



## 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 23 June 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. Notices of Motion
14. Advisory Committee Minutes
15. Reports from Councillors on Attendance on Council's behalf
16. Questions Without Notice
17. Confidential Session

Paul Hickey  
**General Manager**

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

## **Deputations to Council – Guidelines**

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

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 .....	2
7.1	Mayoral Minute - Aboriginal Child and Family Care Centre	2
8.	Regulatory Services Group Reports .....	3
8.1	DA 2010/962 - Highway Service Centre, Pacific Highway, Ballina	3
8.2	Compliance Work Plan 2010/2011 - Final Update	31
8.3	Compliance Work Plan 2011/2012 - Proposed	38
8.4	Lake Ainsworth Reserve - Eastern Road Closure	45
8.5	Shopping Trolleys - Update	51
8.6	Development Applications - Work in Progress - June 2011	57
8.7	Development Consent Statistics - May 2011	65
9.	Strategic & Community Services Group Reports.....	66
9.1	LEP Amendment Request - Woolworths Oxygen (Masters)	66
9.2	Combined DCP Amendment No.13 - Coastal Grove Lennox Head	73
9.3	Section 94 - Heavy Haulage Contributions Plan - Review	79
9.4	Community Land Plan of Management - Various Amendments	82
10.	General Manager's Group Reports .....	86
10.1	Use of Council Seal	86
10.2	Investments Summary - May 2011	87
10.3	Ward Committees - Membership	91
10.4	Community Communications - Options	93
10.5	Policy (Final) - Councillors Facilities & Expenses	97
10.6	Tender - External Audit Services	100
10.7	Delivery Program and Operational Plan - 2011/2012 to 2014/2015	105
11.	Civil Services Group Reports .....	124
11.1	Policy (Review) - Unused Public Roads - Short Term Leases	124
11.2	Commercial Activities on Public Land - Additional Activities	126
11.3	Waste Water Treatment Plants Upgrade - Update	131
11.4	Tender - Provision for Supply & Laying of Asphalt	134
12.	Public Question Time .....	137
13.	Notices of Motion.....	138
13.1	Notice of Motion - Library Act	138
13.2	Notice of Motion - Aboriginal Child and Family Care Centre	140
14.	Advisory Committee Minutes.....	141

15.	Reports from Councillors on Attendance on Council's behalf .....	142
15.1	Mayoral Meetings	142
16.	Questions Without Notice .....	143
17.	Confidential Session.....	144

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

The National Anthem will be performed by Richmond Christian College.

**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 Keith Johnson have 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 26 May 2011 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 May 2011.

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

**6. Deputations**

**7. Mayoral Minutes**

**7.1 Mayoral Minute - Aboriginal Child and Family Care Centre**

**File Reference**                      Aboriginal Child and Family Centre

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I understand that the report on the public hearing and exhibition process for the proposed change in categorisation for Porter Park is largely complete. I recognise that this has and continues to be one of the most difficult and contentious issues for the current Council. Therefore it is important that when we make a decision on this matter that the entire Council is present and we have access to all the latest information available.

I am aware that Councillors Keith Johnson and I are away for the June meeting. Councillor Hordern will be away for the July meeting. During the next two months the only day that all Councillors appear to be available to attend a meeting is Monday 4 July 2011.

I have also been able to secure a meeting with the Minister for Family and Community Services, Ms Pru Goward and the Minister for Local Government, Mr Don Page, in Sydney today Thursday 23 June 2011. I will also be meeting with Mr Page in Ballina on Thursday 30 June 2011.

With these dates in mind I am proposing that Council hold an Extraordinary Meeting at 4pm on Monday 4 July 2011 to consider the report on the outcomes from the public exhibition process. I envisage that this report will also provide information on all the sites considered as part of this process.

I am aware that some Councillors are interested in pursuing other site options and I am hopeful that my meeting with the Ministers will provide the latest information in respect to these options.

I also believe the importance of this matter requires an Extraordinary Meeting. This ensures that Councillors are able to focus entirely on the one matter for the meeting and also provides members of the public with certainty over the time when the report will be considered.

Even though I am absent from the June Council meeting I am hopeful that Council will support my recommendation for an Extraordinary Meeting.

**RECOMMENDATION**

That Council hold an Extraordinary Meeting at 4pm on Monday 4 July 2011 to consider the report on the public exhibition and public hearing process for the proposed change in community land categorisation for Porter Park, West Ballina.

**Attachment(s)**

Nil

**8. Regulatory Services Group Reports**

**8.1 DA 2010/962 - Highway Service Centre, Pacific Highway, Ballina**

<b>File Reference</b>	DA 2010/962
<b>Applicant</b>	SJ Connelly CCP Pty Limited
<b>Property</b>	Lot 11 DP 1011575, Pacific Highway, West Ballina.
<b>Proposal</b>	Construction of a Highway Service Centre comprising Service Station, associated Fast Food Restaurants, Auto Repair Centre, associated Vehicular Accesses (including a round-about intersection on the existing Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Landscaping, Earthworks and Advertising Structures upon Lot 11 DP 1011575, Pacific Highway (now known as No. 565-589 River Street, West Ballina) and a Two (2) Lot Subdivision (Lot 1 – Highway Service Centre & Lot 2 – Agricultural Residue).
<b>Effect of Planning Instrument</b>	The land is zoned part 9(a) Roads (Main Roads Proposed), part 1(b) Rural (Secondary Agricultural Land), part 1(a2) Rural (Coastal Lands Agriculture) and part 2(a) Living Area Zone 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 first received a Development Application for the establishment of Highway Service Centre & Homemaker Centre on 20 April 2007 on the subject land. The application involved the following:

- Construction of a Highway Service Centre and associated Refreshment Rooms comprising approximately 2750m<sup>2</sup> of floor area and Showrooms (Bulky Goods Retailing Centre and Motor Showroom) comprising approximately 27000m<sup>2</sup> of retail floor space and associated Vehicular Accesses, Carparking, Advertising Structures, Landscaping, Earthworks, Infrastructure Works and Road Dedication.

The application was subsequently amended on numerous occasions. The last amendment was submitted to Council on the 13 November 2009 and was for the following:

“To Undertake the Construction of a Highway Service Centre comprising Service Station, Fast Food Restaurants, Regional Expo Centre, Auto Repair Centre, Associated Vehicular Access (including construction and dedication of part of the Western Arterial Bypass), Car & Truck Parking, Infrastructure Works, Filling and Signage.”

This original multi-amended application was similar in landuse components to that which is currently before Council, however there were still a number of matters that had not been resolved to the satisfaction of either Council or the Roads & Traffic Authority (RTA) (in relation to the access arrangements from the Bypass) and hence the application was reported to the Ordinary Meeting of the Council of 26 August 2010 with a recommendation that the application be refused.

Prior to the Council meeting the proponent formally withdrew the application, and hence the Council did not consider the application.

The application currently before Council for consideration has incorporated and facilitates all outstanding matters that Council has been requesting since lodgement in 2007 including fill levels, floodway, building design, layout and landuse issues that are consistent with Council's and the Roads & Traffic Authority's (RTA) requirements.

Development consent is now sought under DA 2010/962 for the establishment of a Highway Service Centre (HSC), a two Lot subdivision to excise the HSC, creating a residue agricultural lot and the stockpiling of fill on the eastern Zone 2(a) portion of the site.

The stockpiling of the residue fill on proposed lot 2 is not supported, as the existing residentially zoned land is proposed to be zoned rural under the Draft LEP and hence there is no supportable reason for the placement of fill on the land. This will be further discussed within the body of the report.

The proposed HSC incorporates the following:

- Car & Truck Service Station and Fast Food Outlet (Building A);
- Truck Service Centre and Fast Food Outlet (Building B);
- Auto Repair Centre (Building C);
- Service Centre – Main Toilet Block, Tourist Information Booth and Fast Food Outlet (Building E); and
- Fast Food Restaurants. (Buildings F and G)

The development includes a parking area that caters for:

- Three hundred and ninety nine (399) spaces allocating 381 car spaces, 10 car spaces for the disabled and 8 spaces for car and trailer or caravan; and
- Twenty seven (27) heavy vehicle spaces allocating 10 spaces for Semi-trailers, 15 spaces for B-doubles and 2 spaces for coaches.

The development application also includes the following additional components:

- The subdivision of the subject site into two (2) allotments, with the Highway Service Centre being excised from the residue of the agricultural property and the creation of a right of carriageway over the land and proposed floodway, so as to provide Lot 226 DP1121079 access to the existing Pacific Highway. (The proponent has indicated that they intend to create the separate parcels of land early in the development phase, to enable the sale of the residue rural lot); and
- The placement of any surplus fill upon the residential 2(a) zoned land to the east of the proposed HSC between the proposed flood channel and the eastern boundary of the lot. (This component of the proposal is not recommended for approval)

The recommendation requires the construction and commissioning of the floodway and the associated culverts prior to the placement of additional fill (to that which is already lawfully established) on the land. This is to ensure that appropriate flood controls are in-place on the subject land to minimise any potential flood impacts on the surrounding properties.

The proposed buildings associated with the HSC are to be constructed on land to be filled to a level consistent with the Q100 (+ climate change) level being 2.7 metres + 500mm AHD with a finished floor level of 3.2 metres AHD. This is consistent with Council's Flood Policy requirements.

The proposal also involves the creation of a floodway through the site linking the floodplain to the north with the proposed West Ballina Flood Relief culverts as identified in Council's Flood Plain Management Plan.

It is acknowledged that the establishment of the culverts under the old Pacific Highway does not involve land that is the subject of this DA. However, the culverts under the highway and the associated works are a crucial element in the overall proposal. The proponent has entered into discussions with the Department of Industry & Investment (being the approval authority for in-stream works and works upon crown land) in relation to obtaining all relevant approvals and permits to enable the construction of the Flood Culverts and associated in-stream works.

The report currently before Council for determination recommends that should Council resolve to favourably consider the application, a Deferred Commencement Condition (DCC) of consent (among others) be imposed requiring the proponent to obtain all relevant approvals from the various State Government Departments to enable the establishment of the culverts under the Highway at the southern end of the proposed floodway. This condition is to be complied with to the satisfaction of the Council prior to the consent being activated. The majority of the remaining DCC conditions and the consent conditions address the sequencing, layout and construction of the proposed development.

It should also be mentioned that the proponent has suggested that Council require the submission of a Construction Sequencing Plan (CSP) to address the matters relating to the control of the timing of the development. This CSP has been discussed in more detail later in this report.

The proponent has indicated that the overall architectural design of the buildings has been considered as a cohesive development in its entirety rather than individually designed components that do not directly relate to each other. The buildings are laid out to create a development that encircles the bulk of the carparking provided on-site with the fuel servicing and truck related components located within the Northern portion of the site providing an element of separation. The overall layout and design of the proposal has been influenced by the guiding principles of Crime Prevention Through Environmental Design.

In general the buildings are to be constructed with painted precast concrete wall panels over an internal steel frame supporting a prefinished steel roof.

The proponent has deleted the Regional Expo building from the application and has included a small Tourist Information Booth within Service Centre Building E in its stead.

The RTA and the Ballina Bypass Alliance have issued their concurrence (email dated 12/4/11) for the connection of the HSC to the Ballina Bypass.

### **The Site**

The subject site is located on the south-western outskirts of Ballina, adjacent to the existing Pacific Highway, approximately 6km west of the Ballina Town Centre.

The site is relatively flat, lying within an identified floodplain of the Richmond River. The subject site is adjoined to the;

- east by "Riverbend", a developed housing project for people over 50 years of age;
- to the north by land used for agricultural purposes; and
- to the west by RTA construction work associated with the proposed Pacific Highway Bypass. The existing Pacific Highway adjoins the site to the south.

Access to the site is proposed as follows:

- Left into the site from a newly constructed exit ramp from the southbound off ramp of the Pacific Highway Bypass interchange (north-west corner of the site). This entrance to the proposed Highway Service Centre (HSC) from the Ballina Highway Bypass includes two lanes which will provide for the separation of light and heavy vehicles; and
- Two lane round-about as an entry/exit to the existing Pacific Highway alignment (south-centre of the site), which facilitates a variety of traffic movements including access to the HSC, Emigrant Creek Lane and the Bruxner Highway & Pacific Highway Interchange.

The proponent has indicated that two (2) signs are proposed as part of the development, with these located near the entry/exit points to the HSC. These signs are intended to advertise the tenants and service offerings of the proposed development, and they have been sympathetically designed (as blades), with the proposed buildings. A number of the proposed buildings

have been designed incorporating blades ('graphic signage panels') for advertising purposes.

The proposed buildings have been intentionally separated within the site not only to reduce the bulk of the development and facilitate movement in and around them, but also to provide opportunities for car parking to be provided in close proximity to each. Pedestrian linkages between elements of the HSC have been carefully located, in order to achieve efficient movement between premises and car parking, and these maximise safety.

The subject lands are not currently serviced with reticulated water, sewerage, electricity and telecommunication services. These services will need to be extended to the subject site.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

Nil

### **Public Exhibition**

The proposal was placed on public exhibition in accordance with Council requirements. Ten (10) submissions were received during the exhibition period. One (1) submission was in support of the proposal, two (2) submissions raised a number of matters of concern, and seven (7) submissions were received objecting to the proposal.

*Matters raised during the exhibition period are summarised as follows:*

- Traffic noise, and lighting impacts; *(Refer Traffic Noise and external lighting impacts section within the report)*
- Adverse flooding and drainage impacts; *(Refer Flood Prone Land section within the report)*
- Pedestrian access within the HSC; *(Refer Pedestrian Movement & Connection section within the report)*
- Development costs are underestimated; *(Applicant has submitted a revised cost of development {and paid additional DA fees} that more accurately reflect the actual cost of the development)*
- The proposal to fill the balance of the site should not be supported; *(Not recommended for approval as part of this DA)*
- Flood reports and Geotechnical reports should be peer reviewed; *(Flood reports have been prepared by Council's consultants, and the Geotechnical reports have been peer reviewed – refer Flood Prone Land and Geotechnical considerations section within the report.)*
- The proposal is inconsistent with applicable statutory provisions. *(Refer Section 79 C assessment section within the report)*

(Copies of all submissions are provided as an attachment for Councillors information.)

### **Government Department Response**

The NSW Industry & Investment have reviewed the proposal and provide the following comments;

The land surrounding the proposal is zoned rural and hence Council should be mindful of any potential conflicts with the adjoining landuses. The Department also acknowledges that the proposed floodway will discharge water into Emigrant Creek. In this regard the Department has no concerns with the quality of the water that will be discharged through the floodway, however the Department has had numerous discussions with the proponent in relation to obtaining all relevant licences to carry out works in the stream bank.

The Department acknowledges that the proposed in-stream works are not on the subject land and hence require approval independently from the Department. A recommendation within this report is that the consent be issued as a “deferred commencement consent” requiring the proponent to obtain all necessary approvals and licences from the relevant government authorities in relation to the works to establish the floodway, culverts and in-stream works on Crown Land, prior to the consent being formally established.

Planning NSW have issued concurrence for the creation of the below minimum area lots, however raised concern in relation to the proposed Regional Expo Centre (REC) component of the application. Their concerns are no longer relevant as the REC component of the development has been withdrawn and no longer is a part of this application.

The Roads & Traffic Authority have also issued their concurrence to the location of the Highway Service Centre within 90 metres of the Ballina Bypass and the Pacific Highway.

### **Report**

The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, and is recommended for approval. The proposed Highway Service Centre, is a significant employment generating development for the Shire, is beneficial to the community and region as a whole and is considered to be in the public interest as it will provide an established and highly visible entrance to Ballina, and meets the intention of the Minister’s Section 117 Direction 5.4.

The application has been assessed against the corresponding heads of consideration contained in Section 79C of the Environmental Planning and Assessment Act 1979. Those matters requiring specific consideration of Council will be addressed in this report.

### **Ballina Local Environmental Plan 1987 (BLEP)**

The subject land is known as Lot 11 DP 1011575 and has multiple land-use zones affecting the site:

- Zone 1(a2) Rural – Coastal Lands Agriculture
- Zone 1(b) Rural – Secondary Agriculture Land
- Zone 2(a) Residential – Living Area
- Zone 9(a) – Main Road (Proposed)

The application before Council also involves the subdivision of Lot 11 into two lots being proposed Lot 1 containing the proposed HSC and proposed Lot 2 being the residue lot. Proposed Lot 2 is to contain the dwelling entitlement associated with the original land parcel.

The bulk of the proposed HSC development is contained within the 9(a) zone although some components of the HSC, being a small component of landscaping and a small section of road (to provide access to the adjoining Lot 226 DP 1121079) are located within the 1(a2) zone, and the spine road access from the Pacific Highway, the proposed floodway and flood culverts (On-site), a small portion of the HSC carpark and some landscaping are located within the 1(b) zoned land. Refer to attached layout plan and zoning map.

For the purposes of Clause 6 of the BLEP when assessing the permissibility of the proposed HSC, the development is best defined as follows:

- service station; and
- refreshment room;

**service station** means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil and other petroleum products whether or not the building or place is also used for any one or more of the following purposes:

- (a) the sale by retail of spare parts and accessories for motor vehicles,
- (b) washing and greasing of motor vehicles,
- (c) installation of accessories,
- (d) repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration).

**refreshment room** means a restaurant, cafe, tea room, eating house or the like.

The proposed establishment of a Highway Service Centre (HSC) on proposed Lot 1 is defined as comprising of a Service Station and Refreshment Room for the purpose of assessing the permissibility of the HSC against the provisions of Ballina Local Environmental Plan 1987

### **Clause 9 Zone objectives and development control table**

Clause 9(2)(c) provides that development that is identified as “advertised development” shall comply with sub clauses (3)-(5) of clause 9.

Clause 9(4) provides that a development application to which clause 9(2) (c) applies shall be accompanied by an environmental impact report addressing various matters. The SEE and its associated documents submitted with the development application satisfy the requirements of this clause.

Clause 9(7) provides that consent shall not be granted to development unless it is consistent with the objectives of the zone within which it is proposed. The consistency of the proposed development having regard to zoning is discussed under the zone headings below.

**9(a) – Roads (Main Roads Proposed)** - Building A – Petrol & Convenience store & fast food outlet; Building B - truck service centre, toilet block & fast food outlet; Building C - auto repair centre; Building E - service centre amenities block, tourist information booth and fast food outlet; Building F - fast food restaurant; Building G - fast food restaurant; Signs (including ‘graphic signage panels’; Floodway; Road). The land is identified to become RU2 Rural Landscape under the Draft Ballina Local Environmental Plan 2010;

The route of the Pacific Highway Bypass for Ballina has now been finalised, and that part of the site zoned 9(a) Roads (Main Roads Proposed) is no longer required for this purpose. In this regard the proposed development is not inconsistent with the zone objective as the land is no longer being required for a main road purpose.

A majority of the components of the proposed development are located within the 9(a) Roads (Main Roads Proposed) zone. The objective of the 9(a) Roads (Main Roads Proposed) zone may be seen as reserving land for the purposes of a main road. The RTA has indicated that the land currently zoned 9(a) was initially intended to be used for the purposes of establishing the Ballina Bypass. The RTA have advised Council in writing that they no longer require the subject land for the purposes of establishing the Ballina Bypass, hence the land will not be used for the purposes of a Main Road.

The objective of the 9(a) Main Road zone is:

*“The objective is to reserve those lands which are required for the purposes of main roads.”*

The 9(a) Main Road zone objective demonstrates that it has no other purpose other than to “reserve” land for a main road. It does not specify or restrict the types of development that may be carried out in the zone.

The proposed development is not inconsistent with the objective of the 9(a) Main Road zone, which “reserves” the land for a main road purpose. The proposed development does not change the zoning of the land, nor its identification for a main road purpose; in other words, the objective of the zone is not compromised by the land being no longer “reserved”.

The ability to develop land within the current 9(a) Main Road zone (under LEP 1987) for a variety of landuses is further demonstrated by Clause 31, which provides:

*“31 Use of land pending acquisition*

- (1) *Land to which clause 30 applies may be developed for any purpose, with the consent of the council, prior to its acquisition by the public authority concerned.”*

Clause 31 permits development for “any purpose” within the 9(a) Main Road zone, with the consent of Council. The proposed development is therefore permissible on this basis.

It should also be mentioned that State Environmental Planning Policy (Infrastructure) 2007 identifies that Highway Service Centres may be established along National Highway corridors subject to the consent of the relevant Public Authorities.

**1(a2) – Rural (Coastal Lands Agriculture) –** (road, floodway) which is identified to become RU1 Primary Production under the Draft Ballina Local Environmental Plan 2010; and

The road component (which extends to the existing Pacific Highway), the landscaping and the floodway are considered to be part of the overall use characterised as development for the purposes of a Service Station & Refreshment room (Highway Service Centre).

Applicable aspects of the objectives are as follows:

- to enable development which is ancillary to the agricultural use of land, and which does not significantly reduce the production potential of the subject land or other land in the locality;
- maintains the rural character of the locality; and
- does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.

The road, landscaping and floodway component of the proposed development is considered to be part of the overall use characterised as development for the purposes of a Service Station & Refreshment room (Highway Service Centre).

It is considered that the small portion of the road (approximately 10metres) within the 1(a2) zone is an extension from an internal circulation road within the Highway Service Centre (HSC) to enable the owner of the adjoining rural lot to obtain access to the land.

The small portion of road will not detract from the rural character of the locality, and in this instance the road is not of a design or appearance such that it could be considered a road out of character with a rural environment.

The service station/refreshment room being a permissible use in the zone is considered to be a reasonable use of the land.

The service station/refreshment room will not create any unreasonable or uneconomic demands for the provision or extension of public amenities or services.

**1(b) Rural (Secondary Agricultural Land)** – (road, floodway and carpark) which is identified to become RU2 Rural Landscape under the Draft Ballina Local Environmental Plan 2010;

The proposed landuses are defined within the Ballina Local Environmental Plan as follows;

- Service station and refreshment room;
- Car repair station;
- Signs are defined as advertisements;
- Floodway is considered as ancillary to the proposed development; and
- Road is considered to be ancillary to the proposed use as a service station.

The objectives of the 1(b) Rural (Secondary Agricultural Land) Zone are as follows.

The regulation of the use of land:

- to encourage its productive use, and to enable development ancillary to agricultural uses; and,
- to permit a range of uses compatible with the rural character of the land.

To ensure development:

- maintains the rural character of the locality, and
- does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.

The portion of the site zoned 1(b) Rural (Secondary Agricultural Land) comprises a small triangular piece of land, which is bound by the existing Pacific Highway to the south, and the 9(a) Roads (Main Roads Proposed) zone to the northwest and northeast. The proposed development includes the location of the spine road access from the Pacific Highway, a small component of car park and drainage facilities associated with the proposed Highway Service Centre within this zone. The use of the land for a road, carpark, landscaping and drainage basin is considered to be part of the overall use characterised as development for the purposes of a Service Station & Refreshment room (Highway Service Centre) which is permissible within the zone.

The Service Station & Refreshment room (Highway Service Centre) will not detract from the rural character of the locality, and in this instance the road is not of a design or appearance such that it could be considered a road and culvert/bridge out of character with a rural environment at the urban interface.

The Service Station & Refreshment room (Highway Service Centre) being a permissible use in the zone is considered to be a reasonable land use.

The Service Station & Refreshment room (Highway Service Centre) will not create any unreasonable or uneconomic demands for the provision or extension of public amenities or services.

Clause 9(7) enables Council to grant consent to the development if it is satisfied that the overall use of proposed Lot 1 for the purposes of a HSC is integral to the overall use of the subject land, and therefore part and parcel of the overall Service Station & Refreshment Room definition and complies with the objectives for the purposes of permissibility within the 9(a), 1(a2) & 1(b) zones.

In relation to the use of the residue lot being proposed Lot 2, the proponent has not indicated what the intended use is for the land however has clearly stated that it will have no relationship with the HSC on proposed Lot 1 other than a portion of the spine road access from the Pacific Highway to the HSC traverses the south western corner of the subject lot.

**Clause 11 Subdivision of land within Zone No. 1(a2) and 1(b)**

The proposal involves the subdivision of land in the 1(a2) Rural (Coastal Lands Agriculture) and 1(b) Rural (Secondary Agricultural Land) zones. The minimum lot size within the 1(a2) & 1(b) zones is 40ha. The proposal will create allotments of 7.3 hectares and 9.72 hectares in area.

The purpose of the subdivision is to accommodate the HSC on a separately created lot.

The residue lot will have no practical relationship to the allotment containing the HSC, with each physically separated by floodway and road.

A SEPP No.1 objection was lodged to seek a variation to this 40ha minimum standard. The Department of Planning granted its concurrence to this variation.

**Clause 15 Development adjoining arterial roads**

The existing Pacific Highway is classified as a main or arterial road. The proposed HSC will not constitute a traffic hazard nor unreasonably reduce the capacity and efficiency of the Pacific Highway.

The HSC is appropriately located adjacent to the Ballina Bypass and the Pacific Highway and is designed to predominantly cater for the needs of highway users.

**Clause 17 Height of buildings**

The proposed development exceeds the 6.4m height reference, and its highest points will be less than 13m.

It is considered that the height of the buildings are such that they will not affect the amenity of adjoining properties by overshadowing or loss of privacy, given the distances of these buildings from property boundaries, and will not result in views being obstructed from adjacent buildings or public spaces. Nor will the height of the proposed buildings in the development impact on the scenic or landscape quality of the locality, on the basis that there is a substantial setback of buildings to boundaries, and the generous landscaping is proposed within these setback areas.

**Clause 36 Development on land identified on Acid Sulfate Soils Planning Maps**

This Clause has been adequately addressed within the reports accompanying the Development Application and the relevant section within this report and subsequent conditions of approval as recommended.

**Clause 37 Controls for advertising**

This Clause has been adequately addressed within the reports accompanying the Development Application and the relevant section within this report..

**Environmental Planning & Assessment Model Provisions 1980 Model Provisions (MP) Clause 5 (1) & (2) Consideration of certain applications**

Clauses 5(1) relates to the visual impact that the development will have on any waterway or main road, and Clause 5(2) relates to the approval of a service station and the associated traffic impacts. These have been adequately addressed within the body of this report and the reports accompanying the Development Application. The aesthetic impact of the development will not detract from the area when taking into account the adjacent Highway (ByPass infrastructure) and the rural cane land.

**MP Clause 9 Main Roads**

This Clause relates to the proposed works on the Pacific Highway to enable the construction of the flood culverts. This matter has been adequately addressed within the reports accompanying the Development Application and within the body of this report and recommended conditions of consent.

**MP Clause 19 Service Stations or Car Repair Stations**

The applicant has requested Council to consider varying the development standard to permit the proposed development to be located within 90 metres from a main road. Both the RTA and Planning NSW support the establishment of the HSC in its proposed location. The requested variation to the standard has been supported by the RTA on the grounds that the development covers a significant area; and the proposed access from the Ballina Bypass and the Pacific Highway will not adversely impact upon the operation of the two roads.

**MP Clause 30 Services**

Council's Civil Services Group have commented on the proposal and are satisfied that subject to complying with conditions of consent that the proposal can be adequately serviced with essential infrastructure.

**MP Clause 34 Flood Prone Land**

A comprehensive assessment has been undertaken for the subject site by BMT WBM Pty Ltd. This study uses the modelling framework adopted by Council for its overall flood planning strategy. BMT WBM Pty Ltd have commented on the revised design that is currently before Council for consideration and have commented as follows:

*The design proposal for the Highway Service Centre has considered the recommendations outlined in the Flood Impact Assessment for Lot1 DP238009, Ballina (ref:R16995.001.00.doc) report (January 2009). The proposal includes additional culverts (not assessed in January 2009) allowing access across the floodway. The design details of the additional culverts have not been specified in the drawings. If the flow capacity of these additional*

*culverts match or exceed the capacity of the West Ballina Flood Relief culverts / floodway, the additional culverts will not cause significant additional flood impact. This will need to be discussed further with the proponent.*

*The primary outcome of the January 2009 assessment was that the development should allow for a floodway running through the site connecting into the West Ballina Flood Relief culverts. The proposed design has incorporated this recommendation. The assessment considered a fill level of RL2.6m (AHD), while the proposed development includes fill to RL3.2m (AHD). The higher fill level in the proposed design will not change the conclusions of the January 2009 assessment, because the assessed level of RL2.6m (AHD) is higher than the 100 year level.*

*The West Ballina Flood Relief culverts were modelled assuming 10 cells each 3.6m wide by 1.2m high, fitted with flood gates. This is consistent with the proposed design and is appropriately sized to receive flow from the 40m wide floodway.*

Council has recommended the imposition of relevant conditions of consent requiring compliance with the requirements of the BMT WBM Report.

#### **West Ballina Planning Study and Structure Plan**

Council adopted the West Ballina Planning Study and Structure Plan at its Extraordinary Meeting held on 17 March 2011. This Structure Plan was prepared to establish a strategic approach and guidance for future land use (both urban and non urban) in the plan study area.

