



Notice of Commercial Services Committee Meeting

A Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Wednesday 6 September 2017 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 long horizontal line underneath.

Paul Hickey
General Manager

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

1. Apologies

2. Declarations of Interest

3. Deputations

4.1 Operational Land - 26 Endeavour Close, Ballina

4. Committee Reports

4.1 Operational Land - 26 Endeavour Close, Ballina

Delivery Program Commercial Services

Objective To report on discussions and negotiations regarding lease or sale of operational land at 26 Endeavour Close, Ballina currently occupied by TS Lismore Australian Navy Cadets

Background

Council at its Finance Committee meeting of 6 December 2016 recommended:

“That Council authorizes the General Manager to commence negotiations with the Naval Cadets to determine what options are available for the eventual sale and transfer of this land to the Cadets, or an associated body. These discussions are also to canvass an increase in the current rental to recognize the significant value of this land to the Ballina Shire community.”

This matter was considered by the Council at the Ordinary meeting on 15 December 2016 where Council resolved to adopt the recommendation from the Finance Committee meeting.

The focus of this report is on the on-going discussions with the Naval Cadets.

The report to the 6 December 2016 Finance Committee meeting is attached.

Key Issues

- Use of operational land for community use
- Community group occupation of the site
- Cost / benefit

Information

Council staff have been in discussions with the Commanding Officer of the TS Lismore Naval Cadets (“the Cadets”) and a committee representative regarding the use of the property.

The Cadets have occupied the property at 26 Endeavour Close since 1988 and have invested a substantial amount of time and resources constructing infrastructure and buildings on the site.

The Cadets have expressed concerns if circumstances arose whereby they were forced to relocate to an alternate site that lacked waterfrontage and security for their equipment. They have suggested that they would consider sharing the property with other likeminded community/sporting groups.

4.1 Operational Land - 26 Endeavour Close, Ballina

The Cadets have advised that they do not receive financial assistance from the Australian Defence Force although they do receive equipment and uniforms. Their income is derived from term fees, fundraising and donations.

They have continued to advise that they do not have the funds to purchase the property or pay a commercial market rent.

At present the Cadets continue to occupy the property on holdover provisions under the terms of their previous lease pending Council's decision on this matter.

Legal / Resource / Financial Implications

The land is classified as operational land and as such Council has the authority to lease or sell the property.

The current statutory land value of the site is \$926,000. This is the land value only and excludes improvements.

The commercial rental value of the site is estimated to be \$45,000 p.a. + GST.

Council at the Ordinary meeting of 27 July 2017 resolved to pay the rates for the property to the value of \$7,589.80 at the request of the Cadets under the Donations – Financial Assistance Program for 2017/18.

Consultation

Council staff have been in discussions with the TS Lismore Naval Cadets.

Options

This matter originated with Councillors expressing concerns over the value of this land and the community benefit derived.

The feedback from the Cadets is that they do not have the funds to pay an increased rental or purchase the property. Another complication is that Council owns the site however the Cadets have constructed the building improvements.

From a legal perspective the building improvements generally go with the land and as such revert to the lessor; in this instance Council. The Cadets can argue that they constructed the building improvements in good faith in the belief that they would have ongoing long term tenure over the property.

If Council did sell the land it would only be reasonable for the value of the improvements to be paid to the Cadets from any sale proceeds. The difficulty for the Cadets would then be in finding another suitable site.

This situation highlights the long term impacts that decisions of this type can have in that Council in 1988 approved the use of this land at no rent, when the land value and the surrounding development were far less than they are today.

4.1 Operational Land - 26 Endeavour Close, Ballina

We now have a situation where a substantial amount of community funds is invested in the land allocated to this facility and Council needs to determine whether the community benefit justifies that investment.

The options available are:

1. Council grants a new three year community group lease to TS Lismore Australian Naval Cadets at 26 Endeavour Close, Ballina at a nominal rent of \$1.00 p.a.
2. Council grants a new three year community group lease to TS Lismore Australian Naval Cadets at 26 Endeavour Close, Ballina at a higher rental or a market rent.
3. Council advise the TS Lismore Australian Naval Cadets that it wishes to pursue sale of the subject land to allow the net proceeds to be invested into other community assets. This would be subject to Council working with the Cadets to find alternative accommodation.

It is unclear how the current Council wishes to progress this matter and the recommendation that follows is as per option one, as this has been position of Council for almost 30 years. It is also recommended that any new lease include a provision to allow the facilities to be shared with other community groups, subject to Council approval.

RECOMMENDATIONS

1. That Council note the contents of this report and approves a three year community group lease at a nominal rent to TS Lismore Australian Naval Cadets at 26 Endeavour Close, Ballina.
2. This new lease is to include an allowance for the facilities to be shared with other community groups, subject to Council approval.
3. That Council authorises the General Manager to finalise negotiations, execute and affix the Council seal to all relevant lease documentation.

Attachment(s)

1. Finance Committee meeting report - 6 December 2016
2. Finance Committee meeting resolution - 6 December 2016

4.1 Operational Land - 26 Endeavour Close, Ballina

4. Committee Reports

4.1 Operational Land - 26 Endeavour Close, Ballina

Delivery Program Governance and Finance

Objective To respond to a Council resolution seeking information on the options available for 26 Endeavour Close Ballina.

Background

Council at its Ordinary Meeting of 28 July 2016 resolved:

"That Council receive a report on the options for the land on which the naval cadets are located in Endeavour Close."

This report responds to that request. A locality plan for the property is included as attachment one.

Key Issues

- Use of operational land by community groups
- Commercial return on operational land

Information

The property comprises a waterfront industrial site with an area of 2,796m² and zoned "IN1 – General Industrial" under the BLEP 2012.

The property is occupied by TS Lismore Australian Navy Cadets under the umbrella of the Department of Defence. It is understood the Naval Cadets do not receive funding from the Department of Defence, and operate as a community group. Council granted the Naval Cadets leasehold tenure of the property in 1988. Since that time they have constructed various buildings on the property.

