



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 28 July 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.

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1. Australian National Anthem
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1. Australian National Anthem

The National Anthem will be performed by Southern Cross School.

2. Acknowledgement of Country

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

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

3. Apologies

Cr Robyn Hordern has 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 23 June 2011 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 June 2011.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil items

8. Regulatory Services Group Reports

8.1 Development Applications - Work in Progress - July 2011

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2006/242	20/10/2005	Ardill Payne & Partners	Site Filling - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2008/578	6/2/2008	A Koellner	Erection of a Shed for Steel Fabrication - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2010/182	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	Being Assessed

8.1 Development Applications - Work in Progress - July 2011

DA No.	Date Rec'd	Applicant	Proposal	Status
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	Determination Pending
2010/1014T	25/11/2010	S Radburn	Lennox Head VMO _ Remove 31 x Trees – No. 9 McLeans Street, Skennars Head	Determination Pending
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	Awaiting Additional Information
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	Being Assessed
2011/48	04/02/2011	J & H Hughes	Extension to	Awaiting

8.1 Development Applications - Work in Progress - July 2011

DA No.	Date Rec'd	Applicant	Proposal	Status
			Existing Industrial Building, No. 3/176-178 Southern Cross Drive, Ballina	Additional Information
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
2011/130	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
2011/150	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
2011/166	15/04/2011	SJ Connelly CPP Pty Ltd	Construction of a residential flat development comprising 30 x two storey dwellings and associated works, Condon Drive, East Ballina (North Angels Beach)	Awaiting Additional Information
2011/186	27/04/2011	Ardill Payne & Partners	Two Lot Boundary	Being Assessed

8.1 Development Applications - Work in Progress - July 2011

DA No.	Date Rec'd	Applicant	Proposal	Status
			Adjustment Subdivision - No. 9 Martin Street, Ballina	
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	Determination Pending
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
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
2011/231	01/06/2011	Macphail &	Change of Use	Awaiting

8.1 Development Applications - Work in Progress - July 2011

DA No.	Date Rec'd	Applicant	Proposal	Status
		Sproul Architects	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.	Additional Information
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 Ltd	Two Lot Boundary Adjustment Subdivision to create 1 x 1.58ha and 1 x 9.5ha allotments, Skennars Head Road, Lennox Head	Referred to Government Departments
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	Awaiting Additional Information
2011/253	10/06/2011	Newton Denny Chapelle	To Demolish the Sundowner Motor Inn & associated structures and a two lot boundary adjustment subdivision, No. 274 River Street, Ballina	Being Assessed
2011/272	24/06/2011	M Hajjar Surveying	To Undertake a two lot Boundary Adjustment Subdivision, No. 67 Skennars Head Road & No. 40 Isabella Drive, Skennars Head	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	Application determined by way of refusal at the JRPP meeting 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	The DoP has informed Council of its draft conditions of determination and is specifically seeking comment on Section 94 Contributions and the proposed increase in floor space in neighbourhood centre. Discussions are taking place with Dept officers and a response will be finalised in the near future.
2004/1150	29/09/2010	North Angels Beach Development (Chris Condon)	Modification No. 4 to North Angels Beach Subdivision Consent - To delete condition requiring a pedestrian 'Pelican' crossing of Angels Beach Drive and replace it with a pedestrian refuge. (Original consent required a pedestrian underpass).	Awaiting DoP determination (Council advised DoP that it does not support the application).

RECOMMENDATION

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

Attachment(s)

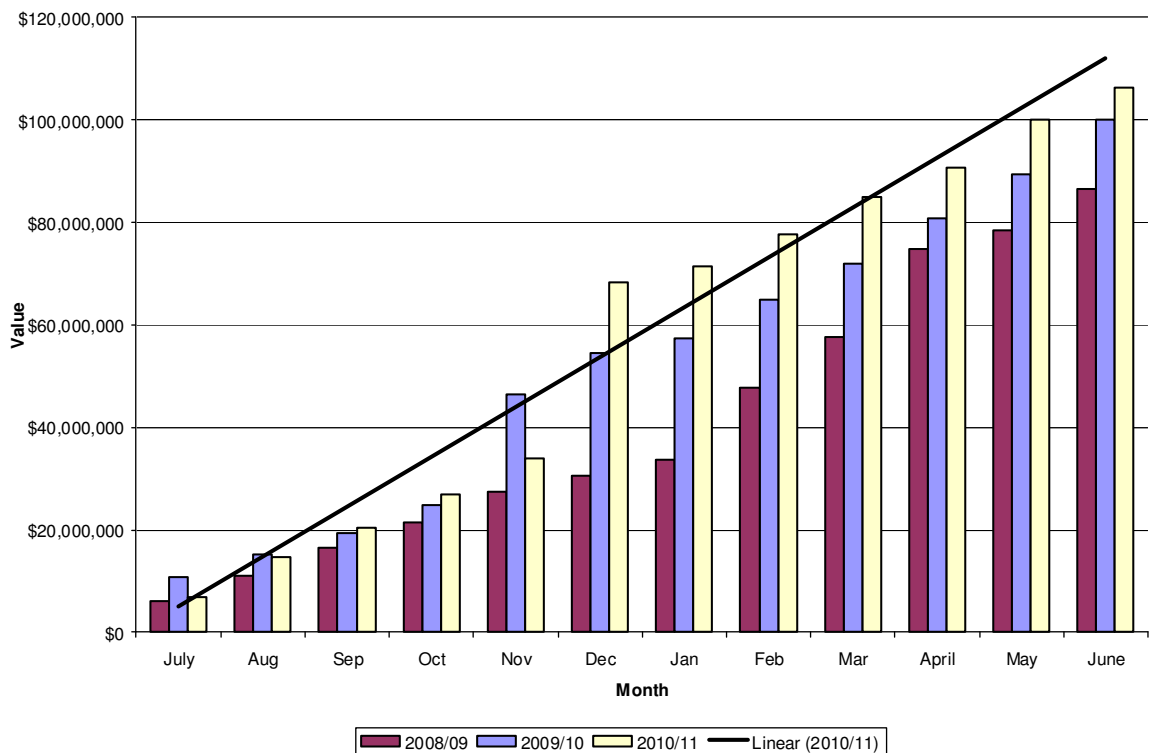
Nil

8.2 Development Consent Statistics - June 2011

The Council is advised that during the period of 1 June 2011 to 30 June 2011 the Regulatory Services Group issued Development Consent comprising of:

Number of Applications	Value of Work
23 Other Building Related	\$ 885,000
4 Dwelling/Duplexes/Residential Flat Buildings	\$ 1,412,000
14 General Developments	\$ 4,011,000
Total Value	\$ 6,308,000

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 June 2011 to 30 June 2011.

8.3 Shaws Bay Management Plan - Update

File Reference	Shaws Bay Estuary Management Plan
CSP Linkage	A healthy natural environment
Delivery Program	Engineering Works
Objective	This report updates Council regarding the Shaws Bay Management Plan and responds to a Council resolution from the Ordinary Meeting of Thursday 26 May 2011.

Background

The Shaws Bay Estuary Management Plan was completed and adopted by Council in 2000. The work was undertaken by Patterson Britton and Partners P/L, Consulting Engineers in accordance with the NSW Estuary Management Guidelines and is available to the public on Council's web site.

This work included a processes study that provided an expert understanding of how various influences interact in and on this water body. This work included public consultation, a Management Study and after further public consultation the development of the Shaws Bay Estuary Management Plan. Implementation of the Plan has followed its adoption by Council.

Key Issues

- Status of activities / tasks associated with the Shaws Bay Management Plan.

Information

Council received an update report on progress with implementation in September 2007. This report is **attached** and demonstrates substantial implementation of the Plan, especially in relation to engineering works to control stormwater pollution entering the bay.

It also discusses the seagrass issue and the fact that Council was unable to obtain regulatory approval to undertake this work.

Tasks that have been completed or further progressed since the 2007 Report are detailed in this report.

Comments on progress on the specific tasks are as follows.

Task A Litter/debris Collection devices.

Work previously completed covers the whole of the Shaws Bay residential estate ("Enviropod" baskets at inlet pits), and drainage from the Hill St catchment including parts of Compton Drive via end of line pollution control devices. This covers most of the public stormwater drainage system entering the Bay with minor outlets from Compton Drive and some draining private land all that remain untreated. No further work is planned apart from maintaining the systems now in place.

Task B Encouragement of Native Gardens

This has been addressed Shire-wide via the publication of the Urban Garden Guide and Protecting Reserves from Dumping Brochure. Illegal dumping is pursued wherever possible but has not been a serious issue in this area.

Task C Garden Refuse Collection

This issue is addressed in the Council's Shire-wide Waste Management Plan which commenced in July 2011.

Task D Gravel Aprons

Works to control scour at outlets from the stormwater drains were completed in 2010/11.

Task E Community Education on Pollution

This is a continuing process Shire wide with advice in news letters on topical issues, publications issued with grant funding when available such as the Sustainable Urban Business Program and regular messages from all levels of Government. Rangers or Environmental Health Officers deal with offenders when evidence is available.

Task F Regular Water Quality Monitoring

Shaws Bay is specifically addressed throughout the swimming season through the Beachwatch program run by Council in conjunction with the Office of Environment and Heritage. This includes bacterial indicators and physico chemical parameters. The program is focussed on bathing water quality which over the years has been very good. It currently does not include nitrogen, phosphorus, algae or chemicals.

It is anticipated that Shaws Bay would be included as part of the Richmond Estuary Coastal Zone Management Plan and that monitoring nutrients and other parameters could be funded as part of that program.

Task G Install More Rubbish Bins

Complete. Adequacy is being monitored.

Task H Improve Aesthetics of Foreshore

Management undertaken as required. Approval has been obtained for mangrove exclusion in specific areas and this is now occurring in accordance with a NSW Fisheries Permit.

Task I Routine Hydro Surveys

A hydro survey is shortly to be conducted on the river mouth area by a contractor for the Land and Property Management Authority. Council is currently negotiating with the Contractor to have all of Shaws Bay included in this Survey which is to commence shortly.

Task J Remove Accumulated Sediment as Required

Following interpretation of the hydro survey this may have to be considered.

Task K Stabilise Sandy Beach Area in East Arm

Following rejection by NSW Fisheries of the option proposed by WBM Oceanics to address this, Council commissioned Geolink to prepare an alternative option. This was prepared in consultation with NSW Fisheries and incorporates a softer option for which an REF (Review of Environmental Factors) has been prepared.

A Part V assessment under the EP&A Act will follow. An estimate of \$171,000 was obtained to undertake this work. An application has been made under the NSW Estuary Management Program for implementation funding in the sum of \$85,500 to assist with this project. Success or otherwise of this round of grants is not yet known. A bid for Council funding to match this grant should it be awarded, was rejected at the 2011-12 estimates.

With currently available funds of approximately \$25,000 available, Council would need to vote some \$60,000 to enable the work to proceed. This project is designed to address foreshore erosion and transport of the material into the main part of the Bay. It is would therefore be recommended as desirable to proceed with this work to minimise infilling of the Bay.

Task L Remediate Gully Erosion

This work was completed in 2010/11

Task M Maintain Seagrass free Access into the water

Council has been unable to secure an approval to undertake this work. A copy of the refusal from NSW Fisheries with reasons is **attached**. Recent inquiries by Council staff indicate that Fisheries has not changed its view on this.

Task N Cycleway Pedestrian-way Along Western Foreshore

Not commenced. Note requires access across private land, various approvals, possible reclamation and potentially has considerable cost implication.

Task O Disabled Access to Bay

Disabled access ramp installed North Western Shore during early phase of implementation

Task P Install More Picnic Facilities in Pop Denison Park and Around Foreshores Including Electric or Gas Barbeques Tables and Shelter Sheds

Existing facilities enhanced and maintained. Further facilities may be considered as part of a landscaping master-plan not currently funded.

Task Q Plant More Shade Trees in Pop Denison Park and Around Foreshore.

Some new tree planting has taken place since the plan was adopted. Vandalism, maintenance and funding constraints have prevented further progress.

Task R Install Wash-down Shower Western Foreshore

Shower was installed early in the implementation

Task S Install Bench Seating Around Bay in Locations That Have Views

Seats were added some time ago along the break-wall. Further seating has not been installed to date.

Task T Remove Weeds From Around Foreshore

Some effort has been made in this regard including ongoing maintenance. Further work may be considered as part of a landscaping master-plan not currently funded.

Task U Selective Removal of Mangrove Seedlings

Action has been taken to remove mangroves under permit from areas where approval has been obtained from Primary Industries, Fisheries & Aquaculture. This will continue as necessary.

Task V Monitor spread of Ulva in Shaws Bay

Ulva appears to have receded to the point where this is not currently a priority

Task W Plant Vegetation Corridor Between Bay & Rainforest

Not commenced. Priority being given to escarpment regeneration and restoration.

Task X Erect Osprey Pole on Southern Foreshores of Bay

Not commenced. This has been discussed with appropriate authorities and is not recommended at this time.

Task Y Remove Weeds from Rainforest

Council has been in receipt of several grants that have allowed significant progress on this very challenging task. This work is continuing under a current grant.

Task Z Mangrove Boardwalk and Rainforest Walking Trails

Not commenced

Task AA Interpretive Eco-educational Signage

Not commenced

Task BB Development of School Project Kits and Tours

Council understands that Ballina High School Marine Studies include Shaws Bay in their educational program. The school has special lifters to enable students to view the contents of the enviropod units that are installed in the stormwater pits. As school is currently in recess it has not been possible to establish what is currently occurring, but it is known that in the past students from other Schools visiting Ballina High have been involved with the Shaws Bay program.

Task CC Community Participation in Management Works

Whilst not extensive there has been involvement of the community through landcare groups and on Clean-up Australia Day.

General comments

The water body of Shaws Bay is part of the Richmond Estuary. Processes in the bay remain heavily influenced by the main estuary with which water and biological material is exchanged daily.

Council cannot in any way be considered to have neglected Shaws Bay. This report demonstrates an on-going commitment to address the community's primary concern that the bay was being polluted from introduction of polluted stormwater. More attention has been given to retrospective control of runoff into Shaws Bay than anywhere else in the Shire.

Council is unable to undertake any work in contravention of State legislation regardless of what is in the Management Plan. In implementing the Plan Council has had to work with the State Authorities and where necessary modify actions so that they can be approved. This has been the case in designing a solution to stabilising the eastern arm erosion. Unfortunately this has caused delay and increased cost.

The hydro study that should commence shortly will provide quantitative data in relation to infilling of the bay. When the results of this are known and interpretative work has been undertaken, it is proposed that a further report be made to Council.

Sustainability Considerations

- **Environment**
The Shaws Bay Estuary Management Plan (EMP) aims to maintain the habitat and ecological values of Shaws Bay
- **Social**
The EMP aims to maintain and/ or improve the recreational amenity of Shaws Bay
- **Economic**
The maintenance of Shaws Bay to a standard that supports it as a local ,regional and tourism destination assists economic development

Legal / Resource / Financial Implications

Council currently holds limited funds for continued implementation of the Shaws Bay Estuary Management Plan. No specific funding has been voted for implementation work since 2005 with work undertaken from previous grants and funding secured from areas other than the Estuary Management Scheme. Council will fund the hydro survey from funds retained from previous allocations but there is only \$25,000 available that can be put up should Council be successful in its grant application to implement the Eastern Arm Erosion Project. If this grant is successful an estimated \$60,000 would need to be found.

Consultation

No specific consultation has been necessary in preparing this report.

Options

This report is largely for information purposes regarding the implementation of the Shaws Bay Management Plan.

RECOMMENDATIONS

That Council notes the contents of this report in respect to the progress that has been made on the implementation of the Shaws Bay Management Plan.

Attachment(s)

1. Shaws Bay Management Plan - Update - Ordinary Council Meeting Report 27 September 2007.
2. Letter from NSW Fisheries 9 June 2004

9. Strategic & Community Services Group Reports

9.1 Aboriginal Child and Family Care Centre - Porter Park, West Ballina

File Reference	Aboriginal Child and Family Care Centre
CSP Linkage	Resilient and adaptable communities; people attaining health and wellbeing.
Delivery Program	Strategic Planning
Objective	To advise Council of the outcomes from the public exhibition process relating to the Draft Amendment to the Ballina Shire Principal Generic Plan of Management for Community Land for the proposed Aboriginal Child and Family Centre and to obtain Council direction on the preferred site for the Centre.

Background

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

- 1. That Council prepare an amendment to the Ballina Shire Generic Plan of Management for Community Land that would have the effect of changing the categorization of part of Porter Park in West Ballina from "Sportsground" to "General Community Use".*
- 2. The purpose of the amendment is to facilitate the establishment of the proposed Aboriginal Child and Family Centre as provided for under the Federal and State Government "Closing the Gap" initiatives. The section of the park to be re categorized contains an area of approximately 3,800m² within the north-eastern corner of the reserve, as per the attached concept plan.*
- 3. That following exhibition of the proposed amendment for public comment, including the associated public hearing, this matter be brought back to Council for determination.*
- 4. The purpose of approving the exhibition is to allow a structured consultation process to occur, as no formal Council consultation process has occurred to date, with the entire community.*
- 5. In approving the exhibition of the proposed amendment Council wishes to emphasise that this does not provide a commitment that the land will be re-categorised as the outcomes from the consultation process will be reported back to Council for further consideration.*

6. *That Council authorises the Mayor and General Manager to hold discussions with the NSW State Government regarding Council's concerns and disappointment that our local community is being asked to provide land to a State and Federal Government project, without any compensation being provided back to Council.*

In response to this resolution Draft Amendment No. 5 (Draft Amendment) to the Ballina Shire Principal Generic Plan of Management for Community Land (Community Land POM) was prepared and placed on public exhibition. A copy of that amendment is included as the first attachment to this report.

The Local Government Act (LGA) also requires a public hearing to be held as part of this public exhibition process and the outcomes from that process also form part of this report (refer to second attachment).

With this information available Council is now in a position to determine whether it wishes to adopt the proposed amendment and to confirm its preferred site for the proposed Centre.

Key Issues

- Response to the public exhibition process
- Sites considered for the proposed Centre
- Council's preferred site
- Whether Council now wishes to provide authority for the NSW State Government to lodge a development application on Council's preferred site

Information

In 2008, at the Council of Australian Governments' (COAG) meeting, the Prime Minister and all State and Territory Premiers agreed to work together to improve the early childhood outcomes of Indigenous children.

The National Partnership Agreement arose out of those discussions. The Agreement seeks ways to address the needs of Indigenous children in their early years and has a budget of \$564 million over six years to roll out a series of initiatives. A key part of this agreement is the establishment of 35 Child and Family Centres across Australia to deliver integrated services that offer early learning, child care and family support programs.

Under the Agreement, NSW will receive funding to establish nine Child and Family Centres, which are to be centred on Indigenous communities and provide an integrated suite of child and family services.

These Centres are to cater for children aged 0 - 5 years and their families, based around a child care or pre-school service. The Centres will also provide support for Aboriginal families by ensuring that both children and family members can access culturally sensitive and easily accessible support. The programs provided may include, in addition to child care, parenting programs, family literacy initiatives, case management, community development activities and potentially a range of health services such as oral health, immunisation programs, family counselling, speech pathology and so on.

The final determination on the services provided will be a matter for each Centre based on the needs of the local community and the resources available within the community.

Aboriginal children are the main target group however the Centres will also provide support to all other children, particularly those from a lower socio-economic status.

Through collaboration within the NSW State Government a preference was established for one of the nine NSW centres to be situated in Ballina. Ballina was chosen based on forecast growth for Aboriginal children and due to the strengths currently demonstrated in early childhood services, along with the capacity of the existing local child and family services to work in an integrated fashion.

In December 2009, the NSW Department of Community Services (DoCS) wrote to Council to advise of Ballina's selection for one of the Centres and to advise that a Local Reference Group (LRG) had been formed to oversee the project. The membership of the LRG includes, as sourced from the DoCS Information Package produced in November 2010:

"a balance of men and women and residents of both Ballina and Cabbage Tree Island.

- *Parents*
- *Elders*
- *Youth*
- *Ballina Cabbage Tree Island Local Aboriginal Education Consultative Group*
- *Bullinah Aboriginal Health Service*
- *Bullinah Goori Services Actions Group*
- *Jali Local Aboriginal Land Council*
- *Bunjum Aboriginal Cooperative Ltd"*

In the December 2009 letter, DoCS advised Council that Treelands Reserve and a site between the TAFE campus and Saunders Oval had been identified as possible sites for the Ballina Centre.

In response to this, at Council's January 2010 Facilities Committee meeting, the Council considered the letter from DoCS but declined to support the establishment of the Centre at either of these two sites. The Council however indicated its general support for the project and instructed staff to investigate other siting options.

The recommendation from that Facilities Committee meeting, which was subsequently adopted at the January 2010 Ordinary Council meeting, is as follows:

1. *That Council provide in-principle support for the project but not at Treelands Reserve as Council wishes to preserve the space for projected future Council provided facilities.*
2. *That Council further investigate other potential sites for this facility and report back to Council as soon as possible.*

This recommendation only mentions the Treelands Reserve site as the site between the TAFE Campus and Saunders Oval was not supported in the report to the January 2010 Facilities Committee as Council had already resolved to enter a land swap with TAFE for this land.

This land swap will allow the expansion of the Saunders Oval playing fields and the land ownership arrangements are nearly finalised. Council has funding set aside to finance these expansion works and once the land title matters are finalised the construction work is expected to take approximately three months to complete.

In response to the January 2010 Council resolution, a further report from staff was presented to the June 2010 Ordinary Council meeting, with Council subsequently resolving as follows:

- 1. That Council advise the Department of Community Services that it is prepared to engage further in relation to Porter Park, West Ballina as an option for the establishment of the proposed Aboriginal Children and Family Centre. (refer to the attached locality plan for Porter Park).*
- 2. That a draft plan of management be prepared as part of this further engagement, with this plan to be submitted to Council for endorsement prior to exhibition for public comment.*

In response to this the NSW Department of Services, Technology & Administration, on behalf of DoCS, prepared a concept plan for the proposed Centre based on consultation with the LRG. This concept plan proposed that approximately 3,800 m² in the north east corner of Porter Park could be used for the proposed Centre. This concept plan is included as the third attachment to this report.

Once the concept plan was finalised, a further report was presented to Council at the Ordinary Meeting held on 24 February 2011 to determine whether the Council wished to conduct a formal consultation process in respect to the proposed plan. Council subsequently resolved to prepare and exhibit a Draft Amendment to the Community Land POM, as per the resolution earlier in the background section of this report.

The next section of this report provides details on the history on Porter Park and the open space allocation for West Ballina, as further background information.

History of Porter Park

The locality of West Ballina, south of the Pacific Highway was identified in 1969 as an area that could be developed for urban (predominantly residential) purposes under the planning instrument that existed at that time (being Interim Development Order No – Municipality of Ballina). Approval of development was subject to the prior preparation and adoption of a development control plan which also required the concurrence of the (then) Director of the State Planning Authority.

The earliest development control plan which Council has on record is one approved in 1973. This became a “blueprint” for the development of this part of West Ballina. Harbour View Estate comprised the development of farmland that was bound by the Pacific Highway, Daydream Avenue, Boat Harbour Road and the Richmond River. This land was owned and subsequently developed by the Porter and Roberts Family Settlement Trust.

Within the Harbour View Estate, the 1973 plan shows the area which is Porter Park designated as “playing fields” to facilitate the local recreational needs of the incoming population. This land, containing an area of 1.856 hectares was dedicated to Council as “public reserve” in a plan of subdivision registered in 1980. It has been mentioned at times during the consultation period that the land in question was donated to Council. This terminology is not correct in that to obtain development rights, it is standard practice for developers to be required to dedicate land for open space to Council.

In addition to the public reserve a parcel of land contiguous with the southern boundary of Porter Park is a road reserve having an area of 3,490m² through which a section of the West Ballina cycleway passes.

This area of Porter Park, together with another smaller area near Marge Porter Place, comprised the open space commensurate with population generated through the construction of approximately 230 dwellings within the new estate.

The locality plan (fourth attachment) accompanying this report illustrates the location of Porter Park and its relationship to nearby residential properties and the adjacent public street network.

Open Space Considerations

In recent months a number of views have been expressed about the need or desire to retain the current and somewhat limited usage of Porter Park. Existing improvements within the reserve comprise an amenities building adjacent to the eastern boundary and a modest shade shelter adjacent to the western or Daydream Avenue frontage. A cricket wicket is constructed centrally within the reserve which is used seasonally for organized matches and casually at other times. Other casual use of the reserve also occurs. No significant landscaping embellishment of the reserve has been undertaken.

The following comments have been provided by Council’s Manager, Open Spaces and Reserves in an attempt to clarify the reserve’s status in the context of the management of active open space in and around Ballina.

“Porter Park consists of an open space which accommodates one cricket oval with a synthetic wicket and there is room on each side of the wicket for a soccer field. The park has an amenity block which provides toilet facilities but no change rooms.

The park is currently used for lower grade cricket in summer and is not used for any organised winter sport. There is also the casual use of the reserve by the public.

The level of sporting use in Porter Park has been the subject of consideration by Council for some time.

The reserve is not used by any of the winter sports as sporting clubs need to have as many games at the one location as possible to efficiently run their clubs. Clubs run canteens to raise money to finance the club activities and with all the games located at the one facility they can efficiently manage referees and scheduling of games.

Clubs have been approached in the past to encourage the use of Porter Park however they have all declined, stating that the decentralisation of their training and competition games is not a viable option for them.

Porter Park was considered for the location of an athletics track however the site is not large enough to accommodate a track. Cricket is the only sport that is able to use single fields and so they utilise Porter Park.

Saunders Oval currently has one cricket oval with a synthetic cricket wicket. Should Porter Park cricket oval be no longer available there is room to install a second cricket wicket at Saunders Oval. This would replace the loss of the Porter Park facility. An extension to Saunders Ovals is currently being undertaken and there may be room for an additional third cricket oval. Saunders Oval provides a higher level of amenities with toilets and change rooms.

Discussions have been conducted with the Ballina Bears Cricket Club with regard to the possible relocation of cricket from Porter Park to Saunders Oval. The club executive has conveyed its disappointment that Porter Park could potentially become unavailable for junior and lower grade cricket. However, this is acceptable to the club on the basis that alternative facilities within and adjacent to Saunders Oval are available in a timely fashion."

Even though Council's Manager Open Spaces and Reserves has indicated that Porter Park is surplus to the needs of organized or competition cricket in Ballina, the area under the Draft Amendment endorsed for the establishment of the proposed Centre has been sized and configured to retain a sizable remnant on which a cricket field can be provided, as per attachment three.

Such a cricket ground within the park is of a size commensurate with other competition grounds in Ballina and there would be space for further embellishment in the northern and western sections.

If provision for the cricket ground is maintained, it would need to encroach within the southern road reserve as depicted in the accompanying plan, albeit that the existing cycleway can be maintained. Hence, if required, the park can continue to be used for organized/ competition as well as social cricket matches, subject to a realignment of the boundaries and construction of a new wicket.

A more detailed analysis of playing fields in the locality generally is provided in the fifth attachment to this report, titled "West Ballina Open Space Assessment".

One further consideration in respect to this is that Council received correspondence from A. J. Leiper on 14 July 2011 advising that the "West Ballina Warriors Cricket Club" had been formed and they intended to use Porter Park to play grade cricket games.

This information has been noted and the relocation of the cricket pitch, if the proposed Centre proceeds, means that there should be no impediment to cricket being played at Porter Park.

Response to Formal Consultation Process

In accordance with the February 2011 resolution a formal consultation process has now been conducted in respect to the proposal to change the categorization of part of Porter Park in West Ballina from "Sportsground" to "General Community Use". The area exhibited represents approximately 20.5% of Porter Park. This estimate excludes the area of closed road along the southern boundary and if the closed road is included as part of Porter Park the 'loss' attributable to the proposed Centre is approximately 17.23%.

Pre-exhibition Consultation

Prior to the formal consultation process significant informal public consultation occurred. This was largely in response to members of the LRG and Council staff choosing to initiate informal contact with residents and property owners in the immediate vicinity of Porter Park to alert them to the fact that this matter was under consideration.

This was undertaken in October 2010, by way of an information session held in the Park and the distribution of the limited material about the Centre that was available at the time.

Informal meetings were also convened between Councillors and local resident representatives, as well as between Councillors, the LRG and State Government Department representatives.

Many phone calls and written submissions, predominantly objections, were made to Council and to individual Councillors. Many of these submissions pressed for greater detail about the project, the site selection process, the extent of "impact" to the existing reserve and also conveyed a desire for things to "stay the way they are", in terms of the park.

Formal Exhibition and Submissions

The Draft Amendment to the Community Land POM was placed on public exhibition between 17 March and 2 May 2011.

Council received a total of 315 submissions to the public exhibition. A total of 218 (69%) were in support and 96 (30%) were opposed to the Draft Amendment. Of the 218 submissions in support, 158 were provided by way of a form letter, many of which did not provide addresses for the signatories. There were 89 form letters in support where the address could not be established from Council's rates and correspondence records. The use of form letters for objections was much lower, comprising 15 submissions. If the form letters are removed from both letters of support and objections the revised submission result is 60 (43%) and 81 (57%) against.

Form letters do not carry any more or less weight than original submissions and these statistics are provided to allow Councillors to assess the overall response to the formal exhibition process.

A copy of each submission, together with a covering index, has been distributed to Councillors as a separate attachment to this business paper.

Support

The major sentiments expressed in the submissions in support are:

- The proposed Centre is much needed for the community 99%
- Porter Park is a good location for the Centre 94%
- Porter Park is a good location because it is close to clients 78%
- Minimal impact on Porter Park as a sports field 20%

Against

The major sentiments expressed in the submissions against the proposal are:

- The loss of open space 88%
- Centre should be sited at Treelands Reserve 35%
- Loss of cricket field 32%
- Impact on adjoining amenity 28%
- Centre should be built in a more central location 23%

Other issues raised include the lack of footpaths and street lighting along the access road (Hayman Street) and the associated traffic and safety issues, as well as a diminution of adjacent property values.

Public Hearing

A public hearing is required to be held in accordance with Section 40A of the Local Government Act where re-categorisation of community land is proposed. Such public hearings are required to be undertaken by an independent person.

The public hearing into the Draft Amendment took place at the Ballina RSL Club on Tuesday 31 May 2011 between 6 pm and 9 pm. While a count of those present was not taken, it is estimated that in the order of 160 persons attended the hearing based on the seating capacity of the venue.

The Presiding Officer at the hearing was Mr Darryl Anderson from Darryl Anderson Consulting. Mr Anderson is acknowledged as being a highly competent, experienced and professional planning consultant who has practiced in both the private and public sectors on the Far North Coast of NSW for many years. Council officers were in attendance at the hearing to offer Mr Anderson assistance.

The Presiding Officer has prepared a report on the public hearing, a copy of which is attached to this report.

The report acknowledges that the changing of the categorisation of part of Porter Park to facilitate the proposed Aboriginal Child and Family Centre is a vexed issue in the Ballina community, as reflected in the diverse and genuinely held views of the speakers.

The Presiding Officer, however, concludes that on balance the north eastern corner of Porter Park is an appropriate site for the proposed Centre and he thus recommends that Draft Amendment No. 5 to the Community Land POM be adopted.

Thirteen of the speakers at the hearing lodged written material with the Presiding Officer. This material ranged from notes to assist in the oral presentation, copies of submissions made to the exhibition, fresh submissions or supplementary information. Given the nature of the public hearing and the nature of issues raised (ie material reinforcing submissions that had previously been lodged with Council), these submissions are not proposed to be reported but are available to Councillors upon request.

Council has also received correspondence criticising the Public Hearing process, Mr Anderson and his report. A large part of this criticism states that Mr Anderson has not considered other sites or matters extraneous to Porter Park.

These comments are not justified as the role of the Public Hearing process is purely to consider the proposed change to the categorisation of Porter Park. It is not the role of the independent person to consider other sites outside of this process.

In summary the report from Mr Anderson has confirmed that it is appropriate for Council to consider changing the categorisation of Porter Park, but this does not necessarily mean that Porter Park is the optimum site for the proposed Centre.

It is now the role of the elected Council to determine whether Porter Park is the preferred site for the proposed Centre, based on an assessment of all the information available.

Site Options

Since receipt of the NSW State Government's original notification in December 2009 regarding the proposed Centre, Council has considered a number of Council owned or Council controlled (i.e. crown land) properties that may be suitable.

In examining options Council has been mindful of the following key assessment factors:

- Location

Numerous independent studies have identified that enrolment rates for Indigenous Children in pre-schools are similar to non-Indigenous children however non-attendance rates are far higher for Indigenous children. The reasons for this are complex however two of the key barriers identified in reports are transport and accessibility therefore it is paramount that the Centre is easily accessible for its future users (*Reference sources included: Kulumun, Indigenous Online Journal, Wollotuka Institute, University of Newcastle, Australia; Biddle, N. (2007) Indigenous Australians and preschool education. Who is attending? Australian Journal of Early Childhood*)

- Federal Government Funding Conditions

The Federal funding can only be used for construction costs and limited operating costs. It cannot be used for land acquisition costs. This means that Council would need to finance any additional land purchased for the proposed Centre.

- Timeline

As with many Federal and State Government grants, the project must be commenced quickly or the community risks having the funding transferred to another local government area or the State losing the funding entirely. This means the site chosen must be zoned appropriately and must have no significant planning constraints attached.

- Culturally Appropriate and Acceptable to the Aboriginal Community

This is a critical issue in that to ensure the Centre has good attendance rates it is essential that the Aboriginal community supports the site.

