

*The preferred land use within this Precinct is short term **tourist and visitor accommodation** such as serviced apartments, motels and the like. **Shop top housing** is also encouraged. Commercial activities, such as **restaurants or cafes**, may be considered only when ancillary to the use of the premises for **tourist and visitor accommodation** and where fronting Ballina Street (short term accommodation must, however, remain the dominant land use).*

Comment

As stated previously and as outlined above, the principal preferred land use for this precinct is short term tourist and visitor accommodation. Commercial uses are identified only where they are to be ancillary (i.e. a minor component) to the tourist and visitor accommodation on the site. It needs to also be noted that shop top housing accommodation is also encouraged.

Council staff have advised the applicant both at prelodgment meetings and throughout the assessment that the two storey commercial development fronting Ballina Street is considered to be inconsistent with the preferred land uses for Precinct D in DCP Chapter 6c. Further, the proposed commercial activities at ground level (i.e. the restaurants/cafes and shop) and offices above are not considered to be ancillary to any tourist and visitor accommodation component of the development nor to the shop top housing.

In this respect the applicants contend that the urban economics that currently characterise the Lennox Head Village locality and the knowledge they have gained from the financial viability issues of development that they have experienced first-hand in seeking to construct their previous development proposal for the site, demonstrate a need for the Council to exercise its discretion in the application of the DCP and allow for these departures from the DCP's preferred development outcomes.

The preferred land uses of short term tourist and visitor accommodation arose from the community engagement undertaken as part of the Lennox Head Community Aspirations Strategic Plan in 2002. These preferred land uses were carried forward (albeit with adjusted terminology to align with the Standard Instrument LEP) in the 2012 version of Council's DCP. It should be noted that Council did not seek a change to the set of preferred uses during the 2012 revision of the DCP other than to additionally specifically provide for shop top housing.

Aside from a desire to encourage tourist and visitor accommodation within the village centre, impacts on Rayner Lane were also a key factor in the derivation of the DCP provisions applying in Precinct D. In particular, amenity and traffic movement impacts for existing Rayner Lane residents are identified in the DCP as important considerations.

The provision of an active street frontage along Ballina Street is also an underpinning principle for the LEP and DCP planning provisions that apply to the Lennox Head Village Centre, including Precinct D.

Having regard for the above, if there are to be variances from the preferred land uses encouraged for the subject site(s), it is important to ensure that the underpinning rationale for the identified land uses and the associated planning provisions are suitably considered by the Council. That is, provision of an active street frontage on Ballina Street, low intensity traffic movements on Rayner Lane resulting from the development (recognising the role of the lane as a pedestrian thoroughfare), and a design response that reflects the character of the area and that responds to the existing residential amenity, should be key considerations.

In consideration of the above DCP provisions the applicant has been advised that for the development to more clearly meet the DCP's provisions, it is considered that the proposed offices at first floor level of Building A should be reverted to accommodation units as the proposal as currently submitted is predominately commercial in nature.

The commercial gross floor area (GFA) of the development is 1188.27m<sup>2</sup> whilst the GFA of accommodation (albeit not tourist or visitor accommodation) is 795.54m<sup>2</sup>. Therefore the accommodation component represents 40% of the total GFA of the development and is not the predominant land use. None of the limited accommodation is specifically designed for tourist and visitor accommodation and has been designed as larger dwellings suited for long term residential purposes as it is envisaged that shop top housing will provide the residences of the attached business operators.

The applicant has not amended plans to reflect this advice and requests variation to the DCP based on failed marketability of the previously approved DA 2012/195. The Council needs to be mindful that if the development is approved as submitted, the DCP in respect to Precinct D would essentially become redundant in relation to the prescribed preferred land uses and would need to be amended to allow commercial land uses to become the future preferred land use. Such an amendment could carry with it an impact on Rayner Lane residents as other allotments within Precinct D are developed for predominately commercial land uses similar to that proposed. This predominance of commercial land uses is more akin and consistent with land uses preferred in Precinct A which is located further to the north of Precinct D and to the west of Ballina Street.

#### **Desired Future Character**

In Chapter 6c, the desired future character statement for this locality is outlined as follows:

*The Lennox Head Community has indicated a clear preference for the seaside village atmosphere experienced in the Village Centre to continue into the future. Factors contributing to this character can be summarised as follows:*

- *Low scale buildings;*
- *The environmental heritage and qualities of the area;*
- *Small, independently operated shops;*
- *Pedestrian friendly scale;*
- *Proximity and access to the beach;*
- *The sense of community;*
- *Connectivity between open spaces and the commercial area; and*
- *People living within, and in close proximity to the Village Centre.*

Comment

The development, apart from Building B fronting Rayner Lane, is considered to meet the desired future character of Lennox Head. The reasons for Building B not clearly meeting these primarily relate to excessive bulk and scale, height having regard for the narrowness of Rayner Lane, and the built form of neighbouring buildings. When the surrounding locality of Rayner Lane is considered, Building B is not considered to be low scale and of a pedestrian friendly scale as envisaged by the Lennox Head community.

Development Controls – All Precincts

The building design objectives are:

- a. *Provide a high quality built environment which is complementary to the location and seaside village atmosphere of the Village Centre;*
- b. *Provide for low scale development compatible with the existing built form; and*
- c. *Ensure that the Lennox Head Village Centre is accessible to all persons, including those with disabilities and the aged.*

Comment

Similar to previous comments, the development (other than Building B) is considered to meet the relevant development controls. It is considered that due to the built form and design (bulk and scale) of Building B, it is not complementary to the location and seaside village atmosphere in that it's not sufficiently low scale nor, given its ground level commercial premises, compatible with the existing built form, particularly of those dwellings directly opposite within Rayner Lane.

Bulk & Scale/Visual Impact of Building B on Rayner Lane

Council's Development and Environmental Health Group requested perspective drawings for the Rayner Lane frontage in an effort to assist the Council to suitably assess the potential impact, (i.e. to show the view that residents of Rayner Lane and motorists/pedestrians would see whilst travelling along Rayner Lane – refer attached). The perspectives provide some assistance in this regard and, to a degree, show the design's presentation to the streetscape. They don't, however, place the building fully in the context of the existing neighbouring development nor show a complete picture of the Rayner Lane setting. The narrowness of Rayner Lane reservation at 6.5 metres prior to any road widening is a substantial element of the development's setting. (See Attachments).

During assessment Council Staff also suggested that the applicant consider the possible separation of Building B into two buildings and staggering of the setback of each resultant building to reduce the visual impact and bulk and scale of Building B on the character of Rayner Lane. In the event the applicants have maintained their design approach.



Council should however note that Building B setbacks are compliant and the applicant has now provided more of a coastal style design theme by opening up the balconies (which were previously partly enclosed and roofed) and amending the style in an attempt to provide an improved consistency when viewed from Rayner Lane (refer to applicants' design submission attached).

Notwithstanding these revisions, due to the height of the building at 8.865 metres coupled with an unbroken length/frontage of 34 metres without any significant setback stagger over the three storeys, it is considered that even with the required 3.6 metre wide land dedication/widening of Rayner Lane, Building B will have a bulk and scale which is imposing compared with existing development. This would be incompatible with the existing built form and character of the locality even taking into account the large 2 storey residences that have been constructed on the eastern side of the northern half of Rayner Lane.

The most recent perspective drawings illustrate that although a 9 metre height may be suitable for the Ballina Street frontage, (as the Ballina Street road reservation is 20 metres wide and is primarily commercial in nature), it may be prudent for Council to revisit the DCP provisions for buildings fronting Rayner Lane and address height, building separation, and maximum floor space ratios to reduce the potential bulk and scale of buildings, particularly for sites having an extensive frontage over a number of allotments.

It is considered that the revised design for Building B does not clearly reflect the seaside village character that the Lennox DCP seeks to achieve or that envisaged by the Lennox Head community and particularly Rayner Lane residents. If approved and constructed, this development would provide a non-conforming precedent for the Precinct D area.

### **Other Relevant Matters**

#### Traffic increases/pedestrian safety in Rayner Lane

The anticipated traffic generation of the proposed development is approximately 340 trips per day whilst the existing traffic generated from the site is considered to be approximately 170 trips per day (prior to demolition). In this respect the Council should note that for approved DA 2012/195 traffic generation was estimated at 440 trips per day.

The existing lots have access from Ballina Street whilst the development proposes access from Rayner Lane consistent with Council's DCP Chapter 6c Commercial Development which discourages access from Ballina Street (to reduce the potential for pedestrian/vehicle conflict on Ballina Street) and has a control that all access for Precinct D should be via Rayner Lane.

Rayner Lane is bitumen sealed with traffic calming in the form of speed bumps at each end. Council's Engineers assess that in this locality the speed bumps may cause residents a loss of amenity due to accelerating then decelerating cars and the associated noise of the bump. The best form of traffic calming in this case is a narrower carriageway with parked cars. Rayner Lane is already a 40km/hr zone street and the proposed dedication (road widening) will allow some car parking along the edge.

Consequently, Council's Engineers have confirmed that although the Rayner Lane capacity is limited being a 5 metre wide one way lane, it has capacity to service the proposed development as recommended in the DCP.

Rayner Lane also provides a popular pedestrian route and the DCP has acknowledged this by requiring road widening along the western side of Rayner Lane. To manage the anticipated increase in traffic along Rayner Lane the applicant has agreed to a 3.6 metre land dedication and the provision of a 1.3 metre pedestrian path for the full road frontage of the property consistent with the progressive road widening scheme to be implemented through land acquisition outlined in the DCP.

In summary Rayner Lane is the preferred access to development in Precinct D under the provisions of the DCP as it has adequate capacity given the lane dedication and is the safest option by reducing pedestrian/vehicle conflict points on Ballina Street. This, however, is subject to traffic generation created by the development not being excessive. As stated, the development will generate an additional 340 trips per day in the lane.

#### **Offices/Shops not appropriate along Rayner Lane**

The applicant is relying upon the "shop top housing" land use introduced in the Ballina LEP 2012 in order to propose dwellings that are suitable for permanent residents. In doing so, the design is required to have offices/shops at ground floor level and in this case the submitted design proposes these fronting directly onto Rayner Lane in Building B.

A number of residents of Rayner Lane have taken objection to this whilst the applicant contends that a design effort has been made to ensure that Building B, despite the offices/shops at ground level, will present a residential feel/character to Rayner Lane. (See Attached Plans).

Council should note that if these offices/shops are approved at ground floor they can be reverted to a variety of uses without any further approval requirements. It should also be noted that Council may also have no effective control over a range of signs that could be placed along the Rayner Lane frontage without approval and that occupants of the dwellings above would not need to operate the offices/shops below; unlike that required by a home occupation or home business.

Consequently, although the applicant contends that the offices/shops will be operated by the occupants of the residences above and be discrete (i.e. will present to Rayner Lane as part of the dwelling/unit), they will be accessed via the centralised open car park, and will maintain the residential feel of Rayner Lane, it is evident that this may not be the case on-going and the ground floor of Building B could readily present as a commercial frontage and be accessed directly from Rayner Lane. This would also be inconsistent with the DCP for Precinct D which attempts to provide a buffer to residents along Rayner Lane from commercial land uses.

In addition, as the design of the shop top housing facilitates/allows for entirely separate use/occupation of the ground floor office/shop via the provision of separate sanitary facilities including kitchenettes, Council officers also raised the issue of how the occupants of the dwellings above the offices/shops obtain access to the pool and open space area at ground level when the offices/shops are in use. The applicant has simply stated that the office will be occupied by the owner of the unit and this is therefore not an issue. As outlined within the definition of "shop top housing" this does not need to occur and conceivably the offices/shops could be leased by people unrelated to the dwellings above thereby not allowing residents direct access to the open space at ground level.

The applicant contends that none of these outcomes are the intention of the development and, if it is otherwise considered that consent should be issued, these concerns could be alleviated by conditions of consent.

### **Noise Impact/Loss of Amenity**

There are a number of design issues relating to the potential conflicts between residential uses, the food and drink premises, car park use, goods delivery, and waste collection. Additional information was requested from the applicant in relation to these issues.

An addendum to the original Noise Impact Assessment provided for the previously approved DA 2012/195 was submitted in response to the request for additional information. The report looked at the differences between the original development and the currently proposed development and made a number of recommendations.

Council staff are satisfied with the recommendations and if approved will apply conditions relating to noise generation, installation of plant and equipment, and the ongoing management of noise. This will include the provision of a suitable masonry fence along the southern boundary (rather than the timber fence originally proposed). If consent is given, the acoustic consultant should be required to certify that the development complies with the required noise levels and construction standards.

### **On-site Car Parking Deficiency**

Council's Engineers have confirmed that the development is deficient by 6.88 spaces as only 37 spaces have been proposed (refer table below).

8.1 DA 2014/609 - 45-49 Ballina Street, Lennox Head

Council Requirement Precinct D		Proposed GFA's (m <sup>2</sup> )	Required Number of Parking Spaces
Use	Rate		
<b>Building A</b>			
Nth café/restaurant	1 spaces per 25m <sup>2</sup> GFA	155.75	6.23
Nth café alfresco area (western side)	"	47.7	1.91
Lobby alfresco	"	38	1.52
Sth café/restaurant	"	84.7	3.39
Sth commercial premises	"	145	5.80
subtotal		509.95	<b>18.85</b>
1st floor offices	1 spaces per 25m <sup>2</sup> GFA	111.5	4.46
		71.3	2.85
		53.2	2.13
		60	2.40
		116.4	4.66
subtotal		412.4	<b>16.50</b>
<b>Building B</b>			
Office 1b	1 spaces per 25m <sup>2</sup> GFA	49.6	1.98
Office 2b		49.5	1.98
Office 3b		49.5	1.98
Office 4b		49.5	1.98
subtotal		198.1	<b>7.92</b>
Unit 1	2 per unit > 85m2		<b>2.00</b>
Unit 2			<b>2.00</b>
Unit 3			<b>2.00</b>
Unit 4			<b>2.00</b>
Visitor			<b>1.00</b>
Subtotal			<b>9.00</b>
		Total	<b>52.27</b>
Rayner Lane Credit	5.4 car parks per metre of Rayner Lane	45.29m	<b>8.39</b>
		Total required	<b>43.88</b>
		Total car spaces required (rounded up)	<b>44</b>

The Lennox Head car parking contribution plan allows for the shortfall to be paid by monetary contributions. The applicant has confirmed that they will pay for the car parking shortfall by way of contributions (if approved). This is considered acceptable in the circumstances.