The locality examined in the study and plan includes the land bounded by North Creek Canal, the Pacific Highway Ballina Bypass alignment and the two arms of the existing Pacific Highway. The Structure Plan identifies the following future land use framework for the locality;

#### *Area A - Highway Service Centre*

The land the subject of this development application is identified within the structure plan as having potential for the location of a highway service centre

#### **Draft Ballina Local Environment Plan**

The proposed zoning for the subject land under the Draft LEP is RU2 – Rural Landscape zone. The proposed development is also defined as a “Highway Service Centre” under the Draft BLEP.

**“highway service centre** means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

- (a) restaurants or take away food and drink premises,
- (b) service stations and facilities for emergency vehicle towing and repairs,
- (c) parking for vehicles,
- (d) rest areas and public amenities.”

Clause 2.5 of the Draft LEP provides:

*“2.5 Additional permitted uses for particular land*

*(1) Development on particular land that is described or referred to in Schedule 1 may be carried out:*

*(a) with consent, or*

*(b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.*

*(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.”*

Clause 8 of Schedule 1 of the Draft LEP provides:

*“Erection of a highway service centre at West Ballina*

*(1) This clause applies to land located directly adjacent to the Ballina Pacific Highway Bypass alignment at the Teven Road interchange.*

*(2) Development for the purpose of a highway service centre is permitted with consent.”*

Part 2 Clause 2.5 and Clause 8 of Schedule 1 of the Draft LEP have the effect of making the proposed development (a highway service centre) permissible with development consent. This is regardless of any contrary provisions in the Land Use Table or any other provisions of the Draft LEP.

The North Coast Regional Strategy identifies the need for well placed Highway Service Centres (with limited defined uses) located along the Pacific Highway corridor that service the growing needs of tourist traffic in locations such as is proposed. Planning NSW via a Section 117D Minister’s Direction and the RTA via the Infrastructure SEPP have defined the specific components that a Highway Service Centre is to contain the following:

Segregated fuel plazas for light and heavy vehicles; Segregated parking for light and heavy vehicles (25 heavy vehicle spaces as minimum); Service Station; Shop servicing the travelling public; Restaurant/s (sit down); Food and drink outlets (fast food); Amenities (toilets, baby change room, showers); Waste disposal facilities; Public telephone/s; Tourist information booth and Public obligation free rest area facility.

The proposed HSC contains these facilities and hence complies with the above requirements.

### **Regional Environmental Plans**

#### **North Coast Regional Environmental Plan (REP)**

The proposal is generally consistent with clause 30 objectives of the NCREP in relation to coastal planning. The proposal will not unreasonably detract from the visual quality of the coastal environment due to its physical separation, and the proposed development is located on a parcel of land for a landuse that is compatible with the Ballina Bypass and the Teven Interchange.

In accordance with clause 32B – Development control (coastal lands) of the NCREP, the proposed development will not impede public access to the foreshore (confined to specific points) and will not cause significant overshadowing of any open space areas.

In relation to Clauses 49 and 81 of the NCREP (i.e. buildings over 14 metres in height), the proposed HSC buildings are not more than 14 metres in height, and are not considered to have a detrimental impact on the scenic locality due to the nature of the developed landscape in this locality. The design and development's proposed bulk and scale would fit with the adjacent highway structures.

### **State Environmental Planning Policies (SEPP)**

#### **SEPP 1 – Variations to Development Standards**

The subject application requires the concurrence of the following government Departments:

- Planning NSW in relation to the proposed subdivision to create a below minimum lot size parcel of rural (residue) land; and
- Roads Traffic Authority (RTA) to permit the establishment of a service station within 90 metres of a classified road.

The proponent lodged an objection pursuant to State Environmental Planning Policy No 1 – Development Standards, in order to address the fact that the proposed allotments will be less than 40 hectares in area and the proposed HSC is to be located within 90 metres of a classified road.

The proponent states that the development standard is considered both unnecessary and unreasonable in the circumstances for the following reasons:

- a) the site contains only a small portion of land zoned 1(a2) Rural (Coastal Lands Agriculture) along its north western edge and a small portion zoned 1(b) Rural (Secondary Agricultural Land) along its southern boundary. Each area is small in size and isolated by property boundaries and other zones, and are not of practical size, so as to accommodate viable agricultural practices; and
- b) the site is now (strategically) acknowledged as the desired location for a highway service centre and the small portions of land zoned 1(a2) Rural (Coastal Lands Agriculture) and 1(b) Rural (Secondary Agricultural Land) are adjacent to the proposed non-rural land uses (the HSC, Ballina Highway Bypass and existing Pacific Highway).

The proposed subdivision will not hinder the attainment of the objectives of the Environmental Planning and Assessment Act 1979, in that the proposal is providing a facility that if developed will provide a necessary service (food, tourist, fuel and motor repairs) to motorists using both the Pacific Highway Bypass and existing Pacific Highway, thereby promoting the social welfare of the wider community, as well as providing an economic boost to the more immediate (Ballina) community.

Planning NSW by letter dated 22 December 2010 granted concurrence to the creation of a lot of land that is below the 40 ha minimum area for the purposes of establishing a Highway Service Centre, Such is consistent with the Department's Highway Service Centre policy and meets the intention of the Minister's Section 117 direction 5.4.

The RTA has issued its concurrence to the establishment of a Highway Service Centre within 90 metres of a classified road as the minor variation does not adversely impact upon the operation of the relevant classified roads.

Council has assessed the SEPP 1 requested variations to the development standards in relation to the creation of a parcel of rural land below the minimum 40ha lot size and the location of the HSC within 90 metres of a classified road and is satisfied that the objectives of the relevant zones are attained despite the breach of standards.

### **SEPP 33 – Hazardous and Offensive Development**

A Multi-Level Risk Assessment (MLRA) has been completed for the proposed development by Myros Design Pty Ltd. Plotting frequency against occurrence it can be seen that risk to the local community is negligible for the proposed development.

The Preliminary Hazard Analysis (PHA) confirmed that the proposed development will satisfy the requirements of the Workcover NSW Authority and be in accordance with the Department of Planning Guidelines for the installation of LPG on automotive retail outlets, now incorporated in AS/NZS 1596:2008.

### **SEPP 55 – Contaminated Land**

A Preliminary Contaminated Lands Assessment has been conducted. The assessment indicates that contamination is expected to be confined to shallow soil given the presence of the impermeable clay at shallow depths, which is therefore expected to protect groundwater. Nevertheless the results of the Contamination Assessment (Precise Environmental 2007) indicates that there is no requirement for remediation of contaminants as they are below the adopted trigger levels (for commercial/industrial use) for the proposed land use, however further site assessment for contamination should be undertaken if a more sensitive land use is proposed.

### **SEPP 64 – Advertising & Signage.**

The proposed signage consists of two (2) pylon signs 12.5 metres high (with a message board being 2.5 metres above ground) and 3.0 metres wide. The signs are in keeping with the specific requirements as stipulated within the Clause 8 of SEPP 64. The signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and (b) and satisfies the assessment criteria specified. In particular the proposed signage:

- is in keeping with the bulk and height of the proposed buildings on site;
- is in keeping with the character of the surrounding locality;
- does not detract from the amenity or visual quality of any environmentally sensitive area;
- does not protrude above surrounding buildings;
- will be illuminated by in facing lights reducing glare; and
- will not impact upon traffic safety for highway users.

The RTA have issued concurrence in accordance with Clause 18 of SEPP 64 in relation to the proposed advertising signage.

### **SEPP 71 – Coastal Protection**

The development will not contravene any aims of SEPP 71, as the proposed HSC is not located within close proximity to the coastal foreshore. However while it is located in close proximity to the Emigrant Creek, it is unlikely to have an adverse impact upon the creek system.

The development will not adversely affect any significant scenic qualities of the existing coastline.

The building footprints do not contain any known threatened species and will not have any significant adverse impacts on any known existing wildlife corridors.

The development will not create any conflict between land based and water-based coastal activities.

The locality has no known significant heritage or archaeological significance in relation to shipwrecks.

The development will not have any identifiable impact to water quality of existing coastal waterbodies, particularly Emigrant Creek.

Consequently, as also identified for the purposes of the NCREP, no significant cumulative impacts on the environment can be identified.

### **Ballina Shire Combined Development Control Plan (DCP)**

A number of chapters (and Policy Statements) within the Ballina Shire Combined Development Control Plan (BSCDCP) have specific relevance to the proposed development.

#### ***Chapter 1 (Policy Statement 2) - Car Parking and Access***

Council's Civil Services Group have assessed the development in relation to compliance with the parking and access requirements of BSCDCP and raise no objection to the proposal subject to the imposition of a number of conditions of consent.

#### ***Comments arising from the Local Traffic Development Committee Meeting of 14 March 2011***

The application was referred to the Local Development Traffic Committee. This application was also considered at a regional level.

The Committee considered a report provided addressing the issue of carparking access, layout and the traffic control at exit point onto Old Pacific Highway (River Street).

The Committee raised concern in relation to the proposed access entry/exit from the Old Pacific Highway being via a signalised intersection or a roundabout. The RTA, Council and the proponent have agreed that the most suitable form of intersection treatment was the establishment of a roundabout.

In relation to the development overall, the RTA and the Ballina Bypass Alliance (BBA) have raised no concerns that could not be addressed via conditions of consent.

**Chapter 1 (Policy Statement 6) - Landscaping Guidelines**

The proponent has indicated that landscaping along the western and southern edges will play a key role in the design of the proposed development. It is to be used to help create a precinct that reflects the significance of the site as a 'gateway' into the township of Ballina, providing motorists with a sense of 'entry'.

The proposed landscaping is to:

- comprise local indigenous species to provide a visual reflection of Ballina and its surrounding landscapes;
- distinguish key vehicular routes with the HSC;
- provide shade to outdoor spaces and car parking areas and to soften built form;
- provide separation to vehicle routes and parking areas while maintaining sightlines for vehicles and pedestrians (acknowledging the need to promote safety and security);
- comprise a limited amount of species so as to create a strong and distinct character;
- comprise plants that are hardy, have longevity and have low water requirements;
- adopt a planting layout and selection of species that is appropriate to the function of the site and maintains sightlines for both vehicular and pedestrian circulation; and
- recognise that different areas of the HSC have different functions – with landscape responses to reinforce these differences.

The proposal complies with Council's requirements in relation to the proposed landscaping of the subject development.

**Chapter 1 (Policy Statement 11) - Flood Levels**

The proposal complies with Council required minimum fill and floor levels. These will be subject to compliance with numerous conditions of consent.

**Chapter 14-Advertising Structures**

In relation to advertising structures associated with the development proposal, the proponent has indicated that two signs are proposed as part of the development (as well as a number of 'graphic signage panels' integrated into the design of individual buildings). These are to be located in the north western and south western portions of the site. The sign structures have been designed sympathetically with the proposed buildings, and their purpose will be to provide for advertisements which provide a simple, clear message conveying the particulars of tenants present within the development.

Council's assessment has concluded that the proposed signs will not impact on the semi rural character of the locality, given they are to be located within the site and form part of the development; will adjoin busy roads having a strong visual presence; will not block views or vistas; will reduce the need for multiple (individual) signs for tenants; and, will not unduly distract users of the existing Pacific Highway or Ballina Highway Bypass.

The proposed signs are not incompatible with the “desired future character” of the locality; given that the surrounding lands are used for highway associated uses.

The proposed signs will be “multiple identification signs”, identifying a number of tenants within the development, and providing a coordinated approach to signs for the site.

No assessment objection is raised to the proposed advertising signage subject to compliance with particular conditions of consent.

The RTA has given its concurrence to the proposed signage in accordance with the requirements of SEPP No. 64.

### **Chapter 18 (Rural Land)**

**Zone Objectives** – Adequately addressed within the body of this report.

**Agricultural Production Potential** – Existing Lot 22 and proposed lot 2 have the potential to be used for agricultural purposes. It should be mentioned that Council’s Draft LEP proposes to zone this lot as RU2 (deleting the existing Residential 2(a) zoned portion of the lot) and hence the land can be reasonably be used for agricultural pursuits. It is considered that the establishment of the HSC will not adversely impact upon the agricultural use of the surrounding land.

**Farm Build-up** - Not applicable.

**Land Use Conflict**- Clause 3.1 aims to minimise potential impacts from different land uses. Limited land-use conflict will occur between the HSC and the agricultural use of proposed lot 2 and the adjacent agricultural lot to the north. The proposed development is well separated from the adjoining uses both physically and with proposed landscaping and the construction of the proposed floodway separating the proposed lots .

**Allotment Size and Shape**- Satisfactory for the proposed land uses.

**Vehicular Access** - Each proposed allotment will have road access via the road proposed in the south of the site, which connects to the existing Pacific Highway.

**Services** - Reticulated services are available to both allotments.

**Water Use** – Council is satisfied that the proponent has adequately addressed this issue within the documents supporting the development application.

**Boundary Adjustment** – N/A

### **Roads & Traffic**

Council’s Civil Services Group and the RTA have assessed and commented on the proposal and raise no objection to the development proposal subject to the imposition of a number of conditions of consent.

### ***Pedestrian Movement & Connection***

Pedestrian access is provided within the proposed carpark with safe controlled access to all the facilities.

In relation to external pedestrian and cyclist movements, it is recommended that Council require the construction of the following footpath networks;

- A footpath from the interior of their site to the existing network at Emanuel Anglican College. The footpath is to be a 2m wide shared path.
- Pedestrian linkages at the new intersection to allow pedestrian movements to the west and to the north. The intersection needs to be designed accordingly such that circulation is not an issue and so that pedestrians have good sight lines and minimal walking distances.

### ***Site access, internal driveways and parking design***

The site can be accessed from two locations. The first is a dedicated slip lane off the Ballina Bypass and the second is via a new four way intersection at the Pacific Highway boat ramp. It should be mentioned that the current speed limit of 60kmph along the existing Pacific Highway will not be changed as a result of the proposed development

The Roads and Traffic Authority (RTA), has given written approval in relation to the concept proposal for access to the Ballina Bypass shown on plan B 1009/02/P01 prepared by Cardno dated April 2009.

The RTA further stated that access to the existing Pacific Highway should be via a roundabout designed to AUSTRROADS rural roundabout dimensions. This roundabout will need to be designed to ensure unimpeded access to Emigrant Creek Road, the Service Centre access and the existing Pacific Highway.

The roundabout is to be located at the boat ramp to allow easy access to the boat ramp and residences on the southern side of the intersection. The intersection location has been determined so as not to constrict traffic and cause congestion.

The proposed HSC includes the construction of a 399 space sealed carpark within the centre of the site, catering for both heavy and light vehicles.

The HSC will have an internal road network that will service the site and facilitate property access to the north. The internal road network has been designed to separate on-site movements of trucks, coaches and cars. Each of these movements is separated from one another. Trucks can enter the site from the north (Bypass exit) refuel, park and then exit the site by proceeding down the spine road to the proposed roundabout intersection on the existing Pacific Highway. Trucks can also enter from the proposed roundabout on the existing Pacific Highway, traverse the spine road and manoeuvre to refuel/park. The exit is the same as for entry.

Bus circulation has been designed for access from the Pacific Highway (Bypass) and via the spine road from the old Pacific Highway. Buses then have the opportunity to circulate within the HSC hardstand areas and set down passengers in designated locations.

Cars may enter the site from the north directly off the Bypass or from the proposed roundabout on the existing Pacific Highway and can access the site via the secondary spine road.

Some loading areas will obscure parking spaces whilst unloading is occurring. While this has previously occurred in conjunction with other applications in the Shire, these developments have adopted a Vehicle Management Plan (VMP). A VMP shall be required for the site and shall include provisions identifying responsible parties, driver expectations, delivery times, punitive repercussions, unloading practices and parking management.

Council's Civil Services Group have assessed the proposed traffic and parking requirements and are satisfied that the application can be supported subject to the imposition of a number of conditions of consent.

#### ***Provision for Service and Delivery Vehicles***

Included in the proposed HSC development is adequate service and delivery areas to cater for the proposed uses of the site.

It is also proposed to provide waste receptacle areas for each of the buildings. The design of these areas adequately caters for access to the relevant areas via a large rigid vehicle.

#### ***Parking Numbers***

Council's parking requirements are described in Combined Development Control Plan Chapter 1 – Urban Land, Policy Statement No 2, Car Parking and Access (DCP).

The proposed carparking area identified within the HSC development complies with Council's DCP, requiring the provision of 392 spaces on-site.

The following requirements apply:

Council Requirement		Proposed Gross Floor Areas	Required Number of Parking Spaces
Use	Rate		
Petrol and fast food	15 spaces per 100m <sup>2</sup> gross floor area.	678 m <sup>2</sup>	<b>101.7</b>
Auto Repair	6 spaces per bay	6 bays	<b>36</b>
Building E Restaurant	15 spaces per 100m <sup>2</sup> gross floor area.	732 m <sup>2</sup>	<b>109.8</b>
Building F Restaurant	15 spaces per 100m <sup>2</sup> gross floor area.	437 m <sup>2</sup>	<b>65.6</b>
Building G Restaurant	15 spaces per 100m <sup>2</sup> gross floor area.	524 m <sup>2</sup>	<b>78.6</b>
		Total required	<b>392</b>

The applicant is proposing 399 car parks for the site. This represents a surplus of 7 car parks.

The applicant is proposing 10 disabled car parks. This number of car parks is acceptable. The applicant has not specified whether these car parks are covered. It is recommended that it be conditioned that these car parks are covered.

Council's Civil Services Group has assessed the proposed parking requirements and are satisfied that the application can be supported subject to the imposition of a number of conditions of consent.

### **Geotechnical considerations**

The geotechnical constraints of the site have been investigated and reports submitted within the SEE. The SEE contains recommendations made in order to address any potential impact arising from geotechnical instability. It is proposed to preload the subject site with fill to attain stable levels that will enable the development to proceed.

Council has referred the relevant reports within the SEE to Robert Carr & Associates (RCA) Australia for peer review.

RCA Australia have commented on the geotechnical assessment and the subsequent engineering components in relation to the preloading of the site and have stated that they have no objections to the development proceeding subject to the imposition of a number of performance based requirements being imposed as conditions of consent.

### **Water and Sewer Servicing**

#### ***Water***

West Ballina is supplied from Pine Avenue Reservoir. A 200mm water main follows the existing Pacific Highway along the southern boundary of Lot 11 DP101575.

The property can be served with a new service connected to the existing 200mm main. Only one service connection per lot is possible. A hydraulic design of the domestic and fire water services will need to be provided by the proponent.

#### ***Sewer***

The West Ballina Sewerage Catchment is currently pumped to the Lennox Head STW. Sufficient capacity is available in the Pacific Highway Pump Station for additional demand. Gravity sewer is not available to the HSC development. A Pressure Sewer System has been provided for the Smith Drive Industrial Area with a pressure main running along the southern side of the existing Pacific Highway and along Kalinga Street to the Pacific Highway Pump Station. No allowance was made for the HSC development to connect to this pressure main in the design of the pressure sewer system.

As this development cannot be served by gravity sewer and has not been included in the current Smith Drive Pressure Sewer System the HSC development will be required to connect to the sewer by constructing its own pump station and rising main to the West Ballina Pump Station at its own cost.

The Cardno Report- Ballina Highway Service Centre – Water Supply and Sewerage Analysis November 2010, Job No B1009-003 has calculated the demand for the BHSC development at 26.7ET (Equivalent Tenements)

Council has reviewed the demands using rates from the Water Directorate Section 64 Determinations of Equivalent Tenements Guidelines May 2009, and based on the floor areas provided by Cardno, has determined that the calculated demand that the development generates has been under-estimated and the actual total Demand for the proposed development is 65ET. It has been recommended that Council condition the development based upon the revised figure of 65 ET demand.

### **Stormwater and Drainage**

The proposed development will result in extensive areas of impervious material, and given the proximity of Emigrant Creek, measures to control the quality and quantity of stormwater runoff from the site are proposed. This includes the use of on-site detention in the form of rainwater tanks detaining runoff from roofed areas, and a detention basin incorporated into the stormwater drainage network, located in the southern part of the site. Vegetated bio-retention swales are also proposed throughout the site to treat stormwater.

All surface water drainage, including waste collection, treatment and disposal, on the covered forecourt area must be designed to incorporate the requirements of NSW EPA Environmental Guidelines: Surface Water Management on the Covered Forecourt Areas of Service Stations.

The plans and specifications of all proposed stormwater management controls will be required to be submitted to Council for approval as part of the Construction Certificate.

### **Flora and Fauna**

Council's Environmental Scientist has reviewed the proposed development in relation to impacts upon flora and fauna and has provided the following comments:

"Whilst it is unknown whether Grass Owls do forage at the site, given that the development is located at the western end of Lot 11 any impact to the specie's foraging patterns are expected to be minimal. The above conclusion is made for the following reasons;

- If Grass Owls forage on Lot 11 it is likely they access the site by flying over the Pacific Highway through a 140m wide vegetated gap between the existing developments (Sunmaid Caravan Park and Riverbend developments). This flyway is to be retained.
- Under the draft BLEP a 300m wide agricultural zoned (RU2) corridor which adjoins the abovementioned flyway is to be retained between the service centre and the existing Riverbend development.
- The proposed Conditions of Consent for this development prevent the filling of this land, thus it will be utilised for agricultural pursuits in turn preserving potential foraging habitat.

- 56ha of the specie's preferred foraging and roosting habitat occurs on the adjacent Lot 4 Burns Point Ferry Road. Under the draft BLEP, Lot 4 is to be zoned RU2, however, this proposed zoning is under review, to further reflect the existing ecological attributes of the site.

Consequently, based on the above reasoning it is concluded that the proposed development will not have a significant adverse impact on the local Grass Owl population. Given the above assessment the development application is supported with no specific Conditions of Consent considered warranted in relation to ecology."

In relation to the removal of a number of mangroves within the proposed flood channel, the Department of Industry & Investment have stated that any harm or damage to marine vegetation in association with the floodway works will be assessed within the scope of the permit to be issued by Department.

### **Noise**

Modelling of predicted traffic impacts from existing and proposed road networks over the development site has been undertaken.

Council's Environmental Health Section has reviewed the application and commented on the proposal and are of the opinion that no adverse impact from road traffic noise is expected at commercial buildings adjacent to the proposed Ballina Bypass.

Construction activities are unlikely to result in noise levels greater than 5 dB(A) above background with the operation of the existing Pacific Highway during daytime hours. Noise generating activities will be adequately controlled by recommended conditions of consent.

Operational noise from proposed activities will be generally limited to various service dock and carparking activity in locations as shown on the development plan. Noise from carparking will generally relate to both staff and general public carparking provided.

It is proposed that the service centre will operate 24 hours, 7 days a week, while the auto and truck repair centres will principally operate within conventional business hours: i.e. Monday to Friday 8.30 am to 5.00pm and Saturday 8.30am to 12:00pm.

In conclusion, traffic, construction, and industrial/operational noise impacts for the proposed development can be adequately managed through conditional approval.

### **Land Use Conflicts**

Potential Land use Conflicts exist between the proposed development and the residents of Ballina Waterfront Village and Tourist Park and Riverbend Development. Proposed filling and increase in background noise levels are matters of potential Land use Conflict. The latest noise assessment for the proposed development, Acoustic Assessment Update Ballina Highway Service Centre (Cardno v3 21 January 2011) confirms that both the construction and operation of the development will not impact on existing sensitive receptors due to the contribution of traffic noise to the existing acoustic environment and that predicted from the Pacific Highway in the year 2026.

### ***External Lighting Impacts***

There are concerns with the impact of external flood lighting and heavy vehicle lighting on the Riverbend development and Ballina Waterfront Village and Tourist Park. All external lighting to be installed and operated on site shall comply with Australian Standard AS 4282:1997 "Control of the Obtrusive Effects of Outdoor Lighting". Details demonstrating compliance with these requirements are to be submitted and approved by Council prior to the release of the Construction Certificate.

In addition the applicant is to engage a suitably qualified person to assess the impacts of lights from heavy vehicles entering the proposed Ballina Highway Centre on residents within the Riverbend development and Ballina Waterfront Village and Tourist Park. A report which details any potential lighting impacts and resultant mitigation measures is to be submitted to Council for approval prior to issue of Construction Certificate.

### ***Acid Sulfate Soil Management***

Council's Environmental Health section has commented on the proposal and has provided the following comments;

*A plan showing the location of the ASS treatment pads, and surface water monitoring points will be required prior to provision of a construction certificate.*

*The proposed floodway construction has not been considered in the Acid Sulphate Soil Investigation (Precise Environmental 2007). While it is acknowledged that that it is unlikely that shallow earth earthworks for the construction of the proposed floodway will disturb potential acid sulphate soils, these activities will require management to treat the existing acidity which is present in the upper soil profile.*

*Council will be imposing a condition of consent requiring the applicant to submit a revised Acid Sulfate Soil Management Plan to include assessment and treatment of excavations associated with the proposed floodway.*

### ***Crime Prevention***

The proposal was referred to the NSW Police Crime Prevention Officer who carried out an assessment using Crime Prevention through Environmental Design Principals.

NSW Police raise no objections to the proposed development subject to the imposition of a number of conditions of consent.

### ***Coastal Hazard & Sea Level Change/Rise***

Council Civil Services Group has reviewed the documentation submitted with the proposed development in relation to flooding and sea level change and has provided the following comments:

*"The cumulative flood impact assessment for the development predicts a maximum of 7mm increase immediately upstream of the development for an existing 1:100 year event, and 17 mm increase immediately upstream of the development for a 2100 year (climate change) 1:100 year event. The*

*cumulative flood impact assessment results, using the integrated flood model, remain below the current Council policy of less than 50 mm impact.”*

### **Proposed Conditions of Consent**

A copy of the initial Draft Conditions of consent were forwarded to the proponent for comment due to the complexity and size of the proposed development. This was considered to be an appropriate time for the proponent to raise any issues with the initial draft conditions. Following this consultation with the proponent the draft conditions were reviewed and the conditions of consent finalised as recommended at the end of this report.

Council assessment identified the need for certain off-site works to be commenced in a chronological sequence prior to the on-site works proceeding.

These works included the following: (which should be completed prior to any additional material being imported to the site with regard to filling of the site)

- Construction and commissioning of the floodway culvert bank under the Pacific Highway and associated road works;
- Construction and commissioning of the temporary access to the site on the Pacific Highway; and
- Establishment of the floodway on the site.

Consequently, the report recommends the granting of a Deferred Commencement Consent whereby a number of deferred commencement conditions must be met, before the consent becomes operational.

Draft Condition No. 1.1 requires the proponent to obtain all necessary approvals from the relevant Public Authorities in relation to the construction of Off-site works associated with the establishment of the flood culverts under the Pacific Highway.

The requirement to submit a Construction Sequencing Plan within DCC No. 1.2 will establish the timing of certain aspects of the On-site and Off-site works and enable Council to ensure that works are done in the required order. The proponent recommended that the CSP would address Council's requirements in relation to the scheduling and completion of certain On-site and Off-site works.

The remainder of the Deferred Commencement Conditions are considered to be of such importance that Council needs to approve them prior to the consent being activated.

It is the opinion of the assessment officers that rather than require the applicant to submit the additional details outlined within the conditions prior to the matter being reported to Council, that the additional information could be adequately dealt with as Deferred Commencement Conditions. This approach gives the proponent certainty in relation to the approval of the Development Application.

***Roads Contribution Levies.***

The proponent has requested Council to delete the roads contribution associated with the condition for the payment of Section 94 levies for the proposed development.

The grounds for this request were predicated upon the contention that the majority of the traffic generated by the HSC will access and exit the site via the Ballina Bypass. No justification in the form of a traffic study was submitted in support of this contention. Without a specific traffic study being done, Council is not in a position to support this request. Council's Roads Contributions Plan 2010 does however discount the contribution payable for commercial development based on trip generation from outside the Shire.

It is acknowledged there is potential for reassessing the Section 94 roads contribution component, based on shared trips, however the proponent has not provided Council with specific traffic information to enable a discount to be applied.

The proponent has also stated that the substantial off-site works being the establishment of a set of flood culverts under the Pacific Highway, the associated floodway and the construction of a roundabout on the Pacific Highway (to enable access to the site) has a public benefit and this should also be taken into account when calculating the appropriate levies.

Council cannot take these public benefit matters into account unless the proponent has formally applied to Council to do so. To date no application has been received and such an application should be accompanied by a report justifying the extent of public benefit applied for.

Based on the above, it is considered that the proposed Section 94 Roads Contributions are applicable.

Whilst Council's assessment officers are of the opinion that the roads contribution component of the levies payable by the proponent is a significant proportion of the levies payable the proponent has a number of options available to request Council to review the contributions condition either as a Review of Determination under Section 82A of the Environmental Planning and Assessment Act 1979 (as amended), as a Section 96 amendment to the consent, or as a request to Council to defer consideration of the application until the applicant has submitted further justification in the form of traffic reports etc. supporting their contentions that the roads contributions for the proposed development have been calculated incorrectly.

**Additional Matter**

By way of letter dated 23 May 2011 the RTA have advised the Mayor that they are considering utilising the current Ballina Bypass construction management site adjacent to the Bruxner/Pacific Highway interchange for future use as a heavy vehicle parking area. This has no direct bearing on the Highway Service Centre application, however a copy of the RTA's letter is attached for the information of Council.