With these considerations in mind, recapping, and in no particular order, the following site / options were considered.

1. Saunders Oval/TAFE site, Ballina
2. Former Council Depot Site on Bangalow Road, Ballina
3. Treelands Reserve, corner of Bangalow Road and Moon Street, Ballina
4. Bagot Park, Bagot Street, Ballina
5. Department of School Education site, Quays Drive, West Ballina
6. Wigmore Park, Swift Street, Ballina
7. Kingsford Smith Park (southern end), Ballina
8. Crown land alongside the Trawler Harbour, West Ballina
9. TAFE land, Ballina
10. Other Council freehold operational land
11. Council land between Tamarind Drive and Endeavour Close, Nth Ballina
12. Private property, West Ballina
13. Porter Park, West Ballina.

These sites are identified in the location maps attached to this report and a summary of the considerations for each site are as follows.

- 1. Saunders Oval/TAFE site, Ballina*

This was one of the two sites initially preferred by the LRG, however Council already has in place plans to expand Saunders Oval into this locality. These plans are well advanced and are designed to expand the space available for active open space in Ballina. The site has reasonable accessibility for the proposed Centre and would have minimal impact on the neighbourhood amenity. The land is zoned 6(a) Open Space under the existing LEP and community buildings are permissible under this zoning.

Council is planning to provide an additional oval and expand an existing small oval, including a new cricket field on this expanded area. With significant sporting infrastructure already in place in this locality it is far more appropriate for Council to be building on that infrastructure by providing additional sporting fields.

In summary this site is no longer seen as being viable due to an alternative use being proposed, although Council could reverse this decision if it so wished. This is not recommended as the expansion of Saunders Oval is considered the best overall use of this land due to the consolidation of sporting infrastructure.

2. Former Council Depot Site, Bangalow Road, Ballina

This land is located off Tamarind Drive, and adjacent to North Creek Canal (opposite Ballina Fair Shopping Centre). The land is currently used by Council as a depot site for the stockpiling of road construction material (i.e. soil, sand, quarry products etc) and for storing major infrastructure such as pipes and drains.

This site is zoned 1(b) Rural (Secondary Agricultural Land) under the LEP. In Zone 1(b) 'community buildings' are permissible with the consent of the Council subject to merit assessment against the objectives of the zone and the standard requirements of the Environmental Planning and Assessment Act.

The site may have some complexities due to past land-use as a sanitary disposal site, resulting in contamination and an inconsistent use of the reserved purpose of the land (sanitary). Additionally it may require reference to the RTA given its frontage to the Pacific Hwy (now Tamarind Drive).

The property is owned by the State Government and is used by Council under a licence agreement.

Overall the site is not considered suitable for the proposed Centre for a number of reasons including:

- It is not in Council ownership therefore it is not Council's decision as to whether or not the site could be used for the proposed Centre
- The existing contamination on the site means that there could be significant costs to remediate the land
- Accessibility from Tamarind Drive is poor
- The proposed use is not entirely compatible with the adjoining Clarke Street Industrial Precinct
- It may take an extensive timeframe to obtain planning consent, if possible at all, for the Centre on this site and as the land is State Government owned the proposal would require their support.

In summary this site is not considered a viable short term option.

3. Treelands Reserve, corner of Bangalow Road and Moon Street, Ballina

This was the site originally preferred by the LRG. The report from Council staff to the January 2010 Facilities Committee meeting recommended that the site was suitable for the proposed Centre. However, as mentioned earlier in this report, Council resolved at that meeting that it "*wishes to preserve the space for projected future Council provided facilities*".

Despite this resolution the site remains a viable option as it is Council owned community land, it is categorised for general community use, the zoning allows for the proposed Centre, it is centrally located, has good accessibility and there should be limited impact on the neighbourhood amenity.

The land is zoned 6(a) Open Space under the existing LEP and community buildings are permissible under this zoning.

The LRG has advised that Porter Park is now their preferred option over Treelands Reserve and they have concerns in respect to high traffic volumes in this locality.

Despite these concerns Treelands Reserve remains a viable option that can be progressed immediately, if Council so chooses.

4. Bagot Park, Bagot Street, Ballina

This is crown land for which Council is the reserve trust manager. This site is a viable option although Council could anticipate similar objections to neighbourhood amenity as is currently occurring with Porter Park. The area is not as expansive as Porter Park and there would need to be significant vegetation removal to ensure the Centre was able to be located on the site.

The land is reserved for public recreation, so there could be objection from the Land and Property Management Authority (LPMA) in respect to the permissibility of the proposed Centre. Vehicular access is somewhat limited by virtue of the intersection treatment at Bagot Street/Pacific Highway.

This site is a viable option although there will be delays sorting through the crown reserve purpose and obtaining support from the LPMA.

5. Department of School Education site, Quays Drive, West Ballina

This is State Government owned land and the advice from the LRG is that the State Government has future plans for the site and therefore it is not suitable for the proposed Centre.

From a Council perspective this is one of the more disappointing aspects of the site selection process in that there is little doubt that any original plans for a future school on this site will not proceed as the major residential growth for Ballina Shire will occur in the Cumbalum, Lennox Head and Wollongbar areas over the next ten to 20 years.

For the State Government to dismiss this large parcel of land, as it has "future plans", is annoying to say the least. Nevertheless, as the State Government has already said no to this site, this means it is not a viable option.

This site is zoned 2(a) Living Area under the BLEP. In Zone 2(a) 'community buildings' are permissible with the consent of the Council and would, in general terms, be compatible with the zone objectives.

Therefore if the State Government did change its mind this land could be progressed immediately.

6. Wigmore Park, Swift Street, Ballina

This is Council owned community land with facilities currently located on the site including the Wigmore Hall, Youth Activities Centre and Ballina Players Theatre.

There is not adequate space for the proposed Centre on this already well used site.

7. Kingsford Smith Park (southern end), Ballina

This is crown land, which is not under the control of Council, as it forms part of the crown reserve that makes up the Ballina Central Caravan Park. The Land and Property Management Authority (LPMA), through the LPMA's North Coast Holiday Parks Trust, is currently reviewing the use of this land and it is likely that they will be looking to expand the existing caravan park into this area.

The land is zoned 6(a) Open Space under the existing LEP and community buildings are permissible under this zoning.

The LPMA would need to agree to this proposal and from all reports such agreement is not likely to be forthcoming.

8. Crown land alongside the Trawler Harbour, West Ballina

The Richmond River Foreshore Master Plan, produced jointly by the LPMA and Council confirmed that the preferred use of this site is for a marina. The LPMA is continuing to pursue financial support for such a proposal and due to the limited foreshore space available the provision of a marina is considered the best long term option for Ballina for this land.

This land is zoned 4 Industrial under the LEP. In Zone 4 'community buildings' are generally not envisaged by the zone objectives but are permissible with the consent of the Council.

In the past, Council has "stretched" the assessment of community type developments for sections of the industrial estate, examples being for churches and the RSL Youth Club. This is not good practise and Council staff would be reluctant to recommend a community building within this zoning.

9. TAFE land, Ballina

A Councillor had previously identified another area of land adjoining the Ballina TAFE that could potentially be suitable. In response to this the Director of North Coast TAFE, Ms Elizabeth McGregor, has advised that, while further evaluation of the TAFE site is possible, the use of the TAFE land for the Centre would impede TAFE's plans for future expansion, and so constrain the community's long term vocational education options.

This site is zoned 2(a) Living Area under the BLEP. In Zone 2(a) 'community buildings' are permissible with the consent of the Council and would, in general terms, be compatible with the zone objectives.

However TAFE would need to support this proposal and a successful outcome from pursuing this option remains unlikely.

10. Other Council freehold operational land

Suggestions have been made that Council should use other freehold operational land it holds.

Council actually has no freehold operational land in West Ballina, and our holdings on the Ballina Island are already heavily used; i.e.

- West End Hall, Brunswick Street, Ballina (currently used for a hall)
- Fawcett Park (inadequate space)
- Wigmore Arcade and Car Park (car parking and commercial shops)
- Car Park - Corner of Moon and Tamar Street (car parking)
- Commercial properties adjoining the Council Chambers in Tamar Street and Crane Street (all leased or occupied by Council)
- 89 Tamar Street, Ballina (leased to the Department of Community Services)

The only other Council owned operational land in Ballina is at the Southern Cross Industrial Estate. As per the comments for the next option, this locality is not ideal, not easily accessible, there are concerns over zonings and it would be financially more prudent to purchase an alternative site in West Ballina or Ballina Island.

11. Council owned property fronting Tamarind Drive (former Pacific Highway) and Endeavour Close, North Ballina

Council has recently resolved to sell this land for a figure in excess of \$1 million, subject to development consent.

This land is zoned 4 Industrial under the LEP and as per the comments for the crown land at the Trawler Harbour (site option eight), it is not considered good practise to recommend a community building within this zoning.

Transport and accessibility are also concerns with respect to this site.

If this site was preferred Council would be forgoing the sale proceeds to provide a site for the proposed Centre. Rather than pursuing this, a more financially prudent option would be to purchase a private property in a more accessible locality.

For example, rather than foregoing over \$1 million in sale proceeds, it would be better for Council to expend those funds in providing a site in a better location. This outcome would have the same financial impact, in that over \$1 million would be expended or foregone, however the overall outcome would be far better through the acquisition of a more appropriate site.

The benefits and dis-benefits of land acquisition are considered in more detail in site option 12.

12. Private property, West Ballina

A Councillor initially suggested that Council consider purchasing the current McDonalds site in West Ballina as an option.

In response to this the Mayor and Council staff met with representatives from McDonalds to discuss the viability of this proposal. Information obtained from that meeting was:

- McDonalds plan to open their new facility at the corner of Tamarind Drive and Kerr Street before Christmas 2011
- The existing site will remain open until the end of January 2012, however it will then be closed
- McDonalds are prepared to sell the site to Council without going to the market
- A preferred price has been confirmed by McDonalds, however they have asked that Council keep this price confidential, as they will need to go to the market if Council does not purchase the land
- The preferred price for this land has been listed in the confidential report in this business paper to allow Councillors to be informed on that price.

The major downside with this proposal is that Council would have to purchase the land as the Federal Government funding does not allow land acquisitions to be financed from the grant.

This site is zoned 3 Business under the LEP. In Zone 3 'community buildings' are permissible with the consent of the Council and would generally meet zone objectives. Particular sites and proposed designs would have different assessment conclusions drawn and recommendations made but, in overall terms, there is clear permissibility.

In considering this proposal Council staff were hopeful that if significant funds could be saved in development costs for the new Centre, these savings, which would be sourced from the Federal Government grant funds, could then be used to offset acquisition costs.

For example, likely savings in using the current McDonalds site could include:

- Savings in infrastructure for utilities (water/sewer/electricity etc) - \$50,000
- Limited filling required - \$50,000
- Savings in building costs due to use of existing infrastructure - access etc - \$100,000
- Section 94 and Section 64 Contributions due to the existing commercial use rights of the site - \$150,000

If the existing building was partially refurbished the magnitude of these savings could increase to in excess of \$1 million. This is a rough estimate only as when Council staff contacted the State Government to obtain a more detailed plan of the proposed Centre the officers' responsible were not able to release that information to Council.

It is understood that the reason for this is that the LRG do not support this site as an option however this is disappointing in that as a public body Council should be provided with all the necessary information to ensure that a comprehensive evaluation of all sites is completed, as significant public monies will be expended on this project.

The advice from the LRG is that the McDonalds site is not preferred largely due to traffic volumes as it is surrounded by three relatively busy roads. It is also thought that the McDonalds site is seen as a "second class" option.

Council staff do not support these concerns as the land is on a prime site that could be designed to provide a first class Centre. Positives of the site include, but are not limited to:

- easily accessible
- is large enough at 4,100 square metres
- zoned business which caters for the proposed use
- from a neighbourhood amenity perspective the proposed Centre will be an improvement on the existing use
- likely to be significant savings in construction costs
- project can proceed immediately as the development application can be lodged and assessed during the next three months with tenders called for construction prior to the end of the calendar year. Building work would then commence in February 2012. This is considered to be no different to the timeframe for the Porter Park proposal, if it were to proceed
- Any concerns over traffic can be mitigated by landscaping, fencing and building design
- The fact that it is or once was a McDonalds site is irrelevant. If the property is re-developed it would provide a magnificent facility, highly visible to the community and with excellent accessibility it should be well utilised.

The major downside is that the acquisition cost would need to be financed by Council however we would then have a prime property asset for the longer term. This point is important in that in 20 to 30 years the need for the Centre may have changed and Council could possibly then be in a position to consider other uses for the property.

In addition to this property, in recent times, the land adjacent to the McDonalds site has also been offered for sale, with it going to auction in June 2011. The property was subsequently passed in and with a total land area of 1.276 hectares available it is also a viable option, subject to the land acquisition being funded.

This property is now being offered for sale in total or as three separate lots (subject to development consent and the registration of the plan of subdivision) with Lot 1 being approximately 3,329 square metres, Lot 2 - 3,445 square metres and Lot 3 - 3,502 square metres.

The LRG has previously advised Council that the proposed Centre could need to expand and one of the benefits of this site is that Council could acquire an area greater than the square meters currently required. From discussions with the Real Estate Agent managing the sale the owner is not wedded to the three lot proposal and potentially Council could acquire 4,500 to 5,000 square metres.

Overall, this land has many of the same benefits as the McDonalds site and the same disadvantage, being funding that acquisition. McDonalds does have the added advantage of potential savings in construction costs.

Information on these two properties is outlined in more detail in the confidential report included elsewhere in this agenda.

13. Porter Park, West Ballina.

The advantages of Porter Park relate to its overall size, accessibility, locality, current low usage levels and support from the LRG. The land is zoned 6(a) Open Space under the existing LEP and community buildings are permissible under this zoning, with Council's consent.

The disadvantages, as outlined in many of the submissions, relate to the loss of open space and potential impact on the local amenity.

In addition to these sites the LRG and DoCs have previously advised Council that they had also examined the following sites:

- Department of Housing Land, Tamar Street
- Space within the Ballina Public School (Department of Education and Training)
- Department of Education and Training land in Quays Drive, West Ballina (as per the Council options considered)
- An area behind Biala School in Fox Street, Ballina
- JALI Land Council land
- Cabbage Tree Island

No properties from this evaluation were considered suitable.

In conclusion, it is fair to say that the assessment of available land has been exhaustive.

Development Consent (State Government)

A further issue that Council needs to be mindful of is that in accordance with NSW Planning legislation a council cannot refuse consent for a State Government owned facility.

Despite this, if such a facility is to be located on council owned land, the facility can only be used through a lease provided by that council. Therefore Ballina Shire Council will be in a position to impose any operating conditions we require through that lease, whereas if we had to rely on planning consent conditions, this would not be possible.

In respect to the possibility of obtaining planning approval for the Porter Park site, the preliminary advice from Council's planners, based on the information available, is that there is not considered to be any factors such as traffic volumes, proposed operating hours and proposed uses that would be grounds for refusal.

Sustainability Considerations

- **Environment**

Porter Park is presently an open playing field with improvements limited to one toilet block and a modest shade shelter. Construction of a relatively large building with associated infrastructure would see the locality transformed, although the fundamental use of the park can be preserved. However the loss of any open space is a negative impact on the environment.

- **Social**

The proposed Centre is consistent with Council's Social Plan, which identifies Aboriginal and Torres Strait Islander people as a mandatory target group for the provision of key services. Establishment of a Child and Family Centre would achieve several of the key objectives of the Council's Social Plan.

- **Economic**

The provision of improved and integrated community infrastructure would contribute to the economic wellbeing of the shire, for the recipients of services and would provide for employment and training opportunities.

Legal / Resource / Financial Implications

The establishment of the proposed Centre in Ballina is a joint initiation of the Federal and State Governments in response to identified needs of Aboriginal people within our community.

Council has no statutory obligation to make any of its land available for the project and the level of resources and finances committed to the project is a matter for Council to determine.

Consultation

The proposed Centre has been the subject of significant consultation with the community both in a formal and informal manner.

Options

There is still a wide range of options available to Council, the major ones being as follows.

1. Resolve not to adopt the Draft Amendment to the Community Land POM and advise the State Government that no Council owned or controlled land is suitable for this facility, particularly due to the level of opposition to Porter Park.

If this occurs there is a strong possibility that the proposed Centre would not be located in Ballina and the State Government would identify another community to receive the funding. For this reason alone this option is not supported.

2. Resolve not to adopt the Draft Amendment to the Community Land POM and continue to investigate other options.

By not adopting the Draft Amendment this removes Porter Park as an option. Other sites remain as viable options and Council could, based on the contents of this report, indicate a preference for an alternative site.

Overall this is not considered to be a preferred option as despite the objections to the Draft Amendment, the proposed Centre can potentially operate effectively from this site.

If it is Council's objective to provide land for this facility, Council should at least adopt the Draft Amendment to ensure Porter Park remains as one viable option.

3. Resolve to adopt the Draft Amendment to the Community Land POM and continue to investigate options.

By adopting the Draft Amendment this finalises the current exhibition process, however this in itself does not mean that Council has provided approval for the proposed Centre to proceed at Porter Park.

In adopting the amendment this only ensures that one viable option remains available and Council can still hold further discussions / investigations in respect to other sites, although there remains the risk that on-going deferral of a decision could result in the funding being transferred to another community.

In looking at the other viable site options, from a Council perspective, there are considered to be only two viable proposals, being Treelands Reserve or a private property acquisition. Both these options tick the key criterion of:

- Good accessibility
- Adequate size
- Appropriate zoning
- Able to progress immediately

Unfortunately these sites are not supported by the LRG, although it is considered that the major reason provided (i.e. traffic concerns) is not sufficient to rule these options out entirely.

The one other site that is under Council control, and also remains as a viable option, is Bagot Park. The major downside to this site is that it is a crown reserve and therefore it could be months before Council was able to confirm whether or not the LPMA would approve the Centre being built on the sites.

Residential amenity could also be a major concern with respect to this land and on balance, Porter Park is considered to be a more superior site due to its location and accessibility for potential users of the Centre.

Similarly, Kingsford Smith Oval, the TAFE Land and the DET site at West Ballina, are all potential sites, however they are not owned or controlled by Council and it would need a significant change in the State Government's position to allow these sites to be progressed promptly.

4. Resolve to adopt the Draft Amendment to the Community Land POM and provide approval for the NSW State Government to lodge a development application for the Centre on Porter Park as per the concept plans.

The final option is to proceed as per the exhibited amendment. This allows the project to progress to the next stage, which is the lodgement of the development application, and assessment of that application by Council planning staff.

Objections to that development application can be expected based on the submissions to the amendment to the Community Land POM.

Conclusions

The Draft Amendment and its endorsement of the proposed Aboriginal Child and Family Centre on Porter Park has generated considerable public comment, prior to, during and after the mandatory community engagement procedures.

There are a significant number of people opposed to it because of short term or long term impacts on public open space and its recreational value.

Contrary to this perception is the advice from Council staff that Porter Park has only limited appeal as a sporting venue, and Council's open space planning is predicated on providing multi-field district facilities. In this regard, there are plans to expand the sporting fields at Saunders Oval and Ballina Heights will also soon provide a new cricket field. In any event, Porter Park cricket ground can be retained for competition use, albeit in a different configuration.

The Draft Amendment endorses the use of approximately 20.5% of actual dedicated park for the proposed Centre, leaving a substantial residue (approximately 1.48 hectares) for organized cricket and for embellishment in a manner to be determined. There is also a significant level of public support for the Centre as a necessary facility to address the educational and health needs of Aboriginal children and families and an almost unanimous view amongst supporters that Porter Park is a good location because of its proximity to its target group.

Councillors have had the benefit of attending briefings provided by representatives from the Department of Community Services and other supportive groups which have outlined the demonstrated need for the types of services that are envisaged to be delivered at the Centre.

Significant evidence has been cited that there are barriers preventing/discouraging Aboriginal children accessing mainstream health and educational services.

Very few people have objected to the concept of an Aboriginal Child and Family Centre, or the benefits such a facility could bring to disadvantaged members of our community. Fundamentally, it is about where the facility should be located in Ballina. Widely divergent views have been expressed about the suitability of Porter Park.

The view of the independent person presiding at the public hearing, having had access to all background material and reports, all submissions, the benefit of personal representations and a view of the park and locality has concluded that the re-categorisation of the north-eastern corner of Porter Park for the siting of the facility is appropriate in the circumstances.

The matter has generated significant community discussion and Council now needs to adjudicate in the public interest.

If, on balance, Council is of the opinion that Porter Park is the preferred option the recommendation should be framed as follows:

1. That Council adopt Draft Amendment No. 5 to the Ballina Shire Principal Generic Plan of Management for Community Land as exhibited for public comment.
2. That Council authorises the General Manager to sign a development application for the proposed Aboriginal Child and Family Centre to be located on that area of Porter Park classified as "general community use".

If this is the preferred approach Council can continue to expect opposition to the proposal through the development application process.

From a staff perspective Treelands Reserve still remains as a viable option that may not generate the same level of objection due to its existing community use, although this has not yet been tested.

The only concern that Council staff have in respect to immediately progressing with Porter Park or any other proposal is that the option of a private land acquisition has not yet been thoroughly examined in respect to:

- cost savings that could be achieved by utilising the existing McDonalds site
- direct discussions with the Federal Government in respect to savings made in construction costs being applied to assist in acquisition costs for the McDonalds site
- or direct negotiations on the land adjoining the McDonalds site.

Considering that significant public monies will be expended on the Centre it would be reasonable for Council to have these outstanding matters resolved prior to a final decision being made.

For example, Council could ask the Federal Member, Ms Janelle Saffin, to hold discussions with the Federal Government to determine whether the funding can be used to help offset the acquisition costs of the McDonalds site. These discussions could be held almost immediately which would then allow the matter to be resubmitted to the August Council meeting. It should be noted that these discussions have not been held to date as Council has not indicated whether it wishes to pursue this option.

At the same time Council could hold confidential negotiations in respect to an agreed purchase price for the land adjoining McDonalds. By having both sets of information available Council would then be in a position to finalise its site assessment.

In considering these options Council should not anticipate the savings in construction costs for McDonalds will fully offset the land acquisition costs. There is no doubt that Council will still be required to commit hundreds of thousands of dollars to this acquisition. Similarly there will not be cost savings for the land adjoining McDonalds.

The recommendations that now follow firstly provide for the adoption of Draft Amendment No. 5 to the Generic Plan of Management for Community Land as exhibited for public comment as this finalises the current exhibition process.

However both options of either proceeding immediately with Porter Park or deferring the decision for a further month are provided for determination by Council.

RECOMMENDATIONS

1. That Council adopts Draft Amendment No. 5 to the Ballina Shire Principal Generic Plan of Management for Community Land as exhibited for public comment. The effect of this amendment is to allow the lodgement of a development application for a proposed Aboriginal Child and Family Centre on the north-eastern corner of Porter Park in West Ballina.

Option 2 A

- 2A. That in respect to point one, the General Manager is NOT authorised to sign the subject development application until Council receives a further report, to the August 2011 Ordinary Meeting, on the possibility of using the Federal Government grant funding to offset part of the costs of Council acquiring the current McDonalds site for this Centre, along with financial details of Council acquiring part of the site adjacent to the McDonalds site.

OR

Option 2 B

- 2B. That in respect to point one, the General Manager is authorised to sign the subject development application to allow the application to be lodged for the proposed Centre on Porter Park.

Attachment(s)

1. Exhibited Draft Amendments to Community Land POM
2. Report from Presiding Officer on Public Hearing
3. Concept plans for the proposed Centre at Porter Park
4. Locality plan for Porter Park
5. West Ballina Open Space Assessment
6. Location Maps - Various Site Options

Copies of the submissions to the formal exhibition process have been provided as a separate attachment.

9.2 Alstonville Community Preschool - Relocation

File Reference	Children's Services
CSP Linkage	People attaining health and wellbeing; Resilient and adaptable communities
Delivery Program	Community Planning
Objective	To invite the Council to assist with investigations for the relocation of an existing preschool in Alstonville

Background

Council may be aware that the Alstonville Community Preschool is currently endeavouring to find new premises from which to conduct its children's services.

The purpose of this report is to inform the Council of the preschool's particular circumstances and advise of actions taken to date by Council staff in response to enquiries from representatives of the preschool. Further, to seek direction from the Council about the extent to which its resources might be deployed or otherwise made available to support the efforts of the preschool.

Key Issues

- Options for relocation of an established preschool
- The level to which Council's assets or resources should be considered

Information

For quite some time, officers from within Council's Strategic and Community Services Group, Civil Services Group and Commercial Services Unit have been responding to enquiries received from representatives of the preschool. Put simply, the community-based organisation has been asked to vacate its existing premises owned by the Baptist Churches of NSW which fronts Wardell Road at the southern edge of Alstonville. As a consequence, the enquirers have sought advice about the availability of Council owned or controlled land or premises to accommodate their facility.

Information provided by the preschool representatives to date is that they have been unsuccessful in obtaining government grant funding to assist in the relocation of their facility (assuming that a suitable site/premises has been identified). In other respects however, the preschool's capacity to contribute financially toward the establishment of a new centre, and to meet ongoing lease commitments including rental is presently not known to Council.

In its consideration of this matter Council has been asked to particularly bear in mind that discontinuation of the existing preschool will leave the Alstonville community without these services. Given this, Council has been asked to earnestly investigate ways of supporting a relocation.

It is understood that the NSW Department of Community Services has been consulted about the preschool's current circumstances and is highly supportive of its relocation. Whether this converts to funding support from the government remains to be seen.

At this point, it is not intended to go into a great level of detail about the specific needs of the preschool in terms of land and floor area requirements. As a generalization it has been indicated that the facility would require approximately 2000m² of land to comply with the licensing requirements of the Department of Community Services, and to allow for reasonable growth in future enrolments.

It is suggested that if Council wishes to indicate its support in finding a new 'home' for the facility, staff will engage further with the preschool representatives to discuss these and other issues before reporting the matter back to Council.

In addition to the above, it would be an option for C Ward Councillors and the Mayor to be available to meet with the representatives and staff to discuss the proposal in greater detail. The reason for this suggestion is that some of the relocation options may include public land, and Councillors may be able to provide views about the likely level of community 'acceptance' of the facility on a particular site. If a preferred site is able to be identified through this process the Councillors may also be able to suggest a preferred scope of community engagement in taking the project forward.

A further benefit of such a meeting would be that these Councillors may have a 'feel' for the level of demand for identified land/premises from potentially competing community groups or other organisations. This would assist in determining whether a competitive process would need to be implemented as a prerequisite to granting a lease or licence.

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**
It is understood that the existing preschool provides an exceptionally important service for families with young children in Alstonville. Discontinuation of preschool services in this part of the shire would potentially cause considerable inconvenience and hardship to residents. As a generalization it could be said also that preschools (as well as other child care facilities) promote community 'connectedness' in addition to their other principal function of providing early childhood education and socialization.

- **Economic**

Provision of quality preschool services help to support the economic base of a local community.

Legal / Resource / Financial Implications

The purpose of this report is to invite Council to express its view about supporting the endeavours of the preschool group to relocate from its existing premises. Further engagement would enable the resource and/or financial implications for the Council to be better understood.

Staff efforts to date have been limited to attendance at a number of meetings with preschool representatives and conducting 'desktop' audits of potential sites/premises to accommodate a facility.

Consultation

No Council-conducted community consultation has been undertaken to date. It is understood the preschool representatives have taken some steps recently to increase the community's understanding of their circumstances. Also, that the representatives have been in contact with the local State Member and the Department of Community Services in an attempt to elicit support for their relocation.

Options

Council has no obligation to take any action in relation to this matter. However, it is suggested that an affirmative response has the potential to assist in maintaining very important early childhood services for Alstonville and that the public interest would be well served in this approach. Council's support, at a level yet to be determined, would also serve to achieve outcomes identified in the Council's endorsed Social Plan in relation to children's services.

RECOMMENDATIONS

- 1 That Council endorse, in principle, its support for the relocation of the Alstonville Community Preschool and that the General Manager be authorised to assist the preschool with its investigation of site options
- 2 That a working party comprising C Ward Councillors and the Mayor be formed to liaise with representatives of the preschool to canvass site options and
- 3 That a further report concerning the outcome of investigations be submitted for Council's consideration within two months.

Attachment(s)

Nil

9.3 Joint Regional Planning Panels - Council Submissions

File Reference	Joint Regional Planning Panels
CSP Linkage	A built environment contributing to health and wellbeing
Delivery Program	Governance
Objective	To outline Council's roles and responsibilities in relation to development applications subject to determination by the Northern Region Joint Regional Planning Panel.

Background

The Northern Region Joint Regional Planning Panel (JRPP) is a consent authority for certain types of development. Typically, the JRPP is the consent authority for development proposals that are classified as 'regional development' under State Environmental Planning Policy (Major Development) 2005.

Where the JRPP is the consent authority, Council's technical staff undertake the assessment and reporting associated with development applications for the JRPP. The elected Council has no role in the technical assessment or determination of such applications. Council does retain its other functions as consent authority post determination (e.g. notification of determination, compliance).

Notwithstanding the above, Council may make a submission to the JRPP in relation to an application that is to be determined by the panel. Such submissions are made by Council as a stakeholder or interested party rather than as a consent authority.

This report outlines Council's roles and responsibilities in relation to development applications for which the JRPP is the consent authority.

Key Issues

- Council roles and responsibilities in relation development applications to be determined by the JRPP.

Information

Assessment and Determination of JRPP Development Application Matters

As indicated above, the operational procedures for JRPPs specify that council staff undertake the assessment and reporting associated with development applications for the JRPP. Attachment 1 contains a flow chart that illustrates the role of Council's operational staff in the assessment of development applications for the JRPP. As shown by the chart in Attachment 1, the elected

Council has no role in the technical assessment or determination of the application. As such, the elected Council is not able to view or direct the technical assessment of a development application that is under the jurisdiction of the JRPP.

Council Submissions on JRPP Development Application Matters

As outlined above, Council may make a submission in relation to an application to the JRPP for its consideration. The JRPP operational procedures provide for councils to make a submission on an application that is to be determined by a regional panel during and up to seven days before the panel meeting.

Importantly, submissions made by councils should not be prepared by persons involved in the assessment of the application. Rather, submissions may be prepared by another council officer, or alternatively the council may engage a consultant.

If Council elects to make a submission, it may also register to address the JRPP to express its view before the panel makes a determination on the application. Individual councillors can also register to speak to the panel at its meeting.

Having regard for the above, it is suggested that the optimal way for Council to consider submissions to the JRPP is to consider each of the following:

- (a) Council's view with respect to support or objection to the recommendations of an assessment report to the JRPP.
- (b) Provision of a formal written submission in relation to a development application to the JRPP. Written submissions may simply state Council's support or objection to recommendations of an assessment report, or provide a comprehensive discussion of issues and considerations.
- (c) Provision of a verbal deputation to the JRPP by either an authorised member of staff or a Councillor. A written submission must be provided to the JRPP if a deputation is to be made.

With respect to timing, members of the public, which in this case includes the Council, are not able to view the JRPP assessment report until it is made publicly available. Therefore, Council will normally have seven days in which to view the assessment of an application, convene a meeting to consider its position in relation to a JRPP matter, and forward a submission (should Council elect to make one). To assist staff in the presentation of JRPP matters to Council in relation to the making of a submission, it is suggested that Council adopt the steps shown in the flow chart in Attachment 2 as the basis for submissions related reporting.

As outlined in Attachment 2, it is suggested that where Council wishes to consider the making of a submission to the JRPP, that it resolves to do so. This then enables the scheduling of a meeting time to correlate with the seven day opportunity for the review of the JRPP assessment report for an application and the provision of a submission.

Given the timeframes involved, it will most often be extremely difficult to prepare a comprehensive written submission to the JRPP. Therefore the main option available to Council in relation to JRPP matters will be either to provide written support, or objection to, the recommendations in a JRPP assessment report. This could be supplemented by a verbal deputation to the JRPP meeting where considered beneficial.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The approach to development assessment by Council officers on behalf of the JRPP is designed to meet Council's responsibilities under the *Environmental Planning and Assessment Act*.

The approach to the making of a submission by Council on a JRPP matter is designed to maximise efficiency in the presentation of material to Council for consideration.

Consultation

Not Applicable

Options

Council must act in relation to JRPP matters within the requirements set out under the *Environmental Planning and Assessment Act*. Given this, Council's roles and responsibilities are essentially established.

The primary area of discretion for Council is whether or not it wishes to make a submission in relation to a development application to be determined by the JRPP. Where Council wishes to make such a submission, it is recommended that the approach shown in Attachment 2 be adopted as the basis on which submissions will be considered, unless otherwise specified by Council. This means that Council would consider its view in relation to a JRPP development application within the seven days immediately prior to the determination of an application unless it resolves to take another course of action to consider its submission.

Alternatively, Council could seek to compile a submission to the JRPP prior to the availability of the assessment report, but this is not considered optimal as Council will not have the benefit of the availability of the assessment report recommendations and resources independent of the application's formal assessment would be required to analyse the development application material.

RECOMMENDATIONS

1. That Council notes the internal development assessment procedure associated with development applications that are subject to determination by the Northern Region Joint Regional Planning Panel.
2. That Council endorses the following steps as the basis for a standard approach to the consideration and making of a submission to the Northern Regional Joint Regional Planning Panel in relation to a development application.
 - Council resolution to consider or make a submission on a JRPP DA matter.
 - Council meeting and decision on submission following public availability of JRPP assessment report.
 - Submission forwarded to JRPP and deputation made where applicable.