### **Waste Disposal**

The waste management at the site will be critical in reducing nuisance to surrounding properties. Poor waste management can result in a number of issues including noise impacts, odours and pest issues. It is essential that waste management facilities are designed, constructed and managed appropriately to minimise any potential impacts.

The submitted design proposes the bin storage area on the northern boundary of the site adjacent to the open car park area of the development (similar to DA 2012/195). The applicant has also provided a Site Waste Minimisation and Management Plan in accordance with the requirements of Chapter 2 of the DCP.

Additional information was sought from the applicant in relation to these issues to ensure the assessment concerns were adequately addressed.

The application has now provided sufficient information regarding the number and types of bins required for the development. Richmond Waste are proposed to be the waste disposal contractors servicing the site. This company is satisfied with the details provided for this aspect of the development. If approved, conditions of consent will be applied to any consent granted for the management of waste and the construction of the waste area. A condition can be included within any consent granted to ensure side boundary fencing is of sufficient height and of masonry construction to reduce noise impacts on the northern boundary.

### **Overlooking/Privacy and Loss of Sunlight**

Although there is the potential for some overlooking/privacy issues, the impact is considered to be minimal. The adjoining dwellings to the north are already screened and the buildings on the opposite side of Rayner Lane generally look to the east, i.e. to capture views of the ocean.

Similarly the potential impact of overshadowing is also minimal based on the setback of Building B from the southern boundary and having regard for Rayner Lane and the setback of existing buildings to the east.

### **Advertising Signage was misleading**

Council staff erected two advertising signs on the site(s) during the public exhibition period, one fronting Ballina Street and one fronting Rayner Lane. Although the signs only displayed the Ballina Street perspective (as Council did not have a perspective of Building B fronting Rayner Lane at the time), it would have been evident through Council's DA's online system that people were directed to, that there were two different buildings proposed for the site.

Council's advertising signs are limited in size and Council staff cannot display all of the relevant plans on the advertising sign alone.

## 8.1 DA 2014/609 - 45-49 Ballina Street, Lennox Head

It is considered that all local residents have had a fair and reasonable notice of the development and access to plans, and have been afforded reasonable opportunity to comment on the proposal.

### Ballina LEP 2012 & DCP compliance summary

The following table summarises the development standards applicable to the site(s) and proposal under the Ballina LEP 2012 and Chapter 6c of the DCP. Please note that not all development standards have been included in the table.

Matter	Development Standard	Proposed	Compliant
Floor Space Ratio (BLEP)	Maximum 0.8:1	0.65:1	Yes
Roof Design (DCP)	Skillion and/or peaked roof in Village Centre.	Skillion Roof proposed.	Yes
Active Street Frontage (DCP)	Expanses of blank walls and dark glass not appropriate.	Commercial premises will have direct frontage to Ballina Street.	Yes
Floor and Entry Levels (DCP)	Ground level to generally have the same finished level as the footpath.	The floor levels of the entry, courtyard and restaurants will be at ground level with direct access off Ballina Street. Building B will also have direct access from Rayner Lane.	Yes
Waste receptacles (DCP)	Should be sited at the rear of Building Fronting Rayner Lane and integrated into development, screened enclosures.	Proposed on the northern side boundary with direct access to Rayner Lane. Will be screened and roofed.	Yes
Colour and Materials (DCP)	Colour schemes drawn from the natural environment of Lennox Head such as grey green (pandanus), Red-Brown (Tea Tree Lake) Tan Buff Grey Green (Spinifex).  Use of composite construction materials is encouraged such as masonry, glass, timber and powder coated iron.	The SEE has stated that colours will respond to those listed in the DCP.  Ground floor walls will be generally rendered and painted masonry offset against split face blockwork and stone cladding. First floor walls will be more lightweight being a mixture of weatherboard cladding and	Yes

8.1 DA 2014/609 - 45-49 Ballina Street, Lennox Head

Matter	Development Standard	Proposed	Compliant
		expressed joint fibre cement.  The façade to Ballina Street is to be composed of more natural materials including clear finished timber weatherboards, timber windows and doors and stone cladding.	
Building Height (BLEP)	Compliant with the BLEP - 9m	8.865m	Yes
Services (DCP)	Lift towers, air-conditioning and service units to be located within roof or enclosed within structures.	Air-conditioning units will be located in screened enclosures. Lifts hidden in roof.	Yes
Landscape Design (DCP)	Landscape Design to be prepared by a qualified designer Pavement design to be compatible with Landscape Masterplan for Lennox Head Existing trees to be retained where possible Native vegetation that is tolerant to exposure to salt to be used.	Landscape design prepared to a satisfactory standard. A number of mature trees will be retained in the original location or relocated elsewhere on-site. Planted native vegetation proposed.	Yes
Landscaping (DCP)	At least 25% covered by landscaped areas.	25%	Yes
Private Open Space (DCP)	Minimum area of 40m <sup>2</sup> (4m x4m) at ground level, balconies minimum of 25m <sup>2</sup> and minimum width of 2.5m.	Balconies and ground floor areas meet standards.	Yes
Vehicular Access (DCP)	One access point. Access from Rayner Lane only. Driveways to be located to maximise on street parking opportunities.	Only one two way access to carpark located off Rayner Lane. Driveway located to maximise parallel parking in Rayner Lane.	Yes

8.1 DA 2014/609 - 45-49 Ballina Street, Lennox Head

Matter	Development Standard	Proposed	Compliant
Signage (DCP)	To be integrated into design so it shall not impact on area's amenity due to size, illumination or the like.	No specific details provided other than approximate locations.	Further details required in conjunction with any consent granted.
Disabled Access (DCP)	Development is accessible to all persons, including those with a disability.	Direct disabled access is provided from Ballina Street and Rayner Lane. Council will require the shop top housing offices to be compliant.	Yes
Alfresco Dining (DCP)	To provide safe comfortable convenient places for alfresco dining within the Village Centre.	The restaurants will have alfresco dining set back from the street and integrated into the overall design.	Yes
Tourist Development Predominant use with ancillary commercial (DCP)	To provide a range of styles and densities within the Village Centre, including tourist accommodation. This accommodation should provide a high level of amenity to residents and tourists.	The proposal is for residential accommodation and commercial only.	No
Public Art (DCP)	Include a public art piece to the value of at least \$15,000.	The public art will be a water feature/sculptural element located in the entry adjacent to the Ballina Street.	Yes Further details required in conjunction with any consent granted.
Car parking (DCP)	Refer to Table above – 44 spaces after credits for road widening.	37 spaces.	No The applicant is proposing to pay contributions.
Fencing (DCP)	1.2 metres front/rear 1.8 metres side	Rear proposed at 1m vertical bar type. Although not articulated it's visually permeable. No fencing along Ballina Street frontage.	Yes
Building Setback	Ballina Street Staggered 2m lines	2m staggered setback is provided	Yes



Matter	Development Standard	Proposed	Compliant
(DCP)	Rayner Lane 2m after land dedication.	along the frontage 2m after land dedication.	
Pedestrian Access (DCP)	To link Ballina Street to Rayner Lane.	Provision available through open car park and along northern boundary.	Yes
Road Widening (DCP)	3.6m wide land dedication for frontage to Rayner Lane.	Proposed within plans.	Yes

### Conclusions

It is considered that whilst the proposal has complied with the majority of numerical standards (other than car parking) of the Ballina LEP 2012 and the DCP; little justification (other than the submitted non-viability of the DCP's principal preferred land use) has been provided in relation to the inconsistencies/variations to the DCP listed below that are being sought:

- Underlying planning objectives.
- Preferred land uses of Precinct D.
- Desired future character (particularly excessive bulk, scale and built form of Building B fronting Rayner Lane).

The use of the site for a mixed residential and commercial development is inconsistent with the local planning controls within the DCP, in particular Chapter 6c which clearly calls for the provision of tourist or visitor accommodation and commercial activities only when ancillary to the tourist and visitor accommodation. The applicants have conceded this point and have requested flexibility based on the urban economics currently applying to development in the Village and there being little or no market demand in the tourist accommodation construction sector. Additionally, the Council will need to consider the positive economic impact this \$4.4 million development would have in the community.

Marketing demands of a proposed development are not, of themselves, a valid assessment criterion in accordance with the Section 79C Heads of Consideration prescribed by the Environmental Planning and Assessment Act 1979. Economic issues are, however, relevant and the Council would be aware from previous application reports that its DCP provisions, as opposed to the statutory provisions of the Ballina LEP 2012, are guidelines that require consistent but discretionary application.

Having regard to the application as proposed by the proponent, Council needs to particularly consider the following matters:

Preferred Land uses within Precinct D of the Village Centre under the provisions of the DCP

The use of the site(s) for primarily commercial uses is not consistent with the preferred land uses for Precinct D. Tourist accommodation development is the preferred land use, as is commercial so long as the commercial use remains ancillary to the dominant tourist use. Although shop top housing is permissible in the B2 zone and is also a preferred land use, this residential component of the application represents only 40% of the total GFA of the development. If the owner sought to have 60% of the development as commercial land uses, he would need to have bought in Precinct A; particularly as the principal preferred land uses within Precinct D have not changed for a substantial number of years.

The Council should, however, note and take into consideration that the permissibility of shop top housing was recently introduced into the Ballina LEP 2012 and the DCP was subsequently amended to reflect this as a preferred land use, (but only where short term tourist accommodation remains the principal dominant land use to commercial activities).

Desired Future Character & Bulk and Scale/Visual Impact of Building B

Although Building B is compliant in terms of height, setback and floor space ratio, it is difficult to accept the applicant's position that "it aims to provide a positive presence to Rayner Lane, surrounding residences and pedestrians by providing a strong relationship to the street whilst minimising the bulk and scale of the building" as being consistent with the DCP's objectives.

Building B will most definitely have a "strong relationship" to Rayner Lane and in this case one which may be considered as too strong on the streetscape and surrounding buildings, particularly having regard for the narrowness of Rayner Lane and the existing character of the area. The potential tunnel effect along Rayner Lane would likely be added to by the fact that future redevelopment of buildings on the eastern side of the southern end of Rayner Lane will likely be built within the raised western portion of the allotment (i.e. within minimal setback to Rayner Lane) based on enhanced views and potential coastal effects/hazard impacts similar to those newer dwellings at the northern end of the Lane.

A consistent view of the local residents submitting objections to the development is that the bulk and scale of Building B, along with the potential line of office/shop fronts fronting Rayner Lane (rather than presenting to the centralised car park area of the development), will be inconsistent with the low scale seaside residential/tourist character outlined in the DCP. Although the applicant has attempted to reduce the bulk and scale of Building B, there is limited opportunity to further reduce impact if the proposed development yield remains the same. The advanced landscaping shown in the perspectives (i.e. within the front setback of Building B) is unlikely to eventuate due to the limited setback, pool areas, and the obstruction of views from upper floor balconies to the ocean. Therefore opportunities to effectively soften the impact of Building B are limited.

Based on the potential impact of Building B on the streetscape (inclusive of the offices/shops fronting Rayner Lane) it is considered that Council may want to review its DCP provisions to reinforce the aim to have future Precinct D development that directly fronts onto Rayner Lane be of a more modest scale.

### **Options**

1. Having regard for the applicant's submissions addressing the development viability of the Village Centre, Council exercise its discretion in relation to the provisions of the DCP and approve the proposed development as proposed, as a mixed residential (shop top housing) and commercial use, subject to conditions.

#### Comment:

As outlined in the report, it is assessed that this option is inconsistent with the preferred land uses of the DCP, and that the bulk and scale of Building B would adversely affect the streetscape and character of the area. This option is opposed by the submissions of the local residents.

2. Request the applicant to revise the application to revert the proposed offices fronting Ballina Street to short term tourist units or shop top housing and to reduce the bulk and scale of Building B to ensure it meets the seaside village character.

#### Comment:

This is an option that may be favoured by Council having regard to the DCP provisions. Council should note that staff have made this land use suggestion to the applicant previously.

3. Refuse the application on the basis that the development as proposed is not suitable as a mixed use residential/tourist and commercial development.

#### General Comment:

Council previously gave concessions in relation to DA 2012/195 based on allowing some restricted permanent residential occupation of tourist units (i.e. difficult economic circumstances that were being experienced across the Shire at the time).

Having regard for the concessions now proposed, and submissions made by local residents it is not considered to be in the public interest to approve the development in accordance with Option 1 above as the development although adding to the vitality of the Lennox Head Village Centre through Building A, would be inconsistent with Council's long standing preferred land uses for this precinct and Building B would have a significant impact on the seaside village character and particularly residences along Rayner Lane.

Consequently, the preferred option is Option 2 which is to defer determination of the development but give the applicant a clear indication of Council's position in relation to the key non-conformities of the development, namely:

- Underlying planning objectives.
- Preferred land uses of Precinct D.
- Desired future character (particularly excessive bulk, scale and built form of Building B fronting Rayner Lane).

Depending upon its assessments and determinations, the Council may also want to request the Strategic and Community Facilities Group to review the provisions contained within Chapter 6c of the DCP having regard for the specific issues raised by this report, particularly in relation to the preferred land uses for the precinct and more clearly describing the bulk and scale of development fronting Rayner Lane.

### **RECOMMENDATIONS**

That the determination of development application 2014/609 for the construction and strata title subdivision of a two storey mixed use development providing commercial/food and drink premises/offices (Building A fronting Ballina Street) and three storey shop top housing (Building B fronting Rayner Lane) with centralized open car park, landscaping and associated infrastructure on the subject lands be **DEFERRED** and that Council:

- (a) Request the applicant to revise the application to revert the proposed offices fronting Ballina Street to short term tourist units or shop top housing and,
- (b) Request the applicant to reduce the bulk and scale of Building B to ensure it meets the seaside village character.
- (c) Request the Strategic and Community Facilities Group to review the provisions of Chapter 6c of the DCP having regard for the specific issues raised by this report.

