



## Notice of Ordinary Meeting

Notice is hereby given that an Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, Cnr Cherry & Tamar Streets, Ballina on **Thursday 24 March 2011 commencing at 9.00 am**

### Business

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Regulatory Services Group Reports
9. Strategic & Community Services Group Reports
10. General Manager's Group Reports
11. Civil Services Group Reports
12. Public Question Time
13. Motions on Notice
14. Advisory Committee Minutes
15. Reports from Councillors on Attendance on Council's behalf
16. Questions Without Notice
17. Confidential Session

Paul Hickey  
**General Manager**

**A morning tea break is taken at 10.30 a.m. and a lunch break taken at 1.00 p.m.**

## **Deputations to Council – Guidelines**

Deputations by members of the public may be made at Council meetings on matters included in the business paper. Deputations are limited to one speaker in the affirmative and one speaker in opposition. Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting. Deputations are given five minutes to address Council.

Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.

The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of 5 minutes allocated for the deputation.

## **Public Question Time – Guidelines**

A public question time has been set aside during the Ordinary Meetings of the Council. Public Question Time is held at 12.45 pm but may be held earlier if the meeting does not extend to 12.45 pm.

The period for the public question time is set at a maximum of 15 minutes.

Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.

Questions may be on any topic, not restricted to matters on the agenda for the subject meeting.

The Chairperson will respond to questions indicating that either the matter will be referred to staff for rectification (where the matter is of a minor or urgent nature) or referred to staff for report to a later meeting of the Council or a Committee.

The Chairperson will manage the questions from the gallery to give each person with a question, a "turn". People with multiple questions will be able to ask just one before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, the multiple questions can then be invited and considered.

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

Questions may be asked from the position in the public gallery.

## **Disclaimer**

The advice or information contained within the Minutes enclosed with this Business Paper is given by the Council without liability or responsibility for its accuracy. Reliance cannot be placed on this advice or information until the Minutes have been duly accepted as an accurate record and confirmed by Resolution of Council (usually at the next Ordinary Meeting of Council).

## **Confidential Session**

The confidential session is normally held as the last item of business.

## Table of Contents

1.	Australian National Anthem.....	1
2.	Acknowledgement of Country .....	1
3.	Apologies .....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations .....	1
6.	Deputations.....	1
7.	Mayoral Minutes .....	1
8.	Regulatory Services Group Reports .....	2
8.1	DA 1995/292 - S96AA - Boral Quarry, North Teven Road	2
8.2	DA 2010/723 - Goat Island	7
8.3	DA 2010/1057 - Subdivision - Frank Street / Rifle Range Road, Alstonville	18
8.4	Development Applications - Work in Progress - March 2011	46
8.5	Development Consent Statistics - February 2011	56
9.	Strategic & Community Services Group Reports.....	57
9.1	LEP Amendment Request - Newton Land - Lennox Head	57
9.2	Community Land - Reclassification	65
10.	General Manager's Group Reports .....	69
10.1	Use of Council Seal	69
10.2	Investments Summary - February 2011	70
10.3	Community Donations	74
10.4	Local Government - Constitutional Recognition	77
10.5	Policy (Final) - Donations - Rates and Charges	79
10.6	Policy (Final) - Tender and Quotation Evaluations	83
10.7	Policy (Review) - Financial Hardship - Rates and Charges	85
10.8	Policy (Review) - Busking Policy	88
10.9	Policy (Review) - Councillor Expenses and Facilities	91
11.	Civil Services Group Reports .....	99
11.1	Lennox Foreshore Park - Draft Master Plan	99
11.2	Waste Integrated Strategy (Review)	107
11.3	Tender - Fripp Oval Sports Field Lighting	112
11.4	Local Traffic Committee - March 2011	115
11.5	Policy (Final) - Cemetery Management	119
11.6	Policy (Review) - Fire Asset Protection Zones	122
12.	Public Question Time .....	124
13.	Motions on Notice.....	125
13.1	Notice of Motion - Telecommunications Tower at Lennox Head	125
13.2	Notice of Motion - Aboriginal Consultative Committee	127
13.3	Notice of Motion - Exhibition of Draft Terms of Reference - Aboriginal Consultative Committee	128

14.	Advisory Committee Minutes.....	130
14.1	Finance Committee Minutes - 17 March 2011	130
15.	Reports from Councillors on Attendance on Council's behalf .....	137
15.1	Mayoral Meetings	137
16.	Questions Without Notice.....	138
17.	Confidential Session.....	139
17.1	Site Selection - Regional Sporting & Entertainment Centre	139
17.2	Organisation Structure - Review	140

1. Australian National Anthem
  2. Acknowledgement of Country
  3. Apologies
  4. Confirmation of Minutes
  5. Declarations of Interest & Reportable Political Donations
  6. Deputations
  7. Mayoral Minutes
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**1. Australian National Anthem**

The National Anthem will be performed by St Joseph's School, Alstonville.

**2. Acknowledgement of Country**

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

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

**3. Apologies**

Cr Phillip Silver, Mayor and Cr Alan Brown had been granted leave of absence.

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 February 2011 were distributed with the business paper.

A copy of the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Thursday 17 March 2011 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 February 2011.

That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Thursday 17 March 2011.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil items

## **8. Regulatory Services Group Reports**

### **8.1 DA 1995/292 - S96AA - Boral Quarry, North Teven Road**

<b>File Reference</b>	DA 1995/292
<b>Applicant</b>	Boral Resources (Country) Pty Limited C/- Mr John Worden Operations Manager
<b>Property</b>	Lot 105 DP 1038360, No. 348 North Teven Road, Teven
<b>Proposal</b>	Section 96AA application to amend consent No. 1995/292 issued by the Court
<b>Effect of Planning Instrument</b>	The land is zoned part 1(e) Rural (Extractive and Mineral Resources) and 1(b) Rural (Secondary Agricultural Land) under the provisions of the Ballina LEP 1987.
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached.

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#### **Introduction**

Council has received a request to bring forward the re-examination or review process for the determination of the date for the termination of the development consent for an existing quarry (i.e. the “life” of the quarry).

The relevant consent was issued by the Chief Judge of the NSW Land and Environment Court on the 27 June 1996 to:

“...carry out an extractive industry being the operation of a hard rock quarry with a maximum production of 500,000 tonnes per annum; subdivision of land for the purposes of boundary adjustment, relocation of two dwellings and re-alignment of Beacon Road...”

The consent did not impose a condition limiting the life of the quarry other than Condition No. 24 which states:

“These conditions shall be re-examined by Council and a final date for the termination of the consent determined within but no earlier than one year prior to 20 years after the date of commencement of this consent.”

As the consent commenced on the 27 June 1996, the earliest the re-examination of the conditions and determination of a date for termination of the consent could occur is currently between the 27 June 2015 and 27 June 2016.

This Section 96 modification requests to bring forward the re-examination date and subsequently reword Condition No. 24 to:

**“These conditions shall be re-examined by Council and a final date for the termination of the consent determined within but no earlier than 6 years prior to 20 years after the date of commencement of this consent, **such date for determination not being any earlier than 20 years after the commencement of this consent.**”**

If approved, this would allow the applicant to formally request the re-examination process to commence immediately (although the applicant has outlined that this would likely be submitted within three months of any modified consent).

This re-examination would not of itself require the applicant to submit a further Section 96 modification. Council, upon receiving the request, would need to check the consent conditions and request Boral to provide information outlining how it has complied with the conditions, demonstrate how the existing conditions are adequate to ensure the impacts of the development into the future and termination of quarrying operations can be appropriately managed.

This subsequent re-examination or review process to determine the “life” of the quarry would be re-exhibited thereby giving the applicant, Council Officers, Government Agencies and the general public further opportunity to comment once additional information is at hand.

By bringing forward the re-examination period by a few years, it would increase the current narrow timeframe and allow the applicant to potentially address matters associated with planning for the closing of the quarry, such as site rehabilitation, to be addressed before the current consent end date. It will also give Council Officers more time to adequately review and determine what is a reasonable termination date or “life” of the quarry (if any).

The quarry has an Environment Protection Licence (EPL) with the Department of Environment, Climate Change and Water (DECCW). The EPL does not need to be amended as part of this modification.

### **Public Exhibition**

The Section 96 application was advertised from 9 December 2010 to 21 January 2011 (i.e. in excess of the required exhibition period due to the public holidays). Five public submissions were received objecting to the amendment on various grounds.

The unique wording of Condition No. 24 imposed by the Court has created confusion with submitters.

It should be noted, however, that objections received predominately relate to the subsequent review process should this Section 96 modification be approved, and although related are generally not relevant to the assessment of the current Section 96 modification requested.

Councillors, as part of this current Section 96 modification, can only determine if the re-examination process should be brought forward as requested or whether the status quo remains, i.e. the applicant and Council are afforded one year to determine the continued “life” of the quarry (if any).

Five submissions were received from Government Agencies who raised no objection to the amendment, but noted the subsequent re-examination process.

It should be noted that the DECCW who licences the quarry outlined they did receive complaints concerning excessive noise some time ago and that upon investigation and negotiation the matters were resolved. The DECCW went on to note that they have not had any further complaints since that time, however will undertake an inspection of the site in the near future to confirm that the EPL is being complied with. At the time of preparing this report, no further advice from the DECCW had been received in this regard.

### **Report**

The application has been assessed in accordance with the relevant provisions of Section 96 and heads of consideration under Section 79C of the EP&A Act.

### **Section 96AA**

As outlined previously the current consent was granted by the NSW Land and Environment Court; however the wording of Condition No. 24 places the onus on Council to undertake the re-examination and determine an appropriate termination date of the consent.

In all respects, (other than bringing forward the re-examination process), it is proposed that the quarry will continue to operate in accordance with its existing consent, i.e. the total amount of resource to be extracted from the quarry will not change, the footprint of the quarry will not change, the intensity of operations will not change, the method of operation of the quarry will not change, and all environmental safeguards and rehabilitation requirements will remain the same.

The proposed amendment is therefore considered to be substantially the same as that previously approved by the Court. The applicant is not seeking to amend any other condition through this Section 96AA modification.

The proposed modification the subject of this report, though important, is considered to be relatively minor in nature and the supporting documentation is not extensive. If approved, the subsequent review process and supporting documentation to determine the "life" of the quarry and its closure is likely to be extensive.

If the current modification is approved, the matters raised in the submissions such as noise, truck movements, dust, disturbance to amenity, impact on wildlife and Maguires Creek will be re-examined earlier and in detail as part of the subsequent review process.

### **Potential Implications**

Although not specifically relevant to the current Section 96 modification, Council should be aware that based on lower than expected extraction rates per annum and remaining available resource within the approved extraction area, the applicant, as part of the re-examination process, could be requesting



that the “life” of the quarry extend well beyond 2016 and until approximately 2028 (or beyond).

This is substantially more than the estimated 20 year life of the quarry envisaged in 1996 and the expectations of local residents.

Should this eventuate, there will be a need to assess whether such could be addressed within the terms of the current consent or would require a new Development Application.

As part of the re-examination process, it may also be found that existing terms and conditions are not adequate for continued operations. This may result in the applicant requesting further modifications to conditions within the review process. These would have to be determined on their particular merits and may also involve further public exhibition and consultation.

If the applicant is not satisfied with the termination date determined by Council, it is always open and available for the applicant to lodge a new Designated Development Application and associated Environmental Impact Statement for detailed assessment under current statutory controls and standards.

### **Conclusion**

This modification simply seeks to increase the time permitted to undertake the re-examination process sought by the Court. This is considered reasonable as it will allow additional time for the applicant to address any outcomes and potentially plan for the future of the quarry.

The amendment does not seek to change and will not impact on the quarry operations under the terms and conditions of the existing consent.

The quarry will continue to be licensed by DECCW, who has advised that the quarry is operating within the limits of their license and can continue to operate under the terms and conditions of the current consent until 2016.

Matters of contention raised in the submissions relate to the subsequent re-examination process.

The applicant and residents have shown a considerable degree of goodwill in this matter. The applicant has undertaken communication between themselves and surrounding residents/previous submitters.

It is clearly in the interest of the applicant to improve operational mechanisms and procedures to assist in the subsequent re-examination process that will determine the termination date of the quarry. This will be of direct benefit to surrounding residents in the immediate future.

### **RECOMMENDATION**

That the Section 96AA modification seeking to amend DA 1995/292 at Lot 105 DP 1038360, No. 348 North Teven Road, Teven by bringing forward and increasing the time permitted to carry out the subsequent re-examination process for the termination date of the quarry be **APPROVED**.

### **Attachment(s)**

1. Locality Plan
2. Public Submissions
3. Advice from applicant's consultant

**8.2 DA 2010/723 - Goat Island**

<b>File Reference</b>	DA 2010/723
<b>Applicant</b>	Gary & Mary Couch
<b>Property</b>	Lot 245 in DP 755691 comprising Goat Island
<b>Proposal</b>	Erection of a dwelling house
<b>Effect of Planning Instrument</b>	The land is zoned part 1(b) – Rural (Secondary Agricultural Land) and part 7(a) – Environmental Protection (Wetlands) under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached.

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**Introduction**

Development application 2010/723 for the erection of a dwelling house on Goat Island (Lot 245 DP 755691) was reported to Council's Ordinary Meeting on 24 February 2011.

At this meeting it was resolved to defer the determination to allow Council to consider whether or not the proposal can be satisfactorily conditioned with regard to flood protection and public indemnity.

Council's Regulatory Services Group has confirmed advice received from our insurer's solicitors with regard to appropriately conditioning an approval for the development that will have the effect of limiting the risk to Council of future litigation/damages should the Council decide to grant consent to the development application.

Notwithstanding this advice, it is still the recommendation of Council's technical officers that the development be refused for the reasons outlined in the report presented to the Ordinary Meeting on 24 February 2011 as contained below. These reasons are based on the recommendations contained in Council's floodplain studies and development strategies.

The reasons for the recommendation are also based on expected difficulty and danger posed for residents and emergency service personnel in the event of a major flood such as residents getting to boats, residents and emergency services personnel having to cross deep, fast flowing and debris laden floodwaters and the unpredictability of the timing, size and nature of flood events. These dangers and uncertainties are magnified if rapid water level rises and flood peaks occur at night in the middle of cyclonic weather.

Should the Council resolve to determine the subject application based on the advice received from Council's insurer, it is recommended that a condition be applied to the consent as follows:

*At the applicant's expense, a Flood Hazard Risk Assessment shall be undertaken for the site and the proposed development. A Flood Hazard Risk Report shall be submitted to Council detailing the findings of the assessment and shall contain recommended emergency and evacuation procedures for the island in a flood event. The recommendations shall detail procedures for floods of various levels including a 1-in-20-year, 1-in-50-year, and 1-in-100-year flood event. The recommendations and procedures contained in the Flood Hazard Risk Report shall become conditions of consent applicable to the land and its use for residential purposes.*

If Council consent is to be given, it is recommended that this condition be incorporated as a deferred commencement condition into the draft conditions of consent attached to this business paper.

### **Background**

The application is seeking development consent for the erection of a dwelling house on Goat Island, located in the Richmond River upstream from Wardell, adjacent to Cabbage Tree Island. **Attached** are site plans, floor plans and elevations of the proposed dwelling.

The island is only accessible by boat and mooring facilities currently exist in the form of a pontoon located near the south western corner of the island. The occupants of the dwelling will access the island by boat and enter the site via the pontoon.

Adjacent to the pontoon is an informal marina area which is proposed to serve as a point to load/unload building materials and equipment which will be brought in by barge. The proposed dwelling is to be located approximately 300m from the mooring site. Normal day-to-day access to the dwelling will be by foot from the mooring with heavy and/or bulky items transported by means of a small tractor currently on the site.

The land comprises an area of approximately 26.9 hectares and is zoned part 1(b) – Rural (Secondary Agricultural Land) and part 7(a) – Environmental Protection (Wetlands). The majority of the site contains riparian and wetland vegetation with a small area (approximately 3-4 hectares) cleared of significant vegetation. The island has no direct road access with the only means of access by boat.

Council records indicate that the island has contained a dwelling in the past which was destroyed by fire in 1999. The land is currently vacant with the exception of a small shed.

Standard development applications received by Council for dwelling houses on rural land are not normally reported to the Council for determination. However, while the proposed development generally complies with relevant statutory and building code controls, the subject site is identified as being in a high hazard flood area in the Wardell and Cabbage Tree Island Flood Study.

The report that follows outlines the assessment process.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

The development application was not placed on public exhibition as it does not trigger public exhibition under the terms of the Ballina LEP and the Council Combined DCP.

### **Applicable Planning Instruments**

#### *Ballina Local Environmental Plan (BLEP)*

The subject land (Goat Island) is zoned part 1(b) – Rural (Secondary Agricultural Land) and part 7(a) – Environmental Protection (Wetlands). The island is predominantly vegetated with a small section in the south western corner within the 1(b) zone cleared of significant vegetation.

The proposed dwelling is to be located within this cleared section of the island within the 1(b) zone. The erection of a dwelling house is permissible with consent in the 1(b) zone and is consistent with the zone objectives.

Clause 12 of the BLEP regulates the erection of dwelling houses within rural and environmental protection zones. Under the current BLEP provisions the subject land does not enjoy a dwelling entitlement as the land does not meet the development standards specified in Clause 12(3) of the BLEP.

In this regard the applicant has submitted an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards in which it is argued that the Clause 12(3) development standard (ie. 40ha minimum lot size) is unreasonable and unnecessary in the circumstances.

The application has been referred to the Department of Planning for concurrence which was subsequently issued on 4 November 2010. The subject land previously enjoyed a dwelling entitlement prior to the gazettal of Amendment 110 to the BLEP on 26 June 2009.

The land is also proposed for listing in Schedule 1 of the Draft Ballina Local Environmental Plan 2010 as rural land on which a dwelling house may be erected with the consent of Council.

Clause 17 of the BLEP regulates building height as follows:

- (1) In this clause **height**, in relation to a building the topmost floor of which has a ceiling, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.
- (2) Except as provided by subclauses (2A), (4), a person shall not, only any land to which this plan applies, erect a building taller than 6.4 metres in height unless the council is satisfied that the building will not:

- (a) adversely affect the existing or future amenity of adjoining properties by overshadowing or causing loss of privacy*
- (b) significantly obstruct views from adjacent buildings and public places*
- (c) have an adverse impact on the scenic or landscape quality of the locality or*
- (d) exceed 2 storeys.*

Although the proposed dwelling will not exceed two storeys, it will exceed the 6.4m maximum building height by 0.535m. This is due to the proposed dwelling being located on posts to ensure its floor level is above the height of the maximum probable flood.

It is considered that this excess is acceptable in the circumstances and will not result in any negative impacts on adjoining properties, obstruct views or have an adverse impact on the scenic or landscape qualities of the locality.

The subject land (Goat Island) is identified as an Item of Environmental Heritage pursuant to Clause 18 of the BLEP. Goat Island is listed in Schedule 1 of the BLEP as an aboriginal site. Clause 18 requires that a person shall not erect a building on the land to which the Item of Environmental Heritage relates without the consent of the Council. Clause 18 also requires that:

*The council shall not grant development consent to a development application in respect of an item of environmental heritage unless it has made an assessment of:*

- (a) the significance of the item as an item of the environmental heritage of the Shire of Ballina*
- (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site*
- (c) whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained, and*
- (d) whether the item constitutes a danger to the users or occupiers of that item or to the public.*

The proposed development has been assessed with regard to the above. The item of environmental heritage has been identified as being highly significant to the aboriginal community. Although the entire island is identified as the "item of environmental heritage" the specific area of significance has been shown to the landowners by members of the Aboriginal community.

The proposed dwelling house is located well clear of the specific area and is not expected to result in any negative impacts on the integrity of the item of significance.

The development application was referred to Council's Cultural Development Officer for comment. The Cultural Development Officer is satisfied with the conclusions drawn in the applicant's heritage assessment.

The application was also referred to the Jali Local Aboriginal Land Council for comment. No response was received, however the applicant has included a copy of correspondence from the Jali Local Aboriginal Land Council to the owners of the subject site.

In that correspondence it is requested that should excavating works occur on the site as a result of the proposed development, that an Aboriginal sites officer be present should any artefacts be uncovered. If this development application is supported by Council, this requirement can be included as a condition of consent.

The subject site is identified as being subject to Acid Sulphate Soils in accordance with Clause 38 of the BLEP. The applicant has stated that during preliminary assessments of the site, no potential Acid Sulphate Soils were uncovered. Notwithstanding this, should the application be supported, development consent will be subject to standard Acid Sulphate Soil management conditions.

*Draft Ballina Local Environmental Plan 2010 (Draft LEP)*

The subject land is in the proposed E2 – Environmental Conservation Zone for the purposes of the Draft LEP. A dwelling house is permissible with consent in the proposed E2 Zone.

Clause 4.1A of the Draft LEP regulates the erection of dwelling houses on land in certain rural and environmental zones and includes the proposed E2 Zone. While the subject land does not meet the standards specified in Clause 4.1A it has been listed in Schedule 1 which allows the erection of a dwelling house on the subject land with the consent of the consent authority.

Clause 4.3 of the Draft LEP regulates the height of buildings. The subject land has a building height limit of 8.5m (from floor level to top of roof pitch). It excludes any area of filling required in accordance with Council's Minimum Fill Level. Consequently, the proposed development complies with the provisions of this clause as the proposed dwelling will be approximately 8m in height above the fill level.

Ballina Shire Combined Development Control Plan (DCP)

Chapter 11 Mosquito Management

Clause 3.2.1 of this chapter contains requirements to mitigate the impacts of mosquitoes on particular developments. Consequently, if this application is supported, development consent will be appropriately conditioned in accordance with the mandatory requirements of Section 3.2.1 requiring the installation of effective insect screening to all bedrooms in the dwelling house.

## Chapter 18 Rural Land

### *Clause 3.1 Rural Land Use Conflict*

Given that the island is naturally buffered from all adjoining land uses, it is considered that the proposed dwelling will be well separated from and not likely to be affected by rural land use conflict.

### *Clause 3.3 Environmental and Ecologically Sensitive Areas*

The proposed development is to take place on land that is already cleared of significant vegetation. The subject site does contain wetlands identified in State Environmental Planning Policy No. 14. Within close proximity to the proposed dwelling are also significant stands of vegetation that comprise Endangered Ecological Communities.

The application proposes excavation of material from the cleared area of the island to acquire fill for the house site. Minimal detail of this aspect of the development has been provided in the development application and thus no assessment of the potential environmental impact these works may have on the nearby wetlands has been made.

It is considered that the acquisition of the fill materials from within the cleared section of the island is likely to be the most appropriate means of obtaining this material rather than importing fill to the site.

Notwithstanding this, it is also considered that further environmental assessment of the impacts of the earthworks on the wetlands and associated Endangered Ecological Communities on the site is required.

Consequently, should the application be supported by Council, it is recommended that appropriate conditions of consent be imposed requiring the provision of further details with regard to the acquisition of fill from the site as detailed in the draft conditions of consent **attached**.

Potential impacts have been identified during the construction process and to a lesser extent during the occupation of the proposed dwelling, given the distance of the proposed dwelling from the boat mooring area (approximately 300m). If the proposed development is supported by Council, it is considered that these impacts can be adequately regulated through appropriate conditions of consent.

### *Clause 3.6 Flood Prone Land*

The subject site is identified as being flood prone in accordance with Policy Statement No. 11 of DCP Chapter 1. The site is also identified as having a high hazard flood risk given the potential for isolation during a flood event.

The proposed development has been designed to incorporate filling and finished floor levels in accordance with the provisions of Policy Statement No. 11.



The maximum probable flood level is estimated to be 5.0m (AHD) with the proposed development having a finished floor level of 6.1m (AHD). The proposed dwelling house is to be designed and constructed to endure the possible flood conditions.

It should be noted that any losses experienced from a flood event would be to private assets only as no public infrastructure is located on the land.

The applicant has advised that the natural ground level at the site of the proposed dwelling is 2.0m AHD. Based on information contained in Council's flood studies (ie. the Wardell and Cabbage Tree Island Flood Study 2007, the Wardell and Cabbage Tree Island Floodplain Risk Management Study 2007 and the Draft Cabbage Tree Island Floodplain Risk Management Plan 2009) the following conclusions can be made:

- the site is susceptible to flooding from the Richmond River in floods of a 5 year occurrence or higher
- peak flood levels for a 5 year recurrence flood would be approximately 1.85m AHD
- peak flood levels for a 10 year recurrence flood would be approximately 2.32m AHD
- peak flood levels for a 100 year recurrence flood would be approximately 3.38m AHD

The floor level of the proposed dwelling, as detailed in the application, will be at 6.1m AHD. In addition, the vicinity of the dwelling site will be filled to Council's requirements (3.9m AHD). However, during flood events it can be expected that the majority of the access path to the dwelling from the boat mooring point will be inundated in regular (5 year occurrence) flood events.

This could be further exacerbated as a result of the proposed extraction of filling from the site. In addition to the above, given the expected flow velocities within the river adjacent to the island during flood events, access to the island could be further restricted or hazardous.

The development application has been referred to the Department of Environment, Climate Change and Water (DECCW) and to Council's Development Engineer for assessment, particularly with regard to flood risk issues. Comments have been returned and based on the identified high hazard risk; it has been recommended that the application be refused. Further detail of this aspect of the development is addressed below.

#### *Clause 3.9 Waste Management*

Given the circumstances of the site, no regular domestic waste collection can be provided. The applicant has stated that all waste from the site will be minimised and managed by the occupants. Should the application be supported, appropriate conditions of development consent will be imposed to regulate the disposal of waste from the site.

*Clause 3.10 On Site Sewerage Management Systems (OSSM)*

The development application is supported by an "On Site Wastewater Management Report" which has been assessed by Council officers. The proposed wastewater treatment and dispersal system is to be located within the curtilage area of the dwelling that will be filled above 2.64m AHD and above the expected 1 in 20 year flood level for the site.

Notwithstanding this Council officers consider that there are a number of deficiencies in the system proposed, particularly given the high likelihood of flooding of the site.

In this regard, Council's OSSM officer has recommended modifications to the proposed OSSM to meet applicable standards. Should the application be supported, these requirements are detailed in the **attached** draft conditions of consent.

Several other environmental planning instruments have been identified as applying to the proposed development. It is considered that the proposed development generally complies with their requirements.

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

As detailed above, the applicant has submitted an application in accordance with SEPP 1 with regard to objecting to the 40 hectare minimum lot size development standard. The applicant contends that the applicable development standard relating to the dwelling entitlement is unreasonable or unnecessary in the circumstances. The Department of Planning has issued concurrence in this regard.

*State Environmental Planning Policy No. 14 – Coastal Wetlands*

The subject land contains areas identified as coastal wetlands in accordance with SEPP 14. The proposed development is to be sited outside the identified wetland areas. As such, no direct impacts on SEPP 14 wetlands are expected.

If the application is supported, development consent will be conditioned to ensure adequate mitigation of potential environmental impacts on the wetland is undertaken.

*State Environmental Planning Policy No. 71 – Coastal Protection*

The subject land is located within the Coastal Zone and as such, the provisions of SEPP 71 are applicable to this application. Clause 8 of SEPP 71 contains 'Matters for Consideration' which are to be taken into account in the assessment and determination of any development application on land within the Coastal Zone.

The proposed development has been assessed against these Matters for Consideration and is considered to be generally consistent with their provisions and requirements.

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The applicant has submitted a BASIX Certificate for the proposed dwelling in accordance with the provisions of this SEPP.

*North Coast Regional Environmental Plan 1988.(REP)*

Clause 15 of the REP requires a consent authority to consider the impacts of development on wetlands.

The proposed development is located in close proximity to significant wetlands but is considered sufficiently separated and of a scale to not result in substantial impacts. The potential impacts of the development on the adjoining wetlands have been addressed in further details above.

The subject site is identified as an item of aboriginal heritage in the BLEP. The applicant has provided details of the specifics and assessment of the likely impacts on the specific item. The application has been referred to Council's Cultural Development (Heritage) Officer for comment as detailed earlier in this report. It is considered that given the nature of the development and its separation from the specific heritage item on the site that there will be minimal to no impact on the integrity of the site as an item of environmental heritage.

## **Report**

The proposed development has been assessed with regard to the provisions of Section 79C of the *Environmental Planning and Assessment Act* 1979 and the applicable environmental planning instruments and regulatory controls referenced above.

While the proposed development generally complies with the standard requirements for the erection of a dwelling house on rural land, Council officers have raised concerns with regard to the identified high hazard flooding risk of the site and the site's access limitations.

The applicant and landowner were made aware of the flood risk issues through discussions and correspondence with Council officers prior to the lodgement of the development application. As a consequence, the applicant has addressed the flood risk issue through an assessment of the likely impacts of flooding on the occupation of a dwelling house on the site.

An extract of the information submitted with the development application detailing how the flood risk issues are to be addressed during the occupation of the dwelling are **attached**.