### **Conclusion**

The application before Council for determination is one which has a significant history in relation to the previous application submitted to Council that was subsequently withdrawn prior to determination. The current application addresses all statutory and policy requirements and warrants the support of the Council.

Further the proponents, via a number of amendments to the originally submitted plans, have addressed previous concerns raised by Council's Technical Officers and/or objectors.

The proposed development is consistent with Council's current requirements and any impact is considered reasonable in the circumstances for a Highway Service Centre in the proposed location subject to compliance with specific recommended conditions of consent.

### **RECOMMENDATIONS**

That development application DA 2010/962 to Undertake the Construction of a Highway Service Centre comprising Service Station, associated Fast Food Restaurants, Auto Repair Centre, associated Vehicular Accesses (including a round-about intersection on the existing Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Landscaping, Earthworks and Advertising Structures upon Lot 11 DP 1011575, Pacific Highway (now known as No. 565-589 River Street, West Ballina) and a Two (2) Lot Subdivision (Lot 1 – Highway Service Centre & Lot 2 – Agricultural Residue be **issued Deferred Commencement Consent** subject to the imposition of relevant planning, engineering and building construction conditions.

### **Attachment(s)**

1. Locality Plan
2. Site Plan
3. Elevation Plan
4. Submissions
5. Draft Conditions of Consent
6. Letter from RTA

**8.2 Compliance Work Plan 2010/2011 - Final Update**

<b>File Reference</b>	Compliance Work Plan 2010/2011
<b>CSP Linkage</b>	Transparent and accountable governance Diverse and balanced land use
<b>Delivery Program</b>	Development Services
<b>Objective</b>	To provide Council with a report on the outcomes achieved from the 2010/11 Compliance Work Plan

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**Background**

At the June 2010 meeting, Council adopted a Compliance Work Plan for the 2010/11 financial year. A six month update report was presented to Council at the January 2011 Ordinary Meeting. This report provides a final status report following the completion of the Work Plan.

**Key Issues**

- Compliance with Work Plan
- Results achieved

**Information**

The Compliance Work Plan nominated the following areas as the priorities for the financial year as they were considered to be the areas of highest risk or potentially lowest levels of compliance.

1. *Audit of Quarry sites.*
2. *Audit of Major Developments within the Shire.*
3. *School Zone Enforcement Programme.*
4. *Audit of Identified Development Consents*
5. *Review of all Development Consents issued within the Southern Cross Industrial Estate.*
6. *Audit of all Roadside Advertising Signage on rural land within the Ballina Shire.*
7. *Review of Advertising Signage displayed on Council assets within Ballina Town Centre*

As outlined in the half yearly update report, in addition to the above programs, the Compliance Section respond to customer requests received from members of the general public as well as Council employees and State and Federal Government Agencies. As the general public becomes more educated in relation to the legislative requirements within the Shire, as well as Council's role in the enforcement of these requirements, an increasing trend of customer requests being received within the Compliance area has been observed.

Council would also be aware of ongoing matters previously reported as Confidential Items or prosecutions previously reported within the Councillor Update.

Council is also working in conjunction with Rous Water auditing the on-site sewage management systems in the Emigrant Creek Catchment area. This Project has identified approximately 250 parcels of land within the 7(c) *Environmental Protection (Water Catchment) Zone*, which were being inspected by Council's Rous Water Project Officer. The funding for this position has now been fully expended and any additional inspections required to complete this audit would be the responsibility of Council's On-Site Sewage Management Officer.

This accelerated inspection programme has identified that of these 250 parcels of land, 120 parcels with operating on-site sewage management systems have been inspected to September 2010. 53 of these (or approximately 1 in 2.3 parcels inspected) have some unauthorised land use issues, including unauthorised conversions of rural outbuildings (sheds, bales etc) into second dwellings, unauthorised buildings, businesses, earthworks and the like.

These non-compliances, which were not anticipated at the time of the formulation of the current Compliance Work Plan, require immediate action to address the identified issues, with legal proceedings likely in some instances. Should litigation be contemplated, the issues will be reported to Council for endorsement prior to any action being commenced.

**Programs:**

1. *Audit of Quarry sites*
2. *Audit of Major Developments within the Shire*
3. *School Zone Enforcement Programme*
4. *Audit of Identified Development Consents*
5. *Review of all Development Consents issued within the Southern Cross Industrial Estate*
6. *Audit of all Roadside Advertising Signage on rural land within the Ballina Shire*
7. *Review of Advertising Signage displayed on Council assets within Ballina Town Centre*

Programmes 1 through 4 are ongoing enforcement programmes with no nominated end date. However with the recent increase in ranger staffing levels some of these identified programs will be transferred to ranger services for ongoing enforcement. This reallocation of programs will allow Compliance to concentrate on the core functions as originally resolved by Council.

1. *Quarry Sites*

All of the quarries currently operating within the Shire have been inspected by technical staff and compliance with the conditions of the development consents has generally remained at a high standard, with the previously identified minor environmental issues being addressed by quarry operators.

As a result of this audit, a number of quarry operators have taken the opportunity to address current business demands by seeking to lodge new development applications with Council to increase extraction rates.

These applications, when lodged and if approved, will not only allow for the quarry operators to increase production rates (and thereby reduce the life expectancy of the quarry) but also enable Council to address any identified anomalies with the original approval and any recently identified environmental issues with the current operation.

Council has also identified a short fall in section 94 contributions by quarry operators, which has resulted in payments totalling over \$330,000 to Council in outstanding contributions.

Council is also aware of additional contributions still owed and actions to recoup these payments are continuing.

Given this program is almost completed, it is not intended to include this as a separate programme within the 2011/2012 Compliance Work Plan, rather to include this into the ongoing program for the auditing of major development sites.

## *2. Audit of Major Development Sites*

Major Developments are defined as developments consisting of five or more units/parcels of land/dwellings as well as all developments within areas of high environmental significance and/or specifically conditioned to achieve significant environmental outcomes.

This program commenced in the 2008/2009 financial year with an audit of development applications determined in 2006, which included applications that have been refused or withdrawn. These results were reported to Council in June 2009 with the completion of that financial year audit.

This audit has also included major subdivision works outside of the 2006 applications such as at North Angels Beach, Ballina Heights and the Ferngrove Estate, which fall within the definition of Major Developments.

Compliance resources have been involved in these environmentally and culturally sensitive sites on an ongoing basis, involving auditing and inspections on at least a fortnightly basis to ensure ongoing compliance as well as continuing to audit development applications determined in 2007.

Of the 114 major developments (comprising 25 outstanding from 2006 and 89 from 2007 and the major subdivisions above), 90 have been inspected for compliance with the terms and conditions of the development consent. Regarding these consents:

- 37 have not commenced at the time of the inspection. These developments will be inspected during the upcoming financial year for commencement and if applicable compliance with the issued consents
- 35 developments have been inspected and all conditions of consent have been complied with and

- 18 developments (including ongoing inspections at Ballina Heights estates) have been inspected and require further follow up inspections. This is due to works on site not being complete at the time of the inspection or non compliance with conditions of consent being detected
- 24 developments have not been investigated at this time.

### 3. *School Zones*

This program is designed to promote a safer environment for children attending local schools and is in response to a request from the NSW Minister for Local Government that all councils within NSW conduct ongoing enforcement action in and around schools.

This part of the program involves a clearly visible uniformed officer conducting patrol duties within each school zone on a rotating and random basis. Drivers of motor vehicles that park illegally within identified school zones have been issued with Penalty Infringement Notices (PINs) for the offence committed and staff have also issued warnings to drivers for minor matters observed within these patrol duties.

Council has also increased public awareness of issues within school zones by coordinating the use of Council's speed awareness trailer and the provision of educational literature to all schools.

It is evident from these ongoing patrols that there is a decreasing trend in the numbers of detected parking offences within school zones. This is providing a safer environment for local children attending schools and this is due in part to the ongoing enforcement and educational role of the Compliance Section.

With the allocation of additional resources to the Rangers, it is not intended to continue this program within the 2011/2012 Compliance Work Plan, rather this program will be transferred to the rangers for ongoing enforcement action from 1 July 2011.

### 4. *Audit of other Identified Development Sites*

Identified Development Sites are defined as all developments issued by Ballina Shire Council *EXCEPT* those identified as either (a) Major Development Sites or (b) Consents that require further approvals from Council, (eg Construction Certificates, Occupation Certificates).

This program commenced in the 2008/2009 financial year with an audit of development applications determined in 2006 which included applications that have been refused or withdrawn. These results were reported to Council in June 2009 with the completion of that financial year audit, with 33 outstanding applications requiring additional action.

Of the 164 identified developments (comprising 33 outstanding from 2006 and 131 from 2007), 118 have been inspected for compliance with the relevant terms and conditions of the development consent. Regarding these consents:

- 46 have not commenced at the time of the inspection. These developments will be inspected during the upcoming financial year for commencement and if applicable compliance with the issued consents
- 37 developments have been inspected and all conditions of consent have been complied with
- 35 developments have been inspected and require further follow up inspections. This is due to works on site not being complete at the time of the inspection or non compliance with conditions of consent being detected
- 46 developments have not been investigated at this time.

5. *Review of all Development Consents issued within the Southern Cross Industrial Estate.*

This program is intended to audit development consents and land uses within the Southern Cross Industrial Estate to ensure ongoing compliance with Council approvals and to prevent potential contamination of Council's water supply by inspecting backflow prevention devices and prevention measures.

Of the 507 identified development consents within the Southern Cross Industrial Estate, 469 have been inspected for compliance with the relevant issued development consent. Regarding these consents:

- 34 have not commenced at the time of the inspection. These developments will be inspected during the upcoming financial year for commencement and if applicable compliance with the issued consents
- 367 developments have been inspected and all conditions of consent have been complied with
- 68 developments have been inspected and require further follow up inspections. This is due to works on site not being complete at the time of the inspection or non compliance with conditions of consent being detected
- 38 developments have not been investigated at this time.

6. *Audit of all Roadside Advertising Signage on rural land within the Ballina Shire.*

This program was a new programme for the 2010/11 Compliance Work Plan. The program was designed to audit and map roadside signage within the Ballina Shire to identify the current location of such signage and to ensure compliance with *State Environmental Planning Policy No 64 – Advertising and Signage* and Council's Combined DCP.

This program was due to commence in October 2010 and a further review of the feasibility of commencing the program was conducted in March 2011. Unfortunately, due to other operational requirements and the vacancy of the Compliance Officer's position from late July to late November 2010, this program has not commenced at this time.

With the reallocation of other priorities to Council's rangers, it is intended to bring this program forward into the 2011/2012 Compliance Work Plan.

*7. Review of Advertising Signage displayed on Council assets within Ballina Town Centre*

This was a new program for the 2010/2011 Compliance Work Plan and was included at the request of Civil Services, due to staffing restraints within Council's ranger services. On this basis, Compliance was requested to enforce advertising restrictions within the Ballina Town Centre.

It was intended to commence this program in January 2011, should sufficient resources permit, by conducting random patrols of River Street, Fawcett Park and the adjoining Arcade to remove unauthorised advertising and to instigate action in accordance with Council's Enforcement Policy as required.

Given the ongoing issues identified with the Rous Water Project as well as the extended vacancy of the Compliance Officer's role, this program was not able to be commenced during this financial year. With the allocation of additional resources to the rangers, it is not intended to continue this program within the 2011/2012 Compliance Work Plan and this program will be transferred back to the rangers for ongoing enforcement.

### **Sustainability Considerations**

- **Environment**  
Compliance with issued development consents enhances the protection of the natural and built environment and attainment of Council's strategic planning objectives for the Shire.
- **Social**  
Not applicable
- **Economic**  
Not applicable

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

The role of the Compliance Coordinator and Compliance Officer is to assist in establishing and maintaining compliance with Council's adopted Local Environmental Plan (LEP), Development Control Plan (DCP) and Development Consents as well as NSW Government legislation, including State Environmental Planning Policies (SEPPs) and the like.

There are instances of non-compliance by landowners and occupants within the Shire and in addressing these legal actions may be required in some circumstances.

There are a number of available legal avenues to ensure compliance as outlined within Council's Enforcement Policy, including:

- official warnings
- PINS (On the Spot fines e.g. parking tickets)
- Notices, Orders and other legal directives and
- Litigation through either the local or Land and Environment Courts.

Whilst it is preferred that co-operation is firstly sought and provided from land owners and occupants who may not be complying with Council's requirements, there will be instances where some form of enforcement action is required to achieve compliance. In these instances, each case will be assessed on its merits and an appropriate level of action will be taken.

### **Consultation**

This report has been provided for public information.

### **Options**

This report has been provided for information.

### **RECOMMENDATIONS**

That Council notes the contents of the final report for the annual Compliance Work Plan for 2010/11.

### **Attachment(s)**

Nil

**8.3 Compliance Work Plan 2011/2012 - Proposed**

<b>File Reference</b>	Compliance Work Plan 2011/2012
<b>CSP Linkage</b>	Transparent and accountable governance Diverse and balanced land use
<b>Delivery Program</b>	Development Services
<b>Objective</b>	To provide Council with a report on the proposed 2011/12 Compliance Work Plan.

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**Background**

Following on from the previous report in this agenda, this report provides an overview of the major areas where it is recommended that Council apply its compliance resources for 2011/12.

**Key Issues**

- Proposed areas for investigation and review

**Information**

To provide Council with a forecast of how Council resources will be directed over the coming 2011/12 financial year, a Compliance Work Plan has been developed.

Whilst additional land use complaints will inevitably be received over the coming financial year, all complaints will be prioritised and actioned as appropriate, however it is intended that priority will be given to the items contained within the Compliance Work Plan. Further, with the transfer of parking and school zone enforcement to ranger services, it is anticipated that a better focus on the identified programmes will be provided.

The Compliance Work Plan has nominated the following areas as the priorities for the forthcoming financial year as they are considered the areas of highest risk or potentially lowest levels of compliance. The information contained within this report is also summarised within **Attachment 1** in table format for easy reference.

**Programmes:**

1. *Audit of Major Developments within the Shire.*

This program first commenced in the 2008/09 Compliance Work Plan and as outlined in the previous report, is well underway. It is intended to continue this program to complete the audit of all 2007 Major Development consents and commence the audit of all 2008 Major Development consents.

*2. Audit of Identified Development Consents*

This program first commenced in the 2008/09 Compliance Work Plan and as outlined in the previous report, is well underway. It is intended to continue this program and complete the audit of the 2007 Identified Development Consents and commence the audit of the 2008 Identified Development Consents.

*3. Complete the Review of all Development Consents issued within the Southern Cross Industrial Estate.*

This program first commenced in the 2009/10 Compliance Work Plan and as outlined in the previous report, is planned for finalisation during this Work Plan.

*4. Audit of all Roadside Advertising Signage on rural land within the Ballina Shire.*

This program is a carryover from the 2010/11 Compliance Work Plan, which due to other priorities was not commenced during the previous financial year. It is a proposal to audit roadside signage within the Ballina Shire to identify the current location of such signage and to ensure compliance with *State Environmental Planning Policy No 64 – Advertising and Signage* and Council's Combined DCP.

Previous audits have been conducted by Council officers to identify the location of this signage.

It is intended to complete this program to audit roadside signage within Ballina Shire to:

- Identify, record and map all advertising signage located on private rural land within the Ballina Shire
- Creation of a Land Use Register within Council's Corporate Mapping System for all signage locations within the Ballina Shire
- Enforcement action as required for any identified areas of non-compliance with the issued development Consent, other approval or *State Environmental Planning Policy No 64 – Advertising and Signage*.

*5. Audit of outstanding Developer Contributions and Water and Sewer Charge Payments.*

This is a new program for inclusion in the Compliance Work Plan for 2011/2012. An audit of outstanding developer contributions and water and sewer charges has been conducted by Council's Finance and Governance Manager from 2004 onwards has identified areas where there may be anomalies in the number of contributions and/or charges paid to Council in line with development consent conditions.

It is intended to undertake this program to audit developer contribution and water and sewer charge payments by:

- Recording all development consents with developer contributions and water and sewer charge payments between 2004 and 2007 financial years (as provided by Finance)
- Review of all consents for commencement of works and payment of required contributions
- Enforcement action as required for any identified areas of non-compliance with regard to the payment of all section 94 contribution and charges.

6. *Commercial Use of Footpaths and Footpath Signage Compliance*

This is a new program for inclusion in the Compliance Work Plan for 2011/2012. Following the Council's recent adoption of the Commercial Use of Footpaths Policy, an educational and enforcement program will be undertaken to regularise the uses on footpaths within the Town Centres, including alfresco dining, footpath displays and signage.

Presently, Council's Commercial Services Section has distributed educational material to the shop owners and proprietors of Alstonville, Ballina and Lennox Head Town Centres advising them of the new requirements with alfresco dining, footpath displays and signage. It is hoped that following this educational process, a number of previously unauthorised uses will be regularised.

It is intended to continue on with this educational role commenced by Commercial Services and to then follow up with any enforcement action that may be required by:

- Inspection of approval sites for uses in line with issued licenses and identification of premises operating without the requisite licence
- Enforcement action as required for any identified areas of non-compliance with regard to alfresco dining, footpath displays and signage

**Sustainability Considerations**

- **Environment**  
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**  
Not applicable
- **Economic**  
Not applicable

**Legal / Resource / Financial Implications**

This program is based on utilising existing resources.

**Consultation**

This report has been provided for public information.

**Options**

This report has been provided largely for information; however Councillors may wish to review the proposed work program.

**RECOMMENDATIONS**

That Council endorses the proposed annual Compliance Work Plan for 2011/12 as attached to this report.

**Attachment(s)**

1. Compliance Work Plan for 2011/12 Financial Year

<b>COMPLIANCE WORK PLAN 2011 / 2012 FINANCIAL YEAR.</b>				
<b>Programme Number</b>	<b>Programme</b>	<b>Area / Precinct</b>	<b>Review Date</b>	<b>Finalisation Date</b>
1.	<p><b>Ongoing Audit of Major Developments within the Shire. (Ongoing from 2010 / 2011 Work Plan)</b></p> <p>(Major Developments will be defined as developments consisting of five (5) or more units/parcels of land/dwellings as well as all developments within areas of high environmental significance and/or specifically conditioned to achieve significant environmental outcomes)</p> <ul style="list-style-type: none"> <li>- Ongoing identification, recording and mapping all Identified Development Consent sites within Ballina Shire Council;</li> <li>- Ongoing liaison with Council's Civil Services to co-ordinate roles within each major development and identify lead investigator for specific sites to minimise duplication of workloads and enforcement.</li> <li>- Ongoing inspections of sites for compliance with the issued Development Consent in consultation and/or conjunction with Civil Services as appropriate;</li> <li>- Enforcement action as required for any identified areas of non-compliance with the issued development Consent.</li> </ul>	All Major Development Sites within Ballina Shire Council.	Quarterly	Ongoing Project
2.	<p><b>Audit of Identified Development Consents. (Ongoing from 2010 / 2011 Work Plan)</b></p> <p>(Identified Development Sites will be defined as all approvals issued by Ballina Shire Council EXCEPT those identified as either (a) Major Development Sites or (b) Consents that require further approvals from Council, (eg Construction Certificates, Occupation Certificates, Food Inspection Certificates)</p> <ul style="list-style-type: none"> <li>- Ongoing identification, recording and mapping all Identified Development Consent sites within Ballina Shire Council;</li> <li>- Ongoing inspection of sites for compliance with the issued Development Consent;</li> <li>- Enforcement action as required for any identified areas of non-compliance with the issued development Consent.</li> </ul>	All Identified Development Sites within Ballina Shire Council.	Quarterly	Ongoing Project

Programme Number	Programme	Area / Precinct	Review Date	Finalisation Date
3.	<p><b>Completion of Review of all Development Consent approvals issued within the Southern Cross Industrial Estate. (Ongoing from 2010 / 2011 Work Plan)</b></p> <ul style="list-style-type: none"> <li>- Identify, record and map all industrial sites and land uses within the area of Southern Cross Industrial Estate;</li> <li>- Review of all industrial sites for current development consents to undertake business activities;</li> <li>- Inspection of industrial sites for compliance with the issued Development Consent or other approval;</li> <li>- Enforcement action as required for any identified areas of non-compliance with the issued development consent or other approvals;</li> <li>- Creation of a Land Use Register within Council's Corporate System for all industrial uses within Southern Cross Industrial Estate.</li> </ul>	All properties within the area Southern Cross Estate.	Quarterly	30 June 2012.
4.	<p><b>Audit of all Roadside Advertising Signage on rural land within the Ballina Shire. (Carried forward from 2010 / 2011 Work Plan)</b></p> <ul style="list-style-type: none"> <li>- Identify, record and map all advertising signage located on private rural land within the Ballina Shire;</li> <li>- Creation of a Land Use Register within Council's Corporate Mapping System for all signage locations within the Ballina Shire;</li> <li>- Enforcement action as required for any identified areas of non-compliance with the issued development Consent, other approval or State Environmental Planning Policy 64.</li> </ul>	All rural properties within the Ballina Shire.	31 December 2011	30 June 2012.

Programme Number	Programme	Area / Precinct	Review Date	Finalisation Date
5.	<p><b>Audit of outstanding Developer Contributions and Water and Sewer Charge Payments.</b></p> <ul style="list-style-type: none"> <li>- Recording all development consents with Developer Contributions and Water and Sewer Charges payments within Ballina Shire between 2004 and 2007 financial years (as provided by Finance);</li> <li>- Review of all consents for commencement of works and payment of required contributions;</li> <li>- Enforcement action as required for any identified areas of non-compliance with regard to the payment of all section 94 payments.</li> </ul>	All Development Consents issued by Council from 2003 to 2007.	31 December 2011	30 June 2012.
6.	<p><b>Commercial Use of Footpaths and Footpath Signage Compliance.</b></p> <ul style="list-style-type: none"> <li>- Inspection of approval sites for uses in line with issued licenses and identification of premises operating without the requisite licence;</li> <li>- Enforcement action as required for any identified areas of non-compliance with regard to alfresco dining, footpath displays and signage;</li> <li>- Respond to complaints of alleged unauthorised use of public footpaths in accordance with the Enforcement Policy as resources permit.</li> </ul>	All Town Centres within the Ballina Shire.	31 December 2011	30 June 2012.

**8.4 Lake Ainsworth Reserve - Eastern Road Closure**

<b>File Reference</b>	Lake Ainsworth Crown Masterplan, Lake Ainsworth Estuary Management Plan
<b>CSP Linkage</b>	Diverse and balanced land use
<b>Delivery Program</b>	Open Space and Reserves
<b>Objective</b>	Advise Council in respect of the practicalities of immediately closing the road along the eastern side of Lake Ainsworth

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**Background**

Council resolved at the May 2011 meeting to receive a report on the practicalities of immediately blocking off the road along the eastern side of Lake Ainsworth as identified in the Lake Ainsworth Masterplan. This report addresses this request.

**Key Issues**

- Cost
- Alternative access
- Environmental benefits that need to be weighed up against retaining this road for the present.

**Information**

The Lake Ainsworth (Estuary) Management Plan (November 2002) produced by the Department of Public Works & Services / GeoLINK and the Lake Ainsworth Crown Reserve Master Plan (October 2005) produced by Connell Wagner are the relevant plans. The Connell Wagner Plan built upon the earlier Plan filling out details in a number of areas that were not specified in the earlier document. The brief to this consultant was that they were to take into account in full the earlier plan that had been adopted by Council. References can be found throughout this Plan to the earlier document and it is now referred to generally as the Lake Ainsworth Masterplan.

The Masterplan addresses the Eastern Road in Section 5. Section 5 deals with the Eastern Foreshore Dune Precinct. It identifies the (*then*) current features of the area as follows:

- Provides road access to the Sport and Recreation Centre
- Provides road access to Seven Mile Beach for 4WD vehicles; (*no longer*)
- Provides road access and unformed parking spaces to picnic areas and facilities in the eastern foreshore of Lake Ainsworth

- The road access and parking has adverse impacts on the water quality of the lake by oil in the vehicles or related residues washing into the lake
- The shared road also creates pedestrian/vehicle conflicts particularly in the peak period and with children playing along this eastern section of the lake
- The existing Eastern Road is not a gazetted road reserve and ongoing use has been allowed by state government agencies and the Council
- There are designated small sandy beach areas and fenced vegetation on the eastern bank of the lake
- Picnic facilities are currently located on the eastern side of the road, resulting in children having to cross the road to swim in the lake
- Picnic facilities and the log fencing of dunal vegetation to the east of the road are considered to be just adequate.

In respect of this area the Processes Study (Summary) for the earlier (2002) Management Plan specifically identifies under impacts of human activity (Table 4.3) the following:

- Removal of stabilising vegetation for the construction of the sealed road along the eastern perimeter of the lake and runoff from the road eroding land between the road and the lake
- Removal of fringing vegetation and intensive recreational use (eg launching of sail craft) exposing the south and east banks of the lake to erosive processes
- Child safety crossing the eastern road to the beach. Sight distance is poor due to informal parking along the road. A 1988 study found that 89% of those surveyed felt the risk of children being involved in an accident was too high.

To address these matters the Masterplan (2005) identifies Eastern Foreshore Dune Precinct Planning Initiatives at Table 5.1(**attached**).

The first item in the table refers to the closure of the eastern road to all vehicular traffic (excepting emergency and maintenance vehicles) however this is qualified by the statement:

Note: The closure of the Eastern Road is contingent on the establishment of new western access road through or around Lake Ainsworth Caravan Park.

The Masterplan addresses the southern road (currently the only alternative available access to the Sport and Recreation Facility) in Section 6 which deals with the Southern Foreshore Community Park Precinct.

This area is described as the most congested section of the crown reserve because of the visitor attractions of the Surf Club and the patrolled beach, Lake Ainsworth and the caravan park visitor facilities.

Features of that area current at time of writing of this report were:

- Monthly markets are held along the southern road
- In peak holiday times, car parking occurs on both sides of the Southern Road

- The Southern Road most importantly provides access from Pacific Parade to Camp Drewe via the western Camp Drewe Road
- Lake Ainsworth Crown Reserve has no formal footpaths and/or cycle ways aside from a footpath on the western side of Pacific Parade between Ross Street and the Southern Road intersection.

To address these matters the Masterplan 2005 identifies Southern Foreshore Community Park Precinct Planning Initiatives in Table 6.1(**attached**).

This proposes closure of the Southern Road also to improve water quality, improve traffic and parking, enhance recreational opportunity and enhance mobility and safety benefits.

Implementation of the Plans has seen Council urgently address the 4WD access point which was identified by the specialists who prepared the processes study as a potential weakness in the dune system that could see a breach of the dune by the ocean due to severe storm. This has been relocated to the north of the Sport and Recreation facility. A small reduction in vehicular traffic on the Eastern Road has occurred, this being diverted to the Southern Road and Camp Drewe (western) Road. The monthly markets are now held in the Eastern Foreshore Dune Precinct instead of the Southern Foreshore Community Park Precinct.

The staff working group that was formed to facilitate the progress of the Management Plans has seen the construction of the road from Ross Street through to the western (Camp Drewe) road as the keystone to further progress the Management Plans for Lake Ainsworth. A grant application was sought for the year 2010-11 under the Government's Estuary Management Scheme on the basis that it is such an important step in the implementation of the plans for Lake Ainsworth. This application was not successful. It has been resubmitted for consideration again for the year 2011-12 but the outcome of this application is not yet known.

If this application is successful it should be noted that this scheme only contributes half the cost of the proposed work, the rest having to be found by the Council. A budget bid for the estimated balance circa \$350,000 was rejected, therefore if Council wishes to proceed with this work its contribution is currently unfunded.

Whilst there are certainly benefits to be gained by closure of the Eastern Road the environmental benefits in terms of water quality are seen as limited. Whilst there are benefits in reducing erosion of material into the lake, especially when the lake level is high, this must be counterbalanced with the erosion and dust nuisance that will arise from vehicular movements on the unsealed western road. Whilst there is a risk of introduction of hydrocarbons from the vehicle proximity, giveaway surface films resultant from this material are rarely observed. The biggest benefit to be derived from this move would be the improvement in recreational use and mitigation of identified safety issues.

To be weighed up against this are the following issues:

- Those faced by The Department of Sport and Recreation with their access, expressed in correspondence dated 8 June (**attached**)

- Direct impact on the Southern Road and the Southern Foreshore Community Park Precinct through increased traffic, pressure for parking spaces, and amplification of safety issues already evident in that precinct
- People wishing to access the off leash dog area north of the Surf Club will need to park in that area and walk their animals through the reserve as the beach is a dog restricted area
- If the Eastern Road is barricaded there is currently no formalised turning area behind the surf club. It could be expected that drivers will proceed west on the Southern Road increasing vehicular movements in this area and congestion at busy times.

At time of writing the Eastern Road is half closed due to high water level in the lake to avoid road damage and erosion due to vehicles moving through water. If the road is partially or fully flooded Council would, as it has in the past, close the Eastern Road.

