



Notice of Facilities Committee Meeting

A Facilities Committee Meeting` will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Monday 23 November 2015 commencing at 4.00 pm.**

Business

1. Apologies
2. Declarations of Interest
3. Deputations
4. Committee Reports

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a horizontal line underneath.

Paul Hickey
General Manager

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1. Apologies
 2. Declarations of Interest
 3. Deputations
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1. Apologies

2. Declarations of Interest

3. Deputations

4.1 Swimming Pools - Redevelopment Project - Stage One

4. Committee Reports

4.1 Swimming Pools - Redevelopment Project - Stage One

Delivery Program Community Facilities and Services

Objective To present the Council with redevelopment design proposals for the Ballina and Alstonville Swimming Pool complexes, and to seek endorsement to proceed with the projects.

Background

The Ballina and Alstonville swimming pools were constructed in the early 1970s. As the existing infrastructure is ageing, the operating costs are rapidly increasing. In 2011 the *Ballina Shire Council Aquatic Facilities Strategic Financial Discussion Paper* prepared by Council's Civil Services Group identified that much of the existing plant and equipment needs replacing, as it is nearing the end of its economic life.

In mid-2014 Council made application to the NSW Independent Pricing and Regulatory Tribunal (IPART) for a special rate variation to cover the cost of replacing/modernising pool infrastructure. This application was successful and Council has been authorised to apply a rate variation that, at the time of application, would enable the servicing of loan borrowings to fund the redevelopment.

Concurrent with the IPART application, the Council resolved to call expressions of interest for qualified consultants to undertake an assessment of the existing pool infrastructure, consult with our community and provide recommendations as to whether the range of facilities available at the swimming pools should be reduced, maintained or enhanced. In late 2014 Ridgemill Project Management was appointed as the successful applicant and the company's completed report is now provided for Council's consideration. A copy of the report is attached.

The report requirements as per the tender documents were:

- Assessment of the current state of pool complexes
- Undertake consultation with key stakeholders
- Understand the medium term demographic trends for Ballina Shire
- Identify contemporary trends for swimming complexes
- Understand and identify procurement options available to Council to provide best value outcomes to the community
- Conduct workshops with Councillors as required through the process
- Evaluate existing contractual relationships and impact of redevelopment
- Produce a Redevelopment Plan, for reporting to the Council, which includes as a minimum, the following elements:
 - Preferred aquatic facility mix for both swimming complexes
 - Preliminary concept and layout plans for the two facilities
 - Financial plans identifying both operating and capital estimates
 - A procurement plan identifying the preferred procurement processes and the timetable for implementation.

4.1 Swimming Pools - Redevelopment Project - Stage One

Additionally, Ridgemill has also been asked to provide projected revenue details for the Council's consideration.

Key Issues

- Accurately capturing the community's preferences for each pool complex
- Matching design solutions within Council's projected capital and operating budgets
- Completing the consultation and design component of the project within a timeframe that would allow construction to begin before major maintenance works need to be undertaken at the pools.

Information

Detailed information pertaining to the community consultation and design selection process is contained within the attached report, however the primary elements of the final design recommendations for each pool complex can be summarised as follows:

Ballina

- Reconfiguration of the current site layout, including the levelling of the existing two terrace levels.
- Replacement and relocation of the existing amenities to the south west corner of the site to create a safer arrival for pool patrons, safer management of swimmers for lifeguards and the establishment of a commercial coffee shop space to maximise advantage of the spectacular river views and potentially provide additional income for Council. It will also assist in providing additional wind protection for swimmers.
- Replacement of the existing seven lane 50m cold water pool with a larger FINA compliant 50m x 25m heated pool, consisting of ten lanes at 2.5m. This new pool will allow competition swimming as well as 'across pool' playing of water polo games. This configuration enables lap swimming to continue in a 25m 'across pool' configuration at the same time and maximise pool usage. The new pool also includes a 25m access ramp to enable safe entry for persons with a disability.
- Replacement of the existing training pool with a 16m x 10m heated and enclosable Learn to Swim pool with beach entry. This pool will enable consistent all-weather learn to swim programs for children and rehabilitation exercise for people of all ages, as well as providing a safe swimming area for children.
- The replacement of the toddler's pool with a contemporary wet play area consisting of fountains, water cannon, slide etc.
- The replacement of the existing river front fencing with high quality transparent screening to provide wind protection and views of the river.
- The cost of this redevelopment is estimated at \$6.45 million +GST.