In addressing the risks of flooding in the locality, Council has prepared the Draft Cabbage Tree Island Floodplain Risk Management Plan 2009 (DMP). Although the DMP specifically refers to Cabbage Tree Island, its close proximity and geographic similarity to Goat Island makes the data applicable to both.

The DMP clearly references the NSW Government's Floodplain Management program whereby it is appropriate to "consider options for reducing the flood damages that could be experienced by residents and to reduce the risk for loss of life". This plan also identifies that Council has a **duty of care** to ensure

that current planning instruments recognise the flood hazard. The potential for isolation and the associated risk to life would typically render the land as being in a high hazard flood area.

The development application was referred to DECCW for comment on the impacts of flooding on the proposed development. A copy of this correspondence is **attached**.

In the response reference is made to the Wardell and Cabbage Tree Island Flood Study (2004) and the DMP. Specific reference is made to figures in the Wardell and Cabbage Tree Island Flood Study which identify the provisional flood hazard in the river surrounding the island during a 1 in 100 year flood event as **extreme** and on the island itself as between **high and very high**.

Further to this, DECCW points out that in the NSW Floodplain Development Manual a high flood hazard is categorised by the following:

- possible danger to personal safety
- able bodied adults would have difficulty in wading to safety
- potential for significant structural damage

Based on the above, it is concluded that if the development was to be approved, it would be difficult to see how it would accord with the general thrust of the Draft Cabbage Tree Island Floodplain Risk Management Plan.

It is considered that Council may be legally exposed if approval is granted to a dwelling in a high hazard flood area. Given the strongly worded recommendations in the DMP that have the effect of prohibiting additional dwellings on adjacent Cabbage Tree Island, it is proposed that Council adopt the same principle for Goat Island; unless it can otherwise be satisfied that the risks to future occupants and to Council are acceptable.

In this regard it is recommended that the application be refused.

It should be noted that the current landowner acquired the subject property in December 2008 and relied upon information contained in a Section 149 Certificate issued earlier in 2008 which, amongst other items, contained confirmation that (at the time) the land did enjoy a dwelling entitlement pursuant to the provisions of the BLEP in force at the time and that the land was identified as being subject to flooding.

Following the purchase of the land, the applicant made enquiries with Council staff with regard to the development potential of the land. A written response was forwarded to the landowner dated 17 September 2009 which included reference to the identified high flood hazard risk of the island.

This letter also addressed other significant matters relating to the environmental constraints of the site and that these matters would be considered in the merit assessment of any development application lodged for the erection of a dwelling house on the site.

### **Conclusion**

The proposed development has been assessed in accordance with the relevant statutory and regulatory provisions. While the development generally complies with the standard requirements for the erection of a dwelling house on rural land, the site is identified as being within a high hazard flood area. In this regard it is considered that the proposed development cannot be supported due to its inconsistency with Council's flood studies and draft floodplain management plan

Consequently, it is concluded that Council has two options with regard to the determination of development application 2010/723 as follows:

#### *OPTION 1*

That the application be refused for the reasons outlined in this report. This is the recommended option.

#### *OPTION 2*

That Council approve the application, notwithstanding the risk in allowing the development of a dwelling house on land identified as having high flood hazard risk in relation to the Cabbage Tree Island Flood Study and the Draft Cabbage Tree Island Floodplain Risk Management Plan, subject to the draft conditions of development consent **attached**.

### **RECOMMENDATION**

That development application 2010/723 to undertake the erection of a dwelling house on Lot 245 DP 755691, Goat Island, be **REFUSED** for the following reasons:

1. The development of and subsequent occupation of a dwelling house on Goat Island presents a high flood hazard risk and is inconsistent with the recommendations of both the Wardell and Cabbage Tree Island Flood Study (2004) and the Draft Cabbage Tree Island Floodplain Risk Management Plan 2009 (DMP) and
2. The grant of consent to the proposed development is not in the public interest.

### **Attachment(s)**

1. Locality Plan
2. Site Plan, Floor Plans & Elevations
3. Information Addressing Flood Risk Issues (Extract from Statement of Environmental Effects submitted with development application)
4. Copy of correspondence received from Department of Environment Climate Change and Water
5. Draft conditions of consent

**8.3 DA 2010/1057 - Subdivision - Frank Street / Rifle Range Road, Alstonville**

<b>File Reference</b>	DA 2010/1057
<b>Applicant</b>	Newton Denny Chapelle (on behalf of Your Office Pty Ltd and Tabalon Pty Ltd)
<b>Property</b>	Lot 2 DP 875030 and Lot 4 DP 600108, Frank Street, Alstonville Lot 4 DP 578242, No. 184 Rifle Range Road, Alstonville
<b>Proposal</b>	To Undertake a Four (4) Lot Subdivision to Create 1 x 27.41ha allotment (Proposed Lot 1), 1 x 13.83ha allotment (Proposed Lot 2), 1 x 20.41ha allotment (Proposed Lot 3) and 1 x 17.17ha allotment (Proposed Lot 4)
<b>Effect of Planning Instrument</b>	The land is zoned 7(i) – Environmental Protection (Urban Buffer) under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

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**Introduction**

Council is in receipt of a development application for a four lot subdivision to create 1 x 27.41ha allotment (Proposed Lot 1), 1 x 13.83ha allotment (Proposed Lot 2), 1 x 20.41ha allotment (Proposed Lot 3) and 1 x 17.17ha allotment (Proposed Lot 4). The future intended purpose of Proposed Lot 2 is Sporting Fields and Associated Infrastructure.

Refer to the **attached** site plan and proposed subdivision plan that illustrate the application.

Proposed Lot 1 is to comprise an area of 27.41ha and is to contain an existing dwelling house and grazing activities. Vehicular access is to remain from Rifle Range Road. A secondary access is proposed via the unformed road reserve that links to Ramses Street.

Proposed Lot 2 is to comprise an area of 13.83ha. The applicant has indicated that Proposed Lot 2 is to be subject of a future development application for sporting fields and associated infrastructure. The configuration of Proposed Lot 2 has been based on preliminary design plans for the future sporting fields. An unformed road reserve runs from Ramses Street (at the western end) to Pearces Creek Road (at the eastern end), thereby bisecting this proposed Lot. Vehicular Access for Proposed Lot 2 is to be provided via the unformed road reserve that links to Ramses Street.

The applicant has supplied conceptual details of the future proposed sporting fields and associated infrastructure on Proposed Lot 2 and vehicular access thereto. It is noted that it is not part of the subject application to seek consent for these works. The plans and information have been provided for informative and subdivisional assessment purposes only.

Briefly, the future sporting fields may comprise the following:

- 1 x AFL Field and associated sports lighting (designed to AS4282);
- 2 x Rugby Grounds and associated sports lighting (designed to AS4282);
- 1 x Cricket Oval (summer use of rugby grounds);
- 4 x Netball Courts to the immediate east of the car park;
- A Clubhouse Facility;
- 6 x Tennis Courts and associated sports lighting (designed to AS4282);
- A Car Parking Area containing 198 spaces, with 180 spaces servicing the fields and netball courts and 18 spaces servicing the tennis courts;
- Pedestrian access to the existing rugby field at Lyle Park; and
- The construction of vehicular access to the sporting fields within an unformed road reserve, which connects to Ramses Street. The road reserve runs along the rear of existing residential properties fronting Hellyar Drive and Cerreto Circuit.

Plans of the future proposed sporting fields development are **attached** for informative purposes only. The subject application **does not** seek consent for the construction of any of the components listed above and therefore an assessment of such has not been undertaken as part of DA 2010/1057.

Proposed Lot 3 is to comprise an area of 20.41ha and is to contain an existing dwelling house and macadamia horticultural activities. Vehicular access is to be maintained from Frank Street. A secondary access is proposed, via a 10 metre wide access handle to the unformed road reserve that links to Ramses Street/Pearces Creek Road.

Proposed Lot 4 is to comprise an area of 17.17ha and is to contain horticultural (macadamia) activities. Vehicular access is to be maintained from Frank Street. A secondary access is proposed, via a 10 metre wide access handle to the unformed road reserve that links to Ramses Street.

The subject properties are located to the east of the village of Wollongbar and are bounded by established residential development (existing Avalon Estate) and agricultural properties to the west, Rifle Range Road to the north, agricultural properties to the east and Frank Street and rural residential properties to the south.

Existing Lot 2 DP 875050 has an area of 24.35ha and has frontage to Frank Street (south-western corner). An unformed road reserve forms the northern boundary of the property. A dwelling house is located within the southern portion of the property, with access being provided from Frank Street via a gravel driveway. The primary use of the land is for macadamia production.

Existing Lot 4 DP 600108 has an area of 22.58ha and has frontage to Frank Street (south-eastern corner). An unformed road reserve forms the northern boundary of the property. The primary use of the land is for macadamia production.

Existing Lot 4 DP 578242 has an area of 31.89ha and has frontage to Rifle Range Road (northern boundary). An unformed road reserve forms the southern boundary of the property. A dwelling house is located within the southern portion of the property, with access provided from Rifle Range Road, via a gravel driveway. The primary use of the land is for cattle grazing pursuits.

Surrounding land to the north, south and east is predominantly rural in nature and character, including smaller rural residential sized allotments (1.7ha to 3.6ha) and larger agricultural (macadamia cultivation and grazing) holdings (up to 32ha). Land to the west comprises part of the existing Wollongbar Village (residential subdivisions and Lyle Park Rugby Grounds).

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

In accordance with the advertising and notification requirements of Council, the development application was placed on public exhibition from 23 December 2010 to 21 January 2011. Written notification of the proposed development was also provided to owners and occupiers of all adjoining properties. Council received a total of twenty one (21) submissions (**attached**), the majority of which have raised issues in relation to the future development of Proposed Lot 2 as sporting fields and the construction of a vehicular access on the unformed road reserve that links to Ramses Street (rear of Hellyar Drive and Cerreto Circuit properties). As the proposal involves the subdivision of land only, a discussion of the issues raised in relation to the subdivision has been provided below.

The issues relevant to the proposed subdivision have been summarised below:

1. Access to Proposed Lot 2 is to be provided via the unformed road reserve from Ramses Street along the rear of Hellyar Drive and Cerreto Circuit properties, which will result in amenity issues (increased traffic and noise, loss of privacy and safety concerns) for adjoining residences at such time as the future sporting fields are developed on the lot.

Discussion: It is acknowledged that the legal road frontage for Proposed Lot 2 will be the existing unformed road reserve (linking to Ramses Street). However, the construction of vehicular access to Proposed Lot 2 does not form part of DA 2010/1057.



As the applicant has indicated the intended future use of Proposed Lot 2 to be sporting fields, and that the vehicular access to the sporting fields will be via the existing unformed road reserve, connecting to Ramses Street, it is important for Council to consider the adequacy of this road reserve (to be able to provide for suitable vehicular access to the sporting fields) and its intersection with Ramses Street. Should Council seek to grant consent to DA 2010/1057, Council will need to be confident that the amenity impacts listed above are able to be reasonably overcome as part of the design of the future vehicular access.

Refer to the Traffic and Vehicular Access section of this report for further discussion.

2. Alternative options for vehicular access to Proposed Lot 2 exist:
- Via the unformed road reserve from Pearces' Creek Road;
  - Via Cerreto Circuit, north of the existing Rugby Club through to the unformed road reserve;
  - Via Frank Street; and
  - Via Rifle Range Road
- and these options should be further considered.

Discussion: Whilst the proposal does not involve the construction of a vehicular access to Proposed Lot 2, the applicant has provided a review of the options considered in their choice for vehicular access to this proposed lot. Refer to the Traffic and Vehicular Access section of this report for further discussion.

3. There is potential for depreciation of property values as a result of the provision of vehicular access to Proposed Lot 2 being via the unformed road reserve linking to Ramses Street, at the rear of Hellyar Drive and Cerreto Circuit properties.

Discussion: It is unknown as to whether property values will decrease as a result of the future development of a vehicular access within the unformed road reserve.

It is noted that the subject road reserve was in existence prior to the subdivision of the Cerreto Circuit and Hellyar Drive (Avalon) Residential Estates. In this regard, the Deposited Plans for the Cerreto Circuit and Hellyar Drive (Avalon) Residential Estates adjoining the road reserve clearly state "Road Reserve 20.115m wide".

4. The provision of vehicular access to proposed Lot 2 via the unformed road reserve will result in a reduction in a currently utilised green space and reserve area.

Discussion: It is acknowledged that the unformed road reserve at the rear of Hellyar Drive and Cerreto Circuit properties is currently a grassed area which is utilised by adjoining residents for passive recreation activities. Approval of the proposed subdivision would commit the Council to the removal of this grassed area and replacement with a future access road to service a 13.83ha rural property (Proposed Lot 2).

In view of the intended future use of the site (subject to a separate DA), Council needs to be satisfied that the width of the road reserve could reasonably accommodate a future access road to service a sporting fields development and address amenity concerns for adjoining residents.

It is noted that this land is currently signposted with a Council "Public Reserve" sign indicating certain activities are not permitted on the land. This signage may have misled residents as to the purpose and classification of the land.

All deposited plans for residential subdivisions (Hellyar Drive/Avalon and Cerreto Circuit Estates) adjoining the road reserve clearly state "Road Reserve 20.115m wide".

5. The proximity of existing residential buildings in adjoining Cerreto Circuit and Hellyar Drive properties to the proposed vehicular access to proposed Lot 2.

Discussion: A search of Council's records has revealed that there are several dwellings that have been constructed within 5 metres of the unformed road reserve, the closest of which is approximately 2.7m and comprises a residential unit in Cerreto Circuit. In the assessment of the development applications for the construction of these adjacent residential buildings, consideration was given to the proximity to the unformed road reserve, such being noted on the development plans.

Should consent be given, further consideration of this issue will be required, as part of the future development application for the construction of the future sporting fields and access road, in order to reasonably protect the amenity of residents and to ensure that the integrity of adjacent buildings is not compromised. It is considered that such can be reasonably achieved by utilising conventional access road design and construction techniques.

6. The future development of sporting fields on Proposed Lot 2 is inconsistent with the provisions of Chapter 15 – Wollongbar Urban Expansion Area (WUEA) of the Ballina Shire Combined (BSC) DCP and existing Council planning strategies in relation to the provision of sporting fields.

Discussion: The land subject of DA 2010/1057 does not fall within the WUEA.

Chapter 15 of the BSC DCP does provide details of open space requirements in relation to the WUEA. Section 4.15 of Chapter 15 states: "Open space requirements will generally be provided and funded by way of a shire wide Section 94 Contribution Plan. The exception is the provision of local parks". It is noted that local parks do not constitute sporting fields.

Chapter 15 also includes details of the potential development options for the 6(a) – Open Space zoned land (former "Drive-In" site). Figure 10 (refer to the **attached** plan) shows the location of six (6) netball/multi-purpose courts and court clubhouse within this area.

Section 4.9 of Chapter 15 states that: “The uses (and approximate areas therefore) that are being considered on the 6(a) zoned land are as follows:

- Residential – 1.1 ha
- Netball courts and parking – 1.0 ha
- District park – 2 ha
- Community precinct – 0.5 ha.

At this stage, no other active recreational space/sporting fields development has been planned for the former “Drive In” site.

The Ballina Shire Council Contributions Plan provides that a location for future playing fields for the “Plateau” area, is yet to be determined. However, that the provision of playing (or sporting) fields facilities will require 3.5 ha land acquisition.

The applicant has also stated that “Although the adopted Section 94 has identified the Council owned “drive-in” site in Rifle Range Road for the supply of open space, it was deemed to be unsuitable to adequately accommodate the full extent of required sports facilities for the existing and future population of Wollongbar, whilst it also had the potential to cause conflict with adjoining properties proposed to be developed as residential housing”.

It is noted that the Ballina Shire Council Contributions Plan has not designated an area of 13.83 ha of land to be acquired for future sporting fields. In this regard, it is considered that the future development of Proposed Lot 2 as sporting fields (as shown on the preliminary design plans) would likely serve the local community’s growing needs having regard for the planned future development of the area.

7. Proposed Lot 2 is not congruent with existing urban land and therefore a buffer zone will be required around the perimeter of the future sporting fields.

Discussion: It is noted that Proposed Lot 2 is surrounded by agricultural land and does not adjoin urban developed land.

A detailed assessment of the preliminary design plans for the sporting fields development has not been undertaken as part of DA 2010/1057. However, it would appear that the area, shape and configuration of Proposed Lot 2, is appropriate for its foreshadowed future use. This includes the ability to provide a suitable buffer area to adjoining land uses.

Refer to the Ballina Local Environmental Plan 1987 section of this report for further discussion.

8. Land use conflict issues between existing agricultural properties and the proposed future use of Lot 2 – future sporting fields including reduced ability to farm agricultural land (pesticide use etc.)

Discussion: The intended future sporting fields use of Proposed Lot 2 is likely to have an impact on surrounding agricultural properties (predominant activities being horticultural cultivation and grazing).

The nature of the agricultural use of surrounding properties, including various agricultural practises (e.g. pesticide use) could be impacted upon and compromised, given the introduction of urban land uses (and therefore people) into this agricultural locality. It is expected that as a consequence of the future sporting fields use, the existing agricultural practises, such as the time of the application of sprays, may need to be modified.

The preliminary design plans for the sporting fields development do depict a planted buffer around the perimeter of proposed Lot 2 in order to reduce/ameliorate future land use conflict issues. It is noted that the information lodged with DA 2010/1057 does not address land use conflict in relation to the intended future use of Proposed Lot 2 and the exact width of the planted buffer (as shown on the preliminary design plans) has not been specified.

Council's Technical Officers will require the submission of a detailed Land Use Conflict Risk Assessment (LUCRA) as part of any future DA for the intended sporting fields use with reference to any proposed buffers (including width, type and composition).

Notwithstanding the above, it is considered that the area, shape and configuration of Proposed Lot 2 is such that appropriate buffers would be able to be provided on the land to enable sufficient separation to adjacent established land uses.

Refer to the Ballina Local Environmental Plan 1987 section of this report for further discussion.

9. Council has not accommodated sufficient land in the urban areas for the future sporting fields, at the expense of landowners in the 7(i) zone.

Discussion: It is noted that there are limited 6(a) – Open Space zoned lands within the Alstonville/Wollongbar Plateau area which have not been developed. In this regard, the only site available for development is the former “Drive-In” site fronting Rifle Range Road. As stated above, the area of this site is inadequate to provide the 4.5ha of sporting fields (1ha of netball courts and 3.5ha of additional sporting fields) outlined within the Ballina Shire Council Contributions Plan.

The Ballina Shire Council Contributions Plan does state that a location for future playing fields for the “Plateau” area, is yet to be determined and that land acquisition will be required to facilitate future playing (sporting) fields development.

Refer to the Ballina Local Environmental Plan 1987 section of this report for further discussion.

10. The intended future use of proposed Lot 2 (sporting fields) contradicts the Northern Rivers Farmland Project's classification of the land as State Significant Farmland.

Discussion: The Far North Coast Regional Strategy 2006 (FNCRS) provides the NSW Government's policy for the growth and development of the Far North Coast region. The strategy has statutory weight only to the extent that consistency with the FNCRS is a requirement of a Section 117 Ministerial Direction (via the Environmental Planning and Assessment Act 1979), when local councils prepare or amend Local Environmental Plans.

The Northern Rivers Farmland Protection Project and Section 117 Direction No. 5.3 identify the subject land as State Significant Farmland. The Section 117 Direction requires that the rezoning of State Significant Farmland to permit development for infrastructure and public facilities occur only 'where no feasible alternative is available' (refer page 9 of Northern Rivers Farmland Protection Project Final Recommendations Report February 2005), and where such use would be consistent with the Far North Coast Regional Strategy.

*The Far North Coast Regional Strategy and s.117 Direction No.5.1 - the subject land is located outside of the Town and Village Growth Boundary identified in the Far North Coast Regional Strategy (FNCRS). The FNCRS states that 'Open space may be located outside the Town and Village Growth Boundary where suitable land is not available within the mapped areas. In determining where future open space may be located outside the Town and Village Growth Boundary, areas of high environmental or natural resource value must be avoided.'* Rezoning of land must be consistent with the FNCRS under the s.117 direction.

Importantly, however, the above provisions apply only where the land is subject to rezoning and do not apply to a sporting playing field land use that may be permitted with or without consent. In this regard, Council is not required to formally consider the Northern Rivers Farmland Project's classification of the land as part of the proposed development.

Notwithstanding the above, the foreshadowed future use of Proposed Lot 2 (as shown in the preliminary design plans) would result in a loss of 9.35ha of current macadamia plantations and 4.48ha of current grazing land. The overall significance of this loss of agricultural land is a matter to be addressed in the assessment of a separate development application for the sporting fields use.

11. The proposed subdivision is not able to be considered via Clause 11(5) of the BLEP (i.e. special purpose subdivision) and should be considered via subclauses 11(3) and 11(4), with no SEPP 1 required.

Discussion: The proposal is unable to be considered via Clause 11(5) as the land is not currently lawfully used for and does not have development consent for a sporting fields use.

## **Report**

The following assessments are made in relation to the corresponding heads of consideration contained in Section 79C of the Environmental Planning and Assessment Act 1979 (as amended). The following matters are considered to be pertinent to Council's determination of the application.

### **Applicable Planning Instruments**

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

The subject properties are located within the 7(i) – Environmental Protection (Urban Buffer) Zone.

The objectives of the 7(i) – Environmental Protection (Urban Buffer) Zone are:

- A. *The primary objective is to create a rural buffer in the locality of Alstonville and Wollongbar and to prevent development of an urban character within any part of the zone which is likely to be seen by existing or likely future residents of the villages of Alstonville and Wollongbar or from a major road in the locality.*
- B. *The secondary objective is to enable development as permitted by the primary and secondary objectives of Zone No. 1(a1), except for development which would conflict with the primary objective of this zone.*
- C. *The exception to these objectives is development of land within the zone for public works and services outside the parameters specified in the primary and secondary objectives.*

The proposed creation of 3 agricultural lots (Proposed Lots 1, 3 and 4), containing land which is currently utilised for agricultural purposes (grazing and macadamia plantations) is considered to be consistent with the objectives of the 7(i) zone. It is expected that there will be no real change to the current appearance and function of these allotments. It is noted that the proposal does allow for the continuation of road frontage to the unformed road reserve, through direct frontage for Proposed Lot 1 and a 10m wide access handle for Proposed Lots 3 and 4.

In relation to Proposed Lot 2, the applicant has provided details that a development application is to be lodged in the future in relation to this proposed allotment for sporting fields and associated infrastructure. Proposed Lot 2 is to be surrounded by existing agricultural land (horticultural activities and grazing land), and for the most part is unlikely to be visible to existing or future residents of the villages of Alstonville and Wollongbar. It is noted that a distant view from Rifle Range Road (major road in the locality) to the site may be achieved, with proposed Lot 2 being approximately 480m from Rifle Range Road.

The future sporting fields and associated infrastructure (to be lodged with Council as part of separate DA for Proposed Lot 2), is considered to be development of an urban, albeit open space character. As the design of the future sporting fields and associated infrastructure is yet to be finalised, only conceptual assessments are able to be made at this stage. As stated above, it is considered that the location of the proposed allotment is such that it will not be visible to existing or future residents of the villages of Alstonville and Wollongbar. Should any parts of the site be visible, screening options do exist (vegetated buffers etc.) to reduce any visual impacts of the future intended use. This is able to be canvassed as part of the future DA for Proposed Lot 2.

An assessment of the sporting fields and associated infrastructure against the objectives of the 7(i) Zone will be required as part of Council's consideration of the future DA in relation to the finalised design.

Notwithstanding the future intended use of Proposed Lot 2, as an agricultural/rural allotment, it is considered to be consistent with the objectives of the 7(i) zone. It is expected that there will be no real change to the current appearance of this allotment. It is noted that the proposal does rely on allow road frontage to the unformed road reserve for vehicular access.

The secondary objective of the 7(i) Zone relates to the primary and secondary objectives of the 1(a1) – Rural (Plateau Lands Agriculture) Zone, as reproduced below.

The objectives of the 1(a1) – Rural (Plateau Lands Agriculture) Zone are:

- A. *The primary objectives are:*
  - (a) *To regulate the subdivision and use of land within the zone to ensure that:*
    - (i) *Land actually used for purposeful agricultural production, particularly horticulture, or*
    - (ii) *Land having the potential for purposeful agricultural production, particularly horticulture, is developed in a manner to optimise its production potential, and*
  - (b) *To enable development which is ancillary to the agricultural use of land within the zone (particularly dwelling-houses, rural worker's dwellings and rural industries) where such facilities do not significantly reduce the production potential of the subject land or other land in the locality.*
- B. *The secondary objectives are to ensure that development within the zone:*
  - (a) *Maintains the rural character of the locality; and*
  - (b) *Does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.*

It is considered that Proposed Lots 1, 3 and 4 will be able to be utilised for agricultural purposes, being grazing and horticultural activities. The reduction in areas of each of the existing agricultural lots - Lot 4 DP 278242, Lot 2 DP 875050, Lot 4 DP 600108 (approx 4ha to 5ha each) is not considered to significantly impact on existing agricultural operations nor the production potential of these properties.

In terms of the rural character of the locality, no changes are envisaged in relation to Proposed Lots 1, 3 and 4. The creation of these lots is not anticipated to create unreasonable or uneconomic demands, for the provision or extension of public amenities or services.

In relation to Proposed Lot 2, this land is to be subject to a separate DA in the future for sporting fields and associated infrastructure. Should this future use not be pursued (or approved by Council as part of a future DA), the allotment does contain existing Macadamia plantations and grazing land and these agricultural operations would be able to continue. It is uncertain as to whether the production potential of this land is optimised (or able to be optimised),

given the area of Proposed Lot 2 (13.83ha) and variety of agricultural uses within the proposed allotment.

In terms of the secondary objectives of the 1(a1) Zone and Proposed Lot 2, the creation of this lot will not change the rural character of the locality or create unreasonable or uneconomic demands, for the provision or extension of public amenities or services.

However, it is clear that there is an intention for Proposed Lot 2 to be subject to a future DA for sporting fields and associated infrastructure. This type of development is not rural in character and will require the extension of public amenities and services. As the design of the future sporting fields and associated infrastructure is yet to be finalised, detailed assessments are unable to be made at this stage. However, given the close proximity of Proposed Lot 2 to existing urban developed land, the extension of water and sewage infrastructure, telephone and electricity and vehicular access to the site is not considered to place an uneconomic or unreasonable burden on the Council or developer.

The exception to the objectives for the 7(i) Zone provide for the development of land within the zone for public works and services outside the parameters specified in the primary and secondary objectives. In relation to Proposed Lot 2, the applicant has contended that the future development of sporting fields and associated infrastructure may be constituted as a public work or service, in terms of the Public Works Act 1912 and the Local Government Act 1993.

*Section 41 of the Public Works Act 1912 identifies (h) 'public parks or grounds for public recreation, or places for bathing, and for the reclamation of land for or in connection therewith' as being a public work.*

*The introduction to Chapter 6 of the Local Government Act 1993 identifies the provision of 'sporting, recreational and entertainment services and facilities' as a service function of local councils. These functions are further reinforced by Section 36F of that Act. NB: Section 36F relates to the core objectives for management of community land categorised as a sportsground.*

As previously stated within this report, the proposed development constitutes a Four Lot Subdivision and does not involve the development of proposed Lot 2. However, the intended future use of Proposed Lot 2 does encompass public recreational works and services and it is therefore considered that the exceptional objective may render the intended future use as able to be considered by Council. These matters will need to be carefully considered as part of any future DA for sporting fields and associated infrastructure upon Proposed Lot 2.

Clauses 11 and 12 of the BLEP are applicable in the assessment of the proposal.

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

(1) The council shall not consent to the subdivision of:



- (a) *Land within Zone No. 1(a1), 1(a2), 1(d), 1(e), 7(a), 7(c), 7(d1), 7(f), 7(i) or 7(l) – except in accordance with this clause, or*
  - (b) *Land within Zone No. 1(b) or 7(d) – except in accordance with this clause or Clause 13.*
- (2) *Except as provided by subclause (3), the council may consent to the subdivision of land referred to in subclause (1) only where the area of each allotment to be created by the subdivision is not less than:*
  - (a) *In the case of land within Zone No. 1(a1) or 7(i) – 20 hectares; and*
  - (b) *In the case of land within Zone No. 1(a2), 1(b), 1(d), 1(e), 7(a), 7(c), 7(d), 7(d1), 7(f) or 7(l) – 40 hectares.*

Discussion: Proposed Lots 1 and 3 are to have areas of 27.41ha and 20.41ha respectively and therefore comply with Subclause 11(2).

Proposed Lots 2 and 4 are to have areas of 13.83ha and 17.17ha respectively and therefore do not comply with Subclause 11(2). However these two proposed lots may be considered via Subclauses 11(3) and (4).