If the grant application currently on foot is rejected, and without Council having reserves that could be applied to construction of the western road, it may well be that the Council should review the Masterplan to see what options are available that might be affordable in the medium term. There are no funds allocated for such works in the 2011-12 budget.

It may be possible to restrict the access via the Eastern Road to Emergency and maintenance vehicles and those going to the Sport and Recreation facility only, removing all parking north of a turning circle to the west of the surf club. This would however reduce the available parking, putting pressure on the Southern Road and the streets near the Lake.

Immediate closure of the Eastern Road cannot be recommended.

### **Sustainability Considerations**

- **Environment**  
Marginal environmental benefits to water quality accrue to closure of the Eastern Road however there are negative aspects then from the Southern and Western roads
- **Social**  
Disabled people in the community would be disadvantaged by immediate closure of the Eastern Road as they would not have near vehicular access close to Seven Mile Beach or the lake's eastern shore. Closure would help minimise safety issues identified in respect of the Eastern Road but may increase potential for accidents particularly in the already heavily utilised Southern Foreshore Community Park Precinct. Dogs currently brought to the pedestrian access to Seven Mile Beach will need to be walked through the reserve to the leash free beach area, or be taken to the vehicle access north of the Lake. The Manager of the Sport and Recreation Centre claims:
  - Security arrangements in place primarily for child safety at the Centre will be compromised

- Safety issues exist at the western road access to the Sport and Recreation Centre
  - Child safety issues arise with delivery vehicles transiting through the main accommodation area
  - Increased traffic on the western road may increase road kill; and;
  - Emergency services for children visiting the Centre may be delayed.
- **Economic**  
Closure of the Eastern Road may discourage visitation if alternative parking is not to be found. There are currently very limited funds available (\$49,000 Council and \$20,000 grant) to be expended on implementation of the Lake Ainsworth Management Plan, no budget having been made in the 2011-12 budget.

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

There are currently limited funds held in reserve for implementation of the Lake Ainsworth Management Plan. Some of these funds are to be expended shortly to replace the Aerator compressor that has become unreliable and for which parts cannot be obtained.

#### **Consultation**

The Manager of the NSW Sport and Recreation Facility at Lake Ainsworth was contacted as access to the Department's facility is currently primarily via the Eastern Road. Representations have been received (attached).

#### **Options**

1. Immediate closure with appropriate signage to direct traffic westward to or through the Southern Foreshore Community Park precinct.
2. Take no action at this time except as operationally necessary when flooding occurs.

Option two is the preferred approach for the reasons outlined in this report. However in recommending this it may also be possible to consider further options to reduce traffic on the eastern road and the recommendation requests a further report on this issue.

**RECOMMENDATIONS**

1. That Council take no further action on the closure of the Eastern Road at Lake Ainsworth at this point in time, as the environmental benefits to be gained are not considered to outweigh the dis-benefits from this closure; such as the reduced accessibility for the Lake Ainsworth Sport and Recreation Facility and increased congestion on the southern road.
2. That Council receive a further report on options or interim options that in the medium term might allow a reduction in traffic accessing Lake Ainsworth and Seven Mile Beach via the Eastern Road whilst maintaining access to the Sport and Recreation Facility.

**Attachment(s)**

1. Extract from Lake Ainsworth Masterplan Table 5.1 (page 30)
2. Extract from Lake Ainsworth Masterplan Table 6.1 (page 34)
3. Correspondence dated 8 June 2011 from NSW Sport and Recreation Communities NSW

**8.5 Shopping Trolleys - Update**

<b>File Reference</b>	Littering
<b>CSP Linkage</b>	A built environment contributing to health and wellbeing
<b>Delivery Program</b>	Environmental & Public Health
<b>Objective</b>	To minimise the occurrence of Abandoned Shopping Trolleys

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**Background**

Council has been attempting to minimise the problem of abandoned shopping trolleys. It has for some time been reviewing options to address the problem and has established and maintained dialogue with the retailers.

This report provides the response, to Council's request, by resolution of 26 August 2010, that we approach the Local Government and Shires Association (LGSA) to request the State Government to legislate and impose a substantial fine (eg. over \$1,000) for abandonment of shopping trolleys in public places.

It also provides Council with a response from Kmart Australia Ltd and Coles Supermarkets Pty Ltd to matters arising from the meeting held on 8 April 2011 with Charles Hammersla, National Compliance Manager Facilities for Kmart and Coles.

In addition we wrote to other retailers on 19 April 2011 seeking responses to the same matters. Responses from several retailers were received.

**Key Issues**

- Update from LGSA
- Latest information available from retailers

**Information**

The response to our submission made to the LGSA is **attached**. It confirms that many councils experience similar problems with retailer trolleys, and there have been many resolutions during the last decade seeking higher penalties. It refers to ongoing negotiations with Trolley Services Australia toward a review of the Code of Practice for councils/supermarkets. Shortcomings have been recognised, however the 2004 version remains on the referenced websites, **attached**. Most of what is contained in the code is already being undertaken by Ballina Council.

Suggestion has been made that a conference could be called between Trolley Services Australia, the LGSA and Council. We are already in regular contact with representatives of Trolley Services Australia, Coles Kmart and other retailers. In relation to penalty, the Department has resisted the requests for increasing of penalties to offender's abandoning trolleys.

Council will recall from the October 2010 meeting that a legal opinion was sought in relation to the applicable legislation, the Impounding Act 1993.

This opinion suggested that the legislation is "not well drafted" and warned of the potential traps for councils with interpretation as instanced by the 1999 case in the Supreme Court between Waverly Council and Woolworths.

Council could approach the Government suggesting that the 1993 Act is overdue for review, pointing out the issues raised in the opinion provided to the Council. This opinion suggested that where a council had provided advice to a retailer or their designated representative and the retailer failed to collect the trolley within a reasonable timeframe then it could be interpreted that the retailer had abandoned the trolley and be liable for the penalty. It would be useful if this were clarified in the Act or Regulation.

This legislation could incorporate requirements to require the retailers to install containment systems and provide more efficient arrangements for dealing with abandoned items.

The response from Kmart and Coles to correspondence issued on 18 April 2011 (**attached**) following the 8 April meeting between Charles Hammersla and Council representatives is **attached**.

Mr Hammersla thanks Council for the meeting, describing it as "proactive and delivered some solid outcomes"

In relation to the points raised the following responses are made:

- Directions have been given to increase street trolley collection during school holidays
- Trolleys will be well secured after hours
- There are no short term plans for containment systems in the area
- Coin locking systems will not be installed unless the retailers are obliged to do so by law due to customer dissatisfaction with such systems. (It has been noted however that a small number of new Coles trolleys at both Alstonville and Ballina do have coin/token systems fitted)
- Our recommendations in relation to personal shopping trolley sales have been referred to merchandise teams
- Agree to signage as per proof provided, and are prepared to contribute financially to purchase and installation of signs at exits to car-parks and other locations deemed suitable.

Council prepared artwork and obtained a quote for 50 signs that would cost about \$42 each (plus freight). Installation and poles would be at retailers or shopping centre cost.

Written responses have been received from Trolley Services Australia Pty Ltd on behalf of Woolworths Ltd and from Target Australia Pty Ltd. A verbal response was received from the Manager of Aldi in Ballina in relation to signage. These have been **attached** together with our request of them for response.

Trolley Services Australia responds as follows:

Thanks Council for the opportunity to be involved on behalf of Woolworths, Big W and Dan Murphy's. The response, only on behalf of Woolworths, is as follows:

- Thanks Council for initiative in preparing artwork for signage and obtaining a reasonable quote for supply of same
- Approves wording and is prepared to purchase 15 signs
- Advises of the launching of a comprehensive new educational campaign on May 25 encouraging proper use of trolleys by customers and reporting of abandoned trolleys
- Extra collections during holiday times are part of the contract with trolley collection contractors.
- Management will meet with collection contractors to confirm requirement to secure all trolleys at night inclusive of damaged ones
- Continues to assess new trolley management systems according to site and circumstances, noting that this responsibility falls to the centre management when a retailer rents space in a shopping complex
- Continues to investigate options for sourcing personal trolleys but has concerns that some such trolleys encourage theft
- Utilises effective communication and tracking of reported trolleys that enables monitoring of contractor performance
- Council reports given priority.

At Council's request a new trolley fleet has been provided at Woolworths River Street Ballina store, and these are fitted with coin/token systems to encourage return.

Despite this effort, these trolleys are still abandoned, with reports made as necessary to "Trolley Tracker" by Council staff. The Tamar Street bus stop is a regular point of abandonment. They are usually picked up at the end of the day from this location without the need to report.

Target Australia P/L has indicated a willingness to work with local authorities to ensure adequate measures are taken to manage their trolleys. In answer to the points made by Council, Target responds as follows:

- Target are prepared to purchase 4-5 signs for use at Ballina Fair but see it as the responsibility of Centre Management to place and erect them
- Compensation by way of additional collection services is undertaken at holiday times when significantly increased trade occurs in the Ballina store
- Securing of trolleys in the car park to be specifically addressed with trolley collection provider
- Target would comply with installation of a containment system if the supermarkets and shopping centre were to move that way. Target sees itself as a "small player" when it comes to the volume of trolleys in Ballina

- Use of Rolla Baskets for in store only use has seen a decline in trolley usage
- Utilise services of "Trolley Tracker" that allows monitoring of contractor performance and assists with educational material.

The local manager of Aldi Supermarket in Ballina made contact by telephone on 29 April to say Aldi did not see signage as a necessity for their store indicating that they had lost no more than three trolleys in their five years of operation.

He indicated however that they did not wish to indicate in any way an unwillingness to co-operate, saying if Council was going to require the erection of signs it would be prepared to go along with that requirement, even though it is probably not justified on their current experience.

All major retailers known to have trolleys were contacted. Only those nominated above responded on this occasion.

Council has recently been advised by both Woolworths (see **attachment**) and Trolley Services Australia Pty Ltd of a new service whereby abandoned trolleys may be reported utilising smart phones. Council staff have been experimenting with this service, that is a very efficient method which uses the GPS feature of the phone to pinpoint the location. It remains necessary to enter some data and to receive Council Priority it is necessary for Council representatives to register and obtain a password.

### **Sustainability Considerations**

- **Environment**  
Abandoned trolleys despoil environments especially in bushland or waterways
- **Social**  
Abandoned trolleys present a hazard to the public in some circumstances and are seen by many as a form of visual pollution. It is claimed by the stores that less than 2% of customers abandon trolleys. Many of these may be socially disadvantaged without an alternative means to transport goods. Coin or token controls on trolleys are not a complete solution and inconvenience many customers.
- **Economic**  
The stores are in a competitive environment and claim that token or coin requirements for trolleys inconvenience and discourage customers. There is a cost to the community (Council) to retrieve abandoned trolleys that are damaged and unidentifiable.

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

Should Council order the signs as proposed the cost for 50 would be \$2100 plus freight. It is anticipated that most would be sold to retailers or shopping complexes within months of receipt.

### **Consultation**

Consultation has occurred with most retailers that have trolleys. A list is appended to the outgoing correspondence. There have been verbal consultations with Trolley Services Australia, Aldi and some retailers.

### **Options**

1. Continue present practise noting the responses and undertakings given by retailers in relation to the issue, and monitor the situation
2. Purchase 50 signs suitable for erection at exits from shopping centres where trolleys are in use and encourage the purchase and installation of these by retailers or the owners of the shopping centres as the case may be
3. Write to the Minister for Local Government who is responsible for the Impounding Act 1993 seeking a review of the Act and including a copy of the legal opinion obtained by the Council that illustrates identified shortcomings and interpretative issues with this legislation. This to include a suggestion that shopping trolleys be specifically referenced and provisions made for councils enabling them to address the problem of abandoned trolleys in public places efficiently and effectively.

All three of the above approaches are recommended to further progress this issue.

### **RECOMMENDATIONS**

1. That Council supports the continuation of its present practises in respect to the management of trolleys, noting the responses and undertakings given by retailers in relation to this issue.
2. That Council approves the purchase of 50 signs, from existing operating budgets, suitable for erection at exits from shopping centres where trolleys are in use and encourages the purchase and installation of these by retailers or the owners of the shopping centres, as the case may be.
3. That Council write to the Minister for Local Government, who is responsible for the Impounding Act 1993, seeking a review of the Act and including a copy of the legal opinion obtained by the Council that illustrates identified shortcomings and interpretative issues with this legislation. This correspondence is to include a suggestion that shopping trolleys be specifically referenced and provisions made for councils, enabling them to address the problem of abandoned trolleys in public places more efficiently and effectively.

**Attachment(s)**

1. Letter from LGSA
2. Code of Practice for the Management of Shopping Trolleys
3. Letter to K Mart
4. Letter to retailers
5. Letter from K Mart / Coles
6. Letter from Trolley Services Australia Pty Ltd
7. Letter from Target
8. Letter from Woolworths Limited

**8.6 Development Applications - Work in Progress - June 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.

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
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
2010/182	2/10/2009	sj Connelly CCP Pty Ltd	Proposed Two Lot Residential Subdivision - No. 9 McLeans Street, Skennars Head	Awaiting Additional Information
2010/278	6/11/2009	Ardill Payne & Partners	To Establish a dwelling/house site – No. 263 Sneesbys Lane, East Wardell	Referred to Government Departments
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
2010/724	09/07/2010	Trevor Richard	Change of Use	Determination

DA No.	Date Rec'd	Applicant	Proposal	Status
		Murray	(Recycled Garden) - Nos. 464/470 Pacific Highway, West Ballina	Pending
2010/839	06/09/2010	Chris Lonergan, Town Planner	To erect eight x 2 bedroom holiday cabins and associated works - No. 202 Midgen Flat Road, Newrybar	Determination Pending
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	Referred to Government Departments
2010/1013T	25/11/2010	S Radburn	Lennox Head VMO _ Remove 10 x Trees – No. 250 North Creek Road, Skennars Head	Being Assessed
2010/1014T	25/11/2010	S Radburn	Lennox Head VMO _ Remove 31 x Trees – No. 9 McLeans Street, Skennars Head	Being Assessed
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	Being Assessed
2010/1056	14/12/2010	D Loosemore & N McGarry, 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	Being Assessed

8.6 Development Applications - Work in Progress - June 2011

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2010/1067	17/12/2010	Geolink	6 x Lot Community Title Subdivision Ranging in size from 1200m to 1600m and associated Infrastructure - No. 56 Greenfield Road, Lennox Head	Referred to Government Departments
2010/1074	23/12/2010	Enviro Link Consulting	4 Lot Boundary Adjustment Subdivision and Consolidation to Create 2 x Lots - Teven Road, Teven	Referred to Government Departments
2011/33	28/01/2011	RC Matthews C/- LandPartners	Two Lot Torrens Title Subdivision - No. 211 Ballina Road, Alstonville	Determination Pending
2011/48	04/02/2011	J & H Hughes	Extension to Existing Industrial Building, No. 3/176-178 Southern Cross Drive, 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	Determination Pending
2011/73	24/02/2011	Mondarth Pty Ltd	To Erect 4 x Advertising Signs, No. 20-22 De-Havilland Crescent, Ballina	Being Assessed
2011/87	07/03/2011	McDonald's Australia Pty Ltd	To erect a McDonald's Family Restaurant - No. 54 Bangalow Road, Ballina	Awaiting Additional Information
2011/124T	23/03/2011	J Burnett	Lennox Head VMO, To Undertake the Pruning of 2 x Tuckeroos & 1 x Goia Tree - No. 13 Beryl Place, Lennox Head	Determination Pending
2011/126	25/03/2011	Chris Abbott Surveying	Subdivision by way of boundary	Being Assessed

DA No.	Date Rec'd	Applicant	Proposal	Status
			adjustment of five existing lots into three x 40 hectare lots, Bartletts Lane, Meerschaum Vale	
2011/130	29/03/2011	L Cook	Change of Use of part of existing dwelling to consulting rooms, extension of existing building and provision of carparking, No. 80 Crane Street, Ballina	Being Assessed
2011/131	29/03/2011	R Freihaut	Clear Macadamia Plantation and surrounding camphor laurel trees, No. 30 McLeish Road, Tintenbar	Determination Pending
2011/142	01/04/2011	Victor Holmes Town Planning	2 x Lot Boundary Adjustment Subdivision and Demolition of Existing Garage, No. 29 Green Street, Alstonville	Determination Pending
2011/150	06/04/2011	GeoLink	2 x Lot Boundary Adjustment Subdivision, Nos. 42 & 44 Owen Street, Ballina	Awaiting Additional Information
2011/157	08/04/2011	Newton Denny Chapelle	To establish a retail plant nursery with ancillary gift shop and take-away coffee sales and associated infrastructure and earthworks, No. 432 Wardell Road, Lynwood	Being Assessed
2011/165	14/04/2011	Byron Bay Tree Service	Removal of selected trees and pruning of others, No. 99 Ross Lane, Tintenbar	Determination Pending
2011/166	15/04/2011	SJ Connelly CPP Pty Ltd	Construction of a residential flat development comprising 30 x two storey	Awaiting Additional Information

DA No.	Date Rec'd	Applicant	Proposal	Status
			dwellings and associated works, Condon Drive, East Ballina (North Angels Beach)	
2011/172T	18/04/2011	M & W Jones	Lennox Head VMO - To remove 1 x Eucalypt Tree, No. 33 Amber Drive, Lennox Head	Determination Pending
2011/186	27/04/2011	Ardill Payne & Partners	Two Lot Boundary Adjustment Subdivision, No. 9 Martin Street, Ballina	Being Assessed
2011/187T	28/04/2011	M & W Jones	Lennox Head VMO - Removal of 6 Trees, No. 23 North Creek Road, Lennox Head	Being Assessed
2011/188	28/04/2011	P & A Isaac	Two Lot Torrens Title Subdivision, No. 110 North Creek Road, Lennox Head	Being Assessed
2011/189	28/04/2011	Ardill Payne & Partners	Two lot boundary adjustment subdivision to create 1 x 2.7ha and 1 x 13.3ha allotments, No. 66B & No. 84 Fig Tree Hill Drive, Lennox Head	Referred to Government Departments
2011/191	29/04/2011	Peter Turner & Associates	Extension to Existing Preschool, No. 5 Hall Court & Simpson Avenue, Wollongbar	Being Assessed
2011/198	4/05/2011	Apex Club of Alstonville Inc.	New Years Eve Family Festival - No. 22-40 Commercial Road, Alstonville	Being Assessed
2011/199	5/05/2011	M Serafin	Change of Use Involving Fitout - Laboratory (Compounding Pharmacy) - No. 130 Tamar Street, Ballina (Proposed Unit 1)	Being Assessed

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2011/207T	11/05/2011	L Emery	Lennox Head VMO - To remove 3 x trees (Mango, Red Cedar & Black Bean) - 15 Megan Crescent, Lennox Head	Being Assessed
2011/210	13/05/2011	Ardill Payne & Partners	Boundary Adjustment Subdivision between 2 lots to create 2 modified lots - Albert Sheather Lane, Cumbalum	Referred to Government Departments
2011/211	13/05/2011	Peter Turner & Associates	Refrigerated Storage Containers - No. 19 Pacific Parade, Lennox Head	Being Assessed
2011/223	20/05/2011	D Westaway	Change of Use - Office Space to Gymnasium - No. 178 River Street, Ballina	Being Assessed
2011/231	01/06/2011	Macphail & Sproul Architects	Change of Use from Art Gallery/Studio to Deli, associated works and creation of a Right of Carriageway to the Harvest Café driveway, No. 22 Old Pacific Highway, Newrybar.	Being Assessed
2011/232	31/05/2011	E Smith	Lennox Head VMO - To Remove 1 x Tuckeroo and 2 x Paperbark Trees, No. 5a Lennox Street, Lennox Head	Being Assessed
2011/233	01/06/2011	Victor Holmes Town Planning	Environmental Restoration Works, No. 69 Sartories Road, Pimlico and No. 120 Coolgardie Road, Coolgardie	Being Assessed
2011/234	02/06/2011	Ballina Shire Council C/- Landpartners	Two Lot Boundary Adjustment	Being Assessed

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
		Ltd	Subdivision to create 1 x 1.58ha and 1 x 9.5ha allotments, Skennars Head Road, Lennox Head	
2011/236	02/06/2011	Newton Denny Chapelle	To erect Six Holiday Cabins, Establishment of a Manager's Residence and associated facilities and works, No. 48 Tobin Close, Lennox Head	Being Assessed
2011/237	02/06/2011	Summertime Holdings P/L	To Construct a Glass Alcove at the Existing Point Restaurant, No. 62/2 Martin Street, 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	To be reported to JRPP Meeting to be held 13 July 2011.

**Major Development (Determined by Minister)**

Major Project No./DA No.	Date Rec'd	Applicant	Proposal	Status
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	Determined 12/4/11 (Not Approved)

**RECOMMENDATION**

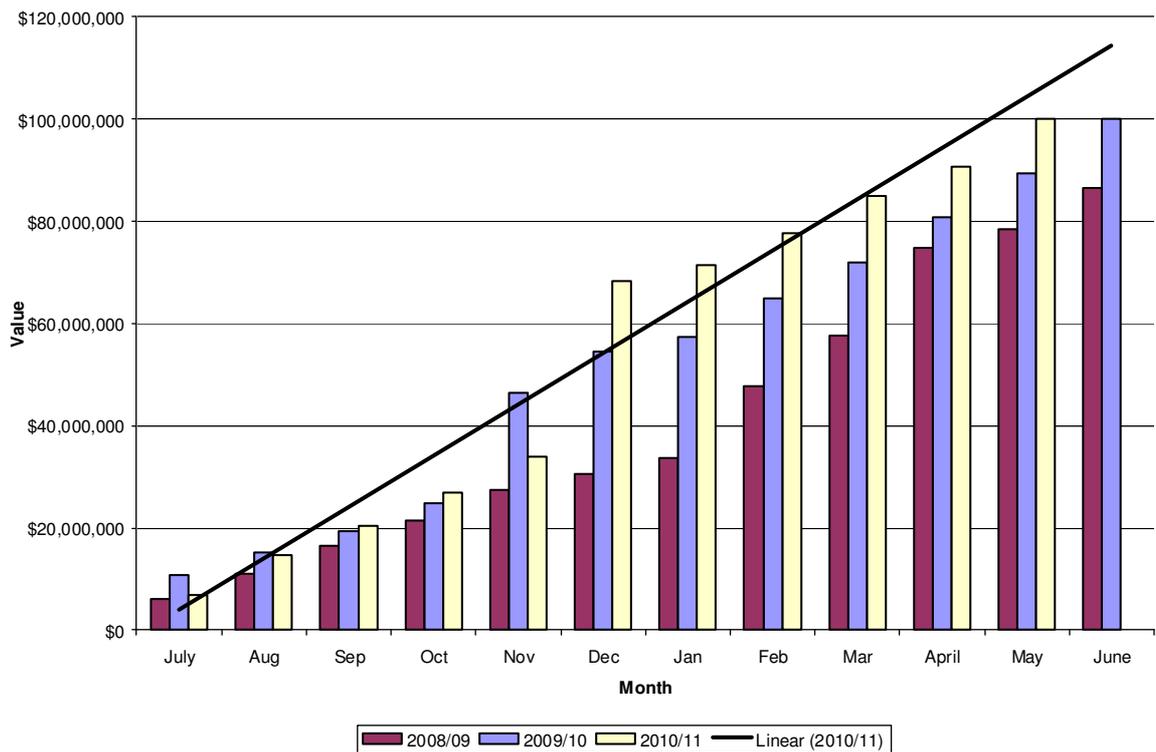
That Council notes the contents of the report on the status of outstanding development applications for June.

**8.7 Development Consent Statistics - May 2011**

The Council is advised that during the period of 1 May 2011 to 31 May 2011 the Regulatory Services Group issued Development Consent comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
36 Other Building Related	\$ 1,036,000
13 Dwelling/Duplexes/Residential Flat Buildings	\$ 8,292,000
5 General Developments	\$ 1,000
<b>Total Value</b>	<b>\$ 9,329,000</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 May 2011 to 31 May 2011.

## 9. Strategic & Community Services Group Reports

### 9.1 LEP Amendment Request - Woolworths Oxygen (Masters)

<b>File Reference</b>	LEP Amendment Request – Woolworths Oxygen (Masters)
<b>CSP Linkage</b>	Diverse and balanced land use
<b>Delivery Program</b>	Strategic Planning
<b>Objective</b>	To seek direction from Council with respect to a planning proposal in relation to land fronting the Pacific Highway, West Ballina.

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#### **Background**

Council has received a request for the rezoning of part of Lot 11 DP 1011575, Pacific Highway, West Ballina. The request was submitted on 18 April 2011 by Urbis Pty Ltd on behalf of Hydrox Nominees Pty Ltd and seeks to rezone part of the subject land to permit land use associated with a Woolworths Oxygen (Masters) Home Improvement Store and associated car parking.

The subject site is currently zoned part 1(b) Rural (Secondary Agricultural Land) Zone, part 2(a) Living Area Zone and Part 9(a) Roads (Main Roads Proposed) Zone. The rezoning request seeks an amendment to Ballina Local Environmental Plan 1987 to enable development for the purpose of bulky goods premises, hardware and building supplies and a garden centre on the subject land. A locality plan is provided at **Attachment 1**.

The subject land is located within the area to which the West Ballina Planning Study and Structure Plan applies. The West Ballina Planning Study and Structure Plan was adopted by Council at its Extraordinary Meeting held on 17 March 2011 [Minute No:170311/2] as a basis for local urban land release planning and land management policy in the West Ballina locality.

#### **Key Issues**

- Far North Coast Regional Strategy
- West Ballina Planning Study and Structure Plan
- Draft Ballina Local Environmental Plan 2010

#### **Information**

##### *LEP Amendment Request*

The proposal the subject of the LEP amendment request relates to part Lot 11 DP 1011575 as identified in **Attachment 2**. This allotment is approximately 17 hectares in area and is located on the corner of the Pacific Highway and Teven Road, Ballina. The site adjoins the Ballina bypass road works, and the

western portion of the land is subject to a development application for a highway service centre.

The eastern portion of Lot 11 DP 110575, to which the LEP amendment request relates, is approximately 3.6 hectares in area. The proposed development area has approximately 90 metres frontage to the existing Pacific Highway, with access proposed via a realigned access to the proposed highway service centre. An additional access to the site is proposed off the “Western Arterial”, which is a planned road linking the two “legs” of the existing Pacific Highway north and south of Ballina.

As outlined the request seeks an amendment to enable development for the purpose of bulky goods premises, hardware and building supplies and a garden centre on the subject land. Plans of the proposed scheme accompanying the request submitted to Council show a total gross floor area (GFA) of 13 897m<sup>2</sup> and car parking for a total of 377 vehicles. The GFA comprises:

**Table 1: Area Schedule**

<b>Component</b>	<b>GFA (m<sup>2</sup>)</b>
Main Floor	8,196
Trade Centre	2,317
Garden Centre	2,192
Receiving	850
Mezzanine	342
<b>Total</b>	<b>13,897</b>

The Oxygen (Masters) concept is a joint venture between Woolworths Limited and Lowe’s Companies Incorporated, a home improvement retailer with some 1,700 stores in the USA and Canada. The concept is described in the documentation as a large format home improvement store which “...will include a wide range of offerings such as timber, hardware, building materials, landscaping materials, plants, and ancillary products including white goods”.

**Attachment 3** contains the preliminary plans for the proposal submitted with the amendment request.

The proposal notes that the Oxygen (Masters) home improvement store and associated car parking will not utilise the entire area of the site proposed to be rezoned, and that the residual land can “...cater for the future bulky goods uses in the region”.

The proposal provides the following justification for the rezoning of the subject land:

- Proposed uses are partly permissible on the land (i.e. some of the land uses are identified as permitted with development consent or as advertised development within some of the zones applying to the land)
- That part of the land which is located outside the Town and Village Growth Boundary identified in the Far North Coast Regional Strategy meets the sustainability criteria for rezoning the land

- No other suitable site is available within the established employment zones in Ballina or within the West Ballina Structure Plan area. Review of the currently zoned land available for bulky goods in the Southern Cross, Clark Street and Homeworld sites, and within the West Ballina Structure Plan has found that:
  - Majority of lots highly fragmented and in various ownership and that amalgamation of lots to meet with minimum site requirement of 3.5 hectares is unlikely.
  - Sites that meet the 3.5 hectare minimum area do not have good access to the main road system and would require a circuitous route to the site. Not suitable for future patrons or delivery trucks and does not best cater to the majority of the catchment which is located further to the north and south
  - Sites do not enjoy good visibility from the main road network
  - Homeworld site while located on the Pacific Highway is constrained by poor access and does not provide for good multi-directional access to the site. No similar uses are located on this site and it is located further away from the proposed on/off ramp to the bypass road.
- If located in established employment areas the site area required for the proposal will constrain the land available for other employment generating land uses
- There is a current development application before Council for a highway service centre to the immediate west. Co-location of retailing is considered good practice where demand cannot be accommodated in existing centres
- The proposed Oxygen (Masters) development will occupy only part of the land proposed to be rezoned and the residual land can cater for future market demand for bulky goods on the region
- Subject site is not affected by critical habitat or ecological constraints. Land is not identified as high quality farmland. Flood channel through the property can be accommodated and the proposed building designed to account for flood impacts.