Attachment(s)

1. Attachment 1 Flow Chart - Development Assessment (JRPP Matters)
2. Attachment 2 Flow Chart - Council Submissions (JRPP Matters)

9.4 Sustain Northern Rivers

File Reference	Sustainability General
CSP Linkage	Resilient and adaptable communities
Delivery Program	Strategic Planning
Objective	To invite the Council to consider the opportunity to participate in the Sustain Northern Rivers Regional Collaboration

Background

Sustain Northern Rivers (SNR) is a collaboration of 20 peak regional organisations working together to provide a local response to climate change. SNR was formed in 2008 and is a collaborative platform that aims to empower local communities to become self-sustaining with a focus on food, transport, energy and behavioural change.

SNR has established four action priorities, these are:

1. Sustain Food - To increase local food consumption and uptake of sustainable food production methods.
2. Sustain Energy -To empower and enable the Northern Rivers Community to reduce the region's ecological footprint (energy, waste and water).
3. Sustain Transport -To reduce transport emissions and increase transport options, physical activity, social capital and resilience.
4. Sustain Change - To provide mechanisms that support and promote sustainability initiatives, including climate change mitigation and adaptation.

During 2009 letters were sent to each of the regional councils asking them if they would participate. At that time the decision of the General Manager, in consultation with the Mayor, was not to join, largely due to concerns over the potential effectiveness of the group, and the actions already being taken by Council.

SNR representatives have also presented to the Regional General Manager's Group. Since this time, the collaboration has now grown to include a number of regional organisations and local councils.

More recently Ballina Shire Council has been approached via Council's Sustainability Programs Coordinator to participate in SNR. This report provides information on the SNR, its membership, objectives and commitment required to assist Council in determining whether it would like to participate in the collaboration, and if so, to nominate a representative to the SNR Steering Committee.

Key Issues

- Participation in the Sustain Northern Rivers collaboration.
- Council representation on the Sustain Northern Rivers Steering Committee.

Information

SNR seeks to maximise network action by creating a collaboration of organisations engaged in climate action to share experiences and create synergies between disparate agencies.

SNR objectives are to:

- Help Northern Rivers communities live and work more sustainably
- Cut the collective carbon footprint of the Northern Rivers
- Foster networks that stimulate innovation and action
- Facilitate collaboration amongst regional organisations
- Pool resources, share knowledge and learn from past failures and successes
- Build the adaptive capacity of Northern Rivers communities
- Maximise outcomes by co-ordinating efforts
- Accelerate change by sharing innovation
- Sustain outcomes from time-limited project grants

Organisations currently represented on SNR are; Byron Shire Council, Lismore City Council, Local Community Services Association, Northern Rivers Catchment Management Authority, North Coast Health Promotion, North Coast TAFE, North East Waste Forum, Northern Rivers Community Colleges, Northern Rivers Social Development Council, Northern Rivers Tourism, Northern Star Pty Ltd, Department of Rural Health NSW, Department of Industry and Investment NSW, Department of Education and Training, Regional Development Australia – Northern Rivers, Richmond Valley Council, Southern Cross University, Tweed Shire Council and the Youth Environment Society.

If interested in participating, organisations are invited to sign the non-binding Northern Rivers Climate Change Agreement (see attached). The signatories to this agreement commit themselves to the following common objectives:

- To achieve the widest possible community involvement in formulating specific climate change mitigation, adaptation and sustainability transition goals and targets for the Northern Rivers region.
- To encourage, support, and enable the communities, institutions, organisations and businesses of the region to undertake their own climate change action initiatives in support of the regional goals and targets.
- To jointly advocate for measures to strengthen the resilience of regional communities and businesses, build the region's social, economic, and natural capital, and promote ecologically sustainable ways of living and working.

- To promote the opportunities that climate change offers the region to fashion a new ecologically sustainable, diverse and creative economy capable of fulfilling the material and cultural needs of present and future generations.
- To establish and monitor key indices of sustainability in the region and review the regional climate change goals and targets against these indices and evolving national and international standards.

The signatories to this agreement are required to appoint a representative to the SNR Steering Committee. This committee will be the forum for ongoing strategy development, coordination and governance of their collaboration in pursuit of the agreement's objectives. Currently, council representation on this steering committee includes elected councillors, senior management and council officers. Other peak regional organisations tend to have high level representation on SNR.

It is recognised by SNR that councils are already doing a substantial amount in regard to climate change mitigation and adaptation and that being part of this collaboration is not about creating more work for member organisations, but rather working smarter through coordination. SNR member organisations collaborate in developing goals and targets based on the action priorities, and indicators for progress. Signatories develop projects together and will establish a process to review and report on the outcomes. Council representatives are therefore able to set their own level of participation in this collaboration.

This arrangement may also provide collective strength to attract funding for the regional priorities. The SNR Steering Committee is currently finalising a large submission package to assist the region adapt to the impacts of global environmental change. The \$16 million package will maximise partnerships, leverage agency programs and deliver outcomes linked to key Australian Government initiatives over 3-5 years. If successful, this could potentially bring funds for projects that fit well with the sustainability agendas of councils.

It is understood that there are benefits in Council participating at a regional level on sustainability related issues, particularly in regard to areas such as transport, energy, food security and climate change that could benefit from a regional and collective response. There is also scope for a regional group such as SNR to sustain time or budget restrained grant projects and adapt these for regional implementation as has been the case for the Northern Rivers Carpool and the Northern Rivers Foodlinks projects.

Due to regional focus of this collaboration and current high level stakeholder representation on the SNR, it is however appropriate that Council determine how best it would like to be represented on the group, if at all.

Sustainability Considerations

- **Environment**

A collaborative approach to addressing issues that contribute to the long-term sustainability of the region can have significant environmental benefits.

- **Social**

A collaborative approach to addressing issues that contribute to the long-term sustainability of the region can have significant social benefits, especially in regard to building community resilience to the impacts of climate change.

- **Economic**

A collaborative approach to addressing issues that contribute to the long-term sustainability of the region can be more economically efficient than addressing these issues individually.

Legal / Resource / Financial Implications

At this stage there are no financial or legal implications in becoming a signatory to the SNR group. As indicated, the Council representative on the group can determine, in consultation with Council, what level of participation is appropriate. The only resource implication at this stage is the time commitment of the Council representative attending the SNR Committee meetings four times a year (three hour meetings).

Consultation

Information provided by members of the SNR collaboration has been used in the drafting of this report.

Options

1. Council can choose not to become a signatory to the Northern Rivers Climate Change Collaboration Agreement. This option is not preferred as it will limit the potential for Ballina Shire Council to participate in the Sustain Northern Rivers regional forum.
2. Council can become a signatory to the Northern Rivers Climate Change Collaboration Agreement and appoint an elected Council representative to the SNR Steering Committee. In considering this nomination, this representative would need to be aware of and communicate Council's activities in regard to climate change, energy, transport and food resilience. This representative would report SNR developments back to Council.
3. Council can become a signatory to the Northern Rivers Climate Change Collaboration Agreement and appoint a staff representative to the SNR Steering Committee. Due to the other high level representation on this group, its potential for issues of a political nature to arise, and the importance of conveying community rather than policy values or views, this option is not preferred.

If Council remains uncertain about its involvement with the organisation it could defer its consideration of the matter pending a briefing from an appropriate Sustain Northern Rivers representative, at a time and date to be fixed.

The recommendation that follows is for Council to join, with a Councillor representative to be nominated.

RECOMMENDATIONS

1. That Council agrees to become a signatory to the Northern Rivers Climate Change Collaboration Agreement.
2. That Council determine its Councillor representative for the Sustain Northern Rivers Steering Committee.

Attachment(s)

1. Northern Rivers Climate Change Collaboration Agreement and Schedule 1 -The Process

9.5 Ballina LEP - Amendment Request - Stoville, Alstonville

File Reference	LEP Amendment Requests AAA General - Stoville Alstonville
CSP Linkage	Diverse and balanced land use
Delivery Program	Strategic Planning
Objective	To seek direction from Council with respect to the preparation of a planning proposal relating to Lot 1 DP 817406 located adjacent to the Russellton Industrial Estate, Alstonville.

Background

Council has received a request for an amendment to the Ballina Local Environmental Plan 1987 from GeoLINK Pty Ltd on behalf of Stoville Pty Ltd. The request relates to part of Lot 1 DP 817406 located adjacent to the south eastern extent of the Russellton Industrial Estate at Alstonville (Attachment 1). A copy of the amendment request submitted to Council has been distributed to Councillors as a separate attachment.

The request seeks amendment to the LEP to enable continued light industrial land use on approximately 0.68 hectares of land in the north western portion of the property (Attachment 2). The request also seeks enabling of a boundary adjustment subdivision between the subject land and the adjoining Lot 53 DP 700227 which is currently in the ownership of Williams Brothers (Service) Pty Ltd and is occupied by Duraplas plastic water tank manufacturers.

The request seeks to enable the long term occupation of the north western portion of the Stoville land for industrial purposes in order to address a long standing land use conflict issue between industrial activities undertaken by Duraplas and residential use of the dwelling located on Lot 1. Presently, the subject land is occupied by Duraplas for storage purposes. It is understood that the house on the subject land has been the subject of a lease agreement between the landowner and Williams Brothers (Service), with Duraplas occupying the dwelling house. This arrangement arose as a short term solution to the land use conflict (see below for further details).

Lot 1 DP 817406 is currently zoned 7(i) Environmental Protection (Urban Buffer), with the adjoining Russellton industrial estate subject to a 4 Industrial zone under the Ballina LEP 1987 (Attachment 3).

This report outlines the proposed LEP amendment and associated issues.

Key Issues

- Utilisation of an LEP amendment to address a land use conflict.

Information

Site History

Council has received reporting with respect to this matter over a period of approximately 10 years. Such reporting has related to development applications associated with the operations of Duraplas, requested amendment to the Ballina LEP 1987 and in relation to Council's LEP Renewal program. Evidently, the approaches taken to date by Council, Duraplas and Stoville have not provided for the resolution of the issues applicable to the site.

The following provides an overview of the history associated with the Stoville and Duraplas sites:

- Duraplas Development Application (2000)

Development Application 2000/631 was submitted on behalf of Williams Brothers (Service) Pty Ltd, seeking approval for manufacturing of plastic tanks that had commenced on Lot 53 DP 700227 without development consent. At that time, noise emissions from the tank manufacturing operation and their potential impact on an existing dwelling located on land owned by Stoville (Lot 1 DP 817406) was a central issue considered by Council. Noise related concerns were somewhat alleviated by a lease arrangement between Duraplas and Stoville that involved the occupation of the dwelling by Williams Brothers Services Pty Ltd.

Council resolved to grant development consent in relation to the application with a specific condition relating to noise. In summary, that condition required that night time manufacturing by Duraplas was to discontinue at the cessation of the lease agreement between Stoville and Williams Brothers Services or in December 2004 (whichever occurred first). This is a critical consideration as Duraplas has indicated that night production (and more generally, a 24 hour production cycle) is important to the viability of the business. It is presently unclear as to whether Duraplas is operating within the required hours of operation as specified by the above-mentioned condition of development consent.

- Stoville Rezoning Request (2002)

Council considered a request from Stoville for the rezoning of part of Lot 1 DP 817406 including the dwelling house in 2002. The rezoning sought application of an industrial zone to approximately 0.6ha in order to resolve the land use conflict between the dwelling house and Duraplas through the long term occupation of the land by Duraplas for industrial purposes. This request arose from a 2001 resolution of Council to initiate discussions within the landholder and tenant to achieve a compromise. At this time, it was also evident that the subject land was already occupied by Duraplas for tank storage purposes. It appears that this use, which continues at present, is not authorised by way of development consent.

Council resolved (in part) as follows [Minute No.280202(045)]:

1. *Advise Stoville Pty Ltd (Mr Tim Reilly) that it is not supportive of the rezoning proposal for the following reasons:*
 - a. *There are sufficient stocks of industrial land in the vicinity for the foreseeable future.*
 - b. *No study or decision has been taken by Council on whether the existing Industrial Estate should be expanded or how it will be expanded.*
 - c. *The proposal will alienate high quality agricultural land by consuming the said land for industrial use and by the provision of appropriate buffers.*
 - d. *The proposal will compromise the 7(i) Environmental Protection (Urban Buffer) zone.*
 - e. *The proposal is not part of an integrated plan for the industrial estate with the accompanying planning of services.*

2. *Advise Williams Brothers Pty Ltd (Mr John Flemming) that Council is not supportive of the rezoning proposal and that ultimately the tank manufacturing operations are required to comply with the Protection of the Environment Operations Act.*

3. *Advise Williams Brothers Pty Ltd (Mr John Flemming) that Council will require the tank storage within the Reilly lease area to be vacated at the end of the lease period (12 December, 2004) unless arrangements have been made for Mr Reilly's dwelling to be relocated to the Ellis Road end of the property prior to that date, in which case, Council will not require the area to be vacated until 12 December, 2009 (N.B. a development application for the storage activity will need to be lodged with and assessed by Council).*

The effect of the above resolution was to decline the request for rezoning of the land, indicate that Duraplas should comply with relevant standards and allow occupation of the Stoville land for tank storage purposes (subject to obtaining development consent) until the expiration of the lease in place at that time (expiry in 2004) unless other suitable arrangements regarding the dwelling house had been made.

▪ Stoville Submissions to Draft Ballina Local Environmental Plan 2010

In response to the public exhibition of the draft new shire-wide LEP, Council received a request for the application of an industrial land use zone to part of Stoville's Lot 1 DP 817406. The request related to that part of Stoville's land that encompasses the existing dwelling house and Duraplas storage operations in the north western portion of the site.

Stoville's request was considered by Council's Environmental and Sustainability Committee in relation to the draft LEP on 17 and 19 May 2011. The Committee recommended that the matter be subject to a site specific planning proposal should it proceed further. Council adopted this recommendation at its Ordinary Meeting held on 26 May 2011 [Minute No.260511/23]. In accordance with Council's resolution, Stoville was invited to submit a request for an LEP amendment. This report addresses the subsequent request that has been made by Stoville.

Premise of the Requested LEP Amendment

By way of summary, Stoville's request to amend Council's LEP is seeking the following:

- Application of an industrial land use zone to approximately 0.68 ha of land in the north western portion of Lot 1 DP 817406. This land is currently zoned 7(i) Environmental Protection (Urban Buffer) under the Ballina LEP 1987.
- The intent of the application of the industrial zone is to make the subject land available for use by Duraplas for industrial purposes on a permanent basis in order to diminish land use conflict between Duraplas and the dwelling house located nearby on Lot 1 DP 817406.
- The mechanism proposed by Stoville is the incorporation of the subject land into the adjoining Lot 53 (currently utilised by Duraplas) via a boundary adjustment subdivision.

The proponent contends that Council's actions in granting approval to the subdivision of the Russellton Estate for industrial purposes and subsequent approval of the Duraplas operation adjacent to his dwelling house on Lot 1 DP 817406 has been part of the cause of the land use conflict.

Key Issues

Whilst the matter might appear to be relatively minor, there are a number of significant considerations associated with the requested LEP amendment. The key factors identified for consideration are outlined below:

- Encroachment into the Alstonville Urban Buffer

Council has maintained a long standing policy on the Alstonville Plateau whereby urban development has not been enabled on land zoned 7(i) Environmental Protection (Urban Buffer). This policy limits the lateral expansion of both Alstonville and Wollongbar and is reflected in Council's local planning policy documents.

Pursuit of an industrial land use zone as requested by Stoville will mean an encroachment (albeit minor) into the existing Alstonville urban buffer area. In this regard, a key factor to consider is whether or not the diminution of land use conflict in the locality outweighs the preservation of the urban buffer having regard for the current land use and proposed approaches to the future use of the land.

- Industrial Land Supply

Council's Industrial and Commercial Land Use Review, prepared in 2008, found that there is adequate supply of zoned and planned industrial land in Ballina Shire to meet expected demand to the year 2028. Importantly, there is approximately 6.2ha of vacant industrial zoned land adjacent to the existing Russellton Industrial Estate that is available for future industrial development.

Given the above, a need for additional industrial land is not a basis for the application of an industrial zone to the subject land.

▪ Encroachment into State Significant Farmland

The subject land is identified as State Significant Farmland by the NSW Department of Planning and Infrastructure. As such, rezoning of the land is subject to Ministerial Direction No.5.3 - Farmland of State and Regional Significance on the NSW Far North Coast. The objectives of the direction relate to preservation of high quality agricultural land for food production and reduction of land use conflict associated with encroachment of urban land uses.

The direction states that a planning proposal must not rezone land that is 'State Significant Farmland' for an urban or residential purpose unless the Director General of the Department of Planning and Infrastructure is satisfied that the planning proposal is consistent with the Far North Coast Regional Strategy or a series of considerations outlined under the Northern Rivers Farmland Protection Project published by the then Department of Planning.

The proponent suggests that the application of an industrial zone to the subject land is reasonable in the circumstances on several grounds including the following:

- The rezoning involves a minor rounding off of an urban area;
- The site is immediately adjacent to an existing urban zoned area;
- The land identified for the proposed industrial zone is not used for agricultural purposes;
- The proposed zoning seeks to resolve a long standing land use conflict.

This is a substantial issue and Council should satisfy itself as to whether it considers the potential use of State Significant Farmland for industrial purposes to be a suitable outcome in the circumstances. Importantly, if Council is of the view that the circumstances warrant further consideration of the application of an industrial zone to the land, the Department of Planning and Infrastructure must also agree to the concept to enable the LEP amendment to progress. Given the agricultural status of the land, it is possible that the Department will not allow the LEP amendment to proceed even where Council supports its progress.

▪ Dwelling House

The existing dwelling house on the Stoville land is the focal point with respect to the identified land use conflict in the subject circumstances. The key issue is that the dwelling house is a receiver of noise emissions that the owner of the dwelling house considers to be unacceptable. As outlined above, Council has previously indicated its concern in relation to noise emissions associated with the operations of Duraplas in relation to the dwelling via the imposition of a condition of development consent attaching to DA 2000/631.

Given the dwelling house is a focal point for land use conflict both in relation to Duraplas but potentially other existing and future industrial land uses in the locality, it is likely to be beneficial in the long term to remove the dwelling house or relocate it further away from the Russellton Industrial Estate. Alternatively, Council could seek to enforce relevant environmental standards

in relation to the operation of Duraplas in an effort to ease land use conflict with respect to the dwelling house.

If Council is of the view that it is willing to allow the progress of the LEP amendment request and further consider the application of an industrial zone to part of the Stoville site, it is recommended that the zoning only be applied where there is certainty that the existing dwelling house will be removed, relocated or rendered uninhabitable.

- Application of a Separation Buffer

The consideration of an industrial zone over part of the Stoville land offers an opportunity to also address the provision of a buffer between industrial land uses and agricultural activities. Where an industrial zone is contemplated over the Stoville land, it is recommended that this is accompanied by a buffer that provides for at least 10m separation between potential industrial land uses and agriculture.

The application of such a buffer would assist in establishing a clear edge to the industrial estate and offer an opportunity for vegetation plantings to provide screening between land uses. A vegetated buffer may also offer some relief in relation to potential conflict associated with agricultural application of chemicals.

A buffer could be established via an extension to an existing strip of land that borders the eastern side of the industrial estate that is in public ownership, or via restriction on the title of relevant land parcels.

- Land for use by Duraplas

The continued operation of Duraplas may be considered by Council to be a compelling reason for the progress of the LEP amendment request. If this is the case, it is important to note that the application of an industrial zone to the land does not in any way guarantee that the land will be available to Duraplas, that Duraplas will ultimately utilise the land if it is available or that another form of industrial land use will not arise at a future time.

If the Council is of the view that the application of an industrial zone to the Stoville land is warranted on account of Duraplas' circumstances, it is recommended that the industrial zone only be applied where the mechanism for the subdivision of the land from the agricultural land parcel is by way of a boundary adjustment to incorporate the site into one of the existing lots owned by Duraplas. That is, that no additional allotments are created.

Sustainability Considerations

- **Environment**

Encroachment of urban uses into the Alstonville urban buffer and State Significant Farmland are significant environmental considerations in relation to the subject circumstances. These need to be balanced against the key social and economic considerations outlined below.

- **Social**

The subject circumstances involve a long standing land use conflict between industrial activities and a rural dwelling house. The address of the circumstances offers an opportunity to resolve the land use conflict.

- **Economic**

Duraplas has indicated that limitations on its operations in order to resolve the identified land use conflict may reduce the viability of the business.

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. If the matter proceeds and is acceptable to the DP&I, the proposed amendment would be subject to the public exhibition period.

Options

1. Support the progress of an LEP amendment that involves the application of an industrial zone to part of Lot 1 DP 817406.

This approach involves minor encroachment of urban land uses into the long established Alstonville urban buffer and land identified as State Significant Farmland. There is also no identified need for additional industrial land supplies outside existing zoned and planned areas. Importantly, the DP&I may decline to allow the LEP amendment to progress due to the encroachment onto State Significant Farmland.

However, this approach also offers potential advantages in that it has the potential to resolve a long standing land use conflict, establish a clear edge to the industrial estate in relation to the subject land and enable ongoing operation of the Duraplas plastic tank manufacturing business.

If Council is of the view that the circumstances warrant adoption of this approach, the next step is the preparation of a planning proposal detailing the proposed LEP amendment. The planning proposal will be submitted to Council for endorsement. If endorsed, the matter will then be referred to the DP&I for its considerations and a decision as to whether the amendment may proceed.

Given the circumstances, this option is the recommended approach. However, it is recommended that Council only proceed to the preparation of a Planning Proposal and ultimately application of an industrial zone to the land (if determined to be suitable) where there is certainty that:

- the dwelling house on Lot 1 DP 817406 will be removed, relocated or rendered uninhabitable in a manner suitable to remove the land use conflict associated with the operations of Duraplas;
- the relatively small area of land zoned for industrial purposes will be incorporated into an existing allotment owned by Duraplas (or its operators); and
- a suitable formal buffer will be established between industrial zoned land and agricultural land on Lot 1 DP 817406.

This certainty may be achieved by way of a voluntary planning agreement. It is recommended that where option 1 is preferred, the proponent be given a period of 3 months from the date of this meeting to submit suitable documentation to Council advising of the proponent's proposed approach in relation to the above.

Given that this course of action relates to pursuit of a land use zoning arrangement that involves encroachment of an urban use into the Alstonville urban buffer, it is important to consider whether the subject circumstances are so unique that an LEP amendment as proposed will not create a platform for further and more widespread encroachment into the buffer area.

2. Decline to further progress an LEP amendment for the application of an industrial zone to part of Lot 1 DP 817406.

This approach would preserve the integrity of the Alstonville urban buffer and the State Significant Farmland on the site. This approach will likely result in a requirement for Council (and possibly other government agencies) to take action to enforce relevant environmental standards and conditions of development consent in relation to the operations of Duraplas (and other industrial; activities in the Russellton Industrial Estate). In this regard, Duraplas has indicated that its business is not viable if it cannot operate 24 hours a day, seven days a week. Focus on the compliance of industrial activity with environmental standards and conditions of development consent is an alternate means of seeking to address the existing land use conflict issues in the subject circumstances.

This approach ceases further consideration of the LEP amendment request.

3. Seek further information

Prior to proceeding further, Council may seek further information. This approach is not recommended given the extent of information already available in relation to the circumstances.

The recommendation that follows supports option one for the reasons outlined within the report.

RECOMMENDATIONS

1. That Council proceed to prepare a planning proposal for part of Lot 1 DP 817406 to enable the application of an industrial land use zone to the north western portion of the land subject to the requirements set out in item (2).
2. That prior to the preparation of a planning proposal:
 - a) The proponent is to provide Council with suitable documentation outlining the proponent's proposed approach to the following matters in the event that an industrial zone is applied to part of Lot 1 DP 817406:
 - the removal, relocation or permanent decommissioning of the dwelling house on Lot 1 DP 817406;
 - the mechanism for subdivision of the land; and
 - the provision of a formal buffer between industrial and agricultural land uses on Lot 1 DP 817406.
 - b) Council is to receive a further report regarding the proposed LEP amendment where there is uncertainty in relation to the removal, relocation or decommissioning of the dwelling on Lot 1 DP 817406, a suitable mechanism for the subdivision of the land and/or provision of a suitable buffer area between industrial and agricultural land uses.

Attachment(s)

1. Locality Map - Lot 1 DP 817405.
2. Locality Map - Area Subject of Proposed Industrial Zone.
3. Land Use Zoning.
4. Request for LEP Amendment prepared by GeoLINK on behalf of Stoville Pty Ltd (separate attachment)

9.6 Ballina LEP - Amendment No.90 - Stewart Farm, Skennars Head

File Reference	Draft Ballina Local Environmental Plan 1987 Amendment No.90
CSP Linkage	Diverse and balanced land use
Delivery Program	Strategic Planning
Objective	To seek direction from Council with respect to further processing of Draft LEP Amendment No.90.

Background

Council received a request in 2006 from Wave Break Properties Pty Ltd to initiate an amendment to the Ballina Local Environmental Plan 1987 relating to Lot 1 DP 184117, Lot 1 DP 449851, Lot 50 DP 755684, Lot 66 DP 755684, Lot 76 DP 755684 and Lots 1 and 2 DP 784864, commonly known as the Stewart farm at Skennars Head (Attachments 1 and 2). More specifically, the request sought the rezoning of the northern portion of the above land, immediately southward of Headlands Drive and the existing residential development at Skennars Head, to facilitate urban development.

With respect to the amendment request, Council resolved to prepare an amendment to the LEP at its December 2006 Ordinary Meeting as follows [Minute No.141206(009)]:

"That Council prepare an amendment to the Ballina Local Environmental Plan to facilitate urban development and promote improved environmental outcomes over land owned by Dr and Mrs Stewart located adjacent to The Coast Road at Skennars Head. Further, that a local environmental study be prepared to support the draft local environmental plan."

Subsequently, the then Department of Planning (now Department of Planning & Infrastructure - DP&I) advised that Council could proceed with the draft amendment. The amendment is known as Draft Ballina Local Environmental Plan 1987 Amendment No.90 - Stewart Farm (Draft LEP Amendment No.90).

In accordance with the Department's advice and the above resolution, a local environmental study for the land was compiled between May 2007 and January 2009. However, the LEP amendment and associated local environmental study were not able to proceed to public exhibition as a suitable mechanism to address a number of issues has not been put forward by the proponent.

Since the completion of the local environmental study, the system for the processing of LEP amendments under the *Environmental Planning and Assessment Act* has changed. Information relating to the changes, being part of the former government's suite of broader planning reforms, has previously been reported to Council.

As part of the change to processing of LEP amendments, the DP&I enabled continued processing of Draft LEP Amendment No.90 under the revised terms of the Act (known as the Gateway process), subject to completion of the matter by the end of May 2011.

In addition to the above, there has been uncertainty in relation to the level of authority Wave Break Properties has to act in relation to several parts of the Stewart farm. In particular, it appears that Wave Break Properties does not presently have authority to address the matter of dedication (or otherwise) of the Stewart land located east of The Coast Road.

This report addresses matters associated with the timeline for completion of the LEP amendment and associated matters including the preparation of a voluntary planning agreement (or other suitable documentation) addressing key issues and public access to land east of The Coast Road.

Key Issues

- Progress of Draft LEP Amendment No.90.

Information

Planning Policy Context

The following provides an overview of the planning policy context associated with the land the subject of the initial LEP amendment request made by Wave Break Properties in 2006.

- Ballina Local Environmental Plan 1987

Attachment 3 illustrates the land use zoning applicable to the subject land under the Ballina Local Environmental Plan 1987. Significantly, a substantial portion of the land is subject to the 1(d) Rural (Urban Investigation) zone. This signals to land owners, the community and other interested parties that the land has been identified by Council as having potential for investigation in relation to urban land uses.

- Ballina Urban Land Release Strategy

The 1(d) zoned portion of the land is identified in Council's urban land release strategy as having potential for urban development by virtue of the current land use zoning applicable to the site.

- Lennox Head Structure Plan

The majority of the subject land is identified as Area T under the Lennox Head Structure Plan. The structure plan does not nominate preferred uses for the land, although it identifies visual separation between Skennars Head and East Ballina as a desirable outcome arising from the Lennox Head Community Aspirations Strategic Plan.

- Far North Coast Regional Strategy

The area of the site subject to the 1(d) zoning is identified in the Far North Coast Regional Strategy as a Proposed Future Urban Release Area. This acknowledges that the land has potential for urban land use subject to site specific analysis and considerations.

- Summary

Having regard for the above, substantial portions of the subject land are clearly identified in both State Government and local planning policies as having potential for future urban land uses. Importantly, however, this does not mean that the entire area the subject of the LEP amendment is suitable for urban land uses. The LEP amendment process may identify land use zoning arrangements that reflect other values such as environmental protection, urban separation or agricultural production. That is, LEP amendment processes (including Draft LEP Amendment No.90) do not only address urban land use outcomes.

LEP Amendment Timing

As outlined above, the DP&I advised Council in August 2010 that Draft LEP Amendment No.90 could continue under the Gateway LEP amendment process subject to completion of the amendment by the end of May 2011. This timeline included a requirement that Council submit its request for finalisation of the LEP amendment to the Department no later than mid April 2011.

With respect to the timeline for the amendment, the DP&I advised in correspondence dated 31 May 2011 that a three month extension has been granted to provide Council with sufficient time to consider the future progress of the amendment. The extension provides for completion of the amendment by 25 August 2011. Notwithstanding this, the requirements associated with the steps remaining to complete the amendment are substantial. As such, it is prudent to seek a further extension to the timeline should Council wish to provide an opportunity for further consideration of the matter. Timing for completion of the amendment is addressed in further detail below.

Processing to Date

Although a local environmental study has been substantially completed for the land, and the relevant technical analysis for the site is essentially complete, Council has not been able to proceed to public exhibition or finalisation of the draft amendment. The progress of the draft amendment has to date been subject to the completion of a voluntary planning agreement between Council and the proponent.

The intent of a voluntary planning agreement has been to ensure that several matters in the interest of the public are resolved prior to the rezoning of the land. In particular, these items include long term public access to the Sharpes Beach car parking area, public access to the remainder of the Stewart farm east of The Coast Road, revegetation of the planned urban break between East Ballina and Skennars Head and provision of public infrastructure

upgrades, including improvements to the intersection of The Coast Road and Headlands Drive.

It has been assumed in the processing of the amendment to date, that the incorporation of the land east of The Coast Road into public ownership remains a desirable outcome to Council. In this regard, it should also be noted that in considering the progress of the amendment in January 2007, the DP&I indicated that the coastal land east of The Coast Road should be dedicated into public ownership as part of the rezoning process.

The matter of the coastal land east of The Coast Road (being part Lots 1 and 2 DP 784864) is significant as the land currently contains public infrastructure and facilitates public access to Sharpes Beach. Notably, Council's Commercial Services Section has advised that the Sharpes Beach car park area is subject to a lease agreement between the landholder and Council. The current lease commenced in April 2010 and has a term of 2 years, with an option for continuation for a further 2 years until the end of March 2014. Significantly, Council's position with respect to the progress of the LEP amendment does not impact on the availability of public access to the car park under the lease agreement. That is, the lease agreement for public use of the Sharpes Beach car park is not subject to the outcomes of the LEP amendment process.

Further in relation to the land east of The Coast Road, it should be noted that acquisition provisions associated with the land are contained within both the current Ballina Local Environmental Plan 1987 and the Draft Ballina Local Environmental Plan 2010. Under both the current and draft LEP, the acquisition provisions mean that the State Government must acquire the land if requested to do so by the land owner. Whilst this provides a mechanism for the public to acquire the land, the LEP amendment process offers an opportunity to obtain public ownership of the land as an outcome associated with the rezoning of the adjacent land, as opposed to a State based land acquisition process that is reliant on a request from the landholder.

Council has been receiving conflicting advice from the parties involved in the LEP amendment process with respect to the authority of Wave Break Properties to act with respect to the various parts of the Stewart farm. This is significant as elements of the LEP amendment request rely on works and outcomes on land elsewhere within the Stewart farm land holding (i.e. beyond the principal rezoning area).

With respect to the above, Council has received correspondence from Dr and Mrs Stewart (the current land owners) advising that Wave Break Properties only has authority to act in relation to that part of Lot 2 DP 784864 located west of The Coast Road. This was subsequently reiterated by Dr and Mrs Stewart in a meeting held with Council staff on 10 June 2011.

Given this, and that Wave Break Properties has not provided compelling documentation to the contrary, it is considered prudent that Council's further consideration of this matter is on the basis that Wave Break Properties are able to act only in relation to that part of Lot 2 DP 784864 located west of The Coast Road.

The lack of a voluntary planning agreement containing terms satisfactory to Council (or another suitable mechanism to address identified key issues), the specific omission of the Stewart land east of The Coast Road from consideration as part of the LEP amendment and the extent to which the Stewart farm can be considered in an integrated fashion under the LEP amendment are considered to be substantial issues that should be resolved prior to proceeding further with the Draft LEP Amendment No.90.

Planning Agreement

Council has invited the address of several key issues (including infrastructure provision and the dedication of coastal land) relating to the LEP amendment request via a voluntary planning agreement. This essentially entails the proponent documenting a set of commitments that they will adhere to should the land be rezoned. To date, the proponent has not provided suitable documentation (whether via a draft voluntary planning agreement or other means) addressing their commitments to relevant matters of interest to Council.

To enable further progress of the LEP amendment, it is suggested that the proponent be required to submit details of any proposed voluntary planning agreement as a pre-requisite to the continuation of the amendment processing and the public exhibition phase of the amendment. This is to provide some certainty with respect to the means by which key issues will be addressed and enable the community to view any commitments offered by the proponent through the voluntary planning agreement mechanism.