- (3) *The Council may consent to the subdivision of land referred to in subclause 2(a) where the area of each allotment to be created by the subdivision is not less than 13 hectares.*
- (4) *In deciding whether to grant consent under subclause (3), the council shall consider:*
  - (a) *The area and quality of land and its potential agricultural productivity,*
  - (b) *The likely effects, both economic or otherwise, that the proposed subdivision will have on agricultural industries in the area and the resources employed by or in connection with those industries,*
  - (c) *The likely effects both economic or otherwise, that the proposed subdivision will have on the use and development of other land and resources in the area,*
  - (d) *Whether there are any reasonable alternatives to the proposed subdivision in the circumstances,*
  - (e) *The effect of the existence of, or potential to erect, a dwelling,*
  - (f) *The cumulative effect of similar proposals if consent is granted, and*
  - (g) *The likelihood of the proposed allotments remaining available for agricultural use.*
  - (h) *The adequacy of the water supply to the proposed allotments.*

Discussion:

- Proposed Lot 4

This allotment is to have an area of 17.17ha and current macadamia cultivation activities will be able to be continued on the land. The productivity of Proposed Lot 4 may be reduced as result of it's decreased area, given 5.41ha of land is to be transferred to Proposed Lot 2, and this portion of the land contains one-quarter of the existing macadamia trees on the property.

As a stand-alone farm, it is expected that a reasonable income can still be generated. The applicant has advised that a total of 4,000 Macadamia trees will remain within Proposed Lot 4, which has an expected yield of 60 Tonnes of nuts per year. Notwithstanding this, it is noted that the macadamia plantation within proposed Lot 4 is currently farmed with land to be contained within Proposed Lot 3 (as one entity).

It is not considered that the reduction in area of the land (resulting in Proposed Lot 4) would have a significant impact on:

- the agricultural industries in the area (mainly horticultural);
- the resources employed by or in connection with the existing horticultural industries;
- the use and development of surrounding land and resources in this locality.

The applicant has indicated that alternative sites were considered as part of an investigation for a site for future sporting fields. Details of the locations of the alternative sites have not been provided by the applicant.

The applicant has indicated that the area of Proposed Lot 2 is required in order to facilitate the current design and facilities within the future sporting fields development and to meet the planned population needs for the Wollongbar and Alstonville communities. In this regard, the ability to increase the area of Proposed Lot 4 appears to be limited.

Existing Lot 4 DP 600108 enjoys a dwelling entitlement. The proposed subdivision seeks to retain this entitlement, with the erection of any future dwelling more likely in the southern portion of the land, than the area of land to be transferred into proposed Lot 2.

There are a range of existing allotments in the 7(i) zone within this locality that are between 12.5ha and 20ha which contain macadamia plantations. The area of Proposed Lot 4 is well within this range. In this regard, there is not expected to be a negative cumulative effect.

It is expected that the agricultural use of Proposed Lot 4 will continue and that it will be able to be utilised for purposeful macadamia cultivation.

Water supply is to continue as per the existing arrangement, via a creek traversing the southern portion of the property. A rainwater tank will be provided as part of the development of any future dwelling on the land.

- Proposed Lot 2

This allotment is to have an area of 13.83ha, comprising 9.35ha of macadamia trees and 4.48ha of grazing land. The productivity of this proposed allotment, given current land uses and the proposed land area, would not normally be considered as self-sustaining. This may have an impact on existing agricultural industries in the area. Should an agricultural use be pursued for Proposed Lot 2, it is considered that this use would not necessarily have a negative impact on the use and development of surrounding land and resources in this locality.

However, the intended future use of the proposed allotment is for sporting fields and associated infrastructure. It is noted that DA 2010/1057 does not seek development consent for these works and therefore only conceptual assessments can and need to be made in relation to the intended future use of Proposed Lot 2.

The intended future sporting fields use of Proposed Lot 2 is likely to have an impact on surrounding agricultural properties (predominant activities being horticultural cultivation and grazing).

The nature of the agricultural use of surrounding properties, including various agricultural practises (e.g. pesticide use) could be impacted upon and compromised, given the introduction of urban land uses (and therefore people) into this agricultural locality. It is expected that as a consequence of the future sporting fields use, the existing agricultural practises, such as the time of the application of sprays, may need to be modified.

Impacts from the future intended use upon surrounding properties (including agricultural and residential uses) are likely to include noise and potential for light spill from flood lighting (the closest dwelling houses are approximately 60m from the northern boundary and 210m from the eastern boundary of proposed Lot 2). It is also expected that there will be construction impacts upon surrounding properties.

The preliminary design plans for the sporting fields development do depict a planted buffer around the perimeter of proposed Lot 2 in order to reduce/ameliorate future land use conflict issues. It is noted that the information lodged with DA 2010/1057 does not address land use conflict in relation to the intended future use of Proposed Lot 2 and the exact width of the planted buffer (as shown on the preliminary design plans) has not been specified.

Council's Technical Officers will require the submission of a detailed Land Use Conflict Risk Assessment (LUCRA) as part of any future DA for the intended sporting fields use with reference to any proposed buffers (including width, type and composition). Consideration should also be given to the potential maintenance issues for Council in requiring a vegetated buffer as shown on the preliminary design plans, given the topography of the land and unintended impacts on surrounding agricultural properties (potential harbourage for pests etc).

Notwithstanding the above, it is considered that the area, shape and configuration of Proposed Lot 2 is such that appropriate buffers would be able to be provided on the land to enable sufficient separation to adjacent established land uses.

In terms of alternatives to the proposal, the applicant has indicated that eight (8) other sites were investigated. However, issues such as access, size, topography, aspect, acquisition and development costs have precluded all of those sites. Council's Regulatory Services Group has not been provided with any further details in relation to the alternative sites.

The approval of the proposed development will result in the creation of an additional potential dwelling, being attributed to Proposed Lot 2, despite the application clearly identifying that the intention is not to do so. An evaluation of an appropriate building envelope has not been undertaken by Council's Technical Officers, nor has one been required of the applicant.

There are a range of existing allotments in the 7(i) zone within this locality that are between 2ha and 14ha which contain a mixture of agricultural uses (hobby farms, horticulture and grazing). Proposed Lot 2 is well within this range. There are two "urban type developments" currently located within the village's urban buffer, being the Lyle Park Rugby Ground [which is zoned 7(i)] and the Alstonville Adventist Retirement Village [which is zoned 2(a) – Living Area]. It is not expected that a sporting fields development would result in an increase in incompatible urban developments within the 7(i) zone. In this regard, there is not expected to be a negative cumulative effect.

The area of Proposed Lot 2 is such that it is able to remain available for agricultural use. However, it is known that the intended future use of the proposed allotment is for sporting fields and associated infrastructure.

Water supply can be provided to the allotment as part of any future development application.

- (5) *Where land within Zone No. 1(a1), 1(a2), 1(b), 1(d), 1(e), 7(a), 7(c), 7(d), 7(d1), 7(f), 7(i) or 7(l):*
- (a) *Is lawfully used for a purpose other than a dwelling-house, bed and breakfast establishment or agriculture, or*
  - (b) *May lawfully be used for a purpose other than a dwelling-house, bed and breakfast establishment or agriculture by reason of a development consent in respect of that use,*  
*the council may consent to the excision of that land for that purpose.*

Discussion: The proposal is unable to be considered via Clause 11(5) as the land is not currently lawfully used for and does not have development consent for a sporting fields use.

**12 Dwelling-houses within Zone No 1 (a1), 1 (a2), 1 (b), 1 (d), 1 (e), 7 (a), 7 (c), 7 (d), 7 (d1), 7 (f), 7 (i) or 7 (l)**

- (1) *This clause applies to land within Zone No 1 (a1), 1 (a2), 1 (b), 1 (d), 1 (e), 7 (a), 7 (c), 7 (d), 7 (d1), 7 (f), 7 (i) or 7 (l).*
- (1A) *For the purpose of this clause, a reference to a dwelling-house includes a reference to a dwelling-house operated as a bed and breakfast establishment.*
- (2) *The Council shall not consent to the erection of a dwelling-house on land to which this clause applies except in accordance with this clause.*
- (3) *A dwelling-house may, with the consent of the council, be erected on vacant land to which this clause applies only where that land:*
  - (a) *has an area of not less than:*

- (i) *in the case of land within Zone No 1 (a1) or 7 (i)—20 hectares,*
  - (ii) *in the case of land within Zone No 1 (a2), 1 (b), 1 (d), 1 (e), 7 (a), 7 (c), 7 (d), 7 (d1), 7 (f) or 7 (l)—40 hectares,*
- (b) is an existing holding,*
- (c) is an allotment created by subdivision to which development consent has been granted in accordance with clause 11,*
- (d) is an allotment created by a subdivision to which development consent has been granted in accordance with clause 13 as in force when consent for the subdivision was granted but before the gazettal of Ballina Local Environmental Plan 1987 (Amendment No 36), or*
- (e) is an allotment created by a subdivision to which development consent, or approval, was granted by the Council in accordance with the provisions of Interim Development Order No 1—Municipality of Ballina or Interim Development Order No 1—Shire of Tintenbar before the appointed day, not being development consent, or approval, that was granted subject to a condition that a dwelling could not be erected on the allotment.*
- (f) (Repealed)*
- (3A) (Repealed)*
- (3B) The council may consent to the erection of a dwelling-house on vacant land to which this clause applies that would have complied with subclause (3) but for the fact that part of the land has been acquired by a public authority for a public purpose.*
- (4) A rural workers' dwelling may, with the consent of the council, be erected on an allotment of land, being an allotment having an area of not less than:*
  - (a) in the case of land within Zone No 1 (a1) or 7 (i)—10 hectares for the first rural workers' dwelling and 30 hectares for each subsequent rural workers' dwelling, and*
  - (b) in the case of land within Zone No 1 (a2), 1 (b), 1 (d), 7 (a), 7 (c), 7 (d), 7 (d1), 7 (f) or 7 (l)—20 hectares for the first rural workers' dwelling and 60 hectares for each subsequent rural workers' dwelling,**if the council is satisfied that:*
  - (c) the erection of each such additional dwelling will not impair the suitability of the land for agriculture,*
  - (d) the needs of existing agriculture genuinely require that rural workers reside on the land, and*
  - (e) any other rural workers' dwellings on the holding are being used by persons substantially engaged in agricultural employment on that land.*
- (5) (Repealed)*

All proposed allotments will enjoy a dwelling entitlement in accordance with Clause 12. Proposed Lots 1 and 3 will enjoy an entitlement via subclause 12(3)(a) and Proposed Lots 2 and 4 will enjoy an entitlement via subclause 12(3)(c).

## **Ballina Shire Combined Development Control Plan**

### ***Chapter 18 – Rural Land***

The following sections of Chapter 18 are relevant in the assessment of the proposed development.

#### ***Section 3.1 – Rural Land Use Conflict***

As previously stated within this report, the proposed development only involves the subdivision of land. However, the SEE accompanying the DA does identify that the intended future use of Proposed Lot 2 will be for sporting fields and associated infrastructure. In this regard, a full and proper assessment of rural land use conflict with respect to the future sporting fields and surrounding land cannot be undertaken as part of DA 2010/1057. However, it is appropriate to highlight issues that will require consideration in the design of the future sporting fields development and the assessment of any development application lodged for such.

Section 3.1 does not specify a minimum buffer distance for a sporting fields/urban development use from the surrounding horticultural or grazing operations in the locality. In the absence of a specified buffer and the likelihood of the future sporting fields having an impact upon surrounding land, a Land Use Conflict Risk Assessment will be required to be prepared as part of the future development application.

It is also noted that the NSW DPI “Living and Working in Rural Areas” handbook provides the following minimum buffers for primary industries from urban development:

- Grazing of Stock – to be a minimum of 50 metres from urban development; and
- Sugar Cane, Cropping and Horticulture (macadamia plantations) – to be a minimum of 300m from urban development.

The buffer distances specified in the NSW DPI handbook are separation distances in accordance with conflict avoidance strategy, rather than biological or vegetated buffers.

The preliminary design plans for the sporting fields development do depict a planted buffer around the perimeter of proposed Lot 2. It is noted that the information lodged with DA 2010/1057 does not address land use conflict in relation to the intended future use of Proposed Lot 2 and the exact width of the planted buffer (as shown on the preliminary design plans) has not been specified.

Council’s Technical Officers will require the submission of a detailed Land Use Conflict Risk Assessment (LUCRA) as part of any future DA for the intended sporting fields use with reference to any proposed buffers (including width, type and composition).

Notwithstanding the above, it is considered that the area, shape and configuration of Proposed Lot 2 is such that appropriate buffers would be able to be provided on the land to enable sufficient separation to adjacent established land uses.

*Section 3.3 – Environment and Ecologically Sensitive Areas*

The proposed subdivision does not involve the removal of any vegetation from the land. The specific impacts of the construction of the future sporting fields and associated infrastructure upon existing vegetation on the land will be required to be addressed as part of the future DA for Proposed Lot 2.

It is noted that the applicant has engaged an environmental consultant (Blackwood Ecological Services) to address these issues, with a report being provided as an attachment to the SEE for DA 2010/1057. The report does identify what vegetation will be required to be removed in accordance with the preliminary design plans for the future sporting fields. As the design of the future sporting fields has not been finalised, a detailed assessment of this report and the proposed vegetation removal has not been undertaken as part of DA 2010/1057. Council's Environmental Scientist is able to review this report and liaise with the applicant and Blackwood Ecological Services regarding the proposed vegetation removal in relation to design (when finalised) of the sporting fields development.

*Section 3.5 – Potentially Contaminated Land*

A Contaminated Land Assessment has been prepared by EAL Consulting Service in relation to the construction of the future sporting fields and associated infrastructure upon Proposed Lot 2. As previously stated, DA 2010/1057 does not involve these works. At this stage, the assessment should only relate to the creation of the four proposed allotments.

Council's Senior Environmental Health Officer has undertaken an assessment of the Contaminated Land Assessment and has advised of the following.

"The allotments under investigation for the proposed subdivision are currently used for agricultural purposes including macadamia plantation and stock grazing. A systematic sampling regime has been undertaken of surface soils within the investigation area to determine if contaminants associated with the current, previous and surrounding land uses were present on site and if such contaminants represented a significant risk of harm to end users.

The sampling regime involved the collection of 157 individual soil samples which were homogenised into 40 composite samples for analysis of metals and pesticides concentrates. The results of soil analysis were compared with column 3 (Human – Based Investigations Levels (HBIL) for developments being parks, recreational open space, playing fields including secondary school) of the NSW DEC (2006) 'Contaminated Sites – Guidelines for the NSW Site Auditor Scheme'.

The soil analysis confirmed no significant metal or pesticide contamination of soils within the investigation area. Sampling Point SP 36, however, did record a lead level of 729.6mg/kg, which is above the acceptable level of 600 for the category. The assessment prepared by EAL Consulting Service indicates that this level is uncharacteristic of the site and not considered a threat when the 95% upper confidence limits are applied to the site.

Endosulfan II and endosulfan sulphates were detected in composite samples 15-28, 33 and 35-40. However, these pollutants were detected in very low levels and are not considered a significant risk to end users.

EAL Consulting Service has concluded that 'based on the findings of this preliminary investigation, the site is not considered to represent a significant risk of harm to end users of the proposed recreational facility at the site'.

In terms of the development proposed within DA 2010/1057 (four lot subdivision), the preliminary investigation is considered to be satisfactory.

However, given the future intended use of Proposed Lot 2 as sporting fields, it is considered that the 95% upper confidence limits for the elevated lead levels has not been demonstrated to Council as part of the preliminary investigation. In this regard, it will be required that a further detailed contamination investigation as part of a development application for future sporting fields and associated infrastructure be prepared for the 'hot spot' area surrounding SP36, containing elevated lead levels."

#### *Section 3.7 – Land Slip/Geotechnical Hazard*

The proposed development does not involve any physical works. The applicant has submitted a Geotechnical Assessment prepared by Coffey Geotechnics in relation to the future intended use of Proposed Lot 2 (and the preliminary design plans for the sporting fields and associated infrastructure). This report indicates that, conceptually, the construction of a sporting fields development can be readily managed by utilising conventional engineering techniques. A specific assessment of this report will be required as part of the future DA for the sporting fields and associated infrastructure development.

#### *Section 3.14 – Roads, Vehicular Access and Parking*

The proposed development does not involve any physical works or the provision of any newly constructed vehicular access to Proposed Lots 1, 2, 3 or 4. Council's Civil Services Group have commented that this arrangement is accepted, given that all proposed lots will enjoy legal road frontage. Also, the future intended use of Proposed Lot 2 (being sporting fields) will require a newly constructed access road, which will be subject to a rigorous assessment, which has not been undertaken as part of DA 2010/1057.

The applicant has submitted an Engineering Services Report in relation to the future intended use of Proposed Lot 2 (and the preliminary design plans for the sporting fields and associated infrastructure). A detailed assessment of this report will be required as part of the future DA for the sporting fields and associated infrastructure development.

However, it is considered that there are components of this report that require comment in relation to the capacity of the unformed road reserve and it's intersection with Ramses Street to serve and accommodate vehicular access to the future sporting fields. This is discussed in the "Traffic, Noise and Vehicular Access" section of this report.



*Section 4.2 – Rural Subdivision*

4.2.3 Development Controls

- i. All subdivision applications (including boundary adjustment subdivisions) should demonstrate that the relevant zone objectives set out in the Ballina LEP will be achieved.

Discussion: Refer to the Ballina Local Environmental Plan 1987 section of this report.

- ii. Subdivision of land must not result in a diminution of the agricultural production potential of the land the subject of the application or land nearby.

Discussion: It is considered that Proposed Lots 1, 3 and 4 will be able to be utilised for agricultural purposes, being grazing and horticultural activities. The reduction in areas of each of the existing agricultural lots - Lot 4 DP 278242, Lot 2 DP 875050, Lot 4 DP 600108 (approx 4ha to 5ha each to be transferred into Proposed Lot 2) is not considered to significantly impact on existing agricultural operations or production potential of these properties.

In relation to Proposed Lot 2, this land is to be subject to a separate DA in the future for sporting fields and associated infrastructure. Should this future use not be pursued (or approved by Council as part of a future DA), the allotment does contain existing Macadamia plantations and grazing land and these agricultural operations would be able to continue. It is uncertain as to whether this allotment is able to be self-sustaining, given the area of Proposed Lot 2 (13.83ha) and variety of agricultural uses within the proposed allotment.

- iii. Subdivision which achieves or promotes farm build-up is generally supported, but not so as to provide an ability for additional allotments, or dwellings to be created in the future.

Discussion: The proposed development does not seek to provide farm build-up. It is noted that an additional allotment will be created as a result of the subdivision, which will enjoy a dwelling entitlement.

- iv. Subdivision design must not create a situation where the relative position of existing or proposed improvements and rural activities on the new lots is likely to result in land use conflict.

Discussion: In relation to the proposed subdivision, it is considered that the design does not lend itself to the creation of land use conflicts, should the land continue to be used for agricultural activities. However, there is a future intention to develop Proposed Lot 2 for sporting fields and associated infrastructure and there is potential for land use conflicts to

occur between the future intended use and agricultural activities.

The preliminary design plans for the sporting fields development do depict a planted buffer around the perimeter of proposed Lot 2. It is noted that the information lodged with DA 2010/1057 does not address land use conflict in relation to the intended future use of Proposed Lot 2 and the exact width of the planted buffer (as shown on the preliminary design plans) has not been specified.

Council's Technical Officers will require the submission of a detailed Land Use Conflict Risk Assessment (LUCRA) as part of any future DA for the intended sporting fields use with reference to any proposed buffers (including width, type and composition).

Notwithstanding the above, it is considered that the area, shape and configuration of Proposed Lot 2 is such that appropriate buffers would be able to be provided on the land to enable sufficient separation to adjacent established land uses.

- v. The size and shape of the proposed new allotments and their setting must be suited to their intended use.

Discussion: It is considered that area and shape of Proposed Lots 1, 3 and 4 will enable the continuation of agricultural uses on the land.

In relation to Proposed Lot 2, the applicant has indicated that the area and shape of the allotment has been designed to facilitate the future intended sporting fields use of the allotment. Should this use not be pursued, then the land will be able to continue to be utilised for agricultural uses.

- vi. Vehicular access to and within the proposed allotments must be adequate having regard for the intended use of the land. The creation of allotments solely dependent on rights of carriageway for access provision is strongly discouraged.

Discussion: Council's Civil Services Group have advised that the legal road frontage for all proposed lots is considered acceptable, given the proposal does not involve any physical works or the provision of any newly constructed vehicular access to Proposed Lots 1, 2, 3 or 4.

The future intended use of Proposed Lot 2 (being sporting fields) will require a newly constructed access road, which will be subject to a development specific assessment, which has not been undertaken as part of DA 2010/1057.

- vii. Effluent disposal, domestic waste management services and power and telecommunication facilities must be available to each new allotment.

Discussion: No new effluent disposal systems are required as part of the proposed subdivision. A development application for any future dwelling house on Proposed Lot 4 will need to address this requirement however.

As the intended future use of Proposed Lot 2 is for sporting fields, it is expected that the DA lodged for this development will address this effluent disposal. Alternatively, should the sporting fields use not be pursued, then a development application for any future dwelling house on Proposed Lot 2 will need to address this requirement.

Proposed Lots 1 and 3 have existing dwelling houses and are serviced by On-Site Sewage Management Systems.

All allotments are capable of being serviced by domestic waste management services.

Should Council grant consent to DA 2010/1057, a condition is able to be applied to the determination notice such that certification be provided to Council specifying that electricity and telephone services are able to be provided to each lot to the satisfaction of the relevant authorities.

- viii. Applications for subdivision should provide an assessment of the need for harvesting and storage of surface or groundwater for use on the allotments.

Discussion: No additional water licenses or sources are required as a result of the proposed development. All proposed lots will continue to access the existing water infrastructure, with associated easements.

### **Traffic, Noise and Vehicular Access**

The discussion provided in this section of the report relates only to the proposed legal road frontage for Proposed Lot 2 and the adequacy and capability of the unformed road reserve to contain any future road and associated infrastructure to service the nominated future use of Proposed Lot 2 (sporting fields development).

The unformed road reserve at the rear of residential properties facing Hellyar Drive and Cerreto Circuit has a width of 20.115m. Council's Civil Services Group have advised that "a 20m wide reserve is large enough to cater for any infill development. Any future development applications for Proposed Lot 2 shall have to design accordingly for the 20m road reserve."

It is noted that within the 20.115m wide road reserve, the applicant has foreshadowed the future construction of vehicular access to the future sporting fields development. The applicant has provided some preliminary design plans of the vehicular access within the unformed road reserve, with two possible options currently being considered.

Generally, both options involve:

- A road pavement width of 6 metres (2 x 3 metre lanes) to enable two-way traffic. The proposed access is to be classified as an access road and would be built to comply with the Northern Rivers Local Government Development Design Specifications D1 'Geometric Road Design (Urban and Rural)' and D2 'Pavement Design'.
- A 2m wide shared cycleway to link the future sporting fields to Ramses Street and the Lyle Park Rugby Grounds to Austroads Standards.

Option 1 involves constructing the vertical alignment of the road at a lower level than the current natural surface so as to provide opportunities to implement noise attenuation treatments (i.e. small walls or mounds) adjacent to the road. Within Option 1 acoustic attenuation could be provided as follows:

- Option A - a 1.0m high barrier/earth mound located directly at the top of the roadside cut (overall 2m high above road level);
- Option B – a 1.5m high barrier above ground (i.e. 0.5m high earth mound and a 1m high fence) setback approx. 8m from the centre of the road (approx. 2.5m high above road level).

Such barriers would need to be constructed free of holes and gaps and typical materials would include earth berms, 19mm lapped timber fence (40% overlap), 6mm FC sheet, masonry, or a combination of these materials.

Traffic speeds along the proposed access road would also be restricted to 40km/hr.

Option 2 involves constructing the vertical alignment of the road at grade with acoustic measures provided through the erection of fencing on the common boundary of the adjoining residential properties. The acoustic fencing is proposed to height of 1.8m and would be required to be constructed free of holes and gaps. Typical materials would include 19mm lapped timber fence (40% overlap), 6mm FC sheet, or masonry. Within Option 2 details have been provided as to the potential for gates to be installed within the acoustic fence for each residential property, thereby permitting rear access to each allotment. Refer to the **attached** sketch of the gate.

Whilst it is not the role of this report to assess either Option 1 or Option 2 as part of DA 2010/1057, the applicant has sought feedback from Council as to their preference for an option in designing the future sporting fields and proposed access thereto. This is a matter for Council, as the applicant, to make judgement upon.

Council's Senior Environmental Health Officer has provided the following comments in relation to above options and the submitted Environmental Noise Impact Report prepared by CRG Traffic and Acoustical Consultants.

“As part of DA 2010/1057, two (2) Environmental Noise Impact Reports (ENIR) (dated 7 December 2010 and 17 February 2011 respectively) have been submitted regarding the proposed future use of Proposed Lot 2 as sporting fields. A true and proper technical assessment of noise impacts of the proposed future sporting fields is unable to be conducted at this time, as the design of the road and sporting fields has not been finalised nor submitted to Council as part of this development application.

The ENIR's however, do acknowledge that a road reserve exists, servicing Proposed Lot 2 and that a road access can be provided via this road reserve to the future proposed sporting fields.

As part of the ENIR's predictions regarding noise emissions from traffic generated on the proposed future access road to the sporting fields has been provided.

The predicted traffic noise impacts from the proposed access road are 5dB above the criterion level of 55dB(A) and hence acoustic treatments should be investigated. To achieve a 5dB reduction of traffic noise along the future proposed access road, the construction of acoustic barriers along both sides of the road would be required, as well as limiting the vehicle speed along the access road to 40km/hr. The barriers, to achieve this reduction in noise to the acceptable level, would be required to be constructed free of openings, gaps and holes and to a height of 1.8m above finished or natural ground level, whichever is higher. The design of the proposed access road has not yet been finalised and therefore the barrier height may be required to be higher or lower depending on the final design of the road.

In the ENIR (dated 17 February 2011), consideration has also been given to providing rear access to those residential properties adjacent to the unformed road reserve. However, the ENIR (dated 17 February 2011) states that in order to achieve the reduction in road traffic noise to within the acceptable criterion, the barrier will be required to be constructed free of openings, gaps and holes. It is considered that this would also include being constructed free of gates.

The ENIR (dated 17 February 2011) has provided specifications for the inclusion of solid gates for access by the adjacent residential properties. However, this option would require ongoing maintenance and management.

The option of providing gates in the acoustic barrier is not recommended as the traffic noise cannot be adequately managed to ensure that the acceptable noise level is achieved. In order for this option to be successful, the gates would need to be shut every time the sporting fields are in use. There is a high likelihood for this to generate policing and enforcement issues, to ensure all gates are closed at these times. This would be at an obvious resourcing cost to Council. Also, should the gates be left open on a particular property, there is a potential for noise impacts to occur on adjoining residential properties. This may result in neighbourhood disputes.

These issues are an important consideration for Council's Commercial Services Unit in their design of the proposed vehicular access to the future sporting fields and preparation of future development application.

In relation to the intersection of the unformed road reserve to Ramses Street, Council's Civil Services Group have advised the following in relation to the intersection.

"The location of the access point on Ramses Street is approximately 41m from Hellyar Drive. Calculating travel times for a vehicle travelling at 50km/hr, a common approach is to avoid driving hazards no closer than three seconds of vehicle travel time. The distance travelled by a vehicle in Ramses Street over the three seconds is approximately 42m. Therefore, the location of the Ramses Street/ unformed road reserve intersection is not considered to pose a traffic hazard as it is within the safe stopping distance requirements for a driver to see a hazard, react and stop.

An analysis of the future Ramses Street/unformed road reserve intersection treatment for the future sporting fields development has not been undertaken, as these works do not form part of DA 2010/1057. However, it is considered that there is capacity for the existing road network to service the future sporting fields development, with modifications where necessary."

An issue has been raised in the submission letters in relation to alternatives for vehicular access to Proposed Lot 2 and its intended future sporting fields use. The Engineering Services Report prepared by the applicant has canvassed four (4) options for access to this proposed allotment, as provided below.

- *Option 1 – Utilise Existing Unformed Road Reserve From Ramses Street*  
This alignment enables a direct connection to a local collector road, has limited vegetation within the corridor and can comply with conventional road geometric design parameters. The intersection form with Ramses Street would be that of an urban 50kph configuration.
- *Option 2 – Utilise Cerreto Circuit and Access Over Portion of Lyle Park Rugby Ground and Utilise Existing Unformed Road Reserve*  
This alignment option requires traffic to perform a 'non' direct series of turning movements including traversing through two intersections (i.e. new driveway connection to Cerreto Circuit and the Cerreto Circuit loop intersection) before connecting to a local collector road at Ramses Street. The function of Cerreto Circuit is that of a residential street whereby on-street parking is facilitated, thereby additional traffic would impact upon the level of access to residents and the Wollongbar sports field users alike. This access alignment is therefore less desirable than Option 1.
- *Option 3 – Provide a New Connection To Rifle Range Road*  
Aside from addressing the issues of land acquisition, Rifle Range Road is classified as a rural sub-arterial road (Source: Ballina Strategic Road Network Study 2007) whereby limited controlled access points are sought, as the primary focus is the movement of traffic and heavy vehicles rather than the provision of local driveways and is therefore undesirable.