Alstonville

- Replacement of the existing pools in approximately the same locations as the current configuration on the property.
- As with the Ballina swimming pool, the replacement of the existing seven lane 50m pool with a larger FINA compliant 50m x 25m heated pool, consisting of ten lanes at 2.5m. The new pool will allow competition

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swimming as well as 'across pool' playing of water polo games. This configuration enables lap swimming to continue in a 25m 'across pool' configuration at the same time and maximise pool usage. The new pool also includes a 25m access ramp to enable safe entry for persons with a disability.

- As with the Ballina swimming pool, the replacement of the existing training pool with a 16m x 10m heated and enclosable Learn to Swim pool with beach entry. This pool will enable consistent all-weather learn to swim programs for children and rehabilitation exercise for people of all ages, as well as providing a safe swimming area for children.
- The replacement of the toddler's pool with a contemporary wet play area consisting of fountains, water cannon, slide etc.
- The cost of the redevelopment is estimated at \$4.95 million +GST.

Environmental considerations were front and centre at all times throughout the consultation process; where possible, sustainable choices have been selected for the redeveloped designs and, where practicable, will be carried through in delivery to achieve optimal environmental performance for the two facilities.

The desire from both communities and their combined key stakeholders to see the pools upgraded to larger, FINA compliant standards is heavily motivated by their desire to be able to secure regional, state and national swimming events in future. This has not been possible in the past. Should the Council endorse the recommended designs, and the associated swimming and water polo clubs are able to secure events such as these, then there will be significant additional positive economic outcomes for the Shire.

Legal / Resource / Financial Implications

There are no known legal issues relating to the redevelopment of the two pool complexes. The Alstonville Swimming Pool complex is located on Council-owned land and, as such, presents no obstacle to continuing operation.

The Ballina swimming pool site is located on Crown land reserved for the purpose of public recreation. Council is the appointed Reserve Trust Manager for this reserve. The continued operation of the pool on this land is consistent with the purpose of the reserve. There is a separate report within this business agenda which discusses tenure and management issues for the Ballina pool and the privately owned waterslide which operates on the same site.

Resources relating to continuing management of these redevelopment projects have already been allocated by the Council in previous budgets. No additional resources are required to continue the engagement of Ridgemill Pty Ltd to work with Council staff to oversee the remaining stages of the project.

The Financial Implications for the funding of the physical reconstruction represent the most significant consideration for the Council with regard to these projects.

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Capital Cost

To enable the redevelopment of the two swimming pools, Council's successful special rate variation application enabled an increase capable of securing a loan amount of approximately \$8 million. This was based on securing the funds from the commercial market with interest rates at the time of approximately 7% over 15 years.

Based on these presumptions an annual budget allocation of \$889,000 has been included across the Long Term Financial Plan to service the anticipated loan repayments over a 15 year period.

The current predicted cost of the redevelopment, as outlined in the attached report from Ridgemill, is \$11.4 million; including contingencies of 5% for design and 5% for construction.

Since the Council's original IPART application, interest rates have fallen. Council's Finance Manager predicts that were Council to seek funding from the commercial market now, or in the near future, an interest rate of approximately 5% would be more likely.

Calculating that Council's annual loan repayment allocation remains the same, this would result in the following 15 and 20 year loan options.

Table 1: Maximum loan amounts based on the current allocated repayment amounts and 5% interest.

Loan Amount	Interest Rate	Term / Years	Annual Repayment	Viable
\$9,330,000	5%	15	\$889,000	No
\$11,100,000	5%	20	\$889,000	No

As shown, neither of these options would be sufficient to fund the project at the current \$11.4m estimate. To meet the required funding amount annual budget allocations would need to be increased as follows:

Table 2: Approximate annual repayment amounts based on the estimated redevelopment cost at 5% interest.

Loan Amount	Interest Rate	Term / Years	Annual Repayment	Viable
\$11,400,000	5%	15	\$1,098,000 (+\$209,000)	No
\$11,400,000	5%	20	\$915,000 (+\$26,000)	No

The 5%, 20 year option, is only marginally above the budgeted loan repayments (\$26,000), albeit that the term is 20 years, as compared to 15 years in the LTFP.