### **Attachment(s)**

1. Locality Plan
2. Design Plans
3. Objections
4. Extract from Applicant's Design Response
5. Extract From Applicant's Response to Objections
6. Confidential Letter of Objection not for Publication (Under separate cover)

## 8.2 Development Consent Statistics - February 2015

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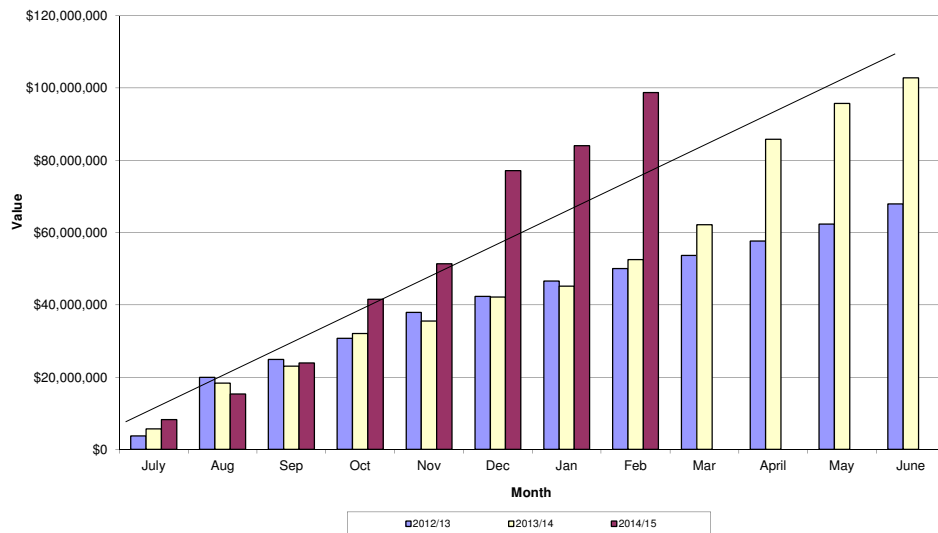
## 8.2 Development Consent Statistics - February 2015

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During the period of 1 February 2015 to 28 February 2015 the Development and Environmental Health Group issued Development Consent comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
29 Other Building Related	\$ 2,051,000
25 Dwelling/Duplexes/Residential Flat Buildings	\$ 12,682,000
0 General Developments	\$ 0
<b>Total Value</b>	<b>\$ 14,733,000</b>

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.



### RECOMMENDATION

That Council notes the contents of the report on development consent statistics for 1 February 2015 to 28 February 2015.

### Attachment(s)

Nil

### 8.3 Development Applications - Works in Progress - March 2015

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### 8.3 Development Applications - Works in Progress - March 2015

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

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

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
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	Being Assessed
2014/328	7/07/2014	K Tantarri	To undertake the continued use of the premises as a place of public worship and erection of new awning – 12 De Havilland Crescent, Ballina	Awaiting Additional Information
2014/387	8/08/2014	Visionstream Pty Ltd	To Erect a Telecommunications Facility Comprising a 45m High Lattice Tower and Ancillary Equipment – 11 Dees Lane, Lynwood	Referred to Government Departments
2014/508	08/10/2014	Richard Lutze & Associates	Erection of Storage Shed and additional	Awaiting Additional Information

### 8.3 Development Applications - Works in Progress - March 2015

			Knight Statue (fronting the new Pacific Highway) associated with and ancillary to an existing Tourist Facility (The Macadamia Castle) - 1697-1699 Pacific Highway, Knockrow	
2014/525	15/10/2014	Ardill Payne & Partners	Additions to a Rural Industry and Offensive and Hazardous Industry Comprising Metal Fabrication and Abrasive Blasting - 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2014/550	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	Awaiting Additional Information
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	Being Assessed

### 8.3 Development Applications - Works in Progress - March 2015

			(Rural Lands) 2008 - Friday Hut Road, Brooklet	
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 Lane, Brooklet	Being Assessed
2014/611	25/11/2014	Telstra	Erection of a Telecommunica tions 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	Awaiting Additional Information
2015/15	15/01/2015	D Albany	To undertake a change of use of part of Unit 1 (garage and storage) to living area - 1/11 Seaview Street, East Ballina	Awaiting Additional Information
2015/19	20/01/2015	Creative Planning Solutions	Alterations and additions to an existing recreation establishment (Lennox Head Sport and	Awaiting Additional Information



### 8.3 Development Applications - Works in Progress - March 2015

			Recreation Camp) involving the erection of three teachers accommodation buildings (comprising a total of 10 bedrooms), associated infrastructure works and the removal of vegetation - Pacific Parade, Lennox Head	
2015/26	21/01/2015	Ardill Payne & Partners	Torrens Title subdivision to create Two Residential Lots 1 x 965sqm and 1 x 1922sqm and associated works - 32 Tara Downs, Lennox Head	Being Assessed
2015/27	22/01/2015	Ardill Payne & Partners	To undertake a change of use of part of the existing general store/takeaway/ café area to include additional café area and to modify the hours of operation - 12 Shelly Beach Rd, East Ballina	Awaiting Additional Information
2015/34	30/01/2015	Northern Rivers Surveying Pty Ltd	Two Lot Subdivision to create 1 x 40.9 and 1 x 48.55 hectare allotments - 145 Brooklet Road, Newrybar	Referred to Government Departments
2015/36	30/01/2015	Northern Rivers Surveying Pty Ltd	Two lot subdivision to create 1 x 2ha and 1 x 23.7ha allotments - Lot 2 DP 867377, Shaws Lane,	Being Assessed

### 8.3 Development Applications - Works in Progress - March 2015

			Tuckombil	
2015/63	12/02/2015	A Croft	Erection and Strata Title Subdivision of an Industrial Building - 31 & 33 Cessna Crescent, Ballina	Being Assessed
2015/72	18/02/2015	Peter Turner & Associates	Erection of a Wall Advertising Sign - 19 Pacific Parade, Lennox Head	Being Assessed
2015/76	19/02/2015	Chris Abbott Surveying	Two lot residential subdivision to create 1 x 1318 and 1 x 1002sqm allotments - 16 Cummings Crescent, Cumbalum	Referred to Government Departments
2015/87	25/02/2015	Ardill Payne & Partners	Construction of Farm Dam and Building Pad for future Dwelling - Lot 7 DP 1200975, Hermans Lane, Pimlico	Being Assessed
2015/90	27/02/2015	Phillip Witchard	Vegetation management works involving the removal of two trees - 38 Summerhill Crescent, Cumbalum	Being Assessed
2015/92	02/03/2015	G Barlow	Erection of multiple carports, consolidation and strata title subdivision of 10 units within an existing residential flat building - 25-27 Crane Street, Ballina	Awaiting Additional Information
2015/93	03/03/2015	Onnotec Building Systems P/l	Change of use from an existing hardware shop	Awaiting Additional Information

### 8.3 Development Applications - Works in Progress - March 2015

			(Bunnings Warehouse) to a Self-Storage Premises containing 291 units - 2 Ray O'Neill Crescent, North Ballina	
2015/101	09/03/2015	Ardill Payne & Partners	Alterations and additions to the food court area of the Ballina Fair Shopping Centre - 84 Kerr Street, Ballina	Being Assessed

#### Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2012/334	17/08/2012	Ballina Shire Council	The construction of Hutley Drive connection to the Pacific Pines Estate via a round-about, connection to Elevation Estate & vegetation clearance in SEPP 14 affected area – North Creek Road, Lennox Head	OEH Concurrence Received  Assessment Being Finalised
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	Being Assessed

### 8.3 Development Applications - Works in Progress - March 2015

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#### 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	Council comments provided to DoPE  Awaiting Determination from DoPE

#### RECOMMENDATION

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

#### Attachment(s)

Nil

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

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

**Delivery Program** Strategic Planning

**Objective** To present the Council with a planning 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.

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**Background**

The Council, at its Ordinary Meeting held on 22 January 2015, considered a request to amend the Ballina Local Environmental Plan 2012 (the LEP), relating to Roads and Maritime Services (RMS) owned land adjacent to the Bruxner Highway and Pacific Highway at West Ballina, so as to redefine the area of land which permits a highway service centre development.

The subject land is currently zoned RU2 Rural Landscape. A highway service centre is permitted, with development consent, as *an additional permitted use* under provisions contained within the LEP. In relation to this matter, the Council resolved as follows [Minute No.220115/5]:

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.*

The planning proposal has now been prepared and forms Attachment One to this report.

The purpose of this report is to seek the Council's endorsement of the planning proposal for submission to the Department of Planning and Environment (DP&E) to obtain a Gateway determination. Established practice in relation to this type of LEP amendment is for the Council to receive the planning proposal documentation for consideration (following initial commencement of an LEP amendment process) with a view to determining whether the matter should progress to Gateway determination.

**Key Issues**

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

## **9.1 LEP Amendment - Bruxner Highway / Pacific Highway, Ballina**

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- Processing of LEP amendment request and submission of planning proposal for Gateway determination.

### **Information**

The RMS land currently identified for highway service centre purposes is described as lot 15 DP 1013485 and part lots 13 and 14 DP 1013485. It has an approximate area of 36.26 ha.

The LEP amendment request originally related to a section of the Pacific Highway road reserve adjacent to the Teven Road interchange at West Ballina having an area of approximately 4,034m<sup>2</sup>. This land adjoins RMS owned land which has been identified for development as a highway service centre.

Following discussion with the RMS, agreement was reached to redefine the whole of the Service's site subject to the highway service centre additional permitted use provisions. This then resulted in an overall reduction of land subject to these provisions from 36.26 ha to 22.52 ha and will exclude an area of wetland considered to have high environmental value.

The subject land is zoned RU2 Rural Landscape under the provisions of the LEP. This zone does not permit highway service centres, but the use is able to be considered as an additional permitted use on the land as a consequence of clause 2.5 and Schedule 1 of the LEP.

At the time of preparation of the LEP the extent of the land affected by the additional permitted use provisions was based on the boundaries of allotments 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.

Attachment Two contains a site identification map which shows both the land no longer required for the highway service centre site as well as the location of the additional area required.

No site-specific assessment requirements have been nominated to support this planning proposal. This is because the reconfiguration of site boundaries, subject to the additional permitted use provisions, is not envisaged to give rise to any negative environmental consequences.

In fact, net environmental benefits may be attributable to this planning proposal as a consequence of the exclusion of the northern wetland section from the current potential development area.

## **9.1 LEP Amendment - Bruxner Highway / Pacific Highway, Ballina**

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As the Council is aware, the site under consideration has been shaped following very significant site disturbance associated with the Ballina Bypass construction. It is effectively a large filled and compacted earthen pad which has been used as the road construction and site office compound and a heavy vehicle parking area. The subject site is however bushfire prone land and consultation with the NSW Rural Fire Service will be required prior to the public exhibition of the planning proposal.

The attached planning proposal documents the degree to which the proposal complies with the locality's strategic planning framework. Consideration has been given to the planning proposal's consistency with the Far North Coast Regional Strategy, the Ballina Shire Growth Management Strategy, the Ballina LEP 2012 and applicable State Environmental Planning Policies and the Minister's Section 117 Directions.

It is concluded that the planning proposal is generally consistent with the strategic planning framework applicable to the land, or where there are inconsistencies, these are able to be justified at this stage of the process.

### **Sustainability Considerations**

- **Environment**

There are no specific environmental consequences arising from this LEP amendment request. It is noted that the future development application assessment process will be the mechanism by which potential environmental impacts (for example, stormwater treatment and disposal) associated with the construction of a highway service centre will be considered.

- **Social**

The planning proposal is intended to facilitate a development to accommodate the needs of the travelling public. This is consistent with the Government's policies of improving safety and efficiency on the State's highway network.

- **Economic**

The redefinition of the land area subject to the 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 specific legal implications associated with this proposed LEP amendment at this time.

In the event that Council wishes to advance this proposal, the proponent will be required to meet various processing costs, in accordance with the Council's adopted schedule of fees and charges.

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

### **Consultation**

Consultation requirements relating to Government authorities will be specified within the Gateway determination. At this stage a consultation requirement with the NSW Rural Fire Service has been identified.

### **Options**

1. Endorse the planning proposal for submission to the DP&E for Gateway determination.

This is the preferred and recommended option.

The proposed LEP amendment aligns the boundaries of the additional permitted use area with the as-built boundaries of the Pacific and Bruxner Highway interchange.

It also removes land that has no potential to be developed for highway service centre purposes due to environmental constraints. In so doing, the proposed amendment is considered to have net environmental benefits as well as potential economic benefits for the RMS.

The Council will also have further opportunity to consider the proposal prior to the matter being finalized and after public exhibition following Gateway determination.

2. Require the proponent to submit additional information for incorporation into the planning proposal prior to submission to the DP&E for Gateway determination.

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 an adjustment arising from the availability of improved information now that the Pacific Highway construction works in this immediate area have largely been completed. In this context, the proposal is considered to be minor in terms of its overall impact.

3. Cease or defer processing of the LEP amendment request.

Council may decline or defer the consideration of the requested LEP amendment. For the same reasons outlined in relation to Option 2, this approach is not recommended.

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.



*Delegation of Plan Making Functions*

The Gateway submission to the DP&E is 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.

**RECOMMENDATIONS**

1. That Council authorises the submission 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, to the Department of Planning and Environment for review and Gateway determination.
2. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
3. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.
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.

**Attachment(s)**

1. Attachment One - Planning proposal
2. Attachment Two - Site Identification Map

## 9.2 LEP Amendment - Greenwood Place, Lennox Head

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### 9.2 LEP Amendment - Greenwood Place, Lennox Head

**Delivery Program** Strategic Planning

**Objective** To present the Council with a planning proposal to amend the Ballina Local Environmental Plan 2012 to rezone an area predominantly designated as a Strategic Urban Growth Area located on the north - eastern corner of Greenwood Place and Byron Bay Road Lennox Head to R2 Low Density Residential.

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#### **Background**

The Council, at its Ordinary Meeting held on 26 February 2015, considered a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012), relating to land owned by the Roman Catholic Church and the Condon family (Lot 12 DP 581159 and part Lot 21 DP 1007134).

The original LEP amendment request sought the rezoning of this land from RU2 Rural Landscape to R3 Medium Density Residential zone.

The LEP amendment request relates to land predominantly contained within a Strategic Urban Growth Area (SUGA) as identified on maps which form a part of BLEP 2012.

A very small section of the site, as subsequently identified in a subdivision concept plan, is located outside of the SUGA area and forms part of a deferred matter area under Ballina LEP 2012.

This land retains its 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987. Its inclusion within the planning proposal is required so as to facilitate a possible road access to Blue Horizon Drive.

In relation to this matter, the Council resolved as follows [Minute No.260215/10]:

1. *That Council prepare a planning proposal for the application of an R2 Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.*
2. *That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.*
3. *That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 800 m<sup>2</sup>.*
4. *That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.*

The planning proposal has now been prepared and forms Attachment One to this report.

## **9.2 LEP Amendment - Greenwood Place, Lennox Head**

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The purpose of this report is to seek the Council's endorsement of the planning proposal for submission to the Department of Planning and Environment (DP&E) to obtain a Gateway determination.