Whether by way of a voluntary planning agreement or other mechanism, it is suggested that the proponent should address their proposed approach to the following items as minimum requirement prior to further progress of Draft LEP Amendment No.90:

- The provision of road infrastructure to access future development on the land (including intersection treatments and requirements for altered access arrangements to Headlands Estate both in terms of design and payment of costs).
- Dedication into public ownership of land within the area the subject of the LEP amendment that is identified as having environmental values (particularly land of scenic value that is currently zoned 7(d) Environmental Protection (Scenic/ Escarpment) located west of The Coast Road).

The establishment of a voluntary planning agreement could also consider the matter of the Stewart farm land located east of The Coast Road. However, given that Wave Break Properties are not presently able to act in relation to this land, an agreement involving dedication of this land into public ownership as an outcome of the LEP amendment process is considered unlikely. If the dedication of this land into public ownership remains a critical factor to Council in progressing the LEP amendment, it is recommended that Council specifies this requirement as a pre-requisite to any further progress of the matter. To assist in considering this, an alternate approach is canvassed below.

Stewart Farm Land East of the Coast Road

The current land holder (Dr and Mrs Stewart) of part Lot 2 DP 784864, being land located east of The Coast Road, has indicated a willingness to negotiate a long term lease arrangement in favour of Council over an area that encompasses that part of the Sharpes Beach car park and some surrounding land that is in private ownership. The land owners have indicated a desire to ensure that the area is used for public benefit and have sought information from Council in relation to future land use should a long term lease be granted.

In response, planning to identify future land use and the possible spatial arrangement of infrastructure on the land is underway to enable further discussion with the land owner. The planning is based on the intended land uses outlined for the area in the Ballina Shire Coastal Reserve Plan of Management and discussion with the land holder. The planning includes consideration of formalised car parking (bitumen and grassed), a small amenities area, a small surf life saving tower and storage area, stormwater management, landscaping and picnic areas.

Having regard for the above and aside from taking no direct action, Council has the following options with respect to the Stewart farm land located east of The Coast Road:

- a) Progress long term lease negotiations with the landholder.

This approach is advantageous as it offers an opportunity to secure the Sharpes Beach car park area and associated coastal land for public use and beach access for an extended period of time. This provides a platform for investment in infrastructure and more certainty in relation to public use in the long term. This approach is also advantageous as it does not rely on the outcome of the LEP amendment process. That is, Council is free to enter into a lease arrangement with the landholder regardless of whether the adjacent land is rezoned for urban purposes.

The key disadvantage of this approach is that a lease over the land will incur a cost to Council. There may also be a perception that Council is effectively doing the work of the LEP amendment proponent in resolving a key issue at its cost.

On balance, however, it is considered that a long term lease arrangement over the Sharpes Beach car park area would be of substantial public benefit. Further, it should be noted that it appears to be unlikely that the land will be available to Council through the LEP amendment process.

Under this scenario, it is anticipated that only part of the privately owned land east of The Coast Road would be subject to a long term lease agreement in favour of Council. The remainder of the land would continue to reside in private ownership.

The consideration of a lease arrangement and planning framework for the Sharpes Beach car park area is the subject of a separate report elsewhere in this business agenda.

- b) Continue to seek dedication of the land east of The Coast Road through the LEP amendment process.

The advantage of this approach is that Council could receive an important area of coastal land into public ownership at no cost. However, the landholder has clearly indicated that this is not an option associated with the Wave Break Properties LEP amendment request. Therefore, a central disadvantage of this approach is the likelihood that no future certainty regarding public access to the Sharpes Beach car park will eventuate through this approach.

In considering the above, it is suggested that where the objective is long term opportunity for public access to the Sharpes Beach car park area, that Council should engage separately with the land holder in relation to the tenure of the land. With respect to the LEP amendment, it is suggested that Council address this matter separately on the merit of what is proposed over the area of Lot 2 DP 784864 located west of The Coast Road.

Other Land Zoned 1(d) Rural (Urban Investigation) within the Stewart Farm.

In addition to Lot 2 DP 784864, there are several other land parcels between Skennars Head and East Ballina that are currently zoned 1(d) Rural (Urban Investigation) under the Ballina LEP 1987. This land is described as part Lot 1 DP 784864, part Lot 50 DP 755684, part Lot 76 DP 755684, part Lot 1 DP 184117 and areas of road reserve. This land is identified as Area T under the Lennox Head Structure Plan. The structure plan does not nominate preferred uses for the land as the area was outside the scope of the plan. However, the plan identifies visual separation (a green space) between Skennars Head and East Ballina as a desirable outcome arising from the Lennox Head Community Aspirations Strategic Plan.

Although it is apparent that Wave Break Properties are not able to act in relation to this land, site analysis and assessment undertaken in relation to the LEP amendment request addresses these land parcels. Given the analysis undertaken and the current zone arrangement, there is presently an opportunity to address the entire 1(d) zoned area and its surrounds with respect to the establishment of an urban buffer area between Skennars Head and East Ballina. It is recommended that the provision of an urban break between these urban areas by way of land use zoning and/or policy be considered in relation to the Wave Break Properties proposal should it proceed. This is consistent with Council's resolution of December 2006 in relation to Draft LEP Amendment No.90.

Progress of Draft LEP Amendment No.90

Given the historical circumstances associated with the land and the extent to which technical analysis associated with the proposal has been completed, it is suggested that it is appropriate to request a further extension of time from the DP&I for completion of the LEP amendment. Notwithstanding this, it is suggested that the extension only be sought subject to the following condition being met:

- That the proponent submits a draft voluntary planning agreement or other suitable documentation addressing identified key issues for the consideration of Council before 19 August 2011. The material is to be of a nature satisfactory to enable Council to comprehensively consider the manner in which the key issues are to be addressed. Resolution of the identified issues and subsequent public exhibition of the draft LEP amendment would, of course, be subject to whether the specific terms of the above are satisfactory to Council.

In the event that the above condition is met and an extension is requested, it is suggested that the extension be for a period of 9 months, ending in May 2012. Under this course of action, and assuming that the manner in which key site issues are addressed is appropriate, it is anticipated that Council could invite feedback from the community via a public exhibition period in late 2011. Importantly, the existing draft local environmental study for the land would need to be updated (paid for by the proponents) to reflect current circumstances prior to public exhibition of the documentation.

Where there is no clear indication of the proponent's approach to the address of key issues, or it is evident that key issues cannot be suitably addressed, it is recommended that Council seeks to discontinue Draft LEP Amendment No.90. The timing associated with the provision of information to meet the suggested conditions aligns with the interim adjustment in the timeline for completion of the amendment granted by the DP&I. Under a discontinuation scenario, Council would advise the DP&I of its position in addressing the expiration of the August 2011 extension to the processing timeline.

With respect to the Stewart farm land east of The Coast Road, it is important for Council to determine whether it wishes to address this matter separate from the LEP amendment process or not. It is recommended that the tenure of the Sharpes Beach car park area is addressed separately to the LEP amendment process for reasons as outlined above.

However, should Council wish to seek the dedication of the land into public ownership via the LEP amendment process, the following additional requirement of the proponent is suggested prior to any request for an extension to the timeline for completion of the amendment:

- Provision of written confirmation from the land holder that dedication into public ownership of the land east of The Coast Road, being part Lots 1 and 2 DP 784864, can be considered as part of Draft Ballina Local Environmental Plan 1987 Amendment No.90.

In addition to the above, it is suggested that where the LEP amendment progresses to public exhibition, the provision of an urban break between Skennars Head and East Ballina (possibly by way of an environmental protection land use zone) should be incorporated into the LEP amendment.

Sustainability Considerations

- **Environment**

Draft LEP Amendment No.90 includes a variety of considerations that seek to ensure that land identified as having potential for urban land use is considered with respect to the environmental, social and economic attributes of the land. In particular, infrastructure, access to coastal land and management and protection of environmental attributes such as Aboriginal heritage, visual amenity and habitat corridor values are considered to be central considerations with respect to the future use of the land.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

Council has expended substantial internal resources with respect to the processing of this matter. In particular, substantial time has been expended in addressing issues associated with authority to act in relation to the land, the integration of land east of The Coast Road into the LEP amendment request and advancement of an agreement or mechanism that addresses the issues of significance to Council.

Notwithstanding the above, it is considered reasonable to afford further opportunity to the proponent to advance the LEP amendment in the circumstances, subject to the relevant conditions outlined above. Council can facilitate this through a request to the DP&I for an extension in time for the processing of the amendment. Notably, further steps in the process will be at the proponent's cost in accordance with Council's adopted fees and charges schedule.

Alternatively, Council may also request discontinuation of the process under the terms of the *Environmental Planning and Assessment Act*.

Consultation

No formal community engagement by Council has been undertaken to date. However, should the outstanding issues identified above be resolved and the LEP amendment advances, Council is required to publicly exhibit the draft amendment and associated local environmental study.

Options

1. Request an extension to the timeframe for completion of Draft LEP Amendment No.90.

Under this approach, Council would formally request that the DP&I allow a further extension of time for completion of the Draft LEP Amendment No.90. Given the applicable planning policy framework, the historical circumstances associated with the amendment and the extent to which technical assessment of the site has been completed, this is the recommended approach.

With respect to a request for a further extension, it is recommended that the requested extension be for a period of 9 months concluding in May 2012. It is also recommended that the request for a further extension and processing of the amendment be subject to the relevant conditions outlined above. Importantly, it should be noted that Council may seek an extension without the identification of specific requirements.

2. Cease further processing of Draft LEP Amendment No.90.

Council may elect to cease further processing of the LEP amendment. Under this scenario, Council would not make any request for extension to the amendment processing timeframe. Further, Council would formally request that the Minister for Planning & Infrastructure discontinue Draft LEP Amendment No.90.

This approach is not recommended at this time as it is considered appropriate to afford the proponent a further opportunity to demonstrate resolution of the outstanding issues. Further, the site analysis component of the amendment is well advanced, with technical assessment in relation to the amendment being essentially complete. However, should the information requirements outlined in this report not be met, it is recommended that Council seeks to discontinue the amendment process.

Importantly, it should be noted that if Council resolves to cease further processing of the LEP amendment, the Minister for Planning & Infrastructure may elect to progress the matter separate from Council.

Under both of the approaches outlined above, it is recommended that Council seeks to negotiate with the land holder regarding long term public access to that part of the Sharpes Beach car park and its surrounds in private ownership, separate to the LEP amendment process. Alternatively, Council may continue to seek dedication of the land into public ownership through the LEP amendment process or cease further consideration of this matter.

RECOMMENDATIONS

1. That Council requires that the proponent meets either of the following requirements before 19 August 2011 and prior to further processing of Draft Ballina Local Environmental Plan 1987 Amendment No.90:
 - a) Submission of a draft voluntary planning agreement or other suitable documentation outlining details of any offer by the proponent in relation to:
 - the provision of road infrastructure to access future development on the subject land (including intersection treatments and requirements for altered access arrangements to Headlands Estate both in terms of design and payment of costs);
 - dedication into public ownership of land within the area the subject of the LEP amendment that is identified as having environmental values (particularly land of scenic value that is currently zoned 7(d) Environmental Protection (Scenic/ Escarpment) located west of The Coast Road);
 - the address of other relevant matters in the public interest; or
 - b) Provision of confirmation that the proponent does not intend to make any offer in relation to the above by way of a voluntary planning agreement or other suitable arrangement.
2. That upon the satisfaction of the requirement set out in item (1):
 - a) Council requests that the Department of Planning & Infrastructure grant a further 9 month extension to the processing timeline for Draft Ballina Local Environmental Plan 1987 Amendment No.90; and
 - b) Council receives a further report addressing the proponent's response to item (1) prior to the public exhibition of Draft Ballina Local Environmental Plan 1987 Amendment No.90
3. That progress of Draft Ballina Local Environmental Plan Amendment No.90 incorporates consideration of provision for an urban break between Skennars Head and East Ballina by way of land use zoning and/or policy.
4. That provision for long term public access to the Sharpes Beach car park area and surrounds is addressed with the land holder separate to Draft Ballina Local Environmental Plan Amendment No.90, unless the facilitation of public access forms part of the proponent's response to item (1).
5. That where the requirement of item (1) is not met, Council requests that the Minister for Planning & Infrastructure discontinue Draft Ballina Local Environmental Plan 1987 Amendment No.90.

Attachment(s)

1. Stewart Farm Study Area - Draft LEP Amendment No.90.
2. Proposed Structure Plan - Wave Break Properties.
3. Stewart Farm Study Area - Ballina LEP 1987 Land Use Zoning.

9.7 Planning Proposal - Cumbalum Urban Release Area

File Reference	Ballina LEP Amendment - Cumbalum Urban Release Area Precinct A and Precinct B.
CSP Linkage	Diverse and balanced land use.
Delivery Program	Strategic Planning.
Objective	To seek Council's endorsement to request that the Department of Planning and Infrastructure grant an extension to the timeframe for the finalization of the Cumbalum Planning Proposals.

Background

Council, at its Ordinary Meeting held on 23 August 2007 resolved to initiate the rezoning process for land within the Cumbalum Urban Release Area (CURA). The rezoning investigations relating to the land have been ongoing, as outlined below.

Council is reminded of the strategic significance of the CURA, with respect to Council's long-term land release program. The status of the CURA, as an urban investigation area, is acknowledged in Council's Urban Land Release Strategy (2000) as well as the State Government's Far North Coast Regional Strategy (2006).

Prior to the receipt of rezoning requests relating to the CURA, Council prepared and adopted the Cumbalum Structure Plan (2006) which set out the broad strategic direction of the CURA and foreshadowed the range of technical assessments to be required at rezoning stage.

The development interests in the area have submitted rezoning requests having regard for the two development precincts (A & B) identified in the Cumbalum Structure Plan. In this report, there are two separate development interests correlating with precincts A and B. A map identifying the precincts is provided as Attachment 1 to this report, labelled '*Figure 3. Precinct boundaries for the purpose of rezoning*'.

The processing of the rezoning requests has to date involved the review of technical information relating to a broad number of environmental and engineering matters. Council has engaged the services of consultancy firm GHD Pty. Ltd. to undertake a 'peer review' of the technical documents submitted by the proponents (both Precinct A and Precinct B), to ensure the information provides an adequate basis for the preparation a Local Environmental Study (LES) for each precinct.

In October 2010, Council wrote to the (then) Department of Planning (now the Department of Planning and Infrastructure [DP&I]) seeking to 'roll over' Ballina LEP 1987 Amendment No.105 Cumbalum Ridge into two separate planning proposals (Precinct A and Precinct B) in a manner consistent with the NSW Government's Planning System Reforms. The Department responded (15/11/2010), acceding to Council's request, and included the following direction:

'Council is required to finalise the LEP within nine (9) months of the week following the date of this letter. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.'

It is understood that the Department's timeframes relate to the desire to shorten assessment timeframes for LEP requests. It is also noted that the 9 month timeframe appears to be an arbitrary period not based on the scale or significance of the particular matter, evidenced by the same timeframe being placed on all pending planning proposals presented to date by Ballina Shire Council. Notwithstanding, Council staff have been advised that a request to extend the timeframe can be made in circumstances where legitimate reasons exist for why the planning proposal can not be resolved within the timeframe set. The alternative is for the planning proposal to be discontinued until such time as the outstanding issues can be resolved and a new planning proposal can be considered within a relatively short period of time.

For a number of reasons, outlined in this report, the Department's nine month timeframe is not able to be met. In the subject circumstances, it is suggested that Council seek an extension of the Department's timeframe to enable this matter to be adequately and appropriately considered.

Key Issues

- Urban Growth Management
- Sustainable development
- Environmental and engineering assessments
- Infrastructure delivery

Information

Key stages and dates in the planning process

Following the Council's resolution to initiate the rezoning process, the NSW Department of Planning was advised of Council's decision (letter dated 31 August 2007) with a request that the matter be allowed to proceed. The Department acceded to this request in its advice of 21 September 2007.

Precinct A

The processing of the Precinct A planning proposal has involved the following key stages and dates:

- 14 May 2008 - Proponents (represented by consultancy Ardill Payne & Partners) submitted technical documents supporting their rezoning request;
- 05 December 2008 - GHD (on Council's behalf) completed first round peer review of technical documents;
- 11 February 2010 - Proponents lodged revised technical documents in response to Council's third party peer review;
- 13 April 2010 - GHD (on Council's behalf) completed second round peer review of technical documents. A number of issues were identified that needed further information relating to road noise impacts (Pacific Highway) and stormwater impacts including downstream impacts on neighbouring private property and on the Ballina Nature Reserve.

Council staff have been liaising with the proponents to resolve the outstanding issues (outlined above). It is anticipated that sufficient information will soon be available to enable this matter to be presented to the Council for further consideration.

Precinct B

The processing of the Precinct B planning proposal has involved the following key stages and dates:

- 24 April 2009 - Proponents (represented by consultancy Landpartners Pty. Ltd.) submitted technical documents supporting their rezoning request;
- 11 November 2009 - GHD (on Council's behalf) completed first round peer review of technical documents;
- 22 September 2010 - Proponents lodged revised technical documents in response to Council's third party peer review;
- December 2010 - GHD (on Council's behalf) completed second round peer review of technical documents. A number of issues were identified that needed further information relating to indigenous cultural heritage matters, bushfire management, flooding, road noise impacts and stormwater impacts including downstream impacts on neighbouring private property and on the Ballina Nature Reserve.

Council is currently awaiting the submission, by the proponents, of further technical information relating to the outstanding issues (outlined above). It is also noted that the Precinct B proponents have recently changed consultants and are now represented by Planning Resolutions Pty. Ltd.

Once the outstanding environmental and engineering matters (outlined above) and the infrastructure delivery issues (outlined below) have been adequately resolved, the information will be incorporated into a local environmental study or studies and presented to the elected Council for its consideration.

Infrastructure Delivery

Following the Council's adoption of the Cumbalum Structure Plan (2006) Council has prepared an Infrastructure Delivery Plan (IDP) - finalised June 2011. The IDP includes consideration of roads, water and sewerage infrastructure as well as open space and community facilities for CURA as a whole. The management of passive open space areas that might be dedicated to Council is also discussed.

The purpose of the IDP is to:

- Outline the broader (infrastructure) planning context for future urban growth, with respect to infrastructure provision including existing Development Servicing Plans (DSPs), infrastructure works programs and Development Contributions Plans. The IDP references these plans which establish the:
 - Commitment of infrastructure delivery by Council at key stages; and
 - Requirements/expectations for infrastructure delivery by developers at key stages.
- Identify infrastructure contingencies and bottlenecks where these exist;
- Outline the assumed sequence and timing for future development; and
- Outline funding options available outside of Development Servicing and Contributions Plans.

The IDP was prepared to inform the rezoning process with respect to the capacity of the area to be serviced, as well as form the basis for the consideration of the mechanisms by which such infrastructure will be provided, such as development contributions plans for roads and open space & community facilities (prepared pursuant to s.94 of the *Environmental Planning and Assessment Act 1979*) and development servicing plans for water and sewer (prepared pursuant to s.64 of the *Local Government Act 1993*) and/or voluntary planning agreements.

Council's Civil Services Group has advised that infrastructure internal to the CURA should be provided in association with future development, rather than being incorporated into Council's statutory infrastructure plans. This is consistent with Council's existing development contributions plans as well as Council's present review of the water and sewer development servicing plans that have been the subject of recent separate engagement, by the Civil Services Group, with the elected Council.

The alternative to securing such infrastructure via Council development contributions plans & servicing plans is for the developer/s to offer to provide this infrastructure via a voluntary planning agreement or agreements. As such agreements can be made to be binding on future landowners, this approach would enable Council to be satisfied that adequate arrangements are in place for the provision of public infrastructure. It is noted that the development areas include a number of smaller development interests. The provision of a binding agreement on all development parties is also critical to ensuring that infrastructure sizing reflects the ultimate needs of the development area as a whole, and that servicing is undertaken in an economical and efficient manner.

Notwithstanding the above, the proponents of Precinct B have previously advised Council that they are not in a position to offer a voluntary planning agreement and as such they have requested that Council incorporate the CURA into Council's development contributions and servicing plans.

It is noted, however, that for Council to consider the incorporation of CURA infrastructure into development servicing plans and development contribution plans further work is required by Council's Civil Services Group. Further, the elected Council will need to be satisfied that the risks to Council associated with this approach are acceptable and that the benefits are in the public interest. This further work would include undertaking preliminary costing of the infrastructure items identified in the IDP, followed by the consideration of cost apportionment (between developers) and funding and recoupment matters, having regard for the NSW Government's cap on development contributions (S.94).

Conclusion

In the opinion of Council's Strategic and Community Services Group, the finalization of the rezoning material for presentation to the elected Council, as a precursor to possible public exhibition, requires the following:

- In the case of Precinct A, the resolution of outstanding matters relating to road noise impacts (Pacific Highway) and stormwater impacts including downstream impacts on neighbouring private property and on the Ballina Nature Reserve, to enable the finalization of a local environmental study for the land.
- In the case of Precinct B, the resolution of outstanding matters relating to indigenous cultural heritage matters, bushfire management, flooding, road noise impacts and stormwater impacts including downstream impacts on neighbouring private property and on the Ballina Nature Reserve, to enable to preparation of local environmental study for the land.
- In both precincts, the resolution of infrastructure servicing matters involving either the preparation of a voluntary planning agreement/s or the incorporation of the CURA into Council's development contributions plans and development servicing plans.

The processing time taken thus far in relation to these matters is a reflection of the scale of the rezoning, the complexity of the technical issues involved in rezoning such a substantial area for urban and appropriate environmental protection purposes and the increased rigour required by prevailing environmental standards. Notwithstanding the fact that additional work is required to finalize these rezoning matters, the rezoning investigations undertaken are at an advanced stage.

This process has involved substantial cost and the dedication of significant time and resources from various parties including Council. It is also understood that the statutory rezoning process itself is a relevant consideration to development financiers in maintaining an active interest in advancing rezoning investigations. Consequently, it is suggested that seeking an extension to the Department's timeframe, to enable the current rezoning process to proceed is in the public interest.

The alternative is for Council to advise the Department that Council does not wish to proceed with the rezoning process for either or both precincts at the present time. Council could then seek to resolve the outstanding matters before recommencing, via a fresh planning proposal/s, to finalise the matter in a relatively short period. It is noted, however, that such an approach could result in the abandonment of the rezoning process by a number of the present development proponents.

It is noted that the Department may or may not accede to any such request.

Sustainability Considerations

- **Environment**

Development of the subject land would have implications for the natural environment of the site and the locality. The Local Environmental Study and draft plan will address mitigation and amelioration strategies for the potential environmental impacts of future development.

- **Social**

It is anticipated that the accommodation of housing demand will put downward pressure on housing affordability. Future residential development in the locality would contribute to the changing social environment of the shire. Development would also place additional demands, on Council and other government and non-government service providers, for the provision of social services and urban infrastructure. However, it is noted that development of appropriate parts of this land would be broadly consistent with both Council's and government's endorsed urban land release strategy.

- **Economic**

The increase in population arising from the future development of the subject land would contribute to the economic development of the locality and the shire, via the additional aggregate demand in the economy and the provision of labour resources to business.

Legal / Resource / Financial Implications

The rezoning investigations, Council staff time and Council's consultancy services involved in the processing of the rezoning request, are undertaken at the proponent's cost, in accordance with Council's Fees and Charges schedule.

The broader legal and financial implications of rezoning the substantial new release areas will be presented, for the Council's consideration, in due course.

Consultation

Following the resolution of the outstanding technical matters (environmental and engineering) and obtaining a clear path forward for the provision of infrastructure to the area, the matter will be reported to the elected Council for its consideration. If the Council resolves to proceed with the rezoning/s the matter/s will be placed on public exhibition for public review and comment and further engagement with government agencies will be undertaken.

Options

1. That Council request an extension to the NSW Department of Planning's timeframe to advance the Precinct A and Precinct B Planning Proposals; or
2. That Council advise the NSW Department of Planning that Council does not wish to extend the timeframe for the completion of the Precinct A and Precinct B Planning Proposals at this time.

Option 1 is the preferred course of action on the basis that the CURA will be integral to securing adequate and appropriate land to accommodate the projected population growth, locally and within the regional, in the medium and longer term.

If this approach is adopted by Council, it is suggested that Council seeks a further nine month extension to the timelines for completion of the LEP amendments associated with CURA precincts A and B.

RECOMMENDATIONS

That Council request an extension to the NSW Department of Planning's timeframe for the advancement of the Cumbalum Precinct A and Precinct B Planning Proposals.

Attachment(s)

1. Figure 3. Precinct boundaries for the purpose of rezoning

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.

US11/16	<p>Crown Licence 316737 - Amendment to cover community structures on Crown Land with the Ballina Local Government Area.</p> <p>Note: The licence has been amended to include the boardwalk fronting Ballina RSL Club. The boardwalk was constructed by the Ballina RSL Club as part of their extensions and has now been handed over to Council for our management. This was a condition of the development.</p>
US11/17	<p>Deed of Consent and Assignment of Lease - Old Tintenbar Council Chambers Reserve, Part Reserve 57675, Areas 3 & 4 of the Old Tintenbar Council Chambers: Norman Smith, t/a Lismore & Alstonville Bowen Therapy to Arts Northern Rivers Inc.</p> <p>Note: Arts Northern Rivers will now occupy Areas 2, 3 & 4 of the old Tintenbar Council Chambers.</p>
US11/18	<p>Use of Seal: Council lease agreement to the Ballina Aero Club Inc., occupation of part Lot 7 DP 1043261 at Ballina Byron Gateway Airport.</p> <p>Note: Council resolved on 16 June 2008 to enter into a 5 + 5 year lease agreement with the Ballina Aero Club Inc. for their occupation of an area of Council operational land at the Ballina Byron Gateway Airport for their relocated clubhouse and appurtenance, and that rental included within the lease is to reflect the community based use of the facility.</p> <p>The Club has now relocated onto an area of approx. 852.3 square metres within the airport precinct as negotiated with the Airport Manager. Construction of the new clubhouse is underway and is now at lock-up stage.</p>

10.2 Investments Summary - June 2011

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

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 June 2011.

Council's investments are all in accordance with the Local Government Act, and the Regulations. Due to changes in the total portfolio and the mix of investments the portfolio is in breach of Clause 9.3 of the investment portfolio, in that we have 10.5% (allowed 10%) of the total portfolio invested in a single institution rated BBB. The breach will be (and was) corrected on 11 July when the next investment in that institution matures.

The balance of investments as at 30 June 2011 was \$56,895,000. This represents a decrease from May of \$389,000. The balance of the cheque account at the Commonwealth Bank, Ballina as at 30 June 2011, was \$1,174,759.

Council's investments as at 30 June are at an average (weighted) rate of 5.84%, which is 0.83% 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:

Reserve Name	Internal/External Restriction	Approx % of Portfolio*
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
Total		100%

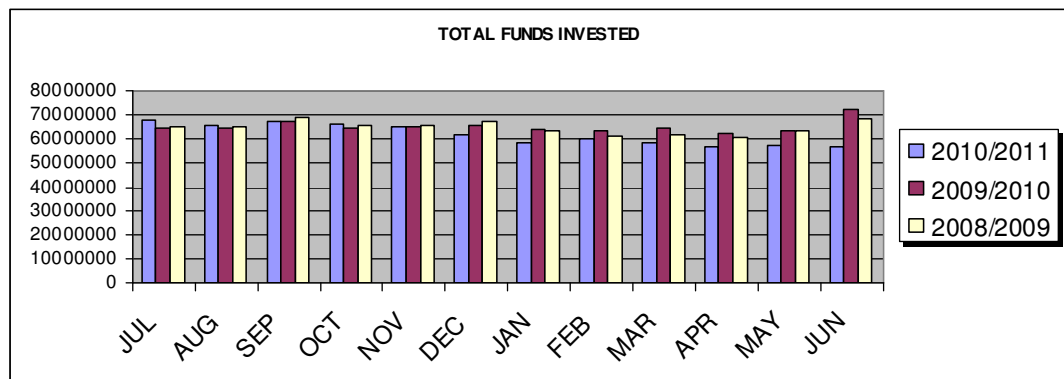
* Based on reserves held as at 30 June 2010

Information

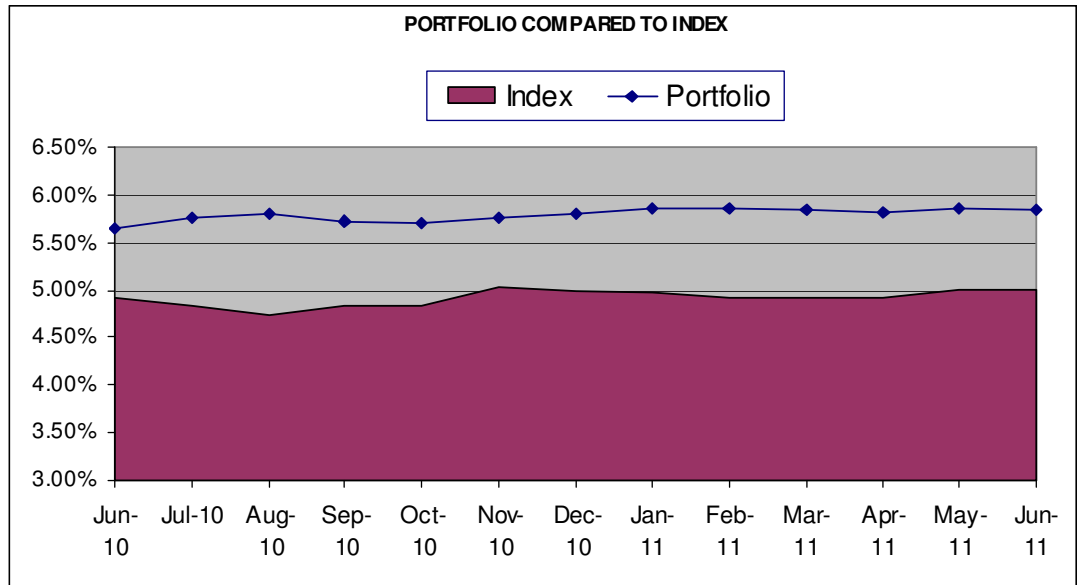
A. Summary of Investments by Institution

Funds Invested With	ADI Rating	Gov G'tee	Previous Month (\$'000)	Current Month (\$'000)	% of	Total
Grandfathered Investments						
ANZ Bank	AA-	No	2,000	2,000	3.5	
Bendigo Bank Ltd	BBB	No	1,000	1,000	1.8	
Deutsche Bank	A+	No	4,000	4,000	7.0	
Goldman Sachs	AA-	No	1,000	1,000	1.8	
Heritage Building Society	BBB	No	3,000	3,000	5.3	
HSBC Australia	AA-	No	1,000	1,000	1.8	
Local Govt Fin Service	A	No	5,000	5,000	8.8	
Longreach Capital Markets 23	AA-	No	1,000	1,000	1.8	
Longreach Capital Markets 28	AA+	No	1,000	1,000	1.8	
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	44%
Rated Institutions						
Bank of Queensland	BBB+	Y-\$1m	3,000	3,000	5.3	
Bank of Western Australia	AA	Y-\$m	3,666	3,666	6.4	
Commonwealth Bank of Australia	AA	Y-\$2m	4,916	6,330	11.1	
Credit Union Australia	BBB+	Yes	1,000	1,000	1.8	
Illawarra Mutual Bld Society	BBB	Y-\$1m	4,000	6,000	10.5	
National Australia Bank	AA	No	1,000	1,000	1.8	
Members Equity Bank	BBB	Y-\$1m	1,000	1,000	1.8	
Newcastle Permanent Bld Soc	BBB+	Y-\$1m	2,000	2,000	3.5	
Suncorp Metway Bank	A	Y-\$1m	4,000	7,111	12.5	
Westpac Banking Corp	AA	Y-\$1m	6,914	0	0	55%
Unrated ADI's						
QLD Country Credit Union		Yes	1,000	1,000	1.8	2%
Total			57,284	56,895	100%	

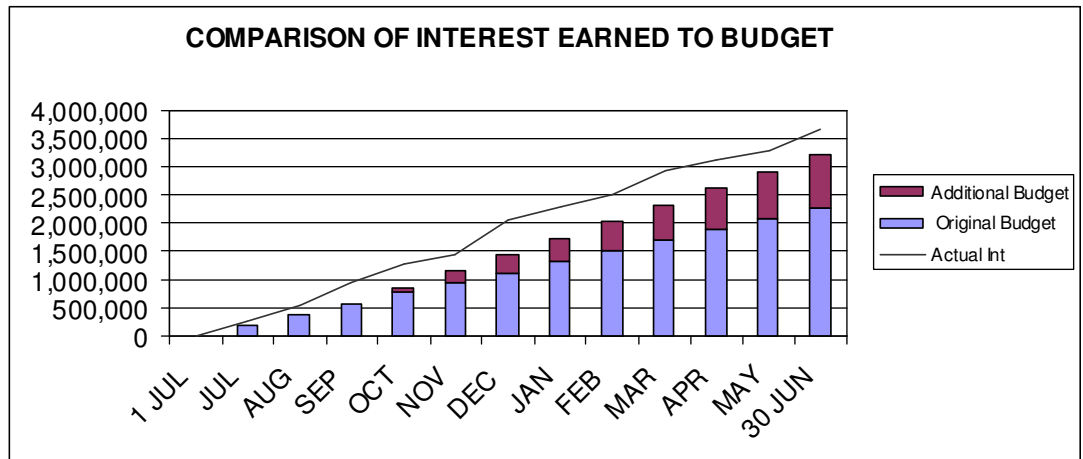
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



Comment

As widely forecast the Reserve Bank left the cash rate unchanged at its 5 July meeting. The accompanying statement focused on the downside issues, including downgrades to their own Australian growth and inflation forecasts, the abating effect (planned) of the Government’s spending programs from the GFC, the cautious behaviour of households and the uncertainty in the global outlook.