A copy of the brief report and subsequent resolution for the 1988 decision is attached. The correspondence from the Unit Committee TS Lismore attached to that report includes mention of the acquisition of the land, albeit that the resolution did not address that issue.

The building improvements include a main building housing office, armory, dormitory, mess and ancillary rooms, two boat sheds, storage shed, pontoon and gangway.

The most recent lease held by the Naval Cadets expired 30 June 2016 and is currently on hold over provisions pending the outcome of Council's decision with the property. The Naval Cadets do not pay a commercial rent on the property as they are treated as a community group.

4.1 Operational Land - 26 Endeavour Close, Ballina

Based upon recent sales of vacant industrial sites on the Southern Cross Industrial Estate the property is worth in the order of \$700,000 + GST (excluding the value of building improvements).

A commercial rental on the property, based upon 5.00% of the capital value estimate of \$700,000 + GST is \$38,500 p.a. + GST.

The reason for the Council resolution asking for this report is that concerns were expressed as to why this community group was receiving such a substantial benefit by occupying Council operational land at minimal rental. The answer to this is that it reflects a decision made in 1988.

In respect to the actual usage of the property, the second attachment to this report advises there is a complement of approximately 20 to 25 cadets from within our region who attend the facility. Activities / training takes place on a weekly basis, primarily on weekends.

Other groups use the facility from time to time, including visiting sporting groups, albeit little is known about these arrangements. There may also be a local business which has regular access to and use of the kitchen within the facility for food preparation.

Legal / Resource / Financial Implications

Under the provisions of the NSW Local Government Act the property is classified as operational land and as such Council has the authority to lease or sell it.

Consultation

There has been consultation with the Naval Cadets.

Options

This report is in response to a Council resolution asking for information on the property.

The options available include:

- a) Note the contents of the report. This would result in a new lease being finalised based on the current conditions (minimum rental)
- b) Council enter into negotiations for the property to be eventually acquired, or the rental fee to be increased, over time.

Even though it may be an unlikely outcome it is recommended that Council proceed with option two and that we flag our interest in the land being sold or commercially leased to the Navy Cadets, or more likely the Navy or Department of Defence.

4.1 Operational Land - 26 Endeavour Close, Ballina

The value of this land does represent a significant subsidy to a relatively small group and there may well be options for the current users to negotiate with the Navy / Department of Defence to eventually secure ownership of the land. As it is not possible to relocate the buildings, sale does appear to be the long term logical approach.

The recommendation that follows authorises this option to be canvassed with the Naval Cadets.

It is also recommended that Council approve a new three year community group lease for the property as it is accepted that any discussions may take a lengthy period of time and may not result in the outcomes being sought by Council.

Council could possibly reduce the three year period to two or one years to encourage the other parties to actively undertake these discussions.

RECOMMENDATIONS

1. That Council authorises the General Manager to commence negotiations with the Naval Cadets to determine what options are available for the eventual sale and transfer of this land to the Cadets, or an associated body. These discussions are also to canvas an increase in the current rental to recognise the significant value of this land to the Ballina Shire community.
2. That Council approves a new three year community group lease for this property, based on minimum rental, as it is accepted that any of the negotiations identified in point one may take a lengthy period of time.
3. The Council seal is authorised to be attached to this lease.

Attachment(s)

1. Locality Plan - 26 Endeavour Close Ballina
2. Report and resolution - Council 8 October 1987
3. Correspondence from TS Naval Cadets

4.1 Operational Land - 26 Endeavour Close, Ballina



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BALLINA SHIRE COUNCIL

Council Meeting
DEVELOPMENT COMMITTEE - 18/10/1987

T.S. LISMORE - WATERFRONT LAND

A copy of a letter from the Unit Committee Training Ship Lismore is attached.

The Naval Cadet organisation has been unsuccessful endeavouring to acquire waterfront land in Ballina for their activities for some years. The Committee has persued every parcel of suitable land, both crown and private, but without success. The present application, I believe, is a last desperate attempt to establish a training facility in Ballina.

Lot 69 is a very large parcel of land and perhaps if the existing road was used for assembly, parades and the like the required area could be substantially reduced. In fact it may be possible to subdivide Lot 69 into two allotments.

If so inclined Council could lease the area at a nominal rental. Rates are payable directly by the Navy.

submitted for consideration.

TEA TREE PLACE, CHICKIBA - RELEASE OF 16 BLOCKS

Tea Tree Place is now ready for sale. A plan is attached showing the blocks. The sub-committees recommended prices are set out below based on 1987 sales and which are also shown on a separate attached plan.

As there are only two blocks remaining unsold in Chickiba it is intended to release these blocks simultaneously on Monday morning to all Agents.

LOT	120	\$ 35,900
	121	\$ 35,900
	122	\$ 35,900
	123	\$ 34,900
	124	\$ 33,500
	125	\$ 31,900
	126	\$ 36,900
	127	\$ 36,500
	128	\$ 36,500
	129	\$ 39,900
	130	\$ 37,900
	131	\$ 39,900
	132	\$ 38,500
	133	\$ 36,500
	134	\$ 36,500
	135	\$ 36,900

THE COUNCIL OF THE
SHIRE OF BALLINA

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UNIT COMMITTEE T.S. LISMORE

P.O. BOX 434,
LISMORE 2480

PRESIDENT: Mr R.C. Battese
SECRETARY: Mrs B.A. Jolley
TREASURER: Mrs P.A. Burnap



Shire Clerk
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

28 September 1987

Dear Sir

ACQUISITION OF WATERFRONT LAND

Members of this Committee have made enquiries concerning the availability of waterfront land in Ballina for use by members of T.S. LISMORE to enhance sailing and boatwork training. The use of such land, should it be available, has yet to be determined by the Committee but one of the following two considerations is likely:

- a) that an appropriate sailing and boatwork facility would be established, or
- b) that T.S. LISMORE would be relocated, depending on the suitability of available waterfront land and associated costs.