Established practice in relation to this type of LEP amendment is for the Council to receive the planning proposal documentation for consideration (following initial commencement of an LEP amendment process) with a view to determining whether the matter should progress to Gateway determination.

### **Key Issues**

- Suitability of land for residential zoning and development.
- Minimum applicable lot size.

### **Information**

The planning proposal applies an R2 Low Density Residential zone to the subject land with a minimum lot size of 800m<sup>2</sup>. Provision is also made to alter the boundaries of the Strategic Urban Growth Area and associated buffers which arise following the rezoning of the subject land.

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,
- Coastal Zone Impacts and Visual Amenity Impacts Assessment,
- Geotechnical Assessment (Landslip),
- Due Diligence Aboriginal Heritage Assessment,
- Services and Stormwater Management Report,
- Land Use Conflict Risk Assessment,
- Flora and Fauna Assessment,
- Mosquito Management Report, and
- Road Noise Impact Assessment Report.

These technical studies will be prepared by or on behalf of the property owners and presented to Council for assessment and review. Costs incurred by Council (including payment for peer review of the studies) will be borne by the landowners.

The proponents initially requested a 450m<sup>2</sup> minimum lot size be applied to the future subdivision of the land. Following discussion with the proponent a subdivision concept plan was submitted which incorporated 21 lots in a lot size range from 600m<sup>2</sup> to 680m<sup>2</sup>.

The report to the Council's Ordinary Meeting on 26 February 2015 indicated that a lot size range between 600m<sup>2</sup> to 800m<sup>2</sup>, pending further investigation of site constraints, was considered to be more appropriate.

In respect to minimum lot sizes, the Council subsequently resolved that an 800m<sup>2</sup> minimum lot size is to be identified within the planning proposal.

## 9.2 LEP Amendment - Greenwood Place, Lennox Head

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The Council however, also resolved that potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.

Consistent with Council's resolution the attached planning proposal makes provision for an 800m<sup>2</sup> minimum lot size over the subject site. It also indicates that final determination of the applicable minimum lot size will be made following the detailed assessment of site constraints post public exhibition.

Subsequent to the above Council resolution, the proponent has submitted two subdivision concept plans, one of which provides for a minimum lot size of 800m<sup>2</sup> and the other for a part 600m<sup>2</sup> and part 800m<sup>2</sup> minimum lot size scheme.

The relative merits of these options cannot be determined at this stage until specialist reports dealing with site constraints are submitted and assessed.

Whilst 800m<sup>2</sup> has been nominated as the minimum lot size by the Council at this stage of the process it may also be the case that a larger minimum may be required depending, for example, on the extent of buffer areas (if any) required to the adjoining rural zoned land. Similarly, justification for a lot size below 800m<sup>2</sup> for part of the site may also be established.

The proponent's revised subdivision concept plans form Attachment Two to this report.

The attached planning proposal indicates that the LEP amendment request is generally consistent with the applicable strategic planning framework, including the Far North Coast Regional Strategy 2006, the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan.

Applicable State Government environmental planning policies and directions under section 117 of the Environmental Planning and Assessment Act are also addressed. No barriers to this LEP amendment request progressing to Gateway determination have been identified.

### **Sustainability Considerations**

- **Environment**

The subject land is substantially cleared and contains mainly grass and weed species. Whether any of this vegetation and associated site fauna is of environmental value is proposed to be subject to further assessment. The assessment will be required to undertaken prior to public exhibition if the planning proposal proceeds further.

It is also noted that a visual impact assessment of possible future development will be undertaken, due to the land's elevation and prominence.

- **Social**

There is 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 legal implications associated with this proposed LEP amendment at this time.

In the event that Council wishes to advance this proposal, the proponent will be required to meet various processing costs, in accordance with the Council's adopted schedule of fees and charges.

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

**Consultation**

Consultation with relevant Government agencies will be required post Gateway, and following the submission of technical reports. The agency proposed to be consulted at this stage is the Department of Primary Industries.

**Options**

1. Endorse the planning proposal for submission to the DP&E for Gateway determination.

This is the preferred and recommended option.

The proposed LEP amendment primarily provides for the rezoning of an area identified as a Strategic Urban Growth Area within Ballina LEP 2012. It is also consistent with the applicable strategic planning framework established for Lennox Head. A potential additional benefit arising from this amendment request will be improved road access connectivity between Greenwood Place and Blue Horizon Drive. However, more may be said about this when neighbouring property owners have been consulted through a formal public exhibition process.

The issue of applicable minimum lot size is proposed to be further addressed through the examination of site constraints and associated technical reports. The planning proposal as prepared however, incorporates a minimum lot size of 800m<sup>2</sup> for the site.

In relation to this matter the Council will also have further opportunity to consider the proposal prior to the matter being finalised and after public exhibition following Gateway determination.

2. Require the proponent to submit additional information for incorporation into the planning proposal prior to submission to the DP&E for Gateway determination.

This approach is not recommended given:

- the additional information identified consists primarily of specialist reports. Council's approach has been to require these once the LEP amendment request has obtained the greater certainty associated with a Gateway determination.
- the proposal is generally consistent with the applicable strategic planning framework and relevant State Government directions.

3. Cease or defer processing of the LEP amendment request.

The Council may decline or defer the consideration of the requested LEP amendment. For the same reasons outlined in relation to Option 2, this approach is not recommended.

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.

*Delegation of Plan Making Functions*

The Gateway submission to DP&E is required to address whether the Council is proposing to exercise plan-making delegations in finalising the LEP amendment. This means staff would liaise directly with Parliamentary Counsel to finalise the drafting of the amendment for implementation following public exhibition and the Council "signing off" the proposal.

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.

**RECOMMENDATIONS**

1. That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the planning proposal, to the Department of Planning and Environment for review and Gateway determination.
2. The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m<sup>2</sup> and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.
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.
5. 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.

**Attachment(s)**

1. Attachment One - Planning proposal
2. Attachment Two - Subdivision Concept Plans

### **9.3 Planning Proposal - Ballina LEP 2012, General Amendments (2)**

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### **9.3 Planning Proposal - Ballina LEP 2012, General Amendments (2)**

**Delivery Program** Strategic Planning

**Objective** To inform the Council of the outcomes of the public exhibition of Planning Proposal BSCPP 14/010 to undertake a number of general amendments to the Ballina Local Environmental Plan 2012 and to seek direction from the Council concerning the finalisation of the amendments.

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#### **Background**

At its Ordinary Meeting held on 27 October 2014, the Council considered a proposal to undertake a number of general amendments to the provisions of the *Ballina Local Environmental Plan 2012* (BLEP 2012). The particulars of the proposal are detailed in the planning proposal document contained in Attachment One.

In consideration of the proposal, it was resolved (Minute No. 231014/13):

- 1. That Council endorses the proposed adjustments to the Ballina Local Environmental Plan 2012 arising from the 12 month review of the plan as outlined in the planning proposal contained in Attachment One, excluding Item No. 2 – Ballina High School and Item No. 7 – Latta Avenue Waterfront.*
- 2. That Council submit the planning proposal relating to the amendment of various provisions of the Ballina Local Environmental Plan 2012 (Attachment One) to the NSW Department of Planning & Environment for review and Gateway determination.*
- 3. That upon an affirmative Gateway determination being received from the Department of Planning & Environment, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.*
- 4. That the matter be reported for further consideration by the Council following the mandatory public exhibition period.*

Following the above resolution, a request for Gateway determination was submitted to the Department of Planning and Environment. An affirmative Gateway determination was issued on 28 November 2014, a copy of which is provided in Appendix 2 of the attached planning proposal. The planning proposal was subsequently publicly exhibited in accordance with the Council's resolution.

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



### Key Issues

- Adjustments to ensure the efficient function and operation of the BLEP 2012
- Consideration of the outcomes of the agency engagement and public exhibition of the proposal.

### Information

The provisions of the BLEP 2012 took effect in January 2013. Following a year of operation of this instrument, Council's strategic planning staff have undertaken a review of its function and operation to ensure its applicability and efficiency. The review had particular regard for:

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

The review identified 32 items that were recommended for adjustment, the details of which were reported to the Council for consideration at its Ordinary Meeting held on 23 October 2014. The Council resolved to proceed with 30 of the recommended adjustments.

The planning proposal detailing the proposed adjustments was referred to the Department of Planning and Environment for Gateway determination. A favourable Gateway determination was issued by the Department on 28 November 2014, a copy of which is included in the planning proposal provided in Attachment One.

The Gateway determination required Council to consult with the NSW Rural Fire Service and the Crown Lands Division of NSW Trade and Investment. A response was received from the Rural Fire Service raising no objection to the proposal. At the time of preparing this report, no response had been received from the Crown Lands Division.

The planning proposal was placed on exhibition for public comment from 11 February 2015 to 13 March 2015. No submissions in response were received.

The purpose of this report is to advise the Council of the outcomes of the consultation and public exhibition of the proposal and to seek direction as to the progression of the proposal to finalisation.

### Sustainability Considerations

- **Environment**  
The amendments to the BLEP 2012 included in the attached planning proposal are not expected to result in any direct or substantial social or economic impacts or impact negatively on the Shire's natural environment. The proposed changes will enable Council to more efficiently manage land use planning in the Shire through a more functional and up-to-date local environmental plan.

- **Social**  
As above.
- **Economic**  
As above.

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

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

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

### **Consultation**

As mentioned above, the planning proposal was publicly exhibited from 11 February 2015 to 13 March 2015 in accordance with the Gateway determination (a minimum of 14 days). No submissions were received.

In addition, the Gateway determination required the proposal to be referred to the NSW Rural Fire Service and the Crown Lands Division of NSW Trade and Investment. A response was received from the Rural Fire Service raising no objections to the proposal. A copy of their response is included in the planning proposal in Attachment One. Details of the proposal were also forwarded to the Crown Lands Division. At the time of writing, no response had been received.

### **Options**

#### 1. Finalise the Planning Proposal

Finalising the planning proposal as drafted and as exhibited will result in the amendment of the BLEP 2012 to ensure it continues to function and operate efficiently in the public interest.

This is the recommended option.

Under the Department of Planning and Environment's Gateway determination provisions, Council has been delegated the authority to finalise this planning proposal. In this particular instance, given the procedural nature of the planning proposal, it is considered reasonable and appropriate to exercise the delegation.

### **9.3 Planning Proposal - Ballina LEP 2012, General Amendments (2)**

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

The option to discontinue the proposal is open to the Council. This option is not recommended as it does not address the various matters identified that affect the efficient functioning of the plan.

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

The Council may wish to defer the finalisation of the planning proposal pending further investigations or discussions. Given that no significant issues have arisen in relation to the proposed adjustments, this option is not recommended.

### **RECOMMENDATIONS**

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to undertake a variety of minor amendments and adjustments as documented in Planning Proposal BSCPP 14/010.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/010 directly in liaison with Parliamentary Counsel.

### **Attachment(s)**

1. Planning Proposal BSCPP 14/010 - General Amendments (2)

## **9.4 Cumbalum Precinct B Locality Naming**

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### **9.4 Cumbalum Precinct B Locality Naming**

**Delivery Program** Strategic Planning

**Objective** To invite the Council's further consideration of a process for the potential renaming of the Cumbalum Precinct B locality.

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#### **Background**

Since January 2014, the Council has been considering a proposal to modify the existing locality boundaries and create an additional locality about the area within which the future Cumbalum Precinct B urban development is planned to occur.

Several reports have been presented to the Council and more recently a Councillor briefing was conducted in response to a resolution made at the Ordinary Meeting held on 25 September 2014.

The Council's position is that it has undertaken a comprehensive community engagement process seeking feedback regarding the proposed changes.

Generally speaking, responses indicate that the community is not opposed to the foreshadowed changes and a number of suggestions have been made regarding a name for a proposed new locality.

The following report now invites the Council's commitment to pursue the locality adjustments with the NSW Geographical Names Board and to nominate a preferred name for the additional locality, for recommendation to that Authority.

#### **Key Issues**

- Procedures for locality naming
- Community engagement

#### **Information**

Briefing notes were provided to Councillors to assist the discussion at the briefing session held on 3 March.

These notes provide a precis of the procedures undertaken since January 2014 to ascertain the community's views regarding the proposal to modify existing locality boundaries and create an additional locality in the vicinity of Cumbalum Precinct B.

In general terms, the community appears to be indifferent toward the proposal, though a small number of property owners in the potentially affected area have provided written indications of support for what the Council is seeking to do. To further assist the process, some of these respondents have suggested names which might be considered for the proposed additional locality.

## 9.4 Cumbalum Precinct B Locality Naming

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The report which was presented to the Council at its Ordinary Meeting held on 25 September 2014 suggested that, of the names nominated by community members, the names Kinvara, Rosssdene and Jingara appeared to warrant particular consideration.

Kinvara and Rosssdene have been suggested as being associated with early European settlement of the Cumbalum and Tintenbar areas. The third name, Jingara, was submitted by a community member who understands the word to be an Aboriginal word for this locality.

In an attempt to provide verification for Jingara, the matter was presented to the Council's Aboriginal Community Committee at three successive meetings held on 9 October 2014, 11 December 2014, and 12 February 2015. Staff also forwarded emails to Committee members between these meetings, encouraging members to discuss the matter within community and to report back any outcomes.

Regrettably, the Committee has not been able to come to a consensus view regarding the nominated name, Jingara, nor has it been in a position to offer alternative suggestions for possible naming of the proposed additional locality.

Having regard for the above, it is now considered timely for the Council to establish a preferred position and communicate that to the Geographical Names Board for its assessment and determination.

From discussion at the Councillor briefing session held on 3 March, Councillors reinforced a desire to proceed with the locality adjustments. Further, in terms of a preferred name for the proposed new locality, Councillors present at the briefing selected the name Kinvara.

To recap, the first plan accompanying this report, referred to as Attachment No.1, illustrates the existing locality boundaries (in red edging), with the yellow shaded areas showing the planned "footprints" of the Cumbalum Urban Release Areas of Precincts A and B.

The second plan, referred to as Attachment No.2, illustrates the proposed new locality, also shaded yellow. That would now be named Kinvara, if approved by the Geographical Names Board.

One can then also see the consequential adjustments to the boundaries and areas of the existing Tintenbar and Cumbalum localities.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Place naming is important as a means of reinforcing local identity and to promote community cohesion.
- **Economic**  
Not Applicable

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

Through the Council's prudent long term planning, the Cumbalum Ridge will transform over time to accommodate a substantial portion of Ballina Shire's predicted growth. The Council has seen the need to "tidy up" the existing locality boundaries so that future development within Precinct B will be contained within one discreet area. In doing so, an opportunity has been identified to adjust the locality boundaries and areas to have regard for the recent construction of the Pacific Highway Ballina Bypass.