They are still upbeat on the medium to long term outlook for the Australian economy and therefore their bias to a tightening of interest rates, saying “Australia’s terms of trade are now at very high levels and national income has been growing strongly. Investment in the resources sector is picking up strongly in response to high levels of commodity prices and the outlook remains very positive. A number of service sectors are also expanding at a solid pace.”

Australians are paying off debt and rebuilding their household balance sheets in a rational way, this is showing up in some sectors as a lesser growth rate than the last decade, but a growth rate that is comparable to the earlier decades.

The RBA will continue to monitor new information, particularly the June Quarter CPI due out at the end of July, and act accordingly. Barring sudden surprises, there should be no change in interest rates until at least November.

E. Investments Held as at 30 June 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'tment Holdings	FRN	5.61	16/06/16	2,000
04/12/06	Heritage Building Society	FRN	5.57	04/12/11	2,000
28/02/07	Longreach Series 23	IRLN	8.66	10/02/12	1,000
25/01/07	Local Govt Fin Service	CRI	5.79	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	6.19	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	7.22	14/03/13	1,000
16/12/08	Commonwealth Bank of Australia	CRI	6.58	16/12/11	1,000
17/12/08	Commonwealth Bank of Australia	CRI	6.19	17/12/13	1,000
17/12/08	Commonwealth Bank of Australia	TD	5.93	17/12/13	997
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	2,333
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
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	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
21/06/11	Newcastle Permanent Bld Society	TD	5.99	21/09/11	1,000
21/06/11	Illawarra Mutual Bld Society	TD	6.05	19/10/11	2,000
22/06/11	Suncorp-Metway Bank	TD	6.15	20/10/11	3,111
30/06/11	Members Equity Bank	TD	6.15	28/10/11	1,000
Total:					56,895
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 June 2011.

10.3 Councillor - Leave of Absence

File Reference	Councillor Development
Sustainability Plan	Transparent and accountable governance
Management Plan	Administration
Objective	To obtain Council approval for a leave of absence.

Background

Cr Jeff Johnson has requested leave of absence for the August 2011 Ordinary meeting.

RECOMMENDATION

That Council approves a leave of absence for Cr Jeff Johnson for the August 2011 Ordinary meeting.

Attachment(s)

Nil

10.4 Councillor Attendance - Local Government Association Conference

File Reference	Local Government & Shires Association/Councillor Development
Sustainability Plan	Transparent and accountable governance
Management Plan	Administration
Objective	To provide Councillors with professional development.

Background

The Councillor Expenses and Facilities Policy requires Council approval for attendance by councillors, excluding the Mayor, at conferences outside the region (Richmond, Tweed, Clarence).

The purpose of this report is to seek Councillor interest in attending the 2011 Local Government Association Conference to be held in Nowra from 25-28 October 2011.

Key Issues

- Benefit of the conferences and cost

Information

A draft conference program as at 6 July is attached. As an associate member of the Association, Council is entitled to 2 voting delegates. Registration is \$1,089 (before 2 September) or \$1,155 (after 2 September).

The Conference program also offers three development workshops on Sunday 23 October at a cost of \$220 each:

- Election 2012 - Engaging your Community
- Counselling Skills for Councillors
- Community Leadership - the latest trends.

Sustainability Considerations

- **Environment**
Environmental, social and economic issues are likely to be considered at this conference.
- **Social**
As above

- **Economic**
As above

Legal / Resource / Financial Implications

Funds are available within the Council's professional development budget to finance this expense. As a matter of interest the actual 2010/11 allocation for this funding was essentially right on budget with \$34,954 being expended out of a total budget of \$35,000.

Consultation

Provided for public information.

Options

Approve or not approve the travel. Typically Council sends delegates to this conference.

RECOMMENDATIONS

That Council determine its delegates to the 2011 Local Government Association Annual Conference to be held in Nowra from 23 - 26 October 2011.

Attachment(s)

1. Draft Conference program.

10.5 Councillor Attendance - Aust Local Government Womens Assoc

File Reference	Councillor Development
CSP Linkage	Transparent and accountable governance
Delivery Program	Administration
Objective	To determine a Councillor request to attend ALGWA meetings and conferences

Background

Councillor Cadwallader attended the Australian Local Government Womens Association Conference (ALGWA) in May this year. At that Conference she was appointed to the Executive of the Association (NSW Branch).

A copy of a letter from ALGWA confirming the appointment is attached.

Council at the June Ordinary meeting resolved to receive a report on the possibility of including Councillor attendance at the ALGWA Executive meetings and conferences held throughout New South Wales as part of the Councillor Facilities and Expenses Policy.

At the same meeting Cr Cadwallader was granted approval to attend the ALGWA Executive meeting in Dubbo on 2 July 2011.

Key Issues

- Benefit of the meetings/conferences and cost

Information

Council pays an annual membership fee of \$200 to ALGWA together with annual membership fees of \$66 each for Crs Cadwallader, Meehan and Hordern. This gives individual Councillors voting rights at the annual conference.

Meeting dates for ALGWA for 2011/12 are as follows:

- 29 May 2011 - Blacktown (Conference and Executive meeting)
- 2 July 2011 - Dubbo (Executive meeting)
- 3 Sept 2011 - Holroyd (Executive meeting)
- 19 Nov 2011 - Ballina (Executive meeting)
- 18 Feb 2012 - to be advised (Executive meeting)
- March 2012 - Dubbo (Conference and Executive meeting)

Cost of attendance at the 29 May 2011 Blacktown conference and 2 July 2011 Dubbo meeting were as follows:

<u>Blacktown</u>		
Registration	\$580.00	
Airfares	\$193.31	
Accommodation	\$487.20	
Cab fares	\$ 72.40	Total \$1,332.91

<u>Dubbo</u>		
Airfares	\$787.80	
Accommodation & meal	\$266.50	
Cab fares	\$ 53.60	Total \$1,107.90

These figures are inclusive of GST.

Assuming Cr Cadwallader needs to attend four to five meetings each year the annual cost would be approximately \$5,000 per annum. The total Council delegate's expenses budget for 2011/12 is \$39,000.

Sustainability Considerations

- **Environment**
Matters of environmental, social or economic significance are typically discussed at ALGWA meetings.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

The cost implications are outlined in the information section of this report.

Consultation

As this matter relates to the Councillor's Facilities and Expenses Policy, if a change is proposed it will need to be advertised for public comment.

Options

The options available are to approve, or not approve the attendance at the nominated meetings by resolution at this Council meeting, or alternatively exhibit a proposal to have these meetings included in the Councillor Facilities and Expenses Policy.

There is a precedent for this in that the current expenses policy states as follows.

Clause 2.2.3 Attendance at Seminars and Conferences

The General Manager, in consultation with the Mayor, is able to approve attendance by Councillors at seminars and conferences within the region. Attendance at seminars and conferences outside the region is to be approved by Council. The only exceptions to this are:

- *the Chairperson of Council's Airport Committee is entitled to attend quarterly meetings of the Australian Airports Association, including the National Conference; and*
- *the Mayor is also entitled to attend seminars and conferences outside the region, subject the matter being reported to Council at the next available Ordinary Meeting.*

A similar clause to that included for the Airport Chairperson could be included in the Policy to authorise travel for Executive members of the ALGWA. However the risk with this type of approach is that as more and more exceptions are included the overall cost to Council significantly increases.

From an administrative perspective it is not considered to be good governance to have particular exemptions in the expenses policy, as it can generate inequities between Councillors and reduce transparency.

Therefore the preferred approach would be not to include the ALGWA Executive in the policy. In saying this, the preferred approach would be also then to remove the exception for the Chairperson of Council's Airport Committee, from the Policy.

This would then ensure all Councillors are treated equally, excluding the Mayor who has particular authority / status under the Local Government Act and is often required to represent Council at meetings, seminars and conferences outside the region, sometimes at very short notice. Also as the Mayor is required to report his attendance at activities outside the region, to the next Council meeting, this then ensures that information is provided to Council and the community.

The recommendations that follow support not having exceptions within the Expenses Policy and it is then a matter for Council to determine whether it wishes to approve Cr Cadwallader's attendance at future meetings of the ALGWA Executive.

RECOMMENDATIONS

1. That Council does not support an inclusion in the Councillor's Facilities and Expenses Policy to allow automatic Councillor travel to the Executive meetings of the Australian Local Government Women's Association (NSW Branch) as this type of clause results in further precedents for exemptions under the policy, can create inequities and reduces the overall transparency in the approval process for travel.
2. That Council approves the removal of the exemption for the Chairperson of Council's Airport Committee to attend quarterly meetings of the Australian Airports Association, including the National Conference, from the Councillors Expenses and Facilities Policy, for the reasons outlined in point one, and authorises the exhibition of this amendment.
3. That Council determine its position in respect to Cr Cadwallader's travel for the 2011/12 meetings of the Executive of the Australian Local Government Women's Association (NSW Branch).

Attachment(s)

1. Letter from ALGWA

10.6 Interest Rate for Overdue Rates and Charges

File Reference	Rates - General
Sustainability Plan	Transparent and accountable governance
Management Plan	Administration
Objective	To adopt the 2011/12 interest rate applied to overdue rates and charges.

Background

Council sets the rate of interest to be charged on overdue rates and charges pursuant to section 566(3) of the Local Government Act 1993 (LGA). This rate of interest is not to exceed the maximum rate set by the Minister for Local Government.

It has been Council's practice for many years to adopt the maximum rate allowed by the Minister and for quite a few years now, this rate has remained unchanged at 9% per annum calculated daily.

Council usually sets the subject interest rate annually in June when adopting the following years Delivery Program and Schedule of Fees and Charges.

At the time Council adopted the 2011/12 Schedule of Fees and Charges in its meeting of 23 June 2011, the Minister had not announced the maximum allowed interest rate and as a result, the interest rate was listed as "To Be Announced".

Key Issues

- Setting the interest rate

Information

The Minister has now announced a maximum allowable interest rate of 11.0% per annum in the Division of Local Government Circular Number 11-15 dated 8 July 2011.

Overdue rates and charges are currently attracting an interest rate of 9% per annum being the maximum rate set by the Minister and rate adopted by Council for the 2010/11 rating year.

If Council wishes to continue its practise of adopting the maximum rate of interest set by the Minister, the new interest rate of 11.0% per annum will need to be adopted.

In the 2010/11 rating year, interest charges at 9% per annum on overdue rates and charges generated approximately \$185,000 in income.

If the interest rate was 11% in 2010/11, an additional \$41,000 in interest charges would have been generated.

Assuming Council adopts its usual practise to set the maximum allowable interest rate, it is suggested that the new rate is adopted effective from 1 August 2011.

The reason for this is that interest charges are updated on individual rate assessments whenever a payment is made, when a rating certificate is issued, at the time a quarterly rate notice is generated or on the last day of each calendar month. Adopting an effective date at the commencement of the month following Council adoption will result in all overdue rates in July 2011 attracting the same interest rate (i.e. 9% per annum).

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
There is always a strong social focus on managing overdue rates and charges.
- **Economic**
Councils are empowered to levy interest charges on overdue rates and charges to encourage payment by ratepayers and to provide some compensation for lost earnings due to late ratepayer payments. It is important that the interest rate is higher than alternative means of finance as this assists in encouraging ratepayers to pay their annual rates and charges.

Legal / Resource / Financial Implications

Council must set a rate of interest and the rate influences income earned and the priority by which ratepayers attend to payment.

Consultation

The 2011/12 Schedule of Fees and Charges listed Council's interest rate for overdue rates and charges as "To Be Announced". The 9% interest rate charged in 2010/11 was also listed for comparative information.

Options

Council may set any rate of interest on overdue rates and charges up to the maximum allowable limit of 11% per annum set by the Minister.

It is recommended that Council continue the practise of setting the maximum allowable rate of interest on overdue rates and charges. In future the wording in the draft fees and charges document, placed on exhibition, will be along the lines of "the maximum allowable limit" to avoid the need to repeat this type of report.

RECOMMENDATIONS

1. That Council adopts the maximum rate of interest allowable to be charged for overdue rates and charges during the 2011/12 rating year pursuant to Section 566(3) of the NSW Local Government Act, being 11% per annum.
2. That Council adopts the change of interest rate from the existing 9% per annum to 11% per annum effective from 1 August 2011.

Attachment(s)

Nil

10.7 Code of Conduct - Reporting

File Reference	Conduct Review Panel
Sustainability Plan	Transparent and accountable governance
Management Plan	Administration
Objective	To comply with Council's Code of Conduct and directions from the Division of Local Government.

Background

Clause 12.33 of Council's Code of Conduct requires that the General Manager report annually to Council on Code of Conduct complaints. The Code also states that this report should include, as a minimum, a summary of the:

- a) number of complaints received
- b) nature of the issues raised by complainants, and
- c) outcomes of complaints.

This report addresses clause 12.33.

Key Issues

- Number and nature of complaints

Information

For the 12 month period 1 July 2010 to 30 June 2011 the following matters have been dealt with in respect to code of conduct complaints.

1. *Complaint regarding alleged breach of Council's Code of Conduct relating to the proposed Aboriginal Child & Family Centre.*
2. *Complaint regarding alleged conflict of interest with two Councillors relating to the proposed Aboriginal Child & Family Centre.*
3. *Complaint relating to a staff member accepting gift cards from a supplier.*

In relation to complaints one and two, the General Manager's written advice to both complainants was that there had not been a breach of the Code and the complaints were not referred to the Conduct Review Panel.

In relation to complaint number three, the General Manager conducted an internal investigation and the staff member concerned received a disciplinary warning. Further information on this item is provided in a confidential report within this agenda, with the reason for confidentiality being that it relates to a staffing matter.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct exists to ensure there are appropriate standards of behaviour.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The Council's Code of Conduct, which is based on the Division of Local Government's model code of conduct, requires a report to be submitted annually on Code of Conduct complaints. This report satisfies that legal requirement.

Consultation

This report is provided for information.

Options

This report is for information purposes only.

RECOMMENDATIONS

That Council notes the contents of the report on Code of Conduct complaints for the period 1 July 2010 to 30 June 2011.

Attachment(s)

Nil

10.8 Policy (Draft) Entrepreneurial Property Activities & Financial Reserve

File Reference	Council Policies
CSP Linkage	Transparent and accountable governance
Delivery Program	Governance
Objective	To consider the Draft Entrepreneurial Property Activities Reserve Policy in light of a submission received.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The draft entrepreneurial property activities reserve policy was reviewed at the April Finance Committee meeting.

The recommendation from that meeting, approved at the April Ordinary meeting of Council, was that the draft policy be publicly exhibited. If no submissions were received the draft policy would be considered adopted however if submissions were received they would be submitted to council for consideration.

One submission was received and accordingly the draft policy together with the submission is resubmitted for consideration. Copies of the draft policy and the submission are attached.

Key Issues

- Whether the draft policy should be amended or not adopted given the issues raised in the submission

Information

The policy identifies the purpose of the reserve and how it is proposed for funds to flow in and out of the reserve. The policy also states that the aim will be to maintain a minimum balance of \$1 million to protect the organisation against unforeseen financial shocks.

The submission focuses on the intent to keep the reserve at a minimum balance of \$1 million. The need for the budget shocks condition on the reserve has arisen because of two primary issues.

Firstly it is the case that Council has a very low level of general fund unrestricted working capital. Working capital is the amount of funds on hand to meet short term commitments and manage budget shocks. Prudent financial management requires that there is surplus cash or assets easily converted to cash, in excess of known short term commitment that is available for unforeseen financial demands.

The financial planning policy adopted by Council noted that it would be prudent for an organisation of our size to have approximately \$3 to \$4 million available as working capital in general fund. Council currently has well under \$1 million. This has been a matter of concern, but not great concern, because Council has always had strong cash reserves in land development, which brings us to the second issue.

In recent years Council has committed all of the land development reserves for various projects. Depending on the timing of various financial events the reserve may fall to levels beneath \$500,000.

Council does have other general fund unrestricted reserves but these are set aside for specific purposes such as leave entitlements, plant replacement and waste management. It is the land development reserve that Council has relied on in times of real financial stress and this comfort zone is being eroded.

Over the longer term the aim is to gradually increase general fund working capital to approximately \$2 million. If and when this is achieved it may be reasonable to remove the budget shocks condition from the policy. However given that Council has been running budget deficits in general fund over recent years it is unlikely that the general fund working capital will increase dramatically in the short term.

Responses to the points raised in the submission are as follows.

- 1. Council has a responsibility to optimise the use of resources. The allocation of money to a budget shocks reserve is an inefficient use of capital. Given the demand for infrastructure the allocation of funds to something that may not even happen is a very low priority. There are more deserving infrastructure projects for which the funding could be used.*

Council has committed many millions from the reserve in recent and future years to various worthwhile community infrastructure projects. Included in the list are the Ballina Community Services Centre, upgrade of the Ballina Art Gallery Building, Lennox Head community Centre, Alstonville/Ballina and Wardell Town Centre improvements, Ballina Surf Club, Coastguard Tower, Ballina Hockey Field, Coastal Cycleway and Coastal Walkway.

The policy does not look to make unreasonable constraints on the functioning of the reserve nor is there an overly conservative approach being taken in terms of our ability to respond quickly to unforeseen financial demands. If the \$1 million budget shocks restraint is in place, when added to existing general fund working capital, we will still have less than \$1.5 million from these sources which is well below preferred benchmarks.

It is also important to note that the \$1 million will be invested with the revenue benefiting general fund. So it is not as though the capital is idle and it is an incoming as opposed to outgoing cash flow. This is important given the extra maintenance costs that have and will be generated by the construction of new community infrastructure noted above.

2. *In assessing the ability of Council to absorb financial shocks a holistic approach is required. Table 1 - Consolidated Property Reserves shown in the Finance Committee Paper dated 7 April 2011 is not an appropriate guide as to the ability of Council to absorb financial shocks. The table is simply a statement of source and application of funds (cash) relative to one specific Council activity i.e. property. The reserve balance is dependent upon discretionary decisions and property activity budgeting of Council.*

The Simpson legal case has been cited as an example of budget shock. This is a questionable analogy. The Simpson issue was around for a long time. From an operational risk management perspective the outcome should have been a predictable scenario. It could have been covered by the budgeting for a specific provision over a number of budget periods.

It is considered that a holistic approach has been taken to Council's finances when proposing the budget shocks position. This is referenced in the report to the February Finance committee which considered what would be fair and reasonable financial benchmarks.

The Simpson case was around for a number of years however Council was of the understanding that they were insured for any costs that may have arisen out of the case. Strictly speaking this was correct however Council's insurer at the time relevant to the claim was HIH insurance.

Following the failure of this company we were very much exposed in a relatively short period of time. The land development reserve was used to pay over \$2 million and ultimately a substantial amount of these funds were recovered some years later under the State and Federal Government's bail out package.

It would also be fair to say that it would take this Council many years to create a cash provision of \$2 million from normal operations.

3. *A recognised Financial Asset benchmark for a council is 2.5% to 5% of total assets. Based on Ballina Council's 2010 financial statements 2.5% of total assets is \$20.6 million and 5% is \$41.3 million. Council's actual Financial Assets were \$58.7 million which represents 7.11% of total assets; a surplus of \$17.4 million to \$38.1 million. This does not include the value of subdivision land banks relative to Council's development activities, which also represents a source of funds in the event of need.*

Note:

Financial Assets are: (Current Assets + Non Current Investments + Investment Properties - Externally Restricted Cash/Investments).

The writer is talking about our total 'financial assets' of \$58.7 million. This includes restricted funds of water, sewer, domestic waste etc so the comparison is not relevant as these funds cannot be legally used to assist general fund.

Regardless of the figures cited the comparison chosen is looking at creating a percentage based benchmark by comparing current assets to total assets. This may be useful in some senses but not in regard to short term cash commitments. The issue that is of concern is our ability to meet a general fund cash crisis that arises with very little or no warning.

It is considered that income, expense and the value of current assets such as debtors, that may need to be converted to cash in the short term, are far more relevant indicators to create a percentage based benchmark for budget shocks.

4. *Based on Council's 2010 Unrestricted Current Ratio of 2.07:1 Council's liquidity position has tightened in recent years. I note that further tightening is expected to the extent that the ratio may fall below 1:1 and current liabilities may exceed current assets. However in the event that Council needed to make an large unbudgeted payment at short notice it should have little difficulty raising additional debt on the basis that it could repay the borrowings in the medium term by meeting the market with the sale of surplus assets.*

The writer is correct that our liquidity position is tightening dramatically. However the intent of the budget shock condition is to avoid the two remedies proposed in the submission.

It is considered that Council should be in a position to avoid borrowing and or sell property to meet a cash crisis. The point of the condition in the policy is to have safety net so that we are not forced into either of these positions. If debt is used the writer has not demonstrated how the associated payments will be financed. Similarly many of Council's property assets are generating revenues that would also be foregone if sold.

5. *Various governance issues*

Council is charged by the community with the responsibility of making decisions on behalf of the community. We are talking about an unrestricted cash reserve and it is more than reasonable for the Council to decide on the way this reserve is managed without the need to seek community input each and every time they choose to use the reserve.

It is considered that the policy may be improved by adding a proviso that the reserve will only be accessed once other operating budget avenues have been exhausted. It is reasonable to expect that if there is a budget blow out in one area every effort is made to cover that area in whole or part via reduced expenses of increased income from other areas in the budget.

6. *Conclusion : Under the circumstances it is considered that Council should not proceed with the establishment of a budget shocks reserve. Instead Council should look to mitigate the risk of budget shocks through astute operational risk management, prudent budgeting and specific provisioning for identified risks.*

Council does endeavour to mitigate the risk of budget shocks by astute management. This is an every day affair that encompasses the entire organisation from top to bottom. It is a process of continual improvement and at times learning from mistakes.

It would, as the writer suggests, be preferable to create specific provisions for identified risks. If this were so we would be making provision for, at the very least, possible budget shocks in respect to superannuation costs, public liability and workers compensation insurance premiums, storm damage, legal expenses, loss of investment income, building repairs, open space operating expenses and numerous project cost blow outs.

Each of these areas has, over the years, generated budget shocks ranging from hundreds of thousands to millions of dollars. This is by no means an exhaustive list and if Council was to provide specifically for each risk the cash on hand would be well in excess of what is proposed.

It is considered that the budget shocks condition in the entrepreneurial property activities reserve is a minimum means of having some protection from the myriad of potential problems that may strike a multi faceted organisation such as Ballina Council.

Sustainability Considerations

- **Environment,**
Budget management will at times affect the environmental, social and economic aspirations of the organisation and the community. It is important that council has a solid financial footing from which to operate.
- **Social**
As above
- **Economic**
As above

Consultation

The policy has been advertised for comment and one response was received.

Options

Council may accept, amend or decline to adopt the policy.

It is considered that Council's ability to respond to financial shocks, in the short term, is a matter for concern. The general fund working capital is well below reasonable levels and the traditional cash back up of the land development reserve is in danger of being non-existent.

Budget shocks are not uncommon. It is a fact of life that unforeseen events will occur that have adverse financial impacts. The policy proposes what is considered to be a minimum safeguard. The safeguard looks to ensure that council can continue to do business without resorting to measures that are not preferred such as external borrowing to repay legal fees.

RECOMMENDATIONS

1. That Council adopts the Draft Entrepreneurial Property Activities Reserve Policy, as exhibited, with the addition of the following sentence:

"Prior to accessing the land development reserve to finance a budget shock all operating budgets and operations will be assessed with a view to totally or partially offsetting the budget shock."

Attachment(s)

1. Draft Entrepreneurial Property Activities Reserve Policy
2. Submission

10.9 Lease - Sharpes Beach Car Park and Surrounds

File Reference	Sharpes Beach Car Park - Lease Sharpes Beach Master Plan
CSP Linkage	A built environment contributing to health and wellbeing
Delivery Program	Strategic Planning
Objective	To determine whether Council wishes to enter into a long term lease to ensure that the Sharpes Beach Car Park, and surrounding area, is permanently available to the public and to tidy up land ownership matters in respect to the proposed coastal walk and coastal shared path.

Background

The area of Sharpes Beach, Skennars Head, which is currently used as a public car park, is leased by Council from Dr and Mrs Stewart, who also own the farm land on the western side of the Coast Road. The leased area forms part of a larger parcel of land, being Lot 2 DP 784864.

Earlier in this agenda Council considered a report on a proposal to rezone part of Lot 2 DP 784864. One of the issues identified in that report was a possible requirement to ensure that any rezoning only proceeded if the land on the eastern side of the Coast Road (i.e. the current parking area and surrounds) was dedicated to the public. This could be to Council or any other level of government (i.e. State).

It is understood that Dr and Mrs Stewart do not wish to dedicate the land to Council, largely as they do not believe there are any guarantees that future councils will not use the land for another use (eg. potential development).

If Council wishes to obtain some form of long term control over this land, due to the Stewart's concerns, the only option to obtain that control appears to be for Council to enter into a long term lease, which clearly specifies that the land will only be used for public infrastructure purposes; i.e. car parking and associated beach activities.

The report that follows canvasses this proposal to determine whether or not this is a preferred outcome from Council's perspective.

In addition to this there are areas of land owned by Dr and Mrs Stewart that Council needs to access to ensure that the proposed coastal walk and coastal shared path can proceed. This report provides an update on the negotiations that have occurred in respect to those parcels of land.

Key Issues

- Land tenure
- Leased area
- Use of leased area

Information

The Sharpes Beach Car Park area is currently leased by Council from the Stewarts. The details of that lease are:

Lease Commencement Date	1 April, 2010
Term	2 + 1 years
Current Rent	\$18,225 p.a. + GST
Current Area	4,260m ²
Current Rental Rate	\$4.28/m ² p.a. + GST

A map of that leased area is included as the first attachment to this report.

As per the report on the Stewart rezoning earlier in this agenda it was originally anticipated that the entire section of privately owned land on the eastern side of the Coast Road would be dedicated to Council as part of any future rezoning. The earlier report outlines that this is unlikely to occur based on the current rezoning proposal.

If this will not be the case then Council may wish to consider taking out a longer term lease on the current car parking area, plus surrounds, to ensure that the land is always accessible to the public.

With these thoughts in mind Council staff met with Dr and Mrs Stewart and it was agreed that a concept plan would be drawn up for this locality that could potentially be satisfactory both to Council and the Stewarts and then be incorporated into a long term lease.

In response to this King and Campbell Pty. Ltd. were engaged to prepare a master plan for this locality in consultation with Council staff and the Stewarts. The second attachment to this report is a copy of that master plan.

Key elements of the plan are:

- Formalised car parking and improved drainage
- Picnic facilities
- Walking trail
- Surf life saving observation tower
- Beach Showers and access
- Area designated for future community use

The area designated for future community use is designed to cater for a future community building, such as a surf club that may be needed once the Stewart Farm is fully developed.

It is important to emphasise that this master plan is meant to be conceptual only. The idea being that if we can get agreement between Council and the Stewarts both parties would then be in a position to enter a long term lease. This would then provide Council with the certainty to, over time, improve the community infrastructure on the land.

This master plan would then be attached to the lease, as a guide to assist in managing the land, over the period of the lease. The lease could be changed over time, so long as both parties agreed.

In respect to the terms of this new lease the proposal agreed with the Stewarts was that the term could be up to 99 years and the lease fee would be based on the same per square metre rate as the current lease.

The current leased area is approximately 4,200 square metres and the area identified in the master plan is approximately 6,000 square metres, as the existing leased area has been extended to the south. Based on the existing square metre rate the new lease figure would be approximately \$25,000 per annum.

In addition to these discussions Council requires access over the Stewart's land for both the Coastal Walk and the Coastal Shared Path. The third attachment to this report provides a site map outlining the proposed new lease area plus an area of 806 square metres for the Coastal Walk and 252 square metres for the Shared Path. Access through both these areas is required by Council to ensure that the Coastal Walk and Coastal Shared Path can be contiguous.

In respect to the discussions with the Stewarts they have advised that they are not prepared to sell Council the 806 square metres required for the Coastal Walk however they are prepared to provide a lease to Council for this area for the purposes of the Coastal Walk.

The Stewarts advise that they are prepared to enter into lease at the same rate as the current car park lease (i.e. \$4.28 per square metre) and ideally they would see this land and the existing lease all included in the one document.

In respect to the 252 square metres required for the shared path the Stewarts are prepared to sell that parcel of land to Council. In determining an agreed price for this land reference was made to the sale by Council to GJ & CM Dunford, for part of an unformed road, as reported to Council in November 2010. A site map for that land is included as the last attachment to this report.

Council obtained a valuation for that land, which was 527 square metres in size, of \$20,000. Based on this valuation it is considered that \$10,000 for the Stewart land is a reasonable price and the Stewarts have agreed to this price.

Sustainability Considerations

- **Environment**

Any works proposed will be designed to improve the environment where possible and mitigate any impacts.

- **Social**

The primary purpose of this report is to ensure that the community has permanent access to high profile areas of the coastline.

- **Economic**

The natural attributes of this locality are a major tourist attraction to the shire.

Legal / Resource / Financial Implications

As outlined in the report there are some financial implications arising from this proposal and on balance they are considered appropriate and reasonable.

Consultation

Consultation has been on-going with Dr and Mrs Stewart. The coastal walk and shared path were subject to significant community consultation.

Options

The options are to endorse both the long term lease and the land acquisition as outlined, amend the proposal, or not proceed.

Council may have concerns in respect to locking the community into a lengthy lease term although the longer the term the greater certainty Council has to ensure public access and to provide community infrastructure.

Also there may be concerns that the master plan is too restrictive, however it is designed to be fairly minimal with car parking and some embellishments for picnics etc. The reality is that Council cannot commit to providing any infrastructure, on what is already a very popular recreation and tourist area, until we have some form of long term tenure over the land.

The only other option is to not enter an agreement and continue to try and ensure that this land is dedicated to Council as part of any future rezoning of the Stewart Farm.

Overall it is considered important for Council to secure long term tenure over the land in question and on that basis it is recommended that Council proceed with both the lease and the proposed purchase.

Finally Dr Stewart has asked that Council pay for the costs associated with these processes and as it is Council that requires the lease and land, this is a reasonable request.

RECOMMENDATIONS

1. That Council authorises the General Manager to enter a long term lease, of up to 99 years, for the area of approximately 6,000 square metres, as identified in the attached master plan for Sharpes Beach, with the intention being for Council to work towards the implementation of that master plan over the term of the lease.
2. That Council authorises the General Manager to enter a long term lease, of up to 99 years, for the area of approximately 806 square metres, as identified in the attached locality map, for the purposes of providing access for Council's proposed Coastal Walk.
3. That Council authorises the General Manager to acquire the land area of approximately 252 square metres, as identified in the attached locality map, for the purposes of providing access for Council's proposed Coastal Shared Path.
4. The costs of preparing the lease and purchase contract, plus any subdivision costs and all associated costs are to be paid for by Council.
5. The Council seal is authorised to be attached to the above documents and any associated documents.
6. The funding for this expenditure is to be sourced from Council's property reserves.

Attachment(s)

1. Current Council Lease Area - Stewart Farm
2. Sharpes Beach - Master Plan
3. Site Map - Leased area, Coastal Walk Access and Road Widening
4. Locality of Council Land Sale to Dunford

10.10 Donations - Rates and Charges

File Reference	Donations - Rates
Sustainability Plan	Transparent and accountable governance
Management Plan	Administration
Objective	To obtain Council approval to donate 2011/12 rates and charges in accordance with our recently reviewed "Donations – Rates and Charges" policy.

Background

Council's "Donations – Rates and Charges" policy was developed to provide clear guidelines for the management of rates and charges donations to community based service providers.

The policy underwent a significant review during 2010/11 with the outcome being a focus on broad categories of properties that are used to provide a community service only, and to ensure that the donations provided are equitable and consistent across those categories. A review report was presented to Council on 27 January 2011 and Council adopted the current policy following a public exhibition period on 24 March 2011.

Even though a policy has been adopted, it serves as a guideline only and Council must still make a resolution annually to donate specific rates and charges in accordance with section 356 of the Local Government Act 1993 (LGA).

Key Issues

- Resolution to donate 2011/12 rates and charges.

Information

The following table provides details of specific fixed rates and charges proposed to be donated for the 2011/12 rating year based on the guidelines provided within Council's current "Donations – Rates and Charges" policy.