Although T.S. LISMORE is sponsored by the Royal Australian Navy, the acquisition of land and the supply of buildings to house the Unit are the responsibility of the Unit Committee. To this end land within the Canal Industrial Estate has been inspected and block 69, measuring 2845 sq m, has been viewed with some interest.

We wish to determine the availability of that land, and any costs, conditions or restrictions associated with its acquisition for use for Naval Reserve Cadets youth training.

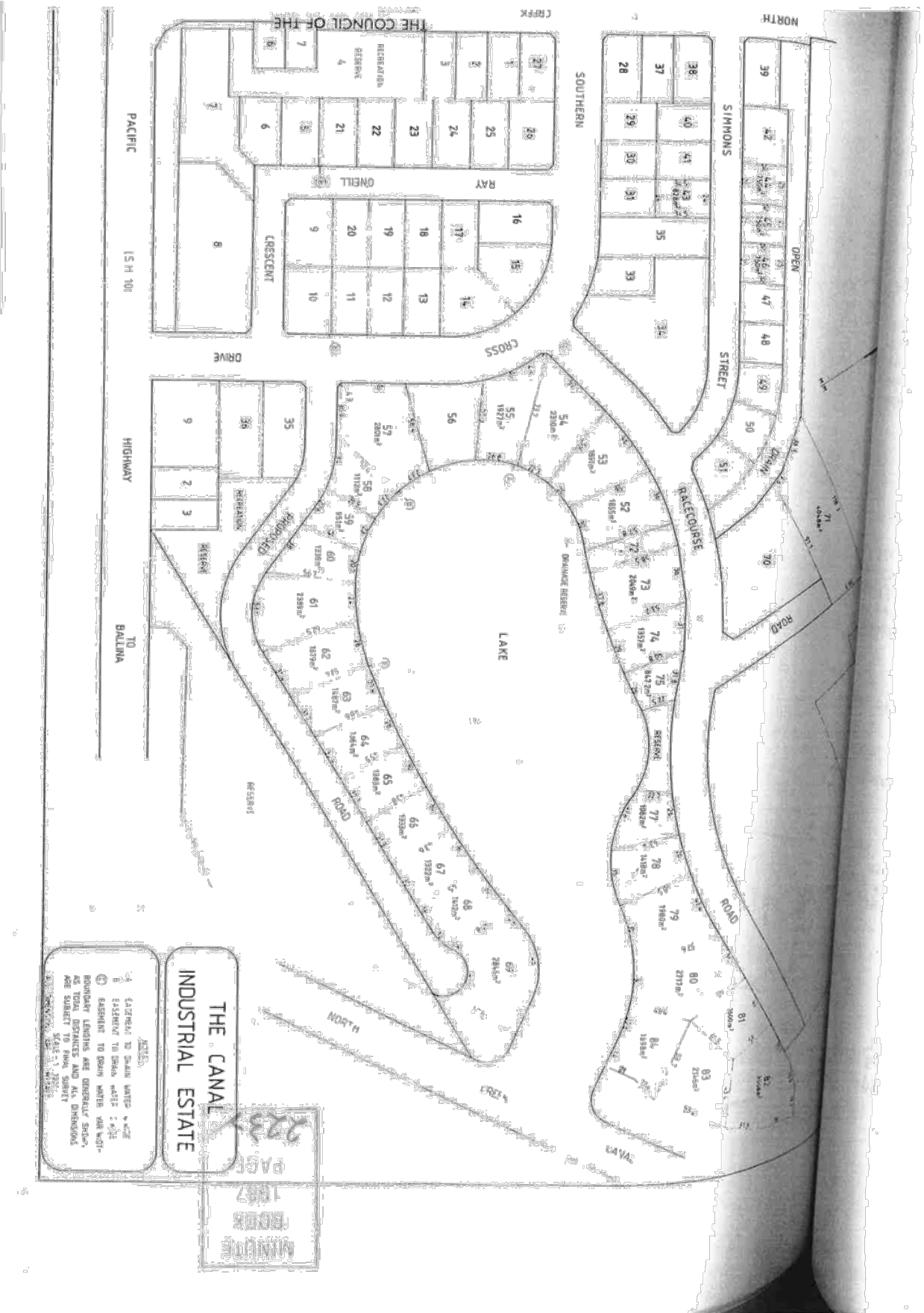
Yours faithfully

R.W. Jones
for
R.W. JONES
CHAIRMAN
BUILDING COMMITTEE

	Orig	Copy	For Info
SHIRE CLERK	<input checked="" type="checkbox"/>		
SHIRE ENGINEER		<input checked="" type="checkbox"/>	
TOWN PLANNING			
HEALTH SURVEYOR			
DEPUTY S/C		<input checked="" type="checkbox"/>	
DEPUTY ENGINEER			
CHIEF OFFICER			
RALES			

THE COUNCIL OF THE
SHIRE OF BALLINA

Paul Burnap
President




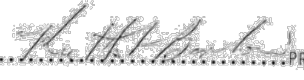
4.1 Operational Land - 26 Endeavour Close, Ballina

10049 I.S. LISMORE - LOT 69 CANAL INDUSTRIAL ESTATE

On the motion of Cr. Johnson seconded Cr. Wright, it was RESOLVED that Council agree in principle to the allocation of lot 69 Canal Industrial Estate for use by the Naval Cadet Unit but that the Shire Engineer negotiate as to the actual area required.

This is page TWO of the Minutes of Special Meeting - Sunday, 18th October, 1987.

 SHIRE CLERK

 PRESIDENT

4.1 Operational Land - 26 Endeavour Close, Ballina



TS LISMORE AUSTRALIAN NAVY CADETS

Endeavour Close, Ballina 2478 NSW
Postal Address PO Box 434, Lismore 2480 NSW

TS Lismore has been located in Endeavour Close for the past 36 years. The Cadet Unit has been built by the Community over this time into a 1st class facility that supports our youth in Ballina and surrounding areas. Presently we have 20 - 25 Cadets attending weekly on Saturdays.