The adoption of a new locality, as illustrated in the map at Attachment No.2, appears to be a logical step to take and is not anticipated to have any significant adverse consequences for residents/land owners within the area (now or in the future) or the wider community.

### **Consultation**

As has previously been reported to the Council, a comprehensive package of information concerning the proposed locality changes was prepared and made available for community comment. The responses to that exhibition process elicited only a modest response, with the majority of submissions received supporting the proposed changes. A number of respondents also nominated names for the proposed new locality.

It is noted that if the following recommendation is adopted, the Geographical Names Board will undertake a similar community engagement exercise before it determines Council's application.

### **Options**

The Council may determine to either discontinue the process of change to the existing localities or advance the matter to seek approval from the Geographical Names Board. Proceeding with the proposal is the preferred and recommended course of action. This being the case, the name which is recommended to the Board for the new (additional) locality is Kinvara, being the preferred name arising from the Council's earlier discussions.

The other option would be to defer the matter for further consideration. However, it is suggested this is not warranted, given the extent of community engagement undertaken to date.

**RECOMMENDATIONS**

1. That Council notes the contents of this report concerning a proposal to change existing locality boundaries and establish a new locality in the vicinity of Cumbalum and Tintenbar.
2. That Council proceed with this proposal, as illustrated in the plans accompanying this report, and that an application be made to the NSW Geographical Names Board with a view to that Authority being invited to take the necessary action to effect these changes.
3. That the Geographical Names Board be advised that Kinvara is the Council's preferred and recommended name for the newly established locality.
4. That a letter of thanks from Council be conveyed to those members of the community who made a submission in respect of Council's public exhibition of the proposed locality changes.

**Attachment(s)**

1. Attachment No.1 - Existing locality boundaries and key developments affecting Cumbalum & Tintenbar Localities
2. Attachment No.2 - Proposed new locality showing impact on existing localities of Cumbalum & Tintenbar

**10.1 Use of Council Seal**

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**10. General Manager's Group Reports**

**10.1 Use of Council Seal**

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**RECOMMENDATION**

That Council affix the Common Seal to the following documents.

US15/04	LPI request forms seeking the correction of land owner details recorded on the Certificates of Title for historical land parcels for: <ul style="list-style-type: none"><li>• AC 3362-51 (Ross Park, Lennox Head) (received by Tintenbar Shire Council on 11/11/1930); and</li><li>• 121/296544 (Drainage Easement at Dress Circle Drive, Lennox Head) (received by Tintenbar Shire Council on 14/11/1958).</li></ul>
US15/05	Ballina Shire Council Lease to Louise Rizzo T/a L A Hair Design Ballina for Shop 153 River Street, Ballina for a term of two years with a 2 + 1 year option.

**Attachment(s)**

Nil



## 10.2 Investment Summary - February 2015

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### 10.2 Investment Summary - February 2015

**Delivery Program** Governance and Finance

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

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#### Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of February 2015.

#### 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 28 February was \$64,282,000. This represents an increase from January of \$2,004,000. Council's investments as at 28 February are at an average (weighted) rate of 3.54%, which is 1.19% above the 90 Day Bank Bill Index of 2.35%. The balance of the cheque account at the Commonwealth Bank, Ballina as 28 February 2015 was \$4,348,986.

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:

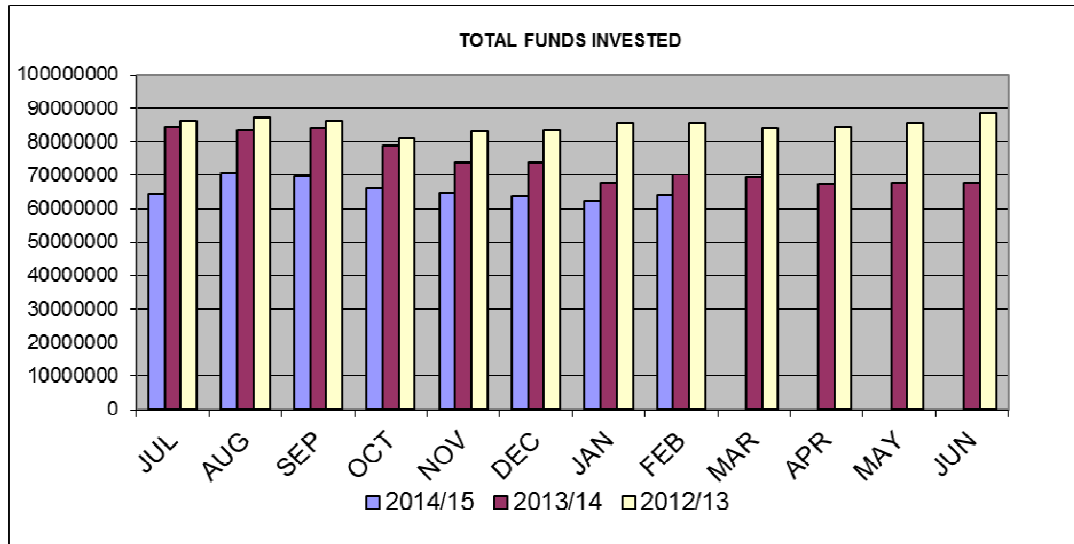
Reserve Name	Internal/External Restriction	% of Portfolio*
Water Fund (incl developer contributions)	External	15
Wastewater Fund (incl developer contributions)	External	26
Section 94 Developer Contributions	External	6
Bonds and Deposits	External	2
Other External Restrictions	External	12
Land Development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

\* Based on reserves held as at 30 June 2014

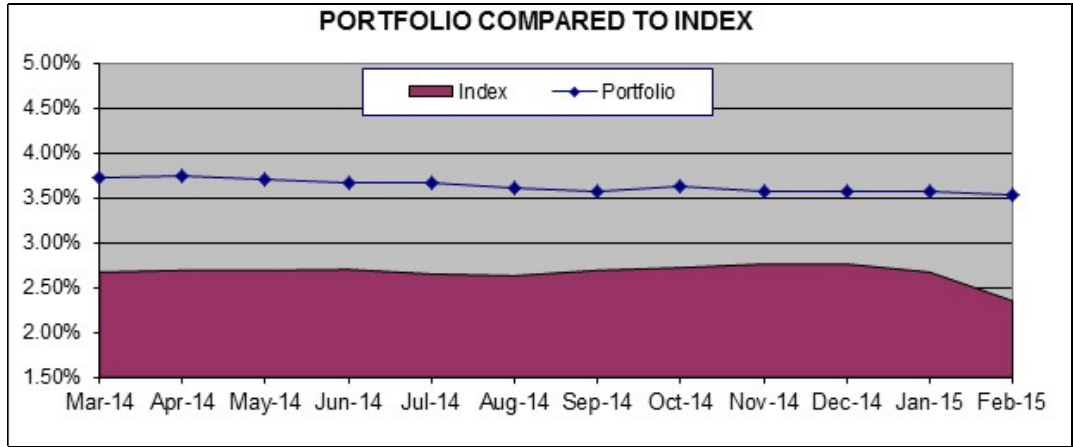
**A. Summary of Investments by Institution**

Funds Invested With	ADI Rating	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
<b>Grandfathered Investments</b>						
Goldman Sachs	A	1,000	1,000	0	1.6%	
National Australia Bank	BBB	1,788	1,788	0	2.8%	
National Wealth M'ment Holdings	A-	2,000	2,000	0	3.1%	<b>7%</b>
<b>Rated Institutions</b>						
AMP Bank	A+	6,000	6,000	20%	9.3%	
Bank of Queensland	A-	3,000	3,000	10%	4.7%	
Bank of Western Aust	AA-	8,000	8,000	20%	12.4%	
Bendigo & Adelaide Bank	A-	2,000	2,000	10%	3.1%	
Commonwealth Bank of Australia	AA-	2,490	2,494	20%	3.9%	
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%	6.2%	
Members Equity Bank	BBB+	4,000	6,000	10%	9.3%	
National Australia Bank	AA-	8,000	8,000	20%	12.4%	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10%	3.1%	
Suncorp-Metway Bank	A+	10,000	10,000	20%	15.6%	
Westpac Banking Corporation	AA-	5,000	5,000	20%	7.8%	<b>93%</b>
<b>Unrated ADI's</b>				\$1m	0.0%	<b>0%</b>
<b>Total</b>		<b>62,278</b>	<b>64,282</b>		<b>100%</b>	

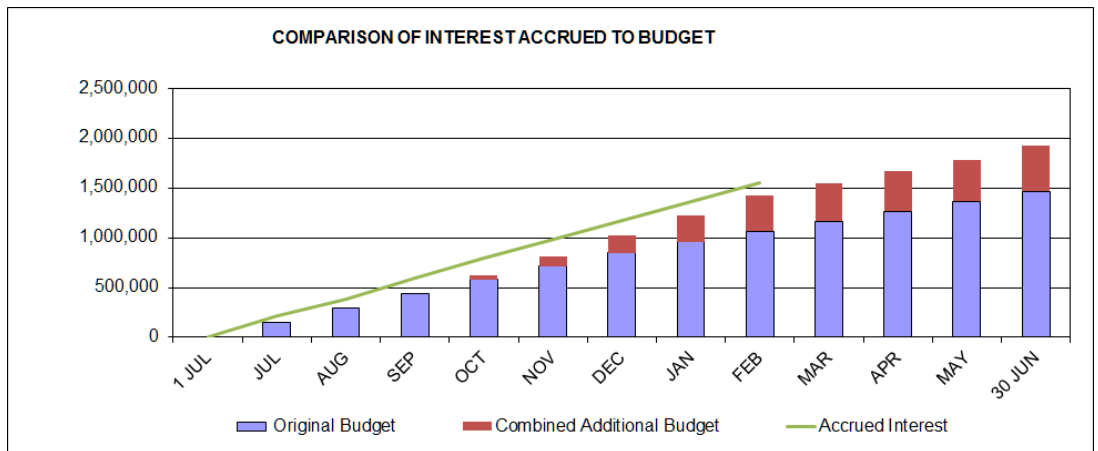
**B. Monthly Comparison of Total Funds Invested**



**C. Comparison of Portfolio Investment Rate to 90 Day BBSW**



**D. Progressive Total of Interest Earned to Budget**



## 10.2 Investment Summary - February 2015

### E. Investments held as at 28 February 2015

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	500	500
20/09/04	National Australia Bank (ASX Listed)	FRN	3.59%	Perpetual	1,788	1,377
12/04/06	Goldman Sachs	FRN	3.25%	12/04/16	1,000	999
16/06/06	National Wealth M'ment Holdings	FRN	3.37%	16/06/26	2,000	1,958
24/01/12	ING Bank Ltd	FRTD	4.60%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.05%	06/02/17	1,000	1,025
25/01/13	Commonwealth Bank Of Australia	TD	4.25%	25/01/18	1,994	2,092
05/06/13	National Australia Bank	FRTD	3.63%	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.17%	07/06/16	2,000	2,006
25/02/14	Westpac Bank	FRN	3.27%	25/05/19	2,000	2,018
04/09/14	Suncorp-Metway Bank	TD	3.45%	03/03/15	2,000	2,000
22/09/14	Members Equity Bank	TD	3.65%	22/09/15	1,000	1,000
13/10/14	Suncorp-Metway Bank	TD	3.50%	13/04/15	3,000	3,000
14/10/14	National Australia Bank	TD	3.55%	14/04/15	2,000	2,000
29/10/14	BankWest	TD	3.40%	28/04/15	2,000	2,000
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%	11/05/15	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
05/01/15	Suncorp-Metway Bank	TD	3.45%	06/07/15	2,000	2,000
05/01/15	Suncorp-Metway Bank	TD	3.45%	13/07/15	1,000	1,000
23/01/15	AMP Bank	TD	3.40%	23/07/15	2,000	2,000
27/01/15	AMP Bank	TD	3.40%	27/07/15	1,000	1,000
27/01/15	AMP Bank	TD	3.40%	05/08/15	1,000	1,000
02/02/15	Newcastle Permanent Bld Society	TD	3.30%	04/05/15	2,000	2,000
02/02/15	AMP Bank	TD	3.30%	04/08/15	2,000	2,000
11/02/15	ING Bank Ltd	TD	3.20%	17/08/15	2,000	2,000
18/02/15	Members Equity Bank	TD	3.20%	17/08/15	2,000	2,000
26/02/15	National Australia Bank	TD	3.17%	25/08/15	1,000	1,000
<b>Totals</b>					<b>64,282</b>	<b>63,975</b>
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

## **10.2 Investment Summary - February 2015**

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### **RECOMMENDATION**

That Council notes the record of banking and investments for February 2015.

### **Attachment(s)**

1. TCorp Local Government Economic Commentary for February 2015

## 10.3 Community Donations

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### 10.3 Community Donations

**Delivery Program** Governance and Finance

**Objective** To invite Council to consider additional donation requests.

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#### **Background**

Council approved a large number of general and capital assistance donations at the July 2014 Ordinary Meeting for the 2014/15 financial year. Since that time additional requests have been received and generally applicants are advised to reapply next financial year to allow Council to assess all applications at the one time. However the donations policy does allow applications to be submitted to Council where there may be exceptional circumstances.

The following requests are considered to be justifiable in reporting to Council for separate consideration. Copies of the requests are attached.

#### **Key Issues**

- Community benefit
- Funding available

#### **Information**

##### ***Lennox Head Playgroup***

The Lennox Head Playgroup is asking Council to consider extending the existing soft-fall rubber surface to the remainder of the outdoor space (approximately 85m<sup>2</sup>). This would rectify the problems they have with ants, prickles and mud in the wet weather.

As they are the predominant users of the 'Children's Area' they are willing to pay 50% of the costs. They have obtained two quotations, with the lowest being \$9,554 and are asking Council for \$5,000.

##### **Georgia Quinn**

Georgia is a student residing in Ballina and she is proposing to do a 2.2 km swim to raise funds for MLC, which is a rare type of cancer. Georgia is requesting Council sponsorship in her fund raising efforts.

##### ***Westpac Life Saver Rescue Helicopter***

Westpac Life Saver Rescue Helicopter service is asking Council for financial assistance of \$1,000 towards the purchase of a mobile defibrillator unit.