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No alternative internal funding source has been identified within existing pool budgets to accommodate this required increase to the LTFP budget allocations. Unless the Council requests the General Manager to secure these funds from outside of existing swimming pool operational budgets, then it is concluded that Council is unable to meet the costs for financing both the pool redevelopments (based on the preferred designs) through the commercial market.

An alternative funding option is that the IPART 'Fit for the Future' report determined that Ballina Shire Council is indeed 'Fit'. This now means that we are now able to access lower loan interest rates from the New South Wales Treasury Corporation (TCorp) financing. Refer to attachments two and three for the Minister's announcement and the guidelines.

Indicative advice from TCorp suggests that Council will have access to loan funding at approximately 4% interest (or even slightly lower; 3.8%).

This lower interest rate on the projected redevelopment cost would result in the following annual repayments, in comparison to the current LTFP allocation of \$889,000:

Table 3: Approximate annual repayment amounts based on the estimated redevelopment cost at 4% interest.

Loan Amount	Interest Rate	Term / Years	Annual Repayment	Viable
\$11,400,000	4%	15	\$1,025,000 (+136,000)	No
\$11,400,000	4%	20	\$839,000 (-\$50,000)	Yes

A term of 18.3 years is the breakeven result (i.e. repayments of \$889,000 per annum) to the current LTFP.

Alternatively, the total possible loan amounts, based on maintaining the annual repayments at their current allocation, would be as follows:

Table 4: Maximum loan amount options available based on the current allocated repayment amounts and 4% interest.

Loan Amount	Interest Rate	Term / Years	Annual Repayment	Viable
\$9,900,000	4%	15	\$889,000	No
\$12,100,000	4%	20	\$889,000	Yes

As per these tables, Council could afford to finance the cost of redeveloping the pools to an amount of \$11.4 million, if given access to TCorp financing at a low rate of approximately 4% and extending the original intended borrowing term from 15 years to 20 years. Alternatively the budget would need to be maintained at \$9.9m if Council wishes to limit its loan term to 15 years.

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It is reasonable to have a loan term of 20 years for this infrastructure, as the majority of the infrastructure would have at least a life of 20 years, although the attached report does mention that the pool liner may need replacing every 15 years. The estimated cost for that is \$170,000 (page 40 of 53).

TCorp has advised that we can apply for the funding now and draw the monies down later in the financial year, or roll any over to the following financial year. It is recommended that Council apply now for the funding as this will help to confirm our eligibility along with an indicative interest rate.

Finally whilst Ridgemill is confident of the cost estimate it has submitted, a clearer picture will be available when the tenders from construction companies are assessed. This process may dictate that compromises must be made to the preferred designs. A 10% contingency is not high at this early stage.

Net Operating Result

The current net operating result for the swimming pools, excluding interest and depreciation, is as follows.

Table 5: Swimming Pools - Net Operating Results (\$)

Item	2012/13 Actual	2013/14 Actual	2014/15 Actual	2015/16 Estimate
Ballina Revenues	178,300	193,600	198,400	192,000
Alstonville Revenues	143,200	155,100	155,700	154,000
Sub Total	321,500	348,700	354,100	346,000
Ballina Operating Exps	349,700	393,200	319,600	377,700
Alstonville Oper Exps	379,500	395,000	370,900	394,600
Sub Total	729,200	788,200	690,500	772,300
Net Deficit	(407,700)	(439,500)	(336,400)	(426,300)

The major change in operating expenses for Ballina in 2014/15 relates to the manner in which wastewater charges were previously levied based on water consumption. As the high water use related to water loss, rather than water returning to the wastewater system, a credit was provided for the last two years. Otherwise revenues and expenses are relatively consistent in recent years.

In respect to the revised operating results following the redevelopment, pages 51 to 53 of attachment one have operating expense and revenue projections.

The operating expense (page 51) assumptions are forecasting approximate annual costs of \$390,000 per annum per pool. This is very similar to the current operating expense budgets although once maintenance allowances are included (currently not in the calculations on page 51) the net cost per pool could increase by \$25,000 if not more.

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The income forecasts (pages 52 and 53) are close to \$170,000 above current levels. Whether these figures will be achieved may be questionable. If they are achieved the overall net operating result for the swimming pools (excluding interest and depreciation) should improve by around \$120,000 per annum. If these revenue forecasts are under by up to 23% the net operating result will be similar to the current budget, therefore there is some buffer in case the income forecasts are over optimistic.