TS Lismore has a fine history as part of the Australian Navy Cadets (ANC) an Australia wide Youth Development Organisation for young people from 12 ½ - 19 years of age. The Cadet Unit routine and training is much like a Royal Australian Navy Ship or Base with Navy principles of Honour, Honesty, Courage, Integrity and Loyalty, our guiding principles also.

Cadets commence training as a Recruit and are promoted up through the ranks. Our training and activities include Marching and Drill, Seamanship, Leadership, Teamwork, Sailing, Powerboating, WHS, Dispute Resolution and of course "Having Fun Safely Done". We attend Camps and Activities with other Navy Cadet Units on the North Coast and Nationally. TS Lismore was very proud to again be awarded "Best in Flotilla" this year. Community involvements are a very important part of our activities and attend ANZAC Day at various locations around the region and ceremonies for the Naval Association and Australia Day Flag raising for Ballina Shire Council each year. The Cadets and Staff are very proud to assist the Community at these important events throughout the year.

Defence assist with equipment for example boats, computers and some maintenance. This year we had our Fire panel and fire alarms upgraded but on the whole as we are a Community based Unit we are required to raise funds and TS Lismore Unit Committee work tirelessly to raise much needed funds to assist with the day to day running of the Unit with our main expenses being insurances, utilities and council rates. Fundraising is ongoing and sometimes difficult but necessary task and we also receive donations from various organisations.

TS Lismore sincerely appreciates and thanks Ballina Shire Councils for their support and hope that this will continue into the future.

Lieutenant Heather O'Hehir ANC
Commanding Officer
TS Lismore Australian Navy Cadets
Mobile: 0412957962

**MINUTES OF THE FINANCE COMMITTEE MEETING
OF THE BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREETS, BALLINA,
ON 6/12/16 AT 5.00 PM**

4. Committee Reports

4.1 Operational Land - 26 Endeavour Close, Ballina

RECOMMENDATION

(Cr Ben Smith/Cr Phillip Meehan)

That Council authorises the General Manager to commence negotiations with the Naval Cadets to determine what options are available for the eventual sale and transfer of this land to the Cadets, or an associated body. These discussions are also to canvas an increase in the current rental to recognise the significant value of this land to the Ballina Shire community.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Keith Williams and Cr Ben Smith

AGAINST VOTE - Cr Stephen McCarthy, Cr Nathan Willis and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Sharon Parry

4.2 Property Development Reserve and Airport Boulevard

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Phillip Meehan)

1. That Council approves a revised budget of \$7 million for the construction of Airport Boulevard based on a \$3m Federal Government grant and a \$4m dividend from the Property Development Reserve in 2017/18.

2. That Council approves the inclusion of the revised cash flows for the Property Development Reserve, as per attachment four to this report, in Council's Long Term Financial Plan. In approving these cash flows Council acknowledges that major expenditures in future years (i.e. 2017/18 onwards) will be subject to further reporting to Council prior to commencement.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

4.2 Ballina Shire Meals on Wheels Inc - 62 Crane Street Ballina

4.2 Ballina Shire Meals on Wheels Inc - 62 Crane Street Ballina

Delivery Program Commercial Services

Objective To seek Council's response to a request from Ballina Shire Meals on Wheels Inc. for a new lease over 62 Crane Street Ballina.

Background

Ballina Shire Meals on Wheels Inc ("BSMOW") have been in occupation of 62 Crane Street Ballina since 2007.

The current lease with BSMOW is for a term of 5 plus 5 years expiring on 31 August 2017. The lease notes a nominal rental of \$1.00 p.a. if required.

BSMOW has requested a new lease on the same terms and conditions as the current lease (see submission attached).

Key Issues

- Cost / benefit of the lease

Information

Council acquired 62 Crane Street Ballina a number of years ago. This property adjoins other Council owned property including the old Fire Station at 60 Crane Street and the premises occupied by Northcott at 64 Crane Street.

Council now has ownership or Reserve Trust control of the entire eastern precinct of the area surrounded by Tamar Street, Cherry Street and Crane Street.

At some point in time this will allow a future Council to redevelop this precinct possibly for a combined community / cultural / administration facility.

BSMOW commenced occupation of the property in 2007 on a 5 + 5 year lease at nominal rent.

The current lease is due to expire on 31 August 2017 and BSMOW has requested a new lease with the same terms and conditions as the current lease.

BSMOW are responsible for all rates/charges as well as day to day maintenance of the building.

BSMOW is a community based not-for-profit organization that has been operating in Ballina Shire for over fifty years.

During their occupation of 62 Crane Street they have been successful in obtaining a number of grants to enable them to undertake improvements to the property including the installation of solar panels.

In regards to the opportunity cost of forgoing a commercial rental on 62 Crane Street, rental returns for similar properties including the adjoining property at 64 Crane Street Ballina, generally range from about \$25,000 to \$30,000 p.a. + GST.

Legal / Resource / Financial Implications

The property is classified as operational land and Council is able to grant a lease over the property. As with other sitting tenants Council can grant a new lease without having to go to the market.

Under the current lease BSMOW pay a nominal rent for the property, however they do pay rates, charges etc. and are responsible for day to day maintenance of the property.

Consultation

Council has been in contact with BSMOW regarding the expiration of the lease to seek out their intentions as to ongoing tenure arrangements.

Options

1. Council can resolve to grant a new 5 + 5 year lease on the same terms and conditions as the current lease including a nominal rent to BSMOW.
2. Council can resolve to grant a new 5 + 5 year lease to BSMOW at a market rental.

62 Crane Street represents a long term strategic holding of land for Council. There are currently no plans to re-develop the site or this entire precinct. Therefore the recommendation is to approve another 5 + 5 year lease.

RECOMMENDATIONS

1. That Council offer Ballina Shire Meals on Wheels Incorporated a 5 + 5 year lease of 62 Crane Street, Ballina at a rental reflecting the service to the community provided by the organisation (i.e. \$1.00).
2. That Council authorises the General Manager to finalise negotiations, execute and affix the Council seal to all relevant lease documentation.