- *Option 4 – Utilise Existing Unformed Road Reserve From Peaces Creek Road*

The intersection form that would be required with Peaces Creek Road would be significant (i.e. creation of additional turning lanes and tapers) to enable compliance with the rural speed zoning of the area (i.e. 100kph). This alignment also has severe slopes with natural gradients occurring in the range of 15% to 20% in parts, which exceeds preferred geometric design parameters of 16% and is therefore undesirable.

It is noted that an assessment of a potential access via Frank Street and the Bruxner Highway has not been provided by the applicant. It is envisaged that similar issues would be raised in relation to a potential access via Rifle Range Road.

Council's Civil Services Group have not made any comments contrary to the above.

### **Conclusion**

The proposed creation of three (3) x agricultural lots (Proposed Lots 1, 3 and 4) is considered to be consistent with the Ballina Local Environmental Plan 1987, Ballina Shire Combined DCP and relevant applicable State Planning Policies. It is expected that there will be no real change to the current appearance and function of this agricultural land as a result of the proposed development.

In relation to Proposed Lot 2, the applicant has provided details that a development application is to be lodged in the future in relation to this proposed allotment for sporting fields and associated infrastructure. It is clearly stated by the applicant that these works do not form part of DA 2010/1057. In this regard, a full and proper assessment of the future sporting fields, associated infrastructure and vehicular access thereto has not been and is not required to be undertaken by Council's Regulatory Services Group for DA 2010/1057.

However, in the consideration and determination of DA 2010/1057, Council will need to be confident that the impacts upon surrounding land (including agricultural and residential uses) as referred to in this report are able to be reasonably overcome as part of the design of the future sporting fields and vehicular access thereto. This may result in the currently preliminary design plans being amended.

Proposed Lot 2 is surrounded by existing agricultural land (horticultural activities and grazing land) and the future sporting fields and associated infrastructure use is considered to be development of an urban character. It is considered that the intended future sporting fields use of Proposed Lot 2 is likely to have an impact on surrounding agricultural properties. The nature of the agricultural use of surrounding properties could be impacted upon and compromised, given the introduction of urban land uses (and therefore people) into this agricultural locality.

Impacts from the future intended use upon surrounding properties (including agricultural and residential uses) are likely to include noise and potential for light spill from flood lighting. It is also expected that there will be construction impacts upon surrounding properties.

It is noted that the preliminary design plans for the sporting fields development do include some ameliorative measures to “protect” both the intended future sporting fields use and the existing surrounding agricultural land uses. The adequacy of these measures has not been assessed in detail as part of DA 2010/1057.

Should the intended future sporting fields use not be pursued (or approved by Council as part of a future DA), the allotment does contain existing Macadamia plantations and grazing land and these agricultural operations would be able to continue on Proposed Lot 2. It is uncertain as to whether the production potential of this land is optimised (or able to be optimised), given the area of Proposed Lot 2 (13.83ha) and variety of agricultural uses within the proposed allotment.

The unformed road reserve at the rear of residential properties facing Hellyar Drive and Cerreto Circuit has been determined to have sufficient width (20.115m) to accommodate and cater for a future vehicular access to the intended sporting fields use. The required treatment to the Ramses Street/unformed road reserve intersection for the future vehicular access is also able to be reasonably accommodated.

As stated within the report, acoustic measures will be required along the future vehicular access road servicing the future sporting fields development upon Proposed Lot 2. It is considered that the option of providing gates in the acoustic barrier is undesirable from a regulatory view point, given the potential for neighbourhood disputes, noise impacts and resultant policing, enforcement and resourcing costs to Council. These issues need to be carefully considered as part of the design process for the vehicular access to the future sporting fields development.

On the basis of the preliminary information provided in the SEE for DA 2010/1057 in relation to the intended future use of Proposed Lot 2, it is considered that a sporting fields development would be able to be reasonably accommodated on the land. The abovementioned issues will need to be addressed as part of the finalised design of the sporting fields development and carefully considered by Council in its assessment of any future DA.

On the basis of the proposal before Council, being a four lot subdivision, it is considered that the merits of the application are such that they are worthy of Council's support. In this regard, the application is recommended for approval, subject to the imposition of conditions of consent.



## **RECOMMENDATIONS**

That Council **APPROVE** DA 2010/1057 [for a Four (4) Lot Subdivision by way of a Boundary Adjustment to Create 1 x 27.41ha allotment (Proposed Lot 1), 1 x 13.83ha allotment (Proposed Lot 2), 1 x 20.41ha allotment (Proposed Lot 3) and 1 x 17.17ha allotment (Proposed Lot 4)] at Lot 2 DP 875030 and Lot 4 DP 600108, Frank Street, Alstonville and Lot 4 DP 578242, No. 184 Rifle Range Road, Alstonville subject to the normal conditions for such a development in this locality.

## **Attachment(s)**

1. Locality Plan
2. Site Plan
3. Subdivision Plan
4. Aerial View of Proposed Subdivision
5. Preliminary Design Plans of Future Sports Fields (x 3)
6. DCP Plan (Chapter 15) - Figure 10
7. Acoustical Barrier Gate (Sketch 2)
8. Submissions

**8.4 Development Applications - Work in Progress - March 2011**

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2006/242	20/10/2005	Ardill Payne & Partners	Site Filling - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2008/578	6/2/2008	A Koellner	Erection of a Shed for Steel Fabrication - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2010/9	06/07/2009	Ballina Shire Council	Environmental Protection Works to the Chickiba Wetlands and Establishment of a Bush Fire Asset Protection Zone - Lot 207 DP 851318 Angels Beach Drive, Lot 114 DP 733248 Tuckeroo Drive, Angels Beach Road Reserve, Lot 406 DP 755684 The Coast Road, Lot 521 DP 729429 The Coast Road, Lot 222 DP 755684 Links Avenue, Lot 3 DP 580146 Jameson Avenue, Lot 2 DP 775614 Jameson Avenue; East Ballina	Determination Pending
2010/182	2/10/2009	SJ Connelly CCP Pty Ltd	Proposed Two Lot Residential Subdivision - No. 9 McLeans Street, Skennars Head	Awaiting Additional Information
2010/211	13/10/2009	Ardill Payne & Partners	Subdivision by way of Boundary Adjustment Subdivision – Sneaths Road, Wollongbar	Awaiting Additional Information.
2010/216	13/10/2009	Paul R Gray	Erection of a	Being

DA No.	Date Rec'd	Applicant	Proposal	Status
		Architect Pty Ltd	Retail Complex and associated Carparking – Pacific Highway, West Ballina	Assessed
2010/278	6/11/2009	Ardill Payne & Partners	To Establish a dwelling/house site – No. 263 Sneesbys Lane, East Wardell	Awaiting Additional Information
2010/453	04/02/2010	Riordans Consulting Surveyors Pty Ltd	83 Lot Staged Residential Subdivision, 2 Public Reserve Lots, Construction of Roads, Associated Subdivision Works & Services – No. 57-59 Rifle Range Road, Wollongbar	Awaiting Additional Information
2010/506	10/03/2010	A Rich	Two Lot Torrens Title Subdivision and Minor Vegetation works – No. 543 The Coast Road, Lennox Head	Determination Pending
2010/628	17/05/2010	Ardill Payne & Partners	Use of premises for Bulky Goods Retail and Wholesale Showroom/Warehouse - Stinson Avenue, Ballina	Awaiting Additional Information
2010/687	18/06/2010	All Steel Garages & Sheds	Demolition of existing Industrial Shed and Construction of a new larger Industrial Shed - No. 10 Robb Street, Alstonville	Awaiting Additional Information
2010/724	09/07/2010	Trevor Richard Murray	Change of Use (Recycled Garden) - Nos. 464/470 Pacific Highway, West Ballina	Determination Pending
2010/728	12/07/2010	Victor Holmes Town Planning	Boundary Adjustment Subdivision and Consolidation of Ten Existing Lots to Create Six Proposed Lots	Awaiting Additional Information

DA No.	Date Rec'd	Applicant	Proposal	Status
			comprising 1 x 38.7ha, 1 x 41ha and 4 x 40ha allotments - No. 165 Pimlico & Emigrant Point Roads, Pimlico	
2010/777	02/08/2010	Newton Denny Chapelle	Two Lot Rural Boundary Adjustment Subdivision - No. 93 Weis Lane, Rous	Referred to Government Departments
2010/839	06/09/2010	Chris Longergan, Town Planner	To erect eight x 2 bedroom holiday cabins and associated works - No. 202 Midgen Flat Road, Newrybar	Awaiting Additional Information
2010/866	16/09/2010	Newton Denny Chapelle	Commercial redevelopment (Spastic Centre of NSW) inclusive of land dedication for public vehicular access and car parking at the rear of the site - No. 96 Main Street, Alstonville	Being Assessed
2010/880	27/09/2010	The Wheelchair & Disabled Association	Recreational Hall - No. 253 Wardell Road, Lynwood	Awaiting Additional Information
2010/892	05/10/2010	Ardill Payne & Partners	Residential subdivision comprising 73 lots and 2 residual lots, construction of roads and associated infrastructure works - Unara Parkway & Pacific Highway, Cumbalum	Awaiting Additional Information
2010/912	12/10/2010	J White	Use of an Existing Building as a Place of Worship & Alterations & Additions - No. 52 De-Havilland Crescent, Ballina	Being Assessed
2010/923	14/10/2010	Ardill Payne & Partners	Two Lot Torrens Title Subdivision - Unara Parkway,	Awaiting Additional Information

DA No.	Date Rec'd	Applicant	Proposal	Status
			Cumbalum	
2010/926	15/10/2010	Paul R Gray Architect	Tourist Facility comprising restaurant, plunge pool and car parking on ground level and seven holiday units and one manager's residence on first floor level - No. 45 Ballina Street, Lennox Head	Being Assessed
2010/962	08/11/2010	sj Connelly CCP Pty Ltd	Construction of a Highway Service Centre comprising Service Station, Fast Food Restaurants, Regional Expo Centre, Auto Repair Centre, Associated Vehicular Access (including signalised intersection on the existing Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Signage and Two Lot Subdivision (Lot 1 - Highway Service Centre & Lot 2 - Agriculture Residue) – 565-589 River Street, Ballina	Being Assessed & awaiting Response from RTA
2010/990	18/11/2010	J Cornu	Strata Title Subdivision of an existing Duplex Development – No. 15 Alison Avenue, Lennox Head	Awaiting Additional Information
2010/1013T	25/11/2010	S Radburn	Lennox Head VMO _ Remove 10 x Trees – No. 250 North Creek Road, Skennars Head	Awaiting Additional Information
2010/1014T	25/11/2010	S Radburn	Lennox Head	Awaiting

DA No.	Date Rec'd	Applicant	Proposal	Status
			VMO _ Remove 31 x Trees – No. 9 McLeans Street, Skennars Head	Additional Information
2010/1016	25/11/2010	J White	Change of Use involving construction works (divide existing building to accommodate new fruit & vegetable shop) – No. 253 Wardell Road, Lynwood	Being Assessed
2010/1030	03/12/2010	Peter Turner & Associates	Erection of a two storey three bedroom dwelling as a replacement of an existing dwelling within an existing three dwelling residential flat development - 1/43 Stewart Street, Lennox Head	Being Assessed
2010/1045	10/12/2010	Ballina Shire Council	Subdivision for the purpose of creating a Road Reserve and Construct a Public Road - Unara Parkway & Pacific Highway, Cumbalum	Awaiting Additional Information
2010/1054	14/12/2010	SNP Security	Change of Use from a Workshop to a Commercial Premises for the Purpose of operating a Security Business - No. 31 Owen Crescent, Ballina	Awaiting Additional Information
2010/1053	14/12/2010	Etosha Homes Pty Ltd	Erection of a Residential Flat Development comprising five x two bedroom units and a subsequent Strata Title Subdivision - No.	Determination Pending

DA No.	Date Rec'd	Applicant	Proposal	Status
			42 Barrett Drive, Lennox Head	
2010/1056	14/12/2010	The Corporate Trustees of the Diocese of Grafton C/- SJ Connelly CPP Pty Ltd	To construct a 3 x bedroom dwelling (ancillary to use of existing conference centre) - Shelley Beach Road, East Ballina	Awaiting Additional Information
2010/1057	14/12/2010	Newton Denny Chapelle	Subdivision of three (3) existing rural lots to create four (4) lots comprising three (3) rural lots and one additional lot to facilitate the intended future development of sporting fields (subject to a future development application). Access to the proposed sports fields lot (Lot 2) is proposed from Ramses Street along the existing unformed road reserve between Cerreto Circuit and Hellyar Drive - Frank Street & 184 Rifle Range Road, Alstonville	Being Assessed
2010/1061	16/12/2010	AE Colledge	Staged erection of a Residential Flat Development comprising four(4) x two storey three (3) bedroom dwellings & demolition of existing dwelling - No. 27 Ross Street, Ballina	Awaiting Additional Information
2010/1067	17/12/2010	Geolink	6 x Lot Community Title Subdivision Ranging in size from 1200m to 1600m and associated	Awaiting Additional Information

DA No.	Date Rec'd	Applicant	Proposal	Status
			Infrastructure - No. 56 Greenfield Road, Lennox Head	
2010/1074	23/12/2010	Enviro Link Consulting	4 Lot Boundary Adjustment Subdivision and Consolidation to Create 2 x Lots - Teven Road, Teven	Awaiting Additional Information
2010/1076	24/12/2010	Newton Denny Chapelle	Strata Title Subdivision of 1 Lot into 11 Lots - No. 20 Byron Street, Lennox Head	Awaiting Additional Information
2011/04	11/01/2011	Newton Denny Chapelle	Construction of 2.4m high boundary fencing, concrete block retaining wall along part of northern boundary and security access gates on eastern driveway to Temple Street - Temple Street, Ballina	Awaiting Additional Information
2011/31	27/01/2011	T Prendergast	Two Lot Boundary Adjustment Subdivision and Cut & Fill - No. 5 Banjo Place & No. 1336 Teven Road, Alstonville	On Exhibition
2011/33	28/01/2011	RC Matthews C/- LandPartners	Two Lot Torrens Title Subdivision - No. 211 Ballina Road, Alstonville	Being Assessed
2011/40	02/02/2011	Newton Denny Chapelle	Alterations & Additions to Existing Dental Practice, No. 21 & 23 Daley Street, Alstonville	Being Assessed
2011/48	04/02/2011	J & H Hughes	Extension to Existing Industrial Building, No. 3/176-178 Southern Cross Drive, Ballina	Awaiting Additional Information
2011/51	07/02/2011	W Brooks	Change of Use from Transport Depot to Retail	Being Assessed



DA No.	Date Rec'd	Applicant	Proposal	Status
			Landscaping & Garden Supplies, 28 Russellton Drive, Alstonville	
2011/54	09/02/2011	Newton Denny Chapelle	Commercial Office Building, Carparking, Civil Works & Landscaping, No. 75 Tamar Street, Ballina	Being Assessed
2011/60	15/02/2011	Victor Holmes Town Planning	Consolidation and Subdivision of three existing Lots to create 1 x 18.4ha and 1 x 2.2ha allotments, Rifle Range Road, Wollongbar	Being Assessed
2011/61	18/02/2011	Alpine Nurseries Sales P/L	Potting shed for wholesale nursery (Alpine Nurseries), No. 615 Ellis Road, Rous	Being Assessed
2011/63	21/02/2011	Tintenbar Hall	Two Advertising Signs for the Tintenbar Hall, George Street, Tintenbar	Being Assessed
2011/67	23/02/2011	Riordans Consulting Surveyors P/L	Two (2) Lot Boundary Adjustment Subdivision, No. 400 & 410 Houghlahans Creek Road, Teven	Referred to Govt Agencies
2011/73	24/02/2011	Mondarth Pty Ltd	To Erect 4 x Advertising Signs, No. 20-22 De-Havilland Crescent, Ballina	Being Assessed

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2011/72	24/02/2011	Greenwood Grove Estate P/L	To Undertake an Affordable Rental Housing Development in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009 comprising the erection of 74 x single storey and two storey dwellings and associated infrastructure, Tallow Wood Place & 56 Greenfield Road, Lennox Head	On Exhibition until 25/3/11.

The above Development Application 2011/72 is essentially a modification and re-submission of the previous application for the site that was withdrawn prior to determination by the Joint Regional Planning Panel.

The following information is provided to outline the project. It has been taken directly from the "Executive Summary" of the documentation submitted by the applicant.

*"The subject site is known as Lot 1 in DA approval 2010/677 being part Lot 8 DP 1122957 and Part Lot 11 DP 258905, in the Greenwood Grove Estate, Lennox Head.*

*The site has a total area of 2.513 ha. The predominate feature of the development site is the 2 small stands of remnant littoral rainforest and an additional area of rainforest species located under a large Morton Bay fig tree in the south-east of the site. The remainder of the site generally comprises of mowed grassland of low ecological value.*

*The proposed development is confined wholly within the grassland areas of the site, with the development footprint being spatially separated from the remnant vegetation.*

*The proposed development involves the erection of 74 'affordable rental housing' dwellings pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2001 (AHSEPP). The housing development comprises a mix of single and double storey dwellings and a mix of 1, 2 and 3 bedroom dwellings. Almost 73% of the site is set aside for open space and habitat protection.*

*The development is separated into 3 precincts whereby large areas of open space and landscape treatments physically separate each precinct."*

The complete application can be examined on Council's DAs on-line site.

**Major Development (Determined by Minister)**

<b>Major Project No./DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2008/510	21/09/2010	Geolink (on behalf of Petrac Lennox Head Pty Ltd)	To amend lot layout for targeted lots, amend Staging and increase floor area within neighbourhood centre - Pacific Pines Estate, Lennox Head	Comments on Modification provided to DoP. Awaiting DoP determination
2004/1150	29/09/2010	North Angels Beach Development (Chris Condon)	Modification to North Angels Beach Subdivision Consent - To delete condition requiring payment of monetary contribution for Open Space & Reserves, Community Facilities and Shire Roads	Written response issued to DOP. Awaiting DoP's Determination .

**RECOMMENDATION**

That Council notes the contents of the report on the status of outstanding development applications for March 2011.

**Attachment(s)**

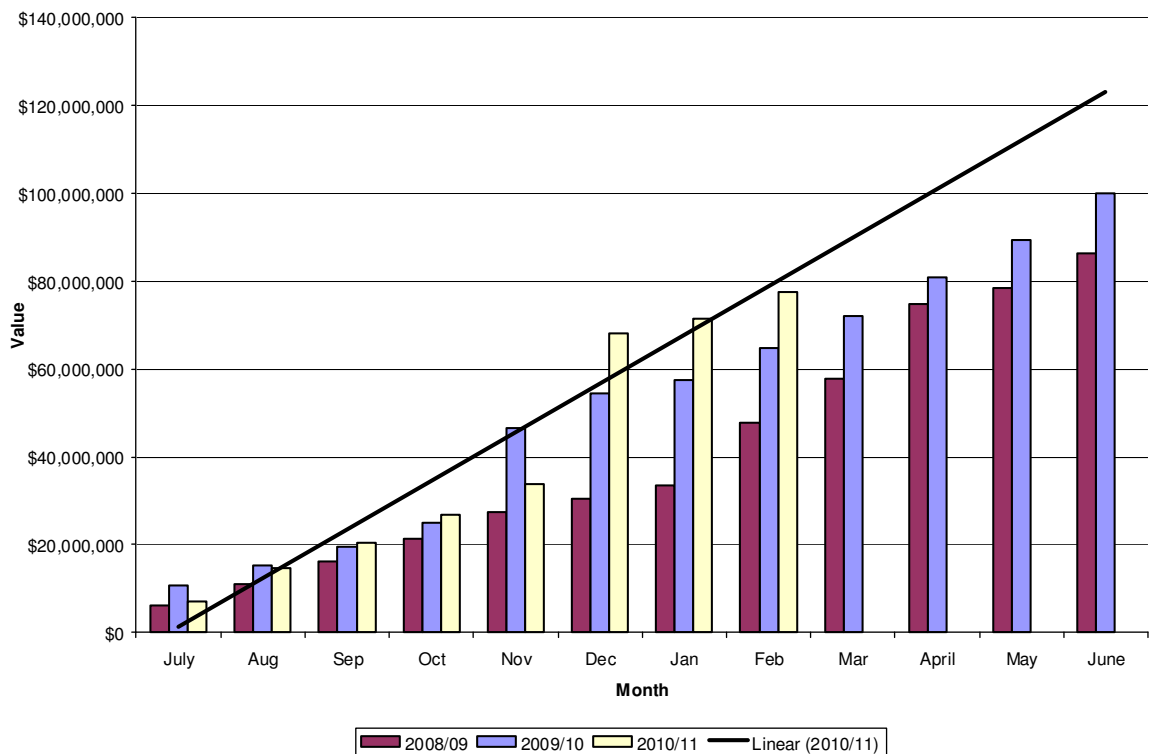
Nil

**8.5 Development Consent Statistics - February 2011**

The Council is advised that during the period of 1 February 2011 to 28 February 2011 the Regulatory Services Group issued Development Consents comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
27 Other Building Related	\$ 1,563,000
14 Dwelling/Duplexes/Residential Flat Buildings	\$ 4,500,000
5 General Developments	\$ 2,000
<b>Total Value</b>	<b>\$ 6,065,000</b>

The following chart details the cumulative consent figures for 2010/11 as compared to 2008/09 and 2009/10. A trend line has also been provided for 2010/11 to assist in the comparison.

**RECOMMENDATION**

That Council notes the contents of the report on development consent statistics for 1 February 2011 to 28 February 2011.

**Attachment(s)**

Nil

**9. Strategic & Community Services Group Reports**

**9.1 LEP Amendment Request - Newton Land - Lennox Head**

<b>File Reference</b>	LEP Amendment Request - Newton
<b>CSP Linkage</b>	Diverse and balanced land use
<b>Management Plan</b>	Strategic Planning
<b>Objective</b>	To seek direction from Council with respect to the content of a planning proposal in relation to the subject land.

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**Background**

Council received a request for the rezoning of part of Lot 2 DP 587685, Blue Seas Parade, Lennox Head in May 2008. The history and process associated with this request was reported to Council at its July 2010 Ordinary Meeting [Minute No.220710/7]. Council resolved at that meeting as follows:

*"That Council initiate a stand-alone LEP amendment for Lot 2 DP 587685, Blue Seas Parade, Lennox Head and submit a planning proposal to the Department of Planning with respect to the proposed amendment."*

Since Council last considered this matter there has been a change in the ownership of the land. Landsolve, a subsidiary partner company of Equititrust Capital is now the mortgagee in possession of the property. Given this, Council has sought advice from Landsolve with respect to its intentions in relation to the current LEP amendment being considered. Council has been advised by Landsolve that it does not intend to pursue the current LEP amendment, but does wish to preserve the potential for urban development on part of the land in the future (Attachment 1).

The status of the current LEP amendment proposal and future urban development potential on the land are the subject of this report.

**Key Issues**

- Status of the proposed LEP amendment for Lot 2 DP 587685, Blue Seas Parade, Lennox Head.
- Future urban land use planning policy for Lot 2 DP 587685, Blue Seas Parade, Lennox Head.

## Information

### *Overview of the Subject Land*

As outlined in Council's July 2010 report, the subject land (Lot 2 DP 587685, Blue Seas Parade, Lennox Head) is presently zoned part 1(d) Rural (Urban Investigation) Zone and part 7(d) Environmental Protection (Scenic/Escarpment) Zone under the Ballina Local Environmental Plan (LEP) 1987 (Attachment 2). The part of the land the subject of the LEP amendment request is currently zoned 1(d) Rural (Urban Investigation) and is adjoined immediately to the west by the approved Coastal Grove subdivision, which is currently under construction.

### *LEP Amendment Request Processing*

Council resolved to progress the proposal for a residential land use on the subject land via preparation of a stand alone LEP amendment separate to the comprehensive LEP renewal process [Minute No.220710/7].

In response to this resolution, the Strategic and Community Services Group engaged Darryl Anderson Consulting Pty Ltd to undertake a third party assessment of the proposed LEP amendment and prepare the required documentation. Council initiated the process on an understanding that a planning proposal involves the documentation of an initial idea or concept (e.g. rezone land from rural to residential) with necessary studies and assessment to follow. Liaison with the NSW Department of Planning revealed that there appears to be an expectation in practice for key issues to be resolved prior to submission of a planning proposal to the Department for consideration.

The July 2010 report to Council outlined a number of issues that were considered to be of significance in relation to the proposed LEP amendment. Of these, the visual amenity implications of residential development on the subject land was considered to be a matter that could substantially alter the extent and nature of residential land uses on the site. As such, it was considered that this matter should be further considered prior to the preparation of a planning proposal. Darryl Anderson Consulting undertook an analysis of visual amenity issues on Council's behalf in August 2010. Specifically, Council sought advice from Darryl Anderson Consulting as to whether it was considered necessary to modify the "footprint" of the area proposed for a residential zone given potential adverse visual impacts.

The issue of visual amenity and the analysis undertaken by Darryl Anderson Consulting is addressed in further detail below.

### *Visual Amenity*

The July 2010 report provided the following information with respect to visual amenity:

*"The land the subject of the LEP amendment request is located on the side of a prominent ridgeline and adjacent to the Coastal Grove subdivision. Given this, it is likely that visual amenity will be a highly sensitive issue and one of significance to the local community. Visual considerations will most likely relate to:*

- *views from east of the property from public land along the coast and from The Coast Road; and*
- *views from residential properties in Survey Street and surrounding areas west of the land; and*
- *views from within the approved Coastal Grove estate (this may involve the current land owner and/or future residents of the estate)."*

Given the above, further consideration of visual amenity issues pertaining to the land has been undertaken. Darryl Anderson Consulting completed an assessment of visual amenity issues associated with the site having regard for visual assessment information submitted by the amendment proponent, relevant planning requirements and policies, and a site inspection.

Key matters raised by Darryl Anderson Consulting with respect to the proposed subdivision layout contained in attachment 3 are as follows:

- *"The lot layout appears to be within the 1(d) zone but the proposed access cul-de-sac, at least in part, appears to be in the 7(d) zone. Significant cuts and fills would appear to be required to achieve compliant longitudinal road gradients and satisfactory access to the future lots.*
- *Under the provisions of the Lennox Head Structure Plan, the land zoned 1(d) is not a candidate release area and is mapped as visually significant and bushfire prone. The applicant has addressed noncompliance and considers that the inconsistency is justified. Given that much of the site is on a prominent ridgeline and is visually significant and with the benefit of the more recent site view and observations of the Dossor subdivision under construction, I do not consider that adequate justification has been provided for the whole of the proposed footprint.*
- *I note the comments in the Planning Report at Appendix 9 in relation to compliance with Aim (e) in Clause 8(f) of State Environmental Planning Policy No. 71. I do not consider that rezoning of the footprint most recently proposed is consistent with those matters.*
- *Under the NSW Coastal Policy 1997, Table 1 identifies a number of strategic actions relevant to the preparation of Local Environmental Plans. Of particular relevance are Items 3.1.2 relating to provisions to protect areas or items of high aesthetic value and 3.2.4 relating to design and locational principles for Local Environmental Plans. I consider that rezoning of the whole footprint would be inconsistent with these provisions."*

Having regard for the above, Darryl Anderson Consulting recommended that a planning proposal be prepared for the site but based on a reduced area in relation to the application of a residential zone (Attachment 3). The remaining area that is currently zoned 1(d) would be considered in relation to the application of an environmental protection zone to reflect the characteristics of the land. This approach is recommended on the basis that *"the landscape and visual values of the northern part of the site (i.e. generally Lots 1 to 7 shown in attachment 2) are somewhat degraded by the existing buildings and views from key public observation areas to the east are filtered and softened by these buildings and existing large trees."*

With respect to the alternative options, Darryl Anderson Consulting makes the following observations:

- Ceasing further consideration of a planning proposal

*"It is not considered that the landscape and scenic values of the whole of the land which is the subject of the rezoning are such as would justify adoption of this Option."*

- Proceeding as per the proponent's current concept layout (Attachment 2)

*"I am concerned that this Option is not consistent with the Lennox Head Structure Plan, State Environmental Planning Policy No. 71 [and] NSW Coastal Policy 1997 and is likely to result in an unacceptable adverse impact on the landscape and scenic quality of the locality."*

By way of summary, Darryl Anderson Consulting has recommended that Council proceed with a planning proposal based on a smaller 'footprint' for residential land uses on the site. It should be noted that this recommendation was made prior to the change in land ownership and the associated issues arising in relation to the current amendment request (see below). Having regard for the changed circumstances, it is not recommended that Council progress a planning proposal for the land. However, the above information remains relevant with respect to the potential for future LEP amendment requests and this is addressed in further detail below.