Ideally we should be aiming to reduce operating expenses through the redevelopment, although additional or improved service levels will be provided at the pools and this often results in increased costs.

Consultation

Information pertaining to the consultation process and community feedback is contained within the attached report from Ridgemill Pty Ltd. Community engagement in relation to both the earlier special rate variation and the more recent concept designs for the respective pools has been comprehensive.

Options

Information pertaining to the preliminary designs and costings is contained within the attached report from Ridgemill Pty Ltd. Mr Martin Cooper, a Director of Ridgemill, will be in attendance at the meeting for discussion with Councillors.

The options available to the Council are to proceed with one or both of the pool projects by moving into the detailed design phase and tender process, to defer these next steps pending further discussion and evaluation, review the project cost to meet the original 15 year time frame for loan funds, or not proceed with one or both projects.

The design and layout appear to be well supported therefore the real issue is the capital cost.

The preference is to retain the loan term at 15 years as per the adopted LTFP. However, as per Table 4, this only results in a loan borrowing of \$9.9m based on a TCorp interest rate of 4% (or \$9.3m on current commercial rates). Council needs to reduce the budget by \$1.5m to achieve that result.

Development option one for Ballina would achieve this result, with this option not providing for the entrance and amenities to be relocated. The report states as follows in respect to options two and three being preferred over option one:

Options 2 & 3 provide for a complete reconfiguration of the site which entails repositioning the entry and amenities building to the south west corner of the site. This position takes advantage of the views, gains better parking access for pool and presents a safer arrival point for pool patrons. Further, the location is immediately adjacent to the pedestrian / bicycle path and as such presents a very attractive opportunity for a food and beverage outlet eg. Coffee bar. (page 28)

This option will provide improved parking access and amenities etc, and Councillors need to determine whether those benefits are justified by extending the loan term to 20 years (or possibly 18).

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On balance the preferred option is to pursue the recommended development based on the longer loan term. If Council is going to redevelop the pools the project needs to be completed properly and the extending of a loan 15 years into the future is not going to impact significantly on Council's current financial viability.

The recommendation which follows is to proceed to the next stages for both projects.

Also the attachment identifies that both projects should be completed during the 2016 season closure, with that closure extended. Council's LTFP allows for this to occur as the full amount of the \$889,000 loan repayment is included in the 2016/17 forecast budget, along with \$439,000 in repayments for 2015/16. The \$439,000 may not be fully needed in 2015/16 depending on the project cash flow.

The recommendation also seeks approval to apply to TCorp for the loan funding as this will help to confirm the overall loan cost. Council will only need to draw on these funds when needed.

RECOMMENDATIONS

1. That Council notes the contents of this report relating to the community engagement and preliminary design options associated with the proposed redevelopment of the Ballina and Alstonville Swimming Pools.
2. That Council endorses the attached report from Ridgemill Pty Ltd and approves the continuation of the redevelopment project to detailed design and tender, based on the recommended Option 2 (Revised) for the Ballina Swimming Pool and Option 1 (Revised) for the Alstonville Swimming Pool;
3. That Council retain the services of Ridgemill Pty Ltd as the Project Managers for Stage Two for both of the respective projects, being detailed design and contract supervision.
4. That Council submit an application to NSW Treasury Corporation (TCorp) to confirm whether the loan funding required (\$11.4m) is available from TCorp.
5. That a further report is presented to the Council to clarify funding options for both the pool redevelopment projects following the closing of the construction tenders.

Attachment(s)

1. Project Report for Redevelopment of Ballina and Alstonville Pool Complexes prepared by Ridgemill. (Under separate cover)
2. Media Release from Minister for Local Government - Open for business: Borrowing Facility for NSW Councils
3. NSW Treasury Corporation - Loan Facilities for Local Councils Guidelines



Paul Toole
Minister for Local Government

MEDIA RELEASE

Tuesday, 13 October 2015

OPEN FOR BUSINESS: BORROWING FACILITY FOR NSW COUNCILS

Minister for Local Government Paul Toole today announced the NSW Government borrowing facility is open for business and encouraged NSW councils to consider the cheaper longer-term loans on offer.

Mr Toole said he was pleased to help councils unlock investment in infrastructure to benefit communities now and into the future by offering councils who have demonstrated sound financial management access to funds from the TCorp facility.

“The borrowing facility will provide Fit for the Future councils with access to low cost loans, saving councils up to \$600 million over ten years, Mr Toole said.