Attachment(s)

1. Ballina Shire Meals on Wheels Inc Submission
2. Locality Plan - 62 Crane Street Ballina



Ballina Shire Meals On Wheels Inc.
62 Crane St
Ballina NSW 2478
Ph: 02 6686 2636
bsmow@bigpond.com.au
www.ballinamealsonwheels.org.au

9th August 2017

Mr Paul Tsikleas
Manager
Commercial Services
Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478

Dear Paul

Re: **Ballina Shire Council Lease to Ballina Shire Meals on Wheels Inc.
Property – 62 Crane Street, Ballina.**

Ballina Shire Meals on Wheels Inc. (BSMOW) is a community-based, client-centred, not-for-profit organisation which has been operating in the Ballina Shire for the past fifty years, the last ten years being from the premises in Crane Street. Funded by the Australian Government's Commonwealth Home Care Program (CHSP), BSMOW provides affordable, high-quality nutritious meals to the frail aged, people with disabilities and their carers.

Our Service covers residents across the entire Ballina Shire, delivering hot, chilled or frozen meals Monday to Friday within the Ballina and Lennox Head townships, with a weekly service to the outer areas of Wardell, South Ballina, Pimlico, Uralba, Alstonville, Teven, Knockrow and Tinfenbar.

Other benefits the Service provides to the community:

- Helps to delay admissions to institutional care;
- Reduces the likelihood of hospital care by providing nutritionally balanced meals;
- Lessens social isolation as often our staff and volunteers provide the only social contact our clients experience on any particular day;
- Has a positive impact on the local, state and national health care budgets;
- Recognised as value-adding to the community.



During the 2016/2017 financial year, BSMOW delivered 26,881 meals – just over 4,500 meals more than the previous year; almost 4,000 hours of Other Food Services; 1,500 hours of Social Support to our clients. Each year we have more than met our funding target of 18,594 meals and hours associated with the social inclusion component of our grant. Working within a relatively small annual budget of approximately \$300,000, and with no impact on the high standard of services, we believe that achieving these goals is an outstanding outcome.

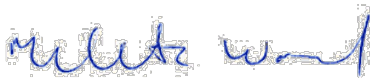
Over the past ten years of occupying the premises, BSMOW has made a number of improvements. In 2007, a major refurbishment was undertaken with the original two-bedroom cottage converted into a commercial kitchen and offices; then in 2013, the Service installed \$16,000 worth of solar panels; in 2014 the kitchen was refurbished, the interior painted and the old refrigeration was replaced.

Later this year, with funds provided by the NSW Government, the internal coolroom will be moved to the exterior of the building and the vacated area will be converted to a much-needed storage area. The Service is currently looking to access grants from various agencies to build an activities room at the rear of the premises to run social support programs for clients, as well as offering the space for hire to other not-for-profit organisations.

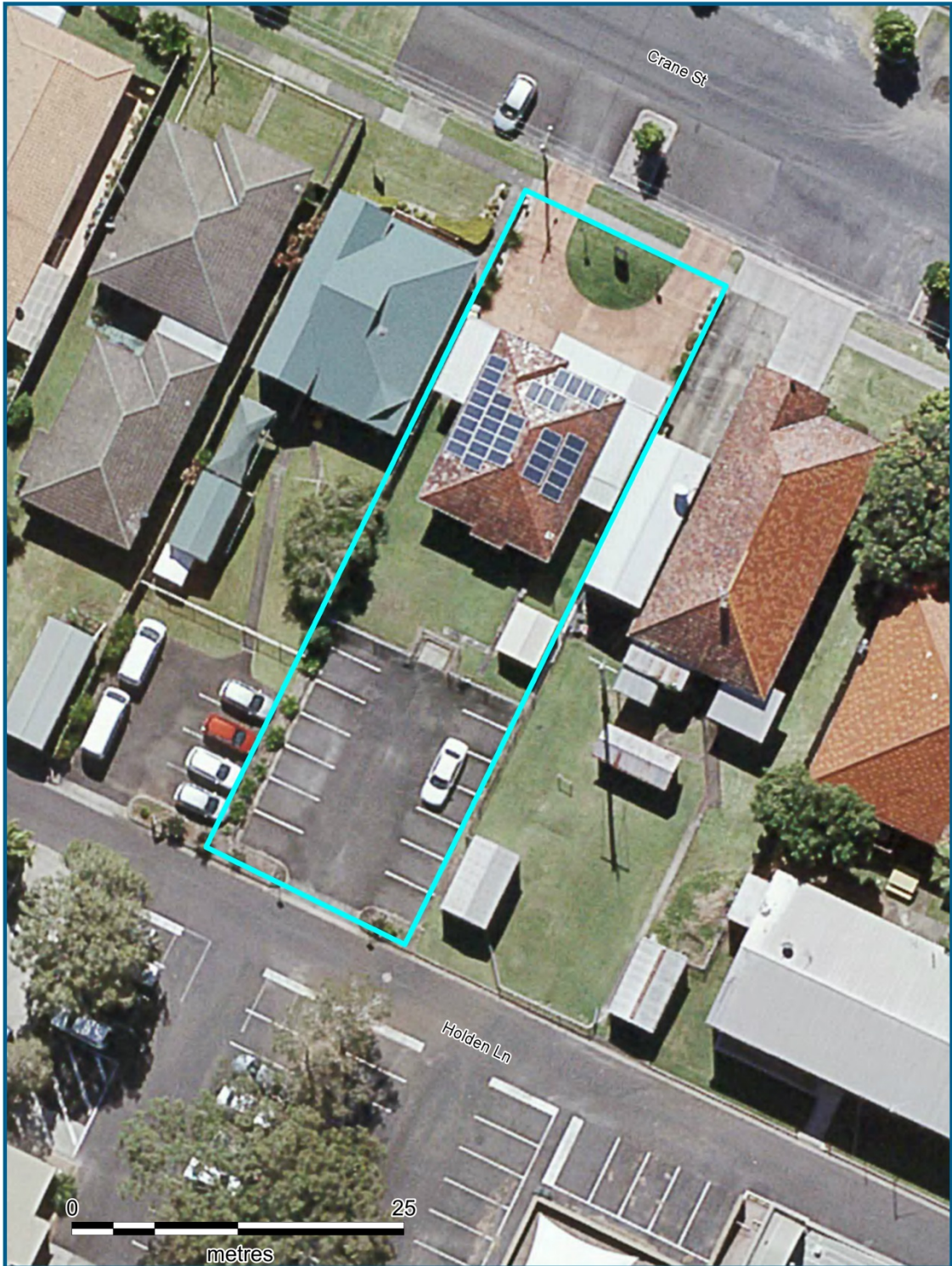
BSMOW is extremely thankful for, and appreciative of, the support received from Ballina Shire Council over the past ten years and we are keen to maintain the positive relationship we share. As indicated above, the Service operates under a very tight budget and any additional costs would impact severely on our ability to continue to provide the current level of this essential service to the most vulnerable people living in the Ballina community. To this end, we sincerely request that the conditions of the current lease agreement be continued into the future.