#### *Land Ownership and Documentation*

As outlined above, Council has been advised that Landsolve, a subsidiary partner company of Equititrust Capital, is now mortgagee in possession of the subject property. Landsolve has advised that it does not intend to pursue the current LEP amendment, but does wish to preserve the potential for urban development on the land in the future.

Related to the change in land ownership, Council has received advice from Stephen Fletcher and Associates Pty Ltd and Riordans Consulting Surveyors Pty Ltd who acted for the previous land owner, Ms Kristine Newton with respect to the LEP amendment request documentation submitted to Council. Council has been advised by these parties that the materials they prepared and lodged in support of the LEP amendment request are subject to copyright and are not available for dissemination without their consent.

Ms Kristine Newton (the former landholder) has also conveyed a similar position to Council, indicating that the material submitted to Council is the property of Ms Newton and is not to be released to other parties or displayed for public exhibition without the consent of Ms Newton.

Given that the current site owner, Landsolve, does not wish to progress the current LEP amendment request, and that there is uncertainty over the ownership and availability for use of the documentation compiled to date, it is suggested that Council formally cease the current LEP amendment process.



*Urban Land Release Planning Policy*

Regardless of the approach taken with respect to the proposed rezoning of the subject land, the current situation in relation to the site offers an opportunity to address the urban development potential of the land. The analysis undertaken by Darryl Anderson Consulting recommends that the southern portion of the land the subject of the amendment request should no longer be identified as having urban development potential. On this basis, it is recommended that Council's local urban land release planning policy (Local Growth Management Strategy) reflects the potential for urban land use as recommended by Darryl Anderson Consulting (Attachment 4). This would mean application of an environmental protection zone over the southern portion of the area currently zoned 1(d) Rural - Urban Investigation. A rural zone would be applied over the northern portion of the land currently zoned 1(d). Council's local urban planning policy would indicate the area of land considered suitable for further investigation with respect to urban land use. Any future urban development would be first subject to the rezoning of the land and then a subsequent development application process.

The consideration of urban release potential for the site is also advantageous at this time in relation to the Far North Coast Regional Strategy (FNCRS). The Department of Planning has advised that the FNCRS is under review and has invited input from Council, including with respect to the extent of 'Town and Village Growth Boundaries' which determine areas of potential future urban development. The Department has requested such input by the end of March 2011. Hence, a decision regarding a potential urban footprint on the site for future investigation could be incorporated into Council's feedback with respect to the Strategy. In the absence of specific feedback, the FNCRS will likely reflect the extent of the current 1(d) zone over the land which is inconsistent with the recommendations of Darryl Anderson Consulting and retains land known to be of high visual sensitivity.

**Sustainability Considerations**

- **Environment**

An initial assessment of the suitability and capability of the land for the proposed use has been undertaken. This offers Council an opportunity to address the known constraints and opportunities associated with the land, particularly with respect to visual sensitivity.

- **Social**

As above.

- **Economic**

As above.

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

### *LEP Amendment Request*

Council has already undertaken some assessment relating to the proposed rezoning. However, this assessment has not been completed and there is uncertainty in relation to the documentation submitted with respect to ownership and its availability for further assessment.

Further, the author of the amendment request documentation has requested that the amendment be withdrawn and the current owner of the land has indicated that they do not wish to proceed with the LEP amendment request.

On this basis, it is suggested that the LEP amendment be ceased. Council is able to cease an LEP amendment at any time at its discretion under the terms of the *Environmental Planning and Assessment Act*.

### *Urban Land Release Policy*

Separate from the LEP amendment process, Council is able to determine its local urban land release policy. This policy would be identified via inclusion of the portion of the subject land considered suitable for further investigation in relation to urban land use in Council's Local Growth Management Strategy.

## **Consultation**

There has been no consultation undertaken with either the community or government agencies in relation to the proposed rezoning to date.

With respect to urban land release policy, it is anticipated that community engagement will occur as part of the preparation of Council's Local growth Management Strategy.

## **Options**

There are two matters for consideration with respect to the subject land, being:

- the progress of the LEP amendment request applying to the land, and
- Council's preferred urban land release planning policy for the site.

These items are addressed in the options summarised below.

1. Continue processing the LEP amendment request based on the concept layout proposed by the proponent.

This approach would mean that Council would prepare a planning proposal for the application of a residential zone over the entire area currently zoned 1(d). Under this approach, future urban development on the land would be addressed via the Planning Proposal, with the relevant outcomes included in local planning policy documents.

However, as outlined above, this approach is not recommended by Darryl Anderson Consulting on the basis that the southern component of the concept layout is likely to result in unacceptable visual impacts. The potential visual impacts associated with residential development on the southern portion of the 1(d) zoned land and the associated recommendation of Darryl Anderson Consulting may result in the proposal being rejected by the Department of Planning if it is pursued in its current form. Given this, this option is not recommended.

2. Continue processing the LEP amendment request based on a smaller footprint for residential development on the land.

This approach would mean that Council would prepare a planning proposal for the application of a residential zone over the northern part of the land currently zoned 1(d), generally equating to proposed lots 1 to 7 (Attachments 3 and 4). Similar to option 1, future urban development on the land would be addressed via the Planning Proposal, with the relevant outcomes included in local planning policy documents.

As outlined above, a smaller footprint is recommended by Darryl Anderson Consulting with respect to the consideration of potential visual impacts and it has the further advantages of removing the need for road access along the south eastern slope of the site and further consideration of potential site contamination issues associated with the existing farm shed on the western boundary of the land (i.e. the shed would be located south of the proposed residential footprint).

The remainder of the land currently zoned 1(d) would be considered with respect to the application of an environmental protection zone based on the characteristics of the land.

This approach is not recommended given that the current landholder has indicated that they do not wish to proceed with the current LEP amendment request and the uncertainty with respect to the status of the LEP amendment documentation submitted by Stephen Fletcher and Associates Pty Ltd and Riordans Surveyors Pty Ltd.

3. Cease processing of the LEP amendment request and maintain a potential footprint for urban development in the north western portion of the land.

This approach would mean the cessation of the current Planning Proposal process but recognition of a potential area for urban development in the north western corner of the site. The area of potential urban development would be based on the analysis undertaken by Darryl Anderson Consulting Pty Ltd with respect to visual amenity issues. Attachment 4 shows the location of a potential urban footprint based on the analysis undertaken to date. This area would be incorporated into Council's urban land release policy to confirm its potential and the opportunity for further investigation by landholders. This position would also be communicated to the Department of Planning in order to seek inclusion of Council's preferred potential urban footprint in the FNCRS.

This option effectively means there would no longer be an active rezoning proposal over the land and a reduced footprint for the investigation of future urban land use would be incorporated into local planning policy. This would be reflected in zoning terms in Council's new LEP as indicated above under 'Urban Land Release Planning Policy'.

This is the recommended approach.

4. Cease further processing of the LEP amendment request and take no further action.

It is open to Council to cease further consideration of the requested rezoning, notwithstanding its earlier decision to initiate the process and maintain the existing zoning and urban land release policy with respect to the land. There are a number of key issues relating to the suitability and capability of the site that warrant further evaluation. However, it is considered appropriate that Council act in relation to the known information relating to visual impacts but also allow a complete analysis of the capability of the land in the north eastern corner (Attachment 4), particularly given the identification of the land in key strategic planning documents as a potential urban land release area. Given this, this option is not recommended.

#### **RECOMMENDATIONS**

1. That Council cease processing of the current LEP amendment request relating to Lot 2 DP 587685 Blue Seas Parade Lennox Head.
2. That Council establish a land use zoning arrangement for Lot 2 DP 587685 under its new local environmental plan that reflects the recommendations of Darryl Anderson Consulting generally as contained in Attachment 4.
3. That Council incorporate a reduced footprint for potential urban development generally in accordance with the plan shown in Attachment 4 in its Local Growth Management Strategy.
4. That Council advise the Department of Planning of the change to the potential urban footprint for the land with respect to the Town and Village Growth Boundaries in the Far North Coast Regional Strategy.

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

1. Correspondence from GeoLINK on behalf of Landsolve dated 15 February 2011.
2. Site map and land use zoning - Lot 2 DP 587685 Blue Seas Parade Lennox Head.
3. Conceptual lot layout - proposed rezoning Lot 2 DP 587685 Blue Seas Parade Lennox Head.
4. Proposed footprint for future urban investigation.

**9.2 Community Land - Reclassification**

<b>File Reference</b>	Draft Amendment No. 114 to the Ballina Local Environmental Plan 1987
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Commercial Services
<b>Objective</b>	To invite Council's consideration of a proposal to reclassify Lot 5 DP 843369, Old Bagotville Road, Wardell from Community Land to Operational Land for the purpose of the Local Government Act 1993

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**Background**

A report was submitted to Council at its Ordinary Meeting held on 24 February 2011 recommending that six parcels of land owned by Council currently classified as Community Land be reclassified as Operational land under the Local Government Act 1993.

Council resolved at the meeting to prepare a planning proposal for the reclassification of five of those land parcels but resolved to receive a further report concerning Lot 5 DP 843369, Old Bagotville Road, Wardell.

As indicated in the previous report, the Local Government Act (LGA) requires that all public land in Council ownership is classified as either Operational Land or Community Land. Council may deal with Operational Land without any restrictions under the LGA. Such land is generally held and used in connection with Council's administrative operations, utilities (water and sewer) and / or commercial activities.

Community Land consists typically of open space owned by Council for which there is a range of restrictions under the LGA to ensure that these valuable community assets are retained and managed for the benefit of the community. The LGA prohibits the sale of Community Land and imposes restrictions on its development and use.

Council has, in the main, identified those lands that should be classified as Operational, however a recent review of Council's landholdings suggested that a number required reclassification to be more consistent with the purpose for which they were acquired and/or used.

Council resolved at its previous Ordinary Meeting to reclassify:

- Part Lot 11 DP 260847, North Creek Road, Ballina
- Lot 1 DP 858199, Richmond River, Ballina
- Lot 34 DP 1121058, Alexander Circuit, Lennox Head
- Lot 4 DP 1036635, Brunswick Street, Teven
- Lot 116, DP 1111892, Commercial Road Public Car Park, Alstonville

This report is submitted in respect to the proposed reclassification of Lot 5 DP 843369, Old Bagotville Road, Wardell from Community Land to Operational Land.

Reclassification of Community Land to Operational Land is undertaken through an amendment to the local planning instrument. This will require a planning proposal to be prepared by Council and submitted to the NSW Department of Planning.

The Department will then issue a gateway determination indicating whether the matter should proceed. Where the Department determines that the matter should proceed, it will indicate whether any further studies or information is required, as well as the requirements for community and agency consultation.

### **Key Issues**

- Whether Lot 5 DP 843369 is suitable for reclassification as operational land.

### **Information**

The Department of Planning's reclassification site assessment sheet has been completed for Lot 5 and is attached for Council's information. This assessment outlines the rationale for the proposed reclassification. A locality plan is also attached.

It is proposed to reclassify Lot 5 to Operational Land in recognition that it was purchased by Council in 1996 to realise a commercial return on its extractive resource. The land had several developed quarry pits at the time of purchase. Council was actively involved in quarrying at the time, but has since changed its corporate focus with the lease of its approved quarries to contractors in exchange for royalty payments.

Council was unable to give the required pre-purchase notice of its intention to classify this land as Operational land because of the commercial imperative of remaining an anonymous bidder at the auction for the land. Legislation has since been amended to allow post-purchase notification (within 3 months) to recognise such situations.

In preparing this report, Council's Strategic and Community Services Group is not aware of any proposal to sell, lease or otherwise deal in the subject land. A change of classification would, of course, facilitate that. It is responsible for the Council to establish and maintain the appropriate classification over its property inventory. A recent review of that inventory identified that the classification of Lot 5 DP 843369 is anomalous, in that the land appears to have little or no utility for community purposes.

If Council's Commercial Services Section forms a view that the subject land is either surplus to the Council's needs, or alternatively that its development or alternative uses should be more closely examined, it will no doubt prepare an appropriate report for the Council's consideration.

### **Sustainability Considerations**

- **Environment**  
There is unlikely to be any environmental implications arising from the proposed reclassification.
- **Social**  
There are unlikely to be any social implications arising from the proposed reclassification.
- **Economic**  
The reclassification will enable Council to sell or lease the land. The reclassification will also allow Council to pursue development consent for the establishment of an extractive industry on the land if this was an option Council wished to pursue in the future.

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

The reclassification of the land can be undertaken within the available resources of Council.

The reclassification of Lot 5 will enable Council to realise the value of the land through its sale or development should it choose to examine these options in the future. Moreover, and in general terms, the Operational classification would more aptly reflect the environmental and other characteristics of the land.

The Commercial Services Unit has also advised that the RTA proposes to construct the new Pacific Highway Motor Way through this property and as such re-classifying the land would make it easier to deal with the RTA on a compensation basis and possibly provide an opportunity to sell material to the RTA.

### **Consultation**

Council's Commercial Services Section has requested the reclassification of Lot 5.

The planning proposal to reclassify Lot 5 is required to be exhibited for public comment and a public hearing must be held in relation to the matter.

### **Options**

1. Support the preparation of a planning proposal for the reclassification of Lot 5 from Community Land to Operational Land.
2. Decline to initiate such action.

The first option is recommended for the reasons cited in this report.

**RECOMMENDATIONS**

1. That Council prepare a planning proposal for the reclassification of Lot 5 DP 843369, Old Bagotville Road, Wardell from Community Land to Operational Land for the purpose of the Local Government Act 1993.
2. Further, that the matter be reported back to Council for determination at the conclusion of the community consultation phases.

**Attachment(s)**

1. Locality plans with Department of Planning's reclassification site assessment sheet.



## 10. General Manager's Group Reports

### 10.1 Use of Council Seal

**File Reference**                      Use of Seal

#### **RECOMMENDATIONS**

That Council affix the Common Seal to the following documents.

US11/07	<p>Use of Seal: Deed of Consent &amp; Assignment of Lease, B Browning to A G McPhie – Assignment of Retail Lease Agreement for Wigmore Arcade premises at 135 River Street, Ballina, currently trading as 'Frangipani Lifestyle'.</p> <p>Explanation: Council has received advice that Mrs Browning as lessee of Wigmore Arcade premises at 135 River Street is in the process of selling her business to Mrs A G McPhie. Mrs McPhie is an existing Wigmore Arcade tenant and lessee of Shop 5 that trades as 'Cafe Serafino'. The 'Cafe Serafino' business is listed for sale. It is not known at this time if Mrs McPhie intends to operate one or both businesses concurrently until the cafe business is sold, however, if it is her intention is to close Shop 5 pending sale, Council is advised that the rent for that premises remains due and payable by Mrs McPhie until such time as the lease for that shop is assigned by her, or the term of lease expires (31/12/2012). Council as landlord cannot unreasonably refuse a request to assign the lease</p>
US11/08	<p>Use of Seal: Council to Norfolk Relocatable Homes Pty Ltd - 5 year lease from 1 January 2011 to 31 December 2015 for occupation of Lot 94 in a plan of subdivision of Lot 100 DP 1086895 for the purpose of the manufacture of relocatable homes and the associated administrative office.</p> <p>Explanation: Council granted a 5 + 5 year lease to Norfolk Relocatable Homes Pty Ltd that commenced on 1 October 2005, with the 5 year option period to commence on 1 October 2010. Resulting from an operational need to undertake civil engineering works that traversed a significant part of the leased property, staff successfully negotiated a re-alignment of the lease area that increased the total area of land under lease from a 1.48 ha Lease area together with a 221m<sup>2</sup> Licence area, up to 1.598 ha. An increase in rental has also been negotiated for the 5 year term. Resulting from the foregoing, a Deed of Surrender of Lease of the original 5 + 5 year term was executed on 19 January, 2010. The new lease, albeit on a redefined area of land, is essentially, and for all intents and purposes, the 5 year option period of the initial lease, and no further option period is included within the new lease.</p>
US11/09	<p>Transfer granting Easement to Country Energy for substation 4.2 m wide on Pt Lot 4 DP 6383, Elizabeth Anne Brown Park, Alstonville.</p> <p>Note: Substation is required as part of Alstonville CBD upgrade works.</p>

**10.2 Investments Summary - February 2011**

<b>File Reference</b>	Investments / General Banking
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Financial Management
<b>Objective</b>	To provide Council and the community with details of how Council's surplus funds are invested.

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**Background**

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

This report has been prepared for the month of February 2011.

Council's investments are all in accordance with the Local Government Act, the Regulations and our investment policy.

The balance of investments as at 28 February 2011 was \$59,951,000. This represents an increase from January of \$1,576,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 28 February 2011, was \$4,203,995.

Council's investments as at 28 February are at an average (weighted) rate of 5.88%, which is 0.72% above the 90 Day Bank Bill Index of 4.91%.

The majority of the approximately \$60 million of investments held by Council are restricted by legislation (external) and Council (internal) uses for the following purposes:

<b>Reserve Name</b>	<b>Internal/External Restriction</b>	<b>Approx % of Portfolio*</b>
Water Fund (incl. developer contributions)	External	14
Sewer Fund (incl developer contributions)	External	25
Section 94 Developer Contributions	External	10
Bonds and Deposits	External	3
Domestic Waste Mgmt / Stormwater Charges	External	2
Other External Restrictions	External	6
Land Development	Internal	21
Employee Leave Entitlements	Internal	3
Carry Forward Works	Internal	10
Miscellaneous Internal Reserves	Internal	5
Unrestricted		1
<b>Total</b>		<b>100%</b>

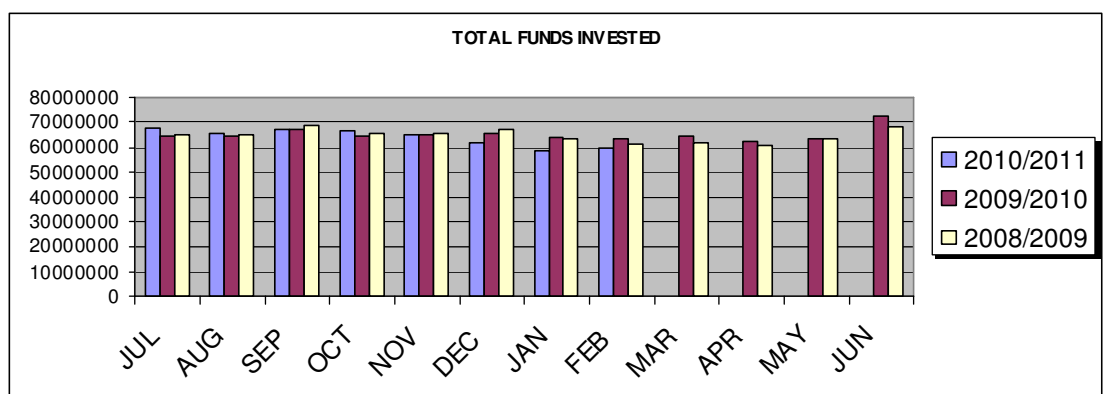
\* Based on reserves held as at 30 June 2010

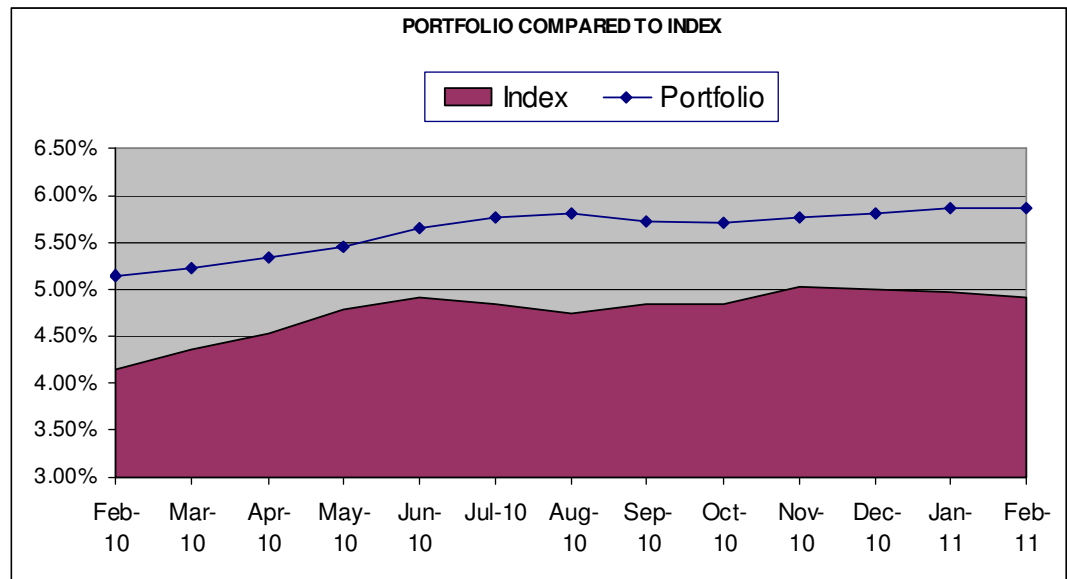
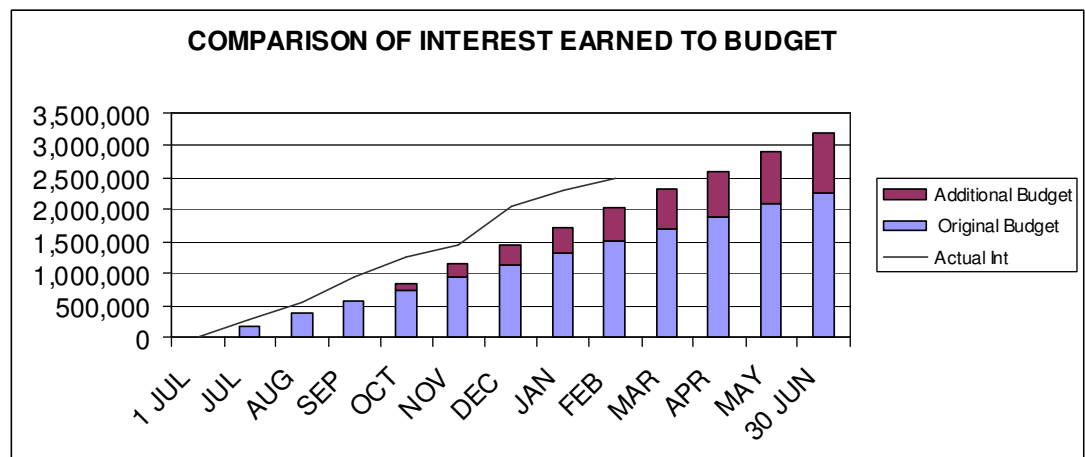
### Information

#### A. Summary of Investments by Institution

Funds Invested With	ADI Rating	Gov G'tee	Previous Month (\$'000)	Current Month (\$'000)	% of	Total
<b>Grandfathered Investments</b>						
ANZ Bank	AA-	No	2,000	2,000	3.3	
Bank of Queensland	BBB	No	1,000	1,000	1.7	
Bendigo Bank Ltd	BBB	No	1,000	1,000	1.7	
Deutsche Bank	A+	No	4,000	4,000	6.7	
Goldman Sachs	AA-	No	1,000	1,000	1.7	
Heritage Building Society	BBB	No	3,000	3,000	5.0	
HSBC Australia	AA-	No	1,000	1,000	1.7	
Local Govt Fin Service	A	No	6,431	5,000	8.3	
Longreach Capital Markets 23	AA-	No	1,000	1,000	1.7	
Longreach Capital Markets 28	AA+	No	1,000	1,000	1.7	
Morgan Stanley	A	No	2,000	2,000	3.3	
National Australia Bank	AA	No	1,788	1,788	3.0	
National Wealth M'ment Holding	A	No	2,000	2,000	3.3	<b>43%</b>
<b>Rated Institutions</b>						
Bank of Queensland	BBB+	Y-\$1m	3,000	3,000	5.0	
Bank of Western Australia	AA	Y-\$m	2,677	2,677	4.5	
Commonwealth Bank of Australia	AA	Y-\$2m	5,686	7,693	12.8	
Credit Union Australia	BBB+	Yes	1,000	1,000	1.7	
Illawarra Mutual Bld Society	BBB	Y-\$1m	2,000	4,000	6.7	
National Australia Bank	AA	No	3,000	3,000	5.0	
Newcastle Permanent Bld Soc	BBB+	Y-\$1m	1,000	1,000	1.7	
Suncorp Metway Bank	A	Y-\$1m	4,485	3,485	5.8	
Westpac Banking Corp	AA	Y-\$1m	7,308	7,308	12.2	<b>55%</b>
<b>Unrated ADI's</b>						
Community CPS Credit Union		Yes	1,000	1,000	1.6	<b>2%</b>
<b>Total</b>			<b>58,375</b>	<b>59,951</b>	<b>100%</b>	

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



**C. Comparison of Portfolio Investment Rate to 90 Day BBSW****D. Progressive Total of Interest Earned to Budget****Comment**

The Minister for Local Government released a new 'Investment Order' on 12 January 2011. The order has two significant changes in that the clause authorising investments in the mortgage of land has been deleted and the Clause authorising investments in the Local Government Financial Services Pty Ltd (LGFS) has also been deleted. The first change does not affect Ballina Shire as we have never invested in mortgages. However our policy does allow and we do hold investments with the LGFS. The Minister's Order permits such investments made before the date of the Order to be held until maturity (grandfathered). Council has one investment of \$5 million that matures in March 2012.

Council's Investment Policy includes the LGFS as an allowable investment. So that the policy confirms with the new Minister's Order it is proposed to alter Clause 8.1 of the policy which reads:

*"All investments are to be placed with institutions regulated by the Australian Prudential Regulation Authority (APRA) in accordance with the Banking Act 1989, ie Authorised Deposit-Taking Institutions (ADI's); the Local Government Financial Services Pty Ltd or the NSW Treasury Corporation, but excluding subordinated debt obligations." by deleting the words 'the Local Government Financial Services Pty Ltd.'*

All other sections of our Investment Policy are consistent with the Minister's Order.

#### E. Investments Held as at 31 January 2011

Purchase Date	Issuer	Type	Rate %	Call or Maturity Date	Purchase Value \$'000
23/04/04	Deutsche Bank	FRN	5.92	23/04/14	2,000
23/04/04	Deutsche Bank	FRN	5.92	23/04/14	2,000
20/09/04	National Australia Bank	FRN	6.30	Perpetual	1,788
08/08/05	Morgan Stanley	FRN	5.46	08/08/12	2,000
12/04/06	Goldman Sachs	FRN	5.45	12/04/16	1,000
16/06/06	National Wealth M'tment Holdings	FRN	5.65	16/06/16	2,000
15/09/06	Bank of Queensland	FRN	5.48	11/05/11	1,000
04/12/06	Heritage Building Society	FRN	5.54	04/12/11	2,000
28/02/07	Longreach Series 23	IRLN	8.90	10/02/12	1,000
25/01/07	Local Govt Fin Service	CRI	5.75	20/03/12	5,000
28/06/07	Longreach Series 28	ELN	0.00	27/06/14	1,000
21/09/07	Bendigo Bank	FRN	6.18	21/09/12	1,000
18/10/07	Heritage Building Society	FRN	6.25	18/10/12	1,000
18/10/07	ANZ Bank	FRN	5.70	18/10/12	2,000
14/03/08	HSBC Australia Ltd	FRN	7.31	14/03/13	1,000
16/12/08	Commonwealth Bank of Australia	CRI	6.62	16/12/11	1,000
17/12/08	Commonwealth Bank of Australia	CRI	6.17	17/12/13	1,000
17/12/08	Commonwealth Bank of Australia	TD	5.93	17/12/13	995
04/03/09	Suncorp-Metway Bank	FRN	7.43	30/05/11	1,485
17/04/09	Commonwealth Bank of Australia	FRN	6.27	17/04/12	1,000
03/02/10	Commonwealth Bank of Australia	FND	4.70	At Call	3,698
29/11/10	Illawarra Mutual Bld Society	TD	6.10	29/03/11	1,000
01/12/10	National Australia Bank	TD	6.20	31/03/11	2,000
06/12/10	Bank of Queensland	TD	6.00	05/04/11	1,000
13/12/10	Illawarra Mutual Bld Society	TD	6.10	14/03/11	1,000
15/12/10	National Australia Bank	TD	6.18	14/04/11	1,000
20/12/10	Newcastle Permanent Bld Society	TD	6.00	21/03/11	1,000
20/12/10	Westpac Bank	TD	5.80	21/03/11	7,308
20/12/10	BankWest	TD	5.90	21/03/11	2,677
05/01/11	Bank of Queensland	TD	6.00	05/05/11	1,000
25/01/11	Suncorp-Metway Bank	TD	6.07	27/04/11	1,000
28/01/11	Credit Union Australia	TD	6.01	28/04/11	1,000
02/02/11	Suncorp-Metway Bank	TD	6.03	03/05/11	1,000
15/02/11	Bank of Queensland	TD	6.30	15/08/11	1,000
21/02/11	Illawarra Mutual Bld Society	TD	6.06	11/07/11	2,000
28/02/11	Community CPS Credit Union	TD	6.05	30/05/11	1,000
<b>Total:</b>					<b>59,951</b>
TD=Term Deposit		FRN=Floating Rate Note		FND=Managed Fund	
IRLN=Interest Rate Linked Note		CRI=Committed Rolling Investment		ELN=Equity Linked Note	

#### RECOMMENDATIONS

1. That Council notes the record of banking and investments for February 2011.
2. That Council approves the deletion of the words 'the Local Government Financial Services Pty Ltd' from Clause 8.1 of the Investment Policy.