*Far North Coast Regional Strategy*

The Far North Coast Regional Strategy (FNCRS) was released in 2006 and is intended to guide the Region's land use over the next 25 years. The FNCRS identifies Town and Village Growth Boundaries, which provide for land required to meet the Region's urban housing and employment needs until 2031. It is noted in the FNCRS that not all land identified within the Town and Village Growth Boundary can be developed for urban uses, and that more detailed investigations will determine the capability and yield of the land.

The part of the subject land zoned 2(a) Living Area Zone is presently located within the Town and Village Growth Boundary for Ballina. However, a review of the FNCRS by the Department of Planning & Infrastructure (DP&I) in consultation with local councils has recently been undertaken and is nearing completion. Following Council's adoption of the West Ballina Planning Study and Structure Plan, and resolution to seek its incorporation into the FNCRS, Council has requested that DP&I remove that part of the site currently within the Town and Village Growth Boundary.

The FNCRS provides sustainability criteria which must be satisfied in order for any land not within the identified Town and Village Growth Boundaries to be rezoned. While the proponent concludes that the proposal satisfies the sustainability criteria, Council officers are of the view that the sustainability criteria are not adequately satisfied, particularly in relation to the flood risk affecting the subject land.

#### *West Ballina Planning Study and Structure Plan*

Council adopted the West Ballina Planning Study and Structure Plan and resolved to seek its incorporation into the FNCRS at its Extraordinary Meeting held on 17 March 2011 [Minute No:170311/2]. A copy of the adopted Structure Plan is provided at **Attachment 4**.

The adopted West Ballina Study and Structure Plan considered the subject land and concluded that while a portion of the site may be suitable for a highway service centre, subject to detailed investigations, the remaining part of the site "...is not suitable for other large footprint uses, including bulky goods, industrial and transport logistics".

Importantly, the structure plan did not envisage that Area A, which incorporates the subject land, would be developed entirely for urban purposes. Rather, Area A was identified with flexibility for the location of the highway service centre and associated uses in mind.

The land is significantly constrained in terms of geotechnical issues and flooding and is not identified in the adopted West Ballina Planning Study and Structure Plan as suitable for the proposed form of development.

#### *Draft Ballina Local Environmental Plan 2010*

There were a number of submissions received in relation to bulky goods premises in response to the exhibition of the Draft Ballina Local Environmental Plan 2010 (draft LEP). The submissions generally related to the appropriate zone to apply to existing and approved bulky goods premises, and the permissibility of bulky goods premises on other sites.

The Retail Showrooms and Bulky Goods Report prepared for Council by Core Economics in 2004 indicates that Ballina has sufficient bulky goods retailing floor space to meet the projected requirements to 2016 (when including approved but not yet operational bulky goods retailing floor space).

The report to Council's Environmental and Sustainability Committee held on 17 May 2011 in relation to the draft LEP recommended that Council undertake a review of the 2004 Retail Showrooms and Bulky Goods Study, and that the review include consideration of emerging forms of retail development (e.g. "big box" proposals). The report also recommended that following the review Council consider the zoning of existing and approved bulky goods premises as well as alternative sites.

Council resolved at its Ordinary Meeting held on 26 May 2011, to adopt the Minutes of the Environmental and Sustainability Committee of 17 May 2011 [Minute No.s:260511/23-28]. The recommendations contained in those Minutes include the re-exhibition of the draft LEP and the preparation of "...a new analysis and study in relation to large format retailing activity in the shire including review of the application of a bulky goods specific zone within the shire".

It should also be noted that an RU2 Rural Landscape zone has been applied to the entire area of the subject land under the exhibited draft LEP. This is consistent with the adopted West Ballina Planning Study and Structure Plan.

No change is proposed in relation to the zoning with respect to the re-exhibition of the plan, although an allowance for a minor westward expansion of the Riverbend Manufactured Home Estate is incorporated into the amended draft LEP (also being consistent with the adopted West Ballina Planning Study and Structure Plan). Importantly, the draft LEP also permits a highway service centre adjacent to the Teven Road/Pacific Highway interchange, consistent with the FNCRS and Ministerial Direction 5.4.

### **Sustainability Considerations**

- **Environment**  
The land to which the proposal relates is subject to significant constraints including geotechnical issues and flooding.
- **Social**  
Additional retailing choice for shire and adjacent residents would be provided if the development was undertaken.
- **Economic**  
It is acknowledged that the proposal identifies substantial positive economic benefits associated with the proposed development including employment opportunities for the local area and reduction of escape expenditure.

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

In the event that Council resolves to proceed with the LEP amendment appropriate resources will be required to be allocated to the project. The next step in proceeding would be the preparation of a Planning Proposal by Council for submission to the DP&I for its consideration.

Council's adopted fees and charges details the relevant fees for a Planning Proposal process.

### **Consultation**

There has been no consultation undertaken with either the community or government agencies in relation to the LEP amendment request to date.

### **Options**

It is considered that the following options are available to Council in relation to the concept submitted:

1. Proceed with the Planning Proposal

This approach would mean that Council would prepare a Planning Proposal addressing the development of the land for an Oxygen (Masters) Home Improvement Store. The Planning Proposal would provide for bulky goods premises, hardware and building supplies and a garden centre on the subject land. The Planning Proposal would be reported back to Council prior to its submission to DP&I for consideration. Council may cease action on the amendment upon review of the Planning Proposal, or at any other time prior to its finalization.

On the basis of the inconsistency of the proposed concept with the provisions of the recently adopted West Ballina Planning Study and Structure Plan and the FNCRS, this option is not recommended.

2. Not proceed

It is open to Council to decide not to proceed with the preparation of the requested rezoning concept and this is the recommended course of action.

This option is consistent with Council's adopted urban planning policy for the locality (endorsed in March 2011) and is the recommended approach.

It is acknowledged that the establishment of the new facility, as foreshadowed with the rezoning request would reinforce Ballina as a significant retailing destination within the region and would provide significant additional employment opportunities for the shire in both the short and long term.

These social and economic benefits need to be balanced against the importance of Council adhering to its recently adopted strategic land use plan for the West Ballina locality.

The locational advantages of the site identified by the proponents for the provision of a large format retailing outlet are also acknowledged. However, this outcome would be inconsistent with Council's local planning policy. This view is held irrespective of Council's determination of the current development application for the proposed highway service centre on the adjacent site.

### **RECOMMENDATIONS**

That Council declines to proceed with the preparation of a Planning Proposal in relation to the concept for an Oxygen (Masters) Home Improvement Store at Lot 11 DP 1011575, Pacific Highway, West Ballina due to its inconsistency with planning for the locality, particularly the Far North Coast Regional Strategy and Council's West Ballina Structure Plan.

### **Attachment(s)**

1. Locality Plan
2. Site Plan prepared by Urbis Pty Ltd
3. Preliminary concept plan prepared by BN Group Pty Ltd
4. Adopted West Ballina Planning Study and Structure Plan

**9.2 Combined DCP Amendment No.13 - Coastal Grove Lennox Head**

<b>File Reference</b>	Ballina Shire Combined Development Control Plan Amendment No.13 - Coastal Grove Lennox Head
<b>CSP Linkage</b>	Diverse and balanced land use
<b>Delivery Program</b>	Strategic Planning
<b>Objective</b>	To obtain direction from Council with respect to the implementation of Ballina Shire Combined Development Control Plan Amendment No.13 relating to Coastal Grove at Lennox Head.

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**Background**

Draft Ballina Shire Combined Development Control Plan - Policy Statement No.20 - Coastal Grove Lennox Head (Amendment No.13) relates to the Coastal Grove subdivision (commonly known as Survey Street or the Dossor site). The subject land is located adjacent to Survey Street and Blue Seas Parade at Lennox Head (Attachment 1).

Amendment No.13 has been prepared in response to a Ministerial approval for the Coastal Grove subdivision. The current Ministerial approval provides for a 42 lot subdivision on the site, comprising 39 residential lots, one lot for open space and two lots for vegetation conservation. The purpose of Amendment No.13 is to establish site specific development controls for Coastal Grove within Council's Combined DCP framework.

Further background with respect to the preparation of Amendment No.13 was provided to Council at its April 2011 Ordinary Meeting [Item No.9.2]. At its April 2011 Ordinary Meeting, Council considered the public exhibition of Amendment No.13 and resolved as follows [Minute No.280411/14]:

- "1. That Council endorses the exhibition of Draft Ballina Shire Combined Development Control Plan Policy Statement 20 - Coastal Grove Lennox Head and associated consequential amendments in accordance with the terms of the Environmental Planning and Assessment Act and associated Regulation, as attached to this report.*
- 2. That this matter be reported back to Council for final determination following the conclusion of the public exhibition period."*

In accordance with the above resolution, Amendment No.13 was publicly exhibited between Thursday 5 May 2011 and Monday 6 June 2011. This report outlines the outcomes of the public exhibition process and seeks direction with respect to the finalisation and implementation of Amendment No.13.

### **Key Issues**

- Provision of site specific development controls for Coastal Grove within Council's Combined DCP framework.
- Implementation of Ballina Shire Combined Development Control Plan Amendment No.13.

### **Information**

#### *Summary of Amendment No.13 as Exhibited*

Amendment No.13 to the Ballina Shire Combined DCP incorporates Draft Policy Statement No.20 and associated consequential amendments to the Combined DCP. Draft Policy Statement No.20 has been prepared to specifically address residential development on land located within Coastal Grove Lennox Head. The objective of Draft Policy Statement No.20 is to provide for residential housing on the land whilst recognising the environmental characteristics of the site.

It is intended that Policy Statement No.20 will complement Council's existing DCP framework particularly in regard to Chapter 1 - Urban Land and Chapter 16 - Lennox Head. It is important to note that Policy Statement No.20 will prevail in the event of any inconsistency with other elements of the Ballina Shire Combined DCP, including Chapters 1 and 16.

#### *Draft Policy Statement No.20 - Summary of Provisions as Exhibited*

In summary, Draft Policy Statement No.20 (as exhibited) establishes the following requirements for the land in the Coastal Grove residential area:

- Site objectives - Requirement for adherence to site planning objectives.
- Building lines and setbacks - Dwellings to be set back a minimum of 6m from the front boundary of the lots.
- Building height - Dwellings not to be more than two stories except for lots 26-32 which must be one storey when viewed from the street frontage.
- Slope sensitive design - Dwellings and associated development on residential lots with a slope greater than 15% required to conform to specific requirements set out in the DCP including:
  - Driveways subject to maximum grades.
  - Earthworks subject to a maximum cut or fill based on geotechnical zones.
  - Applications for development to be accompanied by relevant engineering and geotechnical assessment.
- Duplex development - Duplex development only permitted on lots 11, 12, 25 and 26 and must be designed such that there are clear identifiable entrances to dwellings visible from the street frontage.
- Screening underfloor space of buildings - Requirement for screening of underfloor areas between external walls and ground level.

Policy Statement No.20 would be located in Ballina Shire Combined DCP Chapter 1 - Urban Land under 'Part Four - Policy Statements'.

*Other Consequential Amendments to Ballina Shire Combined DCP*

In addition to the introduction of Policy Statement No.20, the exhibited Amendment No.13 includes several consequential amendments to the Combined DCP framework. The following amendments are proposed to ensure that the introduction of Policy Statement No.20 is integrated and consistent with Council's DCP planning framework.

Lennox Head Control Plan Area Map in Chapter 1 of Ballina Shire Combined DCP

Amendment No.13 includes an adjustment to the Lennox Head Control Plan Area map in Chapter 1 of the DCP to incorporate the proposed residential subdivision and reference to Policy Statement 20. Specifically, this includes:

- Deletion of the P1 Planned Urban Development designation over the Coastal Grove site; and
- Application of the following Control Plan Area designations:
  - O1 Open Space: to land identified as open space.
  - D Duplex: to Lots 11, 12, 25 and 26.
  - L2 Low Density (Dwellings and Dual Occupancy): to all residential lots except those listed in relation to the 'D' classification above.

Other areas of land on the site identified for environmental protection purposes will not be provided with an urban Control Plan Area designation.

Adjustment to Chapter 16 – Lennox Head of Ballina Shire Combined DCP

Amendment No.13 includes an amendment to Chapter 16 – Lennox Head to identify that Policy Statement 20 applies to land the subject of this Chapter and that Policy Statement No.20 prevails in the event of an inconsistency with Chapter 16.

Adjustment to Chapter 1 – Urban Land of Ballina Shire Combined DCP

Amendment No.13 includes several administrative changes to introductory material in Chapter 1 – Urban Land of the DCP to appropriately integrate Policy Statement 20 into the DCP framework.

*Public Exhibition*

Amendment No.13 was placed on public exhibition between Thursday 5 May 2011 and Monday 6 June 2011. No submissions were received in response to the public exhibition of the amendment.

However, during the public exhibition period, additional internal engagement was held with Council's Building Services Section. The Building Services Section recommended several adjustments and additions to Draft Policy Statement No.20 centred on the clarification of requirements and the provision of adequate information with applications for development. Based on the

feedback provided by Council's Building Services Section, it is recommended that Draft Policy Statement No.20 be amended prior to its implementation.

In summary, the recommended amendments are as follows:

- a) Adjustment to text to specifically designate the front street boundary as the viewing reference point in relation to single storey construction requirements on lots 26-32.
- b) Inclusion of requirement that applications for development on land exceeding 15% slope are accompanied by a driveway long section drawing prepared by a suitably qualified person.
- c) Inclusion of requirement that engineering and geotechnical assessment is prepared by suitably qualified persons.
- d) Inclusion of requirement that geotechnical assessment is required for development on land within geotechnical zone 3 and an associated requirement for such assessment to be prepared by a geotechnical engineer.
- e) Inclusion of a requirement for structural design to consider geotechnical assessment findings.
- f) Inclusion of a requirement for a landscaping plan and use of mature trees where landscaping is used for underfloor screening.

The additional requirements with respect to geotechnical assessment are suggested on the basis that the Coastal Grove subdivision incorporates a sloping landscape and geotechnical conditions in some areas that may impact on engineering requirements associated with dwelling house design and construction.

A copy of Draft Policy Statement No.20 incorporating the above recommended amendments is contained in Attachment 2.

### **Sustainability Considerations**

- **Environment**  
The proposed DCP provisions are designed to have regard for the characteristics of the site and its surrounds, including visual amenity and topography. The provisions aim to balance consideration of site characteristics with the opportunity for residential development on the land as approved.
- **Social**  
As above.
- **Economic**  
As above.

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

The procedure for the preparation of a draft DCP is set out in the *Environmental Planning and Assessment Act* and associated Regulation. The DCP requires minimal Council resources for preparation.

Council has prepared Amendment No.13 in accordance with the terms of *Environmental Planning and Assessment Act* and associated Regulation.

### **Consultation**

Council undertook the public exhibition of Amendment No.13 for a period of 33 days in accordance with the requirements of the *Environmental Planning and Assessment Act* and associated Regulation. As outlined above, no public submissions were received in response to the exhibition. However, Council's Building Services Section provided feedback in relation to Draft Policy Statement No.20 during the exhibition period. This feedback is appreciated and has been considered in relation to the recommendations set out below.

### **Options**

In order to ensure that site specific development control provisions are established in a timely manner for residential development in the Coastal Grove subdivision, it is recommended that Council proceed to implement Amendment No.13 to the Ballina Shire Combined Development Control Plan. In this regard, it is recommended that Amendment No.13 is adopted and implemented subject to the amendments recommended above and minor typographical and numbering amendments.

Alternatively, it is open to Council to implement Amendment No.13 as exhibited, defer further consideration of the amendment or cease further consideration of the amendment.

It is considered that the recommended amendments based on feedback from Council's Building Services Section improve the clarity and application of the policy statement. Given this, adoption of Amendment No.13 as exhibited is not recommended.

Deferral or cessation of Draft DCP Amendment No.13 is not recommended as subdivision of the land has been approved and civil works appear to be largely complete. Given this, Council could reasonably expect development applications for residential dwellings on the land in the near future. That is, it is considered advantageous to have an established set of site specific DCP provisions for the land in place prior to the first applications for residential development on the land.

### **RECOMMENDATIONS**

1. That Council adopt and proceed to implement Ballina Shire Combined Development Control Plan Amendment No.13 relating to the Coastal Grove residential estate at Lennox Head.
2. That, due to consultation with Council's Building Services Section, the adopted amendment shall include the following modifications to the exhibited Policy Statement No.20:

- a) Adjustment to text to specifically designate the front street boundary as the viewing reference point in relation to single storey construction requirements on lots 26-32.
- b) Inclusion of requirement that applications for development on land exceeding 15% slope are accompanied by a driveway long section drawing prepared by a suitably qualified person.
- c) Inclusion of requirement that engineering and geotechnical assessment is prepared by suitably qualified persons.
- d) Inclusion of requirement that geotechnical assessment is required for development on land within geotechnical zone 3 and an associated requirement for such assessment to be prepared by a geotechnical engineer.
- e) Inclusion of a requirement for structural design to consider geotechnical assessment findings.
- f) Inclusion of a requirement for a landscaping plan and use of mature trees where landscaping is used for underfloor screening.

**Attachment(s)**

- 1. Approved Subdivision Layout - Coastal Grove.
- 2. Draft Policy Statement 20 - Coastal Grove Lennox Head.

**9.3 Section 94 - Heavy Haulage Contributions Plan - Review**

<b>File Reference</b>	Section 94 - Heavy Haulage
<b>CSP Linkage</b>	Diverse and balanced land use
<b>Delivery Program</b>	Financial Management
<b>Objective</b>	To seek Council's endorsement to exhibit a review of the Heavy Haulage Section 94 Contributions Plan 2011.

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**Background**

The use of the local road network by heavy haulage vehicles contributes to a decline in the serviceable life of roads, thereby bringing forward the cost of renewal. The purpose of a heavy haulage contributions plan is to allow Council to recoup a reasonable proportion of this cost.

Council adopted its current Section 94 Contributions Plan: Heavy Vehicle Traffic Generating Development - Maintenance and Construction of Roads in February 1996 (1996 Heavy Haulage Plan). There are presently 12 active consents for quarries in Ballina Shire which require the payment of a contribution under this plan. The rate varies between 29 and 34 cents per tonne of material hauled on the public road network.

Council has prepared an updated Draft Heavy Haulage Contributions Plan 2011 (Draft Plan) to replace the 1996 Heavy Haulage Plan. A copy of the draft plan is provided separately for Council's consideration. The existing plan will continue to apply to those developments which are currently required to make contributions under its provisions.

**Key Issues**

- Improved methodology contained in the Draft Plan compared to the 1996 Heavy Haulage Plan
- Likely adjustment in recoupment of public costs

**Information**

A review process into the 1996 Heavy Haulage Plan has been underway through Council's staff Section 94 Contributions Plan team for some time. The plan was initially reviewed on Council's behalf by Cardno Eppell Olsen in August 2010. The company also provided information on heavy haulage plans that have been adopted by other councils in the region.

A conclusion from this review was that several councils charged a flat rate per tonne per kilometre for the cost of road re-construction associated with the reduction of road life caused by heavy haulage vehicles. This rate ranged between 5 cents and 9 cents per tonne per kilometre.

This methodology is in contrast to Council's 1996 Heavy Haulage Plan that requires the determination of proposed heavy haulage trips as a ratio of all heavy haulage trips on the primary haulage route. This can be difficult to determine with any precision, having regard to the general low level and sometimes infrequent bursts of heavy haulage traffic i.e. cane harvesting, road reconstruction etc.

A review of the cost of the impact of heavy haulage traffic on the life of roads within Ballina Shire indicates that, on average, it equates to costs of 5.3 cents per tonne per kilometre. This calculation has been determined by Council's engineering and asset management staff.

A review of the location of existing quarries within the shire suggests that the adoption of a 12 kilometre average trip distance is appropriate in most cases having regard to a range of trip scenarios.

Based on this calculation the average cost per tonne is 63.6 cents, including a 1.5% administration component. This is approximately double that which is now being applied i.e. between 29 and 34 cents per tonne.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
The additional funds raised will assist Council to address declining road infrastructure and maintain the safety and well being of road users.
- **Economic**  
The Draft Plan more accurately identifies the cost of heavy haulage traffic on the life of local roads, and thus reduces the subsidy that would otherwise be provided by ratepayers to repair roads or the decline in the level of road service experienced by local residents.

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

The Draft Plan will need to be exhibited for public comment in accordance with the requirements of the Environmental Planning & Assessment Act prior to Council being in a position to adopt it.

The Draft Plan follows the general principles that apply to the Council's primary Section 94 contributions plan.

Council has had the Draft Plan reviewed by Newplan Pty. Ltd., which is a private consultancy that specialises in the preparation of Section 94 contribution plans. Newplan has assisted Council in the recent reviews of all out section 94 plans.

### **Consultation**

It is recommended that the Draft Plan be placed on exhibition for community comment.

### **Options**

1. Endorse the Draft Plan for Exhibition
2. Decline to endorse the Draft Plan for Exhibition

Option one is recommended as the plan is considered suitable for exhibition.

### **RECOMMENDATIONS**

That the Draft Heavy Haulage Contributions Plan 2011, as included as a separate attachment to this report, be placed on public exhibition for public comment in accordance with the requirements of the Environmental Planning and Assessment Act.

### **Attachment(s)**

1. Draft Heavy Haulage Contributions Plan 2011 (separate attachment)

**9.4 Community Land Plan of Management - Various Amendments**

<b>File Reference</b>	Generic Plan of Management for Community Land
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Management Plan</b>	Strategic Planning
<b>Objective</b>	To report the outcome of the public exhibition process concerning a proposal to amend Council's Principal Generic Plan of Management for Community Land.

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**Background**

Council, at its Ordinary Meeting held on 24 February 2011 resolved as follows:

1. *That Council prepare and exhibit a draft amendment to the Ballina Shire Generic Plan of Management for Community Land for the following actions:*
  - a. *to confirm the suitability of "Brooklet Park" located on the corner of Friday Hut Road and Brooklet Road, Brooklet for the establishment of a Rural Fire Service Shed;*
  - b. *to reflect Council's decision for the siting of a reservoir, landscaping and children's playground on the Kings Court Reserve, Lennox Head; and*
  - c. *to confirm the Pacific Pines Playing Fields at Lennox head as a sportsground.*

A draft amendment to the Ballina Shire Principal Generic Plan of Management for Community Land (POM) was prepared as per this resolution and placed on public exhibition.

The purpose of this report is to provide the outcomes from the exhibition process.

**Key Issues**

- Suitability of the proposal amendment to the POM for adoption.

**Information**

Open Space and recreational reserves that are owned by Council are classified as Community Land under the Local Government Act 1993 (LGA). To ensure these valuable community assets are retained and improved for the benefit of the community, the LGA prohibits the sale of community land and imposes significant restrictions on its use and development.

Under the LGA Council is required to prepare a plan of management to guide the future use and development of community land within the limitations set out under this legislation.

Council adopted the Ballina Shire Generic Plan of Management (POM) on 22 June 1995, which was last amended by Council on 26 May 2006, to guide the use and development of all community land in the shire.

#### Draft Amendment

The exhibited Draft Amendment provides for the insertion of the following special provisions:

- a. The endorsement of a Rural Fire Service Shed on "Brooklet Reserve", which is located on the corner of Friday Hut Road and Brooklet Road, Brooklet.

Preliminary drawings have confirmed that a building can be located off the bus turning cul-de-sac that is located on this reserve. The establishment of a new shed for the Newrybar Brigade is consistent with the funding agreement between Council and the NSW Rural Fire Service.

- b. The endorsement of a reservoir, landscaping and children's playground on the Kings Court Reserve, Lennox Head to reflect the Council's decision in respect to the Lennox Head & Ballina Wastewater Treatment Plant upgrades on 28 October 2010.
- c. To categorise the Pacific Pines Playing Fields as a sportsground.

This facility has been dedicated to Council in recent years as part of the Pacific Pines Estate to provide playing fields for the residents of this estate. The fields have been improved in recent years, however access to these fields via an extension of Hutley Drive has not been provided.

#### **Sustainability Considerations**

- **Environment**

No discernable environmental impacts

- **Social**

The social impact of endorsing "Brooklet Reserve" as the site for a rural fire shed is a positive one, which will provide infrastructure to assist in reducing damage by fires in the rural hinterland at the expense of a small area of open space which has very little utility.

The social impact of endorsing Kings Court Reserve for the siting of a reservoir, landscaping and a children's playground is to provide a balance between the provision of essential public infrastructure, the protection of residential amenity and the provision of public recreation.

The social impact of endorsing the "Pacific Pines Playing Fields" as a sportsground is to confirm its planned use.

- **Economic**

The proposed amendments will not entail additional financial costs outside of those already budgeted.

**Legal / Resource / Financial Implications**

The economic impact of not proceeding with the proposed amendments is the possibility of having to purchase alternative sites for the various purposes.

**Consultation**

The draft amendment of the POM was placed on exhibition for public comment between 10 March 2011 and 29 April 2011 in accordance with the minimum of 28 days exhibition period and 42 days submission period.

No submissions were received in response to the exhibition.

A public hearing was held at the conclusion of the submission period on Friday 27 May 2011 in accordance with Section 40A of the LGA. The Presiding Officer of the hearing was Mr Gary J Faulks. The Presiding Officer is required to be an independent person that has not been employed by Council within the last five years.

A copy of the Presiding Officer's report is attached.

Council will note that one submission was made to the hearing. Mr Neil Kennedy made a submission in respect to the special provisions proposed for Kings Court Reserve at Lennox Head. His submission is summarised in the Presiding Officer's report as follows:

*Mr. Kennedy asked that Council investigate alternative sites for the waste water reservoir before determining the change to the Plan of Management for Lot 29 DP 261848 (Kings Court Reserve).*

*Mr. Kennedy stated that in the event that an alternative site for the smaller reservoir is not identified, then he does not object to the proposal to amend the Generic Plan of Management in respect to Lot 29 DP 261848. Mr. Kennedy requested that should this proposal proceed that further consideration be given to the positioning of the reservoir on the land as the current intention utilises the prime part of the site and by minor repositioning a better result may be possible.*

Internal Response

The environmental impact statement (EIS) prepared and submitted for the Lennox Head and Ballina Wastewater Treatment Plant upgradings and associated pipelines and reservoirs initially proposed a 2.5 ML non-potable reservoir on Kings Court Reserve, which would have the capacity to meet the daily demand using a gravity delivery system.

Considerable community opposition to this large reservoir was encountered based on the impacts to visual amenity and the loss of open space. A smaller reservoir was subsequently proposed, as a compromise, which relied on the continuous replenishment of water from a large reservoir to be located adjacent to the Lennox Head Wastewater Treatment Plant.

This small reservoir, with a playground facility and landscaping, was seen as an acceptable outcome by many of those objecting residents.

Council's Water, Sewer & Waste Manager has indicated that notwithstanding the smaller size of the reservoir now proposed, there is no other land suitable for its location and design work is proceeding based on the approval granted under the Environmental Planning and Assessment Act.

Having regard to the advice that considerable redesign of the non-potable system has already been undertaken in this locality to reduce the structure's impact on the amenity of the adjacent residents, and that this compromise received considerable community support, it is considered that the endorsement of Kings Court Reserve for the site of a reservoir is appropriate.

### **Options**

The following options are available to Council:

1. Adopt the Draft Amendment as advertised
2. Adopt the Draft Amendment with changes as determined by the Council.
3. Decline to adopt the Draft Amendment or parts thereof.

Option 1 is preferred, and is recommended.

### **RECOMMENDATIONS**

That Council adopts Amendment No. 6 to the Ballina Shire Principal Generic Plan of Management for Community Land as exhibited for public comment. The effect of the amendment is to:

1. Enable the construction of a building on Brooklet Park, Brooklet for the benefit and use of the Rural Fire Service;
2. Enable the construction of a water reservoir and the undertaking of improvements on Kings Court Reserve, Lennox Head; and
3. Confirm the use of the Pacific Pines Playing Fields in Lennox Head as a sportsground.

### **Attachment(s)**

1. Locality Maps
2. Public Hearing Report

**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 document.

US11/15	Transfer of Lot 20 DP 1164159 from Council to the Trustees of the Catholic Church. Lot 20 was formerly a section of closed road (formerly part of Chilcott Circuit) at Ballina Heights Estate.  The proposed alignment of Chilcott Circuit was dedicated as road in the subdivision plan registered in 2003. A minor redesign of the lot layout revised the road alignment and a new section of land was dedicated as road. This realignment left a small section of road that could now be closed. The realigned road is now constructed in a full width road reserve and the section of closed road is not needed. The land transfer is basically a land swap and is to be done for a nominal charge (ie: \$1).
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**Attachment(s)**

1. Maps showing location of land

**10.2 Investments Summary - May 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 May 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 31 May 2011 was \$57,284,000. This represents an increase from April of \$515,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 May 2011, was \$3,993,042.