We look forward to your positive response to our request as we continue our joint support of services to Ballina Shire residents.

Yours sincerely



Meleta Wood
Service Co-ordinator



		Ballina Shire meals on Wheels Inc 62 Crane Street Ballina	
<small>DISCLAIMER © NSW Spatial Services 2017 Although all care is taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies. The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.</small>		<small>Printed 22/08/2017</small>	

4.3 Brighton Street, East Ballina - Options

4.3 Brighton Street, East Ballina - Options

Delivery Program Commercial Services

Objective To consider options for the northern unformed section of Brighton Street East Ballina, which is Council owned land.

Background

A report was placed before Council's Ordinary meeting of 26 May 2016 to determine Council's position in response to a request for a proposed road closure by adjoining owners, of the northern section of Brighton Street (between Bonview Street and The Serpentine) East Ballina (copy of report attached).

The resolution from the Ordinary meeting was:

1. *That Council opposes the request for a road closing application to proceed at Brighton Street (north) East Ballina.*
2. *That Council receive a report on future options for the land.*

This report is to address point two of the recommendation.

Key Issues

- Use of road reserve by adjoining owners
- Options / benefits / costs

Information

In 2016 Council received a request from adjoining landowners to close the unformed section of Brighton Street between Bonview Street and The Serpentine. As per the above resolution this proposal was not supported by Council.

The unformed section of Brighton Street is used for driveway access and maintained by these landowners.

The properties pertaining to these landowners have frontage to The Serpentine, however the road alignment of this section of the Serpentine presents difficulties for vehicular access and hence the need to access via the unformed section of Brighton Street.

Council is the roads authority and owner of the unformed section of Brighton Street, within which a sewer main is also located.

The land adjoining the unformed section of Brighton Street, to the west, is essentially vegetated parkland or public open space and runs down to North Creek.

4.3 Brighton Street, East Ballina - Options

This land is classified as community land and is designated for general community use under the Generic Plan of Management for Community Land.

Council has no plans to formalise (construct) the unformed section of Brighton Street to connect it to Bonview Street to the north.

Legal / Resource / Financial Implications

If Council were to close this unformed section of Brighton Street it would need to classify it as operational land under the NSW LGA 1993. This would then require easements to be created in favour of those land owners using the land for access.

This process would incur costs but generate no identifiable benefits to Council, and it is unlikely the landowners would pay for easements when at present they pay nothing except maintain the land.

This unformed section of Brighton Street is not listed on Council's road asset register as a formed road and as such no maintenance work is undertaken by Council.

Council has infrastructure located within this section of roadway and has free and unfettered access to maintain or upgrade it.

In summary the options for alternate or future landuse options for the unformed section of Brighton Street are very limited due to site constraints and encumbrances. This being the case the status quo should prevail.

Consultation

At this stage no consultation is required as Council has previously made a decision not to formally close this section of road.

Options

1. Council can resolve to close the unformed section of Brighton Street, classify it as operational land and create easements for access to the adjoining owners. This option is not recommended as it does not generate any direct or indirect benefits to Council.
2. Council resolves to no further action in this matter. This option is preferred as it maintains the status quo and provides Council with the flexibility to maintain or upgrade infrastructure located within the unformed section of Brighton Street.

RECOMMENDATION

That Council notes the contents of this report and agrees to take no further action in regards to the northern section of Brighton Street (between Bonview Street and The Serpentine) at East Ballina.

Attachment(s)

1. Council report - 26 May 2016

11.3 Road Closing - Brighton Street (Bonview Street and The Serpentine)

11.3 Road Closing - Brighton Street (Bonview Street and The Serpentine)

Delivery Program Asset Management

Objective To determine Council's response to the proposed closing of the northern section of Brighton Street (between Bonview Street and The Serpentine) at East Ballina

Background

This report is presented to Council to consider closing a section of public road and the sale of that land to the adjoining land owners. The reason for this request is to formalise an area of land that is used for driveway access and maintained by the adjoining land owners at Brighton Street, East Ballina.

The report was considered at Council's Ordinary meeting on 28 April 2016 when it was resolved to defer the matter until further information is provided. An on-site inspection was undertaken by Councillors on Tuesday 17 May 2016.

Key Issues

- Closing a section of public road
- Sale of that section of road to adjoining landowners

Information

Council has received a request from adjoining landowners to close the unformed northern section of Brighton Street (the "road"), between Bonview Street and The Serpentine at East Ballina. A site plan is included as attachment one.

The adjoining landowners have maintained this section of road for many years and are now seeking to acquire the road. The proposal is to close and purchase the road and then consolidate the land with the adjoining properties.

The road is bounded by private property along its eastern side and by public reserve, Serpentine Park (the "park"), along its western side. The road is in places a few metres higher than the park as a result of quarry operations many years ago. This means direct pedestrian or vehicle access from the road to the park is generally not available.