“As part of the Fit for the Future reforms the NSW Government is strengthening the financial sustainability of local councils and improving services and infrastructure through supportive initiatives like this.

“I’m pleased to announce the TCorp borrowing facility is ready to go and open for business.

“Councils who are Fit for the Future and are in good financial shape will benefit greatly from this.

“The TCorp fund will build on the successful LIRS scheme, which saw the Government invest \$120 million in councils to unlock \$1 billion in local infrastructure projects.”

The State borrowing facility allows councils and their communities to benefit from the sound financial management and AAA credit rating of the NSW Government, with access to cheaper loans through TCorp to fund important projects.

In addition, TCorp will provide a range of services to all NSW councils to help improve their long-term financial planning, treasury management and investment management.

MEDIA: Antonia Morrow | Minister Toole | 0419 468 235



NSW Treasury Corporation Loan Facilities for Local Councils

Guidelines

October 2015

New South Wales Treasury Corporation



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1. Introduction

NSW Treasury Corporation (TCorp) has been authorised by the New South Wales Government to provide loan facilities to general purpose local councils that have been deemed *Fit for the Future*.

These guidelines provide the policy framework and application procedures for local councils seeking a loan facility from TCorp.

A loan facility can be used by Council to fund certain qualifying assets. Examples of assets that qualify for a loan facility from TCorp are identified in Section 2. The policy explanation is not exhaustive and councils are encouraged to contact TCorp's Local Government Services Desk if they are unsure whether assets planned for acquisition, upgrade or replacement will qualify.

Sections 4 and 5 detail the procedure councils should follow when preparing a Loan Facility Application Form before submitting the request to TCorp.

A glossary with definitions of many of the terms used in these guidelines and documentation for loan facilities can be found on Page 7.

2. General policy guidelines

Loan facilities are available for capital expenditure on Community Infrastructure Assets, for example, road building or road upgrade, libraries, community centres, council depots and major expenditure on technology (computer upgrades).

Purposes for which loan facilities from TCorp will not be available include:

- Operating activities or recurring expenditure such as annual asset maintenance.
- Establishing or expanding a council-run business in competition with existing privately-run businesses.
- Acquisition of an existing privately-owned business.

TCorp will provide a loan facility for up to 100% of the cost of an individual capital project providing the council's annual overall borrowing programme does not exceed 80% of its annual capital expenditure.

Two or more councils who wish to apply for a loan facility to implement a single or group of qualifying projects across council boundaries are encouraged to apply. Each council applying will need to meet the eligibility requirements and lodge their applications independently with TCorp.

Loan facilities to refinance existing privately financed loans will be available only if the loan is due to mature shortly.

3. Loan options

Loan types available:

- Credit Foncier Loans. Repayable by way of regular quarterly or semi-annual instalments to a maximum term of 20 years. Each instalment incorporates a combination of interest and principal.
- Fixed Rate Loans. Repayable at maturity to a maximum term of 10 years with interest payable semi-annually.



- Floating Rate Loans. Repayable at maturity to a maximum term of 10 years with interest payable quarterly.

The minimum loan term across all three options is three years.

Partial or full prepayment is permitted but may incur break costs or generate gains. Prepayment amounts must not be for amounts of less than \$1,000,000. If the outstanding balance of the loan is less than \$1,000,000 before, or after the planned prepayment, the loan must be prepaid in full.

TCorp will offer competitive rates. Regardless of which loan option councils choose TCorp will quote an 'all up' interest rate being the interest rate payable by the council which includes TCorp's margin over its cost of funds.

Councils obtaining loan facilities from TCorp will not incur any application, establishment or ongoing fees.

4. Timing for lodgement of loan applications

Councils looking to access a loan facility during the current financial year should submit their applications to TCorp during the first half of the financial year i.e. between 1 July and 31 December.

Amounts remaining undrawn by 30 June, being the final day of the financial year during which the application for a loan facility was lodged, will be withdrawn. Councils wishing to reinstate undrawn amounts for access after this date will need to lodge a new application with TCorp.

5. How to apply for a loan facility

Councils looking to apply for a loan facility should complete a *Loan Facility Application Form* available at www.tcorp.nsw.gov.au/local_government_services and submit it to TCorp along with:

- A copy of Council's latest Long Term Financial Plan incorporating its 10-year Capital Expenditure Programme.
- A copy of Council's latest Asset Management Plan, Community Strategic Plan and the Delivery Programme.
- If a Capital Expenditure Review (see *Capital Expenditure Guidelines* – Office of Local Government website) has been prepared please attach a copy.
- Council's current debt repayment schedule.