Council's investments as at 31 May are at an average (weighted) rate of 5.86%, which is 0.85% above the 90 Day Bank Bill Index of 5.01%.

The majority of the approximately \$57 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>

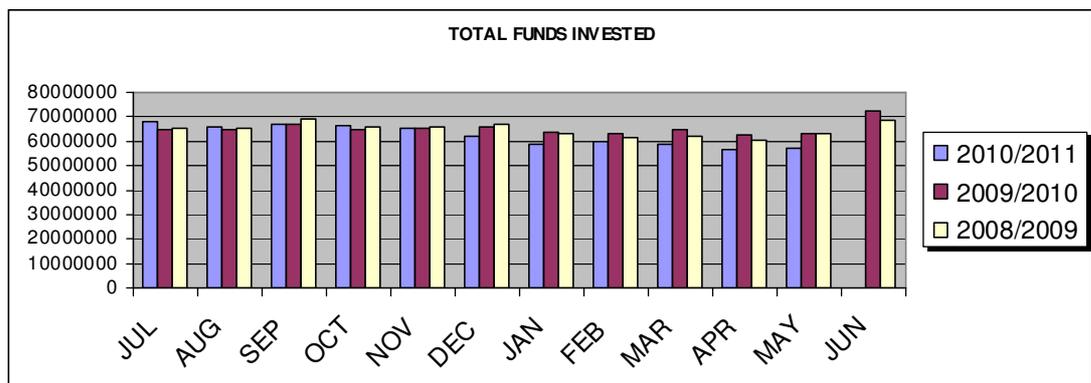
\* Based on reserves held as at 30 June 2010

**Information**

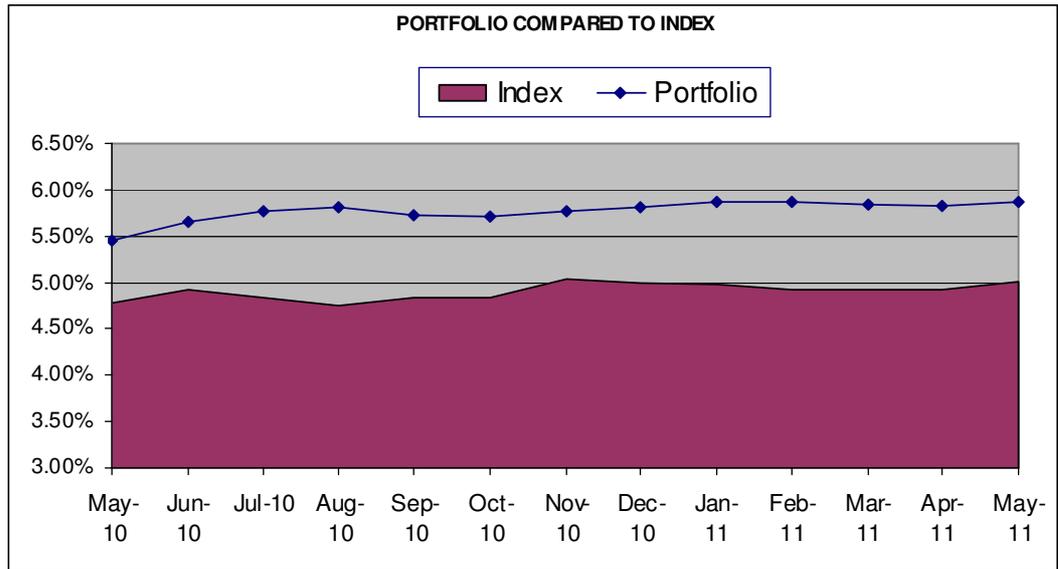
**A. Summary of Investments by Institution**

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	3.5	
Bank of Queensland	BBB	No	1,000	0	0	
Bendigo Bank Ltd	BBB	No	1,000	1,000	1.7	
Deutsche Bank	A+	No	4,000	4,000	7.0	
Goldman Sachs	AA-	No	1,000	1,000	1.7	
Heritage Building Society	BBB	No	3,000	3,000	5.2	
HSBC Australia	AA-	No	1,000	1,000	1.7	
Local Govt Fin Service	A	No	5,000	5,000	8.7	
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	3.5	
National Australia Bank	AA	No	1,788	1,788	3.1	
National Wealth M'ment Holding	A	No	2,000	2,000	3.5	<b>43%</b>
<b>Rated Institutions</b>						
Bank of Queensland	BBB+	Y-\$1m	3,000	3,000	5.2	
Bank of Western Australia	AA	Y-\$m	2,666	3,666	6.4	
Commonwealth Bank of Australia	AA	Y-\$2m	6,006	4,916	8.6	
Credit Union Australia	BBB+	Yes	1,000	1,000	1.7	
Illawarra Mutual Bld Society	BBB	Y-\$1m	4,000	4,000	7.0	
National Australia Bank	AA	No	1,000	1,000	1.7	
Members Equity Bank	BBB	Y-\$1m	1,000	1,000	1.7	
Newcastle Permanent Bld Soc	BBB+	Y-\$1m	2,000	2,000	3.5	
Suncorp Metway Bank	A	Y-\$1m	2,485	4,000	7.0	
Westpac Banking Corp	AA	Y-\$1m	6,914	6,914	12.1	<b>55%</b>
<b>Unrated ADI's</b>						
Community CPS Credit Union		Yes	1,000	0	0	
QLD Country Credit Union		Yes	1,000	1,000	1.7	<b>2%</b>
<b>Total</b>			<b>56,769</b>	<b>57,284</b>	<b>100%</b>	

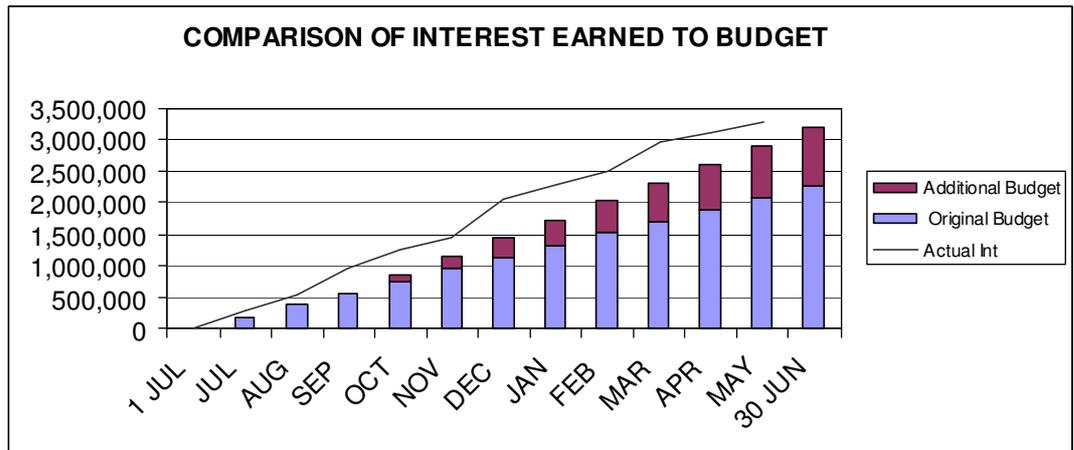
**B. Monthly Comparison of Total Funds Invested**



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



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



**Comment**

The June meeting of the RBA Board has again left the cash rate unchanged at 4.75%. The accompanying statement by the Governor, Mr Glenn Stevens, was much softer than his May statement and it is noting that the recent run of weaker data has eased their inflation expectations; *"The weather affected prices should fall back later in the year, though substantial rises in utilities prices are still occurring. The Bank expects that, as the temporary price shocks dissipate over the coming quarters, CPI inflation will be close to target over the next 12 months."*

More commentators have now joined the no rise in the next few months camp and the Governor's final paragraph seems to back up this view. *"At today's meeting, the Board judged that the currently mildly restrictive stance of monetary policy remained appropriate. In future meetings, the Board will continue to assess carefully the evolving outlook for growth and inflation."*

The RBA statement better reflects the actual outcomes in the Australian economy here and now, without threatening their long term view of mining. So while they retain their tightening bias, timing of the next move will be determined by the data.

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

Purchase Date	Issuer	Type	Rate %	Call or Maturity Date	Purchase Value \$'000
23/04/04	Deutsche Bank	FRN	5.89	23/04/14	2,000
23/04/04	Deutsche Bank	FRN	5.89	23/04/14	2,000
20/09/04	National Australia Bank	FRN	6.22	Perpetual	1,788
08/08/05	Morgan Stanley	FRN	5.49	08/08/12	2,000
12/04/06	Goldman Sachs	FRN	5.41	12/04/16	1,000
16/06/06	National Wealth M'ment Holdings	FRN	5.48	16/06/16	2,000
04/12/06	Heritage Building Society	FRN	5.53	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	5.64	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	6.04	21/09/12	1,000
18/10/07	Heritage Building Society	FRN	6.17	18/10/12	1,000
18/10/07	ANZ Bank	FRN	5.62	18/10/12	2,000
14/03/08	HSBC Australia Ltd	FRN	7.14	14/03/13	1,000
16/12/08	Commonwealth Bank of Australia	CRI	6.45	16/12/11	1,000
17/12/08	Commonwealth Bank of Australia	CRI	6.04	17/12/13	1,000
17/12/08	Commonwealth Bank of Australia	TD	5.93	17/12/13	995
17/04/09	Commonwealth Bank of Australia	FRN	6.17	17/04/12	1,000
03/02/10	Commonwealth Bank of Australia	FND	4.70	At Call	921
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
01/03/11	Bank of Queensland	TD	6.35	01/09/11	1,000
02/03/11	Members Equity Bank	TD	6.15	30/06/11	1,000
07/03/11	Queensland Country Credit Union	TD	6.15	05/07/11	1,000
14/03/11	Illawarra Mutual Bld Society	TD	6.03	12/07/11	1,000
21/03/11	Newcastle Permanent Bld Society	TD	5.84	21/06/11	1,000
21/03/11	Westpac Bank	TD	5.69	20/06/11	6,914
21/03/11	BankWest	TD	5.85	19/07/11	2,666
05/04/11	Illawarra Mutual Bld Society	TD	5.93	14/07/11	1,000
14/04/11	National Australia Bank	TD	5.90	15/08/11	1,000
28/04/11	Credit Union Australia	TD	6.19	28/10/11	1,000
03/05/11	Suncorp-Metway Bank	TD	6.05	02/08/11	1,000
05/05/11	Bank of Queensland	TD	6.23	01/11/11	1,000
12/05/11	Suncorp-Metway Bank	TD	6.15	10/08/11	1,000
30/05/11	BankWest	TD	6.05	27/09/11	1,000
30/05/11	Newcastle Permanent Bld Society	TD	6.10	29/08/11	1,000
31/05/11	Suncorp-Metway Bank	TD	6.17	28/09/11	2,000
<b>Total:</b>					<b>57,284</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

That Council notes the record of banking and investments for May 2011.

### Attachment(s)

Nil

**10.3 Ward Committees - Membership**

<b>File Reference</b>	"A " Ward Committee
<b>Sustainability Plan</b>	Transparent and accountable governance
<b>Management Plan</b>	Administration
<b>Objective</b>	To obtain approval to amend the membership of the "A" ward committee.

---

**Background**

At the February and April 2009 Ordinary meetings additional membership of the Ward Committees was approved. Since that time, a further nomination has been received as follows:

"A" Ward - Mrs Loraine Leuckel, South Ballina Community Association

The purpose of this report is to consider Mrs Leuckel's nomination to the "A" Ward Committee.

**Key Issues**

- Level of community representation on Council's ward committees

**Information**

The nomination is from a community based group and it is recommended that the nomination be supported. It is understood this group consists of a range of private and business people who live and operate their business within the South Ballina locality.

**Sustainability Considerations**

- **Environment**  
Ward committees consider matters that relate to environmental, social and economic issues.
- **Social**  
As above
- **Economic**  
As above

**Legal / Resource / Financial Implications**

Nil

### **Consultation**

No consultation has been undertaken for this report however extensive advertising was undertaken for the original membership of the Ward Committees.

### **Options**

The options are to approve or not approve the nomination. The recommendation is to approve the nomination.

### **RECOMMENDATIONS**

That Council approves the following additional membership to the "A" Ward Committee:

- South Ballina Community Association

### **Attachment(s)**

1. Request from South Ballina Community Association

**10.4 Community Communications - Options**

<b>File Reference</b>	External Communications
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Governance
<b>Objective</b>	To respond to a Council resolution asking for options to increase opportunities for ratepayers to provide feedback on Council priorities.

---

**Background**

At the January 2011 meeting, following a notice of motion from Cr Ben Smith, Council passed the following resolution:

*That Council investigate a system that will enable ratepayers to provide feedback via their annual rates notices, potentially in the form of a survey that would then be used in turn to provide the ratepayer with targeted information/updates on their issue and what's being done in Council quarterly/annually.*

The report that follows provides options for consideration by Council.

**Key Issues**

- Options
- Cost
- Benefits
- Likelihood of success

**Information**

The thrust of the January resolution is to provide increased opportunities for ratepayers (and residents) to provide feedback on priorities to Council. The use of the rate notices has been identified as one option.

In researching this report staff have reviewed a number of practices followed by other councils, along with drawing on our own experiences, and the key outcomes identified are as follows:

- The use of mail out surveys with rate notices typically results in only limited response rates, often from residents with a particular interest. Therefore this type of survey is not statistically valid and can be misleading

- Ballina Council's use of communication measures such as the e-news and the quarterly community connect magazine has not resulted in any significant increase in feedback for items on public exhibition such as policies etc. However they are assisting in providing a higher level of information to the community
- More accurate feedback often require an investment of resources into activities such as statistically valid surveys such as direct phone calls, or the use of focus groups
- Voluntary surveys to establish priorities are not a sound method of setting priorities, especially for engineering works. Often these works require significant technical assessment. If Council does not respond to ideas provided by the community this can result in a level of dissatisfaction from those respondents.

Overall Council has made improvements to the level of communication provided to our residents in recent years through the introduction of activities such as the monthly Mayoral column, monthly General Manager interview on Paradise FM, Community Connect and the E-news. However the only time that Council really obtains substantial feedback is when the community is directly impacted and the proposal is contentious. Recent examples of this include rate increases, the new LEP, ferry fee increases, Porter Park etc.

In examining practices followed by other councils one approach that stood out was Brisbane City Council's "Fix-o-gram" and "Eyes in the Suburb" programs.

Brisbane City Council's (BCC) web site ([www.brisbane.qld.gov.au](http://www.brisbane.qld.gov.au)) has a section titled "report a problem". By clicking on this link you then visit the contact Council section of the web site. Under this section BCC have a number of on-line forms and services such as:

***Report a problem***

*Abandoned vehicle*  
*Dead animals*  
*Graffiti*  
*Illegal parking*  
*Illegal dumping/littering*  
*Faulty street light via Energex*

***Report a maintenance issue***

*Bikeway*  
*Footpath*  
*Signs*  
*Parks*  
*Roads*  
*Stormwater drains*  
*Trees growing into powerlines via Energex*  
*Street trees*  
*Water and sewerage via Urban Utilities*

These menus, which are referred to as "fix-o-grams", provide access to forms that can be completed and emailed to ensure adequate detail is supplied on the problems or maintenance issues identified.

BCC is an extremely large council and if this type of reporting framework works for that council it is considered that it could work effectively for Ballina Shire Council. The promotion of this service could then be included in Community Connect newsletters and other Council advertising (i.e. weekly Advocate).

The software used by BCC is "blinkmobile" ([www.blinkmobile.com.au](http://www.blinkmobile.com.au)) and Council's Information Technology staff advise that this software can be used by Ballina Shire Council.

A major project being undertaken by staff for 2011/12 is the introduction of a new electronic data management system for all correspondence, along with a customer request module as part of Council's corporate software system. These two projects can be integrated relatively seamlessly with the type of service being offered by BCC.

As part of the "fix-o-gram" service BCC also promotes an "Eyes in the Suburbs" program. In summary, residents who report certain maintenance issues to Brisbane City Council infrastructure, go in a monthly draw to win one of ten \$100 monthly cash prizes. Brisbane residents are automatically eligible for a prize when they lodge a valid request with Council for issues such as potholes, graffiti, cracked footpaths, etc.

Even though this approach is not recommended, at this point in time, it is considered appropriate that once Council had our own "fix-o-gram" module operating then this could be one method to encourage residents to report problems or issues. Due to the size of our budget we may only offer \$100 per month (\$1,200 per annum) and it would be interesting to assess whether or not this resulted in an increase in feedback on maintenance issues from the community.

Encouraging the community to report this type of information is important as often the residents of our shire are the people who are closer to maintenance issues and the more reporting we receive the quicker we can respond and address those issues.

### **Sustainability Considerations**

- **Environment**  
Improved reporting can result in matters being rectified before they become environmental problems.
- **Social**  
The proposals outlined in this report attempt to encourage greater community interaction with Council.
- **Economic**  
Improved maintenance and reporting regimes all result in a more effective and efficient organisation.

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

There will be a cost in developing the "fix-o-gram" proposal outlined in this report, however if supported by Council it is envisaged that such a program could be implemented within existing operating budgets.

### **Consultation**

A number of councils were researched to examine options for reporting and community feedback. If the proposal outlined in this report was implemented it would be designed to encourage greater communication and feedback from the community.

### **Options**

The proposal outlined in this report is only one option for consideration by Council. It is acknowledged that the proposal may not directly address the issue of establishing priorities however it is considered that that type of feedback requires more targeted consultation. For example projects such as the PAMP review focused specifically on footpath / shared path works.

There is no one model that is the ideal consultation approach and the proposal outlined in this report is just one more piece of Council's overall consultation and community engagement strategy. It is considered that the implementation of a "fix-o-gram" model will provide a further avenue for consultation / feedback from the community and with other activities such as the Community Connect publication being used to promote the service, hopefully usage will grow over time.

The recommendation is to endorse this approach and if approved it is envisaged that the implementation program would be approximately nine months. This then coincides with the implementation program for the new electronic data management system and customer request modules within Council's corporate information system.

In respect to the "Eyes in the Suburbs" proposal it is recommended that Council revisit this concept after the "fix-o-gram" system has been up and operating for approximately three months.

### **RECOMMENDATIONS**

1. That Council include in the 2012/12 Operational Plan an activity to implement a resident reporting system similar to that used by Brisbane City Council through their "fix-o-gram" service.
2. That Council revisit a proposal to promote the type of service being provided in point one, following the introduction and operation of the service for approximately three months. This time period allows Council to assess the effectiveness of the service. One concept for promotion is the "Eyes in the Suburb" program as used by Brisbane City Council.

### **Attachment(s)**

Nil

**10.5 Policy (Final) - Councillors Facilities & Expenses**

<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 Councillor Facilities & Expenses policy.

---

**Background**

Council at the 24 March 2011 meeting resolved to place on public exhibition the Councillor Facilities & Expenses Policy. This exhibition included the following amendments:

- 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 Councillor's 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 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.*

The draft policy was placed on public exhibition with the closing date of 28 April 2011. No submissions were received.

**Key Issues**

- Ensuring that Councillors are appropriately resourced to carry out their roles
- Content and relevance of policy
- Assess the response to the public exhibition and consider any submissions.

**Information**

There are three items addressed in the policy review:

- 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.

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.

Nil submissions were received.

**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. The provision of this service is also optional.

### **Consultation**

The Local Government Act requires changes in this policy to be exhibited for 28 days. The draft policy was placed on public exhibition with the closing date of 28 April 2011.

### **Options**

1. Council can adopt the policy as exhibited
2. Council can amend and adopt the policy as attached to this report
3. Council can determine to not adopt the policy.

The recommendation is to adopt the policy as exhibited.

### **RECOMMENDATIONS**

That Council adopts the Councillor Expenses & Facilities Policy as exhibited, and as attached to this report.

### **Attachment(s)**

1. Draft exhibited Policy - Councillor Expenses & Facilities Policy.

**10.6 Tender - External Audit Services**

<b>File Reference</b>	Financial Management
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Financial Management
<b>Objective</b>	To evaluate tenders to provide audit services for a period of six years and determine the preferred service provider.

---

**Background**

Section 424 of the Local Government Act requires that the position of auditor shall be for a period of six years. Council's current auditor is Thomas Noble and Russell and their contract expires following the completion of the current financial year's audit. Advertisements were placed in local and city newspapers seeking responses from suitable applicants for the position of auditor for a six year term.

**Key Issues**

- Competent audit of Council's financial systems and account preparation by suitably qualified and experienced independent persons
- Source of expert advice on accounting issues
- Award the tender in accordance with the Local Government (General) Regulations 2005
- Timely assistance/advice particularly in relation to new or changed accounting requirements.

**Information**

Five responses were received to advertisements however one was outside the nominated response time so four were considered. The evaluation panel consisted of three Council staff - Manager, Finance and Governance, Accountant, Projects and Contracts Coordinator.

General Details

Details of the four firms considered are shown below. All firms have audit experience in areas other than Local Government and three of the four have Local Government audit experience.

**Thomas Noble Russell (TNR):** TNR are a regional accountancy firm with 10 partners and over 50 staff. They currently audit 13 New South Wales (NSW) local government authorities.

The principal and team leader in charge of the Ballina audit are based in Lismore. They are currently responsible for auditing various councils on the northern rivers and mid north coast.

**WHK:** The WHK Group is a mid tier financial services company that has 100 separate offices located throughout Australia and New Zealand. Offices in the local area include Ballina, Lismore and Inverell.

WHK firms audit various Queensland (QLD) and six NSW councils. Staff who would perform the Ballina audit include the principal who is based on the Gold Coast and the team leader who is based in Inverell. The principal currently has audit responsibility for the Gold Coast, Ipswich and Toowoomba councils. The team leader identified has no local government audit experience.

**Pitcher Partners:** Is a Sydney based firm who have 16 partners and approximately 120 staff. Pitcher partners also have affiliations with other capital city accountancy firms.

Pitcher partners currently audit 11 New South Wales councils whilst providing internal audit services to numerous other councils.

**Corporate Audit and Advisory Services (CAAS):** Is an accountancy firm based in Griffith with one partner, 2 senior and 2 intermediate staff.

The firm has no local government audit experience.

#### Price Tendered

Details of prices tendered and audit hours proposed are shown in table one below.

**Table One: Price and Hours Tendered**

Assessment Criteria	TNR	WHK	Pitcher	CAAS
Price tendered (\$)	51,200	41,000	69,500	14,620
Total audit hours	407	355	403	95
Average charge per hour	\$126	\$115	\$172	\$154
% of partner/manager hours	37%	55%	29%	37%
Mechanism for price increase	AWOTE *	CPI**	CPI***	Fixed

\* AWOTE as per tender refers to seasonally adjusted private sector full time earnings.

\*\* CPI as per tender refers to consumer price index for Sydney all groups.

\*\*\* CPI as per tender refers to approximately 3% or similar to consumer price index.

WHK has tendered the lowest price in dollar terms however TNR and Pitchers will provide a substantial amount of more audit hours than WHK.

Percentage of partner/manager hours refers to the percentage of time that senior staff will spend on the engagement as compared to total hours. WHK propose the highest percentage of senior staff to total audit hours.

The contract extends for a six year period so the mechanism for changing the fee is important. This excludes any abnormal adjustments that may arise due to for example changes in accounting standards or possibly Council's financial systems that may make the audit more onerous.

Price movement is not straight foreword because you are estimating what may happen. However on balance recent history suggests that AWOTE will be in the order of 2% higher than CPI.

### Assessment

Following an initial assessment of the tenders two of the applicants were short listed and the panel conducted interviews with the principals of TNR and WHK. Hence it is fair to say that the panel was better informed in respect to the tenders submitted by TNR and WHK when it came to assessing technical expertise and quality and availability of workforce than with Pitchers and CAAS.

The evaluation outcomes shown in the tables below were finalised after the interviews were conducted. In respect to price the evaluation took into account price tendered, audit hours, estimated annual price variation and percentage of manager hours to total audit hours.

**Table Two: Score Out of Ten**

<b>Assessment Criteria</b>	<b>TNR</b>	<b>WHK</b>	<b>Pitcher</b>	<b>CAAS</b>
Quality and availability of workforce	8	5	7	3
Quality / depth of audit performance	8	6	8	3
Proposed audit methodology	8	8	8	2
Price	7.5	10	5.8	6.5
Technical expertise	9	8	8.5	3
Response times - request for service	8	7	7	5
Availability of other financial services	8	8	8	4
<b>Total</b>	<b>56.5</b>	<b>52</b>	<b>52.3</b>	<b>26.5</b>

The weighting applied to each of the assessment criteria is shown in table three below.

**Table Three: Weighting of Assessment Criteria**

<b>Assessment Criteria</b>	<b>Weighting %</b>
Quality and availability of workforce	20
Quality / depth of audit performance	10
Proposed audit methodology	10
Price	30
Technical expertise	20
Response times - request for service	5
Availability of other financial services	5
<b>Total</b>	<b>100</b>

Table four shows the final outcome of the assessment after applying the weighting to the score out of ten.

**Table Four: Results of Tender Assessment**

<b>Assessment Criteria</b>	<b>TNR</b>	<b>WHK</b>	<b>Pitcher</b>	<b>CAAS</b>
Quality and availability of workforce	1.6	1	1.4	0.6
Quality / depth of audit performance	0.8	0.6	0.8	0.3
Proposed audit methodology	0.8	0.8	0.8	0.2
Price	2.25	3.0	1.74	1.95
Technical expertise	1.8	1.6	1.7	0.6
Response times - request for service	0.4	0.35	0.35	0.25
Availability of other financial services	0.4	0.4	0.4	0.2
<b>Total</b>	<b>8.05</b>	<b>7.75</b>	<b>7.19</b>	<b>4.1</b>

The final assessment resulted in TNR being the preferred option with WHK second. It was considered that any of the top three assessed firms had the resources and expertise to provide the audit service to Council.

In respect to Pitcher it was the case that price impacted negatively on the outcome. In respect to WHK the tender document and interviews conducted indicated that TNR demonstrated a higher level of expertise, experience and availability, particularly with respect to NSW local government authorities.

The principal of the WHK staff who would actually conduct the audit did not have NSW local government audit experience although they are very highly credentialed in auditing QLD councils such as the Gold coast. In regard to NSW centric issues there was to be some reliance on a second principal who is a contractor to WHK. The contractor owns their own audit firm and currently is responsible for auditing eighteen NSW local government bodies.

It was considered that the arrangement with a contractor who has to manage eighteen of his own clients as a priority, had risk of being less efficient than the services offered by TNR. The team leader proposed by WHK, although highly competent and well credentialed did not have local government audit experience. There would be a learning curve for the team leader that is not the case with TNR.

### Summary

Council does not have an abundance of finance staff at their disposal. The auditor is relied upon as an important source of technical expertise as well as an aid in proactively managing new and changing accounting requirements. The assessment outcome reflects that the risks associated with accepting the WHK tender outweighed the price saving.

It is unfortunate that the act locks Council in to a six year tender. WHK advised at interview that they have just won the audit tender for Glenn Innes and the South East Queensland/Northern NSW section of the firm is looking to increase their focus on NSW local government audit. In such a situation where the tender is close it would be preferable not to lock in such an extended time frame.

### **Sustainability Considerations**

- **Environment**

The role of the auditor touches all aspects of Council's operations. Some of the roles include testing of financial systems, best practice work processes across the organisation, monitoring of licence approvals including any breaches, fraud and error identification and comment on general financial sustainability. As such this role has implications for environmental, social and economic outcomes

- **Social**

As above.

- **Economic**

As above.

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

This is a fee for service contract where it is expected that the expense incurred will result in equivalent benefit to the organisation.

This report is provided to assist Council meet its statutory requirements in regard to tendering and procurement.

### **Consultation**

Advertisements were placed in local and capital city papers as well as on the web. Responses to tenders were appraised by a tender panel.

### **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.

Council is required to appoint an auditor for a period of six years. It is considered that three of the four applicants have the capacity and ability to complete the essentials of the tasks required. For reasons elaborated above the panel is of the view that TNR will provide council with the best service for value.

### **RECOMMENDATIONS**

1. That Council accepts the tender from Thomas Noble and Russell as external auditors for a six year period commencing from 1 July 2011.
2. That Council authorises the Council seal to be attached to the contract documents.

### **Attachment(s)**

Nil

**10.7 Delivery Program and Operational Plan - 2011/2012 to 2014/2015**

<b>File Reference</b>	Integrated Planning and Reporting
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Management Plan</b>	Financial Management
<b>Objective</b>	To adopt the Delivery Program 2011/12 to 2014/15 and Operational Plan for 2011/12

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**Background**

The Draft Delivery Program and Operational Plan have been placed on public exhibition, with four public meetings held as part of the exhibition process. It is now incumbent upon Council to adopt the Delivery Program and Operational Plan, subject to any matters arising during the exhibition period.

The draft Delivery Program and Operational Plan were distributed to Councillors with the agenda for the 7 April Finance Committee meeting. The draft budget and fees and charges were distributed with the agenda for the 17 March Finance Committee meeting. As the documents are extensive they have not been reproduced for this report as they remain substantially unchanged. Copies of the documents are available on Council's web site. Final copies of all documents will be reproduced in full once adopted.