**10.3 Community Donations**

<b>File Reference</b>	2010/2011 Delivery Program/Donations Program
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Governance
<b>Objective</b>	To determine whether Council wishes to approve a community donation request.

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**Background**

Council approved a number of general and capital assistance donations at the June 2010 meeting for the 2010/11 financial year. Since that time requests have continued to be received and generally Council staff advise the applicants to reapply next financial year. However there are certain requests that are considered meritorious for the current year and on that basis, as per the Council policies, they are submitted to Council for consideration.

Two such requests are now considered in this report. Copies of the requests are attached.

**Key Issues**

- Nature of request
- Funding available

**Information**

Details of the request are as follows;

**Ballina Aero Club Inc**

The Ballina Aero Club Inc has requested a reduction in respect to development application amendment fees levied in regard to their Clubhouse building. The total value of fees amounts to \$975 which includes \$760 for a water connection. The Club was previously granted a 50% reduction in respect of the initial DA fee.

Council has an adopted policy titled "Donations - Assistance with Council Fees for Community Groups". The allocation of funding under this policy is subject to an annual budget being provided and the 2010/2011 budget includes \$2,000 for planning fees donations which has been fully expended.

**Paradise FM Community Radio Association Inc**

Paradise FM is seeking financial support to \$5,000 for costs associated with celebrating their 10<sup>th</sup> birthday with a free community event to be held at the Amphitheatre. The proceeds from the event will go back into the community.

**Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Donations such as that requested provide valuable support to community groups.
- **Economic**  
Not Applicable

**Legal / Resource / Financial Implications**

The current status of the donations budgets for 2010/2011 is as follows:

Items	Budget	Expended	Balance
Donations (General)	52,000	48,649	2,531
Donations (Halls)	33,000	24,741	8,259
Donations (DA Fees)	2,000	2,000	0

**Consultation**

The annual donations program is subject to formal public exhibition and generally Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process.

**Options**

The options are to approve, or not approve, the donations. Typically no recommendations are provided for donations however in this case the preferred recommendation is as follows:

- a) Ballina Aero Club - Council approve a 50% reduction in the development application amendment fees - The reason for that is that Council approved a reduction of 50% in the original fees, therefore to be consistent it is reasonable to provide a similar reduction in fees related to an amendment to the same application. This donation would need to be funded by a reallocation of monies from the Donations - General budget to the Donations - DA Fees budget. It is not recommended that Council pay the waste service fees.
- b) Paradise FM - Council not approve the \$5,000 donation. No one disputes the community support provided by Paradise FM, however this magnitude of donation is considered too high and there are insufficient funds remaining in the Donations - General budget (although monies could be transferred from the halls budget). It is also for a one-off event without any longer term benefits. Council already provides significant support for Paradise FM through a discounted rental on the crown land adjacent to the Council chambers. Ideally this type of application should have been submitted when all other donations were considered at the start of the financial year, or through the events support program.

There still may be opportunities for Council to sponsor elements of the event and the allocation of sponsorship can be carried out at an operational level by staff.

**RECOMMENDATIONS**

1. That Council approves a donation of 50% of the requested amount of \$215 for the Ballina Aero Club for development application amendment fees as per their request dated 8 February 2011. This donation is to be funded through a transfer from the Donations - General budget.
2. That Council not approve the \$5,000 request from Paradise FM for their 10<sup>th</sup> Anniversary Concert as Council's event support funding has been allocated for 2010/11 and there are insufficient funds remaining in the Donations - General budget.

**Attachment(s)**

1. Letter from Ballina Aero Club Inc.
2. Letter from Paradise FM



**10.4 Local Government - Constitutional Recognition**

<b>File Reference</b>	Australian Local Government Association
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Administration
<b>Objective</b>	To determine whether Council wishes to join a campaign by the Australian Local Government Association in an effort to have Local Government recognised in the Australian Constitution

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**Background**

Council has received correspondence from the Australia Local Government Association (ALGA) asking for individual council support to "become directly engaged in the campaign for constitutional recognition". A copy of that correspondence is attached and the report that follows seeks to determine whether Council wishes to provide that support.

**Key Issues**

- Constitutional recognition of local government

**Information**

The ALGA has long been involved in a campaign to have a referendum held on the constitutional recognition of local government. Following the 2010 Federal Election, the Prime Minister committed to holding a dual referendum on the constitutional recognition of local government and the recognition of Indigenous Australians. The referendum will most likely be held in conjunction with the 2013 Federal Election.

The ALGA advises that the challenge for local government is to ensure the referendum is held; to ensure that the type of recognition sought meets local government requirements and to make sure there is a positive result in the referendum.

The ALGA is seeking Council support in passing a resolution endorsing the position that a referendum be held by 2013 to change the Constitution to allow direct funding of local government bodies by the Commonwealth Government and also to include local government in any new Preamble to the Constitution if one is proposed.

The support required, at this point in time, is to provide a resolution supporting the proposal and to then forward correspondence to the relevant parties.

Draft letters are also attached to the correspondence from the ALGA.

### **Sustainability Considerations**

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

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

There is limited impact on resources with the current proposal as the main requirement is to forward correspondence supporting the proposal.

### **Consultation**

The proposal would be subject to a Constitutional Referendum.

### **Options**

The options are to support or not support the request. It is understood that historically constitutional referendums are only successful if the major parties (Liberal and Labor) are both supportive. Therefore one of the main aims of any campaign should be to try and gain that unified support.

As this is largely a political matter the recommendation provides an option to support or an option to take no further action.

## **RECOMMENDATIONS**

### **Option A**

That Council declares its support for the financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.

### **Option B**

That Council notes the contents of this report.

### **Attachment(s)**

1. Request from ALGA

**10.5 Policy (Final) - Donations - Rates and Charges**

<b>File Reference</b>	Policies/General/Resolutions
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Financial Management
<b>Objective</b>	To adopt the draft Donations - Rates and Charges policy following public exhibition.

**Background**

Council resolved at the January 2011 Council meeting as follows:

1. *That Council amend the existing Donations - Rates and Charges policy to allow the policy to focus only on broad categories of properties that are used to provide a community service and to ensure that the donations provided are equitable and consistent across those categories.*
2. *The categories of organisations and donations based on point one are as per the following table:*

Category/ Organisation	Rates	Water		Sewer		Waste	Storm water	On Site Septic
		Access	Consumed	Access	Usage			
Category A (donation of all rates and charges)								
Surf Life Saving Clubs	100%	100%	100%	100%	100%	100%	100%	100%
CWA Halls	100%	100%	100%	100%	100%	100%	100%	100%
SES	100%	100%	100%	100%	100%	100%	100%	100%
Category B (donation of rates and any other fixed charges not directly related to a measurable “user pays” charge)								
Pre-schools Playgroups	100%	100%	Nil	100%	Nil	Nil	100%	100%
Public Halls	100%	100%	Nil	100%	Nil	Nil	100%	100%
Scouts and Girl Guides	100%	100%	Nil	100%	Nil	Nil	100%	100%
Agricultural Societies	100%	100%	Nil	100%	Nil	Nil	100%	100%
Surf Life Saving Clubs - Jet Boat Rescue Service	100%	100%	Nil	100%	Nil	Nil	100%	100%
Category C (as per other Council policies)								
Backlog Sewer	Nil	Nil	Nil	100%	100%	Nil	N/A	N/A

3. *That Council include the RSL Sub-Branch building at 13 Bugden Avenue, Alstonville in the same category as public halls due to the building having the same use.*
4. *The groups now excluded from the policy will, from 2011/12 onwards, need to apply for financial support through Council's annual community donations program.*
5. *That Council exhibit the amended policy for public comment with a report to be submitted back to Council following that exhibition period.*
6. *That Council, as part of the exhibition process, write to all the organisations impacted by any proposed changes in the policy, to inform them of those changes.*
7. *That Council confirms that these changes are to commence from the 2011/12 financial year, subject to the amended policy being adopted following the exhibition period.*
8. *That Council advise the Spastic Centre that whilst acknowledging the beneficial services provided by the organisation to the community it is only appropriate that Council decline the request for a donation of rates and charges at 2B High Street Alstonville for the 2010/11 rating year as this commitment was included in lease signed by the Spastic Centre.*
9. *That Council approves the donation of 2010/11 rates and fixed and service charges levied on the Ballina Jet Boat Rescue leased land at Regatta Avenue Ballina, estimated to total \$688.00, with the service to be responsible for on-going charges based on usage levels (i.e. water consumption and waste).*
10. *That the donations budget be expanded to \$100,000.*
11. *That part of the annual donations process Council provide a report for the benefit of the public on the total donations made, both in cash and in-kind.*

This was a rather comprehensive resolution and in response the proposal has been exhibited and correspondence forwarded to all the relevant parties. Council staff have also had phone conversations with two of the interested parties.

Council has not received any written submission in respect to the consultation undertaken and on that basis the purpose of this report is to now formally adopt the amended Donations - Rates and Charges policy.

### **Key Issues**

- Amendments to the policy and changes to the benefits derived by local organisations

### **Information**

The report to the January 2011 meeting outlined the reasons why the existing policy was recommended for amendment. Those reasons related to ensuring consistency in the types of organisations that receive the annual rates and charges donation and then offering other groups the opportunity to apply for a donation through Council's Donations - General budget.

Overall it is considered pleasing that the consultation undertaken has not resulted in any formal objection to the amendments with all parties appearing to accept the reasoning behind the change. That is, the entire process is now considered to be fairer and more equitable.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
This donations policy is aimed at supporting community based organisations that provide valuable community services to our shire.
- **Economic**  
Not Applicable

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

The original report identified there were some financial implications of the report, however they were minor, and the overall benefit from obtaining improved equity and transparency offset any increase in costs.

### **Consultation**

The proposal was formally exhibited for public comment. Correspondence was also forwarded to the organisations affected (i.e. Riding for the Disabled, Ballina RSL Youth Club, Ballina Maritime/Naval Museum, Biala Support Services & Alstonville Agricultural Society). Of the five organisations, two telephoned to discuss the changes and advised that they wouldn't be making a formal submission.

### **Options**

Adopt or amend the exhibited policy. The recommendation is to adopt the policy as exhibited, and a copy of the updated policy is attached for information.

**RECOMMENDATIONS**

That Council adopt the draft Donations - Rates and Charges Policy, as exhibited and as attached to this report.

**Attachment(s)**

1. Draft Donations - Rates and Charges Policy

**10.6 Policy (Final) - Tender and Quotation Evaluations**

<b>File Reference</b>	Council Policies
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Governance
<b>Objective</b>	To adopt the Tender and Quotations Evaluations policy.

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**Background**

Council at the January 2011 Council meeting resolved to place on public exhibition the draft policy, Tender and Quotation Evaluations.

The draft policy was placed on public exhibition with the closing date of 10 March 2011.

Council has not received any written submissions in respect to the exhibition period and on that basis the purpose of this report is to now formally adopt the Tender and Quotation Evaluations policy.

**Key Issues**

- Content of policy
- Relevance of policy

**Information**

The draft policy document was exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of advertisement in the local newspaper. Copies of the document were made available at Council's Community Access Points. The policy was also exhibited through Council's new electronic newsletter Community Connect eNews, with a link to an online feedback form.

No submissions were received.

The only concern that still remains with this policy is the need for the document as it does provide broad parameters to follow. Even though there is a risk that the policy could be ineffective, or could at some point in time "backfire" on Council, it is recommended that the policy be adopted. Staff will then monitor its implementation and use to determine its effectiveness.

**Sustainability Considerations**

- **Environment**  
Not Applicable

- **Social**  
Not Applicable
- **Economic**  
The policy is designed to ensure there is greater transparency in Council's evaluations of tenders and quotations.

**Legal / Resource / Financial Implications**

Nil.

**Consultation**

The draft policy was placed on public exhibition with the closing date of 10 March 2011.

**Options**

Adopt or amend the exhibited policy. The recommendation is to adopt the policy as exhibited, and a copy of the policy is attached for information.

**RECOMMENDATIONS**

That Council adopt the draft Tender and Quotations Evaluation Policy, as exhibited and as attached to this report.

**Attachment(s)**

1. Draft policy - Tender and Quotations Evaluation.



**10.7 Policy (Review) - Financial Hardship - Rates and Charges**

<b>File Reference</b>	Council Policies
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Governance
<b>Objective</b>	To review the Hardship Assistance for Rates & Annual Fees policy.

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**Background**

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Hardship Assistance for Rates & Annual Fees policy.

Council first adopted this policy in August 2004. The policy was developed as a result of the implementation of 2002 base date land values for the 2003/04 rating year. Council receives new land values from the Valuer General every three years and the 2002 land values resulted in large fluctuations within the shire. On average, the Lennox Head area increased proportionally more than other areas of the shire. This resulted in some ratepayers experiencing significant increases to their ordinary land rates.

**Key Issues**

- Whether the policy meets the requirements of Council and current legislation.

**Information**

The policy is designed to assist ratepayers that experience genuine and significant hardship in paying their rates and charges.

The policy was recently reviewed and still reflects current legislation. As part of the review process, several similar policies of other councils were perused. No significant changes to the current policy were identified as a result of the review process.

Since the policy was introduced in August 2004, Council has not received any applications under section one (deferral of the general rate when new land values are used) or section two (deferral of rates and charges against the estate) of the policy.

Council will receive new 2011 base date land values to be used from the 2011/12 rating year which may give rise to some applications.

This review of this policy identified only minor changes as follows:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.
- The name of the policy to be changed from “Hardship Assistance for Rates & Annual Fees” to “Financial Hardship Assistance for Rates, Annual Charges and Fees”. This change reflects all types of amounts currently levied on ratepayers’ Rates & Charges Notices.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is attached to the report.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
This policy aims to provide some relief to ratepayer’s that may be experiencing significant financial hardship.
- **Economic**  
Not Applicable

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

Successful applications to defer the payment of rates, charges or fees may result in a loss of interest income however, this would be insignificant when compared to the total income received by Council for rates, charges and fees.

### **Consultation**

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

### **Options**

Council may accept or amend the proposed changes to the policy. The changes included are largely house keeping therefore it is recommended that the policy be adopted as presented.

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

**RECOMMENDATIONS**

1. That Council adopt the amended Financial Hardship Assistance for Rates, Annual Charges and Fees Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

**Attachment(s)**

1. Review – Financial Hardship Assistance for Rates, Annual Charges and Fees Policy

**10.8 Policy (Review) - Busking Policy**

<b>File Reference</b>	Policies
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Administration
<b>Objective</b>	To review the Busking Policy

---

**Background**

All of Council's policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Busking Policy.

**Key Issues**

- Currency and suitability of Busking Policy for Ballina Shire Council.

**Information**

This existing Busking Policy has been developed to:

- to encourage activities that contribute colour and life to the town centres and provide opportunities for public performances
- provide an equitable system of allocation of popular busking sites in the town centres among the buskers earning a living through their art form
- identify suitable locations for different busking types; and
- minimise negative impacts of buskers operating in the Ballina Shire.

According to the busking register between ten and 15 applications are processed per year, with approvals granted for either three or 12 months.

The current policy still meets current requirements and only minor amendments have been made:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, related documents etc.
- Inclusion of the Commercial Use of Footpaths Policy as a related document to set the framework for how Council deals with private activities on roads.

The changes are highlighted in yellow.

Consideration was also given to incorporating the Busking Policy into the Commercial Use of Footpaths Policy. It was concluded that the Busking Policy should remain a separate policy.

The reasons for this were:

- The approval given under the Busking Policy is granted under the Local Government Act, whereas the approval granted under the Commercial Use of Footpaths Policy is under the Roads Act
- Busking applications are administered by Regulatory Services, and applications under the Commercial Use of Footpaths Policy are administered by Commercial Services.

They are effectively two different processes.

### **Sustainability Considerations**

- **Environment**  
Not applicable.
- **Social**  
Busking activities contribute to the colour and life of the town centres and provide opportunities for public performances. Identify suitable locations for different busking types and minimise negative impacts of buskers operating in the Ballina Shire.
- **Economic**  
Provide an equitable system of allocation of popular busking sites in the town centres for buskers earning a living through their art form.

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

Nil

### **Consultation**

The recommendation includes public exhibition of the policy.

### **Options**

Council can either accept the policy as is or recommend changes. The preferred option is to leave the policy as is, subject to the minor amendments mentioned, as the policy is considered to be operating effectively.

As only minor changes are proposed it is recommended that Council adopt the policy **and** place it on exhibition for public comment. However, if no submissions are received as a result of the exhibition process, no further action is required.

**RECOMMENDATIONS**

1. That Council adopt the amended Busking Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

**Attachment(s)**

1. Draft Review - Busking Policy

**10.9 Policy (Review) - Councillor Expenses and Facilities**

<b>File Reference</b>	Policies - General
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Administration
<b>Objective</b>	To review the existing Councillor Expenses and Facilities Policy.

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**Background**

Council last reviewed the Council Expenses and Facilities Policy at the August 2010 Ordinary meeting and then adopted a number of amendments, following public exhibition, at the November 2010 Ordinary meeting. In adopting those amendments Council also resolved as follows:

- 1. That Council adopts the amended Councillors Expenses and Facilities Policy, as attached to this report.*
- 2. That Council notes that on-going research is occurring in respect to the provision of an on-line portal, and ipads, or similar technologies, for Councillors, with this research subject to a further report to Council.*

The report that follows addresses point two of the above resolution and also considers two other items, relating to Councillor attendance at functions / events and use of staff resources, that could potentially be improved within the existing policy.

**Key Issues**

- Ensuring that Councillors are appropriately resourced to carry out their roles.

**Information**

There are three items under consideration in this report being

- a) Provision of computer technology to Councillors
- b) Clarification on the types of functions / events that Council will provide funding for Councillors to attend and
- c) Clarification as to the level of staff resources that can be used to assist Councillors.

**a) Provision of Computer Technology**

The provision of laptop or personal computers to Councillors has been a topical debate within Ballina Council for a number of years. Council held a workshop in September 2010 to discuss this issue, and other related matters, and it would be fair to say that there was some level of consensus that the use of tablet (i.e. IPAD or similar) technologies may be of benefit to Councillors.

In response to this Councillors Keith Johnson and Sue Meehan (as determined by the General Manager) have been provided with IPADs on a trial basis to assess whether there are benefits to be gained. Both Councillors, will no doubt provide their own feedback at the Ordinary meeting, however from the General Manager's observations the responses can be summarised as follows:

*Cr Keith Johnson - Has used the IPAD at meetings, with some success, although there are still issues in referring between reports and attachments. Otherwise the IPAD has not provided a great deal of benefit, although its portability could assist when travelling.*

*Cr Sue Meehan - Has found it to be very beneficial in accessing information and researching matters of interest.*

Like all technologies the benefits for users will vary dependent on an individual's circumstances. As a public authority it is important that any service provided, with public monies, is of benefit to the overall community.

From an administrative perspective there are considered to be benefits in ensuring that all Councillors have a reasonable, minimum, level of access to technologies to allow them to effectively carry out their duties.

The cost of providing this type of technology has decreased significantly over the years and tablets can now be purchased for around \$1,100. This would be the one-off capital cost incurred by Council, plus there would be an on-going monthly fee of just under \$30 to provide adequate access to the internet, email etc.

The tablet technology would also include software that allows annotations to be made on PDF documents. This can be of assistance when users are reviewing documents.

One important point with this discussion is that the provision of tablet technology should not be seen as a proposal to replace hard copy business papers. Certainly any Councillor who wishes to access the business paper in this fashion can, however the savings are limited (i.e. reduction in paper for a maximum of ten business papers, plus staff time in delivering business papers, when delivery is required).

Rather the main benefits should be focused on all Councillors having access to a similar, minimum, level of technology and the ability to deliver updates and reports in a standard, minimum, format and fashion.

It is anticipated that not all Councillors will require, or want, the tablets as some Councillors are already well equipped with computer technology. However, for those who may not have the same access or level of technology available, tablets would provide a benefit.



The other part of the November 2010 resolution was the development of an on-line portal for Councillors to access. This project is on the Information Service's section task list and it is anticipated the portal will be operational by November 2011, at the latest.

The attachment to this report also provides an article of interest on what possibilities do arise through the provision of tablet technologies.

### **b) Functions / Events**

Part Two of the existing policy covers the payment of expenses for Councillors. There are two clauses that relate directly to the reimbursement of Councillors attending certain events. Those clauses are:

#### **2.1.3 Spouse & Partner Expenses**

*Where the Mayor is required to attend a function on behalf of Council, and the nature of the function is such that the Mayor's spouse, partner or accompanying person could reasonably be expected to attend, Council will meet their reasonable expenses, eg ticket, meal and or direct cost of attending the function. Where the Mayor has requested a Councillor to attend a function (on behalf of Council), in their stead, and the nature of the function is such that the Councillor's spouse, partner or accompanying person could reasonably be expected to attend, Council will meet their reasonable expenses, eg ticket, meal and or direct cost of attending the function.*

#### **2.2.3 Travel Arrangements and Expenses within the Region**

*Councillors will receive reimbursement for the cost of using their private vehicle for travelling in accordance with rates set by the ATO (refer 2.1.2), within the region (Tweed, Richmond and Clarence), for attendance at:*

- *Meetings of Council*
- *Meetings of committees of Council (whether a committee member or not)*
- *Council inspections in compliance with Council resolutions*
- *Council business in compliance with Council resolutions*
- *Civic functions where representing the Mayor*
- *Other approved functions, meetings, seminars and engagements*
- *Meetings with Council staff within the shire and*
- *Meetings at the Council Chambers with constituents*

*The General Manager, in consultation with the Mayor, shall prepare a weekly meeting list of approved functions and activities for which travel by Councillors shall be reimbursed. Councillors who wish an event to be included on this list should forward details to the General Manager a minimum of one week in advance.*

The issue that requires clarification relates largely to the last paragraph, where the Mayor / General Manager are being requested regularly to include events on the weekly function list, on the assumption that Council will then pay for travel plus the cost of any entrance ticket.

This can be a very subjective process as Councillors are invited to numerous events and it is difficult to provide criteria as to which events should be approved and which should not. It is also important to acknowledge that the way the current policy reads it does not say that Council will pay for the cost of any entrance ticket, even though that has been Council's practice for many years.

In order to determine how to improve the current arrangements, reviews were undertaken of the Lismore City and Tweed Shire policies to compare arrangements.

*Lismore City Council* - Lismore City Council's policy is not explicit on this issue either, however staff advised that they only provide reimbursement of entrance fees where the Mayor has been invited to attend a function, or where the Mayor has asked a Councillor to attend in their place. Spouse and partner arrangements are as per Ballina's policy.

*Tweed Shire Council* - The relevant extract from Tweed Council's policy is as follows:

2.2.7 Attendance at dinners and other non-council functions

*Consideration may be given to meeting the cost of Councillors attendance at dinners and other non-Council functions which provide briefings to Councillors from key members of the community, politicians and business.*

*Approval to meet expenses will only be given when the function is relevant to Council's interest and attendance at the function is open to all Councillors.*

*No payment will be reimbursed for any component of a ticket to support attendance by councillors at political fund raising functions. An additional payment to a registered charity may be acceptable as part of the cost of the function. Councillors seeking reimbursement for this type of expense must have it approved by Council and not the General Manager.*

The key points arising from this are:

- a) entrance fees are typically only paid for the Mayor, or an alternate
- b) there may be instances where all Councillors are invited and there is relevance to Council's interests.

From a staff perspective restricting reimbursements for the Mayor only for these types of events keeps the process relatively simple and easy to understand. However there may be events / functions that are in the community interest where all Councillors are invited. On that basis it is recommended that Council's existing policy be amended to include the following:

Attendance at functions and events not organised by Council

*To assist the Mayor in undertaking his / her responsibilities Council will provide reimbursement of travel and entrance fees where the Mayor is invited, in his / her official capacity as Mayor, to attend functions and events that are not organised by Council. Reimbursement for these*

*functions / events will be approved by the General Manager and the Mayor must be invited to attend in his / her official capacity as Mayor.*

*A Councillor, invited by the Mayor to attend an event on behalf of the Mayor, will also be eligible for reimbursement of travel and entrance expenses.*

*Approval will only be provided for events within the region, as defined elsewhere in this policy.*

*Consideration will be also given to meeting the cost of Councillors attendance, including travel and entrance fees, at other non-Council functions / events which provide briefings to Councillors from key members of the community, politicians and business. Approval to meet expenses will only be given when the function is relevant to Council's interest and attendance at the function is open to all Councillors. This approval will be determined by the General Manager in consultation with the Mayor.*

This is considered to be a reasonable compromise and should be workable. If Councillors are of the opinion that only the Mayor should be reimbursed for entrance and travel fees for non Council events, the last paragraph can be removed.

**c) Use of Council Staff Resources to Assist Councillors**

The final issue relates to the very rare occurrence where a Council staff member may attend a Councillor's residence to assist the Councillor in a task or function they are performing as a Councillor. This very rarely happens and the only two examples that come to mind in recent years include:

- I) Staff assisting a Councillor completing an on-line survey
- II) Staff assisting a Councillor with access to the Council web site through their computer.

The issue has been raised at a staff level that this could be seen to be an inappropriate use of Council resources. However the preferred approach is to recognise that there may be those rare opportunities where Councillors need the direct assistance of staff to assist them with their Council duties. As Council does not provide all Councillors with their own offices etc, a Councillor is reliant on their own residence as office space.

Council needs to be careful that this type of resource use does not get used extensively, as it could impact on staff resources, and with this in mind it is recommended that the following clause be included in the expenses policy.

*The General Manager is entitled to authorise Council staff to attend a Councillor's residence to assist in resolving any Council related matter. However this approval is only to be given in the following circumstances:*

- *The Councillor must declare that the matter is directly related to Council business; and*
- *It has been assessed by the General Manager that the issue can be resolved relatively quickly; and*

- *There will be no additional expense incurred by Council in providing that assistance; and*
- *The work environment must be considered safe from an occupational health and safety perspective; and*
- *The General Manager is of the opinion that the use of the Council staff resource is the quickest and most effective method to resolve the matter.*

It is not anticipated that this clause would be used to any great extent, but it will cover those rare instances where this type of situation may arise.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
The provision of adequate resources to Councillors is considered important in ensuring that we encourage residents to become Councillors and to ensure that elected Councillors can undertake their role effectively.
- **Economic**  
Not Applicable

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

The provision of tablet computers will have a cost, albeit that the main cost will be typically following an election, where new equipment would be provided for the elected Councillors.

### **Consultation**

The Local Government Act requires changes in this policy to be exhibited for 28 days.

### **Options**

The options are to approve, amend, or not approve the items identified in this report. For the reasons outlined it is recommended that Council approve the changes for public comment.

## RECOMMENDATIONS

1. That Council approves the exhibition of the following amendments to the Councillors Expenses and facilities policy:
  - a) approval to allow for the provision of tablet computer technology to Councillors
  - b) inclusion of the following clauses in respect to attendance by Councillors at functions and events not organised by Council

### Attendance at functions and events not organised by Council

*To assist the Mayor in undertaking his / her responsibilities Council will provide reimbursement of travel and entrance fees where the Mayor is invited, in his / her official capacity as Mayor, to attend functions and events that are not organised by Council. Reimbursement for these functions / events will be approved by the General Manager and the Mayor must be invited to attend in his / her official capacity as Mayor.*

*A Councillor, invited by the Mayor to attend an event on behalf of the Mayor, will also be eligible for reimbursement of travel and entrance expenses.*

*Approval will only be provided for events within the region, as defined elsewhere in this policy.*

*Consideration will be also given to meeting the cost of Councillors attendance, including travel and entrance fees, at other non-Council functions / events which provide briefings to Councillors from key members of the community, politicians and business. Approval to meet expenses will only be given when the function is relevant to Council's interest and attendance at the function is open to all Councillors. This approval will be determined by the General Manager in consultation with the Mayor.*

- c) inclusion of the following clauses in respect to the use of staff resources to assist Councillors perform their role.