Council staff have assessed the potential uses of this site if retained as public road. The southern end of the road reserve is partially vegetated and contains existing driveway accesses for Nos. 42 & 44 The Serpentine. Direct vehicle access to these properties from The Serpentine is not provided due to existing road alignment and site conditions.

The property at 46 The Serpentine has direct vehicle access to The Serpentine. The northern end of the road reserve is heavily vegetated and generally not suitable for vehicle access.

11.3 Road Closing - Brighton Street (Bonview Street and The Serpentine)

The current road network servicing these properties is via The Serpentine and the existing shared pathway is located to the west of this road through the adjoining park.

There is no road, footpath or drainage works proposed by Council for this section of road. There is an existing sewer main within this road and an easement benefitting Council would be created if the road is closed and sold. It is considered there are limited uses for this section of road if retained by Council.

Council is the roads authority and the owner of this public road. Any request to close and purchase a section of public road must first be endorsed by Council before lodging a formal road closing application with DPI-Lands.

The road closing application requires the proponent to provide all the necessary information and to meet all costs through this process. Should the road closing proceed, a Registered Valuer will be engaged to prepare a valuation report to be used as the basis of negotiations for the final sale price.

Sustainability Considerations

- **Environment**

The road is currently maintained by the residents and kept in a condition above what Council would be able to provide. The sale and consolidation of the land with adjoining land will enable ongoing maintenance and may result in enhancement of the land.

- **Social**

The road is public land and does provide public access. This road could be closed and consolidated with the adjoining park for future public use.

Alternatively, the road could be closed and consolidated with the adjoining private land and therefore would not be available for public use.

- **Economic**

The recommendation seeks to support efficient land management principles.

Legal / Resource / Financial Implications

The existing driveway is within a public road and provides vehicle access to the adjacent properties. This section of Brighton Street is not listed on Council's roads asset register as a formed road and no maintenance work is done by Council.

Should the Council wish to retain the land there may be financial implications and liability for Council to maintain this area through a weed/tree management program and to clean up any illegal dumping.

At present, the land is maintained by the adjoining residents.

11.3 Road Closing - Brighton Street (Bonview Street and The Serpentine)

Consultation

The residents have initiated this process and consultation has included discussions, correspondence and submissions from some of the adjoining residents.

Their preference is for the road to be closed, the land to be consolidated with the adjoining land, driveway access to remain unchanged and easements created for access and services.

Options

1. That Council supports the request for a road closing application to proceed at Brighton Street (north), East Ballina.

The advantage of this option is that it ensures the Council does not have any future liability attached to this unnecessary section of road. It also allows for the adjoining land owners to proceed with the road closing application and, if approved, consolidate the land into the adjoining property. This may well be the most efficient and best use of the land and therefore be a preferred outcome for the adjoining landowners and the community.

2. That Council opposes the request for a road closing application to proceed at Brighton Street (north), East Ballina.

The benefits associated with retaining this section of road is that it may provide a corridor for future works, infrastructure or use as public land adjoining the existing park.

Option one is preferred as the amenity of the public space is not compromised by this change and it clarifies the arrangements for the future maintenance of the road area.

RECOMMENDATIONS

1. That Council approves the proposal to close the northern section of Council public road known as Brighton Street (between Bonview Street and The Serpentine) at East Ballina, as per the contents of this report.
2. That the Council authorises the Council seal to be attached to the road closing application, associated documents and land dealings to finalise the road closing.

Attachment(s)

1. Locality Plan - Brighton Street

11.3 Road Closing - Brighton Street (Bonview Street and The Serpentine).DOC



4.4 Airport Cafe - Leasing Proposal

4.4 Airport Cafe - Leasing Proposal

Delivery Program Commercial Services

Objective To provide an overview of a proposal to grant a lease over the proposed cafe and bar tenancy within the remodelled Ballina Byron Gateway Airport Terminal.

Background

Council recently received development consent from the Joint Regional Planning Panel for the Ballina Byron Gateway Airport Terminal Precinct Expansion Project (“BBGA TPEP”). Plans and documentation are currently being finalized with a view to calling constructions tenders in September 2017.

A significant feature of the proposed terminal expansion and upgrade works is to increase the size of the departure lounge from seating for approximately 180 people to 400 people. As with other major airports the departure lounge will be classified for security purposes as a “sterile area”.

The plans propose to relocate and expand the existing café into the sterile area as well as create a new retail tenancy for news and gifts. A copy of the proposed terminal layout plan is **attached** hereto.

The concept of bringing retail premises into the sterile area of a terminal is in line with the trend in airports throughout Australia. This improves processing times for passengers and improves “dwell time” for retail spending.

This report focuses upon the new food and beverage tenancy in the area to be created in the expanded terminal and should be read in conjunction with a confidential report on this matter included in this meeting agenda.

Key Issues

- Long term lease tenure
- Rental returns to Council
- Probity

Information

In the current terminal, Jake and Nerida Baker (Elmia Air Pty Ltd) have a lease over Café Horizon which is located outside the sterile area in the existing terminal building.

The existing configuration and size of the café fails to capitalize on the potential market that continues to grow with the increasing numbers of passengers moving through the BBGA.

The current lease was issued to Elmia Air Pty Ltd (Jake & Nerida Baker) in 2013 when they purchased the business from the previous lessee. The Bakers have worked hard to build up the business providing an outstanding service to passengers with freshly made meals helping to provide a point of difference for BBGA.

4.4 Airport Cafe - Leasing Proposal

The existing Café Horizon comprises an area of 129.6m² including the seating area. The proposed new food and beverage tenancy will comprise an area of approximately 256m² to include seating area split into two areas; a café and a bar.

Council engaged two specialist airport retail consultants to independently review the existing food and beverage tenancy at BBGA and prepare rental forecast estimates based upon passenger growth forecasts. Both consultants came up with similar rental forecasts based upon passenger growth estimates and industry benchmarks from similar airports around Australia.

Both consultants were then requested to provide quotes to provide the appropriate services to procure and negotiate leases with prospective tenants for the new retail premises in the expanded terminal building. Justin Smith Retail Consulting Services ("the consultant") were the successful consultant following on from this selection process.