Table One - Fixed Rates and Charges

Assess No.	Organisation	Ordinary Rate	Water Access	Sewer Access	Storm -water	On Site Sewage	Waste and Recycle	Total (\$)
Category A - 100% of all rates and charges donated								
402074	Ballina/Lismore Jnr SLSC***	0	156	475	0	0	0	631
120347	Lennox/Alstonville SLSC***	0	623	1,521	0	0	804	2,948
295613	Ballina/Lismore SLSC***	0	488	475	0	0	536	1,499
173390	CWA of NSW (Ballina)***	0	156	475	0	0	268	899
295168	CWA of NSW (Lennox)***	0	156	475	0	0	0	631
179273	State Emergency Service***	0	156	475	0	0	268	899
Category B - 100% of all fixed rates and charges donated (excludes measurable user pays charges)								
145397	Biala Special School	0	156	475	0	0	668	1,299
145363	Fox Street Preschool	0	156	475	0	0	800	1,431
172661	Ballina Playgroup	0	156	475	0	0	268	899
172679	River Street Childrens Centre	0	156	475	0	0	658	1,289
213734	Lennox Head Community Preschool	0	156	475	0	0	400	1,031
232429	Jumbunna Community Preschool	1,213	156	475	25	0	400	2,269
288323	Wollongbar Community Preschool	0	156	475	0	0	532	1,163
151966	Rainbow Children's Centre	3,585	156	475	0	0	1,600	5,816
115643	Alstonville Agricultural Society	3,402	644	1,886	25	0	0	5,958
235231	Meerschaum Vale Hall	755	156	0	0	25	0	936
254780	McLeans Ridges Hall	1,315	0	0	0	25	0	1,340
250346	Newrybar Hall	1,646	0	0	0	25	0	1,671
191267	Northlakes Community Centre	1,717	156	475	0	0	268	2,616
250663	Pearces Creek Hall	918	0	0	0	25	0	943
239675	Pimlico Hall	603	0	0	0	25	0	628
234170	Rous Mill Hall Trustees	1,005	0	0	0	25	0	1,030
230045	Tintenbar School of Arts Trustees	830	0	0	0	25	0	855
232013	Wardell War Memorial Hall	2,430	156	475	25	0	0	3,086
186115	Wigmore Hall Committee	0	156	475	0	0	0	631
112140	West End Hall	1,086	156	475	0	0	268	1,985

10.10 Donations - Rates and Charges

Assess No.	Organisation	Ordinary Rate	Water Access	Sewer Access	Storm -water	On Site Sewage	Waste and Recycle	Total (\$)
264036	Alstonville RSL Sub Branch Hall	1,127	156	475	25	0	400	2,183
213726	Lennox Scouts	0	156	475	0	0	268	899
253556	Alstonville Scouts	0	0	0	0	25	268	293
294243	Ballina Scouts	0	156	475	0	0	0	631
334289	Ballina Jetboat Surf Rescue	552	156	0	0	0	0	708
Category C - 100% of all sewer charges until backlog sewer program capital contribution is paid in full								
126822	Ballina Sea Bird Rescue	0	0	475	0	0	0	475
166181	Richmond Christian College ^{^^}	0	0	4,774	0	0	0	4,774
119956	Jehovas Witness ^{^^}	0	0	1,158	0	0	0	1,158
TOTALS (Category A, B, C):		22,190	5,031	19,316	100	200	8,674	55,511
*** Water consumption and sewer usage charges to be added to donation quarterly following future water meter readings								
^{^^} Sewer usage charges to be added to backlog sewer donation quarterly following future water meter readings								

The following table provides estimates of water consumption based charges that are proposed to be donated on a quarterly basis during 2011/12 in addition to the fixed annual charges provided in the previous table.

Table Two - Estimated Consumption Charges

Estimated 2011/12 water consumption and sewer usage charge donations				
Assessment Number	Organisation	Estimated Water Consumption	Estimated Sewer Usage	Estimated TOTAL (\$)
402074	Ballina/Lismore Jnr SLSC ^{***}	1,350	1,035	2,385
120347	Lennox/Alstonville SLSC ^{***}	835	575	1,410
295613	Ballina/Lismore SLSC ^{***}	1,345	420	1,765
173390	CWA of NSW (Ballina) ^{***}	50	45	95
295168	CWA of NSW (Lennox) ^{***}	120	105	225
179273	State Emergency Service ^{***}	30	25	55
166181	Richmond Christian College ^{^^}	0	410	410
119956	Jehovahs Witness ^{^^}	0	80	80
TOTALS (Estimates):		3,730	2,695	6,425

The following table provides a comparison between total 2011/12 proposed rates and charges donations and total rates and charges donated during the 2010/11 rating year.

Table Three - Comparison between 2010/11 and 2011/12

Rate or Charge	2010/11 (\$)	2011/12 (\$)
Ordinary Rate Donation	19,039	22,190
Water Access Charge Donation	4,135	5,031
Water Consumption Charge Donation	4,447	3,730
Sewer Access Charge Donation	12,230	12,909
Sewer Usage Charge Donation	2,224	2,205
Waste or Recycling Charge Donation	2,346	8,674
On Site Sewage Management Fee Donation	184	200
Stormwater Charge Donation	125	100
Backlog Sewer Charge Donation	6,052	6,897
Total	50,783	61,936

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Provide support to community based organisations to enable them to deliver services for the benefit of the local community.
- **Economic**
Provide financial assistance to community organisations, allowing them to spend more money on providing their specific service to the local community.

Legal / Resource / Financial Implications

These donations have been budgeted for in the 2011/12 Operational Plan.

Consultation

Applications for financial assistance pursuant to section 356 of the LGA are advertised during the draft Operational Plan exhibition process.

Options

The options are to approve, or not approve, the rates and charges donations. As the policy was recently reviewed the recommendation is to approve the donations.

RECOMMENDATIONS

That Council approves the donation of the 2011/12 rates and charges, as detailed within tables one and two of this report, which includes future water consumption and sewer usage charges not yet known, but estimated, pursuant to section 356 of the NSW Local Government Act.

Attachment(s)

Nil

10.11 Donations - Financial Assistance and Community Halls

File Reference	2011/12 Integrated Planning & Reporting
Sustainability Plan	Transparent and accountable governance
Management Plan	Administration
Objective	To approve the allocation of the community donations budget for 2011/12

Background

The 2011/12 Operational Plan includes an allocation of \$65,000 for community donations and \$35,000 to assist with capital works for halls. The details of how these funds are to be allocated is included in the following Council policies:

- Donations - Financial Assistance
- Donations - Community Halls - Capital Works

At the June 2011 Ordinary meeting Council approved the formation of a donations committee to allocate the funds available, based on the submissions received during the preparation of the 2011/12 Operational Plan. The purpose of this report is to consider the committee's recommendations.

Key Issues

- To allocate funds in a fair and equitable manner

Information

Details of the submissions received for donations were distributed to Councillors as part of the June Council meeting agenda and they have not been reproduced for this meeting. However one complete copy of all submissions will be available at the meeting, or if a copy is required prior to the meeting, contact the General Manager's office. The following table provides a summary of the submissions and the final column is the committee's recommendations.

Table One - Recommended Allocation of Financial Assistance Donations

Ref:	Organisation/Person	Project / Activity	Request (\$)	Recommended (\$)
1	Ballina Senior Citizens	Christmas Party 2011	2,000	2,000
2	Ballina Breast Cancer Support Group	Operational Costs	300	300
3	Ballina & District Orchid Society	Operational Costs for Orchid Shows	500	500
4	Lennox Head Chamber of Commerce	Carols in the Park - Community Event	7,000	4,000 (1)

10.11 Donations - Financial Assistance and Community Halls

Ref:	Organisation/Person	Project / Activity	Request (\$)	Recommended (\$)
5	Australian Seabird Rescue Inc	Community education and awareness	3,000	1,000
6	Lennox Head Residents Assoc Inc	Operational Costs for Coast Care Group	1,600	1,600
7	Alstonville Agricultural Society Inc	Concrete Poultry Pavilion/Provide material & costs associated with construction of steel ring fence at showground	6,000	4,000
8	Pimlico Ladies charitable organisation	Hall improvements	Refer to halls	Refer to halls
9	Alstonville Agricultural Society Inc	Australian Working Cattle Dog Trial Championships	1,000	1,000
10	Ballina Jetboat Rescue Inc	Shortfall in purchase of purpose built rescue boat	15,000	12,500
11	Alstonville Plateau Historical Society	External painting of Crawford House	12,500	Nil (2)
12	Australian Red Cross (Tintenbar Branch)	Waive tip fees for trash & treasure sale 2011	169	169
13	Ballina Public School	2 worm farms	127	Nil
14	Wollongbar Garden Club	Operational Costs	80	80
15	Ballina Naval & Maritime Museum	Equivalent to Water & Sewer Charges	631	631
16	Ballina RSL Sub Branch (Youth Club)	Equivalent to rates for Ballina RSL Sub Branch Youth Club	2,910	Nil
17	Riverside Carols Ballina & District	Waive fees to erect banners for community event (3 banners)	375	375
18	Riding for the Disabled	Waive fees for weekly garbage collection	268	268
19	Ballina Tennis Club Inc	Resurfacing 2 synthetic grass courts & associated drainage	20,000	Nil (3)
20	Ulysses Motorcycle Club - Northern Rivers Branch	Traffic Control for 2011 Toy Run	500	500
21	Ballina Masonic Centre Inc	Payment of rates	1,000	Nil
22	North Coast Academy of Sport	Operational costs	5,000	3,000
23	Ballina Lighthouse RSL Day Club	Costs associated with bus hire for members	2,376	2,376
24	Alstonville Amateur Swimming Club	Automatic scoreboard for swim races	2,205	2,205
25	Practising Artists Network (PAN)	People's Choice Awards running costs	250	Nil
26	Carols by Candlelight (Ballina)	Community Event	8,000	3,625
27	Northern Rivers Wildlife Carers Inc	Custom built echidna enclosure and portable tub	2,000	1,200 (4)
28	Lifeline Northern Rivers	Operational costs	1,500	1,500
29	Friends of the Koala Inc	Operational costs	Unspecified	Nil
30	Cabbage Tree Island RLFC	Costs for team to attend Knockout	Unspecified	2,500 (5)

10.11 Donations - Financial Assistance and Community Halls

Ref:	Organisation/Person	Project / Activity	Request (\$)	Recommended (\$)
31	Ballina Jetboat Rescue Inc	Fuel costs for search & rescue operations	2,500	2,500
32	Ballina Sports Club Inc.	Replace flooring in Community Sports Club	7,396	Nil
33	Ballina Jockey Club Limited	Harvest roof water for reuse	33,304	Nil
34	Ballina Coastcare Inc	Part-sponsor publication of booklet/CD	500	500
35	Ballina Rotary Club on Richmond	Food and Wine Festival 2012	20,000	Nil (6)
36	Westpac Life Saver Rescue Helicopter	Safety & Compliance Software	1,000	1,000
37	NSW Rural Doctors Network	Bush bursary/CWA Scholarship Scheme	\$3,000	Nil
38	Jumbunna Community Preschool & Early Intervention Centre Inc	Operational costs	Unspecified	Nil
39	Ballina Shire Our House Fundraising Committee	Fundraising appeal in conjunction with NR Community Cancer Foundation	\$5,000	3,000
40	Stephanie Lymburner	Hold fundraising event at Ballina Swimming Pool	Unspecified	100
41	Fitness Matters Lennox Head	running costs for Heartmoves program for the elderly	Unspecified	Nil
42	Ballina RSL Sub-Branch	Operational costs for Anzac day	\$2,,500	Nil (7)
43	All Girls Surf Showdown	Assist in covering costs of running event	2,000	2,000 (8)
44	Alstonville Rotary Club Inc	Operational costs for northern Rivers Science and Engineering challenge 2012	500	500
45	NORTEC	Waive fees for Richmond Room to hold Volunteer Expo	To be determined	Nil
46	Ballina Girl Guides	Install power points, heaters, repair outside lights	Refer to halls	Refer to halls
47	Alstonville Girl Guides	Purchase of various equipment	1,584	Nil
48	Arts Northern Rivers	Repaint and polish floorboards	3,250	Nil (9)

Comments in respect to the notes attached are:

- (1) Lennox Head Chamber of Commerce - approval is conditional upon a review investigation of the Chamber's financial position. If the Chamber is financially viable from their own resources the funding is not to be provided.
- (2) Alstonville Plateau Historical Society - Letter to be sent advising that Council's Property Section will arrange for maintenance as proposed by operational staff.
- (3) Ballina Tennis Club - letter to be sent advising that no money is available this financial year. The letter is to request that the club provide a business plan and current financial details so that Council may consider a longer term view to any assistance provided.
- (4) Northern Rivers Wildlife Carers - Funds approved are for the Echidna Enclosure.
- (5) Cabbage Tree Island Rugby League Football Club - Funds are to pay for uniforms and uniforms are to include Ballina Shire Council logo.
- (6) Rotary Club of Ballina-on-Richmond - Letter to be sent committing to providing funding the 2012/13 Festivals Budget as this event will not be held during 2011/12.
- (7) RSL Ballina Sub-Branch - Letter advising that Open Spaces and Reserves has increased allocation in budget which will assist this cause.
- (8) All Girls Surf Showdown - Approval is conditional on an investigation of the organisation's finances and to confirm that they are not-for-profit. Also if they do make a surplus how will the surplus be distributed.

10.11 Donations - Financial Assistance and Community Halls

- (9) Arts Northern Rivers - the matter is to be referred to Council's Property Section for negotiations.

Community Hall submissions

In respect to works related to 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. Figures included in the table that follows represent the total cost of works. It is assumed that the hall committees will contribute at least 50% of costs up to \$16,000.

Table Two - Recommended Allocation of Community Hall Assistance

Ref:	Organisation/Person	Project / Activity	Request (\$)	Recommended (\$)
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	4,760	2,380
3	Wollongbar Hall	New tables, chairs, banners and ongoing maintenance of hall	2,500	2,500
4	Meerschaum Vale Hall	Fit solar panels to hall roof	4,950	2,475
5	Newrybar Hall	Range of capital improvements including new verandah	35,000	8,000
6	Tintenbar Community Hall	Range of capital improvements	15,000	7,500
7	Wardell War Memorial Hall	Range of capital improvements	8,539	Nil(1)
8	Pimlico Ladies Charitable Org	Various Projects	1,500	1,500
9	Ballina Girl Guides (Wigmore Hall)	Install additional power points, heaters, repairing outside lights)	1,408	1,408 (2)
Totals			83,134	30,501

- (1) Wardell Hall - Letter to advise that if the ownership tenure of the hall changes such that Council becomes responsible for the hall Council will be in a position to look favourably on providing assistance.
- (2) Wigmore Hall Girl Guides - Council staff to ensure that electrical work meets necessary standards

Other Matters

In considering the submissions the donations committee provided directions to staff as follows.

- A letter is to be forwarded to service clubs within the shire seeking expressions of interest regarding the setting up and packing away of tables and chairs for the Lighthouse RSL Day Club. Council is currently expending over \$10,000 per annum in providing this service, using operational staff, and it would a far more productive outcome if part of these funds were donated to a service club. The Council staff could then focus on their normal day to day activities. A donation of \$5,000 was mentioned.
- Concern was expressed that there is insufficient analysis of the financial position of applicants. In future the application form is to gather more information on the current financial position of all the applicants and also

to determine what will happen to any surplus that may occur from a particular event or the years trading.

Also Council has previously asked for information on the other services, provided free of charge by Council, to other sections of the community that are not typically represented in the donations process. This information is shown in the following table.

Table Three - In-kind Contributions from Council to other Organisations

Beneficiary / Event	Description	Estimated Value
All Girls Surf Event	Traffic control, plans and signage	2,000
Alstonville and District Football Club	Clubhouse	0
Alstonville Showground	Mowing	5,500
Alstonville Tennis Club	Clubhouse - Kays Lane	50,000
Angel Flight - Airport	Exempt from Landing Fees - 25 Flights	500
ANZAC Day	Traffic control, plans and signage	4,000
Ballina and District Equestrian Club	Grounds	20,000
Ballina and Lismore SLSC	Shed at depot	2,500
Ballina Aero Club	Hangar	1,000
Ballina Bridge Club	Club	20,000
Ballina Concert Band	Hall	0
Ballina Fox Street Preschool	Preschool	20,000
Ballina Girl Guides	Hall	0
Ballina Lighthouse Day Care Club	Richmond Room Chairs	10,000
Ballina Lions Club	West End Hall	10,000
Ballina Meals on Wheels	House - Food Preparation	30,000
Ballina Players Theatre	Theatre	0
Ballina Rugby Club	Clubhouse	0
Ballina Senior Citizens	Hall	0
Ballina Youth Management Centre	Youth Centre	0
Council Rates and Charges	Various properties	62,000
Crawford House	Museum	30,000
Fair Go	Traffic control, plans and signage	9,000
Landcare Groups	Chemicals and mulch	2,000
Lennox Head Community Preschool	Preschool	0
Lennox Head Football Club	Clubhouse	0
Lennox Head Rural Fire Service	Fire Shed	18,000
NAIDOC Walk	Traffic control, plans and signage	2,500
National Tree Day	Trees to schools and other groups	1,000
Newrybar Community Hall	Hall	0
Northern Rivers Rescue Helicopter	Exempt from Landing Fees - 10 Flights	200
Northlakes Community Centre	Community Centre	15,000
Pimlico Ladies Charitable Organisation	Hall	5,000
Rainbow Children's Centre	Childcare Centre	35,000
Richmond River Motorcycle Club	Club and track	20,000
Rotary Club of Ballina	Defibrillator	0
Royal Flying Doctor Service	Exempt from Landing Fees - 15 Flights	300
Schools	Subsidised food inspections	2,000
Semi public swimming pools	Inspection and testing of water	2,000
Sporting Fields	No charge for Clubs and Schools	100,000
Unit TS Lismore Inc	Naval Cadets	42,000
Wardell Recreation Reserve	Mowing	4,500
Wollongbar Community Pre-school	Preschool	5,000
Wollongbar Progress Association	Hall	0
Wollongbar Rugby Union Club	Clubhouse	0
Wollongbar Rural Fire Service	Shed	3,000
Workshop	Ballina High Support for Marine Studies	2,000
Total		536,000

Some of these figures are subjective (i.e. foregone rentals etc) but nevertheless they do provide a rough guide as to the overall level of in-kind support provided by Council.

In reviewing these figures it was highlighted that Council currently maintains the grounds for the Alstonville Showground and the Wardell Recreation Reserve, both of which are effectively private trusts. The Wardell Recreation Reserve now has restrictions on who can use the reserve. This being the case it was suggested that these two items should be removed from the open spaces budget, where are they are currently located, and transferred to the donations budget to highlight that they are a donation to those Trusts.

This idea is supported and it is recommended that both items be transferred from open spaces operating expenses and included as a donations expense.

Sustainability Considerations

- **Environment**
If approved some of the donations support community groups that provide environmental works.
- **Social**
Donations provide financial support for local community groups.
- **Economic**
Injection of financial support into community groups also contributes to the local economy.

Legal / Resource / Financial Implications

Council has provided \$65,000 for community donations and \$35,000 for halls in the 2011/12 Operational Plan.

Consultation

Council advertised for donation submissions during the exhibition of the 2011/12 Delivery Program and Operational Plan.

Options

The options are to either support the recommendations or to amend those recommendations. The recommendation that follows is to support the recommendations as this process has worked effectively for a number of years. A number of other actions are listed in the report and the majority of those actions will be carried out at an operational level.

RECOMMENDATIONS

1. That Council adopts the Donation Committee's recommendations for the allocation of the community donations budget for 2011/12, as outlined in tables one and two of this report.
2. That Council approves the relocation of the open space expenses incurred by Council for maintaining the Alstonville Showground and the Wardell Recreation reserve to the donations area, as this expenditure is a donation by Council to the Trusts that manage those facilities.

Attachment(s)

Nil

10.12 Delivery Program and Operational Plan - 30 June Review

File Reference	Integrated Planning and Reporting - 2010/11
CSP Linkage	Transparent and accountable governance
Delivery Program	Governance
Objective	The purpose of this report is to inform how Council performed against the adopted Delivery Program and the 2010/11 Operational Plan

Background

Under the Integrated Planning and Reporting requirements Section 404 (5) of the Local Government Act states as follows:

Delivery Program

"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months".

This report represents the final review of the 2010/11 - 2013/14 Delivery Program and the 2010/11 Operational Plan, with reviews being conducted on a quarterly basis. The information contained in the report is based on work undertaken up to 30 June 2011, being the end of the financial year.

The review information is included as a separate attachment to this report and the document provides an overview of all the programs included in the Delivery Program and Operational Plan, with comments provided by the relevant group and section manager.

Key Issues

- The purpose of this report is to compare actual results against the goals and priorities adopted by Council.

Information

The Delivery Program and Operational Plan are the two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year.

The attachment to this report provides a comprehensive overview of the actions being progressed, with the information also being linked to Council's Community Strategic Plan (CSP) Objectives.

The attachment has two main sections being:

- Program Actions - This section provides a comment on the status of all the major actions in the Operational Plan
- Service Delivery Targets - This section provides details on the key indicators within the Operational Plan.

Generally many of the actions are on track and the report does highlight the wide range of activities undertaken by Council. The format of the attachments has also been improved to include traffic lights and graphs for the KPIs.

In respect to the Operational Plan there are a total of 84 major actions listed in the Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	GM	Reg	Civil	Strategic	Total
Green	22	7	18	5	52
Amber	4	1	6	5	16
Red	2	0	7	7	16
Total Tasks	28	8	31	17	84

Program Actions Overview - By Percentage

Group / Status	GM	Reg	Civil	Strategic	Total
Green	79	88	58	30	62
Amber	14	13	20	29	19
Red	7	0	22	41	19
Percentage Total	100	100	100	100	100

In respect to the Service Delivery Targets there are a total of 78 targets identified in the Operational Plan and the following two tables provide an overview of how Council is performing against those targets, again on a number and percentage basis.

Service Delivery Targets Overview - By Number of Activities

Group / Status	GM	Reg	Civil	Strategic	Total
Green	16	13	10	3	42
Amber	6	8	9	0	23
Red	4	1	8	0	13
Total Tasks	26	22	27	3	78

Service Delivery Targets Overview - By Percentage

Group / Status	GM	Reg	Civil	Strategic	Total
Green	62	163	37	18	54
Amber	23	100	34	0	30
Red	15	13	29	0	16
Percentage Total	100	100	100	100	100

This is only a brief summary of Council's performance and Councillors should analyse each of the areas concerned to have a better understanding of the status of the actions and KPIs. Typically actions behind schedule are of a complex nature and deadlines will be exceeded often due to circumstances beyond Council's control.

Sustainability Considerations

- **Environment**

There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The Operational Plan identifies the allocation of Council's resources and finances.

Consultation

The purpose of this report is to provide the community with information on how Council is performing in respect to the Delivery Program and Operational Plan.

Options

The report is primarily for information purposes. In summary, considering the overall level of resources and capacity of Council to deliver outcomes to the community, the level of compliance with the Delivery Program and Operational Plan is considered to be satisfactory.

In support of this comment Councillors have received as a separate attachment to this report a copy of Council's submission for the AR Bluett Award for 2010/11. This Award is presented by the Local Government and Shires Association to the council that has made the most relative progress during the year. Council may not win the award, but nevertheless the document is a useful source of information that highlights the many tasks and activities undertaken during the year.

RECOMMENDATIONS

1. That Council notes the contents of the 30 June 2011 review of the Delivery Program and Operational Plan.

Attachment(s)

1. Delivery Program Report as at 30 June 2011 (separate attachment)
2. Bluett Award Submission (separate attachment)

10.13 Financial Review - June 2011

File Reference	Integrated Planning and Reporting - 2010/11
CSP Linkage	Responsible and efficient use of resources
Delivery Program	Financial Management
Objective	To provide a preliminary review of the 2010/11 Council financial operating result

Background

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. However under the Division of Local Government's Integrated Planning and Reporting requirements a category one council is not required to submit a quarterly review for the June quarter.

Even though there is no requirement it is reasonable for Council to receive an update on the interim financial results for the financial year, prior to receiving the audited financial results which are typically not presented until October.

The report that follows provides the preliminary results for 2010/11, albeit that some of these results may vary as the audited financial results are prepared during the next two months.

Key Issues

- Overall results

Information

The format of this report is modelled on the Quarterly Budget Review Statement Guidelines released by the Division of Local Government in October 2010. The focus of the report is on the operating result, being operating income and expenses, along with capital expenditure. The information shown for each of these items is as follows.

Operating Income and Expenses - This information provides the operating income and expenses for the Fund (General, Water and Sewer) and is useful in determining whether the Fund is operating at a surplus or deficit (before and after depreciation). The operating performance for each activity within the General Fund is also able to be monitored by matching income and expenses. The figures are provided as per original budget, each quarterly review, June actual results and the last column provides the variance for the last quarter.

Capital Budget - This information outlines the capital expenditure program for the Fund.

General Fund

This next section of the report deals with Council's General Fund operations.

General Fund - Statement of Operating Income and Expenses (by Activity)
Table One: General Fund - Operating Income (\$'000)

Operating Income	Original Budget	Sept Review	Dec Review	March Review	June Actual	Variance to March
Strategic Services						
Strategic Planning	9	62	69	89	125	36
Community Services	96	96	120	220	251	31
Community Gallery	58	58	58	58	55	(3)
Section 94 interest	324	324	374	374	394	20
Sub Total	487	540	621	741	825	84
Regulatory Services						
Development Services	370	340	315	295	327	32
Building Services	815	815	835	835	762	(73)
Public and Env Health	200	200	234	274	273	(1)
Admin and Public Order	86	86	86	86	90	4
Sub Total	1,471	1,441	1,470	1,490	1,452	(38)
Civil Services						
Asset Management	163	163	253	263	266	3
Stormwater and Env Prot	443	560	576	542	409	(133)
Roads and Bridges	0	531	597	767	479	(288)
Ancillary Transport Services	928	928	877	877	315	(562)
Burns Point Ferry	391	391	391	381	365	(16)
Roads and Traffic Authority	1,308	1,312	1,312	1,312	1,438	126
Open Space and Reserves	456	468	472	797	936	139
Fleet Mgmt and Workshop	3,081	3,081	3,081	3,181	3,082	(99)
Rural Fire Service	130	130	212	212	212	0
Quarries and Sandpit	306	306	456	556	585	29
Swimming Pools	291	291	271	259	265	6
Waste-Resource Recovery	6,061	6,282	6,742	6,847	6,999	152
Waste-Domestic	5,706	5,712	5,713	5,663	5,631	(32)
Sub Total	19,264	20,155	20,953	21,657	20,982	(675)
General Manager's Group						
Administrative Services	27	27	27	27	28	1
General Purpose Revenues	18,202	17,507	17,568	17,578	18,551	973
Financial Services	136	136	232	230	224	(6)
Regional Library	90	90	113	113	113	0
Information Services	3	3	3	3	4	1
Human Resources and Risk	45	54	61	184	215	31
Tourism	40	40	92	92	93	1
Property Management	2,268	2,752	3,118	3,118	3,325	207
Camping Ground	526	526	526	290	309	19
Ballina Byron Airport	3,051	3,051	3,016	2,896	2,728	(168)
Sub Total	24,388	24,186	24,756	24,531	25,590	1,059
Total Operating Income	45,610	46,322	47,800	48,419	48,849	430

Table 2: General Fund - Operating Expenses (\$'000)

Operating Expenses (excluding depreciation)	Original Budget	Sept Review	Dec Review	March Review	June Actual	Variance to March
Strategic Services						
Strategic Planning	887	1,263	1,301	1,335	935	400
Community Services	368	331	379	582	527	55
Community Gallery	137	137	137	137	149	(12)
Sub Total	1,392	1,731	1,817	2,054	1,611	443
Regulatory Services						
Development Services	1,226	1,456	1,656	1,666	1,640	26
Building Services	757	757	757	757	724	33
Public and Env Health	679	704	704	749	703	46
Admin and Public Order	944	944	952	948	891	57
Sub Total	3,606	3,861	4,066	4,120	3,958	162
Civil Services						
Asset Management	2,633	2,691	2,882	2,826	2,748	78
Stormwater and Env Prot	729	1,158	1,185	1,098	799	299
Roads and Bridges	2,617	2,956	3,101	3,171	3,418	(247)
Ancillary Transport Services	1,742	1,809	1,809	1,832	1,264	568
Burns Point Ferry	566	566	566	566	583	(17)
Roads and Traffic Authority	1,308	1,312	1,312	1,312	1,331	(19)
Open Space and Reserves	3,390	3,566	3,562	3,887	3,636	251
Fleet Mgmt and Workshop	2,263	2,263	2,263	2,362	2,408	(46)
Rural Fire Service	322	322	412	442	406	36
Quarries and Sandpit	63	83	83	83	50	33
Swimming Pools	649	670	670	704	736	(32)
Waste-Resource Recovery	4,991	5,081	4,691	4,796	4,528	268
Waste - Domestic	5,185	5,235	5,610	5,590	5,498	92
Sub Total	26,458	27,712	28,146	28,669	27,405	1,264
General Manager's Group						
Governance	884	917	936	936	895	41
Administrative Services	880	880	880	880	850	30
Financial Services	(2,543)	(2,501)	(2,400)	(2,389)	(2,520)	131
Regional Library	1,230	1,262	1,287	1,287	1,237	50
Information Services	1,165	1,165	1,165	1,175	1,307	(132)
Human Resources and Risk	1,488	1,667	1,734	2,187	1,615	572
Tourism	575	632	699	636	627	9
Property Management	1,500	1,504	1,436	1,212	1,281	(69)
Camping Ground	266	266	266	316	294	22
Ballina Byron Airport	2,470	2,470	2,435	2,451	2,352	99
Sub Total	7,915	8,262	8,438	8,691	7,938	753
Total Operating Expenses	39,371	41,566	42,467	43,534	40,912	2,622
Net Operating Result Before Depreciation	6,349	4,756	5,333	4,885	7,170	2,289
Depreciation Expense	8,311	8,576	8,576	8,576	8,576	0
Net Operating Result from Continuing Operations	(2,072)	(3,820)	(3,243)	(3,691)	(1,406)	2,289

Comments - General Fund Operating Budget

Even though these results are preliminary the general feeling across the board is that the final audited results should result in a better than expected outcome in respect to the overall cash result. There have been savings across a number of programs and items where there have been over-expenditures are generally offset by outstanding grants and / or reserve transfers. A more detailed report on the net cash position of Council will be presented once all accruals and reserve movements have been finalised.

Brief comments on items where there are material differences between the March Review and the June Actual columns for the preliminary operating income and operating expense statement are as follows.

General Fund - Operating Income

Strategic Planning

Income is above budget primarily due to increased fees for private rezonings. This additional income will be offset by additional work for staff, which may need to be managed by consultancies.

Development Services

Recoupment of legal expenses resulted in this item being above budget. Actual income from development application fees, advertising fees, compliance levy and subdivision fees was less than budget.

Building Services

Similar to Development Services, actual income from applications was less than budget, reflecting the overall slower market for the building and development industry.

Stormwater and Environmental Protection

The reason for the shortfall in income is that grant funds for the Ballina Flood Plain Management Plan (\$30,000), Ballina Flood Actions Plan (\$60,000) and the Coastal Hazard Study (\$50,000) were not received by 30 June 2011. Even though the income has not been received the shortfall is more than offset by the matching expenditure not being incurred. Dependent on actual expenses incurred during 2010/11, debtors for these grants may need to be raised as part of the finalization of the 2010/11 financial reports, or alternatively the grant funds will be carried forward to 2011/12.

Roads and Bridges

Similar to the previous item grant funds of \$302,000 for storm damage incurred in January 2011 have not yet been received. Therefore a debtor will need to be raised as part of the 2010/11 financial reports.

Ancillary Transport Services

Private works were significantly down on recent years with total income being \$179,000 compared to the budget of \$775,000.

Roads and Traffic Authority (RTA)

Any additional income from RTA work will be transferred to reserves and expended on identified works for the RTA in the following financial year. Essentially RTA income must match RTA expenditure, excluding the single invitation contract (SIC) where Council expects to make a surplus on the work. For 2010/11 this surplus could be approximately \$100,000 and this surplus will be transferred to the SIC reserve.

Open Spaces and Reserves

The major contribution to increased income came from Council's cemetery operations which was \$79,000 up on budget.

Plant Operations

Internal plant hire charges were slightly down on budget, however capital expenditure was also down, which ensures that the plant reserve remains positive.

Landfill Management and Resource Recovery

Total income was \$150,000 over budget which assists Council in ensuring adequate reserves are available to finance both the current loan debt and any future remediation and landfill expansion works.

Financial Services (General Purposes Revenues)

This item was above budget as Council has received a quarterly installment of the financial assistance grant in advance. This revenue will be transferred to reserve for expenditure in 2011/12. Without this income the overall income for this program is on budget.

Human Resources and Risk Management

Income is up due to additional grant funding received for training programs.

Property Management

Income is up largely due to higher than anticipated interest being generated on the major property reserves. Actual interest income was \$194,000 over budget.

Airport

Income was below budget due to lower than expected security charges (under budget by \$99,000) and the revenue generated from the airlines was approximately \$25,000 under budget. The Airport Manager is close to finalizing new passenger fee charges for both Virgin and Jetstar for 2011/12 onwards.

The reduction in security charges income is offset by lower expenditure on security during the year.

General Fund - Operating Expenses

Strategic Planning

There has been significant savings in this program primarily through a number of the strategic projects being undertaken by staff, within existing salaries budgets, rather than through the engagement of consultants.

Also there are still a number of incomplete rezonings (Stewart land, Barrett land, Cumbalum) where the unexpended budgets will need to be transferred to reserve and then transferred into the 2011/12 financial year to allow these projects to be completed.

Even with these transfers the savings in operating expenses for this program are substantial.

Community Services

The majority of the saving in this program relates to operating costs for the Lennox Head Community Centre where only \$28,000 of a \$69,000 budget has been expended. This is largely due to the gradual commencement of operations for this Centre and these savings will be transferred to reserve to assist in funding future operating / capital costs for the Centre.

Community Gallery

In total the Gallery result was approximately \$14,000 worse than expected (expenses up \$12,000 and revenues down \$2,000) and efforts will continue to be made to minimize the net cost of this facility to Council.

Building Services

Savings in salaries were achieved during the year largely due to leave being taken.

Administration and Public Order

There were reasonable savings in this program through a combination of leave taken during the year and a delay in appointing an additional ranger.

Asset Management

As per the previous two programs there were reasonable savings in this program through leave being taken during the year. There has been a concerted push to reduce the total employee's leave liability during 2010/11.