Councillors should bring their copies of the draft documents to the meeting to assist with any discussion that may occur. Additional copies can be obtained from Council.

**Key Issues**

- Contents of submissions
- Other amendments based on information obtained since the documents were prepared

**Information**

This report has been dissected into two main components being:

1. Submissions to the Draft Delivery Program / Operational Plan and details of the four public meetings held during May and
2. Recommended amendments to the Draft Delivery Program and Operational Plan

### 1. Submissions

All submissions have been included as attachments to this report. The submissions have been categorised as:

- Submissions for funding assistance
- Submissions to fees and charges
- Submissions to works and services

#### **Submissions for Funding Assistance**

The draft budget includes the following allocations for funding assistance:

<b>Donation Description</b>	<b>Budget (\$)</b>
General Donations	65,000
Public Halls	35,000
Southern Cross University - Scholarship	15,000
Rates and Charges	20,000
Planning and Development Fees - Community Groups	2,000
<b>Total</b>	<b>137,000</b>

Standard practice to allocate the General Donations and Public Halls donation budgets is to form a working party, comprising a minimum of three Councillors, with each ward represented. The working party then considers the submissions and recommends to the July Ordinary meeting the preferred distribution of the available funds.

Details of submissions for funding assistance are summarised in the next table. For this applicants have been required to complete a standard form. Also Council has already approved the donation of \$1,000 to the Alstonville/Wollongbar Quota Club from the 2011/12 budget.

**Table One: Summary of General Submissions for Funding Assistance**

<b>Ref:</b>	<b>Organisation / Person</b>	<b>Project / Activity</b>	<b>(\$)</b>
1	Ballina Senior Citizens	Christmas Party 2011	2,000
2	Ballina Breast Cancer Support Group	Operational Costs	300
3	Ballina & District Orchid Society	Operational Costs for Orchid Shows	500
4	Lennox Head Chamber of Commerce	Carols in the Park - Community Event	7,000
5	Australian Seabird Rescue Inc	Community education and awareness	3,000
6	Lennox Head Residents Assoc Inc	Operational Costs for Coast Care Group	1,600
7	Alstonville Agricultural Society Inc	Concrete Poultry Pavilion/Provide material & costs associated with construction of steel ring fence at showground	6,000
8	Pimlico Ladies Charitable Org Inc	Various Projects	1,500
9	Alstonville Agricultural Society Inc	Australian Working Cattle Dog Trial Championships	1,000
10	Ballina Jetboat Rescue Inc	Shortfall in purchase of purpose built rescue boat	15,000
11	Alstonville Plateau Historical Society	External painting of Crawford House	12,500

10.7 Delivery Program and Operational Plan - 2011/2012 to 2014/2015

Ref:	Organisation / Person	Project / Activity	(\$)
12	Australian Red Cross (Tintenbar Branch)	Waive tip fees for trash & treasure sale 2011	169
13	Ballina Public School	2 worm farms	127
14	Wollongbar Garden Club	Operational Costs	80
15	Ballina Naval & Maritime Museum	Equivalent to Water & Sewer Charges	631
16	Ballina RSL Sub Branch (Youth Club)	Equivalent to rates for Ballina RSL Sub Branch Youth Club	2,910
17	Riverside Carols Ballina & District	Waive fees to erect banners for community event (3 banners)	375
18	Riding for the Disabled	Waive fees for weekly garbage collection	268
19	Ballina Tennis Club Inc	Resurfacing 2 synthetic grass courts & associated drainage	20,000
20	Ulysses Motorcycle Club - Northern Rivers Branch	Traffic Control for 2011 Toy Run	500
21	Ballina Masonic Centre Inc	Payment of rates	1,000
22	North Coast Academy of Sport	Operational costs	5,000
23	Ballina Lighthouse RSL Day Club	Costs associated with bus hire for members	2,376
24	Alstonville Amateur Swimming Club	Automatic scoreboard for swim races	2,205
25	Practising Artists Network (PAN)	People's Choice Awards running costs	250
26	Carols by Candlelight (Ballina)	Community Event	8,000
27	Northern Rivers Wildlife Carers Inc	Custom built echidna enclosure and portable tub	2,000
28	Lifeline Northern Rivers	Operational costs	1,500
29	Friends of the Koala Inc	Operational costs	Unspecified
30	Cabbage Tree Island RLFC	Costs for team to attend Knockout	Unspecified
31	Ballina Jetboat Rescue Inc	Fuel costs for search & rescue operations	2,500
32	Ballina Sports Club Inc.	Replace flooring in Community Sports Club	7,396
33	Ballina Jockey Club Limited	Harvest roof water for reuse	33,304
34	Ballina Coastcare Inc	Part-sponsor publication of booklet/CD	500
35	Ballina Rotary Club on Richmond	Food and Wine Festival 2012	20,000
36	Westpac Life Saver Rescue Helicopter	Safety & Compliance Software	1,000
<b>Non-Compliant Submissions (no application form received)</b>			
37	NSW Rural Doctors Network	Bush Bursary/CWA Scholarship Scheme	3,000
38	Jumbunna Community Preschool & Early Intervention Centre Inc	Operational costs	Unspecified
39	Ballina Shire Our House Fundraising Committee	Fundraising appeal in conjunction with Northern Rivers Community Cancer Foundation	Unspecified
40	Stephanie Lymburner	Fundraiser at Ballina Swimming Pool on behalf of Breast Cancer Research	Unspecified
41	Fitness Matters Lennox Head	Running costs for Heartmoves program for the elderly	Unspecified
42	Ballina RSL Sub-Branch	Operational costs for Anzac Day 2012	2,000

In respect to works related to public hall improvements, Council policy is that assistance is provided to 50% of the cost of works, based on a maximum assistance figure of \$8,000.

It is assumed that the Hall Committees will contribute a minimum of 50% of total costs.

**Table Two: Submissions for Community Halls**

Ref:	Organisation	Project / Activity	Total (\$)	50% (\$)
1	Rous Mill & District Memorial Hall Inc	Paint External of Hall and Roof	9,477	4,738
2	McLeans Ridges Public Hall	Replacement chairs & replacement of rotten windows	2,380	1,190
3	Wollongbar Hall	New tables, chairs, banners and ongoing maintenance of hall	1,250	625
4	Meerschaum Vale Hall	Fit solar panels to hall roof	4,950	2,475
5	Newrybar Hall	Range of capital improvements including new verandah	8,000	4,000
6	Tintenbar Community Hall	Range of capital improvements	7,500	3,750
7	Wardell War Memorial Hall	Range of capital improvements	8,000	4,000
<b>Totals</b>			<b>41,557</b>	<b>20,778</b>

### ***Submissions Fees and Charges***

#### *1. Lennox Head Community & Cultural Centre (LHCC) - Alan Rich*

Mr Rich considers that room hire rates at the LHCC are excessive and should be aligned with fees charged at Wardell Community Centre for room hire.

Staff comment:

The fees proposed for the LHCC are comparable to the Alstonville Leisure and Entertainment Centre, Richmond Room and the Ballina Community Services Centre. These facilities are considered to be a more relevant comparison to the LHCC than the Wardell Community Centre, which is a very limited facility with minimal services.

#### *2. Lennox Head Residents Association - Commercial use of Footpath Policy*

The Residents Association considers that the rates set in the commercial use of footpath policy are too high for Lennox Head.

Comment:

Council considered a report on this matter at the April Finance committee meeting which canvassed all the issues. Council subsequently resolved to proceed with the proposed charges.

*3. Richmond River County Council - Increase in Fees*

The Richmond River County Council's (RRCC) draft Management Plan proposed an approximate 30% increase in contributions from Ballina. This is a large increase to absorb with little warning or explanation and Council resolved to obtain further information on this increase.

A letter was written to RRCC and a response has since been received, copy attached.

Staff comment:

The letter from RRCC explains the reasons for the impost. It is considered that there is room for improvement in how the matter was managed, such as a tiered approach to the increase. However the need for the funds is not debated and the 2011/12 budget makes provision for the full contribution requested.

***Submissions Works and Services***

*1. Phil Tonge - Provision of Footpath from Temple Street to Canal Road*

Various items of correspondence have been received from Mr Tonge including signatures in a petition from nearby residents. The submissions ask for Council to provide a shared pathway in Fox street and traffic diversion measures in Canal Road.

Staff comment:

Council staff have issued earlier correspondence on this matter. In respect to the pathway it comes back to funding priorities under the Pedestrian Access and Mobility Plan (PAMP). The proposal included in the submission is not a priority in the PAMP.

In regard to the traffic treatment requested for Canal Road, technical engineering assessment has not supported the request included in the submission. A more detailed report can be provided, if needed.

*2. Petition - Rectification works at Missingham Bridge Market Site*

A covering letter and petition has been received regarding the repetitive flooding that occurs at the Missingham Bridge market site. The flooding disrupts or stops the conduct of the market which has negative impacts on stall holders, local residents and visitors alike.

Staff comment:

This has been an ongoing matter and after lengthy consideration it is considered that improvement works should be undertaken. There is no budget for these works, estimated to be \$20,000, in the 2011/12 budget. However it is apparent that not all available funds will be expended in the 2010/11 stormwater capital budget and a decision has been made to reallocate \$20,000 from the stormwater budget to these high priority works. The works

are expected to be completed by 30 June 2011 therefore there is no need to amend the 2011/12 budget.

*3. Richmond River De-oxygenation Project (ARC linkage)*

A request has been received from Southern Cross University for Council to provide \$15,000 in the 2011/12 budget to enable a pilot trial on the de-oxygenation problem that occurs in the Richmond River. This funding would match funds put forward by the University.

The intent is to use the pilot as a means to make application for grant funding of several hundred thousand dollars that will enable scientific research into the problem.

Staff comment:

If Council provides the \$15,000 and subsequently the grant application is successful it will be necessary for Council to fund approximately \$100,000 to match the grant funding. This funding is not provided for in the current or future budgets. However it may be possible for the Richmond River County Council to administer the grant with all benefiting councils and perhaps the University contributing to the cost.

The 2011/12 budget makes no provision for the \$15,000 to pay for the pilot study and the budget is already in deficit. It is not recommended to increase the budget deficit and there are no reserves that pertain to works of this nature. One option may be to take the funds out of the quarry reserve even though the reserve is being accumulated for post closure site remediation.

As the Richmond River remains a high priority it is recommended that Council amend the 2011/12 to include a budget of \$15,000 for the ARC linkage project funded from quarry reserve. This reserve is expected to have a budget of approximately \$1.5 million at the end of the current financial year.

*4. Various Comments - Marelle Lee*

This submission makes comment and poses questions on various topics. Each subject is brief and to the point so there is little value in summarising the submission as part of this report. Readers are directed to the submission which is attached. Many of the items raised are not particularly budget issues and the response to Ms Lee will address the key points outlined in this correspondence.

**Public Meetings**

Council held four public meetings to explain the 2011/12 Delivery Program and Operational Plan. The meetings were advertised in the local paper, on Council's web site, to e-news subscribers, in the quarterly newsletter and via community access points.

Brief descriptions of the meetings follow.

Wardell 16 May 2011: Apart from staff and councillors, four members of the public were in attendance. A discussion was held on topical items for Wardell and then the meeting closed.

Alstonville 18 May 2011: No members of the public attended this meeting.

Ballina 23 May 2011: No members of the public attended this meeting.

Lennox Head 26 May 2011: Twelve members of the public attended this meeting and a power point presentation was used to stimulate discussion on a variety of topics including: flooding of Ross Lane, the state of North Creek Road near the reservoir, cycleway and recycled water pipe both scheduled to come down the same side of North creek road, shared path/coastal walk project, Ross Park foreshore plan, Lennox Head Surf Club, underpass at north Angels Beach Estate and the raising of a charge for those people benefiting from the use of grey water.

The public meetings were poorly attended, certainly in comparison to the previous year. This is despite promotion of the meetings being greater than has occurred in the past. The poor attendance is possibly a combination of complacency and a reasonably satisfied community.

Council may well wish to review the benefit of having general meetings and rather only hold meetings for specific issues. For example, in recent years people have attended meetings to discuss ferry fee increases or the ordinary rate rise.

## ***2. Amendments to the Draft Delivery Program and Operational Plan***

Other matters that have been raised during the exhibition period are as follows.

### Budget Matters

#### *Ballina Surf Club*

The draft budget shows this project as costing \$3.1 million. This budget refers to Council's contribution to the project. The project is estimated to cost \$5.8 million with funding from the community infrastructure reserve \$3.2 million, Federal Government grant \$2.3 million and Club funds of \$300,000.

It is recommended that the budget be amended to \$5.8 million.

#### *Depot Master Plan*

The resolution from the April Finance Committee was as follows:

- 1. That Council endorses the "Works Depot - Southern Cross Drive, Ballina - Draft Development Masterplan", as attached, subject to the funding for the works being examined in further detail through an additional report to Council, as per point two.*
- 2. That Council receive a further report examining the impacts of financing the works outlined in point one through the use of an increased oncost*

*rate, with that report also giving consideration to an extension of the works timeframe from five to up to ten years.*

Staff have looked at the proposed works endorsed by Council and it is considered that the timeframe could be adjusted from five to eight years at an annual impost of \$150,000.

The resolution asks that a report be prepared that considers the raising of these funds (\$150,000 annually) via an increase to oncost rates. Oncosts look to apportion indirect costs to cost centers to provide a more accurate indication of the real cost to provide a service or carry out works. Oncosts do not create any extra income, they distribute costs from one area to another.

There can be significant debate as to what costs could or should be included in overheads. One arbitrator in this debate is what State and Federal bodies will accept as part of their grant conditions.

For example both the Roads and Traffic Authority and the Roads to Recovery administration have clear guidelines as to what they will and will not accept as appropriate oncosts.

In trying to summarise what these authorities see as reasonable it would be that the cost must be a genuine cost relating specifically to labour or plant. In respect to labour they are accepting of costs such as workers compensation and leave entitlements. In respect to plant they will accept the cost to run and replace the item and perhaps a small amount of profit for the risk of providing the plant.

It would not be acceptable to most grant bodies to have them contribute towards Council's costs of upgrading the depot. This being the case Council generally would not increase oncost rates for this purpose.

An alternative to oncosts is to simply reduce a large number of existing 2011/12 budgets by a small percentage to create the \$150,000 required for the depot upgrade. This is clear and transparent with managers aware from the start of the year of their budget amounts without a hidden costing regime over which they have no control.

An analysis of those areas that benefit from the depot has been undertaken. Based on gross expenditure calculations it is reasonable to apportion \$19,000 to Water Fund, \$23,000 to Sewer Fund and \$14,000 to Waste. These costs will represent a new expense to these funds. This leaves \$94,000 to come from General Fund capital and operating budgets funded from general revenue. If we take approximately 1.2% off each of the applicable budgets shown below \$94,000 will be achieved.

**Table Three: Budget Reallocations to Depot Master Plan**

<b>Recurrent Capital</b>	<b>Budget (\$)</b>	<b>Deduction (\$)</b>
Computer	31,000	500
Community Infrastructure	200,000	2,000
Stormwater	399,000	4,500
Roads	1,878,000	21,000
Footpaths	124,000	1,500
Open Space	161,000	2,000
Sport Fields	141,000	1,500
<b>Total</b>		<b>33,000</b>
<b>Recurrent Operations and Maintenance</b>		
Stormwater Maintenance	166,000	2,000
Foreshore Protection	56,000	500
Roads/Bridges Maintenance	2,421,000	27,000
Street Cleaning	150,000	2,000
Road Signs and Lines	107,000	1,000
Footpaths	170,000	2,000
Open Spaces and Reserves	1,469,000	15,000
Tree Maintenance	91,000	1,000
Nursery	156,000	1,500
Vegetation Management	107,000	1,000
Public Amenities	292,000	3,500
Sport Field Operations	285,000	3,500
Property Buildings Maintenance	78,000	1,000
<b>Total</b>		<b>61,000</b>

It is recommended that the proposal to fund the depot upgrade to \$150,000 annually is achieved by reallocating existing General Fund capital and operational budgets as per Table Three and accepting annual contributions from Water Sewer and Waste totaling \$56,000.

#### *Recyclable Waste Charge*

At the April 2011 meeting Council resolved to reduce the gate price of recyclable waste from \$148 to \$74 per tonne. The price reduction will affect income and the forecast for estimated gate fee needs to be reduced.

It is estimated that there will be approximately 750 tonnes of recyclable waste enter the centre in 2011/12. This figure has been modelled off the 2010/11 tonnage.

Hence the forecast reduction to income is approximately \$55,000.

#### Fees and Charges

##### *Green Waste Charge - Additional Service*

The fees and charges include an annual charge for Domestic Waste collection. This charge is for the mixed waste, recyclable and green waste services. The advertised document does not include a stand alone charge for additional green waste services.

Staff estimate that an annual charge of \$234 will meet our collection and treatment costs. The other annual charges for waste services for 2011/12 are as follows:

- Domestic Waste Management Charge – Urban (green waste) \$360
- Domestic Waste Management Charge – Rural (no green waste) \$321

#### *Extent of Green Waste Service*

The exhibited draft Operational Plan included a proposal to extend the green waste service to a number of rural areas (being rural areas with reasonably high levels of residential properties).

A copy of the map exhibited as part of the Operational Plan is included as an attachment to this report.

As there were concerns that certain rural properties may not wish to receive this service, as they may already compost on their properties, correspondence was sent to all properties that were outside the urban areas asking the owners whether they wished to receive the service.

An overview of the responses from that direct mail out is as follows:

#### **Submission Summary**

Total Number of Letters Sent Out	370
Total Number of Submissions	232 (63% response rate)
Total Number of Supporters	35 (9.5% of total, 15% of respondents)
Total Number "Do Not Support"	197 (53% of total, 85% of respondents)

#### **Alstonvale (Pearces Creek Road, Sproule Drive, Wenga Avenue, Willowbank Drive)**

Description	Number	Percentage
Supporters	6	8
Do not support	45	59
No response	25	33
<b>Total</b>	<b>76</b>	<b>100</b>

#### **Alstonville (Blackmores Road, Bruxner Hwy, Dillons Lane, Duck Creek Mountain Road, Eden Valley Drive, Gap Road, Teakwood Drive)**

Description	Number	Percentage
Supporters	4	7
Do not support	33	57
No response	21	36
<b>Total</b>	<b>58</b>	

#### **Newrybar (Boormans Road, Brooklet Road, Johnston Road, Old Pacific Hwy)**

Description	Number	Percentage
Supporters	2	7
Do not support	11	37
No response	17	57
<b>Total</b>	<b>30</b>	

**Patches Beach (Patches Beach Road)**

Description	Number	Percentage
Supporters	0	0
Do not support	11	42
No response	15	58
<b>Total</b>	<b>26</b>	

**Tintenbar (Bentwing Place, Foresters Way, Fredericks Lane, George Street, Hillcrest Drive, Kalama Place, Phoenix Drive, Tintenbar Road)**

Description	Number	Percentage
Supporters	17	14
Do not support	60	49
No response	45	37
<b>Total</b>	<b>122</b>	

**Uralba (Uralba Road, Davey Road, Platypus Drive, Towalbyn Place)**

Description	Number	Percentage
Supporters	4	9
Do not support	29	67
No response	10	23
<b>Total</b>	<b>43</b>	

**Wollongbar (Gilmore Close, Sneaths Road)**

Description	Number	Percentage
Supporters	2	13
Do not support	8	53
No response	5	33
<b>Total</b>	<b>15</b>	

These figures highlight that there is not support for the green waste service in the rural residential areas and it is recommended that the service only be introduced in the defined urban areas of Ballina, Lennox Head, Wardell and Alstonville / Wollongbar. A copy of the revised catchment area is included as an attachment to this report. Councillors should take particular note of this to ensure it meets everyone's understanding of where the service will be provided.

Copies of all the submissions on the rural green waste service have not been included due to the high volume. Copies are available on request.

In addition to these submissions two letters were received from residents who were not on the rural / residential list but still considered they were rural. The address of the two residences is 333 North Creek Road and 17 Koellner Road and copies of their submissions are attached, along with locality plans for the properties.

lit can become cumbersome to have different properties in the same street or locality with different service levels. This can be done however it is necessary to then examine the cost / benefit of those different structures and once one or two properties have a different service the concern is how far those changes then go.

There are also significant cost runs associated with this in that a different truck may be needed for different collection regimes. Also the Council contract for the collection of the green waste service is based on collecting bins from all eligible properties within each defined collection area. Therefore even if Council removed a property from the service the Council would still have to pay the contractor for that collection. The contract was effectively let on the basis that Council had no intention to offer a user pays service.

The Local Government Act allows councils to charge all properties within a defined collection area for waste services and for the reasons outlined above it is not recommended that Council allow specific properties to be excluded. If Council wishes to make changes it would be more a matter of removing entire streets or localities.

The other issue that has come up through the exhibition period has been the fortnightly general waste bin collection with concerns being raised over smells, maggots, nappies etc, with the preference for this service to be weekly. Ms Debbie Miller, from Cumbalum, did not have time to make a submission, however as a mother of two young twins she wanted to highlight the difficulties she will have in ensuring that the bin remains clean and free of maggots, smells etc.

The fact that the green waste service is weekly, means that organics and putrescibles can be disposed of weekly which will assist in minimising odours etc. Council has also produced a nappies information sheet to assist residents with young children.

The major concern with moving to a weekly general bin service is that it does not provide an incentive to sort waste in that residents can dispose of their waste weekly without any need to recycle. However with the fortnightly general bin there is a strong incentive to recycle and use the green waste bin.

Council has received earlier reports on the benefits to be gained from the weekly green waste service, and with the State Government also recommending that such a service be introduced, no change to the service as exhibited is proposed.

#### *Cemetery Fees*

Since the exhibition of the draft plan staff have become aware that the cost to acquire bronze plaques has increased in excess of what was anticipated. Therefore a revision of prices is requested.

Also a new charge is proposed in respect to providing additional colour on plaques as a value added service.

#### **Table Four: Revised Cemetery Fees (\$)**

Description of Fee	2010/11 Fee	Draft Plan	Revised Fee
Large Niche plaque	375	386	406
Small Niche plaque	355	366	385
Lawn Cemetery plaque		1,065	1,120
Additional plaque plate or page		425	447
Large Niche (includes plaque)	845	871	891
Small Niche (includes plaque)	805	830	850
Bronze vase	105	108	113
Memorialisation of ashes	845	871	891
Added costs on colour plaques			34

### *Regulatory Fees*

There has been an amendment to the 'Environmental Planning and Assessment Regulation 2000'. Effective from 1 July 2011 numerous Regulatory Services fees have been increased plus a new set of fees has been introduced for BASIX certificates.

The charges set for these fees are mandatory. Given that there is no discretion for Council the changes have not reproduced as part of this report.

### *Lennox Head Community Centre*

The current fee structure at the centre does not provide sufficient flexibility for offering discounts for combined/multiple room use. This proposal follows discussions with various potential users over recent weeks.

It is recommended that where there is multiple room use of the Lennox Head Community Centre the following discounts should apply from the adopted rates:

- Two meeting rooms: 15% discount off both community and commercial rates
- Three meeting rooms: 20% discount off both community and commercial rates

### *Ballina Community Services Centre*

Since the draft was advertised staff have reviewed the proposed fees for the Ballina Centre and concluded that changes are warranted. The proposed 2011/12 charges shown in the Draft Fees and Charges that was exhibited were the same as those shown in the table below for 2010/11; i.e. the fees exhibited in the draft proposed no change from the previous year.

It is now recommended that Council reduce certain fees in comparison to the previous year and remove a category of user titled 'Funded' which tended to confuse people.

**Table Five: Ballina Community Services Centre Revised Fees**

	2010 - 2011			2011 - 2012	
ROOMS	Commercial	Funded	Community	Commercial	Community
<b>BALLINA COMMUNITY SERVICES CENTRE</b>					
<b>Meeting Room 1</b>	\$40/hr \$220/day	\$20/hr \$110/day	\$10/hr \$55/day	\$30/hr \$150/day	\$10/hr \$55/day
<b>Meeting Room 2</b>	\$40/hr \$220/day	\$20/hr \$110/day	\$10/hr \$55/day	\$30/hr \$150/day	\$10/hr \$55/day
<b>Interview Room 1</b>	\$24/hr \$120/day	\$12/hr \$60/day	\$6/hr \$30/day	\$15/hr \$75/day	\$6/hr \$30/day
<b>Interview Room 2</b>	\$24/hr \$120/day	\$12/hr \$60/day	\$6/hr \$30/day	\$15/hr \$75/day	\$6/hr \$30/day

Staff are of the view that a reduction to the fees will improve the overall viability of the centre.

#### *Marquee Hire*

Council often receives requests from community organisations to hire / borrow one of more of Council's 18 3 x 3m marquees for local events. To date, there is no policy for hire and as a result staff have not been approving community group usage due to concerns over damage, wear and tear etc etc.

The only events that the marquees have been used for are Council sponsored events or events that are approved by special request through the General Manager (often for a needy community group undertaking a major fund raising activity). This is an ad hoc approach and without the backing of a Council policy it is often difficult to convince the various groups of the fairness of this approach.

If the marquees are to be lent out to a wider range of community groups there are implications for Council staff in allocating the resources required for the timely checking of the marquee's condition upon return. Up to three staff from the Ballina Visitor Centre are sometimes required for around two hours when checking the condition of the marquees upon return. With high usage, the condition of the marquees is also deteriorating with stains, wear and tear on the covers and storage bags.

Originally the marquees were purchased for Council's civic events, notably Australia Day and Rivafest, but now the demand for this equipment has grown as more community groups become aware of their availability. The original cost of the marquees was approximately \$700 to \$800 each.

Due to the demand for the marquees it is considered appropriate for Council to adopt an appropriate set of hire fees and protocols to manage the level of usage, cover staff costs incurred and to assist with future replacement.

A review of private suppliers has identified that to hire similar marquees typically costs from \$80 to \$190 per marquee. Local suppliers also require an additional bond of up to \$100 for damages that is refundable.

Given these rates it is recommended that Council introduce a fee of \$55 per marquee for eligible groups. This would be for a maximum period of three days as often the marquees are required the day before the event to set up, and the day after to put down. Extra days could then be charged at \$25 per day.

Any cleaning fees or costs incurred by Council for damage, missing parts or replacement would be on charged to the hirer. This proposal reduces the amount of staff time associated with the collection/return of bonds, which is often cumbersome and places more financial pressure on not for profit groups.

It is also recommended that only events that fall into one of the following categories are granted hire approval:

1. Events that receive funding under Council's Festival and Events Support Program
2. Council supported civic events (Australia Day, Anzac Day Celebrations, Naidoc Week)
3. Events of regional/state/national significance where Council enters into an agreement relating to the event - Examples include the agreements Council is currently involved in to bring major events to Ballina such as the NSW Bowls Championships, plus conferences.
4. Community based events with active Council involvement (i.e. Fair Go Skateboarding Competition).

This is considered to be a fairly extensive range of events that will ensure the marquees are regularly available for hire. It is not recommended that Council provide the marquees to commercial events as effectively we would then be competing against private sector hire companies.

#### Works and Services

##### *Bus Shelter at Deadman's Creek Road*

The minutes of the April Finance meeting contained a request that consideration be given to amending the Operational Plan to include a new bus shelter at the intersection of Deadman's Creek Road and the Pacific Highway.

There is no budget for this project and the shelter has not been included in the operational plan. It is estimated that to provide a shelter would cost in the order of \$5,000 and higher priorities exist at the school sites.

Council has a contract whereby shelters are provided by the contractor on the basis that the contractor has the rights to any advertising that may be sold. Staff are in negotiations with the principal nominated in the contract to see if they are prepared to provide a new shelter at Deadman's Creek Road.

*Front Counter – Administration Centre*

The current configuration of the front counter in the administration centre is not ideal. There are ergonomic problems, which has raised occupational health and safety issues and there are concerns over security in the case of a robbery. Staff have spent considerable time investigating the latest configurations of local financial institutions and customer service based organisation and a new design has been finalised.

It is estimated that the total cost of this work, which includes some adjustment to offices will be in the order of \$75,000. A reserve was created in the General Fund of \$50,000 for this purpose at the end of the last financial year and water, sewer waste contributions will amount to a total of \$25,000. It is now recommended that the budget include a capital amount of \$75,000 to enable reconfiguration of the front counter financed from general, water sewer and waste.

*Maritime Boating Program and Burns Point Ferry*

Council's Civil Services Group has been successful in obtaining funding for the following two projects:

- a) NSW Maritime Better Boating Program - Grant to upgrade car and trailer parking at the Ballina Yacht Club boat ramp - Grant offer is \$17,310 and requires Council matching amount of \$17,310
- b) NSW Maritime Better Boating Program - Grant to upgrade car and trailer parking at the Emigrant Creek boat ramp, West Ballina - Stage 1 of the project to replace the ramp is now in progress (2010/2011) and this grant is for stage 2 for 2011/2012 to reconstruct the parking area - Grant offer is \$110,990 and requires Council matching amount of \$110,990

In addition to this, during the 2010/11 financial year, a set of steel ramps was replaced on the northern end of the ferry during the November 2010 annual dry dock. During 2011/12 the southern ramps will need to be replaced. A report to the October 2010 Council meeting (item 11.2) reported the need for this upgrade over a recommended two year period. The September 2010 quarterly report allocated SIC Reserve for the northern ramp replacement. An amount of \$50,000 is required in 2011/2012 to replace the southern ramps to complete the project.