The Mayor and Council's General Manager will be required to sign a declaration to confirm the financial projections contained in the Long Term Financial Plan, are the current projections approved by Council. The declaration will include confirmation that all funds advanced by TCorp will be used specifically for the purpose identified in Council's application.

While TCorp will accept scanned copies of the application (with attachments including the declaration) – dispatch via email to LGS@TCorp.nsw.gov.au - please promptly mail the original declaration document to TCorp at:



NSW Treasury Corporation (Local Government Services)
Level 22, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

6. TCorp's assessment process

TCorp will assess each application using standard credit criteria. The source documents for assessment will include:

- Council's last five years' audited financial statements.
- Council's current Long Term Financial Plan and key assumptions used in the forecasts.
- Strategic documents including current asset management plans, operational plans and delivery plans.

TCorp will consider the key risks the council might be facing and measure the financial performance by use, among other techniques, of credit metrics, specifically the:

- Operating Performance ratio.
- Debt Service Cover and Interest Cover ratios.
- Liquidity and financial flexibility ratios.

These ratios are calculated using historical and projected figures.

7. Procedure following approval of a loan facility

TCorp will confirm approval of a loan facility by issue of a Letter of Offer – in duplicate - specifying the details of the offer including the Facility Limit. If Council agrees with the details of the offer, authorised officers should sign the Letter of Offer and the duplicate and return the duplicate to TCorp, arriving at TCorp's offices not later than one month from the date of issue of the Letter of Offer.

Upon receipt of the executed duplicate of the Letter of Offer, TCorp will issue Council with its standard Loan Facility Agreement. The Loan Facility Agreement will set out the terms and conditions under which TCorp provides the loan facility, with a schedule confirming the specific details of the offer to Council. Unless Council has an existing relationship with TCorp, a *New Account Form* will be attached together with a *Client Portal Access and Authority Form* (TCorp's Client Portal User Guide will be attached).

If Council agrees with the terms and conditions set out in the Loan Facility Agreement, authorised officers should sign both the original and the duplicate and return the duplicate to TCorp. The completed *New Account Form* and the *Client Portal Access and Authority Form* along with any other documentation called for in the cover letter, should also be provided to TCorp.

If an application for a loan facility is rejected because the request does not meet TCorp's policy, full details of the policy departure will be provided to Council. If the application is declined because



of Council's financial position (e.g. concerns around future serviceability of the debt) or issues with projected figures or long term planning, TCorp will offer advisory assistance to help Council improve its performance in these areas.

8. Security

Loan facilities made available to councils by TCorp will fall under the *Local Government Act 1993 No 30 section 623* and *Local Government (General) Regulation 2005 – Reg. 229*, and TCorp will be entitled to the security of a charge over the income of the borrowing council. The Loan Facility Agreement makes reference to the existence of this charge.

9. Drawdown

After return of the executed duplicate of the Loan Facility Agreement, the completed *New Account Form* and completed *Client Portal Access and Authority Form* along with any other documentation requested by TCorp, Council may issue a notice of draw down (Drawdown Notice) using TCorp's Client Portal to confirm the transaction.

Indicative rates for the loan type and maturity matching the terms of TCorp's approval, can be obtained by calling TCorp's Local Government Services Desk on 02 9325 9251 or email LGS@TCorp.nsw.gov.au. TCorp will reply promptly via email with an indicative quote. All interest rate quotes will represent an 'all up' interest rate (see 3 above).

Indicative quotes are supplied to demonstrate the rate applicable if the drawdown were to be occurring at the time the indicative quote is given.

If Council wishes to proceed with drawdown it should issue a Drawdown Notice. Instructions on issuing a Drawdown Notice using TCorp's Client Portal are contained in the *Client Portal User Guide*.

The normal period for settlement after receipt of a Drawdown Notice is two working days. TCorp will confirm the interest rate struck on settlement by way of advice, dispatched via email after close of business on the day of settlement.

Council's TCorp Relationship Manager can help Council's authorised officers with the drawdown procedure. For assistance please contact TCorp's Local Government Services Desk on 02 9325 9251.