## 10.3 Community Donations

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### ***Alstonville Community Preschool (DA 2014/333)***

Alstonville Community Preschool has asked Council to donate the following lodgement fees for DA 2014/333:

<b>Fee Description</b>	<b>Amount (Inc GST) (\$)</b>
Plumbing and Drainage Inspection Fee	760.00
Building Inspection Fee – Commercial / Industrial	1,575.00
Sediment and Erosion Control Kit – Non PCA	12.50
Construction Certificate	1,871.75
Wastewater Plan Admin Fee (Sewer / Septic)	60.00
Section 138 Footpath and Gutter Crossing	130.00
Section 68 Plumbing Application Fee (Sewer)	160.00
Long Service Levy *	2,488.00
Water Pressure Certificate	150.00
<b>Total</b>	<b>7,207.25</b>

\*The Long Service Leave Levy is passed on by Council to another organisation.

To date Council has reimbursed / waived the following fees for DA 2014/333:

July 2014:           \$1,849.30 - Donation of Development Application Fee and Compliance Levy.

February 2015:    \$30,952.00 - Approval to waive developer contributions.

In addition \$120,000 was provided in Council's 2014/15 budget to be used to defray construction costs of the project.

At this stage Council has already pledged \$152,801 to the Alstonville Preschool and provided the land on which it is to be constructed. It is a matter for Council to determine the extent to which this project is supported by ratepayer's resources.

If Council is supportive of this request the Long Service Levy should be removed as we pay that to a third party, therefore the revised donation amount is \$4,719.25.

The email also seeks Council approval to waive the construction bond, which is estimated at approximately \$57,000 based on 8% of the estimated construction cost of \$711,000.

Ideally the decision that Council makes in consideration of this report will finalise donation requests for this project.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Donations can provide community benefits to the Ballina Shire.

## 10.3 Community Donations

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- **Economic**  
Not Applicable

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

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

<b>Items</b>	<b>Budget</b>	<b>Allocated</b>	<b>Balance</b>
Donations (General)	50,000	39,676	10,324
Donations (Public Halls - Capital)	41,000	39,802	7,866
Donations (Planning Fees)	2,000	2,439	(3,105)
<b>Net Amount Available</b>			<b>15,085</b>

### **Consultation**

The annual donation program is subject to formal public exhibition and Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process. There has been no specific consultation in respect of these requests.

### **Options**

The options are to approve or decline the requests.

### **RECOMMENDATIONS**

1. That Council approves / refuses the request from the Lennox Head Playgroup for a contribution of \$5,000 towards additional softfall.
2. That Council approves / refuses the request from the Georgia Quinn for fund raising for the MLC cancer campaign.
3. That Council approves / refuses the request from the Westpac Life Saver Rescue Helicopter Service for financial assistance of \$1,000 towards the purchase of a mobile defibrillator unit.
4. That Council approves / refuses the request from the Alstonville Preschool to waive the Council fees as detailed within this report (excluding the Long Service Leave Levy if approved).
5. That Council approves / refuses the request from the Alstonville Preschool to waive the construction bond relating to condition 14 of their development consent.

### **Attachment(s)**

1. Letter/Application from Westpac Life Saver Rescue Helicopter
2. Letter/Application from Lennox Head Playgroup Inc
3. Email from Georgia Quinn
4. Email from Alstonville Community Preschool



## 10.4 Request for Debtor Write-off

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### 10.4 Request for Debtor Write-off

**Delivery Program** Governance and Finance

**Objective** To provide the open Council information in relation to Council determining whether it wishes to write off a debt in full, or in part.

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#### **Background**

In June 2014, a motor vehicle incident occurred at the Lighthouse Lookout - Shelly Beach, which damaged Council structures (fencing and concrete). Vehicle recovery costs were also incurred by Council to remove the vehicle from the beach.

A request has now been received for full or partial relief of the debt, on compassionate grounds. This request is considered justifiable in reporting to Council and further information on the person who has incurred the debt is disclosed in the confidential meeting notes.

#### **Key Issues**

- Fair and equitable allocation of Council funds

#### **Information**

In June 2014, a motor vehicle incident occurred at the Lighthouse Lookout - Shelly Beach. The costs incurred by Council in remedying this accident totaled \$14,891.67.

An invoice was raised 6 November 2014 to the driver to recover these costs, followed by a reminder letter on 11 December 2014.

A letter dated 27 February 2015 has been received by Council requesting that consideration be given for partial, or total, write off of the debt on compassionate grounds. This letter included a cheque for \$4,000. The balance of the debt currently outstanding is \$10,891.67. Council has now received a compassionate grounds' request and details of that request are included in the confidential report.

#### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Council needs to consider the social impact of any debt recovery actions.
- **Economic**  
Staff time and other costs were incurred in respect to the recovery of this vehicle.

## **10.4 Request for Debtor Write-off**

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

Council has incurred costs of \$14,891.67.

If Council resolved not to pursue recovery, the amount written off would show as a loss in private works.

### **Consultation**

There has been on-going consultation with a third party.

### **Options**

The following options are available.

1. Approves the request for write-off of the remaining debt of \$10,891.67.
2. Approves the request for write-off of the full debt of \$14,891.67 and returns the amount of \$4,000.00 already received.
3. That Council refuses the request for full or partial relief of the full debt of \$14,891.67 and seeks to put in place a payment arrangement for the balance of \$10,891.67 outstanding.

The recommendation to this report is for noting only, with the options able to be considered in the confidential report.

### **RECOMMENDATION**

That Council notes the contents of this report in respect to the details of the outstanding debt.

### **Attachment(s)**

Nil

## **10.5 Old Tintenbar Quarry - Purchase and Sale**

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### **10.5 Old Tintenbar Quarry - Purchase and Sale**

**Delivery Program** Commercial Services

**Objective** To obtain Council approval to purchase land for resale  
- Old Tintenbar Quarry

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#### **Background**

In a confidential session of the Council meeting held on 22 May 2014 Council resolved to sell the Old Tintenbar Quarry (Lot 1 DP 597343 and Lot 3 DP 532703) to the adjoining owners, Mr and Mrs Bishop. Contracts for sale were exchanged on 6 June 2014.

A problem has arisen that is delaying settlement of the contract between the Council and the Bishops due to the fact that Council is not the exclusive owner of Lot 1 DP 597343. Summerland Investments Pty Ltd is noted on the title as being a joint owner with Custom Credit noted as having a mortgage over the property.

This report seeks to resolve this issue.

#### **Key Issues**

- Purchase of land for resale

#### **Information**

The circumstances creating this situation began in 1973 when at the time Council was operating the Tintenbar Quarry and resolved to extend it by acquiring a portion of the adjoining property (Lot 2 DP 532703). Terms of the boundary adjustment sale were agreed to with Summerland Investments at a price of \$2,000 for a parcel of land comprising an area of 7,731m<sup>2</sup>.

Lot 1 DP 597343 was registered on 28 October 1980, which appeared to merge each party's respective interest, however contracts were never exchanged, settled nor transfers registered to legally complete the boundary adjustment sale.

Summerland Investments Pty Ltd subsequently went into liquidation and was deregistered on 22 September 1988 with ASIC assuming Summerland Investments' interest in Lot 1 DP 597343.

Since sale contracts were exchanged in June 2014 Council's solicitor in this matter, CH Law, has undertaken detailed and exhaustive enquiries to track down Summerland Investments, conduct negotiations with ASIC and the administrator appointed to Custom Credit. CH Law have also had to apply to LPI for a new certificate of title for the property.

Negotiations with ASIC have now concluded whereby they have agreed to sell Summerland Investments' interest in Lot 1 DP 597343 to Council for the sum of \$3,478 + GST.

## 10.5 Old Tintenbar Quarry - Purchase and Sale

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This price was arrived on advice from an independent valuer and after adjustment for estimated rates paid by Council on the property for the past 35 years. Calculations are as follows:

Valuer's opinion of value	\$9,750
Less: Summerland Investments'/ASIC's estimated share of council rates	\$6,272
Adjusted value for sale/settlement	\$3,478

Upon resolution of this matter with ASIC, Council can proceed to settle the sale of Lot 1 DP 597343 and Lot 3 DP 532703 with Mr and Mrs Bishop who have been very patient in this matter but are also anxious to see it concluded as soon as possible.

### Sustainability Considerations

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
This land was sold as it was considered to be surplus to Council's needs.

### Legal / Resource / Financial Implications

#### *Legal*

Council has an obligation to resolve this matter with ASIC and gain clear title to Lot 1 DP 597343 and settle the sale contract with the Bishops.

A recommendation of this report is that upon purchase of ASIC's interest in Lot 1 DP 597343 that land will be classified as operational to enable it to be sold to the Bishops.

#### *Resource*

A considerable amount of Council staff and CH Law's time has been spent seeking to resolve this matter.

#### *Financial*

Funds required to acquire ASIC's interest in Lot 1 DP 597343 will be drawn from the net sale proceeds with the surplus funds, already being allocated to the construction of the Ballina Surf Club Building B.

As this expenditure may reduce the original net sale proceeds estimate, it is recommended that any difference in the Council budget figure for the net sale proceeds, be sourced from the Property Development Reserve to ensure that the estimate for the Ballina Surf Club Building B remains fully funded.

### Consultation

Council and CH Law have been in extensive consultations with ASIC, the administrator appointed to Custom Credit and LPI.

### Options

1. Council resolves to acquire ASIC's interest in Lot 1 DP 597343 for the sum of \$3,478 + GST and that the land be classified as "operational" under the NSW Local Government Act 1993.

This option is recommended as a considerable amount of Council staff and CH Law's time has been spent seeking to resolve this matter. Purchase of ASIC's interest in the land will also enable Council to settle the contract with Mr & Mrs Bishop for Lot 1 DP 597343 and Lot 3 DP 532703.

2. Council resolves not to acquire ASIC's interest in Lot 1 DP 597343 for the sum of \$3,478 + GST and classify the land as "operational" under the NSW Local Government Act 1993.

This option is not recommended as a considerable amount of Council staff and CH Law's time has been spent seeking to resolve this matter. Failure to purchase ASIC's interest in the land would then require Council and ASIC agreeing to subdivide Lot 1 DP 597343 to gain control over their respective interests. This would cost far more than the purchase price of \$3,478 agreed to with ASIC, and ASIC may not even agree to a subdivision. The sale to the Bishops of Lot 1 DP 597343 may also fall over.

The approval to source any net difference in the surplus funds received from the sale of the land from the Property Development Reserve for the financing of the Ballina Surf Club Building B is also included in the recommendations.

Finally as Council has also previously resolved to sell this land there is no need for a further resolution to sell. This recommendation is to purchase to ensure that all legal steps have been taken to finalise the sale.

**RECOMMENDATIONS**

1. That Council approves the purchase of Part Lot 1 DP 597343 from ASIC as per the contents of this report.
2. That Council authorises the General Manager to sign and affix the Seal of Council to all relevant documentation to complete the purchase.
3. That upon acquisition of Part Lot 1 DP 597343 Council classify the land as operational land under the provisions of the Local Government Act 1993 by undertaking the necessary publication notification process. The land will be considered as operational if no objections are received during the public notification period, however if objections are received the matter is to be reported back to Council.
4. That as the net sale proceeds of the sale of the Old Tintenbar Quarry are allocated to funding the construction of the Ballina Surf Club Building B, any shortfall in the original estimate for the net sale proceeds is to be sourced from the Property Development Reserve to ensure that Ballina Surf Club Building B remains fully funded.

**Attachment(s)**

Nil

## **11.1 Clondale Park - Management**

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### **11. Civil Services Group Reports**

#### **11.1 Clondale Park - Management**

**Delivery Program**      Open Spaces and Reserves

**Objective**              To consider management options for the future use of Clondale Park.

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#### **Background**

Clondale Park (0.24ha) is a Council owned park located at the junction of Teven Road, Johnston's Road and Branch Creek at Alstonville. The park consists of a small grassed open space area, remnant native vegetation and weed infestation. Park infrastructure within the park consists of a picnic table, which is of poor quality.

Council has had a wide range of ongoing management issues with the site, including anti-social behaviour, dumping of rubbish, illegal camping and high levels of vandalism and damage from vehicle access. Due to the remote location of the site, enforcement has proved historically difficult.

Concerns have been expressed by the community to address these management issues, which have been investigated by Council staff and the outcomes are now presented to Council for consideration.

#### **Key Issues**

- Biodiversity values
- Inappropriate use of reserve
- Future management actions

#### **Information**

The community concern in relation to this reserve is illustrated in the letters to Council provided as attachment one to this report. The attachment also includes the responses provided by staff.

In assessing management options to address community concerns, Council staff identified two options for consideration including:

- The installation of rocks to the reserve frontage to reduce vehicle access
- Undertake regeneration works on the park, thereby developing the existing open space back to natural bushland.

The cost of installing rock to the reserve frontage has been estimated at approximately \$3,000. This management option would limit vehicular access to the park, but may not address other management issues that are currently present.

## 11.1 Clondale Park - Management

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Undertaking regeneration works on the park provides a greater response to the highlighted issues, as well as an environmental benefit, however there is a loss of the current open space area.

To provide greater detail of the proposed regeneration works a draft vegetation management plan has been prepared for the park. A copy of the plan is provided as attachment two to this report.

The current usage levels of the park are considered to be low.

### **Sustainability Considerations**

- **Environment**

There is an environmental benefit to gain by undertaking revegetation works at the park and regenerating with remnant lowland rainforest species.

- **Social**

The proposal to revegetate the area is considered to be a solution to the anti-social behavior at the site. This action however also removes the opportunity for the park to provide open space amenity.

- **Economic**

Not Applicable

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

Clondale Park is currently categorised in the Ballina Shire Council Plan of Management for Community Land (2015) as a Park. Should Council proceed with the implementation of the vegetation management plan, it may require that the land be re-categorised in the future as a Natural Area.

The installation of rocks would incur an operational expense which would be funded from an existing budget. There would be an increased cost in maintenance as extra brush cutting around the rocks would be required.

The implementation of the vegetation management plan could also be funded from the current operational budget, and some savings over time would be made by the reduction of maintenance currently undertaken on the open space component of the park.

### **Consultation**

As part of the preparation of the draft vegetation management plan, Alstonville Rotary were contacted and for their feedback and the Club has expressed support for the undertaking vegetation works at Clondale Park. Council may wish for further consultation to be undertaken.

### **Options**

1. Council can take no action

The complaints regarding the anti-social behaviour have been raised with Council from time to time and it is fair to say the problems are irregular.



## **11.1 Clondale Park - Management**

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In response to the requests to restrict vehicular access, previously staff have determined that the expense was not warranted in the circumstances.

From the perspective of noise, the location is not immediately adjacent to residential property and Council does not have any infrastructure assets in the reserve that can be vandalised.