Stormwater and Environmental Protection

As identified in the operating income summary a number of grant funds have not yet been received and at the same time the matching expenditure has not been incurred. A number of these projects will be carried forward into 2011/12.

Expenditure on foreshore maintenance was over budget by \$35,000 and this will be offset from funding for capital works.

Roads and Bridges

A total of \$370,000 in expenditure related to storm damage works undertaken during the year has not been provided for in the budget and this expenditure will need to be recouped through applications for funding to the State Government. The end of year accounting adjustments will raise matching funding for this work.

The roads expenditure is also over budget due to increased maintenance expenses in a number of areas. The increased maintenance expenditure will be offset by funds allocated to capital projects. This was a conscious decision made by Council's engineering staff towards the end of the financial year as the on-going wet weather has resulted in excessive wear and tear on our road network.

Therefore additional funds were needed to assist in maintaining the roads.

Ancillary Transport Services

As per the operating income comment, private works for the year were substantially less than budget. Therefore the reduction in operating income has been offset by a reduction in operating expenses. Currently Council has lost approximately \$200,000 this year on private works largely due to \$157,000 being expended on water main installation and reinstatement works outside the scope of the Ferngrove roundabout contract. Discussions are still occurring to determine whether this expenditure should be paid by the Ferngrove developers or by Council's water operations program.

The Council town signage project was also not completed and the unexpended funds will be carried forward to 2011/12.

Open Spaces and Reserves

There were minor savings across a large number of budgets in this program, albeit that these budgets had been increased substantially during the year.

Swimming Pools

The operating expenses for both swimming pools were approximately \$16,000 over budget (\$32,000 in total) and this over-expenditure related to maintenance expenses and Council water charges.

This type of over-expenditure tends to reflect the increasing maintenance needed for ageing facilities and Council really needs to continue planning the upgrade program for these pools.

This work is currently under way through the adoption of a forward works plan and the next step is to identify the funding sources.

Rural Fire and Emergency Services

Minor savings in a number of operating budgets although Council is still waiting for a number of accounts from Byron Shire Council who provide administrative services for the Rural Fire Service.

Commercial Waste

As per the comments for the operating income this program continues to do better than anticipated across the board which will assist Council greatly in planning for the longer term.

Domestic Waste

Savings in collection expenses resulted in this program coming in under budget.

Financial Services

The savings in this program relate to the internal names and address project which has a budget of \$137,000 with only \$37,000 expended. This saving will be applied to over expenditure in the Information Services program for a related project.

Human Resources and Risk Management

The operating expenses for this program do not currently include accrued leave entitlements as these calculations are still being finalized. It is anticipated that these expenses may be lower than usual largely due to a number of staff taking leave during the year, which should mean that the total liability has not increased significantly.

Even though, from an operating result perspective, this may appear pleasing it does impact on our cash reserves in that leave entitlements are being paid. This net cash impact is recorded in balance sheet movements rather than in the operating result and Council's employee leave entitlements reserve may need to be decreased to fund the leave taken this year.

It is currently estimated that the leave entitlements reserve may decrease from its current position of 27% of the total leave liability down to approximately 18% due to the magnitude of leave taken and paid out during the year.

Information Services

The over-expenditure relates to the implementation of the new electronic document management system which was approved by Council during the final quarter of 2010/11. This expenditure will be offset by transfers from reserves and other programs.

Property Management

The over expenditure in this section relates to legal costs that are being incurred in respect to the management of the professional indemnity claim for the Lennox Head Community Centre. This claim is now well progressed and it is hoped that an outcome will be determined within the next three months.

Airport

Savings across a number of budgets helped to ensure operating expenses were below budget, which assisted in offsetting lower than anticipated income. The overall financial result for the airport was approximately \$69,000 less than forecast and to offset this loan repayments from the airport to internal reserves will be decreased.

General Fund - Capital Budget

A summary of the General Fund capital expenditure is as per the next table.

Table 3: General Fund - Capital Expenditure (\$'000)

Activity	Original Budget	Sept Review	Dec review	March Review	June Actual
Information Services	30	30	30	26	24
Property - Commercial	3,600	11,927	11,567	6,692	5,634
Property - Community	7,907	8,343	8,346	6,745	6,585
Library	100	124	39	43	43
Camping Ground	10	10	10	0	0
Ballina Airport	875	875	875	490	496
Regulatory Support	0	25	25	36	0
Asset Management	0	60	60	60	50
Stormwater	388	944	932	932	268
Roads and Bridges	9,826	15,546	16,142	16,237	8,035
Ancillary Transport Services	820	1,970	1,970	1,934	1,063
Town Beautification	5,000	7,233	7,527	3,549	1,373
Wharves and Jetties	0	199	199	199	160
Open Spaces & Reserves	150	627	627	704	520
Sporting Fields	4,390	1,460	1,460	1,664	1,327
Cemeteries	0	100	121	121	20
Rural Fire Service	0	0	249	249	9
Fleet and Plant	568	1,269	1,269	1,269	577
Swimming Pools	0	10	10	10	5
Waste Management	1,200	1,250	1,099	1,100	60
Total Capital Expenditure	34,864	52,002	52,557	42,060	26,249

The next report in this agenda provides a more detailed summary of the status of the capital expenditure completed for the year. Generally where projects are incomplete the balance of the project and the matching funding is carried forward to the next financial year. The overall expenditure of over \$26 million is considered to be a significant works program for the year.

Water Operations

This next section of the report deals with Council's water operations.

Table 4: Water - Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	Sept Review	Dec Review	March Review	June Actual	Variance to March
Operating Income	7,622	7,622	7,723	7,763	7,898	135
Operating Exps (excl. dep)	7,238	7,458	7,726	7,766	7,666	(100)
Net Operating Result Before Depreciation	384	164	(3)	(3)	232	235
Depreciation Expense	2,050	2,050	2,050	2,050	2,050	0
Net Operating Result from Continuing Operations	(1,666)	(1,886)	(2,053)	(2,053)	(1,818)	235

The preliminary result for Water Operations is pleasing with operating income above budget and operating expenses under budget, excluding depreciation. Although in saying this if section 64 interest income (\$380,000) is deleted the operating result returns to a deficit.

In respect to income the main improvements were in respect to interest, which was \$68,000 above budget and user charges which came in \$50,000 above budget. A significant component of the additional interest relates to Section 64 Developer Contributions, which must be allocated to those contributions.

The major reason for the lower than expected operating expenses was due to an estimate of \$94,500 for the review of the Section 64 contribution plans only being expended to a value of \$11,000. This work is incomplete as the Sewer Section 64 Plan was the first priority and work is now underway on the Water Section 64 Plan.

Water - Capital Budget

A summary of the water capital expenditure is as follows.

Table 5: Water - Capital Expenditure (\$'000)

Item	Original Budget	Sept Review	Dec Review	March Review	June Actual
Reservoirs	2,217	2,217	0	0	0
Water Main Renewals	200	375	375	375	486
Pumping Stations	340	340	360	0	0
Trunk Mains	640	495	375	375	222
Telemetry and Generator	0	94	94	94	27
Plant	50	50	50	70	67
Total Capital Expenditure	3,447	3,571	1,254	914	802

A large component of the water program was completed during the year and more detailed information on capital expenditure is outlined in the next report in this agenda.

Sewer Operations

This next section of the report deals with Council's sewer operations.

Table 6: Sewer - Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	Sept Review	Dec Review	March Review	June Actual	Variance to March
Operating Income	9,864	10,324	10,404	10,517	10,726	209
Operating Exps (excl. dep)	7,648	8,225	8,264	8,192	7,779	(413)
Net Operating Result Before Depreciation	2,216	2,099	2,140	2,325	2,947	622
Depreciation Expense	3,976	3,976	3,976	3,976	3,976	0
Net Operating Result from Continuing Operations	(1,760)	(1,877)	(1,836)	(1,651)	(1,029)	622

The preliminary result for Sewer Operations is also pleasing with operating income above budget and operating expenses well below budget.

In respect to income the main improvements were in respect to interest, which was \$100,000 above budget and payment of an insurance claim for additional expenses Council incurred in repairing incomplete works at the Chickiba pumping station (budget of \$45,000 and \$100,000 received). Income from annual charges and regulatory fees were also up \$29,000 and \$12,000 respectively.

Savings in expenditure occurred across a number of areas including mains maintenance (\$45,000), pumping stations maintenance (\$167,000), treatment plant maintenance (\$54,000) and treatment plant operating costs (\$180,000). Offsetting some of these savings was energy costs for the pumping stations which was \$53,000 over budget.

Overall this is a pleasing preliminary cash result for the Sewer Operations and with significant loan funding taken out in the 2011/12 financial year it is critical that Council maintain a strong operating surplus to finance the loan repayments.

Sewer - Capital Budget

A summary of the sewer capital expenditure is as follows.

Table 7: Sewer - Capital Budget - Capital Expenditure (\$'000)

Item	Original Budget	Sept Review	Dec Review	March Review	June Actual
Technical Consultancies	350	462	462	210	90
Ballina - Upgrade	21,000	3,340	3,340	5,123	3,844
Lennox Head - Upgrade	5,600	3,776	3,776	4,439	3,243
Main Renewals	200	1527	1527	520	18
Plant Replacement	50	170	195	75	30
Pumping Stations	3,978	5,059	5,072	1,564	1,161
Dual Retic / Open Space	5,200	5,200	5,200	2,074	1,090
Trunk Mains	1,580	701	701	702	329
Miscellaneous	0	0	0	371	106
Total Capital Expenditure	37,958	20,235	20,273	15,078	9,911

Significant expenditure was incurred during the year and more detailed information on the individual capital projects is outlined in the next report in this agenda.

Sustainability Considerations

- **Environment**

This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

This report informs Council of actual results to date in comparison to budget. These results are subject to audit and certain end of year accruals.

Consultation

This report has been prepared to inform the community of any budget variations.

Options

Overall the preliminary operating results for all three funds appear reasonable and further information will be available as part of the audited financial reports which are typically submitted to the October Council meeting.

RECOMMENDATION

That Council notes the contents of the June 2011 preliminary financial report for the 2010/11 Financial Year.

Attachment(s)

Nil

10.14 Capital Expenditure - Quarterly Update

File Reference	Integrated Planning and Reporting - 2010/11
CSP Linkage	Responsible and efficient use of resources
Delivery Program	Governance
Objective	To provide a quarterly status report on the progress of the capital expenditure included in Council's 2010/11 Operational Plan.

Background

Council has expressed a desire for an improved completion rate for the capital expenditure included in the annual Operational Plan. To assist in ensuring the Council and therefore the community are more informed on the planning and completion rates for capital expenditure a comprehensive quarterly status report on all the works included in the Operational Plan is provided at the month following the end of each quarter.

This report provides the final report for 2010/11.

Key Issues

- Status of works
- Planned time frames

Information

As emphasised a number of times completing capital expenditure is not just a matter of providing the budget as many major projects require significant lead times to finalise the design, obtain planning approval and confirm the procurement arrangements for the works. Often the physical construction is the quickest part of the project.

Factors that can lead to variations in delivering the program may include the timeframe to obtain planning consent, matching the works against available resources, weather and balancing other priorities, such as private works, that may arise.

The 2010/11 financial year was a very wet year with the Civil Services Group advising that 50% of their available working days were impacted on by weather.

Despite these conditions almost \$37 million worth of capital expenditure was completed to June as outlined in the attachments to this report.

The information included in each attachment is as follows:

- Original budget - represents the budget as per Council's adopted Operational Plan
- Latest estimate - represents the sum of the original budget plus approved budget changes
- Expenditure to date - expenditure to date of report
- % Expended - Percentage of budget expended to date
- Milestone Dates - Represents target dates for completion of the major milestones listed. In certain cases items such as Design (i.e. detailed design), Consent (Planning consent), Procurement (if being completed in-house this may not be applicable) may not be relevant, however where possible key dates have been included to assist Council in monitoring the progress of these works.
- Status - Allows additional comments to be provided, where necessary

Council staff are still in the process of finalising our financial accounts for the 2010/11 financial year and some of the expenditure to date figures in the attachments may change, albeit those changes are only expected to be minor.

The next table provides an overview of the total works completed, as per the attachments, on a Council group basis.

Summary	Estimate	Actual	Percentage
General Manager	13,996,500	12,782,000	91%
Regulatory	36,000	0	0%
Civil - General	28,028,300	13,467,930	48%
Civil - Water	914,000	802,600	88%
Civil - Sewer	15,077,800	9,911,600	66%
Civil - Sub Total	44,020,100	24,182,130	55%
Total	58,052,600	36,964,130	64%

As per this table there is still room for improvement across the board, however many of the projects that are not completed are well advanced in the planning stage.

Points of interest in respect to the information outlined in the attachments include:

Property - Commercial

The focus for 2010/11 has been on the Southern Cross Industrial Estate with the Harvey Norman sale being finalised and a significant amount of land filled for future development.

The over-expenditure in this item relates to additional fill that was largely required for the Harvey Norman site. The final preparation of the site required an additional 200mm of fill to comply with Council's development consent. Prior to work the site was surveyed and several tests were done on the depth of the topsoil to be removed to allow for the placement of the fill materials. The original fill estimates were based on these calculations and only when the

vegetation was removed could a full assessment of the depth of topsoil be ascertained for the entire site.

The important point with Southern Cross is that extra fill has been provided across the estate (due to the Ballina Bypass Alliance having surplus fill) and future land development costs should be minimal for the next stages.

This over-expenditure will be sourced from Council's property reserves (industrial land).

Property - Community

Lennox Head Community Centre - Council has lodged a professional indemnity insurance claim for \$1.1 million with the insurer of the previous architect for this facility. This claim is supported by documentation by the consultants engaged by Council to finalise the project.

Council has had to make a prolongation cost payment to Bennetts Industries of \$150,000 prior to this insurance claim being finalised and this payment has resulted in a further budget variation. In addition to this Bennetts also lodged a variation of \$180,000 in respect to increases in steel construction costs, stormwater drainage and the skatepark retaining wall. This expenditure will need to be sourced from Council's property reserves (community infrastructure reserve).

Importantly Council staff and the legal firm representing Council have recently met with the insurer and their lawyers. In order to settle Council's claim, there are several options available, however Council's legal representative has recommended Expert Determination as being the most cost effective and expeditious method for dealing with the claim.

Expert Determination requires all parties to agree to the appointment of a suitably qualified independent expert to review all the available information, make inquiries of all parties and make a determination regarding the claim. It is expected that using this option a result could be reached within three months and would cost substantially less than an alternative such as arbitration.

A report will be submitted to the next Council meeting providing a further update on this claim.

Regional Sports Centre - The tender for the preliminary design and approval for this facility recently closed and it is anticipated a report will be presented to the September Ordinary meeting following a thorough evaluation of all proposals. That report will also allow Council to assess whether they wish to proceed with this project.

Ballina Airport

The majority of the works completed relate to the terminal to improve the visitor experience at the airport.

Regulatory Control

Animal Shelter - Designs for this project are still being reviewed to allow the construction cost to come within budget. A report is now scheduled to be submitted to the August Council meeting to outline the options available to Council.

Urban Roads

Cumbalum Way - Tenders for this project are now being exhibited and the actual price response will determine whether this work proceeds. Any shortfall in the Council allocated funding, which is \$3.2 million, will need to be funded by the developers / owners of the land.

Wollongbar Link Road - This contract has been let by Council and the work is expected to be completed around September 2011.

Bridges

Yellow Creek Bridge - Project design, approvals and earthworks are complete. However the bridge building on this project is purposefully stalled, so that two projects can be combined. Council is currently undertaking a bridge deck design for Gibson Creek (Eltham Road) which when complete will allow two small bridge projects to be tendered together to receive cost benefits. The Gibson Creek design should be completed by Sept 2011.

Ancillary Transport Services

Alstonville Town Centre - The finalisation of this project was delayed to wait for the opening of the Alstonville bypass. With the bypass now operating Council staff have resumed work on this upgrade.

Wardell Town Centre - The status of this project is as follows:

- Street Lighting – complete
- Shared Path to Recreation Ground – complete
- Village Path, Sinclair Street – complete
- Village Path, Richmond Street and Swamp Street – complete
- Road Works, Richmond Street – complete
- Pontoon - contract awarded, estimated installation September 2011
- Boat Ramp and Board Walk – design for both facilities combined into one design brief, and quotations to be called July 2011.

Open Spaces and Reserves

Majority of works completed with the major project remaining being the Pat Morton stairs which is now underway.

Sporting Fields

The one major project not completed here is the Saunders Oval expansion. This project requires formal approval on a land swap with the State Government and this is still not yet finalised.

Water Fund

Majority of projects are completed or underway.

Sewer Fund

The pleasing aspect of this works program is that the contracts for the major Lennox Head and Ballina sewer upgrade projects have been let and these works are progressing well. The funds are under-expended for the current year and this largely relates to a timing difference between when the contract was let and the expenditure that was anticipated to occur during the 2011/12 financial year. Any under-expenditure will be carried forward to 2011/12.

Sustainability Considerations

- **Environment**
Many of the works listed have positive environmental outcomes
- **Social**
Certain items provide significant social benefits.
- **Economic**
Improved infrastructure can benefit the local economy.

Legal / Resource / Financial Implications

The report reviews the 2011/12 budget allocations for capital expenditure.

Consultation

This report is presented for public information.

Options

The purpose of this report is to provide a timely update on capital expenditure and is largely for information purposes. As outlined earlier there is still room for improvement in project delivery timeframes and this is acknowledged by Council staff.

However the on-going capital works program for this shire remains huge and variables such as weather can result in significant time delays. Despite the wet weather almost \$37 million worth of projects have been delivered to improve the infrastructure in the community.

The insurance claim for the Lennox Head Community Centre remains a major unresolved matter and a more detail report on that project and the claim will be submitted to the August Ordinary meeting. The advice from Council staff is that the possibility of the claim being successful remains high and if it is successful this will assist in significantly offsetting the cost over runs for this project.

RECOMMENDATIONS

That Council notes the contents of the Capital Expenditure - Quarterly Update report to 30 June 2011.

Attachment(s)

1. Capital Expenditure - General Fund
2. Capital Expenditure - Water Fund
3. Capital Expenditure - Sewer Fund

11. Civil Services Group Reports

11.1 Tender - Supply and Installation of Electrical Sub-Station

File Reference	Seamist Sewage Pump Station
Sustainability Plan	Transparent and accountable governance
Management Plan	Sewer Services
Objective	To obtain Council approval to award the contract for the supply and installation of electrical sub-station

Background

Tenders were advertised on 1 June 2011 for the supply and installation of electrical sub-station and associated works to upgrade the power supply to the new Seamist pump station at Lennox Head.

At the close of the tender period on 23 June 2011, three submissions were received.

Key Issues

- Award the tender in accordance with the Local Government (General) Regulations 2005.
- Engage suitably qualified supplier who meets the statutory tendering requirements.

Information

At the close of the tender period on 23 June 2011, tenders were received from the following suppliers:

- Sovereign Energy
- Stowe Australia
- NJ Constructions Pty Ltd

The tender documentation defined three areas, by which each tender would be assessed:

- | | |
|---|-----|
| • Total Price | 75% |
| • Contract Program | 20% |
| • Environmental, Safety and Quality Systems | 5% |

The tender evaluation panel then assessed each of the tenders against the above criteria and a summary of the rankings follows.

Evaluation Criteria	Total Price	Contract Program	Environmental, Safety and Quality Systems	Total
Sovereign Energy	48.4%	7.0%	7.0%	62.4%
Stowe Australia	36.9%	6.7%	7.5%	51.1%
NJ Constructions Pty Ltd	62.4%	5.5%	7.0%	74.9%

Based on the tender submissions NJ Constructions Pty Ltd has ranked highest in the tender evaluation and is the lowest priced tender.

The estimate for these works was \$164,850.00 including GST. The recommended tender price is \$167,123.00 including GST (NJ Constructions). There is \$177,000 available in the budget allocation for this part of the project.

Sustainability Considerations

- **Environment**

The Seamist Place power upgrade will enable Council to install the larger size pumps required to decommission the two existing sewer pump stations, being SP3108 (Survey Street) and SP3106 (Amber Drive). These two pumps stations have been an environmental concern in wet weather.

- **Social**

The Seamist Place power upgrade will allow the use of adequately sized pumps to ensure the infrastructure is adequate to address growth and to remove the above pump stations.

- **Economic**

The works are necessary to accommodate growth in the area and will allow the development of the Seamist Place estate and the closing of two pump stations.

Legal / Resource / Financial Implications

This report is provided to assist Council meet its statutory requirements in regard to tendering and procurement. These works are funded from section 64 development contributions and the outcomes of the recommended tender are relatively consistent with the estimate and budget.

Consultation

A public tender process was conducted.

Options

The options for Council are set out within the Local Government (General) Regulations 2005.

The tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined a preferred tender.

Therefore there does not appear any impediment to Council awarding the contract to NJ Constructions.

RECOMMENDATIONS

1. That Council accepts the tender being RFT568 – provision for the supply and installation of electrical sub-station, from NJ Construction Pty Ltd.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.2 Shared Path - Lennox Head to Pat Morton Lookout

File Reference	Coastal Cycleway - Ballina to Lennox Head
CSP Linkage	A built environment contributing to health and wellbeing
Delivery Program	Engineering Works
Objective	The purpose of this report is to respond to Councillor Questions Without Notice, items 16.1 and 16.8, submitted to the Ordinary Meeting of Council on 23 June 2011. The questions related to the installation of railing along part of the shared path between Lennox Head and Pat Morton Lookout.

Background

The Questions Without Notice, submitted to the Ordinary Meeting of Council on 23 June 2011 comprised:

"16.1 Cr Moore - enquired about the railing being installed at the Lennox Headland Shared Path. He was concerned about the type of railing installed on the shared pathway at Lennox Head and in the setting that it is in. He asked that a report be submitted on this matter.

The General Manager advised that the works has been put on hold and that a report would be submitted to the next meeting.

16.8 Cr Meehan - advised that she believed that the handrail on the shared path at Lennox Head was not aesthetically pleasing in that environment."

Councillors will recall that during 2010 a number of shared path route options and a coastal walk option were presented for consideration as options for connectivity between East Ballina and Lennox Head.

The route between Lennox Head boardwalk (at the south end of Seven Mile Beach) and Pat Morton Lookout was selected for upgrade through the provision of a shared path standard.

Grant funding for this project was also awarded in 2010 with a contribution from the Regional and Local Community Infrastructure Program (RLCIP).

Design and regulatory approval was completed by November 2010 and construction of the northern section of the shared path (530 metres) was undertaken between December 2010 and April 2011. The southern section of the shared path connecting the existing stairs (Shorty Connors Memorial Stairs) to Pat Morton Lookout (330 metres) will be constructed following the restoration of the Coast Road landslide site.

The most recent addition to the shared path was the installation of approximately 130 metres of railing where the shared path is adjacent to the closest edge of the coastline / shoreline. Attachment one provides photos of the railing.

Key Issues

- Design guidelines
- Natural Environment
- Aesthetics

Information

The detail design of the shared path was undertaken during 2010 and GHD Pty Ltd prepared the design as an extension of their earlier engagement for the route option studies. A layout drawing and a section drawing is provided in Attachment Two.

The shared path was determined to be concrete to provide a robust and long lasting surface, which included consideration of ground conditions and topography. Where the concrete path traverses the cross slopes, a deep edge beam and a row of small concrete columns support the eastern edge of the path. Furthermore, excess drainage from the uphill slopes is now directed under the path, however weir inlet pits have been installed on two drainage structures to recreate some water retention which occurred previously up hill from the path.

The concrete path has also been tinted "grey" to replicate the existing stairs and proposed boardwalk structure. The tinting may not be apparent due to not having a direct comparison onsite with an ordinary white concrete surface.

Finally the railing installation has taken place on two sections of the shared path due to the close proximity of the coastline / shoreline edge.

The requirement for railing has been brought about by the construction of a shared path. The Austroads design guide "Part 6A: Pedestrian and Cyclist Paths" provides the guidelines which determines the need for railing installation. Section 7.7.2 of the guide is provided as Attachment Three. This attachment explains the relationship between set back (distance from the risk to the path) and vertical drop or batter slope. It is this relationship that determines the requirements for railing.

The railing requirements for the project were assessed as follows:

Shared Path	Railing
North Section 530m complete	130m complete 50m not complete
South Section 330m not complete	220m not complete 60m boardwalk not complete

This means there is total of 270m still to be completed.

The anticipated high and mixed use of the path by pedestrians and cyclists, determines the need for the railing in accordance with the design guide as outlined above.

Council has consulted with our insurer's Risk Manager and the following comment was made:

"Thank you for requesting comment about the handrail beside the Lennox Head shared pathway, and the photos, plans and other information about the project. I stress that although I make reference to the Civil Liability Act (CLA), my comments are not intended and should not be taken as legal advice. Such advice should be obtained from Council's legal specialists.

We know from experience that despite Council's best efforts, incidents can occur which result in harm to the public while using Council facilities, and this can lead to claims of negligence being brought against Council. In order to reduce the potential for claims to be successful, it is important that Council is able to demonstrate that it has fulfilled its duty of care.

One fundamental aspect of this, especially applying to the provision of new facilities, is that those facilities are provided in a manner that is consistent with accepted legislation, regulations, design standards, codes of practice, formally adopted local requirements etc. If someone was harmed as the result of an incident that occurred on a Council facility that was not constructed in accordance with the recognised requirements or guidelines for that facility, it can be expected that Council would have greater difficulty demonstrating that it had fulfilled its duty of care than if the facility did comply with accepted design and construction standards.

Section 50 of the CLA discusses the standard of care for professionals, as follows:

50 Standard of care for professionals

- (1) A person practising a profession (**a professional**) does not incur a liability in negligence arising from the provision of a professional service if it is established that the professional acted in a manner that (at the time the service was provided) was widely accepted in Australia by peer professional opinion as competent professional practice.*
- (2) However, peer professional opinion cannot be relied on for the purposes of this section if the court considers that the opinion is irrational.*
- (3) The fact that there are differing peer professional opinions widely accepted in Australia concerning a matter does not prevent any one or more (or all) of those opinions being relied on for the purposes of this section.*
- (4) Peer professional opinion does not have to be universally accepted to be considered widely accepted.*

From the information you provided about this project, Council has engaged Consulting Design Engineers, who have prepared the design in accordance with appropriate and accepted AUSTRROADS design manuals, which would appear to be "competent professional practice". The design standards include guidance regarding provision of measures such as a handrail in various terrain conditions, and the project design has incorporated these in selected sections.

The design standard has been developed to protect users of shared paths in situations where they inadvertently step away from the path. Where the adjacent terrain is on a similar grade to the path, stepping off the path can be expected to carry a low level of risk. In situations where the adjacent terrain is sloping, the potential for someone stepping off the path and falling is greater, hence the guidance for providing a handrail as some degree of protection. If Council decides not to provide a handrail in a location where the design manual advises it should be provided, Council may have to demonstrate that their decision did not contravene the intention of s50(1) of the CLA, if a situation arises where harm is caused to a user of the path.

In summary, it is for Council to decide whether to retain the handrail as indicated in the project design and as partially installed already. I trust my comments will help Council appreciate the potential implications of deleting the handrail from the as yet unconstructed sections of the shared pathway and / or removal of the existing sections of handrail."

The option section of this report assesses this advice further.

Council officers have noted some of the comments reported regarding the railing are concerned with the top rail which leans into the path. The reason for this shape is to reduce the risk of pedals and other items catching on the lower rails and the posts. The design width for the shared path has taken into account the rail design to ensure sufficient width for traversing the path is provided.

Sustainability Considerations

- **Environment**

The upgrading of the route between Lennox Head and Pat Morton Lookout to shared path standard will confine users to the new facility and avoid degradation of the corridor, particularly during high use or adverse weather.

- **Social**

The upgrading of the route to shared path standard will attract significant use from locals and tourism activity and will promote healthy lifestyle opportunities.

- **Economic**

The upgrading of the route to shared path standard will likely add to Lennox Head's tourism and enhance Pat Morton Lookout as a local destination.

Legal / Resource / Financial Implications

As noted in the information section of the report, the detail design of the shared path, in accordance with current design guidelines, has resulted in the recommended design including the provision of railing along sections of the path.

Consultation

Community consultation was undertaken in respect of the concept design and route selection for this project. It is acknowledged that no consultation was sought for the detail design. This is normally the Council's process with project implementation.

It is noted that at the meeting of B Ward Committee held 18 July 2011, the Committee made a recommendation that the railing be reviewed and not to proceed any further. The Committee also recorded its concerns that the design was not appropriate for the natural environment of this location.

As the Council is aware the detail design for the other sections of the coastline cycleway, shared path and coastal walk is progressing. It is proposed to workshop those design outcomes with the Council. From that workshop the Councillors will be able to determine what the preferred extent of community engagement is for the design process.

Options

The options available to Council include;

1. Accept recommended design.
2. Remove the railing.
3. Remove the railing and convert the path to a pedestrian only path.
4. Amend the design of the railing.

The information from Council's insurer is provided to assist the Council assess option two.

In respect of option four, the design guide shows that the post and two rail system of fencing is the simplest form of railing. Examples referred to in the design guide are shown as Attachment 4. At the time of writing this report the suggestion to replicate the new Byron Bay Lighthouse walking path railing has been made, and this is shown as Attachment E. The Byron Bay walking path railing appears to be a different context to the Lennox Head shared path. If the Council was of the view that alternate design options (that are still consistent with the guidelines) would address the community concerns then resources can be applied to researching those possibilities and providing Council with design and cost estimates.

Having regard to the advice of Council's insurer, option one is recommended to Council.

RECOMMENDATIONS

That the Council notes that the railing design for the Lennox Head Shared Path has been prepared consistent with the recognised guideline and that having regard to the advice of Council's insurer, the project continue in accordance with the prepared design.

Attachment(s)

1. Photographs of Coastal Shared Path & Railing, Lennox Head
2. Coastal Shared Path Plans (GHD) (two sheets)
3. Guidelines for installation of Railing (Austroads) (two sheets)
4. Railing Examples (Austroads)
5. Railing Examples, Byron Bay

11.3 Shared Path - Lennox Head Village

File Reference	Coastal Cycleway - Ballina to Lennox Head
CSP Linkage	A built environment contributing to health and wellbeing
Delivery Program	Engineering Works
Objective	This report formally advises Council of the design work completed for the shared path and cycleway route through Lennox Head village from Rutherford Street (south) to Lake Ainsworth (north).

Background

Following a significant community consultation process, Council identified its preferred route for the coastline cycleway and shared path project and for the coast walking track.

Subsequent to that decision, there are a number of design and construction activities occurring for the shared path and cycleway between West Ballina and Lennox Head.

A brief summary of those activities follows:

West Ballina

- Burns Point Ferry to Quays Drive

Shared path completed along Burns Point Ferry Road and Kalinga Street

- Quays Drive to Fishery Creek Bridge

The on road cycleway is completed except for road widening and line marking at Sunnybank Drive. The shared path is completed except for railing at Fishery Creek Bridge.

- Fishery Creek Bridge to Kerr Street

The shared path is completed except for the railing at Fishery Creek Bridge.

Ballina CBD

- Kerr Street to Kerry Saxby Walkway (Las Balsas Plaza)

The shared path is completed between Kerr Street and Martin Street. A dismount section applies between Grant Street and Martin Street. The short connection between Martin Street and Las Balsas Plaza along Regatta Avenue requires consultation with property owners regarding suitability of suggested one way system.

East Ballina to Lennox Head

Design and environmental assessment in progress for two routes being, the coastal walk east of the Coast Road and the shared path west of the Coast Road.

Lennox Head Village and north to Shire boundary

Design work is completed for the shared path and cycleway between Rutherford Street and Byron Street and is the subject of this report.

Design options are completed for the shared path and cycleway between Byron Street and Lake Ainsworth and subject of this report.

North of Lake Ainsworth and through to the Shire boundary - no further work to be completed at this time.

With respect to the section of shared path through Lennox Head Village, Council adopted the Civil Committee minutes of 2 September 2009 at the Ordinary Meeting of Council on 24 September 2009.

The Civil Committee minutes read as follows:

"For Lennox Head Village (Rutherford Street to Byron Street section 1) Council confirms Route Option 1.3 (Park Lane) as the preferred location for the Coastline Share Path Project"

"For Lennox Head Village (Byron Street to northern extent of village) Council confirms Route Option 2.1 (Pacific Parade) as the preferred location for the Coastline Shared Path Project. This route option also provides the capacity to connect to the Lennox Head North to the Shire Boundary segment by traversing Barrett's Land as detailed in the original GeoLINK report."

An extract of the public exhibition material showing route options is provided as Attachment A. The material presented in this report was previously discussed informally at a Councillor Workshop held 7 June 2011. the Council's adopted preferred route is noted as 1.3 and 2.1 in the attachment.

The purpose of this report is to confirm the preferred route options through Lennox Head village.

Key Issues

- Design options for shared path route through Lennox Head Village.

Information

The information for this report is presented in two distinct sections.

- Section 1: Rutherford Street to Byron Street which is presented with preliminary designs.
- Section 2: Byron Street to Lake Ainsworth (along Pacific Parade) which is presented with design report and concept design options.

Section 1 - Rutherford Street to Byron Street

Attachment B presents the design and route option drawings for Section 1 and Section 2. Sheet 1 and Sheet 2 (drawings 1154/102 and 1154/103) deal with Section 1

In summary, the design for Rutherford Street (ref Sheet 1 drawing 1154/102) includes line marking on the east end, south side and a 2.0 m wide shared path at the west end, also on the south side.

For Park Lane (Sheets 1 & 2, drawings 1154/102 & 103) a 2.5 m wide shared path south and west side of Park Lane, terminating at the skate park is proposed. A dismount section will apply for paths in front of the skate park and community centre. Future planning for the site between Mackney Lane and Byron Street should consider continuation of the shared path through to Byron Street.