### Use of Staff Resources to Assist Councillors at their Private Residence

*The General Manager is entitled to authorise Council staff to attend a Councillor's residence to assist in resolving a Council related matter. However this approval can only be given in the following circumstances:*

- The Councillor must declare that the matter is directly related to Council business; and*
- It has been assessed by the General Manager that the issue can be resolved relatively quickly; and*

- *There will be no additional expense incurred by Council in providing that assistance; and*
- *The work environment must be considered safe from an occupational health and safety perspective; and*
- *The General Manger is of the opinion that the use of the Council staff resource is the quickest and most effective method to resolve the matter.*

**Attachment(s)**

1. Article from Government Technology Review magazine re Alpine Council Victoria

## 11. Civil Services Group Reports

### 11.1 Lennox Foreshore Park - Draft Master Plan

<b>File Reference</b>	Lennox Foreshore Reserve
<b>CSP Linkage</b>	Resilient and adaptable communities
<b>Delivery Program</b>	Open Space and Reserves
<b>Objective</b>	To present to Council a final draft of the Lennox Foreshore Reserve Master Plan for consideration.

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#### **Background**

In November Council considered a report regarding the preparation of a draft master plan for the Lennox Head Foreshore. The preparation of the draft was informed by consultation process that aimed to gather information regarding the aspirations of key community stakeholders.

In response to that report Council made the following resolution.

- 1. That Council approves the exhibition of the draft Lennox Head Foreshore Park Master Plan as attached to this report on public exhibition.*
- 2. That Council endorse the name of Lennox Park for the purposes of exhibition and that Council invite comments on the name and suggestions for alternate names.*
- 3. That Council, as part of this exhibition process, also advertise the public art proposal for the existing toilet in this locality, as detailed within this report, to allow community feedback.*

Accordingly the draft Lennox Foreshore Park Master Plan was placed on public exhibition and 18 responses were received. Copies of the submissions are provided to Councillors under separate cover.

This report provides a review of those submissions.

#### **Key Issues**

- Consider the adoption of a Master Plan for the Lennox Foreshore Reserve.
- To determine a name for the Lennox Foreshore Reserve.

### **Information**

In a number of the submissions received it appears that the purpose, intent and extent of the Master Plan have been misunderstood or misinterpreted.

Based on the feedback from the initial consultation with stakeholders the overwhelming desire for the park was to keep it as low key as possible and to make some small changes such as upgrading of seating and providing more shade through out the park.

The intent of the Master Plan was to provide a cosmetic refreshing or facelift for the park.

Issues such as sea level change and inundation by the ocean were raised in submissions and while these are important issues that are being addressed by Council, in this project the level of embellishment that was proposed for the park such as the path and seating are low impact facilities and if in the future they are affected by storm surge then repairs would need to be made.

The following information summarises the issues contained within the submissions and provides some comment in response.

#### **Toilet Facilities**

The Master Plan proposes the replacement of the toilet block. The toilet block is old and while it is cleaned on a daily basis it always appears to be dirty. The design or layout of the facility does not meet current standards for public toilets.

The issues raised in the submissions were in regards to the location, refurbishment and disabled access.

#### ***Location of toilet***

The adjoining land owner has requested that the toilet not be placed any closer to the boundary fence and this position is supported.

#### ***Replacement of the Toilet Facility***

The Master Plan proposes for the replacement of the existing toilet facility with a modern facility with appropriate safety design features. Several submissions indicated a view that while the toilets were not very attractive, it would be less expensive to refurbish the facility than replace it.

The disadvantage of refurbishment is that the layout does not meet contemporary safety design. To address these design issues, replacement is the most economic option. It would still be possible to achieve improvements in the presentation of the facility from refurbishment. Dependent on the likely time frame before funding for replacement could become available, some refurbishment would assist.

It is noted that the submission from NSW Police advised that separate toilets, as proposed, are the preferred design for public toilets.



### *Disabled Toilets*

Concerns were raised that there was no provision for disabled toilets in the plan and not enough toilets are provided. Disabled toilets have been included by way of unisex disabled toilets which also provide room for families and for changing. The layout on the Master Plan is conceptual and final design and plans will be developed at the time the facility is to be replaced.

It is suggested that Council does not need to change the approach in the master plan for the toilets.

### Shower Facilities

The Master Plan shows a beach shower with a modesty screen located on the beach side of the toilets.

The adjoining resident has requested that this be relocated. Similarly, the Police have requested the shower be relocated to a higher visibility area.

The larger cubicles proposed in the unisex/disabled toilets will provide a facility for changing. Therefore it is suggested that the Master Plan be amended to remove the screens and provide a shower located at the beach access without a screen.

### Path Network through the Park

A path has been included in the plan that provides access to the park from the two points being the bus stop at the southern end of the park and opposite the Lennox Point Hotel at the north of the park. The path is intended to provide an entry to, through and out of the park. It is also intended as feature which would showcase Lennox Head's surfing culture.

The path is not intended to be part of the Shire's shared path network. The option to place the 'shared path' in this reserve is not part of the options for that project.

### Park Furniture

The Master Plan has detailed the use of furniture that is constructed from a combination of recycled wood and plastic products. The submissions request timber seating. The recycled product is able to present a finished look similar to timber seating, however it is a better use of materials and offers reduced maintenance. Therefore it is not considered necessary to amend the master plan.

### Play Equipment

There is no provision of play equipment in the draft Master Plan. Several requests were made for additional play equipment.

This park has not been identified in Council's adopted 'Play Equipment Replacement Program' to have play equipment installed. The park is considered to be too small to accommodate play equipment without compromising the existing uses of the park. Play equipment is provided in the nearby Ross Park.

#### Levelling of Sections of the Park

The flattening of several areas of the park was suggested to enable the park to be used for small events.

Submissions questioned this suggestion on the basis that it would destabilise the dunal area. Other submissions indicated their liking of the undulations.

Council staff are of the view that the proposed levelling of the small undulations would not impact on the integrity of the dune area. To achieve the small degree of levelling that is planned would involve the removal of the high points of the rises and the addition of sand to level the area. This work is only of a small scale.

The purpose of this option was to make the area more usable for small events and general use and remains recommended to Council.

#### Provision of Electrical Service Points

The Master Plan has several electrical access points through the reserve to provide power for events that are conducted on the reserve.

#### Plant Selection

The draft Master Plan has incorrectly indicated the planting of Pandanus trees. The trees should have been notated as Tuckeroos and this has been corrected in this final version of the Master Plan.

Comments have been made about the planting of Hoop Pines on the Byron Street intersection and the concern that the trees will not survive the conditions. To address these concerns this suggestion has been removed from the master plan.

#### Shaded and protected seating areas

The advertised Master Plan shows two additional picnic shelters in the park. Requests for additional shaded areas were made in the submissions.

Two additional picnic shelters have been included in the draft plan which will provide a total of four picnic shelters at the site. This is a difficult issue to balance as the initial feedback requested that the park be developed with low impact embellishment, yet there is also a need for adequate shade.

The master plan is considered a guide and therefore it is suggested to leave it in its current form and monitor the amenity of the park and the future demands after the installation of the two shelters to see if further installations are appropriate.

### Bus Shelter

The advertised Master Plan provided for the demolition of the existing shelter and the installation of a smaller structure with provision for three picnic tables.

There was strong feedback in the submissions for the retention of the bus shelter. Most considered that the shelter should be refurbished and retained and that it would be a waste of money to remove it.

In their submission, the NSW Police ask that if the current shelter has to be retained then it needs to have improved sight lines. This could be achieved by removing sections of the walls. The Police advise that the current structure has poor natural and casual surveillance and that the shelter needs to have improved visibility from surrounding areas.

Submissions raised concerns that the replacement shelter would provide less seating than the current structure. To respond to this concern it would be possible for the replacement structure to be doubled in size and provide space for six picnic tables.

To assist in the consideration of the option to either remove and replace the existing structure or the retention and refurbishment of the existing shelter a builder was engaged to carry out an inspection of the structure and to provide a costing of the work required to refurbish, repair and make changes to the shelter to accommodate the concerns of the NSW Police.

The builder's inspection provided a costing for the work required to refurbish the shelter which was \$42,185. This included the following work:

- Replacing the roof
- Replacing the guttering
- Cement rendering the complete building and repairing damaged brickwork
- Replace all triple grips and cyclone strapping to tresses
- Install eaves
- Cut brickwork below windows to open up the structure and improve visibility into the shelter
- Paint building

The cost of removal of the existing shelter is \$13,200 with the replacement shelters being approximately \$30,000 which includes the structures, concrete slab and installation.

The cost of either option will be very similar so there will not be any cost saving in the retention of the existing shelter consequently the decision to retain or replace the shelter should be made on the basis of amenity and aesthetics.

The proposed replacement shelter is considered to be a superior option, being more open structure which will satisfy the requirements of the NSW Police and the six picnic tables will provide additions seating. The more modern shelter also provides more visibility through to the ocean.

Therefore the replacement is recommended subject to the amending the proposal by the addition of the extra picnic tables.

### Aboriginal Matters

One submission advised of the significance of this area to Aboriginal community. Council is aware of the need for further consultation prior to undertaking any works.

### Naming of the Park

Four submissions were made in respect of the park naming which can be summarised as the following.

- Pacific Park or Ocean View Park
- Lennox Park (2 submissions supported this name)
- Lennox Foreshore Park

The name nominated for consideration in the November Council report - Lennox Park - provides an indication of the location of the park and is easy to remember. Likewise the alternative name suggested - Lennox Foreshore Park.

### Mural

A proposal was put forward to paint a mural on the existing toilet block and this was included in the consultation that was placed on exhibition.

Four of the submissions addressed the option of a mural on the toilet block and the opinions were two in favour of a mural and two against.

On this basis it is suggested that the master plan be silent in respect of a mural and that proposals be considered on merit when they arise. The proposal in the plan was not initiated by Council rather it was in response to a request.

It would still be of benefit for Council to provide some direction on this issue and on that basis the recommendation is not to proceed as this retains the status quo.

### **Sustainability Considerations**

- **Environment**  
Appropriate enhancement and management of public reserves with sensitive environmental attributes ensures there is a balance between protection of the environment and community use.
- **Social**  
The provision of public open space that meets the needs of the widest range of community activities provides a central focal point for community and recreation activities that enhance and strengthen community cohesion.

- **Economic**  
Not Applicable

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

There are no financial implications in adopting the recommendations. By adopting a vision for the park through the master plan, Council will be able to consider the allocation of funds to implement the plan and pursue grants that will be consistent with agreed community outcomes.

### **Consultation**

There has been consultation carried out with the stakeholders listed in the consultant's report 'Lennox Head Foreshore Park Consultation Report' which is included as Attachment Two to this report.

The Lennox Foreshore Park draft Master Plan was placed on public exhibition during January and early February 2011. There was coverage of the proposals presented in the Master Plan in the Advocate along with television news coverage on NBN.

### **Options**

The above report identified some amendments to the draft plan being

- the removal of the modesty screens (to be replaced by a shower and changing rooms)
- removal of the Norfolk Pines
- Changing the vegetation from pandanus to tuckeroo
- Adding a further three picnic tables to the bus shelter
- Removing the reference to the mural

The Council can either make no amendments, amend by some or all of the above, or determine its own amendments. The copy of the draft plan attached to this report includes the above suggested changes.

Lennox Park is the name recommended for the area.

## **RECOMMENDATIONS**

1. That Council adopts the draft Lennox Foreshore Master Plan; as exhibited subject to the following amendments:
  - a) the removal of the modesty screens (to be replaced by a shower and changing rooms)
  - b) removal of the Norfolk Pines
  - c) Changing the vegetation from pandanus to tuckeroo
  - d) Adding a further three picnic tables to the bus shelter
  - e) Removing the reference to the mural
2. That Council submit the name Lennox Park to the Geographical Names Board of NSW for adoption.
3. That Council not proceed with the mural works on the existing toilet blocks due to the objections received to the proposal.

## **Attachment(s)**

1. Final Draft Master Plan
2. Lennox Head Foreshore Park Consultation Report (Separate Attachment)

**11.2 Waste Integrated Strategy (Review)**

<b>File Reference</b>	Integrated Waste Minimisation & Management Strategy
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Waste Services
<b>Objective</b>	To report to Council the results of the public exhibition of the Waste Integrated Strategy

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**Background**

Council at its meeting held on 26 August 2010 made a number of decisions in respect of its waste management services. One of those decisions was to place on exhibition the draft Integrated Waste Management Strategy. The purpose of this report is to advise Council of the outcomes of that exhibition.

In addition to this, the report also deals with an outstanding resolution in respect of managing the closure of the existing cells. That resolution was made at the Finance Committee Meeting held 19 February 2009 and reads as follows.

*That Council receive a report on the current position of investigations into the future treatment of waste post closure of the current cells.*

*That Council receive a report on the proposed course of action regarding remediation of former landfill sites.*

**Key Issues**

- To assess the response to the public exhibition and consider any submissions.

**Information**

**Integrated Waste Management Strategy**

The resolution from the August 2010 meeting is reproduced below. Whilst this report is addressing the exhibition of the strategy, a brief comment has been inserted into each part of the resolution as a record of the progress on each.

1. *That Council place on public exhibition the draft Integrated Waste Management Strategy as provided as a separate attachment to this report.*

The draft strategy document was exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of advertisement in the local newspaper. Copies of the document were made available at Council's Community Access Points. The document was also exhibited through Council's new electronic newsletter Community Connect eNews, with a link to an online feedback form.

No submissions were received as a result of this process.

Whilst it has been some time since the Council considered the draft, the Council was actively engaged in its preparation through a number of workshops and the formal presentation of the draft to the August meeting. On this basis and given that no submissions were received the recommendation to this report is for Council to adopt the strategy.

2. *That Council confirms its waste collection service for the **urban** areas will consist of a weekly green waste/organics service, a fortnightly waste service and a fortnightly recyclable service from July 2011 onwards.*

Preparations are continuing to introduce the service as planned in July 2011.

3. *That during the preparation of the 2011/2012 Operational Plan, Council receives a report to analyse waste charge options for the new services.*

Council has received this report.

4. *That Council notes the implementation program for the green waste and organics collection service as per Table One of this report*

As per item 2, the implementation is proceeding according to the schedule.

5. *That Council include in the exhibition documentation for the draft Integrated Waste Management Strategy, information to explain the reasons for Council's current position to not introduce an annual kerbside bulky goods collection service.*

As per item 1, the Council has not received any submissions in response to this position. Council has invested in the National Garage Sale Trail as an alternate program to assist people remove bulky goods and still support the Council's reuse objectives.

6. *That Council continue to pursue enhanced regional cooperation for waste management through the current program to review the structure and other arrangements for the North East Waste Forum and Council's Memorandum of Understanding with Lismore City Council.*

Council officers continue to examine opportunities with Lismore City Council in accordance with the MoU.

In respect of regional cooperation Council is a participant in the NOROC review of Waste Management Resource Sharing Opportunities. A draft of this review was recently presented to the regional General Managers' Group.



7. *That Council invite tenders for the provision of the collection of the green waste and organics waste services.*

Council made an award for this tender at its meeting held in January 2011.

8. *That Council also investigate the potential for improving/increasing home composting initiatives.*

Council considered a report on home composting at its last meeting and resolved to supply compost bins and worm farms, at cost, to residents. In addition Council will be delivering an education and awareness program.

Similarly, below is a comment in respect of the Finance Committee resolutions.

*That Council receive a report on the current position of investigations into the future treatment of waste post closure of the current cells.*

The adoption of the strategy and the ongoing discussions at the regional level are considered to be the process to address this issue. A report will be presented to Council at the conclusion of the regional review.

*That Council receive a report on the proposed course of action regarding remediation of former landfill sites.*

Council has owned and operated waste disposal sites in the past in Ballina, Wardell and Lennox Head. These sites have been closed and will need to be assessed to ensure the sites have been remediated appropriately however none of these sites would currently appear to be causing any immediate environmental harm.

In 2010 Council was approached by DECCW with a request to consider the Wardell site in relation to a number of potential issues including the possible contamination of the adjacent environment.

An inspection of the site by Council officers and DECCW staff resulted in the preparation and submission of a management plan for the site to DECCW which would guide the plans to allow the site to be further rehabilitated and returned to a natural state. The rehabilitation plan included weed control, remediation of deficiencies in the capping, and the planting of suitable species.

This plan was submitted in August 2010 to DECCW and Council is currently waiting for a response. Once approval of the plan is received costing will be developed and submitted for inclusion in future budget processes.

It is proposed that once the Wardell management plan is finalised the requirements for the other sites will be better understood. That would then be the time to prepare management plans for those sites.

The purpose of Council's resolution was to identify if it had a major financial liability in respect of landfill closures. The arrangements on the current Ballina site include ongoing rehabilitation as sections of the landfill are completed.

This was not the case for the previous northern cells. The closure of those cells required the placement of a cap all at once which was a significant expense.

Council is managing closure costs on a recurrent basis and the costs in the future will depend on the management plan, however at this stage these are not likely to be of significance in respect of the long term financial model.

### **Sustainability Considerations**

- **Environment**

The major focus of the IWS is the diversion of waste from landfill and the reuse of resources via processing and recycling rather than disposal.

- **Social**

The IWS includes guiding principles to ensure the services provided focus on the social needs of the community.

- **Economic**

Effective waste management has a positive contribution to economic development.

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

The IWS is aimed to assist Council strategically in respect of its legal, resource and financial planning for waste management.

The individual actions within the strategy will be subject to the normal decision making processes of Council prior to implementation.

Reports to the Finance Committee early this year dealt with financial modelling for the current financial year and these reports were informed by the draft IWS. It will still be necessary for Council to finalise the financial modelling for the green waste / organics service once the additional operating costs are known.

### **Consultation**

The above report details the exhibition process for this strategy which followed the Council's standard practices.

### **Options**

The Council can adopt the strategy, take no action, or amend and adopt.

**RECOMMENDATIONS**

1. That Council adopt the Integrated Waste Management Strategy, as exhibited.
2. That Council notes the information in response to the resolutions made at the Finance Committee held 19 February 2009.

**Attachment(s)**

Nil

### **11.3 Tender - Fripp Oval Sports Field Lighting**

<b>File Reference</b>	Tender – Supply and Installation of Sports Field Lighting Fripp Oval
<b>CSP Linkage</b>	Resilient and adaptable communities
<b>Delivery Program</b>	Open Space and Reserves
<b>Objective</b>	To obtain Council approval to award the contract for supply and installation of lighting to Fripp Oval

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#### **Background**

As part of the development of sporting fields in Ballina Shire, it is proposed to install lighting to Fripp Oval. This upgrade will enable improved utilisation of the facilities by the community and in particular it will assist sporting groups.

Tenders were advertised on 15 January 2011, with the advertised closing date of 22 February 2011. Submissions were received from three companies.

#### **Key Issues**

- Award the tender in accordance with the Local Government (General) Regulations 2005.
- Engage a suitably qualified and experienced Contractor that having regard to all the circumstances provides the most advantageous tender.

#### **Information**

The following tender submissions were received.

- Alan Neale Electrical Pty Ltd
- Musco Lighting Australia Pty Ltd
- Thearle Electrical Pty Ltd

The tender documentation defined three areas, by which each tender would be assessed:

- |                                |     |
|--------------------------------|-----|
| • Total Price                  | 80% |
| • Experience & Expertise       | 10% |
| • Occupational Health & Safety | 10% |

The tender evaluation panel then assessed each of the tenders against the above criteria and a summary of the rankings follows.

<b>Evaluation Criteria</b>	<b>Alan Neale Electrical</b>	<b>Musco Lighting</b>	<b>Thearle Electrical</b>
Total Price	76.0%	64.6%	63.3%
Experience & Expertise	9.0%	9.0%	8.0%
Occupational Health & Safety	8.0%	9.0%	8.0%
<b>Total</b>	<b>93.0%</b>	<b>87.3%</b>	<b>79.0%</b>

Based on the tender submissions Alan Neale Electrical Pty Ltd has ranked highest in the tender evaluation and is the lowest priced tender.

Alan Neale Electrical Pty Ltd is experienced in local conditions, having undertaken the installation of sports lighting to several sporting ovals in the Ballina Shire and all works undertaken by Alan Neale Electrical Pty Ltd has been of a high quality.

The tender also specified the source of the manufactured products to be supplied. The reason for this is that Council has used this product in other locations and there are advantages to Council in standardising the network.

### **Sustainability Considerations**

- **Environment**  
Not applicable
- **Social**  
These works will improve the sporting facilities with in the Ballina Shire.
- **Economic**  
Not Applicable

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

This report is provided to assist Council meet its statutory requirements in regard to tendering and procurement.

The tender amount is \$157,000. Council has also committed to an expenditure of \$16,000 as an extension on this project to install a further light pole. The total budget for the project is \$182,000. Therefore the tender amount is within the budget for this project.

### **Consultation**

The relevant sporting groups have been consulted regarding the installation of lighting to this oval.

### **Options**

Under the Local Government (General) Regulations 2005 Council must either accept the tender that “appears to be the most advantageous” or decline to accept any of the tenders.

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract to Alan Neale Electrical Pty Ltd to undertake the supply and installation of lighting to Saunders Oval and Quays Reserve.

Option one is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005.

Option two is recommended as the preferred option as the tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the preferred tenderer.

Alan Neale Electrical Pty Ltd is an experienced contractor and has completed several projects for Council in the past. Alan Neale Electrical Pty Ltd has scored highest in the tender evaluation and submitted the lowest priced tender to complete the works.

#### **RECOMMENDATIONS**

1. That Council accepts the tender for the Supply and Installation of Sports Field Lighting from Alan Neale Electrical Pty Ltd for the amount of \$155,730.00 + GST.
2. That Council authorises the Council seal to be attached to the contract documents.

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

Nil

**11.4 Local Traffic Committee - March 2011**

<b>File Reference</b>	Local Traffic Committee
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Asset Management
<b>Objective</b>	This report is presented to Council for its consideration of items referred to the Local Traffic Committee meetings held 9 March 2011.

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**Background**

The Local Traffic Committee (LTC) met on 9 March 2011. A copy of the agenda for those meetings was circulated to all Councillors. This report provides the recommendations of the Committee to Council.

**Key Issues**

- Consideration of recommendations from the LTC

**Information**

The agenda contained eleven business items (three items for referral to Council, six items for referral to the General Manager's delegate, one item for Traffic Engineering Advice, and one item for the information of the committee).

**Items Referred to Council**

The following items are referred to Council for its determination. Further background details are available in the LTC agenda previously circulated to Council.

a) **Southern Cross Industrial Estate Criterium**

The committee reviewed an application for road closures and a traffic control plan for the Northern Rivers Cycle Club to conduct their criterium cycle races at the Southern Cross Industrial Estate, Ballina, from 1 April 2011 to 31 October 2011 (Sunday mornings only).

The Committee was unanimous in its position to recommend to Council approval for the Road Closures in accordance with the submitted traffic control plan.

It is noted for Council that these arrangements have been in place previously and they have operated satisfactorily.

b) Road Closure - Anzac Day 2011 - Ballina

The Committee reviewed an application for road closures and a traffic control plan for the ANZAC day parade in Ballina on 25 April 2010.

The application proposes to close River Street at Martin Street, Cherry Street, Moon Street and Grant Street for the parade and to close Grant Street between River Street and Richmond River for the dawn service. The event is essentially the same as last year, which operated without incident.

The Committee was unanimous in its position to recommend to Council approval for the Road Closure in accordance with the submitted traffic management plan.

c) Road Closure - ANZAC Day 2011 - Alstonville

The Committee reviewed an application for road closures and a traffic control plan for the ANZAC day parade in Alstonville on 25 April 2010.

The application proposes to close Main Street from Budgen Avenue to Elizabeth Brown Park and detour traffic down High Street, Commercial Road, South Street and Green Street. The event is essentially the same as last year, which operated without incident.

The Committee was unanimous in its position to recommend to Council approval for the Road Closure in accordance with the submitted traffic management plan.

Items for Referral to the General Manager's Delegate

For the information of Council, the following six matters were considered by the LTC and resolutions made to the General Manager's delegate.

(a) Request to hold Bicycle Road Races - Rous

The committee recommended that approval be granted to the Northern Rivers Cycle Club to conduct road cycle races on the designated circuit at Rous for the period 1 April 2011 to 31 October 2011, subject to the races being conducted in accordance with the proposal including the provision of required insurance coverage.

(b) Request to hold Bicycle Road Races - Dungarubba

The committee recommended that approval be granted to the Northern Rivers Cycle Club to conduct road cycle races on the designated circuit at Dungarubba for the period 1 April 2011 to 31 October 2011, subject to the races being conducted in accordance with the proposal including the provision of required insurance coverage.



(c) Modification of Parking Controls adjoining Riverside Gym

The Committee resolved that it approves moving the existing, northern side Parking/No Parking Controls of the un-named lane adjoining the Riverside Health studio, west by 5.4m.

(d) Request No Through Road Signage - Hellyar Drive

The Committee resolved that it approves the installation of No Through Road signage at the intersection of Hellyar Drive and Ramses Street Wollongbar and that the request for children advisory signage be declined.

(e) Request No Parking Signage - Headlands Drive

The Committee resolved that it approves the installation of No Parking signage 25m in each direction of Headlands Drives speed hump and 10m in each direction of Isabella Drives speed humps.

(e) Request No Parking Signage - Headlands Drive

The Committee resolved that the applicant be notified that at this location there are no devices or additional regulatory signage that is suitable for implementation.

**Sustainability Considerations**

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

**Legal / Resource / Financial Implications**

Council has statutory requirements in terms of the management of its delegations from the RTA, including the management of the LTC. There is no resource or financial implications directly associated with the recommendations to this report.

**Consultation**

Public participation in LTC processes is determined by the RTA's Guidelines for the Management of Local Traffic Committees. Council has determined to use its meeting code arrangements for public access wherever it is consistent with the guidelines.

### **Options**

The Council can either accept or reject the recommendations. Council's acceptance or rejection of the recommendations is reported to the next meeting of the TLC.

In rejecting a recommendation it is the preferred practice to advise the LTC of the Council's reason for the rejection and invite the Committee to reconsider the matter having regard to the comments of Council. Following that process, if that matter remains unresolved, Council can elect to refer the matter to the Regional Traffic Committee.

### **RECOMMENDATIONS**

1. That Council approves the application by the Northern Rivers Cycle Club to conduct criterium cycle races at the Southern Cross Industrial Estate, Ballina, from 1 November 2009 to 1 October 2010 subject to the event being operated in accordance with the submitted application and traffic control plan.
2. That for the purpose of the annual ANZAC Day parade, Council grants approval to close River Street (Martin to Grant Streets) in accordance with the submitted Traffic Management Plan.
3. That for the purpose of the annual ANZAC Day parade, Council grants approval to close Main Street (Budgen Street to Elizabeth Brown Park) in accordance with the submitted Traffic Management Plan.

### **Attachment(s)**

1. Traffic Control Plan for Anzac Day Ballina
2. Traffic Control Plan for Anzac Day Alstonville

## **11.5 Policy (Final) - Cemetery Management**

<b>File Reference</b>	Cemetery, Policy
<b>CSP Linkage</b>	People attaining health and wellbeing
<b>Delivery Program</b>	Open Space and Reserves
<b>Objective</b>	To present to Council following the exhibition period the final draft Cemetery Management Policy.

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### **Background**

Council at its meeting held on 16 December 2010 considered the draft Cemetery Management Policy and resolved:

- 1. That Council place the draft Cemetery Management Policy, as attached to this report on exhibition for public comment.*
- 2. That in accordance with the Local Government Act Council exhibit the following fees to be included in the 2010/11 schedule of fees and charges:*
  - \$50 (inc GST) to be present when ashes and plaque are placed*
  - \$50 (inc GST) for the transfer of a Right of Burial*
  - An additional fee to cover additional costs incurred for burials that are booked outside normal Council operating hours*
  - A fee for costs incurred when burials take longer than their allocated time and incur additional costs to Council*

The purpose of this report is to provide Council with the results of the public exhibition, which occurred during January and February 2010. One submission was received in relation to the exhibited policy.

The previous report to Council provided the basis of the need for this policy.

### **Key Issues**

- To assess the response to the public exhibition and consider any submissions

### **Information**

The draft policy document was exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of advertisement in the local newspaper. Copies of the document were made available at Council's Community Access Points. The policy was also exhibited through Council's new electronic newsletter Community Connect eNews, with a link to an online feedback form.

One submission was received in relation to the exhibited policy. A copy of the submission is attached to this report.

The submission was received from a funeral industry operator and requests extensions to the time available to make bookings for burial. The submission notes that there can be logistical issues for families, church officials and funeral service providers that would in part be relieved if the booking periods were extended.

The letter submits that Lismore City Council offers a spread of hours that is more suitable to the needs of the industry.

This issue was contemplated in the previous report to Council. The recommendation was that funeral times be permitted between 9 am and 2 pm. The sand conditions at the Ballina Cemetery require specialised shoring arrangements and hand digging. This specialisation presently limits the number of staff available to undertake the work. Therefore it is preferred to accept bookings, outside of standard hours, only after the availability of staff has been assessed. This avoids the issue of offering the service of extended hours and not necessarily being able to support a specific request for that service.