Therefore it is a reasonable option to take no further action at this point in time and continue to monitor the site and seek assistance from the Police if enforcement actions are required.

However, it is also noted the author of the submissions to Council is very concerned and would prefer an action taken.

2. Council can determine to retain current open space and install rock treatment

The advantage of this option is the open space is retained for passive recreation, albeit the level of presentation of the site with its very old seating can be described as very low.

The location means the usage of the area is very low.

The disadvantage of this option is it is the most expensive in terms of ongoing maintenance. Previous attempts to install low cost wire fencing have not been successful in terms of restricting the vehicular access to the reserve.

3. Council can determine to regenerate the site with native vegetation and implement the actions of the draft vegetation plan.

As discussed in the report above, this option, while removing the open space, will improve our exposure to maintenance costs and can address the concerns in relation to anti-social behaviour.

Having regard to the concerns of residents in respect of anti-social behaviour, the low usage of the park, and ongoing maintenance costs, on balance, option three is the recommended preferred option for this report.

### **RECOMMENDATION**

That Council approves the regeneration of Clondale Park with native vegetation in accordance with the vegetation management plan attached to this report.

### **Attachment(s)**

1. Letters and Council responses
2. Draft Plan of Management for Clondale Park (Under separate cover)

## **11.2 Tuckombil and Stokers Quarries - Lease**

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### **11.2 Tuckombil and Stokers Quarries - Lease**

**Delivery Program**      Operations Support

**Objective**              To consider a request from Lismore City Council to vary the terms of their lease to operate Council's quarries.

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#### **Background**

In November 2014, Council received a report in relation to the status of the lease to Lismore City Council (LCC) to operate the Council's Tuckombil and Stokers Quarries. The report advised that one lease managed both sites with a 10 year lease term due to expire 14 October 2014. The report also advised that LCC had provided a notice to terminate the lease on the basis of they held concerns in regards to the ongoing viability of their operation of this facility under the current lease terms.

In the opinion of staff, and our legal advisor, the termination notice was defective and a response to this effect was provided to LCC. No reply was received in response to our correspondence, however subsequent discussions have been held with LCC and they have now provided a request to vary the terms of the lease.

As the options in response to this request relate to commercial matters which confer an advantage to the lessee if disclosed, the options are reported to Council in the confidential section of the agenda.

#### **Key Issues**

- Best commercial advantage to Council.

#### **Information**

LCC identify the main barrier to their commercial success in operating the quarries is the rate to be paid to Council for overburden. Therefore their request relates to a variation to the payment terms for overburden.

Importantly, LCC are concerned that the market price they receive for overburden has decreased over time and the quarry topography means there is now more overburden to remove per tonne of quarry rock produced compared to previous years. The LCC position is they cannot sell overburden at the royalty rate within the lease, nor can they make up for the loss in the sale of quarry rock.

The question the Council needs to decide is whether agreeing to the request to vary the term represents the best advantage to Council.

## **11.2 Tuckombil and Stokers Quarries - Lease**

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As reported to Council in November, income from the quarry operations is very important to Council's recurrent operations as we are currently taking an annual dividend of \$210,000 from the quarry operations to finance \$110,000 in annual repayments for a Local Infrastructure Renewal Scheme Loan taken out by Council, along with \$100,000 as a straight dividend to the General Fund.

Actual income from the quarries has been \$304,000 in 2011/12, \$410,500 in 2012/13 and \$349,700 in 2013/14. The minimum amount payable under the lease is \$16,424 (ex GST) per month.

The information in the confidential report assesses the claim from LCC, the commercial and financial risks to Council and the options to respond to the request. The information in this report is the extent of information that can be made public at this point in time regarding the request for LCC and the options for our response.

### **Sustainability Considerations**

- **Environment**  
The quarry operations are regulated and the proposed variation to the lease will not impact or reduce these requirements. is managed under certain regulatory.
- **Social**  
The successful operation of the quarry provided the Council with a revenue stream to support the provision of services to the community.
- **Economic**  
Quarries are an important local industry and ensuring their financial sustainability assists economic development.

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

It is important to note here that revenue from the quarry supports a loan repayment and a dividend to the general fund.

Legal advice has been previously sourced in respect of LCC's intention to terminate the lease. Our response to that notice, and subsequent negotiations, has resulted in LCC expressing a desire to continue to operate the quarry and meet the lease terms to the extent they can.

Staff have expressed to LCC that while we will reserve our contractual rights, we see this arrangement as part of a broader partnership with LCC as an adjoining local government authority and for this reason we are keen to avoid legal argument with them in respect of finding a resolution to this matter.

### **Consultation**

Ongoing consultation LCC has been conducted.

## **11.2 Tuckombil and Stokers Quarries - Lease**

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### **Options**

The confidential report discusses a range of options for Council in response to the request. As these options relate directly to the commercial and legal aspects of this matter it is not possible to disclose these options in this report.

The purpose of this report is to advise the public that this is an issue the Council is required to manage. The recommendation to this report is that the report be noted.

### **RECOMMENDATION**

That Council notes the contents of this report in relation to the lease to Lismore City Council to operate the Council's quarries and request to vary the lease terms be dealt with in the confidential report elsewhere in this agenda.

### **Attachment(s)**

Nil

### **11.3 Ballina Heights Drive - Contract Dispute**

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#### **11.3 Ballina Heights Drive - Contract Dispute**

**Delivery Program**      Engineering Works

**Objective**              To advise Council in respect of a contractual dispute for the Ballina Heights Drive Project

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#### **Background**

In May 2013 Council awarded a contract to Gary Deane Constructions (GDC) for the construction of Ballina Heights Drive.

The original contract sum was \$7,308,824. The final contract sum, following sixty eight approved variations was \$7,474,112.

In previous financial reporting updates, Council was advised that GDC had made significant variation claims that had been rejected wholly or in part by Council's officers. GDC have advised of their intention to take legal action against the Council in respect of this decision.

An independent assessment of the claims and our response has been prepared. The independent assessment and associated staff commentary are reported in the confidential section of the business paper as publication of the information would confer a commercial advantage to the contractor.

#### **Key Issues**

- Dispute resolution.

#### **Information**

The information in the confidential report details the negotiations undertaken to date with the contractor and the outcomes of an independent assessment of the Council's current response to the variation claims. The report also comments on the dispute resolution processes available under the contract. At this point in time it is not possible to publish further details of this report.

#### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
Not Applicable

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

In regards to the financial implications, a summary of the project status is set out as follows.

### **11.3 Ballina Heights Drive - Contract Dispute**

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The 2014/15 budget has a current allocation of \$504,800 with \$234,000 expended leaving \$270,800.

However approximately \$82,000 of the \$234,000 expended relates to wastewater works and this will be transferred to the Sewer Fund, which has a budget for these works.

This then leaves approximately \$353,000 as unexpended in the existing General Fund budget.

Also the 2014/15 budget has an income item, which assumes that we will receive \$330,000 from the developers for works related to their development as part of the road construction and \$30,000 from Essential Energy for a contribution to power related works. These monies have not yet been paid.

Setting aside the costs associated with the variation claims, the current budget also needs to consider the following.

- Extra acoustic fencing is required under the current consent conditions and the estimate for this work is \$238,000. An investigation is currently underway to assess an option to remove or amend this consent condition. A separate Council report is proposed in respect of this matter.
- Landscaping maintenance expenses of \$43,000
- Compensatory planting and batter planting \$200,000
- Contract administration/project management fees \$19,000.

These figures total \$500,000.

If all of these items are required to the extent of the forecasts, there is a budget shortfall of approximately \$147,000 (\$500,000 less \$353,000 available) before dispute costs. If the acoustic fencing is not needed this reduces to a \$91,000 surplus before dispute costs.

As Ballina Heights Drive is identified in the Section 94 Roads Plan, Council is still yet to take the full 70% of the project cost in Section 94 contributions allowed for in the Section 94 Plan, therefore it is highly likely that any budget deficit will be funded from an increase in the allocation of Section 94 contributions to the project.

A further report on the budget will be presented to Council once the final dispute costs are known, along with the outcome of the acoustic fencing.

#### **Consultation**

No external consultation is required in respect of this matter.

### **11.3 Ballina Heights Drive - Contract Dispute**

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#### **Options**

The confidential report discusses a range of options for Council in response to the variation claims. As these options relate directly to the commercial and legal aspects of this matter it is not possible to disclose these options in this report.

#### **RECOMMENDATION**

That Council notes the contents of this report in relation to the Ballina Heights Drive contract, with the contract dispute details to be dealt with in the confidential report elsewhere in this agenda.

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

Nil

12. Public Question Time

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**12. Public Question Time**



### **13.1 Rescission Motion - Fair Go Skateboarding Event**

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### **13. Notices of Motion**

#### **13.1 Rescission Motion - Fair Go Skateboarding Event**

**Councillor** Cr Meehan  
Cr Hordern  
Cr Wright

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We, the above Councillors, move that Resolution 260215/15, as follows, be rescinded:

1. *That Council enters into a one year sponsorship agreement with Ownlife for the management and coordination of Ballina's Fair Go Skateboarding event in 2015. This arrangement to be reviewed annually subject to successful outcomes of the event.*
2. *That Council provides \$10,000 cash sponsorship in 2015, as provided for in its current budget, for the Ballina Fair Go event to Ownlife.*

If successful the replacement motion will be:

1. That Council advise 'Ownlife' that it will support the 'Fair Go' skate competition 2015 through in-kind support to the value of \$4,000.
2. That Council reallocate the \$10,000 previously available for this competition towards the progression of a skatepark facility in the Alstonville / Wollongbar area.

#### **Councillor Comment**

Council acknowledges the benefits of fitness and fun that skating brings to our communities. There is an extensive new housing community in the Wollongbar / Alstonville area which would enjoy skating facilities. Council needs to allocate actual funds to support building a skatepark there into the future.

Given the current fiscal environment and the fact that all other events in the Shire undergo rigorous comparison for finite funds, the allocation of a substantial sponsorship to a private company rather than a Not for Profit, for a competition which last year had a small number of entrants is inappropriate and would be far more beneficial being allocated towards the new skatepark.

#### **Staff Comment**

In June 2012 Council resolved to enter into a three year sponsorship agreement with Skateboarding Australia for the management of Ballina's 'Fair Go' skateboarding event, held at the Missingham Park skateboarding facility. The extent of the Council's financial commitment to the sponsorship was \$10,000 per annum for the agreed three year period.

In September 2014, Skateboarding Australia notified Council of its inability to co-ordinate the 2014 event. Shortly afterward, Mr Richard Flude, representing

### **13.1 Rescission Motion - Fair Go Skateboarding Event**

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Ownlife, contacted Council to nominate his organisation to conduct last year's event under the same terms and conditions as had been agreed with Skateboarding Australia. The Council authorised to this arrangement on 23 October and the event was held on 20 December 2014.

Recently, staff contacted Mr Flude with a request for him to provide a basic acquittal of the sponsorship funding provided for last year's event. The attached information has subsequently been provided in response to that request.

#### **COUNCILLOR RECOMMENDATION**

That Resolution 260215/15, as follows, be rescinded:

1. That Council enters into a one year sponsorship agreement with Ownlife for the management and coordination of Ballina's Fair Go Skateboarding event in 2015. This arrangement to be reviewed annually subject to successful outcomes of the event.
2. That Council provides \$10,000 cash sponsorship in 2015, as provided for in its current budget, for the Ballina Fair Go event to Ownlife.

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

1. Basic acquittal of sponsorship funding

## **13.2 Notice of Motion - Tanamera Drain - Upgrade Proposal**

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### **13.2 Notice of Motion - Tanamera Drain - Upgrade Proposal**

**Councillor**

Cr Worth

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I move

That Item 4.7 Community Infrastructure – Recurrent Projects in the minutes of the Finance Committee held 11 March 2015, which endorses stormwater infrastructure priorities for inclusion in the draft 2015/16 Delivery Program for exhibition, be amended by replacing the project for Stormwater Asset Data Collection with a project to upgrade the Tanamera Creek stormwater drain.

#### **Councillor Comment**

Tanamera Creek is located in Alstonville and currently presents in a very unsightly manner. Furthermore, the vegetation in the drain is not preferred from an ecological perspective.

The issues at this location have been considered by Council over many years. In response to environmental concerns, court proceedings determined a maintenance regime to be applied at the drain. In part, this has restricted the mowing and other activities that can be undertaken at the site and this has reduced the amenity of the area for the local residents.

Council has previously prepared concept designs that would address these issues, however the significant cost of the work has meant it has not been possible to allocate Council funds to the project and the prospect of grant funding has been limited.

Recently staff have prepared a revised design that is relatively more cost effective and yet still meets the objectives of improving the hydrology, ecology and amenity of this drain.

A copy of the plan prepared by staff is attached.

The plan shows works for the first 100 metres of the drain as it is preferred to conduct a trial to enable plant species, construction methodology, and costs to be further examined and the benefits of the project outcomes be demonstrated to the community.

A copy of the revised design is also attached.

I estimate the costs of these works to be approximately \$40,000. The list of works proposed by staff in the report to the Finance Committee included a project for Asset Data Collection with a cost estimate of \$40,000 and the above motion seeks to defer this project for a year to enable the Tanamera Creek project to commence.

## **13.2 Notice of Motion - Tanamera Drain - Upgrade Proposal**

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The purpose of this motion is to reallocate the funding priorities within the Council's stormwater management program based on the fact that this drain has been a significant issue for a long time and accordingly it should be addressed.

### **Staff Comment**

The report to the last Finance Committee listed the following projects as the priority for funding in 2015/16.

<i>Item</i>	<i>2015/16</i>
<b>Stormwater Totals</b>	<b>365,000</b>
Asset Data Collection	40,000
Urban Stormwater Management Plan Actions	80,000
Grant Street	100,000
Martin Street (Richmond River to River Street)	80,000
Megan Crescent / Dodge Lane	50,000
Coogee Street Pump Station	15,000

These priorities are included in the recommendations from the March 2015 Finance Committee minutes, which is listed as the next item in this agenda.

The asset data collection is an important program as it involves camera inspections to investigate the condition of Council's stormwater drainage infrastructure. This information is used to reduce the risk of unplanned failures, assess work priorities, and to inform the condition assessments required for the proper financial management and reporting of our assets. It is proposed that this data collection be undertaken in a program on a recurrent basis.

Therefore, deferral for a year is not ideal, however this is preferred to the deferral of planned capital works. It is also noted that the \$80,000 allocated for the urban stormwater management plan actions is to support the requirements of a successful grant application to undertake works associated with the Chickiba wetland.