The incumbent food and beverage tenant Elmia Air Pty Ltd (Jake & Nerida Baker) have a lease that runs until 31 August 2018, which presents difficulties as the new terminal is scheduled for completion by 30 June 2018. It is proposed to undertake the terminal upgrade and expansion works over four stages and keep the café operating over this time to serve passengers.

Council cannot unilaterally terminate this lease however there are a number of options open to Council as outlined in the confidential report included in this meeting agenda.

Legal / Resource / Financial Implications

The incumbent café tenant, Elmia Air Pty Ltd (Jake & Nerida Baker), have a lease that runs until 31 August, 2018. Council cannot unilaterally terminate this lease without paying compensation to the tenant.

Council could grant a fresh lease to an incumbent tenant as it has done in many instances with tenants in properties such as the Wigmore Arcade Complex.

The process of requesting and assessing a leasing EOI from the incumbent tenant and assessing that EOI against industry benchmarks ensures the proposal and deal negotiated is in line with market.

Consultation

Council engaged a specialist in airport retail leasing (Justin Smith Retail Consulting Services) to conduct an EOI leasing process with the incumbent tenant Elmia Air Pty Ltd (Jake & Nerida Baker). Lease negotiations were then conducted and concluded with the tenant.

Options

The options open to Council are outlined in the confidential report on this matter included in this report.

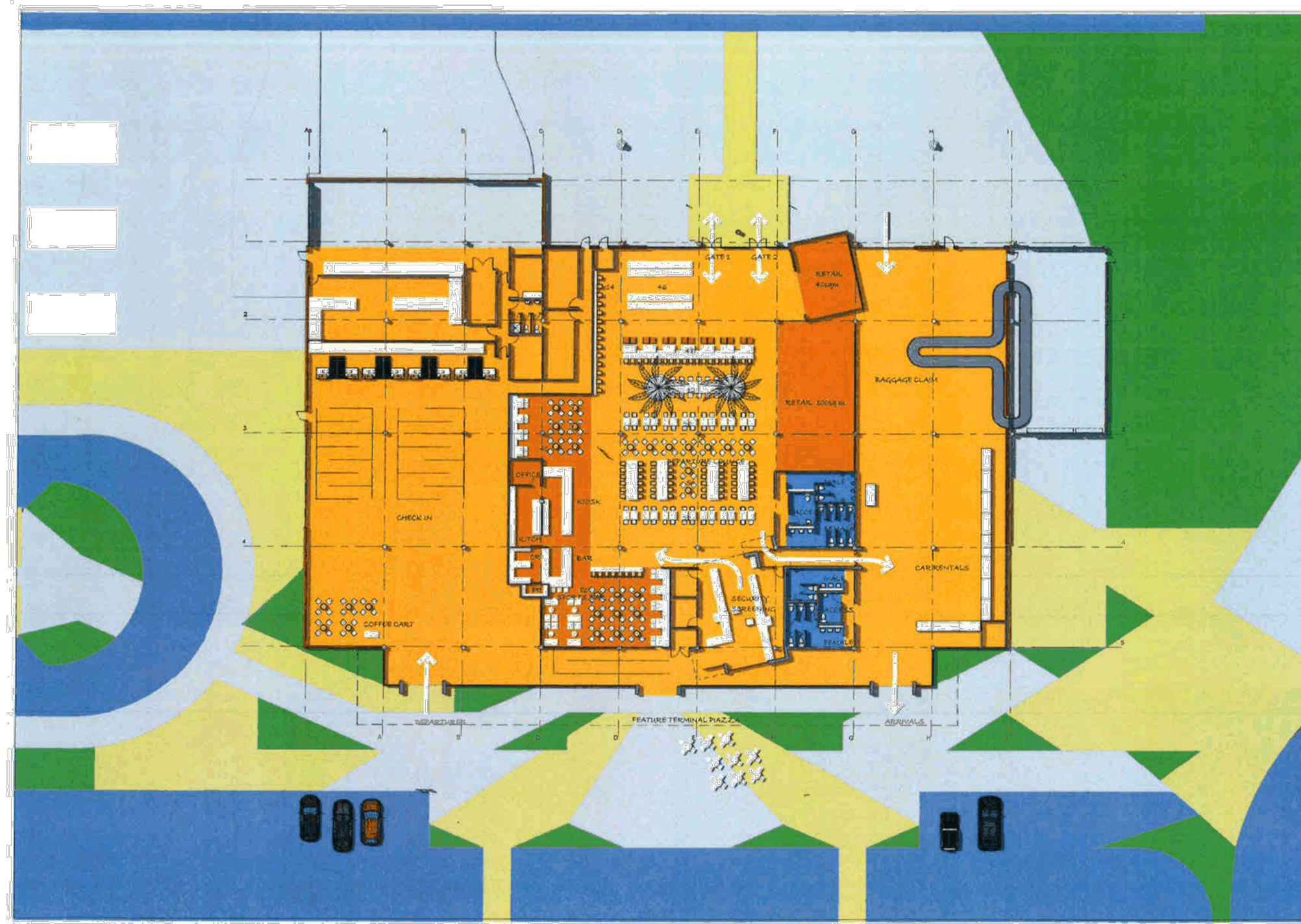
4.4 Airport Cafe - Leasing Proposal

RECOMMENDATION

That Council notes the contents of this report in respect to the current arrangements for the lease of the Airport Café.

Attachment(s)

1. BBGA Proposed Terminal Expansion Project Plan



PROPOSED TERMINAL UPGRADE
AT BALLINA BYRON GATEWAY AIRPORT

Floor Plan

2385

SP A 3 01

Level 1, 25 River St. (07) 4957 7341
PO Box 758 mail@stea.com.au
Mackay Q 4740 stea.com.au

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 Airport Cafe - Leasing Options

Refer to Item 4.4 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.

5.1 Airport Cafe - Leasing Options

Reason for Confidentiality

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

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

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 commercial leasing matters are to be discussed.