The total funding requested for these three projects is approximately \$180,000. The only way these works can be funded is from reserves and the only reserve with adequate funds, from the Civil Services area, is the quarry reserve.

The Civil Services Group reluctantly accept this is a reasonable funding source and have no objection to quarry reserves being used. However it is imperative that Council not drain the quarry reserve when the remediation of the Tuckombil site will be needed at some point in the future. Based on this the recommendation is to use this as a funding source with another recommendation for Council to receive a long term financial plan on the quarries to ensure we have adequate reserves in place to finance any future remediation works.

### **Sustainability Considerations**

- **Environment**

This report encompasses the entire Council budget and proposed activities and operations. The report has implications for environmental, social and economic outcomes.

- **Social**

As above.

- **Economic**

As above.

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

This report deals with all of Council's operations. Legal, resource and financial implications are all relevant to this report.

### **Consultation**

The 2011/2012 Draft Delivery Program and Operational Plan have been advertised for public comment during May and June.

### **Options**

Council has a legal obligation to adopt the Operational Plan and Delivery Program. Three Finance Committee meetings have been held to develop the strategies contained within these documents and Council is also in a position to consider community input into the Program and Plan.

The Delivery Program and Operational Plan need to be adopted inclusive of any amendments that are considered warranted.

The recommendations that follow encompass all the items addressed in this report, along with a recommendation to endorse the rating structure for 2011/12.

### **RECOMMENDATIONS**

1. That Council adopts the 2011/2012 Draft Delivery Program and Operational Plan, as exhibited, inclusive of any amendments determined at this meeting.
2. That Council approves the formation of a Committee of three Councillors, representing each ward, in the Shire to consider the applications for donations for 2011/12.
3. That the 2011/12 Operational Plan be amended to include a budget of \$15,000 for the Southern Cross University ARC Linkage Project funded from the quarry reserve.

4. That the 2011/12 Operational Plan be amended to provide a budget of \$5.8 million, including all grants and contributions (less any expenses incurred during 2010/11) for the Ballina Surf Club.
5. That the 2011/12 Operational Plan be amended to include on-going funding of approximately \$150,000 for improvements to the Ballina Shire Council works depot, as per the Council's adopted depot master plan. This work is to be funded by reallocating existing General Fund capital and operational budgets as per Table Three of this report and accepting annual contributions from Water Sewer and Waste of approximately \$56,000 per annum.
6. That the 2011/12 Operational Plan be amended through a reduction of \$55,000 in estimated income from gate fees at the Waste Management Facility resulting in a total income of \$1,225,000. This reduction is due to Council's resolution to halve the proposed recyclable waste charge.
7. That Council introduce for 2011/12 a new charge for residents who wish to receive an additional single green waste collection service of \$234 per annum.
8. That due to the largely negative response from the rural residential properties surveyed, Council approves a reduction in the area to receive the new weekly green waste service to focus primarily on urban areas, as per attachment eight of this report.
9. That Council not support a change in the proposed weekly green waste service as exhibited, as this is considered to be the most effective service mix to encourage recycling of green waste and recyclables.
10. That Council does not support urban properties to opt out of the green waste service due to the difficulties and increased costs in implementing a mixture of services within a defined area.
11. That the 2011/12 Cemetery fees be amended as per Table Four of this report.
12. That the 2011/12 Regulatory Services fees be amended such that they align with the Environmental Planning and Assessment Regulation 2000.
13. That the 2011/12 Lennox Head Community Centre fees be amended to provide the following discounts for multiple room hire:
  - 2 x meeting rooms: 15% discount off both community and commercial rates
  - 3 x meeting rooms: 20% discount off both community and commercial rates.
14. That the 2011/12 Ballina Community Services Centre fees be amended as per Table Five of this report.

15. That Council introduce for 2011/12 a new charge for the marquees owned by Council. The fees are to be \$55 per marquee (maximum of three days) and \$25 per day thereafter, with hirers responsible for cleaning costs, damage etc to the marquees. Eligible groups must meet one of the following criteria:
- Events that receive funding under Council's Festival and Events Support Program
  - Council supported civic events (i.e. Australia Day, Anzac Day Celebrations, Naidoc Week)
  - Events of regional / state / national significance where Council enters into an agreement for the delivery of that event
  - Community events with active Council involvement (i.e. Fair Go Skateboarding Competition).
16. That the 2011/12 Operational Plan be amended to include \$75,000 to refurbish the administration front counter, funded from reserves and contributions from water, sewer and waste, as outlined in this report.
17. That the 2011/12 Operational Plan be amended to include the following works, with the Council contribution funded from the quarry reserve.

Description	Total Cost (\$)	Grant Funding	Quarry Reserve
Ballina Yacht Club boat ramp	34,620	17,310	17,310
Emigrant Creek boat ramp, West Ballina - Stage Two	221,980	110,990	110,990
Burns Point Ferry - Southern Ramps	50,000	0	50,000
Contingency	1,700	0	1,700
<b>Total</b>	<b>308,300</b>	<b>128,300</b>	<b>180,000</b>

18. That the 2011/12 Operational Plan be amended to include a specific task to complete a long term financial plan for the Council's quarry operations with this plan to ensure that Council is in a position to finance any future remediation works.
19. That Council resolves to make a base rating structure for the levy of the 2011/12 Ordinary Rate as per the following structure.

Rate Category	Rate in Dollar (cents in \$)	Base Amount (\$)	% Income from Base Amount
Residential	0.140421	374	49.7
Business	0.508970	374	14.8
Farmland	0.117018	374	32.7

**Attachment(s)**

1. Submissions - Community Donations (separate attachment)
2. Submissions - Capital Assistance - Halls. (separate attachment)
3. Submissions - Works and Services (separate attachment)
4. Submissions - Fees and Charges (separate attachment)
5. Two submissions regarding urban waste bins - 333 North Creek Road and 17 Koellner Road
6. Locality plans - 333 North Creek Road and 17 Koellner Road
7. Exhibited map showing areas to be included in green waste collection
8. Map showing areas recommended to be included in green waste collection

## 11. Civil Services Group Reports

### 11.1 Policy (Review) - Unused Public Roads - Short Term Leases

<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 Unused Public Roads - Short Term Leases 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 Unused Public Roads - Short Term Leases policy.

Council first adopted this policy in 22 February 2007.

#### **Key Issues**

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

#### **Information**

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.
- Amendment to section 4 of the policy *Duration of Short Term Leases* to clarify maximum term of a lease for land acquired by Council as the roads authority.

##### *Removal of:*

The term of a lease, together with any option to renew must not exceed five years.

##### *Addition of:*

The term of a lease, together with any option to renew must not exceed five years, or, in the case of a lease of land that has been acquired by Council as the roads authority, must not exceed ten years.

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**  
Not Applicable
- **Economic**  
Not Applicable

### **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 Unused Public Roads - Short Term Leases 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 – Unused Public Roads - Short Term Leases

**11.2 Commercial Activities on Public Land - Additional Activities**

<b>File Reference</b>	Commercial Activities on Public Land, Policy
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Open Space and Reserves
<b>Objective</b>	To advise Council of applications to operate new commercial activities on public land and to seek endorsement for the issuing of Commercial Operators Permits for these activities.

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**Background**

Council adopted the revised Commercial Activities on Public Land Policy at the May 2010 meeting. The revised policy included additional commercial activities for which permits would be issued and brought that policy up to date.

Since the adoption of the revised policy in May 2010 applications have been received for four new types of commercial activities; being Guided Bike Tours, Sailing Schools, Pony Rides for Private Parties and Commercial Boat Use of Public Wharves and Pontoons

The Commercial Activities on Public Land Policy requires that applications for commercial activities, other than those listed in the policy, are to be submitted to Council for approval.

The purpose of this report is to provide information on the commercial activities that are requesting approval to operate on public land and to seek direction from Council.

**Key Issues**

- Types of licences
- Impact on public land and amenity
- Fee structure

**Information**

Applications have been received for four new commercial activities and information on each of the activities is as follows.

**Guided Bike Tours**

Council has received an application from a Guided Bike (bicycle) tour operator to operate commercial bike tours led by a guide utilising public reserves, beaches, cycle ways and roads of Ballina Shire.

This activity may include mountain bike tours along beaches from neighbouring shires and may include businesses offering interpretive and recreational road bike tours throughout the scenic parts of the shire.

It should be noted that this operator has been operating without a permit to date.

This activity would be required to adhere to all NSW road rules with a maximum number of 10 bikes recommended for each tour group. Similar to other commercial group activities it is recommended that two tours daily be permitted.

This activity should be differentiated from a bike hire business as a guide is provided and a group of cyclists travel together.

This activity, if appropriately regulated, would provide a safe and family friendly activity that would showcase the natural beauty of the shire. Therefore the proposal is supported.

#### Sailing Schools

One operator has requested permission to operate a sailing school which involves teaching sailing using small sailing boats. As this activity is aimed at novice sailors the schools need to operate in sheltered waterways.

Having considered all the sheltered locations available the recommended locations for the issuing of a Commercial Operator Permit is Shaws Bay, the Richmond River and North Creek, using public reserves adjacent to these areas for their mobile operational base.

Sailing schools need to adhere to the NSW Maritime regulations and would need a length of intertidal beach area for launching and mooring on a daily basis. It is not anticipated that the operator is likely to need wharves and pontoons for a base.

It should be noted that this is not a boat hire business. The operator would be teaching people how to sail.

It is recommended that a maximum of eight small boats in Shaws Bay and 12 in the Richmond River and its tributaries be permitted. Classes would be conducted on a daily basis with two classes permitted each day.

#### Commercial Boat Use of Public Wharves and Pontoons

There is a lack of docking opportunities in high profile locations for the operation of tourist boating operations in Ballina. The use of Lance Ferris Wharf has been requested on a number of occasions by commercial operators however the Land and Property Management Authority, who provided part of the funding for the wharf, have traditionally been opposed to the use of the wharf by commercial operators.

Council has now approved funding for the installation of a second floating pontoon to be constructed on the western side of Lance Ferris Wharf.

Based on these works, which are planned to occur during the next quarter, the use of the existing wharf for commercial operators has been revisited with the LPMA now happy to include the regulated commercial use on the new pontoon.

The wharf in Wardell is also available now for boating users and may be appropriate for commercial use. The use of the pontoon at Fisheries Creek boat ramp is not recommended for use by commercial operators as the facility is heavily used by the public and the commercial use would have an adverse affect on the ongoing availability of the pontoon for public use.

It is anticipated that consent for the commercial use of wharves / pontoon would enable boats to dock for a prescribed period of time to enable them to take on and let off their passengers. It is not anticipated that a boat would be moored at a wharf and operate from the wharf. Other than a restriction in the time that an operator may stay at a wharf or pontoon it is not intended to regulate the number of times an operator uses a facility.

There will however need to be contact and agreement between operators to organise their schedules to avoid using of the wharfs at the same time.

Initially the organisation of the use of the wharfs will be left to the operators however should the usage levels increase significantly the management of the wharfs will need to be revisited by Council.

There has been interest in this type of activity over a long period of time and if Council approves this type of permit it will be interesting to see how many applications are received.

#### Pony Rides for Private Parties

A Pony Ride operator has requested consent to utilise public land such as parks and reserves to conduct hand led pony rides at private parties. The applicant has also requested a permit to acknowledge the need to use a road reserve or public reserve for access and loading of ponies for parties at private residences.

A pony is a small horse with a specific conformation and temperament. When suitably trained, ponies are suitable for children to ride upon when led by hand.

It is recommended that a maximum of four ponies be permitted when public land is being used. The number of activities per day would not be regulated.

#### General Comments and Operating Guidelines

The four new commercial activities have been reported to Council as they are considered to be appropriate operations that may safely be conducted on public land without adversely impacting on the general public.

The conditions and regulations for these activities will be provided through operating guidelines that are being prepared. These guidelines and regulations make reference to and utilise existing standards and industry requirements.

Similar requirements are set for all existing Commercial Activities and should be viewed in association with Council's Commercial Activities on Public Land Policy.

Any licence will only be issued for 12 months as this is maximum period allowed without the permission of the LPMA.

It is not recommended that the existing Commercial Activities Policy be amended to include these activities as it will be more appropriate to monitor their impact prior to making a permanent change to the policy.

#### Commercial Activity Permit Fees

Council's Commercial Activities on Public Land Policy utilises an impact assessment matrix to determine the permit fee for each activity.

Utilising this process the activities have been identified in the following impact categories:

- Guided Bike Tours - *low impact* on the environment and public amenity
- Sailing Schools - *low impact* on the environment and public amenity
- Commercial Boat Use of Public Wharves and pontoons - *medium impact* on public amenity
- Pony Rides for Private Parties – While the use of animals on public reserves tends to increase the impact of this activity the scale and frequency of this activity is such that it has been set as *low impact* however this could be reviewed at some stage in the future

Having established the impact category of each of the proposed new commercial activities the fees associated with these levels are contained in Council's Fees and Charges. The proposed fees for 2011/12 are as follows.

<b>Commercial Activity Fees:</b>	<b>2011/12</b>
Very low impact	125
Low impact	565
Medium impact	1,020
High impact	1,070

#### **Sustainability Considerations**

- **Environment**  
Appropriately regulated commercial activities can be managed and enhance the enjoyment of environmentally sensitive areas.
- **Social**  
The balancing of commercial and private recreational use of public land is required to ensure appropriate use of public facilities and to avoid conflict.

- **Economic**

The provision of business opportunities that are appropriately managed may assist in the promotion of the recreation and tourism sector of the Shire's economy.

**Legal / Resource / Financial Implications**

There are limited financial or resource implications relating to this matter however there are legal requirements which are being addressed in the approval of commercial activities on public land.

**Consultation**

The provision of operator permits for prescribed commercial activities on public land is provided for in Council's Commercial Activities on Public Land Policy, which was the subject of consideration by Council and placed on public exhibition.

**Options**

1. Council may determine not to approve any new commercial activity permits
2. Council may determine to approve commercial activity permits for some or all of the activities detailed in this report. The four activities have been considered in terms of the requirements of Council's Commercial Activities on Public Land Policy and on this basis have all been assessed as appropriate activities for the issuing of a permit to operate. The recommendation does not constrain the number of licences which means that more than one permit can be issued for each type of activity. If there is ultimately a need to limit licences then a further report will be submitted to Council.

**RECOMMENDATION**

1. That Council approves the issuing of commercial activity permits for the following activities, subject to appropriate operating conditions as determined by the General Manager:
  - a. Guided Bike Tours - Classified as low impact
  - b. Sailing Schools - Classified as low impact
  - c. Commercial Boat Use of Public Wharves and Pontoons - Classified as medium Impact
  - d. Pony Rides for Private Parties - Classified as low Impact

**Attachment(s)**

Nil

**11.3 Waste Water Treatment Plants Upgrade - Update**

<b>File Reference</b>	Ballina and Lennox Head Waste Water Treatment Plants.
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Sewer Services
<b>Objective</b>	To provide an update on progress on the upgrade of the Ballina and Lennox Head Waste Water Treatment Plants

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**Background**

At the February 2011 meeting Council considered a report detailing the tender assessment for a contract for the upgrade of the Ballina and Lennox Head Treatment Plants.

At that meeting, Council resolved to accept the tender of Haslin Constructions Pty Ltd for RFT/Contract Number 0902774 being for the Design and construction of an MBR Waste Water Treatment Plant (WWTP) at Ballina, and a Recycled Water Plant at Lennox Head WWTP for an amount of \$45,437,315 including GST.

Given the size of this contract, it is proposed to report on progress quarterly to ensure Council is able to monitor the project.

**Key Issues**

- To inform Council of the progress of the works within the Contract.

**Information**

*Work Completed for Reporting Period*

The concept design of both the Lennox Head and Ballina plants has been completed and a HAZOP (Hazard and Operability study) has been completed on the process systems of the plants. Detailed design of the structures as well as the mechanical and electrical equipment is well advanced. The contractor has submitted Safety and Environmental Management Plans, with the contractors expected to establish on site in July.

*Cost of Work Completed*

\$2,530,618 inclusive of GST.

Approved Variations

	Details	Cost
1	Modifications to inlet works to divert all flows through the manual bar screen to the storm detention pond.	\$17,532.90
	<b>Total</b>	<b>\$17,532.90</b>

Progress to Schedule

The works are currently on schedule.

Extraordinary Issues

Approval for the recycled water scheme is required by the NSW Office of Water (NOW) through its Section 60 requirements. To achieve approval, the treatment process needs to be validated that it will produce recycled water to the required quality, with NOW stipulating the testing regime required to achieve approval. Council are continuing to liaise with NOW to ensure that all requirements are being met to ensure approval.

Whilst the scheme has achieved Part V Approval, the buildings to be constructed on the sites are required to be approved under Part IV of the EP&A Act, and are therefore subject to further Development Consent by Council. A development application pre-lodgement meeting has been arranged with Council's Regulatory Services Group to determine requirements and to minimise the risk of this process delaying the contract.

**Sustainability Considerations**

- **Environment**

Timely construction of the contract works will ensure the WWTPs in Ballina and Lennox Head have adequate capacity and the environment is protected from the risk of overflows. The upgrade of the facilities and reuse of effluent will assist in improving discharge qualities and the water quality in the estuaries.

- **Social**

The upgrade of the WWTPs will accommodate growth and provide an alternative source of high grade recycled water which will limit the need to upgrade alternative means of water supply thus putting back the costly upgrades such as dams and desalination.

- **Economic**

The construction of the WWTPs will allow capacity in the network to further develop the Ballina and Lennox Head areas in a timely manner.

**Legal / Resource / Financial Implications**

There has been one approved variation to date for a sum of \$17,533. This is well within the contingency for this contract and no variation is required to the budget.

**Consultation**

This report is provided for the public record.

**Options**

This report is for information only.

**RECOMMENDATIONS**

That Council notes the contents of the progress report on the upgrade of the Ballina and Lennox Head Waste Water Treatment Plants.

**Attachment(s)**

Nil

**11.4 Tender - Provision for Supply & Laying of Asphalt**

<b>File Reference</b>	Tenders, Quotations
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Engineering Works
<b>Objective</b>	To provide Council with the results of Tender RFT526, Provision for Supply and Laying of Asphalt

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**Background**

Tenders were advertised from 19 April 2011, closing on 10 May 2011 for Tender RFT526 - Provision for the Supply and Laying of Asphalt for the period to 30 June 2012.

The following tenders were received:

- Boral Asphalt – South Lismore
- Clark Asphalt Pty Ltd – East Lismore
- Fulton Hogan – Eight Mile Plains QLD
- Tropic Asphalts - Toronto NSW

This report provides details on the outcomes from the tender evaluation process.

**Key Issues**

- Appropriate assessment and selection of asphaltic concrete contractor for the period ending 30 June 2012

**Information**

Council undertakes a large number of asphalt projects each year, and the requirements for different projects can be wide ranging. Some projects may involve small quantities and be relatively simple and straightforward works with minimal risk, for instance, asphalt works undertaken on lightly trafficked roads. Conversely, other projects may involve various factors of complexity and higher risk, such as asphalt works undertaken on heavily trafficked state highways with multiple intersection treatments.

This tender includes rates for a range of activities involved with undertaking asphalt works. The determination of a tendered price comparison for a specific project will depend on the particular combination of activities specific to that individual project.

The tender comprises the Shire being divided into 5 zones, and for each of these zones a number of activities are priced, for a range of quantity lots.

<i>Activity</i>	<i>Quantity Lots</i>
Asphalt Supplied and Laid	10 daily quantity lots priced, less than 5T to greater than 250T lots.
Traffic Control Requirements	7 quantity lots priced, from zero to 7 traffic controllers, and 2 time quantity lots being half day and full day.
Cold Milling	7 quantity lots priced, from 2cu.m. to up to 50cu.m, and 3 depth lots priced from 35mm up to 130mm
Specialised Asphalt	6 extra rates priced for specialised asphalt products

As a result of the above, the tender provides almost 90 individual pay items for consideration, a number which may apply to a specific project.

Accordingly, there is a combination of pay items from each tenderer which leads to their price for a specific project. A schedule of the rates tendered is attached, with the lowest rates highlighted in red.

However, preliminary information from a comparison of the pay items indicates the following:

Boral Asphalt provide the lowest pricing for supply and laying of asphalt for quantities greater than 60 tonnes per day for all but one zone and also provides lowest pricing for cold milling for all but one pay item.

Clarke Asphalt Pty Ltd provide the lowest pricing for supply and laying of asphalt for quantities up to 60 tonnes per day for all zones and also provides lowest pricing for cold milling for 6.01 to 8 cu.m.

This illustrates the array of pay items where each tenderer is most cost effective. For each specific project the most cost effective contractor will be able to be chosen based on the quantities associated with the project. Hence all tenders need to be accepted in order to achieve the best cost outcomes.

It is therefore recommended that all tenders be accepted in order to achieve the best cost outcomes for Council for a specific project, i.e. the best outcome for a specific project may be from any of the tenders. Availability is also an important factor when selecting a tender.

### **Sustainability Considerations**

- **Environment**

The contract requires the contractor to establish and operate in accordance with an Environmental Management Plan.

- **Social**

This tender will assist in the maintenance of the road network and thereby support the community's transportation needs.

- **Economic**

The tender will assist to maintain the road network, an essential asset for economic development.

**Legal / Resource / Financial Implications**

Council's road maintenance program is funded from within the Engineering Works Section roads budget.

The tender results do not directly impact the budget allocation. The budget is managed by limiting the extent of maintenance 'to fit' the budget allocated.

In general the lowest rates for asphalt submitted under this tender have increased by 30% to 40% compared to the previous tenders received in 2008, for the most common daily quantities.

This highlights previous reporting to Council where the general application of CPI increases to budget allocations means the amount of work achieved for the budget allocation is diminishing in real terms.

**Consultation**

A public tender process was conducted.

**Options**

Council on previous occasions has accepted all tenders. This allows Council the opportunity to use the most cost effective contractors to meet program requirements.

The tender also allows the opportunity to extend the duration of the contract period beyond 30 June 2012. This option is for a further two, 12 month periods subject to the approval of the General Manager.

**RECOMMENDATIONS**

1. That Council accepts the tenders from Boral Asphalt, Clark Asphalt Pty Ltd, Fulton Hogan Industries Pty Ltd and Tropic Asphalts Pty Ltd as preferred contactors for the supply and laying of asphalt for the period to 30 June 2012.
2. That in accordance with the term of the contract, the General Manager is authorised to extend the contract period to 30 June 2013 and 30 June 2014, if desirable.

**Attachment(s)**

1. Schedule of Rates.

12. Public Question Time

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**12. Public Question Time**

**13. Notices of Motion**

**13.1 Notice of Motion - Library Act**

**File Reference** Notices of Motion/Regional Library

**Councillor** Cr Jeff Johnson

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I move that

1. Council receive an urgent report outlining the recent changes to the NSW Library Act and the implications for the Richmond Tweed Regional Library
2. That Council not commit to any proposed organisational changes or new service level agreements until Council has considered this report.

**Staff Comment**

It is still unclear what the recent changes to the NSW Library Act now allow, however from a staff perspective the major issue with the former model for the Richmond Tweed Regional Library (RTRL) was the fact that it was not a legal entity. This meant that a legal entity was not in place to employ the staff and to undertake the operations of the library such as acquisitions, purchasing etc. As Lismore City Council was the administering council it was potentially the council most at risk from any legal action taken against the RTRL.

The latest information from Lismore Council is that the next draft of the new Regional Library Agreement will be available shortly, along with a draft Service Level Agreement and a draft Richmond Tweed Regional Library Committee Code of Practice. Lismore Council plan to call a meeting of all RTRL Council Mayors, RTRL Committee Councillors, General Managers and key staff in July 2011 to review the documentation. All of these agreements will be presented to Council prior to any final decision being made on the agreements.

Mr. Martin Field, the former RTRL Director, also sent an email to all Lismore Councillors recently titled 'Concerns over misleading Draft Library Budget 2011-12'. A response to the questions and claims made was prepared by Lismore Council. As this email was also sent to Ballina Councillors details of that response, along with supporting background information, have been included as an attachment to this notice of motion.

Lismore is also currently recruiting for the new Library Manager's position and representatives from Ballina, Tweed and Byron staff have been invited to sit on that interview panel.

**COUNCILLOR RECOMMENDATION**

1. Council receive an urgent report outlining the recent changes to the NSW Library Act and the implications for the Richmond Tweed Regional Library
2. That Council not commit to any proposed organisational changes or new service level agreements until Council has considered this report.

**Attachment(s)**

1. Copy of information provided by Lismore City Council in response to correspondence from Mr Martin Field.

**13.2 Notice of Motion - Aboriginal Child and Family Care Centre**

**File Reference** Aboriginal Child & Family Centre

**Councillor** Cr Jeff Johnson

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I move that

1. Council reaffirms its support for the proposed Aboriginal Child and Family Centre in Ballina.
2. That the General Manager ensure that the report to Council on the proposed re-categorisation of the Community Land at Porter Park also provide a detailed review of all other sites considered for the proposed centre to ensure that Councillors are in a position to make a fully informed decision on the most suitable site for the centre.

**Councillor Comment**

The decision on the outcome from the community consultation process for the re-categorisation of Porter Park will be a pivotal point for Council in determining the future location of the proposed Child and Family Centre. Therefore it is essential that Councillors have all the information before them in respect to the sites considered and the options available.

**Staff Comment**

Staff concur that it is appropriate for the next report to revisit all sites considered in this process to date as this will ensure that Councillors and the community are fully informed on all the discussions that have been held to date.

**COUNCILLOR RECOMMENDATION**

1. That Council reaffirms its support for the proposed Aboriginal Child and Family Centre in Ballina.
2. That the General Manager ensure that the report to Council on the proposed re-categorisation of the Community Land at Porter Park also provide a detailed review of all other sites considered for the proposed centre to ensure that Councillors are in a position to make a fully informed decision on the most suitable site for the centre.

**Attachment(s)**

Nil

14. Advisory Committee Minutes

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**14. Advisory Committee Minutes**

Nil items.

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

**15.1 Mayoral Meetings**

**File Reference**            Mayoral

**Councillor**                Cr Phillip Silver

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Activities since the May 2011 Ordinary meeting:

<u>Date</u>	<u>Function</u>
27/5/11	NOROC meeting at Lismore
29/5/11	Rotary Food Bounty in Ballina
30/5/11 - 1/6/11	Shires Association Conference in Sydney
4/6/11 - 5/6/11	Quota International Conference in Ballina
6/6/11	Meeting Charles Jackson, Local Govt Councillor - Louisiana USA
6/6/11	Deputation with staff, heated indoor Ballina pool
7/6/11	NSW Police meeting in Lismore
7/6/11	deputation with staff Cerebral Palsy Association in Ballina
9/6/11	ABD Radio - cost shifting
10/6/11	Pacific Highway Taskforce meeting in Coffs Harbour
11/6/11	Scope Conference in Ballina
12/6/11	Lions Fun Run in Ballina
14/6/11	Citizenship Ceremony in Ballina
14/6/11	Visit by school group from St Francis Xavier School in Ballina
14/6/11	Deputation with Staff - motor site in Ballina
17/6/11	Ballina Players opening of "Shout" in Ballina
21/6/11 - 23/6/11	Australian Local Government Association Conference in Canberra

**RECOMMENDATION**

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

**Attachment(s)**

Nil

16. Questions Without Notice

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**16. Questions Without Notice**

**17. Confidential Session**

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

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

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

Item 17.1 - Senior Staff - Contractual Conditions

This report relates to the personal affairs of staff.

Item 17.2 - Licence Agreement - Termination or Surrender

This report contains information of a commercial nature, which if released, may affect Council's ability to negotiate an outcome.

Item 17.3 - Retail Lease - Review

This report contains information of a commercial nature, which if released, may affect Council's ability to negotiate an outcome.

Item 17.4 - Sewer Loans - Request for Information

This report contains information pertaining to ongoing negotiations, which if released, may not ensure the best value response to the community.

Item 17.5 - Property Acquisitions

This report contains information of a commercial nature, which if released, may prejudice any negotiations if Council was to proceed.

**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 Senior Staff - Contractual Conditions**

#### **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 matters relate to the personal affairs of staff.

### **17.2 Licence Agreement - Termination or Surrender**

#### **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 it may affect Council's ability to negotiate an outcome in respect to the contents of the report.

### **17.3 Retail Lease - Review**

#### **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 it may affect Council's ability to negotiate an outcome in respect to the contents of the report.

**17.4 Sewer Loans - Request for Information**

**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 Council is still in the process of finalising negotiations to ensure the best value response to the community.

**17.5 Property Acquisitions**

**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 Council would not be in a position to negotiate the best value outcome to the community if a decision was to made to proceed with the proposed purchases.