10. After drawdown

Under the terms of the Loan Facility Agreement Council will have agreed to certain undertakings. Specifically, Council will be obliged to notify TCorp if it becomes aware of the occurrence of an event, referred to in the Loan Agreement as an 'Event of Default', or a potential event, or, if it becomes aware of the launch of any litigation against them which may have a material impact on Council's ability to perform the undertakings.

The Loan Facility Agreement will require Council to promptly supply copies of audited financial accounts and updates of long term financial plans.

Periodically, and throughout the life of the loan facility, TCorp will review Council's financial performance.



11. Facility or loan restructuring

Should Council seek to restructure a loan from TCorp e.g. amend the term or repayment profile, it should submit a written request to TCorp outlining the amendments sought and the reasons why the restructure is required.

TCorp will consider each request on a case by case basis and in the event TCorp is agreeable to a restructure, any costs incurred (e.g. break costs) will be for Council's account.

12. Questions

Council officers with any questions around the application process should contact their TCorp Relationship Manager or TCorp's Local Government Services Desk on 02 9325 9251 or at LGS@tcorp.nsw.gov.au

Glossary

- **Application.** Completion of the **Loan Facility Application Form** along with required attachments for lodgement with TCorp.
- **Client Portal.** An automated single point for clients to access transactional and reporting information via a secure website interface.
- **Community Infrastructure Assets.** Capital assets that normally are stationary in nature and can be preserved for a significantly greater number of years than other capital assets such as plant, equipment or motor vehicles.
- **Council.** A Government Council within the meaning of the *Local Government Act 1993*, but excluding any County Council and the Lord Howe Island Board.
- **Credit Foncier Loan.** A loan with scheduled repayments of both principal and interest which uses a fixed rate of interest.
- **Drawdown Notice.** Notice given by a council of its intention to draw down funds under the Loan Facility. The Notice, to be delivered via the TCorp Client Portal, is to be issued on a business day and will be irrevocable.
- **Facility Limit.** The maximum amount a council may borrow under the Loan Facility.
- **Fixed Rate Loan.** A loan where the interest rate remains the same throughout the term of the loan.
- **Floating Rate Loan.** A loan where the interest rate is reset periodically - normally quarterly - to reflect changes in market interest rates.
- **Loan Facility Agreement.** The contract in written form between TCorp and the council regulating the mutual promises made by each party.
- **Loan Facility Application Form.** The form to be completed by a council seeking a loan facility from TCorp.
- **Principal Repayment.** The portion of the loan servicing payment that goes towards repaying the original loan amount.



- **Term.** The term of the loan as outlined in the Letter of Offer and on the schedule to the Loan Facility Agreement.
- **Terms and Conditions.** Any provision forming part of a contract.

4.2 Swimming Pools - Management Contracts and Water Slide Lease

4.2 Swimming Pools - Management Contracts and Water Slide Lease

Delivery Program Community Facilities and Services

Objective To provide a summary of the existing management contracts and the lease for the Ballina Water Slide

Background

Council operates the Ballina and Alstonville swimming pools through management contracts with two separate companies. In addition to this the land on which the Ballina water slide operates is leased by the Ballina contractor, who has responsibility for the operation of that slide, along with retaining all revenues and incurring the majority of the operating expenses.

With Council about to undertake a redevelopment of both swimming pools it is important to understand how the redevelopment may impact on the current contracts.

Key Issues

- Contract details

Information

The existing contractors have been operating the swimming pools for many years, with the current contracts due to expire on 31 May 2018. These contracts are expiring after a period of 15 years, with the contracts having been based on three by five year options. There was also a one year extension during the middle term of the contracts as changes were made to the structure of the contracts.

The contracts have Council responsible for items such as major maintenance, chemicals, insurance, rates and charges, whereas the contractor provides labour and items such as grounds maintenance, cleaning and minor maintenance. The contractor receives a contract fee for these services.

Council collects all the gate income for the swimming pools and the contractor is able to generate additional income from activities such as the kiosk and learn to swim classes etc.

Council pools are typically managed by external contractors as it difficult to operate a swimming pool based on the Council Award, due to the long hours and variability in factors such as the weather which can result in different labour requirements and a contractor is more easily able to pursue entrepreneurial activities such as kiosks, swim classes etc.