Section 2 - Byron Street to Lake Ainsworth

Attachment B presents the design and route drawings for Section 1 and Section 2. Sheets 3 to 5 and drawings 1154/104 to 106 and 1154/900 deal with Section 2.

The design report (by GeoLINK) for considering Pacific Parade options is reproduced below:

"1. Introduction

Council has chosen to align the Lennox village cycleway / shared path along Pacific Parade between Byron Street and Ross Street. The location of this alignment within the road reserve and/or the adjoining coastal reserve remains to be determined subject to further consideration. To assist this consideration the following material and recommendation is presented.

2. Linking Pacific Parade to southern sections of cycleway / shared path

It has been determined that the cycleway / shared path will align along the eastern edge Williams Reserve. We recommend the use of Cliff Murray Lane and Lennox Street to link this stretch of cycleway / shared path with any cycleway / shared path on Pacific Parade. The primary reason for this is to remove cyclists from the traffic hazard at the intersection of Byron Street and Ballina Street.

Recommendation

To provide the link between Park Lane and Pacific Parade via Cliff Murray Lane and Lennox Street we recommend the following:

- *the facility on Cliff Murray Lane be an on-road cycle lane defined by advisory treatment only (i.e. pavement marking of bicycle symbols);*
- *vehicle traffic on Cliff Murray Lane be restricted to one-way in a northerly direction, subject to detailed consideration of the Traffic Committee; and*
- *the facility on Lennox Street be an off-road shared path on the southern side of the roadway utilising the existing concrete footpath.*

3. Location of Pacific Parade Alignment

The following four options were considered for the location of the alignment along Pacific Parade:

- **Option 1:** *a two metre wide two-way separated cycle lane immediately east of the roadway on the existing pavement separated from the roadway by a one metre wide median.*

This facility would be accommodated by a restriction of traffic on Pacific Parade to one-way travel in a northerly direction between Byron Street and Ross Street (forming a circular traffic system in combination with Stewart Street). This is effectively a conversion of the existing travel lane for southbound vehicles into a cycle lane. This may require some minor modification of the existing parking bays east of the roadway. The cycle lane would align east of the existing car parking bays on the eastern side of Pacific Parade.

- **Option 2:** *a two metre wide two-way separated cycle lane immediately east of the roadway separated from the roadway by a one metre wide median.*

This facility would be accommodated by a three metre widening of Pacific Parade. The cycle lane would align east of the existing car parking bays on the eastern side of Pacific Parade.

- **Option 3:** *a two metre wide two-way shared path meandering through open space area immediately east of Pacific Parade.*
- **Option 4:** *a combination of Option 2 and Option 3 with pedestrians directed to use the existing footpath on the western side of Pacific Parade between Williams Street and Ross Street.*

Table 1 *outlines the nature of each option and the associated issues (Attachment C).*

Drawings 1154/104 to 106 *show the options on an aerial photograph. Indicative sections of Option 1 and Option 2 are shown on Drawing 1154/900.*

Recommendation

Subject to further community consultation and approval by the Traffic Committee, Option 1 (one-way vehicle traffic, separated two-way cycle lane on existing road pavement) is recommended for the following reasons:

- *no loss of established vegetation;*
- *negligible impact on a unique area of open space;*
- *no further development in immediate coastal hazard zone; and low cost.*

If the restriction of traffic on Pacific Parade to one-way in a northerly direction is not acceptable, Option 4 (combination of two-way cycle lane on widened road and shared path meandering through open space area) is recommended for the following reasons:

- *relatively low loss of vegetation; and*
- *moderate enhancement of open space area.*

To allow for coastal processes the cycle lane and shared path be constructed as a bitumen seal on compacted road base."

Sustainability Considerations

- **Environment**
Provision of shared paths and cycleways promotes travel options which reduce reliance on motor bikes and cars.
- **Social**
Provision of shared paths and cycleways promotes healthy lifestyle and well being.
- **Economic**
Provision of shared paths and cycleways adds to low cost commuter and tourism travel and promotes tourism.

Legal / Resource / Financial Implications

The report provides progress information regarding the development of the shared path / cycleway route within Lennox Head village.

Separate reporting has occurred regarding budget projections and forecast programs for the corridor between West Ballina and Lennox Head.

Consultation

There has not been any formal consultation for the Lennox Head section of the shared path since the previous public exhibition of the West Ballina to Lennox Head route options.

However Councillors have received deputations and other communications expressing support for the design to include routing the shared path from Park Lane to Byron Street via the western side of Williams Reserve. This route was identified as option 1.4 in the route options analysis.

The Council's decision was to advance route option 1.3 and 2.1 and therefore no design work has been undertaken for option 1.4. The route option discussion identified that there would be merit in providing paths in both locations. Option 2.1 was favoured by Council as its preferred option for the cycleway project because of its proximity to the coast and because it includes a connection to the Lake Ainsworth precinct.

Last year the Council completed a review of its Pedestrian Access and Mobility Plan (PAMP). The review includes a process to assess pedestrian needs and prioritise projects. Council was able to rank its priorities and develop a ten year program which is used to inform the annual budget allocation process.

To advance the further consideration of a path through Williams Reserve, it is recommended that Council undertake an assessment of the path under the PAMP methodology and include the outcome as an amendment to the PAMP if the assessment achieves a ranking that is high enough to be identified in the ten year program.

Regardless of the assessment outcome, it is of course open to the Council to determine now that this project has a high priority and seek to have an estimate prepared for inclusion in the next operational plan.

The Council has also received feedback during the recent infrastructure upgrading at Park Lane including the construction of the community centre, skate park and parking improvements of concerns regarding the encroachment of Williams Reserve.

The previous advice to Council in response to this feedback was that it was possible for the shared path to be provided at the location selected through the route analysis process and still maintain adequate space on the reserve for the formal sporting needs. This remains the advice to Council in there is adequate space based on the current plans to ensure sports such as rugby union and cricket can continue at Williams Reserve, along with the pathway. No further encroachments are planned onto the grassed area.

The extent to whether this is acceptable is a matter for the elected Council to determine.

Should the Council determine not to proceed with the shared path at this location, it will be necessary to select an alternate route and also relocate the bollards that have currently been installed at Williams Reserve.

The other options identified in the previous work were as follows;

1.1 Rayners Lane – This option was not favoured given its proximity to the ocean, cost, impacts to private residences.

1.2 Ballina Street – This option was not preferred given the extent of traffic and other objectives identified in the masterplan for the Lennox CBD would not leave sufficient space for the shared path.

1.4 Williams Reserve (western side) – As discussed earlier in this report.

One final option is to construct a footpath in Park Lane meaning the cycleway would be a dismount and walk for that section. This option would reduce the width required. If the Council selected another route option for the cycleway, it is recommended that consideration still be given to a footpath in Park Lane given the pedestrian demands at this location.

Options

In summary the options for the two sections outlined in this report are as follows.

Section 1 Rutherford Street and Park Lane

The options for Council are:

1. Adopt the design as presented.
2. Change the preferred route and request design and cost estimates for the new route. The alternate routes considered previously are discussed in the above report.
3. Determine that the cycleway will be a dismount area along Park Lane.

Having regard to previous decisions of the Council, Option One is recommended.

Section 2: Pacific Parade

The design report information included in this report summarises the options for Council.

The first decision relates to the recommendation in respect of converting Pacific Parade into a one way traffic with separated two way cycle lane.

From a traffic management perspective, this option can function and provides many benefits. However it is likely that there would be substantial opposition to the proposal and therefore it is not recommended to advance further exploration of this option.

Should that be the position of the Council, the other options are:

Option 2: a two metre wide two-way separated cycle lane immediately east of the roadway separated from the roadway by a one metre wide median.

This facility would be accommodated by a three metre widening of Pacific Parade. The cycle lane would align east of the existing car parking bays on the eastern side of Pacific Parade.

Option 3: a two metre wide two-way shared path meandering through open space area immediately east of Pacific Parade.

Option 4: a combination of Option 2 and Option 3 with pedestrians directed to use the existing footpath on the western side of Pacific Parade between Williams Street and Ross Street.

Of these options, the recommended option is 4, as this option has relatively low loss of vegetation and moderate enhancement of open space area.

It is also recommended to allow for coastal processes the cycle lane and shared path be constructed as a bitumen seal on compacted road base.

RECOMMENDATIONS

1. That Council adopts the preferred design option, as per the information (including attachments) outlined in this report, for the Rutherford Street and Park Lane section of the coastal cycleway and shared path.
2. That Council adopts Option 4, as per the information outlined in this report, as the preferred design approach for the Pacific Parade section of the cycleway and shared path project.
3. That in accordance with the methodology adopted in the recent review of Council's Pedestrian Access and Mobility Plan (PAMP), a priority ranking for Route Option 1.4 (Williams Reserve) be determined and the PAMP be modified in response to that assessment.

Attachment(s)

1. Attachment A - Lennox Head Village - Consultancy Report Route Options
2. Attachment B - Design & Route Option Drawings for Section 1 & 2
3. Attachment C - Summary of Pacific Parade Alignment Location Options

11.4 The Coast Road - Landslide Adjacent Pat Morton Lookout

File Reference	PF 2011/1 MR 545 The Coast Road - Landslide Adjacent Pat Morton Lookout, Lennox Head
CSP Linkage	A built environment contributing to health and wellbeing
Delivery Program	Engineering Works
Objective	This report provides an update regarding the Coast Road landslide at Lennox Head and proposed reconstruction.

Background

A landslide occurred adjacent the Coast Road immediately north of Pat Morton Lookout in early January 2011. The Coast Road has been closed to single lane operation since that time, with traffic being controlled by temporary traffic lights.

A long period of extremely wet weather (continuous throughout 2010) culminated with extreme rainfall events occurring within the region in October 2010, December 2010 and January 2011. Natural Disaster declarations were made by the NSW Government for the Shire for these events.

Geotechnical investigation has indicated that the base of the landslide is located within a natural silty clay layer, situated beneath the road embankment. It is considered that raised groundwater levels in the natural soils, and also in the permeable material within the road embankment, is likely to have contributed to the landslide.

Geotechnical modelling of the existing road embankment shows that the original road profile, with raised groundwater conditions, had a factor of safety of around 1.0. The design of proposed remedial works has adopted a target factor of safety of 1.5 for long term operating conditions for the proposed reconstruction of the road. The 1.5 is the safety factor recommended by Council's geotechnical consultants.

The following sections of this report deal with the investigations to date and the proposed remediation. The report also responds to the Council's request for advice regarding traffic management during the remediation phase.

Key Issues

- Geotechnical investigation and recommendations for remediation.
- Consultation with RTA and agreement on funding due to Natural Disaster declaration.
- Reconstruction program and closure of the Coast Road during part of reconstruction.

Information

Since the occurrence of the landslide the following activities have taken place, or are in progress:

January 2011	Geotechnical inspection and risk assessment resulting in closure of Coast Road to one trafficable lane. Hand clearing of vegetation to provide access for detailed survey. Completion of REF for geotechnical site investigation.
February - March 2011	Approval obtained and undertaking of geotechnical site investigations comprising test pit excavations and bore hole drilling and subsequent materials testing at laboratory.
April - May 2011	Geotechnical assessment and reporting comprising remediation options analysis and budget pile costings (Report by Shaw:Urquhart is provided as Attachment A). Preparation of REF for remediation option is in progress (GHD Pty Ltd), with forecast completion by 22 July 2011.
May - June 2011	Option two design and preliminary estimates by Ballina Shire Council.

The following is a brief summary of proposed works (which will be described further in this report):

August - September 2011	Approvals for remediation works. Prepare tender documents and call tenders for piling.
August - November 2011	Undertake embankment reconstruction by Ballina Shire Council (Stage 1) including closure of Coast Road.
To be determined by response to tender	Undertake piling (Stage 2), subject to contractor availability to be advised by tender.

The geotechnical report by Shaw:Urquhart, which is provided as Attachment A, describes remediation options in section 5.3.2 of the report. The options considered comprise:

1. Construction of toe support berms.
2. Excavation and replacement of poor / failed foundation and road embankment replacement
3. Pile support system.

Option one considered the provision of a retaining system at the toe of the re-built road embankment. This can be in form of a rock wall or berm. This option does not offer the factor of safety required, as existing poor subsurface conditions remain, and embankment failures may re-present.

Option two considers the removal of the road embankment, and replacement of the poor foundation material with rock, and then rebuilding the road embankment. Positive drainage of the rock replacement material and reconstructed road embankment is required. This option is shown in section as Attachment B.

This option will provide the factor of safety for road stability into the future. This option has been considered in two halves. The southern half, where the landslide has occurred and the northern half where tension cracking exists along the road edge, but has not failed as a landslide.

A plan showing the two 'halves' of the project is Attachment C.

It is recommended that the entire road embankment (south and north) be remediated for future road safety. This option appears equivalent in cost for the southern half, but not so for the northern half, when compared to piling (Option 3).

The benefits for this option for the southern half is that the landslide site can be remediated utilising an earthworks process, which can be undertaken by internal Council resources, between August and November 2011, subject to approvals and RTA concurrence. The disadvantages are the Coast Road would need to be closed entirely during construction.

Option three considers piling along the east side of the existing road (with bored piles) and drilling drainage lines under the existing embankment. This option is shown as Attachment D.

This approach retains the existing foundation material but requires reconstruction of the failed embankment west of the piles.

A further option identified in the report is to consider piling adjacent the existing road shoulder, however this option is not considered further as it excludes reconstruction of the shared path route. The piling option assessed is for a row of bored piles along the shared path route which will retain the road embankment and shared path route west of the piles.

This option appears equivalent in cost for the southern half, and more favourable for the northern half when compared to earthworks (Option 2).

The benefits for this option for the southern half is that the Coast Road will be closed for a lesser period of time due to reconstruction of the failed road embankment only. The disadvantages are that this method will require a tender process (over the next two months) and the market will determine the cost and timing of the works.

Overall, for the delivery of the project, it is considered that Option two, the earthworks reconstruction, is the preferred remediation for the southern half, and Option three, piling, is the preferred remediation for the northern half.

If the piling is not able to be completed concurrent to the Council delivered work, it will be possible to reopen the road until the next stage of construction begins. For any interim period it will be necessary to monitor the northern embankment.

The following table provides a summary of the cost estimates to date (excluding contingencies). The piling estimates have been provided to Shaw Urquhart by a piling contractor for the purposes of this option comparison.

	A	B	C
Item	Option Two (Earthworks)	Option Two - south Option Three - north	Option Three (Piling)
Site works - establishment, traffic control, environmental control	230,000	280,000	280,000
Earthworks	1,350,000	800,00	210,000
Piling		370,000	950,000
Roadworks	100,000	100,000	100,000
Preconstruction & Emergency Response	200,000	200,000	200,000
Total	1,880,000	1,750,000	1,740,000

As discussed the option presented in column B is the preferred option due to delivery considerations. This will be subject to approval by the RTA. The project material presented in this report has been forwarded to the RTA, and it is anticipated that further reporting to Council will be provided regarding the RTA's response.

Council's claim to the RTA will be for total funding due to the Natural Disaster event however there is a requirement for a Council contribution of up to a maximum of \$58,000.

A Review of Environmental Factors has been prepared on the basis of the column B option. Approval from the Regulatory Services Group is now being sought.

A further recommendation is that the northern section of North Creek Road be repaired, adjacent to the water reservoir, due to the temporary closure of the Coast Road.

It is estimated that this is likely to be approximately \$70,000. This will not be considered for Natural Disaster funding by the RTA.

Traffic Management

In response to Council's request regarding traffic management advice, the following information is provided. It is proposed to include in the scope of works for the project the pavement renewal for the section of North Creek Road generally adjacent to the water reservoir. The estimate for these works is \$70,000. It is proposed to include the cost of these works in the Council's Natural Disaster Claim however the initial indication is that this component of the claim will not be accepted.

In 2009 Council undertook the development of a paramics traffic model for Lennox Head. This study identifies North Creek Road as a Major Collector within the road hierarchy classifications. The report also indicates that the capacity of a major collector is typically 3,500 – 7000 vehicles per day. Given the types of intersections and parking along North Creek Road it would be reasonable to assume that the capacity for North Creek Road would be at least at the higher end of that range.

The results from recent traffic counts are;

North Creek Road	4,720 vehicles per day
Coast Road	7,800
Ross Lane	4,300

With the Coast Road closed, it is expected that a proportion of the traffic flow would use Ross Lane and the Pacific Highway as an alternate route to North Creek Road. To assist this, signage north of the Ross Lane/Coast Road intersection will be put in place. It is however difficult to predict what the proportional splits will be, although clearly there is the potential for North Creek Road to be operating at or close to capacity.

Operating at capacity can influence safety risks or it can reduce levels of service. In this situation it is likely that the level of service (measured as queuing time and queue length) for vehicles waiting to enter North Creek Road will deteriorate. The increase in traffic volumes may also increase the risk of incidents between vehicles and pedestrians and it is noted that the footpath network in parts of North Creek Road has been identified as a priority for upgrade.

There are limited options for the Council to address this issue. Temporary speed zones are not recommended as an option. The reason for this is that a mix of compliance will result from drivers because of the length of the zone and that no road works will be occurring at the location.

Suitable signage will be required and the publication of information to residents. If the performance of the intersections becomes problematic, there will be options to temporarily modify the intersections. These options would include actions such as removing parking to increase sight distance and installing turning movement restrictions. After those measures, Council would deploy manned traffic control. Council staff will monitor the performance of the local road network during the works and implement any required actions in response to that performance.

The Council's Operational Plan for 2011 / 2012 includes a funding allocation to complete a pavement rehabilitation project for the Coast Road, from the Lennox Head roundabout back to the current landslip site. It is preferred to complete this work in conjunction with the landslip project to eliminate the need for future disruptions to access to the Coast Road. The logistics of that approach are still being assessed.

Procurement

Regarding the quotation for rock supply, individual quotations were sought separately for supply and delivery of rock for Option Two, (south). The Council has an existing standing tender, RFT 510, for the Supply and Delivery of Quarry Products. The conditions of tender for RFT 510 allow for individual and separate quotations for projects requiring large quantities (greater than 2,000m³).

Due to the urgent circumstances for and that there is no specific advantage to tendering when compared to quotes for this procurement, it is recommended that Section 55(3)(i) of the Local Government Act be applied, and that tenders not be invited due to extenuating circumstances.

Clause 55(3)(i) reads:

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

Quotations were received as follows:

	Supply & Deliver 150mm rock (incl GST)	Estimated Quantity 12,300T (\$)
Holcim	\$23.10	281,820
Boral	\$23.34	284,748
NRQ & A	\$32.34	394,548
Smith Plant	\$37.40	456,280

It is therefore recommended that the supply and delivery of 150mm rock be sourced from Holcim.

Sustainability Considerations

- **Environment**
Completion of remediation will improve long term stability and limit further soil and water degradation.
- **Social**
Completion of remediation will return community travel and communication to normal level of service.

- **Economic**

Completion of remediation will return the disadvantages of partial and full road closure to normal level of service.

Legal / Resource / Financial Implications

From a financial perspective the RTA has been asked to respond to the proposal and confirm Natural Disaster Funding availability. Prior to the conclusion of this more recent assessment, the RTA has been advised that the project may be \$1M. Council's funding contribution towards the project (including North Creek Road) could possibly be sourced from the Roads to Recovery program. The finalisation of this year's projects for Roads to Recovery has been purposefully delayed due to this assessment.

Consultation

The options assessment is generally technical and the works are considered urgent. On this basis it is not proposed to conduct a consultation process. It will however be important that a significant information campaign be implemented to provide advance notice of changing traffic conditions and to encourage residents to plan their trips, and where possible avoid the congested areas.

Options

The options for alternative remediation measures have been explained in the information section of this report. Further consideration of options may be required in response to the RTA assessment of the proposal and the result of the piling tender outcomes.

RECOMMENDATIONS

1. That Council notes the contents of the report in respect to the rehabilitation of the Coast Road landslip.
2. That Council endorses the selection of Option Two, as outlined within the report, being earthworks reconstruction as the preferred remediation for the southern half of the land slip and Option Three, piling, as the preferred remediation for the northern half.
3. That Council accepts the quotation from Holcim for the supply and delivery of 150 mm quarry rock for the Coast Road Landslip Project.
4. That Council confirms that it has not called tenders for the supply of the quarry rock outlined in point three, in accordance with Section 55(3) of the Local Government Act 1993, as there are extenuating circumstances due to the urgency of the project and that there is no identified advantage in a tender process compared to the quotation process already undertaken.

5. That Council authorises the General Manager to sign any necessary documentation or contracts and attach the Council seal to any documents relating to this project, if required.

Attachment(s)

1. Attachment A - Report by Shaw Urquhart - Separate Attachment
2. Attachment B - Option Two
3. Attachment C - Plan
4. Attachment D - Option Three

12. Public Question Time

12. Public Question Time

13. Notices of Motion

13.1 Rescission Motion - DA 2010/962 - Highway Service Centre

File Reference	DA 2010/962
Councillor	Cr Phillip Silver Cr Jeff Johnson Cr Ben Smith

We, the above Councillors, move that Resolution 230611/3, as follows, be rescinded:

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

230611/ 1 RESOLVED

(Cr David Wright/Cr Sharon Cadwallader)

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.

If the abovementioned Rescission Motion is carried, it is intended to move a motion to refuse Development Application 2010/962.

COUNCILLOR RECOMMENDATION

That Resolution 23061 1/3 be rescinded.

Attachment(s)

Nil

13.2 Notice of Motion - Missingham Bridge Market Site

File Reference Notices of Motion

Councillor Cr Alan Brown

I move

That a Workshop be conducted to prepare a Plan of Management and beautification of the area known as the weekly Sunday Missingham Markets site off Kingsford Smith Drive, Ballina. This workshop should be conducted so that at least two representatives of the operators of the stalls at these markets have some input as to their concerns they may have, bearing in mind their experiences over the many years these markets have been operating.

Councillor Comment

The current position with the Missingham Market site has historically evolved of a period of at least 20 years following concerns of dangerous situations created when local farmers were selling their products from roadside stalls. The area adjacent to the Missingham Bridge was selected at that time to allow local shire farmers to sell their products from portable stalls in this area from early Sunday mornings until their products were sold.

The operations of these stalls have reached a stage that the number of them being operated has consolidated with many of the operators conducting their sales over a long period of time. Over the past few years a problem has occurred with water drainage becoming a major problem where the drainage pipes became blocked and the general public attending these markets to purchase goods as well as the operators being forced to walk through the water and in some cases a number of the operators have not opened their stalls because of the conditions existing at this site. Over the many years of the operation of these markets considerable expense and time has been spent on the pedestrian and motor vehicle access to and from the site in placing metal dust to cater for the number of pedestrians and vehicles moving through the area.

The drainage has now been successfully attended to by council staff however many pot holes and a drain has gradually appeared towards the southern section creating to some degree a danger to the traffic (including pedestrian). Further attention to this situation will be required to be addressed for the future safety of the people attending the markets.

A recent survey conducted by the operators revealed that an average of 2,000 people attended these popular markets between the hours of dawn and approximately 1:00 pm each Sunday, this has been despite the conditions existing at the grounds in the area. There is no doubt that the survey conducted does give a fairly accurate indication of the popularity of the markets each week and from the observations of many (other than the

operators), the number of people attending has not been exaggerated in that survey.

The site has been recently inspected by Mr. Truman the Group Manager Civil Services Group and Mr. Busmanis, the Engineering Works Manager, and it was agreed that the area could be better shaped to address the drainage problem and it was suggested that the area could be made more pleasant and attractive with definitions and designs configured to cater for the safe operation of these markets. Should such works be considered viable it would be a reasonable expectation for the operators at the markets to pay a fee, greater than that already paid for the upkeep and continual general maintenance of the area.

While the object of this motion is ultimately to carry out a “*make over*” of the ground in this area it would eventually present this site as a most pleasant area not only for the operation of the markets each Sunday morning but it could also attract people to use the area for recreational purposes during other days when currently it detracts people from entering the area at other times. If this was to take place it would become a defined area for use by the general public, being an extension of the amphitheatre and barbeque areas. Further this area is very visible and unsightly but with an over make to beautify it, it would become a most pleasant area for tourists and locals alike to enjoy the views and facilities which are nearby to this site.

COUNCILLOR RECOMMENDATION

That Council conduct a workshop to prepare a Plan of Management and beautification of the area known as the weekly Sunday Missingham Markets site off Kingsford Smith Drive, Ballina. This workshop should be conducted so that at least two representatives of the operators of the stalls at these markets have some input as to their concerns they may have, bearing in mind their experiences over the many years these markets have been operating.

Attachment(s)

Nil

14. Advisory Committee Minutes

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

Activities since the June 2011 Ordinary meeting:

<u>Date</u>	<u>Function</u>
23/6/11	Meeting with Minister for Community Services and Minister for North Coast in Sydney
28/6/11	Meeting with Catherine Cusack MLC with staff - Libraries, in Ballina
28/6/11	Anglican Church meeting in Ballina
29/6/11	Alstonville Rotary Changeover dinner in Alstonville
30/6/11	Meeting with Minister for Local Government & North Coast with staff in Ballina.
2/7/11	East Ballina Lions Changeover dinner in Ballina
3/7/11	NAIDOC Art Show opening in Ballina
4/7/11	ABC Radio - Amalgamations
4/7/11	2LM/ZZZ Radio - Dredging
4/7/11	NAIDOC Week celebrations in Ballina
5/7/11	Meeting with Alstonville Pre-School in Ballina
8/7/11	Country Mayors Association meeting in Sydney
11/7/11	Teleconference with Janelle Saffin MP with staff
12/7/11	General Manager's Performance Review
12/7/11	Donations Working Party meeting
12/7/11	"A" Ward Committee
13/7/11	Alstonville Tibouchina Day Care Club in Alstonville
13/7/11	JRPP Affordable Housing sitting in Ballina
14/7/11	Northern Rivers Community Foundation meeting with staff in Ballina
14/7/11	NBN - Affordable Housing
14/7/11	"C" Ward Committee
18/7/11	"B" Ward Committee
19/7/11	Meeting with Minister for Transport in Sydney (NOROC & BSC)
19/7/11	Wollongbar sports fields public meeting in Wollongbar
20/7/11	NBN - Dredging
20/7/11	Rous meeting in Lismore
21/7/11	Private citizenship in Ballina
22/7/11	BACCI Art Show opening in Ballina
25/7/11	Essential Energy dinner in Ballina
26/7/11	Delegations Ballina Waterways and Porter Park with staff in Ballina

RECOMMENDATION

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

Attachment(s)

Nil

15.2 Cr Silver - National General Assembly of Local Government

File Reference Councillor Development

Councillor Cr Phillip Silver

I attended the National Conference of the Australian Local Government Association in Canberra from 19 June to 22 June. The following is my report.

The Assembly was addressed by a number of political figures, including: the Prime Minister, the Leader of the Federal Opposition, the Minister for Climate Change, the Leader of the Greens and the Shadow Minister for Local Government.

The keynote address was from the Hon Simon Crean, Minister for Regional Australia, Regional Development and Local Government. Mr Crean spoke of the engagement with Local Government at the time of the GFC and the stimulus spending of one billion dollars through Local Government, the National Broadband Network and the Regional Development Boards. He also spoke of the new Ministerial forum for Local Government as well as Constitutional Recognition of Local Government.

Constitutional Recognition for Local Government and the referendum that will be required was a theme that ran right through the conference. A recent High Court case has put at risk ongoing funding of Local Government by the Commonwealth due to Local Government lack of status in the Constitution, including Roads to Recovery, as well as future funding opportunities. This in itself should warrant the referendum. I do believe that a referendum will be held at a time suitable to the Commonwealth but that the outcome is not a foregone conclusion.

The conference was well attended with over 850 participants, well run and in my view worthwhile. I am grateful to have been able to attend.

RECOMMENDATION

That Council notes the contents of the report on Cr Silver's attendance at the National General Assembly of Local Government.

Attachment(s)

Nil

15.3 Cr Cadwallader - ALGWA Annual Conference

File Reference Councillor Development

Councillor Cr Sharon Cadwallader

The Australian Local Government Women's Association (ALGWA) NSW Branch Annual Conference was held 26 to 28 May 2011.

Firstly I wish to thank the Council for affording me the opportunity to attend the conference.

This report provides information on the Australian Local Government Women's Association (ALGWA) the peak body representing the interests of women in local government as elected members and also staff.

The Conference was held at Novatel Rooty Hill and run by Blacktown City Council. As this year ALGWA celebrated their 60th Diamond Jubilee event, the theme for the conference was "Strong Women Influencing Future Trends" SWIFT.

Approximately 120 delegates, both elected Councillors and staff from the various councils around NSW attended this hugely successful Conference as a career and personal development opportunity.

Background Information

The Aims and objectives of ALGWA are:

- To assist in furthering women's knowledge and understanding of the function of local government.
- To protect and enhance the interests and rights of women in local government.
- To take action in relation to any subject or activity of particular interest to women affecting local governing bodies and/or local government legislation.
- To act in an advisory capacity to intending women candidates for local government elections.
- To encourage women into professional careers in local government.

ALGWA is an active participant in the Joint Ministerial Advisory Council for Women and the Ministerial Awards for Staff and Councillors.

With councils across the country now facing significant workforce challenges, the business case for gender equity at senior levels is clear. The 50:50 Visions – Councils for Gender Equity has been designed to be accessed by all councils, regardless of their size, location and progress on gender equity.

As a 50:50 Vision Council it will make it easier to attract and keep good women candidates and officers. **Local Government Manager's Association** puts it this way, **“Without women our sector does not have the depth of executive talent to survive”**.

A government that does not reflect the diversity of its community is a government unable to respond. 50:50 vision launched last year and already 30% of NSW councils have signed up for the bronze award. The national awards and accreditation program has three levels: Bronze, Silver and Gold.

Bronze Award

The Bronze Award is the entry level for the program. Entry to the Bronze award is free, and in order to achieve a Bronze Award council must:

- Conduct an audit of staff/representative gender ratios
- Provide evidence of a council endorsed statement of commitment to address gender equity issues
- Outline at least one project the organization will undertake to address gender equity issues
- Nominate a 50:50 Vision champion within the organization to have carriage of the program.

Entry for the Bronze Award is open now. Visit www.5050vision.com.au

Conference topics of discussion included:

- What is Networking
- The power of networking for business and community
- Hints and tips for networking
- Cultivate your cultural awareness and virtual networking
- Informal strategic alliances and networking anywhere in the world
- The power of the word
- 50:50 Vision –Gender Pay equity

Speakers included:

Robyn Moore, Voice over Artist known as the voice for the Mr. Sheen Spray & Wipe jingle and Blinky Bill. Without doubt she was a sensational MC.

Deborah Wallace, Detective Superintendent with the South East Asian Crime Squad. After a career spanning 27 years, Deborah was the first woman appointed to the position of Commander of the Middle Eastern Crime Squad.

Liz Ellis, Australian Netballer now working with Network 10 & ONEHD as a netball commentator.

Jenny Dowell

Jenny talked on the struggles she faced not only on a personal level but also when she decided to enter local government.

A member of staff from one of the city councils made comment, "I know with the added support from ALGWA we can achieve many positive results that will not only benefit the individual but Council as a workplace".

The AGM was held on Saturday 28 May, 2011 to elect office bearers for the ensuing year and consider motions for adoption as ALGWA policy. Blacktown City Councillor Julie Griffiths was newly elected as President of ALGWA NSW Branch with Cr Karen McKeown Immediate Past President. Cr McKeown has been invited to South Africa this year to speak on women in local government. It was at this meeting that I was elected to the executive committee.

Motions discussed included:

1. ALGWA writes to IPART for a detailed and complete justification of the rate pegging level, 2.8% for the next 12 months. And that ALGWA, when satisfied distributes that information to its members and to councils.
2. Expressions of interest be received by ALGWA to host five Executive meetings (regional and city), including a commitment by the host council that they organize, in partnership with ALGWA, a community women's forum at the time of the Executive Meeting.
3. ALGWA NSW lobbies various bodies, LGA, LGMA, all NSW councils, ASU and the USU and other groups as necessary, for insertion of a clause in the EBA/LG State Award to have up to 20 days special leave per year and flexible work practices for such appointments as doctors, family law, court appearances etc, taking a proactive approach for those that are victims of domestic violence, a problem that effects working families and communities.
4. Executive Committee recommend that Cr Karen McKeown and Broken Hill Cr Darriea Turley be awarded Life Membership of ALGWA NSW for service to the organization.

COUNCILLOR RECOMMENDATION

- 1 That Council notes the contents of Cr Cadwallader's report from the Australian Local Government Women's Association (ALGWA) NSW Branch Annual Conference.
2. That Council host an executive meeting on 19 November 2011.
3. That Council participate in the National Awards and Accreditation Program for Local Government.

16. Questions Without Notice

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 - Aboriginal Child and Family Care Centre - Land Acquisition Options

This report contains information relating to negotiations of a commercial nature and if released to the public could prejudice those negotiations.

Item 17.2 - Code of Conduct - Reporting (Staff Matters)

This report contains information relating to staff members.

Item 17.3 - General Manager - Performance Review

This report contains information relating to a staff member.

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 Aboriginal Child and Family Care Centre - Land Acquisition Options

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 the negotiations held to date have been based on commercial in confidence discussions and the current owner of the site has asked that Council keep the proposed sale price confidential.

17.2 Code of Conduct - Reporting (Staff Matters)

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the reports discusses matters relating to staff.

17.3 General Manager - Performance Review

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as discussion may involve specific details of the employee's performance.