Staff have some concerns with the estimate suggested for this project. However if the Council is inclined to support the motion, in the event that the available funds are insufficient, it will be possible to either change the scope of works or provide further reporting as part of the normal budget review processes.

### **COUNCILLOR RECOMMENDATION**

That Item 4.7 Community Infrastructure – Recurrent Projects in the minutes of the Finance Committee held 11 March 2015, which endorses stormwater infrastructure priorities for inclusion in the draft 2015/16 Delivery Program for exhibition, be amended by replacing the project for Stormwater Asset Data Collection with a project to upgrade the Tanamera Creek stormwater drain.

### **Attachment(s)**

1. Revised Design - Alstonville Creek

**14.1 Finance Committee Minutes - 11 March 2015**

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**14. Advisory Committee Minutes**

**14.1 Finance Committee Minutes - 11 March 2015**

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**Attendance**

Cr David Wright (Mayor - in the chair), Jeff Johnson, Keith Williams (arrived at 4.28 pm), Keith Johnson, Susan Meehan, Ken Johnston, Paul Worth, Ben Smith and Robyn Hordern.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Rod Willis (Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Peter Morgan (Manager Finance and Governance), Neil Weatherson (Airport Manager), Sandra Bailey (Secretary) and Sarah Carden (Secretary) were in attendance.

There were four staff members in the gallery at this time.

**1. Apologies**

Apologies were received from Cr Sharon Cadwallader and Cr Jeff Johnson.

Cr Keith Williams indicated he would be late to the meeting.

**RECOMMENDATION**

(Cr Susan Meehan/Cr Keith Johnson)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Sharon Cadwallader and Cr Keith Williams

**2. Declarations of Interest**

Nil

**3. Deputations**

Nil

**4. Committee Reports**

**4.1 Ballina Byron Gateway Airport - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Keith Johnson/Cr Robyn Hordern)

1. That Council notes the contents of this report on the update of the long term financial plan for the Ballina – Byron Gateway Airport.
2. That Council notes the details of the proposed expression of interest for funding under the State Government's Regional Tourism Infrastructure Fund for Regional Airports.
3. That Council provides in principle support for a \$500,000 contribution to the Regional Tourism Infrastructure Fund (RTIF) - Regional Airports Program, subject to this contribution being funded by loans, with the loan repayments being repaid in full by additional contributions from the airlines.
4. That the Airport capital budget include \$15,000 for the installation of display space for the Northern Rivers Community Gallery for 2015/16.

Cr Keith Williams arrived at the meeting at 04:28 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

**4.2 Rating Structure 2015/16 - New Land Valuations**

**RECOMMENDATION**

(Cr Paul Worth/Cr Ben Smith)

1. That Council, for the 2015/16 Draft Operation Plan, include a base rating structure, modelled on the existing structure, which applies the following principles:
  - a) Marginally less than 50% of the rate income for the residential category of properties being generated from the base amount
  - b) Business, farmland and mining categories to have the same base amount as the residential base amount
  - c) A total of 20% income from the rate yield to be sourced from the business category properties
  - d) The mining category rate in the dollar to be set as the same rate as the business category (currently no mining category properties in the shire).
2. That Council notes the indicative figures for this rating structure for 2015/16, are as per tables Seven and Eight within this report and as outlined below:

Table Seven: Proposed 2015/16 Rating Structure

Rating Category	2015/16 - 5.41% Increase	
	Base Amount	Rate in Dollar
Residential	450	0.181039
Business	450	0.710141
Farmland	450	0.143762
Mining	450	0.710141

Table Eight: Proposed 2015/16 Income per Category (Cat.) at 5.41%

Rate Category	2014/15			2015/16		
	Income 2.3% increase	Cat % of yield	Ave Rate	Income 5.41% increase	Cat % of yield	Ave Rate
Residential	13,195,414	72.38	859	13,869,085	72.38	901
Business	3,646,177	20.00	2,869	3,832,117	20.00	2,961
Farmland	1,389,342	7.62	1,314	1,459,558	7.62	1,387
Mining	0	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>18,230,933</b>	<b>100.0</b>	<b>1,030</b>	<b>19,160,760</b>	<b>100.00</b>	<b>1,080</b>

- That a Councillor briefing be held to carry out a detailed review of Multiple Occupancy Developments (MOD) and their impact on rates, with a view to developing a solution for presentation to the State Government.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

#### 4.3 Drainage Charge - Evaluation

##### **RECOMMENDATION**

(Cr Keith Williams/Cr Ben Smith)

That Council notes the contents of this report in respect to the introduction of an annual drainage charge and accepts that there is no direct financial benefit in introducing the charge as it forms part of Council's ordinary rate notional yield calculation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

**4.4 Investment Portfolio - Review**

**RECOMMENDATION**

(Cr Ben Smith/Cr Susan Meehan)

1. That Council continue to manage the portfolio in accordance with the adopted Investment Policy.
2. That the General Manager has approval to sell the following Floating Rate Notes (FRN) and Transfer Deposit (TD), subject to it being economical to do so on the day of sale:
  - Westpac FRN maturing in 2017
  - National Wealth Management Holdings FRN maturing 2026
  - CBA TD maturing 2018
3. That the General Manager seek external independent portfolio advice, as and when required.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

**4.5 Occupation of Council Owned Property**

**RECOMMENDATION**

(Cr Susan Meehan/Cr Ben Smith)

That Council defer this item until more information is provided by FSGA detailing their youth activities programs for the Ballina Shire into the future.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader



4.6 **Waste Operations - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Paul Worth/Cr Ben Smith)

That Council endorses the inclusion of the DWM and LRM long term financial plans, as attached to this report, and the following waste charging structure, in the draft 2015/16 Delivery Program and Operational Plan for public exhibition:

**Table Five – LRM Waste Charges**

Charge Type	2014/15 (\$)	2015/16	% Change
Kerbside Non Domestic Mixed Waste (Annual)	360	369	2.5
Kerbside Non Domestic Recycling (Annual)	178	182	2.2
Kerbside Non Domestic Green Waste (Annual)	315	322	2.2
DWM Gate Fee Mixed Waste	264/tonne	256/tonne	(3)
Self-Haul Mixed Waste Under 300kg	216/tonne	221/tonne	2.3
Over 300kg	250/tonne	256/tonne	2.4
***DWM Gate Fee Recyclates	210/tonne	215/tonne	2.4
***Self-Haul Recyclates	86/tonne	88/tonne	2.3
Gate fees Recyclates >500kg	210/tonne	215/tonne	2.4
Gate Fees Recyclates <500kg	86/tonne	88/tonne	2.3
Self-Haul Green Waste	68/tonne	70/tonne	2.9
Remaining Gate Fees	Various up to 10%	Various up to 5%	Up to 5%
Waste Operations Annual charge	70	72	2.9

\*\*\* Fee shown for reference only. It will not form part of the 2015/16 fees and charges.

**Domestic Waste Charges**

Charge Type	2014/15 Charge \$	2015/16 Charge \$	% Increase
DWM - Rural (excludes green)	307	314	2.3
DWM – Urban (all three collections)	352	360	2.3
Additional Extra Mixed Waste Urban – Fortnight	105	108	2.8
Additional Mixed Waste Rural – Weekly	210	215	2.4
Additional Domestic Recycling	105	108	2.8
Additional Green Waste Collection - Urban Only	210	215	2.4
DWM – Vacant Land	38	39	2.6

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Sharon Cadwallader and Cr Ken Johnston

**4.7 Community Infrastructure - Recurrent Projects**

**RECOMMENDATION**

(Cr Susan Meehan/Cr Ben Smith)

1. That Council endorses the community infrastructure priorities identified in this report for inclusion in the draft 2015/16 Delivery Program and Operational Plan for exhibition; i.e.
  - Stormwater
  - Street Lighting
  - Footpaths
  - Roads and Bridges
  - Playground Equipment
  - Sports Fields
  - Community Buildings
  - Depot
2. That Council authorises the General Manager to call tenders for the replacement of the air conditioning at the Council Administration Centre.
3. That Council receive a report to the April Finance Committee meeting with regard to the cost of completing the sealing of Tweed Street, Ballina.
4. That Council receive a report on the design options for the Beachfront Parade, East Ballina works to be funded in 2017/18.
5. That Council write to Crowley and St Andrews Retirement Villages inviting expressions of interest for funding of street seats along Cherry Street, Ballina.
6. That Council receive a report to the April Finance Committee meeting on options to fund the finalisation of the Sneaths Road, Wollongbar footpath from the footpath capital works program.
7. That the footpath construction program be revised to include Quays Drive, West Ballina (\$8,000) in 2015/16.
8. That Council receive a report on options for mitigating and funding the periodic flooding of Burns Point Ferry Road.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

**4.8 Community Infrastructure - Non-recurrent Projects**

**RECOMMENDATION**

(Cr Paul Worth/Cr Robyn Hordern)

1. That Council endorses the inclusion of the draft funding strategy for the Regional Boating Plan, as per table five of this report, in the draft Long Term Financial Plan with consultation to be undertaken with the Ballina RSL and the Wardell Progress Association in respect to the funding sources for this Plan. The Wardell consultation is also to consider whether there is support for the following two projects to be funded from the Wardell Town Centre Reserve in 2015/16:
  - Footpath Carlisle Street \$70,000
  - Footpath Byron Street \$55,000
2. That Council endorses for financial planning purposes only, the draft cashflows and works program as per attachment five of this report, subject to any amendments arising from this report or other reports within this Finance Committee meeting agenda.
3. That in respect to the proposed Ocean Pool project, Council provides its in principle support for the project, however as Council has no forward funding allocated for the works, it accepts that this needs to be a project driven by the community, both from an approval and capital funding perspective.
4. That Council receive a report to the April Finance Committee meeting on options to fund the Lennox Head Main Street Upgrade Concept Plan Project in 2015/16.
5. That Council receive a report for the April Finance Committee meeting whereby the skate park funding for Wollongbar be brought forward to 2015/16.
6. That Council receive a report to the April Finance Committee Meeting on options to progress the sports and event centre within the short-term.
7. That Council receive a report to the April Finance Committee meeting on the merits of the Brunswick Street boat ramp.

Cr Ken Johnston left the meeting at 06:20 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Sharon Cadwallader and Cr Ken Johnston

**4.9 Fit for the Future - Council Response**

**RECOMMENDATION**

(Cr Paul Worth/Cr Keith Williams)

That Council defer this matter to a Councillor briefing.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Sharon Cadwallader and Cr Ken Johnston

**4.10 Northern Rivers Community Gallery - Review**

**RECOMMENDATION**

(Cr Susan Meehan/Cr Robyn Hordern)

1. That Council provides its in principle support for an additional allocation of \$36,000 to the 2015/16 operational budget for the Northern Rivers Community Gallery, to provide 18 hours (3 days) of administrative and customer service support to the Gallery Co-ordinator, with these funds to be made recurrent over the long term financial plan. However the allocation of these funds is subject to a further report to Council identifying options for funding this additional recurrent cost either through savings in other programs, additional revenues or a combination of both.
2. That Council provides its support for a capital amount of \$10,000 to be considered for inclusion in future annual budgets to provide improvements to the shop in the existing Gallery Foyer.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Sharon Cadwallader and Cr Ken Johnston

**MEETING CLOSURE**

6.50pm

**RECOMMENDATION**

That Council confirms the minutes of the Finance Committee meeting held 11 March 2015 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

## 15.1 Mayoral Meetings

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### 15. Reports from Councillors on Attendance on Council's behalf

#### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities since the February 2015 Ordinary meeting:

<u>Date</u>	<u>Function</u>
27/2/15	Meeting Elliott Rd Resident
1/3/15	Alstonville Swimming Pool Consultation
3/3/15	Briefing on Swimming Pool Upgrades
3/3/15	Briefing on Namin Cumbalum B Precinct
5/3/15	Briefing – Airport Group Scoping Study
5/3/15	Gallery Opening
6/3/15	Ballina High SRC
8/3/15	Lennox Head Markets
8/3/15	Shaws Bay Discussions SLSC and Council
9/3/15	Journey to Recognition Consultation
10/3/15	Meeting – Men's Shed
10/3/15	A Ward Committee
11/3/15	Finance Committee
12/3/15	C Ward Committee
12/3/15	Parkview Funeral Homes – Opening
13/3/15	NCCARF Workshop
13/3/15	Meeting with Café Owners
14/3/15	Meeting – Council, Police, Surf Club and Shark Attack Rescuers
14/3/15	Alstonville Farmers' Market
15/3/15	100 <sup>th</sup> Anniversary – St Bartholomew's Anglican Church
16/3/15	Meeting Paul Spooner and Minister – Old Tip Site
16/3/15	Meeting Dan Fitzgerald – Volunteer Finance advice
16/3/15	B Ward Committee
17/3/15	Reserve Trust Meeting
17/3/15	Briefing Public Lands and Christmas Decorations
17/3/15	150 <sup>th</sup> Celebration Meeting
18/3/15	ABC outside broadcast – No SharkCull
18/3/15	Shark Briefing – Airport
18/3/15	Seniors Week - Cr Hordern
18/3/15	Crowley Seniors Concert at amphitheatre
18/3/15	Meet the Candidates – Wardell
20/3/15	Paradise FM – Laughter Launch – Seagulls
22/3/15	Scope Breakfast
23/3/15	Meeting Craig Watson – Lennox Head Development
26/3/15	Council Meeting
28/3/15	Alstonville Plateau Historical Society – Exhibition Launch
28/3/15	14 <sup>th</sup> Annual Friendship High Tea – Quota
31/3/15	Briefing on Multiple Occupancy
31/3/15	Briefing - Fit For The Future'

#### **RECOMMENDATION**

That Council notes the contents of the report on Mayoral meetings.

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

Nil

16. Questions Without Notice

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**16. Questions Without Notice**

**17. Confidential Session**

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

17.1 Request for Debtor Write-off - Debtor Details

Refer to Item 10.4 of this agenda.

17.2 Tuckombil and Stokers Quarries - Lease Offer Details

Refer to Item 11.2 of this agenda.

17.3 Ballina Heights Drive - Contract Dispute

Refer to Item 11.3 of this agenda.

**RECOMMENDATION**

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

**17.1 Request for Debtor Write-off - Debtor Details**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(b) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- b) the personal hardship of any resident or ratepayer

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the nature of the personal matter.

**17.2 Tuckombil and Stokers Quarries - Lease Offer Details**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as negotiations between the parties are not complete.

**17.3 Ballina Heights Drive - Contract Dispute**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as this matter involves legal claims against the Council.