Staff will make every effort to accommodate the requests that are made for an out of hours service. The hand digging and backfill arrangements are slower than the machinery digging that is available at Lismore. The earlier close of booking times is necessary to accommodate this extra time in normal work hours.

Subject to Council's support of the recommendation to this report, it is proposed to monitor the requests for burials outside of the standard hours and assess what the ability of Council has been to service the requests.

The draft policy has been amended to accommodate the suggestion to include the opportunity for the community to place memorial seats in the cemetery. A new Clause 24 has been added and makes the connection to the requirements set out in Council's Monuments and Memorials on Public Land Policy. This change is highlighted in yellow.

The fees and charges were advertised and no submissions were made on the proposed new fees.

### **Sustainability Considerations**

- **Environment**  
Enhanced maintenance levels of service for the cemeteries will assist in protecting the environment surrounding these locations.
- **Social**  
Cemeteries are an essential community service.
- **Economic**  
Not Applicable

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

There is no resource or financial implications associated with this policy. The policy however provides legal information associated with the management of the cemeteries in relation to the requirements of relevant Acts.

### **Consultation**

The draft policy has been placed on public exhibition for a period of 28 days. One submission was received in relation to the exhibited policy.

### **Options**

Council can adopt the policy as exhibited, amend it, or determine to not adopt the policy.

For the reasons set out in the above report, no amendments are suggested in response to the submission that was received.

The above report also identified that the policy had been amended to include the ability for the community to place memorial seats in the cemetery. This is the only recommended change.

Council can also adopt the advertised fees and charges, or determine to not adopt the fees.

No submissions were received regarding the proposed new fees and charges and to ensure that the cost of the proposed services is covered it is recommended that the fees be adopted.

### **RECOMMENDATIONS**

1. That Council adopts the draft Cemetery Management Policy, as amended, and as attached to this report.
2. That Council adopt the following fees:
  - \$50 (inc GST) to be present when ashes and plaque are placed
  - \$50 (inc GST) for the transfer of a Right of Burial
  - An additional fee to cover additional costs incurred for burials that are booked outside normal Council operating hours
  - A penalty fee for costs incurred when burials take longer than their allocated time and incur additional costs to Council

### **Attachment(s)**

1. Submission
2. Final Draft Cemetery Management Policy

**11.6 Policy (Review) - Fire Asset Protection Zones**

<b>File Reference</b>	Policy
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Open Space and Reserves
<b>Objective</b>	To review Council's Private Use Fire Protection Zones – Use of Council Public Land Policy

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**Background**

All of Council's policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Private Use Fire Protection Zones – Use of Council Public Land Policy.

**Key Issues**

- Suitability of policy for Ballina Shire Council

**Information**

The existing Private Use Fire Protection Zones – Use of Council Public Land Policy was prepared and adopted by Council to protect public land from being used for the purpose of establishing asset protection zones (APZ). The reason for this was that developers were utilising all of their land for development purposes and were seeking the use of public land for the APZs. This potentially constrains the use of the public land and confers a direct benefit to development without compensation to the Council for the use of the land.

Therefore the policy provides for future subdivisions to dedicate land for this purpose within their development.

The review of this policy has not recommended any changes outside of reformatting other than to propose a new name of the policy. It is suggested that Council rename the policy 'Fire Asset Protection Zones – Private Use of Public Land Policy'. The reason for the proposed name change is that the new name more accurately and simply conveys the purpose of the policy.

**Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Ensure that public land is not constrained by private uses

- **Economic**  
Not Applicable

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

The NSW Rural Fire Service has requirements for asset protection zones around developments of identified bushfire prone land.

### **Consultation**

No consultation has been undertaken in the preparation of this review.

### **Options**

Council may accept or amend the proposed changes to the policy.

As there have been no changes to the policy other than reformatting the document, renaming the policy and inclusion of related legislation it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment

### **RECOMMENDATIONS**

1. That Council adopt the revised Fire Asset Protection Zones - Private Use of Public Land Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

### **Attachment(s)**

1. Draft Revised Fire Asset Protection Zones – Private Use of Public Land Policy

**12. Public Question Time**



**13. Motions on Notice**

**13.1 Notice of Motion - Telecommunications Tower at Lennox Head**

**File Reference** Notices of Motion

**Councillor** Cr Jeff Johnson

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I move that

1. Council advise Optus of its opposition to the proposed telecommunications facility at Basalt Crt Lennox Head on the basis of the concerns about potential health risks and loss of amenity to the residents who live within the vicinity of the proposed installation.
2. Council advise Optus that co-location on an existing telecommunications tower is preferred

**Staff Comment**

Councillors have been advised of this issue through a number of bulletin items. In addition to this B Ward Councillors were invited to a meeting with Optus representatives and local residents.

In summary local residents are concerned about a range of issues, however predominately they are concerned about risks to public health and the loss of local amenity.

As advised to Councillors via the bulletins, in respect of low impact facilities (low impact within the meaning of the Telecommunications (Low Impact) Facilities Determination 1997), Optus enjoys some statutory rights including exemption from planning laws and a right to access and install. More information is found in the attached fact sheet from the Australian Communications and Media Authority. The fact sheet is entitled "Installation of Telecommunications Facilities – A Guide for Local Government."

Other fact sheets are also available from the ACMA website or by contact to the Group Manager Civil Services. The available information also explains the regulator's position in respect of electromagnetic emissions, the cause of the public health risk concerns held by the residents.

Optus have conducted a community consultation process, and in response to the feedback have amended their proposal by reducing the amount of antennas from six to three. As part of the consultation, Optus were requested to review alternate site locations. In response Optus advised that this site was preferred because it offered the coverage necessary for the service and it was a co-location opportunity. Without co-location, it is necessary to construct a mono pole to an equivalent height of the reservoir. It is the view of Optus, and

staff, that such an arrangement would provide greater loss of amenity than the current proposal.

Optus have now provided Council with formal notification of its intention. A copy of the notice is attached. Councillors will note that the letter advises that Optus propose to commence works on the 24 March 2011 and that Council has 5 business days to lodge a written objection. Optus has agreed to allow Council up to the 24 March 2011 to lodge an objection to enable the elected Council to consider its position.

The letter lists, on page two of the notice, the matters to which an objection must relate to. The list does not include the issues raised in submissions by the residents as the items primarily relate to potential issues regarding the use of the land by the landowner arising from the proposal.

Whilst the concerns of the community representatives are understood, and Council has attempted to facilitate the discussion between Optus and those representatives, it is important to recognise those residents not involved in the process who are seeking the service improvements and the issue of other sites resulting in greater loss of amenity.

On the basis of the above information, staff have not indicated an objection to the proposal and have invited Councillors to determine Council's position by way of this notice of motion.

Rather than lodge an objection, it is recommended that staff continue to work with Optus to ensure the proposal best meets the interests of Council. To do this, staff have requested that Optus enter a licence or lease for the use of the facility. Optus are not required to enter such an agreement however they have indicated their willingness to do so to assist in relations and this represents the best advantage position for the Council.

### **COUNCILLOR RECOMMENDATION**

1. Council advise Optus of its opposition to the proposed telecommunications facility at Basalt Crt Lennox Head on the basis of the concerns about potential health risks and loss of amenity to the residents who live within the vicinity of the proposed installation.
2. Council advise Optus that co-location on an existing telecommunications tower is preferred

### **Attachment(s)**

1. Notice from Optus
2. Fact Sheet - Australian Communications and Media Authority

**13.2 Notice of Motion - Aboriginal Consultative Committee**

**File Reference** Notices of Motion

**Councillor** Cr Jeff Johnson

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I move that

Ballina Council gives in principle support for the establishment of an Aboriginal Consultative Committee.

**Councillor Comment**

Many local councils throughout NSW have established Aboriginal Advisory or Consultative Committees to foster reconciliation and improve the exchange of information between Councils and the local Aboriginal Community.

The establishment of a wide-ranging Aboriginal Consultative Committee, consisting of elders and representatives from various Aboriginal groups and organisations, would greatly improve communication between the Ballina Shire Council and the local Aboriginal community.

Improved communication and consultation through a formal Council committee will be a welcome step forward for our Council and the Ballina community as a whole.

Consultative Committees like this have proven to be successful in other Local Government areas and are consistent with DLG guidelines and recommendations.

**Staff Comment**

Council support this in principle proposal, albeit that further discussions should be held with the Aboriginal Community as to whether this is the best method of consultation.

**COUNCILLOR RECOMMENDATION**

Ballina Council gives in principle support for the establishment of an Aboriginal Consultative Committee

**Attachment(s)**

Nil

**13.3 Notice of Motion - Exhibition of Draft Terms of Reference - Aboriginal Consultative Committee**

**File Reference** Notices of Motion

**Councillor** Cr Jeff Johnson

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I move that

Ballina Council exhibit the draft terms of reference for the establishment of an Aboriginal Consultative Committee for 28 days and then receive a report on the submissions received.

**Councillor Comment**

I have attached the Terms of Reference used by Marrickville Council as an example of what other councils have been using for a number of years. I have also looked at the models used by Leichardt, Hurstville and Tweed Council.

I will forward to Councillors before the March Meeting a document that combines elements of all 4 documents to form the basis of a draft for public exhibition.

I will be drafting this document in consultation with Council Staff. I believe it is preferable to place on exhibition a draft document such as this in order to gain the direct feedback needed from our local community and Aboriginal organisations. Once the submissions have been received and a staff report produced Council may determine that a Councillor workshop is needed.

**Staff Comment**

Council has been engaging with members of the local Aboriginal community for a considerable period with a view to exploring opportunities to establish a protocol or agreement on engaging with Aboriginal people and issues in the Ballina Shire.

This engagement emerged from a number of sources including the coastal cycleway process; informal requests from a number of Aboriginal community representatives to commence a dialogue around developing a broader protocol framework to provide guidelines to Council staff for engaging with Aboriginal people and issues particular to the Ballina shire; and concerns from Council staff to have guidelines for working with Aboriginal community members and issues in accordance with cultural protocols.

These concerns led to initial, and informal, discussions with various groups and families to establish whether a formalised protocol between Council and Aboriginal community representatives had broader support than that initially voiced. Opportunities to discuss the establishment of a formal protocol also presented at some cycleway meetings. The overarching sentiment emerging

from this dialogue was that there is broad support for establishing a formalised protocol.

Initial discussions also provided advice to Council staff on practical issues, such as how to involve community members in a protocol process; where meetings should be held; who should facilitate these meetings; and what kinds of issues a formal protocol might address. Arising from this feedback, several community meetings were scheduled in late 2009 and in 2010.

Attendance at these meeting was open to all members of the shire's Aboriginal community. Community members were invited to these meetings by letter, public advertisements and flyers distributed via Aboriginal service providers throughout the shire. These meetings included a presentation of a suggested protocol process; discussed some examples of existing protocol documents; and invited feedback from community members on any aspect of the proposed process or shared documentation.

The process to date has been gradual at the request of community members participating. Advice has also emphasised the need for the Aboriginal community to own the process, and to proceed in consideration of the sensitivities and diverse perspectives that are held within the Aboriginal community. Moreover, the need to develop a protocol that addresses the particular needs of the Ballina Shire Aboriginal community has also been emphasised by its participant members. In addition, Council has been concerned to inform the community that any protocol established needs to be mindful of its function.

During this process also, Council has been concerned to engage diverse Aboriginal perspectives and has advised Aboriginal community participants that it has a responsibility to do this. The process to date has been informed by a number of documents in addition to existing protocol documents.

These have included the NSW Division of Local Government's Engaging with local Aboriginal communities: A resource kit for Local Government in NSW, as well as journal articles by experts in the field of establishing and sustaining community engagement with Aboriginal communities.

Staff involved in the protocol process has included the General Manager, Council's Strategic and Community Services Group Manager, Aboriginal Community Liaison Officer and Cultural Development Officer.

### **COUNCILLOR RECOMMENDATION**

Ballina Council exhibit the draft terms of reference for the establishment of an Aboriginal Consultative Committee for 28 days and then receives a report on the submissions received.

### **Attachment(s)**

1. Marrickville Council Terms of Reference

**14. Advisory Committee Minutes**

**14.1 Finance Committee Minutes - 17 March 2011**

**File Reference** Finance Committee

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**Attendance**

Cr P W Silver (Mayor - in the chair), S L Cadwallader, B C Smith, K H Johnson, R A Hordern, D E Wright and S M Meehan.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic Services Group Manager), Peter Morgan (Manager Finance & Governance) and Sandra Bailey (Secretary) were in attendance.

There was one person in the gallery at this time.

**1. Apologies**

Apologies were received from Cr Brown, Cr J Johnson and Cr Moore.

**RESOLVED**

(Cr Sharon Cadwallader /Cr David Wright)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

**2. Declarations of Interest**

Nil

**3. Deputations**

Nil

**4. Committee Reports**

**4.1 Newlog - Operating Budget - 2011/12**

**RECOMMENDATIONS**

(Cr David Wright/Cr Ben Smith)

That Council notes the contents of the report and endorses the North East Weight of Loads draft operating budget, as attached to the report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

#### **4.2 Water Charges - Pricing Options - 2011/12**

##### **RECOMMENDATIONS**

(Cr Keith Johnson/Cr Ben Smith)

1. That Council, based on the information outlined in this report, endorses a 9.9% increase for water annual and consumption charges, for the purposes of the draft 2011/12 Operational Plan.
2. That Council approves variations to the 2010/11 operating and capital budget for water based on the latest figures included in the two attachments to this report.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Meehan

AGAINST VOTE - Cr Hordern, Cr Wright

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

#### **4.3 Sewer Charges - Pricing Options - 2011/12**

A **Motion** was moved by Cr Keith Johnson and seconded by Cr Ben Smith.

1. That Council, based on the information outlined in this report, endorses a 9.5% increase for sewer annual and consumption charges, for the purposes of the draft 2011/12 Operational Plan.
2. That Council approves variations to the 2010/11 operating and capital budget for sewer based on the latest figures included in the attachments to this report.
3. That Council approves the calling of expressions of interest / tenders for loan funds of \$4 million for 2010/11, \$45 million for 2011/12 and \$7 million for 2012/13 to assist with the financing of the sewer capital works program.

The **Motion** was **LOST**.

FOR VOTE - Cr K Johnson, Cr Smith

AGAINST VOTE - Cr Silver, Cr Cadwallader, Cr Hordern, Cr Wright, Cr Meehan

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

##### **RECOMMENDATION**

(Cr Robyn Hordern/Cr David Wright)

1. That Council endorses a 15% price increase for sewer annual and consumption charges, as presented to the February 2011 Finance Committee meeting, for the purposes of the draft 2011/12 Operational Plan.
2. That Council approves variations to the 2010/11 operating and capital budget for sewer based on the latest figures included in the attachments to this report.

3. That Council approves the calling of expressions of interest / tenders for loan funds of \$4 million for 2010/11, \$45 million for 2011/12 and \$7 million for 2012/13 to assist with the financing of the sewer capital works program.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr Smith, Cr Hordern, Cr Wright, Cr Meehan

AGAINST VOTE - Cr K Johnson

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

#### **4.4 Fees and Charges - 2011/12**

##### **RECOMMENDATIONS**

(Cr David Wright/Cr Keith Johnson)

1. That Council approves the draft schedule of fees and charges for inclusion in the draft 2011/12 Operational Plan, as attached to this report, including any adjustments resulting from this meeting.
2. That Council approves the amended Refund Procedures for the Flat Rock Tent Park, as outlined within this report.
3. That the General Manager review the bus shelter advertising fees to determine whether there are any benefits in providing a greater incentive in respect to annual fees and consideration of installation fees.
4. That the General Manager investigate the benefits of advertising on the Burns Point Ferry.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

#### **4.5 General Fund - Operating Budget - 2011/12**

##### **RECOMMENDATIONS**

(Cr Keith Johnson/Cr Susan Meehan)

1. That Council endorses the draft operating budget, as attached, for inclusion in the draft 2010/11 Operational Plan, including any adjustments resulting from this meeting.
2. That Council approves the inclusion of the TRIM document Management System in the draft operating budget, as per the information outlined in this report.
3. That Council approves the employment of an additional Workcover Accredited Occupational Health and Safety Trainer, with the cost of this position to be totally offset by savings in monies currently paid to external trainers.



4. That Council approves funding of approximately \$162,000, sourced from Council's property reserves, to upgrade Council's street lighting network with the most energy efficient lighting that is currently available and which is compliant with relevant standards. The savings from this changeover are to be immediately reimbursed to the property reserves and this is expected to occur in less than one year.
5. That a further report be submitted on options to fund the following items:  
  
Alstonville and Ballina CBD street cleaning - \$38,000 recurrent cost  
Annual tree planting program- \$15,000 recurrent cost
6. That Council receive a report on the long term viability of the Flat Rock Tent Park.
7. That Council receive further information outlining the benefits to be received through the implementation of the TRIM electronic data management system.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

#### **4.6 Capital Works - Recurrent - 2011/12 to 2014/15**

##### **RECOMMENDATIONS**

(Cr Ben Smith/Cr Susan Meehan)

That Council approves the draft Capital Works - Forward Plans, as outlined in this report, for inclusion in the draft 2011/12 Operational Plan, including any adjustments resulting from this meeting, along with the adjustments to the 2010/11 budget as outlined in the report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

#### **4.7 Capital Works - Non-recurrent - 2011/12 to 2014/15**

##### **RECOMMENDATIONS**

(Cr Ben Smith/Cr David Wright)

1. That Council approves the inclusion of the forward financial plans for Council's property reserves, as per Tables Three, Five and Six as amended, and as outlined below, in the Draft 2011/12 Operational Plan.
2. That Council approves amendments to the 2010/11 budget to reflect the latest financial information as per Tables Three, Five and Six as amended, and as outlined below.

**Table Three - Community Infrastructure Reserve - 2009/10 to 2014/15**

Item	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>Opening Balance</b>	<b>6,751,600</b>	<b>5,904,100</b>	<b>2,879,900</b>	<b>291,300</b>	<b>235,900</b>	<b>829,400</b>
Add: Revenues						
Interest Accrued	333,000	178,000	72,000	7,300	5,900	20,700
Rental - 89 Tamar Street (100%)	648,400	658,000	675,500	695,600	716,300	737,700
Rental - ARC (50%)	0	128,000	157,000	161,700	166,600	171,600
Rental - Fawcett Café (100%)	75,000	79,000	83,500	86,000	88,600	91,300
Loan Income - 89 Tamar Street	0	0	1,500,000	0	0	0
Loan Income - ARC	0	0	0	0	0	0
Loan Income - Fawcett Park Café	0	0	500,000	0	0	0
Internal Loan - Commercial Opps	0	0	2,500,000	0	0	0
Sales - Harvey Norman Dividend	0	2,158,000	0	0	0	0
Sales - Southern Cross	0	730,000	580,000	580,000	0	0
Sales - Adjoining BP (50%)	0	0	0	582,400	0	0
Sales - Balance ARC Site (50%)	0	0	0	1,081,500	0	0
Insurance Claim - L.H.C.C.	0	0	0	800,000	0	0
Rate Cont to Roundabout (30%)	0	0	308,000	0	0	0
Sec 94 Road - Roundabouts (70%)	0	0	0	1,344,000	0	0
Sec 94 Recouped - Comm Fac	0	940,000	325,000	334,800	344,800	355,100
<b>Sub Total</b>	<b>1,056,400</b>	<b>4,871,000</b>	<b>6,701,000</b>	<b>5,673,300</b>	<b>1,322,200</b>	<b>1,376,400</b>
Less: Expenditure						
Loans Repaid (existing) - 89 Tamar	429,700	429,700	429,700	429,700	429,700	429,700
Loan Repaid (new) - 89 Tamar	0	0	0	224,000	224,000	224,000
Loan Repaid (new) - ARC	0	0	0	0	0	0
Loan Repaid (new) - Fawcett Pk	0	0	0	75,000	75,000	75,000
Loan Repaid- Commercial Opps	0	0	0	2,500,000	0	0
Legals	22,500	0	0	0	0	0
Capital - Lennox Hd Comm Cent	0	5,446,000	0	0	0	0
Capital - Tintenbar Hall	25,000	0	0	0	0	0
Capital - Coastal Shared Path	0	200,000	83,500	236,900	0	0
Capital - Coastal Walk	0	0	216,400	563,100	0	0
Capital - Coastguard Tower	26,700	0	0	1,700,000	0	0
Capital - Hockey	400,000	0	0	0	0	0
Capital - Main Street - Alstonville	0	1,300,000	0	0	0	0
Capital - Main Street - Ballina	0	0	5,300,000	0	0	0
Capital - Main St - Cap Cook Pk	0	0	60,000	0	0	0
Capital - Main Street - Wardell	1,000,000	0	0	0	0	0
Capital - Regional Sports Centre	0	450,000	0	0	0	0
Capital - Surf Club - Ballina	0	0	3,200,000	0	0	0
Capital - Surf Club - Lennox	0	30,000	0	0	0	0
Capital - Ballina Library Expand	0	0	0	0	0	0
Capital - Other Projects	0	39,500	0	0	0	0
<b>Sub Total</b>	<b>1,903,900</b>	<b>7,895,200</b>	<b>9,289,600</b>	<b>5,728,700</b>	<b>728,700</b>	<b>728,700</b>
<b>Closing Balance</b>	<b>5,904,100</b>	<b>2,879,900</b>	<b>291,300</b>	<b>235,900</b>	<b>829,400</b>	<b>1,477,100</b>

**Table Five - Commercial Opportunities Reserve - 2009/10 to 2014/15**

Item	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>Opening Balance</b>	<b>11,355,600</b>	<b>10,838,200</b>	<b>6,653,400</b>	<b>400,900</b>	<b>93,900</b>	<b>3,278,900</b>
<b>Add: Revenues</b>						
Interest Accrued	502,000	400,000	640,000	10,000	2,000	82,000
Sales - Skennars Head	0	0	0	400,000	0	0
Sale - Russellton Courts	0	0	0	0	2,000,000	0
Sales - WUEA	0	0	0	0	2,000,000	2,000,000
Sales - Lennox Head	0	0	0	0	2,000,000	2,000,000
Int Loan Repaid - Indust	0	0	2,000,000	2,000,000	800,000	200,000
Int Loan Repaid - Comm	0	0	0	2,500,000	0	0
Int Loan Repaid - Airport	0	268,900	24,500	0	0	0
Int Loan Repaid - Plant	33,800	33,800	33,500	33,500	33,500	0
Int Loan Repaid - Flat Rock	0	49,500	49,500	49,500	49,500	49,500
<b>Sub Total</b>	<b>535,800</b>	<b>752,200</b>	<b>2,747,500</b>	<b>4,993,000</b>	<b>6,885,000</b>	<b>4,331,500</b>
<b>Less: Expenditure</b>						
Purchase - North Ballina	403,000	0	0	0	0	0
Dividends - General Fund	159,200	0	0	0	0	0
Loan Funding - Flat Rock	92,000	0	0	0	0	0
Sports Fields - Wollongbar	0	1,666,000	500,000	1,000,000	0	0
Sports Fields - Skennars Hd	145,000	1,271,000	0	0	0	0
Land Purchase - Lennox Hd	0	0	4,000,000	0	0	0
Internal Loan - Airport	254,000	0	0	0	0	0
Internal Loan - Indust Land	0	2,000,000	2,000,000	800,000	200,000	0
Internal Loan - Comm Infrs	0	0	2,500,000	0	0	0
Development - WUEA	0	0	0	2,000,000	2,000,000	1,000,000
Development - Lennox Head	0	0	0	1,500,000	1,500,000	1,500,000
<b>Sub Total</b>	<b>1,053,200</b>	<b>4,937,000</b>	<b>9,000,000</b>	<b>5,300,000</b>	<b>3,700,000</b>	<b>2,500,000</b>
<b>Closing Balance</b>	<b>10,838,200</b>	<b>6,653,400</b>	<b>400,900</b>	<b>93,900</b>	<b>3,278,900</b>	<b>5,110,400</b>

**Table Six - Industrial Land Development Reserve - 2009/10 to 2014/15**

Item	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>Opening Balance</b>	<b>2,255,500</b>	<b>(1,933,500)</b>	<b>259,800</b>	<b>86,200</b>	<b>137,700</b>	<b>187,300</b>
<b>Add: Revenues</b>						
Interest Accrued	0	0	6,000	2,000	3,000	5,000
Rental - Norfolk Homes	98,000	101,000	133,000	137,000	141,200	145,500
Rental Income - ARC (50%)	0	128,000	155,500	161,700	166,600	171,600
Int Loan Repaid - Waste	335,900	288,400	288,400	0	0	0
Int Loan Repaid - Comm Opps	0	2,000,000	2,000,000	800,000	200,000	0
Sales - Harvey Norman	0	3,842,000	0	0	0	0
Sales - Southern Cross	0	0	0	0	1,000,000	1,000,000
Sales - Russellton	0	0	0	0	0	0
Sales - Land Adjoin BP (50%)	0	0	0	582,400	0	0
Sales - Bal ARC Site (50%)	0	0	0	1,081,500	0	0
<b>Sub Total</b>	<b>433,900</b>	<b>6,359,400</b>	<b>2,582,900</b>	<b>2,764,600</b>	<b>1,510,800</b>	<b>1,322,100</b>
<b>Less: Expenditure</b>						
WUEA - Operating Expenses	0	10,000	10,000	10,800	11,100	11,400
Southern Cross - Op Exps	14,000	31,500	32,600	33,900	34,900	35,900
Southern Cross - Overheads	137,000	128,000	150,400	136,900	141,000	145,200
Russellton - Operating Exps	18,000	7,500	7,800	8,100	8,300	8,500
Russellton - Overheads	61,000	60,000	105,700	62,000	63,900	65,800
Property Investigations	15,000	26,000	0	0	0	0
General Fund - Dividends	90,900	273,100	250,000	161,400	402,000	409,400
Internal Loan - Comm Opps	0	0	2,000,000	2,000,000	800,000	200,000
Sthn Cross - Cessna Drive	640,000	560,000	0	0	0	0

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Sthn Cross - ARC	1,611,000	770,000	0	0	0	0
Sthn Cross - Harvey Norman	1,642,000	2,200,000	0	0	0	0
Sthn Cross - Residue (APN)	284,000	100,000	0	0	0	0
Russellton - Development	0	0	200,000	300,000	0	0
Legal Expenses	110,000	0	0	0	0	0
<b>Sub Total</b>	<b>4,622,900</b>	<b>4,166,100</b>	<b>2,756,500</b>	<b>2,713,100</b>	<b>1,461,200</b>	<b>876,200</b>
<b>Closing Balance</b>	<b>(1,933,500)</b>	<b>259,800</b>	<b>86,200</b>	<b>137,700</b>	<b>187,300</b>	<b>633,200</b>

FOR VOTE - All Councillors voted unanimously.  
 ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson, Cr Brown

## MEETING CLOSURE

5.58 pm

## RECOMMENDATIONS

That Council confirms the minutes of the Finance Committee meeting held Thursday 17 March 2011 and that the recommendations contained within the minutes be adopted.

## Attachment(s)

Nil

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

**15.1 Mayoral Meetings**

<b>File Reference</b>	Mayoral
<b>Councillor</b>	Cr Phillip Silver

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Activities since the February 2010 Ordinary meeting:

<u>Date</u>	<u>Function</u>
25/2/11	NOROC meeting in Murwillumbah
26/2/11	Crawford House extension opening in Alstonville
2/3/11	NBN re sewer tender
3/3/11	Ballina Combined Service Dinner in Ballina
5/3/11	Dreadnought Society Book Launch in Ballina
6/3/11	SLS Jet Boat Launch in Ballina
8/3/11	Police Regional meeting in Lismore
10/3/11	Delegation with staff, surf schools in Ballina
1/3/11	C3 Church opening in Ballina
13/3/11	Embroidery exhibition opening Community Gallery in Ballina
14/3/11	Launch Richmond river Estuary Plan in Lismore
15/3/11	Meeting with staff and Local Reference Group, Aboriginal Child Care Centre
16/3/11	ABC Radio, Local Government funding
17/3/11	Delegation with staff, Alstonville signage

**RECOMMENDATION**

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

**Attachment(s)**

Nil

**16. Questions Without Notice**

**17. Confidential Session**

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

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

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

Item 17.1 - Site Selection - Regional Sporting & Entertainment Centre

The report contains information relating to commercial negotiations and if released to the public could prejudice the outcome.

Item 17.2 - Organisation Structure - Review

The report discusses private matters relating to Council staff.

**RECOMMENDATION**

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

**17.1 Site Selection - Regional Sporting & Entertainment Centre**

**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 information is contained in the report relating to commercial negotiations.

**17.2 Organisation Structure - Review**

**Reason for Confidentiality**

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

- (a) personnel matters concerning particular individuals (other than councillors)

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 the report discusses private matters relating to Council staff.