4.2 Swimming Pools - Management Contracts and Water Slide Lease

Prior to the contract expiry in May 2018, Council will need to call tenders for the renewal of the existing pool contracts and an examination of how the new pool contracts are to be structured will need to be discussed prior to that date. For example, the distribution of revenues could be changed as could the responsibility for the various operating costs.

As the management contract value for each of the pools is well above \$150,000 Council must call tenders, unless there are exceptional circumstances

The exceptional circumstances exemption is outlined in Section 55 (3) (i) of the Local Government Act, which states as follows, in respect to the exemption from tendering:

a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders

It is a matter for the Council to determine whether there are exceptional circumstances on a case by case basis.

In respect to the Ballina water slide, this is a lease from Council (in its capacity as Reserve Trust Manager for this reserve) and approved by the Crown, as the Ballina complex is located on Crown land. The lease is a land only lease, with the lessee owning the infrastructure. The lease expired in March 2013, with the Crown agreeing to a holding over period until September 2013.

The Council, meeting as the Reserve Trust, had resolved in April 2013 to support a new lease for a period of of ten years, however to date that lease has not been executed as the Crown did not approve the original lease drafted and the changes they are now requiring are of concern to the lessee.

The water slide operates by the pool contractor charging an additional entry fee to the Ballina swimming pool, with the contractor retaining those additional funds. The lessee then maintains the water slide and provides supervision. The lease states that Council will pay for the water used for the slide. Presumably, when initially constructed, there was no way to distinguish between both facilities. The water and drainage infrastructure currently supports both the swimming pool complex and the water slide.

The existing lessee/contractor purchased the water slide from a previous lessee for an amount unknown (commercial private decision). It is clear that the lessee has been under the impression that they could on sell this lease at a future date, with the water slide included, however the lease can only be assigned with the permission of the Crown.

The current Crown position is they do not support the on-selling of Crown leases as this can lead to inflated prices being paid for what are land only leases. The Crown's preference is towards leases that result in the infrastructure becoming owned by the Crown upon termination. The only option that they consider is the relocation of the infrastructure at the end of a lease, with costs being borne by the lessee.

4.2 Swimming Pools - Management Contracts and Water Slide Lease

The lease, that expired in 2013, states that it can only be assigned with the permission of the Crown (clause 12.1), with that approval not to be unreasonably withheld.

The lease also states that at termination the infrastructure must be removed or otherwise it becomes the property of the lessor (clause 26.1).

The advice from the existing lessee is they have always seen the sale of this lease and associated assets for a future financial return and therefore they are extremely concerned that they no longer have this option available to them.

With the Ballina water slide and the swimming complex so integrated, in an ideal world, it would help if the management contract and water slide lease were either one contract, or they at least terminated at the same time, to avoid the possible situation where you might have two different operators (i.e. a lessee for the water slide and a contractor for the swimming pool).

Discussions have been occurring with the existing contractor / lessee in respect to options for this to occur and the confidential report later in this agenda provides an update on those discussions.

Legal / Resource / Financial Implications

The contracts and lease are legal agreements with Council (including in its role as Reserve Trust) and the Crown and it is important that Council meet its legal obligations.

Council is also seeking legal advice on how best to manage the integration between the Ballina water slide and the swimming pool management contract.

Consultation

To date discussions have been occurring with the Ballina swimming pool contractor and they have been using the services of a solicitor.

Options

This report is for noting purposes to highlight that the swimming pool management contracts expire in May 2018 and the Council will need to determine how the new contracts are structured prior to that date.

In respect to the water slide lease, that is currently in a holding arrangement, whilst Council, in consultation with the Crown and the lessee, determines how best to move forward with that lease.

The only issue that should be mentioned is the Crown Lands White Paper. Ideally land such as this, which has publically owned facilities such as swimming pools located on the land, is exactly the sort of land that should be transferred from the Crown to Council. Whether or not that will occur is uncertain, particularly as this is prime river front land.

RECOMMENDATION

That Council notes the contents of this report in respect to the Ballina and Alstonville swimming pool management contracts and the Ballina Water slide lease.

Attachment(s)

Nil

5. 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:

5.1 Ballina Water Slide - Lease Negotiations

Information on this matter is contained in Item 4.2 of this agenda – Swimming Pools – Management Contracts and Water Slide Lease.

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.

5.1 Ballina Water Slide - Lease Negotiations

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 may lessen Council's ability to negotiate a commercial outcome in respect to the water slide lease.